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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Thursday, January 19, 1978*

The 19th day of January being the day prescribed by House Joint Resolution 674 for the meeting of the 2d session of the 95th Congress, the Senate assembled in its Chamber at the Capitol.

The Vice President called the Senate to order at 12 o'clock meridian.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, whose sovereignty transcends all men and all nations, as our fathers in their pilgrimage trusted in Thee, so we put our trust in Thee. Year after year, day after day, we are sent by the people to serve Thee in this place. May Thy renewing spirit touch our lives to make us new men for new times in building that kingdom which is both in time and beyond time. Bind together the President, the Members of Congress, and all others in authority over us that together we may seek to know and to do Thy will. We commit this Nation and all its people to Thy love and care, beseeching Thee to show us how to do justly, to love mercy, and to walk humbly with our God.

In Thy holy name we pray. Amen.

CALL OF THE ROLL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and this will be a live quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1 Leg.]

Allen	Eastland	Metzenbaum
Anderson	Ford	Morgan
Baker	Glenn	Moynihan
Bayh	Goldwater	Muskie
Bellmon	Griffin	Nelson
Bentsen	Hansen	Nunn
Brooke	Hart	Packwood
Bumpers	Hatch	Pearson
Burdick	Hathaway	Pell
Byrd, Harry F., Jr.	Hayakawa	Percy
Byrd, Robert C.	Heinz	Proxmire
Cannon	Helms	Randolph
Case	Hodges	Ribicoff
Chafee	Hollings	Riegle
Chiles	Huddleston	Roth
Church	Inouye	Sarbanes
Clark	Jackson	Schmitt
Cranston	Javits	Schweiker
Culver	Johnston	Scott
Curtis	Kennedy	Sparkman
Danforth	Leahy	Stafford
DeConcini	Long	Stennis
Dole	Lugar	Stevens
Durkin	Matsunaga	Talmadge
	Melcher	Thurmond
	Tower	Weicker
	Wallop	Williams
		Young
		Zorinsky

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Illinois (Mr. STEVENSON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Missouri (Mr. EAGLETON), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Florida (Mr. STONE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

The VICE PRESIDENT. A quorum is present.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, am I now recognized under the standing order for recognition for the two leaders?

The VICE PRESIDENT. The Senator is correct. The Senator has 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

REMARKS UPON THE OPENING OF THE 2D SESSION OF THE 95TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, today, we open the 2d session of the 95th Congress. We are at the midway point in our efforts to complete a legislative agenda for the 95th Congress which embraced some of the most complex issues of modern times.

We began the 95th Congress with a newly elected President presenting to us a massive legislative agenda for a new administration. Prior to consideration of that agenda, this body engaged in a most meaningful and significant reorganization of our committee structure. We completed that reorganization after due debate and consideration. It was a substantive reorganization which will benefit this institution long into the future. We also adopted a strong code of conduct in which both the Senate and the country can take pride.

We entered our labors last session faced with a faltering national economy and a major crisis with respect to the Nation's energy needs. Early in the year, addressing the economic issue, we passed the President's economic stimulus package.

That balanced program provided for a tax cut for 46 million Americans as well as for an expansion of youth and public service employment. In addition, $4 billion was authorized for State and local governments to provide jobs through construction projects in areas with the most serious levels of unemployment.

Another major economic step taken last year was passage of a revised minimum wage which will increase the take-home pay of those at the lowest rung of the income scale.

Those measures along with other economic initiatives contributed strongly to the improvement in the economy during the last year.

With respect to the energy crisis, the Senate completed consideration of five major energy proposals in a period of as many months, and these were complex and complicated measures the Congress has struggled with for a long time. President Eisenhower vetoed a deregulation measure even though he favored deregulation. President Truman vetoed a bill repealing the Government's authority to regulate natural gas prices. So this is a problem that has been around the Hill for a long, long time. The fact that the conferees have not been able to sit down and, within the space of a few minutes or a few hours, arrive at a quick agreement for a solution is a reflection, not upon them, but upon the complexity and the magnitude of this very controversial issue, which, as I say, has been around for a long time, and it is a reflection of the fact that those conferees are seeking to arrive at a solution to this problem, and one that is permanent.

We also enacted emergency natural gas legislation, created the Department of Energy, passed surface mining legislation, appropriated funds for continued research and development of alternative energy resources, adopted a treaty with Canada paving the way for a trans-Alaska natural gas pipeline as well as adopting the President's substantive plan for the pipeline.

In the Senate we have completed action on two-thirds of a new President's

legislative recommendations. We have enacted into law 33 of his 66 recommendations. Seven additional ones are in conference, and in addition to that the Senate has passed four that are not yet in conference, making a total of 66 percent of the President's legislative recommendations that have been passed by the Senate.

We have passed into law the clean air bill, clean water, strip mining controls, medicare-medicaid antifraud legislation, and social security financing.

With respect to the coming session, we have much major unfinished business to consider. Action on the energy package is not yet completed. The conference has completed action substantially on three of the five energy bills. Remaining for consideration is the natural gas pricing issue and the energy tax proposals. The conclusion of the conferences on the energy bill and the adoption of the conference reports by the two Houses must be our first priority. To be addressed at the earliest possible time will be the Panama Canal Treaties. At some point the Senate must turn its attention to a tax cut, tax reform, airline deregulation, labor law reform, the Humphrey-Hawkins bill, and other economic stimulus measures, as well as hospital cost containment and possibly welfare reform and a SALT II Treaty.

The list of items on our agenda for this second session is long. Those items I listed are not by any means inclusive—there are many more I have not mentioned. But, I think we are all aware that the tasks are many, and the time is short.

I only ask at this point for the fine continued cooperation, understanding, and forbearance the leadership has had during the first session of the 95th Congress. I thank all Members of the Senate, my colleagues on both sides of the aisle, the distinguished minority leader, and the distinguished majority whip, and others in the leadership on both sides of the aisle, for their kindness, cooperation, understanding, and working together which made possible the productivity of the first session. I hope for that continued cooperation, and I am sure it will be given.

The VICE PRESIDENT. The Chair recognizes the Senator from Tennessee for 10 minutes.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, the distinguished majority leader has given us a good overview of the accomplishments of the Senate during the first session of this Congress, and a glimpse of the workload before us.

I would not, of course, add to that, nor detract from it, except to say that I fully expect this session will be a session that is issue oriented. We see on our agenda a number of matters which will create controversy and strong divisions within the Senate on both sides of the aisle. But I am confident, Mr. President, that in the best traditions of the Senate we will focus our attentions on the issues themselves; that we will act carefully and deliberately, yet promptly, to resolve and liquidate issues which are of extraordinary importance.

There have been few times when there were as many issues before the Senate in recent years as we will have before us this year. I hope, for instance, Mr. President, as the majority leader said, that after the Foreign Relations Committee has completed its responsibilities, and the Armed Services Committee of the Senate has completed its additional hearings, the Senate can turn quickly to the consideration of the Panama Canal treaties and amendments, reservations or changes that the Senate may or may not wish to make. The best interests of the country and the Senate will be served by a prompt dispatch of that matter.

This year as well, Mr. President, is a campaign year, an election year. There are some of us on both sides of the aisle who have a special concern, particularly when our own election fortunes are at stake. I would venture one personal inquiry. I would ask the majority leader if he would give us any insight he has on his first day of the second session about what he sees in prospect for an adjournment sine die.

Mr. ROBERT C. BYRD. Mr. President, last year in conjunction with the House, after consultation with the House and the President, we all agreed on a certain adjournment date. After that it was announced that the President would send up an energy program, which presented some problems. At this time, I would only say that I hope the Congress could complete its work and allow a reasonable time before the election for Members to concentrate their attention on meeting the people. It would seem to me that if the Congress could complete its actions, its work, 3 weeks or 1 month before the elections, that would be a fairly reasonable time to hope for.

Mr. BAKER. Mr. President, I thank the majority leader. I might say parenthetically that is not only a good time, but if we have not completed our work by then, the minority leader may adjourn. The rest of the Senate will continue no doubt effectively without him. [Laughter.] I thank the majority leader for this information. I recall that he and I worked hard all last year trying to get an adjournment in October. Some of my colleagues on this side of the aisle reminded me that Christmas comes in October this year.

Mr. ROBERT C. BYRD. We had that adjournment scheduled for October, but there then came up the energy legislation. In the beginning, we said that the Senate would have to complete its work first.

Mr. BAKER. There is no word of criticism for the majority leader. Of all the people in this Chamber other than a majority leader, I was the most convinced they could do it.

Mr. ROBERT C. BYRD. Both the minority leader and I made our work a condition precedent all the time. But this means we will have to hit our work, hit it hard, and get the ball rolling in order to accomplish that objective.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. President, I believe I have no further need for my time except to say that I look forward to good and pleasurable cooperation with the majority leader, such as the cooperation last session, in advancing legislation in the Senate as well as having concern and consideration for the rights of the minority. I think we owe him a debt of gratitude for that consideration. I wish to express my appreciation for his past cooperation and look forward to working with him this coming year.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader and I share that mutual hope to work with him.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of December 15, 1977, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

NOTIFICATION TO THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 346) was considered and agreed to, as follows:

S. RES. 346

Resolved, That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT. Pursuant to Senate Resolution 346, the Chair appoints the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Tennessee (Mr. BAKER) as members of a committee to join the committee of the House of Representatives to wait upon the President of the United States and inform him that a quorum is assembled and that Congress is ready to receive any communication he may be pleased to make.

NOTIFICATION TO THE HOUSE

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 347) was considered and agreed to as follows:

S. RES. 347

Resolved, That the Secretary inform the House of Representatives that a quorum of

the Senate is assembled and that the Senate is ready to proceed to business.

ORDER FOR RECESS UNTIL 8:20 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that at the close of business today the Senate stand in recess until the hour of 8:20 p.m. this evening.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the joint session this evening, the Senate stand in adjournment until the convening hour tomorrow, which will be submitted later.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet during the sessions of the Senate on January 25, 26, and 27, 1978, for the purpose of conducting hearings on S. 276, the Beverage Container Recycling Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the sessions of the Senate on Friday, January 20; Wednesday, January 25; and Thursday, January 26; to consider the Panama Canal treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF S. 1437

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 45 minutes, with statements limited therein to 5 minutes each, and that at the conclusion of that period of morning business the Senate proceed to the consideration of S. 1437, to codify, revise, and reform title 18 of the United States Code; and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

A CALL TO MOVE FORWARD

Mr. PERCY. Mr. President, while the majority and minority leaders are still in the Chamber, I would just like to indicate to them that I believe the record of accomplishments in this past year has been considerable. That has been due in great measure to the leadership we have had on both sides of the aisle, and to the cooperation of the Senators with regard to the long hours, when necessary, to carry forward this program.

I, for one, would like to pledge an equal diligence in this session now to move us forward. I think we all have an obligation and a duty to return to our States, whether we are up for election or not, possibly a month before the national election, and do everything necessary. When Senators are asked to inconvenience themselves by being here late hours, I think it is in line with the objective of many of us to fulfill our duty and our responsibility to get back at a reasonable period of time, particularly those of us who are up before the electorate again.

Having just returned from the Panama Canal last evening, I would like to say that the impact and the impression made by our distinguished majority leader and our minority leader on the Panamanian people, the American business community, the Panama Canal Zone personnel, the Government of Panama itself, and all of those concerned, was immense. The work of the Committee on Foreign Relations was greatly accelerated. It was made much easier because the leadership had seen fit to become so deeply involved in a matter that is so important to this country and to the people of Panama, as well as virtually all the countries of the world, over 70 of which use that canal.

The way in which our leadership in the Senate conducted themselves, the probing inquiries that they made, and the positions that were taken as a result of it, I think, are in the greatest traditions of the U.S. Senate. Many of us listened to four distinguished historians this morning, all of whom now are supportive of our moving forward to a new basis of partnership. They could not name a single prominent historian in the country that opposes our moving in that direction. I think in the perspective of history, the Senate today is acting in the best traditions of this body.

There are some of us, I say to my distinguished leadership, that have some bills that we would like consideration given to in this session, as early as possible. I presume it would be in order for us to discuss that legislation and attempt in every way to find ways to facilitate it. But I think it is the responsibility of many of us to bring things up earlier rather than later and to assist the leadership in moving us forward in the most expeditious manner that the Senate can possibly carry on its work with due diligence.

The Senate Committee on Foreign Relations has heard the voice of the leadership on the treaties. We are moving forward, not only this afternoon, but from this afternoon with a full set of hearings. We shall continue those hearings through the 25th, and I believe it is the intention of the chairman and the ranking minority member to begin that markup and discussion of the resolution on the 25th and let nothing impede our moving it forward for our earliest consideration on the Senate floor.

Mr. ROBERT C. BYRD. I congratulate the Senator and the committee, and I thank the Senator for his very kind remarks to the joint leadership.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Illinois, and congratulate him on his great contribution to the formulation of our positions on matters of foreign policy generally and on the Panama Canal particularly. I assure him that I agree that matters of particular interest to individual Members ought to be discussed promptly and that they will be scheduled as soon as possible.

I thank him once again for his generous remarks.

ASSEMBLY OF THE SENATE FOR THE STATE OF THE UNION ADDRESS TONIGHT

Mr. ROBERT C. BYRD. On another matter, I remind our colleagues, and the personnel in the cloakrooms, who will want to remind them further during the afternoon, that at the hour of 8:20 p.m. this evening, the Senators will meet here in the Chamber for the purpose of moving in a body to the Hall of the House of Representatives to hear the President's state of the Union address. During this afternoon, the Senate will be acting on the Criminal Code revision. It is possible there will be some rollcall votes. I do not anticipate that the Senate will be in today any later than somewhere between 5 and 6 o'clock, which will leave ample time for the Senators and their ladies, if their ladies are attending the address, to be able to return here again. The Senators will convene in a body at 8:20. After the President's state of the Union address, the Senate will stand automatically adjourned until an hour on tomorrow.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Chair will recognize, if the distinguished Senator from Alabama will permit, Senator ANDERSON and Senator MELCHER on matters which must be disposed of at this particular moment?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alabama.

THE DEATH OF THE HONORABLE LEE METCALF, LATE A SENATOR FROM THE STATE OF MONTANA

Mr. MELCHER. Mr. President, I know that each and every one of you was as shocked and tremendously saddened as I when we heard last week of the death of our colleague and great friend, LEE METCALF.

LEE will be sorely missed in the Senate and House by all of us who knew him and worked with him. He will be remembered here and in Montana as an outstanding humanitarian and conservationist whose accomplishments throughout 40 years of public service can be matched by few. His legacy of honesty and integrity in Government brought lasting honor to

Montana people and advanced the public interest for all Americans.

I have been honored to have had the opportunity to work beside him and with him this past year, and it is with a heavy heart that I now stand beside his vacant Senate desk. I will miss LEE METCALF, as will the millions of people who have benefited and will continue to benefit from his dedicated and unselfish service.

I now offer a resolution to extend our deep regret and sorrow to the family of Senator METCALF and, as a mark of respect to his memory, resolve that the Senate adjourn at the conclusion of its business today. I shall then offer another resolution to direct and authorize the Secretary of the Senate to pay from the contingent fund of the Senate the expenses incurred in arranging for and conducting the funeral of the Honorable LEE METCALF.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 348) relative to the death of the Honorable Lee Metcalf, late a Senator from the State of Montana.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield.

Mr. JAVITS. I know we shall have a time to pay our tributes to Senator LEE METCALF, but having served with him for a long time in the Senate and on the Governmental Affairs Committee, I wish to attest to one of the most extraordinary fine, high-level characters that ever served in this body. I know of nothing LEE ever did that he did not really have his heart in. In his case, what had to be done politically, I do not think existed at all. It was certainly to a minimum. He was a wonderful American and his loss is a deep grief to me and I believe, to the many millions whom he benefited in his service here.

Mr. MELCHER. I thank the Senator.

Mr. PERCY. Will the Senator yield?

Mr. THURMOND. Will the Senator yield?

Mr. MELCHER. I am delighted to yield to my colleague from South Carolina.

Mr. THURMOND. Mr. President, I held Senator METCALF in high esteem and would like to prepare a tribute to him. I shall place it in the RECORD later in the day.

Mr. MELCHER. I thank the distinguished Senator from South Carolina.

I yield to my colleague from Illinois.

Mr. PERCY. Mr. President, I commend my distinguished colleague for his resolution and fully support it. I have served for many years on the Governmental Affairs Committee with Senator METCALF, as has the distinguished Senator from New York (Mr. JAVITS). All of the members of the Governmental Affairs Committee share our sense of loss at his death.

One of the most remarkable experiences I have had was last year, in the subcommittee that he was the chairman of, on Accounts and Reports of Management. We undertook an exhaustive analysis of the entire public accounting profession in America. We both started that on the basis of a staff study that was as big as the New York telephone book and had come to a lot of conclusions. We began the hearings with an open mind. We listened to 39 witnesses, the heads of our major accounting companies, Admiral Rickover, a cross-section of American businessmen and professional people. As a result of that, I saw Senator METCALF formulate judgments and opinions, not based on prior experiences he might have had, but based on the new evidence. We were able to write a report and not have a single dissent from a single word under his chairmanship. It affected the future not only of a great profession in this country, but also their relationship with all American business and with Government.

We feel that accounting ought to be brought into many public bodies, that they should be accountable to the public in a way that they are not now.

Take the case of New York City which in its financial disclosure in the past had not always been fully candid prior to the issuance of bonds.

So that in the last monumental task he undertook of many, I saw a real professional, in the best tradition of the Senate, work with an open mind and an open heart to find the right answer, and I think he truly came up with the right answer.

We all will miss him greatly as a friend and colleague.

But I did want to make it a matter of record, my great admiration having seen firsthand and worked side by side with him for months on extraordinarily complicated jobs. Many times we were the only ones in the hearing room, other than all the witnesses and the audience, but the work of other Senators carried them away on other duties.

The chairman was always in that chair, no matter how long the hearings went on, through the afternoon and early evening sometimes, to carry out that mission.

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

The Chair will announce that a day will be set aside next week for eulogies for both the late Senator HUMPHREY and Senator METCALF.

The question is on agreeing to the resolution.

The resolution (S. Res. 348) was agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Lee Metcalf, late a Senator from the State of Montana and late Acting President pro tempore of the Senate from June 10, 1963.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the decreased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate, at the conclusion of its business today, do adjourn.

Mr. MELCHER. Mr. President, I have a second resolution at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 349) relative to the expenses incurred in the funeral of the Honorable Lee Metcalf, late a Senator from the State of Montana.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 349) was agreed to, as follows:

Resolved, That the Secretary of the Senate is hereby authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred in arranging for and conducting the funeral of the Honorable Lee Metcalf, late a Senator from the State of Montana, on vouchers to be approved by the Chairman of the Committee on Rules and Administration.

THE DEATH OF THE HONORABLE HUBERT H. HUMPHREY, A FORMER VICE PRESIDENT OF THE UNITED STATES AND LATE A SENATOR FROM THE STATE OF MINNESOTA

Mr. ANDERSON. Mr. President, I have a resolution at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 350) relative to the death of the Honorable Hubert H. Humphrey, a former Vice President of the United States and late a Senator from the State of Minnesota.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANDERSON. Mr. President, with great sadness and with an immeasurable sense of personal loss, it is my duty to officially inform the Senate of the death last Friday evening, January 13, of Senator HUBERT HORATIO HUMPHREY at his home in Waverly, Minn.

Last October when HUBERT returned to this Chamber after his second operation, I said:

To those who feel that there are no longer any heroes left in the world, to them I say they have never known HUBERT HUMPHREY.

Now this warm, compassionate, decent man is no longer with us. His passing was characteristically heroic. To the last he persisted in trying to lessen our sorrow. He never showed even a trace of defeat. He urged us to celebrate and not to mourn. Everyone in this body would have expected nothing less of HUBERT HUMPHREY.

HUBERT was never one to look back, and never one to look back in anger. He was a man of the present and the future—a man of vision, not hindsight. Nevertheless, I know that we will spend considerable time, both formally and in-

formally, reflecting on the monumental record and legacy HUBERT HUMPHREY left us.

For 23 of his 66 years, he served his beloved State of Minnesota in the U.S. Senate. At the same time he represented an even larger constituency that extended to every corner of the world.

To the Senate he brought uncommon wisdom and leadership, but possibly just as important, he managed to do it all with good-humored style, maintaining friendships on both sides of the aisle, partisan on behalf of principles but never petty.

HUBERT HUMPHREY was a creature of this institution and he loved it greatly. It is fitting that virtually everyone else now recognizes what his colleagues and those of us from Minnesota have always known—that HUBERT HUMPHREY ranks with the greatest and most renowned Members of this distinguished body.

For me, personally, to have known him for nearly 20 years and to have worked closely with him for the past decade, and particularly to have served as his colleague during the past year, has been the greatest opportunity of my life.

I am confident that I speak for everyone in the Senate when I say we will miss him. The Nation and all of our people will miss him.

Mr. President, I will restrain my comments today since we will officially pay tribute to Senator HUMPHREY and Senator METCALF next week. I do, however, want to thank all Americans for their sincere outpouring of affection for my close friend. The demonstration of love and affection for both Senator and Mrs. HUMPHREY was a measure of the respect this country has for them. I know that I speak for the entire Senate in joining that unparalleled demonstration of love by extending our deepest sympathy to Muriel and the rest of HUBERT'S family.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 350) was agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hubert H. Humphrey, a former Vice President of the United States, and late a Deputy President pro tempore of the Senate and a Senator from the State of Minnesota.

Resolved, That in recognition of his illustrious statesmanship, his leadership in national and world affairs, his distinguished public service to his State and his Nation, and as a mark of respect to one who has held such eminent public station in life, his remains were permitted to lie in state in the rotunda of the United States Capitol, and all of the Members of the United States Senate who attended the funeral are deemed to have been a committee for that purpose.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate, at the conclusion of its business today, do adjourn.

Mr. ANDERSON. Mr. President, I send an additional resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative cleark read as follows:

A resolution (S. Res. 351) relative to the expenses incurred by the committee appointed to arrange for, and attend, the funeral of the Honorable Hubert H. Humphrey, late a Senator from the State of Minnesota.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 351) was agreed to, as follows:

S. RES. 351

Resolved, That the Secreary of the Senate is hereby authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred by the committee which arranged for and attended the funeral of the Honorable Hubert H. Humphrey, late a Senator from the State of Minnesota, on vouchers to be approved by the Chairman of the Committee on Rules and Administration.

REPORT OF COMMITTEE APPOINTED TO WAIT UPON THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, in accordance with the responsibility placed upon Senator BAKER and me, we have acted as a committee to inform the President of the United States that a quorum has assembled in the Senate, we are ready to do business, and that we are ready, of course, to hear any message which he wished to convey to the Senate.

He expressed his gratitude to Senator BAKER and myself for the good work that had been done by the Senate last year.

He conveyed the message that he would be reporting to a joint session of the Congress this evening at 9 o'clock on the State of the Union.

In addition to that, I believe he merely wished us well. We, of course, pledged our greatest efforts toward cooperation and doing a good job in connection with the heavy workload that lies ahead.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I only add that the President seemed pleased with the cooperation that was shown by the Senate in the last session.

He expressed his desire to work with the Senate in the coming year during this session, and we expressed our desire to work together for a worthwhile second session of this Congress for the welfare of the country.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I hope Senator ALLEN will be recognized because he has very courteously delayed seeking recognition for other matters, and I thank him.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

TRIBUTE TO SENATOR JOHN L. McCLELLAN OF ARKANSAS

Mr. ALLEN. Mr. President, the death of Senator John L. McClellan of Arkansas on November 27, 1977, was a tremendous loss to his family and friends and to the U.S. Senate, the entire Congress, and to the Nation as a whole.

This great American—this true patriot—this outstanding Senator—this loyal son of Arkansas was at the very height of his illustrious career in the Senate—a career spanning amost 35 years.

His name became a household word during his long fight against organized crime during the years that he headed the highly regarded and internationally acclaimed McClellan committee in the Senate. Through his tenacity and untiring efforts many mobsters and other organized crime figures were exposed and later brought to justice, and the need for stronger criminal laws and procedures was established, resulting in the enactment of strong legislation pushed through Congress by Senator McClellan. His name and fame truly struck fear in the hearts of the criminal element in this country.

Senator McClellan was a strong supporter of fiscal responsibility in government and manifested that philosophy in his outstanding work as chairman of the Senate Appropriations Committee.

He was a conservative in the finest and highest sense of that word; a man of Christian character, lofty ideals and high principles; a generous, friendly, and compassionate man.

Long before I came to the Senate I became a staunch admirer of Senator McClellan. He was one of my political heroes—a man of patriotism and honor—and yes, I say unashamedly, a Southern leader and statesman—a man I wanted to emulate when I came to the Senate.

In first listing my committee preferences for the leadership when I came to the Senate, I asked for membership on the Government Operations Committee (now the Governmental Affairs Committee), then headed by Senator McCellan; and it is a source of satisfaction to me that Senator McClellan requested that I do so.

Nine years of service with Senator McClellan never changed the high regard and admiration that I had for him, except that it grew greater and greater as time went on. And our friendship, too, grew with the years.

My wife, Maryon, and I truly loved Senator McClellan and we treasure his memory. He was a true friend and one we will greatly miss.

We extend to our dear friend Norma McClellan, his lovely, gracious and loyal wife of many years, and to other members of the family our sincerest sympathy in their great loss. May the Lord comfort them in their grief.

TRANSCRIPT OF MEMORIAL SERVICE FOR SENATOR HUBERT H. HUMPHREY IN THE ROTUNDA OF THE CAPITOL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a transcript of the memorial service for the late Senator HUBERT H. HUMPHREY, Deputy Presi-

dent pro tempore of the Senate, which was held in the Rotunda of the Capitol of the United States on Sunday, January 15, 1978, which has been prepared by the Official Reporters of Debates.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

MEMORIAL SERVICES FOR SENATOR HUBERT H. HUMPHREY, JANUARY 15, 1978

Assembled in the Rotunda of the Capitol were President and Mrs. Carter, Vice President and Mrs. Mondale, Mrs. Humphrey and family, members of the Senate and the House of Representatives, and guests.

The Isaac Stern Trio played Mendelssohn's "Trio in C Minor" and "Andante Expressimo."

The Reverend Edward L. R. Elson, D.D., the Chaplain of the Senate, offered the following prayer:

God of our fathers and our God, Who has watched over this Nation from generation to generation, we thank Thee for all the sacred memories which cluster about this hour and for the love and respect which fill the world today in tribute to Thy servant Hubert. Hear us now in the prayer of St. Francis:

Lord, make us instruments of Thy peace. Where there is hatred, let us show love; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

Divine Master, grant that we may not so much seek to be consoled, as to console; to be understood, as to understand; to be loved, as to love. For it is in giving that we receive, it is in pardoning that we are pardoned, and it is in dying that we are born to eternal life.

Amen.

Mr. Robert Merrill sang "Ave Maria."

The Isaac Stern Trio played Bach's "Sarabande in D Minor."

Vice President MONDALE. Dear Muriel, the Humphrey family, and guests:

There is a natural impulse at a time like this to dwell on the many accomplishments of Hubert Humphrey's remarkable life, by listing a catalogue of past events, as though there were some way to quantify what he was all about. But I don't want to do that, because Hubert didn't want it, and neither does Muriel.

Even though this is one of the saddest moments of my life and I feel as great a loss as I have ever known, we must remind ourselves of Hubert's last great wish: that this be a time to celebrate life and the future, not to mourn the past and his death.

But, Muriel, I hope you will forgive me if I don't entirely succeed in looking forward and not backward, because I must, for a moment.

Two days ago, as I flew back from the West over the land that Hubert loved and to this city that he loved, I thought back over his life and its meaning, and I tried to understand what it was about this unique person that made him such an uplifting symbol of hope and joy for all people.

And I thought of the letter that he wrote to Muriel over forty years ago, when he first visited Washington. He said in that letter:

"Maybe I seem foolish to have such vain hopes and plans. But, Bucky, I can see how, some day, if you and I just apply ourselves and make up our minds to work for bigger things, how we can some day live here in Washington and probably be in government, politics or service. I intend to set my aim at Congress."

Hubert was wrong only in thinking that his hopes and plans might be in vain. They were not, as we all know. Not only did he succeed, with his beloved wife at his side; he succeeded gloriously and beyond even his most optimistic dreams.

Hubert will be remembered by all of us who served with him as one of the greatest legislators in our history. He will be remembered as one of the most loved men of his time. And even though he failed to realize his greatest goal, he achieved something much more rare and valuable than the Nation's highest office. He became his country's conscience.

Today, the love that flows from everywhere, enveloping Hubert, flows also to you, Muriel. And the presence today here, where America bids farewell to her heroes, of President and Mrs. Carter, of former Presidents Ford and Nixon, and your special friend and former First Lady, Mrs. Johnson, attests to the love and respect that the Nation holds for both of you.

That letter to Bucky, his Muriel, also noted three principles by which Hubert defined his life: work, determination, and high goals. They were part of his life's pattern when I first met him, 31 years ago. I was only seventeen, fresh out of high school, and he was the Mayor of Minneapolis. He had then all the other sparkling qualities he maintained throughout his life: boundless good humor, endless optimism and hope, infinite interest, intense concern for people and their problems, compassion without being compromising, energy beyond belief, and a spirit so filled with love there was no room at all for hate or bitterness. He was simply incredible.

When he said that life was not meant to be endured but, rather, to be enjoyed, you knew what he meant. You could see it simply by watching him and listening to him. When Hubert looked at the lives of black Americans in the 40's, he saw endurance and not enjoyment; and his heart insisted that it was time for Americans to walk forthrightly into the bright sunshine of human rights.

When Hubert looked at the young who could not get a good education, he saw endurance and not enjoyment. When Hubert saw old people in ill health, he saw endurance and not enjoyment. When Hubert saw middle-class people striving to survive and working people without jobs and decent homes, he saw endurance and not enjoyment.

Hubert was criticized for proclaiming the politics of joy, but he knew that joy is essential to us and is not frivolous. He loved to point out that ours is the only nation in the world to officially declare the pursuit of happiness as a national goal.

But he was also a sentimental man, and that was part of his life, too. He cried in public and without embarrassment. In his last major speech in his beloved Minnesota, he wiped tears from his eyes and said, "A man without tears is a man without a heart." If he cried often, it was not for himself but for others.

Above all, Hubert was a man with a good heart; and on this sad day it would be good for us to recall Shakespeare's words:

A good leg will fall; a straight back will stoop; a black beard will turn white; a curled pate will grow bald; a fair face will wither; a full eye will wax hollow; but a good heart, is the sun and the moon; or, rather, the sun, and not the moon; for it shines bright and never changes, but keeps his course truly." Hubert's heart kept its course truly.

He taught us all how to hope and how to love, how to win and how to lose. He taught us how to live and, finally, he taught us how to die.

President CARTER. At critical times in our history, the United States has been blessed by great people who, just by being themselves, give us a vision of what we are at our best and of what we might become. Hubert Humphrey was such a man.

In a time of impending social crisis thirty years ago, his was the first voice I ever heard, a lone voice, persistently demanding basic human rights for all Americans.

It was a most difficult moral and social issue that my own generation would have to face in those early days. His was a clear voice, a strong voice, a passionate voice, which recruited others to join in a battle in our country so that equal rights of black people could be gained—to vote, to hold a job, to go to school, to own a home.

I first met Hubert Humphrey when he was Vice President—torn because his heart was filled with love and a yearning for peace, while at the same time he was meticulously loyal to a President who led our Nation during an unpopular war.

I also remember him in a time of political defeat, courageously leading a divided Democratic Party, losing his uphill campaign for President by just a few votes. But he was a big man; and, without bitterness, he gave his support to the new President, and then came back later to the Senate, to serve his Nation once again.

For the last year of his life, I knew him best, and that is when I needed him most. Despite campaign disagreements and my own harsh words spoken under pressure and in haste, it was not his nature to forget how to love or to forgive.

He has given me freely what I need: The support and understanding of a close and true friend, the advice of a wise and honest counselor.

When he first visited me in the Oval Office, I felt that he should have served there.

I know that he has been an inspiration and a conscience to us all, but especially to the leaders of our Nation: to Harry Truman, to Dwight Eisenhower, to John Kennedy, to Lyndon Johnson, to Richard Nixon, to Gerald Ford, and to me.

We and our families are here today to testify that Hubert Humphrey may well have blessed our country more than any one of us. His greatest personal attribute was that he really knew how to love. There was nothing abstract or remote about him. He did not love humanity only in the mass. You could feel it in the scope of his concern, in his words, in the clasp of his hands, in the genuine, eager interest in his eyes as he looked at you.

He always spoke up for the weak and the hungry and for the victims of discrimination and poverty. He never lost sight of our own human possibilities. He never let us forget that in our democratic nation we are a family, bound together by a kinship of purpose and by mutual concern and respect. He reminded us that we must always protect and nurture the other members of our national family.

Yesterday, as messages poured in to me, as President, and to the members of the Humphrey family from throughout the world, I realized vividly that Hubert Humphrey was the most beloved of all Americans and that his family encompassed not just the people of the United States but all people everywhere.

He asked, as the Vice President has said, that this service be a celebration; and in a way, that is what it is. Even as we mourn his death, we celebrate because such a man as Hubert Humphrey was among us. The joy of his memory will last far longer than the pain and sorrow of his leaving.

Mr. Merrill sang "The Lord's Prayer."

A violin solo of Beethoven's "Opus 70, No. 2, in E Flat" was presented by Mr. Stern.

Mr. Merrill sang "America The Beautiful."

Mr. MERRILL. Mrs. Humphrey asked if you will join me in singing "America The Beautiful" one more time.

The assemblage joined in singing "America The Beautiful."

EULOGIES FOR THE LATE SENATORS HUMPHREY AND METCALF

Mr. ROBERT C. BYRD. Mr. President, the joint leadership will announce later today or tomorrow a fitting period of time, on a date which will be decided upon later today and which will occur next week, for the introduction of statements and eulogies into the RECORD regarding our late, departed colleagues, Senator HUMPHREY and Senator METCALF.

I believe that such a period was set aside late last year for eulogies with respect to Senator McClellan, and I believe at that time I had received consent to have those eulogies compiled and bound as a Senate document. Has the printer received all those eulogies as yet?

I assume that the time has expired. I would like to reopen it, if possible, if the printers have not proceeded to an extent that makes it impossible.

The PRESIDING OFFICER (Mr. DECONCINI). The Parliamentarian will ascertain that information and report back to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair.

INCREASE OF TARGET PRICES FOR COTTON AND CORN—S. 2392

Mr. ALLEN. Mr. President, this month, 34 years ago, our late President, Franklin D. Roosevelt, submitted to Congress his message on the state of the Union. Embodied in that message was what he entitled "A Second Bill of Rights" and what others have referred to as "The Economic Bill of Rights." Appropriately enough, one of the rights espoused was "the right of every farmer to raise and sell his products at a rate which will give him and his family a decent living." Farmers are as much entitled to that right in 1978 as they were in 1944.

Farmers have been caught in a terrible cost-price squeeze. Their frustrations have been manifest in calls for a farm strike and all of us have seen their tractorcades, separately in every part of this country and collectively here in the Capital. In all fairness to those participating in the American Agriculture Movement, it must be said that they do not want sympathy or a Government handout. They want a fair price for their crops and livestock. They have successfully called our attention to the seriousness of the situation on the farms of America. We can not have a healthy national economy in the absence of a healthy agricultural economy.

In my judgment, we have a real responsibility to do what is reasonable, responsible, and feasible in helping farmers achieve a fair share of the national income. This is their goal and such a goal is not unreasonable and would be equitable.

Because I am concerned over the present plight of the farmer, his future, the welfare of the American consumer, and the health of the economy in general, I am today introducing legislation which will increase the target price for cotton to 60 cents per pound and the target price for corn to $2.30 per bushel for the 1977 and 1978 crops. The Food and Agriculture Act of 1977, now Public Law 95–113, raised the target price for cotton to 52 cents per pound and for corn to $2.10 per bushel. Since that legislation was passed and signed into law, however, the cost of inputs necessary for production has continued to increase while the prices received by farmers and the cash commodity market have steadily declined. The Economic Research Service of USDA presently estimated that the cost of producing 1 pound of upland cotton is 53.7 cents per pound and for corn the estimate is set at $2.10 per bushel. These figures include the cost of land and management, and, as can be seen, precludes any profit for the farmer as a result of his labor.

There is no reason for the U.S. Congress to be inflexible and unresponsive at this point simply because the new farm bill has just become law. Like others who serve on the Senate Committee on Agriculture, I held hearings in my State prior to the committee markup of this new farm legislation. From the input made by the farmers of my State during these field hearings, held in early 1977, I was persuaded that the target prices enacted by the Congress would be sufficient to insure adequate production of food and fiber. Times have changed, unfortunately, for the worse. The situation has deteriorated drastically since the passage of the 1977 farm bill.

Our farms have been ravaged by drought—it hit the southeast section of our country harder than any other section, I believe—insects in the form of army worms, and disease in the form of aflotoxin, floods, and a drop in farm prices. It is as though the Four Horsemen of the Apocalypse have ridden once again.

Congress must now provide an immediate infusion of financial help to enable farmers to pay off their debts, meet their notes, buy new farm equipment, and to continue producing food and fiber. We have given financial assistance to every other sector of our national economy when faced with emergency situations and disasters. There have been emergency public works projects along with emergency unemployment legislation, but there are few, it seems who are enthusiastic about helping the agricultural sector in its time of distress. Some of the farmers have even accused us of "stonewalling." But if the farm sector fails, those businesses related to agriculture are placed in jeopardy also—the farm machinery dealer, the hardware merchant, the rural banks which have loaned him money, and those other merchants whose livelihood is dependent on farms and farmers. The economy of many of our small towns is totally dependent upon the farmer. The sectors of our economy are mutually dependent on each other. When one is unhealthy, all function at less than total efficiency. The Nation's continued prosperity lies in a strong and stable agriculture.

Like many other Senators, I had the opportunity to travel extensively in my State during the recent recess and, after meeting with many farm groups and seeing firsthand their desperate circumstances, I am convinced that the farm economy of my State and the entire South is on the verge of collapse. The decline in income and the large increases in production costs have placed many Alabama farmers in a complete state of financial jeopardy.

Figures provided by the Alabama Cooperative Extension Service at Auburn University indicate that Alabama farmers spent $63.5 million more in 1977 to produce commodities which will bring them $9 million less than in 1976, in 1977 income for Alabama farmers from cotton, corn, and soybeans was off $112 million from the previous year. Income from cotton declined by $46 million; from feed grains by $44 million; and from soybeans by $22 million. Cash receipts from the State's corn crop for 1977 were cut by 84 percent while cash receipts for cotton were down by 38 percent.

Per acre cotton income will average $203, compared to production costs of $286 per acre, giving a net loss of some $83 for each acre planted in cotton. Cash receipts from feed grains, wheat, and hay are down 64 percent from last year. The 1977 soybean crop is valued at $184 million, worth $22 million less than the 1976 harvest. While more acres of soybeans were planted this year, yields were down 17 percent due to the drought in the early growing season and an extremely wet harvest season.

If further evidence is needed as to the seriousness of the situation in my State, consider the latest report of the Small Business Administration on its drought disaster loans for Alabama. Through January 4, there were 799 drought disaster loans approved for a total of $34,447,000. There are 650 more applications on hand which have been completed and accepted, valued at approximately the same amount. This does not include applications on hand which are yet too incomplete to process. These low-interest loans have been of great assistance in this time of emergency but the old axiom that one cannot borrow his way out of debt is still applicable.

Farmers are deeper in debt today than ever before and farm income has declined from $30 billion in 1973 to an estimated $19 billion in 1978. The value of farmland has taken a downward turn and exports are off. Yet this Nation's 2.8 million farms still provide jobs for about 4.4 million people, including the principal operator, working family members, and hired hands. That's more jobs than are provided by such industrial heavyweights as autos and steel. Our national unemployment percentage reached a 3-year low in December at 6.4 percent, which brings great relief to us all, but with a continual decline in the farm income, there will surely be an increase in the number of farmers looking for other jobs, at a time when unemployment among nonfarmers is just beginning to show improvement. But, what can we expect when USDA figures reveal that last year the average income per farm was $7,885, compared with a peak of $10,529 in 1973.

Mr. President, I am not so presumptuous as to claim that this bill I am introducing today is a panacea to cure the ills of our farm economy. I do see

it, however, as a vehicle which can be used to provide much needed relief to our financially troubled farmers through the provisions incorporated in this legislation and through constructive and helpful provisions which might be added at a later date. Yes, it will cost some money. The rule of thumb is that for every 1-cent increase in the target price for cotton, the total cost would approximate $50 million and for every 10-cent increase in support for corn, the price would approximate $550 million. But if such an amount can save our farmers from bankruptcy, the price will be small. If such an increase can help assure the continued production of food and fiber for our Nation, and the nations of the world, the costs will prove to be insignificant when compared to the results.

I was appalled when I read an editorial in the December 19, 1977, Business Week, which said:

Despite the din of protest, farming has returned to the 1960's, not the 1930's. It is an industry with thousands of highly productive units competing vigorously. Prices are more often modest than generous and overproduction can put weaker producers under severe economic strain. The wisest choice for many of the small group of hard-pressed farmers may be to sell out and save what equity they have left rather than fight to reverse the economic forces of their industry.

If that is the philosophy of this body, then heaven help us and the farmers.

Mr. President, I cannot be a party to that reasoning. I cannot endorse such crass fatalism. If one of my constituents wants to farm, I want to help make it possible for him to do so, rather than freeze him out. I want to help him keep that farm he worked so hard to get, rather than stand idly by and be a party to his bankruptcy. That, Mr. President, is why I am compelled to introduce this legislation today and I ask unanimous consent that the bill, as drafted, be printed in the body of the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Agricultural Act of 1949 is amended by adding at the end thereof a new section 112 as follows:

"SEC. 112. Notwithstanding any other provisions of this Act—

"(a) The established price for the 1977 and 1978 crops of upland cotton shall be 60 cents per pound.

"(b) The established price for the 1977 and 1978 crops of corn shall be $2.30 per bushel.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRIMINAL CODE REFORM ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideartion of S. 1437, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, on behalf of the able Senator from Utah (Mr. HATCH), I ask unanimous consent that two members of his staff, Michael Hunter and Thomas Parry, be accorded the privilege of the floor during discussion of the pending measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that John Fleming of my staff be accorded the privilege of the floor throughout consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I make a similar request on behalf of Carl Anderson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask the same for Mr. Kenneth Feinberg of my staff, Mr. Paul Summitt of former Senator McClellan's office, and Mr. Russell Coombs of the Judiciary Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the pleasure of the Senate?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. SCOTT. Mr. President, reserving the right to object, I ask the Senator to withhold that request.

Mr. KENNEDY. I withdraw the request.

Mr. SCOTT. Mr. President, I wish to pose a question to the distinguished majority leader.

I was told informally by another Member of the Senate that we probably would not have rollcall votes today. I have not been in my own office, but we have 26 amendments to this bill, and I want to introduce them today and do not care whether we have a rollcall vote on them today or not. I just ask the distinguished majority leader, is it his intention that we proceed with votes today?

Mr. ROBERT C. BYRD. I announced earlier at a time when the distinguished minority leader was in the Chamber along with other Senators that there may very well be rollcall votes today on amendments.

Mr. SCOTT. So the distinguished majority leader would have no objection to my introducing the amendments today.

Mr. ROBERT C. BYRD. Not at all. I hope we make as much progress as possible today.

Mr. SCOTT. I appreciate the comments of the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. SCOTT. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the distinguished Senator from Idaho (Mr. MCCLURE) has asked me to ask unanimous consent that Mike Hammond, a member of his staff, be granted the privileges of the floor during the debate and vote on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, on behalf of the distinguished occupant of the chair (Mr. DECONCINI), I ask unanimous consent that Tim McPike of his staff be accorded the privileges of the floor during the pending debate and any votes thereon on that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hultman and Eva Clark of the Judiciary Committee staff have the privilege of the floor during the debate and votes on S. 1437, the criminal code bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARMERS VISIT ON CAPITOL HILL PRESENTS FOOD FOR THOUGHT

Mr. RANDOLPH. Mr. President, I ask unanimous consent to speak for 3 minutes out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. I appreciate the courtesy of the Senator from Massachusetts.

Mr. President, today on Capitol Hill visiting with Members of Congress, Senators and Representatives from their States and districts, are several hundred—I do not know the number—of the farmers who have come from the rural sections of America to present their cause and to discuss the problems of the production of agricultural commodities which, of course, are so vital to American consumers.

This morning I visited with three of these farmers who are from the State of Georgia. They are Allen Veal, and Nick Dixon, both of Tennille, and Lonnie McDonald, of Warthen.

They just stopped by my office, and I had an opportunity to talk with them. It was a pleasant conversation. My grand-

father, Jesse Randolph, was a farmer and merchant. As a growing boy, I worked in his fields. My father, Ernest Randolph, was a livestock dealer. I recall helping to weigh the beef cattle and lambs, and herding them over winding, dusty roads to the railroad loading pens for shipment to eastern markets.

West Virginia is the second most rural State in the Union to Vermont, by some criteria. As I talked with the visitors, I asked if they would forgive me if I recited a few lines which I had learned as a boy in the schools of the hill country of West Virginia.

They did not say yes or no, so I began like this, and I will just give you those lines now:

> The doctor heals and the lawyer pleads,
> And the miner follows precious leads.
> But this or that, what e'er befall,
> The farmer feeds them all.

I think we do recognize the essential role of the farm population of America, the hardiness and the hardships of those who toil the good earth and supply America with sustenance.

I hope that whatever is done in Congress, the Senate and the House, it will be done carefully, and I hope that there will be the opportunity given to these farmers through their representatives to plead their case without disruption with the Members of Congress during the second session which has now begun.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. THURMOND. Mr. President, I would like to join the able and distinguished Senator from West Virginia in the statement he has just made.

There is no question in my mind but that the farmers of America today are having a very difficult time. There is no question in my mind that the farmers today, if those in other parts of America are like they are in South Carolina, are not breaking even. There is no question in my mind that the farmers today must have some relief or they will not be farming very long.

I am informed that Clemson University, for instance, has made the statement that the farmers, at present prices of corn, will lose $30 an acre this year if they grow corn; that they will lose $21 per acre if they grow soybeans.

Farmers cannot stay in business when that occurs. I hope Congress will listen to these farmers and will take such steps as are necessary to alleviate this situation because, after all, the people of America are dependent upon them to produce the food and fiber that are so essential to our Nation.

Farmers are independent-thinking people. I have found them to be people of high principle. I have found them to be people who love freedom. I have found them to be people who support civic, church, and community activities, and I do not believe we have any better citizens in the Nation than we find on our farms.

I hope, I express again, that action can be taken to render such assistance as may be needed to help the farmers that may be appropriate. I thank the Senator.

Mr. RANDOLPH. I thank the Senator.

Mr. KENNEDY. Mr. President, before embarking on what will be one of the most important legislative undertakings of this session, and in close cooperation with my good friend from South Carolina (Mr. THURMOND), there is a point which I hope will not remain open on the record—whether the good farmers of South Carolina are better citizens of this great Nation than the factory workers of Massachusetts.

The fact of the matter is, Mr. President, both of these groups have common interests, and that is why I welcomed the opportunity to meet some of the constituents of the Senator from South Carolina. My State, which is an industrial State, produces shoes, textiles, and machine tools, which it will be unable to sell unless there is going to be prosperity in rural and agricultural America.

We are one Nation, with one history and one destiny. Unless we are going to have prosperity in rural and agricultural America it is going to complicate the problems of industrial areas, those urban parts of the Nation.

So it is essential that we devise agricultural policies that are going to provide a sense of equity and fairness to those who live in rural America.

I have been impressed by the growth of debt for family farmers in this country. It has virtually doubled over the period of the last 8 years, going from some $60 billion to $120 billion, while rates of return in terms of profits have just about been half, somewhere around $30 billion compared to $17 billion or $18 billion.

So this is a national problem. It is these people who come from all over this country, to whom I want to give assurance that we recognize that their constituency includes other areas besides the rural counties and agricultural districts capably and ably represented in the Senate. It is a challenge for all of us, those who represent other parts of the country. I, too, would like to join my colleagues in commending the farmers for taking the time to come here, and meet with their legislators. We welcome them here. I am hopeful we can address their particular needs. I join with my colleagues in attempting to do so.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. KENNEDY. Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand, the business that is before the Senate is S. 1437; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, S. 1437, the Federal Criminal Code Reform Act of 1977, would modernize and streamline the entire Federal criminal law. This has never been done in the over 200 years of our Nation. Instead we have some 3,000 laws without plan or structure, virtually a Tower of Babel, and it is of critical importance to our people that this reform effort succeed.

Over half the States are in the process now of recodifying their State criminal codes, and Congress must do likewise. The current code is archaic, unfair, and ambiguous.

I think this point is important, Mr. President, in considering these laws we are attempting to recodify—more than half the States of this Nation are already in the process of making sense out of their criminal statutes. Such statutes, not unlike the Federal statutes, are complex, involved, and detailed; but the States of this Nation understand the importance of providing some sense and taking some responsible action to deal with the criminal laws of this country in order to improve our system of criminal justice.

S. 1437 is not a hastily conceived idea. It is the culmination of an ongoing 12-year effort to develop a just, workable, modern Federal Criminal Code. The main impetus for this effort was the decision of President Lyndon Johnson in 1966 to establish the National Commission on Reform of Criminal Laws. This Commission, chaired by the distinguished former Governor of California, Edmund G. Brown, concluded, after almost 5 years of hearings and careful research, that a completely new comprehensive codification of the Federal criminal law was necessary. Piecemeal change was ruled out as inconsistent with the goal of genuine reform.

Since then, years of futile effort have gone into the process of revising our criminal code, and during that period much thought and effort have been invested by many people. I think of the contributions that have been made by the members of the Judiciary Committee who are now active, especially the ranking Republican member of the Committee on the Judiciary, Senator THURMOND. I think back to the late Senator Philip Hart, one of the most concerned and committed Senators on the question of civil liberties and civil rights. Senator Hruska, who spent years involved in the technical details of recodification. And, especially, the late Senator John McClellan, who was the chairman of the Criminal Laws Subcommittee. He was known in the U.S. Senate as "Mr. Law Enforcement," he understood the importance of this particular legislation.

This really is, Mr. President, if I may say so, John McClellan's valedictory after his many years of public service. He spent years of work on the process of criminal recodification; and as the piece of legislation we are considering today has been perfected, modified, and adjusted in the course of our subcommittee and our full committee deliberations, Senator McClellan was very much aware of the process, and he, prior to the time of his passing, was very much committed to this legislation as a piece of legislation that embodied the best possible adjustment of a variety of views and attitudes on a whole host of issues which are inscribed in the criminal statutes of this Nation.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield to the Senator from Indiana.

Mr. BAYH. I would like to associate myself with the remarks of our distinguished friend and colleague the Senator from Massachusetts relative to the exemplary work and the laborious effort expended on what was, indeed, a longtime goal by the distinguished Senator from Arkansas who is now deceased.

But I think for the record to be accurate and to reflect the full scope of the effort that was devoted to the measure which is now before us, equally high marks must be awarded to the distinguished Senator from Massachusetts, because he has been interested in this matter for a long time himself. During the required absence of the Senator from Arkansas because of illness, the Senator from Massachusetts provided more than a worthy substitute, and indeed was a tenacious advocate of trying to resolve some of these questions, and I salute him for it. I appreciate the careful consideration that he and the committee have given the various amendments the Senator from Indiana offered, sometimes successfully and at other times not so successfully, to offer to the bill in order to seek to perfect it.

I might offer one further word of support to the Senator's last comment. As we look at this bill, I suppose most of us might find ways in which we believe we should change it. Perhaps some of us might attempt to find ways to do that. But as one looks at it and realizes the way in which most of the rough edges have been sanded off it is certainly a far cry from its predecessor, S. 1. I think the Senator from Massachusetts is the one who, more than anyone else, deserves credit for the refinement that has gone into this bill. I am proud to have been one who was a part of that process in the committee, observing him sitting hour after hour, doing what most of the members of the committee would have been unwilling to do. I say this simply so that our colleagues will know of the tremendous contribution made by the Senator from Massachusetts.

Mr. KENNEDY. I appreciate the Senator's comments. I feel that this bill, which was reported out of the committee on the Judiciary by a 14 to 2 vote, bears the imprint of most of the committee's membership. The Senator from Indiana, I am sure, remembers the difficulty and the complexity, the delicate negotiations on the vitally important provision dealing with marihuana, an issue which, as a former member of the Juvenile Delinquency Subcommittee, the Senator has very strong views about. He understood the views of the committee members and the committee itself; and the Senator from Indiana worked out an adjustment on that issue which, while I think it was in actuality a minor issue of symbolic importance could have effectively derailed the whole thrust of this legislation.

The insistence of the Senator from Indiana conceiving the press provisions, and the false statement provisions, indicated his commitment to this legislation. His insistence on a narrow definition of public safety officer, in place of "any official," was an important addition in protecting the individual rights of our citizens.

I want, at the outset, to recognize the strengthening provisions which were added to this legislation at the behest of the Senator from Indiana, all of which reach the very heart of this bill to seek to treat individuals in contact with the law fairly, while insuring that the interests of society are protected.

Obviously, in these negotiations, some of the most complex issues being discussed will have implications far into the future. When we realize that there has not been a recodification for 200 years, the work of the committee and the work of the Senate on this issue will be seen as extremely far reaching. We want to give absolute assurances to all the Members, as we begin this discussion and this debate, that we intend to take whatever time is necessary and essential to debate any of the particular provisions, alterations, or changes which may be controversial. We acknowledge that this is a constantly evolving process.

We value very highly the suggestions which have been made. To date, there have been over 200 amendments which have been accepted since the introduction of the bill. This is a constant process. We recognize this.

As I mentioned, other members of the committee, Senator HATCH of Utah, Senator WALLOP, as well as Senator ABOUREZK and others, all took a very active interest in this legislation. All during the consideration we had the very important help and assistance of the Justice Department, the personal interest of the Attorney General, Judge Bell, and the very capable assistance of the administration.

S. 1437 is a symbol of bipartisanship in law enforcement. After a month of very lengthy debate in the full committee and some 3 months of debate during subcommittee markup, the bill was reported by a 14-to-2 vote. A companion bill, H.R. 6869, was introduced by Congressman RODINO.

S. 1437 was drafted with one overriding thought in mind—to avoid the controversies of the past, to bypass the pitfalls which have doomed previous code reform efforts. Controversial and provocative amendments were laid aside, to be dealt with separately on another day. This has been the key to the consensus which has highlighted the Senate's deliberations up to now—the recognized need for all sides to negotiate and compromise in order to achieve a final product worthy of passage.

This approach to consideration of criminal code reform must continue.

Mr. President, knowing that our Presiding Officer is a member of the Judiciary Committee, I remember the hours we spent on the amendments of the Senator from Arizona. In those areas of speech and assembly, careful protections were added at his insistence.

We have had 11 days of hearings consisting of some 1,320 pages which, they added to the extensive hearings of the past 9 years, make up some 16 volumes and 10,000 pages. We had 3 months of markup in the subcommittee from May into August, with 4 weeks of committee markup and debate from October 4 until November 2. The bill and the report were circulated on December 12. There were weekly staff sessions attended by some 32 representatives of 27 Senators.

Just before the Senate recessed, on December 12 a letter went out to all of our colleagues, signed by the chairman of our committee and the ranking member, Senator THURMOND, cosponsored by myself and Senator HATCH.

On December 12 we stated that we hoped the Senate would be able to consider S. 1437 promptly next session.

Because of the length and complexity of the legislation we instructed the staff to begin holding weekly staff meetings with all interested persons in order to discuss the bill and answer any questions. The staff meetings were held in room 2228 at 2:30, on December 20 at 10:30, and on January 4, 5, 10, 11, 16, and 19.

Meetings were held on all of those days. We had a very sizable response from the staffs of the Members. Those were good sessions with a very detailed explanation of the legislation as well as corresponding opportunities for the exchange of ideas and the consideration of ideas.

We tried to give as much notice as we possibly could to the membership of our intention to call this legislation up at an early date and to use the period of the recess as an opportunity for the membership to acquaint itself with the various provisions of the legislation. We are indeed grateful to the leadership for early consideration of this legislation.

Mr. President, what does S. 1437 really do?

It examines and reforms the criminal provisions in all of the 50 U.S. titles, particularly title 18. The bill is divided into six titles. All serious Federal offenses are placed into one title instead of being scattered throughout the various U.S. titles.

Title I would replace title 18 of the United States Code. It consists of five interlocking parts:

First. Part I contains generally applicable provisions of the criminal law which govern the interpretation and application of the other portions of the code. It sets forth the general principles of criminal law, the definitions of terms commonly used throughout the code, the circumstances under which the Federal Government may investigate and prosecute, the nature of the intent or other mental states that must accompany conduct before that conduct will be considered criminal, the circumstances under which one individual or an organization will be held responsible for the acts of another, and the conditions under which criminal conduct may be subject to a valid offense or may not be subject to prosecution.

Second. Part II contains all the Federal crimes—except for misdemeanors consisting simply of violating the various Federal regulatory laws. All the serious Federal offenses are set forth for the first time in a single title of the United States Code, and are grouped in an orderly, rational arrangement. Numerous provisions of current law are dramatically consolidated to eliminate redundancy and in-

consistency; over 270 offenses relating to theft, forgery and counterfeiting, false statements, and property destruction are reduced to 13 offenses. The offenses are described in as clear and simple a fashion as necessary precedents will permit, using, whenever possible, the common terms defined in part I. The jurisdictional provisions which permit the Federal Government to prosecute for an offense—for example, the use of the mails in the course of the offense, the effect of the offense on interstate commerce, the status of the victim as a public official—are separated from the description of the criminal conduct and set out in a separate subsection of each offense for purposes of clarity and for purposes of facilitating future changes in the law. The potential penalty carried by each offense is also set forth in a separate subsection, using a simple categorization technique to refer to the applicable sentencing provisions.

Third. Part III describes the sentences that may be imposed for criminal offenses, and prescribes the manner in which an appropriate sentence is to be selected and imposed. Through a guideline sentencing system, subject to appellate review, far greater certainty and uniformity in sentencing will be possible. In addition, more effective sentencing will be possible for white collar offenders, and means are provided to facilitate the recovery of losses by victims of offenses.

Fourth. Part IV contains the various administrative and procedural provisions affecting the criminal justice system. They range from identifying the Federal agency with responsibility for investigating particular Federal offenses, to prescribing the rules for court appointment of attorneys for indigent defendants, and to directing the procedures for handling offenders who are mentally ill.

Fifth. Part V contains provisions of law by which, through the civil justice process, the Government will be able to enjoin the continuance of certain kinds of criminal conduct and citizens will be able to obtain redress against offenders for damage or injury caused by specified crimes. It also contains a limited program for the compensation of victims of violent Federal offenses.

S. 1437 uses primarily four methods to reform the entire Federal criminal law. First, the bill consolidates criminal provisions currently scattered throughout all 50 titles in a logical and consistent manner. For example, there are 80 separate theft offenses and 70 counterfeiting and forgery offenses, all with their own conflicting language and definitions. S. 1437 provides for one comprehensive theft offense with the penalty varying depending on the kind and value of property stolen; five new counterfeiting offenses replace the confusion of current law. This approach in S. 1437 is designed to avoid the inconsistencies, loopholes and hypertechnicalities of current law.

Finding the law can be a problem. The ordinary citizen has no idea what the law is. Of course, what happens in many instances is that various U.S. attorneys or prosecuting attorneys can drift through the different provisions of the statute and may select any one of the 80 different definitions of theft to try a particular defendant depending on the various degrees of penalty.

Second, there is provided a dictionary of over 100 key code terms, assuring uniform definition. The definitions of these various provisions, at the present time, are divided and scattered throughout case law. Case law may vary, obviously, in different jurisdictions, so we have a variety of different definitions that are used. S. 1437 is an attempt to provide a uniform understanding of what these particular provisions mean.

Third, the bill repeals many archaic and ambiguous provisions which should have been repealed years ago. For example, the Logan Act of 1799, enacted during the administration of President John Adams, prohibits private communications to a foreign government. It is still a crime to impair military effectiveness by a false statement even though this provision has not been invoked since World War I. In a lighter vein, it remains a Federal crime to lie to a ship's captain or to detain a Government carrier pigeon. S. 1437 repeals such relics. Also, the 80 separately defined culpability terms found in current law, ranging from wantonly and lasciviously to maliciously and corruptly, are repealed and replaced by just four terms, intentional, knowing, reckless, and negligent. This simplification will permit far greater clarity and uniformity.

Fourth, S. 1437 makes important new additions to the Federal criminal law. The Federal law currently lacks effective criminal provisions designed to meet many contemporary problems—consumer and election fraud, environmental pollution and white collar and organized crime.

As a result of this legislation, major innovations are incorporated into the Federal criminal law.

As a result of S. 1437, Mr. President, there is a series of major new protections which have been added to this legislation.

First. Press Protections—Specific defenses are recognized for the violation of court "gag" orders that unconstitutionally restrain the gathering or publishing of news; defenses added to section 1301 of S. 1437 prevent the Government from initiating another "Pentagon Papers" case;

For example, in the "gag order" situation, under the present law, if the press is gagged by a court order, and even if the order is found to be invalid and the newspaper moves ahead and publishes information, the defendant or the newspaperman can be held in contempt. We effectively provide, in S. 1437, protections against that particular conduct.

Second. Law Enforcement.—Overseas corporate bribery becomes a crime; the perjury series of offenses contains several changes. Like most modern State codes, and like one recent Federal statute, the code abolishes the old rule requiring that two witnesses be able to testify to the perjury. Also a defense is added so that if a defendant recants and tells the truth before his original lie is discovered or is acted upon, he will not be subject to prosecution; in this situation, too, it was concluded that the public interest is better served by 'nducing truthful testimony than by being able to prosecute for false testimony. A new offense, false swearing, is added as a lesser form of perjury to cover situations where a witness' lying is not really material to the subject matter of the proceeding.

The code also contains provisions permitting the Federal Government to prosecute for certain violent offenses that are committed in the course of other specified Federal crimes. For example, if the Federal Government conducts a prosecution for a civil rights violation, the code will also permit it to prosecute for an assault or a murder committed in the course of the civil rights violation. Under current law, the coverage of such associated offenses is irregular and inconsistent, and is attempted only through a clumsy method of raising the penalty for the underlying offense. The code approach is more workable and more equitable, and is carefully restricted to avoid reaching offenses that appropriately should be left for State prosecution.

The extradition statues are modernized and simplified.

The internal revue offenses codify the provisions of existing law except that, as the code is structured, a defendant's intentional understatement of income with intent to evade taxes may be prosecuted even though no net tax deficiency results. The penalties for the internal revenue offenses are made dependent upon the amount of taxes sought to be evaded, so that an attempt to evade $200,000 in taxes, for example, will carry a higher penalty than an attempt to evade $100 in taxes; this brings the revenue fraud laws generally into accord with the theft laws.

Jurisdiction of Federal magistrates is expanded to help relieve court congestion; and a new crime is designed to deal with the professional fence who traffics in stolen property.

Third. Civil Liberties—The infamous Smith Act and Logan Act are repealed; a restrictive attempt statute is set forth;

The contempt-of-court offenses are defined more clearly than those in current law. Moreover, the general contempt-of-court statute, which today carries a penalty without any upper limit on the imprisonment and fine levels that may be imposed, is limited to a 6-month penalty. Certain defenses are added to provide protection to a defendant who finds it genuinely impossible to comply with a court order or who attempts to appeal an illegal court order prior to disobeying it but is unsuccessful in obtaining the review within a reasonable time.

The code modifies certain of the existing provisions permitting Federal law enforcement officers to secure a court order to authorize investigative wiretapping in specified situations. The statute permitting wiretapping in emergency situations without a prior court order (which today is vaguely worded as applicable to offenses involving national security or organized crime) is limited specifically to offenses involving treason, sabotage, or

espionage, and to offenses involving the risk of death. The provision of current law stating that nothing contained in the wiretapping provisions shall be construed to limit the constitutional power of the President is eliminated because of the controversy it provoked and because it is without any legal effect.

Through the efforts of Senator WALLOP an entirely revised series of provisions dealing with mentally incompetent offenders is included in order to overcome the inadequacies of the current law. Included among them is a provision that permits the civil commitment of an individual acquitted by reason of insanity. Although the code indicates that in such situations State civil commitment proceedings are preferred, Federal commitment proceedings are provided to insure that a genuinely dangerous individual will not be released prematurely.

Under current law, except in the District of Columbia, if a Federal defendant is found to be insane and it is determined that he is so insane that his release would threaten the lives of other persons, there are no means by which he can be hospitalized until he can regain his mental balance. While the State in which the offense occurred will frequently be willing to initiate its own civil commitment proceedings, this is not always the case, especially in situations where the offense is committed by a nonresident of the State in which the trial takes place.

Fourth. Victims of Crime—The bill also creates a system to compensate the victims of violent Federal crimes. Funding under the system will be from collected fines, a source of revenue that will be many times the amount necessary for the purpose of compensating Federal victims.

We all remember the special interest that our former majority leader had in such legislation.

Fifth. Women—Forcible rape of a spouse is covered for the first time, just as any other physical assault on a spouse has been covered in the past. In any prosecution under this series of offenses, the old requirement of special corroboration of a victim's testimony is eliminated from the law, and an evidentiary proscription is added which will prevent defense counsel at trial from using the technique of engaging in an irrelevant and disparaging exploration of the victim's prior sexual history. The Civil Rights Act of 1968 is expanded to encompass sex discrimination.

Sixth. Civil Rights—The basic civil rights statutes, which were enacted over 100 years ago are modernized and clarified, and their coverage is expanded. They are recast so as not to require the existence of a conspiracy, but to permit prosecution even if an individual acts alone. In addition, the coverage of the statutes is extended to protect aliens as well as citizens. Moreover, the provisions are modified so that it need not be proved that a defendant specifically intended that it be a federally protected right which he infringes, a modification that should permit far simpler jury instructions and a higher success rate in Federal civil rights prosecutions.

Seventh. Labor—New crime to interfere with organized labor activity; a defense is added to the extortion provision to make it clear that minor incidents occurring in the course of legitimate labor picketing are not punishable under the extortion statute.

Eighth. In the area of juveniles, we accepted an important provision that was sponsored by another member of our committee (Mr. CULVER), to provide for a preliminary screening process to keep juveniles out of jails if they have not committed a serious crime.

Ninth. White Collar Crime—The maximum fines permitted by the code are substantially higher than those in current law, with a convicted corporation subject to a $500,000 fine for a serious offense and a convicted individual subject to a fine of up to $100,000. Today, fines tend to be considered by white collar offenders simply as a minor, potential cost of doing business. In addition, the code permits an alternative fine of double the gain that accrued to the defendant or double the loss caused to the victim. These high fine levels, however, are specifically conditioned upon a defendant's ability to pay, thereby assuring that an individual with few assets will not be fined an absurdly high amount. The court can order that notice be given to victims of fraud in order to facilitate class actions for recovery of losses; a court is also empowered to order a defendant found guilty of an offense to make direct restitution to the victim. Offenses covering pyramid sales schemes and large scale consumer frauds are added.

Tenth. Organized Crime—The organized crime provisions include a simplified recodification of the 1970 racketeering statute, making several additions in the process. A new offense is created to cover individuals who actually manage a racketeering syndicate. Taking over a business enterprise by means of racketeering activities is specified as a separate offense, as is using profits from racketeering activities to acquire a legitimate business. The existing Federal loansharking laws have been broadened to penalize grossly usurious credit transactions in which it is understood, even if it is not made explicit, that the lender may resort to violence in collecting the debt.

I am, of course, aware that certain critics continue to voice concern over certain sections of S. 1437. I understand and appreciate such concern. But I am convinced that the great majority of the sections in S. 1437 which continue to trouble civil libertarians are actually an improvement over existing law! While I am not satisfied with all the provisions of the code, and while I still hope that there will be some improvements, I am convinced that the proposed code contains important improvements over existing law, that S. 1437 reflects a net gain for civil liberties, and that the bill does not contain any new provisions that can truly be called repressive. Critics of S. 1437 should be directing their criticism at current law. For example:

First. Demonstrations to Influence a Judicial Proceeding (1328)—A major improvement when compared to current law (18 U.S.C. 1509), which does not allow for any demonstrations near a courthouse. S. 1437 allows demonstrations within 200 feet of a courthouse and, in fact, at any distance up to one-half hour before or after the proceeding.

Second. False Statements (1343)—Section 1343 punishes the making of material false statements to a law enforcement officer. Here we have a striking example of significant improvement over existing law. Existing law (18 U.S.C. 1001) is extraordinarily broad, requiring virtually no warnings or safeguards. The proposed provision, as amended, would require that Miranda-type warnings must be given; the defendant must know that he is speaking to a law enforcement or investigative officer, and there is an opportunity to react. Whatever potential dangers remain in this law are simply an outgrowth of existing law.

Third. Riot (1831)—The riot offenses of existing law (18 U.S.C. 2101) are substantially narrowed by the code, both in terms of the definition of the substantive offenses and in terms of the Federal ability to prosecute. The Rap Brown jurisdictional base is repealed; an incitement to riot may not be prosecuted unless a riot actually occurs. A riot is defined to require at least 10 participants, instead of 3 participants as in current law; no conspiracy may be charged unless the riot actually occurs.

Fourth. Obscenity—The obscenity offense is narrowed to proscribe only first, disseminating obscene material to a minor or to an adult who is given no opportunity to avoid exposure to the material, and second, commercially disseminating obscene material for purpose of profit. Noncommercial dissemination between consenting adults would no longer be a Federal offense. A defense is added to preclude coverage of disseminating obscene material in a State in which such dissemination is otherwise lawful.

Fifth. Wiretapping (3101)—Two substantial reforms in S. 1437 involve the deletion of the title III inherent power disclaimer and severe limitations on the power of government to engage in emergency warrantless wiretaps.

Most of the criticism directed at S. 1437 is based on the faulty premise that S. 1437 constitutes a repressive retreat from current law. Nothing could be further from the truth. In some areas, S. 1437 provides improvements over existing law; in the remaining areas it simply recodifies the present state of the law. This fact must constantly be kept in mind as the bill is debated by the Senate.

In other areas S. 1437 simply recodifies existing law.

For example, in the area of 3111, concerning use immunity, the bill restates current law. Such immunity has been upheld by the Supreme Court of the United States, time and time again.

Jurisdiction under the code is of major significance.

The code takes an approach that permits restraint of Federal jurisdiction to an appropriate boundary. It defines defenses in terms of the underlying misconduct.

(Mr. BUMPERS assumed the chair.)

Mr. KENNEDY. There is also the recognition, Mr. President, that gambling and prostitution are largely State crimes. So we leave those issues up to the States.

The goal of 1437 is to provide certainty of punishment for offenders and society alike, and end some of the disparity among similar offenders.

Offenders found guilty of robbery receive an average sentence of 39 months in the northern district of New York.

I will make this a part of the record.

For example, Mr. President, reading from "Toward a Just and Effective Sentencing System, Agenda for Legislative Reform," page 5, where it indicates, in terms of selected offenses, homicide and assault, robbery, burglary, auto theft, forgery and counterfeiting. They give the national average of prison length and then they give the time in individual Federal districts.

For example, in homicide, these are the average sentence lengths for selected offenses. These are the local sentences for the same convictions.

Homicide and assault, the national average, is 102 months. The average time in the district of Maryland is 6 months for that crime. In the central district of California it is 190 months for the exact same crime. That is repeated across the country an enormous disparity.

For example, here is the percentage of convicted offenders placed on probation. In New York, north central, for homicide and assault, 100 percent are on probation. In Texas, northern central, no one is placed on probation.

Mr. President, I ask unanimous consent to have printed in the RECORD the statistics to which I have referred.

There being no objections, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—AVERAGE SENTENCE LENGTH FOR SELECTED OFFENSES, IN 1972

[Months]

	Homicide and assault	Robbery	Burglary	Larceny	Auto theft	Forgery and counterfeiting
National average	102	120	63	40	38	42
Maine				144(+104)	21 (−17)	24 (−18)
Massachusetts	48 (−54)	115 (−5)	40 (−23)	36 (−4)	20 (−18)	32 (−10)
New York (Northern)		39 (−81)		11 (−29)	9 (−29)	12 (−30)
New York (Eastern)	18 (−84)	130 (+10)	2 (−61)	48 (+8)	12 (−26)	49 (+7)
New Jersey	11 (−91)	103 (−17)	27 (−36)	50 (+10)	32 (−6)	29 (−13)
Pennsylvania (Eastern)	102 (0)	88 (−32)		25 (+15)	49 (+11)	30 (−12)
Maryland	6 (−96)	146 (+26)	61 (−2)	45 (+5)	49 (+11)	40 (−2)
Virginia (Eastern)	66 (−36)	135 (+15)	81 (+18)	50 (+10)	41 (+3)	39 (−3)
Florida (Middle)		126 (+6)	34 (−29)	37 (−3)	32 (−6)	41 (−1)
Texas (Northern)	62 (−40)	224(+104)	46 (−17)	42 (+2)	39 (+1)	66 (+24)
Kentucky (Eastern)	24 (−78)	124 (+4)	167(+104)	25 (−15)	32 (−6)	20 (−22)
Ohio (Northern)	28 (−74)	119 (−1)	36 (−27)	29 (−11)	31 (−7)	35 (−7)
Illinois (Northern)	20 (−82)	81 (−39)	30 (−33)	40 (0)	45 (+7)	38 (−4)
Indiana (Southern)	40 (−62)	101 (−19)	24 (−39)	35 (−5)	29 (−9)	34 (−8)
Missouri (Eastern)	27 (−75)	180 (+60)	60 (−3)	54 (+14)	46 (+8)	46 (+4)
Missouri (Western)	36 (−66)	120 (0)		57 (+17)	36 (−2)	33 (−9)
California (Northern)	79 (−23)	115 (−5)	120 (+57)	32 (−8)	42 (+4)	37 (−5)
California (Central)	190 (+88)	96 (−24)	24 (−39)	40 (0)	41 (+3)	43 (+1)
Kansas	74 (−28)	115 (−5)		46 (+6)	47 (+9)	63 (+21)
Oklahoma (Western)	29 (−73)	85 (−35)	48 (−15)	31 (−9)	36 (−2)	41 (−1)
District of Columbia	161 (+59)	103 (−17)	84 (+21)	42 (+2)	40 (+2)	67 (+25

Note: The Federal district courts for each of the 11 circuits were chosen on the basis of the 2 districts in each circuit that sentenced the greatest number of offenders for the selected offenses.

Source: Administrative Office of the U.S. Courts, "Federal Offenders in U.S. District Courts 1972," app. table X-4.

TABLE 2.—PERCENTAGE OF CONVICTED OFFENDERS PLACED ON PROBATION, 1972 (OTHERS GO TO JAIL)

[Months]

	Homicide and assault	Robbery	Burglary	Larceny	Auto theft	Forgery and counterfeiting
National average	36	13	43	60	36	58
Maine				50 (−10)	0 (−36)	20 (−38)
Massachusetts	14 (−22)	17 (+4)	0 (−43)	77 (+17)	50 (+14)	53 (−5)
New York (Northern)	100 (+64)	50 (+37)		54 (−6)	83 (+47)	62 (+4)
New York (Eastern)	60 (+24)	16 (+3)	50 (+7)	52 (−8)	89 (+53)	62 (+4)
New Jersey	80 (+44)	6 (−7)	20 (−23)	64 (+4)	60 (+24)	66 (+8)
Pennsylvania (Eastern)	50 (+14)	18 (+5)		79 (+19)	80 (+44)	74 (+16)
Maryland	33 (−3)	7 (−6)	0 (−43)	79 (+19)	57 (+21)	67 (+9)
Virginia (Eastern)	8 (−28)	6 (−7)	60 (+17)	53 (−7)	33 (−3)	52 (−6)
Florida (Middle)	50 (+14)	0 (−13)	40 (−3)	47 (−13)	28 (−8)	45 (−13)
Texas (Northern)	0 (−36)	4 (−9)	25 (−18)	51 (−9)	24 (−12)	41 (−17)
Kentucky (Eastern)	50 (+14)	0 (−13)	0 (−43)	11 (−49)	8 (−28)	17 (−41)
Ohio (Northern)	43 (+7)	10 (−3)	50 (+7)	67 (+7)	45 (+9)	68 (+10)
Illinois (Northern)	43 (+7)	16 (+3)	0 (−43)	64 (+4)	50 (+14)	62 (+4)
Indiana (Southern) [1]						
Missouri (Eastern)	60 (+24)	7 (−6)	0 (−43)	51 (−9)	14 (−22)	58 (0)
Missouri (Western)	0 (−36)	6 (−7)	100 (+57)	78 (+18)	47 (+11)	74 (+16)
California (Northern)	29 (−7)	12 (−1)	50 (+7)	65 (+5)	25 (−9)	62 (+4)
California (Central)	53 (+17)	21 (+8)	50 (+7)	75 (+15)	64 (+28)	79 (+21)
Kansas	10 (−26)	19 (+6)	100 (+57)	61 (+1)	35 (−1)	64 (+6)
Oklahoma (Western)	18 (−18)	25 (+12)	0 (−43)	49 (−11)	21 (−15)	42 (−16)
District of Columbia	37 (+1)	16 (+3)	35 (−8)	49 (−11)	48 (+12)	54 (−4)

[1] No information was available for the Southern District of Indiana.

Source: Administrative Office of the U.S. Courts, "Federal Offenders in U.S. District Courts 1972," app. table X-4.

Mr. KENNEDY. The most noticeable and troubling sentence disparity occurs when one person receives a prison sentence and another person, who commits the same crime and is similar in virtually all respects, receives probation. Fifteen districts used probation more than 20 percent above the national average, with one district exceeding the national average by 55 percent. In five districts, the average use of probation was more than 20 percent less than the national average by 49 percent, and it continues. Sentencing today is a national scandal. Certainty of the punishment is a joke. There are no guidelines to aid the judges.

I point out at this time that I believe the judges are virtually free from any blame in this area. Congress has established no real criteria. With such wide-

ranging sweep and flexibility, there is really very little indication of intent or guidance to aid judges today.

There is no appellate review of sentences.

When we talk about how current laws promote injustice, how they mean different things to the rich and the poor, the one flaw that stands out above the rest is this flawed sentencing system. There are no guidelines to aid judges in the exercise of their discretion. There is no appellate review of sentences, arbitrary parole practices free one offender while extending the sentence of an offender convicted of the same crime. Judges and parole boards are free to roam at will, dispensing ad hoc justice in ways that defy both reason and fairness. Different judges hand out widely differing sentences to similar offenders convicted of similar crimes. Some offenders, including many repeat offenders, escape jail altogether while others, convicted of the very same crime, go to jail for excessive periods.

The impact of such sentencing disparity on our criminal justice system is devastating. Certainty of punishment is a joke.

Sentencing disparity also tilts the process against the young and poor and nurtures a growing public cynicism about our institutions. The youth who goes for a joyride or commits a petty larceny is sentenced to a year in jail. Too often, the tax evader, the price fixer, the polluter, or the corrupt public official receive suspended sentences on the unthinking ground that the stigma of their convictions is punishment enough.

Mr. President, no one complains about this process or the system any stronger than the defendants. Often, judges, in order to assure a lengthy term of imprisonment, sentence a defendant to three times what is proper, feeling that the parole board will release him after one-third of the sentence expires.

The current system is a nonsystem, unfair to the defendant, to the victim, and to society, which expects that a reasonable penalty should be attached at the time of conviction.

Mr. President, in this area of sentencing, I know that we will have an opportunity to debate some of the various provisions. The idea of certainty of sentencing, of setting out guidelines so that we can have certainty of sentencing, is a matter that I have been concerned with for 3 years. I previously introduced S. 181 and S. 2699. I am strongly committed to this process of reform.

The bill sets forth four generally recognized purposes of sentencing—deterrence, protection of the public, assurance of just punishment, and rehabilitation. A sentencing commission is created and directed to establish guidelines to govern the imposition of sentences for all Federal offenses, taking into consideration factors relating to the purposes of sentencing, the characteristics of the offender, and the aggravating and mitigating circumstances of the offense.

In sentencing offenders, a judge will be expected to sentence within the range specified in the guidelines, although if he considers the guideline range inappropriate for a particular case he is free to sentence above or below the guideline range as long as he explains his reasons for doing so. If an offender is sentenced below the range specified in the guidelines, the Government may obtain appellate review of the sentence. If an offender is sentenced above the range specified in the guidelines, the offender may appeal. This system is designed to promote greater uniformity and fairness, while retaining necessary judicial flexibility. Under this new approach, the gross disparities in sentencing found in current law should be significantly reduced.

The bill—by adopting this innovative approach to sentencing assures an end to the indeterminate sentence, whereby, for example, a convicted bank robber can be sentenced anywhere from a term of probation to 25 years in prison, a rapist anywhere from probation to life imprisonment. Under S. 1437, determinate sentences will tell the offender and society what actual prison time will be served. And with such fixed sentences, the arbitrary system of parole release is also phased out except in "exceptional circumstances."

We have the President nominating four of the members of the sentencing commission; the judges, three. We could vary or alter or change it, but I think the four-and-three provision is a reasonable adjustment. The sentence you get is the sentence served. Both society and offenders favor parole elimination. Too often, it is a vehicle for arbitrarily keeping one offender in jail. We effectively eliminate parole. There is a provision which preserves the option for parole in very narrow, limited cases. We have spelled that out throughout the legislative history of S. 1437.

The only parole circumstance I can foresee is, perhaps, that of a person who may be receiving some kind of therapy or treatment, for example, to overcome drug addiction.

As Judge Frankel, who is really the father of sentencing reform, stated:

> The idea of this kind of process is splendid. It deserves wide understanding and support.

Professor Dershowitz, of Harvard Law School has said:

> The single most important criminal law reform in recent decades. A failure to enact these improvements would be a disservice to the interests of civil liberties in the United States.

S. 1437 is not completely satisfactory in every respect. For example, the provisions with respect to wiretapping and espionage could be improved vastly; but after 12 years, agreements have at last been reached.

The key point, I believe, for the civil libertarians is this: The remaining areas of concern are important and they need addressing. I certainly am committed and will work as I have tried in the past to meet those challenges and those responsibilities.

But the provisions of S. 1437, although still troublesome, are no worse than existing law and are usually better! For example, in the wiretapping, false statements, and riot provisions, we basically have a net gain for civil liberties.

The controversial areas can be dealt with separately, but the important point, I believe, is that this process should move forward.

We are at last nearing the completion of our task. Recent converts to S. 1437 include the Chief Justice of the United States Supreme Court, Americans for Democratic Action, organized labor, and two important national associations—chiefs of police and State attorneys general. Politicians and scholars, civil libertarians and law enforcement advocates have all taken turns pounding at this bill. Changes have been made—by mutual agreement. Effective, comprehensive Federal criminal code reform is nearing reality after more than a decade of waiting.

The goal is in sight; let us finish the task.

Mr. THURMOND. Mr. President, I rise to express my support for the pending bill, S. 1437, a bill to codify, revise, and reform title 18 of the United States Code.

This is a bill which represents one of the best examples I can recall in the history of the U.S. Senate where the legislative process has functioned at its best. The bill represents the work of persons from all points of view and political persuasion. It is a monumental piece of legislation that has not been previously undertaken in the more than 200 years of our Republic.

Mr. President, no one Senator has authored this legislation. It is the collective work of numerous members of this body. But there is one Senator who devoted as much or more time than any other Senator to this great effort—our recent and beloved colleague, Senator John L. McClellan.

As chairman of the Subcommittee on Criminal Laws and Procedures, Senator McClellan dedicated hours of his time and energy to the formulation of this legislation. His memory lingers strong and vibrant in this Senator's mind and I know we all share his passing with a great sense of loss, both individually and as an institution.

As a member of the subcommittee which Senator McClellan chaired, I stood in awe of the many hours he devoted to this task. Beginning with his service on the Brown Commission which initiated the reform of the Federal criminal laws, Senator McClellan continued his interest in the passage of this legislation through four Congresses. During much of this time he also served as chairman of the Appropriations Committee, which I know my colleagues recognize as a burdensome task under any circumstances. Nonetheless Senator McClellan remained a bulwark in the overwhelming mission which is now before us in the form of S. 1437.

Mr. President, I also recognize the extensive contributions to this effort by our former colleague, Senator Roman Hruska, of Nebraska. Along with Senator McClellan, Senator Hruska devoted long hours to this undertaking.

Senator Hruska's role was especially important in the striking of a compromise measure which was finally introduced as S. 1437. Senator Hruska is recognized throughout the country as an able lawyer and a tireless worker for better law enforcement, an improved judiciary, and a better criminal justice system. His service to the revision and

reform of the Federal Criminal Code has been outstanding and of tremendous benefit.

Mr. President, during a period of Senator McClellan's failing health in 1977, one member of the Judiciary Committee asserted leadership over this legislation on Senator McClellan's behalf. I refer to the distinguished floor manager of this bill, Senator KENNEDY, of Massachusetts.

It has been my privilege over the past few months during the markup and consideration of S. 1437 to work with Senator KENNEDY in the formulation of a bill worthy of consideration by the full Senate. Many hours had to be devoted to this process because of the numerous amendments offered by committee members. Senator KENNEDY was up to the task and performed admirably as the acting subcommittee chairman and spokesman for the subcommittee version. He is to be highly commended for his fine leadership on this matter.

There were disagreements over many provisions in the bill and the number of amendments considered reflected these differing views. Most amendments were improvements to the bill, and still others resulted in compromise. But in all, the ultimate purpose was achieved—the presentation to the Senate of a revised, updated and streamlined Federal Criminal Code bill.

BACKGROUND OF PROPOSED FEDERAL CRIMINAL CODE

Mr. President, this measure is reinforced by a long and distinguished history. In 1966, Congress enacted Public Law 89–801 creating the National Commission on Reform of Federal Criminal Laws, which later became referred to as the Brown Commission, after its distinguished chairman, former Gov. Edmund G. Brown of California. In that law Congress charged the Commission with the responsibility of making a "full and complete" review of the statutory and case law of the United States "for the purpose of formulating and recommending to the Congress legislation which would improve the Federal system of criminal justice."

The Commission's work took nearly 3 years and on January 7, 1971, its recommendations were submitted to Congress and the President. The report was designed to serve as a "work basis" for further consideration by Congress of the need for criminal law reform. It served that purpose.

The Commission's final report was the subject of extensive hearings, study and analysis throughout the 92d Congress by the Subcommittee on Criminal Laws and Procedures and resulted in the introduction of S. 1 in the 93d Congress by Senators Ervin, Hruska, and McClellan.

During the next 2 years, throughout the 93d Congress, the subcommittee used S. 1 as the vehicle for still further hearings on and the study of the issues involved in the codification and reform of our Federal criminal laws.

Mr. President, throughout the study of the proposed reform of the criminal laws, hundreds of witnesses testified and commented on its many provisions which is reflected in a hearings record totaling more than 8,500 pages in 15 volumes. This work was expanded upon during the 94th Congress with hearings being conducted and additional changes being made under the direction of Senator McClellan and Senator Hruska, the subcommittee's chairman and ranking minority member.

It should be well noted that it was Senators McClellan and Hruska, along with Senators Hart, KENNEDY, BAYH and other members of the Judiciary Committee, who were able to work out a great number of differences that had arisen around the then-controversial version of S. 1. These differences were resolved at the end of the 94th Congress by a series of meetings where certain provisions were dropped, others were returned to current law, and still others were compromised to accommodate differing points of view. As a result of this delicate balance, S. 1437 was introduced at the beginning of the 95th Congress and was the basis for the subcommittee's consideration prior to its reporting of S. 1437 on November 15, 1977.

I. SIX TITLES OF BILL

Mr. President, the bill as reported is divided into six titles:

Title I replaces present title 18 with a new Code consisting of a thorough revision of both its substantive and procedural aspects.

Titles II and III of the bill consist of amendments to the Federal Rules of Criminal Procedure and to title 28 of the United States Code, respectively.

Title IV contains general provisions including those dealing with severability and the effective date of the legislation. The effective date is delayed 2 years to give Federal judges, prosecutors, defense counsel, legal scholars and the public time to prepare for the conversion to a new code.

Titles V and VI contain the technical and conforming amendments.

II. THE BASIC FEATURES OF THE NEW CODE AS EMBODIED IN S. 1437

First. All Federal felonies, many of which are now outside title 18, will be integrated into the new code. Obsolete or unusable sections are eliminated.

Second. The proposed code provides an integrated system of terms and general provisions. Terms are defined clearly and reduced in number.

Third. Every effort has been made to draft offenses simply, precisely, and in common English.

Fourth. The question of what criminal behavior triggers Federal jurisdiction is completely separated from what is criminal conduct. Thus, instead of approximately 70 theft offenses under current law, there is only a single section on theft. In addition to eliminating a multiplication of offenses, the punishment is fitted to the specific criminal conduct.

Fifth. The present confusing sentencing system is replaced by a system under which offenses are classified into nine categories and cross-referenced throughout the code.

III. HIGHLIGHTS OF S. 1437

Jurisdictional bases have been redrafted to limit criminal jurisdiction to the specific needs and areas set out by the Constitution and our traditions of federalism. S. 1437 rejects general "piggy-back" jurisdiction which would encroach on areas of State sovereignty and limits the reach of Federal power to investigate and prosecute crime and criminals to what is essentially present law.

Mail fraud and consumer protection offenses have been broadened to combat the recent rise in white collar crime. Fines have been increased to the degree that they cannot now be considered by an offender as simply a cost of doing business.

Civil rights statutes are modernized and made more effective. Discrimination on the basis of sex is added to the other forms of discrimination prohibited under current law.

Two new organized crime offenses have been created. One to make it unlawful to operate a racketeering syndicate, and the second makes it an offsense to "launder" the proceeds of organized crime by investing in other legitimate businesses.

Moreover, the existing loan-sharking offense is broadened to allow for the more effective prosecution of those who prey on the finanical difficulties of others.

The rape offense has been modernized to apply to both men and women and eliminates the requirement that a victims' testimony be corroborated before the offender can be convicted. The new offense also limits the admissibility of evidence relating to prior or subsequent sexual behavior of the victim.

A new offense is created to provide for Federal jurisdiction over any felony committed for the purpose of affecting a Federal election.

A sentencing guideline system incorporating a limited appellate review of sentences has been adopted to help deal with the problem of sentencing disparity among judges for similar offenses. The code also provides for the imposition of determinate sentences in certain cases.

One of the most controversial provisions of the code was the section dealing with the possession of marihuana. As reported by the subcommittee, simple possession of 10 grams or less of marihuana on a Federal enclave would not have been a criminal offense. Possession of 10 grams to 30 grams (1 ounce) would have been a class C misdemeanor.

During full committee markup of S. 1437, Senator BAYH offered an amendment that would have decriminalized possession of up to 1 ounce, but provided for a civil penalty. Senator HATCH countered with a proposal to increase the penalty for possession. This resulted in a stalemate of the committee.

The result was a compromise worked out by Senators BAYH and HATCH, which I supported, even though I had expressed my opposition to any decriminalization of marihuana because I still believe that it is harmful to individuals. Nonetheless, a compromise provision was adopted that retains a criminal infraction, with-

out jail time, with fines imposed for the possession of varying amounts. There is also a provision for the automatic expungement of records by those offenders who are found in possession of small amounts of marihuana.

Mr. President, it should be recognized by my colleagues that this legislation is the accumulative product of nearly 12 years of intense study and examination. It reflects the advice and counsel of hundreds of concerned people—academicians, lawyers, judges, legislators, and private citizens of every political persuasion and point of view.

This bill necessarily touches upon all areas of the Federal criminal law. Thus, it directly affects many aspects of the personal, political, social, and economic life of our people. It is a bill that cannot be taken lightly, and has not been taken so as the many years of study and reflection suggest.

The bill, Mr. President, because of the controversy that has surrounded it in the past is by necessity a compromise of differing views. There are specific provisions in the bill that by themselves I find difficult to support. There are other provisions that I believe come perilously close to encroaching on the rights of States to enforce their own laws. There are still other provisions, like the imposition of capital punishment, that are not in the bill but I would support if considered at another time in the form of separate legislation.

Mr. President, the more controversial provisions of this bill have been dropped by mutual agreement in order to insure enactment of S. 1437 in this Congress. Senator KENNEDY solidly opposed a large number of amendments offered by his Democratic colleagues during consideration of the bill by the Judiciary Committee. Although there were only a few amendments offered by my Republican colleagues on the committee, most of which were accepted after being worked out, I was prepared to resist further amendments of a controversial nature to the bill.

Mr. President, I want to express my deep appreciation to Senator HATCH, to Senator WALLOP, and to Senator DECONCINI for their fine work on this bill. There are several provisions in S. 1437 that were included because of their efforts.

They were also helpful in keeping the discussion on many amendments in focus, and providing keen insights into many areas of the criminal law revision. Their help has been invaluable.

Mr. President, Senator KENNEDY and I are prepared to resist any and all amendments that may create sufficient controversy to jeopardize final passage of S. 1437. That is not to say that we purport to speak for any Senator. Every Senator has the right, and indeed, the responsibility to exercise his individual judgment in considering this measure. But in the interests of achieving a bill that will gain widespread support and acceptance, the managers sincerely hope that Senators will consult with us before pursuing amendments so that all interests can be accommodated, if possible.

It has been a long journey down the legislative process for this bill, but a satisfying one to those who have watched its progress as I have. Mr. President, the bill has now reached the floor of the Senate and I look forward to its consideration by my colleagues.

Mr. BAYH. Mr. President, today the Senate will begin an important process—the consideration of the first reform of Federal criminal law since the founding of the Republic. I would like to make a few short comments on this bill and the task before us.

I believe the need for a unified criminal code is obvious. Currently we have a jumble of piecemeal statutes enacted over hundreds of years, some of which apply long outdated values to existing circumstances, and others of which are totally irrelevant in today's world, such as prohibiting the commission of piracy on the high seas while under the commission of a foreign prince.

In 1966 the Congress recognized the need for reform and established the National Commission on Reform of Federal Criminal Laws—known as the Brown Commission. Its work was indeed monumental and several legislative versions of its recommendations have been introduced over the last three Congresses. The predecessor to the bill we are about to consider today, S. 1, was perhaps the best known, most controversial and least desirable of the lot. It also bore little resemblance to the Brown Commission's recommendations.

The present version, S. 1437, is I believe a tremendous improvement over S. 1. Senator McClellan and Senator KENNEDY devoted a great deal of effort and time to its redrafting and I was pleased to note that some of the more troublesome sections were eliminated from this present proposal. My colleague on the Judiciary Committee, Senator KENNEDY, has also contributed greatly to this product and as one who personally observed Senator KENNEDY and joined with him in hour upon hour of debate and discussion on this bill and a myriad of amendments in the Judiciary Committee, I congratulate him on both his perseverance and its result.

Of course, Mr. President, any attempt to codify so many statutes must lead to some disagreements. As it was originally introduced there were several areas of this bill which caused me some concern. At the Judiciary Committee consideration of S. 1437, therefore, I introduced a series of amendments mostly aimed at improving the civil liberties and freedom of press aspects of the bill. I was pleased that most of these were adopted by the committee.

Among these amendments was a provision dealing with criminal contempt in the context of first amendment guarantees of freedom of the press. The criminal contempt amendment provides that reporters who violate invalid Federal court "gag" orders may not be jailed. Currently, it is possible for a reporter who violates such an order to be imprisoned, even if the court's order is later found to be constitutionally invalid.

In the provision of the code dealing with possession of marihuana, the Judiciary Committee accepted a compromise measure agreed to by Senator HATCH and me which would lessen existing penalties for marihuana possession by providing a graduated system of fines based on amounts of marihuana possessed, and eliminating arrest procedures for the possession of an ounce or less of marihuana. The amendment also provides for the automatic expungement of criminal records for the first two marihuana possession offenses, involving small amounts, upon payment of the fine imposed. The amendment also provides for the expungement of criminal records after 1 year on a third offense.

The committee also approved an amendment which eliminated immunity in the case of spousal rape when abusive force or threats of serious bodily harm were employed. As originally proposed, the code would have prevented any rape charge between spouses, regardless of the severity of the conduct, assault or threats used in the commission of the crime.

Other of my amendments which were accepted as part of the revised criminal code by the committee include provisions on criminal contempt—setting the penalty for contempt of Congress at 1 year, rather than 3 years as proposed; making a false statement to law enforcement officials—requiring that the law enforcement official give warnings to the citizen that his or her responses may be subject to criminal penalties; failure to obey a public safety officer—limiting the power of issuing orders during an emergency to law enforcement and safety officers; discharge procedures for persons confined to mental institutions—allowing the patient's guardian or lawyer to make a request of the judge for a hearing on the issue of release; the Youth Corrections Act—encouraging alternatives to incarceration for young first offenders convicted of nonviolent offenses when the youth involved has not taken part in any organized criminal activity; and impairing military effectiveness—limiting this offense in peacetime to major weapons systems.

Mr. President, the adoption of these amendments, and other amendments proposed by my colleagues on the Judiciary Committee, as well as the overall improvements made in S. 1437 has settled many of the questions I originally had with this bill.

There are other areas where disagreements will arise as we continue to debate and discuss S. 1437 and there are other areas where improvements may, and I believe should, be made. But I believe that we must seek to work out our differences and seek reasonable compromises so that the people of this Nation will have a more effective, realistic criminal code that will better serve us now and for many years ahead.

Mr. KENNEDY. Mr. President, I am going to offer four amendments separately, which have the support of the Department of Justice and Senator THURMOND. Some of these were considered, or the subject matter was con-

sidered, during the course of our markup, and no final action was taken.

I send to the desk an amendment and ask for its immediate consideration.

Before offering the amendments, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, on behalf of the Senator from North Carolina (Mr. HELMS), I would have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1084

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment. Objection was heard to the unanimous-consent request that the committee amendments be considered en bloc. The question still remains, therefore, on agreeing to the committee amendments.

Mr. KENNEDY. Mr. President, I ask unanimous consent that this amendment be considered out of order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1084:

On page 102, after line 14, insert the following new subsection.

The amendment is as follows:

(a) On page 102, after line 14, insert the following new subsection:

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that the disclosure was:

"(1) required pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a); or

"(2) a report of a violation or potential violation of law and was made to a law enforcement officer charged with investigating or prosecuting such violation."

(b) Reletter "(b)" on line 15 and "(c)" on line 17 as "(c)" and "(d)" respectively.

Mr. KENNEDY. Mr. President, just a brief explanation. This particular provision, section 1525, deals with revealing private information submitted for a government purpose. All this amendment indicates is that nothing in the section will preclude the opportunity to gain information if the information is entitled to be revealed under the Freedom of Information Act; and, second, that if there is information known by the public servant to involve criminal activity, the individual who provides information to an investigator will not be considered to have violated this particular provision.

Section 1525 is certainly not intended to preclude the opportunity to gain information under the Freedom of Information Act, which has very careful exemptions which obviously will be retained; and also, we did not want this provision used as a shield to prevent individual officials from cooperating concerning investigations of criminal activities or potential criminal activity.

That is the substance of it. The amendment is supported by the Department of Justice.

The PRESIDING OFFICER. Does the Senator from South Carolina seek recognition on the amendment?

Mr. THURMOND. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1085

Mr. KENNEDY. Mr. President, I send to the desk another amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The consideration of this amendment will require unanimous consent, for it to be considered at this time.

Mr. KENNEDY. I ask unanimous consent that it be in order that the Senate consider the amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1085.

The amendment is as follows:

On page 125, strike out lines 31 through 34 and insert in lieu thereof the following:

"(b) PROOF.—In a prosecution under subsection (a)(1) in which the threat or fear is based upon conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendency, at the time of such conduct, of a labor dispute, as defined in 29 U.S.C. 152(9), the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence that property was obtained 'by' such conduct."

Mr. KENNEDY. Mr. President, the only purpose of this particular amendment is to clarify that should there be violence in the course of a labor dispute, it will not be considered prima facie evidence of extortion.

The Justice Department agreed to that degree of clarification, and that is the extent of the amendment. That is the sum and substance of it.

Mr. THURMOND Mr. President, in order to be sure that the RECORD is clear, as I understand, the Justice Department has requested that this amendment be offered?

Mr. KENNEDY. The Senator is correct.

Mr. THURMOND. Mr. President, I would like to make a brief statement about the amendment just offered by the Senator from Massachusetts. I do not object to the amendment, but I want to spell out its legal impact on the provisions of section 1722.

This amendment would add a "proof" subsection designed to prevent a trial judge from holding that, in a case described in the new subsection, mere proof that personal injury or property damage occurred during a labor dispute constitutes a sufficient showing of the causal relationship between the obtaining of property and the threat of fear based on that injury or damage to justify submission of that issue to the jury. It prevents such a holding directly, by providing that proof of the coincidence of the labor dispute and the injury or damage in such a case is not "prima facie evidence" of the causal relationship. It is true, of course, that such a causal relationship sometimes does exist where injury or damage occurs during a labor dispute. This proposed subsection, however, is based on the belief that where there is a cause and effect relationship, or the intent to obtain property by means of a threat or fear resulting from injury or damage, it should be possible to prove, in addition to that coincidence, some other circumstance adding to the strength of the inference of causation.

The proposed subsection does not address the question of which particular additional circumstance or circumstances, when proven along with that coincidence, will suffice to justify the submission of the issue to the jury. One which clearly would be sufficient in many cases to avoid a directed verdict is the circumstance that the defendant was, or conspired with, a person negotiating on behalf of the union involved in the labor dispute. The same result might obtain, where the repetitive or systematic nature of property damage, or its exact timing, contributed to an inference, based also on the fact that a labor dispute was pending at the time the damage was done, that the damage was purposeful rather than mindlessly vindictive.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ALLEN Mr. President, will the Senator from Massachusetts yield for a question?

The PRESIDING OFFICER. The Senator may have the floor in his own right.

Mr. ALLEN. To clarify the intent of the amendment?

Mr. KENNEDY. I yield.

Mr. ALLEN. Does not the amendment make it harder to obtain convictions in extortions prosecutions?

Mr. KENNEDY. No, it would not. It simply clarifies the scope of the section. If there were any examples of obvious violence involved, disorderly conduct or any other kind of violence, those could easily be prosecuted at the local level and there is nothing in this particular amendment that would affect that. All it says is that if there are instances of violence involved, it would not be considered prima facie evidence of extortion. That presumption may be overcome or rebutted, and in that sense it would require additional evidence.

Mr. ALLEN. But this does not remove the——

Mr. KENNEDY. The presumption.

Mr. ALLEN. Present provision of law that a presumption is created by the proof of violence; is that correct?

Mr. KENNEDY. The acceptance of this provision is in conformity with my understanding of the present law. But we do not want extortion statutes automatically applied.

Mr. ALLEN. If it is present law, what is the need of making a change?

Mr. KENNEDY. Because we need clarification, and there is the possibility of potential abuse, I would suspect.

Mr. ALLEN. No longer, then, can a prima facie case be made out by the proof of the violence in a labor dispute, is that correct?

Mr. KENNEDY. It can as to the violence itself but not in terms of extortion. It can from disorderly conduct, assault, or any other act.

Mr. ALLEN. But the making of a prima facie case would be eliminated; is that correct?

Mr. KENNEDY. That is correct.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator must obtain unanimous consent.

Mr. KENNEDY. Mr. President, there were four amendments outside of the technical ones, and I understand there has been objection to the technical provisions. Personally, as a point of information, I would be glad to consider those at the end. But these have been basically agreed to by the Justice Department. I would like to dispose of them. If there are others, I would be glad to entertain the amendments of the Senator from Virginia, or others.

This amendment and the final one are minor amendments. Obviously, I am glad to conform with the will of the Senate. If there is not objection, I would consider this one next, and the final one would be an amendment which is basically noncontroversial, and then we will proceed, hopefully, with other amendments.

The PRESIDING OFFICER. Does the Senator make a unanimous-consent request?

Mr. KENNEDY. All I ask is that it be in order to consider this amendment.

Mr. ALLEN. Reserving the right to object, and I do not plan to object, what does the amendment do?

Mr. KENNEDY. In the appellate provisions we provide review of all felonies. This amendment extends that review to class A misdemeanors as well. That would effectively be the amendment.

Mr. ALLEN. Will the Senator explain the next amendment?

Mr. KENNEDY. The next amendment would be on the question of the standard that would be used under such appellate review. In the statute we have "clearly unreasonable." What this amendment does is strike the word "clearly" and leave the word "unreasonable." That was an amendment which was raised by Senator MATHIAS in committee. The Justice Department wanted a chance to review it in more careful detail. They have had that opportunity and feel that this amendment can be accepted.

Mr. ALLEN. I withdraw my objection.

The PRESIDING OFFICER. Without objection, the amendments will be considered out of order and the first amendment will be stated.

UP AMENDMENT NO. 1086

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1086.

On page 279, lines 18 and 37, after the words "a felony" insert the words "or a Class A misdemeanor".

Mr. KENNEDY. Mr. President, I indicated that all it does is extend to appellate review class A misdemeanors. The inclusion of the amendment is urged by the Justice Department. I would hope it would be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1087

Mr. KENNEDY. Finally, Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1087.

On page 280, lines 23 and 32, strike out the word "clearly".

On page 281, line 12, strike out the word "clearly".

On page 331, line 22, strike out the words "A CLEARLY" and insert in lieu thereof "AN".

On page 331, line 24, strike out the word "clearly".

Mr. KENNEDY. Mr. President, as I mentioned before, the question is the "reasonableness" of appellate review of sentences. We maintain the word "unreasonable." The question is whether we have "clearly unreasonable" or just "unreasonable." This amendment would strike "clearly" and leave the word "unreasonable." It was an amendment originally offered by the Senator from Maryland. As I mentioned, the Justice Department wanted a chance to review the case histories to see what the impact would be. They find that the effect would be negligible. The Senator from Maryland feels strongly about it. The Justice Department has no feeling about it. I ask for its favorable consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

JOINT SESSION OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 452.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 452) to provide for the Joint Session to hear the President.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

There being no objection, the concurrent resolution was considered and agreed to.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. KENNEDY. Mr. President, I move to reconsider en bloc the votes by which all of the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I have 23 amendments which I send to the desk and ask that they be printed.

Mr. President, these amendments were prepared by legislative counsel in consultation with one of my legislative assistants. I do not know at this time how many of these amendments I will propose. I would like to have the opportunity to review them in greater detail this evening, and then decide tomorrow just how many of them will be proposed.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Does this constitute a waiving of the provisions of rule XXII?

The PRESIDING OFFICER. Rule XXII no longer requires the reading of the amendment.

Mr. ALLEN. Will this comply then with rule XXII in being considered?

The PRESIDING OFFICER. It will.

Mr. SCOTT. Mr. President, legislative counsel is preparing three additional amendments on my behalf. I will propose them at a later time to be printed.

The PRESIDING OFFICER. Amendments are in order.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Jim Stout, of my staff, be afforded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I ask unanimous consent that Mr. Kevin Faley, of my staff, be accorded the privilege of the floor during discussion and debate on the Criminal Code measure before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF THE UNIVERSITY OF NOTRE DAME FOOTBALL TEAM AS NATIONAL COLLEGIATE CHAMPIONS IN 1977

Mr. BAYH. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 352) commending the University of Notre Dame football team on attaining the national collegiate championship in 1977.

Mr. BAYH. Mr. President, Notre Dame University is an institution know throughout the coutry for its academic excellence and dedication to the furtherance of human, moral, and religious values. Its distinguished president, Father Theodore Hesburgh, is a figure of national prominence who has repeatedly served his country as an adviser to Presidents on a broad range of critical issues. The school itself is located on a beautiful campus in the northern part of my State. I have been a frequent visitor to the campus and am privileged to serve as a member of Notre Dame's Law School Advisory Council.

As some of my colleagues might also know, Notre Dame has an interest in football. In fact, I do not think it would be an exaggeration. to say that Notre Dame is probably the most widely known team in college football. Its supporters include not only the actual alumni, but also many additional "subway alumni" whose only qualification need be an intense and abiding interest in Notre Dame's fortunes. It has a long and rich tradition which has provided America with some of its most colorful sports figures. The Four Horsemen of Notre Dame, Knute Rockne, the Gipper, Frank Leahy, and Ara Parseghian are not only well known to sports enthusiasts but have become household words in this country.

But I believe the tradition at Notre Dame represents more than just the appreciation of a good football team. For many years, it was a living symbol for millions of ethnic immigrants who came to America seeking a better life—a symbol that represented the promise of success and acceptance in a competitive society. Its victories on the football field bolstered the pride of newcomers in an unfamiliar society and, at the same time, earned the respect and admiration of the country at large.

Mr. President, the 1977 Notre Dame football team has continued and added to this unique tradition. As I am sure we all know, this team won the Cotton Bowl game earlier this month. Moreover, in a remarkable display of the unbiased accuracy of the American news media, both the UPI and the AP polls recognized Notre Dame as the national college championship team. I feel it is entirely appropriate for the Senate to offer its congratulations on this occasion both to the team and its fine coaching staff headed by Dan Devine.

The work of the student athletes, coaches, and staff of this team is truly remarkable. It has been said, and I think accurately so, that playing varsity sports in college is equivalent to holding two full-time jobs. I think the efforts displayed by the members of the Notre Dame team in its endeavors over the season is a reflection of a high standard of dedication and commitment from which we can all learn.

Mr. President, I hope all my colleagues can join in this resolution of commendation for the 1977 Notre Dame football team upon its achievement of attaining the national college championship.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ALLEN addressed the Chair.

Mr. BUMPERS. Mr. President, I have a few words to say about that resolution. I am not going to object to the consideration of it and I do not think the Senator from Alabama will object to the consideration of it, but I certainly have some objections to the wording of the resolution.

Mr. ALLEN. Mr. President, I have not seen the resolution, but I would certainly disagree with the content of the resolution as I understand it. I think this is something that the Senate is not going to want to decide. I know that, down in a large portion of the South, the University of Alabama is regarded as being the No. 1 football team in the Nation. Certainly, it was No. 3 at the time of the bowl games and the No. 1 team lost and the No. 2 team lost. Simple arithmetic would seem to me to elevate No. 3, which is the University of Alabama, up to place No. 1.

I believe the resolution ought to go to the Committee on Rules, on which the Senator from Alabama serves.

Mr. BUMPERS. Mr. President, I should like to say that in my State, S. 1437 pales in seriousness compared to the type of resolution the Senator from Indiana has offered. It was the Arkansas Razorbacks who were the Cinderella team of this country on January 2. It was the Razorbacks who were 18-point underdogs and took on mighty Oklahoma, who were rated No. 2, and not only subdued them, but devastated them. The people of my State, without question, would launch a recall petition if I allowed this resolution to go through unobjected to.

The PRESIDING OFFICER. This entire discussion challenges the impartiality of the Chair to the maximum. I recognize the Senator from Alabama, who knows how to get us out of these difficulties.

Mr. ALLEN. I suggest that it go to the Committee on Rules, and in the Committee on Rules, on which I have the honor of serving, I assure the Senator from Indiana that an amendment will be offered and, I hope, adopted in the committee, substituting the University of Alabama for the University of Notre Dame as the No. 1 team in the Nation. I ask that the resolution be sent to the Rules Committee.

The PRESIDING OFFICER. Is there objection to the resolution going to the Rules Committee?

Mr. BAYH. Mr. President, I ask the Senator from Alabama, in his normal—I am not certain how to say this—with the normal compassion he has for the facts as they are and not as he would like them to be, after carefully reading the resolution, to note that the Senator from Indiana, as objective as he may be relative to the merits of the opposing football powers that are represented on the floor here, has been very careful to talk in terms not of provincial prejudice or bias, and normal loyalties, but, rather, to be specific in complimenting the University of Notre Dame on its choice by certain recognized organizations. That certainly gives us a great deal of leeway for the Members of this body to have the normal kinds of differences of opinion.

I say to my friend from Alabama, if the tables are turned next year, certainly, an amendment might be in order. But given the votes that have been taken by these organizations, it is rather clear what their judgment is, even if it does not concur with that of my friend from Alabama.

Mr. SCOTT. Will the Senator from Indiana yield briefly?

Mr. BAYH. Yes, I think I shall be happy to yield.

Mr. SCOTT. I hear the distinguished Senator from Indiana speaking against parochialism. I wonder if the distinguished Senator from Indiana can tell us what State Notre Dame University is located in.

Mr. BAYH. I shall have to think on that for awhile.

Mr. SCOTT. When the Senator finds out, perhaps he could let this Senator know.

Mr. BAYH. I think he will find it is in the State of Indiana, and we are proud to have it in the State of Indiana, just as my friend from Alabama is proud of his team and my friend from Arkansas is proud of his. I understand they have started to bring basketball to the University of Virginia.

Mr. SCOTT. Yes, they have, but I was addressing myself to parochialism for the moment.

Mr. BUMPERS. Mr. President, if this resolution goes to the Committee on

Rules, and even if it does not, if the Senator from Alabama, in a moment of magnanimity, should withdraw his objection to its immediate consideration, I wish to say that there are a couple of words here that really trouble me. It says:

Whereas, in the unbiased and professional opinion of the Nation's sportswriters and coaches.

The people of my State think that decision was neither unbiased nor professional. If we just strike those two words, I should probably withdraw my objection to the consideration of this resolution, conditioned upon the solemn vow of both the Senator from Alabama and the Senator from Indiana that next year, when I come back here to present a similar resolution to honor the Arkansas Razorbacks, neither of them will object to it.

Mr. ALLEN. A parliamentary inquiry, Mr. President. I believe that, actually, instead of going to the Committee on Rules, this resolution would be carried over under the rule and would be up for consideration at a later date. Is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. I thank the Chair.

I object to its immediate consideration.

The PRESIDING OFFICER. The resolution goes over under the rule.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I wonder, since the Senator from North Carolina is here presently, whether he has objection to the committee amendments being considered en bloc as original text, which will at least take up the corrections that were made during the markup.

Mr. HELMS. Mr. President, I say to the able Senator that I think this is such an important piece of legislation that we ought to take it a step at a time. I do object.

The PRESIDING OFFICER. The objection is heard.

Mr. SCOTT. Mr. President, I ask unanimous consent that Kenneth Foran, a member of the staff of the Senate Committee on the Judiciary, be afforded the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the objection of the Senator from North Carolina is entirely within his rights. I suppose there are probably in excess of 500 amendments and the purpose of the way that we proceeded was to provide information to the membership so that they would be able to see the changes that were made during the course of the deliberations. We could have asked that it all be struck out, the amendments considered en bloc, considered as original text, and reported to the Senate by the Senate Judiciary Committee. But that would have failed to provide the membership with an opportunity to see the changes, with the words that were stricken out, and the cross references that we thought would provide the membership with more information and a greater idea as to what action had taken place in the committee.

I am interested in finding out from the Senator from North Carolina what particular parts he objects to; whether he just wants us to spend the time to consider these or whether there are particular provisions that he wants to discuss. He understands full well that we can offer the amendments. If he wants to, I shall offer amendments. We can proceed in that particular way.

Obviously, this does not add, to the substance of the debate. It does take time, and there are those who would like, evidently, to use some time, for whatever purposes. It is beginning to dawn on me what those purposes are, with the Panama Canal Treaty coming up afterward, and maybe we are having the first fight over the Panama Canal here on the floor of the Senate this afternoon.

But I would rather not speculate in terms of the Senator's motivation, other than inquiring whether that is the action the Senator from North Carolina desires. Then, obviously, he is within his right to do so, and we will begin to proceed in that particular manner.

Those are the facts; the reasons we have proceeded the way we have. I will begin to offer the amendments in that manner.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1437 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders have been recognized under the standing order, the Senate resume consideration of the present matter, the criminal code revision bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE SENATE TO CONVENE AT 10:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene tomorrow morning at 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate this afternoon to consider the Panama Canal Treaty. I understand this has been cleared on the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER CONCERNING REFERRAL OF TREATIES AND NOMINATIONS EVEN WHEN SENATE HAS NO EXECUTIVE SESSION THAT DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that for the remainder of the 95th Congress it be in order to refer treaties and nominations on the days when they are received from the President even when the Senate has no executive session that day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President be authorized to appoint a committee of Senators on the part of the Senate to join a similar committee on the part of the House of Representatives to escort the President of the United States into the Chamber of the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Kevin Failey of Senator BAYH's staff, Mike Mullen of the Commerce Committee staff, and Carey Parker of my staff be accorded the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MORGAN). The Chair, on behalf of the

Vice President, appoints the Senator from Utah (Mr. GARN) as an unofficial adviser to the SALT talks being held in Geneva.

QUORUM CALL

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MELCHER). Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

UP AMENDMENT NO. 1088

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1648)

Mr. CRANSTON. Mr. President, on behalf of myself, Senator ALLEN, and Senator STEVENS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON, for himself, Mr. ALLEN, and Mr. STEVENS, proposes unprinted amendment numbered 1088.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that further reading of the amendment be dispensed with?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendment be in order at this time?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, strike out lines 30, 31 and 32, and substitute in lieu thereof the following: "'(a) CONSTRUCTION IN GENERAL.—The provisions of this title shall be construed in light of the principle that penal statutes are to be strictly construed.".

Mr. CRANSTON. Mr. President, the bill in its present form uproots nearly 200 years of Federal criminal statutes enacted from time to time to meet the needs of the Nation. In their place we are being offered a "modernized" version of Federal criminal law which considerably expands the criminal jurisdiction of the Federal Government. We think this expansion would be a mistake.

The case against S. 1437 has been stated concisely by the Los Angeles Times in an editorial appearing on January 18:

Does the history of this country justify an extension of authority over the ways in which Americans exercise their political convictions? To the contrary, the nation has come through the recent tumultuous years of civil rights protests and antiwar demonstrations with our security unimpaired.

Our strength lies in the protection of legitimate political expression, and in the confidence that government will act to protect that expression. If the confidence of the nation has been shaken during these years, it has been shaken by the abuse of government authority, not by the lack of power to maintain a stable order that all concede is essential.

So we offer an amendment to section 112 (General Principles of Construction) to restore to our law the time-honored maximum that penal statutes are to be strictly, or narrowly, construed, particularly where they may affect the exercise of constitutional rights. Section 112, to the contrary, states that the provisions of the bill are to be construed "in accordance with the fair import of their terms to effectuate the general purposes" of the criminal code. This provision would give the Government grounds for wide-ranging interpretations of the law. It would enable the Government to argue that the words of a particular statute mean, in effect, whatever the Government wants them to mean "to effectuate the general purposes" of the Criminal Code. Such a prosecutorial device would clearly work to the detriment of due process fairness.

Section 112, if left standing, would fulfill a prosecutor's dream, particularly when he is arguing against defense motions to dismiss or to quash an indictment of a subpena.

Our amendment is supported by American for Constitutional Action and the American Civil Liberties Union. The ACLU comments:

While it is true, as the bill's sponsors argue, that new state penal codes have departed from strict construction principles, this departure is a serious threat to civil liberties and should not be encouraged by the Federal Government.

We agree with this view.

We also feel that support for our amendment at the very outset of Senate debate on S. 1437 would establish the principle that a new Federal Criminal Code must not unduly expand the criminal jurisdiction of the Federal Government nor in any way infringe upon existing rights and liberties of the people.

Mr. President, at this point, I yield to the distinguished Senator from Alabama, who is my principal cosponsor on this amendment, and I thank him for his effective work on behalf of this effort.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from California and I commend him for offering this amendment which I feel is a real basic portion of our background and our legal heritage from the English common law.

What this amendment would do would be to knock out on page 26, section 112(a), Construction in General, of criminal statutes because the provisions of this title shall be construed in accordance with the fair import of their terms to effectuate the general purposes of this title, which is a radical departure from the existing Federal law and the common law of the very States that criminal laws, criminal statutes, shall be strictly construed.

Now, the committee report on page 23 points out that the committee version would repeal whatever vestiges remain in the federal system of the artificial canon of strict construction under which a court is obligated to adopt the narrowest possible view of the language used by Congress in a criminal statute.

That is exactly what the present law is and what it should be and it should not be changed, in my judgment.

The proposed Criminal Code Reform Act of 1977 represents a major departure from existing Federal criminal law in several respects.

I am going to discuss the old bill in general before discussing this amendment in particular.

First, the new proposed code greatly expands Federal criminal jurisdiction by establishing Federal jurisdiction in many instances in which heretofore Federal jurisdiction has not existed. The Constitution of the United States circumscribes the legislative powers of the Federal Government and precludes the extension of Federal jurisdiction in a plenary sense as it might otherwise be exercised on a territorial basis on a general foundation of sovereignty in the Federal Government. Legislative powers denied to the Federal Government are reserved to the States or to the people to exercise. Moreover, previously in many areas of potential Federal criminal jurisdiction, the Congress has elected as a matter of policy to leave such criminal jurisdiction to the States. The thrust of the proposed Criminal Code Reform Act is to assert exclusive Federal criminal jurisdiction to permissible constitutional limits and to reduce the scope of criminal jurisdiction allowed the States under the existing framework of Federal criminal statutes.

Thus, even though the committee report states, at pages 29, that the proposed code does not "involve a major departure from the historical division of Federal/State responsibilities," a detailed reading of the provisions of the bill itself reveals that a major departure would occur should the measure be enacted, inasmuch as the code established a plenary system of general criminal law for application in the Federal system and relegates the use of State laws under Assimilative Crimes Act (18 U.S.C. 13) to use only as a vehicle for punishing misdemeanors not covered by the comprehensive structure of the proposed code.

The dramatic expansion of Federal jurisdiction achieved by establishing a complete system of criminal law and by applying those laws in a jurisdictional sense to the maximum extent permitted by the Constitution destroys the advantages in the approach of existing law to the jurisdictional aspect of Federal offenses. The existing framework of criminal statutes permits tailoring the Federal jurisdictional reach to meet specific forms of misconduct to the precise extent determined necessary by Congress

on an offense-by-offense basis. It also makes clear the Federal interest in the specifically proscribed conduct and tends to keep essentially local crimes out of Federal courts—that is, the existing relationship between State and Federal assistance.

Finally, each investigative and administrative agency of the Federal Government particularly interested in the suppression of the proscribed conduct involved is able to utilize a specific, self-contained statute which clearly defines, in practical effect, each agency's area of responsibility. These advantages would be lost under the proposed code.

A second major problem inherent in the proposed code is the tendency to reduce the required culpability level or mens rea below existing requirements while at the same time defining given criminal conduct in terms far more general than has until now been the case. The code would thus allow immense prosecutorial discretion and would arm the Government with the ability to charge defendants on a selective basis; in effect, deciding fully within its own discretion which citizens would be held criminally liable within the terms of a broadly drawn provision. Although there has always been an element of prosecutorial discretion under the Federal criminal law, the bounds of that discretion are greatly increased by the proposed code and would cause a potential for abuse not present currently. In short, this code is a bill that a good Attorney General should not want and a bill that a bad Attorney General ought not to be given.

Therefore, it is against this backdrop of broad prosecutorial discretion, very broadly drawn provisions defining misconduct, and greatly increased Federal criminal jurisdiction that we offer this amendment to reinstate in the proposed code the long-standing principle that penal statutes are to be strictly construed. The proponents of this bill, knowing its sweeping expansion of existing criminal law, have nevertheless proposed the standard that the provisions of the bill be construed "in accordance with the fair import of their terms to effectuate the general purposes" of the Federal Criminal Code. That standard of construction would arm the Government with the ultimate weapon in maximizing the departures from existing statute which are incorporated in this proposed Criminal Code revision. At the very least, the Government and the courts should not be guided by a rule of construction which could be utilized to resolve all ambiguity in favor of the Government and against a defendant or potential defendant.

Although the courts have held that words in criminal statutes are to be given a meaning consistent with commonsense and evident statutory purpose, the principle of strict construction still has viability in allowing courts to read narrowly ambiguous or overly broad statutory provisions which make criminal types of conduct not appearing criminal to the average citizen. Abolition of the rule of strict construction will put citizens in danger of being punished for conduct about which they have no notice of criminality.

I am well aware of the dicta in *United States* v. *Cook* (384 U.S. 257, 262–263 (1966)) and in similar cases which indicate that courts are to give penal statutes a meaning consistent with the fair import of their words and that the rule of strict construction does not require the narrowest possible meaning; however, I note that none of these cases abolishes the rule and all imply that the rule has continuing validity as a canon of construction in the event legislative intent is not clear or in case of obvious ambiguity. In my judgment, the rule of strict construction will have renewed vitality in the event this code becomes law, because this proposed code attempts to do in 382 pages—that is, if the rule of strict construction is retained—what has been done by Congress and the courts over 200 years of our history in the development of criminal law. I have no doubt that the sponsors of this legislation might assert that there is no ambiguity contained in it or that there is no provision about which the precise legislative intent cannot be ascertained, but I trust that a majority of the Senate will see the wisdom of preserving the rule of strict construction, on the possibility that there may be in these 382 pages some small modicum of ambiguity or confusion which will require resolution by court interpretation. Indeed, I will say to the Senate that I believe this bill to be replete with ambiguous and overly broad provisions, and I believe a minimum safeguard is provided by this proposed amendment.

There are those who no doubt assert that this bill has been studied carefully in committee, and indeed much labor and good work has gone into its drafting. I commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for this hard work in the drafting of this code and his consideration in committee of the dozens of amendments, many of which were accepted—possibly as many as 100.

It is not, however, free from defect and work on this legislation still remains to be done by the full Senate. As an initial step in undertaking that work, the Senate should manifest an intent to preserve the well-established principle that criminal statutes are interpreted strictly.

Mr. President, I ask for a rollcall vote on the amendment.

The PRESIDING OFFICER. Is there a sufficient second to the request of the Senator from Alabama? There is a sufficient second.

Mr. KENNEDY. Mr. President, will the Senator withhold that request until we have had a chance to debate the matter?

The PRESIDING OFFICER. Does the Senator from Alabama withhold his request?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. The Senator withholds his request. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, very briefly, the idea of strict construction goes back to the early days of legislative enactments of criminal laws, where the judiciary that had established law, under the old English common law, wanted to preserve their prerogative; therefore, they interpreted various statutes from a strict construction point of view.

Over a period of years—50, 75, 100 years—with the development of the legislative process that requirement virtually was eliminated. As a matter of fact, more than 25 States have the language that we have in the present bill.

If I may have the attention of the Senator from California, I point out that the California penal code states:

> Construction of the Penal Code. The rule of the common law, that penal statutes are to be strictly construed, has no application to this Code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its objects and to promote justice.

The fact of the matter is that more than 23 States have that identical language. We are following the States in this particular area.

What has not been advanced by the proponents of the legislation is where there have been abuses with the particular interpretation found in S. 1437.

To the contrary, Mr. President. The reason that the model penal code reached the same conclusion as we did in S. 1437 is simple. If we are going to get into a narrow and restricted construction the legislature is going to have to go out and try and anticipate every particular, possible act that could be considered a violation of the law and which any legislator could possibly imagine in order to plug a particular loophole. We would get the kind of contorted interpretations of legislation which this particular recodification is attempting to avoid.

What we are attempting to do is to make language simple, understandable, and controllable for average citizens so that they understand when they violate the statute.

So, Mr. President, we should stay with the States on this for the reasons that this language which we have included in here has been adopted by the State. In the course of our hearings we have failed to find out or have brought to our attention by any of the groups where, this rule has worked any kind of abuse. The Attorney General in the particular report stated, and I quote page 25 of the report:

> The language now in S. 1537, which mandates that the Code's provisions be "construed in accordance with the fair import of their terms to effectuate the general purposes" of the Code (section 112(a)), accurately reflects the holdings of the Supreme Court cases interpreting the appropriate current-day version of the so-called rule of "strict construction."

If it is the understanding of the principal sponsors that that is, in effect, what they mean by the terms of "strict construction," then we are wrestling around in terms of words. If it is something contrary to that, then we have a more difficult problem.

I think we should stay with the States on this issue. They have tried it. It has

not been subject to abuse. We are not asking that there be a lenient interpretation. We are not asking about a strict interpretation. What we are talking about is the full import of the words themselves in understandable language.

That is my understanding of the nature of the current law. That is what the model penal code has endorsed. That is what more than 23 States are working on. There have not been abuses, and it seems to be a wiser and fairer way to proceed in terms of the statute.

Mr. CRANSTON. Mr. President, I want to call to the Senate's attention a forceful editorial which appeared in yesterday's Los Angeles Times regarding the pending bill, S. 1437.

This is the case the Times makes against the bill.

I ask unanimous consent that the editorial may be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Jan. 18, 1978]

TILTING AGAINST FREEDOM

Legislation to reform and revise federal criminal law has undergone another mutation, has been approved by the Senate Judiciary Committee and is ready for consideration by the Senate. The bill, to be introduced Thursday afternoon with voting to start Friday, should be defeated.

It would pull together and attempt to rationalize a wide array of ambiguous and conflicting statutes accumulated over two centuries. Of particular importance is the bill's procedure for the elimination of unjust, capricious and disparate punishment imposed on convicted criminal offenders.

But, in a broader perspective, the legislation (S. 1437) is a political document of extraordinary significance, under which the American people would exercise their political freedom in this third century of our history.

Any law is an expression of political philosophy. The creation of a uniform federal criminal code that encompasses a vast body of laws is a profound undertaking, and represents the political process at the highest level. The history of this bill is the history of this process at work.

Appointed in the Johnson administration, the National Commission on the Revision of the Federal Criminal Law began its task with strong liberal goals. After the Nixon administration took power, that direction was reversed. Introduced as S. 1 in the 94th Congress, the legislation had changed into a blueprint for repression.

The bill was so extreme that it aroused wide opposition and died in committee, but the move toward criminal-code reform continued. Its supporters, intent on compromise that would result in acceptable legislation, worked for nearly a year, and produced S. 1437.

They plucked out some of the harshest provisions of the first bill. S. 1 would have made it a crime to disclose and publish classified information, a proposal that would have amounted to an official secrets act. That was eliminated. They dropped the so-called Nuremberg defense for public officials accused of law violations. This defense would have permitted public officials to plead that they acted in behalf of national security They eliminated a section that would have nearly nullified insanity as a criminal defense, and they dropped a proposal to broaden the use of wiretaps by law-enforcement agencies. They included a provision to repeal the Smith Act. As the legislation went through the Judiciary Committee, S. 1437 itself was modified as it affected the function of news organizations.

Originally, the bill would have made it a crime to publish a news article or an editorial in violation of a court-issued gag order, even if the order was later found to be illegal. The new version would provide a defense against contempt charges for violating a gag order, if the order was later ruled "constitutionally invalid and constituted a prior restraint on the collection and dissemination of news." There would be no requirement in this situtaion that the news organization first seek a judicial review of the order or a judicial stay.

Also eliminated were proposals to give the federal government the power to prosecute the press for publishing government reports without permission, for receiving stolen government documents and for "improperly" publishing an editorial causing a government employe economic loss.

But the bill still retains other ominous, press-related provisions. It would allow the government to hold reporters in criminal contempt for refusal to disclose confidential news sources even under an order subsequently declared to be invalid. And it would permit criminal prosecution of government employes for supplying any "private" information to news organizations. These proposals would impinge directly on the ability of the press to gather news from confidential sources that often enable the press to expose corruption.

Another provision (Section 1311 on Hindering Law Enforcement) would make it an offense to conceal the identity of a person suspected of a crime. In reference to news reporters, the Judiciary Committee report says that "a mere failure or refusal to identify a fugitive (e.g., where a reporter refused to disclose a confidential source known to have committed a crime) would not constitute 'concealing.'" But doubt has been raised as to whether this exception also would apply to a reporter who concealed notes of an interview with a news source suspected of a crime.

In addition, the bill would accelerate the trend toward secrecy in the criminal-justice system by giving the government the power to seal federal arrest, indictment and conviction records in certain types of drug offenses.

Beyond its impact on news organizations, this bill has provisions that could bring under restraint many forms of political expression. Persons whose freedom is expressed and protected in their professional work with organizations like the press, universities, labor unions and other institutions are inclined to view legislation only as it affects them and their interests. They are tempted to reach an accommodation with power.

But freedom is indivisible. The right of an individual, not connected with any organization, to freedom of speech is just as important as the right of a university president or a labor-union leader. The right of a pamphleteer to publish is just as important as the right of a large newspaper to remain free. Great institutions earn their legitimacy to the extent that they seek to protect the freedom of the least individual.

S. 1437 is filled with provisions that could be used to prohibit political expression through assemblies, demonstrations and picketing. Section 1861 (Public Safety) would create a new federal offense. This section would make it unlawful to disobey an order of a law-enforcement officer or a public servant assigned public-safety responsibilities where the order is issued in response to a fire, flood, or riot. But the law would extend to any "other condition that creates a risk of serious injury to a person or serious damage to property." That "other condition" would put into the hands of every federal law-enforcement official the authority to disperse an assembly, a parade or a picket line, and the authority would not be restricted to specified federal areas, such as a federal building, but would reach anywhere in the United States.

Sections 1002 (Criminal Conspiracy), 1003 (Criminal Solicitation) and 1323 (Tampering With a Witness or Informant) could all be brought to bear on political action.

Section 1002 would make it an offense if a person "agrees with one or more persons to engage in conduct, the performance of which would constitute a crime or crimes, and he or one of such persons in fact engages in any conduct wtih intent to effect any objective of the agreement." All that would actually be required to commit a crime would be an expression of agreement to engage in an offense like an illegal demonstration and any later conduct that a jury found was intended to aid the conspiracy. For example, the purchase of tennis shoes to march in a protest could lead to a conviction, even though a person never participated in the demonstration. Conspiracy law, applied to political action, gives a zealous prosecutor an elastic net.

Section 1003, which would create a new crime making it an offense if a person, "with intent that another person engage in conduct constituting a crime, and, in fact, under circumstances strongly corroborative of that intent, commands, entreats, induces or otherwise endeavors to persuade such other persons to engage in such conduct." This law could make a person liable to prosecution for taking part in any discussion of political tactics that might later result in an offense.

Section 1323 contains the usual provisions against the use of force, threats or intimidation to influence judicial or other official proceedings, but it would reach much further. It would make it an offense to attempt to "influence improperly, or to obstruct or impair" the administration of any law or the conduct of a legislative inquiry. This language is so broad that the organizers and participants in any opposition to an official proceeding would run the risk of prosecution.

These sections do not exhaust the grave deficiencies of this legislation, but they suffice to show that the bill, despite substantial improvements over the original criminal-code reform measure, is still tilted against freedom and toward increased government power.

Does the history of this country justify an extension of authority over the ways in which Americans exercise their political convictions? To the contrary, the nation has come through the recent tumultuous years of civil-rights protests and antiwar demonstrations with our security unimpaired.

Our strength lies in the protection of legitimate political expression, and in the confidence that government will act to protect that expression. If the confidence of the nation has been shaken during these years, it has been shaken by the abuse of government authority, not by the lack of power to maintain a stable order that all concede is essential.

Supporters of the bill argue that much of it codifies or restates current laws. To put Congress' stamp on laws that infringe on press freedom and other liberty would give the government a new base from which to proceed toward further encroachment.

The reform of the federal criminal code is not inconsistent with preserving our system of individual rights. The first is an important goal, the second is vital because it goes to the very foundations of our country. Reform must achieve both purposes.

As it stands now, S. 1437 fails this test, and should be voted down.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objecton, it is so ordered.

Mr. HELMS. Mr. President, I wonder if the able Senator from California would describe to me the diversified support he has for this amendment.

Mr. CRANSTON. Well, the principal sponsors are myself, Senator ALLEN, and Senator STEVENS of Alaska.

Mr. HELMS. I should like to be added, if the Senator will do me that honor, as a cosponsor.

Mr. CRANSTON. I am delighted to add the Senator from North Carolina as a cosponsor of an amendment which is supported by the American Civil Liberties Union and the Americans for Constitutional Action, so we do have diversified support.

Mr. HELMS. I thank the Senator.

Mr. CRANSTON. I thank the Senator for his cosponsorship, and I am delighted to have the Senator's support.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Irene Anselm and Bob Nichols be permitted access to the floor during the consideration of the pending legislation.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

TRANSFER OF CERTAIN MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are four measures on the Calendar that have been cleared for action by unanimous consent. They are Calendar Order Nos. 537, 552, 553, and 554. I ask that the clerk transfer those measures to the Unanimous Consent Calendar.

The PRESIDING OFFICER. They will be so transferred.

ROUTINE MORNING BUSINESS

APPOINTMENTS BY THE VICE PRESIDENT

Under the authority of Senate Resolution 345, agreed to on December 15, 1977, the Vice President made the following appointments on December 22, 1977: The Senator from Illinois (Mr. STEVENSON) to be a Congressional Adviser to the SALT Delegation in Geneva during 1977 and 1978, and the Senator from Kentucky (Mr. FORD) and the Senator from Delaware (Mr. BIDEN) to be delegates to the U.S.-U.S.S.R. Parliamentary Visit, to be held in Washington, D.C., January 22–26, 1978.

Under the authority of Senate Resolution 345, agreed to on December 15, 1977, the Vice President made the following appointment on January 10, 1978: The Senator from Wyoming (Mr. WALLOP) to be a Congressional Adviser to the SALT Delegation in Geneva during 1978.

MESSAGES FROM THE HOUSE

At 1:44 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 947. A resolution that a committee of three members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make;

H. Res. 948. A resolution that the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business;

H. Res. 950. A resolution relating to the death of the Honorable Lee Metcalf, a Senator of the United States from the State of Montana and Acting President pro tempore of the Senate; and

H. Res. 951. A resolution relating to the death of the Honorable Hubert H. Humphrey, a former Vice President of the United States, Deputy pro tempore of the Senate, and a Senator from the State of Minnesota.

The message also announced that the House has agreed to House Concurrent Resolution 452, to provide for the joint session to hear the President, in which it requests the concurrence of the Senate.

At 4:21 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers; which were referred as indicated:

EC–2459. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on "Mobility and Pension Rights of Federal Contract Workers," with an accompanying report); to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

EC–2460. A communication from the Acting Comptroller General of the United States, reporting, pursuant to law, on four new deferral proposals (D78–47, D78–48, D78–49, and D78–50) and revisions to four previously transmitted deferrals (D78–43A, D78–26B, D78–27B, and D78–28A) affecting funds appropriated to the President and the Department of the Treasury; to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Finance, and the Committee on Human Resources, jointly, pursuant to order of January 30, 1975.

EC–2461. A communication from the Assistant Secretary, International Affairs and Commodity Programs, Office of the Secretary, Department of Agriculture, reporting, pursuant to law, on the status of planned programing of Public Law 480, title I commodities as of December 31, 1977 (with an accompanying document); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2462. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on the location of New Federal offices and other facilities (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2463. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the "Audit of the Office of the Attending Physician Revolving Fund—Fiscal Year 1977," December 29, 1977 (with an accompanying report); to the Committee on Appropriations.

EC–2464. A communication from the Acting Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, on transfers of amounts appropriated to the Department of Defense recently made pursuant to the authority granted in section 854 of the Department of Defense Appropriation Act, 1978; to the Committee on Appropriations.

EC–2465. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Treasury for "Salaries and expenses," U.S. Secret Service for the fiscal year 1978 has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC–2466. A communication from the Secretary of Defense, transmitting, pursuant to law, reports of violations of the Anti-Deficiency Act and of Department of Defense Directive 7200.1, "Administrative Control of Appropriations within the Department of Defense" (with accompanying reports); to the Committee on Appropriations.

EC–2467. A communication from the Vice Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of final determination in Docket No. 27–B, the Delaware Tribe of Indians, plaintiff, against the United States, defendant; and Docket No. 338, Absentee Delaware Tribe of Oklahoma, et al., plaintiffs, against the United States, defendant (with an accompanying report); to the Committee on Appropriations.

EC–2468. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriations to the Veterans' Administration for "Compensation and Pensions" and "General Operating Expenses" for the fiscal year 1978 have been reapportioned on bases which indicate the necessity for supplemental estimates of appropriations; to the Committee on Appropriations.

EC–2469. A communication from the Vice Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of final determination in Docket Nos. 15–C, 29–A, and 71, the Prairie Band of the Pottawa-

tomie Tribe of Indians, Et al.; Hannahville Indian Community, Et Al.; and Citizen Band of Potawatomi Indians, plaintiffs, against the United States, defendant (with an accompanying report); to the Committee on Appropriations.

EC–2470. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, that no use was made of funds appropriated in the Defense Appropriation Act and the Military Construction Appropriation Act during the period April 1, 1977–September 30, 1977, to make payments under contracts for any program, project, or activity in a foreign country except where, after consultation with a designee of the Secretary of the Treasury, it was determined that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law was not feasible for the reason that the Treasury Department was not holding excess foreign currencies in the country involved; to the Committee on Appropriations.

EC–2471. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, that there has been reapportioned on a deficiency basis the CCC limitation on administrative expenses authorization in order to make the funds available for the ASCS salaries and expenses account; to the Committee on Appropriations.

EC–2472. A communication from the Secretary of the Army, transmitting, pursuant to law, the annual report of Department of the Army contracts for military construction awarded without formal advertisement, for the period July 1, 1976 through September 30, 1976 (transition quarter) and October 1, 1976 through September 30, 1977 (with an accompanying report); to the Committee on Armed Services.

EC–2473. A communication from the Secretary of the Navy, reporting, pursuant to law, that the Department of the Navy proposes to transfer the obsolete (sunken) vessels *Hamilton* and *Scourge* to the Royal Ontario Museum, Toronto, Ontario, Canada; to the Committee on Armed Services.

EC–2474. A communication from the Director, Legislation, Department of the Navy, reporting, pursuant to law, the intention of the Department of the Navy to donate certain surplus property to the Deutscher Marinebund e.V. (German Naval Veterans Association); to the Committee on Armed Services.

EC–2475. A communication from the Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report of financial contributions program, equipment and facilities (Report Control Symbol DCPA/CONG (A) 1) for fiscal year ending September 30, 1977 (with an accompanying report); to the Committee on Armed Services.

EC–2476. A communication from the Secretary of Defense, transmitting, pursuant to law, that he has determined that collection of approximately 1,700 obsolete chemical agent identification sets at Rocky Mountain Arsenal, CO, is necessary in the interest of national security; to the Committee on Armed Services.

EC–2477. A communication from the Secretary of Defense, transmitting, pursuant to law, a report of approvals under section 407 (a) of the annual compensation of any officer or employee of a Federal Contract Research Center in excess of $45,000 from Federal funds (with an accompanying report); to the Committee on Armed Services.

EC–2478. A communication from the commander, Naval Facilities Engineering Command, Department of the Navy, transmitting, pursuant to law, reports indicating those military construction contracts awarded on other than a competitive bid basis to the lowest responsible bidder, and the top 10 architect-engineer firms, July 1, 1976 to September 30, 1976 and October 1, 1977 to September 30, 1977 (with accompanying reports); to the Committee on Armed Services.

EC–2479. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting, pursuant to law, a report on the reenlistment bonus test program (with an accompanying report); to the Committee on Armed Services.

EC–2480. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report of the design and construction supervision, inspection, and overhead fees charged by the construction agents for the military construction projects of the military departments and the defense agencies (with an accompanying report); to the Committee on Armed Services.

EC–2481. A communication from the Vice Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the ninth annual report of the Board of Governors of the Federal Reserve System on Truth in Lending (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2482. A communication from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a progress report of the Cost Accounting Standards Board (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2483. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Securities and Exchange Commission's Regulation of Public Utility Holding Companies: An Evaluation of Commission Comments on a Critical Report," January 4, 1978 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2484. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during October 1977 to Communist countries (with an accompanying document); to the Committee on Banking, Housing, and Urban Affairs.

EC–2485. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report of the Export Administration covering the fourth quarter of 1976 and the first quarter of 1977 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2486. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during November 1977 to Communist countries (with an accompanying document); to the Committee on Banking, Housing, and Urban Affairs.

EC–2487. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Supervision of Banks by the Federal Deposit Insurance Corporation Can be More Efficient," December 22, 1977 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2488. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses; revenues and expenses of each train operated; and revenues and total expenses attributable to each railroad over which service is provided, for the month of September 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2489. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the financial condition and operations of the Railroad Rehabilitation and Improvement Fund and the Obligation Guarantee Fund (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2490. A communication from vice president, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, for the month of September 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2491. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the national airport system plan (NASP), 1978–87 (accompanying documents); to the Committee on Commerce, Science, and Transportation.

EC–2492. A communication from the Admistrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report of exclusion of the standard NASA examination of records clause (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2493. A communication from the Deputy Secretary, Department of Energy, transmitting, pursuant to law a report on the electric and hybrid vehicle program, December 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2494. A communication from the Deputy Secretary, Department of Energy, transmitting, pursuant to law, a report on "Determination of the Effectiveness and Feasibility of Regenerative Braking Systems on Electric and Other Automobiles," September 9, 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2495. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on ocean pollution, overfishing, and offshore development (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2496. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on "Potential Closure of Airports," January 1978 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2497. A communication from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the fifth annual report of the U.S. Consumer Product Safety Commission, January 1978 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2498. A communication from the Acting Secretary, Department of the Interior, transmitting, pursuant to law, a report on Federal programs available to the territories of the United States (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2499. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, to the Energy Information Administration quarterly report for the period of July through September 1977 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories (with an accom-

panying report); to the Committee on Energy and Natural Resources.

EC–2500. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report with respect to refiner distribution and market shares of the statutory categories of refined petroleum products (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2501. A communication from the Deputy Assistant Secretary, Department of the Interior, transmitting, pursuant to law, a decision that certain lands in Lincoln County, Nev., are considered as not suitable for disposal under the Unintentional Trespass Act (UTA) of September 26, 1968 (with an accompanynig report); to the Committee on Energy and Natural Resources.

EC–2502. A communication from the Director, National Science Foundation, transmitting, pursuant to law, a report of the National Science Foundation research on the stratosphere and the effects of ozone layer changes (with an accompanying report); to the Committee on Environment and Public Works.

EC–2503. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The John F. Kennedy Center for the Performing Arts is Financially Troubled," December 20, 1977 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2504. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled "NRC Program for the Resolution of Generic Issues Related to Nuclear Power Plants," January 1, 1978 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2505. A communication from the Chairman, Migratory Bird Conservation Commission, transmitting, pursuant to law, a report of the Migratory Bird Conservation Commission for the fiscal year ended September 30, 1977 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2506. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the program to date in implementing the traffic control signalization demonstration projects (with an accompanying report); to the Committee on Environment and Public Works.

EC–2507. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Changing Patterns of Federal Aid to State and Local Governments, 1969–75," December 20, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2508. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Legislative Changes Urged in Loan Program of the Agency for International Development," January 5, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2509. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Attention Should be Paid to Making the U.S. Less Vulnerable to Foreign Oil Price and Supply Decisions," January 3, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2510. A communication from the Chairman, Board of Governors, United States Postal Service, transmitting, pusuant to law, an annual report regarding the compliance of the Board of Governors of the U.S. Postal Service with the requirements of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–2511. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office issued or released in November 1977 (with an accompanying document); to the Committee on Governmental Affairs.

EC–2512. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on the significant factors influencing ship force size and composition and identifies the key issues for congressional attention (with a secret report); to the Committee on Governmental Affairs.

EC–2513. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Reevaluation Needed of Educational Assistance for Institutionalized Neglected or Delinquent Children," December 19, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2514. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Proposals to Resolve Longstanding Problems in Investigations of Federal Employees," Civil Service Commission, December 16, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2515. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Military Services are Constructing Unneeded Family Housing," December 29, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2516. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Consular Services Abroad Can be Improved; Process of Evaluating Need for Posts Questioned," December 29, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2517. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Palmetto Bend Dam and Reservoir: Need for Improved Analysis of Alternatives and Cost Data," December 16, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2518. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Emergency Natural Gas Purchases: Actions Needed to Correct Program Abuses and Consumer Inequities," January 6, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2519. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a secret report relating to an alternative approach to the development of secure voice systems for defense and civil agencies (with an accompanying secret report); to the Committee on Governmental Affairs.

EC–2520. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Are Needed in Managing Aircraft Used by Federal Civilian Agencies," Office of Management and Budget, December 22, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2521. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Services for Patients Involved in National Institutes of Health-Supported Research: How Should They be Classified and Who Should Pay for Them?", December 22, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2522. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Home Health—The Need for a National Policy to Better Provide for the Elderly," December 30, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2523. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The State of Competition in the Coal Industry," December 30, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2524. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Alaska Power Administration—Financial Management and Program Operations," December 20, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2525. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Container-Oriented Logistics System—Will it be Ready When Needed by the Department of Defense?" December 21, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2526. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Effectivenes of Vehicle Safety Inspections Neither Proven Nor Unproven," December 20, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2527. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "National Water Quality Goals Cannot be Attained Without More Attention to Pollution From Diffused or 'Nonpoint' Sources," December 20, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2528. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning Federal statistical programs and their organization (with an accompanying report); to the Committee on Governmental Affairs.

EC–2529. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning Federal housing programs (with an accompanying report); to the Committee on Governmental Affairs.

EC–2530. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning governmental procurement practices (with an accompanying report); to the Committee on Governmental Affairs.

EC–2531. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a Department of the Navy proposal, with supporting documentation on a new system of records identified as N00011 09B, entitled "Reports of Disposition of Personal Money Allowances and Position Allowances" (with accompanying papers); to the Committee on Governmental Affairs.

EC–2532. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to place the Director, U.S. Secret Service, at Level IV of the Executive Schedule, and the Deputy Director, U.S. Secret Service, and Director, Office of Revenue Sharing, at Level V of the Executive Schedule (with accompanying papers); to the Committee on Governmental Affairs.

EC–2533. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a followup report on the recommendations of the Board of Visitors to the U.S. Naval Academy (with an accompanying report); to the Committee on Governmental Affairs.

EC–2534. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a Defense Nuclear Agency proposal to alter an existing record system identified as HDNA 609–02, entitled "Personnel Radiation Exposure Records" (with accompanying papers); to the Committee on Governmental Affairs.

EC–2535. A communication from the Chief of Staff, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, a modification to an existing system of records (with accompanying papers); to the Committee on Governmental Affairs.

EC–2536. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council of the District of Columbia on October 25, 1977, which would amend section 47–1105 of the District of Columbia Code to increase the rate of interests on assessments for the removal of nuisances (Act 2–113) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2537. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council of the District of Columbia on November 22, 1977, which would provide for certain amendments to D.C. Law Nos. 1–110 and 1–124, to the District of Columbia Revenue Act of 1937, and to Title 32 of the District of Columbia Rules and Regulations (Act 2–121) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2538. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on November 29, 1977, which would provide relocation assistance, stabilize residential rents, provide eviction controls and for other purposes (Act 2–118) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2539. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 25, 1977, which would order the closing of a public alley abutting on Lots 15, 16, 17, 18, 19, 20, and 802 in Square 419, bounded by 7th, R, 8th and S Streets NW. (Act 2–120) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2540. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on September 13, 1977, which would regulate noise levels in the District of Columbia (Act 2–117) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2541. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on November 22, 1977, which would increase the charge for issuing certificates of real estate taxes and assessments due and duplicating District of Columbia tax returns (Act 2–122) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2542. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, a report for a new system of records, DOT/OST 061 entitled "Records of Official Time Granted Employees For Performing Representational Functions" (with accompanying papers); to the Committee on Governmental Affairs.

EC–2543. A communication from the Acting Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, reports on new systems of records (with accompanying reports); to the Committee on Governmental Affairs.

EC–2544. A communication from the Assistant Director for General Services, Facilities and Support Services Division, Environmental Protection Agency, transmitting, pursuant to law, a report on disposal of foreign excess property (with an accompanying report); to the Committee on Governmental Affairs.

EC–2545. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, an annual report on disposal of foreign excess property for fiscal year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2546. A communication from the Director, U.S. Information Agency, transmitting, pursuant to law, the USIA's annual report concerning the disposal of foreign excess property during fiscal year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2547. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on disposal of certain foreign excess property (with an accompanying report); to the Committee on Governmental Affairs.

EC–2548. A communication from the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, a report of the activities of the department for fiscal year ending September 30, 1977, with regard to the disposal of foreign excess property (with an accompanying report); to the Committee on Governmental Affairs.

EC–2549. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "Safe School Study Report" (with an accompanying report); to the Committee on Human Resources.

EC–2550. A communication from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "A Plan for the Study of Vocational Education," December 1977 (with an accompanying report); to the Committee on Human Resources.

EC–2551. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations for Part 115, school assistance in federally affected areas (equalization) (with accompanying papers); to the Committee on Human Resources.

EC–2552. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations for strengthening research library resources (with accompanying papers); to the Committee on Human Resources.

EC–2553. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, general provisions relating to student assistance programs: Procedures for the limitation, suspension, or termination of institutional eligibility for programs under title IV of the Higher Education Act of 1965, as amended—HEW final regulation, title IV, section 497A of the Higher Education Act of 1965, as amended, Public Law 89–329 as added by section 133 of the Education Amendments of 1976, Public Law 94–482 (with accompanying papers); to the Committee on Human Resources.

EC–2554. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulation for additional procedures for evaluating specific learning disabilities (to be added to regulations for part B of the Education of the Handicapped Act (Act CFR Part 121a)) (with accompanying papers); to the Committee on Human Resources.

EC–2555. A communication from the Chairman, National Advisory Council on Adult Education, transmitting, pursuant to law, the second section of the council's 1977 annual report (with an accompanying report); to the Committee on Human Resources.

EC–2556. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulation for teacher centers program section 153 of the Education Amendments of 1976 (with accompanying papers); to the Committee on Human Resources.

EC–2557. A communication from the Assistant Secretary for Education, Department of Health, Education, and Welfare, requesting an extension of 1 month for submission of a report on lifelong learning; to the Committee on Human Resources.

EC–2558. A communication from the Chairman, Federal Council on the Arts and the Humanities, transmitting, pursuant to law, the second annual report on the arts and artifacts indemnity program for fiscal year 1977 (with an accompanying report); to the Committee on Human Reosurces.

EC–2559. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of Taos Pueblo judgment funds in Docket 357-A before the Indian Claims Commission (with accompanying documents); to the Select Committee on Indian Affairs.

EC–2560. A communication from a member, the Florida Bar, relating to notice of tort claim, Title 28, United States Code, sections 2671, et seq. (with an accompanying document); to the Committee on the Judiciary.

EC–2561. A communication from a Certified Public Accountant, transmitting, pursuant to law, the annual report of the American National Theater and Academy (with accompanying papers); to the Committee on the Judiciary.

EC–2562. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to facilitate the work of the U.S. Department of Agriculture; to protect the confidentiality of information furnished to the Department by individuals, establishments, enterprises, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

EC–2563. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,728 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

EC–2564. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,728 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

EC–2565. A communication from a Certified Public Accountant, transmitting, pursuant to law, a financial report on the American veterans of World War II, National Headquarters (with an accompanying report); to the Committee on the Judiciary.

EC–2566. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 381 reports covering the period December 1 through December 15, 1977 concerning visa petitions which the Service has approved according the beneficiaries of such petitions third-and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

EC-2567. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of aliens who have been found admissible to the United States (with accompanying papers); to the Committee on the Judiciary.

EC-2568. A communication from the Acting Secretary, Federal Trade Commission, transmitting, pursuant to law, a report relating to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (with accompanying documents); to the Committee on the Judiciary.

EC-2569. A communication from the Principal Deputy, Under Secretary of Defense (Research and Engineering), transmitting, pursuant to law, a report on defense procurement from small and other business firms for October 1976 through July 1977 (with an accompanying report); to the Select Committee on Small Business.

EC-2570. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, final copies of the VA response to Public Law 94-581, section 117(a), directing the Chief Medical Director, through the Administrator of Veterans' Affairs, to submit a report of VA programs and plans for meeting the problems generated by the increasing number of aging veterans (with an accompanying report); to the Committee on Veterans' Affairs.

JOINT REFERRAL OF A COMMUNICATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Labor relative to the Employee Retirement Income Security Act of 1974 be referred jointly to the Committee on Finance and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDING OFFICER:

POM-431. A resolution adopted by the City Council of Bloomington, Minn., relating to foreign policy; to the Committee on Foreign Relations.

POM-432. A petition from a citizen in Lubbock, Tex., relating to the Panama Canal Treaty; to the Committee on Foreign Relations.

POM-433. A petition from a citizen in Elizabethton, Tenn., relating to protection of the United States; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PACKWOOD (for himself, Mr. JAVITS, Mr. NELSON, and Mr. MOYNIHAN):

S. 2388. A bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs; to the Committee on Finance.

By Mr. METZENBAUM:

S. 2389. A bill to abolish diversity of citizenship as a basis of jurisdiction of Federal district courts, to abolish the amount in controversy requirement in Federal question cases, and for other purposes; to the Committee on the Judiciary.

S. 2390. A bill to amend title 28, United States Code, to reduce financial barriers to citizens' access to the courts for violations of their rights; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S. 2391. A bill to extend the Commodity Exchange Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ALLEN:

S. 2392. A bill to provide emergency assistance to farmers by increasing the target prices for the 1977 and 1978 crops of upland cotton and corn; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE:

S. 2393. A bill to amend the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. CHURCH):

S. 2394. A bill to amend the Older Americans Act of 1965 to provide assistance for legal services projects for the elderly; to the Committee on Human Resources.

By Mr. THURMOND (for himself, Mr. ALLEN, Mr. HATCH, Mr. HELMS, Mr. WALLOP, and Mr. MELCHER):

S. 2395. A bill to place the foreign sovereign governments and the United States of America on the same level—a level of actual damages when either is injured in its business or property, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself, Mr. JAVITS, Mr. NELSON, and Mr. MOYNIHAN):

S. 2388. A bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs; to the Committee on Finance.

EDUCATION—NOT JUST FOR KIDS

Mr. PACKWOOD. Mr. President, today Senators JAVITS, NELSON, and MOYNIHAN and I are introducing a bill to clarify the tax rules applicable to employees who receive educational assistance from their employers. The purpose of this bill is to encourage employees, especially women, members of minority groups, and unskilled persons, to take advantage of opportunities for self-improvement provided by their employers. The purpose is also to clarify a confusing and ambiguous area of the law.

Generally, the bill provides that employees would not be liable for Federal income tax on the cost of tuition assistance provided by their employers. It does not affect the tax liability of the employer itself.

EMPLOYEE EDUCATION PROGRAMS

Employer programs to provide tuition assistance for employees are common. They exist in about 90 percent of corporations with more than 500 employees, and 75 percent of companies with between 100 and 500 employees. They are also common for employees of smaller companies, governments, and nonprofit organizations. For example, the U.S. Civil Service Commission conducts training in support of upward mobility, designed to allow individuals with high potential to overcome the disadvantage of poverty and poor education.

These courses provide important opportunities for self-improvement for employees at all levels. According to a study by the Conference Board, a well respected research group headquartered in New York City, two-thirds of the programs have no minimum service requirement. The Conference Board study provides the following information about tuition assistance programs in private companies. For example, more than 95 percent did not require any minimum education level, such as a high school diploma, to participate; 80 percent of the programs cover every full-time employee, including hourly employees, union members, and technical employees.

Most education assistance programs require that the course bears some relation to present or future job duties; 10 percent of the programs restrict benefits to courses relating to the employee's present job; 33 percent provide benefits for courses relating to the employee's present or next job; 59 percent provide benefits for courses relating to the employee's present, the next, or any future job. The courses in greatest demand are engineering, management, general business courses, accounting, and technical courses such as drafting and blueprint reading.

When some first hear of this legislation, they envision a bonanza of employer-funded basketweaving or snake charming courses. However, experience has shown that employers simply do not provide frivolous courses. This is because employers insist on controlling costs of tuition assistance. In fact, less than 5 percent of the programs allow tuition aid for hobby-type courses, such as handicrafts, sewing, or photography.

However, for even this negligible number of programs, occasionally courses can have a greater job relationship than it first appears. For example, a manufacturer of photography equipment provides a course in photography for its employees.

These education assistance programs are an important key for helping employees gain needed skills and knowledge. The fact that the employer is willing to help foot the bill for the program helps guarantee that the education received will be put to use.

THE PROBLEM

The tax rules applicable to tuition assistance programs are confusing, difficult to administer equitably, and have a disproportionately harsh effect on women, members of minority groups, and persons without skills.

The general rule is that an employee need not pay personal income tax on tuition assistance provided by his employer for a course which is required by his employer, or which does not lead to a new trade or business. Stated differently, the employee is not taxed on tuition provided by his employer if it relates to his current job. However, if a course leads to a new trade or business, and is not required by the employer, the employee must pay tax on the tuition payment on his behalf by the employer. In other words, the employee is taxed on the cost of the course if it is not job-related.

Because the employee is liable for tax on the tuition payment, the employer is, in turn, required to withhold more from the employee's paycheck when the tuition assistance is provided.

This interpretation of law was announced by the Internal Revenue Service in revenue rulings 76 to 62, 76 to 71, and 76 to 352. These rules parallel existing IRS regulations which describe which educational expenses may be deductible if paid by the taxpayer himself.

The "job-related" distinction can be surprisingly restrictive. For example, if a person with little or no work experience, employed in an entry-level position, receives training to advance to virtually any basic job with an employer, the value of the training may be taxable. This discourages self-improvement.

Similarly, if a typist receives training to be a secretary, or if a secretary receives training in a paralegal program, it might be considered not job-related.

Also, if a clerical employee receives computer training, it may be treated as non job-related, even though the employee's job by natural evolution may require computer skills in the future.

The job-related distinction is ambiguous. In many cases there is no agreement as to when to subject an employee to withholding, even where the tuition assistance program is identical from one company to another. This can lead to differing interpretation of the law from company to company, and from audit to audit. It also raises the risk that an employee will rightfully believe tuition received is not taxable, only to find out months or years later that it is.

The big losers are unskilled persons, women and minorities. They are less likely to have any skill to which training can relate. They are also more likely to have low paying, undesirable jobs. And, perhaps, they are less likely to participate in a program, if, the day training begins, the employer withholds an additional amount from their small paycheck to cover the Federal tax imposed on the value of the training. For example, a recent study of 57 education assistance programs by the American Telephone & Telegraph Co. shows that employees not subject to withholding are three times as likely to participate as employees subject to withholding.

According to the Joint Tax Committee, the revenue loss of this bill is $23 million in calendar year 1978, $26 million in 1979, $29 million in 1980, $32 million in 1981, $36 million in 1982, and $40 million in 1983.

Our current tax policy is confusing and inequitable, and discourages self-improvement. Therefore, we are introducing this legislation and we hope the Congress can act on it expeditiously.

Mr. President, I request that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF VALUE OF CERTAIN EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125 and by inserting after section 123 the following new section:

"SEC. 124. EDUCATIONAL ASSISTANCE PROGRAMS.

"(a) GENERAL RULE.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee.

"(b) REQUIREMENTS.—

"(1) DISCRIMINATION.—Amounts paid or incurred for educational assistance, and benefits for educational assistance, shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

"(2) PRINCIPAL SHAREHOLDERS OR OWNERS.—Not more than 25 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) EDUCATIONAL ASSISTANCE.—The term 'educational assistance' means—

"(A) the payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

"(B) the provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment),

but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation.

"(2) SELF-EMPLOYED INDIVIDUAL; EMPLOYEE.—The term 'self-employed individual' means, and the term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(3) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

"(4) ATTRIBUTION RULES.—

"(A) OWNERSHIP OF STOCK.—Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)).

"(B) INTEREST IN UNINCORPORATED TRADE OR BUSINESS.—The interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(5) CERTAIN TESTS NOT APPLICABLE.—An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

"(A) of utilization rates; or

"(B) successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

"(6) RELATIONSHIP TO CURRENT LAW.—This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under section 124) which are paid or incurred, or received as reimbursement, for educational expenses under Sections 117, 162 or 212.

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 124. Educational assistance programs.

"Sec. 125. Cross references to other Acts.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 of this Act shall apply with respect to taxable years beginning after December 31, 1977.

TAX TREATMENT OF EMPLOYER EDUCATION ASSISTANCE PAYMENTS

Mr. JAVITS. Mr. President, today Senator PACKWOOD and I are introducing legislation to eliminate a substantial disincentive to lifelong education of workers. Our bill would amend the Internal Revenue Code to provide that no tuition paid by an employer on behalf of an employee would be taxable as income to the employee.

Under present law tuition paid by an employer is taxable to the employee unless the training or education is to improve or maintain skills needed in the employee's work or is specifically required by the employer or by applicable laws or regulations. This standard gives rise to inequitable administration, adds to the complexity of our tax system, and acts as a major disincentive to continuing education, particularly among those at the lower end of the economic scale.

Because significant ambiguities exist in the "improve or maintain skills" test, the taxability of educational assistance programs of the employer can depend on a revenue agent's view of the skills needed for a job.

Further inequities can result merely from whether the course is taken at an accredited institution or not. This unfortunate anomaly results because, under present law, even if the course improves or maintains required skills, educational assistance is deemed income if the course also qualifies the employee for a new trade or business. Take the case of an accountant enrolled in law school courses needed to improve skills in his present job.

Because graduation from an accredited law school is generally a prerequisite for taking the bar, if he takes the courses at an accredited law school, any reimbursement by the employer is treated as income. However, if he takes the necessary courses at a nonaccredited law school, he will not be taxed on any reimbursement because he is not simultaneously preparing for a new trade or business.

Present law also adds to the complexity of our tax system. Not only must the Service use valuable personnel time in making determinations of taxability, but employees and employers must then justify their positions. And initially, the employer must determine whether to withhold for tax purposes when reimbursement is made. Many employers have simply elected a blanket withholding for all employees, a policy which is patently unfair to the employee. Others

have elected to deal with possible ambiguities on a case-by-case basis, which increases costs in terms of personnel and time to the employer, and opens the employer to FICA and FUTA penalties if the employer's determination differs from that of the Internal Revenue Service agent handling the audit. Still other employers do not withhold at all on tuition payments on the basis that, by definition, all courses maintain or improve skills required by the present position.

Because employees whose employers withhold are three times less likely to participate in education assistance programs than those whose employers do not, the decision of the employer becomes a major consideration to an employee thinking about continuing education.

More serious even than the inequities of administration and the complexities of the tax law is the disincentive to upward mobility. While we stress the need to provide greater access to educational and economic opportunity to those who have had limited access in the past—minorities, women, the poor, and the handicapped—we simultaneously require out-of-pocket tax payments from those least able to pay, even though they receive only services, not an increased paycheck.

For example, a single taxpayer who earns $10,000 lives in New York City, and uses the standard deduction would pay an additional $342 in Federal, State, local, and social security taxes on a tuition reimbursement of $1,000. The same employee earning $15,000 would pay an additional $448, and if the employee earned $20,000, the additional tax bite would be $492.

For a married taxpayer who was the sole wage earner with two children, the additional Federal, State, and local taxes at the three income levels, again with $1,000 in tuition reimbursement, would be $300, $350, and $381.

These amounts represent taxes actually paid to the Federal, State, and local governments. The amounts withheld during the year, however, often are a higher percentage of the tuition reimbursement than is necessary to meet a taxpayer's year-end tax obligation. One major New York City employer has a policy of withholding a set percentage of tuition reimbursement no matter what tax bracket the employee is in, for its convenience and to ease the paperwork burden of computing withholding in each separate case.

To determine the impact on lower income employees of taxation of educational assistance programs, I asked this employer to provide me with a sample of withholding for seven employees utilizing its tuition assistance program. Withholding for these seven was about 33 percent, despite the fact that actual taxes due computed to a smaller percentage of income.

These were not high-salaried employees, but employees earning $8,000 to $15,000 a year. To a person earning $9,500, an out-of-pocket payment for taxes of $748 on a $2,285 reimbursement is a tremendous sacrifice and only adds to the burden of the time and effort required to pursue further education. I ask unanimous consent that a chart showing the salaries, tuition reimbursement, and taxes withheld of these seven employees be inserted in the RECORD at this place in my remarks:

Course being pursued	Objective	Salary	Tuition	Reimbursement	Tax	Net reimbursement
Minority employees:						
Automotive courses	To get a better job	$9,542	$2,285	$2,285	$748	$1,537
Business	To obtain a degree	10,715	416	416	136	280
Do	To increase potential	11,934	2,926	2,926	955	1,971
Do	Better business understanding	14,991	3,153	3,153	1,029	2,124
Nonminority employees:						
Advertising	To improve self	8,082	748	748	244	504
Management	B.A. degree	9,386	1,419	1,419	444	975
Business	To be promoted	13,284	885	885	273	612

The employer, in turn, is caught in a Catch-22 situation by present law. The Government requires employers to develop affirmative action programs and then makes them more costly to the employer through additional FICA and FUTA taxes and less attractive to the employees through increased witholding.

Furthermore, the employer often loses credibility with its employees, who feel the employer is not talking straight by encouraging them on the one hand to take courses and then withholding moneys from the tuition reimbursement on the other. Explaining that the employer must withhold by law does not insure acceptance by the employee, for employees often blame the employers for the taxes withheld.

The bill Senator PACKWOOD and I are introducing today would eliminate this major disincentive to continuing education by expanding the exclusion from gross income to include any educational assistance made by the employer, whether paid directly to the educational institution or to the employee as reimbursement, or furnished "in-house" by the employer. Any moneys for books, fees and other similar payments would also be excluded from gross income. But meals, transportation, or lodging paid by the employer would be taxable, unless, as under present law, the training improves or maintains job skills or is required by the employer.

To avoid abuse of this expanded tax-free treatment of educational assistance programs, antidiscrimination rules are included in the bill. For educational assistance not tax exempt by present law, no more than 25 percent may go to officers or owners of more than 5 percent of outstanding stock. Nor may these educational assistance payments discriminate in favor of highly compensated individuals or those with certain levels of prior education. But, an employer may require successful completion of courses or attainment of specified grades in courses before it makes education assistance payments.

The cost of the proposed change is not great—less than $25 million. But the greater access to educational advancement and the resulting greater productivity of our Nation's work force is well worth the price.

Education has been perceived as largely a terminal kind of developmental process—essential to help youth develop into mature adults, but unnecessary once life skills have been acquired. But human development is a continual process. It does not end at adolescence. This is especially true in our world of rapid technological change. We must encourage, not discourage, American workers to continue to meet the challenges of our changing society through continuing education. This bill we introduce today is an important step in lowering the barriers to further education.

By Mr. METZENBAUM:

S. 2389. A bill to abolish diversity of citizenship as a basis of jurisdiction of Federal district courts, to abolish the amount in controversy requirement in Federal question cases, and for other purposes; to the Committee on the Judiciary.

ABOLISHING DIVERSITY JURISDICTION

Mr. METZENBAUM. Mr. President, in recent years, our citizens have been facing ever-increasing barriers to their efforts to obtain judicial redress from public and private wrongdoers, and to make them accountable to the law. Part of the reason for the raising of these barriers has been a very real and proper concern about overburdening the courts.

Today, I wish to introduce two pieces of legislation to deal with each of these problems: A bill for the complete abolition of diversity jurisdiction, which will reduce the Federal court case load by an estimated 20 to 25 percent, and a bill to lower financial barriers to litigation by allowing first, aggregation of claims for purposes of satisfying the jurisdictional amount; and, second, simplification of notice requirements in class actions, which will sharply reduce the cost of such notice.

In the coming weeks and months I will introduce other legislation to make our courts more accessible to meritorious claims and to make official and private wrongdoers accountable to the law and our citizenry.

Mr. President, I ask unanimous consent that the text of the proposed bills be printed in the RECORD, together with the section-by-section analysis of the bill abolishing diversity jurisdiction, and a letter from Attorney General Bell.

The first bill that I submit for your consideration today is a bill to abolish diversity of citizenship as a basis of jurisdiction in Federal courts by amending section 1332 of title 28. The bill retains

the amount in controversy requirement for such cases, and abolishes the amount in controversy requirement for Federal question cases.

This legislation is the product of a thorough and complete examination of the issues surrounding diversity and Federal question jurisdiction by members of the House Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice, and by my staff. The chief sponsor of the legislation in that body was the Honorable ROBERT W. KASTENMEIER, and it bears the stamp of his legal craftsmanship.

This bill will reduce the workload of Federal courts by eliminating diversity cases, thereby allowing the courts to concentrate their energies on the critical issues associated with Federal constitutional and statutory law. The procedural and jurisdictional devices employed by some Federal judges to manage their dockets will not be necessary if the package I am proposing is adopted.

The purpose of abolishing diversity jurisdiction is to allow Federal courts to concentrate more fully on the interpretation of Federal law and the resolution of Federal question cases while permitting State courts to develop State law principles autonomously. Chief Justice Warren Burger has emphasized that the elimination of Federal diversity jurisdiction will result in the transfer of 30,000 cases a year from the 400 Federal district courts to approximately 4,000 State judges, an increase in the overall State court workload of only 1 percent. Indeed the Conference of Chief Justices of the 50 States recently adopted a resolution stating:

> Our State court systems are able and willing to provide needed relief to the Federal court system, including the assumption of all or part of the diversity jurisdiction presently exercised by Federal courts.

In a recent article Judge Henry J. Friendly of the U.S. Court of Appeals for the Second Circuit explained that the idea of limiting or abolishing Federal diversity jurisdiction is not new. In 1914 a committee composed of such legal luminaries as Louis D. Brandeis and Roscoe Pound questioned the wisdom of the jurisdiction. Felix Frankfurter followed suit in 1928 and later as a U.S. Supreme Court Justice. In 1948 a leading authority on the jurisdiction of the Federal courts, Prof. Herbert Wechsler, raised serious questions about diversity jurisdiction; and Judge Friendly, as chief judge of the second circuit, admittedly engaged in an all-out assault against such jurisdiction in 1973. Those advocating the elimination of Federal diversity jurisdiction contend that the reasons for its establishment by Congress in 1789 are no longer relevant today.

The American Law Institute, in its study of the division of jurisdiction between State and Federal courts, recognizes three possible justifications for diversity jurisdiction in Federal courts: First, the fear that out-of-State litigants will suffer from local prejudice against outsiders; second, the lack of confidence in the adequacy of State court justice; and, third, the incidental, nationalizing function performed by Federal courts in the respect they engender for the Federal Government and the nonlocal perspective they give to the development of State law.

Even if these justifications were valid in 1789, in this age of mass transportation and communications such reasons are largely outdated. We have become a national community, not just a collection of localities. Whatever the nationalizing impact of the Federal courts in the past, the unification of our country across regional boundaries is being accomplished in other ways today. In addition, State court justice can no longer be characterized as inadequate. Some of our greatest Federal jurists were first active in the State courts: Supreme Court Justices Oliver Wendell Holmes and Benjamin Cardozo to name two. And, some of the most respected judges in our country served only on State benches. Two examples are Justices Roger Traynor of California and Walter Schaefer of Illinois. To the extent that improvements in the quality of State court justice still remain to be made, such improvements should benefit all State litigants, not just those with access to the Federal courts. More significantly, the responsibility for such improvements lies with the State judicial system. They should no longer be accomplished through the incidental efforts of Federal judges.

As for fears of local bias against citizens of nonforum States, Chief Justice Burger has observed:

> This was a reasonable factor in 1789, and perhaps even in 1889, but it is unfounded today as a basis for asking Federal courts to try State cases and apply State law.

The U.S. Department of Justice has proposed more limited legislation to reduce the diversity jurisdiction of Federal courts by precluding a plaintiff from invoking such jurisdiction in any district court located in the State of his citizenship. The Department, nevertheless, supports this bill to abolish completely Federal jurisdiction based on diversity of citizenship, as the attached letter from Attorney General Bell indicates.

As I have already noted, the legislation I introduce today contains a provision eliminating the amount in controversy requirement for Federal question cases. While this amendment to section 1331 of title 28 will result in a slight increase in the number of suits in Federal court, such cases, according to Prof. Thomas D. Rowe, Jr. of Duke University:

> Stand as anomalous, unsystematic exceptions to what is by now the general rule that one may choose a Federal court to hear one's Federal claim.

This provision, therefore, recognizes the citizen's right to litigate his Federal claim before a Federal court, if he so chooses.

The legislation I am proposing recognizes the realities of 1977—the enormous and expanding workload of Federal courts, the increasing need for such courts to concentrate on the development of Federal law and on the resolution of disputes arising under the growing body of Federal statutes, the improving quality of justice in State courts, the autonomy that State judges need in the evolution of State law, and the responsibility shared by State courts and bar associations for assuring equal and complete justice for all citzens. It is the product of days of legislative hearings in the other body and was circulated for comment to over 50 lawyers, judges and scholars. Thus far, I am informed the response has been uniformly positive.

This bill also recognizes that expanded access to Federal courts by citizens with Federal claims is in the best interests of our judicial system. In the final analysis, the elimination of Federal diversity jurisdiction will likely improve the quality of justice for all our citizens—in all the courts of this country.

I ask unanimous consent that the bill and section-by-section analysis of the bill prepared by Congressman KASTENMEIER's and my staffs be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (a) and (b) of section 1332 of title 28, United States Code, are amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(b) Section 1332 (a) of title 28, United States Code, is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (4), and all references thereto, as paragraphs (1) through (3), respectively.

(c)(1) The section heading for section 1332 of title 28, United States Code, is amended by striking out "Diversity of citizenship" and inserting in lieu thereof "Alienage".

(2) The item relating to section 1332 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "Diversity of citizenship" and inserting in lieu thereof "Alienage".

SEC. 2. Section 1331 of title 28, United States Code, is amended to read as follows:

"§ 1331. Federal question

"The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy arises under the Constitution, laws, or treaties of the United States.".

(b) The item relating to section 1331 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "; amount in controversy; costs".

SEC. 3. (a)(1) Section 1332 (c) of title 28, United States Code, is amended by striking out "section 1441" and inserting in lieu thereof "section 1335".

(2) Section 1332(d) of title 28, United States Code, is amended by inserting immediately after "section" the following: "and section 1335 of this title".

(b)(1) Section 1335(a)(1) of title 28, United States Code, is amended by striking out ", of diverse citizenship as defined in section 1332 of this title," and inserting in lieu thereof "of diverse citizenship".

(2) Section 1335 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) For purposes of this section, a civil action involving 'claimants of diverse citizenship' means claimants who are—

"(1) citizens of different States;

"(2) citizens of a State and citizens or subjects of a foreign state;

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; or

"(4) a foreign state, as defined in section 1603(a) of this title, and citizens of a State or of different States".

(c) Section 1342(1) of title 28, United States Code, is amended by striking out "diversity of citizenship" and inserting in lieu thereof "alienage".

(d)(1) Section 1391(a) of title 28, United States Code, is amended—

(A) by striking out "wherein jurisdiction is founded only on diversity of citizenship"; and

(B) by striking out "in which the claim arose" and inserting in lieu thereof "in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated."

(2) Subsection (b) of section 1391 of title 28, United States Code, is repealed, and subsections (c) through (f) of such section, and all references thereto, are redesignated as subsections (b) through (e), respectively.

(e) Subsection (b) of section 1441 of title 28, United States Code, is repealed, and subsections (c) and (d) of such section, and all references thereto, are redesignated as subsections (b) and (c), respectively.

(f)(1) Section 23(a) of the Consumer Product Safety Act (15 U.S.C. 2072(a)) is amended—

(A) by striking out "subject to the provisions of section 1331 of title 28 as to the amount in controversy,"; and

(B) by striking out the period at the end thereof and by inserting in lieu thereof ": *Provided*, That the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.".

(2) Section 23 of the Consumer Product Safety Act (15 U.S.C. 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

SEC. 4. The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.

OFFICE OF THE ATTORNEY GENERAL,

Washington, D.C., October 21, 1977.

Hon. ROBERT W. KASTENMEIER,

Chairman, Subcommittee on Courts, Civil Liberties & the Administration of Justice, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I want to thank and congratulate you and your subcommittee for its fine work in reporting out H.R. 9622, a bill which will substantially diminish diversity cases brought in federal courts. While the Department is aware of the differences between H.R. 9622 and its own more narrow legislative recommendation sent to the Vice President and Speaker of the House on September 14, 1977, which we continue to endorse, we can assure you that the Justice Department has no problem in supporting H.R. 9622 as well.

I have received the good news that your subcommittee is also making rapid progress on H.R. 7493, the magistrates bill. As you know, this Department's proposed legislation on compulsory arbitration in federal courts was forwarded to the Speaker yesterday; I understand that it will probably be referred to your subcommittee. I hope this bill, too, will get expeditious consideration by your subcommittee.

Warm personal regards.

Yours Sincerely,

GRIFFIN B. BELL,
Attorney General.

SECTION-BY-SECTION ANALYSIS

(Committee Print, October 27, 1977), a bill to abolish diversity of citizenship as a basis of jurisdiction of Federal district courts, to abolish the amount in controversy requirement in Federal question cases, and for other purposes.

SECTION 1. DIVERSITY OF CITIZENSHIP JURISDICTION

Subsection (a) raises the amount in controversy requirement from $10,000 to $25,000; because of changes made in subsection (b) below, this statutory bar only applies to suits between aliens or foreign states and citizens.

The primary intent of this subsection is to increase the monetary threshold barrier to reflect inflationary pressures which have occurred since 1958, when the $10,000 amount in controversy was passed. Its secondary intent is to make it more difficult for citizens and aliens to abuse federal jurisdiction by arbitrarily raising their claimed monetary damages.

[For reasons of possible bias against aliens and other foreign policy considerations, alienage jurisdiction was not abolished. In any event, not many cases are involved here: in the words of Professor Wright, "in terms of workload it makes little difference whether alienage jurisdiction is retained."]

Subsection (b), by striking 28 U.S.C. 1331 (a), simply abolishes diversity of citizenship jurisdiction. As noted above, it retains alienage jurisdiction.

The principal effect of this provision is that approximately one quarter of the federal civil caseload (about 30,000 cases a year) is returned to the state courts. The reasons for abolition are threefold. First, the original reasons for diversity jurisdiction (bias and prejudice against out-of-staters) have diminished since the creation of our country. Second, in diversity cases the federal courts are required to apply state law. When state law is unclear the federal court is obliged to interpret as best it can. This obligation, as observed by Judge Edward Gignoux "...delays the authoritative development of state law and imposes upon federal courts the laborious and essentially wasteful task of predicting what the state law may be on issues upon which the state courts may speak with authority." Third, a rule of modern judicial administration is that there should be only one court per customer. Abolition of diversity results in requiring suits to be filed in state court, where the overall workload will only be increased by approximately 1 percent. It does not bar access to a judicial forum, and it must be considered as an important step in solving the pernicious problem of court congestion in the federal courts.

Subsection (c) is a conforming amendment to change the title of 28 U.S.C. § 1332 from "Diversity of Citizenship" to "Alienage".

SECTION 2. FEDERAL QUESTION JURISDICTION

Subsection (a), abolishes the amount in controversy requirement in federal question cases. Because the existing exception (passed by the 94th Congress) for suits against "the United States, any agency thereof, or any officer or employee thereof in his official capacity" is no longer necessary, it is struck. For the same reason, § 1331(b) is struck.

[The effect of this amendment is to allow a small number of additional lawsuits to be brought in federal court. Professor Wright has identified only four categories of cases as being involved here: (1) suits arising under federal common law; (2) suits challenging the constitutionality of state law that do not come within 28 U.S.C. § 1343; (3) civil rights suits against municipalities; and (4) a small number of miscellaneous suits.

The reasons for this amendment are clear. It would abolish the anomoly of barring injured plaintiffs from access to a federal forum, when federal rights are in question, because they were not injured "enough." It does not involve that many cases and would not greatly increase the workload of the federal district courts. Lastly, for the same reason that state law questions should be adjudicated in state courts, federal questions should be litigated in federal courts. It achieves, in the words of Chief Justice Warren when he proposed the American Law Institute study years ago, "a proper jurisdictional balance between the Federal and State court systems, assigning to each system those cases most appropriate in light of basis principles of federalism."]

Subsection (b) conforms the title to 28 U.S.C. § 1331.

SUBSECTION 3. CONFORMING AMENDMENTS NECESSITATED BY SECTIONS 1–2

Subsection (a) conforms 28 U.S.C. §§ 1335 (c) and (d) to include cross-reference to § 1335 (interpleader jurisdiction).

Subsection (b) retains interpleader as a basis for federal jurisdiction. H.R. 761, a bill introduced by Congressman Bennett and considered by all the witnesses who testified before the subcommittee, not only abolishes diversity of citizenship jurisdiction but also abolishes interpleader jurisdiction contained in 28 U.S.C. § 1335. Testimony before the subcommittee was unanimous that interpleader should be retained. The consensus was that interpleader serves a valuable contemporary purpose of ensuring a forum in situations where there are widely scattered claimants who could not otherwise be gathered into any one court, state or federal.

Subsections (b) (1) and (2) are conforming amendments necessitated by a need to delete reference to the phrase "diverse citizenship as defined in section 1332 of this title." Since diverse citizenship is no longer defined in § 1332 a new definition in § 1335 is necessary.

Subsection (c) conforms 28 U.S.C. § 1342 (1) by striking "diversity of citizenship" and replacing it with "alienage."

Section (d)(1) conforms the pertinent venue provisions in 28 U.S.C. § 1391.

First, it strikes the reference to diversity jurisdiction in § 1391(a).

Second, § 1391(a) is conformed to use the same language as that used in § 1391(f), added by Congress in 1976. The added language ("in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.") was originally proposed by the American Law Institute and was deliberately intended to avoid the "litigation-breeding" phrase "in which the claim arose." This change was suggested by Professor Wright.

Subsection (d)(2) strikes § 1391(b) which, considering the changes made in § 1391(a), is no longer necessary.

Subsection (e) repeals 28 U.S.C. § 1441(b) which, if diversity is abolished, must also be eliminated. With alienage jurisdiction retained, § 1441(b) would have an inappropriate effect. It would block removal when an alien's co-defendant was a forum citizen, thus allowing a citizen plaintiff to prevent an alien from exercising his right to a federal forum through the technique of naming a forum citizen as a co-defendant.

Subsection (f) conforms a cross reference in The Consumer Product Safety Act (15 U.S.C. § 2072(a)) to the amount in controversy requirement in 28 U.S.C. § 1331. Since The Consumer Product Safety Act is recent

legislation (passed by the 94th Congress) and its clear intent was to create a federal cause of action based in part on a showing of over $10,000 in controversy, the subcommittee voted to leave its provisions as they would have been if 28 U.S.C. § 1331 had not been amended.

SECTION 4. DATE OF APPLICATION

This section merely specifies that the act applies to any civil action filed on or after the date of the Act's enactment.

By Mr. METZENBAUM:

S. 2390. A bill to amend title 28, United States Code, to reduce financial barriers to citizens' access to the courts for violations of their rights; to the Committee on the Judiciary.

CITIZENS' ACCESS TO THE COURTS ACT OF 1978

Mr. METZENBAUM. Mr. President, the second bill I introduce today is designed to reduce unnecessary and inappropriate barriers to the vindication of citizens' rights, and to improve access to the Federal courts for meritorious and substantial claims.

The bill amends the jurisdictional amount provisions of the judicial code in relation to multiparty litigation. It would also provide for more flexible notice provisions in class actions which present meritorious claims within the jurisdiction of the Federal courts.

The jurisdictional amount provisions of the judicial code are designed to insure that the Federal courts are not burdened with minor disputes. Over the years, these amounts have been progressively raised to take into account inflation and the ever-increasing caseload of those courts. In recent years, however, the Supreme Court has decided two cases on how the jurisdictional amount is to be computed that do not fulfill that purpose in a rational way. In *Snyder* v. *Harris*, 394 U.S. 332 (1969), the Court held that the Federal courts would not hear an action if none of the plaintiffs individually claimed $10,000 in damages—it made no difference to the Court that the total damages of all the plaintiffs exceeded the $10,000.

Four years later, the Burger court went far beyond Snyder to limit class actions for jurisdictional amount reasons. In *Zahn* v. *Int'l. Paper Co.*, 414 U.S. 291 (1973), 200 lakefront owners sued the International Paper Co. for polluting Lake Champlain in Vermont. This time, four of the plaintiffs did have claims of more than $10,000 and the matter obviously involved a very substantial sum. Completely ignoring a long line of cases allowing "ancillary jurisdiction," which would have allowed all those with claims of less than $10,000 to join their claims with those plaintiffs whose claims were in the requisite amount, the Court insisted that each plaintiff separately meet the jurisdictional amount and refused to allow a class action, leaving those with smaller claims without a viable and inexpensive remedy.

These decisions have blocked access to the courts for many meritorious and substantial claims and have denied our citizens remedies for what are often clear violations of their rights. Although the decisions purported to be interpreting congressional intent, they seem to have ignored the basic reason Congress imposed a jurisdictional amount, which is only to screen out minor claims.

The bill I introduce today would remedy this by allowing aggregation of claims in various kinds of multiplaintiff litigation, including class and other kinds of actions. It would filter out frivolous claimants by maintaining the current jurisdictional amount and by requiring that each individual plaintiff have a claim worth at least $25.

Another weakening of judicial remedies for violations of citizens' rights—again, no matter how blatant the violation—resulted from the Supreme Court's decision in *Eisen* v. *Carlisle and Jacquelin*, 417 U.S. 156 (1974). There, a purchaser of odd lots of stock on the New York Stock Exchange sued two brokerage firms under the antitrust laws for monopolizing the business and charging excessive fees. The suit was on behalf of a class, consisting of himself and some 6 million others. The district court identified some 2¼ million members of the class and devised a notice scheme to cost only $21,750. At a preliminary hearing, the Court found that the defendants were more than likely guilty of having violated the antitrust laws.

Nevertheless, the Supreme Court ruled that the plaintiff had to give personal notice to all the 2¼ million people at a cost of over $200,000. Since the plaintiff—whose claim was only $70—was not going to spend $200,000 just on notice, he dropped the suit, despite the finding of probable guilt of the defendants.

The decision was technically only a construction of the class action provisions. The real effect, however, was to effectively bar access to the courts for meritorious claims by imposing high financial barriers. The decision denies a remedy to claims where a great many citizens have had their rights wronged, but none to a sufficiently great extent to justify that person's spending a small fortune in notifying all the others of the action.

So rigid a construction of the notice provision is unnecessary, and has been severely criticized. The courts should strive for flexibility, and that applies to the notice functions as well as to any other. My bill provides such flexibility, for it leaves it largely to the court to determine what is "reasonable" notice in light of all the circumstances of the case.

This legislation is necessary to safeguard the rights of a wide variety of individuals. It goes to the heart of whether American citizens will have access to the Federal courts for the redress of their just grievance. Many groups such as the Society of American Law Teachers and others have cited the restrictive Supreme Court decisions I described above, as exemplifying a recent trend toward artificial restrictions on citizens rights and remedies in our Federal courts. President Carter has urged similar kinds of improvements. This bill would help to make our courts more available for meritorious claims of serious fraud, pollution, and other harms: The artificial barriers to the vindication our citizens' rights recently erected by the Snyder, Zahn, and Eisen decisions should be removed.

On the other hand, this legislation will not burden the Federal courts with frivolous claims for the basic jurisdictional amounts provisions will still have to be met, and meaningful notice will still be required. Experience in New York, Massachusetts, and California also shows that liberalized procedures do not overburden the courts.

Let me add that I do not consider this bill the last word on the matter, but only one of the first. Many, many practitioners, scholars, and other experts have given these questions a lot of thought. I understand that the Department of Justice is also analyzing these issues, and is circulating an elaborate proposal on a preliminary basis. As chairman of the Subcommittee on Citizens and Shareholders Rights and Remedies, I hope and expect therefore that hearings can be held soon, so that we may obtain the wisdom and guidance of experts and other interested parties.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Citizens' Access to the Courts Act of 1978."

SEC. 2. The Congress finds that there is a Federal interest in lowering certain financial barriers to citizens seeking to join in multiparty litigation in the Federal courts and in increasing the availability of remedies to citizens suffering violations of their judicial rights. It is the purpose of this Act to remove the inequities created by such barriers to the protection of citizens' rights by altering certain procedures relating to the jurisdictional amount requirements and certain notice provisions.

SEC. 3. (a) Section 1331 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) In determining under subsection (a) whether the matter in controversy in an action exceeds the sum or value of $10,000, exclusive of interest and costs, the district courts shall aggregate the claims of all parties bringing the action. The claim of a party may not be aggregated under this subsection unless the sum or value of such claim exceeds $25, exclusive of interest and costs."

(b)(1) Section 1332(a) of such title 28 is amended by adding at the end thereof:

"In determining under subsection (a) whether the matter in controversy in an action exceeds the sum or value of $10,000, exclusive of interests and costs, the district courts shall aggregate the claims of all parties bringing the action. The claim of a party may not be aggregated under this subsection unless the sum or value of such claim exceeds $25, exclusive of interest and costs."

(b)(2) Section 1332(b) of such title 28 is amended by deleting such subsection (b) and replacing it with the following:

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiffs who file the case originally in the Federal courts are finally adjudged to be entitled to recover less than the sum or value of $10,000 in the aggregate, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiffs and, in addition, may impose costs on the plaintiffs."

(c)(1) Chapter 111 of such title 28 is amended by adding at the end thereof the following new section:

"SEC. 1657. NOTICE IN CLASS ACTIONS

"(a) In an action which the court certifies to be a class action brought under Rule 23(b)(3) of the Federal Rules of Civil Procedure,

reasonable notice of the commencement of such action shall be given to the members of the case in accordance with the provisions of this section.

"(b) In determining the method of notice in a class action, the court shall consider both the interest of the represented members in knowing of the pendency of the suit and the interest of such members in having the action go forward and the claims of such members presented to the court without receiving actual notice of the suit. The court shall take into account—

"(1) the cost of giving notice by each method considered;

"(2) the resources of the parties; and

"(3) the stake of each represented member of the class, and the likelihood that significant numbers of represented members would desire to be excluded from the class or to appear individually, which may be determined, in the court's discretion, by sending notice to a random sample of the class.

"(c) Unless the court orders otherwise, the plaintiff or plaintiffs shall bear the expense of notification. The court may, if justice so requires, order the defendant to bear the expense of notification, or may require each party to bear a part of the expense in proportion to the likelihood that each will prevail upon the merits. Unless the plaintiff is required to bear the cost of notification, the court shall hold a preliminary hearing to determine the appropriate apportionment.".

(2) The table of sections for chapter 111 of such title 28 is amended by adding at the end thereof the following new item:

"1657. Notice in class actions.".

By Mr. HUDDLESTON:

S. 2391. A bill to extend the Commodity Exchange Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

COMMODITY EXCHANGE ACT

Mr. HUDDLESTON. Mr. President, today I am introducing a bill to extend and amend the Commodity Exchange Act for 5 years.

When the Commodity Futures Trading Commission Act of 1974 was being considered by Congress, it became clear that the futures trading industry was enormous and had significant impact on our economy. These conclusions are more apparent today than they were then. It has been estimated that the total dollar volume of futures transactions will exceed $1 trillion for 1977.

The Commodity Futures Trading Commission has had over 2 years to get its house in order. The authorization for the Commission expires at the end of this fiscal year. I have been assured by Chairman TALMADGE that the Committee on Agriculture, Nutrition, and Forestry will conduct extensive hearings into all aspects of the Commission's operation.

The legislation I am introducing today is intended to stimulate thought and discussion of many of the major concerns often expressed about the Commission. The bill may not be the final solution. I welcome suggestions for revision of the enabling legislation that would insure more effective operation of the Commission.

Several of the bill's provisions have been previously passed by the Senate during the 94th Congress (S. 3051). These provisions are noncontroversial and are basically cleanup and technical amendments that were recommended by the Commission.

There are three major areas of Commission operations that are addressed in the bill: First, the process for selection and term of the Chairman of the Commission; second, when options trading should be permitted; and third, the length and the advisability of reauthorizing the Commission.

CHAIRMAN OF THE COMMISSION

At the present time, the overwhelming majority of chairmen of Federal independent regulatory commissions serve at the pleasure of the President. The Commodity Futures Trading Commission is the exception. It seems logical that the President should have the opportunity to select the chairman of a commission that regulates a trillion dollar industry and to further the overall economic policy of the administration. This is what the bill provides.

OPTIONS TRADING

Commodity options have become one of the hottest items in the financial markets. During the past 3 years, more than 70 firms have registered with the Commodity Futures Trading Commission to sell options, and the number continues to increase.

The options industry has kept the Commission busy. The Commission supplies the following facts:

The CFTC has obtained injunctions against 60 firms in the commodity options area.

Fourteen companies have been put out of business as a result of CFTC actions;

There are approximately 40 active investigations of options firms.

The strike force activity in Florida is cracking down on one hotbed of boilerroom telephone sales operations.

Over 800 reparations complaints have been filed, more than 75 percent of them about commodity options. The reparations staff of four has been overwhelmed.

Registration has investigated and registered 30 to 40 new firms and 8,000 to 9,000 salesmen, but there are still firms and salesmen who are defying the Commission and are selling while not registered.

It is impossible to presume that Congress foresaw, in 1974, the problems involved in options trading and the enormous drain on Commission resources that regulation of options trading would impose.

The CFTC was established to be exactly what its name states, a "Commodity Futures Trading Commission." However, it has been transformed into a "Commodity Options Trading Commission." The majority of the Commission's personnel are working in some way on option-related problems. It is difficult to conceive of the Commission doing a responsible job of regulating the futures markets when its efforts are being channeled into regulation of commodity options transactions.

The media has made us all aware of abuses in London option trading by boilerroom operations. A number of proposals have been advocated to solve this problem and to address the problems that may arise from options trading on boards of trade. I believe that a responsible course of action is that contained in the bill I am introducing today. This course is to prohibit options trading until such time as the Commission can justify to Congress its ability to successfully regulate these transactions and after Congress has had 90 days in which either House may pass a resolution disapproving of the regulation. This provision is not harsh in any way. The Commission may choose to single out individual commodities, classes of commodities, or exchanges that it feels it can successfully regulate under an options program and transmit its justification for that proposal. This is not a permanent prohibition and, on the other hand, no hard and fast deadlines are imposed. The bill basically imposes a moratorium on options trading.

In this regard, it is interesting to note that an internal CFTC memorandum states that one Commissioner has estimated the options dollar volume to be $200 to $300 million annually. Options, therefore, constitute only 2 percent of the overall dollar value of trading of the industry regulated by the Commission. It is apparent that this percentage of total dollar volume of trading is consuming a totally disproportionate share of Commission resources.

A primary consideration in evaluating any justification statement transmitted by the Commission should be whether the proposed regulation will impede or hinder the Commission from regulating futures trading.

The Commission will be meeting later this month to decide whether to implement a proposed pilot program of regulation of commodity options traded on boards of trade. The Commission's proposal may be a good idea, but this is not the time for such a sweeping program as the Commission proposed. A supplemental appropriation has been requested by the Commission for fiscal year 1978. Even if the supplemental appropriation is granted, with no unusual delays, the CFTC will not have its money in hand until mid-April. Based on staffing difficulties the Commission originally experienced there is no reason to assume that there is a reserve of talented people, knowledgeable in options transactions, available to the Commission. Finding personnel and training them is a time-consuming task. Nobody has yet answered the basic question: What is the big hurry with options regulation? The tacit abdication of regulation of the futures industry is a considerable price to pay for commodity options regulation.

There may, in fact, be special classes of commodity options that the Commission can regulate at the present time without redirecting its resources. The option trading section of the bill is not to be taken as the final solution. I would be receptive to modifications that could accommodate both futures and options trading while not causing the Commission to unduly concentrate on options.

EXTENSION OF COMMISSION

The Commodity Futures Trading Commission has been the subject of controversy since its establishment. Recently, suggestions have been made to abolish the Commission and replace it with an individual administrator, to transfer its responsibilities to the De-

partment of Agriculture (where they were prior to the 1974 act), or to transfer its responsibilities to the Securities and Exchange Commission.

The regulation of the futures market, thereby preventing market manipulation and insuring the credibility of futures as a price determination mechanism, is extremely important to the national and international economy. The Commission may not have reached the "correct" decision in all instances. However, now that its maturation period is coming to an end, I believe that Commission form is best suited to regulate the futures industry. Therefore, the bill would extend the CFTC for 5 years.

The introduction of this bill will serve as the beginning of the Senate consideration of the CFTC reauthorization. Members of the Senate, the CFTC, and the regulated industry now have a starting point for our common task of insuring effective futures regulation.

Mr. President, I ask unanimous consent that the bill including the section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(2) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(3) adding at the end of paragraph (2) a new subparagraph as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. The President may, at his pleasure, designate a different Chairman, and the Commissioner previously designated as Chairman shall complete his term as a Commissioner.";

(4) striking out in paragraph (5) (7 U.S.C. 4a(d))", by and with the advice and consent of the Senate,";

(5) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(6) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

"SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) adding at the end of subsection (b) the following: "Notwithstanding the provisions of this subsection, the Commission shall prohibit any transaction that is of the character of, or is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty" until (1) the Commission transmits to the House and Senate Appropriations Committee and the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to successfully regulate such transactions, and (2) the expiration of ninety calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving of such regulation. The Commission is not precluded from transmitting documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade, at such time as the Commission deems appropriate.".

SEC. 3. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

SEC. 4. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out in subsection (2) "thirty days" and inserting in lieu thereof "six months".

SEC. 5. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 60(1)) is amended by striking out "registered under this Act" and inserting in lieu thereof "who is or should be registered under this Act".

SEC. 6. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by striking out in the second paragraph "and make public" the second time that phrase appears.

SEC. 7. Section 9(c) of the Commodity Exchange Act (7 U.S.C. 13(c)) is amended by—

(1) striking out "or" after "section 40,"; and

(2) inserting "or section 19," after "section 8b,".

SEC. 8. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years beginning October 1, 1976, and ending September 30, 1983, and not in excess of such sums as may, after the date of enactment of this subsection, be authorized by law for any subsequent fiscal year.".

SEC. 9. The Commodity Exchange Act is amended by adding at the end thereof a new section as follows:

"SEC. 19. No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver or gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud: *Provided,* That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.".

SEC. 10. Title II of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is amended by striking section 217.

SEC. 11. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001(1)) is amended by inserting "the Commodity Futures Trading Commission," after "Civil Aeronautics Board,".

SECTION-BY-SECTION ANALYSIS

Section 1. CFTC Membership; Chairman of the CFTC; Senate confirmation of CFTC Executive Director.

Section 1 of the bill amends paragraphs (2), (5), and (9) of section 2(a) of the Commodity Exchange Act.

Sections 1 (1) through (3) amend section 2(a)(2) of the Act to provide that (A) there will be five Commissioners on the Commodity Futures Trading Commission and (B) one of the Commissioners will be appointed by the President, subject to confirmation by the Senate, to be Chairman. The Chairman will serve at the pleasure of the President and preside at Commission hearings. If the Chairman is subsequently replaced by another Chairman, he will serve the remainder of his term as a Commissioner.

Section 1(4) amends sectioin 2(a)(5) of the Act by repealing the requirement that the appointment of the Executive Director of the Commodity Futures Trading Commission be subject to confirmation by the Senate.

Sections 1 (5) and (6) contain technical amendments to sections 2(a)(9)(A) and (B) of the Act, relating to Commission submittals of budget requests and legislative recommendations, to evidence the change in the name of the Senate Committee on Agriculture, Nutrition, and Forestry from the Senate Committee on Agriculture and Forestry.

Section 2. Approval of contract market rules; Options trading.

Section 2(1) of the bill conforms section 4c(a) of the Commodity Exchange Act with other provisions in the Act requiring the Commission's prior approval of contract market rules.

Section 2(2) contains a technical amendment to section 4c(b) of the Act to evidence the change in the name of the Senate Committee on Agriculture, Nutrition, and Forestry from the Senate Committee on Agriculture and Forestry.

Section 2(3) amends section 4c(b) of the Act to prohibit options transactions until the following conditions are satisfied: (1) the Commission transmits evidence to the congressional agriculture and appropriations committees of its ability to successfully regulate these transactions, and (2) 90 days of continuous session of Congress following transmission of the justification statement by the Commission passes without either House passing a resolution disapproving of the proposed regulation. The Commission could transmit documentation of its ability to regulate option transactions regarding individual commodities, classes of commodities, or regulation of options trading on specific boards of trade, when the Commission deems appropriate. (The total prohibition on options transactions in basic agricultural commodities is not affected by this amendment.)

Section 3. Maintenance of trading records by floor brokers.

Section 3 of the bill substitutes the words "Floor brokers" for "Brokers" in section 4g (3) of the Act, which requires the maintenance of daily trading records in a specified manner and form. The term "floor broker" is defined in secion 2(a)(1) of the Act, and the word "broker" does not appear in any section other than section 4g(3).

Section 4. Registration of commodiy trading advisors and commodity pool operators.

Section 4 of the bill amends section 4n of the Commodity Exchange Act by deleting the provision that the registration of any commodity trading advisor or commodity pool operator is to become effective 30 days after the Commision's receipt of the application. The amendment will allow the Commission the same period of time (six months) to make fitness checks as is applicable to other commodity trading professionals under the Act. (The amendment is not in any way intended to delay the registration of applicants. The Commission is to complete fitness checks on all applicants as expeditiously as possible.)

Section 5. Antifraud provisions relating to commodity trading advisors and commodity pool operators.

Section 5 of the bill amends section 4o of the Commodity Exchange Act to make it clear that the antifraud provisions in the Act applicable to commodity trading advisors and commodity pool operators registered under the Act also apply to persons who are required by the Act to register as such but who have in fact not so registered.

Section 6. Disclosure of traders on boards of trade to the public.

Section 6 of the bill amends section 8 of the Commodity Exchange Act by deleting the requirement that the Commission make public the information it has available on traders on boards of trade and their positions when such information is requested by a congressional committee.

Section 7. Criminal penalties—leverage transactions for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins.

Section 7 of the bill amends section 9(c) of the Commodity Exchange Act to make it a misdemeanor for any person to engage in any leverage transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins contrary to Commission regulations.

Section 8. Authorization for appropriations

Section 8 of the bill amends section 12(d) of the Commodity Exchange Act to authorize such sums as Congress may appropriate for fiscal years 1979 through 1983 for the operation of the Commodity Futures Trading Commission.

Section 9 and 10. Leverage contract regulation

Section 9 of the bill adds a new section 19 to the Commodity Exchange Act containing the provisions currently contained in section 217 of the Commodity Futures Trading Commission Act of 1974. Section 217 is deleted by section 10 of the bill. New section 19 of the Act requires the Commission to regulate leverage transactions for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins. If the Commission determines that any leverage transaction is a contract for future delivery within the meaning of the Act, that transaction will be regulated in accordance with the applicable provisions of the Act.

Section 11. Grant of immunity to witnesses

Section 11 of the bill amends title 18 of the United States Code to enable the Commodity Futures Trading Commission to grant "use" to witnesses appearing before the Commission, consistent with the practice of other independent regulatory agencies.

By Mr. ALLEN:

S. 2392. A bill to provide emergency assistance to farmers by increasing the target prices for the 1977 and 1978 crops of upland cotton and corn; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. ALLEN when he introduced the above bill appear earlier in today's proceedings.)

By Mr. THURMOND (for himself, Mr. ALLEN, Mr. HATCH, Mr. HELMS, Mr. WALLOP, and Mr. MELCHER):

S. 2395. A bill to place the foreign sovereign governments and the United States of America on the same level—a level of actual damages when either is injured in its business or property, and for other purposes; to the Committee on the Judiciary.

ACTUAL DAMAGES FOR FOREIGN SOVEREIGN NATIONS

Mr. THURMOND. Mr. President, at a time when antitrust law scholars and practitioners have been urging amendments to the antitrust laws to reduce treble damages to actual damages sustained by a person injured in his business or property because of an antitrust law violation, it would be appropriate for Congress to consider a bill to place the foreign sovereign governments on a level of actual damages rather than the treble damages permitted in the recent Government of India versus Pfizer, Inc., et al., case before the U.S. Supreme Court, decided on January 11, 1978. Such a bill would place foreign governments on the same level as the U.S. Government which by a 1955 law is limited to "actual damages" only.

The theory of treble damages rather than actual damages was placed in the Sherman Act in 1890 and the Clayton Act in 1914 to encourage civil actions by persons—as a further means of enforcement of the antitrust laws—in addition to the means of enforcement granted tc the Justice Department and the Federal Trade Commission.

Foreign sovereign nations do not need such encouragement anymore than our own Government. In the case at hand, the Court takes the view that a foreign sovereign government is a person within the meaning of the Clayton Act and thus entitled to recover treble damages in a civil antitrust action in U.S. courts.

I do not fault the reasoning of the Court or the cases that hold the view that a State of the United States or a foreign corporation doing business in the United States is a person within the meaning of the Clayton Act.

I do disagree with the Court on the issue of whether a foreign sovereign nation is a person within the meaning of the act. Also, I do not favor treble damages for a foreign nation. In the majority opinion, Mr. Justice Stewart, speaking for the Court in Pfizer, Inc, et al. against Government of India, et al., said.

Thus whether a foreign nation is entitled to sue for treble damages depends on whether it is a "person" as that word is used in §4. There is no legislative history that provides a clear answer; it seems apparent that the question was never considered at the time the Sherman and Clayton Acts were enacted.

Clearly this is an invitation by the Court to the Congress. It is my belief that we should accept this invitation to legislate.

In the majority opinion the Court noted that the United States was affirmatively excluded by Congress from the treble-damage remedy. Thus, earlier in United States against Cooper Corp., the U.S. Supreme Court found that the United States was not a "person" entitled to bring suit for treble damages.

It appears to me that it is only fair and that commonsense would lead us to treat a foreign sovereign nation no better or no worse than we treat our own country in U.S. courts.

In 1955 the Congress amended the Clayton Act by adding section 4A as follows:

Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefore in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and the cost of suit.

My bill would place foreign sovereign nations in exactly the same position as our own Nation.

As Chief Justice Burger, with whom Mr. Justice Powell and Mr. Justice Rehnquist joined in the dissent, so aptly put it, neither legislative history nor statutory construction make States of the United States and foreign nations so essentially alike as to give them the same remedies under our antitrust laws.

Foreign nations are free to enact their own antitrust laws and they do. Our States are constrained under our Constitution.

Chief Justice Burger put his finger on the critical question in the dissenting opinion when he wrote,

Further, the result reached by the Court today confronts us with the anomaly that while the United States Government cannot sue for treble damages under our antitrust laws, other nations are free to engage in the most flagrant kinds of combinations for price fixing, totally at odds with our antitrust concepts, and nevertheless are given the right by the Court to sue American suppliers in American courts for treble damages, plus attorneys' fees. It is no answer to say that the United States needs no civil remedy since it has reserved for itself the power to pursue criminal remedies against American suppliers for antitrust violations. What that response overlooks is that our criminal antitrust remedies hardly compare with the infinite array of political and commercial weapons available to a foreign nation for use against the United States itself or against American producers and suppliers. This, again, underscores how completely the problem is a matter of policy to be resolved by the political branches without the intrusion of the judiciary.

Finally, the question of the Court suggests that permitting foreign sovereigns to recover treble damages will deter those who would violate our antitrust laws and benefit U.S. consumers. It is difficult for me to follow that logic. I would speculate, as did the Court, the United States will initiate a greater number of suits for single damages than would foreign sovereigns for treble damages. I have somewhat more difficulty in following the foreign consumer benefit as one which will help U.S. consumers.

Mr. President, I ask unanimous consent that the Supreme Court decision be printed in the RECORD at the conclusion of my remarks, in the following order: The brief dissenting opinion of Mr. Justice Powell, followed by the dissent and, finally, by the opinion of the Court.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States, No. 76–749]

PFIZER, INC., ET AL., PETITIONERS,

v.

GOVERNMENT OF INDIA ET AL.

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

Mr. JUSTICE POWELL, dissenting.

I join THE CHIEF JUSTICE in his dissent, and add a word to emphasize my difficulty with the Court's decision.

The issue is whether the antitrust laws of this country are to be made available for treble-damage suits against American businesses by the governments of other countries. The Court resolves this issue in favor of such governments by construing the word "persons" in § 4 of the Clayton Act to include "foreign governments." No one argues seriously that this was the intent of Congress in 1890 when the term "persons" was included in the Act. Indeed, the Court acknowledges that this "question was never considered at the time the Sherman and Clayton Acts were enacted." *Ante*, at 4.

Despite this conclusion as to the absence of any congressional consideration, the inviting possibility of treble damages today is extended by judicial action to the sovereign nations of the world.[1] With minor exceptions, the United States recognizes the governments of all of these nations. We may assume that most of them have no equivalent of our antitrust laws and would be unlikely to afford reciprocal opportunities to the United States to sue and recover damages in their courts.

The court has resolved a major policy question. As the Solicitor General stated in his Memorandum for the United States as *amicus curiae*, filed March 23, 1977:

"Whether foreign sovereigns are 'persons' entitled to sue under § 4 depends largely upon the general policy reflected in the statute, and the general policy of the United States opening its courts to foreign sovereigns."

I had thought it was accepted doctrine that questions of "general policy"—especially with respect to foreign sovereigns and absent explicit legislative authority—are beyond the province of the Judicial Branch. If the statute truly reflected a general policy that dictated the inclusion of foreign sovereigns, the Court might be justified in reaching today's result. In *Georgia* v. *Evans*, 316 U.S. 159 (1942), a clear policy to protect the States of the Union was reflected in the antitrust laws and in the legislative history. The Court could "perceive no reason for believing that Congress wanted to deprive a State, as purchaser of commodities shipped in interstate commerce, of the civil remedy of treble damages which is available to other purchasers who suffer through violation of the Act." 316 U.S., at 162.

Unlike the majority, I do not believe the same can be said with respect to foreign sovereigns. See *ante*, at 9–10. It is not only the absence of specific congressional intent to include them. It is that the predicate for the Court's approach in *Georgia* v. *Evans* is not present in the case before us. The solicitude that we assume Congress has for the welfare of each of the United States, especially when the subject matter of legislation largely has been removed from the competence of the States and has been entrusted to the United States, cannot be assumed with respect to foreign nations. Putting it differently, it was not illogical for the *Evans* Court to include the States within the reach of § 4, but it is a quantum leap to include foreign governments.

A court, without the benefit of legislative hearings that would illuminate the policy considerations if the question were left to Congress, is not competent in my opinion to resolve this question in the best interest of our country. It is regrettable that the Court today finds it necessary to rush to this essentially legislative judgment.[2]

[Supreme Court of the United States, No. 76–749]

PFIZER, INC., ET AL., PETITIONERS, v. GOVERNMENT OF INDIA ET AL.

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST join, dissenting.

The Court today holds that foreign nations are entitled to bring treble damage actions in American courts against American suppliers for alleged violations of the antitrust laws; the Court reaches this extraordinary result by holding that for purposes of § 4 of the Clayton Act, foreign sovereigns are "persons," while conceding paradoxically that the question "was never considered at the time the Sherman and Clayton Acts were enacted." *Ante*, at 4.

I dissent from this undisguised exercise of legislative power since I find the result not only plainly at odds with the language of the statute but also with its legislative history and precedents of this Court. The resolution of the delicate and important policy issue of giving more than 150 foreign countries the benefits and remedies enacted to protect American consumers should be left to the Congress and the Executive. Congressional silence over a period of almost a century provides no license for the Court to make this sensitive political decision vastly expanding the scope of the statute Congress enacted.

A

"The starting point in every case involving construction of a statute is the language itself." *Blue Chip Stamps* v. *Manor Drug Stores*, 421 U.S. 723, 756 (POWELL, J., concurring). The relevant provisions here are § 1 of the Clayton Act in which the word "person" is defined, and § 4 in which the treble-damage remedy is conferred on those falling within the precisely enumerated categories. Section 1 provides, in relevant part:

"The word 'person' or 'persons' wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country."

Section 4 then incorporates this definition by providing:

"That any person who shall be injured in his business or property by reason of anything forbidden in the anti-trust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee."

Even on the most expansive reading, these two sections provide not the slightest indication that Congress intended to allow foreign nations to sue Americans for treble damages under our antitrust laws. The very fact that foreign sovereigns were not included within the definition of "person" despite the explicit reference to corporations and associations existing under the "laws of any foreign country" in the same definition ought to be dispositive under established doctrine governing interpretation of statutes. I therefore see no escape from the conclusion that the omission by Congress of foreign nations was deliberate.

The inclusion of foreign *corporations* within the statutory definition in no sense argues for a different characterization of Congress' intent. At the time of the passage of both the Sherman and Clayton Acts, foreign sovereigns, even when acting in their commercial capacities, were immune from suits in the courts of this country under the doctrine of sovereign immunity. *See The Schooner Exchange* v. *M'Faddon*, 7 Cranch 116 (1812); *Ex parte Peru*, 318 U.S. 578 (1943); *Mexico* v. *Hoffman*, 324 U.S. 30 (1945). Foreign corporations, of course, had no such immunity. See, *e.g.*, *Shaw* v. *Quincy Mining Co.*, 145 U.S. 444, 453 (1891). *In re Hohorst*, 150 U.S. 653, 662–663 (1893). Given that "person" as used in the Clayton and Sherman Acts refers to both antitrust plaintiffs and defendants, see *United States* v. *Cooper*, 312 U.S. 600, 606, the decision of Congress to include foreign corporations while omitting foreign *sovereigns* from the definition most likely reflects this differential susceptibility to suit rather than any intent to benefit foreign consumers or to enlist their help in enforcing our antitrust laws. It would be little short of preposterous to think that Congress in 1890 was concerned about giving such rights to foreign nations even though it might well decide to do so now.

Respondent's claim that this disparate treatment cannnot be justified today when foreign states effectively control many large foreign corporations and when sovereign immunity has been limited by the Foreign Sovereign Immunities Act of 1976, Pub. L. 94–583, 90 Stat. 2891, is not an argument appropriately addressed to or considered by this Court. If revisions in the statute are required to take into account contemporary circumstances, that task is properly one for Congress particularly in light of the sensitive political nature and foreign policy implications of the question.

The Court's reliance on the references to "foreign nations" in §§ 1 and 2 of the Sherman Act and § 1 of the Clayton Act to support an argument that Congress was specifically concerned with foreign commerce and foreign nations in 1890 when the disputed definition was enacted is similarly unavailing. As a threshold matter, congressional concern with the foreign commerce of the United States does not entail either a desire to protect foreign nations or a willingness to allow them to sue Americans for treble damages in our courts. The Webb Pomerene Act, ch 50, 40 Stat. 516, as amended, 15 U.S.C. § 61 *et seq.*, passed within only a few years of the Clayton Act indicates that such a concern may instead be served at the *expense* of foreign states and consumers.[1]

In any event, the relevant language of §§ 1 and 2 of the Sherman Act, as subsequently incorporated in the Clayton Act, does not support respondents' contention. The reference to "commerce . . . with foreign nations" appeared only in the final draft of the Act as reported by the Senate Judiciary Committee, and replaced language in the numerous earlier drafts of Senator Sherman to the following effect:

"That all arrangements, contracts, agreements, trusts, or combinations between persons, or corporations made with a view, or which tend, to prevent full and free com-

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[1] At present there are 162 sovereign nations in the world.

[2] The Court quotes a letter to the effect that "the Department of State would not anticipate any *foreign policy-problems*" if § 4 were held to embrace suits by foreign governments. *Ante*, at 11n. 20 (emphasis supplied). But resolution of the issue here depends not only upon foreign policy considerations but also upon considerations relevant to the general welfare of the United States. The latter are quite beyond the concern of the Department of State and should be considered by the Legislative Branch. The international business conducted by American corporations has economic and social ramifications of great importance to our country.

petition in the production, manufacture or sale of articles of domestic growth or production, or the sale of articles *imported* into the United States, . . . are hereby declared to be against public policy, unlawful and void . . . ." 21 Cong. Rec. 2598 (1890) (first draft) (emphasis added).[2]

The focus of this language on protecting *domestic* consumers from anticompetitive practices affecting the *importation* of goods into the United States could not be more clear, nor could the absence of any attention to affording comparable protection for foreign consumers of American exports. The language substituted by the Judiciary Committee—language tracking that appearing in the Commerce Clause—was chosen to mollify the objections of those Senators who felt the proposed statute exceeded Congress' constitutional power to regulate commerce, see *e.g.*, 21 Cong. Rec. 2600, 3147 (1890) (remarks of Sen. George); *id.*, at 2728 (remarks of Sen. Edmunds); *id.*, at 3148–3149 (remarks of Sen. Reagan); cf. *Apex Hosier Co.* v. *Leader*, 310 U.S. 469, 495; *Atlantic Cleaners and Dyers* v. *United States*, 286 U.S. 427, 434–435 (1932); that language was not intended to work any substantive change in the focus or scope of the Act. See *United States* v. *Wise*, 370 U.S. 405, 420 (Harlan, J., concurring). To read this language as evidencing an intent to protect foreign nations or foreign consumers simply belies its lineage.

B

The legislative history of the treble-damage remedy gives no more support to the result reached by the Court than does the language of the statute. As five of the eight judges of the Court of Appeals concluded—and indeed as the majority here concedes, *ante*, at 3–4,—"Congress, in passing § 4 of the Clayton Act, 15 U.S.C. § 15, gave no consideration *nor did it have any legislative intent whatsoever, concerning the question of whether foreign governments are 'persons' under the Act.*" 550 F. 2d 399 (emphasis added). The conversion of this silence in 1890 into an affirmative intent in 1978 is indeed startling.

The failure of Congress even to consider the question of granting treble-damage remedies to foreign nations provides the clearest possible argument for leaving the question to the same political process that gave birth to the Sherman and Clayton Acts. To rely on the absence of any *express* congressional intent to exclude foreign nations from taking advantage of the treble-damage remedy is a remarkable innovation in statutory interpretation. It is a strange way to camouflage the unassailable conclusion that the legislative history offers no affirmative support for the result reached today. Further, as this Court observed just last Term, the legislative history of the treble-damage remedy which does exist "indicates that it was conceived of primarily as a remedy for '[t]he people of the United States as individuals,' especially consumers." *Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 486 n. 10, quoting from 21 Cong. Rec. 1767–1768 (1890) (remarks of Sen. George). What we so recently saw as primarily a remedy for American consumers is now extended to all the nations of the world—a boon Congress might choose to grant but has not done so.

C

In the absence of any helpful language in the statute or any affirmative legislative history, the Court attempts to base its expansive reading of "person" on Justice Frankfurter's decision in *Georgia* v. *Evans*, 316 U.S. 159, granting the State of Georgia and all other *domestic* States the right to sue for treble damages. I fail to see how that result dictates this one.

In *Georgia* v. *Evans*, Justice Frankfurter concluded that absent the right to sue for treble damages, our States would be left without any remedy against violators of the antitrust laws. The Court today analogizes the situation of foreign nations to that of the States in *Evans*, and finds the analogy dispositive. When viewed solely in terms of the remedies specifically provided by the antitrust laws, the plight of domestic States and foreign sovereigns may, in this limited respect, be roughly comparable. But the very limited scope of the inquiry in *Evans* precludes consideration of the manifold and patently obvious respects in which foreign nations and our own domestic States differ—cogent differences bearing on the question under consideration here, though obviously not at all on the Court's inquiry in *Evans*.

First, the disparate treatment of foreign and domestic States is a legitimate source of concern only on the assumption that Congress in passing the Sherman Act intended—or even contemplated—that these two categories of political entities were so essentially alike that they were entitled to the same remedies against anticompetitive conduct. As I have already suggested, this assumption derives no support from either the statutory language or anything in the legislative history. Although our own States were also not the expressly intended beneficiaries of the Act, to deny them the treble-damage remedy would, as Justice Frankfurter perceived, have the unmistakable result of effectively denying surrogate protection to American citizens in whose behalf the state acts and for whose benefit the Sherman Act was enacted. Thus, while the result in *Evans* is a tolerable taking of certain liberties with the literal language of the statute, the congruence of that result with Congress' purpose can scarcely be doubted. This same logic, however, does not even remotely apply to the situation of foreign nations.

Second, it simply is not the case that absent a treble-damage remedy, foreign nations would be denied any effective means of redress against anticompetitive practices by American corporations. Unlike our own States, whose freedom of action in this regard is constrained by the Commerce and Supremacy Clauses, foreign sovereigns remain free to enact and enforce their own comprehensive antitrust statutes and to impose other more drastic sanctions on offending corporations. One need look no further than the laws of respondents India and the Philippines for evidence that such remedies are possessed by foreign nations. And indeed, *amicus* West Germany has demonstrated that such laws are not mere idle enactments. During the pendency of this action, it notified petitioner Pfizer that a proceeding under German antitrust law was being commenced involving some of the same allegations which are made in the complaint filed by respondents in their treble-damage action in this country.

While problems of jurisdiction and discovery may render antitrust actions against foreign defendants somewhat more problematic than a suit against a corporation in its own country, the limited experience of the Common Market nations in applying their antitrust laws to foreign corporations suggests that such difficulties are certainly not insoluble and are likely exaggerated. See, *e.g.*, *Europenballage Corp. and Continental Can Co.* v. *Commission of the European Communities*, 12 Comm. Mkt. L. R. 199 (1973); *Istituto Chemioterapico Italiano SpA and Commercial Solvents* v. *Commission of the European Communities*, 13 Comm. Mkt. L. R. 309 (1974). And, as the presently existing treaty between the United States and West Germany indicates, *reciprocal* agreements providing for cooperation in antitrust investigations undertaken by foreign nations are an effective means of mitigating the rigors of discovery in foreign jurisdictions. See Agreement Relating to Mutual Cooperation Regarding Restrictive Business Practices, June 23, 1976, United States—Federal Republic of Germany, [1976] 27 U. S. T. 1956, T. I. A. S. No. 8291.

Third, it takes little imagination to realize the dramatic and very real differences in terms of coercive economic power and political interests which distinguish our own States from foreign sovereigns. The international price fixing, boycotts, and other current anticompetitive practices undertaken by some Middle Eastern nations are illustrative of the weapons in the arsenals of foreign nations which no domestic State could even employ. Nor do our domestic States, in any meaningful sense, have the conflicting economic interests or antagonistic ideologies which characterize and enliven the relations among nation states.

Viewed in this light, it is clear that the decision to allow foreign sovereigns to seek treble damages from Americans and to rely on standards of competitive behavior in fixing liability which those very same nations flout in their business relationships with this country is a decision dramatically different from the one Justice Frankfurter faced in *Evans*. To consider the result reached there as to Georgia determinative of the result here is to substitute a "hard and fast rule of inclusion" for the "hard and fast rule of exclusion" which Justice Frankfurter and Roberts eschewed in *Evans* and *Cooper*, respectively. Only the most mechanical reading of our prior precedent will justify such a result.

Further, the result reached by the Court today confronts us with the anomaly that while the United States Government cannot sue for treble damages under our antitrust laws, other nations are free to engage in the most flagrant kinds of combinations for price fixing, totally at odds with our antitrust concepts, and nevertheless are given the right by the Court to sue American suppliers in American courts for treble damages plus attorneys' fees. It is no answer to say that the United States needs no civil remedy since it has reserved for itself the power to pursue criminal remedies against American suppliers for antitrust violations. What that response overlooks is that our criminal antitrust remedies hardly compare with the infinite array of political and commercial weapons available to a foreign nation for use against the United States itself or against American producers and suppliers. This, again, under scores how completely the problem is a matter of policy to be resolved by the political branches without the intrusion of the judiciary.

D

Finally, the Courts emphasis on the deterrent effects of treble-damage actions by foreign sovereigns also will not withstand critical scrutiny. We acknowledged in *Brunswick Corp. v. Pueblo-Bowl-O-Mat, Inc.*, 429 U.S., at 485–486, that while treble damages do play an important role in deterring wrongdoers, "the treble damages provision . . . is designed primarily as remedy." To allow foreign sovereigns who were clearly not the intended beneficiaries of this remedy to nevertheless invoke it reverses this priority of purposes, and does so solely on the basis of this Courts uninformed speculation about some possible beneficial consequences to American consumers of this "maximum deterrent." *Ante*, at 7. In areas of far less political delicacy, we have been unwilling to expand the scope of the right to sue under the antitrust laws without express congressional intent to do so. See, *e.g.*, *Hawaii v. Standard Oil Company*, 405 U.S. 251, 264–265.[3]

For these reasons I dissent from the Court's intrusion into the legislative sphere.

FOOTNOTES

[1] The Webb Pomerene Act exempts certain actions of export associations from the antitrust laws, but the exemption applies only if the association's actions do not restrain trade or affect the price of exported products

Footnotes at end of article.

within the United States and do not restrain the export trade of any domestic competitor of the association. 15 U.S.C. § 62. Although the Act was subsequently regarded as carving out an exemption from the antitrust laws, the legislative history indicates considerable question at the time whether the conduct of exporters meeting the conditions specified in the Act would have violated the antitrust laws even without the putative exemption. See H.R. Rep. No. 50, 65th Cong., 1st Sess., 2 (1917).

[2] The equivalent language of subsequent drafts can be found at 21 Cong. Rec. 2598–2600.

[3] The Court adverts to a letter from the Legal Advisor of the State Department to the Court of Appeals advising that no foreign policy problems were anticipated from a decision holding foreign governments to be persons within the meaning of § 4 of the Clayton Act. The significance of this communication escapes me. Nothing in the Constitution suggests legislative power may be exercised jointly by the courts and the Department of State.

(Slip Opinion)

[Note: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.]

[Supreme Court of the United States, No. 76–749. Argued November 1, 1977—Decided January 11, 1978]

Syllabus

PFIZER, INC., ET AL. *v.* GOVERNMENT OF INDIA ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

A foreign nation otherwise entitled to sue in the courts of this country *held* to be a "person" within the meaning of § 4 of the Clayton Act and thus to be entitled to sue for treble damages under the federal antitrust laws to the same extent as any other plaintiff. Pp. 3–11.

(a) Though no statutory provision or legislative history clearly covers the question whether a foreign nation is a "person" as the word is used in § 4 (which gives any person injured by antitrust violations the right to sue in district courts), Congress intended the word to have a broad and inclusive meaning, and in light of the antitrust laws' expansive remedial purpose, the Court has not narrowly construed the term. Pp. 3–5.

(b) Congress did not intend to make the treble-damages remedy available only to consumers in this country as is manifest from the inclusion of foreign corporations within the statutory definition of "person" and the fact that the antitrust laws extend to trade "with foreign countries." P. 5.

(c) To deny a foreign plaintiff injured by an antitrust violation the right to sue would defeat the two purposes of § 4: to deter violators and deprive them of the "fruits of their illegality," and "to compensate victims of antitrust violations for their injuries." *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720, 746. Pp. 6–7.

(d) When a foreign nation enters our commercial markets as a purchaser of goods or services, it can be victimized by anticompetitive practices just as surely as a private person or a domestic State, which in *Georgia* v. *Evans*, 316 U.S. 159, was held to be a "person" within the meaning of the antitrust laws; and there is no reason why Congress would have wanted to deprive a foreign nation of the treble-damages remedy available to others who suffer through violations of the antitrust laws. Pp. 7–10.

(e) Foreign nations are generally entitled to prosecute civil claims in the courts of the United States upon the same basis as domestic corporations or individuals. To afford foreign nations the protection of the antitrust laws does not involve a judicial encroachment upon foreign policy, since only governments recognized by and at peace with the United States are entitled to access to this country's courts, and it is within the exclusive power of the Executive Branch to determine which nations are entitled to sue. Pp. 10–11.

550 F. 2d 396, affirmed.

STEWART, J., delivered the opinion of the Court, in which BRENNAN, WHITE, MARSHALL, and STEVENS, JJ., joined. BURGER, C. J., filed a dissenting opinion, in which POWELL and REHNQUIST, JJ., joined. POWELL, J., filed a dissenting opinion. BLACKMUN, J., took no part in the consideration or decision of the case.

[NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.]

[Supreme Court of the United States, No. 76–749]

PFIZER, INC., ET AL., PETITIONERS, v. GOVERNMENT OF INDIA ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[January 11, 1978]

Mr. Justice Stewart delivered the opinion of the Court.

In this case we are asked to decide whether a foreign nation is entitled to sue in our courts for treble damages under the antitrust laws. The respondents are the Government of India, the Imperial Government of Iran, and the Republic of the Philippines. They brought separate actions in federal district courts against the petitioners, six pharmaceutical manufacturing companies. The actions were later consolidated for pretrial purposes in the United States District Court for the District of Minnesota.[1] The complaints alleged that the petitioners had conspired to restrain and monopolize interstate and foreign trade in the manufacture, distribution and sale of broad spectrum antibiotics, in violation of §§ 1 and 2 of the Sherman Act, ch. 647, 26 Stat. 209, as amended, 15 U.S.C. §§ 1, 2. Among the practices the petitioners allegedly engaged in were price fixing, market division and fraud upon the United States Patent Office.[2] India and Iran each alleged that it was a "sovereign foreign state with whom the United States of America maintains diplomatic relations"; the Philippines alleged that it was a "sovereign and independent government." Each respondent claimed that as a purchaser of antibiotics it had been damaged in its business or property by the alleged antitrust violations and sought treble damages under § 4 of the Clayton Act, 38 Stat. 731, 15 U.S.C. § 15, on its own behalf and on behalf of several classes of foreign purchasers of antibiotics.[3]

The petitioners asserted as an affirmative defense to the complaints that the respondents as foreign nations were not "persons" entitled to sue for treble damages under § 4. In response to pretrial motions[4] the District Court held that the respondents were "persons" and refused to dismiss the actions.[5] The trial court certified the question for appeal pursuant to 28 U.S.C. § 1292(b).[6] The Court of Appeals for the Eighth Circuit affirmed, 550 F. 2d 396 (CA8), and adhered to its decision upon rehearing en banc.[7] 550 F. 2d, at 400. We granted certiorari to resolve an important and novel question in the administration of the antitrust laws. 430 U.S. 964.

I

As the Court of Appeals observed, this case "turns on the interpretation of the statute." 550 F. 2d, at 397. A treble-damage remedy for persons injured by antitrust violations was first provided in § 7 of the Sherman Act, and was re-enacted in 1914 without substantial change as § 4 of the Clayton Act.[8] Section 4 provides:

"Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee."

Thus, whether a foreign nation is entitled to sue for treble damages depends upon whether it is a "person" as that word is used in § 4. There is no statutory provision or legislative history that provides a clear answer; it seems apparent that the question was never considered at the time the Sherman and Clayton Acts were enacted.[9]

The Court has previously noted the broad scope of the remedies provided by the antitrust laws. "The Act is comprehensive in its terms and coverage, protecting all who are made victims of the forbidden practices by whomever they may be perpetrated." *Mandeville Island Farms, Inc.* v. *American Crystal Sugar Co.*, 334 U.S. 219, 236; cf. *Perma Life Mufflers, Inc.* v. *International Parts Corp.*, 392 U.S. 134, 138–139. And the legislative history of the Sherman Act demonstrates that Congress used the phrase "any person" intending it to have its naturally broad and inclusive meaning. There was no mention in the floor debates of any more restrictive definition. Indeed, during the course of those debates the word "person" was used interchangeably with other terms even broader in connotation. For example, Senator Sherman said that the treble-damage remedy was being given to "any party," and Senator Edwards, one of the principal draftsmen of the final bill,[10] said that it established "the right of anybody to sue who chooses to sue." 21 Cong. Rec. 2569, 3148.

In light of the law's expansive remedial purpose, the Court has not taken a technical or semantic approach in determining who is a "person" entitled to sue for treble damages. Instead, it has said that "[t]he purpose, the subject matter, the context, the legislative history, and the executive interpretation of the statute are aids to construction which may indicate" the proper scope of the law. *United States* v. *Cooper Corp.*, 312 U.S. 600, 605.

II

The respondents in this case possess two attributes that could arguably exclude them from the scope of the sweeping phrase "any person." They are foreign, and they are sovereign nations.

A

As to the first of these attributes, the petitioners argue that, in light of statements made during the debates on the Sherman Act and the general protectionist and chauvinistic attitude evidenced by the same Congress in debating contemporaneous tariff bills, it should be inferred that the Act was intended to protect only American consumers. Yet it is clear that a foreign *corporation* is entitled to sue for treble damages, since the definition of "person" contained in the Sherman and Clayton Acts explicitly includes "corporations and associations existing under or authorized by

Footnotes at end of article.

. . . the laws of any foreign country." See n. 9, *supra*. Moreover, the antitrust laws extend to trade "with foreign countries" as well as among the several States of the Union. 15 U.S.C. §§ 1, 2.[11] Clearly, therefore, Congress did not intend to make the treble-damage remedy available only to consumers in our own country.[12]

In addition, the petitioners' argument confuses the ultimate purposes of the antitrust laws with the question of who can invoke their remedies. The fact that Congress' foremost concern in passing the antitrust laws was the protection of Americans does not mean that it intended to deny foreigners a remedy when they are injured by antitrust violations. Treble-damage suits by foreigners who have been victimized by antitrust violations clearly may contribute to the protection of American consumers.

The Court has noted that § 4 has two purposes: to deter violators and deprive them of "the fruits of their illegality," and "to compensate victims of antitrust violations for their injuries." *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720, 746; *Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 485–486; *Perma Life Mufflers, Inc.* v. *International Parts Corp.*, 392 U.S. 134, 139. To deny a foreign plaintiff injured by an antitrust violation the right to sue would defeat these purposes. It would permit a price fixer or a monopolist to escape full liability for his illegal actions and would deny compensation to certain of his victims, merely because he happens to deal with foreign customers.

Moreover, an exclusion of all foreign plaintiffs would lessen the deterrent effect of treble damages. The conspiracy alleged by the respondents in this case operated in American markets as well as internationally.[13] If foreign plaintiffs were not permitted to seek a remedy for their antitrust injuries, persons doing business both in this country and abroad might be tempted to enter into anticompetitive conspiracies affecting American consumers in the expectation that the illegal profits they could safely extort abroad would offset any liability to plaintiffs at home. If, on the other hand, potential antitrust violators must take into account the full costs of their conduct, American consumers are benefited by the maximum deterrent effect of treble damages upon all potential violators.[14]

B

The second distinguishing characteristic of these respondents is that they are sovereign nations. The petitioners contend that the word "person" was clearly understood by Congress when it passed the Sherman Act to exclude sovereign governments. The word "person," however, is not a term of art with a fixed meaning wherever it is used, nor was it in 1890 when the Sherman Act was passed.[15] Cf. *Towne* v. *Eisner*, 245 U.S. 418, 425. Indeed, this Court has expressly noted that use of the word "person" in the Sherman and Clayton Acts did not create a "hard and fast rule of exclusion" of governmental bodies. *United States* v. *Cooper Corp.*, 312 U.S., at 604–605.

On the two previous occasions that the Court has considered whether a sovereign government is a "person" under the antitrust laws, the mechanical rule urged by the petitioners has been rejected.[16] In *United States* v. *Cooper Corp., supra*, the United States sought to maintain a treble-damage action under § 7 of the Sherman Act for injury to its business or property. The Court considered the question whether the United States was a "person" entitled to sue for treble damages as one to be decided not "by a strict construction of the words of the Act, nor by the application of artificial canons of construction," but by analyzing the language of the statute "in the light, not only of the policy intended to be served by the enactment, but, as well, by all other available aids to construction." *Id.*, at 605. The Court noted that the Sherman Act provides several separate and distinct remedies: criminal prosecutions, injunctions and seizure of property by the United States on the one hand, and suits for treble damages "granted to redress private injury" on the other. *Id.*, at 607–608. Statements made during the congressional debates on the Sherman and Clayton Acts provided further evidence that Congress affirmatively intended to exclude the United States from the treble-damage remedy. *Id.*, at 611–612. Thus, the Court found that the United States was not a "person" entitled to bring suit for treble damages.[17]

In *Georgia* v. *Evans*, 316 U.S. 159, decided the very next term, the question was whether Georgia was entitled to sue for treble damages under § 7 of the Sherman Act. The Court of Appeals, believing that the *Cooper* case controlled, had held that a State, like the Federal Government, was not a "person." This Court reversed, noting that *Cooper* did not hold "that the word 'person,' abstractly considered, could not include a governmental body." *Id.*, at 161. As in *Cooper*, the Court did not rest its decision upon a bare analysis of the word "person," but relied instead upon the entire statutory context to hold that Georgia was entitled to sue. Unlike the United States, which "had chosen for itself three potent weapons for enforcing the Act," *ibid.*, a State had been given no other remedies to enforce the prohibitions of the law. To deprive it also of a suit for damages "would deny all redress to a State, when mulcted by a violator of the Sherman Law, merely because it is a State." *Id.*, at 162–163. Although the legislative history of the Sherman Act did not indicate that Congress ever considered whether a State would be entitled to sue, the Court found no reason to believe that Congress had intended to deprive a State of the remedy made available to all other victims of antitrust violations.

It is clear that in *Georgia* v. *Evans* the Court rejected the proposition that the word "person" as used in the antitrust laws excludes all sovereign states. And the reasoning of that case leads to the conclusion that a foreign nation, like a domestic state, is entitled to pursue the remedy of treble damages when it has been injured in its business or property by antitrust violations. When a foreign nation enters our commercial markets as a purchaser of goods or services, it can be victimized by anticompetitive practices just as surely as a private person or a domestic state. The antitrust laws provide no alternate remedies for foreign nations as they do for the United States.[18] The words of *Georgia* v. *Evans* are thus equally applicable here:

"We can perceive no reason for believing that Congress wanted to deprive a [foreign nation], as purchaser of commodities shipped in [international] commerce, of the civil remedy of treble damages which is available to other purchasers who suffer through violation of the Act. * * * Nothing in the Act, its history, or its policy, could justify so restrictive a construction of the word 'person' in § 7. * * * Such a construction would deny all redress to a [foreign nation], when mulcted by a violator of the Sherman Law, merely because it is a [foreign nation]." 316 U.S., at 162–163.

III

The result we reach does not involve any novel concept of the jurisdiction of the federal courts. This Court has long recognized the rule that a foreign nation is generally entitled to prosecute any civil claim in the courts of the United States upon the same basis as a domestic corporation or individual might do. "To deny him this privilege would manifest a want of commity and friendly feeling." *The Sapphire*, 11 Wall. 164, 167; *Monaco* v. *Mississippi*, 292 U.S. 313, 323 n. 2; *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 408–409; see U. S. Const. Art. III, § 2, cl. 1.[19] To allow a foreign sovereign to sue in our courts for treble damages to the same extent as any other person injured by an antitrust violation is thus no more than a specific application of a long-settled general rule. To exclude foreign nations from the protections of our antitrust laws would, on the other hand, create a conspicuous exception to this rule, an exception that could not be justified in the absence of clear legislative intent.

Finally, the result we reach does not require the judiciary in any way to interfere in sensitive matters of foreign policy.[20] It has long been established that only governments recognized by the United States and at peace with us are entitled to access to our courts, and that it is within the exclusive power of the Executive Branch to determine which nations are entitled to sue. *Jones* v. *United States*, 137 U. S. 202, 212; *Guaranty Trust Co.* v. *United States*, 304 U. S. 126, 137–138; *Banco Nacional de Cuba* v. *Sabbatino, supra*, at 408–412. Nothing we decide today qualifies this established rule of complete judicial deference to the Executive Branch.[21]

We hold today only that a foreign nation otherwise entitled to sue in our courts is entitled to sue for treble damages under the antitrust laws to the same extent as any other plaintiff. Neither the fact that the respondents are foreign nor the fact that they are sovereign is reason to deny them the remedy of treble damages Congress afforded to "any person" victimized by violations of the antitrust laws.

Accordingly, the judgment of the Court of Appeals is

Affirmed.

Mr. Justice Blackmun took no part in the consideration or decision of this case.

FOOTNOTES

[1] Similar actions were also brought by Spain, South Korea, West Germany, Colombia, Kuwait and the Republic of Vietnam. Vietnam was a party to this case in the Court of Appeals and was named as a respondent in the petition for certiorari. Subsequent to the filing of the petition Vietnam's complaint was dismissed by the District Court on the ground that the United States no longer recognized the government of Vietnam; the dismissal was affirmed by the Court of Appeals. *Republic of Vietnam* v. *Pfizer, Inc.*, 556 F. 2d 892 (CAB). Vietnam has not participated as a party in this Court. Some of the other suits have been settled and the rest are pending.

[2] The antibiotic antitrust litigation originated with a proceeding brought by the Federal Trade Commission which resulted in an order requiring petitioners Pfizer and American Cyanamid to grant domestic applicants licenses under their patents for broad spectrum antibiotics. See *Charles Pfizer & Co.* v. *FTC*, 401 F. 2d 574 (CA6). Criminal antitrust proceedings against petitioners Pfizer, American Cyanamid and Bristol-Myers were eventually dismissed. *United States* v. *Chas. Pfizer & Co.*, 367 F. Supp. 91 (SDNY); see also *United States* v. *Chas. Pfizer & Co.*, 426 F. 2d 32 (CA2), *modified*, 437 F. 2d 957 (CA2), aff'd by an equally divided court, 404 U.S. 548. Most of the large number of civil suits have been settled. See *West Virginia* v. *Chas. Pfizer & Co.*, 314 F. Supp. 710 (SDNY), aff'd, 440 F. 2d 1079 (CA2).

[3] Each respondent also sued in a *parens patriae* capacity; those claims were dismissed in a separate appeal and are not at issue here. *Pfizer, Inc.* v. *Lord*, 522 F. 2d 612, 615–620 (CA8).

[4] Petitioners moved to dismiss the suits brought by India and Iran. The Philippines moved to strike petitioners' affirmative defense.

[5] The District Court relied upon an earlier decision denying a motion to dismiss a related suit brought by the State of Kuwait. see n. 1, *supra*. *In re Antibiotic Antitrust Actions*, 333 F. Supp. 315 (SDNY). An appeal was taken from that decision but was dis-

missed by stipulation of the parties. Thus, the Court of Appeals' decision in the present case marked the first appellate consideration of the issue.

[6] A petition for mandamus had previously been denied. *Pfizer, Inc.* v. *Lord*, 522 F. 2d 612 (CA8).

[7] Two judges dissented, believing that Congress, in passing the Sherman and Clayton Acts, did not intend to include foreign sovereigns within the scope of the term "person." 550 F. 2d, at 400. Three judges in the majority also joined a concurring opinion noting the absence of controlling legislative history and urging congressional action. *Id.*, at 399, 400.

[8] Section 7 of the Sherman Act was repealed in 1955 as redundant. Ch. 283, § 3, 69 Stat. 283; see S. Rep. No. 619, 84th Cong., 1st Sess., 2 (1955).

[9] The Sherman and Clayton Acts each provide that the word "person" "shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country," 15 U.S.C. §§ 7, 12.

It is apparent that this definition is inclusive rather than exclusive, and does not by itself imply that a foreign government, any more than a natural person, falls without its bounds. Cf. *Helvering* v. *Morgan's Inc.*, 293 U.S. 121, 125 n. 1; *United States* v. *New York Telephone Co.*, —— U.S. ——, —— n. 15.

[10] See *Apex Hosiery Co.* v. *Leader*, 310 U.S. 469, 489 n. 10.

[11] The dissent seems to contend that the Sherman Act's reference to commerce with foreign nations was intended only to reach conspiracies affecting goods imported into this country. *Post*, at 4–5. But the scope of congressional power over foreign commerce has never been so limited, and it is established that the antitrust laws apply to exports as well. See, *e.g.*, *Timken Roller Bearing Co.* v. *United States*, 341 U.S. 593, 599; *United States* v. *Minnesota Mining & Mfg. Co.*, 92 F. Supp. 947 (Mass.).

[12] Moreover, in the Webb-Pomerance Act, ch. 50, 40 Stat. 516, as amended, 15 U.S.C. § 61 et seq., Congress has provided a narrow and carefully limited exception for export activity that would otherwise violate the antitrust laws. See *United States* v. *Concentrated Phosphate Export Assn.*, 393 U.S. 199. A judicial rule excluding all non-Americans as plaintiffs in treble-damage cases would hardly be consistent with the precisely limited exception Congress has established to the general applicability of the antitrust laws to foreign commerce.

[13] See n. 2, *supra*.

[14] It has been suggested that depriving foreign plaintiffs of a treble-damage remedy and thus encouraging illegal conspiracies would affect American consumers in other ways as well: by raising worldwide prices and thus contributing to American inflation; by discouraging foreign entrants who might undercut monopoly prices in this country; and by allowing violators to accumulate a "war chest" of monopoly profits to police domestic cartels and defend them from legal attacks. Velvel, "Antitrust Suits by Foreign Nations," 25 Cath. U.L. Rev. 1, 7–8 (1975).

[15] The case relied on by petitioners as establishing a general rule, *United States* v. *Fox*, 94 U.S. 315, merely adopted New York's construction of its Statute of Wills, as a matter of state law. *Id.*, at 320. Even in New York the word "person" did not have a settled meaning. Compare *in re Will of Fox*, 52 N.Y. 530, aff'd *sub nom. United States* v. *Fox*, 94 U.S. 315, with *Republic of Honduras* v. *Soto*, 112 N.Y. 310, 19 N.E. 845. In fact, contemporaneous cases generally held that the sovereign was entitled to have the benefit of a statute extending a right to "persons." See, *e.g.*, *Stanley* v. *Schwalby*, 147 U.S. 508, 514–517; *Dollar Savings Bank* v. *United States*, 19 Wall, 227, 239; *Lofton Cotton* v. *United States*, 11 How. 229, 231.

Cases construing federal statutes of the same era also indicate that the use of the term "person" did not invariably imply an intent to exclude governmental bodies. See, *e.g.*, *Ohio* v. *Helvering*, 292 U.S. 360 ("person" in §§ 3140 and 3244 of the Revised Statutes of 1878 includes a State); *California* v. *United States*, 320 U.S. 577, 585–586 ("person" in the Shipping Act of 1916, ch. 451, 39 Stat. 728, as amended, 46 U.S.C. § 801 *et seq.*, includes both a State and a city); *Chattanooga Foundry & Pipe Works* v. *City of Atlanta*, 203 U.S. 390, 396 ("person" in the Sherman Act includes a city).

[16] Even earlier, in *Chattanooga Foundry & Pipe Works* v. *City of Atlanta*, 203 U.S. 390, 396, the Court held without extended discussion that a city was entitled to sue for treble damages.

[17] In 1955 Congress amended the Clayton Act to allow the United States to sue for single damages when it is injured in its business or property. Ch. 283, § 1, 69 Stat. 282, 15 U.S.C. § 15A.

[18] While the dissent says there are "weapons in the arsenals of foreign nations" sufficient to enable them to counter anticompetitive conduct, such as cartels or boycotts, *post*, at 8, such a political remedy is hardly available to a foreign nation faced with monopolistic control of the supply of medicines needed for the health and safety of its people.

[19] Congress has explicitly conferred jurisdiction upon the federal courts to entertain such suits:

"The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and is between—

(4) a foreign state . . . as plaintiff and citizens of a State or of different States." 28 U.S.C.A. § 1332(a)(4) (Supp. 1977).

Among the actions foreign sovereign governments were entitled to maintain at the time of the passage of the Sherman and Clayton Acts were suits for common-law business torts, such as unfair competition, similar in general nature to antitrust claims. See *French Republic* v. *Saratoga Vichy Spring Co.*, 191 U.S. 427 (1903); *La Republique Francaise* v. *Schultz*, 194 F. 500 (SDNY 1899).

[20] In a letter that was presented to the Court of Appeals when it reconsidered this case en banc, the Legal Adviser of the Department of State advised "that the Department of State would not anticipate any foreign policy problems if . . . foreign governments [were held to be] persons within the meaning of Clayton Act § 4." A copy of this letter is contained in the Memorandum for the United States as Amicus Curiae in opposition to the petition for a writ of certiorari filed in this Court.

[21] Cf. n. 1, *supra*.

ADDITIONAL COSPONSORS

S. 1860

At the request of Mr. ROTH, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1860, the Tax Relief Act of 1977.

S. 2302

At the request of Mr. RANDOLPH, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2302, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to the States to reimburse the costs of studies to assess the cost of compliance with section 504 of the Rehabilitation Act of 1973 with respect to educational programs, and to make grants to educational institutions to pay the Federal share of the cost of such compliance, and for other purposes.

S. 2317

At the request of Mr. HEINZ, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2317, the Trade Procedures Reform Act.

SENATE JOINT RESOLUTION 99

At the request of Mr. MATSUNAGA, the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of Senate Joint Resolution 99, to require improvement and expansion in the collection, analysis, and publication of data relating to women in the professional, technical and managerial occupations.

SENATE RESOLUTION 323

At the request of Mr. DOLE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Resolution 323, condemning the human rights violations in Communist Cambodia.

PANAMA CANAL TREATY, EXECUTIVE 95–1

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the Senator from Arizona (Mr. GOLDWATER) be listed as a cosponsor to amendments No. 1 and No. 2 to the Panama Canal Treaty, and to amendments No. 7 and No. 8 to the treaty concerning the permanent neutrality and operation of the Panama Canal.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 353—SUBMISSION OF A RESOLUTION ON MERIT SELECTION OF FEDERAL JUDICIAL OFFICERS

(Referred to the Committee on the Judiciary.)

Mr. LUGAR submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 353

Whereas, the President of the United States has advocated the merit selection of qualified persons to serve in the federal judicial system;

Whereas, the American public is entitled to the nonpartisan selection of only the most qualified persons irrespective of party affiliation and political consideration;

Whereas, numerous responsible commentators have considered the current selection procedure, determined the need for a systematic reform and developed minimum standards for a system of merit selection which should be formally recognized and adopted;

Whereas, it is essential to the continued integrity of the federal judicial system that persons be selected who are insulated from political influence and whose character, experience, temperament, ability and commitment to equal justice under law justify their being nominated to serve; and

Whereas, it is appropriate for the Senate to assist the President by encouraging the independent selection of meritorious nominees in order to better assure that the person nominated by the President will be found qualified by the Senate when it performs its Constitutional duty to render its Advice and Consent: Now, therefore, be it

Resolved, That potential nominees for the positions of United States district court judge, United States attorney and United States marshal shall be selected in the manner prescribed in this resolution.

SEC. 2. (a) There shall be established with respect to each United States Judicial District a Commission on Federal Judicial Nominations (hereinafter referred to as the "Commission").

(b) The membership of each Commission shall be appointed in such manner and for such terms as may be determined by the Senators representing the State in which the district is located. With respect to federal judicial districts in which residents do not vote for a Senator, the functions otherwise performed by Senators under this resolution shall be performed by the Chairman and the Ranking Minority Member of the Senate Judiciary Committee who shall consult with, and give due consideration to the views of, the elected representatives of such district. The members of the Commission may be appointed by representatives of law schools, of bar associations, or of other independent, non-partisan entities, by independent persons or by the Senators of that State, except that, if any members are appointed by such Senators, each Senator shall appoint one or more members of the Commission, but in no event (1) shall any Senator appoint more than one-half (½) of the total number of members of the Commission nor (2) shall the total number of members appointed by both Senators exceed two-thirds (⅔'s) of the total number of members of the Commission. In selecting the members of the Commission, the appointing party shall give due consideration to assuring that non-lawyers and women, and that blacks, Hispanic-Americans and other minorities are represented on the Commission.

SEC. 3. Upon learning of a vacancy in its district for United States district court judge, United States attorney or United States marshal, the Commission shall (a) give public notice of such vacancy, (b) undertake an active, systematic and broad search for qualified persons, and (c) provide an opportunity for all interested parties to recommend persons to be considered as potential nominees, except that no Senator shall, directly or indirectly, propose potential nominees to any Commission.

SEC. 4. After due deliberation and upon the affirmative vote of not fewer than a majority of all its members, the Commission shall make public and transmit directly to the President an alphabetical list of not fewer than three (3) potential nominees selected without regard to party affiliation or political consideration who possess the highest qualifications as displayed through their character, experience, temperament, ability and commitment to equal justice under law.

SEC. 5. It is the sense of the Senate that in presenting a nomination to the Senate, the President should consider, and be guided by, the list of potential nominees provided by the Commission.

SEC. 6. (a) As used in this resolution, "State" means any of the several States of the United States of America, the District of Columbia and includes any territory or possession of the United States.

(b) As used in this resolution, "vacancy" means any unoccupied or unfilled position and includes newly created positions which have never been occupied.

SEC. 7. The Secretary of the Senate shall transmit a copy of this resolution to the President.

MERIT SELECTION OF FEDERAL JUDICIAL OFFICERS

Mr. LUGAR. Mr. President, today I am introducing a resolution which would provide a true merit selection system for Federal judicial officers. This resolution creates a nonpartisan mechanism through which potential nominees for U.S. district court judges, U.S. attorneys and U.S. marshals can be selected for consideration by the President. This issue assumes particular significance in light of several major developments in this area. Pending legislation will shape the Federal judiciary for decades to come. Events of the past few years have led to increased expectations by all Americans that their elected officials will discard traditional notions of political intervention in the provision of justice. The time has come to reject partisan considerations in selecting those who constitute the Federal judicial system, and to assure that all selections are based upon finding persons whose character, experience, temperament, ability and commitment to equal justice justify their being nominated to serve.

One of the most exhilarating and often made promises of President Carter's 1976 campaign was also one of the most swiftly abandoned. In unequivocal terms he assured the American people that his election would at long last bring merit selection to the Federal judicial system:

All federal judges and prosecutors should be appointed strictly on the basis of merit without any consideration of political aspects or influence. Independent blue ribbon judicial selection committees should be established to give recommendations to the President of the most qualified persons available for positions when vacancies occur.

Responding to a question in the third Presidential debate on October 22, 1976, President Carter reaffirmed his commitment to the merit selection of Federal judges and prosecutors:

[As the Governor of Georgia, I] put forward a proposal that was adopted and used throughout my own term of office [for the] selection of . . . all judges and district attorneys or prosecuting attorneys, on the basis of merit.

So merit selection of judges was the most important single criterion. And I would institute the same kind of procedure as President. . . .

Following the election, however, it soon became apparent that campaign rhetoric had outstretched intended performance. By March 1977, the Attorney General of the United States was defending "politics as usual" in selecting members of the Federal judiciary with an equally unequivocal, unambiguous explanation: "Well, we had an election last November and the Democrats won."

More recently in explaining why a U.S. attorney was being replaced, the Attorney General patiently explained the Carter administration's stance in rejecting the merit selection of Federal judicial officers: "We have two parties. The 'ins' are the Democrats."

Unfortunately, the elemental lesson being taught by the Attorney General has been reflected in the nominations made by President Carter as of the end of November 1977, as reported in the December 5, 1977, issue of Time magazine:

U.S. circuit courts—10 Democrats, no Republicans.

U.S. district courts—21 Democrats, no Republicans.

U.S. attorneys—55 Democrats, one Republican.

This astonishing record—that Republicans were nominated for only 1.1 percent of the Federal judicial positions filled in the first 11 months of the Carter administration—vividly reveals the refusal of President Carter to follow the promises he made during the campaign to embrace merit selection for these critically important offices.

Mr. President, I ask unanimous consent that the entire article from Time be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. There being no objection, it is so ordered.

(See exhibit 1.)

Mr. LUGAR. It has become clear that President Carter is unable or unwilling to take the important step toward merit selection. I propose today that the Senate collectively relinquish the political control it has exercised over Federal judicial system appointments and replace it with a system utilizing the talents of private citizens who will identify the very best candidates, based strictly on merit.

Despite the President's avowed commitment to merit selection, despite the outspoken advocacy of Common Cause, the American Bar Association, the American Judicature Society, and a host of editorial commentators, in only four States have Senators initiated selection plans meeting the minimum standards of merit selection contained in my resolution. Those Senators who have pioneered these reforms deserve the thanks of the public, and I wish to acknowledge with great respect and admiration the Senators from Colorado, Iowa, Kentucky, and Oklahoma. I wish to note here, also, that the Senators from California and Pennsylvania have established merit selection systems which can meet these minimum standards with only minor adjustments.

It must be emphasized that the significance of merit selection has assumed new proportions in light of legislation already passed by the Senate to increase dramatically the size of the Federal judiciary. Sometime during this year, it is likely that Congress will approve the creation of more than 140 new Federal judgeships, the largest expansion in history. Through this one piece of legislation, the Federal judiciary will grow abruptly by about 30 percent.

Few positions in Government carry with them so much honor or so much unilateral discretionary authority over the lives of Americans, yet, absent prompt and far-reaching reform, these new judges will be selected through a political rather than a merit process. In the short range, to allow the filling of a substantial number of new judgeships through a partisan selection mechanism will inevitably reflect negatively on the statesmanship, credibility and integriy of the executive and legislative branches. Of greater long range impact, however, is the irreparable damage that political selection could do to the long-cherished concept of an independent, nonpartisan Federal judiciary.

By the sheer numerical increase in Federal judgeships filled through political methods, the entire character of the judicial branch would be subject to challenge in the skeptical public eye. Although the men and women filling these august posts might possess superlative

credentials, it seems highly unlikely that they will be able to escape the suggestion that they attained their positions solely due to political considerations.

Never before has this body been faced with a greater challenge to the maintenance of an independent judiciary as envisioned by our forefathers. In light of the failure of the administration to act in this area, it falls upon this body to assure continued meaning to this constitutional promise.

Of similar importance are the positions of U.S. attorney and U.S. marshal. These officials, who are appointed for 4-year terms, play a prominent role in the administration of the Federal court system and rightly must be included in any merit system. As merit selection is of fundamental importance for all Federal judicial offices, merit retention is a critical element in a system which provides definite terms for U.S. attorneys and marshals.

In recent months there have been almost continuous reports of U.S. attorneys who have not been allowed to retain their positions until their terms have expired. Jonathan Goldstein of New Jersey, Philip Van Dam of Detroit, Samuel K. Skinner of Chicago, James Young of Indianapolis and, most recently, David W. Marston of Philadelphia are a few examples of U.S. attorneys who have been replaced or who are about to be replaced not on the basis of performance, but on the basis of pure politics. If these offices are to earn the respect of the American people, both the retention and the selection of U.S. attorneys and marshals must be on the basis of merit.

In order to establish a true merit selection mechanism within applicable constitutional boundaries, my proposal wil be offered in the form of a Senate resolution. No attempt is made to invade the President's prerogative, only to insure that, if the President decides to consider the selections of independent citizen commissions, there is a formalized method for providing the names of potential nominees selected on merit rather than by patronage.

This resolution would require each State's Senators to implement a merit selection process which meets certain minimum standards. Once the basic guidelines are met, however, much leeway is left for the tailoring of plans by each State.

What are the minimum standards of merit selection? In my judgment, and that of Common Cause, the American Bar Association or other responsible commentators, they are:

First. No Senator should be permitted to originate the names of candidates. There is no appreciable difference between a direct senatorial nomination and one rubberstamped by a commission which is given limited options.

Second. No Senator should be able to control, through appointment, the commission decision. Common Cause recommends a check and balance system in which both Senators name an equal number of commission members.

Third. No Senator should have the authority to decide the name or names to be presented to the President. Commission judgment should be final.

As these principles affirm, there is a legitimate place for Senators in the judicial selection process. It is the traditional advice and consent role intended by the architects of our Federal judiciary.

Setting minimum standards is essential if true merit selection procedures are to be established. A great potential exists that the public could be misled through the creation of so-called merit systems which consist of: First, the selection of potential nominees by Senators; second, a review of those named nominees by a commission; third, the return of the names to the Senator; and then fourth, a decision by the Senator or Senators on what name or names should be submitted to the President. The transparent political domination involved in that type of a system precludes its being labeled as merit selection. Even though the intentions and integrity of those establishing these systems may be beyond reproach, the substantial political presence inherent in these plans invitably will taint the nominees who emerge.

I am well aware that no serious reform effort in this area has ever been advanced in the Senate, and that proposals which contravene the perceived self-interest of this body are generally thought to stand little chance of success. The imminent passage of the omnibus judgeship bill eliminates the luxury of multi-year deliberations or glacial accumulations of support. If more than 140 new judges are appointed to lifetime terms on the basis of political partisanship, any hopes for establishing a Federal judiciary selected on the basis of merit will be effectively eliminated for the balance of the century. Moreover, I am convinced that the Senate today is capable of rising above self-interest and instituting a true merit system conducive to finding and seating persons of the highest quality for Federal judicial office, and to the highest degree of public confidence in both the legislative and judicial branches.

It is time to assist the President in keeping his own promises. It is time to remove the taint of political cronyism from offices which are increasingly at the heart of governmental decisionmaking. It is time for the U.S. Senate to demonstrate that its Members can transcend crass political motivations and enact meaningful, long-overdue reform.

I respectfully urge my colleagues to support this resolution.

EXHIBIT I

THE LAW: JUDGING CARTER'S JUDGES

MERIT—ALONG PARTY LINES

Why not the best? Nowhere was the theme of Candidate Jimmy Carter's autobiography more explicit than in his campaign promises on the administration of justice. Said he: "All federal judges and prosecutors should be appointed strictly on the basis of merit, without any consideration of political aspects or influence." But, lo and behold, merit has turned up, as it so often does in politics, apportioned according to party lines. The presidential nominations to date:

U.S. circuit courts—ten Democrats, no Republicans;

U.S. district courts—21 Democrats, no Republicans;

U.S. attorneys—55 Democrats, one Republican.

Faced with political realities, Carter backed away from a plan to have independent citizen panels nominate federal trial judges and prosecutors. One result in New Jersey and Michigan: two superb Republican U.S. attorneys who refused to resign were unceremoniously forced out of office. The choice of U.S. attorneys and district judges has long been controlled by U.S. Senators and state politics. But U.S. circuit courts usually cover several states, and appointment to them have less often been the absolute preserve of a Senator or Representative. So when Carter set up 13 panels around the country to pick appellate judges, the move to reward merit seemed likely to succeed.

The Administration has indeed selected from among each panel's nominees. The ten appellate court judges thus far chosen are all Democratic, liberal or moderate politically, and well qualified for the bench. But in at least four cases, political connections eased the way, and four other appointments promoted district judges previously named under predominantly political sponsorship. For example, Robert Vance, nominee for the Fifth Circuit, is the longtime Alabama Democratic Party chairman; Tennessee's Gilbert Meritt had contributed to Democratic Senator James Sasser's 1976 campaign (as had Meritt's two minor children); Thomas Tang of Arizona has close ties to Democratic Senator Dennis DeConcini. Yet even Republicans acknowledge that the nominees have good credentials, and the four trial court judges being moved up—Damon Keith of Michigan, Leon Higgenbotham of Pennsylvania, Hugh Henry Bownes of New Hampshire and Alvin Rubin of Louisiana—are men of quality.

But the procedure suffered an embarrassment in September when Carter announced the nomination of Monroe McKay, 49, a Brigham Young University law professor, for a Utah-allotted vacancy on the Tenth Circuit Court. McKay's brother is Representative Gunn McKay, a Democrat close to House Speaker Tip O'Neill. The nominating panel had McKay on its list, but a poll of the Utah State Bar Commission had ranked Salt Lake City Attorney David Watkiss at the top. Utah's two Republican Senators even congratulated Watkiss. Then Representative McKay approached O'Neill, who approached Carter. This week McKay's nomination for the judgeship was to be confirmed by the Senate. Said a rueful White House adviser: "If politics is going to rule in the end, we're probably making more enemies than if we let it rule from the start."

The slip back toward politics as usual has raised no cries of alarm, because even the bad old system managed to produce a federal judiciary of a generally high quality. Many of the U.S.'s most respected jurists, including every Chief Justice but Harlan Stone, were political activists before taking the bench. But the Democratic Congress is now completing action on a bill to expand the federal judiciary by one-third, adding 113 new district and 35 new appellate judgeships. The bill has been delayed for years, awaiting a Democratic President, and legislators are rubbing their hands in anticipation of the patronage to come.

AMENDMENTS SUBMITTED FOR PRINTING

REFORM OF THE FEDERAL CRIMINAL LAWS—S. 1437

AMENDMENTS NOS. 1625 THROUGH 1647

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted 23 amendments intended to be proposed by him to the bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and other purposes.

AMENDMENT NO. 1648

(Ordered to be printed.)

Mr. CRANSTON (for himself, Mr. ALLEN, Mr. STEVENS, and Mr. HELMS) proposed an amendment to the bill (S. 1437), supra.

AMENDMENTS NOS. 6149 THROUGH 1653

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted five amendments intended to be proposed by him to the bill (S. 1437), supra.

THE PANAMA CANAL TREATIES—EXECUTIVE N, 95–1

AMENDMENTS NOS. 10, 11, AND 12

(Ordered to be printed and to lie on the table.)

THE PANAMA CANAL TREATIES: AMENDMENTS ARE KEY TO EFFECTIVE GUARANTEES

Mr. DOLE. Mr. President, it now appears likely that the Panama Canal Treaty proposals will reach the Senate floor for consideration during the 2d session of the 95th Congress. It promises to be an historic debate, and certainly one that will lead to a full examination of our future defense and economic interests in the Western Hemisphere. We should be prepared to spend sufficient time on the issue to fully discuss all major features of the canal treaties, given the broad extent of public interest in the matter.

During the past several months, I have devoted a good deal of time and attention to the treaty issue. I have studied and reflected upon the fundamental issues that are involved. I have offered fresh perspectives on several provisions of the treaties which appear to be of exceptional significance to the U.S. interests in years to come. In doing so, I hoped to stimulate a more careful consideration of these treaties and their implications for our country.

In this regard, I submitted six treaty amendments and two reservations on September 23. On October 5, in an appearance before the Senate Foreign Relations Committee, I expressed concern about conflicting interpretations of key treaty provisions by Panamanian and American negotiators. Following the release of the Carter-Torrijos "statement of understanding" concerning defense and passage rights provisions, I submitted two additional amendments to make those clarifications a part of the neutrality treaty itself on October 17. In late December, I was able to spend a day and a half in the Panama Canal Zone, where I gained additional insight into canal operations and treaty issues in general.

NEW AMENDMENTS

At this time, as in executive session, I propose three additional amendments to the canal treaties, which I hope will be thoroughly considered during the forthcoming debate. In my opinion, these revisions would better protect our ability to defend the Panama Canal against the threat of attack, and would better guarantee our perpetual access to an interoceanic canal in Central America.

Mr. President, I ask unanimous consent that the texts of my three amendments be printed in the RECORD at this point.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 10 (EXEC.) TO EX. N, 95–1

In article XII, strike out paragraph 2.

Renumber subsequent paragraphs accordingly.

AMENDMENT No. 11 (EXEC.) TO EX. N, 95–1

At the end of article IV, add the following:

6. For the duration of this Treaty and consistent with the other provisions of this article, both Parties agree that, subject to the other provisions of this Treaty, only the Republic of Panama or the United States of America may maintain military forces, defense sites, or military installations in the national territory of the Republic of Panama.

AMENDMENT No. 12 (EXEC.) to EX. N, 95–1

Before the period at the end of article V, insert a comma and the following: "except that, in order to maintain the regime of neutrality established under this Treaty, the United States of America and the Republic of Panama shall conclude an agreement on the continued availability to the United States of America of any defense site or military installation after the date of the termination of the Panama Canal Treaty, and if no such agreement may have been concluded before such date, the United States of America may continue on and after such date to occupy the defense sites and military installations made available for its use under the Panama Canal Treaty, notwithstanding the termination of the provisions of the Panama Canal Treaty".

Mr. DOLE. Mr. President, the first of these amendments would simply strike that section of the proposed Panama Canal Treaty which prevents the United States from negotiating with any country other than Panama for the right to construct an interoceanic canal in the Western Hemisphere. This is, in my opinion, an unnecessary and unduly restrictive limitation on our ability to safeguard our vital defense interests. Article XII of the treaty, as proposed, effectively binds the United States to construct a new canal in Panama if it should be determined that a modernized canal is desirable for defense or economic reasons. Yet, there is no commitment on the part of Panama to agree to permit construction of the canal, and we are only prevented from constructing one elsewhere.

This amendment is similar to one which I introduced on September 23. However, it is a more direct and simplified approach to this problem. Whether or not Panama is the best location for construction of a new canal is really not the immediate issue. The central question is whether the United States should bind itself, by this treaty, to foreclose all options with respect to a new canal. I submit that this would be a serious mistake on our part, and one which we might well regret prior to the year 2000.

The second of these amendments would amend the basic treaty to provide much the same type of assurance that is given under the neutrality treaty. That is, it would insure that no governments other than those of the United States and Panama may establish a military presence within Panama between the date of treaty ratification and December 31, 1999. This should not be construed as an impractical or unfair imposition upon the Government of Panama. It is a recognition of our mutual interest in protecting the canal and its neutrality from outside interference. In fact, the United States and Panama reached essentially the same agreement under article V of the neutrality treaty, covering the period after December 31, 1999. There should be no reason why our two governments cannot express agreement on this vital provision. And, given our continuing concern about the threat of Soviet or Cuban military influence in the area, the guarantee should help resolve Senate concerns about the security of the canal during the coming decades.

My third amendment would insure that the United States has the authority to maintain a limited military presence within Panama following the expiration of the basic treaty—that is, after the year 1999. In my opinion, our ability to retain at least one or two base areas within the former Canal Zone will be vital to our ability to defend the neutrality of the canal at that time. This arrangement could be concluded under a separate base agreement, much like the United States currently has with the Government of Spain. My amendment would establish the basic authority for that agreement, and provide the necessary incentive for concluding such an agreement prior to the year 2000.

By doing so, we are not attempting to perpetuate a colonial presence in Panama. And we are not challenging the desire of the Panamanian people to establish control over the Canal Zone area. Instead, we are simply suggesting that, in order to facilitate our continuing defense responsibilities under the neutrality treaty, we be permitted to maintain a few basic defense installations on terms that would be acceptable to both the United States and Panama. As allies, and as mutual guarantors for the regime of neutrality, the United States and Panama should be able to reach an accommodation on this crucial point. In addition, I feel that this provision would substantially facilitate favorable Senate consideration of these treaties.

TREATY REVISIONS

Mr. President, when I first proposed certain treaty amendments and reservations last September, I expressed my conviction that this treaty must be modified directly through amendments or reservations in order to effectively insure that such changes would be recognized as legally binding in years to come. I emphasized this point again when I testified before the Senate Foreign Relations Committee on October 5. I still believe that, in order to prevent any misunderstandings in the future, we must resolve our misgivings about these treaties by directly amending the treaty language, or by attaching substantive reservations to the resolution of ratification.

I base my convictions on the authority of several scholars of international law, who have studied and analyzed historical precedents and the subtleties of international agreements.

One such expert in the field is Mr. Elmer Plischke, professor and head of the department of government and politics at the University of Maryland. In his book, "Conduct of American Diplomacy" (1967), Professor Plischke cites the following:

> Amendments and reservations are differentiated in that the former constitute actual textual changes and, as such, even if acceptable to the President, require renewed negotiations to induce other signatories to accept them and thereby mutually incorporate them into the authentic text of the treaty. . . .
>
> Reservations, on the other hand, are formal declarations accepting the treaty subject to specified interpretations, limitations, qualifications, or conditions, rather than requiring textual changes. . . . While other signatories must also be willing to accept the reservations, they do not need to consider a draft revision, and the acceptance may be either express or tacit.

Prof. Louis Henkin, former consul to the U.S. Department of State and currently professor of law at Columbia University, also has provided clarification on the subject of treaty modifications in his book, "Foreign Affairs and the Constitution" (1972). Professor Henkin makes these observations:

> In many cases the Senate has given its consent (to a treaty) with reservations. Whether the Senate insists on a modification in the terms of a treaty, or on a particular interpretation of it, or on some limitation of its consequences, reservation usually requires renegotiation . . . one might say, the Senate withholds consent from the treaty presented to it but indicates what revised treaty will earn its consent, and gives it in advance to a treaty as so revised.
>
> Sometimes the Senate can be persuaded to achieve clarification or even some modification of a treaty provision without entering a reservation, by expressing instead its "understanding" of the provision. If that understanding is communicated to the other party and is accepted or acquiesced in there is no issue and the treaty need not be reopened. There is danger, however, of failure of communication that may engender doubt and controversy as to whether the parties agreed to the same terms.

Based on these particular assessments, it would seem likely that the approval of substantive amendments could conceivably necessitate renegotiation of certain treaty provisions by interested parties. However, I am not nearly so concerned about that prospect as I am about the danger associated with treaty understandings, cited by Professor Henkin and others. That is the prospect that the understanding adopted by one party to a treaty may be misunderstood by the other party. It would be far better that the differences between Panama and the United States over the wording of this treaty be taken under review at this time for further negotiations, than that such differences be glossed over now and result in an international confrontation at some later point in time.

Although some may seek to "beg out" with understandings at this stage, I suggest that we might well end up only deluding ourselves while creating difficulties for a future President and a future Congress.

AMPLE PRECEDENT

Some will suggest, I suspect, that we are blazing a new trail or following an uncharted course in proposing substantive revisions to the treaties already negotiated by our able diplomats in the executive branch. This, of course, ignores both our constitutional mandate and ample historical precedent.

Article II, section 2 of the U.S. Constitution clearly gives the Senate the responsibility of "advice and consent" on treaties negotiated by our Chief Executive. And, in fact, we have every justification, from a historical perspective, for doing so.

Since the founding of this Nation, the Senate has directly amended numerous international treaties concluded by the executive branch. Of these, 73 treaties were ratified and enacted into law with Senate amendments intact. Over the same period of time, one treaty was enacted into law with Presidential amendments, 28 treaties were ratified with Senate reservations, and 16 treaties were ratified with Presidential reservations.

It seems to me that this data is important for two reasons: First, it indicates that there is abundant precedent for Senate initiative in modifying international treaties; and, second, it indicates that such modifications are not necessarily "fatal" to such treaties. That is, a proposal of amendments and reservations cannot be equated with efforts to "kill the treaties."

GROWING SUPPORT

Frankly, I am encouraged by the broader interest within the Senate in attaching revisions to the Panama Canal treaties. In recent days, the Senate leadership has publicly indicated its support for treaty modifications, particularly with respect to the defense and passage rights provisions. Those of us who endorsed treaty amendments and reservations last fall are gratified that our expressions of concern about treaty defects are being heeded.

Even Panamanian general Omar Torrijos refuses to be "intransigent" on the question of treaty revisions. During my conversation with the general in Panama City during late December, he indicated his willingness to "keep talking" at the negotiating table should the Senate amend the proposed accords.

At this point, it seems that only the Carter administration remains adamently opposed to substantive treaty amendments. The President's refusal to consider Senate amendments or reservations is vaguely reminiscent of President Woodrow Wilson's intransigence toward Senate modifications to the Versailles Treaty in 1919. The result of that standoff was, of course, defeat of the treaty.

I am hopeful, Mr. President, that the forthcoming Senate debate on the Panama Canal treaties will reflect not only a conscientious attitude on the part of all Members, but a spirit of cooperation on the part of the administration, and of course, the Panamanian Government.

AMENDMENTS NOS. 13 AND 14

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN. Mr. President, this morning I announced my support for the Panama Canal treaties. I stated that I would vote in favor of the treaties if they are amended to include the October 14 statement of understanding issued, but never signed, by President Carter and General Torrijos.

When the Senate considers the canal treaties next month I shall offer two amendments designed to incorporate all relevant portions of the October 14 statement. The only changes I would make in the text are those necessary for accurate legal drafting. I recognize that similar amendments have been suggested, but note that they generally deviate in some respect from the text of the statement of understanding.

The importance of the points contained in the statement of understanding is self-evident. The communique clarified our right to take action to insure that the canal remains open, secure, and accessible; it provides appropriate assurances that, in time of need or emergency, our vessels will go to the head of the line.

The statement must be made an integral part of the treaty. There can be no ambiguity on the points it addresses.

The fact that this critically important document was left unsigned is a matter of grave concern, particularly in light of General Torrijos' comments that he did not give any autographs during his October visit to Washington. We cannot accept a situation in which the validity and binding nature of the statement of understanding is open to challenge or interpretation.

The American people deserve clear and adequate assurances on the important issues of canal neutrality and priority passage. If my amendments are accepted, they shall have such assurances.

The people and Government of Panama cannot have it both ways. Either they accept the statement of understanding or they do not. If the October 14 communique is an accurate reflection of the Panamanian interpretation of the treaty provisions, then it should be no problem for Panama to accept a Senate amendment that adheres to the text of the communique. We are not adding anything new to the treaties; we are not asking Panama for concessions. We are simply incorporating important assurances already negotiated and agreed to by President Carter and General Torrijos.

At the same time, I think the Senate should make an honest effort to avoid a situation in which we set out to amend the treaties along the lines of the statement of understanding, adding a little here, snipping off a little there, until we have destroyed the symmetry of the established text and rendered it unacceptable to Panama or forced a new plebiscite. The communique, as it stands, provides acceptable assurances on the questions of neutrality and priority passage and I strongly believe that we should adhere to the agreed text.

Regardless of what one may think about the personality and character of General Torrijos, there is a general concensus among those who have visited Panama that he has been forthcoming and sincere in his willingness to accommodate our objections and respond to our concerns.

During my stay in Panama I was assured by General Torrijos that a Senate amendment incorporating the lan-

guage of the statement of understanding would not require a new plebiscite since the people of Panama were aware of the statement and its contents prior to voting on the treaties.

I credit these assurances, but would also emphasize that the important point is for the Senate of the United States to establish clearly and unequivocally, by amendment, the legitimacy of the statement of understanding and its central role in the treaty.

Adoption by the Senate of the two amendments I shall offer will improve the treaties, will provide us with important, binding, mutually acceptable assurances, without doing violence to the 14 years of careful negotiation and compromise represented in the treaties.

I sincerely hope that my colleagues will join me in support, and hopefully in sponsorship, of these amendments. I ask unanimous consent that the text of the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 13 (EXEC.) TO EX N, 95–1

At the end of article IV, add the following: "In order to carry out the responsibility to assure that the Panama Canal shall remain open and secure to ships of all nations, each of the two Parties to this Treaty shall, in accordance with their respective constitutional processes, defend the Canal against any threat to such regime of neutrality and, consequently, shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal. The preceding sentence shall not be construed as conferring a right of intervention on the United States of America in the internal affairs of the Republic of Panama. Any United States of America action shall be directed at insuring that the Canal shall remain open, secure, and accessible, and no such action may be directed against the territorial integrity or political independence of the Republic of Panama.".

AMENDMENT NO. 14 (EXEC.) TO EX, N, 95–1

At the end of paragraph 1 of article VI, add the following: "The preceding sentence is for the purpose of, and shall be construed as, assuring the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, assuring that such vessels go to the head of the line of vessels in order to transit the Canal rapidly.".

NOTICE OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business Subcommittee on Economic Development, Marketing, and the Family Farmer will hold a public hearing on small business community development lending. The hearing will be held on January 23, 1978, beginning at 10:45 a.m., in room 424 of the Russell Senate Office Building. The Senator from Georgia (Mr. NUNN) will chair the meeting.

Further information can be obtained from the committee office, room 424, Russell Senate Office Building, telephone 224–5175.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a public hearing on Senate bill 2157. This bill would amend the Small Business Investment Act of 1958 to increase the availability of equity capital to small business. The hearing will be held on January 23, 1978, beginning at 10 a.m., in room 424, Russell Senate Office Building. The Senator from Georgia (Mr. NUNN) will chair the meeting.

Further information can be obtained from the committee office, room 424, Russell Senate Office Building, telephone 224–5175.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, on January 24 and 25, 1978, the Senate Select Committee on Small Business will conduct 2 days of hearings on the state of competition in the American economy and the need for a Competition Review Commission, as proposed in the Competition Review Act, S. 2071. The hearing will begin at 10 a.m., in room 424, Russell Senate Office Building each day, and will be chaired by Senator WILLIAM HATHAWAY. The hearings are open to the public.

The witnesses on January 24 are: Senator GARY HART; the Honorable John Shenefield, Assistant Attorney General for Antitrust; and Mr. Bernard Nash, Esq., partner with Blum, Parker & Nash, Washington, D.C. The witnesses on January 25 are: the Honorable Mike Pertschuk, Chairman of the Federal Trade Commission; Prof. Willard F. Mueller, University of Wisconsin; and Mr. Keith Clearwaters, Esq., representing the National Federation of Independent Business.

For further information, contact the committee offices at 424 Russell Office Building, phone number 224–5175.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business Subcommittee on Economic Development, Marketing, and the Family Farmer will hold hearings to investigate recent difficulties that developed surrounding the delivery of Small Business Administration physical disaster loans for crop loss due to drought. The hearings will be held on January 30, 31, and February 1. They will begin at 10 a.m., in room 424 of the Russell Senate Office Building. The Senator from Georgia (Mr. NUNN) will chair the hearings.

Further information can be obtained from the committee office, room 424, Russell Senate Office Building, telephone 224–5175.

SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE

Mr. HATHAWAY. Mr. President, the Subcommittee on Alcoholism and Drug Abuse will hold a hearing on January 31 at 10 a.m. in room 4232, DSOB, dealing with the potential need for placing a health warning label on alcoholic beverage containers. Particular attention will be paid to the fetal alcohol syndrome and other risks associated with the consumption of alcoholic beverages by pregnant women.

Senator THURMOND will testify with respect to his bill, S. 1464, to require a health warning on the label of bottles containing certain alcoholic beverages. Testimony will also be heard from the Department of the Treasury and the Department of Health, Education, and Welfare concerning these issues. Testimony is also expected from some of those conducting major research projects and clinicians regarding these matters. While the agenda is already filled with witnesses, the subcommittee would be pleased to receive written testimony from all interested parties for inclusion in the hearing record.

By way of background, my colleagues might be interested in learning of a few of the recent events which led to the determination of the subcommittee to hold these hearings, and the significance of these hearings in the context of ongoing developments in the executive branch and the medical world.

On May 4, 1977, the Senator from South Carolina (Mr. THURMOND) proposed a floor amendment to then pending health legislation. His amendment would have required that any alcohol beverage bottle containing a beverage of at least 24 percent alcohol by volume must include on its label a general health warning that such beverage "may be hazardous to one's health and may be habit forming."

At that time I requested him to withhold action on formally offering this amendment until the Subcommittee on Alcoholism and Drug Abuse had the opportunity to hold hearings and receive testimony on this important measure. I suggested that he submit this proposal in the form of a bill amending the Federal Food, Drug, and Cosmetic Act, and the subcommittee would hold hearings on it. On May 5, Senator THURMOND introduced S. 1464 to accomplish this goal.

Subsequently, on June 1, 1977, Dr. Ernest Noble, Director of the National Institute for Alcohol Abuse and Alcoholism, issued a health caution statement summarizing the findings of research on the fetal alcohol syndrome, and recommending appropriate action on the part of pregnant women with respect to consumption of alcoholic beverages. For the benefit of my colleagues I would like to repeat this health caution in its entirety:

Recent research reports indicate that heavy use of alcohol by women during pregnancy may result in a pattern of abnormalities in the offspring, termed the fetal alcohol syndrome, which consists of specific congenital and behavioral abnormalities. Studies undertaken in animals corroborate the initial observations in humans' and indicate as well an increased incidence of stillbirths, resorptions and spontaneous abortions. Both the risk and the extent of abnormalities appear to be dose-related, increasing with higher alcohol intake during the pregnancy period. In human studies, alcohol is an unequivocal factor when the full pattern of the fetal alcohol syndrome is present. In cases where all of the characteristics are not present, the correlation between alcohol and the adverse effects is complicated by such factors as nutrition, smoking, caffeine and other drug consumption.

Given the total evidence available at this time, pregnant women should be particularly conscious of the extent of their drinking. While safe levels of drinking are unknown, it appears that a risk is established with ingestion above 3 ounces of absolute alcohol or 6 drinks per day. Between 1 ounce and 3 ounces, there is still uncertainty but caution is advised. Therefore, pregnant women and

those likely to become pregnant should discuss their drinking habits and the potential dangers with their physicians.

On November 15, 1977, Commissioner Donald Kennedy of the Food and Drug Administration wrote to Director Rex Davis of the Bureau of Alcohol, Tobacco, and Firearms within the Treasury Department requesting that BATF initiate whatever action might be necessary to require the placing of a label on all alcoholic beverages warning against the consumption of excessive amounts by pregnant women. In this letter Commissioner Kennedy stated that:

The Food and Drug Administration is very concerned about the clear evidence that excessive alcohol consumption by pregnant women causes, in some cases, birth defects in the children they bear. This is a problem not only for women who habitually abuse alcohol, but also for those who consume alcohol in moderation but might occasionally imbibe more than two drinks a day.

In the same letter he also stated:

Quite frankly, if the FDA retained jurisdiction over the labeling of alcoholic beverages, it would waste no time in commencing proceedings to require labeling warnings.

With regard to this jurisdictional matter, Commissioner Kennedy was apparently referring to the decision rendered by Judge James F. Gordon of the U.S. District Court for the Western District of Kentucky in 1976 in the case of Brown-Forman Distillers Corp. against Mathews. In that decision Judge Gordon held that exclusive authority of labeling with respect to ingredients of alcoholic beverages rested with BATF, and enjoined FDA from pending proceedings to require such labeling under the Federal Food, Drug, and Cosmetic Act. Despite a determination by the Department of Health, Education, and Welfare to appeal this decision, the Office of Management and Budget ultimately decided not to authorize an appeal.

On January 16, 1978, BATF published in the Federal Register an advanced notice of proposed rulemaking thereby initiating proceedings to require a label on alcoholic beverages with regard to potential dangers of excessive consumption by pregnant women. This notice requests comments from interested groups due prior to March 17, 1978. For the benefit of my colleagues I ask unanimous consent that the text of this announcement be printed in the RECORD at this point.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

[From the Federal Register, Jan. 16, 1978]

(Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, [27 CFR parts 4, 5, and 7] [Notice No. 316])

WARNING LABELS ON CONTAINERS OF ALCOHOLIC BEVERAGES

PROPOSED RULEMAKING

Agency: Bureau of Alcohol, Tobacco, and Firearms.

Action: Advance notice of proposed rulemaking.

Summary: The Bureau of Alcohol, Tobacco, and Firearms is issuing this advance notice to obtain information enabling it to decide whether the current regulations should be amended to require a warning label on alcoholic beverage containers, regarding the consumption of alcohol by pregnant women. The Bureau is particularly interested in comments from consumers, industry, women's organizations and medical experts concerning the business impact and technical aspects, scientific and legal aspects, and the possible overall value and benefits of the proposal.

Date: Comments must be received on or before March 17, 1978.

Address: Comments must be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226, Attn: Regulations and Procedures Division.

For further information contact: Roberta K. Kulina, Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226, 202-566-7626.

Supplementary information: ATF has decided to invite interested parties to participate early in the rulemaking process. This early participation will enable ATF to decide whether a notice of proposed rulemaking should be issued. An advance notice of proposed rulemaking is issued when it is felt that the resources of ATF do not provide sufficient information to identify the best course of action, or where it would be helpful to receive public participation in identifying the best course of action. Following is a discussion of the medical research conducted concerning fetal alcohol syndrome and a list of specific questions regarding the proposal.

BACKGROUND

Medical research on the impact on human infants of maternal alcohol consumption during pregnancy has demonstrated that fetal alcohol syndrome (FAS) is clinically observable. This condition is most often characterized by: (1) Prenatal growth deficiency in length and postnatal growth deficiency in both length and weight; (2) microcephaly (the condition of having an abnormally small head); (3) small palpebral fissures (the space between the margins of the eyelids); and (4) mental retardation. Along with these characteristics, however, other patterns of dysmorphism, deficient motor functions, and impaired neurological development have also been identified. Damage to the fetus can occur at the early stages of prenatal development, even before the woman is aware she is pregnant. In this respect, all women of child-bearing age should be aware of the possibility of FAS in potential offspring. Often times, the FAS pattern is identified first, and the maternal alcohol intake is documented later.

Much of the research conducted suggests that a high blood alcohol level during critical periods of embryonic development is probably a prerequisite for producing FAS. The average alcohol consumption may not be as important as the maximum concentration obtained during "binge drinking," or one-time heavy drinking during critical periods. Evidence from both animal and human studies indicates that consumption of 3 ounces of 100 percent alcohol or above (an equivalent of six drinks) produces a risk to fetal outcome. As to the risk for consumption of lower quantities of alcohol, the National Institute on Alcohol Abuse and Alcoholism has determined that further animal and human studies are needed.

Other research has been conducted linking alcoholism with FAS. In studies comparing alcoholic couples to couples where only the wife was alcoholic, maternal alcoholism was considered to be essential to produce adverse consequences to the fetus. It is important to note that heavy drinking can often be associated with heavy nicotine and caffeine ingestion; however, in clinical observations the effects produced by maternal alcoholism appeared even without nicotine and caffeine ingestion. Studies show that smoking one pack of cigarettes a day by a pregnant woman reduces her baby's birth weight. However, no malformations have been observed. No human malformations have been attributed to caffeine intake either. Malnutrition is another factor often associated with impairment to fetal growth and development. However, the fetal alcohol syndrome, as described, is characterized by a great deficiency in prenatal growth, with an even greater deficiency in length than weight. In studies conducted of non-alcoholic malnourished women, neither this pattern of growth deficiency nor the pattern of malformation described was observed.

In summary, the research on the impact of maternal alcohol consumption on human infants has clearly identified the inophological characteristics of fetal alcohol syndrome. Over 58 published cases reported from 16 different medical centers have confirmed the existence of this syndrome. Currently three major studies on maternal alcohol consumption and infant outcome are being funded by the National Institute on Alcohol Abuse and Alcoholism and are taking place in three major U.S. cities. Early findings of these studies have already confirmed the presence of morphological characteristics of FAS in some of the infants. There are of course instances where only part of the syndrome is found. These may be cases of single malformations, retarded growth and development, or behavioral patterns such as jitteriness. Observations of alcohol intake affecting physiological and metabolic development clearly indicate that alcohol exposure to the placenta may impair nervous system development, specifically morphological and neurological fetal development.

QUESTIONS

To assist ATF in identifying the best course of action, written comments and supporting data are specifically requested on the following topics:

1. What type of specific warning label, if any, should be placed on containers of alcoholic beverages?

2. What would be the impact on consumers, primarily women, as a result of such a warning?

(a) Would the warning be effective in preventing pregnant women from consuming alcohol in amounts that might prove detrimental to their unborn infants?

3. What other possible alternatives are available to disseminate information to the public on possible health hazards resulting from alcoholic intake?

(a) Should these alternatives be in place of or in addition to a warning label?

4. What other medical research is available documenting or refuting the existence of fetal alcohol syndrome?

DRAFTING INFORMATION

The principal author of this document is Roberta K. Kulina of the Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing the document, both on matters of substance and style.

AUTHORITY

This advance notice of proposed rulemaking is issued under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981 as amended; 27 U.S.C. 205).

Signed: December 23, 1977.

MILES N. KEATHLEY,
Acting Director.

Approved: January 3, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.78-1042 Filed 1-13-78; 8:45 am]

Mr. HATHAWAY. Mr. President, on the basis of all of these developments,

hearings before the Subcommittee on Alcoholism and Drug Abuse will be most timely and should prove informative to my colleagues and the American people.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAYH. Mr. President, on Tuesday, January 24, 1978, the Select Committee on Intelligence will hold a hearing on S. 1566, the Foreign Intelligence Surveillance Act of 1977, which would regulate the use of electronic surveillance for foreign intelligence purposes.

The hearing will commence at 10 a.m in room 6202 of the Dirksen Senate Office Building. The committee will hear testimony from selected expert witnesses. Questions concerning these hearings should be directed to John T. Elliff at 224–1700.

ADDITIONAL STATEMENTS

THE PANAMA CANAL TREATIES AND SENATOR ROBERT C. BYRD

Mr. CRANSTON. Mr. President, Senate Majority Leader ROBERT C. BYRD made an important announcement last Friday regarding his views on the Panama Canal treaties. After thoughtful deliberation, a firsthand view of the Panama Canal and discussions with a variety of people—both for and against the treaties—Senator BYRD announced that he would "vote for the present treaties and work for their ratification."

I completely agree with Senator BYRD when he said:

It is my view that these treaties are the best means of assuring continued access to and use of the Canal—and that is our primary concern.

For the benefit of my colleagues who may have missed Senator BYRD's remarks, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR ROBERT C. BYRD

I have studied the past, assessed the present, and taken into account the future in reaching a decision on whether to support the Panama Canal treaties.

It has not been an easy decision, and in reaching it I have attempted to consider all the relevant information in an objective manner. As part of this process, I led a Senatorial delegation to Panama to gain as much first-hand knowledge as possible about the canal, the Americans living in the Canal Zone, the Panamanian people, and the Panamanian government.

Since first reviewing the treaties in September, I have taken the position that it would be necessary to clarify two important points: the rights of the United States in guaranteeing access to the Canal, and expeditious passage for United States military vessels. I felt that it was important for a clarification to be made prior to the Panamanian plebiscite of October 23, and I stressed the importance of this to President Carter. This clarification was made in the October 14 statement of understanding by President Carter and General Torrijos.

During our visit to Panama, we discussed this with General Torrijos, who clearly indicated his adherence to the statement of understanding. Further, it was clear that the Panamanian people had been informed about these points before the plebiscite.

I do not think there should be any question that we have the right to defend the Canal. However, in order that no doubt about that interpretation be left for future generations, I have on a number of occasions stated that the substance of the October 14 statement should be added to or incorporated in the treaties in some form. I plan to work with other Senators in seeing that such language is included.

Like most Americans, I take great pride in the Panama Canal. It represents a monumental achievement. Even in this space age it remains one of history's outstanding engineering feats. However, we should also understand the pride and aspirations of the Panamanian people.

During the period since the signing of the treaties, I have been impressed by the good faith exhibited by the Panamanians. Panama's interests are closely intertwined with our own and after visiting Panama, I am more hopeful and confident about that country's future political direction. In response to concerns expressed to General Torrijos by the Senatorial delegation of which I was a member, important steps have been taken to better human rights and civil liberties in Panama by abrogating certain repressive laws.

As I have said from the beginning, the basic question to be considered is whether these treaties are in the best interests of the United States. I believe that the weight of the evidence argues convincingly that they are.

It is my view that these treaties are the best means of assuring continued access to and use of the Canal—and that is our primary concern.

Panama would have a greater stake in the Canal and thus a strong interest in its efficient and unimpeded operation. However, the United States would retain a high degree of control over the Canal through the end of the century, as well as defense rights thereafter.

Ratification of the treaties would be consistent with our own role as a leader among nations. It is particularly important for our relations with Latin America and should open a new era of mutual trust and cooperation in inter-American relations. Given the history of the Canal and the principles of our country, the treaties are in our interest and ratification is the right step to take.

I am announcing today I will vote for the treaties and will work for their approval.

ED MORRIS—A GREAT AND DISTINGUISHED NORTH CAROLINIAN

Mr. HELMS. Mr. President, the December 1977 issue of "We The People of North Carolina," the official voice of the North Carolina Citizens Association, featured a profile on one of our most outstanding North Carolinians, Edwin A. Morris, whose friendship throughout the years has been a personal blessing to me.

Ed Morris is chairman of the board of Blue Bell, Inc., a corporation he has guided since shortly after the Second World War. He is an outstanding businessman and a true patriot. What is more, he is also a creative individual who is convinced that the survival of the free enterprise system depends on the workers themselves realizing the stake they have in the success of their companies.

Blue Bell today operates 100 plants in 12 States and foreign countries. But its roots remain deeply embedded in its native North Carolina soil. North Carolina is proud of Blue Bell's success, and proud, too, of Ed Morris' part in it.

Mr. President, I ask unanimous consent that the article on Edwin A. Morris be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

BUSINESSMAN IN THE NEWS—EDWIN A. MORRIS OF BLUE BELL, INC.

GREENSBORO.—The depth of Edwin Alexander Morris' dedication to Blue Bell, Inc., the apparel company he has served so faithfully for 40 years, has never been doubted.

It has manifested itself in the innovations he has brought to this, one of the world's largest and most successful apparel companies—innovations which today remain generally-accepted standards in his industry—and in the foresight of his executive decisions, which helped to make Blue Bell a dynamic force in apparel.

A story that one of his associates likes to tell offers a clue to Mr. Morris' dedication.

Following World War II, when he took Blue Bell into the western jeans field under the Wrangler label, Mr. Morris worked closely with members of the Rodeo Cowboys Association, who formed a test panel so that Mr. Morris could be certain that Wrangler jeans were a superior product. Following one rodeo performance in New York's Madison Square Garden, however, he noticed that one of the cowboys being entertained at a Blue Bell function in the Plaza Hotel was wearing a competitive western jean. At this point, we use the words of Kimsey Mann, Mr. Morris' Blue Bell associate, who related this account not long ago:

"Ed immediately took steps to remove the offending jeans, threw them out of a hotel window, and outfitted the cowboy with Wrangler jeans on the spot. A Blue Bell slogan at that time was, 'A Big Company That Pays Attention To The Little Things.' Ed said that the slogan couldn't possibly cover that particular incident because removing those jeans was as tough as skinning a bull."

Embellished or not, this legend tells us that Edwin Morris, by not overlooking the seemingly minor details while wrestling with the major ones, frequently went beyond the Blue Bell ranks. The record bears this out.

The Concord native first came to Blue Bell in 1932 as a consultant for the Bedaux Company. In that year, Blue Bell earned $45,003 in net profits on sales of slightly more than $3.9 million.

He had taken a degree in business administration from Washington & Lee University at the age of 23 in 1926, studied for a year at the Harvard Business School, and worked with a New England textile firm, the Otis Company, before joining Bedaux.

In the ensuing years, Mr. Morris left a positive and indelible mark on the business scene of both this state and the apparel industry. His innovative method for increasing production, his efforts to broaden the base of Blue Bell ownership to include company employees, his moving the company into overseas production, and his service not only to the industry's professional associations but also to local and statewide civic and industrial causes make this native Tar Heel—now in his 74th year and now chairman of the board of directors of Blue Bell—one of the giants of American industry. That is a description that his innate modesty will not permit him to embrace, but it is true, nevertheless.

In addition to being a part of change in the apparel industry, Mr. Morris has watched that industry develop through the years.

"A very big change has been the consolidation and merger which has resulted in some very large firms," he said. "We are still an industry of very small companies, but 10 or 15 years ago only one apparel company was larger than a $100 million company, and now there must be 45 or 50 or more larger than that. I view that as a good development because you must be a company of some size in this business before you can afford to do some of the things you need to do, such as research and development. And the production rates we expect and get today would not be attainable without research and development."

Nor would the rates be attainable without the "Progressive Bundle System," a far-reaching production method for sewing operations in apparel manufacturing conceived by Mr. Morris and regarded today, 40 years later, as a significant and still-used method.

It happened while he served as a consultant to Blue Bell in Commerce, Georgia. The two production systems in the industry then were the bundle system, which offered individual incentive but required a long walk and lost time for operators, and the straight-line system, with its very low in-process inventory but offering group incentive, in which the best operator could produce no more than the slowest.

"I happened to be the fortunate fellow who had that interesting problem to solve," said Mr. Morris of his assignment to increase production. "The result was that we brought the work closer to the operator, we went from the single piece of work of the straight-line system to the bundle, and we restored individual incentive. We in the apparel industry still regard it as the best production system we have."

Edwin Morris is just as proud of his and Blue Bell's early efforts in the employee benefits area, however. Long before it became fashionable, he and his company established plans through which Blue Bell employees could share in ownership. As Charles E. Fancher, president of Imperial Reading Corporation, said recently, "Pension plans, profit sharing, and a stock option plan all were instituted at Blue Bell and all are in place because Ed Morris wanted his company's people who made a contribution to have a share of Blue Bell.

He felt that the unions couldn't do as much for the people as Blue Bell could do," added Mr. Fancher, "and he has proved his point very well over the past 40 years."

This very exertion to help employes and to reward them is one of the things, Mr. Morris said, that seems to set his company apart from others. I just put myself in the employees' place," he explained. That's exactly the thought process I went through when I began considering these benefit plans. I like to think that we at Blue Bell have done a little more to help our people get ownership and be a part of the company."

Mr. Morris himself became a fulltime part of Blue Bell in 1937, following five years of traveling the South for Bedaux as a consultant to industry. His first job: Plant manager at Blue Bell's facility in Abingdon, Illinois. In discussing with Blue Bell's general manager how the trip to Abingdon should be made," said Kimsey Mann, the train, the airplane, and the general manager's big limousine were considered. But when Ed learned that the facility had been shut down for three months, he made his choice: The trip was completed in Ed Morris' old Ford automobile."

In 1941, as Blue Bell moved from the production of work clothes to the production of war clothes, Mr. Morris was named executive vice president in charge of manufacturing. He had been elected vice president in August, 1940. During the period from 1941 until 1948, then, he put his vast knowledge of manufacturing to good use, calling signals as Blue Bell implemented this vital change.

During the War years, the company delivered about 24 million garments to the Armed Forces and Mr. Morris also served as a consultant to the Army Quartermaster General on apparel and apparel procurement.

A full-scale diversification from work to play clothes was initiated at Blue Bell in 1947, and a year later Edwin Morris was elected president and chief executive officer. He would hold the former title for 18 years—until elected chairman and CEO in 1966—and the latter until 1974, when he "decided to give up the reins," as he put it and ease the company into a transition of management for the future. Blue Bell, which earned $45,003 on sales of $3.9 million (as noted earlier) in 1932, when he was a consultant, had net profits of nearly $1.3 million on sales of nearly $37.5 million the year following his assuming the president's office.

During the 1950s and 1960s, his astute leadership moved Blue Bell into western jeans and into the international field—to Europe in 1961 and to Canada three years later, these moves representing the first fully-owned overseas plants by Americans.

"The decision to go overesas was based on two reasons," said Mr. Morris. "If the Common Market became effective, then you would have a market large enough to be comparable to the United States market, and we could operate mass production plants overseas.

"Also involved was our government's attitude regarding imports," he added. "We felt that if the federal government was going to let low-wage countries have a big share of our market, we would have to go to Europe and operate in that market. You know, we got import quotas in 1961, but the growth factor allowed under those quotas—about six percent—is greater than the three percent rate of growth in this country."

Blue Bell also benefitted from other management decisions made by Ed Morris and his associates, such as product diversification and the geographic broadening of the company's plant base. "The location of plants further west enabled us to better serve the domestic market. We also decided to operate smaller plants, with about 250 employees in each rather than the minimum-sized, 500-employee plants we had been operating," said Mr. Morris. Today, Blue Bell operates 100 plants in 12 states, eight foreign countries, and Puerto Rico, and the company employs some 28,000 persons. Net profits in 1976 were $56,582,000 on sales of $730,360,000.

Beyond all this corporate activity—and even more that is not chronicled here—Mr. Morris has served his industry and his country in other ways. For example, he has long been an ardent spokesman in behalf of private enterprise. Said Mr. Fancher of Imperial Reading. "Ed has tried desperately to show the government that private enterprise can do a better job; that the original American concepts still work; that we need less government, not more government, in America." The Blue Bell executive also has actively served the American Apparel Manufacturers Association, which he helped create and build, and he worked with the U.S. State Department and top labor leaders as an industry adviser during the Geneva and Tokyo conferences on imports.

A logical question, then, is this: Is retirement in the offing?

"Well, I didn't want to step out when we were under the price controls of the Nixon Administration," he said. "As long as my health is good and my interest in the business is high, I'll continue to be on hand and, hopefully, making a contribution.

"I moved to bring a new team in here early in 1974," he continued, "and it was one of the best decisions I've ever made. The day-to-day decisions belong to others now, but I am involved in policy matters." It was in 1974 that Mr. Morris relinquished the responsibilities of chief executive officer, remaining as chairman of the board of directors and as a director of the company, a post to which he was first elected in 1940.

Favorite hobbies, wing-shooting, gardening, and brisk, daily walks of as much as four miles have helped keep his health good, but in April of 1975, Mr. Morris learned that he had cancer of the colon.

"When the doctors diagnosed my problem, I was in great physical condition and I had never felt better in my life," he said. "It was a great shock, first of all. You always think that these things will happen to someone else—not to you. To the best of my knowledge, cancer had not been prevalent in my family, and there just didn't seem to be any reason for it.

"I had surgery, and I'm lucky enough to have had what apparently was a successful operation for cancer," he said. "What sustained me during that period? My family was just great," he added, "and I had faith, plus a lot of doctors and friends were pulling for me and praying for me."

As a result of his personal experience, and because he holds to the hope that research at the Duke Comprehensive Cancer Center in Durham or elsewhere will enable researchers and physicians to get a handle on controlling the cancer problem, Mr. Morris has given $1 million toward the new Edwin A. Morris Clinical Cancer Research Building, which is scheduled for completion at Duke next February.

"I spoke at great length with Dr. William Shingleton at the Duke Center," said Mr. Morris, "and I just decided that this would be a good thing for me to do. I was greatly surprised to learn that cancer affects one family in four in this country, and I wanted to make a contribution toward solving this problem."

He is in fine fettle now, having recently returned from a week of wing-shooting in Canada. Mr. Morris also enjoys this hobby in South Carolina, near Havelock in this state, and, on occasion, in Guilford County.

Like all busy executives, Blue Bell's chairman has found it necessary through the years to assign his time carefully. "Everyone in positions such as I have held has to set an order of priorities for himself and decide how much time he can give to this and how much to that," he said. "I've tried to devote a lot of time on professional, church, and civic matters, but I always felt that my number one priority was to see that this company was properly managed, because so many people depend on the decisions made by a handful of people in management."

Still, Mr. Morris has among other activities undertaken the following: President, 1958–60, of the American Apparel Manufacturers Association; director, North Carolina Citizens Association; director, United States Industrial Council; trustee, Wesley Long Hospital, Greensboro; director, Junior Achievement of Greensboro; director, Greensboro Chamber of Commerce, Hanes Corporation, and Wachovia Bank & Trust Company; member, North Carolina Department of Natural and Economic Resources board; director, Business-Industry Political Action Committee; member, advisory council of the National Right-To-Work Legal Defense Foundation; member of the board of advisors, Foundation for the Advancement of the Public Trust; member, The Medical Center Challenge Fund

Resources Development Council; director, the National Association of Manufacturers; director, the North Carolina 4–H Development Fund; and director, Southern Advisory Board of Arkwright-Boston Insurance Company, Atlanta. He is a member of Greensboro's First Presbyterian Church.

All of this must seem a long way from his boyhood days on a farm near Concord, where he was born in 1903 to Mr. and Mrs. William L. Morris and from which he used to ride a pony three miles to school. Being bucked off the animal on occasion did not deter his acquiring an interest in rodeos—an interest which led him to put Blue Bell into western wear apparel years later.

In the early 1930s, he met Mary Cannon, also a Concord resident, courted her on weekends off from his work as a consultant, and married her in 1933. They are the parents of two children: Joseph E. Morris, a Vietnam veteran who studied at Lees-McRae College and Appalachian State University and now lives in Greensboro, where he pursues a career in landscaping and nursery work, and Mary Lou Morris, who studied at Salem Academy and UNC-Greensboro and also lives in Greensboro.

"I came to Blue Bell for several reasons," he recalled. "For one thing, I wanted to settle down. I found the challenge of new companies and new problems fascinating as a consultant, but the travel was not good, especially for my wife. She never complained, though, despite the fact that we knew after a few months or a year in one place, we would be moving again. Also Blue Bell had, and still has, a no-relatives rule which was attractive to me. We've relaxed it only slightly, and it has meant that if you earned recognition at Blue Bell, you made it yourself because there is no pull here."

Mr. Morris admitted, reluctantly, that he is more pessimistic than optimistic about America's future. He dislikes growing government intervention, he said, "because I'm very much opposed to being told what's good for me by unelected government bureaucrats."

He added: "We're heading down the same road to ruin that Great Britain took, and if the Senate passes the labor bill (HR 8410) that has made it through the House of Representative, then we're going to move down that road much more quickly.

"I'm not saying that this is going to happen," he said. "That bill still has to pass the Senate, and I'm going to fight it right down to the last ditch."

His own company's potential, on the other hand, is an upbeat subject for this venerable businessman. "Our potential is very good. For many of the items we're now making, we can expand our market. We are the most diversified apparel company in the industry, yet there's a kinship in all that we make."

Blue Bell's standing in the apparel industry is in large measure a tribute to Mr. Morris, who earlier in his career spent a year living in a textile company boarding house, wearing overalls, and running every machine in the mill at one time or another. And twice in recent months, much to the chagrin of a man of genuine modesty, significant honors have come his way.

One, the U.S. Industrial Council's North Carolina Free Enterprise Man of the Year award, was presented to him in August. In September, he was honored at a special recognition dinner in Atlanta. Nearly 600 persons attended, and some $160,000 was generated by the event for the American Apparel Education Foundation, Inc., which will distribute the funds in grants to various schools and colleges with an apparel curriculum.

It has been a long and distinguished career. There have been vast improvements in employee benefits and working conditions, many of which he initiated; he has presided over the growth and diversification of a company that enjoys a worldwide reputation of the highest order; he has served numerous worthwhile causes and moved in the high circles of government and business and industry.

Edwin A. Morris has earned his role as an elder statesman of business and industry, and it is one he fulfills with uncommon grace and skill.

TESTIMONY OF DR. ALICE RIVLIN

Mr. MUSKIE. Mr. President, the Budget Committee has just completed 3 days of hearings on the challenges to the budget process.

We began the hearings with a critical examination of our experience with the congressional budget process over the past 3 years. Because of the importance of this hearing, we invited Chairman GIAIMO of the House Budget Committee to join us. The distinguished chairman of the Banking Committee, Senator PROXMIRE, was our principal witness. We had a very useful and frank discussion on the strengths and weaknesses of the budget process.

Yesterday we explored with Dr. Alice Rivlin the pressures for increased spending which the Congress may face over the next 5 years. Today we concluded our hearings with an examination of the tax cut issue. Specifically, we looked at the question of whether, in light of these spending demands we can afford a tax cut at all.

Mr. President, there was a consensus among the members of the committee and the witnesses that the process has been working well and will begin its fourth cycle with strong momentum. However, these hearings and recent events in Congress put the Congress and especially the Senate on notice that very difficult challenges lie ahead for the budget process.

Mr. President, we must be mindful of two disturbing trends that have emerged over the last year. First, we must recognize the reemergence among some Members of this body and committees of a free spending mentality, even in the face of our worst peacetime deficits. Second, it now appears that some Members have begun voting for budget resolutions with what might be described as mental reservations and purposes of evasion. These Senators vote for the spending and revenue levels of a budget resolution and then ignore those very same levels when an expensive program comes along which they personally favor exceeds those levels.

Mr. President, the congressional budget process cannot succeed if these trends are permitted to continue. Next week I will report to the Senate on these problems and spell out in greater detail our experience with the budget process.

But, I do want now to share with the members of the Senate the excellent testimony of Dr. Alice Rivlin, the Director of the Congressional Budget Office. Dr. Rivilin yesterday presented to the Budget Committee a summary of the CBO 5-year projections of the cost of the Federal Government, a list of major spending initiatives which may be proposed over the next 5 years, and several sample budgets which might reflect some or all of these spending programs with related tax cuts. During our discussion, Dr. Rivlin suggested another alternative which might reduce the size of the Federal sector and reduce unemployment with greater tax cuts.

Mr. President, I ask unanimous consent that Dr. Rivlin's testimony be printed in the RECORD.

Mr. President, I hope my colleagues will review closely this important discussion. It is especially important that we take an early look at these hard choices Congress faces for fiscal year 1979, as they will have a significant impact on the Federal budgets of the 1980's.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF ALICE M. RIVLIN

Mr. Chairman: In my presentation today, I would like to discuss some of the major challenges and opportunities facing the Congress as it plunges into the next budget cycle.

I will not limit my remarks to the Fiscal Year 1979 budget, however, because the goals that the Congress may wish to pursue through its budgetary policies cannot be achieved in a single year. Lowering the rates of inflation and unemployment, changing the size or composition of federal spending or the structure of federal taxes, or eliminating the federal deficit can be accomplished only gradually. Reaching such goals will require the adoption of a series of federal budgets that are consistent with certain objectives. Decisions on the Fiscal Year 1978 budget should, therefore, be regarded as part of a general budgetary strategy for the next several years.

WHERE WOULD CURRENT POLICY TAKE US

One can start by asking: What would happen to the federal budget if current policies were simply continued into the future? The answer, of course, depends on what happens to the economy. We have begun by assuming that the economy continues to recover at approximately the rates assumed in the conference report on the Second Concurrent Resolution on the Budget for Fiscal Year 1978—at least until the employment rate reaches 4.5 percent—and that inflation declines slowly (see Table 1).

Under these assumptions, estimated receipts would increase from about $463 billion in Fiscal Year 1979 to about $777 billion in Fiscal Year 1983—or from 20 to 23 percent of the Gross National Product (GNP).[1] (Table 2 depicts this rise.) Outlays would rise from about $495 billion in Fiscal Year 1979 to about $655 billion in Fiscal Year 1983, declining from 22 to 19 percent of GNP. The disproportionate rise in receipts as compared with outlays occurs because of the progressive nature of individual income taxes.[2]

Footnotes at end of article.

TABLE 1.—AGGREGATE ECONOMIC ASSUMPTIONS: BY FISCAL YEARS

Selected economic variables	1977	1978	1979	1980	1981	1982	1983
Gross national product (GNP):							
Current dollar GNP (billions of dollars)	1,841	2,057	2,274	2,519	2,783	3,079	3,386
Real GNP (billions of 1972 dollars)	1,319	1,387	1,451	1,520	1,593	1,670	1,736
Growth rate of real GNP (percent)	4.9	5.2	4.6	4.8	4.8	4.8	4.0
Unemployment rate (percent)	7.3	6.7	6.3	5.8	5.3	4.8	4.5
Consumer Price Index (percent change)	6.1	6.0	6.0	5.8	5.5	5.6	5.8

TABLE 2.—MAJOR COMPONENTS OF BUDGET OUTLAY AND REVENUE PROJECTIONS: BY FISCAL YEARS

Major component	1977 estimate	1978 Second Concurrent Resolution	Current policy projections				
			1979	1980	1981	1982	1983
Outlays:							
In billions of dollars:							
National defense	97	110	119	128	139	150	161
Contributory benefit payments for individuals	136	148	161	176	194	213	238
Other benefit payments for individuals	46	49	53	57	60	4	68
Grants to States and local governments	47	57	57	58	58	60	63
Net interest	30	33	37	39	41	42	42
Other Federal operations	47	62	68	72	73	77	82
Total outlays	402	458	495	529	565	606	655
As a percent of total outlays:							
National defense	24	24	24	24	25	25	25
Contributory benefit payments for individuals	34	32	33	33	34	35	36
Other benefit payments for individuals	11	11	11	11	11	11	10
Grants to State and local governments	12	12	12	11	10	10	10
Net interest	7	7	7	7	7	7	6
Other Federal operations	12	13	14	13	13	13	13
Total outlays	100	100	100	100	100	100	100
As a percent of GNP:							
Total outlays	21.8	22.3	21.8	21.0	20.3	19.7	19.3
Revenues:							
In billions of dollars:							
Total revenues	357	[1] 397	463	528	608	692	777
As a percent of GNP:							
Total revenues	19	19	20	21	22	22	23

[1] The Second Concurrent Resolution on the budget for fiscal year 1978 assumed energy legislation would add $1,100,000,000 in receipts in fiscal year 1978.

Note: Detail may not add to totals because of rounding.

OFFSETTING THE FISCAL DRAG

These projected current policy revenues and expenditures, however, are not consistent with the economic growth objectives set in the Second Concurrent Resolution for Fiscal Year 1978. If present policies were actually followed without change for the next five years, the federal budget would exert a restrictive influence on the economy. This is because, with incomes rising and inflation high, the government receipts grow much faster than do the outlays it puts back into the economy in the form of wages, purchases, and benefit payments. Thus, if the level of unemployment is to be lowered significantly during the next five years, the government will have to counteract this restrictive effect (sometimes called "the fiscal drag") by cutting taxes or raising spending relative to the levels under current policy.

The extent to which the Congress elects to offset the fiscal drag, either by increasing spending or cutting taxes, depends on the relative importance it accords to two objectives: maintenance of rapid economic growth and avoidance of inflation. The larger the increase in spending or the cut in taxes, the better the chances that growth will be rapid and that unemployment will decline—but the greater the risk of accelerating inflation. (Let me point out that high growth is not necessarily associated with high federal spending. It could also be achieved by keeping federal spending to moderate levels, while making major cuts in taxes.)

The estimated size of the tax cuts or expenditure increases needed to keep the economy growing at the desired rate also depends partly on a force that is beyond the Congress' control: that is, the strength of the nonfederal sector of the economy. The vitality of private consumption, business investment, state and local government spending, and net exports cannot be predicted accurately. Some assumptions must be made—those made here are that the nonfederal sectors will perform slightly above historical norms. But the Congress must stand ready to alter its budget policy if these assumptions prove too optimistic or too pessimistic, or if other, unpredicted events occur.

Despite all this uncertainty, however, it is safe to say the following: Unless nonfederal demand is unprecedentedly strong during the next five years, major new spending programs or tax reductions will be necessary to maintain economic growth at a rate high enough to provide jobs for a growing labor expenditures or lowered taxes chosen by the Congress will depend not only on how it weighs economic growth against the risk of inflation but also on how it balances desires for new government programs against desires to limit the role of government. Considerable pressures operate in both directions.

In the following sections, I will review some of the current major claims for additional spending and a few of the possible ways of reducing the budget over the next several years.

MAJOR CLAIMS

Welfare reform

Reform of the nation's welfare system has long been a matter of urgent concern in the Congress. Recently, the Carter Administration submitted a proposal for comprehensive reform. The plan calls for replacement of several state and federal assistance programs with a uniform cash assistance program, an expanded earned income tax credit, and an expanded public service employment program that would provide up to 1.4 million jobs in Fiscal Year 1981. If this proposal is adopted in 1978, it could increase federal welfare costs above those incurred under current policy by more than $18 billion by Fiscal Year 1983. Debate is likely to center on whether such sweeping reform is preferable to more modest and less costly incremental changes in individual welfare programs. Cost estimates of both are shown in Table 3.

Defense spending

Major programs to improve the capabilities of the U.S. strategic nuclear and general purpose forces are now underway. In the wake of the B–1 cancellation, proposals have been offered to accelerate the development and deployment of cruise missiles. In response to Soviet missile developments, programs are underway to develop a mobile ICBM—the M–X—and a more capable submarine launched missile, the Trident II. Growing emphasis on forces for the defense of NATO Europe has given rise to proposals for more airlift, prepositioning of more army equipment in Europe, and some expansion of the tactical air forces. These pressures come on top of continuing modernization programs and the rising cost of the all-volunteer force.

TABLE 3.—NET COST CHANGES RESULTING FROM WELFARE REFORM PROPOSALS, BY FISCAL YEARS

[In billions of dollars]

	1979	1980	1981	1982	1983
The administration's welfare refopm proposal:					
Federal	5.4	9.4	11.7	17.6	18.4
State and local	0	0	0	−3.2	−3.3
Total	5.4	9.4	11.7	14.4	15.1

TABLE 3.—NET COST CHANGES RESULTING FROM WELFARE REFORM PROPOSALS, BY FISCAL YEARS—Continued

[In billions of dollars]

	1979	1980	1981	1982	1983
Incremental option: [1]					
Federal	4.3	4.7	5.1	5.6	6.1
State and local	−3.0	−3.3	−3.5	−3.9	−4.2
Total	1.3	1.4	1.6	1.7	1.9

[1] The combination of federalized AFDC and food stamp bonus value equal to 75 percent of poverty line. See Congressional Budget Office, "Welfare Reform: Issues, Objectives, and Approaches," background paper (July 1977), pp. 59–65.

In May, the Administration—along with other NATO governments—agreed to raise defense spending by 3 percent per year in real terms. As can be seen in Table 4, 3 percent annual real growth in total defense spending could result in increases of $22 billion over current policy levels by 1983. In the defense budget, "current policy" simply holds real spending constant, but it could fail to maintain real capability.

Health care

Pressure to establish some sort of national health insurance system continues. A comprehensive system might cost as much as $150 billion. It would probably have to be implemented in stages, both because the administrative machinery would take time to set up and because the health-care system would need time to adjust to changed patterns of demand. Since the Administration is not expected to present a national health insurance proposal until later this year, implementation of even the first stages of a comprehensive program could not be expected until Fiscal Year 1981.

Debate is likely to center on how a national system should be administered, to what extent it is to be financed by tax revenues, premiums, and on direct payments to patients. Other likely topics of debate include dental, mental, and long-term care, and the need for changes in the ways health care is delivered. Decisions on these issues will strongly influence the costs of a national program. If some form of catastrophic health insurance and a "federalization" of medicaid were to constitute the first stages of a health insurance plan, then federal health expenditures could rise by some $30 billion by Fiscal Year 1983. (Table 5 illustrates this rise.)

TABLE 4.—COSTS OF ALTERNATIVE DEFENSE PROGRAMS

[Outlays in billions of dollars]

	1979	1980	1981	1982	1983
3 percent real growth of DOD military spending	121	134	149	166	183
Fiscal year 1978 submission, 5-yr projection	124	136	148	159	(1)
Current policy	119	128	139	150	161

[1] Not available.

TABLE 5.—COSTS OF ALTERNATIVE NATIONAL HEALTH INSURANCE PROPOSALS

[Outlays in billions of dollars]

	1979	1980	1981	1982	1983
Catastrophic health insurance	0	0	11.3	16.6	21.8
Federalized medicaid	0	0	6.4	6.9	7.5
Total	0	0	17.7	23.5	29.3

Urban programs

Numerous proposals to provide aid of various kinds to U.S. cities have been made in the Congress. Plans range from major attempts to rebuild decaying city centers to modest ones aimed at improving schools in areas with high concentrations of disadvantaged children. The Administration has indicated that it will introduce a proposal; details on this plan are not yet available. Because of the uncertainties and the range of possibilities, the projections for urban programs given later in this testimony simply assume a hypothetical program that starts at zero in 1979 and grows to $12 billion in 1983. This can be taken to represent any of a number of possible, fairly extensive, programs.

Other program initiatives

Almost every Member of Congress can point to ongoing programs that he feels deserve more funding. In the context of a half-trillion dollar budget, most of these proposed increases are quite modest. But a series of small increases, when combined, can represent a significant rise in expenditures. For example, if the various contributory benefit payments to individuals rose at an average rate of 2 percent per year—keeping pace with the growth of wages rather than just rising with prices as is assumed in the current policy projections—outlays in Fiscal Year 1983 would rise by up to $24 billion. A similar increase of 2 per cent per year would raise grants to state and local governments by more than $4 billion. If the Congress allowed small increases in many programs, it could lose the chance to achieve its economic goals while initiating major programs or tax cuts. Multiyear budgeting could help focus attention on this danger.

Possible total increases

The foregoing list of new initiatives is clearly incomplete. I have said nothing about energy, for example, or about transportation, space exploration, or agriculture. But the few items I did touch on illustrate the point that proposals now under serious discussion could easily add $100 billion to federal spending by Fiscal Year 1983, even without comprehensive national health insurance.[3]

CUTS BELOW CURRENT POLICY

Cutting federal spending down from current policy levels is clearly more difficult than increasing it. Opportunities for cuts in some areas, however, may arise from the passage of new legislation in related areas. Thus, for example, some observers might feel that the enactment of an incremental welfare reform option that would federalize the state cost of Aid to Families with Dependent Children (AFDC) would allow the Congress to eliminate the state share of the general revenue sharing program. Similarly, an increase in federal funding for elementary and secondary education might permit a phasing out of all or part of the impact aid program. Such tradeoffs could be seen as part of an overall strategy to limit or reduce the federal role.

Refusals to grant discretionary increases for inflation might also hold expenditures below current policy levels. For example, $7.7 billion could be saved in Fiscal Year 1983 by holding most state and local grant programs to current funding levels without allowances for inflation. A series of these cutbacks could have a significant effect on what share of the budget goes to different types of activities. The series of changes illustrated in Table 6 would have the effect of lowering the percentage of the budget that would aid state and local governments from 10 percent under current policy to roughly 8 percent in Fiscal Year 1983.

Footnotes at end of article.

TABLE 6.—POSSIBLE REDUCTIONS IN OUTLAYS FROM CURRENT POLICY FOR SELECTED STATE AND LOCAL GRANT PROGRAMS

[By fiscal years; in billions of dollars]

	1979	1980	1981	1982	1983
Eliminate State share of general revenue sharing and hold at current law levels			2.6	3.1	3.7
Limit LEAA's responsibility to research [1]	0.5	0.6	.6	.6	.6
Eliminate "impact" aid (education)	.8	.8	.9	.9	1.0
Hold other grant programs at current levels (no increases for inflation)	.6	1.9	3.5	5.3	7.7
Total	1.9	3.3	7.6	9.9	13.0

[1] Law Enforcement Assistance Administration.

Additional reductions might be achieved by changes in Defense Department manpower policies. Programs designed to diminish the fraction of the armed forces engaged in training, to encourage reenlistment, to make military pay fully taxable, and to reform the department's civilian pay practices could save $2.5 billion a year by 1983. Reform of the military retirement system could not bring about major savings during the next five years, but further in the future, the effects of reform could be quite significant, cutting outlays by as much as $2 billion per year.

TAX REDUCTIONS AND REFORM

Support for major tax reductions grows largely out of two perceptions: that a general reduction in the size of the federal government is desirable, and that there is a need to offset the recently enacted social security tax increases and the effects of inflation on the income tax. By Fiscal Year 1983, the social security tax increase just passed will yield on the order of $27 billion extra in federal revenues. These increased revenues are likely to have a depressing effect on the economy that will have to be offset by lowering other taxes. If the Congress votes major new tax increases as part of a comprehensive energy program, the need for tax cuts could be further intensified.

Thus, the situation the Congress faces, Mr. Chairman, is one of having to choose among competing goals. Faster economic growth would entail a greater risk of inflation. Speedier reductions in unemployment require larger federal deficits. More program initiatives would mean smaller tax cuts. Tight restraints on the size of the federal sector of the economy would require difficult choices among new spending programs.

RESOURCES FOR PROGRAMS AND TAX CUTS

Economists used to warn the Congress that adding substantial new federal programs to the current policy base would require increases in tax rates. But with inflation running at 5 percent to 6 percent, increases in effective tax rates are automatic. Unless tax laws are changed or nonfederal demand is much stronger than it has been in recent years, the increases in expenditures required to achieve even quite modest rates of economic growth would probably be large enough to accommodate most of the major new spending programs proposed for the next few years (increased defense spending, welfare reform, the first phases of a national health insurance system, and new initiatives to aid cities). Indeed, if the Congress chooses to seek fairly rapid economic growth, but not to cut tax rates, even the adoption of all of these spending programs would fail to offset the fiscal drag; even larger increases in federal spending would be necessary.

But to hold tax laws constant and offset the fiscal drag entirely through increased federal spending would result in a federal sector that is much larger relative to GNP in the future than it is today. If federal expenditures are to be held at or below their curent 22 percent share of GNP, a large portion of the needed economic stimulus will have to be provided through tax reductions rather than spending increases.

THREE ALTERNATIVE BUDGETARY APPROACHES

To illustrate these points, we have prepared three hypothetical five-year budgets. The first and second cut the federal share of GNP but vary the extent to which the fiscal drag is offset and consequently the rates of economic growth, unemployment, and inflation. The third increases growth and employment rapidly by relatively unrestricted federal spending. Let me emphasize, however, that a large public share of GNP and rapid growth do not necessarily go together. Large tax cuts could make possible the combination of a much smaller federal share and rapid growth.

Budget I. Smaller Federal sector

The budgetary policy depicted in Table 7 is designed to shrink the fraction of potential GNP accounted for by federal spending from its current level of 21 percent down to 19.5 percent by Fiscal Year 1983. At the same time, such a policy would promote a continuing, moderate rate of economic growth. (In this illustration and in all the illustrations I will present, we have assumed that the level of nonfederal demand is vigorous, but not unprecedentedly so.) Given the budget shown in Table 7, inflation could be expected to decline from an estimated 6.0 percent in Fiscal Year 1978 to 5.1 percent in Fiscal Year 1983. This could be accomplished, however, only by slowing the rate of real economic growth to about 4 percent a year. This growth rate would be sufficient to alleviate unemployment only modestly—from 6.4 percent at present to about 5.6 percent in Fiscal Year 1983.

Reducing federal spending to 19.5 percent of potential GNP by 1983 restricts the growth of federal spending sharply. In fact, for the first three years shown in Table 7, federal outlays must be slightly below current policy outlays. Only in Fiscal Year 1983 do federal outlays rise above the current policy level, and then only by $11 billion. This means that if any new federal spending is to be undertaken, offsetting cuts will have to be made in already existing programs. To illustrate this point, we have included in this budget sufficient increases in federal spending to allow 3 percent real growth of defense spending and a modest increase in federal spending associated with an incremental reform of the current welfare system. Please note that reductions of as much as $20 billion must be made in other programs in order to make room for these increases in spending.

TABLE 7.—BUDGET I: LOWER GROWTH AND BALANCED BUDGET IN 1981 (EXPENDITURES FALL TO 19.5 PERCENT OF POTENTIAL GNP BY 1983)

[By fiscal years; in billions of dollars] [1]

	1979	1980	1981	1982	1983
Real GNP growth rate (percent)	4.3	4.0	4.0	4.0	4.0
Unemployment rate (percent)	6.3	6.1	6.0	5.8	5.6
Inflation rate (percent)	5.9	5.7	5.3	5.2	5.1
Current policy outlays	493	529	565	605	651
Changes from current policy:					
3-percent real growth in defense spending	5	10	13	19	25
Incremental welfare reform [2]	4	5	5	6	6
Subtotal	502	544	583	630	682
Spending cuts below current policy to reach 19.5 percent	10	19	24	24	20
Total outlays	492	525	559	605	662
Current policy revenues	463	524	599	673	750
Tax cuts required below current policy	22	40	70	87	96
Total revenues	441	484	529	586	654
Budget surplus	−51	−41	−30	−19	−8

[1] Detail may not add to totals because of rounding.
[2] Some increased Federal spending is offset by decreased State and local spending.

Note: Assumes 4-percent real growth in GNP after fiscal year 1979.

ADDITIONAL EXAMPLE.—BUDGET IA: MODERATE GROWTH (4.4 PERCENT) THROUGH 1983 WITH EXPENDITURES FALLING TO 19.5 PERCENT OF POTENTIAL GNP BY 1983

[By fiscal years, in billions of dollars]

	1979	1980	1981	1982	1983
Real GNP growth rate (percent)	4.4	4.4	4.4	4.4	4.4
Unemployment rate (percent)	6.3	6.0	5.6	5.3	5.0
Inflation rate (percent)	6.0	5.8	5.4	5.4	5.4
Current policy outlays	493	529	565	607	654
Changes from current policy:					
3 percent real growth in defense spending	5	10	13	19	25
Incremental welfare reform [2]	4	5	5	6	6
Subtotal	502	544	583	632	685
Spending cuts below current policy to reach 19.5 percent	10	19	24	24	20
Total outlays	492	525	559	608	665
Current policy revenues	463	527	605	685	768
Tax cuts required below current policy	22	53	85	112	126
Total revenues	441	474	520	573	642
Budget surplus	−51	−51	−39	−35	−23

[1] Detail may not add to totals because of rounding.
[2] Some increased Federal spending is offset by decreased State and local spending.

Note: Assumes 4.4 percent real growth in GNP beginning in fiscal year 1979.

Because federal spending is so restricted in this budget, most of the fiscal drag offset required to produce even the relatively slow economic growth shown in the table is provided through tax cuts. These amount to $22 billion in Fiscal Year 1979. Another $74 billion cut below current policy is required between 1979 and 1983. Despite these large tax cuts, however, the federal deficit moves steadily toward surplus. A $51 billion deficit in 1979 becomes an $8 billion deficit in 1983.

Budget II. More rapid economic growth and a small decrease in the Federal sector

The set of budgets illustrated in Table 8 would lower federal spending only to 20.5 percent of potential GNP by fiscal year 1983 and could produce a faster reduction in unemployment at the price of more inflation. In this example, larger spending increases and tax cuts result in real rates of economic growth of 4.8 percent a year through 1982 and a slower rate of 3.7 percent in 1983. The reason for this slowing in the rate of economic growth is that, by 1983, the unemployment rate would be down to 4.5 percent (a level sometimes termed "full employment") and if such rapid economic growth were to continue, strong inflationary pressures would be generated. As it is, the rate of inflation declines slightly in Fiscal Year 1981 but would begin to rise in 1982 and 1983.

TABLE 8.—BUDGET II: CURRENT POLICY PLUS LIMITED INITIATIVES (EXPENDITURES GO TO 20.5 PERCENT OF POTENTIAL GNP BY 1983)

[By fiscal years; in billions of dollars]

	1979	1980	1981	1982	1983
Real GNP growth rate (percent)	4.6	4.8	4.8	4.8	4.0
Unemployment rate (percent)	6.3	5.8	5.3	4.8	4.5
Inflation rate (percent)	6.0	5.8	5.5	5.6	5.8
Current policy outlays	495	529	565	606	655
Changes from current policy:					
5-yr projection of defense spending	5	8	9	9	[2] 10
Major welfare reform [3]	5	9	12	18	18
Federalized medicaid [3]	0	0	6	7	8
Other changes	1	2	0	−1	4
Total outlays	506	548	592	639	695
Current policy revenues	463	528	608	692	777
Available for tax cuts below current policy	19	41	63	97	109
Total revenues	444	487	545	595	668
Budget surplus	−62	−61	−47	−44	−27

[1] Detail may not add to totals because of rounding.
[2] Projected.
[3] Some increased Federal spending is offset by decreased State and local spending.

Note: Assumes 4.8 percent real growth through fiscal year 1982, falling to 3.7 percent in fiscal year 1983.

By allowing federal expenditures to constitute a slightly larger share of GNP, more room is available in this example for new spending initiatives. By 1983, federal outlays can be $40 billion higher than current policy levels. This amount is sufficient to allow defense spending to grow at the rates projected in the Five Year Defense Plan submitted with last year's budget request and to allow both the implementation of the Administration's welfare reform program and the "federalization" of the medicaid program. Even if these new programs were implemented, some room would be left over for small increases in other programs.

Federal outlays are higher in Budget II than in Budget I, but in later years, the tax cuts required to sustain the higher growth rates are larger also. By 1983, these cuts will have to be large enough so that federal revenues are $109 billion below what they would be if current policy taxes were maintained. These large tax cuts, coupled with the spending growth, result in larger federal deficits than in the first hypothetical budget.

The tax cuts shown in Budget II can be characterized by their likely effect on individual income tax rates. If the $107 billion cut were divided between business and personal taxes in roughly the same proportion as cuts have been divided in the past, one might expect that $75 billion of the cut would be in personal income tax. Such a cut might be accomplished in several ways, for example:

By subtracting 5 percent tax points from each rate so that the rates would range from 9 to 65 percent instead of the current 14 to 70 percent; or

By setting each rate at 80 percent of its previous level so that new rates would run from 11 percent to 56 percent.

Obviously, such changes are large enough to be perceptible to most taxpayers.

Budget III. Rapid reduction in unemployment, no constraint on Federal spending

A budget designed to lower the rate of unemployment to 4 percent by calendar year 1983 and then to maintain that level is illustrated in Table 9. To reach this goal, very rapid economic growth is needed and large amounts of federal stimulus are necessary to produce this rapid growth. The price paid for this rapid growth, however, is higher inflation. By 1983, inflation would remain at 6 percent per year. Because inflation usually lags behind economic growth, the worst of

the inflation effects of this set of budgets would not appear until 1985 when the inflation rate would reach 7.5 percent.

TABLE 9.—BUDGET III: HIGHER EMPLOYMENT, GREATER INFLATION, MORE PROGRAM INITIATIVES

[In billions of dollars]

	1979	1980	1981	1982	1983
Real GNP growth rate (percent)	4.6	4.8	4.9	5.0	5.0
Unemployment rate (percent)	6.3	5.8	5.3	4.8	4.2
Inflation rate (percent)	6.0	5.9	5.5	5.7	6.0
Current policy outlays	495	529	566	609	661
Changes from current policy:					
5-yr projection of defense spending	5	8	9	9	[2] 10
Catastrophic health insurance plus federalized medicaid [3]	0	0	18	24	29
Major welfare reform [3]	5	9	12	18	18
Urban policy initiative	0	6	8	10	12
Other changes	3	7	13	29	53
Total outlays	508	559	626	699	783
Current policy revenues	463	529	610	695	788
Available for tax cuts-below current policy	16	28	29	33	33
Total revenues	447	501	582	662	755
Budget surplus	−61	−58	−44	−37	−28

[1] Detail may not add to totals because of rounding.
[2] Projected.
[3] Some increased Federal spending is offset by decreased State and local spending.

Note: Assumes same path as budget II but continued growth in fiscal years 1982 and 1983.

Please note that it will be much easier to maintain a 4 percent level of unemployment after 1983 than it would be today. Declining birth rates in the past mean that, in the mid-1980s, fewer young workers will be entering the labor force than are entering it today. This will slow the growth of the total labor force, and real economic growth of only about 2.8 percent per year will be needed to maintain unemployment at the 4 percent level; it takes about 3.8 percent real growth to accomplish this today.

In Budget III, no constraint is placed on the size of federal spending. For illustrative purposes, we have included all of the major new spending programs that have been suggested, as well as sizable increases in other, existing programs. These increases will result in a federal sector that would account for a slightly larger share of potential GNP in 1983 than it does today. Despite these large increases in federal spending, a large, permanent tax cut is still required initially to produce economic growth.

CONCLUSIONS

Mr. Chairman, the examples I have just outlined represent only a sampling of the budgetary options available to the Congress over the next five years. Moreover, of course, great uncertainty attaches to all these estimates. The examples do, however, illustrate the range of choices open to the Congress; they also show how choices of one goal or policy constrain the possibilities of pursuing other goals. Comparison of the three budgets suggests the following general observations:

In order to get to an economic path with significant declines in unemployment, major tax cuts or increases in expenditures—or both—will be required;

Any economic path with significant economic growth will generate enough revenue to pay for most of the new program initiatives that are now under discussion, unless the Congress wishes to reduce the federal share of GNP; and

If the Congress does wish to cut the share of GNP going to the federal government, then new initiatives will have to be limited or financed by cutbacks in current programs, and the offsets to fiscal drag will have to come mostly from tax cuts.

The hypothetical budgets also illustrate the importance of looking beyond Fiscal Year 1979. The performance of the economy varies only slightly from one example to another in Fiscal Years 1979 or 1980; but by 1983 these differences are quite marked. Major changes in the economy cannot be achieved in a year or two. Several years of concerted budgetary policies are needed. Similarly, program goals may take years to accomplish. Social programs must be phased in gradually to avoid disruption. Research and development must be completed before new weapon systems can be deployed. The design of complex programs may require years of technical and political preparation. For all these reasons, it is necessary for the Congress to take actions today that are designed to bring about results in the future. Conversely, the Congress must also take into account now the fact that actions taken to achieve immediate ends may have budgetary or functional implications for the future. Decisions made to respond to needs in the short term can constrain the choices available to future Congresses.

Making changes in national policy and keeping current decisions consistent with future goals could be made considerably easier if the Congress had a method for systematic reconciliation of future goals and current decisions Such a method could be provided by shifting to a multiyear framework for budgetary decisions, with the Congress adopting budgetary targets for five years in advance. Such targets would not be binding and could be reviewed each year. But the process of setting the targets would compel the Congress to consider the future consequences of present actions. This in turn would give the Congress the opportunity to influence the size and composition of federal spending and revenues by choice rather than by accident.

FOOTNOTES

[1] This projection includes the effects of the social security tax legislation passed after the Second Concurrent Resolution on the Budget for Fiscal Year 1978.

[2] More details are given here in Table 2 and in CBO *Five-Year Budget Projections: Fiscal Years 1979–1983*, Report, December 1977.

[3] This sum breaks down as follows: welfare reform ($18 billion), plus 3 percent real growth in defense spending ($22 billion), plus catastrophic health insurance and federalized medicaid ($30 billion), plus a new urban program ($12 billion), plus a modest allowance for other increases ($15 billion).

VETERANS' AFFAIRS

Mr. THURMOND. Mr. President, on January 18, 1978, Oliver E. Meadows, national commander of the Disabled American Veterans, appeared before a joint hearing of the House and Senate Committees on Veterans' Affairs and presented the 1978 legislative objectives adopted by the Disabled American Veterans at their national convention.

The primary mission of the DAV—unchanged in the 58 years of its existence—is to preserve and improve those Federal veterans benefit programs which are designed to assist disabled war veterans, their dependents and the survivors of service-connected dead. The DAV should be commended for so ably carrying out these objectives.

In his presentation before the committees Commander Meadows emphasized that the members of the DAV are interested in legislation that will provide appropriate increases in disability compensation and DIC programs, maintenance of an independent VA hospital system, education benefits to dependents of veterans with service-connected disabilities of 80 percent or more, improvements in home loan programs, and employment problems of Vietnam-era veterans, particularly those who are disabled. The testimony of Commander Meadows will be instrumental to the committees in formulating and evaluating legislation during this session of Congress.

Mr. President, in order to share the legislative concerns of the Disabled American Veterans with my colleagues, I ask unanimous consent that their legislative statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF OLIVER E. MEADOWS

Mr. Chairman and members of the veterans' committees: We are grateful for the privilege of this joint hearing and I thank you on behalf of the 550,000 members of the Disabled American Veterans and the 58,000 ladies of the Auxiliary for this opportunity to present our Legislative Program.

The primary mission of the DAV—unchanged in the 58 years of our existence—is to preserve and improve those Federal veterans benefit programs which are designed to assist disabled war veterans, their dependents and the survivors of service-connected dead.

It is on behalf of the service-connected disabled "citizen soldier"—the original beneficiary for whom America's system of veterans benefits and services was created—that I appear before you today.

Mr. Chairman, I shall enumerate some of the more important, priority legislative objectives established by the delegates to our most recent National Convention.

However, before getting into the specifics of our current Legislative Program, I wish to take a few moments to say some things which I feel are in need of public statement and examination.

I believe that somewhere along the way our government has become philosophically out of step with the basic principle upon which our veterans benefits system was founded.

That principle is that this Nation owes its greatest debt to those men and women who have become disabled in the wartime military service of their Country.

I fear that this basic commitment and focus has been, if not replaced, certainly overshadowed by a preoccupation with the non-service-connected segment of our veteran population. There seems to be a growing tendency to give more attention to the demands of able-bodied and non-service-connected disabled veterans. In the process, the specialized programs of the service-connected disabled appear to have lost their special status and seem to be of secondary concern.

Ask yourself if you will, during the Session of Congress just completed, how much time your Committees have been forced to spend on issues that affect veterans programs which have nothing to do with the service-connected disabled.

Here is a listing of the types of issues that received the most attention in the last Session:

A World War I pension bill that proposes additional billions of dollars for non-service-connected veterans, funding for which was adopted as an amendment during floor con-

sideration of the First Concurrent Budget Resolution;

An extremely costly Social Security pass-through amendment for VA pension recipients adopted by the Senate during consideration of Social Security legislation;

The proposed GI bill amendments which centered around veterans attending high cost schools, the cost of which was projected into billions of dollars;

Legislation to grant veteran status and provide VA benefits to a group that never actually *served* on active military duty, and to our great consternation; and

The issue of providing amnesty for Vietnam Era draft dodgers and military deserters, and entitlement to VA benefits for people who refused to serve in time of war.

These are some of the issues that took the time of the Congress this past year. And let me add, Mr. Chairman, that we are most grateful for your personal efforts and those of other Committee members in resisting these costly and unwise proposals which had the potential of undermining the soundness of the entire structure of veterans benefits and services.

Mr. Chairman, the point I am making is that all of these non-service-connected issues gained status by being adopted as amendments in floor action or were the subject of lengthy hearings, and I regret to say that little time was left for consideration of more important service-connected programs.

Let me hasten to add that I am not ignoring the service-connected program improvements which the House and Senate Veterans' Committees guided through the Congress last year. They are deeply appreciated and the DAV fully realizes that were it not for your advocacy, they would not now be on the statute books.

However I must stress that, with the aid of the Veterans' Committees, the DAV has been forced to fight with all of its resources to either gain program improvements that barely keep the heads of disabled veterans above water, or to fend off concentrated efforts that would detract from existing benefit levels.

Examples abound of proposals that have required this type of defensive action:

In 1973 a proposed "validation" of the VA Rating Schedule called for wholesale reductions in combat related disability evaluations;

In 1975 and '76 there was a serious move to subject all payments of disability compensation and military retirement pay to Federal taxation;

In 1977 the Senate Veterans' Affairs Committee was almost legislated out of existence, the Secretary of HEW publicly stated that VA disability compensation and pension fell within his purview for study and reform, and the Chairman of the Civil Service Commission said that veterans' preference must go;

Currently, HUD covets the VA housing program, HEW desires to control VA medical care, while the National Academy of Sciences states that acute VA medical care should be phased out completely.

Why are proposals such as these occurring with more and more frequency? Why have the VA system and its beneficiaries become the targets of social planners and so-called reformers?

Why, Mr. Chairman, must the House and Senate Veterans' Committees spend so much of their valuable time resisting unreasonable attempts to expand non-service-connected programs that would cost billions?

As indicated earlier, I suspect that the answer is that we have lost sight of our proper goals and priorities and have forgotten that veterans programs exist primarily to serve the war disabled.

It is with these thoughts and these concerns in mind, Mr. Chairman, that I appear before you today and respectfully direct your attention to several high priority DAV legislative objectives which, I feel, would return the emphasis on veterans benefits and services back upon the wartime disabled.

DISABILITY COMPENSATION AND DIC PROGRAMS

With the possible exception of medical care, no other Federal program symbolizes the manifest concern held by the American people for the wartime disabled veteran than does the VA's disability compensation program. Compensation for impaired earnings capacity due to service related wounds, injuries and diseases is as essential and morally justifiable today as it was in colonial America when, in 1624, the Virginia General Assembly provided benefits to veterans who were injured during the Indian Wars.

Over the years, the Veterans' Committees have been steadfast in assuring that disability compensation and DIC benefits are periodically adjusted in order to offset inflationary pressures. We are indeed grateful for these efforts and we ask that, as you contemplate the scope of your legislative initiatives during the coming year, you give special attention to legislation that will provide appropriate increases in these payments in line with anticipated changes in the cost-of-living.

Concurrent with your examination of disability compensation payments, I would ask that you consider a DAV legislative objective which relates to the dependency allowances paid to compensation recipients.

Under current law, veterans with service-connected disabilities of 50 percent or more receive additional payments for their dependents. Service-connected veterans rated less than 50-percent disabled do not receive any payment for their dependents. I can think of no rational justification for this inequitable discrepancy.

As the term implies, a dependency allowance is a supplemental payment made in recognition of the expenses involved with raising a family. Mr. Chairman, some of the disabilities rated below 50 percent are very serious.

For example: A below the knee amputation, the enucleation of an eye, many types of severe gunshot wounds, removal of a kidney, severely disfiguring scars and epilepsy.

Certainly there is no justification for failing to recognize the dependency obligation of seriously disabled veterans who have incurred injuries such as these.

At DAV request, Chairman Montgomery of the Subcommittee on Compensation, Pension, and Insurance has introduced legislation (H.R. 10336) which would authorize payment of dependency allowances, on a proportionate basis, for service-connected disabilities in the 10 percent through 40 percent categories. I urge your favorable consideration of this measure.

Our National Convention has also reaffirmed another long-standing DAV legislative objective—the presumption of service-connection for the cause of death in certain cases where the veteran had a permanent and total service-connected disability in existence at time of death.

Mr. Chairman, recent studies on the disposition of this category of DIC claim—studies conducted by both the VA and the DAV—have indicated that in the absence of continued scrutiny by the VA's Central Office and your Committees, VA field stations have been denying one in every four claims submitted.

In their contributory cause of death determinations they have not been taking into account the devastating nature of a long-standing, total disability, its adverse affect on the general well-being of the veteran, and hence its relationship to the death process.

Very similar cases—in terms of the service-connected disability and the primary cause of death—receive dissimilar consideration by the various VA Rating Boards throughout the Country. At times this lack of decision uniformity seems almost capricious in nature. Overall, the Rating Boards seem reluctant to use the vast discretionary power with which they are currently vested in making favorable contributory cause of death determinations.

It was through Congressional intervention that a 25% denial rate in 1974 was cut to 13% in 1975. Our recent DAV study reveals, however, that this liberalization in service-connected death determinations was only of a temporary nature.

In order to assure that the widows and orphans of these 100 percent service-connected veterans are treated uniformly, with fairness and compassion, we urge a legislative remedy. Such legislation (H.R. 1894) has been introduced by the distinguished Chairman of the House Committee. Its implementation would be very modest in cost and I urge that you give it your strongest support.

There are two other DAV objectives relating to the disability compensation program which I wish to bring to your attention. Both deal with the benefit payments received by service-connected veterans who suffer the actual loss, or loss of use of, one or more extremities.

The first would amend Section 360, Title 38, U.S. Code, thereby authorizing increased disability compensation payments to veterans who are service-connected for the loss, or loss of use of, one extremity and who subsequently incur the non-service-connected loss, or loss of use of, the second, paired extremity.

Mr. Chairman, the concept of paired organ impairment is presently set forth in Section 360 and it applies to the loss of eyesight, kidney function and hearing. Under present law, veterans who are service-connected for a unilateral loss of function in any one of these three areas are compensated by the VA at a rate commensurate with a service-connected bilateral loss if, in fact, such a total loss is later incured. I feel most definitely that the concept of paired organ involvement set forth in Section 360 should be logically and justifiably extended to cover the loss of paired extremities.

A bill accomplishing these objectives, H.R. 6501, has already received the approval of the House of Representatives on May 23 of last year.

We are indeed grateful to the House Veterans' Committee who of course is responsible for achieving this approval. This bill is not costly and it benefits some very seriously disabled veterans. We hope the Senate Committee will soon act favorably on this bill.

The second measure relating to amputee veterans would provide increased benefit payments to those who suffer the loss, or loss of use of, three extremities.

Mr. Chairman there are presently 727 such seriously disabled veterans, 89 of whom have incurred the actual physical loss of three extremities. In my opinion, the disability compensation currently extended to these multiple amputees does not adequately reflect the catastrophic economic and social loss which they have incurred. Legislation (H.R. 10339) was recently introduced by Mr. Montgomery which would, I believe, authorize a more realistic level of benefit payment.

This proposal carries with it a comparatively low initial cost—approximately $1.5 million in the first year—and we respectfully request its approval.

MEDICAL CARE

I wish to commend the members of the Veterans' Committees for their staunch efforts in support of the continued existence and independence of our VA hospital system.

This has been most notably evident in your reaction to certain policy recommenda-

tions recently made by the National Academy of Sciences in their study of VA health care services.

These recommendations, if carried out, would cut the very heart and soul from the full range of medical services presently offered by the VA—leaving nothing behind but a stagnant series of custodial type medical facilities. We wish to express our special appreciation to you, Mr. Chairman, and to Mr. Satterfield, Chairman of the Hospital and Medical Subcommittee, and to Mr. Hammerschmidt, Mrs. Heckler and Mr. Teague for your forceful and effective resistance to these recommendations.

We are of course equally grateful to Chairman Cranston, of the Senate Committee, to Senators Durkin, Randolph, Matsunaga, and Thurmond, and to all members of both Veterans' Committees who have been so highly vocal in their criticism of the NAS study recommendations.

I pledge to you all the continued support of the DAV towards the goal of insuring that our VA medical care system is never merged with, or made subservient to, any other Federal agency or program.

Mr. Chairman, our organization was particularly pleased by the passage of Public Law 94–581, the Veterans Omnibus Health Care Act of 1976. I therefore wish to bring to your attention two legislative objectives of the DAV which, I feel, are compatible with the spirit embodied in P.L. 94–581.

The first would extend VA dependents medical care entitlement—CHAMPVA—to those veterans who are service-connected disabled at a rate of 80% or more. CHAMPVA entitlement is now limited to the dependents of a veteran who has a total and permanent service-connected disability or to the survivors of a veteran who died a service-connected death.

Our proposal represents a logical extension of these benefits and would parallel similar liberalizations in medical care eligibility that have been made with respect to the more seriously disabled veteran. Approximately 52,500 veterans rated 80% and 90% disabled would benefit from this proposal.

The other Convention mandate would authorize outpatient dental care for the totally disabled service-connected veteran. Without going into detail regarding the half dozen or so special instances in which VA outpatient dental treatment can presently be authorized, suffice it to say that such treatment is generally not available to the seriously disabled service-connected veteran unless he becomes a patient in a VA hospital and stays there long enough to get his dental work done.

The VA operates dental facilities and provides a fulltime staff in every one of its 171 hospitals and a number of its outpatient clinics. Not to extend outpatient dental care to the serious disabled service-connected veteran is, in my opinion, without logic for it leaves a sizable "gap" in the total health care concept which currently applies to the seriously disabled.

In Fiscal Year 1977, 171,754 veterans—only 20% of which had service-connected disabilities—received dental treatment in VA medical facilities at a cost of $66.9 million. Surely the totally disabled service-connected veteran deserves entitlement to outpatient treatment in our dental clinics and enactment of this proposal would carry a comparatively low cost—approximately $6.3 million in the first year.

EDUCATION

Mr. Chairman, in 1977 the Congress devoted considerable time to improving educational benefits currently provided under Chapter 34, Title 38, USC—the GI bill. As a consequence of those efforts, GI bill trainees not only received a 6.6 percent cost-of-living increase in their subsistence allowances but also gained access to a greatly expanded educational loan program.

A provision of the 1977 GI Bill Improvement Act directed a VA study of the vocational rehabilitation program for service-connected disabled veterans. I venture to say that the study results will show that vocational rehabilitation trainees are experiencing the same high cost of subsistence—food, clothing, shelter—as are their non-disabled GI bill counterparts. With this in mind, I request that you closely examine the adequacy of the current Chapter 31 subsistence allowance rates and take appropriate action to raise these allowances for disabled veterans attending school.

I also ask that you favorably consider another DAV legislative objective which was introduced by Mr. Teague at our request. H.R. 10399 would extend entitlement under the Survivors and Dependents Educational Program (Chapter 35, Title 38, USC) to the dependents of veterans with service-connected disabilities of 80 percent or more. Presently this program is made available to the survivors of veterans who died as the result of a service-connected disability, or to the dependents of permanently and totally disabled service-connected veterans.

This liberalization of law would cover the eligible dependents of the 52,500 veterans who are presently rated as being 80-percent or 90-percent disabled, extending to them an educational benefit payment directly proportionate—according to the veteran's percentage of disability—to the current rate paid to a dependent of a totally disabled veteran.

We estimate that if each veteran in the 80-percent and 90-percent disability categories had one eligible dependent who chose to use such entitlement (highly unlikely), the first year cost would be approximately $161.8 million. We think this modest expansion of the war orphans educational program is justified in view of the very substantial sums being spent by the Federal Government for educational grants where no special sacrifice on the part of the recipient is involved.

HOME LOAN PROGRAM

Our Convention delegates also approved resolutions in support of two bills for improvements in the VA home loan program which were introduced at DAV request by Chairman Brinkley of the Subcommittee on Housing.

They are: (1) H.R. 10268—which proposes an increase in the amount of the VA loan guarantee for conventional housing from its present $17,500 to $25,000 and (2) H.R. 10269—which would increase the VA special adapted housing award (the wheelchair home grant) from $25,000 to $30,000.

Justification for these liberalizations, I feel, is overwhelmingly obvious—the increase in the cost of housing construction and purchase today can be literally followed from one month to the next by simply reading the real estate section of any newspaper in this country. Assuming the continued self-sustaining operation of the VA Home Loan Program, an increase in the loan guarantee amount would involve no increased outlay of Federal funds. The specially adapted housing liberalization we propose would only cost approximately $3 million in its first year.

EMPLOYMENT

The final proposal that I wish to bring to your attention today, Mr. Chairman, concerns the employment—or rather unemployment—problems of Vietnam Era veterans, particularly those who are disabled.

The DAV is greatly concerned over the Department of Labor's ineffective implementation and enforcement of existing laws and programs which were designed to ease the deplorable unemployment rate of our Nation's disabled veterans.

We find that we have been forced to level increasing amounts of criticism at the DOL not only for its lethargic efforts, but also for the apathy and ineptitude existing in the Veterans Employment Service. Our communications with them have resulted in little more than "lip service" in which they echo our own concerns back to us.

Since the Veterans Employment Service will not, or cannot, carry out its mission within the confines of the Department of Labor, our organization has come to the inescapable conclusion that the Veterans Employment Service and its responsibilities should be placed in the Agency where it should have been all along—the Veterans Administration.

I therefore ask your support of legislation that would transfer the Veterans Employment Service and all of its functions to the Veterans Administration.

This completes my formal presentation Mr. Chairman. I trust you will agree that our proposals are not only justifiable, but are also modest. They mostly deal with the needs of seriously disabled service-connected veterans. Five of those that I have enumerated here today carry a total first year cost of only $13 million.

We believe they are deserving of priority consideration and that they should be placed in your budget ahead of the myriad of non-service-connected proposals that are also competing for your attention.

I look forward to working with your Committees and your excellent staffs in the months ahead, as together we seek to serve the best interests of our Nation's war disabled, their dependents and survivors.

Thank you very much for hearing us today.

A TRIBUTE TO JOHN MOSS AND B. F. SISK

Mr. CRANSTON. Mr. President, two of California's senior Democratic Congressmen, JOHN Moss of Sacramento and BERNIE SISK of Fresno announced during the recess that they would not seek reelection this year.

Both men will be sorely missed in these Halls of Congress.

They both are superior legislators and courageous and outspoken advocates of what they believe to be best for the Nation and for California. And they are both long-time personal friends and political counsellors of mine.

By coincidence the major newspaper in each man's district is a McClatchy paper. I suspect that the Sacramento Bee and the Fresno Bee have followed the Congressional careers of JOHN Moss and BERNIE SISK more closely than any other objective observor. Thus, the Bee's tributes to both Congressmen are splendid testimony to their qualities and their contributions to California's central valley and to our people.

I ask unanimous consent that the Sacramento Bee editorial on JOHN Moss of January 7 and the Fresno Bee editorial on B. F. SISK of January 5 be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Jan. 7, 1978]

A SALUTE TO JOHN MOSS

A strong, stubbornly independent voice will no longer ring out on Capitol Hill next year when Rep. John E. Moss of Sacramento begins his voluntary retirement.

Lobbyists for certain interests, committee witnesses he has questioned relentlessly and,

yes, some colleagues who have felt his sting in his 25 years in Congress will be happy over his decision not to seek re-election.

Far more important, though, the House will lose an aggressive champion of often unpopular causes, a critic of wrongdoing and a persistent battler against governmental secrecy. His district will lose a lawmaker who didn't allow interest in national issues to obscure attention to local needs.

No president since Dwight D. Eisenhower has escaped tangling with the feisty California Democrat. Moss was among the first to call for Richard Nixon's impeachment. He has differed regularly with Jimmy Carter, especially on energy.

Moss voted against Carter's energy package. He called it a "cruel rip-off of the American consumer." He has been a prime irritant to the oil and gas industry in opposing its polices and efforts to repeal federal price controls.

The Sacramento congressman showed a high degree of tenacity from his first days in Washington. He worked for 11 years to win passage of the Freedom of Information Act which opens government records to the public as never before. National acclaim greeted his investigations into news suppression by the executive department in several administrations and for probing U.S. economic and military assistance programs in Vietnam.

We have not always agreed with Moss on his views or, on occasion, his votes. But we know the 3rd Congressional District has been ably served by a dedicated public servant, and we send up a respectful salute to John Moss for truly living up to his title as a representative of the people for a quarter of a century.

[From the Fresno Bee, Jan. 5, 1978]

SISK'S DECISION

A few years ago, in a reminiscent mood, Rep. B. F. Sisk told an interviewer:

"I was probably the most naive person who ever went to Congress. . . . I was a political accident. . . ."

Maybe. That sort of humility comes easily and gracefully to Sisk, a man who knows his own worth and the extent of his accomplishments.

Anyway, the self-styled political accident became a phenomenal vote-getter, an extraordinarily effective lawmaker who—midway in his 12th term—has just announced his decision not to run for re-election as congressman from the 15th District.

There is plenty of time to enjoy the spectacle of the Democrats trying to save this heretofore safe seat and the Republicans trying to get it back for the first time in 24 years.

They might pause to ponder how the incumbent did it.

To an unmatched degree Sisk has been attuned to his district. Part of it may have been his background: He had paid his dues. He farmed in Texas, came to California stone broke in the dust bowl migration of the 1930s, and had to scuffle for a living. By the time he first ran for Congress he was an executive in a tire firm.

This diverse experience may have helped him balance the competing interests in a multicrop farm-based economy which has its share of urban vexations. Sisk understood that what such a district needs is not an ideological cause-chaser but rather a pragmatic problem-solver.

He assembled a competent staff, grew steadily in office, and produced. He mastered the complexities of farm and water legislation. He got on the Agriculture Committee and made sure national farm policy gave California growers their due.

He played a key part in getting water projects, such as San Luis, enacted and in helping public works projects like Hidden and Buchanan Dams over endless budgetary hurdles.

He was instrumental in getting passenger train service restored to the valley; in clearing federal funding channels for cities and school districts; in getting the Internal Revenue Service center in Fresno; in placing Cedar Grove and the Tehipite Valley in Kings Canyon National Park, safe from exploitation; in shaking the federal money tree for local public television. The list goes on.

Sisk quickly became a skillful legislative broker, using his seniority and his eventual membership on the Rules Committee to bargain for votes.

He has been very much part of the House establishment, and helped to put together compromises whereby House procedures were greatly improved.

The House also has been a source of disappointment for Sisk: He ran unsuccessfully for leadership posts.

However, he was never distracted by the Washington scene and his own ambitions, or forgot the nuts-and-bolts social service work which a congressman neglects at his peril. His staff always has excelled at such trouble-shooting.

As a result of all this, it made no difference, really, who ran against him, or the shape of the district—the boundaries have been redrawn twice and now extend north to Modesto—or the state of the nation: Sisk has overwhelmed his opponents.

But this kind of appraisal can become too impersonal. The man gets lost.

So let us not forget Sisk's forthrightness, his sincerity, his refusal to promise more than he can deliver, his courtesy and kindness, and his courage in standing fast against recurring pressure from right-wing zealots.

This truly is a man with whom one can disagree strongly and still respect.

We salute him, and we hope his final year in Congress is fruitful and happy.

THE DEATH OF SENATOR LEE METCALF

Mr. THURMOND. Mr. President, I was deeply saddened by the death last week of Senator LEE METCALF. We had served together in the Senate for 17 years, and I knew him as a man of ability and compassion.

His long and faithful service to the people of Montana will be remembered for many years. He had held some office of trust in or for Montana ever since 1936, with time out for World War II when he took up arms for his country. He had been a member of the Montana State Legislature, the Montana Supreme Court, and the U.S. House of Representatives as well as the U.S. Senate.

While he came to prominence as a part of the populist movement, whose leaders were generally known for their flamboyant rhetoric and behavior, Senator METCALF was a modest and unassuming man. Rather than seeking out headlines, he was content to work quietly behind the scenes. I particularly appreciated this trait, which is all too rare in Washington and usually undervalued.

He got much accomplished, too, by his unpretentious methods. All those who enjoy our wilderness areas, to which he gave particular attention, are in his debt.

Also, he had a lifelong devotion to the cause of the little man, the underdog, the victim of poverty or oppression. Even when we voted differently on legislative matters, as we often did, I knew that he was acting on the highest motives.

Mr. President, it is sad to have to say goodbye to this well-liked colleague of ours, but I can only be glad that I had the pleasure of knowing him.

NEW JERSEY LEGISLATURE HONORS LEO JENKINS, A NATIVE SON, AND A DISTINGUISHED ADOPTED SON OF NORTH CAROLINA

Mr. HELMS. Mr. President, the New Jersey General Assembly has adopted a resolution honoring Dr. Leo W. Jenkins, a native son of New Jersey who for three decades has been a distinguished and dedicated leader in my State of North Carolina.

Leo Jenkins is my friend, Mr. President, and I am personally grateful to the legislature for the well-deserved recognition of this outstanding citizen and educator. Leo Jenkins has left an indelible imprint not only on East Carolina University, but on the entire 24,000 square miles of our eastern region. His dynamism, his contagious faith in the possibilities for achievement in his adopted eastern North Carolina, and his dogged determination to make his visions reality, have quite literally changed the outlook of the entire coastal plains.

As he retires later this year from his post as chancellor of East Carolina University, North Carolina joins the State of New Jersey in saluting a great patriot, a great educator, and a great man.

Mr. President, I ask unanimous consent that the resolution of the New Jersey General Assembly honoring Dr. Jenkins be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

ASSEMBLY RESOLUTION

(By Assemblymen Otlowski and Karcher)

Whereas, Dr. Leo Warren Jenkins, Chancellor of East Carolina University, Greenville, North Carolina, is a native son of New Jersey who has dedicated his life to public service and gained recognition as a scholar, educator, administrator, and public servant; and,

Whereas, Born in 1913 in Succasunna, Morris County, Dr. Leo Warren Jenkins received his Bachelor of Science degree from Rutgers University, his Master of Arts degree from Columbia University and his Doctor of Education degree from New York University and served in the Marine Corps during World War II, where he rose to the rank of Major; and,

Whereas, Dr. Leo Warren Jenkins, Professor of Education at Montclair State Teachers College from 1945 to 1946 and Assistant to the Commissioner of Higher Education in New Jersey from 1946 to 1947, became Dean of East Carolina University in 1947, President of that institution in 1960, and Chancellor in 1972; and,

Whereas, While serving as President and Chancellor of East Carolina University, Dr. Leo Warren Jenkins, recognizing that eastern North Carolina was a "sleeping giant" which would soon awaken to its potential greatness, succeeded in making the University the third largest university in North Carolina, establishing a four-year, degree-granting School of Medicine at East Carolina University for which he received the North Carolina Public Service Award in 1977, now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

That this House hereby commend Dr. Leo Warren Jenkins for his long and distin-

guished record of public service to the citizens of North Carolina and take pride in his achievements as a native son and representative of the State of New Jersey; and,

Be it further resolved, That a duly authenticated copy of this resolution, signed by the Speaker and attested by the Clerk, be transmitted to Dr. Leo Warren Jenkins.

CHECKLIST OF INCOME TAX DEDUCTIONS FOR THE ELDERLY

Mr. MUSKIE. Mr. President, the Special Committee on Aging has prepared a revised income tax checklist for 1977 designed to inform older Americans of available tax deductions.

While the checklist does not, and cannot, encompass all conceivable situations, it has proven to be a valuable aid to many people in my State. Since this year's booklet contains substantial revisions to reflect changes in the tax code, I ask unanimous consent that the checklist be printed in the RECORD.

There being no objection, the checklist was ordered to be printed in the RECORD, as follows:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise are deductible to the extent that they exceed 3 percent of a taxpayer's adjusted gross income (line 31, Form 1940).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted. but is subject to the 3 percent rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3 percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3 percent limitation):

Abdominal supports (prescribed by a doctor).

Acupuncture services.

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian Science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).

Gynecologist.

Hearing aids and batteries.

Home health services.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lipreading lessons (designed to overcome a handicap).

Neurologist.

Nursing services (for medical care, including nurse's board paid by you).

Occupational therapist.

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physical therapist.

Physician.

Podiatrist.

Psychiatrist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt (prescribed by a doctor).

Seeing-eye dog and maintenance.

Speech therapist.

Splints.

Supplementary medical insurance (Part B) under Medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of fives classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends untaxed under the divided exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7 cents per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or older with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1978, you will be entitled to the additional $750 personal exemption because of age for your 1977 Federal income tax return.

"Zero Bracket Amount" (Standard Deduction).—The former standard deduction has been replaced by a flat amount the law calls "zero bracket amount." This amount depends on your filing status. It is no longer a separate deduction as such; instead, the equivalent amount is built into the new simplified tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, taxpayers who itemize deductions will need to make an adjustment. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

New Tax Tables.—New simplified tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Now, even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you no longer need to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

General Tax Credit.—The general tax credit has been revised to take into consideration the exemptions for age and blindness. Married taxpayers filing separate returns will now be limited to a credit based on $35 per exemption.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, but only one of them, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $35,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $35,000, an election may be made to exclude part of the gain based on a ratio of $35,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Alimony Paid.—Payments for alimony are new adjustments to income. You no longer have to itemize deductions to claim a deduction for alimony you paid.

Credit for the Elderly.—An expanded and simplified credit for the elderly has replaced the former more complex retirement income credit.

A taxpayer may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if the taxpayer is:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

To be eligible for this credit, taxpayers no longer must meet the income requirement of having received over $600 of earned income during each of any 10 years before this year.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If a taxpayer maintained a household that included a child under age 5 or a dependent or spouse incapable of self-care, a taxpayer may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable the taxpayer to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—A taxpayer who maintains a household for a child who is under age 19, or is a student, or is a disabled dependent, may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if a taxpayer reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, the taxpayer may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

THE NAACP STATEMENT ON ENERGY POLICY

Mr. BAKER. Mr. President, I would like to draw the attention of my esteemed colleagues to a policy statement which was recently released by the NAACP. The statement is a result of an energy conference involving representatives from the NAACP, industry, the Federal Government, and public interest groups.

The report of this group faults the President's energy plan for too much emphasis on conservation and its lack of incentives for increasing supplies. The NAACP report urges vigorous pursuit of nuclear power and the breeder reactor. In particular, the report states:

> Those aspects of the (national energy) plan which would perpetuate price controls on newly discovered oil and natural gas and extend those controls to new areas appear to us to be incompatible with the need for new supply development.

These endorsements of deregulation of new oil and natural gas and nuclear power by the NAACP will be difficult to discount as we assess the President's energy initiative.

America cannot conserve her way out of the energy crisis without paying an

intolerable price in terms of unemployment and slow economic growth. It is important that we recognize that those most hurt by economic stagnation are the poor and disadvantaged which the NAACP ably represents. A balanced energy plan needs two cornerstones: Conservation and increased production.

Mr. President, this report represents a worthwhile contribution to our Nation's debate concerning the energy crisis. I request unanimous consent that the report and its accompanying resolution by the NAACP board of directors be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE NAACP NATIONAL ENERGY CONFERENCE

The National Association for the Advancement of Colored People has for many years been dedicated to the task of defending the economic, social and political rights and interests of Black Americans. The growing national debate about energy has led us to examine this question to ascertain the implications for Black Americans. In an effort to gain a better understanding of the energy problem, the National Board of the NAACP convened a Conference on Energy in Washington, D.C., November 18 and 19, 1977. Leaders of our organization at all levels from every area of the country came together, exchanged ideas among themselves and listened to experts on the subject from Government, industry and public interest groups.

We are convinced that the nation faces a serious energy problem. The evidence is overwhelming that the primary fuels that supply our homes, factories, farms, transportation systems and commercial establishments are rising in cost at an alarming rate. It is also clear that our ability to supply the demand for oil and natural gas from domestic sources is diminishing while the level of imports of these fuels continues to grow. At the same time there appears to be a myriad of governmental constraints on the production and use of coal, our most abundant domestic fuel resource, and nuclear power. Efforts to develop alternative sources of energy are confronted with severe problems of raising the necessary capital in light of the many uncertainties regarding governmental policies.

Since the early 1960's gains have been made toward bringing the nation's Black Citizens into the mainstream of American Economic Life. This has occurred largely during a period of expansion in the economy which created new opportunities for jobs. However, a great deal more remains to be done. We still have tremendous unmet social and economic needs. The unemployment rate in the Black community is still twice the national rate. Perhaps more importantly, unemployment among Black teenagers ranges up to 50 percent. Over the next 15 years we must undertake to rebuild and revitalize our cities and urban areas where a very high percentage of Black people live. We need to revamp urban and inter-urban transportation systems to facilitate urban dwellers' access to places of employment. An abundant energy supply will be necessary if we are to have any chance to meet these challenges.

We note the historic direct correlation between the level of economic activity and energy availability and consumption. Energy supply development throughout our nation's history has been critically important to economic growth. We find it very disturbing to contemplate a future in which energy supply would become a constraint upon our ability to solve these critically important social and economic problems which confront Black Citizens.

We have examined the Administration's National Energy Plan in the light of the agenda for economic growth and development for America's Black people. What we see in the plan is an emphasis on conservation, and a reduction in the growth of total energy demand and consumption. The plan basically takes a pessimistic attitude toward energy supplies for the future. It seems to make the basic assumptions that (1) we will run out of all primary fuels, except coal, relatively soon and (2) essentially nothing can be done to substantially increase or even to maintain existing production rates for oil and natural gas. This emphasis cannot satisfy the fundamental requirements of a society of expanding economic opportunities.

We think there must be a more vigorous approach to supply expansion and to the development of new supply technologies so that energy itself will not become a long-term constraint, but instead can continue to expedite economic growth and development in the future. All alternative energy sources should be developed and utilized. (Nuclear power, including the breeder, must be vigorously pursued because it will be an essential part of the total fuel mix necessary to sustain an expanding economy.) Other alternative sources, such as solar, geothermal, biomass, tidal, oil shale and synthetic fuels from coal must also be developed and made commercially available at the earliest possible time. A more positive attitude by the Administration toward supply development is extremely important because future developments will be largely determined by the Policy choices being made now by the Administration and the Congress.

While we endorse the Plan's objectives of eliminating energy waste and to improve utilization efficiency, we cannot accept the notion that our people are best served by a policy based upon the inevitability of energy shortage and the need for government to allocate an ever diminishing supply among competing interests. Those aspects of the Plan which would perpetuate price controls on newly discovered oil and natural gas and extend those controls to new areas appear to us to be incompatable with the need for new supply development. We also believe that many of the prohibitions proposed with respect to the industrial use of oil and natural gas will force the closing of many job-producing industries in urban areas and cause a massive shift of industries away from areas where most Black people live and work.

We recognize there is disagreement as to whether the Plan does in fact offer more incentives for new supply development. However, we are impressed with the conclusion reached by the Comptroller General of the United States in his evaluation of the NEP:

". . . (T)he plan's incentives are not greater than those which would be available if existing policy were continued through 1985. . . .

"Also, the Plan will reduce revenues to producers for most oil already discovered and may adversely affect oil companies' financial ability to support additional exploration. By not increasing the financial incentives for additional exploration and by reducing companies' financial strength, the Plan fails to come to grips with the problem of increasing domestic crude oil production."

For many years we have been encouraged to believe that a significant percentage of our total energy requirements of the future would be supplied from nuclear power. The National Energy Plan, however, seems to call for a retreat from nuclear energy on the basis that the environmental and safety costs may be too high. The NAACP too is concerned about environmental and safety matters. But as long as fourteen percent of our people are unemployed, as long as the earnings gap between Black and White Americans continues to widen and as long as a majority of Black Americans continue to face a constant struggle to attain even the basic necessities of life, our first priority must be the attainment of economic parity for Black Americans. We are fearful that an energy policy with an overriding concern for the protection of the environment may cause governmental policy-makers in this area to lose sight of other more compelling economic and social objectives that are more important to Black Americans. The basic approach of the Plan as relates to energy supply reflects the absence of a Black Perspective in its development.

We recognize that nuclear power does present certain problems. But we think these problems can be solved through dedicated efforts by government, the scientific community and industry working cooperatively together. Notwithstanding the claims of opponents of this source of energy, the fact is that nuclear power will be required to meet our future needs for electricity. If we do not move ahead now with nuclear, the next generation is likely to be sitting around in the dark blaming the utilities for not doing something this generation's officials would not let them do.

The National Energy Plan proposes sharp increases in the cost of oil, natural gas and gasoline through a complex system of new taxes. Domestically produced crude oil would be taxed an amount equal to the difference (in 1980) between the federally controlled price and the world oil price. In addition a tax on the industrial use of oil and natural gas would be imposed that could reach $3.00 per barrel by 1985. Over the next five years these taxes have been estimated to produce new government revenues of over $50 billion, which makes the "Energy Plan" one of the largest tax increase bills in history. A major portion of these new taxes would be passed on to consumers in the form of higher prices not only for energy products but also for other goods and services. To mitigate the adverse effects on the economy, the Plan does provide for tax rebates to the public and other tax credits. It is estimated that the per capita tax rebates flowing from the crude oil equalization tax in 1978 would range somewhere between $15 and $22.

As we understand it the new energy taxes are proposed for the purposes of (1) encouraging energy conservation by making energy more expensive (2) creating incentives for industry to shift from so-called scarce fuels to coal and (3) making oil and natural gas prices roughly equal to their current value in world markets.

For the great majority of people the NAACP represents, the cost of energy today is sufficiently high to discourage any unnecessary use. They have borne the brunt of the four-fold increase in the price of natural gas and skyrocketing increases in electric utility bills since 1973. Even without new energy taxes, we have every reason to believe energy prices will continue to rise at a faster rate than prices for other goods and services for the foreseeable future. This will certainly come about as the percentage of total energy supplies from newer, more expensive sources increases.

If energy prices are to be raised artificially through the mechanism of taxes, a major portion of the new revenues should be used to develop new energy supply, particularly from nonconventional sources such as coal gasification and liquefaction, oil shale, solar etc. Putting the funds to such uses appear to us to be much more desirable in terms of the objective of reducing dependence on im-

ported energy than distributing token payments to the general public.

The NAACP, therefore, concludes that there are serious deficiencies in the National Energy Plan as proposed. We recognize that the Congress is now in the process of making certain changes and that the final energy policy that evolves must reflect an accommodation of differing views. This statement of our views will be communicated to the Members of Congress and others who may have an impact on the final outcome of this extremely important policy issue.

Report of the NAACP National Energy Conference, December 21, 1977.

Finally, we view with alarm the fact that nowhere in the President's proposals on energy; the joint House and Senate conferees deliberations; nor the action of Energy Secretary James Schlesinger himself does there exist evidence of input from America's minority community in both policy-making and employment opportunities.

To avoid the deleterious impacts of our emerging energy policy on future generations of Americans whom we of the NAACP represent, we call on President Carter, the Congress, Secretary Schlesinger, various regulatory governmental units, industry, and where need be those persons in the private sector, to encourage and seek out increased minority participation on all levels in our emerging energy policy.

RESOLUTION ADOPTED BY THE NAACP BOARD OF DIRECTORS

Whereas black unemployment is the major domestic problem in the United States today; and

Whereas the energy conservation policies of the federal government significantly affect that problem; and

Whereas the costs of stringent energy conservation programs fall most heavily on those members of society least able to bear the costs; therefore:

Be It Resolved that we in the NAACP believe it essential and in the public interest that before the federal government establishes any regulations in this or other areas of interest relevant to employment, it first consider fully the impact of those regulations on jobs and job formation, particularly as they affect minorities in our country's cities where the unemployment problem is at its worst; and

Be It Resolved that the federal government carefully consider in particular the impact of overly stringent fuel economy standard for trucks for 1980–81 in light of the facts that the standards as proposed could:

(1) Lead to massive layoffs in the industry and supplier industries;

(2) Delay the introduction of new products and the modernization and expansion of present manufacturing facilities which would create additional jobs in our cities;

(3) Increase sale of foreign trucks which has the effect of exporting jobs from this country, and

(4) Significantly the cost of trucks, and because trucks are so essential to the nation's economy, contribute to the inflationary pressures in the country today—pressures which fall harder on minorities than any other group in the country.

Be It Further Resolved that the Department of Transportation adopt fuel economy standards which are technologically feasible which will conserve energy but which will not add to the inflationary pressures in the country or worsen our tragically high unemployment rate; and

Be It Further Resolved that the Board of Directors through the Chairman, the Executive Director and other appropriate persons communicate the content of these resolutions to the Secretary of Transportation to the President and members of the Congress, and be further requested and authorized to take any and all additional steps which may be required to bring to public attention our strong opposition to arbitrary governmental actions of this kind which are harmful both to the interests of the nation's minorities and the general welfare.

January 7, 1978.

JOHN MEDLIN'S 1978 OUTLOOK: A DISTINGUISHED BANKER EXAMINES THE U.S. ECONOMY AND ITS PROBLEMS

Mr. HELMS. Mr. President, John G. Medlin, Jr., president of the Wachovia Bank of Winston-Salem, is not only a top banker and community leader; he is also a good economist.

Recently, in an address before the Rotary Club of Winston-Salem, Mr. Medlin gave a brief outline of the things he expects to occur in the new year. In addition, he took out after some of the foolish and knavish Federal policies that have caused the economic problems confronting the American people.

My friend, John Medlin, and I share many points of view. He and I both feel that the Federal Reserve Board must bear a good share of the responsibility for our present inflation experiences. Though they are legally independent, the Board members are conscious of the massive debts run up by the Federal Government and they are conscious of the outcry that would come if they did not monetize much of the Federal deficit.

As John puts it—

Because their authority comes from and can be taken away by the Congress, they have never been quite the independent and frugal guardians of the money supply that is often believed.

John Medlin offers other good observations in his speech, and so my colleagues may have the benefit of his views, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE ECONOMIC OUTLOOK AND OTHER FANTASIES

This is the season for fantasies. The most popular one is to dream that a fat little man in a red suit really does bring gifts down the chimney on Christmas Eve. Another is to imagine that powerful nations can substantally spend beyond their income for an indefinite time. Still another is to fancy that politicians will voluntarily make the unpopular decisions to control government spending. A final one is to believe that there are economic prophets with a divine gift for predicting the New Year. All four of these and the forecast I will present should be viewed with equal skepticism.

It would be easiest for me to give you a standard set of statistical predictions for 1978. However, it is a time when the performance of the economy for a single year, whether looking forward or back, should not be viewed in isolation or abstraction. An understanding of the outlook for 1978 requires a perspective which includes the major trends and forces of the past and their sometimes elusive and misunderstood effects.

Unfortunately, there is too much to be influenced by the headlines and news stories of the day. This preoccupation with incidental, short-run events often obscures the more important long-range influences which have a more profound effect. The parade of popular weekly and monthly statistics such as those for the money supply, unemployment, inflation, and interest rates often give misleading impressions.

Nevertheless, such news frequently causes sharp responses in the markets for money, securities and commodities. Even more incredibly, they influence the making of important decisions of long-range significance by government, business and people. I will try to stay away from such details today and concentrate more on fundamentals.

The basic forces which substantially determine economic life tend to change very little over months, quarters, and in some cases, even years. These tend to be powerful and glacier-like movements which are slow to alter speed and direction. There are many such forces working on the economy at any point in time, and I will mention only a few of the more relevant ones of recent years.

The philosophical basis of government economic policy is one of the most influential. The roots of current U.S. fiscal policy trace noticeably back to the depression days of the 1930's. The Keynesian concept of government deficit spending to stimulate employment was first used in the New Deal programs of the depression. It increased the national debt from $23 billion in 1933 to $50 billion in 1941 at the beginning of World War II.

Following the war, the Keynesian economics was legalized through passage of the Employment Act of 1946. At that time, the federal debt had risen to $270 billion, reflecting wartime borrowing. For the succeeding years through 1966, the total grew to $330 billion, with much of the $60 billion increase related to the Korean war. This period of twenty years with relatively small deficit spending was the golden era for the U.S. economy and the American people. It brought relatively steady, sustainable and non-inflationary growth and employment.

The 1960's brought Keynesian economics in the form of the New Frontier and Great Society programs at a time when it was questionable whether such fiscal stimulation was needed. It was about the same time the natural influence of demographic changes mentioned later would have fostered good growth. Yet in a span of only eleven years, budget deficits drove the national debt upward by a staggering $380 billion. The total increased from $330 billion in 1966 to about $710 billion currently, not including $110 billion of federal agency obligations.

Another major influence is monetary policy, or the creation of money by the Federal Reserve Board. The Board's statutory independence is designed to provide a check and balance on fiscal policy. Nonetheless, members of the Board of Governors read the newspapers and see the election results like everyone else. Because their authority comes from and can be taken away by the Congress, they have never been quite the independent and frugal guardians of the money supply that is often believed.

The trail of history shows how difficult it is for the Fed to swim against a strong tide of deficit spending. A careful examination of money growth figures over the years will show that they have, either by choice or force of circumstance, created the money needed to pay for budget deficits. Their moderating influence has a tendency to be too little, too late, or too traumatic.

Demographics also play a major role in economic and social life. Dramatic changes in the total and age structure of U.S. population over the last thirty years have had a profound influence. An average of only two million births per year occurred between 1930 and 1945. Then the number rose to an average of four million new babies a year from 1946 to 1960.

The post-war baby boom began reaching fullfledged consumer and employment age in the early 1960's. For the next fifteen years, the country progressively experienced the cumulative effects and discontinuity of this population bulge in the late teens and early

twenties age groups. Their influence was substantial in the consumer and labor markets as well as on the campuses.

Other important forces are world trade and money trends. It should be noted that a major cause of the Great Depression of the 1930's was the poor fiscal management of the British and the resulting necessity in the mid-1920's for them to stop backing pound sterling with precious metal. This was followed by floating foreign exchange rates, international monetary instability, protectionist trade practices, and the stagnation of world commerce.

World monetary order was not fully reestablished until the end of World War II through the Bretton Woods Agreement. Its foundation was the gold-backed U.S. dollar and a system of fixed exchange rates. A vibrant period of world trade followed, and greater economic inter-dependency developed between nations.

The Bretton Woods system lasted until 1971 when the U.S. removed the dollar's convertibility into gold. Floating exchange rates again followed. World inflation and instability in paper currencies inspired oil exporting countries to triple the price of crude. Thus came the demise of cheap energy for Americans and growing trade deficits.

There are many other powerful influences which time does not permit reviewing. They include government policies affecting capital formation, corporate profits, taxation, and regulation. Social welfare spending stimulates consumer demand, naive regulations raise costs and limit production, and misguided laws such as ERISA reduce risk capital investment. Such factors all help determine prices, the number of jobs created, and the supply and demand for goods and services.

The collision of all these forces caused some friction in our economy and money markets in 1970 and more severely in 1974. The essence of the problem was an overall national policy of stimulating consumption to a much greater degree than capital formation, investment spending and production. You witnessed the dramatically unfavorable results through credit crisis, high interest rates, runaway inflation, business failures and severe unemployment.

As we approach the beginning of 1978, all these powerful long-range forces are still at work, pushing in various directions, in both clear and imperceptible ways. Strong fiscal and monetary stimuli have helped fuel a recovery in spite of other depressing influences. Some suggest that the degree of stimulation may have been more than could be readily absorbed, considering the climate, and that it may cause excesses later. The depth of the most recent recession and the extent of its trauma destined this recovery to be slow and prolonged.

It was also preordained to be erratic because of the still nervous and cautious mood of consumers and businesses. The powerfully negative force of risk aversion severely retarded spending and borrowing in the early part of the recovery as any banker trying to lend money in those days can attest. Substantial unused liquidity accumulated in the nation's financial institutions, and much of it is still parked in the burgeoned supply of U.S. Treasury obligations issued to finance deficits. However, each year of the recovery has brought a progressively improved general economic environment.

The economic expansion under way since the spring of 1975 appears to have sufficient momentum, strength and encouragement to carry it through 1978. This recovery has been characterized by unevenness from the start, and the variable quarterly growth pattern is likely to continue over the next year.

Fiscal policy will be a strongly stimulative force with the federal budget deficit estimated on the magnitude of $58 billion, or 30 percent over the previous fiscal year, without any tax cuts. The generous increase in the money supply of the current year is expected to be followed by a monetary policy which is accommodated to continued moderate growth.

Because of slowly improving confidence levels, consumer and business spending in 1978 should be mildly positive economic influences. Housing will continue to be strong. The election year atmosphere may bring a toning down of the administration's reform and legislative proposals which contributed to the cautious mood in some sectors this year.

There were 8 million more people working in the U.S. during November of 1977 than at the 1975 recession though, and employment should continue improving in 1978. However, because of another year of above-average growth in working age population and a higher participation ratio, the unemployment rate will decline only modestly next year.

Optimism in the outlook is moderated by deep concerns which remain about a number of fundamental issues. These include the enormous budget deficit, persistent price inflation, a stubborn unemployment rate, heavy foreign energy dependence, the $30 billion trade deficit, and the weakened dollar's troubles overseas.

A 14 percent increase in the minimum wage on January 1 is expected to add to personal income but also to teenage unemployment and inflation. A rise of up to 10 percent in social security tax schedules will shrink New Year paychecks and raise price levels. It remains to be seen what impact on consumer psychology will come from the first step in the tripling of these taxes for many working people and employers over the next ten years.

On balance, the positive forces should prevail and push the real gross national product measure of economic activity upward next year at a rate between 4 and 5 percent. This is expected to be slightly less than the advance for 1977, but well above the longer-term average real economic growth rate of about 3 percent. Progress in the North Carolina economy should be a little better during the New Year than in the nation as a whole.

The 1978 inflation rate is expected to be in the range of 5½ to 6½ percent. The increase in prices is likely to gather momentum as the year progresses and average at a slightly higher rate than for 1977. Real personal income would be eroded a little more than this year, but the total should still increase in 1978 because of higher employment and gains in wage rates.

The outlook at this point for next year's money markets is not one of great certainty. It is expected that credit demands will be increasing in an environment where the supply of new funds is growing more slowly. Thus, the financial markets of 1978 could be characterized by less tranquility than in the recovery cycle thus far.

The enlarged federal budget deficit will substantially increase money market demands. This could cause financial friction if private sector credit continues growing as expected. Consumer borrowing should continue to be good, and business loans are projected to move up at a gradually improving rate. State and local governments will also have larger credit needs.

These demands could cause short-term money rates to be up as much as one percentage point at peak during the next year. The upside for long-term yields would be somewhat less on the order of one-half point. In essence, interest rate changes from current levels should be on the relatively mild side in a money market that is firmer but not approaching a credit squeeze.

The moderate rate outlook depends somewhat on foreigners continuing to reinvest in the U.S. a major portion of the massive offshore dollar accumulations resulting from this country's large energy deficit. Since this time last year, foreigners have poured about $26 billion into Treasury securities, financing about two-thirds of federal deficit borrowing. In fact, unsettled international monetary conditions pose the greatest risk for the U.S. money market outlook.

These forecasts are based on the present assumption that the economy will continue on a relatively quiet and modest growth path. There is always some chance of the three-year-old recovery either fading into recession or becoming overheated. While such extreme developments appear unlikely in 1978, the odds for any surprise deviations from the consensus forecast seem to favor the optimists more than the pessimists.

In the politically-sensitized atmosphere of a congressional election year, there will be a temptation for any slowdown in the recovery to be quickly met with increased federal spending or tax cuts. A more urgent need in fiscal policy is to reduce federal spending and diminish the burdensome 23 percent share which government takes from the GNP. Such a shift is required if private sector capital formation, job creation and growth are to gain natural and sustainable long-term momentum.

If policymakers will let the recovery move forward on its present strength, there is a good probability of its continuation for the remainder of this decade. A tax cut would help assure this if accompanied by a reduction in federal spending of equal or larger amount. Unfortunately, the tendency to overextend the highly stimulative fiscal and monetary policies of the last three years has begun to raise concern for the emergence of economic excesses looking toward 1979 and 1980.

A major source of anxiety is the rapidly vanishing promise and hope of a balanced federal budget. The 1979 fiscal plan in preparation seems headed for the fifth consecutive deficit in the area of $50 billion, or larger. Such large and habitual overspending would only provide additional unsound stimulus and cause even more borrowing from the quantity and quality of future life. This may give aspirin-like relief temporarily, but an economic headache later on.

Another deficit of this magnitude would further undermine the already fragile confidence at home and abroad in this country's economic, political and social systems. The difficulty of the dollar in the foreign exchange markets is a warning signal that should not be taken lightly. The potential for serious world monetary disorder already exists and will increase with declining faith in the U.S. currency as a dependable medium for transacting trade and storing value.

The burden of future generations in public debt and unfunded social contracts from the past is already unjustly large. Federal debt alone has more than doubled in the ten years since 1967. It is no accident that two-thirds of the price inflation since 1933 has occurred during these same ten years when consumer prices almost doubled. Someone observed that after 200 years of economists advising presidents, the nation has achieved not the control of inflation, not the prevention of unemployment, but the ability to have both in excess at the same time.

Some readers of public opinion suggest that the recent mammoth increase by Congress in social security taxes, just to keep the system solvent for a few more years, may finally arouse the people and incite stronger opposition to the government's financial deception and neglect. Others predict a new kind of rebellion in the years ahead by the younger generation who had such a profound effect on America's life beginning in the late 1960's.

The leading edge of the population explosion which occurred during the fifteen years following World War II is now in the early thirties age group. People characteristically acquire more fiscal conservatism as they advance in age, begin paying taxes and become more protective of their families, property and income. Also, the idealism of youth tends to fade into reality and practicality as they get older. This new generation, whose power and numbers are still increasing at the polls, may become as angered as they were by the Vietnam war with the growing realization that it is they who must pay the mounting public bills from the past.

The painful results of past fiscal practices will continue to afflict the lives of present and future generations in the form of tax-shrunken paychecks, inflation-eroded purchasing power, and bureaucracy-suppressed personal liberty until changes are brought about. It is interesting to note that these are some of the same distasteful human circumstances which inspired a rebellion 200 years ago and which gave birth to this republic. Therein lies the hope that the Administration, the Congress, or, more likely, the American people will soon act to reverse the disturbing and hazardous trends in their government's policies and practices.

Well-intentioned social programs often hurt the very people they are designed to help. Misdirected economic plans frequently stimulate consumption when the greater need is for capital investment and production. The people are becoming progressively aware that the perpetuation of such policies can only continue to: increase budget deficits; retard capital formation; discourage private investment; inhibit job creation; expand government domination; reduce individual freedom; stifle personal initiative; breed price inflation; raise the poverty level; weaken the dollar; boost trade deficits; and generally undermine the basic foundations of America's representative democracy and free enterprise system.

The comforting economic outlook for next year should not be allowed to breed complacency about the future beyond. If better government fiscal policy and management are not vigorously asserted at this critical juncture, the risks will steadily increase through the remainder of this decade for the emergence of another boom and bust cycle of serious dimension. The wounds of 1974 may not yet have healed to the point that the American and world economic systems can safely endure another such strenuous test so soon.

The principal risk lies in the addictive fascination of our government with Keynesian economics. Maybe we can get the Food and Drug Administration to feed some of it to their rats and ban it. Its slow, cancerous effects deteriorate not people but nations and free societies. The advanced state of economic decay in England, where Keynes' theories have been practiced to a substantial degree much longer, gives us a living and prophetic example of where they lead. The experience of New York City is another vivid illustration on a smaller scale closer to home.

Had America not rescued England in the 1940's from follies of the past and from Hitler, it may already have experienced the ultimate destiny of extreme socialism. One can only wonder whether there would be any world power able or willing to protect the U.S. from such a future state of vulnerability and weakness. Active legislative proposals such as Humphrey-Hawkins, the Labor Reform Act, and National Health Insurance will only keep us following at a respectable distance down the same thorny primrose lane as the British.

All hope is not yet lost. The parade of weekly, monthly and quarterly statistical announcements early in the New Year could bring some better news. Headlines may proclaim stronger growth in employment, retail sales, business spending and GNP. Indicators for inflation, the dollar, interest rates and the stock market may not improve, but they may not get much worse either. And, therefore, not be as newsworthy. Joy inspired by proposed tax cuts will obscure the larger deficits they will create. If 1978 progresses on a better-than-predicted growth track, caution could give way to complacency and ultimately to euphoria.

Meantime, the powerful, vicious and glacier-like forces will continue quietly creeping along, renewing strength, as if nothing had happened. Eventually they will resurface in surprising and painful ways that again shatter complacency. People will be reminded of their short memories. They will start to complain once more to conservative friends about irresponsible government. Some may even be concerned enough to visit their congressman when he is home for recess, if they can find or afford fuel for their automobile.

In the more somber atmosphere, someone will make another speech about the perils of deficit spending and the need for the people to insist that something be done about it. He will again try to dispel the myths and convince the people: that nations, like businesses and individuals, will get into trouble if they continue indefinitely to spend beyond their incomes by borrowing or counterfeiting money; that government leaders in representative democracies are unlikely to make the unpopular and courageous decisions necessary to balance budgets, without persistent prodding from the voters; and that there is no fat little man in a red suit who brings gratuitous prosperity and happiness down the chimney while people are sleeping.

The American people may have become a little spoiled by a long period of the highest standard of living in the history of man. Elected officials have found it more popular to try extending this prosperity through shortsighted, quick-fix fiscal practices than by the more realistic spending control that is essential to long-term economic health. Bureaucracies not accountable to the people have grown in size, power and cost as they make and enforce their own special brand of administrative law. For these trends to be reversed, the people must become more enlightened and concerned about the very real and ill effects on their lives. If crisis does not come first, painful inflation may eventually inspire the needed reaction from some influential voter groups.

The two fastest growing segments of the population over the next ten years will be the thirty to forty and over sixty-five age groups. Both have special reasons for increasing dissatisfaction. Younger adults discover that after working for several years they make little or no economic progress because of inflation and progressive taxation. The senior citizens see their real fixed incomes cut in half every ten years as the dollar's purchasing power decreases at a rate of around 6 percent annually. Also, the poor and disadvantaged find inflation driving them deeper into economic despair as the poverty level rises and government assistance proves unable to deliver them into the promised land of unrealistic political rhetoric.

These unfortunate conditions reflect the constant but losing race between the current income needs of people and the deficit spending, money printing and inflation breeding process inherent in Keynesian economics. It brings otherwise complementary elements of society into conflict with each other, instead of with the real enemy, since the needs of one can be met only at the expense of the other. A good example is the financially unsound and deceptive social security system. It is a growing irritation to both the young, who can't afford its increased taxes, and the old, who have difficulty subsisting on its benefits.

Government efforts to regulate the economy and to legislate equity only further destabilize and weaken the system. This brings gradual erosion of the incentives and means for individual and institutional self determination, which are so essential for democracy and enterprise to co-exist and prosper. The result is little change in the ratio of "haves" and "have nots," but everyone seems to have less real purchasing power and less freedom of choice. The various interest groups who look only after themselves must either turn their attention to the more urgent common need—a sound government economic policy—or continue moving steadily with everyone else down the road of economic deterioration and governmental servitude.

Great sources of strength and optimism for America are the independent-spirited and fair-minded nature of its people and the self-correcting mechanism of its representative democracy. The deep sense of justice and courage of Americans has inspired them to overcome many ominious challenges from within and without over 200 years. They have shown a strong dislike for oppressive government and burdensome taxation and a special affection for personal liberty and economic freedom. These are the very critical issues which face the people today in many different disguises.

To review, the outlook for next year is good, and if the buoyant Christmas retail sales are any indication, 1978 should be an even better year than many expect. Unless fiscal stimulation is reduced, the risk will increase in 1979 and 1980 for another cycle of extreme conditions to begin emerging. The key to the longer future is whether enough people become sufficiently concerned about the unhealthy effects on their lives of governments' economic policy and oppressive bureaucracy to start rejecting at the polls those who would perpetuate them. Therein lies the faint hope for more sanity, better stability, and sustained prosperity in America's economic life during the decade of the 1980's.

FIRE AT PROVIDENCE COLLEGE

Mr. PELL. Mr. President, the normally joyous holiday season was observed in Rhode Island this year under a pall of sorrow and sadness.

Twelve days before Christmas, in the early morning hours of December 13, a fire raced through the fourth floor of Aquinas Hall, a woman's dormitory at Providence College. The tragic blaze claimed the lives of 9 young women and injured another 14 young women.

Recently, students returned to Providence College for the first day of classes since the awful tragedy. But these few weeks since the terrible fire has been little to ease the sorrow, the pain, and the grief. This tragedy, the worst fire in the history of Rhode Island, struck at the hearts of all Rhode Islanders.

I grieve at the loss of these young people who were so full of hopes, dreams, and the joy of living. I grieve with their classmates, their parents, and the families, in whose lives a void has been created that can never be filled.

I extend to all of them my heartfelt sympathies.

I pray that as the days and weeks pass by, the bright and happy memories of what these young people brought their

families and friends in life will ease the sorrow and pain of their untimely deaths.

THE PROPER FEDERAL ROLE IN NEW YORK CITY FINANCING

Mr. JAVITS. Mr. President, this week the mayor of New York City comes to Washington to offer a plan for leading New York City from the brink of chaos and back on its feet. This plan will have the backing of the city and State governments, the municipal employees' unions, the banks and other interested parties in New York. It will embody a Federal role for keeping the city operating through the coming 3 difficult years.

Because of this Federal role, and because the present Federal seasonal financing legislation for New York City expires this June, the Congress will have the responsibility again of deciding the fate of America's—and the world's—premier city.

It is not surprising that in the heat of debate over the proper Federal role in New York City financing the issues should become blurred. Some people say that no additional Federal help is necessary, as the city can make it on its own with State help. Others say that the major New York City banks should be able to buy more than the almost $2 billion in city and MAC debt they hold at present. Still others say that New York City workers are overpaid, and that the Federal Government should not "bail the city out" under the circumstances.

In this regard, I would like to bring to the attention of my colleagues two recent very important items of evidence.

The first, a letter to me from Don Regan the chairman of the board of Merrill Lynch, Pierce, Fenner & Smith—the Nation's largest stockbroker—analyzes from an underwriters point of view the ability of New York to sell its short- and long-term debt.

The letter describes the bleak prospects for the city's regaining access seasonably to private capital markets, particularly for long-term bonds. It is a well-known fact that the city's physical plant has been allowed to deteriorate substantially and dangerously; and that a viable economic base for the city depends on infusions of capital expenditure. What it says, in effect, is that the city must have long-term Federal assistance in order to survive.

The second, is a statement by the United Federation of Teachers' president, Albert Shanker, addressing the issue of salaries paid city workers. He points out that since the beginning of the New York City crisis, the wage and fringe benefits cutbacks to city workers have totaled well more than half a billion dollars, and that 62,000 workers have been fired. He compares New York with other cities and concludes that even counting fringe benefits, New York workers are not the highest paid in the country, but rank sixth or ninth, depending on what measure you choose.

The lesson from both these items is that New Yorkers—whether they be underwriters or civil servants—have all done their share in helping the city along. New York has done everything the Federal Government has asked of it and still needs help to survive. New Yorkers will continue to make self-help sacrifices, even on the scale of the hundreds of millions of dollars described by Mr. Shanker. But the national interest involved demands that the Congress help to keep our premier city alive—even in the serious condition which describes the city today—and take heed of the issues posed by these materials. I ask unanimous consent that the recent letter of Donald T. Regan, chairman of the board, Merrill Lynch, Pierce, Fenner & Smith, as well as the statement by Albert Shanker, president of the United Federation of Teachers, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MERRILL LYNCH,
PIERCE, FENNER & SMITH, INC.
New York, N.Y., December 27, 1977.

Senator JACOB K. JAVITS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: You have asked us to comment on New York City's ability to fund $2 billion annually in the public market, consisting of $1 billion of seasonal financing and $1 billion of long-term (serial) debt for capital purposes.

We continue to believe that meaningful access to the capital markets, short or long term, must follow rather than precede the adoption by the City of measures which will be viewed as establishing its fiscal responsibility. These measures, as described in testimony by representatives of the City, the State and the banking/underwriting community, include truly balanced budgets, adoption of acceptable accounting principles and practices, the acceptance of a fiscal monitor and so forth.

After these measures have been adopted and the public has had some time to observe their efficacy, it should be possible for the City to sell meaningful amounts of public debt. (We have previously observed that the City may be able to sell modest amounts of notes or bonds publicly before these measures have taken full effect.)

We believe that $1 billion per year of truly seasonal financing which would be outstanding during part of a fiscal year and retired each year in full from the revenue sources anticipated could be handled in stride by the municipal note market, but would depend on the maintenanec of a Moody's note rating of no worse than MIG-3 and preferably MIG-2 or MIG-1. There might, under difficult general market conditions, be some question about the viability of the financing if the rating were MIG-3.

The concept of regular annual issuances of $1 billion in bonds is subject to more extensive caveats. Until now no municipal issuer except New York City has attempted to issue such a large amount on a recurring annual basis. New York City was only able to do so by selling the greater part of its issues as very short (1–5 year) maturities. Although the City was complimented for this at the time, it was not a satisfactory long-term device and should not be resumed.

The City should consider its bond sales prospects on an assumption of twenty year serial issues, each issue structured on a level debt service basis. This implies that the average maturity of bonds sold will be approximately 15 years and that approximately two thirds of the bonds in each new issue will mature in more than 10 years. In terms of market impact alone, regular quarterly sales of $250 million issues of such structure would be a substantial challenge. We do not believe that such a program could be sustained indefinitely for bonds for general capital purposes. In our judgment, market participants would perceive $1 billion a year of additional debt as prima facia evidence of the City's living beyond its means, reporting practices and explanations notwithstanding. It might be possible for the City to issue as much as $1 billion of new bonds in a given year for a two year period as part of a "capital facilities catch-up program", properly described. Beyond that, if the City's true capital needs are $1 billion per year, we believe it will have to find the means to fund a meaningful part of the need on a "pay as you go" basis, that is, deriving capital funds from the expense budget. It would not matter whether the capital funds were being raised by City bonds or MAC bonds. The problem would lie in the total amount rather than in the financing vehicle. We have not examined the City's long-term capital needs thoroughly and do not offer an opinion as to their actual magnitude.

In any event, the City's capital needs are going to be substantial and will require significant market access, whether $500 million or $1 billion any given year. We believe that the City can only reliably plan on continued market access in good markets and bad if its bonds are rated at least A/A by the two major rating services. If they are rated Baa or BBB, market access might not be available under difficult general market conditions. If they are rated Ba or BB by either service, the City will at best only be able to sell modest amounts of bonds (issues of less than $100 million) and then only under very favorable conditions. Needless to say, any regular bond sales program would not succeed if the investment community, the media or the general public developed the view that the City was regressing in its fiscal condition, its accounting and reporting practices or its overall economic conditions. The short-term note market might be somewhat more resilient to negative expressions of this sort, though not entirely immune.

We appreciate the opportunity to comment on this and other aspects of the City's situation. Please call on us for any information or assistance we can provide.

Very truly yours,

DONALD T. REGAN,
Chairman.

BIG APPLE TELLS THE COUNTRY IT ISN'T SO

(By Albert Shanker)

Reading the papers this week was almost like watching an old movie on television. It appears that we are in for a re-run of New York City's fiscal crisis. In a memorandum to the Municipal Assistance Corporation, MAC chairman Felix Rohatyn warned the MAC Board of Directors to "Fasten your safety belts, we are about to enter a storm fully as dangerous and unpredicted as any we weathered in 1975."

Time is short. The program of federal seasonal loans runs out in June, unless Congress renews it. At the present time, Senate Banking Committee chairman William Proxmire and the senior Republican on the committee, Senator Edward Brooke, are against any further seasonal loans to the city. And according to Rohatyn, "With no financing assistance of any kind from the Federal government the City will run out of cash at mid-year." (Just why the Federal government is so reluctant to aid us is a mystery. All it did was to lend us our own money for a short period of time. The money has been paid and the Federal treasury has made a $10 million profit on the deal.)

But even if seasonal loans are continued, the problem will not be solved. It will merely be postponed, with New York City facing

potential bankruptcy in 1979 or 1980, just as the previous federal assistance was a band-aid approach which merely put off the problem until this year.

What is needed is a program of federal assistance which provides long-term loans and/or guarantees. New York City's new chief executive, Edward Koch, has taken the lead in organizing a national campaign to achieve this help under the auspices of the Mayor's Coalition for Long-Term Financing. The coalition includes public officials, bankers, business and labor leaders and fiscal consultants.

The coalition will have a tough job ahead of it. Not only is time running out for New York City, but unless answers are found soon, New York State may be in trouble as well. The State will need to borrow $4 billion on April 1, and, even though State finances are in good enough condition to permit talk of $750 million in tax reductions, bond purchasers across the country frequently do not distinguished between New York City and New York State. Recent discussions of possible City default, for example, led to a drop in the price of State bonds. So unless there are some answers soon, answers which provide investors with assurance that the City will not go under, the State—as well as school districts, counties and local governments which depend on State aid—will be in deep trouble.

Mayor Koch has pinpointed one source of our problem—namely, that the rest of the country does not think New York City needs or deserves help because people elsewhere do not know what we have already done, how many sacrifices have already been made. And because of the headlines given to a few cases of waste or improper expenditures, there is still a widespread belief that New York is a spendthrift—that it pays exorbitant salaries and therefore ought to be able to find the money to pull itself out of its financial mess.

These images of New York—these convictions held by so many—are one of our maior problems. But they are just not true. The City has an excellent case to make, although the time in which to make it is very short. Much of the important information which the public—and the Congress—should have is contained in a presentation made by Jack Bigel of Program Planners, Inc. to Senator Proxmire on the senator's recent visit to New York. Here are some of the facts Bigel laid bare:

Since the beginning of the fiscal crisis New York City employees have taken deferrals and reductions in take-home pay and fringe benefits in the amount of $636.34 million.

During the same period, New York City trimmed its personnel by 62,100 positions, going from 266,853 employees to 204,753, a reduction of 23.3 percent.

New York City does not lead the U.S. in paying its municipal workers. With average annual earnings of $15,012, New York ranks 12th, behind Oakland, Los Angeles, Detroit, Long Beach, San Jose, Seattle, Minneapolis, San Diego, Washington, San Francisco, and Miami.

If you adjust for cost-of-living factors, New York City ranks not 12th but 24th among major cities in what it pays its municipal workers. Such adjustment brings the average down to $12,941 in New York City.

Even if you add such fringe benefits as health and pension contributions to average salary, New York ranks not at the top but sixth among the cities. And if you adjust this total compensation for New York's higher cost of living, New York ranks ninth among the cities, just behind Milwaukee and just ahead of Philadelphia.

New York ranks 12th or 13th in the percentage of wage increase it has given to typical categories of municipal workers since 1974. For example, a municipal typist in Milwaukee went from $9,735 in December 1974 to $12,335 in December 1977, an increase of 26.7 percent. But in New York over the same period, a municipal typist went from $8,650 to $10,236, an increase of only 18 percent (not to mention a salary that is absolutely lower on both ends). But despite the increase, the New York typist will be losing $27.73 in real spendable monthly income by June 1978, as compared with December 1974.

By June also, inflation will take a $113.49 bite in the monthly purchasing power of a sanitation worker in New York, compared with December 1974; a firefighter will have $132.02 less per month in real spendable income than in December 1974.

These are just some of the facts that may begin to dispel the myths about New York City workers and their salaries. And it would be irrational to demand that New York City lay off more personnel and cut its services further. As Felix Rohatyn has put it. "We've cut away all the fat. From now on, we'll only balance the city budget and pay off debts by cutting away New York's muscles, bones and vital organs." It is time for the Federal government to help on a long-term basis.

TRIBUTE TO SENATOR HUMPHREY

Mr. PELL. Mr. President, as we who knew him mourn the passing of our beloved colleague, HUBERT HORATIO HUMPHREY, so do countless numbers of Americans who never met him but whose lives were enriched by his spirit and deeds.

Last October, I submitted for the RECORD a poem by Virginia Doris of Pawtucket, R.I., who though not personally acquainted with Senator HUMPHREY, drew strength from his unflagging battle against cancer and was inspired to write a poem to honor him.

In December, Mrs. Doris wrote me a very moving letter regarding Senator HUMPHREY and entrusted to my care a poem entitled "Requiem for a Statesman" to be published in the RECORD in his memory. At that time she wrote to me:

> Senator HUMPHREY has become to me someone I have turned to (despite his illustrious rank of Senator and not even having met him nor ever expecting to) as would be my husband whom I just lost, or my father, earlier.

The emotions Senator HUMPHREY aroused in Mrs. Doris are feelings I think all of us share—he was a man we looked up to, a man that brought out the best in our natures, and a man we could love. I ask unanimous consent that "Requiem for a Stateman" in memory of Senator HUBERT HUMPHREY be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

REQUIEM FOR A STATESMEN

(By Virginia Louise Doris)

For he the Statesman's valiant crest
The Hero's mettle piles
The accolades pealing o'er his breast
Through faith's eternal aisles.
Along its course a lifted courage flow
Springing from that scarlet dew
The anthems on high are heard below
That creed upon which he drew.
He marched to warrior's drum-beat bray
And wielded a Christian's might
Such calm of marshalled spirit way
His champion life-halt's night.
Head the laurelled brow and sabre shine
No self-pity hindered his ascent
To Glory's cathedral where Love divine
Awaits 'mid hymns of God's intent.
Along its course a spired bravery flow
Cascading from that crimson dew
The praises on high are known below
That belief upon which he drew.
For he the Stateman's gallant crest
The Lion's valour piles
The accolade sealing o'er his breast
Through trust's eternal aisles.

In memoriam—the Honorable Senator from Minnesota HUBERT HORATIO HUMPHREY—Deus vult.

NELLIE TAYLOE ROSS, FIRST WOMAN GOVERNOR

Mr. WALLOP. Mr. President, on December 19, 1977, the State of Wyoming and the Nation lost one of the great women in our country's history, and a sweet and noble leader. Nellie Tayloe Ross, whom Wyoming voters elected as the Nation's first woman Governor in 1925, and whom President Roosevelt later appointed as the first woman Director of the U.S. Mint, died last month at the age of 101.

Mrs. Ross served her Nation, her State, and her family with distinction and honor throughout her long and active life. She was born in St. Joseph, Mo., and educated in both public and private schools. In 1902, she married William Bradford Ross and came with him to Wyoming, where she devoted herself to her home, her husband, and her children. Mrs. Ross' husband, William Bradford, was elected Governor of Wyoming in 1922, but died a few weeks before the 1924 election. Wyoming voters then elected Democratic Mrs. Ross in a traditionally Republican State by an overwhelming margin. Thereafter Nellie Tayloe Ross served as Wyoming's and the Nation's first woman Governor from 1925 to 1927.

Defeated for reelection by a narrow margin, Mrs. Ross moved on in national politics to serve as vice chairman of the Democratic National Convention in Houston in 1928 and other positions within her party. In 1933, President Franklin Roosevelt appointed her the first woman Director of the U.S. Mint, where she served under three Presidents.

Following her retirement in 1953, Mrs. Ross resided in Washington, D.C., until her death.

Last year Mrs. Ross celebrated her 100th birthday with considerable national attention when she made her last trip to Wyoming for the Yellowstone Centennial. Wyoming Gov. Ed Herschler proclaimed November 29 Nellie Tayloe Ross Day in her honor in the great equality State of Wyoming. At that time, she said in response to a newspaper inquiry that the highlight of her life was, since her husband's death, her election as Governor of Wyoming, and before that being a housewife and mother.

Nellie Tayloe Ross, often referred to as "Mrs. Equality," will be forever loved by those who knew her, and honored by all Americans and historians. Never an ardent champion of women's suffrage, Mrs. Ross nevertheless was a pioneer in attaining high distinction for women in high government positions. It is with considerable sadness, but great pride, that I would like to join the people of

Wyoming in honoring her in these pages today. In her memory, I would ask unanimous consent that the following article, which was printed in the Laramie Boomerang on November 28, 1976, on Mrs. Ross' 100th birthday, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Laramie Sunday Boomerang, Nov. 28, 1976]

HAPPY BIRTHDAY NELLIE TAYLOE ROSS

(By Sandra Guzzo)

Described as a "cracking good governor" by one elder statesman, Wyoming's first and the nation's first woman governor, Nellie Tayloe Ross will celebrate her 100th birthday this November 29.

It was tragedy that propelled Mrs. Ross into a political career. Mrs. Ross, born in St. Joseph, Missouri, came to Cheyenne, Wyo., then a dusty prairie town in 1902, as the bride of William B. Ross, but life was pleasant for the happy couple, and Mrs. Ross was content to raise her three sons.

In 1922 it was her husband who ran for governor and Mrs. Ross saw her job as being his political confidante before and after he was elected governor of the state of Wyoming.

But the idyl was to end. In 1924, in the days before penicillin was known, William Ross died October 2—the result of a ruptured appendix.

Because Mrs. Ross had worked closely with her husband during his political career, and because she had lived in the state for more than 20 years and was well-known for her charming manner and intellect, friends and associates urged her to complete her husband's unexpired term.

According to one local source it was Laramie's Judge Harry Hunt who with Percy Epperson and two others, representing both the Democrats and Republicans, persuaded Mrs. Ross to run. Hunt used the argument that if Wyoming could have the first women voters (1869), the first women justice of the peace (1870) and jurors (1870) then it could have the first woman governor too.

The Democratic State Convention chose Mrs. Nellie Tayloe Ross to be their candidate and Eugene J. Sullivan of Casper was the choice of the Republican party.

Mrs. Ross still in mourning announced, "I shall not make a campaign. My candidacy is in the hands of my friends . . ."

November 5, 1924 the Laramie Republican and the Laramie Boomerang headlines read: "Coolidge Wins!" and "Mrs. Ross is in Lead". The evening edition featured what has become known as her "classic profile" on the front page and large headlines in bold print, "Mrs. Ross Maintains Lead in State for Governorship with More Than 27,000 Total Vote," and a report from Cheyenne reads, "The election of Mrs. Nellie T. Ross, Democrat, widow of the late Governor Ross, to the governorship of Wyoming was conceded this afternoon by the Wyoming State Tribune . . ."

November 6 headlines and articles proudly stated: "As State Gave Woman Suffrage to Country So It Leads Again . . . Nellie Tayloe Ross First of Sex to Sit in Governor's Chair" and ". . . by their act on Tuesday, Wyoming voters gave to this state the first woman governor of an American commonwealth in the person of Mrs. Nellie Tayloe Ross . . . Despite the fact that Wyoming blazed the way in 1869 for the nation-wide woman suffrage, Mrs. Ross is the first woman to be elected to such a high office."

Actually another woman was elected governor on the same day, Ma Ferguson of Texas but it was Mrs. Ross, inaugurated January 5, 1925 20 days ahead of Mrs. Ferguson, which makes her "first."

Although the State Tribune-Leader (Cheyenne) appraised the situation, somewhat critically: "Chivalry and sympathy were the factors of chief consideration," Mrs. Ross however earned respect as a competent statesman.

A story in The Denver Post described her first months in office, "Wise men coming down from Wyoming have admitted quite cheerfully that Nellie Tayloe Ross is Governor of Wyoming and one of the surprising and edifying circumstances of her governorship has been the fact that she has conducted her office not like a gentle-faced, soft-voiced appealing woman in the mourning of a widow, but as an intelligent, tactful, resource individual."

Others recall her as "A top executive who knew more than most men," "A conversationalist of more than ordinary ability," "One who brought about many reforms" and physically as "an extremely handsome woman", ". . . most attractive, slender, blonde and with a winning smile" and "possessing exquisite taste in the matter of dress."

The present Secretary of State of Wyoming, the honorable Thyra Thomson remembers well the time she sought Mrs. Ross's advice. "Nellie said, 'Thyra, I've made it a habit when anybody asked me to do something to say yes, unless it was against my principles."

Mrs. Ross saw her duties as governor as fulfilling those begun by her late husband. In her inaugural address she stated, "The occasion does not mark the beginning of a new administration, but rather the resumption of that which was inaugurated in the chamber two years ago. It is well understood, I am sure, that it is my purpose to continue, as I am convinced it is the desire of my state that I should, insofar as changing conditions will permit, the program and policies then launched."

During her administration she urged the legislature to continue shifting the tax burden from small property holders to large ones. She asked for improved safety regulations for coal miners. (It was in August 14, 1923, that 100 persons had died in a coal-mine disaster at Kemmerer.) She was vitally interested in the state's agriculture.

In a 1926 article which appeared in the Casper Tribune-Herald she described Wyoming, "The very name, Wyoming, suggests, I believe, to the world at large, the extensive livestock industry which, throughout the period of its early history, has constituted the basis of the State's growth and prosperity."

She called for state investment in farm loans to aid depressed agriculture. She wanted Wyoming to keep pace with more progressive states and restrict work hours for women and she wanted the Child Labor Amendment ratified.

During the prohibition era of the 20's Governor Ross took a strong stand against the buying or the selling of liquor.

Because 35 of the state's 120 banks had failed she urged passage of a "sound banking law" with "some form of guaranty provision."

As an indication of her ability as leader in the state, the legislature did adopt new coal-mine safety regulations, passed a new banking code, and enlarged the farm-loan fund. A child-labor law barring employment of children under sixteen in hazardous occupations was adopted.

According to T. A. Larson in History of Wyoming Mrs. Ross proved to be a good governor who gave the state a respectable, dignified, and economical administration.

She was renominated by her party in 1926. The republicans advanced Frank C. Emerson. Since considerations of sympathy, charity and chivalry were no longer the issues the democratic campaign managers mistakenly attempted to influence the women of the state to vote, "in support of their sex" and for "the vindication of women suffrage," while the Republican party urged support and loyalty to the party ticket.

Governor Ross was not an ardent champion of woman suffrage, but Mrs. Theresa A. Jenkins posed the question, "What has Mrs. Ross done to particularly deserve the votes of women? Has she ever since coming to Wyoming taken any interest in Woman's Suffrage?"

Much later in life in an interview for Empire Magazine, Mrs. Ross expressed her feelings about the matter. "Candidates running for public office should not be chosen on the basis of sex. Being a woman certainly should not mitigate for or against them."

Mrs. Ross, a Democrat in a largely Republican state, lost her bid for reelection by a narrow margin of 1,365 votes. Looking back in a 1972 interview Mrs. Ross saw her mistake as not campaigning enough. "I thought my wisest course as governor was to stay at the Capitol, attend meetings and thereby commend myself to the voters. I would only have taken a switch of a vote or two a precinct to have elected me . . . First you have to get the voters' attention. I was a novice. I should have gone out campaigning and faced the electorate."

Not content to end her public career after she lost the election she was offered and accepted the position of vice-chairman of the Democratic National Committee, which took her to Washington, D.C. in 1929.

In 1932, Mrs. Ross directed the campaign for the woman's vote for Franklin D. Roosevelt. When he was elected president he appointed her in 1933 to be the director of the U.S. Mint. Mrs. Ross was the first woman to hold this position setting a precedent for others to follow.

She was director of the Mint for 20 years during both Roosevelt's and Truman's administrations. Mrs. Ross met the demands of her office efficiently even when the coinage increased more than 1,000 times.

Mrs. Ruth H. Loomis, her former secretary when she was governor commented, "It was really amazing to see how she had grasped the whole mint operation."

Mrs. Ross employed more than 4,000 during the war years, a number never equalled before or since. The drastic and sudden increase in activities of the Mint Service called for quick expansion of facilities, of manpower, machinery, vault space and workings.

Mrs. Ross showed she was capable of handling these problems. A new mint was constructed in San Francisco, the capacity of the mint at Denver was doubled, a new depository for gold was built at Fort Knox, Ky. and one for silver at West Point, N.Y.

It was to Mrs. Ross's credit that the loss of substantial amounts of gold which clung to workers clothes was eliminated. A system of washing down workers uniforms and collecting the residue in special tubs was introduce by Mrs. Ross.

She strived for improvements in operating procedures which resulted in revolutionary manufacturing processes of coinage. Massive melting and rolling equipment in the Denver Mint was brought out of the experimental stage of operation into a high state of efficiency.

While she was director, in Philadelphia, technicians devised a water-cooled mold which produced a 23-per cent reduction in silver melting costs; more powerful motors were installed on the rolling equipment at San Francisco.

Another little-known first for Mrs. Ross was the distinction of being the first woman to have her name appear on the cornerstone of a government building. The depositories at Fort Knox and West Point and the mint at San Francisco all bear her name.

After retiring from the position of Director of the U.S. Mint in April 1935 Mrs. Ross

retained her residence in Washington, D.C. where she lives now near her two sons, George and Bradford Ross.

It is there she plans to celebrate her 100th birthday at a party hosted by her youngest son, Bradford, and his wife, Betty and which will be attended by her son George, her grandchildren and many of the close friends Nellie Tayloe Ross has made over a century.

In Wyoming she will always be remembered as this state's first woman governor as well as an able administrator and will always hold the respect of Wyoming's citizens who wish her a Happy Birthday.

THE DEATH OF SENATOR HUBERT HUMPHREY

Mr. THURMOND. Mr. President, even a relatively ordinary man is too complex to be perfectly understood. Even a relatively uneventful life is too full to be completely described. Accordingly I have no illusion that I can adequately pay tribute to Senator HUBERT HUMPHREY, who was one of the most extraordinary men, and lived one of the most eventful lives, in our Nation's history.

Besides, by this time, 6 days after the death of Senator HUMPHREY, the dictionary has been just about depleted of words of praise that might be applied to him. We are in the paradoxical position where not enough could be said, yet almost nothing remains to be said. There are, however, one or two thoughts about Senator HUMPHREY which keep recurring to me and demanding to be spoken:

Except ye . . . become as little children, ye shall not enter into the kingdom of heaven.

This is one of the greatest demands ever made of mankind. It is a task of supreme difficulty—to be a man, and yet to remain a child, to gain in age and experience, and yet to retain childlike innocence and optimism and drive and sweetness. It is one of the many difficult tasks which HUBERT HUMPHREY made to appear easy.

HUBERT HUMPHREY was born again every morning. The world never lost its freshness and excitement for him. He was interested in everything, as he often said, and he pursued his interests with unflagging vigor. He possessed not only the inquisitiveness of youth, but the energy and enthusiasm as well. He could not stand idle. On the contrary, he was always in full gear. He did not seek out the place, in the contemporary phrase, "where the action is." He was "where the action is."

If that is not meeting the Biblical injunction to become as a child, I do not know what is. In this connection, it is worth noting the exceptional rapport that Senator HUMPHREY had with the young, particularly with children. He took to them instinctively, and they to him. In a sense, he was one of them. Not even a small child has more sincerity and generosity and warmth and vitality than Senator HUMPHREY had.

Earlier this week, I heard someone say that at least Senator HUMPHREY had completed his life's work by the time he died. The remark was well-intentioned. The man was trying to find, for himself and for others, a source of consolation in this time of sorrow. The man, however, was mistaken.

Senator HUMPHREY had not completed his life's work. There could be no completion of work such as his. With him, there were no endings—only new beginnings. Triumphs and tragedies alike led to new beginnings. He never quit. He never said, "That's it. I have done all I can." Even in the final stages of his illness he planned for the future.

No, Senator HUMPHREY may have nearly lived out his Biblical span of three-score years and ten, but Senator HUMPHREY died young. He was 66 going on 25. That is one reason why we feel his death so keenly. The Nation is like a parent that has seen a favorite son cut off in his prime.

Washington will be very different without HUBERT HUMPHREY. The Senate will be very different. He had become, as he was humbly mindful, an institution here. Everyone knew him—Members, staff, guards, tourists. What is more, because of his hectic pace, everyone saw him constantly. Look up, and there he was, bounding down the corridor on some mission of urgent importance—all his missions, in his eyes, were of urgent importance. It is sad beyond words to think that this scene, and the many similar scenes around here in which he was accustomed to play a leading part, will never be enacted again.

His form and figure are gone. Form and figure, though, were not the essence of HUBERT HUMPHREY It was his great, compassionate heart that made him unique.

Heart is something that we cannot see. We can only perceive it indirectly. In the case of HUBERT HUMPHREY, it came to light largely through words—words of joy, hope, comfort, and courage, thousands of words, million of words, words spoken and words written, words that, coming from his heart, went straight to the heart of America. Death may have carried off the man, but it has no power over his words.

Here, then, is the Nation's true consolation. That voice that could not be silenced in life—that famous, unmistakable voice, instantly recognized throughout the land—will not be silenced in death. HUBERT HUMPHREY will go on talking down the ages, to us, to our descendants, to our descendants' descendants, as long as the Republic endures.

The familiar themes of his speeches and his conversation and the familiar powerful rhetoric, will continue to ring in our ears. He will expound on peace and patriotism and the brotherhood of man. He will urge us to try harder and to think bigger. He will cajole us to laughter, and move us to tears, expertly suiting his message and his tone to the occasion. He will, in short, do anything and everything to activate in us those finer human feelings which, because they were so abundant in him, he knew, he just knew, were abundant in everyone else.

Mr. President, I cannot pretend that HUBERT HUMPHREY and I did not disagree profoundly on many matters of public policy. Political disagreement, though, was no barrier to an appreciation of the virtues of this man. The philosopher, Bertrand Russell, once wrote about the philosopher, Socrates, whose philosophical views he, for the most part, rejected. The ideas of Socrates, he maintained, were noble but flawed. In order to be perfected, they would have to go to a kind of logical Purgatory. Socrates the man, however, he could only regard as one of the company of saints. That is the way I feel about HUBERT HUMPHREY.

FAIR PRICES FOR THE AMERICAN FARMER

Mr. NUNN. Mr. President, yesterday, a delegation of farmers from Lee County, Ga., visited my office and presented to me a copy of a proposal adopted by their organization which contains recommendations for the American farmer to achieve fair prices for their products. This delegation was comprised of Charles Rhodes, Jack Garrett, Wesley Kaylor, and Charles Bodrey.

I ask unanimous consent that this resolution be printed in the RECORD for the careful consideration of my colleagues in both the House and Senate.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

We, the farmers of Lee County, Georgia, have been and still are in support of the Agricultural Strike, but we feel that the time is now to move on to establish some method for achieving our goals. We feel that a strong farm organization with common goals is the answer to the farmer's plight. The 100% parity and total farm strike has achieved it's purpose, it has gained attention, but we must realize that some concrete plan must be presented.

A farm organization based on non-violence and mutual consideration must be formed nationwide and a concerted effort must be made to achieve fair prices. The main aim of the organization is that of alleviation of government controls on farming and the export of our commodities. We do not want too highly restrictive controls that would be inherent if the guaranteed 100% parity is passed.

We, in Lee County, plan to form this organization seeking support of the nation, with the following goals in mind.

Goals or policies of this organization:

1. To support a strong lobby in national and state governments. These lobbyist will be answerable to a state or national board of directors. These Board of Directors will serve three year terms, with ⅓ alternating off each year.

2. To have a committee made up of farmers (i.e. the National Board of Directors) to be a permanent fixture in the USDA to set farm policy.

3. To support a good public relations program to promote American Agriculture to the public.

4. Guaranteed open exports, no threat of embargo on our products by government or unions. In the event of shortages, the resulting price rise would result in increased planting.

5. STOP imports of commodities that American Farmers produce. If not possible to stop them, then place a tariff on them that would allow the American Farmer to compete with them.

6. STOP foreign investment in U.S. agriculture.

7. Set up a crop reporting service, working through and for the benefit of this organization.

8. The only government expense will be a federally funded crop insurance program to aid in time of natural disaster.

9. Help in achieving equity in and relief from advalorem taxes, Social Security taxes and unemployment taxes.

10. Relief from unjust actions by EPA, OSHA, Department of Labor and other government departments.

11. A voluntary setaside program (as opposed to a 100% strike) to be used as a lever to get the above policy implemented. This setaside would be a variable type that would take into account each individual's cropping plan.

THE HELMS CASE VERSUS NATIONAL SECURITY

Mr. GOLDWATER. Mr. President, the case of Richard Helms, former CIA Director and Ambassador to Iran who served this Nation faithfully over a long and distinguished career, will go down as one of the most unfortunate episodes in American intelligence annals. There is just no way yet to determine how much capital the Kremlin and the KGB have been able to make of the spectacle of such an important American official being convicted of criminal charges for failing to divulge intelligence information to the U.S. Senate.

As we all know, Mr. Helms was confined in his testimony by an oath of office he took when he became director of this Nation's top intelligence agency. Unfortunately the Carter administration decided to press the case against Mr. Helms on the theory that his CIA oath should have been forgotten when he was called to testify.

One thing is certain; the episode has certainly weakened this Nation's intelligence capability and the people who know it best are this Nation's foreign adversaries. Because of the importance of this case, I believe it is vital for us all to consider every aspect of it in the light of what it can mean to the future security of this Nation. Recently, an excellent discussion of the Helms case was published in the newspaper, Human Events. It was written by Francis J. McNamara, a former executive secretary of the Subversive Activities Control Board. I ask unanimous consent that the McNamara article from the January 14 issue of Human Events be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HELMS CASE VERSUS NATIONAL SECURITY

(By Francis J. McNamara)

It will be years before the United States recovers from the fact that one of its directors of central intelligence, who served as Central Intelligence Agency director and later as a U.S. ambassador, has been convicted of criminal charges of failing to tell the full truth about U.S. intelligence operations when testifying under oath before the Senate.

Moscow, the KGB, all Communist governments and their intelligence and propaganda operatives and agencies, leftist Third World powers, and all America's critics and enemies abroad will be using the fact endlessly in their efforts to discredit the United States and undermine its foreign relations and intelligence activities throughout the world.

The already low morale of the intelligence community, confirmed by top intelligence officials—and which obviously impairs effective operations—has been knocked down another peg or two.

Thus, in an admittedly dangerous world and time, when the nation's safety is so dependent on the best possible intelligence, over-all U.S. security has been dealt another severe blow.

CIA Director Richard Helms, nominated to serve as ambassador to Iran early in 1973, appeared before the Senate Foreign Relations Committee for a public confirmation hearing on February 5. He was recalled to testify under oath and secretly on February 7 because of a New York *Times* report that the CIA had admitted training local police forces in detecting explosives and wiretaps and in setting up intelligence files, and because Sen. Sam Ervin (D.-N.C.), chairman of the Government Operations Committee, had asked that Helms be questioned about the *Times* and other press articles alleging Watergate break-in defendants' ties with the CIA. During this hearing, Sen. Stuart Symington (D.-Mo.), questioned Helms about secret CIA operations in Chile.

Helms was also called before the committee's subcommittee on multi-national corporations, chaired by Sen. Frank Church (D.-Idaho), to testify in a secret March 6 hearing, despite his protest in the February 5 hearing that he had nothing to contribute to the subcommittee's deliberations. In this session, Sen. Church also interrogated Helms about CIA covert operations in Chile.

Helms again testified before the Foreign Relations Committee under oath on May 21. Held to "clarify the record" of the two earlier secret sessions because of Washington *Post* articles and columns about CIA and Watergate and scheduled to be held in secret, the hearings were made public at Symington's and Helms' request so that he could openly defend the agency and his earlier testimony on the Watergate matter.

Finally, he testified before the committee in secret and under oath again two years later, January 22, 1975. Because of interim disclosures about Chile and questions about his earlier testimony, most of the interrogation concerned, that subject. The hearing, after being sanitized, was made public.

Following his initial 1973 hearings, many news accounts based on Justice Department and committee leaks indicated that Helms was under investigation and might be accused of perjury for his testimony on Chile.

Outcome: On October 31, 1977, following negotiations with the Justice Department, Helms pleaded "no contest" (in effect, "guilty") to two criminal misdemeanor charges that he had not testified fully and accurately about Chile in the February 7, 1973, Foreign Relations hearing and the March 6 multinationals sub-committee session.

The "bargain" offered Helms by the Justice Department was that in return for this plea he would not be indicted by a grand jury for perjury (a felony) and would be neither fined nor imprisoned for his admission of criminal misdemeanor.

Federal Judge Barrington Parker refused to honor the agreement after Helms had lived up to his part of it. On November 4 he sentenced Helms to two years in prison and fined him $2,000. He then suspended the prison term.

The Helms case is particularly regrettable, even tragic, for both him and the country because there is good reason to believe he would have been acquitted if he had decided to fight the perjury charge.

The government's case against him was weak on many technical grounds, and also on the very basic question of whether he was guilty of perjury.

Consider the questions asked him, his answers and the facts now known about the matters on which he was interrogated.

Symington, in the February 7, 1973, secret hearing later made public, asked Helms four questions about Chile.

1. Did the CIA "try . . . to overthrow the government in Chile"?

Helms: "No, sir."

Explaining this answer in his 1975 appearance, Helms testified:

"There was no doubt that the Nixon Administration would like to have had President [Salvador] Allende overthrown . . . in 1970, that became a thing they were interested in having done.

"As best I recall, a very secret probe was made to find out whether there was anything in Chile that looked like a force that would overthrow Allende.

"The Allende government was not even in at the time the probe was made, just to see if there were any forces there to oppose Allende's advent as president. It was very quickly established there were not, and therefore, no further effort was made along these lines, to the best of my knowledge. . . . I believe a report came back that there was no way to do this. . . ."

"Looking back at the various things that certainly were done, I cannot understand how anyone could interpret them as an attempt to overthrow the government or believe they stood a chance of doing so."

CIA documents quoted in reports of the Senate Intelligence Committee generally support Helms' testimony, but also reveal that the "probes" he referred to went beyond mere inquiry and were aimed at encouraging any coup-minded officers the agency found acceptable and believed could act successfully. It found none and the "probe" known as "Track II" was terminated a few days before the October 24 congressional election which confirmed Allende as president.

Did this operation, directed at blocking Allende's accession to power, constitute a "try" to overthrow the non-Communist government of Chile, or was it an effort to preserve it? What would a jury decide? Would it agree with Helms' interpretation of events, or find he had committed perjury?

2. Did CIA "have any money passed to the opponents of Allende?"

HELMS. "No, sir."

His 1975 explanation: Symington, who asked the question, was a member of the Armed Services subcommittee on CIA. Helms assumed he thus knew and had in mind the fact that CIA had given money to one of the candidates in the 1964 Chilean election. Therefore, "I thought he was anxious to find out whether or not we had put money into Alessandri to make campaigns against Allende; in other words, the political opponents of Allende, and we had not."

Helms is supported on this point by the December 1975 staff report of the Senate Select Committee on Intelligence concerning covert CIA actions in Chile. It says that in the 1970 elections "it was the official U.S. policy not to support, even covertly, any candidate or party in Chile" and "Direct support was not furnished to either of his [Allende's] opponents."

Was Helms' original "No, sir" a lie, perjury? It hardly seems possible.

3. "So the stories you were involved in that war are wrong?"

HELMS. "Yes, sir. I said to Sen. Fulbright many months ago that if the agency had really gotten in behind the other candidates and spent a lot of money and so forth, the election might have come out differently."

Assuming—and it seems logical to do so—that by "that war" Symington meant the 1970 election and giving money to opposition candidates in it, Helms' reply was truthful.

Most important, Helms' reply clearly indicated that is the way he interpreted the question. If he misunderstood the question and his answer was therefore unresponsive in the sense of being too narrow, Symington should have said so. He did not.

Under the circumstances, how could there be a valid perjury claim based on the question and answer?

4. "Why is there all this talk about the ITT and the CIA working together down there against a duly elected government?"

HELMS. "There were a lot of conversations between members of the agency and members of ITT about political conditions in Chile, about the possibility of a Communist-Socialist government coming to power. . . . ITT was talking to a lot of people in the U.S. government in those days . . . including the agency . . . but there was no exchange of money between us. We didn't collaborate with ITT except to exchange this information back and forth . . .

"There was, as I recall, one occasion on which ITT asked one of our officers what they might do down there, what techniques they might use to sort of head off these eventualities. . . . To the best of my knowledge, the suggestions were never carried out."

This answer was truthful, according to the official findings of Church's subcommittee on multinational corporations which investigated CIA–ITT ties and ITT activities in Chile. It reported that there were meetings and exchanges of information between CIA and ITT officials, that ITT offered CIA money for Chilean activities and the CIA rejected the offer, that ITT asked the agency for suggestions as to what it might do in Chile, but when CIA complied, ITT "decided not to implement" its suggestions.

The answers to the above four questions were the extent of Helms' testimony about Chile on February 7. His March 6 testimony presents more of a problem because it has never been made public. During his 1975 reappearance, however, Chairman J. W. Fulbright read into the record three questions Church had asked Helms March 6 and his answers to them, and Church, absent at that time, repeated the first of these when he appeared at the hearing. It is probable, then, that these were the answers committee members wondered about and on which the Justice Department charges were based.

1. "Now, following the election and up to the time that the Congress of Chile cast its vote installing Allende as the new president, did the CIA attempt in any way to influence that vote?"

HELMS. "Which vote?"

CHURCH. "The vote of the Congress."

HELMS. "No, sir."

Helms' 1975 explanation: "Well, as I say again, my recollection is not very clear. I know there was a lot of planning going on about various ways, if possible, to upset the result; in other words, to have a vote in the Assembly when it came down to the two candidates that had won, that would be against Allende, that there was planning and work and thought given to how one might upset that, I think there is no doubt.

". . . but I believe when it was examined, it was found quite unworkable, Allende had this all wrapped up, it was put in the bag, and there was nothing that was going to change it."

Helms' reply is largely supported, though contradicted in part, by the Intelligence Committee's staff report on Chile. It details the planning, work and thought Helms spoke of, the rejection of some ideas, the failure of others (i.e., Track II, which was not designed to influence the vote and was undertaken only because of the general belief the vote could not be won), but also claims CIA was involved in a propaganda campaign to influence indirectly the vote.

But this partial inaccuracy on Helms' part, either in 1973 or 1975, is not necessarily evidence of perjury. It could have been faulty memory. As he said, "my recollection is not very clear . . . but I believe."

2. "Did the 40 Committee approve the commitment of funds for use in Chile for the purpose of influencing the outcome of the Chilean presidential election of September 4, 1970?"

HELMS. "Which funds are these?"

CHURCH. "Any funds."

HELMS. "Well, the 40 Committee I know approved some funds for activities in Chile, but that they were directed against the influence of the election, put that way, is not my recollection of it."

Helms' qualifying "put that way" prompted Church's next question:

3. "What were the funds used for?"

HELMS. "I frankly don't remember very precisely any more."

True, or an evasional falsehood? Would Helms two and a half years later remember "very precisely" just what had been done with the money? Did he remember generally or in part?

Church did not pursue the matter.

Later in the March 6, 1973, testimony, Helms made a general statement about the above questions and his answers to them:

". . . there seems to be a feeling that the agency put money into the political process, in other words, to back other, the other candidates in this election to defeat Allende, and this is about the only way that you influence elections. Maybe there are other ways, but I simply wanted to clear up the point that we did not back up Alessandri, I forget the name of the other fellow—Tomic. We put no money in their campaign whatever and this has been haunting me that there seems to be a sensation that in saying we had not done this, that I have not been leveling. I mean we did not do it."

The printed word, unfortunately, does not reveal tone of voice, inflection, emphasis, and other keys to communication. But the above statement appears to indicate that Helms sincerely believed, because of the manner in which the questions were asked, that the senators were (mistakenly) convinced the CIA had poured money into the election campaign and that that was the thrust of their questions. Though the printed record does not reveal it, one can picture him putting great emphasis on his final sentence, "*I mean we did not do it.*"

Relative to all the above testimony, one general comment should be made.

During the six and a half years Helms was CIA director, the agency undertook hundreds of covert operations of all types in every corner of the globe. In varying degrees, he was involved in all of them. It undertook a variety of such activities in Chile alone, some overlapping and running into one another, others more or less separate and distinct.

It is absurd to expect that he would be able to recall distinctly two and more years later just what each such operation involved, its precise limits, purposes, methods and other details. No court would expect him to do so even in trial testimony. It would expect not only that he would forget some things, but that he might actually confuse some aspects of one operation with elements of another.

The perjury statute requires that a witness, to violate its provisions, must "willfully" state a "material matter which he does not believe to be true." Court decisions hold, further, that his intent to deceive must be corrupt.

It is easy to understand why liberal columnist Joseph Kraft called the perjury case against Helms "intrinsically weak" and "small beer—the kind of thing that the law, under the doctrine of *de minimis non curat lex*, usually ignores." That means the law does not concern itself with trivia, with matters that are not substantive or worthy of consideration. It is a recognized, valid doctrine, not often heard of because prosecutors seldom violate it. But it certainly appears that that the Department of Justice did so in the case of Helms' testimony.

Beyond the fundamental issue of whether Helms committed perjury and the "small beer" doctrine, however, there are a number of other reasons for believing the government's case was so weak it would not have been able to convict Helms if he had been tried for perjury or even for contempt of Congress, the charge to which he pleaded, in effect, guilty.

The bargaining that resulted in his culpability plea was not initiated by Helms, but by the government. Normally the opposite is true. When the government has a strong case against the accused, the defendant, on the advice of his counsel who recognizes the fact, will authorize his attorney to approach the prosecutor for a deal of some kind that will permit him to plead guilty to an offense lesser than the one he actually committed.

The very fact that the government went to Helms to try to work out an arrangement that would make a trial unnecessary is an indication it had fears about its ability to win a conviction.

A jury would sympathize with Helms' legal-moral dilemma. On the first day of Helms' confirmation hearing, the very first question asked him by Chairman Fulbright after the usual background-identity queries was this:

"Are you under the same oath that all CIA men are, that when you leave the agency you cannot talk about your experiences there?"

HELMS. "Yes, sir, I feel bound by that oath.'"

FULBRIGHT. "You feel bound by that, too?"

HELMS. "I think it would be a very bad example for the director to be an exception."

Helms thus put the committee on notice that he could not reveal CIA secrets in his testimony. Neither Fulbright nor any other committee member challenged Helms' statement of his duty. All accepted it, at least tacitly.

The National Security Act of 1947, which established the CIA, imposes a special legal obligation on the director to prevent disclosure of the very type of agency secrets Helms was asked about.

It provides that he "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

William E. Colby, one of Helms' successors as CIA director, told the House Select Committee on Intelligence when he appeared before it on August 4, 1975:

"As you know, I am bound by law to protect the foreign intelligence sources and methods of this nation. I am . . . bound by my oath of office and by my own conscience to carry out the duties assigned to me—including that one—as fully and effectively as possible."

Helms also felt bound by this obligation in his Senate appearance, as the Justice Department informed Judge Parker, as well as by the oath of secrecy he had signed just three days earlier in resigning as director. Moreover, he had not been authorized by the President or the National Security Council, which alone had such power, to reveal any CIA secrets to the committee.

(Significantly, when the Church Intelligence Committee which later probed U.S. intelligence activities started delving into CIA Chilean operations, President Ford barred all government officials from testifying publicly on the subject. He also barred David Phillips, the recently resigned director of the agency's Western Hemisphere activities, from giving any testimony at all, citing his obligations under the very oath Helms had signed.)

Obviously, Helms was in a very real legal and moral dilemma when some committee members asked him about secret agency activities in Chile. He was caught between an oath to reveal nothing, a law binding him to protect agency secrets, and an oath to tell the truth.

The odds are great that any typically American jury, fairly weighing his conflict-

ing obligations, would clear him of any deliberate falsehood, although it is far from clear that he actually offered any falsehoods in the first place.

Neither committee was lawfully empowered to question Helms about CIA secrets. Congressional committees get their authority from their parent bodies, the House or Senate as a whole. From the time the CIA was formed until December 1974, both houses had determined for security reasons that only special subcommittees of the Armed Services and Appropriations committees would be granted power to probe CIA activities. And, as the Rockefeller Commission on the CIA noted in its 1975 report, the information CIA gave these subcommittees "is not revealed to the full committee membership or the Congress as a whole."

Two efforts to change this situation and bring other committees into the CIA picture failed by overwhelming votes. In 1955 Sen. Mike Mansfield (D. Mont.), recommended establishment of a Joint Committee on Central Intelligence. It was defeated 59 to 27. In 1968, the Foreign Relations Committee urged that a Senate Committee on Intelligence Operations be created. That was defeated by a 61 to 28 vote.

At the very hearing in which Helms was accused of not answering fully (February 7), Sen. Symington said it was "incredible" to him that the Foreign Relations Committee was not then empowered to receive information on CIA actions in foreign countries and had not been able to do so for years.

Moreover, at the May 21 hearing, after some questions about CIA domestic operations, Chairman Fulbright complained:

"[I]t is the failure of the Congress, especially the Senate, which twice has been requested to set up a committee to supervise, to have some guidance over the CIA. I think we voted twice in the Senate on that very specific problem . . . and each time the administration has opposed it vigorously and we have lost. *We didn't have enough votes*" (emphasis added).

Now practicing law in Washington, Fulbright said in a recent press interview he had "endless problems" in trying to get information from CIA when he was Foreign Relations Committee chairman:

"I would try and get rebuffed. CIA just took the position that they weren't supposed to talk to us, and neither the committee nor I was disposed to go to court and get a subpoena. *The Senate wouldn't have supported it anyway*" (emphasis added).

It is thus beyond dispute that the committee had no authority to question Helms about the CIA at the time of his hearing. The Senate was satisfied with the oversight carried out by the Armed Services and Appropriations subcommittees and, by large votes, had twice rejected the idea of any other committee being given such power.

Inasmuch as the Church subcommittee on multinational corporations was merely a sub-part of the Foreign Relations Committee, drawing its authority from it, the subcommittee, too, lacked power to inquire into CIA operations. The full committee could not confer on one of its subcommittees authority which it did not itself possess.

All committee members were fully aware of this, yet some of them went ahead and asked Helms questions they knew they had no right to ask, questions that also violated a long-standing agreement between the CIA and Congress. In doing so, they put Helms in an extremely difficult position—as Sen. Church admitted in the 1975 hearing.

Helms told Church that when he was director, "one of the principal problems was who in the Congress [I] was really to divulge all of the details of covert operations to, and I mnst say this has given me a great deal of difficulty over the years. . . ."

CHURCH. "I can appreciate that. That has been an ambiguity which must have been difficult for every CIA director."

HELMS. "If I was less than forthcoming it wasn't because I was being bloody-minded. It was simply because I was trying to stay within what I thought were the congressional guidelines."

A string of court decisions hold that neither perjury nor contempt charges can be sustained unless the committee interrogating the accused witness had clear authority to investigate the subject at issue.

For this reason there was not only slim chance that Helms could ever be convicted of perjury for his testimony, but it was also clear that the contempt charge to which he actually pleaded guilty would never stand up in court.

Helms would probably win acquittal on the materiality-pertinency issue. The statute to which he pleaded guilty (Title 2, Sec. 192), generally known as the Contempt of Congress Statute, provides that a witness is guilty of violating its provisions if he "refuses to answer any question *pertinent* to the question under inquiry" (emphasis added).

Two tests of materiality in a perjury case are that the false testimony must be related to the subject of the inquiry and also be capable of influencing the tribunal on the issue before it.

The Foreign Relations hearing was held to inquire into Helms' fitness to serve as ambassador of Iran. It cannot be argued that what the CIA did in Chile by direction of the President or the National Security Council at a specific time while Helms was director, was pertinent or material to that subject, however, unless it is also claimed that what it did in all parts of the world throughout the six and a half years Helms was director was also material and pertinent. But this is ridiculous on its face. For reasons already stated, it was completely lacking in power to ask about such matters.

Further, analysis of Helms' confirmation hearings reveals that nothing he stated about Chile, true or false, would affect their outcome. They were largely *pro forma* and his confirmation a foregone conclusion. Members knew Helms was not responsible for what CIA did anywhere; it was controlled by the President and National Security Council, from which he took his orders. Chile was merely a side issue of incidental interest to a few members.

Because a long line of decisions has emphasized the essential nature of the materiality and pertinency issues in both perjury and contempt cases, it would have been most difficult to obtain a conviction on either charge for Helms' February 7 testimony.

Church's multinational subcommittee hearing was held, according to his formal opening statement, to look into claims by syndicated columnist Jack Anderson "and others" that the International Telephone and Telegraph Co. (ITT) had "sought to enlist the cooperation of the U.S. government in preventing Dr. Salvador Allende Gossens from taking office as president of Chile in 1970 and, subsequently, proposed policies to U.S. government officials designed to bring about Mr. Allende's downfall" and also to examine "the role of multinational corporations, their influence on U.S. policy and their economic impact."

On their face, the three questions Church is known to have asked Helms in the multinational hearing referred only to CIA activities, not to ITT or CIA's relations with it. Assuming, however, that he did ask many still secret questions genuinely material and pertinent to the stated subject of his inquiry, a reading of his report raises serious doubt than anything Helms said, true or false, would have influenced his conclusions.

Moreover, a conviction probably could not have been obtained because of the more basic fact that, no matter what subject it was investigating, it completely lacked authority to ask about CIA secrets.

In view of the fact that Helms was accused of not telling the full truth in his testimony before this subcommittee, it is worth noting that Sen. Church did not tell the full truth in his opening statement. The origin of the subcommittee's inquiry actually dated back to September 1970 when Warren Unna, then a Washington Post reporter, delivered to the Foreign Relations Committee a stack of 27 secret ITT inner-office memos about approaches it had made to the CIA on the Chilean situation. Unna later wrote he could not publish them, "without compromising their source"—a clear indication that the source had obtained them illegally.

Eighteen months later, when the committee had done nothing with them, Unna called to remind it about the documents. That was February 1972. The next month they appeared in Jack Anderson columns. (A deliberate committee leak?)

The truth, it thus appears, is that the hearing was held not to look into Anderson's claims but into a situation seemingly revealed by purloined papers the committee had accepted from Unna a year and a half before Jack Anderson (with the connivance of a committee or staff member?) had made his charges.

Church's deceitful opening statement was compounded by an equally misleading opening paragraph in the formal report his subcommittee submitted to the full committee on the results of its investigation:

"On March 21, 1972, syndicated columnist Jack Anderson wrote that the International Telephone and Telegraph Corp. was involved in 'a bizarre plot to stop the 1970 election of leftist Chilean President Salvador Allende.' Mr. Anderson further alleged that the company was in regular contact with the Central Intelligence Agency and that the agency participated in the plot. His allegations were based on documents he had obtained from the corporation's files."

A prosecution would have been clearly discriminatory. In the case of a "no contest" plea of the Helms type a document entitled "Information" is submitted to the court in place of an indictment. The "Information" charging Helms with violations of the Contempt of Congress Statute claimed that he failed to testify "fully, completely and accurately" and that either "inaccurate nor incomplete nor evasive testimony is available as a lawful alternative under any circumstances."

If that is a valid criterion for either contempt or perjury charges, then numerous present and former top-ranking government officials should be prosecuted under one or the other statute. They have—and still are—repeatedly appearing before congressional committees and giving answers to many questions which violate the above standard.

They "waffle" and evade, give incomplete vague and bush-beating replies to questions. The full truth comes out only if committee members vigorously pursue it, refining and rephrasing their questions, probing deeper and deeper, cajoling, threatening, contradicting, relentlessly pursuing every little point. Hearings are often like hidden ball games, with one side doing all that can be done to conceal the truth and the other attempting to obtain prossession of it.

"Lance Replies To Hill Inquiry Held Evasive." That headline appeared over a recent Washington Post account of replies about his banks' overdrafts submitted to the Senate Governmental Affairs Committee by former OMB Director Bert Lance, pursuant to a promise to provide it with full infor-

mation about the subject when he testified several months ago. The Post account reported that Lance had completely ignored some of the committee questions and that staff members interviewed "were unanimous in criticizing Lance's replies as evasive, at the very least."

Will the committee now recommend that Lance be prosecuted for perjury or contempt? More important, if it does not do so, will the Carter-Bell Justice Department initiate such action or its own, as it did in the case of Helms?

Don't hold your breath.

None of the many government evaders and hidden ball players who have violated the above-quoted Helms standard in congressional testimony have been prosecuted. They will not be, though none had the justification he did for pulling up short of the full truth.

A prosecution of Helms would therefore be a glaring case of unjust discrimination in application of the government's awesome power against the individual.

And the threatened use of that power to pressure him into his guilty plea while many other evaders go free makes a joke of President Carter's claim that the Helms sentence "does not condone lying . . . does uphold the law." It does the same to the claim of Benjamin R. Civiletti, head of the Justice Department's Criminal Division and chief Helms pursuer, that the conviction proves "nobody is free from prosecution."

There is something strange, fishy and irregular about the Helms case. A congressional witness can be prosecuted for contempt only under the following circumstances: the subcommittee before which he testified meets, considers his testimony/conduct in the light of the contempt statute and court decisions related to it, with a majority voting after such consideration that the case be reported to the full committee with a contempt recommendation.

The full committee then goes through the same procedure, a majority voting to report the case to the full Senate. The Senate then debates and votes on the issue. If a majority support a contempt citation, the case is then referred to the Department of Justice for presentation to a grand jury.

The same procedure, minus the full Senate action, normally takes place in a perjury case. A committee has power to submit a hearing record to the Department of Justice with the request that a witness be investigated for perjury without obtaining concurrence of the full Senate.

The Foreign Relations Committee had advised this writer that it never went through either of the above procedures for the purpose of having Helms prosecuted for perjury or contempt. It never considered or approved either course of action, formally, informally or any other way.

As a matter of fact, as the hearing record reveals, if voted unanimously at the close of Helm's February 7 testimony that his nomination be reported favorably to the Senate, something it never would have done if it felt he were guilty of perjury or contempt.

Moreover, during his 1975 appearance, in which he explained his earlier answers that had raised some questions about their accuracy and fullness, members—having the benefit of two more years' revelations about Chile—expressed satisfaction with his testimony.

When one of Helms' replies during the session evoked laughter, Sen. Charles Percy (R.-Ill.) remarked, "I will accept your evasion of the question."

The committee also informed this writer that, in response to a request from the Department of Justice, it provided the department with a copy of the still-secret Helms March 6 testimony before the Church subcommittee.

What does the department say? A spokesman admits there was never any formal committee or Senate action to have Helms prosecuted on any charge, but says the department received information on Helms from the committee and "other sources," that charges against him came from "multiple sources," on and off the Hill.

The big question: Who on the committee or its staff secretly leaked charges to the department, sparking its request for the March 6 record and its ultimate decision to go after Helms? Also, how could charges come from "off the Hill" unless someone associated with the committee had leaked secret testimony?

This matter certainly deserves investigation by the Ethics Committee.

What it all means, however, is that if Helms were ever tried on either charge, he might be able to produce as defense witnesses committee members who would testify that they did not believe Helms was guilty of either perjury or contempt. Such testimony would have tremendous impact on any jury. (Atty. Gen. Griffin Bell has admitted that senators and other high-ranking government officials strongly opposed Helms' prosecution.)

Vital secrets would block Helms' conviction. In the past dozen years a score or so of criminal subversives have escaped conviction because essential parts of the evidence against them had been obtained by national security wiretaps. Court rulings require that in such cases the full contents of the taps be made available to the defendant.

Rather than risk making sensitive information available to subversives and their Communist or radical attorneys, the government has not initiated prosecution or dropped it in the middle of trials when courts have ordered production of such information. Serious espionage cases, as well as various lesser offenses, have gone unpunished and unpublicized for this reason.

Helms' attorney, Edward Bennett Williams, would undoubtedly have pressed vigorously in discovery proceedings for all government documents related to Helms' defense. Atty. Gen. Bell has admitted that if this were done and classified documents ruled admissible by the court (as many probably would be), "we might have to abort in the middle of the trial." Because Helms held the top intelligence post in the U.S. government for six and a half years, it is a foregone conclusion that relevant documents would be of the highest sensitivity—and that he would therefore go free.

If Helms' case was so strong, if he had so many valid defenses and the odds favored his acquittal, why did he plead "no contest"? He must have been strongly tempted to fight all the way to the Supreme Court, if necessary.

A number of factors undoubtedly contributed to his decision.

His attorney probably recommended it. Defense lawyers generally operate on the principle that no one can ever predict what a jury will do. Seemingly sure cases, from the viewpoint of both defense and prosecution, are lost every day. For this reason, even when convinced they have a strong case, they believe it is always advisable to accept an arrangement for a basically guaranteed outcome—provided it is acceptable—rather than go to trial.

The cost factor. Helms is not a rich man. Legal fees are very high. A trial with lengthy discovery proceedings, plus the odd chance of conviction and subsquent need to appeal all the way to the Supreme Court, would add enormously to Helms' legal expenses, probably putting him in debt for years. The Citizens Legal Defense Fund, formed to finance the defense of John Kearney, the former FBI inspector indicted for his efforts to track down fugitive Weathermen, offered to assist Helms if he requested help. There was no guarantee, however, that it would be able to provide all of the huge sums required.

An acquittal at trial would have little value. This seems strange, but because the odds were so good for dismissal of the charges on one or several of the previously mentioned technical points, the trial would not resolve the important issue of his conduct before the committee. What good would such acquittal do him? His media and congressional critics, and those interested in undercutting the United States and the CIA, would continue their campaign against him and the agency for years to come, claiming he had escaped conviction for prejury only on a technicality.

Disillusion and bitterness. Helms must feel both to some extent. A Phi Beta Kappa voted most likely to succeed by his college class, he joined the Navy in 1942. A year later he switched to OSS, the secret World War II espionage-guerrilla-special operations force. From there he went into the CIA when it was formed in 1947, remaining with it for 26 years. He was deputy director in 1955–56 and director from 1966 to 1973, when nominated as ambassador to Iran.

He was praised for his years of outstanding government service by most senators at his confirmation hearing. As ambassador to Iran he reportedly had more influence with the shah and better access to him than any of his predecessors—and thus was a most effective voice and influence for the United States in a highly troubled area of the world.

And what has been his reward? Since his confirmation hearings, press, congressional and Department of Justice jackals have been sniping at his character and integrity—because in a difficult situation he did what he thought was best for the country and what his oath and the law required of him. Worse, former Atty. Gen. Edward Levi instituted a criminal probe of his testimony and Helms was formally notified on Jan. 14, 1977, that he was the target of a grand jury investigation.

Appropriate leaks insured that all would know of the possible charges pending against him. A year ago he resigned as ambassador and retired from government.

Helms told the committee in his 1975 hearings:

"I have been in the government for 32 years. When you have been in government that long, you get a pension when you are finished, and the only thing you have left is your reputation. If I do not have my reputation left when I leave the government, I have lost 32 years."

What point would there be to the time, effort, money, stress and other problems a trial would involve if it would not leave him with his reputation intact?

Finally, and perhaps most important of all, there was Helms' very real, continuing concern for the country's security interests. Top secrets would be involved in his trial and, whether or not it was eventually aborted or he acquitted, there was no telling what an Administration dedicated to his conviction might do to obtain it—how far it might go in revealing things he knew should not be publicized, or what some judge might rule, forcing disclosure of extremely sensitive information that would do great damage to the nation and intelligence community.

Helms had spent most of his adult life dealing with and protecting the country's most highly classified operations and information concerning them. He felt a special loyalty to the CIA and intelligence community for which he had worked for more than a quarter-century. Despite the bitter pill he would have to swallow, he did not want either of these further compromised,

knowing as he did that there were those who wanted just that. True to what he saw as his duty as America's former director of Central Intelligence, he decided to take a rap he could not possibly believe he deserved.

Judge Barrington Parker told Helms in sentencing him on November 4:

"You now stand before this court in disgrace and shame."

Then, rejecting the promise the Justice Department had made to obtain Helms' plea, he imposed the suspended prison term and fine on him. The next day in a press statement he meanly compared Helms' defense to that of the Nazis at Nuremberg.

Edward Bennett Williams said Helms "will bear the scar of conviction for the rest of his days," but that it is "a badge of honor," a scar "incurred in the service of his country."

President Carter publicly contradicted this claim and praised the decision. So did Atty. Gen. Bell and his henchman Civiletti.

Sen. Church denounced the Administration for being too soft: "I thought there was to be an end to the double standard of justice for the big shots. Apparently, Helms was too hot to handle." His media soul-mates adopted a similar position.

Dissent within the Administration became apparent when Energy Czar James Schlesinger, who succeeded Helms as CIA director, said:

"It is a shame that Dick Helms should be in court at all. It would be a disgrace if the outcome were more severe. He can treat the episode like a dueling scar—it underscores his service to the country."

Henry Kissinger praised Helms as "a great patriot" who had done "what every director of the Central Intelligence Agency had always done with the full knowledge of the President and the [congressional oversight] committees with regard to these sensitive subjects."

CIA veterans demonstrated their feelings when, at a meeting of former agency employee a few nights later, they gave Helms a standing ovation and filled wastebaskets with bills and checks totaling far more than was needed to pay his fine.

Philip Agee resigned from the CIA in 1968. He violated the oath of secrecy he signed upon resignation by writing a book in which he revealed his CIA training and instruction, assignments in foreign countries and just what he did during them as well as in his Langley, Va., headquarters work—all information of great value to this country's enemies.

He also betrayed his CIA co-workers and the agency by including a 21-page appendix in which he listed the name and position or assignment of every CIA official and employee he could recall—along with all corporations, groups and associations, foreign and domestic, which he says cooperated with CIA and also the names of all foreigners who served abroad as CIA sources, agents, contacts, etc. When he could not remember a name, he gave the best description he could to aid in the person's identification.

Agee is known to have made several trips to Cuba and to have been in Moscow since his resignation. He has been expelled from England and France as a security threat—because of his contacts with hostile intelligence operatives. He acknowledged in his book that the Cuban Communist party helped him write it.

Richard Welch, CIA station chief in Athens, was murdered after *Counter Spy*, which Agee helped edit, published his CIA connection in 1975.

Yet a few months ago, at the very time Department of Justice leaks were creating the impression Helms was a criminal perjurer, Civiletti wrote to Agee saying he had nothing to fear if he returned to the U.S. The Department had no intention of pressing any charges against him.

The message is clear: Former CIA personnel who betray this country's legitimate secrets to its enemies are safe, but those who try to protect them are not.

Anytime a CIA official is called before a congressional committee and some irresponsible member asks about agency secrets—even if the committee has no right to probe them—the CIA representative must tell all he knows, answer "fully, completely and accurately" or risk prosecution as a criminal perjurer.

What foreign intelligence service, what potential foreign agent, wants to cooperate with the CIA under such risky conditions? How can U.S. intelligence personnel feel they are adequately protected, or that they can carry out effective intelligence operations?

What happens, in other words, to United States security?

NOMINATION OF G. WILLIAM MILLER TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. PELL. Mr. President, during my 17 years in this body, I have on many occasions spoken out on behalf of Presidential nominations to various agencies and departments—in both Republican and Democratic administrations. However, never have I undertaken this responsibility with such confidence and belief in the abilities of a nominee as I do today in endorsing President Carter's nomination of G. William Miller to be Chairman of the Board of Governors of the Federal Reserve System.

I have been delighted generally with the high caliber of President Carter's appointees to date. I believe the President has kept his pledge to judge his appointees on the basis of merit and competence. However, Mr. President, nowhere has this pledge been more honored than in the nomination of Mr. Miller.

I have known Bill Miller for over 15 years and during this time I have been unfailingly impressed with his acumen, his energy, his leadership and his judgment. These qualities have been most prominently demonstrated in the performance of Textron, the firm he has guided since 1960—as president, then as chief executive officer, and continuing in this responsibility, as chairman of the board. During his span of leadership, Textron's fortunes have soared, with the corporation rising from 146th to 83d on the Fortune 500 list of the Nation's largest corporations.

Bill Miller's business leadership has been recognized by his peers throughout the country. He is a member of the prestigious Business Round Table and the Conference Board, of which he has served as cochairman. He is a director of the Allied Chemical Corp. and the Federated Department Stores. He is chairman of the National Alliance of Businessmen. The business community has strongly supported his nomination, as is evidenced by the overwhelming accolades that have appeared in the press from business leaders all across the country.

Despite his enormous efforts in moving Textron to its position of prominence in the corporate community, and in promoting the business viewpoint nationally, his interests have gone far beyond the world of business enterprise.

He has served his community and his country on numerous occasions: As a member of the first National Council on the Humanities; as head of the Federal savings bond sales committee; as chairman of the Research and Design Institute of Providence; as the first national chairman of the Industry Advisory Council of the President's Commission on Equal Employment Opportunity; as cochairman of the U.S.-U.S.S.R. Trade and Economic Council and the Polish–United States Council; as a member of the Board of Directors of ConRail; and most recently as head of HIRE, a program to find jobs for unemployed American war veterans. He has been the prime force behind the substantial financial involvement that Textron and other private businesses in Rhode Island have made in revitalizing the Providence downtown area.

Because of his practical experience and his active involvement in so many aspects of the economic life of this country, Bill Miller has acquired the experience necessary to handle the Chairmanship of the Federal Reserve.

His tenure as a director of the Federal Reserve Bank of Boston has given him particular insight into this demanding job.

But above all this, we must look at the substance of the man. Theognis said:

Even to a wicked man a divinity gives wealth, but to few men comes the gift of excellence.

Bill Miller has that precious gift of excellence. I believe that excellence will become apparent to the Senate as his record is studied and as he testifies to the Committee on Banking, Housing, and Urban Affairs.

If, as some have claimed, he is a rookie in monetary affairs, his rookie season will be the shortest on record. However, I believe Bill Miller would be considered a rookie only by those who have not had the good fortune to work with him.

I have been most fortunate indeed to observe Bill Miller in a variety of activities. He was the campaign chairman of my 1966 reelection campaign and has served as a valuable resource to me on a number of issues over the years. He has been a stimulating force in the Providence community, a leader in the national business fraternity and an energetic spokesman for business participation in solving social problems. He is a man of competence, integrity, imagination and drive, mixed with a strong measure of commonsense, patience and decency. As James Reston stated in a recent article on Bill, he is not intimidated by this job and its size. He is the ideal man for the job.

I applaud the President's nomination of Bill Miller. I have great confidence that the Senate, after examining his record, will share my confidence and enthusiasm and promptly confirm his appointment as Chairman of the Board of Governors of the Federal Reserve System.

Mr. President, I ask unanimous consent that the following newspaper articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 6, 1978]

G. WILLIAM MILLER LIKES A CHALLENGE, WILL GET IT AS NEW CHIEF OF FED

(By Neil Ulman)

PROVIDENCE, R.I.—G. William Miller is an amalgam of Superman, Solomon and Sir Galahad—with analytical powers and the memory of a computer, to boot.

That, at least, is the picture of the newly nominated chairman of the Federal Reserve Board painted by a worshipful collection of family, friends, acquaintances and business colleagues. And certainly the 52-year-old head of Textron Inc. will need all those attributes—and maybe more—if he is to stem inflation, slash unemployment, prop the dollar, and instill vision and cohesion in the nation's economic policy within the next few years.

His admirers will no doubt be disappointed if Bill Miller doesn't have Washington straightened out in short order. But old Washington hands won't be surprised, because they know the complexities of the problems that Mr. Miller will face when Congress approves his appointment. And recent jitters in the credit markets suggest that any groundswell of confidence in Mr. Miller has yet to surge through the financial community.

Indeed, Mr. Miller himself says, "I'm not expecting miracles. I know it will take several years. What I want is a positive trend."

His colleagues see a niche in the Capital for Mr. Miller. "There's a vacuum in Washington that's tailor-made for Bill," says Robert E. Grant, a former Textron group vice president and currently chairman of the executive committee of Chicago-based American Bakeries Co. "He isn't a politician, but he's got a fine political mind. He can see the problems, the solutions and the people to deal with them. The right people are as important to him as the right solution. And he's smarter than nine out of 10 people down there, anyway."

The admiration that Mr. Miller has inspired among a broad range of people is startling. It reflects his style of getting things done—a style that took him to the presidency of Providence-based Textron in 1960 at age 35, four years after he had joined the company. By 1968 he was chief executive officer, and by 1974 he was chairman of the broadly diversified manufacturing company, whose annual sales now exceed $2.6 billion. That admiration also suggests the style of leadership he will bring to a post often considered second in power only to the presidency.

"FAST" AND "PERSUASIVE"

"His manner is persuasive and his mind is very fast," says Kenneth I. Guscott, a Boston management consultant who serves with Mr. Miller as a director of the Federal Reserve Bank of Boston and has worked with him on minority-employment projects. "If you bring him a problem, he cuts through the garbage quickly. He asks the right penetrating questions, and he makes the right decisions based on facts, not carelessly. He can be smiling when he makes it. But if it has to be tough, he can be the knife edge, too," Mr. Guscott says.

The toughness is something not everyone talks about. It could even be a surprise to the administration, which some people think chose Mr. Miller as a more pliant replacement for the prickly Authur Burns. Essentially, President Carter saw Mr. Miller as someone who could both reassure the business community and be more understanding of a Democratic administration's need to reduce unemployment while fighting inflation. Mr. Miller has pledged to undertake the twin tasks of battling inflation and unemployment simultaneously. "But Carter will be in for a rude awakening if he thinks he can bulldoze Miller," a Boston Fed colleague says.

Whereas Arthur Burns played critic to the administration's economic policy, Mr. Miller sees himself as a synthesizer and persuader. "Part of my job will be to carry on discussion and open communication with the administration, to use my persuasive powers and find common policies," he says. His aim: "to avoid the cross-purposes that affect confidence" while charting "a steady course and a prudent course."

VIEWING HIS ROLE

Mr. Miller sees his role as applying a restraining force "if the rush to create jobs gets out of hand." But he also fears "a time bomb ticking" in the unemployment of inner-city youth that "is bound to show up in the kinds of problems we saw in the 1960s" if it isn't solved

The dollar is also on Mr. Miller's mind. Even as Washington on Wednesday was pledging heavy intervention to halt the currency's decline, Mr. Miller was promising a stauch defense. "I'll make every effort to ensure the dollar is properly valued," he said. "And it's undervalued now."

If Mr. Miller's new job is among the most powerful, it is also among the toughest, for the power depends on the man "The head of the Federal Reserve must be articulate, well-versed in the practicalities of markets and economics, and willing to take on antagonistic Congressmen, White House staff, Treasury Secretaries or even Presidents," says Charles Walker, a Washington business lobbyist and a former vice president of the Dallas Federal Reserve Bank.

All of which may explain why Mr. Miller is leaving Textron, which paid him more than $380,000 last year, for the $57,500 Fed post. "His whole being demands challenge. To be fulfilled, he has to go on to another career. If he had stayed at Textron, he could have been bored," says Herman Goodman, a friend and former Textron director.

Born in Sapulpa, Okla., in 1925, Mr. Miller's determination to succeed goes back to his growing-up years in Borger, Texas. His father and uncle established a furniture store there in 1926 after oil had been discovered in the region. But they "lost the business" in the Depression, and Mr. Miller's father went to work in a carbon-black plant, according to Mr. Miller's sister Mabel, now Mrs. Lewis F. Cole Jr. of Providence. The nine family members were "fortunate," she says, to hold onto their three-room house, where everyone bathed on Saturday nights in a No. 3 washtub behind blankets strung up in the kitchen.

Mr. Miller's parents "didn't go to college, but they were self-educated," Mrs. Cole says. "They read all the time, and we had tremendous discussions around the dinner table that went in for hours. My father thought there wasn't anything we couldn't do and encouraged us to be the best at anything we did."

After a year at Amarillo Junior College, Mr. Miller enrolled in the U.S. Coast Guard Academy at New London, Conn.—a school to which he remains intensely loyal. A needlepoint Coast Guard Academy pillow adorns a couch near the small writing table that serves as Mr. Miller's desk in his Textron office. A Textron helicopter hovering over the Coast Guard Academy's three-masted training ship Eagle is on the cover of the company's 1976 annual report.

"CREATIVE, INVENTIVE, IMPATIENT"

Mr. Miller left the Coast Guard in 1949 to go to law school at the University of California, then joined the New York law firm of Cravath, Swaine & Moore, which assigned him to help Textron in its battle to take over American Woolen Co. Royal Little, Textron's chairman, found him "one of the brightest young men I'd ever known" and persuaded him to join the company on the promise that he would either become a vice president or be fired within a year.

Mr. Little set the young Mr. Miller to work checking out acquisition prospects for Mr. Little's drive to diversify Textron into a broadly based conglomerate. Mr. Miller was "creative, inventive and impatient. He came in and worked Saturdays," says Mr. Goodman, the former Textron director. And his wife, Ariadna, a daughter of Russian emigres whom Mr. Miller had met on Coast Guard duty in Shanghai, used to come in and help him, recalls Mr. Goodman.

The job also brought Mr. Miller to the attention of the directors to whom he had to report on the acquisition candidates and explain the merger agreements. "We were all impressed by his knowledge and competence," says Arthur Roth, another director.

Co-workers say they are also impressed by his demanding standards, toughness, integrity and patience with people. Even discounting the inclination of people in line for promotion to say nice things about the boss, their enthusiasm seems to echo that expressed by outsiders.

Associates say Mr. Miller's Coast Guard training gave him a grounding in engineering and a taste for technical subjects that he continues to display. When Textron's Bell Aerospace Division recently decided to go ahead with a new twin-engine helicopter, for example, Mr. Miller insisted on a briefing on the engineering trade-offs in the design as well as the marketing and financial projections, says Robert S. Ames, senior vice president.

And although Mr. Miller has been criticized for his lack of training in economics, that doesn't worry Robert M. Solow, a fellow director at the Boston Fed and an economist at Massachusetts Institute of Technology. Mr. Miller "isn't afraid to talk to technical people," he says. Mr. Solow believes that unlike Arthur Burns, Mr. Miller "will listen with interest" to the staff at the Fed. "He likes to hear what analytical people have to say, and he'll sort it out for himself," says Mr. Solow, backing up Mr. Miller's own comment that "the technical expertise is in place to be drawn on" at the Fed.

Subordinates also speak appreciatively of Mr. Miller's willingness to shoulder the blame when things go wrong. Textron recenty decided to sell its Security Group of insurance companies four years after acquiring it in an ill-fated bid to diversify into financial services. Mr. Miller has told security analysts that the timing was wrong and that the mistake was his.

Associates say that although Mr. Miller can be impatient with problems, he is even-tempered. "He never blows up, but he can be damn angry. He doesn't take kindly to the suggestion that people aren't going along with a company decision after we've taken it," says John B. Henderson, a senior vice president. Then Mr. Miller "bears down hard with questions on why things aren't the way they are supposed to be," Mr. Henderson says "But he's always patient with people. A guy (who may have fallen short) gets help and time to shape up, and sometimes the results are remarkable," Mr. Henderson adds.

STANDARDS OF ETHICS

The official recalls Mr. Miller "at his toughest, making fairly complicated real-estate and other loans" for Textron's pension trust. "He wanted every angle buttoned up tight. If there was any question about the integrity of a borrower," Mr. Miller wasn't interested, he says. "Some people came in from Texas wanting a $5 million loan, but it looked as if there were a hole in the deal that they weren't telling us about. Bill asked three times about the missing element in three different ways, but the answers were evasive. The head of their group was a big football player sitting just a couple of feet from Bill across the

table. Finally Bill told him in measured tones and diplomatic language that he was a liar. The guy turned red and flexed his muscles, and I thought there was going to be a fight. Bill never blinked."

Mr. Miller also has reputation for strict standards of ethics and for insistence that Textron steer clear of any questionable business practices. The company had once made an acquisition in South America. It then discovered that a small but profitable subsidiary that was in an "increasing" business was keeping two sets of books and paying kickbacks, says American Bakeries' Mr. Grant, who was a Textron official at the time. "I went to Bill and described the difficulties, saying, 'It looks as if we have a problem.' It took him about two minutes to make up his mind. 'We don't have any problem. Sell it,'" Mr. Grant quotes Mr. Miller as having said.

"If you ever get an uneasy feeling in this company that you don't have all the facts about a deal and there might be an ethics problem, you had better dig into it," says Robert S. Ames, another senior vice president. "You know that Miller will have your head if you end up with something ethically messy."

Textron has, of course, made Mr. Miller wealthy. Besides a house in Providence and a summer home in Westport, Mass., he owns 68,700 shares of Textron stock valued at more than $1.7 million. He also holds 40,000 shares of stock in Franklin Corp., a small-business-investment company; that holding is valued at about $300,000. Some of the stock was acquired with borrowed money, and Mr. Miller says he will pay off the loans, currently equal to about 20% of the value of the shares, before taking office at the Fed. He plans to keep the Textron and Franklin stock and rejects the idea of placing it in trust. "I don't see any conflict in keeping the stock, and I like to manage things myself," he says.

THE BUS, OPERA AND SENSE OF HUMOR

Despite the wealth, the Millers, who haven't any children, live modestly, without servants, friends say. Although he recently traded in a seven-year-old Chrysler on a Buick Le Sabre, Mr. Miller takes the bus to work most days and rides the bus to Boston for business meetings. He had a 20-foot inboard-outboard motorboat but sold it because he didn't use it enough. For exercise he sets himself a schedule to play squash "and is quite good about keeping it," says J. Joseph Kruse, a Textron vice president, who is a squash and golf companion as well as an opera-goer with the boss.

The Millers share a box at the Metropolitan Opera in New York with friends. Mr. Miller works while they ride the train down on Saturday mornings. Then they have lunch, catch the matinee and ride the train back, Mr. Kruse says.

Friends and associates also say Mr. Miller has a sense of humor and can appreciate a laugh on himself. When a golf cart made by a Textron subsidiary broke down while he was using it recently, a club employe who didn't know Mr. Miller took a replacement to him on the course. Referring to the broken cart, the employe explained, "We only use these because some member is president of the company that makes them." Mr. Kruse says that "Bill enjoys telling that story."

"He hasn't showered himself with material things. He isn't complex. He's very steady," Mr. Kruse adds.

"He hasn't forgotten that people have hard times. He hasn't forgotten his roots," says his sister Mabel. "Dishonesty and inefficiency make him angry. But when he's angry, that's when he's likely to clam up, straightening it out in his own mind. He doesn't dwell on things that make him unhappy."

[From the New York Times, Jan. 13, 1978]

BILL MILLER CHECKS IN

(By James Reston)

WASHINGTON, Jan. 12.—The newly appointed chairman of the Federal Reserve Board, G. William Miller Jr., has been in Washington this week wondering how he got here and where he's going in '78. A lot of other people are wondering the same, but he seems amiably relaxed.

He asked Vice President Mondale how he happened to be chosen for this critical job, but Fritz didn't tell him. He asked Arthur Burns to stay on the board of the Fed, but he didn't get an answer to that either. Senator Proxmire of Wisconsin nominated Miller as the financial "rookie" of the year, and Miller said the Senator had a point, but he'd see him later.

First personal impressions of new appointees are important in this town, and Bill Miller has made a good first impression. He wondered when he was appointed whether he should talk to the reporters before he was confirmed by the Senate, but decided to hell with it, and has been available and prudently responsive to everybody's questions ever since.

So Bill Miller is now getting the usual treatment: a lot of publicity; a lot of questions he can't possibly answer about how to stamp out inflation and unemployment, increase the money supply and keep interest rates down; solve the energy crisis, and get on with the White House, the Treasury, the Council of Economic Advisers, and the Congress.

Meanwhile, he's trying to figure out a few incidental personal matters such as how to get confirmed without having to sell all his Textron stock, whether to sell his house in Providence, and where, if he's confirmed, he will sleep at night in Washington.

I found him at the Hay-Adams Hotel across from the White House, and in response to questions, he made the following points:

He didn't see any big difference between his approach to "this job" and Dr. Burn's approach. On most of the major decisions Burns had made, he said he'd probably have come out about the same. He didn't say where he might have disagreed.

He was concerned about the decline of the dollar in relation to the Japanese yen, the German mark, and other major world currencies, and was glad that the Fed and the Treasury had agreed to support the dollar. A deflated dollar, he insisted, might help sell U.S. products abroad, but overall, it was bad business and bad psychology. It was difficult enough to pay $45 billion a year for foreign oil, but what if the oil-producing countries raised their prices to match the decline in value of the dollar?

Mr. Miller also understood the need for emergency measures to prohibit the importation of steel below fair-market prices in this country, but these were, he said, "Band-Aids" to deal with industrial and human problems in unemployment areas like Youngstown, Ohio. The problem was to give the U.S. companies an equal chance by tax incentives to modernize their plants so that they could compete on a fair basis with the other major industrial countries.

He didn't think we should play the "numbers game" with the unemployment figures. He was very optimistic about this in the long run. Even with the startling increase of women coming into the labor market, he said, we were producing enough jobs every year to hold our own in the short run. And in the long run, he felt, the population bulge of the postwar baby-boom was leveling off, and even the family revolution, with both parents working, could be absorbed in the Eighties if the economy kept expanding.

This, at least, is how I heard Miller. He clearly is not a typical world banker, or professional economist or academic theorist, or even a big-business pragmatist out of Textron or any other multinational corporation.

On the first impressions he has made here, he is a combination of all these and, in a way, it is not surprising that Mr. Carter chose him. He is of Jimmy Carter's generation and background.

Bill Miller was born in Sapulpa, Okla., 52 years ago, and moved in the oil-boom days to Borger, Tex., where his father ran a furniture store, and was fire chief and justice of the peace. He went into the Coast Guard and graduated from its academy in New London, Conn., experience not so different from Jimmy Carter's in Plains, Ga., and the Naval Academy. After the last World War, Miller served for a year in Shanghai, married a Russian émigré, graduated at the top of his class at the University of California Law School in Berkeley, came East into the prestigious law firm of Cravath, Swaine & Moore, and then joined and eventually became chief executive officer of Textron.

Miller has been in and out of Washington on special assignments for Presidents Kennedy and Johnson just enough not to be intimidated by the place, and he is clearly not intimidated now. His attitude is that he didn't ask to be invited here, but is pleased and will do the best he can if they want him. If they don't, home holds no terrors for him.

With this confident but modest approach, Miller has made a good start. He is a feisty little guy, with a boyish grin and a broken nose, and that spontaneous, optimistic American attitude that trouble is inevitable but everything is possible. He will have his troubles at the Fed, like Arthur Burns and Bill Martin before him, but the guess here is that somehow he will get along with the Treasury, the Congress and the business community. Maybe this is expecting too much on the basis of first impressions, but at least he has made a good beginning.

[From the Wall Street Journal]

MILLER COUPLES BELIEF IN FREE MARKET WITH PRINCIPLE OF PRAGMATIC ACTIVISM

(By Neil Ulman)

BOSTON.—By his own description and that of others who have talked banking and monetary policy with him, G. William Miller is a pragmatic activist whose economic views defy pigeon-holing.

But talks with Mr. Miller and those who know him, plus a study of his speeches on economic policy, offer the first clues of what kind of Federal Reserve Board chairman he will make:

He is generally in accord with recent monetary policy, although he's been impatient on occasion for easier money.

He's a tough, decisive pragmatist who would oppose vigorously any attack on the Fed's independence.

He subscribes to an economic theory that inflation and unemployment can both be reduced at the same time, and fairly rapidly.

He's an activist who prefers to let the free market work, but is also wont to propose detailed forms of fiscal and monetary intervention.

He's a quick study and articulate advocate whom peers rate as politically savvy and equal to the task of getting his views across to Congress.

"On the basis of the past six months," Mr. Miller "more or less supports" the monetary policy that the Fed has been following, according to Frank E. Morris, president of the Federal Reserve Bank of Boston, of which Mr. Miller is a director. "But there have been times in the past when he has differed," Mr. Morris recalls. In particular, Mr. Morris cites the last half of 1974 when, he says, both he and Mr. Miller felt that mone-

tary policy should have been moving more aggressively in the direction it was already taking toward lower interest rates and a faster increase in the money supply.

"A CHICKEN-AND-EGG SITUATION"

But Mr. Miller himself, speaking by telephone yesterday from a vacation retreat, refused to align himself with any school of thought on the role of the money supply in controlling inflation. "It's a chicken-and-egg situation. One consequence of inflation is the need to have more money for transactions," he said. "Full employment, price stability and a sound dollar require coordination of both fiscal and monetary policy," he added.

The view ties in with the exception of Alfred W. Van Sinderen, fellow director of the Boston Fed and president of Southern New England Telephone Co., that Mr. Miller will seek a greater coordination of the Fed's monetary policy with fiscal policies of the Congress and Executive Branch. And in Mr. Van Sinderen's view, Mr. Miller has the "charm, knowledge, experience" and political acuity to effect such coordination.

Mr. Miller described himself yesterday as "from a philosophical base" that believes a growing economy, sound dollar and stable prices are all within reach. And he repeated earlier assertions that "the least government is the best and the more the market is free to operate the better. But in the circumstances of the last decade, activism is desirable. The aim is to bring about conditions to make the (free market) system more self-operative and self-correcting," he said.

What Mr. Miller means by all that can best be gleaned from a speech he gave last January to the Traffic Club of Pittsburgh, a business group. The speech expounds his theory on how unemployment and inflation can be reduced simultaneously. He still holds "fundamentally" to the view expressed in the speech, he said yesterday, with the proviso that "all economic policies have to be applied to the events of the time."

In his talk to the Traffic Club, Mr. Miller proposed that there was more room than generally recognized for broad-brush stimulus to the economy without danger of boosting inflation. That, he said, was because of the nature of unemployment, a large portion of which he called "compensated unemployment" involving persons receiving welfare, food stamps, unemployment insurance and so on. The spending represented by the payments they receive was already in the economy, he noted. But "income with jobs isn't a healthy state," he asserted.

UNHEALTHY VS. HEALTHY SPENDING

The answer was to pursue "macroeconomic policies which will lower the unemployment rate in fact," replacing unhealthy spending from transfer payments with healthy spending based on job income. He acknowledged a theoretical debt for the proposal to Massachusetts Institute of Technology economist Robert M. Solow, also a Boston Fed director.

In the same speech, Mr. Miller also proposed "far more emphasis on providing incentives for capital spending than has generally been proposed." His suggestions included an increase in the investment tax credit to 12% (it is currently 10%), a doubling of depreciation allowances on investments in states with high unemployment, and "phasing in a 100% depreciation policy over a 10- to 15-year period."

Mr. Miller then went on to plug the use of "selective" controls, or stimulus moves despite their unpopularity with businessmen and his preference for free-market forces. He didn't elaborate. But in a 1974 article that he wrote for Business Week magazine, Mr. Miller had proposed a long list of such actions.

On the monetary side, he suggested possible restraints could include "a mandatory interest surcharge on loans for low-priority purposes" and "a requirement for larger bank reserves for certain types of loans." Correspondingly, "a decrease (or even a credit) in bank reserves" could be allowed for loans for high-priority purposes, "such as for housing or for small business," Mr. Miller wrote.

But if there is any description of Mr. Miller on which his Boston Federal Reserve colleagues agree, it's that he isn't doctrinaire. "I don't think he falls into any particular school of economics. I think of him more as a pragmatist or an eclectic," says Boston Fed President Mr. Morris. Mr. Miller himself feels "there could be some advantage in not being wedded to a single discipline" or school of thought as he takes on his new job. And he isn't worried that he is schooled as a lawyer and businessman, rather than an economist. "The technical expertise is in place at the Fed to be drawn on," he says.

VIEWS ON REGULATING BANKS

No one on the Boston Fed board can recall Mr. Miller expressing any views on how the Fed should be handling the dollar in international foreign exchange markets. But fellow director Van Sinderen attributes to Mr. Miller an opinion that "Congress has been unnecessarily concerned about bank regulation and 'problem banks'." He thinks Mr. Miller would succeed in explaining to Congress how bank regulators should work. "I think he (Mr. Miller) would say that we don't need more bank controls, but that existing controls need to be made to function properly," says John Hunter Jr., president of Vermont National Bank and a Boston Fed director.

John D. Robinson, president of Firstbank in Farmington, Maine, and another Boston Fed director, further describes Mr. Miller as "very much aware of the membership problem" faced by the Fed. Some banks have dropped their Fed membership, saying the benefits don't offset the costs, among which they usually cite the failure of the Fed to pay interest on reserves the banks must deposit with the Fed. The dropouts have in turn stirred long-range concern about the Fed's ability to control the money supply if bank membership shrinks.

Mr. Miller "is aware that the burden of (Fed) membership needs to be lessened or eliminated and he would be in favor of the quickest way to do it," says Mr. Robinson. That would probably be payment of interest on reserves, he says. "He'll be good for the commercial banks—and for the people, too," says Mr. Robinson, an unabashed Miller fan.

[From the Wall Street Journal]

MR. MILLER AT THE FED

G. William Miller, President Carter's choice to head the Federal Reserve Board, seems to be a man for all seasons: he has won the admiration of such diverse men as Walter Mondale, George Meany, Reginald Jones, Mike Blumenthal, Henry Reuss and Arthur Burns.

For that reason, and a good many others, we will not try to forecast what kind of Fed chairman Mr. Miller will be. Suffice it to say that he has been a successful chief executive at Textron and that he will bring intelligence, vigor and administrative skills to his new job. He will obviously start with a large fund of political good will, which is always useful to a Fed chairman.

We will of course be interested in Mr. Miller's money theories. Interviews by our Mr. Ullman in today's Journal suggest that he leans, if anything, towards an easy money philosophy, which implies that he has come under the influence of those theorists who think gunning the money supply is a way to lower interest rates and stimulate economic growth. If this proves to be the case, it will be disquieting. Experience shows that inflation is what in fact shoots up interest rates and retards growth.

At the same time, though, what a Fed chairman most needs is not economic expertise but character. So we would not make a huge issue of the fact that Mr. Miller is not an economist or banker, but a lawyer and businessman.

The test of character comes when a new chairman is on the job and must face the intense political pressures that come to bear on the Fed. They come from the White House, the Treasury, the Congress, banks and business. They are pressures to finance debt. If the Fed gives way too much, we get inflation. Mr. Miller is absolutely right in saying that inflation and unemployment go hand in hand and we hope that he keeps that in mind when he gets to Washington.

Similarly, the new Fed chairman will be warned daily that he is risking a "credit crunch," which will test his nerve no end. While huge government deficit financing requirements facing us even in the midst of an aging recovery are in fact likely to strain credit markets in coming months, the danger of a crunch is slight if the Fed follows a steady, conservative monetary growth path. It has been years since the Fed has even come close to precipitating a credit crunch.

Our judgments of Mr. Miller will not be formed by who his friends are now but by who they will be when he has been on the job awhile. If he finds himself embattled at that stage, trying to protect the independence of the Fed and the stability of the dollar against all those powerful voices demanding "more," he can count on our support.

[From The Westerly Sun, Jan. 11, 1978]

NO BIG CHANGE EXPECTED

Chairman William Proxmire of the Senate Banking Committee has said some snide things about President Carter's choice to head the Federal Reserve System. Offering G. William Miller of Textron in Providence as the replacement for Arthur F. Burns, he maintains, is "bringing a rookie in as chairman of the board."

Snide or not, Proxmire's views have some merit. Many would agree with his assessment that, while the long-time head of Textron, Inc., "has been a smashing success in business," that is "a far cry from being a good chairman of the Federal Reserve Board." Running a corporation poses different challenges than those involved in the task of setting national monetary policy.

Criticism along this line must be taken with some reservations, however. It is true that Burns, well seasoned after four-year terms, enjoys a measure of trust that will not be accorded his less experienced successor at the start. But though Miller will doubtless move toward closer harmony with administration policy ideas, no radically new course seems to be in prospect. The Fed is a stable institution. It is not likely to be shaken up by the coming change in leadership.

[From the Pawtucket (R.I.) Times, Jan. 5, 1978]

HERE'S NO. 1 MEMBER OF "BILL MILLER FAN CLUB"

(By Zel Levin)

One of the strangest reactions to the appointment of Textron's dynamic G. William Miller as head of the prestigious Federal Reserve Board came from a totally unexpected source.

"William Who?" read a headline in the Wall Street Journal.

That wasn't funny. That was infantile.

Let the Harvard Lampoon be facetious. Let the New York Daily News be cryptic or quizzical. Let the Bingville Bugle display its ignorance.

But for the nation's leading financial publication to be so sophomoric is dissappointing—a disservice to its readers.

Having written headlines for the past 40 years or more, we understand the desire to

create a headline that is at once dramatic, succinct and/or informative. Sometimes headlines come hard. But that doesn't justify the phraseology or snide view of the Journal.

It may be a minor thing. Obviously a man of the stature of G. William Miller does not need us to defend him.

But because of our personal admiration for the Textron board chairman, we couldn't help but express our resentment. Granted, G. William Miller may be no household word comparable to Howard Cosell, but he certainly needs no introduction to the world of business and finance.

We know Bill Miller. That's not name-dropped nor implying he is a personal friend.

We became acquainted with the industrial giant some five or six years ago when we were invited to an off-the-record press party hosted by Textron in its elegant Providence headquarters.

The invitation, as we recall, noted the party merely was for the purpose of an informal exchange of ideas. It was flattering to think that a man of his preeminent position wanted to *listen* to us as well as present his views.

Newspapermen generally are an irreverent lot, not easily awed by wealth or title or reputation. But most of us that first day in the skyscraper offices towering over downtown Providence were quiet—even subued, as we waited with open curiosity to meet the man who certainly is Rhode Island's outstanding industrialist.

We wondered what it would be like to sit and chat and have a drink with the head of a billion-dollar conglomerate, a man who makes multi-million-dollar deals in Europe one day and the next night is in Washingtcn or Texas for an equally vast project.

He strode in, coatlesss, smiling, with all-encompassing eyes, introduced himself to each of us with a firm handshake and a frendly "Hi, I'm Bill Miller."

There have been annual meetings since. Each has reinforced our appreciation. His grasp of politics and the complexities of government, his incisive mind, his awesome knowledge of a multiplicity of subjects ranging from world affairs to natural sciences is incredible. We offer ourselves as a charter member if anyone wants to form a Bill Miller Fan Club.

At that first meeting and at subsequent parties, he showed a particular concern for the problems of government. If memory serves us correctly he was demanding a solution for the energy crunch before it became a national issue.

We recall some of the journalists questioning him about his personal ambitions in politics. He said he had none. But we sensed he might have been receptive to a genuine draft movement for governor.

We wondered then, as we do now, why a person like Miller would be willing to make the considerable sacrifice to leave the remunerative private sector to hold public office.

Surely it's not the money.

Miller as chairman of Federal Reserve will be getting about $50,000 yearly, probably one-tenth of what he is paid at Textron.

The answer, then, has to be in other areas.

First, dedication. It's not a word to be taken lightly. This is the very essence of patriotism.

Beyond that must be a powerful ego motivating a creative, strong-minded person to demonstrate his leadership qualities. It's a challenge, a new world to conquer and rather than money, his reward is the satisfaction achieved through success.

As chairman of the "Fed," Miller will have the awesome responsibilities of dictating the nation's fiscal policies.

There's no question in our minds that he'll succeed.

But with Miller in Washington, we're going to miss those Textron parties.

HOWARD RUFF ON GOLD CLAUSES

Mr. HELMS. Mr. President, on October 28, the President signed Public Law 95–147, a bill which makes enforceable in the courts financial obligations between Americans denominated in gold.

It has been interesting and rewarding to note the vast number of Americans who have expressed interest in this means of avoiding the effects of inflation. My office has received a deluge of inquiries on this topic. In addition, many many citizens have asked information from the Institute on Money and Inflation, a Washington-based public policy research organization which, by the way, provided the backup research and analyses needed for my work on this legislation.

Recently I came across two articles on the new gold clause freedom in the newsletter written by Howard J. Ruff, "The Ruff Times." Mr. Ruff offers timely advice to his 30,000 subscribers on how they can make a go of things in this era of economic disruption. Mr. Ruff and I agree that inflation is one of the worst evils ever foisted on the American people by Government. He believes, and I agree, that the only standard of value never corrupted by Government—gold—is still useful as a means of defending one's self and family from the ravages of inflation.

Gold has its pitfalls, and many people have said that the gold clause freedom will not be used, because of the volitility in the price of gold. It has been my observation that increased use of gold as a standard and store of value in these chaotic times will probably reduce gold's volitility and increase its desirability.

Mr. Ruff has put together a proposed way of utilizing gold clause contracts and I believe it deserves serious consideration.

Like all new concepts, gold clause contracts will require study and some investigation. I have promised to do whatever I can to put an end, if possible, to the evil of inflation. The best was, of course, would be to stop inflation, but until we can do that, the next best way is to make available the means to minimize inflation's effects. Mr. Ruff's proposal to use the gold clause freedom may well fit the needs of many Americans. For the benefit of my colleagues and other readers of the CONGRESSIONAL RECORD, I ask unanimous consent that Mr. Ruff's articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

ISSUE YOUR OWN GOLD BACKED MONEY

Here is my early Christmas present to you. It might be the best one you ever had.

Several times before, I've tried to deal with the terrible dilemma faced by you who need interest income to live on. If you have accepted my view that bonds, stocks, annuities, C.D.'s and bank deposits now have increasing market and/or capital risks, that means you should buy gold, silver, diamonds, etc. But gold, silver and diamonds pay no interest. Also, when you're placing money to earn interest, the longer you are willing to commit your money into the future, the higher interest you can get. But in a time of rising interest rates, with an economy at the brink and rising inflation a real threat, you should avoid long term commitments.

HOW WOULD YOU LIKE TO BE ABLE TO EARN LONG-TERM INTEREST RATES, REAP THE PROFITS IF GOLD RISES, AND SUFFER NO DEFLATION LOSS IF GOLD GOES DOWN? Well, you can do it by loaning money, using a gold clause in the loan contract, and a prudent, no-risk "hedging" procedure, using gold futures. If you understand this technique, you can loan money safely, and, if you wish to borrow money, you can present a marvelously persuasive argument to a potential lender and secure his position to the benefit of both of you.

A bill permitting gold clauses in contracts for the first time since 1933 has just been signed into law by President Carter. Now it is not only legal to own gold, you can now define contractual payment obligations in terms of gold. It's like creating your own gold-backed currency.

Until this issue of THE RUFF TIMES, no one had any idea how to use it. Don't forget, you read it here first, and I honestly believe that for many of you, this is the most valuable financial suggestion I've ever come up with.

BEING A LENDER

Of course, the problem will be to find someone who understands the value of gold and its counter-cyclical movement to the economy in general, but I can help you with that a little later.

Let's assume that you want to loan money to an individual or business, and you've been offered a satisfactory interest rate.

There are some simple basic steps:

(1) Take all of the usual credit precautions. Be sure that your borrower has collateral which will hold its value under adverse economic conditions to protect you in case of default, or a secure recession-proof source of income, which would be pledged for repayment, or both.

(2) Insert a clause in the contract which gives you the option of taking repayment either (1) in cash, or (2) a specific number of ounces of gold, (either bullion or coins) or (3) in the dollar equivalent of the same amount of gold.

(3) The number of ounces of gold you would receive if you should choose to take gold, should be clearly specified in your contract. This is determined by dividing the price-per-ounce of gold at the start of the contract, into the face amount of the loan. For example, if gold was $160 an ounce at the time of the contract, and you were loaning $16,000, you would divide $16,000 by $160 and you would come up with 100 ounces of gold.

To avoid one day distortions of the market, use an average of the second London price fixings for the five trading days prior to the starting date of the contract. Any coin dealer can give you those figures.

If you choose to take the cash equivalent of gold at the end of the contract, the amount of money to be repaid is determined by averaging the last five trading days prior to the maturity date of the contract.

Let's use our previous example: a $16,000 loan, gold at $160 an ounce at the start, payment now based on 100 ounces. There are several possibilities when the payment date arrives.

(a) If inflation is rampant at the maturity date, gold will have risen and you would probably ask for the cash equivalent of gold. If gold was $200 an ounce, you would receive $200×100 ounces or $20,000, even though you had only loaned $16,000—a $4,000 profit—plus, of course, the earned interest.

(b) If deflation hits and drives gold down below $160, you would demand repayment of the face value in dollars. If the price is over $160 and currency markets are in disarray, you take delivery of 100 ounces of coins or bullion.

According to Donald Shapiro of the New York Law School, the increase would probably be a capital gain for tax purposes, although this has not been tested in court.

Now, the catch. What if gold should go out of sight to $500 an ounce. This would be great—except your borrower might not be able to repay. That's 3 times as much money as he borrowed.

THE HEDGE

Here's a simple solution. The contract must require that he buy gold futures contracts, at the commencement of the agreement, equal to at least the number of ounces of gold stated in your loan agreement—in this example, one 100 ounce contract, and he must maintain that futures position for the length of the loan agreement. If the price of gold rises, his contractual obligation to you increases, but he has a corresponding profit from his "hedge" position in the futures market, so he breaks even. If the price of gold goes below $160 an ounce, he immediately sells out his position. He's not speculating, because his profits are equaled by his obligation to you. By insisting on this, you have protected his ability to repay you. You both benefit.

The interest should not be covered by the gold clause, because that becomes terribly complex, and could be a violation of the usury laws, as it could force him to pay you more than the legal interest, depending on the laws of your state, which could invalidate the interest provision entirely. (Incidentally, the courts just struck down California's usury laws, so that's no problem in California, but the complexity problem still remains.)

That means you're protected by a floor, in that you can demand payment of the loan amount if gold falls, or if gold has risen, you demand it in gold, or the cash equivalent, and you are protected both ways.

I cannot over emphasize that the usual prudent judgments regarding the collateral and the borrowers ability to pay, must be observed. The gold contract is no substitute for that. The futures contract does not provide collateral. It merely provides him with profits to take care of any increase in the value of the contract, over and above the face amount. The face amount still must be secured in the good, old fashioned, basic ways.

Let's make sure you understand the basics of the futures market. It's critical to our plan.

The futures market is a place to buy or sell a contract to buy or sell a commodity at a future date at a specific price which is determined by the market. For example, you can now contract to buy 100 ounces of gold in June for about $165 an ounce. The price of the contract will fluctuate, based on investor opinion as to what the price will be on that date, but tends to move up or down in a fairly close relationship with the daily London "fixings". (There are two a day.) You generally only invest $700–$800 per contract (about 5%) plus a brokers commission of $50.

You can go "long", which means you buy a contract for future delivery, profiting if the price goes up, or you can go "short" by selling a contract, profiting if the price goes down. You don't actually need to give or take delivery of the commodity, (although you could if you wanted to) as you sell out or "liquidate" your position sometime before the delivery date.

Speculators go long, or short, based on their opinion of future market movements, liquidating either to take a profit or cut short a loss.

But we are doing something entirely different. We're "hedging", using the market as it was originally intended. We're not looking for profits. We just want our borrower to stay even with his rising or falling obligation to us. He has no decisions to make. He stays "long" when gold is above the price on the contract date ("strike" price) and he liquidates when the price drops below the strike price. He's not trying to win, because if he starts guessing, he could lose instead. He just stays even, as his profits move in parallel with his obligation to you. It's automatic. He instructs his broker, puts up the margin, and monitors his broker's actions. You can even specify in the contract that you get copies of his monthly statement from his broker to be sure he's not playing around and gambling rather than maintaining his hedge. He must, however, "roll over" his contracts if the loan is long-term, as you can't buy contracts more than one year in the future.

NOTHING'S PERFECT

There are a few pitfalls to avoid, and some limitations on the technique.

1. The loan has to be equal to or greater than one gold contract (100 ounces or around $16,000 today) or the borrower can't hedge precisely. To keep it simple, loan in increments of one futures contract, the exact amount of the loan being determined at the last minute.

2. At the beginning of the contract you go long, but you could be caught in a temporary downward move which could wipe out the margin, forcing a sale of the contract, or a margin call.

Avoid this by placing a "stop" loss order $3.00 below the purchase price, and if it drops, you'll be sold out and you'll absorb a small loss, and wait until it rises above the strike price before getting back in.

3. It's possible the price could whipsaw the strike price and move up and down past it several times, and cost some commissions and small losses. The further the price of gold is from the strike price, either up or down, the safer you are.

As the lender, if gold is below the strike price, you and your borrower have no risk. You can demand the face amount when the loan matures, and he's safely out of the futures market.

4. This does cost the borrower some commission money, and he should think of it, and the possible losses described above, as a loan cost.

TO BE A BORROWER

You can use the gold clause to make a proposal acceptable to a lender by providing him protection, provided, of course, he's a believer in gold, but you must "hedge". You must borrow as prudently as you lend, being sure that you will have sufficient income, or assets, to be able to make repayment.

Do not use the futures market to speculate. Don't try to win. Merely play against your obligation, which means, as long as gold is above the price specified in the contract, you stay "long". Any commodities broker can explain how to do that. Don't worry if your futures contract goes up or down, unless it drops below the starting price, in which case, liquidate, as described above.

There's another optional tactic which could provide the borrower some substantial profits with only a tiny risk. If gold drops below the starting price, liquidate your long position, sell "short", and stay short as long as it is below that point. If the price is still down when the contract comes due, your lender will, of course, demand to be paid in dollars, and your short position can be safely liquidated at a profit. If the price of gold is above the starting point, the lender will, of course, ask for gold, or its cash equivalent, and, if you followed the directions, you will be "long", at which time you liquidate your contract and pay off.

A TECHNIQUE FOR TODAY

This whole thing makes so much sense right now because of the simple fact that, over the long haul, gold is counter-cyclical to the economy. It couldn't have come along at a better time. If we have run-away inflation, gold will rise in price. If you're the lender, it's just like buying gold with a guaranteed profit and no loss, because if gold falls, you don't get hurt, but if gold rises, you win. The borrower doesn't care, because he will have hedged. Who's the loser? That anonymous guy who was on the wrong side of the futures contract that you bought on the Exchange, but that's his problem. He just bet on the wrong side. And he would have done that anyway.

The key is the hedging technique. If you are a lender, you want your borrower to be hedged so he can pay you off. If you are a borrower, you want to be hedged, so you can afford to pay him off.

You might have to fight the I.R.S. for treatment of the profits as capital gains, and I think you'd win, but there's a chance that Congress might wipe out the capital gains break in the next year or two anyway, as proposed by President Carter.

In conclusion, let me sum up. With a gold clause, and a hedging technique, it is possible to loan money, receive interest and be protected against inflation with a rising gold price, which means it's the same as owning gold coins. Except for the possible small trading losses for the borrower, (hedger), you can't lose money. A borrower can make the attractiveness of his loan proposal infinitely greater, while using the hedging technique to protect himself against getting financially murdered with a runaway gold market. It is a good deal for everybody concerned, and that's the kind of deal I like.

"ISSUE YOUR OWN GOLD BACKED MONEY"

Since the December 1 RUFF TIMES, we have had lots of additional questions about the gold clause contract, and some excellent input from some professionals in the commodity field. I've also been interviewed by two or three national publications who picked up the story. We will later reprint those comments so you can enjoy it too.

Some additional problems associated with the use of gold clause contracts have been raised of which you should be aware. You might want to review the previous article before you read this one.

1. As you will remember, the hedging technique is essential to the use of the gold clause. In fact, a gold clause is useless unless both parties understand the countercyclical nature of gold, and the contract is hedged. The gold clause was originally used way back when gold was stable at $20.67 an ounce and the borrower didn't have to worry about being tied to a widely fluctuating commodity. The price of gold was government controlled and was stable. Since the gold clause was signed into law by President Carter, there have been several articles published in "hard-money" newsletters telling us we are going to return to utopia, because cities, states and the federal government are going to be forced to issue their securities with gold clauses. That's ridiculous. Nobody is going to issue gold-backed contracts or currencies without futures hedging, because, otherwise the risks to the borrower are too great. How would you like to borrow several thousands dollars and find out you had to pay back three times as much, because gold had gone through the ceiling? Governments are not going to issue gold clause contracts as long as gold has a free floating market. It fluctuates too widely. The only way to protect yourself is to hedge, and the amounts of money borrowed by governments are so large, no futures market could accommodate the hedge buying and selling. Senator Helms' great contribution with this legislation is that it will be far more difficult for government to back-track on gold ownership, and some day, when the system is cracking at the seams, Uncle Sam will get religion and we'll have a sharply revalued gold (up a lot), and a gold backed currency, and then the gold

clause won't need hedging, and everyone will use it. When? I don't know, but not soon.

2. Hedging must be conducted skillfully, and has some inherent difficulties.

There is the problem of the "spread". If you look at the daily quotations on any commodity in the The Wall Street Journal, you will see that the contracts that are furthest into the distant future are more expensive. Gold is $5 or $6 per ounce more expensive, in, for example, the June contract. The reason for that is that when you buy a futures contract on margin, you are also locking away a supply of gold, and there are interest-carrying charges, and insurance and assay charges built into these contracts, because the market assumes you will take delivery of the gold, even though you won't. The major factor is the carrying charge and the "spread" reflects the cost of carrying the contract. If you were to buy a June contract, the closer you got to the delivery date in June, the narrower the spread would be, and sooner or later you are going to pay the cost of that spread as though it were an additional interest charge. It's built in. That means the borrower has to consider it as an additional borrowing cost.

In my opinion, this would be partially off-set by the fact that the lender would not need as high an interest return with a gold clause. Theoretically, interest rates reflect inflation. If there is a 6% inflation expectation in the economy, interest rates generally reflect that, plus two or three percentage points to represent profit or "true interest." In actual practice it doesn't work out that way sometimes, because often the inflation rate is higher than the interest rate, but that's the way it's supposed to work. However, if you are protected against loss of purchasing power of your principal (inflation) by a gold clause, then the lender doesn't need as high an interest return. He needs a "true" profit on his money, which historically has been 2% to 3%. That would mean that without a gold clause, with 7% price inflation, the lender needs 9% to 10% for a fair return.

Compare this with your current lending, where you may be getting 5% or 6% or even 8% but the inflation rate is chewing you up and your true yield is small or non-existent. Counting income taxes, it is probable you have a negative yield. The lender would be better off with a low rate of interest and a gold clause, if only from a tax perspective.

3. The borrower may have some tax problems, also. Let's say the borrower is "hedging", and gold is $160 an ounce at the beginning of the contract, and it is a two-year loan. He buys a futures contract that's 12 months down the road. When he "rolls over" the contract into another contract before his present contract expires, if gold has risen substantially, even though his obligation has risen along with it, he may be stuck for some taxes on his alleged non-existent profits. I believe that the additional cost of paying off the loan will off-set the profits on the contract for tax purposes. Ordinarily, the profit on your futures contracts would be capital gains, which you cannot off-set with ordinary expenses; however, I think that the nature of the loan hedging agreement would be evidence that you were not speculating or taking a profit but merely continuing your contract into the future by rolling it over into another contract, which would leave you in roughly a zero tax position. This is not proven, however, and we are plowing new tax-law ground.

I'm still working on this one along with the best minds I know and will report to you later.

4. There's another technique that you can use as a borrower to off-set some of these costs. You can put your original margin money in Treasury bills. (The IMM requires a minimum $10,000 in T-bills, the COMEX $30,000). For example, if you were buying a 100 ounce contract worth about $16,000, you put up $1,000 as a margin at the beginning of the contract. With 10 contracts, you can do it in the form of T-bills, which are held by the broker and draw interest, and as the price of gold rises and your profits accumulate, the additional funds in your account with your broker can also be converted into T-bills, which are presently yielding over 6%. That 6% yield will off-set some of the "spreads" that we discussed above.

I hope these complications don't scare you off. It's not as formidable as it sounds if you use a competent broker.

Incidentally, after a little more thinking and some good advice from one of our subscribers, I recommend you not accept our previous optional suggestion that you go short if the price of gold drops below the cost of your contract. The greatest risks for the hedger occur at the time he enters the market, because gold can go the wrong way short-term, even though we believe the long term trend is up. Whether you enter the market "short", or "long", that's where the risks are. Stay out of the market when gold is below your striking price and only enter the market when it rises above it. You would cut your "entry point" risks in half. With a shrewd commodity trader who can properly orchestrate your entry into the market, the risks are manageable. There are also some trading profit opportunities that can off-set the spreads, and this is pretty technical, so we won't cover it here.

MAX ASCOLI

Mr. JAVITS. Mr. President, I would like to take this opportunity to introduce into the RECORD an editorial from the January 3 Washington Post written on the death of a great American writer and publisher, Max Ascoli.

Max Ascoli, lawyer, writer, and doctor of philosophy who founded and edited the Reporter magazine, came to this country in 1931 from Italy, to escape Mussolini's fascism.

He soon became a most distinguished spokesman for the cause of liberty and liberalism against totalitarian menaces from both Left and Right. As a member of the faculty of the New School of Social Research in New York City, he was a frequent contributor to such journals as Atlantic Monthly and Foreign Affairs and published two volumes on world and national politics in the thirties.

In the midst of the depression, Dr. Ascoli founded and financed the Committee for the Assistance and Distribution of Materials to Artisans, demonstrating his belief that communism can be eliminated if people have, as he said, "not only enough to eat but a chance to work."

Then, in 1949, he began publishing the Reporter in order, as he put it, "to strengthen the institutions of freedom in every country of the world." He instructed his staff to be guided by the basic conviction "in America, as a nation whose freedom and well-being are inseparably tied to the freedom and well-being of other nations."

Writing at a time before "Human Rights" had come to the fore, he said:

Practically everybody is saying now that it is pedantic and old-fashioned to insist on ethical principles when it comes to political regimes, most particularly those of the Left. . . . This bypassing of ethics has been the major heresy of our times.

And true to his hatred of fanaticism in any guise, Mr. Ascoli became an early and vigorous opponent of the tactics even in anticommunism, called McCarthyism.

His brilliant and scrupulous editing led to 35 awards for his magazine and attracted an impressive list of writers, including Henry Kissinger, Dean Acheson, Vladimir Nabokov, and my distinguished colleague, Senator MOYNIHAN.

Dr. Ascoli was married to the former Marion Rosenwald, he was a most distinguished American and his death leaves her and their son, Peter, surviving.

Author, editor, publisher, and pre-eminent political analyst, this intensely patriotic naturalized American citizen taught us all better what it truly means to be an American.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MAX ASCOLI

Brainy, insistent, independent, given to moments of stunning insight and temperamental as a typhoon Max Ascoli, the editor-publisher of The Reporter magazine, who died on Sunday at the age of 79, made a genuine contribution to the political life of this country. As an Italian-born and -educated opponent of Fascism, who took refuge in this country in the early 1930s, Mr. Ascoli never wavered in his deep philosophical abhorrence of totalitarianism—whether of the left or of the right. This was the principle that informed his liberalism, animated his writing and was reflected in the material he published over the 19-year lifespan of The Reporter. It was also what finally led him to positions—on the Vietnam war, on the tone of our public life in the '60s—very much at odds with those of the liberal establishment. The result was that Mr. Ascoli passed the last years of his life in another kind of political self-exile—not so dramatic as the first, which brought him to this country, but as stubborn and committed. He was a man who took his beliefs seriously.

In this heyday of media exposes and general irreverence on the part of the press—especially in relation to government and its secret, self-justifying ways—it seems almost quaint to hail an editor for his pioneering efforts in postwar investigative journalism. But especially in the early days of The Reporter (it was founded in 1949), the newspapers and other news outlets now known for skepticism and willingness to take on the powers-that-be were relatively tame, mild and disposed to take those powers at their word. Against this rather bland setting Mr. Ascoli's journalistic initiatives were all the more startling and consequential—articles by a variety of correspondents laying out the workings of the octopus-like China lobby, the hidden web of wiretapping in this country, the officially lied-about effects of radioactive fallout.

The roster of people who wrote for the magazine included many who were to become universally known public figures: Henry Kissinger, James Schlesinger, Daniel P. Moynihan, to mention a few. And it also included scores of journalists writing at length what their own newspapers would not indulge or sometimes, to put it plainly, permit. In all this, Mr. Ascoli achieved his aim of providing a setting in which a kind of political conversation and analysis not available elsewhere could occur.

It was an irony of his life that Mr. Ascoli, whose contempt for the love-it-or-leave-it

school of patriotism was well known and who engaged early and ferociously in the fight against Joseph McCarthy, was obliged to defend his loyalty from attack by the right. His loyalty to this country and its institutions was almost fanatic. "There are people," he once wrote, "who—no matter where they were born—can fully find themselves only when they come over here. At least, this has been my case." Max Ascoli was a naturalized citizen. But he was, above all things, a natural American.

EUROCOMMUNISM

Mr. PERCY. Mr. President, I am pleased that the Carter administration has now strengthened its position against Eurocommunism. It would be dangerously naive to assume that the Communist parties of Western Europe, once in power, would not behave as Communists. Moreover, a Communist government in a major nation of Western Europe would create the most serious problems for the North Atlantic Treaty Organization (NATO) and the effectiveness of its defense and security arrangements.

Operating within parliamentary systems, the Eurocommunists have sought power by showing some independence of the Soviet Union. But I submit that there is no way to know how they would perform in either domestic or foreign affairs if they came to power. Those of us who care about democracy, about the well being of the peoples of Italy and France, and about the viability of NATO, should speak out now as friends of the free peoples of Western Europe. It is not interference when friends express their heartfelt concerns.

LEGAL INTERPRETATION OF THE GENOCIDE TREATY: THE VIEW OF THE AMERICAN BAR ASSOCIATION

Mr. PROXMIRE. Mr. President, in the past one of the major and most influencial objections to the ratification of the Genocide Convention has been the lack of support of the American Bar Association. Fortunately, this lack of support no longer exists. In February of 1976, the ABA gave their full endorsement to the treaty.

In the minds of some people, however, doubts may still remain. Therefore, I would like to submit for the record an excerpt from the American Bar Association Journal, volume 58, February 1972, article entitled "Time To Act On The Genocide Convention," by Arthur J. Goldberg and Richard N. Gardner. This article, written before the ABA officially endorsed the Genocide Convention, begins by urging the ABA to support its ratification. The excerpt goes on to give a point-to-point rebuttal of the legal arguments against the treaty.

I sincerely hope that this review will allay any doubts relating to the legal interpretation of the convention. I urge my colleagues to join the ABA in endorsement of this important human rights treaty through immediate ratification.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

We present here a point-by-point rebuttal of the legal arguments against the convention, drawing from our testimony to the Foreign Relations Committee as well as the committee's own report, in the hope that it may clarify the legal issues and contribute to speedy and favorable action by the Senate.

1. The contention that the Constitution prevents ratification of the Genocide Convention because genocide is a "domestic" matter is without foundation.

In his testimony to the Foreign Relations Committee, Mr. Deutsch declared himself fully in agreement with the decision of the United States to vote in favor of the General Assembly resolution on genocide of December 11, 1946: "Standing foremost as a world leader in the protection of individual rights, she could do no less." But he added the "having joined in such a declaration as to a matter *which lies, ultimately, within the domestic sphere of each of the world's nations*, the United States has gone far enough" (italics supplied). The italicized language is clearly incompatible with the statement in the General Assembly resolution that "genocide is a crime under international law". Mr. Deutsch's extensive quotations from Resolution 96(I) neglected to include this key provision.

Nowhere in his testimony did Mr. Deutsch explain his conclusion that genocide is a "domestic matter". His reasoning on this general issue may be found, however, in a report which he prepared in 1967 as chairman of the American Bar Association's Standing Committee on Peace and Law Through United Nations. It is there stated that a convention deals with "domestic" matters when it deals "with the relation between a state and its own citizen".[4] But this is not the relevant constitutional test.

As the Supreme Court declared in *Geofroy v. Riggs* 133 U.S. 258, 267 (1890), the treaty-making power may be exercised on any matter "which is properly the subject of negotiation with a foreign country". The United States is a party to numerous international agreements relating to the activities of its own citizens within the United States (and therefore "domestic" under Mr. Deutsch's definition) because those treaties nevertheless deal with matters appropriate for international negotiation. Examples include treaties on narcotics,[5] public health[6] and nature conservation,[7] and the Supplementary Convention on Slavery, which Mr. Deutsch initially opposed on the ground that it also dealt with "matters essentially within the domestic jurisdiction of the United States".[8]

In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, of which retired Supreme Court Justice Tom C. Clark was chairman: "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States. . . . It may seem almost anachronistic that this question continues to be raised."[9]

What is "properly the subject of negotiation with a foreign country" and, therefore, a valid subject of a treaty is something the Senate has an obligation to determine in each case. We do not take the position that the executive branch can make any matter "international" by putting it in a treaty. But the question should be determined objectively in the light of the current interests of the United States in an interdependent world and contemporary concepts of international law—not on the basis of notions that may have been appropriate to a different historical era.

By any objective standard, genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared genocide to be a crime under international law in 1949 and that seventy-five members of the United Nations are parties to the Genocide Convention (including, to name just a few, such democracies as the United Kingdom, Canada, France, Mexico and the Scandinavian countries) is further evidence that genocide can no longer be considered a matter wholly within domestic jurisdiction. As was said by the Senate Foreign Relations Committee: "On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the community of nations."

2. The contention that the Genocide Convention would alter the balance of authority between the states and the Federal Government is unfounded.[10]

The Constitution by Article I, Section 8, specifically gives Congress the power to "define and punish . . . offenses against the law of Nations". Genocide is an offense against the law of nations and is thus within the power of Congress to outlaw. Moreover, the power of the Federal Government in this field has been confirmed in the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965. The Association's Section on Individual Rights and Responsibilities said in its report: "Ratification of the convention will add no powers to those the Federal Government already possesses."

3. The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Vietnam on trumped-up charges of genocide is wholly false.[11]

There is nothing in the Genocide Convention that would provide warrant for charges by North Vietnam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of genocide. This is a matter of great concern to the authors and, of course, many Americans regardless of their views about the war in Vietnam. As the Senate Foreign Relations Committee pointed out in its report, however, Hanoi can make trumped-up charges of genocide against our servicemen who fall into their hands with or without reference to the Genocide Convention. In the words of the committee: "It is reality that American prisoners of war in North Vietnam could now be charged by the Hanoi government for war crimes or genocidal acts on whatever trumped-up charges Hanoi wishes to make. Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention."

As to the possibility of extraditing Americans from the United States to North Vietnam or other countries for acts of genocide allegedly having occurred there, it should be remembered that under the Genocide Convention, extradition would take place only in accordance with laws and treaties in force. We have no extradition treaties with North Vietnam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. We do not grant extradition in any event unless a prima facie case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law.

Footnotes at end of article

Finally, the Genocide Convention, in accordance with an agreed interpretation of Article VI which is contained in the relevant U.N. committee report, "does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State".[12] The Foreign Relations Committee expressed itself as fully satisfied on this point but recommended an understanding to this effect to remove any possible uncertainty. The Nixon Administration has further indicated that any agreements we make covering genocide will assert the right of the United States to refuse to extradite an accused if he is standing trial in the United States or if our Government elects to try him itself.[13]

4. The argument that ratification of the Genocide Convention would subject the United States to irresponsible charges of genocide arising out of Vietnam, our treatment of American blacks or other situations is without foundation.[14]

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even in the absence of our ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the U.N. If anything, ratification would improve our position, because the convention requires an "intent to destroy, in whole or part, a national, ethical, racial or religious group as such".

The tragic events in Vietnam and the terrible loss of life, both military and civilian, that has occurred there do not meet this definition, whatever other domestic legal consequences may flow from allegedly illegal acts there. The treatment of the black community in the United States, which admittedly has suffered widespread discrimination for many years, also does not fall within the definition. In both cases the necessary intent to destroy a racial or ethnic group as such is missing.

As the Senate report indicates, ratification of the convention would, if anything, help us rebut these charges by subjecting our behavior to a precise legal definition of genocide.

5. The argument that provision for the settlement of disputes by the International Court of Justice would override the Connally Amendment and unreasonably limit our sovereignty is without substance.[15]

The Connally Amendment applies only to our acceptance of Article 36(2) of the court's statute, the socalled optional clause providing for compulsory jurisdiction across the board. Cases arising as a result of our adherence to the Genocide Convention, would fall under Article 36(1) of the court's statute, which covers the court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court of Justice as is contained in the Genocide Convention. Among these treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified in 1970.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of genocide against us considered in a judicial forum like the International Court of Justice than in more politically motivated forums. Of course, by this provision we do undertake a commitment to subject ourselves to third-party judgment in a limited sphere, as do the other parties to the convention. This exchange of commitments may be found in many treaties to which we have become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

It should be noted that the Soviet Union and other countries have ratified the convention subject to a reservation that they do not accept compulsory reference to the International Court of Justice. As a result, the United States will be in a position to invoke these countries' reservations in its own behalf to defeat the court's jurisdiction if a case charging genocide should be brought against us by those countries.

6. The argument that various provisions in the convention—"in whole or in part," "mental harm," "direct and public incitement to commit Genocide"—are loosely drafted and potentially harmful to our interests is without foundation.

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the convention itself and by the records of the negotiation.

Thus, "in whole or in part" does not mean that the killing of a single individual, profoundly deplorable as any killing is, becomes genocide.[16] As the negotiating history makes clear, substantial numbers must be involved, and for the definition of genocide to be satisfied the acts of homicide must be joined by a common intent to destroy the group. The understanding recommended by the Foreign Relations Commitee to confirm this point is wholly consistent with the drafting history.[17]

"Mental harm," in turn, would not support propaganda charges of harassment by minority groups, as charged by some critics,[18] because mental harm becomes an element of genocide only when done with an intent to *destroy* a group. Moreover, as the negotiating history shows, this provision was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as through the forcible application of narcotic drugs. Once again, the understanding recommended by the Foreign Relations Committee is wholly consistent with the drafting history.

"Direct and public incitement to commit genocide" does not cover constitutionally protected speech.[19] It covers incitement which calls for the commission of mass murder, which is actionable under our Constitution as in other countries. As the Supreme Court declared in *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969), "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action*" (emphasis added). In any case, as was stated in *Reid* v. *Covert*, 354 U.S. 1 (1957), no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention must be interpreted in accordance with the First Amendment.

7. The contention that ratification of the Genocide Convention would subject American citizens to trial before an international penal tribunal is without foundation.[20]

Article VI of the convention provides that persons charged with genocide shall be tried "by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction". This part of Article VI, perhaps regrettably, is a dead letter. No such international penal tribunal has been established, and there is no negotiation under way to create one. If such a tribunal were established, action by the Senate would be required, either in the form of advice and consent to ratification of a treaty or action on legislation, before the United States could accept its jurisdiction.

Finally, it should be underlined that the International Court of Justice has no criminal or penal jurisdiction and considers only cases involving states, not individuals.[21]

8. The argument that the convention does not define genocide as having been committed "with the complicity of government" is no objection to ratification.[22]

The convention is directed at "persons whether they are "constitutionally responsible rulers, public officials or private individuals." Each government is committed under the convention to punish such persons. There is no reason why such individuals should not be held responsible for genocidal acts, even without government complicity.

9. The argument that the Genocide Convention abolishes the defense of "superior orders" is without foundation.[23]

The convention says nothing about a possible defense of "superior orders" but it is significant that the convention includes "intent" as an element of the crime of genocide. An authoritative review of the drafting history on this point summarizes the matter as follows:

"Ordinarily it would seem that no intent could be ascribed to persons merely fulfilling superior orders; intent implies initiative. However, superior orders would not be a justification in such cases where the guilty party was not only a tool of his superiors but participated in the "conspiracy to commit Genocide." Guilt could likewise be established in a case where, although acting under orders, the person was in a position to use his own initiative and thus act with the intent to destroy the group. The non-inclusion of a proviso relating to superior orders thus leaves the tribunals applying the Convention the freedom of interpreting it in accordance with the domestic legislation and the specific circumstances of the case." [24]

10. The argument that the omission of "political" groups makes the Genocide Convention worthless is unpersuasive.[25]

It is inconsistent for those who criticize the convention on the grounds that it subjects the United States to too much interference in its domestic affairs to complain at the same time that it fails to cover "political groups". In any event, the absence of one kind of group from the convention is no reason not to protect the groups that are covered.

FOOTNOTES

[4] "Human Rights Conventions, Hearings Before the Senate Comm. on Foreign Relations," 90th Cong., 1st sess., 2, 70 (1967).

[5] 1912 Convention Relating to the Suppression of the Abuse of Opium and Other Drugs (T.S. 612); 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (T.S. 863); 1953 Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of the International and Wholesale Trade In, and Use of Opium (T.I.A.S. 5273).

[6] World Health Organization Regulations No. 1 (T.I.A.S. 3482), as amended (T.I.A.S. 3482 and 4409), and World Health Organization Regulations No. 2 (T.I.A.S. 3625), as amended (T.I.A.S. 5156, 4420, 4823, 4896, 5459 and 5863).

[7] 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (T.S. 981).

[8] "Human Rights Convention and Recommendations," Draft of Proposed Report for Consideration by Section and Committee, April, 1967.

[9] For another example of confusion as to the revelant constitutional test, see Raymond, "Don't Ratify the Human Rights Convention," 54 A.B.A.J. 141 (1968). Mr. Raymond, evidently unaware of the treaty cited in note 7, takes the view that the United

States can make treaties on the protection of wildlife only when birds fly from one country to another.

[10] This contention appears in the appendix to Mr. Schweppe's statement to the Senate subcommittee, 1971 "Hearings" at 71, although it is not in Mr. Deutsch's testimony.

[11] This contention appears in the testimony of Mr. Deutsch, 1971 "Hearings" at 20, 37–39.

[12] See Robinson, "The Genocide Convention—A Commentary" 83–84 (World Jewish Congress, 1960), containing citations to the drafting history on this point.

[13] "Genocide Convention, Hearings Before a Subcommittee of the Senate Committee on Foreign Relations," 91st Cong., 2d sess. 45–46 (1970), testimony of George Aldrich, Deputy Legal Adviser, Department of State.

[14] This argument is made by Mr. Deutsch, 1971 "Hearings" at 18, 31–33.

[15] This argument is made by Mr. Deutsch, 1971 "Hearings" at 22, 46.

[16] This claim was made by Mr. Schweppe, 1971 "Hearings" at 61.

[17] 1971 Senate Report at 1, 6, 18. Robinson, *supra* note 11 at 63.

[18] Mr. Deutsch, 1971 "Hearings" at 18–19, 33–34.

[19] As charged by Mr. Deutsch, 1971 "Hearings" at 45.

[20] This contention is made by Mr. Deutsch, 1971 "Hearings" at 21, 40–45.

[21] One of the exhibits submitted by Mr. Deutsch stated incorrectly that under the Genocide Convention the "U.N. World Court" would "hear cases of alleged incidents of physical or mental 'genocide' committed by individuals. . . . The accused in such cases would not be protected by the Bill of Rights," 1971 "Hearings" at 50.

[22] This argument is advanced by Mr. Deutsch, 1971 "Hearings" at 17–18, 30–31.

[23] This argument is made by Mr. Deutsch, 1971 "Hearings" at 39–40.

[24] Robinson, *supra* note 11 at 72–73.

[25] This argument is made by Mr. Deutsch, 1971 "Hearings" at 19, 35–36.

"NEW YORK SELF-HELP HANDBOOK"

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an editorial that appeared in the New York Daily News, December 18 of last year, and two pages of introduction from a book entitled "New York Self-Help Handbook."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPERATION BOOTSTRAP

The year's most important book for New Yorkers has just been published by the Citizens Committee for New York City Inc., and we strongly urge every civic-minded organization from the farthest reaches of Queens to the Bronx-Westchester line to order its copy posthaste.

From crime control to building abandonment, beautification to sanitation, the 144-page "New York Self-Help Handbook" capsules the where-to and how-to for curing community problems that too often fester into blight and deterioration.

Given the city's hemophiliac economy, neighborhoods can no longer look to City Hall for the services they have long taken for granted. The money just isn't there today. Rather, by—

DO-IT-YOURSELF PROJECTS

They must take over most of the job themselves, or risk the fate of Bushwick and the South Bronx. The message that comes through loud, clear and encouragingly in the handbook is that volunteers can do the job—and get both fun and satisfaction out of executing the most challenging assignments.

Sometimes, for example, it seems that the bad guys are taking over, but that needn't necessarily happen. For the white-hat volunteers, there are anti-crime patrols galore—civilian observation, parent safety, fire-alarm-box patrols, not to mention the auxiliary police, block watchers and buddy alarm systems.

Take your pick, and help make the city safe for the decent people. Again, it can be done.

Did you know, to cite just one case, that tenant patrols were set up half a dozen years ago in 40 buildings of the Queensbridge Houses in Long Island City—and have reduced crime by one half?

THE CITIZENS COMMITTEE

The Citizens Committee for New York City, Inc., is a non-profit, non-partisan organization formed in November 1975, in direct response to the City's fiscal crisis. It serves as a major catalyst in bringing together thousands of New Yorkers to help themselves and each other, by developing and encouraging neighborhood self-help projects, by recruiting volunteers for city and private agencies, and by helping to match public needs with private corporate means. The Citizens Committee has created the Self-Help Neighborhood Awards Program (SNAP), a neighborhood improvement competition; conducted borough self-help conferences and dozens of workshops; recruited thousands of volunteers; distributed 5,000 brooms; awarded over 250 parks preservation grants; and distributed over 75,000 copies of Lend A Hand booklets. In addition, the Citizens Committee administered the Emergency Aid Fund for merchants affected during the 1977 blackout; and it runs "The Spirit of New York," a tourist information center in Times Square at 42nd Street and Broadway.

INTRODUCTION

New York is a city of neighborhoods—a crazy quilt of communities with a unique character: a patchwork of places from Co-op City in the Bronx, to St. George in Staten Island; from Brighton Beach in Brooklyn, to East Harlem in Manhattan; from the tip of Riverdale to the Rockaways at the outreaches of Queens.

In thousands of these neighborhoods, all across the city, New Yorkers have joined hands to face head-on their community's problems. They have formed block associations and civic associations to help improve the quality of life on their streets and in their neighborhoods.

For neighbors who have already banded together: this book applauds you and urges you to try new projects—to move on to the next step in making your block a better block.

For neighbors who may not yet have seen the necessity—or the rewards—of getting together and helping yourselves and your city: this book is meant to be a catalyst to action.

The projects described answer needs ranging from the vital—crime prevention, fire prevention and health care—to the more lighthearted, but crucial—such as mural painting or street games. Step-by-step instructions are included to get you started and help you complete these efforts.

The book is also designed to help you and your neighbors decide which type of association is most appropriate for you and to guide you to organize and run it. The suggested projects are open to all who are interested—youth, adults and senior citizens.

We have included examples of projects already completed and identified public and private sources of technical or financial assistance.

As you look through this book and then look around your neighborhood, the possibilities for improvement and enhancement will become more obvious. They are there, just waiting for your collective energy and talent.

It's up to you. The possibilities are endless. It's even possible that you and your neighbors may come up with some programs that no one else has thought of or done. That's the way New Yorkers are. Give it a try.

Mr. JAVITS. Mr. President, the editorial heralds the publication of the handbook, calling it "the year's most important book for New Yorkers." I heartily concur with this assessment, though I would not be so restrictive in my endorsement. I believe this book, the concept that lies behind the book, is important to every American interested in preserving and enriching our older cities.

Washington cannot alone revitalize cities in distress merely by legislation. State governments alone cannot be expected to shoulder the enormous burden. And we have seen that local governments do not have the resources to provide all the services all the people want all the time. The key to rejuvenating city neighborhoods lies also with community volunteers.

No one knows better the needs of a neighborhood than do those who live there. No one can provide the energy and enthusiasm required to see the job done right than can those who directly benefit from the work. Renovating a city block by block is the key to continued revitalization of the city as a whole.

New York is no stranger to this concept. Throughout the city, especially after our financial crisis of 1975, New Yorkers have joined hands to fight back against blight and decay. They have formed approximately 10,000 block associations and civic associations to help improve the quality of life on their streets and in their communities.

They are working together in a spirit of cooperation to find solutions to problems because they really love their neighborhoods and because they know the grass is not greener somewhere else.

This book is an outgrowth of that spirit. It is published by the Citizens Committee for New York City, Inc., a nonprofit organization which I worked to bring into being and of which, together with Senator MOYNIHAN, the Governor of New York, the Mayor of New York City and the chairman of the New York congressional delegation, I am an honorary cochairman.

The committee coordinates and provides information to projects involving thousands of New Yorkers interested in helping themselves and each other. It recruits volunteers for city and private agencies, helps to line up funding for self-help projects, runs dozens of workshops, and much more.

Its chairman is Osborne Elliott formerly deputy mayor of New York City and its executive secretary is Sandra Silverman.

The new book is a cornucopia of ideas for transforming depressed neighborhoods from "war zones" to communities—not only to provide requisite security, but to add amenities like parks, day care centers, and recreation arts and sporting events that add the human touches to make city living a pleasure.

The book's most extensive chapter is devoted to safety and crime prevention, for, admittedly, you can not have growth without security. Through years of experience, New Yorkers have tried and proved such programs as parent safety patrols, whistle programs, and patrols to prevent false fire alarms, and this book covers them all. From there, the handbook offers an abundance of plans for sanitation improvement, open spaces, projects in city parks, programs for children and senior citizens, preserving houses, consumer organizations, and projects for improved health and education, to name a few.

New Yorkers have proven there is a future for self-help in the city and that the spirit of cooperation is infectious. With doomsday reports from the financial experts and finger wagging from around the country, New Yorkers could have thrown up their hands in despair. Instead, we rolled up our sleeves, swept our streets, planted our vegetables, painted park benches, and went to work on some of our toughest problems. This book tells how. Copies are available to any interested member.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 13, 1978.

In reply refer to: I–13423/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78–8, concerning the Department of the Army's proposed Letter of Offer to the United Kingdom for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $175 million and support costs of $25 million for a total estimated cost of $200 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 78–8

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) *Prospective Purchaser: United Kingdom.*

(ii) *Total Estimated Value:*

	Million
Major Defense Equipment*	$175.0
Other	25.0
Total	$200.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) *Description of Articles or Services Offered:* Thirty (30) CHINOOK (CH–47) helicopters and support.

(iv) *Military Department:* Army.

(v) *Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:* None.

(vi) *Date Report Delivered to Congress:* January 13, 1978.

GRADUATION ADDRESS OF LT. GEN. DONN STARRY

Mr. GOLDWATER. Mr. President, when the time has come that high ranking members of our military services cannot make graduation speeches to American high schools overseas without prior authority or without their future in the service being jeopardized, we have reached a sad point in the state of affairs of our country. Last June, Lt. Gen. Donn Starry gave the graduation address before the Frankfurt (Germany) American High School. Afterward he was called on the carpet by the Secretary of the Army and the Chief of Staff of the Army, and I have heard reports that his promotion to full general has been stalled. This whole happening sort of got buried in the day-to-day news emanating from this administration. I have obtained a copy of the general's remarks, and I ask unanimous consent that they be printed in the RECORD so that my colleagues can see how this general's simply stated, deeply provocative thoughts should have been welcomed by his superiors, not condemned. As far as I am concerned, I am grateful we have some officers left in our services with the courage to do what they feel is right.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A GRADUATION ADDRESS: "TRUTH IS A FRAGILE COMMODITY"

(By C. W. Borklund)

(After the graduation address he gave to Frankfurt (Germany) American High School last June, Lt. Gen. Donn Starry got zapped for it. Army Secretary Clifford Alexander and Chief of Staff, General Bernard Rogers, summoned him to Washington, according to the New York Times, "to discuss the speech."

(It hadn't been submitted for review before the giving of it was one lame excuse. The New York Times claimed it carried a "condemnation of the liberal press;" and Senate Armed Services Committee member Gary Hart (D-Col.), "a leading liberal," they said, stalled his Pentagon-requested promotion to full General.

(In the Press, at the time, this flap got buried under the avalanche of debate over General John Singlaub's relief by President Jimmy Carter from Chief of Staff duties in South Korea (where he'd said White House plans to withdraw ground forces from there "will lead to war.")

(With the help of the Rockford College Institute, which sent us a copy, we propose here to resurrect Starry's speech. Compared to the thousands of dull, droning pedantic speeches we've heard and read over the past 20 years, Starry's simply-stated, deeply perceptive thoughts are like a comet in a black heaven. The implications they suggest about the man, himself, are, alone, immense—especially compared to the cliche image we're constantly given about the denigrated "Man in Uniform":)

I thought perhaps we could spend these few minutes considering several things that seem to me to trouble your generation. You might not put them in the order that I do; you might not label them the way I do; but I think you'll recognize them for what they are—I'd call them peace, truth, God, and you.

Peace because a lot is being said about it. A lot of things are being done in its name, but it is and will remain an elusive vision through your lifetime, and so a perspective about peace is important to you.

Truth because no one seems to be telling it much any more. There is loss of confidence in the truthfulness of our government, in the integrity of elected officials, which is having an effect on our society; it will continue to do so through your lifetime. So a perspective on the truth is important to you.

God, because although the liberals tried to bury God several years ago, the basic values of our society are still those of our Christian heritage. You will live the problem of the decline of these values through your lifetime, and so perspective on God is important to you.

And you because this is your day. A day to pause a moment to consider who you are, where you are heading, and what you might carry along with you.

So here we go.

Peace is an illusion. The absence of peace in the world is, always has been, and always will be a fact of life. Conflict of some kind is a natural state of man—not so much war, as competition, competitiveness—in economics, in foreign affairs, in the quest by governments for goals for the governed. Conflict reflects the imperfectness of man in his world, and the perfectness of God in his universe.

There will probably be war in your lifetime. The Soviets will continue to encourage and help their Arab friends try to eliminate the state of Israel. Our country may not be willing to go to war over this, but to turn our backs on Israel would be very difficult, and to allow Soviet control of the oil resources of the Middle East would be almost impossible. The more critical the situation becomes, the more likely we are to respond with violence. In your lifetime the Soviets will fight the Chinese, possibly simply continuing their ten year old border conflict, but more probably in a major war. Difficult as it may be to see the United States becoming involved in such a war, it is likely we would do so once it became apparent that one or the other of the antagonists was about to win and gain absolute control over the bulk of the Eurasian land mass.

On the other side of the conflict spectrum, intranational war—that is, war within the borders of a country—will be more likely, as both the Soviets and the Chinese continue to export their brand of revolution. The question of how to intervene in such situations without violating the national sovereignty of smaller states, when and how to meddle in what is essentially someone else's business is not one easy to answer.

More nations will have nuclear weapons—just as India has recently. This just increases the chance that a deliberate or irresponsible

act by some small nation could trigger a war between larger nations. Could a nuclear attack on Los Angeles arranged by the communist government of Ethiopia be distinguished from a Soviet attack in time to prevent the United States from launching a retaliatory attack on the Soviet Union? No one knows.

And so true peace will not come in your time. The only peace you can expect and the only peace of any value to you is peace of mind; peace that comes with understanding the imperfections of mankind and of having figured out how to cope with this imperfectness. It is a peace that puts you as much at ease as you can expect to be with your fellowman and the imperfections of the world you live in.

Ultimately the price of that peace of mind is a willingness to sacrifice something for it; for it is still true that nothing worth having can be had for nothing.

Truth is a fragile commodity. The true state of things is frequently unpleasant. That's why we don't tell the truth more often—to ourselves or to others. It is more convenient not to. Instead we rationalize our own imperfections and those of the world around us. If we work hard enough at those rationalizations, we soon believe them ourselves, and when we do, our grasp of the truth is a little less sure than before.

Like peace, truth is perfection; its distortion in our world is a measure of the imperfectness of that world, and of the perfectness of God. For us there is no absolute truth; there are versions of what is bound up in the bias of those who observe and report. In your lifetime the truth will be harder to learn than ever before. The liberal press has adopted the adversary doctrine. They are not interested in the truth, only the five percent or so of the news that deviates from the norm, which in an imperfect world is the only truth there is. Presumably they would be willing to muckrake around over every public administration just to see it fall, without concern for the consequences to the country, or to the quality of public administration. By someone's standards we are all less than perfect. If one wants to make an issue of imperfections, some reason can be made to attack every man who had held or could hold public office.

The ensuing turmoil simply feeds into the hands of those who claim our form of government is not viable anyway, and has no right or hope for survival. Being objective is important, being skeptical is necessary, seeking after all the facts you can get is essential, in order to make reasonable judgements about what's going on around you, and what you should do about it.

The price of truth is a willingness to ask difficult questions, knowing all the while that if the truth really comes in response the answers will be equally difficult.

Several years ago the liberals buried God. He wasn't important to them. They found their God in a liturgy which denies that anything—peace, truth, God, even life is worthy of reverence. And because the Christian ethic is the very basis for our culture, western civilization has been stricken with the cancer of declining morality.

Just over a month ago I stood in the Garden of Gethsemane, then walked the long trail across the Valley of the Dead to Golgotha, over the land where seething masses of people have struggled so many thousand years. It struck me that in the time of Christ they had a problem not at all unlike ours. They found peace and destroyed it with war; they found truth and denied it with lies; they found God and hung him on a cross. The denial of God will continue in your lifetime; you will be called on to decide about him, who he is, who you are in relation to him.

Perhaps it's not all that important; many people live their whole lives without solving this problem, but I suggest that your life takes on meaning only as the causes to which you attach yourself have meaning, that the greatest value of a life is to spend it for something that lives after it, that in the end you become what you are through some cause you have made your own. And if you follow that line of reasoning, deciding about the part God plays in your world is important.

And now what about you? This is your life. I've recited some unpleasant realities simply to challenge you to think realistically about some hard questions that face you. Thinking seriously about what I've said could make you want to drop out of society. You can't drop out of society and remain a part of it.

Three hundred years ago the Bounty mutineers did that and the society they created to replace the one they left came to be filled with all the disillusionments from which they had fled in the first place.

You are young and full of dreams. Your elders say that you'll get older pretty soon, more mature, and then you'll be all right. Well, that's not quite right. Youth is important. It's important that you stay young. Youth is not a time of life, it is a state of mind. Nobody grows old by living years. People grow old by deserting their dreams.

Youth is a quality of the imagination, a vigor of emotions, a predominance of courage over timidity, and appetite for adventure opposed to the love of ease. Whatever your years, keep in your heart the dreams, the urge to challenge events, the unfailing child-like appetite for what's next, and the knowledge that the joy of life is in the living; that when you fail to live it to its fullest you miss all the joy of it.

You are as young as your faith, as old as your despair. So long as your heart holds dreams of hope, beauty, courage; so long are you young.

And so tonight you pass this turn in the road of your life, full of hope, full of dreams, full of anticipation for what comes next, I hope you will strive for and achieve great things. But remember, in many ways it's a far higher ideal to live an ordinary life in an extraordinary way, to serve an ideal amid the drab, humdrum surroundings of everyday life, and still retain a vision of the common man as a shadow of God.

And so your world goes out on every side, no wider than your heart is wide, and up above the world your sky no higher than your soul is high.

May the road ahead rise with you to new heights, may the wind be ever at your back, and may God carry you always in the palm of His Hand.

ANTIBRIBERY LAW

Mr. PROXMIRE. Mr. President, a recent article in the Sunday New York Times, the Week in Review section (December 25, 1977), provides a useful analysis of the anticorporate bribery legislation passed in the last session of Congress and signed by the President on December 19, 1977.

The New York Times points out that the legislation contains tough record-keeping requirements coupled with criminal sanctions against corporate bribery of foreign government officials by American companies. Stiff penalties are provided: fines up to $1 million per violation against companies and prison terms of up to 5 years for corporate officials. The Times concludes:

But, clearly, the worst days of multi-million dollar slush funds and secret payoffs of hundred dollar bills in sealed envelopes may be over.

This legislation gives the Justice Department and the Securities and Exchange Commission the tools they need to stop foreign corporate bribery which has been responsible for complicating our foreign policy in such countries as Japan, Italy, and the Netherlands.

Mr. President, this legislation needs a followup: an international treaty signed by all nations proscribing this kind of corporate behavior within their own jurisdictions and putting all multinational corporations on an equal footing. The State Department already has efforts underway in the United Nations to shape such a treaty. I have urged the Secretary of State to use the corporate bribery legislation passed in this Congress as a model. International rules proscribing corporate bribery has the strong moral support of President Carter and I hope we shall see its development of a treaty very soon.

Mr. President, I commend this thoughtful article to my colleagues and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANTIBRIBERY LAW HAS SOME TEETH

(By Michael C. Jensen)

One of the Government's toughest regulators, an official whose name is shuddered at by businessmen whose dealings skirt the law, was talking to a friend about the new law that calls for fines of up to $1 million for American corporations that bribe foreign officials. "I think it's going to be very, very difficult" he said, "for them to do the kinds of things they did before."

Not surprisingly, it's almost impossible to find anyone critical of the bribery bill signed by President Carter last week. Businessmen, whatever their private reservations, can hardly say publicly that they are opposed to a law that punishes bribery. Politicians can heave a sigh of relief that they have done their duty in a ticklish situation.

And in fact the bribery bill is more than just another step on the circuitous path toward improved worldwide corporate mortality and ethics. It is probably too much to say that a watershed has been reached, but something clearly is happening as a result of the hundreds of disclosures in recent years of corporate slush funds and payoffs. It is not too much to say, however that the disclosures that began with illegal domestic campaign contributions during the Nixon years made reform inevitable.

After the Watergate prosecutors took legal action against some of the country's biggest corporations, there were the Senate inquiries into illegal payments overseas by many of the same corporations. Then, the Securities Exchange Commission set hundreds of companies to investigating their own books. By the time the smoke had cleared, several hundred corporations had admitted to hundreds of millions of dollars of questionable payments on five continents.

What especially excites reformers and regulators about the new measure is its doubled-barreled aspect: tough record-keeping requirements are coupled with a code in which for the first time bribing foreign officials is made a crime.

The million dollar fine to be leveled against corporations that bribe abroad is one of the stiffest ever written into the country's criminal code. It is twice as high, for example, as the fine levied on corporations convicted of price fixing. Individual corporate officials convicted under the provisions of the anti-

bribery law face jail sentences of up to five years, fines of up to $10,000, or both.

As for record-keeping, the bill requires companies to maintain detailed records and accounts of all corporate transactions and distribution of assets, a provision that should make it very difficult to conceal slush funds.

The drafters of the measure did not include disclosure requirements, though they considered them. As it stands, the burden of surveillance and examination is left with the Securities Exchange Commission and the Justice Department, and enforcement of the new law remains the true test of its effectiveness. Critics of the final form of the bill point out that for years laws forbidding corporate campaign contributions to Federal officials were ignored. But regulators in Washington believe the foreign bribery law can and will be enforced, because no one—corporations, regulators, politicians—can afford a recurrence of the huge payoffs uncovered after Watergate.

At the same time, sentiment is growing for an international approach to international bribery. At the United Nations, for example, a task force with the unwieldy title of the Ad Hoc Intergovernmental Working Group on the Probelm of Corrupt Practices, is shaping a treaty which it hopes can help reduce corporate bribery around the world. The intent is to put all the world's businessmen on equal footing.

Meantime, there are signs of change on other fronts as well, for example, at the American Assembly, a national educational body affiliated with Columbia University, which at least twice a year invites about 60 men and women professors, lawyers, judges, businessmen, legislators to meet for several days to discuss an issue of unusual importance to the corporate community. Following a meeting last April on "The Ethics of Corporate Conduct," the Assembly made a series of recommendations:

"American corporations should proscribe bribery and kickbacks everywhere. . . . United States companies operating overseas while giving 'due regard' to the ethical judgments of other societies, should maintain only one set of universal principles which must not be compromised in foreign subsidiaries."

Regional meetings patterned after the prototype session now are scheduled at Tulane, Southern Methodist University and the University of California at Los Angeles. The first such campus session, at Catholic University in Washington, D.C., was held last month. "We've experienced a sort of national thirst to hold regionals on the subject," said David H. Mortimer, a vice president of the assembly.

Despite all the activity, the legislation and study groups, the assemblies and conferences, the big question remains. Are businessmen behaving differently these days than they did before the startling disclosures of Watergate? Some experts say they are beginning to see signs of change within corporations. "I don't know whether it's fear, increased consciousness, the involvement of boards of directors, or what," said one Washington observer, "but I think there's been improvement."

To some extent, the change is atmospheric. Businessmen are concerned about what they call "press risk." Rather than take the chance of public disclosure, often accompanied by screaming headlines, many executives will foreswear payoffs. Clearly, as long as variations exist in business morals, as they do in journalistic, Governmental, legal and professional morals, some bribery will continue. But clearly, the worst days of multimillion dollar slush funds and secret payoffs of hundred dollar bills in sealed envelopes may be over.

THIRD WORLD ENERGY OPTIONS

Mr. PERCY. Mr. President, recently the Worldwatch Institute, a research organization which analyzes and focuses attention on global problems, published a study by Denis Hayes entitled "Energy for Development: Third World Options." I believe that it merits the close attention of my colleagues.

According to Mr. Hayes, a leading proponent of appropriate technology, the developing nations may make the transition to solar energy more rapidly than the United States or Europe. Due to an abundance of direct sunlight, green plants, wind, and water, the LDC's are ideally suited for the transition to renewable energy sources. Furthermore, it appears they have little choice.

The quintupling of oil prices since 1973 has had a far more damaging effect on developing nations than on the industrialized world. The LDC's are all suffering from severe balance of payments problems and the borrowing capacity of some of the poorest nations is nearly exhausted. In many areas, economic growth has been stymied and financial bankruptcy is fast becoming a reality.

According to Mr. Hayes, the LDC's have a way out. Photovoltaics, or solar cells, could potentially furnish developing nations with all the electriicty they need. If mass-produced, these solar cells could become cost-efficient by the mid-1980's.

The technology is there. What must be nurtured is the political will and financial commitment. Much development planning still emulates the Western path—large-scale, capital-intensive technologies, which, according to Mr. Hayes, are ill-suited for the needs of much of the Third World. An international commitment, particularly with strong American backing, to help the LDC's meet their energy needs through appropriate technology could provide the necessary impetus for third world leaders to move quickly toward economies based on renewable energy sources. I will be studying with interest the effort being put behind this application of appropriate technology by both the Department of Energy and AID.

Mr. President, I ask unanimous consent that a Worldwatch press release describing Mr. Hayes' study be printed in the RECORD.

The being no objection, the press release was ordered to be printed in the RECORD, as follows:

THIRD WORLD ENERGY OPTIONS

The Third World—well endowed with direct sunlight, green plants, wind and water power—may gain a jump on the United States and Europe in making the transition to solar power, said a report released today in Washington by Worldwatch Institute.

"The current high cost of power from other sources has already made solar energy economically competitive in rural areas of Asia, Africa and Latin America," said Denis Hayes, author of the study Energy for Development: Third World Options. "Far from being a futuristic technology, many simple and practical solar devices have already proven themselves in a variety of settings. All that is needed now is the political and financial commitment to building a sustainable solar economy for the poor."

"The Third World will make the solar transition because they have little choice," said Hayes, an energy writer for Worldwatch, a research institute that attempts to identify emerging global issues. "With little capital and inadequate reserves of conventional fuels, more and more poor nations are realizing they cannot afford a major commitment to a petroleum-based economy when world oil production is expected to peak around 1990."

Although the use of green plants as a source of energy has great potential in the Third World, due to climate and other natural advantages, developing nations do face many short-term energy problems. The price of firewood, a traditional fuel source, is rising as rapidly as the price of oil. In areas where population growth outstrips tree growth, forests are being pushed back and land is being eroded.

The non-solar options available to Third World countries—petroleum, coal and nuclear power—all pose problems of cost and assured availability. The oil import bills of many countries are rising faster than their economic growth, an untenable situation. Although much of the world's remaining undiscovered oil may lie under Third World countries, Hayes maintained that new oil producers would be wise to sell petroleum for high prices on the world market and plow the revenues into building an energy base that will remain viable long after their petroleum reserves are depleted.

Only a handful of poor countries have coal reserves. Because mining ruins the land and combustion pollutes the air, coal will be a temporary savior at best. Thus, ironically, the Third World's lack of coal may ultimately work to its advantage, sparing countries costly investments in technologies that have only a transitional role, said Hayes.

Until recently, nuclear power was generally expected to capture a large share of the Third World energy market. Now, rising costs, supply problems and concern over nuclear terrorism and radioactive waste suggest that the nuclear dream may fade as fast in poor countries as it has among the rich. Moreover, electricity, the principle energy generated by nuclear power plants, is an inefficient and costly way to meet current Third World energy demands. Renewable energy resources, on the other hand, can be easily batched with such tasks as cooking, heating water, plowing farm land and pumping water.

The simplest work to accomplish with sunlight is providing heat. Solar water heaters, already in wide use in a number of countries, may be manufactured rather easily using materials that are either indigenous to the Third World or recycled. If a home is carefully planned so that most windows face the equator and the walls and floors retain heat, sunshine can warm buildings without elaborate fans and pumps. These commonsense techniques are part of the architectural heritage in much of the Third World and need only be encouraged and improved upon.

Hayes said another potentially important source of energy is methane gas, generated in the digestion of animal dung and other organic wastes. There are reportedly already 4.3 million small biogas plants in China alone, producing gas for light and for heating.

The most exciting and promising source of solar electricity for the Third World, according to Hayes, may be photovoltaics, or solar cells. A World Bank study has shown that photovoltaics are already an economical

source of electricity in remote areas of the developing world, because they require no fuel and little maintenance. Because they generate power on the spot, they do not require long, expensive transmission lines. Mass production of photovoltaic materials could lower the cost of solar cells sufficiently by the mid-1980s to make them economically competitive for most electricity needs—for electric light, for refrigeration, and for communications.

Hayes noted that one of the most important advantages of solar energy in the Third World is its potential for promoting development in previously ignored rural areas. Solar energy resources are inherently more egalitarian than the alternatives because they are widely dispersed and more easily available to individuals and small groups. Thus they can narrow the gap between the rich and the poor.

Widespread use of solar equipment in developing countries will also have positive effects in industrial nations. The market for solar devices in the Third World can accelerate the development of the mass production technologies that will make solar energy competitive in the United States, Europe and Japan. Such an economic state of affairs is so manifestly in the interest of the industrial world that Hayes suggested it warrants granting poor customers subsidies on early orders to speed up the solar transition.

Hayes warned that greater use of solar energy in the Third World will not happen spontaneously. Small-scale hydro-electric plants in China and ethanol distilleries in Brazil demonstrate that countries can develop their indigenous solar resources. But this road to development will be exceedingly difficult without the support of the international community and a real commitment by Third World leaders to meet the energy needs of the poor. Where this leadership and support is in evidence, the solar transition has begun.

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

Mr. CHURCH. Mr. President, each year the Committee on Aging publishes a checklist of itemized deductions to alert older and younger taxpayers about tax relief measures which may assist them.

The committee is updating its summary again to reflect recent changes in the Internal Revenue Code for taxable year 1977. Major modifications are required because of the enactment of the Tax Reduction and Simplification Act in 1977. Several features in the new law—including the new tax tables, the general tax credit and the zero bracket amount—will ease the tax burden on older and younger taxpayers. These measures, though, will be of little value unless they are aware of their existence.

Hearings conducted by the Committee on Aging have provided compelling and disturbing evidence that large numbers of elderly persons pay more taxes than the law requires.

One of the chief reasons is that they are simply unaware of allowable deductions, credits, or exemptions.

The committee's checklist can provide a useful reminder for these individuals to assure that they do not overlook legitimate tax relief measures.

The summary can be useful in other ways as well. For example, a taxpayer may be able to determine whether it would be more advantageous to itemize deductible expenses or simply claim the standard deduction. It may also be helpful in explaining a particular provision in the tax law, such as the tax credit for the elderly, the exclusion of all or a portion of the gain from the sale of a personal residence by an aged taxpayer, or the credit for dependent care expenses.

Even individuals who have already filed their tax returns may find the summary to be beneficial if they overlooked an allowable deduction. They may obtain a refund by filing an amended return—Form 1040X—for the year in question. However, the amended return must be filed within 3 years after the original return was due or filed, or within 2 years from the time the tax is paid, whichever is later.

Many Americans have found the Committee on Aging's summary to be an important safeguard in assuring that they do not overpay their Federal income tax.

Mr. President, I ask unanimous consent that this publication, "Protecting Older Americans Against Overpayment of Income Taxes," be printed in the RECORD.

There being no objection, the publication was ordered to be printed in the RECORD, as follows:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

(A revised checklist of itemized deductions for use in taxable year 1977)

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

Medical and dental expenses

Medical and dental epenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of a taxpayer's adjusted gross income (line 31, Form 1040).

Insurance premiums

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3-percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3-percent rule.

Drugs and medicines

Included in medical expenses (subject to 3-percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 31, Form 1040).

Other medical expenses

Other allowable medical and dental expenses (subject to 3-percent limitation):

Abdominal supports (prescribed by a doctor).
Acupuncture services.
Ambulance hire.
Anesthetist.
Arch supports (prescribed by a doctor).
Artificial limbs and teeth.
Back supports (prescribed by a doctor).
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian Science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning, X-ray, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).
Gynecologist.
Hearing aids and batteries.
Home health services.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lipreading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care, including nurse's board paid by you).
Occupational therapist.
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physical therapist.
Physician.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt (prescribed by a doctor).
Seeing-eye dog and maintenance.
Speech therapist.
Splints.
Supplementary medical insurance (Part B) under Medicare.
Surgeon.
Telephone/teletype special communications equipment for the deaf.
Transportation expenses for medical purposes (7c per mile plus parking and tolls or actual fares for taxi, buses, etc.)
Vaccines.
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).
Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

Taxes

Real estate.
State and local gasoline.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

Contributions

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foun-

dations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7 cents per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

Interest

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

Casualty or theft losses

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

Miscellaneous

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential election campaign fund

Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

Additional information

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or older with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1978, you will be entitled to the additional $750 personal exemption because of age for your 1977 Federal income tax return.

"Zero Bracket Amount" (Standard Deduction).—The former standard deduction has been replaced by a flat amount the law calls "zero bracket amount." This amount depends on your filing status. It is no longer a separate deduction as such; instead, the equivalent amount is built into the new simplified tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, taxpayers who itemize deductions will need to make an adjustment. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

New Tax Tables.—New simplified tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Now, even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you no longer need to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

General Tax Credit.—The general tax credit has been revised to take into consideration the exemptions for age and blindness. Married taxpayers filing separate returns will now be limited to a credit based on $35 per exemption.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, but only one of them may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $35,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceed $35,000, an election may be made to exclude part of the gain based on a ratio of $35,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Alimony Paid.—Payments for alimony are now adjustments to income. You no longer have to itemize deductions to claim a deduction for alimony you paid.

Credit for the Elderly.—An expanded and simplified credit for the elderly has replaced the former more complex retirement income credit.

A taxpayer may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if the taxpayer is:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

To be eligible for this credit, taxpayers no longer must meet the income requirement of having received over $600 of earned income during each of any 10 years before this year.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If a taxpayer maintained a household that included a child under age 15 or a dependent or spouse incapable of self-care, a taxpayer may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable the taxpayer to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—A taxpayer who maintains a household for a child who is under age 19, or is a student, or is a disabled dependent, may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if a taxpayer reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, the taxpayer may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

JANUARY 22—UKRAINIAN INDEPENDENCE DAY

Mr. YOUNG. Mr. President, this Sunday, January 22, marks the 60th anniversary of the proclamation of the Independence of Ukraines and the 59th anniversary of the Act of Union which united all Ukrainian lands into one independent and sovereign state.

The Ukrainian Nationals have struggled for independence from Soviet oppression for these 60 years and are supported in their fight for rights and freedom by people all over America. They are great people and I have supported their cause for years.

Dr. Anthony Zukowsky, honorary president of the Ukrainian Congress Committee of America, Inc., State Branch of North Dakota, has been active in affairs dealing with Americans of Ukrainian descent for over 25 years. Dr. Zukowsky sent me a good statement concerning Ukrainian Independence Day.

Mr. President, I ask unanimous consent to have Dr. Zukowsky's letter and statement printed in the RECORD.

There being no objection, the letter and statement were ordered to be printed in the RECORD, as follows:

UKRAINIAN NATIONAL COUNCIL,
January 12, 1978.

Hon. MILTON R. YOUNG,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SIR: As the 95th U.S. Congress begins its second session, we would like to call your attention that in the month of January, Ukrainians all over the free world including the United States, will mark 60th anniversary of the Proclamation of the Independence of Ukraine as the Ukrainian National Republic, which took place on January 22nd 1918, in Kiev, the capitol of Ukraine.

Although the Ukrainian National Republic was recognized by a number of States including the Government of Soviet Russia, it had no durable peace nor prosperity because Communist Russia occupied the Ukrainian State despite its previous pledges to respect and honor Ukrainian independence. They destroyed the Ukrainian Soviet Socialist Republic.

Since the Russian Communist enslavement with brutal oppression and domination there has been much suffering among the Ukrainian people. But despite the Communist yoke imposed by Moscow, the Ukrainian people never accepted the foreign domination and are continuing to struggle for Human Rights, freedom and national independence.

Both the U.S. Congress and the President of the United States have expressed their concern over captive non-Russian nations including Ukraine in the USSR by enacting the "Captive Nations Week Resolution" in July 1959, now Public Law 86-90.

We are thankful to Hon. Jimmy Carter, the President of the United States, that he first, in the history of our country, made Human Rights issue part of the United States policy.

We firmly believe that you are fully aware of the importance of Ukraine as an ally in the struggle against Russian Communist imperialism. For this reason we take the liberty to enclose with this letter our "Memorandum" and "Press Release" as a documentary brief on the present situation in Ukraine and the USSR.

Therefore, we respectfully request that you make an appropriate statement on the floor of the U.S. Congress on or about the 22nd of January in commemoration of the 60th anniversary of Ukrainian Independence.

This anniversary provides an appropriate occasion not only to the U.S. Congress and American people but also for the U.S. Government to demonstrate a moral support, their sympathy and understanding of the aspiration of Ukrainian people.

We thank you for your past cooperation and we hope you will accept our expression with meaningful understanding, I remain,

Respectfully yours,

Dr. ANTHONY ZUKOWSKY,
Executive Co-Chairman and Director of Public Information.

JANUARY 22ND—UKRAINIAN INDEPENDENCE DAY

January 22, 1978 will mark the 60th Anniversary of the Proclamation of the Independence of Ukraine and the 59th Anniversary of the Act of Union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign State of a Ukrainian nation. Both the independence of Ukraine and the Act of Union were proclaimed by a duly elected Ukrainian Parliament (Central Rada) in Kiev, capital of Ukraine, on January 22, 1918 and January 22, 1919, respectively.

This sovereign Ukrainian State was immediately recognized by a large number of nations including France and England and diplomatic relations were established with them. Recognition was also granted by Soviet Russia. Despite the fact that the Soviet government had officially recognized Ukraine as an independent and sovereign state, Ukraine was attacked both by military aggression and subversion within.

For three and one-half years the Ukrainian people waged a gallant struggle in the defense of their country, alone and without aid from Western nations but was ultimately overpowered by a numerically stronger and better armed forces of the Red Russian Bolsheviks. They destroyed the Ukrainian National Republic and created a Communist puppet government known as the Ukrainian Soviet Socialist Republic. and in 1924 incorporated it forcibly into the Union of Soviet Socialist Republics (U.S.S.R.).

The entire history of a Soviet-dominated Ukraine is a ghastly record of inhumanity, outright persecution and genocide. Russification and violations of human rights on a scale not known in the history of mankind. Under Stalin, Ukraine was marked for physical destruction and denationalization. Under Krushchev, Breznev, and Kosygin regimes, outright terror was replaced by the subtle process of destruction in terms of losing a Ukrainian consciousness and identity through Russification, a persecution of "Ukrainian bourgeois nationalism" and the propagation of a "fusion" of all non-Russian nations into an all-Soviet people.

In summing up the colonial rule of Soviet Communism in Ukraine, the results can be characterized by the following:

A. During the sixty year Moscow rule of Ukraine, literally millions of Ukrainians have been annihilated by man-made famines, deportations, and outright executions.

B. Both the Ukrainian Orthodox Church and the Ukrainian Catholic Church were ruthlessly destroyed and their faithful members were incorporated into the Kremlin controlled Russian Orthodox Church.

C. All aspects of Ukrainian life were and are rigidly controlled and directed by Moscow. Some of these are the Academy of Sciences, all scientific and research institutions, universities, technicums, publications, the press, party and government agencies, youth, women's organizations and trade unions.

D. Permanent violations of Human Rights was instituted in Ukraine. Arrests, trials and convictions of thousands of Ukrainian poets, writers, literary critics, playwrites, professors, students, artists, workers, and other intellectuals have been charged with anti-Soviet propaganda and agitation even though the accused profess loyalty to the Soviet State. Many have been submitted to torture, incarcerations and confinements to psychiatric asylums where drugs and chemicals are administered. Professor and Historian Valentyn Moroz is symbolic of the aforementioned atrocities. Last summer Mykola Rudenko and Oleksa Takhy were given maximum sentences because they were members of the Kiev Ukrainian Public Group to Promote the Implementation of the Helsinski Accords.

The Russian Communist ensalvement of Ukraine has brought much suffering to the people. In spite of this oppressive yoke, the Ukrainians have never accepted a foreign

domination and are continuing to struggle for human rights, freedom, and national independence.

The spirit which brought to life the Ukrainian National Republic is more vibrantly alive among fifty million Ukrainian people today than it ever was in the centuries of old Ukrainian history. The new breed of adamant fighters for Human Rights gives us hope that Ukraine will be free again.

The Ukrainians and all captive nations are thankful to the President of the United States, Honorable Jimmy Carter, that he, first in the history of the United States, made Human Rights issue part of our foreign policy declaring to the whole world that United States is on the side of the victims of unjust persecution.

Both the United States Congress and the President of United States, have expressed their concern about non-Russian nations by enacting the "Captive Nations Resolution" in July 1959, now Public Law 86-90.

The Ukrainian people in the free world are celebrating the memorable January 22nd as their greatest Holiday. Also for many years the 22nd of January has been proclaimed in our American cities and States from coast to coast as Ukrainian Independence Day.

Today the Ukrainian National Republic is represented abroad by its Government-in-Exile, which created the Ukrainian National Council dedicated to the resurrection of the Ukrainian National Republic.

Therefore, it is in common spirit of liberty, faith and justice for Human Rights that the American people join the Ukrainians all over the world in paying tribute to the Ukrainian people in their undaunted struggle for Human Rights, Freedom and National Independence of Ukraine.

A PRAYER THAT LIVES THROUGH THE AGES

Mr. JAVITS. Mr. President, last November, Senator MOYNIHAN and I were most privileged to receive an award from the Stony Brook Foundation of the State University of New York for distinctive contributions to higher education. At the awards banquet, a very beautiful prayer was offered by Dr. Mordecai Waxman, Rabbi of the Temple Israel of Great Neck, N.Y. Dr. Waxman has kindly provided me with a copy of the prayer, and informs me that its source is the Tractate Berakot, the first volume of the Talmud. According to Dr. Waxman, these verses were first recited in the third century at the end of the period of studies in the Academy of Rabbi Ammi. The words of the prayer have survived through the ages and continue to bear a message as inspiring today as it was centuries ago. I hope my colleagues may benefit from this passage:

May you behold the world of your aspirations in your lifetime

May your heart be set on things eternal

May your hopes be builded through many generations

May your heart meditate understanding, your mouth speak wisdom and your tongue invite song

May your eyes shine with the light of Torah, your hands do justice and your feet run to do the will of God, the Ancient of Days.

PANAMA CANAL: HISTORIC CONTRIBUTIONS BY EDWARD SCHILDHAUER IN ITS DESIGN AND CONSTRUCTION

Mr. PROXMIRE. Mr. President, my State of Wisconsin has produced many leaders of national stature including some whose contributions to the acquisition by the United States of the Canal Zone territory, 1903–04, and the construction of the Panama Canal, 1904–14, are historic.

Among such leaders were Senator John C. Spooner, author of the Spooner Act of 1902 under which the Canal Zone was acquired and the canal constructed, and Edward Schildhauer, a highly competent electrical engineer.

Recruited for canal service by chief engineer John F. Stevens of the Isthmian Canal Commission, a major builder of the Great Northern across the Rocky Mountains to the Pacific and the basic architect of the Panama Canal, Schildhauer measured up to the expectations of his famous superior by making notable contributions to the success of the enterprise. He designed the electrical and mechanical machinery for the locks and thus is largely responsible for the excellent safety record of the great interoceanic waterway in the lockage since 1914 of hundreds of thousands of vessels of various types of many nations during both peace and war.

A recent news story by the editor, Greg Hageman, of the New Holstein (Wis.) Reporter provides some little known history about Schildhauer's important services and, in view of current discussions about the Panama Canal, is a most timely contribution.

Mr. President, because the indicated article is highly informative and a noteworthy addition to the cumulating literature on the canal question, it should be of interest to all Members of the Congress as well as to students of the canal question in various parts of the Nation. I ask unanimous consent for it to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATIVE SON HAS LARGE STAKE IN PANAMA CANAL PROJECT

Now, as in the early 1900's, the subject of the Panama Canal is a timely topic for discussion, but while much of the conversation in this area now concerns a man from Plains, Georgia, back when the canal was first being built, much of the local conversation centered on a man from New Holstein.

The story of the canal is long and steeped in political maneuvering. The 1977 question of whether it is right or wrong to give the canal back to the Panamanian government is only the latest chapter in the political history of the Panama Canal.

Spanish explorers as early as the 16th century sought a passage through the newly discovered land masses that became known as the North Central and South Americas, but none was ever discovered. As the explorers continued to look for what they were positive must exist, the 16th, 17th, and 18th centuries dragged slowly by and still no such passage was found. The explorers left their ships and came ashore in hopes that at least gold and riches could be found and in hunting the riches of ancient Indian civilizations, it was noted that certain points in Central America were very narrow and might provide the proper position to construct a man-made passageway. Spain, England, France, Holland, and finally the United States all looked into the feasibility of constructing a canal across what became known as the Isthmus.

Most of the European planning was just that, and never left the drawing tables of the men assigned to produce such plans, but with the great westward migration taking place in the United States in the mid-1800's, our governmental leaders began to take a great interest in any type of passage way that would save the time and danger experienced by ships having to round Cape Horn on sea voyages between east and west.

Still, even with the United States' great interest in the canal, much of the work being done on such a project, was largely political, treaties drawn up and about to be signed with the New Granada (what is now Colombia) government which had control of the isthmus, then not signed because of intervention by European powers, and the same type of goings on repeated again and again.

The first great expedition to actually construct a canal came into being in 1875 at the Congress of Geographical Sciences held in Paris. As a result of that gathering, a French company, the Societe Civile Internationale du Canal Interoceanique was formed and in 1876 a route was selected that would run from the Colombian cities of Colon on the west coast to Panama on the east coast.

Ferdinand de Lesseps, the French engineer who had constructed the Suez Canal, was put in charge of the project and he determined that the canal should be a sea-level ditch type canal that joined the Atlantic and Pacific Oceans. He estimated that the cost of the canal from start to finish would run about $208,000,000 and after using his infectious optimism to gain financial support of many of his countrymen, gathered capital amounting to $60,000,000 and inaugurated the canal project in 1880.

Most of de Lesseps' plan was built on his great enthusiasm and reputation, however, and not on foresight, and by 1887 it was evident that his plan was not feasible. Diseases such as malaria and yellow fever took great tolls of life among the workers dispatched to the canal site, corruption among the administrators of the project ate up much of the canal funds and it became apparent that the ditch-type canal would never work. De Lesseps came up with an alternate plan of a lock-type canal, but in 1888 the French company was dissolved and a great scandal took place in France over the graft and corruption involved with the loss of funds on the project. Over $262,000,000 was spent with only about $100,000,000 actually spent on the canal. De Lesseps himself was sentenced to five years in prison, but never served the time, and other officials were likewise sentenced. Some fled the country and others took their own lives.

A new Panama Canal Company was formed by the French in 1894 and a new contract was arrived at with the Colombian government, but the United States government felt that with the past French failure behind them, they would also fail in this effort and so began to seek out their own canal route and plans.

In 1899, the U.S. Congress appointed a Canal Commission which after investigating the French route from Colon to Panama and a route through the country of Nicaragua, recommended the Nicaraguan route. The Nicaraguan route was actually thought to be

more costly canal-wise than the Panamanian route, but the French still had control of the Panamanian route and there appeared to be no way the right of way there could be purchased cheaply.

While part of the U.S. politicians had satisfied themselves that the Nicaraguan route was the right move, the other half had not and new negotiations with the Colombian government began on the Colon to Panama route. In 1902 under the urging of Senator John Spooner of Wisconsin, the Spooner Act was signed, which gave the president of the United States the right to select the route he thought best.

Negotiations with the French company continued and also opened with the Colombian government, but both demanded much more than the U.S. was willing to pay.

Just what amount of subtle undercover politicking began at this point and even before, is not fully known, but residents of the Isthmus had been for some time making rumblings about a revolt against Colombia and consequently setting up their own government and country. On November 3, 1903 the revolt occurred and was successful. Colombia sent troops, via the sea to quell the uprising, but the U.S. gunboat Nashville was standing off the coast of the newly formed Republic of Panama and personnel warned the Colombians not to land. The United States took the position that a treaty signed in 1846 had entrusted them to keep transit across the isthmus open and that if the Colombian troops were allowed to land this opening may become endangered.

Meanwhile, U.S. Secretary of State Hay under direction of President Theodore Roosevelt and new Panamanian minister Philippe Bunau-Varilla began negotiations for a canal treaty and on Nov. 18, 1903 the Hay-Banau-Varilla Treaty was signed, turning over exclusive jurisdiction of the Canal Zone to the United States with the understanding that in turn, the United States would appropriate a sum of money to the Panama government each year and would also insure the independence of the new country.

In April and May of 1904, agreements were reached with the French government to transfer all canal plans, equipment, and other property located on the isthmus to the U.S. for the sum of $40,000,000. A later payment of $25,000,000 was made to Colombia to appease their anger over the U.S.'s part in the Panamanian independence play.

Work began on the canal in 1904 by U.S. crews, and by 1906 they had come to the same opinion that de Lesseps had arrived at near the end of his work, the ditch-type canal was not feasible, the lock-type would have to be built. It is soon after this point that Edward Schildhauer, a New Holstein native son plugged in his contribution to the success of the Panama Canal project.

Schildhauer was born in New Holstein in 1872 and was educated in the New Holstein schools, going on to the University of Wisconsin at Madison and graduating from there in 1897 with a bachelor of science degree in electrical engineering. In 1898, he entered the employ of the Edison Company (now Commonwealth Edison Co.) in Chicago and worked there, advancing in position to Assistant Electrical Engineer, until 1906 when he resigned to accept a position as an Electrical and Mechanical Engineer with the Isthmanian Canal Commission in Washington, D.C. Less than a year later he was on his way to Culebra in the Canal Zone to serve there.

An excerpt from the February 1915 issue of the publication "The Wisconsin Engineer" states, "Without Edward Schildhauer the methods of manipulation of the vessels through the locks at Panama would never have approached the present state of perfection."

Schildhauer was recruited for the Canal project by Chief Engineer John Stevens, who headed engineering from 1905 to 1907, and he stayed with the Isthmanian Commission until 1914 when the canal was opened to traffic.

The Panama Canal, as constructed by the United States is approximately 51 miles long and provided the world with what the ancient explorers sought, a link between the Atlantic and Pacific Oceans, through the land masses known as the Americas.

The canal incorporates eight principal features: (1) a seven mile dredged channel running at sea level from the Atlantic Ocean to the Gatun Locks; (2) the Gatun Locks themselves, which raise or lower ships 85 feet to or from Gatun Lake; (3) a 24 mile channel through Gatun Lake to Gamboa; (4) the Gaillard Cut, an eight mile channel, 500 feet in width that slices through the continental divide; (5) the Pedro Miguel Locks, which provide a 31 foot step down or up from the Gaillard Cut; (6) a 750 foot wide mile long channel running across Miaflores Lakes; (7) the Miaflores Locks, providing a 54 foot, two-step drop or climb from the lake level; and (8) a sea-level channel, eight miles long running from the Miaflores Locks to the Pacific Ocean.

In 1907 when work was progressing on the ditching needed to form the canal in which the above mentioned features could be incorporated, Schildhauer was busy on an investigation tour. His colleagues were busy investigating new methods of housing workers and keeping the workers free from the diseases which had so decimated the French work groups, but Schildhauer was concerned with the mechanics of the project. He made an extensive tour through Europe studying canals in England, Holland, France, Belgium, and Germany.

A major consensus arrived at by Schildhauer on his travels was that a principal source of accidents in the European canals was due to the break down in communications between the vessel's pilot and engineer while moving the vessel through the canal. The result of his findings was the invention of the famed "electric mule" that moves the ships through the Panama Canal with great safety.

The electric mules were in reality electric locomotives that operate on the center and side walls of the locks. A vessel enters the lock, ties up to the center wall, which is extended beyond the side walls at both the upper and lower ends of the lock to serve as a mooring wall, then waits until the "mules" or locomotives arrive.

Locomotives on the center wall take lines from the vessel and tow it to a point where more locomotives on the side walls can also secure to the vessel. The vessel then enters the lock chamber with two locomotives towing it, one on either side, and two following to retard the vessel's forward movement once she reaches proper locking position.

The locomotives operate on tracks close to the edge of the lock walls and engage on a center cog rail. The maximum speed they were designed for by Schildhauer was two miles per hour when towing. However when finished with a tow, the locomotives would switch over to another track located further back on the lock wall and return to their starting point at a much faster speed.

The locomotives were not Schildhauer's only contribution to the canal however, as he also invented and patented the mechanism by which the lock miter gates were moved. It may be noted that these lock gates were constructed of girders weighing between 12 and 18 ton each and that the finished gates varied in height, according to location, from 47 to 82 feet in height and weighed from 300 to 700 ton per half gate. The entire locking system incorporated 92 half gates each seven feet thick.

The machinery invented by Schildhauer for opening and closing these miter gates consisted of a crank gear, to which is fastened one end of a strut or connecting rod, with the other end connected to a lock gate. The gear wheel moved 197 degrees during operation to open or close the gate with the operation taking about two minutes. Each crank gear was constructed of cast steel and measured approximately 19 feet, two inches in diameter and weighs about 35,000 pounds. The crank gear was in turn, driven through a system of gears and pinions by an electric motor mounted in a contiguous room. An operator in a central control house could easily operate the lock gates with the simple pull of a switch.

In today's modern world, all this might seem a bit mundane, but in Schildhauer's time, electricity was just being harnessed in many ways by man and such an operation as these mechanisms for moving the lock gates was marvelled at far and wide.

Schildhauer's electrical genius was not limited to the ways and means of using electrical power once it was harnessed. The New Holstein native also was instrumental in the designing and constructing of the Gatun and Miaflores power plants which supply the needed electricity to run the machinery developed for lock operationed by Schildhauer and his cohorts.

The hydro-electric power plant designed by Schildhauer for Gatun Lake used the waters of the lake to power the entire assemblage of machinery for the 51 mile long canal system.

Taking waters from the lake the plant funneled the fluid through turbines, down a 75 foot spillway to charge three 2,000 kilowatt generators producing 5,000 horsepower and a reserve system of 2,500 horsepower for operation of the machinery. The second power plant designed at Miaflores was implemented as an auxiliary plant should the waters of Gatun Lake ever fail, which owing to the climatic conditions of the area which produce an abundance of rainfall each year in the tropics are not expected to ever happen.

In 1935, the United States implemented the Madden Dam and Power Project which stemmed and controlled the amount of water flowing into Gatun each year and created a large reservoir in Madden Lake to further increase the amount of electric power available if needed.

When the first vessels moved through the canal on an experimental basis and when the first interoceanic traffic navigated the canal on August 15, 1914, Edward Schildhauer was there to witness the events and handle some of the electrical controls that he had supervised the installation of in one central operating plant. His achievements in electrical engineering for the canal go hand in hand with the medical advancements and the geographical engineering accomplishments that allowed the canal to come into being and allowed the United States to succeed where the French had failed.

Today, ships using the Panama Canal transport in the neighborhood of 150,000,000 tons of material through the interoceanic channel each year.

The future of the canal is in question right now, both as far as ownership and as far as existence. Proponents of a new canal project, thought to be necessitated by the ever increasing size of the oceanic liners and armed forces carriers have recommended building a new canal on several different sites in Central America over the past decade, but nothing has come of any of the plans. Some plans brought forth were for lock-type canals such as the Panama Canal and other proposals favored the sea level ditch advocated by the French.

The inventor of many of the canal's electrical systems died in California in 1952. He

had left the Isthmanian Commission in 1914, shortly after the canal opened and moved on to other pursuits. He retired in California in 1931 and lived there until his death.

Schildhauer's niece, Mrs. Sabina Paul still lives in New Holstein and she states that she doesn't really know what her uncle would have to say about the present politicking going on in regard to the ownership of the Panama Canal, but adds, "like many of the rest of us, he'd probably be spouting."

TRIBUTE TO ADM. CHESTER WARD

Mr. GOLDWATER. Mr. President, last summer we learned of the death in Hawaii of one of this Nation's great military leaders and an outstanding advocate of a strong defense system for America. My reference is to Rear Adm. Chester Ward, U.S. Navy, retired, who served for many years as judge advocate of the U.S. Navy. Admiral Ward was a great man in every sense of the word, a man of impeccable, intellectual, and moral integrity. His concern for our Nation and its future was written in almost everything he attempted.

It is therefore fitting, Mr. President, that an especially fine tribute to Admiral Ward has been written by his friend, Brig. Gen. E. F. Black. And because it underlines the great need for an adequate American defense policy, I believe it is important reading for every Member of the Senate.

Mr. President, I ask unanimous consent to have General Black's tribute to Adm. Chester Ward printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

A LEGACY

Chester Ward dedicated his life to the next generation. He wanted to give our children a fighting chance to carry on America's great tradition.

His concern was twofold: First, that the moral fiber of the leaders of the present generation is weakening; and second, that these leaders and the people themselves fail to understand the nuclear facts of life, particularly the unpleasant and perhaps irreversible consequences of America's slipping into second place in overall strategic nuclear power.

It was Chester Ward who identified our post-World War II approach to foreign affairs as being based on a "no-win" policy. The trend was clear, and he minced no words in pointing it out. World War II had been fought, he reminded us, as wars should be fought, to achieve a decisive, military victory.

But after that, the erosion set in. Unable to devise a better solution, we watched the Communists wrest control of Mainland China from our wartime ally, the Nationalists. What did we do? We stood aside waiting for the "dust to settle."

Then in 1950, acting upon traditional American instincts, President Truman rushed U.S. troops to Korea to prevent another loyal ally from being over-run by Communist forces, this time from North Korea. Politically we sought to blur our forthright response to this clearcut aggression by calling it a "police action" in fulfillment of our United Nations obligations. Ignoring General MacArthur's warning that there is "no substitute for victory," we took the easier way and settled for an armistice which left the country roughly divided along the 38th Parallel, just as it was originally.

In 1962, prompted by a direct threat to our national security from Soviet nuclear ballistic missiles being secretly installed in Cuba, only 90 miles off our coast, we mobilized our armed forces for action. Although overwhelmingly superior to the Soviet Union in strategic nuclear power at that time, we settled for the withdrawal of the Russian missiles. But in our haste to achieve this, we gave an unnecessary and unprecedented pledge to ignore our century-old Monroe Doctrine and allowed a Moscow controlled, Russian-supported state to continue operating under our noses in the heart of the Caribbean. Today, for reasons even more difficult to explain, we are moving toward diplomatic recognition of this Communist state despite the fact that it serves as a base for subversion and revolution throughout South America.

The epitome of the "no-win policy" was our conduct in Vietnam. To deploy a half million U.S. troops half way around the world with a "no win" mission made no sense at all, particularly to those who fought there. Instead of winning the war as quickly as possible, our troops were told to fight in South Vietnam and make it politically and militarily unattractive for the Communist leaders in Hanoi to continue sending their insurgent cadre and their regular army divisions into South Vietnam in a war of open aggression and conquest. There must have been some hidden rationale to justify the tremendous sacrifice of 505,000 American lives and expenditures reaching as high as $2 billion per month. Was it perhaps to divert these valuable national defense resources from the far more important task of maintaining the United States' undisputed lead in strategic nuclear power? Chester Ward thought so; and this was the result even if it were not planned that way.

By 1972 there was hardly any attempt to hide this extraordinary deterioration of America's will-to-win. In that year the Congress approved the Salt I Agreement which not only publicly acquiesced in the Soviet's claim to nuclear parity, but accorded them a 3 to 2 numerical superiority in missile launchers and at least a 4 to 1 advantage in missile throw-weight.

To Chester Ward this was the final proof of a trend far more sinister than the disappointing results of our "no win" policy. It confirmed that Americans were being indoctrinated in a "school for surrender." The teachers of this school are an articulate and influential group. They actually believe that regardless of the consequences—be they a new Gulag Archipelago or worse—it is better to be Red than risk being dead. It is bad enough that the public is being conditioned to give way, to surrender, in situations where the nation's vital interests came into conflict with those of the Communist Bloc. It is even more frightening that the case for "preemptive surrender," as Ward called it, has become a palatable theme in national policy planning.

Admiral Ward's mission was to help the American people understand the nuclear facts of life—to explain how these facts determine whether our nation can survive in the ICBM age. Teaming up with the noted writer, TV and radio commentator, Phyllis Schlafly, they produced five books over a ten-year period, all explaining in layman's language the growing danger that confronts America. The first three analyzed the shift in the strategic military balance under the policies of Defense Secretary Robert McNamara; the last two evaluated the alarming consequences of the continuation of these trends under the policies of Henry Kissinger.

In addition to the heavy load of research and writing which this involved, he was an editor and regular contributor to the American Security Council's Washington Report, a periodical dealing with national security issues. In this connection, as far back as May 1969, Admiral Ward was the prime mover behind the authoritative study, "The ABM and the Changed Strategic Military Balance" published by the House Armed Services Committee. This report documented for the first time the three key nuclear realities of our time: (1) the Soviet military objective is strategic superiority; (2) the Soviets have passed "parity" and are still building; (3) they are preparing their country to fight a nuclear war if this becomes necessary for their purposes, and when they do, they intend to win.

The reason the American people have not faced up to these facts is not the "classification barrier" (which so often conceals the truth), but the "desire not to know." Solzhenitzyn described it as the emotional preference of the West "for the pleasant over the unpleasant." The prospect of a conflict involving the loss of hundred of millions of lives is too horrible, too irrational for most Americans to think about. It is much more comfortable for them to believe that the whole subject of the balance of nuclear power requires such specialized technical knowledge that it is impossible for them to follow these ever-changing strategic subtleties during the course of their busy daily lives. As far as they are concerned, it is a subject that must be left to the experts in the Executive Branch, the Congress and the Pentagon. Yet Admiral Ward insisted over and over again that unless the people make the effort to understand and become involved, the lives and sacred honor of the next generation will be bargained away by the 'preemptive surrender" policymarkers.

Aware that time is running out, Chester Ward sought to warn our country that we must rebuild our military strength before it is too late. Long before the last three Secretaries of Defense, Laird, Schlesinger and Rumsfeld, did so, he emphasized that even with the rosiest of the official U.S. government assumptions, unless present trends in strategic nuclear armaments were reversed the United States would fall irretrievably behind in the struggle for nuclear supremacy.

America's security today rests entirely on the theory of Mutual Assured Destruction. (Admiral Ward was the first to catch the irony of the theory's acronym, MAD.) This concept depends on the maintenance of a so-called "delicate balance of terror." And delicate it is since the balance only exists as long as both sides work sincerely to maintain it. The policymakers in Moscow and Washington must jointly and cooperatively maintain a set of conditions under which both will be convinced that, no matter which side launched an initial nuclear attack, the other could absorb the resulting damage and casualties and still be able to retaliate, inflicting intolerable destruction on the aggressor.

The MAD theory is the rationale which supposedly justifies the ABM (anti-ballistic missile) Treaty of 1972. This extraordinary document pledges both the U.S. and the Soviet Union to refrain from establishing a nationwide ABM defense for their people.

In November 1975, Congress for reasons of "economy" did away with the only ABM defense complex authorized under this Treaty. This left our country completely vulnerable to a ballistic missile attack from anywhere in the world. Secretary of State, Henry Kissinger gave an official estimate that, under the conditions established by this Treaty, a nuclear war would cause the incineration of at least 100 million Americans by the thermonuclear warheads of the Soviet Strategic Missile Force. These warheads can reach our cities within 30 minutes after launch.

After studying the ABM Treaty, Admiral Ward—who as the Judge Advocate General, was the senior lawyer in the Navy, and who had taught Constitutional law at George Washington University before entering the service—concluded that it would be found unconstitutional if it were ever challenged in

the courts. Article I, Section 8 of the U.S. Constitution requires the Congress to "provide for the common defense," whereas Article I of the ABM Treaty states that "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense . . ."

To him it would have been a direct violation of the Secretary of Defense's Oath of Office to appear at a press conference, as Secretary Brown did on July 1, 1977, and say with matter-of-fact unconcern: "So long as the situation is that we have no anti-ballistical missile defense and no substantial bomber defense, I see no great purpose in going after a cruise missile defense (i.e., a U.S. defense against enemy cruise missiles) which would be even harder and less rewarding."

Admiral Ward repeatedly emphasized that the ABM Treaty, even with good faith on both sides, is still a bilateral agreement and, therefore, has no effect whatsoever on the policies of Communist China. The Peking regime did not hesitate to make an atmospheric test of a four megaton "dirty" thermonuclear weapon during November 1976. This was their fourth Chinese nuclear explosion that year and the 21st since their nuclear weapons testing program began in 1964.

While the U.S. remains unperturbed, there is no love lost between the rulers of Peking and those in Moscow. The Soviets take the Chinese growing nuclear threat very seriously. They have stepped up their $1 billion per year civil defense program and have modernized their air defense with new high-altitude surface-to-air missiles and the latest type of radars. As a result, it is the official conclusion of U.S. civil and air defense experts that we are at least ten times as vulnerable to a nuclear attack as is the Soviet Union. This, in itself, tilts the strategic balance in favor of the Soviets, moving them ever closer to possession of what Cheter Ward called "the ultimate sanction."

He considered it a classic example of the defeatism of the "school of surrender" when Kissinger, while Secretary of State, asked the rhetorical question, "What in God's name is nuclear superiority? How would you use it?" Having carefully explained in earlier speeches how U.S. nuclear superiority made it possible for President Kennedy to insist that the Russians withdraw their missiles from Cuba, Kissinger could hardly have needed anyone to explain to him how to use nuclear supremacy. His words were only another attempt to confuse the American people, to divert them from the true meaning of the strategic equation.

In the month he died, Chester Ward frequently called his friends' attention to a paragraph in an article in the June 4th issue of the London Economist. Why can't our editors, he asked, understand the "ultimate sanction" and express it as clearly as do the British?

"The problem will come in the early 1980s—Mr. Carter's probable second term in office—when the Russians have got large numbers of their own accurate multiple warheads in service. It is then that the fact that the Soviet armory includes 300 odd super-heavy missiles, far bigger than anything the Americans possess, will take on its real importance. At the moment this fleet of super-heavies consists of lumbering, one-warhead missiles; by the 1980s it can have been transformed into a fleet of multi-pronged SS-18s with about a dozen warheads apiece. It is like turning Dreadnoughts into aircraft carriers.

"If and when that happens, the Russians will have enough warheads with enough megatons and enough accuracy to be able, at least in theory, to destroy all or most of America's land-based missile force, and probably most of its nuclear bombers, at a blow.

"If they did, there would be only two ways for the Americans to hit back. One would be to use their submarine-carried missiles and their remaining bombers in a counter-attack on the Russians' launching sites. But there might not be enough of them to destroy all those sites, and when the counter-blow had been expended the Russians, having reloaded some of their silos, could have a virtual nuclear monopoly. The alternative is to use the surviving counter-attack force against the Soviet Union's cities. But that would inaugurate a mutual holocaust of civilians. Faced with such a pair of alternatives, an American President might do neither. And this is where the fact that all this sounds madly theoretical becomes irrelevant. If the Americans knew that the nuclear balance had tilted to this point, and the Russians knew they knew, the mailed fist could achieve its purpose without being used."

Chester Ward saw the mailed fist already raised to strike. Whether it held an ultimatum or not was for him a matter of secondary importance. What mattered for him was the safety and survival of America.

FINANCIAL STATEMENT OF SENATOR ALLEN

Mr. ALLEN. Mr. President, each year at the start of the session of Congress, the first day of the session if possible, I file for the RECORD my detailed financial statement as of the end of the preceding year. I have been doing this each year that I have been ir the Senate, and expect to continue to do so.

The statement contains a statement of my assets and liabilities and of my income, of the fact that while I am a licensed attorney I do not practice law in any form, and that I do not now and never have accepted honoraria or expense payments of any sort.

I ask unanimous consent that I be permitted to offer that statement, and that it be printed in the RECORD.

There being no objection, the financial statement was ordered to be printed in the RECORD, as follows:

FINANCIAL STATEMENTS

I, James B. Allen, Gadsden, Alabama, do hereby certify that the following is a true and correct copy of my financial condition as of December 31, 1977:

ASSETS

Home at 1321 Bellevue Drive, Gadsden, Ala., cost 1959		$32,500.00
Furniture, furnishings, books		5,000.00
Automobile		2,500.00
U.S. Savings bonds at cost		600.00
Residence at 7405 Hallcrest Dr., McLean, Va.—1970 cost		47,700.00
Certificates of Deposit in First State Bank of Altoona, Alabama		15,000.00
Bank accounts (exact):		
Personal	3,537.53	
Reserve account for medical bills	674.44	
Personal	257.89	
Office (100 percent personal funds)	2,204.65	
Accumulated rent collections on rental of Alabama home	1,893.69	
Property tax and insurance account on Alabama and Virginia residences	13.23	
Reserve account from which note payments are made	1,822.07	
Total		10,403.50
Payments into Civil Service Retirement account (exact)		$31,457.44
Government bonds—at market value		98,250.00
Life insurance surrender value—all except $1,000 is term insurance		None
½ interest (other ½ owned by Jack L. Ray, Gadsden, Ala.) in furnished condominium in Gulf Shores, Alabama		22,500.00
Total assets		265,910.94

LIABILITIES

Indebtedness on residence at 7405 Hallcrest Dr., McLean, Virginia (exact)	34,671.64
Monthly payment note—First State Bank of Altoona, Ala.	7,151.55
Note—First State Bank of Altoona, Alabama (exact)	2,000.00
Mortgage on home at 1321 Bellevue Drive, Gadsden, Ala., monthly payment loan (exact)	30,532.37
Note—secured by U.S. Government Bonds (exact)	97,111.29
Note—indebtedness on condominium (exact)	22,095.88
Total liabilities	193,562.73
Net worth	72,348.21

I am not an officer, director, stockholder, employee of or attorney for any person, firm, company or corporation. Though I am a licensed attorney I have not engaged in the private practice of law since coming to the Senate, and I am not a member of any law firm nor am I engaged in the practice of law in any form. My only business, vocation or profession is that of representing the people of Alabama and the Nation in the United States Senate.

My income is limited to my Senate salary, rent on our Alabama home and interest on certificates of deposit and U.S. Government Bonds listed herein. During 1977 I received no honoraria or expense payments or reimbursements of any sort, nor did I receive nor did any person or committee for me receive any contributions, political or otherwise during such year. I have never during my service in the Senate, or at any time prior thereto, accepted any honoraria or expense payments or reimbursements of any sort. I do not now nor have I ever maintained a so-called "office account" to receive and disburse funds other than those which I myself contribute to such account from my own personal funds. These policies will continue during the time I serve in the Senate.

This statement is made pursuant to a declared policy of filing annually with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, the Probate Judge of Etowah County, Alabama (my home county), a statement of my assets and liabilities, and income. A similar statement will be filed each year during my service in the Senate, this being the tenth such annual statement I have filed since coming to the Senate in January 1969.

The purpose of this statement is two-fold:

1. To show the absence of any conflict of interest between my ownership of assets and my service in the Senate in the public interest.

2. To keep the public advised as to my financial status, and to disclose the extent to which I have benefited financially during my public service.

I believe the public is entitled to this information from me as a United States Senator in the discharge of this public trust.

Recapitulation of past years' net worth as shown by year-end statements filed by me each year since I came to the Senate:

End of 1968, as I came to the Senate	$92,984.81
End of 1969	87,750.00
End of 1970	87,243.34
End of 1971	85,939.09
End of 1972	85,265.70
End of 1973	79,443.92
End of 1974	78,758.77
End of 1975	78,081.27
End of 1976	73,497.86
End of 1977	72,348.21

A TRIBUTE TO UKRAINIAN AMERICANS

Mr. PERCY. Mr. President, on the occasion of the 60th anniversary of Ukrainian independence this month, as we express our continuing concern for the people of Ukraine, let us also pay tribute to Americans of Ukrainian birth and heritage who have made important contributions to the political, economic, and cultural life of this country.

Ukrainian Americans have enriched American life by their energy and talents. They have distinguished themselves by their constructive citizenship, by their dedication to America, and by their unquenchable devotion to the cause of freedom.

POLICING THE BANKS

Mr. PROXMIRE. Mr. President, the New York Times recently published a series of investigative reports on regulation of the banking system entitled, "Policing the Banks."

The series points out defects in the existing threefold division of regulatory authority among the Federal Reserve, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. One of the articles noted that—

> In interviews, several bank examiners repeatedly contended that unfavorable findings by examiners tended to be disguised or obscured by the unwillingness of their superiors to challenge major bankers or major political powers or to harm personal acquaintances.

This statement confirms findings by the General Accounting Office in a recent audit of the bank regulatory agencies that examiners generally uncovered problems in banks which caused failures but the regulatory agencies failed to use the powers they possess to stop unsafe banking practices.

The Chairman of the Federal Reserve characterized the bank regulators as engaging in a competition in laxity. This, of course, results in regulations at the most permissive level. The reason for this phenomena is that bankers are uniquely treated as is no other industry. Banks can pick and choose which agency shall regulate them by switching from State to national charter or by dropping out of the Federal Reserve while retaining their FDIC insurance. Recently, the Senate Governmental Affairs Committee under the leadership of Chairman RIBICOFF in its study on Federal regulation recommended consolidation of the three agencies into a single agency and thus eliminating the ability of banks to forum shop among Federal regulators. I strongly support this recommendation.

Mr. President, I commend this series of articles in the New York Times to my colleagues and ask unanimous consent that they be printed in the RECORD. The titles of the articles and the dates they appeared are as follows:

First. "Ability and Will of Bank Regulators to Monitor Industry Is Questioned" (December 19, 1977).

Second. "Banks Found To Lack a National Standard of Ethics" (December 20, 1977).

Third. "Regulation Lagging for U.S. Banks Abroad" (December 21, 1977).

Fourth. "Bank Regulatory Agencies Strive To Coordinate and Improve Effort" (December 22, 1977).

Fifth. "Banks' Lobby Called Strongest in Capital" (December 23, 1977).

Sixth. "Senate Unit Urge Consolidation of Three Main Regulators of Banking" (December 19, 1977).

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 19, 1977]

ABILITY AND WILL OF BANK REGULATORS TO MONITOR INDUSTRY IS QUESTIONED

(By Anthony Marro)

WASHINGTON, December 18.—One week before Bert Lance resigned as Budget Director last September and returned home to Georgia, officials of the three principal Federal bank regulatory agencies appeared before a Senate committe and said that both the nation's banking system and its regulatory mechanisms were essentially sound.

Their testimony may have been applauded by the nation's bankers, but it did little to reassure Senator William Proxmire, Democrat of Wisconsin, who said that the disclosures about the banking activities of Mr. Lance were just another sign of an "ineptness and laxity in bank regulation" that pointed up a need for major reforms.

"Now we are told that the situation is great, that not much needs to be done," he said of their testimony. "Frankly, anybody who believes that, I think, believes in the tooth fairy."

Not all critics of the regulatory agencies are as biting as Senator Proxmire, who heads the Committee on Banking, Housing and Urban Affairs But in scores of interviews in recent weeks, many persons familiar with Federal bank regulation told The New York Times that they believe the agencies lack some of the powers, the ability, and in some cases the will, needed to monitor effectively the nation's large banks.

To be sure, they also cited significant improvements in the operations of the agencies in recent years, most of them spurred by criticisms of how the agencies handled a series of bank problems and scandals that ranged from the collapse of the Franklin National Bank, the nation's 20th largest, to the insider dealings at the bank in Calhoun, Ga., headed by Mr. Lance.

But in the four years since the failure of the United States National Bank of San Diego revealed a situation that one bank regulator describes as "self-dealing run riot," no bill has yet passed Congress that would explicitly limit such insider dealings by bankers or that would strengthen the powers of the regulatory agencies to cope with it.

Moreover, according to many of the bankers, bank regulators, lobbyists, financial analysts and Congressional overseers interviewed by The Times, major gaps and weaknesses in the regulatory process have not yet been corrected by the internal reforms.

These include a lack of technical capability and professional expertise needed to supervise foreign loan activities, and a fragmentation of regulatory authority that has resulted in poor supervision of bank holding companies, which now control nearly two-thirds of the deposits and assets of commercial banks.

They also include a closeness to the banking industry, often an outright coziness, that has resulted in lax regulation in the past ("mistakes of geniality," in the words of one former Comptroller), a hodgepodge of overlapping and sometimes conflicting jurisdictions, and antiquated structure that has been imposed atop a century-old law, the National Bank Act of 1864.

"All of today's structure is a reaction to yesterday's problems," John G. Heimann, Comptroller of the Currency, said in an interview.

During its inquiry into Federal bank regulation, The Times also learned:

In 1976, the various bank lobbies and bank political action committees contributed $663,155 to members of Congress, and individual banks made loans of more than $1.3 million to help fund Congressional campaigns. This was over and above the direct contributions of individual bankers ($711,118 in 1974), and has helped make the bank lobby a force that has effectively blocked proposed changes in bank regulation in recent years.

Because they must rely on data supplied by banks themselves, it is difficult for bank examiners to spot outright fraud until it has reached a point where it threatens the very soundness of a bank. "The best regulatory system in the world can't deal with a dedicated, determined, sophisticated crook," one former official of the Comptroller's office said.

Many commissioned examiners believe that recent changes in the structure of the Comptroller's office have stripped the field of experienced examiners in order to staff a bureaucracy that has become top-heavy with administrators. Where many examiners once remained at the job for 20 years or more, the average age of examiners is now 31, and commissioned examiners with 10 or 15 years of experience are becoming increasingly rare.

Although bank regulators and bankers insist that secrecy is needed in bank supervision to protect the privacy of borrowers and to promote public confidence in banks, a number of present and former examiners contend that this secrecy has led to a regulatory system that often is arbitrary and capricious, particularly in the regulation of smaller banks.

No one interviewed by The Times maintained that the banking system is either unsafe or unsound, or that it is going to continue to experience the problems that it did during the recession of the early and mid-1970s.

U.S. BANK REGULATORS PRAISED BY BANKERS

And bankers generally give high marks to Federal bank regulators. A recent study by the General Accounting Office, the investigative arm of the Congress, showed that more than 90 percent of the 1,500 bankers who responded to a survey had rated the competence of Federal bank examiners as "adequate" or better.

Gabriel Hauge, chairman of the board of Manufacturers Hanover Trust Company, said in a recent interview that he does not think that even banks as large as Manufacturers Hanover are too big or too complex for adequate supervision. "What you are saying when you take that position is that these 'examinations' are poor surveillances, that the examiners can be duped . . . I don't believe it," he said.

But a number of other New York bankers, who did not want to be quoted by name, said they doubted that the Federal agencies had the manpower (there are very few women examiners) to do a thorough job. "They have an awfully small staff," one New York banker said.

"They can't cope with the big banks," a former vice president of a large New York bank said of the examiners. "They're like a cop on a beat: if he sees somebody beating up a guy, he can step in and try to do something. But when it comes to sophisticated political corruption, he's helpless."

Funded by banking industry

The operation of the three principal agencies—the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve—are funded by the banking industry itself, and thus are subject neither to the usual Congressional appropriations process or to audits by the GAO.

And bank regulators, who insist that public criticisms of bankers could lead to a damaging loss of confidence in banks, carry out their supervision with little oversight, and with a secrecy almost unknown in other parts of the Federal bureaucracy, outside the intelligence agencies.

"They thrive on secrecy. It's something they pray to," says Representative Benjamin S. Rosenthal, Democrat of New York and the chairman of a House subcommittee that has some jurisdiction over the agencies.

"The banks and bank regulators have this enormously elitist attitude: only they can deal with bank problems," he complained. "They claim that if things are handled wrong, there will be enormous social consequences—that people will panic if they find that banks have broken the law or made bad loans to Biafra."

This same complaint has been voiced repeatedly by Representative Fernand J. St Germain, Democrat of Rhode Island and chairman of a House subcommittee that oversees the bank regulatory agencies. In his view, this secrecy has been used to hide lax or inept regulation and to shield bankers from the marketplace discipline that would result if their mismanagement, self-dealing or violations of banking laws became known.

Many bankers and bank regulators strongly dispute this. They contend that banks are in some respects fragile institutions, utterly dependent on the public's confidence, and that for the agencies to publish their criticisms of banks—as the Securities and Exchange Commission does of the companies it regulates—could cause them a great deal of harm.

Their argument is that serious abuses are relatively few—"aberrations in a well-policed, safe and sound system," according to Edward L. Palmer, the chairman of the executive committee of Citicorp, parent of the nation's second-largest bank. They maintain that the general public is too unsophisticated about banking to comprehend that criticisms of bank operations do not necessarily mean that a bank is unsound.

The result of such publicity, they predict, could be sudden withdrawals of deposits that could undermine otherwise-healthy banks. "The S.E.C.," said Mr. Heimann, "doesn't have to worry about runs on a bank."

BIGGEST BANK FAILURES OF NATION ARE RECALLED

Despite these concerns, pressures to make the agencies more accountable and more open have grown in recent years as a result of a series of events that has focused more public attention on banks and banking practices than at any time since the Depression of the 1930's.

These have included the three largest domestic bank failures in history (the United States National Bank of San Diego in 1973; the Franklin National Bank in 1974; and the Hamilton National Bank of Chattanooga in 1976), great increases in the number and size of banks on the agencies' "problem bank" list, and the controversy surrounding the banking activities of Mr. Lance.

The causes of the banks' problems varied from case to case. But in each instance, the Federal bank regulatory agencies were sharply criticized by the Congress for not having moved quickly enough or forcefully enough. And while those bank disasters are now history, the regulatory system itself remains a live issue.

In the case of the Franklin National Bank, which had deposits of nearly $3 billion, a subcommittee headed by Mr. Rosenthal issued a blistering report in which, in hindsight, it accused officials in the Comptroller's office of having ignored warnings from their own examiners that the bank had serious problems.

"The primary cause of O.C.C.'s ineffectiveness is that permissive attitude pervading (the agency) it said.

In the case of the San Diego bank, a Congressional inquiry showed that Jack Baker, a Federal bank examiner, had identified major abuses at the bank as early as 1962, but then had been—in the phrase of one critic—"exiled" to Alaska by the Comptroller's office and never permitted to examine that bank again.

In the decade following the transfer of Mr. Baker, there were few criticisms noted in the examinations of the United States National Bank. But after the S.E.C. warned the Comptroller in 1972 that it intended to charge several bank officials with fraud, bank examiners hurried back to the bank and suddenly found that nearly $400 million in questionable loans had been made to subsidiaries of a holding company controlled by the bank's president, C. Arnholt Smith.

Some critics of the handling of the United States National Bank case note that Mr. Smith was known as a close friend of President Nixon and a heavy contributor to his campaigns. And the suspicion exists that Federal regulators were lax because Mr. Smith had helped them in the past by taking more than a dozen "problem" banks off their hands and absorbing them in U.S.N.B.

I don't know if there was any quid pro quo, but I've heard it," one senior official in the Comptroller's office said recently. "We buried our problems there, and then left him (Mr. Smith) alone."

There also were allegations that bank officials had provided bank examiners with sides of beef, cases of tuna, and what has been described discretely as "entertainments" at a Southern California resort.

This last item was of acute concern, because all three of the bank regulatory agencies are known as keeping remarkably free of corruption. But James E. Smith, who was Comptroller at the time, said in a recent interview that both his office and the Justice Department had investigated the allegations and had found nothing except for a few "modest" gifts: "six cans of tuna, and that sort of thing."

The mistakes the bank examiners made at U.S. National were the result of inexperience and "mistakes of geniality," not of corruption, he said.

United States National Bank and Franklin National Bank were just two of the more dramatic bank failures of this period, which was a time of severe economic recession. Between January 1971, and June 1976, 42 banks closed their doors, and 27 others were merged with stronger banks to avoid probable failure.

A SHARP INCREASE IN "PROBLEM BANKS"

Moreover, the number of so-called "problem banks"—those cited by the regulatory agencies as needing special supervision—increased sharply, from 353 banks in January 1971 to 607 at the end of 1975.

In absolute terms, of course, this represented only a tiny fraction of the 14,000 financial institutions regulated by Federal agencies. "The average annual bank failure rate since 1937 has been 0.08 percent—a remarkably low failure for any human endeavor," Robert Bloom, the Acting Comptroller, said late last year.

But unlike many other human endeavors, banking has been protected from many forms of competition by Federal laws and supported by a government-backed fund insuring deposits. Because of this, as more banks failed or became "problem" banks—the greatest number since the Depression—sharp questions were asked about whether the regulatory process really worked.

The agencies responded with a series of measures designed to improve their ability to spot dangerous trends early and move quickly to correct them. The Comptroller's office tried to shift its focus away from simply evaluating the loans a bank had made and toward a more sophisticated review of how well the bank was managed and what its policies were.

The number of disciplinary steps—particularly the use of so-called "voluntary cease and desist orders," in which bank officers pledged to end practices that bank examiners had concluded were unsafe and unsound—increased markedly. The Comptroller's office, which had imposed only three such agreements on banks in 1971, used this device 23 times in 1976.

Enforcement head "unleashed"

"They finally unleashed Serino," said one colleague of Robert Serino, the head of the tiny (six-person) enforcement division at the Comptroller's office, and a man who has been urging more and stronger formal actions against banks for nearly five years.

These and other actions have been applauded by such critics as Mr. Proxmire and Mr. Rosenthal. But both men argued in recent interviews that, despite their high regard for Mr. Heimann, the new Comptroller, they believe that basic changes are needed in the agency to insure tough long-term regulation.

Mr. Rosenthal, for example, argues that the facts that the agencies are funded directly by banks and that many officials move from Government into the banking industry weaken the adversary relationship that he believes should exist.

"What there should be is an adversary relationship, not a warm, cozy relationship, with regulators running in and out of the industry at will," he said.

Mr. Proxmire, who describes the current system of divided jurisdiction as a "nightmare," insists that effective regulation won't come about until the regulatory functions of the three agencies have been merged. As things now stand, he argues banks can pick their regulators by changing from a state to a national charter, or vice-versa, (as 169 banks did between 1972 and 1976). This makes the regulators hesitant to get tough with banks, the Senator says, for fear the banks will leave their jurisdiction.

Competition in laxity

On this point Mr. Proxmire is fond of quoting Arthur F. Burns, chairman of the Federal Reserve Board, who told a group of bankers in October 1975 that the existing structure "fosters what is sometimes called 'competition in laxity,'" in which regulators engage in "subtle competition" to keep banks under their charge.

Dr. Burns has since said that the system fosters "competition in excellence," as well, and has suggested that he now wishes he had not used the phrase in the first place.

But Mr. Proxmire has ignored these disclaimers. "He's an extremely careful man," he said of Dr. Burns. "I'm sure that he meant it—and it's the truest thing he ever said."

SKEPTICS CITE WEAK SPOTS AND PROBLEM AREAS

Although a trend toward stronger regulation is widely acknowledged, many skeptics argue that regulation has been so lax in the past that the agencies should not be trusted

to make improvement on their own, and that weak spots, loopholes and problem areas still exist.

These weak spots and problem areas include the following:

Although so many banks have set up bank holding companies that they now control nearly two-thirds of the assets and deposits of commercial banks, the structure for regulating them is badly fragmented. The Federal Reserve supervises the holding companies and their nonbank subsidiaries, while the banks themselves are supervised by the Comptroller or the Federal Deposit Insurance Corporation.

In several cases in recent years, most notably the case of the Hamilton Bank, nonbank subsidiaries managed to dump soured assets onto the banks and caused the banks to collapse, literally between examinations by the Comptroller or the F.D.I.C. In a score of cases, the Federal Reserve moved too slowly 75 percent of the time, the G.A.O. concluded.

The Federal Reserve recently announced plans to increase its supervision. But George A. LeMaistre, the chairman of the F.D.I.C., declares that the fragmentation of the supervision is not only wasteful and costly, but "the most serious inadequacy in the present regulatory framework."

Bankers, regulators and Congressional overseers are well nigh unanimous in agreeing that the international lending activities of the nation's largest banks are unregulated in parts and underreguated on the whole. Even Mr. Hauge of Manufacturers Hanover, who is generally high on the competence of bank examiners, agrees that "the regulators are strapped to keep up" with the tremendous recent growth of activity in this area.

Many Federal regulators acknowledge that they lack the professional skill and technical competence to monitor foreign activities of banks properly, particularly the large loans to less-developed countries. And some officials sneer at the overseas presence of their own agency.

Said one official of the Comptroller's operation in London: "Two crummy little rooms in the Embassy, with six bank examiners in Robert Hall suits trying to talk to the financial elite of Europe."

At present, a person or group can buy control of a bank by borrowing the entire purchase price and pledging in return only the newly acquired bank stock itself as collateral.

According to Prof. Paul Nadler, the dean of the School of Banking at Rutgers University, buying a bank on the cuff is a disturbing practice because it leads to bad management decisions. The pressure on the bank's management to step up the bank's dividends just to pay off the borrowing can be "irresistible," he said.

Many bank regulators and Justice Department officials say that existing laws governing banking activities are either unenforceable or toothless. The requirement that bank officials report all loans they have obtained from their own bank or other banks, for example, carries no penalties at all.

"The law is very clear," said one banker who did not want to be quoted by name. "It says they have to report their indebtedness . . . but it also says that nothing will happen to them if they don't."

Critics also contend that as a practical matter, the agencies concentrate more on small banks.

"Examiners and supervisors can understand and can guide the business of small banks; they have little or no ability to control or guide giant banks," Prof. Hyman Minsky of Washington University in St. Louis, testified before the Senate Banking Committee this year.

Feared examiners were lagging

According to Mr. Smith, the former Comptroller, many large banks have internal checks and audits that smaller banks lack, and thus they may require less supervision. But he agreed that as Comptroller (1973–1976), he worried that his examiners were not keeping pace with the big banks as they moved into novel and highly sophisticated financial areas.

Indeed, he said, some of his initiatives were meant to win back the "rapport and respect" of officials at the large banks and to lead them to value the judgments and criticisms of the examiners.

PERMISSIVE REGULATION BLAMED BY SENATOR

Have the banking agencies, with their traditional approach to regulation, contributed to a weakening of the banking system?

Senator Proxmire and his staff vigorously argue that in the past decade the number and size of "problem banks" has increased, the number of failures has soared, the percentage of "classified" assets in banks (that is, the assets considered substandard by bank examiners) has risen sharply, and the capitalization of the system has dropped. In his view, permissive regulation has been at least partly to blame.

Regulators and bankers alike bristle at this thesis, noting that the increases Senator Proxmire cited took place during the worst economic recession since the 1930's. But the Senator's view is echoed by Elmer Staats, the head of the G.A.O., whose auditors found an "overreluctance" by the regulators to use their formal powers and an "overwillingness to accept promises" instead.

Numerous regulators concede that formal disciplinary actions traditionally were a last resort. "It's the big club in the closet," said Jack Ryan, the head of an enforcement division at the Federal Reserve that took the club out of the closet only nine times from 1971 through 1976.

Many bankers and regulators nevertheless oppose any stronger oversight by the Congress. "To my mind, to inject * * *," said David Schaub, a former staff attorney in the Comptroller's office and now a lawyer with a private firm in New Orleans. "I just don't think that we should subject the method and mode of bank regulation to the warp and woof of politics."

But Congress is actively considering giving the regulators more "clubs" and more scrutiny. A number of measures are said to have a good chance of passage next year. One of Mr. Proxmire's bills, which already has passed the Senate, would empower regulators to impose penalties of up to $1,000 a day against bankers who ignore cease and desist orders.

That same bill, S–71, also would place strict limits on insider loans by banks, and would make it much easier for regulators to remove officers who show "a willful disregard for the safety and soundness of their bank."

A second bill, introduced by Mr. Rosenthal and already passed by the House, would permit regular audits of the agencies for the first time by the G.A.O., thus increasing Congressional oversight. Other legislation would empower regulators to veto changes in control of banks and would place a 50 percent margin requirement on all purchases of bank stock.

[From the New York Times, Dec. 20, 1977]

BANKS FOUND TO LACK A NATIONAL STANDARD OF ETHICS

(By Nicholas M. Horrock)

WASHINGTON, December 19.—When Bert Lance's financial manipulations hit the front pages last summer, they posed unpleasant questions for the banking business.

Are banks commonly bought and sold with no down payment? Do bank executives make a practice of using their depositors' money as leverage to get loans for themselves through "correspondent accounts"? Are overdrafts for family and friends standard practice? Do banks routinely provide airplanes and lavish expense accounts for their officers?

The bankers—at their annual meeting at Houston last October, in the halls of Congress, at a score of private forums—have answered with a resounding "no."

Again and again, bankers have characterized Mr. Lance as extraordinary—the exception, not the rule.

"I see red whenever I hear anyone dismiss the allegations about overdrafts and failures to disclose personal borrowings as being just typical business practice among bankers," A. A. Milligan, president-elect of the American Bankers Association, declared.

"There are 14,000 banks and a quarter of a million bank officers in this country, and I will stack up their ethical practices against those followed by any other industry in the United States any day of the week."

But an inquiry by the New York Times indicates that Mr. Lance was far less extraordinary than the public was asked to believe, and that, moreover, the United States banking industry does not in fact have a uniform national standard of banking ethics. To the contrary, interviews with regulators, bank officials, investment specialists and bank analysts disclosed that banking practices and regulation vary dramatically over the country.

In Georgia, many Western states and the Southwest, even relatively small banks own corporate aircraft and make them available for their executives to use. By contrast, in Massachusetts, reports the state's banking commissioner, Carol S. Greenwald, no bank owns a plane or regularly charters one for business purposes. Indeed, she said, probably the most lavish expense account item allowed bank officers is a free membership in a luncheon club to entertain potential customers.

In large banks in metropolitan areas, it is uncommon for officers or directors to borrow any money from their own bank, and overdrafts are unusual. John F. McGillicuddy, president of the Manufacturers Hanover Trust Company in New York, told Congress last August that if any bank officer at his institution overdrew his account, he was immediately notified to cover it, and four overdrafts in a year put the account on "probation."

But in rural areas and small cities, where sources of capital are more limited and business is more informal, banks often lend money to their own directors (and to officers generally, within legal limits), and overdrafts by insiders are viewed more tolerantly.

The consensus among those interviewed was that the practices found in the Lance case were most common in the states from Florida to New Mexico; in states where banks are not permitted to have branches and law or tradition has nurtured the independent, single unit bank, and in regions, like the South, where the paucity of investment capital has made the banker a commanding figure in his community.

Moreover, most sources agreed, these questionable practices have a lot to do with the safety and soundness of a bank. In a report prepared for Congress last month, the Federal Deposit Insurance Corporation found that of the 67 banks closed for problems since 1960, 57 percent went under because of "improper loans to officers, directors, or owners, or loans to out-of-territory borrowers." (Embezzlement or some other internal manipulation did in another 21 banks, or more than 30 percent, the report said.)

Of the practices that Mr. Lance made famous, the one consistently identified as the most corrosive of the banking system was the borrowing to buy control of a bank entirely on credit, without risking one's own money, and the associated practice of having the bank place a deposit as an apparent quid pro quo for a personal loan.

Acquiring a bank by buying its stock also underscores another problem that troubles

regulators. Although Federal law empowers banking regulators to approve the opening of new banks or the physical expansion of a banking business, they have little say over who may buy control of an existing bank.

OBJECTION FROM RHODE ISLANDER

"You can't buy General Motors stock by borrowing the money and then putting up the stock as collateral, the law doesn't allow it," argues Representative Fernand J. St Germain, Democrat of Rhode Island. "Why should you be able to buy into a bank on no margin?"

His subcommittee, part of the House Banking Committee, has been investigating abusive banking practices since the failure of the Sharpstown Bank in Texas in 1971, and he has proposed legislation that would prohibit a bank from lending more than 50 percent of the value of bank stock being bought.

The Rhode Island legislator also has initiated legislation that would empower the Federal regulators to approve or disapprove any transfer of stock that would change the ownership of a bank.

In the F.D.I.C.'s Southwest region, which includes Texas, Oklahoma, New Mexico and Colorado, a borrowing to buy bank stock was the underlying transaction in some 250 instances over a three-year period that were referred to the Department of Justice for possible criminal prosecution. (Only one case was actually prosecuted and a conviction obtained.) In Texas, buying a bank on credit became so common, it was nicknamed "rent-a-bank."

In the late 1960's, the regulatory agencies began looking at the conditions and details of some bank stock loans in the South and Southwest. They found that they were often accompanied by "unreasonably low interest rates" and "by excessive balances maintained at the lending bank by the bank whose stock was being pledged," Quinton Thompson, Southwest regional administrator of the F.D.I.C., told a House subcommittee last fall.

Charles Picket, the counsel for the F.D.I.C. in the Southwest, said that when he was first transferred to the region in 1972, he was "overwhelmed" by the prevalence of bank stock loans. Many of those who have bought a bank entirely on borrowed money have gone on to operate responsible financial institutions, but in a substantial number of cases the unscrupulous found an entree into banking.

In one notorious episode, a 27-year-old Texan named Enrique Salinas borrowed his way into banking and proceeded to shake the money tree. Mr. Salinas and a group of associates in what is known in Texas as a "control group" bought the controlling interest in the $17 million Citizens State Bank of Carrizo's Springs by borrowing the asking price and pledged as collateral the stock they purchased.

SIX-MONTH BURST OF STOCK DEALS

Citizens State was only one of half a dozen banks that Mr. Salinas bought into during a six-month burst of bank stock transactions two years ago. According to documents made public at a Congressional hearing last year, Citizens State, in rocky condition, was already under a state regulatory order not to lend more than $300,000 to any individual.

In the next few months, however, the bank lent $691,300 to Mr. Salinas's brother, $129,000 to his brother-in-law, $301,000 to a business associate, "thousands" to a tiny trinket shop run by Mr. Salinas' wife, and thousands more to a vice president of the bank who was appointed while Mr. Salinas' group was in control.

In 1974, before Mr. Salinas became involved in the ownership, the loans state bank examiners found doubtful amounted to $157,000, according to testimony. By June 1976, just before it went under, the bank was bloated with $1,179,000 in delinquent loans, $2,046,000 classified as substandard, $1,087,616 classified as doubtful, and $2,456,202 classified as lost.

"Collateral for the loans included certificates of deposit pledged as collateral at more than one bank, unevaluated land holdings in Mexico and in one case a "quarter interest in a Rolls-Royce."

There are strong signs that Mr. Salinas and his associates had set out to loot the Carrizo's Springs bank. (Several of them, including Mr. Salinas, were found guilty of charges of fraud earlier this year.) But even in legitimate circumstances, buying a bank on credit promotes unsound banking, critics say.

"Let's say I borrow a million dollars to buy a bank," says Paul Nadler, head of the banking department at Rutgers University, "I put up the bank stock as collateral and I plan to service the debt from the dividends that the bank pays on its stock. I'm also chief executive officer of that bank. The pressure to get the board of directors to raise those dividends is almost irresistible."

UNCHALLENGED BANK PURCHASES

Last December, when Mr. St Germain's subcommittee held hearings on the Carrizo's Springs affair in San Antonio, it discovered that bank regulators knew little about Mr. Salinas when he bought into the banks. Indeed there was a pattern of cases where unknown or questionable businessmen had bought control of a bank without challenge.

"When a bank asks for a charter," argues Mr. St Germain, "the regulators have the power to evaluate the background, integrity and ability of the people proposing to open the bank as well as the need for the banking service in that area, but anybody can buy into an exising bank with no screening."

From the advent of the Lance affair, Southern bankers and businessmen have bristled at the suggestion that their region had lower business ethics than other parts of the country.

Nevertheless, the informality and sometimes outright coziness of banking mores and politics in the South and Southwest have clearly affected even the regulatory agencies. In interviews, several bank examiners repeatedly contended that unfavorable findings by examiners tended to be disguised or obscured by the unwillingness of their superiors to challenge major bankers or major political powers or to harm personal acquaintances. This problem was not unknown elsewhere, they said, but it was particularly common in the South.

Donald L. Tarleton, the regional administrator who resigned last month after it was disclosed that he had taken unauthorized actions to clear Bert Lance's banking record, is not the first administrator to leave Atlanta under a cloud.

Joseph Ream, one of Mr. Tarleton's most recent predecessors, was moved to Washington after an official on his staff brought charges of anti-Semitism, favoritism and conflict of interest to the United States Attorney.

A charge against Mr. Ream, for instance, was that he failed to press the correction of a violation of the banking regulations because the banker involved was one of the most prominent in the South and because Mr. Ream feared that the bank would change its charter and move out from under the control of the Comptroller's office.

The charges were never formally investigated, but the case was cited in several lengthy interviews with commissioned national bank examiners as the sort of "atmosphere" that undermined bank regulation in the South.

SECOND COMPLAINT, EXAMINERS SAY

The present and former examiners, moreover, said that this was the second complaint about Mr. Ream's actions that had been made to the top echelon of the Comptroller's office in the early 1970's.

George Favella, an assistant to Mr. Ream, went to officials in Washington and reported that he found evidence that Mr. Ream had a conflict of interest in connection with a Pompano Beach, Fla., bank regulated by his office.

Instead of an investigation of the complaint, these sources said, Mr. Favella was admonished for going outside channels and transferred to the West Coast. Currently an employee of the Comptroller's office in San Francisco, he refused to comment on the matter.

The New York Times made repeated attempts to interview Mr. Ream, but he did not return a reporter's calls. Mr. Ream's secretary took down the detailed questions, which she said she would refer to him. A man who answered at Mr. Ream's home said he was out, but that the Secretary had conveyed the questions.

James E. Smith, who as Comptroller of the Currency had transferred Mr. Ream to Washington, said he had done so at Mr. Ream's request after Mr. Ream had told him, "I really think I've lost my cutting edge." Mr. Smith, who is no longer Comptroller, said he had found no substance to the allegations about Mr. Ream.

The controversy over Mr. Ream was not the only instance in which the Atlanta regional officials were accused of coziness with bankers.

A veteran bank examiner told The Times that after he reported irregularities in the collateral of a Government-insured loan at the Mercantile Bank in Atlanta, the matter was intentionally withheld from further investigation because top regional officials were friendly with the bank officers. The examiner's superiors say his charges are groundless, but another source, a former examiner, corroborates the examiner's account.

The Mercantile later ran into severe financial difficulties and was taken over by Bert Lance's National Bank of Georgia at the insistence of Federal regulatory agencies.

[From the New York Times, Dec. 21, 1977]

REGULATION LAGGING FOR U.S. BANKS ABROAD

(By Mario A. Milletti)

American banks have gone international in a big way. Last year, as a group, the nation's 10 largest banks made more money abroad than at home. This far this year, Citicorp, the parent of Citibank, New York's largest bank and the nation's second largest, has looked abroad for more than 80 percent of its profits.

As recently as 1970, the big banks' foreign earnings made up less than one-fifth of their total. In the years since, foreign profits have grown by leaps and bounds, while the banks' earnings in this country have languished, rising on average at less than 1 percent a year.

This explosion in offshore banking has heightened concern over the ability of regulatory authorities to see to the soundness of the banking system. At home, banking is among the nation's most closely regulated industries, but American banking abroad has flourished in freedom from fundamental regulatory restraints. Not only the growth but also the sheer complexity of international banking has left Federal regulators—and their counterparts in other countries—struggling to catch up.

BARELY EXISTS, SOME SAY

"Integrated worldwide banking is an accomplished fact," Salomon Brothers the huge Wall Street securities firm, concluded in a study last year, "while parallel worldwide regulation is, at best, in a developing state."

And, at worst, according to some critics, it barely exists.

"Much more needs to be done in the area of international banking," asserted Repre-

sentative Benjamin S. Rosenthal, Democrat of Queens, whose subcommittee investigated the failure of the Franklin National Bank and the American Bank and Trust Company of New York.

In fact, a substantial part of international banking is completely unregulated. It consists of dealings in the enormous "Eurodollar" market, a $250 billion pool of dollars on deposit abroad.

The extremely active Eurodollar market has built up an elaborate web of borrowings and deposits among banks. This has created fears that, unless isolated, a crisis at one bank could touch off crises at others—by tying up funds owed them by the first bank—and reverberate through the entire banking system.

Deep difficulties at one bank could also create a crisis of confidence, it is feared. As a result, smaller banks could become hard-pressed to get funds, as depositors instead favored larger and presumably safer institutions.

That is what happened in 1974, when Franklin National, the nation's 20th largest bank, and West Germany's Herstatt Bank failed, the victims of mismanagement and ill-fated speculation in foreign currencies.

Critics such as Mr. Rosenthal contend that a large fraction of the American banks' outstanding Eurodollar loans is substandard. He noted that in one sampling, the General Accounting Office, Congress's investigative and auditing arm, found that Federal regulators had questioned $9 billion of some $80.5 billion in foreign loans by 30 banks. On this basis, Mr. Rosenthal estimated that for the entire banking system, as much as $11 billion in loans were substandard.

* * * * *

PROGRESS HAS BEEN SLOW

Since then, regulators around the world have begun to cooperate more. Nevertheless, their progress has been slow and their resources not great.

The Comptroller's office, for instance, has, at its overseas presence, half a dozen bank examiners in London. By comparison, the United States has been able to field 86 narcotics agents in more than two dozen countries to combat that problem.

The banking authorities share the concern over at least the possibility that a financial crisis might be spreading through the system.

"Relatively insignificant defaults by fringe institutions can have wide repercussions," George Blunde, the English banker who headed an international committee of regulators formed after the Franklin and Herstatt episodes, has warned. "The more integrated the financial system, the more rapid can be the spread of infection from a weakness of one of its parts."

A broad crisis could be touched off, some argue by the default, or more likely by the stretching out, of the huge debt owed to private banks by numerous less-developed countries and weaker industrialized nations.

Concern over the buildup of foreign loans has heightened as banks have been trying to assemble a $250 million loan package to help Zaire repay old bank loans, and more recently as Peru asked the United States, unsuccessfully, for a loan to help repay foreign creditors.

INCREASE SHOWN BY STUDY

In any event, the overseas banking business has unquestionably surged. A study by the Federal Reserve Bank of Boston of Federal Reserve-member banks found that the list of the 13 banks with 211 foreign branches in 1965 had grown by last year to 125 banks with 731 branches. That total included 129 established as little more than post-office boxes, mostly for tax-avoidance reasons, in the Bahamas and Cayman Islands.

By last year, in the aggregate, the foreign branches were swollen with $219 billion in assets, an increase of nearly 25 times over the decade. In addition, American banks have set up a maze of foreign subsidiaries—perhaps organized as the subsidiary of the subsidiary of still another subsidiary, all in different countries—and joint ventures.

Unlike the offshore branches, these units can, and do, engage in lines of business forbidden to banks in the United States, such as underwriting the sale of securities or acquiring an ownership interest in a manufacturing company.

The Eurodollar market—by far the most important offshore activity—grew up in large part as a way to avoid controls adopted by the United States in the 1960's to prevent capital from flowing out of the country. Although the controls were later abandoned, by that time the Eurodollar market had firmly taken root in London and other banking centers that did not want to impose restrictions on Eurodollar activities.

A FEAR FOR FED'S POLICY

The foreign branches' Eurodollar operations are free from two fundamental controls on banks in the United States. There are no "reserve requirements," which limit a bank's lending powers by requiring it to set aside a certain portion of its domestic deposits. In addition, no ceilings exist on the interest rates the banks' foreign branches may pay to attract Eurodollar deposits.

According to a staff report by a Senate subcommittee on foreign economic policy, the absence of these controls could undermine the Federal Reserve's monetary policy at home. Corporations here could subvert tight money policies by drawing funds from the Eurodollar market, the report argued.

"Bankers claim that they do not make loans from their foreign branches to U.S. corporations for domestic use," the report said. "But once the money has been loaned to a foreign affiliate of a U.S. multinational corporation, there is nothing to stop that company from shifting the money back to the United States."

Others contend, however, that not enough is yet known about the workings of the Eurodollar market to know what additional restraints would do.

"The regulatory authorities have a lot more homework to do about what should be done, if anything," Richard A. Debs, president of the international unit of Morgan Stanley & Company and a former high official at the Federal Reserve Bank of New York, said in an interview.

There is little disagreement, however, that any nation would be hard put to impose Eurodollar restrictions unilaterally. It is too easy for the banks to shift their operations elsewhere. Singapore, the Bahamas and the Cayman Islands are also Eurodollar centers.

The Eurodollar market really blossomed when oil-producing nations quintupled world oil prices in 1973 and 1974 with the result that they poured the billions of dollars—oil payments are made in dollars—into the banks. The United States banks, facing a recession with its accompanying slack loan demand at home, became flush with funds.

Understandably, they turned eagerly to making loans to countries, the less-developed ones in particular, to bridge the yawning gaps in their balance of payments (the difference between the flows of funds into and out of a country) arising from the massive oil-price increases. But the less-developed countries had been big borrowers from the banks before the oil-price rise.

The buildup of debt has been widely criticized as too great, although bankers and central bankers contend that it is not as dangerous as it appears at first glance. Whatever the case, comprehensive data on foreign lending has only recently become available, as the central banks of major countries began collecting the information.

UNIFIED SYSTEM BEING DEVELOPED

Also in the beginning stages are basic techniques for assessing the riskiness of international loans. The General Accounting Office study, for instance, found that the Federal Reserve was using two different systems to evaluate country risks—both different from the technique used by the Comptroller. A unified system is now under development.

In 1974, when Franklin National and Herstatt failed and numerous banks reported heavy losses in foreign exchange trading, the banks generally responded by strengthening their internal contro's. But the events of 1974 taught the regulators a lesson, too.

People came to realize that banks have to be supervised by someone "said H. David Willey, a vice president at the Federal Reserve Bank of New York.

Mr. Willey cited as an example the large losses that a British bank branch in Switzerland incurred: The British did not monitor the bank because they did not have examiners to send abroad. The Swiss did not either, because they were understaffed, Mr. Willey said.

As a result, banking regulators from leading countries now meet informally to foster cooperation and exchange information. The central banks of major nations have also discussed group rules for who should be the "lender of last resort" in the intricate structure of international banking.

CENTRAL BANKERS VAGUE

But the central bankers, following a meeting in Basel, Switzerland, in 1974 were deliberately vague about the details of what they would do in the event of a liquidity problem. They fear that private banks might relax their caution. Of course, there is no assurance that anything on which the central bankers agreed would hold up under the stress of an acute crisis.

The Senate subcommittee in its staff report nevertheless complained that in effect the banks were assured a safety net.

"If a bank in trouble is important enough, and its potential losses are sufficiently large, it can feel fairly certain that the central banks will step in to save it," the report asserted.

In the Senate staff view, the discussions smacked of a giveaway. "The central banks asked nothing from the private banks in return for their guarantee, at least not officially," the report went on. "Proposals calling for close multilateral supervision and regulation of the Eurodollar market . . . apparently fell on deaf ears."

ACTION BY REGULATION SPURRED

The 1974 events spurred the bank regulators into taking action—belatedly, according to their Congressional critics—to strengthen the more technical aspects of their craft.

The Comptroller's office, for instance, began paying greater attention to banks' subsidiaries and affiliates abroad, to banks' internal controls on foreign exchange, and to back-office procedures. The Federal Reserve also began watching the subsidiaries and affiliates more closely.

And the Federal Reserve also said that in passing on proposed joint ventures abroad, it would take into consideration a bank's ability to back the venture with more than its bare investment, if need be.

International bankers generally credit the regulators with having made strides in grasping the complex offshore banking business, but most of them are still learning, it is said.

In some counties, bank secrecy laws prevent the foreign units of United States banks from divulging information to Federal bank examiners, although at times bankers have done so at risk of civil or criminal penalties.

In addition, some of the banks' bookkeeping techniques obscure accountability, such as the practice of originating a loan at one

office but entering it on the accounts elsewhere, for tax or other advantages. Even less information is available publicly on the nature and location of the banks' offshore lending. A proposal for an improved "call report"—a quarterly statistical document submitted to the regulators—was meant to remedy this lack, but yesterday the proposal was put off.

If the proposal ever goes through, Thomas H. Hanley, a Salomon Brothers vice president and specialist in international banking, it would be "an analyst's dream that is long overdue."

[From the New York Times, Dec. 22, 1977]

BANK REGULATORY AGENCIES STRIVE TO COORDINATE AND IMPROVE EFFORT

(By Judith Miller)

WASHINGTON, December 21.—In the headquarters of the Office of the Comptroller of the Currency are terminals linked to a million-dollar computer system in Florida—the National Bank Surveillance System.

The system's automated mission is to anticipate changes at any bank that could undermine the bank's safety and soundness or that of the overall banking system. Its designers have praised it as the most sophisticated surveillance system ever designed for a Federal banking regulator.

"Had the N.B.S.S. been in operation in 1974," said Robert Mullin, Deputy Comptroller for Special Surveillance, "the problems which led to the collapse of the Franklin and Hamilton National Banks would definitely have been caught."

Despite such assurances, however, the new early warning system has at least one "technical" problem rarely mentioned in the regulators' encomiums: after nearly a year of operation, the system still initially rejects between 80 percent to 90 percent of the banks' statistics it is supposed to analyze.

While technicians insist the high kickout rate and the months of delay it causes are not serious, the kickout rate is not the system's only flaw.

"By the time the banks learn how to fill out the forms properly, the system will need updating," an O.C.C. official complained. "At present, there are no plans to update the system. But if it's not updated, it will be worthless in two years."

While quirks in a computer system are ordinarily not the stuff of controversy, the effectiveness of the comptroller's early warning system is unusually important. The N.B.S.S. is his principal response to questions from Capitol Hill about what is being done to strengthen the regulatory agency's supervision capabilities.

The system is also a first line of defense against Congress's periodic efforts to combine and restructure the overlapping functions of the bank regulatory agencies. In sum, it is an important technological response to questions about the competence of the Comptroller's office.

In reaction to five years of banking crises and a report by the General Accounting Office, the investigative arm of the Congress, challenging the bank regulators' competence, integrity and, most telling, stomach for aggressive action, the agencies have instituted a series of reforms. Most analysts say it is too early to assess these changes, in part because the secrecy that insulates the agencies makes even a rough evaluation difficult, if not impossible.

And some critics express deep-seated skepticism, because they consider the regulators hopelessly diffident. Representative Benjamin S. Rosenthal, Democrat of Queens, quotes a senior O.C.C. official as protesting, "How can I tell David Rockefeller how to run his bank? I've never made more than $40,000 a year in my life."

Nevertheless, the Federal Reserve, Federal Deposit Insurance Corporation, and the Comptroller's office all say they have carried out "significant" improvements since the G.A.O. last examined their operations.

CONCENTRATING ON PROBLEM BANKS

The Federal Deposit Insurance Corporation, for instance, also has impoved its computerized surveillance system—a section of which is nicknamed JAWS, for "Just A Warning System."

The agency is also reducing supervision of well-run banks in order to concentrate its resources on the most problem-ridden. And examiners meet more regularly with bank boards and candidly tell board members when a bank is on the agency's "problem" list.

Although the F.D.I.C. is reconsidering its bank examination system, it has not incorporated as the G.A.O. recommended the guiding principles of the Comptroller's new examination approach. The Comptroller's system concentrates on a bank's management and internal controls, but George A. LeMaistre, chairman of the F.D.I.C. insists that he is "unconvinced their system is better than ours."

Across town at the Comptroller's office, which monitors some $700 billion in assets of the 4,737 national banks, changes are also afoot. O.C.C. officials credit many of them to former Comptroller James E. Smith, whom Senator William Proxmire, Democrat of Wisconsin, once dubbed the "King Farouk of the Potomac" for his first-class travel and liberal use of the agency's resources. "Nevertheless, he and several progressive staff members brought national bank regulation out of the Stone Age," said one official of the Office of Comptroller.

O.C.C. officials describe their current boss, Comptroller John G. Heimann, as far more "sensitive" to insider abuse, preferential treatment, and consumer matters than his predecessor.

"John Heimann was never a banker," said one bank consultant. "Unlike many of his predecessors, he came from investment banking—the underwriting of securities—and from a job as bank superintendent of New York rather than from the industry."

"WHAT HE SAYS IS POLICY"

Mr. Heimann's character and instincts are of more than passing interest. For unlike the situation at the Federal Deposit Insurance Corporation and the Federal Reserve, his actions are not constrained by a policy-making board. "The Comptroller is an autocrat," said one Congressional aide. "What he says is policy, for better or worse."

Mr. Heimann has begun publishing all O.C.C. policy statements and interpretive letters. After years of Congressional nudging, he is strengthening the agency's consumer division, increasing its budget and testing consumer pamphlets to inform bank customers of their credit rights.

In international transactions, he has decided to "grapple with" the agency's approach to assessing international risk. "The technique we are now using was outdated a decade ago," Mr. Heimann said in an interview.

He has also recently proposed a regulation that would tighten rules on preferential loans to bank insiders—officers, directors and major stockholders—and that would provide for restitution to the banks.

PRAISE, BUT SOME CRITICISM TOO

While many changes implemented by the agencies have won praise from financial analysts and Congressional overseers, some are criticized by those in the field. A senior official of the Comptroller's office said that although the new electronic bank surveillance system does indeed provide more information more quickly, "it doesn't provide the kind of information that shows what prompts banks to fail."

The agency still spots problems too late to take preventive action, he argued. "It's like a dead body on a table," the official said, "You can spark it, and it'll jump, but you can't make it get up and walk away."

Finally, although the Comptroller's office has augmented its staff since 1974, its administrative ranks have grown faster than its field force of examiners. In some regions the shortage of examiners and backlog of banks to be examined are so severe that examiners from other regions have been called in to assist.

In Washington, regulators are demonstrating greater willingness to take formal actions against banks. According to data of the General Accounting Office, the F.D.I.C. issued 29 "cease and desist" orders in last year, compared with only seven in 1971. Similarly, the O.C.C. issued seven such orders last year, compared with none five years ago. According to Robert Serino, director of O.C.C. enforcement, the agency intends to double the number of orders next year.

While Senator Proxmire, the Senate Banking Committee's chairman, applaud signs of a tougher approach to regulation, he contends that these efforts will never fully succeed as long as regulation of commercial banks is split among the Federal Reserve, the F.D.I.C., and the Comptroller's office.

LACK OF COORDINATION CITED

Although for more than a decade, the agencies have tried to resolve conflicting rules and policies through an interagency committee, the G.A.D. found that bank regulation has been marred by a serious lack of coordination. A second committee formed nine months to strengthen coordination of examination and other procedures has also had limited value.

"You can list the group's success on a calling card," Mr. LeMaistre, said in an interview.

While the Federal Reserve has stepped up examination of bank holding companies and their subsidiaries—one of the most problematic splits in regulation—Senator Proxmire, the F.D.I.C., and the Comptroller's Office contend that the Fed's action falls short of the consolidation required.

Senator Proxmire argues that split supervision discourages tough regulation, because banks always have the option of switching from state to Federal charters, or vice versa. "If a bank regulator gets tough," said Senator Proxmire, "he'll lose his constituency."

Mr. LeMaistre called this charge unfair to banks. "Bankers do not switch charters to seek an easy ride on regulation," he said.

Mr. Heilman also took umbrage at the Senator's suggestion. "This is not a fight for assets," he said. "If banks want to leave, let them leave. Banks are not my constituency; people are."

DIFFERENT AGENCIES, DIFFERENT RULES

Nevertheless, split regulation has left the industry with contradictory rules on banking practices. The Comptroller recently barred officers and directors of national banks from packeting the commissions on sales of credit life insurance to loan customers—a practice Mr. Heimann called "unsafe and unsound"—but the practice is far more widespread among nonnational banks, and their primary regulator, the F.D.I.C., has refused to prohibit it.

An even more serious problem than split regulation is secrecy, which, according to Congressional aides, makes it difficult for Congress to determine whether changes are cosmetic or substantive and whether they are being carried out across the country.

For instance, staff members of a House subcommittee that oversees bank regulatory agencies, found during visits in December to eight regulatory regions that many of the highly praised "reforms" had limited impact in the field. They found cooperation among the three agencies generally "spotty," nonexistent in some regions, and very much a function of the personalities of regional directors in all. They also concluded that many

regional officials still perceive their role as that of "counselor" or "adviser" to banks, rather than enforcers or regulators.

SECRECY STRONGLY DEFENDED

The three regulatory agencies strongly defend the secrecy that surrounds their enforcement actions. In fact, secrecy is growing rather than diminishing in some cases. Although the F.D.I.C. now makes available under the Freedom of Information Act completed "cease and desist" agreements, Mr. LeMaistre said he is "reconsidering" this policy and will probably reverse it once a third member of his board is appointed.

The agencies also adamantly resist Congressional moves to bring them under the appropriations process to limit secrecy and improve accountability. At present, the agencies are financed by assessments on banks.

Mr. Heimann called the suggestion "correct in theory, but politically impractical," given the enormous cost of the regulatory apparatus. His predecessor, Mr. Smith, argued that under finding by Congress, funds would dwindle during economic stress, just when they should be increased.

Finally, Mr. LeMaistre expressed concern that direct Congressional funding would provide the public with destabilizing information. He noted that when the agency began to have trouble with the Franklin National Bank and others, the F.D.I.C. increased its liquidation staff by one-third.

"Can you imagine the reaction had the public known that?" he said. "Would it have helped the public or the regulators to know that we expected more bank failures?"

[From the New York Times, Dec. 23, 1977]

BANKS' LOBBY CALLED STRONGEST IN CAPITAL

(By David Burnham)

WASHINGTON, December 22.—The nation's banks exert an influence over Congress and the Federal Government that, in the opinion of many Senate and House members, Congressional staff members, Washington lobbyists and other officials, surpasses the power of any other regulated industry.

The strength of the banks and other financial institutions, these officials said, means that to an unusual degree banking sets the terms of its own regulation and stays clear of effective independent review.

In the years since the collapse of the United States National Bank in San Diego, the failure of the Franklin National Bank and the more recent disclosure of questionable banking practices at the First National Bank of Calhoun, in Georgia, Congress has failed to pass a single bill aimed at improving the overall regulation of banking in the United States.

The banks are widely regarded as a large and growing power in Washington. Carter Golembe, a bank consultant, reported in his December newsletter that the American Banking Association is "a much more formidable force in Washington than a decade ago." Jonathan Brown, a bank specialist in Ralph Nader's Public Interest Research Group, asserted in a recent interview that "the banks are without question the strongest lobby in Washington."

A lobbyist for one of the nation's largest banks, long regarded as the dean of the fraternity, made much the same point. "The bank lobby," he said, "can almost certainly stop anything it does not want in Congress." The power of the banks rests on an intricate political and financial structure that has many elements. Among them are political contributions, the power to make loans, a highly sophisticated lobbying effort, a close similarity of interests with such powerful groups as the Chamber of Commerce and, perhaps most telling, unsurpassed social and economic leverage in almost every town and city in the United States.

The banking lobby in Washington employs hundreds of lawyers, economists, public relations advisers and other specialists costing millions of dollars each year. One experienced lobbyist, Robert W. Peterson, an official with the Independent Bankers Association of America estimates that the total effort by the various financial institutions in Washington has quadrupled in the last five years.

The bank lobby has grown in sophistication as well as size. The American Banking Association, for example, has for years had a system of "contact bankers" who could be called on to get a message across to a Senator or House member with whom they had developed personal ties.

"This has all been computerized now," explained William Lunnie, an A.B.A. spokesman. "We can activate just those bankers who have some kind of relationship with House or Senate members we want to reach on a given issue. We very seldom have to mobilize the entire list."

The political action committees of the nation's banks, savings and loan associations and assorted trade groups are a large and increasing source of political financing. In 1974, for example, 55 such committees contributed $308,135 to Federal candidates, according to an analysis by Common Cause. By 1976, 137 such committees had been formed and they made contributions totaling $663,155.

The contributions given by bankers through their committees, however, are only a minor part of the campaign support provided by banking. In 1974, for example, individual bankers and home loan officials made direct contributions of more than $700,000, twice as much as they gave through their committees.

Unlike any other industry, the banks can magnify the impact of their campaign contributions by making timely loans to finance expensive fund drives in the crucial early weeks of primary or general elections.

Many politicians, such as Thomas Rees, a former California Democratic Representative and now a savings and loan lobbyist, insist that loans are a straight-forward and necessary part of the political process. But they also acknowledge that on occasion the practice has been abused.

According to reports filed with the Federal Election Commission, the campaign committees of 196 of the 860 candidates for the House of Representatives last year had obtained loans, mostly from banks, totaling $1,137,133.

The commission's records also showed that as of last September almost half of these loans, or $519,862, had not been repaid. Moreover, apart from the loans taken by their campaign committees, the Congressional Quarterly reported several months ago that House records showed that 37 Representatives reported personal unsecured indebtedness for a period of 90 days or more in 1976.

Because former bank officials and lobbyists hold key policy-level jobs in the bank regulatory agencies, critics contend that the industry is able to dominate these agencies.

George A. LeMaistre, chairman of the Federal Deposit Insurance Corporation, was a Mississippi banker before he became a regulator. The most recent Comptroller of the Currency, James E. Smith, was a former lobbyist for the American Banking Association.

"If a president appointed the lobbyist for the Atomic Industrial Forum to head the Nuclear Regulatory Commission he would be run out of town," one House staff member asserted. "But in banking, this somehow is totally acceptable."

BACK AS ACTIVE LOBBYISTS

The last four consecutive former staff directors of the Senate Banking Committee have returned to the Congressional scene as active lobbyists for a variety of banking interests.

John H. Yingling now represents Citibank and others. Matthew Hale became the general counsel of the A.B.A. and now does some bank lobbying as a member of a Washington law firm. Lewis G. Odom Jr., who left to go into banking in Alabama, was involved in lobbying for the passage of the Bank Holding Act of 1970 and now has returned to Washington as special assistant to the chairman of the Federal Deposit Corporation. Dudley O. O'Neil Jr. left to become the lobbyist for what is now called the National Realtors Association.

Unlike the regulatory agencies responsible for most other economic areas, the three bank regulatory bodies—the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Reserve system—are funded by assessment on member banks rather than by Congressional appropriations. Many critics maintain that this special funding procedure has guaranteed at least a polite attitude on the part of the regulator.

THE BANKER HAS POWER

Another distinct advantage enjoyed by financial institutions is that in virtually every town, city and state, bankers are among the most powerful and influential citizens.

In most communities, the banker, Representative Fernand St Germain, Democrat of Rhode Island, said, "is a leader in church. He is the source of credit to the car dealer and all other businessmen. He is the adviser. Politically, he has great power—and that is something to contend with. What other group has that kind of power?"

Bankers and bank lobbyists insist that their influence is not excessive. They argue that Federal bank laws and Federal regulation have worked reasonably well and that the operations of the banks and other financial institutions are so complex that regulators require the guidance and assistance of the banking community.

CRITICS SEE INJURY TO ECONOMY

Critics, however, contend that close ties between bankers, Congress and regulators have resulted in faint-hearted regulation that may have protected small individual depositors but that has hurt the economy by misdirected credit and the lack of real competition among banking institutions.

The bank lobby is a growth industry in Washington. The venerable American Banking Association, founded in 1875, now has a professional staff of 350, an annual budget of $24 million, and 16 registered lobbyists, 4 of whom are said to specialize in maintaining the A.B.A's contacts with the regulatory agencies.

Another bank lobby is the Independent Bankers Association with a far smaller professional staff than the A.B.A. The Independent Bankers Association which tends to represent small and medium-sized banks, sometimes is at odds with the A.B.A.

Then there are more specialized lobbying groups. The Mortgage Bankers Association of America, with 76 staff members and a $4 million annual budget, represents companies that specialize in financing real estate transactions. The nation's largest banks recently formed the Association of Reserve City Bankers to look out for their special concerns. The savings and loan associations also have several Washington-based trade associations that divide their time between Capitol Hill and the regulatory agencies.

EXPLANATIONS FOR GROWTH

Bank lobbyists offer several explanations for the rapid growth of their trade. One of the city's most experienced bank representatives believes that the fear of the smaller bankers about the desires of the larger banks to expand their markets has been an important element in prompting the great expansion in bank lobbying.

Rejecting this theory but offering a parallel one, Richard W. Peterson, legal counsel for the Independent Bankers, contends that the Bank Holding Act of 1970 has triggered the expanding lobbying effort. The Bank Holding Act greatly enlarged the business

opportunities of banks by enabling them to become involved in activities not directly related to banking.

In recent years, a large number of the trade associations and banks has established political action committees to funnel contributions to candidates viewed as favoring their particular interest.

Studies of the activities of these committees in 1974 and 1976 by Common Cause, the public-affairs lobbying group, show that their political contributions more than doubled. Current records of the Federal Election Commission indicate that the contributions given by bankers through their political action committees during the coming campaign will be even larger than last year.

BankPac, for example, the campaign arm of the American Bankers Association, reported collecting $132,979.65 during the first nine months of 1977, not an election year. This compares with $141,560.24 that BankPac collected during all of 1976, an election year.

STUDY SUGGESTS BANKING CONSENSUS

A study by The New York Times of the records of five independent political action committees suggests that a consensus exists among the banking community about members of Congress. Of the 90 who have received contributions from these groups so far, 25 received them from at least four of the five committees.

Not surprisingly, 17 of the 25 were on the House Banking Committee, among them six Democratic members of the subcommittee that in the wake of the resignation of Budget Director Bert Lance was unable to muster a majority to approve legisitaion aimed at tightening Federal bank regulation.

"We should have a system where members of the Banking Committee would not accept contributions from financial institutions," Senator William Proxmire, Democrat of Wisconsin, the committee chairman, said. "You can't expect individual senators to do that on their own, but perhaps we could pass legislation to move in that direction."

Loans to candidates, an accepted part of politics, can provide special access to banks and other financial institutions. According to the records of the Federal Election Commission, the campaign committees of 12 current members of the House Banking Committee last year obtained loans of $80,193.

The reports further show that as of last September, the campaign committees of six of the 12 banking committee members either had not repaid the loans at all or in full at the same time the Banking Committee was considering reform legislation strongly opposed by almost all banks. The largest involved, Representative Mary Rose Oakar, Democrat of Ohio, whose committee had borrowed $12,040 and repaid none, and Representative Doug Barnard, Democrat of Georgia, who had borrowed $18,000 and repaid $2,000.

[From the New York Times, Dec. 19, 1977]

SENATE UNIT URGES CONSOLIDATION OF THREE MAIN REGULATORS OF BANKING

WASHINGTON, December 18.—A Senate committee report issued today describes the current system of Federal bank regulation as "duplicative, confusing and inconsistent" and recommends a major consolidation of the supervisory functions of the three principal bank regulatory agencies.

The report, which was released by the Senate Committee on Governmental Affairs, says that the current system of regulation has permitted banks themselves to choose their regulator and has resulted in "significant conflict and inefficient regulation."

"The present regulatory structure allows banks to shop for a regulatory agency the way Americans go from dealer to dealer shopping for a car," Senator Abraham A. Ribicoff, Democrat of Connecticut and chairman of the committee, said in a statement.

At present, there are three principal Federal regulatory agencies, the Comptroller of the Currency, the Federal Reserve and the Federal Deposit Insurance Corporation. Banks can shift from one regulator to the other by changing from a state to a national bank charter, or vice versa, and by moving in or out of the Federal Reserve System.

Echoing previous criticisms, the Senate committee's report said that the ability of banks to choose the regulator they prefer "encourages competition in laxity" among the agencies and has promoted "a system of regulation which we can no longer defend."

Two bills calling for such a merger of the regulatory function are now in Congress and are being opposed by all three agencies. The argument of the agencies is that the present system encourages competition and innovation in the banking industry and that any problems from fragmentation can be best solved through closer coordination.

The report is part of a 30-month study of Federal regulatory agencies being undertaken by the committee, which also has focused on such issues as ties between regulators and the industries they regulate and the methods by which the Senate confirms nominees to regulatory posts. The section dealing with bank regulation was written principally by Ethel Geisinger, a committee staff member.

The recommendation for a merger of the regulatory function was endorsed quickly by Senator William Proxmire, Democrat of Wisconsin, who has urged a consolidation for years.

Mr. Proxmire, who is chairman of the Senate Committee on Banking, Housing and Urban Affairs, said he hoped the report would encourage the Carter Administration to give serious consideration to such a plan.

The proposal detailed in the report would create a single agency, to be called the Federal Banking Commission, to conduct the examinations and supervisions of banks now carried out by the three agencies. Under this plan, the Federal Reserve would still be responsible for monetary policy and the F.D.I.C. would still be responsible for insuring the nation's banks, but their other responsibilities would be moved to the new agency.

Senator Ribicoff, in his statement, said the current system needs to be changed because it leads to "confusion, loopholes, and inconsistency."

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on January 6, 1978. I ask unanimous consent that the letter of transmittal be printed in the RECORD.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S116 in the Capitol.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,

Washington, D.C., January 6, 1978.

In reply refer to: I-24817/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

OPPOSING SENATORIAL VIEWPOINTS ON THE PANAMA CANAL TREATIES

Mr. HATCH. Mr. President, Senate debate on the proposed Panama Canal treaties is expected to get underway soon. The distinguished majority leader of the Senate has already urged the chairmen of the Senate Armed Services and Foreign Relations Committees to clear the treaties for floor debate by early February. This means that Members of the Senate have less than 30 days in which to prepare themselves for one of the most significant debates in this century.

It is important, therefore, that Senators become thoroughly knowledgeable about this issue as quickly as possible. To this end, I invite the Members attention to the extensive hearings that have been held by the Separation of Powers Subcommittee of the Senate Judiciary Committee. Two volumes of testimony have already been published, and publication of a third is expected in January. Although these hearings deal principally with the constitutional question of whether the President of the United States has the authority to dispose of American property and territory by treaty, without the approval of both Houses of Congress, a number of other salient issues concerning the treaties are addressed by the witnesses who appeared before the subcommittee.

In addition, the chairman of the subcommittee, the distinguished Senator from Alabama (Mr. ALLEN), has given a series of penetrating, highly informative addresses on various aspects of the canal question. These addresses, delivered be-

tween September 12, 1977 and November 8, 1977, have been assembled as two sets of documents and are available upon request at his office.

Mr. President, the latest contributions to the cumulating literature on the Panama Canal treaties are two articles by two distinguished Members of the Senate in the December 1977 issue of "The Retired Officer," the monthly magazine of the Retired Officers Association of Washington, D.C. The membership of this prominent organization, which totals some 250,000 retired military officers from all of the States, includes many officers who served on the Isthmus, either with the Armed Services or the Panama Canal organization. They represent a highly informed body of opinion concerning the merits of these treaties, having had the benefit of personal observation of the many problems involved in the maintenance, operation, sanitation, and protection of the Panama Canal in both peace and war.

The case for rejection of the treaties is presented by Senator STROM THURMOND, a recognized authority on the problems of national defense who has also been a careful student of the Isthmian question for many years.

The case for acceptance of the treaties is presented by the late Senator from Minnesota (Mr. HUMPHREY), who was a member of the Committee on Foreign Relations that has been conducting some of the hearings on the proposed treaties.

One particular aspect of the articles upon which I wish to comment is the apparent assumption that the Panama Canal still operates solely under the 1903 treaty. This, of course, is not entirely accurate. The canal operates under the 1903 treaty as amended and reaffirmed in the 1936 and 1955 treaties. Likewise, it should be noted that major modernization of the canal is authorized under the "maintenance" factor of existing treaty provisions for "expansion and new construction."

Mr. President, these articles are instructive, because they highlight the major points of the Panama Canal controversy and offer startling contrasts in opposing points of view. I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL TREATIES—SHOULD THE UNITED STATES RATIFY THEM?

THE CASE FOR REJECTION BY SENATOR STROM THURMOND

Thirteen years of negotiations with the Republic of Panama have reached their expected—and feared—conclusion. President Carter is asking the Senate to ratify a treaty giving Panama jurisdiction over the Panama Canal Zone immediately, and control of the Canal in the year 2000.

The case for rejecting the proposed treaty, and the supplementary treaty on the neutrality of the Canal, begins with one crucial point: The Panama Canal is United States property, and the Canal Zone is United States territory. According to the terms of the 1903 treaty with Panama, we acquired sovereign rights over the Canal Zone "in perpetuity." The Supreme Court upheld our exercise of sovereignty in 1907 in the case *Wilson* v. *Shaw*. Moreover, the maps of the world all show the Canal Zone as part of the United States.

Burden of proof

Thus, it is clear that the Burden of proof rests on those who favor the treaties; those who oppose them are merely standing up for American rights. Proponents must show that it is in the national interest to dispose of American property which, in addition to its strategic and economic value, represents a cumulative investment of roughly $7 billion.

To do this, they have advanced arguments which, far from supporting their case, can actually be turned against it. On August 14, the chief negotiator of the treaty, Ambassador Ellsworth Bunker, stated that the basic purpose of the treaty was "to assure that the Canal is kept open, run efficiently, open to ships of all nations without discrimination."

An open Canal, operated efficiently and without discrimination—that is a worthy objective. It is an objective, however, that American control is already meeting. That is the kind of Canal we have now. The likelihood is that Panamanian control would reduce rather than strengthen the chances of keeping it that way.

Panama is a weak, unstable, and impoverished country. Its current chief executive, the 59th in 74 years, is General Omar Torrijos, a dictator who has openly flirted with Castro and the Soviet Union and has increased the national debt from $167 million to $1.5 billion during his tenure of office. It is hard to have any confidence in his ability, or his willingness, to work with the United States in running the Canal.

Interruption in our use of the Canal would do serious damage both to national security and to our economy. Four former Chiefs of Naval Operations recently wrote President Carter that "loss of the Panama Canal . . . would contribute to the encirclement of the U.S. by hostile navy forces, and threaten our ability to survive." At the very least, the separate neutrality treaty would force us to give access to the Canal to nations at war with us or with our allies.

Our economic interests

Our economic interest is also great. In 1975, 45 percent of the ships that passed through the Canal were coming from the United States, and 23 percent were bound for the United States. Moreover, Alaskan oil may soon produce even greater traffic. On whom would we be wiser to depend to see that this commerce is maintained—ourselves, or the Republic of Panama?

State Department officials are making ominous predictions about what will happen in Panama if the treaty is not ratified. Some have openly speculated about possible sabotage or guerrilla warfare. Such statements on the parts of American officials are highly irresponsible. Their prophecy may be self-fulfilling.

It was equally irresponsible of President Carter to turn the signing ceremony into a public relations extravaganza. The President knows full well that the treaties have no force whatsoever unless ratified by the Senate. Yet he chose to treat the signing ceremony as the completion of the process, as an occasion for celebration and self-congratulation, and thus raised expectations in Latin America to an unrealistic level.

There is no way of knowing what will happen in Panama if the treaty is not ratified. On a recent trip to Panama, though, I learned that there is still considerable pro-American feeling in the country. In 1976, the United States infused $108 million into the Panamanian economy in wages to non-American citizens, another $39 million in expenditures by government employees, and another $29 million in purchases of Panamanian goods.

As for the future, modernization of the Canal, projected by our planners at a cost of $2.5 billion, offers the prospect of an economic bonanza. Adjustment of the present annuity and cession of surplus land within the Canal Zone would also help to extinguish smoldering discontent.

We must remember, too, that sabotage would harm Panama more than it would the United States. It is hardly conceivable that the Panamanian government would willfully destroy its greatest economic asset. Rebels or terrorists might make an attempt, but there would be an equal possibility of this if the Canal were transferred to Panamanian control.

Prognostications about the future, however, are beside the point. The Canal Zone is United States territory. The Canal belongs to the American people. To surrender them under the threat of violence would be to yield to blackmail. Would we give up Alaska to the Russians if they were suddenly to demand it? Such weakness is entirely contrary to our national character and heritage.

There are those who counsel generosity in our dealings with Panama. We must distinguish, though, between Panama and General Torrijos. This man has just signed a friendship and commercial pact with the Soviet Union. He has countenanced eleven violations of the present treaty in the last two years.

Conclusion

Finally, and perhaps most significantly, he has eliminated all civil and political liberties in his country. If we truly value the friendship of the Panamanian people, we will do nothing to legitimize the regime of their dictator, let alone award him the triumph of concluding this treaty.

The American people reject the barren reasoning of their diplomatic representatives. In the most recently published national opinion poll, they expressed their opposition to giving away the Canal by a margin of two to one. In a poll of South Carolinians which I took myself, the margin was nine to one. The Senate must heed this united voice.

The Panama Canal now stands as a monument to American foresight, ingenuity, and perseverance. Let us not, by entering into the proposed treaties, make it a monument to American folly.

THE CASE FOR ACCEPTANCE

(By Senator HUBERT H. HUMPHREY)

The fundamental goal of the foreign policy of the United States is the promotion and preservation of the basic security, economic and political interests of our nation. The essential tools for achieving and maintaining these goals are the use of diplomacy and the treaty-making powers of the President (with the advice and consent of the Senate). These are tools which we utilize to prevent our basic interests from being placed in jeopardy now and at some future time. Therefore, diplomacy is the mechanism upon which we rely to avoid the necessity to use force—we use force only as a last resort—when our diplomatic efforts have been to no avail.

In essence, this is the primary issue involved in our consideration of the new Panama Canal Treaties. There are only two basic questions which the Senate of the United States must address in considering the utility of the new treaties. First, what are the interests of the United States in the Panama Canal? Second, do the new treaties more adequately protect these interests than does the present arrangement with the Republic of Panama? All other issues, including the question of sovereignty, negotiations with a dictator, and the ideological make-up of the Panamanian government, are irrelevant to the task before the Senate.

U.S. interest in the Panama Canal

Our interest in the Panama Canal is the continued access, efficient operation, neutral-

ity, and security of this vital waterway. Our interest is nothing more and nothing less.

How best to protect this interest

Diplomacy involves the art of negotiating instruments or mechanisms, relevant to a present day setting, which seek to promote and protect basic national concerns by achieving mutuality of interests between nations. However, the real test is whether or not the level of consent achieved by diplomatic efforts to insure this mutuality of interest stands a good chance of enduring throughout the time period of the treaty.

The 1903 Treaty, relying upon the mechanism of sovereign-like rights in perpetuity to protect our interests in the Canal, has long been an unworkable mechanism in our relationship with the Republic of Panama. As a result, the very interests this mechanism was designed to protect are now jeopardized because we lack the primary element of any treaty relationship—mutual consent. When consent is gone, any agreement is, in fact, abrogated.

Thus, the 1903 Treaty no longer achieves the fundamental foreign policy goal of our nation In fact, the existing treaty places our economics, political and security interests in the Canal in jeopardy. It naturally follows, then, that in order for our fundamental foreign policy goal to be achieved, we must employ the basic diplomatic tools at our disposal and negotiate a new treaty relationship which not only achieves mutual consent but also preserves our basic interests.

In my estimation, the new Panama Canal treaties meet this test. We have negotiated a treaty relationship in which the essential element of mutual consent has been achieved. We have employed the mechanism of joint partnership with the Panamanians, a modern-day relationship similar to agreements with our allies throughout the world, to better protect our only interest in the canal—the continued access, efficient operation, neutrality, and security of this vital waterway.

Under the new treaty, nothing will significantly change from the present circumstances for the management and defense of the Canal throughout the remainder of the century. The United States will continue to control operation of the Canal, and the United States military forces will continue to provide for the defense of the Canal from within Panamanian territory.

In addition, under the Neutrality Treaty, our basic interests are more than adequately protected in perpetuity, including the provision for maintaining the security of the Canal.

Yet, we have achieved more with these new treaties than just protecting our basic interests. Under the new treaties, the United States is granted the exclusive right to construct an interoceanic sea-level canal through Panama. Under the 1903 Treaty, it is debateable whether or not we enjoy this right Under the 1903 Treaty, there is no assurance that the Soviet Union, or any other nation with the capacity to do so, could not construct and control a sea-level canal if the Panamanian government were disposed to grant this right. The new Treaty clearly spells out the exclusively of the right of the United States.

Not only do we have the exclusive right to construct a new canal, but we also retain the same neutrality and defense rights we enjoy under the new treaty relationship with the Republic with respect to the existing canal. These include the responsibility to protect and defend the canal proper, and the right of "expeditious passage" of our warships during times of emergency.

It is obvious that if there is to be a sea-level canal through Central America, Panama is the only logical site. This was emphasized in the Atlantic-Pacific Interoceanic Canal Study Committee recommendation of December 1, 1970, that selected Panama as the preferred site for a sea-level canal. This recommendation came after six years of technical study and review.

Furthermore, under Article V of the Neutrality Treaty, Panama relinquished all rights to invite or accept foreign military forces or make available installations for foreign military forces anywhere in the territory of the Republic. Under the 1903 Treaty, there is nothing to prevent the Soviets, or the Cubans, or any other nation from stationing troops in Panama if invited to do so by the Panamanian government.

Considerable debate has focused on the issues of expeditious passage of U.S. warships and the right of the United States to defend the Canal beyond the year 2000. I believe the Neutrality Treaty more than adequately protects U.S. interests in these two matters. The Panamanians have clearly spelled out, as has our government, what our rights are.

Under the Neutrality Treaty, Panama and the United States have the responsibility for insuring that the Canal will remain secure and open to ships of all nations. Article LV relates only to the direct defense of the Canal installations, and the scope of this right does not extend to intervention within the Republic of Panama.

The right of "expeditious passage" of U.S. warships under Article VI of the Neutrality Treaty has also been clarified in a joint statement released by President Carter and General Omar Torrijos of Panama. Expeditious passage is defined as quick transit, without obstacles, and with the least possible processing. However, in the event of an emergency or necessity, "expeditious passage" would permit the warships of both nations to go to the head of the line of ships awaiting transit. Since the Republic of Panama does not have a navy, the U.S. should not be concerned over which nation's warships would move through the Canal first.

Conclusion

Clearly, no international relationship negotiated more than 70 years ago can be expected to last forever without adjustment. In sum, the new treaties, which establish a relationship of shared responsibility and benefit, increase Panama's stake in safeguarding the very interests we ourselves wish to assure.

Panama and her Latin American neighbors long have been dissatisfied with the 1903 Treaty. This declining level of consent transcends any one government and now encompasses Panamanians of all strata.

The U.S. image and its leadership ability are under careful scrutiny around the world. This image can only be enhanced by the abrogation of the 1903 Treaty, which is viewed abroad as one-sided and anachronistic, a holdover from a colonial era which other nations have discarded.

The ability of the United States to work through this emotion-fraught issue at home through the process of Senate deliberation on giving its advice and consent to ratification of the treaties will be viewed by friend and foe alike as a sign that we can make necessary accommodations to a changing world.

Perhaps former Secretary of State Henry Kissinger best summed up the diplomatic achievement of the new treaties when he testified during Foreign Relations Committee hearings on this matter. He stated:

"The question, therefore, is which arrangement puts us in the best legal, political, and military position to protect our rights and interests if we are forced to do so by the unilateral action of Panama. I believe the new treaties will significantly reduce the risks of abrogation, and will also create far better conditions in which we could defend our rights if abrogation should occur."

In capsule form, this analysis demonstrates how we achieve, through basic diplomatic tools at our disposal, the fundamental goal of U.S. foreign policy—the promotion and preservation of the basic security, economic, and political interests of our nation. The new Panama Canal treaties enhance our ability to avoid the use of force as the alternative—the only alternative we might have if we continue to insist on maintaining the status quo or making cosmetic changes in our existing relationship.

THE PANAMA CANAL QUESTION

Mr. SCHMITT. Mr. President, when faced with the possibility of voting for or against the proposed Panama Canal treaties, I found that neither vote satisfied an analysis of the modern situation in Panama or in Latin America.

My main concern is that the treaties are bilateral, thus it only takes one party to break them. In such a situation, the nations of the hemisphere can have no real guarantee of nondiscriminatory rates and use nor can there be a guarantee that our actions in "defense" of the canal will have the sanction of the rest of the hemisphere.

Faced with this dilemma and other basic problems with the treaties as proposed, I have worked with several individuals who are experts in international institutional arrangements. We wished to see if the "Intelsat" system of international management could be modified to be applied to the hemispheric management and defense of the Panama Canal. We believe that it can be applied. I hope my Senate colleagues will agree.

I request unanimous consent that the remainder of my remarks describing a hemispheric management concept called "Intersea" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERSEA: AN ANSWER TO THE PANAMA CANAL QUESTION

The question of the ratification of the Panama Canal treaties presents one of the most complex technical, international and political questions of our time. Unfortunately, after fourteen years of negotiations, we find ourselves in a situation where neither ratification nor rejection of the treaties are acceptable answers. This situation is not the fault of anyone; it is the fault of history and our times.

The construction of the canal was the moon landing project of my father's generation. It caught the imagination and motivation of the country and much of the world just as did the Apollo Project of the 1960's.

The canal began, as did Apollo, with a presidential initiative in response to an international challenge to American technology and pride. It was built successfully only when the best developed new technology of the age, the technology of rail transportation, was applied through vigorous and innovative management efforts. Apollo was successful half a century later because of a similar use of air transportation technology.

On top of the base of railroad technologies was built the new technologies of advanced steel manufacturing, steel construction, electrical power utilization and remote control. This scenario was replayed by Apollo upon the base of aeronautical technologies with the development of new technologies in materials, electronics, communications and in energy and environmental systems.

The control of a hostile environment was essential for the building of the canal across the isthmus of Panama just as it was essential to the movement of men through space. In the control of yellow fever and malaria in the jungles of Panama, as with the protection of human life, in space, medical science and mankind have benefited beyond any expectations.

The sheer scale and cost of building the canal was comparable to Apollo; 262 million cubic yards of earth were moved at a cost (in 1910 dollars) of about $650 million by a work force that probably totaled several hundred thousand people. Apollo's effort was measured in different terms—6.5 million pound space vehicles, a cost (in 1965 dollars) of about $22 billion, and about 400,000 workers—but clearly the two projects were in the same league.

The most critical element in the construction of an American canal in Panama, as in landing men on the moon, was the motivation of young Americans who believed that it should be done. They believed that nothing they could do with their lives would be more worthwhile or more rewarding. It is that motivation, when generated, that literally moves mountains and conquers other worlds.

Today, among most Americans, we find a personal and emotional involvement in the Panama Canal issue that seems to defy any quantitative explanation. In addition to hearing about its role in the lives of our fathers or grandfathers, most Americans have some direct or indirect attachment to the canal. It may have been childhood history books, civil or military service by a member of the family, a vacation, a Christmas card, or stamp collection that implanted the image of an "American canal in Panama."

Many other Americans, old and young, are just not satisfied with the national security and foreign policies of the United States over the last several decades. They feel we have backed down too often without considering what may be best for the long-term interests of Americans or the people of other nations.

Ratification of the treaties is not acceptable politically to a majority of Americans. Nor is it clear that the implementation of the ratified treaties will guarantee to all users an acceptable and equitable operation of the canal in perpetuity.

At the same time, rejection of the treaties is clearly unacceptable nationally and economically to a majority of Panamanians. Rejection also wound ignore the political realities of radical opposition faced by most Latin American leaders. Most critically, the times are moving against the propriety of the unilateral control of territory or technology of international usefulness, such as an international waterway between oceans.

In the face of this dilemma, a new answer must be found. There are new currents in the world with respect to material, territorial or technological resources which have international significance. The unavoidable inertia of fourteen years of negotiations to change the 1903 Panama Canal treaties have frozen out consideration of these new currents. If we are to find a better answer than the treaties, we must now be willing to ride with such currents.

In searching for an alternative to the proposed treaties, it appears that there are many analogies between the international utility of the Panama Canal and the international utility of global communication satellites. Foremost among these analogies is a clearly definable international need for continuous and equitable operation in the interest of all nations.

The political and technical management of a global communication satellite system, as manifested by the INTELSAT Organization, is a unique new entry into the international scene. It is an organization that developed because of a coincidence of new technology and obvious international need. To the everlasting credit of the United States, we perceived this coincidence and guided the gradual trial and error development of INTELSAT. To the everlasting credit of the INTELSAT Organization, it has become an example of international cooperation that is not only remarkably successful, but is both utilitarian and profitable.

"Could this INTELSAT model of international cooperation be applied to the Panama Canal?" was the question I posed to Dr. Delbert Smith, a specialist in international law and international institutional arrangements. Not only was his answer yes, he formulated a theoretical framework using the INTELSAT experience as a basis for an "INTERSEA Organization." Dr. Smith has used this framework to create an internally consistent draft agreement which could be implemented immediately once signed by appropriate parties.

INTERSEA goes beyond INTELSAT in that it also incorporates modern trends toward regionalism by matching Western Hemisphere control of the canal with international users' participation in operational decisions. This is clearly more desirable than other proposals for international control which would have the well-known disadvantages of undue influence by those with the least definable contribution to make to the success of the enterprise.

It is my belief that INTERSEA would satisfy the most significant national and economic interests of the United States, the Republic of Panama, all of Latin America, and the user nations of the world. Most importantly, it would bring into the management and defense of the canal those nations with the greatest interest in insuring the successful implementation of that management and defense.

The INTERSEA concept is a concept of the space age and of an age of growing awareness of certain common international resources on this spaceship Earth. INTERSEA does not require that territorial sovereignty be given up, rather it requires that territorial sovereignty be shared.

THE INTERSEA ORGANIZATION [1]

It is my strong belief that it is necessary to develop a plan for Western Hemisphere control of the Panama interoceanic canal. To this end, I propose INTERSEA, a regional organization. In setting forth the basis of its organization, its advantages, and a model of its institutional structure, mandate and powers, I considered the need for an institutional development adequate for the twenty-first century, a development taking into consideration both the common heritage of mankind and various national interests. In creating the INTERSEA proposal several examples of international cooperation were examined, including INTELSAT, the Outer Space Treaty and the Moon Treaty.

Since the Panama Canal runs through the center of the western hemisphere, all of the hemisphere's countries have an interest in the existence and use of the canal. There are also hemispheric political interests. INTERSEA would insure that the Panama Canal remains secure and neutral.

Since the opening of the canal, it has been operated by the United States as a "public service" for the nations of the world. It has become apparent that to turn the canal over to another individual country now would not be in the best interests of western hemisphere nations. The United States has a major interest in the canal because some 70 percent of the shipping through the canal is bound for American ports, carrying cargo that amounts to one percent of our gross national product. Other nations, including Panama and Colombia, have even greater proportionate economic interests in the continued operation of the canal.

One of the issues which must be resolved is maintenance of permanent neutrality for the Canal Zone. Severe questions arise over whether Panama or any nation would be interested in maintaining this neutrality and in maintaining expeditious transit of United States naval vessel when necessary.

In the draft agreement which would create INTERSEA, the United States is given a clear mandate to be the principal defender of the canal in order to insure that the canal remains neutral and open. To this end, the United States is assured of rights necessary to defense, including the right of priority transit by its warships.

BASIS FOR INTERSEA CONCEPT

Technological advancements have produced a trend towards realization of a "common heritage of mankind" in certain international resources. This trend is most apparent in negotiations regarding the resources of the seas and outer space. It indicates a general realization that nations have common interests in sharing benefits from the exploitation and environmentally sound use of these resources.

Recognizing that the Panama Canal has become a common heritage resource for western hemisphere nations, an institutional arrangement should be possible which would vest operation and control of this resource in a regional organization composed of the nations of the Americas. Regionalism—the grouping of nations by a common bond of policy and limited purposes—has been recognized for some time as a valid principle. Operation and control of the canal might be effectively accomplished by transfer of the Canal Zone to a regional organization rather than allowing it to remain unilaterally controlled by any single nation.

ADVANTAGES OF REGIONAL ORGANIZATION

The advantages of sharing sovereignty are clear in several ways. First, the current and potentially disastrous discontent over which nation should exert control over the Canal Zone could be alleviated.

Second, the provisions regarding United States rights to defend the canal could be better preserved in a regional organization than through bilateral understandings. These provisions include the right to assure through military force the openness and neutrality of the canal and the right for American warships to have expeditious transit. There was sufficient question on these provisions in the treaties now before the United States Senate to require a Presidential Statement of Understanding for clarity. Creation of a regional organization could render such a statement unnecessary.

Third, an analysis reveals that a regional organization may prove to be the best arrangement to accommodate the various national interests in the canal. This includes those of the users of the canal, the sovereign exercising jurisdiction over the canal (presently the United States), the operator of the canal (presently the United States), the nation surrounding the Canal Zone (the Republic of Panama), and nations having strategic defense interests. There is no guarantee that all these interests will be or can be considered when the canal is unilaterally controlled. However, creation of INTERSEA would institutionalize access and influence in an organization legally empowered to operate and control the canal. It would be in the clear self-interest of all hemisphere nations to make such an organization work.

Fourth, the operational goals of the canal would be best assured through management

[1] The material contained in this section was developed by Dr. D. D. Smith with the assistance of R. E. Weigend, Jr. and the author and provides the theoretical basis for the regional institutional framework of INTERSEA.

by a regional organization. Three of these goals are (1) assuring free access and unimpeded passage through the canal; (2) maintaining a reasonable and uniform rate structure bearing a realistic relationship to the value derived from use, while considering operating expenses and return on investment; and (3) assuring administrative stability over a long period of time. Two other important goals could be better accomplished in a regional organization, namely effective maintenance and operation of the canal and continued expansion, improvement and development of the canal and related facilities, such as railroad lines for containerized transversal of the isthmus and pipelines for passage of oil between supertankers which are too large for the canal. INTERSEA, with its broad base of member nations, could assure that these goals are consistently met and capitalized.

Fifth, INTERSEA would provide the forum for rational planning of future canals located in Panama or in other nations. Based on the assumption that all the nations of the Americas are represented and pledged to cooperate in the organization, future canals would be created only if necessary, and then in order to meet used demand rather than for other tangential purposes such as political influence, profit or strategic advancement.

Finally, formulation of a regional organization may improve the friendship and unity of the nations of the western hemisphere by providing dynamic regional cooperation resulting in quality service which benefits.

MANAGEMENT OF INTERSEA

The conceptual advantages of a regional organization will only be realized if the actual institutional structure is designed to provide an equitable system for the various interests to exert influence and control as well as to provide for efficient and proper management of the canal.

There are two distinct bases for nations to be involved in INTERSEA. The first relates to operation of the canal and has a geographical basis centered in the western hemisphere. The second relates to use and the terms and conditions for use, and this is world-wide in scope. The United States clearly has both bases for involvement.

To provide the first basis of national involvement, the proposed INTERSEA Preamble states:

"Use occupation and control of this Hemispheric Waterway should vest in an organization whose membership is composed of the nations of the Americas and that this organization should assume the rights, power and authority from the United States which is necesary and proper to effectuate the principles set forth herein."

The degree of representation in INTERSEA by each western hemisphere nation depends on usage of the canal. Each member's interest in INTERSEA will equal the amount of its "usage share" which is initally established and periodically reviewed. The usage share determines the number of votes each member has within INTERSEA.

Figure One illustrates the relationship between the member nations in terms of usage shares. It was created based on the assumption that the flag flown by a vessel is used to determine which nation to credit for its passage and that the number of transits per year is the proper criterion to determine use. Figure One is based on Fiscal Year 1976 statistics for commercial shipping. The multilateral agreement which would create INTERSEA provides that there shall be minimum and maximum usage share levels in order to insure at least minimal representation of all interested nations.

The second basis of national involvement is provided by the creation of a special body within INTERSEA, composed of world-wide user nations. There exists practical difficulty in defining user nations due to the practice of "flags of convenience" where vessels owned by entities from one nation fly the flag of a second nation because of tax, operational or other advantages. One of the priority tasks of this body would be to consider the flag of convenience question.

A greater appreciation of the relationship between western hemisphere nations and user nations within INTERSEA comes from a look at the organizational structure. The diagram in Figure Two depicts this basic structure.

Intersea usage share assignments

No.	Nation	(1)	Usage shares
1.	United States	1,064	60
2.	Panama	930	60
3.	Peru	216	22
4.	Colombia	203	20
5.	Chile	170	17
6.	Ecuador	163	16
7.	Nicaragua	68	7
8.	Mexico	60	6
9.	Cuba	48	5
10.	Honduras	42	4
11.	Canada	22	2
12.	Uruguay	19	2
13.	Bermuda	19	2
14.	Brazil	17	2
15.	Bahamas	17	2
16.	Venezuela	16	2
17.	El Salvador	13	1
18.	Argentina	10	1
19.	Guatemala	2	1
20.	Barbados	--	1
21.	Belize	--	1
22.	Bolivia	--	1
23.	Costa Rica	--	1
24.	Dominican Republic	--	1
25.	French Guiana	--	1
26.	Grenada	--	1
27.	Guyana	--	1
28.	Haiti	--	1
29.	Jamaica	--	1
30.	Paraguay	--	1
31.	Surinam	--	1
	Total	(2) 3,099	244

(1) Number of transits (fiscal year 1976).

(2) Total transits by all user nations were: fiscal year 1976, 12,157; fiscal year 1975, 13,609 and fiscal year 1974, 14,033.

The main bodies within INTERSEA are the Assembly of Parties, the Board of Governors, the Board of Users and the Director General and staff. As shown in Figure Two, all the western hemisphere nations exert authority over the Assembly of Parties, Board of Governors and the Director General. In addition, those western hemisphere nations which are users exert authority within the Board of Users. Non-western hemispheric user nations exert authority within the Board of Users which, in turn, is represented within the Board of Governors.

The primary function of the Assembly of Parties is to make major policy provision for carrying out INTERSEA activities, the objective of which is described in the proposed agreement as follows:

"INTERSEA shall have as its prime objective the provision, on a commercial not-for-profit basis, of interoceanic canal facilities and services of high, functional quality and reliability to be available on an open and non-discriminatory basis to all vessels, whether civilian or military, of the world. As an adjunrt to this prime objective, INTERSEA shall insure the interoceanic canal's neutrality and security, and in addition, provide a mechanism and forum for resolution of disputes regarding the subject matter of this agreement."

The Assembly of Parties has specific mandates under the agreement to effectuate specific objectives, including:

1. to create general policy and long-term objectives;

2. to enter into a Security Agreement with the United States for protection of the canal and to establish a Defense Board which would include other hemisphere nations;

3. to establish general rules concerning the establishment and adjustment of the rates of charge for utilization of the canal on a non-discriminatory basis;

4. to consider complaints submitted to it by nations, international organizations and users;

5. to maintain a body of laws, rules, procedures and instructions to deal with dispute settlements; and

6. to negotiate equitable financial arrangements with host countries such as Panama.

The Assembly of Parties is composed of one representative from each member nation. Decisions on all matters are to be taken by a three-quarters majority.

A second vote technique is incorporated in the procedural rules of the Assembly of Parties. Decisions on all matters brought to a second vote are to be taken by a three-quarters majority of the votes cast when each representative casts the number of votes which are proportional to his nation's usage share. A second vote can be demanded by any representative, thereby insuring that the significant interest of major users are protected. This second vote is taken only after a decision is approved by the first vote where each nation is allowed a single vote. The effect is the same as if the Assembly of Parties was a bicameral body, with one unit based on equality of nations and the second based on usage.

The defense of the canal is primarily provided by the United States, but can be augmented by other nations. There shall be a Security Agreement between INTERSEA (specifically, the Assembly of Parties) and the United States which details the mandate given to the United States for protection of the canal. Other hemisphere nations may join in this with the approval of the Assembly of Parties. The Assembly of Parties shall establish a Defense Board which will serve to coordinate the security efforts of the parties to the Security Agreement.

The Board of Governors has the responsibility for the operation and maintenance of the canal, for design, development, construction, establishment, operation and maintenance of any canal improvements, and for carrying out any other activities which are undertaken by INTERSEA. These activities probably would be accomplished through contract with the United States or an institution growing out of the present Panama Canal Company.

Some of the specific duties of the Board of Governors are:

1. adoption of policies, plans and programs in connection with operation and maintenance as well as appropriate improvements;

2. creation of annual budgets and budget implementation;

3. periodic establishment of the rates of charge for utilization of the canal in accordance with the general rules established by the Assembly of Parties;

4. solicitation of capital;

5. appointment and removal from office of the Director General and approval of senior staff appointments; and

6. arrangement of contracts with a nation or nations or institution for the performance of the operation and maintenance functions of the canal and other facilities of INTERSEA.

The Board of Governors is composed of approximately fifteen members, consisting of one Governer representing the United States, one representing the host country (The Republic of Panama), one representing the

Board of Users, and the remainder representing other nations or pairs of nations which qualify on a formula based on use. The relationships between and voting participation of the Governors would be defined by the Assembly of Parties. Figure Three illustrates what such relationships and voting participation could be. It should be noted, however, that Figure Three is intended only for purposes of illustration and does not constitute a recommendation.

The Governors shall endeavor to make all decisions by unanimous vote, but if that is not possible, they each shall participate equal to the usage share of their respective nations. A three-quarters majority of the total voting participation is necessary for substantive decisions while a simple majority is necessary for procedural decisions. The Governor representing the Board of Users has a voting participation equal to that of the Governor with the lowest voting participation.

The Board of Users is estabilshed under the auspices of INTERSEA with the duty to advise INTERSEA on matters of policy affecting the canal's operation, administration and maintenance as well as present advice with regard to policy alternatives for plans for the canal's future. Initially, all user nations will be invited by INTERSEA to a charter conference during which the organational structure of the Board of Users and an agrement will be estabilshed. The Board of Users will then receive staff support and funding from INTERSEA and will be represented on the Board of Governors.

The executive body of staff of INTERSEA would be headed by the Director General. Among his specific duties are:

1. to be the legal representative of INTERSEA and responsible for all administrative and management functions;

2. to contract out, on behalf of INTERSEA, to one or more competent entities technical and operational functions to the maximum extent practicable with due regard to cost and consistent with competence, effectiveness and efficiency. It should be noted that such entities may be, according to the agreement, composed of various nationalities or may be an international corporation owned and controlled by INTERSEA; and

3. to serve as negotiator on behalf of INTERSEA.

The proposed agreement also provides for the establishment of a dispute settlement system on two levels. The first is an arbitration system for disputes by member nations among themselves or with INTERSEA, and the second is a judicial tribunal with jurisdiction over all other disputes arising as a result of the operation and maintenance of the canal. This tribunal would serve as the final court of appeals for the judicial system within the Canal Zone, using a code of criminal and civil law based on the existing Canal Zone and modified when appropriate by the Assembly of Parties.

Figure Three

Intersea initial Board of Governors

No.	Governor representative	Voting participation
1	United States	60
2	Panama	60
3	Peru	22
4	Colombia	20
5	Chile	17
6	Ecuador	16
7	Nicaragua	7
8	Mexico	6
9	Cuba	5
10	Honduras	4
11	Canada and Uruguay [1]	4
12	Bermuda and Brazil [1]	4
13	Bahamas and Venezuela [1]	4
14	Board of Users	4
	Total	223

[1] Arbitrary pairings.

RIGHTS AND OBLIGATIONS OF MEMBER NATIONS

The proposed agreement makes several declarations relative to the rights and obligations of the member nations. With reference to construction of other interoceanic canals in Central America, the member nations agree to refrain from establishing any such canals unless it is done jointly with INTERSEA.

With reference to the neutrality of the canal, the agreement provides that the canal shall be neutral in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of equality so that there shall be no discrimination. Thus, the canal will not be a target of reprisals in any armed conflict. Transit, however, is subject to several requirements which are consistent with neutrality, including:

1. payment of tolls and other charges for transit and ancillary services, provided they have been fixed uniformly by class;

2. compliance with applicable rules and regulations, provided such rules and regulations are applied uniformly;

3. military vessels of member nations shall be afforded priority transit in a conflict between a member and non-member nation;

4. the requirement that transiting vessels commit no acts of hostility while in the Canal Zone; and

5. vessels of war shall at all times be entitled to transit the canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance. However, such vessels may be required to certify that they have complied with all applicable health, sanitation and quarantine regulations. In addition, such vessels shall be entitled to refuse to disclose their internal operation, origin, armament, cargo or destination.

CONCLUSION

The proposed INTERSEA agreement could be implemented in stages. The initial step would be ratification. Subsequent stages would provide for the continued successful and non-discriminatory operation of the canal, defense of the canal, structure of the Board of Users, financial arrangements with the host country, an expanded role for Panama in the operation of the canal and possible new ventures.

There would also be several subsidiary agreements created in conjunction with the basic INTERSEA agreement including detailed definitions and rules. A host country agreement and protocol would govern the diplomatic privileges, exemptions and immunities of the various INTERSEA representatives, Governors, judicial officials, staff and related officials with regard to their activities within the host country.

INTERSEA would provide management of the canal by a regional organization for the benefit of all hemispheric nations. INTERSEA recognizes the canal as an international resource with the common heritage of all nations. It provides for all users of the canal to have representation in decisions affecting its use, defense and expansion. INTERSEA is a model organization tailored to perform this management function through a sharing of sovereignty rather than unilateral control by any nation.

Implementation of INTERSEA would serve as a viable answer to one of the most complex technical, international and political questions of our time, the question of the future of the Panama Canal.

HUMAN RIGHTS AND THE PANAMA CANAL TREATIES

Mr. HATCH. Mr. President, those who favor ratification of the proposed Panama Canal treaties have maintained that control of the canal must be relinguished in the name of "fairness," that our past dealings with Panama have been less than just, and that, through these treaties, we will be ridding ourselves of an embarrassing colonial enclave, thus elevating our standing in world opinion.

This position is, of course, riddled with inaccuracies, but what I find particularly astonishing is the way these same people, who so glibly use words like "justice" and "human rights," overlook the injustices inherent in the causes they advocate. Has it occurred to none of the supporters of this hastily prepared version of a treaty agreement, that several very real violations of "human rights" will automatically occur if the agreement is ratified? Do the rights of the Canal Zone residents and employees, whose homes and jobs are seriously threatened by the proposed treaties, deserve to be considered? Should we be at all concerned about the Panamanian citizens and exiles whose will is not reflected in the actions of a dictator—a man whose regime we would be funding under this agreement? Treaty advocates apparently do not find it convenient to address themselves to questions like these.

A thoughtful article appearing in the November 7 issue of the New Leader magazine deals with yet another group of people whose lives will be seriously disrupted if the treaties are ratified. These are West Indian blacks, originally imported by the French to assist in the construction of the canal, and who now comprise a work force of 15,000 Canal Zone employees. They have never been assimilated into either the Panamanian or American communities, and stand to lose their livelihood should the United States abandon control of the canal, a project to which they made a significant contribution.

I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks, and commend it to my colleagues as yet another example of a group of people whose rights are being overlooked in the treaty proponents' bid to be "fair."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THREATENED BY THE TREATYS PANAMA'S BLACKS: A U.S RESPONSIBILITY

(By Steve C Ropp, associate professor of government of New Mexico State)

Nearly every big power retrencment of the past 30 years has brought with it a "refugee" problem. Not only must new jobs and homes be found for the displaced citizens of the disengaging nation, but there is also frequently a community that, because it served the departing country, finds itself unwanted or endangered. In the case of Vietnam, for instance, the United States has so far rightly provided a haven to some 145,000 South Vietnamese fleeing from the wrath of the victorious Communists.

The pending Panama Canal treaty involves a roughly analogous situation. For although the U.S. is now preparing to withdraw from Panama, while there it benefitted from the labors of a group that will fall to the tender mercies of General Omar Torrijos Herrera's regime if Washington does not offer it adequate protection. These people are the estimated 15,000 black employes—all nominally Panamanian citizens—of the U.S. government in the Canal Zone. But their plight lacks the high drama of retaliation for

wartime cooperation. Indeed, few people in this country are at all aware of their precarious position.

The black's current predicament is rooted in the history of railway and canal construction on the Isthmus of Panama. In 1849, when some New York entrepreneurs decided to build a railroad there to expedite travel to the California gold fields, they imported about 2,000 Jamaican workers, who were more resistant to the ravages of malaria and yellow fever than their Chinese and Irish counterparts.

During the late 19th century, France, under the direction of Ferdinand de Lesseps, attempted to repeat its magnificent Suez performance across the swampy Panamanian isthmus. But health conditions were much worse than in the Middle East, prompting French to follow the earlier American example and hire blacks from Jamaica, Barbados and the smaller Caribbean islands. Thus when the United States picked up where the French had left off, it inherited equipment, a partially completed ditch—and a sizeable black work force that it continued to supplement from the islands as construction progressed.

The canal completed, the blacks successfully competed for the menial bluecollar and service jobs that became available with the start of operations. They had two advantages over native Panamanians: They spoke English and were Protestant. Pressure to integrate them into the white community, however, always has been strenuously and, for the most part, successfully, resisted.

For example, when the 1954 *Brown* v. *Board of Education* ruling confronted residents with possibly having to desegregate their schools, it was suddenly stressed that blacks living in the Zone were Panamanians. Consequently, the argument ran, the issue here was not one of racial discrimination but rather of nationality: Being Panamanians, the blacks had to attend schools that taught the Spanish language and culture. This began the phase of "integrating" the workers into Panamanian life, a polite way of saying that white Zonians wished to rid themselves of the whole problem. Not unjustly do the blacks refer to themselves as the "forced Panamanians."

Segregated and discriminated against by the Americans, blacks have fared even worse with their fellow citizens. Spanish-speaking Panamanians view them as *privilegiados* (privileged ones) who should have been repatriated to their countries of origin after the canal was built. They resent the fact that 5,000 blacks continue to live in special Canal Zone communities, and that all 15,000 receive salaries which, while considered the minimum wage in the United States, are triple what the average Panamanian makes. Moreover, present racial antagonisms have a long history in Panama. The man General Torrijos overthrew in 1968, Arnulfo Arias, head of the nationalist and racist *Panamenista* party, advocated denial of citizenship or expulsion back to the islands for West Indian blacks.

In short, the blacks are a classic case of social marginality. Panamanians who work for Americans, they are disowned by both communities. Even under present conditions, whenever employment opportunities decline within the Zone, the black worker is the first to go. Displaced into Panama's economy, racial and linguistic difficulties leave him with slim chances of finding work.

Not surprisingly therefore, the prospect of an eventual United States departure from the Zone is so delicate a matter to the black community that few black canal employes living in the Republic of Panama are willing to comment on it. There can be no doubt, though, that they fear the treaty, believing their jobs endangered, and covertly wish to see President Carter's ratification effort fail. These feelings are sensed by the native population, heightening its resentment.

The blacks who reside in the Canal Zone are more outspoken, openly expressing concern and reservations. In testimony two years ago before a House subcommittee, representatives from the U.S.-administered communities argued that their interests were being ignored in the negotiations and that their loss of jobs under the 1955 treaty boded ill for the future.

A close reading of the new treaty indicates that U.S. negotiators did try to build a measure of protection for black workers into the document. Under the provisions, those fired from jobs transferred to Panama would, if possible, be placed by the United States in other positions. A special optional early retirement program is to be implemented, too, that would benefit both black and white Zonians who would find themselves jobless once the U.S. pulled out.

Nevertheless, the terms of the treaty are too qualified and too vague to offer the black population much real protection: Those holding administrative positions that come under Republic of Panama control are to be retained "to the maximum extent feasible"; displaced employes are to be offered "special job placement assistance" by Panama. Given the historical attitude toward blacks in the Republic, the treaty seems a rather weak reed for them to lean on.

This is particularly true for relatively young people. The treaty may be sufficiently generous to senior workers, allowing them to retire with a modicum of dignity—and money. But younger blacks working for the U.S. have no future either in Panama or in the Canal Zone. They see the problem they face being resolved only if the United States agrees to grant them preferential immigrant status. The black community in Panama has in fact proposed that such legislation be enacted as a necessary aspect of the treaty's adoption.

There seems little chance, though, that it will be. For one thing, letting in the Panamanian blacks would raise a host of difficulties vis-a-vis noncitizen Federal employees in other countries. For another, the President's new illegal-alien plan threatens to create a "raise-the-drawbridge" mentality on Capitol Hill that would hinder consideration of special cases. And unlike the trauma of Vietnam, which was sufficient to jar Congress into appropriating $203 million for refugee absorption, the situation of the blacks in Panama is barely known, not to mention understood. This, perhaps more than anything else, may mean the question of our moral obligation to a community that has served us so well, and at such a high cost to its social position in the Republic of Panama, will not even be raised.

HAWAII CELEBRATES 200TH ANNIVERSARY OF ITS DISCOVERY BY THE WESTERN WORLD

Mr. MATSUNAGA. Mr. President, yesterday the people of Hawaii embarked upon a year-long celebration of the 200th anniversary of the discovery of Hawaii by the English navigator Capt. James Cook. Cook's discovery of the "Sandwich Islands" in 1778 marked the first time that a Westerner had set foot on the islands, already inhabited by Polynesians from the other islands of the Pacific Basin.

Captain Cook, then England's foremost explorer and a distinguished scientist and naval physician as well, stepped ashore on the Island of Kauai, near the present community of Waimea, on January 20, 1778. Kauai, incidentally, is the place of my birth, and because of its lush tropical beauty has been nicknamed the "Garden Island."

Tomorrow, the anniversary of his arrival will be celebrated by the issuance of a commemorative postage stamp in Honolulu and a carnival in Waimea. Other ceremonies throughout the year will focus on Hawaii's unique cultural heritage, ending at Kona, on the Island of Hawaii, near the spot where Captain Cook met his death.

With the thought that my colleagues will find it of interest, I am submitting for inclusion in the CONGRESSIONAL RECORD a schedule of the bicentennial events which appeared in the Honolulu Advertiser of January 7, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A YEARLONG SALUTE TO COOK

(By Douglas Woo)

Gov. George Ariyoshi yesterday proclaimed Jan. 18, 1978, through Feb. 14, 1979, as Captain Cook Hawaii Bicentennial Year, kicking off a calendar of events to commemorate the English explorer and the Hawaiians he "discovered."

The governor also signed a proclamation designating the commemorative postage stamp for the occasion and he accepted the bicentennial celebration's official silver and bronze coins.

The bicentennial proclamation noted that Cook's arrival in Hawaii 200 years ago brought "a mixture of ramifications"—both good and bad—for the native Hawaiians.

It said the bicentennial celebration should not only be a "western-style adulation of a great English scientist and explorer, but should also be a reminder that Captain Cook 'discovered' an Island community of persons who possessed a rare wisdom, great skills on land and sea, a magnificent heritage of poetry and craftsmanship, and a priceless human warmth which today we call the 'aloha spirit.' "

Among the things called for in the resolution are a growth of pride in, and studies of, Hawaiian language and culture; more airing of "things Hawaiian;" preservation of Hawaii's forests and historic sites; stress on fishing and agriculture development; and "a great upsurge in the aloha spirit."

The commemorative coins received by Ariyoshi will be sold to help support the bicentennial's activities.

The commemorative stamp, meanwhile, resulted from a successful campaign by the Hawaiian Philatelic Society to convince the U.S. Postal Service to issue a stamp honoring Cook's arrival.

The stamp's first day of issue will be Jan. 20, with ceremonies at 10 a.m. on the Ilikai Hotel's lanai area and in conjunction with the Hawaii Captain Cook Bicentennial State Philatelic Exhibition.

Another stamp will be issued simultaneously in Anchorage to honor Cook's charting of the Alaskan coast.

Ariyoshi has formed a 30-member bicentenial activities advisory committee which will be coordinated by former state senator Kenneth F. Brown.

The calendar of major events thus far for the bicentennial observance is as follows:

Today through Jan. 31: The Ka Makahiki Court will travel around the Big Island and will be met with chants, songs and dances in each district. It will go from Kailua to Waimea to Kohala to Hamakua to Hilo to Puna to Kau and end at Hikiau Heiau, Napoopoo, Kona.

Jan. 18, 8 a.m.: Iolani Palace opening ceremony (invited guests only).

9 a.m.: Bishop Museum exhibit of "artificial curiosities of the 18th century" opens and runs through Aug. 31.

11 a.m.: Opening of the 1978 session of the Ninth State Legislature at the State Capitol.

Jan. 19: Mini-parade, bonfire, pep rally, band concert and a bicentennial celebration carnival will be held in Waimea, Kauai. Most of the activities will be at Waimea High School Park.

Jan. 20: A celebration featuring ethnic cultural villages, rededication of the Russian Fort, a senior citizens baseball tournament, band concert and three-part pageant called "Welcoming Captain Cook" will be held in Waimea, Kauai. Rock dancing and the carnival will also be held.

The Hawaiian Captain Cook Bicentennial State Philatelic Exhibition will be held from 9 a.m. to 6 p.m. in the Pacific Ballroom of the Ilikai Hotel in Honolulu. The opening ceremony of the exhibit will be at 10 a.m. and will feature the issue of the bicentennial commemorative stamp.

The exhibit will also feature a banquet in the Pacific Ballroom later that evening. Tickets are available for $12.50 at the Hawaiian Philatelic Society (P.O. Box 10115, Hon., Hi., 96816).

Jan. 21: Continuation of celebration in Waimea, Kauai, including a road race, parachute jumping, a canoe race at the Waimea River, luau and concerts.

Jan. Feb. 3 to 5: Hawaiian Civic Clubs Annual Convention in Hilo on the Big Island.

There will also be special recognition of different ethnic groups in Kohala and Chinese Month of Recognition and Celebration will be declared in Waimea, also on the Big Island.

March 10: The Polynesian Vovaging Society's Hokule'a sets sail for Tahiti.

March 26: Prince Kuhio's birthday celebrated in Kona, Waimea and Hilo on the Big Island.

April 26 to 30: A bicentenial historical conference will be held at Simon Frazier University in Victoria, British Columbia.

Apri 28 to 30: ASTA convention in Kailua-Kona, Big Island; Filipino Month in Kohala.

May: Japanese Month in Waimea, Big Island.

June 11: King Kamehameha Parade in Kailua-Kona: celebration also in Kohala.

June 18: Ships arrive in Honolulu Harbor for the June 24 Pacific International Sail Training Races of 1978. June will also see the 100th birthday celebration of the Falls of Clyde and a month of recognition of King Kamehameha in Waimea, Big Island.

July 4: Ethnic lantern parade and Parker Ranch Open House, horse races and a parade on the Big Island.

July 17 to 24: Japanese training ships visit Hilo and Kahului, Maui.

Aug. 13 to 19: Canoe race from Maui to Big Island; Puu Kohola Annual Open House in Kawaihae, Big Island; Puerto Rican Month in Kohala, Big Island.

Sept. 2: Queen Liliuokalani canoe races in Kailua-Kona; Portuguese Month—the 100th anniversary of Portuguese arrival in Hawaii—celebrated on Big Island.

Sept. 30: Ethnic Culture Festival.

Oct. 10: Founder's Day on the Big Island honoring Cook, Columbus and the unknown alii who discovered Hawaii; October is also the beginning of the second Ka Makahiki Celebration on the Big Island; Filipino Month in Waimea, Big Island; and Japanese and Okinawans Month in Kohala.

November: Europeans Month in Waimea, Big Island.

December: International Ball at Hale Kuhio in Waimea, Big Island; ethnic group get-together in Kohala.

Feb. 14, 1979: The bicentennial year closes with final ceremonies in Kona, Big Island.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will shortly recess until the hour of 8:20 p.m. today, at which time Senators will gather in the Chamber here for preparation to go in a body to the Hall of the House of Representatives to receive the message from the President of the United States on the state of the Union.

The pending amendment before the Senate, I believe, is the amendment by Messrs. CRANSTON, ALLEN, and——

Mr. CRANSTON. STEVENS. If the Senator will yield or after he has finished, I intend to ask unanimous consent, on behalf of Senator ALLEN and myself, that that amendment be set aside temporarily without prejudice. In view of the fact that it has not been accepted, we would like to have some time before we bring it up again, so that other amendments may be taken up.

Mr. ROBERT C. BYRD. I see. The Senate will come in tomorrow at 10:45 a.m. After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the pending business, which will then have become the unfinished business, and I would anticipate the possibility that there will be rollcall votes on amendments and motions in relation to that bill on tomorrow.

For the moment, I yield the floor.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

ORDER THAT THE PENDING AMENDMENT BE TEMPORARILY SET ASIDE WITHOUT PREJUDICE

Mr. CRANSTON. Mr. President, I ask unanimous consent, on behalf of Senator ALLEN and myself, that the pending amendment to the measure now before the Senate be temporarily set aside, without prejudice. We ask this in view of the fact that the amendment was not accepted, and that there are certain Senators who may be interested and may wish to speak on it. In view of that circumstance, we ask unanimous consent that the amendment be temporarily set aside.

The PRESIDING OFFICER (Mr. FORD). Is there objection? Without objection, it is so ordered.

FURTHER PROGRAM

Mr. ROBERT C. BYRD. Mr. President, after the President has completed his state of the Union address, the Senate will automatically stand in adjournment until the hour of 10:45 a.m. tomorrow.

The PRESIDING OFFICER. There is an order to that effect.

ORDER FOR RECOGNITION OF SENATOR BROOKE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the Senator from Massachusetts (Mr. BROOKE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:20 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate at this time, I now move, under the order previously entered and in accordance with the provisions of the resolutions adopted earlier in the day, that when the Senate adjourns it adjourn as a mark of further respect to the memory of our late departed colleagues, Senator METCALF and Senator HUMPHREY, and that that adjournment be over until tomorrow at 10:45 a.m., that the Senate stand in recess until the hour of 8:20 p.m. today.

The motion was agreed to; and at 5:03 p.m. the Senate took a recess until 8:20 p.m.

The Senate reassembled at 8:20 p.m., when called to order by the Presiding Officer (Mr. MORGAN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate adjourns this evening following the President's address on the state of the Union, it stand in adjournment until the hour of 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the prayer and the disposition of the reading of the Journal, the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—MESSAGE OF THE PRESIDENT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives.

Thereupon, at 8:35 p.m., the Senate, preceded by the Secretary of the Senate,

J. S. Kimmitt, and the Sergeant at Arms, Frank N. Hoffmann, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States.

(The address by the President of the United States, this day delivered by him to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 11:30 A.M.

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 9:54 p.m. the Senate adjourned until tomorrow, January 20, 1978, at 11:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, January 19, 1978*

This being the day fixed by Public Law 95–221, 95th Congress, enacted pursuant to the 20th amendment of the Constitution, for the meeting of the 2d session of the 95th Congress, the Members of the House of Representatives of the 95th Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable THOMAS P. O'NEILL, JR., a Representative from the State of Massachusetts.

The Chaplain, Rev. Edward G. Latch, D.D., L.H.D., offered the following prayer:

Be strong and of good courage; be not afraid neither be thou dismayed; for the Lord your God is with you wherever you go.—Joshua 1: 9.

Eternal God our Father, who art the refuge and strength, of Thy people in every age and our refuge and our strength in this present hour, we pause before Thee in reverence of mind and heart as we set out upon the 2d session of our 95th Congress. We pray for wisdom and strength that we may face our duties in these days with the kind of faith, hope, and love which will make us more than a match for the mood of these moving moments.

Bless Thou our President, our Speaker, our Members of Congress and all who labor for them and with them. Grant that together they may enter this new year with firm faith, broad sympathies, high vision, genuine good will, and great hope.

We pray for those who mourn the passing of our beloved HUBERT H. HUMPHREY. May they know the comfort of Thy love, the healing of Thy spirit and the strength of Thy presence. May the warmth of his personality, the radiance of his character, the genuinenesss of his good will, his enthusiasm for life, his concern for the needy, and his devotion to our country be an abiding legacy to all generations. Grant that we may so live our lives, so lead our people, so guide our Nation that we may build on Earth a better and a brighter brotherhood in the spirit of Him who taught us to pray:

Our Father, who art in heaven, hallowed be Thy name, Thy kingdom come, Thy will be done on Earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation, but deliver us from evil. For thine is the kingdom, and the power and the glory forever.

Amen.

RESIGNATION FROM HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communications, which were read:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 27, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: As you know, as a result of my election to the Mayoralty of the City of New York, I must resign my current position as a member of Congress in the 18th Congressional District of the State of New York. This letter of resignation is to be effective as of the close of December 31, 1977. I would appreciate your taking whatever steps are required to note the resignation as of that date.

All the best.

Sincerely,

EDWARD I. KOCH.

NEW YORK, N.Y.,
December 13, 1977.

Hon. MARIO M. CUOMO,
Secretary of State, State of New York, New York, N.Y.

DEAR MR. SECRETARY: As you know, as a result of my election to the Mayoralty of the City of New York, I must resign my current position as a member of Congress in the 18th Congressional District of the State of New York. This letter of resignation is to be effective as of the close of December 31, 1977. I would appreciate your taking whatever steps are required to note the resignation as of that date and to commence the process for filling that seat.

All the best.

Sincerely,

EDWARD I. KOCH.

RESIGNATION FROM HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communications, which were read:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 15, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: I am officially submitting my resignation from the U.S. House of Representatives as the Member of Congress from the 21st Congressional District of New York, as of midnight, December 31, 1977.

I am enclosing a copy of my letter of resignation to the Secretary of State of the State of New York.

Sincerely,

HERMAN BADILLO,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 15, 1977.

Hon. MARIO CUOMO,
Secretary of State, Department of State, Albany, N.Y.

DEAR SECRETARY CUOMO: Pursuant to Section 31 of the New York State Public Officers Law, as amended December 1, 1977, I am officially notifying you that I am resigning my seat in the U.S. House of Representatives as the Member of Congress from the 21st Congressional District as of midnight, December 31, 1977.

The reason for my resignation is that I shall subsequently be sworn in as the Deputy Mayor for Management of the City of New York.

HERMAN BADILLO,
Member of Congress.

CALL OF THE HOUSE

The SPEAKER. Under the precedents of the House, the Clerk will utilize the electronic system to ascertain the presence of a quorum. The Members are advised that a quorum call will commence forthwith.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 1]

Addabbo	Foley	Pease
Andrews, N.C.	Ford, Tenn.	Pepper
Archer	Fraser	Pettis
Armstrong	Frey	Pressler
Aspin	Gephardt	Price
AuCoin	Giaimo	Pritchard
Badham	Gilman	Rangel
Biaggi	Goldwater	Rostenkowski
Bingham	Gudger	Rudd
Bonior	Guyer	Ryan
Broomfield	Harsha	Scheuer
Brown, Mich.	Holtzman	Shuster
Burke, Fla.	Jenrette	Skubitz
Butler	Johnson, Colo.	Stark
Cavanaugh	Jones, N.C.	Teague
Cederberg	Kemp	Tucker
Chappell	Krueger	Udall
Chisholm	McDade	Ullman
Clawson, Del	McDonald	Walsh
Conyers	McEwen	Weaver
Crane	McKay	White
Cunningham	Madigan	Whitley
Danielson	Mann	Wilson, Tex.
Dent	Metcalfe	Winn
Diggs	Meyner	Wolff
Dodd	Miller, Calif.	Wydler
Dornan	Mitchell, N.Y.	Yates
Edwards, Okla.	Moore	Young, Tex.
Fascell	Myers, John	Zablocki
Fenwick	Nix	Zeferetti
Findley	Nolan	
Flynt	Pattison	

The SPEAKER. On this rollcall 338 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMITTEE TO NOTIFY THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 947) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 947

Resolved, That a committee of three Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXPLANATION OF HOUSE RESOLUTION 947

(Mr. DICKINSON asked and was given permission to address the House for 1 minute.)

Mr. DICKINSON. Mr. Speaker, I wonder if we could have an explanation of the request of the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, this is simply a routine request that has just been approved, which authorizes the Speaker to appoint three Members to notify the President of the United States that the House has assembled and a quorum is present.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman. I could not hear the request because of the noise in the Chamber.

APPOINTMENT AS MEMBERS OF COMMITTEE TO NOTIFY THE PRESIDENT, PURSUANT TO H. RES. 947

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that the Congress is ready to receive any communication that he may be pleased to make, the gentleman from Texas (Mr. WRIGHT), the gentleman from Indiana (Mr. BRADEMAS), and the gentleman from Arizona (Mr. RHODES).

NOTIFICATION TO SENATE

Mr. MAHON. Mr. Speaker, I offer a privileged resolution (H. Res. 948) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 948

Resolved, That the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DAILY HOUR OF MEETING

Mr. DELANEY. Mr. Speaker, I offer a privileged resolution (H. Res. 949) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 949

Resolved, That until otherwise ordered, the hour of meeting of the House shall be, 12 o'clock meridian on Mondays and Tuesdays; 3 o'clock postmeridian on Wednesdays; 11 o'clock antemeridian on all other days of the week up to and including May 14, 1978; and that from May 15, 1978, until June 30, 1978, the hour of daily meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays and 10 o'clock antemeridian on all other days of the week; and that from July 1, 1978, until the end of the second session, the hour of daily meeting of the House shall be, 12 o'clock meridian on Mondays, Tuesdays, and Wednesdays, and 10 o'clock antemeridian on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed resolutions of the following titles:

S. RES. 346

Resolved, That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

S. RES. 347

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

S. RES. 348

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Lee Metcalf, late a Senator from the State of Montana and late Acting President pro tempore of the Senate from June 10, 1963.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate, at the conclusion of its business today, do adjourn.

S. RES. 350

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hubert H. Humphrey, a former Vice President of the United States, and late a Deputy President pro tempore of the Senate and a Senator from the State of Minnesota.

Resolved, That in recognition of his illustrious statesmanship, his leadership in national and world affairs, his distinguished public service to his State and his Nation, and as a mark of respect to one who has held such eminent public station in life, his remains were permitted to lie in state in the rotunda of the United States Capitol, and all of the Members of the United States Senate who attended the funeral are deemed to have been a committee for that purpose.

Resolved, That as a further mark of respect to the memory of the deceased communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate, at the conclusion of its business today, do adjourn.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
December 16, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on December 15, 1977, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 9794) entitled "An Act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act."

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, JR.,
Clerk, House of Representatives.

THE FARMERS' PLEA TO CONGRESS

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, when this country was organized 200 years ago, it had a few sailors on the east coast, it had some craftsmen, and it had some tradesmen, but most of the people were identified as farmers.

For 200 years the farmers of this country have produced the food and fiber that not only made the economy of the United States of America the greatest in the world but for many years has supported the entire free world. The farmers have done it quietly by going about their business from day to day. They have had problems, and they have come to us before with their problems. From time to time the Congress has responded.

Mr. Speaker, this morning the halls of this Congress and the streets of Washington are full of farmers from all over the Nation. They are here to tell this Congress and the administration that they want parity in agriculture, and what they mean by "parity" is that they want a fair return on their investment of capital and labor.

Mr. Speaker, we must hear these farmers. America must hear them. We must respond to their needs, because to strengthen the economy of agriculture is to strengthen the Nation. If we do not support a fair return on the investment of capital and labor by farmers, we will have very great difficulties with the entire economy in the months ahead.

A PLEA FOR MEMBERS TO LISTEN TO FARMERS PROBLEMS

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, several thousand farmers from throughout the United States are in Washington today. They are here seeking to have their voices heard with respect to the very acute problems which threaten their survival as farmers. They want Members of Congress to know what the facts are and the urgency of immediate action by Congress and the administration.

This is important to them. It is important to all consumers. It is vitally important to the Nation itself. I urge that the visiting farmers be given an audience by Members of the House. The farmers will be visiting the offices of Members with the hope of having an opportunity to tell their story. It is hoped that the Members will have an oppor-

tunity to see many of these visiting farmers.

Many of the Members have already told me that they have seen some of the farmers and visited with them. I hope that staff members also will be able to receive these producers of food and fiber and hear their story. There is an urgent necessity for better understanding and for early and effective action.

TRIBUTE TO HON. OLIN E. TEAGUE ON HIS PROSPECTIVE RETIREMENT

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, the passage of great men from the House of Representatives sends us to the history texts for comparisons. The decision of my friend and colleague, OLIN E. TEAGUE, to step down as Representative of Texas' Sixth District makes the usual research unnecessary.

I can tell the scholars right now that there was no man like him.

Elected to Congress in 1946 while still in a military hospital recovering from combat injuries, he became the champion of all veterans. OLIN TEAGUE served for 30 years on the Veterans' Affairs Committee and was its chairman for 20 years. The most decorated combat veteran in Congress, he supported strongly the rights and entitlements of those with service-connected disabilities. In 1956 he championed the War Orphans Act to ease the suffering of survivors of veterans killed in action or totally disabled.

Every veteran and the dependent of every veteran in this country owes OLIN TEAGUE a debt of gratitude.

Knowing from personal experience the devastation of war, he championed America's pursuit of peace as chairman of the Science and Technology Committee from 1973 to the present. The landing on the Moon, this Nation's supremacy in space technology—these stupendous achievements would not have been possible without his leadership. They gave this country prestige, pride, and position in world affairs.

I am fortunate in knowing OLIN TEAGUE well. I count him among my friends and most valued counselors. For those not so fortunate I would like to quote from an anecdote told by another of his friends. It was about a meeting in the 1960's of enlisted men from his old outfit who got together to do a little eating and drinking with their old commanding officer. Mr. TEAGUE's friend said:

> I have never seen an officer get such respect, affection and love. These men had been in combat with the Texas Congressman. They knew a man and a leader when they saw one and they had followed him and he had never let them down.

Mr. Speaker, OLIN TEAGUE has never let any veteran or any veteran's dependent down. He has never let anyone down. He has served America, Texas, and its sixth district with unmatched distinction. I will miss him.

Knowing him well I cannot believe OLIN TEAGUE will remain inactive. Whatever endeavors attract his keen and restless intellect will be crowned with success of that I am sure. I wish him and his family the great happiness they deserve.

HEARINGS OF SUBCOMMITTEE ON COMPENSATION, HEALTH, AND SAFETY WITH RESPECT TO RECENT DISASTERS AT GRAIN HANDLING FACILIIES

(Mr. GAYDOS asked and was given permission to address the House for 1 minute.)

Mr. GAYDOS. Mr. Speaker, during the recent recess there were several explosions in grain handling facilities which claimed the lives of more than 50 persons. These explosions have been termed the worst disasters in the history of the U.S. grain industry. Every effort must be made not only to prevent a recurrence of such tragic loss of life, but also to provide a safe and healthful workplace for all workers. Accordingly, the Subcommittee on Compensation, Health, and Safety, on which I am privileged to serve as chairman, will continue oversight hearings regarding these disasters.

The first hearings will be conducted on January 24 and 25 in room 2203 of the Rayburn House Office Building. Witnesses will include representatives from the Federal Grain Inspection Service of the Department of Agriculture, the Environmental Protection Agency, representatives of the Occupational Safety and Health Administration, and Richard E. Ginnold, professor at the University of Wisconsin's School for Workers.

EXTENSION OF DEPENDENTS BENEFITS TO AMERICAN SERVICEMEN OVERSEAS

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, we are all hopeful that the recent steps taken by the administration to halt the slide of the U.S. dollar on the international money exchange markets will be effective. However, the declining value of the dollar has already had a bad effect on many Americans.

Those hardest hit by this situation are these living overseas—American servicemen stationed abroad. This is especially true in countries like West Germany, where the local currency has remained strong. Those enlisted men in the four lowest pay grades—who receive no living expenses, or on or off base housing—are especially hard hit. The economic hardship resulting from this is extremely difficult for those whose families are with them.

Because they are living off the economy, they are paying West German prices with dollars that are worth far less than they used to be. In the past 2 years, Americans exchanging their dollars for deutsche marks have suffered a 34.5 percent loss in purchasing power.

The economic hardships being faced by these families—many of whom are forced to live at nearly a poverty level—should be enough to cause concern. But equally important is the serious morale problem—and resultant loss of efficiency—which this economic tangle is producing.

Extension of dependents benefits to the four lowest grades will cost us approximately $100,000,000. That is about 0.2 percent of our total manpower budget, and I strongly believe it to be a good investment. Our young men stationed abroad have no control over the value of currencies, yet they are paying the heaviest price. We cannot allow this to continue.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, your committee on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty.

The President asked us to report that he will be pleased to deliver his message tonight at 9 p.m. to a joint session of the two Houses.

The SPEAKER. Does the gentleman from Arizona (Mr. RHODES) have anything that he wishes to add?

Mr. RHODES. Mr. Speaker, the distinguished majority leader has delivered the message in his usual competent fashion and the minority side has nothing to add or to offer.

The SPEAKER. The Chair appreciates the assistance of the distinguished minority leader the gentleman from Arizona (Mr. RHODES) in assisting in delivering this message and for his tribute that the minority has nothing to add to the majority and that therefore we can look forward to the complete and full cooperation of the minority with the majority in the forthcoming session.

Mr. RHODES. Mr. Speaker, let me say that the minority will always be cooperative whenever a majority of the majority agree with the minority. In that event, I am sure that a majority of the minority will support the majority of the majority.

RESOLUTION URGING RETENTION OF MR. DAVID MARSTON AS U.S. ATTORNEY IN PHILADELPHIA

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, today Congressman TOM EVANS introduced a resolution urging that David Marston be kept as U.S. attorney in Philadelphia. As a cosponsor of that resolution I would like to take this opportunity to congratulate Mr. EVANS for his leadership on this issue.

There are two basic reasons why the possible firing of David Marston has become an issue recently. The first reason being President Carter's campaign promise to install a nonpartisan merit system to determine judicial appointments. David Marston is a Republican.

Unquestionably this factor was a major consideration by Attorney General Griffin Bell in deciding to fire Mr. Marston. Although a President's feet should always be held to the fire when it comes to campaign promises, that is not the major reason I decided to cosponsor Congressman EVANS' resolution.

Circumstantial evidence has surfaced which indicates that the real reason Mr. Marston is being replaced is that some of his investigations may lead to indictments of two incumbent Democratic Congressmen. Should this prove to be true, both the President and the Attorney General will have to explain their actions to the American people. We in Congress must not allow such tactics to go unnoticed or uncorrected. We are obligated to insure that any Member of Congress guilty of wrongdoing be prosecuted to the full extent of the law irrespective of partisan politics.

It is impossible to know at this time the full story behind the firing of David Marston. Until that story is known however, Mr. Marston should be retained as U.S. Attorney in Philadelphia. In order that this issue be resolved, the President and the Attorney General must be forthright in explaining their recent actions. Hopefully, there is no substance to the charges that the President and Attorney General were acting to protect anyone from possible indictment, but that this situation is the result of naivete on their part.

I hope that this body will join with Congressman EVANS and support Mr. Marston until those questions are answered.

MEMBERS SHOULD RECEIVE THE VISITING FARMERS SO AS TO UNDERSTAND THEIR PROBLEMS

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, I would like to join with the very distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON), in his comments about the visits of the farmers today.

Yesterday it was my pleasure to speak to approximately 300 farmers, most of whom were from my district in Alabama, and to discuss the plight of the farmers at a time when less than 4 percent of the people of this country produce 100 percent of the food and fiber for the rest of the people, plus providing over $24 billion worth of exports. I think that it is time that all of us realize how dependent we are upon the farmers of our country.

Mr. Speaker, I think that in all justice it behooves us as Members of this House to realize that this is one segment of our economy that has suffered a severe loss of income. No other segment has suffered as have the farmers in the past 4 years. In that time the farmers have had a 35-percent reduction in net income. I repeat, a 35-percent reduction in their net income. No other segment of our country has suffered such a loss. Also the farmers have suffered a 10-percent decline in 1977, according to the U.S. Department of Agriculture in their net income last year alone.

So, Mr. Speaker, I believe that it is incumbent on all of us to listen in a sympathetic way to the problems of the farmers and to make ourselves available day after day, and that we do whatever we can in a legislative way to help alleviate their plight for these people who supply all of the food and fiber not only for our country but all over the world.

WE MUST CONTROL OUR WATER RESOURCES

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, last year at this time, as this Congress began its first session, California and the entire Western United States completed the first year and began the second year of our worst drought in 30 years.

Now we seem to be getting all the rain we missed for the past 2 years, and flooding and mud slides are prevalent. Therefore, high on our priority list must be a program to balance out these hydrological extremes, and reduce the loss of lives, crops, and economic stability in the affected areas. We need to conserve, manage, and develop our water resources so they work for us, and not against us.

Mr. Speaker, I make these points at this time so that my colleagues, in returning to a cold, icy, snow-covered Washington will be reminded that while the water problems we face are diametrically different from last year, they are still with us, and solutions must be found. This is to serve notice on my colleagues in the Congress that we must take heed and learn lessons from the California experience. The flood and drought cycles are becoming more frequent causing great uncertainties and concern among our people. My message is very simple, the time is now to move toward a more intensive commitment to total water management. This must be given more priority locally, regionally, and nationally. This must become the Nation's water policy for the future. I stand ready to cooperate as a ranking member on the Water Resources Committees of the Congress.

INTRODUCTION OF SENSE-OF-CONGRESS RESOLUTION REGARDING MR. DAVID W. MARSTON

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EVANS of Delaware. Mr. Speaker, I am today introducing a resolution expressing the sense of the Congress that the President and Attorney General of the United States retain Mr. David W. Marston as U.S. attorney for the eastern district of Pennsylvania until all ongoing investigations of corruption involving public officials under the jurisdiction of that office are concluded.

On April 16, 1975, candidate Jimmy Carter speaking to college students in Misenheimer, N.C., said:

> All Federal judges and prosecutors should be appointed strictly on the basis of merit without any consideration of political aspects or influence.

Unfortunately, President Jimmy Carter has chosen to forget this promise, and replace U.S. attorneys throughout the country solely for political reasons.

Nowhere is this action more blatant than in Philadelphia, where the U.S. attorney, David Marston, is being replaced apparently because of political pressure generated in part by the very people he is said to be investigating.

I have never met nor talked with Mr. Marston. But this effort to replace him in the middle of an investigation involving public officials strikes me as a political railroad job of the highest order.

We must protect the integrity of the judicial system in this country, and thus I urge the House to give this resolution its rapid consideration.

It is time that the "lady of justice" stops changing her blindfold everytime there is a change in administration.

Mr. SCHULZE. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Pennsylvania.

Mr. SCHULZE. I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks and applaud him for the introduction of this resolution. I wish him every success.

Mr. EVANS of Delaware. I thank the distinguished gentleman from Pennsylvania.

RESIGNATION AS MEMBER OF THE DISTRICT OF COLUMBIA LAW REVISION COMMISSION

The SPEAKER laid before the House the following resignation as a member of the District of Columbia Law Revision Commission:

WASHINGTON, D.C.,
April 27, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Because of the pressure of other obligations, it has proven impossible for me to actively participate in the deliberations of the District of Columbia Law Revision Commission.

Inasmuch as I have been unable to participate, I feel that it is only fair, in the best interests of the purposes for which the Commission was formed, to submit my resignation, effective immediately.

Yours very truly,

STANFORD E. PARRIS.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

APPOINTMENT AS MEMBER OF THE DISTRICT OF COLUMBIA LAW REVISION COMMISSION

Mr. RHODES. Mr. Speaker, pursuant to the provisions of section 2(a), Public Law 93-379, I have today appointed as a

member of the District of Columbia Law Revision Commission the Honorable Willie L. Leftwich, of Washington, D.C.

SUPPORTING THE RESOLUTION FOR RETENTION OF DAVID MARSTON

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I want to go on record in support of the resolution sponsored by my colleague from Delaware calling for the retention of David Marston, as U.S. attorney for the eastern district of Pennsylvania. The recent controversy over Mr. Marston has made the good people of our Commonwealth aware of a harsh reality—President's break their promises and politics is all important at the White House and in the Department of Justice.

All Pennsylvanians, indeed, all Americans, heard campaign promises pledging that the selection process for U.S. attorneys would be depoliticized. There were promises that U.S. attorneys who merited retention in their jobs would be allowed to remain.

The firing of David Marston rejects the spirit and the meaning of those words.

Marston's record of prosecutions of the powerful and corrupt is overwhelming proof of his competence and his perseverence. The present administration should be taking pride in his achievements. David Marston's record should insure his promotion, not a demotion or firing.

The administration's decision to remove Mr. Marston puts the President and the Attorney General in the curious and disturbing position of hindering the ongoing effort to rid our State of the cancer of corruption and crime that has been so rampant in recent years.

Mr. Speaker, a man once said that "we promise according to our hopes and perform according to our fears." Surely our President is not intent on making that statement a reality. If so, we must ask, what is to be feared in keeping David Marston on the job?

U.S. GOVERNMENT SHOULD START LOOKING AFTER ITS OWN

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, on the 21st of December of last year the most tremendous and destructive windstorm hit the county of Kern. We have suffered between $100 million and $200 million in damage to agriculture, to homes, and to small businesses in the areas of Arvin, Lamont, and Edison.

It seems outrageous to me that as of this date the SBA and the Farmers Home Administration cannot see their way clear to establish a disaster office in those areas. It seems further outrageous to me and it should be to the Members that if a disaster occurs anywhere else in the friendly world, so to speak, the airplanes from America are landing before the ground stops trembling or the wind stops blowing.

It seems to me, Mr. Speaker, it is time for this Government to start looking after its own.

THE MAJORITY IS NOT WINNING THE BIG ONES ON ENERGY, TAXES, OR INFLATION

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, as we begin the 2d session of the 95th Congress, we hear that George Allen of the Washington Redskins has been fired. I mention this, Mr. Speaker, because there are some parallels between Mr. Allen and the majority in this House. Allen is dedicated, talented, always striving for victory. So is the House majority. Allen has many fine achievements to his credit. So has the House majority. But George Allen never won the Super Bowl and he could not make up his mind on some important matters. Similarly, the House majority is not winning the big ones on energy or taxes or inflation. In fact the House majority seems to be fumbling the ball. And it cannot make up its mind on the important issues.

George Allen was fired by his boss. I believe the bosses of this Congress—the people of the United States—are even now taking a long hard look at the record and the attitude of the House majority. Just a word to the wise, Mr. Speaker from another one of the old hands around here.

PRESIDENT AND ATTORNEY GENERAL MAKING APPOINTMENTS ON MERIT

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I will not take my full 1 minute, but I have been sitting here listening to our Attorney General and our President being characterized as filling positions solely on the basis of patronage and solely by Democrats, it appears, because of incidents that are occurring in the City of Brotherly Love, but I would like to point out to the House that in just a few minutes there will be a very important position filled by the same Attorney General, one as Director of the FBI.

As one from Missouri, I am very proud that it appears that the appointment will be of another Missourian. Lo and behold, lo and behold, that man is a Republican, from the minority, and a lifelong Republican. Lo and behold, he was appointed by Mr. Nixon as U.S. attorney in St. Louis in 1971, by the same President as a district judge in 1973, I believe, and in 1975 to the court of appeals. He was on the Republican State Committee, I believe, for a good many years. But he is a very good man and I believe our Attorney General and our President are filling positions solely on merit. Though they may be appointing Democrats or though they may be appointing Republicans, those appointments are still meritorious.

JOINT SESSION OF CONGRESS—STATE OF THE UNION MESSAGE

Mr. WRIGHT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 452) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 452

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Thursday, January 19, 1978, at 9 o'clock postmeridian, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO DECLARE A RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order any time today for the Speaker to declare a recess subpject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PROGRAM AND BUDGET AUTHORIZATION OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO SIT DURING PROCEEDINGS OF THE HOUSE TODAY UNDER THE 5-MINUTE RULE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent for the Subcommittee on Program and Budget Authorization of the permanent Select Committee on Intelligence to sit during today's proceedings of the House under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE LATE HONORABLE LEE METCALF

Mr. BAUCUS. Mr. Speaker, I offer a resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 950

Resolved, That the House has heard with profound sorrow of the death of the Honorable Lee Metcalf, a Senator of the United States from the State of Montana and Acting President pro tempore of the Senate.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

Mr. BAUCUS. Mr. Speaker, I wish to inform the Members that I have reserved a special order at the close of business on this day on the subject of the late Honorable LEE METCALF.

The resolution was agreed to.

THE LATE HONORABLE HUBERT H. HUMPHREY

Mr. OBERSTAR. Mr. Speaker, I offer a resolution (H. Res. 951) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 951

Resolved, That the House has heard with profound sorrow of the death of the Honorable Hubert H. Humphrey, a former Vice President of the United States, Deputy President pro tempore of the Senate and a Senator from the State of Minnesota.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy to the family of the deceased Senator.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The resolution was agreed to.

FACILITIES FOR HANDICAPPED IN HOUSE GALLERY

(By unanimous consent Mr. WRIGHT was allowed to speak out of order.)

Mr. WRIGHT. Mr. Speaker, during the recent adjournment, in continuation of our ongoing program for removing architectural barriers to the physically handicapped, we have installed an area in the visitors' gallery where access is available at the corridor level for the use of those in wheelchairs or to any individuals for whom stairs provide an obstacle; so with no more assistance than the individuals may desire, access to this chamber is now available to all citizens.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the chair announces that this evening when the Houses meet in joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor and the cooperation of all the Members is requested.

Members will remember that the first three rows are reserved for the U.S. Senate.

ADMINISTRATION OF FISH AND WILDLIFE PROGRAMS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 775 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 775

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, and all points of order against section 4 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 775 provides for the consideration of H.R. 2329, the Fish and Wildlife Improvement Act of 1977. This is an open rule providing for 1 hour of general debate.

House Resolution 775 also provides for waiving all points of order against section 4 of the bill for failure to comply with provisions of clause 5, rule 21, which prohibits appropriations in a legislative measure. This waiver is needed because section 4 of H.R. 2329, which clarifies the Secretary of the Interior's authority to acquire lands for the National Wildlife Refuge System, gives the Secretary the authority to accept gifts, deposit them in an account in the Treasury and disburse the proceeds from the sale of these gifts without specific appropriations.

Mr. Speaker, early this year, H.R. 2329 was unanimously ordered reported by the Committee on Merchant Marine and Fisheries. On February 23, 1977, the bill failed, however, to obtain the necessary two-thirds majority for passage, under suspension of the rules.

The principal purpose of H.R. 2329 is to improve the administration of fish and wildlife programs by the Departments of the Interior and Commerce. The bill increases the enforcement authority of the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, and authorizes both the Secretary of the Interior and the Secretary of Commerce to establish law enforcement training programs at the request of any State.

Mr. Speaker, this rule is noncontroversial. It was adopted by the Committee on Rules by a nonrecord vote on September 21, 1977. I urge adoption of House Resolution 775 so that the House may consider the bill, H.R. 2329.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts has explained that this is a 1-hour open rule providing for the consideration of H.R. 2329, legislation to improve the administration of fish and wildlife programs. All points of order are waived against section 4 of the bill for failure to comply with clause 5 of rule XXI, appropriations in a legislative measure. Section 4 authorizes the Secretary of the Interior to accept gifts, devises, or bequests of real and personal property or the proceeds therefrom, deposit them in a Treasury account, and disburse them for the benefit of programs administered by the U.S. Fish and Wildlife Service.

The bill is designed to strengthen the law enforcement authorities of the Fish and Wildlife Service and NOAA in order to provide more effective protection of fish and wildlife resources. To accomplish this objective the legislation authorizes $150,000 per year beginning in fiscal year 1978. The Congressional Budget Office cost estimate is for a total of $550,000 per year, however.

Mr Speaker, H.R. 2329 failed to pass by a vote of 206 to 136 under suspension of the rules on February 28 of this year. I believe the main problem the Members had in passing the bill then was the fact that it gives Federal Fish and Wildlife Service agents the powers to arrest and search without a warrant in the enforcement of fish and wildlife laws, or other laws if the alleged violation is committed in their presence. The question at that time was and, as far as I know, remains whether this legislation gives rights to these agents that we do not give the FBI with respect to search and seizure. Another issue encountered when the measure was considered last year was the proposition that it removes important safeguards on the Government's authority to acquire lands.

Under the rule before us, constructive amendments may be offered in the areas I have mentioned, as well as others. I am certain the Members will take this opportunity to debate the controversial portions of the legislation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I have no objection to the rule itself. I simply want to state at this time that I will indeed be offering an amendment to cover an area with which I and a number of other Members had difficulty when the matter came up under suspension back in February 1977. The amendment will be a relatively simple one. It will substitute for the nebulous phrase "as provided by law," under which warrantless searches and seizures would be allowed under the legislation, the spelling out of specific conditions which in fact adhere to current constitutional law and will eliminate the possibility that various courts will be handing down various decisions and various interpretations of the law.

Mr. MOAKLEY. Mr. Speaker, having no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2329, with Mr. BAUCUS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2329 represents an important step in the improvement of our fish and wildlife management by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. This legislation provides a comprehensive law enforcement approach to numerous fish and wildlife laws containing fragmented and obsolete authorities. Moreover, it clarifies and expands some of the essential responsibilities of these two Services in protecting our valuable and irreplaceable natural and wildlife resources.

I believe that this is a noncontroversial bill. This legislation passed the House in the 94th Congress by a vote of 360 to 0. Unfortunately, the Senate added technical amendments and returned it to the House, where time did not permit consideration of the bill before adjournment. In the early part of last year, the bill was considered under suspension of the rules, but failed to receive the necessary two-thirds majority. A few Members expressed reservations about one section of the bill which provides Federal wildlife agents with the authority to make warrantless searches in some very limited circumstances. These concerns are simply unfounded.

H.R. 2329 does not deprive any individual of his fourth amendment right against unreasonable searches and seizures.

This bill only allows the same search authority presently permitted under the Endangered Species Act, the Bald Eagle Act, and the Airborne Hunting Act. All we are doing is consolidating their existing authority. The authority to conduct warrantless searches, seizures, and arrests in limited circumstances has long been a part of established case law. As a result, this authority has routinely been given to both Federal and State agents.

The Library of Congress has indicated to the committee that equivalent authority is held by Postal Service agents, Internal Revenue officers, Customs officials, and GSA agents, in addition to the more traditional enforcement bureaus. Moreover, at least 42 States have provided their fish and game agents with the authority to search, seize, and arrest without a warrant.

We can pass all of the wildlife laws in Washington that we like, but unless the agents in the field have sufficient search authority those laws will not be seriously enforced. In many situations, it is simply not workable to require wildlife agents to have a warrant in every circumstance before they can conduct a search. In most situations, the suspect would have long left the scene before the officer could return with a warrant.

Mr. Chairman, H.R. 2329 does more than consolidate the search, seizure, and arrest authority for wildlife agents; it is an omnibus measure which seeks an overall improvement in the administration of our fish and wildlife resources.

At no other time in our history have more Americans been living and working in and around our cities. In my own urban district of New York, I have seen the need for uniform enforcement among the Federal, State, and city agencies that administer the parks, recreation, and wildlife refuges. As more and more Americans realize the pelasures of outdoor recreation, it is essential that our Federal and State managers have the necessary and appropriate legal tools to protect and manage these important resources.

Mr. Chairman, I yield such time as he may consume to the very distinguished gentleman from California (Mr. LEGGETT), the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. LEGGETT. Mr. Chairman, I rise in support of H.R. 2329. As our distinguished chairman has described, the purpose of this legislation is to improve the administration of fish and wildlife programs by the Department of the Interior and the Department of Commerce.

This bill includes a number of technical revisions of our fish and wildlife laws which will enhance the management and protection of irreplaceable wildlife resources. I believe that I can say that these amendments are of a totally noncontroversial nature. One section in H.R. 2329, which provides authority to wildlife agents to conduct warrantless searches in limited, exigent circumstances, did create some concerns when the bill was considered under suspension of the rules last year. I believe that these reservations are completely unfounded.

This bill does not somehow mysteriously undo the fourth amendment protection against unreasonable searches and seizures. Section 3(a)(1) merely consolidates the authority of wildlife agents to conduct warrantless searches and seizures in the well-defined and limited circumstances approved by the U.S. Supreme Court.

Over the years, the Court has developed several exceptions to the general requirement of a warrant for every search or seizure. These exceptions generally involve circumstances where an immediate search is necessary to prevent the destruction of evidence or an assault on the officer. Thus, the Court has said that officers can search a person without a warrant incident to a lawful arrest; they can search without a warrant when evidence is clearly going to be destroyed and when evidence or contraband is within their "plain view." The Court has also indicated that a warrantless search can be conducted of automobiles when the officers possess probable cause to search, and obtaining a warrant would be clearly impractical.

With all of these exceptions, the officer does not have blanket authority to conduct a search. The officer must have probable cause for the search. Probable cause exists where the facts and circumstances within the officer's knowledge are sufficient to warrant a man of reasonable caution in the belief that an offense has been or is being committed. In plain English, this means that the officer must possess actual facts which make it probable that a crime has been committed and that a search is warranted. The logic behind the Supreme Court's delineated exceptions is readily understandable—in some instances by the time the officer obtains a warrant, the evidence will have been destroyed and the suspect will be gone. This is often the case in wildlife situations. If a wildlife agent sees a violation of the Migratory Bird Treaty Act, for example, the offending hunter and his illegally taken game will surely not be around by the time the officer returns to the scene with a valid warrant.

An actual criminal case exemplifies the kind of real life situations faced by our wildlife agents on a regular basis.

In *U.S.* v. *Verret* 302 F. Supp. 492 (E.D. La. 1969), two game agents saw a light gleaming in a Louisiana marsh. The agents heard two gunshots coming from the direction of the light. Shortly thereafter, they stopped a car coming out of the marsh. In the back seat of the auto, the agents observed two shotguns and a headlight, commonly known as a "bull's eye." The agents searched the trunk of the car and found 45 birds taken in violation of the Migratory Bird Treaty Act.

Because of the limitations in Federal law, the agents were not able to employ

Federal authority to justify the search of the auto. Fortunately, the agents were State game agents and were able to rely on State statutes that did permit a warrantless search in this circumstance. In other words, if it were not for the fact that Louisiana had a statute permitting warrantless searches based on probable cause, the court would have had no alternative but to suppress the evidence and dismiss the criminal case. This is exactly the kind of situation that we are attempting to correct in this legislation.

I want to emphasize that the provision in H.R. 2329 is not novel. At least 42 States have provided equivalent search authority to their fish and game agents. In fact, Federal wildlife agents already have this authority under several statutes—Endangered Species Act; Airborne Hunting Act, Marine Mammal Protection Act. All we are attempting to do is make the law uniform.

Although the search and seizure provision has created the greatest attention, H.R. 2329 will also do the following:

First. Authorize enforcement agents to carry firearms;

Second. Authorize establishment of national wildlife enforcement training programs;

Third. Authorize designation of State or Federal agents as wildlife enforcement officers;

Fourth. Permit the Secretary to dispose of forfeited or abandoned property. This provision allows the Secretary to loan or sell abandoned or forfeited property to universities, scientific organizations, and hospitals;

Fifth. Authorize the purchase of less than fee simple interests in land or water; and

Sixth. Permit hunting on greater than 40 percent of inviolate sanctuaries when it is determined to be beneficial to the species.

I believe that all of these provisions considered together will vastly improve the administration and protection of national and international wildlife resources. I urge the passage of H.R. 2329.

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge that the bill, H.R. 2329 be approved. For too long, the enforcement of this Nation's wildlife conservation laws has been hampered by conflicting and inconsistent statutes.

For example, the Bald Eagle, our national emblem, is protected by the Bald Eagle Act, the Endangered Species Act, the Migratory Bird Treaty Act, and the Airborne Hunting Act. Unfortunately, the enforcement authority is different in three of these four laws. What the Fish and Wildlife Service is permitted to do under one law may be prohibited under another. Obviously these conflicting authorities severely restrict the Service's enforcement program. For example, one court of appeals overturned a conviction for the illegal taking of migratory birds because the court found that the statute in question prohibited the Service from conducting searches without a warrant. There is no reason to continue this legal game of chance. By making the Fish and Wildlife Service's enforcement authority uniform and complete, H.R. 2329 remedies this problem.

When H.R. 2329 was considered by the House under suspension of the rules last year, the legislation was not approved by the necessary two-thirds majority. Several Members expressed concern that the section of H.R. 2329 authorizing searches without a warrant was constitutionally questionable. In this regard, it is important to recognize that the Supreme Court has repeatedly held that searches without a warrant are constitutional if the enforcement agent has probable cause to believe that an offense has been committed and if the circumstances make the procurement of a search warrant impossible or meaningless.

In approving this limited exception to the warrant requirement, the Supreme Court has given particular emphasis to the need for warrantless searches in automobile cases. The need arises from the inherent mobility of the automobile and the hunter—from the fact that if the enforcement agent is forced to leave the scene of the crime to secure a search warrant, the evidence will have disappeared by the time he returns. In Carroll against United States the Court held that a search warrant was unnecessary "where there is probable cause to search an automobile stopped on the highway; the car is movable, the occupants are alerted, and the car's contents may never be found again if a warrant must be obtained." Given these circumstances, an immediate warrantless search was constitutionally acceptable. Since the decision in Carroll against United States the Supreme Court has upheld warrantless searches in numerous other decisions. As recently as June of last year, the Court reaffirmed the warrantless searches are constitutional where the officer has probable cause to conduct a search and where the circumstances make the securing of a warrant meaningless.

In the time that has elapsed since the House last considered this legislation, our committee has asked for an analysis of H.R. 2329 from the American Law Division of the Library of Congress. This analysis confirms our view that the language of H.R. 2329 is clearly within the limitation approved by the Supreme Court.

Finally, it should be noted that the language of H.R. 2329 is virtually identical to the language of other laws wherein Congress has authorized at least nine other Federal agencies to conduct warrantless searches if there is probable cause to conduct such a search.

H.R. 2329 will also save the taxpayers many thousands of dollars. As a result of their enforcement activities, the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration have accumulated almost $3 million of forfeited property. However, neither agency has adequate statutory authority to dispose of this material and thus, each agency continues to store the property at an unnecessary cost to the taxpayer. H.R. 2329 would give both agencies the necessary authority to dispose of these forfeited items.

Another problem remedied under H.R. 2329 derives from the fact that under current law, land acquisition authority is limited to the outright purchase of refuge land. Rising land costs and increased public pressures to provide wildlife habitat for current and future public enjoyment necessitates alternative methods of acquiring land. H.R. 2329 would provide the Fish and Wildlife Service with the authority to acquire easements, and any other less than fee interest. This legislation will, therefore, save the taxpayer's dollar by insuring that valuable wildlife habitat can be protected without the expenditure of large amounts of money for land acquisition.

Finally, H.R. 2329 authorizes both agencies to utilize the services of volunteers. In the case of the Fish and Wildlife Service, it is anticipated that up to 1,000 volunteers would be recruited to assist the service in many areas, including projects to overcome the tremendous backlog of maintenance work which must be done in the National Wildlife Refuge System. Both President Ford and President Carter have recognized the need to overcome this backlog and H.R. 2329 represents an important first step.

Mr. Chairman, H.R. 2329 will assist the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration in meeting their responsibilities for wildlife conservation; therefore, I urge my colleagues to join me in supporting this bill.

Mr. MURPHY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, being from a State which prides itself on a diverse combination of natural resources that are directly effected by this Nation's fish and wildlife programs I have a particular interest in this legislation. I am not opposed to the obvious good intentions of many of my colleagues on the House Merchant Marine and Fisheries Committee to provide uniform authority for the enforcement of Federal laws relating to fish and wildlife. I am also not opposed to effective efforts to consolidate, coordinate, and clarify Federal operations or statutes and believe strongly that more of our time should be spent in this endeavor. But I am deeply concerned over the means to accomplish this end that are contained in this measure. When one weighs the possible benefits to the public good this bill is supposed to provide against the flagrant abuses to time-honored safeguards present in our statutes, I do not see how we can support H.R. 2329 in the name of conservation, environmental protection, or reform.

My initial concern over the language of the bill is the unwise decision to give Federal agents the right to search and arrest without a warrant for the enforcement of fish and wildlife laws. The same people who support this kind of infringement on our citizen's fourth amendment rights would scream the loudest if we decided to untie the hands of the FBI or the CIA and allow them to search and

arrest under similar circumstances, certainly for crimes potentially, more severe. I would hate to think this Congress would want to modify the concept of the accused is presumed innocent until proven guilty. I have heard distressing accounts of hunters being accused, arrested, and given severe fines or sentences based upon shaky evidence. This revision could encourage more of this behavior.

On a similar matter, my years as a prosecuting attorney tell me to be leary of any system of paid informants. This has been tried, unsuccessfully in other criminal areas. I see no reason why enforcement of wildlife laws would be an exception.

It is equally distressing to me to learn about the changes in the Government's authority to acquire land contained in this measure. There are many people in Missouri who live on land owned and cherished by their families for decades. They should be carefully protected from any potential abuse when the Government decides to condemn property. In the past the Congress has sought to avoid such abuses via important financial limitation on the amount of property that can be obtained from a private property owner. In addition, easement authority has not been provided in the past. I fear strong Government intervention into the rights of the private property owner should H.R. 2329 be enacted. Repeatedly and emphatically I have heard my constituents relay to me their opposition to any more Government intrusion into their lives. This is what I seek to avoid by voting against this bill and I would encourage my colleagues to do the same.

Mr. RUPPE. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Chairman, I oppose this seemingly simple and harmless bill because it, in fact, removes important safeguards on the Government's authority to acquire land acquisition powers. For instance, cides to condemn land some landowners who would rather not sell their land are going to be harmed. The public benefits, whether they be wildlife protection or some new building or transportation system, are not an ample compensation to the landowner who forfeits the land or water rights his family has held for generations. No amount of money is commensurate with the value of private land in the eyes of the owner who would prefer not to sell.

Realizing the sanctity of private land holdings, Congress provided safeguards against arbitrary Government use of its land acquisition powers. For instance, section 7 of the Migratory Bird Conservation Act provides that no land may be acquired without first receiving consent from the State where the lands are located. Similarly, the Migratory Bird Compensation Act of 1966 and the Fish and Wildlife Act of 1956 only provide for purchase or rent of land titles, not of partial interests. This puts an important financial limitation on the amount of land that can be taken from private owners. The Congress wisely realized in 1956 and 1966 that budgetary constraints would prevent the Federal Government from extending its controls over wide sectors of private land. Thus, Congress did not provide easement authority when these bills passed.

In my district there is an ideal example of this principle: the proposed Platte River National Wildlife Refuge. The Fish and Wildlife Service in conjunction with the Migratory Bird Conservation Commission have targeted around 90,000 acres of prime agricultural land along the Platte River for preservation. This land has been identified as habitat for the sandhill crane which migrates through this area twice a year. Even more startling is the Fish and Wildlife Service admission that they would demand some controls upon Platte River stream flows once they have established themselves as riparian landowners. Thus, the Federal Government intends to force some form of regulation upon the river which irrigates one of the most fertile agricultural valleys in our Nation. Congress intended to avoid this form of Federal intrusion by forcing the Government to completely purchase any lands that it wished to preserve. Obviously in this case, the Government would have a hard time convincing Congress to provide money to purchase title to 90,000 acres of prime bottom land to preserve habitat for birds who occupy the area for a few weeks every year. But H.R. 2329 intends to remove this precaution against wholesale Government interference with private land rights.

In addition to the flaws in H.R. 2329 which I have already noted, it grants authority for warrantless search and seizure without specifying the extreme circumstances that would deserve this broad law enforcement power. The fourth amendment of the Constitution protects the "right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures." Congress must not presume to dilute this strong constitutional power without being very specific about the situations which demand such harsh sanctions. I look forward to the opportunity to support amendments that will remove any ambiguities about the enforcement authority granted under this bill.

We defeated this bill under suspension of the rules because it had the frailties I have pointed out. I trust that we will use this opportunity to make corrective amendments.

Mr. FORSYTHE. Mr. Chairman, I urge that H.R. 2329 be approved. This legislation provides the officers of the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration with the authority necessary to insure that the wildlife laws of this Nation are effectively enforced.

For too long, the officers of these agencies have been hampered by the lack of adequate enforcement authority. For example, because the Migratory Bird Treaty Act specifically authorizes searches only with a warrant, there are appellate court decisions reversing convictions where the evidence that led to the conviction was obtained without a warrant. To remedy this weakness in our enforcement program, H.R. 2329 would authorize searches without a warrant as provided by law.

Last year when the House considered H.R. 2329 under the Suspension of the Rules, several Members expressed reservations regarding the propriety of the language in H.R. 2329 authorizing searches without a warrant. In this regard, I would call attention to the fact that H.R. 2329 authorizes warrantless searches only in instances where the officer has probable cause to believe that an offense has been committed. Thus, if an enforcement agent observes a hunter loading what appears to be illegally taken migratory waterfowl into an automobile trunk, the officer may conduct a warrantless search. Requiring the officer to leave the scene to secure a search warrant severely hampers his ability to enforce the law. By the time he returns with a search warrant, the automobile is gone.

It is because of this type of enforcement problem that the Supreme Court has approved warrantless searches. In Carroll against United States the Supreme Court held:

> It is not to be disputed that there may be reasonable searches . . . without a search warrant.

As recently as June 1977, in Chadwick against United States the Court reaffirmed the constitutionality of warrantless searches where there is probable cause for such a search. H.R. 2329 codifies these rulings by specifically authorizing enforcement agents of the Fish and Wildlife Service and of the National Oceanic and Atmospheric Administration to conduct warrantless searches if, and only if, there is probable cause to believe that such a search is justified.

It should also be noted that the enforcement authority established in H.R. 2329 is identical to the enforcement authority of other Federal enforcement agents, including U.S. marshals, Secret Service agents, customs officials, General Services Administration guards, Postal inspectors, probation officers, IRS inspectors and FBI agents.

Finally, I would call attention to the fact that a recently completed analysis of H.R. 2329 conducted by the Library of Congress concludes that the provisions of H.R. 2329 are consistent with Supreme Court rulings authorizing warrantless searches.

In addition to improving wildlife law enforcement, H.R. 2329 represents a boon to the taxpayers. Section 3(d) authorizes the Secretary of the Interior and the Secretary of Commerce to dispose of all fish, wildlife, and plants abandoned or forfeited to the United States. At the present time, the Government is storing, at an unnecessary cost to the taxpayer, almost $3 million in forfeited property. The bill before us to-

day will permit this property to be disposed of for scientific and educational purposes.

H.R. 2329 would also permit the Secretaries of Commerce and the Interior to recruit, train, and accept the services of volunteers. In the case of the Fish and Wildlife Service, it is anticipated that up to 1,000 volunteers would be recruited to assist the Service in many areas, including projects to overcome the tremendous backlog of maintenance work which must be done in the national wildlife refuge system. The National Park Service has successfully utilized the services of volunteers for many years and I believe we should expand and encourage the use of volunteers in other agencies.

The bill we are considering has other important ramifications for wildlife management. H.R. 2329 amends the National Wildlife Refuge System Administration Act to permit the taking of migratory game birds on all lands set aside for the protection of migratory birds. As currently written, the law requires that 60 percent of such areas be set aside as inviolate. In recent years, the Fish and Wildlife Service has found that its flexibility to manage these areas, particularly to control the movement of birds in their migration pattern, has been inhibited by the requirement that 60 percent of the area remain closed.

Finally, H.R. 2329 clarifies the authority of the Secretary of the Interior to acquire lands for the national wildlife refuge system. Existing statutes have been interpreted as restricting the Secretary's acquisition authority to purchasing lands in fee simple. H.R. 2329 specifically permits the Secretary to acquire the use of property by easement, by gift and by exchange. With these changes, the Secretary will be better able, with his limited resources, to meet our national goals of wildlife conservation and management.

Mr. Chairman, H.R. 2329 will assist the Secretary of the Interior and the Secretary of Commerce in meeting their responsibilities for wildlife conservation and I urge that the House approve the bill.

Mr. MURPHY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I appreciate the distinguished gentleman from New York, the chairman, yielding this time to me. As I indicated earlier, I am going to be offering an amendment when we complete the general debate.

I just want to remind the Members that in February of 1977 this particular bill before us failed of adoption because it received a vote of only 206 to 136 on the Suspension Calendar. There were 136 Members who without very much prior notice and just on the basis of the debate on the floor of the House felt that the search and seizure provisions within this legislation are not clearly enough spelled out and were in fact an intrusion upon the fourth amendment to the Constitution.

The amendment which I will offer attempts to clarify the problem we had and to eliminate it by substituting for a very nebulous phrase which would authorize search and seizure without a warrant "as provided by law," a provision which would spell out the specific circumstance under which it would be allowed.

The amendment in essence, would authorize warrantless searches and seizures on any person, place, or conveyance where the officer has "reasonable ground to believe that a person has committed or is attempting to commit an offense in his presence or in his view." That basically is what the current state of the law is. It eliminates the possibility that there may be a misinterpretation of the phrase "as provided by law" by some courts in the future and eliminates the possibility that there may be different interpretations of what is provided by the law at different levels of courts within our judicial system or by fish and game wardens.

So I would hope that both those who support the legislation as it came out of the committee as well as those who, like myself, have problems with this legislation as it was first reported out will be supporting the amendment I will be offering and allow us at least to have legislation which will be clear and will maintain the protections of the fourth amendment as interpreted by the Supreme Court.

Again I thank the chairman for yielding me this time.

Mr. RUPPE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I rise in opposition to this legislation. Like much of the legislation we will face in this session it has some good and some bad, but in the past I have opposed it. I believe it was my objection which prevented this bill from coming up in the closing hours of the last session of the 94th Congress and last year I opposed it as well. My objections include several that have been mentioned by speakers so far in some detail. I am particularly concerned about the paid informer system established by the bill and the warrantless search that is permitted. I understand there may be some improvement in the bill depending on the fate of the amendment the gentleman from New York offers, although I gather that it will be opposed by the leadership.

Mr. Chairman, I have the great good fortune to represent one of the most bountiful waterfowl areas in the United States, our largest estuary, the Chesapeake Bay. Every winter hundreds of thousands of Canadian geese and other wild fowl visit our shores. I must confess there have been many court cases that have arisen out of alleged illegal activities of hunters, usually those who do not come from my district, since no one in my district could ever be presumed to violate the game and fish laws, you understand. There have been a number of instances where it would seem the accused has been presumed guilty until the accused proves otherwise.

It seems to me, too, that this legislation reinforces that erroneous assumption of guilt, which is certainly not in our American tradition.

There is much to enjoy in the way of hunting in the Chesapeake Bay and other areas in our country. Nothing equals a full day in the blind with appropriate measures to ward against the cold and with a good shotgun in one's hand.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. BAUMAN. Mr. Chairman, that is the fastest 2 minutes I have ever seen. Perhaps these are the new rules.

Mr. RUPPE. Mr. Chairman, I yield an additional 5 minutes to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, as I was saying, a good day in the blind looking toward a roast goose dinner with appropriate condiments and other side dishes and refreshments is something to contemplate; but 60 days in the slammer on weekends is something most hunters do not look forward to. My concern, therefore, is that we have a balanced law enforcement effort in this legislation. I am not at all sure that the bill provides such balance. For some, a hunting violation is something that is worn as a badge of merit. I do not view it as such, but I do think all hunters ought to have a fair chance when accused by the law.

I would address a question to either the gentleman from New York or the gentleman from California about the use of the term, "reasonable grounds" for arrest when hunting. It is my understanding that in a number of Supreme Court cases, including *Henry* v. *United States*, 361 U.S. 98, that the Court has held the phrase, "reasonable grounds" to be the equivalent of "probable cause." In that context, the use of "reasonable grounds" in this legislation or in any amendments that might be offered can be assumed to be synonymous with probable cause. Is my interpretation correct?

Mr. LEGGETT. Yes, Mr. Chairman, if the gentleman will yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. LEGGETT. The citation the gentleman from Maryland read is good law, as is *United States* v. *Pearce*, 356 Federal Supplement, particularly page 758, a 1973 case. That is a case in which "reasonable grounds" and "probable cause" are synonymous.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for responding. I think this may offer some comfort in the cold of the duck blinds during the hunting season for those that wish to take some volumes of law with them while they are hunting.

Hopefully, also, the amendment of the gentleman from New York (Mr. WEISS) may offer some clarification; although it may be an unusual alliance, I think we all should support the amendment when it is offered.

Mr. MURPHY of New York. Mr. Chairman, I have no further requests for time.

Mr. RUPPE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fish and Wildlife Improvement Act of 1977".

SEC. 2. FISH AND WILDLIFE COOPERATIVE UNITS ASSISTANCE.

The first section of the Act of September 2, 1960 (74 Stat. 733; 16 U.S.C. 753a) is amended—

(1) by striking out "technical personnel" and inserting in lieu thereof "scientific personnel"; and

(2) by inserting immediately after "respective units," the following: "to the provision of assistance (including reasonable financial compensation) for the work of researchers on fish and wildlife ecology and resource management projects funded under this subsection".

SEC. 3. ENFORCEMENT AUTHORITY FOR THE PROTECTION OF FISH AND WILDLIFE RESOURCES.

(a)(1) AUTHORITIES FOR DESIGNATED PERSONNEL.—In addition to any other authority conferred by law, any officer or employee of the United States Fish and Wildlife Service who is designated by the Secretary of the Interior, or any officer or employee of the National Oceanic and Atmospheric Administration who is designated by the Secretary of Commerce, to enforce any Federal law relating to fish or wildlife may, in the performance of such law enforcement duties, exercise such of the following authorities as each such Secretary, after written notice to the United States Attorney General, may deem appropriate:

(A) Carry firearms.

(B) Secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States.

(C) Search without warrant or other process any person, place, or conveyance as provided by law.

(D) Seize without warrant or other process any evidentiary item as provided by law.

(E) Offer and pay rewards for services or information which may lead to the apprehension of violators of such laws.

(F) Make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such laws.

(G) Upon the request of any law enforcement agency of any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, assist such agency in the enforcement of State or local laws and regulations relating to fish or wildlife.

(H) Make an arrest with or without a warrant—

(i) for any offense against the United States if such officer or employee has reasonable grounds to believe that the person to be arrested is committing an offense in his presence or view, or

(ii) for any felony under the laws of the United States if such officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

Nothing in this paragraph shall be construed as authorizing any such officer or employee to initiate or pursue any subsequent investigation of any violation which is not related to fish or wildlife matters.

(2) The Secretary of the Interior and the Secretary of Commerce shall each designate, through publication in the Federal Register, those laws under his jurisdiction which he determines the purpose of which to be the protection or conservation of any fish or wildlife. Any law so designated shall be a "Federal law relating to fish or wildlife" for the purposes of paragraph (1).

(b) LAW ENFORCEMENT TRAINING PROGRAM.—(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1978 such funds as may be necessary to carry out the purposes of subsection (b), and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States for expenditures made pursuant to subsections (b) (1) (A) and (C).

(c) LAW ENFORCEMENT COOPERATIVE AGREEMENT.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and wildlife. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5, United States Code;

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28, United States Code;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18, United States Code.

(d) DISPOSAL OF ABANDONED OR FORFEITED PROPERTY.—Notwithstanding any other provision of law, all fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(e) DISCLAIMER.—Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to the date of enactment of this Act.

(f) REFUGE RECREATION ACT. Section 4 of the Act of September 28, 1962 (78 Stat. 654, 16 U.S.C. 460k–3), is amended by adding at the end thereof the following new sentence: "The provisions of this Act and any such regulation shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(g) BALD EAGLE PROTECTION ACT.—The first sentence of section 3(a) of the Act of June 8, 1940 (54 Stat. 251, 16 U.S.C. 668(c)), is amended to read as follows: "The Provisions of this Act and any permit or regulation prescribed under the authority of this Act shall be enforced by an officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(h) NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT.—Section (4)(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended to read as follows: "The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior. Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law.".

(i) BEAR RIVER MIGRATORY BIRD REFUGE.—(1) The first sentence of section 6(a) of the Act of April 23, 1928 (45 Stat. 449, 16 U.S.C. 690e), is amended to read as follows: "The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(2) Section 6(b) of such Act is amended by striking at the end thereof the term "and disposed of as directed by the court having jurisdiction." and inserting in lieu thereof the term "and disposed of as directed by the Secretary of the Interior, in accordance with law."

(j) UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE ACT.—The first sentence of section 8(a) of the Upper Mississippi River Wildlife and Fish Refuge Act (16 U.S.C. 727) is amended to read as follows: "The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(k) FISH AND WILDLIFE ACT OF 1956.—The first two sentences of section 13(d) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(d)) are amended to read as follows: "The Secretary of the Interior shall promulgate such regulations as he deems necessary and appropriate to carry out the enforcement of this section. The provisions of this section and any regulations promulgated thereunder shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(l) MIGRATORY BIRD TREATY ACT.—Section 5 of the Migratory Bird Treaty Act (16 U.S.C. 706) is amended to read as follows:

"SEC. 5. The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior. Any judge of any court established under the laws of the United States and United States magistrates may, within their respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.".

(m) MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT.—Section 6 of the Act of March 16, 1934 (48 Stat. 452, 16 U.S.C. 718f) is amended to read as follows:

"SEC. 6. The provisions of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior. Any judge of any court established under the laws of the United States, and any United States magistrate, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all cases involving violations of this Act. Any bird or part thereof taken or possessed contrary to this Act shall, when seized, be disposed of by the Secretary in accordance with law.".

(n) BLACK BASS ACT.—Section 6(a) of the Act of May 20, 1926 (46 Stat. 846, 16 U.S.C. 852(a)), is amended by inserting immediately after "Act" in the first sentence thereof the following: ", in addition to any other authority provided by law,".

(o) TITLE 18.—(1) Section 43(c)(2) of title 18, United States Code, is amended by striking out "authority" in the first sentence and inserting in lieu thereof the following: "authority, in addition to any other authority provided by law relating to search and seizure,".

(2) Sections 3054 and 3112 of such title 18 are each amended by inserting immediately after the first reference to "customs" in the first sentence thereof the following: ", in addition to any other authority provided by law,".

(3) Section 1114 of such title 18 is amended by inserting immediately before "or of the Department of Labor" the following: ", the Department of Commerce,".

SEC. 4. FISH AND WILDLIFE ACT OF 1956.

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) is amended—

(1) by striking out paragraphs (4) and (5), and inserting in lieu thereof the following:

"(4) take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.";

(2) by inserting "and" immediately after the semicolon at the end of paragraph (3); and

(3) by adding at the end thereof the following two new subsections:

"(b)(1) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devices, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

"(2) Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

"(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

"(c)(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, United States Code, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

"(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence of such volunteers.

"(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

"(4) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this subsection shall be considered a Federal employee.

"(5) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term 'employees' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply.

"(6) There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1978, 1979, and 1980.".

SEC. 5. MIGRATORY BIRD CONSERVATION ACT.

Section 5 of the Migratory Bird Conservation Act (16 U.S.C. 715d) is amended to read as follows:

SEC. 5. The Secretary of the Interior may—

"(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

"(2) acquire, by gift or devise, any area or interests therein;

which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Secretary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this Act (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this Act.".

SEC. 6. NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966.

Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)(1)(A)) is amended by striking out "; and" at the end thereof and inserting in lieu thereof "unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the proper management of such species; and".

SEC. 7. MIGRATORY BIRD HUNTING STAMP ACT.

Section 2 of the Migratory Bird Hunting Stamp Act (16 U.S.C. 718b) is amended by striking out "September of each fiscal year" in the fifth sentence thereof and inserting in lieu thereof "June of each year".

SEC. 8. CRAB ORCHARD NATIONAL WILDLIFE REFUGE.

The second sentence of section 2 of the Act of August 5, 1947 (61 Stat. 770; 16 U.S.C. 66g), is amended to read as follows: "Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s).".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the committee amendments, as follows:

On page 7, line 23, strike "668b(c)" and insert "668(a)".

On page 8, line 1, strike the word "an" and insert the word "any".

On page 9, line 5, strike "Wildlife" and insert "Wild Life".

On page 9, line 7, strike "Wildlife" and insert "Wild Life".

On page 11, line 5, strike the word "State," and insert the word "States,".

On page 12, line 20, strike the word "devices," and insert the word "devises,".

On page 14, line 22, strike "Sec." and insert" "Sec.".

On page 16, line 1, insert after the word "HUNTING" the words "AND CONSERVATION".

On page 16, line 2, insert after the word "Hunting" the words "and Conservation".

On page 16, line 8, strike "66g" and insert in lieu thereof "666g".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The committee amendments were agreed to.

AMENDMENTS OFFERED BY MR. LEGGETT

Mr. LEGGETT. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. LEGGETT: Page 16, line 2, strike out "proper management of such".

Page 16, strike out lines 7 and 8 and insert the following: out "September" in the sixth sentence thereof and inserting in lieu thereof "June".

Mr. LEGGETT. Mr. Chairman, I have two amendments at the desk that are of a technical and clarifying nature. The amendment at page 16, line 2 of the reported bill is intended to clarify those situations where the Secretary is permitted to allow hunting on more than 40 percent of an inviolate sanctuary. My amendment makes it clear that the 60 percent closure rule will be abrogated only when it is beneficial to the species in question. There are several situations where hunting on more than 40 percent of the refuge can be beneficial to the waterfowl species, including the need to reduce dense concentrations of waterfowl in order to prevent the spread of communicable diseases or bird mortality.

The second amendment at page 16, lines 7 and 8 is a technical amendment which is intended to correct an outdated reference to the ending month of the stamp issuance year for purposes of the stamp redemption provision. Under section 34 the Fiscal Year Adjustment Act the stamp issuance year was maintained on a July 1 through a June 30 basis, despite the change in the Government fiscal year. This amendment makes the necessary changes in the Migratory Bird Conservation Stamp Act.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. LEGGETT).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: Strike section 3(a)(1)(C) and insert in lieu thereof the following new section 3(a)(1)(C):

(C) Search without warrant any person, place, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an offense in his presence or view.

Strike section 3(a)(1)(D) and insert in lieu thereof the following new section 3(a)(1)(D):

(D) Seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit an offense in his presence or view.

Mr. WEISS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEISS. Mr. Chairman, it has been noted in the course of this debate back in February, of last year, that if it were the FBI who was seeking the kind of broad and nebulous grant of authority, such as is being offered in this legislation, that there would be a great outcry. The people who made that suggestion happen to come from the opposite side of the aisle and suggested that those of us who are of more liberal persuasion ought really to examine what it is that we are about. I happened to agree with that premise then, and I agree with it now. I think it is fair to say that if at any time in the future the Constitution of the United States is eroded or undermined, it will not be done because of the lack of alertness about the great security and investigative agencies of this country; it will be done because either we will be thinking of doing some great good in some social welfare program, where we want to grant powers to some agency of Government which is in business to "do good," or we will be extending powers, as we are attempting to do here in some inocuous-seeming fashion to the Fish and Wildlife Service or Interior or the Oceanic people, or some similar agency. The grant of language in this legislation as it appears before us simply says that search and seizure may be made without warrant or other processes "as provided by law." That is the definition. The justification for it seems to be that we have done it that way in some other pieces of legislation. There was reference to the Endangered Species Act, the Bald Eagle Act, the Airborne Hunting Act, and so on. But, interestingly, when you look at the Endangered Species Act, it does not use the language "as provided by law." It says, "as authorized by law." But it does not tell you what it is that is "authorized" by law or is "provided" by law. I guess what is suggested to us to do is to go back and read the Supreme Court decisions or the other Federal court decisions.

Mr. Chairman, in place of that kind of vagueness, the amendment which I have offered specifically states that a search or seizure without warrant can occur only when there are "reasonable grounds to believe that a person has committed or is atempting to commit an offense in [the officer's] presence or view." That is specific. It tells you what is authorized and what is not authorized. I think that those who are for this legislation and at the same time are concerned for the civil liberties not just of hunters as hunters, but of American citizens as American citizens, regardless of the side of the aisle, regardless of the committee they sit on, ought to support this amendment. I know for a fact that I could not support this legislation with the nebulous language that is in it now.

I know that there are many other Members who would find equal difficulty in supporting it.

So, Mr. Chairman, I most seriously request the committee to review the situation, and I hope that there will be support for this amendment.

Mr. LEGGETT. Mr. Chairman, I reluctantly rise in opposition to the amendment.

I had thought earlier that we could accept this amendment and then perhaps iron it out in conference. Perhaps that is possible, but that in order not to confuse legislative affairs, an amendment that is not in fact justified or reasonable ought to be opposed at this point.

I would like to read to the House the provisions that we have in other laws to which we are trying to conform the present law. In the endangered species legislation we provide under section 1540(e)(3) that Federal wildlife officers may search and seize with or without a warrant as authorized by law.

And Bald Eagle Act similarly provides:

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of sections 668 to 668d of this title may, * * * execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of sections 668 to 668d of this title; and may with or without a warrant as authorized by law search any place.

Mr. Chairman, what we are trying to do in this legislation, at the insistence of the Solicitor of the Department of the Interior, is to assist in the enforcement of conservation and fish and wildlife laws. I believe that if we accept this amendment, we are going to confuse the laws that currently apply to this subject area.

Second, if we accept this amendment, we unreasonably compound the special situations that apply to searches at the border. That case law at the present time authorizes warrantless searches and seizures where the officers at the border have reasonable suspicion to believe that an offense has occurred. "Reasonable suspicion" has been interpreted to be "something less than probable cause." This amendment would in fact by implication repeal that authority.

Third, there are the situations where people in fact consent to a search, and this would place that practice in jeopardy, as established by case law.

Fourth, presently 29 States permit searches without warrant upon probable cause any place—boats, cars, game bags, cold storage, warehouses, restaurants, and including private dwellings in certain States. These States include Alaska, Arkansas, California, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New York, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 5 additional minutes.)

Mr. LEGGETT. To continue, Mr. Chairman, in 13 States the officer needs a warrant to search buildings, but he may conduct warrantless searches in all other situations. Those are the States of Arizona, Connecticut, Delaware, Florida, Maryland, Missouri, Montana, New

Hampshire, New Mexico, Pennsylvania, Texas, Washington, and Wyoming.

Therefore, Mr. Chairman, we have a situation in which most States permit their State wildlife agents to conduct warrantless searches, but the hands and feet of the Federal enforcement officers in this area remains tied.

A lot of columnists in the country have raised Cain about the lack of enforcement of Federal fish and game laws. We have mighty few Federal fish and wildlife officers. They are spread mighty thin around the country.

Mr. Chairman, we have a situation now in the State of Alaska where, as a practical matter, the Fish and Wildlife Service does not enforce the fish and game laws of the United States. The conservationists of the country and the environmentalists of the country have risen up because of that state of affairs.

They say, "We want to recognize all of our fourth amendment liberties. On the other hand, consistent with our fourth amendment rights, we want to enforce the conservation and environmental laws of the United States."

In addition, Mr. Chairman, the amendment as suggested by my colleague, the gentleman from New York (Mr. WEISS), would restrict unnecessarily the rights to search and seize incident to arrest for a felony. Under that limited exception one does not have to have committed the felony in the presence of an officer in order to be arrested. Where there is a lawful arrest there is probable cause.

The amendment which the gentleman would make, if it were enacted, would strike that by implication. It would not repeal the right to arrest for a felony on probable cause, but it would restrict the right to search and seize under those circumstances.

For those reasons, Mr. Chairman, I believe that the amendment should be rejected; and that we would abide by the recommendations of the Department of Justice and of the Solicitor of the Department of Interior and conform this law to all of the other fish and wildlife laws that we have on the books.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's yielding.

I just want to state that it is my experience and understanding of the law on the basis of that experience that where, in fact, there is an arrest, it is within the right of the arresting officers to search the person who is arrested and to seize whatever may be in his possession.

The officers do not have the right, obviously, to take him from the middle of the street back into his home and search that home; but if he is in a car, the officers certainly have a right to search that car.

Mr. Chairman, there is no intention in this amendment, nor do I think there is any interpretation that should lend itself to changing that provision of existing law.

Mr. LEGGETT. Mr. Chairman, I appreciate the gentleman's attempt to clarify the language of the amendment. However, I think the language is clear on its face when the gentleman says that the search without a warrant can only be done where the arresting officer believes that a person has committed or is attempting to commit an offense in his presence or view.

Mr. WEISS. If the gentleman will yield further, Mr. Chairman, there is a special section which deals with arrests; and that section, is not affected by this amendment at all, nor are the search and seizure rights attendant with arrest affected by this amendment.

Again, I appreciate that gentleman's yielding.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, the pending amendment should be defeated. The amendment, unintentionally, I am sure, is mischievous. Without question, it alters the law of search as commonly understood. It narrows the power of enforcement officials in the Fish and Wildlife Administration, denying to them rights which other enforcement officials in the Federal Establishment have.

It confuses the law with regard to a misdemeanor arrest with the law of search.

In general a search or a seizure of evidentiary material is presumptively unauthorized unless authorized by a warrant. That is the general rule. To that general rule there has been a large body of law engrafted recognizing that, under certain circumstances, a search without a warrant is authorized. The most common exception is the search incident to a lawful arrest. Another is if exigent circumstances exist making the warrant requirement unreasonable. In other words, Mr. Chairman, under existing law, an enforcement official making a lawful arrest of a suspect may without a warrant search that suspect, he may "pat him down" and may search the immediate area accessible to the suspect. This rule is for the personal protection of the arresting official.

Let us now take the case of one of our Fish and Wildlife officers who may make an arrest for a suspected felony. He has that authority under the law. The arrest may be made upon probable cause. It is not required that the felonious act be committed in his presence. The question is: If this amendment is adopted, can he search the suspect? Under the normal rules of course he can search the suspect, but those normal rules are being modified by this amendment. The amendment says that he may conduct the search only if the offense was committed in his presence. The consequence of this ill-conceived amendment is to expose the arresting officer unnecessarily to a risk of harm.

The gentleman from New York (Mr. WEISS) has said, "But, there is no intent to do this." Well, I will tell the Members that if that is the gentleman's intent, then he certainly has hidden it because the language of the amendment clearly states that a search cannot be conducted unless the offense is committed in the presence of the searching officer.

Mr. Chairman, I would suggest that the Members not confuse this question with some civil liberties issue. No extraordinary power has been given to law enforcement officials under the bill. The same power and authority we give to the FBI and other Federal enforcement officials is given to our wildlife officials, no more and no less. Under the amendment we grant considerably less authority to Fish and Wildlife personnel and, in so doing, expose those important officials to unnecessary personal hazards.

Mr. Chairman, I urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEISS. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. WEISS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 131, not voting 86, as follows:

[Roll No. 2]

AYES—215

Abdnor	Breckinridge	Dellums
Akaka	Brodhead	Derrick
Alexander	Brown, Calif.	Derwinski
Allen	Brown, Ohio	Dickinson
Ammerman	Broyhill	Dicks
Anderson, Calif.	Buchanan	Drinan
	Burke, Calif.	Duncan, Tenn.
Anderson, Ill.	Burke, Mass.	Early
Andrews, N. Dak.	Burton, John	Eckhardt
	Burton, Phillip	Edgar
Ashbrook	Byron	Edwards, Ala.
Bafalis	Caputo	Edwards, Calif.
Baldus	Carney	Ellberg
Barnard	Carr	English
Baucus	Carter	Erlenborn
Bauman	Chisholm	Ertel
Beard, R.I.	Clay	Evans, Colo.
Bedell	Cleveland	Evans, Ga.
Beilenson	Cochran	Fenwick
Benjamin	Cohen	Fish
Blouin	Collins, Ill.	Foley
Boggs	Conte	Fountain
Boland	Cornell	Fowler
Bonior	Daniel, Dan	Fraser
Bowen	Daniel, R. W.	Gephardt
Brademas	Delaney	Gibbons

Glickman
Goodling
Gore
Gradison
Grassley
Hagedorn
Hammer-
schmidt
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jones, Okla.
Kasten
Kastenmeier
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Latta
Le Fante
Leach
Lederer
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Mottl
Myers, Gary
Neal
Nolan
Nowak
Oakar
Ottinger
Patten
Perkins
Pickle
Poage
Price
Pursell
Quayle
Quie
Quillen
Regula
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rosenthal
Rousselot
Roybal
Runnels
Santini
Satterfield
Schroeder
Sebelius
Seiberling
Sharp
Sisk
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Stangeland
Stanton
Steers
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Tsongas
Udall
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weiss
Whalen
Whitehurst
Whitten
Wirth
Yates
Yatron
Young, Mo.

NOES—131

Ambro
Andrews, N.C.
Annunzio
Applegate
Archer
Ashley
AuCoin
Beard, Tenn.
Bennett
Bevill
Blanchard
Bolling
Bonker
Brooks
Burgener
Burleson, Tex.
Burlison, Mo.
Cederberg
Collins, Tex.
Conable
Corcoran
Corman
Cornwell
Cotter
Coughlin
D'Amours
Davis
de la Garza
Devine
Dingell
Duncan, Oreg.
Emery
Evans, Del.
Evans, Ind.
Fary
Fithian
Flippo
Flood
Florio
Flowers
Ford, Mich.
Forsythe
Frenzel
Fuqua
Gammage
Ginn
Gonzalez
Gudger
Hall
Hamilton
Hanley
Harsha
Hefner
Hillis
Howard
Hughes
Hyde
Johnson, Calif.
Jones, Tenn.
Jordan
Kazen
Kelly
Ketchum
Lagomarsino
Leggett
Lent
McClory
McCloskey
McFall
McKinney
Mahon
Mathis
Meeds
Metcalfe
Michel
Milford
Mollohan
Montgomery
Moorhead,
Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nichols
O'Brien
Oberstar
Obey
Panetta
Patterson
Pickle
Pike
Preyer
Railsback
Reuss
Rhodes
Richmond
Rogers
Roncalio
Rooney
Rose
Ruppe
Russo
Sarasin
Sawyer
Schulze
Sikes
Simon
Slack
Stockman
Steed
Steiger
Stokes
Studds
Thompson
Traxler
Treen
Trible
Van Deerlin
Vander Jagt
Walgren
White
Wiggins
Wilson, Bob
Wilson, C. H.
Wright
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—86

Addabbo
Armstrong
Aspin
Badham
Biaggi
Bingham
Breaux
Brinkley
Broomfield
Brown, Mich
Burke, Fla.
Butler
Cavanaugh
Chappell
Clausen,
Don H.
Clawson, Del
Coleman
Conyers
Crane
Cunningham
Danielson
Dent
Diggs
Dodd
Dornan
Downey
Edwards, Okla.
Fascell
Findley
Fisher
Flynt
Ford, Tenn.
Frey
Giaimo
Gilman
Goldwater
Guyer
Hansen
Holtzman
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
Krueger
McDade
McDonald
McEwen
McKay
Madigan
Mann
Meyner
Miller, Calif.
Mitchell, N.Y.
Moore
Myers, John
Nix
Pattison
Pease
Pepper
Pettis
Pressler
Pritchard
Rahall
Rangel
Rostenkowski
Rudd
Ryan
Scheuer
Shipley
Shuster
Skubitz
Stark
Steiger
Teague
Tucker
Ullman
Waggonner
Walsh
Weaver
Whitley
Wilson, Tex.
Winn
Wolff
Wydler
Zablocki
Zeferetti

Messrs. ROBERTS, ANDREWS of North Carolina, and TRAXLER changed their vote from "aye" to "no."

Messrs. STRATTON, HARKIN, COHEN, BROWN of Ohio, and QUIE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BAUCUS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, pursuant to House Resolution 775, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device: and there were—yeas 292, nays 59, answered "present" 1, not voting 80, as follows:

[Roll No. 3]

YEAS—292

Akaka
Alexander
Allen
Ambro
Ammerman
Anderson,
Calif.
Anderson, Ill.
Andrews, N.C.
Andrews,
N. Dak.
Annunzio
Applegate
Ashley
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carter
Cederberg
Chisholm
Clausen,
Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dicks
Dingell
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Fraser
Frenzel
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Ketchum
Keys
Kildee
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McClory
McCloskey
McCormack
McFall
McHugh
McKinney
Maguire
Mahon
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Metcalfe
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Perkins
Pike
Poage
Preyer
Price
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roybal
Ruppe
Russo
Santini
Sarasin
Sawyer
Schroeder
Sebelius
Seiberling
Sharp
Sikes
Simon
Sisk
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Trible
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weiss
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NAYS—59

Abdnor
Archer
Ashbrook
Bauman
Bevill
Buchanan
Burleson, Tex.
Collins, Tex.
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Edwards, Ala.
Evans, Ga.
Flippo
Flowers
Fountain
Grassley
Hammer-
schmidt
Hansen
Harsha
Holt
Huckaby
Kazen
Kelly
Kindness
Kostmayer
Latta
Livingston
Lott
Lujan
Marlenee
Marriott
Mathis
Montgomery
Moorhead,
Calif.
Nichols
Pickle
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schulze
Skelton
Smith, Nebr.
Stangeland

Stump	Treen	Whitten
Symms	Waggonner	Young, Mo.
Taylor	Walker	
Thone	Watkins	

ANSWERED "PRESENT"—1

Bedell

NOT VOTING—80

Addabbo	Ford, Tenn.	Pettis
Armstrong	Frey	Pressler
Aspin	Gilman	Pritchard
Badham	Goldwater	Rahall
Biaggi	Guyer	Rangel
Bingham	Holtzman	Rostenkowski
Broomfield	Howard	Rudd
Brown, Mich.	Jenrette	Ryan
Burke, Fla.	Johnson, Colo.	Scheuer
Butler	Jones, N.C.	Shipley
Carr	Kemp	Shuster
Cavanaugh	Krueger	Skubitz
Chappell	McDade	Stark
Clawson, Del	McDonald	Steiger
Conyers	McEwen	Teague
Crane	McKay	Tucker
Cunningham	Madigan	Ullman
Danielson	Mann	Walsh
Dent	Meyner	Weaver
Diggs	Miller, Calif.	Whitley
Dodd	Mitchell, N.Y.	Wilson, Tex.
Dornan	Moore	Winn
Downey	Myers, John	Wolff
Edwards, Okla.	Nix	Wydler
Fascell	Pattison	Zablocki
Findley	Pease	Zeferetti
Flynt	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. McDonald against.

Until further notice:

Ms. Holtzman with Mr. Badham.
Mr. Stark with Mr. Kemp.
Mr. Jenrette with Mr. Del Clawson.
Mr. Ford of Tennessee with Mr. Dornan.
Mrs. Meyner with Mr. Edwards of Oklahoma.
Mr. Chappell with Mr. Broomfield.
Mr. Carr with Mr. Findley.
Mr. Addabbo with Mr. Goldwater.
Mr. Howard with Mr. Krueger.
Mr. Bingham with Mr. McDade.
Mr. Conyers with Mr. McKay.
Mr. Dent with Mr. Brown of Michigan.
Mr. Danielson with Mr. Crane.
Mr. Dodd with Mr. Frey.
Mr. Mann with Mr. Madigan.
Mr. Nix with Mr. Burke of Florida.
Mr. Pepper with Mr. McEwen.
Mr. Rangel with Mr. Guyer.
Mr. Rostenkowski with Mr. Mitchell of New York.
Mr. Zablocki with Mr. Pease.
Mr. Wolff with Mr. Butler.
Mr. Cavanaugh with Mr. Gilman.
Mr. Diggs with Mr. Pressler.
Mr. Downey with Mr. Moore.
Mr. Fascell with Mr. Shuster.
Mr. Flynt with Mr. Pritchard.
Mr. Miller of California with Mr. Rudd.
Mr. John T. Myers with Mr. Scheuer.
Mr. Pattison of New York with Mr. Skubitz.
Mr. Rahall with Mr. Winn.
Mr. Ryan with Mr. Steiger.
Mr. Shipley with Mr. Tucker.
Mr. Teague with Mr. Walsh.
Mr. Ullman with Mr. Whitley.
Mr. Weaver with Mr. Charles Wilson of Texas.

Mr. LEACH and Mr. GONZALEZ changed their vote from "nay" to "yea."

Mr. BUCHANAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 2329) just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing inconsistencies, confusion, inefficiency, and waste is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards.

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guideline for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease,

or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activitiy.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

GUIDELINES

SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative guidelines to promote consistent and efficient use of contract, grants agreement, and cooperative agreements as defined in this Act.

REPEALS AND SAVINGS PROVISIONS—

SEC. 10. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891 and 1892), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I will not object, but I do want to request the chairman to explain the effect of the Senate amendment.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, I will advise my distinguished friend, the gentleman from New York, that this bill H.R. 7691 defines the legal instruments—contracts, grants, and cooperative agreements—to be used by Federal agencies in various types of procurement relationships.

The bill passed the House unanimously in September and passed the Senate unanimously in October. The Senate, however, deleted a few words from sections 5 and 6 which related to basic research. These words had been included as an amendment to the House bill at the request of OMB, NASA, and DOD. Subsequent to the Senate's action, we have had lengthy discussions with OMB and the other agencies and all have now agreed that the language is not necessary and that the deletion of those words will not in any way interfere with the ability of the agencies to conduct basic research. In all other respects, the House and Senate versions are identical.

The Director of OMB has indicated that the administration will support the Senate-passed version. Hence, I am asking that the House agree to the Senate amendment and send the bill on to the President for signature.

Mr. HORTON. Mr. Speaker, I withdraw my reservation of objection, and I do wish to take this opportunity to commend the gentleman from Texas and to congratulate him on the fact that he is serving his 25th year in the House. He has distinguished himself with his constituency and in this House by the work he has done in the Judiciary Committee and the Joint Committee on Congressional Operations and recently as chairman of the Government Operations Committee. I congratulate him for his 25 years service in the House of Representatives.

Mr. Speaker, I rise in support of H.R. 7691 as offered by the chairman of the Government Operations Committee. As Mr. BROOKS has indicated, this bill will bring some order to problems which have arisen in providing grants and other forms of assistance to State and local governments, as well as other types of recipients.

The bill was recommended in December 1972, by the Commission on Government Procurement. It has more recently received the endorsement of the Commission on Federal Paperwork, on which I was privileged to serve as the Chairman. Both the House and Senate have approved the bill, with only minor modifications.

The bill accomplishes two goals of the Procurement Commission: First, it distinguishes assistance relationships as a class from procurement relationships by requiring contracts for any procurements; and second, it directs the Office of Management and Budget to undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs as well as determine the feasibility of developing a comprehensive system of guidance for such programs.

At present, there is little uniformity in the way in which relationships are developed, and both the Government agencies involved and the participants with the Government find themselves in a state of confusion.

The House-passed version included an amendment offered by OMB which sought to further define the term "public purpose." OMB, DOD, and NASA have subsequently agreed that the Senate language is preferable.

The central issue with regard to that amendment is the ability of DOD and NASA to continue to offer grant financing for basic research to universities. The amendment, as originally agreed to by the House, would have created the possibility that those two agencies would have to enter into the assistance method of aiding universities; a method which is prohibited by their respective appropriations acts.

Mr. Speaker, I believe this legislation, while quite technical and narrow in scope, will make a significant contribution to clarify and stabilize the means by which the Federal Government distributes financial support throughout the Nation. I urge its approval.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. FUQUA. Mr. Speaker, reserving the right to object, I, too, will not object to the request of the gentleman from Texas, and I rise also to commend the gentleman on his fine service to the House as chairman of the Government Operations Committee.

Mr. Speaker, I would like to propound a question to the gentleman from Texas.

During the committee's consideration of H.R. 7691, I became concerned that its requirements might result in an added administrative burden to universities and to agencies such as NASA which currently use grant agreements to support mission-related basic research

in aeronautics and space at universities and other nonprofit research organizations. During fiscal year 1977 almost 60 percent of NASA's funding to universities was provided under more than 1,300 basic research grants. The principal purpose of these, of course, was to increase basic knowledge and understanding in aeronautics and space, as opposed to providing assistance to universities, as that term is used in H.R. 7691. In addition to requiring a study by OMB and the interested agencies of this whole area, the bill, in section 10(d) provides the Director of OMB with discretionary authority to except individual transactions or programs of any executive agency from the application of the provisions of the act. Is it the chairman's understanding of the intent of the bill, and particularly that section, that if the Director of OMB decides that it would be appropriate for NASA to be able to continue to use research grants to support basic research in aeronautics and space at universities during the transition period, that the Director would have the authority to so except those particular programs?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. FUQUA. Mr. Speaker, further reserving the right to object, am I correct that the Director of OMB would have the authority, if he were to except NASA's research grants in aeronautics and space areas, he could at the same time permit NASA to utilize the discretionary authority provided in section 7(b) of the bill to permit universities or other nonprofit organizations to retain title to equipment or other tangible personal property purchased with grant funds?

Mr. BROOKS. That is correct.

Mr. FUQUA. Mr. Speaker, further reserving the right to object, I believe that those assurances of the intent of H.R. 7691 are important and, indeed, that OMB be urged to use the broad authority provided in section 10(d) of the bill to prevent the provisions of the act from causing undue interruptions or imposing unnecessary burdens on Federal agencies and, more importantly, on universities during the 3-year transition period after enactment of the legislation. After the 3-year transition period, if agencies are required under the bill to substitute procurement contracts for the more simplified research grants, OMB and the agencies should do everything possible to minimize the administrative burden on universities. In achieving standardization under the bill we must be continually mindful of an overriding need to reduce Government redtape and thus maximize the use of the funds available for productive research work.

I ask if I am correct that the authority given OMB to issue supplementary interpretative guidelines in section 9 of the bill would permit OMB to work with agencies such as NASA to design simplified procurement procedures and arrangements to minimize administrative workload?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield further, that is correct, subject to the provisions of the applicable laws.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute.)

Mr. DEVINE. Mr. Speaker, I have asked for this time for the purpose of inquiring of the majority leader of the program for the balance of the week, if any.

Mr. WRIGHT. Mr. Speaker, will the distinguished gentleman from Ohio yield?

Mr. DEVINE. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, the only remaining item of business for the balance of this week is the state of the Union message at 9 o'clock this evening. When the House recesses, it will recess to reconvene for that purpose.

Next week, we would come in at 12 o'clock noon on Monday. There are no District bills, but there are four suspensions listed:

H.R. 9165, George C. Marshall statue;

H.R. 8771, payments to former spouses;

H.R. 9471, retirement credit for Japanese Americans;

H.R. 9169, title XI for fishing vessels.

Again, on Tuesday of next week the House would meet at noon. There will be five bills on suspension, as follows:

H.R. 8811, retired pay for Tax Court judges;

H.R. 7581, telephone companies' taxes;

H.R. 7662, administrative conference authorization;

H.R. 8647, payment ceilings for CHAMPUS physicians;

There will be a Senate bill, S. 266, to encourage reduction of radiation in uranium mill tailings.

On Wednesday, the House will meet at 3 p.m. We will have three bills. First, H.R. 5656, ConRail medical payments. An open rule already has been granted with 1 hour of general debate.

A rule also has been adopted on H.R. 5798, granting 1 hour of general debate on a bill relating to the Office of Rail Public Counsel.

Finally, subject to the granting of a rule, we plan to consider H.R. 2664, concerning Sioux Indian claims.

On Thursday, the House will meet at 11 a.m., and we would hope to complete two bills:

H.R. 5503, Defense Officer Personnel Management Act, subject to the granting of a rule;

And H.R. 2637, cargo capacity for civil aircraft, which is also subject to the granting of a rule.

In each of these instances I hope the gentleman and our other colleagues will observe that it is the purpose of the leadership again this year to maintain an accurate and predictable schedule.

We believe that this practice was popular in the year just past. Members had reasonable knowledge of when they would be in session, and a fairly certain time for adjournment.

The House will again adjourn by 3 p.m. on those Fridays when we are in session, and by 5:30 p.m. on other days except, of course, for Wednesday, when we will continue until we complete the business scheduled.

By pursuing this firm schedule we permit the committees in the first part of our session ample time in which to conduct their work.

The gentleman also should know that the Speaker has confirmed this morning our intention not to schedule Friday sessions for the next 5 weeks beginning tomorrow. The first Friday session anticipated will be on February 24.

Perhaps that will be of assistance to Members in planning their schedules. Last year, the House was in session on 24 of the 38 Fridays when the House was in session. Thus, our record to date in this regard has been good.

We have worked hard, and we believe that at this early stage of the session committees can better perform their labors, and Members can better perform their other duties if Friday sessions are avoided during these early weeks. Barring emergencies, that will be our purpose.

Mr. DEVINE. I thank the gentleman.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. DEVINE I yield to the distinguished Speaker

Mr. O'NEILL. Mr. Speaker, there is a possibility that the Outer Continental Shelf may be scheduled for a Rules Committee hearing on Tuesday. It has not been scheduled, but if it is, and if we do get a rule, there is a probability that on Wednesday or Thursday next this bill could be on the schedule.

Mr. WRIGHT. That is a major bill, as all of us are aware.

Mr. DEVINE. Mr. Speaker, I yield back the balance of my time.

HOUR OF MEETING ON MONDAY, JANUARY 23, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight, following the message of the President, that it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore (Mr. RODCALIO). Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Mr. Speaker, reserving the right to object, I do so just to ask the majority leader if the announcement just made by our distinguished Speaker will have any effect on the previous announcement that there will be no session on Friday.

Mr. WRIGHT. We do not anticipate a session next Friday. Subject to action by the Rules Committee and a timely reporting of a rule concerning the Outer Continental Shelf, the Speaker has announced the intention to bring that bill up next Wednesday or Thursday.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, if we can possibly bring it on Wednesday, we will do so. We have made the decision that there will be no Friday session, so there will be no Friday session.

Mr. RHODES. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 452. Concurrent resolution to provide for the joint session to hear the President.

THE FREE RIDE IS BACK AND CHICAGO HAS IT

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, as the author of the FAIR Plan legislation that provides for fire insurance for homeowners who might otherwise not be able to get coverage, I am happy to bring to the attention of my colleagues a new FARE Plan.

Unlike the insurance plan, the FARE Plan is designed to encourage the use of public transportation by providing fare rebates. The plan has the potential of saving 84,000 gallons of gasoline a month in the city of Chicago and, if carried out across the country, could go a long way to ending our dependency on foreign oil.

The plan, which calls for cooperation between the government, in this case the Regional Transportation Authority, and private industry, went into effect shortly after the first of the year, and all indications are that the program is extremely successful. Under the program, shoppers who use public transportation will receive a full refund of the cost of the round trip when they present a transfer to participating merchants. I am extremely pleased and indeed honored that Polk Bros., a major appliance retailer which is headquartered in my congressional district, the 11th District of Illinois, is the first retailer to participate in the FARE Plan.

POLK BROTHERS-RTA DESERVE CREDIT

This is indeed a bold step toward increasing ridership on public transportation, and much of the credit must go to RTA Chairman Milton Pikarsky and Sol Polk, president of Polk Bros., as well as RTA official Hubert Messe, who worked for 9 months to bring the program into operation.

Quite simply, this is how the program operates. To qualify for a refund, shoppers must present an RTA transfer to any Polk Bros. store in the Chicago Transit Authority's service area within 1 hour and 15 minutes of the transfer's time limit. Each person surrendering a transfer including children, senior citizens and handicapped persons, will receive a refund of $1.20 in cash regardless of whether they were eligible for a reduced fare. For children to receive a refund, however, they must be accompanied by an adult. No purchase is necessary in order for the traveler to receive the rebate.

Mr. Speaker, one of the most important issues that President Carter has addressed during his first year in office has been that of energy conservation. He has continually stressed the need for increased use of mass transportation as one of the leading ways to reduce energy consumption. Certainly the new FARE plan is a dramatic way to meet President Carter's suggestion of boosting mass transportation usage. It is the type of program that should be instituted in every city and congressional district in this country where mass transit facilities exist, and I know that the regional transportation authority would be more than happy to share its knowledge of the program with other communities.

Not only will the program greatly reduce gasoline consumption by getting people out of their cars and onto mass transit, but it will have a great impact on the air pollution fight. For every car we take off the highway, we improve the air just that much more. I have said many times that one of the major problems of our cities is that pollution is choking our cities to death. People cannot live where they cannot breathe and when we clean up our air, we are also revitalizing our cities just as if we were rebuilding poor neighborhoods or upgrading our schools.

AN EXAMPLE OF GOVERNMENT-INDUSTRY COOPERATION

Mr. Speaker, the era of the free lunch no longer exists but perhaps we are now seeing the era of the free ride, and I am proud that local government and private industry have taken a lead in this area. Experts in the energy field have said that we cannot solve our energy problems without trying new methods. The fare plan is one of those new methods that must be tried and certainly Polk Bros. deserves a great deal of praise for being the first business to join the program.

Although the program is limited only to the area presently served by the Chicago Transit Authority, Polk Bros. has already expressed interest in extending the rebate program to the six-county area served by the regional transportation authority.

In commenting on the program, Polk Bros., President Sol Polk said:

We look forward to this effort contributing to President Carter's energy conservation program. Furthermore, it has great possibilities of being adopted by retailers all over this country and I feel we can all take pride in knowing that we have pioneered a new concept that links retail merchants with public transportation.

Mr. Speaker, I cannot emphasize too highly the role that Polk Bros., has played in the development of the plan. The rebates come directly out of the store's pocket and there is no reimbursement made to the store by RTA. Polk Bros., anticipates that at the height of the program it will make some 1,000 refunds a day. For the initial 90 days of the program, Polk Bros., has budgeted $200,000 with one-half of that amount being spent on an advertising campaign to encourage the use of public transportation. Mr. Polk, who has gained a reputation in the retail industry for his merchandizing and promoting activities, believes that the new program could increase his business by 20 percent and that prospect has caused businesses across the country to contact Polk Bros., seeking information about the program.

SATURDAY BIGGEST DAY FOR REFUNDS

Interestingly, the largest number of refunds have occurred on Saturdays which is traditionally a slow day for mass transit ridership. It would appear that the promotional program has been responsible for increasing ridership on so-called slow days and may well be attracting new riders.

I note that Metro, the Washington area subway system, does not operate on Saturday. I commend the FARE plan program to the Washington Metro Board as the type of program that could be used to attract enough Saturday ridership so that the subway could be operated on that day.

It has been estimated that for everyone using mass transit, one-half gallon of gas is saved per trip as opposed to automobile travel. If one store in Chicago can generate a savings of 84,000 gallons of gasoline a month, then it would take only about a dozen more stores in major cities across the country to generate 1 million gallons of gasoline a month savings.

Public transportation would benefit because of increased ridership and the accompanying new revenues; energy conservation programs would benefit because of reduced gas usage; retailers would benefit from increased sales; and consumers would benefit from free public transportation rides. This is a program that has something for everyone and in this day and age, there just are not many of those around anymore.

LIMITING LEGISLATION IN APPROPRIATION BILLS: TIME FOR REAL REFORM

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HARRIS. Mr. Speaker, as the House of Representatives reconvenes for the second session of the 95th Congress, we will hear from the President tonight on the state of the Union. I am sure his address will provide the Congress and the people hope and leadership for 1978 and I look forward to his comments.

As we think ahead about what our Nation's problems are and how we should respond to those problems, I think this

House must take a hard look at the "state of the House." I believe that No. 1 on the House's agenda in the opening days of the session should be a major reform of the House rules and the way we conduct the public's business. I believe we should all be working to reform the rules of the House of Representatives by removing the loopholes that permit legislation in appropriation bills. I have prepared a resolution to accomplish that purpose.

CURRENT RULE: CONTRARY TO CONSTITUTIONAL PRINCIPLES

The separation of legislation and appropriations is a fundamental principle of constitutional government, from which derives our authorizations-appropriations process and the jurisdictional structure of our committees. The principle, however, has been compromised by the House in several ways.

First, through practice, the House allows "limitations" on appropriations bills. Limitations place conditions on spending which may modify existing law.

Second, the so-called "Holman rule" permits changes in existing law if those changes are, first, germane to the bills, and second, "retrench expenditures." (Retrenchment is the reduction of money to be taken out of the Treasury.)

A recent Congressional Research Service study has said:

> By their nature, the Holman Rule and the practice of limitations directly or indirectly contradict the general principle that decisions on the substance of policies should be made separately from decisions on funding those policies.

The Holman rule's choppy history—it has been eliminated and modified several times—illustrates the persistent and basic dispute over whether legislative riders should be attached to appropriations.

WHAT THE RULES CHANGE WILL DO

Very simply, my resolution would bar limitation amendments and delete the Holman rule. The text of the resolution reads as follows:

> *Resolved*, That the second sentence of clause 2 of rule XXI of the Rules of the House of Representatives is amended by striking out everything before the proviso and inserting in lieu thereof the following: "No provision in any appropriation bill or amendment thereto changing existing law or having the effect of imposing any limitation not contained in existing law shall be in order".

It would remove language permitting any Member to offer so-called retrenchment amendments. It would prohibit any provision in an appropriations bill or amendments thereto which change existing law or impose any limitation not contained in existing law.

The resolution would allow floor amendments that—

One. Change amounts of money in the bill;

Two. Appropriate funds for authorized programs not included in the bill if germane and if not contrary to these strengthened strictures against legislation in appropriations bills; and

Three. Retrench expenditures if the authorizing committee has reported to that effect and if those amendments are germane. (This provision is in the current rule and would not be modified by my resolution.)

The resolution covers all appropriations measures, including continuing resolutions.

It would not disturb the right to offer motions to recommit when bills are reported back to the House from the Committee of the Whole.

The resolution would not change House Rule XX which provides that any Senate amendment in an appropriations bill that changes existing law cannot be agreed to by House conferees unless specific authority to agree to the amendment is first given by the House by a separate vote on every such amendment.

HANDLING POLICY ISSUES RESPONSIBLY

In recent years, the House has voted on a miscellany of riders. Banning the SST, barring trade with Cuba, restricting OSHA, binding our multilateral lending institutions, upgrading veterans discharges, reviewing the status of MIA's stopping the B–1 bomber, and limiting peanut price supports are a few examples. In the first session, we underwent a tortuous and protracted experience attempting to resolve the "Hyde amendment" with 11 votes in the House and a total of 28 votes in both Houses.

I firmly believe we must have a system that handles legislation responsibly, thoughtfully, and deliberately. Legislative riders on appropriations bills simply do not meet this standard.

There are several specific reasons that make this major reform timely and important:

One. The relatively new House budget procedure is designed to facilitate initial policy decisionmaking in concert with funding decisions. The legitimate and essential objective of economy in spending is better attained through this method than by the awkward and antique Holman rule.

Second. Congress has established a strict schedule for handling the budget resolution and appropriations bills. The House now takes up appropriations bills in June and it is feasible to complete action before the beginning of the fiscal year, October 1. House Rule XXI can effectively nullify that schedule. School programs, black lung, and SSI payments, and Federal salaries should not be hamstrung by flaws in our procedural system. We should adhere to the firm, predictable schedule we have set.

Third. Interpretations of the current rule have resulted in conflicting, ambiguous, and inconsistent rulings—leaving great confusion about what is and is not allowed.

Fourth. Legislating on the floor in appropriations measures can result in superficial, unsound, or unsatisfactory public policy. Substantive issues should be handled by the substantive committees that have experience with the issue and should be brought to the floor with that background.

Fifth. Congress can work its will through other legislative avenues. While I believe that the authorizing committees will usually act if a policy needs legislative attention, House Members may take steps to force action. Discharge procedures are available. Committee rules provide Members means for scheduling action on bills.

APPROPRIATIONS MEASURES CAN BECOME NIGHTMARES

After long study and much consultation with experts on the history and rules of the House, I have concluded that this type of rules reform is the step we must take. We are acting irresponsibly by allowing appropriations, measures to become coatracks for every conceivable issue, fad, or reaction that comes along. The legislative process is basically sound, as the 190 years of our Republic have shown. I believe the system provides adequate, public, and deliberative ways to attack head on the major policy questions that should be dealt with. But to allow this flaw in our basic procedures to tangle up and distort public policy is simply wrong. It is irresponsible. Appropriations bills should be money measures for purposes authorized in law; they should not become issue Christmas trees.

SUPPORT FOR RULES REFORM IS GROWING

I have received much encouragement and support for this type of change in the House. There is much sentiment to "do something." Media attention to the problems we had in the first session and the need for a solution is growing. I intend to work hard to get this rules change enacted. What it means is good government. What it means is responsible government. And it means showing the American people that Congress does care and can act and that they have a Government they can believe in.

CARE SHOULD BE TAKEN IN CHANGING THE RULES OF THE HOUSE OF REPRESENTATIVES

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I take this time to respond, as I think others should respond to what our colleague the gentleman from Virginia (Mr. HARRIS) said a few minutes ago. He indicated we have got to do something regarding changing the rules of the House to prevent limitations on appropriation bills.

In the last session of the Congress, the tendency of the majority with respect to the rules of the House was to limit participation on the floor such as during the labor reform bill. Closed rules and gag rules are becoming more common. I am against the limiting of participation by Members of this body. I find it incredible that some Members would consider limiting participation of all Members on the floor of the House. Apparently majority rule is all right unless the majority votes in a way that the leadership opposes. I find that this is an astounding thing to attempt to do by attempting to limit participation of the Members. This is going to produce a situation which will be hard to explain to our constituents. Take busing for example. I ask the Members when was the last time a committee held hearings on forced busing? How are we going to present the views of our people with regard to busing, so

that we can present their views to the Congress as long as the majority party is making sure that the Members will never hear what we have got to say on these many issues, or even to consider them in the committees?

Maybe this is why some seek to limit the opportunity of Members to get votes on appropriation bills. Some like to avoid issues and not be faced with directly voting on controversial matters. As long as a committee bottles up a tough issue, the public never really knows where the Members stand. I certainly do not imply this would apply to the gentleman from Virginia, but his purpose would protect those who seek to avoid issues.

I thought this liberal Congress was going to set out in a direction of open participation with more prerogative to the individual Members. Evidently that is only the case when the positions developed in free and open debate are those that are in consonance with what the leadership wants. I think we should reject such a rules change, and I would hope that it would proceed no further than the consideration that has just been presented by the gentleman from Virginia.

CRITIQUE OF SECRETARY CALIFANO'S ANTISMOKING VIEWS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker; the campaign against smoking announced by Secretary Califano on January 11 is absolutely astonishing. In announcing a campaign which will, in his words, "require the active participation of all segments of our society," he is revealing to all of us the nature of a Government more bent on controlling our lives than in serving our needs.

Lest you think these are the words of one who is personally threatened, let me point out that I do not smoke, and never have. I should further add that I am the only member of my family who did not smoke, and the only one who ever suffered from a lung-affecting illness. In fact, my grandmother had smoked for as long as anyone in the family can remember, prior to her death at 99 years and 11 months.

If my concern, then, is not motivated by the potential personal effect; it is based in large measure on the impact it will have on personal freedom and the economy of my State.

In 1976, $473 million in tobacco leaf and $296 million in cigarettes was shipped through the port of Norfolk. The economic benefit to Virginia from the tobacco industry would be considerably more than $2 billion annually.

In addition to this, taxes derived by local, State, and Federal governments from tobacco amount to nearly $6 billion annually and the total value of all aspects of the tobacco industry to the American economy is incalculable.

These facts alone should dictate caution in initiating the first steps of what could become a move to bring about a total ban of a personal habit practiced by 39 million Americans.

And that is the basis of my second concern.

Three days after Mr. Califano announced his grandiose plan, Dr. Helen Hackman, health director of Arlington County, director of Arlington's Department of Human Resources, and a certified specialist in the field of preventive medicine, expressed her personal views of the subject, coincident with her resignation from that office.

Dr. Hackman wrote in the January 14 Washington Star:

> Longevity and wellness are only slightly dependent upon active efforts by individuals. Collective health improvements in the community derive from the great sanitary advances: a pure water supply, adequate sewage, food inspection which brings reasonably safe and sanitary food to our stores, restaurants and homes. Adequate housing, heat, clothing and food also contribute greatly.

Now, this lady's position as an expert in her field has been well established, and in all fairness, she has some rather sharp things to say about the American lifestyle. But she is a realist. And she adds:

> Without a doubt, the American people are being oversold on illness prevention. I do believe prevention is the glorious new myth in American medical care. I do not believe that publishing thousands of pages on prevention in 205 Health Systems Agencies' plans will accomplish much toward improving the health of the American people—nor, incidentally, toward containing the ever-escalating costs for health care.
>
> The planners are fooling the people. The only beneficiaries to date appear to be Xerox, IBM, and other reprographic processers. Certainly their corporate health and the health of their stocks is sound—little else is.

So my second concern is that we are about to embark on a type of program about which many professionals in the field have grave doubts.

But I have still a third concern, and that is the message this Government is sending to the people with regard to their personal lives. This administration was elected in large part because the people believed its spokesmen when they said they were against paternalistic government. They believed they saw a chance that the time had come when the goal of Government would be to minimize not only its own size but its intrusions into personal concerns. Now they know differently. Now they know that at least one Cabinet member of the administration which professed to want a government "as good as the people" has no faith whatsoever in the ability of those same people to live their lives without interference.

This Government will impose the will of a cabinet department on other departments, by setting nonsmoking rules, and on independent agencies such as the CAB in the same manner. It will "encourage" private sector insurors to set their rates to conform with its wishes, even though ratesetting has long been the province of State government.

Where potential harm exists, the Secretary of Health, Education, and Welfare has a mandate to educate. But Mr. Califano has overstepped the boundary between education and strongarming.

If Secretary Califano wants to wage a personal vendetta against smoking, let him do it with his own resources, on his own time, and at no expense to the taxpayers.

SUMMER CAREER INTEREST PROGRAM

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I am introducing a bill to authorize a summer career interest program, to be administered by the Army Reserves. This legislation authorizes a program which has been conducted for 7 years; but for which the Chief of Army Reserves would like to have congressional authorization before continuing with it.

The summer career interest program (SCIP), created by Col. Robert Colby, a judge in Alexandria, Va., was primarily developed for the purpose of utilizing the many talents of the Army reservists by allowing them to instruct teenagers between the ages of 14 and 19 in several basic military and nonmilitary-related fields.

Courses which have been offered by SCIP have been aviation ground school, amateur radio, basic photography, introduction to medical lab technology, introduction to law enforcement, basic automotive maintenance and control tower operator. This is a highly academic program in which students are taught for 7 hours daily for 2 weeks. The emphasis is on providing training for use in civilian or military careers, with no pressure applied for military enlistment. Amateur radio operators and students taking aviation ground school and control tower operator can take their licensing tests for Federal certification. In addition, college credit has been available through Southside Virginia Community College, Alberta and Keysville, Va., for a fee of $10 per course, and upon successfully passing a final exam administered at the conclusion of each course.

For the past seven summers, courses have been taught by Army reservists at 17 different locations throughout the United States. Although most of the camps have been held at military installations, college campuses have also served as camp sites. Most Army reservists are required to serve on annual training for 2 weeks each year, and many reservists who have served as instructors regard teaching as the most meaningful training sessions ever experienced. They feel that teaching is a very effective way to sharpen their own skills.

The summer career interest program is not a military program. There are no haircut nor dress restrictions. and there are no military-type drills. To date, over 6,000 students and 350 instructors from every State have participated. The

courses have been attended by minorities and members of various national youth organizations such as Boy and Girl Scouts. Local and national organizations have sponsored students from inner cities in an effort to extend the program to teenagers from all socioeconomic backgrounds.

To participate, the student must obtain his or her parent or legal guardian's permission; and must defray his or her own costs associated with the program, including transportation. Last year's program cost was $62.50.

Because the students pay transportation and program costs, and Army reservists are paid out of the defense training budget; the direct administrative costs of the program are nominal and have been absorbed within current budgetary allocations.

The program has received glowing reports from all who have had contact with it, including instructors, participants, school counselors, and parents. It has also been endorsed by the Exploring Committee of Boy Scouts of America. Its potential is even greater; and I am introducing the bill in hopes that this excellent program can continue.

SCIP is a way to train reservists as they pass on a skill or lifetime hobby to teenagers while also showing them a side of the Armed Services not always seen. I hope you will agree that this legislation deserves your support.

THE FARMERS' PROBLEMS IN AMERICA ARE KNOWN ONLY TO THE FARMER

The SPEAKER pro tempore (Mr. RONCALIO). Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

Mr. SIKES. Mr. Speaker, The farmers' problems in America are known only to the farmer. There is now a nationwide threat of a strike by farmers who seek to focus attention upon their problems. There may be no other way they can get the attention of the consumer public and the lawmakers. The makeup of Congress is predominately urban. Few Members have basic knowledge of the difficulties which beset the American farmer. These difficulties have grown worse, year by year. During that time, Washington has appropriated billions upon billions of tax dollars for urban areas. That is where the votes are. Significantly, heavy Federal spending with no serious attempt to balance the budget has promoted the inflation which now hits the farmer harder than anyone else.

It is time for the American people to listen to the farmers. They produce the food and fabric which America requires and the world wants and needs. They cannot continue indefinitely to produce without some of the protection which is offered in such large measure to labor and to most segments of the industrial world. Costs to the farmer have grown by leaps and bounds. Farm operations and farm equipment require substantial financing. The farmer's products generally enjoy very little protection by way of subsidies or loan guarantees from the Government. That means that the farmer sells at the mercy of the buyer.

The urban Congressman listens to the complaints of the consumers about high prices of food and textiles. Automatically they assume the farmer is getting rich. It is not the farmer who gets the prices charged to the consumer. His percentage is only a small portion of that cost. The far greater portion goes to transportation and to merchandizing costs.

Meanwhile, the farmer looks across the spectrum, and he sees the Federal Government trying to guarantee almost everybody else an increased income. Federal employees receive an automatic salary increase. The minimum wage is increased—which will further increase the farmer's operating costs. Social security taxes are increased. Federal spending and Federal debt are soaring into the stratosphere.

Most of the products produced on the farm today are selling at less than the cost of production. Nationwide, the farmer in America is in distress. The average level of farm family income is below the poverty level established by Government for welfare families. The farmer is demanding parity for his crops. For years the farmer has received parity based on 70 to 85 percent of the cost of past production. No one seems to be concerned about the fact this is a "sugar tit" which gives him the incentive to continue producing but in its operation it pushes him further in debt year after year. The farmer is bedeviled by form filling and regulations just like any other segment of American business. He has few options. He can continue to produce or he can go out of business. Corporate farms have taken over where many individual farm families have been forced to the wall. More Americans need to realize that our American farm efficiency is one of the few advantages that we have left. The American consumer is the direct beneficiary. It is to their advantage and to help in world trade that Congress should accept its responsibility toward the farmer. His complaints are real and they are legitimate.

The worker who is protected by the minimum wage does not receive 70 to 85 percent of what is considered a proper national wage base. He gets 100 percent. Why should not the farmer's labor receive the same guarantee? I support parity for farmers. I support also a vastly enlarged crop insurance program. This is now a small program. If it is made nationwide, it will take at least a part of the risk out of farm operations. Our Government has been very slow to recognize the opportunity offered by expanding the crop insurance program. It has been standing still for years. We also need a cash program to increase exports of farm commodities. There is a worldwide market for farm products. We can produce these in surplus and farmers will gladly do so if encouraged. Additional sales of these commodities abroad will offset some of the billions we are paying for foreign-produced oil.

It is time to wake up before the farmer shows that he means business and shuts off the supply of commodities which feeds America. If the average farmer should stop working and go on welfare, he would probably be better off than he is today. That is not what we want for America.

COMMEMORATING THE 49TH BIRTHDAY OF DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, last Sunday was the 49th anniversary of the birth of Dr. Martin Luther King, Jr. This fall, while serving as congressional delegate to the 32d General Assembly of the United Nations, I had the privilege of working with Mrs. Coretta Scott King who also served as a U.S. Ambassador. In representing our country, Mrs. King proved to be remarkably attentive to the views and needs expressed by delegates from other member nations. This personal characteristic is representative both of the aspirations of our Nation and of the ideals of her late husband.

Dr. King was a man who asked not to be remembered in long speeches or through recitations of his many awards. Rather, he asked only to be remembered as one who "tried to love and serve humanity." On this occasion, we should bear in mind the struggles such a man endured in his quest for equality, and the adversities he encountered while captivating our national conscience.

In an environment where school doors were closed to curious minds, where front bus seats could not comfort tired feet, where opportunities were limited and backdoors prominent, hope was minimal, and alienation fluorished. With despair in the heart, there could be little with which to pursue happiness.

Outraged at the damage inflicted upon too many lives for too many generations, Dr. King asked how, in a land which proclaims equality to be a "self-evident" truth, could any man be safe when tyranny over the body and spirit was allowed to reign. Could any citizen truly feel secure when sacred rights granted to all were applied selectively?

Without rancor, he urged us to "let freedom ring" for all Americans, regardless of race, culture, or religion, not merely because such a principle is embodied in our Constitution, but because we as a nation acknowledge strength in our unique diversity.

Dr. King inspired a peaceful movement; he would not allow the hateful mobs, the snapping police dogs, or the stinging fire hoses to distract or dishearten. He refused to utilize the tactics employed by the debased. He touched us by maintaining his dignity, his humanity, his pride; and in so doing, he moved the Nation's conscience and our hearts.

Martin Luther King, Jr., recognized that he might not get the "mountaintop" with us, as the struggle to set all men free progressed. And while our society has changed dramatically from the time

when Dr. King began his work, much still remains to be done before this ascendancy is completed.

Yet Dr. King's achievements will stand out forever in rebuttal to those cynics of humanity, and his accomplishments will linger as long as there are men who refuse to become complacent about their rights, and who remain restless in the face of injustice. So today, let us honor Martin Luther King, Jr., a man who served humanity with love, and a man who, in turn, is revered throughout the world.

TRIBUTE TO THE LATE HONORABLE LEE METCALF, SENATOR FROM MONTANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. BAUCUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the life, character, and public service of the late Honorable LEE METCALF, Senator from Montana.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. BAUCUS. Mr. Speaker, LEE METCALF's death ends an era—the era of Western populism. He was one of its last great leaders, dedicated to the principles of a better deal for the "little man," of a better life for those who struggled to make ends meet in the sometimes harsh environment of the Western frontier.

No matter how long the odds, how strong the opposition or how politically inexpedient, LEE METCALF's actions were those of a man of conscience, caring only for the accomplishments of his ideals. But, unlike the traditional politician, he was not interested in the credit which goes with accomplishment. Indeed, LEE shunned publicity and he was probably the only Member of Congress in the past decade who never had a press officer. Had he so desired, much more publicity could have been given to his legislative achievements, for they are many and impressive.

Elected to the 85th Congress, LEE was one of the original "young Turks" who were the first to move for congressional reform. Let me list a few of his accomplishments during his 8-year career in the House.

He was a founder and first chairman of the Democratic Study Group.

He was known as "Mr. Education" during the Eisenhower administration, because of his intense efforts to make Congress and the administration aware of the critical classroom shortage in our Nation.

He helped write the Library Services Act which increased Federal funding for libraries.

He was one of the original cosponsors of legislation which would eventually become the Medicare Act.

He defeated legislation allowing private acquisition of public lands because he did not believe in "raids on the public domain."

Elected to the Senate in 1960, LEE continued his efforts on behalf of schoolchildren, consumers, and conservationists.

He was a leader in the enactment of the Elementary and Secondary Education Act.

He fought to extend the GI bill's educational benefits to a new generation of veterans.

He was a key to the effort to improve vocational education.

Long before it was fashionable, LEE was an advocate of consumer protection. He closely scrutinized and questioned the overwhelming power and influence of large monopolies. At that time he was looked on by many as a harmless reformer. Now he looks like a prophet.

LEE was a key factor in the passage of the original wilderness legislation in 1964. Since then, he successfully managed many bills preserving wilderness areas for future generations.

It is unfortunate that LEE METCALF was unable to return permanently to Montana.

He loved the State and he looked forward to his retirement there with Donna next year. But that was next year and LEE had a list of legislative proposals he wanted to enact during his final year in Congress which would stagger the most energetic member.

He had planned many hearings. He wanted oversight hearings on the Securities and Exchange Commission and the accounting professions on questionable accounting and auditing procedures. He planned to continue his efforts to assure an increased disclosure of ownership information regarding large corporations. He was going to pass wilderness bills for the Absoroka-Beartooth and Great Bear Wilderness. He wanted to pass the Family Farm Reclamation Act and the Alaskan National Interest Lands Act.

My colleague from Wyoming and LEE's friend, Mr. RONCALIO, commented last fall during the course of House consideration of S. 393, the Montana wilderness bill that—

> LEE METCALF has done a great deal to assist us in becoming more effective legislators.

But he could have said it at almost any time. LEE was an inspiration to us, an example to follow at all times. He was a true geneleman, thoughtful, considerate, and honest. He was so honest that he sometimes hurt himself and others.

Finally, LEE METCALF was a leader. He accomplished a great deal during his years in Congress. He went about his work without fanfare. Unlike most politicians, he shunned the spotlight. He was more interested in doing good and in results than he was in receiving credit. Each of us would do well to emulate LEE as we work on his unfinished agenda. He will remain a cherished memory for all of us who knew him.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, it was my very great privilege to work very closely with LEE METCALF, and I congratulate the gentleman from Montana (Mr. BAUCUS) on his words. He has said most of what must be said.

I would like to add only that I have never known a Member of the House who was more effective as a legislative leader in the short time that he was here in the House. It was my feeling at the time that he served here that if he continued, he would inevitably, since he was so effective a legislative leader, become the top legislative leader of this institution. His contributions in a difficult time to his party, his views for his party, and his views as chairman of the Democratic Study Group and more particularly in working specifically on all kinds of legislation were enormous.

His loss is a great personal loss to me as well as to so many other people, and I think his loss to American politics is enormous.

Mr. Speaker, I thank the gentleman very much.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I thank the gentleman from Montana (Mr. BAUCUS) for yielding.

Unlike my colleague, the gentleman from Missouri (Mr. BOLLING), and my two colleagues from Montana, I just barely knew Senator METCALF. However, I recall very vividly one afternoon walking into a bookstore in Springfield, Ill., and buying a book about public utilities written by a man whose name was not familiar to me at all at that point, as I recall, LEE METCALF.

I read that book, which just spelled out what was happening in the United States and which spoke for the public interest and against the special interests in a very powerful way.

Mr. Speaker, I became a LEE METCALF fan at that point. I had some correspondence with him and with Mr. Reinemer, who was on his staff at that point.

Mr. Speaker, the thing I think I appreciate most about LEE METCALF is that he consistently spoke up for the public interest and against the special interests not, as the gentleman from Montana (Mr. BAUCUS) has pointed out, in a noisy way and not in an attempt to get the spotlight all the time, but to really serve the public as we should be serving the public. LEE METCALF was a great example for all of us in that respect.

Mr. Speaker, I regret that I did not have the chance to get to know him better; but I am grateful for the service which he gave to me and which he gave to this Nation.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman from Illinois (Mr. SIMON).

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BAUCUS. I yield to the distinguished gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I want to join with my friend the gentleman from Montana (Mr. BAUCAUS), who is now in the well, in paying respect to the late Senator LEE METCALF. Senator METCALF was one of the early chairmen of the Democratic Study Group, a position I held at a much later time. I must say that there is no person from the House or the Senate that I would prefer to emulate than LEE METCALF. I remember when I came here as a freshman I was looking over the CONGRESSIONAL RECORD and found a bill that he had introduced concerning affording expertise of the Federal agencies to the States for control of utility rates. I offered the bill in the House. It was excellently conceived and drawn. It was one of those measures that he has not lived to see fulfilled. LEE METCALF was on the Conference Committee on Energy, and I had worked with him on that committee just before Christmas. It is a tragic thing that he will not be able to serve through the conclusion of consideration of the energy issue, because he would have been a powerful influence for the people. He was always for the people as against those whose interests are particular and special.

Mr. Speaker, I again congratulate the gentleman in the well for taking this time to recognize the passage of a great man and wish to associate myself fully with his remarks.

Mr. BAUCUS. I thank the gentleman from Texas (Mr. ECKHARDT).

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. BAUCUS. I yield to the distinguished gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, when LEE METCALF passed away last Thursday, Montana, Congress, and the Nation lost a good man, and a good friend.

It has been said by some people, that the Congressmen who last in Washington are those who do not take stands; those who refuse to stand up and fight for their causes. Whenever I hear people say this, I always prove them wrong by citing LEE METCALF. He began his distinguished career in Congress with his election to the House in 1952, and moved to the Senate in 1960. That is a quarter of a century of service here in Washington. Certainly, he enjoyed a long career.

And I might say that the Nation enjoyed his long career. Because, in those 25 years, he never did run from a fight. That is not the kind of man he was. This characteristic was demonstrated before he even came to Washington. With the outbreak of World War II, LEE METCALF enlisted in the U.S. Army. Assigned to a tank battalion, he went overseas for the Normandy invasion, and served in five different military campaigns. And it was typical of this man, that Soldier METCALF became Peacemaker METCALF. Using his prewar expertise as an assistant State attorney general, he drafted the ordinance for the first free local postwar elections in Germany, and established a civilian court-system in that war-torn and defeated country.

Of course, these accomplishments were a precursor to his activities in Congress.

Those of us who love our Nation's forests and streams, our beautiful wildlands, had no better friend than LEE METCALF. In protecting these lands, as chairman of the Subcommittee on Public Lands and Resources, he had to stand up to tremendous outside pressures. Of course, he never flinched.

And in the last few months, as a Senate conferee on the energy bill, he never swayed in his support for the continued regulation of natural gas. LEE METCALF was a man who could be counted on, no matter how rough the going.

And the people of Montana loved him. In recent Presidential elections, they may have voted Republican, but in the Senate elections, they knew who they wanted; LEE METCALF.

I am proud to have served in the Congress with LEE METCALF, and I am proud of the fact that this Montana native son chose to receive his education at a California school, Stanford University. But most of all, I am proud to have known the man.

In this time of sorrow for the entire Nation, my wife Lee and I would like to extend our sympathy to those who will miss Senator METCALF the most; his wife Dona and son Jerry. They should know that the thoughts of all of us in this Chamber are with them in their hours of grief. For indeed, speaking for the Nation and as individuals, we share in that grief, and will miss LEE METCALF greatly.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman from California (Mr. ANDERSON), for the remarks he has just made, as well as all of my colleagues for their contributions, many of whom served with LEE METCALF and worked with him very closely, as well as those Members who knew him only in a passing way.

I might add to my colleagues that it is indeed ironic and regrettable that so few people really realized the achievements of LEE METCALF because he was not under the spotlight. Very few knew of his achievements. It is probably for that very reason that those of us who did know him loved him even more dearly. He was not a person to seek self-praise but rather he was one to work tirelessly for the principles and ideals of good government, humanism, and for America. These are the things that endeared him to all of us. I only wish that more of the Members had known him more personally and more deeply because, if they did, I believe that more of them would appreciate the great contributions he made not only to Montana, but to the country as a whole.

Mr. Speaker, I have never before asked to have any newspaper or other press materials published in the CONGRESSIONAL RECORD. The following articles, however, so accurately capture LEE METCALF, a truly exceptional man, that I asked that they be made a permanent part of this RECORD.

[From the Independent Record, January 14, 1978]

DEATH CREATES NEW STANDARDS

(By Shaun Higgins)

Sen. Lee Metcalf's death forces the state's politicians to measure their candidates (and, in some cases, their candidacies) by new standards; the senator's personal integrity and public record.

It is an unfortunate aspect of public life that politicians must die before they can be called statesmen, that only death gives their careers the degree of attention Metcalf's received last week.

Lee Metcalf—known to his Washington colleagues as "Mr. Education," "Mr. Constitution," and "the fastest gavel in the Senate"—has left behind him legislative achievements that will help the living for years to come: The Elementary and Secondary Education Act of 1965, the food stamp program the Food for Peace program, the Job Corps and the Wilderness Act.

The post mortem recognition of those achievements—and of the Senator's reputation as an independent, honest, unequivocating advocate for the common man—comes too late for Metcalf but none to soon for Montana. And the remembrance of Metcalf's statesmanship may give the Senator, in death, a more vital role in the choosing of his successor than he might have been accorded he had lived. What kind of man was Metcalf? Politicians vied with one another last week in trying to find the appropriate words of praise. In most cases their eulogies like their remorse, was more polite than deep. Of the tens of callers who spoke to the State Bureau, only one had a personal remembrance of the 'stuff that made Lee Metcalf.

The caller, a long-time friend of the Senator and an aide in another delegation, depicted Metcalf as "the most selfless crusader in Washington."

The aide, a native Montanan who asked not be identified ("too many people are trying to tie themselves to Lee now that he's gone"), said Metcalf could have been Speaker of the House of Representatives and that he once, as a favor to former Sen. Mike Mansfield, indirectly sacrificed the chairmanship of the Senate Interior Committee.

"I never knew a man less concerned with his personal fortunes," the aide said. "(Former U.S. Sen. Mike) Mansfield went to Lee one day and asked him to give up his spot on the Interior Committee so that old Carl Hayden (the late nonagenarian Senator from Arizona) could sit on the panel Lee agreed, not only in deference to Mike, but also out of respect for Hayden's age."

"As a result, Lee lost some of his time on Interior. If he hadn't stepped aside, he would have been chairman when he died instead of third ranking member."

Before Metcalf decided to run for the Senate in 1960, many of his supporters, the aide among them, had urged him to stay in the House.

"There's a tradition in the House that the young bulls band together and stick together through the years," the aide said. "Lee was a leader in his class (The group of congressmen first elected in 1952). Among other things he organized the Democratic Study Group. There's no doubt in my mind that if he'd stayed in the House, he'd have been Speaker. He was on the road."

"But Lee didn't particularly like running for office—takes too much time—and he felt he had to get away from running every two years," the aide said. "He thought it would leave him more time to work for Montana. So he sacrificed a brilliant House career for the then uncertain ground of the Senate."

"I never knew a man, let alone a Senator, who was less concerned for himself and more

concerned for causes. When he decided something was good and necessary, he fought for it—and he always fought for Montana."

With Metcalf's passing, someone else must be found—and soon—to "fight for Montana." The state's clout in Washington has reached its nadir. Its interests are now being represented by three men who together have less than seven years seniority in their present posts. Two of them, Sen. John Melcher, and Rep. Ron Marlenee are still in their first terms; and the other, U.S. Rep. Max Baucus may actually lose clout in the House since he'll be abandoning his colleagues there to make his bid for Metcalf's seat.

Baucus has been considered in some circles as the state's best hope for quickly regaining its lost stature in Washington. And, until Metcalf's death, Democrats considered him a shoo-in for election Now some observers think Gov. Thomas Judge will appoint himself to the post, fight Baucus in the primary and, perhaps, win. Some think the chances of either man's success have been diminished by Metcalf's death.

Republicans can take short-term joy in this. But they too must face the issue of who can best fill Metcalf's shoes.

Not long ago, the would-be senators were battling each other for a seat held by a lame duck, a man in decline, on his way out, over the hill. Now they, and all others who would enter the race, are battling to hold their own against a legend.

May the best man win.

[From the Dayton (Ohio) Daily News, April 2, 1974]

QUIET HONESTY

Politicians have a bad name these days, and a lot of them deserve it. But there are a few who actually are what civics textbooks say they're supposed to be: honest people who work hard for the public interest.

One of them is Lee Metcalf, a Democratic Senator from Montana who most Ohioans never heard of. Mr. Metcalf is one of those peculiar Senators who isn't running for President. You rarely see his name in the headlines or before a TV camera.

That might change. The issues Mr. Metcalf has been pushing tirelessly for years—closer regulation of utilities and the breakup of monopolies—are suddenly fashionable. The energy crisis and growing public awareness of corporate shenanigans have made them so. Until recently, other politicians could look on Mr. Metcalf as a harmless reformer.

Now he looks like a prophet.

COMMENTARY BY JOSEPH MCCAFFREY, WMAL–AM, WASHINGTON, JANUARY 14, 1978

Senator Lee Metcalf of Montana was an unusual man to be in politics.

First, he had a sharp temper.

Second, he did not suffer fools gladly.

Those two things make it very hard for anyone to succeed in politics. But Metcalf did.

He had a keen mind, he had a great determination, and he had a fondness for fighting for the underdog.

He drank, as he himself said, but he also endured great pain.

During the last several years he was in pain—sitting, rising and walking—as arthritis locked his knee joints just a little tighter with each passing day.

Lee Metcalf was the classic example of a member of Congress who shunned publicity, kept his head down and worked and—and got results.

But in the end, when he announced he wouldn't run again he told me, sadly, "Joe there is just too much to be done, and it is so hard to get it done."

It is ironic that the best members are, because of their zeal, also those who become the most frustrated.

Mr. RHODES. Mr. Speaker, I join my colleagues in the House today in paying tribute to one of our former Members, LEE METCALF, who served in this body for 8 years.

We all are saddened by his passing, after serving 18 years in the U.S. Senate. He was a man who worked quietly and effectively, who never sought the limelight, but who was dedicated to his causes and beliefs. He had a brilliant legal mind, and was involved in shaping many pieces of significant legislation during his 26 years of public service.

I served with LEE METCALF during his House tenure, and found him to be on the opposite side of many issues, but always a square shooter and a gentleman. He served during tumultous times of world and domestic social changes, and we who knew him regret his passing and join in offering our condolences to his family.

Mr. RONCALIO. Mr. Speaker, in paying tribute to LEE METCALF, who was one of the most beloved and creative Members of the House prior to his election to the Senate in 1960, I should like to focus on his unique contribution in developing and leading the Democratic Study Group. To describe the early activities of the DSG, and its first year in operation, I went to two old friends of LEE METCALF, who were actively involved in the preliminaries, Maurice Rosenblatt, who was then chairman of the Advisory Board of the National Committee for an Effective Congress, and William Phillips, who was the administrative assistant to Representative George Rhodes of Pennsylvania, and who later became the DSG's staff director. They have also made available a well-documented study by Kenneth Kofmehl, whose research was sponsored by a grant from Purdue University, and was published in the Western Political Quarterly, volume XVII, No. 2, June 1964.

I present this account, based on these sources, plus my own impressions:

First, we quote Kofmehl's description of the general condition of the Democratic majority in the House during the mid and late 1950's during the second Eisenhower term:

The House Democrats were suffering from the disintegration habitually experienced by the party out of power in the White House. Without the centripetal influence of a presidential spokesman, the liberal bloc was eroding. Individual members were bargaining away their votes on specific measures to the opposition—apparently sometimes without an awareness of the issues involved. During the 84th Congress when the Democrats were a "truncated majority," their inability to formulate and secure the enactment of a positive program of legislation became painfully apparent. Especially among the newly elected Members, there was strongly felt dissatisfaction with the failure of the House leadership to provide over-all direction for any such endeavor. The "unity and moderation" approach of the congressional leaders was producing neither desired legislation nor campaign issues and was blurring the distinction between the two parties.

Also, there was growing concern about the lack of effective communication among the liberal Democrats in the House. Repeatedly, because of not having a ready means of enlisting one another's support, they failed to muster their strength on measures generally favored by a majority of them. Stung by a succession of needless defeats and chagrined at the poor legislative record of the 84th Congress, a number of liberal Democratic representatives concluded that something had to be done to remedy the situation. Several of them agreed to return to Washington, D.C., after the 1956 election to confer about how to improve the cohesiveness and communications among the liberal Democrats in the House.

As a first step in welding the liberal Democrats into a more potent bloc, a document was prepared, known as "The Liberal Manifesto," that covered foreign policy, national defense, immigration, civil rights, education, health, agriculture, resources, and other national issues that were not being aggressively pursued in the Congress. This document was primarily the handiwork of Representative Eugene McCarthy assisted by LEE METCALF, Chet Holifield, and John Blatnik. The document was released to the press with 28 signatures, but when it was inserted in the CONGRESSIONAL RECORD 3 weeks later by Representative FRANK THOMPSON, the list of signers had grown to 80. The group, because they met frequently in McCarthy's office, became known as "McCarthy's Mavericks." They operated informally, developing a concensus on key issues. There was no publicity, no fanfare. Representatives METCALF, McCarthy, MCGOVERN, Moss, and THOMPSON each contributed part of their clerk-hire allowance to cover the salary for a staff assistant. In the spring of 1958 until the election that fall, when McCarthy became engaged in the Senate election in Minnesota, the mantle of leadership fell on LEE METCALF. The group, still informal and unstructured, innovated the program of providing research information on vital issues to all Democratic congressional candidates who were sympathetic to their point of view. About 35 of those receiving this assistance were elected to the 86th Congress. Upon arriving in Washington many of them dropped by METCALF'S or FRANK THOMPSON'S office to express appreciation, and a significant number became affiliated with the liberal bloc of House Democrats.

During the spring of 1959, a growing frustration was felt by the more junior members, particularly aggravated by the Rules Committee's refusal to move legislative dealing with the vital issues. To discourage the impression that the group was seeking confrontation with the official leadership of the Congress, they called themselves the "Congressional Study Group." As stated in Kofmehl's account,

No one could object to like-minded Congressmen getting together to study issues from their particular viewpoint—although any meeting of action groups outside the Democratic Caucus could be construed as insurgency.

Throughout this period, a handful of Representatives met faithfully every Fri-

day morning for breakfast in the Longworth Cafeteria to discuss the strategy and plans for a more permanent body. LEE METCALF acted as conferee, with John Blatnik, Chet Bowles, Chet Holifield, George Rhodes, HENRY REUSS, FRANK THOMPSON, and Stewart Udall. Their main purpose was to create a rallying point within the Democratic majority that would devise positive initiatives to implement the programs and ideas that were lying fallow, and do this without upsetting the regular party leadership. Also, they wanted to avoid the formation of smaller groups, to contain extremist elements and broaden the base of participation. METCALF and THOMPSON called on Speaker Rayburn to acquaint him with their conviction of the need to take this step. "Although not enthusiastic about the idea," according to Kofmehl's account, "he gave his assent—telling them to do whatever they deemed necessary, for he regarded them as good boys who supported the same things he did." They also arranged for Bill Phillips, aide to Representative Rhodes, to work on this undertaking on a part-time basis.

On September 4, 1959, they sent an invitation to "Northern and Western Democrats" of the House, to discuss issues and programs. Over 40 Members came on a Saturday morning. METCALF showed his mastery in handling the meeting. The atmosphere was tense and there was a strong urge to make denunciatory speeches. METCALF permitted the rhetorical exercise for a brief time, and then skillfully channeled the group to making plans for establishing a formal organization that would prepare an agenda for a broad legislative program. He appointed a select planning committee of 12, headed by Representative B. F. SISK. On September 9, a well-attended meeting, chaired by SISK, adopted a formal structure, an executive committee, and officers, with LEE METCALF as chairman. A few days later they chose the name "Democratic Study Group."

It is interesting to note that no press release was issued. The DSG was not interested in publicity. In fact, it rather preferred to keep a low profile, devoting its energy to pushing the ideas and programs that had been given lip service for too long, but were always being postponed. Suddenly they came to life. The DSG was in existence many months, achieving important gains and reforms, and making a strong impact politically, before its name first appeared in print. It was the London Economist that gave it its first press coverage, calling it, quaintly, "The Ginger Group."

LEE METCALF was not only a skillful parliamentarian, he was a man of natural courage. He had no problem facing adversaries well known for their ruthless use of money power and political power. METCALF was not intimidated, because he was at peace with himself. He had no trouble distinguishing between the moral and the venal. The decisions which political opportunists agonized over, METCALF resolved intuitively. His question was always to find the most feasible route to the widest public interest. And then he stayed that course.

Above all, LEE METCALF was someone people trusted. This was the secret of his great accomplishment in bridging the gap between the "young Turks," the "McCarthy mavericks and marauders," and the aging, settled leadership. He had no guile, but he could recognize guile, detect it, and expose it. That was his strength, his intuition, and insight into the political game, and his keen sense of how to move forward, always trying to find practical solutions.

I do not intend to chronicle LEE METCALF's full and rich life of accomplishments. Just what he did in building the foundation of the Democratic Study Group, in the space of a couple of years, would be a proud legacy for any man. When METCALF left the House in 1960 to run for the Senate, the DSG had over 100 members; the information and research services were established—in fact, they were so well composed that John F. Kennedy used the DSG data as his source material in the Kennedy-Nixon campaign debates; the financial structure was developed on a voluntary basis with $25 subscriptions from each Member—a young Massachusetts congressman, TIP O'NEILL insisted on paying twice. It was more than just a research facility; METCALF believed in developing initiatives, so he began the system of separate task forces on major subjects where innovation and initiatives were essential. And, of course, he began the effort to change the rules and procedures of the House, democratizing the process, starting to return more power to the individual Members.

The loss of this generous man is a personal tragedy to those of us who knew and enjoyed his humor and warmth. But one need not have been a personal friend to sense his influence and example as it continues everywhere in the Congress. LEE METCALF, for all his modesty, was a giant. He made the institution work better, more fairly, more humanely, more democratically. The best in this institution stands as a living tribute to LEE METCALF's wisdom and courage.

Mr. BROOKS. Mr. Speaker, at the start of the 83d Congress when you and I took our oaths of office for the first time with the new Members, LEE METCALF of Montana was among our number. As you know, last week the distinguished gentleman died at his home in Helena.

We had a large number of new Members in that group but there was no finer, warmer, more sincere, or more dedicated individual than LEE METCALF. There was no stronger advocate nor more determined fighter for a measure that he felt would help his country or his home State and the Montanans he represented, but LEE was always pleasant and agreeable as well as effective.

Over those years I had the pleasure to work closely with the distinguished Montanan quite frequently. In that association, I was deeply impressed with the real devotion and concern he had for the Congress and its constitutional role. In recent years, we served together on the Joint Committee on the Organization of the Congress and later we alternated as chairman and vice chairman of the Joint Committee on Congressional Operations. That relationship was to me one of the most rewarding of my years here in the Congress. He felt strongly that the Congress needed to carry out its constitutional mandates and refused to consider any measure or course of action that would limit or impede its performance.

While he staunchly defended congressional prerogatives, he was also a leader in change. Those changes which he initiated and espoused have had profound, and I feel beneficial, effects on the U.S. Congress such as founding of the Democratic Study Group in this body, the establishment of the Congressional budget committees and controls, or the changes he sponsored most recently as the senior member of the Senate Select Committee to Study the Committee System. LEE was a visionary in the truest sense but his Montana pragmatism allowed him to view matters in the clearest light of reality.

We in the House of Representatives had the highest respect, admiration, and affection for LEE METCALF. Although he was elected to the Senate, he made no secret of his continuing love for this body—a love that was reciprocated.

My wife Charlotte and I offer our sincerest condolences to his wife Donna, his son, and his mother who were his staunchest allies and greatest support and comfort. I am sure that their knowledge of his achievements for the State and country that he loved so much will be a matter of great consolation to them.

All Americans have lost a good friend. He was also my personal friend and I will miss his counsel, good humor, and friendship.

Mr. DERWINSKI. Mr. Speaker, Mrs. Derwinski and I were deeply saddened by the death of Senator LEE METCALF of Montana. Both of us knew him as a warm and understanding friend and as an outstanding Member of Congress.

It was my privilege to serve in the House with LEE METCALF before he moved on to the Senate and later worked with him on a number of legislative assignments that needed House-Senate coordination. We had also worked together on several international conferences in which he was a most effective spokesman for our country. He was greatly admired as a dedicated and respected Member who was very much concerned with legislative progress and giving Congress a larger role in setting national policy rather than being involved with nonproductive public controversy.

LEE METCALF was a very devoted public servant who made great contributions particularly in the areas of consumer interests and had immeasurable influence in conservation legislation and was totally responsive to the needs of our Nation in improving public education programs.

Senator METCALF was a great son of Montana and loved his State and its people, which he certainly served so effectively for 25 years in both Houses of Congress. The Nation joins in mourning the loss of the valuable services of a sincere, hardworking, fairminded public official. During his career as an at-

torney and in his various public responsibilities, he has always exemplified the highest ideals of public service.

Mrs. Derwinski joints with me in extending our heartfelt condolences to his wife Donna, and his family.

Mr. MARLENEE. Mr. Speaker, just a few days before his death in Helena, Mont., Senator LEE METCALF was chomping at the bit and figuring ways, he said, to put "a bridle on the growth in numbers of Federal consultants."

Despite his plans not to run for a fourth term and his announced intention to resign as soon as his successor was elected, Senator METCALF was continuing his long campaign of 25 years in Congress to do what he felt was best for his State and his country. He pursued those goals with vigor and with integrity right to the end and earned the respect of his colleagues and the people of Montana, both Republicans and Democrats.

The death of Senator METCALF, his absence here in Washington, and his friendship are deep personal losses to me.

Despite being a newly elected Congressman from a different political party, Senator METCALF made me feel welcome from the very beginning here in Washington as a member of the Montana delegation. He was never too busy to give his wise counsel when I asked.

One of Senator METCALF's longstanding interests was an adequate surface mining reclamation act to protect our precious land and water. I was proud to be able to help push this legislation in the House Interior Committee as one of the first bills I handled as a Congressman. And it was comforting to know that I was able to discuss it with LEE whenever I needed some advice.

Not everyone always agreed with Senator METCALF but not too many people did not know where he stood.

Senator Mike Mansfield, who Senator METCALF succeeded in Congress and then went on to join in the Senate, was quoted from Tokyo after learning of Senator METCALF's death,

The occasion was not rare when he stood alone in voting against popular Senate sentiment.

Ambassador Mansfield also said,

He was the best partner I ever had . . . such a good and intelligent man.

Flynn Ell, a reporter and columnist on the Billings, Mont., Gazette, in eulogizing the Senator, saw him the way I think a lot of Montanans viewed him:

Whenever we saw Senator Lee Metcalf we were reminded of Carl Sandburg, Charlie Russell and Teddy Roosevelt.

The senator evoked that kind of image. He, too, was a man of stature with chiseled features projecting strongly from beneath a mane of white hair.

And he had a strong love for the land.

His legacy may be thoughts young and old Americans think of him as they hike in Montana's mountains breathing clean air, or when they pause to sip from a clear stream tumbling down through a canyon.

The Billings Gazette editor said,

His foes who could set aside prejudices long enough to recognize ability, realized that Metcalf possessed a brillant legal mind and never questioned his sincerity.

Metcalf was not the type to make promises he didn't intend to keep or to give lip service to a cause to gain a few votes. He was a man known for firm opinions.

He enjoyed the political battles. And had enough close races to grant luck a role in his success at the polls.

Metcalf was a fighter—strong, tenacious, tough, but not one to swing a low blow whether in personal contact or on the platform.

The epitaph he would like and one that does him justice is "He served Montanans well in everything he did."

Mr. Speaker, it has been my privilege to have served in this same Chamber where Senator LEE METCALF served for 8 years before going over to the Senate for another 17 years before his untimely death on January 12.

I am informed that Senator METCALF served as acting president pro tempore of the Senate longer than any other person in history. He was recognized as one of the most able parliamentarians in the country.

Mr. Speaker, I know many of my colleagues will miss this great man as much as I do. It is tragic that he could not have lived to finish his last year before retirement.

For if he had I am sure the consultacrats would have been still evading his probe, but I think somehow he might have gotten a handle on them as he so hopefully talked just 2 days before his death.

Mr. Speaker, with your permission, I would like to include an editorial from the Great Falls Tribune of January 14, 1978, as a fitting tribute to Senator LEE METCALF, a man who spent nearly all of his life in public service and left this world a better place for his efforts:

SENATOR LEE METCALF

Sen. Lee Metcalf was a man of integrity and courage.

He was a Democratic liberal who took strong positions and talked bluntly and plainly on positions he considered in the public interest.

During his long and distinguished career in government, Lee Metcalf was recognized as an outstanding champion of education and conservation.

In his four terms in the U.S. House of Representatives and three in the Senate, Metcalf was a leader in moves to improve education. In 1959, as a member of the House, he and the late Sen. James E. Murray of Montana, co-authored the Murray-Metcalf bill to extend federal aid to public schools. That became the forerunner of the Elementary and Secondary Education Act of 1965 which has played a significant role in public school financing.

The late Sen. Wayne Morse of Oregon called Metcalf "Mr. Education" for his efforts to improve education.

Metcalf was proud of his sponsorship of legislation to aid libraries, especially those in rural areas.

As a senator, Metcalf was recognized as one of the most able parliamentarians in Washington, D.C. He was invited frequently to participate in international parliamentarian conferences.

Mike Mansfield, now ambassador to Japan and Senate Majority Leader for a record 16 years, credited his friend and "Best partner" Metcalf with having the finest legal mind in the Senate. Metcalf was elected acting president pro tempore of the Senate and held that position longer than any other person in history.

In an interview with Tom Kotynski of the Tribune's Capitol Bureau a week before he died, Metcalf confided that he thought his worst political mistake was leaving the House to run for the Senate.

He explained that opportunities for leadership in the Senate had been closed to him because of Mansfield's powerful position as Majority Leader. Senate rules prohibit two senators from the same state holding leadership positions.

If he had remained in the House, Metcalf would have achieved top leadership positions. In his first term in the House, he helped organize and became the first chairman of the Democratic Study Group, composed of young liberals who wanted to reform the archaic practices of the House.

Metcalf understood the importance of seniority in Congress and said he would resign as soon as his elected successor, Democrat or Republican, was certified.

Metcalf's untiring work on behalf of the outdoors won him many honors. He was one of a handful of persons cited by the five major national conservation organizations for distinguished service to conservation.

That award, presented after Metcalf's first term in Congress, was given to the Montanan by the late Bernard Devoto, Pulitzer prize-winning historian, on behalf of the Izaak Walton League of America, the National Parks Association, National Wildlife Federation, Wilderness Society and the Wildlife Management Institute.

The citation, which indicated the path Metcalf would take in following years in the House and Senate, might well serve as an epitaph for the senator. It read:

"Lee Metcalf's alert and continuing work in the nation's capital has won him widespread respect and admiration. By virtue of his profound interest and comprehensive understanding of conservation and its objectives and problems, he has, during his first term of office as a member of the House of Representatives of the U.S. emerged as a defender of the principles of better management and wide use of natural resources for the benefit of all the people. . . ."

Future generations of Americans will appreciate Lee Metcalf's hard work and foresight on behalf of conservation measures and wilderness areas.

Mrs. SPELLMAN. Mr. Speaker, it is an honor to contribute additional remarks today as the House of Representatives remembers one of its own, Senator LEE METCALF, who died last week. The senior Senator from Montana spent 8 years in this House, and, I am told, he considered them to be some of the happiest days of his life.

Senator METCALF dedicated his last 25 years serving in the U.S. Congress. His name has become a household word to many for his championing of consumer interests, conservation, and the public ownership of utilities. For all of these years, he was a voice in the wilderness, speaking up against those who wanted financial gain over many areas which he felt should be above the profit system. Public power was his great crusade, and the effectiveness of his pleading of this cause was brought home to us time and time again as the good and wise people of Montana reelected him in 1954, 1956, and 1958 to the House of Representatives. In 1960 he moved on to the Senate where he again became the chief exponent of consumerism.

Long before it was popular, Senator METCALF was the voice of the consumer. He incorporated many of his ideas in magazine articles, notably Nation maga-

zine, and, in 1967, in a book, "Overcharge: How the Electric Utilities Exploit and Mislead the Public and What You Can Do About It," which remains the real testament to the passion of his life.

Upon his election to the House in 1952, the Senator came to his natural home, the Congress. Here he was able to project his voice to the national constituency which he represented, too.

Robert Sherrill, writing in Nation in 1971, summarized his first term best when he wrote:

Metcalf got to the House of Representatives in 1953. He is remembered on that side of Congress for two things: he helped organize and was the first chairman of the Democratic Study Group, a band of liberal tacticians; and he took the lead in trying to reduce the amount of thievery lumber companies commit on federal forest lands. He also tried to cut down on the destructive exploitation of federal grazing lands by the cattle barons.

In 1945 he successfully led the demolition of the Ellsworth Timber Exchange bill, advocated by the big lumber interests, that would have swapped forested public lands for cut-over private lands. It was a remarkable victory for a freshman Congressman. Today he's pushing a bill that would force the government to charge reasonable (instead of give-away) prices for letting cattle and sheep destroy the Western public ranges. This sort of fight has not endeared him to many of the people who run Montana, where half the land is federal domain. He was co-author with Hubert Humphrey of the first wilderness bill.

In the space of 3 days last week we lost two great legislators who have rightly been called the conscience of the Senate, indeed the Nation, Senators METCALF and HUMPHREY, and their long record of service to the citizens of these United States will seldom, if ever, be matched again.

Lest they be forgotten, I would like to add some additional remarks in Mr. Sherrill's article about the superb Senator from Montana.

Metcalf is one of the few Senators outside the South who has studied the rules under which the Senate operates and is capable of using these rules to ram through controversial legislation without a scratch . . .

And, of course, if Metcalf is known for anything, he is famous—as were Norris and Wheeler before him—for his fight to give the people more control over the electric power industry. . . .

. . . One might have expected to see more press coverage of what he has been up to; but Metcalf seldom gets interviewed by the Washington press corps. Partly this is because he doesn't like his name to appear in the papers; and partly—I would guess—it is because he is so candid as to make Washington newsmen, who are used to political fudgers, feel uneasy. He is not candid in an abusive way; but a melancholy honesty runs through his conversation. . . .

And, in Senator METCALF's own words, he talked about leaving Washington in 1973 and going back to Montana—

I want to go home, I really want to go home. For thirty years, except for the war, I have been running for public office in difficult, complex and involved political activities. And I think thirty years is long enough. . . .

Senator METCALF is finally at home in the Big Sky country of Montana. His eternal rest will be in the land he loved.

Mr. WHALEN. Mr. Speaker, I join my colleagues in paying tribute to an outstanding American who contributed significantly to the accomplishments of both Houses of Congress. Serving in the House of Representatives from 1953 to 1961 and in the Senate from 1961 until his death last week, LEE METCALF combined the talents of an excellent, disciplined legal mind with a strong dedication to the principles in which he believed.

LEE personified the free, rugged spirit of the western, mountainous section of Montana which was his home. He fought to preserve public lands for the future, coauthored the National Defense Education Act which offered the chance for an advanced education to all Americans, and was well known as a consumer advocate.

In 1973, LEE METCALF conducted the hearings that led a year later to the passage of the Congressional Budget and Impoundment Control Act. The significance of this measure cannot be overstated. As we all know, it has revolutionalized the approach of Congress toward Federal spending.

The death of this great Western Senator is a profound loss to the country and to all who knew him.

Mr. MIKVA. I did not have the opportunity to know and work with LEE METCALF intimately, but I am honored to be able to stand here today with those of you who did to help honor his memory. For LEE METCALF was one of the key organizers of the Democratic Study Group and was the organization's first chairman. I have the honor of being the 11th DSG chairman and of helping to carry on the effort he began some 20 years ago.

LEE METCALF left an indelible imprint on DSC. His personality and work style were a model for the league in which he held forth. He shunned publicity, he was an incredibly hard worker, he believed that the way to get things done was by doing the nitty-gritty behind-the-scenes organization work rather than issuing headlines-grabbing public positions. Most important, he stressed legislative research to educate Members on the contents of legislation and to free them to vote their convictions rather than trying to pressure them to vote a particular way.

Thus, we owe a debt of gratitude to LEE METCALF and the others who were responsible for organization of the Democratic Study Group, for over the years the group he helped launch has made major contributions to the public good. During the early 1960's DSG spearheaded the drive to liberalize the House Rules Committee to get administration legislation to the House floor; throughout the Kennedy and Johnson years DSG served as the focal point for mobilizing Democratic support in the House for such issues as civil rights, Voting Rights Act, medicare, social security, housing, health, minimum wage, aid to education and other New Frontier and Great Society programs.

During the late 1960's and early 1970's, on the other hand, DSG focused on efforts to terminate U.S. involvement in the war in Indochina and on enacting a series of internal reforms which dramatically transformed the House of Representatives, broke the grip of the seniority system, opened the legislative process to public scrutiny, and gave junior Members a major voice in the decision-making process. It was LEE METCALF's initiative and dedication which gave birth to DSG and led to its institutional effect long after he had left the House. LEE METCALF was a special kind of legislator, and his kind are always in short supply. We will miss him.

Mr. VAN DEERLIN. Mr. Speaker, I regret very deeply the untimely death of Senator LEE METCALF, a great and selfless public servant whose career spanned more than 40 years, the last 25 of them served with quiet distinction in the House and Senate.

Senator METCALF was a key figure in many crucial legislative battles, most recently in the continuing struggle to bring forth comprehensive energy legislation.

He was always on the side of the working man, the small farmer, the "little guy." He was an effective champion of such causes as clean water, wilderness preservation, and fair power rates. He leaves many enduring monuments to his work, including the recently enacted strip mining legislation.

Of course he is well remembered in the House, where he spent 8 productive years before his election to the Senate in 1960. It is especially sad that this distinguished man was unable to enjoy the retirement he had so richly earned. His loss will be keenly felt, both in Montana and throughout the Nation.

Mr. SIKES. Mr. Speaker, I wish to join my colleagues in paying tribute to the late Senator LEE METCALF, of Montana, whose career in national politics spanned a full 25 years.

Senator METCALF was well known for his consumer interests, conservation, and education. In recent years, he was probably best known nationally as a staunch advocate of strip mining reclamation and for increasing the number and size of America's wilderness areas.

It was my privilege to work with LEE METCALF during the time he served in the House from 1953 to 1961. He was my close neighbor in the city of Washington.

Senator METCALF brought to his work what his colleagues regarded as one of the best and most disciplined intellects in Congress. Ambassador Mansfield, former majority leader of the Senate, eulogized Senator METCALF as "the best of men and the finest legal mind in the Senate." A lawyer by training, a former assistant attorney general of Montana, and former associate justice of his State's Supreme Court, he was noted for his ability as an extemporaneous speaker. He had the reputation for fair mindedness.

LEE METCALF was elected to the Senate in 1960 and ably served in that body for 17 years. At the time of his death, Senator METCALF was a member of the Senate Energy and Natural Resources Committee and the Governmental Affairs Committee. His subcommittee assignments included Energy Conservation and Regulation, Parks and Regulation, Public

Lands and Resources, of which he was chairman; Energy, Nuclear Proliferation and Federal Service; and Inter-Governmental Relations.

In 1958, Senator METCALF was one of the authors of the National Defense Education Act. This act was the first to provide substantial Federal funds to improve public education with particular emphasis on science, technology, and language. In 1973, he conducted hearings that led to the passage a year later of the Congressional Budget and Impoundment Control Act. Its effect has been to give Congress an overall view of Government spending, deficits, and tax revenue. He was one of the major forces behind efforts in recent years to give Congress the means to play a larger and more coherent role in setting national policy.

Senator METCALF'S achievements and faithful dedicated service will long be remembered. My sincere sympathy is extended to the family.

Mr. BRADEMAS. Mr. Speaker, I want to add my own to the many tributes that are being paid to our distinguished colleague, the senior Senator from Montana, the Honorable LEE METCALF, who died last week at his home in his home State.

Like many other Members of the House of Representatives, I had the privilege of serving with LEE METCALF during my first year here, when he was a Representative from Montana.

LEE METCALF was a remarkable person. Gifted with a first-class mind and characterized by unimpeachable integrity, he had a warm sense of humor marked by a rich and hearty laugh.

Like several other Members of the present House, I enjoyed the opportunity of working with LEE in the early years of the Democratic Study Group, of which he was one of the founders and served as the first chairman.

Mr. Speaker, I shall not here take time to dwell upon LEE METCALF'S achievements as a legislator, which both in the House and Senate are many, but rather I offer only this personal tribute to a friend and colleague who will be much missed by all who knew him.

Mr. VANIK. Mr. Speaker, the untimely passing of our distinguished colleague Senator LEE METCALF deprived the Congress of a prolific contributor to important legislative and internal congressional policy. Senator METCALF fought for the average American. The public interest was always his No. 1 priority.

LEE METCALF used his respected intellect and speaking talent, and his organizational skills to help push through Congress legislation protecting consumers, promoting conservation efforts, and strengthening the Nation's education of its youth. Senator METCALF will be missed by colleagues on the House-Senate Conference Committee on the National Energy Act, where he staunchly upheld the rights of consumers.

The Senator from Montana did much to improve the effectiveness of Congress in initiating these policies which he considered so important. While in the House of Representatives, he helped organize the Democratic Study Group, serving as its first chairman. His influence was essential in the establishment of the Congressional Budget Office and the House and Senate Budget Committees.

The accomplishments of Senator METCALF will continue to influence Congress for years to come. His work helped us to become more responsive to and more responsible to the better interests of the average American. He has charted a course for the future which will serve us well.

Mr. SMITH of Iowa. Mr. Speaker, I join my colleagues today in paying tribute to a great American, the late Senator LEE METCALF of Montana. When I first came to Congress in January of 1959 I found him to be one of the leaders to whom new Members could look for innovative ideas and for advice relative to the procedures of the House. He was never too busy to give thought to any questions or ideas and to express himself succinctly and to give others the benefit of his experience. As one of the original 12 Members who formed the DSG, I remember his as a distinct leader. One of the prime questions which was argued at length in the formation of the organization was whether it should be an activist organization or a study group. I remember his sage advice that if it became an activist group which took positions on all of the major questions, it would lose support and fail. He cautioned that there was a great need for an organization which would research both sides of the question and give the unvarnished arguments to the Members. It was on the basis of that advice that the small group of 12 of us formed the organization launched what would become the principal study group in the House and he was an effective leader.

Whether it was on labor matters, education issues, conservation, and the environment proposals or any other subject, I found him to be a Member who frankly stated his opinion and acted accordingly to his conscience regardless of what particular group or organization might agree or disagree. He justly deserved a reputation of a person whose advice should be given great weight. My wife became a personal friend of Mrs. Metcalf during the years in Washington and we were distressed to learn of his illness of recent months. Our heartfelt sympathy is extended to his family.

Mr. OTTINGER. Mr. Speaker, LEE METCALF was one of those rare individuals for whom the right instinct was eternally a guiding force. Instinctively he knew which things were important to worry about. Instinctively he knew the best, most public-spirited position to take on any controversy. Instinctively, he knew how to represent the needs and desires of people lacking their own strong voices.

And LEE METCALF had the strength to take up unpopular causes. He minded little the derision that comes of taking such stances, even when the forces against him were among the strongest and most powerful institutions in the land.

What LEE METCALF did for consumer interests, long before there was an organized consumer movement, was spectacular, particularly in the utility area. Through his hard work and analysis, the people of this Nation understand far better such arcane subjects as water and electricity, and we know far better what should be our rights as regards their utilization.

It was my particular pleasure to work with LEE METCALF on a number of major electric reliability bills, most recently the measure introduced in the wake of the terrible blackout last summer in New York. I am pleased that some of the policies LEE has so long advocated, relating to mandatory interconnection among utilities, have been included in the National Energy Act.

It was LEE METCALF'S sympathy and his instinct for rectitude that will be most missed, for it is a rare human being, indeed, who always just knows what is right.

Mr. THOMPSON. Mr. Speaker, except for the loss of immediate members of my own family, I doubt that I have ever suffered as deep grief as I have by the death of my beloved friend, LEE METCALF. It is often said that if a person goes through life with as many as 10 genuine, loyal, and beloved friends, he or she is a lucky person. Mr. Speaker, I am a lucky person to have had as great and wonderful a friend as LEE METCALF.

Within days of becoming a Member of the House in January 1955, LEE METCALF befriended me. He was my mentor, my hero, my teacher, and my leader. I had the good fortune to be assigned to the Committee on Education and Labor to which LEE METCALF had been assigned when he became a Member of the House in the 83d Congress. It was immediately apparent that he possessed one of the greatest legal talents I have ever observed. He was nothing less than a superb lawyer. He used his tremendous legal abilities with great evenness, judgment, and skill. LEE enjoyed the respect of those who disagreed with his philosophy.

Much will be written about LEE METCALF'S contributions to many great causes, especially his interest in consumers, in energy matters, education, and conservation. He was a renaissance man.

Along with former Senator Gene McCarthy, former Representative John Blatnik, myself, and former Representative Chet Holifield, he was a founder of the Democratic Study Group which was so desperately needed in those days. LEE became DSG's first formal chairman and gave that marvelous organization the splendid sense of direction which has been maintained ever since. I remember well being summoned by the late, great Speaker Rayburn along with LEE METCALF to the Speaker's office. Mr. Rayburn had some initial doubts as to the need for DSG, but was persuaded by LEE METCALF that the organization was founded primarily to assist the leadership in the Democratic Party both of which it did and continues to do.

I shall always believe that LEE METCALF loved the House more than he had enjoyed being a justice of the Supreme Court of Montana or than the Senate in which he served with distinction. I must admit to having made every possible attempt to dissuade LEE METCALF from running for the Senate, for he was a

House leader and would certainly have risen to the very heights in the House.

Very shortly after I got to know LEE METCALF, I so admired and envied his legal abilities that I called him "The Justice." For 23 years I never referred to him as anything but "The Justice." Also, during those 23 years hardly a week went by without a lengthy conversation between us. On each January 28 I wished him a happy birthday as surely I would have on the coming January 28. I doubt that that date will ever pass again without me being reminded that I have lost a great and dear friend and that the people of Montana and of the United States have suffered the same loss. LEE METCALF was a national Democrat to whom generations of schoolchildren will always be in debt. My memories of him will always be happy ones.

My family and I extend our deepest condolences to his wife, Donna, and his foster son, Jerry.

Mr. CLEVELAND. Mr. Speaker, timing—as our colleagues appreciate—is everything in politics, as well as in many other aspects of life. That tested maxim extends even to the moment of a politician's death.

There is nothing irreverent or whimsical about this observation. It is simply another way of pointing out that the time and circumstances attending the death of a public person may greatly influence the public's perception of that person's worth and record and place in history. All too often, regrettably, given the vagaries of media attention, the world must await the passing of a public official to obtain a more comprehensive understanding of that person's character and contributions. If death occurs when media attentions are focused elsewhere, both the world outside and, posthumously, the servant of that public may be denied the full accounting which each deserves.

That eventuality occurred last week with the death of one of the postwar Congress' most distinguished, productive, honorable—and truly modest—Members.

LEE METCALF, Senator from Montana, died suddenly and unexpectedly, at a place remote from the center of political activity, and at a time when the attention of our congressional world was gripped by the inspiring last days of HUBERT HUMPHREY, Senator from Minnesota.

Though LEE METCALF would not have noted it—nor regreted it if he had—the coincidence of his death with that of Senator HUMPHREY has deprived the country of an opportunity to learn more, through the communications media, about a valuable and conscientious, a persistent and courageous public man. In setting aside time today to honor this great former Member of this body, the House will, I hope, help to compensate for this unfortunate, but unavoidable fact.

It is not my purpose today, Mr. Speaker, to recite the cold biographical facts of LEE METCALF'S life and record—the schools attended, degrees obtained, jobs held, bills passed, or the memberships, awards, and other honors he received. He did not think very much of this sort of things, as a glance at his barebones biographical sketch in the Congressional Directory will reveal. It is almost as though he were challenging us to find the real flesh-and-blood LEE METCALF instead of settling for an empty collection of "facts," to seek a living person rather than a verbal abstraction.

That is how I know—and that is why I value—LEE METCALF. It was not my privilege to serve with him here in the House. He left this body in 1961. I arrived in 1963. But through the valuable, though slowly disappearing, medium of joint House-Senate committees, he and I served together for several years doing work that, while it did not attract great public attention, has changed in crucial ways the character of this institution. It was this experience as a fellow member of the Joint Committee on the Organization of Congress and, subsequently, as ranking member and chairman, respectively, of the Joint Committee on Congressional Operations which enabled me to know the real LEE METCALF and to come to appreciate the quality of his mind and spirit and intellect.

Many may count his legislative work—and there was much of it—in such areas as education and energy, conservation and consumer protection, and his long struggle to control what he considered the excessive power of bankers and brokers and power companies as the activity which will have the most lasting value.

They may be right. For me, however, LEE METCALF will always be remembered as an institutional man, one who understood that beyond all individual issues of public policy there is the essential need to cherish and protect and strengthen the institution through which the voice and the authority of the people are registered—the legislative body, the Congress of the United States.

His devotion to this body and to the other body and to the collective entity of the Congress was manifested in his willingness to serve on institutional committees, committee assignments widely viewed as offering very little political reward. And we are all the richer for it. For out of his service in these dimly lit corners of the Capitol has come, literally, new light for the Congress.

LEE METCALF'S insight, imagination, persistent interest, and effective leadership have had a decisive influence in—

Improving Congress' access to information;

Developing new resources for policy research support;

Defending the constitutional independence of the Congress against the ill-advised inroads of the Supreme Court;

Preparing the way for the American public to see their Congress at work through the medium of television;

Strengthening the committee system through which Congress performs its legislative and oversight functions; and

Establishing a new and more powerful congressional budget system.

There were many others. But these examples illustrate what I like to think of as LEE METCALF'S congressional credo—the survival of Congress rests on better information, more effective use of that information, and the trust of an American public capable of holding Congress to account.

For 2 years, Mr. Speaker, LEE METCALF was my chairman on the Joint Committee on Congressional Operations. Some of his best work was done during this brief period. Some of that work may have been made possible by the characteristics he displayed as chairman:

He knew what he wanted to accomplish, and why.

He was well prepared; he knew his subject.

He treated his colleagues as fully equal partners in the committee's endeavors.

He was fair, generous with time, and nonpartisan in spirit.

He was deliberate, systematic, and thoroughly faithful to his obligations as chairman.

But the most appealing of his characteristics was the rarest—his genuine, unselfconscious, unassuming modesty. Quite simply, he cared more for others than for himself. His satisfactions came from doing something rather than being someone.

LEE METCALF was a public man, but he was also a private person. He did not confuse the two. He did his job—conscientiously, responsibly, sometimes successfully, often brilliantly. But he wisely and determinedly resisted the impulse to identify his personal fortunes or pleasures with the performance of his public duties. He did not impose the private on the public, or the public on the private. He cared too much for each.

LEE METCALF died as he lived—quietly and simply, away from public view.

But he will not be forgotten here.

Mr. DUNCAN of Oregon. Mr. Speaker, occasionally in the history of this Republic we suffer the misfortune of losing more than one leader at approximately the same time. America has suffered this tragedy in the almost simultaneous deaths of Senator METCALF and Senator HUMPHREY. Senator HUMPHREY'S life and passing has been chronicled. Today we remember his colleague, the distinguished Senator from Montana, LEE METCALF.

The American people have sustained an immeasurable loss with the passing of Senator METCALF. While we were brothers in the Sigma Chi Fraternity, I recognize his place in the larger fraternity of those who choose that demanding, arduous, frequently disappointing, yet rewarding life that is politics. In that life of political service, LEE METCALF often played a crucial role, yet none so crucial as that which he played as senior member of the Senate Energy Conference Committee.

He will be missed as a man, a colleague, and a friend.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to associate myself with the remarks of my distinguished colleague, Mr. BAUCUS, and to express my own feeling of loss.

With the death of Senator LEE METCALF, I have lost a cherished personal friend, the Congress has lost one of its most outstanding Members, and the Nation has lost a brilliant, vital leader.

Senator METCALF was a man who dedicated his life to public service and pro-

vided an example for his own as well as for future generations to follow.

As a member of the Montana State Legislature, a Member of the House of Representatives, and a Member of the U.S. Senate, LEE METCALF served his constituents with dedication and vigor. One of the most able legislators it has ever been my pleasure to work with, Senator METCALF was a friend as well as a colleague. I would like to extend my deepest sympathies to Mrs. Metcalf and their son and to let them know that he will be long remembered in the Congress:

METCALF, LEE

(Jan. 28. 1911—United States Senator from Montana.)

(*Address:* b. Senate Office Building, Washington, D.C. 20510; h. 453 1st St., S.E., Washington, D.C. 20003.)

Since 1963 the acting president pro tempore of the United States Senate has been Lee Metcalf, Democrat of Montana. In both the House of Representatives (1953–1960) and the Senate (since 1961), Metcalf has been a champion of liberal legislation, particularly in the areas of conservation, federal aid to education, surveillance of the electric power industry, and consumer protection. With his legislative assistant, Vic Reinemer he wrote *Overcharge* (McKay, 1967), in which he presented evidence that "the American electrical industry is owned by a few giant corporations called investor-owned utilities" and "the result is unreasonably high electric bills for the average consumer."

Lee Metcalf was born in Stevensville, Montana on January 28, 1911 to Harold E. Metcalf, the cashier of the First State Bank of Stevensville, and his wife, the former Rhoda Smith, the daughter of a pioneer family. The family lived on a farm near Stevensville, a town of about 600 in Ravalli County in the Bitter Root Valley of western Montana. While in high school in Stevensville, Lee had a milk route. After attending Montana State University for one year, he transferred to Stanford University in California, where he majored in history and economics and was a member of the boxing and football teams. To pay his way, he worked summers and during a one-year interruption in his studies, doing gardening for the Los Angeles city school system. In 1936 he obtained both his B.A. degree from Stanford and his LL.B. degree from the Law School of Montana State University, to which he had returned for legal study. In the same year he won admittance to the Montana bar and began to practice law.

Metcalf was elected a delegate from Ravalli County to the Montana State House of Representatives in November 1936. The following year State Attorney General Harrison J. Freebourn made him an assistant attorney general. When Freebourn's term expired in 1941, Metcalf, by then the first assistant attorney general, resigned from office to resume private law practice in Hamilton, Montana.

In 1942 Metcalf enlisted in the United States Army. Commissioned after attending Officers Training School, he participated in the invasion of Normandy as staff officer with the 5th Corps and in later European campaigns as an officer with the 1st Army, 9th Infantry Division, and 60th Infantry Regiment. After the Allies entered Germany, he helped to set up the first civilian court and occupational police system, camps for displaced persons, and the legal apparatus for local elections, and he was a supervisor of elections in Bavaria. In April 1946 he was discharged from the Army with the rank of first lieutenant.

Elected an associate justice of the Montana Supreme Court in 1946, Metcalf served a six-year term in that office. He was elected to Congress from Montana's First District, a constituency of 300,000 (almost half the population of the entire state, which has a population density of only five persons per square mile), in 1952, with 50.3 percent of the vote. He was reelected in 1954, 1956, and 1958, with 56 percent, 62.1 percent, and 69.5 percent of the vote respectively. In the House of Representatives he served on the Education and Labor Committee (1953–59), the Interior and Insular Affairs Committee (1955–59), the Select Astronautics and Space Exploration Committee (1958), and the powerful Ways and Means Committee (1959–60).

At the beginning of the Eighty-fifth Congress, Metcalf was one of the twenty-eight "young Turk" Representatives who drew up a program of liberal Democratic legislation. Two years later he was a member of the group that attempted, not yet successfully, to change the manner of operation of the dominantly conservative House Rules Committee, which was keeping liberal proposals from reaching the floor for a vote. During his last year in the House he was elected chairman of the 135-member Democratic Study Group, which he had helped to form in opposition to the conservative coalition of Southern Democrats and Northern right-wing Republicans.

At the very beginning of his House tenure, Metcalf led the forces that defeated the D'Ewart grazing bill, which would, in his opinion, have permitted private usurpation of public lands, and the Ellsworth timber exchange bill, which would have granted special privileges to certain timber interests to the detriment of national forest preserves. His defeat of the latter bill was hailed by the writer Bernard DeVoto as "a brilliant victory for a freshman Congressman."

The two early victories marked the course of Metcalf's whole career in the House, where he consistently worked for the preservation of public resources and wildlife and vigilantly fought proposals that would have permitted, in his words, "raids on the public domain." Among the legislative items he sponsored or co-sponsored were a proposal to prohibit the Secretary of the Interior from leasing wildlife refuges to oil and gas companies without the approval of Congress and a bill to control the use of pesticides where they endanger wildlife.

In the field of electric power, Representative Metcalf came to the aid of rural electric and telephone cooperatives when the United States Air Force announced that it intended to ignore such facilities and build its own as part of its new communications system, known as SAGE. Pointing out that the Air Force plan would threaten the survival of co-ops and immensely increase the cost of SAGE, Metcalf inserted into the SAGE Act (Public Law 968) the provision that SAGE should avail itself, where feasible, of existing facilities.

So tireless and valiant were Metcalf's attempts to prod the economy-minded Eisenhower administration and the Congress to address themselves to the critical national classroom shortage in the late 1950's that he was dubbed "Mr. Education" by Senator Wayne Morse. The Representative from Montana helped to write the Library Services Act, which increased federal library funding particularly in rural areas, and he joined with others to introduce bills proposing that health and medical care for the aged be added to the Social Security program. The latter bills suffered defeat, but their intent was eventually realized in the Medicare Act.

In the 1960 Montana Democratic Senatorial primary Metcalf easily defeated John W. Bonner, and in the November election he outpolled Republican Orvin B. Fjare by about 2,700 votes (In Presidential and gubernatorial voting that year, Montana went Republican.) Running for reelection to the Senate against conservative Republican Governor Tim Babcock in 1966, Metcalf, with the labor and farm blocs almost solidly behind him, garnered 55.3 percent of the vote.

His committee assignments in the Senate have included Government Operations and Interior Affairs, and he chaired the Interior Committee's subcommittee on Indian affairs in 1965 and 1966. From 1961 to 1966 he was on the Public Works Committee, and he chaired that committee's subcommittee on Mississippi Plains regional flood control. He served on the Labor and Public Welfare Committee from 1963 to 1965, on the Joint Committee on the Organization of the Congress (which recommended congressional reforms later passed by the Senate) from 1965 to 1968, and on the Finance Committee from 1966 to 1968.

In the Senate as in the House, Metcalf spent much of his energy on legislation relating to conservation and education. In education, he was a Senate leader in the enactment of the Elementary and Secondary Education Act, in the effort to extend the G.I. Bill's educational benefits to a new generation of veterans, and in the development of legislation to improve federally-aided vocational education. In conservation, he introduced the 1962 Save Our Streams (SOS) bill, designed to protect natural resources threatened by the federal highway program. (When the Departments of Interior and Commerce agreed to coordinate their operations to accomplish his aim, he withdrew the bill.) He sponsored the Senate versions of the Electric Power Reliability Act (aimed at setting limits to the property through which utilities may run electric power lines) and the Wilderness Act (which protects by law areas previously safeguarded by administrative order only), and he played a major role in the passage of the 1965 Water Systems Act, which added $3 million to federal expenditures for watershed restoration.

Ever since 1956, when private utility lobbies fought his effort to obtain a federal multi-purpose water and power project for southwestern Montana, Metcalf has been exploring the activities of power companies. Tax loopholes enjoyed by private utilities are his chief target in a bill—introduced by him in 1965 and not yet passed—to expand the jurisdiction of the Federal Power Commission over power companies. In his book Overcharge, Metcalf estimates that the average user of investor-owned electricity pays an overcharge of $60 a year, and he asserts that the excess profit is used, in effect, to subsidize conservative political activity and propaganda favorable to the investor-owned utilities. As publicly-regulated monopolies, according to Metcalf, the companies should be allowed no more than a 6 percent profit. Metcalf was one of the twelve sponsors of the Intergovernmental Consumers Council Act, which offers some aid to the exploited consumer. Related to Metcalf's criticism of utilities is his advocacy of tax reform.

Metcalf has received awards from five major national conservation organizations: the Izaak Walton League of America, the National Parks Association, the National Wildlife Federation, the Wilderness Society, and the Wildlife Management Institute. His other honors include a citation from the National Education Association, and awards from the National Telephone Cooperative Association and the Consumer Assembly. He is a member of the Masons, the Elks, the American Legion, the Amvets, the American Law Institute, and the National Judicature Society, and the Methodist Church.

Lee Metcalf and Donna Hoover were married in 1938. They have a foster son, Jerry. The Metcalfs have a home in Helena, Montana and an apartment in Washington, D.C. Washington radio commentator Joseph McCaffrey once likened Metcalf to a "bulldog." "Once he digs his teeth into an issue he stays with it . . . [no] matter what the opposition. The tougher it is, the more tenacious he be-

comes." McCaffrey quoted a Senate colleague as saying that "Lee knows his facts, and he uses them like a razor-sharp sword." A reporter for the New York Times (November 10, 1960) described the Senator as "a shaggy type of fellow with a laconic manner surprising in a liberal." Metcalf is a muscular man with tousled steel-gray hair. Not rigidly bound to protocol, he often places his own phone calls, and he reads all of his mail and answers letters personally. (He takes the opinions of his constituents very seriously.) His recreations are reading and gardening. As acting president pro tempore of the United States Senate—an elective position—Metcalf presides in the absence of the Vice-President and his alternate.

Mr. SISK. Mr. Speaker, it is with a great sense of sadness that I join with the other Members here today in paying a farewell tribute to our former House colleague, LEE METCALF, who went on to the Senate in 1961, furthering a distinguished career.

I had the honor and privilege of serving with LEE on the House Interior and Insular Affairs Committee during the 84th, 85th, and 86th Congresses. I was his junior, but he was of immeasurable assistance to me with the legislation creating the San Luis unit of the Central Valley project, vital to the irrigation of the largest agricultural producing area in our country.

After he went to the Senate he remained a good friend to me and was ever mindful of the needs of our West when I needed Senate help on projects vital to our existence in California.

As one of the most able and intellectually gifted Members of the U.S. Senate, a great and loyal American, he will be sorely missed by us all.

Mr. ANDREWS of North Dakota. Mr. Speaker, I wish to join my colleagues today in tribute and heartfelt remembrance for Senator LEE METCALF. The State of Montana and our Nation have lost a courageous and energetic leader. It was a privilege to have had an opportunity to be acquainted with him and to have worked with him on matters affecting both the problems and the promises of our neighboring States and the upper Midwest region.

LEE METCALF was instrumental in many legislative areas. On the matter of energy policy he was a key personality, and his influence will be sorely missed. During his 17 years in the Senate, he was known for his advocacy of environmental matters of great importance to our western coal-producing States, and for increasing the Nation's designated wilderness areas. His interests and efforts in the areas of education and Indian assistance were extensive. His many accomplishments within the State of Montana, our region, and the Nation are great, and his death is certainly a tremendous loss to all.

Mr. JENRETTE. Mr. Speaker, when a statesman and gentleman of LEE METCALF's magnitude is lost through death to the Senate, not only his home State of Montana, but the entire Nation, shares in the loss.

Senator METCALF's accomplishments are matters of record in both the House and Senate and he will not be forgotten.

I join the body of the U.S. House of Representatives in expressing my sympathy to the family of this fine man.

Mr. GIAIMO. Mr. Speaker, when I first came to Congress in 1959, one of the first Members to catch my attention was a whip-smart man from Montana. He could make a very persuasive speech and he knew his law. A year earlier, LEE METCALF had seen a real need for something of which only a few other House Democrats were aware. So he rose to the historic challenge.

It is not overstating the case to say that the late, honorable gentleman from Montana—along with Chet Holifield, Gene McCarthy, FRANK THOMPSON, SID YATES, George Rhodes, John Blatnik and a few others—proceeded to invent the Democratic Study Group. Brandishing their "Liberal Manifesto," these DSG founders created, from scratch, an effective, albeit informal, steering committee and whip system to develop their liberal strategy and to coordinate their legislative efforts. They formally organized this voting bloc the next year, my first in Congress, and I was privileged to join the newborn Democratic Study Group.

LEE METCALF went to the Senate in 1961, and we sorely missed his talents in the House. Ten years later, however, I had the happy opportunity to again work with him on the Joint Committee on Congressional Operations, of which LEE was either chairman or vice chairman from its 1971 inception until his untimely death this month.

I will miss LEE METCALF as a colleague, as an eloquent extoller of Montana's virtues and, above all, as a friend whom I always wished to know better.

Mr. ICHORD. Mr. Speaker, it is an honor to join in this tribute to our colleague and friend, LEE METCALF. As a dedicated and distinguished public servant, LEE METCALF served his country for 25 years in Congress, and before that served his State of Montana as assistant attorney general and associate justice of the State supreme court. To each of these roles LEE brought a respected ability as a speaker and a thinker, and on each of them, it must be said, he left his mark.

Politically, LEE METCALF may be most remembered as a reformer. Personally, he will be known as a man who held high the most basic values and rights of the individual. His many accomplishments in the areas of expanded assistance to the elderly, disabled, and veterans will serve to remind us of these qualities, just as his efforts in behalf of consumers, his work on the Congressional Budget and Impoundment Control Act, and his National Defense Education Act, which did so much to inform the American public of its country's vast technological possibilities, will keep this country forever grateful.

Mr. Speaker, I join my colleagues today with gratitude in paying tribute to LEE METCALF, a great servant and leader and an honored man and friend.

Mr. PICKLE. Mr. Speaker, I appreciate this opportunity to join with my colleagues in the House to pay tribute to the late Senator LEE METCALF. His record of service in both the House of Representatives and the Senate displays his remarkable understanding and concern for the needs of his constituents, the interests of our Nation, and the integrity of our legislative process.

Although his term in the House ended before I joined this body in 1963, I had the honor to work closely with him on several occasions in the past few years.

As the chairman of the Senate Subcommittee on Public Lands and Resources, he understood the importance of developing our natural resources in a responsible manner. He felt that the resources on public lands truly belonged to the American people and they should be used for the benefit of the entire Nation. As a leader in the long but successful battle to establish strip mining controls, he impressed upon the entire Nation the idea that our national energy resource could and should be developed in a reasonable and responsible way that did not sacrifice our environment.

Senator METCALF earned my respect during our work on the Federal Leasing Act of 1976. I come from the central Texas district which has been hardest hit by increasing natural gas prices than any other part of the Nation. Our area desperately needs to mine the lignite deposits on Federal land under Camp Swift near Austin. I offered an amendment to that bill that would allow the publicly owned utility companies to mine this lignite to generate electricity and thus lower the cost to consumers in their area.

I met with Senator METCALF during the consideration of this bill and he not only endorsed my proposal, but he assured me that it would sail through the Senate if we could get it passed in the House.

He felt that coal or lignite under Federal land was property already belonging to the American people and it should be available to public utility companies at the lowest possible price. He was talking about giving it to the people at no cost at all except the price of mining it. He assured me that Congress would someday come to this point.

We secured passage of this bill although the Interior Department is now moving at a snail's pace and lawsuits by environmental groups have delayed its implementation.

But during all of this work, I was very impressed by the depth of his understanding and his desire to see the people receive the benefits of the federally owned resources that they are entitled to.

We will all greatly miss our colleague here in Congress, but I know that we are all grateful for the legacy that he has left us. The debates that will take place in this session and in many sessions to follow on the issues of energy, public lands, and natural resource development will all display the attitude and understanding that he helped develop in each of us. I will personally deeply miss LEE METCALF, but I know that I am richer for having known him and worked with him.

Mr. ROSENTHAL. Mr. Speaker, the Congress has, over the years, witnessed the talents of many great legislators at work—the talents of men and women who have served our country with dedication, perseverance, and an energy which has inspired and earned the re-

spect of friend and foe alike. Senator LEE METCALF was such a man.

I share the profound sense of loss at his untimely passing. He had been devoted to the people, and he manifested that devotion in his many great fights—for Federal aid to education, Federal assistance to the elderly and disabled, and for consumer protection. He had a fondness for taking the side of the ordinary person. He fought hard. He got results.

And now, I can only add to the many praises already given this man by his numerous friends. He was a great Senator and a tribute to the State and to the country he served faithfully for 25 years in both Houses of Congress.

I mourn LEE METCALF's passing and join with others in this tribute to his contribution and to the value of his years of service and leadership.

Mr. COUGHLIN. Mr. Speaker, we are pausing for a moment today to remember LEE METCALF, Montana's senior Senator and former Representative from the First District who sadly is not with us this session. We had anticipated Senator METCALF's retirement at the end of the session, but we did not expect to lose his friendship so soon and in this way.

Senator METCALF was a skilled and forthright legislator, respected on both sides of the aisle. He was a strong advocate of the people, especially in the allocation of Federal funds to hardpressed local school districts, in providing medical funds for the aged, in preserving and conserving the Nation's natural resources, and in establishing a Federal office to handle consumer complaints. Inside Congress, he was an active Senate floor leader and a prime mover in opening both the House and Senate Chambers to direct radio and TV coverage.

For myself and, I am sure for all of my colleagues, I can say that LEE METCALF will be missed and well remembered.

Mr. STEED. Mr. Speaker, it was with great sadness that I learned of the death of our able and respected former colleague, Senator LEE METCALF. He represented Montana conscientiously and effectively for a quarter of a century.

It was my privilege to serve with him for 8 years in the House after he came here at the beginning of the 83d Congress. As a member of the Committee on Education and Labor, and later of Ways and Means, he was recognized as an effective spokesman for his constituency and also one who was interested deeply in the institutional improvement of the House as a whole. Speaker Rayburn regarded him as among the most promising younger Members.

He was a founder of the Democratic Study Group in the late 1950's, a move in the direction of providing for Members the additional research and background on issues essential in dealing with the intricate subjects we have to contend with today.

We need more public servants of the type of LEE METCALF. I knew of his decision not to seek reelection and only regret that he was not able to enjoy the years in his native Montana he had so well earned.

Mr. ROYBAL. Mr. Speaker, as the House pauses today to honor the memory of a most distinguished Senator and former Member of the House, I would like to express the deep loss shared by all those who had the privilege to know LEE METCALF, senior Senator from Montana. I consider it my good fortune to have known Senator METCALF and will always have the greatest respect for him and his outstanding efforts on behalf of the American people.

When I was elected to the House 16 years ago, LEE METCALF had completed four terms in the House and 2 years of his first term in the Senate. He had already achieved considerable success in his legislative efforts and established himself as a champion of liberal legislation.

His death is a great loss for the people of Montana and the country. He faithfully served in Congress for 25 years, strongly advocating Federal support for education, the expansion of Federal assistance for the elderly, consumer protection, and surveillance of the electric power industry. He was an active proponent of conservation measures, who fully appreciated the values of our natural environment and the need to preserve and protect them.

LEE METCALF had a particularly distinguished career as a public servant. Educated as a lawyer, he was elected to the Montana State House of Representatives and the appointed assistant attorney general before enlisting in the Army during World War II. He also served as associate justice of the Montana Supreme Court prior to his tenure in Congress. While in the House he was the first chairman of the Democratic Study Group which he had helped to form during the 86th Congress.

It is with deep sorrow that we now mark the passing of this fine legislator who repeatedly evidenced such great concern for the average American.

Mr. HORTON. Mr. Speaker, I rise to say a few words about a very good friend and colleague, the Honorable LEE METCALF, Senator from the State of Montana. I know my colleagues in both the House and Senate received with great sadness and a sense of loss the news of his death on January 12.

For more than 25 years, LEE represented the people of Montana, first in the House from 1953 to 1961, and then in the Senate. During that time, LEE became highly respected and well known for his staunch support of issues often opposed by powerful interest groups. Two of the major battles he waged on behalf of the consumer and the environment were his cosponsorship of the Wilderness Act which gave legal protection to wilderness areas and his proposal to study the effects of pesticides on fish and wildlife which eventually led to laws that limit the amount and mixtures of pesticides that can be used.

Although he and I were not colleagues in the House of Representatives I came to know and admire LEE, because of our respective assignments on the Senate and House Government Operations Committees. That common denominator brought us together many times to iron out differences between House and Senate versions of such legislation as the bill authorizing the reorganization of energy research within the Federal Government, the bill I sponsored in 1974 establishing ERDA and the Nuclear Regulatory Commission. I came to admire his forensic skills in conference committees and found him to be a staunch and loyal friend. Most recently, he and I served on the House-Senate energy conference committee.

Although he was a U.S. Senator when he died, his colleagues in the House will remember him especially for it was the House which he loved and served so well. I would also like to express my sincere condolences to his family.

Mr. CEDERBERG. Mr. Speaker, I always feel a deep personal loss when a colleague passes away. But the recent passing of Senator LEE METCALF touched a special spot in me. We both began serving in Congress at the same time back in 1953. In a sense we learned the ropes together. With all the complexities of the working Congress, those learning experiences brought everyone in that freshman class of 1953 closer in friendship.

I followed Senator METCALF's rising star, first during 8 years that he spent in the House and then in subsequent years as he served in the Senate. There never was any doubt that he was a person destined for bigger and better things. A go-getter with contagious enthusiasm, his ambition was obvious and his suitability for success was unquestioned.

In the end, however, his true love was for the House. Although he was part of this body for only 8 years, he was one of its most active Members. At a time when more senior Members dominated the activities of the House, Senator METCALF was unusually effective in getting things done. He had a natural affinity for people as they did for him. And this mutual respect was his key to unlocking what otherwise were impassable doors to junior Members.

Although we entered the House on different sides of the aisle, I always had the greatest respect for Senator METCALF. He was a conscientious and hardworking individual who thought about what he was going to say before he spoke. We sometimes differed in our political philosophies, but the differences were usually in approach and not in what we thought the final result should be.

Senator METCALF was a patriotic person whose concern for the national interest would often motivate him to rise above political differences. He possessed a natural instinct for issues that needed attention. While always a politician, and an astute one at that, he was willing to sacrifice his political security for a good cause. And he had many good causes for which he was willing to fight.

Perhaps the most appealing aspect of this man was his modesty. Never pretentious, he was more interested in getting things done than he was in his own personal gain. This trait did not go unnoticed either. It endeared him to his constituents of his congressional district and the entire State of Montana.

Senator METCALF achieved much about which he could be justifiably proud. He

is often said to have had one of the finest legal minds in the Congress, a fact that he shrugged off as greatly exaggerated. Nonetheless, he was widely recognized to be a sound legal thinker whose views commanded great respect. In years to come I am sure that his arguments will often be cited in House and Senate debates.

There is no doubt that Senator METCALF will be missed by all Americans, but he leaves a special void in the Congress. He had a distinguished career of public service. His leadership, both in the House and Senate, will be difficult to replace. His work, however, will be remembered in the substantive legislation that he has helped to pass, and more importantly, in the memories of those individuals whom he helped over the years.

Mr. REUSS. Mr. Speaker, I feel a special and personal sense of loss at the passing of my friend and former House colleague, Senator LEE METCALF. His early advocacy in this Chamber of wilderness preservation and conservation of clean air and water laid the foundation for passage of pioneering conservation legislation.

LEE METCALF's politics were in the best tradition of Midwestern populism. His mind was keen and often made sense of that which was murky to the rest of us. His fairness and integrity were absolute and unquestioned. Some shied away from difficult and controversial issues. LEE METCALF faced up to all of the tough questions our country faced for his quarter century in Congress. He was an example to us all.

No tribute would please him more than for us to carry on the good fights he fought and to emulate the integrity and courage which were his hallmarks.

Mr. UDALL. There's an old saw that divides Senators into two groups: Workhorses and showhorses. However oversimplified that division may be, it is true that by any standard, LEE METCALF was one of the congressional workhorses of his generation.

Behind one of the most pleasant and engaging personalities I ever encountered, was the toughness that helped him engage in, and usually win, tough legislative battles for wilderness and the environment, for consumers and small business, and for the sound development of his beloved Montana.

When strip mining legislation was winding its tortured course through a decade, some of the rest of us got the publicity, but LEE METCALF did a lion's share of the work. And he helped to find the key compromises that enabled us to move ahead.

His distinguished career in the Senate often led many people to forget that the first faint stirrings of the House revolution were the result of his determination to form the Democratic study group, a small group of men that included Gene McCarthy, Frank Thompson, Stewart Udall and others. And it was spearheaded and presided over by LEE METCALF.

Once this group began to stand up to the old forces, a tide was set in motion and could not be stopped.

LEE and his wife, Donna, were widely beloved as a good, genuine people on this busy Washington scene.

I often went to LEE METCALF for counsel. He was a good man, a good friend, and a great legislator. I shall miss him very much.

Mr. NATCHER. Mr. Speaker, The House of Representatives has lost a distinguished and respected colleague in the loss of Senator LEE METCALF.

Senator METCALF will be long remembered for his painstaking work and leadership in his fight for consumer protection, energy conservation, wilderness conservation and educational aid. LEE METCALF had a quick mind and showed us all that he was, indeed, a hardworking. dedicated legislator.

I will miss my friend, LEE METCALF. I served with Senator METCALF for a number of years when he was in the House of Representatives and during this time we served together we both were named to the Select Committee on Astronautics and Space Exploration. The Honorable John W. McCormack was chairman of this Select Committee in the House and Lyndon Baines Johnson, majority leader, presided on the Senate side. After the Soviet Union succeeded in placing Sputnik I in orbit on October 4, 1957, this select committee conducted hearings for a period of 1 year, prepared and passed through the House and the Senate the legislation creating the Space Agency and shortly thereafter, the necessary resolution setting up the Committee on Science and Technology. This was one of the most fascinating assignments that I have ever filled during my career in the House, and I know, that LEE METCALF would have agreed wholeheartedly with this statement. During our work in this select committee, I witnessed the dedication and high skills of Senator METCALF. His contribution to our work surely paved the way for the space program as we know it today.

While LEE METCALF served in the House of Representatives he often took aggressive action to pursue his interests in the area of the interior and insular affairs. He continued this vigor when he was elected to the Senate in 1960 and fought hard for consumer rights, energy and wilderness conservation. His accomplishments in these fields are tribute to his legislative abilities and dedication to serve the people who elected him.

Mr. Speaker, Senator METCALF was a brilliant Member of Congress. He loved his country, his State of Montana, and the House of Representatives and the Senate. The Congress is the greatest legislative body in the world and it has acquired this honor and distinction by virtue of having such men as LEE METCALF serve as Members.

The achievements of Senator LEE METCALF for America over the years will be long remembered. LEE METCALF will be sorely missed. His wife, family and friends have my deepest sympathy at their personal loss.

Mr. HORTON. Mr. Speaker, I rise to say a few words about a very good friend and colleague, the Honorable LEE METCALF, Senator from the State of Montana. I know my colleagues in both the House and Senate received with great sadness and a sense of loss the news of his death on January 12.

For more than 25 years, Lee represented the people of Montana, first in the House from 1953 to 1961, and then in the Senate. During that time, LEE became highly respected and well known for his staunch support of issues often opposed by powerful interest groups. Two of the major battles he waged on behalf of the consumer and the environment were his cosponsorship of the Wilderness Act which gave legal protection to wilderness areas and his proposal to study the effects of pesticides on fish and wildlife which eventually led to laws that limit the amount and mixtures of pesticides that can be used.

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Although he was a U.S. Senator when he died, his colleagues in the House will remember him especially for it was the House which he loved and served so well. I would also like to express my sincere condolences to his family.

Mr. JOHNSON of California. Mr. Speaker, It was with great personal sadness that I learned of the passing of the senior Senator from the State of Montana, the Honorable LEE METCALF. He was a great statesman, a learned man, and a dedicated representative of his people.

LEE and I served in the House of Representatives together, and I found him to be a warm friend and an able counselor. He loved this House and its many Members over the years. He was a man who truly enjoyed a life of public service.

Our common interest in the Nation's natural resources caused us to have frequent occasions to champion the same causes. I have seen LEE work and he was always well informed and demonstrated outstanding legislative skills. As we served together on many conference committees, I always knew I was in the company of a wise and compassionate man.

Senator METCALF's striving for excellence was demonstrated in many ways. Perhaps one of his most noticeable efforts was as permanent Acting President pro tempore of the U.S. Senate. Having mastered the rules and procedures of the Senate, LEE was particularly effective in directing the course of debate and protecting the rights of all under the parliamentary rules.

LEE METCALF was also a forward-looking man. He had a special ability to analyze a problem and develop a program for solving it. He had that important gift of being able to look ahead of the present and see the needs of the country and its citizens in the future. One vehicle which he helped to create as a means of developing progressive legislation was the Democratic Study Group, now an important and permanent legislative organization.

Throughout his efforts in behalf of the Nation and its various constituencies, he never forgot the people of the Big Sky Country. The people of Montana were fortunate to have had a man of Lee Metcalf's stature and ability representing them in the Congress of the United States. They will miss him as, indeed, we here will.

I can say to his family that they can be proud of his outstanding service to his country and take comfort in knowing that his accomplishments will live long after him.

Mr. HANLEY. Mr. Speaker, I know that news of the sudden death of our friend, LEE METCALF, came as a shock to all of us. His presence in the U.S. Congress will be sorely missed.

LEE METCALF'S trademark of complete honesty and integrity in government made him a leader in the Senate. His concern for workers, family farmers, the poor and the disadvantaged was an example for all of us.

LEE METCALF was a pioneer of the conservation movement. He authored and helped put through the Congress landmark legislation for his State and the Nation in labor, Indian affairs, natural resources, and human rights. He was an early sponsor of legislation for clean water, Federal aid to education, and reclamation of strip mined land.

During his nearly 24 years in the Congress, the first 8 of them served in this Chamber, LEE METCALF was a guardian of the public interest. In his own words, Government "exists solely for the benefit of the people. It has no other purpose." The people of Montana and of the entire Nation have lost a great friend.

Mr. MITCHELL of Maryland. Mr. Speaker, I would like to commend one of the most powerful political leaders of our times, Senator LEE METCALF. His political and firm philosophical perspective will be sorely missed. Indeed, he was an effective pioneering Member of the U.S. Congress in the arena of civil rights.

LEE METCALF'S political philosophy about civil rights was consistent for all. He stood up against the regional tradition of the Western States by always being counted upon to break a congressional filibuster against the Civil Rights Act throughout his tenure in office.

He waged an unrelenting war for the rights of the American Indian. In the mid-1950's, METCALF was successful in securing eligibility for the schools on Indian reservations with Federal impact educational aid for the first time. METCALF was also responsible for allowing the American Indian the opportunity to get into military academies and helped secure the Indian health program.

In the recent Labor-HEW fight, METCALF'S power was felt with his opposition toward the Biden-Eagleton amendment which would eliminate HEW's involvement in busing.

LEE METCALF was a man which will truly be missed. However, his presence will remain with us by the deeds which he left upon this Nation.

Mr. ZABLOCKI. Mr. Speaker, the death of LEE METCALF has removed from the Congress a potent voice for the State of Montana, and for common people everywhere.

For many years LEE has been an articulate and effective champion of consumer interests and environmental protection. He has been a major force in Federal support for educational programs, and for the elderly and disabled and other disadvantaged groups.

It was my privilege to have been a friend and associate of LEE METCALF, particularly during his service in the House. He was founder and first chairman of the Democratic Study Group, an organization which continued in vigor and effectiveness after he left us for the Senate. In pursuing in the other body his concern for good government, responsive to the people, one of the most notable results of his efforts was passage of the Congressional Budget Act in 1974.

We will continue to benefit from his contributions for many years to come. I extend heartfelt condolences to his wife and family at his untimely passing.

Mr. DON H. CLAUSEN. Mr. Speaker, the people of Montana and the people of the United States have suffered a great loss in the death of our colleague, Sen. LEE METCALF.

He made outstanding legislative contributions in the field of education and conservation, and will be long remembered for his role in increasing the emphasis on the study of science, technology, and languages, as well as for his advocacy of the extension of the GI bill to Vietnam veterans. He was also in the forefront in the batle to provide clean air and water to all Americans, and to make our Federal Government more responsive. I am proud of my close working relationship with the Senator these past 15 years.

Throughout his life Senator METCALF demonstrated much of his rugged Montana heritage. Perhaps the person who wrote this old poem had him in mind:

Good timber does not grow in ease,
The stronger wind, the stronger trees;
The farther sky the greater length,
The more the storms the more the strength.
By sun and cold, by rain and snow,
In tree or man good timber grows.

Mr. McCLORY. Mr. Speaker, in the passing of the senior Senator for the State of Montana, LEE METCALF, the nation has lost a valuable public servant and my wife, Doris, and I have lost a good friend.

Senator LEE METCALF, a thoughtful and careful student of the great national issues which have confronted our Nation in recent years exercised wise judgment in the decisions which he reached and was always hard working in the tasks which he undertook.

Mr. Speaker, I know from my personal contact with Senator METCALF that he was a wholesome individual and a dedicated and able lawmaker. While quiet and unassuming, he was at the same time persistent and unwavering in his convictions. He was effective in achieving ends which he regarded as plausible and in the public interest.

As a colleague at several interparliamentary union conferences, I took careful note that Senator METCALF applied himself to those issues of international concern with which our delegation had to deal at these conferences. I fouud Senator METCALF easy to work with and logical and constructive in the contributions which he made to the overall work of our delegations. Accompanied on these occasions by his loving and devoted wife, Donna Metcalf, these worthy representatives of our Nation enhanced the prestige of our group and contributed to the harmonious atmosphere in which the various Members of our delegation were able to operate.

Mr. Speaker, I should add that my wife, Doris, has had many other opportunities to work closely with Donna Metcalf and to come to appreciate the strong support which she provided in the Metcalf household.

While the passing of LEE METCALF was followed closely by that of his Minnesota colleague, Senator Hubert Humphrey, it may be that because of the coincidence less public notice was given to the career of long and honorable service which characterized LEE METCALF. However, it should be noted here that LEE METCALF began his public service as a Member of this House of Representatives in 1953 and continued here until 1961 when he was sworn in as Senator from the State of Montana.

Respected and beloved, Senator LEE METCALF contributed mightily to the stature of the Congress.

I join my many other colleagues who have paid final tribute to Senator LEE METCALF and, together with my wife, Doris, take this occasion to convey our affection and deep sympathy to his widow, Donna, and to other members of his family.

Mr. THOMPSON. Mr. Speaker, as we all know, the Congress suffered a great loss with the passing of our former colleague, Senator LEE METCALF of Montana. Many kind words have been spoken about him; none can ever capture his essence or the depth of our loss. Nevertheless, I would like to share with my colleagues two commentaries to describe LEE METCALF'S unique contribution to the national interest.

Following is the text of Jack Anderson's radio commentary for January 25, 1978, and an editorial from the St. Louis Post Dispatch of January 16, 1978:

RADIO COMMENTARY ON LEE METCALF

(By Jack Anderson)

What is the legacy of Senator Lee Metcalf? I'll be back in a minute with an exclusive report . . . this is Jack Anderson in Washington . . .

Twelve days ago Montana's democratic Senator Lee Metcalf died after a heart attack . . . His death has touched off bitter

political feuds both in Montana and Washington . . . Metcalf was a maverick populist . . . he fought good fights that were never completely won or lost . . . one of Metcalf's pet projects was to discover who owns America . . . for years he investigated corporate manipulations . . . his work resulted in significant laws that curb corporate power . . . but, Metcalf alone among his colleagues took a special interest in this field . . . Metcalf was also a key supporter of gas deregulation on the Senate energy committee . . . now, all sides on the energy question are waiting anxiously to see who will be named to take over Metcalf's committee chair . . . the administration forces were depending on Metcalf's support until his planned retirement in 1979 . . . meanwhile, Montana was already bracing for a politically turbulent year even before Metcalf's untimely death . . .

[From the St. Louis Post Dispatch, Jan. 16, 1978]

LEE METCALF

The very first term Lee Metcalf spent in Washington, as a freshman Democrat in a House of Representatives controlled by Republicans, he made something of a name for himself by successfully challenging a bill that would have handed certain public lands to the cattle interests. The year was 1954, and veteran observers at the time could not recall a similar successful challenge by a freshman from a minority party. After moving from the House to the Senate in 1960, he continued to do battle with the special interests, and as a result he remained a maverick. He was never a Senate insider or power broker, as was Montana's other senator, Mike Mansfield. He was too outspoken for that, too much interested in exposing how special economic interests work their will and in devising means to hold them accountable to the public interest.

He was a particularly sharp and perceptive critic of utilities and the shortcomings of federal and state regulatory efforts, as well as an early voice of dissent from this country's deep involvement in Vietnam in the mid-1960s. In recent years he has paid more attention than almost anyone else in the Senate to the new patterns of corporate ownership and control and how they have shaped the economy and influenced government policy. Even before his sudden death last week, he had announced that he did not intend to seek re-election next year. So it was already clear that his particular brand of frontier populism would soon be absent from the Senate. That chamber and the nation will miss him. There are all too many in Washington who aspire to work with the system—too few who, like Sen. Metcalf, want to let the rest of us in on how the system works.

● Mr. WON PAT. Mr. Speaker, I am proud to join in this tribute to the late Senator LEE METCALF of Montana.

I had the pleasure of working closely with Senator METCALF for a number of years in matters of interest to the people of Guam. Much to his considerable credit, Senator METCALF was invariably ready to contribute both his time and energy on our behalf.

One major area of concern was his efforts to amend certain portions of the Rural Electrification Act of 1936 so as to change various portions in the bill to make it conform to special problems we have on the island. And while we never won this particular battle, Senator METCALF's efforts on our behalf helped time and time again to carry the day.

I am confident that the people of Guam will long have ample reason to treasure the memory of this great friend. Guam has been very lucky to have many friends through the years in Congress. But LEE METCALF will go down in our memory as one of a cherished few who made our welfare a personal concern that never faded with time or adversity.

And during our relationship, I also remember with fondness the many occasions when Senator METCALF would extend to me his personal friendship. He was a warm and open man and during my early years in Washington, the friendship of one such as LEE METCALF, was a welcome source of strength and a never ending font of sage advice. He will certainly be missed by his many friends and colleagues here in Washington, not the least of which will be myself. He served his country with distinction and I am proud to have served with him.

Thank you.●

DECEPTIVE MAIL ADVERTISING

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from Maryland (Ms. MIKULSKI) is recognized for 5 minutes.

Ms. MIKULSKI. Mr. Speaker, today I am introducing a bill which will cost the Government nothing but will result in saving our constituents, both individuals and businesses, considerable sums of money. Not long ago, William Weaver, an officer of the Maryland Bankers Association, brought a solicitation to my attention which exactly resembled an invoice, except for a legal notice printed at the bottom of the page which alerted him that he had received a solicitation. Not all people bother reading this form of advertising in its entirety. Frequently, people pay the requested amount automatically.

For this reason, my bill would ban this form of deceptive solicitation. Presently 39 U.S.C. 3001(d) provides that such material may be mailed as long as there is notification on the page letting the recipient know that he or she has received a solicitation and not a "bill, invoice, or statement." This loophole in our postal laws is damaging to both business and individual recipients of the misleading ads. The large corporation accounting office may pay these so-called bills without ever seeing the "warning notice." When delivered to homes, these deceptive ads are most likely to defraud the people least able to pay. My bill totally disallows such a mailing.

I am pleased to have Representative GLADYS SPELLMAN as a cosponsor of this bill. As chairwoman of the Compensation and Employee Benefits Subcommittee of the Post Office and Civil Committee, she and I will be working to get this bill passed by Congress. I invite my colleagues to join me in sponsoring this legislation.

"UKRAINIAN INDEPENDENCE DAY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. LE FANTE) is recognized for 5 minutes.

Mr. LE FANTE. Mr. Speaker, today I have introduced a resolution declaring January 22 of this and each succeeding year as "Ukrainian Independence Day."

Ukrainians are not late comers to our shores of freedom. There is evidence of the presence of Ukrainians in America during the Jamestown and Colonial periods and of Ukrainians having fought in the Revolutionary and Civil Wars. The bulk of Ukrainian immigrants came here between 1865 and 1875. The Ukrainian-American community now consists of over 2 million people in every State of the Union—from the Atlantic to the Pacific and from the Canadian to the Mexican borders.

The date January 22 is of great significance to Ukrainians. On that date in the year 1918, the newly formed Ukrainian Central Rada under the presidency of Prof. Michael Hrushevsky, Ukraine's foremost historian, issued a universal proclamation declaring the full independence and sovereignty of the Ukraine. The act of January 22, 1918 was the realization of Ukraine's right to self-determination. It was the rejection of Russian imperialism in all its aspects.

Ukraine fought not only for her independence from the colonialism of Moscow, but also for the democratic freedom that the dictatorship of a single party would not allow. Their fight for freedom was much like that of our own, except where it took us approximately 10 years to win our freedom and recognition as a sovereign state, it took the Ukraine more than 200 years.

The act of January 22 proclaiming the Democratic Ukrainian Republic guaranteed freedom of speech, press, religion, assembly, association, freedom to strike, and freedom of person and domicile. All minorities were granted "national personal" autonomy, and consequently the rights of individuals of each nationality were also affirmed. It is an expression of Ukrainian individualism; freedom of the individual and a social order built on the basis of that freedom contradicts Moscow collectivism.

After many long years of struggle the Ukraine had finally received its reward. The Moscow Government, under Lenin, officially recognized the independence of the Ukraine and the people rejoiced. We can well imagine their hopes and dreams as they embarked on what they thought would be a new era of peaceful progress. But we also know of the tragic end to these hopes, for the Ukrainians were destined to become the first victims of Communist aggression.

There were some in the world who voiced outrage at the atrocities committed in the Ukraine, and who saw the dread portents which these crimes held for the whole family of man. But the general response of free men in the past has been feeble and weak. The day that was meant to represent independence and rebirth serves now to remind us of the perpetuation of injustice and the passing of another year of subjugation for more than 47 million Ukrainians. By officially recognizing this day of independence, which means so much to Ukrainians all over the globe, we are serving notice that we have not forgotten their struggle. We are strengthening the voice of outrage in support of the independence of the Ukraine State.

SIXTIETH ANNIVERSARY OF UKRAINIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, January 22 is a day which has special meaning for more than 2 million of our fellow citizens. For those in America who are of Ukrainian descent, this day recalls the moment in 1918, 60 years ago, when a group of patriots in Kiev, the capital of Ukraine, proclaimed the independence of their native land from Russia. The Ukrainian people now, as in the past, are determined to be free, and to guide their own destiny in their sovereign state.

In the year 1917, when the revolution broke out in Russia, Ukrainian leaders called a Ukrainian National Congress in the month of March, which elected a Ukrainian National Rada. The Ukrainian National Council was recognized as the Ukrainian Government by a majority of the people of Ukraine, and by the Congress of Ukrainian Armed Forces, by the Congress of the Ukrainian Peasant Party, and by the Congress of the Ukrainian Labor Party. On January 22, 1918, the Ukrainian National Council proclaimed Ukraine as an independent state.

Russia immediately sent her armies into Ukraine and the Ukrainian Government faced a bloody war with Russia, completely unarmed and unprepared. At this time, the Ukrainian Government was recognized by approximately 35 foreign powers, England and France being the first to grant recognition.

On February 9, 1918, the peace treaty of Brest-Litovsk was signed between the Ukrainian Government and the Central Powers. On September 10, 1918, in Kiev, the Russian Government under Lenin's leadership recognized Ukraine as a sovereign state and signed an armistice. Under this agreement, Russia agreed to withdraw her armies from Ukrainian territory and further agreed to respect the right of Ukrainian sovereignty. As in the past, Russia did not respect the Kiev agreement and the war continued. After 3 years of fighting and subversive activities, Russia conquered the Ukrainian armies and occupied the territory of the Ukrainian state, and forcibly incorporated Ukraine into the Soviet Union.

During the past 60 years millions of innocent people in Ukraine, for the "offense" of not accepting the Communist way of life, have been persecuted and imprisoned by the agents of the Government of the U.S.S.R. In 1932–33, Ukrainian farmers were ordered by Stalin into collective farming. When they protested, Russia retaliated by confiscating most of the grain and imposing a famine which took the lives of 7 million Ukrainians.

Arrests of Ukrainian intellectuals, writers, literary critics, professors, students, scientists, and representatives of every strata of society have been made in recent years for "anti-Soviet agitation and propaganda," and the arrests, torture, and internment continue.

In reality this propaganda consists of petitions, appeals, and letters submitted from concentration camps by prominent political prisoners and prominent Ukrainians at home to the Communist Party and government officials of Ukraine and U.S.S.R., bringing to their attention the questions of terror, Russification, and violations of constitutional and human rights. Since there is no free press in Ukraine, the above-mentioned arrests and persecutions were published in the self-sponsored—samvydav—magazine, the Ukrainian Herald.

Many millions of Ukrainians are today under the harsh yoke of Communist rule. But the oppressions and the persecutions that these valiant people have endured has only strengthened their passionate desire for national independence.

It was for these pressing reasons that I introduced House Resolution 13, to establish in the House of Representatives a Special Committee on the Capitive Nations, and cosponsored House Concurrent Resolution 165, which follows:

H. CON. RES. 165

Whereas the Charter of the United Nations, as well as it Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the Constitution of the Union of Soviet Socialist Republics article 124 unequivocally provides that "In order to insure to citizens freedom of conscience, freedom of religious worship, and freedom of anti-religious propaganda is recognized for all citizens"; and

Whereas not just religious or civil repression but the genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches in a nation of over forty-five million brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches that their own constitution provides for; and

(3) raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two churches and its perpetuated effect on the posture of the Union of Soviet Socialist Republics in the light of the United Nations Charter and the Declaration of Human Rights.

Mr. Speaker, it is indeed appropriate for us here in the Congress to remember, on the 60th anniversary of the proclamation of the Ukrainian Republic, the millions of people still in the Ukraine, and their national compatriots in my own 11th District of Illinois, throughout our Nation, and all over the world who continue to cherish the hope of eventual independence and a free Ukraine. These dauntless people desire only that which is the right of all peoples—a nation of their own.

Let us, therefore, reaffirm our belief in freedom for all peoples and our hope that the valiant Ukrainians shall one day again enjoy the blessings of liberty in their own homeland for which they have courageously struggled for so long.

YOUTH OPPORTUNITY WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. CORNELL) is recognized for 10 minutes.

Mr. CORNELL. Mr. Speaker, today I join my distinguished colleague from Illinois (Mr. SIMON) in sponsoring legislation which would amend the Fair Labor Standards Act to provide for a youth opportunity wage.

As you will recall, last year when the House considered legislation to increase the minimum wage, we offered an amendment that provided for such a youth differential, but our proposal was defeated by a single vote.

Today, we wish to give this body another opportunity to consider the merits of such a special wage for teenagers now that Members have had a chance to reflect on their previous vote and to learn from their constituents of the widespread support for such a provision.

With the exception of certain technical changes, this bill is identical to the amendment we offered last September. It provides that youths 18 years of age and under can be hired at 85 percent of the regular minimum wage for the first 6 months of employment. After this training period has expired, these employees must be paid at least the full minimum wage.

Our proposal would also eliminate most of the redtape involved in hiring students who under present law may be employed at 85 percent of the minimum wage in retail, service, or agricultural work. Under the provisions of this bill a high school or college student seeking part-time employment would simply present to the employer certification from the school that he or she is a full-time student.

Most teenagers entering the job market for the first time do so without the necessary skills, training, and, of course, experience, so they are, in a real sense, apprentices or learners. Our bill would encourage employers to hire these young people at a rate below the current minimum to be paid for a period when they are learning the basic job skills.

This legislation also takes into account the potential for abuse by providing penalties in the event older workers are fired in order to hire youths, or youths are dismissed without cause and replaced at the end of the 6-month training period, or wages of current young employees are reduced.

While recent Labor Department figures indicate a reduction in the percentage of unemployed, young people, especially in our urban areas, constitute a

large portion of those who remain idle. We all recognize the dangers inherent in such a situation. During the last session we enacted the Youth Employment Act including the establishment of the Young Adult Conservation Corps. I am also aware that the administration will seek additional funds to deal with this problem and will propose CETA-type contracts with local businessmen's councils to reduce youth unemployment. It is my contention, however, that while these measures will certainly help, more must be done to provide our young people with work experience.

I do not contend that a youth opportunity wage will necessarily solve the problem of youth unemployment. I do maintain, however, that it is time to try new approaches to the task of increasing employment opportunities in the private sector for the youth of our country.

The studies that have been made about the impact of a youth differential wage have resulted in contradictory conclusions. Only by the enactment of legislation such as we are proposing today will we find the real facts. You will recall that in the legislation we passed last year Congress mandated a study of the minimum wage. Let us give the commission an opportunity to determine from practical experience the effects of a youth subminimum. Then we will not have to rely on conjectures and conflict prognostications in our efforts to deal with this important national problem.

PANAMA CANAL GIVEAWAY TREATY CRISIS: A CHALLENGE TO THE CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, on November 21, 1977, I addressed the Men's Club, Jewish Community Center, in Wilkes-Barre, Pa., on the Panama Canal issue, which is now before the Congress.

In that address, I stressed what would take place in the U.S. Canal Zone after ratification of the proposed new canal treaties currently under consideration in the Senate for its advice and consent, how such action would set in motion the transformation of the strategic Caribbean-Gulf of Mexico areas into Red lakes, and outlined a reasoned line of action for the United States on the vital canal question.

The action required is not the abdication of our treaty based responsibilities, but retention by the United States of its undiluted sovereign rights, power, and authority over the U.S.-owned Canal Zone and the major modernization of the existing canal under existing treaty provisions, which authorize, "expansion and new construction."—CONGRESSIONAL RECORD, July 24, 1939, page 9834.

Unfortunately, much of the current discussions have been diverted into arguments over whether the proposed treaties do or do not allow the United States to defend the neutrality of the canal and not the canal itself, implying that if satisfied on this point, other objections to the treaties would vanish.

Defense of neutrality is not the real question, but a straw issue that serves to obscure the most crucial point involved in the proposed surrender. This point is whether the treaty would place the pro-Havana-Moscow Government of Panama in a position to exercise sovereign powers over the Panama Canal and its indispensable protective frame of the Canal Zone without regard to the vital interests of the United States. This could include not only the nationalization of the canal but as well the transit of vessels of nations at war with the United States.

The maintenance, operation, sanitation, and protection of the canal enterprise are grave responsibilities of highly technical character. Panama, a small, weak, and unstable country, simply does not possess the technological capabilities, the resources, or the qualified personnel to assume such burdens and these facts should be realized by all concerned with the canal policy questions—House Document 474, 89th Congress.

The previously indicated address follows as part of my remarks:

PANAMA CANAL GIVEAWAY TREATY CRISIS—A CHALLENGE TO THE CONGRESS

(By Hon. DANIEL J. FLOOD)

The 11th Congressional District of Pennsylvania has long been associated with the Panama Canal. In 1846, it was Benjamin A. Bidlack of Wilkes-Barre who, while serving as U.S. Minister to New Granada (now Colombia) in Bogota, negotiated the first basic Panama Canal Treaty. This treaty provided for "free and open" transit to the United States upon any "modes of communications that now exist, or that may be, hereafter, constructed" across the isthmus.

It was under this treaty that the Panama Railroad Company of New York, in 1849 undertook the construction of that 47-mile long railway—the first transcontinental railroad. Completed in 1855, its building was the first specific step in the construction of the Panama Canal.

During my early youth, former President Theodore Roosevelt used to be an occasional house guest at my grandfather's home in Hazelton. During those years I listened many hours to that great American leader while he discussed the difficulties he had to face in launching the Panama Canal. He naturally became my youthful ideal and created an interest on my part in the canal question that has increased over the years.

It has been, indeed, a privilege, since being a Member of the Congress, to have been an instrument for protecting the most strategic waterway of the Americas as a vital asset of the United States for interoceanic commerce and national defense.

The isthmus of Panama is a land of endemic revolution and endless political intrigue. The history of the Panama Canal from 1849 has been featured by a series of crises, at times requiring vigorous actions by the United States. At present, its problems are a part of a world crisis upon the outcome of which could depend the freedom or the slavery of the world.

The signing on September 7, 1977, in Washington, D.C., in the midst of a highly publicized diplomatic extravaganza, of two proposed new Panama Canal treaties and their submission on September 16 to U.S. Senate for its advice and consent to ratification confronts the Congress with a major challenge as to its power under article IV, Section 3, Clause 2 of the U.S. Constitution to dispose of territory and other property of the United States.

The territory and property in question are the U.S. owned canal zone of some 647 square miles of land and water, extensive installations in it, and the strategic Panama Canal, all of which, including their defense, represent an investment of more than $7,000,000,000 of the U.S. taxpayers' money. The Congress has not authorized such surrender to Panama or any other country or agency and, as indicated by many polls and by my own extensive correspondence from all the States, the people of our country are overwhelmingly opposed to the projected giveaway.

Panama is a small, weak and technologically primitive country of some 1,700,000 population. It simply does not have the leadership, the manpower, the technical skills or resources absolutely necessary for assuming the heavy burdens of maintaining, operating, sanitating and protecting the Panama Canal and its indispensable defensive frame of the Canal Zone. These grave responsibilities require the combined industrial, military and naval might of the United States or, in their absence, the strength of some other great power.

Moreover, the present revolutionary government of Panama has been closely associated with the Havana-Moscow axis and over a period of years has carried on a world wide active campaign of hostility against the United States.

It has done this in spite of the fact that Panama has been, and still is, the greatest single beneficiary of the canal enterprise. Its total benefits in 1976 from U.S. Canal Zone sources, including the annuity of $2,328,000, was $243,197,000. The latter figure, however, is seldom mentioned but it has given Panama the highest per capita income of all Central America!

What would take place in the U.S. Canal Zone immediately after ratification? The proposed treaties would—

1. Extinguish all U.S. jurisdiction in the zone;

2. End U.S. juridical, legal and national presence there;

3. Terminate all inherent U.S. rights, power and authority under the 1903 treaty under which the zone was acquired;

4. Place all U.S. citizens in the Canal Zone, including members of our Armed Forces and their families, under Panamanian jurisdiction;

5. Convey to Panama all U.S. rights, titles, interest and all installations and property in the zone except for certain temporarily excluded properties; and

6. Within 30 months, terminate all U.S. police power and other vestiges of the Canal Zone government, both executive and judicial.

The evidence indicates that, with the exception of Panama Canal employees due for early retirement, they will leave the isthmus as many have already done.

Then how can the canal be kept operating safely, conveniently, and efficiently with tolls that are just and equitable? This question is seldom discussed not withstanding the fact that it is fundamental to the economic well being of the United States.

With the U.S.S.R. already firmly established in Cuba, with Soviet agents now ensconced in the Panama Government, and with Panama itself closely associated with Soviet Cuba, the real issue involved is not one between the United States and Panama but a focal question in the present overall global drive for world domination by Soviet imperialism. The loss of sovereign control over the Canal Zone and canal as provided in the proposed treaties would be comparable to a major defeat in war. It would undoubtedly lead to demands for the withdrawal by the United States from our naval base at Guan-

tanamo, Cuba, and in Puerto Rico. Thus would be set in motion the rapid transformation of the strategic Caribbean Sea and Gulf of Mexico into Red lakes, with enormous potentials for evil for the United States and the entire free world.

There is no better way to plan for the future than to study the past. More than half a century of operations of the Panama Canal has shown what is needed for its increase of capacity and major operational improvement. The solution of the canal question is not the abdication of U.S. sovereign control over the Canal Zone or the construction of a new canal but the major modernization of the existing canal under existing treaty authority coupled with retention by the United States of its undiluted rights, power and authority under the 1903 treaty as amended and reaffirmed in 1936 and 1955.

For such modernization, the United States has already expended some $171,000,000 ($76,000,000 on the suspended third locks project and $95,000,000 on the enlargement of Gaillard cut) and measures for resuming construction are now pending in the Congress. Besides, this is the program strongly urged by Panama Canal pilots, who know more about the actual problems of marine operations in the canal than any other professional group.

It was in the light of the facts above outlined and many others that I have strongly urged the rejection of the proposed treaties in their entirety and that we should then proceed with major modernization of the existing canal under existing treaty authority. Also, I have strongly urged the authorization by the Congress for the election by U.S. citizens in the Canal Zone of a delegate in the Congress as have Guam, the Virgin Islands, Puerto Rico and the District of Columbia.

I am convinced that had there been such a delegate in the House of Representatives since World War II much of the difficulties with which the Congress is now struggling could have been avoided.

The modernization program previously outlined will provide the world with the best canal, for the transit of vessels practicable of achievement, at least cost, with every assurance of success and permanence.

I would urge that all of you and your friends to write your views in personal letters to the President, both Pennsylvania Senators, and other Members of the Congress.

REPRESENTATIVE COTTER JOINS AMERICA-ISRAEL FRIENDSHIP LEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, the America-Israel Friendship League is an organization devoted to the promotion of friendship and understanding between these two nations. The league accomplishes this goal by promoting the interchange of cultural, artistic, and scientific knowledge between them.

I would like my colleagues to know that I have joined the National Council of this league. This decision was based on my long-standing and unswerving support for a strong, viable, and secure Israel.

The hope which we all shared for a Middle East peace over the last months should not blind us to the major differences which still exist between Egypt and Israel, as the recent suspension of the talks in Jerusalem demonstrates. Media coverage of the Begin-Sadat talks should not lead us into a false sense of progress. Serious and important issues must be resolved, but the U.S. role should continue to place the highest priority on the security of Israel.

The crucial decisions over the future of Palestinian Arabs must be resolved in this light. At a minimum there can be no participation of the PLO in any final settlement. This organization has demonstrated repeatedly it is not dedicated to peace in the Middle East, but rather encourages a continuing terror whose only goal is the total destruction of Israel.

Many of the details of the peace can only be worked out by the contending parties. The role of the United States should be to help maintain the momentum toward peace whenever the talks break down, and to help resolve those especially difficult issues such as the problem of the West Bank and the Gaza Strip. I have the highest hopes that America can effectively aid in these negotiations.

A TRIBUTE TO HUBERT HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, it it very difficult to add to the tremendous outpouring of warmth and affection we have seen in the past few days for our dear friend, HUBERT HUMPHREY.

As the Vice President noted on Saturday, it can be said that this great man of the people had some valuable lessons for us, if we but took the time to observe. Each of us has our own litany, for HUBERT HUMPHREY left his mark on us all. For myself—

He showed us how to love and how not to hate.

He showed us how to love justice, how to feel for the suffering and help the weak.

He showed us how to cultivate cheerfulness, how to make others happy, and to fill life with loving words and deeds.

He showed us the meaning of persistence and the value of never giving up a fight for a cause one truly believes is right and just.

He showed us how rewarding it can be to love family and friends, and to build a happy home.

He showed us that there is calm after the storm, and dawn following the night.

He showed us how exciting living can be.

He made us all richer for his presence, and made many of us proud to be his friend.

We will miss HUBERT. But, his loving touch will remain with us all.

I extend my deepest sympathies to his wife Muriel and to his family.

PRESERVE THE INDEPENDENCE OF THE FEDERAL RESERVE—FROM FOREIGN CENTRAL BANKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes.

Mr. REUSS. Mr. Speaker, in the past 2 weeks the Federal Reserve and Treasury have intervened repeatedly in international money markets, in an attempt to stem the declining value of the dollar. These measures have had considerable short-term success. However, if they become part of a continuing strategy to sustain the dollar, the consequences could be far reaching and destructive.

By well-justified tradition, the Federal Reserve has based its monetary policy in recent years on domestic and not principally on international economic conditions. The ostensible goals of that policy have been steady economic expansion and reasonably stable prices. This bedrock, and not the shifting sands of international currency markets, should remain the foundation of monetary decisions.

On July 29, 1977, Chairman Arthur Burns of the Federal Reserve Board testified as follows on the FRB's international role:

> The Federal Reserve has a certain responsibility for the position of the dollar in the exchange markets. Our broad policy is . . . to intervene only in the event of disorderly markets.

This is sound policy and good sense. While the definition of "disorderly markets" is a matter of professional judgment, and may vary, the principle is clear: The Federal Reserve should intervene in the exchange markets only to prevent wide, temporary fluctuations in exchange rates, of the kind that feed speculative profits, unsettle commercial transactions, and undermine confidence in the stability of the world order. The Federal Reserve should not attempt to peg the value of the dollar to that of any other particular currency or to SDR's. Such efforts are bound to fail, returning us to the era of unstable reserve balances, gold flight, and international monetary crises which the institution of flexible exchange rates was designed to end.

Intervention cannot be viewed as a significant long-term policy weapon. We have almost no ammunition for it. In a world where private international financial markets exceed $500 billion on a gross basis, the United States conducts foreign currency operations with a paltry $20 billion obtained on credit from foreign central banks. Such sums can effect day-to-day "blips" in the exchange rate, but that is about all. Interventions twice or three times as large (on a quarterly basis) have been attempted by foreign central banks recently without altering trends determined by underlying economic factors.

To the extent that short-term intervention to dampen fluctuations may be required. swap agreements of the sort employed by the Treasury and Federal Reserve on January 4 should be a satisfactory and sufficient tool. Domestic interest rates should not be changed for this purpose. On January 6, the FRB announced a one-half percent rise in the discount rate, from 6 to 6.5 percent, and cited "recent disorder in foreign ex-

change markets" as the reason. Even more disturbing are press reports linking the increase in the Federal funds rate from 6½ to 6 9/16 percent on January 9 to the same cause. Such moves merely transfer "disorder" from the foreign exchange to the domestic credit markets. While the short-term impact on the dollar may be dramatic, it soon may be offset by corresponding rises of interest rates in foreign credit markets, rather than yielding a permanent exchange rate adjustment. And the domestic impact of higher interest rates may be devastating: on the stock market, already slumping—partly in response to tightened monetary conditions—on business and investor confidence, on the level of investment and even on the health of the economy itself.

The recent decline of the dollar is not due to credit market conditions; therefore a stable dollar cannot be achieved by short-run credit tightening. The true proximate cause of the recent decline of the dollar is apparent enough: Our trade deficit, estimated at over $27 billion in 1977. This means, quite simply, that the United States has recently emitted $27 billion in paper obligations to foreign creditors, in exchange for which we have received real goods, chief among them, oil. Much of that $27 billion is in the hands of the Arabs, who are unable to absorb a quantity of imports sufficient to digest their paper gains. Theirs is a cash management problem, to the tune of $130 billion. What happens? Naturally, Arabs and others with large dollar holdings diversify into other currencies, placing large upward price pressures on currencies like the deutsche mark and Swiss franc which are in relatively scarce supply, and corresponding downward pressure on the value of the abundant dollar. This pressure is exacerbated by the now-rosy prospects of the pound sterling, which apparently is again competing with the dollar for a growing share of international money portfolio holdings.

The causes of our trade deficit are themselves also straightforward: First, our increasing reliance on imported oil; and second, the failure of other industrialized nations to expand their economies and share in absorbing the massive, unavoidable trade surplus of the OPEC nations.

Solutions are less easy to come by. We must try harder to diminish our reliance on foreign oil, and thus lessen our trade deficit with OPEC. We could control imports, at great cost to consumers, and to the efficiency of our import-dependent industries, to say nothing of the cost to our friends abroad. We could raise interest rates and collapse the economy until our import demand shrinks to the miserable level of the rest of the world. But who wants to return to the Depression?

Instead, the sensible course lies in keeping our own economic recovery firmly on track, paying special attention to structural unemployment, and to developing a strategy against inflation. If we peg our currency to the mark, we lose control of domestic monetary policy to the Bundesbank. This represents a far graver threat to the "Independence" of the Federal Reserve than any I have ever been accused of. We can not afford it; we must maintain the monetary flexibility to pursue continued domestic expansion.

Hope for the dollar lies in applying serious, steady, and inexorable pressure on our friends and allies. Only if the economies of Germany, Japan, France, Britain, and Canada can be induced to expand more rapidly, can we hope for relief from the burden of financing world trade with an ever-unsteadier dollar. Partly, expanded Western economies will mean increased direct imports from us. Partly too, they will mean increased exports from the Third World to our trading partners, with the United States benefiting on the rebound by increased capital equipment exports to the Third World. Only an increased level of worldwide demand, not any tinkering with the exchange rate or domestic interest rates, can contribute to the solution of the dollar problems.

In applying such pressure on our allies, we are doing them no favor. We are asking a real sacrifice; namely, that they risk the inflation and political instability that often accompany a rising economic trend. Inflation-minimizing growth policies, directed at structural unemployment, regional development, and selective management of incomes and prices, are possible but politically difficult. Many of our allies, especially those with weak or threatened governments, do not feel sufficiently secure in their seats to take risks for our sake. We should urge on them that unless they do, the long-term consequences for all of us—continued worldwide stagflation—could be very serious indeed.

The moral is: no easy solutions. This being so, easy solutions like rigging foreign exchange markets and raising domestic interest rates should not be tried. We must keep our own recovery under steam. Over the long run, we must work on the diplomatic front to help our allies get in form to participate in a worldwide recovery—without inflation.

A TRIBUTE TO HUBERT HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY. Mr. Speaker, this 2d session of the 95th Congress convenes on a particularly sad note with the death on January 13 of Senator HUBERT H. HUMPHREY. But I was pleased that in tribute to Senator HUMPHREY, President Carter extended the official period of mourning through today, to coincide with the return of Congress.

We have lost one of the finest, most effective, and best-loved leaders ever to have served our Nation. Although he was denied the realization of his greatest dream—to serve his fellow countrymen as President—the cumulative record of his great accomplishments undoubtedly equals that of many who have held the highest office in the land.

Although cancer has drained life from his body, the limitless love of HUBERT HUMPHREY has touched the lives of all Americans and we will reap the legacy of his commitment and life's work for a better and more just America for many generations to come.

I feel deeply privileged to have known him personally, to have benefited from his counsel, and to have enjoyed his support and personal participation in some of my own past political campaigns.

He campaigned and visited in the Lehigh Valley of Pennsylvania on numerous occasions and the citizens of that region share with me a deep sense of loss that we cannot again experience the genuine warmth, vitality, and exuberance which were HUBERT HUMPHREY.

To his devoted wife, Muriel, and to his family, I extend sincere sympathy. May they be consoled and warmed by the knowledge that Senator HUMPHREY's career of exemplary public service earned for him the respect and admiration of us all.

PERSONAL EXPLANATION

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I rise for a matter of personal explanation of my absence here at the time of the special order on a tribute to the late Honorable Senator LEE METCALF.

Mr. Speaker, I had to appear before the Committee on Rules to ask for the granting of a rule on the bill H.R. 2664, an act to amend the Indian claims on behalf of the Sioux Indians.

In my absence I had mistakenly believed that my friend, the gentleman from Montana (Mr. BAUCUS), would continue the 60-minute special order for eulogies for the late Senator from Montana. I have prepared my remarks, and I ask unanimous consent, Mr. Speaker, that they be included in the eulogies to Senator METCALF under the special order of the gentleman from Montana (Mr. BAUCUS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

U.S. OPENS DOOR FOR RUSSIAN CONQUEST OF SOMALIA AND ERITREA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I find it exceedingly hard to comprehend an action of the U.S. Government which virtually gives the green light for the conquest of Somalia and Eritrea by Cuban forces under Russian control. Yet, that is very likely to occur as a result of the rejection by the United States to an appeal from Somalia for weapons.

Speaking for the Carter administration, a State Department spokesman secure in his ivory tower said:

> We will not contribute to a conflict by pouring gasoline on it.

Instead of giving Somalia help to resist the Communist buildup from Ethio-

pia, President Carter has issued warnings to the Soviets. This will have about the same effect as scolding a hungry crocodile. Somalia is in a precarious position militarily after cutting its own military supply link with the Soviet Union. This came from ordering Soviet military advisers out of Somalia and Soviet forces out of Berberra. The latter is a major naval base on the horn of Africa and one of the most strategic locations in the world. It is situated at the entrance to the Indian ocean and commands the entrance to the Persian Gulf and the Red Sea.

Expulsion of the Russians was considered a major advance for the Western powers. This bold action by Somalia President Siad Barre was based on anticipation of military help from anti-Communist powers. There has been help in limited quantities from Iran and Saudi Arabia. It is inadequate to withstand an invasion by a major Cuban buildup and massive Soviet supplies in Ethiopia.

A part of the Communist action is expected to involve the reconquest of the Ogadon Province by the Marxist-oriented Ethiopian Government. The Ogaden was once a major province of Somalia.

The inhabitants are Somalis. The province was given to Ethiopia years ago by a commission established by the United Nations. In recent months the Somalis have seized virtually all of the Ogadon Province from Ethiopia. However, the Somali presence there now is seriously threatened.

It is anticipated that the action against Somalia will be accompanied by the reconquest of Eritrea, an Ethiopian Province which have been fighting for its independence for years. Russian warships and Soviet fighter bombers have staged attacks on rebel strongholds in Eritrea.

A buildup of Cuban troops in Ethiopia now appears to be in full force—it was predicted months ago. Weapons and advisers have been supplied in large numbers by the Soviets to the Marxist government in Ethiopia.

The tragedy of this situation is that the United States apparently intends to ignore the best opportunity which has been offered in years to reverse the buildup of Soviet power in Africa. Soviet penetration there has amazed informed observers. The Soviets were quick to recognize the abundance of undeveloped mineral resources which exist in Africa and they have expanded their presence and influence while America was engaged in the Vietnamese war, bogged down in Watergate, and preoccupied with Israel's problems in the Middle East.

We should have learned long ago that protests have no effect on Soviet ambitions. Arms for Somalia could have forced a negotiated settlement and kept the strategic Horn of Africa out of Communist hands.

ALASKA NATIONAL INTEREST LANDS

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MEEDS. Mr. Speaker, I am today offering a new proposal for dealing with the Alaska national interest lands.

Disposition of the Alaska "d-2" lands, which were created by the Alaska Native Claims Settlement Act, is one of the most significant conservation issues to be before the Congress in our lifetimes and our decision will have an effect on the future of Alaska for generations ahead.

Alaska is truly an awesome State. Its wildlife and vegetation are as varied and spectacular as its vast terrain. The uniqueness of this land must be nurtured.

But Alaska offers more than beautiful scenery for its sparse population and for those other Americans who visit it. It has an abundance of natural resources that are increasingly important to all Americans. These resources include farmland, timber, oil, natural gas, coal, and quantities of nearly every mineral essential to modern society.

There is much we do not know about Alaska's resources. The proposals offered thus far do not adequately provide access for the exploration that is absolutely essential for us to learn what lies below the surface of Alaska's vast lands.

In order to make sound decisions whether preservation of the scenery is more important than the natural resources. we must know what the resources are. Of the 35 minerals that are of strategic importance to U.S. national security and the material well-being of its people, 33 have been located in Alaska and half of those in known commercial quantities. In addition to petroleum and coal, they include copper, nickel, gold, silver, zinc, beryllium, tin, chromium, and molybdenum.

Extensive exploration, under very restrictive controls to protect the environment, is needed to locate and define the deposits. We cannot put a lock on Alaska without first knowing what's underground.

Thus, I am proposing we add an additional classification to the national conservation system. It would be called the "Alaska National Wildlands" and would be essentially a holding pattern for lands about which we do not now have enough information to make final decisions.

Much of the 18.4 million acres proposed for the classification would likely be later designated under the Wilderness Act of 1964. Until the studies required under that act were completed and the proper recommendations made, the land would be administered much like a wilderness area except that carefully controlled exploration would be allowed.

Additionally, the classification will allow us to fine-tune our decisions so as to better accommodate the differences that exist in Alaska. There are many instances where uncertainty exists with regard to Native and State selections, conflicting uses of land and prospective transportation corridors.

In another area, this proposal would grant natives preference over all other selections. The Natives of Alaska were promised in the treaty of purchase with Russia, in the Organic Act and in the Statehood Act that they would be entitled to lands under aboriginal title theory. The Alaska Native Claims Settlement Act was intended to carry out those promises. To now contend that their selection is subject to "d-2" withdrawals, as the various proposals thus far seem to do, violates the spirit of those promises and the act.

Likewise, the same situation prevails with regard to State selections. In some instances, "d-2" withdrawals could take preference over State selections, but to now extend that beyond the original "d-2" selections would violate the spirit of the Statehood Act.

This proposal would place 40.1 million acres into the national park system; 34.8 million acres into national wildlife refuges; 1.04 million acres into national wild and scenic rivers; and 2.9 million acres into national forests in addition to the 18.4 million acres of Alaska national wildlands. This compares favorably with the proposal offered by the Subcommittee on Alaska Lands Print Two which placed 41.7 million acres into national parks; 46.2 million acres into national wildlife refuges; 2.4 million acres into national wild and scenic rivers; and 2.07 into national forests. These are in comparison to the administration's proposal of 45.6 million into national parks; 52.5 into national wildlife refuges; 3.03 into national wild and scenic rivers; and 631,000 into national forests.

DEPARTMENT OF EDUCATION ACT OF 1978

(Mr. COCHRAN of Mississippi asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. COCHRAN of Mississippi. Mr. Speaker, I am introducing today a bill to create a Department of Education.

A great deal of national attention has been focused recently upon the educational system in this country. Unfortunately, that attention has been attracted not by the system's achievements but by its failures. The public schools do not seem to be working.

Despite the dedication and hard work of school administrators and teachers, the needs of many students are not being met. Verbal and mathematical skills have declined steadily over the past decade. Functional illiteracy is rampant among high school graduates. A 1973 study by the Research Triangle Institute showed that fully one-fourth of America's adult population lack the basic skills necessary to function effectively as adults. Each year we learn that the scores on scholastic aptitude tests have suffered yet another drop. Remedial English courses are now necessary not only at the undergraduate college level, but at the graduate level as well.

A great deal of the blame for the high rate of unemployment for the 16- to 21-year-old age group must lie with our schools. They have not trained these young people in the skills necessary to gain employment. Lower productivity, structural unemployment, welfare dependency, and lowered ability to carry out the duties of citizens all may be at-

tributed, in part at least, to education's shortcomings.

Although the State and local governments are vested with primary responsibility for education, the Federal Government has an important role in establishing and coordinating education policy and procedure and, therefore, must share the blame for the system's failures. The Federal Government is charged with the task of enlarging the opportunities for educationally deprived students and insuring equitable allocation of education resources. It plays a major part in vocational training and controls a multitude of education research and planning programs, both directly and through funding grants.

A coordinated approach to education is required in order for these diverse functions effectively to be administered. That coordination does not now exist. Instead, over 40 different Federal agencies are charged, to some degree or another, with educationally related responsibilities. At Health, Education, and Welfare, the Department with primary responsibility, education lies buried in a vast bureaucratic labyrinth.

The result of this diffusion of responsibility and lack of governmental attention is insufficient planning, duplication, poor use of budget funds, and inefficient delivery of services. These problems must be solved if the Federal Government is to carry out its duties in the area of education.

Approximately $120.1 billion was spent on education in the United States during fiscal year 1976, accounting for 8 percent of the total gross national product. Of the moneys spent on elementary and secondary education, between 7 and 8 percent came from the Federal Government. Thus, the Government has both a societal and an economic interest in education. To date, the Government has not protected that interest.

As stated, the Department of Health, Education, and Welfare has been given responsibility for directing the Government's education program. Within that Department, however, education has all too often been a forgotten child. Part of the problem comes from the sheer size of HEW. HEW operated in 1977 under an annual budget of approximately $146 billion. The projected 1978 budget is $180 billion. Health and welfare programs receive the lion's share of these funds, and, one may safely assume, the lion's share of the Department's attention.

To illustrate education's lack of priority, when HEW was created in 1954, over 10 percent of the agency's funds went toward education. The projected HEW budget for 1978 allocates slightly over 5 percent to education. This lessening of financial priority has come about in part, because of the uncontrollable budget increases; that is, required by law and irreducible without changes in law. Education by and large is a controllable budget item. When uncontrollable budget items increase so rapidly, the pressures are great to hold down the controllable portions of the budget.

The problem with HEW's control over education is not purely—nor even primarily—fiscal. In fact, I would oppose an increase in HEW's education budget. This massive Department simply is not capable of effectively administering such a sensitive, complex area as education.

The Department is responsible for directing over 300 separate programs, and has within its umbrella the development of health insurance legislation, abuses in medicaid, welfare reform, income maintenance programs, social security, food, drug, and vaccine regulation and civil rights. Can we really expect such a department to cope with and to direct our educational system? Thus far, the Department has demonstrated neither the capacity nor the concern necessary for such a task. It is time, therefore, to ease HEW's burden.

These are the reasons justifying creation of a Department of Education. We have a problem, and the current structure is not solving that problem.

What is needed is a simple, streamlined department having as its sole responsibility the direction of Federal efforts in education. What is needed is a Cabinet-level official who can command the President's attention concerning education. What is needed is a department capable of attracting the most capable educators in the Nation.

I do not favor increased control of education in Washington. As stated, education is primarily a local concern—local officials, being closer to the problems, can best evaluate and solve them. I do not favor increased dependence on Washington for policies and procedures. We are too far away from the classroom to direct its conduct. But I do favor greater coordination of Federal educational programs, increased priority for education, and a demonstration of our awareness of the serious problems that exist. And progress in these directions will result from passage of the bill I am introducing today.

Although the creation of a Department of Education is no panacea for the ills to which I have alluded, neither is it a placebo. Far more than reorganization is needed to accomplish a solution. But the creation of such a department will constitute a significant step in the right direction.

LEAVE OF ABSENCE

By unanimous request, leave of absence was granted to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. FLYNT (at the request of Mr. WRIGHT), for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 30 minutes today, and to include extraneous matter.

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes, today.

Mr. WHALEN, for 10 minutes, today.

Mr. CLEVELAND, for 5 minutes, today.

(The following Members (at the request of Mr. BENJAMIN) to revise and extend their remarks and include extraneous material:)

Mr. BAUCUS, for 60 minutes, today.

Ms. MIKULSKI, for 5 minutes, today.

Mr. LE FANTE, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CORNELL, for 10 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. REUSS, for 60 minutes, today.

Mr. ROONEY, for 5 minutes, today.

Mr. FLOOD, for 60 minutes, January 25, 1978.

Mr. VANIK (at the request of Mr. ANDERSON of California), for 5 minutes, and to revise and extend his remarks and include extraneous material.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to·

Mr. MAHON, to revise and extend his remarks made today under his 1-minute speech.

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous material:)

Mr. DORNAN in 10 instances.

Mr. MICHEL.

Mr. ROBINSON in two instances.

Mr. LATTA.

Mr. ASHBROOK in four instances.

Mr. KEMP in three instances.

Mr. BURGENER.

Mr. STEERS in three instances.

Mr. ERLENBORN.

Mr. CARTER in two instances.

Mr. FRENZEL in three instances.

Mr. STEIGER.

Mr. DERWINSKI in two instances.

Mr. MARTIN.

Mr. SARASIN.

Mr. BOB WILSON in two instances.

Mr. HAGEDORN.

Mr. HILLIS.

Mr. COUGHLIN.

Mr. MILLER of Ohio in four instances.

Mr. COLLINS of Texas in three instances.

Mr. LAGOMARSINO.

Mr. DON H. CLAUSEN in two instances.

(The following Members (at the request of Mr. BENJAMIN) and to include extraneous matter:)

Mr. KILDEE.

Mr. RICHMOND.

Mr. DE LUGO.

Mr. EILBERG in 10 instances.

Mr. HOLLAND in three instances.

Mr. BYRON in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mr. SISK.

Mrs. LLOYD of Tennessee in five instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. HAMILTON in 10 instances.

Mr. PICKLE in 10 instances.

Mr. VENTO in two instances.
Mr. FARY.
Mr. FRASER in five instances.
Mr. AUCOIN in two instances.
Mr. ROE in two instances.
Mr. BRODHEAD in two instances.
Mr. FUQUA in five instances.
Mr. MOAKLEY in five instances.
Mr. LEHMAN.
Mr. LLOYD of California.
Ms. MIKULSKI.
Mr. AMBRO.
Mr. MATHIS.
Mr. D'AMOURS in four instances.
Mr. VAN DEERLIN in two instances.
Mr. HARRIS in 10 instances.
Mr. MURTHA.
Mr. DINGELL in three instances.
Mr. RODINO.
Mr. TEAGUE in 10 instances.
Mr. MOLLOHAN.
Mr. WAXMAN.
Mr. BRECKINRIDGE.
Mr. SIMON in four instances.
Mr. ROGERS in five instances.
Mr. MATTOX.
Mr. GAYDOS.

RECESS

The SPEAKER pro tempore. Pursuant to a previous order of the House, the Chair is now going to declare a recess until this evening when the two Houses will meet in joint session to hear a message from the President of the United States. The House will stand in recess until 8:40 p.m. The bells will be rung at 8:25 p.m.

Accordingly (at 3 o'clock and 27 minutes p.m.), the House stood in recess until 8 o'clock and 40 minutes p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 42 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 452 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The Speaker of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as Members of the Committee on the part of the House to escort the President of the United States into the Chamber the gentleman from Texas (Mr. WRIGHT); the gentleman from Indiana (Mr. BRADEMAS); the gentleman from Washington (Mr. FOLEY); the gentleman from Arizona (Mr. RHODES); and the gentleman from Illinois (Mr. MICHEL).

The VICE PRESIDENT. On behalf of the Senate, pursuant to the order previously entered into, the Chair appoints the following Senators on the part of the Senate to escort the President of the United States into the House Chamber: The Senator from Mississippi (Mr. EASTLAND); the Senator from West Virginia (Mr. BYRD); the Senator from California (Mr. CRANSTON); the Senator from Hawaii (Mr. INOUYE); the Senator from North Carolina (Mr. MORGAN); the Senator from Tennessee (Mr. BAKER); the Senator from Alaska (Mr. STEVENS); the Senator from Nebraska (Mr. CURTIS); the Senator from Texas (Mr. TOWER); and the Senator from Wyoming (Mr. HANSEN).

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers, and charges d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Chief Justice of the United States and the Associate Justices of the Supreme Court.

The Chief Justice of the United States and the Associate Justices of the Supreme Court entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 2 minutes p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. My colleagues of the Congress, I have the distinct privilege and the high personal honor of presenting to you the President of the United States.

[Applause, the Members rising.]

THE STATE OF THE UNION—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-273)

The PRESIDENT: Thank you very much. Mr. President, Mr. Speaker, Members of the 95th Congress, ladies and gentlemen.

Two years ago we had the first caucus in Iowa, and one year ago tomorrow I walked from here to the White House to take up the duties of President of the United States. I didn't know it then when I walked but I've been trying to save energy ever since. I return tonight to fulfill one of those duties of the Constitution to "give to the Congress"—and to the nation—"information on the state of the Union."

Militarily, politically, economically, and in spirit the state of our Union is sound.

We are a great country, a strong country, a vital and a dynamic country—and so we will remain.

We are a confident people, and a hardworking people, a decent and a compassionate people—and so we will remain.

I want to speak to you tonight about where we are and where we must go—about what we have done and what we must do—and I want to pledge to you my best efforts and ask you to pledge yours.

Each generation of Americans has to face circumstances not of its own choosing, but by which its character is measured and its spirit is tested.

There are times of emergency when a nation and its leaders must bring their energies to bear on a single urgent task.

That was the duty Abraham Lincoln faced when our land was torn apart by conflict in the war between the States. That was the duty faced by Franklin Roosevelt when he led America out of an economic depression and again when he led America to victory in war.

There are other times when there is no single overwhelming crisis—yet profound national interests are at stake.

At such times the risk of inaction can be equally great. It becomes the task of leaders to call forth the vast and restless energies of our people to build for the future.

That is what Harry Truman did in the years after the Second World War, when we helped Europe and Japan rebuild themselves and secured an international order that has protected freedom from aggression.

We live in such times now—and we face such duties.

We have come through a long period of turmoil and doubt, but we have once again found our moral course and with a new spirit we are striving to express our best instincts to the rest of the world.

There is all across our land a growing sense of peace and a sense of common purpose. This sense of unity cannot be expressed in programs, or in legislation, or in dollars. It is an achievement that belongs to every individual American. This unity ties together and it towers over all our efforts here in Washington, and it serves as an inspiring beacon for all of us who are elected to serve.

This new atmosphere demands a new spirit—a partnership between those of us who lead and those who elect. The foundations of this partnership are truth, the courage to face hard decisions, concern for one another and the common good over special interest, and a basic faith and trust in the wisdom and strength and judgment of the American people.

For the first time in a generation, we are not haunted by a major international crisis or by domestic turmoil, and we now have a rare and a priceless opportunity to address persistent problems and burdens, which come to us as a nation, quietly and steadily getting worse over the years.

As President I have had to ask you—the Members of Congress, and you, the American people—to come to grips with some of the most difficult and hard questions facing our society.

We must make a maximum effort—because if we do not aim for the best, we are very likely to achieve little.

I see no benefit to the country if we delay, because the problems will only get worse.

We need patience and good will, so we really need to realize that there is a limit to the role and the function of Government. Government cannot solve our problems, it can't set our goals, it cannot define our vision. Government cannot eliminate poverty or provide a bountiful economy, or reduce inflation, or save our cities, or cure illiteracy, or provide energy, and Government cannot mandate goodness. Only a true partnership between Government and the people can ever hope to reach these goals.

Those of us who govern can sometimes inspire, and we can identify needs and marshal resources, but we simply cannot be the managers of everything and everybody.

We, here in Washington, must move away from crisis management and we must establish clear goals for the future, immediate and the distant future, which will let us work together and not in conflict. Never again should we neglect a growing crisis like the shortage of energy, where further delay will only lead to more harsh and painful solutions.

Every day we spend more than $120 million for foreign oil. This slows our economic growth, it lowers the value of the dollar overseas, and it aggravates unemployment and inflation here at home.

Now we know what we must do: increase production, we must cut down on waste, and we must use more of those fuels which are plentiful and more permanent. We must be fair to people, and we must not disrupt our Nation's economy and our budget.

Now that sounds simple, but I recognize the difficulties involved. I know that it is not easy for the Congress to act. But the fact remains that on the energy legislation we have failed the American people. Almost five years after the oil embargo dramatized the problem for us all we still do not have a national energy program. Not much longer can we tolerate this stalemate. It undermines our national interest both at home and abroad. We must succeed, and I believe we will.

Our main task at home this year, with energy a central element, is the nation's economy. We must continue the recovery and further cut unemployment and inflation.

Last year was a good one for the United States. We reached all of our major economic goals for 1977. Four million new jobs were created, an alltime record, and the number of unemployed dropped by more than a million. Unemployment right now is the lowest it has been since 1974, and not since World War II has such a high percentage of American people been employed.

The rate of inflation went down. There was a good growth in business profits and investments—the source of more jobs for our workers and a higher standard of living for all our people. After taxes and inflation, there was a healthy increase in workers' wages.

And this year our country will have the first two trillion dollar economy in the history of the world.

Now we are proud of this progress the first year, but we must do even better in the future.

We still have serious problems on which all of us must work together. Our trade deficit is too large, inflation is still too high, and too many Americans still do not have a job.

Now I do not have any simple answers for all these problems. But we have developed an economic policy that is working, because it is simple, balanced, and fair. It is based on four principles:

First, the economy must keep on expanding to produce new jobs and better income which our people need. The fruits of growth must be widely shared. More jobs must be made available to those who have been by-passed until now, and the tax system must be made fairer and simpler.

Secondly, private business and not the government must lead the expansion in the future.

Third, we must lower the rate of inflation and keep it down. Inflation slows down economic growth, and it is the most cruel to the poor and also to the elderly and others who live on fixed incomes.

And fourth, we must contribute to the strength of the world economy.

I will announce detailed proposals for improving our tax system later this week. We can make our tax laws fairer; we can make them simpler and easier to understand; and at the same time we can and we will reduce the tax burden on American citizens by $25 billion.

The tax reforms and the tax reductions go together. Only with the long-overdue reforms will the full tax cut be advisable.

Almost $17 billion in income tax cuts will go to individuals. Ninety-six percent of all American taxpayers will see their taxes go down. For a typical family of four this means an annual saving of more than $250 a year or a tax reduction of about 20 percent. A further $2 billion cut in excise taxes will give more relief and also contribute directly to lowering the rate of inflation.

And we will also provide strong additional incentives for business investment and growth through substantial cuts in the corporate tax rates and improvements in the investment tax credit.

Now these tax proposals will increase opportunity everywhere in the Nation, but additional jobs for the disadvantaged deserve special attention.

We have already passed laws to assure equal access to the voting booth, and to restaurants, and to schools, to housing, and laws to permit access to jobs. But job opportunity—the chance to earn a decent living—is also a basic human right which we cannot and will not ignore.

A major priority for our Nation is the final elimination of the barriers that restrict the opportunities available to women, and also to black people, and Hispanics, and other minorities. We have come a long way toward that goal, but there is still much to do. What we inherited from the past must not be permitted to shackle us in the future.

I will be asking you for a substantial increase in funds for public jobs for our young people, and I also am recommending that the Congress continue the public service employment programs at more than twice the level of a year ago. When welfare reform is completed, we will have more than a million additional jobs so those on welfare who are able to work can work.

However, again we know that in our free society, private business is still the best source of new jobs. Therefore, I will propose a new program to encourage businesses to hire young and disadvantaged Americans. These young people only need skills—and a chance—in order to take their place in our economic system. Let's give them a chance they need. A major step in the right direction will be the early passage of a greatly improved Humphrey-Hawkins bill.

My budget for 1979 addresses these national needs, but it is lean and tight. I have cut waste wherever possible.

I am proposing an increase of less than 2 percent after adjusting for inflation—the smallest increase in the Federal budget in four years.

Lately, Federal spending has taken a steadily increasing portion of what Americans produce. Our new budget reverses that trend, and later I hope to bring the Government's toll down even further and with your help will do that.

In time of high employment and a strong economy, deficit spending should not be a feature of our budget. As the economy continues to gain strength, and as our unemployment rates continue to fall, revenues will grow. With careful planning, efficient management, and proper restraint on spending, we can move rapidly toward a balanced budget and we will.

Next year the budget deficit will be only slightly less than this year—but one-third of the deficit is due to the necessary tax cuts that I propose.

This year the right choice is to reduce the burden on taxpayers and provide more jobs for our people.

The third element in our program is a renewed attack on inflation. We have learned the hard way that high unemployment will not prevent or cure inflation.

Government can help us by stimulating private investment and by maintaining a responsible economic policy. Through a new top level review process, we will do a better job of reducing government regulation that drives up costs and drives up prices. But again, government alone cannot bring down the rate of inflation. When a level of high inflation is expected to continue, then companies raise prices to protect their profit margins against prospective increases in wages and other costs, while workers demand higher wages as protection against expected price increases. It's like an escalation in the arms race and, understandably, no one wants to disarm alone.

Now, no one firm or group of workers can halt this process. It is an effort that

we must all make together. I am therefore asking government, business, labor, and other groups to join in a voluntary program to moderate inflation by holding wage and price increases in each sector of the economy during 1978 below the average increases of the last two years.

I do not believe in wage and price controls. A sincere commitment to voluntary constraint provides a way—perhaps the only way—to fight inflation without government interference.

As I came in the Capitol tonight I saw the farmers, my fellow farmers, standing out in the snow. I am familiar with their problem and I know from Congress action that you are too. When I was running Carter's warehouse we had spread on our own farms 5–10–15 fertilizer for about $40 a ton. The last time I was home the price was about a hundred dollars a ton. The cost of nitrogen has gone up 150 percent, and the price of products the farmers sell has either stayed the same or gone down a little.

Now, this past year 1977, you the Congress and I together passed a new Agricultural Act that went into effect October 1st. It will have its first impact on the 1978 crops. It will help a great deal. It will add 6½ billion dollars or more to help the farmers with their price supports and target prices. Last year we had the highest level of exports of foreign products in the history of our country—24 billion dollars. We expect to have more this year. We will be working together. But I think it's incumbent on us to monitor very carefully the farm situation and continue to work harmoniously with the farmers of our country. What's best for the farmers—the farm families, in the long run—is also best for the consumers of our country.

Economic success at home is also the key to success in our international economic policy. An effective energy program, strong investment and productivity, and controlled inflation will provide our trade balance and balance it and it will help to protect the integrity of the dollar overseas.

By working closely with our friends abroad we can promote the economic health of the whole world and with fair and balanced agreements lowering the barriers to trade.

Despite the inevitable pressures that build up when the world economy suffers from high unemployment, we must firmly resist the demands for self-defeating protectionism. But free trade must also be fair trade. And I'm determined to protect American industry and American workers against foreign trade practices which are unfair or illegal.

In a separate written message to Congress I've outlined other domestic initiatives, such as welfare reform, consumer protection, basic education skills, urban policy, reform of our labor laws, and national health care later on this year. I will not repeat these tonight but there are several other points that I would like to make directly to you.

During these past years Americans have seen our Government grow far from us.

For some citizens the Government has almost become like a foreign country, so strange and distant that we've often had to deal with it through trained ambassadors who have sometimes become too powerful and too influential—lawyers, accountants, and lobbyists. This cannot go on.

We must have what Abraham Lincoln wanted—a government for the people.

We've made progress toward that kind of government. You've given me the authority I requested to reorganize the Federal bureaucracy, and I'm using that authority.

We've already begun a series of reorganization plans which will be completed over a period of three years.

We've also proposed abolishing almost 500 Federal advisory and other commissions and boards.

But I know that the American people are still sick and tired of Federal paperwork and red tape. Bit by bit we are chopping down the thicket of unnecessary Federal regulations by which government too often interferes in our personal lives and our personal business. We've cut the public Federal paperwork load by more than 12 percent in less than a year. And we are not through cutting.

We've made a good start on turning the gobbledygook of Federal regulations into plain English that people can understand, but we know that we still have a long way to go.

We've brought together parts of eleven different government agencies to create a new Department of Energy—and now it's time to take another major step by creating a separate Department of Education.

But even the best-organized government will only be as effective as the people who carry out its policy. For this reason I consider Civil Service reform to be absolutely vital. Worked out with the civil servants themselves, this reorganization plan will restore the merit principle to a system which has grown into a bureaucratic maze. It will provide greater management flexibility and better rewards for better performance without compromising job security.

Then and only then can we have a government that is efficient, open, and truly worthy of our people's understanding and respect. I have promised that we will have such a government, and I intend to keep that promise.

In our foreign policy, the separation of people from government has been in the past a source of weakness and error. In a democratic system like ours, foreign policy decisions must be able to stand the test of public examination and public debate. If we make a mistake in this administration, it will be on the side of frankness and openness with the American people.

In our modern world when the deaths of literally millions of people can result from a few terrifying seconds of destruction, the path of national strength and security is identical to the path of peace.

Tonight I am happy to report that because we are strong our Nation is at peace with the world.

We are a confident Nation. We have restored a moral basis for our foreign policy. The very heart of our identity as a Nation is our firm commitment to human rights.

We stand for human rights because we believe that Government has as a purpose to promote the well-being of its citizens. This is true in our domestic policy, it is also true in our foreign policy. The world must know that in support of human rights the United States will stand firm.

We expect no quick or easy results, but there has been significant movement toward greater freedom and humanity in several parts of the world.

Thousands of political prisoners have been freed. The leaders of the world—even our ideological adversaries—now see that their attitude toward fundamental human rights affects their standing in the international community, and it affects their relations with the United States.

To serve the interests of every American, our foreign policy has three major goals.

The first and prime concern is and will remain the security of our country.

Security is based on our national will and security is based on the strength of our armed forces. We have the will, and militarily we are very strong.

Security also comes through the strength of our alliances. We have reconfirmed our commitment to the defense of Europe, and this year we will demonstrate that commitment by further modernizing and strengthening our military capabilities there.

Security can also be enhanced by agreements with potential adversaries which reduce the threat of nuclear disaster while maintaining our own relative strategic capability.

In areas of peaceful competition with the Soviet Union we will continue to more than hold our own.

At the same time we are negotiating with quiet confidence, without haste, with careful determination, to ease the tensions between us and to insure greater stability and security.

The Strategic Arms Limitation Talks have been long and difficult. We want a mutual limit on both the quality and the quantity of the giant nuclear arsenals of both nations—and then we want actual reductions in strategic arms as a major step toward the ultimate elimination of nuclear weapons from the face of the earth.

If these talks result in an agreement this year—and I trust they will—I pledge to you that the agreement will maintain and enhance the stability of the world's strategic balance and the security of the United States.

For 30 years, concerted but unsuccessful efforts have been made to ban the testing of atomic explosives—both military weapons and peaceful nuclear devices.

We are hard at work with Great Britain and the Soviet Union on an agreement which will stop testing, and will protect our national security and provide for adequate verification of compliance.

We are now making, I believe, good progress toward this comprehensive ban on nuclear explosions.

We are also working vigorously to halt the proliferation of nuclear weapons among the nations of the world which do not now have them, and to reduce the deadly global traffic in conventional arms sales. Our stand for peace is suspect if we are also the principal arms merchant of the world. So we have decided to cut down our arms transfers abroad, on a year-by-year basis, and to work with other major arms exporters to encourage their similar constraint.

Every American has a stake in our second major goal—a world at peace. In a nuclear age each of us is threatened when peace is not secured everywhere.

We are trying to promote harmony in those parts of the world where major differences exist among other nations and threaten international peace.

In the Middle East we are contributing our good offices to maintain the momentum of the current negotiations and to keep open the lines of communication among the Middle Eastern leaders. The whole world has a great stake in the success of these efforts. This is a precious opportunity for a historic settlement of long-standing conflict—an opportunity which may never come again in our lifetime.

Our role has been difficult and sometimes thankless and controversial, but it has been constructive and it has been necessary—and it will continue.

Our third major foreign policy goal is one that touches the life of every American citizen every day: world economic growth and stability.

This requires strong economic performance by the industrialized democracies like ourselves and progress in resolving the global energy crisis. Last fall, with the help of others, we succeeded in our vigorous efforts to maintain the stability in the price of oil. But as many foreign leaders have emphasized to me personally, and I am sure to you, the greatest future contribution that America can make to the world economy would be an effective energy conservation program here at home. We will not hesitate to take the actions needed to protect the integrity of the American dollar.

We are trying to develop a more just international system. And in this spirit we are supporting the struggle for human development in Africa, in Asia, and in Latin America.

Finally, the world is watching to see how we act on one of our most important and controversial items of business: approval of the Panama Canal Treaties. The treaties now before the Senate are the result of the work of four Administrations—two Democratic, two Republican. They guarantee that the Canal will be open always for unrestricted use by the ships of the world. Our ships have the right to go to the head of the line for priority of passage in times of emergency or need. We retain the permanent right to defend the Canal with our own military forces if necessary to guarantee its openness and its neutrality.

The treaties are to the clear advantage of ourselves, the Panamanians, and the other users of the Canal. Ratifying the Panama Canal treaties will demonstrate our good faith to the world, discourage the spread of hostile ideologies in this hemisphere, and directly contribute to the economic well-being and the security of the United States. [Applause.] I have to say that that is a very welcome applause.

There were two moments on my recent journey which, for me, confirmed the final aims of our foreign policy and what it always must be. One was in a little village in India, where I met a people as passionately attached to their rights and liberties as we are—but whose children have a far smaller chance for good health, for food, for education, or human fulfillment than a child born in this country.

The other moment was in Warsaw, capital of a nation twice devastated by war in this century. There, people have rebuilt the city which war's destruction took from them; but what was new only emphasized clearly what was lost.

What I saw in those two places crystallized for me the purposes of our own nation's policy: to ensure economic justice, to advance human rights, to resolve conflicts without violence, and to proclaim in our great democracy our constant faith in the liberty and dignity of human beings everywhere.

We Americans have a great deal of work to do together.

In the end, how well we do that work will depend on the spirit in which we approach it.

We must seek fresh answers, unhindered by the stale prescriptions of the past.

It had been said our best years are behind us, but I say again that America's best is still ahead. We have emerged from bitter experiences chastened but proud, confident once again, ready to face challenges once again, and united once again.

We come together tonight at a solemn time. Last week the Senate lost a good and honest man, LEE METCALF of Montana.

And today the flag of the United States flew at half-mast from this Capitol and from American installations and ships all over the world, in mourning for Senator HUBERT HUMPHREY.

Because he exemplified so well the joy and the zest of living, his death reminds us not so much of our own mortality but of the possibilities offered to us by life. He always looked to the future with a special American kind of confidence, of hope and enthusiasm, and the best way that we can honor him is by following his example.

Our task, to use the words of Senator HUMPHREY, is "reconciliation, rebuilding, and rebirth."

Reconciliation of private needs and interests into a higher purpose. Rebuilding the old dreams of justice and liberty and country and community.

Rebirth of our faith in the common good.

Each of us here tonight—and all who are listening in your homes—must rededicate ourselves to serving the common good. We are a community, a beloved community, all of us; our individual fates are linked; our futures intertwined; and if we act in that knowledge and in that spirit together, as the Bible says, we can move mountains.

Thank you very much.

[Applause, the Members rising.]

At 9 o'clock and 50 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Chief Justice of the United States and the Associate Justices of the Supreme Court.

The ambassadors, ministers, and charges d'affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 9 o'clock and 53 minutes p.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

REFERENCE OF PRESIDENT'S MESSAGE

Miss JORDAN. Mr. Speaker, I move that the message of the President together with the accompanying documents be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

ADJOURNMENT

Miss JORDAN. Mr. Speaker, as a further mark of respect to the memories of our deceased colleagues in the other body, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 57 minutes p.m.), pursuant to House Resolutions 950 and 951, and under its previous order, the House adjourned until Monday, January 23, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Received December 31, 1977]

2858. A letter from the Chairman, Commission on Administrative Review, U.S. House of Representatives, transmitting the final report of the Commission, pursuant to section 5 of House Resolution 1368, 94th Congress (H. Doc. No. 95–272); ordered to be printed.

[*Submitted January 19, 1978*]

2859. A letter from the Secretary of Agriculture, transmitting the annual report for

fiscal year 1977 on the location of new Federal offices and other facilities in rural areas, pursuant to section 901(b) of the Agricultural Act of 1970, as amended; to the Committee on Agriculture.

2860. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of January 1, 1978, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 95–274); to the Committee on Appropriations and ordered to be printed.

2861. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriations to the Veterans' Administration for "Compensation and Pensions" and "General Operating Expenses" for fiscal year 1978 have been reapportioned on bases which indicate the necessity for supplemental estimates of appropriations, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2862. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the limitation on administrative expenses of the Commodity Credit Corporation has been reapportioned on a basis which indicates the necessity for a reapportionment of the authorization, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2863. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting notice of transfers of funds appropriated for health care purposes, pursuant to section 854 of Public Law 95–111; to the Committee on Appropriations.

2864. A letter from the Acting Comptroller General of the United States, transmitting his review of the deferrals and revised deferrals of budget authority contained in the message from the President dated December 15, 1977 (House Doc. No. 95–270), pursuant to section 1014 (b) and (c) of Public Law 93–344 (H. Doc. No. 95–275); to the Committee on Appropriations and ordered to be printed.

2865. A letter from the Secretary, Railroad Retirement Board, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2866. A letter from the Deputy Secretary of Defense, transmitting notice of approval of an annual compensation rate in excess of $45,000 for an official of the Center for Naval Analyses, University of Rochester, pursuant to section 407(b) of Public Law 91–121; to the Committee on Armed Services.

2867. A letter from the Secretary of the Army, transmitting notice of the Secretary of Defense's determination that collocation of certain chemical agents at Rocky Mountain Arsenal, Colo., is necessary in the interest of national security, pursuant to section 409(b)(4) of Public Law 91–121; to the Committee on Armed Services.

2868. A letter from the Secretary of the Army, transmitting a report covering calendar year 1977 on the progress of the Army Reserve officers' training corps flight instruction program, pursuant to 10 U.S.C. 2110; to the Committee on Armed Services.

2869. A letter from the Secretary of the Army, transmitting the annual report of the Department of the Army contracts for military construction awarded without formal advertisement for the period July 1, 1976 to September 30, 1977, pursuant to section 604 of Public Law 94–431; to the Committee on Armed Services.

2870. A letter from the Secretary of the Navy, transmitting notice of the proposed transfer of the obsolete (sunken) vessels *Hamilton* and *Scourge* to the Royal Ontario Museum, Toronto, Ontario, Canada, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

2871. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report that no use was made of funds appropriated in the Defense Appropriation Act, 1977, and the Military Construction Appropriation Act, 1977, during the period April 1, 1977 to September 30, 1977, to make payments under contracts in a foreign country except where it was determined that the use of foreign currencies was not feasible, pursuant to sections 734 and 109 of the respective acts; to the Committee on Appropriations.

2872. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting the first report on the program of Selected Reserve reenlistment bonuses, pursuant to 37 U.S.C. 308b(e) (91 Stat. 330); to the Committee on Armed Services.

2873. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting a report on military construction project authorization increases and scope reductions for fiscal year 1977, pursuant to section 603(f) of Public Law 95–82; to the Committee on Armed Services.

2874. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to the United Kingdom (transmittal No. 78–8), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2875. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to the Federal Republic of Germany (transmittal No. 78–9), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2876. A letter from the Commander, Naval Facilities Engineering Command, Department of the Navy, transmitting the annual report of the Department of the Navy contracts for military construction awarded without formal advertising for the period July 1, 1976—September 30, 1977, pursuant to section 604 of Public Law 94–431; to the Committee on Armed Services.

2877. A letter from the Director, Office of Legislative Affairs, Department of the Navy, transmitting notice of the intention of the Department of the Navy to donate certain surplus property to the German Naval Veterans Association, pursuant to 10 U.S.C. 7545 (c); to the Committee on Armed Services.

2878. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report concerning the waiving of the contract clause requirement authorizing examination by the Comptroller General of pertinent records of a foreign contractor, pursuant to 80 Stat. 850 (10 U.S.C. 2313(c)); to the Committee on Armed Services.

2879. A letter from the Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting notice of the omission of a clause authorizing examination of records by the Comptroller General in a research contract with an agency of the British Government, pursuant to 80 Stat. 850; to the Committee on Armed Services.

2880. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on Federal contributions to States for civil defense equipment and facilities during fiscal year 1977, pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

2881. A letter from the Vice Chairman, Board of Governors, Federal Reserve System, transmitting the ninth annual report of the Board on Truth in Lending, pursuant to section 114 of Public Law 90–321; to the Committee on Banking, Finance and Urban Affairs.

2882. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during October 1977, to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

2883. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during November 1977, to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

2884. A letter from the Chairman, Cost Accounting Standards Board, transmitting the annual report of the Board for fiscal year 1977, pursuant to section 719(k) of the Defense Production Act of 1950, as amended [50 U.S.C. App. 2168(k)]; to the Committee on Banking, Finance and Urban Affairs.

2885. A letter from the Chairman, the Renegotiation Board, transmitting the Board's 22d Annual Report, covering fiscal year 1977, pursuant to section 114 of the Renegotiation Act of 1951, as amended; to the Committee on Banking, Finance and Urban Affairs.

2886. A letter from the executive director, National Center for Productivity and Quality of Working Life, transmitting the Center's annual report for fiscal year 1977, pursuant to section 208 of Public Law 94–136; to the Committee on Banking, Finance and Urban Affairs.

2887. A letter from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend section 502 of the District of Columbia Self-Government and Governmental Reorganization Act; to the Committee on the District of Columbia.

2888. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act No. 2–113, "To amend section 47–1105 of the District of Columbia Code to increase the rate of interest on assessments for the removal of nuisances," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2889. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–117, which would regulate noise levels in the District of Columbia, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2890. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–118, which would provide relocation assistance, stabilize residential rents, provide eviction controls and for other purposes, pursuant to section 602 (c) of Public Law 93–198; to the Committee on the District of Columbia.

2891. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–120, which would order the closing of a public alley abutting on Lots 15, 16, 17, 18, 19, 20, and 802 in Square 419, bounded by 7th, R, 8th, and S Streets, N.W., pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2892. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–121, which would provide for certain amendments to D.C. Law Nos. 1–110 and 1–124, to the District of Columbia Revenue Act of 1937, and to title 32 of the District of Columbia Rules and Regulations, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2893. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–122, which would

increase the charge for issuing certificates of real estate taxes and assessments due and duplicating District of Columbia tax returns, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2894. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–127, which would impose a tax on hotel occupancy, to extend the surtax on corporations and unincorporated businesses and for other purposes, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2895. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act 2–128, "To exempt all veterans in the District of Columbia who are totally and permanently disabled from paying the applicable motor vehicle registration fee for their personal noncommercial motor vehicles", pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2896. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act 2–129, "To provide for the technical amendment of the Firearms Control Regulations Act of 1975, and for other purposes", pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2897. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act 2–130, "To regulate the practice of public accounting in the District of Columbia; to authorize the creation of a board of accountancy and to prescribe its powers and duties; and for other purposes", pursuant to section 602(c) of Public Law 93–198 to the Committee on the District of Columbia.

2898. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act 2–131, "To amend certain sections of the District of Columbia Age of Majority Act to include incorporators, and for other purposes, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2899. A letter from the Secretary of Labor transmitting a report on mobility and pension rights of Federal contract workers, pursuant to section 3032 of Public Law 93–406; to the Committee on Education and Labor.

2900. A letter from the Secretary of Health, Education, and Welfare, transmitting the Safe School Study Report, pursuant to section 825(c) of Public Law 93–380 (90 Stat. 2233); to the Committee on Education and Labor.

2901. A letter from the Assistant Secretary of Agriculture for Food and Consumer Services, transmitting the first in a series of reports on the Summer Food Service Program for Children, covering factors affecting meal quality under the program, pursuant to section 13(b)(4)(C) of the National School Lunch Act, as amended (91 Stat. 1325); to the Committee on Education and Labor.

2902. A letter from the Assistant Secretary for Education, Department of Health, Education, and Welfare, transmitting a request for a 1-month extension of the due date of the annual report relating to lifelong learning, pursuant to section 134 of the Higher Education Act, as amended (90 Stat. 2089); to the Committee on Education and Labor.

2903. A letter from the Director, National Institute of Education, Department of Health, Education and Welfare, transmitting the proposed plan for the Institute study of vocational education programs, pursuant to section 523 of Public Law 94–482; to the Committee on Education and Labor.

2904. A letter from the Acting Executive Secretary to the Department, Department of Health, Education, and Welfare, transmitting proposed general provisions relating to student assistance programs, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2905. A letter from the Acting Executive Secretary to the Department, Department of Health, Education, and Welfare, transmitting proposed procedures for assistance to States for the education of handicapped children, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2906. A letter from the Acting Executive Secretary to the Department, Department of Health, Education, and Welfare, transmitting proposed final regulations for Part 115—School Assistance in Federally Affected Areas, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2907. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed regulations for strengthening research library resources, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2908. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed regulations governing the teacher centers program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2909. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, proposed final regulations for the basic skills research grants program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2910. A letter from the Chairman and Members of the U.S. Commission on Civil Rights, transmitting a report on the Commission's study of discrimination on the basis of age in programs and activities receiving Federal financial assistance, pursuant to section 307(d) of the Age Discrimination Act of 1975 (Public Law 94–135); to the Committee on Education and Labor.

2911. A letter from the Chairman, Federal Council on the Arts and the Humanities, transmitting the Council's second annual report on the arts and artifacts indemnity program for fiscal year 1977, pursuant to section 8 of Public Law 94–158; to the Committee on Education and Labor.

2912. A letter from the Chairman, National Advisory Council on Adult Education, transmitting the Council's annual report, pursuant to section 311(d) of the Adult Education Act, as amended; to the Committee on Education and Labor.

2913. A letter from the Secretary of the Treasury, transmitting the combined statement of receipts, expenditures, and balances of the U.S. Government for the fiscal year ended September 30, 1977, pursuant to 31 U.S.C. 66b and 1029; to the Committee on Government Operations.

2914. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken on recommendations contained in the report of the Board of Visitors to the U.S. Naval Academy, 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2915. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on Federal housing programs, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

2916. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report concerning the establishment of a Federal Information Locator System, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

2917. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report entitled "Information Value/Burden Assessment," pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

2918. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on governmental procurement practices, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

2919. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on Federal statistical programs and their organization, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

2920. A letter from the Administrative Officer, International Boundary and Water Commission (U.S. and Mexico), transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2921. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed change in the Department's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2922. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed change in the Department's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2923. A letter from the Acting Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting notice of three proposed new systems of records for the Department, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

2924. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of a proposed change in the Department's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2925. A letter from the Chief of Staff, U.S. Coast Guard, Department of Transportation, transmitting notice of a proposed change in the Coast Guard's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2926. A letter from the Chairman, Indian Claims Commission, transmitting the agency's annual report for calendar year 1977 on its operations under the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2927. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting the Board's annual report for calendar year 1977 on its operations under the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2928. A letter from the Assistant Attorney General for Administration, transmitting the Department's report on disposal for foreign excess property during fiscal year 1977, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2929. A letter from the Assistant Secretary of Agriculture for Administration, transmitting a report covering fiscal year 1977 on the disposal of foreign excess property by the Department, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949; to the Committee on Government Operations.

2930. A letter from the Assistant Director for General Services Facilities and Support Services Division, Environmental Protection Agency, transmitting a report covering fiscal year 1977 on the disposal of foreign excess property by the Agency, pursuant to section 404(d) of the Federal Property and Adminis-

trative Services Act of 1949; to the Committee on Government Operations.

2931. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report covering fiscal year 1977 on the disposal of foreign excess property by NASA, pursuant to section 404 (d) of the Federal Property and Administrative Services Act of 1949; to the Committee on Government Operations.

2932. A letter from the Director, U.S. Information Agency, transmitting the annual report of the Agency for fiscal year 1977 on its disposal of foreign excess property, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949; to the Committee on Government Operations.

2933. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during November 1977, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2934. A letter from the Comptroller General of the United States, transmitting a report on the distribution of Federal aid to State and local governments (PAD–78–15, December 20, 1977); to the Committee on Government Operations.

2935. A letter from the Comptroller General of the United States, transmitting a report on the improvements needed in managing aircraft used by Federal civilian agencies (LCD–77–430, December 22, 1977); to the Committee on Government Operations.

2936. A letter from the Comptroller General of the United States, transmitting the audit of the office of the attending physician of the Capitol revolving fund for fiscal year 1977, pursuant to title III of the Legislative Branch Appropriation Act of 1976 (89 Stat. 283) (GGD–78–31, December 29, 1977); to the Committee on Government Operations.

2937. A letter from the Comptroller General of the United States, transmitting the audit of the accounts of the U.S. Capitol Historical Society for the year ended January 31, 1977, pursuant to section 451 of Public Law 91–510 (GGD–78–27, January 9, 1978); to the Committee on Government Operations.

2938. A letter from the Comptroller General of the United States, transmitting a report on the desirability of multiyear contracting authority for all Federal agencies and the controls needed to make its use effective (PSAD78–54, January 10, 1978); to the Committee on Government Operations.

2939. A letter from the Clerk, U.S. House of Representatives, transmitting a list of reports which it is the duty of any officer or department to make to Congress, pursuant to rule III, clause 2, of the Rules of the House of Representatives (H. Doc. No. 95–276); to the Committee on House Administration and ordered to be printed.

2940. A letter from the Sergeant at Arms, U.S. House of Representatives, transmitting his annual report of funds drawn by him, the application and disbursement of the sums, and balances remaining in his hands as of January 3, 1978, pursuant to 2 U.S.C. 84; to the Committee on House Administration.

2941. A letter from the Acting Secretary of the Interior, transmitting a report on Federal programs available to the territories of the United States, pursuant to section 401 of Public Law 95–134; to the Committee on Interior and Insular Affairs.

2942. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the National Trails System Act by designating the Lewis and Clark Trail, located in portions of Missouri, Kansas, Nebraska, Iowa, South Dakota, North Dakota, Montana, Idaho, Oregon, and Washington, as a component of the National Trails System (H. Doc. No. 95–277); to the Committee on Interior and Insular Affairs and ordered to be printed.

2943. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Taos Pueblo Indians in docket 357–A before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

2944. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of a deferral of payment of construction charges for the Post Falls Irrigation District, Idaho, pursuant to section 17 of the Reclamation Project Act of 1939, as amended; to the Committee on Interior and Insular Affairs.

2945. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the Secretary's determination that certain lands in Lincoln County, Nev., are not suitable for disposal under the provisions of the Unintentional Trespass Act, pursuant to section 214(b) of Public Law 94–579; to the Committee on Interior and Insular Affairs.

2946. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 363, second claim (1867 treaty and 1872 agreement), claim for an additional $255,273. The Lower Sioux Indian Community in Minnesota, et al., Plaintiffs v. The United States of America, Defendant, pursuant to section 21 of the Indian Claims Commission Act (60 Stat. 1055); to the Committee on Interior and Insular Affairs.

2947. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 18–D, The Bois Forte Band, Peter Smith, Calvin Kadub, William Johnson, and Lawrence A. Connor, Plaintiffs, v. The United States of America, Defendant, pursuant to section 21 of the Indian Claims Commission Act (60 Stat. 1055); to the Committee on Interior and Insular Affairs.

2948. A letter from the Vice Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 27–B, The Delaware Tribe of Indians, Plaintiff v. The United States of America, Defendant, and docket No. 338, Absentee Delaware Tribe of Oklahoma, et al., Plantiff v. The United States of America, Defendant, pursuant to section 21 of the Indian Claims Commission Act (60 Stat. 1055); to the Committee on Interior and Insular Affairs.

2849. A letter from the Vice Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 15–C, The Prairie Band of the Potawatomi Tribe of Indians, et al., Plaintiff v. The United States of America, Defendant, and docket No. 29–A, Hannahville Indian Community, et al., Plaintiff v. The United States of America, Defendant, and docket No. 71, Citizen Band of Potawatomi Indians, Plaintiffs v. The United States of America, Defendant, pursuant to section 21 of the Indian Claims Commission Act (60 Stat. 1055); to the Committee on Interior and Insular Affairs.

2950. A letter from the Chairman, American Indian Policy Review Commission, transmitting the Commission's report and recommendations, pursuant to section 5(a) of Public Law 93–580; to the Committee on Interior and Insular Affairs.

2951. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting a draft of proposed legislation to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury to further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Interior and Insular Affairs.

2952. A letter from the Secretary of State, transmitting a report on language training for Foreign Service spouses, pursuant to section 414(b) of Public Law 95–105; to the Committee on International Relations.

2953. A letter from the Acting Secretary of State, transmitting notice of the Department's intention to assign responsibility for monitoring and assessing the performance of embassy and consular personnel in providing assistance to American citizens incarcerated abroad, an annual report on which is required by section 108 of Public Law 95–105, to the Inspector General of the Foreign Service; to the Committee on International Relations.

2954. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Jordan for permission to transfer certain U.S.-origin military equipment to the Government of Singapore, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

2955. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Iran for permission to transfer certain U.S.-origin defense services to the Federal Republic of Germany, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

2956. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Iran for permission to transfer certain U.S.-origin military equipment to the Government of Jordan, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

2957. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Switzerland for permission to transfer certain U.S.-origin military equipment to the Government of Belgium, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

2958. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Federal Republic of Germany for permission to transfer certain U.S.-origin military services to the Governments of Belgium, Italy, and the United Kingdom, pursuant to section 3 (a) of the Arms Export Control Act; to the Committee on International Relations.

2959. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed manufacturing license agreement for the production of certain military equipment in Japan (M–10–78), pursuant to section 36(d) of the Arms Export Control Act; to the Committee on International Relations.

2960. A letter from the Acting Assistant Secretary of State for Education and Cultural Affairs, transmitting a report on international exchange of teachers and scholars, pursuant to section 107(b) of Public Law 95–105; to the Committee on International Relations.

2961. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a preliminary report on the programming and obligation of funds for relief and rehabilitation assistance to victims of the March 4, 1977, earthquake in Romania, pursuant to section 495D(e) of the Foreign Assistance Act of 1961, as amended (91 Stat. 48); to the Committee on International Relations.

2962. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2963. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2964. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2965. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2966. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense services to Canada (transmittal No. 78–7), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2967. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles to Israel (transmittal No. 78–8), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2968. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles to the Federal Republic of Germany (transmittal No. 78–9), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2969. A letter from the Assistant Secretary of Agriculture for International Affairs and Commodity Programs, transmitting a report on the programing of title I Public Law 480 commodities as of December 31, 1977, pursuant to section 408(b) of the Agricultural Trade Development and Assistance Act, as amended; to the Committee on International Relations.

2970. A letter from the Secretary of Commerce, transmitting a report covering the period October 1976 to March 1977 on the activities of the Departments of Commerce and Defense under the Export Administration Act of 1969, as amended, pursuant to section 10 of the act; to the Committee on International Relations.

2971. A letter from the Secretary of Health, Education, and Welfare, transmitting a report prepared by the National Center for Health Statistics and the National Center for Health Services Research, on health care costs and financing, health resources, the utilization of health resources, and the health of the Nation's people, pursuant to section 308(a)(2) of the Public Health Service Act, as amended (88 Stat. 368); to the Committee on Interstate and Foreign Commerce.

2972. A letter from the Secretary of Transportation, transmitting the second annual report on progress in formulating average automotive fuel economy standards, pursuant to section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 902); to the Committee on Interstate and Foreign Commerce.

2973. A letter from the Secretary of Transportation, transmitting the annual report on the financial condition and operations of the railroad rehabilitation and improvement fund and the obligation guarantee fund, pursuant to section 515 of Public Law 94–210, as amended; to the Committee on Interstate and Foreign Commerce.

2974. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting a report on changes in market shares for refined petroleum products during the month of August 1977, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2975. A letter from the Acting Administrator, Energy Information Administration, Department of Energy transmitting a report on changes in market shares for refined petroleum products during September 1977, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2976. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting a report covering the period July-September 1977, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities, and inventories, pursuant to section 11(c)(2) of Public Law 93–319, as amended; to the Committee on Interstate and Foreign Commerce.

2977. A letter from the Acting General Counsel, Department of Energy, transmitting notice of a meeting related to the international energy program on January 23, 1978, 252(c)(i)(A)(i) of Public Law 94–163; to the Committee on Interstate and Foreign Commerce.

2978. A letter from the president, U.S. Railway Association, transmitting the fourth annual report of the association, covering fiscal year 1977, together with program projections for fiscal year 1978, pursuant to sections 202 (e) and (f) of Public Law 93–236; to the Committee on Interstate and Foreign Commerce.

2979. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of September 1977, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2980. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of September 1977, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2981. A letter from the Attorney General, transmitting his bienneal report on Federal law enforcement and criminal justice assistance activities, pursuant to section 670 of the Crime Control Act of 1976 (Public Law 94–503); to the Committee on the Judiciary.

2982. A letter from the Clerk, U.S. Court of Claims, transmitting a report on all judgments rendered by the Court of Claims during the year ended September 30, 1977, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

2983. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on elimination of employment discrimination, pursuant to section 104(b) of Public Law 85–315, as amended; to the Committee on the Judiciary.

2984. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification covering the period December 1–15, 1977, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2985. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

2986. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

2987. A letter from the Director, Bureau of the Census, Department of Commerce, transmitting the first of several reports on the Survey of Registration and Voting conducted by the Bureau after the 1976 general elections, pursuant to section 207(c) of the Voting Rights Act of 1965, as amended (89 Stat. 404); to the Committee on the Judiciary.

2988. A letter from the Acting Secretary, Federal Trade Commission, transmitting the first annual report on the operation of the premerger notification provisions of the Clayton Act, pursuant to section 7A(j) of the act (90 Stat. 1390); to the Committee on the Judiciary.

2989. A letter from the Librarian of Congress and the Register of Copyrights, transmitting a report on performance rights in sound recordings, pursuant to 17 U.S.C. 114 (d) (90 Stat. 2560); to the Committee on the Judiciary.

2990. A letter from the Executive Director, American National Theatre and Academy, transmitting the Academy's annual report and audit for fiscal year 1977, pursuant to section 3 of Public Law 88–504; to the Committe on the Judiciary.

2991. A letter from the National Executive Director, American Veterans of World War II-Korea-Vietnam (AMVETS), transmitting their financial statement for the fiscal year ending August 31, 1977, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2992. A letter from the Chairman, Little League Baseball, Inc., transmitting the annual report of the Corporation for fiscal year 1977 including an independent certified audit, pursuant to section 14(b) of Public Law 88–378; to the Committee on the Judiciary.

2993. A letter from the Past National Secretary-Treasurer, Sons of Union Veterans of the Civil War, transmitting the proceedings of the organization's 96th annual National Encampment, August 14–18, 1977, pursuant to sections 15(a) and 16 of Public Law 83–605; to the Committee on the Judiciary.

2994. A letter from the National Adjutant of the Veterans of World War I of the U.S.A., Inc., transmitting the proceedings of the organization's national convention, its annual report, and its financial statements for the nine months ended June 30, 1977, pursuant to law; to the Committee on the Judiciary and ordered to be printed.

2995. A letter from the Secretary of the Interior, transmitting the annual report for fiscal year 1977 of the Migratory Bird Conservation Commission, pursuant to section 3 of the Act of February 18, 1929 [16 USC 715b]; to the Committee on Merchant Marine and Fisheries.

2996. A letter from the Secretary of Transportation, transmitting a report covering calendar year 1977 on special pay to U.S. Coast Guard officers holding positions of unusual responsibility and of critical nature, pursuant to 37 USC 306(f); to the Committee on Merchant Marine and Fisheries.

2997. A letter from the Chairman, Federal Maritime Commission, transmitting a draft of proposed legislation to amend the Intercoastal Shipping Act, 1933, to make public the financial reports of common carriers by water in interstate commerce and for other purposes; to the Committee on Merchant Marine and Fisheries.

2998. A letter from the Deputy Secretary of the Treasury, transmitting a draft of pro-

posed legislation to place the Director, U.S. Secret Service, at Level IV of the Executive Schedule, and the Deputy Director, U.S. Secret Service, and Director, Office of Revenue Sharing, at Level V of the Executive Schedule; to the Committee on Post Office and Civil Service.

2999. A letter from the Assistant Secretary of Agriculture for Administration, transmitting a report on scientific and professional positions established in the Department during 1977, pursuant to 5 USC 3104(c); to the Committee on Post Office and Civil Service.

3000. A letter from the Secretary of Transportation, transmitting a report on traffic control signalization demonstration projects, pursuant to section 146(c) of Public Law 94–280; to the Committee on Public Works and Transportation.

3001. A letter from the Secretary of Transportation, transmitting a report on the study of airports that may be closed, pursuant to section 20 of Public Law 94–353; to the Committee on Public Works and Transportation.

3002. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the National Airport System Plan, 1978–1987, pursuant to section 12 of the Airport and Airway Development Act of 1970, as amended; to the Committee on Public Works and Transportation.

3003. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Great South Bay, Long Island, N.Y., in response to section 209 of the Flood Control Act of 1966 (Public Law 89–789, as amended by section 76 of the Water Resources Development Act of 1974 (Public Law 93–251); to the Committee on Public Works and Transportation.

3004. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Willapa River and harbor and the Naselle River, Wash., in response to resolutions of the House Committee on Public Works adopted June 19, 1963, and May 5, 1966; to the Committee on Public Works and Transportation.

3005. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Arlington, Va. pursuant to section 7(a) of the Public Buildings Act of 1959 as amended; to the Committee on Public Works and Transportation.

3006. A letter from the Deputy Secretary of Energy, transmitting a report on the study of the overall effectiveness and feasibility of including regenerative braking systems on electric and other automobiles in order to recover energy pursuant to section 13(e) of Public Law 94–413; to the Committee on Science and Technology.

3007. A letter from the Deputy Secretary of Energy, transmitting the first annual report on implementation of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, pursuant to section 14 of the act (Public Law 94–413); to the Committee on Science and Technology.

3008. A letter from the Under Secretary of Defense, transmitting a report on Department of Defense procurement from small and other business firms for October 1967–June 1977, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

3009. A letter from the Principal Deputy Under Secretary of Defense, transmitting a report on Department of Defense procurement from small and other business firms for October 1976–July 1977, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

3010. A letter from the Administrator of Veterans Affairs, transmitting the report on programs and plans for meeting the problems generated by the increasing numbers of aging veterans, pursuant to section 117(a) of Public Law 94–581; to the Committee on Veterans' Affairs.

3011. A letter from the Secretary of Health, Education, and Welfare, transmitting the second annual report on the child support enforcement program, pursuant to section 452(a)(10) of the Social Security Act; to the Committee on Ways and Means.

3012. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations establishing standards for determining when it would be contrary to the best interests of a child, on whose behalf application has been made for aid to needy families with children, to require cooperation in establishing paternity and securing child support, pursuant to section 208(d)(1) of Public Law 94–88; to the Committee on Ways and Means.

3013. A letter from the Chairman, International Trade Commission, transmitting the 28th annual report of the Commission on the operation of the trade agreements program, pursuant to section 163(b) of the Trade Act of 1974 (88 Stat. 1978); to the Committee on Ways and Means.

3014. A letter from the Chairman, U.S. International Trade Commission, transmitting the twelfth quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

3015. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to facilitate the work of the U.S. Department of Agriculture; to protect the confidentiality of information furnished to the Department by individuals, establishments and enterprises and for other purposes; jointly to the Committees on Agriculture, and Government Operations.

3016. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to repeal the Tobacco Seed and Plant Exportation Act of 1940; jointly, to the Committees on Agriculture, and International Relations.

3017. A letter from the Chairman, United States Consumer Product Safety Commission, transmitting the Commission's fiscal year 1979 budget request, pursuant to section 28(k)(1) of Public Law 92–573; jointly, to the Committees on Appropriations, and Interstate and Foreign Commerce.

3018. A letter from the President, U.S. Railway Association, transmitting justifications for proposed appropriations to the Association, pursuant to section 202(g)(2) of the Regional Rail Reorganization Act; jointly, to the Committees on Appropriations and Interstate and Foreign Commerce.

3019. A letter from the Comptroller General of the United States, transmitting a report on special pesticide registration by the Environmental Protection Agency and how it should be improved (CED–78–9, January 9, 1978); jointly, to the Committees on Government Operations, Agriculture, and Interstate and Foreign Commerce.

3020. A letter from the Comptroller General of the United States, transmitting a report on the progress made by the Department of Defense in developing a container-oriented logistics system (LCD–77–234, December 21, 1977); jointly, to the Committees on Government Operations, and Armed Services.

3021. A letter from the Comptroller General of the United States, transmitting a report on unneeded onbase family housing constructed by the military services, (CED–78–8, December 29, 1977); jointly to the Committees on Government Operations, and Armed Services.

3022. A letter from the Comptroller General of the United States, transmitting a report on uniform accounting and workload measurement systems needed for the Department of Defense medical facilities (FGMSD–77–8, January 17, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3023. A letter from the Comptroller General of the United States, transmitting the sixth and final report in the implementation of the Emergency Loan Guarantee Act, pursuant to section 7(b) of the act (Public Law 92–70); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

3024. A letter from the Comptroller General of the United States, transmitting a report on the 1976 audit of the Federal Deposit Insurance Corporation and a review of the Corporation's bank supervisory process, pursuant to section 17(c) of the Federal Deposit Insurance Act [12 U.S.C. 1827(c)], (FOD–77–8, December 22, 1977); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

3025. A letter from the Comptroller General of the United States, transmitting a report evaluating the effectiveness and benefits of the Section 236 Rental Assistance Program (PAD–78–13, January 10, 1978); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

3026. A letter from the Comptroller General of the United States, transmitting a report discussing the need to end the pay and fringe benefit interrelationships of the Federal and District of Columbia Governments (FPCD–77–71, January 12, 1978); jointly, to the Committees on Government Operations, the District of Columbia, and Post Office and Civil Service.

3027. A letter from the Comptroller General of the United States, transmitting a report on the reevaluation needed of educational assistance for institutionalized neglected or delinquent children (HRD–78–11, December 19, 1977); jointly, to the Committees on Government Operations, and Education and Labor.

3028. A letter from the Comptroller General of the United States, transmitting a report on the status and needed improvements in construction management of the Bureau of Reclamation's Palmetto Bend Dam and Reservoir project (PSAD–78–43, December 16, 1977); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

3029. A letter from the Comptroller General of the United States, transmitting a report describing the status of the financial management and program operations of the Alaska Power Administration (EMD–78–1, December 20, 1977); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

3030. A letter from the Comptroller General of the United States, transmitting a report on the state of competition in the coal industry (EMD–78–22, December 30, 1977); jointly, to the Committees on Government Operations, Interior and Insular Affairs, Interstate and Foreign Commerce, and the Judiciary.

3031. A letter from the Comptroller General of the United States, transmitting a report on needed improvements in Consular Services overseas as related to U.S. citizens (ID–77–52, December 29, 1977); jointly, to the Committees on Government Operations, and International Relations.

3032. A letter from the Comptroller General of the United States, transmitting a report regarding foreign economic assistance loans made and administered by the Agency for International Development (ID–76–80, January 5, 1978); jointly, to the Committees on Government Operations, and International Relations.

3033. A letter from the Comptroller General of the United States, transmitting a report outlining initiatives which would make the United States less vulnerable to foreign oil price and supply decisions (EMD–78–24, January 3, 1978); jointly, to the Com-

mittees on Government Operations, International Relations, and Interstate and Foreign Commerce.

3034. A letter from the Comptroller General of the United States, transmitting a report on distributing costs for patient care services more fairly between the National Institutes of Health, health insurance companies, and the patients (HRD–78–21, December 22, 1977); jointly to the Committees on Government Operations, and Interstate and Foreign Commerce.

3035. A letter from the Comptroller General of the United States, transmitting a report on the Securities and Exchange Commisson's regulation of Public Utility Holding Companies (FGMSD–78–7, January 4, 1978); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

3036. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the Federal regulation of natural gas obtained under the Emergency Natural Gas Act of 1977 (EMD–78–10, January 6, 1978); jointly to the Committees on Government Operations, and Interstate and Foreign Commerce.

3037. A letter from the Comptroller General of the United States, transmitting a report discussing needed improvements of the management and administration of the Department of Transportation's safety inspection program (CED–78–18, December 20, 1977); jointly to the Committees on Government Operations, Interstate and Foreign Commerce, and Public Works and Transportation.

3038. A letter from the Comptroller General of the United States, transmitting a report on the need for a comprehensive national policy for the delivery of home health service (HRD–73–19, December 30, 1977); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

3039. A letter from the Comptroller General of the United States, transmitting a report on resolving longstanding problems in investigations of Federal employees (FPCD–77–64, December 16, 1977); jointly, to the Committees on Government Operations, and Post Office and Civil Service.

3040. A letter from the Comptroller General of the United States, transmitting a report on the need for a greater Federal, State, and local effort to control nonpoint sources of water pollution (CED–78–6, December 20, 1977); jointly, to the Committees on Government Operations, and Public Works and Transportation.

3041. A letter from the Comptroller General of the United States, transmitting a report on the financially troubled John F. Kennedy Center for the Performing Arts (GGD–78–15, December 20, 1977); jointly, to the Committees on Government Operations, and Public Works and Transportation.

3042. A letter from the Comptroller General of the United States, transmitting a report on the impact of the worker adjustment assistance program on auto workers separated from jobs because of import competition (HRD–77–152, January 11, 1978); jointly, to the Committees on Government Operations, and Ways and Means.

3043. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report on the Commission's program for the resolution of generic issues related to nuclear power plants, including plans for the resolution of "unresolved safety issues," pursuant to section 210 of the Energy Reorganization Act of 1974, as amended; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

3044. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report by the Advisory Committee on Reactor Safeguards on the Commission's safety research program, pursuant to section 29 of the Atomic Energy Act of 1954, as amended (91 Stat. 1483); jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

3045. A letter from the Secretary of the Treasury, transmitting a report on the status of significant unsettled claims against foreign governments by the U.S. Government and its agencies, in response to a recommendation of the Committee on Government Operations; jointly, to the Committees on International Relations and Government Operations.

3046. A letter from the Director, National Science Foundation, transmitting a report by the Foundation on the stratosphere and the effects of ozone layer changes, pursuant to section 154(c) of the Clean Air Act (91 Stat. 728); jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

3047. A letter from the Secretary of Health, Education, and Welfare, transmitting a report covering the quarter ending September 30, 1977, on grants approved by the Secretary for experimental, pilot, demonstration, or other projects all or any part of which are wholly financed with Federal funds under the Social Security Act, pursuant to section 1120(b) of the act; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 112. A bill to amend section 4940 of the Internal Revenue Code of 1954 with respect to private operating foundations the principal activity of which is the operation of long-term care facilities; with amendment (Rept. No. 95–842). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4089. A bill to amend the Internal Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units; with amendment (Rept. No. 95–843). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. BROWN of Michigan, Mr. DON H. CLAUSEN, Mr. DIGGS, Mr. FLOWERS, and Mr. FRASER):

H.R. 10413. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. ANDREWS of North Dakota:

H.R. 10414. A bill to authorize the Secretary of Agriculture to provide 100-percent parity to farmers; to the Committee on Agriculture.

By Mr. ANNUNZIO:

H.R. 10415. A bill to extend the effective date of the prepaid interest limitations of the Tax Reform Act of 1976 for fiscal year individuals; to the Committee on Ways and Means.

By Mr. BURLESON of Texas (for himself, Mr. MIKVA, and Mr. GIBBONS):

H.R. 10416. A bill to provide that the public debt limit shall be the limit established pursuant to the congressional budget procedures, to provide that operations of the Federal Financing Bank will be included in the budget, and for other purposes; jointly, to the Committees on Rules, and Ways and Means.

By Mr. COCHRAN of Mississippi:

H.R. 10417. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. CORRADA:

H.R. 10418. A bill to provide for treatment of the Commonwealth of Puerto Rico as a State with a single health service area for purposes of title XV of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. COTTER (for himself and Mr. MOFFETT):

H.R. 10419. A bill to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartidge, and hanger units in the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. DAVIS (for himself and Mr. FAUNTROY):

H.R. 10420. A bill to provide parity to farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture.

By Mr. DERRICK (for himself, Mr. GIAIMO, Mr. ASHLEY, Mr. MINETA, Mr. BLANCHARD, Mr. D'AMOURS, Mr. OTTINGER, Mr. LEHMAN, Mr. EMERY, Mr. WIRTH, Mr. GEPHARDT, Mr. PATTISON of New York, Mr. BEDELL, and Mr. MATTOX):

H.R. 10421. A bill to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes; to the Committee on Rules.

By Mr. DUNCAN of Tennessee:

H.R. 10422. A bill to amend the Internal Revenue Code of 1954 to permit certain individual taxpayers to postpone their estimated tax payments until the end of the year; to the Committee on Ways and Means.

By Mr. EILBERG (for himself, Ms. FENWICK, Mr. FLOOD, Mr. FREY, Mr. GIAIMO, Mr. GILMAN, Mr. HOWARD, Mr. HUGHES, Mr. LE FANTE, Ms. MIKULSKI, Mr. MINISH, Mr. MOORHEAD of Pennsylvania, Mr. ROE, Mr. VENTO, and Mr. CHARLES WILSON of Texas):

H.R. 10423. A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. FISHER (for himself and Mr. DUNCAN of Tennessee):

H.R. 10424. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 10425. A bill to amend the Wild and Scenic Rivers Act by designating portions of the Upper Mississippi River in Minnesota as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GLICKMAN:

H.R. 10426. A bill to amend the Agricultural Act of 1949, as amended, with regard to amounts of disaster payments for wheat

and feed grain producers; to the Committee on Agriculture.

By Mr. GRADISON:

H.R. 10427. A bill to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LATTA:

H.R. 10428. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 10429. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property; to the Committee on Ways and Means.

By Mr. EMERY:

H.R. 10430. A bill to amend title 18, United States Code, so as to make unlawful the taking of certain equipment from federally documented vessels, and for other purposes; to the Committee on the Judiciary.

H.R. 10431. A bill to modify the project at Royal River, Yarmouth, Maine, relating to the Federal share of the maintenance costs of the project; to the Committee on Public Works and Transportation.

By Mr. EMERY (for himself and Mr. COHEN):

H.R. 10432. A bill to amend the tariff schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets; to the Committee on Ways and Means.

By Mr. MATHIS:

H.R. 10433. A bill to provide temporary, emergency assistance to American farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture.

By Mr. MATHIS (for himself and Mr. POAGE):

H.R. 10434. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; jointly, to the Committees on Agriculture, and International Relations.

By Ms. MIKULSKI:

H.R. 10435. A bill to amend title 4 of the United States Code to restrict the authority of any State or political subdivision to impose any income tax on any compensation paid to any individual who is not a domiciliary or resident of such State or political subdivision; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself and Mrs. SPELLMAN):

H.R. 10436. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. NICHOLS:

H.R. 10437. A bill to provide emergency assistance to farmers by increasing the target prices for the 1977 and 1978 crops of upland cotton and corn; to the Committee on Agriculture,

H.R. 10438. A bill to amend title 10, United States Code, to grant survivors of Reserves who retire for nonregular service and die before becoming entitled to retired pay eligibility for certain survivor benefits; to the Committee on Armed Services.

By Mr. PEPPER:

H.R. 10439. A bill to amend the Internal Revenue Code of 1954 to provide individuals a refundable credit against income tax for maintaining a household a member of which is an individual who has attained the age of 65; to the Committee on Ways and Means.

By Mr. PICKLE:

H.R. 10440. A bill to amend the Federal Meat Inspection Act to allow the interstate movement of all meat food products which are processed by federally inspected establishments and which are derived from meat which has been slaughtered or processed at certain State-inspected establishments; to the Committee on Agriculture.

By Mr. RICHMOND:

H.R. 10441. A bill making appropriations to carry out the grant program established in the Museum Services Act during fiscal year 1978; to the Committee on Appropriations.

H.R. 10442. A bill to provide financial assistance to centers which train dogs to assist individuals with hearing disabilities; to the Committee on Interstate and Foreign Commerce.

H.R. 10443. A bill to amend the Internal Revenue Code of 1954 to provide that the 4-percent excise tax on the net investment income of a private foundation shall not apply to a private foundation organized and operated exclusively as a library, museum, or similar educational institution; to the Committee on Ways and Means.

H.R. 10444. A bill to provide for the use of telecommunication devices by the Senate and the House of Representatives to enable deaf persons and persons with speech impairments to engage in toll-free telephone communications with Members of the Congress; to the Committee on House Administration.

H.R. 10445. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for certain contributions of literary, musical, or artistic compositions; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 10446. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

By Mr. ROBERTS (by request):

H.R. 10447. A bill to amend section 612(b) of title 38, United States Code, to authorize outpatient dental care for certain veterans; to the Committee on Veterans' Affairs.

H.R. 10448. A bill to amend title 38 of the United States Code to improve the pension program for nonservice connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for annual automatic cost-of-living adjustments in the pension program; to prevent reductions in pension benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROBINSON (for himself, Mr. BAFALIS, Mr. BONIOR, Mr. BURLISON of Missouri, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, and Mr. SIMON):

H.R. 10449. A bill to amend an act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality; to the Committee on Interior and Insular Affairs.

By Mr. RONCALIO (for himself, Mr. RODINO, Mr. BYRON, Mrs. PETTIS, Mr. WHITEHURST, Mr. MARKS, Mr. PATTEN, Mr. LEHMAN, Mr. FISHER, Mr. AKAKA, and Mr. GONZALEZ):

H.R. 10450. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to establish an Army Reserve Career Interest program for persons between the ages of 14 and 18; to the Committee on Armed Services.

By Mr. SEBELIUS (for himself, Mr. NOLAN, Mr. ABDNOR, Mr. THONE, Mr. HIGHTOWER, Mr. MARLENEE, and Mr. YOUNG of Alaska):

H.R. 10451. A bill to require action by the President and Secretary of Agriculture to increase farm income and to improve the effectiveness of farm program; to the Committee on Agriculture.

By Mr. SIMON (for himself and Mr. CORNELL):

H.R. 10452. A bill to amend the Fair Labor Standards Act of 1938 to provide a special minimum wage for the employment for not more than 180 days of persons under the age of 19; to the Committee on Education and Labor.

By Mr. STAGGERS:

H.R. 10453. A bill to provide for a comprehensive study of activities involving recombinant DNA to determine the best means to assure protection to the American people from dangers arising from such activities; and to provide for the regulation of the safe conduct of recombinant DNA activities pending the outcome of such study; to the Committee on Interstate and Foreign Commerce.

By Mr. STEERS (for himself and Mr. PRESSLER):

H.R. 10454. A bill to provide mandatory social security coverage for Members of Congress; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 10455. A bill to amend title 10, United States Code, to prohibit the sale of certain defense articles from the stocks of the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. STUDDS:

H.R. 10456. A bill to amend the Arms Export Control Act to allow the President under certain circumstances to extend the period within which Congress must act to disapprove particular arms transfer proposals; to the Committee on International Relations.

By Mr. WHITEHURST (for himself and Mr. BINGHAM):

H.R. 10457. A bill to permit the private, noncommercial ownership of feral burros and wild horses; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. CHARLES H. WILSON of California:

H.R. 10458. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that any individual may elect (on an annual basis) to contribute to a private retirement plan rather than participating in the social security program; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 10459. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for the cutting and removal of corns, warts, and calluses and the reduction of club nails; jointly, to the Committees on Ways and Means, and Interstate nad Foreign Commerce.

By Mr. ROGERS:

H.R. 10460. A bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development; to the Committee on Interstate and Foreign Commerce.

By Mr. BOWEN:

H.R. 10461. A bill to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

H.R. 10462. A bill to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

H.R. 10463. A bill to amend the Cotton Statistics and Estimates Act of 1927; to the Committee on Agriculture.

By Mr. DUNCAN of Tennessee:

H.R. 10464. A bill to amend the Social Security Act to authorize international agreements with respect to social security health insurance benefits; to the Committee on Ways and Means.

By Mr. HARRIS (for himself, Mr. STEERS, and Mrs. SPELLMAN):

H.R. 10465. A bill to eliminate the offset against social security benefits in the case of spouses and surviving spouses receiving certain Government pensions; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 10466. A bill to amend the act of October 31, 1949 (63 Stat. 1049), to change the authority of the Surgeon General to make certain payments to Bernalillo County, N. Mex., for furnishing hospital care to certain Indians; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. MEEDS:

H.R. 10467. A bill Alaska National Interest Lands Conservation Act; to the Committee on Interior and Insular Affairs.

By Mr. ROGERS (for himself and Mr. CARTER):

H.R. 10468. A bill to amend title VIII of the Public Health Service Act to attend for 2 fiscal years the program of assistance for nurse training; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN:

H.R. 10469. A bill to require that from one-half to 1 percent of any funds appropriated for the construction of certain public buildings be used for artwork for such buildings; to the Committee on Public Work and Transportation.

By Mr. ANDERSON of California:

H.J. Res. 682. Joint resolution to provide for the designation of a week as National Lupus Week; to the Committee on Post Office and Civil Service.

By Mr. ROE (for himself and Mr. HOWARD):

H.J. Res. 683. Joint resolution authorizing the President to proclaim September 8 of each year as "National Cancer Day"; to the Committee on Post Office and Civil Service.

By Mr. EVANS of Delaware:

H. Con. Res. 453. Concurrent resolution expressing the sense of the Congress that David W. Marston, U.S. attorney for the Eastern District of Pennsylvania, be retained in his current position until all on-going investigations of corruption involving public officials under the jurisdiction of such U.S. attorney are concluded; to the Committee on the Judiciary.

By Mr. EVANS of Delaware (for himself, Mr. COLEMAN, Mr. COLLINS of Texas, Mr. CORCORAN of Illinois, Mr. COUGHLIN, Mr. DEVINE, Mr. EDGAR, Mr. EMERY, Mr. FORSYTHE, Mr. HILLIS, Mr. HYDE, Mr. KETCHUM, Mr. KINDNESS, Mr. KOSTMAYER, Mr. MARKS, Mr. MICHEL, Mr. PURSELL, Mr. QUAYLE, Mr. RAILSBACK, Mr. ROUSSELOT, Mr. SAWYER, Mr. SCHULZE, Mr. STANTON, Mr. WALKER, and Mr. BOB WILSON):

H. Con. Res. 454. Concurrent resolution expressing the sense of the Congress that David W. Marston, U.S. attorney for the Eastern District of Pennsylvania, be retained in his current position until all ongoing investigations of corruption involving public officials under the jurisdiction of such U.S. attorney are concluded; to the Committee on the Judiciary.

By Mr. ROBERTS:

H. Con. Res. 455. Concurrent resolution to declare the sense of Congress that full parity remains the goal of American agriculture; to the Committee on Agriculture.

By Mr. SEBELIUS (for himself, Mr. GLICKMAN, Mr. NOLAN, Mr. ABDNOR, Mr. THONE, Mr. HIGHTOWER, Mr. MARLENEE, and Mr. YOUNG of Alaska):

H. Con. Res. 456. Concurrent resolution to inspire the President and the Secretary of Agriculture to use existing law to achieve parity for farmers and ranchers; to the Committee on Agriculture.

By Mr. ANDERSON of California:

H. Res. 952. Resolution to establish a senior citizen internship program; to the Committee on House Administration.

By Mr. DIGGS:

H. Res. 953. Resolution providing funds for the Committee on the District of Columbia; to the Committee on House Administration.

By Mr. FOLEY (for himself and Mr. WAMPLER):

H. Res. 954. Resolution to provide funds for the expenses of the investigations and studies to be conducted by the Committee on Agriculture; to the Committee on House Administration.

By Mr. LE FANTE:

H. Res. 955. Resolution designating January 22, as Ukrainian Independence Day; to the Commitee on Post Office and Civil Service.

By Mr. STOKES:

H. Res. 956. Resolution providing for funds for the Select Committee on Assassinations; to the Committee on House Administration.

By Mr. ROBERTS (for himself, Mr. TEAGUE, Mr. SATTERFIELD, Mr. MONTGOMERY, Mr. CARNEY, and Mr. BRINKLEY):

H. Res. 957. Resolution providing funds for the Committee on Veterans' Affairs; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Ohio:

H.R. 10470. A bill for the relief of Maj. John E. Doyle; to the Committee on the Judiciary.

H.R. 10471. A bill for the relief of Mr. E. William Plant; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 10472. A bill for the relief of Amelia B. Rivera; to the Committee on the Judiciary.

By Mr. DERWINSKI:

H.R. 10473. A bill for the relief of Robert L. Stocker; to the Committee on Merchant Marine and Fisheries.

By Mr. GIBBONS:

H.R. 10474. A bill to authorize the documentation of the vessel, *Unicorn*, as a vessel of the United States with coastwise privileges; to the Committee on Merchant Marine and Fisheries.

By Mr. GLICKMAN:

H.R. 10475. A bill for the relief of Hannelore A. A. Borchers; to the Committee on the Judiciary.

H.R. 10476. A bill for the relief of Raymond C. Owens; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 10477. A bill for the relief of Phyllis A. Steiner; to the Committee on the Judiciary.

By Mr. YATRON:

H.R. 10478. A bill for the relief of Demetrios K. Mountanos; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

376. By the SPEAKER. Petition of the International Association of Chiefs of Police, Gaithersburg, Md., relative to controlling the exportation of stolen used vehicles; to the Committee on International Relations.

377. Also, petition of the International Association of Chiefs of Police, Inc., Gaithersburg, Md., relative to gathering of criminal intelligence; to the Committee on the Judiciary.

378. Also petition of the Society of Professional Journalists, Sigma Delta Chi, Detroit, Mich., relative to radio and television coverage of proceedings of the U.S. House of Representatives; to the Committee on Rules.

379. Also, petition of the city council, New York, N.Y., relative to urging the Congress to pass proposed legislation which would allow individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and humanities; to the Committee on Ways and Means.

380. Also, petition of the City Commission, Kilgore, Tex., relative to the proposed National Eneryy Act; to the Committee on Ways and Means.

381. Also, petition of the International Union of Bricklayers and Allied Craftsmen, Washington, D.C., relative to proposed elimination of the hard mineral depletion allowance; to the Committee on Ways and Means.

382. Also, petition of the Board of Trustees, Temple Isaiah, Los Angeles, Calif., relative to the need for Federal legislation and international cooperation to end air terrorism; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

383. Also, petition of the president, Bar Association of the District of Columbia, Washington, D.C., relative to transferring jurisdiction from the U.S. Court of Claims regarding properties proposed to be taken for the Redwood National Park; jointly, to the Committees on the Judiciary and Interior and Insular Affairs.

EXTENSIONS OF REMARKS

IN PRAISE OF MRS. BERNICE COX SAXON, OF COX GAP, ETOWAH COUNTY, ALA.

HON. JAMES B. ALLEN

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Thursday, January 19, 1978

Mr. ALLEN. Mr. President, an excellent article about my dear friend, Mrs. Bernice Cox Saxon, Cox Gap, Etowah County, Ala., appeared in the Etowah News Journal, Attalla, Ala., November 3, 1977, issue. This fine Christian lady who has done so much in service to God and her fellowman is greatly loved by all who know her. She and her family have been warm friends of mine for many decades. She recently celebrated her 82d birthday. The article was written by Mrs. Jo Cox, a talented writer and wife of Hon. Elmus E. Cox, for many years administrative assistant to Hon. Albert Rains of Alabama, for many years one of the outstanding Members of the U.S. House of Representatives. After Congressman Rains retirement, Mr. Cox served with distinction as Deputy Controller of the Currency, from which he retired several years ago. I ask unanimous consent that this heartwarming article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHE'S YOUNG AT HEART

(By Jo Cox)

Birthdays. They're as certain as hugs and kisses. At least that's what Bernice Cox Saxon got recently when some 55 friends and relatives showed up at home of her son, Donald, and his wife, Jeannette, in Cox Gap to wish her "many happy returns" on her 82nd.

Young at heart, Bernice just sat and greeted each one with her bright blue eyes gleaming. When my turn came, and I told her I was going to write a story about her, she said, "There's not much to write about me, Jo. I'm just an ordinary person." Well, if raising 3 children, taking care of an invalid husband for ten years, caring for a sick mother and an ill father-in-law (known as Uncle T. Saxon), and being a grandmother of six and a great grandmother to seven (and a few dozen other things) seems ordinary to her it surely doesn't to me.

Bernice interrupts me to tell about her nearest grandchildren, Ewing and Corky, sons of LaRue and her son, Harold. When she lived across the street from them in the Cox Gap Community, their daily visits (sometimes more often) were a constant joy. "Those were the happy days," she says. Now with the untimely death of her son, Harold, life has changed somewhat. The two boys and their mother have moved in closer to town and school (Ewing is in the 5th Grade and Corky is in the 4th at Curtiston Elementary), and Bernice, suffering from the trauma of Harold's death and a fall, has moved into the Attalla Nursing Home.

Families. She knows about them, too. She was one of six children (Lonnie—now deceased, Ewing—now deceased, Marvin—our neighbor, Elioise—now Mrs. Polk Miller of the Cave Springs Community, and Christine—now Mrs. Frank Berry of Atlanta) of Forney and Clara (Brothers) Cox, born on a farm in Cox Gap, where she has lived within a two mile radius all her life. She and her two brothers, Marvin and Ewing, walked all the way (about 2 and one-half miles) through mud (there were no paved roads back then.) and rain to Pleasant Hill School which was held in the Pleasant Hill Baptist Church on Duck Springs Road. Later on her father hitched Clifford, one of their gentle horses, to a buggy, and she and her brothers rode in luxury. When she attended Etowah High School, the distance of 8 miles was too much for one day, and she boarded on 5th Avenue.

It wasn't long before one of the local boys noticed this charming young lady, and at 19 Bernice was married to William B. Saxon, a farmer whose father owned a large farm in the Cox Gap Community. They were blessed with three children, Donald, Harold, and Lorraine (now Mrs. Denson Allen of Hiram, Georgia). Life wasn't easy on the farm, and Bernice worked too hard and played too little. But that was the way she liked it. Life was her husband and her children. She would quickly tell you that she has milked many a cow, (sitting on a stool), howed and picked many a bale of cotton, made sauerkraut, picked peas and beans, and canned hundreds of apples and pears from the fruit trees on their farm. Cooking back then meant chopping and hauling logs to burn in the big black iron stove in her kitchen. She was a wonderful cook. Her kitchen was always filled with mouth-watering aromas, and a dinner-time visitor was always asked to pull up a chair and "take out."

Cave Springs Baptist Church is her church, having been a member since early childhood. Her father and husband were deacons there until their death. She was a strong believer in training her children in the ways of the Lord, and saw to it that her children attended Sunday School, morning worship, B.Y.P.U. at night, and Wednesday night prayer meetings. Bernice has done many types of services for the church, from Sunday School teacher for 20 years (One of her pupils, Margaret Riley, recently dedicated her puppet show to her), Training Union teacher, and WMU leader. She was active in Vacation Bible School also, but probably her most enjoyable job was the growing and arranging of flowers for the decorating of the church. She recalled fondly many all-day-singings and dinners-on-the-ground. Yes, those were the days, but she is content now with her status in life. She never complains. She fell not too long ago, and has to use a walker now. However, she has been blessed with good health most of her life, never been in the hospital for an extended stay except when she had a kidney operation several years ago. She came through that fine, she says.

After the death of her husband in 1940, (with her children grown and working) she began a new kind of life, that of a working mother. She worked for a time at Kahn's in Attalla, and then for the Public Works Administration. Her last position, and from which she retired at age 67, was with the Holy Name of Jesus Hospital.

Her daughter, Lorraine, says she was always "there" and ready to talk and help her children with their problems. In fact, Bernice has spent almost her entire life helping others who needed her, but of all the sacrifices she has made for her husband, her children, her family, and her friends, the quality that truly sets Bernice Saxon apart is her ability to make it appear that "it wasn't any effort at all—just all in a day's work." Now, within the confines of the Attalla Nursing Home, she can sit back in her easy chair and know that she has done her best.

REMARKS ON LEGISLATION TO EXTEND THE NURSE TRAINING ACT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. CARTER. Mr. Speaker, I am pleased to join Chairman ROGERS of the Health and Environment Subcommittee in introducing legislation today to extend the Nurse Training Act for 2 years for the same total authorization as the current law, Public Law 94–63. Within the annual total authorization, we propose to transfer the $5 million authorized for financial distress which has not been funded, to the special project grant authority where it can be used more effectively.

Mr. Speaker, over the years I have been and continue to be a strong supporter of the nursing profession, and I have helped develop legislation to assist in their training. There can be no doubt that Federal support for nursing schools and students has been instrumental in alleviating what was a serious shortage of registered nurses. At the present time there are 961,000 practicing nurses. Moreover, we have recently begun to see a gradual increase in the numbers of nurses with advanced preparation for positions in administration and supervision of nursing services, in nursing education and also more nurse clinicians. While ten years ago, only about 13 percent of nurses held a baccalaureate or higher degree, the figure today is 20 percent. Nevertheless, the need for additional nurses with advanced preparation still persists.

I am also very familiar with the important role which many nurses fill in the provision of primary care. The Frontier Nursing Service in my own State of Kentucky provides the prototype for this kind of service. For over 50 years, nurse midwives have been providing health services to the surrounding areas of Leslie County, Ky. And, now, with the recent enactment of the rural health clinics legislation, of which I was an author, access to primary health care should be greatly improved. Thus, the nursing role is expanding and evolving in many ways to meet changing needs, and our legislation should continue to take into consideration these developments.

Our main reason for moving to extend the Nurse Training Act at this time is to avoid any abrupt change in the funding for some 1,400 nursing programs with nearly a quarter of a million nursing students. I believe we need to take a careful look at the various sources of support, and precisely how those programs are helping to meet the public's need for health care. Several important nursing studies are now underway, and I look forward to reviewing the results. Indeed, sound data is needed as the basis for making future legislative changes.

Meanwhile, I believe it is essential to assure continuity in these important nurse training authorities. In my State, for example, there are 24 schools of nursing with nearly 3,800 students. If there is to be a change in the focus of our funding, it is only reasonable that we provide these and other schools and students with appropriate warning to allow time to plan for whatever changes may be adopted.

FLOOD VICTIMS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MURTHA. Mr. Speaker, in response to the devastating flood that hit Johnstown and other parts of the district I represent last summer, the outpouring of help and personal assistance from people throughout the country has been heartwarming.

It is impossible to mention all of the instances, but I would like to share one case with you.

I was well aware that our colleague Congressman BILL FORD was generous and helpful, but I was not aware this was true of the entire 15th District of Michigan.

A continuing drive for money and clothes for the citizens of Johnstown has been spearheaded in Dearborn Heights and neighboring communities.

Some of the groups involved were St. Mel's parish, St. Sabina's elementary school and Confraternity of Christain doctrine, Corrigan and Red Ball Moving Co.'s., MacLeod Office Supply, D &

C stores, the high schools of Bishop Borgress, Cherry Hill, Crestwood, Divine Child, and Riverside, District 7 Dad's Club, and the Kiwanis Club. Other helping organizations are mentioned in the following two articles from the Dearborn Heights Leader which I would like to insert into the RECORD, along with the thanks of myself and the entire Johnstown area community:

DH PROVIDES TONS OF CLOTHING FOR JOHNSTOWN

Ten tons of winter clothing were transported to Johnstown, Pa., last weekend by Corrigan Moving Systems of Dearborn, United Van Lines. It took Dearborn Heights' driver Jack Marshall nine hours to pull the 45-foot trailer up and down the mountains to reach his destination.

The clothing will be distributed to the victims of the devastating July flood by the Johnstown Citadel of the Salvation Army and Catholic Charities.

It was collected by Dearborn Heights veterans organizations, churches, schools, and other organizations and from friends in neighboring communities. Dearborn Heights Firefighters and veterans handled special pick-up.

Local men and women sized, sorted and packed the clothing in the gym of North Dearborn Heights' Warren Valley School.

Packing boxes were donated by both Corrigan and Rose Moving and Storage of Dearborn Heights.

Cash contributions from Msgr. Hunt Knights of Columbus Retirees, Lions club, St. Mel's Christian Mothers, Firefighters, Police Supervisors Association, and several individuals will be used to purchase blankets and small appliances (toasters and coffee pots) for the flood victims.

And it isn't over yet! Pvt. John Lyskawa V.F.W., 6828 Waverly, will hold a fund-raiser Friday, Nov. 18, with proceeds earmarked for Christmas candy (or other Christmas treats) for the children of the flood victims.

Admission is $5 and includes beer, set-ups, and music for dancing.

THANKS FROM JOHNSTOWN

AN OPEN LETTER:

DEAR MR. AND MRS. PLUNKETT: You will be delighted to know that we are in the process of distributing the winter clothing that Dearborn Heights citizenry made available to us. We have given about five pick-up loads to Tanneryville where clothing is direly needed.

Be assured as per your request, that we will be most happy to see to it that referrals from Catholic Charities will be taken care of.

I would certainly want to express appreciation to the Allied Veterans Council and their coordinator, Councilman Thomas Wayne of Dearborn Heights, for giving his blessing and assistance in this project and to his wife, Virginia, for all her help.

A special word of thanks goes to Thomas and Paul Corrigan of Corrigan Moving Systems who provided the tractor-trailer to make possible the delivery of the clothing.

Special thanks to Jack Marshall who gave up his time from work to drive the truck to Johnstown, and to his wife, Marge, and your own wonderful family for all your work—even helping to unload the moving van here.

We in Johnstown are indebted to the citizens of Dearborn Heights and to your friends in neighboring communities for this tremendous act of compassion—to the veterans and their wives for collecting, sizing, sorting and packing, to the churches, schools, Kiwanis, and other organizations who had drives of their own, to the Firefighters for their special assistance, and to all the others who donated goods and time to this project.

The clothing was a tremendous gift in itself, but above and beyond that was the cash to also be used for the flood victims. We are grateful to the Firefighters, Monsignor Hunt Knights of Columbus Retirees, St. Mel's, the Lions Club, the Police Supervisors, and individuals for this generous cash donation. I trust I haven't forgotten anyone.

We of Johnstown salute Dearborn Heights and its people for remembering us in our time of need. God bless you all.

Sincerely yours,

DONALD R. PETERSON,
Major,
The Salvation Army.

JOHNSTOWN, PA.

SPOETZL BREWERY BREWS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. PICKLE. Mr. Speaker, for the past 7 years I have expressed concern over the decline of the small beer breweries in America.

While I was on the Interstate and Foreign Commerce Committee, I chaired hearings on the failure of the Federal Trade Commission to pursue possible Robinson-Patman violations by the national breweries in forcing regional breweries out of business. The following session of Congress, I presented my evidence to a special committee, ably chaired by HENRY GONZALEZ of San Antonio, which was reviewing the whole area of Robinson-Patman enforcement. Our esteemed colleague laid out the facts that the FTC and Justice Department had ignored Robinson-Patman violations in many areas as well as in the beer industry.

During the congressional break for the Christmas holidays, the Washington Post ran an article about the demise of the small beer companies. The feature brewery of the article was the Spoetzl Brewing Co., brewers of Shiner beer.

Spoetzl brewery is located in Shiner, Tex., which is in my congressional district the 10th of Texas.

The newspaper article gives a small sample of the flavor of the rich and vigorous history of the Shiner brewery, which since 1909 has served the Czechs and Germans of this part of Texas so well.

In 1976, President Ford signed into law a tax bill that I introduced in the House to lower the Federal beer excise tax on small breweries. The bill passed in the Senate under the guidance and leadership of Senator HUBERT HUMPHREY.

Every Member of the House can list a bill, or bills, that he or she pushed in the House that was a success because of the incredible legislative leadership of the Senator from Minnesota.

The beer excise tax bill was a small matter in the overall revenue picture, but HUBERT HUMPHREY knew no small or big people, or small or big problems. He knew if people were involved, then he wanted to help.

Mr. Speaker, the article I place in the CONGRESSIONAL RECORD proves that the small brewery problem involves people, and is a real problem. Senator HUMPHREY was on target, as always, in trying to help this segment of the beer industry.

The article follows:

TEXAS BREWERY SAVORS ITS SUDS

(By Tim Moore)

SHINER, TEX.—For the 42 Shiner beer employees Friday afternoon is a time to reap what they have sown. At one o'clock the plant shuts down and everyone from sales manager L. J. "Speedy" Beal to brewmaster Johnny Hybner mix with tourists and Shinerites to enjoy kegs of cold beer in the hospitality room of the nation's third smallest brewery.

And with the expected sale of the Pearl brewery in San Antonio, Shiner will become the last surviving independent brewery in the booming billion-dollar Texas beer industry. That, says Beal, is worth drinking to.

"We've been here a long time, and I feel like we're going to survive the crunch," said Beal, whose Czech ancestors were among the first to work at the brewery when it began in 1909. "I was at a conference a year ago and it was mentioned that by 1980 there were going to be only 10 brewery companies in the nation. I came back and told Mr. Ladshaw, our president, and he said 'Really, Shiner and who else?' "

Ironically, it is Shiner, the smallest of Texas' seven breweries that worries the least about the heavyweight competition in the nation's third largest beer producing state. The annual Shiner production of 42,000 barrels is so low that Beal admits some of the larger breweries "don't know we exist."

But for the other regional breweries in Texas, specifically Lone Star and Pearl, "being a gem among giants" in the words of one Pearl official, has not been enough. Last year Lone Star stockholders voted to sell out to the nation's sixth largest beer producer, Olympia Beer of Seattle. And it is no secret among brewmasters here that Pabst of Milwaukee and Pearl are now at the negotiating table.

Pearl and Lone Star are the casualties of what is becoming an increasingly hot battlefield in the beer industry—Texas. Last year over 10 million barrels of beer were sold in Texas and generated a record $100 million in state taxes. The average Texan now drinks 26.3 gallons of beer annually, and sales this year will topple 11 million barrels.

With the exception of Pabst, all of the nation's top four beer manufacturers have breweries serving Texas, and number five, Coors, which plunged statewide into the Texas market in 1976, has gone all out to take the number one sales spot away from Schlitz.

Last year with Anheuser-Busch suffering from a three-month strike, Schlitz sold over 3 million barrels of beer in Texas while Coors followed closely with sales of 2.7 million barrels. Combined with number 3 Anheuser-Busch, the top three companies comprise well over 70 per cent of the beer market.

"We've been seeing this coming for the past 10 years," said Jess Yaryan, regional director in Texas for the National Association of Brewers in America (NABA). "The trend is for fewer and bigger breweries, especially in a State that's growing like Texas. The small, regional beers just can't compete."

The trend goes beyond Texas. The NABA in Washington reports that in 1960 the United States had 171 different beer companies with 229 breweries. Today 41 companies survive with 88 breweries.

In Texas beer drinkers have seen labels like Mitchell, Blue Bonnet, Grand Prize and Southern Select pass with the times. For years the top selling beer in Texas was Falstaff which held the number one selling spot from 1951 well into the 1960s, when local beers accounted for at least 90 percent of the market.

But in 1965 Schlitz built a brewery in Long View and Anheuser-Busch followed suit in Houston. Miller bought out the failing Carling brewery in Ft. Worth and premium beer became available at local prices. The picture began to change. By 1974 Schlitz and Budweiser were the top two sellers in Texas, and Miller was closing in fast.

"I just think that beer companies realized back then that Texas was one of the places to be," said Mike Hopkins, president of the Wholesale Beer Distributors of Texas, a trade association that represents about 400 wholesalers. "It's a good beer state, and it's getting better."

Texas' rise in the beer industry is not coincidental with its sharp increase in population. Since 1970 Texas has experienced 11.5 percent population increase, making it the third fastest growing State in the country. Also the 18-year-old drinking law was passed in 1973, and beer companies estimate that the teenagers account for almost 30 percent of their sales. The warm climate is also enticing to beer companies, as well as some lenient State laws that permit drinking beer in public or while driving a car.

The low State excise tax, $5 per barrel, is certainly easier on the companies than neighboring Oklahoma, which charges $10 a barrel. Some States even go much higher, such as South Carolina with $23.80 a barrel.

Retailers enjoy the fact that Texas is a "cash state" and that bigger wholesalers can't buy on credit, thus no clear advantage is given for buying in quantity. The state legislature allows only four different containers to be marketed, and with Texas being one of the largest aluminum manufacturers in the country, materials are cheaper and easily attained.

With such an excellent breeding ground for the beer giants, the state legislature has taken steps to protect the smaller companies. In 1971 it passed the Shiner beer law, which gives any brewery producing less than 60,000 barrels a year a 25 per cent tax break on the state excise tax. And in 1976 President Ford signed a similar bill, which reduced the small breweries federal excise tax from $9 to $7. It was all very helpful, said the small breweries, but it didn't help where they were hurting the most: the advertising budget.

"It wasn't until the mid-60s that the big national breweries really started investing in advertising, and we started to feel the crunch," said Bob Marsh, public relations director for Pearl, Texas' oldest brewery. "If Schlitz spends $2 million a year on advertising then we've got to do the same just to keep up with them. But our stockholders and corporate directors make the decisions and nobody feels confident enough with the success of a regional brewery to say 'Hey, let's spend $10 million on advertising.'"

Barry Sullivan, vice president of marketing for Lone Star, feels "almost hopeless" in the face of the national brands' advertising abilities.

"Television is a bear, and if you're big in America today you can't get by without using it," said Sullivan. "It's tough for us to compete when Schlitz brings you Monday Night Football, Miller brings you the Olympics, and Budweiser brings you the rest. Our advertising budget compared to their's is a drop in the bucket."

According to "Advertising Age" last year Schlitz spent an estimated $34 million on promotion while Miller and Anheuser-Busch spent $29 million and $28 million respectively. Although Coors spent only $2 million in 1976 the Golden, Colo., based company has already announced a $13 million advertising project this year, $4 million of which says a company spokesman, will find its way into Texas.

In contrast to those big budgets, last year Pearl spent $384,000 while Lone Star spent closer to $500,000.

Despite their sellout to Olympia, Lone Star remains a healthy beer in Texas, finishing fourth in sales last year. The company is most closely identified with the Texas country music youth culture using progressive country singers like Jerry Jeff Walker, Willy Nelson, and Waylon Jennings to support its image.

"In 1973, 90 per cent of the youth in Texas thought we were so square that they wouldn't be caught dead with a Lone Star in front of them," said Sullivan, whose office is lined with Lone Star beer posters and bumper stickers. "Now we're more representative of the contemporary, hip western lifestyle. We've got the blue jean denim image but without the hard work."

In addition, Lone Star has made the "long neck" bottle (the company has a state patent on the name long neck), as much a part of Texas folklore as the jackalope. Now a strong 60 per cent of its business is in a returnable bottle, and in 1975 in Austin (home of the University of Texas) sales jumped a whopping 47 per cent.

But if Lone Star has benefited from its new, useful image, Pearl has suffered for not having any clear image at all.

"During the years we were no. 1 in Texas I think our image was clearly the working man's beer," said Marsh. "Lately we have gone after the youth market and also tried to retain our older image. In the process, we faded a bit."

However, the sale of Pearl Lite with only 70 calories has been very successful, according to Marsh, quadrupling the sales. Last year the owners, Southdown, Inc., announced that the brewery was for sale despite a year of profits and a number six finish in state sales.

Marsh, a dapper Englishman who frequently speaks of "the mother country," laments the disappearance of the regional breweries. Regional breweries are needed, Marsh said, because they have personality and participate in community events like trail rides, rattlesnake rodeos, concerts, and picnics. With the domination of the big breweries much of this small friendliness is lost, he added.

The light taste of beer has increased the sales of one brewery tremendously. The Miller Brewing Company is reportedly to make a big jump in the Texas ratings, according to NABA, and will be battling it out with the other top three brands.

And now even Shiner is thinking of introducing a light beer—a substantial change from what the early 1900 German and Czech people were drinking in Texas.

"There are some things the big breweries do that we've got to copy," said Speedy Beal. "Even if we do sell just in a hundred mile radius."

SENATOR HUMPHREY

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ERLENBORN. Mr. Speaker, for all of my political life I have heard, seen, and read reports of HUBERT HUMPHREY'S stand on a variety of issues.

HUBERT HUMPHREY fought long and hard for those things he felt were important. He fought fairly and with honor for those principles he held dear.

Mr. Speaker, the voice of this man has been stilled, and that is a real loss to this country he loved so well and which loved him in return. You did not have to agree with what HUBERT HUMPHREY had to say to enjoy hearing him say it, with candor and with good humor.

His wife, Muriel, and his family can find comfort in knowing that one of the reasons America is beautiful is because HUBERT HUMPHREY was here.

BOTSWANA: A BEACON OF FREEDOM AND GOOD SENSE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. SIMON. Mr. Speaker, we spend so much time focusing our attention on the trouble spots of the world that often we do not pay attention to areas of stability and freedom and progress.

The Washington Post had an article by J. Regan Kerney about Botswana, one of the countries in the southern part of Africa, which has neighbors with great difficulties. Happily that is not the case for Botswana.

I am pleased to call to the attention of my colleagues in the House the fine record of Botswana:

LETTER FROM BOTSWANA: TEXAS-SIZE COUNTRY IN SOUTHERN AFRICA ENJOYS TRANQUILLITY AND TRUE DEMOCRACY

(By J. Regan Kerney)

GABORONE.—There are no coups here, no wars no political prisoners.

There are no riots, and crime is not rampant. The press, athough government-owned, is not censored. The people, if not wealthy, are not starving.

Until April of this year, there was not even an army.

There is, of course, political opposition—a Marxist party that wants very much to throw the Western-leaning government out of office.

But the Marxists are operating at the polls instead of from the hills. They are not doing too well either. In a byelection in October, more than 1,500 votes were cast in a key district. The Marxist candidate got 27.

So much for the revolution.

This is Botswana, a country in the center of southern Africa with an area of 220,000 square miles, making it about the size of either Texas or France.

With a population of slightly more than 750,000, Botswana is tied with Mauritania as the least densely populated nation on the African continent.

Perhaps more significantly, according to groups like Amnesty International, Botswana's open, multiparty political system ranks it along with tiny Gambia as one of the only two true democracies in Africa.

In the year of human rights, this gives Botswana a tremendous appeal for aid-giving countries. This fiscal year, Botswana is getting $50 million in foreign aid.

While this may not sound like much, Botswana, because of its smaller population, finds itself well ahead of aid showcases such as Tanzania on a per capita basis.

"You can't give this country enough, its human rights record is so good," said a diplomat here.

Despite this, Botswana goes unnoticed. Correspondents and diplomats pass over, around and through Botswana on their way to southern Africa's trouble spots.

Few stop to see Botswana. Some have never heard of Gaborone—pronounced Hah-bohr-OH-nee—the capital.

Idi Amin gets attention. Botswana is ignored.

"Please say something about this country," pleads U.S. Ambassador Donald C. Mordland.

Indeed, Botswana deserves credit for being an oasis of stability in the middle of turbulent southern Africa.

To large extent, the country's political unity is traceable to the fact that Botswana, unlike many other African countries, is populated mainly by one group, the Tswana, who speak a common language, Setswana.

Even Botswana's democratic practices have tribal roots in the traditional *tswana kgotla,* or elders' council, at which opposition is encouraged—indeed, expected—before a vote on any issue is taken.

Botswana's president is Sir Seretse Khama, grandson of the Tswana paramount chief who sought protectorate status from the British when he saw Boer and English settlers charging through the neighboring tribal lands that later became Rhodesia.

A soft-spoken, down-to-earth man who shuns publicity, Khama leads the Botswana Democratic Party, which holds 28 of the 32 elected seats in the National Assembly. His party's platform supports democracy, development, free enterprise and multiracialism.

From Gaborone, a city of 38,000 with the air of a prosperous Midwestern farming center, Khama administers a civil service of fewer than 10,000 that has not been accused of bribery, scandal or ineptitude—even by the opposition—since independence on Sept. 30, 1966.

What problems there are come from over the border.

A swelling refugee population pours in, mostly from Rhodesia but also from Namibia and South Africa. Even with aid from the U.N. High Commission for Refugees, the refugees strain the country, socially and economically.

In addition, as the Rhodesian war has intensified, it has slopped over Botswana's borders. Because guerrillas have tried to use Botswana as a base, Rhodesian troops have crossed into Botswana at least 30 times, damaging property, occasionally kidnaping suspects, and leaving behind an uncharacteristic bitterness among the Tswana and Matabele citizenry in the border areas.

Botswana reacted last April by creating a thousand-man army that does little more than patrol the border. Ostensibly, the army is supposed to keep out the Rhodesian troops of Prime Minister Ian Smith. Officials in Gaborone admit, however, that they find the best way to keep out Smith's troops is to keep out the guerrillas they are chasing.

Considering Botswana's role as a "front-line state" that is supposed to be supporting the guerrillas, that policy seems a bit of a contradiction. But then, so does much of Botswana's foreign policy.

While Khama is an outspoken opponent of neighboring South Africa's apartheid policies, Botswana carries on a flourishing trade with South Africa, depends on South African goods, sends 30,000 workers a year to South African mines, and welcomes droves of South Africans who come on weekends to gamble in Gaborone's casino.

Botswana's economy, based on cattle exports and buoyed recently by the mining of copper and diamonds, has remained stable despite Southern Africa's pervasive turmoil.

Perhaps the country's only major internal issue is who will succeed Khama, who has a heart condition and wears a pacemaker. But people here don't spend much time worrying about that.

A Gaborone journalist, asked what might happen if the president's health should fail, replied matter-of-factly, "I suppose another president will be elected."

It is reasonably safe to assume that in Botswana, that's the way it will work.

EDWARD WEBER AND THE TOWNSHIP OF UNION, N.J.

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. RINALDO. Mr. Speaker, the township of Union, N.J., was recently designated an All-American City because of the many outstanding deeds of community leaders and local institutions in forging a long record of community improvement.

Neighborhoods and families in Union, the young and the old, business and government have been united for many years to make Union Township an outstanding community. In many respects, it serves as a model for suburban-urban area in controlling crime, providing job opportunities, creating an atmosphere for business expansion and prosperity, and in general, making life pleasant and harmonious for those who live and work in Union Township.

More than the efforts of government, people have been responsible for Union's progress. Individuals have sacrificed their time from work and leisure to improve Union Township's recreation, education, parks, housing, and its business centers.

Among the individuals who have earned a reputation as one of Union Township's most popular and beloved citizens is Mr. Edward Weber. He is proud to call himself a working man, and his career in the labor movement as an organizer and business agent for local 825 of the Operating Engineers has been of benefit to working people throughout the State of New Jersey.

But it has been in the area of community and youth services that Ed Weber has won a reputation as one of Union's most outstanding Americans.

Long before there was concern with the breakdown of family life and juvenile delinquency, Ed Weber established the Boys Club in Union with the help of others. He brought together the funds and the planning for the construction of the Little League and Teener League fields. He also served as a manager and coach of the senior team, and he established a scholarship fund for its members. His fondness for baseball can be traced back to his own youth and his promising career in baseball, but his big league baseball ambitions were cut short by World War II. He served in Gen. George Patton's 4th Armored Division with courage and bravery.

Ed Weber's volunteer work has been cited by many organizations. He has been named Man of the Year by the Boys Club, the Patrolmen's Benevolent Association and UNICO named him Citizen of the Year. The list is a mile long.

What has impressed me, Mr. Speaker, is that Ed Weber's activities have bridged the generation gap. He helped to organize clubs for boys and girls, and he promoted senior citizens housing in Union Township.

The Phil Portnoy Association of Union will present Ed Weber with its sixth annual Humanitarian of the Year Award. I join the members of the association in saluting Ed Weber and his wife, Anne, and their two sons, Peter and Edward, for contributing so much of their energy and resources to making Union Township an all-American city. They are an all-American family whom I am honored to represent in the U.S. House of Representatives.

GEN. STONEWALL JACKSON

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MOLLOHAN. Mr. Speaker, Saturday marks the 154th anniversary of the birth of one of America's most brilliant military tacticians—Gen. Thomas Jonathan (Stonewall) Jackson. As my colleagues are probably aware, Stonewall Jackson was born January 21, 1824, in what was once the northwestern part of Virginia and is now the city of Clarksburg, W. Va.

Today I would also like to recognize another great man from Clarksburg, S. J. Birshtein. Mr. Birshtein is serving his 38th year as chairman of the Stonewall Jackson Historical Committee of the Clarksburg Chamber of Commerce. Without doubt, he should be recognized for his unselfish, personal contributions to the remembrance of General Jackson. I am honored to fulfill Mr. Birshtein's request and share with my colleagues a few interesting facts about our Gen. Stonewall Jackson.

Gen. Thomas Jonathan Jackson acquired the sobriquet or nickname of "Stonewall" with the stubborn defense of his First Brigade of the first Battle of Manassas—Bull Run—on July 21, 1861.

Gen. Barnard E. Bee, in rallying his men, exclaimed, "See, there stands Jackson like a stone wall." The near rout for the Confederate forces was turned into an overwhelming victory that day, and throughout the Confederacy and the world Jackson became "Stonewall Jackson" from that moment on.

His military tactics are still being used at the U.S. Military Academy at West Point, Fort Leavenworth in Kansas, Virginia Military Institute in Lexington, Fort Knox in Kentucky, St. Cyr in France and at Sandhurst in England.

Jackson died May 10, 1863, at the age of 39 near Guinea Station, Fredericksburg, Va., after leading his army corps around Hooker's flank at the Battle of Chancellorsville and routing the right wing of the Federal Army. He was wounded during battle and died of pneumonia.

His death was a severe blow to Gen. Robert E. Lee and the southern cause. Jackson was a religious man who always prayed before battle. He was a tactician of the first rank and, although a strict disciplinarian, was popular with his men.

Perhaps one of the finest tributes to General Jackson can be expressed in a quote from Gen. Douglas MacArthur. He stated:

The most prized message I ever received came from the famous historian, Douglas Southall Freeman, who wrote me at the close of my campaigns in the Southwest Pacific area of World War II, 'The mantle of Robert E. Lee and Stonewall Jackson has now fallen on your shoulders."

AuCOIN INTRODUCES BILL TO ELIMINATE SUPPLEMENTAL SECURITY INCOME REQUIREMENT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. AuCOIN. Mr. Speaker, I have witnessed in recent years an alarming trend toward the breakup of the family unit. A recently enacted provision of the Social Security Act, which reduces supplemental security income benefits by one-third in some cases, has contributed to this trend. Therefore, I have introduced legislation to eliminate this provision because it puts an onerous burden on low-income persons who, once they reach the later stages of life, wish to live with their families.

The provision to be eliminated, section 1612(a)(2)(A)(1) of the Social Security Act, states that—

In the case of any individual (and his or her eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓% in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph.

This language is exceedingly technical, as I am sure my fellow Members will agree. But while the language is technical the problems can be comprehended without looking beyond the cities in which we live. The provision requires a beneficiary of the supplemental security income program pay a pro rata share of the household expenses or else lose one-third of his or her benefits. An individual who pays less than what is considered a pro rata share, even if it is all he or she can afford, will suffer the one-third reduction.

In many cases this reduction will lead to the beneficiary no longer being able to live with his or her family. Let me provide you with one example which occurred in Oregon.

I have an individual in my district, an elderly woman receiving supplemental security income benefits, who lives with her son in his house. He is not well off, so he has to charge her $50 a month to meet his household expenses of $200 a month. But because she is living in the household of another person, her supplemental security income benefits were reduced from $177 a month to $118 a month. She no longer can afford to pay him $50 a month, and without the $50 her son no longer can afford to meet his expenses. She probably will have to move out, and he will have to find another renter or else sell his house.

This country has had a long tradition of attachment to the family unit. When immigrants came to America, they brought their families with them to face the dangers of an unfamiliar new world. Settlers moving from the east coast across the western frontier took their families along with them. Our history registers a strong desire, and need, to keep the family together. Throughout our history, as people have grown too old to take care of themselves adequately, they have come back to live with their children.

But by enacting section 1612 we have told elderly persons: Move back in with your children, or with your good friends, but only if you are able to afford it. Otherwise, you will have to go to a "senior estate," which is what we euphemistically call our depositories for the elderly.

Under current law, we have offered a choice to supplemental security income beneficiaries. Either they can cope with a reduction of nearly $60 per month in supplemental security income, income which they will need in order to pay for necessities such as food, medicine, and clothing, or they can weaken the ties with their loved ones by moving into some form of public housing.

Unfortunately, such housing is not always available. In Portland, Oreg., the Portland Housing Authority reports that it has a waiting list of 2,273 elderly persons for publicly assisted housing.

Nor is such housing always desirable even when it is available. Supplemental security income recipients—the elderly, the blind, and the disabled—are often targets for criminals because of their inability to fight back.

A dramatic presentation of this fact was provided by NBC on its television program "Weekend" on October 1, 1977. The show brought forth some ugly, but unfortunately accurate, evidence.

One of the segments of the program explored the problems associated with a public housing project for the elderly in San Francisco, Calif., called Yerba Buena Plaza. Yerba Buena Plaza is a low-income housing project, one of many throughout the Nation. During a 60-day period early in 1977, there occurred at the Yerba Buena Plaza 5 murders, 1 kidnapping, 15 rapes, and approximately 300 robberies.

In our society, we have all come to live in our separate little ghettos. For the young, it is ballet classes, little league, summer tennis, or a dozen other activities. For parents, it is the golf club, the bridge club, bowling leagues, men's and women's organizations, or something similar. And for our senior citizens, it is now the vogue to cluster them into the aforementioned "senior estates." Today the emphasis is on a search for self-identity. But the question which needs answering is: How can we bring back a sense of family identity?

The breakup of the family unit has been blamed for many of the ills which currently plague society. I believe eliminating section 1612 will help to regenerate the sense of family identity that has been vanishing in recent years. Our elderly citizens, their children, and their grandchildren cannot help but benefit from the opportunity to be together. And in turn, society also will benefit.

H.R. —

A bill to amend title XVI of the Social Security Act to eliminate the 33⅓ per centum reduction in supplemental security income benefits which is presently imposed when the recipient is living in another person's household, and to provide that support and maintenance furnished the recipient in kind by such other person shall be disregarded in determining such recipient's income for supplemental security income purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1612(a)(2)(A)(i) of the Social Security Act is amended by striking out "and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓ per centum in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph" and inserting in lieu thereof ", support and maintenance furnished in kind by such person shall not be included".

(b) Section 1612(a)(2)(A)(iii) of such Act is amended by striking out "and the provisions of clause (i) shall not be applicable".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to supplemental security income benefits payable in months after the month in which this Act is enacted.

STATEMENT OF DEFENSE FOR ANATOLY SHARANSKY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. LEHMAN. Mr. Speaker, I have just met with Alexander Drook who recently arrived in this country after waiting 5 years to leave the Soviet Union. Mr. Drook is now continuing his efforts to bring the case of Anatoly Sharansky to public attention. In our meeting, he voiced his concern about the worsening situation of Anatoly Sharansky as his trial for treason draws closer.

Mr. Drook has brought to my attention a statement of defense which he has offered on behalf of himself and other refuseniks who have held classified jobs in the past and who were eventually allowed to leave the Soviet Union. I would like to share with you the following statement of defense and appeal to the Soviet Government to free Anatoly Sharansky:

I and other refuseniks who were rejected for a long time from emigrating were very close with the activities of Anatoly. We knew about all of his coming and goings, the same activities which we were engaged in ourselves in trying to make our common plight public knowledge. We met with the foreign newspapermen and Embassy officials together, and I know that his actions were not different from the actions of any one of us. They just chose him because he is young and strong enough to endure it, and he is alone. He is being used as an example. He has been refused an exit visa for the same reasons we were refused over and over. But because he is one of the most active, young, refuseniks, more fluent in English

and more able to speak to the press, he has been silenced and severely punished.

Anatoly had just graduated from the Institute of Physics and, as a student, was not involved in any secret projects, nor was he a paid worker in any area of classified work.

I and others had more reason to be refused than Anatoly Sharansky, and it is absolutely unreasonable to blame a person who has just graduated from an institute.

During the five years of my wait to receive permission to emigrate, I and other activist refuseniks met with a number of foreign newsmen and officials. Not once has anyone asked about my previous work or the classified nature of my work experience. This is also true of the others who have held so-called classified jobs, and on behalf of myself and the others, I appeal to the people of this great country to cry out for the safety and freedom of Anatoly Sharansky.

J. EDGAR HOOVER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DERWINSKI. Mr. Speaker, there seems to be a well-organized effort to discredit the record of the late FBI Director, J. Edgar Hoover. An article by Chicago Tribune's distinguished columnist, Bob Wiedrich, very properly discusses both sides of this issue. The article, appearing in the January 16 Tribune, follows:

J. EDGAR HOOVER'S BADGE STILL SHINES

(By Bob Wiedrich)

The Justice Department has just spent two weeks and thousands of dollars investigating a dead man who made major contributions to his country's peace and security.

The department admits the allegations of wrongdoing by the late FBI Director J. Edgar Hoover and some of his lieutenants either were committed too long ago to prosecute or were too minor to warrant filing criminal charges.

It also explains that the potential cost of litigation could not justify suing past or present Federal Bureau of Investigation officials acused of having received gifts and free services.

But, declares Atty. Gen. Griffin Bell, the report was made public anyway to assure the country that the Justice Department can investigate itself. And that should wash well in Des Moines or anywhere else citizens have had doubts about Washington's ability to air its own dirty linen.

For the record, we do not condone the allegations that Hoover personally used FBI employes to tend and improve his home. Nor do we endorse as excusable any of the other charges of improprieties laid at the door of Hoover's tomb.

But we do question the need to spend large sums of time and taxpayer money to probe the conduct of a man now dead nearly six years to demonstrate that he was not above human failing.

For one thing, Hoover isn't around to defend himself, a basic tenet of American justice. His detractors can accuse him of most anything and Hoover cannot rise from his grave to refute them.

Besides, Hoover wasn't all bad. In fact, he was magnificent for 48 years as the symbol of professional law enforcement in the United States.

So to spend two years to discover that Hoover, like most other human beings, had some clay on his feet is to suggest that everything else he did for his country doesn't count.

For once you publicly have painted a man as a rascal, even a minor one at that, you pretty well have gone a long way toward discrediting the rest of his life.

And so, cynical historians can now say that Hoover was the longest reigning director of the FBI, but spent some of those years feathering his own nest with such things as oriental fruit bowls and shelving at taxpayer expense.

Perhaps the Justice Department can prove that. But the portrait will fall far short of telling the whole truth—that without J. Edgar Hoover, this nation's law enforcement apparatus might be in a sorry mess indeed.

And that the man's real monument will endure despite petty allegations every time an American police officer uses the outstanding professional and technical services developed for him under Hoover's stewardship.

Most policemen are aware of that. Keep in mind that cops are among the most cynical of human beings.

But they know what police work used to be. And they know that Hoover contributed mightily to upgrading the business from the "dumb cop" image it once endured to a level of high professionalism.

"I know what police departments used to be," commented a veteran Chicago police sergeant who is our friend. "I shudder to think what they might have become had there been no J. Edgar Hoover."

"He genuinely influenced the quality of law enforcement in this country. He made his influence felt both through the example set by FBI agents and the training of thousands of police officers through the FBI Academy.

"They never laid a glove on the guy in 48 years. But now that he's dead, they feel free to call him a bum."

When Hoover took over what now is the FBI, he inherited a scandal-riddled organization. He kicked out the political parasites. He hired people with integrity.

He set out to create a top quality, charismatic, above-reproach corps of professionals to enforce federal laws.

He built an elite outfit that today provides local law enforcement agencies with outstanding laboratory and identification facilities. At the same time, it imprisons many felons on its own.

A police officer can radio check the credentials of a suspicious motorist through the National Crime Information Center in Washington, which was established in 1967, five years before Hoover's death and is considered by many police as the single greatest advancement in crime fighting since the advent of fingerprinting.

Or a detective can call on the FBI laboratory resources that include expert testimony at no local taxpayer's expense.

When the U.S. Supreme Court's Miranda decision ordering that defendants be advised of their constitutional rights drew fire from law enforcement quarters, the FBI didn't wince. It had been doing the same thing for years without crippling its effectiveness.

So Hoover did pioneer the preservation of constitutional rights at the same time Presidents were instructing him to have his agents eavesdrop on suspected subversives and terrorists.

Hoover never had an easy job. He made mistakes. But his contributions vastly outweighed his errors. Nevertheless, Hoover has been publicly tried and convicted by the Justice Department with no chance to demand his day in court.

TURNING UP THE VOLUME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Los Angeles Times concerning the Carter administration's approach to the potential Communist victory in Italy. There has been some concern that strong U.S. support of the Andreotti government is, in fact, meddling in domestic Italian affairs. However, as the editorial quite correctly points out, all of the NATO allies have a vital interest in the political complexion of Italy's government. The United States, as a key member of the alliance, has the right—if not the duty—to make clear its view on the participation of Communists in a NATO government. The aim is not to meddle in internal Italian affairs, but to protect the interests of all NATO members. The editorial follows:

TURNING UP THE VOLUME

The latest government crisis in Italy has brought the Carter Administration to the fine line between legitimate expressions of concern over a foreign development and interference in another country's domestic affairs.

The Administration's forceful public opposition to the Communist drive for a greater role in the beleaguered minority government of Prime Minister Guilio Andreotti raises fears of a return to the bad old days when the United States played the role of international policeman.

Such concerns are understandable. And the United States must tread warily on any issue that deals with another country's internal matters—such as the makeup of its cabinets.

Yet the Administration's response to the latest political crisis in Rome is entirely appropriate. For the Communist drive for a formal share of power in Italy affects far more than the domestic considerations of its 56 million inhabitants.

The complexion of Italy's government is of vital interest to its partners in the North Atlantic Treaty Organization. The United States, as a key member of the alliance, has the right—if not the duty—to make clear its views on the participation of Communists in a NATO government. The aim is not to meddle in domestic Italian affairs, but to protect the interests of all NATO members.

The Administration's outspokenness also is designed to sweep away any doubts over whether it has succumbed to the highly questionable claims that the Italian Communist Party is committed to democratic pluralism. The Administration rightly rejects such claims in the absence of any real evidence to support them.

In making its stand public, the Administration helps the ruling Christian Democrats resist the political demands of the Communists, whose claims are also viewed with skepticism by a majority of Italians. The advantages of reinforcing such skepticism, both for the Italians and for their NATO allies, outweigh any resentments that the Administration's public stance might engender within Italy.

In a way, the Administration's pronouncements vindicate the tactics used by the former Secretary of State Henry A. Kissinger in responding to the danger of Communist

inclusion in West European governments. His outspokenness on the issue had been widely criticized, and at times appeared excessive.

Last spring the Administration muted such outspokenness in favor of a talk-softly approach stressing that the matter of Communist participation in Western governments "was to be decided by the governments and people involved."

The Administration has rightly not abandoned that view in its latest pronouncements. Yet such a position does not mean that the volume of American comment on such a vital issue must forever remain at a whisper. At appropriate times—such as during the current crisis in Rome—the volume should be turned up.

COMMUNIST SPYING ON THE INCREASE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ASHBROOK. Mr. Speaker, I am deeply concerned by the growing number of Soviet and Communist bloc spies who are operating in the United States. This increase poses a danger to the security of our Nation.

John Barron, an expert on the Soviet spy apparatus, says in a recent Reader's Digest article that Soviet bloc intelligence officers inside the United States have jumped approximately 50 percent since the so-called era of détente began in 1972. In fact, there are now so many of these spies that our counterintelligence officers cannot keep track of them. Barron states:

> Today, there are more professional communist spies at work in Washington than there are American counter-intelligence agents available to watch them.

Barron continues:

> So many Russians freely roam the United States that at any given time no government agency knows precisely how many are here, where they are or what they are doing. Soviet agents invade the privacy of hundreds of thousands of American citizens each day by illegally intercepting, recording and analyzing their telephone conversations.

The immense nature of the Soviet spy effort is also apparent from the remarks of Raymond Wannall, former FBI director of Counterintelligence. According to Wannall:

> In magnitude and intensity, the Russians' current subversive campaign exceeds any they have mounted against us since World War II.

The U.S. response to increasing Soviet spy activities has been inadequate. It is time we adopted a get-tough policy on such activities.

I strongly agree with John Barron when he says that it is the "time for truth." Among his suggestions, which I believe have merit, are the following:

> The government can quickly terminate the Soviet interception of telephone calls. It knows which Russians are manning eavesdropping equipment, and where. President Carter merely has to order that those agents be deported forthwith. If Moscow dispatches replacements, they too can be quickly expelled.

Better still, the President should order the mass explusion of all known communist intelligence personnel from the United States and decree that the official communist representation will be permanently reduced by the number ousted. He should announce that if a communist representative is detected in clandestine activity, he will be expelled and no replacement permitted. (This is essentially the policy Great Britain adopted in 1971 and has followed successfully ever since.) Finally, whenever Soviet agents who do not have immunity are caught, they should be vigorously prosecuted and imprisoned for as long as the law allows. Releasing spies invites Soviet contempt, not cooperation.

Most important of all, the government should stop covering up the truth about Soviet espionage. Once the American people understand the magnitude of the KGB's efforts to undermine the United States, they will support overwhelmingly whatever action is required to end this secret war.

HISTORY'S REPETITIONS—GLORIOUSLY

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. BRODHEAD. Mr. Speaker, over the past several weeks we have been witnessing important new steps toward peace in the Middle East. As is the case with any diplomatic initiative of far-reaching significance, these negotiations have involved a give-and-take that has captured the attention of the world and created great pressures on both sides. Although there have been ups and downs in the talks, it is very encouraging that both Israel and Egypt have recognized each other's right to exist as modern states.

In a recent editorial, Detroit Jewish News editor Philip Slomovitz points out that this recognition has a precedent in history. I commend this article to my colleagues' attention:

HISTORY'S REPETITIONS—GLORIOUSLY

Justice, fairness, truth, the glory of human relations are being enacted amidst friendly reactions in an atmosphere that had been viewed as one tarnished by warfare.

History is, indeed, being re-enacted in the Middle East.

The occurrences in Cairo are even more glorious than those that took place on the Island of Rhodes in 1949.

At that time the achievement was one of cease fire and armistice.

But there was an even more dramatic precedent for peace.

In 1919, Dr. Chaim Weizmann, who in 1948 became the first President of Israel, met in the desert with Emir Feisal, who was soon to become the president of Iraq, now one of the countries most antagonistic to Israel. The Emir Feisal then told the world Zionist leader that the Arabs recognized Jewry's right to a homeland. The friendly spirit that then existed between Arabs and Jews was symbolized in an exchange of letters between Felix Frankfurter, one of the Jewish representatives at the Versailles Peace Conference after World War I and who was later to be elevated to a U.S. Supreme Court Justiceship, and Feisal. They signified a determination that Jews and Arabs were to live in peace in the Middle East. Their letters, which retain their historic significance, follow:

DELEGATION HEDJAZIENNE,
Paris, March 3, 1919.

DEAR MR. FRANKFURTER: I want to take this opportunity of my first contact with American Zionists to tell you what I have often been able to say to Dr. Weizmann in Arabia and Europe.

We feel that the Arabs and Jews are cousins in race, having suffered similar oppressions at the hands of powers stronger than themselves, and by a happy coincidence have been able to take the first step towards the attainment of their national ideals together.

We Arabs, especially the educated among us, look with the deepest sympathy on the Zionist movement. Our deputation here in Paris is fully acquainted with the proposals submitted yesterday by the Zionist Organization to the Peace Conference, and we regard them as moderate and proper. We will do our best, in so far as we are concerned, to help them through: we will wish the Jews a most hearty welcome home.

With the chiefs of your movement, especially with Dr. Weizmann, we have had and continue to have the closest relations. He has been a great helper of our cause, and I hope the Arabs may soon be in a position to make the Jews some return for their kindness. We are working together for a reformed and revived Near East, and our two movements complete one another. The Jewish movement is national and not imperialist. Our movement is national and not imperialist, and there is room in Syria for us both. Indeed I think that neither can be a real success without the other.

People less informed and less responsible than our leaders and yours, ignoring the need for cooperation of the Arabs and Zionists have been trying to exploit the local difficulties that must necessarily arise in Palestine in the early stages of our movements. Some of them have, I am afraid, misrepresented your aims to the Arab peasantry, and our aims to the Jewish peasantry, with the result that interested parties have been able to make capital out of what they call our differences.

I wish to give you my firm conviction that these differences are not on questions of principle, but on matters of detail such as must inevitably occur in every contact of neighboring people, and as are easily adjusted by mutual goodwill. Indeed nearly all of them will disappear with fuller knowledge.

I look forward, and my people with me look forward, to a future in which we will help you and you will help us, so that the countries in which we are mutually interested may once again take their places in the community of civilized peoples of the world.

Believe me,

Yours sincerely

FEISAL.

MARCH 5, 1919.

ROYAL HIGHNESS: Allow me, on behalf of the Zionist Organization, to acknowledge your recent letter with deep appreciation.

Those of us who come from the United States have already been gratified by the friendly relations and the active cooperation maintained between you and the Zionist leaders, particularly Dr. Weizmann. We knew it could not be otherwise; we knew that the aspirations of the Arab and the Jewish peoples were parallel, that each aspired to reestablish its nationality in its own homeland, each making its own distinctive contribution, each seeking its own peaceful mode of life.

The Zionist leaders and the Jewish people for whom they speak have watched with satisfaction the spiritual vigor of the Arab movement. Themselves seeking justice, they are anxious that the just national aims of

the Arab people be confirmed and safeguarded by the Peace Conference.

We knew from your acts and your past utterances that the Zionist movement—in other words, the national aims of the Jewish people—had your support and the support of the Arab people for whom you speak. These aims are now before the Peace Conference as definite proposals by the Zionist Organization. We are happy indeed that you consider these proposals "moderate and proper," and that we have in you a staunch supporter for their realization. For both the Arab and the Jewish people there are difficulties ahead—difficulties that challenge the united statesmanship of Arab and Jewish leaders. For it is no easy task to rebuild two great civilizations that have been suffering oppression and misrule for centuries. We each have our difficulties we shall work out as friends, friends who are animated by similar purposes, seeking a free and full development for the two neighboring peoples. The Arabs and Jews are neighbors in territory; we cannot but live side by side as friends.

Very respectfully,

FELIX FRANKFURTER.

Now these documents return to significance, as guidelines for a lasting peace between Arabs and Jews, with Egypt's President Anwar Sadat taking the lead to establish the vitally needed amity together with Israel's Prime Minister Menahen Begin.

These are the realities of justice superseding hatreds

This is a repetition of an historic experience that must be valued by all, that should serve as an encouragement for peace everywhere.

This is an admonition that the phrase "history repeats itself" can, as it should, be imbedded in the glory of fair play, never to be erased.

ANOTHER GLASS OF PEPSI-COLA, COMRADE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ASHBROOK. Mr. Speaker, in the last few years there has been a rush of American businessmen to the Soviet Union. Company executives have fallen over themselves trying to be the ones to sell their products to the repressive Communist regime.

I have never understood why American businessmen are so eager to do business with the Soviets. After all, the free enterprise system which has allowed these businessmen to prosper is totally lacking in the Soviet Union.

Nevertheless we have seen U.S. companies offer to sell the Soviets every item imaginable, including our most sophisticated equipment and our best technology. Even items with a potential military or strategic value—such as computers, jet engines, and oil and gas drilling equipment—have had a price tag. All this despite the fact that the Soviet Union is our avowed enemy.

One company that must be proud of its thriving business with the Communists is Pepsico Inc. Pepsico recently reached an agreement to double the number of its Pepsi-Cola plants in the Soviet Union and to increase imports of Stolichnaya Vodka into the United States. This will bring the number of plants there to 10.

As Soviet officials watch American businessmen madly scramble to do business with the Soviet Union, I can almost hear them say: "Have another glass of Pepsi-Cola, comrade."

BETTER RIGHT—THAN LOVED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MICHEL. Mr. Speaker, recently Anshai Emeth and Agudas Achim, prominent congregations in Peoria, held a joint religious service and invited me to be the speaker at this historic occasion. During my speech I spoke of the current negotiations between Egypt and Israel. I can assure you that the audience made it very clear, both in their evident interest in the topic and by questions after the speech, that a just and lasting peace in the Middle East is foremost in their minds.

During that speech I spoke of President Carter's recent efforts to involve the United States in these negotiations. I quoted the New York Times, the Washington Star, and others who were highly critical of the President's confusing and often contradictory statements about his views concerning the negotiations. As one observer put it:

President Carter is giving the Israelis and the Egyptians the 50–50 treatment. He confuses Prime Minister Begin on Monday, Wednesdays and Fridays and confuses President Sadat on Tuesdays, Thursdays and Saturdays . . .

This confusion is, to put it mildly, not helping things. What the Israelis and the Egyptians need is not being told what they want to hear, but, instead, the truth, objective, factual, and unyielding. Only if they know exactly what is on the mind of the President of the United States can any real progress be made.

This important fact was recently discussed in an editorial in the Peoria Journal-Star. As the editor states:

President Carter wants to be loved by both sides but this is not really the function of President . . .

At this time I insert in the RECORD, "Better Right—Than Loved," an editorial in the Peoria Journal-Star, January 16, 1978.

The editorial follows:

BETTER RIGHT—THAN LOVED

What worries me about President Jimmy Carter is that, apparently, he wants to be loved—and this is not really the function of a President much less of American foreign policy.

His zig-zag statements on his recent tour regarding the very sensitive peace movement in Middle East suggested that *he wanted to please* . . . both sides.

I hope I'm wrong about that—because that scares me to death.

There are areas where Prime Minister Begin must give in—but where he cannot give in to Arab leaders and succeed. There are areas where Sadat and other leaders must give in, but they cannot to Israel.

That's where we come in.

Their domestic politics *demands* that they have somebody to blame for taking one step more than their peoples really want.

The one service we can bring for peace there is to supply them that kind of political safety-valve.

We are not going to contribute to peace by some brilliantly logical plan which is so very logical that all sides have to buy it. The world doesn't work that way.

And we are not going to contribute to peace by soft-soaping both sides and winning their affection.

And that is why these honeyed words and juggled phrases worry me.

I'm afraid that this is what we're doing now because when Andrew Young charged around Africa upsetting the delicate balance of previous arrangements—the President thought Young had done a great job because Andy made *so many friends* there and they all seemed to love him!

What African national leaders needed was somebody to *blame* to their own zealots for sane steps toward moderation and transition—not somebody to love. And we destroyed peace initiatives there already pre-arranged and left Africa heading toward Gotterdammerung, and the monstrous, perhaps impossible, task later of lifting themselves out of the rubble.

That same misdirection, therefore, seems implicit in Carter's Mideast antics.

If he wants to be loved, it is a "conflict of interest" that really clouds decision-making.

A TRIBUTE TO GEN. ROBERT E. LEE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. HARRIS. Mr. Speaker, in the 94th Congress I introduced a resolution to restore posthumously full rights of citizenship to Gen. Robert E. Lee. On August 5, 1975, legislation achieving this goal was signed into law by the President. To have been able to participate in restoring citizenship rights to this great American is indeed a privilege. It is with pride that I today would like to place in the CONGRESSIONAL RECORD a tribute to Gen. Robert E. Lee in recognition of the 171st anniversary of his birth.

General Lee spent his youth in the city of Alexandria which is in my district and the support of the citizens in this area was a constant source of inspiration in my efforts to promote prompt enactment of this legislation. I would like to share with my colleagues several articles by members of the Creative Writing Workshop of the Alexandria Community Y which were published in the January issue of the Alexandrian magazine.

The literary works of Agnes Nasmith Johnston, Frances Umfleet, and Heidi Bakker Merril, as a reminder of General Lee's contributions to the building of our Nation and display the deep admiration held in the hearts of many for this great man.

The articles follow:

THE SPY FROM SEMINARY HILL

(By Frances Umfleet)

On a morning in September 1861 three little boys, Ned, Francis and Cazenove, climbed a big oak tree in a field in the rear of their home, Menokin, just across Braddock Road from Seminary Hill. Cazenove, the oldest brother, had heard there was going to be a parade of Union soldiers, so the three brothers had left home early in the morning and climbed the tree, hidden themselves well in the thick branches, and waited unseen to view the passing troops. They were so well

concealed in the leaves that they were unnoticed when a handsome landau pulled up under the tree. No one could mistake the tall occupant—President A. Lincoln, who had stopped in the shade of the big oak to review the troops. The boys were terrified. Would they be caught and shot as rebel spies! The troops marched by for hours. The boys were so frightened they scarcely breathed. Ned (Edmund Jennings), the youngest was lowest in the tree, and for hour after hour all he could see was the top of Mr. Lincoln's hat.

When the review was over and the landau finally moved away, the scared little boys descended the tree and ran for home. They managed to get there without being seen.

This story was told by the children's mother, Annie Eliza (Mrs. Cassius F.) Lee in a letter to her friend, Mrs. Samuel duPont, written a few days after the adventure.

On that exciting afternoon the brothers had no idea that two years later their family would flee Virginia because their father was suspected of being a spy, and that little Ned would play an important role in his father's escape.

The boys' father was Cassius Francis Lee, cousin of General Robert E. Lee, and their grandfather was the eminent Alexandria attorney, Edmunds Jennings Lee. Cassius Lee was Terasurer of the Theological Seminary of Virginia, now occupied by Union troops.

In 1861 all of the professors and their families, as well as most of the other Menokin neighbors, had left the area. The Cassius Lees were shut between two armies less than eight miles apart.

Cassius was loyal to the South, but he had opposed secession. He wrote that he "utterly repudiated revolution" but felt that it was forced upon him. Later he wrote, "A union cannot be made by force."

Cassius felt it was his duty to stay and protect the property. In Alexandria he represented many cases of troop misconduct to the Commander who promised redress, but the troops were out of control!

Seminary Hill and Menokin became a sea of tents, buildings, fences, houses were destroyed. Cassius persuaded authorities not to tear down Aspinwall Hall at the Seminary, but to use it as a hospital. His own home he rented to the Commanding General, hoping it would not be completely demolished.

Years later one of Cassius' granddaughters recorded, "The enemy became obsessed with the idea grandfather was a spy." Three times he was arrested and the third time thrown into Old Capitol Prison. Mrs. Lee's brother-in-law, Henry W. Davis, the Senator from Maryland, managed his release but warned him that if he were imprisoned again it would be impossible to get his release. Consequently, the family moved north, first to Long Island, where it became unsafe for them, and then to the home of Mrs. Lee's cousin, Henry Durant, a Boston lawyer.

In the last fall of 1863, Cassius joined his family at the Durant's farm near Wellesley, but he was still under surveillance. A relative, Mrs. John Thompson Cole, recorded the chilling story of the persistent search for Cassius. In September, or perhaps October, 1863, a deputy marshal entered Mr. Durant's law office and demanded to know if Cassius Lee was staying at his house. The attorney answered that Cassius was at his farm near Wellesey, and that the station master there could direct the marshal to the house.

When the deputy marshal left, Mr. Durant called his office boy, gave him a hastily written note, and instructed him to take the next train to Wellesley. "Ride on the last car. Get off at the end of the train. Take the short cut across the field as fast as your legs can carry you. Give the note to Mrs. Durant and no one else!"

The deputy marshal was no doubt displeased that he had to walk a dusty half-mile. The story-teller has stated that at the farm all was peaceful. Mrs. Lee was reading to her children and didn't see the maid call Mrs. Durant from the room, nor did she notice that in a few minutes Mr. Lee, too, was beckoned from the room. Mrs. Durant and Mr. Lee hurried to a lake on the farm and all was going well until Mrs. Durant noticed ten-year old Ned running toward his father. The quick-witted lady asked Ned to do her a favor. She told him she always wanted to know how many pine trees there were on a certain hill. Would Ned go and count them for her? The little boy willingly ran to count the trees.

When the deputy marshal was ushered into the room where Mrs. Lee was reading to the children and demanded to know the whereabouts of her husband, she could truthfully say, "I don't know. He was here a moment ago. I didn't know he had left the room." The only one who could have informed the deputy marshal were Cassius Lee could be found, was busily counting trees.

Mrs. Durant and Mr. Lee got a small boat from the boathouse, and keeping close to shore, rowed to the summer home of Mrs. Durant's cousin, the French Consul. This was foreign soil and Cassius was safe until he made his way to Canada.

In Canada, near Montreal, the suspected spy found refuge, and in time sent for his wife and children. It was not until after Appomattox that they returned to ravaged Menokin. The children continued their interrupted education, and the unsuspecting young hero of the escape became Edmund Jennings Lee, M.D.

LIGHTS FOR LEE AND LINCOLN

(By Agnes Nasmith Johnston)

In Alexandria's red-brick, river town,
history haunts houses
where Robert E. Lee once played
with his cousins; he and his mother
met Lafayette—friend of his late father.
Here, Robert weighed his destiny.

A West Pointer, United States Officer,
Lee served with honor, country and state;
loved his Mary Custis and large family.

Rumbling rage raced through "cotton states."
Fort Sumpter fell. Diverse loyalties
locked reason from many men.
Can we now understand
why Lee refused the Federal Command?
Virginia seceded. Lee answered her call.

Drummer boys of North and South
beat the roll;
brothers' blood drained the land.
Then rain dropped tears on many tombs
until sunshine healed the states' deep
wounds.

Now against the velvet night,
beacon lights reveal Lee's home.
Below the bugles blow
across the Bridge where amnesty notes
unite in the glow of Lincoln's shrine.

LETTERS FROM A NORTHERN SOLDIER—THE DUTCH BOY IN BLUE

(By Heidi Bakker Merill)

The year 1846 marked a time of hope for my great-grandparents as they embarked on a long and stormy voyage to America. The new land offered the hope of freedom—freedom from religious persecution. Like a black cloud, threats against freedom to worship hung over their Dutch countryside.

After the long voyage at sea and a much longer journey by land, they reached an Indian village on the shores of Macatawa in Michigan. William Visscher, "The Dutch Boy in Blue" (as he came to be known) was a very small boy when he made this ten-week trip with his parents.

In his new home, a log cabin in a primitive forest, William learned of God and nature. Meantime, in Illinois a contemporary log cabin dweller known as "the rail splitter" was growing up. Later, he was to become the 16th President of the United States. His call to arms, heard across the newly hewn timbers, reached William as a call to patriotism. When his uncle was drafted, William enlisted in his place. February 20, 1865, William at age 18 was officially mustered in and boarded the train for Jackson and beyond to Hatcher's Run in Virginia.

Encorporating letters which William wrote to his family, Jan Visscher, younger brother of William, some years later wrote a book entitled *The Boy in Blue*. The following are excerpts from this book.

From Hatcher's Run, Va., Mar. 15, 1865

"I am now with the 16th Regiment Michigan Company K. We entered the James and came to City Point Friday noon and went from there by rail to Hatcher's Run, Virginia. We marched to headquarters where General Warren and General Griffin reviewed us. We three Hollanders lay our guns over a pile of sand to be able to take better aim, and it served as a shelter too. When the rebels heard the cheering they recognized that we were fresh troops and their courage sank to their shoes."

FROM APPROMATOAX COURT HOUSE, APRIL 10.

"We have had a hard march but have won glorious victories. Petersburg with about 20,000 and Richmond with its garrison are ours. We have taken about 25,000 men and over a hundred cannon, and three trains but above all I must make mention of the brilliant victory over Lee, who with his army and generals and artillery surrendered to us unconditionally yesterday—among the generals is Longstreet. I saw Lee, "the old fox," when he rode past our lines by the side of Grant and Sheridan. Our army was wild with joy. Even the rebels were shouting when they heard it. The house where the papers were signed is called Appomattox Court House. It is a square brick building with a fireproof roof, a nice building shaped like the Oggel House (on Hope College Campus). We can see the rebel army encamped and had completely surrounded it."

A week later, William wrote a letter to his parents from Southernly Station dated April 26, 1865. "We have a funeral here the day Lincoln was buried. I have written nothing about Lincoln's death as the soldiers did not believe the rumor. But however sad the report, it is true. Lincoln, Abraham Lincoln, the second Washington, has fallen through the bullet of a child of Satan named Booth. The Savior of his country ended his earthly career just when the cannons announced the surrender of Lee. He went into the shadow of death but has left our country and his country in the sunshine of victory. His labors are crowned with success but Providence decreed that he shall not pluck of its fruits."

Outside of Washington, William became ill, as did many soldiers, and the long journey homeward was delayed by days and weeks in hospitals along the route. Once released from the hospital, the journey again began, often burdened with the weakness of body but with a strength of spirit—over the mountains high with glory and steeped in green, once again *Home*, for the boys and men in colors of blue and grey.

HEADQUARTERS 16TH,
MICHIGAN INFANTRY,
Vet. Vol. July 17, 1865.

"To William Visscher—

Sir, accept my congratulations and thanks for having so nobly and successfully performed your duty during your perilous term of service, and for having been connected with an organization which as an honor to itself participated in the following battles:

1. through 32. (Beginning with the Siege of Yorktown, April 1862 to No. 32 Dabney's Mill, Feb., 1865.

33. Hatcher's Run "2, March 25, 1865.

34. White Oak Road, March 29, 1865.

35. Quaker Road, March 31, 1865.

36. Five Forks, April 1, 1865.
37. Appomattox Court House, April 9, 1865.
38. Lee's Surrender of the Army of Northern Virginia Apr. 13, 1865.
39. Siege of Petersburg, June 16, to March 29, 1865. (The last five battles were marked by the giver of the document as the ones in which the above named had participated.)

With many good wishes for your future,
I am respectfully yours,

B. F. PARTRIDGE,
Col. Com. 16th Mich. V.V; Inf.

Home at last! and now William picked up the threads of his life and gently began to weave them into his dream, to become a medical missionary. Less than six years after his return from the war, smallpox ended this dream. William Visscher died shortly after contracting a mild case. The year was 1871.

FINANCIAL LISTING

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. STEERS. Mr. Speaker, it has been my custom for the past several years to issue a full listing of my assets, liabilities, and net worth as of the end of the year, in more detail than required by law. In this way my constituents will have the full knowledge which will enable them to judge whether I have voted in their interest, or whether I have yielded to an interest of my own, which conflicts with theirs.

As in 1977, I am entering this listing in the CONGRESSIONAL RECORD, on the first day of the session, so that it will be readily available to all those interested.

NEWTON I. STEERS, JR., STATEMENT OF NET WORTH AS OF DECEMBER 31, 1977

ASSETS

Cash items:	
Net credit, E. F. Hutton & Co. brokerage account	$19,171.17
Checking accounts:	
Potomac National Bank	6,159.99
American Bank of Maryland	3,184.13
Riggs National Bank	964.75
Savings accounts:	
Government Services S. & L.	27,672.19
Chevy Chase Savings & Loan	32,667.52
Total cash items	89,819.75
Retirement account, State of Maryland as of June 30, 1977	3,981.59
Securities (schedule A)	921,085.00
Car, 1972 Pontiac LeMans, mean of 1976 wholesale and retail values, repainted in 1977	2,500.00
Insurance—National Service Life, $10,000 face, cash value approximately equal to loan value	
Personal belongings such as furniture, clothing, tools, and equipment are omitted as not relevant to the purpose of this statement. Current household expenses payable are omitted for the same reason	
Real estate:	
6601 River Road, Bethesda (home)	[1] 490,000.00
6509 River Road, Bethesda (rented out)	[1] 112,500.00
Less mortgage payable (on 6509 River Road)	467.40
Total real estate	602,032.60
Net worth	1,619,418.94

[1] Two independent appraisals have been made, as follows:

September 26, 1973, 6509 River, $112,500; 6601 River, $490,000.

October 8, 1973, 6509 River, $75,000; 6601 River, $292,400.

Two times assessment for levy year, beginning July 1, 1978, 6509 River, $101,420; 6601 River, $200,510.

Highest of the three values are adopted above.

SCHEDULE A

NEWTON I. STEERS, JR.—SECURITIES HELD AS OF DEC. 31, 1977

	Shares or amount	Market value	
		Per share	Total
Common stocks:			
A.P.S.	6,000	$8.500	$51,000.00
Best Products Co., Inc.	500	26.875	13,437.50
Citation Cos., Inc.	6,600	7.250	47,850.00
Computer Data Systems	6,300	2.375	14,962.50
Cross, A. T. Co. CLA	1,000	47.250	47,250.00
Emerson's, Ltd.	22,000	No bid	
Fidelity Union Life Ins. Co.	1,500	26.375	39,562.50
Glenmor Distill. B	4,000	12.000	48,000.00
Gov't Svcs S & L, Inc. Guar.	6,000	7.375	44,250.00
Management TV	17,000	No bid	
Montgomery Cable Comm.	2,000	No bid	
NEA Mutual Fund	100	7.575	757.50
Prime Computer, Inc.	2,000	25.250	50,500.00
Pay N Pak Stores, Inc.	2,000	14.000	28,000.00
Redken Labs	3,500	11.000	38,500.00
R.P.M.	6,000	10.125	60,750.00
Taco Bell	1,400	23.750	33,250.00
Technicare Corp.	1,600	13.000	20,800.00
Transtechnology Corp.	22,000	3.125	68,750.00
Tri-Chem, Inc.	4,000	23.125	92,500.00
Tropicana Products	1,000	33.125	33,125.00
WD-40 Co.	2,000	33.250	66,500.00
Wiser Oil Co. Dela.	800	59.00	47,200.00
Total, common stocks			846,945.00
Preferred stock: Santa Fe Ind. $50	4,000	10.375	41,500.00
Notes: Chrysler Corp., 8⅞ percent, Sept. 15, 1982	$34,000	96.000	32,640.00
Total securities			921,085.00

IN HONOR OF AN EAGLE SCOUT

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. SARASIN. Mr. Speaker, citizenship, valor, compassion, and integrity are but a few of the characteristics possessed by those who achieve Scouting's highest distinction. Jon Lenz, of Cheshire, Conn., has proven himself worthy through years of hard work, and on January 26, 1978, Boy Scout Troop 51 will be holding an Eagle Court of Honor for him.

Scouting is one of the most important aspects of American life as it prepares and encourages not only fine young people but also productive adults who become leaders in their communities and societies. It demonstrates that outstanding accomplishments can be won not just by hard work but by honesty and concern as well.

Jon Lenz has reached the pinnacle of Scouting and for that he deserves our admiration, and most certainly our congratulations. We wish him well not only on January 26 but also for all future endeavors.

CHEERS FOR LINCOLNTON, N.C. JAYCEES

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MARTIN. Mr. Speaker. It is with great pleasure I rise to call to your attention an achievement of the Jaycees of Lincolnton, N.C., who are constitutents of mine in the 9th District of the Tar Heel State.

The Jaycees of Lincolnton, N.C., have been selected the number one Jaycee chapter in the Nation.

The club's outstanding rating is based on community involvement, club projects and membership.

During the past year, the Lincolnton Jaycees increased their membership from 107 to 183. The club also organized two new Jaycee chapters, the High Shoals Jaycees and the CVTI Jaycees.

Other recent projects include the Summer Fun Festival, the 10 Million Penny Drive, the annual Christmas Parade and the needy family project.

The Lincolnton Jaycees earned 1418 "Parade of Chapter" (POC) points compared with the runnerup club from Ogella, Nebr., which compiled 1216 points during the same period .

I extend my congratulations to Lincolnton Jaycee President John Lowery and the individual members of the club who have given so freely of their time and talents to make their community a better place in which to live. I am proud to be their representative.

FREE HEALTH CLINIC

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DERWINSKI. Mr. Speaker, at a time when the Ways and Means Committee is struggling with numerous problems relating to health care and proponents are still touting national health insur-

ance, it may be well to study the successful operations of a local health service.

I refer specifically to the health clinic operated by the Township of Stickney in Cook County, Ill. This clinic is widely regarded as one of the best examples of local government service in the health field.

An editorial, in the Suburbanite Economist Newspapers of January 8, tells the story of the clinic in a very proper fashion. The editorial follows:

STICKNEY'S HEALTH SERVICE COULD BE MODEL FOR NATION

Stickney township's free health clinic has been getting national publicity in newspapers, magazines and on radio and television. Why? Because everyone is concerned about skyrocketing health care costs and Stickney is one of the few, if not the only places in the country that seems to have solved the problem.

Thus, reporters are beating a path to Stickney to learn how they are doing it.

The answer is fairly simple. A long time ago—back during the depression of the '30s—the township's elected officials—Herbert Maid was the supervisor—wisely decided to provide medical help for relief stricken families. To the credit of the intervening administrations, they all carefully maintained and strengthened the service which today is at its peak under the present supervisor, Louis S. Viverito.

The reasons for the health service's success may be paradoxical. It was started because residents—mostly truck farmers in those days—simply didn't have money for doctor and dentist bills. While that is true of some families today, most are not out of work or getting public aid. No, it is simply that the cost of medical care is out of their reach and they depend on a service such as that provided by Stickney township to get by.

One would expect to find a service of this type popular in depression times. The expectation would not be so great in times of relative prosperity—the present—when presumably the vast majority of people could afford provide care.

This, it seems to us, says a lot about the cost of medical and dental care in the country and the need to do something more than talk about it.

The service has caused a doctor and former Kansas congressman, Dr. Bill Roy, to comment: "They (Stickney residents) are getting a lot of services for a limited amount of dollars. One of the problems we face with national health insurance is that mental, dental, preventative, rehabilitative services and things of that nature will probably not be covered . . . so communities could broaden

Stickney is fortunate in that it has a large industrial tax base to support its three health clinics. Industries pay about 68 per cent of the cost so that the tax to a property owner comes to about $22 per household a year. Federal and state funding is involved, but not to the extent that it could be if the township did not have a great amount of industry. Other townships could make greater use of such help, particularly revenue sharing.
their public health services and benefit their population greatly."

In an average year the clinics treat 30,000 patients and provide dental treatment to another 5,000. X-ray and lab services are provided at about half the going rate. Medications also cost about half. All told, Viverito estimates the service reaches at least 90 per cent of the community. The salaries of doctors and dentists are comparable to those at area agencies.

With medical costs at every level rising to astronomic figures, it seems clear that our present health system is headed for deep trouble. Maybe Stickney can serve as a prototype for the solution.

CONGRESSIONAL COMMEMORATIVE SALUTE TO THE PEOPLE OF SOVIET-OCCUPIED UKRAINE UPON THE 60TH ANNUAL OBSERVANCE OF THE PROCLAMATION OF UKRAINIAN INDEPENDENCE AND UNIFICATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ROE. Mr. Speaker, in solemn observance of the 60th anniversary of the proclamation of Ukrainian independence and unification, I join in the congressional commemorative salute to the people of Soviet-occupied Ukraine established for the week of January 22, dedicated to the 1978 theme of the Ukrainian-American community, "Human rights know no boundaries—human rights for Ukraine."

We can well appreciate the excitement and individual fervor of accomplishment that must have existed among the Ukrainian people in Kiev on January 22, 1918, upon the signing of the proclamation declaring the independence and unification of the Ukrainian people.

We can also perceive the despair and suffering that occurred when this declaration of independence was struck down by imperialistic armed force in 1920.

Mr. Speaker, I rise in support of the legislation which I sponsored with many of our colleagues seeking a greater national commitment and action in attempting to restore and insure citizens of the Ukraine in the U.S.S.R. their basic human rights and fundamental freedoms of conscience and religious worship. May those of our colleagues who have not already joined in the sponsorship of these resolutions consider same and seek early congressional action to place these vitally important human rights issues on the agenda of the executive branch of our Government, the United Nation of freedom-loving peoples and a lasting peace among all continents on our Earth's hemisphere.

Synopsis of these resolutions that I have sponsored during the current session is as follows:

House Concurrent Resolution 85.—A resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

House Concurrent Resolution 86.—A resolution to seek the resurrection of the Ukrainian Orthodox and Catholic churches in Ukraine.

House Concurrent Resolution 87.—A resolution concerning the safety and freedom of Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people.

House Concurrent Resolution 88.—A resolution expressing the request of the U.S. Government that the Government of the United Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University.

House Concurrent Resolution 116.—A resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organizations.

Mr. Speaker, on behalf of the people of my congressional district and the State of New Jersey, I join in the annual observance of our Ukrainian heritage and trust that through our mutual endeavors and responsibilities that we will strive to continue to achieve international understanding and agreement that will eliminate the oppression of people and restore "human rights" and the rights of self-determination by the people of Ukraine and other captive nations of the world.

CARRIER TASK FORCE RECOMMENDATIONS QUESTIONED

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. HILLIS. Mr. Speaker, in June of 1977, the Chairman of the Interstate Commerce Commission, Mr. Daniel O'Neal, appointed a task force to determine ways to improve entry into the interstate motor carrier industry. One month later the task force made 39 recommendations to the Commission. Due to the tremendous amount of controversy which developed in the trucking industry over these recommendations, several days of hearings were held throughout the Nation.

On November 30, 1977, I placed a letter in the CONGRESSIONAL RECORD (page 38207) which I sent to Chairman O'Neal. That letter expressed my concerns that some of the recommendations made by the task force, specifically those which would facilitate easier access to the market, were not necessarily in the best interest of the Nation.

I received a response to my letter on January 5, 1978, along with a summary of the public response to the recommendations made by the task force. It is my understanding that every Member has also received a copy of that summary. I would suggest to my colleagues a careful review of this document. It is my belief that the conflicting views contained within it illustrate the need for the ICC to move slowly and carefully before taking any major steps toward deregulation of the trucking industry.

Certainly, those recommendations by the task force which have proven most controversial should be studied in great detail before any enacting regulations are promulgated by the ICC. Our transportation industry, and in particular the trucking industry, is a delicate balance of regulated competition. It does not lend

itself to radical experiments. Any change in policy by the ICC concerning entry into the motor carrier industry must be gradual if the industry is to avoid confusion which could only result in disruptions of services to the marketplaces. Furthermore, any change in policy must insure that the industry does not become vulnerable to irresponsible or undependable carriers which cannot guarantee the same high quality of services which have been obtained under past policies.

At this time, I would like to place a copy of the response I received from Chairman O'Neal in the RECORD.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., January 5, 1978.

Hon. ELWOOD H. HILLIS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HILLIS: Thank you for your letter of November 30, 1977, regarding your meeting with several businessmen in Kokomo, Indiana, during which they expressed some concern about the Commission's activities pertaining to the motor carrier industry.

The Commission has for the past few months been actively engaged in the review of its practices and procedures regarding the regulation of motor carrier transportation. A staff task force, appointed in June, issued a report making a number of specific recommendations for improving motor carrier licensing procedures.

Some of the task force's recommendations are directed toward improving the Commission's internal procedures and in speeding up the regulatory process. These have proven largely noncontroversial, and I think that there is no one who would disagree that the improvements proposed in these areas are both needed and desirable.

Other recommendations which the task force made could change historical interpretations of the Motor Carrier Act and the way in which the Commission has regulated motor transportation. Some of the recommendations are directed toward the identification of areas of regulation in which the Commission's decisions can be readily foreseen from the facts before it. They attempt to identify cases of this kind and to suggest means by which they can be disposed of quickly and inexpensively for the benefit of both the Commission and the parties.

Some of the proposals made by the task force may appear to be at odds with positions taken by the Commission in the last few years when testifying about motor carrier regulatory reform bills before the Congress. What the task force has proposed is that the Commission take some tentative steps on its own—steps which because they would be taken administratively could be retraced, if necessary, much more easily than a statute could be repealed. We think that there are many areas in which improvements in our motor carrier regulation can be made administratively, without legislation, and it is these that we are exploring most seriously.

The Commission has sought and received extensive public comment on the staff task force proposals. Hearings were held in Atlanta, Boston, Chicago, Fort Worth, Philadelphia, San Francisco, and Washington, and testimony was received from 438 individuals. In addition, the Commission received hundreds of written statements from interested persons.

Before any of the task force recommendations or other policy changes are adopted by the Commission, specific advance notice will be given, and all interested persons will have a further opportunity to comment. The views of persons interested in specific proposals, as well as the comments received at the hearings, will be considered by the Commission before any final decisions are made.

Enclosed for your information are copies of the task force report and the summary of the public response to the report.

Sincerely yours,

A. DANIEL O'NEAL,
Chairman.

AuCOIN INTRODUCES WILDERNESS AREA BILL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. AuCOIN. Mr. Speaker, the bill I am introducing today will add 55 small islands in the Oregon Islands National Wildlife Refuge to the National Wilderness Preservation System. These islands have been proposed for inclusion for several years, and I believe their time has now come.

This proposal is the product of a thorough study by the Fish and Wildlife Service pursuant to Public Law 88-577, which, under subsequent regulations, held that a wilderness evaluation must be made of every "roadless island, within the National Wildlife Refuge System." The Fish and Wildlife Service concluded that all of the 55 Oregon coastal islands appeared suited for inclusion in the National Wilderness Preservation System.

Mr. Speaker, the people of Oregon take great pride in their State's magnificent coastline. It is truly one of the most spectacularly beautiful coastlines in the world. One of the things which makes it so is the 50-odd islands which dot the horizon from Seaside to Brookings. Although the islands contain no potential for on-site recreational opportunities, they do have important historical, biological, ecological, educational, and scenic values of regional and national importance.

Does this mean the islands are not enjoyed by the thousands who flock to Oregon's coast each year? Not at all. Precisely because the islands are unspoiled they are a nature lover's delight and a scientist's dream. Watching and photographing the abundance of birds and wildlife from the shore is a much pursued pastime of residents and visitors alike. For scientists and researchers the islands offer a unique opportunity to preserve for future generations those species which have come to inhabit them. Inclusion into the National Wildlife Refuge System will assure those future generations the same pleasure that we now enjoy.

The bill follows:

H.R. —

A bill to designate certain lands as wilderness

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), certain lands in the Oregon Islands National Wildlife Refuge, Oregon, which comprise approximately four hundred and fifty-nine acres, which are depicted on a map entitled "Oregon Islands Wilderness—Proposed", dated June 1972 (revised July 1972), is hereby designated as wilderness and shall become a part of the existing "Oregon Islands Wilderness".

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Oregon Islands Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. A map and legal description of the Oregon Islands Wilderness shall be on file and available for public inspection in the Office of the Director, Fish and Wildlife Service, Department of the Interior.

SEC. 3. The lands designated by this Act as the Oregon Islands Wilderness shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

WHALEN REPORTS ON UNITED NATIONS SIGNIFICANT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. SIMON. Mr. Speaker, among the most interesting correspondence I have had in the last few months have been the regular reports of Congressman CHARLES WHALEN, our distinguished colleague from Ohio, who has served as one of the U.S. Ambassadors to the United Nations.

I thought his last report was particularly significant, and I am inserting it into the RECORD at this point.

Let me add further that it is with great reluctance that I have noted the retirement of CHARLES WHALEN from the House. Beyond any question, he has been one of the ablest and most sensible Members of this body and a Member who has a sense of the direction this Nation must go. This Nation will always have a need for people with his sense of dedication, compassion, and vision, all too rarely combined with his ability.

I look forward to working with him during his final year in the House, but this Nation will miss him in the House in the years to come, as will his colleagues.

The report follows:

DECEMBER 16, 1977.

The HONORABLE H.O.B.,
Washington, D.C.

DEAR ———: The 32nd General Assembly of the United Nations is now in the home stretch. As reflected in my previous letters, the time I've spent here as a U.S. Delegate has been productive and informative. In addition to the experience of dealing with many specific issues, however, the past two and one-half months also have given me the chance to study and reflect on some fundamental questions relative to the U.N. Chief among the conclusions I've drawn from that effort is the clear impression of a new thrust in the U.N. from peace-keeping to economic and social development. It's this observation to which I would like to devote this letter.

Background: If my thesis is correct, it would be in keeping with an overall change in focus in the U.N. which has occurred over the past three decades of its existence; from East/West issues, to anti-colonialism to

North/South concerns. In brief, the U.N. is progressively becoming less political and more economically oriented.

Certainly, this is not to say that the international political dimensions of the U.N. are now or ever will be completely eliminated. That necessary and proper function will always have a place in this forum. What I am suggesting is that by ever increasing degrees, the U.N.'s role is now and will continue to be played on a world stage of economics. Let me acknowledge at this point that as a former professor of economics, I may tend to overstress this analysis. Having said that, however, let me quickly add that to the degree this change in direction occurs, the U.N.'s important purposes will be met even more effectively than they have been in the past.

As I see it, this shift in emphasis is really a healthy and logical response to reality. Whether or not we fully understand all of its implications (and even whether we like it or not), that new reality is the product of changes in the world scene which have occurred over the past few years—some more subtle than others, but all of which are strongly present at the U.N.

The most fundamental of these changes, of course, and the one from which many of the others directly flow, is the fact that the U.N.'s membership has tripled since its founding 32 years ago. By contrast with the original 51 members, most of whom shared Western traditions and addressed Western-oriented problems, a substantial percentage of today's 149 U.N. members are newly independent nations. The problems which they, in turn, bring to the U.N. involve both old *and* new states—problems relating to the gap between the rich and poor countries and the need for an economic link between the developing and industrial worlds. Devoid of genteel Western traditions, these new states seek their goals in a rough and tumble style of diplomacy; they often demand rather than ask, and they may not always say "thank you;" they are impatient anxious, and determined. But, above all, they are countries which have become significant participants in the world's equation of supply and demand. In short, they want their share of the pie and they want to be up on the world's stage with the other actors.

Too often, the cumulative effect of these changes has been a cause for alarm and fear within the United States. Our once predominate, almost exclusive role of influence at the U.N. has been considerably diminished. In the buffeting process our pride has been dented. We began to question the desirability of our U.N. membership.

That type of doubt and dismay may be understandable but it too often fails to take into account the fact that these new countries are in he U.N. in large measure because of a U.S. policy which long pressed for an end to colonial rule. In fact, throughout the 1960's we welcomed the newly independent states. Why, then, should we now be fearful or alarmed? After all, aren't we actually fulfilling our goal when we make it possible for emerging nations to develop in ways which enable them to become prosperous trading partners.

I have gone into this background only in order to show the frame or reference in which the U.N.'s new direction makes historic sense.

Current situations: While this shift in the U.N. from political to economic issues represents a challenge to our ingenuity and resourcefullness, I have seen enough evidence here in New York over the past several weeks to assure me that we are uniquely qualified to meet that challenge. By stark contrast, I also have noticed that the Soviet Union and other socialist states are befuddled in the face of this same challenge. As a matter of fact, as the U.N. daily responds to Third World-sponsored resolutions, it is almost pathetic to see the Soviets flounder about.

The United States' creative potential to meet the problems posed by the new countries is uniquely abundant. We are predominant in such areas as food production and distribution, technological and scientific development and environmental protection.

My only concern is that, although we may have the means, we may not yet have the will to respond to the challenges posed by the U.N.'s new focus. Part of the reason lies in a natural reluctance to recognize that we live in an interdependent world. Clearly, we don't take too kindly to the bold reality that our nation's destiny is linked to that of others.

But once we accept that hard fact of international life, the next logical choice involves a decision as to whether we shall help solve the world's economic problems within the framework of the U.N. and other international organizations. The answer to that question will come easier if we keep in mind that the poor countries are trying—often against overwhelming odds—to do something with which we as Americans can deeply sympathize—to improve the quality of life for their peoples.

Within the U.N. itself reorganizational efforts are being made to give the poorer countries a greater voice in the U.N.'s development programs. I described that restructuring issue in my letter to you of November 23. While key aspects of the proposal are still under negotiation (including the scope and duties of a newly proposed position of U.N. Director General), there is a growing possibility that a final solution may come before the close of the 32nd General Assembly. Although the U.S. supports most of the basic elements of the plan, we are still working to strengthen its chances for providing greater efficiency and unity in overall U.N. development operations.

Future prospects: Despite the growing emphasis on economic matters, the gap between "rich" and "poor" nations continues to widen. Thus, it appears inevitable that in future General Assembly sessions the North/South dialogue will accelerate. In turn, the role and influence of the United States at the U.N. probably will undergo fundamental alteration in the years ahead.

I readily admit that I have no magic solutions to the dilemma and shocks these added changes will continue to bring us. For the moment, my purpose merely is to signal the fact of change as I see it and explore its presence and future implications. Beyond that I can only repeat my own conviction that we in the United States have a firm potential hand on the handle while the Soviets are still groping about in the dark.

According to present indications the 32nd General Assembly will adjourn on December 21. Shortly thereafter I hope to summarize my thoughts about this entire experience in a final letter. Until then I'll be here in New York and will be pleased to respond to any specific need or questions you may have.

May I also take this opportunity to wish you, your family and loved ones a joyous and peaceful Christmas. I look forward to seeing you when the 2nd Session of the 95th Congress convenes in January.

Sincerely,

CHARLES W. WHALEN, Jr.,
Member of Congress.

UNEMPLOYMENT AND BAD HEALTH

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. SIMON. Mr. Speaker, a few weeks ago I happened to be seated across the aisle in a plane from an old friend, Dr. Robert Mugge, the assistant to the director of the National Center for Health Statistics.

I asked him to supply me statistics for the health impact of unemployment.

He deluged me with material.

There is no question that we increase stress which causes increased heart problems, mental health problems, and a variety of other things. And ironically, as our health problems go up, the number of people covered by insurance programs goes down, because they are unemployed.

I will not impose on my colleagues with the abundance of material that is available. That is perhaps best summarized in an article by Prof. M. Harvey Brenner, director of research of the Metropolitan Planning and Research Center at Johns Hopkins University. He wrote in Social Policy magazine an article titled "Personal Stability and Economic Security."

In there he says:

Even a one percent increase in unemployment, for example, creates a legacy of stress, aggression, and illness affecting society long into the future.

In his article he points out that—

A one percent sustained rise in unemployment increases cardiovascular-renal disease deaths by a total comparable to 1.9 percent of all such deaths in the fifth year thereafter.

He reaches the conclusion on the basis of his statistical analysis that the unemployment increase in 1970 resulted in 26,440 additional deaths due to cardiovascular-renal problems.

He reaches the even more stunning conclusions that the 1970 increase in unemployment is responsible for some 51,570 total deaths.

He also believes that an additional 5,520 people were institutionalized in State mental hospitals because of the increase in unemployment.

Even if you cut these figures in half, it is a staggering loss for the Nation.

I hope my colleagues will keep this in mind as we face a number of issues that bear directly on the unemployment problem.

For the interest of my colleagues, I am inserting into the RECORD the complete article by Professor Brenner:

PERSONAL STABILITY AND ECONOMIC SECURITY

(By M. Harvey Brenner)

(NOTE.—The 1.4 percent rise in unemployment during 1970 has cost our society nearly $7 billion in lost income due to illness and mortality, and in added state prison and mental hospital outlays. To this must be added public outlays of some $2.8 billion annually over the 1970 to 1975 period for jobless and welfare payments associated with the sustained 1.4 percent rise in unemployment.)

The federal government has become relatively adept since World War II at assessing the impact on income, prices, and employment of monetary and fiscal policy. But government policy planners have had essentially no success in shedding light on the next level—on the ensuing effects which changes in income, prices, and employment have on individuals and on society. In effect, they have focused on the technical linkages between fiscal or monetary policy and economic variables like unemployment; they have not

evaluated the relationship of these economic variables with individual behavior. Yet, it is precisely the eventual impact of economic policy on individuals which should be the focus of Washington officials, rather than the impact of this policy on the intervening economic variables.

Policy planners know, for example, that contractionary economic policies generate unemployment. In turn, this unemployment will reduce incomes and output and enlarge federal budget deficits as tax receipts fall and outlays rise for jobless benefits. They also know that unemployment creates stressful situations for laid-off workers and their families as well. And stress has long been recognized as a major contributor to a variety of physical and mental illnesses. Yet, no systematic evaluation of this straightforward relationship—the link between job loss and stress-related illness—has occurred covering a long period of time or the entire country. Similarly, no evaluation has been made of the long-term links between unemployment, income or price changes, and social indices of criminal aggression such as homicides and imprisonment.

An extensive body of literature does exist covering the relationship over short periods between various economic variables and one or two stress indicators. Failure to mount more comprehensive evaluations, however, in part reflects the relatively sanguine performance of our postwar economy. Until 1971 unemployment had exceeded 5.7 percent only twice since the 1940s and inflation exceeded 5.8 percent only once between the 1940s and 1969. A more important factor is the significant data collection and management problems. Many social indicators, for example, are discontinuous series frequently revised and subject to severe credibility questions.

Data availability, in fact, limited the scope of this study to seven indicators of social stress, and to the postdepression period through the early 1970s. These seven indices are: total mortality, homicide, suicide, cardiovascular-renal disease mortality, cirrhosis of the liver mortality, total state imprisonment, and state mental hospital admissions. Each of these indicators of social stress was evaluated to determine its sensitivity to changes in real income, to changes in rates of inflation, and to changes in rates of unemployment.

The study revealed that all seven of these stress indicators are directly affected by changes in the three national economic variables. Changes in the unemployment rate have the most profound impact of the three variables, and are reported on here.

RISING UNEMPLOYMENT—THE IMPACT

Stress indicators

Table 1 summarizes the level of sensitivity to fluctuation in unemployment rates which each of the stress indicators was discovered to have. For example, a sustained one percent rise in unemployment will increase the suicide rate significantly over that year and the subsequent five years. The effect is cumulative. Furthermore, the increase in suicide is comparable to 4.1 percent of the suicides which occur in the fifth year following the sustained rise in unemployment. This conclusion is based on data over the 34-year period 1940 to 1973.

TABLE 1.—IMPACT OF A SUSTAINED 1-PERCENT RISE IN UNEMPLOYMENT

Social stress indicator	Data period	Percent increase in stress indicator
Suicide	1940–73	4.1
State mental hospital admissions	1940–71	3.4
Males		4.3
Females		2.3
State prison admissions	1935–73	4.0
Homicide	1940–73	5.7
Cirrhosis of the liver mortality	1940–73	1.9
Cardiovascular—renal disease mortality	1940–73	1.9
Total mortality	1940–74	1.9

Note: Percent increase in Stress Indicator is measured as a proportion of the total indicator incidence occurring in the 5th year following the 1-percent increase in unemployment.

That same one percent rise in unemployment was found to increase the number of state mental hospitalizations for males as well. That increase was comparable to 4.3 percent of all such admissions occurring in the fifth year following the rise in unemployment. The analogous rate for females was found to be 2.3 percent.

These figures reflect the cumulative impact over only a five-year lag period. As a result they understate the eventual total long-term impact of a one percent rise in unemployment. This understatement is particularly significant for cardiovascular-renal (CVR) and cirrhosis diseases which typically require many years even to be diagnosed. Additionaly, these figures understate the impact of unemployment, for they only include liver or CVR disease deaths—not persons treated for these diseases when they did not result in death.

The low relative size of changes in these stress indicators due to unemployment fluctuations is not surprising. A bewildering variety of factors influence the mental and physical state of contemporary society, many of which are far more influential than jobless status alone.

At the same time this study reveals that unemployment has a strikingly potent impact on society. Even a one percent increase in unemployment, for example, creates a legacy of stress, aggression and illness affecting society long into the future. In just the subsequent five years, this study reveals that it has a multiplier effect far exceeding the relative size of the unemployment rise.

THE HUMAN TOLL

The high elasticity between unemployment and indicators of stress has a more meaningful impact when translated to human terms. For example, a one percent rise in unemployment will increase stroke, heart, and kidney disease deaths. How many people will actually be affected? This and similar calculations for the other six evaluated stress indicators are presented in Table 2.

TABLE 2.—CUMULATIVE IMPACT OF 1.4-PERCENT RISE IN UNEMPLOYMENT DURING 1970

Social stress indicator	Stress incidence, 1975	Percent increase in stress indicator	Increase in stress incidence
Suicide	26,960	5.7	1,540
State mental hospital admissions	117,480	4.7	5,520
State prison admissions	136,875	5.6	7,660
Homicide	21,730	8.0	1,740
Cirrhosis of the liver mortality	32,080	2.7	870
Cardiovascular—renal disease mortality	979,180	2.7	26,440
Total mortality	1,910,000	2.7	51,570

Note: The figures given for stress incidence, 1975, for State mental hospital admissions and State prison admissions are 1972 data (age 65 and under) and 1974 data, respectively.

In 1970 unemployment rose 1.4 percent to reach 4.9 percent. This 1.4 percent increase has been sustained since that time. A one percent sustained rise in unemployment increases CVR disease deaths by a total comparable to 1.9 percent of all such deaths in the fifth year thereafter. The 1.4 percent rise in unemployment during 1970 increased total CVR disease deaths through 1975 by 2.7 percent (1.9 percent times 1.4). There were 979,180 CVR disease deaths in 1975. Therefore, 2.7 percent, or 26,440 CVR deaths, may be directly attributed to the rise in unemployment during 1970.

Table 2 shows, in fact, that the 1.4 percent rise in unemployment during 1970 is directly responsible for some 51,570 total deaths, including 1,740 additional homicides, 1,540 additional suicides, and for 5,520 additional state mental hospitalizations. These are not major portions of the total number of deaths, homicides, suicides, and mental hospitalizations which occurred during 1970 through 1975. But, unlike most other factors which contributed to these statistics, rising unemployment can be readily avoided.

It should be noted that the further increases in unemployment since 1970 are now having an additional impact on individuals and society—an impact which is not in any fashion included in statistics in Table 2. And this more recent rise in unemployment has been striking. From 1970 to 1976 almost 4 million additional men and women have been added to jobless rolls. This year the unemployment rate has stagnated at close to 8 percent. By the end of this decade our current unemployment will result in deaths and institutional admissions almost three times larger than presented in Table 2. We have yet to bear the full toll from our policy failures over the past five years.

The human tragedy of unemployment alone revealed by this study is shocking—shocking enough to demand a persistent priority effort by Washington policy planners to reduce unemployment and to keep it low as well. At the same time we can go further and attach specific monetary values to the human toll portrayed in Table 2.

THE COST IN DOLLARS

In instances of CVR disease, cirrhosis, suicide, homicide, and total mortality, appropriate dollar values include foregone incomes adjusted for age and sex characteristics. In effect, illness and deaths attributed to unemployment reduce our nation's resources—our ability to produce goods and services. One good measure of this loss is the foregone income of deceased or ill workers. Direct medical costs for unemployment-related care should be included as well,

In instances of state prison and mental hospital admissions, a similar accounting is possible. This includes both lost or foregone income due to incarceration or hospitalization, plus direct outlays for prison/patient maintenance.

The human impact of the 1.4 percent rise in unemployment during 1970 was presented in Table 2. Table 3 is based on that data but relies on cost data derived independently of this study. Dollar values are attached to the illness and institutional admissions which occurred from 1970 to 1975 as a result of the sustained 1970 increase in unemployment. For example, this sustained unemployment resulted in some 5,520 additional mental hospital first admissions over the period 1970 through 1975, as shown in Table 2. Combining both foregone income and direct hospitalization outlays, the aggregate cost of these additional admissions was $82 million in 1975 dollars. The lost or foregone income component of this cost, as well as this component of other income figures presented in Table 3, is discounted using present value calculations.

TABLE 3.—ECONOMIC LOSS RESULTING FROM SUSTAINED 1.4-PERCENT RISE IN UNEMPLOYMENT DURING 1970

Social stress indicator	Classification of economic cost	Loss sustained from 1970–75 (millions)
Suicide	Suicide	$63
State mental hospital admission.	Hospitalization for mental illness in State and county mental hospitals.	82
State prison admission.	Imprisonment in State institutions.	210
Homicide	Homicide	434
Cirrhosis of the lever		
Cardiovascular—renal disease mortality.	Diseases of the circulatory system.	1,375
Total mortality	Total illness	6,612

Note: Dashes indicate costs are not available.

The 1.4 percent rise in unemployment during 1970 has cost our society nearly $7 billion in lost income due to illness and mortality, and in added state prison and mental hospital outlays. To this must be added public outlays of some $2.8 billion annually over the 1970 to 1975 period for jobless and welfare payments associated with the sustained 1.4 percent rise in unemployment. Additional outlays not included here are the costs of care in federal institutions. Even excluding the latter outlays, the cost of the sustained 1.4 percent rise in unemployment during 1970 is at least $21 billion. And as noted earlier, this entirely excludes the impact of further increases in unemployment since 1970.

These dollars represent resources lost or diverted from productive use. They represent wealth never to be realized, lost forever to our economy and society. They, in part, measure the human tragedy of unemployment. But most significantly, their loss could have been avoided.

WOMEN'S AMERICAN ORGANIZATION FOR REHABILITATION THROUGH TRAINING CELEBRATES 50TH YEAR

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. JOHN L. BURTON. Mr. Speaker, this year the "Women's American Organization for Rehabilitation Through Training" celebrates its 50th year of service in the area of vocational education. The San Francisco-Marin regional chapter and some 1,000 other chapters across the United States are affiliated with the global Organization for Rehabilitation through Training (ORT), the world's largest nongovernmental vocational training network for world Jewry.

Together, these groups have helped to train more than a million people with modern skills which give these individuals their independence, security, and human dignity. Currently, ORT operates some 800 vocational installations in 30 countries on 5 continents and more than 70,000 students are enrolled in these programs annually.

Those of us who are concerned with providing quality education to more people cannot overlook the outstanding contributions of the Women's American ORT since its inception in 1927. This organization has succeeded in providing inspiration to disadvantaged and middle class Jewish youth all over the world. Through them, many young people have been able to overcome despair and attain dignity and respect while launching a promising career. For the graduates of these ORT programs, doors once closed are now open and the motto of the ORT, "To bring life to education—and education to life" has real significance.

What the Women's American ORT has done to enhance the image of vocational schooling and to improve the quality of life for so many people should serve as an international model.

I would like to call the attention of my colleagues to the many achievements of Women's American ORT and to ask that they join me in congratulating this group on their 50th anniversary.

HUMAN RIGHTS IN SOUTH KOREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. FRASER. Mr. Speaker, human rights continue to be systematically violated in South Korea today, a fact that receives very little attention in the day-to-day news coverage of United States-Republic of Korea relations. But there is a hardy group of Americans who do not ignore this very basic fact of Korean political life.

Mr. William J. Butler, a prominent New York attorney and chairman of the international executive committee of the International Commission of Jurists, is one of those who continues to focus public attention on the repressive character of the Park Chung Hee regime. On December 9, he delivered the second anniversary lecture to a meeting of the North American Coalition for Human Rights in Korea.

Entitled "Human Rights in South Korea, Some Suggested Initiatives for 1978," it is a powerful statement concerning South Korea today and U.S. relations with that oppressed land. I insert this address at this point in this issue of the CONGRESSIONAL RECORD:

HUMAN RIGHTS IN KOREA—SOME SUGGESTED INITIATIVES FOR 1978

It is a real pleasure and, indeed, an honor for me to be here this evening so that I can give you, in a relatively few moments, some impressions which we, in the non-governmental community, are developing in the hope of contributing to the eradication of Human Rights violations in Korea.

If you permit me a personal remark—just today I received two Christmas cards, one from Kim Dae Jun and one from my good friend Tae Lee Yung with grateful notes to all of us for our share in helping to keep democracy alive within their country. It is most touching to me that, in spite of their many adversities, they took the time to remember their friends in such a warm and appreciative way.

As most of you know, I became interested in Korean affairs early in 1974 because of the arrest and incarceration of a large number of Korean citizens pursuant to emergency decrees Nos. 1, 2, and 4. I remember, at the time, being shocked by the fact that one of these decrees provided for the death sentence to any student who missed his classes at the University. At that time, I estimated that the Korean government had imprisoned approximately 1,100 citizens against whom many were administered indescribable methods of torture during their detention.

But, perhaps as important to me as a lawyer was the discovery by me of the terms and provisions of the Yushin Constitution.

In all of the years of my experiences with other nations, I had no doubt that this Constitution was one of the most authoritarian instruments presently known in the annals of national constitutions, including the constitutions of communist nations.

Here are some of its main points:

1. The President is elected by a National Conference for Unification consisting of 2,000 persons who are theoretically elected by the people but who cannot be members of any political party. The striking fact is that President Park is also Chairman of the Conference and its affairs are under his direct control.

2. The Prime Minister and Members of the State Council are appointed by the President and can be removed by him at will. The heads of all ministries are under the direct control of the President.

3. The National Assembly, although elected by both universal suffrage and by the National Conference, meets only once a year for a period not to exceed 90 days and then only to deliberate and decide such matters as the budget and monuments to public officials. One third of the National Assembly is elected by the National Conference on the recommendations of the President.

4. The Judicial System requires that when the constitutionality of a law is involved, the court must submit this question to a "Constitutional Committee" and be guided by its decision. This committee, of course, is appointed by the President.

5. All elections are controlled by an "Election Committee" again appointed by the President. In addition, the President has supreme powers (i) Article 29 gives him the power to dissolve the national assembly (ii) Article 40 gives him the power to appoint one-third of the legislature, and (iii) by Article 53, the most important to many of us, he may at any time suspend the freedom and liberty of the people.

I said, at the time, and I say it again tonight, that the Yushin Constitution makes a sham of democracy, it perverts the democratic process and is an outright insult to freedom-loving Koreans.

Although the emergency decrees of 1974 Nos. 1, 2, and 4 were lifted after our intervention on behalf of Amnesty International in 1974, a recurrence of this repressive type of legislation has again occurred through the issuance of Emergency Decree No. 9.

As you all know, this Decree prohibits, with criminal penalties, advocacy of any type of reform including the revision of the Yushin Constitution; it even prohibits criticism of the emergency regulation itself and provides for long deprivation of freedom and loss of political and civil rights to any Korean who dares to criticize the government.

In March of 1975, President Park arranged for the amendment of the Criminal Code (Article 102, Section 2) which also provides for criminal penalties for misrepresenting or defaming the Constitution and, if that was not enough, there is also provided criminal penalties for those Koreans who dared to speak out while in a foreign country in any way which brings disrespect upon the government while they are abroad. The object of these laws is inescapably clear, and that is to permanently perpetuate the power of the President by silencing the opposition.

I need not describe to all of you, who have done so much to defend the human dignity of the individual Korean, of the brutalities of the Park government; its illegal arrests; its unreasonable and prolonged

periods of detention of political prisoners; its kidnapping of Kim Dae Jung, its bribery of American legislators and other officials; its extortion of huge amounts of money from the Gulf Oil Corporation and other companies; its suppression of freedom of speech; its silencing of the academic community; its attacks on ecclesiastical authorities; its perversion of the courts and of the democratic process; to all of which so many of you have already given testimony.

Why then do we Americans, a nation with a history of attachment to Christian humanitarian values, continue to support such a brutal, fascistic, dictatorial and immoral regime?

And I ask you all, how do we overcome the tragic inconsistency between our upholding these values and the support of a regime guilty of mysterious deaths, barbaric incidents of torture and the continued suspension of the will of the Korean people?

As you know my dear friends, we hear many different answers to this question among which concern our relations with Japan, the maintenance of the Pacific line of defense from Korea to Australia and the advantage of Korea as a trading partner. But perhaps the most often heard justification comes from that chorus of replies to the effect that we must protect the National Security of Korea from communist expansion from the North.

And, secondarily, we often hear references to the "Korean economic miracle", the need for a strong and authoritarian government to raise the social and economic level of the ordinary Korean.

Ladies and gentlemen, I am convinced that until we can solve the so-called North and South problem and dispose of the underlying issue involved, namely, National Security, it will be difficult, if not impossible, to solve the Human Rights problems in Korea.

I said in 1974:

"In fact, subsequent to 1969, there appears to have been a change of policy in North Korea away from armed intervention. They seem to have given up on the question of internal revolt. The decision was made, although gradually, to engage in more direct contact via plans for unification and the opening of a dialogue with South Korea on this issue. Initially, in 1971, meetings were held through the auspices of the Red Cross, and on July 4, 1972, both North and South agreed on the peaceful unification of Korea. Simultaneously, the North Koreans stepped up diplomatic activity abroad and, in fact, many of the ideas on unification have originated in North Korea rather than South Korea. It is, therefore, the conclusion of this report that internal and external threats to the security of the State are not sufficient to justify the Park regime. Indeed, it is suggested that these repressions have as their immediate goal the satisfaction of Park's ever-present desire for total autocratic and totalitarian power over his people."

I repeat that statement here tonight and, indeed, feel that this argument is even stronger today.

To my mind there is no question about the relative strength of the two Koreas. The South, both militarily and economically, is much more the stronger of the two.

Let us compare some military statistics developed by Don Renard and the Center for International Policy.

Comparison of armed forces

	North Korea	South Korea
Population	17,294,000	35,538,000
Total Armed forces	512,000	635,000
Total arms imports	$1,000,000,000	$3,000,000,000
Military budget in 1977	$1,050,000,000	$1,900,000,000
Army	440,000	560,000
Reserves	250,000	1,000,000
Paramilitary/ military	1,800,000	2,700,000

Let us now compare some economic statistics. The striking differences in the gross national products are reflected in the following figures:

[*In billions*]

Year	North Korea	South Korea
1971	4.9	10.2
1972	5.3	11.3
1973	5.7	14.0
1974	6.5	16.7
1975	7.0	19.6

The overall percentage increase, therefore, between 1971 and 1975 amounts to 43 percent for North Korea and 92 percent for South Korea.

The gross national product/per capita in 1975 was $388 for North Korea, with a population of 17.3 million and $495 for South Korea with a population of 35.6 million.

There are other indications of relative strength. North Korea is defaulting on its foreign loans to Japan and Western European countries. Recently, it declared a moratorium on loan payments because of acute shortages of foreign exchange and insufficient aid receipts. Incidentally, the former indicates that the North has not been receiving sufficient aid from its friends and allies, who evidently have reduced their aid and grants to the North.

In the South, however, no such situation exists. On the contrary, over the last three years, the South has received 4.3 billion dollars from the United States and other multilateral sources with the resulting strengthening of its economy.

It is reasonable to assume that these trends will continue. The United States plans, as it retires its military personnel from the peninsula, to replace these troops with huge military credits and grants.

As our dialogue develops with the Peoples Republic of China we will further dilute the ability of the North to wage war since the North Korea military establishment necessarily must depend on Chinese and/or Russian support should it extend its line of military operations.

This same effect will occur as we, hopefully, develop the relationship of "detente" with the Soviet Union with new trade and disarmament agreements.

I believe it can be argued, therefore, that there is no real likelihood of war; that the North is not a real military threat to the South, nor is it an economic threat to the survival of the South. It becomes more and more obvious to me, as indeed it did in 1974, that the entire security problem has been used by the South in order to perpetuate the personal power of President Park and his associates in the military and elsewhere. To those who say that Korea needs an authoritarian regime to develop its economy and/or to sustain its "miraculous economic growth", I say that one should take a close look at the economic rights of the average worker in Korea who is paid one of the lowest level wages in the world. One-fourth to one-fifth of the comparable wages in Japan and one-fifteenth to one-twentieth of the American worker. One should look at the Park record of the suppression of labor unions and at its exploitation of young female workers which are required to work as much as 16 hours a day. The price paid for the "miracle" is the exploiting of the ordinary Korean worker by maintaining low wages and long working hours.

And so my friends, I would recommend that we in the United States consider taking some of the following measures:

1. Develop new initiatives to reopen a North-South dialogue by direct contact with the North Koreans. I have in mind the beginning of a rapprochement similar to the ones we are now developing with Cuba and Vietnam. Perhaps, some of our legislators should begin to visit North Korea like many are visiting Cuba and Vietnam.

2. Perhaps our business community should open preliminary trade discussions similar to those being held with the Soviet Union and China.

3. Perhaps non-government groups such as the ICJ should begin to have exchanges with their legal counterparts in North Korea.

4. Perhaps we should invite North Koreans to visit with us here in the United States and to visit our farms and our factories. Perhaps in this way we can begin to break down the main obstacle to the protection of Human Rights in Korea, the so-called "threat from the North".

These are the main thoughts I would like to leave with you this evening.

In closing I would like to end in a sense, where I began, and that is with a personal gesture of faith in the courage and resoluteness of the Korean people. It is best summed up in the words of one of its most outspoken leaders, that great and undaunted Korean patriot, Kim Dae Jung, when he said:

"I believe in my freedom-loving people who long ago learned to endure suppression and adversity, who will eventually go forward and restore democratic freedom. Only when democratic forces in Asia take deep root and grow will the sacrifice of 34,000 young Americans in Korea and 45,000 in Vietnam prove to have been worth their heavy cost."

I remember his last words to me when I left him on Saturday, July 7, 1974, "Mr. Butler, I have faith in my people and in my God. For me, there are only two ways—survival or death."

HEW'S ANTISMOKING DRIVE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. WAXMAN. Mr. Speaker, January 11, 1978, on the 14th anniversary of the first report by the Surgeon General linking smoking to lung cancer, HEW Secretary Califano announced a stepped up Government campaign against cigarette smoking.

Most of the HEW initiative will be directed at increasing public awareness of the hazards of smoking. Too few Americans realize that:

Last year, smoking led to 220,000 deaths from heart disease; 78,000 lung cancer deaths, and 22,000 deaths from other cancers, including cancer of the mouth, esophagus, pancreas, kidney, and bladder;

Forty percent of all cancer in males is caused by smoking;

Eighty-five percent of deaths from bronchitis, emphysema, and other lung disease are preventable; and

Smoking by pregnant mothers can do serious harm to their unborn children who may be stillborn or developmentally harmed by smoking.

And of course, behind all these numerical statistics is the heartbreak which cannot be calculated of a family watching with grief and sadness a loved one die from a preventable case of cancer.

I feel that Secretary Califano has taken on a major public health problem, and this is an important HEW initiative

on which all Members of Congress should inform themselves. But I would emphasize that it is only a first step. If we earnestly want to discourage our young people from starting to smoke, and if we want to encourage smokers to quit, continuing Federal subsidies for tobacco does not seem sensible.

The plan Mr. Califano announced will expend only $23 million dollars a year. This is barely a third of what the Federal Government spends annually to subsidize tobacco, and it is eclipsed by what the cigarette manufacturers spend on advertising their product.

There are those who say that smoking is purely a private matter in which the Federal Government has no legitimate interest. However, it must be recalled that nonsmokers have rights too. In the final analysis the decision to engage in a self-destructive habit is a decision the individual will make. Government prohibition is not the answer, but providing separate areas for smokers and nonsmokers to protect the rights of both is legitimate and should be encouraged.

Smoking is a legitimate Government concern when health costs of treating cancer caused by cigarettes reaches $5 billion a year, and at least $12 billion is wasted in lost productivity and wages.

As a member of the House Subcommittee on Health and the Environment, I am proud that "The National Consumer Health Information and Health Promotion Act of 1976," which was sponsored by our Chairman PAUL G. ROGERS, provided much of the authority for Mr. Califano's antismoking initiative. If the Federal Government seeks the cure for cancer it must also relentlessly pursue the causes of cancer. I close my remarks by reprinting in the RECORD the text of Secretary Califano's announcement of the HEW antismoking campaign.

ADDRESS BY JOSEPH A. CALIFANO, JR.

I want to thank you, Dr. Terry—for your remarks, and for the leadership you have given, over the years, to the public health effort that brings us here today. It gives me great pleasure to accept the chairmanship of National Education Week on Smoking.

Two and one-half years ago my son Joe, who was then 11 years old, told me that the best birthday present I could give him would be to stop smoking.

I set about then to give up cigarettes. And the best present I could give Joe turned out to be one of the hardest things I have ever tried to do.

Eventually I quit, on October 21, 1975.

Two and one-half years ago, I acted as a father and an individual.

One year ago, I became secretary of the cabinet department responsible for the health of this nation.

It is in that capacity I speak today. I speak as a Secretary who has been studying the scientific evidence of smoking and health for the past year.

I do not bring to this podium the zeal of an ex-smoker who wants to convert the world.

From my public work in the past year, I do bring the frightening knowledge that cigarette smoking is Public Health Enemy Number One in the United States. From my private experience, I bring the knowledge that to stop smoking can be the most difficult thing a human being can do.

From my personal philosophy, I bring a profound and unyielding belief in freedom, free will and free choice. I treasure the nation which provides this to 218 million citizens.

But I recognize that a choice can be free only if it is informed, that a decision can be genuinely voluntary only if it is based on all the information.

As the chief public health officials of this government, the Surgeon General and I are determined to fulfill our responsibility to provide information to permit American citizens to make a genuinely free choice about smoking and their own health. That is one of the central objectives of the program we propose today.

Fourteen years ago today, Dr. Terry and his colleagues issued the Surgeon General's Report on Smoking and Health. Since 1950, evidence had been accumulating that a wide range of serious diseases was linked to cigarette smoking. The Surgeon General's Report confirmed that evidence beyond a reasonable scientific doubt.

The 1964 report established the causal link between cigarette smoking and lung cancer. It suggested the strong connection between smoking and heart disease. And it connected smoking with other serious, even fatal, health problems such as chronic bronchitis and emphysema. Since then, the evidence linking these killers to smoking has become overwhelming.

The Surgeon General's Report has been the basis for a wide range of efforts to reduce the ravages of smoking on the Nation's health. In the fourteen years since the report was published, we have made real progress.

Smokers in America have become a declining minority. In 1964, more than half the men in America were smokers; today only 39 percent smoke. There are today 14 million more ex-smokers in America than there were in 1964.

Twenty-eight states have passed laws restricting smoking in public places and in health facilities.

The commercial airlines, and many stores, restaurants and public buildings, limit smoking.

Many smokers, concerned about the dangers of smoking, have switched to lower-tar and lower-nicotine brands.

Across the nation, public interest groups have organized to discourage smoking—and to assert the right of nonsmokers to celan air in offices and public places.

Since 1966, every package of cigarettes has carried a warning about the health dangers of smoking; since 1971, broadcast cigarette advertising has been banned.

Finally, the etiquette of smoking has changed, slowly but perceptibly. Once the smoker asked. "Would you like a cigarette?" Today the question is, "Do you mind if I smoke?" And more and more non-smokers are finding the courage to answer with a polite but emphatic, "Yes, I do mind."

Clearly, a great deal has been accomplished in these past fourteen years. And many of those accomplishments are the work of organizations like those represented here today: the American Cancer Society, the American Heart Association, the American Lung Association, and many others.

But clearly, much remains to be done. For, in spite of all the encouragement we have given them not to smoke, the people of the United States are still among the world's heaviest smokers. In 1976, they bought 626 billion cigarettes.

One of the most alarming developments since 1964 has been the dramatic increase in smoking by young women between 13 and 19—the percentage of teenage girls who smoke has almost doubled. The difference in smoking rates between teenage boys and girls has disappeared; girls are now as likely as boys to smoke.

And the pre-teen situation is even more frightening. In a major urban area on the west coast, 1 out of 20 children is smoking by age 11. Just one year older, at age 12, this figure skyrockets to 1 out of 5.

Each year, several hundred million dollars in cigarette advertising—and the powerful habituating effect of cigarette smoking—are a potent combination. They add up to some shocking facts about disease and death in America:

Last year, smoking was a major factor in 220,000 deaths from heart disease; 78,000 lung cancer deaths; and 22,000 deaths from other cancers, including cancer of the mouth, cancer of the esophagus, cancer of the pancreas, cancer of the kidney and cancer of the bladder.

40 percent of all cancer in males is caused by smoking.

85 percent of deaths from bronchitis, emphysema and other lung disease would not happen—if people would stop smoking.

Most tragically, we now know that unborn children whose mothers smoke during pregnancy may be stillborn or developmentally deficient because of their mothers' heavy smoking.

These facts mean that people who smoke are committing slow-motion suicide. The cost in grief and sadness for the families of the victims is beyond calculation. And the economic cost is almost beyond belief: each year, according to estimates, smoking adds between $5 and $7 billion to health-care costs; the cost of lost productivity, wages and absenteeism by smoking is $12 to $18 billion. absenteeism caused by smoking is $12 to $18 billion.

Research since the 1964 Surgeon General's Report has proven that smoking is even more dangerous than we originally believed; it accounts for even more diseases and disorders than we realized fourteen years ago:

Women who take birth control pills, for example—particularly women aged 30 and over—are up to 50 times more likely to have heart attacks if they smoke.

Recent experiments have shown that babies absorb nicotine before birth, with clear effects on their respiration and other vital signs.

There is evidence that certain industrial workers who smoke, particularly asbestos and cement workers, run dramatically greater risks of cancer and other lung disease because smoking interacts with other dangerous substances.

So the evidence of fourteen years: fourteen years of intensive biomedical research; fourteen years of expensive effort by the most skilled physicians and experts in epidemiology is clear; it cannot be ignored. Smoking ruins health. Smoking kills.

Virtually all physicians accept this evidence; in no professional group has the decline in smoking been greater. And virtually all the public accepts this evidence. I know of no parents who want their children to smoke.

In fact, most smokers accept this evidence: 80 percent agree that smoking is harmful; a majority of current smokers have tried at some time to quit, but they have failed—often, because they are addicted.

Those who ignore these facts are indulging in the most dangerous kind of wishful thinking: they are, quite literally, whistling past the cemetery in their search for a way to rationalize a habit that can become a dangerous dependency.

The few—mostly in the cigarette industry—who attempt to refute this overwhelming consensus of the experts are a self-interested minority. Their attempts to deny the overwhelming medical evidence about smoking and health are, in essence, an attack upon science.

The fact that Americans are still among the world's heaviest smokers; the fact that disease and death associated with smoking are so widespread and costly; the fact that new evidence implicates smoking in other serious diseases—all these facts point to one

overwhelming conclusion. We must do more, if we are serious about preventive health in America, to end this waste of life.

I am today announcing a vigorous new program on smoking and health: a program of public education, regulation, and reenergetic efforts, and a renewed commitment from the government department that is charged with protecting the nation's health.

EDUCATION

The first and most important element of this new program on smoking and health will be a major public information and education effort against smoking.

Even the most comprehensive research; even the most convincing body of fact, is useless if not communicated effectively. And, in the last fourteen years, vigorous public information efforts have done the most to encourage people in America to stop smoking—or not to start.

We intend, with the cooperation of dozens of voluntary health agencies and other groups across America, to step up existing efforts to inform and educate—and to launch some major new initiatives.

From 1967 to 1971, broadcast announcements about smoking and health encouraged millions of citizens to quit smoking. But in 1971, cigarette advertising was banned from radio and television, and the number of antismoking announcements decreased sharply. Broadcasters were no longer legally bound, under the fairness doctrine of the Federal Communication Commission, to air them.

We strongly believe that the danger of smoking to the public health justifies an increase in the number of broadcast messages on smoking and health.

I am therefore writing to the heads of the major broadcast networks, and to the National Association of Broadcasters, asking that they consider, in the interest of public health, increasing the number of antismoking announcements they broadcast.

The Department of Health, Education, and Welfare, in cooperation with the Federal Trade Commission, will petition the Federal Communications Commission to review its policies on public service announcements, so that more such annoucements will be aired throughout the entire broadcast day.

Beyond this, we are taking a number of other informational and educational steps. Because smoking is a habit that leads to dependence, the only sure way to stop smoking is not to start. We will, therefore, concentrate many of our efforts on prevention among young people of school age.

At a meeting this afternoon, I will urge the Chief School Officers of the fifty states to develop comprehensive health-education programs dealing with the dangers of smoking in every school system in the country.

I have made the same request in a letter to each one of the Nation's 16,000 school superintendents, and have pledged cooperation and support from HEW and the U.S. Office of Education.

The National Institute of Education and the National Institute of Child Health and Human Development will mount the most penetrating program of research ever undertaken to learn what motivates children and teenagers to smoke or not to smoke.

The Public Health Service and the Office of Education will develop a broad public education and awareness program involving the full range of communications media to motivate teenagers—and pre-teens—not to smoke. As part of this public information program, we will develop and disseminate new materials and techniques to help people quit smoking.

Finally, we will target special information and education efforts at specific high-risk groups: pregnant women, industrial workers in especially dangerous occupational settings, and persons who have health problems that are likely to be worsened by smoking.

An example, which I am announcing today, concerns the increased risks of smoking for women who use birth-control pills. The Food and Drug Administration is broadly revising its labeling requirements for such pills. Part of that revision will be a prominent warning that cigarette smoking increases the risk of serious adverse effects on the heart and blood vessels, especially in users who are over 35. Every woman who takes the pill will receive a pamphlet explaining its benefits and risks—including a prominent warning which says, "Women who use birth-control pills should not smoke."

I am also asking the Commissioner of Food and Drugs systematically to investigate the interaction of smoking with other therapeutic drugs, so that users who smoke can be made aware of the special dangers they face. Whenever smoking increases the risk to the individual taking the drug, that fact will be prominently labeled.

REGULATION

A second major element of our program is to encourage more vigorous enforcement efforts against smoking—and to protect the rights of the non-smoking majority in public places.

We begin in our own HEW house. We have drafted a new Policy on Smoking in HEW-occupied buildings: as of this morning, it became the official HEW policy. This new policy bans smoking in conference rooms, classrooms, auditoriums, elevators and shuttle vehicles. Within practical limits, the work areas of smokers and non-smokers will be separate and physically distinct. In recognition of the rights of individuals who wish to continue to smoke, smoking areas will be established. But the general rule will be "No Smoking—except in smoking areas."

Most importantly, it will be the policy of the Department that smoking in shared work areas will be prohibited at the request of non-smokers whose health is affected. It is appropriate that this department should have the strongest smoking policy in government—one that is appropriate for the chief health agency of government.

I am sending a copy of these new HEW guidelines to the chief executives of each of the Nation's 500 largest corporations, in the hope that they will follow this example.

Jay Solomon, Administrator of the General Services Administration, has agreed to set up a joint HEW–GSA Working Group with a view toward strengthening GSA's anti-smoking guidelines for the more than 10,000 buildings it manages for the government. Our aim is not only to protect the health and well-being of Federal employees, but to set a standard for other employers across the Country.

I am today writing Chairman Alfred Kahn of the Civil Aeronautics Board expressing my strong support for the amendments it has proposed:

First, to ban all pipe and cigar smoking on commercial airlines, and

Second, to provide that airline employees shall enforce the rules separating smokers and non-smokers.

In addition, I am urging the CAB to consider favorably a proposal to ban all smoking on commercial aircraft.

Twenty-eight states have laws governing smoking in public places and certain facilities like hospitals and nursing homes. I am writing to the Governors and legislative leaders of states who do not have such legislation or whose legislation could be strengthened—urging that they enact strong new "clean indoor air" laws. We are including, with our letter, a model for such state legislation, based on the best of the existing state laws, such as Minnesota's and Alaska's.

I am directing the National Institute for Occupational Safety and Health to step up its efforts to develop standards for restricting smoking in certain hazardous settings—especially in such occupations as the asbestos industry, where smoking increases already-existing health hazards.

Chairman Michael Pertschuk of the Federal Trade Commission has agreed to join in the anti-smoking program. Together with the Federal Trade Commission, we will consider recommendations to:

Strengthen warnings on cigarette packages and in cigarette advertisements;

Include tar, nicotine and carbon monoxide levels on package levels and in advertising;

Include in advertisements warnings directed to special groups for whom the dangers of smoking are gravest;

Empower the Federal government to set maximum levels for hazardous substances such as tar, nicotine and carbon monoxide in cigarettes.

INCENTIVES

Third, we will explore ways of giving people more powerful incentives, financial and otherwise, to protect their health by not smoking.

Treasury Secretary Blumenthal and I are forming an inter-departmental task force to examine tax policies relating to cigarette use. The existing Federal excise tax on cigarettes has remained unchanged at eight cents since 1951. The question of whether tax policy can influence decisions about smoking deserves careful study in the interest of the public health. The task force will examine a range of possible measures including:

A general increase in the Federal excise tax on cigarettes;

A graduated tax according to nicotine, tar and carbon monoxide content, giving manufacturers incentives to market less-hazardous brands, and giving smokers incentives to change to less hazardous brands.

I am also asking major providers of health, fire, life and disability insurance to consider offering special premium discounts and other advantages to non-smokers—so that non-smokers will no longer have to bear so heavy a part of the enormous costs generated by smokers.

RESEARCH

The fourth element of the program will be greatly expanded and more comprehensive research into the subject of smoking and health.

Over the past generation, research in the epidemiology of smoking has been well-established and has shown beyond doubt the harmful and fatal effects of smoking. Our support for continued research of this type will continue—including research aimed at creating a less hazardous cigarette.

But several other major questions about smoking and health require more complete information:

What more, for example, can we learn about the effects of cigarette smoke on the health of non-smokers?

How can we identify individuals and types of smokers who are at greatest risk?

What factors lead people to decide to smoke?

What are the psychological, behavioral and other factors that lead to dependence upon tobacco?

What methods and techniques are most effective in helping people overcome their addiction to cigarettes?

These, then, are the broad outlines of the program. I believe it is strong, realistic, and comprehensive: that it can build on our efforts over the past 14 years on smoking and health.

To provide leadership for this new program and for future efforts, we are establishing a new Office on Smoking and Health. The head of the Office will report directly to the Assistant Secretary for Health—and during the early months of this program, will report directly to me as well.

Among other things, the new Office will:

Coordinate all HEW actions on smoking and health;

Provide "seed money" to government and voluntary agencies for research and demonstration programs;

Oversee the development of new media and information materials on smoking and health.

Much of the authority for the activities of this new Office comes from the landmark legislation, "The National Consumer Health Information and Health Promotion Act of 1976", which was sponsored by House Health Subcommittee Chairman Paul Rogers.

The National Clearinghouse for Smoking and Health, which for years has coordinated our efforts in this field, will become the nucleus of this new Office on Smoking and Health. In recent years, the Clearinghouse—the chief government action office on smoking and health—suffered serious cutbacks in budget. Today we are moving to reverse those cutbacks. With new status and visibility, and with a broad new mandate, the Office on Smoking and Health will oversee our greatly expanded public health efforts in the anti-smoking field.

This new Office will begin operations in FY 1978 with several million dollars of reprogrammed funds. In FY 1979, it will oversee a $23 million Departmental campaign on smoking and health. In the field of information and education alone, our budget will increase from less than $1 million last year to more than $6 million to be spent next year by the new Office on Smoking and Health.

Finally, I have asked the Surgeon General, in collaboration with the research community and the National Institute of Health, to prepare, for publication next year, a new Report of the Surgeon General. This new Report will become the major compendium of research on smoking and health over the past generation.

It will, first of all, give the public the best available answers to all the new questions about smoking and health I have outlined above.

In addition, it will bring together the massive collection of existing research data on smoking and health developed since the first Surgeon General's Report in 1964.

I have announced today many actions to deal with the dangers of smoking.

The major public health problems and the enormous costs created by smoking amply justify all these actions.

Clearly, the government has an obligation to proclaim in straightforward terms its commitment to fostering a healthy society. Doing this means providing a counterweight to the blandishments that are influencing thousands of young people to risk their health by smoking.

For it is a pernicious fact that tens of thousands of young people are being influenced to smoke, at grave risk to their health, by half a billion dollars' worth of advertising—advertising designed to convince them that smoking is glamorous, adult, and sexually attractive. I believe we have a responsibility, as a society, to give them reliable information on the other side: that smoking is unhealthy, dangerous, socially expensive and a leading cause of premature death.

Otherwise, hundreds of thousands of young people will start smoking without complete information on its risks.

So this Department will place the weight of its scientific authority behind programs to inform the public—especially the young—about why they should not smoke and how they can quit if they wish. As the chief health officer of government, I have a duty to see that we do just that. With your help, and with the help of other organizations dedicated to the public health, we are going to do just that.

Thank you.

REPORT FROM SOUTH AFRICA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

CAN SOUTH AFRICA HANDLE "ONE MAN, ONE VOTE" . . . ONCE?

Columnist Rowland Evans and Robert Novak wrote recently, "Ignorance of political realities is characteristic of colonial rule by overlords who do not live in the political unit they control."

It was summary to a column in which they pointed out how "judicial overlordship" by a Federal judge in Boston, enforcing his own school busing opinions, "has driven half the city's white students out of the school system."

Moreover, the absentee judge's program (he lives in suburban Wellesley) was a major reason costs per pupil annually had jumped to more than $3,000 while the education, itself, is "no better and likely worse than it was."

"What makes this remarkable," they said, "is that the school committee is no longer the bastion of bitter-end anti-busers. Its chairman, Kathleen Sullivan, provides moderate leadership that accepts the inevitability if not the wisdom of court-ordered busing." If that particular column reached as far as South Africa, it may have given residents there, black, brown and white, some small degree of bitterly pleasant reading.

They've got a mixed mass of ethnic-educational problems of their own on, for their size, a massive scale. But more basically, to many of them Evans-Novak could have been talking about the essentially flawed relationship between South Africa's government and that of President Jimmy Carter, Vice President Walter Mondale, U.S. United Nations Ambassador Andrew Young, Carter foreign policy advisor Zbigniew Brzezinski, et al.

MISPLACED GUILT

Dictates fulminating out of Washington, D.C., almost entirely by way of press conferences and public speeches, on what South Africa should do about something called "human rights" are not merely heavy handed and coldly impersonal. They are, to a great many southern Africans, simple-minded solutions for an awesomely complex set of anomalies; insensitive, counter productive and rooted in "ignorance, inordinately large U.S. black-voter pressure; and a liberal Southerner's guilty conscience about his own black backyard."

Sums up a political science professor at the Afrikaans University in Stellenbosch near Cape Town, "Afrikaners were the victims of colonialism from the 18th century up to about the middle of this one. In the 1960's, we were busy shedding colonialism and broadening our perspective. Suddenly, a new form of colonialism is closing in on us."

What he fears, as do many other South Africans, regardless of racial origin, is that the allegedly "stubborn" Dutch-derived Afrikaner will do the same thing to combat this new form of colonialism that he did to fight the old one: close ranks, dig in his heels and build a tightly knit, closed society. If that happens, the Carter Administration will be able to claim credit for having aided and abetted, if not indeed led, the United Nations into polarizing in South Africa the very racism Carter insists must end.

Former Under Secretary of State George Ball argued recently that "it is dangerous for the Carter Administration to try to pressure South Africa to adopt a policy of, 'One man, one vote.' " Answered Secretary of State Cyrus Vance:

"We have said to South Africa that we feel they must deal with the problems of discrimination and ultimately the problems of permitting all of the South African people to participate fully in the political processes of the country.

"We have indicated to them that we have no specific timetable or blueprint as to how this is to be done. We have said that this is up to them to determine. But we have indicated to them that progress or lack of progress cannot but have an effect on the relations between our two countries."

To Afrikaners that confesses a woeful ignorance about what has been done already, especially over the past five years, to end racial discrimination. And well-reasoned though Vance's words may sound, South Africa thinks it *has* been handed a "specific timetable" and "blueprint"—of sorts.

BIG BROTHERISM

Pronouncements by Young at the United Nations and elsewhere, by Carter, by the Congressional Black Caucus, demanding mail campaigns to U.S. industry by such as the United Church of Christ, threats of economic and otherwise sanctions fulminating out of State Department staffs and elsewhere all add up, for South Africa to telling them the timetable is, "Right now!"

And the blueprint was handed down, again through a press interview, by Mondale in Vienna right after he'd had a meeting with South African Prime Minister John Vorster (Pronounced Foster.) The formula: one man, one vote. For the majority of South Africa's leadership, black and white, in their land that likely would translate: "One Man, One Vote—Once!"

That points up one of the basic fallacies in the Carter Administration assuming, apparently that race-relation agonies are no different, essentially, in South Africa than they have been, and are, in the U.S.

Fact is, South Africa is not a homogenous nation of some 4.5 million whites and about 21 million blacks. In a socio-political sense, the closest South Africa comes to the "negro problem" (as some called it) in America 20 years ago is with the some 750,000 South Africans of Asiatic origin and the approximately 2.5–3 million so-called "Coloureds" of mixed black-white, or black-black blood.

And even there, as they, themselves, readily point out, if the walls of apartheid ("separateness") suddenly came crashing down too fast, they would be, at best, no better off; and more likely snared for several more generations in a relatively under-educated, impovershed life style. (Consistently unnoted among American jurnalists and uncredited among "human rights" politicians is that of the 300-odd South African laws that cover apartheid, many of those that deal with education and economics protect non-whites from unfair white competition and dominance—and, by and large, through taxes, the whites pay the cost of the programs.)

That is hardly the only fact glossed over by "human rights" critics who glibly presume the ethnic and economic environment in South Africa for the races is virtually identical to that in the U.S. Though volumes could be, and have been, written about the physical and psychological complexities that preclude "One Man, One Vote"—at least "Right Now!"—among some of the few that begin to show the real landscape 12,000 miles away from Washington:

The Republic of South Africa has a surface area of some 472,000 square miles, roughly the equivalent of West Germany, France, Italy, the Netherlands, Belgium and Switzerland combined. About one-third of that is the Kalahari desert and surrounding wastelands which would take an immense investment to convert to arable soil.

The country's annual Gross Domestic Product (GDP) is approximately $35 billion; shows currently a real annual growth of some 2–3%. Three years into its longest recession since right after the Korean War, South Africa was beginning to show signs of pulling out—until the U.S.-imposed, vague program rattled potential economic and financial investors, both foreign and domestic, with uncertainty. Annual government expenditure, if they live within their budget, represents about one-third of that GDP.

Though the single government has gone lately to indirect taxes (sales tax, etc.) to raise revenues, direct taxes are still a mainstay of income. And out of nearly 26 million people in the land (not counting a variously estimated "300,000" and/or "40,000 on any given day" illegal aliens), only about one million have enough income to pay taxes, and 10% of the white taxpayers contribute some 70% to the total take.

At the end of 1976, pre-tax income of the average white person was $550 per month; of the "Asiatics" $240 per month; of the "Coloureds" $190 per month; of the blacks or "Banus" $128 per month.

Out of the $550, the cost of house payments, maintenance, transportation and taxes leaves a discretionary income for food, clothing, etc., of about $200 per month. Black housing, government built and subsidized, costs them about $15–$20 per month, a government-financed bus complex furnishes them free transportation.

Thus, said one mining executive, "There may be a black-white wage gap, but it won't take a hell of a lot to narrow it." And last year, under recession pressure, overall income of whites went down 4 percent while that of non-whites jumped 11 percent.

While inflation is running some 10–11 percent, an even more scary problem for South Africa's leadership is the birthrate among the blacks. "It is out of sight," said one economist and translates, at present rates into the black population more than doubling by the year 2000.

"Every hour of the day," notes one South African industrialist, "89 blacks are born in this country as against 8–9 whites and 10–12 coloureds and Indians. And its been going on for a long time."

It is rooted in black tribal nation customs. For one thing, the number of children a man has, especially female children, is a measure of his wealth. Reason is the "labola" or dowry the father must receive from the bridegroom when he marries off a daughter. The whole thing is aided by the government, in effect, "because a large part of the white population still believes we must go along; not break down tribal customs."

The aid comes in the form of medical subsidy. A white baby delivery costs the family about $500. For a black, whether the medical problem is a sore tooth, open-heart surgery or having a baby (including pre- and post-natal care), they are charged a flat rate: approximately $12.

TOO MUCH GROWTH

The government has launched a multiracial family planning program which, they say, female blacks "are in full sympathy with; but the men are the resistors." One reason: a man in the homelands (see below) doesn't want to leave home "unless his wife is pregnant. That way she can't be unfaithful while he's gone" hunting a job in the white man's cities. "If she gets sterilized," one doctor in SOWETO (Afrikans for South West Township, outside Johannesburg) told *Govermnment Executive*, "and he finds out, it's a cause for murder in the house."

But the upshot of almost uncontrolled breeding is already a problem which at present South African economic growth may be insurmountable in a few years. Already, whites are putting up an average 1.7 new schools a day for blacks and will have to hit three a day at present population growth rates by the year 2000.

And to prevent unemployment growth (currently 10 percent of the population for blacks) will mean creating upwards of 300,000 new jobs every year. Current investment cost to do that: about $7–9,000 in labor intensive fields such as farming and about twice that much in mining and industry.

In short, the Republic of South Africa, classified as an "intermediate" nation in development by the World Bank, doesn't have endless resources for making a magic transformation in every citizen's life. Even among white Afrikaners, according to a writer-economist for *The Citizen* magazine, 'some 600,000 of them are below the 'breadline'."

The government has unearthed evidence that, at least among blacks in the urban areas, they have a better idea of what they most need than does the Carter Administration. In a recent survey blacks in white South Africa said that what they most wanted are (a) opportunity to own their own land and home where they live (and not necessarily in the homelands) (b) education so they can get an opportunity to hold down either a job and/or have a business of their own; (c) both upward mobility within a career and/or the freedom to move around, seeking new and better employment.

Only seven percent listed "the right to vote" in "white" South Africa as a priority item. (All blacks have the vote in their own homelands.) That could be, of course, a suggestion that they simply have no interest in voting "for a white man's government." But the suggestion remains that apparently blacks in South Africa have the same innate belief held by America's Founding Fathers, i.e. that political freedom has no substance without economic freedom.

Another over-looked point about South Africa. It is not a homogenous collection of "white" and "blacks." Currently, the 20 million blacks include some five million Zulus; 4.8 million Xhosa (pronounced Koza); 2 million Tswana; 800,000 Shangaan; 750,000 Indians and other Asians; 2.5–3 million "Coloureds" (a product of cross-breeding among Hottentots, black slaves, white sailors and farmers, indentured Asian workers, etc.); 600,000 Swazi; 500,000 Venda and about 600,000 "others." Many have a bitter distrust of each other, the result of murderous blood-feuds going back centuries.

The black tribal nations have their own distinct languages, and within those, tribal dialects; their own customs, traditions and social mores.

And the Afrikaner attitude toward them is rooted in his own history in the land.

For the first 130 years after Jan van Riebeeck established the first settlement near what is now Cape Town (for the Dutch East India Company to provide fresh food and a hospital for ships on their way to and from the Far East), farmer-settler expansion to the East and Northeast was a slow, gradual matter.

Some slave labor was imported, mainly from Madagascar, Mozambique and the East Indies, primarily to provide needed manpower for settlement construction. But the Boers (farmers) found no one else in this land except Stone Age Bushmen and a handful of Hottentots (whom anthropologists think descended from Egyptians and, in Africa, were subsequently decimated by the white man's smallpox.)

Not until 1779/80 did the Afrikaners first meet blacks in any numbers, at the Great Fish River, halfway across the country above what is now East London. They were Xhosa, one of the many tribal nations which, for centuries, had been migrating slowly south from the huge lake regions of central Africa; hunting new grazing lands for their cattle and fighting the other black nations for that land as they went.

The Dutch surrendered to a British expeditionary force in 1795 and in a European settlement of the war with Napoleon in 1814 the Cape was ceded to Britain. After Waterloo, in 1820, some 5,000 British settlers moved into what the Afrikaner still considered his eastern frontier along the Fish River.

Between 1780 and 1880, upwards of nine "wars" were fought between white and black cattle farmers and/or between blacks and British troops. In 1835, fed up with, mainly British colonial rule and attempts to "anglicize" them, the Boer frontier farmers, the Voortrekkers, crossed the Orange River and fanned out westward as far as the Kalahari and eastward to subtropical Natal (where pioneer British traders had built a port at what is now called Durban.)

During that Great Trek, one of the turning points of South African history, the Voortrekkers moved over and settled on virtually unpopulated land. What blacks had been there had been virtually wiped out or driven off by roaming, bloody war parties sent out by a despotic Zulu Chief Chaka. (In Zulu history, he is a great warrior, a hero.)

Point is, throughout their history, the Afrikaners have not occupied somebody else's land and "conquered the natives," as American settlers did in the U.S. and European colonists did elsewhere in Africa. If anything, they've shown an almost paternal attitude toward helping their black "neighbors."

In over-simplified terms: they founded and built their own lands according to their own traditions; they presume the black nations have the same inward desires.

Thus, the "Homelands" policy—which is as old as South Africa's independence from Britain. Theoretically, if the policy were pursued to its ultimate, about 1 million blacks (at current levels), including those presently living, mostly, in white urban areas, would settle on the traditional tribal lands where their forefathers had been when the Afrikaners first met them.

The plan has one modern wrinkle, however. The government is buying up and helping develop areas in and around those often splintered patches of real estate and handing them over to the black homelands as each achieves independence. The objective is two-fold: to help start in the homelands a viable economy; and to create governable geographic entities.

GENERATED DIFFERENCES

Nor is it a new idea created under political pressure. Afrikaners born and raised in the Transkei (an independent nation for just over a year now) have been told since childhood the land they lived on did not belong to them but to the Xhosa. This does not sit all that well today with the black national leaderships nor with blacks in the white urban communities.

And it doesn't sell at all in the so-called Indian and 'coloured' communities. Said one coloured leader in Cape Town, "A large proportion of coloured people and Indians do not accept the idea of, 'Run your own affairs.' We want to participate in the running of the *nation's* affairs." Said another, "In their own interests, the Government should integrate the coloureds—or they've lost us."

None of this is to say South Africa is a jewel of human dignity and fairness on a continent reeking with tyranny and murder. Much needs doing in the interests of not just social equality but economic survival for the whole nation and all its parts.

But, just as clearly, the opposite of productive answers is all that can come from people 12,000 miles away, trying to translate an American experience to a place where less than half the people can even handle English.

The British tried for a century to Anglicize southern Africa. When they finally gave up and said, "Bring back your chiefs," those

people knew instantly who the hereditary tribal leaders were and where to find them. To people with that strong a cultural heritage, the notion that their chief can be in charge one day and out of power looking for a job the next is just incomprehensible.

One of the most consistent pieces of advice Government Executive heard in South Africa: "If the Western world really wants to kill apartheid, they must start to invest in this country at a very great rate. The 2 percent growth in GDP right now might get to 4 percent if we're left to our own devices. The 7–8 percent necessary to end apartheid is going to have to come from foreign investment."

At the moment, in a Nation where black boycotts of white businesses was probably the single most effective move that got Civil Rights going, that is not likely to be very well understood.

And therein lies the seeds of a budding tragedy.

LEAGUE REPORT ON HUMAN RIGHTS IN PARAGUAY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. FRASER. Mr. Speaker, I would like to draw attention to the recent report by the International League for Human Rights entitled "Denial of Human Rights in Paraguay: Report of Second Commission of Inquiry of the International League for Human Rights."

The report provides a thorough and incisive review of the human rights situation in Paraguay, and reaches a series of conclusions and recommendations. I would like to submit these conclusions and recommendations for the record, as well as an editorial on the report from the December 24 Washington Post. Unfortunately, the Government of Paraguay declined to comment on the recommendations by the League.

The report notes that releases of political prisoners and other signs of improvements in the human rights situation in Paraguay have occurred. On the other hand, the arbitrary system of justice and the state of siege remains in force for possible use in the future against the political opposition and others who attempt to exercise their human rights. Unless more fundamental changes take place in Paraguay, abuses of human rights will inevitably occur. The documents follow:

REPORT ON PARAGUAY

Latin, Americas' most durable dictator, Gen. Alfredo Stroessner, has ruled Paraguay since 1954 with a severity and arbitrariness extreme even by the standards of Latin *caudillos*. Only recently, and only in response to international pressures, has he begun softening somewhat the still-personal nature of his rule. As a new report (its second) by the International League for Human Rights indicates, what he has done—release some prisoners, improve conditions for others and bring still others to trial—is modest and is reversible at presidential will. Though evidence of emergency is lacking, Paraguay remains in a state of siege.

President Stroessner's reception of league representatives Ben Stephansky (Carnegie Endowment for International Peace) and David Helfeld (University of Puerto Rico School of Law) did mark a revealing change in the climate in which human rights are violated—and defended—since Jimmy Carter entered the White House. The league's first mission to Asuncion, in mid-1976, met official Paraguayan disapproval verging on intimidation. This second mission, in mid-1977, found President Stroessner himself ready to facilitate its inquiry and even to solicit its suggestions for dealing with violations. In turn, the league mission focused helpfully on the further steps needed to regulate the political process by law. Its report is a how-to guide for a dictator wanting to decompress. Offered the opportunity to comment on the report before its release, President Stroessner at first seemed inclined to take up the offer but finally let it pass by.

Some people now wonder if certain Latin American leaders, including Gen. Stroessner, felt they earned a respite from pressure on human rights by presenting themselves at the White House last fall to bless the new Panama Canal treaties. But the Carter administration has quietly stopped the sale of military equipment on official credit to Asuncion. Paraguay's access to development loans has been made subject to political criteria. Gen. Stroessner has felt compelled to accept, some time after his "elections" next February, a mission from the Inter-American Human Rights Commission; this body, unlike the league, operates in a political arena. The general can count on some sympathy there from fellow dictators who cry "anti-communism." He can expect less sympathy from other Latin American military governments moving away from Paraguayan-style crudities. He should get no support at all from the United States—unless he moves in good faith toward the rule of law.

PART IV. CONCLUSIONS AND RECOMMENDATIONS

It is difficult to sum up the Paraguayan state of human rights in cases which have a political dimension. One looks in vain for clearcut consistent trends. As noted earlier, by mid-1977 there were far less political prisoners: almost one-half had been released administratively without being charged with any crime. There were unofficial indications that most of those still detained would be screened and would probably soon be released. Responsible officials listened with apparent interest to proposals for improving the judicial process and opportunities for adequate legal defense. The overall climate of freedom of association rights, of organizational efforts to assist political prisoners and of freedom of expression, showed distinct improvement over the situation of prevailing last year. And most notable of all, there appears to be a discernible trend toward formal charges and the judicial processing of political prisoners.

And yet no overall favorable conclusions are warranted. None of the normative and institutional arrangements which made abuse of power possible in the past have been changed. If there has been a relaxation of repressive measures, it is because executive authority has so decided, as it may decide at any time to exercise its powers to the full. Indeed, the relaxation of repression is by no means uniform or consistent: there still are unprocessed charges hanging over the heads of political leaders and over 150 men and women continue to remain State of Siege political prisoners. Neither have the deaths and disappearances of political prisoners been clarified. Nor can the cases which have been "passed" to justice be taken at face value. Under the present operating conditions of criminal justice in Paraguay, in cases with a political dimension it is highly problematical whether an accused will receive a fair trial.* Ironically enough, most of Paraguay's human rights problems, whether in the executive or judicial sphere, would be resolved if there were a faithful implementation of the rights and values guaranteed by its Constitution and Codes of Criminal Law and Procedure.

What has stood in the way of faithful implementation of Paraguay's Constitutional and other basic legal norms has been the dominant emphasis placed on political stability and security over all other considerations. Prior to President Stroessner, Paraguay had a long period of constant political upheaval, one government supplanting the other in quick succession, an almost total absence of constitutional order and stability. This past history has served as the primary justification for a policy of prevention: all measures should be taken to assure political security and stability without which peace and progress cannot be attained. In the quest for security, any danger, any threat of danger, however remote, from within or without the country, tends to get exaggerated out of all proportion to existing realities, and even at times may be the product entirely of imaginary fears. Whether real, exaggerated or imagined, executive authority, when it has defined a political problem as a threat to the nation's security, has always acted on the basis of unlimited discretionary power. Therein lies the potential for abuse and, as the concrete experience summed up in this Report demonstrates, the potential has been realized in varying degrees of scope and intensity in the past as well as in the present.

Whatever is good or bad in the state of human rights in Paraguay, is ultimately traceable to the Presidency. That is inevitable under a system of overriding executive power in which the President and his closest collaborators are free to exercise their power fulsomely. If there is to be fundamental peaceful change, it must come from the center of power. Only the President can decide, for example, that it is in the best interest of his country that executive authority accept the limits imposed by Constitutional guarantees, or that stability, security and liberty are more likely to be secured with an independent judiciary than without one.

In the course of our interviews with responsible government officials, there were indications that changes in past policies might take place. Indeed, the Commission of Inquiry was specifically invited to make suggestions for dealing with the entire range of problems encompassed by our inquiry. Responding to that invitation we have formulated a number of short and long-term conclusions and recommendations for consideration by the government of Paraguay. The conclusions and recommendations are grouped according to broad problem areas. Whatever reforms may be undertaken, it should be stressed again, the initiative must come from the Office of the President.

State of siege and human rights

1. There is no justification, grounded in real danger to peace or internal security, for the present State of Siege Decree. It should therefore be lifted and all Constitutional rights should be respected.

2. In the future no State of Siege should be decreed unless there has been faithful

*In addition to the cases fully treated in Part III of this report, there should be recalled, as recounted in Part I, the pending trial of the ten professors, professionals and students arrested in July and passed to justice some weeks later, and the appeals taken by Liberal Radical and Liberal Party leadership following the judicial order putting an end to their legitimate political activities. On the basis of recent past experience, it is fair to conclude that the chances of judicial fairness are slight indeed.

and rigorous compliance with all of the norms set forth in Articles 79 and 181 of the Constitution.

3. There should be an accounting of all State of Siege prisoners who have died while in police custody or who have disappeared after being arrested.

4. Political prisoners who have been held for many years under State of Siege Decrees have already been imprisoned for terms which exceed any likely sanction which might be imposed in a judicial proceeding. Therefore they should be freed.

5 Political prisoners in Emboscada, or held in other jails, who have yet to be judicially processed, should have their cases screened and evaluated. Those against whom there is no serious evidence of wrongdoing, should be released. Those who are found to have violated the law should be charged and tried according to law.

6. The children of Madrona López should be reunited as a family under one roof. If she is released for want of evidence of wrongdoing, the children should be restored to her.

7. Political prisoners who have been deprived of Constitutional rights should be indemnified.

Criminal justice in political cases

1. The use of torture in police investigations infects the entire criminal justice system. It should be stopped.

2. The use of judicial process to harass opposition political party leaders adversely affects the possibility of genuine political democracy and subverts the independence of the judiciary. It should stop.

3. The right and duty of lawyers to defend those accused of political crimes, and politically related crimes, without suffering reprisals, should be fully recognized and respected by executive and judicial officials.

4. To assure genuine opportunity to defend their client's cause, counsel for accused should be shown respect and be granted reasonable access to their clients, adequate time to take notes and, on request, to receive in timely fashion copies of all documents needed for the defense.

5. There is an immediate pressing need to enhance the independence of the judiciary and the rule of law. First, executive authority must make plain to the judges that they are to exercise their judicial functions with complete independence. Second, all executive officials, and very particularly police officials, must be put on notice of the change in policy. The goal must be a judicial proress free of all extraneous non-judicial influences.

Legislative action and human rights

1. In accordance with Article 79 of the Constitution, the Congress should legislate to regulate how State of Siege Decrees are to function.

2. In compliance with Article 41 of the Constitution, the Congress should enact legislation to provide for responsibility of public officials for crimes and faults committed in their official capacity, and for indemnification for deprivation of Constitutional and legal rights.

3. Legislation should be enacted to bring the Police under the rule of law and to provide for the development of a modern, rational and scientific police investigative force.

4. Laws Nos. 209, 294 and all related Criminal Code Articles should be reviewed for the purpose of formulating new legislation based on a balance of Paraguay's need for protection against dangers to its security and its need for the vindication of human rights.

5. The Criminal Code articles dealing with defamation, calumny and "injuria," as they work in practice, should be reviewed to achieve a sound balance of two fundamental Constitutional values: freedom of the press and the right to protect personal reputation.

An independent judiciary

To achieve a genuinely independent judiciary, manned by judges of high competence and integrity, fundamental structural and institutional changes are needed. Nothing less can assure deep-rooted and enduring change. Thus, a Constitutional amendment would be needed to provide for long-term tenure, accompanied by a Presidential commitment to appoint judges from among the best lawyers in the profession. It would also be eminently desirable to institute once again in Paraguay the practice of separating the investigative from the purely judicial function, a practice which is adhered to by most continental European countries. Practical measures too would have to be taken: salary and working conditions conducive to the development of a judicial career would have to be established. Most important of all, there must develop over time the traditions of an independent judiciary endowed with sufficient powers to make the rule of law a reality in Paraguay.

CHRISTMAS WISHES COME TRUE FOR EDDIE HILL OF NORRISTOWN, PA.

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. COUGHLIN. Mr. Speaker, it is with a great feeling of pride that I call attention of my colleagues to a heartening story which appeared in the December 16, 1977, issue of Today's Post, a daily newspaper published in King of Prussia, Pa.

It is the story of 6-year-old Eddie Hill of Norristown, Pa., who is suffering from an inoperable brain tumor, and how, through the thoughtfulness and generosity of some Norristown citizens and firefighters, Eddie received the two Christmas presents he has always wanted—to see Santa Claus and to ride in a fire engine.

It gives me great pleasure to read a story such as this which reinforces my faith in the kindheartedness of our fellow man. The story follows:

THE BIGGEST DAY FOR EDDIE—FIRE ENGINES SCREAM, SANTA VISITS AILING BORO BOY

(By Fred Clement)

Thursday night, 6-year-old Eddie Hill of Norristown received the two Christmas presents he has always wanted. It was the most exciting day of his life.

Eddie is suffering from a brain tumor that cannot be surgically removed. Before Christmas, he will return to Children's Hospital, Philadelphia, where he has been receiving treatment, and undergo more therapy.

Thursday night, Norristown firefighters gave Eddie an early Christmas party and the two presents he has always wanted: to see Santa Claus and to ride in a fire engine.

The party included as many surprises for Sharon Hill, the boy's young mother, as it did for Eddie. Separated from her husband, Sharon had the misfortune a couple of weeks ago of having her home robbed and many of her belongings ruined.

Shortly after 7 p.m. fire trucks from all five borough fire companies—pulled up in front of the mother and only child's home in the 100 block of West Marshall Street.

The only hint Eddie had that something was going to happen was his mother's suggestion. She would have a surprise for him Thursday night, she told him.

In fact, there were a number of surprises.

First, borough firefighters took Eddie on a ride around town in a firetruck parade, with lights flashing, bells ringing, sirens screaming and air horns blowing. Eddie sat up front ringing bells and sounding sirens.

Police escorts briefly stopped traffic at intersections to assure a safe ride.

Next, the firetrucks stopped at the Fairmount Fire Co., where the fire company's well-known exhibition of electric trains is. In addition, there was a Christmas tree with Montgomery Hospital.

As the Christmas party got into high gear at the firehouse, some firefighters returned to the Hill residence, trimmed a Christmas tree and left more presents.

At the firehouse, Eddie had a one-on-one chat with Santa Claus. With his snowy white beard and fire-engine red suit, Santa bore a slight resemblance to 200-pound firefighter Jack Carlin.

Carlin, of Fairmount, was one of the organizers of the Christmas celebration for Eddie.

Another was Bill Peters, a Fairmount member and emergency medical technician at Montgomery Hosiptal.

"It started out with just the ride," Peters said.

Borough crossing guard Barbara Hendricks mentioned Eddie's condition to Peters and Carlin and that he wanted two things for Christmas. Could the fire department do anything about it, she wondered.

As a result, "We put this thing together," Carlin said. "Barbara Hendricks is the one who started this whole thing."

But that was only the beginning. Lewis Chertok, owner of Chatlins Department Store, was present when Hendricks explained about Eddie. Chertok volunteered to help out Santa.

Eddie and Sharon Hill found clothing, toys and a gift certificate among the presents waiting for them under the Christmas tree.

Eddie Hill's doctor, Dr. Derek Bruce, associate neurosurgeon at Children's Hospital, said the firefighters' treat would be "a great experience for a little kid. He's quite able to take the stresses and strains," Bruce said.

"It would have no effects except good ones," he added.

In addition to presents and good wishes from borough residents, gifts and letters from others also reached Eddie.

The boy received messages from Gov. Milton J. Shapp; Sens. Richard S. Schweiker and H. John Heinz 3rd, U.S. Rep. Lawrence Coughlin, Montgomery County's three commissioners, and the mayor and councilmen of Norristown.

Before the Christmas party, Peters said, "Eddie runs around like a tiger and looks just like any other boy. He knows he has headaches, but that's all he knows," Carlin added.

After Thursday night, Eddie now knows he has some new friends too.

ECONOMIST HAS SOUND ADVICE FOR NATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. SIMON. Mr. Speaker, one of my favorite writers is one of the contributing editors to the New Republic, economist Melville J. Ulmer.

A few weeks ago, he had two paragraphs in a story that I think all of us in Congress would do well to look at carefully.

He basically calls for recognition of the dimensions of the unemployment problems and that we ought to more aggressively move on that problem.

In addition to inserting the two paragraphs from his article in the New Republic, I am inserting a weekly column I wrote for the newspapers in my district recently on the same subject.

GOVERNMENT CAPABILITY TO EASE UNEMPLOYMENT

Only the federal government is capable of (1) organizing a national program to put the idle in useful jobs, (2) directing their efforts toward the most important public needs, and (3) adjusting productive techniques to suit the generally modest potential of the workers available. CETA at its peak next year is expected to employ 700,000 people. At least three million public jobs are needed, more or less permanently, to take up the slack in the US economy. To run so vast a program without disrupting the private sector would require the bold federal planning and political courage mentioned earlier. Wages on public projects would have to be kept relatively modest despite labor union pressure. Otherwise eligible workers never would leave public projects for private industry no matter how much the latter was booming. To avoid inflation the cost of the program would have to be met by taxes. (Of course there will be offsetting savings in welfare and the like.) In effect, taxpayers would transfer part of their purchasing power to the formerly idle. In return they would have a right to expect businesslike management and a flow of new visible, useful services. Otherwise the program would never survive the next election.

What this amounts to is a coordinated government response to the fundamental problem of economic instability. It entails surmounting obstacles that are imbedded in our politics. Is the federal government capable of rising to these challenges? If not, look for continued unemployment ahead, black and white, plus inflation.

WORLD FACES UNEMPLOYMENT PROBLEMS

Here are a few statistics that will have an impact on your future:

The International Labor Organization estimates that unemployment in the poorer nations of the world is expected to go from roughly 25 per cent today to about 30 per cent by 1980.

By the year 2000—only 23 years off—there will be an increase in the number of people seeking jobs of 91 per cent (compared to an increase of 33 per cent in the wealthier nations) and to fill the need of that 91 per cent growth an additional 922 million jobs will have to be created.

Those statistics are important to those of us in the United States because they force us to face two realities:

First, if world unemployment is not to reach disastrous proportions, the world's economy needs a real lift. And the nation which leads the world economically is the United States. It is unlikely that the rest of the nations of the world are going to have a healthy economy if our own is fairly stagnant.

Second, the continued myth that unemployment in the United States is a temporary phenomenon must be discarded. Band-Aid programs to solve unemployment problems—proposed in the belief that soon the economy will pick up on its own—are going to prove inadequate.

The CETA (Comprehensive Employment and Training Act) program is a good example.

It is better than no program.

But instead of utilizing the great resource of unused labor to enrich the nation with a series of constructive programs, the results are spotty, and the evidence mounts that in many communities CETA workers are used as a substitute for workers that city and county governments would otherwise pay for.

And so the CETA workers concept, designed originally to help those without skills or with limited skills, now employs people to run computers and do a great many other things requiring major skills. One-third of those who work for CETA have had at least some college training.

In New York City, five of those employed by CETA are lawyers and 22 are registered professional nurses.

And that city and many others have moved to dependence on CETA. It has grown to the point that it cannot be eliminated tomorrow or next year.

But it ought to be gradually phased out and in its place a more carefully thought out program ought to be developed which provides job opportunities for those who really need them, and enriches the nation in the process.

Unemployment is going to be with us in a major way for the balance of this century.

We are not going to let people starve, so we will either pay the unemployed for doing nothing or for doing something.

If we choose the latter, not only will our economy benefit, but we will be lifting the hopes and chances for a great many others all over the globe.

"The rising tide lifts all the boats," John F. Kennedy used to say. It is as true today as it was then.

CALIFORNIA LEGISLATOR, A BIBLICAL HISTORIAN, OFFERS NEW SLANT ON CRUCIFIXION

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. VAN DEERLIN. Mr. Speaker, my longtime friend, James R. Mills, is a man of many parts. A teacher and museum curator in his youth, Mills has lately emerged as a major biblical historian, winning acclaim as author of "The Gospel According to Pontius Pilate."

As interim activity, he was elected to the California Legislature in 1960 and has just begun his fourth session as president pro tempore of the State senate.

I intend to append to my remarks a selection of critical reviews attesting both to the worth and to the readability of Senator Mills' imaginative book on the events that led to Calvary. Jim has surveyed that scene through the eyes of Pilate, the Roman governor who sentenced Christ.

It goes without saying that this perspective of the Crucifixion is drastically different from the accounts of most witnesses, actual or vicarious, to an event that shaped world history.

In the hands of a less gifted writer, the telling could have slipped into self-pity or, worse, bathos.

But Jim Mills is no ordinary writer. This historian-politician is also a deeply religious man who was first given the idea for his book by his minister, The Reverend Arthur Dominy of the First Baptist Church in San Diego. Jim agreed with Pastor Dominy that it was too bad the world did not have a biography of Christ told by one of his enemies.

The book is neither "modern" nor "political" in the usual sense of those words. But there is clearly a lesson for modern man—and particularly the modern politician—in the detached and slightly cynical attitude of Pilate as he looks back on the cataclysmic events he had failed to avert.

A native San Diegan, Jim was a schoolteacher and then curator of San Diego's Serra Museum before going to the State Assembly in 1960.

He has written many magazine articles on California history, all typically succinct, highly readable and meticulously researched. Jim had two earlier books, "San Diego, Where California Began" and "Historical Landmarks of San Diego County."

In the legislature, Mills moved to the Senate in 1966 after three terms in the Assembly and since 1971 he has occupied the Senate's top leadership post, president pro tempore.

In the legislature, Jim prepared the bills that created San Diego's port authority. He has carried the bulk of State's major transportation legislation. He was the author of the amendment to the State Constitution that allows State gasoline taxes to be used for transit as well as highways. More recently, he introduced legislation establishing the San Diego Metropolitan Transit Development Board for meeting inter-city transit needs in our mutual home area.

Jim's transportation interests are turly far-ranging. As one of California's foremost bicyclists, he is even responsible for the first successful bills appropriating funds for bike paths.

But it is his talents as an author that I salute today. "The Gospel According to Pontius Pilate" is selling well, according to the publisher, San Franciso Book Co., and a second printing is anticipated. Nationally, the book is distributed by Stein and Day, publishers in New York City.

A representative sampling of the reviews follows:

[From the San Francisco Chronicle, Dec. 16, 1977]

PILATE'S VERSION

(By William Hogan)

As Roman governor of Judea, Samaria and Idumea, Pontius Pilate was an efficient bureaucrat in a particularly explosive area of the Empire. Pilate depended, among others, upon the chief priests and elders among the Jews to help him administer Roman justice. Although many Jews followed the Galilean carpenter and visionary, Jesus of Nazareth, there was much controversy about this charismatic fellow.

Actually, the crucifixion was viewed as a bad political mistake, Pontius Pilate recalls some 30 years later, for it helped Jesus fulfill the prophecies.

Pilate is writing from exile in Gaul where Caligula had banished him. He occupies himself by writing a history of Palestine as he knew it, in order that Roman policy in respect to the Jews might be better understood. The result is a curious and fascinating story of the rise of Christianity, a fiction from the Roman point of view, titled "The Gospel According to Pontius Pilate." The author is a political man himself, James R. Mills, historian and president pro tem of the California State Senate, a Democratic legislator for 17 years.

Mills has kept his narrative reasonable, intelligent, historically accurate and continually absorbing. Pilate emerges a sympathetic fellow, intrigued by the Nazarene, whom he never thought would be remembered. Rome, as Pilate writes, has been de-

stroyed by fire and the official conclusion is that the Christians were responsible for it. "Now that so many of them are being crucified there in the arena," he notes, "lighted by others being burned by torches, they have become a chief topic of discussion in the ruined city."

It was Pilate's recollection, in view of the complicated politics of Judea and Galilee, that Jesus was doomed when he and his band of disciples arrived in Jerusalem, the one city where, under Jewish law, he could be tried and executed for heresy. The death of Jesus became inevitable, and Pilate ordered it.

Pilate compares Jesus with Socrates. "The Greek philosopher and the Galilean mystic were both effective in debate in public places in the capital city. By being profound as well as clever, they embarrassed the representatives of authority time after time. Both Socrates and Jesus had the option to live. "Both rejected it."

And those radical doctrines—turning the other cheek, the slap at the rich in the parable about the camel and the needle's eye—naturally were looked upon as subversive of society's values. Mills has written a thoughtful and convincing "history" (San Francisco Book Co.; $7.95).

[From the San Diego Union, Dec. 2, 1977]

PILATE LOOKS AT HISTORY WITH MODERN-DAY EYE

(By Otto J. Scott)

The figure of Pontius Pilate, procurator of Judaea, has become an eternal symbol of skepticism. His ironic question "What is truth?" and his handwashing to indicate his indifference to the religious dissensions of the Jews has drawn the attention of numerous commentators, preachers and writers through the centuries.

The latest to be drawn to Pilate is James R. Mills, president pro tempore of the California Senate, who was a historian by profession before being elected to public office.

Mills has reproduced the Gospel accounts of Jesus, choosing the majority version of outstanding episodes, and linking these to the predictions of Old Testament prophets.

Pilate, the narrator in the Mills' version, provides a running commentary of these events and describes his own actions as Rome's representative.

The Gospel effort is lucid and well-grounded, as befits a historian, and is composed with a careful eye toward the numerous sensitivities that such a work may provoke—much as one would expect from an experienced and successful politician.

One result, however, is that Mills makes Pilate sound and speak more like a tolerant middle-class American Christian than any Roman known to history.

No doubt that will help his book to become popular; it certainly makes for easy and agreeable reading.

Mills' Pilate is more civil than others'. Placed in fictional exile 30 years after the Crucifixion, Mills even has Pilate respectfully quoting Rabbis Hillel and Gamaliel, and tolerantly concluding that the claims of Jesus would be proven if, in time, the new religion displaced the worship of Hercules.

Putting aside the improbability of a high Roman official, exasperated by an intransigent province, quoting rabbis in any context, and our knowledge that the gods of Rome were made and unmade by its Senate, there is little doubt that Mills' approach will be agreeable to many readers, and very valuable to persons unacquainted with the Bible at first hand.

His linkage of Old Testament prophecies and their fulfillment in Jesus is remarkably well done, and reveal the author to be a true scholar and Christian. The only flaw is that although his Pilate is properly skeptical, he is too softly drawn.

Skepticism is, after all, a form of faith: A belief that the universe is unknowable and ruled by chance, without regard to the virtues of human beings. Its devotees are usually harsh and contemptuous of traditional Christianity.

And we know that not only was skepticism widespread in Rome in the time of Pilate, but that the Romans also had lost faith in even their own gods.

It was a period that Mills presents as cultured at the top, when, in reality, the worst elements rose highest.

And Judea, as well as the rest of that corner of the province the Romans called Syria, was a tangled pit of many races, ethnic groups, hatreds and divisions.

By softening that savage and turbulent scene, and by civilizing Pilate, Mills has, to some extent, muted the eternal puzzle of evil.

But that is a minor flaw in a book that maintains interest, that provides essential information in an agreeable and reassuring manner, and that reflects the considable urbanity, high sense of ethics and the faith of the author.

[From the Sacramento Union, Nov. 27, 1977]

MILLS' BIBLICAL NOVEL IS CONTEMPORARY BOOK

(By Al Donner)

When a politican writes his memoirs he is likely to put his famous controversial acts into the best light possible.

That is what the Roman governor who condemned Jesus Christ to death does in "The Gospel According to Pontius Pilate" (San Francisco Book Company, $7.95). The historical novel sets the life and death of Christ in its Roman times and concludes with Pilate dispassionately explaining his actions as the most sensible course based on the information he had at the time.

What makes the volume interesting and plausible is the perspective of the author, James R. Mills. The president pro tem of the State Senate, Mills understands the politician's day-to-day decision making process and imposes that authenticity on Pilate. A historian by trade and a Baptist in his religious beliefs, Mills presents a picture of Christ as he might have been seen by educated Romans of his time—a radical carpenter stirring up the troublesome Jewish tribes, but no more dangerous than many other prophets of his time.

Still, Pilate yielded to demands of the Sadducee priests and allowed Jesus to be crucified. Thirty years later in his memoirs Pilate explains that "my obligations to myself and my friend (the Roman ruler) would not allow me to incur even a minimal risk for the life of one itinerant street preacher. Always I had to play clearly the role of guardian of Roman rule and Caesar's interests."

Mills quotes Jesus and Pilate from the New Testament to liven an otherwise tersely written account. As Pilate he does not pass judgment on Jesus' claims to be the Messiah, but notes that the growing Christianity movement gives him more credibility than many other prophets of the times.

People looking for contemporary political figures in the novel will be disappointed. If Mills has included them, he has cleverly disguised them to the point where they are not readily identifiable.

But the ruling class whose perspective of Jesus Mills portrays is not so much different today. And from that perspective "The Gospel According to Pontius Pilate" is a very contemporary work.

[From the Chula Vista Star-News, Nov. 27, 1977]

"PONTIUS PILATE" BIBLICAL HISTORY WITH POLITICAL TONES

(By Laura Ritchie)

Take one historian with writing experience who has turned to politics as his way of life. Add a lively, subtle wit—and set him down to write a book.

The result is "The Gospel According to Pontius Pilate" by the South Bay's James Mills, president pro tempore of the state senate.

Mills says writing the book was "a religious experience" for him—but there must have been some moments when it was pure, earthly pleasure as well.

Anyone who appreciates either Biblical history or modern politics will find this a highly readable tome. Mills has put modern-day jargon into the mouth of his story teller, Pontius Pilate, and the time setting is 30 years after Jesus of Nazareth was crucified on Pilate's order.

Pilate sees himself guilty of no wrong doing in the order—merely a man who does what he must as a matter of political expediency.

The real culprits, he makes it clear, are Jesus' fellow Jews, the Sadducees and Pharisees. And the real decision to have Jesus killed was made by members of the Great Sanhedrin, the Jewish religious high court at that time.

Pilate speaks from exile, after his fall from favor in the Roman government. That exile, Mills says, is one liberty he took in the book. Historians are not sure Pilate was exiled.

Otherwise, the book is meticulously correct, historically. But it is a living, contemporary account of events, told as if by an observer on the scene as the action unfolds. The reader is drawn into the chronicle very effectively by the simplicity of the telling.

Mills' style is such that today's readers need not struggle with obscure phrases and words not now in common use, but his quotations are exact to a fine degree.

Pilate explains that he has been interested in the history of this Jew, not only because he dealt with the man during his governorship of Judea, Samaria and Idumea, but because interest in the "strange carpenter" has persisted after his death.

This, Pilate makes plain, is most unusual. The followers of a religious leader ought to disperse quietly after his death. They have no business carrying on, and, most surely, the doctrine preached by the leader should not grow after his death.

Pontius is puzzled by all this.

And he therefore has researched many events and conditions in Jesus' life, including the "enormously complex" religious laws which Jewish boys were taught at an early age.

And Pilate illustrates the devious ways in which the laws were twisted to serve the purposes of daily life.

For instance, he says, 39 primary works of man are enumerated and prohibited on the Sabbath.

Take, for instance the tying of knots. Pilate tells how only certain knots make a man guilty of breaking the Sabbath.

"Those of sailors and camel drivers are forbidden, but no sin is committed in the tying of a knot which can be undone with one hand.

"A woman may tie the strings of her cap, her girdle, or her shoes, or the strings that close up skins of wine or oil.

"Thus, if a Jew wishes to secure two things together on the Sabbath, he can have his wife tie them together with her girdle without impiety, while he would be breaking the law if he did it himself with a cord," Pilate points out.

Mills has skillfully handled Pilate's accounts, so that they should not be offensive to today's Jews, while detailing the misconceptions about that people which were rampant among Romans of Jesus' day.

He doesn't let the Jews off the hook for Jesus' crucifixion, but places the blame on a few "practical politicians" among the religious leaders, sparing the general Jewish population, for the most part.

But he also makes it clear Jesus was not

lawfully tried before the Great Sanhedrin and condemned to death. Pilate accepts the responsibility for that, although he apparently considers it an event blown out of perspective by the refusal of Christianity to die down decently after the crucifixion.

"The Gospel According to Pontius Pilate" is an exceptionally interesting book, its conclusions applicable today, though rooted in events which happened 2,000 years ago.

TV DISCUSSION ON VIOLENCE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DORNAN. Mr. Speaker, there has been much concern in recent years about the effects of television violence on viewers. Opinions of its effects vary widely. Some believe that television violence begets violence among the population, while some hold that television violence prevents violence among the populace by providing the vicarious experience of it. But all agree that it is a new phenomenon and one which has not been fully studied. The power—for good or evil—which television wields is awesome and should be understood.

Even the television networks recognize the power they hold and have begun to cover their own operations. As Kevin Phillips points out in the December 17 "News Watch" in TV Guide:

The networks have begun to accept television as an enormously important institution requiring coverage . . . every passing month brings new evidence of television power, from inspiring hijackers to arranging Middle Eastern peace negotiations.

Mr. Phillips' article should be read by all of those who are concerned about the power and the effects of television on our day-to-day lives. For that reason, I ask that it be included in the CONGRESSIONAL RECORD as part of my remarks:

TV HAS FINALLY BEGUN TO COVER ITSELF

(By Kevin Phillips)

I've been pleasantly surprised, especially during the last year, at growing network realization that TV power has become so awesome that it, too, must be grist for the mill of television news and dramatization. *Television is finally beginning to cover television.*

One measure of that coverage (and also of the blurring line between dramas and documentaries) came on Dec. 5 with NBC's made-for-TV movie "The Storyteller." The plot was simple enough: a 12-year-old boy watches a movie on television about a man who sets fire to a building. The boy sets a fire himself and dies of smoke inhalation. The scriptwriter agonizes: Am I responsible? Does TV violence produce real-life violence?

My reaction to "The Storyteller" is mixed. On the plus side, NBC deserves credit for being willing to raise the question openly and in prime time. On the minus side, this viewer detected an imbalance of recurring plugs for the network point of view—from saying television merely reflects society's faults ("blaming the mirror because you've got pimples") to invoking a specter of censorship against any attempt to restrict TV violence and hinting that without TV's bloody coverage of the Vietnam War, that conflict might have dragged out even longer.

From another critical perspective, though, NBC certainly did not choose a particularly gruesome example of TV violence when it decided to present a situation in which a 12-year-old boy is killed by smoke inhalation after imitating an arson watched on television. The record, sad to say, yields quite a few cause-and-effect situations that are a lot more brutal. For example, let's look at a few of the more serious crime- and violence-provoking events that NBC might have used in "The Storyteller" but didn't.

Item: In Hartford City, Ind., four men influenced by "Helter Skelter," the TV version of the Manson murders, picked out a home at random last Valentine's Day and blasted four brothers to death with shotguns. Daniel Stonebraker, 20, testified he and his associates had watched the show together.

Item: New York congressman John Murphy, introducing a Congressional resolution back in 1975 to have the Federal Communications Commission block an ABC telecast of an Evel Knievel death leap over 14 buses, indicated that Knievel's nationally televised 1974 Snake River Canyon leap "was viewed by millions of American children, many of whom were stimulated to imitate Knievel and suffered injuries in so doing."

Item: on Sept. 13, 1974, a 9-year-old San Francisco girl was attacked by four adolescents and raped with a bottle. The four admitted to police that only three days before, they had seen the made-for-television movie "Born Innocent" which included a similar rape. (A footnote: NBC understandably did not draw on this particular episode, because it is the subject of a lawsuit against both the network and KRON-TV in San Francisco.

Item: In a mid-1977 speech, Greyhound Corporation chairman Gerald Trautman, pledging not to schedule commercials on excessively violent shows, noted that several years ago, "residents of a major East Coast city were paralyzed with horror and disbelief when their morning newspaper headlined a story of a gang of toughs who doused a harmless old derelict with gasoline and set him aflame." A similar event had been on television two nights previously.

Let me underscore my point. Had "Storyteller" been packaged as a documentary, it would be a misleading and one-sided travesty, guilty of ignoring events and connections that make a far more compelling case against TV violence. As a drama, "Storyteller" escapes this yardstick. Still, I don't want to state my suspicion as a charge. The television networks may be having a hard time coping with self-criticism and self-analysis, but that's human nature—and not necessarily any kind of conspiracy.

In other respects, the networks do deserve credit for an increasing willingness to cover themselves. In early October, the network evening-news programs covered Miami's "TV intoxication" trial in which the lawyer for 15-year-old Ronney Zamora, accused of killing an 82-year-old neighbor, argued that his client was simply reaching to the violence portrayed on television.

More recently, the networks have given evening-news time to hearings held by the House Communications Subcommittee on possible deception by the networks in broadcasting of major sports events.

And as yet another example, NBC last November ran several evening-news segments analyzing television's ratings system—the measurements by which programs live or die and profits wax or wane.

Admittedly, none of these ventures into self-coverage were exactly blockbusters. None were exposes. Moreover, there are areas where the networks are conspicuously unwilling to cover their industry as news—most notably when prominent individuals or organizations raise charges about the evils of concentrated ownership within the mass media. Charges against manufacturers by Nader groups make the evening news; indignant charges against giant media conglomerates (by the Authors Guild, for example) don't.

The important thing, however, is that the networks have begun to accept television as an enormously important institution requiring coverage—in news, documentaries and docudramas—just the way the White House, Congress, Big Business or Big Labor does. If anything, given the nature of the Communications Age in which we live, "Big Television" may be at least as important as any of the others. Every passing month brings new evidence of television power, from inspiring hijackers to arranging Middle Eastern peace negotiations. Television is not just the new culture but the new politics and even the new diplomacy.

What television does is news—big news—and it is to be hoped news deserving of more and more television coverage.

MODIFICATION NEEDED TO PROPOSED TRUCK AND VAN FUEL ECONOMY STANDARDS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DINGELL. Mr. Speaker, on December 12, 1977, the National Highway Traffic Safety Administration of the Department of Transportation issued a proposed rule setting light duty truck and van fuel economy standards for model years 1980 and 1981. The NHTSA held 2 days of hearings on the rule on January 16 and 17 and the agency will issue the final standards about March 1, 1978, after reviewing the testimony, almost all of which was in opposition to the proposed truck and van standards.

The standards are too severe for the truck manufacturers to attain in the short time frame allowed before model year 1980. This will mean that model lines of trucks will not be produced with the subsequent detrimental impact on the industry workers whose jobs will be lost. Additionally, truck consumers will find they no longer will be able to obtain models of trucks needed for their business or other uses.

These facts and other points were noted to the NHTSA in the statement I submitted during the recent hearings which urged modification of the 1980 and 1981 standards. I insert my statement at this point:

STATEMENT OF THE HONORABLE JOHN D. DINGELL

Madam Chairman and members of the National Highway Traffic Safety Administration. My name is John D. Dingell, and I am the representative from the 16th Congressional District of Michigan.

I do not appear before you today only as a representative of a district whose constituents would be adversely affected by the proposed nonpassenger automobile fuel efficiency rule for vans and trucks, but also as the principal author of the legislation which delegated to DOT and NHTSA the authority to promulgate fuel efficiency standards, and as Chairman of the House Subcommittee on Energy and Power, which first approved this legislation to establish such standards for motor vehicles.

In light of the serious concerns which have been expressed to me by those who would be affected by your actions on this matter—labor, industry, truck retailers, parts suppliers, and certain consumers groups—I am encouraged by your willingness to agree to conduct a public hearing on your proposed rule. I trust that this appar-

ent openness is indicative of a real desire to thoroughly consider new evidence and to objectively evaluate it in light of the partial data and assumptions upon which the proposed standards were initially based. Such a process should ultimately result in the issuance of a final rule containing attainable standards which achieve the maximum fuel savings without causing further increases in an already high unemployment figure.

I refer you for the moment to just one instance of threatened higher unemployment if the DOT proposal you have issued becomes final. Unemployment in the Detroit area is still rampant. Chrysler's Jefferson Avenue auto plant in Detroit employing over 3,000 workers was planned for a $50 million renovation program to produce trucks and vans. Chrysler has recently announced that if these proposed standards are not changed, this will jeopardize the manufacturer's renovation program for that plant. Subsequently, the company announced it has delayed its conversion plan. This is just one example of the unnecessary unemployment problems your proposal creates.

I do not believe the role of NHTSA under the authority of the Energy Policy Conservation Act of 1975 to set fuel mileage standards for trucks is to threaten higher unemployment rates by setting standards so severe that people lose jobs.

I am, of course, now speaking as the representative of those who would be directly and adversely affected by this proposed rule. The projected faceless statistics contained in the employment section of your rulemaking support paper represent people I know. As such, in this and other instances, they are a matter of immediate and great concern to me and other Members of Congress. I say this in the hope that the effect of your proposed rule upon them will become of increased concern to you, so that, in establishing your final rule, you will pay greater attention to facts and concerns expressed to you during this hearing on the overly optimistic proposal for trucks which, if not modified, could result in alarming impacts on the workers affected by the rule. I would urge you reconsider your unproven assumptions in light of their potential human consequences.

I support the need to improve truck fuel economy, but DOT's proposed rule not only would significantly increase the mile per-gallon demand from 1979 to 1980–81, but also would change the weight classification to include the vast majority of other "workhorse" trucks.

There is not enough lead time for truck and van manufacturers to regear engineering and production plans and make the necessary drastic changes to the additional classification of trucks before the 1980 model year, with the model introduction date of the fall of 1979.

These 1980–81 proposed standards follow DOT's and NHTSA's establishment earlier of the 1979 manufacturer fleet average truck standards of 17.2 mpg for two-wheel drive and 15.8 for four-wheel drive vehicles weighing from zero to 6,000 pounds. The manufacturers state they are engineering to meet the 1979 standards for the fleets of trucks they will introduce in the fall of 1978.

However, for the 1980–81 model years on trucks, the rule would establish 19.2 as the two-wheel drive truck standards and 16.2 mpg for four-wheel drive, while for 1981 the standards would be 20.5 and 17.7, respectively. If a manufacturer chose to include captive imports, each of the standards would increase by as much as .5 mile per gallon. Also, the rule expands the weight classification of trucks to include all those weighing up to 8,500 pounds. The trucks in the 6,000 to 8,500 pound category are comprised of those which are heavier and have higher fuel consumption. This makes the manufacturer's task of achieving vastly improved fuel economy, in a very short time frame, most difficult, if at all possible.

I would also ask, in terms of lead time planning, if you have possibly overlooked the fact that in but five-and-one-half months, the manufacturers must start filing applications with the Environmental Protection Agency for vehicle emission certification testing for their 1980 model year cars and trucks? NHTSA is very late in issuing its fuel economy standards proposal. There is much less chance then for manufacturers to meet compliance testing dates with such drastic changes of fuel economy standards from 1979 to 1980.

The leap from the 1979 truck fuel economy mileage standards for two-wheel drive and four-wheel drive trucks to the proposed 1980 standards ranges from one to three miles per gallon. But, the inclusion of light duty work vehicles that have a gross vehicle weight between 6,000 and 8,500 pounds means truck manufacturers have to improve the fuel efficiency of their fleet by as much as five miles per gallon in only one model year. Incredibly, the 1981 standards would almost match the standard for automobiles which are easier to make more fuel efficient.

Manufacturers, in order to meet current 1978 automobile fuel mileage standards of 18 mpg, had almost two full years for lead time planning. That fleet average standard is reportedly being met today following industry fuel efficiency improvements in engines and drivelines and the downsizing of cars, plus the introduction of new subcompacts. The standard for cars in 1980 is a fleet average of 20 mpg while for trucks it is only .8 of a mile per gallon less.

Your truck standard proposal is overly optimistic. Congress did not intend for DOT to set standards in such a short time frame, standards that are beyond the technical capabilities of manufacturers, especially at the cost of jobs for the workers.

As one of the principal authors of the legislation under which you act, I wish to emphasize that the burden of justifying any standard rests with the government agency. It is your responsibility to demonstrate the accuracy and reliability of your data and the soundness of your decision. To do less can only constitute arbitrary and capricious actions.

In view of this, I am particularly concerned by the Department's own admission that the Nation's largest automobile manufacturer would not likely be able to meet the proposed mileage standards. Indeed, the rulemaking support paper devotes a number of pages to the ability of General Motors to either absorb civil penalties or pass them through to their customers. The support paper even compares the cost of civil penalties which GM would pay with the value of fuel to be saved by the standard.

Such analysis is utter nonsense. Again, this does not carry out the intent of the law. Although the ability of a manufacturer to pay a civil penalty must be considered if the manufacturer fails to meet the standards, it should not be considered in determining whether the standard is "feasible." The Congress did not intend to impose mileage standards which the manufacturer of half of all nonpassenger automobiles cannot meet. Nor did the Congress intend to make any company, and ultimately its workers and stockholders, pay massive civil penalties in the name of energy conservation.

Reasonable standards must be established which manufacturers can achieve. Rules should not be written with the intention that they will be broken. No company wants to manufacture illegal vehicles.

I commend you on your thorough support paper, but I must remind you that all of your numbers and analyses are estimates. In many cases they are the result of careful consideration, and in other cases they may be only your best guess. However, in all cases they are potentially in error, since by their very nature they are mere predictions of technological developments and economic capabilities. Thus, even after you have had the benefit of this public hearing, you must recognize that the standards must be established to allow for this error. You cannot assume a best case for each assumption. This will lead to a standard which has only a scintilla of a chance of being achievable. And, I remind you that should your error result in an unachievable standard, the economic consequences would be placed directly upon a particular industry, its employees, and the communities where such vehicles are produced.

The standards proposed are beyond the technical capabilities of truck manufacturers in the very short time frame before the first model year they would take effect. Subsequent unemployment at truck manufacturing and truck part supply plants, and elsewhere in the industry, would be substantial with alarming economic and social impacts in certain communities if model lines of trucks and vans are dropped from production due to the severity of the standards.

DOT and NHTSA should modify the standards by establishing a realistic objective for model years 1980 and 1981. I also urge you to promptly propose realistic standards for future truck model years to facilitate a longer lead time planning period.

I would urge Members of Congress and other interested parties to submit their concerns to DOT and NHTSA requesting that the agency modify the proposed rule and issue a more reasonable and attainable set of standards. I understand the comment period closes January 30, 1978.

PANAMA CANAL TREATY PROPOSALS: FINAL COUNTDOWN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DORNAN. Mr. Speaker, present indications are that the Senate will soon start an historic debate on the proposed new Panama Canal treaties that were never authorized by the Congress but were signed on September 7, 1977, by the President of the United States and the Chief of Government of Panama and transmitted by the President to the Senate on September 16 for its advice and consent to ratification.

Since that time, the canal treaty question has become a subject of national and international debate with the people of the United States strongly opposed to the projected surrender of U.S. sovereign control over the strategic waterway and its protective frame of the U.S. Canal Zone.

It has been particularly gratifying to note that many statements in opposition to the treaty proposals that have been published in the United States with factual information that is entirely counter to the prosurrender propaganda emanating mainly from the Department of State.

Among the various organizations that have seriously studied the canal subject in the broadest sense is the American

Legion. Its foreign relations commission is chaired by Dr. Robert P. Foster, president of Northwest Missouri State University at Maryville, Mo., and a leader of extensive erudition.

Mr. Speaker, because the perceptive statement on the Panama treaty situation in the latest American Legion national security-foreign relations bulletin should be of special interest to all Members of the Congress, particularly those who will be coming up for election in November 1978, I quote it and the 1977 Panama Canal resolution of the Legion as part of my remarks:

FINAL COUNTDOWN ON THE PANAMA CANAL—HIM OR ME?

The final countdown has begun on the U.S. Senate's vote for or against ratification of the Treaty signed September 7, 1977 by Marxist Dictator Omar Torrijos and President Jimmy Carter.

The U.S. Canal Zone issue is one of those few subjects which touch the nerve endings of American citizens. They feel it as much as they think it. And regardless of cliches and rhetoric from both sides, approximately three-quarters of adult Americans are solidly opposed to the give-aways. The voters are thinking about each of their Senators. Will my Senator vote to give our Canal away? Will he vote to keep our Canal?

In a recent strategy meeting on Capitol Hill, between a group of bi-partisan anti-treaty Senators and the leaders of a few influential national organizations, including The American Legion, one Senator analyzed the situation thusly: "When it comes down to the vote, the Senate's final vote on giving the Canal away; and when it comes down to him (referring to President Carter) or me, most Senators will vote for me. They will vote the convictions of their constituency. Very few Senators are so dedicated to the President at this stage that they will vote themselves out of office."

All Senators realize the power of the Presidency, the power of federal judgeships, the ability to call Tom, Dick and Mary to the White House for "educational" briefings, the power to federal subsidies to state schools and businesses, the power of a nod or a wink approving federal monies and jobs. Senators know better than most the prerogatives of the head of government. They realize that the withholding or denial of Presidential favors, the President's willingness or refusal to attend a fund-raiser, his memory or his forgetfulness regarding overseas markets for individual companies and individual states, his influence on big contracts for multi-nationals; all these can be vote getters. The Senators know this.

The Senators also know that President Carter, who has gained quite a reputation as a softball pitcher, plays hard ball in politics. This is true of any President of the United States. He plays to win and he plays for keeps. What many Senators do not comprehend is why President Carter is so committed to giving the U.S. Canal Zone and the Canal to a Marxist-oriented dictator whose moral judgments, drinking habits, narcotics involvements, and record on human rights are so incompatible with his own standards and Baptist values.

Many Senators do not understand President Carter's game of footsie with Fidel Castro, a strong communist supporter of Torrijos. What is behind Carter's determination to give the U.S. Canal Zone away, and pay this one man, Torrijos, such huge sums to take it? It can't be Latin American friendship, for the truth is that most Latins do not care one way or another. Nor does it seem likely that the President's political partisans care all that much about the UN or the so-called Third World. Nor can it be the U.S. banks' extension of credit to Torrijos. This represents only two or three billion dollars which could readily be covered by the federal budget. It could not be blackmail by narcotics profiteers, for this would be tantamount to surrendering to the criminal element of society. For sure, it is not the free world leader's desire to have a democratic republic installed in Panama, as this could probably be arranged in a matter of hours.

Few people remember that the last legally elected President, Dr. Arnufo Arias, now lives in exile in Miami, Florida, and all the legally elected ministers of that congress are still alive. What then, is on top of everything else? What makes Jimmy jump? One must assume that the U.S. Canal Zone represents some kind of a major power trade-off between the U.S. and the Soviet Union, or something of equal importance, whatever else that could be. But when it comes down to the final Senate vote, it is anticipated that most Senators will vote the convictions of their constituencies, for that is the way a representative government operates. What is the answer?

It could not be Presidential concern for the American farmer as the export of soy beans, wheat and cotton, which must go through the canal to compete with markets, where a fraction of 1 percent can mean the difference in loss or profit. The American Farm Bureau has told the President plainly, "Don't give it away."

It could not be the industrial and domestic energy consumers on the East Coast, who deserve the Alaskan oil at a minimum price consistent with a fair profit for the oil industry. We already know that the new oil barons are working on the Isthmus.

It could not be Presidential concern for the American coal industry, and the coal exports leaving from Hampton Roads for the Far East, some 16 million tons annually. Our port authorities on the Gulf and East Coasts have also told the President, don't give it away. Nor could it be a military judgment.

It could not be fear of inflation, as all of the give-away advocates have told us that tolls will go up and consequently, so will prices.

If the Senate ratifies the Panama Canal Treaty, Torrijos can, and most likely will, nationalize the U.S. Canal Zone as per a United Nations resolution which states in part as follows: (General Assembly vote passed Jan. 1975)

"Each state has the right to nationalize, appropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the state adopting such measures. . . . In any case, where the question of compensation gives rise to controversy, it shall be settled under the domestic law of the nationalizing state, and by its tribunals. . . ."

Inasmuch as President Carter and his Ambassadorial agents have publicly stated that despite rulings of the U.S. Supreme Court, it is their conviction the U.S. does not legally have sovereignty over the U.S. Canal Zone and, inasmuch as Secretary Henry Kissinger agreed in the Agreement of Principles of February 7, 1974 with Panama's Juan Tack, that the U.S. did not legally have sovereignty, Gen. Torrijos may believe he can move against the U.S. Canal Zone with impunity. Perhaps he can and will.

Will the President's all-out support for the Canal give-away cause inestimable political damage both to him and the party that elected him? It has already to former Senator McGee of Wyoming and Henry Howell of Virginia. Who knows?

RESOLUTION NO. 445

PANAMA CANAL

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by the American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, That we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b) cedes U.S. teritory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, That the American Legion rejects the actions of the Executive agencies of the Federal Government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. territory.

TEMPLE ISAIAH SUPPORTS ANTI-TERROISM LEGISLATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. WAXMAN. Mr. Speaker, for over a decade, air travelers and governments the world over have been confronted time and again with a war of terrorism and piracy waged by extremist groups. Often, these organizations, such as the Palestine Liberation Organization and the Japanese Red Army, find support and encouragement for their nefarious activities by sovereign governments, such as Algeria and Libya. Knowing they can find refuge from justice in these and other nations, terrorist groups can act with impunity to hold innocent travelers hostage to their political demands.

We know from experience—especially in the United States and from the prac-

tices adopted by El Al, the national airline of Israel—that stringent security measures are effective in reducing the incidence of hijacking. But security remains lax at dozens of airports throughout the world and, unfortunately, no measure of security can prevent attacks on airliners by those wielding weapons such as shoulder-fired missiles.

Combating air terrorism therefore requires a degree of international cooperation commensurate with the threat which is posed. The strongest deterrent to air piracy is the guarantee of capture and prosecution. The PLO and others have been so successful in their blackmail and in exacting reprisals from governments which have adopted a hardline policy, however, that many find it easier to pay the price of granting safe passage for these terrorists than in imprisoning and convicting them.

It is a price that is ultimately paid by the millions who travel by air.

In such circumstances it is not enough to merely decry and condemn these activities. We must strengthen the hand of those who wish to put an end to these threats. Recently, Senator RIBICOFF introduced landmark legislation which forthrightly addresses this problem. His bill would deny reciprocal landing rights to any country which harbors or grants asylum to hijackers.

I fully support this proposal. It states that such conduct places a country in the role of accomplice with these groups, and that in so doing, a sanction will be triggered against it. If other nations were to adopt this approach, there would certainly be a reduction in these crimes. It is therefore imperative for the United States, with all the authority we can command, to assume the leadership in this regard.

Recently, Temple Isaiah in Los Angeles adopted a resolution condemning air terrorism and supporting Senator RIBICOFF's legislation. I am pleased to bring this resolution to the attention of my colleagues:

RESOLUTION CONCERNING AIR TERRORISM

Resolved, That

Whereas, air hijacking has for too many years terrorized the skies of the world, and

Whereas, although such terrorism has been aimed in large part at the Jewish people, it has affected all of the peoples of the earth, and

Whereas, previous efforts to abate the tide of such terrorism have proven unsuccessful, and

Whereas, world cooperation to effectively combat such terrorism has become esential, Therefore, be it

Resolved, That Temple Isaiah of Los Angeles, California, go on record in support of the measure (S. 2236) recently introduced by Senator Abraham Ribicoff, which would deny reciprocal landing rights to the aircraft of any country providing assylum to air hijackers or air terrorists, and be it further

Resolved, That Temple Isaiah urges the United States, through its Ambassador to the United Nations and through other appropriate diplomatic channels, to seek action by all world governments that will (a) strengthen airport security, (b) ensure that perpetrators of air terrorism will face certain capture and prosecution, and (c) provide that any country which refuses to take such action will not enjoy reciprocal landing rights of its aircraft, and be it finally

Resolved, That copies of this resolution be prepared and delivered to appropriate governmental officials and other persons.

ANATOLY SHCHARANSKY TURNS 30 WITH NO END TO HIS IMPRISONMENT IN SIGHT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. KEMP. Mr. Speaker, January 20 marks the 30th birthday of Soviet prisoner of conscience Anatoly Shcharansky, who has been imprisoned in Moscow's Lefortovo Investigative Prison for the past 11 months on false charges of conspiring with the CIA against the Soviet state. Shcharansky has not been given the opportunity to speak out in his own behalf or retain legal counsel, and Soviet authorities have recently extended their investigation of his case for 6 months, further denying him his civil rights and prolonging his unjust incarceration.

I want to share with my colleagues the message which I cabled to Shcharansky recently, reassuring him of my commitment to him and his family, and I urge my colleagues to do the same. We must continue to support him in every way that we can, strongly advocating his release and reunification with his family, showing Soviet authorities that we will not stand for their inhumanity to those whose only crime is the desire to emigrate.

The message follows:

DEAR ANATOLY: I wanted you to know that you are in my thoughts and prayers on your 30th birthday, and that I am proud to have spoken out in your behalf so many times. I know how difficult it must be for you to spend your birthday apart from your loved ones, and it is my strongest wish that you will be released in the near future.

I have met your lovely wife during her trips to Washington, and I have reassured her of my commitment to help you in every way that I can. You have many friends all over the world who are advocating your release, and it is our belief that you will prevail as you symbolize the hope of all people for freedom and justice.

Warm personal regards from your friend,

JACK KEMP,
Member of Congress.

NATIONAL GUIDELINES FOR HEALTH PLANNING

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ROGERS. Mr. Speaker, as many of my colleagues know, the Secretary of Health, Education, and Welfare on January 18, announced revisions in the proposed national health planning guidelines which were originally published on September 23, 1977. The publication of the guidelines is an important milestone in the implementation of the National Health Planning and Resources Development Act of 1974, and the Secretary is to be commended for his leadership. I had previously expressed some concerns about the guidelines and called upon the Department of Health, Education, and Welfare to: first, increase its efforts to involve the National Council on Health Planning, health planning agencies, professional organizations, and others in the process of developing the guidelines; and second, revise the guidelines to include adequate flexibility for the local health systems agencies to vary from the guidelines and therefore account for special circumstances in their area.

I am pleased with the Department's actions dealing with both these concerns. It is indeed a refreshing change to see that the Department of HEW under Secretary Califano's direction, is carrying out the intent of the law, as well as being responsive to the views of the public expressed during the comment period. I think this demonstrates that the Department is listening and the process does work.

The Department has increased its efforts to get public input into the guideline development process. The National Council on Health Planning and Development has had several meetings to discuss the guidelines, the comment period was extended to provide for additional public comment, and over 55,000 comments were received. In addition, I am pleased that the Department has chosen to issue the revised guidelines as a notice of proposed rulemaking and provide for an additional period of comment. This will allow for still more public review and comment before these guidelines are issued in final form.

The guidelines have been revised to insure that the health systems agencies can adjust them to meet local conditions. The analysis supporting the adjustment would be included in the agency's health system plan. Thus, the application and use of the guidelines is clearly in local hands as required by the law. In addition, a number of the guidelines have been revised to account for the special problem of rural areas.

I believe that the Department is to be commended on its responsiveness to both the Members of Congress and the public who expressed concerns about the guidelines. I would urge those who still have comments about the guidelines to make them known to HEW during this comment period on the revisions to the guidelines.

"MARBLEHEAD" ACCOMPLISHMENT

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. LATTA. Mr. Speaker, I would like to call the attention of my colleagues in the House to a courageous accomplishment performed by the U.S. Coast Guard. The crew members of the cutter *Marblehead* on the night of October 23, 1977, gave of themselves completely in rescuing two men who were stranded on Lake Erie.

I would like at this time to insert in the RECORD a letter of commendation

from Mr. John B. Welch, of Perrysburg, Ohio, addressed to the District Commandant of the U.S. Coast Guard in Cleveland, Ohio.

The letter follows:

[From the Perrysburg (Ohio) Messenger-Journal]

PERRYSBURG, OHIO,
December 13, 1977.

DISTRICT COMMANDANT,
9th Coast Guard District,
Cleveland, Ohio

DEAR SIR: I am writing to personally thank the United States Coast Guard and particularly the crew of the cutter from Marblehead: Boatswain Mate First Class Hughes, Machinery Technician Third Class Comer, Seaman Green, and Fireman Apprentice Trammel; boat no. 41357 for rescuing me after an ordeal on Lake Erie this past October 23rd and 24th, 1977.

The action of these men and your department are directly responsible for saving my life.

The night fishing trip we took was almost my last trip on the lake.

My friend, asleep in the passenger's seat of our 1966 32' Pembroke was unable to hear my calls for assistance after the boarding chain I was leaning against broke and I fell into the water.

This happened at approximately 10:30 p.m. on October 23rd and after many unsuccessful efforts to reboard the boat, I was able to secure myself to a transducer cable at the transom and rest my feet on the rudder.

Upon his awakening, my friend and I were unable to combine efforts to get me back on board. The situation was hopeless and my condition grave due to exposure to the 57 degree water.

The United States Coast Guard immediately answered the "May Day" call given by my friend at approximately 1 a.m. on October 24th, 1977.

Their ability to find our vessel after being given poor directions to our location, the speed with which they rendered assistance, and first aid treatment for shock and exposure are the only reasons I am able to write this letter.

The outstanding seamanship of the Coast Guard crew had me in MacGruder Hospital, Port Clinton, Ohio, somewhere around 2:00 a.m. At this time I was unconscious and had been since shortly before the rescue.

It is with deep gratitude and respect for the United States Coast Guard that I write this letter. For without their excellent training, efficiency and ability to handle emergency situations with calmness, surety and expeditiousness, I would certainly have succumbed.

Thank you for saving my life!

Sincerely yours,

JOHN B. WELCH.

INTRODUCTION OF AGRICULTURAL TRADE ACT OF 1978

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MATHIS. Mr. Speaker, the record balance of trade deficit the United States is now experiencing threatens the standard of living of all Americans. Without agricultural exports, which totaled approximately $24 billion in 1977 and almost offset total U.S. oil imports, the U.S. economy would truly be in a state of chaos.

Many persons, including myself, believe that agriculture offers even greater potential for solving our balance of payment problem. Furthermore, increased farm exports are needed because of disastrously low farm income, growing crop surpluses, and the worsening economic situation of agriculturally dependent industries. The farm problem is becoming a national problem.

In an effort to promote agricultural exports, Congressman BOB POAGE and I are today introducing the Agricultural Trade Act of 1978. This bill would, among other things, first, establish the policy of the U.S. Government, in concert with private enterprise, to develop a systematic approach for expanding international markets for U.S. farm products; second, create a minimum of six U.S. agricultural trade offices abroad whose sole function would be the promotion of U.S. farm products based on goals established by country, region and commodity; third, improve the terms, conditions, and availability of credit for financing farm exports by the Commodity Credit Corporation; fourth, upgrade the role of the Department of Agriculture officials now attached to U.S. embassies; fifth, in view of the historic importance of farm income support and conservation programs, establish a position of Assistant Secretary of Agriculture for Commodity Programs; and sixth, in recognition of the role of U.S. food power in world affairs and the dependence of U.S. producers on foreign markets, establish a position of Under Secretary of Agriculture for International Affairs.

Cost figures are now being developed for this legislation, but is expected that Treasury exposure will be minimal inasmuch as the only outlays not subject to repayment will be the administrative expenses associated with setting up the trade offices and other related administrative costs.

ENERGY, JOBS, AND BLACK AMERICA

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. FRENZEL. Mr. Speaker, on Thursday, January 12 the Wall Street Journal ran an excerpt from a report of the NAACP's National Energy Conference.

The excerpt shows a keen and thoughtful insight into America's energy problem. The NAACP correctly concludes that there are serious deficiencies in the administration's national energy plan.

The administration would be well advised to follow the thoughtful logic of the NAACP's national energy conference and to support the changes which it suggests. Our conference committee would be even better advised to do so.

The article follows:

ENERGY, JOBS AND BLACK AMERICA

[NOTE.—The following is excerpted from the report of the National Association for the Advancement of Colored People's National Energy Conference:]

The National Association for the Advancement of Colored People has for many years been dedicated to the task of defending the economic, social and political rights and interests of black Americans. This growing national debate about energy has led us to examine this question to ascertain the implications for black Americans.

We are convinced that the nation faces a serious energy problem. The evidence is overwhelming that the primary fuels that supply our homes, factories, farms, transportation systems and commercial establishments are rising in cost at an alarming rate. It is also clear that our ability to supply the demand for oil and natural gas from domestic sources is diminishing while the level of imports of these fuels continues to grow. At the same time there appears to be a myriad of governmental constraints on the production and use of coal, our most abundant domestic fuel resource, and nuclear power. Efforts to develop alternative sources of energy are confronted with severe problems of raising the necessary capital in light of the many uncertainties regarding governmental policies.

MORE REMAINS TO BE DONE

Since the early 1960s gains have been made toward bringing the nation's black citizens into the mainstream of American economic life. This has occurred largely during a period of expansion in the economy which created new opportunities for jobs. However, a great deal more remains to be done. We still have tremendous unmet social and economic needs. The unemployment rate in the black community is still twice the national rate. Perhaps more importantly, unemployment among black teenagers ranges up to 50%. Over the next 15 years we must undertake to rebuild and revitalize our cities and urban areas where a very high percentage of black people live.

We note the historic direct correlation between the level of economic activity and energy availability and consumption. Energy supply development throughout our nation's history has been critically important to economic growth. We find it very disturbing to contemplate a future in which energy supply would become a constraint upon our ability to solve these critically important social and economic problems which confront black citizens.

We have examined the administration's National Energy Plan in the light of the agenda for economic growth and development for America's black people. What we see in the plan is an emphasis on conservation, and a reduction in the growth of total energy demand and consumption. The plan basically takes a pessimistic attitude toward energy supplies for the future. It seems to make the basic assumptions that (1) we will run out of all primary fuels, except coal, relatively soon, and (2) essentially nothing can be done to substantially increase or even to maintain existing production rates for oil and natural gas. This emphasis cannot satisfy the fundamental requirements of a society of expanding economic opportunities.

We think there must be a more vigorous approach to supply expansion and to the development of new supply technologies so that energy itself will not become a long-term constraint, but instead can continue to expedite economic growth and development in the future. All alternative energy sources should be developed and utilized. Nuclear power, including the breeder, must be vigorously pursued because it will be an essential part of the total fuel mix necessary to sustain an expanding economy. Other alternative sources, such as solar, geothermal, biomass, tidal, oil shale and synthetic fuels from coal must also be developed and made commercially available at the earliest possible time. A more positive attitude by the administration toward supply development is extremely important because future developments will be largely determined by the policy choices being made now by the administration and the Congress.

While we endorse the plan's objectives of eliminating energy waste and improving utilization efficiency, we cannot accept the notion that our people are best served by a policy based upon the inevitability of energy shortage and the need for government to allocate an ever-diminishing supply among competing interests. Those aspects of the plan which would perpetuate price controls on newly discovered oil and natural gas and extend those controls to new areas appear to us to be incompatible with the need for new supply development. We also believe that many of the prohibitions proposed with respect to the industrial use of oil and natural gas will force the closing of many job-producing industries in urban areas and cause a massive shift of industries away from areas where most black people live and work.

We recognize there is disagreement as to whether the plan does in fact offer more incentives for new supply development. However, we are impressed with the conclusion reached by the Comptroller General of the United States in his evaluation of the NEP:

". . . (T)he plan's incentives are not greater than those which would be available if existing policy were continued through 1985 . . .

"Also, the plan will reduce revenues to producers for most oil already discovered and may adversely affect oil companies' financial ability to support additional exploration. By not increasing the financial incentives for additional exploration and by reducing companies' financial strength, the plan fails to come to grips with the problem of increasing domestic crude oil production."

For many years we have been encouraged to believe that a significant percentage of our total energy requirements of the future would be supplied from nuclear power. The National Energy Plan, however, seems to call for a retreat from nuclear energy on the basis that the environmental and safety costs may be too high. The NAACP too is concerned about environmental and safety matters. But as long as 14% of our people are unemployed, as long as the earnings gap between black and white Americans continues to widen and as long as a majority of black Americans continue to face a constant struggle to attain even the basic necessities of life, our first priority must be the attainment of economic parity for black Americans.

We are fearful that an energy policy with an overriding concern for the protection of the environment may cause governmental policymakers in this area to lose sight of other more compelling economic and social objectives that are more important to black Americans. The basic approach of the plan as relates to energy supply reflects the absence of a black perspective in its development.

We recognize that nuclear power does present certain problems. But we think these problems can be solved through dedicated efforts by government, the scientific community and industry working cooperatively together. Notwithstanding the claims of opponents of this source of energy, the fact is that nuclear power will be required to meet our future needs for electricity. If we do not move ahead now with nuclear, the next generation is likely to be sitting around in the dark blaming the utilities for not doing something this generation's officials would not let them do.

The National Energy Plan proposes sharp increases in the cost of oil, natural gas and gasoline through a complex system of new taxes. Domestically produced crude oil would be taxed an amount equal to the difference (in 1980) between the federally controlled price and the world oil price. In addition a tax on the industrial use of oil and natural gas would be imposed that could reach $3 per barrel by 1985.

Over the next five years these taxes have been estimated to produce new government revenues of over $50 billion, which makes the "energy plan" one of the largest tax increase bills in history. A major portion of these new taxes would be passed on to consumers in the form of higher prices not only for energy products but also for other goods and services. To mitigate the adverse effects on the economy, the plan does provide for tax rebates to the public and other tax credits. It is estimated that the per capita tax rebates flowing from the crude oil equalization tax in 1978 would range somewhere between $15 and $22.

THE NEW TAXES

As we understand it the new energy taxes are proposed for the purposes of (1) encouraging energy conservation by making energy more expensive, (2) creating incentives for industry to shift from so-called scarce fuels to coal, and (3) making oil and natural gas prices roughly equal to their current value in world markets.

For the great majority of people the NAACP represents, the cost of energy today is sufficiently high to discourage any unnecessary use. They have borne the brunt of the fourfold increase in the price of natural gas and skyrocketing increases in electric utility bills since 1973. Even without new energy taxes, we have every reason to believe energy prices will continue to rise at a faster rate than prices for other goods and services for the foreseeable future. This will certainly come about as the percentage of total energy supplies from newer, more expensive sources increases.

If energy prices are to be raised artificially through the mechanism of taxes, a major portion of the new revenues should be used to develop new energy supply, particularly from nonconventional sources such as coal gasification and liquefaction, oil shale, solar, etc. Putting the funds to such uses appears to us to be much more desirable in terms of the objective of reducing dependence on imported energy than distributing token payments to the general public.

The NAACP, therefore, concludes that there are serious deficiencies in the National Energy Plan as proposed. We recognize that the Congress is now in the process of making certain changes and that the final energy policy that evolves must reflect an accommodation of differing views. This statement of our views will be communicated to the members of Congress and others who may have an impact on the final outcome of this extremely important policy issue.

POSTAL SERVICE: CHANGES NEEDED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ASHBROOK. Mr. Speaker, in 1970 I voted against the legislation creating the present postal system. In my opinion the proposal was not aimed at solving any of the problems that the post office faced while adding even more.

The period since then has shown this view to be all too true. What Member of Congress has not received dozens or even hundreds of complaints about postal service. Usually the complaints are based on actions that were taken as a result of directives from Washington, D.C. Most of the problems can be traced back to Washington.

Although I do not agree with all the points in the article, the Wall Street Journal recently ran an interesting story on the Postal Service. In the words of the article:

The new postal agency was designed to be run by professional managers, immune to political pressures. . . . It has now become clear after 7 years of experience that this idyllic arrangement doesn't work. . . .

Changes are needed in the legislation covering the Postal Service. Hopefully, if reforms are to be considered, they will deal with the actual problems and needs that exist and not create further problems. It is time for reinvolvement of the Congress in the operations of the Postal Service.

At this point I include the text of the article "Politics and the Post Office" from the Wall Street Journal of January 4, 1978:

POLITICS AND THE POST OFFICE

(By Walter S. Mossberg)

WASHINGTON.—It's fashionable these days to talk about getting politics out of various government functions, to "reform" public agencies by turning them over to independent-minded people who can run them in the fairest manner.

But there is one federal agency that is actually suffering from a *shortage* of political input: the United States Postal Service.

In 1970, the elected officials of the United States washed their hands of the 200-year old Post Office Department, once considered such an important agency that Benjamin Franklin served as its chief. The Congress and President Nixon agreed to create a new, independent federal agency—the Postal Service—to deliver the mail. They even gave up the right to appoint and confirm the Postmaster General.

The agency's creation seemed eminently justified. After all, the old Post Office Department had for so long been a repository for political hacks that it was teetering on the brink of financial collapse. To correct that condition, the new agency was designed to be run by professional managers, immune to political pressures, and to operate almost wholly on revenues from postage, instead of taxes.

It has now become clear after seven years of experience that this idyllic arrangement doesn't work, for the agency's creators in 1970 went too far in isolating it from the elected representatives of the people. They went so far, in fact, that they abdicated their responsibility as elected officials to give the agency lasting guidelines on what public policy should be in the postal field.

VAGUE AND GENERAL, BUT . . .

The 89-page postal law contains only seven paragraphs on "postal policy"—all of them vague and general. But it includes many pages of detail on postal finances. The nonpolitical managers destined to take over U.S. mail delivery were told, in explicit terms, to break even financially by 1984, but were exhorted only briefly and generally to provide "prompt, reliable and efficient services."

The law declared that the Postal Service "shall be operated as a basic and fundamental service provided to the people by the government." But, at the same time, it mandated that "postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal, as nearly as practicable, total estimated costs of the Postal Service."

Since the "appropriations" mentioned in the law were deliberately frozen at $920 million annually, a relatively minuscule amount in a current Postal Service budget of about $17 billion, the agency's charter in effect says that the government is promising to continue delivery to the citizens of a "basic

and fundamental service," established by the Constitution itself, but that it no longer is willing to pay for it.

Not surprisingly, then, whenever postal managers have looked for ways to comply with their explicit financial orders, service has suffered. Each service cut, actual or planned, has been sincerely defended by the agency as consistent with the public interest. But the law is so unclear in defining that interest that it provides no clue as to the accuracy of the agency's assertions.

Is it the policy of the U.S. government that magazines and newspapers should be mailed at very low rates? The law doesn't say. Is it public policy that everyone should have home mail delivery? The law doesn't say. Is it the government's intention that mail be delivered six days each week? Again, the law provides no help.

These lapses have been compounded by the fact that the law also established a new type of Postmaster General, no longer appointed directly by the President, but hired by a business-dominated board. The board's members, while presidentially appointed themselves, serve such long terms (nine years) that they are nearly immune to broad public policy considerations.

The current Postmaster General, Benjamin Franklin Bailar, a former can company executive, is lauded even by his critics as an honest, hardworking and intelligent manager. But he is suited neither by training nor temperament to shape policy in a political atmosphere.

Thus, Mr. Bailar and his two businessman-predecessors have focused their natural talents on the area of the law which is most explicit and demanding, the requirement to break even financially.

As a result, the average piece of mail costs 80% more to send today than in 1971, but a number of customary services have been reduced, and more drastic cutbacks are threatened.

In many areas of the country, the number of daily mail collections has dropped off, multiple downtown business deliveries have been nearly eliminated and forwarding of mail to new addresses has been slowed—all in the name of cutting costs. Only strong political pressure has so far staved off plans to end mail delivery on Saturdays and close up to 57% of the nation's 30,000 post offices, to save even more money.

None of this has been done out of malice or caprice. Mr. Bailar has repeatedly said he will offer any services Congress is willing to pay for specifically, and he has tried to use commercial-style market research to make up for the vacuum in public policy guidance in which he must operate.

But this vacuum persists, so unelected official Bailar has had to make his own policy. Using businesslike analysis, he has concluded that the Postal Service is doomed to be a shrinking factor in American communications, and he has adopted a policy of winding it down in an orderly, inexpensive fashion.

This might be acceptable in the private sector, with only shareholders and employes directly concerned. But, in this case, it means that Mr. Bailar has decided, almost on his own, to radically alter and diminish a public service described by law as "basic and fundamental." What's more, his policy creates a self-fulfilling prophecy.

For instance, second class mail rates, though still subsidized somewhat, have surged so much since 1970 that publications have been forced to print fewer issues or deliver more and more copies by private means. That will eventually shrink postal volume, confirming Mr. Bailar's judgment that use of the mails is waning, and prompting further rate boosts.

This year, however, the Congress and President Carter will have a chance to decide once and for all on a detailed national postal policy. Legislation to overhaul the agency is now making its way through Congress, giving current politicians a chance to answer the many questions avoided by their predecessors seven years ago.

They can write a law that states clearly which specific postal services the government wishes to provide, no matter how much money they lose, and commit the government to paying for them. All other services could continue on a break-even basis, and the agency itself could remain nonpolitical, except that its top official could once again be a presidential appointee who can be relied upon to be politically responsive.

If Mr. Bailar's policy is correct, the lawmakers can say so. If they wish to preserve Saturday mail, or lower second-class rates, they can do so. Sadly, however, the chances that our elected officials will make these tough choices seem dim.

A PRESIDENTIAL APPOINTEE, AGAIN

A bill produced by the House postal committee does provide for six-day delivery and for less rate pressure on small magazines. It also would make the Postmaster General once again a presidential appointee.

But the House bill rejects the notion of making specific appropriations to pay for specific services deemed to be in the public interest. Instead, it would drastically repoliticize the agency by giving Congress an ad hoc veto over every rate change service decision and big building project the agency undertakes. In addition, the agency's tax subsidy would be tripled, though still not earmarked for specific purposes, and it would be subject to periodic congressional review.

These changes would reintroduce lobbying in Congress as the main method for making short-term postal decisions—a key problem the 1970 law tried to end.

However, President Carter's idea of legislation also avoids the tough questions. Though he denounced the 1970 law during his campaign as a disastrous "Republican experiment," the President has decided now that the law provides "a sound mechanism" for delivery of the mail. The only important change he supports is presidential appointment of the Postmaster General.

Despite vague White House hints that subsidies of some services may be considered from time to time, Mr. Carter seems unwilling to decide which mail services the government should pay for, or even to provide any additional money to hold down the rate rises that are making the mails too costly for some to use.

The Postal Service is a dull subject in Washington. It can hardly compete for attention with things like energy policy, the welfare system, or peace in the Middle East. But, unless politicians start taking postal problems more seriously, the nation may lose—by default—a basic service institution that touches more citizens than any other government activity.

IN RECOGNITION OF DR. MARTIN LUTHER KING, JR.

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. RODINO. Mr. Speaker, we all recognize the issue of human rights is gaining momentum throughout the world. In 1975, the Helsinki agreements were signed by 35 nations emphasizing the importance of basic human rights. During the first year of his administration, President Carter has put the United States at the forefront of the international struggle for human rights.

Mr. Speaker, in a very real sense, the foundation of the worldwide human rights movement of the 1970's and 1980's was set in America's civil rights movement of the 1960's. This past Sunday, many Americans celebrated the birthday of the man who made that movement an irreversible force in America. Dr. Martin Luther King, Jr. would have been 49 years old Sunday, and if the world benefits from the U.S. concern for human rights, much of the credit for moving our country in that direction goes to Dr. King. As I told the Southern Christian Leadership Conference in 1975 after being honored with the Martin Luther King, Jr. award:

> They shot down the man—and they snuffed out his life—and the man died. But they could not shoot down his dream. For his dream was stronger than life and more powerful than death—and the dream lives on.

Mr. Speaker, each year my home State of New Jersey, like so many other States, has a day to honor Dr. King. This is very fine, but I urge my colleagues in the House to move swifty in passing the bill which would make Dr. King's birthday a national holiday. As a sponsor of this legislation, I anxiously look forward to the day when all Americans will celebrate Martin Luther King's Jr.'s birthday together, on a national holiday, as he is remembered and honored all over the world.

JOHN M. OLGUIN—CITIZEN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ANDERSON of California. Mr. Speaker, every winter the California grey whale passes off the southern California coast on its way to the breeding grounds on the Baja California coast. Since time immemorial, this migration has provided us with one of the great spectacles nature has to offer.

And every year since 1971, the leviathans have had company—as San Pedro resident and Cabrillo Beach Marine Museum Associate Director John M. Olguin sets out to sea with his whale-watch program, providing people from all walks of life with an opportunity to experience these great beasts at close range.

The whale-watch program tells us a lot about John. It illustrates his love for the sea, and his concern and understanding for its inhabitants. But most importantly, it demonstrates the enjoyment and enthusiasm he has for sharing that love with others, and his drive to help them understand about our heritage from the sea.

On January 27, 1978, John Olguin will be honored as the San Pedro Lion's Club Citizen of the Year in recognition of his lifelong contributions to the people of the Los Angeles Harbor area. He is truly deserving of this award, for few can match not only his accomplishments, but the extent to which he is identified with the community itself.

Born in San Pedro on February 18, 1921, John is a native Californian—his mother was a Chumash Indian, one of the tribes that once flourished in southern California. He graduated from San Pedro High School in the winter of 1941, after serving as student body president. In addition, he was elected to the Ephebian Society, received the American Legion Award, and founded the Knights, an honorary service organization still in existence. Following his graduation, John served in the U.S. Army for 3 years during World War II, and was decorated with the Silver Star for gallantry in action during his duty in the South Pacific.

He returned to San Pedro following his military service, and again worked as a lifeguard at Cabrillo Beach, as he had since 1937. Although probably better known as being the Port of Los Angeles and for its fine harbor facilities, San Pedro is also the site of Cabrillo Beach, which is enjoyed by people from all over the Los Angeles area as well as local San Pedro residents. Promoted to life guard captain in 1949, Olguin was also appointed acting museum director for the Cabrillo Beach Museum in the same year. In 1953, he was appointed museum director, although he continued to serve as life guard captain until 1962.

Under John's inspired leadership, the Cabrillo Beach Museum has become one of the most outstanding educational institutions in our Nation. Located on a spit of land separating Los Angeles Harbor from the Pacific ocean, it is ideally located as a showcase for marine life and natural history. More importantly, it is a living museum—a place where people can learn, and grow to appreciate our oceanic resources as never before.

Perhaps John's greatest gift is his ability to communicate with others in a way that is not only enjoyable, but that stimulates interest and the desire to learn. Although he never attended college, he is a great natural instructor, as well as a self-taught expert on marine organisms. Through the whalewatch program, he has taken 253,000 people out to see the migrations since 1971. His educational program with the late night grunion runs along the beach have also been a tremendous success, as has his volunteer training program.

Because of John's efforts, the Cabrillo Beach Marine Museum was selected as one of the outstanding educational programs by the American Association of Museums. He has received many commendations and awards, including a resolution from the California State Assembly, honorary awards from Los Angeles Harbor College and the Los Angeles Unified School District's Board of Education, and the American Cetacean Society's 1970 Man of the Year. He has served as president of the American Cetacean Society from 1971 to 1973; and as president of the Point Fermin Lighthouse Committee—which was instrumental in having this San Pedro landmark placed on the National Historic Register.

In addition, John has conducted workshops for the American Association of Museums; the National Biology Teachers Environmental Symposium; Lutheran Teachers; California State College, Los Angeles; the Sierra Club, Los Angeles Chapter; and other colleges and institutions. He was also at one time the only Mexican-American museum director in the Nation.

During the school year, approximately 2,000 children a day are given tours through the musuem and are exposed to a marvelous new learning experience. John has never turned down a request to help teach youngsters about the sea; and he feels he is able to bring that experience to a wide variety of groups, including emotionally handicapped children and the blind.

Mr. Speaker, John Olguin is a very special man. He has worked tirelessly throughout his life to benefit San Pedro and its people, and we are very pleased to see that the community will shortly be expressing its respect and admiration for him.

My wife, Lee, joins me in congratulating the San Pedro Community Man of the Year—John M. Olguin. We would also like to extend our best wishes to his lovely wife, Muriel, and their children, Monica, Viola, and John.

HUBERT H. HUMPHREY

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. BEARD of Rhode Island. Mr. Speaker, millions of words have been written in the past few days about the extraordinary career of HUBERT H. HUMPHREY. I think it is most appropriate that most knowledgeable writers were able to emphasize the effect of this great man's personality, drive, capability and intellectual force on the working man of this Nation. HUBERT HUMPHREY'S memory will be a beacon light for the average man and woman because of HUBERT HUMPHREY'S own humble beginnings and the unique, simple character of the man that never let him forget the hopes and aspirations of the average person.

Vermont Royster, writing in the Wall Street Journal yesterday, seemed to capture the essence of HUMPHREY in a few words:

All the eulogies have been spoken. From around the world the tributes to him have poured in. But somehow there is an unreal air about all those honors. What sticks in the mind are the little vignettes, glimpses caught of a man who could dream so much and still smile when he saw his dreams shattered.

Mr. Speaker, in tribute to Senator HUMPHREY, I wish to recall one of those vignettes, so close to my heart and so typical of the attention this great man could pay to so many things that might otherwise have been shuffled off to oblivion. Early in April of 1977, I sent Senator HUMPHREY a note advising him of the formation of the "Blue Collar Caucus" in the House of Representatives. Within forty-eight hours, there was a letter from him that carries the essence of this man's concern, humor and constant attention to any matter that touched his heart and mind:

U.S. SENATE,
Washington, D.C., April 7, 1977.

HON. EDWARD P. BEARD,
U.S. House of Representatives,
Washington, D.C.

DEAR ED: Thanks for your note and the information about the Blue Collar Caucus. It's a great idea. I'll be your Senate associate. Keep up the good work.

Sincerely,

HUBERT H. HUMPHREY.

Mr. Speaker, I think the most lasting effect of all the significant things HUBERT HUMPHREY accomplished in his many years of service to the Nation will be his devotion to human rights and dignity. The millions of elderly citizens of this country owe so much to Senator HUMPHREY'S unwavering efforts on their behalf and we owe it to them to keep alive his conviction that in the United States of America, there is no such thing as a second-class citizen.

CRISIS IN THE CLASSROOM

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. D'AMOURS. Mr. Speaker, today, just over two decades since the launching of sputnik the education profession is once again in a state of great turmoil. In 1957, fear that the United States might lose the space race due to an "education gap" led the Government to embark on a major effort to upgrade the quality and quantity of educational training in our Nation. For at least a decade thousands of dedicated and idealistic young men and women entered the teaching profession and were accorded more respect than almost any other occupational group.

Today, public opinion polls show that educators are no longer held in the same esteem they once were, the postwar baby boom has passed, competing fiscal pressures have reduced our financial commitment to education, teachers are leaving the profession in droves, and those who remain in the classroom do not find their jobs as satisfying as they once were.

The reasons for the general dissatisfaction with our educational systems are certainly complex. This is probably why so much of the public debate on the issue is so greatly oversimplified.

I would, therefore, like to share with my colleagues in the Congress an article on the subject that I have found to be most illuminating. Dr. David Manning, a social studies teacher who entered the teaching profession just after Sputnik was launched, has written a most perceptive analysis for the Wall Street Journal of the changes that have transpired in American education over the last two decades. His insights are particularly useful to those of us in Congress as we reevaluate the role of education in our society in preparation for this year's reauthorization of the Elementary and Secondary Education Act of 1965:

DISCONTENT IN THE TEACHING RANKS

(By David L. Manning)

Jeremiads on the state of the public schools are commonplace today. Much has been said

about the deterioration of the public school system. Now there is growing evidence that those who teach in the schools are beginning to believe the charges of those who are seriously concerned about American education.

When the New York City Board of Education attempted to rehire 9,000 furloughed teachers recently, fewer than one out of three of the teachers accepted the offer of reemployment. Veteran teachers shake their heads at what transpires in some schools and muse wistfully on the halycon years of the fifties and early sixties; many enthusiastic beginning teachers, filled with idealism, are soon bewildered and emotionally battered by the realities of the job and leave teaching. Battle fatigue is becoming a common syndrome, forcing increased numbers of teachers to apply for periods of rest and recuperation.

THE NEW REPORT

A recent survey by the National Education Association has confirmed a major deterioration in morale among American teachers. The report indicated that experienced teachers are quitting their jobs in record numbers. In 1961 nearly 28 percent of America's teachers had 20 or more years of experience; in 1976 this figure dropped to slightly over 14 percent. Alarmingly, the survey revealed that only 60 percent of teachers who are presently working in the schools plan to remain in the profession until retirement.

This growing trend of teacher discontent stems from several factors. The breakdown of a sense of discipline in the schools is obvious. More subtle in nature is the deterioration of the instructional process over the past decade coupled with a diffusion in the institutional role of the public school in society.

The rise of physical violence in the school mirrors the deterioration occurring in the political, social and economic fabric of America. Some schools are literally out of control, with students attacking each other and their teachers. In 1975 over 66,000 attacks on teachers were recorded in public schools across the country.

In these schools education is only a secondary concern. The primary goal of teachers in these situations is their own physical preservation; the primary goal of administrators is one of survival in their positions. Educational integrity must shift for itself.

A more subtle deterioration has occurred in the instructional process. School curricula have proliferated to such a degree that what is being taught is not taught well. School authorities have avidly pursued every pedagogical panacea that has been floated in educational circles over the past decade. Students are subjected to new programs simply because they are new; scant thought is given to their effect on the scope and sequence of the total curriculum.

The elective system which has evolved in many schools has a devastating effect on the learning habits of young students. Fifteen-year-olds have grown adept at shopping for the most convenient, least demanding courses in the "supermarket" curriculum. Instead of trying to mold and upgrade students' aspirations and skills to new horizons, the curriculum simply accommodates students under the guise of meeting their needs. Then students are graduated with inflated grade-point averages, but deficient in demonstrable academic and vocational skills.

Industry demands that the schools teach students about careers and jobs; religious and civic groups ask the schools to instill the values and give the moral training that were formerly considered an integral part of the responsibilities of the home and the churches. Assorted interest groups lobby the schools to teach metric education and a variety of other programs.

No one questions the importance of these demands. One must ask, however, what are the limits to the instructional capacity of the schools? The schools can't teach all things to all people. With each new demand on the school curriculum, teachers have less time to spend on teaching traditional skills to students.

When one considers that teachers spend increasingly less time in the classroom teaching basic academic skills, the decline in test scores such as the Scholastic Aptitude Tests is hardly surprising. The 10% decline in SAT scores in the past decade is commensurate with the reduction in the amount of classroom instruction in basic skill subjects.

THE FOWLER STUDY

An informal study by Charles W. Fowler, superintendent of schools in Fairfield, Conn., found that children are now receiving 10% fewer hours of instruction in basic skill subjects such as math, science and language arts, compared to 25 years ago. Two researchers at the University of Chicago, David Wiley and Annegret Harnishfeger, reported similar trends. From a study of federal enrollment statistics from 1970 to 1972, they concluded that the decline in the proportion of students enrolled in basic college preparatory courses on a nationwide basis parallels the national decline in test scores.)

The traditional role of the public schools was to teach basic academic competencies and to develop entry-level vocational skills. By trying to ameliorate the effects of economic turndowns, the lack of jobs for young people, or the breakdown of the family structure, the schools have increasingly devoted less time to their traditional tasks. Classroom teaching has become merely one of many tasks performed in schools today.

As schools come under the eye of intensive public scrutiny, those who teach in the schools are now forced to become defenders of incompetency in order to justify past practices. A long-standing policy of automatic promotions and awarding diplomas on the basis of attendance rather than competencies has created a climate of mediocrity in the public schools. Such policies and practices victimize students and teachers alike.

Public education is characterized by an "Alice in Wonderland" quality. Like the Caucus-race, everyone decides when he wishes to begin the race; everyone runs the type of race he chooses to run; everyone wins the race; everyone receives a prize for winning.

HEW QUACKERY

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. HAGEDORN. Mr. Speaker, last month the House unanimously approved a resolution expressing its concern about HEW's national guidelines for health planning. Principal among these guidelines were provisions establishing national minimum standards of hospital occupancy, and maximum standards of bed-to-population ratios. I have submitted testimony to HEW on those proposed guidelines (November 18, E7043), and believe that their primary impact would be to seriously threaten levels of health care in rural America. They divert attention from the contribution made by the Federal Government, and particularly HEW, to the soaring cost of medical services in the United States, preferring to place the blame on small, rural hospitals.

I believe that columnist James J. Kilpatrick captures the essence of these proposals when he states,

Dr. Califano would improve the public's access to hospital care by making access more difficult; he would enhance the quality of medical care by reducing it.

Perhaps better than anything else done by HEW in a long while, the guidelines symbolize the Department at its very worst. They make crystal clear that HEW has learned nothing from the experience of centralized planning and bureaucratic regulation over the past 15 years, and that they remain as determined as ever to dictate to individuals and communities across the country how best to organize their own lives.

I would like to call to the attention of my colleagues the full remarks of Mr. Kilpatrick on the guidelines:

CALIFANO'S CURE IS WORSE THAN HIS DISEASE

(By James J. Kilpatrick)

Joseph A. Califano, secretary of Health, Education and Welfare, has undertaken in recent months to make himself the number one doctor in charge of curing the ills that afflict the nation's system of medical care. He is royally botching things up.

This is scarcely surprising. Califano perfectly embodies most of the doctrinaire notions of the liberal mind at work. A product of Harvard Law, he has been in and out of government since he was 24; he is witty, brilliant and rich; he is now in a position to administer some of the liberal programs he drafted as a top assistant to Lyndon Johnson. Within the Carter administration, he stands out like a bluejay in a swarm of sparrows.

Among the most cherished of all liberal notions is the notion that Washington knows best. Another prized notion is the notion that money is the cure for all evils. These two notions have caused most of the particular ills that Dr. Califano proposes to remedy. His thought is more of the same.

At the moment, our doctor-in-charge-of-everything is operating on the high cost of hospital care. It has not occurred to Dr. Califano that the government's own policies are overwhelmingly to blame for the condition that disturbs him. If one plots on a chart the rising costs of hospital treatment over the past 15 years, and plots on another chart the soaring federal expenditures on Medicare and Medicaid, if will be observed that the lines precisely track each other.

Hospitals have overexpanded in this period for one reason above all others: Federal money was there to pay the bill. Equipment has been purchased that might not have been purchased otherwise. Hospitals have no incentive for reducing costs and every incentive for letting costs get out of hand.

Now comes Dr. Califano, masked and gloved, waving his carving knife. He will fix things up. Among his draconian measures are a dozen guidelines published in the Federal Register on Sept. 23. They perfectly manifest Notion One, that Washington knows best.

Under these guidelines, the Washington bureaucracy proposed to impose upon all the communities and all the hospitals in the land a web of new rules and regulations. The rules deal with the number of deliveries in obstetrical units; they deal with pediatric services, with open heart operations, with radiation therapy and with renal diseases. In these areas of hospital care, minimal standards of bed occupancy would be established.

These standards would be enforced through Notion Two: Hospitals that failed to meet the occupancy rates would risk the loss of their federal payments.

In large metropolitan areas, the approach may make a good deal of sense. In rural areas, it makes none. The Califano guidelines

contain some vague gestures toward small towns, but the gestures are meaningless. Dr. Califano would improve the public's access to hospital care by making access more difficult; he would enhance the quality of medical care by reducing it.

Our doctor-in-charge-of-everything has some other interesting remedies. With one hand he keeps sawing away at high hospital costs; with the other hand he is pumping up pressures to make them higher still. Largely because of HEW's threats and demands, more than 1,600 hospitals—including such eminent institutions as Walter Reed—now face a loss of accreditation for failure to meet some stiff life safety standards. It's hard to knock safety, but some of the requirements will demand millions of dollars in remodeling to achieve a negligible gain in patient care.

On down the road Dr. Califano sees the greatest cure of all: National Health Insurance! He was in London in November, where he told reporters for The Times that Britain's system of socialized medicine "is likely to form the basis for the U.S. national health system due to be set up by the Carter administration." He went into raptures over Britain's program, and said it was a "tragedy" the U.S. had not adopted the same plan long ago.

If this amiable quack has his way, virtually all medical care in the entire country will fall under federal domination. We will then treat Califano's disease with Califano's cure. If you think the disease is bad, believe me, the cure will be worse.

A JOBS FIRST APPROACH

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. VENTO. Mr. Speaker, two very significant articles appearing in the New York Times on December 29, 1977, question the current "conventional wisdom" which has it that the way to fight economic stagnation and inflation in the United States is to provide a $25 billion tax cut.

The import of both essays is that the most effective approach to countering the problem of structural employment underlying our present economic ills is through the Federal Government's job-creation efforts. I am persuaded by the arguments that the early enactment of the Humphrey-Hawkins bill is crucial to helping the United States and, indeed, the free world on the road to economic recovery.

I recommend to the attention of my colleagues the two important articles which follow:

A JOBS-FIRST APPROACH

(By Henry S. Reuss and James K. Galbraith)

WASHINGTON.—If nature takes its course, on Jan. 19 President Carter will propose, as part of his State of the Union Message, a tax cut of around $25 billion. Such a tax cut, he is likely to say, will undo the damage inflicted by energy and Social Security tax increases and forestall an economic slowdown.

This time, with Congress in an election year and embarrassing memories of the canceled $50 tax rebate not extinct, there would be no turning back.

How would the tax cut affect us? It would stimulate the economy some, reduce unemployment to perhaps 6.5 percent by 1979, and give minor boosts to inflation and the trade deficit. If the Federal Reserve responds as usual, credit will tighten and interest rates rise. The budget deficit will climb, from $50 billion in calendar 1977 to at least $60 billion through 1979, further from the promised balance than ever. Loud cries will be heard throughout the land that Federal expenditures must be brought under control. Then, the unemployed, the poor, the declining cities, the depressed rural regions will come to Washington and find the cupboard bare. Their problems cannot be solved by a simplistic across-the-board cut.

Fortunately, there is an alternative strategy. President Carter could on Jan. 19 present a program that would do the following:

1. Repair the Social Security and energy tax damage by amendments to those bills, rather than through a general tax reduction. The Social Security payroll tax increase should be repealed and general revenues substituted. Energy tax rebates should be calibrated to reimburse the people hardest hit by energy tax increases.

2. Launch a maximum attack on structural unemployment as our first domestic priority.

The one million public and private jobs promised in the Carter welfare plan should be detached and sent to Congress for immediate action. Incentives to private employment, such as a wage subsidy for additional workers, should promptly be tried out in selected labor markets. For the nation and in every major job market, we need a live-wire, top-level, jobs-now straw boss to ride herd on the effort.

Third. After six months of intensive effort, review accomplishments.

How many extra jobs have been created, how many more can be, and what is the projected spillover stimulus to the economy? If an additional stimulus in the form of a tax cut then seems required, so be it. A tax cut can be proposed and enacted quickly, particularly if the Congressional tax-writing committees use the intervening time to debate the form and dimensions of such a future tax cut.

An intensive jobs effort would direct spending where it is most needed: at our declining cities, depressed rural backwaters, unemployed people, untrained youth. Direct benefits would flow to all of us in the form of spruced-up cities, cleaner streets and parks, thriving small businesses, a larger and better pool of productive workers, more day-care and services for the elderly and less crime and drug addiction. Indirect benefits—the overall fiscal stimulus—dollar for dollar, would be the same or better than that of a tax cut. Many more jobs would be created: Each dollar spent on job creation does in fact create jobs while only a fraction of tax-refund dollars does the same.

At the moment urban, labor and minority interests are waiting in the vestibule for a promised but as yet unspecified assault on unemployment. The next 30 days are crucial: If the general tax cut that President Carter has indicated he wants goes forward, chances for a serious structural employment program in this Administration's first term are greatly lessened.

But not only those directly concerned should find the jobs-now alternative attractive. Conservatives like Arthur F. Burns, the outgoing Federal Reserve Board chairman, have long recognized the need for a structural attack on unemployment. So have members of the Business Council—200 top executives of United States industrial corporations—who could be spared the threat of tax "reform" in this Congress in return for putting tax reduction on "hold."

Other Western nations, confronted by structural unemployment, are reluctant to stimulate their economies for fear of inflation. They would welcome our example.

The program we propose would take longer than a tax reduction. It would not make the same group of people happy. But a shift of strategy along these lines would demonstrate, as a tax cut never could, that President Carter's Washington can master our most challenging social problem.

ON TRYING TO CURB INFLATION AT THE EXPENSE OF GROWTH

To the Editor:

The Times in a recent editorial supports a proposed tax concession designated as TIP (tax-based incomes policy) and designed to fight inflation by inducing wage and price restraint.

Restraining inflation is vital. But the TIP proposal exemplifies the prevalent tendency of the efforts against inflation to divert attention from optimizing the rate of real economic growth on a sustainable basis. Abysmally low average real growth since 1953, with five recessions and inadequate recoveries, has cost us about 4.7 *trillion* 1976 dollars' worth of total national production and more than 65 million man- and woman-years of excessive unemployment and that attempts to restrain inflation at the expense of growth not only is a needs, and doing social justice. National wage and price policy which focuses upon inflation restraint, but pays no attention to the wage and price trends essential to these three great purposes, is misguided and injurious.

The TIP proposal would seek to hold money wage rate increases to adjustments for future inflation as estimated plus a 2 percent annual allowance for estimated productivity gains. But especially in view of the fact that real wage rates are no higher now than several years ago and that productivity gains in a healthy economy average far more than 2 percent, increases in the real value of wages in accord with TIP (even allowing for re-employment) would fall far below the more than 5 percent annual real increase in total wages needed for full economic recovery (wage payments are close to two-thirds of total consumer income, and consumer spending is close to two-thirds of G.N.P.). The error in TOP marked wage-price guidelines and direct controls when used during the past 15 years. Also, proposals for tax concessions to business to bear part of the costs of doing business should be examined with great care.

Moreover, at least since 1964, it is only a secondary purpose of the Federal budget to "prime" the economy; its primary purpose is to help allocate resources and incomes to serve priority needs which cannot be served adequately—or at all—without public programs or public assistance to private efforts of a priority nature. The clear lesson since 1964 has been that almost endless rounds of tax cuts do not fulfill this duty, or fulfill it and achievement of priority servicing and economic stimulation. Our greatly underserved priority needs in energy, mass transportation, environmental improvement, urban renewal, education, health services at reasonable costs, decent housing for those who lack it, help to those among the deserving poor who cannot work, and many other things, should make us increasingly wary of tax cuts as the solution to almost all problems, or even that of reducing unemployment and other idle resources.

The errors referred to above are perhaps as conspicuous now as in the past. They also indicate why improved analysis and readjusted use of national economic policies, as mandated in the Humphrey-Hawkins bill are so imperative.

LEON H. KEYSERLING.

WASHINGTON, *December 28, 1977.*

EUGENE WILLIAMS—A VALUABLE AND DEDICATED PUBLIC SERVANT

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DON H. CLAUSEN. Mr. Speaker, some of our most valuable public servants are the men and women who work steadily and effectively, without fanfare, day in and day out, year in and year out, attempting to advance the best interests of those they serve. Unfortunately, we do not always realize how much or how well these dedicated people have accomplished until they are no longer with us. Such a man was Eugene Williams, who for the past 21 years was the Sonoma County Clerk and Registrar of Voters. So that my colleagues may appreciate the high esteem in which this dedicated public official was held in Sonoma County, I am enclosing an editorial comment from the Argus Courier in Petaluma, where Mr. Williams lived since 1951.

"Gene" Williams was a close personal friend and I know how much he was admired and genuinely respected as a person and in his official position of responsibility.

He was fairness personified, a man of unimpeachable integrity, a person loved and appreciated by all who served under him. He brought credibility and trust to county government. He was a champion of responsive and responsible government.

We, the people, of the Redwood Empire, will miss him tremendously but will share in the pride and memories for having known this great man.

The editorial follows:

EUGENE WILLIAMS WILL BE MISSED

A familiar face and pleasant personality will be missing from the county complex at Santa Rosa with the death of Eugene Williams, who for the past 21 years was Sonoma County Clerk and Registrar of Voters.

Mr. Williams died Monday night during emergency heart surgery at a San Francisco hospital where he had been taken after a series of cardiac arrests.

Eugene Williams had earned the reputation of being one of the most dedicated public servants in county history by his counterparts in county offices throughout the state, and by state and federal officials. This opinion was shared by those who had reason to contact him in the many facets of his official duties.

He had been commended on many occasions by governmental officials for running an efficient department with an eye to saving taxpayers' money. He was a dedicated worker, limiting his time away from his office to not more than two weeks at any one time.

Mr. Williams constantly sought ways to make the county electoral system function more efficiently. It was under his direction that automated voting and ballot counting was installed, postcard registration adopted, and the less costly all-mail ballot used in the recent Petaluma Hospital District election. He took justifiable pride in cutting election costs while speeding vote tallies. To accomplish this he personally briefed election workers and precinct boards. He was a strong believer in the secret ballot process and the right of every citizen to have a voice in government.

Eugene Williams and family resided in Petaulma since his coming to Sonoma County in 1951 to take the job of elections supervisor. He later became deputy county clerk and was appointed clerk in 1957. A year later he was elected to this first of five four-year terms.

Sonoma County has lost a highly-regarded and popular civil servant with the untimely death of Eugene Williams. Our condolences go to his wife, Dorothy and their four children. He will not only be missed by them, but the rest of the county.

DECISION ON SUNDESERT IMPORTANT TO NATION

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. BURGENER. Mr. Speaker, as we return for 1978, energy is the No. 1 priority in all our minds, and the President has made it clear that it is also his No. 1 legislative priority.

We can wait no longer to establish a national energy policy, but already in my own State of California there are storm clouds looming which pose real threats to our ability to meet our short-term power needs from 1980–2000.

It is clear to any reasonably enlightened observer of our energy options that nuclear power must play a fairly sizable stopgap role in supplying U.S. energy needs until we can bring on line in commercial quantities some of the more futuristic sources of energy.

Nevertheless, in California, where anti-nuclear fervor runs high, the State energy commission and several of its members who share the views of the nuclear doomsayers, may be prepared to completely close down further nuclear development in all of California. In a State which is unable to burn large amounts of coal due to already unacceptable levels of air pollution, a shut down of future nuclear development in California would leave us dependent wholly on oil and natural gas, the two irretrievable natural resources national policy dictates we conserve.

In considering an application for the construction of the so-called Sundesert Nuclear Power Plant by the San Diego Gas and Electric Co. and other participating southern California utilities, the Commission has already, in preliminary reports, strongly suggested that the lack of some firm national policy on nuclear waste management and disposal may lead them to deny a permit for the best-thought-out, most researched, most precautionary nuclear plant proposal which has surfaced in the State.

The foreboding fact is that this so-called lack of national policy is more imagined than real.

As a member of the Public Works Subcommittee of the Committee on Appropriations, I have talked extensively with responsible officials in the Department of Energy charged with meeting the waste management and waste disposal problem.

They are moving forward with sensible management and disposal plans, and just this past fall the Department of Energy announced that, beginning in 1985, the Department will begin accepting, on a one-time flat-fee basis, spent fuel from commercial facilities. Efforts to develop both short and long term storage facilities are already underway and much progress is being made.

An overall Waste Management Policy Task Force will soon report fully, conduct public hearings on their findings, and generally give full view to recommendations for dealing with future waste management.

So there is no lack of national policy, Mr. Speaker. I suspect that the conveniently coined imagined one may be a mask by supposedly responsible public officials to unilaterally ban a fuel source which must provide an ever-increasing share of our power needs until the turn of the century.

I need not tell you what such a ban by the most populous State in the Nation would mean to the rest of the country. I just wanted to share this word of warning with my colleagues, Mr. Speaker, for this upcoming decision has far-reaching ramifications for the rest of the country, and indeed, our society.

A VISIT TO THE "ISLAND OF TEARS"

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. EILBERG. Mr. Speaker, for some 60 years, Ellis Island in upper New York Bay served as the Federal Government's immigration and deportation center. Literally millions of people passed through its buildings on their arrival to America. Some, unfortunately, failed to meet screening tests and were deported or quarantined, thus earning the facility its nickname of "Island of Tears."

Just recently, the Social Services Department of the Amalgamated Clothing and Textiles Workers Union conducted a 7-week course on the history of New York City for retired members of the union. As part of the course, members who arrived in this country as immigrants returned to Ellis Island for a tour of the now-closed center.

Labor Unity, the publication of the ACTWU, reported on the visit to Ellis Island. This account of the tour is a moving tribute to the role that immigrants played in building the United States, and the role that the union movement played in improving their lives as they established themselves in this country:

A RETURN TO THE "ISLAND OF TEARS"

(By Anne Rivera)

John Steinbeck, The Grapes of Wrath: "How can we live without our lives? How will we know it's us without our past?"

"I remember this place," said Frank Germano, shivering in the cavernous, drafty room, almost empty now, but once teeming with frightened men, women and children. "This is where they opened our valises and sprayed everything we had."

Three retired ACTWU New York Joint Board (Apparel) members—Germano, Anne Plutchok and Oscar Karp—had a chance to re-live one of the most important events in thier lives when last month they re-visited Ellis Island for the first time in 50 years—or more.

Located just off the Jersey shore in upper New York bay, the island served as the Federal government's immigration and deportation center from 1892 until it was closed in 1954.

All three retirees remembered vividly their initial introduction to the "Island of Tears," so-called because of the stringent screening procedures which resulted in deportation for some and detention or quarantine for many others.

Their visit constituted one session of a seven-week course on local history for retired members of the joint board, conducted by ACTWU Social Services Department staff member Bette Craig. Funded by a grant from the National Council on the Aging, which also developed the course outline, the class is one of 200 currently being taught in retiree centers throughout the country. The ACTWU is the only union participating in the program.

The visit to Ellis Island was part of a class exploration of the determining role place plays in personal destiny. For the three retirees—accompanied by Craig, local historians Lou and Rose Katzowitz, and fellow class members Norman Kornblum and Josephine Sinatra—it brought poignant memories of another era when—scarcely more than children—they faced the uncertainties of a New World, a foreign tongue, strange sounds, sights and tastes which have long since become second nature.

Anna Plutchok (Local 10) remembers herself in 1921 as a terror-sticken 13-year-old, convinced that she would somehow fail the test and be sent back all alone to her native Poland. Although she never actually set foot on Ellis Island, U.S. officials came on board her Boston-bound ship in the Port of New York to scrutinize the new arrivals.

Anna, beside herself with fear, begged a fellow passenger to cut her hair. That way, she reasoned, no one could possibly think she had lice—which she didn't—and refuse to let her into the country.

Obligingly her friend cut off *all* her hair and it was months before young Anna could face the world without covering her head with a red kerchief.

Not an auspicious beginning for a shy, young immigrant who—after a brief visit to relatives in Boston—would start haunting New York's garment district in search of work as a dressmaker. Although only 13, she had been apprenticed at the age of nine to the village dressmaker and was already an accomplished seamstress.

Today a gentle, soft-spoken woman of 69, Anna, remembers that frightened young girl with affectionate laughter. And the ordeal of entry into the New World, she says, was more than compensated for by the fact that in Poland, "we sometimes didn't have enough bread, and in New York we ate cake and ice cream"

Frank Germano spent 18 days in the hold of the Regina d'Italia, an Italian liner that almost sank three days out from the Port of New York; and he knows that "Island of Tears" is an apt nickname. Although only two percent of the millions who arrive at Ellis Island were actually deported, his own father was one of them.

"His eyes were a little red from the wind," says Frank, "and they sent him back home." The wind seemed to have no effect on either Frank's eyes or his spirits. Twenty-three years old, he arrived from southern Italy in mid-December without an overcoat, but managed to breeze right through the physical examination and interrogations in six hours.

He had been preceded to New York by a brother, who immediately took young Frank to a local department store, for an overcoat. Thus equipped the new arrival started looking for work as a tailor, a trade for which he had been trained in his native Calabria, and for which he thought he could earn much more in the New World.

After years of work in non-union shops for Depression wages, Germano says, he realized the necessity of union representation. When his employer invited Frank, "a good man," to come to work although he had locked out other employees for attempting to organize, Frank had to decide on the spot what he would do. "I'm sorry," he said, "but I believe labor should be organized." And that was the end of his job.

It was also the beginning of 44 years of active unionism as a member of Bushelmen's Local 25, and of union wages—considerably better than those in Southern Italy.

Oscar Karp arrived in New York from Austria in 1930. The 17-year-old Jew had, at considerable personal risk, attended Nazi Youth meetings in Vienna "to see what was going on." Unlike Plutchok and Germano, he did not come to the U.S. to better his financial situation; he came dreaming of a Utopia where hatred and violence did not exist.

His life in the U.S., has, he says, made him a realist rather than an idealist. He has learned that Utopia does not exist anywhere, but that organized efforts to combat oppression do make a difference.

"I believe in the union movement," says this sprightly 64-year-old. He has been with it since 1945 when an employer harassed him for demanding a raise and, enraged, he marched to ACWA Local 3's union hall to complain. The next day an organizer arrived at the small contractor's shop where Karp was working as a presser and from then on, he was a member of the Amalgamated.

Although he was disappointed in his dreams of Utopia, Karp says, he has found brotherhood in the trade union movement where—like the other Ellis Island veterans—he has joined people of varying national and racial backgrounds to work together for a common good. "I have religiously espoused union ideas all my life," he says.

"Unionism is one of the most important gifts of the New World."

HUBERT HUMPHREY

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DE LUGO. Dear Mr. Speaker, a titan is gone.

More than any other man, HUBERT HUMPHREY personified what is good and decent about America. His were the visions of our Founding Fathers and his dreams were those of ordinary people. Throughout his short life HUBERT HUMPHREY attempted to make these dreams and visions come true and all Americans are the richer for his attempts.

I doubt that words can really capture the spirit of HUBERT HUMPHREY, his vitality or his compassion. However, I am certain that the assembly of prominent Americans in the Capital speak more of the reality of HUBERT HUMPHREY than any listing of his achievements.

Like millions of other Americans I was touched and inspired by HUBERT HUMPHREY. I first met him when I was a young man entering politics; Senator HUMPHREY always had time for someone less important than himself. Perhaps that is the measure of a great man.

As Vice President MONDALE pointed out, HUBERT taught us all many important lessons of life and certainly the last one was the most difficult. I mourn the passing of America's conscience, among us. We are infinitely the better because of him.

SMALL BUSINESS GOVERNMENT CONTRACTING REFORM ACT

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. D'AMOURS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

H.R. 10166

A Bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Government Contracting Reform Act of 1977".

PURPOSES

SEC. 2. The purposes of this Act are—

(1) to simplify the contracting procedures of the United States which relate to small business;

(2) to provide additional statutory protection to insure that a fair proportion of Government procurement contracts is let to small business concerns;

(3) to establish arbitration panels to solve problems arising from the dealings of small business concerns with Federal agencies having procurement authority; and

(4) to establish a Small Business Procurement Advisory Committee to provide better representation for small business concerns to the Congress and to the Small Business Administration.

SIMPLIFICATION OF GOVERNMENT CONTRACTING PROCEDURES

SEC. 3. (a) Except as provided in subsection (b), with respect to any Federal agency having procurement authority, the head of such agency shall—

(1) in the case of any Government procurement contract to be let by such agency which may not exceed $100,000 provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract;

(B) a copy and summary of each major Federal law or agency rule with which such concern must comply in performing such contract, including Federal laws and agency rules relating to environmental impact statements, air and water cleanliness requirements, and occupational and safety requirements; and

(C) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(2) in the case of any Government procurement contract to be let by such agency which may exceed $100,000, provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract; and

(B) adequate citations to each major Federal law or agency rule (as described in paragraph (1)(B)) with which such concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract—

(1) which is for services which are personal in nature; or

(2) which, including all subcontracts under such contract, will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Documents and information required to be provided under subsection (a) shall be supplied, to the extent practicable, at the local level.

SOLICITATION AND AWARD LIMITATIONS

SEC. 4. (a) Except as provided in subsection (b), any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily shall be open for bidding until the later of—

(1) the end of a thirty-day period beginning on the date such notice is so published, or

(2) the date stated in such notice as the closing date for such bidding.

(b)(1) Subsection (a) shall not apply to any Government procurement contract to be let by any Federal agency with respect to which the head of such agency personally determines that emergency circumstances prevent compliance with such subsection.

(2) Subsection (a)(2) shall not apply to any Government procurement contract with respect to which an amended notice for bidding is published in the Commerce Business Daily not later than fifteen days before the closing date for bidding stated in such amended notice.

(c) In the case of any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily—

(A) if such bidding is limited to only one person, such notice shall specify the law or rule under the authority of which such bidding is so limited; and

(B) if such bidding is limited to persons located in a certain region of the United States, such notice shall state the basis for so limiting such bidding.

(d) The Secretary of Commerce shall take such steps as may be necessary in order that all Government procurement contracts set aside for small business concerns under section 15 of the Small Business Act, and all awards of contracts to small business concerns, are published in a timely manner in the Commerce Business Daily.

(e) The Secretary of Commerce shall study the feasibility of, and to the extent practicable implement, the notification to any small business concern, on request of such concern, of all Government procurement contracts on which, or on any subcontract of which, such concern may bid.

GOVERNMENT CONTRACT ARBITRATION PANELS

SEC. 5. There is hereby established in the Small Business Administration such Government contract arbitration panels as the Administrator deems appropriate. Such panels shall provide an opportunity for resolving disputes between any small business concern and any Federal agency having procurement authority concerning any Government procurement contract which is let to such concern or which may be let to any such concern. Use of such panels shall be voluntary, and decisions of such panels shall be binding only to the extent that such concern and agency agree that such decisions are binding.

INCENTIVES FOR SMALL BUSINESS SUBCONTRACTING

SEC. 6. (a) Before the award of any Government procurement contract described in section 3(a)(2), the apparent low responsive bidder on such contract shall submit to the Federal agency letting such contract a small business concern subcontracting plan. Such plan shall describe the type and percentage of work under such contract which such bidder expects to be performed by small business concerns. Such plan and the bidder's compliance with other such plans under other contracts shall be considered by the head of such agency in determining the responsibility of such bidder for the award of such contract.

(b) No Government procurement contract shall be awarded to any bidder unless the head of the agency letting such contract determines that the small business concern subcontracting plan submitted under subsection (a) provides the maximum practicable opportunity for small business concerns to participate in the performance of such contract.

SMALL BUSINESS PARTICIPATION GOALS

SEC. 7. The head of each Federal agency having procurement authority shall, after consultation with the Administrator, establish goals for the participation of small business concerns in Government procurement contracts let by such agency. Such goals shall reflect realistically the potential of such concerns to perform such contracts and to perform subcontracts of such contracts.

SMALL BUSINESS REPRESENTATIVES IN FEDERAL AGENCIES

SEC. 8. An employee of the Small Business Administration shall be assigned by the Administrator to each Federal agency having procurement authority. Such employee shall—

(1) monitor the compliance of such agency with the small business set-aside program pursuant to section 15 of the Small Business Act;

(2) provide information and assistance to small business concerns with respect to Government procurement contracts let or to be let by such agency; and

(3) report to the Administration at the close of each calendar quarter on—

(A) the aggregate number and dollar amount of all such contracts awarded by such agency to such concerns during such quarter, and the percentages which such number and amount represent in relation to the aggregate number and dollar amount of all such contracts awarded by such agency, respectively, and

(B) the aggregate number and dollar amount of such contracts which such agency set aside for small business concerns pursuant to section 15 of the Small Business Act, and the percentages which such number and amount represent in relation to the aggregate number and dollar amount of all such contracts awarded by such agency, respectively.

SMALL BUSINESS PROCUREMENT ADVISORY COMMITTEE

SEC. 9. (a) There is hereby established the Small Business Procurement Advisory Committee to be composed of thirteen members appointed by the Administrator. The Committee shall advise the Administrator and the Congress on matters relating to Government procurement contracts awarded to, or set aside for, small business concerns.

(b)(1) Any vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(2) Members of the Committee shall, while away from their homes or regular places of business in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(c) At the close of each calendar year, the Committee shall submit a report to the Administrator and to the Congress on its activities during such year. Such report also shall contain recommendations for new Federal legislation or agency rules which the Committee determines will improve the participation of small business concerns in the performance of Government procurement contracts.

DEFINITIONS

SEC. 10. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Committee" means the Small Business Procurement Advisory Committee established by section 9;

(3) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code; and

(4) the term "Government procurement contract" means any contract for the procurement of any good or service by any Federal agency.

A TRIBUTE TO THE CHILD CARE LEADERSHIP OF JOSEPH H. REID

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. KILDEE. Mr. Speaker, I would like to call the attention of my colleagues in the House of Representatives to the tremendous contributions in the child care field that have been the hallmark of more than four decades of service by Joseph H. Reid, the executive director of the Child Welfare League of America. Mr. Reid is without a doubt one of the foremost advocates for children in the world, and I am pleased that he will be the guest speaker on January 20, 1978, at the annual community dinner for the Donald M. Whaley Children's Center in Flint, Mich. I will be among those attending the dinner to hear Mr. Reid speak in one of his last appearances prior to his retirement this spring. It is fitting that this internationally recognized expert in child care should make one of his last appearances as executive director at the Whaley center, for it is recognized as a leading center for helping children and their families.

Mr. Reid has been executive director of the Child Welfare League of America since 1953, and for the 3 preceding years he was the assistant director. Prior to that, he was research director of the Ryther Child Center in Seattle. During the time he has been associated with the league, it has grown from an organization with a professional staff of six and a budget of less than $200,000 to one with a professional staff of 43 and a budget of $3 million. He is a founder of the Adoption Resource Exchange of North America, and was a member of the White House Task Force on Early Childhood Development and the President's Task Force on Children and Youth. He has served as a vice president of the Christian Children's Fund and the American Parents' Committee.

Mr. Reid has also served on a children's advisory council with the U.S. Department of Health, Education, and Welfare, and on the boards of the Joint Commission on Mental Health of Children and the National Assembly of National Voluntary Health and Social Welfare Organizations, among others. In the international arena, he has represented America's children in the International Union for Child Welfare, of which he was deputy vice president, and has given consultation to private and governmental child welfare agencies in Europe, Africa, South America, and Australia.

Under Mr Reid's leadership, the Child Welfare League of America has initiated

major innovative programs to better serve the interests of young people in need. Chief among the League's accomplishments has been its leadership in shifting residential institutions from custodial care to treatment, making Mr. Reid one of the foremost authorities in the residential treatment field. The League, under Mr. Reid, also has been a leader in bringing about more enlightened approaches to problems of adoption and foster care.

Other trend-setting work by the League under Mr. Reid's leadership has included the first studies in cost-accounting in child welfare; the first significant study of adoption of Indian children; training programs for child care workers; studies pinpointing crucial issues in day care and in care of the mentally retarded, as well as creation of new foster parent education programs. The league was a key force behind the organization of foster parent groups that led to the formation of the National Foster Parent Association.

Mr. Speaker, I am honored to have this opportunity to bring to my colleagues' attention this brief outline of the many accomplishments of Joseph H. Reid and of the Child Welfare League of America. I join the many others in wishing him a happy and productive retirement and in thanking him for his years of courageous, innovative, and enthusiastic leadership in the child care field.

NEW ARCHBISHOP-METROPOLITAN OF UKRAINIAN CATHOLICS IN UNITED STATES INSTALLED IN PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. EILBERG. Mr. Speaker, a few weeks ago, the Most Reverend Joseph Schmondiuk was installed as the new Archbishop-Metropolitan of all Ukrainian Catholics in the United States in solemn ceremonies at the Immaculate Conception Cathedral in Philadelphia.

The American Catholic daily newspaper, America, carried a very detailed account of these colorful ceremonies in its edition of December 8, 1977, and I am pleased to have this opportunity to place that article in the RECORD:

INSTALLATION OF NEW ARCHBISHOP-METROPOLITAN WAS RESPLENDENT IN FORM AND HOPEFUL IN SPIRIT

PHILADELPHIA, PA.—Apostolic Delegate, Archbishop Jean Jadot of Washington symbolizing the presence of the Holy Father, Pope Paul VI, formally installed the new Philadelphia Archbishop-Metropolitan of the Ukrainian Catholic Church, the Most Rev. Joseph Schmondiuk on Thursday, December 1, 1977, at the Immaculate Conception Cathedral in Philadelphia. The ceremony of the installation was short but it was distinguished by splendor of the congregation consisting of many hierarchy of the Latin, Byzantine-Ruthenian and Ukrainian rites of the Catholic Church in the USA, hundreds of priests and nuns, representatives of the Ukrainian institutions and communities. City of Philadelphia was represented by its Mayor, Hon. Frank L. Rizzo.

Among many ecclesiastic dignitaries there were present: Cardinals Jorn Krol of Philadelphia and William Baum of Washington, Archbishop-Metropolitan of the Ukrainian Catholic Church in Canada, Maksym Hermaniuk, C.SSR., and all Ukrainian Bishops of Canada: Isidore Boretsky of Toronto, Andriy Roboretsky of Saskatoon, Neil Savaryn, OSBM, of Edmonton, Dmytro Hreshchuk, Auxiliary Bishop of Alberta, Jeremy Khimiy, OSBM, of Vancouver, Ukrainian Bishops in the United States, Jaroslav Gabro of Chicago, Basil Losten of Stamford, Archbishop-Metropolitan of the Byzantine-Ruthenian rite in the USA, Stephen Kocisko of Munhall, Pa. and bishops Emil Mihalik, Michael Dudick and Thomas Dolynay. Among civilian dignitaries, there were Prof. Lev Dobrianskky, UCCA president, Ivan Bazarko, UCCA Executive Director, Dr. Walter Dushnyck, Editor, Prof. Dr. Petro Stercho, local UCCA president, Joseph Lesawyer, UNA president, Ivan Olcksyn, president of the Ukrainian Workingmen's Association, all officials of the Providence Assn. of Ukrainian Catholics under the leadership of the Mitered Archpriest, Myroslaw Charyna, Dean of Philadelphia, who had also his part in the ceremony of the installation. Former prime-minister of the Carpatho-Ukrainian State, Yulian Revay was also present.

Before the beginning of the formal installation, a procession was formed outside the church, which led the new Archbishop-Metropolitan into the church. Apostolic Delegate, cardinals, bishops were in the entourage. Representatives of the Ukrainian organizations were with banners of their organizations, there was a large group of the organized youth and the colorful group of Philadelphia Hutsuls in the original costumes of their region in Ukraine. The united church choirs under the direction of Mr. Osyp Lupan sang most beautifully contributing considerably to the magnificence of the ceremony.

The ceremony of the installation began with the announcement by Msgr. Robert Moskal of the nomination of the Most Rev. Joseph Schmondiuk to the Metropolitan See of Philadelphia. Immediately, the Mitered Archpriest Myroslaw Charvna started reading the Papal Bull in Ukrainian, and the Mitered Archpriest Stephen Chehansky in English. After the choir had for three times answered affirmatively Apostolic Delegate's question whether the nominee is dignified ("axios") to be installed as the Archbishop-Metropolitan, Apostolic Delegate, Archbishop Jean Jadot led the new Archbishop-Metropolitan to his throne on the right side of the altar and handed him the Croizier, the symbol of his authority in the church. The chancellor and all deans of the Archparchy paid the prescribed ecclesiastical homage, in the name of all clergy, to the new Archbishop-Metropolitan. In his short speech on the occasion of the installation, Archbishop Jean Jadot emphasized the symbolic presence of the Holy Father at the installation ceremony and quoted the Holy Father as saying that He admired the dedication of the Ukrainians to preserve their beautiful rite and traditions. Simultaneously the Holy Father said that the Universal Church was in debt before the Ukrainian Church for the determination of the Ukrainians in Faith. The Apostolic Delegate conveyed the Blessings of the Holy Father for all Ukrainian Caholics in the U.S.A.

The installation ceremony was followed by a Pontifical Liturgy celebrated by the newly installed Archbishop-Metropolitan Joseph Schmondiuk in concelebration with all Ukrainian bishops and six priests. Metropolitan delivered sermons in Ukrainian and in English. In his Ukrainian sermon, the new Archbishop-Metropolitan Joseph Schmondiuk appealed to the faithful to preserve the Ukrainian rite, language, culture, to work incessantly for the completion of the structure of the particular Ukrainian Catholic Church with a patriarchate and declared that to be an unchangeable wish of the entire Ukrainian people. He pleaded for the intensification of all Christian teaching among the faithful in accordance with the resolutions of the last Episcopal Synod in which he recently took part.

In his English sermon, the Archbishop-Metropolitan Joseph Schmondiuk recalled the resolution of the Second Vatican Council about the preservation of the unique Eastern Churches, about the establishment of patriarchates, and compared these resolutions with the new trends for multiculturism and ethnic pluralisms which are now endorsed by the governments of the USA and Canada. "Our Church in diaspora is a lighthouse of freedom for our people in Ukraine," said the Archbishop-Metropolitan.

After the ceremony of the installation and the Pontifical Liturgy, which lasted from 2 p.m. to 5 p.m., some 1,500 people were entertained at the banquet in honor of the new Archbishop-Metropolitan, the Most Rev. Joseph Schmondiuk, which was held in the auditorium of the Ukrainian Catholic Cathedral School in Philadelphia.

LAWRENCE N. WOODWORTH

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. STEIGER. Mr. Speaker, a recent Washington Scene column by Martha Angle and Robert Walters paid appropriate tribute to Larry Woodworth. For the benefit of all who read the RECORD this piece perceptively captures the essence of a distinguished public servant and it deserves to be inserted:

WOODWORTH, A MAN WITHOUT PEER

(By Martha Angle and Robert Walters)

WASHINGTON.—It is an article of faith, in any government based on laws and not men, that there is no such thing as the indispensable person.

Perhaps there isn't. But Lawrence N. Woodworth, a man most Americans never even heard of, came pretty close.

Larry Woodworth, who died Dec. 7 following a stroke, was in charge of drafting President Carter's tax program. On the organization charts, he was listed as the assistant secretary of Treasury for tax policy.

Since assistant secretaries of cabinet departments are a dime a dozen, the title says nothing about his significance.

Nor does it really help to add that Woodworth previously logged more than 30 years on the staff of the congressional Joint Committee on Internal Revenue Taxation. There have been other Capitol Hill aides with equal longevity.

But Woodworth had no peer in this city. Quite simply, he knew more about the federal tax code than anyone else in the world. Not just what was in it, but who put it there—and why.

During his long years on Capitol Hill, he was the crucial link between the staff and members of the House Ways and Means Committee and their counterparts of the Senate Finance Committee.

He was nobody's man, not Senate Finance Chairman Russell Long's or Ways and Means Chairman Al Ullman. He worked with both, and with every other member of Congress who wanted to learn about tax policy, but he worked for the public—not for the politicians.

He was not a political man, in the accepted sense of the phrase, but he understood the art of politics better than almost anyone. Time and again, he pointed the way out of impasses and developed between the House and Senate committees, providing just the right language, the right concept to break a deadlock.

Woodworth was trusted implicity by all who worked with him, and even though his elected bosses often had sharply conflicting viewpoints, he never betrayed a confidence and he never took sides.

Woodworth, with his specialized tax expertise and intimate knowledge of Capitol Hill's power structure, could have made a fortune in the private sector. He chose to remain in public service instead.

When Carter became president, Long and Ullman went to him and virtually insisted that Woodworth be named to the top tax policy post at the Treasury Department. Carter quickly complied, and it may have been his wisest appointment.

All year long, Woodworth labored quietly but effectively to help the "outsider" president understand and master the mysteries of "insider" politics on Capitol Hill.

In typical fashion, he gained the president's respect and confidence without ever losing his special status with Long and Ullman. He was the honest broker, as always, and his advice was heeded.

It was Woodworth, as much as anyone, who persuaded Carter to back off from his plan to send a massive tax reform bill to Congress next year, and to settle instead for a tax reduction with only modest return trimmings.

PROTECTING THE WHISTLE-BLOWERS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. STEERS. Mr. Speaker, during the recess which has just concluded, the Washington Star editorialized in support of the bill introduced last session by Congressman UDALL—and cosponsored by Congressman PAUL SIMON and me—to grant certain protections to Government "whistleblowers."

As a Member of Congress from a district with over 40,000 Federal workers, I am very well aware of the hazards of blowing the whistle on Government waste, corruption, and mismanagement. I and members of my staff have met with several people who have blown the whistle and have paid a price—they were demoted, shuffled off to a corner and never given any work, or they were RIFed at the first possible opportunity. Many people feel that whistleblowers are merely troublemakers. Indeed, some whistleblowers are that and nothing more. But the vast majority of the people I have spoken with are honest, hard-working civil servants who saw something wrong in the Government and spoke up. For this they should be lauded, not condemned.

This bill, the Federal Disclosure and Accountability Act, has my complete support. It is being offered once more for cosponsorship and I think that any Member concerned about safeguarding employees rights should give the bill serious consideration.

I enter at this point the editorial from the Star on January 10, 1978:

PROTECTING THE WHISTLE BLOWERS

Hearings will begin shortly in Congress on legislation to protect "whistle blowers" in the government.

No doubt the hearings will produce a long string of incidents of the type that has become all too familiar: the conscientious employee who is demoted or fired for disclosing ineptness, waste or fraud in the federal government.

Sen. Patrick Leahy, D–Vt., recently released a 500-page document citing dozens of such cases. Others pop up regularly in newspapers.

A new one, related by a reporter for *The Detroit News*, appeared in *The Star* the other day: a 32-year-old financial analyst who was fired after charging that a study to determine whether banks discriminate against minorities and women in making mortgage loans was "loaded" to protect the banks. The man is working as a cab driver while he fights, at considerable expense, to get back his government job.

The most prominent whistle blower of recent years, of course, was A. Ernest Fitzgerald, a middle-level Pentagon employee who told Congress about a $2 billion cost overrun on the C–5A airplane. Mr. Fitzgerald was fired and conducted a six-year battle, at a cost of several hundred thousand dollars in legal fees, to win reinstatement and back pay.

Senator Leahy's study led him to this conclusion: "Employees who have exposed governmental waste and abuse have been fired, transferred, reprimanded, denied promotions, isolated and ignored. The specific harassment has taken many forms, but the result is the same: The employee is 'neutralized.'"

Senator Leahy and two House members, Reps. Morris Udall, D–Ariz., and Paul Simon, D–Ill., have introduced legislation that would create an independent review board to hear whistleblowers, check up on their complaints and protect them from angry supervisors.

The government, like other employers, has its share of workers who would rather spend their time griping than working.

But it is clear that protection is needed for government employees who have legitimate claims of mismanagement or wrongdoing. Civil servants whose purpose in complaining is to improve government service and save the taxpayers' money should not be harassed or silenced.

The White House has proposed to establish an office within the Civil Service Commission to protect whistle blowers and to investigate their charges. Some federal employee spokesmen feel, however, that there's too much of the fox-guarding-the-henhouse in that plan, and we're inclined to agree.

Unless the administration can demonstrate that its plan offers real protection for whistle blowers, Senator Leahy and Reps. Udall and Simon ought to push their bill to give them a statutory shield.

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. McDONALD. Mr. Speaker, due to a commitment to be a participant of the Panama Canal truth squad, I was unable to be present for the votes that occurred Thursday, January 19. I requested to be paired on the votes taken, and if I had been present, I would have voted "no" on H.R. 2329, the fish and wildlife programs, "yes" to the amendment offered by Mr. WEISS to H.R. 2329.

DONALD ROWE—A MAN ON THE MOVE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ANDERSON of California. Mr. Speaker, it is always inspiring to see an individual whose success in life can be attributed solely to his own ingenuity, drive, and business acumen. Such a man is Donald E. Rowe, a good friend of mine who parlayed the $75 he had in his pocket when he first arrived in Los Angeles to the world's largest singly owned international household goods moving company, with revenues exceeding $35,000,000 annually.

"Discover a need, develop the know-how to supply it, and then get out and work for your idea," is the advice Don gives to young people today as they try to enter the business world. And sound advice it is; Don Rowe has followed it all his life, and has proven its worth in our system of free enterprise.

Born in Florida on February 17, 1929, Don terminated his formal education at the age of 14. After enlisting in the U.S. Army when he was 16 and underage, he served in the infantry during World War II, reenlisting in the Air Force for an additional 3 years and attained the rank of corporal.

In 1949, Don Rowe left his hometown of St. Petersburg, where he was working as a machine operator in a bakery, and arrived in Los Angeles with $75 to his name. He worked as a $32 per week billing clerk for a small moving firm—"I was a terrible typist," he remembers—Columbia Van Lines. After leaving the company and then returning as a salesman, Don seized an opportunity and became the Los Angeles agent for one of the Nation's largest moving companies at the time. He won the position by borrowing $1,500 and buying a 1936 Chevrolet truck. The 20-year-old businessman had laid the foundation for Imperial International.

By 1956, Rowe was in a position to outbid one of his former employers for a $250,000 contract. In 1959, he helped pioneer a revolutionary idea for the household goods moving industry to the Department of Defense—containerization of household goods for overseas shipments.

Although Don helped pioneer this new moving concept for overseas shipments, it proved to be so successful that he again pushed the concept, this time on the domestic market. This method has several major advantages—freedom from theft, damage, and excessive handling, according to Don. Known in the industry as the door-to-door system, Rowe claims to be able to cut delivery time in half as compared to van line moving. A subsidiary company of Imperial International Inc., Imperial Van Lines, received approval from the Interstate Commerce

Commission in 1972 to initiate this method in domestic moving.

Recognized as one of the leading innovative forces in the household goods moving industry, Don is responsible for more than a dozen new concepts, which have benefitted both the military and the public.

Today, Imperial International's astounding growth and success stand as testimony to Don Rowe's abilities. Headquartered in Torrance, Calif.; the firm controls eight subsidiary companies located in such varied parts of the world as Houston, Hong Kong, Yokohama, Japan, and Bremerhaven, Germany. The organization has more than 300 employees and some 750 agents in the United States and 116 foreign nations.

A devoted family man, Don and his lovely wife Marjorie, have three children: Richard, 22; Sandra, 21; and David, 15.

And in 1975, he made his first move outside the transportation industry by founding "Jungle Growth Products", a small company selling plant foods and potting soils. Obviously not content to rest on his laurels, Don's energetic mind is forever seeking new ways to serve the consuming public.

Mr. Speaker, throughout his life Don Rowe has been the personification of the American dream. By his own efforts and abilities, he has proven that the free enterprise system affords the opportunities for success. More importantly, he has retained his values and beliefs, with a strong sense of devotion to his family and duties toward his Nation.

My wife, Lee, joins me in congratulating Don as he celebrates his silver anniversary as an entrepreneur—25 years as a driving force in the household goods moving industry.

RETIREMENT OF A CIVIC AND LABOR LEADER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. VENTO. Mr. Speaker, the St. Paul Area Chamber of Commerce honored three prominent civic leaders at their 110th annual banquet on January 18, 1978. Previously, the recipients of the Capital City Award went to such distinguished Americans as Sen. HUBERT H. HUMPHREY, Sen. WENDELL ANDERSON and Chief Justice Warren Burger. What makes the 1978 selection by the chamber of commerce so unique is that they chose Charles Rafferty, a union official, to receive such an honor.

Charley Rafferty has served almost continuously as president of the St. Paul Trades and Labor Assembly since 1957. His countless civic contributions are listed in part in the article from the Minnesota Union Advocate, which I bring to the attention of my colleagues. In addition, Mr. Rafferty has, throughout his life, exemplified a spirit of fair play and dedication that won the admiration of his contemporaries and associates. Charley presided at hundreds of meetings made orderly by his keen knowledge of procedure and his forbearance.

His presence will be sorely missed at the Assembly and in the St. Paul community. Those of us that know him have depended on his patience, understanding and wise counsel. I hope that such counsel is still available despite his retirement as president of one of America's finest labor groups.

Below is an article from the Union Advocate (St. Paul, Minn.) of January 16, 1978 which recounts Charley's distinguished service.

CHAMBER WILL HONOR RAFFERTY AT JAN. 18 DINNER

Charles Rafferty, retiring Trades and Labor Assembly president, will be honored with two business executives at the 11th annual dinner meeting of the St. Paul Area Chamber of Commerce.

Rafferty, who has been Assembly president continuously (with the exception of one year) since 1957, is also currently a member of the Metropolitan Council and the mayor's representative in the St. Paul Foundation.

His past record of community service runs a long list from that of 17 years as a member of the St. Paul Board of Education, with many years as board president, to that of membership on the Advisory Board of St. Joseph's Hospital, the State Advisory Board on Alcoholism, Metropolitan Improvement Committee, and Advisory Committee to St. Thomas College.

Where in other cities, the labor movement and local Chamber of Commerce were at the opposite poles on all things, under Rafferty's leadership bonds of cooperation were forged between labor and business in working for common goals, while acknowledging differences in other matters.

Thus while the U.S. Chamber of Commerce and local Chambers in many areas have recently been working against Labor Law Reform, representatives of the St. Paul Chamber were conspicuous by their absence at recent "seminars" sponsored by the National Association of Manufacturers, and the Minnesota Association for Commerce and Industry.

Also being honored by the Chamber at its dinner at the St. Paul Raddison will be Paul A. Schilling, retired board chairman of Hoerner Waldorf Corp., and Robert Tucker, retired vice president of Minnesota Mining and Manufacturing Co.

A STEEL CAUCUS—AT LAST

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. GAYDOS. Mr. Speaker, the Congressional Steel Caucus of which I am pleased to serve as chairman of its executive committee, has been very active over the past several months in seeking ways to alleviate the critical situation in our domestic steel industry caused by the massive loss of domestic markets to foreign steel importers.

This foreign steel import problem has resulted in lost jobs for many thousands of hardworking steelworkers. The work of the Congressional Steel Caucus has been very important and effective in responding to this serious situation, and therefore, I wish to introduce a report to my constituents explaining the history behind the formation of the Caucus and the Caucus' recent endeavors to solve the steel import problem.

The recent formation of a Congressional Steel Caucus is a matter of vital importance to all of us in the 20th Congressional District. The banding together of some 175 Members of the House of Representatives to influence Administration policy toward the steel industry and to press for legislation in those areas where persuasion may not be enough provides, at long last, real hope that our domestic steel industry—and the thousands of jobs it provides—will not be destroyed by unfair foreign competition or unreasonable environmental restraints.

The Congressional Steel Caucus is not an idea whose time has come—it is an idea long overdue. For years, those of us close to our steel-producing area and familiar with its problems have known that foreign imports have been grabbing larger shares of the used unfair trade tactics to "dump" goods here below cost while barring American products from their markets.

Last summer's plant closings, production cutbacks and massive layoffs were the inevitable result of our failure to deal effectively with this problem years ago.

As far back as 1968, when steel imports hit a then record high of 18 million tons, Congress moved toward legislating quotas. Its efforts were thwarted by the administration which favored voluntary arrangements with foreign steel producers in the interest of international relations.

American steel orders and American jobs were held hostage to State Department deals with foreign nations and those of us in Congress who recognized the danger could only cry out in protest. The kind of clout provided now by the Steel Caucus was not available to us then.

Two years later, America's shoe and textile industries were being ravaged by cheap imports, "dumped" here below cost by foreign companies subsidized by their governments. When the House Ways and Means Committee began consideration of quotas on these products, I testified at its hearings to urge that steel be included in the bill:

> . . . I want steel protected today before it is crippled tomorrow . . . the growth of (steel) imports has been relentless and damaging. The alternative, I believe, is a fair trade policy legislated by Congress, not voluntary restraint negotiated by the State Department.
>
> It is in the area of steel where the greatest danger lies. It is here where the threat to steel, electrical transmission equipment, and heavy machinery lurks deadly and undetected.
>
> . . . It has become increasingly evident foreign manufacturers, particularly Japan, are taking dead aim on our specialty steel market, despite the fact the voluntary control arrangements stipulated they would try not to change the produce mix . . . too greatly.

Had that bill, which passed the House, included steel and passed the Senate in 1970, the steel crisis of today might have been avoided. A Steel Caucus in 1970 might have made that possible. As it was,

the administration negotiated voluntary arrangements on steel imports.

One year later, in 1971, steel imports met a new record high of 18.3 million tons and 5 years later, in 1976, the specialty steel industry was in such bad shape the U.S. International Trade Commission (USITC) recommended mandated quotas for a 5-year period.

Despite that recommendation from within its own Executive Branch, the Administration balked at putting on the quotas. It imposed them only after some foreign producers flatly rejected offers to negotiate voluntary marketing agreements—and then only for a period of 3 years.

The present administration brought a new attitude toward steel into the White House. It is considering retaining quotas on specialty steel and has taken action against excessive dumping of steel imports, which are expected to set another new record in 1977 of 20 million tons.

The President's program intends to set a reference price on imports under which foreign producers cannot sell their products in American markets. If properly implemented, his plan should help domestic steel production, opening up thousands of jobs for steelworkers.

The plan may well have some flaws. The concept is new; the problem complex. What flaws may exist can be corrected while the industry recovers and steelworkers return to the mills. At this time, it may be best to take a "wait and see" position and be prepared to act when required!

Because of my early advocacy and persistent support of a fair foreign trade policy and reasonable environmental programs which will enable us to have decent air and sufficient jobs, my colleagues in the House have honored me with the chairmanship of the Steel Caucus Executive Committee.

As chairman, it will be my responsibility to make views of the House "Caucus" known to President Carter. I accept that challenge. With your continued help and support, it will be met.

Our steelworkers and industry officials have closed ranks in this common struggle against unfair trade practices by foreign governments. The chambers of commerce in Pittsburgh and the Mon-Yough Valley solidified public and business support for our cause through action, letters, and petitions. Thousands of individuals have written offering their assistance.

The opening valve in the fight against unfair trade practices has been fixed, but, this is only one battle. The war could be a long one.

SEX PISTOLS AND STATESMEN

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. HAGEDORN. Mr. Speaker, it is interesting to contrast the treatment given by our Government to several recent applicants for entry permits into the United States.

In the case of Jeremiah Chirau, the State Department, under the apparent influence of U.N. Ambassador Andrew Young, has chosen to deny entry. Senator Chief Chirau is the only duly elected nationalist leader in Rhodesia, and, indeed, the individual most likely of winning a genuinely popular election in this troubled land. As the Mashona tribal leader, he represents the only tribally united political organization in Rhodesia, being elected chief of chiefs by the 250 hereditary chiefs of all the tribes of Rhodesia.

Chirau, however, is a man of somewhat unconventional views among the black leadership in southern Africa. He is an ardent opponent of the terrorism now occurring in Rhodesia, and has observed that a "leadership that uses force to take power will also use force to ever avoid relinquishing that power." He is, further, reputed to be a stauch anti-Communist.

Ambassador Young who has gone to the trouble of extending special privileges to both Joshua Nkomo and Robert Mugabe, the terrorist leaders in Rhodesia, even to arranging for Nkomo to address the United Nations, is apparently concerned not only with promoting the election of black leadership in Rhodesia, but in promoting the election of very specific black leadership. The inability of Chirau to bring his case for genuine moderation to the United States has severely impeded prospects for a peaceful resolution of Rhodesia's problems, and denied the citizens of the United States a fuller opportunity to assess the merits of our involvement in that part of the world.

Meantime, we can take comfort that neither the State Department nor Ambassador Young have had any objections to entry by the far more popular Sex Pistols "punk rock" group. It is reassuring to learn that arrest records the length of the Liverpool telephone directory will not deny them the opportunity to elevate the American cultural scene.

The peerless Pistols are among the foremost artists of the "drip, spit, drool, and vomit" school of musical composition and are certain to contribute immensely to continued good relations between our country and the country of our Founding Fathers. Their repertoire of obscenity is also extremely well renowned among connoisseurs, as are their virtuoso exercises in self-mutilation.

While the State Department remains vigilant in protecting the American people from the heresies of a Jeremiah Chirau, and the predations of a two-man Rhodesian Information Office, we can be thankful that they remain determined to afford us the presence of the eminent Sid Vicious and Johnny Rotten.

I would like to call to the attention of my colleagues a column by James J. Kilpatrick discussing the treatment of Mr. Chirau:

A VERY FORKED TONGUE AT THE STATE DEPARTMENT

(By James J. Kilpatrick)

Toward the end of August of last year, three gentlemen from Rhodesia applied for visas to enter the United States. On Sept. 23, the State Department effectively denied their applications.

At about the same time, Wilfred Burchett, a notorious Australian Communist, also asked for a visa. He needed a waiver of the law that makes Communists ineligible to enter the country. Burchett wanted to lecture at various colleges and universities. On Oct. 12, the State Department recommended the waiver and let him in.

On Nov. 21, Reed Irvine, representing Accuracy in Media, attended the daily State Department press briefing. He had the temerity to ask the briefing officer, Hodding Carter III, how the department could justify a waiver for Burchett.

Mr. Carter responded that Burchett's admission was in accord with the administration's policy of supporting "the freest possible flow of information and people," however much we may disagree with their points.

At that moment, Mr. Carter won for himself, and for the department he represents, the fur-lined silver chamber pot that is given annually in Washington as the Balderdash of the Year Award. The competition for this trophy ordinarily is intense, but with Mr. Carter's virtuoso performance, all opposition collapsed. It was no contest.

A strong stomach is required for this sort of thing. "The freest possible flow of information and people," says Mr. Carter. He says it with a straight face. Yet the State Department cheeerfully has joined the United Nations lynch mob that is out to strangle the little Rhodesian Information Service here. That is a splendid example, is it not, of how Jimmy Carter would encourage the free flow of information?

And for an example of hypocrisy more directly in point, consider the three gentlemen from Rhodesia. They are respected tribal chiefs, Jeremiah Shirau of the Tshona, Kayisa Ndiweni of the Matabele, and Edgar Minikavanhu, also a Tshona. The first two have served in the Rhodesian senate, but they hold no part whatever in the Ian Smith government. They are in opposition to that government—so much in opposition that they have made themselves leaders of the Zimbabwe United People's Organization. Their purpose is to take over the government themselves.

In the eyes of the State Department, to be sure, it is hard to find anything good to say of ZUPO, for ZUPO is not radical; it is not violent; its members do not commit murder, arson, or terrorism. The organization is firmly anti-Communist. All these things make it suspect. And lest Americans be subjected to such dangerous black conservatism, the department's apostles of the free flow of information trumped up a tricker. They declared the three gentlemen to be representatives of the illegal rebel regime, and slammed the door in their face.

Then, in an incredible action, the department granted the waiver to Wilfred Burchett! Rep. Larry McDonald has placed in the Congressional Record a small dossier on this scoundrel. The New York Post has published a devastating exposure of his record. Burchett is the professional Communist propagandist who worked insidiously on our prisoners of war in Korea and later in Vietnam. He has been identified under oath before the Senate Internal Security Subcommittee as an agent of the Soviet KGB. His record is despicable.

The Jimmy Carter administration, we may faintly recall, is the administration that would never lie to us. Why, then, does the administration dissimulate on such matters as these? Come, now: Why were the Rhodesians denied admittance? The honest answer is that the administration is fawning upon the Third World members of the U.N. It is trying to hold the black vote here at home; and it feared that by granting a waiver to the Rhodesians, these political forces would be antagonized. That is the truth.

And why was Burchett granted admission? The honest answer is that the administration will go to extraordinary steps to appease the vocal liberals who would have screamed if Burchett had been kept out. That is the truth on that point. As our trophy winner has so richly demonstrated, these are not the truths one gets in Washington these days. What we get, sad to say, is the Balderdash of the Year.

HUBERT HUMPHREY

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MATTOX. Mr. Speaker, I knew the time would come when I would have to write these words, but foreknowledge does not make the task any easier. To speak of HUBERT HUMPHREY in the past tense is something we will not be used to for quite some time.

Now that we are momentarily halted by the sad news, we find ourselves united in a way this country has not seen for quite some time. United not just in our common appreciation for what this man has done, but united in our great sense of personal loss—as if each of us has just lost a best friend.

To what can we attribute this poignant feeling inside us? How is it that one man's death—a death we were prepared for—can evoke such emptiness in our souls? I believe that it is because HUBERT HUMPHREY was a hero in the truest sense of the word, and as such was the last of a dying breed.

The fatal sting of cynicism has killed off most of our old heroes—men and women whom our children could look up to as examples, and from whom we could all receive inspiration. But HUBERT HUMPHREY escaped the disillusionment of this age to continue exhorting us to greatness, to remain a symbol of what we might become.

And when disease began to weaken his body, he avoided despair and demonstrated to us how truly powerful the spirit of man can be. In the end, the cancer won, as we knew it would. But his spirit survives still, and that is what is filling us today with that commonality of emotion, that sense of unity.

I thank God we did not let HUBERT HUMPHREY pass from our midst without demonstrating to him our gratitude and our love for him. It was not so many days ago that we invited him to appear before us here in the House of Representatives—an honor accorded no other Senator in history. No one present that day will forget his charm, his wisdom and his humor. Some of us felt that it would probably be the last time we saw him, but that did not keep us from laughing and smiling with him. He made us feel good.

There remain many men and women who could, like HUBERT did, stir great emotion in their audiences. But the difference between HUBERT HUMPHREY and so many others is that he appealed only to the highest of ideals, and did not seek to gain from the divisions and frustrations of our age.

HUBERT HUMPHREY recognized among us a common ability to be loving and compassionate. It is often hard to see that element within ourselves, but HUBERT was never blind to what we were, and, indeed, he saw more in us than we saw in ourselves.

Many times after thinking HUBERT's ideas and visions were too grandiose, too ambitious, we came to realize that we were only underestimating ourselves, and that we could rise to the levels he set for us. In time, we found him to be prophetic in his enunciation of our national goals and desires. HUBERT HUMPHREY became the archetype of a new order in American life—one that places faith in the strength of the human spirit and in its ability to conquer with love, not war.

I am reminded of HUBERT HUMPHREY the campaigner, who would say to his audiences, "If you vote for me . . . I'll give my life for you."

And though he was denied the Presidency, he kept his part of the bargain. How can we repay him for this? By getting back to work, getting on with the business of the people. He would not want us to grieve; he would want us to be busy, finishing the tasks he started, and proceeding toward that vision of America he described to us. Our heroes are gone, but there is much to be done.

Vice President WALTER MONDALE said it best in his remarks in the rotunda of this Capitol: "He taught us all how to hope and how to love, how to win and how to lose; he taught us how to live, and finally, he taught us how to die."

In conclusion, Mr. Speaker, I wish to offer my condolences to Muriel Humphrey, a strong woman who played an unparallelled role in HUBERT HUMPHREY's life, and who herself is an example of courage and compassion. I am sure when HUBERT wished for us to "celebrate" his passing, he had it in mind that we would still have Muriel with us. For her presence assures us that the HUMPHREY spirit is alive as well, and will continue to be with us for years to come.

MSGR. CLEMENT KERN HONORED

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. BRODHEAD. Mr. Speaker, on Saturday, February 11, the men's club of Congregation Shaarey Zedek in my district will honor Msgr. Clement Kern at its annual brotherhood luncheon. Monsignor Kern is a remarkable man who has made countless contributions to the benefit of the Detroit metropolitan community. I would like to share with you the citation for the Brotherhood Award:

Monsignor Clement Kern is being honored in recognition of his ministry to community, his lifelong concern for the welfare of his fellow man, and his inspiring witness to the power of the humanitarian spirit.

Father Clement Kern came from Pontiac as a young man to embark on a life of service to his faith and to mankind. Ordained as a Priest in 1933, he served at St. Leo's and St. Edward's before being assigned to Most Holy Trinity Church in 1943. This parish underwent ethnic change as "Corktown" became a neighborhood of Mexican-Americans.

In the area surrounding Holy Trinity, Father Kern exercised distinguished and noble leadership, mobilizing efforts to alleviate the burdens and brighten the lives of the poor, the deprived, the disenfranchised. His efforts have been directed towards the welfare of the labor movement, urban renewal, the United Farm Workers, fair housing, and the Latino community.

Father Kern's influence has gone far beyond his parish. He has expressed consistent identification with the redemption of the Jewish people in the Land of Israel. He has shown deep concern for the plight of Soviet Jewry. Father Kern received an award from the Labor Zionist Movement, and was granted a distinctive tribute by the Histadrut, Israel's labor organization. The Detroit Round Table and other interfaith causes have been the recipients of his guidance and wisdom. His friends and admirers are to be numbered among the diverse religious, racial and social groups within this metropolitan area.

After having retired from the active ministry, Father Kern, as a pastor-in-residence at St. John's Seminary, continues to impart the high ideals that are intrinsic to his character.

We salute Father Kern for these and many other achievements. He is, and ever will be, the embodiment of brotherhood expressed as a way of life.

A SUCCESSFUL NATIONAL ENERGY CONSERVATION PROGRAM

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. LLOYD. Mr. Speaker, the implementation of a successful national energy conservation progam will require cost-effective and innovative programing at the local community level.

It is for this reason that I recognize and commend the weatherization program of the Community Service Department (CSD), the War on Poverty Agency for San Bernardino County. CSD's weatherization program has gained national recognition for cost-effective management and for developing and implementing creative approaches to energy conservation education. The following article from a monthly magazine in my district, explains the details.

The article follows:

[From the Inland Empire, Jan. 1978]

SAN BERNARDINO COUNTY SPONSORS ENERGY CONSERVATION PROGRAM

The "Energy Wastrel" stars four, six-foot tall puppets in an educational skit presented daily to elementary school children in San Bernardino County. The larger than life-sized "gas flame," "water faucet," "light bulb," and "energy waster" called the "Energy Wastrel," make up the cast. The presentation helps prepare children to become aware of energy conserving habits. In the script, the characters admonish the Wastrel on improper use of energy resources.

The Wastrel skit is the educational component of the Weatherization Program of the Community Services Department (CSD) of San Bernardino County. The program provides free home insulation and weatherstripping services to help meet the energy needs of low-income San Bernardino County residents.

CSD developed the idea of the program in response to the energy goals adopted by the County Board of Supervisors and in recognition of ever increasing demands for energy. Program Manager Dina Hunter began to plan and implement the innovative agenda early in 1977.

"The program showed such success in the first two months," said Hunter, "that the original goal for the next six months has more than doubled. We plan to insulate/weatherstrip 700 homes, educate over 20,000 children and develop a solar home heating unit capability by June 1978."

The home insulation and weatherstripping component of CSD has weatherized 112 homes in a two-month pilot program. Their success prompted refunding by federal, state and local grants, which pay for material, to continue the project.

Proposals being considered for funding by federal agencies of other projects conceptualized by the Weatherization Program involve practical, cost-effective applications of solar, wind and geo-thermal energy.

CSD's Executive Director, Rodolfo H. Castro and the Administering Commission chaired by Naomi Saylor, are credited with these novel ideas. Proposals for service expansion into Riverside County is also under consideration.

However, one county provides enough territory and people to keep CSD's limited staff busy. Comprehensive Employment Training Act (CETA) employees make up the office staff, the Wastrel cast and the three insulating crews. One of CSD's primary goals is to assist and develop community based organizations and play a role in the generation of new and needed programs. The Weatherization Program also helps solve the major problem of unemployment in San Bernardino County by continually providing new jobs.

"Part of the federal agencies intent," said Hunter, "is that every dollar they provide, we are to generate an additional 40 percent. "Southern California Edison has been very generous to us. They donate the energy conservation suitcase distributed to children who see the Wastrel production, an energy conservation project curriculum guide for teachers, and inservice training on insulation for CETA employees.

"The employees become better acquainted with the entire insulation market. As a result, private contractors who use insulators, take our best employees into the private sector.

"This does generate some problems, but if we don't develop employees the private sector wants, then we aren't satisfying our responsibility to CETA."

The educational feature of the program has received state and nation-wide attention. Both Governor Jerry Brown and President Jimmy Carter have expressed interest in seeing "The Energy Wastrel" performance. Hunter also receives requests for assistance and advice on starting similar programs from throughout the country.

Excell N. Hunter and Gary Kirkwood developed the scripts for the puppet show "Count Conservation," about a humorous Dracula-like energy conserver, and the "Energy Wastrel" skit. Ruth Cadwallader, who plays the leaky faucet, sewed the ingenious costumes used in the skit, designed by Peter Parr, the gas flame.

Weatherization information may be obtained at 383-3561 or at 602 S. Tippecanoe Ave., San Bernardino, 92415. CSD's motto, "Make every kilowatt count," is catching on. Public support for community conservation efforts are evident by the success of the Weatherization Program.

GRANT HOLCOMB

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ANDERSON of California. Mr. Speaker, many of us were saddened recently by the passing of KNX newsman Grant Holcomb. Grant was a professional in every sense of the word; his insight and experience enabled him to reach plateaus of excellence most of us aspire to, but seldom reach.

He was also a warm and gentle person, a good friend and a man with whom it was a pleasure to work. He was respected and admired by his colleagues, by those he often covered in his work, and by the public, whose knowledge was expanded through his abilities as a journalist.

The following eulogy by KNXT newsman Bill Stout was delivered at his funeral. In its eloquence and simplicity, it says more about Grant Holcomb than anything which could be written at this time.

Therefore, I would like to insert it into the RECORD:

[From the Enterprise, Dec. 30, 1977]

GRANT HOLCOMB, MAN OF HONOR, GOOD REPORTER

(By Bill Stout)

Regardless of the differences we live with, the vast differences between the spiritual and the temporal, we all must really in the end answer to the same management. It is in recognition of that simple truth that we gather here, to say good bye and share a few memories, rather than meet in some more wordly place of the sort Grant would no doubt be delighted to help us choose.

There is, of course, one great advantage in the choice of this setting. The basic literature—it's familiar to and available to everyone—says just about everything there is to be said "Ecclesiastes, for instance, asks and answers so many questions.

How dieth the wise man? And, it says, the same as the fool. That same book reminds us that to every thing there is a season, and a time to every purpose under the heaven. We all know how it goes—a time to be born and a time to die, a time to weep and a time to laugh. A time to mourn and a time to dance.

Grant would surely opt for the dancing. (And he might even point out that like a good many other aphorisms of the old testament, that bit of ecclesiastes wisdom was a blatant crib from Homer. He said it a bit differently in The Odyssey: There is a time for many words, and there is also a time for sleep.)

Grant might well have pointed out that crib on the part of the compilers of the scriptures because he was, in mildest language, a man of consistent irreverence.

He saw them all without their clothes, in all their comic nakedness. From Earl Warren through the Kennedys. John and Robert, Bill Knowland, Nikita Khrushchev—he saw all of them and so many more. And he loved every minute of every story, I think, because he was a good reporter. In our business, there can be no higher praise.

He was also, of course, a delightful friend. A lover of the rollick and the ribald. A man of courtliness, gentleness, and charm. An enthusiast, perhaps, for every few things, but those few are among the most important: good food and good drink, old friends and old loyalties. A gentleman, in the truest sense. A man of honor in a field where that has become a virtue that is nearly quaint in its rarity.

A dear friend, gone now, and while we may not in the loss of him feel at all like dancing, we must know that neither would he want us to weep.

Robert Browning was just one of many who have talked of death and tried to figure out how to face it. He wrote of the fog in his throat and the mist in his face and said "let me taste the whole of it . . . bear the brunt of it. In a minute, pay glad life's arrears of pain, darkness, and cold."

That's one way to see it. Most of us, I'd guess, would rather leave it to Grant, since he's gone on ahead of us, to make arrangements and clear a space and leave a bit of room at the rail. Because if there is any continuum in this grand game, if there is any thread of fairness between here and there, he'll have found a place that's fun and with luck we can share some of it sometime. All over again.

TRIBUTE TO THE INDEPENDENCE OF THE UKRAINE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Ms. MIKULSKI. Mr. Speaker, it is a great privilege to address you on the 60th anniversary of the Proclamation of the Independence of Ukraine and the 59th anniversary of the Act of Union, whereby all Ukrainian lands were united into one independent and sovereign state of a Ukrainian nation. Both the independence of Ukraine and the Act of Union were proclaimed by a duly elected Ukrainian Parliament in Kiev, capitol of Ukraine, on January 22, 1918, and January 22, 1919, respectively.

This sovereign Ukrainian State was immediately recognized by a large number of nations including France and England and diplomatic relations were established with them. Recognition was also granted by Soviet Russia. Despite the fact that the Soviet Government had officially recognized Ukraine as an independent and sovereign state, Ukraine was attacked both by military aggression and subversion within.

For 3½ years the Ukrainian people waged a gallant struggle in the defense of their country, alone and without aid from Western nations, but were ultimately overpowered by numerically stronger and better equipped armed forces of the Red Russian Bolsheviks. They destroyed the Ukrainian National Republic and created a Communist puppet government known as the Ukrainian Soviet Socialist Republic, and in 1924 incorporated it forcibly into the Union of Soviet Socialist Republics (U.S.S.R.).

The entire history of a Soviet-dominated Ukraine is a ghastly record of inhumanity and outright persecution, Russification, and violations of human rights on a scale not known in the history of mankind. Under Stalin, Ukraine was marked for physical destruction and denationalization. Under Khrushchev, Brezhnev, and Kosygin regimes, outright terror was replaced by the subtle process of destruction in terms of losing a

Ukrainian consciousness and identity through Russification.

The Russian Communist enslavement of Ukraine has brought much suffering to the people. In spite of this oppression, the Ukrainians have never accepted a foreign domination and are continuing to struggle for human rights, freedom, and national independence. The spirit which brought to life the Ukrainian National Republic is more vibrantly alive among 50 million Ukrainian people today than it ever was in the centuries of old Ukrainian history.

I can reflect with pride and satisfaction on what Ukrainians and Ukrainian-Americans have given to America. The achievements of these people not only perpetuate the glory that was Ukraine, but their patriotism and pride in America will also perpetuate the glory that is America, a land in which the noblest ideals of democracy live and flourish for the hope and for the future of all peoples of the world.

Therefore, it is in common spirit of liberty, faith, and justice for human rights that the American people join the Ukrainians all over the world in paying tribute to the Ukrainian people in their undaunted struggle for human rights, freedom, and national independence of Ukraine.

LONG ISLAND SALUTES DAVID WESTERMANN

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. AMBRO. Mr. Speaker, on January 20, Mr. David Westermann, chairman of the board of the Hazeltine Corp., will be inducted as a fellow of the prestigious Polytechnic Institute of New York. His neighbors on Long Island have taken the opportunity provided by this auspicious occasion to honor him with a testimonial dinner recognizing not only his prominence as a businessman, but also his position as one of our most respected leaders in civic and philanthropic life, both locally and nationally.

Since 1924, the Hazeltine Corp. has been a key industry in the Third Congressional District. Starting as a small, specialized research laboratory, it has expanded dramatically in terms of both plant size and focus of attention until it is presently recognized as a highly respected contributor to the national defense research and development effort while it also markets its complex commercial systems worldwide. Hazeltine is an enviable example of diversity, rare in a single company of its type. It has played an important role in such areas as antisubmarine warfare, communications and identification, air traffic control, and navigation systems. At the same time, on the commercial side Hazeltine has developed communication systems which have played an important role in the everyday lives of people such as the development of AM radio, furthering black and white television technology, participating in the process that made color television possible, and so forth.

Many of these technological and engineering breakthroughs came to fruition under the leadership of David Westermann. Mr. Westermann first came to Hazeltine in 1950, after graduating from Columbia University Law School, serving his Nation with distinction in the Transportation and Judge Advocate General's Corps of the Army, and specializing in corporate practice with two Wall Street law firms.

In the ensuing years, he worked his way up to president of the corporation, and then, in August of this past year, to chairman of the board. During this time, Dave Westermann's unmistakable stamp was engraved on the Hazeltine operation, allowing it to grow tremendously, diversify successfully, and at all times upholding the highest standards of research and quality of production while maintaining a strong sense of "family" among its many employees and within the corporate structure. Just last fall—1976—the consistently excellent performance of Hazeltine was recognized by the U.S. Government itself, when a corporation was awarded the coveted Navy E for its role in the Navy's Aegis program. Dave, and his lovely and charming wife Edith, working as a team both personally and professionally are responsible for Hazeltine's hardheaded approach to its business operations as well as for the softhearted contribution to the lives of its many employees and to the community at large.

Mr. Speaker, I could go on for a considerable amount of time about the many honors accorded David Westermann over the years and the many Long Island activities to which he has unselfishly lent his considerable talents, including the Long Island Association of Commerce and Industry, the Urban League of Long Island, the Performing Arts Foundation of Long Island, the Board of Education of South Huntington Schools, and the Long Island Forum for Technology, to name just a few. But suffice it to say that Long Islanders from all walks of life honoring Dave Westermann, attests, more than any words I can utter, to the respect and affection with which this gentleman—and that is the perfect word to describe him—is held by his fellow Long Islanders. For many years, I have been proud to call Dave and Edith Westermann my personal friends, and I look forward to working with them in the future on many projects of importance to our Long Island community and to our Nation.

CONGRESSIONAL SALUTE TO THE HONORABLE ANDREW J. GESSNER OF NEW JERSEY, DISTRICT MANAGER, PATERSON SOCIAL SECURITY OFFICE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ROE. Mr. Speaker, the Paterson district manager of the Social Security Administration in my congressional district, the Honorable Andrew J. Gessner, has announced his retirement from this distinguished office of public trust where he has served our people with the highest standards of excellence in every respect. I know that you and our colleagues will want to join with me in extending our warmest greetings and felicitations to him, his wife Margaret, and their sons, Air Force Captain Andrew and Educator Bryan, upon this most memorable event culminating a milestone of achievement in life's purpose and fulfillment.

Mr. Speaker, as we all know, social security is the only source of income for many millions of our fellow Americans and we can well appreciate the complexities of administering this vitally important program for our senior citizens as well as the children and the disabled who depend upon social security benefits for their very life's sustenance.

Andy's career with the Social Security Administration commenced over four decades ago and we are proud to boast that he was a member of the staff of the Passaic office, which is also located in my congressional district, when first established in July 1937. Prior to his elevation to district manager of the Paterson office in 1963, he was the assistant district manager of the Newark office. He also served in the Patchoque, Long Island, N.Y., office.

His compassionate understanding, professional expertise, and noble objectives in seeking to achieve security and dignity for our people in their golden years sought action in public service soon after his graduation from Rider College, Trenton, N.J., in 1936 when he joined the New Jersey Division of Old Age Assistance, Department of Institutions and Agencies.

Andy has long excelled in everything he set out to do. He graduated magna cum laude in 1960 from Rutgers, the State university, New Brunswick, N.J.

Mr. Speaker, May I also commend to you his exemplary record of performance as a community leader and leading citizen dedicated to improving the quality of life for all of our people. Andy is a member of the Passaic County Community Council, the Passaic County Health and Welfare Association, and Kiwanis Paterson.

He holds membership in the following prestigious organizations:

Parent-Teachers Association, International Professional and Business Fraternity, Rutgers Honor Society—past president, Rutgers Alumni Association, Newark Regional Council—president, Federal Executive Council of Northern New Jersey, Federal Personnel Association.

Andy also served with the U.S. Counter Intelligence Corps during World War II.

Mr. Speaker, Andy has served our people and our country with honor and distinction. He is an outstanding administrator and good friend whose richness of wisdom and expertise in his daily pursuits have touched the lives of many, many people in my congressional district. I appreciate the opportunity to publicly acclaim all of his good works and share the pride of his family in his accomplishments and lifetime of dedicated public

service which have truly enriched our community, State, and Nation. We do indeed salute a great American—the Honorable Andrew J. Gessner.

IMPACT AID

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. D'AMOURS. Mr. Speaker, as you are well aware this year the Congress will once again take on a President determined to cut back on Federal impacted aid to education (Public Law 81-874). The struggle will be more important than usual this year because the legislation authorizing the impact aid program will come up for renewal as well as the annual appropriation bill funding the program.

Presidents still do not comprehend fully what happens to a community when the Federal Government comes in and takes large expanses of land off the tax rolls while at the same time importing hundreds or thousands of Federal employees and their children. The impact is particularly strong on small communities such as those in northern New England where the Federal employees and their dependents make up a significant proportion of the town's total population.

I am pleased to have this opportunity to share with my colleagues an editorial which appeared in the Portsmouth, N.H., Herald during the recent congressional recess which sets forth from a community's perspective the problems that would be entailed if the impact aid program was curtailed or cutback.

SCHOOL IMPACT AID IS VITAL

School Supt. Timothy Monahan is absolutely correct about one difficult fiscal matter: School impact aid.

Monahan observed the other day the annual fight to get the city its just due from a reluctant federal government would be boring if it wasn't so important.

And in a state like New Hampshire, it's a matter of life or death to the community because the state itself does nothing to help the various school systems in their continuing struggle to survive.

Federal impact aid is the result of funds granted the city based on the number of children attending schools from military families, whether or not they live on military basec.

At one time, impact aid was also based on civilian employes in federal installations, but, with some justice, this has been moderated to include only workers in the same state.

For example, Portsmouth gets no credit for children of federal workers at the Portsmouth Naval Shipyard, which is, believe it or not, in Kittery, Maine. It does get credit for children of civilian workers at Pease, if resident in the city.

And, while even that much would hurt if lost, the rationale against it is quite strong.

However, the military children are something else. Portsmouth would in no way be operating two grammar schools at Pease AFB, if Pease AFB didn't exist, and it exists because of military insistence.

What would be at Pease, if there was no Pease?

Well, we'd probably still have the good old Haven wells for one thing, and we might even have a small, good municipal airport, of the kind constantly being urged for the Seacoast.

But that's not the point. The point is that we do have Pease, and, although the air people are darned good neighbors, the city needs impact funds to support the schools attended by Pease children.

Supposing impact aid is taken away, will the government pay real estate taxes on the property it owns at Pease?

That's our funny joke for the day, as everyone knows the government is devoted to taking away tax dollars and not paying them out.

Impact aid is a must for school systems like Portsmouth's, but it's easy to see why the feds would like to get rid of it. The Defense budget would look a lot better without that item.

But then again, is Portsmouth, and kindred communities, supposed to pay for national defense?

ALLEN JONES—A SPOKESMAN FOR THE PEOPLE OF THE REDWOOD EMPIRE

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. DON H. CLAUSEN. Mr. Speaker, the people of the Redwood Empire are particularly fortunate to be well served by an effective network of locally owned and operated newspapers, and radio and television station. One of the more articulate spokesmen for this group, Allen Jones, the owner and manager of television station KVIQ in Eureka, Calif., has some thought-provoking views, which he has disseminated in the form of TV editorials. My colleagues will appreciate the commonsense Mr. Jones recommends.

I am prompted to place these editorials in the RECORD because I believe he speaks for my constituents. He expresses views similar to points that I have expressed but, more importantly, I think he is telling it like it is—it is the voice and concern of Mr. and Mrs. Middle America.

I have stated on many occasions, "It's time for government to get off the backs and out of the pockets of our middle-income people and our small business people." We are tired of too much government.

I plead with my colleagues to listen to Mr. and Mrs. Middle America. Let us stop the expansion of government and turn it around so that people will have more control over their own destiny.

The editorials follow:

EDITORIAL

I don't like to think about it, but we're rapidly reaching the point where there will be more tax users than taxpayers. Generous Congressmen and State legislators have been so free with our resources as to heap an ever increasing burden upon the backs of those of us who are either too proud or too stupid to join the growing crowd that eagerly gobbles up government hand outs.

Somewhere in our past, there was something called the work ethic, like. . . . "Pay as you go" and that good old axiom, "Those who don't work, don't eat", and that was true in harder times than we're having today. During the depression, no one was too proud to take whatever work he could find—today too many would rather draw unemployment compensation than take a job beneath their dignity and some of our unemployed feel someone else must even find work for them. People on the Government payroll demand more and more pay for less and less work. Even our Congressmen, elected to look out after our well being, spend a good portion of their time looking after their own good. Standing alone, groaning under the weight of this bulging Government debt is the poor guy who trudges off to work each day, forking over more and more of his paycheck to support this Frankenstein monster we call Government and as taxes continually go up, this continual growth in government must be stopped.

We must face the reality that there is no "they" to provide for all our ills, "they" is "us" and the sooner we accept this, the better! That's our view, what's yours?

EDITORIAL

The President has officially approved a pay raise for Government workers. The reason for the seven-percent pay hike is the system which gives Government workers pay rates comparable to their counterparts in private industry. However, a searching look at this system reveals a number of fallacies. Government and business are basically different: Government agencies cannot go bankrupt, business can. No Government agency must make a profit, but business must. In the real world of business, people are fired all the time. In Government, this is not generally true. Federal workers qualify for automatic raises every year. Workers in private industry generally do not. And, the fringe benefits of Government workers, sick leave, and paid vacations, exceed those in private industry. Fifteen years ago, many qualified workers shunned Government jobs, but this is no longer true. Today, there are sixty or seventy applicants for every Federal job. So, as those in the private sector struggle to keep up with the Federal workers, let's remember the fundamental differences between the two groups. The average Federal workers now will get more than $17,000 a year. We hope all of our viewers are doing as well.

That's our view, what's yours?

EDITORIAL

During it's first 200 years, the United States' growth, by every yardstick, was unmatched in world history. But somehow in the process KVIQ sees many of it's people have failed to grow up—to mature and become responsible citizens.

The Rev. Jesse Jackson of Operation Push in Chicago categorizes Americans as behaving like spoiled children when they continue to waste precious resources—yet expect them to be forever available.

Americans want public safety, yet fail to maintain family discipline. They want a pleasant neighborhood in which to live, but won't put forth the effort to help make it possible. Letting George do it is simply not the answer.

How do people expect to have good government when so many of them fail to vote? How can they have freedom when they refuse to accept responsibilities? Despite all our wealth, power and influence on the world stage, our society drifts along, uncertain, unsafe and fearful. People don't care enough to speak up, do what they know is right, decent and fair.

Family disintegration, crime and violence are far worse in the United States than in less affluent countries. Our nation has matured, but unfortunately many of its citizens haven't. These people insist on their rights, but conveniently overlook their duties. The two go together.

Isn't it about time for Americans to stop acting like spoiled children, grow up and ac-

cept their individual responsibilities? What better time and place to start than now—in the home—today.

That's our view, what's yours?

HEALTH PLANNING AND RESOURCES DEVELOPMENTS AMENDMENTS OF 1978

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. ROGERS. Mr. Speaker, I am pleased to introduce today the Health Planning and Resources Development Amendments of 1978, H.R. 10460. This bill provides for the amendment and extension of titles XV and XVI of the Public Health Service Act as originally added by Public Law 93–641, the National Health Planning and Resources Development Act of 1974.

While recognizing that this bill does not deal with all the changes that may be necessary, I believe it provides a good starting point for our discussion of health planning.

There has already been some discussion of health planning in the context of the national health planning guidelines proposed by the Department of Health, Education, and Welfare. I am very pleased with the revisions in the guidelines which the Secretary announced on January 18, 1978. They respond to both congressional concerns and the concerns raised by many individuals and groups about these proposed guidelines by making it clear that decisions about the adequacy of health services will be made at the local level. However, that discussion highlighted some of the basic difficulties we face in medical care. It is easy to support principles which lead to more reasonable health care costs for our citizens and to more efficient health care delivery systems, yet very difficult to make tough decisions about unneeded health care facilities or services that add to health care cost and system inefficiency. Yet such decisionmaking is central to sound health planning and our consideration of health planning legislation will thus be controversial.

While the bill proposes a number of changes in the current law, the following issues seem to be the most central to our health planning discussions:

First, there is a need to examine the adequacy of the health systems agencies governing body requirements of the law. The bill proposes a number of changes that seek to make the HSA decisionmaking process more open to those who are interested in participating. The bill would also require more adequate support to governing board members so that their decisionmaking capability is enhanced.

Second, the role of the States in the health planning structure deserves careful review. The bill would require that the Governors be more actively involved in both health service area and health systems agency designation. In addition, the bill requires the State health planning and development agency, after consultation with the statewide health coordinating council, to define statewide health needs for the local health systems agencies to consider in their planning activities.

Third, consideration must be given to strengthening the linkage between the planning required at the State and local level and that at the national level. The bill requires that the Department of Health, Education, and Welfare gather and analyze information developed in the plans of the health systems agencies and the State health planning and development agencies and make such information available on a national basis. This information would be used in revising the national health planning guidelines. I would also hope that it would influence the development of other national health policy.

Fourth, there is a need to strengthen local decisionmaking about new facilities and services. The bill provides for expanding the required coverage of certificate of need to major medical equipment—over $150,000 per piece of equipment—regardless of the setting in which it is located. It is interesting to note that the recently published report of the American Medical Association established National Commission on the Cost of Medical Care supports such a provision.

While not included in the bill, another important aspect of strengthening the certificate of need process is the establishment of a capital expenditures limit. The Subcommittee on Health and the Environment has already approved such a limit as part of its consideration of the President's cost containment legislation.

Fifth, consideration must be given to how to deal with existing unneeded and duplicative health facilities and services. Such services contribute to total costs because higher prices must be charged to cover the fixed costs of keeping the unit or facility in operation. This affects the health care costs of all Americans.

The bill proposes that States develop programs which would assure that inappropriate services are not provided. The Subcommittee on Health and the Environment has already approved a Federal program to assist and encourage the discontinuance of unneeded hospital services (title III of H.R. 9717) by providing grants to cover such costs as outstanding debt, severance pay, and other costs related to closure. I am interested in working to integrate these two provisions and am particularly interested in learning of alternative approaches of reducing excess capacity. Support for action on this issue seems to be developing as evidenced by the activities of several States and the report of the National Commission on the Cost of Medical Care which recommends that decertification programs be implemented.

Sixth, we must provide adequate financial support for health planning. The bill provides a number of changes to provide more adequate and flexible funding of health planning agencies.

Finally, there is a need to better coordinate the activities of the planning program with other control and regulatory programs. The bill specifically requires that coordination between the health planning and rate review programs take place within States.

The Health Planning and Resource Development Amendments of 1978 reaffirms my belief that the basic planning structure created by the National Health Planning and Resources Development Act is sound. The proposed changes are designed to improve it. In doing so, the bill is designed to provide as little disruption to the planning system as possible, recognizing the great time and effort that has been expended by volunteers, both consumers and providers, in developing it. The health systems agencies and the State health planning and development agency would be able to phase in any required changes over a period of a year.

In the weeks ahead, we will be considering this bill along with the changes in the health planning authorities already approved by the subcommittee in H.R. 9717, so that an integrated set of planning amendments will result. I look forward to constructive debate over the provisions of this bill as well as to the consideration of alternative approaches to improving the health planning network.

THE RECORD AND BROADCASTING

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1978

Mr. MOAKLEY. Mr. Speaker, during the present session the House of Representatives will conduct a test of broadcasting. At the present time the subcommittee of the Committee on Rules is studying recommendations for the format of such a test. The committee will monitor the test and is committed to presenting a workable permanent rules change to the House based on that test.

One aspect of this new coverage of floor proceedings has not been examined at all and that is the RECORD. At the present time, there is concern that unanimous-consent requests to revise and extend and for general leave have made the RECORD something far from a verbatim record of the floor proceedings of the House.

In establishing a broadcasting system, it is important to realize that we are creating a new official record of floor proceedings. In the very near future, it can be anticipated that some bright lawyer will appear in Federal court and argue that the tapes are a more accurate reflection of congressional intent. To avoid a confrontation with Congress, the tape of some TV station will be subpenaed; this of course will rob the House of a chance to participate as it could if the subpena were served on the Clerk.

While the House sits by, the Federal courts will declare the CONGRESSIONAL RECORD dead.

Mr. Speaker, I am not sure I actually object to this. But I think it is unfortunate that we are failing to study the question of a verbatim RECORD in conjunction with our review of broadcasting.

It is the House, not the courts, which should decide what the official record of our proceedings will be.

In the course of my work on the subcommittee, I have maintained a correspondence with the New York County Lawyers Association's Committee on Federal Legislation on this subject. I would like to share with my colleagues the perceptive comments of the committee's chairman on this subject:

BOTEIN, HAYS, SKLAR & HERZBERG,
New York, N.Y., December 8, 1977.

Hon. JOHN JOSEPH MOAKLEY,
At-Large Majority Whip,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MOAKLEY: Thank you for your very thoughtful letter of December 5th in regard to the report of the Committee on Federal Legislation, New York County Lawyers Association, on H. Res. 479 concerning a verbatim Record. I am extremely pleased that you are inclined in general to agree with our report, and would like to comment briefly on some of the obvious problems you mentioned.

You are probably right that the length rather than quality of the debate might be increased, but that of course can be controlled by the 5-minute rule! And, of course, extensions could be permitted even at the page where verbatim debate appears, provided they are clearly labelled as such and separated by an appropriate symbol from verbatim transcript.

As you also mentioned, courts rely on floor debates only when the legislation or report are ambiguous. But most laws are necessarily general and cannot possibly deal with a great many practical questions that inevitably arise once they are passed and which nobody could foresee. When these questions arise, both sides naturally start combing the Record for comments that might buttress their position, and these frequently influence the courts even when not expressly relied on in the opinions.

I have also noticed an increased tendency for committee and conference reports to appear in short form, simply paraphrasing the bills being reported, perhaps to avoid raising any additional questions that could cause problems on the floor, or simply because of the pressure of time on the committee staffs who have to prepare the drafts.

To the extent that this occurs, committee reports in the future may provide less guidance to the courts than some of those in prior years when Congress allowed itself the luxury of more expansive committee documents.

In any event, as you said in your letter, the House by allowing broadcasting of floor proceedings is almost forced to adopt a verbatim record, since otherwise the press will highlight instances of discrepancies between their audiotapes and the printed version whenever anything significant is involved to the discomfiture of the Members.

The archival tapes might eventually supersede the record for the courts, just as West Publishing Company's private reporting system has taken over coverage of lower court opinions. However, the dignity of Congress will suffer when invidious comparisons are made between the printed and taped record. And an interim period will exist when it will be expensive or difficult to get or use the untranscribed tapes. This will benefit rich litigants with sophisticated counsel who will think of the idea and can afford it. Meanwhile the majority of lawyers and their clients will be at a disadvantage in cases where statutory ambiguities are involved. Consequently, I believe the issue remains an important one, and hope that you will be able to convince the Rules Committee to schedule the issue for action.

In these days of widespread distrust of all our institutions, any action the Congress can take toward its own "sunshine," "openness," and "freedom of information" concepts will raise its prestige in the eyes of the public, and this in turn will also benefit the nation.

On behalf of our Committee, again let me thank you for the obvious careful attention you have devoted to our report.

If we can be of assistance to you in connection with any other issues on which Bar comments would be helpful, I hope you will contact me.

Respectfully,

RICHARD A. GIVENS,
Chairman, Committee on Federal Legislation, New York County Lawyers Association.

SENATE—*Friday, January 20, 1978*

The Senate met at 11:30 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?—Psalms 27: 1.

Lift us up, O Lord, above the drabness of the commonplace into the light of Thy presence where "the reconciliation, the rebuilding, and the rebirth" for which we strive may take place. Shed Thy holy light upon our pathway that we may walk in the way of Thy statutes.

O God, our Father, put within us "a faith to remove mountains" so that no burden may be too heavy, no problem too confounding, no difficulty too complex, but that by Thy grace and Thy wisdom we are led to know the truth and given power to do Thy will.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 20, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Thursday, January 19, 1978, be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1437, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. The question is on the first committee amendment.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 537, 552, 553, and 554, all of which are on the Unanimous Consent Calendar.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the items identified by the majority leader were moved to the Unanimous Consent Calendar yesterday. Of course, we have no objection to their consideration and passage at this time.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

LOSSES AS A RESULT OF BAN ON TRIS

The Senate proceeded to consider the bill (S. 1503) to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That (a) the Court of Claims shall have jurisdiction to render judgment upon any claim for losses sustained by any producer, processor, or manufacturer of children's sleepwear, or by any producer, processor, or manufacturer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, as a result of the actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to the ban on apparel, fabric, yarn, or fiber containing Tris (2,3-

dibromopropyl) phosphate: *Provided, however,* That such children's sleepwear and such fabric, yarn, or fiber contained in or intended for use in children's sleepwear was subject to the requirements of the mandatory Federal flammability standard, FF3–71, or FF5–74, at the time of its manufacture.

(b) Such court shall determine the amount of loss, but not including lost profits, warehouse charges, attorney's fees, or interest on any such loss, resulting to any producer, processor, or manufacturer of such children's sleepwear, or by any producer, processor, or manufacturer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, from said actions by the United States and render judgments in favor of such claimant and against the United States in the amount determined. Payment of such judgments shall be in the same manner as in the case of claims over which such court otherwise has jurisdiction as provided by law.

(c)(1) The measure of damages for producers, processors, or manufacturers of such children's sleepwear shall be the cost of the fabric, yarn, or fiber plus the cost of the production, processing, or manufacture of the sleepwear garment, less the greater of the fair market value, if any, of the sleepwear garment or of any constitutent fabric, yarn, or fiber on the date the claim is filed: *Provided, however,* That in no event shall such damages exceed any purchase price actually paid for such garments by a retailer or distributor thereof plus any cost of transportation for the return of such garments paid by such producer, processor, or manufacturer. Such damages may include any cost of transportation of any sleepwear garment shipped by and subsequently returned to its producer, processor, or manufacturer by a retailer or distributor of children's sleepwear: *Provided, however,* That such costs shall have been paid by such producer, processor, or manufacturer.

(2) The measure of damages for producers, processors, or manufacturers of fabric, yarn, or fiber shall be the cost of producing, processing, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, processing, or manufacture less the fair market value, if any, of the fabric, yarn, or fiber on the date the claim is filed. Damages measured under this paragraph and recoverable by a producer, processor, or manufacturer of fabric, yarn, or fiber are limited only to that fabric, yarn, or fiber actually held in stock by such producer, processor, or manufacturer on the date of enactment of this Act, together with any garments which had on such date been returned by the garment manufacturer.

(d)(1) No producer, processor, or manufacturer of such children's sleepwear may assert a claim for repurchased children's sleepwear which was repurchased more than one year after the date of enactment of this Act.

(2) Notwithstanding the provisions of the Federal Hazardous Substances Act or of any other law, no producer, processor, or manufacturer of such children's sleepwear shall be required to repurchase that children's sleepwear from a retailer when demand for repurchase by the retailer is made more than three hundred and sixty days after the date of enactment of this Act.

(e)(1) No claim under this Act may be brought as a class action pursuant to rule 23 of the Federal Rules of Civil Procedure nor may any claim under this Act be brought by two or more parties except if damages are claimed to be jointly recoverable and except if damages claimed are disputed among the parties claimant.

(2) Each claim under this Act shall be instituted within two years after the date of enactment of this Act.

Mr. HOLLINGS. Mr. President, I support this bill and I urge that the Senate favorably vote on it. The bill gives the Court of Claims jurisdiction to hear claims for losses by manufacturers of children's sleepwear or manufacturers of the fabric, yarn, or fiber contained in children's sleepwear because of the Tris ban.

This legislation stems from a ruling by the Consumer Product Safety Commission in April that banned the sale of all children's wearing apparel containing Tris and an accompanying order that the producers of the apparel repurchase it from consumers and retailers.

The repurchase order could cost producers of children's apparel millions of dollars and could bankrupt many of the some hundred companies engaged in the production of children's sleepwear. Additionally, as many as 25,000 workers may lose their jobs.

The bill would allow the U.S. Court of Claims to determine the dollar value and render judgment for losses sustained under the order by producers, processors, or manufacturers of children's sleepwear. Lost profits would not be included, and affected businesses would be required to file claims within 2 years of the enactment of the bill.

The producers of Tris and the apparel containing the chemical acted in good faith under regulations imposed by the Department of Commerce in 1971 and 1974 which imposed stringent flammability standards for children's sleepwear.

Many in the industry expressed reservations then about potential health hazards, but under the regulations they had no choice but to speed the development of such chemicals as Tris. Now they are being asked to absorb the full impact of new Government regulations. Aside from the equity involved, we are talking about a major economic impact in the textile industry. The Congress must provide this avenue of relief and I therefore urge my colleagues to support this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–584), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENT

The amendment of S. 1503 is designed to clarify and make more explicit the statutory intent, as certain language in S. 1503, as submitted, might permit recovery by claimants who were not intended to be compensated. The amendment would insure that only those sleepwear manufacturers/claimants or fabric manufacturers/claimants who were subject to the requirements of FF3–71 and FF 5–74 would be able to recover their losses.

The amendment would prevent claimants from recovering attorneys' fees, either in connection with their claim to the Court of Claims or in connection with other litigation.

PURPOSE OF BILL AS AMENDED

The amendment would prevent class actions or joinder of parties claimant except if damages are disputed among claimants or are alleged to be jointly recoverable.

The Committee on the Judiciary, to which was referred the bill (S. 1503) to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

HISTORY OF THE BILL

S. 1503 was introduced by Senator Thurmond on May 12, 1977, to provide direct financial reimbursement for those businesses adversely affected by the Consumer Product Safety Commission's ban on the fire-retardant chemical known as Tris. The bill, cosponsored by six other Senators (Mr. Eastland, Mr. Helms, Mr. Hollings, Mr. Nunn, Mr. Stennis, and Mr. Talmadge), was referred to and considered by the Committee on the Judiciary.

Following the introduction of the measure, a 1-day hearing was held by a factfinding panel of the Judiciary Committee. At the request of Senator Eastland, Senator Allen chaired the hearing, with Senators Scott and DeConcini constituting the remainder of the panel. The hearing and subsequent work on the bill was staffed by personnel of the Subcommittee on Separation of Powers, of which Senator Allen is Chairman.

At the hearing, eleven witnesses testified, and a number of other individuals submitted statements for the hearing record. Among those testifying were Senator Thurmond; Commissioner Barbara Franklin of the Consumer Product Safety Commission; Richard Simpson, former Chairman of the Consumer Product Safety Commission; James F. Merow, Chief of Court of Claims Section, Civil Division, Department of Justice; and numerous representatives of the apparel industry.

Summary of the legislation

This legislation would confer jurisdiction on the U.S. Court of Claims to determining the damages sustained by specified persons (and to render judgment therefor) as a result of designated actions taken by the Federal Government under the Hazardous Substances Act relating to the ban on apparel containing Tris. Lost profits and attorneys' fees would not be included. There would be a 2-year statute of limitations as provided in the Tort Claims Act.

RECOMMENDATIONS

In summary, the committee makes the following findings:

1. Government officials and consumer advocates sought measures to protect children from burn injury or death. Those charged with this responsibility responded, followed the procedures prescribed and made, a determination which had major impact on the apparel manufacturing industry. The industry immediately moved into compliance and exhibited over a period of years a remarkable record in this regard. In the spring of 1976, the Environmental Defense Fund raised, through the regulatory process, questions concerning allegedly serious detrimental health effects from Tris-treated garments. The children's sleepwear industry moved immediately away from Tris as a chemical treatment for the garments, and the regulators moved to ban its use in the future.

Some several years after forcing chemical treatment on sleepwear manufacturers, the Federal Government has now required the manufacturers to recall the garments they manufactured in compliance with mandatory requirements and to pay for millions of sleepwear garments which they were forced by Federal regulation to treat chemically. There

is no provision in existing Federal statutes for the affected industry to attempt to recoup the losses it incurred by complying with the law, nor for the regulatory agencies to provide economic relief should they feel it is justified.

2. By and large the 100 to 110 children's sleepwear producers are small manufacturers. Many of them have less than 100 employees. Total annual output of the industry amounts to only $500 million. Despite the relatively small size of this segment of the industry, it does provide jobs for 27,000 employees. These are taxpaying productive jobs which contribute to the economy. Often children's sleepwear plants are located in small communities where, despite their small size, they are nevertheless the town's largest employer. The small children's sleepwear manufacturers are generally undercapitalized and often depend on credit and ability to borrow money on their accounts receivable. One result of the ban implemented by the Consumer Product Safety Commission on April 8 has been to greatly impair the manufacturers' access to this working capital and expose them to claims for repurchase of Tris-treated sleepwear which in many cases exceed the net worth of the company.

As the committee views it, the gravamen of the industry's claim for indemnification rests upon the "double-edged" aspect of Government regulation. That is, the Department of Commerce required the industry to use a chemical like Tris in sleepwear and, when in good faith the industry did so, the Consumer Product Safety Commission banned the Tris-containing sleepwear. Because of the uniqueness of this situation and in light of the factual basis established by the hearing record, this committee favorably reports S. 1503, as amended, and strongly recommends that the bill be considered favorably.

MR. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL ASSISTANT SECRETARIES OF AGRICULTURE

The Senate proceeded to consider the bill (S. 1704) to provide for two additional Assistant Secretaries of Agriculture, and for other purposes, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 1, line 7, after "Senate" insert "and who";

On page 1, line 9, strike "prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture" and insert "prescribe";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, two additional Assistant Secretaries of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be responsible for such duties as the Secretary of Agriculture shall prescribe.

SEC. 2. Section 5315 of title 5 of the United States Code is amended by striking out "(5)" at the end of paragraph (11) and by inserting in lieu thereof "(7)".

SEC. 3. Section 5316 of title 5 of the United States Code is amended by adding at the end thereof new paragraphs (141) and (142) as follows:

"(141) Administrator, Food Safety and Quality Service, Department of Agriculture.

"(142) Administrator, Food and Nutrition Service, Department of Agriculture.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–598), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 1704 would: (1) Add two additional Assistant Secretaries in the Department of Agriculture, increasing the number from five to seven; (2) elevate the position of Administrator, Food, and Nutrition Service from GS–18 ($47,500 per annum) to level V ($47,500 per annum) of the executive schedule; and (3) establish a new position of Administrator, Food Safety, and Quality Service at level V of the executive schedule. As in the case of the existing five Assistant Secretaries, the two additional Assistant Secretary positions would be filled by Presidential appointment, subject to Senate confirmation, at level IV ($50,000 per annum) of the executive schedule.

NEED FOR LEGISLATION

In a letter requesting introduction of this legislation, the Secretary of Agriculture stated that, as a result of a general realignment of various functions and responsibilities in the Department, the responsibilities of the positions of Director of Economics, Policy Analysis and Budget, and the Director of the Office of Congressional and Public Affairs have been broadened substantially.

The committee held a hearing on S. 1704 on October 25, 1977, receiving testimony from Mr. John C. White, Deputy Secretary of Agriculture, in support of the bill.

Testimony received indicated that the Director of Economics, Policy Analysis, and Budget has five agencies reporting to him, and the Director, Office of Congressional and Public Affairs is responsible for the Department's relations with the Congress, State and local governments, the Department's information and public affairs and the functions of the Department's Office of Communications. Mr. White stated further that, as a result of this realinement of functions, each of these Directors now has responsibilities equivalent to those of other Assistant Secretaries in the Department.

With respect to elevating the position of Administrator, Food and Nutrition Service from GS–18 to level V of the executive schedule, Mr. White stated that there has been a significant increase in the scope and magnitude of the various food programs administered by this Service. In this connection, he noted that total program outlays administered by this Service increased from $1 billion in fiscal year 1970 to an estimated $9.15 billion in fiscal year 1978, with employment in the Services increasing from 1,684 to 2,349.

With respect to the establishment of a new position of Administrator, Food Safety and Quality Service from GS–18 to level V of the executive schedule, Mr. White stated that this Service has responsibility for meat and poultry inspection and grading, inspection and grading of dairy products, standardization and inspection for fresh and processed fruit and vegetable products, egg products inspection and commodity procurement activities, all of which are extremely important to both producers and consumers.

Finally, Mr. White advised the committee that enactment of this legislation would not entail any increase in salaries, since the Directors of Economics, Policy Analysis and Budget, and Congressional and Public Affairs are both occupying Executive Level IV positions.

COMMITTEE ACTION

The committee adopted two amendments to the bill which are technical and perfecting and make no change in its substance.

Following consideration of the testimony, the committee concluded that the actions proposed by S. 1704 are justified and should serve to enable the Department of Agriculture to balance adequately the top-level positions in the Department so as to achieve the most efficient management of its responsibilities.

Enactment of S. 1704 is supported by the Office of Management and Budget and the U.S. Civil Service Commission, and the committee urges favorable action on the bill.

COST ESTIMATE

The Congressional Budget Office has submitted the following cost estimate with respect to S. 1704:

Estimated costs:

Function 352

[By fiscal years in thousands of dollars]

1978	271
1979	276
1980	282
1981	287
1982	293

Basis of estimate: For purposes of this estimate, the full salary of an Executive Level IV ($50,000 each) for the Assistant Secretaries has been included in the costs, along with an additional 25 percent of the base salary for benefits and overhead. The $50,000 salary for the Assistant Secretaries has not been inflated over the projection period as no precedent has been set on periodic increases in executive level salaries to make any assumption of adjustments over the next 5 years. In addition to the salaries and associated benefits and overhead of the Assistant Secretaries, the salary and benefits of a secretary for each Assistant Secretary has been added to the costs of the legislation. The salaries of the secretaries have been increased over the 5-year period based on the latest projections of Federal salaries. The fiscal year 1977 salary of the secretaries has been assumed to be $17,500.

The same procedure as above was used for the calculation of the costs of establishing the positions of Administrator of the Food Safety and Quality Service and the Food and Nutrition Service. A salary of $47,500 was used for the Administrators, and $15,000 for their secretaries.

It is assumed that no existing positions will be eliminated as a result of the establishment of these new positions.

This legislation does not authorize any new budget authority.

REGULATORY IMPACT

The committee has been informed that the positions provided for will result only in a change in designations of personnel who are already in place. Accordingly, it appears that enactment of this legislation will not have any regulatory impact.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL ASSISTANT SECRETARY OF THE TREASURY

The bill (S. 1730) to provide for an additional Assistant Secretary in the De-

partment of the Treasury, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 234 of the Revised Statutes, as amended (31 U.S.C. 1006), is amended by striking out "five Assistant Secretaries of the Treasury" and inserting in lieu thereof "six Assistant Secretaries of the Treasury".

SEC. 2. Section 5315 of title 5 of the United States Code is amended by striking "(5)" at the end of paragraph (23) and inserting in lieu thereof "(6)".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–599), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

S. 1730 would add an additional Assistant Secretary in the Department of the Treasury, increasing the number of Assistant Secretaries from five to six. As in the case of the existing five, the position would be filled by Presidential appointment, subject to Senate confirmation, at level IV ($50,000 per annum) of the executive schedule.

NEED FOR LEGISLATION

In a letter requesting introduction of this legislation, the Secretary of the Treasury stated that an additional Assistant Secretary was needed "to be mainly responsible for the law-enforcement responsibilities of the Department."

The committee held a hearing on S. 1730 on October 25, 1977, receiving testimony from Mrs. Bette B. Anderson, Under Secretary of the Treasury, in support of the measure.

Mrs. Anderson testified that "the additional Assistant Secretary position is needed to give proper emphasis to the management of the Treasury's law-enforcement programs and to law-enforcement policy formulation."

Mrs. Anderson stated that the Treasury Department's law-enforcement responsibilities are varied and significant and are exceeded, in the Federal Government, only by those of the Department of Justice. She stated further that the Treasury Department's law-enforcement responsibilities include the U.S. Customs Service, the U.S. Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Federal Law Enforcement Training Center, and the Office of Foreign Assets Control. In addition, the Treasury Department manages jointly with the Justice Department the Interpol National Central Bureau.

In describing the functions and responsibilities of the principal Treasury Department units which would be under the direct supervision of the proposed Assistant Secretary, Mrs. Anderson supplied the following information relative to their fiscal year 1978 budgets and authorized personnel strengths: U.S. Customs Service, $384,700,000 with 15,000 authorized positions; U.S. Secret Service, $123 million with 3,600 authorized positions; and the Bureau of Alcohol, Tobacco, and Firearms, $122,600,000 with 4,100 authorized positions.

A summary of the principal missions and responsibilities which will be assigned to the proposed Assistant Secretary (Enforcement and Operations) is set forth in the appendix to this report.

Finally, the committee was advised that the Secret Service and the Bureau of Alcohol, Tobacco, and Firearms are managed by career officials. The Customs Service is managed by a schedule "C" appointee, not subject to Senate confirmation. Accordingly, it is the position of the Treasury Department that policy and management innovations should originate with a senior Treasury Department official, appointed by the President, subject to Senate confirmation.

COMMITTEE ACTION

The committee has considered carefully the law enforcement responsibilities of the Department of the Treasury. It has also noted that the Director of the Secret Service is an Executive Level IV, the Commissioner of Customs is a level V, and the Director of the Bureau of Alcohol, Tobacco and Firearms is a GS–18.

Accordingly, the committee agrees with the Secretary of the Treasury that these officials should be supervised by an Executive Level IV Assistant Secretary, and urges favorable action on S. 1730.

COST ESTIMATE

The Congressional Budget Office has submitted the following cost estimate with respect to S. 1730:

Estimated costs (Function 800):

Fiscal year:	*Thousands*
1978	86
1979	87
1980	89
1981	90
1982	92

Basis of Estimate: For purposes of this estimate, the full salary of an Executive Level IV ($50,000) has been included in the costs, along with an additional 25 percent of the base salary for benefits and overhead. The $50,000 salary for the Assistant Secretary has not been inflated over the projection period as no precedent has been set on periodic increases in executive level salaries to make any assumption of adjustments over the next 5 years. In addition to the salary and associated benefits and overhead of the Assistant Secretary, the salary and benefits of a secretary for the Assistant Secretary have been added to the costs of the legislation. The salary of the Secretary has been increased over the 5-year period based on the latest projections of Federal salaries. The fiscal year 1977 salary of the secretary has been assumed to be $17,500. It is assumed that no existing positions will be eliminated as a result of the establishment of this new position.

This legislation does not authorize any new budget authority.

REGULATORY IMPACT

The committee has been informed that the duties which will be performed by the proposed Assistant Secretary are now being performed by a consultant to the Department of the Treasury. Accordingly, it appears that enactment of this legislation will not have any regulatory impact.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OLIVE M. V. T. DAVIES AND HER CHILDREN

The bill (H.R. 3215), an act for the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–602), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill is to restore second preference status to Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies.

STATEMENT OF FACTS

The beneficiaries are a widow and five children who entered the United States in diplomatic status accompanied by their husband/father. He was subsequently granted permanent residence in the United States on January 22, 1973, and visa petitions confering second preference status on his widow and children were approved but revoked when the petitioner died. The principal beneficiary of the bill is 41 years of age and is a native of Great Britain as is one of her children. Three of the children are natives and citizens of Ghana and one child is a native of Nigeria.

A similar bill passed the House of Representatives during the 94th Congress. The senior beneficiary's oldest son, who was included in the 94th Congress bill, has left the United States permanently and is not listed in the instant bill. The following information is reprinted from House Report 94–1531:

The pertinent facts in this case are contained in a letter dated April 30, 1976 from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., April 30, 1976.

Hon. PETER A. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 10962) for the relief of Olive M. V. T. Davies and her children, Remmie Samuel K. Davies, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies and Baba-Tunji K. Davies, there is attached a memorandum of information concerning beneficiaries.

The bill would grant the beneficiaries permanent residence in the United States as of the date of its enactment, upon payment of the required visa fees. It would also direct that visa number deductions be made.

The beneficiaries, Olive M. V. T. Davies, Remmie Samuel K. Davies and Samira D. K. Davies, natives of Great Britain, Ola-Tomi K. Davies, Ilesha E. K. Davies and Baba-Tunji K. Davies, natives of Ghana, and Ola-Yinka K. Davies, a native of Nigeria, are chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 10962

The beneficiaries Olive M. V. T. Davies, Remmie Samuel K. Davies, and Samira D. K. Davies, who are natives and citizens of Great Britain, were born respectively on August 26, 1934, November 14, 1956, and October 12, 1960. The beneficiaries Ola-Tomi K. Davies, Ilesha E. K. Davies and Baba-Tunji Davies, who are natives and citizens of Ghana, were born respectively on March 22, 1962, May 1, 1968, and August 24, 1969. The beneficiary Ola-Yinka K. Davies, a native and citizen of Nigeria, was born on January 14, 1967. Mrs.

Davies completed 2 years of college in England. Her children are currently attending school in this country. Mrs. Davies is widowed, as her husband, Samuel Ogunremi Davies, died in Nigeria on April 17, 1973. Mrs. Davies is employed as a masseuse, earning approximately $7,000 per annum. None of the children are employed. The family has no assets and only minimal personal property. Mrs. Davies has a brother who lives in England and a sister who lives in Ghana.

Mrs. Davies and her children were admitted to the United States on December 24, 1971, as the dependents of Mr. Davies, a foreign government official. Mr. Davies became a lawful permanent resident of the United States on January 22, 1973, and filed a relative visa petition in behalf of his spouse on February 22, 1973. The petition was approved on February 27, 1973, thus according the beneficiary immediate relative classification. However, when Mr. Davies died in April 1973, the approved petition was automatically revoked and the beneficiary was no longer eligible to apply for permanent resident status.

Mrs. Davies last arrived in the United States on April 27, 1973, after traveling to Nigeria because of her husband's death, and was paroled into this country for 2 months. Exclusion proceedings were instituted against the beneficiary on December 31, 1975, on ground that she had been paroled into the United States to depart on or before June 26, 1973, had not departed as required, and was an intended immigrant not in possession of a valid unexpired immigrant visa. After a hearing on February 2, 1976, she was found excludable. On February 25, 1976, the children were granted the privilege of voluntary departure to coincide with the required departure of Mrs. Davies.

On February 11, 1976, the Department of State submitted the following report on this legislation.

DEPARTMENT OF STATE,
Washington, D.C., February 11, 1976.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your request for a report concerning the cases of M. V. T. Davies and her children, beneficiaries of H.R. 10962, 94th Congress.

The bill would grant the beneficiaries permanent residence in the United States as of the date of enactment upon payment of the required visa fees. It also provides for the deduction of the required numbers from the total number of immigrants and conditional entrants who may be admitted from the beneficiary's country of birth.

The American Embassy at Lagos, Nigeria, has reported that it has no record other than the date of the death of the beneficiary's husband, Mr. Samuel O. Davies, on April 15, 1973. At the time, the beneficiaries were residing at 3105 Janet Road, Glenmont, Md.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Mr. Diggs submitted the following letter in support of his bill:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 7, 1976.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is to acknowledge and thank you for your letter regarding H.R. 10962, a private bill which I introduced on behalf of Mrs. Olive M. V. T. Davies and her six children.

Mrs. Davies' husband, Samuel O. Gunremi Davies, was initially admitted to the United States on an A–2 visa to work for the Nigerian Embassy in Washington, D.C. On January 22, 1973, he was admitted to the United States as an immigrant, receiving his Form I–51: Alien Registration Receipt Card. On February 22, 1973, Mr. Davies filed a petition with his wife, as beneficiary for the purpose of enabling her to become a lawful permanent resident of the United States. That petition was approved by the Immigration Department on February 27, 1973, and Mrs. Davies was requested to fill in and return form I–485.

In March 1973, Mr. Davies returned to Nigeria and during the first or second week of April died in Lagos as a result of an accident. Mrs. Davies in April 1973, was authorized by the district director's office to reenter the United States after a trip which she would take to Nigeria to inquire into the death of her husband. For the purpose of returning to Nigeria, she was paroled to June 26, 1973, pursuant to section 212 (d)(5) of the Immigration and Naturalization Act. Upon Mr. Davies' death, the petition previously filed by him to classify his wife as a permanent resident was automatically revoked. I think you will agree that had it not been for the untimely death of Mr. Davies, permanent residency for Mrs. Davies and her children would have been more or less automatic.

In view of these facts, it is my fervent hope that the subcommittee will act favorably by reporting H.R. 10962 to the full committee.

Sincerely,

CHARLES C. DIGGS, Jr.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 7, 1977.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship and International Law, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN EILBERG: Today I have reintroduced a private bill on behalf of Mrs. Olive M. V. T. Davies and five of her children. You will note that the oldest child, Remmie Samuel Kari Davies, has been dropped from the bill. He is now 20 years of age and has left the country permanently.

Mrs. Davies' husband, Samuel O. Gunremi Davies, was initially admitted to the United States on an A–2 visa to work for the Nigerian Embassy in Washington, D.C. On January 22, 1973, he was admitted to the United States as an immigrant, receiving his Form I–151: Alien Registration Receipt Card. On February 22, 1973, Mr. Davies filed a petition with his wife as beneficiary for the purpose of enabling her to become a lawful permanent resident of the United States. That petition was approved by the Immigration Department on February 27, 1973, and Mrs. Davies was requested to fill in and return form I–485.

In March 1973, Mr. Davies returned to Nigeria and during the first or second week of April died in Lagos as a result of an accident. Mrs. Davies, in April 1973, was authorized by the district director's office to reenter the United States after a trip which she would take to Nigeria to inquire into the death of her husband. For the purpose of returning to Nigeria, she was paroled to June 26, 1973, pursuant to section 212(d)(5) of the Immigration and Naturalization Act. Upon Mr. Davies' death, the petition previously filed by him to classify his wife as a permanent resident was automatically revoked. I think you will agree that had it not been for the untimely death of Mr. Davies, permanent residency for Mrs. Davies and her children would have been more or less automatic.

If further information is required, please contact me or have a member of your staff contact Dorothy Anderson on 52261.

Sincerely,

CHARLES C. DIGGS, Jr.

Senators Donald W. Riegle, Jr. and Edward M. Kennedy have also submitted statements in support of the bill:

U.S. SENATE,
Washington, D.C., May 31, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to urge action and favorable consideration by the Judiciary Committee on H.R. 3215 passed by the House of Representatives on April 17, 1977.

The beneficiaries of this bill, Mrs. Olive M. V. T. Davies and her children, would have been permanent residents several years ago had it not been for the untimely death of Samuel O. Gunremi Davies just after his family's second preference petitions were approved.

I appreciate your consideration of this private legislation and I'm sure the Davies family would appreciate action that will allow them to obtain permanent status in this country.

Sincerely,

DONALD W. RIEGLE, Jr.,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 18, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Immigration, Refugees and International Law Subcommittee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The case of Mrs. Olive Davies has been brought to my attention and I believe that her private bill merits favorable consideration. H.R. 3215 would rectify a situation brought about by the untimely death of Mrs. Davies' husband, which prevented consideration of her application to become a permanent resident under the Immigration and Naturalization Act.

I would appreciate your expediting consideration of this private bill.

Sincerely,

EDWARD M. KENNEDY.

The Immigration and Naturalization Service has advised the committee that, based on all available information concerning Mrs. Davies and her children, the Service has determined that none of the beneficiaries is ineligible to receive a visa or excludable from the United States on any criminal or mental ground.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 3215) should be enacted.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while we are awaiting the arrival of Senator THURMOND, I ask unanimous consent that there be a brief period for the transaction of routine morning busi-

ness, with no resolutions coming over under the rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that that period not exceed 5 minutes, with the limitation that a Senator be allowed to speak for not more than 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A REALISTIC ASSESSMENT OF THE STATE OF OUR UNION

Mr. ROBERT C. BYRD. Mr. President, last night, the Members of Congress gathered in the Chamber of the House of Representatives to hear President Carter deliver the annual state of the Union address. I believe that it was a good, realistic, and accurate statement of the current situation in the country. I believe that, as the President said, the state of the Union is sound and is improving. It was a good statement of the directions in which we need to move in the months ahead.

The state of our Union is sound, and it gives signs of continued improvement. Through the cooperation of the Congress and the President this past year, policies and programs were initiated that helped to reduce the unemployment rate to 6.4 percent in December. Though the President wisely acknowledeged—and I agree—that there are limits to the ability of the Government to solve every problem facing this country, there are further actions that the Congress and the administration can take to insure that the present economic recovery continues unhampered.

The fact that President Carter proposes new incentives for hiring the hardcore unemployed is to be applauded. The solution to the problem of chronic unemployment ought to be a matter of top priority for this Nation, and private business and industry offer the best long-range resolution of this condition. But there is much that the Government can do to diminish unemployment, and that is one reason that I shall support passage of the revised Humphrey-Hawkins bill in this session of Congress. I am glad that the President stated his support of that measure.

I also support the President's call for a $25 billion tax cut, which will lower the taxes of an estimated 96 percent of the taxpayers, as well as those of business and industry. The fact that the President has set a curb on the rise of Government spending, and has called for voluntary wage and price restraints, should encourage those who especially fear that the tax cut might fuel the inflationary spiral.

The President was correct in stating that there is an urgent need to break the impasse on energy legislation, but I do not agree that we have "failed the American people" on the issue of energy. "We," the personal pronoun, would indicate that the President included himself and the executive branch, along with Congress, in saying that "We have failed the American people." I do not agree with that at all. In the first session of the 95th Congress, we resolved energy conflicts and dilemmas that had defined agreement in some cases for more than 25 years.

We passed legislation providing for a new Department of Energy, we passed the surface mine legislation, which had been vetoed by previous Presidents. We passed legislation providing between $5 billion and $6 billion for energy research and we passed the President's legislative energy package—with considerable changes, of course, and some changes for the better. The conferees have arrived at substantial agreement on three out of the five segments of that package. They are still working on the other two.

Of course, the natural gas pricing issue is one that did not come up overnight. It has been around for a quarter of a century. President Eisenhower vetoed a deregulation bill, even though he favored deregulation. President Truman vetoed a bill repealing the Government's authority to regulate natural gas prices. So, this is an issue of historical controversy.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. ROBERT C. BYRD. Will the Senator from Alabama seek recognition so he may yield to me?

Mr. ALLEN. Mr. President, I ask recognition in order that I might transfer the time to the distinguished Senator from West Virginia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the able Senator from Alabama for his usual courtesy.

Mr. President, this is not a problem that one should expect the conferees to sit down and reach agreement on within a period of 3 minutes or 3 hours or 3 days. The complexity and magnitude of this problem are such that I am not surprised that the conferees have had such great difficulty, in view of the fact that the Senate itself has had great difficulty and the Congress itself has had great difficulty in resolving this problem for many years.

I am confident that much more will be accomplished in this session to launch this Nation on the path of a sound, well-considered national energy policy. The energy crisis has been building for many years in the past, and finding lasting solutions to this problem will occupy some of our best minds for many years into the future.

Incidentally, not only House and Senate Members find difficulty in agreeing on the natural gas pricing problem, but energy experts and the economists of the country also cannot agree. They all have disparate and diverse philosophical difficulties with this legislation. So I think patience and tenacity are what are needed.

We have come a long way in this past year on the energy issue, and I believe that we are pursuing the right goals in Congress that will help us to meet the energy challenge.

Mr. President, I have a good feeling about the state of the Union, and a good feeling about this session of Congress. The Senate established a fine record last session. Much of it has been forgotten or overlooked by the mere fact that five measures dealing with energy are still in conference. I call attention to the productive record of the first session of the 95th Congress for all who care to examine it.

The Senate established a fine record last session, as I say, and the Members appear ready to roll up their sleeves again now and tackle the problems facing the Nation with renewed spirit and strength.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the President's state of the Union address.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE STATE OF THE UNION—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. Doc. No. 95-273)

The PRESIDENT. Thank you very much. Mr. President, Mr. Speaker, Members of the 95th Congress, ladies and gentlemen.

Two years ago we had the first caucus in Iowa, and one year ago tomorrow I walked from here to the White House to take up the duties of President of the United States. I didn't know it then when I walked but I've been trying to save energy ever since. I return tonight to fulfill one of those duties of the Constitution to "give to the Congress"—and to the nation—"information on the state of the Union."

Militarily, politically, economically, and in spirit the state of our Union is sound.

We are a great country, a strong country, a vital and a dynamic country—and so we will remain.

We are a confident people, and a hard-working people, a decent and a compassionate people—and so we will remain.

I want to speak to you tonight about where we are and where we must go—about what we have done and what we must do—and I want to pledge to you my best efforts and ask you to pledge yours.

Each generation of Americans has to face circumstances not of its own choosing, but by which its character is measured and its spirit is tested.

There are times of emergency when a nation and its leaders must bring their energies to bear on a single urgent task.

That was the duty Abraham Lincoln faced when our land was torn apart by conflict in the war between the States. That was the duty faced by Franklin Roosevelt when he led America out of an economic depression and again when he led America to victory in war.

There are other times when there is no single overwhelming crisis—yet profound national interests are at stake.

At such times the risk of inaction can be equally great. It becomes the task of leaders to call forth the vast and restless energies of our people to build for the future.

That is what Harry Truman did in the years after the Second World War, when we helped Europe and Japan rebuild themselves and secured an international order that has protected freedom from aggression.

We live in such times now—and we face such duties.

We have come through a long period of turmoil and doubt, but we have once again found our moral course and with a new spirit we are striving to express our best instincts to the rest of the world.

There is all across our land a growing sense of peace and a sense of common purpose. This sense of unity cannot be expressed in programs, or in legislation, or in dollars. Is is an achievement that belongs to every individual American. This unity ties together and it towers over all our efforts here in Washington, and it serves as an inspiring

beacon for all of us who are elected to serve.

This new atmosphere demands a new spirit—a partnership between those of us who lead and those who elect. The foundations of this partnership are truth, the courage to face hard decisions, concern for one another and the common good over special interest, and a basic faith and trust in the wisdom and strength and judgment of the American people.

For the first time in a generation, we are not haunted by a major international crisis or by domestic turmoil, and we now have a rare and a priceless opportunity to address persistent problems and burdens, which come to us as a nation, quietly and steadily getting worse over the years.

As President I have had to ask you—the Members of Congress, and you, the American people—to come to grips with some of the most difficult and hard questions facing our society.

We must make a maximum effort—because if we do not aim for the best, we are very likely to achieve little.

I see no benefit to the country if we delay, because the problems will only get worse.

We need patience and good will, so we really need to realize that there is a limit to the role and the function of Government. Government cannot solve our problems, it can't set our goals, it cannot define our vision. Government cannot eliminate poverty or provide a bountiful economy, or reduce inflation, or save our cities, or cure illiteracy, or provide energy, and Government cannot mandate goodness. Only a true partnership between Government and the people can ever hope to reach these goals.

Those of us who govern can sometimes inspire, and we can identify needs and marshal resources, but we simply cannot be the managers of everything and everybody.

We, here in Washington, must move away from crisis management and we must establish clear goals for the future, immediate and the distant future, which will let us work together and not in conflict. Never again should we neglect a growing crisis like the shortage of energy, where further delay will only lead to more harsh and painful solutions.

Every day we spend more than $120 million for foreign oil. This slows our economic growth, it lowers the value of the dollar overseas, and it aggravates unemployment and inflation here at home.

Now we know what we must do: increase production, we must cut down on waste, and we must use more of those fuels which are plentiful and more permanent. We must be fair to people, and we must not disrupt our Nation's economy and our budget.

Now that sounds simple, but I recognize the difficulties involved. I know that it is not easy for the Congress to act. But the fact remains that on the energy legislation we have failed the American people. Almost five years after the oil embargo dramatized the problem for us all we still do not have a national energy program. Not much longer can we tolerate this stalemate. It undermines our national interest both at home and abroad. We must succeed, and I believe we will.

Our main task at home this year, with energy a central element, is the nation's economy. We must continue the recovery and further cut unemployment and inflation.

Last year was a good one for the United States. We reached all of our major economic goals for 1977. Four million new jobs were created, an all time record, and the number of unemployed dropped by more than a million. Unemployment right now is the lowest it has been since 1974, and not since World War II has such a high percentage of American people been employed.

The rate of inflation went down. There was a good growth in business profits and investments—the source of more jobs for our workers and a higher standard of living for all our people. After taxes and inflation, there was a healthy increase in workers' wages.

And this year our country will have the first two trillion dollar economy in the history of the world.

Now we are proud of this progress the first year, but we must do even better in the future.

We still have serious problems on which all of us must work together. Our trade deficit is too large, inflation is still too high, and too many Americans still do not have a job.

Now I do not have any simple answers for all these problems. But we have developed an economic policy that is working, because it is simple, balanced, and fair. It is based on four principles:

First, the economy must keep on expanding to produce new jobs and better income which our people need. The fruits of growth must be widely shared. More jobs must be made available to those who have been by-passed until now, and the tax system must be made fairer and simpler.

Secondly, private business and not the government must lead the expansion in the future.

Third, we must lower the rate of inflation and keep it down. Inflation slows down economic growth, and it is the most cruel to the poor and also to the elderly and others who live on fixed incomes.

And fourth, we must contribute to the strength of the world economy.

I will announce detailed proposals for improving our tax system later this week. We can make our tax laws fairer; we can make them simpler and easier to understand; and at the same time we can and we will reduce the tax burden on American citizens by $25 billion.

The tax reforms and the tax reductions go together. Only with the long-overdue reforms will the full tax cut be advisable.

Almost $17 billion in income tax cuts will go to individuals. Ninety-six percent of all American taxpayers will see their taxes go down. For a typical family of four this means an annual saving of more than $250 a year or a tax reduction of about 20 percent. A further $2 billion cut in excise taxes will give more relief and also contribute directly to lowering the rate of inflation.

And we will also provide strong additional incentives for business investment and growth through substantial cuts in the corporate tax rates and improvements in the investment tax credit.

Now these tax proposals will increase opportunity everywhere in the Nation, but additional jobs for the disadvantaged deserve special attention.

We have already passed laws to assure equal access to the voting booth, and to restaurants, and to schools, to housing, and laws to permit access to jobs. But job opportunity—the chance to earn a decent living—is also a basic human right which we cannot and will not ignore.

A major priority for our Nation is the final elimination of the barriers that restrict the opportunities available to women, and also to black people, and Hispanics, and other minorities. We have come a long way toward that goal, but there is still much to do. What we inherited from the past must not be permitted to shackle us in the future.

I will be asking you for a susbtantial increase in funds for public jobs for our young people, and I also am recommending that the Congress continue the public service employment programs at more than twice the level of a year ago. When welfare reform is completed, we will have more than a million additional jobs so those on welfare who are able to work can work.

However, again we know that in our free society, private business is still the best source of new jobs. Therefore, I will propose a new program to encourage businesses to hire young and disadvantaged Americans. These young people only need skills—and a chance—in order to take their place in our economic system. Let's give them a chance they need. A major step in the right direction will be the early passage of a greatly improved Humphrey-Hawkins bill.

My budget for 1979 addresses these national needs, but it is lean and tight. I have cut waste wherever possible.

I am proposing an increase of less than 2 percent after adjusting for inflation—the smallest increase in the Federal budget in four years.

Lately, Federal spending has taken a steadily increasing portion of what Americans produce. Our new budget reverses that trend, and later I hope to bring the Government's toll down even further and with your help will do that.

In time of high employment and a strong economy, deficit spending should not be a feature of our budget. As the economy continues to gain strength, and as our unemployment rates continue to fall, revenues will grow. With careful planning, efficient management, and proper restraint on spending, we can move rapidly toward a balanced budget and we will.

Next year the budget deficit will be only slightly less than this year—but one-third of the deficit is due to the necessary tax cuts that I propose.

This year the right choice is to reduce the burden on taxpayers and provide more jobs for our people.

The third element in our program is a renewed attack on inflation. We have learned the hard way that high unemployment will not prevent or cure inflation.

Government can help us by stimulating private investment and by maintaining a responsible economic policy. Through a new top level review process, we will do a better job of reducing government regulation that drives up costs and drives up prices. But again, government alone cannot bring down the rate of inflation. When a level of high inflation is expected to continue, then companies raise prices to protect their profit margins against prospective increases in wages and other costs, while workers demand higher wages as protection against expected price increases. It's like an escalation in the arms race and, understandably, no one wants to disarm alone.

Now, no one firm or group of workers can halt this process. It is an effort that we must all make together. I am therefore asking government, business, labor, and other groups to join in a voluntary program to moderate inflation by holding wage and price increases in each sector of the economy during 1978 below the average increases of the last two years.

I do not believe in wage and price controls. A sincere commitment to voluntary constraint provides a way—perhaps the only way—to fight inflation without government interference.

As I came in the Capitol tonight I saw the farmers, standing out in the snow. I am familiar with their problem and I know from Congress action that you are too. When I was running Carter's warehouse we had spread on our own farms 5–10–15 fertilizer for about $40 a ton. The last time I was home the price was about a hundred dollars a ton. The cost of nitrogen has gone up 150 percent, and the price of products the farmers sell has either stayed the same or gone down a little.

Now, this past year 1977, you the Congress and I together passed a new Agricultural Act that went into effect October 1st. It will have its first impact on the 1978 crops. It will help a great deal. It will add 6½ billion dollars or more to help the farmers with their price supports and target prices. Last year we had the highest level of exports of foreign products in the history of our coun-

try—24 billion dollars. We expect to have more this year. We will be working together. But I think it's incumbent on us to monitor very carefully the farm situation and continue to work harmoniously with the farmers of our country. What's best for the farmers—the farm families, in the long run—is also best for the consumers of our country.

Economic success at home is also the key to success in our international economic policy. An effective energy program, strong investment and productivity, and controlled inflation will provide our trade balance and balance it and it will help protect the integrity of the dollar overseas.

By working closely with our friends abroad we can promote the economic health of the whole world and with fair and balanced agreements lowering the barriers to trade.

Despite the inevitable pressures that build up when the world economy suffers from high unemployment, we must firmly resist the demands for self-defeating protectionism. But free trade must also be fair trade. And I'm determined to protect American industry and American workers against foreign trade practices which are unfair or illegal.

In a separate written message to Congress I've outlined other domestic initiatives, such as welfare reform, consumer protection, basic education skills, urban policy, reform of our labor laws, and national health care later on this year. I will not repeat these tonight but there are several other points that I would like to make directly to you.

During these past years Americans have seen our Government grow far from us.

For some citizens the Government has almost become like a foreign country, so strange and distant that we've often had to deal with it through trained ambassadors who have sometimes become too powerful and too influential—lawyers, accountants, and lobbyists. This cannot go on.

We must have what Abraham Lincoln wanted—a government for the people.

We've made progress toward that kind of government. You've given me the authority I requested to reorganize the Federal bureaucracy, and I'm using that authority.

We've already begun a series of reorganization plans which will be completed over a period of three years.

We've also proposed abolishing almost 500 Federal advisory and other commissions and boards.

But I know that the American people are still sick and tired of Federal paperwork and red tape. Bit by bit we are chopping down the thicket of unnecessary Federal regulations by which government too often interferes in our personal lives and our personal business. We've cut the public Federal paperwork load by more than 12 percent in less than a year. And we are not through cutting.

We've made a good start on turning the gobbledygook of Federal regulations into plain English that people can understand, but we know that we still have a long way to go.

We've brought together parts of eleven different government agencies to create a new Department of Energy—and now it's time to take another major step by creating a separate Department of Education.

But even the best-organized government will only be as effective as the people who carry out its policy. For this reason I consider Civil Service reform to be absolutely vital. Worked out with the civil servants themselves, this reorganization plan will restore the merit principle to a system which has grown into a bureaucratic maze. It will provide greater management flexibility and better rewards for better performance without compromising job security.

Then and only then can we have a government that is efficient, open, and truly worthy of our people's understanding and respect. I have promised that we will have such a government, and I intend to keep that promise.

In our foreign policy, the separation of people from government has been in the past a source of weakness and error. In a democratic system like ours, foreign policy decisions must be able to stand the test of public examination and public debate. If we make a mistake in this administration, it will be on the side of frankness and openness with the American people.

In our modern world when the deaths of literally millions of people can result from a few terrifying seconds of destruction, the path of national strength and security is identical to the path of peace.

Tonight I am happy to report that because we are strong our Nation is at peace with the world.

We are a confident Nation. We have restored a moral basis for our foreign policy. The very heart of our identity as a Nation is our firm commitment to human rights.

We stand for human rights because we believe that Government has as a purpose to promote the well-being of its citizens. This is true in our domestic policy. It is also true in our foreign policy. The world must know that in support of human rights the United States will stand firm.

We expect no quick or easy results, but there has been significant movement toward greater freedom and humanity in several parts of the world.

Thousands of political prisoners have been freed. The leaders of the world—even our ideological adversaries—now see that their attitude toward fundamental human rights affects their standing in the international community, and it affects their relations with the United States.

To serve the interests of every American, our foreign policy has three major goals.

The first and prime concern is and will remain the security of our country.

Security is based on our national will and security is based on the strength of our armed forces. We have the will, and militarily we are very strong.

Security also comes through the strength of our alliances. We have reconfirmed our commitment to the defense of Europe, and this year we will demonstrate that commitment by further modernizing and strengthening our military capabilities there.

Security can also be enhanced by agreements with potential adversaries which reduce the threat of nuclear disaster while maintaining our own relative strategic capability.

In areas of peaceful competition with the Soviet Union we will continue to more than hold our own.

At the same time we are negotiating with quiet confidence, without haste, with careful determination, to ease the tensions between us and to insure greater stability and security.

The Strategic Arms Limitation Talks have been long and difficult. We want a mutual limit on both the quality and the quantity of the giant nuclear arsenals of both nations—and then we want actual reductions in strategic arms as a major step toward the ultimate elimination of nuclear weapons from the face of the earth.

If these talks result in an agreement this year—and I trust they will—I pledge to you that the agreement will maintain and enhance the stability of the world's strategic balance and the security of the United States.

For 30 years, concerned but unsuccessful efforts have been made to ban the testing of atomic explosives—both military weapons and peaceful nuclear devices.

We are hard at work with Great Britain and the Soviet Union on an agreement which will stop testing, and will protect our national security and provide for adequate verification of compliance.

We are now making, I believe, good progress toward this comprehensive ban on nuclear explosions.

We are also working vigorously to halt the proliferation of nuclear weapons among the nations of the world which do not now have them, and to reduce the deadly global traffic in conventional arms sales. Our stand for peace is suspect if we are also the principal arms merchant of the world. So we have decided to cut down our arms transfers abroad, on a year-by-year basis, and to work with other major arms exporters to encourage their similar constraint.

Every American has a stake in our second major goal—a world at peace. In a nuclear age each of us is threatened when peace is not secured everywhere.

We are trying to promote harmony in those parts of the world where major differences exist among other nations and threaten international peace.

In the Middle East we are contributing our good offices to maintain the momentum of the current negotiations and to keep open the lines of communication among the Middle Eastern leaders. The whole world has a great stake in the success of these efforts. This is a precious opportunity for a historic settlement of long-standnig conflict—an opportunity which may never come again in our lifetime.

Our role has been difficult and sometimes thankless and controversial, but it has been constructive and it has been necessary—and it will continue.

Our third major foreign policy goal is one that touches the life of every American citizen every day: world economic growth and stability.

This requires strong economic performance by the industrialized democracies like ourselves and progress in resolving the global energy crisis. Last fall, with the help of others, we succeeded in our vigorous efforts to maintain the stability in the price of oil. But as many foreign leaders have emphasized to me personally, and I am sure to you, the greatest future contribution that America can make to the world economy would be an effective energy conservation program here at home. We will not hesitate to take the actions needed to protect the integrity of the American dollar.

We are trying to develop a more just international system. And in this spirit we are supporting the struggle for human development in Africa, in Asia, and in Latin America.

Finally, the world is watching to see how we act on one of our most important and controversial items of business: approval of the Panama Canal Treaties. The treaties now before the Senate are the result of the work of four Administrations—two Democratic, two Republican. They guarantee that the Canal will be open always for unrestricted use by the ships of the world. Our ships have the right to go to the head of the line for priority of passage in times of emergency or need. We retain the permanent right to defend the Canal with our own military forces if necessary to guarantee its openness and its neutrality.

The treaties are to the clear advantage of ourselves, the Panamanians, and the other users of the Canal. Ratifying the Panama Canal treaties will demonstrate our good faith to the world, discourage the spread of hostile ideologies in this hemisphere, and directly contribute to the economic well-being and the security of the United States. [Applause.] I have to say that that is a very welcome applause.

There were two moments on my recent journey which, for me, confirmed the final aims of our foreign policy and what it al-

ways must be. One was in a little village in India, where I met a people as passionately attached to their rights and liberties as we are—but whose children have a far smaller chance for good health, for food, for education, or human fulfillment than a child born in this country.

The other moment was in Warsaw, capital of a nation twice devastated by war in this century. There, people have rebuilt the city which war's destruction took from them; but what was new only emphasized clearly what was lost.

What I saw in those two places crystallized for me the purposes of our own nation's policy; to ensure economic justice, to advance human rights, to resolve conflicts without violence, and to proclaim in our great democracy our constant faith in the liberty and dignity of human beings everywhere.

We Americans have a great deal of work to do together.

In the end, how well we do that work will depend on the spirit in which we approach it.

We must seek fresh answers, unhindered by the stale prescriptions of the past.

It had been said our best years are behind us, but I say again that America's best is still ahead. We have emerged from bitter experiences chastened but proud, confident once again, ready to face challenges once again, and united once again.

We come together tonight at a solemn time. Last week the Senate lost a good and honest man, LEE METCALF of Montana.

And today the flag of the United States flew at half-mast from this Capitol and from American installations and ships all over the world, in mourning for Senator HUBERT HUMPHREY.

Because he exemplified so well the joy and the zest of living, his death reminds us not so much of our own mortality but of the possibilities offered to us by life. He always looked to the future with a special American kind of confidence, of hope and enthusiasm, and the best way that we can honor him is by following his example.

Our task, to use the words of Senator HUMPHREY, is "reconciliation, rebuilding, and rebirth."

Reconciliation of private needs and interests into a higher purpose. Rebuilding the old dreams of justice and liberty and country and community.

Rebirth of our faith in the common good.

Each of us here tonight—and all who are listening in your homes—must rededicate ourselves to serving the common good. We are a community, a beloved community, all of us; our individual fates are linked; our futures intertwined; and if we act in that knowledge and in that spirit together, as the Bible says, we can move mountains.

Thank you very much.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRIORITIES FOR 1978—MESSAGE FROM THE PRESIDENT—PM 136

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which, without being read, was ordered to lie on the table:

To the Congress of the United States:

Tonight's State of the Union Address concentrates on this year's highest priorities—a strong energy bill; a coordinated economic program of job creation, tax reduction, tax reform and anti-inflation measures; making the government more effective and efficient; maintaining the peace through a strong national defense; and ratifying both the Panama Canal Treaties and, if completed, the SALT II treaty.

It is important that the Congress and the Nation also understand what our other important initiatives and goals will be for 1978. I am therefore sending to Congress this separate, more detailed State of the Union Message, which describes Administration priorities in the areas not fully covered in the Address.

DOMESTIC AFFAIRS

A number of serious domestic problems faced the Nation when I took office one year ago. The economy had not yet fully recovered from the recession; our country had no sound energy policy; the Federal government was operating inefficiently and ineffectively in many areas; concerns about the openness and integrity of our government remained in the aftermath of Watergate; and many of our most pressing social problems had not been addressed.

In 1977, my Administration did not solve all of those problems. But Congress joined us in tackling many of these issues, and together we made progress. Now that a year has passed, I believe we are a more confident people, with more trust in our institutions. We are a country on the move again, prepared to address our problems with boldness and confidence, at home and abroad. We have reasserted our concern for the problems of people here at home and reaffirmed our position of moral leadership in the world.

This year, my domestic goals will continue to reflect those concerns that guided my actions in 1977: restoring economic prosperity; meeting our Nation's human needs; making the government more efficient and more responsive; and developing and protecting our natural resources.

RESTORING ECONOMIC PROSPERITY

I am devoting a substantial part of my State of the Union Address to the need for a comprehensive economic program, and I will devote the bulk of my Economic Report to Congress, to be delivered tomorrow, to a complete description of my Administration's economic goals and objectives. In this Message, therefore, I will not repeat those statements but I want to set forth briefly the key elements of those proposals;

—a $23 billion income tax cut in 1979, with $17 billion going to individuals and their families and $6 billion going to businesses;

—a tax reform program designed to make our tax laws fairer and simpler;

—an anti-inflation program, designed to reduce annual increases in wages and prices, with the cooperation of labor and business and with the Federal government setting an example; reductions of $2 billion in excise and payroll taxes will also make a contribution to reducing inflation;

—an extension of the funding for 725,000 public service (CETA) jobs, and a $700 million increase in spending for our youth employment efforts;

—a major new $400 million private sector jobs initiative, designed primarily to encourage businesses to hire unemployed minorities and youth.

I plan to work very closely with Congress to secure prompt action on these economic proposals. Their adoption will help achieve the kind of economic prosperity for our Nation that all of us want. Along with a sound energy bill, enactment of these economic proposals will be my highest domestic priority for 1978.

ENERGY

There can be no higher priority than prompt enactment of comprehensive energy legislation along the lines submitted to the Congress last spring.

Huge oil price increases in 1973–74 contributed to the double-digit inflation of 1974, and to the worst recession in 40 years. These price hikes were also the principal cause of our foreign trade deficit, which has contributed to the weakness of the dollar abroad.

Unless we act now, our energy problems will rapidly get worse. Failure to act will fuel inflation, erode the value of the dollar, render us vulnerable to disruptions in our oil supply, and limit our economic progress in the years to come.

I am confident that the Congress will respond to the Nation's clear need, by enacting responsible and balanced energy legislation early this year.

EMPLOYMENT

Last year we made considerable progress in our efforts to reduce unemployment. The unemployment rate decreased from 7.8 percent to 6.4 percent. During the year, 4.1 million new jobs were created. Unemployment fell by 1.1 million workers. The actions we took as part of our $21 billion economic stimulus package substantially helped us achieve these favorable results.

In 1978, the Administration will continue its efforts to reduce unemployment still further and to increase employment opportunities for all Americans. As part of the budget I will propose:

—additional funds to increase youth programs 260% above the 1976 level, providing $2.3 billion in outlays and 450,000 man-years of employment and training for young workers;

—a $400 million private sector employment program focused on youth and other disadvantaged workers and aimed at mobilizing private in-

dustry to work with government in finding jobs. It will be implemented through business councils established throughout the country;

—maintenance of the 725,000 CETA jobs through 1979, while tying them in future years to national unemployment rates;

—beginning of a demonstration program for the jobs component of the Better Jobs and Income Program.

HUMPHREY-HAWKINS LEGISLATION

The Administration will seek passage of the Humphrey-Hawkins Full Employment and Balanced Growth Act.

This Act will help the Administration and the Congress in planning our efforts to reduce unemployment and to create jobs, while maintaining reasonable price stability. Its enactment would serve as a living memorial to the late Senator Hubert Humphrey.

PRIVATE SECTOR JOBS

The Administration plans a major $400 million effort to involve business and labor in the training and hiring of the hard-core unemployed.

The program will closely tie the Federal employment system with the private sector, through the use of business councils. I am confident that the private sector will respond positively to the call to help the Nation solve one of its most serious problems—the employment of our youth and minorities.

INFLATION

Although inflation is lower now than in the recent past, we still must do more to keep it down. The steps my Administration will take include:

—incentives for business investment, contained in our tax proposals, which will increase productive investment, and thereby help us hold down prices and costs;

—reduction in excise and unemployment taxes, proposed in the new budget;

—continuing reductions in needlessly complex Federal regulations. We have established a high-level interagency committee to review the effects of regulation in our economy, and we will continue our efforts for regulatory reform in the airline industry and elsewhere;

—a special effort to hold down the soaring costs of health care, through enactment of the Hospital Cost Containment Act.

But the Government cannot solve this problem alone—especially once business, labor, and consumers have accepted inflation as a fact of life, and adjusted their behavior accordingly. I have therefore asked business and labor to undertake, voluntarily, a new program to reduce inflation. I will ask each industry to aim for smaller price and wage increases in 1978 than it averaged over the last 2 years. As a major employer the Federal Government should take the lead in this effort. Voluntary cooperation is one way—perhaps the only way—to reduce inflation without unacceptable Government interference and coercion.

URBAN ASSISTANCE AND COMMUNITY DEVELOPMENT

The Administration and Congress took major steps last year to meet the needs of our cities. We increased funding for Community Development Block Grants by $2.7 billion over three years, and provided an alternative formula for allocating funds that was more responsive to the needs of distressed urban areas. Next year we will recommend an increase of $150 million over the 1978 level for the Community Development Block Grant program. We enacted a new program of Urban Development Action Grants at an annual level of $400 million, and extended and expanded Anti-Recession Fiscal Assistance (ARFA).

I am proposing that the ARFA program, which expires September 30, 1978, be extended. We are evaluating possible revisions in programs and funding, and will make our recommendations to the Congress within two months.

The Administration is also studying closely the possible need for extended Federal lending to New York City. The current legislation expires on June 30, 1978. We are committed, along with the State and City, to preserving the City's solvency. If such extended lending is necessary for that purpose, we will propose it. However, all the interested parties must contribute to a permanent solution.

This spring I will submit to Congress a message outlining this Administration's urban policy, based on the work of the Urban and Regional Policy Group, chaired by the Secretary of Housing and Urban Development. It will be designed to make existing Federal programs more effective, and will involve new initiatives and resources to address our urban needs. The long-standing problems of our cities are structural in nature and cannot be corrected by short-term or one-time efforts. This Administration is committed to a long-term and continuing effort to meet stubborn problems and changing needs. Our urban policy proposals will:

—build a more effective partnership between the Federal government, State and local governments, the private sector, neighborhood groups and concerned citizens;

—be sufficiently flexible to meet the diverse needs of our urban areas and to respond to particular problems of distressed areas;

—address the fiscal needs of hard-pressed urban governments, as well as the economic and social needs of city residents;

—improve the urban physical environment and strengthen urban communities;

—use Federal assistance to stimulate job-creating investments by the private sector and to encourage innovative actions by the State and local governments.

AGRICULTURE AND RURAL DEVELOPMENT

Decent farm income and a strong family farm system are vital to our national economic stability and strength. For too long farm prices for many commodities have been severely depressed. Working with the Congress in the past year, we have adopted new programs and policies designed to strengthen farm income and to ensure abundant, reasonably priced food for consumers. Partially as a result of these policies and programs, farm prices are now improving. Nevertheless, we cannot be satisfied with the economic condition of many American farmers today. We will continue to monitor our agricultural economy and to work with Congressional and farm leaders to make certain that Federal programs and policies are carried out effectively.

FOOD AND AGRICULTURE ACT

In the past year we have worked with the Congress to enact a new comprehensive Food and Agriculture Act, which will protect producers and consumers. We have also exercised set-aside authority for wheat and feed grains, which will protect farm income. This year we expect to pay farmers $7.3 billion for all price support programs. The new farm bill which became effective October 1, 1977, achieves long-needed changes in our agricultural policies, including:

—minimal governmental intervention in markets and in the decisions farmers make;

—price support loans for major commodities that permit us to remain competitive in world markets;

—a grain reserve designed to remove excess products from the market and hold them until supplies are short;

—income support levels based on cost-of-production.

GRAIN RESERVE

Last year we initiated a plan to place 30–35 million metric tons of food and feed grains in reserve. Establishing this reserve will add further strength and stability to the market and provide a hedge against export control on grain. Most of this grain will be owned and controlled by farmers. To strengthen farmer control of the grain and to help keep the grain out of government ownership, terms of the farmer storage facility loan program were liberalized. In 1978, the Administration will propose an international emergency grain reserve of up to 6 million metric tons to help us meet our food aid commitments abroad.

AGRICULTURAL DISASTER AND DROUGHT AID

Because of the record droughts in 1977, I worked with Congress to pass an $844 million Emergency Drought Assistance Program. This year we will ask Congress to eliminate the many inconsistencies and inequities in existing disaster aid programs, and we will continue to give high priority to addressing the effects of the drought, which has begun to abate.

We are taking other steps to improve life in rural America. I recently signed a law to encourage better delivery of health services in rural communities. We will continue to expand the assignment of the National Health Service Corps' doctors, dentists and other health professionals to underserved rural areas. We will shortly be announcing methods to improve the effectiveness of rural housing programs with greater emphasis on home ownership for rural Americans.

AGRICULTURAL EXPORTS

I want to increase our agricultural exports. To do so we need competitive prices, high quality products, and reserve supplies to meet all contingencies. We must remove unnecessary barriers to exports. And we must have an affirmative export policy. In 1977, the Administration more than doubled (to $1.7 billion)

the short-term export credit program, increased Soviet grain purchase authorization to 15 million tons, developed a risk assurance program, and expanded efforts to develop export markets around the world.

This year we will continue these efforts, especially to reduce barriers to agricultural trade.

SUGAR

To stabilize world sugar prices and to protect domestic sugar-producers, we negotiated an international sugar agreement this year with the major sugar-producing countries. We will seek Congressional ratification of the agreement early in 1978. The sugar program required by the 1977 Food and Agricultural Act will protect the domestic sugar industry in the meantime.

RURAL DEVELOPMENT AND CREDIT POLICY

In fiscal year 1977, the Farmers Home Administration provided nearly $7 billion in loans in four areas: farming, housing, community facilities and business and industrial development. We expect to provide at least $1 billion more in the current fiscal year.

SMALL BUSINESS

This Administration took several steps in 1977 to strengthen small business. The Small Business Administration expanded its financial and management assistance to these firms and developed an advocacy program to represent small business interests before all Federal departments and agencies. In 1978, we will continue efforts to support small business through tax cuts and special tax incentives, reduced regulations and other programmatic reforms, and expanded SBA loan authority.

MEETING OUR NATION'S HUMAN NEEDS

This Administration's constant concern has been with meeting the human needs of all Americans. Over the past year, we have moved on a number of fronts to make certain our citizens will be well housed, better educated, and properly cared for when they are in need. This year we will pursue our current initiatives in these areas and launch new ones.

HEALTH

This past year we were very active in the effort to improve the health of our citizens and to restrain skyrocketing health care costs, through:

—Establishment of a Mental Health Commission to help develop a national mental health program. The Commission will issue its final report later this year, and I expect to carefully consider the Commission's findings.

—A campaign to immunize the more than 20 million children not yet protected against communicable childhood diseases.

—Reorganization of part of HEW to allow more efficient delivery of Medicare/Medicaid services. The cost savings from the reorganizations will be realized more fully this year.

—Signing legislation to attack fraud and abuse in Medicare/Medicaid programs.

—Signing legislation to make Medicare/Medicaid reimbursement available to physician extenders in rural clinics. The beneficial effects of that bill will be felt in our Nation's rural areas for the first time this year.

In 1978, the Administration will continue these and other efforts to bring us better and less costly health care.

HOSPITAL COST CONTAINMENT

One of my main legislative goals for this year is the Hospital Cost Containment Bill. That bill, which would save hospital users more than $7 billion in the first two years after enactment, is our principal weapon in the effort to decrease health care costs, which now double every five years.

NATIONAL HEALTH INSURANCE

I will submit to Congress later this year a National Health Insurance proposal. While Congress will not have the time to complete action on this proposal in 1978, it is important to begin the national debate on the many complex issues involved in National Health Insurance.

National Health Insurance will not solve all our health problems. A sensible national health policy also requires more effective delivery of preventive services, better nutrition, vigorous abatement of environmental and occupational threats to health, and efforts to change individual life-styles that endanger health.

But National Health Insurance is a crucial step. It will protect our people from ruinous medical bills and provide each citizen with better access to sound and balanced health insurance coverage.

MEDICAID IMPROVEMENTS FOR CHILDREN

Last year I proposed the Child Health Assessment Program to improve the early and preventive screening, diagnosis and treatment program for lower-income children under Medicaid. The Administration will press for enactment of this measure, and will urge its expansion to make an additional 1.7 million lower-income children eligible.

TEENAGE PREGNANCY PROPOSAL

I will propose legislation to establish networks of community based services to prevent unwanted adolescent pregnancies. We need and will urge expansion of existing family planning services to reach an additional 280,000 teenagers.

DRUG ABUSE

Drug abuse threatens the health and safety of our children, here and abroad. We will continue the efforts begun last year to make our drug abuse prevention and control programs more effective and efficient.

WORLD HEALTH

This year I will present a strategy for working directly with other nations and through international organizations to raise the standards of health and nutrition around the world.

EDUCATION

Last year the Congress adopted with our cooperation a 15% increase in education funding—the largest increase since enactment of the Elementary and Secondary Education Act.

This year we will continue to demonstrate our commitment to improving the Nation's education programs. HEW's education budget expenditures will be increased by 14%, with the most significant increases coming in education of the disadvantaged, assistance to State programs for education of the handicapped, and college student financial aid.

The Administration will also work with the Congress for the creation of a separate Cabinet-level Department of Education, and for legislation to replace and reform expiring Federal education acts.

These legislative proposals will concentrate on:

—increasing basic literacy;

—ensuring that students are prepared for jobs;

—supporting post-secondary education and lifelong learning; and,

—strengthening the partnership between Federal, State, and local governments.

To augment existing programs, I will propose legislation to help low and middle-income families meet rising college tuition costs, and will also support a significant expansion of student aid programs.

INCOME ASSISTANCE

Over the past year we have made many far-reaching improvements in the programs that provide income assistance to the needy. My Administration will continue to assign great importance to this area in 1978.

WELFARE REFORM

I proposed last year a reform of the Nation's welfare system, through the Better Jobs and Income Act. This Act would fundamentally reform current programs to assist the poor by:

—consolidating the Aid to Families with Dependent Children, Supplemental Security Income and Food Stamps programs into a single consolidated cash assistance program that provides a basic nationally uniform Federal benefit;

—improving efforts to find jobs for the poor in the private sector, and creating up to 1.4 million public service jobs for heads of families who cannot be placed in unsubsidized employment; and

—improving work incentives by expanding the Earned Income Tax Credit.

We will work actively with the Congress in the coming year to pass the Better Jobs and Income Act, and we will provide in this year's budget for pilot employment programs so we will be ready to implement the welfare reform program.

FAMILY AND CHILDREN

My Administration will continue its strong commitment to strengthening the American family and to expanding programs for children.

The Administration will propose this year that the school breakfast program be made mandatory in schools with high concentrations of needy children. Further, we will propose a major expansion in special supplemental food programs for women, infants, and children.

Among other major actions in 1978 will be:

—convening a White House Conference on Families;
—pressing for enactment of our proposed reforms in foster care programs including new financial assistance to aid in the adoption of hard-to-place children;
—more than doubling the budget outlays for child welfare services, with an emphasis on services, that help keep families together;
—continuing $200 million in special funding for day care under Title XX of the Social Security Act.

We will also depend upon the revitalized Community Services Administration to develop new approaches to assist the poor.

THE ELDERLY

Last year saw the enactment of Social Security financing legislation that will assure the system's financial integrity into the next century. This year the Administration will continue to work for strengthened legislation against unwarranted age discrimination in the Federal and private sector. We will propose legislation to extend and strengthen the Older Americans Act and we will seek a 13% increase in funding for programs providing daily meals to the elderly, raising the total of daily meals served to 385,000. In addition, the Administration will work to assure that the contributions of older Americans are sought in our efforts to meet national needs.

HOUSING

Last year we made progress toward our national goal of a decent home in a suitable environment for every American family. 1977 was a good year for housing, generally, with total new starts exceeding two million. And we have renewed the Federal government's commitment to housing for the needy.

Early last year, the Administration proposed major new initiatives to meet the housing needs of low- and moderate-income Americans—initiatives which are central to our urban development strategy. We had about 118,000 starts under section 8 and public housing subsidized programs in 1977. We look forward to another 30 percent increase in subsidized housing starts in these programs for 1978, and 92,000 starts in the Assisted Housing Rehabilitation Loan Programs. We will reassess our national housing needs and goals and our current housing and credit policies designed to meet those needs.

In 1978, the Administration will strengthen its commitment to meet the housing needs of all communities with a variety of expanded programs and new initiatives:

—Rental housing assistance to an additional 400,000 low-income families, and help to enable an additional 50,000 moderate-income families to own their own homes. The total number of families receiving housing assistance will increase from 2.6 million in 1977 to 3.1 million in 1979.
—More funds for the rehabilitation loan program under section 312, with an expansion of existing programs for substantial renovations and the creation of a new moderate rehabilitation program under section 8.
—A major new operating subsidy program for 1979. This new program, coupled with improved management controls and the monitoring of troubled projects, is intended to reduce the inventory of defaulted projects and aid in restoring distressed urban areas. The Department of Housing and Urban Development has made substantial progress in 1977 in reducing the stock of defaulted projects. This new program will give the Department additional tools. Outlays for this program are estimated to total $52 million in 1979.
—A Federal financing mechanism for assisted housing projects through use of the GNMA Tandem program.
—A targeted GNMA Tandem program which will provide subsidies designed to bring middle-income families back to the cities.
—Targeting of rural housing programs to lower-income residents, including a special program to help very poor families own their own homes.
—Continuing high levels of production of housing for the elderly and handicapped.

TRANSPORTATION

This year we will build on the efforts we made last year to strengthen the Nation's transportation system by decreasing consumer costs, pursuing increased energy efficiency, and improving safety:

—negotiation of a new US-UK bilateral air services agreement;
—approval of new international air routes from a number of American cities;
—requiring passive restraint systems on all new automobiles by 1984;
—setting new fuel efficiency standards for 1981–1984 model automobiles;
—beginning work on the Northeast Corridor Railroad Improvement Program;
—passing an all-cargo airline deregulation bill.

We will also continue our policy of increasing competition and reducing airfares in international flights, and pursue additional bilateral agreements. Consumers have already benefited from reduced international fares and improved service.

HIGHWAY AND TRANSIT PROGRAMS

We will soon propose a comprehensive highway and transit program, which will provide more than $45 billion in total authorizations in the 1979–1982 period. The program will give states and localities more flexibility in planning and programming their highway and transit funding, by reducing the number of narrow, categorical accounts and by using consolidated accounts for a wider range of potential transportation projects.

In addition, we will make funding of transportation programs more uniform and give localities more control over highway and mass transit funds in large urban areas.

HIGHWAY SAFETY

The Administration will propose legislation to strengthen our efforts for highway safety and to reduce restrictions on the states' use of Federal highway safety grant funds. That legislation will earmark funds for the Department of Transportation to support important highway safety projects, such as the 55 mile per hour speed limit program.

INLAND WATERWAY USER FEES

Users of Federal inland waterways should pay fees which will pay a substantial part of the cost of constructing, operating, and maintaining those waterways. My Administration will continue to work closely with Congress toward passage of a bill that will, for the first time, establish inland waterway user fees.

AIRCRAFT NOISE ABATEMENT

My Administration will again seek passage of legislation to control aircraft noise.

NO-FAULT AUTOMOBILE INSURANCE

We continue to support legislation to establish Federal minimum standards for no-fault automobile insurance.

VETERANS

In 1977, we took a number of steps to make certain that the country continues to meet the special needs of our millions of veterans. Legislation was passed to increase compensation benefits for service-connected disabilities, benefits under the G.I. Bill, and Veterans pension benefits, Millions of veterans will feel the effects of these increases this year.

In 1978, we will further improve our veterans programs by:

—initiating a government-wide review of the problems of Vietnam veterans and the means by which current programs can be made more effective in meeting their needs;
—beginning new programs to deal with problems of alcohol, drug abuse and psychological readjustment;
—proposing increased benefits for service-connected disabilities, and improvements in the veterans pension program;
—continuing special employment programs for Vietnam-era veterans.

ARTS AND HUMANITIES

Americans are increasingly aware that the arts and humanities preserve and transmit our heritage, enrich our lives, and contribute significantly to the social and economic well-being of our Nation. This Administration is committed to fostering the highest standards of creativity and scholarship in an open partnership between public and private sectors—and we believe that the products of this commitment must be available to the many Americans who wish to share in them. This year's substantial increases in the budgets for the Arts and Humanities Endowments demonstrate my strong belief in the value of these programs.

MAKING THE GOVERNMENT MORE EFFICIENT AND MORE RESPONSIVE

GOVERNMENT EMPLOYEES

CIVIL SERVICE REFORM

The Civil Service System is too often a bureaucratic maze which stifles the initiative of our dedicated Government employees while inadequately protecting their rights. Our 2.8 million civil servants are governed by outdated rules and institutions that keep them from being

as efficient as they would like to be. No one is more frustrated by this system than hard-working public servants. Therefore, one of my major priorities in 1978 will be to ensure passage of the first comprehensive reform of the system since its creation nearly a century ago—reforms developed with the direct involvement of civil servants. Early this year, Congress will receive legislation and a reorganization plan to:

—restructure the institutions that run the Civil Service;
—increase safeguards against abuses of official power;
—provide greater incentives for managers to improve the Government's efficiency and responsiveness;
—reduce the system's red tape and delays;
—speed the procedures for dealing with employee grievances and disciplinary actions;
—make equal employment opportunities more effective.

Last year the Administration acted to protect Federal employees from the loss of a job due to reorganization. Such protection will be maintained.

HATCH ACT REFORM

I will continue to support reform of the Hatch Act, which would restore the right of most Civil Service employees to participate in the political process.

PART-TIME AND FLEXI-TIME EMPLOYMENT

To help obtain Federal jobs for the elderly, the handicapped, women, and others with family responsibilities, all Federal agencies will carry forward renewed efforts to increase part-time and flexi-time employment opportunities.

REORGANIZATION, MANAGEMENT AND REGULATORY REFORM

The Government Reorganization Project will keep working to make the Government more responsive and efficient. Last year we combined parts of 11 agencies into one Department of Energy, streamlined the Executive Office of the President and reduced the White House Staff, and proposed the abolition of nearly 500 advisory committees and small agencies.

In addition to the upcoming Civil Service and education reform efforts, we will soon submit proposals:

—to restructure our equal employment programs to provide better protection for the rights of minorities and women, and to ease the burden of compliance on State and local government as well as business;
—to improve the administration of justice; and
—to reorganize our disaster assistance programs.

Additional studies are under way in many other areas, and several of these will result in reorganization proposals later this year. Efforts to improve Federal cash management continue.

We are also vigorously pursuing the effort begun last year to reduce the burden of outdated, ineffective, and nit-picking regulations. For example, the Department of Health, Education, and Welfare eliminated 5 percent of their regulations, the Federal Trade Commission rescinded 111 outdated sets of rules on trade practices and both the Civil Aeronautics Board and the Interstate Commerce Commission have moved to allow more competition, which has led to lower prices. In 1978, we will continue these efforts.

WORKER HEALTH AND SAFETY

The Occupational Health and Safety Administration has already slashed its paperwork requirements by 50% and eliminated 1,100 unnecessary regulations, while improving its capacity to protect workers. This spring the Task Force on Worker Safety will make further recommendations to increase protection for workers and minimize employer cost.

AIRLINE REGULATORY REFORM

Last year, I signed legislation deregulating all cargo air transportation. This year, I will continue to work for passage of the airline regulatory reform bill for passengers. That bill will allow air carriers to compete through lower fares, new services, and new markets, without excessive government interference or disruption of service to small communities.

TRUCKING REGULATORY REFORM

Forty years of tight government controls have not done enough to bring us competitive prices, good service, and efficient use of fuel. We will consider measures to bring more competition into the motor carrier area.

DRUGS

We will propose legislation to reform regulation of the drug industry, which will protect the consumer and make regulations fairer and less burdensome.

REGULATORY PROCESS

Early in 1978, I will issue an Executive Order to improve the regulatory process. This Order will require officials responsible for regulations to sign them; assure that policy-level officials are fully involved in the process; require that regulations be written in plain English; make it easier for the public to participate in the process; increase coordination between agencies with overlapping responsibilities; require a closer look at the cost of regulations before they are issued; and require "sunset" reviews of existing regulations.

I have also set up an interagency committee to help regulatory agencies review the economic effects of major regulations, so that we can be sure that the costs of each proposed regulation have been fully considered. Ir. this way we will be able to identify the least costly means of achieving our regulatory goals.

PAPERWORK REDUCTION

In 1977, my Administration decreased by 12% the paperwork burden that the Government imposes on the people. This was done by eliminating, consolidating, simplifying, and decreasing the frequency of reports. That savings is the equivalent of 50,000 full-time workers filling out Federal forms for a full year. All departments and agencies are currently setting goals for further substantial reductions in 1978. All reporting requirements associated with grant-in-aid programs will be subject to "sunset" reviews, and ended unless they are found necessary. In addition, we are reviewing the recommendations of the Commission on Federal Paperwork.

LABOR LAW REFORM

Last year we proposed legislation to reform our Nation's labor laws, in order to streamline the conduct of elections for employee representation and strengthen the enforcement powers of the National Labor Relations Board. We will work closely with Congress to ensure early passage of this bill, which is one of my highest legislative goals this year.

ELECTION REFORM

Last year, I supported proposals to make our elections fairer and more honest. These included public financing of Congressional campaigns, amendments to the Federal Election Campaign Act and other election reforms. The Administration will continue to support Congressional action on these measures.

CONSUMER REFORM

We have taken many actions to benefit consumers by reducing the costs and improving the quality and safety of products. But one consumer initiative merits separate emphasis—the creation of the Office of Consumer Representation. We supported legislation last year to create such an Office, so that the interests of consumers could be represented in one government agency. The Office would not require additional government employees or expenditures since it would merely consolidate the consumer offices that already exist throughout the government. I am strongly committed to this legislation, and regard its enactment as one of the year's primary legislative priorities.

PUBLIC BROADCASTING REFORM

I proposed legislation last year to strengthen the public broadcasting service by providing increased long-term Federal support, insulation from political pressure, better coordination among the national organizations that run public broadcasting, and more opportunity for citizens to participate at the local level. My Administration will work with Congress this year to pass these reforms.

OPENNESS AND INTEGRITY

One of our primary goals is to make certain that the government's ethical standards are high, and that they are fully observed. And we must ensure that our government is open and responsive to the American people.

Last year, I took steps in that direction by requiring that the senior officials of my Administration publicly disclose their income and assets and pledge not to do business with their agencies for two years after leaving government service. To increase the government's openness, we took steps to make certain that the spirit as well as the letter of the Freedom of Information Act was observed. And we tried to bring the Presidency to the people with citizen forums and discussion panels throughout the country.

This year, we will continue these efforts, concentrating our primary attention on these areas:

LOBBY REFORM

The Administration will press for legislation requiring registration of lobbyists and thorough public disclosure of their lobbying activities. This long-overdue legislation will help reestablish confidence and trust in government.

ETHICS

I applaud the strong ethical codes adopted last year by the House and Senate. I believe those codes and the standards established for my Administration's officials should be made law, so that they will clearly apply to public officials in the future. I urge Congress to pass the Public Officials Integrity Act this year.

CLASSIFICATION

We are completing a study of classification systems for government documents and I will shortly issue an Executive Order designed to eliminate improper and unnecessary classification and to ensure that documents are declassified more rapidly.

JUSTICE

CIVIL RIGHTS AND EQUAL OPPORTUNITY

All Americans have fundamental civil rights requiring government protection, and all must be afforded equal opportunities to participate as full members in our society. In 1977, this principle guided my Administration in numerous areas, and I plan to make certain that this year our efforts on behalf of civil rights and equal opportunities continue unabated. Our Nation's concern for human rights must be heard as clearly at home as abroad.

EDUCATIONAL OPPORTUNITIES

In 1977, my Administration vigorously attacked educational discrimination on the elementary, secondary and higher education levels. A major suit was pursued to ensure non-discrimination at the university level. At the same time, we recognized and reaffirmed the importance of affirmative action programs to ensure equal opportunities at educational institutions through our brief in the *Bakke* case. Our efforts to eliminate discrimination and promote affirmative action programs, relying on flexible goals rather than on quotas, will continue in full force.

HANDICAPPED

HEW issued regulations and guidelines to implement legislation guaranteeing equal access to programs receiving financial assistance from HEW. This year the other Cabinet Departments will issue similar regulations, so that the rights of handicapped Americans will begin to be fully observed. We are providing a $50 million loan fund to States and institutions to enable them to comply with these regulations and to eliminate barriers which prevent access by our handicapped citizens to federally assisted programs and activities. We are proposing a major increase in funding under the Education of all Handicapped Children Act.

EQUAL OPPORTUNITY

This past year the Administration reaffirmed Executive Order 11375, which prohibits discrimination on the basis of sex in Federal employment. In addition, I voluntarily placed the Executive Office of the President under Title VII of the Civil Rights Act. This year, as part of our effort to eliminate sex discrimination in unemployment and education, I will continue to urge the ratification of the Equal Rights Amendment to the Constitution.

This past year the Equal Employment Opportunity Commission was reorganized to increase its efficiency. As a result, the Commission made substantial progress on reducing its backlog of complaints. With the more than 40 percent increase in funding that will be proposed in the 1979 budget, the EEOC will be able to further reduce its backlog. Early this year I will propose to Congress a reorganization plan concerning equal opportunity enforcement which will strengthen the EEOC.

ANTI-FOREIGN BOYCOTT

I strongly supported, and signed, legislation to prohibit American participation in secondary economic boycotts by foreign countries. That law will be strictly enforced by my Administration this year through the regulations just issued by the Department of Commerce.

MINORITY BUSINESS

Last year, we started a number of programs to make more opportunities available for minority-owned businesses. That effort will be continued and strengthened this year:

—We are half way toward our two-year goal of $2 billion in Federal purchases of services and goods from minority-owned firms. We will reach that goal by the end of the year.

—We will raise the goal for Federal deposits in minority-owned banks above the 1977 level of $100 billion.

—We will continue to enforce the $400 million minority business set-aside provision in the local public works act, and many exceed that target.

—We will continue to implement the minority business set-aside policy established for contracts let in the Northeast Corridor Railroad Improvement Program.

UNDOCUMENTED ALIENS

Last year, I proposed legislation to impose sanctions on employers who hire undocumented aliens and to change the legal status of the many undocumented aliens now residing in this country. That legislation would afford undocumented aliens residing here continuously since before 1970 the opportunity to apply for permanent resident status. It would create a new five-year temporary resident status for those undocumented aliens who resided here continuously from 1970 to January 1, 1977. I want to work with Congress this year toward passage of an undocumented aliens bill, for this social and economic problem can no longer be ignored.

NATIVE AMERICANS

The Administration has acted consistently to uphold its trusteeship responsibility to Native Americans. We also have elevated the post of Commissioner of Indian Affairs to the level of Assistant Secretary of Interior. In 1978, the Administration will review Federal Native American policy and will step up efforts to help Indian tribes assess and manage their natural resources.

LEGAL AND JUDICIAL REFORM

Last year, my Administration began a number of major efforts to improve our Nation's legal and judicial system, and we intend to pursue those and related efforts fully this year.

CRIMINAL CODE REFORM

We have worked closely with Members of Congress to develop a proposed revision of the Nation's Criminal Code. That revision will codify in one part of the U.S. Code all Federal crime laws and will reform many outdated and inconsistent criminal laws. My Administration will work closely with Congress this year to seek passage of the first complete codification of the Nation's criminal laws.

JUDICIAL REFORM

The Federal judicial system has suffered for many years from an inadequate number of judges, and we will continue to work with Congress on an Omnibus Judgeship bill to correct this problem. We will also continue our efforts to use our judges more effectively, through legislation which we have proposed to expand significantly the authority of magistrates, to increase the use of arbitration, and to tighten Federal jurisdiction. We will work this year to complete Congressional action on these bills.

WIRETAP REFORM

Last year we proposed legislation reforming our approach to electronic surveillance for foreign intelligence purposes, and affording greater protection to our citizens. Essentially, that legislation would require the government to obtain a court order before beginning any foreign intelligence wiretaps in this country. My Administration supports early passage of this much needed legislation.

ANTI-TRUST ENFORCEMENT AND COMPETITION

Our Nation's anti-trust laws must be vigorously enforced. Therefore, I recently established a Presidential Commission to review Federal anti-trust enforcement, and to make its recommendations this year.

Last year, we initiated a new program, administered by the Department of Justice, to provide grant funds to State Attorneys General in order to strengthen anti-trust enforcement at the State level. We expect to see the results of this program this year.

By reducing government regulation, we can increase competition and thereby lower consumer costs. This year we will continue our deregulatory efforts in the legislative and administrative areas in order to reduce anti-competitive practices and abuses.

CRIME REDUCTION AND CRIMINAL JUSTICE

This past year the Reorganization Project and the Justice Department have been developing proposals to reorganize and to improve our Nation's criminal justice system, in order to strengthen enforcement and ensure equal justice. This year I will be sending a Message to Congress on criminal justice and crime reduction. My Message will include proposals to:

—reorganize the Federal Law Enforcement Assistance Administration;

—improve our criminal research efforts;

—develop better law enforcement

methods against organized crime, white collar crime, drug abuse, and public corruption; and

—develop minimum standards for Federal correction institutions.

FBI AND INTELLIGENCE AGENCIES' CHARTERS

I plan to issue a comprehensive Executive Order to govern the intelligence activities of the FBI, CIA, NSA and the Defense Department. That Executive Order will be the basis for the Administration's recommendations on legislative charters governing the activities of the FBI and various intelligence agencies.

PRIVACY

The Privacy Protection Study Committee recently proposed an extensive list of new legislative and regulatory safeguards. My Administration is analyzing these recent proposals and will develop this year a program to ensure that personal privacy is adequately protected.

DISTRICT OF COLUMBIA

We proposed last year a series of reforms, including full voting representation in Congress, designed to give the residents of the District significantly greater control over their local affairs. My Administration will continue to work for the passage of those reforms this year.

DEVELOPING AND PROTECTING OUR NATURAL RESOURCES

ENERGY

NATIONAL ENERGY POLICY

In April 1977, I proposed to the Nation a comprehensive national energy policy. That policy is based on three principles, which will continue to guide our progress in 1978:

—we must learn to use energy more efficiently and more carefully, through conservation measures, including retrofitting our buildings, factories and homes;

—we must shift from oil and natural gas, which are becoming more scarce, to coal and renewable sources of energy which we have in abundance;

—we must provide fair prices to producers of energy, so as to encourage development of new supplies without permitting windfall profits.

The debate on this comprehensive policy has been long and arduous. A number of difficult, contentious issues remain to be settled. I am confident, however, that the Congress recognizes the seriousness of our energy problem and will act expeditiously on this program early this year. Securing passage of an acceptable energy bill—one which is fair to consumers, provides needed energy savings, and is prudent from a fiscal and budgetary standpoint—will continue as our highest and most urgent national priority in 1978.

ENERGY STATUTES AND ACTIONS

We have already begun to lay a strong foundation for implementation of a national energy policy. In 1977 we took steps to put in place important policies and structural reforms needed to meet our energy goals:

—Creation of a new Department of Energy which combines, for the first time, major governmental functions of energy research, regulation, pricing policy, information collection and dissemination, and overall policy development. Without a strong organization, we would not hope to implement a comprehensive national policy.

—Congress has approved our proposed route for a pipeline to bring natural gas from the North Slope of Alaska to the lower 48 states.

—Passage of the Emergency Natural Gas Act to cope with the hardships of last winter's freeze and assure that high priority gas users were not cut off during supply emergencies.

—Funding of more than $4 billion to store the first 500 million barrels of oil in a strategic petroleum reserve. We have already begun to fill that reserve, and we remain committed to a 1 billion barrel strategic reserve by 1985.

OUTER CONTINENTAL SHELF LEGISLATION

Legislation to improve the management of the Outer Continental Shelf for oil and gas development is a major item of unfinished business pending before Congress. Prompt passage is necessary so that we can have the benefit of the new law as we move to open more offshore areas to development and production. This bill mandates long-needed reforms in the leasing program to provide for the necessary development of offshore oil and gas while enhancing competition among oil companies, assuring that the public receives a fair return for the sale of the public's oil and gas resources, and protecting our marine and coastal resources.

NUCLEAR ENERGY

The United States has also advanced a policy to prevent the proliferation of nuclear weapons around the world. An International Nuclear Fuel Cycle Evaluation has been established with wide international participation to examine alternatives to existing proliferation-prone technologies. In addition, legislation was proposed last year to establish better controls on export of nuclear fuels and technologies. We will work with Congress to secure passage of that legislation early in 1978.

Our commitment to preventing the spread of nuclear weapons has led us to reorient our own domestic nuclear policies. I have deferred indefinitely the commercial reprocessing of spent nuclear fuel and plutonium recycling.

The Clinch River Plant itself would waste more than $2 billion while teaching us little that we do not already know, or cannot learn from our existing nuclear research and development program. I have recommended that the Clinch River Breeder Project be stopped, because it represents a premature and unwise commitment to commercialization of technology that we do not now need.

However, we intend to continue to develop the nuclear energy the Nation needs.

We will continue to move forward with a major research program on breeder technology.

We will begin to implement our program for government management of spent fuel from nuclear reactors.

In 1978, my Administration will work towards a policy for safe, permanent disposal of nuclear wastes.

In 1978 and beyond, we will carry on a vigorous nuclear research and development program designed to give us safe technologies that will reduce the danger of nuclear proliferation and will be environmentally responsible. We will also seek to improve the current system of licensing nuclear power reactors in order to cut bureaucratic delays, while firmly maintaining and strengthening health, safety and environmental requirements. I will propose nuclear licensing legislation to the Congress this year.

ENVIRONMENT

One of my deepest personal commitments is to a clean, healthy environment for all of our citizens. Last May, I outlined this Administration's environmental priorities and policies in a comprehensive Environmental Message. Working closley with the Congress, we have made good progress on many of the measures contained in that Message; it will continue to guide our administrative and legislative actions in 1978. Overall, we will:

—increase our environmental outlays by more than 10%, and provide the new staff resources necessary to ensure that the Nation's environmental laws are obeyed;

—determine the best way of enforcing the landmark environmental statutes enacted in 1977, taking considerations of science and public policy into account;

—pursue several important initiatives, including a National Heritage program and designation of national interest lands in Alaska, to manage our precious natural resources better and to preserve our heritage.

ENVIRONMENTAL STATUTES

In 1977, we worked closely with Congress to enact three of the most significant environmental statutes in recent years:

—The Surface Mining Control and Reclamation Act establishes a joint Federal-State program to make sure we use economically and environmentally sound strip-mining practices. It also sets up a fund to reclaim lands which have been ravaged by uncontrolled, careless mining, and provides clear, stable policy direction for operators.

—The Clean Air Act Amendments establish strict but achievable standards for auto emissions and ensure continued progress in reducing pollution from stationary air pollution sources.

—The Clean Water Act authorizes many of our most important water clean-up programs and will protect our Nation's wetlands without unnecessary Federal requirements. The Act also reforms the sewage treatment construction grant program and gives strong emphasis to the control of toxic chemicals in our environment.

We will provide the leadership and the funding necessary to carry out these new laws.

WATER POLICY

In 1977, an effort was begun to ensure that Federal programs and policies provide sound and fair management of our limited and valuable water resources. We began a complete review of Federal water policy, which will be completed this year. After close consultation with the Congress, the States, and the public, we will propose measures needed to carry out the recommendations of that study.

We will also continue with the strong dam safety inspection program which was initiated late last year to make sure our dams, public or private, are safe.

ALASKA LANDS

Last year, I sent Congress a proposal for use of Federal lands in Alaska. This proposal will protect 92 million acres for the public, will create or expand 13 national parks and reserves, 13 national wildlife refuges, and will confer wild and scenic river status on 33 waterways. I hope Congress will adopt these measures, which are needed this year to preserve the unique natural treasures of Alaska and, at the same time, permit the orderly development of Alaskan resources.

REDWOOD NATIONAL PARK

Redwood National Park contains some of the Nation's largest and oldest trees. Last year, to protect these trees from destruction by commercial logging at the edges of the Park, legislation was proposed to expand its boundaries. We will press for Congressional action on this bill in 1978.

NATIONAL HERITAGE PROGRAM

We will shortly be proposing a Federal-State program to preserve unique elements of our natural and cultural heritage. This program, modeled after successful ones in several states, will be administered by the Department of the Interior. Although many of the necessary steps can be taken administratively, we will seek some new legislative authority in 1978.

FEDERAL COMPLIANCE WITH ENVIRONMENTAL LAWS

My Administration is committed to the principle that the Federal government must set a good example of compliance with those environmental laws and regulations which have been established for the private sector. So far, unfortunately, the Federal record has been found wanting. My 1979 budget includes money to bring Federal facilities into compliance with existing environmental laws and regulations.

FEDERAL RECLAMATION

In 1977, we began a thorough review of the 1902 Reclamation Act. After the study has been completed and reviewed this year, I will propose to Congress any changes needed to modernize the law.

MINING LAW REFORM

Last year the Administration proposed legislation to replace the archaic 1872 Mining Law with a modern leasing system for publicly-owned mineral resources. The 1872 system has resulted in withdrawal of large areas of land from mineral exploration as the only tool for environmental protection. The Administration's proposal would establish a balanced system where the public interests in mineral development, environmental protection and revenue to the U.S. Treasury will all be accomplished. Special provisions would minimize burdens on small operators and provide incentives for exploration.

OIL SPILLS

Last year I proposed to Congress legislation which would establish strict liability standards for oil tanker spills and would improve regulations aimed at preventing future oil spills. That legislation is still needed.

SCIENCE AND TECHNOLOGY

The health of American science and technology and the creation of new knowledge is important to our economic well-being, to our national security, to our ability to help solve pressing national problems in such areas as energy, environment, health, natural resources. I am recommending a program of real growth of scientific research and other steps that will strengthen the Nation's research centers and encourage a new surge of technological innovation by American industry. The budget increase of 11% for basic research will lead to improved opportunities for young scientists and engineers, and upgraded scientific equipment in the Nation's research centers. I am determined to maintain our Nation's leadership role in science and technology.

We will continue America's progress in the field of space exploration with continued development of the space shuttle system and procurement of four shuttle orbiters for operations from both East and West coasts, development of a spacecraft to study for the first time the polar regions of the Sun, and increased outlays for demonstrations of the practical applications of space-based systems and development of space technology.

FOREIGN AFFAIRS

A year ago I set five goals for United States foreign policy in the late 1970s and early 1980s: to reassert America's moral leadership; to strengthen our traditional ties with friends and allies; to work toward a more just international system; to promote regional reconciliation; and to preserve peace through preparedness and arms control. These goals continue to underlie my agenda for 1978.

MORAL LEADERSHIP

During the past year, we have placed American foreign policy on a new course consistent with the values and highest ideals of the American people. We are trying to limit the worldwide sale of arms; we are trying to prevent nuclear explosives—and the ability to make them—from spreading to more countries; we are building a new relationship with the developing countries, and we are promoting human rights throughout the world.

HUMAN RIGHTS

Virtually everywhere, human rights have become an important issue—especially in countries where they are systematically violated. There has been real progress, and for that the United States can take some credit.

We have taken the lead among Western nations at the Belgrade Review Conference on Security and Cooperation in Europe. Working closely with our Allies, and with neutral and non-aligned nations, our delegation—led by Ambassador Arthur Goldberg—has conducted a thorough review of implementation of the Helsinki Final Act, in all its aspects. We have made clear the United States is committed to the full implementation of the Final Act in this and other areas. We will seek a further Review Conference in two years; meanwhile, we will press for better implementation of the Helsinki Final Act.

NON-PROLIFERATION

We must not ignore the enormous dangers posed by the unrestrained spread of nuclear weapons technology. We recognize the benefits of commercial nuclear power, but we also must acknowledge the risks. We believe that all countries can enjoy the benefits, while the risks are minimized, by developing safer technologies and creating new institutions to manage and safeguard all phases of the nuclear fuel cycle. Meanwhile, we have decided to postpone a premature commitment to technologies we cannot yet safely manage on a commercial scale; and we are seeking to persuade others that there are sound economic and energy reasons for them to do likewise.

ARMS SALES

The world is threatened by the spiraling increase in trade of conventional arms. Not only do these arms increase the likelihood of conflict, they also divert resources from other human needs. It will not be easy to slow this spiral. We will begin to cut back on our own sales in recognition of the fact that, as the world's principal seller, we have a duty to take the first step. But we know that our efforts can only succeed if other major arms suppliers and recipients cooperate.

TIES WITH FRIENDS AND ALLIES

The energy crisis has underscored the reality of interdependence among nations and the need for a stable international financial and trading system. Our own actions reflect the belief that consultations with traditional friends and dialogue with developing nations are the only way that the United States can provide the economic and political leadership which the world expects of us.

WORKING WITH THE ALLIES

During the past year, the United States restored our traditional friends and allies to the center of our foreign policy. Within days after his inauguration, the Vice President visited Brussels, Rome, Bonn, Paris, Reykjavik, and Tokyo. I met frequently in Washington with European and Japanese leaders. I participated in the Economic Summit in London, the 1977 NATO Summit, and a Four-Power Summit with leaders of Britain, Germany, and France. At the beginning of 1978, I visited France and Belgium—and while in Brussels, made the first visit by an American President to the headquarters of the European Community. We have also consulted with our European Allies on such diverse subjects as SALT, MBFR, the Middle East, Africa, human rights, the Belgrade Conference, energy,

nonproliferation, the global economy, and North-South relations. We will intensify these efforts this year, expanding the list to include close consultations with the Allies on major arms control issues.

On May 30–31, we will host a NATO Summit in Washington, and we are also planning another Economic Summit this year.

We have shown in our dealings with Japan that close allies can find solutions to shared problems. Early in the year, we were concerned about nuclear reprocessing in Japan, but through flexibility and goodwill on both sides a suitable accommodation was reached on the building of a nuclear reprocessing plant there. Most recently, we reached agreement with the Japanese on ways to deal with their large current account surplus. Our trade and economic talks are another example of constructive action.

INTERNATIONAL ECONOMIC COOPERATION

We are working to improve and extend the international economic system, to strengthen international economic institutions, and to ensure that international economic competition takes place in an orderly fashion. We will seek to improve cooperation among nations in the IMF, the GATT, the World Bank, the OECD, and other international organizations which have enabled us to maintain an open, liberal, trade and payments system.

The American economy remains strong. Our competitive position in international trade is excellent. In 1977 our merchandise exports exceeded imports (except for oil) by a large amount. Our inflation rate is among the lowest in the industrial world.

But our balance of trade and payments incurred a large and worrisome deficit. There were two main causes:

—In 1977, $45 billion flowed out to pay for imported oil. This wiped out what would otherwise have been a trade surplus.

—The demand here for foreign goods was much greater than the demand for American goods abroad. In 1977, American GNP increased roughly twice as fast in real terms as the GNP of our main trading partners.

Against this background, the exchange rate of the dollar declined relative to the currencies of Japan, Germany, Switzerland, and other European countries. These developments led to disorderly conditions in the exchange markets. In December I made clear that the United States would intervene to counter these disorders, and we have done so.

To assure the integrity of the dollar we must act now:

—We need a healthy and growing United States economy, with adequate investment, a prudent budget, and declining inflation. This will make us more competitive and more attractive to foreign investors.

—We need to conserve energy and develop alternative sources of supply. This will reduce our dependence on imported oil, and cut the outflow of dollars.

—We need to see a more vigorous world economy. Stronger growth, particularly in countries like Germany, Japan, Switzerland, and the Netherlands, can help reduce our own deficits and bring stability to international payments.

Factors already at work will reduce our trade deficit. Economic activity in Europe and elsewhere should rise. Our oil imports should level off this year. The effect of new exchange rates that have already occurred will, when their full effect is realized, improve our trade balance by several billions of dollars. While our trade and payments deficit in 1978 will be large, our external position should show some improvement.

We must also augment our capacity to deal with possible strains and pressures by strengthening our international trade and monetary system. I urge the Congress to act promptly to approve United States participation in the IMF's Supplementary Financing Facility.

The trading nations of the world are engaged in negotiations to reduce barriers and improve the international trading system by a reciprocal and balanced opening of markets. Freer trade will enable us all to use the world's resources more efficiently and will contribute to economic growth.

We will also attempt to strengthen the rules that have regulated international trade during the last 30 years. International competition must take place within a framework of agreed rules that are recognized as appropriate and fair.

THE DEVELOPING COUNTRIES

One of the most critical issues facing the United States is our economic and political relationship with developing countries. Our economy has become visibly dependent on the developing world for supplies and markets.

NORTH-SOUTH DIALOGUE

Throughout 1975 and 1976 the United States and other developed countries worked with a group of developing nations in the Conference of International Economic Cooperations (CIEC). That "North-South Dialogue" reached agreement on some issues in June 1977, but there remain a number of unresolved questions. The United States will continue to consult and negotiate with developing countries on questions like commodity price stabilization, technology, and a common fund for international buffer stocks. We will pursue the North-South dialogue in the months ahead, confident that the developed nations and the developing nations can agree upon measures that will let all nations participate more fully in the management of the world economy.

AFRICA

Our relations with Africa involve energy, human rights, economic development, and the North-South dialogue. The Maputo and Lagos Conferences demonstrated that African countries can discuss difficult problems with us, to mutual advantage. Our relations with Nigeria have improved dramatically.

The Administration's FY 79 budget substantially increases development assistance to Africa, including continued support for the African Development Fund, and other programs to help African governments meet their people's basic human needs. The growth of African regional institutions like the Sahel Development Fund is important to African development.

LATIN-AMERICAN/CARIBBEAN

The Administration's approach to Latin America and the Caribbean recognizes this region's diversity. We have placed great importance on the protection and defense of human rights, on halting the proliferation of nuclear weapons capabilities, on restraining conventional arms sales, on contributing to the settlement of disputes, and on engaging Latin governments in global economic negotiations.

We are now seeking Senate ratification of Protocol I of the Treaty of Tlatelolco, and the American Convention on Human Rights. Through the Caribbean Group, we are trying to promote regional development. And we intend to help several nations develop alternative energy sources.

PANAMA

General Torrijos and I signed the two Panama Canal Treaties on September 9, 1977. These treaties meet the legitimate interests of Panama and the United States and guarantee our permanent right to protect and defend the Canal. They will contribute importantly to regional stability.

ASIA

The United States has sought to underline our desire for a close relationship with the developing countries of Asia through my visit to that continent and through regular contacts with the member countries of the Association of Southeast Asian Nations. We welcome the cooperation with ASEAN of the developed countries of the region, such as Japan and Australia.

PROMOTING REGIONAL RECONCILIATION

The greatest danger to world peace and stability is not war among the great powers, but war among small nations. During the past year, the United States has helped to promote productive negotiations in two troubled regions: the Middle East and Southern Africa. We have also tried to settle conflicts in the Horn of Africa and on Cyprus. And we have negotiated two Panama Canal Treaties that will enhance our country's relations with all the nations of Latin America.

THE MIDDLE EAST

In an effort to break with the rigid approaches of the past and bring about an overall peace settlement, I have looked to three basic principles: normalization of political, economic and cultural relations through peace treaties; withdrawal of armed forces from occupied territory to recognized and secure borders and the establishment of effective security measures; and a resolution of the Palestinian question.

Significant progress toward peace in the Middle East was made last year; we particularly applaud President Sadat's courageous initiative, reciprocated by Prime Minister Begin, in launching direct negotiations. The United States will con-

tinue this year to encourage all parties to resolve this deep-seated conflict.

SOUTHERN AFRICA

The entering Administration inherited problems in Rhodesia, Namibia, and South Africa.

—With the British, the United States launched new Rhodesian discussions last year. The Anglo-American Plan of September 1 sets forth fair and workable principles for majority rule: a transition period leading to free elections, a UN presence, a constitution with a judicially protected bill of rights, and a Zimbabwe Development Fund.

—The five-power Contact Group, in which the United States participates, has held discussions with South Africa and with the Southwest Africa Peoples Organization and other interested parties on an internationally acceptable settlement for an independent Namibia under majority rule. This effort has produced wide agreement, including provisions for a substantial UN presence.

—The United States has told the South African Prime Minister that unless his nation begins a progressive transformation toward full political participation for all its people, our relations will suffer. We supported a United Nations arms embargo on South Africa, prohibited "gray area" sales and began a review of US/South African economic relations.

THE HORN OF AFRICA

Arms supplied by the Soviet Union now fuel both sides of a conflict in the Horn of Africa between Somalia and Ethiopia. There is a danger that the Soviet Union and Cuba will commit their own soldiers in this conflict, transforming it from a local war to a confrontation with broader strategic implications.

We deplore the fact that disagreements in this region have grown—with the assistance of outside powers—into bloody conflict. We have made clear to both sides that we will supply no arms for aggressive purposes. We will not recognize forcible changes in boundaries. We want to see the fighting end and the parties move from the battlefield to the negotiating table.

CYPRUS

We hope that the groundwork was laid in 1977 for a permanent settlement in Cyprus and we are encouraging movement in that direction.

PRESERVING PEACE

During the past year, the Administration has assessed the threats to our own and our Allies' security, as well as our collective strength to combat these threats. We have sought to promote responsibile arms control efforts and to reduce competition in arms. Recognizing that a strong defense is the foundation of our security, we have made certain that our defense spending will be sufficient and used to maximum effect.

ARMS CONTROL

The fundamental purposes of our arms limitations efforts are to promote our own national security and to strengthen international stability, thereby enhancing the prospects for peace everywhere.

—We are trying to move the Strategic Arms Limitation Talks toward more ambitious objectives. We want to reduce, not just contain, the competition in the number of strategic weapons possessed by the United States and the Soviet Union, and to limit qualitative improvements in weapons which merely raise the risks to all of us. Precisely because of our determination to obtain both of these objectives negotiations have been difficult and prolonged. However, I am confident that the agreement that we will present to the Congress will meet them.

—We have also made solid progress toward an objective that the United States has pursued for many years: a comprehensive treaty banning all nuclear explosions. This treaty will be open to all nations of the world. It will be a major step toward reduced reliance on these weapons and toward halting their further spread in the world.

—At the same time we are seeking arms limitations agreements with the Soviet Union that will contribute to security and stability in various regions of the world. In Europe we and our NATO Allies are seeking a mutual and balanced force reductions agreement that will achieve greater stability and balance at lower levels of forces. In the Indian Ocean, where neither we nor the Soviet Union has yet deployed military power on a large scale, we are working for an agreement to prevent a major military competition.

—For the first time, we have begun to negotiate with the Soviet Union the outlines of a treaty banning chemical warfare.

—An essential element of American security is the maintenance of stability in the Western Pacific, where the United States plays a major role in maintaining a balance of power. We are seeking to readjust our military presence in Korea by reducing our ground forces on the Peninsula and undertaking compensatory measures to ensure that an adequate balance of forces remain. We are talking with the Filipino government about the future of our military bases there.

—We are continuing the process of normalization of our relations with the People's Republic of China within the framework of the Shanghai Communique.

—In the last year, we have sought to halt the worldwide spread of nuclear weapons capacity. Nearly 40 nations have joined with us in an effort to find nuclear power sources that cannot be readily used for building nuclear weapons.

DEFENSE POSTURE/BUDGET

The Defense budget that I am recommending to Congress will fulfill our most pressing defense needs. I am requesting increases in defense spending that more than compensate for inflation. They are needed to maintain an adequate military balance in the face of continued Soviet military efforts.

—As we negotiate with the Soviets over strategic arms, we are continuing to preserve essential equivalence in strategic nuclear strength. Here our technological advantage over the Soviet Union is most apparent. We are building cruise missiles, which together with upgraded B–52s will assure the capability of this element of our Triad. We are continuing to develop the M–X missile system in case we need to deploy them. In this budget, I am requesting funds for continued increase in our Trident submarine force, which is our most important strategic program because submarines are so hard for an enemy to destroy.

—With our NATO Allies we are trying to improve the initial combat capability of NATO forces. We will improve the readiness of critical combat units, enhance American capability to send ground and tactical air forces reinforcements, and increase our permanent forces there. To lay the foundation for future improvements, the budget I propose requests 18% increases in the procurement of equipment for the Army. The United States is not taking these steps alone; we are participating in a mutual effort.

—The importance of sea forces to United States national security is undisputed. The Navy receives the largest share of the defense budget, and I am requesting funds to continue its modernization. But, we need to examine the appropriate size and mix of United States naval forces in the future. Therefore, I have deferred spending for new aircraft carriers until a current Defense Department study is completed early this year. While we maintain our naval strength, we should have the capability to deploy rapidly a light but effective combat force worldwide, if necessary, without overseas base support. To this end, I am requesting funds for a vigorous airlift enhancement program.

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In these and other ways, we are seeking to develop a foreign policy which is wider in scope; a foreign policy which recognizes global diversity; and a foreign policy which builds a more just and stable international system.

JIMMY CARTER.

THE WHITE HOUSE, *January 19, 1978.*

PROGRESS TOWARD A NEGOTIATED SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT—PM 137

The Acting President pro tempore laid before the Senate the following message from the President of the United States; which, without being read, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by Public Law 94–104, this report describes the progress that has been made during the last sixty days toward a negotiated settlement on Cyprus.

In my last such report to the Congress,

submitted on October 28, I described with cautious optimism the efforts that the Administration had been undertaking to promote an early resumption of meaningful intercommunal negotiations under the auspices of the United Nations. Over the past sixty days we have continued to discuss the Cyprus issue extensively with Turkish, Greek and Cypriot representatives and with U.N. officials, our purpose remaining that of persuading the parties to resume intercommunal talks at the earliest possible date and to be prepared to come to the table with substantive, negotiable proposals.

The Cyprus situation was discussed in the bilateral meetings that Secretary Vance held with Greek Foreign Minister Papaligouras and Turkish Foreign Minister Caglayangil in Brussels in early December. These conversations and contacts with the two Cypriot communities have fortified our belief that a Cyprus settlement is earnestly desired by the parties concerned, and that they accept the need to resume negotiations to this end. Foreign Ministers Papaligouras and Caglayangil also met bilaterally in Brussels, and in a joint communique stated that Greece and Turkey would continue to encourage a prompt resumption of negotiations as a means of promoting a comprehensive solution of the Cyprus problem.

We hope that the recent elections in Greece will give new momentum to the search for a Cyprus settlement. Prime Minister Caramanlis said in his policy statement to the Chamber of Deputies in Athens on December 14 that his government "will continue to support the intercommunal talks under U.N. aegis and will provide its full support to the people of Cyprus. . . ."

The Turkish Government has in recent weeks given public evidence of its favorable attitude towards a settlement on Cyprus. In a series of public interviews late in November, Foreign Minister Caglayangil declared his support for an early resumption of negotiations and indicated Turkish flexibility with respect to both territorial and constitutional aspects of a package agreement. He also called for economic cooperation between the two Cypriot communities, and reaffirmed the Turkish Government's intent to withdraw its troops from the island once a settlement is in effect. This Administration has welcomed Foreign Minister Caglayangil's statements as containing a number of positive elements, and we have also noted as steps in the right direction the Turkish Government's decisions to withdraw an air force unit and 700 of its ground forces from Cyprus. It is our hope and expectation, based on the Turkish Government's announcement, that additional troop withdrawals will be made. Steps such as these might improve the general atmosphere so as to encourage the sense of trust required to make meaningful talks possible.

Since late October the Administration has actively encouraged the two Cypriot communities to reach agreement on formulation of a joint committee—with International Red Cross participation—to investigate cases of persons reported as missing and unaccounted for since the intercommunal violence of the 1960's and the Turkish intervention of 1974. Work towards establishment of such a committee is proceeding. Tracing missing persons is, of course, a humanitarian rather than a political matter. Nevertheless, the experience of these past two months demonstrates that practical solutions to the problems that divide Greek and Turkish Cypriots might indeed be attainable. The readiness of both Cypriot parties to accept a simple and non-controversial resolution on missing persons in the U.N. General Assembly's Third Committee testified to a constructive attitude on this issue.

The United Nations General Assembly conducted its annual debate on Cyprus November 7–9, and the Security Council approved on December 15 the extension for a further six months of the mandate of the U.N. peacekeeping force on Cyprus (UNFICYP). The General Assembly debate provided the opportunity for a thorough debate of the issues involved in the Cyprus dispute. Renewal of the UNFICYP mandate, in itself an important step, was significant also for the commendable spirit of compromise displayed by the several parties concerned.

Resolute movement towards intensified negotiations is still required, and in the weeks and months ahead we will persist in our efforts to achieve this goal. We believe we are proceeding in the right direction, and we remain hopeful that substantive progress towards a just and lasting Cyprus settlement can be achieved.

JIMMY CARTER.

THE WHITE HOUSE, *January 20, 1978.*

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT—PM 138

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which, without being read, was referred to the Joint Economic Committee:

To the Congress of the United States:

I will be working closely with the Congress in 1978 to enact a program addressed to the immediate and the long-term needs of our economy. I am proposing tax reductions and reforms to continue our strong economic recovery, to encourage increased investment by American businesses, and to create a simpler and fairer tax system. I am seeking legislation to address the special problems of the disadvantaged and the unemployed. And I am taking new steps to combat inflation.

This report to the Congress on the condition of the economy sets forth the overall framework within which my economic proposals were formulated. It outlines, for you and for the Nation, my economic priorities for the years ahead and my strategies for achieving them.

I have begun from the premise that our economy is basically healthy, but that well-chosen Government policies will assure continued progress toward our economic goals.

Last year more than four million new jobs were created in our country—an all-time record—and unemployment was reduced by more than one million persons. Output rose by almost 6 percent, and the benefits of this large increase were widely shared. The after-tax income of consumers, adjusted for inflation, rose substantially during 1977. Wages of the typical American worker increased by more than the rise of prices, and business profits also advanced.

The American economy is completing three years of recovery from the severe recession of 1974–75. Recovery in most other nations has lagged far behind our own. In the economies of our six major trading partners, seven million persons were unemployed at year's end—more than at the depths of the 1974–75 recession. Our inflation rate is also lower than in most other nations around the world. We have a great many accomplishments. But much progress remains to be made, and there are problems to be dealt with along the way.

The recession of 1974–75 was the worst in 40 years, and the substantial increase in output over the past three years still leaves the economy operating below its productive potential. We cannot be content when almost 6½ million people actively seeking jobs cannot find work, when 3¼ million workers take part-time jobs because they cannot find full-time employment, and when one million people have stopped looking for a job because they have lost hope of finding one. We cannot be content when a substantial portion of our industrial plant stands idle, as it does today.

We cannot be satisfied with an economic recovery that bypasses significant segments of the American people. Unemployment among minorities is more than twice as high as that among whites—and unemployment among minority teenagers is tragically high. Women have fewer satisfying job opportunities than men, and older Americans often find their access to the job market blocked. Farm incomes have dropped precipitously.

We must also address other problems if we are to assure full restoration of prosperity. Inflation is a serious economic concern for all Americans. The inflation rate is too high and must be brought down. Moreover, a residue of unease and caution about the future still pervades the thinking of some of our people. Businesses are still hesitant in their long-term investment planning, and the stock market remains depressed despite the substantial increase in business profits.

The economic difficulties that we face in the United States also confront most nations around the world. Our mutual problems are the legacy of the trauma suffered by the world economy during the early 1970s. The massive escalation of oil prices since 1973 continues to impose great burdens on the world economy. Oil imports drain away the purchasing power of oil-importing nations and upset the international balance of payments.

Many foreign governments have been reluctant to adopt policies needed to stimulate economic growth because they are concerned that inflationary pres-

sures might be renewed or that their balance of international payments might be worsened. Abroad, as well as at home, concerns about the future have deterred business investment in new plants and equipment. As a consequence, economic growth has stagnated in many countries, and the rise in the capital stock needed to increase productivity, raise standards of living, and avoid future inflationary bottlenecks is not occurring.

The problems we face today are more complex and difficult than those of an earlier era. We cannot concentrate just on inflation, or just on unemployment, or just on deficits in the Federal budget or our international payments. Nor can we act in isolation from other countries. We must deal with all of these problems simultaneously and on a worldwide basis.

Our problems cannot be solved overnight. But we can resolve them if we fix our sights on long-term objectives, adopt programs that will help us to realize our goals, and remain prepared to make adjustments as basic circumstances change.

In making my decisions on tax and budget policies for fiscal 1979, and in planning more generally for our Nation's future, I have been guided by four objectives for our economy that I believe our Nation should pursue.

We must continue to move steadily toward a high-employment economy in which the benefits of prosperity are widely shared. Progress in reducing unemployment of our labor and capital resources must be sure and sustainable. Over the next several years I believe we can increase our real output by 4½ to 5 percent per year, and reduce unemployment by about one-half of a percentage point each year. An especially high priority is to increase job opportunities for the disadvantaged, particularly for black and Spanish-speaking Americans, and to deal more effectively with local pockets of unemployment, such as those in urban areas. We should eliminate unfair advantages through reform of the tax system, and restructure our welfare system to assure that the fruits of economic growth are enjoyed by all Americans.

We should rely principally on the private sector to lead the economic expansion and to create new jobs for a growing labor force. Five out of every six new jobs in the economy are created in the private sector. There are good reasons for continuing to rely mainly on the private sector in the years ahead. By emphasizing the creation of private jobs, our resources will be used more efficiently, our future capacity to produce will expand more rapidly, and the standard of living for our people will rise faster. Reliance upon the private sector does not mean neglecting the tasks that government can and must perform. The Federal Government can be an active partner to help achieve progress toward meeting national needs and, through competent management, still absorb a declining portion of the Nation's output.

We must contain and reduce the rate of inflation as we move toward a more fully employed economy. Inflation extracts a heavy toll from all Americans, and particularly from the poor and those on fixed incomes. Reducing inflation would benefit us all. A more stable price environment would make it easier for business firms and consumers to plan for the future. Thus, reduced inflation would substantially enhance our chances to maintain a strong economic expansion and return to a high-employment economy. In the years ahead we must seek to unwind the inflation we have inherited from the past and take the steps necessary to prevent new inflationary pressures as we approach high employment.

We must act in ways that contribute to the health of the world economy. As the strongest economy in the world, the United States has unique responsibilities to improve the international economic climate. The well-being of the United States depends on the condition of other nations around the world. Their economic destiny is, in turn, shaped by ours. The United States can retain its stature in the world only by pursuing policies that measure up to its role as a leader in international economic affairs.

These four economic objectives are sufficiently ambitious to constitute a serious challenge, but sufficiently realistic to be within our reach. A well-designed program will permit us to achieve them. The principal elements of my economic strategy are:

—Adopting promptly an effective national energy program;

—Managing Federal budget expenditures carefully and prudently, so that we can meet national needs while gradually reducing the share of our national output devoted to Federal spending;

—Using tax reductions to ensur steady growth of the private economy and reforming the tax system to make it fairer, simpler, and more progressive;

—Working to reduce the Federal deficit and balance the budget as rapidly as the developing strength of the economy allows;

—Improving existing programs and developing new ones to attack the problem of structural unemployment among the disadvantaged;

—Promoting greater business capital formation in order to enhance productivity gains, increase standards of living, and reduce the chances that capacity shortages would inhibit expansion later on;

—Adopting more effective programs to reduce the current rate of inflation and prevent a reacceleration of inflation as we approach high employment; and

—Pursuing international economic policies that promote economic recovery throughout the world, encourage an expansion of world trade, and maintain a strong international monetary system.

PROMPT ADOPTION OF THE NATIONAL ENERGY PLAN

It has now been over four years since our economy was buffeted by the oil embargo and its aftermath of sharply increased oil prices. The massive oil price increase in 1973–74 contributed to the double-digit inflation of 1974 and to the worst recession in 40 years. It is a primary factor today behind the large deficit in our international balance of payments. Yet the United States still has not enacted a comprehensive and effective energy policy.

Our dependence on imported oil is sapping the strength of the American economy. Last year our imports of oil reached a total of about $45 billion, compared with $8½ billion in 1973. The increased expenditures on those imports have been like a sudden and massive tax imposed on the American people. Only part of the revenues have been returned to the United States in the form of higher exports of American goods to oil-producing countries. As a consequence, that "tax" has become a major obstacle to economic growth.

The huge deficit in foreign trade arising from our oil imports has contributed to the fall in the value of the dollar abroad. The dollar's decline has raised the cost of the goods we import and contributed to inflation. Our deficit also has unsettled international monetary markets, with adverse consequences for our international trading partners. Our response to the energy crisis is therefore a central element in our international and domestic economic policy. The energy program will not solve our problems at once, but it will pave the way for a balanced foreign trade position and a strong and sound dollar.

Our energy problems will worsen in the years to come unless we curb our appetite for oil and gas. Without decisive action, we will put additional pressure on the world oil market, aggravate inflationary pressures at home, and increase our vulnerability to the threat of oil supply disruptions. Together, these forces could severely limit the potential for continued economic progress over the coming decade.

The United States has no choice but to adjust to the new era of expensive energy. We can only choose when and how. If we act today, we have time to make a gradual transition to more efficient energy use—by conserving energy, increasing domestic energy production, and developing alternative sources of energy. If we delay, adjustment later will be harsh and painful, requiring draconian measures to accomplish what can now be done gradually and with far less anguish.

The energy problem we face is enormously complex. Finding an acceptable and effective solution has not been easy for me or for the Congress. I look forward to working closely with the Congress early this year to assure a speedy resolution. An acceptable bill must satify the following principles:

—First, the program must effectively reduce our consumption of limited energy supplies—oil and gas—while encouraging energy production and promoting a transition to the use of resources that are more abundant.

—Second, the program must be fair. No segment of the population should bear a disproportionate share of the cost or burden of ad-

justment, and no industry should reap unnecessary and undeserved windfall gains.

—Third, the program must be consistent with our overall economic strategy. It must neither undermine our efforts to continue the recovery nor obstruct achievement of our long-term budgetary goals.

Dealing with the energy problem is a difficult test for our Nation. It is a test of our economic and political maturity. Our people would surely react if there were an immediate crisis. But I am asking them to undertake sacrifices to *prevent* a crisis. If we fail to act today, we will bring a crisis upon ourselves and our children in years to come.

CAREFUL MANAGEMENT OF FEDERAL BUDGET EXPENDITURES

My Administration has given high priority to making more effective use of limited Federal resources. In fiscal 1976, Federal outlays amounted to 22½ percent of the Nation's gross national product. This is considerably higher than the share devoted to government spending that prevailed for many years. To some degree, the recent higher share reflects the fact that the economy is still performing below its capacity, and that Federal programs to support the unemployed and the needy are larger than they would be in a high-employment economy. But it also stems from very rapid growth in a number of Federal programs instituted over the past 10 to 15 years.

Most of our Federal expenditure programs are designed to achieve important national goals that the private sector of the economy cannot accomplish. Only the government can provide for the national defense, and government resources are essential to cushion the hardships created by economic recession, to preserve our national resources, to protect the environment, and to meet other critical needs.

The Federal Government has a particular obligation to provide assistance to those who remain in need even during good times. Last year I presented to the Congress a program to reform the welfare system—the Better Jobs and Income Act of 1977—that is a concrete example of our commitment to devote resources to the most pressing national needs. My program will cost money. But it also will establish a more easily understood welfare system that is less costly to administer, less subject to abuse, and more responsive to the true needs of those who receive a helping hand from government. This program will create up to 1.4 million jobs for those able to work, and it will replace the patchwork of Federal, State, and local programs with a consistent income-support system that will relieve much of the enormous burden now placed on State and local governments.

In the management of a business enterprise, efficiency is enforced by the discipline of the marketplace. The collective judgments of millions of consumers establish an environment in which waste and efficiency are eventually penalized. The government, however, is not subject to that discipline. We in government must therefore impose stringent controls on ourselves to ensure greater efficiency and to make better choices among the possible uses of the taxpayers' money.

To assist us in this endeavor, I have adopted methods of budgetary control that have been tested in the business community. Early last year I asked the Office of Management and Budget to inaugurate a system of zero-based budgeting throughout the Federal Government. Within this budgetary system, every Federal program is given careful scrutiny—no matter how large or how small it may be, no matter how long it has been in existence or how recently established. This new system of budgetary planning helped to hold down less essential outlays in the budget for fiscal 1979 and focus our resources on our important national needs. It will produce even greater savings in subsequent years. A process of multiyear budgeting also has been inaugurated within the Federal Government that will require tentative budget plans to be developed and reviewed for three years ahead. With this system we can more effectively control future expenditures—by avoiding commitments now to endeavors that would grow in the future beyond the proportions we desire.

In formulating my recommendations for the 1979 budget, I have exercised very strict controls over spending. Adjusted for inflation, the increase in outlays has been held to less than 2 percent and the share of Federal expenditures in GNP will fall to 22.0 percent. I intend to continue prudent expenditure controls in the future. With good management we can, I believe, achieve our Nation's important social goals and still reduce over time the share of gross national product committed to Federal expenditures to about 21 percent.

USING TAX REDUCTIONS TO PROMOTE STEADY ECONOMIC EXPANSION

I propose to rely principally upon growth in the private sector of the economy to reduce unemployment and raise incomes. Special Federal efforts will, of course, be necessary to deal with such problems as structural unemployment, but tax reductions will be the primary means by which Federal budget policy will promote growth. Careful management of budget outlays and a growing economy should permit substantial reductions in the years ahead. Tax reductions will be needed to strengthen consumer purchasing power and expand consumer markets. Stable growth in markets, together with added tax incentives for business, will lead to rising business investment and growing productivity.

As inflation and real economic growth raise the incomes of most Americans, they are pushed into higher income tax brackets. The tax burden on individuals is raised just as if higher rates had been enacted. The payroll taxes levied on workers and business firms for social security and unemployment insurance will also increase substantially over the years ahead. These are very large increases, but they are needed to keep our social security and unemployment insurance systems soundly financed.

Between 1977 and 1979, taxes on businesses and individuals will rise very sharply as a result of these several factors. Even though our economy is basically healthy, this increasingly heavy tax burden would exert a mounting drag on economic growth. It must, therefore, be counteracted by tax reductions. The magnitude and timing of the reductions should be designed to maintain economic growth at a steady pace, taking into account the effects both of the growing tax burden and of other factors at work in the economy.

Consistent with this strategy, I am proposing a $25 billion program of net tax reductions accompanied by substantial tax reforms.

Individual income taxes will be reduced primarily through across-the-board reductions in personal tax rates, with special emphasis on low- and middle-income taxpayers. Personal taxes also will be simplified by my proposal to replace the existing personal exemption and credit with a tax credit of $240 for each person in the taxpayer's family.

There also will be important reforms that will improve the individual income tax system and raise substantial revenues, enabling me to recommend larger personal tax reductions.

Overall, I am proposing personal tax reductions of $24 billion, offset by $7 billion in tax reforms. These tax cuts, which will take effect next October 1, will significantly improve the progressivity of the tax system. The typical four-person family with $15,000 in income will receive a tax cut of $258—or more than 19 percent. As a result of the changes I am recommending, filling out tax returns will be simpler for many people.

Individuals also will benefit from reductions I have proposed in the Federal excise tax on telephone bills, and in the Federal payroll tax for unemployment insurance. These two proposals will add about $2 billion to consumers' purchasing power that will be realized principally through lower prices.

Business taxes will be reduced by more than $8 billion in 1979 under my tax program, offset partially by more than $2 billion in business tax reforms for a net tax reduction of nearly $6 billion. I have recommended that the overall corporate tax rate be reduced on October 1 from the current 48 percent to 45 percent, and be cut further to 44 percent in 1980. I also recommend that the existing 10-percent investment tax credit be made permanent, and that the benefits of this credit be extended to investments in industrial and utility structures. My proposal will enable businesses to use the investment tax credit to offset up to 90 percent of their Federal tax liability, compared with the 50-percent limit now imposed.

Important new tax reforms also will affect businesses. I am, for example, proposing to reduce the deductibility of a large class of business entertainment expenses. I have also proposed changes in the tax status of international business transactions that are of significant cost to taxpayers but that benefit the public insufficiently.

Because tax reform measures will raise

$9 billion in revenue, it has been possible for me to recommend $34 billion in overall tax reductions while keeping the net loss in revenues to $25 billion, the level I believe is appropriate given the state of our economy and the size of the budget deficit.

These proposals do not include any adjustment to take account of congressional action on my energy proposals. I proposed last April that the Congress pass a wellhead tax and rebate the proceeds of that tax directly to the American people. This is the best course to follow because it protects the real incomes of consumers and avoids a new source of fiscal drag. If the final energy bill includes a full rebate of the net proceeds of the wellhead tax, no further action on my part will be necessary. However, if the final bill allows for a rebate only for 1978—as provided in the House version—I will send a supplemental message to the Congress recommending that the individual tax reduction I am now proposing be increased by the amount of the net proceeds of the wellhead tax.

These tax reductions are essential to healthy economic recovery during 1978 and 1979. Prospects for continuation of that recovery in the near term are favorable. Consumers have been spending freely, and many other economic indicators recently have been moving up strongly. Without the tax reductions I have proposed, however, the longer-term prospects for economic growth would become increasingly poor. Because of the fiscal drag imposed by rising payroll taxes and inflation, economic growth would slow substantially in late 1978, and fall to about 3½ percent in 1979. The unemployment rate would stop declining and might begin to rise again, and the growth of investment outlays for new plant and equipment would slow significantly.

With the reductions in taxes I have proposed, on the other hand, the economy should grow by 4½ to 5 percent in both 1978 and 1979. Nearly one million new jobs would be created. Unemployment would therefore continue to fall and by late 1979 should be down to around 5½ to 6 percent. Capacity utilization and after-tax business profits would both improve, and thus the rate of investment in new plants and equipment should increase significantly.

Success in keeping a firm rein on spending will permit further tax reductions in years to come. Our ability to foresee the future course of the economy is not good enough, however, to enable us to know when additional reductions will be needed or how large they should be. It would therefore be imprudent to plan specific policy measures now for more than the current and the next fiscal year. But I will make recommendations for budget and tax policies for 1980 and beyond that are in keeping with our objectives of steady growth in the economy, more stable prices, and principal reliance on the private sector to achieve economic expansion.

WORKING TO REDUCE THE FEDERAL DEFICIT AND BALANCE THE BUDGET AS SOON AS THE STRENGTH OF THE ECONOMY ALLOWS

Federal budgetary policy can play a constructive role in maintaining the health of the economy. There are times when large deficits in the Federal budget must be tolerated because they are needed to bolster the purchasing power of consumers and businesses. A budget deficit that persisted during a period of high employment and strong further growth of private demand, however, would put upward pressures on prices and would aggravate our inflationary problem. Under those circumstances, a budget deficit would also absorb savings that would be better used by the private sector to build new factories and offices and to purchase new machines. In order to assure that our economic progress remains on a solid footing and is not undermined by inflation, we must reduce the Federal budget deficit and achieve a balanced budget as soon as the developing strength in the economy allows.

The first requisite is careful management and control of Federal spending. The second is a prudent weighing of the need for tax reductions against the goal of budget balance.

This year I have proposed budgets that call for a deficit of $62 billion in 1978, and one only slightly smaller in 1979. Had I decided not to recommend a tax cut to put additional purchasing power in the hands of consumers and businesses, the deficit in 1979 could have been $15 to $20 billion smaller. But I believe that tax reduction is essential to continued progress in an economy still characterized by substantial unemployment and idle plant capacity.

How rapidly we can restore budget balance depends on the strength of the private economy. Over the next few years, two factors will be of particular importance.

The first is the financial condition of State and local governments. In the past, the aggregate budget of these governments tended to be approximately in balance. Today the State and local sector as a whole is in surplus. In 1977, for example, aggregate State and local receipts from all sources exceeded expenditures by nearly $30 billion. This overall surplus does not mean that every State and local government is in good financial condition. Many are hard pressed. Moreover, a large part of the aggregate surplus represents accumulations of pension funds for the 13 million employees of State and local governments.

Substantial surpluses in the State and local sector are likely to continue in the future. They absorb the incomes of consumers and business, and so act as a drag on the economy.

The second factor affecting the pace at which we can expect to move toward budget balance is the large deficit in America's foreign trade in goods and services. Imports into the United States have been swollen by the enormous quantity of oil we buy abroad to drive our cars, heat our homes, and fuel our industry. Our exports have grown only slowly, in large measure because economic growth abroad has been much slower than in the United States. As a result, the United States last year recorded a deficit of close to $18 billion in our current international accounts. This deficit has the same general effect on economic activity as a multibillion dollar increase in taxes.

Enactment of an effective energy program ultimately will reverse our growing dependence on oil imports. Moreover, economic growth in other countries should be improving over the next few years. But we may expect a current account deficit of some size to continue in the near future.

If strong economic expansion is to be maintained in the face of these major drains on the economy, additional tax reductions may be necessary beyond those I have proposed for 1979. But we will be better able to judge this question in a year or two, and we should not prejudge it now.

In formulating my budgetary decisions thus far, I have been careful to avoid commitments that would make it impossible for us to balance the budget by 1981. With unusually strong growth in the private economy, we would need a balanced Federal budget. In an economy growing less strongly, however, balancing the budget by 1981 would be possible only by forgoing tax reductions needed to reach our goal of high employment. In those circumstances, the date for reaching the goal of budget balance would have to be deferred.

What is important is that the planning and execution of Federal fiscal policies proceed in a prudent manner. Every decision on spending and taxes during my Administration has been. and will continue to be, made in the context of long-run budgetary planning that avoids the creation of excess demand during periods of high employment. That is an essential ingredient of responsible budgetary policy.

PROGRAMS TO ATTACK THE PROBLEMS OF STRUCTURAL UNEMPLOYMENT

Meaningful job opportunities ought to be available for all Americans who wish to work. But overall fiscal and monetary policy alone will not provide employment to many in our Nation. If we are to reduce unemployment satisfactorily, we must do more.

Eleven percent of adult American workers from minority groups are now jobless—close to the rate a year ago, and over twice as high as the unemployment rate for white adults. About 17 percent of our teenagers are unemployed today; among black teenagers the unemployment rate is nearly 40 percent. These intolerably high rates of unemployment must be brought down. This is an important goal, but achieving it will be a difficult task.

A generally healthy and growing economy is a prerequisite for dealing effectively with structural unemployment, but it is not enough. Even in good times some groups suffer from very high unemployment, which adds to the difficulty of achieving low unemployment and low inflation simultaneously. As the economy moves toward high employment, employers try to fill job vacancies from those

groups of workers with substantial training and experience. Wage rates are bid up and prices follow, while large numbers from other groups are still looking unsuccessfully for work. Efforts to reduce unemployment among the unskilled and otherwise disadvantaged can be frustrated by inflationary pressures set off in those sectors of the labor market already fully employed.

To reach high levels of employment while maintaining reasonable price stability, we must take effective and adequate measures now to increase the employment opportunities of the disadvantaged. This principle is a key element of the Humphrey-Hawkins Bill—The Full Employment and Balanced Growth Act. I support this legislation and hope the Congress will enact it.

We have already taken several significant steps in this direction. Last year I proposed and the Congress appropriated $8.4 billion to expand the Public Service Employment Program to 725,000 jobs. These jobs are more sharply targeted on the long-term unemployed and the poor than previous programs under the Comprehensive Employment and Training Act. Direct opportunities for youth also have been expanded. The Youth Employment and Demonstration Projects Act of 1977, which is providing job experience and training in skills to unemployed youths, also was proposed by my Administration and enacted in 1977, providing 166,000 work and training positions for unemployed youths.

Several further measures are proposed in my 1979 budget. I have recommended that Public Service Employment be continued at the 725,000 job level throughout 1979, and that the number of jobs be phased down gradually in subsequent years as progress is made in reducing the overall level of unemployment. I have also recommended an expansion to $1.2 billion of the Youth Employment and Demonstration Projects Act to provide work opportunities and skill training for the unemployed youth who most need help. The Better Jobs and Income Program that I sent to the Congress in mid-1977 will create up to 1.4 million jobs, supplemented by cash allowances, for poor people who are able to work. An initial demonstration project for this program that will create 50,000 jobs is proposed in my 1979 budget, and more jobs will be phased in gradually once the welfare reform program is enacted.

Government programs can provide valuable assistance to the unemployed. In the end, however, we must turn to the private sector for the bulk of permanent job opportunities for the disadvantaged. It is in private industry that most productive jobs with opportunity for advancement are found. For this reason, I am requesting $400 million in my 1979 budget to begin a major new initiative for private sector hiring of the disadvantaged. Details of this proposal will be submitted to the Congress shortly. I am requesting the fullest cooperation of the business community in this initiative and have been assured by business leaders that it will be forthcoming.

GREATER EMPHASIS ON PROMOTING BUSINESS CAPITAL FORMATION

Over a broad expanse of years, improvement of the standard of living in this Nation depends primarily on growth in the productivity of the American work force. During the first two decades of the postwar period, the productivity of American labor increased at an average annual rate of about 3 percent. Over the past ten years, however, productivity growth has slowed markedly—to about 2 percent or less a year.

The reasons for this break with past trends are complex, but one factor that clearly stands out is the relatively slow growth in the stock of business plant and equipment. Historically, improvements in productivity have been linked closely to investment in plant and equipment. Investment in new facilities has embodied new and more productive technology and has provided our work force with more and better tools.

Business investment has lagged during the recovery for several reasons. Some of the fears engendered by the steep recession and severe inflation of 1973–75 have remained and have reduced the incentive for businesses to invest. Uncertainties about energy supplies and energy prices have also been a deterrent to investment, and so have concerns about governmental regulations in a variety of areas. Finally, high costs of capital goods and a depressed stock market have diminished the incentives and raised the costs to businesses of investment in new plant and equipment.

Industrial capacity is ample now. But without a substantial increase in investment over the next few years, problems would build for the future. Rapid growth of capacity is needed to assure that shortages of particular products do not emerge before we regain high employment. If capacity is not sufficient, bottlenecks may develop in some sectors, forcing up prices of industrial commodities. Inadequate rates of capital formation will also hold back the gains in productivity needed to improve standards of living and to avoid further aggravation of our inflation problem.

My tax and other economic proposals will encourage a greater rate of business investment in several ways. By promoting a substantial rate of economic recovery, they will assure businesses of an expanding market for the output from new factories and equipment. The specific tax reductions for business I have proposed will increase after-tax profits and so directly provide additional incentives for investment.

We must also have conditions in financial markets that permit businesses to raise the funds they need for investment. Prudent Federal budgetary policies will contribute significantly to that end, as will policies that deal effectively with inflation. Both will ease the Federal Reserve's task of pursuing monetary policies that support full recovery.

MORE EFFECTIVE PROGRAMS TO REDUCE THE RATE OF INFLATION

We cannot achieve full prosperity unless we deal effectively with inflation. We must take steps to reduce the high rate of inflation inherited from the past and to guard against a renewed outbreak of inflation as we regain a high-employment economy.

Our economy is not suffering at present from excess demand. Monetary growth in recent years has not been excessive, and Federal budget deficits have occurred in an economy with high unemployment and excess capacity. Yet prices continue to rise as a result of an inflationary process that has been under way for a decade.

Our present inflation began back in the late 1960s and accelerated sharply in the early years of the 1970s. Since 1974 the rate of consumer price inflation has declined substantially—from 12 percent to between 6 and 6½ percent at present. But that improvement is due largely to the termination of special influences affecting prices during 1974—the sharp rise of food and fuel prices, and the bulge in prices following the removal of wage and price controls.

Recent experience has demonstrated that the inflation we have inherited from the past cannot be cured by policies that slow growth and keep unemployment high. Since 1975, inflation has persisted stubbornly at a 6 to 6½ percent rate—even though unemployment went as high as 9 percent and still stands above 6 percent, and even though a substantial proportion of our industrial capacity has been idle. The human tragedy and waste of resources associated with policies of slow growth are intolerable, and the impact of such policies on the current inflation is very small. Moreover, by discouraging investment in new capacity, slow growth sows the seeds of future inflationary problems when the economy does return to high employment. Economic stagnation is not the answer to inflation.

Our first task in combating inflation is to guard against a renewed outbreak of higher price increases in the future. Firm discipline over the Federal budget and a prudent monetary policy are the most important steps that can be taken. Programs to attack structural pockets of unemployment among our people will make it possible to achieve higher levels of employment without exerting pressures on prices. Greater investment also will make a major contribution toward assuring that the capacity of our industry will be adequate to meet the needs of a high-employment economy.

Enactment of an energy program will eventually reduce the demand for oil imports—contributing to market conditions that discourage substantial oil price increases, and combating the inflation that results from a decline in the exchange value of the dollar. The programs I have inaugurated to build a 30- to 35-million metric ton grain reserve will provide a buffer against sudden upward movements in food prices in the event of bad weather.

Our second task—reducing the current rate of inflation—will be harder. Yet we must tackle the problem. Unless the inflation rate is brought down, the rate of

price increase may well rise as unemployment falls to lower levels in later years, with consequences that would thwart our efforts to bring about full recovery.

The government has an obligation to set an example for the private sector, and we can play an important role in moderating inflation by reducing the effects of our own actions on prices. By adopting tax incentives and other policies to improve the growth of investment and productivity, we will help reduce the rise in costs and hence in prices.

The excise tax reductions I have proposed in my 1979 budget also will contribute moderately to lower costs and prices.

Government regulations also add to costs and raise prices. To some extent, this is the inevitable cost of much needed improvements in the environment and in the health and safety of workers and consumers. But there is no question that the scope of regulation has become excessive and that too little attention is given to its economic costs. We should not, and will not, give up our efforts to achieve cleaner air and water and a safer workplace. But, wherever possible, the extent of regulation should be reduced. We have eliminated hundreds of unneeded regulations already and will continue to pare down the remainder.

I also intend to put a high priority on minimizing the adverse effects of governmental regulations on the economy. To this end, I have established a high-level interagency committee that—together with the relevant regulatory agency—will review the economic effects of major regulations. This committee will seek to assure that the costs of each regulation have been fully considered, and that all alternatives have been explored, so that we may find and apply the least costly means of achieving our regulatory objectives. I have also directed my advisers to explore ways in which we can undertake an assessment of the impact of regulation on the economy as a whole and within each major sector. We need to find a way to set priorities among regulatory objectives and understand more fully the combined effects of our regulatory actions on the private economy.

Where regulation of economic activity has become outmoded and substantial overhaul is called for, I will pursue effective legislation. For example, I have supported actively congressional efforts to reform regulation of the airline industry, and I am considering proposals to reform the regulation of other industries.

I have given special attention to reducing the runaway cost of health care. The cost of a day in the hospital has more than doubled since 1970. Continuing escalation in the charges for hospital care can no longer be tolerated. I have submitted legislation, the Hospital Cost Containment Act of 1977, that would limit sharply the rate of growth in hospital spending, and I urge the Congress to enact this legislation in 1978.

The States can also play a role in moderating the current inflation. In 1976, State governments collected $50 billion in sales taxes. For the most part, these taxes enter directly into the cost of goods we buy and thus increase the price level. Today, State governments with significant surpluses are considering tax reductions. I urge those in a position to do so to consider the advantages to the national economy of reducing sales taxes, thereby helping to slow inflation.

Government alone cannot unwind the current inflation, however. Today's inflationary process is largely the consequence of self-fulfilling expectations. Businessmen, expecting inflation to continue, are less resistant to cost increases than they might be, since they have come to believe that, with all prices rising, their own increased costs can be passed on to consumers through higher prices. Wage increases are based on the expectation that prices will continue to rise. Wage gains in one sector spur similar demands in others.

There are gainers and losers in this process, since some groups in the economy are more successful than others at defending themselves against inflation. On the whole, however, the main result is continued inflation. No one group—neither business, nor labor, nor government—can stop this spiral on its own. What is needed is a joint effort.

Since the current inflation has developed strong momentum, it cannot be brought to a sudden halt. But we can achieve a gradual but sustained deceleration—having each succeeding year's inflation lower than the previous one. The benefits of slower growth of prices and wages would be broadly shared. Everyone would be better off. A conscious effort should be made by those who make wage and price decisions to take the individual actions necessary to bring about an economy-wide deceleration of inflation.

I am therefore asking the business community and American workers to participate in a voluntary program to decelerate the rate of price and wage increase. This program is based on the initial presumption that prices and wages in each industry should rise significantly less in 1978 than they did on average during the past two years.

I recognize that not all wages and prices can be expected to decelerate at the same pace. For example, where profit margins have been particularly squeezed, or where wages are lagging seriously, deceleration in 1978 would be less than for other firms or groups of workers. In exceptional cases deceleration may not be possible at all. Conversely, firms or groups that have done exceptionally well in the recent past may be expected to do more.

To enhance the prospects for success of this deceleration program, I have asked that major firms and unions respond to requests of members of my Administration to discuss with them on an informal basis steps that can be taken during the coming year to achieve deceleration in their industries. In reviewing the economic situation prior to making my recommendations to the Congress on the size of the pay raise for Federal workers, due to take effect next October, I will keep this objective of deceleration in mind.

This program does not establish a uniform set of numerical standards against which each price or wage action is to be measured. The past inflation has introduced too many distortions into the economy to make that possible or desirable. But it does establish a standard of behavior for each industry for the coming year: every effort should be made to reduce the rate of wage and price increase in 1978 to below the average rate of the past 2 years.

I have chosen this approach after reviewing extensively all of the available options. There is no guarantee that establishing a voluntary deceleration standard will unwind the current inflation. I believe, however, that with the cooperation of business and labor, this proposal will work. Deceleration is a feasible standard of behavior, for it seeks restraint in wage and price actions in exchange for a general reduction in inflation. It is also a fair standard. Industries and workers with far different histories and current situations will not be asked to fit within the constraint of a single numerical guideline.

The inflation problem will not be easy to overcome. It will take time and patience. But the importance of these efforts cannot be overestimated. Unless we gain better control over the inflation rate, the prospects for regaining a fully employed economy will be seriously reduced. My Administration cannot and will not pursue policies in the future that threaten to trigger a new and more virulent round of inflation in this country. To do so would be the surest way of destroying the hopes of our citizens for a long-lasting prosperity.

INTERNATIONAL ECONOMIC POLICIES THAT PROMOTE ECONOMIC RECOVERY THROUGHOUT THE WORLD

Outside the United States, the world economy has seen a hesitant recovery from the deep recession of 1974–75. The rapid pace of economic growth that was widespread over most of the postwar years has all but disappeared. Unemployment is high, and in most industrial countries except the United States it is rising. Inflation is at high levels and declining only very slowly.

The imbalances in the international economic system continue to strain the world economy. Because of the surpluses of oil-exporting countries, many countries have sizable deficits, including the United States. Some industrial nations are also running large and persistent surpluses—thus increasing the pressures on countries in deficit. These imbalances have been a major factor contributing to disorder in exchange markets in recent months.

The condition of the world economy requires above all that nations work together to develop mutually beneficial solutions to global problems. If we fail to work together, we will lose the gains in living standards arising from the expansion of world commerce over the past three decades. If the world economy becomes a collection of isolated and weak nations, we will all lose.

The first priority in our international economic policy is continued economic recovery throughout the industrial world. Growth of the U.S. economy—the largest and strongest in the world—is of vital

importance. The economic program that I have proposed will ensure that America remains a leader and a source of strength in the world economy. It is important that other strong nations join with us to take direct actions to spur demand within their own economies. World recovery cannot proceed if nations rely upon exports as the principal source of economic expansion.

At the same time all countries must continue the battle against inflation. This will require prudent fiscal and monetary policies. Such policies must be supplemented by steps to reduce structural unemployment, measures to avoid bottlenecks by encouraging investment, and cooperation in the accumulation of commodity reserves to insulate the world from unforeseen shocks.

Reducing the widespread imbalances in international payments will require several parallel steps. To begin with, each individual country must ensure that its own policies help relieve the strains. The United States will do its part. In 1977 we had a current account deficit of about $18 billion. While not a cause for alarm, this is a matter of concern. We can take a most constructive step toward correcting this deficit by moving quickly to enact the National Energy Plan.

Countries in surplus should also do their part. Balance of payments surpluses in some countries have contributed to the economic stagnation among their trading partners. Where their own economies have slack, it is appropriate for nations in surplus to stimulate the growth of domestic demand—thereby increasing their imports and improving the prospects for growth in deficit countries. In some countries, lifting restraints on imports from abroad and reducing excessive government efforts to promote exports would be useful. After consultations with the United States, the Japanese have indicated they will take a series of steps toward reducing their large surplus.

The system of flexible exchange rates for currencies also can be helpful in correcting unsustainable imbalances in payments among countries. Since its inception in 1973, this system has operated well under unprecedented strains.

During 1977 the U.S. dollar has fallen in value against several key currencies. The decline in the dollar's value has occurred primarily against the currencies of those nations that have large trade and payments surpluses, and was not surprising in view of our large payments deficit and their surpluses. Late in 1977, however, movements in our exchange rate became both disorderly and excessively rapid. The United States reaffirmed its intention to step in when conditions in exchange markets become disorderly and to work in close cooperation with our friends abroad in this effort.

Under the flexible exchange rate system basic economic forces must continue to be the fundamental determinant of the value of currencies. However, we will not permit speculative activities in currency markets to disrupt our economy or those of our trading partners. We recognize fully our obligation in this regard, and we have taken steps to fulfill it.

Although substantial progress can be made toward a balanced world economy, some imbalances will persist for a substantial period of time. Financing requirements will remain large while adjustments occur. The private markets can and will continue to channel the bulk of the financing from surplus to deficit countries. But it is essential that adequate official financing also be available, in case of need, to encourage countries with severe payments problems to adopt orderly and responsible corrective measures. To meet this critical need the United States has strongly supported a proposal to strengthen the International Monetary Fund by the establishment of a new Supplementary Financing Facility.

The United States also will continue to contribute resources to promote growth in the economies of the developing nations. International assistance efforts—through bilateral aid and multilateral institutions—must continue to expand. We must also keep our doors open to imports from developing countries, so that their economies can grow and prosper through expanded trade.

A keystone of our international economic policy is to work with our trading partners to protect a free and open trading system. The American economy benefits by exporting those products that we make efficiently, and by importing those that we produce least efficiently. An open trading system increases our real incomes, strengthens competition in our markets, and contributes to combating inflation.

The United States will firmly resist the demands for protection that inevitably develop when the world economy suffers from high unemployment. The ensuing decline in world trade would worsen our problem of inflation, create inefficiencies in American enterprise, and lead to fewer jobs for American workers. But international competition must be fair. We have already taken and we will, when necessary, continue to take steps to ensure that our businesses and workers do not suffer from unfair trade practices.

I place great importance on the Multilateral Trade Negotiations now under way in Geneva. I believe our negotiators will bring home agreements that are fair and balanced and that will benefit our economy immensely over the years to come. The importance of these discussions can hardly be overemphasized. The trading system that emerges from the negotiations will set the tone for international commerce well into the 1980s. Our commitment to a successful conclusion to these talks underscores our long-term emphasis on the retention and expansion of open and fair trade among nations.

THE CHALLENGE BEFORE US

In this message I have outlined my fundamental economic goals and the strategy for attaining them. It is an ambitious, but I believe a realistic, agenda for the future. It calls for a broad range of actions to improve the health and fairness of the American economy. And it calls upon the American people to participate actively in many of these efforts.

I ask the Congress and the American people to join with me in a sustained effort to achieve a lasting prosperity. We all share the same fundamental goals. We can work together to reach them.

JIMMY CARTER.

JANUARY 20, 1978.

REPORT OF THE NATIONAL SCIENCE BOARD—MESSAGE FROM THE PRESIDENT—PM 139

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the ninth annual report of the National Science Board, entitled "Science Indicators—1976," be referred jointly to the Committee on Human Resources and the Committee on Commerce, Science, and Transportation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Acting President pro tempore laid before the Senate the following message from the President of the United States, together with an accompanying report, which, without being read, was referred jointly to the Committee on Human Resources and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to submit to the Congress the Ninth Annual Report of the National Science Board, entitled *Science Indicators—1976*. This report is the third in a series of reports describing key aspects of the status of American science and technology.

The data and indicators presented herein should prove useful to anyone needing an authoritative source of information on various aspects of the scientific enterprise in this country.

Many of these indicators show that the United States continues to rank high in most areas of science. It is particularly important to maintain this strength through an adequate level of national investment in basic, long-term research because that type of research precedes and underlies advances in many areas of national interest such as health, energy, defense, agriculture, and industrial productivity.

I commend *Science Indicators—1976* to the attention of the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *January 20, 1978.*

MESSAGES FROM THE HOUSE

At 1:22 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The following bill was read twice by title and referred to the Committee on Environment and Public Works:

H.R. 2329. An act to improve the administration of fish and wildlife programs, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GARN:

S. 2396. A bill for the relief of Maria Luiza Nascimento; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2397. A bill to amend the act of March 12, 1914, relating to Alaskan railroads, to provide for relocation, travel, and transportation expenses for the General Manager of the Alaska Railroad; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (by request):

S. 2398. A bill to extend the period of eligibility for a Vietnam-era veterans' readjustment appointment within the Federal Government; to the Committee on Veterans' Affairs.

By Mr. CULVER (for himself, Mr. BAYH, Mr. EASTLAND, Mr. THURMOND, Mr. KENNEDY, Mr. MCGOVERN, Mr. PERCY, Mr. CRANSTON, Mr. MATHIAS, Mr. ABOUREZK, Mr. HATHAWAY, Mr. METZENBAUM, Mr. DECONCINI, and Mr. MELCHER):

S. 2399. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 2397. A bill to amend the act of March 12, 1914, relating to Alaskan railroads, to provide for relocation, travel, and transportation expenses for the General Manager of the Alaska Railroad; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I am today introducing a bill to amend the act of March 12, 1914 (38 Stat. 305; 43 U.S.C. 975) relating to the Alaska Railroad, to provide for the relocation, travel, and transporation expenses for the General Manager of the Alaska Railroad.

The Alaska Railroad is the only federally owned railroad in the United States and operates 470 miles of single mainline track extending from the deepwater ports at Seward and Whittier through Anchorage to Fairbanks, including branch lines to Eielson Air Force Base, Fairbanks International Airport, Palmer and the Suntrana coal fields.

The railroad has sought competent, qualified, and experienced personnel, from the private sector, to fill the General Manager's position. This has become increasingly difficult in recent years due to the relatively low salaries which the Federal Government has been authorized to offer to prospective applicants.

The Alaska Railroad and its parent agency, the Federal Railroad Administration, have sought to provide additional incentives to make the position more attractive to potential General Managers. A major incentive has been the payment by the FRA and the ARR of the newly hired General Manager's relocation, travel, and transportation expenses to Alaska.

This incentive was agreed to in the case of the present General Manager, Mr. William L. Dorcy, by a record of agreement dated March 26, 1976, and signed by Mr. Bruce M. Flohr, Deputy Administrator of the FRA. Additionally, the Chief Counsel for the ARR, Mr. J. Glen Cassity, issued an opinion that there was "clear authority" for the General Manager's travel expenses contract.

This record of agreement between the FRA and Mr. Dorcy was made in good faith with no knowledge by either party of any conflict with the Federal travel regulations. The mistake was an honest one and, I would like to add, was one which was made by the FRA and not by Mr. Dorcy. Mr. Dorcy has informed me that he accepted the position of General Manager of the ARR with an effective date of April 1, 1976, with the condition that his expenses for relocating would be paid by the Government. Without this provision, he would not have accepted the position. The relocation expenses were also a partial consideration for Mr. Dorcy giving up his earned vacation with his past employer. This was also at the request of the FRA and was agreed to by the General Manager.

However, on April 27, 1977, during a review of the ARR, the General Accounting Office informed the FRA that, in their opinion, some of the provisions of the agreement were contrary to Federal travel regulations. The Federal Railroad Administration, acting upon the GAO recommendation and acting in contradiction to the agreement with Mr. Dorcy, a private U.S. citizen, then sought to recover relocation, travel and transportation expenses from Mr. Dorcy for an amount totaling $5,585.97.

My bill would relieve Mr. Dorcy of this reimbursement and would provide for the continuance of the past policy of the FRA and ARR to provide for the relocation, travel, and transportation expenses for those accepting the position of General Manager of the railroad.

I believe our Government must honor its commitments made to a citizen. A contract was agreed to by both parties. Mr. Dorcy has upheld his part of the bargain. It is now time for our Government to accept its responsibility to Mr. Dorcy.

By Mr. CRANSTON (by request):

S. 2398. A bill to extend the period of eligibility for a Vietnam-era veterans' readjustment appointment within the Federal Government; to the Committee on Veterans' Affairs.

Mr. CRANSTON. Mr. President, at the request of the administration I am today introducing S. 2398, a bill to amend section 2014(b) of title 38 of the United States Code to extend the period of eligibility for a Vietnam-era veterans' readjustment appointment within the Federal Government.

Mr. President, I ask unanimous consent that the letter of transmittal, the text of the bill, section analysis, and the statement of purpose and justification of the bill be printed in the RECORD.

There being no objection, the letter of transmittal, the bill, section analysis, and the statement of purpose and justification of the bill be printed in the RECORD, as follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., November 29, 1977.

Hon. WALTER F. MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Submitted herewith is a draft bill to amend section 2014(b) of title 38, United States Code, to extend the period of eligibility for a Vietnam era veterans' readjustment appointment within the Federal Government.

This legislation would respond to President Carter's "fireside chat" call for action to reduce the high unemployment among Vietnam era veterans, as well as to Secretary of Labor Marshall's request in his swearin remarks for "a number of administrative and other measures that might be taken to improve veterans' employment situations."

The original Executive Order Numbered 11521 (effective April 9, 1970) created the Veterans' Readjustment Appointment to assist returning Vietnam veterans. It enabled them to be hired noncompetitively for positions up to grade GS-5 or the equivalent in the competitive service. After 2 years of successful performance in the position, which included developmental assignments and training, the veterans' status was then converted to career or career-conditional.

This has proven to be a successful program, because it helps returning veterans into employment without the added cost to the taxpayer of creating new positions; these appointments count against agencies' ceilings just as competitive ones do. The only drawback for the veterans was that they were eligible for appointment only within 1 year of separation; this was then thought to be sufficient time in which to be readjusted.

The high unemployment among Vietnam veterans is one indication that 1 year was not enough time; although when Congress incorporated the Veterans' Readjustment Appointment program into section 2014(b) of title 38, U.S.C. on December 3, 1974, the only modification of the time limit was its suspension for attendance at school. However, it is our opinion that the vast majority of currently unemployed veterans (estimated at 558,000) have been separated from military service for more than 1 year and have thereby lost their eligibility for VRA.

We feel that the Veterans' Readjustment Appointment would be an excellent instrument with which to attack this unemployment problem. The legislation would restore eligibility to all those who ever had it, and they would remain eligible until September 30, 1980.

The Office of Management and Budget advises that there is no objection to the submission of this draft legislation and that its enactment would be consistent with the Administration's objectives.

A similar letter is being sent to the Speaker of the House of Representatives.

By direction of the Commission:

Sincerely yours,

———— ————,
Chairman.

S. 2398

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 2014(b) of title 38, United States Code, is amended by striking out the language after

"Executive Order Numbered 11521" and inserting in place thereof the following:

"(March 26, 1970). Notwithstanding any limitations with respect to the period of eligibility as prescribed in Executive Order Numbered 11521, a veteran of the Vietnam era who was eligible for appointment under that Executive order on its effective date, April 9, 1970, or a veteran of the Vietnam era who was separated on or after that date, may be appointed at any time. No veterans readjustment appointment may be made under authority of this subsection after September 30, 1980."

SECTION ANALYSIS

The bill would amend section 2014(b) of title 38, United States Code. The subsection gives statutory recognition to the provisions of the Executive Order Numbered 11521 (March 26, 1970) which provides for readjustment appointments for Vietnam era veterans.

Subsection (b) now provides:

"To further this policy, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Civil Service Commission shall prescribe, for veterans' readjustment appointments up to and including the level GS–5, as specified in subchapter II of chapter 51 of title 5, and subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521, [(March 26, 1970), except that in apply the 1-year period of eligibility specified in section 2(a) of such order to a veteran or disabled veteran who enrolls, within 1 year following separation from the Armed Forces or following release from hospitalization or treatment immediately following separation from the Armed Forces, in a program of education (as defined in section 1652 of this title) on more than a half-time basis (as defined in section 1788 of this title), the time spent in such program of education (including customary periods of vacation and permissible absences) shall not be counted. The eligibility of such a veteran for a readjustment appointment shall continue for not less than 6 months after such veteran first ceases to be enrolled therein on more than a half-time basis. No veterans' readjustment appointment may be made under authority of this subsection after June 30, 1978.]" (Brackets supplied.)

The bracketed language would be replaced by the provisions of the bill extending the time for appointment until and including September 30, 1980, of Vietnam era veterans who were eligible for these appointments as of April 9, 1970, when the Executive order became effective, as well as those Vietnam era veterans who were separated on or after that date. The stricken language regarding suspension of the time limit on eligibility during schooling would be rendered moot by the bill's waiver of the time limit for appointment under the Executive order.

STATEMENT OF PURPOSES AND JUSTIFICATION

A draft bill to amend section 2014(b) of title 38, United States Code.

The purpose of this legislation is to increase employment opportunities for the Vietnam era veterans (VEV)[1] by extending the period of eligibility for a Veterans' Readjustment Appointment (VRA)[2] within the Federal Government.

As Secretary of Labor Marshall said in his swearing-in remarks: "The President has put among his highest priorities the plight of thousands of Vietnam era veterans who continue to bear a disproportionate share of the unemployment that exists today. This overrepresentation of Vietnam era veterans in the ranks of the unemployed must be eliminated. Of particular concern to me are the youngest veterans of the group, those between 20 and 24 whose unemployment rate was 18 percent compared to 12.5 percent for nonveterans of the same age. Of even greater concern are the disabled and black veterans—they are hardest hit of all. The most recent data show that the unemployment among younger black veterans is over 20 percent."

The Secretary went on to describe governmental initiatives to combat the problem. He concluded by saying that the President had asked him to cooperate with other agency heads to take the lead on reviewing a number of administrative and other measures that might be taken to improve veterans' employment situations.

One measure that was specificially designed to assist educationally-disadvantaged veterans to obtain Federal employment is the Veterans' Readjustment Appointment (VRA) authority, which combines work with self-development training. Entry into the program is limited to positions through grade 5. Furthermore, this program not only has great flexibility for recruiting, since it provides for appointment without competition in civil service examinations, but it is an action an agency can take quickly and effectively.

The program has been a success. It has been well accepted by agencies as a fair and well-balanced approach to the readjustment problem; it has provided employment for over 100,000 educationally-disadvantaged veterans during the 7-year period it has been in effect; it has averaged 3.5 percent of new hires in the Federal Government, even during a period of tight staffing and ceilings and generally sluggish governmental hiring; it has "bought" these jobs at little additional expense to the taxpayer, as the VRA positions are regular competitive positions that count against an agency's staffing ceiling—no additional jobs were created. The authority would have been even more successful had the Government been staffing more vigorously.

However, there is another reason why the number of VRA hires has been relatively small, that is the requirement which limits eligibility for VRA appointment to the first year following military separation (or release from hospitalization immediately following military separation). This limited period of eligibility was adopted for two reasons: (1) Vietnam era veterans were returning to civilian life in a continuous flow (unlike veterans of previous conflicts who were discharged *en masse* when the conflict ended) and it was felt that a longer period of eligibility would be unfair to the veterans being discharged in succeeding years; (2) It was felt that the vast majority of the veterans would have achieved readjustment through employment within 1 year.

This latter assumption turned out to be overly optimistic, as evidenced by the continuing high rate of unemployment among Vietnam era veterans, the vast majority of whom meet the basic requirement for a VRA (i.e., discharge under honorable conditions and no more than 14 years of education). Their failure to obtain VRA's within their 1-year period of eligibility was more probably due to the tight employment situation in the Federal sector which confronted them on return to civilian life than to failure to actively seek VRA employment.

Not only have veterans and their congressional representatives repeatedly requested a waiver of the 1-year requirement, based on the inability of the veterans to obtain VRA's in spite of their diligent efforts, but also, and especially recently, agencies have reported difficulty in locating VRA eligibles in their recruiting programs, because most of the unemployed Vietnam era veterans have been separated from military service for more than 1 year, and therefore are no longer eligible for VRA appointment.

More than 75 percent of the enlisted men separated during the last 6 fiscal years meet the requirements for VRA appointments, according to Veterans Administration and Department of Defense statistics. Since these requirements include having no more than 14 years of education, thereby almost ensuring difficulty in competing for employment, it seems reasonable to conclude that many of them are among the 558,000 Vietnam era veterans (with 210,000 in the 20–24 age group) currently listed as unemployed by the Department of Labor.

VRA appointments have been declining in recent years, not only in total numbers, but also as a percentage of new hires. Although agencies have been encouraged to hire more VRA's, the downward trend is not likely to be reversed unless the 1-year period of eligibility is extended. The effect of this draft bill will be to extend this period until September 30, 1980.

Thus, all veterans who served during the Vietnam era who were eligible for a VRA on April 9, 1970, (the effective date of Executive Order Numbered 11521) or who were discharged on or since that date and meet the basic requirements, will have eligibility for a VRA.

This change wil give a second chance to VEV's who were unable to obtain VRA's within their 1-year period of eligibility because of labor market conditions beyond their control, but it will retain the readjustment period concept by excluding most of the older VEV's who were separated in the 1960's since the coverage of the VRA authority is not being extended—only its eligibility period is.

It is designed to help the unemployed veteran who participated in combat in Vietnam till the troop pullout in February 1973. They are considered to be especially deserving of assistance because of this sacrifice; they are the 24–28 year old group. Also helped will be those who entered military service between February 1973, and May 7, 1975, the end of the Vietnam era; they are now 22–24 years old and were specifically mentioned by Secretary of Labor Marshall as being of the group whose high rate of unemployment is of particular concern. Since nonwhite Vietnam era veterans are unemployed at almost twice the rate of white VEV's (8.4 percent to 4.6 percent for 1973, ages 20–34), the VRA authority can also be a tool for enhancing equal employment opportunity.

Any bill, like this one, which would considerably enlarge the group of those eligible for noncompetitive appointment has implications that must be considered. It should be remembered, however, that the bill simply would extend the period for use of the appointment authority already available to agencies for their staffing uses; it would not obligate the authority's use. A VRA appointment is only one way of filling a vacancy; appointing officials usually try to staff positions by striking a balance among the sometimes competing interests of the need of their agency's missions, its internal personnel goals, and the various Government-wide public policy programs to which they must be responsive. Thus, the fact that the VRA authority must compete for its use with other

[1] A veteran whose service dates include active duty between August 5, 1964, and May 7, 1975.

[2] A noncompetitive excepted appointment to a job in the competitive service in grades 1–5 which combines work with self-development training. Eligibility is limited to VEV's with no more than 14 years of education during the first year following military separation or hospitalization (with extension of eligibility for those who enroll in further schooling). After 2 years of successful performance on the job and successful completion of the agreed-to training, the appointment is converted to a career or career-conditional one. The VRA authority was originally established by Executive Order 11521 and was later codified by the Veterans' Readjustment Act of 1974 into title 38 U.S. Code; the authority expires June 30, 1978.

important goals and measures should continue to prevent its abuse.

The most effective initiative the Federal Government as an employer could take, then, to contribute to the national effort to reduce the high rate of unemployment among Vietnam era veterans, and at the same time to provide additional opportunities to those veterans who were unable to obtain VRA appointments through no fault of their own, would be to amend section 2014(b) of title 38, U.S. Code, to authorize VRA appointments until September 30, 1980, to all Vietnam era veterans who meet the basic requirements and who were either qualified for a VRA appointment as of April 9, 1970, or who were separated from military service on or after that date.

By Mr. CULVER (for himself, Mr. BAYH, Mr. EASTLAND, Mr. THURMOND, Mr. KENNEDY, Mr. MCGOVERN, Mr. PERCY, Mr. CRANSTON, Mr. MATHIAS, Mr. ABOUREZK, Mr. HATHAWAY, Mr. METZENBAUM, Mr. DECONCINI, and Mr. MELCHER):

S. 2399. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes; to the Committee on the Judiciary.

PSYCHOTROPIC SUBSTANCES ACT OF 1978

Mr. CULVER. Mr. President, I am today introducing the Psychotropic Substances Act of 1978. I am very pleased that 13 of my distinguished colleagues are joining in cosponsoring including Senators BAYH, EASTLAND, THURMOND, CRANSTON, MATHIAS, KENNEDY, HATHAWAY METZENBAUM, DECONCINI, MELCHER, PERCY, ABOUREZK, and MCGOVERN.

The bill secks to amend the Comprehensive Drug Abuse Prevention and Control Act and other drug laws to implement the provisions of the Convention on Psychotropic Substances. The convention was signed in Vienna on February 21, 1971 and has been in force since August 16, 1976 following its ratification by 40 nations. It has been transmitted to the U.S. Senate for advise and consent. The convention is currently before the Senate Foreign Relations Committee which has deferred further action until the necessary enabling legislation has been enacted. The bill I am introducing today is the first step to clearing the way for ratification of this important treaty.

In the last several years, there has been much attention focused on the problem of diversion from licit to illicit channels of legally manufactured psychotropic substances. On the domestic level, Congress has enacted legislation with which to restrict such diversion by mandating certain enforcement activities to the Drug Enforcement Administration. Domestic legislation alone cannot prevent invasion by supplies from other countries. Preventing such illicit inflow becomes particularly difficult, if not impossible, when other countries, by their own lack of adequate controls, facilitate the diversion of dangerous drugs into illicit channels. Despite our own strong legislation, the United States has become, in the words of a Drug Enforcement Administration official, "a victim of the current international inadequacies."

During the course of the subcommittee's investigations and hearings relating to the abuse of barbiturates, amphetamines, and sedatives, the mechanics of this type of diversion were portrayed. Traffickers established themselves in a country with minimal regulation of psychotropic substances. They order substances in bulk form from the United States or some other manufacturing country. The drugs are then encapsulated for distribution through illicit channels. A prototype of this situation was presented during the course of one of the subcommittee's hearings by an official of the Drug Enforcement Administration:

> The U.S. Mexican border area has become the locus of many clandestine operations using barbiturate and amphetamine powders diverted from legitimate international commerce. Seizures continued to escalate at a rapid pace. In 1971, some eight million illicit amphetamine tablets believed to be of clandestine Mexican manufacture were confiscated by U.S. enforcement agencies in the United States. In 1972 approximately 13 million tablets were seized, and in 1973 the total exceeded 26 million tablets. Recent intelligence suggests that a group of violators have ordered amphetamine sulphate powder from European firms sufficient to manufacture an additional 50 million tablets.

It is this type of activity that the convention seeks to prevent.

The Convention on Psychotropic Substances has as its focus the international control of substances that are not included under any of the existing multilateral drug treaties. These treaties, which include the Single Convention on Narcotic Drugs, are directed toward international control of opium and other narcotic substances. This particular treaty governs the nonnarcotic drugs known as psychotropic substances which produce central nervous system stimulation or depression with resulting disturbances in perception, thinking and behavior. These drugs include the hallucinogens such as LSD, mescaline, and PCP, the amphetamines, the barbiturates, and certain tranquilizers. Many of these drugs are every bit as harmful as the opium derivatives and require the same kind of international controls to prevent their diversion for illicit purposes. It is particularly important that the United States implement and ratify the convention. We are a major producer of these substances. We have taken the lead in asking the less developed nations that produce narcotics to adopt controls and ratify narcotics treaties. It is therefore important for us to demonstrate that we are willing to concur in international agreements applying to drugs that are produced and distributed from our country.

Substantively, the requirements of the convention are already largely satisfied by current U.S. drug laws. However, these laws do not authorize administrative action to conform U.S. drug controls to those under international agreements ratified by the United States after the date of their enactment. They only authorize action to conform domestic controls with controls under earlier international agreements such as the 1961 Single Convention on Narcotics. New legislation is therefore necessary to permit U.S. implementation of the provisions of the Psychotropic Convention.

Structurally, the convention is similar to both the Single Convention on Narcotic Substances, ratified by the United States in 1967, and the Comprehensive Drug Abuse Prevention and Control Act. The convention lists substances in schedules depending on the extent of their abuse, their potential for abuse and their therapeutic usefulness. It contains procedures for adding new substances to schedules, moving them among schedules and deleting them from the schedules. It provides gradations of control, with the most stringent controls applied to schedule I substances, such as LSD, and less forceful restrictions on substances in schedules II, III and IV.

The specific control measure which the convention requires each party to implement are also largely satisfied by the provisions of our drug laws. For example, under the convention each party must license manufacturers and distributors of psychotropic substances; sections 301 and 304 of the Controlled Substances Act provide for such registration. Each party must restrict the use of schedule I substances—the hallucinogenics—to scientific and limited medical purposes; section 303 of the Controlled Substances Act limits access to such substances to qualified researchers. Each party must require all handlers of psychotropic substances to keep records of all drugs manufactured, distributed or dispensed; section 307 of the Controlled Substances Act already imposes such recordkeeping requirements. Importation and exportation of psychotropic substances must be controlled in a manner similar to the requirements imposed by the Controlled Substances Import and Export Act.

The Psychotropic Substances Act of 1978 has been drafted to avoid reservation expressed about similar legislation introduced in prior Congresses. Representatives of the pharmaceutical manufacturers and the medical and scientific community expressed concern about earlier versions of this legislation on the grounds that it would produce undue restrictions on legitimate research; that it would fail to provide an affirmative policymaking role for health and scientific professionals to balance any restriction on their role imposed by the convention; that it would place burdensome recordkeeping requirements on manufacturers; and that it would fail to adequately protect the confidentiality of patient records.

The bill introduced today accommodates these important concerns. Provisions have been made to provide procedural safeguards in the decisionmaking process under the Comprehensive Drug Abuse Prevention and Control Act to assure ample opportunity for comment by the scientific and medical community as well as other interested parties respecting implementation by the United States of international decisions requiring specific controls on psychotropic substances. There are new provisions for

notice and comment at stages in the decisionmaking process. There are other provisions in the bill to insure that legitimate research will not be impeded and that recordkeeping and reporting requirements will be kept to a minimum.

The diversion of legally produced dangerous drugs for uses other than legitimate medical and scientific purposes is a serious national problem. I intend to give the highest priority to this legislation, and will strive to bring this measure to the floor as quickly as possible. The adoption of this bill will not be an all-encompassing solution to drug abuse and traffic. But it is a significant step toward international control of the illicit distribution and use of substances which threaten severe harm for individuals and damage to society.

Mr. BAYH. Mr. President, today I have joined with Senator CULVER and several other of my colleagues, including our distinguished chairman of the Judiciary Committee, Senator EASTLAND and our distinguished ranking minority member of the Judiciary Committee, Senator THURMOND, along with Senators ABOUREZK, MATHIAS, DECONCINI, METZENBAUM, MELCHER, MCGOVERN, PERCY, HATHAWAY, KENNEDY, and CRANSTON, in introducing the Psychotropic Substances Act of 1978, which is designed to permit the United States to comply with the provisions of the Convention on Psychotropic Substances signed at Vienna on February 21, 1971. This treaty is now pending before the Senate Foreign Relations Committee. Although the United States has still not ratified this convention, it did enter into force on August 16, 1976, 90 days after the deposit of the 40th instrument of ratification.

As of September 7, 1977, the following 47 countries had ratified or acceded to the convention:

Barbados, Benin, Brazil, Bulgaria, Chile, Costa Rica, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador.

Egypt, Federal Republic of Germany, Finland, France, German Democratic Republic, Grece, Guyana, Holy See, Iceland, India, Iraq.

Jordan, Lesotho, Madagascar, Maruitius, Mexico, Monaco, Nicaragua, Norway, Pakistan, Panama, Paraguay.

Philippines, Poland, Saudi Arabia, Senegal, South Africa, Spain, Sweden.

Syria, Thailand, Togo, Tonga, Uruguay, Venezuela, Yugoslavia.

The Convention on Psychotropic Substances was transmitted on June 29, 1971, to the Senate, for its advice and consent to ratification. This convention has as its purpose the international control of substances that are not included under any of the existing multilateral opium and other narcotic drug treaties. The convention governs the so-called psychotropic- or mind-altering-substances: The hallucinogens—such as LSD and mescaline—the amphetamines, the barbiturates, and the tranquilizers.

The aim of the convention is to limit to medical and scientific purposes the manufacture, distribution and use of psychotropic substances. The structure of the convention is similar to that of the Comprehensive Drug Abuse Prevention and Control Act of 1970. It lists 32 substances in four schedules depending on the extent of their abuse, their potential for abuse and their therapeutic usefulness. The convention contains a procedure for adding new substances to schedules, moving them among schedules and deleting them from the schedules. Like the Comprehensive Drug Abuse Prevention and Control Act, the convention provides graduations of controls, with the most stringent controls applied to schedule I substances-such as LSD, mescaline and the tetrahydrocannabinois-and lesser restrictions on substances in schedules II, III and IV. Most of the control provisions are similar to the control of narcotic drugs by other treaties, such as the Single Convention on Narcotic Drugs, 1961.

The specific control measures which the convention requires each party to implement are largely satisfied by the provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the Food, Drug, and Cosmetic Act. For example, under the convention, each party must license manufacturers and distributors of psychotropic substances; sections 301 and 304 of the 1970 act provide for registration of these persons. Each party must restrict the use of schedule I-hallucinogenic-substances to scientific and very limited medical purposes; section 303 of the Controlled Substances Act-title II of the Comprehensive Act-limits access to such substances to qualified researchers. Psychotropic substances must be dispensed only upon a physician's prescription; all are subject to prescription requirements under the Federal Food, Drug and Cosmetic Act. Each party must require all handlers of psychotropic substances to keep records of all drugs manufactured, distributed or dispensed; section 307 of the act already imposes such recordkeeping requirements. Importation and exportation of psychotropic substances must be controlled in a manner similar to the requirements imposed by the Controlled Substances Import and Export Act, which is title of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

In addition to controlling domestic commercial and medical activity, parties must make certain reports to the International Narcotic Control Board, take actions against illicit traffic and apply penal provisions, and where possible, establish programs of drug abuse prevention, treatment, and rehabilitation.

Although the Controlled Substances Import and Export Act provide most of the mechanisms to fulfill U.S. obligations under the Convention on Psychotropic Substances, new legislation will be required to satisfy all commitments under the convention.

In 1971 and 1973 legislation was introduced on behalf of the administration to accomplish similar purposes. Those bills, however, were the subject of considerable controversy. Representatives of the Committee on Effective Drug Abuse Legislation, the American College of Neuro-Psychopharmacology, the American Psychiatric Association, the American Medical Association, and our distinguished former colleagues from Iowa, Senator Hughes and from Nebraska, Senator Hruska, expressed concern that the enabling legislation failed to adequately protect the confidentiality of patient records; that it failed to adequately protect a private practitioner's right to carry on research with psychotropic substances; that it failed to designate who would determine the application of phrases-in the convention-like sound medical practice and very limited medical and scientific purposes, and most importantly that it failed to provide an affirmative policymaking role for health and scientific professionals to balance any restrictions on their role imposed by the convention.

Mr. President, the bill introduced today is nearly identical to measures former Senator Hruska and I introduced in 1973 (S. 1646 and S. 2544) and again in 1975 (S. 362 and S. 1266) and addresses these important concerns. It was developed to facilitate ratification of the Convention on Psychotropic Substances under circumstances that would adequately protect the confidentiality of patient records, the rights of drug researchers, and guarantee an affirmative role for health and scientific professionals in the drug control decisionmaking process.

Mr. President, during my 7 years as chairman of the Subcommittee to Investigate Juvenile Delinquency, I conducted an intensive investigation into the diversion and abuse of legitimately produced narcotic and nonnarcotic dangerous drugs. We have made considerable progress during these years. We have obtained a drastic, but necessary, reduction in amphetamine production. We have obtained a drastic, but necessary, reduction in amphetamine production. We had found that by 1971 nearly 50 percent of the amphetamines produced in the United States was reaching illicit markets and thus our streets and schools. The 1973 quota, based on legitimate scientific and medical needs represents a 92-percent reduction over 1971 levels. We have secured more appropriate control over the production and distribution, including export, of other drugs with high abuse potential, including the barbiturates and methaqualone. In short, these and similar important steps have effectively reduced illicit traffic and domestic clandestine manufacture of controlled drugs.

These measures, however, do not fully assist law enforcement agency efforts to curb illicit traffic of controlled drugs which are not domestic products. During the subcommittees' national investigation of barbiturate traffic and abuse we learned that as with the amphetamines, a significant portion of the barbiturates seized were from Mexico. These so-called Mexican reds-capsules containing legitimately produced barbiturates, but illicitly repackaged-were unlike the "Mexican" amphetamine which had in former years been of American origins containing amphetamines of legitimate West European origin.

Likewise, during our March 28, 29 and April 16, 1973, hearings on methaqualone, several witnesses indicated that legitimately produced foreign metha-

qualone was being illegally imported into the United States for sale in the black market and that counterfeit methaqualone was being produced in Canada and Mexico for illicit sale in the United States.

Similarly, extensive illegal barbiturate and amphetamine operations involving West European purchases of legitimately produced drugs and trans-shipment through Mexico to the United States were revealed at our subcommittee hearing on my bill, S. 1646, the International Psychotropic Substances Act of 1973 and S. 2544, introduced by Senator HRUSKA on behalf of the administration on October 8, 1973. One illicit Mexican operation alone was responsible for the repackaging of many millions of amphetamines eventually sold illegally in at least 14 States in this country.

The hearings entitled, Psychotropic Substances Act of 1973, February 25, 1974, are available from the Government Printing Office—stock No. 5270-02374. This 543-page hearing transcript covers the testimony of medical authorities, law enforcement officials legal scholars and others knowledgeable in the subject of international drug traffic as well as relevant exhibits, articles and commentaries.

During 1974, in a related development, the Drug Enforcement Administration arrested more than 100 individuals in 10 major cities throughout the United States and Mexico and smashed a wide ranging syndicate that had been responsible for smuggling annually more than 3,000,000,000 illicit amphetamine tablets into this country. This amounts to nearly 20 times the amphetamine production permitted in this country under the production controls and represents a value of between $1.6 and $2 billion annually on the illicit market.

These and other similar cases—see subcommittee hearing volume Psychotropic Substances Act, 1974—underscore the need for international controls which will assist the international law enforcement effort to curb the diversion of legitimately produced drugs to illicit markets around the world.

But regardless of the success of our efforts to impose domestic controls on these and other psychotropic substances, the absence of international cooperation and regulation could result in a failure to reduce the illicit availability of dangerous psychotropic substances here at home.

The diversion and abuse of legitimately produced dangerous drugs into channels other than legitimate medical, scientific, and industrial channels should be a primary concern for all citizens. Even if the war on heroin addiction had in fact been won, the epidemic of drug abuse which plagues American society would not be vanquished; for the source of supply for growing legions of addicts and abusers-polydrug abusers who outnumber heroin addicts 17 to 1 is at its origin a legitimate one.

Mr. President, I wish to commend my colleagues on the House side, Congressman PAUL ROGERS, who introduced the House companion bill on October 21, 1977—H.R. 9796. Congressman ROGERS' Subcommittee on Health and the Environment held hearings on similar legislation in the 94th Congress. Thus, both Houses of Congress have had similar legislation pending since 1971 and have conducted thorough hearings which should enable this Congress to process the Psychotropic Substances Act of 1977 as expeditiously as possible.

This legislation has been carefully studies by representatives of the Departments of State, Justice and Health, Education, and Welfare. It not only has their strong endorsement, but also that of the White House. It further has the endorsement of many other interested and well qualified individuals and organizations, including the American Association of Medical Colleges and the American Psychiatric Association.

Mr. President, I intend to give very high priority to this legislation, which is designed to stop the international diversion of billions of pep pills, sleeping pills and other dangerous drugs, and I join Senator CULVER in urging that this bill be brought to the floor as quickly as possible. It is not a panacea, but it is my belief that it will not only help us solve our problem here at home, but will also be of assistance to other nations, whose legitimate production when diverted to illicit markets can wreak havoc in their countries, as well as our own.

ADDITIONAL COSPONSORS

S. 2287

At the request of Mr. BURDICK, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 2287, a bill to authorize assistance to U.S. medical schools to encourage the development of programs of geriatric medicine.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. HATHAWAY, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution to assure quality health care for populations located in rural areas.

AMENDMENTS SUBMITTED FOR PRINTING

REFORM OF THE FEDERAL CRIMINAL LAWS—S. 1437

AMENDMENTS NOS 1654 THROUGH 1658

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted five amendments intended to be proposed by him to the bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

AMENDMENTS NOS. 1659 AND 1660

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted two amendments intended to be proposed by him to the bill (S. 1437), supra.

AMENDMENT NO. 1661

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed to amendment No. 1642, intended to be proposed to the bill (S. 1437), supra.

AMENDMENTS NOS. 1662 THROUGH 1665

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted four amendments intended to be proposed by him to the bill (S. 1437), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES

Mr. JACKSON. Mr. President, for the information of the Senate and the public I would like to announce the scheduling of a public hearing before the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources. Testimony is invited regarding S. 2310, a bill to approve certain contracts negotiated pursuant to section 7 of the Reclamation Project Act of 1939.

The hearing will be held on January 30, 1978, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Two other measures, S. 242 and S. 1812, also relating to the Federal reclamation program are on the subcommittee agenda for that day.

For further information regarding the hearing, you may wish to contact Russell R. Brown, professional staff of the subcommittee, telephone 224-2366. Those wishing to testify or submit a written statement for the record may write to the Subcommittee on Public Lands and Resources, Room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. ROTH. Mr. President, on January 25, 26, and 27, the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs will hold hearings on the development of a national urban policy. The hearings will be held in room 357, Russell Senate Office Building, beginning at 10 a.m. each day. Any person wishing to submit a statement for the record, may do so by sending it to the subcommittee office, room 508, Carroll Arms.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Monday, January 30, 1978, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

William H. Webster, of Missouri, to be Director of the Federal Bureau of Investigation for the term of 10 years, vice Clarence Marion Kelley, resigning.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ANTITERRORISM ACT HEARINGS

Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will begin consideration next week of S. 2236, a bill that would strengthen Federal programs and policies for combating international and domestic terrorism.

In the first 3 days of hearings, the

committee will hear testimony from officials of six Federal agencies directly concerned with terrorism and from several widely respected terrorism experts, both in and out of government.

The Antiterrorism Act, which I introduced, would: impose stiff sanctions on countries which aid or abet terrorists; upgrade the existing State Department Office for combating terrorism; create a new Office for Combating Terrorism in the Justice Department to coordinate domestic and international law enforcement; and strengthen the present Cabinet working group on combating terrorism and relocate it in the Executive Office of the President.

The hearings will be held in room 3302 of the Dirksen Senate Office Building.

I ask unanimous consent that the witness schedule of next week's hearings be printed in the RECORD.

There being no objection, the witness schedule was ordered to be printed in the RECORD, as follows:

Monday, January 23: (10:00 a.m.)

The Honorable Cyrus R. Vance, Secretary of State.

The Honorable Heyward Isham, Director, State Department Office of Combating Terrorism.

Wednesday, January 25: (10:00 a.m.)

The Honorable Benjamin R. Civiletti, Acting Deputy Attorney General, Assistant Attorney General of the Criminal Division.

The Honorable Langhorne M. Bond, Administrator, Federal Aviation Administration.

The Honorable David E. McGiffert, Assistant Secretary of Defense for International Security Affairs.

The Honorable Joseph Hendrie, Chairman, Nuclear Regulatory Commission.

Lizbeth K. Godley, Deputy Assistant Secretary for Administrative and Legislative Policy, Industry and Trade Administration, Department of Commerce.

Friday, January 27: (9:30 a.m.)

Mr. Frank Ochberg, M.D., Acting Director, Office of Program Development and Analysis, National Institute of Mental Health.

Charles Russell, Ph.D., U.S. Air Force, Office of Special Investigations.

Conrad Hassell, Supervisory Special Agent, FBI Academy.

Mr. Brian Jenkins, Rand Corporation.

Professor John Murphy, University of Kansas School of Law.

Mr. Yonah Alexander, Professor of International Studies.

Dr. Robert Kupperman, Chief Scientist, U.S. Arms Control and Disarament Agency.

ADDITIONAL STATEMENTS

ENERGY DEPENDENCE

Mr. DOLE. Mr. President, there is no question that the United States is dependent on import oil. However, unless we adopt energy policies different from those advocated by the administration, we face the growing threat of an unacceptable reliance on imported gas by the mid-1980's.

Vice President MONDALE announced yesterday that Canada has agreed to increase its natural gas exports by some $500 million annually. Today, we currently import 1 billion cubic feet of Canadian gas, 5 percent of our total consumption, at a cost of over $1 billion.

SUBSIDIZING IMPORTS

I find it incredible that we are willing to pay the Canadians $2.16/Mcf, while our domestic producers receive only $1.42/Mcf on the interstate sale of natural gas. I think we all agree that America has supplies adequate to satisfy most of our short-term needs. But that gas is logically going to the intrastate market. The continued regulation of the interstate market is causing a requirement for imported gas. To deny domestic producers of the opportunity to serve the domestic market is bad enough. But to then give $2.16/Mcf to foreign producers is beyond economic sense.

We are buying our way into dependence on foreign gas. In order to meet U.S. demand for gas, consumers and businesses are slowly being forced to subsidize foreign gas producers. While our balance of payments is afloat in a sea of red ink, the administration sets back and allows millions of dollars to flow out of the United States.

The current price of import Indonesian gas is $3.59/Mcf. Negotiations with Mexico to purchase natural gas have broken down because we refuse to pay more than $2.16/Mcf while the Mexican Government wants $2.60/Mcf. Most startling of all is the attempt of American industry to contract with Algeria to import natural gas over 7 trillion feet at $4.50/Mcf.

FOREIGN NATURAL GAS

Mr. President, the OPEC owns one-third of the world's gas reserves, but used only 29 percent of the gas produced for their wells. More than half was "flared" into the atmosphere. Within the next 2 months, a special OPEC commission established in 1975 is expected to recommend that the cartel set a floor price for its gas.

There are differences among OPEC members on the need to sell gas. Venezuela, Iran, and Algeria have initiated ambitious gas programs. Without a gas pricing policy, it may be possible to work one supply source off against the other to obtain the lowest possible price. However, judged by our past negotiating success with OPEC, the Senator from Kansas doubts that the cartel allows competition to occur.

Mr. President, our domestic gas pricing policy keeps producers from aggressive exploration. Our gas imports are sure to increase. Again, we are buying our ways into energy dependence. This is a far cry from our past assertions that our goal was energy independence.

Unless we can provide the correct market incentives to find new gas and develop alternative energy resources, the oil crisis of the 1970's may develop into the gas crisis of the 1980's. The danger signals are there. I hope that we have the foresight to take the steps to avert the problem.

ACCREDITATION OF HOSPITALS

Mr. FORD. Mr. President, the Joint Commission on Accreditation of Hospitals, as an incentive to improve community mental health centers throughout the Nation, has begun a program of accreditation that operates on a voluntary basis.

In conjunction with their effort, I would like to call the Senate's attention to the Green River Comprehensive Care Center, whose main offices are in my hometown of Owensboro. The Green River Comprehensive Care Center has achieved the unique honor of being the first community mental health center in Kentucky to earn accreditation from the Joint Commission on Accreditation of Hospitals and is one of only 50 programs in the Nation to be reviewed by the Joint Commission's Accreditation Council for Psychiatric Facilities.

An intensive, onsite examination of GRCCC's programs for children, the aged, the mentally retarded, the mentally ill, alcoholics, and drug abusers, and the preventive education program has verified the dedicated work of the citizen volunteers, highly competent staff of professionals and the support personnel who provide the high quality of care.

I am extremely proud of the center's distinguished record of service to others and proudly commend their accomplishment to the Senate.

TRIBUTE TO SENATOR McCLELLAN

Mr. SPARKMAN. Mr. President, I am glad to have this opportunity to join my colleagues in the Senate in a few thoughts regarding our late colleague and friend, John McClellan.

I first knew John McClellan when we served in the House of Representatives. He had been in the House for 2 years when I entered as a Congressman on January 3, 1937. He and I served on the same committee. He was an earnest, sincere, diligent and able legislator then, as he was when he later entered the Senate. I always enjoyed my friendship with him and my service with him. His death was a great loss to the Senate, but all who served with him will always remember his cheerfulness, his ability and his effectiveness.

ENERGY

Mr. PEARSON. Mr. President, 9 months ago, the Congress received from President Carter the "National Energy Act"—a multititled legislative proposal intended to mitigate and ultimately resolve our Nation's energy crisis. The administration's bill, structured to do battle with a situation described as the "moral equivalent of war," has been stalemated in the energy conference for more than 3 months with the conferees unable to reach agreement on the critical issue of natural gas pricing.

While the House voted to expand Federal regulation over natural gas production and sales to include the previously unregulated intrastate market, the Senate—for the second time in 2 years—adopted the so-called Pearson-Bentsen natural gas deregulation bill. Even though the Senate has endorsed a measure which would phase out Federal price controls over new natural gas produced and sold in interstate commerce, the Senate conferees have, until the energy conference recessed in late December, deadlocked nine to nine in representing the Senate position. Hopefully, this stalemate will be broken in the immediate future and the Senate position will be appropriately represented in the conference.

No doubt there are individuals and groups that are sincere in their opposition to deregulation of producer sales of new natural gas. The ranks of these proponents of continued and expanded Federal regulation, however, are thinning.

Mr. President, on January 1 of this year, the New York Times called for a speedy resolution of the natural gas issue by our congressional conferees. In reversing an editorial position it has held for several years, that publication recognized that higher prices will result in expanded domestic production of natural gas. The Times noted that—

(T)he combination of increased production and allocation of gas through competitive bidding to those who need gas badly would free 2 trillion to 4 trillion cubic feet for consumers willing to pay the extra 75 cents to $1 per thousand cubic feet. The risk of winter cutoffs to industrial customers would almost disappear and the incentive for utilities to contract for super-expensive foreign gas would be substantially diminished.

The New York Times now recognizes the basic attraction of the Pearson-Bentsen position regarding deregulation of the price paid for new natural gas. Unrealistically low Federal price controls over natural gas production have prevented the capital investment necessary to make an adequate supply of natural gas available to the shortage-plagued interstate marketplace. Uncertainty as to future Federal policy has restrained the more costly production of natural gas from remaining reserves. Simply stated, investors are attracted to a free marketplace not hampered by Federal regulation and price controls. Expanded exploration and development efforts spurred on by additional investment will ultimately result in increased domestic supplies of new natural gas for American consumers.

The New York Times is not alone in its new-found position. In a letter sent on November 15, 1977, to the Senate and House energy conferees, the American Jewish Committee called for "deregulation of newly found natural gas as compared to the President's plan for continuing administered price increases." The American Jewish Committee further stated:

We believe that reliance on the free market forces of supply and demand will result in increased domestic production, because we believe that there is gas to be found in this country at market prices. Moreover, allowing market forces to work will help to lessen our dependence on OPEC sources and will provide jobs for American citizens.

The American Jewish Committee understands several of the basic features which justify deregulation of new natural gas. They agree with the supporters of the Pearson-Bentsen position that there are additional supplies of natural gas to be discovered and produced within the United States. They recognize that deregulation will induce capital investments within this country rather than abroad. Perhaps most importantly, they correctly perceive that the administration's proposal with respect to the pricing of new natural gas is counterproductive and would, if enacted, discourage the implementation of a workable and successful national energy policy.

Mr. President, the National Association for the Advancement of Colored People has the stated objective of defending the economic, social and political rights and interests of black Americans. With this goal in mind, the NAACP, on December 23, 1977, recommended that the Carter administration adopt a more positive attitude toward the development of domestic energy supply sources including natural gas.

In their December 23 report, the NAACP stated that an attempt to perpetuate price controls on newly discovered oil and natural gas and extend those controls to new areas appears to us to be incompatible with the need for new supply development. The NAACP report found that the administration's energy proposal regarding supply enhancement cannot satisfy the fundamental requirement of a society of expanding economic opportunities.

The NAACP strongly believes, as do those who voted for the Pearson-Bentsen bill, that there exists a direct correlation between development of domestic energy supplies and expedited economic growth with resultant employment in the future. Enactment of the administration's natural gas pricing proposals would ignore the ascertainable economic benefits which would be derived through removal of Federal price controls over presently regulated sales of new natural gas.

Mr. President, the above developments are only several examples of the constant increase in the ranks of those who support deregulation of sales of new natural gas. I urge the Senate conferees who are representing the Senate position regarding natural gas pricing at the energy conference to take note of these views. No doubt there is need for enactment of a sound legislative policy regarding natural gas regulation. I firmly believe the Pearson-Bentsen bill passed by the Senate and presently pending before the conference provides the parameters for just such a policy.

I ask unanimous consent that the following recent newspaper editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 12, 1977]

ALGERIAN GAS—AT A PRICE

The Algerian gas ruling now confronts the Carter administration with a painful choice. Until now its energy policy has come in two different styles—one for oil, the other for natural gas. Unfortunately, the two are inconsistent with each other. It's like the acrobat who rides two horses with a foot on either saddle. The trick is hard enough when the horses are pointed the same way. But when they start moving in different directions, the rider's difficulties rapidly escalate. That is roughly where the Algerian decision leaves the administration.

Last week a federal hearing officer approved a gigantic project to import Algerian natural gas at a price three times the legal ceiling for gas produced in this country. If that strikes you as peculiar, you're on the right track. The gas is not expensive in Algeria. But the cost is driven up by the elaborate process of liquefying it, carrying it across the Atlantic in cryogenic tankers, converting it back into gas at a port in Canada and bringing it down a new pipeline into New York and Pennsylvania. The author of the plan is Tenneco Inc., a large pipeline company, which says that it will soon need the gas to serve its present customers.

Here we have a clear and concrete illustration of a point that a number of economists have recently been making in their academic and theoretical way. President Carter says that price controls on natural gas are necessary to protect the consumer. But the economists reply that the protection is only temporary. The price controls create shortages. To meet the shortages, the government resorts to increasingly esoteric and expensive new sources. The expensive new gas is averaged in with the artificially cheap domestic gas, and the average cost to the consumer rises. It eventually rises—to the vast astonishment of everyone but the economists—to the price that it would have reached without price controls. The only difference is that an increasing proportion of the gas comes, of course, from other countries.

You can see it happening. The present ceiling for domestic gas at the wellhead is $1.47 per thousand cubic feet. The Alaskan gas will reach consumers—if that gigantic pipeline is every built—at a price approaching $3. Last spring the Federal Power Commission approved a contract to import Algerian liquefied gas at $3.37. Now the Tenneco project would bring in a much larger volume of Algerian gas at $4.50. The Algerian contracts, incidentally, contain escalator clauses to lift these prices even further as the OPEC price of oil goes up.

For the past six months President Carter and his Secretary of Energy, James Schlesinger, have been telling the country that it has to hold down its oil consumption. The reason is that American dependence on foreign sources has reached a dangerous level. Mr. Schlesinger also points out that averaging cheap domestic oil with expensive foreign oil creates a tremendous subsidy for the imports—which in turn helps explain why the country is importing so much. You may have noticed that the Algerian gas deal would duplicate both of these errors. It would increase imports of energy—specifically, from Arab sources—and it would follow a price-averaging formula that subsidizes an expensive foreign supply with a cheap domestic one.

Until last month, the hearing officer's decision would have gone to the Federal Power Commission. But the FPC vanished with the establishment of the new Department of Energy, in the labyrinths of which the decision is now moving upward for review. It will be interesting to see what Secretary Schlesinger has to say about it.

TIME TO COMPROMISE ON ENERGY

Congressional energy conferees fiddle while America burns—$150 million worth of imported energy each day. Last week their negotiations over natural gas prices broke down, and with them all chances for energy legislation until the House-Senate committee meets again in late January. The committee is badly divided; no compromise appears likely without a change of attitude by key members. Senate liberals seem particularly intransigent apparently preferring no bill at all to legislation that would phase out regulations of natural gas prices.

Do the liberals have a case? If they succeed in blocking deregulation, another part of the energy program much favored by the liberals—the taxation of domestically produced oil—is almost certain to fall, too. But even if the gas issue is considered on its own, the rigid defense of price controls makes little sense.

Gas price controls exist to protect consumers. The price ceiling on newly discovered gas sold in interstate commerce—now set at $1.45 per thousand cubic feet—keeps prices down and limits producers' profits. But it also limits production of gas that can be obtained at the ceiling price and gas that can be sold in the unfettered intrastate market. Moreover, since consumers would like to buy far more gas at the ceiling price than is available, controls create artificial shortages. Gas is allocated on a first-come, first-serve basis with no regard for the relative value of gas to individual customers or the availability of substitute fuels.

As a result, power utilities in Florida burn gas (rather than plentiful but more expensive coal) to keep their customers' electric can openers humming while metal foundries in New Jersey must lay off employes for lack of adequate gas supplies. Those foundries, ironically, may eventually solve their supply problems by importing Algerian gas at three times the ceiling price of the domestic brand.

If the price were raised to $1.75 immediately (a plan that liberals reluctantly accept) and then increased 10 percent to 12 percent in each of the next five or six years (as compromise proposals call for), consumers would pay a price. Gas they could have had at $1.75 would cost $2 or $2.50 instead. But the return for those added dollars would be considerable. One middle-of-the-road estimate suggests that production would increase by about a trillion cubic feet a year, thereby replacing about 5 percent of the energy we now import. And many gas users who place a low value on the precious stuff would be given good reason either to convert to other fuels or to reduce their energy consumption.

The combination of increased production and allocation of gas through competitive bidding to those who need gas badly would free 2 trillion to 4 trillion cubic feet for consumers willing to pay the extra 75 cents to $1 per thousand cubic feet. The risk of winter gas cutoffs to industrial customers would almost disappear and the incentive for utilities to contract for super-expensive foreign gas would be substantially diminished.

As both liberal and conservative conferees know, phased decontrol is not the only way to increase output or to redirect available gas to those who value it most. Conservation could be encouraged through taxes rather than through payoffs to producers. Production incentives might be applied more selectively, carefully distinguishing newly discovered gas from identified reserves so as to minimize producers' gains. But this is not a realistic political alternative. A majority in the Senate and a large minority in the House favor outright decontrol. Hence there will be no natural gas legislation in 1978 unless the liberals accede to a compromise that preserves controls but gradually dulls their bite. A stalemate would be much too high a price to pay simply to deny gas producers additional profits. A speedy compromise is in the national interest.

[From the Wall Street Journal, Jan. 16, 1978]

A NATURAL GAS COMPROMISE

In opening his news conference last week, President Carter asserted that reducing imports of oil and natural gas is the linchpin of a strong dollar and a strong economy for not only the U.S. but also the world. If he believes this, how in good conscience can he continue to back a program that would penalize domestic production of energy to replace those imports?

In particular, how can he continue to back regulation of newly discovered natural gas? The administration continues to say that the price of American gas should be held to $1.75 or perhaps $2.03, which is to say that domestic gas that costs more than this to find and produce will be denied to American consumers. Meanwhile, the consumers are bargaining to buy gas from foreigners at prices of $2.16, $3.24 and $4.50. About half of Congress, including nine Senators on the energy conference, are willing to stand beside the President in this ludicrous position. But almost no one else is.

Mr. Carter said he was "surprised" that deregulation has been supported by the National Association for the Advancement of Colored People, on the grounds that denying the economy energy resources is especially bad for blacks. The Washington Post and The New York Times, editorially two liberal beacons of the land, both favor forms of deregulation of gas prices. We reprint two of their editorials below. And do not forget that barely over a year ago, during the presidential campaign, deregulation was also supported by Jimmy Carter.

We would hope that swelling support for deregulation across usual ideological lines would start to reach the congressional conferees. In particular, some Northeastern members of Congress are committed to continued regulation in public though in private they will concede that their region has the most to gain from deregulation—among other reasons because it is the region that will otherwise pay high prices for imports. But as the trend of thinking shows, even when political leaders are not willing to lead, their constituents will eventually come to understand their own best interests.

There remains the problem of face. The President and much of Congress are so deeply committed it would be embarrassing for them to yield on the issue even if they were convinced it would be in the nation's interest. From the first we have felt that the heart of the energy debate has been whether the nation will rely on market mechanisms or Washington regulation to solve its energy problem, and implicitly other problems as well. But if we were among the conferees, there is one measure that would tempt us to bend our insistence on a clear if eventual end to regulation of gas prices.

To cut this remaining knot we offer The Wall Street Journal compromise: Continue the regulation of natural gas, but stipulate that regulators cannot hold the price of domestic gas below the highest price being paid for imported gas.

TRUE TAX REFORM

Mr. SASSER. Mr. President, an editorial addressing the subject of income tax reform appeared in the December 29 issue of the Chattanooga Times. The Times has effectively served the people of southeastern Tennessee for over a century, most recently under the able leadership of its publisher, Ruth S. Holmberg.

I am convinced, Mr. President, that the general American public is ready for fundamental reform of the Nation's tax laws. Tax expenditures are currently estimated to total $134.1 billion in the 1979 fiscal year, with about $103.7 billion of that going to individual taxpayers. The balance will go to corporations.

By rough calculation, about one-third of the benefits from the tax expenditures for indiivduals will go to taxpayers with annual incomes of $50,000 or more. However the number of taxpayers in that income category is less than 2 percent of all individuals filing Federal income tax returns. But the inequitibility of the tax system does not end there. Since each individual within that select group is apt to benefit differently from the myriad special preferences in the Internal Revenue Code, those benefits are unevenly distributed.

Mr. President, the Federal budget deficit for the current fiscal year is over $61 billion. We can expect another annual deficit approaching that size for the coming fiscal year. Deficits are caused, as my colleagues know, by expenditures in excess of receipts. Whenever we approve large deficits such as these, there is strong public demand for greater scrutiny of the budget to reduce wastefulness. I believe the issue of better accountability in Federal spending practices is one of the most pressing matters on the national agenda today, as well it should be. American taxpayers expect judicious management of their tax payments to the Government. They also insist on some assurance that tax expenditures are going to worthy purposes, especially since over half of next year's likely deficit will compensate for the tax favors enjoyed by the Nation's wealthiest individuals.

I hope that the Congress will use the occasion of the President's tax reform proposals this year to take a substantive step in the direction of basic tax reform. This should require serious study of basic alternatives to the current system of income tax rates, deductions, exemptions, credits, and assorted confusion in the Internal Revenue Code. In the meantime, I am hopeful that we will thoroughly review at least a portion of the tax expenditures in the law with the intention of removing those which most deserve to go.

Mr. President, I ask unanimous consent that the Chattanooga Times editorial, "True Tax Reform," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chattanooga (Tenn.) Times, Dec. 29, 1977]

TRUE TAX REFORM

The Internal Revenue Service will begin sending out its tax forms and instruction booklets in a few days, which means most Americans will be figuring their income taxes at about the same time President Carter sends his tax reform proposals to Capitol Hill. Few details of the proposal have leaked out but it is inevitable that its scope will demonstrate just how serious he is about reforming a system he denounced on the campaign trail last year as a "national disgrace."

The problem, of course, is that in attempting serious reform of the tax code, Mr. Carter and Congress will run smack into some of the jealously guarded prerogatives, One man's loophole is another man's burden; each deduction, shelter or other tax avoidance schemes can be zealously defended.

As these have proliferated, however, the tax system's primary task—to raise taxes for the operation of government—has been obscured. The code has, in time, become a means for achieving certain social and economic goals. This has resulted in nearly $100 billion in what is called "tax expenditures": taxes that would have been collected had they not been excused because of the myriad exceptions stuffed into the code over the years.

To be sure, most of the special exceptions written into the tax code were done for the best of reasons. But as layer upon layer of

special legislation has been added to the tax code, it has become awesomely complicated, a gold mine for special interests from virtually every spectrum of society and—perhaps most important— a means of granting subsidies that probably would be defeated if they were debated in the open.

If Mr. Carter is truly serious about his desire for real tax reform—and we believe he is—then it is imperative that he approach the task in the most fundamental way; use the tax collection system to raise taxes for government operations and nothing more. Congress may deem it advisable to subsidize a particular activity at some time. Fine. But let it do so "in the sunshine," not through a seemingly-innocuous amendment to the tax code that is buried in an unrelated bill. Why, for instance, should some Americans have to pay extra taxes because other citizens can escape paying taxes on money they have sunk in some off-the-wall real estate venture that was actually designed to lose money?

The Carter Administration and Congress should examine the radical, yet sensible, route of abolishing most of preferential tax provisions and follow that step with a drastic reduction in tax rates. Synchronizing those actions would insure that the government would not lose any of the money it now collects. But more important, it would vastly simplify the tax code (now decipherable only to highly trained specialists) and, we predict, enhance the public's confidence in a function of government that has never been truly popular. Moreover, it is reasonable to predict that individuals and businesses would predicate future decisions on their merits and not on how such actions could reduce their tax liability.

Mr. Carter is catching a lot of flak for his proposal to cut in half the business deduction for the infamous "three-martini lunch." If his tax reform proposals, taken together, amount to no more than that, then such criticism will be justified. If the administration and Congress merely shuffle off some of the more flagrant tax avoidance schemes or lop off a few billion dollars in taxes in the guise of providing "relief," it will have been far better if they had simply left bad enough alone. Tax reform that is not true reform is worthless.

THE REVEREND JESSE JACKSON SPEAKS

Mr. PERCY. Mr. President, the Republican National Committee under the chairmanship of Bill Brock and Mary Crisp is presently holding a meeting in Washington.

Together with Senator BOB DOLE, Minority House Leader JOHN RHODES, and Minority Whip ROBERT MICHEL, I had the privilege of hearing at the luncheon held today a valued constituent of mine and a great American, the Reverend Jesse Jackson.

I want to commend Chairman Brock for inviting Jesse Jackson to speak, and I also want to commend Jesse Jackson for accepting that invitation and delivering a dynamic message that should be read and studied not only by all Republicans but all Americans as well. I have previously on several occasions addressed the Senate on the remarkable accomplishments of Rev. Jesse Jackson, national president of Operation PUSH. No further comments need be made by me regarding his speech today, as its logic and brilliance speaks for itself. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY REVEREND JESSE L. JACKSON, NATIONAL PRESIDENT OF OPERATION PUSH (PEOPLE UNITED TO SAVE HUMANITY)

Last month your chairman, Mr. Bill Brock, sent me a letter. In the letter he indicated that the Republican Party was embarking on a new program to open its doors to greater participation by black Americans. He indicated, on behalf of the party, a willingness to listen and a desire to respond to our needs.

He also indicated that this platform would give us the opportunity to meet personally with leading Republicans across this nation and to discuss with them our organization, Operation PUSH, and its "PUSH for Excellence" in education program. Many of you may have heard of our work in this and other areas and desire to get involved. We welcome your participation.

Further, Mr. Brock said that he felt the American political process was on the threshold of historic change, and that black people should play an important role in shaping that future. We agree. So, after serious consideration and deliberation, I decided to accept your invitation. I view my presence here today as an indication of a new realization by this party that blacks do exist and are here today. Even more importantly, I hear you saying that our presence or absence does make a political difference.

Mutual need is the basis of an alliance. Black people need the Republican Party to compete for us so that we have real alternatives for meeting our needs. The Republican Party needs black people if it is to ever compete for national office or, in fact, to keep it from becoming an extinct party.

Since 1964, with very few exceptions, the Republican Party has turned its back on the black vote and black interests. Yet, we have both a right and an obligation to expand our political options. We must now exercise that right and obligation with regard to both the Republican and Democratic Parties, and create external pressure upon both.

I want to discuss four basic points today:

(1) Political enfranchisement—the right to vote.

(2) Political power—our political options.

(3) Political program—our areas of vested interest.

(4) Beyond partisan politics—a new America.

I want to state my premise at the very beginning. The only protection people have politically is to remain necessary. We must pursue a strategy that prohibits one party from taking us for granted and another party from writing us off. The only protection we have against political genocide is to remain necessary.

I. POLITICAL ENFRANCHISEMENT—THE RIGHT TO VOTE

For blacks, political participation historically has involved a struggle to gain equal access to the political arena. Our state of slavery meant we were property, not persons, and therefore could not enjoy the rights and privileges of citizenship—including political rights. During the first Reconstruction, black registered voters actually outnumbered white registered voters in ten Southern states, and we won elective office at all levels of government, including the Congress. This progress, while nothing short of amazing, was short-lived and by the turn of this century had been reversed. It was not until the protest movement of the 1960s, lead by Dr. Martin Luther King Jr., culminating in the 1965 Voting Rights Act, that we again began to make political progress.

Thus, in 13 short years, we have gone from 400 black political officials to over 4,000, but it is still less than one-half of one per cent of all public officials.

In 1965 we had fewer than five black Congressmen, we now have 16 black Congress persons. We had no black U.S. Senators, we now have one, Senator Edward Brooke. We had no black justice on the Supreme Court, we now have one, Justice Thurgood Marshall. A black serves as U.S. Treasurer and as chairman of the Civil Service Commission. We had no black lieutenant governors, we now have two.

While much progress has been made to eliminate the external barriers denying our right to vote there are still some barriers remaining. We can't even play the game adequately until our entire team shows up on the field. We have 16 million black people eligible to register and vote but only about 9 million are in political uniform—registered. We must press on toward full voter registration—and against the odds I might add.

The Democrats have no incentive to register us because we already comprise one-fourth of their total vote and they are afraid we will vote black. The Republicans feel they have no incentive to register blacks because we tend to vote Democrat Many of the same people who opposed our right to vote also oppose our being fully registered to vote.

The natural energy crisis is not the only energy crisis before us. There is a human energy crisis. In the natural energy field we are rapidly using up our fossil fuels, but in the human energy crisis the problem is the exact opposite—we have unused fossils. The 7 million unregistered black voters are the unwanted and unwasted political energy potential in our community and country. We cannot be useful unless we are used, yet our problem is that one party has capped up the pipeline and allows this potential energy to lay dormant, while the other party's pipeline is over-flowing therefore wasting energy. We want our energy to be used by being useful to ourselves and others, not mis-used through the waste of overflow or non-use.

We have the *right* to vote in 1978, but the *ability* to exercise that right through full voter registration is still the unfinished work of political enfranchisement.

II. POLITICAL POWER—OUR POLITICAL OPTIONS

Power is simply the ability to achieve purpose. Our purpose is both simple and complex. Simple because our goal is equity and parity (our share) ! Complex because we must begin where we are and use what we've got to take us to where we want and need to go.

If the Republican Party is to attract black voters, it must involve us in the party and in the process of developing the political strategy to attract the black vote. An all white Republican National, State and County leadership apparatus designing a strategy to attract black voters will not work. We must be involved in the party and political strategy development. We must be made a part of policy development and in putting forth programs. Only such a serious and genuine effort on the part of the Republican Party will result in effectively attracting black voters.

For one of the first questions black voters and potential candidates will ask is, "How has your party dealt with those committed black Republicans who have labored in your ranks through hard and often bitter years?" Have your companies rewarded them with good jobs and contracted for their goods and services, or are they now being ignored by Democratic politicians and abandoned by Republican businessmen? Bob Brown, Jim Cummings, Sam Jackson, Gloria Toote, Jewel LaFontant, Art Fletcher, these tried and true black Republican warriors are the bridges to the untapped black resources.

Black people have three strategy options available to them relative to the use of their political power. One—we can "not vote." We can adopt a cynical point of view which says

that "neither party is putting forth the perfect candidate for us," therefore, we will vote for neither. I do not accept this option as viable for us. While black impatience with, and indifference towards the political process is understandable, it is a fact of life that non-participation only makes matters worse. So I reject the "no vote" posture as a strategy.

Secondly, we can adopt a strategy where we give all of our votes to one group of people based on blind loyalty, rather than vested interest and reciprocity. I can't endorse this strategy either, because it gives us power, but no leverage. A football team that runs *all* its plays on the ground and never throws a pass can be defensed and stopped. A team that runs the same play all the time doesn't need to huddle. We've got to diversify our game plan.

A third option and strategy, which I do suggest we pursue, is that we exercise all our political options based on vested interest and reciprocity. We must, without cynicism but with realism, exercise every available political option open to us.

President Carter was elected in 1976 because 6 million black Americans gave President Carter over 90 per cent of their votes—not to mention the fact that it was the black vote that secured his nomination. Black voters provided Mr. Carter with the crucial margin of victory in several closely contested states, without which he could not have been elected. Mr. Carter defeated then President Ford by less than 2 million votes, and won the electoral college by the slight margin of 297 to 241—a change of 28 electoral votes would have allowed Mr. Ford to remain President. And if the Republican Party had nominated Senator Edward Brooke as its Vice Presidential candidate, a man fully qualified, Republicans would probably still be in power. If President Ford had won one state, Pennsylvania, he also would still be President, because their 29 electoral votes would have tipped the scales. Carter's margin in Pennsylvania was 128,456, but blacks cast 274,141 votes for the Democratic Presidential candidate (87.2 per cent of the black vote). One state, where a change of just 65,000 votes would have made the entire difference in the election, and some of those 65,000 votes Republicans did not get because they simply did not go after them.

It should be remembered that the nearly six million black votes for Carter represented more than three times his popular vote margin of 1.7 million.

In the race for U.S. Senate seats, in nine key states, blacks supported contested winners with at least 30 per cent of their vote. This was true despite the fact that only 61 per cent of eligible blacks are registered outside the South and 56.4 per cent in the South.

The Democratic Presidential Nominee won, not just because blacks tend to vote Democratic, but because there was an enthusiastic black vote. The apathy anticipated did not materialize, and an estimated 64 per cent of the registered black voters voted; compared to only 58 per cent of registered blacks who actually voted in the 1972 election, 87 per cent of which went to the Democratic nominee. Black apathy and political indifference can not be counted on in the future. So the difference was not just the black Democratic vote, but the enthusiastic black Democratic vote. In 13 states, Alabama, Florida, Louisiana, Maryland, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas and Wisconsin, the black vote was the margin of victory.

Let me come back to the point of these seven million unregistered black voters. Only five presidents: Herbert Hoover (1928), FDR (twice, 1932 and 1936), Eisenhower (1956), Johnson (1964), and Nixon (1972), have defeated their opponents by more than 7 million votes. Of the 50 states in the union, only 8 have populations of 7 million or more. Few countries on earth, and only a hand full of world capitols, have populations exceeding 7 million voters. Hand that picked cotton in 1966, did pick the President in 1976; and could very well be the difference in 1980.

It's a mystery to me why Republicans have had the attitude that blacks will not vote for them. Blacks vote as intelligently, and as diversely as any other group. We vote our vested interests and only when we are ignored or race is brought into a campaign as an issue does the black vote polarize. Mr. Ford lost Ohio and many other states because there was no real effort to attract the black vote.

I'm not just speaking theoretically when I say blacks will vote for Republicans who appeal to their vested interests and engage in reciprocity. Blacks contribute significantly to Senator Percy, Senator Mathias, Senator Javits, Senator Brooke, and Senator Baker. Blacks did vote for Governor Milliken in Michigan and Governor Bond in Missouri. In the past we have contributed considerably to Governor Winthrop Rockefeller in Arkansas and Governor Nelson Rockefeller in New York. These persons felt and feel that we are necessary, and we felt and feel they were worth putting in office. There is evidence that we will vote our vested interest.

We must use the political franchisement and power that we have to propel us to where we have to go.

III. POLITICAL PROGRAM—OUR AREA OF VESTED INTEREST

Where do we have to go? Just as we must demand equity and parity within political parties, we will support political programs that address our vested interest and lead to equity and parity in the society. We are behind, and the gap must be closed. Our political votes must be translated into economic oats.

Business

We do not have economic equity nor do we receive economic reciprocity for what we contribute financially to the American society. What black people own or control is no where in proportion to the more than 90 billion dollars of expendable income we spent last year in the American Market. In the larger cities of this nation, like Chicago, blacks are 35–50% of the day-to-day shoppers; and 85% of the weekend trade. Yet we do not have our share of the nation's banks in the country—and three of that small total was lost last year. We don't control our share of the nation's business wealth, since our businesses claim only eight-tenths of the 1 percent of the total business receipts; and less than 1 percent of business assets and we hire fewer than 3 percent of the black force. OMBE is a bastard budget, an insult to our economic intelligence. We need targeted investments, co-venturers, priority access to divestitures of holding companies by banks, television stations and favorable interest rates.

Health

We do not have our share of the nation's trained doctors. We are only 1.6 percent of the nation's physicians, and while there is 1 white physician for every 649 whites; there is only one black physician for every 4,298 blacks. The life expectancy in 1973 for white males and black males was 69 years and 62 years, respectively; and for white females and black females, 76 years and 70 years respectively. In 1969, the death rate from all causes in the U.S. was 731 per 100,000 estimated population. The rate for white was 695 per 100,000 population and 1,046 for non-whites—a difference of 352 per 100,000. In 1971, the white infant mortality rate was 17 percent compared to 30 percent for non-whites, a difference of 13 percent. According to the American Medical Association's Annual Report on Medical Education, there are only 1,447 black medical residents of some 42,000 totally in the nation. There are fewer than 550 black interns out of a total of 24,000. At the same time there are over 15,000 foreign medical school students in graduate training programs. There are 50 percent fewer American Black Doctors than foreign doctors in this nation.

Professionals

We do not have our share of the nation's architects or engineers. A recent survey by the American Institute of Architects showed only 400 of 45,000 licensed architects to be black, less than 1 percent of the total. Blacks are only 4.2 percent of bank tellers; 3.1 percent of the electricians; 3.1 percent of the social sciences; 1.8 percent of insurance brokers; 1.3 percent of lawyers and judges; 1.3 percent of stock and bond salespersons; and 1.2 percent of engineers. In the skilled labor field, we are only 2 percent of the carpenters and nine-tenths of 1 percent of sheet metal workers.

Education

We have been denied our share of the nation's educational resources. While whites complete an average of 12.1 years of school, blacks still only complete an average of 9.4 years of school. Our college enrollment has suffered a 25 percent decline in the past 4 years. The dropout rate for blacks is 43.8 percent and blacks constitute fewer than 2.9 percent of all college and university instructors. A study of the National Assessment for Educational Progress reveals we are 46 percent of the functionally illiterate youths nationwide.

Land

We do not hold our fair share of the nation's land. The Black Economic Development Center and the U.S. Census Bureau report a land loss among blacks in the past 20 years of over 7 million acres.

Media

We don't approach equity in the mass media. A recent study by the U.S. Commission on Civil Rights discloses that we are still locked out of the top level decision-making positions in the media, particularly in the television industry. While minority male employment has increased by 42.6 percent and minority female employment by over 30 percent, only 6.5 percent of the officials and managers were minority; only 4.8 percent were minority females. Only 2.7 percent of departments heads at stations surveyed by the U.S. Commission on Civil Rights were black males or females.

Youth

There are 400,000 men and women in America's jails and over 300,000 are black and brown and the overwhelming majority are young. Thousands are there because they can't afford bail/bond. Others are victims of long delays that often surpass the length of the penalty. The liberties extended to the privileged of Watergate heighten the trauma. Our black young people are confronted with reduced life options. They are disproportionately occupying our jails (3 out of 4); languishing on the corners, unemployed (65 percent); or going to early graves, when they ought to be in school or employed and becoming productive citizens. It costs more to incarcerate our young people than it does to educate them. If a young person is sent to jail in Illinois for four years, it will cost approximately $52,000, and the chances are that he or she will only become a hardened criminal. If you send that same young person to the University of Illinois for four years it will cost approximately $20,000, plus you have a tax paying, law abiding, productive citizen. The choice? Education and employment or ignorance and incarceration.

What are blacks asking in return for their votes? One thing we're not asking is for an

exclusive black program. You will note, I hope, that each of the issues about to be discussed are not limited to black people, but will benefit all Americans. If I might make a suggestion, I would advise that you cannot anti-Carter your way into power. Your challenge is to chart a new course of action that addresses itself to the needs of the maximum number of people.

(1) Economic Security—Jobs are the creative alternative to welfare. We will not have reached our goal until every American willing and able to work is provided with a meaningful job doing socially useful work and making a livable wage—and affirmative action must aid our upward mobility.

(2) A Comprehensive and Coherent Urban Policy—There has never been a suburb without a city. We need a domestic Marshall Plan to rebuild our cities. We need a plan, a timetable and a financial commitment.

(3) Welfare Reform—Any welfare reform package must have incentives to earn and learn, with a commitment to protect the dignity of those receiving government assistance.

(4) Business Development—We are looking for a commitment to help build our economic institutions (our banks, insurance companies, etc.) and access to capital. Presently, even the monies targeted for our communities remain in downtown banks rather than in black banks.

(5) Education—Our right to equal opportunity and access to education must be protected, and enough money to provide a quality education for all must be provided.

(6) Health—We are looking for a program that provides a high standard of health care which is affordable by all Americans.

(7) Housing—There must be a commitment and a program to provide decent, safe and sanitary housing in a healthful environment. We must protect the housing we have and build the housing we need, including an expanded program of government assisted housing for low and moderate income families. Too few Americans can afford the prices of the present housing supply.

(8) Tax Reform—A fair and equitable tax reform package that assures that business and the individual pay their fair share.

Let me double back and make a few of these points a little clearer. First, economic security. Blacks seek jobs as the most viable alternative to unemployment, welfare and despair. Jobs in both the public and the private sectors must be provided. The government that uses our youthful energy in war; collects our taxes when we work; that same government, if it is a government of, by and for the people, must aid us in an unemployment crisis.

Secondly, a coherent urban policy, with an adequately financed housing and community development component that is perceived as a rational investment and a duty is needed. Cities need the latter to improve the quality of life and the former to increase the quantity of life's benefits to all of its citizens. We seek a policy which prioritizes rebuilding our cities. Our cities have a trainable and educable work force that is disproportionately idle because industry and jobs have fled to the suburbs—and frequently, overseas. Massive amounts of federal revenue sharing funds are needed to finance this immediately. This investment would in turn attract people and other monies from the private sector.

Thirdly, welfare reform. This is a concern of blacks because of the large percentage of black families in poverty. While eight per cent of the nation's families are poor, 32 per cent of black families are strapped by this disability. We seek a system that provides incentives to earn and to learn. We want jobs and job training and retraining. We need a balanced approach. It must be remembered that only 10 per cent of those presently receiving public aid are able to be employed.

Fourthly, business development. Blacks need business development as well as jobs. Today black businesses claim a mere 8/10ths of one per cent of the nation's business receipts and employ less than three per cent of the black and minority labor force. We have two political parties but one economic system. There are people in this room who represent the power of that economic system. You need not wait until 1980 to wield that private sector power in the interest of blacks. You can do this through support for black financial institutions and businesses, through joint ventures and acquisitions and through using your tax incentives to provide job and business opportunities in our depressed urban and rural areas. And, whereas government may not be able to do all things, it should be clear that government has to be more than a passive partner.

Blacks need access to the Commerce Department, both in terms of facilitating contractual relationships with other departments and agencies of the federal government and in terms of providing opportunities for such things as: foreign trade; purchase of divestitured property; access to national markets; development of joint ventures, etc. Black banks need major investments from the public and private sectors. There are now eighty black banks, but three were lost in the last three years and federal deposits in them have been decreasing over the last year. Black banks need at least $4 billion to begin the work of reconstruction in our communities. We want to serve as development banks in target communities. We will teach the so-called unteachable. We will black-line the red-line and make it a green-line. We have survived with little help. We could flourish with support. Help us make flowers bloom in the desert. Black retail and wholesale firms need greater business opportunities and ability to leverage themselves and to have the benefits of increased capital formation.

Fifthly, education. Education is the major passport to economic independence. Yet, while whites average 12.1 years of schooling, blacks average only 9.4 years; and the drop-out rate among blacks is 43.8 per cent.

In the past four years there has been a 25 per cent decline in black college enrollments. Blacks have been entrapped by Bakke and Nakkeism—or a groundswell against affirmative action. This has already resulted in a 9.1 per cent drop in the number of first year black medical students, the Institute for Health Resources Development reports.

The costs of such discrimination rob this nation of $13 billion annually, and at present rates of progress it will take 43 years to remove job discrimination alone, according to an EEO study.

Business, labor, government and the consumer *all* must play a part and have a role in addressing these issues and developing these programs. People who are ill-informed are ill-intentioned speaking on the role of government are often demagogic and divisive and their hand ought to be called. Those who argue that there is too much government end up having their businesses subsidized by government; having their house note insured by government; attending schools receiving government monies; living in suburbs built on government incentives; riding to work on highways subsidized by the government; taking government subsidized public transportation to their job; and taking vacations or business trips on subsidized airlines.

We've got to be consistent. You can't argue that government subsidies and investments should end just as soon as your needs are met. It's clear, business and labor can't do it by themselves. There's no use trying to turn back the clock. It can't and won't be done. Government's purpose is to protect and distribute justice and life and liberty and the pursuit of happiness to all its citizens. Government has been used to protect the interests of business and various other interests in this society. We can't all of a sudden degrade government intervention when it is used to protect the interests of the poor. It must be used to fulfill its essential purpose. So let's get on with the creative role of the proper relationship and balance between business, labor, government and the consumer that is fair and equitable for all.

In the international economy, we support free trade and fair trade. We are concerned about the flight of capital and jobs. Last year, of $164 billion invested by American corporations, $32 billion went abroad, often to cheap labor markets under the control of authoritarian governments. We are not willing to trade jobs paying livable wages for C.E.T.A. jobs. Every American has the right to a meaningful job doing socially useful work making a livable wage.

Whoever is most willing to meaningfully address themselves to this agenda through a political program deserves our vote. Black people behave politically just like everybody else. We supported Lincoln (by joining the Union Army) because he was the vehicle for deliverance from slavery. We supported Roosevelt because his "New Deal" addressed our needs. Many supported Eisenhower because he brought the boys back home. We supported Kennedy because he got Dr. King out of jail at a critical juncture and expressed an interest in our interests. And even then, 1960, the black vote of Fulton County, Georgia (Atlanta) carried the county for Mr. Nixon. The grandfather of Maynard Jackson had laid the groundwork. We are growing up now. We are maturing. We know how to split our tickets. Wise political parties and politicians exploit (in the best sense) the openings in the other team's offense and defense.

IV. BEYOND PARTISAN POLITICS—A NEW AMERICA

I contend that there are two great traditions, the political and the prophetic. And the two are sufficiently distinct until both have valid roles of service to people. Prophets need politicians—they keep reminding us of how things are. Politicians need prophets—they keep reminding you of how things ought to be. It is this creative tension that makes us healthy, alive, sensitive, alert and accountable.

Partisan politics has its place, but ultimately Democrats must be more concerned about democracy than the Democratic Party. And Republicans must be more concerned about the republic than the Republican Party. We must save our children, our families, our sanity with a foundation of spirituality. For beyond both Democrats and Republicans we need a New America, characterized more by ethical values than ethnic separation. We must have a transcendant agency. Some values all of us must hold dear. We must choose the high road rather than the low. We must turn a bad situation around.

Enough of assassinations, Vietnams, Watergates and Koreagates. We must turn around the social decay and reverse the social despair. Create a society where life is meaningful and people do not have to turn to violence, drugs, intercourse without discourse, alcohol and other forms of escape just to cope. We must have the will and spiritual stamina necessary to fight the good fight. We must rekindle motivation, put forth the effort and engage in the discipline necessary to achieve our goals.

More vital than the economic crisis is the spiritual and moral crisis facing us. It doesn't matter if the Democrats or the Republicans are holding the bucket if the bucket has a hole in the bottom. We have lost the confidence of this generation's youth through war and scandal. Who in a government leading a war with no moral justification could tell our young people not to engage in violence and vandalism? What political leader involved in lying, cheating, cutting corners and other forms of scandal and venality has the moral authority to challenge a lost generation tripping out on angel dust, cocaine and alcohol?

The challenge of this generation of adults is to regain the lost confidence and trust of this generation's youth. We would be much better off if this generation of young people were in the streets marching and protesting for jobs, housing, health care, the environment, for the rebuilding of our cities and for reforming the criminal justice system—all of which happen to be socially redemptive programs—rather than their present indifference and turning inward, so often putting dope in their veins, rather than hope in their brains. Even when our young people are marching and protesting, too often they're doing it in the name of personalisms and a normally decadent agenda. Paralyzed by cynicism, they're fighting to lower the drinking age to eighteen; fighting to extend their personal sexual habits; fighting to legalize dope; fighting to live together without assuming the responsibilities of mature adults in marriage; and other forms of decadence.

It is interesting that in spite of economic magnets, if the legislative and legal realm has not made life livable and safe; if the social institutions have not provided complimentary services; and if the religious institutions have not set a moral tone—people will never gravitate to the economic magnet. In other words, nations need money and jobs —but they need more than this. Neither people nor nations can live by bread alone.

Ultimately the concern for the quality of life must prevail. Homes outlast houses, and faith outlasts fact. Once there was a long and arduous biblical journey called the Exodus—as people sought to move from slavery to freedom. It is significant that the fertile soil of Canaan was not considered the kingdom (the millenium) without the 10 ethical commandments of a sound society, the moral laws by which people live. The issue and teaching of these laws was a forerunner to national development. In other words, the death of ethics is the sabotage of excellence. Without an ethical foundation, economics become unfeasible; education loses purpose; and purpose loses power.

Our country resembles Canaan, but without the ethical commandments and a decent moral tone and a safe environment, we will fail—even if the schools are new, the administration honest and dutiful, and the budgets balanced.

The loss of ethical values affects the economic value adversely. Usually an ethical collapse precedes an economic collapse. Crime in the suites often precedes crime in the streets. We are taking the ethical crisis too lightly. No one includes it in their job description and thus no one assumes the responsibility for analyzing it or using creative enegy to resolve it.

It is this revival of the spirit of the people that will attract industry and jobs.

It is an alert and sober people that will pressure the federal and state govenments, and both parties, for sound priorities. A handful of sober and sane people wield more power than densely populated cities of drugged and alienated people.

I say to blacks, put pressure on the political system and on the politicians in both parties We select them, elect them and now we must collect from them. I urge blacks to fully register and to join both parties and broaden our political options.

But there is a missing factor that must be derived from the governed not the government—the will to live, the urge to EXCEL. The power of the human spirit must take this national caterpillar and turn it into a butterfly. We must break out of the marshy meadows of mediocrity into the clear paths of the solid foundation of excellence. We must:

Tell the people of our nation that the only protection against genocide is to remain necessary;

Tell them that the laws of convenience lead to collapse, but the laws of sacrifice lead to greatness;

Tell them if you can conceive it, and believe it, you can achieve it;

Tell them it is not your aptitude, but your attitude that will determine your altitude with a little intestinal fortitude;

Tell them not to be servile for it is humiliation, but to be of service—for service is power; and

Tell them to desire to work and then demand to work and then insist that they get paid for the work they do. A servant is worth of his hire, but more than money is derived from work. For, from it comes the joy, the security, the fulfillment and the self-esteem of doing a job well.

I still believe the country can be saved with bold and courageous leadership. A flower can bloom in the desert if we dig deep enough to find the roots down beneath the soil—beneath the corruption, the corrosion, the hunger, the hurt. There is a taproot connected to an underground water supply from which all water flows. If we dig deep enough and wide enough we can turn the desert into fertile soil and make flowers bloom. Dig, dig, dig, for new values and new vision.

If we seek new values in the nation, we will add new value to the nation.

We need doctors whose concern for public health is greater than their desire for personal wealth.

Lawyers with a greater concern for justice than for judgeships.

Teachers who teach for life and not just for a living.

Politicians who seek not merely an office, but seek to be of service.

Preachers who prophesy, not just profiteer.

There must be love of the nation and love in the nation. But, unless God builds the house, we labor in vain.

If a nation is to survive, it must be a nation with solid foundations—whose builder and maker is God.

Thank you very much.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 18, 1978.

In reply refer to: I–12390/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78–9, concerning the Department of the Navy's proposed Letter of Offer to the Federal Republic of Germany for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $80.9 million and support costs of $3.5 million for a total estimated cost of $84.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director,
Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78–9—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Federal Republic of Germany (FRG).

(ii) Total Estimated Value:
Major Defense Equipment [1]—$80.9 million.
Other—$3.5 million.
Total—$84.4 million.

(iii) Description of Articles or Services Offered: Nine-thousand (9,000) active optical target detectors (AOTD) for the AIM–9L SIDEWINDER missile.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 18 Jan. 1978.

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

S. 2393—SMALL BUSINESS INCORPORATIONS

Mr. DOLE. Mr. President, yesterday, I sent to the desk a bill to settle much of the controversy that has arisen over the application of section 357(c) of the Internal Revenue Code.

Under sections 351 and 357 of the Internal Revenue Code, a taxpayer generally will not recognize gain or loss upon the transfer of property and liabilities to a controlled corporation in exchange for stock or security of that corporation. However, section 357(c) provides that gain will be recognized to the extent that the aggregate amount of liabilities transferred to the corporation exceeds the aggregate adjusted basis of the properties transferred.

UNEXPECTED RESULTS

Mr. President, a problem may arise when the taxpayer transfers existing trade receivables and payables to a new corporation. A cash basis taxpayer generally has no basis for his accounts receivables, so that if payables of the cash basis taxpayer constitute "liabilities" for the purpose of section 357(c), an excess of liabilities over basis usually will generate an unexpected taxable gain.

The Senator from Kansas believes that section 357(c) was designed to prevent taxpayers from realizing an economic benefit, without tax, though the simple expedience of transferring of low basis, appreciated property and associated liabilities to a controlled corporation. However, the application of section 357(c) to the cash basis taxpayer can result in harsh, unexpected tax consequences where no economic gain or benefit has, in fact, been realized.

Mr. President, an example may illustrate the inconsistencies of the current law. Assume that a small business operated by cash basis taxpayers has $50,000 in receivables, $20,000 in payables and other assets with an adjusted basis of

$10,000. On incorporation, section 357(c), if strictly applied, would give rise to a recognized taxable gain of $10,000—even though the taxpayer has recognized no actual economic benefit as a result of the incorporation. Because the receivables would have a basis equal to their face value, an accrual basis taxpayer would not be faced with this problem. This disparity in treatment is difficult to justify since, in both cases, the transferor has merely placed an existing ongoing business into corporate structure.

JUDICIAL TRENDS

Although recent judicial trends have favored the taxpayer, the Senator from Kansas believes the cash basis taxpayer should be able to transfer receivables and payables at a tax-free incorporation without fear of section 357(c). The Senator proposes an amendment which closely follows a recent tax court decision of Donald D. Focht, 68 T.C. 223 (1977). Basically, the thrust of the proposal would define the term "liabilities"—for purposes of both sections 357(c) and 358(d)—as not including any obligation which would have entitled the transferor to a deduction if paid by him.

Mr. President, this measure is to help small businesses around the country. Too many times, an unsuspecting businessman has inadvertently run into the trap of gain recognition. It is time that the Congress moves to clarify the law.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 357(c) is amended by the addition of a new paragraph (3) which shall read as follows:

(3) EXCLUSION AS LIABILITIES.—Solely for purposes of applying paragraph (1)(A), in determining the amount of liabilities assumed or to which the property transferred is subject, there shall be excluded the amount of any objection to the extent payment thereof by the transferor would have given rise to a deduction allowable under this subtitle or would have constituted a payment described in section 736(a). The amount of any such obligation shall not be excludable, however, to the extent that the incurrence of the obligation resulted in the creation of, or an increase in, the basis of any property (as determined under subchapter O of this chapter).

SEC. 2. Section 358(d) is amended by designating section 358(d) as paragraph (1), and by adding a new paragraph (2) which shall read as follows:

(2) EXCEPTION.—Paragraph (1) shall not apply to any obligation described in section 357(c)(3).

Sec. 3. The amendments made by sections 1 and 2 shall apply to transfers occurring on or after the date of enactment hereof.

FARMERS DESERVE OUR SUPPORT

Mr. SASSER. Mr. President, as the Senate returns to the 2d session of the 95th Congress, there are issues of major importance before us. No issue, in my opinion, is more important, however, than the plight of the American farmer. I am pleased that farmers from Tennessee have come to Washington to emphasize the struggle facing the agricultural community. The farmers are not making an impossible request. They simply want to be able to provide for their families.

I support the purpose that brings these farmers to Washington. There have been many proposals. Now, we need to find some solutions. Mr. President, I do not profess to have the answers. But I am willing to work with the farmers and with my colleagues in the Senate to find the answers.

Recently an article appeared in the Delta Farm Press that I think deserves the attention of the Senate. Basically, this article calls for an increase in the loan level on inadequately supported commodities. I ask unanimous consent that the article be printed in the RECORD in its entirety following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. The point needs to be emphasized that the farmer is faced with a fluctuating market for his product, while the prices of goods which he requires for production continually go up. I think that it should be pointed out that if the American farmer cannot depend on a livable income, the family farm system in this country will soon be a thing of the past. I believe that the agriculture movement might receive added support if the urban consumer stopped to think what will happen to prices of farm products if the giant corporations are to take over the farm industry. No segment of the society is unaffected by agriculture. These farmers have succeeded in capturing the attention of the American people, and certainly the attention of the Senate.

Mr. President, we should address the problems of the farmer with prompt and vigorous attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Delta Farm Press, Jan. 6, 1978]

FREE MARKET, LOVE IT OR LEAVE IT

(By Wm. S. McNamee, Publisher)

We, at the Farm Press Publications, have held back on making a major editorial statement on the current enormous farm problem, not because we are not in sympathy with the plight of the protesting farmers, but because we could see no point to saying anything unless we had at least a proposed solution.

At each protest meeting, and we believe that these protests are an excellent way to call consumer attention to this incredibly severe national problem . . . the problem would be outlined very simply . . . too much cost and too little income.

Then an array of politicians would get up and each blame it on his favorite prejudice, make some stirring remarks about motherhood and apple pie, get a round of applause, and sit down.

Writing in our Farm Press Publication issues the last week in September, 1976 we said:

"We believe that the thing that our readers like most about the current law (most farmers were worried then that Carter, if elected would do away with the "free market" that they were so pleased with at that time), is the unlimited planting feature and Carter does not plan to change that although he has been widely misquoted by some columnists as wanting farmers to return to "growing for the loan." He has made it abundantly clear that this is not his intention."

"We, too, (continuing our own quote of September, 1976) at the Farm Press Publications support this approach to farm policy (with increased, but realistic target prices and loan levels) at this time, but with a great deal less enthusiasm than some of our good friends. We believe that honest disagreement is healthy. We happen to believe that this "free market" approach has benefitted tremendously from very lucky and coincidental things such as bad crops in this country and a very unreliable Russian export market. We easily can look toward a short term future when we have bumper crops in this country (maybe even a bumper cotton crop finally) and bumper crops in the Soviet Union that would break "free market" prices to the extent that they would then be well below the cost of production."

"Sure, it seems great now to be able to plant formerly controlled crops, such as cotton, "wall to wall" and get 75 cents per pound for it, but what happens if we stop having crop failures (and this seems to us as a kinda tough way to get high prices) and the price drops below the cost of production? How's the "free market" going to look then?" (End quote.)

As we stated previously, we wrote this the last week in September 1976. We were defending the Carter candidacy on the basis that if the "free market" was what the farmers wanted he certainly would not do away with it, only put in a little more underpinning and that's exactly what was done. But, we, as The Farm Press Publications, were saying that we had little faith in the "free market" concept regardless of Carter or Butz or Ford or the Farm Bureau or anyone else. We never trusted it to be in the best interest of farmers and we believe that subsequent events have given validity to our opinion expressed at a time when we stood essentially alone against the "free market" . . . and maybe we still do. But we believe that at this particular point in time there are a lot of people within sight of these words who are willing to read another point of view with more than passing interest.

Basically we do not believe, nor have we ever believed, that the farmer can sell his produce on a free market, with his prices wildly fluctuating up and down, while buying his input items on a stable, effectively controlled market, where prices move only up.

All right, you say, that's fine, so far you have only outlined the problem and we already know what the problem is, what do you suggest we do about it?

We first have to disabuse ourselves of the things that might be done about it but that cannot, as a matter of practical fact, be done. We can't roll organized labor back to 1910, we can't roll back the minimum wage, we can't break up the business "shared monopolies" that control and fix prices, we can't really do much about the budget deficit. It's pretty obvious that neither Nixon nor Ford nor Carter have been able to do much about inflation, we can't force the middlemen to give up their ill-gotten gains, we can't abolish the EPA, we can't force U.S. consumers or foreign buyers to give us more for our produce. Oh, we can try, sure, we can strike, we can protest, but it isn't really going to get the job done except to dramatize our problem so that the Congress will do the one thing that feasibly can be done and that must be done and must be done immediately:

Return the American farmer to a high loan program. We, here at the Farm Press Publications, have done 3 months research

into past farm programs, how we got into them and which ones worked best, and the high loan approach (as long as we had no interference from the State Department) worked best of all. We have talked to hundreds of growers of all crops and acreages. We believe that the loan rate for all inadequately supported commodities such as corn, soybeans, grain sorghum, wheat, barley, cotton and rice should have a loan rate of the cost of production (including return to land and labor) plus 10 percent. If the soybean growers, who have the best free market prospects, want to be left out that can be done. We believe that target prices should be abolished since any such direct payments are a red flag in the face of U.S. consumers and the loan, and the loan only, should be our protection.

It worked before (until the State Department got into the act) and it will work again. Let's say the loan rate for cotton, for example, is set at 65 cents per pound. It should be raised from year to year to fit inflationary costs. If at harvest time the free market price is less than this you put your cotton in the loan, effectively taking it off the market, and you wait for the price to go up. If it goes up you take it out of the CCC loan paying the government the interest due so that the CCC actually makes money on the deal, and sell your cotton on the open "free" market. If the free market price is lower than the loan at the end of a preset time limit, say 12 or 18 months, you let the CCC take possession of it at which time they (not the farmer) sell it at the world market price, thereby reducing CCC losses by the difference between the loan rate and the world market price. In the past this did not prove to be an extremely costly program for the government and was palatable to the rest of the population. It came under fire when the State Department stopped us from moving the cotton into overseas markets (dumping, if you will) and we built up the well-publicized 15 million bale surplus which then "overhung" the market causing the whole loan program to fall into disrepute. Soon after that we went into direct payments which everyone knew soon would be followed by limitations on payments, and they were.

So we do not advocate any form of direct payments, by that name or by target prices, or any other. Just a loan, but one high enough to allow farmers to continue to farm and have some assurance that they can market their products at a profit if they do a good job of farming, producing good yields and holding their costs down as low as inflated inputs will allow them.

In the present atmosphere of actual and impending disaster for the entire American agricultural sector (and all those tens of millions of people who depend directly and indirectly upon it) this is an approach that can be obtained and it should be obtained early in the 1978 session of Congress so as to be effective on 1978 crops.

That controls and allotments would have to go along with this program is, of course, unavoidable.

The meat in the coconut is this: American farmers cannot, I repeat for emphasis, cannot, depend for the return of their cost of production, and any profit at all, on the volatile and undependable world market. American agriculture must have some stability. Our cost of living is too high, our production expenses are too high, the people from whom we buy inputs have almost complete control, at the manufacturing level, over their pricing situation while the farmers have absolutely none over theirs. If we are to feed the world it must be done through the U.S. government. Individual farmers, or even their co-ops, cannot do it alone. The free market is a good idea that may some day work, but we can't afford to wait for that day to arrive.

The USDA's Foreign Agricultural Service and Economic Research Service agree that of the free world nations, most, if not all, have some form of subsidized agriculture. Both Canada and Australia set prices and market their grains through a Grain Board. These U.S. government agencies also said that few if any farmers in most countries of the free world concern themselves with world markets. World markets are the concern of the government through one mechanism or another.

We must have a permanent, workable farm program now, for 1978 and beyond. The continuous disaster approach that we're currently following is only digging the farmer's hole deeper and deeper. We believe that this business of trying to lend our foreign customers enough money through CCC credits and the Export Import bank to buy U.S. farm products is ridiculous.

We have held off saying all this since 1973 because . . . mainly it seems now . . . prices were holding up and we thought, well, maybe, it's an "idea whose time has come." But obviously it has not.

To those who will say . . . "If only we will wait, the world prices will come back up," we say . . . yes, they probably will, they are coming back up somewhat now, but as soon as crops are planted world-wide to take advantage of these possibly improved prices the prices will come plummeting down again. It's a roller coaster. It was always a roller-coaster prior to 1933 so we decided to do something about it and we did for 40 years between 1933 and 1973. In 1973 did someone con us into thinking that this was "an idea whose time had come?" Did we just forget all that went on prior to 1933? Many of our present day farmers are too young to remember 1933. Someone has said that "he who fails to learn by his mistakes is doomed to repeat them." Those who remember must remind those who cannot.

A farmer told me recently that "he never had any really strong philosophical commitment to the free market idea, he just thought he could make more money on it." He went on to say that he had enjoyed about all the "freedom" he could stand right now.

And about "freedom" and the removal of "government interference" . . . and we are clearly advocating going back to "government interference" . . . in the 40 years from 1933 to 1973 under Democratic administrations and Republican administrations I, for the life of me, can't remember seeing any farmers going around in chains, or being pistol whipped by ASCS men, or losing their self respect. . . . Some very few who had bad land or bad luck or under capitalization or bad weather went broke, but for the most part I remember larger cars, larger homes, Winnebagos, nice vacations, educations for their children and general prosperity.

Sure, you had the government telling you how much cotton or wheat or corn you could plant and you had to fill out some forms, but I put it to you, which do you prefer, all that, or what you've got now?

We realize that this cost of production plus 10 percent approach is only the most basic core of an idea. A tremendous number of details would have to be worked out. But they have been worked out before and they can be again. If some believe we'd never get it passed by an urban-dominated Congress I say don't underestimate your power. Labor doesn't underestimate its power. Business doesn't underestimate its power. Why should farmers underestimate their power?

If this only serves to pique your interest, if it flies in the face of a great deal that you believe to the contrary, we will only say. . . . "Cut this editorial out and save it. It may look better and better."

There are a number of segments of our economy who have a vested interest in the free market, such as the commodity exchanges (the more transactions the more money they make), and some who believe they have a vested interest in the free market when, as a practical fact, they do not. The latter would include agribusiness who may believe that with a free market more acres will be planted and this means more machinery and chemicals will be sold. This we believe is short sighted. Agribusiness, including The Farm Press Publications, cannot prosper in a depressed and unstable U.S. agriculture. If the farmers cannot see a profit coming they are either not going to buy anything, buy the very minimum, or worse still, buy and be unable to pay for it.

Of course, the mills like cheap cotton. Buy cheap, sell high, good business. But in spite of low prices, high prices or middle sized prices the domestic market continues to trend steadily down on balance. We believe that the work of Cotton Incorporated is vitally important and should be continued at least at the present level to help hold what we've got, if nothing more. But if we stimulate domestic demand for cotton they'll pay more and it doesn't seem to help much when we sell cheap anyway. At least the mills would know what they were going to have to pay, removing uncertainty that probably costs us more sales than higher prices anyway.

No, the nation's continued prosperity lies in a strong and stable agriculture. Take this away . . . and it is being taken away . . . and you will have chaos and depression. It's too big, too important and too basic, and if our urban friends think that they are not involved beyond holding down taxes and inflation, they'd better look into the situation more deeply and very quickly. If our own commodity organization leaders and those of the more broadly based organizations, such as the Farm Bureau, the Grange, the Farmers Union, etc. are waiting patiently for the free market to come back and bail us out, the "bail out" will be temporary if it comes at all.

In the interest of having such a program passed by Congress . . . If there is any interest in having this done . . . we would suggest that the cost of production plus 10 percent description be scrapped. Have informed, fair-minded people arrive at a compromise cost of production, crop by crop, add the 10 percent (more or less if felt advisable) and then speak of it only as a price support loan at one figure without mentioning a profit or plus figure. You cannot guarantee a farmer a profit because of his problems with the weather, insects, poor land and many, many other factors, but it might be misunderstood if pushed as cost of production plus 10 percent. We could sell it as a loan that might cost the government nothing in years of rising prices and only a reasonable amount in years of falling prices. A small price to pay for such an important goal. Much more is being spent for much smaller goals.

If it is the country's desire to have our farmers plant enough to feed starving nations and help maintain world markets in others then allotments could be on the generous side to allow for this, but the U.S. government would take the risk not the nation's farmers.

They cannot do it. They cannot buy inputs on a fixed or rising market and sell on a continuously fluctuating and totally undependable world market. We need wait no longer, the handwriting is on the wall.

ACTUAL DAMAGES FOR FOREIGN SOVEREIGN NATIONS—S. 2395

Mr. THURMOND. Mr. President, on yesterday I introduced, for myself and others, S. 2395, a bill to place the foreign sovereign governments and the United States of America on the same level—a level of actual damages when

either is injured in its business or property, and for other purposes.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Clayton Act (15 USC 15) is amended by adding the following sentence at the conclusion of this section: "The definition of person as used in this section does not include a foreign sovereign government."

SEC. 2. Section 4A of the Clayton Act (15 USC 15a) is amended by inserting "or a foreign sovereign government" in the first sentence immediately after "United States".

PROPOSED UNIFORM DISCHARGE-REVIEW STANDARDS AND PROCEDURES

Mr. CRANSTON. Mr. President, Public Law 95–126 requires, for the first time, that the Department of Defense publish uniform standards and procedures for the review of administrative discharges under other than honorable conditions. In urging the passage, during the first session of this Congress, of legislation setting forth that requirement, I explained the rationale of the relevant provision as follows:

For several years, the discharge-review process has been criticized for the great disparities in the results among the services. I believe that the requirement of "uniform standards" will be very beneficial in this regard. The guidelines for discharge-review have, in the past, been set forth in internal memorandums and have not been codified and published. Thus, in the case of the Army Discharge Review Board, for example, such guidelines have, at least in part, been set forth in an unpublished document from the Board's president entitled "President's Guidance, Army Discharge Review Board Standard Operating Procedure."

Mr. President, on December 14, 1977, the Department of Defense published in the Federal Register as proposed directive implementing that provision, requesting comments by January 13, 1978, later extended to January 23. I have carefully examined the proposed directive and, in a January 16, 1978, letter to the Secretary of Defense, have made several recommendations for revisions before the directive is made final. In general, I believe that the directive can serve a very useful purpose in clarifying and making uniform the procedures and standards by which applications for discharge upgrading will be judged, but that, in order for it to serve that purpose adequately, several major modifications will be necessary.

I also would like to point out that, on December 21, 1977, the Deputy Secretary of Defense issued a memorandum implementing certain other major provisions of Public Law 95–126 dealing with the discharge-review process. Unfortunately, and for no substantial reason that I can discern, the December 21 memorandum was not published in the Federal Register. In my January 16 letter to the Secretary of Defense, I have urged, in keeping with the basic intention of Public Law 95–126 that applicants for discharge upgrading be as fully informed as possible with respect to the standards and procedures applicable to them, that that memorandum also be published in the Federal Register. I am now in the process of preparing comments on that document.

Mr. President, for the information of my colleagues and the public, I ask unanimous consent that Public Law 95–126, an excerpt from the Federal Register containing the published proposed directive, my January 16, 1978, letter to the Secretary of Defense, and the unpublished December 21, 1977, memorandum of the Deputy Secretary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Public Law 95–126—Oct. 8, 1977]

VETERAN'S BENEFITS

An Act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) section 3103 of title 38, United States Code, is amended by—

(1) inserting "or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence," after "deserter," in subsection (a), and by inserting a comma and "notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10" before the period at the end of such subsection; and

(2) adding at the end of such section the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

"(2) Notwithstanding any other provision of law—

"(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

"(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person or such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.".

(b)(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act for each such person.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans'

Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of the procedures for making application to such section 1552 board for such purpose and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552, and 1553).

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 4. In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharges under revised standards for the review of discharges described in section 3103(e)(2)(A)(i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.

SEC. 5. This Act shall become effective on the date of its enactment, except that—

(1) section 2 shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

(2) the amendments made by section 1(a) shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

(A) with respect to any person who, on such enactment date is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of ninety days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of one hundred and eighty days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A)(i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date, the United States shall not make any claim to recover the value of any benefits so provided; and

(C) the amendments made by clause (1) of section 1(a) shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act, had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.

Approved October 8, 1977.

(Department of Defense, Office of the Secretary [32 CFR Part 70])

DISCHARGE REVIEW BOARDS (DRBs)

PROCEDURES AND STANDARDS

Agency: Office of the Secretary of Defense.

Action: Proposed Department of Defense Directive.

Summary: The proposed directive establishes Department of Defense (DOD) uniform standards and procedures for discharge review to meet statutory requirements.

Dates: Comments must be received by January 13, 1978.

Address: Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), The Pentagon, Room 3C980, Washington, D.C. 20301.

For further information contact: Captain E. T. Boywid, JAGC, USN, or LTC G. A. Johnson, USAF, telephone 202-697-9525.

Accordingly, it is proposed to publish 32 CFR Part 70 as follows:

Part 70—Discharge Review Boards (DRBs) Procedures and Standards—

Sec.

70.1 Purpose.
70.2 Applicability and scope.
70.3 Definitions.
70.4 Policy and responsibilities.
70.5 Discharge Review procedures.
70.6 Discharge Review standards.
70.7 Secretary of the Army responsibilities.

AUTHORITY: Title 10, U.S.C. 1552 and Title 38, U.S.C. 101, 3102, as amended by Pub. L. 95-126, October 8, 1977.

§ 70.1 Purpose.

(a) This part establishes uniform policies, procedures and standards for the review of discharges or dismissals by the Secretary concerned as contemplated in the authority cited above.

(b) Nothing in this part changes or modifies in any way the portions of the separate regulations that implement the requirements of Stipulation of Dismissal, Civil Action No. 76-530, United States Court for the District of Columbia, *Urban Law Institute of Antioch College, Inc., et al.*, Plaintiffs v. *Secretary of Defense, et al.*, Defendants, January 31, 1977.

§ 70.2 Applicability and scope.

The policies and procedures prescribed herein are applicable to the Army, the Navy, the Air Force, and the Marine Corps, and by agreement with the Secretary of Transportation, to the Coast Guard and to all Reserve components thereof in the conduct of discharge reviews.

§ 70.3 Definitions.

Definitions of terms used in this part are outlined below and are contained in 32 CFR Part 41.

(a) *Discharge Review Board (DRB).* An administrative board vested with discretionary authority and charged to review discharges and dismissals under the provisions of Title 10, U.S.C. 1553. It may be configured as one main or two or more elements as designated by the Secretary concerned. (The term "Secretary" as used herein refers to the Secretaries of the Military Departments and the Secretary of Transportation unless otherwise specified.)

(b) *DRB Panel.* An element of a DRB. when authorized by the Secretary concerned, consisting of five members for the purpose of reviewing discharges and dismissals.

(c) *Applicant/Petitioner.* A former service member of the Armed Forces who, in accordance with statutory and regulatory provisions, requests that a case be heard by the DRB constituted by the Secretary of the former service member, or a former member whose case is heard on the DRB's own motion, or at the request of the surviving spouse, next-of-kin, or legal representative.

(d) *Counsel-Representative.* An individual or agency designated by the applicant who agrees to represent him/her in a case before the DRB. It includes, but is not limited to: A lawyer who is a member of the Bar of a Federal Court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies. Active duty military officers in their official capacities shall not act as such counsel/representative.

(e) *President,* DRB. The president is designated by the Secretary and shall be responsible for the supervision of the discharge review function, as well as performing other duties as assigned.

(f) *DRB Hearing Examiner.* If deemed appropriate by the Secretary, an officer of a DRB appointed to conduct a video tape or otherwise recorded presentation for consideration by a DRB.

(g) *DRB Traveling/Regional Panel.* A DRB panel that conducts discharge reviews in a location outside the Washington, D.C. area.

(h) *Discharge Review.* The phrase "Discharge Review" as used in this part is commonly used DRB terminology encompassing the process by which both the characterization of service and reason for separation are evaluated.

§ 70.4 Policy and responsibilities.

(a) Under the provisions of Title 10, U.S.C. 1553, the Secretaries of the Military Departments and the Secretary of Transportation for the United States Coast Guard have the authority for final decision and the responsibility for the operation of their respective discharge review programs. The guidance contained in this part is designed to insure uniformity in execution of this function as required by the provisions of Pub. L. 95-126.

(b) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is delegated the authority to resolve all issues concerning DRBs which cannot be resolved among the Military Departments and to modify or supplement any of the enclosures to this part in a manner consistent with the policies set forth herein.

(c) The Secretary of the Army is designated the administrative focal point for DRB matters. Section 70.7 outlines specific responsibilities.

§ 70.5 Discharge Review Procedures.

(a) *Application for Review.* (1) Former service personnel who have been discharged or dismissed in accordance with the provi-

sions of administrative directives of the Military Department/U.S. Coast Guard or by sentence of a special court-martial under Title 10, U.S.C. 801 et seq. (Uniform Code of Military Justice) may submit a written request for review to the DRB of the Military Department concerned with such other statements, affidavits, or documentation as desired. The request for review will be made on DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, by the former service member, surviving spouse, next-of-kin, or legal representative; on the motion of the DRB concerned; or, upon request of the Veterans Administration under Title 38, U.S.C. 101, 3103, as amended by Pub. L. 95–126, October 8, 1977.

(2) Special written notification will be made to each applicant whose record indicates a reason for discharge that bars receipt of benefits under Section 3103a of Title 38 U.S.C. This notification will advise the applicant that separate action by the Board for Correction of Military/Naval Records and/or the Veterans Administration (in case of 180 days consecutive unauthorized absence disqualification) may confer eligibility for VA benefits. As regards the 180 days consecutive unauthorized absence:

(i) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.

(ii) Such absence is computed without regard to the applicant's normal or adjusted expiration of term of service.

(b) *Conduct of Reviews.*—(1) *Members.* As designated by the Secretary, the DRB (and, when applicable, panels of the DRB) will consist of five members. One member will be designated as President. He shall serve as a presiding officer and may designate other officers to serve as presiding officers for DRB panels.

(2) *Locations.* Reviews by a DRB will be conducted in Washington, D.C. and such other locations as designated by the Secretary concerned.

(3) *Modes of Appearance.* An applicant, upon request, is entitled to appear before a DRB in person with or without counsel/representative or to have counsel/representative present his/her case in the absence of the applicant. Unless such personal appearance or representation is requested, the consideration of an application before a DRB will be based on available records and supporting documents submitted by the applicant.

(4) *Applicant's Expenses.* Unless otherwise specified by law or regulation, expenses incurred by the applicant, witnesses, or counsel or representative will not be paid by the Department of Defense.

(5) *Withdrawal of Petition.* A petitioner shall be permitted to withdraw a petition without prejudice at any time before the scheduled review.

(6) *Limitation—Failure to Appear for Hearing.* Except as authorized or directed by the Secretary, further opportunity for personal appearance shall not be accorded a petitioner who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the petition. Such individuals shall be deemed to have waived their right to a personal appearance. Instead, the Board shall conduct a documentary review of the discharge and the decision of the Board shall be based on that review.

(7) *Limitation—Continuances and Postponements.* (i) A continuance of a discharge review hearing may be authorized by the President of the Board or presiding officer of the panel concerned, providing such continuance is of reasonable duration and is essential to achieving a full and fair hearing. Where a proposal for continuance is indefinite, the pending petition shall be returned to the petitioner with the opinion to resubmit when the case is fully ready for review.

(ii) Postponements of scheduled reviews shall not normally be permitted other than for demonstrated good and sufficient reason set forth by the petitioner in a timely manner, or for the convenience of the government.

(8) *Limitation—Reconsideration.* (i) Reconsideration of an individual discharge shall not be undertaken except:

(A) On the basis of presentation of new, substantial, relevant information not available to the petitioner at the time of the original review, or

(B) Where the only previous consideration of the case was on the motion of the Board, or

(C) When the original review did not involve a personal hearing and a personal hearing is now desired, and the provisions of paragraph (b)(6) of this section do not apply, or

(D) Where changes in policy are announced subsequent to an earlier review of an individual's discharge or dismissal, and the new policy is made expressly retroactive; or

(E) Where changes in policy, though not made expressly retroactive, resulted from a recognition that past practices may have been prejudicial.

(ii) The decision as to whether information offered by a petitioner in substantiation of a request for a reconsideration is in fact new, substantial, relevant, and not available to the petitioner at the time of the original review shall be made under procedures established by the Secretary. In the event of a negative decision, the petitioner shall be notified of the non-acceptance of the petition and the reasons therefor.

NOTE.—Where there has previously been some form of personal appearance, the submission of additional contentions and/or elaborations of arguments or citations is not in itself new, substantial, relevant evidence and will not support granting a new review.

(9) *Availability of records.* (i) At the time of the review, applicant and/or counsel/representative may have access to the records considered by the DRB in the review. When necessary to acquaint the applicant with the substance of a document classified by intelligence agencies, the appropriate intelligence representative, on request of a DRB, will prepare a summary of or extract from the document, deleting all references to sources of information and other matter the disclosure of which, is his opinion, would be detrimental to the national security interests of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the DRB.

(ii) Prior to a review, applicants or other designated representatives may obtain copies of military records by submitting a Standard Form 180 (Request Pertaining to Military Records) to National Personnel Records Center, 9700 Page Boulevard, St. Louis, Mo. 63132. The request must be submitted prior to the time the DD Form 293 is submitted, since once the DD Form 293 is submitted, the records will be requested from the National Personnel Records Center by the DRB.

(iii) In the event that the official records relevant to the discharge review are not available at the agency having custody of the records, the following actions will be taken prior to consideration of the request for discharge review.

(A) The petitioner shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review:

(B) After receipt of a response from the petitioner or the expiration of a reasonable period of time for such a response, the review shall be conducted with information available to the DRB.

(C) If the information/documents furnished by the petitioner are not sufficient to provide a basis for the determination that a change in the type or nature of the discharge is warranted, the discharge shall be deemed to be proper under the legal principle that there is a presumption of regularity in the conduct of government affairs. The application of this presumption is not restricted solely to those reviews in which the entire official record is missing, but rather can be applied in any review in which there are missing documents and the evidence of record does not establish sufficient grounds to overcome this presumption.

(iv) A DRB may take steps to obtain additional evidence material to the discharge review under consideration beyond that found in the official military record or submitted by the applicant. Such additional evidence may be sought when a review of available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information to evaluate properly. Such information will be made available to the applicant with appropriate modifications with regard to classified material, if requested.

(10) *Contentions.* (i) Applicants must state clearly and specifically their contentions, and/or the issues of fact, law, or discretion for a written determination to be made in accordance with paragraph (f)(6)(ii) of this section. Applicants may be provided a form for this purpose which must be completed or amended prior to the DRB's hearing on their case decision.

(ii) In addition, the DRB shall consider such issues of fact, law, or discretion as are discerned by the DRB in the review process.

(iii) The DRB shall make findings and conclusions with respect to the contentions and issues as required by paragraph (f)(6) of this section.

(11) *Decisions.* On the basis of its findings and conclusions, the DRB shall record its decision as to whether a discharge should remain unchanged or be changed. The nature of any change shall be specified clearly.

(12) *Implementation of Review Decisions.* A written notification shall be issued to implement the decision of the Board, or that of higher authority, in each discharge review case.

(c) *Hearing Process.* (1) Formal rules of evidence shall not be applied to DRB hearings. However, the president or presiding officer responsible for the conduct of a discharge review hearing shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

(2) Personal appearance hearings (including hearing examinations) shall be conducted with recognition of the rights of the individual to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the Secretary or expressly requested by the applicant. If in the opinion of the presiding officer of a panel, presence of other individuals would be prejudicial to the interests of the applicant or the government, such hearings may be in closed session.

(3) The presiding officer of a DRB panel shall preside over the hearing and rule on matters of procedure. He shall convene, recess, and adjourn the DRB as appropriate.

He shall maintain an atmosphere of dignity and decorum at all times.

(4) Personal hearings shall be conducted with the objective of eliciting all the facts bearing on the case. Witnesses shall be encouraged to contribute to this objective. Board members are responsible for eliciting all facts necessary for a full and fair hearing, whether or not the petitioner is accompanied by a representative.

(5) Each board member shall act under oath or affirmation requiring careful, objective consideration of all facts and information available to him.

(6) A secretary/recorder or assistant shall be designated to assist each DRB and DRB Panel to function in support of that DRB in accordance with the procedures of the service concerned.

(d) *Admission of evidence and testimony.* (1) Applicants undergoing personal appearance hearings shall be permitted to introduce witnesses, documents, sworn or unsworn statements or other information on their behalf.

(2) Applicants may also make oral or written arguments personally and/or through counsel/representative.

(3) Applicants and witnesses introduced by them may be questioned by the DRB regarding information or testimony submitted by them and matters of the official military record.

(4) All testimony shall be taken under oath unless the applicant specifically requests to make an unsworn statement.

(5) Discharge Review Boards shall consider all information presented to them by the petitioner. In addition, they shall consider available service and health records together with such other records as may be in the files of the Military Department concerned that relate to the issues before the Boards.

(e) *Decision Process.* (1) The DRB or the DRB panel, as appropriate, shall meet in plenary session to review discharges.

(2) If the applicant does not appear in person and his designated counsel/representative does not appear in his behalf, the DRB shall review the discharge on the basis of available official records and documentary evidence submitted by or on behalf of the applicant.

(3) If the applicant appears in person or his designated counsel/representative appears before the DRB in his behalf, the DRB shall hear testimony on or in behalf of the applicant and shall consider the official records and other documentary evidence submitted by the applicant.

(4) DRB decisions shall be reached in normal vote as prescribed by the Secretary.

(5) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB decision.

(6) Details of closed session deliberations of a DRB are privileged information. They shall not be divulged.

(7) Minority opinions may be submitted by any member in accordance with service procedures.

(f) *Decisional document.* A decisional document shal be prepared for each review conducted by a DRB. At a minimum this document shall contain:

(1) The date, type and reason of the discharge/dismissal and the specific regulatory authority under which it was issued;

(2) The circumstances and character of the petitioner's service as extracted from service records, health records and information provided by other government authority or the petitioner, such as, but not limited to:

(i) Date of enlistment
(ii) Period of enlistment
(iii) Age at enlistment
(iv) Length of service
(v) Periods of unauthorized absence
(vi) Conduct and efficiency ratings (numerical or verbal)
(vii) Highest rank achieved
(viii) Individual awards and decorations
(ix) Educational level
(x) Aptitude test score
(xi) Incidents of punishment pursuant to Article 15, UCMJ (including nature and date of offense)
(xii) Convictions by court-martial.

(3) A summary of information presented to the DRB as testimony when the review involves some form of personal appearance by the applicant and/or his counsel/representative, if prepared.

(4) Reference to the petitioner's written brief and documentary evidence submitted, if any.

(5) Advisory opinions or portions thereof containing factual information relied upon for final decision not fully set forth in the statement of findings, conclusions, and reasons; or containing advice, recommendations, or opinions, accepted as a basis for rejecting any of the applicant's claims that are not fully set forth in the statement of findings, conclusions, and reasons. These shall be incorporated by reference in the statement of findings, conclusions, and reasons, and appended to the decision.

(6) A statement of findings, conclusions, and reasons consisting of:

(i) Findings on all issues of fact, law, or discretion upon which the DRB's determination is based, including pertinent factors required by applicable service regulations when such factors are a basis for denial of any relief requested.

(ii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the DRB would warrant greater relief than that afforded applicant by the DRB's decisions, if resolved in the applicant's favor.

(iii) Conclusions as to whether or not any change, correction, or modification should be made in the type or character of the discharge or dismissal certificate, and/or the reason and authority for the discharge or dismissal; and, if so concluded, the particular changes, corrections, or modifications that should be made.

(iv) A statement of the reasons for the findings and conclusions made in accordance with subdivisions (i) through (iii) of this subparagraph.

(7) A record of the DRB members' names and votes.

(8) The DRB decision and minority opinion, if any.

(9) If not included elsewhere, a listing of the contentions and issues considered by the DRB and their findings thereto.

(10) An authentication of the document by an appropriate official.

(g) *Issuance of decisions following Discharge Review.* The applicant and counsel/representative, if any, shall be provided with a copy of the review decision and of any further action in review. Final notification of decisions shall be issued to the petitioner with a copy to the representative, if any, and to the service personnel managers.

(1) Notification to applicants, with copies to representatives, shall normally be made through the U.S. Postal Service. Such notification shall consist of a notification of decision together with a copy of the record of proceedings executed in connection with the review.

(2) Notification to the service personnel manager shall be for the purpose of appropriate action and inclusion of review matter in personnel records. Such notification shall bear the personal signature of an appropriate official in certification of completeness and accuracy.

(3) Actions on review by superior authority, when occurring, shall be provided to the applicant and counsel in the manner as the notification of the review decision.

(h) *Records of Board Proceedings.* (1) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electromagnetic recordings, videotape recordings, or a combination thereof.

(2) At a minimum, the record will include the following:

(i) The application for review.

(ii) For personal appearances, a record of testimony in verbatim, summarized, or recorded form at the option of the DRB concerned.

(iii) Documentary evidence or copies thereof considered by the Board other than the service record.

(iv) Briefs/arguments submitted by or on behalf of the applicant.

(v) Advisory opinions considered by the Board, if any.

(vi) The findings, conclusions, and reasons developed by the DRB.

(vii) Notification of the decision of the Board to the cognizant custodian of the applicant's records, expunged as necessary to comply with Privacy Act requirements or reference to the notification document.

(viii) Minority, if any.

(ix) A copy of the decisional document.

(i) Final Disposition of the Board of Proceedings in Discharge Review. The original record of proceedings and all appendices thereto shall in all cases be incorporated in the service record of the petitioner and the service record shall be returned to the custody of the National Personal Records Center, St. Louis, Mo., via the service personnel manager, if applicable. Other copies shall be filed and disposed of in accordance with separate service regulation.

(j) *Petitioner examination of documents to be considered during Discharge Review.* (1) The documents assembled for consideration by the Board in review of a discharge shall be made available upon request for examination by the petitioner or representative.

(2) Such examination shall be arranged sufficiently beforehand so as not to delay a scheduled hearing.

(3) The Board is not authorized to provide to the petitioner or representative copies of any documents that are under the cognizance of another government department, office, or activity. Application for such information must be made by the petitioner to the cognizant authority.

(k) *Availability of Discharge Review Board Documents for Public Inspection and Copying.* (1) Following the issuance of decisions in each case, the Board shall make available for public inspection and copying the statement of issues/contentions; findings, conclusions and reasons; Advisory opinions, if any; and record of Board members' votes together with the decision and minority opinion, if one exists, associated with the case. If not otherwise listed in the statement of findings, conclusions, and reasons, a list of contentions and the issues of fact, law, or discretion presented by the petitioner will be made public with the decision.

(2) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justifications, which are to be made available for public inspection shall be made for all other deletions.

(3) Documents made available for public inspection and copying shall be made available at the Armed Forces Discharge Review/Correction Boards Reading Room. They shall be indexed in a usable and concise form so as to enable the public and those who rep-

resent applicants before the DRBs to isolate those cases that may be similar in issue to a particular case with the circumstances under and/or reasons for which the Board and/or the Secretary have granted or denied relief.

(4) The reading file index shall include the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the Board and reviewing authority, if any, and the issues addressed in the findings, conclusions and reasons.

(5) The index shall be made available at sites selected for traveling board hearings or hearing examinations for such periods as the Board is present and in operation. Applicants at such sites shall be so advised in their notices of a scheduled hearing.

(6) The Armed Forces Discharge Review/Correction Boards Reading Room shall publish indexes quarterly for all Boards. All Boards will be responsible for timely submission to the Reading Room of individual case information required for update of the indexes. These indexes shall be available for public inspection and distribution by sale at the Reading Room, which is in the Concourse of the Pentagon. Notices to applicants of scheduled hearings will contain this information.

(7) Correspondence relating to matters under the cognizance of the Reading Room shall be addressed to:

Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

(1) *Privacy Act Information.* Information protected under the Privacy Act is involved in the discharge review functions. The provisions of 82 CFR Part 286a will be observed throughout the processing of a request for review of discharge.

§ 70.6 Discharge Review Standards.

(a) *Objective of Review.* The primary objective of discharge review is to determine whether a discharge is proper and equitable, or whether it should be changed. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic upgrade or denial of change in discharge. DRBs are not bound by any methodology of weighting the factors in reaching a determination concerning relief. In each case DRBs are required to insure full, fair and impartial consideration of all applicable factors prior to reaching a decision.

(b) *Review Standards: Propriety.* A discharge shall be deemed to be proper if it cannot be demonstrated to or discerned by a DRB that:

(1) There exists an error of fact, law, procedure, or discretion as associated with the discharge at the time of issuance: and that the rights of the former service member were substantially prejudiced thereby; or

(2) The discharge was inconsistent with standards of service discipline at the time of issuance; or

(3) The discharge is inconsistent with changes in policy issued subsequent to the issuance of the discharge and made expressly retroactive to separations of the type and character of the discharge under consideration.

(c) *Review Standards: Equity.* A discharge shall be deemed to be equitable if it cannot be demonstrated to or discerned by a DRB that:

(1) The discharge was unfair or unreasonable with regard to the quality of overall service or to the stated reason for discharge, although at the time of issuance it may have been within the limits of discreton of the issuing authority; or

(2) The discharge fails to conform to existing policy and directives which, though not having been made expressly retroactive, are generally applicable on a service-wide basis to separations of the type and character of the discharge under consideration and existing policy or directives are a result of a recognition that past practices may have been prejudicial; or

(3) Where considered appropriate, the DRB may act to grant relief where consideration of all facts (not inconsistent with 32 CFR Part 41) favor upgrading of the discharge, even though the discharge was determined to be equitable and proper.

(d) *Factors Inclusive in Review Standards.*—(1) *General.* The impact of the factors listed in § 70.6 (2) through (4) which follow is subject to the discretionary determination of the DRB. The presence of a factor or factors must be established through evaluation of the applicant's service record and other evidence presented to the DRB. A mere contention by an applicant that relief is warranted based on one or more of these factors does not establish a basis for relief in itself.

(2) *Quality of Service.* In making an evaluation of the overall quality of service, the following are examples of factors, as applicable to the individual concerned, which may be considered:

(i) Convictions by court-martial.

(ii) Nonjudicial punishment record.

(iii) Convictions by civil authorities while a member of the service.

(iv) Manner of performance as indicated by the member's commander or other authority.

(v) Record of periods of unauthorized absence.

(vi) Record of promotions and demotions.

(vii) Individual awards received for valor.

(viii) Individual awards received for meritorious service.

(ix) Wounds received in action.

(x) Combat service.

(xi) Wartime service.

(xii) Length of service during the current service period.

(xiii) Letters of commendation or reprimand.

(xiv) Level of responsibility at which the applicant served.

(xv) Prior military service to the extent that it provided a basis or more thorough understanding of the duties and level of performance of a service member.

(xvi) Other acts of merit that may not have resulted in a formal recognition through an award or commendation but are reflected in the service record.

(xvii) Correspondence relating to a discharge in lieu of a court-martial.

(3) *Capability to Serve.* In evaluating the overall capability of an individual to perform effectively, the following are examples of factors which may be considered.

(i) *Total capabilities.* An evaluation of the total capabilities of the individual including such things as age, educational level, ability to adjust to the service as indicated by aptitude scores, whether the individual met normal military standards of acceptability for service and similar indicators of an individual's ability to serve satisfactorily.

(ii) *Family/Personal Problems.* Problems of sufficient gravity that the applicant's ability to serve satisfactorily may have been affected.

(iii) *Arbitrary or Capricious Actions.* Actions by individuals in authority which were not warranted by the applicant's conduct while in service or by the conditions of service and which contributed to the decision to discharge or to the characterization of discharge.

(iv) *Discrimination.* The discrimination must be shown to have been actual and not merely perceived by the applicant.

(4) *Other.* The following are additional examples of factors which may be considered if the facts of the particular case indicate they are applicable:

(i) *Civilian appellate court decisions.* In instances in which the applicant was discharged under Service regulations because of conviction by civilian courts and the conviction is overturned by a court of competent jurisdiction, the Discharge Review Board must consider whether this action invalidates the basic reason for the discharge and the accompanying characterization of the applicant's service. A pardon issued by civilian authorities based on the applicant's demonstrated conduct after his conviction does not establish such a basis.

(ii) *Post-service conduct.* If the Discharge Review Board establishes that the in-service misconduct was not major in scope and did not reflect the normal behavior pattern of the individual concerned, then outstanding post-service conduct may be given appropriate consideration in determining whether some form of relief is warranted.

§ 70.7 Secretary of the Army Responsibilities.

(a) Effects necessary coordination with other governmental agencies regarding continuing applicability of this part and resolves administrative procedures relating thereto.

(b) Reviews suggested modifications to this part, resolves differences when practicable, recommends specific language changes and provides supporting rationale to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) for decision, and includes appropriate documentation to effect publication in the FEDERAL REGISTER.

(c) Maintains the DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, and republishes as necessary with appropriate coordination of the other military Departments, the Secretary of Transportation and the Office of Management and Budget.

(d) Responds to all inquires from private individuals, organizations or public officials with regard to Discharge Review Board (DRB) matters. In those instances where the specific Military Service concerned can be identified, such correspondence may be referred to the appropriate DRB concerned for response. An appropriate activity may be further designated to perform this task.

(e) Provides overall guidance and supervision to the Armed Forces Reading Room with staff augmentation, as required by the Departments of the Navy and Air Force.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

DECEMBER 12, 1977.

[FR Doc.77-35794 Filed 12-13-77;8:45 am]

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., January 16, 1978.

Hon. HAROLD BROWN,
Secretary of Defense
Washington, D.C.

DEAR HAROLD: I was very pleased to receive cover of a December 8, 1977, letter from Major General Stanley M. Umstead, Jr., Deputy Assistant Secretary of Defense, Manpower, Reserve Affairs and Logistics (Military Personnel Policy), a pre-publication draft of the Department of Defense Directive establishing uniform standards and procedures for discharge review pursuant to Public Law 95-126. With modifications, the proposed directive was published in 42 *Fed. Reg.* No. 240 (Dec. 14, 1977) at pages 62934-39.

Before taking this opportunity to comment on the provisions of the proposed directive, I would like to note the omission of two subjects which I expected to be covered in such a directive— (1) the making of "second determinations", under uniform, published standards, to determine the eligibility for Veterans' benefits of those whose Clemency or Undesirable discharges

were upgraded under the Ford and Carter special programs; and (2) the opportunity, for a period of at least one year after the publication of the new guidelines, of all former active-duty personnel with administrative discharges under other than honorable conditions to apply for upgrading under the new guidelines, regardless whether they have previously been denied upgrading or their discharges occurred more than 15 years prior to their applications for upgrading. Uniform departmental regulations implementing these provisions are definitely called for and should be widely publicized, particularly with a view toward appraising those who are made eligible to apply of their right to do so and of the procedures for making application. Therefore, I urge you to include this matter in the proposed directive or another directive to be published in the Federal Register and ask that you advise me of your plans for publicizing this opportunity and disseminating information on how eligible persons may avail themselves of it.

The following comments and questions relate to specific provisions of the draft directive as published in the Federal Register:

SECTION 70.3 DEFINITIONS

1. Section 70.3(d): This and other provisions of the directive make it quite clear that individuals applying for upgrading are entitled to be represented by counsel or lay representatives of their own choosing. However, there is no indication in the directive that the Department is making any effort to assure, to the greatest extent practicable, that each applicant will have recourse to legally trained counsel. Many cases involve complex legal issues, both substantive and procedural; and I'm sure you will agree that all cases should be presented effectively. Frequently, therefore, it may be very important for the applicant to be represented by counsel. Thus I urge you or the Secretary of the Army to take the initiative to meet with representatives of bar associations, veterans organizations, the Legal Services Corporation, various military law projects, and other appropriate groups and institutions to begin to develop a systematic method of assuring the availability of competent counsel (without fee where necessary) and notifying applicants of sources of legal assistance. I would further suggest that efforts to contact former JAG officers to solicit their voluntary participation in such an effort might also prove to be fruitful.

This availability of counsel is particularly important in connection with the "redeterminations" of the special program upgradings in the light of the fact that, in the Carter program, counsel was provided by the Government for applicants who were initially refused upgrading and requested personal appearance. The Legal Services Corporation was urged by the conferees on H.R. 6666 (now Public Law 95–222) to alert its projects to these needs (H. Rept. No. 95–825, 95th Cong., 1st Sess. 17) and has done so by memorandum from the General Counsel to all projects dated December 8, 1977.

2. Section 70.3(h): The definition of "Discharge Review" fails to include any reference to evaluation of the procedures followed in effecting separation. To correct that omission, I suggest that this definition be amended to read as follows:

The phrase "Discharge Review", as used in this part, is commonly used DRB terminology encompassing the process by which the reason for separation, the procedures followed in accomplishing separation, and the characterization of service are evaluated.

SECTION 70.5 DISCHARGE REVIEW PROCEDURES

3. Section 70.5(a)(1): I believe that it would be very desirable to include in this provision the mailing addresses of the DRB's along with advice as to the types of (DOD and VA) installations and facilities at which copies of DD Form 293 are available.

4. Section 70.5(a)(2): In lieu of the second and third sentences, I recommend the following more complete and accurate material, which fully complies with the requirements of Public Law 95–126:

"This notification will

(i) advise the applicant (A) of the specific grounds under subsection (a) of such section 3103 constituting the possible bar to benefits under laws administered by the Veterans' Administration (VA), (B) of the facts reflected in the individual's military records indicating that such a bar is applicable, and (C) of the fact that, although the DRB may upgrade the discharge or dismissal, such upgrading might not result in eligibility for veterans benefits because of the apparent applicability of the bar to benefits;

(ii) advise the applicant that he/she might possibly be administratively found to be entitled to VA benefits only through the action of the appropriate Board for Correction of Military/Naval Records or of the VA;

(iii) advise the applicant as to the procedures by which he/she may seek a determination from the appropriate Board for Correction of Military/Naval Records or from the VA which would confer eligibility for VA benefits of the fact that he/she may seek the same time (concurrently, if he/she wishes) at the same time his/her application for discharge upgrading is pending before the DRB; and

(iv) be accompanied by the forms for making application to such board and the VA.

"(3) In addition, when the former service member was discharged under conditions other than honorable on the basis of an absence without authority for a continuous period of 180 or more days,

"(i) such notification will also advise the applicant,

"(A) that such absence is computed without regard to the individual's normal or adjusted expiration of term of service, and

"(B) that he/she will not be barred from receiving benefits on that basis if he/she demonstrates to the satisfaction of the Administrator of Veterans' Affairs that there are compelling circumstances to warrant such prolonged absence; and

"(ii) a copy of the VA's regulations or other policy directive governing the VA's procedures with respect to such cases shall be enclosed with such notification."

5. Section 70.5(b)(8)(ii): (a) The procedures for applying the "substantial evidence" test should definitely be spelled out in this directive as a procedural matter which Public Law 95–126 requires to be part of the uniform procedures for discharge review.

(b) Moreover, under new section 3103(e)(1) of title 38, United States Code, no such "substantial evidence" test should be applied during the period of at least one year when all former service personnel with administrative discharges under other than honorable conditions are entitled to apply for upgrading "notwithstanding any other provision of law". This exception to the substantial evidence rule should be stated in the directive.

6. Section 70.5(b)(9)(i): (a) In the first sentence, the words "may have" should be changed to "are entitled to".

(b) Also, I believe that the procedures by which the individual's right to access may be exercised should be stated. Thus, I would suggest the insertion of the following sentence after the first sentence (as revised in (a) above) of paragraph (b)(9)(i):

"(A) reasonable time (not less than thirty days) prior to making a final decision, the DRB shall provide the applicant and/or counsel/representative with a description of all documents to be considered by the DRB in its review and shall notify the applicant and/or counsel/representative of his/her right to examine such documents and to be provided, upon request, with copies of any or all such documents and of the date by which such request must be received."

7. Section 70.5(b)(9)(iii): (a) In clauses (A) and (B), there should be a requirement that the individual be notified, in advance, of the amount of time to be allowed for him or her to provide documentation, and in clause (B) the term "reasonable period of time for such a response" should be defined. I would suggest "thirty days plus such additional time as the applicant demonstrates to be reasonably necessary".

(b) At clause (C) of subsection (b)(9)(iii), I believe the first sentence is really part of "burden of proof", which I discuss under section 70.5(e), below, and should be dealt with in that context. Also, I seriously question the presumption of regularity, as stated in the second sentence of clause (C), in all cases in which there are documents missing from a military record. At most, I believe the presumption should be applied only when the circumstances under which the records disappeared or were destroyed are well established and clearly not inconsistent with that presumption.

8. Section 705.(c)(2): I would suggest that all hearings be open to the public unless the applicant requests that the hearings be closed for reasons of personal privacy. If the decision is to vest the DRB or Secretary with discretion to exclude the public or specific persons, the grounds on which such an exclusion might be permitted should be specified in the directive and an opportunity for objection should be provided.

9. Section 70.5(d): Please advise me whether, and under what circumstances, the DRB's and the Secretaries concerned would have authority to subpoena witnesses and documents and pay travel expenses of witnesses. If such circumstances exist, they should be specified in the directive.

10. Section 70.5(e): I believe it is important to specify the burden of proof in these cases. I would suggest that the burden should be on the applicant "by a preponderance of the evidence" and that an explanation of that term should be provided in the directive for the guidance of nonlawyers.

11. Section 70.5(f)(2): I recommend adding "periods of prior service, including type of discharge" to the examples of items to be extracted from the service record and included in the decisional document.

12. Section 70.5(f)(4): I recommend that the decisional document include "a summary of information in" the applicant's brief and documentary evidence rather than simply "reference to" such brief and evidence.

13. Section 70.5(f)(5): This provision clearly implies that "advisory opinions or portions thereof containing factual information [may be] relied upon for final decision". I don't understand why advisory opinions are considered an appropriate means for the development of factual, presumably evidentiary, materials. If it is finally determined that advisory opinions may properly be so used, please explain the reasoning behind that determination to me. Also, I would recommend that provision be made in section 70.5(b)(9) to require that the applicant be given copies of any such advisory opinions, advance notice of the DRB's possible reliance on anything stated in such an opinion, and a reasonable opportunity to respond thereto.

14. Section 70.5(h)(2)(ii): Why cannot a verbatim transcript or a recording be made in each case of a personal appearance? It seems to me that any summaries should be in addition to a verbatim transcript or recording.

15. Section 70.5(j)(3): At the end of the first sentence, the words "outside the Department of Defense (or Transportation, in the case of the Coast Guard DRB)" should be added. Also, there should be a requirement that, upon request and to the extent feasible, DRB's identity for applicants the govern-

ment department, office, or activity having cognizance of particular documents and provide the applicant with instructions as to the forms and procedures to be used in requesting copies thereof.

16. Section 70.5(k)(5): Provision should be made, unless not feasible, for making reading file indices available locally for a reasonable period of time prior to the arrival of a traveling board; and applicants at such sites should be advised accordingly.

SECTION 70.6 DISCHARGE REVIEW STANDARDS

17. Section 70.6(b)(1): This provision indicates that a discharge is to be deemed improper—and thus subject to change—if there was an error of fact, law, procedure, or discretion associated with the discharge at the time of issuance, and the rights of the former service member were substantially prejudiced by such error. I believe that this clause requires a great deal of amplification in order to provide adequate guidance to DRB members and applicants as to when an error is to be considered prejudicial or harmless. In addition to establishing a general standard, such guidance should, I believe, deal specifically with areas in which, based on experience, significant numbers of cases involving error—both harmless and prejudicial—may be expected. For example, I would recommend guidance to the effect that violation of a regulation clearly requiring counseling, transfer, or other rehabilitative efforts prior to the initiation of discharge proceedings should be considered prejudicial error requiring an upgrading of an administrative discharge under other than honorable conditions. Other examples of areas in which specific guidance should be considered might include the failure fully to advise a service-person, prior to waiver of his or her right to a hearing, of the conduct (and evidence thereof) for which the discharge was proposed and of his or her procedural rights.

To the extent that specific guidance is provided in this regard, board members, applicants for discharge upgrading, and their counsel or other representatives will be better advised and uniformity of decision making—a primary goal of Public Law 95–126—will be enhanced. Therefore, I strongly urge you to incorporate such guidance into this directive.

18. Section 70.6(b)(3): Either in this provision or in a new paragraph (4) of subsection (b), I believe that you should state the department's policy with regard to the upgrading of discharges based on "pre-Laird memo" use, or possession for personal use, of drugs. That policy is an extremely significant standard for making discharge-review decisions and its omission would be inconsistent with the requirement in Public Law 95–126 that discharge-review standards be published and be uniform.

19. Section 70.6(c)(1): Nowhere in subsections (b) and (c) of section 70.6 is there any indication as to how the factors listed at subsection (d)(3), "Capability to Serve", and (d)(4), "Other", are to be related to the review standards. It appears to me that those factors should probably be incorporated in subsection (c)(1) by inserting after the words "overall service" a comma and "the capability to serve and other pertinent factors (as illustrated at subsection (d)(2)–(4) of this section),".

20. Section 70.6(c)(2): DRB members and applicants will, I believe, find it very difficult to understand the provision for upgrading of a discharge not conforming to existing policy and directives which, although not expressly retroactive, are generally applicable on a service-wide basis to separations of the type and character of discharge under consideration and result from a recognition that past practices may have been prejudicial. In the interests of providing better guidance and of increasing uniformity in the application of this standard, it seems to me that identification of such policies and directives would be highly desirable. Even if a comprehensive listing is not possible, it would be very useful to identify all those that could be discovered through reasonable efforts and to note that the listing is not all inclusive.

Also, section 7.05(b)(8)(i)(E) should include a cross-reference to this provision.

21. Section 70.6(d): (a) Regarding the "quality of service" factors listed at subsection (d)(2), I would like to know why it was decided to list positive and negative factors together without differentiation and to assign no weighting to any factors.

(b) Clause (iii) of subsection (d)(2): This provision identifies "convictions by civil authorities while a member of the service" as a factor to be considered. This raises the issue whether it is proper to base a derogatory administrative discharge or the character of any administrative discharge on conduct that did not have a significant impact on the individual's military service. I would like you to inform me as to the Department's position on this matter in light of judicial decisions on this subject. In any event, it seems to me that, assuming you intend to retain this factor without requiring that a clear relationship to military service be established, the wording of this factor is vague and that guidance should be provided with regard to the weight to be accorded this factor as a measure of the quality of military service in various types of cases.

(c) Clause (xvi) of subsection (d)(2): I see no reason why acts of merit not formally recognized should be limited to those reflected in the service record if they can be demonstrated to the satisfaction of the DRB's. Therefore, I recommend adding at the end of this clause before the period "or are otherwise demonstrated".

(d) I strongly recommend that you include, among the factors to be considered in the discharge-review process, a specific provision requiring consideration of whether the conduct on which the discharge was based was motivated by conscience. Such a provision was included in President Carter's Special Discharge Review Program; and I do not understand why it was omitted.

22. Section 70.6 (in general): (a) Although section 70.5(k) of the directive would make publicly available certain DRB documents regarding decisions in all cases and would require cases to "be indexed in a usable and concise form so as to enable . . . those who represent applicants . . . to isolate those cases that may be similar in issue to a particular case", no guidance is provided in section 70.6 as to the precedential value to be attached by the DRB's to prior decisions. This omission seems particularly regrettable because a requirement that a DRB give precedential value to its own prior decisions and to those of other DRB's could contribute greatly to the attainment of the uniformity sought in Public Law 95–126. Therefore, I strongly urge that the directive be amended to provide specific guidance in this respect.

(b) Also, I strongly recommend that specific guidelines be added as to whether a discharge under other than honorable conditions should be upgraded to General or to Honorable. This would seem to be required by the Public Law 95–126 requirement for "uniformity". Various administrative discharge regulations and documents establishing discharge-review standards have set forth principles for deciding whether a General or an Honorable Discharge should be issued; and, in certain instances, such regulations and documents have been quite specific in this regard. Therefore, it ought not to be difficult to develop clear, uniform standards for this determination.

MISCELLANEOUS

23. In addition to the foregoing, I recommend that a further clarification be made of the discharge-review process—that a provision be added to make it clear that the DRB's are bound by decisions of the United States Supreme Court and the United States Court of Military Appeals in interpreting provisions of the United States Constitution, federal law and military regulation which are applicable in specific cases, and to indicate whether the formal opinions of the respective Judge Advocates General are also to be considered binding on the DRB's. Without a provision governing these matters, I am concerned that uncertainties as to the effect of such decisions and opinions, as demonstrated by the National Military Discharge Review Project of the American Civil Liberties Union in connection with its December 2, 1977, petition before the department (see pages 19–20 of its supporting memorandum), will result in a lack of uniformity and in legally erroneous DRB decisions.

24. I also believe that uniformity and fairness could be enhanced through provision for the exercise of the authority of the Secretaries concerned to review DRB decisions and of the DRB's to undertake review on their own motion. For example, if it became known that, during a specific period of time at a certain installation, serious procedural errors were repeatedly made or command influence exerted, the DRB concerned could be required to review, on its own motion, all cases reasonably likely to have been affected by such errors or influence. Also, I recommend that the Secretaries concerned be required to review periodically the index of cases in order to identify any significant patterns of disparate results in similar cases, conduct their own reviews of the cases involved, and grant upgradings where necessary to overcome patent inequities. Therefore, I strongly urge that careful consideration be given to these and other ways in which the review authority of the Secretaries concerned and the authority of the DRB's to review cases on their own motion could be exercised to enhance uniformity in discharge-review decisions.

25. The undated, unpublished document entitled "President's Guidance, Army Discharge Review Board Standard Operating Procedure", authored by the President of the Army DRB, provided a great deal of useful, specific guidance for board members in their consideration of many difficult issues which they frequently encounter. Generally, the guidance provided in that document with respect to discharge-review standards is much more detailed and would be more useful to DRB members and applicants than that which is contained in the proposed directive. Therefore, I recommend that that document be carefully examined with a view toward incorporating appropriate parts thereof, with such revisions as may be necessary, in the proposed directive.

26. Please advise me as to the status which you intend that various memoranda and other unpublished documents establishing discharge-review standards and procedures will have following publication of the proposed directive in final form. If any such documents are going to continue to be relied upon, Public Law 95–126 clearly requires that they apply uniformly to all DRB's and that they be published. Therefore, I urge you to cover this matter in the proposed directive with a view toward assuring that applicants are as fully informed as possible as to the standards and procedures under which their applications will be judged.

27. Enclosed is a copy of the proposed directive reflecting various technical changes and typographical corrections suggested by Committee staff. I hope that these are helpful to you.

I would very much appreciate your providing the Committee on a continuing basis with four copies of all directives, memoran-

da, and other documents which have been and are issued by the Departments of Defense, Army, Navy, Air Force, and Transportation, and by DRB officials in implementation of Public Law 95–126.

If you or your staff have any questions regarding this letter, please contact Jon Steinberg, Chief Counsel, or Ed Scott, General Counsel, of the Committee at 224–6202, or 6213.

Thank you for your continuing cooperation with this Committee. I would very much like to have your responses to my questions and requests prior to final publication of the regulations. Alternatively, an opportunity for Committee staff and critical Departmental staff to meet before final decisions are made on the final regulation might be preferable to a pre-publication written response (although I would still request a written response as soon as possible).

Sincerely,

ALAN CRANSTON,
Chairman.

P.S.—On January 12, 1978, the General Counsel of the Committee received a copy of the Deputy Secretary's December 21, 1977, memorandum entitled "Implementation of Public Law 95–126", which deals with the issues discussed in the second paragraph of the first page of this letter. I do not believe that it would be consistent with the purposes of that law for that or any other document establishing significant policies on these subjects not to be published. Please advise me of your plans regarding the publication of such documents. I intend to provide you with comments on that memorandum in the near future.

THE SECRETARY OF DEFENSE,
Washington, D.C., December 21, 1977.

Memorandum For Secretaries of the Military Departments, Assistant Secretary of Defense (MRA&L), Assistant Secretary of Defense (PA)

Subject Implementation of Public Law 95–126

Public Law 95–126 made amendments to Title 38 USC 101 and 3103 which impact on the performance of the discharge review function by the Military Departments and requires promulgation of a directive containing uniform standards and procedures to be followed by the Discharge Review Boards (DRBs). Upon publication of that directive, the Military Departments are to implement its provisions immediately. Although the Secretaries of the Military Departments retain final decision authority and responsibility for the operation of their respective discharge review programs, the guidance contained in Attachment 1 is provided in order to insure uniformity of interpretation and application now required by the law.

In order to maintain the requisite degree of uniformity in the future, the Secretary of the Army is designated the Department of Defense administrative focal point for initiating and/or processing all matters affecting DRBs. Specific responsibilities will be detailed in the forthcoming directive. The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is delegated the authority to resolve all issues concerning DRBs which cannot be resolved among the Military Departments.

C. W. DUNCAN, Jr.,
Deputy.

ANALYSIS AND GUIDANCE FOR IMPLEMENTATION OF PUBLIC LAW 95–126

1. PRINCIPAL FEATURES

a. Addition of 180 days of continuous unauthorized absence to other reasons (e.g., conscientious objector, deserter) for discharge which act as a specific bar to eligibility for Veterans Administration (VA) benefits.

b. Requirement for publication of uniform standards (which are historically consistent with criteria for determining honorable service and do not include any criterion for automatically granting or denying such change or issuance) and procedures for Discharge Review Boards (DRBs) generally applicable to all persons administratively discharged or released from active duty under other than honorable conditions.

c. Prospective disqualification for receipt of VA benefits for those originally qualifying due to upgrade by Presidential Memorandum (P.M.) of 19 January 1977 or the Special Discharge Review Program (SDRP), unless an eligibility determination is made under the published uniform standards and procedures.

d. Reconsideration before 7 October 1978 of all cases on DRB initiative of those upgraded from other than honorable to Honorable or General Discharges under the P.M. of 19 January 1977 or the SDRP.

e. From date of publication of uniform DRB standards and procedures—for a period of at least one year—all former servicemembers (and heirs) with other than honorable discharges may apply for a discharge review/upgrade based on the new published rules.

2. DISCHARGE REVIEW BOARD (DRB) NOTIFICATIONS [1]

a. Written notification is required by the DRB commencing 8 October 1977 to each applicant whose record indicates he/she was discharged for a reason that would bar him/her from receipt of benefits under section 3103(a) of Title 38 U.S. Code, that separate action by the Board for the Correction of Military/Naval Records (BCM/NR) and/or the VA (in case of 180 day unauthorized absence disqualification) may confer eligibility for VA benefits. A sample notification letter is attached at enclosure 1.

As regards the 180 days consecutive unauthorized absence:

(1) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.

(2) Such absence is computed without regard to the applicant's normal or adjusted ETS.

b. Written notification is required by the DRB concerned to individuals who received an upgrade to an Honorable or General Discharge from a Discharge Under Other Than Honorable Conditions (DUOTHC) (formerly Undesirable Discharge) under P.M. of 19 January 1977 or the SDRP when the DRB is advised by the VA that individuals have received, are in receipt of, or have applied for VA benefits (enclosure 2). (Notification is not required to individuals who received an upgrade to an Honorable Discharge from a General Discharge under the P.M. of 19 January 1977 or the SDRP.)

c. Written notification is required by the DRB concerned to individuals whose cases, upon "preliminary" determination by the DRB are found not to qualify for upgrade under published uniform standards and procedures. (See 3.b. below.)

Note: An individual will be given a total of 45 days to respond to the notification letter regarding an adverse preliminary determination. If he does not respond within that period, the discharge review board will proceed to make its final determination.

3. DISCHARGE REVIEW BOARD DETERMINATIONS

a. Both a preliminary and final determination are required by 7 October 1978, except in those cases where a personal appearance is requested, as to whether an individual who was originally discharged under other than honorable conditions and was upgraded to General or Honorable under the P.M. of 19 January 1977 or the SDRP would be entitled to an upgrade under published uniform standards and procedures. Even if the DRB concerned simultaneously considered the case under its historically consistent discharge review criteria at the time of the SDRP determination and the decisional document specifically enunciated that the individual was upgraded under those normal criteria, another review is required. However, an abbreviated procedure should be considered in cases where the historically consistent discharge review criteria were applied and those criteria became published as "uniform standards."

b. The determination process is as follows:

(1) Preliminary—that is, an on-the-record review under the published uniform standards and procedures in the following order:

(a) Expedited basis—by 7 April 1978—upon notification by VA that an individual is receiving or has applied for benefits,

(b) DRB initiative—on all other cases where upgrade was based on P.M. of 19 January 1977 or SDRP, in time to meet 7 October 1978 deadline for final determination of these cases.

(c) DRB initiative—cases upgraded after 8 October 1977 prior to publication of uniform standards and procedures.

(2) Favorable preliminary determination:

(a) Enter into service record as a final determination (see 3.b.(4)(a) below).

(b) Notify VA in appropriate cases and individual concerned if that person has inquired.

(3) Unfavorable preliminary determination—notify individual concerned of adverse preliminary determination and of right to appear before the DRB under 10 USC 1553(c) (sample letter at enclosure 3).

(4) Final determination:

(a) A favorable preliminary determination.

(b) An unfavorable preliminary determination when individual does not reply to notification (enclosure 3) within 45 days.

(c) Action by the DRB after complete review of case in accordance with the published uniform standards and procedures.

(5) Special situations:

(a) Cases where no changes were made under P.M. of 19 January 1977 or the SDRP do not require redetermination.

(b) Determinations made prior to 8 October 1977 by a DRB which include both consideration of historical discharge review criteria and P.M. of 19 January 1977 or SDRP criteria, with a determination that no relief was warranted except under special program criteria, does *not* satisfy the preliminary determination requirements.

(c) The "de novo" hearings under the SDRP do not satisfy the requirement for advising an applicant of the right to a DRB hearing after an adverse preliminary determination has been made.

(d) Government counsel is not furnished under the provisions of P.L. 95–126.

4. RECORDS

Upon a final determination by a DRB as to an applicant's entitlement to an upgrade of his/her discharge under published uniform standards and procedures and he/she has been given an upgraded discharge earlier under P.M. of 19 January 1977 or SDRP criteria, he/she will be issued a DD Form 215, stating, as applicable:

Discharge reviewed under P.L. 95–126 and a determination that change in characterization of service was warranted under provisions of (P.M. of 19 January 1977 or SDRP, as applicable).

Discharge reviewed under P.L. 95–126 and a determination that change in characterization of service is warranted by DOD Directive.

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[1] or an activity so designated by the board to effect notifications.

(Note: The DOD requirement for written request for a copy of DD Form 215 is suspended in these cases.)

5. ADDITIONAL REQUIREMENTS

Each DRB will consider written requests for a review of a Discharge Under Other Than Honorable Conditions postmarked before 1 January 1980 from any former service member regardless of the date of his/her discharge.

6. INFORMATION PROGRAM

Assistant Secretary of Defense (Public Affairs) will initiate action to:

a. Develop a public affairs plan to provide for appropriate media releases and responses to media, public and Congressional inquiries concerning:

(1) The DOD directive on uniform discharge review standards and procedures.

(2) The rights of individuals who received an upgrade of their discharges under other than honorable conditions under either the P.M. of 19 January 1977 or the SDRP to obtain a hearing under the published uniform standards and procedures. Emphasis is to be placed on the fact that the Military Departments will take action to do this on the initiative of the respective DRB.

b. Coordinate an educational program with the Military Departments to advise present service members that under P.L. 95–126 a discharge under other than honorable conditions resulting from a period of unauthorized absence in excess of 180 days is a conditional bar to the receipt of benefits administered by the VA.

SAMPLE LETTER

DEAR ————: Your request for review of your discharge has been received. An initial review of your military records reveals that the discharge was awarded under circumstances that may make you ineligible for the receipt of Veterans Administration (VA) benefits regardless of any action taken by the Discharge Review Board. Specifically, these circumstances are that your discharge was based (on a continuous unauthorized absence of at least 180 days or one of the other prohibitions set forth in title 38 USC 3103).

There are agencies which can take action on your case. The courses of action available to you are:

1. You may request that the Board for the Correction of Military Records act to change your records to remove the circumstances which constitute this bar to benefits. That Board can take such action when you provide it with proof that there was an error or injustice done in your case. An application form (DD Form 149) is enclosed to aid you if you decide to initiate such a request.

2. You may request the VA to consider your case. If you believe you have a basis for such a request, you should contact the nearest VA office for assistance in starting the request.

3. You may follow either or both of the above courses of action, as well as continuing your request for a discharge review if you desire, or you may do nothing at all. You are in the best position to evaluate what course or courses of action are most advantageous to you.

Please complete the enclosed attachment within 45 days from the date of this letter indicating your desires in this matter; otherwise, we will complete action on your discharge review application as it presently stands.

Sincerely,

SAMPLE LETTER

Date ————.

Appropriate DRB,
Address

I have received your letter pointing out that regardless of the action taken on my request for a review of my discharge I may be ineligible for any VA benefits. I have decided that:

( ) I wish to have my discharge review request processed.

( ) I do not wish to pursue my request for a review of my discharge by the Discharge Review Board at this time.

Name

Street

City State ZIP

Phone number

SAMPLE LETTER

DEAR ————: On 8 October 1977 Public Law 95–126 was enacted. The law bars the Veterans' Administration from providing benefits to an individual whose, under other than honorable conditions, discharge (formerly Undesirable Discharge) was upgraded under discharge review criteria under any special discharge review programs. The law also provides that upon the request of the VA, the Discharge Review Board will again review your case to determine whether you would be entitled to an upgrade of your discharge under published uniform standards and procedures.

Since your present upgraded discharge does not entitle you to VA benefits under Public Law 95–126, your file will be expeditiously reviewed again to determine if you qualify for such an upgrade and you will be so advised. If you do not qualify for such an upgrade after the preliminary review by the Discharge Review Board, you will be told and given an opportunity to appear in person before the Board. No action is required by you at this time to initiate the additional review of your case.

The new law provides that if you are in receipt of benefits from the VA, these benefits may be terminated not later than 7 April 1978. The United States shall not make any claim to recover any benefits received by you prior to notification to you of termination of 7 April 1978. If you continue to receive benefits after this time, you may be required to repay the government.

If you have applied for VA benefits but have not yet begun to receive benefits, none will be given to you until a determination is made by the Discharge Review Board as to whether you would have been entitled to an upgrade of your discharge under published uniform standards and procedures. The VA will be notified of this decision and they will make the final determination as to your eligibility for VA benefits.

Please remember that no action is required of you at this time. If any action is required, you will be advised by a subsequent letter.

I hope this information is helpful to you in understanding how this new law affects you.

Sincerely,

SAMPLE LETTER

Suspense (date).

DEAR ————: A preliminary review of your discharge has been completed by the Discharge Review Board as required by Public Law 95–126. As a result of this preliminary review, it has been determined that you do not appear to qualify for VA benefits based on the upgrade of your discharge under published uniform standards and procedures.

You are entitled to an opportunity to appear in person before the Discharge Review Board, if you so desire, before this preliminary determination becomes final. If you wish to appear personally, you are also entitled to present evidence on your own behalf or be represented by appropriate counsel. Please complete the enclosed DD Form 293 and mail it to the address shown, prior to the date shown as suspense in the heading of this letter. If you do not apply by that date, the Discharge Review Board will proceed to make a final determination on your case.

An adverse final determination may be a bar to receipt of benefits administered by the VA, based on the period of service covered by the discharge. This bar may exist despite the fact that you have received or do receive an upgraded discharge based on special discharge review criteria for the same period of service. The VA will be responsible for making the final decision as to eligibility for any benefits you have claimed or may wish to apply for in the future.

Sincerely,

————.

NATIONAL FALLEN HEROES DAY

Mr. KENNEDY. Mr. President, during the past session of this Congress, my distinguished colleague, the Senator from Maryland (Mr. MATHIAS), introduced Senate Joint Resolution 98, to which I was pleased to add my name as a cosponsor.

This resolution authorizes and requests the President to declare May 21, 1978, as "National Fallen Heroes Day" in honor of the many fire fighters and law enforcement officers who have died in the line of duty while serving the citizens of this country.

I think that too often many of us take for granted the jobs these men and women perform without realizing that every working day they are exposed to the danger of being seriously injured or killed. The available statistics are a sobering reminder to all of us of how dangerous their work is.

During the 10-year period 1967–1976, 1,077 law enforcement officers were killed in the line of duty; 111 were killed in 1976 alone. In the past 10 years, there were more law enforcement officers killed while attempting to arrest a suspect than in any other circumstance—246 officers were killed while attempting arrests for crimes other than robbery or burglary. In connection with robbery offenses, 211 officers were slain by persons encountered during the commission of a robbery or during the pursuit of robbery suspects and 73 officers were killed at the scene of a burglary or while pursuing burglary suspects. In ambush situations, 95 officers were killed.

During the same period, 164 officers were slain while responding to disturbance calls which include family quarrels, bar fights, and other citizen complaints. Also 77 officers were killed while investigating suspicious persons or circumstances; 112 officers were slain while making traffic stops; 37 were killed while handling mentally deranged persons; 50 officers were slain while transporting or otherwise engaged in custody of prisoners; and 12 were killed during civil disorders.

The manner in which these officers were killed is almost as disturbing as the number who have died. Of this number 1,019 officers, or 94.6 percent of those who gave their lives, were killed with firearms; 70.7 percent were killed with handguns, and the remaining 24 percent were slain with either a rifle or shotgun.

One of the most dangerous occupations today is that of a firefighter. Last year a total of 158 firefighters lost their lives in on-the-job accidents or from occupa-

tional diseases. Over the past 10 years, firefighters have suffered an average of 88 deaths per 100,000 firefighters, compared to 58 deaths for every 100,000 law enforcement officers. An individual firefighter had slightly better than a 50–50 chance of making it through the year without being injured.

Last session, the Senate passed the Public Safety Officers' Group Life Insurance Act (S. 262) which will provide a group life insurance program for State and local government public safety officers who, because of their dangerous occupations, have been unable to acquire adequate life insurance. In passing this bill, the Members of Senate recognized the special risks which these brave men and women take daily in our behalf. Senate Joint Resolution 98 articulates that recognition and acknowledges society's debt and gratitude in a fitting nationwide manner.

PRESIDENT CARTER PRESENTS POSITIVE PROGRAM

Mr. RANDOLPH. Mr. President, President Carter gave his state of the Union address on last night to a joint session of the Senate and House of Representatives. It was also his message to the citizens of the United States.

The President gave emphasis to the problems of our economy, the concerns of business, the needs of people and hoped for world peace.

I have issued the following brief comment on the contents of a speech which covered a broad range of subject matter.

I ask unanimous consent that this comment be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMENT BY U.S. SENATOR JENNINGS RANDOLPH

WASHINGTON.—The following is a statement by Senator Jennings Randolph on his reaction to President Carter's state of the Union address.

Overall, it was a thorough documentation for the American people of the record that President Carter feels has been achieved on major matters. It was positive.

He demonstrated that as President he is intensely interested in the concerns of individual Americans. His comments on the impact of over-regulation by the Federal bureaucracy in our daily lives were well received.

It was gratifying that the President, in discussing the energy problems, gave priority to production coupling it with the cutting of waste, which means conservation. I think it is significant that, for the first time, he has emphasized production and use of those fuels which, in his words, are "plentiful and more permanent."

That is a direct recognition of the future role of our key energy supply—coal—which can be used in many, many ways.

President Carter stressed the need for a partnership of people with their Government, of participation and cooperation. It was a message of hope.

THE LAW OF THE SEA CONFERENCE: IS A COMPREHENSIVE TREATY STILL POSSIBLE?

Mr. PELL. Mr. President, on March 28, 1978, the seventh and possibly last session of the Third United Nations Conference on the Law of the Sea will convene in Geneva, Switzerland. This Conference has been meeting for 5 years in an attempt to hammer out an international agreement governing all the various and conflicting uses of the oceans.

The world's oceans cover approximately 70 percent of the earth's surface. Under the traditional international law of the sea, all of it except for 3-mile bands along the coast was free high seas. In recent years, adherence to this traditional law has broken down, with various countries making different claims as to their rights to conduct and control activities at sea.

The overall purpose of the Law of the Sea Conference is to achieve widespread international agreement on the rights and duties of nations in the oceans. Success would reduce the chances of conflict, and increase the predictability necessary for military and economic planning.

It would also help restore waning confidence in the efficacy of global multilateral negotiation as a means for dealing with common problems.

The progress of this Conference has been extremely disappointing. From a U.S. point of view, the Conference reached its low point last year. This is reflected in the following excerpt from Ambassador Elliot L. Richardson's press statement of July 20, 1977:

The Informal Composite Negotiating Text resulting from this session of the U. N. Law of the Sea Conference evidences real progress on vital issues relating to international security and freedom of navigation. At the same time it substantially sets back prospects for agreement on an international regime for the conduct of seabed mining. Both the substance of the text on this issue and the lack of fair and open processes in its final preparation require me to recommend that the United States undertake a most serious and searching review of both the substance and procedures of the Conference.

. . . I am led now to recommend to the President of the United States that our Government must review not only the balance among our substantive interest, but also whether an agreement acceptable to all governments can best be achieved through the kind of negotiations which have thus far taken place.

More recently, in a speech given on January 18 at the Seapower Symposium of the Cincinnati Council of the Navy League, Ambassador Richardson stated that despite the difficulties encountered during the last session of the conference "the ingredients of a fair and reasonable compromise are still within the grasp of the conference." He went on to say that if,

Others are prepared to bring understanding, good will and common sense to the effort to achieve a fair and broadly acceptable comprehensive treaty, the United States is prepared to join in that effort.

As chairman of the Foreign Relations Committee's Subcommittee on Arms Control, Oceans and International Environment, I wish to lend my support to this statement by Ambassador Richardson who, I may add, is doing a splendid job.

Mr. President, I ask unanimous consent that the full text of Ambassador Richardson's remarks at the Seapower Symposium be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY AMBASSADOR ELLIOT L. RICHARDSON

The Law of the Sea Conference: Is a Comprehensive Treaty Still Possible?

In the life of international conferences a moment arrives when the elements of negotiations are so arranged after exhaustive and exhausting debate that a fair compromise comes within reach. If not seized, the opportunity for striking a final bargain which reasonably accommodates the fundamental interests of all may quickly and completely vanish. Such a moment has been reached by the Third United Nations Conference on the Law of the Sea. We shall soon know whether the delegates to this Conference have the resourcefulness and whether their governments have the political will to find the formula for success.

This Conference, unique in diplomatic history, is entering its fifth year. Although some observers have disparaged it as a tedious talkathon, the Conference has in fact made remarkable progress on a vast range of issues of vital importance to the United States and the world community. Provisions have been negotiated which safeguard traditional high seas freedoms within the 200-mile economic zone except for specific resource-related rights accorded coastal states by the Convention. The generally satisfactory texts on transit passage of straits have survived. There have been improvements over previous texts in respect to environmental control and settlement of disputes.

It is precisely because so much progress has been made that it would be bitter irony if the Conference were to fail to resolve the single most difficult problem facing it—an international regime for the mining of the deep seabed.

You will recall the sense of frustration and disappointment we felt at the end of the last session of the Conference because the text on the exploitation and governance of the seabeds area grafted at the last moment cnto the Informal Composite Negotiating Text (ICNT) departed so radically from the compromise drafts which had emerged from full, fair, and open discussion. And yet, although the ICNT provisions on seabeds are totally unacceptable to the United States, the ingredients of a fair and reasonable compromise are still within the grasp of the Conference.

The compromise, which I am convinced we can achieve, must accommodate the essential interests of the proponents of contending philosophies. Further, it must be premised on acceptance of the fact that the maximum objectives of neither can be fully realized. The key to producing the requisite change in the dynamics of the Conference is the readiness to concede that politics—international or national—is still the art of the possible.

That the search for consensus on seabed mining should be the most controversial, complex, and difficult business still before the conference is hardly surprising. Unlike much of the work of the Conference, drafting a constitution for the seabeds is not an exercise in codification of existing or emerging international law, but rather an effort *de novo* to create by consensus new international institutions in a field where there is no prior experience or legal precedent.

The Conference unanimously agrees that the resources of the deep seabed are the common heritage of mankind. It agrees that their exploitation should be managed on behalf of all mankind by an appropriately designed international authority. It also agrees that the developing countries should share in the proceeds of mining the deep seabed.

Disagreement centers on three principal issues:

(1) The first is the system of exploitation

of the seabed. This issue opposes those whose optimum position calls for unlimited access to mine sites for qualified companies and State enterprises against those who would prefer to see all exploitation reserved for the international equivalent of a government monopoly. The issue posed is essentially one of economic pluralism versus state centralism projected on a global scale.

(2) The second is the resource policy which guides and regulates seabed production. This issue involves many complex international economic questions, such as whether all minerals on the seabed are subject to control by the Authority and whether the Authority's powers should extend to fixing prices and regulating markets. The question which perhaps most sharply divides the Conference is the extent to which the production of seabed minerals should be limited. Here the interests of consumers of these minerals—mainly nickel and copper—clash with those of land-based producers of the same minerals. Consumer interests would benefit from a liberal policy of unfettered production of seabed minerals; land-based producer interests, conversely, would benefit from a restrictive policy of limited production.

(3) The third contentious issue is the question of the governance of the international institutions created to manage seabed mining. This too is a multifaceted problem. The point of most intense dispute concerns the degree to which the international authority should be controlled on a one-nation one-vote basis versus the degree to which recognition should be accorded to such major interests as those in production, investment, and consumption.

A country's position on any one of these three issues does not in itself, of course, determine the country's position on either of the other two. For example, some land-based producers favor a pluralistic exploitation system and rigid production controls. Some developing-nation consumers favor a monopolistic approach to exploitation but a liberal resource policy.

Despite these disparate interests, the seabeds debate has tended to divide all participants in the Conference into two groups. The first group favors a pluralistic exploitation system, a liberal resource policy, and a Council which encourages production. The second group takes the opposite position on all three issues.

The first position would in combination have the effect of transforming the concept of the common heritage of mankind from a noble aspiration into a reality for the practical benefit of all. The second position, in contrast, would leave the common heritage a promise unfulfilled.

One might suppose that the developing nations would take an approach which would give practical meaning to the idea of the common heritage. That they have not consistently done so is surprising. The result it a triumph for ideology over economic interest. It has led, ironically, to an artificial division between the developed and developing countries. All developing countries are consumers; few are land-based producers. All developing countries, moreover, could share in the proceeds of seabed mining. Despite Conference rhetoric that has so often assumed the contrary, the seabed mining issue does not on its merits lead to a confrontation between developed and developing countries. To the extent that confrontation has developed, it has been in spite of the real interests of the great majority of states.

These underlying interests have helped, nevertheless, to bring the three key issues of exploitation, resource policy, and governance to the point of possible resolution. But there is another reason why compromsies should now be achievable. It is that the negotiations to date have demonstrated that neither side in the Conference can impose on the other its preferred approach with respect to these issues.

As to the system of exploitation, those who favor an international monopoly have realized that their approach will certainly condemn exploitation of seabed minerals under an international regime at least to indefinite postponement, for such a regime will not attract investment and cannot generate technology. The monopolists have therefore had to yield to economic realities. Those who favor a pluralistic approach have had to recognize that the developing countries cannot accept a system under which they will share in the proceeds of seabed mining but not in its operation and development. Awareness of these realities has forced the negotiation in the direction of a dual system embracing both modes of exploitation. All that is now necessary for a final bargain is for each side to agree that the other's half of the dual system must be made workable and that both halves will be permanent until and unless otherwise agreed at a review conference.

For such an understanding to become a reality, two mutually binding conditions must be met:

(1) The economic viability of the pluralistic side must not be undercut by such deterrents to investment as unreasonably burdensome financial arrangements, impossibly vague terms for negotiation of contracts, or unrestricted discretion in the international Authority. Any constraint on deep seabed mineral production must be straightforwardly set forth in the resource policy, not smuggled in through a side door.

(2) By the same token, the international entity ("the Enterprise") must be given the practical means of getting into production, not stifled at birth by inability to gain access to funds or technology. This is why, in response to the fears of the developing countries that without start-up financing for its first site the Enterprise could be an empty shell, we offered some time ago to assist in such financing.

With regard to resource policy, the developed countries believed that they had made a major concession when they agreed that seabed production might be limited to the cumulative growth of the world market for nickel, thus protecting land-based producers from adverse consequences to their economies as a result of seabed production.

Unfortunately, the land-based nickel producers pressed their advantage, unreasonably we think, and insisted that they should be guaranteed half the growth of the nickel market without regard to economic factors. They were able, moreover, to enlist the support of the land-based producers of copper, although seabed production of copper will not significantly affect the world copper market in the foreseeable future. Given current estimates of the rate of growth of the nickel market, the result would be a ceiling on seabed production so low as to prevent both its efficient development and its equitable sharing. The degree of protection which the land-based producers seek is, in our view, far greater than they need or should reasonably expect.

In this area, too, there will be no way out if either side persists in an extreme approach. Stringent controls which stifle production simply cannot and will not be accepted by the industrialized importing countries.

Regarding governance of the institutions to manage sea-bed operations, dispute centers on the question of how best to afford adequate recognition to interests which it is essential for the world community, not merely the developed countries, to foster and promote.

As it now stands, the ICNT would create an Assembly with "supreme" legislative and regulatory power. The Assembly would be founded on what is at best an anomalous principle—one-nation one-vote—which bears no rational relationship either to the principles of democracy or to the distribution of power, values, and interests. The issue is not one of a "majority" versus a "minority." It is a question, rather, of the identification and the balancing of the valid interests at stake—those of consumers, producers, investors, regional groups, and developing countries. "Sovereign states" are only surrogates for such interests, and imperfect ones at best. To allow resources constituting the common heritage of mankind to be disposed of by a nose-count of nations would be a bad precedent for the international institution-building of the future.

The Conference itself, be it noted, has recognized that no true consensus can be produced by majoritarian procedures. It is for this reason that the Conference rules permit a vote only when every effort to achieve consensus has been exhausted. It is for this reason also that the leaders of the Conference share the aim of deferring all voting until the last possible moment and of restricting it then to the smallest possible number of issues.

If fair compromises are reached on the first two of the key seabeds issues—exploitation and the resource policy—it will be on the basis of accommodations fairly reflecting legitimate interests in due proportion to their true weight. It follows that a fair compromise on the issue of governance must rest on the creation of a Council which operates as the executive branch of the Authority with membership, powers, and voting procedures that can achieve the same kind of accommodation.

Given a readiness to strike fair bargains on each of the three key issues I have outlined, the deep seabed mining problem can be solved.

What are the prospects that this will happen?

The intersessional meeting of the Conference to be held in New York early in February may provide some answers. This will be the first real test since last summer of the readiness of the conferees to entertain compromise solutions on major substantive issues. We have some reason to be encouraged. Recent informal consultations showed strong, broadly based sentiment in favor of procedural arrangements which could facilitate agreement. Such procedural innovations, if carried into effect, should meet the concerns about due process in the deliberations of the Conference which I expressed at the end of the last session. The consultations also reached agreement on a list of specific difficulties with the seabeds part of the current negotiating text. These are precisely the ones which the United States believes require urgent attention; collectively they will comprise one of the three agenda items at the intersessional meeting.

I must say in all candor, however, that the road to successful conclusion of the Conference will be arduous. Sharply divergent economic and ideological perceptions still prevail. Communication across the lines that divide the participants remains difficult.

And yet, as I have tried to show, the elements of a fair deal are present nonetheless.

Do the parties really want one? There is a pervasive sentiment among most that successful conclusion of the Conference is so important as a precedent for constructive international cooperation that the Conference cannot be allowed to fail.

The United States will do its part to achieve an equitable and durable outcome. We will go halfway to meet those with whom we differ. To go beyond that would be not only to sacrifice our own essential interests but to acquiesce in a global system incompatible with the interest of all countries in encouraging efficiency and innovation. I will not support, nor would I commend to the President, a treaty which creates a regime for the seabed that I cannot honestly defend as offering a reasonable basis for American companies to risk the enormous investments demanded by deepsea mining.

Rather than accept outcomes which we consider wrong for the United States and, we believe, would be wrong for the world community as well, we would reluctantly choose to forego a treaty. The United States does not need a comprehensive treaty more than other nations. Seabed mining can and will go forward with or without such a treaty. We have the means at our disposal to protect our oceans interests if the Conference should fail, and we shall protect those interests if a comprehensive treaty eludes us.

If, however, others are prepared to bring understanding, good will and common sense to the effort to achieve a fair and broadly acceptable comprehensive treaty, the United States is prepared to join in that effort. For such a treaty in our view is objectively the best assurance that there will be predictability, stability, and order in the uses and management of ocean resources.

If these past four years of travail are finally crowned with success, as I hope they will be, the results will be felt far beyond the oceans in every endeavor where nations come together in an attempt to bring a sense of sanity, order, and stability to a troubled world.

HUMANITARIAN PROBLEMS OF SOUTHEAST ASIA

Mr. KENNEDY. Mr. President, several weeks ago, just after the adjournment of the first session, I released a special study mission report of the Judiciary Committee on the growing humanitarian problems in Southeast Asia. As I warned at the time, the report documents that a new humanitarian crisis is building today in Southeast Asia, which threatens the health and well-being of millions of people.

The crisis is building not only because of the dislocations caused by the Indochina war, but also because of growing food shortages and the threat of famine in many areas of Laos and Vietnam, and the mounting pressure of refugee movement into Thailand and other countries in Asia.

The preliminary staff report issued last month underscores the need for our country to abandon the piecemeal approach that has characterized our response to the interrelated 'people problems of Southeast Asia, and to develop more comprehensive policies and programs that realistically respond to what is happening in the field today.

Mr. President, I believe the study mission report provides a firm basis for reviewing our current policies toward the humanitarian emergency that exists in Southeast Asia, and I would like to draw the attention of all Senators to its findings and recommendations. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

HUMANITARIAN PROBLEMS OF SOUTHEAST ASIA, 1977

INTRODUCTION

For more than a decade the humanitarian problems of the Indochina Peninsula were a matter of primary concern to the Subcommittee on Refugees, which earlier this year was blended into the newly established Subcommittee on Immigration, Refugees, and International Law. Senator Kennedy, who served as Chairman of the former Refugee Subcommittee, is the ranking member of the new Subcommittee, and he continues his active interest in a broad range of international humanitarian affairs, including the people problems resulting from the Indochina war.

The report which follows updates a volume issued by Senator Kennedy and the Subcommittee on Refugees on May 17, 1976, entitled *Aftermath of War: Humanitarian Problems of Southeast Asia*. This report reviewed the situation in Vietnam and Laos, the plight of displaced persons from the Indochina Peninsula in Thailand, and the resettlement of Indochina refugees in the United States and other countries in 1975–76.

In light of the continuing Congressional and public interest in the serious humanitarian problems of Southeast Asia, the generally acknowledged responsibility of the United States to help resolve these problems, and the President's recently announced program to parole additional Indochinese refugees into the United States, Senator Kennedy, in consultation with the Committee Chairman, dispatched a special Study Mission to the field during August 1977. The Study Mission was composed of Mr. Dale S. de Haan, a Counsel to the Subcommittee; Mr. Jerry N. Tinker, a Professional Staff Member to the Subcommittee; Mr. Wells C. Klein, Executive Director of the American Council for Nationalities Service, New York; and Dr. Glenn W. Geelhoed, Associate Professor of Surgery at the George Washington University Medical Center in Washington, D.C.

The team traveled in Thailand, Laos, Malaysia, and Singapore, assessing the humanitarian problems that remain in the aftermath of the Indochina war. In addition to visits in the field to refugee camps, the team held extensive consultations with governmental officials, United Nations officials, United States Embassy personnel, and representatives of the voluntary agencies.

The following is a preliminary report of the Study Mission's findings in the field, and recommendations for United States policy.

I. RELIEF AND REHABILITATION IN THE INDOCHINA PENINSULA

As emphasized in previous reports of the Subcommittee on Refugees, one of the most tragic and, perhaps most enduring legacies of the Indochina war has been its cumulative impact upon the lives and society of the people throughout the region. The cruel statistics of the war's human toll, and of its impact upon the land and social fabric of the countries involved, are matters of record—and cannot easily be forgotten.

Nearly three years after the end of the war, many of the humanitarian problems produced by the conflict continue to fester in various degrees. Recovery is still in process. Families dislocated by the war are still returning to their villages or moving to "new economic zones", in order to normalize their lives. The crippled and the maimed, orphans and widows, and thousands of other war victims still need help. The land is still being renewed. And, housing, schools, medical facilities, and whole villages are still being rebuilt in the war-ravaged countryside. Although needs and conditions have varied within each country of the area, as well as the policies and programs of each government—especially in Democratic Kampuchea, which has largely been closed off to the world—all of the governments of the area have broadly shared similar challenges and tasks in meeting the problems of their societies brought on by the war.

In recent months, especially, the difficulties of post-war rehabilitation and reconstruction have been seriously compounded by growing food shortages, brought on by drought, a series of other natural disasters, and the dislocations of war. Far reaching Governmental efforts to reorganize the social and economic structure of the countries involved have been a contributing factor. And basic economic factors have also hampered recovery efforts. The false economies of war with massive foreign assistance and extensive food and commodity imports have collapsed, and, as a result, serious economic strains have developed in both the Socialist Republic of Vietnam and Lao People's Democratic Republic.

The paragraphs below summarize some current problems in Vietnam and Laos, and update some earlier observations in a May 17, 1976 report of the Subcommittee on Refugees—Aftermath of War: Humanitarian Problems of Southeast Asia.

A. Laos

Based upon the Study Mission's brief visit to Laos, and official reports from the United Nations and other sources, it is clear that a critical food and economic crisis is confronting the government and people of Laos.

Due to a combination of factors—serious drought, dwindling foreign assistance, and adverse developments in the management of the economy—Laos has verged close to bankruptcy. The situation has seriously hampered the efforts of this already impoverished country to recover from the ravages of war. It is also threatening to produce famine conditions in many areas of the countryside. In turn, these growing food and economic problems are contributing factors to the increased flow of refugees into Thailand.

Food shortages are one of the most pressing problems confronting the Laotian government, which last summer turned to the United Nations for assistance. As a result of rainfall deficiency during the 1977 agricultural season (May to October), the entire country has experienced a serious drought. Especially in the southern region, around Savannakhet and Champassak, rainfall was down from a normal 307 mm. to less than 72 mm. in June. Given the consequent agricultural damage, the government designated a Coordinator of Emergency Assistance within the Ministry of Agriculture and requested that the United Nations Development Program (UNDP) coordinate outside assistance.

During the summer of 1977 a UNDP mission toured various provinces of Laos, and a second team is currently in the field. The precise scope of food needs in Laos remains unclear. Some estimates on food import needs run as high as 367,000 tons over the coming year. But whatever is the accurate estimate, there is no doubt that serious food shortages exist, and that "pockets" of severe malnutrition and famine conditions will surely develop, unless something is done fairly soon

The deteriorating food situation was fully confirmed in a November 11 letter to Senator Kennedy from the Department of State. The Department's letter states that "the food situation in Laos is becoming increasingly severe, and is several times more serious than in Vietnam."

Pockets with food shortages have always been part of the pattern in Laos in part because of logistical problems in moving any surplus food from one area to another. However, the current situation far exceeds any "normal" pattern.

Aside from appealing for emergency food assistance in behalf of Laos, the UNDP is supporting other efforts of the Lao Government to deal with the agricultural crisis affecting most of the Country. These efforts include the provision of seeds for replacement crops in drought-affected areas, and of fertilizers, pesticides, and irrigation equipment.

In terms of emergency food needs, a UNDP report of August concluded that "to prevent famine conditions arising as a result of the drought, it is obvious that advance measures will need to be taken to provide foodstuffs, particularly rice, as well as vegetable oil and

condensed milk." The report found that existing rice stocks, coupled with whatever amounts were harvested this year, would probably be sufficient to meet most food needs until March 1978, although the report noted that serious shortages already existed in certain areas.

Laos is plagued, as it has been for years, by endemic health problems, including malnutrition, and the growing food shortages threaten to exacerbate these problems. Various international agencies are working in Laos, most importantly the World Health Organization and UNICEF. But massive health needs will remain for many years to come. And the medical infrastructure that exists has yet to recover from the damages of war, the lack of personnel, and the disruption in the flow of outside medical supplies and equipment.

B. Vietnam

Because of limited time and other factors, the Study Mission regrettably was not able to visit Vietnam in order to review humanitarian problems and needs, and the efforts and progress of the Vietnamese people in rebuilding their country and normalizing their lives. However, there is little doubt today, that, over the past thirty-two months, the Vietnamese have made some meaningful progress in meeting some of the most pressing rehabilitation and reconstruction needs that existed in the aftermath of the war. Steps are also underway to deal with long-term reconstruction needs. Vietnam has accomplished much of this by relying heavily on its own resources, but it has also welcomed the foreign assistance from many countries and various international organizations.

The most urgent priorities of the Vietnamese Government have remained more or less the same since the end of the war: the provision of sufficient food; the creation of jobs; the resettlement of displaced persons; the clearing and rehabilitation of war-ravaged agricultural lands; and the rehabilitation of war victims.

The notable exception to meaningful progress in meeting these human needs, lies in the agricultural sector, even though food production has always been the first priority of the government. However, food production has fallen short of government goals. The causes are many, including some associated with the dislocations of the recent war. But they also include the government's apparent mismanagement of the agricultural sector, which has resulted in much internal debate and the creation of a special interministerial council to give new direction and priority to food production and general agricultural development.

And adding very heavily to the growing food crisis in Vietnam, has been a series of natural disasters. During the 1976–1977 winter, Vietnam was struck with severe disasters. Almost simultaneously, devastating floods, severe drought in the southern provinces, and unusually cold temperatures in the north, destroyed rice seedlings and crop potential. Persistent drought over much of Vietnam during last summer followed these earlier disasters seriously damaging the summer-autumn rice crop. On top of all of this, typhoon Sarah struck four northern delta provinces in July, leaving behind it crop and other damages officially estimated at some $100,000,000. And several weeks later, in September, typhoon Dinah struck the south central provinces, leaving damages officially estimated at some $35,000,000.

Other factors contributing to food shortages have been insufficient food assistance from other countries, and a continuing foreign exchange shortage which has sharply curtailed the purchase of needed fertilizer, pesticides and various agricultural equipment.

A resolution recently adopted by the United Nations General Assembly took note of Vietnam's urgent need for food and related humanitarian assistance, and, like Laos, Vietnam is listed among the "most seriously affected countries". Depending on what measure is used for a daily rice/grain ration, over the next several months Vietnam's food grain import needs run as high as 2,000,000 tons.

Humanitarian needs resulting from the recent war persist in Laos and Vietnam. But so does a new disaster resulting from the growing food shortages in both countries. The United States should be mindful of these people problems and fully support the efforts of the international community to render assistance.

II. REFUGEE PROBLEMS IN SOUTHEAST ASIA

The final stages of the Indochina War in 1975, with its spreading conflict and political upheaval, produced an inevitable tide of refugees—people fleeing violence and conflict and uncertainty over the future. Since then, some 350,000 persons have left Kampuchea, Vietnam and Laos, leaving their homelands in several phases and under differing circumstances. Close to half of this number left Kampuchea and southern Vietnam during governmental collapse and American evacuation of these countries in 1975, and nearly all of this group and many thousands of others are now resettled in the United States, France, Canada, and other countries.

However, some 100,000 refugees, mainly from Laos, remain unsettled in Thailand, and the influx continues everyday. Additionally, thousands of "boat people" from Vietnam are scattered throughout Asia, and other numbers also are growing every day. During 1977, the refugee flow has averaged some 1,500 people per month. And, as a new year approaches, there seems to be no end in sight to this flow, currently at 5,300 a month.

Although the refugee movement over the past two years differs in some respects from the first wave of refugees in the early months of 1975, the basic problems the more recent refugees have posed for the host countries and the international community have remained much the same. However, resolving these problems—through local settlement in the host countries, resettlement in other countries, and voluntary repatriation—is becoming increasingly difficult with the passage of time. And given the continuing exodus from the countries of the Indochina Peninsula, new efforts will surely be needed by all parties concerned to help resolve a new crisis of people now building in Southeast Asia.

A. Refugee problems in Thailand

Statistically, the refugee problem in Thailand remained much the same during 1976 and the early months of 1977. Apart from the relatively small number of boat people in refugee areas along the coast, the number of refugees in camps along the Lao-Kampuchean border hovered around 80,000—the number of new arrivals not exceeding by much the number leaving for resettlement overseas. However, the number of overland refugees from neighboring Kampuchea and Laos has dramatically increased in recent months. Since last summer, the monthly influx, by official count, has averaged about 3,600 per month, nearly all of them from Laos. Again, by official count, as of mid-December, the number of residual refugees numbered close to 100,000. Well over three fourths of these people are from Laos. The remainder are mainly from Kampuchea. Only a few thousand are from Vietnam.

In addition to the refugees in camps, there is also an out-of-camp population of undetermined numbers. This group—which some officials estimate to be about 10 to 15 percent of the camp population—consists of displaced persons who have evaded Thai border patrols and live illegally with relatives or friends, usually in the more remote areas of the border districts. Many of these refugees have obtained identification papers and have resettled themselves.

In the early days of the refugee movement into Thailand, neither the Thai Government nor the international community were prepared to respond adequately. However, over the last couple of years an effective refugee care and maintenance program has been established, as well as an active overseas resettlement effort.

Since August 1975, following an appeal from the Thai government, the refugees in the main have fallen under the mandate of the UNHCR. The UNHCR continues its special operation to receive and coordinate all international contributions in behalf of the refugees, and to work with the Thai Government and others in developing lasting solutions to the refugee problem—including local settlement, overseas settlement, and voluntary repatriation.

Thus far, the cooperative effort between the UNHCR and the Thai Government has been geared to care and maintenance among the refugees, some self-sufficiency projects, overseas resettlement and related services. The Thai Government has generously supplemented UNHCR contributions with services and land. The Thai Government contributions more than match outside resources.

The refugees have been grouped in camps situated mainly along Thailand's northern and eastern borders. Thai officials suggest this was done to facilitate the accommodating of the refugees and the distribution of relief supplies, as well as for security reasons. Over the past year, the number of camps under UNHCR auspices have been reduced from 20 to 15, and the process of up-grading camp conditions which began in early 1976 has now been satisfactorily completed.

In cooperation with the UNHCR and the Thai Government, a number of voluntary agencies have carried out relief work in the camps since the summer of 1975. Initially, these agencies focused their efforts on helping to meet immediate relief needs, including medicine and food. Since early 1976, they have assumed a major responsibility for establishing and maintaining essential health care in the camps. They have also been promoting various special projects, including self-help projects in education and vocational training, handicraft production, kitchen gardening, and small-scale animal husbandry. However, given camp conditions, and the reluctance of Thai authorities to ease many of the constraints placed upon the refugees, the voluntary agencies' effort to help them attain greater self-sufficiency has met with only modest results thus far.

For example, the limited supply of water and the infertile soil in most camps, makes it difficult for agricultural projects to prosper. And the Thai Government's restrictions on the movement of the refugees have hindered their gainful employment outside of the camps. Until the Thai Government actively launches a local settlement program—in which the voluntary agencies can hopefully maximize their expertise in helping the refugees to normalize their lives—the best these agencies can do is to contribute to a humane "holding pattern". And for this, their presence remains crucial in the camps.

In addition to assisting refugees in the camps, some voluntary agencies are also active in the onward movement of refugees for resettlement overseas. This is particularly true for refugees headed for the United States. However, of key importance in the onward movement of refugees is ICEM. Since 1975, this intergovernmental organization has maintained an active field office in Bangkok to counsel refugees, to facilitate their onward movement, and to arrange for their transportation to the countries of resettlement. ICEM also works closely with the UNHCR and other interested parties to en-

courage the opening of resettlement opportunities in other countries, and maintains close working relations with the governments of these countries and with any voluntary agenices which may be involved in the resettlement process.

The program in behalf of displaced persons from the Indochina Peninsula in Thailand is an important humanitarian effort. On balance, the quadripartite working arrangement among the Thai Government, UNHCR, ICEM, and the voluntary agencies, has been working remarkably well. It is a commendable example of what can be done in a difficult situation to help homeless people in need. And it deserves the full support of the United States and of all others concerned about the humanitarian problems resulting from the recent war and about the progress and stability of Southeast Asia.

(1) Camp Conditions in Thailand—

As noted above, the year-long task of upgrading camp conditions in Thailand was completed in early 1977. In the main, the camps are now quite satisfactory, despite some over-crowding and occasional shortages of medical and other supplies. Moreover, despite some inevitable bureaucratic tangle and petty corruption, the Thai administration of the camps also seems to be adequate.

The Study Mission visited a number of refugee areas in northeastern and southeastern Thailand last August. The following paragraphs record some observations.

Nong Khai. The Nong Khai camp lies only a few miles south and east of the principal Mekong River crossing between Laos and Thailand. It was one of the first camps established, and is now one of the largest in the country. Some 18,000 refugees were ethnic Lao, and the remainder were Meo. Both groups have chosen to live in separate areas of the camp, and have separate but equal dispensaries and other services. Some 7.5 baht (approximately 30c) per person per month is available to cover basic care and maintenance costs among the refugees.

Both the voluntary agency personnel and local Thai officials exhibited concern for the refugees and sensitivity to their problems and needs. And within the constraints of funds available, camp personnel have been establishing programs to help the refugees live as normal a life as possible under the circumstances.

One such program has been the effort to up-grade medical services in the camp by establishing a training program for paramedics recruited among the refugees. It began last year with a class of 34, and with the likely assumption that not many trainees could be persuaded to complete the program and stay to help their fellow refugees, if resettlement overseas became a viable alternative. Today, however, the group totals nearly 100, and so far none have left for resettlement elsewhere. During the Study Mission's visit, a simple building was being constructed to house the program. In the meantime, the trainees were using the small church and school in the camp. The paramedic course has three levels. The first involves traning in basic nursing, bacteriology, paracytology, and pharmacology and general theory. The second involves practical experience in the camp. The third level involves more advanced theory and instruction in nutrition and medical treatment. Today, as compared to the surrounding areas in northeastern Thailand, the Nong Khai camp can almost be considered to have a surplus of medical manpower.

The training program for paramedics, as well as the camp's general health services and facilities are under the supervision of a physician from the International Rescue Committee, an American voluntary agency.

The physician reports that there have been no epidemics or really serious medical problems in the camp, and that cases needing special care are referred to nearby Thai hospitals. She expressed a special concern over the mental health of the refugees and the growing psychiatric and functional problems particularly among young women. In discussing health needs, one telling comment came from a refugee who said that there were health problems, but that medicine could do very little for them: "the best thing that could happen to us would be a change in circumstances."

On a typical day, the camp is bustling. People are milling around and talking. Youngsters are playing in the streets and fields. The many small shops are busy. And so are the small cafes. In the Meo section of the camp, women are busy making and selling handicrafts. Other refugees are tending small gardens or preparing the evening meal. A blacksmith and his family are at work. And for a small fee, young people are standing ready to carry visitors and others on "bike-wagons" from one end of the camp to the other.

The refugees are friendly to visitors and seem happy enough. But as in the case of all homeless people, such cursory impressions do not tell the full story. The refugees in Thailand are not living a normal life and are anxious over the future. They talk of overcrowding and a lack of privacy. They talk of their idleness. They seem hungry for recreation and entertainment, and especially for useful work. Camp personnel have sought to encourage the latter, by cutting rations and trying to get the refugees to supply some of their own foods through self-help agriculture projects. Some refugees have responded to this by planting small gardens, digging fish ponds, and raising chickens and pigs. However, given the nature of the refugee population and especially the lack of land, such efforts will remain very limited.

Random interviews with refugees at Nong Khai and elsewhere suggest a complex of motives and fears for their leaving their homeland. Economic reasons—including rampant inflation, increased taxes on rice, changes in the economic system, growing food shortages, and so forth—were cited by most refugees. Others were apprehensive over the new political climate in Laos. They felt uncomfortable with the "seminars" of the New Government. They feared "re-education". They had problems with the new Government's policy requiring the labor of all Lao citizens on special work projects. And a significant number of the refugees cited family ties outside of Laos, usually involving the extended family in Thailand, but sometimes involving Laotian nationals, resettled overseas.

Few refugees talked optimistically about the future. None spoke of returning to Laos at this time, but maybe later when things stabilized. Some spoke of going to the United States and Australia, in some cases, at least, for family reunion purposes. But the bulk of the refugees seemed resigned to remaining for local settlement in Thailand. They were getting impatient, however, over their lengthy and confined stay in the camps.

Loei. In contrast to Nong Khai, the camp near Loei is composed almost entirely of Meo refugees—many from General Vang Pao's once "secret army", who were flown out of Laos in 1975 by the Central Intelligence Agency. Over 12,000 refugees live in this very permanent-looking and well-built camp, which is run by several Thai officials and teachers from the neighboring district town. Located in the mountainous area of north-central Thailand, Loei resembles the terrain in which the Meo are accustomed to living, and this has attracted a flow of Meo refugees from other camps, including Nong Khai.

The problems of Loei are not dissimilar from those in other camps: over-crowding; food rations being cut slightly idleness and the inability to get work passes. A voluntary agency physician from World Vision has been organizing the medical services for the camp, placing priority on education in preventive medicine rather than delivering curative treatment. Some medicines are, of course, available through the UNHCR and the Thai Red Cross, but they seem to be dispensed rather sparingly. Some months ago 30 babies died of an epidemic of respiratory complications, but this has been the only serious medical problem reported.

In looking to the future, many refugees have expressed a strong desire to resettle overseas, especially in the United States, where at least some have relatives and where they know that their former leader, General Vang Pao, is resettled. However, the bulk of them appear willing to accept local settlement in the mountainous terrain of northern Thailand, and want to get on with the work of normalizing their lives. And, for most, this would be the more humane and appropriate solution by far.

Many of the leaders of Vang Pao's army remain in the camp, with former officers giving leadership and organization to the camp. They have remained, they said, "to take care of our people." Other officers stayed because they could not leave with more than one wife and their extended families.

In summary, the Loei camp appeared to be settlement for Meo families—most of whom would be content to remain in Thailand, if only they had more land to farm and more room to move.

Aranyaprathet. Now holding over 7,000 refugees from Kampuchen, Aranyaprathet was originally designed to house some 4,000 refugees. However, in August 1977, the camp population jumped by 3,000 as the Thai government rounded up people of Khmer descent who were living in areas which have become the focus of violent dispute between Thailand and Kampuchea. In response to escalating border clashes, Thai military authorities launced a program to control ethnic Khmer living amongst the Thai population. This relocation, say some observers, is somewhat similar to the measures taken by the United States in World War II among Japanese-Americans. The measures have been criticized by many, and the UNHCR has refused to accept these Khmer residents as "refugees" under its mandate.

However, the Khmer relocatees in the camp voiced little strong feelings against the move, in part because tensions in Thai villages had made it increasingly difficult to live peacefully. To some extent they viewed this relocation as temporary "protective detention."

The problems confronting the camp are similar to others, with a few exceptions. Water, for example, is a serious problem because of the drought and the lack of wells. The sudden overcrowding in August meant that a water supply adequate for 4,000 people had to accommodate 7,000, forcing some refugees to barter or to buy water at one baht per tin. Food rations have dropped slightly, but no malnutrition was apparent. And, unlike several other camps, there is little internal organization or leadership structure within the camp, and that which has emerged has been suppressed by Thai authorities.

The medical needs of the camp are being met through the work of a French physician and a local staff that appears adequate for the needs of 4,000—although overtaxed by the addition of 3,000 new arrivals.

The remaining population of Khmer refugees in Aranyaprathet is largely composed of rice farmers whose only desire is to farm. Most of the urban Khmer—shopkeepers, military officers, professionals—have long since left for resettlement overseas. The problem the remaining Khmer refugees pose for the Thai government are considerable—given the continued tensions along the border with Kampuchea, the continuing incidents of violence, the emergence of guerrilla forces among some Khmer in Thailand, and the tensions between local Thai villagers and the Khmer-Thai residents. The integration and

local settlement of Khmer rice farmers now in the Aranyaprathet camp will clearly not be an easy task for the Thai government.

(2) Policies and Practices of the Thai Government—

The presence of refugees in Thailand and the continuing heavy influx, has been, and continues to be, a heavy economic social and political burden on Thailand. The refugees pose delicate diplomatic problems as well. As noted in the 1976 report cited earlier, in the main, Thailand has commendably sought to fulfill internationally recognized standards for assisting and protecting refugees—even though Thailand is not a signatory to the United Nations Refugee Convention of Protocol. At the same time, however, Thailand has not approached this task with a great deal of enthusiasm, and it has sought at every step of the way to discourage further movement into the country.

Responsibility for the Thai Government's program has rested with the Ministry of the Interior, acting since last year under the general supervision of the National Security Council. From the beginning, senior ministry officials have recognized that Thailand has three alternatives in dealing with the refugee presence: (1) voluntary repatriation, which many officials still see as "an ultimate goal" for many refugees; (2) resettlement in other countries, such as the United States and France; and (3) the continued presence of certain numbers of refugees "under controlled circumstances," with a view toward local settlement.

With the passage of time, voluntary repatriation has ceased to be an immediately realistic alternative. Overseas resettlement helps Thailand. But local settlement is clearly inevitable for a substantial number of the refugees. For several categories of refugees, local settlement is not only the most realistic, but perhaps also the more humane solution. This is especially true for many Meo farmers and villagers, as well as Lao shopkeepers and tradesmen.

The Government has always recognized the need for some local settlement, and has agreed, in principle, with UNHCR's proposals for the local settlement of refugees; the only question is timing. The Thai Government has progressively encouraged self-sufficiency among the refugees in camp, but has shied away from implementing local settlement, as long as the influx of people continues. Rightly or wrongly, the Thais have feared that moving on a program of local settlement would simply encourage a heavier influx.

As noted earlier, an immediate hurdle in developing a local settlement scheme is the pressure on land in Thailand. Good agricultural land is now scarce, including government-held land, without encroaching on wilderness areas or game preserves. Thai officials are very concerned—and mention it frequently—about the resentment local Thais express over giving refugees free title to public lands, which the local Thais would like to exploit, and have been prevented from doing so in the past.

As a result, Thai authorities are considering local settlement for the refugees in the larger context of general rural development and programs which will benefit both local Thai villagers as well as the refugees.

Cost estimates for such an undertaking very considerably, depending on the number of people involved and the specific contents of any local settlement program. One estimate involving up to 50,000 refugees puts the cost of an integrated rural development project at some $30 million per year over a three to four year period. Other estimates run considerably lower than that.

As the refugee problem drags on, and pending some action on local resettlement, the Thai Government will continue care and maintenance and encourage self-sufficiency in the camps. They will also try to promote more resettlement opportunities overseas.

Coupled with Thailand's generally humane approach to the refugees who are presently living in the country has been an active policy to discourage any new arrivals. This policy has been there from the beginning of the refugee influx, but has progressively hardened with the passage of time. Since 1975, the Thais have sent up a variety of negative signals, sometimes dramatically, to make their point; governmental statements, occasionally stopping alleged refugees at the Mekong River border, occasionally turning boat people back out to sea, and so forth.

As early as August 1975, Thai authorities declared that all incoming refugees would be considered "illegal immigrants" subject to law and expulsion. The system established to implement the declaration had most arriving refugees detained by border police for illegally entering Thailand and fined 200–600 baht ($10 to $30) per adult. If they could not pay this fine, the refugees were to be detained in special centers, usually for two or three weeks to "work off the the fine." Upon release, the refugees were to be handed over to immigration officials who would admit them to camps—which are usually adjacent to or nearby the detention facilities. The refugees would then fall under the mandate and competence of the UNHCR. Most new arrivals would end up in the camps.

Declaring incoming refugees as "illegal aliens" and establishing a system to implement the declaration, seems to have done very little to discourage new arrivals. In recent months, therefore, the Thai Government has revised its approach. The Government has now declared its intention to separate "economic migrants" from among the new arrivals and from those who fall under the mandate and competence of tht UNHCR. Quite apart from the UNHCR program, the Thai Government would assume full responsibility for the future of the "economic migrants". After extensive consultations, the Thai Government and the UNHCR signed an agreement on July 22, 1977, further defining the principles and programs to be followed in implementing the humanitarian assistance program in behalf of displaced persons in Thailand. A statement accompanying the agreement noted: "It is recognized that a distinction must be made between persons who qualify as being within the competence of UNHCR and those who leave their country of nationality or habitual residence for reasons of personal convenience, for example, economic migrants, or persons who are not bona fide refugees."

No one can quarrel with such an objective statement, which is clearly in accord with both the spirit as well as the letter of international law and practice. The only question is how this statement will be implemented by Thai authorities. And this remains unclear.

However, from past experience, it would appear that the Thai government is once again attempting to send negative signals to discourage new arrivals, rather than establishing a system to return some of these people en masse. Moreover, there appears no intention on the part of Thailand to close its borders. In fact, Thailand anticipates new arrivals and has asked the assistance of the UNHCR in developing guidelines and procedures to implement a leigtimate screening process to sort out "economic migrants". Again, the precise course of action remains unclear.

The ambivalence and uncertainty Thai authorities feel toward the arrival of tens of thousands of Indochina refugees is understandable, and it is attributable, at least in part, to the bitter history they have experienced with refugees from Vietnam in 1954 and, earlier, from Burma. It also reflects a deepening concern over the internal impact of the growing number of refugees. In this connection, some Thai officials are especially concerned about the security aspects of the refugee influx. Many of these officials have expressed the fear that Laos and Kampuchea are exploiting the influx into Thailand to infiltrate spies and saboteurs in support of the continuing Communist insurgency. At the same time, however, there is evidence that local Thai military and police commanders are using some refugees to spy on Laos and Kampuchea and that some token support is available to resistance activities in these countries. Official Thai Government policy expressly forbids this. Nonetheless, local officials seem lax in enforcing the policy in some areas. Moreover, there also appears to be some private support for refugee involvement in resistance activities, especially in Laos.

B. The "Boat People" from Vietnam

One of the more pressing and dramatic humanitarian problems in Southeast Asia involves the growing number of Vietnamese citizens who, for a variety of reasons, have been moving by boat from their native land in search of resettlement opportunities in other countries.

This is not a new problem. It began in the closing months of 1975. Initially, the number of "boat people" was relatively small, and no major difficulties confronted the international community in protecting the rights and meeting the needs of these refugees. But as the months wore on and the number of boat people rapidly grew, the difficulties mounted and serious problems suddenly confronted many governments in Asia and the international community as a whole.

Thailand, Malaysia, and other countries in the area were providing safe havens for the boat people; but they were doing so on a temporary basis and with the assumption that the refugees would be resettled elsewhere. But by early 1976 the number of resettlement opportunities was not keeping pace with the growing number of boat people in safe havens. Serious backlogs were developing. And more and more, Asian governments were refusing safe haven to new refugees and were forcing boatloads of homeless people back to the open sea. This was endangering the lives of many refugees, and undoubtedly was adding to the countless number already losing their lives at sea. And it was also serving to prejudice the willingness of captains of passing ships to rescue refugees from the many boats floundering on the high seas.

The boat people, like all other displaced persons from the Indochina Peninsula, are covered by the mandate of the UNHCR. As their plight became more desperate, and with the initial humanitarian goal of promoting temporary safe havens and the protection and care of these homeless people, the UNHCR began appealing in behalf of the refugees to the governments of many Asian countries and to international maritime organizations and the flagships of many nations. And finally, on July 28, 1976, the UNHCR also found it necessary to issue the first of several international appeals for permanent resettlement opportunities for the boat people from Vietnam.

The record is clear that for many, many months governments were reluctant to support fully the efforts of the UNHCR, and they were slow in responding to the Commissioner's appeals for help. And in some degree this situation continues. This is not to suggest, however, that no meaningful progress has been made in resolving the problem of the boat people and in meeting their humanitarian needs. Over the past six months especially, important steps to this end have been taken by a number of countries, in cooperation with the UNHCR, ICEM, various private voluntary agencies, and others. New assurances of at least temporary safe haven for the boat people have been given by various Asian countries, and the United States and others have expanded their offers of resettlement opportunities for the refugees.

TABLE 1.—BOAT CASE REFUGEE

Locations	Total arrivals, 1977	Residual number seeking resettlement
Thailand	4,010	978
Malaysia	5,896	2,638
Philippines	1,176	536
Japan	791	305
Indonesia	712	164
Hong Kong	730	219
Singapore	202	6
Korea	91	1
Taiwan	63	0
Total	13,671	4,847

Source: Department of State, December 1977.

Attitudes, conditions and problems involving the boat people vary considerably among the host countries of Asia. However, many factors, including traditional attitudes towards immigration, have mitigated against an enthusiastic welcome for the boat people in nearly all of these countries. So it is not surprising that many Asian ports have had some serious difficulties in wrestling with the issue of what to do with Indochinese refugees arriving on their shores. In addition to Thailand, the Study Mission visited two other countries receiving boat people—Malaysia and Singapore.

Malaysia. A glance at the map of Southeast Asia quickly reveals why Malaysia is a primary destination for many boat people from Vietnam. Only 250 miles south and west of the southern tip of the Camau peninsula of Vietnam, the east coast of Malaysia is in relatively easy reach of small craft loaded with Vietnamese refugees. As of mid-December 1977, some boat people have been granted safe haven in Malaysia, a jump of 2,000 in little more than a month.

Malaysia has accepted for resettlement some 1500 Muslim refugees, of Cham origin, from the Indochina Peninsula. But like most other countries in the area, Malaysia has viewed with some alarm the landing of boat people on its shores. Apart from regional foreign policy and domestic security considerations, Malaysia, again like most other countries in the area, has had a number of concerns: that providing a safe haven for boat people will only encourage more to come; that local economic, political and social circumstances make it difficult to absorb ethnic minorities, or even to host them on a temporary basis; and that Malaysia does not have the means to help the refugees. Moreover, a common view in Malaysia and elsewhere is that many of the boat people, if not most of them, leave Vietnam out of needless fear and mainly for economic reasons and that such potential migrants should try to work out their futures within their own country and work to better their homeland.

Such attitudes and concerns, of course, have not stemmed the flow of boat people. And to cope with the truly humanitarian and purely practical problems posed by the landing of these people on Malaysian shores, the Malaysian Government has softened considerably its earlier views on helping the refugees. Good working relations seem to exist between the Government and the UNHCR Representative in Kuala Lumpur, and among all others involved in helping the refugees. The costs of the program in Malaysia as elsewhere, are funded largely by the UNHCR and contributions to his Office from the international community.

In the main, safe haven is routinely provided the hundreds of boat people who are reaching Malaysia. This policy is based largely on a UNHCR "guarantee" of onward movement and permanent resettlement in other countries. The Malaysia Red Crescent Society has effectively assumed the major responsibility for the daily care and maintenance of the boat people, who are clustered at various points on the Malaysian coast. The Society also assists in the onward movement of the refugees and maintains a transit center in Kuala Lumpur. In cooperation with UNHCR and all parties concerned, ICEM plays the primary role in the movement of the refugees to resettlement opportunities in other countries.

Singapore. Since the problem of boat people arose nearly two years ago, Singapore has probably taken the hardest line of any Southeast Asian country against the granting of safe haven, even on a temporary basis. For most of this period, and on a rather routine basis, boatloads of refugees approaching Singapore have been turned back to sea. Others have been allowed to anchor, but only temporarily for provisions and repairs, and with no disembarkation rights for the refugees on board. The same policy on disembarkation has also been applied to any refugees who were rescued on the high seas by ships calling at Singapore. Singapore's official policy has always been to grant safe haven to any refugee, if another country guaranteed in writing that it would take the refugee for resettlement. But Singapore has really done very little to promote this end. In fact, with the island Republic, a resettlement guarantee is never much of a possibility, let alone an option to consider.

In justifying its rather harsh and rigid attitudes toward the boat people, Singapore cites factors similar to those noted above in the case of Malaysia. Singapore also stresses its high population density, its smallness, its lack of natural resources, and so forth.

In recent weeks, following adverse publicity and diplomatic pressure, some Singapore officials have suggested that the island Republic would quietly ease its stand against the boat people; and that Singapore, like other Asian countries, would now grant safer haven to refugees, based on a UNHCR guarantee of onward movement and permanent resettlement in other countries. As of mid-December, however, little or nothing has been done to accomplish these goals.

Thailand, other countries. From the beginning, Thailand has been reluctant to provide safe haven to boat people, but usually, has done so on the assumption they would be resettled in other countries. However, in recent weeks, as the number of boat people dramatically increased, Thailand's humane policy apparently has been caught up in its hardening attitude toward the influx of all displaced persons from the Indochina Peninsula. As a result, Thailand has turned back to the open sea a number of boats loaded with refugees. Whether or not this is a temporary development is difficult to determine. But, hopefully, Thailand will reconsider the recent direction of its policy toward the boat people. And hopefully, as well, the UNHCR and the international community will render whatever assistance is needed to help Thailand deal with their difficult problem.

As to the situation in Hong Kong, Indonesia, the Philippines and elsewhere in Asia, no serious problems currently exist. Temporary safe haven is generally provided, based on UNHCR guarantees of onward movement and permanent resettlement in other countries.

Much time has passed and many serious problems have been resolved since the plight of the boat people became a matter of serious international concern nearly two years ago. But some of these people are still not guaranteed safe haven in some countries. The captain of some passing ships still ignore their floundering boats at sea. And given the veritable surge of boat people in recent weeks and months, and the continuing exodus from Vietnam, resettlement opportunities are probably needed more today than ever before.

In his November 14 statement to the Third Committee of the United Nations General Assembly, the High Commissioner for Refugees, Sadruddin Aga Khan, spoke of the continuing problem and needs of the boat people.

"It was on their behalf that, on October 3, the Secretary-General of the International Maritime Consultative Organization and I jointly appealed to ship-owners to observe the traditional rules of rescue of persons in distress on the high seas. It is my additional duty to appeal again to the countries of the area to let these persons disembark until more durable arrangements can be made, locally or elsewhere. I would also urge as wide a number of countries as possible to open their doors and grant resettlement opportunities. To do less, would be to turn our backs on humanity."

Local settlement is hopefully a viable alternative for at least some of the boat people arriving in safe havens. But, clearly, the offering of resettlement opportunities by a "wide number countries" continues to be a crucial element in meeting this on-going humanitarian problem. Ample resettlement opportunities help to encourage both open safe havens and the rescue of people in distress on the high seas.

C. U.S. policies and problems; international response

Thailand and the other host countries have looked to other nations, especially to the United States, for help in dealing with the growing problem of displaced persons from the Indochina Peninsula. American assistance so far has consisted mainly of these elements: (1) contributions to the UNHCR for care and maintenance and for international resettlement purposes among the refugees; (2) diplomatic support for UNHCR efforts and objectives and the related works of other international organizations; (3) support for voluntary agencies; and (4) the permanent resettlement of refugees in the United States.

Since 1975, the United States has expended at least $400,000,000 to assist in the care and maintenance, processing, movement, repatriation, and resettlement of displaced persons from the Indochina Peninsula. The bulk of these funds—over $300,000,000 covered the evacuation and movement of Indochinese displaced persons in 1975, their care and processing for onward movement in reception areas in the Pacific and continental United States, and their initial resettlement in communities across the country. The remainder has been used in part to cover various costs associated with subsequent parole programs. Contributions to the UNHCR, for his special operation in behalf of displaced persons from the Indochina Peninsula, so far total some $22,500,000.

An additional contribution of some $8,500,000 is planned in 1978. The UNHCR program currently includes care and maintenance, international resettlement travel, and repatriation services. The American contribution has been covering nearly 70 percent of the UNHCR cash budget. Additional funds have been made available to other international bodies, including ICEM and ICRC, as well as to private voluntary agencies. The expenditures outlined above do not include the costs incurred by the Indochina Refugee Assistance Program. This program, which is administered by the Department of Health, Education and Welfare, assists refugees resettling in the United States. Some $203,000,000 had been expended for this purpose at the close of fiscal year 1977. Some $124,000,000 more is being made available for the current fiscal year.

The offering of resettlement opportunities to the displaced people in Southeast Asia has probably been the most important and tangible element in the American response to the refugee problem in Southeast Asia. As of Mid-December, 1977, some 148,355 refugees

had resettled in the United States. The bulk of these people—at least 130,000—are from Vietnam. Some 10,000 more are from Laos. And the remainder are from Kampuchea.

With relatively few exceptions, the refugees have been entering the United States under the Attorney General's parole authority in Section 212(d)(5) of the Immigration and Nationality Act, as amended. This authority enables the Attorney General, "for emergent reasons or for reasons deemed strictly in the public interest", to bring into the country unspecified numbers of people without regard to the numerical limitations on regular immigration into the United States. The use of the authority in behalf of refugees and special migrants is normally conditioned on a positive recommendation from the Secretary of State and satisfactory consultation with the Judiciary Committee of Congress.

During 1975, various parole orders authorized the entry of 134,000 refugees. By the end of the year, however, pressures began mounting for additional resettlement opportunities. Finally, in the late spring of 1976, after a great deal of controversy and debate, the so-called "Extended Parole Program" authorized the entry of some 11,000 more refugees, mainly displaced persons from Laos in Thailand. But the pressures soon mounted again for still additional resettlement opportunities in the United States, especially for the growing number of boat people from Vietnam. For many weeks and months, there was a great deal of reluctance, both within the Executive Branch and Congress, to recognize these pressures, let alone to deal with them in any positive way. It was not until December 1976 that the United States indicated a certain willingness to accommodate a relatively small number of boat people through the regular admission provisions of the immigration laws, and it was not until the early spring of 1977 that a program for this purpose was finally implemented. By that time, however, the refugee problem was reaching serious proportions in the view of many observers, including Members of Congress, and the special program for boat people was clearly a token American effort at best. Something more had to be done.

In recognition of a building crisis in Southeast Asia, proposals for a new parole program soon began circulating within Congress and the Executive Branch. One of these proposals, submitted to the President for his consideration in June, involved the parole of an additional 15,000 refugees from among the displaced persons in Thailand and the boat people scattered throughout Asia. Reflecting the views of many in the private sector and others in Congress, on July 1, Senator Kennedy wrote to the President as follows:

"Given the growing number of these homeless people and the demonstrated need to maintain some flexibility in meeting our humanitarian responsibilities toward them, I want to recommend that the Attorney General be able to exercise his parole authority on a continuing basis over the coming months and without a specified ceiling on the number of entries into the United States. Hopefully, as well, the United States will work more closely with the United Nations High Commissioner for Refugees (UNHCR) and the Intergovernmental Committee for European Migration to promote resettlement opportunities in other countries, and will continue to support the material assistance and rehabilitation program of the UNHCR among the displaced persons who remain in Thailand."

On August 11, 1977, the Attorney General, after consultation with Congress, announced a new parole program for 15,000 refugees—with some 7,000 numbers allocated for boat people in Asia, and some 8,000 numbers for refugees in Thailand. As of mid-December, some 2,700 refugees have entered the United States under the new Indochinese Parole Program, which will continue well into 1978. Needless to say, the 15,000 "quota" was quickly filled. And given the continuing movement of new displaced persons from the Indochina Peninsula, especially boat people, pressures once again were building to add new numbers to the program announced in August.

Overall, since 1975, the United States has responded generously in helping to meet the needs of the displaced persons in Thailand and the boat people scattered throughout Asia.

In the main, however, this generous response has been developed on an ad hoc basis, and usually with a tinge of reluctance. More often than not, pressures have had to build at home and in the field, before some action was taken. And sometimes an action taken has been haphazard or belated, and has even created more problems than it solved. In short, we have been responding to the refugee problem without much thought planning, and without the framework of a coherent and consistent policy to guide our national actions in behalf of those in need.

Nothing has illustrated this more, perhaps, than the series of parole programs, which by fits-and-starts have attempted to carry out our national humanitarian responsibilities toward the refugees. But these programs have not met realistically their intended purpose. Most of them have been oversold in terms of resolving the refugee problem in Southeast Asia. And the manner in which they have been announced and implemented has often misled the host countries in Asia and the refugees themselves. And some observers have even suggested this has needlessly encouraged the flow of more refugees. Moreover, the parole programs have been implemented without much regard for other possible alternatives open to refugee families, and without a sufficiently active consideration of UNHCR efforts and objectives to promote durable solutions in the field, including local settlement and voluntary repatriation. No host government will face the hard choices it needs to make in dealing with their residual refugee problems, if there are illusory promises that someone else will take the refugees off their hands. This has applied especially to the mounting refugee problem in Thailand.

In recent weeks, the Administration, much to its credit, has sought to reverse the needless drift in the American approach to the refugee problem in Southeast Asia. When the new Indochinese Parole Program was announced last August, the President also directed that an inter-agency task force be established to chart some longterm policy guidelines and alternatives for action. In hearing testimony a few weeks later, Under Secretary of State Philip Habib, who chaired the task force, told Senator Kennedy that a comprehensive policy and approach was being developed, and that consultations with Congress would follow before the end of the year. Nothing very definite has emerged thus far, at least not for the public record. But the basic ingredients of a longterm and realistic policy toward the ongoing problem of displaced persons from the Indochina Peninsula are increasingly clear.

For one thing, the United States must keep its doors open. We have a continuing responsibility to offer resettlement opportunities to a reasonable number of refugees. Given the demonstrated need over the past couple of years to maintain some flexibility in this regard, the Attorney General should exercise his parole authority on a continuing basis and without a specified number of entries into the United States. A formula for this purpose should be worked out in consultation with Congress, and in the context of the number of refugee entries from other areas, where people also have legitimate claims upon the attention and concern of the United States. The number of entries for Indochinese refugees should respond to the ebb and flow of their movement and demonstrated resettlement needs, and not to some arbitrary "quota" which, inevitably and sometimes needlessly, is always immediately filled. Especially for refugees in Thailand, the principal, but not exclusive, criteria for parole eligibility should be the traditional American concern for family reunion. Given the special nature of the boat people problem, however, a more general humanitarian criteria should apply to these refugees. The current criteria, a left-over from 1975, are no longer appropriate or useful if, indeed, they ever were.

Since 1975, public debate and our ad hoc national responses to the refugee problems in Thailand and Asia have stressed parole programs and the resettlement of refugees in the United States. As a nation, we do have a continuing responsibility in this regard, but we must not focus on it to the exclusion of other important alternatives. We must be more balanced in our policy and approach.

In this connection, the time is past due to encourage and promote more actively the local settlement of refugees in the host countries, especially in Thailand. Thailand is prepared to move in this direction, in the context of general rural development which would also benefit its own citizens. And, recognizing Thai sensibilities in this difficult situation, the United States must be prepared, diplomatically and financially, to join others in the international community in lending support to such local resettlement efforts.

American policy must also acknowledge the possibility of voluntary repatriation among certain refugees, especially among Lao nationals in Thailand. As noted elsewhere in this report, field interviews with some of these refugees suggest they would willingly return to their homeland if conditions stabilized, especially in the economic field. For many of the newer refugees, if not for a majority of them, economic motives strongly influenced their decision to leave their homeland. For many of these people, voluntary repatriation may not be out of the question, if and when conditions permit it. Thailand, for example, does not want to take any action that would foreclose this option, and for such reasons, at least in part, Thai authorities are terming most new arrivals as "economic refugees" and classifying them as "illegal immigrants". Such designations dissipate some of the political onus connected by formal refugee status under the UNHCR's mandate. The United States must be understanding of this, even as we must be vigilant that no one, regardless of his classification, is forcibly repatriated. Voluntary repatriation will only become a viable and humane option for certain numbers of refugees with the general agreement of all parties concerned and with real assurances for the care and protection of the displaced persons when they return. And should voluntary repatriation occur, hopefully it will be carried out under international auspices.

Any comprehensive American approach to the refugees problem in Southeast Asia should be fully supportive of UNHCR objectives and should be pursued in concert with others in the international community. And we should also be mindful of the humanitarian problems which fester within the countries of Indochina—not only because they contribute to the refugee problem in Thailand and other countries, but also because of our responsibilities as a nation in helping the people of the Indochina Peninsula to rebuild their homes and normalize their lives.

As to the general international response to the refugee problem in Southeast Asia, the host countries in the area, of course, are clearly bearing some heavy burdens—especially Thailand. Some countries, including

Australia, Norway and Japan, have been contributing to the UNHCR special operation—and a number of countries, notably France, have also been providing resettlement opportunities to the refugees. Hopefully, the response of the international community will improve in the weeks and months ahead.

TABLE 2.—LOCATIONS OF RESETTLEMENT OF INDOCHINA REFUGEES, MAY 1975 THROUGH DECEMBER 1977

Location	Total resettled	Number of boat cases
United States	[1] 148,355	3,569
France	37,353	1,400
Canada	6,951	297
Australia	4,278	1,199
Malaysia	1,400	----
West Germany	961	43
Belgium	936	32
United Kingdom	548	119
Denmark	522	----
Austria	223	22
Italy	214	0
Norway	196	84
New Zealand	466	215
Hong Kong	154	----
Netherlands	143	70
Philippines	150	----
Switzerland	82	78
Israel	66	66
Others	151	31
Total	203,149	7,225

[1] 130,000 from 1975.

III. REFUGEE RESETTLEMENT IN THE UNITED STATES

As suggested in previous reports of the former Subcommittee on Refugees, the arrival of Indochina refugees, and their resettlement in communities across the United States, has continued one of the oldest themes in our Nation's history. The bulk of these people have come here under trying and difficult circumstances—more trying and difficult, perhaps, than those attending any other recent movement of people to our country. But like others who have come before them, these new arrivals have been hard working and conscientious and despite many hurdles, they have been making extraordinary strides in building new lives in a new land.

The goodwill and understanding of many Americans has been, and continues to be, an important ingredient in the resettlement process. So does the help of several national voluntary agencies and their local affiliates, and many state and local public agencies. And of crucial importance, is the federally sponsored and funded Indochina Refugee Assistance Program (IRAP), initially established by Congress in 1975 and extended this past year.

The paragraphs below comment on the refugee movement to the United States, the resettlement process, and the Indochina Refugee Assistance Program.

A. Refugee profile

As of December 1, 1977, some 148,355 Indochinese refugees had resettled in the United States. The bulk of these people, at least 130,000, are from Vietnam. Some 10,000 are from Laos. And the remainder are from Cambodia.

With few exceptions, the refugees entered the United States under the Attorney General's parole authority in Section 212(d)(5) of the Immigration and Nationality Act, as amended. The use of the parole authority continues, and additional thousands of refugees, including many family reunion cases, will be entering the United States in the weeks and months ahead.

Available data compiled by the Department of Health, Education and Welfare (HEW) indicates that refugee families have resettled in all parts of the country. The largest communities, however, are found in California, Texas, Pennsylvania, Virginia and Louisiana (Table 4). The HEW data suggests that the refugee population is about equally divided between males and females. Moreover, it is a relatively young population. Recent surveys indicate that at least 40% of the refugees are children, 14 years of age and under. Nearly 50% are between 15 and 44 years of age. Little more than eight percent are between 45 and 64 years of age, and less than two percent are age 65 and older. The refugees come from a broad spectrum of occupational backgrounds. And in terms of educational levels, about 50 percent of the heads of household have at least a secondary school education, and about 25 percent are college/university graduates.

TABLE 3.—*Indochinese refugees in the United States—December 1, 1977*

Resettled under special parole program	129,792
Resettled under humanitarian parole program	528
Resettled under special lao program	3,466
Resettled under expanded parole program	11,000
Resettled under "Boat Cases" program (as of August 1, 1977)	914
Resettled under 15,000 Indochina parole program 1977	2,655
Total	148,355

TABLE 4.—INDOCHINESE REFUGEES IN THE UNITED STATES, BY STATES

Rank	State	INS report January 1976	INS report January 1977	Adjusted [1] January 1977 total
1.	California	24,692	34,222	36,196
2.	Texas	9,033	12,001	12,804
3.	Pennsylvania	6,744	6,828	7,136
4.	Louisiana	3,368	5,918	6,350
5.	Virginia	4,641	6,056	6,320
6.	Washington	4,173	5,094	5,362
7.	Florida	4,450	4,875	5,102
8.	Illinois	3,585	4,114	4,344
9.	New York	3,704	4,029	4,308
10.	Minnesota	3,464	3,679	3,856
11.	Oklahoma	3,088	3,467	3,594
12.	Ohio	2,773	3,018	3,124
13.	Maryland	2,417	2,910	3,034
14.	Oregon	1,958	2,821	2,966
15.	Iowa	2,308	2,815	2,912
16.	Missouri	2,678	2,762	2,874
17.	Michigan	2,346	2,662	2,805
18.	Colorado	1,909	2,373	2,542
19.	Hawaii	1,678	2,395	2,508
20.	Wisconsin	1,747	2,284	2,414
21.	New Jersey	1,622	1,871	1,947
22.	Kansas	1,576	1,778	1,873
23.	Indiana	1,749	1,775	1,868
24.	Arkansas	1,663	1,531	1,602
25.	Georgia	1,292	1,477	1,568
26.	Massachusetts	1,198	1,379	1,431
27.	Nebraska	1,114	1,357	1,417
28.	North Carolina	1,009	1,357	1,404
29.	Connecticut	976	1,259	1,340
30.	Alabama	1,170	1,217	1,253
31.	Arizona	1,153	1,114	1,171
32.	Utah	654	992	1,053
33.	Kentucky	845	1,007	1,043
34.	Tennessee	898	970	1,026
35.	South Carolina	749	931	979
36.	New Mexico	751	728	785
37.	Nevada	394	559	576
38.	Rhode Island	202	520	537
39.	District of Columbia	406	396	523
40.	South Dakota	459	467	494
41.	Guam	720	451	469
42.	Mississippi	407	393	411
43.	Idaho	301	349	366
44.	North Dakota	344	332	351
45.	Montana	205	333	349
46.	Maine	328	296	312
47.	Alaska	85	286	301
48.	West Virginia	214	191	197
49.	Delaware	144	173	178
50.	New Hampshire	143	124	132
51.	Wyoming	124	86	95
52.	Vermont	96	86	88
53.	Puerto Rico	21	35	35
54.	Virgin Islands	13	15	15
55.	To unknown State	359	616	615
	Total	114,140	140,774	148,355

[1] Adjusted to include 914 refugee "boat cases" with known State locations (as of Aug. 1, 1977), 4,012 other refugees whose State location has not been ascertained, and 2,655 of Indochina parole program (15,000) as of Dec. 1, 1977.

B. Resettlement problems and progress

Overall, the Indochinese refugees have been energetically tackling the task of building new lives and learning new ways in a different and sometimes difficult society. The resettlement process is never easy for any group of refugees, and it has not been for most Indochinese.

Direct responsibility for helping the refugees normalize their lives in their adopted communities has fallen upon the voluntary agencies and local sponsorship groups. They have helped the refugees overcome many of the immediate hurdles—such as finding housing, household furniture and goods, food and clothing, and helping with the myriad of other things that go into establishing a home in a new community.

The longer-term resettlement problems have inevitably been more difficult and tenacious for many Indochinese refugees—particularly the problems of obtaining satisfactory jobs, learning English and new skills, adjusting to new and different cultural norms, and settling into the life of a strange community. The refugees from Indochina also faced a number of hurdles that have occasionally made the resettlement process more difficult. Not the least has been serious language and cultural barriers for some. And, unlike Cuban and many other refugee groups who have come to the United States in recent years, there was no indigenous ethnic community here which the Indochinese could look to for guidance, help or linguistic or cultural kinship.

The adjustment process was not made any easier by the policy of the President's Refugee Task Force in 1975 to spread the refugees across the country as speedily and as widely as possible, in order to close the camps as quickly as possible. Such haste did not allow for adequate resettlement planning and programming, and the "breakdowns" and fre-

quent movement of many refugees subsequently, are evidence of this.

Several surveys have been taken among the refugees about problems they have faced. Generally, the difficulties cited most are: learning English, getting jobs, finding housing and managing money. Other problems relate to cultural problems and social activities. Depression and psychological problems of adjustment have been reported by some refugees, as noted below.

But despite many hurdles, the resettlement process has proceeded at a rate surprising to most, and against heavy odds.

C. Indochina refugee assistance program (IRAP)

Federal support for the resettlement process has come through the Indochina Refugee Assistance Program, as established in the Indochina Migration and Refugee Assistance Act of 1975. The basic goal of IRAP—initially administered by the President's Interagency Task Force for Indochina Refugees, and since 1976 by a special Task Force in the Department of Health, Education, and Welfare—has been to help the refugees help themselves to become productive and contributing members of their adopted communities across our land. Given the economic and other constraints within our country, there has been no magic formula to accomplish this goal easily and quickly. And the chaos of the 1975 evacuation from the Indochina Peninsula, and the lack of direction and leadership in the early stages of the program, did not help matters along.[1]

Since the beginning of IRAP in 1975, some $203 million in federal funds have been expended through September 30, 1977, when the first program expired. Recent Congressional action on legislation offered by Senator Kennedy and other Senators[2] has extended IRAP for an additional four years, to be phased out by fiscal year 1981. This extension, signed into law by the President on October 28, 1977 (P.L. 95-145), recognizes the continuing federal responsibilitiy for helping the refugees resettle in local communities—including those refugees still arriving under the extended parole program.

Next year, under the IRAP extension, an estimated $114 million will be obligated to provide a continuing 100% federal reimbursement to State and local governments for costs involved in the program—for welfare, medicaid, and other programs. In addition, some $10 million will be available in 1978 for the "special projects" of the voluntary agencies, with $15 million more authorized over the following years, to help the refugees find employment, up-grade skills, learn English, and other programs that will help them become self-reliant.

In succeeding years, IRAP reimbursements to State and local governments will be phased down to 75 percent in fiscal year 1979, 50 percent in 1980, and 25 percent in 1981. Table 5 provides an estimation of each year's expenditures under the IRAP program.

Under the IRAP extension, the Refugee Task Force will continue to function under the aegis of HEW's Social Security Administration as a special unit. It currently employs a staff of 35 at the central HEW office, and a field complement of 29 in the ten HEW regional offices. It remains the responsible agency of government for administering the IRAP program.

The IRAP extension legislation also contained provisions that allow Indochinese refugees to adjust their status from "parolees" to "permanent resident alien" without regard to annual visa limitations. All refugees who have been physically present in the United States for two years are eligible, and this time is also to be used for purposes of computing the five years' residence required for application for citizenship.

Currently, some 130,000 Indochinese refugees are eligible to immediately apply for adjustment of status. However, because the law was effective on the date of enactment, the Immigration and Naturalization Service did not have sufficient time to develop implementation procedures. These are now in process, and INS has undertaken to clear the way for the expeditious handling of adjustment of status applications. It has authorized its field offices with high-volume situations to adopt abbreviated processing procedures in line with those used in the Cuban adjustment program.

TABLE 5.—*Projected funding of the Indochina Refugee Assistance Program*

Fiscal year:	Million
1978	$114.1
1979	91.0
1980	45.0
1981	20.0
Subtotal	270.1
Plus special projects	25.0
Total	295.1

D. Resettlement: A perspective to date

From the perspective of two and a half years of experience with the resettlement of Indochinese refugees in the United States some observations can now be made as to the effectiveness of the resettlement program.

Overall, it has been remarkably effective, despite the trauma of the evacuation and the ineptness of early resettlement planning noted above. It is important to remember that the Indochinese refugees in 1975 were the largest number of refugees ever to arrive in the United States in such a compressed period of time, and that 1975 was the first time that refugee camps were established in this country. Furthermore, the refugees arrived during a period of serious economic recession and high domestic unemployment. The previously noted dispersal policy and pressure to empty the camps at the expense of resettlement planning also contributed to resettlement problems.

However, despite these factors, and the significant cultural differences between the Indochinese refugees and their new neighbors in the United States, the record shows remarkable progress toward self-sufficiency. The single most telling index of this success are the statistics showing refugee employment higher than the national average.

(1) Continuing Refugee Programs—

Resettlement problems—or the problem of achieving full refugee economic and social self-sufficiency—continue to exist, particularly among the later arrivals under the "Lao Parole Program" and the "Extended Parole Program." Such problems are inevitable in the process of integrating a new and different group of people into an established social structure. They should not be considered an index of failure or deficiency in the resettlement program. Rather, such problems must be addressed and resolved, both in fairness to the refugees as well as to insure cost effectiveness in our national endeavor, public and private, to resettle these new arrivals to our land. Recent Congressional approval of the IRAP extension clearly represents such a national commitment.

Reviewed below are some of the continuing programs and problems involved in the resettlement effort.

a. Employment and Welfare. Two interrelated considerations involved in the resettlement process are employment and welfare. The statistics on each say a great deal about the progress of resettlement. In the early days of the program, both rates were very high—ranging around 20% unemployment, sometimes higher, and up to 30% to 40% of the refugees receiving some form of welfare assistance. In recent months, there has been a remarkable decline in the unemployment rate, as well as a small drop in the number of refugees receiving welfare assistance. This trend is, as noted earlier, a remarkable tribute to the energy and persistence of the refugees in finding jobs—even low-level or entry jobs. Yet, since they earn an insufficient sum to sustain typically large families, many are still forced to seek some welfare benefits, such as food stamps.

The statistics speak for themselves: for the first time since the Indochina Refugee Assistance Program began the number of refugees receiving at least part of their support from cash assistance decreased (between May and August 1977). As of September, only 50,771 refugees—or 34% of the refugee population—were receiving some cash assistance, representing a reduction of 1.2% from the previous reporting period. A further reduction is anticipated.

At the same time studies show that all but about 14% of refugee households receive wage or salary income, suggesting that as hard as they may be working, the size of their households still requires some reliance on supplementary cash assistance or food stamps.

In contrast, refugee employment rates are better than the national average, and much lower than in some areas of the United States. As of September, the unemployment rate for males was only 4.9%, and just 6.8% for females. This compares to the national average of 7.1%. The availability of seasonal employment during the summer may have accounted for some of this refugee employment, but a subsequent preliminary report suggests the trend is continuing.

b. Employment and Special Training Projects. Since last year, a belated effort has been made by the HEW Task Force to more actively fund "special projects" of the voluntary agencies and State and local governments to provide special training programs for refugees, to upgrade language and employment skills. Currently, there are 62 English language and vocational training projects in 39 States and Guam, being funded at a cost of $7 million through the IRAP program. To date, over 7,000 refugees have received language training—usually on-the-job English training—and 3,300 have been enrolled in vocational training. By late summer 1977, over 5,000 refugees had been placed in jobs through these projects, an increase of 3,000 from the last reporting period.

Under the recent extension of the IRAP program, Congress specifically authorized an additional $25 million for "special projects," with $10 million appropriated for fiscal year 1978. In making "special project" funds available, Congress has recognized the strong work ethic among the Indochinese refugees as a stable foundation upon which to build effective economic self-sufficiency and reduce reliance on welfare assistance. This is the first time in any refugee resettlement program that Congress has authorized "front end" assistance to deal with generic problems inhibiting self-sufficiency. The effectiveness of programing under the IRAP extension will have an important bearing on funding for future refugee resettlement programs.

c. Mental Health Projects. Given the chaotic and often tragic circumstances under which most Indochina refugees have come to

[1] For a review of the many serious problems during the initial stages of President Ford's resettlement program for Indochina refugees, see the Subcommittee on Refugees staff reports, *Indochina Evacuation and Refugee Problems, Part IV*, June 19, 1975 and July 8, 1975; Subcommittee hearings during 1975; and Chapter 3 of *Aftermath of War Humanitarian Problems of Southeast Asia*, a staff report issued May 17, 1976.

[2] Senator Kennedy's IRAP bill was cosponsored by Senators Humphrey, Cranston, Hayakawa, Johnston, Anderson, Pell, Moynihan, Inouye, Matsunaga, and Bumpers.

the United States—the cultural and social changes involved in their abrupt uprooting—it was inevitable that some mental health problems would affect many refugees. Depression among the refugees has frequently been reported by resettlement workers, and from the early days of the program projects have been funded to help meet the special mental health needs of the refugees.

Treatment of depression and other mental health problems through conventional western therapy was found difficult and sometimes wholly ineffective because of language and cultural factors. To explore new approaches to this problem, the Refugee Task Force funded five projects in San Francisco, Seattle, Denver, Boston and Columbus, Ohio. The projects have been completed, and in August 1977 the Task Force and the National Institute of Mental Health held a two-day conference in Denver to assess the findings.

According to the Refugee Task Force report, all five projects, plus two others in Los Angeles and Sacramento, California, used similar approaches in training bilingual paraprofessionals—to provide direct services for the refugees, such as counselors, problem identifiers, referral sources, interpreters, and cross-cultural resources. All seven projects found similar problems: depression, anxiety, and a variety of psychosomatic and somatic illness. Continuing work was found needed in crisis intervention, the training of more paraprofessionals, and perhaps development of community support networks including day care, health care, employment, and education interrelated with mental health services.

d. Professional Training Programs. The program for training and licensure of physicians and dentists has proceeded remarkably well over the past two years, and most trainees have successfully passed their required examinations. Indeed, the rate of success of the Indochina professionals has exceeded expectations of those involved in the U.S. Public Health Service program.

Of 96 refugees identified as dentists, 55 have already passed Part I of the National Board Examinations on Basic Science, with 44 succeeding on the first try—an unusually high percentage. Of the 55, some 15 have also passed Part II, the clinical test, with 9 succeeding on the first try.

Refugee physicians have also made substantial progress towards practicing medicine in the United States. Their training program can be a model for future training of professional refugees entering the U.S.

e. Education Programs. Under Title II of the Indochina Refugee Children Assistance Act of 1976, some $18.5 million has been dispersed to local school districts to meet the special education requirements or burdens posed by Indochinese children. An additional $10.2 million will soon be dispersed by the Office of Education in HEW under Title II of the Act to provide grants to State and local public education agencies for English, occupational, and related training programs for adult Indochinese refugees. These funds are in addition to those authorized under the IRAP program for "special projects."

In this connection, it is unfortunate that there has been only limited coordination within HEW—between the Task Force and the Office of Education—on the use of these funds, and absolutely no coordination with the voluntary resettlement agencies. This problem of the left hand not knowing what the right is doing has plagued the resettlement program from the beginning.

d. Special Programs for Meo (Hmong) Refugees from Laos. A major concern of the voluntary agencies recently has been the resettlement of several thousand Meo refugees from Laos. These refugees were largely hill tribesmen, ethnically quite distinct from the lowland Lao, with totally different cultural and economic backgrounds. While they have energetically sought to adapt to their new surroundings, their effective integration into American society is particularly difficult because of vast differences between traditional Meo culture and contemporary American society. As a result, special programs have been proposed to help them.

Of particular concern are the Meo women, whose traditional role in a rural Asian society relates primarily to marketing, housekeeping and the raising of the children in an agricultural setting. These roles are now denied them in the United States, and with no wood to gather for the evening fire, many have sat idle hours in small apartments in big cities. And because there is really no Meo community in the United States to provide group support, the denial of these traditional roles, without the substition of new activities, has resulted in a growing social problem among many women.

The Task Force and the voluntary agencies are making special efforts to deal with resettlement problems among the Meo refugees. With refugees from Laos, including Meo, still entering the United States under the current parole program, additional stress will be required on these special programs. Some of the "special project" funds of the voluntary agencies will need to be directed in support of them.

f. Family Reunion Problems. An additional source of frustration and depression for many refugees relates to their separation from close family members who have either remained in their native lands or have gone to other countries. Indeed, family reunion problems seem to be greater among the Indochina refugees than among any other refugee group that has come to the United States. Inevitably, these problems contribute to personal anguish and inhibit the adjustment process of many refugee families. This is even more true for the refugees who are ambivalent about staying in the United States—and some 400 continue to express a personal desire to be repatriated, to join family members in Indochina. They have registered with the U.N. High Commissioner for Refugees for repatriation, however little progress has been achieved over the past two years in facilitating their return. This remains a crucial humanitarian issue to be resolved between the United States and the countries of Indochina.

E. Resettlement program for new arrivals

Following consultations with Congress, the Attorney General authorized on August 11, 1977 a new parole program for 15,000 Indochina refugees, insuring that new arrivals will continue to enter the United States through the coming year. The basic structure and process for handling these additional refugees—their transportation, reception and resettlement—is relatively well established. The Department of State and the Immigration Service are responsible for identifying eligible refugees and processing them to the United States. The voluntary agencies are the sponsoring organizations charged with receiving and placing them in homes in the United States. HEW and State and local government agencies are responsible for back-up welfare services. But with these many separate elements involved in the resettlement process, there is obviously a need for more effective coordination among all those involved in the resettlement effort.

The current absence of coordination, such as existed under the 1975 Inter-agency Task Force, and the lack of a focal point for domestic resettlement policy formulation, is a serious fault which today impinges upon the cost effective use of resettlement funds.

Unfortunately, the HEW Task Force as now constituted is at too low a level to command coordination even from within the Department. The lack of adequate consultation on the use of the $10.2 million being allocated by the Office of Education is symptomatic of this. Not only is there a need for a focal point at the federal level, there is also a clear need for more structural coordination between the federal government, local authorities, and the voluntary agencies.

Since it is increasingly clear that the United States will be involved with Indochina refugee resettlement for some time to come, and most likely with other refugee groups as well, it is imperative that we begin to address some of the bureaucratic problems of coordination.

The evidence of the need for better coordination and planning can be seen today in a host of small, but important, considerations that get lost—such as a refugee child arriving from Indochina in mid-winter without shoes, or inadequate advance notice of program changes or expenditures. Conversely, when there is an effort at coordination, even without a formal structure, many problems have been minimized. Most recently, HEW, the Immigration Service, the Department of State, the voluntary agencies, and the Child Welfare League of America, all met and agreed upon a formula which, for the first time, establishes a government policy for the movements of unaccompanied refugee children to the United States, and for their proper care and protection once here. Such coordination not only avoided many problems by anticipating them, it worked to the benefit of all concerned—most especially the refugee child.

F. Concluding note

In many respects, the Indochina refugee resettlement program has both passed and entered a crucial phase. The early days of influx and confusion, of catching-up and reacting, have ended and more established procedures and programs have taken their place. The IRAP program has been extended, but with a view to its successful termination in four years, and the absorption of the refugees into the mainstream of American society. Earlier refugees are now contributing members of their communities, even as new refugees are arriving.

The new phase of the resettlement program will surely contain many challenges and problems as the earlier phase. But none can doubt that a remarkable degree of success has been achieved. This reflects the contributions and the dedication of many, most especially the refugees themselves.

RECOMMENDATIONS

The humanitarian needs of war victims continue in Vietnam and Laos. Severe and growing food shortages in these countries threaten famine conditions in some areas and the health and well-being of millions of people—especially in Laos. Some 100,000 displaced persons from the Indochina Peninsula are present in Thailand, and the number grows dramatically every day. Thousands of "boat people" from Vietnam are present in many countries of Asia, and, again, the number is growing every day. In short, critical humanitarian problems are facing the countries of Southeast Asia. A new regional crisis of people is building—in the aftermath of the Indochina War.

In the recent past, it has been easy for the United States to pick and choose whom we should help and how we should help. But we should abandon this piecemeal approach and develop more comprehensive policies and programs, that realistically respond to the interrelated humanitarian problem of the entire area.

The recommendations below suggest some elements of such a policy.

1. *Normalization of relations with Vietnam*—

The President should be commended for his early efforts to pursue a policy of reconciliation and normalization of relations with the Socialist Republic of Vietnam, and he deserves the full support of Congress and the American people for his continuing efforts

to accomplish this important goal. Such a policy is clearly in the interests of both the United States and Vietnam, and of all parties concerned with the future of Southeast Asia.

In this connection, a number of humanitarian questions are important to many Americans, including some progress in the reunification of certain families separated by the event of 1975. Among the special humanitarian cases involved, are some immediate family members of Vietnamese nationals now living in the United States, and a number of persons living in Vietnam—including some children—who possess American nationality and whose immediate family is living in the United States.

2. *Food and related humanitarian assistance to Vietnam and Laos—*

Serious humanitarian problems persist in both Vietnam and Laos. Families dislocated by the recent war are still returning to their villages or resettling in other areas of their country in an effort to normalize their lives. Some crippled and maimed, some orphans and widows, and many thousands of other war victims still need help and concern. Farm land and battered villages are still being renewed. And housing, schools, medical facilities, markets and whole villages are still being rebuilt in the war-ravaged countrysides of both countries. In short, recovery is still underway.

Adding heavily to the humanitarian problems resulting from the recent war, are growing food shortages in both Vietnam and Laos. These documented shortages—brought on by the dislocations of the war and by devastating drought and other natural disasters—threaten the health and nutrition of millions of people and famine conditions in many areas.

The United States can no longer stand aside and ignore the humanitarian problems of the Indochina Peninsula and the international appeals in behalf of suffering and needy people in Vietnam and Laos. This is contrary to the humanitarian traditions of our country and to the active support the American people have always given to the provisions of humanitarian assistance to people in need throughout the world. Moreover, given our long and heavy involvement in both Vietnam and Laos over many years, the United States has a special obligation to join with other countries in responding to international humanitarian appeals in behalf of the people in both countries.

At an early date, the United States should respond to the serious food and related humanitarian assistance needs of both the Vietnamese and Laotian people. This matter should be pursued apart from any ongoing bilateral discussions with either country over future diplomatic consular, and economic relations.

A number of steps should be taken.

(a) In response to international appeals by the United Nations, the International Red Cross, and others, the United States should immediately make available, to the Vietnamese and Laotian people, food and related assistance under international auspices.

(b) The United States should also provide such assistance under the international disaster relief provisions of present law, as we previously have done in the case of many other disasters including those in the Sahel, Romania, Italy, and elsewhere.

(c) The United States should immediately provide ocean freight reimbursement to American voluntary agencies, which purchase food and other supplies or receive donations in kind from the American people for shipment to Vietnam or Laos.

(d) The President should lift the trade embargo against Vietnam to permit the flow of food and other supplies from the United States.

3. *Admission of Indochinese refugees—*

The United States has a continuing responsibility to offer resettlement opportunities to a reasonable number of Indochinese refugees. Given the demonstrated need over the past couple of years to maintain some flexbility in this regard, the Attorney General should exercise his parole authority on a continuing basis and without a specified number of entries into the United States.

The number of entries for Indochinese refugees should respond to the ebb and flow of their movement and demonstrated resettlement needs, and not to some arbitrary quota which, inevitably and sometimes needlessly, is always immediately filled. Especially for refugees in Thailand, the principal, but not exclusive, criteria for parole eligibility should be the traditional American concern for family reunion. Given the special nature of the "boat people" problem, however, a more general humanitarian criteria should apply to these refugees. The current criteria, left-over from the evacuation in 1975, are no longer appropriate or useful if, indeed, they ever were.

A formula for this purpose should be worked out in consultation with Congress, and in the context of the number of refuges entries from other areas of the world, where people also have legitimate claims upon the attention and concern of the United States.

4. A more balanced American policy towards Indochinese refugee problem in Southeast Asia—

Since 1975, public debate in the United States and our ad hoc national response to the refugee problems in Thailand and Southeast Asia have stressed parole programs and the resettlement of refugees in the United States. As a nation, we do have a continuing responsibility in this regard. But we must not focus on resettlement in the United States to the exclusion of other important alternatives for the refugees. We must finally be more balanced in our policy and approach.

The time is past due for the United States to encourage and promote more actively the local settlement of refugees in the host countries, especially Thailand. Thailand is prepared to move in this direction, in the context of general rural development which would also benefit its own citizens. The United States must be prepared, diplomatically and financially, to join others in the international community in lending strong support to such local resettlement efforts.

American policy must also acknowledge the possibility of voluntary repatriation among certain refugees, especially among Lao nationals in Thailand. Voluntary repatriation will only become a viable and humane option for certain numbers of refugees if there is a general agreement among all parties concerned and if real assurances are given for their care and protection when they return. Should voluntary repatriation occur at some future time, it should be carried out under international auspices.

5. *Involvement of the international community*

The United States should more fully support the United Nations High Commissioner for Refugees in all of his efforts to find durable solutions for the mounting refugee problem in Southeast Asia. We should also lend our full diplomatic support to his stated objective of involving a "wide number of countries" in meeting the on-going problem of the refugees.

In this connection, the United States should also continue its support of the Intergovernmental Committee for European Migration, the private voluntary agencies, and others directly involved in meeting the humanitarian needs of the refugees.

DAVID McCULLOUGH TESTIFIES ON THE PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, the Senate Foreign Relations Committee has resumed hearings on the Panama Canal hearings. The first person to testify as part of a panel of historians was David McCullough. As many people already know, Mr. McCullough is the author of "The Path Between the Seas," a fascinating account of the creation of the Panama Canal.

In addition to the important contribution Mr. McCullough has made in chronicling the history of the Panama Canal, he also made a suggestion yesterday regarding the future operation of the canal. In his testimony he recommended that thought be given to creating a scholarship program—similar perhaps to the Fulbright-Hays program—which would enable gifted, young Panamanians to attend the top technical colleges and universities in the United States to acquire the essential technical and managerial expertise on which the successful future operation of the Panama Canal will depend. I was enouraged by the enthusiasm expressed by the Foreign Relations Committee in response to this proposal, and I very much hope that Mr. McCullough's suggestion will be given the full consideration it deserves. Mr. President, I ask unanimous consent that the complete text of David McCullough's testimony be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of Mr. McCullough's testimony is printed following Mr. (SPARKMAN's statement.)

TESTIMONY ON PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings January 19, on the Panama Canal treaties receiving testimony from the following witnesses:

PANEL OF HISTORIANS

(1) David McCullough, Author of: *Path Between the Seas*, West Tisbury, Mass.

(2) Jules Davids, School of Foreign Service, Georgetown University, Washington, D.C.

(3) Elting Morison, School of Humanities, Massachusetts Institute of Technology, Cambridge, Mass.

(4) Richard W. Leopold, History Department, Northwestern University, Evanston, Ill.

PANEL OF LEGAL SCHOLARS

(5) Richard A. Falk, Center of International Studies, Princeton University, Princeton, N.J.

(6) Richard R. Baxter, School of Law, Harvard University, Cambridge, Mass.

(7) John Norton Moore, Center for Oceans, Law and Policy, University of Virginia, Charlottesville, Va.

(8) Covey T. Oliver, School of Law, University of Pennsylvania, Philadelphia, Pa.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF DAVID MCCULLOUGH

Mr. Chairman, distinguished members of the Foreign Relations Committee:

My name is David McCullough. I am the author of the book, "The Path Between the Seas." It is a pleasure and honor to appear before you and I do so in the hope that my views will be of help in your historic decision on the proposed treaties with Panama. May I say also, by way of introduction, that I do not speak for any organization; I am not affiliated with any institution. As a writer I am self-employed; I speak only as a private citizen.

Mr. Chairman, I wholeheartedly support the new treaties. My feelings for the Panama Canal, for its physical grandeur, for its importance as a symbol of man's indomitable creative will, could not be greater. I am proud of the Panama Canal, as an American but even more as a human being, for I know what they were up against—the French, the Americans, the armies of black men and women from Jamaica and Barbados, all the many thousands from every corner of the world who went into the jungles to do the work.

But one of the lessons of history, one of the fundamental lessons surely, is that times change, the world moves on. Then was then and now is now. I wonder if we can remind ourselves of that simple fact often enough? The era that built the Panama Canal was immensely different from our own, with different needs, different realities. When Theodore Roosevelt went to Panama to look the work over, it was the first time an American president had ever set foot outside our borders while in office. The population of all Latin America then was less than that of the United States. In October 1914, just two months after the canal was opened, just two months after the start of the Great War in Europe, the American ambassador in London told Woodrow Wilson, "It is not the same world as it was last July, nothing is the same."

American history has become world history. Perhaps that is the most significant difference between our time and the era that built the canal.

I support the treaties because I support the canal: I know its importance, I know our interest in it is vital. As others have said, it is continued use of the canal that matters, not ownership. I support the treaties because of the very convincing case made before this committee by the Joint Chiefs. The treaties are a synthesis of the expressed policy of four consecutive administrations, Republican and Democratic; and our presence in Panama as presently constituted is an anachronism. More than this, it is asking for trouble.

A distinguished British historian tells us that the imperialist age ended twenty-two years ago, with the Suez War of 1956. I think it essential that we remember what our position was then before the world, when it was somebody else's canal at issue.

Inevitably there will be risks involved, there will be problems along the way. But the risks of holding fast, of trying to hang on to what has been, can not help but be far greater. Things simply can't go as they are in Panama.

It is a source of some pride to me that spokesmen for both sides in the present debate have cited my book as support for their case. The book has been offered as proof of why the canal is ours, and why it is not; of why we must hold the line in Panama, and why the new treaties are sixty years overdue. This is as it should be. For history is contradictory. The legitimacy of our sovereignty in the Canal Zone, as an example, can be both justified and undercut by reading the historical record.

When I began my research seven years ago, the Panama riots had occurred and negotiations for a new and different arrangement with Panama were under way. But my contention then—as now—was that so huge and powerful a human story as the origins of the canal was important unto itself, irrespective of how much or little Panama might be in the news. I had recently finished writing a book about the building of the Brooklyn Bridge, in which I had tried to say some things about the nature of American growth and individual initiative and had found in that heroic enterprise such an absorbing subject that I wanted to take on something even grander of the kind, an enterprise of even larger consequence. As time went on, as Panama became increasingly topical, until ultimately it had become a front page sensation, I felt an iron-clad obligation not simply to be thorough and fair in my efforts, but to make certain that what I wrote conveyed the actual complexities and ambiguities—and, yes, some of the mysteries—of what happened.

History is contradictory because people are. Philippe Bunau-Varilla, cause of so much that has been vexing in our relations with Panama down the years, was a man of so many shadings of mind and personality as to defy classification. In the eyes of the Panamanians he is, understandably, the villain of the piece; but it can also be said, and perhaps ought to be remembered by everyone involved with the present negotiations, that had there been no Philippe Bunau-Varilla there would probably be no Republic of Panama and the canal would be in Nicaragua.

One aspect of the treaty concerns me: Article XII, by which we agree to build no future waterway anywhere other than Panama. I question this. I don't understand why it is necessary. But Article XII is a relatively minor flaw. It is the large, long-range objective of the treaties that we ought never to lose sight of and to my mind, that objective is right *and* in the best interests of our country. Moreover, I can't see how anyone with a sense of history or a familiarity with present-day realities in Panama could fail to be impressed by the intelligence, the fairness, the legal-diplomatic brilliance of what the negotiators have achieved.

The greatest virtue of the agreements, their genius, it strikes me, is the slow, evolutionary manner by which control and ownership of the waterway itself are to be transferred. The process will be orderly. There will be ample time. The fact that Panama and the United States are to run the canal together, in partnership, for another generation nearly, will be of the utmost benefit.

As you know from your recent inspection tour of the canal, it is an immense, highly sophisticated piece of technology. To operate a conventional canal, a sea-level canal such as Suez, requires in essence, the employment of able pilots and sufficient dredging equipment to keep the passage clear. "The big ditch," as applied to Panama, is a foolish misnomer. The canal is a bridge of water, and as such dependent upon fine balances of natural resources, complex engineering, and a large dedicated personnel with innumerable special skills. Ships are carried up and over the land barrier, lifted 85 feet above sea level through a system of giant locks, these equipped with tremendous steel gates, ingenius safety mechanisms, control devices, literally thousands of moving parts.

The canal is a huge hydroelectric dam and power station, a water utility, a railroad, port facilities, hospitals, medical research laboratories. And when the time comes, the canal must be turned over to a generation of Panamanians who don't just know how to run the canal, but who have technology in their bones. Their technical-managerial competence must be second to none.

So in that regard, I would like to recommend that consideration be given to a program of special scholarships, something on the line of the Fulbright scholarships, whereby, every year, until the end of the century, some ten to twenty exceptional young Panamanians could attend the best of our technical colleges and universities. The cost of such a program would be comparatively small, the rewards enormous.

Mr. Chairman, the Panama Canal is expressive of one of the oldest, noblest desires in the human heart, to bridge the divide and bring people closer together. These treaties are expressive of that same desire. They are a progressive step, an act of strength and confidence, and of good will.

Reflecting on those Americans who played such decisive parts in the creation of the canal—Theodore Roosevelt, William Crawford Gorgas, John Stevens, George Goethals—I am struck, as I am sure you have been, by how much lasting good they were able to accomplish in their lives, what benefit they were to future generations. They were not the kind to spend overly much time looking backward, dwelling on past glories. Theodore Roosevelt never went back to Panama to see the finished canal, the work he took greater pride in than anything else in his career. The only one of those four men who went back in later years was John Stevens, who flew down on a Pan American clipper and looked the canal over from end to end. Perhaps you recall what he said when he reached home again.

When the reporters asked what had impressed him most, he said it was the ride on the airplane.

They were forward-looking people. I urge that the decision on the treaties be made in that same spirit.

STATEMENT OF JULES DAVIDS

The treaties signed by the United States and Panama on September 7, 1977, which provide for a new Panama Canal Treaty and a Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, that are now under the advice and consent of the Senate for ratification must be viewed not only in terms of their specific provisions, but also from a broader historical perspective. This is necessary, in part, to provide a clearer insight into the relations between the United States and Panama, and to indicate how and why changing conditions have made the assumptions and beliefs of many Americans concerning the Panama Canal obsolete.

Numerous differences have plagued both countries since the birth of the Republic of Panama in 1903. These controversies have been rooted in past events, in conflicting and divergent interest, and in opposing cultural outlooks.

To illuminate the significance of the new treaties, I should like to present an overview of the issues between the United States and Panama as they relate to three main considerations in the context of their times. The first entails the involvement of the United States in the Isthmian region, and the circumstances that led to the building of the Panama Canal. The second deals with the relationship established between the United States and Panama as it was affected by the Hay-Bunau Varilla Treaty of 1903, and the terms and conditions specified by Washington. These concerned the requirements that the United States deemed necessary for the operation, maintenance, and defense of the Canal. Finally, I should like to examine the cultural and psychological considerations, and opposing nationalistic attitudes.

The involvement of the United States in the Isthmian region was a product of American expansionism in the nineteenth century, a recognition of the strategic importance of the area, a desire on the part of the United States to extend its influence in the Western Hemisphere, and its interest in building a canal across Central America This interest was expressed as early as 1821.

shortly after Panama declared its independence from Spain. Two years later, the United States proclaimed the Monroe Doctrine, warning Europe against any further colonization in North America, and against intervention or interference in the Western Hemisphere.

From 1821 to 1848, the United States was largely occupied with three objectives in Central America: (1) ensuring that the benefits of a transisthmian transit would not, as Secretary of State Henry Clay declared in 1826, be "exclusively appropriated to any one nation," but would be extended "to all parts of the globe upon the payment of just compensation and reasonable tolls"; (2) thwarting British penetration in the isthmian region and its efforts to establish a protectorate over all of Central America; and (3) strengthening the position of the United States in the Caribbean.

Two developments intensified America's interest in the Isthmus and affected the involvement of the United States for the next half-century. The first was the signing of the Bidlack Treaty with New Granada (Colombia) in 1864; the second event was the discovery of gold in California in 1848. On his own initiative, American Minister Benjamin A. Bidlack responded to New Granada's request that the United States protect its territorial integrity. New Granada, in return, agreed to grant the United States a "right of way or transit across the Isthmus of Panama."

In submitting the Bidlack Treaty to the Senate for ratification in February, 1847, Preseident James K. Polk stressed that the territorial guarantee did "not extend to the territories of New Granada," but was "confined to the single province of the isthmus of Panama." He gave assurances that it in no way constituted an "entangling alliance." The President heavily emphasized its advantages to American commerce. A trans-isthmian passage, Polk declared, would "render our communication with our possessions on the northwest coast of America comparatively easy and speedy." It would, he said, not only shorten the route to the west coast, but also to Asia and the Pacific islands.

The Bidlack Treaty, which was ratified in June, 1848 shortly after the Mexican War, set a pattern of direct American involvement in isthmian affairs. Political disturbances, instability, and virtual chaotic conditions in New Granada and Central America led to sporadic American interventions to protect the transit routes across Panama and Nicaragua, as well as the railroad built in the 1850's by the Panama Railroad Company. In 1856, the first landing of American troops took place in Panama to quell the so-called "Watermelon War." The United States intervened in the Isthmus on seven subsequent occasions: in 1860, 1861, 1865, 1873, 1885, 1901, and 1902.

Violence in the Isthmian region reached its capstone in Colombia's War of a Thousand Days during 1899–1902. More than 100,000 Colombian lives were lost. The attempt of Panamanian leaders, however, to attain independence in this struggle failed. Before 1902, it should be noted, American interventions were mainly initiated by requests of local Panamanian authorities of the Bogota government to put down disturbances or by U.S. consuls to protect the Panama Railroad Company. All were undertaken principally to aid the established Colombian government.

When Theodore Roosevelt took steps to carry out the terms of the Spooner Amendment of 1902, he did not expect serious complications to ensue, especially since the United States had always supported Bogota. The Spooner Amendment had authorized the President to buy the assets of the defunct De Lesseps company for no more than $40,000,000 and to acquire from Colombia perpetual control of a zone at least six miles wide across the Isthmus to build a canal. The rejection of American overtures angered Roosevelt. It led, as we know, to the President's tacit endorsement of the Panamanian leaders separatist movement. By inaction, and benevolent, protective "gunboat" neutrality, Roosevelt provided the opportunity for the Panamanian insurrectionists to secure their long sought goal of the attainment of their independence. The success of the Panama Revolution of 1903, however, probably owes more to Panama's deep-rooted separatism and its nationalist fervor, and to the dogged efforts of Philippe Bunau-Varilla than to the actions of Roosevelt.

Down to 1903, the primary concern of the United States in Central America centered on the building of an isthmian canal, and on preventing any European power from obtaining a monopoly control over transit routes. To be sure, the stipulation in the Clayton-Bulwer Treaty, signed with England in 1850, against "any exclusive control" over a ship canal in Central America, and the attempt of Ferdinand de Lesseps in the 1880's to construct a canal across Panama, created difficulties for the United States. Until the turn of the twentieth century, neither private American capitalists nor the United States government were in a position to build an isthmian canal. With the collapse of the De Lesseps venture and the conclusion of the second Hay-Pauncefote Treaty in 1901, however, the way finally cleared for the construction of an American controlled canal. These events coincided with the emergence of the United States as a major world power, following the Spanish-American War.

We can now take up the second consideration, namely the relations between the United States and the Republic of Panama. This involves the sources of tension that arose in the implementation of the Hay-Bunau Varilla Treaty of 1903, and in the measures taken by the United States in assuring the efficient operation, maintenance, and security and defense of the Panama Canal. Although Roosevelt did not directly instigate the Panama Revolution, America's naval presence in the isthmian waters during the early days of November 1903, and Washington's gurantee of the infant republic's independence, made it possible for the Panamanians to establish their separation from Colombia. By his "big stick" diplomacy, the President insured the building of the Panama Canal on bargain terms. Though the construction of the Canal was a remarkable technological and engineering feat, the American presence in Panama, and the extension of its power and influence throughout the Caribbean region was to incur the animosity of Colombians, the resentment of Panamanians, and the distrust and suspicion of the Latin American republics against Yankee imperialism.

Difficulties in United States-Panama relations developed almost immediately after the creation of the Republic of Panama. The Canal Zone formed a colonial enclave splitting Panama in two. Within the Zone, the rights of extraterritoriality were extended to all Americans making them immune to Panamanian law and its jurisdiction The United States is today the only country in the world that continues to retain the vestiges of extraterritorial rights. All other major powers have long since abolished the exercise of extraterriorialty.

Since the establishment of the Republic of Panama, the principal concern of the United States has centered on the country's political stability. Because disturbances, revolts, insurrections and chaotic conditions were for so long a part of Panama's history, Washington believed it would not be possible to build or maintain a canal unless the American right of intervention was officially secured. At the insistence of the first American Minister to Panama, William Insco Buchanan, this right was included in the country's new constitution. Article 136 declared that "the government of the United States of America may intervene in any part of the Republic of Panama to reestablish public peace and constitutional order in the event of their being disturbed . . ."

From 1903 to 1939, dissension and agitation arose not only over the problems dealing with American intervention in Panama, but over the interpretation of American treaty rights, commercial relations, commissary privileges, land use for the protection of the Panama Canal, and the payment of the annual rental. Expectations that prosperity would result from the Canal Zone settlement never materialized. Panamanians quickly discovered that economic benefits accrued mainly to Amelcans and not to native merchants. Commissaries undersold Panamanian merchants, which generated resentment. After the opening of the Panama Canal in 1914, the competitive disadvantage to Panamanian merchants became even more severe.

Most galling to Panama was the American expropriation of land. The Panamanian government insisted that land could only be acquired by special treaties. Washington declared, however, that the right of expropriation was contained in the Treaty of 1903; all that had to be proved was that the land was needed for the Canal's operations or its defense. Under this interpretation, hundreds of square miles outside of the Canal Zone were acquired despite the protests of the Panamanians.

Efforts to revise the Hay-Bunau Varilla Treaty, that defined American rights in Panama and the terms of the building and operation of the Canal, began in 1915. Shortly after World War I, a Commission was created to investigate Panama's complaints. Numerous abuses were cited, but little progress was made in seeking their remedy. Minor concessions were finally made in a treaty concluded in 1926. None of the rights under the Hay-Bunau Varilla Treaty, however, was surrendered. With the onset of the Great Depression, a new orientation of American policy toward Latin America occurred. Attention focused on strengthening the security of the Western Hemisphere, and promoting a more cooperative relationship with the Latin American republics. Under the Franklin D. Roosevelt administration, negotiations were resumed for a new agreement between the United States and Panama. This resulted in the signing of the Hull-Alfaro Treaty in 1936, which was ratified three years later.

This agreement marked the first substantial revision of the Treaty of 1903. It acknowledged Panama's independence: the United States gave up its right to intervene in Panama's affairs: and the annual rental paid to Panama for the use of the canal strip was increased from $250,000 to $430,000.

Although relations with Panama improved considerably after the ratification of the Hull-Alfaro Treaty in 1939, they were again marred when Arnulfo Arias, a Harvard-trained physician and critic of the United States, became President of Panama in 1940. A spellbinding public orator, Arias allegedly sympathized with fascist ideology and purportedly condoned Axis sabotage and espionage during World War II. As President, he sought to stimulate Panamanian nationalism and to modernize Panama's political insititutions by a new constitution that broadened the executive powers and created a highly centralized government. Panamanian leaders voiced their alarm at Arias' actions, and apprehension arose in the United States over the protection of the Panama Canal and the security of the Canal Zone. During World War II, a pro-Allied political coalition, opposed to Arias' dictatorial tactics, effected his ouster in October, 1941.

With the entry of the United States in

the Second World War, Panama's cooperation proved to be unstinting. Panamanian leaders agreed to the establishment of American air and naval bases, and sites for radar stations, permitting in all the acquisition of bases at 134 locations outside the Canal Zone. It was specified, however, that these bases would be evacuated within a year after the end of World War II. When they were not, a serious crisis erupted. Efforts of the United States to obtain a treaty in 1946, providing for the lease of thirteen bases for an additional five years, and the Rio Hato airbase for ten years, with an option for renewal, led to a virtual mob uprising and to a unanimous rejection of the treaty by the National Assembly.

Taken aback by the violent outburst, President Truman ordered a pull out of all equipment. At the same time, he halted plans to further Panama's development, including the building of highways, and the conversion of the present lock-type Canal to a sea-level canal at a cost of $2.5 billion. The Panamanians also lost the annual rental for the bases in peacetime that would have brought more than $180,000 in revenue.

Although the economic impact of the American military withdrawal was severe and resulted in a post-war economic recession, Panamanians were intent on asserting themselves. They sought especially to break free of American paternalism, and, in particular, to preserve their dignity.

During President Eisenhower's first term, conditions gradually improved and an easing of tensions occurred. In January, 1955, a new agreement was concluded that granted major concessions to Panama. The annual rent for the Panama Canal was increased to $1,930,000; commercial activities in the Canal Zone not connected with the operations of the Canal were cut back; and the principle of a base wage for all Canal Zone employees was accepted. In return, Panama agreed to permit the United States to establish military bases.

Despite the benefits that accrued to Panama from the building of the Canal—and they were by no means insignificant—the frustrations experienced by the Panamanians were never fully resolved. This stemmed, in part, from the fact that the United States gave little thought to preserving at least the appearance of a shared sovereignty. Instead, the United States asserted what was in effect a direct colonial control in the Canal Zone. At the same time, however, it also exerted an informal colonial relationship with Panama itself. This was not imposed in any systematic fashion, but was derived from the overwhelming dependence of Panama on the United States; economically, financially, and militarily.

While Panamanians are grateful to the United States for making possible their country's independence, they have, at the same time, always resented the fact that the Treaty of 1903 was negotiated not by their own representatives, but by a Frenchman, Philippe Bunau Varilla. More hurtful to their dignity, too, is the fact that the Canal Zone cuts through the heartland of their country. This Zone of a ten-mile wide stretch of United States controlled land, complete with the American flag and extraterritorial rights, bisects Panama on a north-south axis, from sea to sea and in perpetuity. Unfortunately, "la dignidad," so important to the Panamanians has been largely ignored by the United States in its relations with the Republic of Panama. Americans might get some idea of the situation existing in Panama if they tried to visualize a foreign power's flag planted on a River Zone running the full length of the Mississippi—a Zone complete with extraterritoriality rights and political controls, in which such a foreign power exercised authority as if it were sovereign. Here, in essence, lies the source of continued tensions between Panamanians and the United States, and which the new treaties before the Senate seek to remedy.

Finally, we need to turn our attention to a third consideration that relates to cultural and opposing nationalistic attitudes. Subtle, yet more deep-seated than political or economic grievances, they reflect the emotional feelings and cultural prejudices of both the Panamanians and Americans. At the turn of the twentieth century, many Americans were influenced by the ideas and doctrines of Manifest Destiny and Social Darwinism, which extolled the superiority of Anglo-Saxons and held that the United States was destined to spread democracy throughout the world. These beliefs were to be pervasive, and they were to be reinforced by the idea that the world was divided between civilized nations—that were equated with the advanced, industrial countries of the United States and Western Europe—and the "backward" peoples, such as those in Asia, Africa, and Latin America. The latter were viewed as "inferior" and uncivilized.

From the building of the Panama Canal to the post-World War II years, Americans hardly disguised the fact that they regarded Panamanians as persons of a lesser status than themselves. Discrimination was accepted as a fact of life. Especially distasteful to the natives were the "silver" payments for them as opposed to the "gold" for Americans. Resented, too, was the differential in wage rates for similar work performed by Panamanians and Americans in the Canal Zone. It was not until the signing of the Eisenhower treaty in 1955 that the first steps were taken toward ameliorating wage inequities. Like Americans, Panamanians, of course, take great pride in their own traditions and culture. The practice of racial discrimination, and the intimation of "inferiority" are matters that have long disturbed Panamanians. What they insist upon is an acknowledgment of respect and equality. These, more often than not, have been denied to them by Americans in the Canal Zone, and by Washington.

Although the Treaty of 1955 helped to improve relations between Panama and the United States, it did not satisfy the aspirations most prized by the Panamanians. Washington refused to rescind the "perpetuity" clause in the Hay-Bunau Varilla Treaty of 1903, and to limit the Panama Canal concession to ninety-nine years. The United States also flatly rejected relinquishing extraterritoriality rights in the Canal Zone, and it rebuffed Panama's request that American citizens who were accused of crimes be tried by joint United States-Panamanian tribunals. Nationalist fervor increasingly intensified. This was partly a product of a world-wide resistance to colonialism, the emergence of new nations, especially in Africa, the Suez Crisis of 1956, and the rise of indigenous, nationalistic, revolutionary movements in Latin America, the Middle East, and Asia. These developments emphasized the anachronistic character of United States-Panamanian relationships.

The turmoil in Panama also became explosive. The clash of rival nationalistic attitudes was to be symbolized by flag incidents in 1959 and 1964, and by the demands of the Panamanians that the United States acknowledge their nation's sovereignty. Massive anti-United States demonstrations were staged in 1959 on Panama's Independence and Flag Day holiday. Violence occurred when several hundred Panamanians crossed into the Canal Zone. American troops were called in to control the situation. After the crisis subsided, the United States built an eight-foot fence on the Canal Zone's border in Panama City to protect the zone residents.

To placate the Panamanians and to ease the strained relations, President Eisenhower proposed in 1960 a nine-point program that pledged, among other things, bettering of job conditions, the construction of 500 homes for Panamanians in the Canal Zone, and the ending of discrimination in the zone. In September, 1960, the President also ordered the raising of the Panamanian and United States flags, side by side at the Shaler Triangle in the Canal Zone, as evidence of Panama's titular sovereignty. These measures temporarily quieted the situation.

Within a few years, a new and more explosive flag incident erupted in January, 1964. This resulted in mob riots that lasted for three-and-a-half days. Four American soldiers and twenty-four Panamanians lost their lives; more than 200 persons were seriously injured; and damage to American property was estimated at over $2,000,000. The disturbances brought to the forefront the virulence of Panamanian nationalism, and the need to reappraise the relations between the United States and Panama. Both Panamanian leaders and President Lyndon B. Johnson recognized that a new basis of relationship had to be worked out, one which acknowledged the equality of interest of both countries in the Panama Canal. This required not merely another revision of the Treaty of 1903, but the negotiation of a new treaty.

President Johnson initiated a process of treaty negotiations that have continued from 1964 to the present day. The treaties now before the Senate Foreign Relations Committee are the result of these fourteen years of negotiation. In rejecting or ratifying them, the Senate makes a choice of holding on to our past policies or looking ahead to a relationship with Panama based on cooperation and equality of interests. Since 1964, it has become clear that the Treaty of 1903 is no longer tenable as a means of assuring indefinitely continued accessibility of the Panama Canal to world shipping without Panama's cooperation. The climate of international affairs has changed dramatically during the past two decades. A decision to perpetuate the status-quo can only nurture a hostile atmosphere that would have as its result a sharpening of cross-cultural conflicts and a deepening of animosity.

At the present time, all conceivable facets of the problems that might be posed by the provisions of the United States-Panama treaties have been exhaustively examined in Senate hearings, and in public debates. I believe the Senate's approval of the treaties will not diminish the prestige or influence of the United States in the world in any way. Quite the contrary result would occur. Its reputation would be enhanced, and the United States would be seen as living by the ideals upon which the country was founded.

While points of clarification and some changes may be required, the fact that Panama and the United States have reached a stage where major points of differences are near resolution is a remarkable achievement. One can only hope that what has been accomplished to date will be endorsed by the Senate's approval of ratification. The new treaties offer the prospect of the opening of a new era not only in the relationship between the United States and Panama, but with the Latin American Republics as well.

STATEMENT BY ELTING E. MORISON

I think I was invited here because I know something about Theodore Roosevelt. So I will start with him. He was, said Elihu Root, the greatest educator he ever knew. Self government is really the process of continuous learning and it falls to the President and others in authority to stimulate and give direction to this process. If self government is to work in changing times, the whole society has to engage itself in the search for constructive accommodations for new conditions.

Theodore Roosevelt could get the attention of his fellow citizens and make them think. He knew how to put the hard ques-

tions a little before they became obvious to others; how to make the search for sensible answers exciting; how to startle the country into informing debate; and how to move people in their thinking beyond short run self interest toward some longer view of the general welfare.

Take one of the hardest questions of his time. Where exactly did we, as a sort of emerging country bursting with hope and energy, fit within the family of nations? How could we define and maintain an appropriate place for ourselves in the world?

Like any educator or professor he used a good many words to make his points. "We cannot," he said "sit huddled within our borders and avow ourselves an assemblage of well-to-do hucksters who care nothing for what happens beyond. No nation can help in securing an organized, peaceful and justice-doing world community until it is willing to run risks and make efforts in order to secure and maintain such a community." He said things like this from the bully pulpit day after day.

He liked words but he preferred to use the greater educative power of deeds. Take three small ones. He brought the Russians and Japanese to Portsmouth, New Hampshire to frame a peace. He interfered to get the meddlesome Kaiser off the hook at Algeciras. He sent the fleet around the world. Very small—but very striking demonstrations in the school room. They set people thinking about the necessary means—a battle line—and the appropriate ends—what he would call righteous agreements—for a constructive foreign policy.

One of those deeds, of course, was Panama. Conceived in legitimate self interest, it became a contribution to the general welfare—indeed as he said over and over again to all of civilization. In its construction and results as we have all been taught in school, it was a marvelous, truly American achievement. In its beginnings—that is, in the way the rights to build and maintain the Canal were acquired—which is less often taught in school—there is less cause for satisfaction.

Here there is some difference between the great educator and me. He thought and forcefully said a thousand times that everything he did concerning the Canal was right in purpose, principle, detail and in the eyes of all higher powers. He usually did. Once he was asked about his action in another matter. "You say it was right, how do you know it was right." "Because," he replied, "I was doing it. I was doing my best." He was in court and under oath at the time.

For my part, it was one of those moments when the teacher blotted his own copy book. It seems a poor business, unbecoming in a country that likes to believe it is setting standards of international conduct for others to repair to. And, as you know, how we got there has left a legacy of resentment among those already there.

You have the history of all this before you and can make up your own minds without further lectures from Theodore Roosevelt or me. The usual comforting explanation falls, as you know, somewhere between us. He was only doing what all other ambitious nations were doing in those days. The times were different. It was the common custom for those who sought spheres of influence and maintained colonial empires. This is, on the whole, true enough. The matter can safely be left there while we turn to the matter at hand—our relations to Panama in quite different times.

The treaties you have before you seem to me one of those imaginative, educative deeds designed to help us, and others, think and act constructively in a set of new conditions.

As I read them we give up two considerations. A title that has meant different things to different people since it was written in the Treaty of 1903 and the management of a waterway that takes up a certain amount of our time, effort, money and manpower.

We retain every right and necessary condition to use the Canal, protect its integrity and defend our larger national interest and security that we now possess under the present arrangements. Those who have appeared before you from the State Department and the Pentagon who are responsible for these matters are very clear about this.

What new thing is to be gained from these treaties is this. We make available an asset—the water that flows through their own land—to Panamanians. In joint action with us over a period of years they can acquire the economic stability, technical skill, responsibility and confidence any country needs to reach full development in modern circumstances. In a period when all those earlier arrangements between nations, lands, and territories are breaking up, this is a striking demonstration of a new kind of arrangement. It demonstrates our intent to use our great influence in an area of continuing interest to us to create a new and prudent ordering of relationships that will better fit the new times. It offers the chance in one part of the distracted world to create what we have always claimed we searched for, a community in which all nations could find membership as good—and self respecting—neighbors.

Not everybody reads these treaties this way—or there would be no debates in this particular learning process. One school of thought holds that the treaties will produce a dangerous psychological and symbolic damage. By the terms it will be revealed to all that the Old Colossus of the North has suffered a failure of the nerve and a decay of the will even to defend himself. I think this is a misreading of both the treaties and the times.

This view rests at bottom perhaps on a feeling we must all share in some degree. As an old friend who served in the Canal Zone during the war and who strongly opposes the treaties said to me in the course of our debate, "It all boils down to the fact that I just hate to give anything up." Translated into the language of international relations, this takes us back to the conditioned reflexes of 1903 and thereabouts when the usual measure of national strength was the capacity to hold another man's territory.

Today we are all groping for more constructive ways to lead from strength. These treaties are an enlightened and enlightening example. I hope you will approve them and will leave you with one more word from Theodore, the educator.

"The important thing is the next step. It often happens that the good conditions of the past can be regained not by going back, but by going forward. We cannot recreate what is dead; we cannot stop the march of events; but we can direct this march and out of the conditions develop something better than the past knew."

STATEMENT BY RICHARD W. LEOPOLD

Mr. Chairman, it is a great privilege and a unique experience for me to testify this morning. Although I have taught the history of United States foreign policy at two major universities since 1938, I have never appeared before this distinguished body. I have, however, benefited enormously, in my teaching and research, from the publications of this committee—its hearings, reports, prints, legislative summaries, and more recently—the extremely valuable Historical Series which I hope will be continued. For this largesse I am indebted to the chairman and his predecessors, especially Senator Fulbright, and to Dr. Carl Marcy and his successors.

I shall begin by making clear those areas in which I feel competent to speak and those in which I claim no expertise. I am not a specialist on Latin America or an authority on international law. I have had no connection with drafting the present treaties or with organizations that support or oppose them. As a historian, I have ranged widely over the evolution of our foreign relations from independence to the present day. In 1962, I published an 848-page survey entitled "The Growth of American Foreign Policy: A History." My research has focused on the period from 1890 to 1945. One fruit of that research was a short biography published in 1954 and entitled "Elihu Root and the Conservative Tradition." I am particularly interested in the relations between President and Congress in the formulation and execution of foreign policy and in the role played by the armed forces in shaping foreign policy. I know much less, I am sure, than do the members of this committee about the current negotiations and the details of the agreements before you.

My chief service to this committee will be to discuss the treaties as a historian, to place the current controversy in proper perspective, and to note those elements of continuity and change that are inherent in the problem. A century and a half ago, when Panama first impinged on American thinking, many Senators regarded the area as outside the proper scope of United States foreign policy. They opposed the request of President John Quincy Adams in 1825 to send two delegates to a conference, called by Simón Bolivar to meet on the isthmus, to discuss hemispheric subjects. Although consent was eventually given, no tangible results ensued. One delegate died en route; the other arrived after the conference had completed its labors.

Twenty-five years later the situation had changed. With the extension of the republic's borders to the Pacific and the discovery of gold in California, the isthmian region was very much in the mind of the policymakers. But they then faced there a rival—Great Britain—that was much stronger in diplomatic influence, naval power, and commercial ties. Hence the Whig administration of President Zachary Taylor had to be content, in the Clayton-Bulwer Treaty of 1850, with an agreement to share equally the construction, operation, and defense of any future canal in Central America.

Twenty-five years later, attitudes had changed again. In the White House and on Capitol Hill the notion of sharing a canal with England had become unacceptable; on March 8, 1880, President Rutherford B. Hayes told Congress that henceforth "the policy of this country is a canal under American control." Initial efforts to negotiate an end to the Clayton-Bulwer Treaty failed. But by 1899 the enthusiasms generated by the War with Spain and by the dramatic dash of the battleship *Oregon* from the Pacific around Cape Horn to engage the Spanish in the Caribbean made it likely that Congress might abrogate the pact unilaterally. Faced by that prospect and greatly aided by the Senate's advice, Secretary of State John Hay in 1901 gained England's consent to terminate the Clayton-Bulwer pact and in 1903 concluded with Colombia a treaty that would have enabled the United States to build alone a canal through Panama. Rejection of that treaty by the Colombian Senate led to an uprising on the isthmus against the government at Bogotá, a revolt that could not have succeeded without questionable steps of the United States. The Theodore Roosevelt administration recognized the new republic of Panama with unseemly haste and then negotiated with equal precipitancy the Hay-Bunau Varilla Treaty of November 15, 1903 that conferred many rights we still enjoy today.

The events of November 1903 left a legacy of bitterness with Colombia, who felt she

had been despoiled of valuable territory by the Colossus of the North, and with Panama, who later claimed she had been inadequately represented in the treaty creating the Canal Zone. A note of partisanship also appeared as the Democrats first sought to blame Roosevelt for instigating the uprising and then to placate Colombia by expressing regret and offering a thinly disguised indemnity. The Wilson administration's treaty of April 6, 1914 was bitterly opposed by most Republicans and did not pass until April 1921. This acrimony was overshadowed in part by the completion of the canal in 1914—a magnificent achievement that owed much to technical ingenuity, medical science, and individual heroism—and in part by the outbreak of the First World War.

The end of that war ushered in another period of change. The defeat of Imperial Germany removed, for the time being, the last European threat to the security of the hemisphere. Wilsonian ideals trumpeted the end of colonialism. Panama became an original member of the League of Nations. The death of Roosevelt in 1919 freed Republicans to reconsider the events of 1903 without fear of being disloyal to their late leader. In the Senate, progressive Republicans, led by William E. Borah, launched a campaign to modify the special privileges the United States had gained earlier in many Caribbean countries. Inevitably, these developments prompted Panama to seek alterations in the treaty of 1903.

The issues in the ensuing negotiations have a familiar ring. They included the sovereignty of Panama, the compensation she should receive from canal tolls, the privileged position of those working and residing within the Zone, the impact of these arrangements on Panama's economy, and the defense of the waterway. A new treaty signed on July 28, 1926 in Washington did not pass the Panamanian National Assembly, partly because it required Panama to "consider herself in a state of war in case of any war in which the United States should be a belligerent." Not until October 1933 when, following a visit from President Harmodio Arias, President Franklin D. Roosevelt decided to make a new agreement part of his Good Neighbor policy was the way cleared for the first revision.

The resulting Hull-Alfaro Treaty of Friendship and Cooperation recognized that 1936 was not 1903. The United States relinquished its guarantee of Panama's independence, its right to intervene to maintain order, and its power of eminent domain. The annual payments were raised from $250,000 to $430,000, but that concession was largely offset by the devaluation of the dollar. Defense of the canal became a responsibility of both nations, but this provision aroused criticism in Washington and Panama City. Panamanians feared that it represented a military alliance; Americans worried lest it prevent them from acting unilaterally in an emergency.

Signed on March 2, 1936, the new treaty did not enter into force until July 27, 1939. The delay was caused mostly, though not solely, by the United States. The signing coincided with Japan's decision to free herself from treaties limiting her fleet, and this fact created fears in some American minds. Even more worrisome was the growing effectiveness of airplanes which meant that, in addition to large fixed guns and a mobile navy, the defense of the canal must also depend on fighter planes and bombers based outside the Zone. Hence opposition by the Army, together with Roosevelt's diminished political clout that followed his defeat in the court reform bill of 1937 and his unsuccessful purge of recalcitrant Democratic Senators in 1938, prevented action until July 25, 1939. Even then it was necessary to include an exchange of notes on February 1, 1939 that made clear the right of the United States to take unilateral steps to defend the canal when a sudden crisis precluded joint consultation and the right of the United States to hold military maneuvers outside of the Zone if such operations were deemed essential to the security of the waterway. The tally was 65 to 16, with 15 not voting. The division was largely along party lines. Only one of the 69 Democrats voted against the treaty. Of the badly outnumbered Republicans—a mere 23 in all—15 voted nay, 5 voted aye, and 3 abstained.

Skipping over the special circumstances surrounding the often acrimonious negotiations to obtain wartime and postwar bases outside the Zone, we come to the Treaty of Mutual Understanding and Cooperation of January 25, 1955, consummated under a Republican administration. The scenario resembled that of 1933. In October 1953, President José A. Remón came to Washington to confer with President Dwight D. Eisenhower, much as Arias had done in 1933. A communique recognized the need for further change to stimulate the Panamanian economy and to halt the growth of anti-Americanism on the isthmus. Events abroad had not gone unnoticed. Two years earlier, Egypt had unilaterally abrogated British rights to maintain a base at Suez and to station troops along the canal route. A year hence, the United Kingdom would renounce those rights by treaty and also promise to evacuate its armed forces within twenty months. The Chapin-Fábrega pact, signed symbolically in Panama, raised the annual payments from $430,000 to $1,930,000, returned certain lands to Panama, surrended many sanitary controls. and shared more equitably the economic benefits of the transit route. This time the Senate acted more promptly and decisively. After six months, instead of the forty in 1936–1939, it gave its consent by a tally of 72 to 14, with 10 not voting. If we count the absentees according to their expressed views, the result would have been 80 to 14. Of the 47 Republicans, only one voted against the treaty; of the 49 Democrats, 36 favored and 13 opposed.

The spirit of accommodation and the acceptance of change shown by President Eisenhower and Secretaries of State John Foster Dulles and Christian A. Herter were continued by Presidents John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Gerald R. Ford and by Secretaries Dean Rusk, William P. Rogers, and Henry Kissinger. The historian would stress the bipartisan belief since 1955 that agreements suitable in 1903 no longer serve the nation's interest. To the executive branch, the solution was the same whether it be the joint declaration of April 3, 1964 that reestablished relations with Panama and sought to eliminate the sources of conflict, or the unperfected treaties of June 1, 1967, or the statement of principles of February 7, 1974, issued by Secretary Kissinger and Foreign Minister Juan A. Tack. The reliance of presidents of both parties on veteran diplomat Ellsworth Bunker has insured continuity and consistency.

I am aware, of course, that since 1955 many members of the legislative branch have not shared these views of the executive. I do not intend in this prepared statement to attempt to shake the deeply held convictions of those Senators and Representatives. Rather, as a historian, I shall say a word on the potential conflict in the treaty-making process. The Senate can play and has played a constructive role. The Hay-Pauncefote Treaty of 1901 was certainly the better for amendments insisted upon by the Senate. Approval of the Hull-Alfaro Treaty of 1936 was helped by the Senate's demand for clarification in the exchange of notes of February 1, 1939. In recent years, however, too many committees of both houses have assumed responsibility for passing judgment on some treaties, and it is imperative that this committee in this instance be the spokesman for the Senate.

Certainly there is no need to oppose these treaties in order to avoid the charge of executive domination. The historian is impressed by the attempts of all Presidents beginning with Eisenhower to work closely with the legislative branch on this issue. In my judgment, this difficult problem would have been satisfactorily resolved at least ten years ago if it had not been for congressional opposition. The situation is not unlike that of normalizing relations with the People's Republic of China. For years the President was inhibited by legislative resolutions against such steps. In retrospect, congressional opposition seems to have been a mistake. I do believe that future historians will render the same judgment on the canal treaties if we lose the present opportunity to negotiate amicably an end to an arrangement which, in the eyes of the world, is anachronistic in the 1970's.

For there is more at stake in the treaties before you than the deployment of the Navy, the welfare of interest groups within the United States, and the rights of citizens resident in the Canal Zone. It is the image we project in a world eager for peaceful change and for just dealings between nations large and small. As Ambassador Bunker has suggested on countless occasions, the essence of the present treaties offers an opportunity to revitalize an outmoded relationship, to solve a serious international problem while there is still time, and to demonstrate the qualities of justice, reason, and vision that men and women of all parties and sections believe should characterize the acts of this great republic.

STATEMENT OF RICHARD FALK

In my judgment, the debate on the proposed Panama Canal Treaties has been dangerously narrow. It has presupposed the desirability of maximizing the U.S. role in relation to the Panama Canal for as long as is negotiable. Domestic critics have mainly attacked the treaties because not enough control has been retained. Supporters defend the treaties by arguing that no element of essential control has been relinquished.

I believe that far too great a U.S. role has been retained to make the treaties an effective adjustment to changing international realities. That is, I believe we have "forced" the Panamanian government to accept a bad bargain. Panama's current leadership has accepted the 1977 treaties for a variety of reasons, but principally because it is faced with a deteriorating and desperate economic situation and badly needs the economic relief that is part of "the sweetener" added to the treaty terms by U.S. negotiators. As the distinguished Cornell historian Walter LaFeber concludes, "Only large Canal revenues could rescue the governmental debt" and avoid an anti-governmental uprising in Panama and quite possibly "even those revenues could be insufficient." LaFeber believes that "[t]he rapidly deteriorating Panamanian economy and Torrijo's increasing dependence on outside private investors set the stage for the climactic negotiations of a new treaty during the summer of 1977." (Walter LaFeber. 'The Panama Canal," Oxford, 1978, at p. 202; see generally on the economic situation in Panama as an element in the Canal negotiations, pp. 195–208.)

In essence, these agreements are not likely to quell Panamanian nationalist demands for very long and, thus, will probably produce a situation in which the United States will be the target of a continuing anti-colonialist campaign that is widely supported within Panama and elsewhere in international society. Indeed, the only way that the treaty regime can succeed is if the Panamanian government becomes even more repressive. The 30-percent opposition to the treaty plebicite in Panama, together with intense

opposition to ratification among Panamanian nationalists across a wide political spectrum indicates the degree to which the treaty is already unacceptable to the Panamanian people. Even General Torrijos, at the September ceremony in Washington where the leaders of both countries signed the treaties, indicated his own misgivings by drawing a distinction between "two types of truths—logical truth and pleasant truth." He signed the treaties "In the name of logical truth," indicating that it was not pleasant to accept an arrangement that "does not enjoy the support of all our people, because the 23 years agreed upon as a transition period are 8,395 days, because during this there will be military bases which make my country a strategic reprisal target, and because we are agreeing to a treaty of neutrality which places us under the protective umbrella of the Pentagon." (Remarks by General Torrijos," reprinted in "State Dep't Bull," Oct. 17, 1977, pp. 482–3, at 483.) This is hardly a triumphant statement and it should suggest the degree to which the new treaty regime remains vulnerable to Panamanian discontent.

Supporters of the proposed Panama Canal treaties often concede their colonialist features but argue that the new arrangements are a definite improvement over the 1903 Hay-Bunau-Varilla Treaty and that they move as far in an "enlightened" direction as American public opinion will tolerate. Furthermore, the claim is made that the failure to satisfy Panamanian aspirations to some extent by a new treaty of the sort proposed would lead to a serious wave of anti-American bloodshed, including possible sabotage against the Canal. These agreements, then, are claimed by their supporters to be instances of politics as to art of the possible. Such a pragmatic defense is filled with dubious, unexamined presuppositions, especially the conviction that a wait of 23 years before American troops leave Panama will prove acceptable or that a regime of permanent protective custody administered from Washington is preferable to the present arrangement.

The evidence at my disposal suggests that Panamanian nationalists are neither satisfied nor appeased by the 1977 treaties. It is one thing to struggle against a colonial heritage that arose at the beginning of the century. It is quite another to lend substantial legitimacy to the colonial character of the relationship late in the twentieth century. To dramatize such reasons Leopoldo Aragon, a former political prisoner who was expelled from Panama by Torrijos, burned himself to death in Stockholm outside the American Embassy in protest against the treaties on September 1, 1977. One of the most widely known and respected political figures in Panama is Miguel Antonio Bernal, also living abroad in exile, who has denounced the new treaty as being "very far from fulfilling the aspirations of the Panamanian people."

Bernal argues that proposed arrangements replace the 1903 "perpetuity" imposed by force with a 'legalized perpetuity'. Bernal indicts the Torrijos regime for conferring legality on the American presence and on a permanent right of intervention: "We consider this as the most aberrant, disgraceful, and unacceptable type of perpetuity, as a stigma that this generation and future ones will be forced to bear, for it legalizes the American presence on our soil." Furthermore, Bernal reminds "the Panamanian and American governments, which have been working hand in glove, that the disappointment and dissatisfaction of a people can only be followed by hatred and rebellion"; the treaty represents "one of the worst concessions in Panamanian history, because it flies in the face of the struggle and sacrifices of our people for seventy-three years." (Interview with Bernal, Aug. 24, 1977, published in Intercontinental Press, Sept. 12, 1977, pp. 974–5.) It is crucial to listen to such responses to these proposed treaties before definitely enmeshing the United States in what is likely to be a turbulent future in Panama.

Such Panamanian reactions to the treaties gain some additional credibility by the extent to which the 1977 agreements win support from individuals such as Admiral Zumwalt and William F. Buckley, that is, from individuals who are normally associated with an aggressive U.S. foreign policy that makes no sentimental or idealistic concessions to Third World positions. And it is clear that this support, as well as that from opposition figures such as Gerald Ford or Henry Kissinger, is based on the conviction that, indeed, the new treaties effectively maintain (rather than transform) the American role with respect to the Canal. Such an impression is also fostered by Deputy Secretary of State Warren Christopher's almost gleeful insistence that "According to the Joint Chiefs, these treaties are not only as good as the existing arrangement in terms of our national security, they are far better." ("Deputy Secretary Christopher Discusses the Panama Canal Treaties," "State Dep't. Bull," Dec. 12, 1977, at p. 836.)

Part of the confusion about the treaties arises because General Torrijos has been quite successful in his campaign to project a leftist, nationalist image, especially here in the United States. And it is true that Torrijos built his political base by claiming nationalist and social reformist credentials. Increasingly, these earlier features of his rule seem to have opportunistic trappings and his true political inclinations seem associated with personal power and wealth. An examination of his recent governing policies reveal a rightest drift that includes opening the country to foreign investment, siphoning off a personal fortune for his family and coterie, an abysmal human rights record, and the increasing alienation of progressive elements in his own society necessitating repression. As one Latin American expert concludes, ". . . the odds are that Torrijos's leftism and nationalism will erode and the lineaments of a classic personalistic Latin American dictatorship not interfering with the social and economic status quo will emerge." (Martin Needler, "Omar Torrijos: The Panamanian Enigma," "Intellect," Feb. 1977, p. 243.) The same author even suggests that Torrijos is following a path strikingly similar to that of the Cuban dictator Batista, who also started out as a populist reformer but moved right to satisfy personal greed and meet economic pressures. It has often been noted that whatever happens in Cuba will eventually occur, as well as in Panama.

In essence, then, the advantages of the new treaty are not apparent to those Panamanians who have been struggling against the American colonial presence in their country. Their opposition raises serious doubts about that part of the pragmatic position that argues that this treaty is better than the 1903 arrangements. It also suggests skepticism about the other part of the pragmatic position which argues that with the 1977 concessions American interests in the Canal can be reconciled with Panamanian aspirations.

These concerns can be further clarified in relation to the intervention issue, what virtually all sides of the American debate concede to be the "Achilles heel" of the 1977 agreements. In the foreground, is the necessity to say one thing to reassure the Panamanians that their sovereignty has not been infringed and quite another to reassure Americans that a right of intervention will persist even after the removal of American troops in 1999. To obtain ratification in the United States, Senators require as much reassurance as possible that the U.S. retains permanent, discretionary interventionary rights to uphold its interests in the Canal. Since the negotiated text was agreed upon last August various steps have been taken to provide some added reassurance for the American side, including the October 14 Carter-Torrijos "Understanding" and the apparent willingness of General Torrijos, as conveyed to Senator Baker during his January 1978 visit to Panama, to have the substance of this Understanding added to the treaty by way of formal amendment. Torrijos has been much praised by American politicians for his "flexibility" in these respects. As dictator in Panama Torrijos does not have to obtain any genuine assent from Panamanian lawmakers to assure ratification. However, tilting the treaty even further in the American direction exposes the colonial features and thereby strengthens anti-treaty sentiments in Panama.

As is well-known the non-intervention norm is for Latin Americans practically synonymous with sovereignty itself. To grant the United States a permanent, unilateral right to intervene in Panama to uphold its view of what is needed to assure the neutrality of the Canal is assuredly inconsistent with even moderate nationalist aspirations in Panama. It is no wonder that Panamanian demonstrations against the treaty contend that Torrijos has accepted a colonial status for Panama, evidently renouncing Panama's sovereign rights for a few Yankee dollars.

Even before the American pressure for reassurance on interventionary rights mounted the treaty was necessarily ambiguous on this crucial issue. From the very beginning, Administration spokesmen sought to quiet conservative critics of the treaty in this country by maintaining that a unilateral right of intervention was implicit in the 1977 arrangements even if it was not spelled out. For instance, earlier in these hearings Secretary of Defense Harold Brown responding to a question by Senator Stone as to whether the United States could intervene to deal with an internal situation in Panama that it believed might threaten the neutral operation of the Canal had this to say:

"My reading of that situation and of the language of the neutrality treaty is that a threat to the neutral regime would give us the right to take whatever action we considered necessary . . . " (Panama Canal Treaties, Hearings, Part 1, Administration Witnesses, p. 169.)

Secretary Brown added that such an interpretation was what General Torrijos had in mind when he acknowledged at the signing ceremony in Washington on September 7, 1977 that by agreeing to the Neutrality Treaty Panama was placing itself under the protective umbrella of the Pentagon." (p. 170) Significantly, Torrijos went on to say this pact could, if not administered judiciously by future generations, become an instrument of permanent intervention." (Statement of General Torrijos, Dept. of State Bull.," Oct. 17, 1977, p. 482) Ambassador Linowitz also supported this view of American rights by stressing that there was no limitation "on U.S. rights: There is nothing which says thta threat is to be limited to a particular type of threat." (Hearings, p. 481.)

Problems emerged because the Panamanian negotiators back home were giving their own version of the U.S. role. Speaking before the Panama National Assembly, Romulo Escobar, the chief Panamanian negotiator, indicated that the U.S. role did not extend to situations threatening the Canal that arose out of problems of "internal order." General Torrijos also speaking in Panama stated that the Neutrality Treaty meant that "If we are attacked by superior forces, the United States is obliged to come to our defense." Somewhat self-consciously, he explained "that a weak country like Panama needs the protection of a major power if we are attacked by

superior forces." (N.Y. Times, Oct. 21, 1977.) And reassuringly added that nothing in the treaties gave the United States any rights to take action in relation to internal strife in Panama.

Surely, these two sets of reassurances are contradictory in spirit, and the treaty test is ambiguous enough to make them both plausible. Rational pro-treaty forces in the United States understood the necessity of the ambiguity. Even the conservative National Review wrote an editorial in which it indicated that its pro-treaty position was premised on an unlimited, discretionary "right of intervention," but that it understood why such a right couldn't be spelled out. ("The Right to Intervene," National Review, Nov. 25, 1977, pp. 1347–48.) The Dominican operation of 1965, it pointed out, enabled U.S. troops to quell a domestic threat of radicalism without ever having to defend its action by claiming a right to intervene. On that occasion, the Organization of American States, after some pressuring, granted the U.S. an appropriate fig leaf justification. In the Panama Canal context all that is necessary, the editorial argues, is that future U.S. leaders understand and act upon their right of intervention should the occasion arise, whether the threat is internal or external. Ambassador Linowitz gave an interesting demonstration of how a future international lawyer might deal with the touchy issue of intervention if the occasion ever arose:

"Q. Under what conditions would we intervene in the canal to protect the neutrality?

"Ambassador LINOWITZ. I don't like the word intervene. Under what conditions would we be in a position to move? The answer is if the permanent neutrality of the canal were jeopardized—

"Q. Who would decide that?

"Ambassador LINOWITZ. We would. Then the United States would be in the position to take such steps as might be deemed necessary." (Press Briefing, White House, Aug. 12, 1977, "Dept. of State Bull.," Oct. 17, 1977, p. 529.)

The interventionary right is endorsed in the Statement of Understanding by conferring upon the United States an unrestricted right to defend the neutrality of the Canal without securing the prior assent of the Panamanian government. It is true that the Statement of Understanding retains an element of ambiguity by expressly stating that the Neutrality Treaty shall not be "interpreted as a right of intervention in the internal affairs of Panama." (for text see Hearings, p. 454.)

This continuing element of ambiguity, given plausible developments in Panama, including the possibilities of a left-turn in Panamanian politics, might place future American leaders in a difficult, dangerous situation. It is worth recalling that the "ambiguity" in the Geneva Accords of 1954 encouraged Hanoi and Washington to proceed, each on reasonable grounds, in contradictory directions that culminated in the Vietnam War. (see e.g. J.N. Moore, "Law and the Indo-China War," Princeton, 1972, esp. pp. 353–478.) The North Vietnamese regarded the Geneva Accords as settling the future of all of Vietnam after a two-year interval enabling an "honorable" French withdrawal, while the Americans construed the agreements as partitioning Vietnam into two states thereby giving South Vietnam full sovereign rights to make whatever arrangements it saw fit to defend itself against internal and external enemies.

The Vietnam analogy is instructive in one other respect. The United States converted the ambiguity into "a commitment" to the Saigon regime that, then, took on a life of its own. It was widely argued that a refusal to uphold the Vietnam commitment, however foolish it might have been to make it in the first instance, would damage the reputation of the United States as an ally and an alliance leader. Here, the commitment to defend the "neutrality" of the Canal is also likely to assume a symbolic standing that may induce American leaders to honor it even when they realize that it is foolish and costly to do so.

The ambiguous point in the Panama treaties is vital to the bargain. If the ambiguity is resolved in Panama's favor, then it becomes non-ratifiable in the United States. The reason for this insistence is easy to understand. The main threat to American interests in the Canal comes from the possibility of internal developments in Panama. The prospect of an external invasion seems remote to the point of irrelevance, and in that eventuality, Panama would almost certainly welcome whatever help it could get. However, to legitimate an interventionary right in relation to a Dominican-type situation in Panama would be a perpetuation of a colonial relationship.

Neither alternative seems very desirable. In the first instance, the treaty bargain is ambiguous and each side is convinced that its view of the treaty terms is the authoritative one. In the second instance, the interventionary right is evidently endorsed in its plenary form and the treaty becomes an immediate target for Panamanian nationalist attack. The surfacing of this dilemma raises some deep questions that have been kept off the agenda of debate so far. The main such question is whether it is feasible or beneficial for the United States to insist upon a colonial role for itself in the Canal that extends into the next century. Such a role seems likely to entangle us on the reactionary side of Panamanian politics, as well as to risk involvement in a series of unpopular violent struggles. The situation in Panama is very unstable; rapid population growth, a highly inequitable distribution of wealth, growing unemployment, heavy foreign indebtedness, an adverse trade balance, and a long tradition of militant oppositional politics.

Under all these circumstances would it not be better and cheaper to leave the Canal to the Panamanians? Have not the Britsh been lucky to be free since 1956 from the burdens and prerogatives associated with their prior administration of the Suez Canal? The Panamanians need Canal revenues so badly that it is difficult to imagine that they would interfere with transit rights, and in the unlikely event of such interference action appropriate to the circumstance could be taken whether authorized by treaty or not.

I believe the treaties before this Committee, although intended as a positive contribution to international peace and security, are an anachronism. Their only justification is a continuing insistence that the United States must dominate the Caribbean-Gulf of Mexico area as, in Hanson Baldwin's words, a "mare nostrum of the United States." (see argument contra 1977 treaties to this effect by Baldwin, "The Panama Canal: Sovereignty and Security," "American Enterprise Institute Defense Review," No. 44, 1977, pp. 12–34, at p. 12.) If such an objective is indeed a national goal, then Baldwin is probably right to oppose even the gradual withdrawal of U.S. military presence implicit in the 1977 treaties. If such a goal is indeed anachronistic, then the treaties do not go nearly far enough in according Panama sovereign rights nor in disentangling the United States from responsibility for the future of the Canal, in the direction of affirming Panamanian national rights in relation to the Canal, nor in relinquishing U.S. rights, nor do they proceed at a rapid enough pace.

George Kennan, sensitive to the difficulties of going part way on the Canal, proposes "turning the canal over entirely to the Panamanians." (George F. Kennan, "The Cloud of Uncertain Danger," Princeton, 1977, p. 53). He is convinced that the Canal is no longer militarily or commercially important enough for the United States to justify the burdens of joint administration and defenses. In light of this geopolitical reality, Kennan argues that it places the United States in an exposed, risky, and unpopular position to maintain its role in the Canal. And so he concludes, as follows: "The retirement of the United States from the canal and all that hangs together with it has been the indignant demand of the whole Latin American community for years on end. If the United States should find it advantageous at this point (and it is my belief that it would) to yield to this demand, it would be acting on a sober and realistic judgment of its own interests." (Kennan, 58). It is sad that Kennan's view, which proceeds from rather conservative principles of assessing U.S. interests, has not even been seriously considered in the public debate. I would go further than Kennan and argue that it would not only be advantageous for the United States to end its special role in the Canal, but that it would be a positive contribution to the construction of a viable system of world order.

It seems clear that there are several options that should be compared in the context of the present debate:

(1) retaining the 1903 arrangements;

(2) ratifying the 1977 proposed treaties;

(3) modifying the 1977 proposed treaties by shortening the transition period, by renouncing any unilateral rights to use force, and by giving Panama an option after U.S. withdrawal to terminate any arrangements of joint defense;

(4) retiring from the Canal altogether and giving Panama total responsibility.

So far the debate has been limited to a controversy between positions (1) and (2) with a heavy effort by the Carter Administration to incorporate enough elements pleasing to advocates of (1) to build a ratifying consensus in support of (2), i.e., (2) has been modified to make it more similar to (1). I believe that U.S. and world interests would be better served by adoption of positions (3) or (4), possibly by a combination of both, i.e. an interim treaty providing for U.S. withdrawal over a period of 10–15 years.

In the end, pro-treaty forces fall back on their contention that a failure to ratify would produce dire results. This prediction is not convincing if the United States were to take some mitigating actions such as extending Panama the financial benefits expected to accompany the 1977 arrangements and initiating a serious study of the retirement option. It is evident from General Torrijos' remarks on various occasions that he would much prefer a treaty that went much further in according Panama full sovereign rights.

It is true, of course, that the narrow range of acceptable debate seems to have foreclosed consideration of such an option at this time. Again we should recall from our recent past that foreclosing options in this way is not conducive to rational behavior in world affairs. It defers the day of reckoning, but makes the reckoning worse when it occurs. I fear that we are dealing with the Panama Canal in a reckless, sentimental fashion, fashioning "a solution" that will bring grief to ourselves and the Panamanians.

All of these considerations lead me to oppose ratification of the 1977 proposed Panama Canal Treaties.

STATEMENT OF PROF. R. R. BAXTER

The three major questions of international law to which the conclusion of the New Panama Canal Treaties gives rise are:

1. What rights which the United States now enjoys with respect to the Panama Canal Zone will be relinquished to Panama under the terms of the new Panama Canal Treaties?

2. What rights will the United States and other countries enjoy under the new Panama Canal Treaties with respect to passage of merchant vessels and governmental ships other than warships?

3. What rights will the United States have to assure the availability of the Panama Canal to its warships and the protection of the Canal?

These three issues will be taken up in turn.

I. The existing rights of the United States in the Canal Zone.

The rights of the United States in the Canal Zone now derive from Articles II and III of the Hay-Bunau-Varilla Treaty of 1903. Article II grants to the United States "in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal [referred to in the Preamble of the Treaty] of the width of ten miles . . .". Article III then grants to the United States "all rights, power and authority . . . which the United States would possess and exercise if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

Throughout the history of the Canal, the United States has acknowledged that the Panama Canal Zone remains subject to Panamanian sovereignty. As early as 1904, Secretary of State John Hay responded to Panamanian assertions of continued "titular sovereignty" over the Zone by observing that, in view of the United States plenary power under the Treaty of 1903, any such "titular sovereignty" could only be "a barren scepter." Letter to J. D. de Obaldia, Minister of Panama, [1904], 1 Foreign Rel. U.S. 613 (1904). In the following year, Secretary of State Taft wrote to President Roosevelt:

"The truth is that while we have all the attributes of sovereignty necessary in the construction, maintenance, and protection of the canal, the very form in which these attributes are conferred in the treaty [of 1903] seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama." Letter of January 12, 1905, reprinted in Hearings Before the Senate Committee on Interoceanic Canals, S. Doc. 401, 59th Cong., 2d Sess. pp. 2392–93, 2399 (vol. III), 32 Senate Documents (1907, 59th Cong., 2d Sess.) 2392–93, 2399.

The letter was sent by President Roosevelt to the Congress with the first annual report of the Isthmian Canal Commission.

The distinction between titular and effective sovereignty was finally given formal recognition in Article III of the General Treaty of Friendship and Cooperaton between the United States and Panama of 1936, which stated that the Canal Zone constitued "territory of the Republic of Panama under the jurisdiction of the United States of America." 53 Stat. 1807, T.S. No. 945.

In 1959, Deputy Under Secretary of State Merchant stated that he had assured the President of the Republic of Panama "that the policy of the United States Government with respect to the status of the Canal Zone remains as it had been stated more than 50 years ago to the effect that the United States recognizes that titular sovereignty over the Canal Zone remains in the Government of Panama." 41 Dep't State Bull. 859 (1959). President Eisenhower at the same time ordered the Panamanian flag flown within the Canal Zone as "visual evidence that Panama does have titular sovereignty over the region." Eisenhower, "Public Papers of the Presidents," 1959, 785, 794.

United States courts have frequently been called upon to consider the Canal Zone's legal status, but the cases have always arisen in a domestic legislative context. Pronouncements that the Zone is "a territory or possession of the United States" or that it is "foreign territory" are therefore nothing more than judicial determinations of Congressional intent concerning the applicability of particular United States statutes to the Canal Zone. In *Luckenbach Steamship Co.* v. *United States*, 280 U.S. 173 (1929), for example, the Supreme Court expressly avoided the international law question of "titular sovereignty" and made clear that its determination that the Canal Zone ports were "foreign" was only for purposes of construing the statute governing the Postmaster General's rate setting for mail carriage. *Id.* at 177–178. Other frequently cited cases are similarly circumscribed. The Court's assertion in *Wilson* v. *Shaw*, 204 U.S. 24 (1907) that "It is hypocritical to contend that . . . the [Canal Zone] does not belong to this Nation . . .", *Id.* at 33, amounts only to a holding that, for purposes of the Panama Canal Act of 1902, the United States possessed a sufficient interest in the Canal Zone to authorize the Government's expenditure of tax revenues for the building of the canal. By the same token, the statement of the Fifth Circuit in *United States* v. *Husband R. (Roach)*, 453 F.2d 1054 (1971), cert. denied, 406 U.S. 935 (1972), that "The Canal Zone is an unincorporated territory of the United States," 453 F.2d at 1057, occurs in the context of a decision defining the domestic legislative authority of Congress with respect to the Canal Zone; it does not purport to address the question of sovereignty over the Canal Zone in an international sense.

The Supreme Court did, however, refer to the Canal Zone's international legal status in *Vermilya-Brown Co., Inc.* v. *Connell*, 335 U.S. 377 (1948). The Court held the Fair Labor Standards Act to be applicable to United States employees on bases leased from the United Kingdom in Bermuda, notwithstanding statutory language making the Act applicable only to "territories" or "possessions" of the United States. The Court cited precedents for application of the Act in territories over which the United States was not sovereign, noting that the Act had been applied "to the Canal Zone, admittedly territory over which we do not have sovereignty." 335 U.S. at 381. The reference to the Canal Zone is clearly dictum, but it is deserving of notice as a rare Supreme Court statement on the question of international sovereignty.

The United States thus never acquired "sovereignty" over the Panama Canal Zone but only rights within the terms of the various treaty arrangements between the United States and Panama, beginning with the Hay-Bunau-Varilla Treaty of 1903. The area at all times remained subject to the titular sovereignty of Panama. The relinquishment by the United States of rights under the existing treaties, pursuant to Article 1, paragraph 1, of the new Panama Canal Treaty, will thus not be a surrender of sovereignty by the United States but a retrocession of certain rights to the Republic of Panama. The continuing sovereignty of Panama over the Zone is recognized in the Preamble of the new Treaty, wherein the United States "Acknowledg[es] the Republic of Panama's sovereignty over its territory."

II. The rights of the United States and other users under the new Panama Canal Treaties.

The legal guarantees now afforded to users of the Canal are to be found in Article III of the Treaty between the United States and the United Kingdom to Facilitate the Construction of a Ship Canal of 1901 (the Hay-Pauncefote Treaty), as incorporated into the Isthmian Canal Convention between the United States and Panama of 1903 by Article XVIII thereof. The portion of Article III of the Treaty of 1901 pertinent to the passage of merchant vessels provides:

"The United States adopts, as the basis of the neutralization of such ship Canal, the following Rules, substantially as embodied in the Convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. . . ."

Secretaries of State have in the past expressed the view that third states other than the Republic of Panama and the United Kingdom have no rights under the Treaties of 1901 and 1908. Charles Evans Hughes wrote to President Harding that "other nations . . . not being parties to the [Hay-Pauncefote] treaty have no rights under it" (5 Hackworth, Digest of International Law 221–222 (1943)), and Secretary of State Dulles said in 1956: "And there is no international treaty giving other countries any rights at all in the Panama Canal except for a treaty with the United Kingdom which provides that it has the right to have the same tolls for its vessels as for ours." In practical terms, he said, a large number of countries rely on the Suez Canal, but no country in the world fears that its economy would be jeopardized by possible misuse or abuse of United States rights in the Canal (3 Whiteman, Digest of International Law 1150 (1964)).

Under the new Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, substantially the same regime as under the Treaties of 1901 and 1903 will be maintained for the Canal. The relevant portions of Articles II and III of the Neutrality Treaty provide:

"ARTICLE II

"The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. The foregoing shall be subject to the following requirements:

"(a) Payment of tolls and other charges for transit and ancillary services, provided they have been fixed in conformity with the provisions of Article III(c);

"(b) Compliance with applicable rules and regulations, provided such rules and regulations are applied in conformity with the provisions of Article III;

"(c) The requirement that transiting vessels commit no acts of hostility while in the Canal; and

"(d) Such other conditions and restrictions as are established by this Treaty.

"ARTICLE III

"1. For purposes of the security, efficiency and proper maintenance of the Canal the following rules shall apply:

"(a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

"(b) Ancillary services necessary for transit through the Canal shall be provided;

"(d) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law;"

It will be observed that the significant duties incorporated in Article II are assumed

by the Republic of Panama. However, under Article IV:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties."

The duties assumed by Panama thus seem to rest upon the United States as well under the terms of Article IV.

The rights of users under both the 1901 and 1903 Treaties and the new Panama Canal Treaties fall in the following categories:

a. Neutralization of the Canal.

The Hay-Pauncefote Treaty states that the rules in Article III of that Treaty are on the basis of the "neutralization" of the Canal, while the Hay-Bunau-Varilla Treaty provides that the "Canal . . . shall be neutral in perpetuity."

The new Neutrality Treaty contains a declaration by Panama in Article I that "the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty." Under Article IV, "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, . . ."

The regime of permanent neutrality established by the Treaties of 1901 and 1903 is maintained and confirmed in the new Neutrality Treaty.

b. The Canal to be Free and Open.

Rule 1 of Article III of the Hay-Pauncefote Treaty provides that "The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules." Under Article II of the new Neutrality Treaty, the neutrality of the Canal is declared "in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations," subject to four lettered requirements concerning payment of tolls and other charges, compliance with applicable rules and regulations, and a duty not to commit acts of hostility within the Canal, as well as other conditions and restrictions established by the Treaty.

It will be observed that the formula of 1901 and 1903 is that the Canal, as well as other conditions and restrictions established by the Treaty.

It will be observed that the formula of 1901 and 1903 is that the Canal is to be "free and open," while the Neutrality Treaty stipulates that it is to be "secure and open." Some refinement of meaning was undoubtedly intended, but the nuance is of the kind that means much more to the negotiators than to those to whom the Treaty is directed. "Free" does seem to provide greater security to the user than does "secure," which places emphasis on the interests of Panama, although it may be contended that the security of the Canal is likewise intended for the benefit of users.

c. Equality and Non-discrimination.

The Canal, under the Hay-Pauncefote Treaty, is to be free and open "on terms of entire equality, so that there shall be no discrimination against any . . . nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise." The neutrality of the Canal is declared by Article II of the Neutrality Treaty in order that the Canal may be open to "peaceful transit by the vessels of all nations on terms of entire equality, so that there shall be no discrimination against any nation." The obligation of Panama appears to be the same under both the Neutrality Treaty and under the Hay-Bunau-Varilla Treaty, which incorporated by reference the Rules laid down in the Hay-Pauncefote Treaty.

d. The Justice, Reasonableness, and Equitable Character of the Rules of Transit.

Rule 1 of Article III of the Hay-Pauncefote Treaty provides that the "conditions and charges of traffic shall be just and equitable." Paragraph 1(a) of the Neutrality Treaty stipulates that the "Canal shall be operated . . . in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal." The interests of users appear to be given greater protection by the broadening of the language to include the concept of "reasonableness" and by placing a limitation on the purpose for which the rules are promulgated to "safe navigation and efficient, sanitary operation of the Canal."

e. Standards for Tolls.

Under the Hay-Pauncefote Treaty, "charges of traffic shall be just and equitable," while under the new treaty, "Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law."

The proliferation of detail in the new Neutrality Treaty, in particular the requirement that tolls and charges be "reasonable" and "consistent with the principles of international law," enhances the protection of the rights of users. The term "reasonable" imparts a greater objectivity to the standard than is provided by the terms "just" and "equitable". "Just" is the vaguest of the terms. "Equitable" might be taken to mean equitable to the territorial sovereign of the Canal, Panama, or may have some of the coloring of non-discriminatory. The standard of reasonableness is an objective one, commonly employed in connection with rate regulation, and is more weighted toward the interests of users than are the terms "just" and "equitable."

The requirement of consistency with "the principles of international law" has the beneficial effect of permitting the parties to a dispute or a third-party decision-maker to invoke precedents in the form of arrangements made with respect to other international waterways, particularly interoceanic canals.

The Neutrality Treaty creates rights enforceable by the United States and the Republic of Panama, each against the other, to allow "peaceful transit by the vessels of all nations." But to what extent may third states themselves claim and enforce rights on behalf of their vessels under the new Neutrality Treaty?

Notwithstanding the earlier statements by Secretary of State Hughes and Secretary of State Dulles concerning the position of third states, it appears that third states, not parties to the Neutrality Treaty, may themselves claim rights under that agreement. The first basis for this view is that they are third-party beneficiaries under the Neutrality Treaty. Article 36, paragraph 1, of the Vienna Convention on the Law of Treaties of 1969, to which the United States is not a party but which is widely regarded as reflecting contemporary customary international law, provides:

"A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides."

Conditions on the exercise of the right are referred to in paragraph 2:

"A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty."

The statement in the Neutrality Treaty that Panama declares the Canal secure and open "to peaceful transit by the vessels of all nations" appears intended to confer a right on "all nations," not simply on the parties to the Protocol to the Neutrality Treaty.

The second possible basis for the rights of third states is the fact that a unilateral declaration by a state may give rise to rights to be enjoyed by the states to which the declaration is addressed. In the *French Nuclear Tests* case, [1974] I.C.J. Rep. 253, 267, the International Court of Justice stated:

"When it is the intention of the State making the declaration that it should be bound according to its terms, that intention confers on the declaration the character of a legal undertaking, the State being thenceforth legally required to follow a course of conduct consistent with the declaration. An undertaking of this kind, if given publicly, and with an intent to be bound, even though not made within the context of international negotiations, is binding. In these circumstances, nothing in the nature of a quid pro quo nor any subsequent acceptance of the declaration, not even any reply or reaction from other States, is required for the declaration to take effect, since such a requirement would be inconsistent with the strictly unilateral nature of the juridical act by which the pronouncement of the State was made."

Although the obligations of Panama are assumed in a bilateral treaty with the United States, Article II of the Neutrality Treaty is in form of unilateral declaration by Panama ("The Republic of Panama declares the neutrality of the Canal . . ."). That declaration, without more, creates rights in other states, since the declaration seems to have been made with the intention that it should be binding.

This conclusion is not invalidated by the existence of the Protocol to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal. Under that instrument the Contracting Parties will "agree to observe and respect the regime of permanent neutrality of the Canal in time of war as in time of peace, and to ensure that vessels of their registry strictly observe the applicable rules" (Art. II). The Contracting Parties will thereby undertake individual obligations to respect the regime of the Canal which, in the absence of the Protocol, would only be conditions on the right to use the Canal conferred by the Neutrality Treaty. The effect of the Protocol is thus to convert conditions into promises.

Actually, the new Treaties will do no more than to make specific obligations resting upon both the Republic of Panama and the United States under customary international law. In "The *S.S. Wimbledon*," P.C.I.J., ser. A. No. 1 (1923), the Permanent Court of International Justice spoke of the Kiel Canal as "an artificial waterway connecting two open seas [which] has been permanently dedicated to the use of the whole world" (at 28). The dedication in that case came through the terms of the Treaty of Versailles, whereby the Canal was thrown open to navigation by the ships of all nations. The corresponding dedication in the case of the Panama Canal was effected through the Hay-Pauncefote Treaty of 1901 and the Hay-Bunau-Varilla Treaty of 1903. Dedication alone may not be sufficient and should be followed by reliance by the international community in general before third states may with sound legal basis rely on that dedication to free and open use. That reliance has long since taken place in the case of the Panama Canal.

At the present time, the right of free and open passage through the Panama Canal has

thus been established in customary international law through the dedication effected by the Treaties of 1901 and 1903 and exists independently of those treaties. The new Panama Canal Treaties will provide a more refined and precise definition of these rights.

III. The rights of the United States to protect the canal and to assure the unfettered passage of its warships.

A. The Concept of Neutralization.

As has been observed earlier in this statement, the Republic of Panama will, under the terms of the new Neutrality Treaty, declare that "the Canal, as an international transit waterway, shall be permanently neutral" (Art. I). The Canal is, of course, already "neutralized." The Hay-Pauncefote Treaty states that the rules of Article III of the Treaty are on the basis of the "neutralization" of the Canal, while the Hay-Bunau-Varilla Treaty provides that the "Canal . . . shall be neutral in perpetuity."

The terms "neutrality" and "neutralization" have always been used in a somewhat Pickwickian sense when applied to interoceanic canals such as the Panama Canal. In general, the neutralization of territory would mean that the territorial sovereign would be precluded from taking any measures, such as the building of defenses, there and that all states recognizing the status would be obliged to refrain from military activities there. In the Hay-Pauncefote Treaty, on the other hand, "neutralization" rests on the basis of a number of rules, ranging from a requirement of non-discriminatory tolls to the duty of belligerents to refrain from acts of hostility within the Canal. It was even suggested by Sir Edward Grey during the tolls controversy between the United States and the United Kingdom before the First World War that "neutralization must refer to the system of equal rights." [1912] Foreign Relations of the U.S. 481–489, quoted in N. Padelford, The Panama Canal in Peace and War 35 (1943). The term "neutralization" is thus used synoptically to refer to the whole regime of the Canal. The "neutrality" of the Canal proclaimed in the new Neutrality Treaty is likewise linked to the rules and conditions for use of the Canal.

Nothing in the Treaty of 1901 or the Treaty of 1903 has stood in the way of defense or fortification of the Panama Canal. It has been closed to the warships and merchant ships of enemies of the United States in both World Wars, and restrictions were placed on neutral shipping. The neutrality of the Panama Canal thus does not preclude the United States—or under the new Treaties, the Republic of Panama—from taking belligerent measures in the Canal and in the area of the Canal when either state is at war.

The Neutrality Treaty incorporates a requirement that "transiting vessels commit no acts of hostility while in the Canal." Art. II, para. (c). In this respect the Treaty carries forward the obligation already imposed on transiting vessels under Article III, Rule 2, of the Hay-Pauncefote Treaty: "The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it." The Protocol to the Neutrality Treaty will make this duty of transiting vessels or condition on passage into a legal duty incumbent upon the states whose vessels use the Canal "to observe and respect the regime of permanent neutrality of the Canal in time of war as in time of peace, and to ensure that vessels of their registry strictly observe applicable rules." The duties of states and of transiting vessels "in time of war" would appear to interpose no obstacles to measures that might be taken by the operator of the Panama Canal to close the canal to warships and merchant ships of states enemies to the operator of the Canal and to neutral ships carrying contraband to and from the enemy.

B. Protection of the Canal.

Article IV of the new Panama Canal Treaty provides that before 2000 the United States will have the primary responsibility to protect and defend the Canal, with subsidiary responsibility resting upon Panama. Both countries will be required to act to repel armed attack or any other threats to the security of the Canal or ships transiting it. The two parties are to form a Combined Board of senior military representatives to consult on all matters relating to the protection and defense of the Canal and to plan actions to be taken by the parties in concert. These combined arrangements are not to inhibit the "lines of authority" of the parties' respective armed forces.

Until 2000, the United States may station military forces within Panama in conformity with the rights and limitations de-

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Panama Canal Treaty. The United States is to "endeavor to maintain" its forces during "normal times" at a level not in excess of that prior to the entry into force of the Treaty, to the extent consistent with its primary responsibility to defend the Canal. In other words, it would be within the discretion of the United States to increase the level of forces when it perceived an emergency or threat to the Canal. Whether the United States may act unilaterally to protect the regime of neutrality is not addressed explicitly in the Panama Canal Treaty. However, the interpretation that it may is consistent with the discretion granted to the United States to decide troop levels and the primary responsibility placed upon it to defend the Canal. This view is held by the chief United States negotiators of the Panama Canal Treaty. Hearings on the Panama Canal Treaties Before the Senate Comm. on Foreign Relations, 95th Cong., 1st Sess. 32–33 (1977) (Statement by Ambassadors Bunker and Linowitz) [hereinafter cited as Hearings]. Moreover, under the Neutrality Treaty, each party may act independently to defend the Canal. See discussion *infra*.

After the expiration of the Panama Canal Treaty, the Neutrality Treaty alone will govern the protection of the Canal. Both the United States and Panama are to maintain the regime of neutrality notwithstanding other subsequent treaty commitments.

Only Panama will maintain "military forces, defense sites, and military installations within its territory." This stipulation requires the removal of the United States military presence and indicates that Panama may not invite a foreign state to introduce military forces into its territory either informally or pursuant to a treaty. However, the blanket exclusion of foreign military forces and installations must be balanced with the overriding goal of keeping the Canal open and with the obligations of the United States to defend the Canal, a task which, as a practical matter, would be impossible in certain situations without the reintroduction of troops.

The Neutrality Treaty places no limitations on the discretion of each party to the Treaty to identify a threat to the neutrality of the Canal or to select methods which they may employ to deter dangers to the neutrality of the waterway. One implication of unilateral decision-making is that the United States may act contrary to Panama's wishes or directly against it if, in the opinion of the United States, Panama's actions endanger the neutrality of the Canal. (Statement by Ambassador Linowitz, *id.* at 27.)

In order to clarify the interpretation which the parties gave to their rights under the Neutrality Treaty, President Carter and General Torrijos issued a Statement of Understanding (Understanding) on October 14, 1977. It states that

"Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

"This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity of political independence of Panama."

The first paragraph recognizes the rights of unilateral action including the use of force, in the event of threats to navigation through the Canal, while the second paragraph limits such action on the part of the United States to the purposes referred to in the Understanding. The prohibition of actions infringing upon the territorial integrity or political independence of Panama must be interpreted in such a way as to allow the United States to fulfill its obligation to meet aggression directed against the Canal.

That the Understanding is an authoritative interpretation of the Neutrality Treaty may be established in three ways. The Statement of Understanding is a binding agreement between the United States and Panama. Even if it were not to be regarded as itself an international agreement, the Understanding still would form part of the travaux préparatoires of the Neutrality Treaty or subsequent practice under that Treaty.

A treaty need not be formal in form or style. The Vienna Convention on the Law of Treaties defines a treaty in Article 2, paragraph 1(a), as "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation." (U.N. Doc. A/CONF. 39/27 reprinted in 63 Am. J. Int'l L. 875 (1969) and 8 Int'l Leg. Mat. 679 (1969))

The International Law Commission stated, in its commentary to this article when it was in the form of a draft that "very many single instruments in daily use, such as an 'agreed minute' or a 'memorandum of understanding,' could not appropriately be called formal instruments, but they are undoubtedly international agreements subject to the law of treaties." Report of the International Law Commission to the General Assembly, 21 U.N. GAOR, Supp. (No. 9) 21, U.N. Doc. A/6309/Rev. 1 (1965) (emphasis added). Neither the Vienna Convention nor the commentaries require that a document must be signed by representatives of the parties in order to constitute a "treaty."

In addition, two decisions of the Permanent Court of International Justice and the International Court of Justice have found informal unilateral statements by high officials to states as to the intentions and policy of their governments to place binding obligations upon those states. In the Legal Status of Eastern Greenland case the Permanent Court of International Justice held binding an oral declaration later written and initialed by the Norwegian Minister of Foreign Affairs, advising his Danish counterpart that

"the plans of the Royal Danish Government respecting Danish sovereignty over the whole of Greenland . . . would meet with no difficulty on the part of Norway." [1933] P.C.I.J. ser. A/B, No. 53.

As a result, later Norwegian steps to occupy parts of Greenland were held unlawful. The Court based its holding on the negotiating context in which the statements were made; Norway had made its assurances in response to a Danish request and had in return received Danish assurances.

Later, in the French Nuclear Tests cases, the International Court of Justice held binding even unilateral declarations in the form of statements made outside of the negotiating context and without the receipt of reciprocal assurances. The Court required only that the declaration be made publicly and "with an intent to be bound;" nothing in the nature of a quid pro quo or subsequent reply was necessary. Nuclear Tests (Australia v. France), [1974] I.C.J. Rep. 253, 267.

According to the standards of the Nuclear Tests cases and the stricter Eastern Greenland case, the bilateral Understanding appears a fortiori to be a binding obligation. It was issued at a meeting between President Carter and General Torrijos which was held for the purpose of negotiating and drafting such a statement. Its official release was accompanied by a press conference in Panama by the Chief Panamanian negotiator and appearances in the United States by the two Chief United States negotiators to explain the function and meaning of the Understanding to the Senate Foreign Relations Committee.

The validity of the Understanding as an international agreement under United States domestic law remains to be considered. Two issues must be addressed: first, whether the Understanding will be submitted to the Senate for its advice and consent in conjunction with the other Panama Canal Treaties; and second, whether such a submission to the Senate is required.

In hearings before the Senate Foreign Relations Committee, Ambassador Linowitz asserted that the Understanding was a "part of the record." Id. at 455–456. He and Ambassador Bunker testified in detail as to the background, meaning, and implication of the document. However, the Understanding will not be appended in a physical sense to the agreements submitted to the Senate. Id. Yet, the Understanding has been and will in all likelihood continue to be a subject of discussion in the Senate as an authoritative interpretation of the Neutrality Agreement. Thus, it would be an exultation of form over substance to say that the Senate will not give its advice and consent to the contents of the Understanding if it gives its approval to the Neutrality Treaty.

Even if the Understanding were not binding by itself, it would represent an authoritative interpretation of the agreement, either as part of the preparatory work of the Neutrality Treaty prior to ratification or as subsequent practice under the Treaty after its signature. See Vienna Convention on the Law of Treaties, arts. 31 and 32. In either case, it is relevant that both parties regard the Declaration as the definitive interpretation of the meaning of the Neutrality Treaty.

An additional indication of the importance of the Understanding is found in General Torrijos' expression of desire that the Understanding be issued before the plebiscite in Panama on October 23, 1977. Press conference by Romulo Escobar Bethancourt, Chief Panamanian negotiator, in Panama, October 18, 1977, reprinted in Hearings supra at 457.

In light of the fact that the Understanding resulted from negotiations held especially for the purpose of clarifying the positions of the parties, was carefully drafted jointly by the heads of state, and was issued officially and publicly in both countries, its conclusiveness as an interpretation of the Neutrality Treaty is not open to serious challenge.

C. Possible Limitations on the Power of the United States to Assure Freedom of Passage Through the Canal and the Defense of the Canal.

It remains to consider whether the United Nations Charter, the Charter of the Organization of American States or the Inter-American Treaty of Reciprocal Assistance would place any limitation on the power of the United States to assure freedom of passage through the Canal for its warships and merchant ships or to defend the Canal.

Under Chapter VII of the United Nations Charter, the Security Council may determine that there is a "threat to the peace, breach of the peace, or act of aggression" and order member states to comply with the measures ordered by that organ of the United Nations. Under Article 41, the measures falling short of the use of force which may be employed by the Security Council are "complete or partial interruption of economic relations" and of "sea . . . means of communication." In addition, the United Nations may also take action by air, sea, or land forces in order to maintain or restore international peace and security under Article 42. Article 103 of the Charter provides that the obligations of a member state under the Charter prevail over the state's obligations under any other international agreement. Thus, the Security Council could order the Canal closed to the ships of a particular state or group of states and that order would prevail over the duty of Panama and the United States to allow transit.

A recommendation adopted by the Security Council under Chapter VI of the Charter or by the General Assembly under Chapter IV would not be legally binding under the Charter. The new Panama Canal Treaty and Neutrality Treaty would limit the freedom of the United States and Panama to follow such a recommendation.

So far as the Inter-American system is concerned, Article 25 of the O.A.S. Charter provides:

"If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an armed attack or by an act of aggression that is not an armed attack, or by an extracontinental conflict, or by a conflict between two or more American States, or by any other fact or situation that might endanger the peace of America, the American States, in furtherance of the principles of continental solidarity or collective self-defense, shall apply the measures and procedures established in the special treaties on the subject." Charter of the Organization of American States, April 30, 1948, 2 U.S.T. 2394, T.I.A.S. No. 2361, 119 U.N.T.S. 3.

The special treaty referred to is the Inter-American Treaty for Reciprocal Assistance (Rio Treaty), opened for signature Sept. 2, 1947, T.I.A.S. No. 1838, 21 U.N.T.S. 77, under which the ministers of foreign affairs of the parties may decide jointly what measures are to be taken. Under Article 8, these measures may include "partial or complete interruption of economic relations or of . . . sea . . . communications." Article 20 requires that the parties to the Treaty comply with measures falling short of the use of armed force. Thus, if Panama and the United States were called upon by the O.A.S. to close the Canal to the vessels of a state or group of states, a conflict would exist between the obligations of either country under the Panama Canal Treaties, on the one hand, and the O.A.S. Charter and Rio Treaty, on the other. If the state whose ships had been excluded were a party to the Inter-American agreements, it could not complain because it would have consented to such an action by virtue of its being a party to two treaties. A state not a party to the O.A.S. Charter and Rio Treaty would not be bound by their provisions (Vienna Convention on the Law of Treaties, art. 34), which would be res inter alios acta. It could properly insist that Panama and the United States perform their obligations under the Panama Canal Treaty and the Neutrality Treaty. However, the possibility of a similar conflict between the treaties governing the Canal and these two inter-American treaties has existed over the past thirty years but has caused no difficulties.

Article 2, paragraph 4, of the United Nations Charter prohibits "the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations." The Neutrality Treaty implicitly contemplates the use of force to maintain secure and open passage through the Canal.

The conventional rights conceded by Panama to the United States under the terms of the Neutrality Treaty are further particularized in the Understanding arrived at between President Carter and General Torrijos. There are thus two treaty bases for the right of the United States to defend the Canal.

In order to comply with the Neutrality Treaty, the Understanding and the United Nations Charter, any exercise of force by the United States would have to be limited in purpose, in intensity, and in duration to what would be strictly required for the maintenance of the neutrality of the Canal. It could not be directed toward detaching territory from Panama or altering its government, nor could it inviove a long-term military presence in Panamanian territory unless that presence could be justified by a continuing threat to the Canal.

Article 15 of the O.A.S. Charter forbids intervention "for any reason whatever, in the internal or external affairs of any other States. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements." Article 17 of the Charter provides that "[t]he territory of a State is inviolable; if may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any ground whatever." Because the neutrality of the Canal is the subject of a treaty commitment, action taken by the United States directed toward keeping the Canal secure and open would not relate to the internal affairs of Panama.

So far as the external affairs of Panama are concerned, reliance upon an implementation of a treaty right by a party to the Treaty would not constitute intervention. Limited action by the United States to protect the neutrality of the Canal would not be directed against the "personality" of Panama or against the "political, economic and cultural elements" of Panama, but would be undertaken exclusively to keep the Canal open. In the event that United States military forces entered Panama, they would not "occupy" its territory in the sense of exercising control of that territory to the exclusion of Panamanian sovereignty. Neither would the territory be the object of the use of force, provided the military action was a proportionate response to the threat to the Canal.

Article I of the Rio Treaty forbids the use of force by parties to the Treaty in any manner inconsistent with the United Nations Charter or the Rio Treaty. Its purpose of mutual assistance and common defense is not inconsistent with the rights of the United States under the Neutrality Treaty.

The provisions of Article 103 of the United Nations Charter, providing that "in the event of a conflict between the obligations of

the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail," do not preclude the exercise of rights by the United States under the Neutrality Treaty and the Understanding. There is no conflict between Article 2, paragraph 4, of the Charter and the Treaty and Understanding, for, as has been shown above:

a. Panama has consented by treaty to the measures that the United States might take for the defense of the Canal, and

b. Measures to defend the Canal would not be directed against the "territorial integrity" or "political independence" of Panama, nor would they be "in any other manner inconsistent with the Purposes of the United Nations."

STATEMENT BY JOHN NORTON MOORE *

Mr. Chairman: It is pleasure and a privilege to meet with this Committee to discuss the proposed Panama Canal Treaties. The decisions to be made by the Senate in considering advice and consent to these treaties will be of profound importance for all Americans.

In considering the Panama Treaties, my statement will be organized in three parts: general views on the nature of United States interests and choices concerning the Canal: analysis of the principal international-legal issues, particularly the transit and defense rights under the Treaties; and analysis of the constitutionally permissible modalities for Congressional approval of the Treaties.

GENERAL VIEWS

The question facing the Senate and the Nation is not whether the Panama Treaties are in all respects ideal. In common with many Americans, and I would expect even our treaty negotiators, I do not believe the treaties are ideal. Indeed few are since by definition a treaty is an agreement which, if meaningful, has been bargained for and is the product of compromise. Rather, the question is whether United States interests are better served by the treaties, with any necessary clarifying understandings, or by the context that can reasonably be expected should the treaties fail. I believe the answer to this question is that the treaties better serve our interests and should be ratified, assuming clear acceptance by both sides of the Carter-Torrijos understanding clarifying United States defense rights.

It need not detract from the remarkable achievement of the United States in building the Canal, an achievement in which we can take great pride, to recognize that a treaty suitable in 1903 may not present the most appropriate basis for United States-Panamanian relations in 1978. Every American President since Lyndon Johnson has recognized that fact and has been committed to renegotiation of the 1903 Hay-Bunau-Varilla Treaty. Similarly, Latin American countries, sensitized to issues of equality in United States relations with the hemisphere, have indicated that settlement of the Canal issue with Panama "is a matter of common interest and high priority for Latin America. . . ." [1]

The reality is that the United States and Panama have had a significant dispute about the Canal for much of the more than half century since the Canal has been in operation. The core of that dispute has been the question of residual or "titular" sovereignty over the Zone left in doubt by the language of Article III of the 1903 treaty which granted the United States rights within the zone "which the United States would possess and exercise if it were the sovereign of the territory. . . ." [2] Increasingly the dispute has also focused on fairness in distribution of Canal benefits.

If the United States can settle the long Canal dispute by new agreements with Panama, it is in our interest to do so both to enhance the basis for stable Canal operations and to demonstrate that the strength of a truly great power is not just its firmness but rather its firmness in defense of the common interest. Such new agreements, to be viable and fair, must also protect important United States interests in the Canal. Fortunately it may be possible to recognize both Panamanian aspirations for a new regime and the essential national and common interests in the Canal. Those interests are, I believe, that the Canal will remain open to all vessels, without discrimination, under just and reasonable conditions, and that the United States as builder and principal user of the Canal will retain the right to defend against any threat to assured transit of vessels. Indeed, the United States may remain legally obligated by the Hay-Pauncefote Treaty of 1901 with the United Kingdom to maintain such assured access and neutralization of the Canal.[3]

Both to deter future conflict and to protect the core national and common interests in the Canal, these access and defense rights should be clearly recognized and endorsed by any new treaties. We should not repeat the mistake of the past and accept ambiguity on core interests as good enough. Instead a good agreement should reflect a genuine understanding clearly accepted by all parties.

THE INTERNATIONAL-LEGAL ISSUES

The "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal" is intended to go into effect simultaneously with the "Panama Canal Treaty" and to last in perpetuity, unlike the Panama Canal Treaty which by its terms would expire on December 31, 1999. As such, the "Neutrality Treaty" is the more important and enduring legal basis for permanent access and defense rights.

Articles I, II, III and VI of the Neutrality Treaty establish the basis for assured navigational rights through the Canal for vessels of all nations. In my judgment the legal guarantees of transit contained in these articles are strong and in several significant respects stronger for modern conditions than those in effect under Article III of the Hay-Pauncefote Treaty.[4] Thus, there is an obligation that the Canal shall be operated "efficiently" and that rules and regulations for transit shall be "reasonable" as well as "just and equitable." In addition, such rules and regulations are limited to those necessary for safe navigation and efficient, sanitary operation of the Canal." Finally, there is an additional provision in Article VI(1) unmistakably guaranteeing transit rights of United States and Panamanian warships and auxiliary vessels "notwithstanding any other provisions of this Treaty."

There are, however, two ambiguities on transit rights of possible concern.[5] I raise them largely to make a record that in my judgment reasonable interpretation of the Neutrality Treaty requires favorable interpretation on both points. If the Senate is concerned with either ambiguity it would seem an easy matter to further clarify the point as part of a general understanding.

First, it is important that the transit rights provided by the treaty apply from high seas to high seas, that is beginning and ending at the seaward limits of Panamanian Caribbean and Pacific territorial or other ocean claims. At the present time Panama and the United States claim different territorial set limits. The United States recognizes a three nautical mile territorial sea (as opposed to its 200-mile coastal fisheries claim), Panama claims a 200-mile territorial sea and at least if the Law of the Sea Conference is successful we seem to be heading toward a twelve-mile limit.

Pursuant to Annexes A and B of the Neutrality Treaty the treaty areas is defined to include Panamanian territorial sea areas around the entrance to the Canal delimited pursuant to three mile limit. This is an obvious device to avoid introducing law of the sea hassles in the Canal issue. But as a result it is remotely possible that Panama would feel free to apply the more restrictive "innocent passage" provisions as they claim to apply them beyond the three-mile area out to 200 miles. I do not believe such an interpretation to be sound. By an reasonable test of major purposes the Panamanian guarantees must apply from high seas to high seas regardless of any change in oceans jurisdictional limits. It would be surprised if this were not also the Panamanian interpretation.[6]

Second, since Article VI(1) provides an unambiguous right of transit for United States warships and auxiliary vessels "irrespective of their internal operation, means of propulsion, origin, destination . . . or cargo carried," by negative implication it is arguable that these features could be the basis for discrimination against certain categories of commercial vessels. To avoid this kind of problem we did not accept any such differentiation between warships and commercial vessels in the definition of transit rights in the law of the sea negotiations. Once again, however, I do not believe such an interpretation to be sound. For pursuant to Article III 1(a) all rules, regulations and conditions of transit must still be "reasonable" and "limited to those necessary for safe navigation and efficient, sanitary operation of the Canal." Moreover, Article VI(1) seems intended to provide "expeditious" transit for United States and Panamanian warships and auxiliary vessels and to make transit rights for those vessels doubly clear rather than to provide a standard for discrimination against commercial vessels.

As a final point on transit rights, although the Neutrality Treaty makes no reference to the claim, some have referred to the Canal as a "Panamanian national resource." The notion that an international canal is a national resource is, I believe, unsound and fails to consider the strong community common interest in access through such canals. The United States has consistently rejected such claims with respect to straits used for international navigation. In addition, the United States has not sought to operate the Canal as a profit venture and I do not believe it would be "just, reasonable and equitable" to seek to extract maximum economic rent at the expense of the international community.

Turning to United States defense rights, Article IV of the Neutrality Treaty is the only article in the treaties laying a permanent basis for such rights, although the "Canal Treaty" has a much more detailed regime explicitly spelling out such defense rights prior to the year 2000. Pursuant to Article IV of the Neutrality Treaty:

"The United States of America and the Republic of Panama agree to maintain the

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Footnotes at end of article.

regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties."

There is nothing in this article inconsistent with the right of the United States, acting alone if necessary, to use force to defend the Canal or transit rights of vessels through the Canal. Indeed it seems consistent with a continuing United States legal obligation in this regard under the Hay-Pauncefote Treaty. That is, we agreed under the Hay-Pauncefote Treaty to guarantee the neutrality of the Canal, including transit rights, and Article IV seems to reenforce that right. Without more, however, this article is only an ambiguous basis for clear recognition of United States defense rights after the year 2000. Moreover, since this is one of the core United States interests it would seem important to reduce any basis for future disagreement with Panama on this issue. As such I was pleased to see the Carter-Torrijos "Joint Statement of Understanding" of October 14, 1977. If both Panama and the United States are clear that this understanding reflects the correct interpretation of the Neutrality Treaty then I believe permanent United States defense rights in the Canal are reasonably well protected as a matter of legal right. That understanding seems to contemplate that the United States, acting along if necessary, can use force to defend against any "threat directed against the Canal or against the peaceful transit of vessels through the Canal." Any United States action must be "directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama." Similarly it is not "a right of intervention . . . in the internal affairs of Panama." This wording seems broad enough to include any external or internal threat to assured transit, including denial by Panama of such rights and including actions on Panamanian territory, provided any such actions are necessary, reasonable, and aimed solely at ensuring transit rights through the Canal. Moreover, I believe retention of such a right by a guaranteeing power is consistent with general international law, including the United Nations Charter and the treaties of the OAS system.

In essence the United States as builder and principal user of the Canal has undertaken to guarantee the Canal neutrality, including transit rights through the Canal. As long as any necessary use of force in defense of those rights is reasonable and carefully limited to those objectives it would not seem a "use of force against the territorial integrity or political independence of any state . . ." proscribed by both the understanding and the United Nations Charter. Moreover, the legal case would seem even stronger since the treaties and understandings simply retain for the United States a defense right we have had since 1903. With respect to the treaties of the Inter-American System (OAS), however, there may be a potential ambiguity under Articles 20 and 22 of the Revised Charter of the Orgaization of American States, which is binding on the United States in relations within the hemisphere. Article 20 provides:

"The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever."

Article 22 then goes on to provide that "Measures adopted for the maintenance of peace and security in accordance with existing treaties do not constitute a violation" of this principle. If the defense rights to be retained by the United States and that are now exercisable pursuant to the 1903 treaty—an "existing treaty" under Article 22—are properly viewed as continuing under Article 22, as I believe they should be, there is no problem. Moreover, I do not believe that Article 20 contemplated the situation of a specific retention of defense rights by the United States pursuant to clarification of a dispute with Panama concerning sovereignty over the Canal. It might be useful, however, to examine whether any minor changes in the understanding might be desirable to clarify the general interrelation with the OAS system.[7] We should also remember that a Protocol to the Treaty is contemplated that would be open to all nations and that would make clear the continuing United States right, indeed obligation, to "ensure permanent access to the Canal by vessels of all nations . . ." This Protocol, to the extent signed by our OAS treaty partners, would be later in time than the OAS Charter and presumably if there were any ambiguities in interrelating the two treaties the later in time would control.

In order to clearly incorporate the October 14 Joint Understanding on defense issues, I believe that the preferable modality would be either a signed "Memorandum of Understanding" as was incorporated in Senate advice and consent to the 1955 Eisenhower-Remon Treaty with Panama or an "Exchange of Notes" as followed the 1936 Hull-Alfaro Treaty. The first of these seems closest to the present Joint Understanding and when signed by both sides it could be made part of Senate advice and consent.

As to other modalities, I do not recommend a formal reservation since this implies a contrary legal interpretation of a treaty clause and in the case of Article IV and the Joint Understanding that would not seem appropriate. Similarly, I do not believe that formal treaty amendment would add anything legally to a clear understanding embodied in a signed Memorandum of Understanding or Exchange of Notes. Such a formal amendment would also seem cumbersome and unnecessarily risky in possibly requiring another Panamanian referendum.

As a final international-legal point, I regret that the treaties do not have a mechanism for compulsory third party adjudication of differences concerning non-defense issues. Nations are understandably reluctant to submit military or defense issues to third party settlement. Sometimes this reluctance prevents agreement on *any* compulsory dispute settlement mechanism. To avoid this pitfall, in the law of the sea negotiation it has been generally accepted that "disputes concerning military activities" will not be subject to the dispute settlement mechanism otherwise embodied in the treaty draft (the Informal Composite Negotiating Text) if a party opts to except such activities when accepting the treaty.[8] Had this realistic approach to the art of the possible been followed in the Panama Treaty negotiations it may well have been possible to obtain agreement on submission of disputes concerning transit of commercial vessels to compulsory arbitration or to the International Court of Justice.

Such a provision would be in both the United States and Panamanian interests in reduction of future grounds for conflict and in giving greater life to the permanent neutrality regime. Moreover, it would raise the threshold of use of force for defense of commercial transit rights and provide a useful additional option for protection of transit rights in the area arguably less clear than military transit rights. If at any time we seek further clarifying agreement with Panama in order to strengthen the treaties, I hope that we will again consider the desirability of a compulsory third party dispute settlement mechanism for disputes concerning non-military activities arising under the treaties.

Footnotes at end of article.

THE CONSTITUTIONAL-LEGAL ISSUES

Article II of the Panama Canal Treaty and Article VIII of the Neutrality Treaty provide that they "shall be subject to ratification in accordance with the constitutional procedures of the two Parties." For the United States I believe that there are two permissible procedures for Congressional approval of the treaties, either of which would fully meet Constitutional requirements.

First, the treaties may receive advice and consent by the Senate pursuant to the treaty power as the Administration has recommended. Some have questioned whether Article IV, Section 3, Clause 2, of the Constitution requires that international agreements disposing of territory or property of the United States must be approved by a majority of both houses rather than a two-thirds majority of the Senate alone. That clause provides "The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States . . . ." The issue, however, is whether this clause was intended to create an exclusive modality for transfer of property that would derogate from the treaty power or whether it was to be a concurrent procedure with the treaty power.

Though there is little authority specifically on the point, I believe that the best evidence as to the intent of the framers concerning both powers, Supreme Court decisions concerning the treaty power in general and boundary treaties disposing of claimed United States territory in particular, constitutional practice, and policy considerations all suggest that the property clause is not an exclusive modality for transfer of property in derogation of the treaty clause. Since elsewhere these issues have been debated at length I will not repeat the general analysis.[9] My own appraisal of that debate, however, is that though the proponents of interpreting the property clause to be exclusive have shown in response to Administration witnesses the lack of definitive evidence as to the framers intent and that there are no Supreme Court cases squarely on point, they have not made an affirmative case for their own position. Moreover the debate seems to have ignored several relevant factors that support the concurrent interpretation.

In seeking to distinguish the Supreme Court boundary cases the proponents of the exclusive position have sought to distinguish those cases as involving disputed territorial or property rights. It is puzzling, however, why apparently these proponents feel despite a half century of dispute with Panama over Canal rights that there is no dispute concerning United States territorial or property rights in the Canal (whether supportable or not is not the question under these precedents). Such a judgment can rest only on the most narrow textual reading of the 1903 treaty divorced from real-world context. Resolution of the long-standing dispute with Panama is after all what the treaties are about. Similarly, it seems to me that the kind of momentous foreign policy issues presented in the Panama Canal Treaties are precisely the kinds of issues that may be constitutionally dealt with by treaty. The foreign policy implications of the treaties, including our relations with Panama and throughout Latin America are strong and obvious. In such a setting I believe that the proponents of the "exclusive" interpretation have a large burden of persuasion as to why the treaty power is unavailable. I do not believe they have remotely met that burden.

Second, the agreements with Panama could, I believe, be constitutionally approved pursuant to a joint Executive Congressional agreement; that is, by majority vote of both houses of Congress. Just because the treaty power is a constitutionally permissible modality does not mean that it is the only

permissible modality. United States constitutional law and practice permits international agreements to be constitutionally approved pursuant to Executive-Congressional agreement procedures as well as the treaty power. Indeed, this is so regardless of importance of the agreements as has been demonstrated many times in our history.[10] The truth of the matter is that the United States has two constitutionally permissible modalities for approval of international agreements requiring Congressional approval. In this case the dispute concerning whether such a procedure is constitutionally required at least adds further support to a majority vote of both Houses as a constitutionally permissible modality.

CONCLUSION

The Panama Canal Treaties are not perfect. The issue, however, is not whether they are perfect but rather whether core national interests at stake are better protected by acceptance or rejection of the treaties. I believe that the core interests of the United States at stake are:

Maintenance of assured transit rights through the Canal for both military and commercial vessels;

Retention of a clear right to defend the Canal against any threat, whether internal or external, to such assured transit;

Settlement of the dispute with Panama to reduce the risk of future conflict and to establish a better basis for Canal stability; and

Demonstration to the international community particularly concerned Latin nations, that the United States is firm in the defense of the common interest. A great power deserves the title of great as much by the goals which it supports as by the power with which it supports them.

Assuming at least a signed memorandum of understanding or exchange of notes embodying the October 14 Carter-Torrijos Joint Statement of Understanding I believe that these goals will be better served by Senate advice and consent to the treaties.

Thank you.

FOOTNOTES

[1] Statement of the Latin American Foreign Ministers Conference for Hemispheric Cooperation, held at Bogota, November 16, 1973.

[2] Article III of the 1903 Isthmian Canal Convention (emphasis added).

[3] Article III of the Hay-Pauncefote Treaty pledges free navigation and neutralization of the Canal Based on the 1888 Constantinople Convention for the Suez Canal. Article IV of the Treaty then provides:

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the High Contracting Parties under the present Treaty."

[4] The transit guarantees of Article III, Section 1 of the Hay-Pauncefote Treaty are incorporated by reference as the transit standard in the 1903 Hay-Bunau-Varilla Treaty by Article XVIII of that Treaty.

[5] As with any lengthy treaty there are, of course, always a myriad of minor ambiguities and I have not sought to identify all of them here.

[6] The United States, of course, would still be free not to recognize the Panamanian 200-mile claim and on sound ground in rejecting it. Moreover, we are not much worse off in this regard than at present under the 1903 treaty which also includes no explicit guarantees of transit rights beyond three nautical miles.

[7] On a related point the Joint Understanding also provides that United States and Panamanian vessels of war or auxiliary vessels can "in case of need or emergency . . . go to the head of the line of vessels in order to transit the Canal rapidly."

[8] Article 297(1)(b) of the Informal Composite Negotiating Text.

[9] See, e.g., the statement of Attorney General Griffin Bell and the State Department Legal Adviser, Herbert Hansell, before this Committee on September 29, 1977 and the statement of Professor Raoul Berger and Charles Rice before the Subcommittee on Separation of Powers of the Committee on the Judiciary on November 2, 1977.

[10] See, e.g., Moore, "Executive Agreements and Congressional Executive Relations," reprinted in "Congressional Oversight of Executive Agreements," Hearing before the Subcommittee on Separation of Powers of the Committee on the Judiciary of the United States Senate, 92d Cong., 2d sess. 149 (April 25, 1972); McDougal & Lans, "Treaties and Congressional—Executive or Presidential Agreements: Interchangeable Instruments of National Policy," 54 Yale L.J. 181–351, 534–615 (1945), reprinted in M. McDougal & Associates, Studies in World Public Order" 404 (1960).

STATEMENT OF PROFESSOR COVEY T. OLIVER, UNIVERSITY OF PENNSYLVANIA LAW SCHOOL

Mr. Chairman and Members of the Committee: It has been some years since I appeared before this honorable Committee, and I come here now as your invited "citizen" witness, rather than as an official of the Executive Branch. I am grateful to you for the invitation to appear today, along with colleagues from the specialties of international public law and United States foreign affairs law. I have not been here in the capacity in which I now appear since 1949 or 1950, during the Bricker Amendment "bicker" as to the treaty power. Strangely, one of the treaties you are now considering also raises for some an issue as to the scope of the treaty power under the Sixth Article of the Constitution.

I have always been received with thoughtful courtesy by this Committee, although more than once in my days as an official my feet have felt a touch of the flame here! One episode, I fervently hope, will not be repeated: I was opposed for the Senate's approval as Ambassador to Colombia by an intense-looking gentleman who, clutching a briefcase, said he did not know me but he did know my type and hence objected. Senator Fulbright showed him great courtesy and he departed peaceably. Two days later this same person was apprehended as he sought to dash into the office of the Governor of Michigan, and a very large revolver, loaded, was found in that briefcase! To paraphrase the old Texas lawyer's fabled response to a famous question from the Supreme Court bench about the fate of John the Baptist, I trust this Committee is no longer susceptible to such influences!

I am your witness on legal matters. I honestly think that my views on them are not the product of my outlook as to these treaties as a onetime "Latin-American hand" at State. But I feel that I must disclose briefly my political viewpoints, so that you can judge for yourselves the degree of my objectivity or the lack of it.

A life-long Democrat, I was immensely privileged to have grown up in the only part of my native Texas where, at that time, the Mexican-American had his full civic rights—and exercised them. I am of a very small minority of WASP-Texans who grew up in minority status in that State. Thanks to my wise father, my brother and I learned the language and ways of our preponderant neighbors. These early experiences have shaped my life in many ways, including the development of an interest in international affairs and the acquisition of a capacity to look at my country and my people from both "inside" and "outside" perspectives. In an issues paper I prepared on our Constitution and U.S. foreign affairs operations in America's third century for the Bicentennial reassessment of the Constitution organized by the American Academy of Political and Social Science, I wrote: [1]

"It would be interesting to know whether the American people believe there is a crisis today in the management of American foreign relations under the Constitution of 1789. Most expert American observers of, or participants in, the conduct of the nation's official dealings with the rest of the world would agree that we have a unique, complicated, energy-depleting system of public law for the allocation of authority for the governance of our official conduct offshore. And they would find the present situation of this system at least somewhat controversial, both at home and abroad.

"But these same American experts would divide as to whether anything can or should be done structurally. A considerable majority, probably, agree with the general thrust of Appendix L to the Report of the Commission for the Study of the Organization of the Government for Foreign Affairs, that by mutuality, patience, and other attitudinal acts of moderation, the qualified players of the "Foreign Relations Game" for the American side can improve the "game plan" result for the United States. So far as the evidence from writings goes, it seems that the preponderant opinion of experts, with some exceptions (as always among experts), is that it is unnecessary, unthinkable, or illusory to contemplate changing significantly the structure of American government for any reason liked to 'The United States and the World.' Nonetheless, some believe that it might be useful now to go through the exercise of reviewing the basic law controlling America's relationships with the rest of the planet.

"Basic issues of governmental structure for foreign relations should not always be examined, as they usually are, only from the standpoint of our internal concerns and expectations about the Constitution and our associations with the rest of the world. The rest of the world is also vitally concerned with, is affected by, and hence reacts to, how America does things internationally.

"Let us begin by seeing ourselves as others see us. We are a country that in its first 200 years has been phenomenally successful in every way in which the achievements of nations are measured; but usually the world does not credit our institutions and our way of life for this, as we tend to do, but rather believes that the good fortune of natural riches explains our success. Major resources, however, are seriously depleted now; and substitutes have not yet been assured. Some foreigners, following Adam Smith's view as to the fundamental wealth of nations, are willing to credit the American people also for the nation's success. But even this limited perception of us, the people, as the true wealth of the nation is in decline now.

"The United States is a federal, participatory democracy, whose state and federal constitutions all incorporate some version of separation of powers with checks and balances—thus requiring the interrelated independence of three branches of government. This makes us unique—truly solitary—in the world community. As Ambassador Moynihan did not tire of saying, democracy itself is no longer the form of government that a majority of states provide for or practice. Within participatory democracies, only a very few (not more than a dozen) states are federal in form, and of these options federalism is a serious legal factor in the foreign relations of only five! Finally, no other federalistic democracy has an operational separation of

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powers/checks and balances constitutional system. Nor, for that matter, do unitary (non-federal) states often practice separation of powers. In Iberic-America, for example, where the American Constitution was the model, of the few remaining democracies, only in Colombia and Costa Rica have separation of powers problems occasionally arisen in regard to relations with other states.

"Although in the world community the American system of governance for foreign relations is thus exotic, our national tendency, exhibited even in the evaluation of our Constitution, is to disregard this basic fact and to treat the problem of foreign affairs and the Constitution largely as a matter of internal values and preferences. We ascribe an almost incontestable value to the constitutional status quo and expect the rest of the world to adjust to it; or, at most, we assume that the domestic gains outweigh the possible foreign affairs losses, now and possibly for all time to come.

"But there is a rising tide of evidence that the rest of the world—especially the shrinking world of our friends—is finding our blandness in this particular increasingly irritating and destabilizing. We should not accept such evidence as conclusive, but we should not disregard it either. Thus, consider two recent illustrations:

"1. Alfonso Lopez Michelsen, elected President of Colombia, observed, in regard to an unannounced shift in United States policy (from supporting a Colombian cut-flower export industry as relevant to Colombia's development to a Congress-pressured Treasury investigation of Colombian cut-flower imports as being subject to extraordinary [dumping] duties) that the episode brought sharply to attention questions of the reliability and authoritativeness of United States foreign policy declarations and assurances.

"2. The Prime Minister of Singapore at a White House dinner in his honor remarked in his toast that the friends of the United States are becoming increasingly uncertain and concerned as to who effectively speaks for the United States.

"Hence, as we proceed in accordance with the wishes and interests of the participants to examine issues of (or close to) constitutional dimensions arising from America's contemporary and projected roles in the world community, let us consider the perspectives of that community, as well as our attachment to our present system. 'Independence' requires no less."

Also, I know that as to many situations in Latin America a sense of injustice and an "envy-shame" syndrome are deep-seated. Like it or not, these inject elements of intense human relations into what some have mistakenly supposed diplomacy to be, a cool, dehumanized calculus of national interests. Surely, if the attitudes of certain key Latin American countries about the United States and Panama as to the Canal were formed on the basis of national interest in assured Canal service at the lowest possible tolls, these countries would not have so firmly aligned with Panama as, inter alia, to have supported vehemently the urging of Panama for a most unusual special session of the Security Council in that country several years ago, and with equal intensity to have continued to be with Panama as to the undoing (by novation) of the 1903 treaty.

Latin American countries, moreover, have not yet completed the evolutionary process of establishing complete national identities: and, meanwhile in the United States and elsewhere in the developed world the expectations of the immediate post-War that national will would be considerably moderated in the interests of wider communities have not been very effectively achieved. Under these circumstances, from the beginnings of my association with the "Panama problem." I have been forced by what had gone before to suppress my own preference for the internationalization of artificial straits connecting two or more sectors of free seas. When I came on the scene in 1964, President Johnson told me that it was already too late to consider any other solution than a direct one with Panama as sovereign of the soil. Certainly all that thereafter happened has pointed this same way.

There is no use doing more than to mention the possibility that, had our decision-makers on foreign affairs, going back many years, been more aware of—more sensitive to—the situation that was festering, things might have been different. Not often are we or other states able with calm foresight to provide for provident futures. But we ought to learn from our failures so to do.

And, to complete this disclosure, I personally wish that the arrangements with Panama had been structured into what are known as "legislative-executive agreements," put into effect by ordinary legislation by simple majorities in both houses. I do not wish to hide my very strong preference for a more efficient and more democratic way of participating in international community life (where international agreements are the most fundamental element of advancement of world order)[2] than the arrangement that in 1787 reflected an internal political need that I am convinced we no longer have. It is almost beyond controversy, I believe, that "legislative-executive agreements" are fully equivalent to the "treaty-making powers" of the President and two-thirds of the Senators present and voting.[3] No amendment of the Constitution would be required. By practice alone, we could streamline the "ratification" process, put ourselves into the situation of most other democratic countries as to legislative approval of international agreements, and end the charge that the Senate is the "graveyard of treaties."

However, gentlemen, we have to deal with the treaties that have been negotiated and the processes chosen for their approval. Perhaps through study I am as familiar as most of you from membership here with the problems of the Senate's additions of reservations and understandings to closely negotiated international agreements. The Restatement of United States Foreign Relations Law, on which I worked, is useful on the international legal aspects of the effects of "conditioned advice and consent:"[4] and for all time we shall have the fate of the Treaty of Versailles and its annex, the Covenant of the League of Nations, to remind us that closely bargained treaties are not easily re-negotiable to take account of Senators' preferences. Some may say that the example cited is distinguishable, it being a multipartite arrangement involving a great many states, whereas here we have only bilateral agreements. However, it is to be noted that at this stage the rest of the world (including as far as public statements go, other Latin American states) has kept itself in a cone of silence. It is not hard to foresee, however, the possibility that the Panamanian leadership could rally organized and solid opposition to some possible changes in the present texts.

On the politico-military front I need say very little. Far greater experts than I have already gone into these matters. Perhaps some were a very little bit discreet in painting the physical limitations of defense against guerrillas in jungle conditions not unlike those of Viet Nam, but on this front surely you do not need much more to prompt foresight. The possible outbursts of destructive activity aimed against this country and the interests of its citizens in other Latin American countries—and even elsewhere—likewise need no reiteration. The situation has come to be one in which we must act, and the Administration has wisely and justly chosen to act well and generously, as befits the American people. As major nations go history has so far treated us lightly as to on-going, inevitable adjustments of global society that parallel those taking place internally in our and other free societies.

THE CANAL TREATY

Turning now to the Panama Canal Treaty, I recall being taught by a very great teacher of international law at Columbia, (now) Judge Phillip C. Jessup, that an inherently inequitable treaty is never stable. This I had not been taught previously as to private law by a less wise contracts teacher elsewhere, who used to say, "Boys, boys, a contract must be performed even if it takes the hide off." We all soon come to know that many types of untenable or unjust contracts will not be required by law to be performed.[5] Professor Jessup was speaking in the context of the trauma of unilateral violations of treaties, concession agreements, and the like. In the contemporary situation Panama has sought no more than to mobilize all available pressure to its advantage as to terms in seeking a novation that the United States also supports as the right type of solution. That the bargaining has been hard I have no doubt. The negotiations on both sides have, in essence, put details on the principles for a new Canal regime agreed upon by national leaders in the Joint Declaration of April 3, 1964, the Johnson-Robles Agreement of September 24, 1965, the Joint Statement of principles of February, 1974, and its affirmance as policy by the incoming Carter Administration.

There is considerable doubt in my mind as to the desirability of attempting through the advise and consent power to seek, in effect, to participate in the details of negotiations. The Senate has great responsibilities, but in my view they link to great issues, not to preferences as to details.

Now, as to "great issues." These seem to me to be the following ones:

(1) "Internationalization" of the waterway (as distinguished from "neutralization"). This is a lost cause. If this concept ever had a "time," that time has passed. And this solution has not been accepted elsewhere by territorial sovereigns. Nationalism and the "machismo" of sovereignty are too strong.

(2) Interests of third ("user") states. These are as well protected, legally speaking, under the proposed treaty as they have been in past.[6] The major difference as to them is that the United States has been either a generous or an indifferent toll-fixer, whereas it seems almost certain that during the life of this treaty and certainly when "its time comes" Panama will continue to treat the Canal as its major national asset, unless in the meantime through development assistance and otherwise other important national assets develop there. Or, who knows? By 2000 AD, if not before, other factors may work to keep Panama's appetite for tolls moderate. I take it that the Hay-Paunceforte Convention is not definitively tossed upon the ash heap of history and that in any event, its principles are adequately incorporated into portions of both the proposed new treaties.

(3) Transfers of United States property without compensation. This policy issue is seemingly "bigger" than actually it is, when we consider that the phasing of non-Canal asset transfers is largely in the control of the United States; that the transfer value of the Canal itself must be discounted until the year 2000; and that Panama does not in the real world have the capacity to pay. The basic lesson of J. M. Keynes' "The Economic Consequences of the Peace" (1919) is still valid: unrealistic foreign exchange obligations, contracted for or imposed (Treaty of Versailles), are bad politics as well as disastrous international economics.

Footnotes at end of article.

(4) The Constitution and transfers of U.S. Government property by self-executing treaty. Personally I do not view this as a "great issue." However, in view of the state of the authorities as detailed by the Attorney General and the Legal Adviser of the Department of State, on the one hand, and certain opposition witnesses, notably Professor Raoul Berger before the Subcommittee on Separation of Powers of the Judiciary Committee, on the other, I recognize that this Committee, and ultimately the Senate, must formulate a position on the "disposal power" (Art. IV, § 3, Cl. 2) and provide a rationale therefor. I find Professor Berger's doctrine that the disposal power is "impliedly excluded" from the treaty power (Article VI) decidedly unconvincing, both as to the history of the deliberations at Philadelphia that hot summer of 1787 and as to what uses actually have been made of the treaty power in the matter of transfers, even excluding Indian treaties.

True, in the jurisprudence of the Supreme Court there are statements that determined contenders can strive to elevate to the level of obiter dicta, some strongly in support of the Administration, some, perhaps, in support of Dr. Berger. But, obiter (if that) is not decision! And my guess is that the Supreme Court would not intrude upon the "political branches" as to this point. The issue is readily distinguishable from the Court's venture beyond the "political question" doctrine in *Powell* v. *McCormick*, 395 U.S. 486 (1969). The line as to that doctrine in relationship to foreign relations still seems to me to be that of the dictum in *Baker* v. *Carr*, 369 U.S. 186 (1962), at 211–218, unaffected by *U.S.* v. *Nixon* 418 U.S. 683 (1974) and *Buckley* v. *Valeo*, 424 U.S. 1 (1976).

Unlike Dr. Berger, I do not believe that a self-executing treaty purporting to dispose of government property, ". . . even if ratified by the Senate, would be void . . ." What of standing to sue? And would the Supreme Court intervene under its self-granted authority to say what the law is? I have difficulty as to a plausible hypothetical showing standing to sue. Who? But even if the Senate should believe it faces a clear and present danger of being overruled by the Supreme Court on this issue, the Senate should nonetheless respond to the Constitution upon its own responsibility as to a matter so closely connected to its unique role as to treaties. Finally, the implementing legislation that the Legal Adviser has foreseen as necessary to put into effect many aspects of the Canal Treaty will probably tend to cure even Dr. Berger's notions of invalidity.

Conclusion: Overall, the Canal Treaty provides for a gradual transition of authority, postpones the transfer of the Canal and areas essential to its operations, maintenance, and defense for more years than there are "lives in being plus 21 years" for some of us. The price includes the transfer without compensation to Panama of "surplus" American property in the Zone and elsewhere in Panama as it becomes redundant, the phasing out of judicial and other governmental authority of the U.S. in the present Canal Zone, and the immedite ending of the irritations for Panamanians inherent in the commissary, banking, and housing situations. This is a sound trade off, considering our Northamerican tendency to mild masochism and guilt complexes, Latin American sensitivities, and, simply, the spirit of the times. There are only two other ways than an accommodation of this sort to deal with the situation: (1) "stonewall" it, with consequences too dire to contemplate or (2) think the "unthinkable" and offer Panama political linkages with this country. As to the second alternative, I mention it only for completeness of the record, and to suggest, once again, that it is too late for much innovation. The issues have set in their historic concrete; the lines are drawn; and tiny states are seen to have, as against even super-powers, tremendous leverage authorized by the world community as a whole. In my view this country will be fortunate to be able to end the "Panama problem" on the essentially favorable terms provided in this treaty.

THE PERMANENT NEUTRALITY AND OPERATIONS TREATY

Professor R. R. Baxter's statement of December 1, 1977, before the Panama Canal Subcommittee of the House Committee on Merchant Marine and Fisheries contains substantially all of a legal nature that I otherwise might wish to say as to this Treaty. In that statement Professor Baxter answered ten important questions posed by the Subcommittee. I consider Questions 4, 5, 6, and 8 the most significant ones; and I agree with the answers given.

Politically, Secretary Rusk has given the Foreign Relations Committee what I also believe is the wise perspective, when he points out that, as the Permanent Neutrality and Operations Treaty does not become the primary obligation of Panama until the year 2000, there will be ample time in the interim ". . . to test the ability of Panama and ourselves to proceed on the basis of the agreement. . ."

The Protocol to the Neutrality and Operations Treaty that will be open for accession by all nations of the world in accordance with a resolution to be sponsored by the United States and Panama in the Organization of American States provides a desirable politico-legal basis for "third state rights" beyond those explicitly provided under the present treaty arrangements. Both Secretary Rusk's and Professor Baxter's responses cited above confirm and explain this generalization.

There is one "Catch-22" about non-discriminatory passage that not even a more generous arrangement as to third countries alone could have cured. Old World War II warriors—including economic warfare ones—know that in time of conventional weapons war the Canal will be closed to enemies de facto by submarine and aircraft interdiction offshore from the territorial waters of Panama, even as their width may be extended under projections from contemporary Law of the Sea negotiating stances. But given improvements in long range weapons technology since World War II transit of the Canal by the United States of any major military importance can also be made into an unacceptable risk by a spatially remote enemy power center. Thus, even barring nuclear interdiction and sabotage, the Panama Canal (or Canals) does not seem to have much future relevance "in time of war. . .".

This, it seems to me, makes problematical and illusory many of the concerns that have been voiced about American rights of defense and passage in the farther future. Military operations involving the Suez Canal since World War II have shown that even non-lock ditches are hopelessly vulnerable.

In possible contentions of force between Latin American countries both the great rivers and the artificial waterway of the region might become of significant interest, both to contending countries and to the inter-american and world communities. In such situations the present treaty's neutralization provisions might be of practical significance—until (or unless) the Security Council, the General Assembly (under the Uniting for Peace Resolution), or the Rio Pact/OAS system (to the extent still viable in this field) should "take over." In my view neutralization by bilateral arrangement—even with the possibility of third state accessions—cannot control the "higher law" regulating or controlling use of force. However, given Latin American coolness as to the Rio Pact and considering post Viet Nam influences here, it seems reasonably clear that U.S. policing of the Hemisphere against use of force by countries within the region is no longer a prime national interest.

GENERAL CONCLUSION

In relationship to neutrality, operations, and defense, the wartime national interest of the United States in the present lock canal would have to be heavily discounted in any serious military operation involving the United States and an enemy with normal modern interdiction capabilities. Thus, it is only in time of peace that the Canal seriously matters to the United States. And even in peacetime, it is an installation that is steadily declining in importance as modes of transport shift and its natural limitations restrict its use. We should avoid, therefore, an American version of the Suez Syndrome that gripped the British and the French in 1956 and led to their humiliation. The "Sad Port Said" episode seems only foolish today.

Let us take care not to run the same risk! To repudiate these treaties and to attempt to "hold" the Canal and the Zone under present political conditions in the world would be to repeat here a lamentable, "lifeline of empire" syndrome.

The Senate should, of course, give full attention—but not necessarily full faith and credit—to those of military backgrounds or viewpoints who have declared that the Canal must be "defended" against "international communism," etc. Defended when? Against what? How? With what assurance of success as against sabotage and jungle warfare? After losing over five billion dollars of materiel alone in Viet Nam?

FOOTNOTES

[1] "The United States and the World," 426 Annals of the American Academy of Political and Social Science 166 (July, 1976).

[2] Many scholars have observed that international law grows mainly today through "law making" treaties, not by the customs of nations. Customary law is not usually a law for intricate details; and the existence of 155 or more states in the world community today complicates immensely the task, if it is attempted with honesty, of finding a *consentio juris*, especially where there are lines of cleavage, such as those between rich nations and poor nations and "free world" and socialist ones.

[3] The authoritative work of McDougal and Lans, supporting this view, "Treaties and Congressional-Executive or Presidential Agreements: International Instruments of National Policy," 54 Yale L.J. 181 and 534 (1945) has been widely accepted in scholarly opinion. *Cf.* Restatement of the Foreign Relations Law of the United States (1965) § 120. Henkin, Foreign Affairs and the Constitution, N. 6 to Ch. VI adds:

"The argument that the Constitution permits international agreements only by treaty was long ago rejected," (citing authorities, including Opinions of the Attorney-General.)

[4] Restatement, §§ 132–137, esp. Reporters' Note 1 to §§ 133.

[5] Thanks in large part to legislative relaxations of stringent common law principles and a corresponding tendency of the judiciary to favor the underdog party in interpreting contract obligations.

[6] Professor Baxter's excellent statement, cited later in the text of my statement, should be consulted for material pertinent to my conclusion.

ON PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings January 20 on the Panama Canal treaties and received testimony from the following:

1. Ely M. Brandes, President, International Research Associates, Palo Alto, Calif.
2. Henry Geyelin, President, Council of the Americas, Washington, D.C.
3. Patrick N. Hughson, President, Association of American Chambers of Commerce in Latin America, Washington, D.C.
4. Donald G. Griffin, Vice President, Distribution and Transportation, PPG Industries, On behalf of: Transportation Association of America, Washington, D.C.
5. James J. Reynolds, Director, American Institute of Merchant Shipping, Washington, D.C.
6. Melvin Shore, Chairman, U.S. National Transportation Policy Committee, The American Association of Port Authorities, West Sacramento, Calif.
7. Seymour Milstein, President and Chief Executive Officer, United Brands Company, Washington, D.C.

I ask unanimous consent that the prepared text of the statements given before the committee be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY ELY M. BRANDES

My name is Ely M. Brandes and I reside at 554 Madison Way, Palo Alto, California. I am an economist and president of International Research Associates, also of Palo Alto, a small economic research company.

I did my undergraduate work at Birmingham Southern College in Birmingham, Alabama, and I received my graduate degree from Harvard University. I have worked as an economist for more than 30 years, including 13 years for the Federal Government. Among the federal agencies which I worked for were the Department of Commerce, the Tennessee Valley Authority, and the Atomic Energy Commission. In 1959 I joined the Stanford Research Institute in California as a senior economist. In 1968 I became an independent consultant and in 1971, an associate and I formed our present company of which I have been president since the beginning.

I have worked on projects related to the Panama Canal since 1964. During the last 14 years I have authored or co-authored more than 20 studies sponsored by the Panama Canal Company on such subjects as traffic projections, the sensitivity of Canal traffic to toll increases, and the economic value of the Canal, etc. My most recent assignment on this subject was sponsored jointly by the U.S. Department of State and the Panama Canal Company and just within the last few days we completed a draft of our report. Because of the relevance of our findings to the treaties being considered by this Committee and by the United States Senate, I would like to present before this Committee a brief summary of our report and an assessment of its significance. I also wish to say that my statement here this morning represents the first public release of any information concerning the results of the study.

Our study had three major objectives. First, we were asked to develop a comprehensive set of traffic and revenue projections for the Panama Canal covering the period from 1978 to 2000. Second, we conducted a sensitivity analysis to determine what effect toll rate increases of various levels would have on future traffic and revenues of the Panama Canal. As part of this exercise, we also made an estimate of the maximum amount of toll revenue that could be raised. Finally, we made an analysis of the likely effect of inflation on the Canal's future ability to raise sufficient revenue to meet its costs.

With respect to future traffic and revenues, our study projects that Panama Canal traffic will increase from about 123 million tons of cargo in 1977 to about 202 million tons in the year 2000. In terms of toll revenue, and assuming present rates, the increase will be from about $163 million to $182 million in 1978, to $197 million in 1980 and to about $264 million in the year 2000. The projected growth rate in traffic for the 23 year period is slightly more than 2 percent per year. This is less than the growth rate in traffic experienced over the last 25 years when the Canal benefited greatly from the economic expansion in the Pacific basin area, and particularly, from the enormous growth in trade between the United States and Japan.

Included in our projection of future Panama Canal traffic was a significant volume of North Slope petroleum which began to move through the Canal last summer. The volume of this movement will grow sharply in the next few months. We estimate, for instance, that Alaska oil shipments will total about 25 million tons in the FY 1979, which starts October 1, 1978, and will contribute nearly $30 million or 15 percent of all toll revenues during that year. After 1980, Alaska oil shipments through the Canal will begin to decline but their contribution to traffic will be substantial throughout the 1980's.

It is obvious from these figures that the contribution by Alaska oil to Panama Canal traffic and revenues over the next five years will be very significant. In making our estimate with respect to Alaska oil shipments, we were fully aware that the entire question of moving Alaska oil to the East is still surrounded by many imponderables, such as the likelihood of new pipelines, the possibility of new oil finds, the future effect of conservation measures, etc. We believe we have been able to deal with most of these imponderables realistically and we think our projection is sound in spite of the many uncertainties.

However, there is one key reservation that we must make with respect to our forecast of future Alaska oil shipments through the Panama Canal, and, by extension, with respect to our total forecast of Panama Canal traffic and revenues over the next five to ten years. The reservation is that our forecast only holds as long as the present law which prevents the sale of Alaska oil to Japan remains in effect. We say this not because we have any firm convictions about the fundamental merits of this law; in fact, we have no opinion on this. But our knowledge of the economics involved simply tells us that should the oil companies be permitted to dispose of Alaska oil overseas, they will do so and not ship any of it through the Panama Canal.

With respect to the second major objective of our study, the sensitivity of Canal traffic to toll increases, we found that toll rate increase of 15 percent to 50 percent would result in traffic losses, on a tonnage basis, ranging from about 2 percent for a 15 percent increase to a 12 percent loss for a 50 percent increase In terms of revenue, however, a toll rate increases in that range would result in revenue gains of between 13 percent and 33 percent Increases in toll rates of more than 50 percent would result in little additional revenue. In fact, we found that the very maximum amount of revenue that could be obtained was only about 40 percent more than the revenue that was projected without any toll increase. To get this maximum amount would require a totall increase of somewhere between 75 percent and 100 percent.

Since we had conducted a similar maximum revenue study some three years ago, we had an opportunity to compare the results of the two studies. We found that the estimates in the two studies were quite esimilar in the sense that both indicated that the attainment of maximum revenue would require toll rate increases of between 75 percent and 100 percent. The two studies differed in their estimates of the amount of additional revenues that can be gotten through toll increase. Our 1975 study showed that setting toll rates at the maximum level would yield 50 percent more in revenues; the present study shows that maximum toll rates would yield only 40 percent more in revenues.

The basic reason why the Panama Canal's ability to raise additional toll revenue is so severely limited can be found in the fact that many, if not most, users of the Canal have alternatives available to them which, in terms of total costs, are not much greater than the cost of using the Canal. The alternatives vary considerably, depending upon the commodity and route involved. For instance, for the shipment of dry bulk material, such as coal from the United States to Japan, the principal alternative is to use bulk carriers of 100,000 DWT tons or so and proceed via the Cape of Good Hope. In the case of imported television sets from Japan, which are shipped in containers, the best alternative is to ship the container to Los Angeles or Seattle and then by rail to the eastern half of the country. In the case of lumber shipped from British Columbia to the east coast of the United States, the alternative is to go to an all rail movement. In the case of petroleum product shipments through the Canal, the alternative is often a product exchange in which company A, which wants to ship jet fuel from the Atlantic to the Pacific, makes an agreement with company B, which wants to ship the same product from the Pacific to the Atlantic, to exchange products and then neither company ships any jet fuel through the Canal. Finally, in the case of iron ore imports by the United States from Peru, for instance, which once upon a time were quite substantial, the alternate solution was and is for Peru to sell most of its iron ore to Japan and for the United States to rely more heavily on domestic iron ore.

It is worth noting that with respect to all of these alternatives, the buyers and sellers involved appear to be almost equally well off whether they use the Canal or choose an alternative. The fact that the shift to alternatives can occur as a consequence of small increases in Panama Canal tolls is an indication that the cost difference between going through the Canal and doing the next best thing is often very small.

The third major objective of our study was to analyze the probable effects which inflation will have on the future cost of Canal operation as compared to the ability of the future Panama Canal Commission to raise tolls. As the members of this Committee are undoubtedly aware, the proposed treaty with Panama specifies that a portion of the royalty payments to be made to Panama is to be adjusted upward in line with the expected upward movement of a price index. It must also be expected that the other costs associated with operating the Canal will continue to increase. At the same time, our projections indicate that traffic and revenues will, on average, increase only at a moderate rate, much less than the rate experienced over the last 15 years.

All of these circumstances seem to underscore the probability that toll rates may have to be increased several times during the next 23 years if the Canal is to continue on a financially self-supporting basis. The question, therefore, arises whether the present and prospective sensitivity of the traffic to toll increases is such that these increases can be absorbed; or whether at some point, soon, the Canal's ability to raise tolls will be exhausted and any further toll increases will actually result in less and less revenue.

Our findings on this question, unfortunately, are not conclusive. The future ability of the Canal to raise sufficient revenues to cover its costs depends partly on how fast the cost of Canal operation increases and

partly on how well these cost increases are matched by increases in the cost of the alternatives. As my example showed, many alternatives to the Canal involve alternate transportation services which are also affected by inflation. However, there are other alternatives which do not require any measurable service. Moreover, the recent devaluation of the U.S. dollar in relation to other currencies has had the effect for many foreign ship operators of making Panama Canal transit cheaper and, thereby, lessening the impact of past or future toll rate increases.

Given the many and often conflicting trends which affect the present and future costs of transiting the Panama Canal versus its competing alternatives, it would be hazardous, if not foolhardy, to attempt a pinpoint forecast of their relative positions some 20 years hence.

Our own conclusion on this point is that for the next five to ten years a future Panama Canal Commission should have sufficient revenue resources available—actual or potential—to meet its costs. This means, in effect, that during that period the income required should either be available from toll revenues at current rates; or if necessary, those rates could safely be raised to obtain the additional amounts likely to be needed. But beyond ten years the uncertainties simply become too numerous to permit a worthwhile forecast.

So much for the principal findings. Let me now present a personal assessment of the significance of our study to the deliberations of this Committee and of the United States Senate.

Our most important finding, as far as the treaties are concerned, is that actual or potential toll revenues will be sufficient to meet the needs of the present Panama Canal Comsion for the next five to ten years though our study did not concern itself with the projected expenditures of the organization during this time period—these will undoubtedly be presented by the Panama Canal Company in due time—I am familiar with the budgetary assumptions made last summer during the last phase of the negotiations. Compared to those, both our revenue and sensitivity projections indicate that the actual or potential toll revenues that will be available during this period wil be larger than was estimated last summer.

A second significant conclusion of our study is that beyond the next ten years we can give no assurance about the ability of the Canal to maintain itself on a financially self-supporting basis. One very important aspect of this conclusion is that we did not come to it because we detected some insurmountble obstacles in that distant future. As I said before, our reason was simply that there are far too many uncertainties on this point to permit us to make a long-range forecast which we could consider credible.

Finally, while it is impossible to predict with any degree of certainty whether the Panama Canal can continue to function over the next 22 years on a financially self-supporting basis, I am convinced that the quality of the management of the future Panama Canal Commission will play a significant role in determining the economic life-span of the Canal. In a new organization, good top management is essential to make certain that the size and scope of that new organization matches the duties assigned to it and no more. Good management may also have an effect on the future level of revenues because Canal users often consider both the cost and the service quality of a transit before choosing between the Panama Canal and one of the alternatives.

I would therefore urge this Committee and the United States Senate to use their influence and power to assure that the appointments that will be made to the Panama Canal Commission measure up to the level of competence which these positions will so evidently require. The importance of the Panama Canal, past, present and future, is such that it deserves nothing less.

This concludes my statement.

STATEMENT BY MR. HENRY R. GEYELIN

Mr. Chairman, members of the Committee, on behalf of the Council of the Americas, I want to thank you for this opportunity to present our views. As you know, the Council of the Americas is composed of over 200 U.S. corporations, comprising nearly ninety percent of all U.S. private investment in Latin America and the Caribbean. The mission of the Council is to further understanding and acceptance of the role of private enterprise as a positive force for the development of the Americas.

The Council of the Americas would like to urge speedy ratification of the new treaties with Panama. We are encouraged by the constructive negotiations now underway to clarify any misunderstanding and to resolve any issues which might impede the conclusion of new Panama Canal treaties. The Council's decision to support ratification of such treaties resulted from a consensus vote of the Board of Trustees in which 95% favored the Council's taking a supportive role.

We have been aware for quite some time of the hemispheric impact of the success or failure to resolve the Panama Canal treaty issue, and our extensive experience with Latin American affairs had led us to believe that there is a compelling need to modernize our relations with Panama.

Throughout 1976 and 1977, the Council supported the continuation of the negotiating process, as well as the need for a new relationship with Panama through good faith negotiations. To achieve these goals, the Council formed a Work Group on Panama to stimulate nonpartisan debate on both sides of the issue. Our statement of support for ratification of the treaties, however, is not necessarily a consequence of our prior support for the negotiating process. The Council carefully avoided taking a position on any possible terms of the treaties themselves until 1) they had been made public, and 2) member corporations had had an opportunity to analyze the documents carefully and to discuss fully both sides of the issue. This analysis has now been completed and we have decided that ratification of the new Panama Canal treaties, with appropriate clarification, merit the support of the Council of the Americas.

We believe the treaty enables the U.S. to continue to keep the Canal open by working with Panama, a long-term ally who has never failed to keep its international obligations. We further believe that the gradual nature of the proposed change in the status of the Canal over the next quarter century is the best means by which to insure the fundamental interest of the U.S.—an open Canal that is continuously accessible to world commerce.

Furthermore, we do not feel that the United States is "surrendering" the Canal to an unstable nation. We are entering into a mature partnership of mutual responsibility with a long-term friend and strong supporter of free enterprise for the benefit of the United States, Panama, and the world.

Above all, the fundamental interest of the U.S. is an open Canal, efficiently operated and maintained, accessible to ships of all nations, and permanently neutral. We believe that the best way in which to preserve this interest is for the U.S. Senate to consent to the ratification of these new treaties, with the appropriate clarifications, and to enter into the partnership that they create.

The Council of the Americas views positively the strong emphasis on free enterprise and private investment in Panama's economic development planning. Panama's goal of becoming a major regional center for shipping and trade will depend on its ability to deal successfully with private enterprise internationally. In addition, Panama's development plans indicate a healthy reliance on private investment.

To illustrate this point, Dr. Nicolas A. Barletta, Minister of Development and Planning of the Republic of Panama, at the Annual Meeting of the Council of the Americas on December 5, 1977 pointed out that because Panama's development plans are subject to its ability to act as a service center for regional trade activities, Panama would not endanger the volume of Canal traffic by requesting that the U.S. raise toll rates to an unreasonable level.

Panama's economic development planning, in our opinion, demonstrates a cautious and pragmatic approach to their problems. It is our belief that this responsible attitude will continue if the treaties are ratified and Panama increases its participation in the Canal enterprise.

The Council of the Americas supports these treaties because they are in the best interests of the United States. They are NOT special interest treaties, and they are NOT designed to "bail out" U.S. corporations. These treaties have been under negotiation since 1964, and Panama has experienced a very healthy increase in U.S. investment during this period.

These new treaties, with the appropriate clarifications, are not perceived as a weakening of the United States or as a threat to our national security. Our willingness to modernize our relationship with Panama is testimony to our belief in the sovereignty of nations, the right to self-determination, and our sincere desire for global cooperation. The Council of the Americas recognizes, as will the rest of the world, that the ratification of these treaties will be proof of our strength as a nation and as a world leader.

STATEMENT BY PATRICK N. HUGHSON

Mr. Chairman: I am Patrick N. Hughson and I appear today in my capacity as president of the Association of American Chambers of Commerce in Latin America, which is better known by its acronym, AACCLA. It is an honor for me to have been invited to testify on the Panama Canal Treaties now before your Committee, and I am pleased to have traveled to Washington from Santo Domingo for this purpose. I am a businessman and have worked for over 25 years in Latin America for the Aluminum Company of America. Accompanying me today is Mr. Keith L. Miceli, executive secretary of the Association.

AACCLA was founded by the American chambers of commerce in Latin America in 1967 to provide a means for them to collectively address new challenges created by the region's economic growth. The American chamber movement in Latin America, however, began in 1915 with the establishment of the chamber in Rio de Janeiro. Today, AACCLA consists of 16 American chambers whose underlying memberships represent over 17,000 U.S. and host country companies and individual businessmen located throughout the Hemisphere.

These businessmen and their companies are responsible for managing the overwhelming majority of the estimated $24 billion of U.S. foreign direct investment in the region as well as a large part of the $35 billion of total U.S.-Latin American trade. Through AACCLA, our members formulate positions on issues that critically affect the economic and commercial relations between the United States and Latin America.

The Panama Canal is clearly such an issue. For many years, most U.S. business leaders working in Latin America have recognized

the importance for the United States to modernize its relationship with Panama vis-à-vis the Canal. When the current round of negotiations got underway, the initiative was noted by many of us as a timely effort to bring this 70 year-old arrangement into a form more in agreement with contemporary U.S.-Latin American relations, while preserving the U.S. national interests involved.

For this reason, AACCLA was the first U.S. business association, I am proud to say, to endorse renegotiation of the Panama Canal Treaty based on the Tack-Kissinger "principles" agreed to in 1974. We support the U.S. commitment to seek a new and fairer arrangement with Panama and applaud the wisdom of four Administrations in working to protect our national interests by looking to the future and not to the past.

We believe that the "principles" provided a sound basis for safeguarding the national interests of both nations and we were convinced that the negotiations were being conducted on a basis of good faith since both nations share the primary objective of maintaining an open and efficiently operated canal. We therefore actively supported the negotiations process and have opposed Congressional initiatives which would have blocked progress.

Late last year, long and careful review was given by AACCLA to the terms of the draft treaties and to related arguments—both pro and con. On November 1, 1977, meeting in San Jose, Costa Rica, the AACCLA Board of Directors approved a policy urging Senate ratification of the Treaties. The text of our policy position is attached to my statement.

AACCLA supports ratification for two fundamental reasons:

First, the Treaties would bind the United States and Panama in a partnership committed to maintaining the Canal open, secure, and efficiently operated. We know, for example, that under the terms of the Panama Canal Treaty, the United States will continue to have primary operating responsibility for over 20 years or until the year 2000. During this time period, Panamanians, who now constitute 70 percent of the labor force, will be trained to assume the remaining administration and technical jobs.

As U.S. businessmen in Latin America, we are well aware of the competence of Latin Americans, including Panamanians, as many currently serve in high-level corporate positions, successfully managing large, complex, multi-million dollar enterprises. Therefore, we feel, and indeed have no doubt, that the Panamanians can, in such a time span, master the technical and managerial requirements for administering and operating the Canal.

Of great significance as a motivating factor for sound administration by Panama is the fact that the Treaties increase Panama's economic stake in the Canal. What Panama earns from this enterprise will be directly related to the level of traffic that moves efficiently through the Canal. It should be remembered that Panama derives approximately 12 percent of its gross domestic product, 18 percent of its foreign exchange earnings, and employs over 10,000 of its people in Canal-related activities. With the Canal being their most important economic resource, it follows that the Panamanians will be extremely motivated to keep the Canal open and efficiently operated.

Future Canal tolls are a consideration of importance to businessmen in the region. We feel the economic incentives I just mentioned, along with certain commercial factors, will have a moderating effect on the setting of tolls. The reason is that excessive increases would result in a decline of total revenues to Panama because of lessened demand. Like similar waterways elsewhere, the Canal operates in a competitive "market" where users can consider options. Such options to the Canal include: alternate routing, alternate modes of transportation, and alternate market sourcing for certain commodities. There is no doubt in my mind that the Panamanians are well aware that the levy of excessive tolls will make the Canal uncompetitive and market forces would result in the use of these "alternatives." I have no doubt that they are also aware that once such a process of using alternates is underway, the financial and organizational investment by the importers, exporters, and shippers involved is unlikely to be easily abandoned.

In this regard it is important to keep in mind that use of the Canal is relatively much larger for many Latin American countries than for the United States. For example, Nicaragua, El Salvador, Chile, Colombia, Guatemala, Peru, and Costa Rica use the Canal for transiting anywhere from 30 to 80 percent of their international trade. These countries will not hesitate to remind their Latin American "sister" nation about the vital importance of reasonable tolls for their economic well-being.

The second reason that AACCLA supports ratification of the Treaties is that their acceptance will remove a major issue used by those who espouse anti-American feelings throughout Latin America. It will demonstrate to the developing world, including Latin America, that the United States is willing to seek new relationships with smaller countries in keeping with today's world where power alone does not guarantee right.

We must understand that, just as the Canal's construction came to symbolize the resourcefulness and ingenuity of the American people, the 1903 Treaty is a symbol to the Panamanian people and Latin America as well—one which unnecessarily invokes the old image of U.S. paternalism and interventionism.

For years, Latin American governments and peoples have urged the United States to conclude a more just and equitable treaty with Panama.

That Latin America has approved the long-awaited Treaties is evidenced by the media coverage which I have collected:

A columnist in the nationalistic Mexican newspaper *Excelsior* wrote, "On very few occasions has there been so wide a consensus in the Hemisphere as in the case of supporting the Panamanian cause . . ."

The conservative Brazilian newspaper *O Estado de Sao Paulo* declared that the Treaties "represent a great success for American diplomacy. This success, however, will be complete and total only if approved by the U.S. Senate . . . The Canal represents the last residue of American colonialism."

The liberal *El Tiempo* of Bogota, Colombia, while noting the respect won by the United States "all over the world" declared, "It is regrettable that many of the treaty's critics rely on distortion of what the accord actually signifies in order to avoid conceding the elemental justice it calls for."

The English language Daily Journal of Caracas, Venezuela, saw it as "a great achievement that the Government of the number-one world power and the Government of one of the world's weakest nations could peaceably reach . . . an agreement on such a difficult historic issue."

The independent La Republica of San Jose, Costa Rica, declared, "The signing of the new treaty turns a dream into reality. At the same time it shows the way to a new road. It has come about because of good will on the part of the United States, responsibility from the Panamanians and solidarity of all the countries belonging to the OAS . . ."

The independent Listin Diario of Santo Domingo, Dominican Republic, asserted that, "The U.S. now can have the satisfaction of knowing that its child out of wedlock has been legitimized as the precious resource of Panama, to be . . . for the service of Panamanian development . . ."

The conservative La Segunda of Santiago, Chile, stated that if the Treaties fail Senate ratification, it would "be the equivalent of Woodrow Wilson's failure to obtain approval of the League of Nations treaty in 1920. But if the Senate gives its approval, it will be a great success for the U.S. . . ."

Regarding the September 7 treaty signing ceremony in Washington, the independent El Universo of Guayaquil, Ecuador, praised President Carter for courage and said the occasion "can signify, if he continues his policy, a historic change for the Hemisphere with a new sense of equality and respect prevailing in future inter-American relations . . ."

And, the El Expreso of Lima, Peru, declared that "for all the countries of America, Wednesday was a day of jubilation and renewed hope in fraterial ties within the Hemisphere."

Given views such as these, which are common throughout Latin America, ratification of the Treaties will be seen as a reaffirmation of our American values of justice and national self-determination—the principles upon which our country was founded.

With respect to the national security aspects of the Treaties, our Board members accept the assurances by President Carter, the Secretaries of State and Defense, and the Joint Chiefs of Staff, that the terms of the Treaties provide the necessary guarantees for the secure, peaceful, and expeditious transit of our ships in peace and war. We found that the Carter-Torrijos "Statement of Understanding" prompted, in part, by your Commitee hearings, further clarified those Treaty provisions.

In the event that the Treaties are not ratified by the U.S. Senate, I believe that our realtions with Panama would be shattered and our relations with Latin America damaged. More importantly, I believe that it would provide extremists on both ends of the political spectrum throughout the Hemisphere—particularly the leftists—a tailor-made issue with which to whip-up anti-American feelings. It would create a highly charged emotional environment in which the Canal itself might be jeopardized, along with other symbols of the United States—including American companies throughout Latin America.

In conclusion, the AACCLA policy position in support of ratification of the Treaties, adopted by AACCLA's Board of Directors, on behalf of the American chambers of commerce throughout the Hemisphere, is based on practical considerations. It is founded in our belief that: (1) the Treaties propose a feasible means for safeguarding future U.S. commercial interests in the Canal, and (2) ratification of the Treaties will be the most important U.S. action taken in recent years leading to improved relations with Latin America.

The policy position of AACCLA follows:

AACCLA POLICY POSITION ON THE PANAMA CANAL TREATIES ADOPTED AT THE V MID-YEAR MEETING IN SAN JOSE, COSTA RICA, NOVEMBER 1, 1977

The Association of American Chambers of Commerce in Latin America in 1975 endorsed the need for a renegotiated treaty which would protect the national interests of Panama and the United States and assure effective operations of the Canal as an international commercial facility.

It is the consensus of the Board of Directors of the Association of American Chambers of Commerce in Latin America that the terms of the Panama Canl treaties of 1977 are (1) consistent with its earlier support of the Statement of Principles of 1974; and (2) that the treaties provide a basis for safeguarding the national interests of both nations in the Panama Canal as a reliable and secure international commercial facility.

Goodwill between the two nations is an essential element for the effective implementation of any agreements and, in the opinion of the Board, ratification of the treaties would generate such goodwill with Panama as well as throughout the hemisphere.

Therefore, AACCLA urges ratification of the Panama Canal treaties.

STATEMENT OF DONALD G. GRIFFIN

Mr. Chairman and members of the Committee, my name is Donald G. Griffin. I am vice president—distribution and transportation of PPG Industries, Inc., of Pittsburgh, Pennsylvania. I am also chairman of the Policy Implementation Committee of the Transporttaion Association of America, known as TAA, of Washington, D.C. I appear today on behalf of TAA. With me is Colin Barrett, vice president—governmental affairs of the Association.

TAA is a national non-profit organization whose members include carriers of all modes of transportation—airlines, motor carriers, pipelines, railroads, water carriers (both domestic and international) and freight forwarders—as well as commercial users of the services of these carriers and investors in the transportation industry. The role of TAA is to provide a forum wherein the divergent views of these varied interests may be reconciled for the good of the transportation community as a whole on issues of major importance to transportation. Members include leading corporations from all sectors of the U.S. business community; as information, I am attaching to copies of my prepared statement a roster of the TAA Board of Directors, to indicate the breadth and scope of TAA's membership.

My statement will deal with the Panama Canal as an artery of commerce—including U.S. intercoastal and international—and the economic impact of the proposed treaty on the users of the Canal, both domestic and foreign. I will also make observations regarding its impact on the U.S. taxpayer and the Republic of Panama. I will not deal with any geopolitical or military aspects of the Canal.

(1) *The Canal as an instrument of commerce.* In fiscal 1976, 12,150 transits were made through the Canal, with a total of 127.8 million Panama Canal net tons. Approximately four percent of this tonange was moving from U.S. ports to U.S. ports; sixty-two percent was moving from or to U.S. ports to or from foreign ports, and thirty-four percent was moving from foreign ports to foreign ports.

If not a monopoly, the Canal represents an artery which dominates the choice of its usage for those now employing it. Alternatives to the use of the Canal are "land-bridge" operations across the United States or oceanborne operations around Cape Horn. In many cases these alternatives are impractical or grossly uneconomical, leaving cargoes that must cross between the oceans with no realistic option save transit of the Canal. Studies have been conducted which indicate that tolls could at least double before most cargoes would receive even initial consideration for diversion.

In this respect, we take note that the treaty proposes to strengthen Panama's monopolistic position by committing the United States not to consider a proposed new sea-level canal, which might compete with the existing Panama Canal, through any Latin American nation other than Panama—save with Panama's consent.

(2) *Security of commercial transit.* It is our understanding that one of the objectives of the new treaty is to enhance the long-term security of the Canal as an artery of commerce. We highly applaud this objective.

(3) *Economic impact on various parties.* Attached to the written copies of my statement are appendices in which we have sought to project the economic impact of this treaty on various parties. In addition to projections of other commercial cargoes, we are presuming that 400,000 barrels per day of Alaskan crude oil will transit the Canal to U.S. Gulf and Atlantic ports.

(a) *Impact on Republic of Panama.* We note that direct payments to the Republic of Panama increase from a present level of $2.3 million per year to approximately $67.5 million a year, exclusive of an additional payment of up to $10 million from any revenue surplus resulting from Canal operations. There are also provisions for the future increase of two payments included in this projected $67.5 million total—the $10 million annual service payment, and the 30¢-per-ton annuity payment.

(b) *Impact on users of the Canal, through tolls.* We note that tolls are projected to increase by thirty percent, or $59.8 million, over present levels. Forty-three percent of the impact of this toll increase will fall on U.S. users of the Canal, and fifty-seven percent on foreign users, mostly from the free world.

(c) *Impact on U.S. taxpayers.* The U.S. Government, under implementing legislation now being prepared by the State Department will forego collection of interest payments from the Panama Canal Company, which in fiscal 1978 have been estimated by the Company at $19.7 million.

Thus, shippers and the U.S. taxpayers together would in our fiscal 1979 projection contribute a total of approximately $79.5 million. In addition to the $67.7 million in direct payments to the Republic of Panama, another approximate $11.8 million will find its way into the Canal operations and the Panamanian economy, we project.

TAA's basic concern is with the prospective 30% increase in tolls. Canal tolls have already been increased 19.7% in 1974 and an additional 19.5% in 1976. We also note that the projected 30% increase will apply on the approximately 17¢ per barrel it now costs to ship Alaskan crude oil through the Canal in quantities which will soon rise above 400,000 barrels per day.

TAA policy adheres to the principle that the users of transportation facilities should bear reasonable costs thereof. With respect to the Panama Canal, our policy, however, is that tolls should be increased no more than necessary to cover "direct operating costs of the Canal itself." It is our view that the magnitude of the increases in payments to the Republic of Panama under this treaty may suggest the presence of considerations in excess of what would be viewed as normal increases in these operating costs. We do not know what weight was given by the treaty negotiators to these payments reflecting the overall national interest of the United States *vis-a-vis* the Republic of Panama.

Our proposals to lessen the economic impact of this treaty on U.S. commerce through the toll structure embrace the following points:

(1) *Interest payments to the U.S. Government.* As I stated previously, it is our understanding that implementing legislation being drafted by the State Department will include provisions foregoing further U.S. collection of interest payments on the U.S. investment in the Canal, projected in fiscal 1978 to be $19.7 million. We support this approach.

(2) *Costs associated with assets to be transferred to the Republic of Panama.* Under this treaty, assets having a depreciated book value of $92 million, including real estate, buildings, etc., are to be transferred to the Republic of Panama immediately upon ratification of this treaty. We understand that, under the draft implementing legislation, this transfer will not be treated as a cost to the proposed Panama Canal Commission, and operating expenses associated with these assets, including depreciation, will be eliminated from the Canal's operating budget. Again, we support this approach.

(3) *Transition costs.* The Panama Canal Company has estimated that transition costs aggregating $9.7 million will be incurred in connection with implementation of the treaty. These are one-time costs, and as such are inappropriate, in our view, for inclusion in the rate base upon which Canal tolls are predicated. In our view, they should either be treated as capital outlays or else borne directly by the United States Government as a cost of administering the foreign policy of this nation.

(4) *Depreciation and capital expenditures.*

(a) *Depreciation of original 1903 treaty and excavations.* Commencing in 1973, a new annual cost of $8.3 million was added to Canal operating expenses, representing depreciation (over a 40-year period) of the original 1903 treaty and excavations and other related items. It is quite inappropriate, in our view, to begin "depreciating" assets more than seven decades after the original expenditures were made, and we believe this depreciation charge should be removed from the Canal's operating budget.

(b) *Capital expenditures.* In testimony presented late last year before the Panama Canal Subcommittee of the House Committee on Merchant Marine and Fisheries, Governor H. R. Parfitt estimated that capital requirements for the Canal in future years will exceed depreciation allowances by $7–10 million annnally. This increment would, of course, be increased if our recommendation for eliminating the depreciation reserve attributed to the 1903 treaty and excavations is adopted. He suggested that such capital outlays in excess of depreciations be included in the rate base on which tolls are structured.

In our view, this comes perilously close to the error of treating capital outlays as operating costs. We believe that such outlays should be capitalized in accordance with normal business practices, and that the Panama Canal Commission should be required to meet these obligations in the same manner as commercial business enterprises—*i.e.*, through diversion of earned surpluses, borrowings, etc. Under no circumstances should such outlays be regarded as part of the rate base, recoverable in the year they are made through the toll structure, save to the extent that their costs may be fairly attributed to that year through depreciation accounts and requirements for the servicing of indebtedness.

In this context, we feel it is inappropriate for the Canal to be permitted to earn surpluses so long as capital needs are not met through Canal revenues. To the extent earnings which might otherwise represent surpluses in excess of operating costs do not exceed accrued capital obligations, they should be treated as capital reserve funds, to be retained by the Panama Canal Commission. We note that, under provisions of this treaty, the first $10 million of any surplus revenues must be paid over to the Republic of Panama; and that liability is a cumulative one during the life of the treaty.

We believe implementing legislation accompanying this treaty should incorporate the foregoing provisions in the interests of a sound financial structure of the Canal.

(5) *Public policy considerations in the treaty.* Defenders of this treaty have previously testified that it is intended to meet two objectives: (1) Increased security of the Canal as an artery of commerce, and (2) accomplishment of various goals of the U.S. foreign policy, such as improvement of relations with Panama and our other Latin American neighbors, improvement of the U.S. "image" abroad, etc. It would therefore appear that costs incurred as a result of this treaty are attributable in part, at least, to administration of the public policies of the United States Government.

Policies developed by the membership of TAA urge that the Government not employ its powers over the transportation industry "as an instrument of implementing social

policy." By this we mean that the cost of public-policy activities and programs whose benefit will inure to the nation as a whole should be paid for by the nation as a whole, through taxpayers' funds; their cost burden should not be thrust, by Government fiat, upon any individual part of the private sector such as the transportation industry.

It is our view that the costs associated with this treaty must be attributed in some part to the implementation of U.S. foreign policy independent of the Canal and/or its operations. In this regard, we take particular note that the current payments to the Republic of Panama, amounting to approximately $2.3 million annually, are now borne only about one-third by the Panama Canal Company; the balance of these payments are included in the State Department's budget. We believe the U.S. Government should bear a pro-rata share of the economic burden associated with this treaty, based on a fair and equitable assessment of the relative benefits of the treaty to Canal users and to the United States as a nation.

We are aware that the treaty itself now provides that these payments be made "out of Canal operating revenues." It is our understanding that this provision was incorporated in the treaty primarily for the protection of the U.S. Government, to ensure that it would incur no unforeseen financial obligations, and not at the behest of the Republic of Panama; hence, their removal from the language of the treaty should not represent a major renegotiation. Alternatively, the U.S. Government might make a direct contribution of its pro-rata share of the treaty costs to the Panama Canal Commission, with provision in domestic implementing legislation that such contribution be treated as part of the Canal operating revenues.

This treaty confronts the U.S. transportation community, to the extent it participates in movements via the Panama Canal, with the prospect of a very substantial immediate increase in tolls hard on the heels of two recent past increases, as well as the further prospect of additional future increases of unforeseeable magnitude. Under these circumstances, it is our view that the economic consequences of this treaty warrant the most careful attention by the Senate, and we urge that our proposals for alleviating its economic consequences on the commerce of the United States be given close study.

On behalf of TAA and its members, I would like to express our appreciation for this opportunity to present our views, and for your attention today.

APPENDIX A

Projected Fiscal 1979

Panama Canal Net Tons	[1] 158,900,000
Canal Revenues Based on Present Tolls	[2] $199,400,000
Canal Revenues Based on 30% [3] Toll Increase	$259,200,000
Increase	$59,800,000
Economic Burden on U.S. Commerce [4] Based on Present Tolls	$85,742,000
Economic Burden on U.S. Commerce [4] Based on Projected 30% Toll Increase	$11,456,000
Additional Economic Burden on U.S. Commerce [4] Based on 30% Toll Increase	$25,714,000

[1] Projected; see Appendix B for derivation.

[2] Projected; see Appendix C for derivation.

[3] Minimum increase projected as necessary to cover added treaty costs; see Appendix D for derivation.

[4] Attributing 43.0% of the economic burden to U.S. commerce; see Appendix E for derivation.

APPENDIX B

Projection of fiscal 1979 tonnage transiting the Panama Canal

Fiscal 1977 tonnage (expressed in Panama Canal net tons) [1]	134,004,377
Fiscal 1977 free tonnage (in PCNT's) [1]	24,092
Fiscal 1977 to which tolls applied (in PCNT's)	133,980,285
Projected annual tonnage increase, fiscal 1977–1979, exclusive of Alaskan oil [2] (percent)	2
Projected fiscal 1979 net tonnage (in PCNT's), exclusive of Alaskan oil (rounded)	139,400,000
Projected Alaskan oil tonnage transiting the Panama Canal (in PCNT's) [3] (rounded)	19,500,000
Projected total Panama Canal net tonnage, including Alaskan oil, for fiscal 1979	158,900,000

[1] Source: Preliminary figures developed by the Panama Canal Company for inclusion in its forthcoming fiscal 1977 annual report.

[2] Source: Verbal communication between TAA and officials of the Panama Canal Company.

[3] Independent research conducted by TAA indicates that, when the Alyeska Pipeline reaches its scheduled maximum flow of 1.2 million barrels per day—which is expected in late summer or early fall of 1978—at least 400,000 barrels per day (or 146,000,000 barrels per year) will have to be moved to transmountain eastern or midwest points for refining and distribution. There is no possibility that any projected trans-mountain pipeline can be constructed and operational before early in fiscal 1980 at the earliest, and other modes of transporting this oil (such as via Cape Horn and the Straits of Magellan) are considered economically or operationally impracticable. Hence, virtually this entire volume, at a minimum, must move to Gulf or Atlantic destinations via the Panama Canal. Officials of the Panama Canal Company advise that there are approximately 7.5 barrels of oil per Panama Canal net ton.

It should be noted that the Alyeska Pipeline did not commence operations until July, 1977, and no oil moved out of the port of Valdez, Alaska, until August of 1977. Virtually no Alaskan oil, thus, is included in the fiscal 1977 tonnage figures of the Panama Canal Company; all of it represents new, incremental traffic over and above projections based on fiscal 1977 actual tonnage.

APPENDIX C

Projection of fiscal 1979 Panama Canal toll revenues

(Based on present tolls)

Present Toll Per Laden Panama Canal Net Ton	$1.29
Present Toll Per Panama Canal Net Ton in Ballast	$1.03
Weighted Average [1] Toll Per Panama Canal Net Ton, Loaded and in Ballast	$1.255
Projected Fiscal 1979 Total Net Tonnage Transiting Panama Canal (in Panama Canal Net Tons) [2]	159,800,000
Projected Fiscal 1979 Toll Revenues (Based on Present Tolls) [3]	$199,400,000

[1] Determined on the basis of fiscal 1978 projections developed by the Panama Canal Company and incorporated in testimony presented by Governor H. R. Parfitt to the Panama Canal Subcommittee of the House Committee on Merchant Marine and Fisheries November 30, 1977. The Company estimates that approximately 141,570,000 Panama Canal net tons will transit the Canal during fiscal 1978, generating toll revenues of $177,637,000. Inherent in these figures is the presumption that approximately 86.5% of this tonnage will be laden, and 13.5% in ballast. These percentages comport with those derived for fiscal 1976 from data included in the Panama Canal Company's annual report for that year, as well.

[2] See Appendix B for derivation of this projected figure.

[3] Determined by multiplying projected fiscal 1979 Panama Canal net tonnage by $1.25½, the average toll for all traffic, laden and in ballast.

APPENDIX D

PRELIMINARY ESTIMATE OF PANAMA CANAL COSTS FOR FISCAL 1978

[In thousands of dollars]

	1978 budget	1978 with treaty changes
Operating expenses:		
Maintenance of channels and harbors	$22,563	[1] $22,603
Navigation service and control	40,732	38,316
Locks	24,759	24,759
General repair, storehouse, engineering, and maintenance services	8,966	9,108
Marine terminals	19,801	1,659
Transportation and utilities	22,137	[1] 25,353
Retail and housing	51,504	6,303
Other	44,886	41,383
General and administrative	26,231	25,662
Governmental activities	85,968	[2] 22,097
Public service payments to Panama		10,000
Repayment of prior year's interest costs	5,273	5,273
Subtotal	352,820	232,516
Interest	19,706	
Fixed annuity to Panama		10,000
Annuity based on Panama Canal net tonnage		42,471
Total operating expenses	372,526	284,987
Revenues other than tolls:		
Navigation service and control	29,962	26,247
General repair, storehouse, engineering, and maintenance services	6,062	3,155
Marine terminals	24,151	1,645
Transportation and utilities	23,950	[1] 26,521
Retail and housing	47,169	5,866
Governmental activities	63,132	115
Other	2,351	3,068
Total revenues other than tolls	196,777	66,617
Net costs without tolls	175,749	218,370
Capital outlay expenditures in excess of depreciation	7,133	(4)
Transition costs:		
Severance pay		6,093
Repatriation		1,350
Plant relocations		2,236
Total transition costs		9,679
Total recoverable from tolls in 1978 dollars		228,049
Toll revenue at existing rates		177,637
Net deficiency in toll revenue		50,412

[1] Both costs and revenues in "Transportation and utilities" and "Maintenance of channels and harbors" increase due to reclassification of internal credits for intraagency services, an offset to costs, to a revenue transaction representing services provided activities transferred to other Government agencies and the Republic of Panama.

[2] The restated figures for governmental activities include principally cost for fire, sanitation and industrial health services, sewers and public areas maintenance and, on transitional basis, police and courts.

[3] The 1977 budget estimated repayment to the Treasury of $5,300,000 in unearned costs withheld in prior years. The actual repayment in 1978 will be made to the extent earned, and the balance, if any, repaid from earnings projected for fiscal year 1979.

[4] It is expected that capital outlay expenditures will be constrained so as to approximate the level of depreciation charged through the transition period. However, over the long run, capital outlay expenditures will range between $7,000,000 and $10,000,000 in excess of depreciation.

Note: TAA calculates that a 28.4-percent increase in projected fiscal year 1978 toll revenues will be required to make up the projected deficit. To allow for traffic diversion resulting from a toll increase of this magnitude, TAA estimates that the minimum toll increase that will be immediately required, based on these figures, will be 30 percent.

Source: Reproduced from testimony presented by Gov. H. R. Parfitt to the Panama Canal Subcommittee of the House Committee on Merchant Marine and Fisheries, Nov. 30, 1977, showing effect of treaty changes superimposed on fiscal 1978 operating budget.

APPENDIX E

ESTIMATE OF PANAMA CANAL TOLL BURDEN ON U.S. ECONOMY

[In thousands]

	Total	U.S. import/export		U.S. domestic	
		Amount	Percent	Amount	Percent
Panama Canal traffic:					
Fiscal 1977 actual	134,000	83,080	[1] 62.0	5,360	[1] 4.0
Fiscal 1979 projected tonnage (less Alaskan oil traffic)[2]	139,400	86,428	62.0	5,576	4.0
Fiscal 1979 projected Alaskan oil traffic[3]	19,500		0	19,500	100.0
Total	158,900	86,426	54.4	25,076	15.8

[1] Based on actual performance in fiscal 1976, from the annual report of the Panama Canal Company for that year. Similar percentages of Panama Canal traffic moved in U.S. import/export and domestic commerce in recent years prior to fiscal 1976, and it may reasonably be presumed that these approximate percentages of Panama Canal traffic will continue to move in U.S. commerce (excluding Alaskan oil) for the foreseeable future.

[2] See app. B, footnote 2.

[3] See app. B, footnote 3.

Note: It is presumed that 100 percent of the toll burden attributable to domestic U.S. traffic falls on the U.S. economy. It is further presumed that 50 percent of the toll burden of U.S. import/export traffic falls on the U.S. economy, with the remaining 50 percent falling on the economies of America's trading partners regarding this traffic. Based on these assumptions, the U.S. economy bears a toll burden equal to 15.8 percent plus ½ of 54.4 percent, or 43 percent.

APPENDIX F

IMPACT OF TAA RECOMMENDATIONS ON TOLL-INCREASE NEEDS, FISCAL 1979

	Without treaty	With treaty	
		Amount	Difference
I. Based on Panama Canal Company projections:[1]			
Tolls (loaded/ballast)	$1.29/103	[2] $1.68/1.34	
Toll revenues based on fiscal year 1979 traffic projections (millions)[3]	199.4	259.2	$59.8
II. Adjustments recommended by TAA (millions):			
1. Eliminate interest payments to U.S. Government[4]		(19.7)	(19.7)
2. Eliminate costs associated with assets being transferred immediately to Panama[4]		(?)	(?)
3. Eliminate 1-time transition costs, and ensuing capital expenditures of approximately equivalent annual amount[5]			9.7
4. Eliminate depreciation cost for 1903 treaty and excavations			8.3
Subtotal			17.0
Subtract (II) from (I) above (millions)			42.8

[1] Based on testimony presented by Governor Parfitt before the Panama Canal Subcommittee of the House Committee on Merchant Marine and Fisheries, Nov. 30, 1977; see app. D.

[2] Based on 30-percent toll increase; see app. D.

[3] See app. A.

[4] It is understood that implementing legislation now being drafted by the State Department provides for these cost elements to be eliminated, as TAA recommends. Accordingly, these adjustments have already been made in the Panama Canal Company's projections, and are not deducted here a 2nd time. Note that TAA has been unable to ascertain the dollar amount of costs, including depreciation, associated with the assets being transferred to Panama immediately upon ratification of the treaty by both nations.

[5] See app. D for the 1-time transition costs. In footnote 4, Governor Parfitt notes that in the future capital costs in excess of depreciation will be incurred at the rate of approximately $7,000,000 to $10,000,000 annually; accordingly, the $9,700,000 transition costs have been regarded as a reasonable approximation of these future capital costs for years following the transition year.

Note: Based on these adjustments, a toll increase of only 22-23 percent, rather than 30 percent, would be required to generate the necessary added revenues. No account is taken here of possible further adjustments through absorption by the U.S. Government of a portion of the burden of treaty payments to Panama pro-rated according to the foreign policy benefits of the treaty accruing to the United States.

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STATEMENT OF JAMES J. REYNOLDS

Mr. Chairman and members of the Committee, I am James J. Reynolds, President of the American Institute of Merchant Shipping, commonly known as AIMS. AIMS is the national trade association of the American-flag oceangoing merchant fleet and includes in its membership companies which own or operate independent or proprietary American-flag tankers, chemical carriers, liquefied gas carriers and dry bulk carriers. Many of our members utilize the Canal in their operations.

The primary interest of shipowners is in the continued safe and efficient operation of the Panama Canal for reasonable toll charges by an entity which recognizes, and strives to maintain, this waterway's commercial viability. AIMS has not adopted a position on ratification of the treaties under consideration today and cannot intelligently do so until very critical matters bearing upon future toll structure and operation of the Canal are clarified. Our concern is that the Administration has failed to take into account the diversion of traffic which is likely to result from toll increases of the magnitude mentioned by Treaty Negotiators in testimony before this Committee.

It is true that the technologically advanced American-flag liner vessels which currently use the Canal realize significant savings in so doing because of their relatively high daily operating costs and the disadvantage of using much longer alternative routes. Unless tolls are handled rationally with only moderate increases, however, this situation will change and the economic commitment made to Panama in the proposed treaties may become an empty promise. Vessels carrying bulk commodities to or from the United States and the Far East via the Panama Canal are particularly toll sensitive and any increases in charges may well price these commodities out of present markets unless they are carried on very large slow-speed bulkers around the Horn or eastward over the South Atlantic and around the Cape of Good Hope. We respectfully urge this Committee to examine carefully the economic projections which have been made with regard to the Canal in light of our testimony today.

The Canal has been very useful to world commerce. In fiscal year 1977, 122.9 million tons of commercial cargo traversed its fifty-one miles between two great oceans. This cargo figures importantly in the commerce of the United States and that of our Central and South American neighbors. The long-term trend has been for Canal traffic and tolls revenue to increase continually, al-

though the deficits experienced in fiscal years 1975 and 1976 demonstrate the relevance of world economic conditions to Canal usage. The Canal can handle considerably more traffic than it presently does and projections submitted to this Committee last year by Secretary of Transportation Brock Adams show transits increasing from 13,201 in 1976 to 21,300 in 2000, out of a theoretical Canal capacity of 26,800. We submit that if such projections are to be realized the toll structure must be characterized by reasonable stability and a rational procedure be established for their adjustment when necessary.

One very recent favorable development in Canal transits and toll revenue has arisen from the start up of crude oil from the Alaskan North Slope through the port of Valdez. From the passage of the first tanker shuttling North Slope oil through the Canal from VLCC's off Balboa to Gulf ports on August 31, 1977 through the end of November, $2,327,000 in new tolls revenue already has been generated by this activity, with $36.5 million annually expected as shipments reach their projected maximum. Unfortunately, this movement through the Canal may be relatively short lived depending on the availability in a few years of alternative pipeline transportation, for which necessary State and Federal approvals are now pending.

Despite these generally optimistic statistics, we cannot emphasize too strongly, the fact that the continued commercial attractiveness of the Canal to American- and foreign-flag vessels alike depends to a considerable extent on keeping tolls reasonable. If, on the other hand, tolls are permitted to escalate sharply as has been suggested by Administration witnesses, freight surcharges will become necessary and much of the cargo now moving through the Canal will either cease to move or shippers will seek alternative routes. Indeed some U.S. and foreign flag operators in reaction to a series of toll increases in recent years totaling more than fifty percent are already redirecting their vessels carrying Atlantic coast and Gulf cargoes to distant Far Eastern Ports by way of the Suez Canal or via the South Atlantic down around the Cape of Good Hope.

Our intercoastal and East-Orient trades are particularly susceptible to shipper reaction to higher costs and if tolls are unreasonably increased cargo will increasingly find its way across the continental United States by rail. The resultant decline in transits will place a burden of still higher tolls on those operators and cargoes for which there is no alternative to using the Canal. The land and mini bridges will become even more attractive to shippers of goods, to the detriment of a strong U.S. Merchant Marine and to the detriment of an economically viable Canal.

Those members of Congress and the public who appreciate the need for a strong U.S. Merchant Marine should be aware that American-flag vessels as a group would tend to lose more cargo than foreign-flag vessels if the Canal is priced out of their reach and they are forced into trades in which they are not competitive. A great many of the American-flag ships which use the Canal are containerships. The average containership presently pays about $20,000 to transit the Canal, which is roughly equivalent to an average day's operating costs. On shorter voyages such as between the West Coast of South America and North Atlantic ports, where the percentage increase in voyage time by an alternative route around the Horn is the greatest, the impact of re-routing to avoid the Canal would be particularly devastating.

Turning to the proposed treaties, we see that the Canal faces two distinct time periods—the period between now and the year 2000 and the post-2000 period. Article III of the Neutrality Treaty, our guide to the latter period, lists the following rules for purposes of "the security, efficiency and proper maintenance of the Canal":

"(a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

"(b) Ancillary services necessary for transit through the Canal shall be provided;

"(c) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law. . ."

Certainly no one could take exception to this most reasonable statement of intent. However, the administration of the Canal after the year 2000 will be an irrelevant matter if its handling during the remainder of this century results in the diversion of traffic to alternative routes and the emergence of new supply patterns not requiring the Canal. For this reason, we intend to concentrate on the period prior to the second millenium and address particularly those provisions of the main treaty which provide for payments to the Republic of Panama from toll revenues during the transition period.

Article III (5) calls for the annual payment of $10 million to reimburse Panama for providing police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection.

Article XIII 4(a), (b) and (c) call for payments to Panama of $.30 per Panama Canal ton transiting the Canal plus a fixed annuity of $10 million plus up to a second $10 million, if earned, with any unearned balance each year to be paid from operating surpluses in future years.

Ambassadors Bunker and Linowitz have repeatedly emphasized that none of these payments will be borne by U.S. taxpayers, a position which ignores the fact that U.S. consumers who are also taxpayers will indeed pay a very considerable portion of the payments since two-thirds of the cargo passing through the Canal and which will bear the additional cost either originates in or is destined for this country.

There are those who hold the view that since the conclusion of the Panama Canal Treaty was accomplished to attain most significant international objectives of our nation it is the entire nation which should bear the costs during the transition period. It probably does seem somewhat illogical to vessel user of the Canal whose ships fly the flags of all nations that they should be required to pay through increased toll rates the price of the United States improving its relations with our neighbors to the South, the price of improving its credibility in the family of nations and the price of removing from its posture as a great and good nation one of the last taints of colonialism remaining on earth.

On the other hand, as a very realistic matter, it is probably expecting too much of the American people through you, its trustees in the matter, to approve the United States presenting the Republic of Panama with the Canal and then to pay it some $60 million a year for 22 years for the privilege of accepting it.

The disquiet shared by all the users of the Canal, both U.S. flag and others, arises from the obvious expectation that they are about to be asked to bear very significant additional financial burdens beyond those they are required to bear today. We all have heard predictions from the State Department that the tolls may be increased by 25% to 46% at the outset to meet the payment provisions of the new treaty. Our inquiries as to the basis for this calculation have led us to believe that the U.S. Government has given insufficient attention to the Canal's financial situation. We therefore would like to present a few suggestions for mitigating what we believe could be a very detrimental if not fatal impact on the future of the Canal resulting from overburdened tolls.

The problem and our suggestions for its possible mitigation become clear if we superimpose the treaty payment obligations on the Canal financial results as though the Treaty had been in effect for the fiscal year 1977 ended last September 30.

During fiscal '77, 122.9 million long tons of commercial cargo traversed the Canal. These actual tons converted to 134.3 million Panama Canal tons upon which $164.7 million were paid in toll fees during the year. Additionally, there was other income arising from direct and indirect operating sources of $121.7 million giving us a total income of $286.4 million against which there were expenses both direct and indirect of $281.0 million leaving an apparent profit of $5.4 million.

Unfortunately, that $5.4 million profit was owed to and had to be paid to the U.S. Treasury for deferred interest of $9.3 million on the net investment of the United States. So for all practical purposes the Canal broke even in fiscal '77.

Now let's see what the situation would have been had the Treaty been in effect during that period. You will recall that there were 134.3 million Panama Canal tons transiting the Canal and it would have been on these that the $.30 per ton payment to Panama would have been computed, namely $40.3 million An additional $10 million direct annuity would have been paid on top of the $40.3 million making the additional toll burden $50.3 million to which again must be added the $10 million payments for various social services, police, fire protection, etc., making the total $60.3 million. Obviously, that $10 million to be paid only if the Canal operated at a profit would not have been paid for we're now up to a fiscal year loss of $60.3 million!

While all this was taking place on our pro forma 1977 operating statement, we see that tolls were being required to bear a cost of $18.1 million in interest charges on the net investment of the United States. We see that tolls were charged with $22.1 million to make up for the net loss in running the Canal Zone Government and we note that tolls were debited with an annual charge of $8.3 million in depreciation of the 1903 Treaty, excavations and other items totaling $332 million, a practice inaugurated in 1973 after 70 years of silence and inaction. These three items alone add up to $48.5 million of questionable existing burdens on the toll structure.

Now admittedly this entire pro forma exercise gives us at best just a rough approximation of what will happen to toll rates and to the cost of Canal users and consumers if payments to the Republic of Panama are merely added on top of the existing list of costs the toll structure must presently bear.

It is with this background that we respectfully suggests the Congress insist that the existing financial practices and structure of the Canal operation be carefully reviewed to the end that all existing unwarranted burdens on tolls including, but not limited to, those we have mentioned be eliminated in implementing legislation before we start pay-

ments to Panama. We submit that such action coupled with the new Alaskan oil toll revenue mentioned earlier should provide the source of payments to Panama while at the same time assuring a degree of stability to toll rates and a gradual increase in Canal transits so important to the continued economic viability of the Canal.

Thank you.

TESTIMONY BY MELVIN SHORE

I appreciate the opportunity to appear before your Honorable Committee to convey the thinking of the United States port industry relative to the possible ratification by the Senate of the United States of the Panama Canal Treaty.

UNITED STATES PORTS

The American Association of Port Authorities represents practically all the major ports of the four coasts (including the Great Lakes) of the United States, as well as ports in Canada, Central and South America. Please note that I am speaking on behalf of the United States ports. There have been some informal expressions of support for our position by the foreign members, but no official position has been taken that sets forth a western hemispheric position.

The ports of the United States have grown up over a period of 200 years as a result of a unique combination of federal and local investment. The federal investment has been expended primarily for the construction of harbors and channels, i.e., creating access for the ships of the world. These investments have only been made upon adequate showing of local interest in the project. This display of interest took place in the form of cost sharing to a substantial degree with the federal government as well as construction of terminal facilities for the handling of cargoes. It is of interest that the federal investment for the construction of deep water channels and harbors to date amounts to approximately $3 billion. This sum is exceeded by the investment of the local interests of some $5 billion.

LOCAL PORT INVESTMENT

This $5 billion investment by the local interests is what is handling the ocean commerce of the United States. This ocean commerce amounts to some 860 million tons per annum, a very significant accomplishment on the part of the ports of the United States. We estimate that this same investment is responsible for the employment of more than 1,200,000 Americans, directly and indirectly.

Almost universally, this investment of $5 billion was made by the sale of general obligation and revenue bonds by states, cities and special port districts. These investments have been made as there was a demonstrated need for each of the facilities. It is these local interests and their investments that has helped to make possible the growth of the United States international trade:

From $35 billion in 1960 to almost $200 billion in 1977

It is this type of growth that has caused an estimated 75% of the local investments in ports to have been made since the end of World War II, in just over 30 years.

LOCAL COMMITMENTS

It need not be emphasized that these investments are to be paid back as are all bond issues. Uniquely, however, in the port industry the intent is, and always has been, to pay off these bonds out of income. Any activity which suddenly changes the patterns of trade could have disastrous results upon the ability of the local entity to pay off their bonded indebtedness.

This then brings us to our concern relative to the Panama Canal Treaty now before your Honorable Committee. It is our belief that the Treaty has all of the seeds of potential serious impacts upon these economic investments that have been made in good faith by the local interests to help foster the international trade of the United States. Please understand, too, that many of our members hold other concerns relative to the Treaty, but in keeping with the demands of our professional organization, we have avoided any comment upon the many emotionally based arguments that have been put forth. No doubt there is considerable merit to many of those arguments, both pro and con.

ATTENTION TO ECONOMICS

Simply stated, it is our contention that too little, if any, attention has been paid to the economics of the future operation and maintenance of the Panama Canal and the related toll structure. An economically dead Canal is no better than a closed Canal. Such an impediment to the flow of international traffic we believe, can seriously affect the business of our ports and consequently burden the local taxpayers with the need to pay off the outstanding bonds or in the alternative lead to default on bond payments.

PAYMENTS FROM TOLLS

It is our understanding of the Treaty that it calls for the following payments to be made to the Rpeublic of Panama from Canal tolls in addition to the funding of maintenance and operation:

1. A payment of 30¢ per Panama Canal ton (100 cubic feet of cargo space). This rate is subject to escalation based upon the Wholesale Price Index. Currently, the 30¢ would yield approximately $40 million per year. The rate is subject to adjustment after five years and each two years thereafter.

2. A payment of $10 million per year which is termed a fixed annuity.

3. A payment of $10 million per year for the services of police and fire protection; street maintenance, lighting and cleaning; traffic management and garbage collecting. This payment is subject to escalation adjustment each three years.

4. An additional $10 million per year to the extent earned but if not earned then carried forward to succeeding years.

ADMINISTRATION POSITION

It appeared that the addition of these payments to the Republic of Panama out of toll revenues would serve to inflate the tolls to a level that could cause serious damage to the voume of traffic transiting the Canal, hence to our ports. We addressed ourselves on the subject to President Carter, under date of November 3, 1977. Copy of that letter is appended as Attachment "A". In particular, we sought the studies upon which the economic conclusions could be reached that the Canal would remain viable. Our letter to President Carter was replied to by Ambassador David H. Popper, under date of December 2, 1977, copy of which is appended as Attachment "B". We found Ambassador Popper's reply non-responsive to our inquiry. He hypothesizes that an increase in tolls of 30% might be adequate to cover the payments to be made to the Republic of Panama and states that they believe this would not significantly discourage the flow of traffic through the Canal. The Ambassador's letter offers no basis for his hypothetical 30% toll increase, nor does he address the subject for the long-term.

SENSITIVITY STUDY

The Ambassador's letter did forward to us a January 1975 study entitled "Panama Canal Toll Rates: Estimates of Maximum Revenues" by Ely M. Brandes and Betty R. Samuel of International Research Associates of Palo Alto, California. We are told that the study is being updated with the later data to be available early this year. The study addresses the attaining of maximum revenue for the Panama Canal Company by toll increases. It lends considerable substance to the point we wish to emphasize, i.e., beyond a certain point there will be diminishing returns when the increased toll drives business away. Further, the study concludes that various cargoes can tolerate varying percentage increases in toll rates. The study does not purport to be responsive to the question of the possible effect of the additional burden of pyaments to the Republic of Panama on cargo diversions and hence the long-term economic viability of the Canal under the proposed Treaty. We can only conclude that the State Department has negotiated a Treaty without proper consideration of the possible economic effects upon the Canal and certainly with no consideration to the effects upon the ports of the United States.

ADMINISTRATION TESTIMONY

We have reviewed the testimony of the Administration witnesses before your Honorable Committee last September and October as set forth in the document entitled:

Panama Canal Treaties
Hearings before the
Committee on Foreign Relations
United States Senate
95th Congress
First Session

* * *

Part I.—Administration Witnesses

We found little in the statements of these witnesses to allay our concerns. Indeed, we found a great deal of uncertainty expressed by some of the witnesses, e.g.

1. Page 43—Ambassador Linowitz. I think I talked about 25 or 30 percent or something of this kind . . . but it will be in the neighborhood of 30 percent, perhaps 35 percent. (relative to toll increases)

2. Page 271—Secretary Alexander . . . We are now conducting a detailed analysis to determine the exact toll increase which will be necessary to meet expenditures. In subsequent years, we would hold tolls to the minimum necessary to meet costs . . .

3. Page 367—Secretary Adams. It is our opinion, Senator, that an increase in tolls of up to approximately 30% would not change the present mix of traffic . . .

4. Page 445—Mr. Casey. Obviously, if tolls were to increase too greatly, many markets would be hurt severely in much the same manner, if not to the same degree, that they would be if the canal were completely closed.

But it is not certain what toll increase applied over what period of time would be too great . . .

Mr. Chairman, there are other similar types of comments throughout the testimony. We probably could have taken some comfort had a thorough study, directly on point, been presented that demonstrated that, with reasonable assumptions, toll increases could be expected that would demonstrably not adversely affect the movements of cargoes into and out of our ports. The fact that no such report was presented leads us to believe there was none and that the conclusions reached in the Treaty negotiations were based upon other unknown criterion. An attempt to come up with a study at this time seems odd to say the least, regardless of what it shows. Indeed, we must wonder what action would be proposed should the study demonstrate that excessive toll increases would be necessary?

CONTROL OF TOLL LEVELS

Of equal concern for the long-term future is the consist of the Panama Canal Commission and the Panama Canal Consultative Committee. Both bodies have a great deal to do with the setting of future toll levels. We find nothing in the Treaty requirements nor in the testimony of the Administration witnesses, to feel assured that future drastic changes in toll levels will not become the order of the day so as to meet the expected necessary maintenance and operation cost, plus the additional payments to the Repub-

lic of Panama It has been argued that the best interests of all members of the Commission and the Committee will only be served if the Canal remains viable. We would argue that there are many other possible interests that could be served. Indeed, it seems there was little enough attention paid to the economics during the Treaty negotiations to date.

I should stress that we do not argue for no toll increases. With rising costs for maintenance and operations, increases can be expected. These increases would be expected to be in the order of magnitude that shipowners and shippers would face in normal business relations. It does seem that burdening this facility with payments designed for diplomatic purposes is probably asking too much of what is basically a commercial enterprise. If our international relations require payments be made to a foreign government, then let them be the obligation of the nation as a whole, not those of a limited segment of our economy, i.e., the ocean commerce of the United States which in turn would impinge negatively upon our ports.

Of equal concern are the comments attributed to Dr. Romulo Escobar Bethancourt as quoted by Senator Stone on page 60. It certainly appears that the Panamanian understanding of the Treaty is that they will not be expected to keep open an unprofitable Canal. Yet the response of the Administration witnesses seems to depend upon an obscure word "open" buried in the text and the expectation that there would be additional negotiations should that eventually occur.

CANAL IS VIABLE

Finally, I would take issue with those who suggest that the Panama Canal is really not necessary for our international commerce. The customary suggestion is that it is outmoded by the advent of larger vessels. It is a growing misconception that with the news of the ever-larger tanker that the Canal is unnecessary. I am informed that over 92 percent of the world's merchant fleet of approximately 27,000 vessels can transit the Canal. New buildings will also be able to transit the Canal in the same approximate percentage. It is just not true that all vessels are going to continue to get bigger and bigger endlessly. The simple facts of economic life mitigates against such an idea. No shipper or receiver of freight can afford to handle ever larger volumes of cargo per ship without running into problems of interest on the investment in the cargo. Then too the costs associated with the need to enlarge port facilities mitigates against an excessive reliance upon the theory of economies of scale beyond reasonable limits.

There have been some suggestions, too, that the Canal has lost its viability due to the advent of mini-bridge. If anything, the growth of mini-bridge would seem to indicate that the existing toll rates are too high for these types of cargoes. It is also essential that it be recognized that the mini-bridge concept does not bear upon the type of cargoes that tend to most use the Canal, i.e., bulk cargoes. Reference to the chart on page 357 shows that almost 50 percent of the cargoes fall in the three categories of petroleum, grains and coal—all bulk cargoes. These kinds of cargoes continue to require the Panama Canal to move to market. To blithely suggest that they will find alternate routes may very well relegate them to becoming non-cargoes. Transportation costs are a vital portion of the end cost of most bulk cargoes.

Then too we must recognize that over 57 percent of the tonnage moving through the Canal is that of the United States commerce. Large volumes are involved with our exports and our balance of payments can ill-afford the introduction of additional impediments.

CONCLUSION

In conclusion, we ask that the Panama Canal Treaty not be ratified by the United States Senate until the effects of the commitments made for diplomatic purposes upon the toll level can either be shown to be nondetrimental or are removed from the toll base. We ask this in recognition of the adverse impact that drastic toll increases will have upon our ocean commerce, and consequently the ports of the United States. We also ask that there be built into the Treaty, if it is to be ratified, some mechanism to control toll increases so as to preclude having a Canal that exists in fact, but is economically dead.

THE AMERICAN ASSOCIATION,
OF PORT AUTHORITIES,
November 3, 1977.

Reply to: World Trade Center, West Sacramento, Calif.

President J. E. CARTER,
White House, Washington, D.C.

PANAMA CANAL TREATY

DEAR PRESIDENT CARTER: The United States members of the American Association of Port Authorities are deeply concerned with certain features of the future of the Panama Canal. Our prime concern centers about the future level of tolls and the eocnomic viability of the Canal.

The American Association of Port Authorities consists of 83 United States ports as well as ports in Canada, Central America and South America. Its concern is the maintenance, operation and economy of port facilities in performing their job of serving the needs of their respective countries in handling the all-important international trade of the world. As such, the Association concerns itself with a wide variety of and concern. Although the official position matters that impinge on its area of interest of the American Association of Port Authorities, set forth below, is that of the United States membership only, informal discussion with Canadian and Latin American members indicate their like concern.

The ports of the United States have grown up over a period of years in a manner that is responsive to the demonstrated needs of cargo movement. They represent an investment of billions of dollars of local funds for wharves, piers, cranes, conveyors, storage facilities of all types, etc. In addition, the United States government has made a sizeable investment in the dredging of waterways and harbors to facilitate these developments. The prime point is that these facilities have evolved slowly over a period of time. Any event, or action, that would precipitously change the relationship between the ports is bound to have a serious dislocational consequence upon many of these investments. This would be brought about by diversion of traffic which would in turn lead to unemployment, inability to pay off local indebtedness, abandoned facilities, etc.

An important element of the traffic patterns upon which the referenced port development is based is the Panama Canal. We are aware of your commitments to see that the Panama Canal is kept open to traffic if the Treaty contemplated is implemented. However, we are unaware of adequate assurrances in connection with the economic viability of the Canal, i.e. the level of the tolls. As we understand it, the Canal is to continue to be operated as a self-supporting venture. If this be the case, then the tolls must be set at a level to produce not only sufficient funds to cover its maintenance and operation but the additional funds being committed by the terms of the Treaty.

It is our understanding that the Treaty calls for the following schedule of payments to the country of Panama, all of which must be earned in addition to maintenance and operation expenses:

1. A payment based currently at 30¢ per Panama Canal ton (100 cubic feet of cargo space). The 30¢ rate is subject to future escalation. We understand that this rate will produce approximately $40 million per year at this time.

2. A flat payment of $10 million per year that might be termed "rent".

3. A flat payment of $10 million per year to cover such services as fire protection, police protection, garbage disposal, etc.

4. An additional $10 million per year to the extent that it is earned. Failure to earn the amount in any one year, carries the deficit forward to the following years until paid.

Further, it is our understanding that currently, approximately $18 million per year is paid to the United States Treasury as an interest payment. Since this payment would cease, it would be available to help offset the above $70 million. It would therefore appear that the $52 million deficit would have to be raised by increasing the level of tolls.

Since the Canal is to be an operating business, we have to anticipate that as tolls increase they will reach a point that will serve to discourage the flow of traffic. As the flow decreases, further increases in toll levels are dictated. The cycle continues until the Canal may exist in fact but would be economically dead. Should this occur, we see the significant dislocations I referred to above.

To this time, we are unaware of any studies that have been made by the federal government as to the economic future of the Canal. Hence, my specific request. Finding it infeasible that an undertaking of this dimension has not addressed this subject, I ask that I be supplied with a copy of the studies that address this question.

I believe you can understand our concerns. Presumably they are based upon our lack of information, but we have no assurance of this. Your reassurance, at an early date, in the form of factual studies, addressing the problem will be greatly appreciated

Sincerely yours,

MELVIN SHORE,
Chairman, U.S. National Transportation Policy Committee.

DEPARTMENT OF STATE,
Washington, D.C., December 2, 1977.

MELVIN SHORE,
Chairman, U.S. National Transportation, Policy Committee, World Trade Center, West Sacramento, Calif.

DEAR MR SHORE: President Carter has asked me to reply to your letter of November 3 concerning the Panama Canal.

We understand and agree with your concern that, under the new Panama Treaties, tolls should be set at levels which will meet maintenance and operation costs for the Canal, including payments to be made to Panama. We believe that an increase in tolls of the order of 30 percent, which might be adequate for these purposes, would not significantly discourage the flow of traffic in general or impose an appreciable burden on Canal users. In fact, an increase of this size may not be necessary, if Alakan oil movements through the Canal increase Canal traffic significantly, and if there is a general growth in world commerce.

I should point out that your enumeration of payments to Panama required under the new Panama Canal Treaties should, in some respects, be clarified. Point 3 of that enumeration, regarding payment for public services to be assumed by Panama, does not represent an additional net cost of Canal operations, and it is subject to readjustment to reflect actual costs. The services in question

are currently provided by the Canal Zone Government and the Panama Canal Company, at a cost well in excess of $10 million annually. Moreover, while the contingent $10 million annual payment listed in your point 4 is cumulative, any cumulative balance remaining when the Canal is turned over to Panama in the year 2000 would cease to be an obligation or liability.

You ask to be provided studies that might have been made concerning the economic effect of toll increases. A study prepared for the Panama Canal Company in January 1975 "Panama Canal Toll Rates: Estimate of Maximum Revenue" by International Research Associates addresses this subject. I have enclosed a copy of it. The study is now being updated; we expect a new version early next year.

If we can be of further assistance, please do not hesitate to let us know.

Sincerely yours,

DAVID H. POPPER,
Ambassador, Deputy for Panama Canal Treaty Affairs.

TESTIMONY BY SEYMOUR MILSTEIN

I am Seymour Milstein, President and Chief Executive Officer of United Brands Company and I very much appreciate this opportunity to express to you our reasons for urging ratification of the Panama Canal treaties which are before this committee for consideration.

United Brands Company is the largest single user of the Panama Canal. During 1977 our vessels transited the Canal nearly 400 times, an average of 33 trips per month and we paid approximately $3 million in canal tolls and transit related charges. The company also acted as agents for vessels that made an additional 513 transits last year. In addition, we maintain offices and have operations in the Canal Zone itself.

We are convinced that ratification of the Panama Canal treaties is the only fair conclusion to the good faith negotiations conducted by our two countries over the last several years. In our judgment, these treaties represent the best evidence yet of this Nation's commitment to fair treatment for Panama and the other developing nations. Fulfilling this commitment, in our view, is particularly important if our Nation is to continue good and mutually beneficial relations in Latin America.

We are equally certain that the Panamanian government and the Panamanian people are fully capable of assuming the responsibility for managing the canal over the period of time set forth in the treaty documents. Our position reflects our confidence in General Torrijos and the present government of Panama, based on our first-hand experience with that government over the past several years.

Our company has a long history in Panama. Our United Fruit Company division, which is engaged in the production and distribution of tropical agricultural products, principally bananas, has operated in Panama for nearly 90 years. United Brands' overall contribution to the Panamanian economy is substantial and we employ more than 10,000 people in Panama, 98 percent of whom are Panamanian. During this period we have made repeated and large commitments of personnel, capital and other resources in that nation, and we have seen our business grow and prosper there.

Our continuing investment in Panama represents more than just a business venture for United Brands. It constitutes a significant contribution by the Americans and others who are our shareholders in the continued growth and development of the Panamanian economy.

With this background, our interest in the Panama Canal treaties is obvious. It should be equally clear, however, that efficient management and operation of the cnaal are also vital concerns.

One of the most essential elements in United Brands' success in Latin America has been the existence of the Panama Canal. We have been involved with the Canal since its beginning. Our ships carried material and labor for its construction and our medical personnel helped make the area safe for canal workers. From 1914 to the present, this link between the Atlantic and Pacific oceans has been the key to our worldwide distribution system. Any closure or curtailment would adversely affect our customers and distributors all over the world.

With more direct long term experience in Panama than any other U.S. corporation, we have dealt extensively and for many years with the leaders of the government of Panama. We can tell you that when the government of Panama took over the schools and hospitals which United Brands had previously operated, there was no deterioration in the quality of education and health care services provided to the Panamian people. We have always been treated fairly by the administration and the courts and, as an example, during a recent labor dispute involving our company, the Panamanian judicial system ruled fairly and equitably in the matter. We have been given the kind of treatment in Panama that accords with our expectations as free Americans.

Mr. Chairman and Senators, I am sure you can appreciate that we have given the most serious consideration to these treaties, especially since once the treaties are ratified, the results to us will not be inconsequential. As the principal user of the Canal, some might wonder why, with the prospect of paying increased toll charges, we would support the treaties. Nevertheless, we do support these treaties and we are convinced that the best interests of our company and our country will be served by ratification of the treaties.

Our most important reason for urging ratification of the treaties can be stated simply and succinctly: we believe it is the right thing to do. As a company actively involved with Panamanian affairs throughout this century, we are convinced that the time has come for a reassessment of the Panama Canal arrangement. Our sense of fairness and justice persuades us that the Panamanian peoples' interest in achieving control of the Canal is a legitimate claim. We can say forthrightly that as a company Panama has been good to us and we believe it has been a good neighbor to our country as well. Today, these treaties present the best opportunity to reciprocate this goodwill.

Ratification of the treaties will be a sign to Panama and all of Latin America that the United States recognizes the growth and maturity of its neighbors to the South. In an interdependent world, how we treat our smaller and less developed friends in this hemisphere is a measure of our commitment to the goal of mutual respect. It will be a sign that we have come to appreciate the need for cooperation and accommodation in dealing with our neighbors and that the day has passed when smaller, less developed countries will tolerate anything less than the controlling voice in their own destinies.

As users of the canal—its largest single user as I mentioned before—no one can have a greater interest in its efficient and safe operation. Were we to believe that the government of Panama would provide anything less than the highest standards in the way of maintenance and efficient and safe operation of the canal we could not endorse these treaties as warmly and completely as we do.

Of the many interested parties who will appear before this committee, we are probably unique in the depth and length of our experience with the people of Panama. Based upon this kind of experience, we have no reservations concerning the efficiency of operation of the Canal under the Panamanians or of their adherence to their treaty or other contractual terms.

We now operate in Panama under the specific terms and provisions of a written contract, which spells out the obligations of both parties. The Panamanians have lived up to every element of that contract. In other words, they have demonstrated to us their honor and dependability and we have no reason to believe that they will not approach the operation of the Panama Canal in the same fair and pragmatic manner.

In addition, there should be no better motivation for the efficient and responsible operations of the Canal than the concept of self-interest embodied in these treaties. Twenty years ago, United Fruit paid $4.6 million in taxes and payments for use of 30,000 acres, or approximately 47 square miles of land in Panama. In comparison, the U.S. Government paid $2 million for the use of 500 square miles of land in the Canal Zone. Today, we pay in excess of $15 million while the U.S. pays only $2.5 million. The new arrangements called for in the treaties should remedy such an imbalance in the share of taxation, and are all the more reason for Panama to operate the Canal on a sound and economically viable basis.

In urging upon you ratification of the Panama Canal treaties I do not minimize for a moment the strategic importance of the canal for the United States. Certainly the U.S. has a vital stake in the future security of the waterway. However, we are persuaded by the arguments set forth by the Joint Chiefs of Staff and others in the Departments of Defense and State that the treaties now under consideration provide adequate protection to us in this regard. In our own dealings with the Panamanians over many years, we have found that while bargaining is hard, an agreement, once reached, is meticulously observed and this, I think, is an important point for the members of the Senate to bear in mind.

Mr. Chairman, I welcome this opportunity to share with this committee our support for prompt ratification of the Panama Canal treaties.

Thank you for your kind attention.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CRIMINAL CODE REFORM ACT OF 1977

The ACTING PRESIDENT pro tempore. The Senate will now resume the consideration of the unfinished business.

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, yesterday, in my presentation, I reviewed the history of S. 1437. I pointed out what I consider to be the principal areas of im-

provement, in general terms—the consolidation of various crimes into a single statute, printed in understandable and readable form, so that the average citizen would be able to pick up the code and understand exactly what the criminal laws of this country are all about;

Second, I referred to the elimination of various mental states reduced from some 80 different terms to just four, thus assuring a greater degree of specificity for juries to understand the intent of the accused. I think this will result in fairness for the individual, freeing those who are innocent and bringing to the bar of justice those who are guilty.

I pointed out the need for definitions to eliminate the uncertainty of the current criminal code.

I then reviewed what I consider to be some of the major improvements in terms of protection of individual liberties. I pointed out that in some of the areas in which we were unable to find agreement, we simply restated the existing criminal law.

I also committed myself to continue the fight for the protection of civil rights after the successful passage of S. 1437.

We spent some time yesterday on the sentencing provisions of this legislation which I think are the most important provisions in S. 1437. I should like to reiterate what the current status of the law of sentencing is, and discuss a very recent and revealing study that was done on sentencing in this country.

First of all, our correctional policy is undergoing a tense reexamination; it has been for some period of years. For the last 3 years. I have strongly supported the determinate sentence, which I think is the only way we can provide fairness and equity to the defendant, to the public, and to the victim; when individuals are sentenced, they should know how long they are being sentenced, the families of the individuals will also know and the public will know.

There is not an American today who has not picked up a newspaper and been shocked to read about a particularly grievous crime, where a defendant is found guilty and then is effectively released in a very short period of time.

I believe that the results of practical experience, the results of a very careful reviewing of sentencing procedures, would indicate very clearly that prisons basically are not a source for reform or for rehabilitation.

I think that is basically a conclusion that has been reached in recent years. Prisons are for the purpose of punishment. This does not mean that rehabilitation programs should not be available; but the likelihood of being rehabilitated should have no bearing on the release date.

I think we should narrow the wide discretion we give our judges and parole boards.

So what S. 1437 essentially says is that prisons are for punishment; a fixed punishment that should be determinant. There also should be rehabilitation programs but we should not determine prison release dates on that basis.

As I mentioned yesterday, we cannot blame the judges when the legislatures are to blame. For example, an assault upon a Federal officer may be punishable by a fine and imprisonment for not more than 10 years. The Federal kidnaping law authorizes imprisonment for any term of years or for life.

What does that mean to a judge—any imprisonment for any term of years or for life?

That means that an offender may, on the one hand, be given a life sentence and, on the other hand, may be given probation.

What kind of sense does that mean in terms of the public?

Driving a stolen car across State lines may result in a term of not more than 5 years; robbing a federally insured bank may result in a sentence of not more than 25 years; and a postal employee's theft of a letter may result in imprisonment for not more than 5 years. The key phrase, of course, is "not more than." It proclaims that the Federal trial judges, answerable only to their consciences, may send people to prison for terms that may vary in any given case from none at all up to 5, 10, 30, or more years.

This means that in the great majority of Federal criminal cases a defendant who comes up for sentencing has no way of knowing or reliably predicting whether he or she will walk out of the courtroom on probation or be locked up for a term of years that may consume the rest of his or her life, or something in between. The result is wide judicial disparity among similar defendants.

An experimental study of sentencing disparity by the Federal judges in the second circuit, which includes New York, Connecticut, and Vermont, was prepared in 1974 by the Federal Judicial Center. This study confirms the existence of substantial differences in sentencing treatment of the same defendants by different judges.

What we are talking about here, Mr. President, is a single circuit made up of a number of judges. Fifty judges were asked to participate in this particular experiment in one particular geographical area. We are not comparing justice in Texas versus justice in Seattle or in Boston.

The results of this study involve just one circuit. The judges in all of these cases were given the exact same fact situation. The facts were exactly the same. These particular judges in the Second Circuit were asked what they would do, how they would sentence a hypothetical defendant.

Let us take, for example, extortion. The most severe sentence was 20 years in prison; the sentence from a different judge was 3 years in prison. This is a seven-time difference based on the same fact situation.

In bank robbery, the same circuit, the sentence was 18 years in prison from one of the judges, 5 years in prison by the other judge.

Theft and possession of stolen goods, 7½ years in prison by one judge, 4 years probation by another judge.

The possession of barbiturates with intent to sell, 5 years in prison by one, 2 years probation by another.

Filing false income tax returns, 3 years in prison by one, 3 months probation by another. And with interstate transportation of stolen securities, 3 years in pirson by one, 1 year's probation by another.

So, Mr. President, what we see in these examples are disparities in sentencing. There were some 20 different cases. Another, for example, is in the case of perjury, 1 year in prison by one judge, a $1,000 fine and no jail by another.

Mr. President, I ask unanimous consent that this table of the Second Circuit sentencing study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

TABLE 3.—2d Circuit Sentencing Study (20 cases)

	Most severe sentence	6th most severe sentence	12th most severe sentence	Median sentence	12th least severe sentence	6th least severe sentence	Least severe sentence	Number of sentences ranked
Case 1: Extortionate credit transactions; income tax violations.	20 yr pris.; $65,000	15 yr pris.; $50,000	15 yr pris	10 yr pris.; $50,000	8 yr pris.; $20,000	5 yr pris.; 3 yr prob. $10,000.	3 yr pris	45
Case 2: Bank robbery	18 yr pris.; $5,000	15 yr pris	15 yr pris. [(a)(2)]	10 yr pris	7.5 yr pris. [(a)(2)]	5 yr pris	5 yr pris	48
Case 3: Sale of heroin	5 yr prob	6 yr pris.; 5 yr prob	5 yr pris.; 5 yr prob. [(a)(2)].	5 yr pris.; 3 yr prob	3 yr pris.; 3 yr prob	3 yr pris.; 3 yr prob	1 yr pris.; 5 yr prob	46
Case 4: Theft and possession of stolen goods.	7.5 yr pris	5 yr pris	4 yr pris	3 yr pris	3 yr pris	2 yr pris	4 yr prob	45
Case 5: Possession of barbituates with intent to sell.	5 yr pris.; 3 yr prob	3 yr pris.; 3 yr prob	3 yr pris.; 3 yr prob	2 yr pris.; 3 yr prob	1.5 yr pris.; 3 yr prob	5 yr prob.; $500	2 yr prob	42
Case 6: Filing false income tax returns.	3 yr pris.; $5,000	3 yr pris.; $5,000	2 yr pris.; $5,000	1 yr pris.; $5,000	6 mo pris.; 2.5 yr prob.; $3,000.	6 mo pris.; $5,000	3 mo pris.; $5,000	48
Case 7: Possession of heroin.	2 yr pris	2 yr pris	1.5 yr pris	1 yr pris	6 mo pris.; 18 mo prob.	3 mo pris	1 yr prob	39
Case 8: Mail fraud	YCA indet	YCA indet	6 mo pris.; 5 yr prob. [sec. 4209].	5 mo pris.; 5 yr prob. [sec. 4209].	2 mo pris.; 2 yr prob. [sec. 4209].	3 yr prob	1 yr prob	41
Case 9: Eluding examination and inspection by immigration officers; illegal entry after deportation.	3 yr pris	6 mo pris.; 2 yr unsup. prob.	6 mo pris	3 mo pris.; 21 mo unsup. prob.	1 mo pris.; 2 yr unsup. prob.	2 yr unsup. prob	Susp. if leave United States.	49

TABLE 3.—2d Circuit Sentencing Study (20 cases)—Continued

	Most severe sentence	6th most severe sentence	12th most severe sentence	Median sentence	12th least severe sentence	6th least severe sentence	Least sereve sentence	Number of sentences ranked
Case 10: Postal embezzlement.	1 yr pris	6 mos pris.; 1 yr prob.	3 mos pris.; 27 mo prob.	2 mos pris.; 1 yr prob.	3 yr prob	2 yr prob	1 yr prob	48
Case 11: Bribery	6 mo pris.; 6 mos prob.; $5,000.	6 mos pris.; $2,500	2 mo pris.; 22 mo prob.; $5,000.	1 mo pris.; 11 mo prob.; $5,000.	2 yr prob.; $7,500	$7,500; 2 yr unsup. prob.	$2,500	43
Case 12: Possession of unregistered firearm.	1 yr pris	6 mo pris.; 3 yr prob	3 mo pris.; 21 mo prob.	1 mo pris.; 11 mo prob.	2 yr prob	1 yr prob	6 mo prob	44
Case 13: Possession of counterfeit currency.	1.5 yr pris	6 mos pris.; 2 yr prob.	6 mo pris.; 18 mo prob.	5 yr prob	2 yr prob	2 yr prob	2 yr prob	48
Case 14: Altering a forged U.S. Treasury check.	YCA indet	YCA indet	1 yr pris	4 yr prob	2 yr prob	2 yr prob	1 yr prob	39
Case 15: Operating an illegal gambling business.	1 yr pris.; $3,000	6 mo pris.; 3 yr prob.; $10,000.	3 mo pris.; 2 yr prob.; $5,000.	3 yr prob.; $10,000	2 yr prob.; $10,000	2 yr prob.; $1,000	1 yr prob.; $1,000	45
Case 16: Bank embezzlement.	YCA indet	5 yr prob	3 yr prob	3 yr prob	2 yr prob	2 yr prob	2 yr unsup. prob	42
Case 17: Interstate transportation of stolen securities.	3 yr pris	6 mo pris.; 4.5 yr prob.	6 mo pris	3 yr prob	3 yr prob	2 yr prob	1 yr prob	46
Case 18: Mail theft	6 mo pris.; 18 mo prob.	5 yr prob	3 yr prob.; $100	3 yr prob	2 yr prob	2 yr prob	1 yr prob	48
Case 19: Conspiracy to commit securities fraud.	2 yr pris.; $2,500	6 mos pris.; 2 yr prob.	3 mo pris.; 33 mo prob.; $7,500.	2 yr prob.; $15,000	2 yr prob.; $400	1 yr prob.; $7,500	$2,500	47
Case 20: Perjury	1 yr pris.; $1,000	3 mo pris.; $1,000	3 yr prob.; $1,000	2 yr prob.; $500	1 yr prob.; $1,500	1 yr prob.; $500	$1,000	48

Note: References to "(a) (2)" signify a sentence pursuant to former 18 U.S.C. sec. 4208 (a) (2), under which the defendant is given an indeterminate sentence and is eligible for parole at any time determined by the board of parole. References to "sec. 4209" signify a sentence pursuant to former 18 U.S.C. sec. 4209, under which young adult offenders (under age 26) are given specialized treatment. References to "YCA indet." signify an indeterminate sentence for young offenders under age 22 pursuant to 18 U.S.C. sec. 5010.

Mr. KENNEDY. Mr. President, this is being repeated all over the country. And the disparity between different sections or different circuits is even more dramatic. This is the kind of an issue that we are attempting to address in the sentencing provisions of this legislation.

The basic argument in support of indeterminate sentences is that the pace of rehabilitation varies from offender to offender and the judge must let the parole board make a final decision after treatment.

But rehabilitation, Mr. President, on the basis of the kind of thoughtful review that has really been done over the period of the last 8 to 10 years shows very clearly that this cannot be predicted and, therefore, the offenders make a sort of a Hobson's choice whether to reject the programs and appear to be uncooperative, thus assuring a longer term, or "go along with the game plan" and pretend to respond to various rehabilitation programs.

So we have uncertainty at the first level, which is the uncertainty of sentencing by judges where we get enormous disparity, and then we have disparity in the way that parole boards treat various offenders. Finally, we have disparity where judges attempt to anticipate parole board action thereby raising the sentence that they may give a particular defendant.

None of this is fair. It is not fair to the public in terms of their understanding about how criminals are being treated, and it is obviously unfair to those who are being affected.

The failure of rehabilitation highlights the failure of the indeterminant sentence. Both are grounded on a faulty premise that the prisoner's behavior while in prison is an accurate predictor of how he will behave when released into the community. No such predictions can be made, at least from a statistical point of view. The prison should be used, I believe, to punish a particular offender who violated the law, and we should separate the issues of rehabilitation from that, and we should understand very clearly that distinction.

S. 1437 recognizes this. The indeterminant sentencing is phased out and sentencing guidelines are established to guide the judges.

As the guidelines point out, a variety of different factors are considered and applied. There is predictability, and there is a clear understanding.

"Good time" at the present time can be taken away from any particular offender. An individual can be in prison for a long period of time, and then have some prison infraction, and all of his good time will be lost; we dramatically reduce the good time with the idea again of making the sentence more understandable and predictable but we keep 3 days of good time per month and—this is important—we vest that good time so that cannot be taken away by the prison authorities.

Mr. President, S. 1437 does not eliminate rehabilitation programs. Indeed, they should be expanded.

We have a gradual phaseout of parole. We have to leave it in the bill for exceptional circumstances, circumstances where the judge makes specific findings on the record. As I indicated, I think there will only be those circumstances that are medical in nature, where an individual needs some particular kind of medical treatment. The most classic example of that would be in terms of the rehabilitation of drug addicts under extraordinary circumstances.

We also do not phase out or abolish the parole board. We still need it for the rare cases of parole in the bill, and for the offenders currently in prison, and for the post-release care of offenders returning to society. There is a function for it. It is going to have a more narrow role, but there certainly is a function, and again it will be necessary to preserve it.

There are those who would like to abolish the parole board completely, and abolish the opportunities for parole. We have balanced these various factors.

Today Federal correction policy is unjust and arbitrary. Perhaps, more important, it is perceived to be unjust by both the prisoner and society. S. 1437 breaks with the correctional myths of the past, and offers a blueprint for reform based upon the idea that prisons cannot cure.

It ends an unfair policy, a policy based on the best of intentions, and it replaces it with a new system grounded in the knowledge that we do not yet know how to mold or predict our human behavior.

I think what we are attempting to do is to get certainty for the defendants and for the public, and this legislation does that in a very important and significant way. That is one of the important reasons for supporting S. 1437.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. SCOTT. Of course.

ORDER FOR ADJOURNMENT TO 11:30 A.M. ON MONDAY, JANUARY 23, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11:30 a.m. on Monday and that the call of the calendar be waived on Monday and that no resolution under the rule come over on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMPTION OF UNFINISHED BUSINESS ON MONDAY, JANUARY 23, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business with Senators permitted to speak up to 3 minutes each, lasting until 12 o'clock noon, at which time the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Virginia.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alabama will state it.

Mr. ALLEN. Did not the Chair announce the pending business is the first committee amendment?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, a lot of reform bills come before the Senate. At least the word "reform" appears in the titles of the bills. I suppose that adds a good connotation, something like the cowboy with the white hat. However, the Criminal Code Reform Act now before us seeks to embrace too much in one measure. It is a lengthy bill of some 382 pages with conforming amendments adding an additional 333 pages. The report consists of 1411 pages.

Now, Mr. President, I realize that the bill has been studied for a long time but I wonder whether any Senator, any Member of this body, understands everything that is in this bill. Most of us would agree as to the need for a technical modernization of the Criminal Code but this could be done without any considerable controversy in the event it were separated from the remainder of the bill.

Many Members of the Senate are lawyers although some have not practiced in the criminal field, and others are not members of the bar. Yet this large, comprehensive measure was presented to us yesterday at the opening of this new session of Congress, the first order of business. The bill presents many novel and questionable approaches to the criminal justice system of the country. It has been said that it is the first comprehensive revision of the Federal criminal code in 200 years. Does it not then seem reasonable to consider the bill carefully, to enable every Senator ample time to review the component parts, all provisions of the bill, rather than to be rushed to a vote on a matter of such continuing significance?

Mr. President, would it not result in better legislation if new provisions of the bill were separated from the general recodification and each new provision was considered on its own merits rather than to have a composite bill that Senators will vote on without a full understanding of this large, comprehensive measure?

For the record I would like to list a few sections I find personally objectionable and will offer amendments to revise or eliminate.

I might mention, Mr. President, that I have asked to have printed, and I suppose they have been printed, 28 amendments. I have two additional amendments that I would propose at the proper time, making a total of 30 amendments to the bill.

First, the bill presents a new basis for an appeal. It creates an appellate review of the sentences meted out by the trial court. To me this is a step backward, because I believe that the trial judge has an opportunity to observe the happenings within his court, the mannerisms of the defendant, the witnesses, and many things that cannot be grasped by an appellate judge from a reading of a transcript of the record.

Many of us here in this Senate could write some sort of a book on the proceedings in the Senate, what goes on here, but could any individual reading a book learn the things that we learn in our service as Members of the U.S. Senate?

I say the same thing is true of a trial judge who hears everything that happens in his courtroom during the trial of a case and an appellate judge who reads the record of what happens, it is the difference between night and day.

The trial judge is in a far better position to determine whether or not a convicted felon should be given a short or a long term in the penitentiary or if, in fact, justice would be served by eliminating a confinement entirely. At a time when our court dockets are crowded, it would not appear that an expansion of the duties of an appellate judge, a review of a sentence by less knowledgeable judges—not less qualified, but less knowledgeable as to the particular case—would really reform our criminal justice system or expedite the flow of cases through our Federal courts.

Despite the size and the complexity of this proposal, it fails to address itself to the death penalty, a measure about which citizens have been concerned since the first Supreme Court decision finding that many capital offense statutes were contrary to the Constitution. It also appears that the bill lessens the periods of imprisonment for various offenses. What Senator has not had pleas from constituents requesting longer prison terms for convicted felons at a time of increasing criminal activity? However, I understand that the bill does create numerous substantive criminal offenses. Some have been subject to controversy and should at least be mentioned. Section 1003 creates a new offense of solicitation. It would make it a criminal offense to contact another person about a criminal act. Of course, under our system of justice an overt act must generally be taken in the direction of a crime for either conspiracy or attempt, to be proper. Does the new provision effect a major change in our criminal justice system by providing that a person can be convicted without an overt act? Does it violate constitutional principles, freedom of speech for example?

Mr. President, a provision that I believe unnecessary and undesirable is chapter 58. This is one of the amendments that I would propose that would strike chapter 58 in its entirety and make appropriate technical amendments in the remainder of the bill.

This begins on page 349 of the bill, and provides for the establishment of a Sentencing Commission.

The Sentencing Commission would be composed of seven members, four to be appointed by the President and the remainder by the Federal Judicial Conference. As we know, article II of the Constitution provides that the President shall have the general power of appointment with the proviso that the appointment of inferior officers can be made without the advice and consent of the Senate by the courts or by the heads of departments if Congress so provides.

Therefore, the question presents itself as to whether or not members of the proposed Sentencing Commission are inferior officers. The Library of Congress a few days ago prepared a legal memorandum on the constitutionality of the proposed method of appointing members of the Sentencing Commission. They discussed in detail the recent Buckley case, *Buckley* v. *Valeo* 424 U.S. (1) 1976. It is a 16-page brief which concludes with these words:

The members of the proposed United States Sentencing Commission will have "significant authority pursuant to the laws of the United States" and thus are "officers of the United States" under the Supreme Court's ruling in *Buckley* v. *Valeo*. Such officers are required to be appointed in accordance with the prescription of Article II, section 2, clause 2, of the Constitution, the Appointment Clause.

I will read it in its entirety for the RECORD, Mr. President. I think we are all familiar with it.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, and he shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and counsel, judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for and which shall be establised by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

So it makes a distinction there between inferior officers and others who must be appointed by the President, with the advice and consent of the Senate.

Again, I read from the concluding paragraph of the Library of Congress research memorandum:

Appointment of three members by the Judicial Conference does not appear to

comply with that clause since that body is not a court. Further, if the proposed method of appointing three members of the Commission is invalidated, the entire Commission may be invalid also since a full complement of seven members appears integral to the legislative scheme.

Mr. President, I propose to offer an amendment to strike chapter 58 in its entirety and would urge that the amendment be adopted.

I am told that the leadership would prefer that we not have rollcall votes today. I am prepared to offer the amendment today, or would be glad to offer it on Monday or such time next week as it can be fitted into the schedule. But should it fail of adoption, I propose to offer an amendment to provide that all seven members of the Sentencing Commission be appointed by the President, which is in accord with the power of appointment provided for in article II of the Constitution. As Senators will recall, the Buckley case involved the appointment of Federal Election Commission members by the Congress and the court found that such appointments by the legislative branch of government was unconstitutional. Is it not reasonable to assume that similar appointments by the Judicial Conference, an association of judges, not a court, would be even more objectionable than appointment by the Congress, one of the three co-equal branches of government? In order that Senators may have an opportunity to review the research paper prepared by Morton Rosenberg of the Congressional Research Service, I have duplicated a few copies and ask unanimous consent, Mr. President, that the memorandum be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CONSTITUTIONALITY OF METHODS OF APPOINTING MEMBERS OF A PROPOSED UNITED STATES SENTENCING COMMISSION

(By Morton Rosenberg, Legislative Attorney)

This report considers the constitutional questions are raised by the method of appointing three of the seven members of a proposed United States Sentencing Commission to be established by section 991 of S. 1437. Four members of the Commission, which will have the substantial responsibility of establishing sentencing policies and practices for the entire Federal criminal justice system, are to be appointed by the President with the advice and consent of the Senate. One of the four is to be designated and confirmed as chairman. The remaining three members are to be designated by the Judicial Conference. The Judicial Conference is composed of the Chief Judge of each circuit Court of Appeals, a district judge from each circuit elected by the circuit and district judges for a term of 3 years, the Chief Judge of the Court of Claims, the Chief Judge of the Court of Customs and Patent Appeals, and the Chief Justice of the United States who serves as chairman. The Judicial Conference functions as the governing body for the administration of the Federal Judicial system as a whole, suggesting changes in the rules of practice and procedure for the lower courts to the Supreme Court and continually surveying the condition of business of the United States courts, among other duties. 28 U.S.C. 331 (1970). The questions squarely presented are whether: (1) the members of the Sentencing Commission are officers of the United States; (2) if so, whether the method of appointment prescribed by the bill is in accordance with the requirements of Article II, section 2, clause 2 of the Constitution; and (3) if the method of appointment of three members of the Commission is invalid, the entire Commission must fall as well.

I.

The appointments clause of the Constitution, Article II, section 2, clause 2, designates the manner by which certain government officials shall be nominated and appointed. That clause provides that:

"The President shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

Since the adoption of the Constitution there have been relatively few cases involving the import or reach of the language of the clause and none until 1976 which could be said to have rendered a definitive judicial explication of its text. Indeed, during the period from 1920 to 1975, which saw an enormous growth in the Federal bureaucracy and a concomitant extension of the President's power of appointment to thousands of major and minor offices and positions, the most significant rulings relating to the clause involved the question of the limits of the Chief Executive's removal power.[1]

However, in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Supreme Court presented its first detailed analysis of the appointments clause. In that case the Court ruled that the manner of appointment (designation by congressional officers and approval by both Houses) of the voting members of the Federal Election Commission, in whom primary and substantial responsibility had been vested for administration and enforcement of the Federal Election Campaign Act of 1971,[2] as amended,[3] was unconstitutional. During the course of its decision the Court wholly redefined the constitutional concept of Federal officer and for the first time supplied substantive meaning to the constitutional terminology.

An immediate consequence of the High Court's decision is that it has called into question the validity of the tenure of a host of government officials whose appointments deviate from the limited prescription of Article II, section 2, clause 2. In the words of one recent commentary, "[T]he Supreme Court in *Buckley* has opened up a Pandora's Box of surprises with respect to the uncertainty of the legitimacy of past appointment of a large number of high-ranking government 'Officers'."[4]

II.

Buckley v. *Valeo* involved constitutional challenges to key provisions of the Federal Election Campaign Act of 1971, as amended in 1974. Of greatest relevance to the instant inquiry is the challenge to the constitutionality of the mode of appointment of the commissioners constituting the governing authority under the Act. The eight member Federal Election Commission, which was created by the Congress by the 1974 amendments, was given substantial powers and responsibilities in administration, oversight, and enforcement of the Act including record keeping, disclosure and investigative functions with respect to candidate compliance with campaign financing reporting requirements.

Footnotes at end of article.

Of the eight members of the Commission two—the Secretary of the Senate and the Clerk of the House—were ex-officio members without the right to vote. Two members were appointed by the President pro tempore of the Senate, two by the Speaker of the House, and two by the President. Each of the six voting members had to be confirmed by a majority of both Houses of Congress.

The Commission's powers fall into three general categories: those functions relating to the flow of necessary information (its receipt, dissemination and investigation); those functions respecting the Commission's task of giving meaning to and administering the substantive directions of the statute (through rulemaking, advisory opinions, and determining eligibility for Federal funds); and those functions necessary to ensure compliance with the statute and the rules promulgated thereunder (by informal procedures, administrative determinations and hearings, and civil suits).

The Supreme Court in *Buckley* held invalid the conferral of all but the investigatory and informative responsibilities of the Commission on the ground that the process through which the six voting members were appointed and confirmed did not comport with the provisions of Article II, sec. 2, cl. 2 of the Constitution and therefore the commissioners were not "officers of the United States" within the executive branch of the Federal Government competent to receive the power conferred. The Court reached this conclusion in the following manner.

After sketching in the general principles of the doctrine of separation of powers, the Court unanimously determined that the appointments clause provided the only authority for the appointment of "officers of the United States," which was in turn determined to be a phrase of substantive meaning. "That all persons who can be said to hold an office under the Government about to be established under the Constitution were intended to be included within one or the other of these modes of appointment there can be little doubt." *United States* v. *Germaine*, 99 U.S. 508, 509–510 (1878), quoted in *Buckley*, supra, 424 U.S. at 125–126. "Officers of the United States," in the Court's view was a term signifying "that any appointee exercising significant authority pursuant to the laws of the United States is an Officer of the United States, and must, therefore, be appointed in the manner prescribed by §2, cl. 2, of that Article." *Ibid.* The Court found it unnecessary to elaborate in depth on the meaning of the "significant authority" standard, instead comparing the office of commissioner with lower level positions found to be "inferior officers" in earlier cases,[5] holding that the commissioners were "at the very least such 'inferior officers' " and that, therefore, the method of their appointment must comply with Article II. 424 U.S. at 126. The majority does make clear, however, that the reach of the appointments clause goes beyond cabinet departments and extends to agencies which merely have "some connection with" the executive branch. 422 U.S. at 127.

Mr. Justice White, in a concurring opinion, attempted to more clearly delineate the boundary between those who wield "significant authority" and those who do not. He found the major criterion for inclusion within the Article II category of "officers" to be the "breadth of [the officials'] assigned functions." 424 U.S. at 269–270. Following a discussion of the Commission's assigned duties and functions, Justice White concluded:

"[I]t is plain that the FEC is the primary agency for the enforcement and administration of major parts of the election laws. . . . [W]ithin the wide zone of its authority the FEC is independent of executive as well as Congressional control except insofar as cer-

tain of its regulation must be laid before and not disapproved by Congress . . . With duties and functions such as these, members of the FEC are plainly officers of the United States as that term is used in Art. II, Sec. 2, cl. 2. (424 U.S. at 270)."

The Court's majority could find no other authority in the constitution than the appointments clause upon which to found the mode of appointment claimed by the Congress. Congress' power under Article I, § 5, to judge the elections, returns, and qualifications of its members and its power under the Twelfth Amendment to count the electoral returns for President were deemed "judicial in character" and thus not conferring any substantive legislative power. The authority found in Article I, § 4, empowering Congress to regulate the times, places, and manner of congressional elections was substantive but it did not extend Congress' power to legislate in contravention of limitations upon its authority and conferrals of authority on the other branches, any more than did any grant of substantive legislative power to Congress. Finally, the necessary and proper clause of Article I, § 8, cl. 18, was held not to extend the substantive legislative authority already possessed beyond its prescribed limitations. 424 U.S. at 131–139.

The appointments clause was, therefore, a substantive limitation that precluded Congress from selecting four of the six voting members of the FEC and that precluded the House of Representatives from joining the Senate in the confirmation process,[6] unless the Commission was given only such powers as those that could be exercised by persons not "officers of the United States." The Commission, it was determined, had been given basically three types of powers.

First, the investigative and informative powers were of the kind that either House could delegate to one of its committees. Since such power could be received by appointees and designees not in the executive branch, the Commission as constituted could continue to exercise them. 424 U.S. at 137–138.

Second, the Commission's "primary responsibility for conducting civil litigations in the courts of the United States for vindicating public rights" could "be discharged only by persons who are 'Officers of the United States' . . ." 424 U.S. at 140.

"The commission's enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A law suit is the ultimate remedy for a breach of the law, and it is to the President, and not to the Congress, that the constitution entrusts the responsibility to "take Care that the Laws be faithfully executed." 424 U.S. at 138.

Third, the Commission's broad administrative powers could be exercised only by "officers of the United States." The authority to make rules, to issue advisory opinions, to determine eligibility for Federal funds—

"Are more legislative and judicial in nature than are the Commission's enforcement powers, and are of kinds usually performed by independent regulatory agencies or by some department in the Executive Branch under the direction of an Act of Congress. . . . [E]ach of these functions also represents the performance of a significant governmental duty exercised pursuant to a public law. . . . [N]one of them operates merely in aid of congressional authority to legislate or is sufficiently removed from the administration and enforcement of public law to allow it to be performed by the present Commission." 424 U.S. at 140–141.

In summary, the Court in *Buckley* greatly expanded the class of "officers of the United States." It did so by giving that term substantive content, defining it to include all those persons exercising some significant governmental authority. Such authority would include duties and functions relating to the administration and/or enforcement of public laws but would not encompass duties or functions which operate merely in aid of the legislative function such as investigations or information gathering. The Court also took pains to make it clear that such offices could be located elsewhere than under the hierarchical control of the cabinet departments. If it is found that a person is exercising the requisite quantum of "significant authority pursuant to the laws of the United States," he must have been appointed in the manner prescribed by Article II, section 2, clause 2, i.e., appointment by the President with Senate consent, or by the President alone, the courts, or the head of a department except where a selection is governed by a constitutional provision other than the appointments clause.

III

Commission members will plainly exercise "significant authority pursuant to the laws of the United States" and therefore fall within the ambit of *Buckley's* definition of officer of the United States. The prescription of Commission duties detailed in section 994 demonstrates that its actions will have broad substantive effects. The Commission will issue guidelines for sentencing which will provide the framework for decision of sentencing courts throughout the Federal judiciary. They will aid in determining whether a convicted defendant will be sentenced to probation, pay a fine, or to a term of imprisonment. The Senate Committee Report on the provision (S. Rept. No. 95–605, Part I) characterizes these duties as "The extraordinary powers and responsibilities vested in the Commission". S. Rept. 95–605, p. 1160. The authoritative nature of the guidelines to be promulgated by the Commission is underlined by the fact that a sentence that is inconsistent with the sentencing guidelines is subject to appellate review. See section 3725 of title 18, United States Code, as added by S. 1437, as reported.

As officers of the United States, the Commissioners must be appointed in the manner prescribed by the Appointments Clause, i.e., presidential appointment with Senate consent, or by the President alone, the courts, or by the head of a department. Although four members properly fall within the first mode, the three appointed by the Judicial Conference do not. Quite obviously there is no appointment by the President alone or by a department head. Further, although the Judicial Conference is entirely composed of Federal judges, it is in no constitutional sense a court; it performs, as indicated above, advisory rather than judicial functions. Thus while an appointing power could be vested in the Supreme Court, appellate courts, or individually in district courts, for example, reposing such authority in an advisory or administrative body composed of such judges does not appear clearly contemplated by the Constitution.

IV

Finally, the question of severability—that is, whether the Commission may continue in existence absent the three members selected by the Judicial Conference presents a more difficult question. In *Buckley* the Court faced this problem as result of its invalidation of the spending limitations of Subtitle H, the question being whether that Subtitle could be severed from the general public financing provisions of the Act. Quoting from its decision in *Champlin Refining Co.* v. *Corporation Commission*, 286 U.S. 210, 224 (1932), the Court stated its rule on severability as follows: "Unless it is evident that the Legislature would not have enacted those provisions which are within its power, independently of that which is not, the invalid part may be dropped if what is left is fully operative as law." Applying that rule the Court found that "the value of public financing is not dependent on the existence of a generally applicable expenditure limit," and allowed severence from those portions of the Act found constitutionally infirm. *Buckley*, Ibid, 102–103. In another context the Supreme Court has noted that "the cardinal principle of statutory construction is to save and not to destroy." *Tilton* v. *Richardson*, 403 U.S. 672 (1971).

But the Court has been reluctant to effectively re-write the provisions of a statute in order to save it. ". . . we must take these sections of the statute as they are. We are not able to reject a part which is unconstitutional, and retain the remainder, because it is not possible to separate that which is unconstitutional, if there be any such, from that which is not. The proposed effect is not to be attained by striking out or disregarding words that are in the section, but by inserting those that are not now there. . . . This would, to some extent, substitute the judicial for the legislative department of the Government. . . . To limit this statute in the manner now asked for would be to make new law, not to enforce the old one. This is no part of our duty." *United States* v. *Reese*, 92 U.S 214 (1875). See also, *Butts* v. *Merchants and Miners Tranp. Co.*, 230 U.S. 126 (1913); *United States* v. *Raines*, 362 U.S. 17 (1960).

Nor does the existence of a severability clause, such as is found in section 131 of title IV of S. 1437, resolve the issue. The Supreme Court has stated that while such clauses raise a presumption that the legislature could have been satisfied with what remained, "the ultimate determination of severability will rarely turn on the presence or absence of such a clause." *United States* v. *Jackson*, 390 U.S. 570, 585 n. 27 (1968). Similarly, the leading commentator on statutory construction has remarked that while such cases are decided in the light of established principles, in the end "each decision rests largely upon its own peculiar facts." 2 Sutherland, *Statutory Construction*, sec. 44.20, p. 368 (Sands ed., 1973).

The question would appear to boil down to how much importance Congress placed on having a full complement of members a part of the implementation structure of the legislation—were they meant to be an integral body and thus an inseparable part of the statutory scheme?

A substantial argument may be made that the Senate Committee reporting the bill (the only official legislative commentary thus far) viewed the diversity of opinion that would be reflected on the seven member commission as absolutely essential to developing guidelines that would embody a valid consensus of views. Section 991 of the proposed bill specifically mandates: "The Commission shall have both judicial and non-judicial members and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the criminal justice process". The Report emphasizes the need for such diversity as is illustrated by the following excerpts:

"Subsection (a) establishes the United States Sentencing Commission as an independent Commission in the judicial branch. The concept of a sentencing commission was suggested by the Workshop on Parole and Sentencing at the Yale Law School and proposed in legislation sponsored by Senators McClellan and Kennedy, among others. Placement of the Commission in the judicial branch is based upon the Committee's strong feeling that, even under this legislation, sentencing should remain primarily a judicial function. At the same time, however, the Committee believes that the other branches of government have a strong interest in assuring fair and effective sentencing. The Executive is, of course, charged

Footnotes at end of article.

with assuring that the laws, including criminal laws, be faithfully executed; and it is the legislature that is charged with setting the broad framework in which judicial sentencing is to take place. For these reasons, and to assure a broadly representative membership, the Committee has provided that four of the seven members, including the member who is to be Chairman, are to be appointed by the President with the advice and consent of the Senate. The Chairman is to be appointed as such, and will remain Chairman for the duration of his term unless removed from office for malfeasance. The remaining three members are to be designated by the Judicial Conference of the United States. All members are removable for malfeasance in office by their respective appointing or designating authority.

"The Committee rejected suggestions that each of the seven positions be designated to represent a particular interest or aspect of the criminal justice process. The Commission should be a body which can cooperate in the promulgation of clear and consistent sentencing policy. Specific provision for "representatives" of opposing ideologies or interests could well encourage doctrinaire in-fighting and effectively paralyze the Commission's activities. Obtaining a diversity of views on sentencing has never been a problem, as is abundantly clear from the hearings before the Subcommittee on Criminal Laws, and Procedures. The challenge for the Commission members will be to fashion a consensus of sentencing policy despite their differences in perspective. Some degree of diversity in membership is specifically provided by the general direction to the appointing and designating authorities in subsection (a) that the "Commission shall have both judicial and non-judicial members and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the criminal justice process".

"The extraordinary powers and responsibilities vested in the Commission, as well as the enormous potential for unparalleled improvement in the fairness and effectiveness of Federal criminal justice as a whole, demand the highest quality of membership. For such a critical position, Presidential appointments based on politics rather than merit, or appointments reflecting the internal politics of the Judicial Conference, would, and should, be an embarrassment to the appointing authority. The Committee is convinced that without superior and professional members the Commission, and indeed sentencing reform, can never achieve the progress so sorely needed.

"The Committee intends, and the important functions to be served by the Sentencing Commission require, the appointment and designation of highly qualified members to the Commission. Because of the complex nature of the functions of the Commission, and in order to avoid potential schedule conflicts for the members, the members' positions are full-time, even if the member is a Federal judge. (S. Rept. 95–605, at pp. 1159–1160.) (footnotes omitted)

Further, it may be argued that under the present structure of the bill, should it be struck down by a court, the Commission may not be able to function as it was intended. Under 994(a) only a majority of the Commission "then serving" can promulgate sentencing guidelines and policy statements. Under section 994(e) only a majority of the Commission (with no qualifying "then serving") can promulgate guidelines and policy statements for use by the United States Parole Commission. The Senate Committee Report makes it quite clear that the language of those sections means that at least four members of the Commission shall affirmatively vote for such guidelines and policy statements:

"SECTION 944. DUTIES OF COMMISSION

"Subsection (a) requires the Sentencing Commission to promulgate sentencing guidelines and policy statements to be used by the sentencing judges in determining the appropriate sentence in a particular case. The sentencing guidelines and policy statements are to be promulgated pursuant to the rules and regulations of the Sentencing Commission and to be consistent with all pertinent provisions of title 18 and 28. Guidelines and policy statements must be adopted by the affirmative vote of at least four members of the Commission." (S. Rept. 95–605, at p. 1163) (footnote omitted)

"Subsection (e) requires the Sentencing Commission by affirmative vote of at least four members to promulgate guidelines (subsection (e)(1)) and policy statements (subsection (e)(2)) for use by the United States Parole Commission. It is expected that these guidelines will be similar in structure to the sentencing guidelines called for in subsection (a)(1), and that they will be consistent with, and indeed complementary to, those guidelines." (S. Rept. 95–605, at p. 1167) (footnote omitted)

Finally, it may be noted that the Committee expected the full complement of members would be necessary to participate on a variety of committees which would aid in carrying out the responsibilities of the Commission:

"The Committee anticipates that the seven members of the Commission will form a number of committees which will have specific delegated responsibilities such as, for example, review of the effectiveness of sentencing policies of the probation and parole guidelines and policy statements, continuing refinement of the guidelines and policy statements, development of legislative proposals in the sentencing area, development and coordination of research studies (including, for example, basic research on sentencing theories as well as applied research on the effectiveness of certain policies), and review of the effectiveness of corrections programs of the Bureau of Prisons in carrying out the purposes of sentences of imprisonment. Such committees could be an invaluable source for developing recommendations for Commission action and for providing the information necessary for informed decision-making." (S. Rept. 95–605, at p. 1160)

In sum, it would appear that if the method of appointing three of the members of the Commission is invalid, then it would seem doubtful, in view of the statutory scheme and expressed legislative intent, that the remainder of this Commission could continue to function as intended by the Congress.

CONCLUSION

The members of the proposed United States Sentencing Commission will have "significant authority pursuant to the laws of the United States" and thus are "officers of the United States" under the Supreme Court's ruling in *Buckley* v. *Valeo*. Such officers are required to be appointed in accordance with the prescription of Article II, section 2, clause 2, of the Constitution, the Appointments Clause. Appointment of three members by the Judicial Conference does not appear to comply with that clause since that body is not a court. Further, if the proposed method of appointing three members of the Commission is invalidated, the entire Commission may be invalid also since a full complement of seven members appears integral to the legislative scheme.

FOOTNOTES

[1] See *Myers* v. *United States*, 272 U.S. 52 (1926); *Humphrey's Executor* v. *United States*, 225 U.S. 602 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1958).

[2] Pub. L. 92–255, 86 Stat. 3.

[3] Pub. L. 93–433, 88 Stat. 1263.

[4] Burkoff, Appointment and Removal Under the Federal Constitution: The Impact of *Buckley* v. *Valeo*, 22 Wayne Law Review 1336, 1366 (1976) (Hereinafter Burkoff).

[5] *Myers* v. *United States*, 272 U.S. 52 (1926) (postmaster first class); *ex parte Hennen*, 38 U.S. (13 Pet.) 230 (1839) (judicial clerk).

[6] Although the Court's opinion is almost exclusively taken up with the congressional appointment of the four members, it is clear that the House confirmation requirement was held invalid as well. At one point, the Court observes that "although two members of the Commission are initially selected by the President, his nominations are subject to confirmation not merely by the Senate, but by the House of Representatives as well." *Buckley*, supra, 424 U.S. at 126. And at another, the Court is concerned with what power may be exercised by the present commissioners, "none of whom *was* appointed as provided by that Clause." 424 U.S. at 137. See also, Note, Congressional Power Under the Appointments Clause After *Buckley* v. *Valeo*, 75 Mich. L.R. 627, 638 (1977).

Mr. SCOTT. Mr. President, I do not have any further comment at this time with regard to the bill generally. I see that the distinguished minority whip, the Senator from Alaska, is here, and I understand that he wishes to make some comments.

I do propose to consider all 30 of these amendments. Some of them may well not be offered; some may be in the alternatives; but they are serious amendments, and I am going to ask for rollcall votes on each amendment that is offered.

I yield the floor.

Mr. KENNEDY. Mr. President, I appreciate the Senator from Virginia speaking on these matters, summarizing the arguments for the amendments he intends to offer; and I look forward to debating those more extensively at the time the amendments are offered. We are prepared to consider them at any time and, as far as I am concerned, to vote on any of them, if the Senator so desires, this afternoon or any other time.

I do not intend to respond to all the points that were raised; but I mention to the Senator from Virginia, on the whole question of appeal of sentences, that such appeals are endorsed by the Judicial Conference, made up of judges who understand their workload.

It has long been endorsed by one of the most distinguished members of the Committee on the Judiciary, former Senator Roman Hruska, for 12 years. I have differed with Roman Hruska on many issues. However, as one who followed this whole issue, the burdens on the courts, and the whole judicial process, and probably studied these issues as much as any other member of the Judiciary Committee, he has made an impressive and impassioned plea for this type of review. Chief Justice Burger's annual report, also gives strong support for it.

As Senator Hruska mentioned in his testimony before the committee:

It was my thought, in the bills that I had introduced—

Referring to appellate review—

that there should be appellate review with proper procedural requirements available to anyone who is convicted of a crime.

Indeed, we do not go that far. He would have it apply to anyone. He said:

The basis of that—and it is perhaps the most persuasive argument in favor of it—is that America is the only civilized country that I am aware of that does not have some form of appeal of sentence. We are the only country, Mr. Chairman, in which the word of one man is not supervised, is not reviewed, and is totally uncontrollable as it now stands, barring only those wide ranges in which the sentence may be imposed.

Powerful words from a person who gave a great deal of study to this issue.

Mr. President, there are other Members here who have amendments. I appreciate the willingness of the Senator from Virginia to outline his principal areas of interest and concern. Many of the matters he has raised should be discussed and should be debated on the floor. I look forward to the opportunity to go into greater detail on those issues with the Senator from Virginia.

Mr. ABOUREZK. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. ABOUREZK. I wonder whether the Senator would be willing to take up and consider accepting a sort of technical amendment I have.

Mr. SCOTT. Mr. President, I wonder if the distinguished Senator will withhold that so I may make a very brief response to the distinguished Senator from Massachusetts.

Mr. ABOUREZK. I am happy to yield.

Mr. SCOTT. Mr. President, I appreciate the comments of my distinguished colleague from Massachusetts and I do have a statement that elaborates on this sentencing appeal that is being typed up in the office now. It will be ready and could be offered later today. I am not anxious to offer it today. I am willing to offer it at any time. But I might say, in response to the comments, that members of the Judicial Conference have asked for this without any solicitation on my part. I have had several trial judges, Federal District Court judges, approach me and talk with me about this matter, and they feel that it is offensive to them, when they sit in a courtroom, hear all of the testimony, observe the defendant, observe the witnesses, when they just have everything before them, to have someone look at a transcript, or excerpts from a transcript I believe is what the bill provides, and then review and if they see fit change the sentence.

So this is a matter that I believe should be debated on the floor of the Senate, and I am prepared to debate it at greater length and at another time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator from South Dakota seek recognition?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I understand the committee amendments have not yet been agreed to. So I have a kind of a technical amendment that I want to offer. So I ask unanimous consent that this amendment be in order at this time.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, and I am not sure whether I shall object or not, will the distinguished Senator just state briefly the substance of his amendment?

Mr. ABOUREZK. Yes.

It is on page 352 of the bill. On lines 4 and 5, strike the words "25 percent" and substitute in lieu thereof, "12 months or 25 percent, whichever is greater."

During the committee markup, if the Senator will recall, the committee accepted one of my amendments that set a range of not more than 25 percent differentiation in sentencing. The trouble is when you get down below 4 years of sentencing, 25 percent does not mean all that much. So I am just inserting a 12-month period or 25 percent whichever is greater. It kind of gives better flexibility.

Mr. SCOTT. That would not have anything to do with any appeal of sentencing in any way, would it?

Mr. ABOUREZK. No, it would not.

Mr. SCOTT. I withdraw my reservation.

Mr. ABOUREZK. I have discussed it with the managers of the bill and they are willing to accept it.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, this would not supplant the first committee amendment from being the pending business, would it?

The PRESIDING OFFICER. No, it would not.

The Senator from South Dakota then does seek unanimous consent for his request?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1089

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes unprinted amendment numbered 1089.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 352, lines 4 and 5, strike "25 percent;" and substitute in lieu thereof the following: "12 months or 25 percent, whichever is greater;".

Mr. ABOUREZK. I have already given the explanation for this amendment. The manager of the bill has agreed to accept it.

It would give a little better definition of sentences which are under 4 years, because, when you consider a 2-year sentence of some sort, if you try to figure 25 percent of that, you do not come up with a proper balance. This would balance it better.

Mr. KENNEDY. Mr. President, the amendment makes a good deal of sense, because one of the important aspects of this whole legislation is dealing with regulatory crimes, particularly in areas, for example, of pollution, clean air, food, and other laws which carry a 1-year sentence. A 25-percent range for 1-year crimes does not make much sense. So this is an important amendment, and it is justified.

I think the 25-percent idea, which was the original Abourezk amendment, strikes the proper balance except for the lesser offenses. The way I view the amendment it is going to be targeted and primarily used in those areas. It seems to me to be consistent with earlier decisions made by the committee.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. SCOTT. Mr. President, I appreciate the Senator yielding, and I am not going to offer any objection to this amendment, but, when Senator THURMOND, the ranking minority member of the committee, asked me to come here and to substitute for him I told him that I was wholeheartedly opposed to this bill generally and, if I did act as the minority floor manager for the time being, I would probably object to every amendment offered unless there were a full discussion. I am not going to do it as to this, but I mention this reservation merely so that the floor leader for the majority will know that objection will be made to future amendments today that are not fully discussed.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, yesterday we discussed an amendment offered by Senators ALLEN, CRANSTON, and myself. I would like to make a few comments at this time about amendment No. 1648.

I believe it is not only important, but mandatory, that we establish right at the beginning of our debate on S. 1437, the principle that the new Federal Criminal Code must not unduly expand the criminal jurisdiction of the Federal Government or infringe on the rights and liberties of the American people.

This amendment would delete section 112(a):

(a) CONSTRUCTION IN GENERAL.—The provisions of this title shall be construed in accordance with the fair import of their terms to effectuate the general purposes of this title.

I do not think that anyone will be surprised to learn that the report on this section states:

The rule would repeal whatever vestiges remain in the Federal system of the artificial canon of 'strict construction' under which the court is obligated to adopt the narrowest possible view of the language used by Congress in a criminal statute.

I do not believe that the present law of strict construction which has been

the law of the United States for 200 years should be changed, particularly in light of the proposed revised criminal code. I most highly commend the committee for their long and hard work in drafting this revised criminal code but I do not think we should ignore the fact that there is at least a possibility, if not a certainty, that there are some ambiguous and overly encompassing provisions in the bill which will require interpretation by a court. We must apply at least this minimum safeguard to protect the rights and liberties of the American people as well as carefully studying its provisions. To do any less, is to put American citizens in danger of being punished for acts of which they have no notice of criminality.

The reform of the Federal Criminal Code is consistent with preserving individual rights and I applaud this ambition. I believe however, that we must be most careful to tip the scales on the side of freedom, rather than to increased Government power.

Mr. President, I served for over 3 years as a U.S. attorney, and I had many occasions to present criminal cases to grand juries. Those people who feel they have been offended by actions of other citizens, and even grand juries, are inclined to try to stretch the criminal law to include conduct which previously had not been considered to be criminal in an attempt to punish what they consider to be offensive actions in terms of the light of peculiar circumstances in the community at a particular time.

I think unless all people are put on notice that this new code is going to follow the concept of strict construction, then U.S. attorneys may try to stretch this code to encompass actions which we do not intend to make criminal. In most instances, I presume, a trial jury and a trial court would do their best to restrict such actions.

This would lead to harassment of our people and consequently to a denial of freedoms, particularly the freedom from being charged with a crime based on an extension of the intent of Congress in the promulgation of this new criminal code.

As one who has tried to enforce the criminal statutes of the United States, I think this code is a step in the right direction, but I hope that our intention is very clear to the courts. We are not delegating to them any of the prerogatives of Congress to define what is a crime in the United States. There is no room left in this code for a court to determine that Congress intended to make an act a crime which, in fact, was not considered by us to be a crime at all.

We should be very wary of infringing upon the rights and liberties of our people when we deal with criminal statutes.

I know the Senator from Massachusetts has indicated he intends to attempt to work out some compromise on this position. For myself I might state that compromise would be acceptable as long as it is understood that the principle of strict construction is, in fact, the intent of the Senate in passing his new criminal code.

Mr. KENNEDY. Mr. President, I welcome the comments of the Senator from Alaska. I think he stated very, very well what we are attempting to achieve with this redrafting of the criminal code—language which is clear and understandable to the average American citizen.

As we state in the general purposes of the bill, and reiterate in the bill, we want to insure "notice of conduct that indefensibly causes or threatens harm to those individuals" by those people who are going to violate the law.

But, Mr. President, we are not trying in this code to alter or change the rule of construction of criminal statutes which has been defined and upheld by the Supreme Court of the United States. I want to make this very, very clear.

The language we used in this section of the bill, in section 112, provides:

> The provisions of this title shall be construed in accordance with the fair import of their terms to effectuate the general purposes of this title.

As I mentioned yesterday, it is language which was taken from the model penal code that is now being used by some 23 States.

Since it is being used by some 23 States, we accepted this particular principle.

We believe, and the Justice Department's memorandum points out, that section 112 is current law. The Supreme Court has ruled on this.

Our only purpose in section 112 is to state current law, not add anything additional, not alter it, not change it, not vary it, in any way in which it would endanger the civil liberties of individuals.

That is why when the amendment was offered yesterday to this particular provision it seemed to us to be consistent to either strike the whole section and let current law stand, which would be agreeable to us, or leave the language which we have, which would be "construed in accordance with the fair import of their terms," and then add "and in light of the principles that penal statutes are to be strictly construed."

So we can do either of two things. But at least I think a case can be made that if we strike our language and just put this amendment language in it may alter or vary what is the current state of the law.

We want to restate the existing law, and we believe that either by striking the whole section or by adding that phrase we would be doing so.

Hopefully we can resolve this question without spending a great deal of time on it. It is of some importance; I think the people who have raised this issue are raising an important point, but I think it can be remedied. At least I hope it can. Perhaps it cannot be done this afternoon, but if we have to, we can work it out with consultation with the Senator, perhaps over the weekend, and a satisfactory solution can be arrived at.

Mr. STEVENS. Mr. President, I might state to the Senator that, for myself, I think the suggested solution would be sufficient.

Mr. KENNEDY. Good.

Mr. STEVENS. I think we will have to discuss it with the other sponsors of the amendment.

I think those attorneys involved in enforcing the U.S. Criminal Code ought to be put on notice at the very beginning that we are not changing the concept of strict construction. They should not be taking further action in the area of expansion of the statutes in order to accomplish something a particular community might think is criminal when it in fact, was never intended to be interpreted as criminal. To allow that would result, I think, in a greater volume of litigation in the criminal courts and a greater burden on the courts of the United States, which I do not think the committee intended and I am sure the Senator from Massachusetts did not intend.

I think in preserving the status quo as far as notice to the courts themselves is concerned, we are not expanding the prerogative of the courts to extend this criminal code.

So I would hope we would not delete the language. If it is possible to work out a compromise provision which encompasses the general language that is in the model code and at the same time preserve the traditions of the U.S. courts in terms of strict construction, that would be acceptable to me.

Mr. KENNEDY. Fine. That is exactly what we are trying to do with the language, and we will consult with the Senator in trying to achieve that goal the best way we can.

Mr. STEVENS. I thank the Senator.

Mr. SCOTT. Mr. President, I send an amendment to the desk and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. ALLEN. Mr. President, I ask unanimous consent that the name of the distinguished junior Senator from Arkansas (Mr. HODGES) be added as a cosponsor to amendment No. 1648.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, might we have the first amendment by the committee read at this time?

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read as follows:

> On page 1, line 9, strike the word "Federal."

Mr. ALLEN. Mr. President, this seems to be a simple amendment that should not occupy the time of the Senate for a great while. Even though this bill has been before the Senate now for the second day, yet this amendment, which is the first order of business, has not been considered and has not been discussed.

As a matter of fact, this is the first time that the amendment has been read.

The bill, as introduced, referred to this whole body of the revision of the Federal criminal law as the Federal Criminal Code. That would certainly seem to be what it is or should be. The committee, in its wisdom, for some reason or other, seeks to knock out the word "Federal," leaving only "Criminal Code." I am wondering just what that means, to refer to this tremendous document that we are to end up with as "Criminal Code" rather than "Federal Criminal Code."

Does that mean, Mr. President, that this bill seeks to reach out beyond the present jurisdictional area of Federal law and take the prosecution of offenses that are not now violations of Federal law, but are violations of State law? Does that mean that we do not like the word "Federal," that we are seeking to eliminate that, that some sort of stigma attaches to the word "Federal"? I hope not.

Does it mean that we are possibly abandoning our Federal system or moving in the direction of abandoning our Federal system? I certainly hope not.

I note that we have a tremendous volume of work ahead of us here, in the Senate, because we are going to have to consider each and every one of these amendments separately. Some are not amendments of substance, but many are. I do not feel that there is any great substantive value in this amendment, knocking out the word "Federal." I am wondering if, in order to expedite the business of the Senate, to let us go on and consider some of these amendments—and I believe, glancing through the bill at the places where the bill was amended in the committee, it looks like we might have upwards of 100 amendments, maybe considerably more. Since we have not even voted on the first committee amendment, even though this is the second day we have been considering this bill, I am wondering if we might not agree by unanimous consent that this amendment of the committee might be laid upon the table and we proceed, then, to the second amendment.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. SCOTT. Mr. President, I assume that this title 18 is a part of the United States Code and it would be the criminal portion of the United States Code. I see no objection, frankly, to eliminating the word "Federal," provided that there is a general understanding that we are not thinking of changing our form of government from a federal government to a national form of government.

I believe in our dual system of sovereignty. I believe in our federalism. I believe we have a federal system of government. I assume there is no implication here that, in any way, we want to go from a federal system to a national system and do away with the rights that are vested in the States.

I assume that there was no thought of doing this, that this is, really, just a technicality because it is a part of the United States Code that the committee—and I was not present when this was done. I do not have any objection at all to striking the word "Federal," as long as we make the legislative history that we are not changing our form of government from a federal system to a national system.

I do not think anybody had any ulterior motive in striking out the word "Federal," at all. It is part of the United States Code, it is the criminal portion of the United States Code. It is title 18 of the United States Code and the word "Federal," would appear, just on the surface, to be surplus, not necessary. I do not see why it could not really be adopted by the Senate without objection if the manager of the bill wants that to be done.

Mr. KENNEDY. Mr. President, of course, yesterday, I asked that we consider all of the committee amendments en bloc, that they be treated as original text so that we could get on to the orderly process of the consideration of the legislation, including the substance of different amendments such as were offered by the distinguished Senator from Virginia and other Members, rather than following the procedure which we have had today, which is asking unanimous consent.

As has been pointed out with regard to striking "Federal," I intend to spend about 30 seconds on it, because it does not warrant or justify even that amount of time.

In title 18, it says, "crimes and criminal procedures." It does not say "Federal." In the initial drafting, the word, "Federal," was included by mistake. Since title 18 is incorporated into the other parts of the United States Code it was unnecessary and, for that reason, struck.

I hope that the request of the Senator from Alabama is acceded to. Then I would make a request that the rest of the amendments, which are technical in nature, and which are, basically, supported by all the members of the committee, including the distinguished Senator from South Carolina, be considered en bloc and as original text. There may be objection to that, but it seems to me that we ought at least to have the opportunity, at the conclusion of today, to consider the substance of the amendments of the Senator from Virginia. They are serious amendments, they are important amendments. The Senator is entitled to consideration. In order to protect his interest so that there will not be isolated objections, it seems to me the most sensible and responsible way to proceed.

Mr. SCOTT. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. SCOTT. Mr. President, my thought on accepting all of the committee amendments en bloc is that there are some amendments on which the committee was divided.

I call to mind the one with regard to marihuana, for example, and I think, rather than accepting that, that is something that the full Senate ought to vote on, and we ought to vote on that separately.

Now, there may be others where there was division. Where there was unanimity, I have no objection. But where there was a division voted, I think maybe——

Mr. KENNEDY. Of course, the Senator understands that we could have reported the bill as original text and have the situation where it would not have been necessary to make that request.

The reason we did it this way is so that the Members would have additional information to consider what was in, what was altered, and what was changed.

It was to provide additional information so that careful review of it today, particularly in terms of the words, would be available. But it obviously does not preclude any Member to offer any amendment on any different provision.

It will not affect what we do in terms of a particular marihuana provision. As a matter of fact, I doubt very much whether the Senator would have wanted the earlier provision that was considered in the initial bill. Quite frankly, that was a total decriminalization for small possession of marihuana.

Now, a penalty has been added.

To be very frank, even though it has delayed us for 2 days, I still think we did the right thing reporting the bill as we did. I would do it again.

What it does do for the Members of the Senate, and particularly for the staff, it gives everyone an opportunity to see the alterations and changes, and, on their own, study the particular sections.

It provides greater information to the individual Members. I think that is the way to proceed

I understand the parliamentary dilemma we are in, but I have plenty of time and I appreciate the opportunity to explain my position.

I hope there will be no objection to the Senator from Alabama's——

Mr. SCOTT. Let me ask the distinguished Senator from Massachusetts if he recalls how many committee amendments there were, roughly?

Mr. KENNEDY. There were about 10[illegible] substantive amendments considered. There were over 500 technical amendments made.

Mr. SCOTT. I thank the Senator.

Mr. ALLEN. Mr. President, the distinguished Senator from Massachusetts again stated his desire that all of the committee amendments be considered en bloc. On yesterday when that request was made, the distinguished senior Senator from North Carolina (Mr. HELMS) objected, and for that reason we are considering all of the amendments separately, starting with the first amendment, considering them separately whether they are amendments of substance or merely technical or clarifying.

But for the record, Mr. President, though Senators realize this, many reading the RECORD would not understand the significance of refusing to allow consideration of amendments en bloc.

Such a practice would be to ratify in one stroke or one vote, usually by voice vote. all that the committee had done, putting in one amendment all the action of the committee, so that anyone disagreeing with the committee amendments in any particular would have to offer an amendment seeking to undo the work of the committee at a par-

ticular point, requiring such Senator to justify his amendment as against what had already been adopted by the Senate by agreeing to the amendments en bloc.

Now, the reverse of that, Mr. President, is that the committee, by the Senate considering the amendments separately, has to justify the amendments that they have offered in the committee, so that each one would come under scrutiny by the Senate.

I would feel that many of these amendments that are merely technical or clarifying could be quickly passed by a voice vote. But many of the amendments, though, I feel, as apparently the distinguished Senator from North Carolina (Mr. HELMS) feels, that these amendments should be justified separately and severally by the manager of the bill speaking for the committee.

So that is the reason we are having to consider these amendments separately.

Now, did I understand the distinguished manager of the bill, the distinguished Senator from Massachusetts, to say that he would agree that this first amendment might be tabled or that it might be withdrawn?

Mr. KENNEDY. No. All I indicated is that I hoped it would be accepted and then I would make the request that we consider the other amendments en bloc. The Senator from Alabama said that there would be objection.

As the Senator knows, the process on voting these measures out of the committee is a parliamentary matter. We can either start taking them individually and stay here and do that, which I am quite prepared to do, or we can go back to the committee and have it reported as a clean bill.

I am quite prepared either way. We have the bill up and I have the time. If other Senators want to spend it, that is fine with me. We have spent a lot of time on the bill. I am sure we will be spending a lot more on it. So that is fine.

Mr. ALLEN. Well, the Senator from North Carolina is not present. Obviously, he must be protected.

Mr. KENNEDY. Frankly, I had no intention of making a request to consider the others today.

I at least had some sense, that it was perhaps a device to give some more time for people that did have serious amendments, so that serious voting would begin the early part of next week.

So I had no intention, at least today, to make a similar request for votes. But I would do so on Monday and we will just follow the rules in terms of how we proceed.

Mr. ALLEN. If the Senator does not wish a vote on the first amendment, I shall not insist on it. I thought we would be expediting the bill by starting on consideration of the amendment. If it is the Senator's wish that votes be postponed, I shall not insist on a vote on the amendment. Whatever the Senator's wish is——

Mr. KENNEDY. The point is that if we can make some meaningful progress, I am glad to spend some time this afternoon. If the Senator is prepared, we would go to the second amendment, which concerns striking "appearing" and inserting "appearance." If the Senator is serious about trying to make some progress through this, I am glad to proceed. If that is the intention, then I would have no objection.

Then I will move ahead by offering the particular amendments for the remainder of the afternoon and as late as the leader will let us stay in session. But if there is going to be objection in terms of that process, I do not see what the purpose is. I will take the Senator on good faith, and I will urge the adoption of the first amendment.

The PRESIDING OFFICER. The question is on agreeing to the first amendment (putting the question).

The ayes seem to have it.

Mr. ALLEN. Mr. President, I call for a division.

The PRESIDING OFFICER. A division is requested. Senators in favor of the first committee amendment will please rise and stand until counted.

Mr. ALLEN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment.

Mr. ALLEN. This is the first committee amendment. Is that correct?

The PRESIDING OFFICER. The first committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the second committee amendment.

The legislative clerk read as follows:

On page 3, line 12, section 1315, strike "Appearing" and insert "Appearance."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the third committee amendment.

The legislative clerk read as follows:

On page 4, line 4, strike "Commercial Bribery and Related Offenses."

The PRESIDING OFFICER. The question is on agreeing to the third committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the fourth committee amendment.

The legislative clerk read as follows:

On page 5, line 1, strike "1517. Making a Political Contribution as a Foreign National";

On page 5, line 1, strike "1518" and insert "1517";

On page 5, line 1, strike "1519" and insert "1518";

The PRESIDING OFFICER. The question is on agreeing to the fourth committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 6, line 11, following "Subchapter A, Organized Crime Offenses" insert the following:

"Sec.
"1801. Operating a Racketeering Syndicate.
"1802. Racketeering.
"1803. Washing Racketeering Proceeds.
"1804. Loansharking.
"1805. Facilitating a Racketeering Activity by Violence.
"1806. Definitions for Subchapter A.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 8, line 7, after "3002. Investigative Authority over Offenses outside this Title." insert the following:

"3003. Investigation of Offenses Subject to Extraterritorial Jurisdiction."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 8, Section 3016, strike "Service" and insert "System."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that we insert en bloc all amendments down through page 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to those committee amendments en bloc.

The amendments were agreed to en bloc.

The amendments are as follows:

On page 8, line 11, after "Testimony" insert "after a Claim of Self-Incrimination";

On page 8, line 12, section 3111, strike "Generally" and insert "after Refusal on Basis of Privilege against Self-Incrimination";

On page 9, line 1, section 3121, strike "Facilities for Witness Protection" and insert "Witness Relocation and Protection";

On page 9, line 1, section 3122, strike "For Witness Protection" and insert "of";

On page 10, line 6, strike "3614. Hospitalization of a Convicted Person Suffering from Mental Disease or Defect.";

On page 10, line 6, strike "3615" and insert "3614";

On page 10, line 6, strike "3616" and insert "3615";

On page 10, line 6, strike "3617" and insert "3616";

On page 11, line 3, Subchapter D strike "Parole" and insert "Early Release";

On page 11, line 4, strike sec. 3831 through 3837 and insert the following in lieu thereof:

"3831. Consideration of a Prisoner for Early Release.
"3832. Pre-Release Reports.

"3833. Early Release Interview Procedure.
"3834. Appeal from Parole Commission Determination.
"3835. Inapplicability of the Administrative Procedure Act.

On page 11, line 5, insert the following:

"Subchapter E.—Parole

"Sec.
"3841. Release Subject to Parole.
"3842. Pre-Parole Reports.
"3843. Term and Conditions of Parole.
"3844. Revocation of Parole.
"3845. Appeal from Parole Commission Determination.
"3846. Inapplicability of the Administrative Procedure Act.

On page 12, line 2, insert the following:

"Subchapter D.—Restriction on Imposition of Civil Disabilities

"Sec.
"4031. Restriction on Imposition of Civil Disabilities.

On page 12, line 5, section 4103, strike "Cvil" and insert "Civil";

The PRESIDING OFFICER. The clerk will state the next amendment.

The legislative clerk read as follows:

On page 13, line 5, after "conduct" insert a comma and "recognizing that imprisonment is generally not an appropriate means of promoting correction and rehabilitation; and";

Mr. ALLEN. Mr. President, this is an important amendment, and either we could have a discussion of this or pass over this amendment and go to others.

I believe, also, Mr. President, that given the weekend to work on this I feel that all but some two dozen amendments might be agreed to en bloc, but this one states that "recognizing that imprisonment is generally not an appropriate means of promoting correction and rehabilitation." That has to do with much of the theory of what is sought to be done in this bill, which would seem to abandon the thought that there can be rehabilitation in prison and more or less abandoning rehabilitation as a goal or object of imprisonment.

So if we might pass over this amendment, Mr. President, I ask unanimous consent that this amendment be laid aside, to be brought up later in order that we might proceed with other amendments.

Further, as I suggested, I feel that Senators who are interested in some of these amendments could narrow this field down possibly to 10 or 12 amendments so the Senate would not have to consider 200 or so in the fashion that we are now doing.

The PRESIDING OFFICER (Mr. DECONCINI). Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, and, of course, I do not intend to object, but I share the thoughts of the distinguished Senator from Alabama. I feel that this is a matter that we should discuss in some detail. I like to believe that the only purpose for putting a person in prison is as a deterrent to others so that he will not commit similar offenses.

Rehabilitation, of course, is a worthy end. But as to "recognizing that imprisonment is generally not an appropriate means of promoting correction and rehabilitation," people may have a difference of opinion on that, and I think perhaps we should have a rollcall vote on amendments of that nature.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. KENNEDY. Of course, the Senator makes the case for what we are trying to add there.

What we are trying to point out is that there may be a role for rehabilitation, and none of us are questioning the importance of rehabilitation.

What we are talking about in terms of the sentences is for punishment or for deterrence. So the Senator is making our case, and I am glad he supports what this amendment is attempting to do.

We are making some progress in terms of moving along, and I am glad we have gone through 12 pages very quickly, and so rather than halt the progress I shall defer any further discussion.

Mr. SCOTT. Mr. President, further reserving the right to object to the request of the distinguished Senator from Alabama, I think that while the purpose of imprisonment is as I indicated my thought was, I would not be willing to admit that nothing good is ever accomplished by the imprisonment of a person. He may well learn a trade while he is in prison. So there are two trains of thought on this very thing.

I just doubt that we are going to accomplish much more today.

I am not going to object to the passage of noncontroversial committee amendments, but I hope we will confine it to ones that are noncontroversial and not take up anything where there was a rollcall vote in the committee but only matters such as the previous ones are considered, and I think we might accomplish a great deal more after the weekend is taken up and we have further opportunity to look at this bill.

I have no further reservation, Mr. President. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, this amendment has been passed over by unanimous consent, is that correct?

The PRESIDING OFFICER. Without objection, this amendment will be passed over.

The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 14, line 16, strike "and";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next amendment.

The legislative clerk read as follows:

On page 14, line 22, strike "Counsel,";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 14, line 23, insert the following: " 'act' means a bodily movement or activity, but does not include a reflex, convulsion, or movement or activity during a state of unconsciousness or sleep;

Mr. SCOTT. Mr. President, reserving the right to object, I think we should take time to read what this is. Apparently it is a definition of the word "act." Is that the intention?

Mr. KENNEDY. The Senator is correct.

Mr. SCOTT. I withdraw my reservation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 15, line 2, after "craft" insert "used or";

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 15, line 2, after "for" insert "flight or";

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 15, line 25, strike "issued" and insert "used";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 17, line 10, after "Court," insert "or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 17, line 11, strike "Court of Customs and Patent Appeals, or the United States Court of Military Appeals" and insert "Court of Customs and Patent Appeals";

Mr. SCOTT. Mr. President, reserving the right to object, I would ask the distinguished floor leader is it the intention of this amendment to eliminate the Court of Military Appeals so that this code will not apply to the Court of Military Appeals?

Mr. KENNEDY. The military have their own Code of Military Justice. Therefore, it should not be so included in the definition.

Mr. SCOTT. I thank the Senator. I withdraw my reservation.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, line 12, after "business" insert "or other";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, line 13, strike "organization or group" and insert "individual, a group, an organization, or a government";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, line 18, strike "or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, after "fusion" insert a comma and "or any other means";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, line 32, strike "a state" and insert "the United States";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, line 33, strike "a state" and insert "the United States";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 18, line 34, strike "a state" and insert "the United States";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next amendment.

The legislative clerk read as follows:

On page 18, line 35, strike "in the same state" and insert "in the United States";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next amendment.

The legislative clerk read as follows:

On page 20, line 4, strike "an" and insert "a criminal";

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the amendment is agreed to.

The clerk will report the next amendment.

The legislative clerk read as follows:

On page 20, line 18, strike "221" and insert "143";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next amendment.

The legislative clerk read as follows:

On page 20, strike line 22 through line 24 inclusive;

Mr. SCOTT. Mr. President, I yield to the Senator from Alabama.

Mr. ALLEN. I would like to inquire of the distinguished manager of the bill why the definition of intoxication was eliminated from the code.

Mr. KENNEDY. This was part of a defense section, and when the section was struck the language was so struck, and we revert to the common law interpretation.

Mr. ALLEN. You did not think you could improve on the common law in this case, the definition?

Mr. KENNEDY. We leave it to the common law.

Mr. ALLEN. I did not know we had any Federal common law. What common law would it be?

Mr. KENNEDY. Why the common law applicable to the Federal system.

Mr. ALLEN. We will pass that over then?

Mr. KENNEDY. We will pass it over.

The PRESIDING OFFICER. Without objection, it will be passed over.

The clerk will report the next amendment.

The legislative clerk read as follows:

On page 20, line 33, strike "conduct or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next amendment.

The legislative clerk read as follows:

On page 20, line 33, after "in" insert "or supervise";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 21, line 5, after "Service" insert "or a government agency authorized by the United States Postal Service to handle mail matter";

Mr. SCOTT. Mr. President, I would like to pose some questions with regard to this. May I have the attention of the distinguished Senator from Massachusetts.

Mr. KENNEDY. Yes.

Mr. SCOTT. We are saying here "control of the U.S. Postal Service or a Government agency." Should we not say a "United States Government agency," rather than just "a Government agency," add the words "United States" there, because surely that is what we are talking about? Should it not be "the United States Postal Service or a United States Government agency?"

Mr. KENNEDY. The reason is that the Justice Department recommended this particular langauge to cover public and private carriers of mail.

Mr. SCOTT. If they are using private then the word "government" does not mean private.

Mr. KENNEDY. Well, the Army delivers the mail as well.

If the Senator has other language which he thinks can alter or change it, let him suggest it. This is the recommendation of the Postal Service and the Justice Department for the reasons I have outlined.

Mr. SCOTT. Let me ask the distinguished Senator if the word "government" should not be stricken there so that it would say "in the control of the United States Postal Service or an agency authorized by the United States Postal Service." If you are going to use the word "government" it would seem that it would be the United States Government. If you are not going to use the word, if you mean private industry, that is not government, so there is a mistake one way or the other, it would appear to me, just from a surface reading of this.

Mr. KENNEDY. The reference in terms of "government" also includes the military which is not part of the Postal Service.

If the Senator has some suggestions, let him make them. If the Senator has recommendations on it, I would be glad to give consideration to them. But "government" applies to the fact there is also beyond the Postal Service other agencies that carry mail.

Mr. SCOTT. Mr. President, I would think if we are talking about the United States Government we ought to say so, and if we are talking about private industry we ought to leave the word "government" out. But I would ask that we pass over this provision and also the portions further down on the page at line 9 where we say "person to whom it was addressed" and substitute "intended recipient."

I would just ask unanimous consent that we pass over both these others at this time, the remainder of that paragraph.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment passed over is as follows:

On page 21, line 8, after "Service" insert "or such a government agency";

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 21, line 20, after "vehicle" insert "used or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 22, line 8, after "imprisonment" insert "or confinement";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 22, line 9, after "or a" insert "criminal";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 22, line 18, after "arrest" insert "for an offense";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 22, line 19, after "arrest" insert "for an offense";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

On page 22, line 33, strike "D" and insert "E";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 24, line 6, after "government" insert "in a civil or military capacity";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 24, line 10, insert the following: "'public structure' means a structure, whether or not enclosed, where persons assemble for purposes of government, an occupation or a business or a profession, education, religion, or entertainment;

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 24, line 14, after "car" insert "used or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 25, line 6, strike "property" and insert ", when used in reference to property,";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 25, line 36, after "government" insert "who is the head of a department listed in 5 U.S.C. 101", and strike "of cabinet rank";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 5, after "craft" insert "used or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 6, strike "to navigate" and insert "for transportation or navigation on";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 6, strike "or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 6, after "under" insert a comma and "or immediately above";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 15, after the semicolon, insert "and";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 16, after "means" insert a comma and "in fact,";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, line 18, strike the semicolon and the word "and"; and insert a period;

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 26, beginning with line 19, strike through and including line 28;

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 28, line 20——

Mr. SCOTT. Mr. President——

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I would like to ask the distinguished Senator from Massachusetts to explain why this paragraph, apparently a definition of war, is excluded.

Mr. KENNEDY. There was a question, during the course of the consideration, Mr. President, as to what the appropriate definition of "war" would be, what war means. It is on page 25 of the old bill, where we had war declared by Congress, war declared by a foreign power against the United States, or attack by a foreign power, and situations in which the Armed Forces of the United States are engaged in hostilities or in which there is imminent involvement in hostilities which is clearly indicated by the circumstances.

It was thought that, even though we tried to make that as tight as possible, there was concern about whether that conformed with the definition of war under the War Powers Act and case law.

Therefore, we struck it. We had to strike this particular language to insure that the War Powers Act, and current case law would not be altered.

Mr. SCOTT. Do I understand the distinguished Senator——

The PRESIDING OFFICER. If the Senator will withhold, this amendment has not been reported.

Mr. SCOTT. Mr. President, I ask unanimous consent that we continue our discussion, notwithstanding the fact that the amendment has not been reported.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Well, why can't we consider the amendment and then have our discussion? Can't we do that? Is there objection to that?

Mr. SCOTT. It would save reading the entire amendment.

Mr. KENNEDY. Well, the reading of the amendment may be dispensed with.

Mr. SCOTT. I am not going to quibble about it.

The PRESIDING OFFICER. Without objection, the clerk will state the amendment.

Mr. KENNEDY. Well, we ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. It had not been reported.

Mr. KENNEDY. Is it reported now?

The PRESIDING OFFICER. Without objection, the reading of the amendment is dispensed with.

The amendment is as follows:

On page 28, line 20, after "of" insert a comma and "or involves conduct required by,";

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I want to see if I fully understand the Senator from Massachusetts.

There is a definition of war that is in the Criminal Code, under what the Senator refers to as the war powers resolution. Does that mean we have a definition of war in the Criminal Code, or we do not have a definition of war in the Criminal Code?

Mr. KENNEDY. By striking it, there is no definition in the Criminal Code. We let the existing law stand in terms of that definition.

Mr. SCOTT. Would that mean that Congress or the courts would be defining what war is?

Mr. KENNEDY. Congress has stated it, and the courts have stated it. We do not intend, under this Criminal Code, to attempt to define it. We did in the earlier proposal. That was a concern of some of the committee members, and so we left the existing law as is; and the law is always interpreted by the courts, no matter what we do.

Mr. SCOTT. Well, I am not aware of any provision in the Constitution that defines war. I may have misunderstood the distinguished Senator, but I am not aware that there is a definition in our Constitution of the word "war."

But my question really is, insofar as the criminal law is concerned, do we now have statutory—do we have a statutory definition of war that would apply to criminal acts? For example, if we say that in time of war such and such an act is prohibited, has Congress defined what a state of war is?

Mr. KENNEDY. No. The answer is no. The case law would govern.

Mr. ALLEN. Mr. President, I ask unanimous consent that this amendment be carried over. A number of Senators have spoken to me about this particular amendment. I do not know what their intentions are.

The PRESIDING OFFICER. Is there objection to passing over the amendment? Without objection, it is so ordered. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 28, line 21, strike "of";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 29, line 4, strike "erection" and insert "construction";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 29, line 4, after "other" insert "facility or";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 29, line 5, strike "a" and insert "unorganized";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 29, line 7, strike "231(a)" and insert "144";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 29, line 8, after "of" insert "1977";

Mr. SCOTT. Mr. President, the Criminal Code Reform Act of 1977 is not this bill that is before us now, is it, since we are in 1978? Is that proper?

Mr. KENNEDY. Yes; it is the bill which is before us.

Mr. SCOTT. Should we not change that to 1978, then?

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Mr. KENNEDY. The Senator makes a good point. The Senator has made a good point, and we should have 1977 changed to 1978. I would indicate to the Senator that as far as the technical amendments are concerned, we did have an amendment to do that very thing at a later time.

It is a technical amendment, but there is no reason that we should not do it right now on Friday afternoon at 3 o'clock.

We will change that to 1978 as well.

Mr. SCOTT. I have no objection to it being changed now or later, but certainly it ought to be changed at one time or another.

Mr. KENNEDY. I move we make the change now, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment is as follows:

On page 29, line 8, strike "1977" and insert "1978".

Mr. PERCY. Mr. President, I send two unprinted amendments to the desk and ask that they be conisdered en bloc.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Mr. ALLEN. Reserving the right to object——

The PRESIDING OFFICER. And considering the amendments at this time?

Mr. ALLEN. Reserving the right to object, could we be advised as to what the amendments are before we agree to their consideration?

Mr. PERCY. I am very happy to.

The PRESIDING OFFICER. The Senator from Alabama reserves the right to object.

The Senator from Illinois.

Mr. PERCY. Mr. President, I ask the amendments not be read, but I will explain the amendments.

Mr. President, I am introducing these two amendments to S. 1437, the criminal code reform bill, in order to insure that the new code will adequately protect the public against fraudulent securities transactions. I am pleased that the sponsors of S. 1437, Senators KENNEDY and THURMOND, have offered their full support for these amendments, which originate from S. 2323, the Securities Protection Act, that I introduced in the Senate in the first session of this Congress.

I am extremely pleased to note that much of what is in S. 2323 has been incorporated into S. 1437. It is my understanding that the sponsors of S. 1437, in writing those provisions dealing with counterfeiting, trafficking, and theft in the revised code gave full consideration to the similar provisions in the Securities Protection Act that I offered in the 94th Congress, S. 2221. The latest version of that bill, S. 2323, however, includes certain revisions not found in S. 2221 that were recommended by the securities industry, as well as the Securities and Exchange Commission and the Department of Justice. The two amendments I have sent to the desk derive from those recommendations.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I am ready to accept the amendments on behalf of Mr. KENNEDY.

Mr. PERCY. I would just give the courtesy to Senator KENNEDY to come in if he wishes, Mr. President.

Mr. ROBERT C. BYRD. Put in the quorum.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the distinguished Senator from Massachusetts, the floor manager of the bill, is now in the Chamber.

I was discussing two amendments. One will be offered later and I ask that it be printed. It provides for a prohibition on the color copying of securities.

I ask unanimous consent that a description of the amendment be incorporated in the RECORD at this time.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment at this time?

The committee amendments have not been adopted, and this is an amendment that ordinarily would come after committee amendments, and it requires unanimous consent.

Is there objection?

Mr. PERCY. Mr. President, I am not asking for the consideration of this amendment at this time. I simply am asking that a description of the amendment that will be called up at a subsequent time be printed in the RECORD at this time, rather than taking the time of the Senate to read it.

The PRESIDING OFFICER. Does the Chair correctly understand that this is an amendment that will not be requested to be considered today?

Mr. PERCY. That is right.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Technological innovations have further reduced the effectiveness of law enforcement. The recent acceleration in photocopying technology has given to the criminal advantages that go far beyond anything covered by the criminal statute in this area. The color copier, with its "duplexing" capability—copying both sides of an instrument on any sheet of paper—gives counterfeiting ability to the rank amateur, and lends itself to misuse by corrupt employees.

This amendment will prohibit such copies altogether by making it a crime for a person to make or possess a color copy of any security. Of course the true owner, his authorized agent, legal custodian, or authorized official of a financial institution will be allowed to make or possess a black and white photocopy of a security for the purposes of record-keeping or validation.

This amendment will provide a strengthened mandate to those law enforcement agencies charged with protecting the integrity of marketable securities and combating organized crime. I am confident that it will play a significant part in lessening the threat that the use of stolen and counterfeit securities poses to the fundamental health of the financial institutions of this country.

Mr. PERCY. Mr. President, the description of the amendment that I do offer and ask to be called up now is very simple.

Law enforcement officials and industry representatives agree that the Federal securities fraud statutes are, in some respects, inadequate. This state of affairs was clearly documented during the 1971 to 1974 hearings on the connection between organized crime and the trafficking in stolen and counterfeit securities, held before the Permanent Subcommittee on Investigations. Those hearings were first chaired by the late Senator McClellan and then by Senator JACKSON. Expert witnesses testified that more than $50 billion of worthless securities could be found in the Nation's brokerage houses, banks, and other financial institutions.

Testimony also indicated that the Federal Government's efforts to prosecute the organized criminals who specialize in this type of activity had been hampered by ineffective laws and by a lack of coordination on the part of Federal investigators and prosecutors. It was clear that the banks and brokerage houses, the public, even the Federal Government barely understood the magnitude and scope of this problem or the potential for catastrophic consequences if it were not adequately remedied.

Senator McClellan, shortly before his untimely death, joined Senator THURMOND and myself as a principal cosponsor of S. 2323. Senators RIBICOFF, JACKSON, NUNN, and JAVITS also have lent their support in this effort.

Now, with the central provisions of S. 2323 already incorporated into the Criminal Code revisions, all that remains is to fill in the specific gaps that were noted in the prior Securities Protection Act.

The definition of financial institutions or entities in S. 2323 includes under its protection not only members of, or businesses insured by the Securities Investor Protection Corp., but also broker-dealers registered with the SEC pursuant to the Securities Exchange Act of 1934.

Section 1731(c)(29) of S. 1437 appropriately covers the former, but makes no mention of the latter—that is, broker-dealers. My amendment would remedy that omission. In this way, all traders of securities would be protected. In other words, the theft of a security from any broker-dealer would be a Federal offense under the Criminal Code.

UP AMENDMENT NO. 1091

(Purpose: To prevent theft of securities.)

I believe that this amendment, which has been discussed with the managers of the bill, is acceptable to the floor managers of the bill, Senator KENNEDY and Senator STROM THURMOND, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to considering this amendment at this time which is not a committee amendment?

Does the Senator from Alabama have objection?

Mr. ALLEN. What was the Chair's inquiry?

The PRESIDING OFFICER. Is there any objection to considering this amendment at this time which is not a committee amendment?

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. The Chair hears none.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes unprinted amendment numbered 1091:

On page 133, strike lines 3 through 5, and insert in lieu thereof the following: "and is in the care, custody, or control of—

"(A) a member of, or an organization insured by, the Securities Investor Protection Corporation; or

"(B) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15(a)(1) of the Securities Exchange Act of 1934.".

Mr. KENNEDY. Mr. President, this is a valuable and worthwhile amendment. Previously under the old code there were 80 different sections of theft. We have consolidated those into just one section, and the amendment of the Senator from Illinois is to insure that in the relevant area where he is interested there will be adequate jurisdiction. The Investor Protection Corp. and also broker-dealers registered with the Securities and Exchange Commission pursuant to the SEC are now covered under his amendment. These are areas, as the Senator knows from his experience on other committees, where there is the potential danger of theft, and this effectively spells out in detail areas of jurisdiction.

We welcome the amendment, and I think it is an additional weapon in the area of white collar crime. So we welcome it and on behalf of the committee we support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I appreciate the amendment of the Senator from Illinois. He has other amendments, and we will be glad to examine those and work with him.

We have now a number of amendments that have been submitted and are at the desk. They will be printed. The Members will have an opportunity to examine them. We hope that they will use the period of the weekend to review these particular amendments, as well as the report and the legislation.

We are hopeful that those who have particular interests in the committee amendments that were adopted will take the time to examine them. It will take some time to go through the whole legislation and see if, in the areas which are noncontroversial, we cannot agree to those en bloc.

And I will continue to try to make a request in the early part of the week, obviously not with any intention of foreclosing an opportunity for debate or discussion on any provision in this legislation, but in order that we may move the process forward. A number of these are purely technical. Of the total, I would expect probably no more than 15 or 20 are of such a substantive nature that Members will want to have votes in the Senate.

Of course, we welcome the opportunity to discuss these matters and to give the history and the justification for the changes, and we hope to be able to do that in the early part of the week.

So I am hopeful that the membership will have a full weekend to examine this legislation. It is very complex. It is very detailed. It is extremely important. There has been a great deal of consideration given this bill up to this time, much thought and much time.

And we look forward to spending whatever time the Senate desires in examining any of the details in this bill or any amendments to it in the early part of the week.

So, Mr. President, I have no further business. There will be no further discussion of S. 1437.

Mr. DECONCINI. Mr. President, it has been my privilege to serve on the Senate Judiciary Committee during committee consideration of S. 1437. During those long hours of debate and negotiation, and longer hours of research and preparation, the performance of Senator KENNEDY and the two key staff members, Ken Feinberg and Paul Summitt, has been an example of the excellence all Members of this body and their staff seek to achieve. Senator KENNEDY was consistent in his thorough knowledge of this voluminous legislation, and was unflagging in his efforts to bring Senators and staff together to debate and compromise on areas of disagreement.

Throughout committee consideration of the bill, Senator KENNEDY exhibited a sensitivity to opposing points of view without which S. 1437 would have failed to come to the Senate floor. I would like to thank Senator KENNEDY for the fairness he demonstrated to me and my staff in consideration of my amendments to S. 1437. This bill stands as a tribute to the work of Senator KENNEDY and the late Senator McClellan.

THE RETIREMENT OF SENATOR JOHN SPARKMAN

Mr. ALLEN. Mr. President, I have just been advised within the last 3 minutes that my distinguished senior colleague, Mr. SPARKMAN, who has served in the Senate for 32 years, will, upon the expiration of his present term, on January 3, 1979, retire from the U.S. Senate.

I want to express my admiration for my distinguished senior colleague, and to pay tribute to him for his great record of service in the House of Representatives and in the Senate.

I know of no Member of the Senate, past or present, who has served his country with greater ability, greater determination, and greater dedication than has Senator JOHN SPARKMAN. He is one of the outstanding personages and members of our Government in the country today.

He had a long and distinguished career in the House of Representatives, five terms. He came to the Senate where he has served for 32 years, or will have served for 32 years at the expiration of his term, which is longer than any other Alabama Senator.

He was the Vice Presidential candidate in 1952, the first Alabaman to run for Vice President since 1852, when William Rufus King, an Alabama Senator, was elected as Vice President.

Senator SPARKMAN was in Congress during the days of President Roosevelt. He was a leader then; he is a leader now. He served with distinction on the Military Affairs Committee of the House. He has been chairman of the Banking, Housing, and Urban Affairs Committee in the Senate, and has served with distinction as chairman of the Foreign Relations Committee.

I say to my distinguished colleague that, as I assess the feeling of the people of Alabama, he would have been returned to the Senate had he elected to seek another term.

He will return to his home in Huntsville on the expiration of his term, to be among the people who know him best and who love him dearly.

So it is a sad occasion to me, Mr. President, to see the end of an age in Alabama and in the Senate.

When I came to the Senate in 1969, I was the first new Senator from Alabama in 22 years. Soon after I became a Senator, Senator SPARKMAN commented on the fact that he had been junior Senator from Alabama for 22 years, and that he hoped that I would be junior Senator from Alabama for 22 years. I would have been delighted to serve as junior Senator to this distinguished senior Senator.

I express my appreciation to Senator SPARKMAN for the help, cooperation, assistance, and support he gave to me in my early years in the Senate.

I do not know what the experience of Senators from other States might be. We have some States with one Republican Senator and one Democratic Senator. Some do not seem to get along too well. I have seen Senators who, in coming to

the Senate, would not allow their colleague to go down the aisle with them, to escort them in the swearing-in ceremony.

It was not so with Senator SPARKMAN. We have never had a cross word in the 9 years we have served together in the Senate. I admire this man so very much both personally and for his great record of public service to his country and to his people.

So I pay my very deep and sincere respect to Senator SPARKMAN. Certainly, I view his retirement with mixed emotions. I would have enjoyed to continue to serve with him in the Senate. I would have enjoyed seeing him continue to render outstanding public service to the people of the United States and the people of Alabama.

I know Senator SPARKMAN wants to return home. He wants to go back to Alabama. I do not blame him. I commend him for his spirit, for his great record, and for the friendship which has existed between us for these many years.

I salute you, Senator SPARKMAN, and wish for you the best of everything in the days ahead.

Mr. KENNEDY. Mr. President, I join in the accolades which were just extended to our distinguished colleague. Senator SPARKMAN, I first remember you when I was a young student and you served on our national Democratic ticket in 1952, speaking not only in the region of the country which you know best, but throughout the Nation. You were warmly received in all parts of the Nation for the very qualities which have been outlined by our colleague, Senator ALLEN.

He spoke about the needs of people, about the aims and aspirations of our country, and about what our country means throughout the world.

Mr. President, there are thousands of people in my own State of Massachusetts that, on this cold and blustery day, have a warm home because of the work of JOHN SPARKMAN. He is "Mr. Housing" to the American people. One of the essential aspects of the great American dream is to own one's own home. As we look over the sweep of history, this has been, I believe, a goal for the people of this Nation and a national policy. JOHN SPARKMAN has been in the vanguard of every important housing act that has been considered and passed by the Congress of the United States. There are thousands and thousands of people in my State, and there are millions of people all over this Nation, who owe the fact of their ownership of their shelter to his very dedicated work.

I am sure the people of Alabama understand the full range of his public service, a career culminating in the chairmanship of the Committee on Foreign Relations. I know that, even in my own State, there are many people who wonder why a Senator would be interested in the problems of far and distant lands when there are so many real problems that exist in the great and small towns, communities, and hamlets of our Nation. But this country needs a strong foreign policy. It needs a sensible and responsible policy, one that reflects its greatest ideals and its greatest purposes. We needed a man to chair that important committee that really reflected, in his own personal qualities, as well as in his public service, those very fine ideals. JOHN SPARKMAN of Alabama served on that committee for many years and was its chairman.

I have had the opportunity to know and respect him and consider him a friend, although we are, perhaps, a generation or a generation and a half apart in terms of age. I know the very deep friendship and affection that my brother, John Kennedy, had for him when he served in the Senate and Robert Kennedy, as well. So I join in paying tribute to Senator SPARKMAN of Alabama, to let him know that, speaking for the people of my State, that this Nation was well served by his service.

We wish him many happy years with his wife, Ivo, and many happy years in the State which he loves and has served so well.

Mr. SCOTT. Mr. President, I want to add my commendations to the record that Senator SPARKMAN has established during the time that he served in the Senate in the long and distinguished career that he has had.

The announcement that he has just made comes at a time when there are very few Senators in the Chamber. I assume that there will be a time, sometime later this year, when a large number of Senators will want to pay their respects to the distinguished senior Senator from Alabama, so I shall not make any extended remarks. I shall reserve them for a later time.

I simply say now that, while I shall not be here to miss him as a colleague in the Senate, retiring myself at the same period of time, I know he will be missed by his colleagues in the Senate. Certainly, I wish him well, as he does reenter private life.

I am sure that people on both sides of the aisle highly respect the distinguished Senator and regard him as a true friend, regardless of my partian affiliations that may exist.

Mr. DECONCINI. Mr. President, I want to add my brief remarks regarding the Senator from Alabama. Being a freshman Senator and having had only a very short time to be acquainted with the Senator, I must say that, indeed, he has demonstrated real courtesy and assistance to the younger Members of this body and given of his time and counsel very generously. It is something that I shall always remember and cherish.

I think he has made a great mark on this body and country, and he will be missed in this body immensely.

SENATOR SPARKMAN'S DECISION NOT TO SEEK REELECTION

Mr. PERCY. Mr. President, I have just learned from my colleague, Senator ALLEN, that the distinguished chairman of the Committee on Foreign Relations, Senator JOHN SPARKMAN, has made the decision not to offer himself in reelection. This comes as a great surprise to the Senator from Illinois, because I have just returned from a trip to Panama with Senator SPARKMAN, and the Senator from Alabama, during the course of our meetings and journeys back and forth, never hinted in the slightest that he had this in mind.

The Senator from Illinois feels extraordinarily close to JOHN SPARKMAN. The first committee on which the Senator from Illinois served was the Committee on Banking and Currency, of which Senator SPARKMAN was the chairman. The Senator from Illinois saw the tremendous wisdom, judgment, and fairness with which Senator SPARKMAN conducted the affairs of that committee.

When the Senator from Illinois moved to the Committee on Foreign Relations, Senator JOHN SPARKMAN was also chairman of that committee.

In addition, as Senator SPARKMAN and Senator JIM ALLEN well know, my father was born in Mobile, Ala. He spent all his life there, and was in the banking business there. I was born just across the bay in Pensacola, Fla.

Ever since I arrived in the Senate, Senator JOHN SPARKMAN, with his graciousness, hospitality, and warmth, always has welcomed me as a fellow member of his congregation, we might say, because I have felt so close to him. His conduct of the Senate Foreign Relations Committee has been exemplary.

The minority never feels like a minority under JOHN SPARKMAN, whether it be the Banking and Currency Committee or the Foreign Relations Committee. We feel like full members of that committee, with equal rights. We have the same privileges accorded to the majority, except the right to name the chairman of the committee. Every member of the minority has enjoyed working with and under the chairmanship of JOHN SPARKMAN.

I was proud as I could be, as a U.S. Senator, not only for the Senators who preceded us in their trip to Panama—and I did comment on the visit made by the majority leader and the minority leader prior to our visit—but also because throughout the course of our visit to Panama, as chairman of that delegation, Senator SPARKMAN conducted himself in the greatest traditions of the U.S. Senate.

The foreign policy of this country is shared with the President, under the Constitution of the United States, by the Senate in a unique manner—unlike any other legislative body in the world. The President of the United States respects that sharing of authority and power. We must be certain that it is used and exercised with justice, with fairness, and always in the national interest.

Whenever I have been abroad with Senator JOHN SPARKMAN, I have been proud of him as an American, and proud of him as a U.S. Senator. It is with a great sense of sadness that we realize he has made this decision; but certainly he and his wife, Ivo, have earned the right to pursue their various interests in a way they see fit, unencumbered by duties of the U.S. Senate. Those duties are ones to which he always has given his unstinting intelligence, judgment, and wisdom, in the best interests of the country.

As a colleague and as a friend, I join my distinguished colleague, Senator

JAMES ALLEN, in wishing the very best of everything in the future to Ivo and JOHN SPARKMAN, our friends and our colleagues.

Mr. TOWER. Mr. President, I join my other colleagues in expressing my regret that JOHN SPARKMAN feels constrained to retire after such long and distinguished service. Certainly, he has earned the opportunity to rest from his labors, because he has dedicated himself entirely to the public business during the course of his years in public office.

I was privileged to serve as the ranking Republican on the Banking Committee when JOHN SPARKMAN was chairman. I have never had a better working relationship in or out of politics or public life than I have had with JOHN SPARKMAN. We always worked together in a great spirit of cooperation.

The work of our committee demonstrated the old axiom that legislation, in the final analysis, is the art of the possible, that it does involve the consideration of differing views held by honest men of goodwill.

Every time we brought a piece of major legislation to the floor, it was supported by both the chairman and the ranking Republican member and was supported by a substantial majority of the committee. I think that is a great tribute to the fact that JOHN SPARKMAN was able to move men to work together for the common good.

I am certain that we will want to see him around here as often as he chooses to come after he leaves this body, because there is much that his experience and knowledge can contribute to us, even in his retirement years. I know of no one more steeped in the history of the major legislation that has passed Congress during the span of JOHN SPARKMAN's participation in legislative affairs. I know that in committee, every time some issue comes up, JOHN, out of his amazing capacity for recall, can always tell us the history of that legislation, precisely what happened, what the differing views were, what the intent of Congress was at the time.

He certainly has been a great asset to all of us whose public lives he has touched. We shall miss him very sorely, indeed.

I join my colleagues in wishing JOHN SPARKMAN for the future all the very best and God speed.

Mr. MELCHER. Mr. President, on behalf of the State of Montana I want to pay tribute to Senator JOHN SPARKMAN, who we know for his distinguished servive in the Senate and for his splendid campaigning in our State. He is remembered personally by many Montanans for I am frequently asked about him. JOHN SPARKMAN is our kind of man.

We regret to see him retiring because Senator SPARKMAN believes in the things we do. He worked to preserve viable family farming. He was for growth, and for the public works projects that would stimulate a regional economy to the benefit of the region and the whole Nation. He is a humanitarian and an advocate of human rights.

I know that my former colleague, the late Senator Lee Metcalf, held him in the highest esteem and would have spoken eloquently on this occasion if he were here.

Senator SPARKMAN, I regret your decision but I wish you and yours years of the good life in your retirement—a good life to which your years of service, hard work, and accomplishments richly entitle you.

STATEMENT BY SENATOR SPARKMAN

Mr. SPARKMAN. Mr. President, I wanted just to say a few words in order that my colleagues may be assured that I am not negligent with reference to the good things that have been said about be here today. I shall not speak at any length on it at this time.

I do hope that sometime before I leave these grounds I may have the privilege of addressing the Senate. I did not make the announcement that I was retiring. I had let it be known to a few that I would make the announcement within a few days. I have no regrets that it became known. My friend and colleague JIM ALLEN said something about it. But I am planning to retire at the end of this term. My term will end January 3, 1979.

At this time, I will be 79 years old, and I will have spent 42 of those years in the Congress of the United States, in the House of Representatives and the Senate together. And they have been great years. I have thoroughly enjoyed my work.

I just wanted to take this much time to express my appreciation to those who had some kind things to say. They are my long time young friend TED KENNEDY, of course my colleague JIM ALLEN, my very close and dear friend CHUCK PERCY, my friend BILL SCOTT, and a man that I sat across the aisle from for a good many years when I was chairman of the Banking Committee and he was the ranking minority member, JOHN TOWER and I think I can say that we never had a single item that caused any friction or hard feelings. I did not always agree with him, and I could not get him to agree with me always, but we understood each other and we got along.

As I said. I did not intend to make a full acknowledgement of all of these good things this afternoon, but I did not want the day to close without at least my saying thanks to all of them for the kind remarks that they made.

Thank you very much, my colleagues. [Standing applause.]

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. METZENBAUM. Mr. President, I ask unanimous consent that, during the consideration of S. 1437, Ricki Tigert, Herman Schwartz, and Keith O'Donnell may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that Mr. Neil McDonald of my staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JANUARY 23, 1978

Mr. ROBERT C. BYRD. Mr. President, earlier today I asked unanimous conset that following recognition of the two leaders under the standing order on Monday there be a period for routine morning business until 12 o'clock noon, but on yesterday I had secured an order for recognition of Senator BROOKE for 15 minutes. Consequently, I modify my request as follows: That upon the completion of the order for the recognition of Senator BROOKE on Monday, there then be a period for the transaction of routine morning business, not to extend beyond 12 noon, with the understanding that no resolutions come over under the rule and that rule VII may, with respect to call of the calendar, be waived, and that upon the conclusion of routine morning business the Senate then resume consideration of the unfinished business, S. 1437.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE AND REFER MESSAGE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the message from the President which will be expected tomorrow, dealing with tax reform, that the Secretary of the Senate be authorized to receive and refer that message tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO ROLLCALL VOTES OCCUR BEFORE 3 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no roll-

call votes occur before 3 o'clock p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMPLOYEES IN THE OFFICES OF SENATE LEADERS

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration. It has been cleared on the side of the minority.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk proceeded to read the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, under existing law, when a Senator dies in office, or resigns from office, employees in his State office remain on the payroll for 60 days in the case of death or 30 days in the case of resignation. However, employees in the following offices are not covered by this statute:

President Pro Tem and Deputy Pro Tem.
Majority and Minority Leaders.
Majority and Minority Whips.
Majority and Minority Conference Secretaries.

This resolution would provide these employees with comparable treatment to that received by a Senator's State office employees.

This resolution has been cleared with the minority and with Senator CANNON.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 354) was agreed to as follows:

Resolved, That, in the case of the death or resignation of a Senator while holding the Office of President pro tempore; Office of Deputy President pro tempore; Office of Majority Leader; Office of Minority Leader; Office of Majority Whip; Office of Minority Whip; Office of Secretary of the Conference of the Majority, or Office of Secretary of the Conference of the Minority, the employees of such Office on the payroll of the Senate on the date of such death or resignation shall be continued on such payroll at their respective salaries for a period of not to exceed sixty days, in the case of the death of such Senator, and for not to exceed thirty days, in the case of the resignation of such Senator, such sums to be paid from the contingent fund of the Senate. Such employees continued on the payroll shall, while so continued, perform their duties under the direction of the Secretary of the Senate, and the Secretary is authorized and directed to remove from such payroll any such employee who is not attending to the duties for which such services are continued.

SEC. 2. No employee shall be continued on the payroll of the Senate under this resolution beyond the expiration of the term of office of the Senator who dies or resigns.

SEC. 3. The provisions of the first section of this resolution shall not apply to an employee—

(1) during any period during which such employee is on the payroll of the Senate without regard to the provisions of such section (but such period shall be taken into account for purposes of the sixty day or thirty day period applicable under such section); or

(2) after such date as such employee specifies, in writing, to the Secretary of the Senate that he no longer wishes to have such provisions apply.

SEC. 4. The provisions of this resolution shall take effect on January 1, 1978.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, I think considerable progress has been made on the pending bill today. A considerable number of committee amendments have been agreed to. I would imagine that the number approaches a score and a half or two score amendments. But it seems to me, after talking with the managers of the bill, on both sides of the aisle and other Senators, Senator ALLEN, Senator TOWER, Senator SCOTT, Senator HELMS, and others, that the process can be expedited if the Senate goes out at this time, and over the weekend Senators have an opportunity to examine the bill, examine the committee amendments and, hopefully, on Monday be prepared to accept many or most of the committee amendments en bloc thus saving the time of the Senate and the time of Senators, and giving the Senators an opportunity to study this bill—and they should have that opportunity, and that time which will be made available during the weekend.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. What does the Senator from West Virginia expect once we have disposed of the pending business, and when does he expect we shall dispose of the pending business?

Mr. ROBERT C. BYRD. Well, I cannot answer either question. I will say this, however: There is a bill on the calendar which is referred to as the Redwoods bill. There is a time agreement on that bill, and at such time as it is convenient to both of the California Senators, I would hope we could take up that bill. I do not know exactly when that will be.

As to how long it will take to complete action on this bill I cannot say. Progress is being made on the committee amendments.

In discussing the prospects for action on this bill, it is my understanding that there may be 15 or 20 of the committee amendments that cannot be accepted on a voice vote, and I should think by Monday that picture will be more clear and, hopefully, Monday and Tuesday, possibly Wednesday, we can complete action on the bill or at least get a time agreement which would see us looking at the other end of the tunnel.

I am unable to be more specific, but I hope that will be helpful.

Mr. TOWER. Under the circumstances it is about as helpful as I suppose the Senator can be. I thank the Senator very much.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MELCHER). The Chair, on behalf of the Vice President, appoints the Senator from Nevada (Mr. CANNON) and the Senator from New Mexico (Mr. DOMENICI) as Delegates to the United States-U.S.S.R. Parliamentary Visit, to be held in Washington, D.C., January 22–26, 1978.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 11:30 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. BROOKE will be recognized for not to exceed 15 minutes; after which time until the hour of 12 o'clock noon there will be a period for the transaction of routine morning business with statements limited therein to not to exceed 3 minutes.

At the close of morning business or to wit 12 o'clock noon the Senate will resume consideration of the unfinished business, the criminal code revision.

Rollcall votes are expected on Monday, but not any rollcall will occur before the hour of 3 p.m., according to the order previously entered today.

ADJOURNMENT UNTIL 11:30 A.M. ON MONDAY, JANUARY 23, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 11:30 a.m. on Monday next.

The motion was agreed to; and at 3:58 p.m., the Senate adjourned until Monday, January 23, 1978, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 20, 1978:

DEPARTMENT OF STATE

Arthur T. Tienken, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

William E. Schaufele, Jr., of Ohio, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Poland.

Richard J. Bloomfield, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Robert W. Buchheim, of the District of Columbia, for the rank of Ambassador during the tenure of his service as the United States Commissioner on the United States-Soviet Standing Consultative Commission.

THE JUDICIARY

Almeric L. Christian, of the Virgin Islands, to be a judge of the District Court of the Virgin Islands for a term of 8 years (reappointment).

Jack E. Tanner, of Washington, to be U.S. district judge for the eastern and western

districts of Washington, vice William N. Goodwin, deceased.

DEPARTMENT OF JUSTICE

John P. Volz, of Louisiana, to be U.S. attorney for the eastern district of Louisiana for the term of 4 years, vice Gerald J. Gallinghouse.

David T. Wood, of Guam, presently U.S. attorney for the district of Guam, to be also U.S. attorney for the district of the Northern Mariana Islands for a term expiring November 2, 1981 (new position, Public Law 95–157).

Juan G. Blas, of Guam, presently U.S. marshal for the district of Guam, to be also U.S. marshal for the district of the Northern Mariana Islands for a term expiring September 14, 1981 (new position, Public Law 95–157).

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

The following-named persons to be members of the National Council on Educational Research for terms expiring September 30, 1980:

Harold Howe II, of New York, vice Arthur M. Lee, term expired.

Frederick Henry Schultz, of Florida, vice James Gardner March, term expired.

CONSUMER PRODUCT SAFETY COMMISSION

R. David Pittle, of Maryland, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 1982, vice Thaddeus A. Garrett, Jr.

The following-named persons to be Commissioners of the Consumer Product Safety Commission for the terms indicated:

Edith Barksdale Sloan, of the District of Columbia, for a term of 7 years from October 27, 1976, vice Lawrence M. Kushner, term expired.

Susan Bennett King, of the District of Columbia, for a term of 7 years from October 27, 1977, vice R. David Pittle, term expired.

OFFICE OF MANAGEMENT AND BUDGET

James T. McIntyre, Jr., of Georgia, to be Director of the Office of Management and Budget, vice Thomas Bertram Lance, resigned.

CENTRAL INTELLIGENCE

Frank C. Carlucci, of Pennsylvania, to be Deputy Director of Central Intelligence, vice E. Henry Knoche, resigned.

EXPORT-IMPORT BANK OF THE UNITED STATES

H. K. Allen, of Texas, to be First Vice President of the Export-Import Bank of the United States, vice Delio E. Gianturco.

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

The following-named persons to be members of the National Commission on Employment and Unemployment Statistics (new positions):

Bernard E. Anderson, of Pennsylvania.
Glen G. Cain, of Wisconsin.
Jack Carlson, of Maryland.
Michael Harold Moskow, of Illinois.
Rudolph Alphonsus Oswald, of Maryland.
Samuel L. Popkin, of California.
Mitchell Sviridoff, of New York.
Joan Lawson Wills, of Virginia.

SECURITIES INVESTOR PROTECTION CORPORATION

Hugh F. Owens, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1979 (reappointment).

IN THE COAST GUARD

The following regular officers in the U.S. Coast Guard for promotion to the grade of lieutenant commander:

George L. VanBelkum
Louis P. Manfra
James E. Doyle
Lawrence L. Jenkins
Thomas T. Allan, III
Raymond L. McFadden
Richard L. Murphy
Robert J. Lachowicz
Glendon L. Moyer
James L. Hested
Edward C. Karnis
George H. Mercier
Richard L. Maguire
Phillip J. Stager
James A. Smith
Juan T. Salas
Thomas E. Thompson
Paul Ibsen
Ronald L. Edmiston
Robert B. Bower
John D. McDevitt
Richard R. Clark
James C. Clow
Douglas A. MacAdam
Stephen L. Swann
Floyd W. Thomas
Victor E. Hipkiss
Robert P. Bender
Robert B. Vanasse
Arthur F. Shires
Kevin V. Fenney
Dennis M. Majerski
Peter D. Lish
Lonnie L. Steverson
Edward C. Cooke
William J. Theroux
Robert R. Gronberg
Dennis R. Erlandson
Roger D. Mowery
Jack W. Scarborough
Frank P. Murray
Roy C. Samuelson, Jr.
Dennis L. McCord
Richard L. Cashdollar
Harold B. Dickey
Charles J. Hermann
Edward B. Kangeter III
Bruce E. Weule
Wayne Young
John W. McBride
Wayne K. Six
Geoffrey M. Harben
Jay A. Creech
William F. Holt
John R. Hruska
Robert K. Jones
Olav R. Haneberg
Ronald C. Hoover
Robert B. Swart
Donald F. Walker
Theodore T. Musselman
Robert F. O'Toole
Gerald R. Murphy, Jr.
John S. Wenter
Foye A. Meader
Thomas J. Burnaw
Charles R. Leland
Richard R. Buhl
Christopher M. Stone
Frederick H. Edwards III
Robert E. Luchun
Craig E. Jud
Ernest J. Williams
David F. Patton, Jr.
Michael R. Perkins
Edward G. Martin, Jr.
Donald A. Jensen
Peter B. Fontneau
Robert A. Knapp
Zoran Sajovic
Michael D. Vance
Leonard H. Henell
Edward J. Searl
Paul K. Gruver
Jerry E. Bowersox
Robert B. Millson
James B. O'Brien
Gary A. Bird
Theodore C. Scheeser
Paul E. Hill
John E. Steve
Richard L. Youdal
Robert L. Hoyt
William J. Hamilton
Michael T. Burnett
Ronnie T. Wheeler
John H. Burger
Miller R. Chappell
Curtis J. Olds, Jr.
Carl R. Sosna
Richard D. Carmack
Dick A. Wilson
Frank V. Olszewski
David F. Cooper
Frank E. Couper
Fred B. Edison
William R. Shaffer
Ralph E. Huck
Thomas J. Barrett
Stephen A. Scully
Richard N. Norat
Kenneth J. Losser
James M. McKernan, Jr.
William F. Gears
James N. Skelton
Carl Lowry, Jr.
Wayne R. Gronlund
Warren E. Colburn, Jr.
Gregory L. Shaw
Robert W. Henry
Charles W. More
Benjamin B. Peterson
Paul J. Prokop
Gerald L. Hale
George F. Hetland, Jr.
Paul H. Garrity
James W. Gynther
Robert J. Wenzel
William K. Bissell
Michael J. Mierzwa
Alexander J. Hindle, Jr.
Richard F. Gupman
James D. Hull
Michael Billingsley
David H. Humpreys
Steven E. Hungness
Richard E. Burke, Jr.
Christopher G. Kreiler
Gregory H. Magee
Donald R. Shrader
James E. Smith, Jr.
David D. Frydenlund
Stuart N. White
James D. Garrison
Jay M. Snyder
Donald H. Debok
John F. McGowan
Frederick N. Wilder
Robert C. Olson, Jr.
Eric W. Miller
James L. Robinson
Andrew W. Anderson
Philip W. Hawkins
Larry F. Wheatley
Robet C. Belote
Richard J. Losea
Elwood E. Stoeger
Daniel L. Carney
William R. Jurgens
Paul J. Bodenhofer
Richard C. Vlaun
George A. Flanigan
Frederick J. Schmitt
Ronald J. Greto
George M. Williams
Jeffrey E. Robbins
Robert M. Acker, Jr.
Charles A. Huber, Jr.
Glenn P. O'Brien
Robert S. Jilman
Andrew L. Gerfin, Jr.
William R. Bowen
James R. Hartney
Richard D. White, Jr.
Richie M. Keig

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Bryce Poe, II, [redacted], U.S. Air Force.

Gen. Daniel James, Jr., U.S. Air Force, (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066 in grade as follows:

To be lieutenant general

Maj. Gen. Edgar Starr Harris, Jr., [redacted], U.S. Air Force.

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier gneeral

Col. James P. Albritton, [redacted], Regular Air Force.

Col. Spence M. Armstrong, [redacted], (lieutentant colonel, Regular Air Force) U.S. Air Force.

Col. Ernest A. Bedke, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Donald W. Bennett, [redacted], Regular Air Force.

Col. Schuyler Bissell, [redacted], Regular Air Force.

Col. William R. Brooksher, [redacted], Regular Air Force.

Col. James R. Brown, [redacted], Regular Air Force.

Col. Thomas B. Bruton, [redacted], Regular Air Force.

Col. Robert E. Buhrow, [redacted], Regular Air Force.

Col. John T. Chain, Jr., [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Robert E. Chapman, [redacted], Regular Air Force.

Col. Joseph H. Connolly, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Thomas G. Darling, [redacted], Regular Air Force.

Col. Donald L. Evans, [redacted], Regular Air Force.

Col. Kenneth R. Fleenor, [redacted], Regular Air Force.

Col. James L. Gardner, Jr., [redacted], Regular Air Force.

Col. Lawrence D. Garrison, [redacted], Regular Air Force.

Col. Harry A. Goodall, [redacted], (Lieutenant Colonel, Regular Air Force) United States Air Force.

Col. William H. Greendyke, [redacted], Regular Air Force, Medical.

Col. Titus C. Hall, [redacted], Regular Air Force.

Col. Richard D. Hansen, [redacted], Regular Air Force, Medical.

Col. Guy L. Hecker, Jr., [redacted], Regular Air Force.

Col. Robert C. Karns, [redacted], Regular Air Force.

Col. Melbourne Kimsey, [redacted], Regular Air Force.

Col. Donald L. Lamberson, [redacted], Regular Air Force.

Col. Gerald D. Larson, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. John R. Lasater, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. William E. Lindeman, [redacted], Regular Air Force.

Col. Leo Marquez, [redacted], Regular Air Force.
Col. Keith D. McCartney, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Gerald E. McIlmoyle, [redacted], Regular Air Force.
Col. Robert E. Messerli, [redacted], Regular Air Force.
Col. John F. O'Donnell, [redacted], Regular Air Force.
Col. Marvin C. Patton, [redacted], Regular Air Force.
Col. Milton R. Peterson, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Richard W. Phillip, Jr., [redacted], Regular Air Force.
Col. George B. Powers, Jr., [redacted], Regular Air Force.
Col. Winston D. Powers, [redacted], Regular Air Force.
Col. Marc C. Reynolds, [redacted], Regular Air Force.
Col. Thomas C. Richards, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Graham W. Rider, [redacted], Regular Air Force.
Col. Davis C. Rohr, [redacted], Regular Air Force.
Col. John P. Rollston, [redacted], Regular Air Force.
Col. Robert A. Rosenberg, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Click D. Smith, Jr., [redacted], Regular Air Force.
Col. William L. Strand, [redacted], Regular Air Force.
Col. William E. Thurman, [redacted], Regular Air Force.
Col. Edward L. Tixier, [redacted], Regular Air Force.
Col. Harold W. Todd, [redacted], (major, Regular Air Force) U.S. Air Force.
Col. Brien D. Ward, [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Clinton H. Winne, Jr., [redacted], Regular Air Force.
Col. Thomas E. Wolters, [redacted], Regular Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Ernest Graves, Jr., [redacted], Army of the United States (major general, U.S. Army).

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Freeman Henry Forrest, [redacted]
Brig. Gen. Robert Lewis Frantz, [redacted]
Brig. Gen. George Emmett McGovern, Jr., [redacted].
Brig. Gen. Frederick John Scheer, [redacted]

To be brigadier general

Col. Jason Alfred Aisner, [redacted].
Col. George Leighton Allen, [redacted].
Col. Jack Nelson Bohm, [redacted].
Col. James Thomas Bonsall, [redacted].
Col. James Eliot Chapman, [redacted].
Col. Anthony Harry Conrad, Jr., [redacted]
Col. James Carroll Crawford, [redacted].
Col. Ernest Stephen Ellis, [redacted].
Col. Joseph Melvin Lojek, [redacted].
Col. Carl Daniel McIntosh, [redacted].
Col. Charles Dunford Palmer, [redacted].
Col. Emory Conrad Parrish, [redacted].
Col. Herbert Joseph Riley, [redacted].
Col. Will Hill Tankersley, [redacted].
Col. James Robert Trapp, [redacted].
Col. William Francis Ward, Jr., [redacted]

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Francis Joseph Higgins, [redacted]

To be brigadier general

Col. Owen Daniel Griffith, [redacted].
Col. David Workman Hancock, [redacted].
Col. William McGee Ingram, [redacted].
Col. Harold Joseph Lavell, [redacted].
Col. Paul Andrew McGowan, [redacted].
Col. Paul Warren Reed, Jr., [redacted].
Col. William Grey Waters, Jr., [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. John Elina Alona, Jr., [redacted].
Col. Cornelius Ottway Baker, [redacted].
Col. Douglas Milton Byington, [redacted].
Col. Guy Homer Harding, [redacted].
Col. Hubert Monroe Leonard, [redacted].
Col. Anthony Lewis Palumbo, [redacted].
Col. Arthur Nims Phillips, [redacted].

IN THE NAVY

Vice Adm. Edward W. Cooke, U.S. Navy (age 56), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. William N. Small, U.S. Navy.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapters 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Abercrombie, Jack D., [redacted].
Adams, Wayne B., Jr., [redacted].
Aguiar, Edward R., [redacted].
Blissard, Robert J., [redacted].
Buckley, James W., [redacted].
Callahan, Patrick J., [redacted].
Combs, Kincheon V., [redacted].
Daly, Terrence P., [redacted].
David, Donald J., [redacted].
Degenhardt, Paul, [redacted].
Faber, Benjamin W., [redacted].
Freeman, Richard C., [redacted].
Geehan, Richard J., Jr., [redacted].
Gemberling, Edwin L., [redacted].
Gornall, Kenneth F., [redacted].
Hadaway, Talmadge E., [redacted].
Harris, Charles W., [redacted].
Hawkins, James F., [redacted].
Juedeman, Harold E., [redacted].
Kunichika, Ritchie K., [redacted].
Lee, John S. W., [redacted].
Lynn, Robert O. L., Jr., [redacted].
Mahler, William S., [redacted].
Marshall, William H., [redacted].
Montgomery, David C., [redacted].
Mulder, Albert Jr., [redacted].
Preston, Robert E., [redacted].
Sartz, Dallas P., [redacted].
Schempp, Paul A., [redacted].
Shepherd, James D., [redacted].
Turnbull, Thomas J., [redacted].
Turnipseed, William R., [redacted].
Wassell, Herbert L. Jr., [redacted].
Webb, Jack S., [redacted].
Witt, Russell A., [redacted].
Zelhart, Ward H., [redacted].

MEDICAL CORPS

Criscione, James R., [redacted].
Moreno Blas, [redacted].

VETERINARY CORPS

Woods, Samuel H., Jr., [redacted].

The following officer for reappointment to the active list of the Regular Air Force in the grade indicated, under the provisions of sections 1210 and 1211, title 10, United States Code.

LINE OF THE AIR FORCE

To be captain

McBride, James W., [redacted].

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., Section 3370:

ARMY PROMOTION LIST

To be colonel

Bennett, James, [redacted].
Bohn, Raymond J., [redacted].
Churchman, John P., [redacted].
Clark, Gilman L., [redacted].
Culberson, Edwin T., [redacted].
Freeman, John R., [redacted].
Hunter, Earle B., [redacted].
McBride, Thomas F., [redacted].
Miera, Vito M., Jr., [redacted].
Root, John H., [redacted].
Rowell, Joseph E., [redacted].
Strain, Joseph F., [redacted].
Taylor, Doyle D., [redacted].
Zimmer, Lyle D., [redacted].

CHAPLAIN

To be colonel

Ditaddeo, Alesandro, [redacted].
Maness, Charles M., [redacted].
Meyer, Erwin E., [redacted].
Peterson, Stephen E., [redacted].
Sargent, John C., [redacted].

WOMEN'S ARMY CORPS

To be colonel

Parker, Mattie V., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3366 and 3367:

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, Ambrose D., [redacted].
Adams, Joe L., [redacted].
Adams, Wilsie H., Jr., [redacted].
Affeldt, Ronald D., [redacted].
Alder, Robert C., [redacted].
Alexander, William, [redacted].
Allen, Jay H., [redacted].
Allen, Wilton K., [redacted].
Alvarez, Luis, [redacted].
Anderman, Marvin, [redacted].
Andersen, Karl K., [redacted].
Anderson, Gene R., [redacted].
Ando, Takashi, [redacted].
Apgar, John M., [redacted].
Arata, Thomas C., [redacted].
Archie, Willie L., [redacted].
Armstrong, Frank H., [redacted].
Arther, Billy J., [redacted].
Artman, Robert H., [redacted].
Arzate, David A., [redacted].
Ashley, Rollin O., [redacted].
Ashton, Max L., [redacted].
August, Richard S., [redacted].
Babski, Carl A., [redacted].
Bacon, Rogert A., [redacted].
Bailey, Arthur J., [redacted].
Baker, Norman J., [redacted].
Bakke, Kjell M., [redacted].
Balch, John P., [redacted].
Ballard, Mack N., Jr., [redacted].

Ballheim, William F., xxx-xx-xxxx.
Banchero, Joseph J., xxx-xx-xxxx.
Barbee, Jack W., xxx-xx-....
Barber, John, xxx-xx-xxxx.
Barnes, Robert K., xxx-xx-xxxx.
Barns, Bert G., xxx-xx-xxxx.
Barton, Thomas B., xxx-xx-xxxx.
Basford, Richard A., xxx-xx-xxxx.
Baugh, Marvin E., xxx-xx-xxxx.
Baughman, James R., xxx-xx-xxxx.
Baxter, Norman A., xxx-xx-xxxx.
Beckham, Clarence L., xxx-xx-xxxx.
Beemer, Elwyn L., xxx-xx-xxxx.
Bell, Anson D., xxx-xx-....
Bell, Byron H., xxx-xx-xxxx.
Bell, John F., Jr., xxx-xx-....
Bell, John L., xxx-xx-xxxx.
Bell, Willie, Jr., xxx-xx-xxxx.
Bellizzi, John P., xxx-xx-xxxx.
Bennett, Andrew F., xxx-xx-xxxx.
Bennett, Gerald C., xxx-xx-xxxx.
Bertolet, John R., xxx-xx-xxxx.
Beyer, David J., xxx-xx-xxxx.
Bianchi, Arthur A., xxx-xx-xxxx.
Bilisoly, John L., xxx-xx-xxxx.
Billeaud, Robert L., xxx-xx-xxxx.
Billings, George P., xxx-xx-xxxx.
Biondi, Philip J., xxx-xx-xxxx.
Bird, William L., xxx-xx-xxxx.
Black, Leonard J., xxx-xx-xxxx.
Blanchard, Robert W., xxx-xx-xxxx.
Bludworth, David H., xxx-xx-xxxx.
Bobek, Stanley E., xxx-xx-xxxx.
Bochniowich, David, xxx-xx-xxxx.
Bodenheimer, Jerry, xxx-xx-xxxx.
Bonafede, Samuel A., xxx-xx-xxxx.
Bonds, Tommy W., xxx-xx-xxxx.
Booth, James A., xxx-xx-xxxx.
Borden, Donald F., xxx-xx-xxxx.
Boring, Bruce D., xxx-xx-xxxx.
Boring, Welldon L., xxx-xx-xxxx.
Borrego, Evelio R., xxx-xx-xxxx.
Borri Ledesman, J., xxx-xx-xxxx.
Bosarge, Frederick, xxx-xx-xxxx.
Botterbush, Wilfred, xxx-xx-xxxx.
Bouldin, Robert J., xxx-xx-xxxx.
Bovino, Louis R., xxx-xx-xxxx.
Bowers, Robert A., xxx-xx-xxxx.
Bowles, Samuel P., Jr., xxx-xx-xxxx.
Boy, George E., xxx-xx-xxxx.
Boyd, Opa K., xxx-xx-xxxx.
Boysen, Luther C., xxx-xx-xxxx.
Braddock, Edgar A., xxx-xx-xxxx.
Brandt, William W., xxx-xx-xxxx.
Breckheimer, Donald, xxx-xx-xxxx.
Brennan, David N., xxx-xx-xxxx.
Brewster, Milburn P., xxx-xx-xxxx.
Bricker, Clarence A., xxx-xx-xxxx.
Bridges, Ronald K., xxx-xx-xxxx.
Brock, Clifton H., xxx-xx-xxxx.
Brock, Hiram J., xxx-xx-xxxx.
Brogden, Alven L., xxx-xx-xxxx.
Broome, James C., xxx-xx-xxxx.
Brothers, Lawrence, xxx-xx-xxxx.
Brown, Barry P., xxx-xx-xxxx.
Brown, Emmett L., Jr., xxx-xx-xxxx.
Brown, Melvin E., xxx-xx-xxxx.
Brown, Richard E., xxx-xx-xxxx.
Brown, Richard G., xxx-xx-xxxx.
Brown, Roland D., xxx-xx-xxxx.
Brown, Willard G., Jr., xxx-xx-xxxx.
Brox, Charles A., xxx-xx-xxxx.
Bruce, George F., xxx-xx-xxxx.
Brumfield, Lamar R., xxx-xx-xxxx.
Bryant, Amos A., xxx-xx-xxxx.
Bryant, James T., xxx-xx-xxxx.
Bryant, Richard I., xxx-xx-....
Buchanan, Bobby R., xxx-xx-xxxx.
Buck, Richard S., xxx-xx-....
Bucy, Charles L., Jr., xxx-xx-xxxx.
Budd, Alan L., xxx-xx-xxxx.
Buhrandt, Thomas W., xxx-xx-xxxx.
Bullis, Lawrence H., xxx-xx-....
Bumbleburg, Joseph, xxx-xx-xxxx.
Burleson, Carl L., xxx-xx-xxxx.
Burley, William W., xxx-xx-xxxx.
Butts, Clark M., xxx-xx-xxxx.
Butts, Roy C., xxx-x....
Byrd, Floyd E., xxx-xx-....
Bystrowski, Stanley, xxx-xx-....
Cahan, Reginald M., xxx-xx-....
Campbell, Sidney I., xxx-xx-xxxx.
Canty, Henry L., xxx-xx-xxxx.
Capps, Elmer E., xxx-xx-xxxx.
Caram, Joseph N., xxx-xx-xxxx.
Carlisle, E. N., Jr., xxx-xx-xxxx.
Carr, Joseph V., Jr., xxx-xx-xxxx.
Carrington, Jerry E., xxx-xx-xxxx.
Carson, Robert D., xxx-xx-xxxx.
Carte, Dale W., xxx-xx-xxxx.
Carter, John D., xxx-xx-xxxx.
Carter, Raymond J., xxx-xx-xxxx.
Caruth, Paul S., xxx-xx-xxxx.
Cary, Brian M., xxx-xx-xxxx.
Cassetty, John T., xxx-xx-xxxx.
Castaneda, Esteban, xxx-xx-xxxx.
Cataldo, Fortunato, xxx-xx-xxxx.
Catterall, John, xxx-xx-xxxx.
Champlin, Charles F., xxx-xx-xxxx.
Chandler, George K., xxx-xx-xxxx.
Chappell, Alonzo, xxx-xx-xxxx.
Chaput, Robert J., xxx-xx-xxxx.
Chastain, John O., xxx-xx-xxxx.
Cheek, Forrest H., xxx-xx-xxxx.
Chickachop, Norman, xxx-xx-xxxx.
Ching, Roger Y. F., xxx-xx-xxxx.
Chisholm, Allen N., xxx-xx-xxxx.
Chitwood, Michael R., xxx-xx-xxxx.
Cieply, Oleh R., xxx-xx-xxxx.
Clapp, Donald L., xxx-xx-xxxx.
Clark, Elmer D., xxx-xx-xxxx.
Clark, Errol E., xxx-xx-xxxx.
Clark, Richard R., xxx-xx-xx....
Clarke, Henry H. H., xxx-xx-xxxx.
Clay, Lawrence E., xxx-xx-xxxx.
Clynch, Marvin C., xxx-xx-xxxx.
Cobb, Ralph L., xxx-xx-xxxx.
Cochran, Louis M., xxx-xx-xxxx.
Colli, Robert F., xxx-xx-xxxx.
Collie, John, Jr., xxx-xx-xxxx.
Collier, Daniel M. J., xxx-xx-xxxx.
Colononeill, David, xxx-xx-xxxx.
Constance, Silton J., xxx-xx-xxxx.
Contos, Spiro J., xxx-xx-xxxx.
Cook, Claude R., xxx-xx-xxxx.
Cook, Maurice G., xxx-xx-xxxx.
Cook, Thomas R., Jr., xxx-xx-xxxx.
Cooper, Richard L., xxx-x....
Corbin, Charles L., xxx-xx-xxxx.
Cottrell, David D., xxx-xx-xxxx.
Coulter, Jack H., xxx-xx-xxxx.
Counts, James T., xxx-xx-xx....
Couture, Roy A., xxx-xx-xxxx.
Cowden, Ronald R., xxx-xx-xxxx.
Cowgill, Claiborne, xxx-xx-xxxx.
Cox, Robert E., xxx-xx-xxxx.
Coxe, Lamar N., Jr., xxx-xx-xxxx.
Coy, James M., xxx-xx-xx....
Crawford, Billy J., xxx-xx-xx....
Criste, Charles K., xxx-xx-xxxx.
Croix, Alfred A., xxx-xx-xx....
Crook, Melvin J., xxx-x....
Cruz-Cruz, Juan, xxx-xx-xxxx.
Cuker, George, xxx-xx-xxxx.
Cukurs, Maris, xxx-xx-xx....
Cullifer, William M., xxx-xx-xxxx.
Cummins, Carl C., xxx-xx-xxxx.
Cureton, Jasper M., xxx-xx-xxxx.
Cusker, Bruce W., xxx-xx-xxxx.
Daiello, Russell J., xxx-xx-xxxx.
Daleo, Francis B., xxx-xx-xxxx.
Daly, Robert A., xxx-xx-xxxx.
Damore, Francisco J., xxx-xx-xxxx.
Davenport, Milton D., xxx-xx-xxxx.
David, Donald D., xxx-xx-xxxx.
Davies, Paul R., xxx-xx-xxxx.
Davis, Billy J., xxx-xx-xxxx.
Davis, Bobby C., xxx-xx-xxxx.
Davis, Charles L., Jr., xxx-xx-xxxx.
Davis, Charles W., xxx-xx-xxxx.
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Steagall, James G., XXX-XX-XXXX.
Stevenson, William, XXX-XX-XXXX.
Stewart, Bill L., XXX-XX-XXXX.
Stewart, Jerry A., XXX-XX-XXXX.
Stivers, David R., XXX-XX-XXXX.
St. Laurent, Ernest R., XXX-XX-XXXX.
Stoehr, John J., XXX-XX-XXXX.
Stoker, Roy, XXX-XX-XXXX.
Stokley, G. H., Jr., XXX-XX-XXXX.
Stones, Thomas C., XXX-XX-XXXX.
Straub, Robert M., XXX-XX-XXXX.
Straut, Robert P., XXX-XX-XXXX.
Strickland, Robert, XXX-XX-XXXX.
Strobl, Joseph M., XXX-XX-XXXX.
Strong, Terry J., XXX-XX-XXXX.
Stubblefield, Clare, XXX-XX-XX....
Stull, Bobby J., XXX-XX-XXXX.
Stuteville, C. E., XXX-XX-XXXX.
Sullivan, Jack, XXX-XX-XXXX.
Sullivan, John J., XXX-XX-XXXX.
Sullivan, John S., XXX-XX-XXXX.
Sullivan, John W., XXX-XX-XXXX.
Szczotka, Chester J., XXX-XX-XXXX.
Taddy, Peter A., XXX-XX-XXXX.
Takahama, Michael J., XXX-XX-XXXX.
Tantala, Albert M., XXX-XX-XXXX.
Tapparo, Frank A., XXX-XX-XXXX.
Tarrant, James E., XXX-XX-XXXX.
Tata, Robert J., XXX-XX-XXXX.
Taylor, Eugene P., XXX-XX-XXXX.
Taylor, John T., Jr., XXX-XX-XXXX.
Terry, David L., XXX-XX-XXXX.
Thomas, Alvin, XXX-XX-XXXX.
Thompson, Ardell W., XXX-XX-XXXX.
Thusius, Norman E., XXX-XX-XXXX.
Titus, Melvin L., XXX-XX-XXXX.
Tocci, Theodore C., XXX-XX-XXXX.
Tokarczyk, George W., XXX-XX-XXXX.
Tolin, Douglas L., XXX-XX-XXXX.
Tolin, John D., XXX-XX-XXXX.
Torrance, Ernest G., XXX-XX-XXXX.
Traverse, George F., XXX-XX-XXXX.
Trombly, Donald D., XXX-XX-XXXX.
Truitt, Darrell W., XXX-XX-XXXX.
Tschider, Richard A., XXX-XX-XXXX.
Tucker, Robert C., Jr., XXX-XX-XXXX.
Turner, Burton F., XXX-XX-XXXX.
Turner, Thomas E., II, XXX-XX-XXXX.
Tuxill, Richard W., XXX-XX-XXXX.
Tyc, Walter S., XXX-XX-XXXX.
Urette, Michael E., XXX-XX-XXXX.
Valdes, Richard J., XXX-XX-XXXX.
Varvel, Gerald S., XXX-XX-XXXX.
Vechione, William J., XXX-XX-XXXX.
Vercher, Robert A., XXX-XX-XXXX.
Vivona, Joseph B., XXX-XX-XXXX.
Vogtlin, George E., XXX-XX-XXXX.
Vrana, Frank R., XXX-XX-XXXX.
Wade, Billy C., XXX-XX-XXXX.
Walgreen, John A., XXX-XX-XXXX.
Walker, George, Jr., XXX-XX-XXXX.
Walker, Robert R., XXX-XX-XXXX.
Walker, Wallace L., XXX-XX-XXXX.
Walsh, Milton C., XXX-XX-XXXX.
Walter, Edward J., XXX-XX-XXXX.
Walthall, Thomas H., XXX-XX-XXXX.
Ware, Philip S., XXX-XX-XXXX.
Warren, James E., XXX-XX-XXXX.
Wasson, Jimmy D., XXX-XX-XXXX.

Watson, Rawley H., XXX-XX-XXXX.
Watterson, Gary A., XXX-XX-XX...
Weaver, Charles J., XXX-XX-XXXX.
Weber, Carroll R., Jr., XXX-XX-XX...
Welk, William A., XXX-XX-X...
Wertz, John D., XXX-XX-XX...
West, James A., XXX-XX-XXXX.
West, Ronald P., XXX-XX-XXXX.
Westra, Charles J., XXX-XX-XXXX.
Wheeler, Dave A., XXX-XX-XXXX.
Wheeler, Peter E., XXX-XX-XXXX.
White, Howard K., XXX-XX-XXXX.
Wiggins, Wyman, XXX-XX-XXXX.
Wilbanks, Donald P., XXX-XX-XXXX.
Wiles, Ulysses W., XXX-XX-XXXX.
Wiley, Thomas E., Jr., X...XXX-XX-X...
Wilkins, Wilbur E. J., XXX-XX...
Williams, Barney R., XXX-XX-XXXX.
Williams, Edward T., XXX-XX-XXXX.
Williams, George L., XXX-XX-XXXX.
Williams, James M., XXX-X...
Wilroy, William E. J., XXX-XX-XXXX.
Wilson, George C., XXX-XX-XXXX.
Wilson, James L., XXX-XX-XXXX.
Wilson, Nicholas B., XXX-XX-XXXX.
Winch, David L., XXX-XX-XXXX.
Winters, Gary W., XXX-XX-XXXX.
Witzelhofer, Frank, XXX-XX-XXXX.
Wolf, Frederick S. J., XXX-XX-XXXX.
Wood, Jimmy B., XXX-XX-XXXX.
Wood, Raymond M., XXX-XX-XXXX.
Woodby, Robert P., XXX-XX-XXXX.
Wooten, Marion E., XXX-XX-XXXX.
Wright, George R., XXX-XX-XXXX.
Zachritz, Don T., XXX-XX-XXXX.
Zahradnick, Robert, XXX-XX-XXXX.
Zeboris, Richard F., XXX-XX-XXXX.
Zechman, Donald L., XXX-XX-XXXX.
Ziegler, George H., XXX-XX-XXXX.
Ziemba, Gerald P., XXX-XX-XXXX.
Zimmerman, Jay H., XXX-XX-XXXX.
Zinchuk, Peter P., XXX-XX-XXXX.
Zinz, William R., Jr., XXX-XX-XXXX.
Zuehlke, Frank R., XXX-XX-XXXX.

CHAPLAIN

To be lieutenant colonel

Barrow, Oscar H., XXX-XX-XXXX.
Bearce, Leroy C., XXX-XX-XXXX.
Burton, Carl H., XXX-XX-XXXX.
Egbert, Archie O., XXX-XX-XXXX.
Essrog, Seymour L., XXX-XX-XXXX.
Farrow, Donald M., XXX-XX-XXXX.
Fine, Arthur L., XXX-XX-XXXX.
Francis, Walter P., XXX-XX-XXXX.
Gundersen, Gerald M., XXX-XX-XXXX.
Hewitt, Arthur A., XXX-XX-XXXX.
Holland, Charles E., XXX-XX-XXXX.
Johnson, Caleb H., XXX-XX-XXXX.
Johnson, Richard H., XXX-XX-XXXX.
Kissinger, H. P., III, XXX-XX-XXXX.
Lauer, James P., XXX-XX-XXXX.
Lindenauer, Jon M., XXX-XX-XXXX.
Martin, John F., XXX-XX-XXXX.
McShane, John A., XXX-XX-XXXX.
Miller, Phillip O. J., XXX-XX-XXXX.
Mills, Marion A., XXX-XX-XXXX.
Mullins, Wayne F., XXX-XX-XXXX.
Neuville, Donald L., XXX-XX-XXXX.
Nuscher, Max E., XXX-XX-XXXX.
O'Donnell, William J., XXX-XX-XXXX.
Ohsiek, John H., XXX-XX-XXXX.
Perkins, Delaine T., XXX-XX-XXXX.
Permenter, W. T., XXX-XX-XXXX.
Pilcher, William E., XXX-XX-XXXX.
Pittman, Charles R., XXX-XX-XXXX.
Randolph, Francis R., XXX-XX-XXXX.
Redmerski, Stanley, XXX-XX-XXXX.
Reehl, John D., XXX-XX-XXXX.
Rodefer, William O., XXX-XX-XXXX.
Streett, Allan H., XXX-XX-XXXX.
Vedeler, Donald G., XXX-XX-XXXX.
Wallace, Richard A., XXX-XX-XXXX.
Wilson, Henry W., XXX-XX-XXXX.

WOMEN'S ARMY CORPS

To be lieutenant colonel

Alvey, Merle E., XXX-XX-...
Birnkammer, Eve, XXX-XX-XXXX.
Ernst, Patricia S., XXX-XX-XXXX.
Post, Carolyn A., XXX-XX-XXXX.
Harrington, Helen A., XXX-XX-XXXX.
Majors, Carol W., XXX-XX-XXXX.
Perlow, Joyce S., XXX-XX-XXXX.
Raines, Ruth D., XXX-XX-XXXX.
Roberts, Maxine L., XXX-XX-XXXX.
White, Florine, XXX-XX-XXXX.
Williams, Freida J., XXX-XX-XXXX.

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, and 594:

MEDICAL CORPS

To be colonel

Szymonski, Zdzislaw, XXX-XX-XXXX.

ARMY PROMOTION LIST

To be lieutenant colonel

Lubin, Joseph D., XXX-XX-XXXX.

ARMY NURSE CORPS

To be lieutenant colonel

Jaquez, Belen B., XXX-XX-XXXX.

DENTAL CORPS

To be lieutenant colonel

Harris, William E. III, XXX-XX-XXXX.

MEDICAL CORPS

To be lieutenant colonel

Alban, Seymour L., XXX-XX-XXXX.
Amadeo, Jose H., XXX-XX-XXXX.
Bailey, Wilson P., XXX-XX-XXXX.
Engeler, James E., XXX-XX-XXXX.
Hamilton, Thomas P., II, XXX-XX-XXXX.
Kilmark, Robert M., XXX-XX-XXXX.
Legg, Joseph S., XXX-XX-XXXX.
Lim, George, XXX-XX-XXXX.
Pappas, George N., XXX-XX-XXXX.
Rovere, George D., XXX-XX-XXXX.

The following-named officers for appointment in the Army of the United States, under the provisions of Title 10, U.S.C., Section 3494:

MEDICAL CORPS

To be lieutenant colonel

Anderson, Daniel H., XXX-XX-XXXX.
Destrez, Patience D., XXX-XX-XXXX.
Dwyer, Catherine V., XXX-XX-XXXX.
Lister, Robert G., XXX-XX-XXXX.
Littleton, Leonidas R., Jr., XXX-XX-XXXX.
Penzell, Yale, XXX-XX-XXXX.
Renson, Jean F., XXX-XX-XXXX.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Brennan, Daniel L., XXX-XX-XXXX.
Brousse, Valsin L., III, XXX-XX-XXXX.
Bullock, James M., Jr., XXX-XX-XXXX.
Eakes, Joe O., Jr., XXX-XX-XXXX.
Hornsby, William A., XXX-XX-XXXX.
Layton, Gary E., XXX-XX-XXXX.
McBarron, James F., XXX-XX-XXXX.
McCarthy, Patrick J., XXX-XX-XXXX.
Maier, John A., XXX-XX-XXXX.
Reed, Paul W., Jr., XXX-XX-XXXX.
Roland, Alan C., XXX-XX-XXXX.
Santelli, John O., XXX-XX-XXXX.
Smith, Duane R., XXX-XX-XXXX.
Thompson, Robert D., XXX-XX-XXXX.
Troutt, Nathaniel G., XXX-XX-XXXX.
Walsh, Richard M., XXX-XX-XXXX.

ARMY PROMOTION LIST

To be lieutenant colonel

Brewer, Franklin L., XXX-XX-XXXX.
Brinkley, Joe E., XXX-XX-XXXX.
Bucy, Charles L., Jr., XXX-XX-XXXX.
Carter, Thomas L., XXX-XX-XXXX.
Coffey, Clarence H., Jr., XXX-XX-XXXX.
Cunningham, John D., XXX-XX-XXXX.
Ellison, James B., XXX-XX-XXXX.
Foster, David A., XXX-XX-XXXX.
Glenn, Robert F., XXX-XX-XXXX.
Gonion, Leo B., XXX-XX-XXXX.
Greenwood, Roger H., XXX-XX-XXXX.
Ivy, Jerry H., XXX-XX-XXXX.
Margetts, Charles M., XXX-XX-XXXX.
Mathews, James E., XXX-XX-XXXX.
McGurk, Terrence J., XXX-XX-XXXX.
McKee, Robert M., XXX-XX-XXXX.
Nelms, William E., XXX-XX-XXXX.
Payne, George F., XXX-XX-XXXX.
Perkins, Gordon R., XXX-XX-XXXX.
Pizzolatto, John R., XXX-XX-XXXX.
Pouliot, Joseph N., XXX-XX-XXXX.
Smith, Roy C., XXX-XX-XXXX.
Smith, Taylor M., Jr., XXX-XX-XXXX.
Springsteen, George H., XXX-XX-XXXX.
Testerman, James B., XXX-XX-XXXX.
Walker, George, Jr., XXX-XX-XXXX.
Young, John R., XXX-XX-XXXX.

CHAPLAIN

To be lieutenant colonel

Crowley, Donald L., XXX-XX-XXXX.
Hasty, Charles R., XXX-XX-XXXX.
Licata, Donald B., XXX-XX-XXXX.

DENTAL CORPS

To be lieutenant colonel

Gordon, Stanley E., XXX-XX-XXXX.

MEDICAL CORPS

To be lieutenant colonel

Collier, Robert W., Jr., XXX-XX-XXXX.
Sandford, John L., XXX-XX-...
Sheldon, Robert B., XXX-XX-XXXX.

MEDICAL SERVICE CORPS

To be lieutenant colonel

McGaughy, Luther J., XXX-XX-XXXX.

IN THE NAVY

The following-named lieutenant commanders of the U.S. Navy for temporary promotion to the grade of commander in the Medical Corps, pursuant to title 10, United States Code, section 5793, subject to qualification therefor as provided by law:

Marcom, Robert A.
Rao, Bolar R.

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the Dental Corps, pursuant to title 10, United States Code, section 5793, subject to qualification therefor as provided by law:

Kirkland, Kris A.
Trapp, John E.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5769 (line officers) and 5773 (staff corps officers), subject to qualification therefor as provided by law:

LINE

Munsell, Richard W.
Najarian, Harold M.

SUPPLY CORPS

Sadler, Douglas H.

JUDGE ADVOCATE GENERAL'S CORPS

Bridge, Jonathan J.
Holt, John B.
John, Edmund K.
Morgan, James K.
Weber, Donald B.

Lt. Jean M. Higgins, Nurse Corps, U.S. Navy for temporary promotion to the grade of lieutenant commander in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law.

The following-named lieutenants of the line, of the U.S. Navy for appointment in the Judge Advocate General's Corps as permanent lieutenants (junior grade) and temporary lieutenants, pursuant to title 10, United States Code, section 5578(a), subject to qualification therefor as provided by law:

Connelly, Thomas J.
Cotter, Edward F.
Curreri, Michael P.
Indest, George F., III
Hardy, David M.
Monahan, Robert P.

Lt. (junior grade) Carlton L. Thompson, U.S. Navy, an officer of the line, for appoint-

ment in the Supply Corps as a permanent ensign, pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law.

Lt. (junior grade) Thomas H. Leaverton, U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line, pursuant to title 10, United States Code, section 5788(a), subject to qualification therefor as provided by law.

The following-named lieutenants (junior grade) of the line, of the U.S. Navy for appointment in the Judge Advocate General's Corps, as permanent lieutenants (junior grade), pursuant to title 10, United States Code, section 5578(a), subject to qualification therefor as provided by law:

Carty, John T.
Croner, George W.
Easton, Jeanne.
McMahon, Kevin P.
Shepherd, David S.
Thompson, Helen B.

The following-named ensigns of the line of the U.S. Navy for appointment in the Supply Corps as permanent ensigns, pursuant to title 10, United States Code, section 5582 (b), subject to qualification therefor as provided by law:

Hamann, Donald K.
Krueger, Paul F.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Jimmy L. Aaron
Larry Abramovitz
Sylvester P. Abramowicz, Jr.
Charles D. Adams, Jr.
Ricky R. Adams
William R. Adams
Allan A. Adell
Jeffrey E. Aggas
Robert E. Ahern, Jr.
Martha A. Albers
David W. Alekson
John D. Alexander
Charles J. Allen IV
Gene Edward Allen
Michael R. Allen
N. L. Allen
Joseph R. Allison
Penelope L. Alvarez
Kevin S. Amos
Ernest G. Anastos
Steven S. Anderson
Richard J. Andes
Thomas R. Andress
Gregory E. Andrews
Hoyet H. Andrews III
Steven M. Andy
Timothy P. Angerer
James G. Antal
Rhett W. Anthony
Steven M. Arbogast
Larry H. Arcement, Jr.
James S. Archer
Michael R. Armada
Stephen E. Armstrong
Stephen D. Ashbridge
Barry W. Ashe
Robert B. Asmus
David W. Atkins
Roger D. Atkins
William H. Atwill, Jr.
Morris Austin
Otis L. Autrey, Jr.
Erik B. Ayers
Bruce I. Babcock
Terry L. Bachman
Robert J. Bader
Robert B. Badgett
Robert J. Baggett
James C. Bailey
Thomas B. Bailey III
Barry B. Baker
Dean A. Baker
David D. Balcer
Timothy D. Baldy
Steven A. Ballantyne
Thomas S. Ballantyne
Matthew E. Barber
Steven B. Barnes
Jeff D. Barnett
Sandra L. Barnett
Richard Barock
Eric C. Baron
Harry F. Barranger
Kevin R. Barre
David M. Barrett
Joseph J. Barrientos, Jr.
Robert B. Barron, Jr.
John W. Barry
Kenneth F. Barry
Mark J. Barry
Steven R. Barth
Tony C. Barton
Raymond M. Basch
David G. Basile
James F. Basile
Richard S. Battin
John W. Baxter, Jr.
Donald C. Beahm
Terrance J. Beall
Charles R. Beaver
David J. Bechtol
David L. Becker
Terrel V. Beckham, Jr.
Richard C. Bedford
Christopher K. Behrens
Gregory L. Bell
Kelvin A. Bell
Saundra M. Bell
William A. Bendokas, Jr.
Peter W. Benedetto
Tommie D. Benefield, Jr.
Timothy L. Benham
Curtis T. Bennett
David R. Bennett
Mitchell W. Benson
Jerome F. Bentler
Daniel M. Bercaw
Robert L. Berger
Steven M. Berger
Jon F. Berg-Johnsen
Sharlene Y. Bergonia
Timothy R. Berkhimer
Michael E. Bermel
Michael H. Bernard
Dudley B. Berthold
David L. Biggs
John A. Bjorkman
Timothy R. Black
David R. Blake
Dennis R. Blakely
Paul P. Blakeslee
Marc D. Blaydoe
Raymond W. Bodnar
Elliot F. Bolles
Robert F. Bomber
Steven L. Boozer
Mark R. Bottomly
James T. Bourne
Gerald T. Bowes
John W. Bowser
Eddie L. Bracey, Jr.
Steven L. Brandenburg
David E. Brasuell
Dean A. Brazier
Mark K. Brazier
Michael J. Brennan
Elizabeth V. Bres
Orlie T. Brewer, Jr.
Troy G. Brewer
Steven L. Briganti
Joseph A. Britt
James E. Brockington
Erick N. Brockmann
Benjamin Brown
Clarence L. Brown
Joseph T. Brown
Margaret L. Brown
Robert M. Brown
Timmy J. Brown
William R. Broz
David M. Brucas
Christa M. Bruce
Mark S. Bryant
William M. Bryant III
Richard W. Bump
Chip G. A. Bunce
Dale G. A. Bunce
Gary W. Burchill
John A. Burgess
Lynn M. Burgess
Mark G. Burgunder
Donald E. Burke, Jr.
David A. Burkhard
Brendan M. Burns
Joseph C. Burns
William J. Burrows
Major D. Bursey, Jr.
John T. Burton
Michael D. Buss
Donald W. Bussell
Robert W. Butler
John L. Butz, Jr.
James E. Byrd
Warren R. Byrum
Thomas Cage
Vincent P. Caggia, Jr.
Charles S. Cairns
Thomas G. Calhoun
David M. Cameron
Joseph F. Camilleri
James P. Campbell
Peter J. Campbell, Jr.
Randy G. Canfield
Andrew M. Caplan
Frank M. Caprio
Frank A. Carbone
Alan L. Carman
Lafayette Carroll
Patrick J. Casey
John S. Cash
William R. Cashman
Patrick D. Caslin
Timothy C. Cassidy
Kirk D. Casteel
Steven A. Castillo
John E. Ceckler
Dawn S. Chabrol
Donald J. Chadeayne
Jeffrey W. Chivers
John H. Christensen
Peter F. Ciesla
Lewis J. Ciochetto
Brian G. Clark
James R. Clark
John E. Clark
Stewart X. Clark
Elizabeth A. Clarkson
Terry L. Classen
William L. Clemente
Jerome L. J. Cleveland
James P. Clinch
Sam D. Clomon
Steven M. Cloud
Michael J. Clow
James L. Coffey
Damien A. Colden
Donald L. Colson
William P. Connelly
Robert J. Connevy III
Ana M. Conte
Robert A. Cook
Scott L. Cooper
Arthur J. Corbett
Mark G. Cornish
Richard S. Cornish
Christopher M. Corrigan
Raymond L. Coss
David L. Cotner
Daniel B. Cowdin
Kenneth R. Cowen
Jeffrey J. Cox
Keith H. Cox
William R. Coy, Jr.
John W. Craigie
John H. Crane, Jr.
Joseph F. Craven, Jr.
Mark Crayton
Sean F. Crean
William A. Crisp
McKinley Crockett, Jr
Byron W. Crow
Robert K. Crumplar
James P. Cullen, Jr.
Paul D. Cummings, Jr.
William D. Cummings
Anthony Cunningham
Janet L. Cunningham
Ray E. Currier, Jr.
James R. Curtis
Nelson C. J. Curtis
Robert M. Curtis
William E. Curtis, Jr.
Christopher B. Cyrway
Wayne A. Daffer
Scot A. Dahl
John M. Dailey
Robert . Daly
Garry W. Daniel
Keith A. Daniels
Mark S. Danley
James K. Dargan
William M. Davenport
Adam H. Davidson, Jr.
Daniel S. Davidson
Robert N. Davidson II
Curtman K. Davis
Frances R. Davis
Gabrielli B. Davis, Jr.
Gregory S. Davis
Steven T. Davis
Leo A. Dawson, Jr.
William L. Daye
Tracy L. Dean
David B. Dearie
Douglas J. Dearolph
John E. Deas
William L. Decker
Robert T. Deegan II
Terry L. Deen
John F. DeGeorge
Kirk M. Deissler
David M. Delong
Philip M. Delpero
William C. Dempsey, Jr.
James E. DeOtte
Timothy J. P. DeSalvo
Thomas J. Desjardins
Raymond J. Desvousges
Jeffrey D. Devonchik
William F. Diamond, Jr.
Dale A. Dicks
Gary E. Didio
Daniel P. DiDomenico
James R. Diercks
Henry A. Digeser
James J. DiMartino
David J. DiMatteo
Steven L. Ditmars
Eric C. Dittmar
Steven P. Dixon
Randall H. Dobler
Steven D. Dohanyos
Gordon L. Dona
Kevin Donahue
David A. Donnelly
Kenneth A. Donnelly, Jr.
Michael W. Donovan
Martha J. Dorgan
Carl W. Dossel
Sheryl A. Doucette
Stephen M. Douma
Mark E. Dowd
George M. Drakeley
Robert W. Drash
Craig C. Drew
Michael L. Driscoll
Raymond J. Droll
Charles B. DuBose III
John T. Dugene
Lawrence K. Duke
Richard K. Duncan
David M. Dunkerley
Peter Dunklin
James J. Dunne, Jr.
Gilliam E. Duvall
Peter D. Eareckson
Martin S. Earl
Thomas L. Earwood
Danny G. East
Theodore R. Eckstrom Jr.
Victor A. Edelmann, Jr.
William T. Edwards III
John J. Egan
George E. Eichert
Terry P. Ekeland
Walter E. Elison
Mark S. Ellis
David M. Emanuel
Michael R. Engbrecht
Christopher C. Enos
John R. Ericson
David C. Ernst
Jesse G. Evans
Leroy S. Evans
Mark D. Evans
Richard E. Evans
Douglas L. Failor
Joel K. Fairbanks
Frank M. Faith, Jr.
Norman J. Farley
George B. Farrell
Daniel N. Fazio
Thomas J. Fedele
Bruce M. Fedor
Guenther Feiste
Mario A. Feliciano
Curtis H. Fennell
Harold G. Ferenz
Geoffrey T. Ferguson
John M. Ferguson
Robert W. Ferguson, Jr.
Eric L. Ferraro
Karen A. Filiault
Mark B. Finch
William M. Fink
Susan J. Finlay
Daniel L. Fischbach
Mark F. Fischer
James T. Fisher
Paul S. Fisher
Richard A. Fitzgerald
John J. Fitzpatrick
Marc A. Fleming
William R. Fleming
Dana A. Fletcher
Ronald A. Fletcher
James J. Flood III
John C. Floyd, Jr.
Dennis A. Fludd
Larry L. Fluty
Raymond E. Fontenette
Mark C. Foote
Daryl J. Forbes
Alvin Ford
Robert L. Ford
Michael L. Forehand
James R. J. Foster
Stephen W. Foster
David C. Francis
Paul M. Francis
Douglas W. Frank
Alvin J. Franklin
Mark T. Frans
Michael Freitas
Robert J. Fretz, Jr.
Joseph R. Freund
Michael W. Fricke
William R. Fritchie
Lawrence W. Fryer, Jr.
George J. Fullerton
Mark L. Gabriel
Michael E. Gaddis
Aubrey L. Gaddy
Paul R. Gardella, Jr.
Nigel I. Gardener
Phillip J. Gardner
Rodney V. Gardner
George P. Garrett
David B. Garvey
Kenneth W. Gascoigne
Stephen Gates, Jr.
Jeffrey B. Gaut
John C. Gavan
Bradley C. Geddes
Steven D. Geer
David H. Geiss
Joseph A. Gelsomino
Michael D. Genovese
James H. Gentile
James M. George
Eric F. Germain
Andre J. Gibson
Albert Gidari, Jr.
John H. Giesen
Albert L. Giguere
Mark A. Gilbertson
Michael E. Gildon
Joseph P. Gilio
David W. Gillard
James I. Gillespie
Christopher C. Gillette
Thomas J. Gilroy
Gerald L. Gilstrap
Jeffrey R. Ginnow
Neal N. Girdler
Lee E. Girer
Raymond J. Gizara
Frederick W. Glauner, Jr.
Thomas R. Gleason
Robert M. Glidden III
Jacob H. Godwin, Jr.
Gregory E. Gonthier
Michael J. Goodson
John M. Goodwin
John G. Googe
David R. Gordon
Henry Gordon, Jr.
Michael S. Gordon
Michael L. Gorrell
Rex A. Grace
John H. Graham
Dennis E. Granger
George L. Graveson III
Johnny R. Grayson
Mark J. Greby
Scott W. Green
Jack A. Greenspan
Thomas E. Gregory
Laurence L. Gribble
Danile R. Griffiths
David B. Grimes
David B. Grimland
John D. Griset
Mark A. Grohman
William H. Groscur III
Kim W. Grothaus
William J. Grun
James E. Guess
Dominic J. Gundor
Charles B. Haaser
Norma L. Hackney
Peter J. Hagen

Nancy L. Hagerson
Alan E. Haggerty
Terance E. Haid
George W. Haliscak
David L. Hall
Terry E. Hall
John A. Halsema
Joseph B. Hamilton
David M. Hampton
Gary W. Hampton
William B. Hampton
William C. Hampton
William R. Hampton, Jr.
Thomas L. Hanks
Clare W. Hanson II
William F. Harbison
Charles C. Harbuck
Andre J. Hardenan
Donald M. Harlan, Jr.
Craig R. Harley
John R. Harmon
Gerald R. Harms
Joseph D. Harrington
William D. Harrington
Douglas W. Harris
Harlan R. Harris
John E. Harris
John P. Harris
Timothy J. J. Harrop
Keith E. Hart
Stephen D. Hart
William A. Hartung
Kent V. Hartzler
William C. Harwood
Charles B. Hasbrouck III
Cheryl C. Hashimoto
Mark H. Haskin
Edward B. Haskins
Kirk C. Hassel
John R. Hastings
Millicent G. Hatcher
James J. Havrilak
Kenneth G. Hayden
Thomas C. Hayes
John S. Haynes
Harry A. Heatley
Stanley J. Hebda
Jeffrey A. Hedges
Michael C. Hedman
Terrence G. Heidkamp
Gerhard Heininge
Bruce M. Helart
David L. Henderson
James A. Hendricks
John D. Henley
John R. Henningan
Shane K. Hennum
Geoffrey L. Henry
Matthew J. Henry
Philip E. Henseler, Jr.
John W. Herring, Jr.
Edward C. Hertberg, Jr.
Stephen P. Herzog
Bruce F. Heuke
John R. Hickman
Gary B. Hicks
Jack C. Hicks
Guy Y. Higashimura
Edward J. High
Donald H. Hildebrand
Donald D. Hill
Paul D. Hill
Rebert J. Hill
Frederick F. Hillenbrand III
Gregory D. Hillis
Bernard M. Hillman
Paul K. Himebaugh
Robert L. Hinman
Francis A. Hiser III
Edward J. Hlavacek, Jr.
Charles F. Hobbs
Raymond F. Hodges
Francis X. Hoff
Catherine E. Hoffman
Francis G. Hoffman
Randall H. Hoffman
James F. Holland
Michael D. Holmes
Joseph P. Holt
Neil G. Holt, Jr.
Dale A. Homire
William K. Honsowetz
Rudolph C. Hooven
Randall R. Horbinski
Robert A. Horn
Ricky L. Horne
Douglas E. Horsman
Jeffrey R. Hosner
William E. Houston
Michael T. Hovey
Robert L. Howard
Peter A. Hrozencik
Richard P. Hubbard
Jeffrey P. Hubbell
James H. Huebener
William C. Huffman, Jr.
Mark A. Hughes
William C. Hughes, Jr.
Ernest J. Hugo
Roger A. Hungerford
Dennis J. Hunt
Robert A. Hunt
Leon J. Huss
Michael P. Hutter
Dara M. Hyland
Janeen W. Igou
Kenneth G. Inhoff
Edwin G. Inman
Marc E. Iverson
Larry G. Jackson
Smith H. Jackson, Jr.
David N. Jacobsen
Tyrone James
Donald S. Jaquith
John E. Jaynes
Francis J. Jennings
Priscilla A. Jess
Jeffrey J. Jewitt
Darrell G. Johnson
Eric P. Johnson
Ernest B. Johnson
Gregory A. Johnson
Kathryn A. Johnson
Kenneth D. Johnson
Larry D. Johnson
Nettie R. Johnson
Preston B. Johnson
Stanley H. Johnson
Tony R. Johnson
Jack E. Jones
Jerry C. Jones
Kevin L. Jones
Leonard B. Jones
Reginald G. Jones
Richard Jones III
Thomas A. Jonson
Brian S. Kagy
Robert J. Kaleita
John C. Kamp
Mary E. Kappus
Kenneth W. Karabatsos
Paul A. Kast
Chris A. Kastelein
George C. L. Keenan
Steven M. Keim
Robin N. Keister
Ian H. Keith
Michael A. Kelley
James M. Kelly
James P. Kelly
Stephen J. Kemmerer
Debra A. Kempton
Stuart O. Kendrick
Frank M. Kenny
Alan C. Kepple
Steven P. Kerch
Frank N. Kertscher
Thomas J. Keyser
Scott L. Killinger
Paul T. Killins
Douglas R. King
Jeffrey P. King
Kelvin D. King
Robert H. King
Samuel R. King
Scott S. Kingsley
Robert M. Kirby
Kristopher D. Kirk
Stephen W. Kiser
John F. Klag
Edward J. Klapka, Jr.
Kelly K. Klein
Douglas R. Kleinkauf
Christopher A. Klyne
Bruce M. Knight
Kenneth D. Knight
Rusaw Knowles
Cynthia A. Koehler
Christopher W. Koenig
Mark B. Koerber
Andrea E. Koran
Stephen R. Koschmann
Mark E. Kosnik
Jerimi L. Kowalik, Jr.
Dennis J. Krakau
Michael J. Krebsbach
Richard E. Krull
Robert J. Kruse
Steven J. Kruzich
Richard J. Kuehnel
Mark R. Kunkle
Michael S. Kynett
Perry A. LaBoone
Steven C. Ladas
Richard J. Laflam
Edward A. Laich
Timothy V. Lambert
Michael A. Lamborn
Phillip R. Lamonica
Lewis S. Lamoreaux III
Ray C. Lane
Peter W. Langevin
Victor F. Lankamer
Sherrie L. Larimore
Eric W. Larkin
Brent G. Larson
Kevin J. Lasher
Joel A. Lauder
Robert S. Laufenberg
William A. Lawler, Jr.
Thomas K. Lawman
James T. Laws
Randall J. Laws
Drahomir Lazar
Michael G. Lea
Vern P. Leach
Jason A. Leaver
Michael E. Lebiedz
George E. LeBlanc III
Earl E. Lee II
Jeffrey W. Lee
Raymond T. Lee III
James J. Lehman
Gary E. Lemming
Waymon C. Lemon
Robert D. Lenartz
Jeffrey C. Lennon
Mark S. Lesser
Todd H. Lesser
Mary H. Lesueur
Jeffrey G. Lewis
Philip A. Lewis, Jr.
Stephen H. Lewis
Timothy W. Lewis
Andrew W. Lindahl
Brian B. Linde
David P. Lindsey
Robin A. Linn
Steppen C. Linnell
Francis J. Lipovsek
John W. Littrell
Charles C. Lloyd
Charles W. Lockwood
Robert M. Longwell
Daniel J. Looney
Arnold O. Lotring, Jr.
Alton A. S. Lovvorn
Douglas S. Lowe
Douglas C. Lower
Robert W. Lowrie
William J. Lozier
Timothy S. Lucas
Robert N. Luce
Kenneth S. Lucy
Louis W. Ludlum
Rodrick J. Lund
Michael J. Lyden
Keith O. Lyles
Kevin S. Lyles
Paul F. Lynch
Douglas J. McAneny
Michael E. McBride
Michael P. McCarthy
Patrick J. McCarthy, Jr.
Roy W. McCarty
Steven J. McClain
Thomas K. McClellan
William S. McClendon
Andrew McClinton
Alfred E. McCooey, Jr.
Timothy R. McCorkle
Macushla M. McCormick
Robert L. McCoy, Jr.
Mark McDonagh
Myles D. McFarland
Wayne L. McFetridge
Donald B. McGinnis, Jr.
James G. McGinnis
Kevin F. McGrath
Stephen D. McGuire
Thomas F. McGuire
Kevin L. McKee
Mark J. McKenney
Gordon T. McKenzie
James M. McKinley
Terence E. McKnight
Alfred S. McLaren, Jr.
Robert W. McLaughlin
James J. McLean
Mary B. McLendon
Kevin M. McNamara
Joseph E. McNaughton, Jr.
James A. McNitt
Robert F. McNulty, Jr.
Nina P. McPheeters
Jonathan W. McPheron
Douglas G. McPherson
Douglas J. McVicar
David M. Macarthy
Bruce E. MacDonald
Craig C. Madsen
Robert J. Magnan
Ralph W. Magnus
Trevor E. Magnus, Jr.
Mark A. Maher
David M. Mainor
Dennis P. Mallery
Keith W. Mallo
Charles W. Mallory
James H. Mallory, Jr.
Charles J. Malone III
Rudolph E. Malush
Charles J. Marden, Jr.
Daniel Marigliano
Joseph M. Marlowe
Everton G. Martin
John A. Martin
John C. Martin
J. M. Martinez DeAndino
Jesse Marzette, Jr.
Michael M. Mascarenas
James R. Mason
James D. Matheke
Timothy J. Matheney
James R. Mathers
Manuel B. Matias
Edward P. Matricia
Jerry D. Matthews
Daniel R. Matz
Erick P. Matzke
Michael R. Maxfield
James E. Mayer II
Charles H. Maynard
Dixie J. Mays
David C. Meisman
Kenneth L. Merrick
Dean T. Mettam
Michael L. Middleton
Charles D. Miles
John K. Miles
Russell J. Milheim III
Barbara J. Miller
Gregory R. Miller
Guy K. Miller
Kurtis J. Miller
Ronald G. Miller
James H. Mills
Frederick R. Milton, Jr.
William T. Mitchell
Mark W. Mittauer
Michael J. Molidor
David J. Mollahan
James E. Monroe
Gregory R. Montgomery
James C. Montgomery
David B. Moon
Bernard L. Moore
Garrett W. Moore
Michael A. Moore
Joseph A. Morelli III
Edward Morgan
Guy H. Morgan
Richard J. Morgan
Timothy J. Moriarty, Jr.
Brian R. Morrison
Stacy Q. Morrison
Timothy L. Morrison
David E. Mosca
William M. Moser
John W. Moses
Curtis C. Mosley
Glen E. Mowbray
Michael F. Moy
Paul H. Mueller
Michael G. Mulcahy
John T. Mullen
George H. Muller III
Kurt A. Muller
Mark A. Muller
Andrew J. Munch
Mark J. Munkacsy
Daniel D. Munson IV
David W. Munter
Roger P. Murdock
William A. Murphy
Guy V. Murray
Thomas F. Murray IV
Michael J. Murtha
Felverin Muse
Douglas T. Muzik
Kay A. Myers
William T. Myers, Jr.
Bruce M. Nagy
William P. Nash, Jr.
Michael W. Neal
Laurence H. Nelson
Monteiro H. Nelson III
Paul M. Nemechek
Leonard E. Nemeth
Harold J. Nevels
Gary C. Newcomb
Steven L. Newcomb
Kevin J. Newland
Scott E. Nibbe
Jeffrey C. Nicholas
Robert A. Niemitalo
Daniel A. Niles
Theodore T. Nixon
Mark E. Noble
Mark L. Noble
Michael L. Noble
Joseph A. Nobles
Richard J. Nolan, Jr.
John C. Nunley
Mitchell W. Normand, Jr.
Robert N. Norwood
Kerry L. Nye
Gary C. Obbink
Phillip M. O'Brien
Thomas P. O'Brien
Timothy L. O'Brien
Michael S. O'Bryan
Kevin B. O'Connell
Kevin J. O'Connor
John H. O'Donnell III
Charles R. Ogle, Jr.
Michael Drian O'Guin
Stephen P. O'Hara
William A. Olsen
Jeffrey K. Olson
Stephen J. Olson
Kevin J. O'Maley
Richard A. Omdal
John T. Omlor
Michael E. O'Neil
Dennis M. Osborne
Gary A. Oshida
Robert M. Osieski
Thomas D. Ostronio
Edwin D. Ott, Jr.
Timothy M. Ott
Dennis Ourlian
Gary L. Overfield
Mark D. Overton
Richard A. Palena
Donald E. Palmrose
Jeffrey P. Palshook
Anthony F. Papapietro, Jr.
Mark W. Paradies
Scott A. Parker
Thomas G. Parker
Joseph L. Parlas III
Mark W. Parrish
Thomas J. Patterson
Michael J. Patterson
Neil T. Patrou
Howard M. Patty
Robert C. Peacock
Ronald L. Pearce
William J. Pearson
Linda I. Peckham
Merritt W. Pedrick III
Steven S. Pelham
James R. Pengson
Shelley Pennington
Stephen D. Peper
Kenneth O. Pepper
Alan L. Perla
David J. Pernai
Stuart E. Perritt
Frank J. Perry
Marshall D. Perry
Michael J. Pesqueira
John E. Peters, Jr.
Harry E. Peterson
Jay L. Peterson
Kristen N. Petzold
Brian J. Pfahler
Kirby K. Phelps
David V. Phillips
Roy E. Phillips
Chester A. Piak
James E. Pillsbury
Leon M. Pilosof
Dwight L. Pimson
Anthony D. Pinson
Louis E. Pisano
Martin V. Pitchford
Ronald C. Plucker
Bryan K. Plude
Ronnie Pollard
Stephen M. Pomeroy
Wayne R. Popham
Michael R. Popovich
Mary V. Porcari
Douglas C. Porter
Patrick J. Porter
Dana R. Potts
Alan G. Powell
Stephen M. Powers
Charles H. Pratt III
Gerald H. Preacher, Jr.
James P. Price
Lela A. Price
Michael T. Price
Rebecca J. Pritchett
James Prochaska
Marcia E. Provance
Michael C. Purcell
John R. Pyron, Jr.
Joseph G. Quigg
Randy L. Quinn
John M. Racoosin

Leo A. Radovich
Philip S. Rainier
John D. Ralls
Michael P. Ralph
Adolph A. Ramirez
Carl D. Raney
Robert A. Ranstead
Omar M. Rashash
Michael L. Rasmussen
Robin E. Rathbun
William H. Raub III
Ronald C. Raymer
Richard L. Reckart
Kirk S. Redwine
Kenneth D. Reed
Thomas A. Reeder
Howard F. Reese
Marshall E. Reeves, Jr.
Patrick J. Regis
Michael P. Reid II
James M. Reilly
John D. Reinhart
Thomas H. Renken
Robert F. Rescinito
Steven W. Ress
Jeffrey P. Revercomb
Michael C. Rexon
Andrew Reynosa III
David A. Rich
Michael J. Richardson
John W. Richmond
Steven G. Ricksecker
Billy J. Riddle
John E. Riester, Jr.
Timothy L. Riggins
Christopher Riley
Ronald A. Ringler
Randall D. Risedorf
Douglas M. Rishel
Richard J. Rittner
Jan G. Rivenburg
David R. Robbins
Gerald K. Robbins
Paul H. Robbins, Jr.
Duke E. Roberts
Harriette C. Roberts
Donald L. Robey
Richard E. Robey
Darryl S. Robinson
Douglas M. Robinson
Gary Robinson
John P. Robinson
Richard L. Roche
Robert A. Roe
Ronald R. Rogalsky
Richard J. Romac II
Peter J. Romano
David B. Root
Paul K. Rosbolt
Charles T. Rosenberg
Joyce M. Ross
Stephen S. Ross
James S. Rowe
Steven C. Rowland
Steven M. Rubin
David E. Rudderow
Clifford J. Rudison
Ronald J. Rundstedt
Michael J. Runow
Jimmie D. Rupp
Kenneth J. Russell
Richard L. Russell
Rickie L. Russell
Kenneth E. Rust
Paul M. Rutherford, Jr.
Leslie C. Rutledge
Robert J. Sachuk
Steven Saenz
Ferdinand L. Salomon III
James Samelson
Thomas D. Samford IV
Jerome Sampey
Scott C. Sanders
John H. Sandstrom
James C. Sanford
Waldo R. San Miguel IV
Luke J. Sanna
Robert N. Sawyer
William A. Sawyers
Robert J. Scanlan
Thomas R. Schaefer
James W. Schaeffer
Michael A. Schall
Jonathan R. Scharfen
Matthew A. Schell
Matthew E. Schellhorn
Norman C. Scheurich, Jr.
Scott S. Scheurich
Steven L. Schilling
Norman J. Schimming
Paul S. Schmitt
Brian E. Schmitz
Clifford A. Schoenberger
Mark H. Schroeder
John M. Schumacher
Joseph V. Schuppert
Gordon M. Schwartz
Seth H. Schwartz
Clifford G. Schwenker
William C. Scribner
James M. Seagle
Mark J. Seals
James R. Seaman, Jr.
Gary A. Seffel
Robert M. Sellers
Robert R. Senter, Jr.
Dennis W. Shannon
Alex D. Sharpless
Richard B. Shattuck
Robert W. Shaw II
William D. Shaw
Grace V. Sheehan
Ronald W. Sheffer
William B. Shelby
David L. Shelton
Justin M. Sherin, Jr.
Michael J. Shewchuk
Lesley V. Shimanek
Randy S. Siders
Stephen G. Sifferlen
John A. Siffert
David J. Simmens
Stephen M. Simmons
Robert S. Singletary
Elizabeth M. Sipek
Scott B. Skeate
John L. Skelley
Clifford A. Skelton
Carol A. Skiber
Rodney W. Skotty
William F. Slagle
William L. Slikkerveer
Joseph F. Slomski, Jr.
Mark H. Slusher
Martha J. Smart
Brett E. Smith
David M. Smith III
Eric M. Smith
John T. Smith
Mark A. Smith
Mark N. Smith
Norman F. Smith, Jr.
Paul G. Smith
Raymond J. Smith, Jr.
Robert N. Smith
Sheri L. Smith
Stephen M. Smith
Steven D. Smith
Steven L. Smith
William R. Smith
Steven P. Smolinski
Nathan B. Snell
Margaret L. Snyder
Craig M. Sobe
Christopher W. Soika
Michael T. Slovig
Robert M. Sommers
Walter C. Sorensen
Richard B. Southard, Jr.
David G. Southerland
Eva G. Spelter
Daniel P. Spencer
Gaylen Spencer
Richard P. Spurr
Michael E. Stabile
Haskell S. Stamps, Jr.
Lewe B. Stanaland IV
Michael Stavreff
Byron F. Stebbins
Jeffrey M. Steele
Peter O. Steffen
Joyce M. Stevenson
Richard G. Stewart
Steven F. Stiglbauer
Robert A. Stobaugh
Robert A. Stoetzer
William A. Stokes, Jr.
Neal R. Stone
Michael A. Storm
Michael L. Storm
Richard A. Storrey
John J. Stranix
John S. Stratemeier
George E. Stuart IV
John K. Stuart, Jr.
Campbell L. Stubbs III
Norman J. Sturdevant III
Jeffrey B. Subko
David L. Suits
John E. Suleski
Alan R. Sullivan
John A. Sullivan
Joseph E. Sullivan
Scott F. Sullivan
James F. Sumner III
John C. Sumner
Cal T. Swanson
Kenneth J. Swanson
Peter M. Swanstrom
Jeffery D. Sword
Frank E. Syfan
Robert L. Sykes
Duane E. Szalwinski
James D. Talon
Ned W. Tanner, Jr.
John H. Taylor
Paul E. Taylor, Jr.
Shaun K. Taylor
Michael M. Teague
Mack M. Teasley II
David P. Teichman
John A. Terrell
David A. Tezza
Jeffrey E. Thelen
John L. Thies
Willard M. Thigpen, Jr.
Michael J. Thomas
John A. Thompson
Lawrence E. Thompson
Margaret M. Thompson
Virginia J. Thornton
Pamela E. Thrower
Allen V. Thummel
Suzanne P. Tichenor
William E. Tilley
David B. Tillman, Jr.
Edward W. Tomko
Louis A. Toth II
Armand R. Townsend
William A. Tress
John C. Triol, Jr.
John F. Tripp, Jr.
Douglas B. Tromblee
Edward L. Trudeau
Frederick G. Trummer
Michael D. Tschiltz
Steven K. Tucker
Alfred R. Twyman
Walter S. Tygard
Clayton A. Umbach III
Roger A. Urbancsik
Theodore J. Urda
Marcus M. Urioste
Daniel R. Vaeth
Gary N. VanBladeren
Michael L. Vanderhurst
Anthony E. VanDyke
David B. VanMeter
Michael L. VanNordheim
Richard C. Van Sleen
Richard D. VanTassel
Henry C. Van Winkle II
Peter T. Vas II
Dean K. Vaughn
Roger D. Vawter
David A. Veatch
Anthony J. Vellucci
David B. Verret
Danilo C. Villanueva
Linda S. Villanueva
Gregory J. Viviano
Brian J. Vogt
Mark R. Vollmer
Gerald J. Voorhies
Blaine D. Vorgang
Michael J. Wagaman
Karen D. Walbert
Mark W. Walker
Michael M. Walker
Norman C. Walker
Terrence C. Walker
William H. Walker
John T. Wallace
Craig L. Wallen
Leonard M. Walsh
Frank J. Walter III
James F. Ward III
Joseph C. Ward
Troy A. Ward
Willard R. Warfield
Gary A. Warner
Robert F. Warther
David J. Washatka
Paul V. Wasik
Eric M. Watabayashi
Dwain P. Watson
David B. Watt
Andrew C. Watts
Gregory M. Waugh
Joseph L. Way
Steven A. Webb
Gregory J. Weber
Philip D. Weber
David J. Webster
John D. Webster
Dwight S. Weirich
Michael K. Weisskopf
Mark S. Welch
Lynn E. Welling
Peter H. Wells
Russell D. Wells
Douglas E. Wertz
James J. Westfall
Richard L. Weston
Richard R. Wetherill
David M. White
Dennis R. White
Erik H. White
Timothy A. White
Vyron L. White
Brian M. Whited
Kenneth W. Whiting
Randolph L. Whitlock
John K. Whitmer
Mark E. Whitson
Mark R. Whittington
Richard F. Wicker III
Manfred W. Widman, Jr.
Edwin B. Wiggins
James J. Wigglesworth
James M. Wigle
Edward L. Wiley
Claude M. Williams
James R. Williams
John D. Williams
Paul G. K. Williams
Peter E. Williams
Ralph L. Williams, Jr.
Thomas R. Williams
Sedgwick W. Willingham
Roderick W. Wilmore
Charles E. Wilson, Jr.
Ian S. Wilson
Jeffrey W. Wilson
Peter R. Wilson
Timothy J. Winings
James A. Winnefeld, Jr.
Frederick Winters
John K. Winzeler
David M. Wolchko, Jr.
Stewart R. Wolf
Garry R. Wolfe
John R. Wolfe
James A. Wombwell
George W. Wood
Thomas S. Wood IV
Anthony R. Woodville
William R. Worley
Rex W. Wright
Willie J. Wright II
David M. Wunder
Bill T. Yamanaka
Joseph M. Yanicheck, Jr.
Arthur W. Yendrey
Ann K. Yoshihashi
Allen C. Young
David F. Young
William O. Young
Martha M. Youngblood
Peter E. Yount
Michael S. Zarycki
Joseph E. Zavodny
David Zeni
Larry E. Zimmerman
Edward C. Zurey, Jr.

The following-named Navy Enlisted Scientific Education program candidates to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Mahlon E. Akers
Patricia L. Beckman
Jerald K. Bevens
Lindall G. Blair
Douglas A. Block
Steven L. Brooks
David S. Buckles
Manley C. Butler
William H. Campbell
Robert R. Canavello
Glen H. Carpenter
Dennis C. Claes
Donald Cole
Billy A. Colvin
Kenneth W. Coomes
Samuel D. Craig III
Merl P. Curry
Michael V. Daniel
Larry L. Danley
James M. Darabond
Paul A. Doucette, Jr.
Eric L. Dziura
Timothy L. Edgell
Robert H. Ellis
Martin J. Erdossy III
Christopher L. Evans
Patrick R. Ferry
Gregory L. Fletcher
Dennis M. Foster
Francis M. Fox
Mark G. Fredericks
Paul C. Gage
Stephen L. George
Michael J. Gill
Gary L. Girardet
Steven G. Goodway
Edward L. Graham
Charles W. Green
Johnny L. Green
Arthur W. Gresham
Ronald N. Gunn
James R. Hague
John F. Hall
Norman E. Hardee
John T. Hardenbergh
Ricky A. Heidgerken
Robert W. Henderson
William J. Hendrickson
Rex A. Hensley
Andrew H. Hergert
Keith E. Hinote
Jimmy S. Hirakawa
Glenn R. Hottel
Patrick W. Hughes
Michael L. Iverson
Michael A. Jacovelli
Lawrence M. Jendro, Jr.
Gerald L. Johnson
James C. Kaiser
Steven Kantner
Paul E. Lambourne
Marc T. Lafavor
Michael H. Laptas
Robert C. Larrabee
Daniel L. Lehr
Peter J. Lestrange
James M. Loerch
Stephen R. Lowe
Donald C. Lowry
John F. Luksik, Jr.
John W. Lutz
Paul S. Lyon
Philip A. Lyons, Jr.
William J. McCullum
James W. McDougald
Jerry L. McWithey
Glenn E. MacDonald
Stephen J. MacDonald
Archer M. Macy, Jr.
Griffin N. Macy
Robert J. Maher
John H. Marable III
Craig W. March
Roger D. Martin
Robert Mason
James A. May
Robert M. Melendez
Barry P. Messina
John W. Mickelson
Gary G. Miller
James E. Miller
Michael A. Mohn
Paul R. Montgomery
Roger J. Morais
Kenneth M. Muske
John A. H. Nixon
Lawrence P. Norstedt, Jr.
Charles E. Ogier, Jr.
Leo D. Owens, Jr.
Bennie G. Patton
Stephens S. Payne
Allen G. Philips
Richard M. Phillips
Craig J. Pickart
Charles P. Pietsch
Wiley E. Pipkim
Alfred E. Plourde, Jr.
Michael C. Plumb
Joseph C. Podhasky
Michael S. Reed
Dan A. Reidenbach
Ray C. Rogers
Theron S. Rose
James M. Salm
Keith R. Schlenker
Jeffrey A. Schmitz
Deborah S. Schumpert
Dennis J. Seipel
Terry M. Shaltz
Mark L. Shaw
Harvey E. Sitzlar
Poul Slominski
Ronald E. Small
Alfred W. Smith
Walter A. Starkey III
Richard G. Stiles
William S. Stuhr
Gary B. Tobias
Raymond F. Toll, Jr.

Loren E. Tracey	Dennis W. Wilborn
Donald B. VanOtegren	Thomas M. Wilbur
Stephen R. Von Hitritz	John R. Williams, Jr.
Joel N. Walker	Steven K. Woolley
Claude M. Whittle	Rolf A. Yngve
Steven J. Whorley	Carl B. Zich, Jr.

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Michael T. Bugleski, USN (ret.)

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a lieutenant in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Lt. Harry R. Erichson, USN (ret.), engineering/repair (surface).

DEPARTMENT OF JUSTICE

William H. Webster, of Missouri, to be Director of the Federal Bureau of Investigation for the term of 10 years, vice Clarence Marion Kelley, resigning.

SENATE—*Monday, January 23, 1978*

The Senate met at 11:30 a.m. and was called to order by the Honorable J. BENNETT JOHNSTON, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Holy, Holy, Holy, Lord God of hosts;
Heaven and earth are full of Thy glory:
Glory be to Thee, O Lord most High."
—Sanctus.

We want to know Thee, O Lord, not only in the mystic hour of worship but amid the tumult, the turbulence, and the tedium of daily toil. Thus may the time of prayer be indistinguishable from the time of work. Remove the barrier between what men call the sacred and the secular so that all our words and all our deeds may be sacred in Thy sight. Thus, wilt Thou accept the offering of our work on behalf of the people of this Nation, and to Thee shall be the praise and the glory? Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 23, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. BENNETT JOHNSTON, a Senator from the State of Louisiana, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. JOHNSTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, January 20, 1978, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I have not discussed this with the distinguished minority leader, but I would recommend that the Senate come in at, say, 9 o'clock tomorrow morning, and that the first 3 hours of tomorrow's session be for the purpose of the deliverance of eulogies for our late departed colleagues, Senators Metcalf and Humphrey, with the understanding that at 12 noon, 12:30 p.m., or thereabouts, the Senate would resume its consideration of the unfinished business.

Mr. BAKER. Mr. President, if the Senator will yield to me, I think that is appropriate and a good idea, and I will be glad to be here at the beginning of that session to offer my respects and admiration to our departed colleagues.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

I ask unanimous consent, Mr. President, that when the Senate completes its business today, it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR EULOGIES TO SENATOR METCALF AND SENATOR HUMPHREY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the prayer, the disposition of the reading of the Journal, and the recognition of the two leaders under the standing order, there be a period of not to exceed 3 hours set aside for the expression of eulogies concerning our late departed colleagues, Senators Metcalf and Humphrey; and that at no later than 12:30 p.m. tomorrow, the Senate resume its consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

ADDRESS BY SENATOR BROOKE BEFORE CHATTANOOGA BUSINESSMEN'S LEAGUE

Mr. BAKER. Mr. President, on Friday, January 20, I had the pleasure of travel to my home State, to the city of Chattanooga, in the company of one of our colleagues, Senator BROOKE of Massachusetts. It was a pleasure for many reasons; partly because ED BROOKE and I have been friends for a long time; partly because I enjoy traveling with him or being with him, because his conversation is incisive and his points of view are always worthwhile.

In this particular case, I was pleased to have the opportunity to introduce my colleague to the Chattanooga Businessmen's League, where he delivered a speech which I think is of unusual importance, dealing with the economic opportunities of minorities in the United States. I commend this speech to our colleagues. I believe it sets forth a reasoned, sensible, and challenging point of view and can be a guidepost for all of us as we attempt to fulfill its objectives and ambitions.

Mr. President, I ask unanimous consent that the full text of Senator BROOKE's speech may be printed in the RECORD at the appropriate place.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR EDWARD W. BROOKE

Let me first of all tell you how honored I am by your invitation. I've looked forward since receiving your invitation to having this opportunity to frankly discuss both the problems and the potential of the minority business community in America, with you who know firsthand its frustrations as well as its rewards.

My first point is an obvious one: The time has come to move beyond those rights basic to citizenship—voting, housing, open accommodations—to the subtle, more inaccessible right of economic participation. As the old adage goes, "Economics is power". And in America's system of free enterprise, dollars and dignity mingle inescapably.

But we know that economic parity for black and white businesspersons remains a goal, not a reality. By any measure, the free enterprise system has yet to embrace minority entrepreneurs as anything more than a potentially useful fringe benefit.

Historically, minority owned businesses have been confined to the small retail market, small service industries, minor construction and light manufacturing. Minorities and their business aspirations were victimized by an economy that taught that a black person's highest value was as a laborer or de-

liverer of goods and services. For the committed minority entrepreneur, contact or ownership of the means of production remained a dream, inaccessible and illusory.

In the years before 1960, you could always find at least eight of the nation's ten largest black firms in the insurance business, or the funeral parlor business. There was a bitter irony to the fact that the only apparent path to economic success in the black community was to hope either that your neighbors wouldn't die—or that they would—depending upon the nature of your establishment.

That has changed now, as new entrepreneurs enter a market where the median black income has risen from 29% to 42% of that for whites. Black people in the country now consume more goods and services than the population of all the nations in the world, save ten.

Sales of the 100 largest black firms increased by 25% in the period from 1970–1974, before the recession of that year slowed the growth pattern. Insurance is still a large component in the minority economy—at the start of 1976, over eight and a half billion dollars of minority-written insurance was in force, a healthy billion dollar increase in one year alone. Automobile dealers have replaced funeral directors at the top of the minority-business ladder; their sales volume vies with manufactured goods, publishing and the entertainment field as foundations of the black-owned business establishment in this country.

Yet, even as we celebrate the growth of such firms, we cannot ignore the painful facts of our own relative poverty.

The nation's 43 black-owned banks altogether fail to match the assets and deposits of the nation's 50th largest commercial banking company. That firm, Mercantile Bancorp, leads the largest black-owned bank by a margin of 45 to 1.

The largest black industrial firm, Motown Industries, reported $43.5 million in sales in 1975—less than 15 percent of the sales recorded by the smallest company in Fortune's 500 Industrial Survey.

In addition, the decade past saw nearly 20 percent of small black businesses liquidated within two years or less. As a result there is a gulf of distrust between many would-be entrepreneurs and potential sources of help in the financial market. This could be tragic if not reversed.

Tonight I want to discuss with you some of the ways in which the chronic problems of shortages—both capital and market—have conspired to undermine the economic strength of the minority community—and what we in Washington are doing to correct them.

As I am sure you are aware, the first crucial problem you face is in the marketplace. Of course, it is not enough to operate within the minority community. Wider markets are a prerequisite of greater sales and profits.

But this is made difficult by a frequent lack of experience in marketing methods, such as direct mail advertising and distribution of samples. Moreover, the very lack of capital makes it difficult to cultivate such expertise.

In answer to this, I have strongly advocated the government set-aside as one means by which minority businesses can gain first-hand knowledge long available to their sophisticated competitors. In the recent Local Public Works Act, itself a guarantor of jobs in areas hardest hit by chronic unemployment, I proposed and was successful, in getting passed by the Congress and signed into law by the President, a ten percent set-aside provision for minority firms—an estimated $400 million that will be funneled directly into those firms of greatest potential.

Another such program, the 8(a) provision of the Small Business Administration, provided $369 million to minority businesspersons in FY 1976. Unfortunately, 8(a) has recently been suspended, and the very constitutionality of its concept is being tested in the courts. I cannot predict judicial decisions, but I can promise my continued, fervent support for the long overdue efforts at equalizing an historically inequal business climate.

Which brings me to the second overriding problem faced by the minority entrepreneur. In many areas of the country, it is next to impossible to obtain adequate financing to sustain a black business. And even the most rudimentary student of capitalism knows that adequate financing spells the difference between a small or marginal enterprise, and a truly successful business venture.

Undercapitalized business often results from the reluctance of banks or other financial institutions to lend assistance in the form of financing capital and lines of credit to finance sales. Credit ratings, often required as a prelude to any loan, are especially hard to come by if you are a minority business person with serious hardships in securing credit from suppliers and wholesalers.

And capital availability is clearly affected by the monetary and fiscal policies of the federal government. Such policies have a direct bearing upon business performance, particularly a minority business, when loan capital is in relatively short supply.

Then, small firms encounter even greater difficulty than usual when applying for loans from institutions whose habits are conservative, and whose most reliable customer is none other than the government itself.

The 1974 recession demonstrated the uniquely cruel effects of an economic slowdown upon the minority business community.

To try and circumvent this boom-or-bust mentality, we in the Congress have undertaken a number of initiatives aimed at providing greater access to capital to those who have been denied such access.

PL 94–305 amends the Small Business Act to double the maximum amount of economic opportunity loans to $100,000. It also increased from $350,000 to $500,000 the maximum size of a regular SBA loan.

The law also expanded the role of SBA's Office of Advocacy on the study of small and minority businesses.

Another legislative advance in which I take great pride, is the Equal Credit Opportunity Act Amendment, prohibiting discrimination in the extension of credit. The impact of the ban is not likely to be highly visible—the procedures required of consumer lenders do not now apply to business lenders. But the general rule prohibiting discrimination applies across the board, and is an important guarantor established for the first time in the language of the law.

And finally, just last March, when the Congress voted to raise from $6 billion to $7.4 billion the limitations on SBA's business loan and investment fund, we raised the ceiling, on economic opportunity loans by $75 million; the limitation on SBA financial assistance to small business investment companies by twice that amount, and we doubled the authorization for the agency's security bond guarantee program.

Another problem, national in scope, is that of overregulation. Few of America's 9.7 million small businesses can escape a mountain of paperwork estimated to cost them up to $20 billion each year.

We in Washington have an obligation to instill sensitivity to your needs into the over 80 federal agencies that now have as their sole occupation telling Americans what the Congress has said they cannot do.

Recently, the Occupational Safety and Health Administration announced that it was dropping over 1,000 of its current regulations. Presumably, this weeding out process, which can have special benefits for small or marginal business operations, will also eliminate OSHA's definition of the word exit. OSHA defines an "exit" as "That portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this sub-part to provide a protected way of travel to the exit discharge." That is a sentence only a bureaucrat could love—or write.

But there is no escaping the power of the federal establishment. Last year, the federal government bought approximately $60 billion of goods and services from private contractors. From sophisticated weaponry to Kleenex, federal agencies purchase a wide range of products, and the total expended rises by roughly ten percent each year. Were black and minority businesses to achieve parity, we would receive at least 13 percent of the contract receipts. Instead, in fiscal year 1976, minority businesses received less than two percent of such contract receipts.

Perhaps the major factor that hampers your efforts to obtain government contracts, is the distribution of minority expertise and industrial experience.

The first step toward economic parity might be a critical reevaluation of our "industrial mix". As minorities, we have unique burdens—and opportunities—in the American economy. We must be boldly innovative in our approach to new business ventures. For example, a quick analysis of the federal budget will reveal that the energy field has experienced a high growth potential in the last seven years. Any minority businessperson who conducts energy research or provides an energy-related product will surely benefit from this growth.

And so it is with special interest that I read an article in the Wall Street Journal of January 12. The Journal was excerpting from a NAACP report on the nation's energy crisis, which comes squarely down for a private enterprise solution to our energy problems.

"We find it very disturbing," said the NAACP, "to contemplate a future in which energy supply would become a constraint upon our ability to solve critically important social and economic problems which confront black citizens . . . As long as 14 percent of our people are unemployed, as long as the earnings gap between black and white Americans continue to face a constant struggle to attain even the basic necessities of life, our first priority must be the attainment of economic parity for black Americans."

You may agree or disagree with the NAACP's position insofar as energy is concerned. I, for one, do not favor decontrol of prices. But the idea of "economic parity" won't go away. The NAACP is saying that, in general, it can be achieved only by a vigorous system of free enterprise. The nation's oldest civil rights organization has turned a corner of sorts, embracing as fact what you and I have believed for many years: namely, that the economically sound jobs, those which carry with them the dignity of permanence, do not come down from Washington. They come from private enterprise, aided by an expansionist economy which the federal government can stimulate.

Besides sheer entrepreneurial nerve, we must seek to increase the number of viable manufacturing and construction firms in the minority community. In relative terms, our number of minority manufacturers is infinitesimal. Heavy manufacturing accounts for over 40 percent of the gross receipts of non-minority white firms, the figure for minority firms is less than seven percent. And, of all minority firms, fewer than nine percent deal with construction.

Most often, the federal government offers contracts for new construction to general rather than speciality contractors. Since

minority contractors tend to be specialists, the minority business community suffers accordingly. In 1969, for instance, less than one percent of the general contractors in this country were minority owned. By 1976, this figure was roughly doubled. Cold comfort—one or two percent, or even ten percent of the total number is still under representative.

We should do whatever possible to expand our own capabilities in the construction industry. The set-aside concept, the one I introduced for local public works, for example, is the best way I know to do precisely this.

With our limited successes weighing heavily upon our future prospects, we can no longer afford the luxury of a languid, casual move toward greater economic parity. As painful as an acknowledgment of our economic and business short-comings might be, it can be a positive and necessary beginning in our efforts to ease the unacceptable position of many minority entrepreneurs in this country. I don't want my message to be a mere catalogue of despair. We have accomplished much. But, we have much left to do. That is why I applaud and I am grateful for organizations like yours. Here, the dialogue and planning must begin. It is my hope that you will work with your friends in the Congress to undertake a reformation of the status quo.

Four days have passed since a commemoration of almost historic coincidence. Last Monday, we celebrated what would have been the 49th birthday of Martin Luther King. That same afternoon, we buried a happy warrior in the ancient conflict against prejudice and discrimination, a man from Minnesota who reassured the doubters that America still worked, that all the ideals we profess as uniquely our own might still translate themselves into fact through one man's work. Dr. King was the moral prophet of the civil rights revolution. Hubert Humphrey was its legislative father.

Together, we can write the dreams into law, and oversee their application with a determination and a tenacity that is anything but dreamlike.

Mr. BAKER. Mr. President, I have no further requirement for my time, or any request for it, and I yield it back.

ORDER FOR JOINT REFERRAL OF PRESIDENT'S BUDGET MESSAGE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's budget message and any communications relative thereto be jointly referred to the Committees on Appropriations and the Budget.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order entered previously, there is no period set aside tomorrow for the transaction of routine morning business; am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Very well. That will be arranged, hopefully, at some period during the day. I thank the Chair.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts (Mr. BROOKE) is recognized for not to exceed 15 minutes.

DEVELOPMENTS IN ITALY

Mr. BROOKE. Mr. President, the administration's recent statement indicating U.S. aversion to the participation of Communists in the Italian cabinet was necessary and proper. It served to correct the misperception, fostered to the greatest extent possible by the Italian Communists, that Washington was indifferent to the effort by them to achieve expanded power in Italy. It would have been irresponsible for the administration to remain silent in light of the recent attempts by the Italian Communist Party, the PCI, to use political, economic, and social turmoil as a stepping stone to cabinet positions in the Italian Government.

The administration is being criticized both here and abroad for its forthright statement opposing the Communists. Many, the Italian Communists especially, claim that the statement represents an attempt to interfere in the internal affairs of Italy. Of surprise to no one has been the lack of a PCI charge of interference regarding Pravda statements advocating Communist participation in the Italian cabinet.

The PCI, previous to the administration's most recent statement had sought to use ambiguous Carter statements during the 1976 Presidential campaign and various cryptic statements by the administration since taking office to show that the American Government had accepted as valid PCI protestations of conversion to democracy. As Claire Sterling pointed out in a recent Washington Post article, the twisted attempts to distort past administration statements or silence were acts of "political forgery" on the part of the Communists. This is not surprising to those aware of similar PCI tactics in the past.

It is, of course, understandable why the PCI would seek to use either American silence or ambiguous statements to claim that Washington would find the Communists to be acceptable participants in an Italian cabinet. It is equally understandable why the PCI and its apologists have reacted so vituperatively to the administration's recent statement. The latter has clearly upset the concerted effort by the PCI to manipulate public opinion in Italy in order to create the impression of U.S. willingness to treat the Communists as a legitimate democratic force.

PCI attempts to grab cabinet power take place at a time when Italy continues to face serious political, economic, and social problems. The bona fide democratic parties in Italy have been seriously weakened by internal corruption and an inability to achieve sufficient unity to deal effectively with mounting social and economic ills. This, in turn, has created a political vacuum which the PCI is seeking to exploit as a means to force its way into the Italian cabinet.

In recent months, nongoverning democratic parties in Italy, such as the Socialists and the Republicans, have evidenced a willingness to accept the PCI as an equal in the democratic process. As a means of attaining a share of governing power they have advocated a government of national unity that would include the Communists.

The Christian Democratic Party, even though it recently voted to oppose cabinet power for the PCI, contains elements which have become increasingly tolerant of the idea of a coalition government with the PCI.

The temptation in Italy to take a gamble on Communist sincerity has increased in some circles because of continued inequities in the distribution of wealth in Italy; because of disgust with the cancer of corruption; and because of the seeming inability of the Italian Government to find any lasting solutions to the problems of inflation and unemployment. In addition, widespread political terrorism has become an endemic and growing problem. Although little evidence exists to justify a belief that PCI participation in the cabinet would alleviate these problems, many are willing to accept the high risks involved in granting to the PCI a marked increase of political power. What I fear is that those willing to accept such high risks have made comforting assumptions about Communist intentions in order to avoid even more difficult choices that would be thrust upon them if they did not do so.

In light of our association with Italy within the alliance and the close ties of the American and Italian peoples, we cannot be indifferent to what takes place in Italy. Nor can we avoid the need to support legitimate Italian efforts to surmount the problems they face. This does not mean that we claim or have the right to determine internal developments in Italy. That is ultimately the right and the responsibility of the Italian people. But it does mean that the United States, as an ally and close friend of Italy, has the obligation to point out forthrightly that developments in Italy will have an impact on United States-Italian relations and on the pursuit of shared interests, such as the maintenance of an effective alliance system. It would be absurd, as some would have us do, to use the concept of "noninterference" as an excuse to abandon our obligation in this regard. To do so would be to abandon the field to those who would have no particular qualms about the demise of democracy in Italy and the erosion of a credible opposition to the expansion of Communist influence in the world.

As one who has a deep and abiding affection for Italy and the Italian people, I greatly fear that far too many individuals are overlooking crucial issues that justify continued and deep skepticism regarding the nature and ultimate intentions of the Communist party in Italy. Let me mention several.

First, the continued internal organization of the PCI along totalitarian lines gives the lie to its claims to have irreversibly committed itself to democracy. The PCI is a strict practitioner of "democratic centralism," the Leninist euphemism for dictatorship with the party by its hierarchy. It is difficult for me to imagine that the PCI, once having ex-

panded its power into a position in the cabinet, would ignore the opportunity to erode the pluralistic safeguards of Italian democracy in favor of totalitarian controls that are the natural forte of Communist politics. And I am not convinced that Italian democracy, given its present problems, would be sufficiently strong to withstand a two-pronged Communist grab for ascendance; two-pronged in that the PCI would continue to have the opportunity to foment crisis conditions in the country in general while, at the same time, it sought to consolidate its power within the Government.

Some believe that if the Communists were to share in cabinet power, there would be less risk of the PCI fomenting continued strife in Italy. This is one of those "comforting assumptions" I alluded to previously. An alternative, and more likely development would be, in my opinion, a PCI effort perhaps clandestinely, to maintain and perhaps deepen crisis conditions in order to prepare the way for eventual demands for authoritarian measures to cope with Italy's problems. This is not an unheard of tactic in Communist seizure of power.

Second, even if one assumes that the claimed conversion to democracy has a certain degree of sincerity, there is little in developments of the past year or two to give one confidence that such conversion to democracy is widespread within the PCI or is irreversible. Indeed, there are ample reasons to believe that authoritarian pro-Moscow sentiments are the major undercurrent operating in the PCI. It would be a high-risk policy, indeed, for Italian democratic parties to believe that sufficient safeguards exist to thwart this undercurrent from dominating the PCI once it is given an increased share of power. Recent efforts of the PCI leadership to downgrade criticism of the Soviet Union in the human rights area and their continued statements of fraternal solidarity with the Soviet Union are evidence of the power of the authoritarian "Stalinist" elements in the PCI.

Some observers of the PCI claim that strong Western statements of opposition to Communist involvement in the Italian cabinet might serve to strengthen the hand of the "Stalinists" in the PCI and force the Party to turn once again to Moscow. Another "comforting assumption." There is no substantive evidence that the PCI, in any fundamental sense, has ever abandoned its fraternal loyalty to the Kremlin. Its "so-called" criticism of Moscow has always appeared as a tactical exercise to create the impression of independence, even though the bonds of loyalty have remained intact.

Moreover, the very argument that strong Western statements of opposition to the PCI might force the PCI to turn to Moscow illustrates the dangers inherent in taking a gamble on the PCI. If the alleged PCI commitment to democratic practices is so fragile that U.S. opposition could cause its reversal, then it would be the height of folly to take the gamble. Better that Italy and its allies expose the superficiality of the PCI democratic conversion now than downstream, when the possibility of reversing a Communist stranglehold on Italian Government would be greatly diminished.

Third, an expansion of Communist influence in Italy in the form of formal PCI participation in the Italian cabinet would have significant negative effects on NATO. The undergirding premise of NATO—opposition to efforts to impose totalitarian rule on its members—would be seriously compromised. The American public would have a difficult time understanding why the continued effort in terms of money, time, and personnel would be justified. Under such condition, Moscow would certainly seek to exploit the divisions in perceptions that would be created by PCI entry into the government of one of NATO's principal members. And I have little doubt that the PCI would be its willing accomplice in this effort.

The internal workings of NATO would also be severely disrupted. The problems caused by the momentary sharing of power by the Portuguese Communist party would appear inconsequential to those stimulated by PCI participation in an Italian cabinet.

The ability of NATO to speak with a firm and united voice when confronted by Warsaw Pact pressures would be diminished. The Italian Communists, while they have muted their calls for Italian withdrawal from NATO, have never given the slightest indication of any intention to strengthen cooperation within NATO. It is only reasonable to assume that, given the opportunity, the PCI would attempt to sow dissension within NATO and would, at a minimum, seek to move Italy toward a position of neutrality between East and West.

Finally, it is difficult to imagine the PCI seeking to strengthen the movement toward Western European unity along lines conducive to the maintenance of democratic ideals and close Western European ties with the United States. The PCI has come to accept the existence of the European Community as a fact of life. But, in its statements regarding it, it has clearly indicated that its intent is to push the European Community toward a more integral relationship with the state-controlled economies of Eastern Europe. And it should be remembered that the PCI looks to Eastern European countries as models for Italy.

For the reasons outlined above, I believe the case for continued efforts by the United States to encourage Italian resistance to the PCI's grab for increased power is clear and overwhelming. The recent initiative by the administration is one means of doing so. It and expressions of concern by other Americans are not attempts to interfere in decisions to be made by the Italian people and their leaders. It is patronizing to argue that that Italian people are not sophisticated enough to understand that such initiatives do not represent unwarranted interference. What the Italian people would not understand is an American indifference to the nature of the problems they face and the seriousness of the choices that have to be made. Therefore, clear statements of American views and interests inevitably affected by Italian decision are of crucial importance.

It is also important that the American response to developments in Italy be geared not only to the immediate issue at hand but also to the extended struggle to preserve Italian democracy while the effort is made to solve deep and serious social and economic problems. While we sincerely hope that the Italian electorate and the bona fide Italian democratic parties will not be swayed by the "comfortable assumption," regarding the PCI, we must also be prepared to encourage the forces of moderation and progress should the PCI attain an increased share of governmental power. We must not wash our hands of the situation should such a setback occur. Such an action on our part would be even more irresponsible than our succumbing to those who would have the United States be a mute and ineffective observer. The Communists are dedicated to a long-term effort to dominate the levers of power in Italy. Those who cherish democracy for the Italian people must be equally dedicated to denying them such domination.

There is an all-too-common tendency in our country and elsewhere in the industrial democracies to avoid hard choices. All types of rationalizations are offered to justify doing so, but eventually, the time for decision comes. That appears to be the case now for the Italian people and many of their leaders. They can either accept high risks to Italian democracy by enlarging the role of the Communists in Italian politics or they can decide that the risks are too great and seek solutions designed to diminish Communist influence eventually, even though the likelihood of immediate confrontational politics would increase.

My deep love for Italy and my skepticism regarding the intentions of the Communists lead me to hope that the Italian people will take the course of action best designed to preserve the democratic nature of their political system and to enable Italy to function effectively as a member of the Atlantic Alliance. In doing so, I am sure that they will find the American people and their Government ready to assist Italy to meet the challenges of the future.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed beyond the hour of 12 o'clock noon, with statements therein limited to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE MARCH FOR LIFE

Mr. HELMS. Mr. President, the distinguished Senator from Utah (Mr. GARN) has been unavoidably detained today, and I have been asked by him to place into the RECORD, at an appropriate place, a statement he would have made had it been possible for him to be here.

I concur with the sentiments of the distinguished Senator in all he says in his statement, and I ask unanimous consent that it be printed in the RECORD, together with an attachment.

There being no objection, the statement and attachment were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JAKE GARN

Yesterday, Sunday, January 22, the country recognized the fifth anniversary of the Supreme Court's abortion decisions *Roe* v. *Wade* and *Doe* v. *Bolton*. This infamous anniversary was memorialized with vigils, marches, and programs. Today, the annual March for Life will be held in Washington, D.C. and it is again expected to attract thousands of people to protest the Court's summary treatment of the unborn. I urge residents of the National Capital area to memorialize the Court's opinions with appropriate and effective activities and to lend their support to the thousands who will be marching.

Of course, throughout the country other activities have been taking place as Americans in every major community show their concern for the lives of the unborn. Right to Life of Utah held a memorial service on Saturday at the Utah State Capitol and one of the features of the Utah service was the contributions that were taken for the Intermountain Newborn Intensive Care Unit. Not only did Utahns who are concerned about the protection of innocent human life express their opposition to the Court's decision, but they took positive steps to promote the health and well-being of the tiniest and most helpless of the born.

Unfortunately, small humans who are no younger than some of the patients of the Intermountain Newborn Unit are being aborted every day and it is this kind of intellectual confusion that we of the Right to Life movement are compelled to oppose. We must ask ourselves how a tiny premature infant can be human enough for our most sophisticated medical care while another infant of the same fetal age can qualify only for abortion. Can we say, in all honesty, that the difference depends upon whether these children are simply "wanted" and that that decision is and must be given solely to the pregnant woman? Can one infant be human and one infant sub-human or non-human simply at the stroke of the pregnant woman's pen as she gives an allegedly informed consent for the destruction of the life she carries in her womb? These questions raise some of the most significant and heart-rending questions which face the Republic and there are honorable men and women on all sides of these issues, but I must stand for the supremacy of human life. Not "meaningful" life, nor "wanted" life, nor "normal" life, nor "non-inconvenient" life, but life as it simply *is*, without equivocation or hesitation. Then, after we have guaranteed that people have the right to be—to exist—we can work on the means by which human life can be uplifted and made meaningful.

The Right to Life movement is dedicated to improving the quality of life. Our opponents often speak as though they have some kind of monopoly on humanitarianism and they are free to believe that sort of thing if they wish, but the truth is that there is very little humanitarianism in a philosophy that has elective abortion as one of its tenets, for before life can be made meaningful life itself must be granted and protected. After, and only after, we allow people to be born does any argument about "meaningfulness" have any meaning. After people are born, we can decide about allocating responsibilities among the individual, the family, church, community, and state, and between local, state, and federal government, but these arguments have no meaning for the aborted.

I am unable to be in Washington, D.C., today because of a commitment in Texas, but I honor the thousands of men and women throughout the country who have taken time during this weekend to honor and mourn the millions of unborn children who have been aborted during the past five years. To them all, I pledge my continued work on behalf of a Human Life Amendment.

I ask unanimous consent that a press release of Right to Life of Utah be printed in the RECORD following these remarks.

MEMORIAL FOR LIFE

(By Janet B. Carroll)

Right to Life of Utah is asking all pro-life people to join them at the Capitol Building in Salt Lake City on Saturday, January 21st in memory of the more than 5 million babies killed by abortion since the Supreme Court's January 1973 decision. This annual Memorial for Life is held in conjunction with the National March for Life in Washintgon, D.C., which last year drew an estimated 50–75,000 people in protest of the slaughter of the pre-born and in support of a mandatory Human Life Amendment to the Constitution to protect them. Similar marches, vigils and memorials will be held across the nation.

Right to Life will accept donations at the Memorial and through their chapters for the Intermountain Newborn Intensive Care Unit. Janet Carroll, President of R. L. U. pointed out that "While abortionists nationwide profit from the disememberment of the pre-born, too soon ripped from their mother's nurturing bodies, in these two units in Salt Lake City, tender and heroic efforts take place to save tiny jewels of life, too soon delivered by loving mothers." Since the U.S. Supreme Court allowed abortion at any time during pregnancy, often these babies, the wanted and the unwanted, would be the same age. The extremely high cost of caring for prematurely born babies is insurmountable to all but the very wealthy. Robert Mitton, M.D., a physician dedicated to preserving these little bits of humanity will be on hand to accept the donations, and as he put it, "to talk about my babies".

At the service public officials who have significantly defended the value of all innocent human life will be recognized. Also, speaking will be Attorney General, Robert Hansen and Randy Howe.

"For those babies fortunate enough to be in the care of Dr. Mitton and staff, we can offer much; for our pre-born babies we can only offer the hope of a Human Life Amendment to protect them. Join Right to Life at the State Capitol on January 21st as an expression of your feelings about the dignity and worth of each human life", said Mrs. Caroll.

PRESIDENT'S BUDGET PROPOSAL

Mr. HARRY F. BYRD, JR. Mr. President, the President's budget proposal is to me a great disappointment.

He recommends an increase of $38 billion in Federal spending, with a deficit of $61 billion—just $1 billion short of the huge deficit for the current year.

Even worse, his proposals would boost the national debt by $88 billion—the second largest increase in the history of the Nation.

Not only has the President cast aside the goal of a balanced budget by 1980, he is actually accelerating our plunge into red ink.

This budget will inevitably lead to more inflation, eating into the paycheck of every American worker.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962, which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

PROPOSED TAX REFORM—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—PM 140

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, together with accompanying papers, having been received during the adjournment of the Senate, under authority of the order of January 21, 1978, which, without being read, was referred to the Committee on Finance:

To the Congress of the United States:

I recommend that Congress enact a series of proposals that will reform our tax system and provide $25 billion in net tax reductions for individuals and businesses.

Fundamental reform of our tax laws is essential and should begin now. Tax relief and the maintenance of a strong economy are essential as well. The enactment of these proposals will constitute a major step towards sustaining our economic recovery and making our tax system fairer and simpler.

THE NEED FOR TAX REDUCTION

I propose net tax reductions consisting of:

—$17 billion in net income tax cuts for individuals, through across-the-board rate reductions and a new personal credit, focused primarily on low and middle-incomes taxpayers.

—$6 billion in net income tax cuts for small and large corporations, through reductions in the corporate tax rates and extensions of the investment tax credit.

—$2 billion for elimination of the excise tax on telephone calls and a

reduction in the payroll tax for unemployment insurance.

These tax reductions are a central part of the Administration's overall economic strategy, which will rely principally upon growth in the private sector to create the new jobs we need to achieve our high-employment objective. The tax reductions will more than offset the recent increase in social security taxes and will provide the consumer purchasing power and business investment strength we need to keep our economy growing strongly and unemployment moving down.

Together with the programs that I will outline in my Budget Message, these tax cuts should assure that our economy will grow at a 4½ to 5 percent pace through 1979, with unemployment declining to between 5½ and 6 percent by the end of 1979. Without the tax cuts, economic growth would slow markedly toward the end of 1978 and fall to about 3½ percent in 1979. Unemployment would be unlikely to fall below 6 percent and, by the end of 1979, might be moving upward.

This tax program will mean up to one million additional jobs for American workers. It should lead to a pattern of economic growth which is steady, sustainable, and noninflationary.

In addition, I believe that our taxpayers, particularly those in the low and middle-income brackets, *deserve* significant tax relief—I am determined to reduce Federal taxes and expenditures as a share of our Gross National Product.

THE NEED FOR TAX REFORM

The $25 billion in tax reductions are net reductions, *after* taking account of $9 billion in revenue-raising reforms which I am also proposing. Indeed, the full cuts in personal and corporate tax rates which I recommend would not be desirable in the absence of significant reform.

But these reforms stand on their own merits and would be long overdue even if I were not proposing any net tax reductions to accompany them. They focus on simplification for the individual taxpayer and the elimination of some of the most glaring tax preferences and loopholes.

Guided by the need for tax simplification and tax equity, I propose that Congress adopt reforms that would:

—Sharply curtail tax shelters.

—Eliminate the deductions claimed by businesses for theater and sporting tickets, yachts, hunting lodges, club dues, and first-class airfare and limit the deduction for the cost of meals to 50 percent.

—Provide a taxable bond option for local governments and modify the tax treatment of industrial development bonds.

—Strengthen the minimum tax on items of preference income for individuals.

—Repeal the special alternative tax on capital gains, which only benefits individuals in the highest tax brackets.

—Replace the personal exemption and general tax credits with a $240 per person credit.

—Simplify return preparation and recordkeeping by:

—eliminating the deductions for sales, personal property, gasoline, and miscellaneous taxes;

—combining the separate medical and casualty deductions and allowing them only to the extent they exceed 10 percent of adjusted gross income;

—repealing the deductions for political contributions but retaining the credit; and

—liberalizing and modifying the Subchapter S and depreciation rules applicable to small businesses.

—Include unemployment compensation benefits in the taxable income of taxpayers above certain income levels.

—Ensure that the tax preferences available for fringe benefits assist rank-and-file workers as well as executive officers.

—Eliminate the special bad debt deduction for commercial banks, reduce the bad debt deduction available to savings and loan associations, and remove the tax exemption for credit unions.

—Phase out the tax subsidies for Domestic International Sales Corporations (DISCs) and the deferral of tax on foreign profits.

These reforms will make our tax system both fairer and simpler. Many of them are targeted at tax preferences and subsidies for activities that do not deserve special treatment and that largely benefit those who have no need for financial assistance. The average working man and woman pay for the loopholes and the special provisions in our tax laws—because when some do not pay their fair share, the majority must pay higher taxes to make up the difference.

Low and middle-income workers, struggling to make ends meet, are discouraged by tax laws that permit a few individuals to live extravagantly at the expense of government tax revenues. The privileged few are being subsidized by the rest of the taxpaying public when they routinely deduct the cost of country club dues, hunting lodges, elegant meals, theater and sports tickets, and night club shows. But the average worker's rare "night on the town" is paid for out of his *own* pocket with *after-tax* dollars.

Likewise, individuals who pay taxes on nearly every penny of earnings are treated unfairly compared to the few who are able to "shelter" their high incomes from taxes. Some persons with incomes exceeding $200,000 have little or no tax liability, while other high-income individuals return to the Federal government nearly 60 cents of every dollar received. There is no good reason for next-door neighbors, in the same economic circumstances, to have vastly different tax bills because one has found tax shelters and loopholes.

In addition to the preferences for expense account items and tax shelter activities, there are a number of equally inappropriate and inefficient corporate tax subsidies. For example, there is no justification for the DISC export subsidy under which we pay over $1 billion a year in foregone tax revenue (mostly to our largest corporations) to encourage our firms to do what they would do anyway—export to profitable foreign markets. Nor can we rationalize proposals to reduce business taxes to increase investment at home while the deferral subsidy encourages multinational corporations to invest overseas by letting them pay lower taxes on their foreign profits than they pay on money earned in the United States.

I ask Congress to join with me to end these unwarranted subsidies and return the revenue to the vast majority of our taxpayers who want no more or less than to pay their fair share.

The tax reforms and tax reductions which I am proposing have been carefully balanced to coordinate with our overall economic and budgetary strategy. Large tax reductions are premised on substantial reforms.

I must, therefore, caution that fiscal prudence will require significantly reduced tax cuts for low and middle-income taxpayers if we cannot help finance the reductions I have proposed through enactment of these revenue-raising reforms. I am proposing a balanced tax program, and I urge Congress to consider these recommendations as an integrated package.

TAX REDUCTION AND SIMPLIFICATION FOR INDIVIDUALS

Under this tax program, virtually all Americans will receive substantial tax relief, principally through a simple, across-the-board reduction in personal tax rates. Lower withholding rates will be put into effect October 1, 1978, and taxpayers will experience an increase in take-home pay and purchasing power as of that date.

The typical taxpayer in all income classes up to $100,000 will pay lower taxes. But the bulk of relief has been targeted to low and middle-income taxpayers.

The $240 credit will be especially beneficial for low and middle-income families. It will remove millions of Americans at or near the poverty level from the income tax rolls. No longer will the tax savings for dependents be worth more to high income than low income families. Instead, the credit will be worth just as much to the moderate income blue-collar worker as to the wealthy executive.

Over 94 percent of the net individual tax relief will be provided to individuals and families earning less than $30,000 per year, and every income class up to $30,000 will bear a smaller share of the overall tax burden than it does now. (See Table 4.) Under my proposals, the typical family of four that earns $15,000 a year will save almost $260, a 19 percent tax reduction.

For most persons in the low and middle-income brackets, there will be a sizable net reduction in combined income and payroll taxes even after the scheduled social security tax increases are taken into account. (See Table 10.) Without this cut in income taxes, the social security tax increases would cause a re-

duction in the take-home pay of American workers. With this tax program, we will have restored the integrity of the Social Security system—returning that system to a sound financial basis and assuring the stability of future benefits for retired workers—without increasing total taxes for most working people or causing a slowdown in our economic recovery.

We must also act to ease the burdens of tax return preparation and recordkeeping. We have a tax system that requires millions of individuals to compute their own tax liability. The government relies upon the good faith and conscientiousness of our taxpayers to an extent unparalleled in the rest of the world. But in order for our system to remain successful, it must be comprehensible to the average taxpayer.

Judged by this standard, the current tax structure is seriously defective. Millions of honest and intelligent Americans find themselves confused and frustrated by its complexity. The cost of this complexity is enormous in terms of hours and dollars spent.

Accordingly, tax simplification has been a goal of this Administration from the outset. The tax return individuals will file between now and April 15 has been simplified as a result of the Tax Reduction and Simplification Act which I proposed and Congress enacted last year. The short form 1040A has been reduced from 25 lines to 15 lines. Form 1040 has been restructured so that it can be completed more systematically. Tax tables have been revised to reduce arithmetic computations. The language of the tax forms and the instructions has been made more understandable.

The simplification efforts that were begun in 1977 will be continued and expanded in the tax program I am presenting today. The replacement of the existing personal exemption and general tax credits by the $240 personal credit will simplify return preparation for taxpayers and enable millions of individuals at or below the poverty level to file no tax return. Changes in itemized deductions (which will be more than offset by the rate cuts) will increase the number of nonitemizers to 84 percent of all taxpayers. Six million Americans will be able to switch to the standard deduction and avoid keeping detailed records for tax purposes. The preparation of returns by itemizers will be simplified, and the tax program will reduce recordkeeping burdens on small businesses.

BUSINESS AND ANTI-INFLATION TAX REDUCTIONS

Our Nation's employment and anti-inflation goals cannot be met without a strengthening of private business investment. In recent years, capital spending in the United States has been inadequate. Capacity growth in manufacturing has declined from a growth rate of about 4.5 percent during the period 1948–1969, to 3.5 percent from 1969–1973, and to 3 percent from 1973–1976. Real business fixed investment in the third quarter of 1977 was 5 percent below its 1974 peak.

In order to encourage needed capital outlays in the period ahead, my tax program contains annual net business tax reductions of approximately $6 billion. The corporate tax rate will be reduced on October 1, 1978 from 20 percent to 18 percent on the first $25,000 of income and from 22 percent to 20 percent on the second $25,000—this will result in a 10 percent reduction in tax liability for most small corporations. The tax rate for large corporations will be cut ffrom 48 percent to 45 percent on October 1, 1978 and to 44 percent on January 1, 1980.

I also recommend several important changes in the existing 10 percent investment tax credit: the 10 percent credit should be made permanent; liberalized to cover up to 90 percent of tax liability; made fully applicable to qualified pollution control facilities; and extended to investments in industrial and utility structures (including rehabilitation of existing structures). These changes should be particularly beneficial to developing businesses that are seeking to expand their productive facilities and should help to increase expenditures for the construction of new factories.

The corporate rate reductions and extensions of the investment tax credit which I am proposing will encourage capital formation by providing an immediate increase in cash flow to business and by enhancing the after-tax rewards of investment.

All small businesses will receive significant cuts in their tax rates under my program: reducing the bottom as well as the top corporate rates wil be of special benefit to small corporations; small business proprietorships and partnerships will benefit from the individual rate cuts. In addition to these tax reductions, my program will simplify the depreciation rules applicable to small business and liberalize the provisions governing the deductions of losses on stock held in small companies.

Vigorous business investment will help ease inflationary pressure by averting capacity shortages that might otherwise occur as our economy continues to grow. The $2 billion reduction in telephone excise taxes and employer payroll taxes should prcvide additional relief from inflation by reducing costs and prices. These tax measures, applied in conjunction with other anti-inflation policies announced in my Economic Report, will support the objective of reducing and containing the rate of inflation.

The combination of these tax cuts and needed business tax reforms will result in a tax system that meets the needs of the broad spectrum of U.S. businesses more efficiently and equitably.

A detailed description of my program follows.

RECOMMENDATIONS TO REDUCE TAXES AND SIMPLIFY RETURNS FOR THE AVERAGE TAXPAYER

TAX REDUCTIONS FOR INDIVIDUALS

Individual taxes will be reduced through across-the-board rate cuts and substitution of a single $240 personal credit for the existing personal exemption and alternative general credits. This tax relief will be reflected in decreased withholding rates for employees as of October 1, 1978.

The tax reductions I am now recommending do not include adjustments for Congressional action on the National Energy Plan. In April, I proposed that Congress pass the crude oil equalization tax and rebate the proceeds to the American people on a per capita basis. This course is essential if we are to protect the real incomes of consumers. If the final energy bill includes a full rebate of the net proceeds of the crude oil tax, no further action on my part will be required. However, if the final bill contains a rebate provision only for 1978—as provided in the House version—I intend to send a supplemental message to Congress recommending that the individual tax reductions proposed in this Message be increased by the net proceeds of the crude oil tax.

(1) *Rate Cuts.* The proposed rate schedule will range from a lowest bracket of 12 percent to a top bracket of 68 percent, compared with the current 14 to 70 percent range. As under current law, the top rate bracket will apply with respect to income in excess of $200,000 for joint returns and $100,000 for single returns. The entire schedules are set forth in Tables 11 and 12. This new rate structure will, in and of itself, increase the overall progressivity of the individual income tax because the cuts are proportionately larger in the low and middle-income brackets.

(2) *Per Capita Tax Credit.* The tax benefits for dependents currently favor the wealthy over persons with modest incomes. A taxpayer is now entitled to a $750 exemption for each family member in addition to a general tax credit, which is equal to the greater of $35 per family member or 2 percent of the first $9,000 of taxable income. The net effect of the complicated series of exemptions and credits is this: a family of four in the 50 percent tax bracket enjoys a tax savings of $1,680 for dependents while families earning $10,000 save about one-third of that amount.

I propose that the existing exemption and general credits be replaced with a single credit of $240 per family member. Unlike the current structure, the new credit will provide the same benefit at all income levels; for a family with four members, the per capita credit will be worth $960 whether that family is middle class or wealthy. The $240 credit will ensure that most families at or near the poverty level will pay no taxes. Also, a single tax credit will simplify tax return preparation by eliminating the confusion caused by the existing combination of exemptions and alternative credits.

CHANGES IN ITEMIZED DEDUCTIONS

The primary source of complexity in the tax laws for many middle-income individuals is itemized deductions. Average taxpayers have to maintain burdensome records in order to substantiate the deductions and are required to decipher complex tax rules to complete their tax returns. Restructuring of itemized deductions is essential if the tax laws are to be simplified for typical, middle-class individuals and families.

I am recommending changes in itemized deductions that will enable approxi-

mately 6 million taxpayers to switch to the simple standard deduction. The number of taxpayers who use the standard deduction will be increased from 77 percent to 84 percent. And the calculation of the deductions for itemizers will be simplified greatly.

The deductions that will be curtailed are ones that add complexity and inequity to the tax system without advancing significant objectives of public policy. We will have a simpler, more efficient tax system if we eliminate these deductions and return the revenue directly to taxpayers through the rate cuts I propose.

(1) *State and Local Taxes.* The special deduction will be eliminated for general sales taxes, taxes on personal property (but not on residences or buildings), gasoline taxes, and miscellaneous taxes. These itemized deductions are claimed at nearly uniform rates by all itemizers and result in a relatively small tax benefit. For those taxpayers who do not use the published deduction tables, the recordkeeping burden can be substantial.

Moreover, a deduction for these types of taxes cannot be defended on public policy grounds. A deduction for gasoline taxes runs counter to our national effort to conserve energy. And the present level of State sales taxes cannot be said to depend upon the fact that those State taxes are deductible for Federal income tax purposes.

(2) *Political Contributions Deduction.* Political contributions are now deductible as an itemized deduction in an amount not exceeding $200 for a joint return. Alternatively, a taxpayer may claim a credit against his tax for one-half of his political contributions, with a maximum credit of $50 on a joint return.

The reform program will repeal the political contribution deduction but retain the credit. The deduction is undesirable because it provides a larger subsidy to high-bracket contributors. Due to the present deduction, the wealthiest individuals can contribute $200 at an after-tax cost to them of only $60; middle-income Americans incur a cost of $150 for the same contribution. Elimination of the deduction will enhance tax equity and diminish the confusing complexity of the current scheme of deductions and credits.

(3) *Medical and Casualty Deductions.* The medical expense deduction is one of the most complicated items on the tax forms. Currently, one-half of the first $300 of health insurance premiums is deductible outright for those who itemize. Other medical expenses (including additional health insurance premiums) are deductible to the extent they are in excess of 3 percent of adjusted gross income. The latter category of deductibility also include medicines and drugs to the extent they exceed 1 percent of adjusted gross income. And there is a separate deduction for damage to property from a casualty (such as theft or fire) if the loss exceeds $100 and is not reimbursed by insurance.

I recommend substantial simplification of these provisions. The deductions for medical and casualty expenses will be combined, and a new "extraordinary expense" deduction will be available for medical and casualty expenses in excess of 10 percent of adjusted gross income. In the case of casualty losses, the excess over $100 will be included in this computation. Medical insurance premiums and medicines will be treated the same as other medical expenses.

Medical and casualty expenditures should properly be deductible only when they are unusually large and have a significant impact on the taxpayer's ability to pay. The medical expense deduction originally met that standard. But, as a result of the changing relationship between medical costs and income, that standard is no longer satisfied. Substantial recordkeeping burdens and administrative problems can be eliminated through the proposed simplification of the deduction and the redefinition of "extraordinary" in the light of current experience among taxpayers.

PROPOSALS TO CULTURAL INAPPROPRIATE SUBSIDIES, SPECIAL PRIVILEGES, INEQUITIES AND ABUSES OF THE TAX SYSTEM

ENTERTAINMENT AND OTHER EXPENDITURES FOR PERSONAL CONSUMPTION

One feature of the current tax system that is most disheartening to average taxpayers is the favorable tax treatment accorded extravagant entertainment expenses that are claimed to be business-related. Some individuals are able to deduct expenditures that provide personal enjoyment with little or no business benefit. And, even where entertainment expenditures may have some relationship to the production of income, they provide untaxed personal benefits to the participants. More than $2 billion of tax revenue is lost every year through these tax preferences.

For example, one person claimed a deduction of $17,000 for the cost of entertaining other members of his profession at his home, at a country club, at sporting events, at restaurants, and at a rental cottage. Another individual wrote off the cost of business lunches 338 days of the year at an average cost far exceeding $20 for each lunch. But there is no deduction in the tax laws for the factory worker's ticket to a football game or the secretary's lunch with fellow workers.

These special tax advantages for the privileged few undermine confidence in our Nation's tax system. The disparity must be eliminated by denying a deduction for expenditures to the extent they provide the participants with such untaxed personal enjoyment and benefits.

(1) *Theater and Sporting Events.* No deduction will be permitted for purchases of tickets to theater and sporting events. Present law, by allowing a deduction for the purchase of such tickets, provides a "two for the price of one" bargain to some taxpayers. As long as an individual is in the 50 percent tax bracket or above, he may be able to invite a business friend at no cost to himself by having the Federal government pay for at least one-half of the total ticket costs. The overwhelming majority of our citizens pay for their theater and sports tickets out of their own after-tax dollars. No taxpayer should be asked to help subsidize someone else's personal entertainment.

(2) *Other Entertainment Expenses.* The tax reform program will also deny deductibility of any expenses of maintaining facilities such as yachts, hunting lodges and swimming pools and for fees paid to social, athletic, or sporting clubs. During a recent tax year, one small corporation deducted $67,000 for yacht expenses incurred in entertaining customers and potential customers on cruises and fishing trips. Another small company deducts over $100,000 a year to maintain hunting and fishing lodges to entertain employees of customers. Asking taxpayers to subsidize these kinds of activities for a tiny minority of our citizens strikes at the fairness and integrity of the tax system.

(3) *Business Meals.* Fifty percent of currently deductible business entertainment expenses for food and beverages will remain deductible, and 50 percent will be disallowed. A substantial portion of business meal expenses represents the cost of personal consumption that must be incurred regardless of the business connection. The millions of Americans who work on farms, in factories and in offices should not be required to provide their tax dollars to support the high-priced lunches and dinners of a relatively small number of taxpayers. The 50 percent disallowance represents a reasonable and fair approach to compensate for the untaxed personal benefit involved.

(4) *Foreign Conventions.* Many professional, business, and trade organizations can furnish their members with tax-deductible foreign vacations. The method of conferring such tax-subsidized luxury is to sponsor a foreign convention or seminar. A brochure for one professional organization provides the appropriate atmosphere in promoting its foreign seminars:

"Decide where you would like to go this year: Rome, The Alps. The Holy Land. Paris and London. The Orient. Cruise the Rhine River or the Mediterranean. Visit the islands in the Caribbean. Delight in the art treasures of Florence."

The Tax Reform Act of 1976 placed some limits on the deductibility of foreign convention expenses. But the rules still permit taxpayers to take two foreign vacations a year partially at public expense—an exception that did not escape the attention of the organization whose 1977 brochure I have quoted.

I am proposing that the deductibility rules for foreign conventions be modified in a manner that will curb abuses while relaxing the current restrictions on conventions held in foreign countries for legitimate business purposes. The two convention rule will be stricken. In its place will be a rule that denies deductibility for foreign convention expenses unless factors such as the purpose and membership of the sponsor make it as reasonable to hold the convention outside the United States and possessions as within.

(5) *First Class Air Fare.* Another example of public support for private ex-

travagance is the deductibility of first class air fare. Business travel constitutes a legitimate cost of producing income. However, the business purpose is served by purchasing a ticket at coach fare. The undue generosity of a deduction for first class air fare was recognized by Congress in 1976 when a deduction was denied for first class flights to foreign conventions. I propose that the rule be extended to tickets for domestic business travel.

TAX SHELTERS

Through tax shelters, persons can use "paper" losses to reduce taxes on high incomes from other sources. These shelter devices can slash the effective tax rate for many affluent individuals far below that of average income Americans. Moreover, such shelters attract investment dollars away from profit-seeking businesses and into ventures designed only for tax write-offs; legitimate businesses suffer competitive disadvantages as a result.

In the Tax Reform Act of 1976, Congress enacted reforms intended to restrict tax shelter abuses. The principal methods used in that legislation were revisions of the minimum tax and the adoption of an "at risk" rule to limit the deductibility of certain tax shelter losses.

However, some promoters have now adapted their operations to provide shelters in forms that were not specifically covered by the 1976 Act. In fact, shelter activity in 1977 may have surpassed the level reached in 1976. Form letters, addressed to "All of Us Who Wish to Reduce Our Taxes," boldly promise tax write-offs several times larger than the amount invested, and persons are urged to pass the message along "to anyone you think may have interest in tax reduction." Tax shelter experts promote their services in large and expensive advertisements in the financial sections of our Sunday papers.

Such flagrant manipulation of the tax laws should not be tolerated. I recommend action that will build upon the 1976 reforms and further reduce tax shelter abuses.

(1) *Strengthening of the Minimum Tax.* The minimum tax has proved to be one of the most useful devices to limit the attractiveness of tax shelter schemes, and it should be made still more effective. In its current form, the minimum tax is imposed at a rate of 15 percent on the amount of certain tax preference items enjoyed by a taxpayer. But the total amount of tax preferences can be reduced by the greater of $10,000 or one-half of regular tax liability (in the case of individuals) before the minimum tax is applied.

I recommend that the minimum tax for individuals be strengthened by eliminating the offset of one-half of regular tax liability against preference income. This change will make the minimum tax more progressive and a more sharply focused deterrent to the use of tax shelters. Persons making excessive use of preference will be taxed on their preference income without regard to regular tax liability. On the other hand, those individuals with modest preference income will still be totally exempted from the minimum tax by the $10,000 preference offset, and the minimum tax will not be applied to capital gain realized on the sale of a personal residence. Ninety-eight percent of the $284 million in revenue raised by this proposal will come from taxpayers with incomes exceeding $100,000 and more than 77 percent will come from the income class over $200,000.

(2) *Extension of "at risk" Rule.* One of the 1976 reforms that should be toughened is the "at risk" rule. That rule denies deductibility for a shelter investor's paper losses that exceed his cash investment and indebtedness for which he has personal liability. My tax reform plan will generally extend the "at risk" provisions to cover all activities (except real estate) carried on individually, through partnerships, or by corporations controlled by five or fewer persons.

(3) *Changes in Real Estate Depreciation.* Reform of real estate depreciation practices is needed to reduce much of the wasteful tax shelter investment that has led to over-building or commercial real estate in such forms as shopping centers and office buildings. Real estate shelters were left virtually untouched by the 1976 Act. Consequently, these shelters have continued to thrive.

It is time to move depreciation for tax purposes more closely into line with a measurement of actual economic decline. The reform program will generally require taxpayers to base their depreciation for buildings on the straight-line method, using the present average tax lives claimed by taxpayers for different classes of property. Exceptions from the general rule will be granted until 1983 for new multi-family housing, which will be permitted to use a 150 percent declining balance method: new low-income housing will remain eligible for a 200 percent declining balance method until 1983, and for 150 percent thereafter. Needed investment in industrial plants will be encouraged by an extension of the investment credit, as explained below. The investment credit is a more efficient and straight-forward means to provide a tax subsidy for such construction.

(4) *Taxation of Deferred Annuities.* Another flourishing tax shelter gimmick is the deferred annuity contract. Currently, a person can generally invest in an annuity contract and postpone taxation on the interest build-up until the annuity is actually received. Although originally designed primarily to provide a safe flow of retirement income, the deferred annuity contract is now used commonly as a convenient tax dodge for a wide range of investment opportunities. The shelter benefits are aptly described by the promotional literature:

"How To Postpone Taxes Legally and Earn Interest on Uncle Sam's Money . . . With An Investment That Never Goes Down, Always Goes Up; And Is Guaranteed Against Loss."

I recommend that this tax abuse be eliminated. Under my proposal, the earnings of most deferred annuities will be taxed currently to the purchaser. However, in order that an individual may still use a deferred annuity with guaranteed interest as a means to provide retirement income, the proposal will allow each person to designate a single contract, contributions to which may not exceed $1,000 annually, as a contract that will remain eligible for tax deferral. Also unaffected will be the tax treatment of qualified employee annuities.

(5) *Classification of Nominal Partnerships as Corporations for Tax Purposes.* In many cases, tax shelter schemes can offer the desired tax benefits to investors only if the shelter vehicle is organized as a partnership rather than a corporation. At the same time, limited partnerships can now provide traditional non-tax attributes of a corporation, such as limited personal liability, centralized management, and transferability of interests without sacrificing partnership tax benefits.

Promoters should not obtain the non-tax attributes of a corporation for their shelters while using technicalities to avoid corporate tax treatment. I recommend that new limited partnerships with more than 15 limited partners be treated as corporations for tax purposes; however, partnerships engaged primarily in housing activities will be excepted from this classification rule.

(6) *Tax Audit of Partnerships.* Tax shelter partnerships are not themselves subject to the tax assessment mechanism of the Internal Revenue Service; therefore, each individual partner must be audited separately even though the same substantive determinations may be involved. I recommend that legislation be enacted to permit a partnerhip to be treated as an entity for the purpose of determining tax issues. Tax shelters based on illegitimate deductions should not be permitted to succeed merely because of the difficulties involved in conducting an IRS examination of their activities.

TERMINATION OF ALTERNATIVE TAX FOR CAPITAL GAINS

The wages of most workers are fully subject to tax at the rates contained in the published tax tables. But persons whose income arises from the sale of assets such as stock or land generally receive preferred treatment; a deduction for long-term capital gains has the effect of taxing these gains at a rate that is one-half of the rate for ordinary income. This preference results in an annual revenue loss to the Treasury of $8 billion.

Taxpayers in the highest income brackets are granted an additional tax preference over and above the special capital gains deduction. Individuals above the 50 percent tax bracket can take advantage of a 25 percent tax ceiling on the first $50,000 of capital gains, a provision known as the "alternative tax." The benefits of this provision go exclusively to persons with taxable incomes exceeding $52,000 (if filing a joint return) or $38,000 (if filing a single re-

turn)—less than one percent of all taxpayers.

Through the alternative tax, a wealthy investor can shield nearly 65 percent of his capital gains from taxation—a benefit that is grossly inequitable when middle-class investors are taxed on one-half of such gains, and most workers are taxed on every cent of their wages and salaries. The alternative tax costs the Treasury over $100 million every year, almost 90 percent of which goes to taxpayers in income classes above $100,000. I propose the repeal of this unfair and complicated tax benefit.

FRINGE BENEFITS UNAVAILABLE TO RANK-AND-FILE WORKERS

Our tax system generally operates under the principle that employees should be taxed on their compensation no matter what form that compensation assumes. A worker who receives cash wages that he used to provide benefits for his family should not ordinarily be taxed more heavily than the employee who receives those benefits directly from his employer. There are now exceptions to this general rule for certain types of employee benefits. I urge Congress to act so that these tax preferences benefit rank-and-file workers as well as the executive officers.

(1) *Non-discrimination Requirement for Health and Group Life Plans.* An example of a tax-preferred employee benefit is a health or group life insurance plan. If an individual purchases medical insurance, the premiums are deductible only within the limits applicable to the medical expense deduction. However, if an employer establishes a medical insurance program for its employees, the premium payments by the employer are deductible while neither the premiums nor the benefits are taxable to the employee.

Although this tax preference was designed in theory to secure basic protections for a wide range of employees, it often serves instead to subsidize expenses of only the high-level corporate managers. It is now possible for a businessman, through his controlled corporation, to establish a health plan that covers only one employee—himself—and permits all of his medical and dental expenses to be deducted. Meanwhile, that corporation's other employees have to provide health care for their families with the nondeductible expenditures.

To curb the abuse, I recommend denial of the tax exemption for employer-established medical, disability, and group life insurance plans if those plans discriminate in favor of officers, shareholders, and higher-paid employees. Preferential tax treatment is now available to pension plans only if non-discrimination standards are met. The tax law should require similar non-discriminatory treatment for workers in the case of medical, disability, and group life insurance plans.

(2) *Employee Death Benefits.* Current law provides an exclusion for the first $5,000 of payments made by an employer on account of the death of an employee. I recommend the repeal of this exclusion. Typically, these death benefits are in the nature of deferred wages that would have been paid to employees in high tax brackets. Adequate tax relief for an employee's heirs is provided through a complete tax exemption for insurance proceeds.

(3) *Integration of Qualified Retirement Plans and Social Security.* Certain employer-sponsored retirement plans have a preferred tax status. Employer contributions to a qualified plan are currently deductible while the employee can defer taxation until retirement benefits are received. Although qualification for this special treatment is generally dependent upon non-discriminatory coverage of employees, the tax laws now permit a qualified plan to cover only employees who earn amounts exceeding the social security wage base—a base that will rise to $25,900 by 1980 under the recently enacted social security financing legislation.

It is unfair to grant tax preferences for private pension plans that bar all low and middle-income employees from participation. I propose that a new integration formula be enacted so that a qualified pension plan cannot provide benefits to supplement social security for highly compensated employees unless all employees receive some coverage under the plan.

UNEMPLOYMENT COMPENSATION

Unemployment compensation is a substitute for wages that generally provides needed relief to persons in financial distress. But, in some cases, the unemployment compensation system discourages work for taxable income. Since unemployment benefits are tax-free, they are more valuable than an equivalent amount of wages. This means that if two individuals have the same total income, the one who remains idle several months and receives unemployment compensation will be better off financially than his colleague who works the whole year. There can be no justification for conferring this tax-free benefit upon middle and upper-income workers.

I propose that the current tax exemption for unemployment compensation benefits be phased out as an individual's income rises above $20,000 for single persons or $25,000 for married couples.

TAXABLE BOND OPTION AND INDUSTRIAL DEVELOPMENT BONDS

Present law exempts from Federal taxation the interest on certain bonds issued by state and local governments. There are now two general categories of tax-exempt bonds: obligations issued for the benefit of the state and local government itself, and industrial development bonds issued by the government to provide facilities such as pollution control equipment, sports facilities, waste disposal facilities, industrial parks, and facilities (including hospitals) of private, non-profit organizations. Also, there is a "small issue" exemption for certain industrial development bonds with face amounts that do not exceed $1 million, or $5 million where the total cost of capital expenditures on the financed facility does not exceed the $5 million amount.

My tax program preserves the freedom of state and local governments to issue tax-exempt bonds. I am recommending reforms that will restrict the tax avoidance opportunities available to the wealthy in the tax-exempt market while, at the same time, increasing the ability of state and local governments to obtain low-cost financing. In particular, I propose the following:

(1) *Option for Bonds Benefitting Governmental Units.* State and local governments will be given the option of continuing to issue tax-exempt bonds or issuing fully taxable bonds, accompanied by a direct Federal interest subsidy to the governmental units. For bonds issued in 1979 and 1980, the subsidy will be equal to 35 percent of the interest cost; the subsidy will rise to 40 percent for bonds issued after 1980. The Federal government will exercise no control over the purposes for which state and local governments use subsidized financing. State and local governments will benefit under the taxable bond option regardless of whether they decide to issue taxable or tax-exempt bonds: those issuing taxable bonds will benefit directly from the interest subsidy, and those continuing to issue tax-exempt bonds will benefit because the reduced supply of such bonds will allow governments to sell them at lower interest rates.

(2) *Pollution Control Bonds, Bonds for the Development of Industrial Parks, and Private Hospital Bonds.* The tax exemption will be removed for interest on pollution control bonds and bonds for the development of industrial parks. Also, the exemption will be removed for bonds issued to finance construction of hospital facilities for private, non-profit institutions unless there is a certification by the state that a new hospital is needed. These activities are essentially for the benefit of private users, and the tax exemption for the bonds has the effect of undermining the financing of governmental functions. Moreover, the general exemption for hospital bonds encourages excessive expansion of unneeded hospital facilities and runs counter to the Administration's Hospital Cost Containment proposal.

(3) *Small Issue Exemption.* The existing "small issue" exemptions will be retained only for economically distressed areas; and, with respect to those areas, the $5 million exemption will be raised to $10 million.

(4) *Option for Certain Industrial Development Bonds.* Industrial development bonds which continue to enjoy tax-exempt status (such as those to finance sports facilities, housing, airports and convention facilities and small issues for economically distressed areas) will be eligible for the taxable bond option on the same terms as obligations issued for the benefit of State and local governments.

ACCRUAL ACCOUNTING FOR LARGE CORPORATE FARMS

Most taxpayers that are in the business of selling products must use an accrual method of accounting so that income is reflected accurately for tax purposes. However, farmers have historically been permitted to use the simpler cash method on the grounds that they lack the accounting and bookkeep-

ing expertise required by the accrual system.

Congress acted in 1976 to deny the cash accounting privilege to most large corporate farms (with annual gross receipts exceeding $1 million), but retained an exception for large corporations that are "family owned." This distinction between family and nonfamily corporations bears no relationship to the rationale of preserving simple bookkeeping methods for small farmers. It has resulted in severe competitive imbalances between large corporations now required to use accrual accounting and those that are equally large but happen to fall within the definition of a "family farm."

This inequitable exception should now be eliminated. Corporate farms with gross receipts exceeding $1 million cannot fairly claim that they lack the sophistication necessary to comply with accrual accounting standards. Nor can lack of financial sophistication be claimed by farm syndicates used as investment vehicles by nonfarmers. Therefore, I recommend that the accrual accounting requirement cover corporations with gross receipts greater than $1 million, regardless of their ownership, and all farm syndicates.

TAX TREATMENT OF FINANCIAL INSTITUTIONS

Financial institutions now have a favored tax status that is based largely on outmoded concepts regarding the nature of these businesses. Commercial banks, mutual savings banks and savings and loan associations were permitted to deduct artificially inflated reserves for bad debts in order to protect the banking system from catastrophic losses that were prevalent prior to the extensive banking legislation of the 1930's. Credit unions were exempted from taxation in the days when these institutions were small entities with close bonds among the members and few powers to provide extensive financial services. I am recommending changes that will recognize the contemporary practices of financial institutions and will bring the tax treatment of commercial banks, savings and loan associations and credit unions more in line with the taxation of other businesses. These reforms will raise $300 million per year in revenue.

(1) *Commercial Banks.* Commercial banks may now claim bad debt deductions that greatly exceed their actual losses. Under legislation enacted in 1969, this special bad debt deduction is scheduled for elimination after 1987. I propose that the effective date for repeal be accelerated so that beginning in 1979 banks, like other businesses, will base their bad debt reserves on their own experience in the current and 5 preceding years.

(2) *Mutual Savings Banks and Savings and Loan Associations.* Mutual savings banks and savings and loan associations are also permitted a special bad debt deduction that bears no relationship to actual experience. These thrift institutions are generally entitled to deduct 40 percent of their net income (this percentage is scheduled to apply in 1979) as a bad debt reserve as long as a significant portion of their deposits is invested in real estate loans. My tax program will reduce the percentage to 30 percent over a 5-year period.

(3) *Credit Unions.* Credit unions are tax-exempt. Yet, their powers and functions are defined so broadly that the term "credit union" can include financial institutions that are functionally identical to a savings and loan association. The tax exemption provides them with an unfair financial advantage over their competitors. I propose that the percentage of exempt income be phased out over a 4-year period, and that credit unions be taxed in the same manner as mutual savings banks and savings and loan associations after 1982.

DOMESTIC INTERNATIONAL SALES CORPORATION (DISC)

Business incentives form an integral part of my tax program. I am recommending measures that will encourage American businesses to invest in productive facilities and to create jobs. However, adoption of those incentives must be accompanied by the elimination of tax preferences that have proved to be wasteful. The so-called "DISC" provision is a prime example.

In 1971, Congress enacted a special tax program for exports. This program permitted tax benefits for exports channeled through a company's specially created subsidiary, usually a paper organization, known as a domestic international sales corporation (DISC). Artificial pricing rules on transactions between the parent company and its DISC permit a favorable allocation of export profits to the DISC, and the taxation of, one-half of eligible DISC income is deferred as long as these profits are invested in export related assets.

DISC has proved to be a very inefficient and wasteful export subsidy in the current international monetary system. A recent Treasury study indicates that DISC may have contributed only $1 to $3 billion to U.S. exports in 1974—an increase of less than 3 percent in total exports—at a tax revenue cost of $1.2 billion. In the long run, even these increased exports are probably offset by rising imports that result from the operation of the flexible exchange rate system. DISC does nothing for, and may even disadvantage, our import sensitive industries and our exporters not using the DISC provision. Independent experts believe that DISC may have had *no* positive effect on our balance of payments.

Congress has recognized the wasteful nature of DISC and, in 1976, limited its applicability. However, DISC continues to cost U.S. taxpayers over $1 billion per year, with 65 percent of DISC benefits going to corporations with more than $250 million in assets.

I propose the elimination of one-third of DISC benefits in 1979, two-thirds in 1980, and all DISC benefits in 1981 and thereafter.

FOREIGN TAX DEFERRAL

Domestic corporations can now avoid paying a U.S. tax on the earnings of their foreign subsidiaries as long as those earnings remain overseas. A U.S. tax is generaly deferred until dividends are paid by the subsidiary to its domestic parent, and then U.S. tax liability is offset by a tax credit for foreign income taxes paid on those remitted earnings. Fifty percent of all the benefits of tax deferral is obtained by 30 large multinational corporations.

I recommend that this deferral privilege be phased out over a 3-year period. At least one-third of a foreign subsidiary's earnings will be taxed to the U.S. parent in 1979, at least two-thirds in 1980, and all the subsidiary's earnings after 1980. The tax reform program is designed to create incentives for investment in the United States and the creation of jobs for American workers. Tax deferral runs counter to these objectives. By providing a preference for foreign source income, the current deferral provision provides an incentive for investing abroad rather than in the United States, thereby having the effect of reducing job opportunities for Americans. Moreover, deferral can encourage multinational corporations to manipulate internal transfer prices in order to allocate income to low-tax countries.

There is no reason to defer the imposition of a U.S. tax just because business operations are conducted abroad rather than in the United States, regardless of the motivation for creating a foreign subsidiary. Congress eliminated in 1969 certain special tax preferences for businesses conducted in the United States through multi-layered corporations. I propose that Congress act in a similar manner to end the present preference for business operations conducted internationally through such multinational corporate structures.

The foreign tax credit will be retained in its present form. Therefore, elimination of deferral will not result in a double taxation of overseas earnings. And, in the event it appears to be in the national interest to permit tax deferral with respect to specific countries, such treatment can be provided selectively under negotiated tax treaties involving mutual concessions.

SPECIAL TAX REDUCTIONS PROPOSED TO REDUCE COSTS FOR CONSUMERS AND BUSINESSES

I propose two tax reduction measures—outside the income tax system—that will assist our efforts to attain price stability.

REPEAL OF EXCISE TAX ON TELEPHONE SERVICES

The present 4 percent excise tax on amounts paid for telephone services is now being phased out at the rate of 1 percentage point a year, with full repeal scheduled as of January 1, 1982.

I recommend complete repeal of this tax as of October 1, 1978. This action will reduce the cost of living directly. It will also lower consumer prices indirectly through a reduction of the business cost associated with telephone services.

FEDERAL UNEMPLOYMENT INSURANCE TAX

I recommend a reduction in the Federal unemployment insurance tax to reduce the payroll costs of employers. On January 1, 1978, the unemployment insurance tax rate rose from 0.5 percent to 0.7 percent of an employer's taxable wage base. This tax increase was instituted in order to replenish general revenue funds that have been loaned to the unemployment insurance trust fund during recent periods of high unemployment. But the

issue of unemployment compensation financing requires a thorough reexamination to determine the best means of providing future benefits. To this end, I will soon appoint the National Commission on Unemployment Insurance which the Congress established to make this study and to offer recommendations. In the meantime, I am guided by my concerns about inflation. I propose that the tax rate be reduced to the 0.5 percent level as of January 1, 1979.

RECOMMENDED BUSINESS INCENTIVES TO FOSTER GROWTH OF THE ECONOMY

CORPORATE RATE CUT

I recommend a corporate rate cut that will reduce business taxes by $6 billion. Tax relief in this form is sizable, easily understood by taxpayers, and applicable across the board.

The corporate tax rate is now 20 percent on the first $25,000 of income, 22 percent on the next $25,000, and 48 percent on corporate income exceeding $50,000. Effective October 1, 1978, this program will reduce the first two rate brackets to 18 and 20 percent, respectively, and the rate to 45 percent on taxable income in excess of $50,000. The top rate will be reduced an additional point, to 44 percent, on January 1, 1980. Small as well as large corporations will benefit from these rate cuts.

A corporate rate reduction of this magnitude will increase capital formation and help to assure a sustained economic recovery. In recent years, the level of business fixed investment has been unsatisfactory. One of the primary causes of this inadequate investment performance has been the low rate of return businesses receive on their investments—after tax liability is taken into consideration. The lower tax rates I recommend will enhance the anticipated after-tax profits on corporate investment projects and increase cash flow immediately. Businesses will thereby be encouraged to increase capital spending and to create jobs for American workers. Corporate rate cuts this large are made possible by, and depend upon, passage of the revenue-raising business tax reforms I have described earlier.

LIBERALIZATION OF INVESTMENT TAX CREDIT

The investment tax credit has proven to be one of the most potent tax incentives for capital formation. It provides a direct reduction in tax liability generally equal to 10 percent of a business' qualifying investments. But there are now several limitations that restrict its effectiveness.

I recommend changes that will make the investment credit a stronger, more efficient, and more equitable incentive. These changes will reduce business taxes by approximately $2.5 billion per year.

(1) *Permanent 10 Percent Credit.* The present 10 percent investment credit is not a permanent feature of the Internal Revenue Code. On January 1, 1981, the credit level is scheduled to revert to 7 percent. I propose that the credit be extended permanently at a 10 percent rate so that businesses can plan ahead with greater certainty of the tax benefits that will be associated with projected capital expenditures.

(2) *Increased Tax Liability Ceiling.* The investment credit claimed during any taxable year cannot generally exceed $25,000 plus 50 percent of tax liability in excess of that amount (with excess credits being eligible for a 3-year carryback and a 7-year carry-forward). My tax program will provide a ceiling of 90 percent of tax liability (including the first $25,000) and will thereby increase the incentive for those businesses with relatively high investment needs and low taxable incomes. Developing businesses and firms suffering from temporary business reversals will be helped to compete more effectively with their larger or more stable competitors.

(3) *Eligibility of Structures.* The investment credit now applies only to machinery and equipment. My tax program will extend eligibility for the credit to utility and industrial structures, where investments have been especially sluggish. Investment in these structures reached its peak over 4 years ago and is now 16 percent below that level. It is important that we act to remedy the existing tax bias against structures and encourage balanced industrial expansion. In order to ensure that this provision has no anti-urban bias, I propose that the investment credit be available for both new structures and the rehabilitation of existing structures.

I recommend that this provision apply to construction costs incurred after December 31, 1977. In the case of new structures, there will be an additional requirement that the facility be placed in service after that date.

(4) *Liberalized Credit for Pollution Control Facilities.* I propose that pollution abatement facilities placed in service after December 31, 1977, be allowed to qualify for a full 10 percent credit even if special 5-year amortization is claimed under the provisions of existing law. Currently, only a 5 percent credit may be combined with rapid amortization. This proposal will provide significant tax relief for industries that are forced to make pollution control expenditures in order to comply with environmental regulations.

REVISION AND SIMPLIFICATION OF REGULATIONS UNDER THE ASSET DEPRECIATION RANGE SYSTEM

The asset depreciation range (ADR) system provides substantial tax benefits to businesses. Under ADR, generous class lives are prescribed for categories of assets, and a taxpayer can select useful lives for depreciation purposes within a range that extends from 20 percent below to 20 percent above the designated class life. However, certain complexities in the ADR regulations discourage most businesses, especially small ones, from electing this depreciation system and impose administrative burdens on those businesses that do use ADR.

I recommend legislation expressly permitting the Treasury Department to issue regulations that will simplify the ADR system. Included among the changes will be a termination of the annual reporting requirement.

PROPOSALS FOCUSED ON SMALL BUSINESS

The tax reductions I recommend will provide significant benefits for small businesses. For example, a small corporation with annual income of $50,000 will save $1,000 in taxes due to corporate rate reductions. For that corporation, tax liability will be reduced by nearly 10 percent. Moreover, those small businesses conducted in partnership or sole proprietorship form will benefit substantially from the rate cuts I have proposed for individuals.

But in addition to providing these general tax incentives, I recommend three proposals designed specifically to assist small businesses. First, my tax program will simplify and liberalize the rules (Subchapter S) that treat certain small corporations as partnerships; the number of permissible shareholders will generally be increased from 10 to 15, and the rules governing subchapter S elections will be made less stringent. Second, a simplified method of depreciation will be authorized for small businesses that will provide tax benefits similar to the current ADR system without complex recordkeeping requirements. And third, risk-taking will be encouraged by doubling the amount of a small corporation's stock (from $500,000 to $1 million) that can qualify for special ordinary loss treatment and by eliminating several technical requirements that needlessly restrict the ability of small businesses to use this provision.

CONCLUSION

Enactment of these recommendations will effect major reform of our tax laws, provide significant tax relief, and sustain our economic recovery.

This program will eliminate a number of the inequities that undermine the integrity of the tax system. It will make preparation of returns simpler and more understandable for millions of taxpayers. Prompt passage will strengthen the confidence of consumers and businesses in our growing economy and lead to the creation of up to one million new jobs for workers who need them.

I look forward to working in partnership with Congress to enact this program of tax reform and tax reduction.

JIMMY CARTER.

THE WHITE HOUSE, *January 20, 1978.*

1979 BUDGET—MESSAGE FROM THE PRESIDENT—PM 141

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, together with an accompanying report, which, without being read, was referred, jointly, to the Committee on Appropriations, and the Committee on the Budget, by unanimous consent:

To the Congress of the United States:

The first complete budget of any new administration is its most important. It is the administration's first full statement of its priorities, policies, and proposals for meeting our national needs. Last February, after just one month in office, I submitted a revised budget to the Congress. That revision changed the direction of the prior administration's budget, but was—one of necessity—based upon a review of limited scope. I promised

then that future budgets would reflect detailed, zero-based reviews of Federal spending programs, reform of the tax system, and reorganization of the Government. This budget is my first major step in meeting that promise. It reflects, I believe, a determination to face and make difficult decisions in a manner that places the common good above that of any particular interest.

This budget represents a careful balancing of several considerations:

—The importance of a fiscal policy that provides for a continuing recovery of the Nation's economy;

—The obligation of the Government to meet the critical needs of the Nation and its people;

—The fact that resources are limited and that Government must discipline its choices and its scope; and

—The need for careful and prudent management of the taxpayers' resources.

THE BUDGET TOTALS

[In billions of dollars]

	1977 actual	1978 estimate	1979 estimate
Budget receipts	357	400	440
Budget outlays	402	462	500
Deficit (—)	—45	—62	—61
Budget authority	465.2	502.9	568.2

My budget provides for total outlays of $500 billion, an increase of $38 billion, or 8%, over the 1978 budget, and receipts of $440 billion. This budget total is a restrained one that:

—Meets essential national needs;

—Places careful priorities upon Federal expenditures; and

—Decreases the share of the Nation's gross national product taken by the Federal Government from 22.6% to 22.0%.

This budget places us on a path that will permit a balanced budget in the future if the private economy continues its recovery over the coming years.

At the same time, my budget embodies a fiscal policy that will strengthen the economic recovery. I propose a progressive tax reduction of $25 billion to help assure continued economic recovery and reduction in unemployment. An integral part of this tax reduction proposal is a set of recommendations for tax reform that will make the tax system simpler and more equitable.

Without the reduction, I would have been able to announce a decline in the deficit of $15 to $20 billion between 1978 and 1979. With the reduction, the budget deficit will still decline slightly, because of careful restraints on expenditures. But I judged that the most important priority this year was to reduce the burdens on taxpayers. Only in this way can we ensure a vigorous economy, a declining unemployment rate, a strong expansion of private investment, and a stable budget balance in future years.

While the expenditures I recommend in this budget are restrained, they are, nevertheless, directed toward overcoming our Nation's crucial problems. I have looked carefully at existing approaches to these problems and improved those approaches where possible. The spending priorities of the past are now being shifted toward long-neglected areas. These new priorities are based on the following judgments:

—An effective national energy plan is essential to reduce our increasingly critical dependence upon diminishing supplies of oil and gas, to encourage conservation of scarce energy resources, to stimulate conversion to more abundant fuels, and to reduce our large trade deficit.

The national energy plan I proposed last spring defined these goals. This budget includes the programs and initiatives designed to meet those objectives. Included are increased emphases on conservation and nonnuclear research and development, energy grants and technical assistance to States and localities, accelerated acquisition of the strategic petroleum reserve, and greater emphasis on nuclear waste management. I continue in the unswerving belief that the Nation's leaders have the obligation to plan for the future, and that the national energy plan is essential to the future health and vigor of the American economy. The United States also must take the lead in minimizing the risks of nuclear weapons proliferation as we advance nuclear power technology. Thus, this budget increases research and development funding for systems that present fewer risks than the plutonium-fueled liquid metal fast breeder reactor.

—The essential human needs of our citizens must be given high priority.

In the spring of 1977 I proposed a long-overdue reform of the Nation's welfare system. This reform recognizes that this is a Nation of men and women who do not wish to be wards of the Government but who want to work and to be self-sufficient. It includes a combination of employment opportunities and incentives for those who should work, and a basic income for those who cannot. This budget anticipates that Congress will pass the program for better jobs and income, and begins the process of careful planning for the implementation of an efficient and equitable system.

The budget also recognizes that ensuring the opportunity to compete and excel remains very important to our people. To give all children the healthiest possible start in life, I propose a major expansion of medical care and nutritional supplements for low-income expectant mothers and infants. In addition, I propose major increases in educational assistance at all levels. Because of the continued high level of unemployment, particularly among minorities, I believe public employment programs should be continued at high levels for another year. Major increases in programs stressing employment for unemployed youth are recommended. A new effort will be mounted to place more disadvantaged persons in private sector jobs by increasing the involvement of the business community in local employment and training programs.

I view a workable urban strategy as an important link in a well-articulated domestic program and essential to the continuing recovery of the national economy. This budget includes increases for many programs benefiting urban areas and supports several efforts to improve these programs. I anticipate sending to the Congress early in the spring a set of further proposals dealing with the Nation's urban problems.

—The Nation's armed forces must always stand sufficiently strong to deter aggression and to assure our security.

My request for defense provides for the steady modernization of our strategic forces, and for substantial improvements in the combat readiness of our tactical forces. To parallel commitments made by our European allies, I am proposing significant increases in our overall defense effort, with special emphasis on those forces and capabilities most directly related to our NATO commitments. The defense budget I recommend also emphasizes modernization and research and development to meet future challenges to our security. But at the same time, I am restraining defense expenditures by introducing important efficiencies and by placing careful priorities upon our defense needs. The 1979 defense budget is prudent and tight, but consists of a real growth in outlays of three percent above the current year's budget. It is $8 billion below the defense budget projected for 1979 by the previous administration.

—The Federal Government has an obligation to nurture and protect our environment—the common resource, birthright and sustenance of the American people.

This budget provides for substantially increased emphasis on protection of all our environmental resources, for new attention to our common heritage, and for substantial additions to our system of public lands. Planned use of our natural resources has been designed so that the most important of our unspoiled areas can remain forever in the hands of the people.

—The Federal Government must lead the way in investing in the Nation's technological future.

Shortly after taking office, I determined that investment in basic research on the part of the Federal Government had fallen far too low over the past decade. Accordingly, I directed that a careful review be undertaken of appropriate basic research opportunities. As a result of that review, this budget proposes a real rate of growth of almost 5% for basic research in 1979. I believe this emphasis is important to the continued vitality of our economy.

This budget also reflects this Administration's commitment to two important approaches to making government work more efficiently and responsively: reorganization and zero-base budgeting.

The reorganization effort I have launched seeks more than just a streamlining of organization structure and the elimination of overlaps and duplication. It seeks to make our Government more responsive, more efficient, and more clearly focussed on the most pressing needs of our society. In 1977 I proposed—

and the Congress accepted—a Cabinet-level Department of Energy, a streamlined Executive Office of the President, and a consolidation of our international information activities. In 1978 I will propose further reorganizations in such areas as the Federal Government's civil rights activities and the Federal civil service system to make it more responsive and effective.

As I promised during my campaign, zero-base budgeting systems have been applied throughout the Federal Government. This budget is the product of a comprehensive zero-base review of all Federal programs, both existing and new programs. In reviewing each agency's proposals, I have used zero-base budget alternatives and agency rankings to compare and evaluate the many requests competing for resources. As a result of the first year's effort, we have gained a better understanding of Federal programs and have made better, more even-handed judgments. Because of this system the budget includes significant dollar savings and improvements in the way programs are operated. With experience, zero-base budgeting should be even more effective in future years.

Other significant changes in the budget process are reflected in this document. First: I have directed the Office of Management and Budget to establish a multi-year budget planning system using long-range budget projections. This will ensure that budget decisions are made with full awareness of their longer range implications. Second: we are using better techniques for estimating outlays so as to avoid the chronic "shortfalls" of recent years. Third: we have explicitly related the classification of the budget in terms of functions performed by Government programs to the national needs and agency missions served, as called for in the Congressional Budget Act of 1974.

In formulating this budget I have been made acutely aware once more of the overwhelming number of demands upon the budget and of the finite nature of our resources. Public needs are critically important; but private needs are equally valid, and the only resources the Government has are those it collects from the taxpayer. The competition for these resources and my belief and commitment that we must firmly limit what the Government taxes and expends have led me to the premises on which my first budget is based.

—Critical national needs exist—particularly human and social ones—to which resources must be directed.

—Government resources are scarce; their use must be planned with the full awareness that they come from the earnings of workers and profits of business firms.

—The span of government is not infinite. Priorities must be set and some priorities reordered. If we are to meet adequately the most critical needs, some demands must also be deferred. Government action must be limited to those areas where its intervention is more likely to solve problems than to compound them.

—We have an obligation to manage with excellence, and to maintain proper priorities within the $500 billion proposed in this budget. We all know that in a budget of this scale—larger than the gross national product of all but three nations in the world—there are dollars wasted and dollars misspent. These must be minimal.

These premises are unexceptionable in general, but difficult and controversial to apply. They have guided my actions in formulating this budget and they will continue to do so in the future. But to be successful I will need, and will work for, the help and cooperation of the Congress. Both the Congress and the Executive have a clear, joint interest in an approach that helps us to meet the demands of the future. In recent years the Congress has taken important steps—through the establishment of the congressional budget process—to improve its own means of establishing priorities. This administration has worked closely with the congressional appropriations and budget committees and has found them invaluable sources of advice. We will continue in this spirit of cooperation, and I look forward to working with the Congress and its leadership to obtain adoption of my budget for fiscal year 1979.

JIMMY CARTER.

JANUARY 20, 1978.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:06 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 3215. An act for the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Toni K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies.

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAYH:

S. 2400. A bill to establish a National Alcohol Fuels Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 2401. A bill to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes; considered and passed.

By Mr. STAFFORD:

S. 2402. A bill to require that competitions be conducted to enhance the Nation's architecture and determine the design of certain new Federal office buildings; to the Committee on Environment and Public Works.

By Mr. STAFFORD (for himself, Mr. MCINTYRE, Mr. DURKIN, and Mr. LEAHY):

S. 2403. A bill to consent to certain amendments to the New Hampshire-Vermont interstate school compact, approved by Public Law 91-21; to the Committee on the Judiciary.

By Mr. TOWER:

S. 2404. A bill for the relief of James Antin Chua Tuan, M.D.; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 2405. A bill to authorize an intermediate term Commodity Credit Corporation credit program for the purpose of financing the sale and export of agricultural commodities produced in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ABOUREZK:

S. 2406. A bill for the relief of Sophia Sanchez; to the Committee on the Judiciary.

S. 2407. A bill for the relief of Teresa Dolores Goday; to the Committee on the Judiciary.

By Mr. ANDERSON:

S. 2408. A bill for the relief of Gumersindo A. Alvero; to the Committee on the Judiciary.

By Mr. STAFFORD:

S. 2409. A bill to amend Public Law 92-313 with respect to the granting of exemptions to local units of the National Red Cross; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, Mr. JAVITS, Mr. RANDOLPH, Mr. PELL and Mr. CHAFEE):

S. 2410. A bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development; to the Committee on Human Resources.

By Mr. DECONCINI:

S. 2411. A bill to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses by United States marshals for transportation expenses for persons released from custody pending their appearance to face criminal charges before that court or any court of the United States in another Federal judicial district; to the Committee on the Judiciary.

By Mr. WEICKER:

S. 2412. A bill to prohibit the importing of Ugandan articles into the United States; to the Committee on Finance.

S. 2413. A bill to amend the Export Administration Act of 1969 to prohibit the exporting of goods to Uganda; to the Committee on Banking, Housing, and Urban Affairs.

S. 2414. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH:

S. 2400. A bill to establish a National Alcohol Fuels Commission, and for other purposes; to the Committee on Energy and Natural Resources.

ALCOHOL FUELS: A SUBSTITUTE FOR PETROLEUM

Mr. BAYH. Mr. President, as we begin the 2d session of the 95th Congress, energy is still at the top of our agenda. Energy legislation was a primary concern of the Congress in 1977 and will doubtlessly continue to preoccupy us in

the years ahead. Mammoth price increases, economically ruinous trade deficits, disruptive shortages, diminishing domestic production and increasing reliance on foreign energy supplies have taught us all some important lessons.

As a nation we have become painfully aware that energy is a limited and precious commodity which is the lifeblood of our society—that it heats our homes, fuels our cars and trucks, grows our crops, and runs our factories. Slowly, public officials and ordinary citizens alike are coming to grips with the undeniable fact that adequate energy supplies cannot be taken for granted, that we are far too dependent on imported and declining domestic energy sources, and that we must be less wasteful, make greater use of our vast coal reserves and accelerate the development of energy from our farms and forests and reclaimed municipal and industrial wastes.

Mr. President, I believe that we are on the verge of a new era in this country, during which we must make the transition from dependence on previously cheap and plentiful fossil fuels—particularly oil and natural gas—to alternative energy sources derived from more abundant natural and renewable resources.

Few of us have lived through such a transition and it is difficult to anticipate in their full complexity all the changes which will result from the new paths we will be taking. But it seems to me that we are entering this new era with a degree of self-consciousness and technological know-how that our forebears did not enjoy. We should take full advantage of that fact. Responsible planning over the next decade can avert disaster in the decades that follow it. Failure to anticipate our needs will squander a priceless opportunity to provide a robust and healthy society for countless generations of future Americans.

The priority placed on confronting our energy problems by the Carter administration is encouraging. The formation of the new Department of Energy was a long overdue step. The administration's emphasis on developing Alaskan and offshore reserves, as well as conversion to coal and increased conservation, are equally esential. However, a crucial ingredient missing from the President's energy package is an accelerated program for developing and introducing alternative energy sources—especially new liquid fuels—into our energy mix at the earliest possible date. Despite recognition by administration officials that a liquid fuels crunch is soon in the offing, development of nonpetroleum liquid fuels, in the near-term, is not receiving the concentrated attention it merits.

Even with our best efforts to conserve energy, and curtail all nonessential uses of crude oil products, our economy and society will continue to require a reliable source of liquid fuels for the rest of this century. Right now, highway vehicles alone consume 40 percent of our petroleum based energy. American drivers use 103 billion gallons of gasoline each year, or almost 1½ million barrels of crude oil per day. Despite increasingly fuel efficient cars and trucks, and more widespread mass transit facilities, transportation needs will continue to make a major claim on our liquid energy supplies. The same can be said for other functions in our society that require liquid fuels, and will continue to do so, despite our best efforts at increased conservation. Peak load electricity generation and certain industrial processes will require liquid fuels well into the next century. Our farmers will need liquid fuels to run their farm equipment and get their crops to market. Residential and commercial uses will also demand their share.

We must move ahead, Mr. President, as other nations are already doing, to develop viable alternatives to petroleum to meet these needs. If we do not, our future looks very bleak indeed. Failure to act soon will consign us to even greater petroleum imports, already approaching 50 percent of our crude oil needs at a cost close to $45 billion per year, horrendous balance of payment deficits, increased dependence on unstable foreign suppliers, and very real threats to our economic well-being and national security.

Faced with these undesirable consequences, it is clear to me that we must start a concerted effort to develop new liquid fuels that can become commercially viable in the short run, which are plentiful or derived from renewable domestic resources and which can be used for a variety of purposes.

One possibility that has been vastly underestimated, Mr. President, and which is within our reach in the relatively short term, without major disruptions to our economy and society, is the use of alcohol fuels.

Only in the last few months has the need to move actively ahead with the development of alcohol fuels received the national attention it deserves. The Food and Agriculture Act of 1977 was a turning point in this area, and reflects congressional endorsement of alcohol fuels as a viable energy option for America. This legislation includes two new programs meant to stimulate the production of alcohol fuels as substitutes or extenders to petroleum based fuels.

The bill authorizes a new 5-year, $24 million research effort by the Department of Agriculture to stimulate and improve alcohol production from agricultural and forestry products. In addition, as a complement to this research program, the Department is authorized to extend up to $15 million in loan guarantees to each of four pilot projects to demonstrate the feasibility of producing alcohol fuels from these same sources.

This expression of congressional interest in alcohol fuels was underlined by the Senate's action on the energy tax bill, when this Chamber adopted three key amendments which are currently pending in the House-Senate conference committee.

One of these amendments, my Alcohol Fuel Incentive Act, would make possible the development of fuel from presently unused farmland. It authorizes the Secretary of Agriculture to allow the use of farm set-aside acreage to grow fuel crops, just as he now has authority to permit farmers to use set-aside acreage to grow sweet sorghum, hay, sunflowers, castor beans and other crops under certain conditions. This authority would allow our set-aside acres to be used as a form of laboratory for the development of new farm produce grown specifically for fuels. It would not solve our farm problem, or our energy problem overnight, but in the long run it could contribute to ending the obvious waste, which angers farmers and consumers alike, of holding land out of production that could be used to grow crops for products that are not in excess supply. This proposal would not nullify the intent of the set-aside program—which is meant to support crop prices while avoiding unusable surpluses—but would encourage the development of new markets and new crops as domestic and environmentally sound energy sources.

In addition, while considering the energy tax bill, the Senate adopted two other amendments which I supported: Authority for the creation of a Federal alcohol fuel test fleet and an exemption from the 4 cents a gallon Federal exercise tax on gasoline for alcohol fuels derived from agricultural or forestry products or municipal waste. These provisions were meant to demonstrate the feasibility of using alcohol fuels in conventional vehicles, provide a market for them, and remove current economic obstacles to marketing alcohol fuels by making them economically competitive with regular gasoline.

Mr. President, the grassroots response to these congressional initiatives has been nothing short of astounding. It was evidenced most graphically in mid-October, when I welcomed a caravan of farmers and concerned citizens from our major agricultural States in the Middle West, South and West to a rally on the steps of the Capitol to call the Government's attention to the potential of using alcohol fuels as a supplement to gasoline, in 10-percent blends. Since that time, my staff has been in touch with scientists, farmers, and representatives of a variety of public and private concerns, all anxious to move ahead in this area. The interest in my own State of Indiana far surpasses anything I have seen in a long time. We must not permit this well-placed excitement and momentum to die.

It would be foolish to say that we have all the answers we need to move ahead tomorrow to introduce alcohol fuels as a major component of our energy mix. However, it would be equally shortsighted not to make as aggressive an effort as we can to answer still unresolved questions about a national alcohol fuels policy and start moving toward production and use of these fuels. The Congress and executive branch must coordinate their efforts in this area and make development of a national alcohol fuels policy a top government priority.

As a first step in this direction, 28 of my colleagues joined me on October 12 in a letter to Secretary of Agriculture Bob Bergland and Secretary of Energy James Schlesinger urging the Departments of Agriculture and Energy to undertake immediate and comprehensive

efforts to tap the energy potential of the Nation's renewable resources. The responses I got to this letter were encouraging, and I ask unanimous consent that a copy of my original letter and the responses to it be inserted in the RECORD at the close of my remarks. In addition, on December 7, 1977 Senators PERCY, JAVITS, ABOUREZK, and myself wrote to the Bureau of Alcohol, Tobocco, and Firearms to inquire about what could be done to remove the obstacles current Department of Treasury regulations pose for the production of alcohol for energy purposes. The Bureau's response to this letter indicates that it is receptive to discharging its necessary responsibilities in this area in a way that will pose no obstacles to the production of alcohol fuels.

Mr. President, in order to follow up on these earlier initiatives, I have decided to take two further steps today.

First, I would like to announce Senator MAGNUSON and I will be holding a full day of Senate Appropriations Committee oversight hearings on the question of alcohol fuels on January 31. Senators EAGLETON and BYRD, chairmen of the Agriculture and Interior Appropriations Subcommittees, have also endorsed the need for these hearings.

Second, I am introducing today the National Alcohol Fuels Commission Act, which I believe is the first in a series of legislative initiatives that will be necessary to make progress toward our goal of introducing alcohol fuels into our energy mix. Both of these steps will provide the Congress with the kind of information it needs to answer a myriad of fundamental policy questions that are still unresolved.

The Senate Appropriations hearings will draw testimony from Department of Energy and Agriculture officials, as well as public witnesses with interests, expertise, or experience that bear directly on the question of a national alcohol fuels policy. The questions with which I plan to deal at the hearings include the following:

What is the long- and short-term potential for alcohol fuels from renewable domestic resources and coal making a significant contribution to meeting our Nation's energy needs?

What kinds of programs and resources would the Departments need to do this?

What promising techniques could be used to deal with the economic, energy balance, and distribuion problems currently associated with conventional technologies for alcohol production?

What are the most appropriate uses of alcohol fuels?

What unique requirements of the agricultural community could be met by the use of alcohol fuels?

What would the likely impact of a fuel crops program be on the farm economy?

What are the relative costs and benefits of developing alcohol fuels from different resources?

What is the leadtime involved in developing new technologies?

How would these efforts take into account the need for competition within the energy industry?

What are the current barriers to introducing alcohol fuels into our energy mix?

Are current automobiles compatible with alcohol blends, or are some modifications indicated?

How much would such modifications cost, and how much leadtime would the industry need to make such modifications?

How would the introduction of alcohol fuels affect auto emissions and fuel economy?

What Federal policies would be most helpful in order to facilitate the earliest possible use of alternative fuels as a substitute for petroleum based fuels?

I am hopeful, Mr. President, that these hearings will help the committee, and the Senate at large, begin to develop background information on the potential of alcohol fuels and indicate what the Government could be doing over the next decade to make the most beneficial use of our natural resources. However, it is clear, Mr. President, that while these hearings can begin to compile information on this issue, a more concerted analytic effort is necessary for us to construct a sound and durable national alcohol fuels policy.

For this reason, I am introducing today the National Alcohol Fuels Commission Act. This legislation will establish a new national commission, drawn from Members of the Congress and the public at large, to bring together a concentration of talent, expertise, and interest that currently does not exist, either in Congress or the executive branch. Such a study commission can focus exclusively on the kinds of questions I have sketched out above in a way that none of us here have the jurisdictional authority, time, or training to do. Only such a body can provide the Congress with the information we need to move ahead intelligently in this area. In addition, by holding public hearings and drawing on the talents of citizens around the country, the Commission can coordinate efforts in this area, focus national attention on alcohol fuels, and foster public understanding and support for an alcohol fuels program.

The legislation mandates the Commission to make a full scale study of the long and short term potential for alcohol fuels, from biomass and coal, making a significant contribution to meeting the Nation's energy needs. Taking into account technical, economic, legal, environmental, and social factors associated with the manufacture, distribution, and use of such fuels, the Commission will be responsible for evaluating the costs and benefits of alternative feedstocks, their possible end uses, and the feasibility and desirability of converting a variety of resources into alcohol fuels. Based on this study, the Commission is required to report to the Congress on its findings no later than December 31, 1980, and make recommendations as to what Federal policies, in the field of alcohol fuels, would most likely minimize our dependence on petroleum, insure adequate energy supplies where they are needed, encourage competition in the energy industry, and contribute to the economic health of the Nation.

The Commission will be comprised of 19 members, drawing from the membership of the relevant committees in both the House and the Senate, as well as from the public. The President pro tempore of the Senate and the Speaker of the House of Representatives shall select the 12 congressional Members, with the President selecting 7 public members from a broad spectrum of industrial, labor, agricultural, and consumer groups. The Commission shall disband no later than 6 months after sending its report to Congress.

I ask unanimous consent that the text of this bill be inserted in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. In closing, Mr. President, I submit that the time is now for moving ahead. I am confident that a national alcohol fuels program can draw very broad based support from the American people, the business, farm, and scientific communities, and from those of us who serve them. The payoffs from a relatively small Federal investment now are potentially momentous. We are on the verge of developing a range of new energy technologies that will not only reduce our reliance on foreign sources of energy, but will give a boost to local economies all around the Nation. It is safe to say that alcohol fuels—ethanol and methanol—can be produced in virtually every State of the Union. Ethanol can be produced from such diverse sources as corn, wheat, milo, sugarbeets, sugarcane, potatoes, algae, and distressed crops and crop residues, as well as numerous other "energy crops" that our plant geneticists could doubtless develop if given the go-ahead. Methanol can be produced from forestry products, crop residues, wood and municipal wastes and coal.

In sum, Mr. President, I believe that the development of alcohol fuels can make a major contribution to curbing oil imports while creating new uses for our most abundant domestic resources and helping depressed economies in different regions of the country. These fuels also have the potential to relieve urban areas of some of their waste disposal problems and budgetary drains by developing a new use for the byproducts of industrial and urban life.

I urge my colleagues to join with me in giving our full support to whatever measures may be necessary to ease our transition into the 21st century.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., October 12, 1977.

Hon. BOB S. BERGLAND,
Secretary of Agriculture,
Washington, D.C.
Hon. JAMES R. SCHLESINGER,
Secretary of Energy,
Washington, D.C.

GENTLEMEN: We write to urge the Department of Energy and the Department of Agriculture to undertake an immediate and comprehensive effort to tap the energy potential of our nation's renewable resources. Our greatest natural resource throughout our history and in the foreseeable future is the productive capacity of our rich farmland and forestland and our favorable climate. The en-

ergy that can be generated and captured each year in growing crops and converted into fuels is renewable. So is the energy that may be reclaimed as fuel from urban, industrial and agricultural wastes.

Renewable domestic resources cannot provide sufficient energy to satisfy all of our nation's needs in the immediate future, but even now energy from these resources can supplement our diminishing supply of fossil fuels. In the long run renewable resources must be fully utilized and must become a substantial part of our overall energy program. We must begin now to work toward that objection. We dare not continue our heavy reliance on foreign fuels and exhaustible domestic fossil fuels.

In recent weeks we have witnessed a burst of interest in a very old energy source—alcohol fuels. As you know ethanol can be produced from grain, molasses and other agricultural products, and methanol can be produced from forestry products or by-products and from many urban, industrial and agricultural wastes. Alcohol fuels derived from the produce of our nation's farms and forests and by reclamation of wastes are the most apparent and exploitable renewable energy source available today. Ethanol and methanol fuels have been used successfully in internal combustion engines for decades. Indeed, a 129-page United States Department of Agriculture publication in 1938 reported that ethyl alcohol "can be used with comparative success as fuel in the modern type of internal-combustion engine." During the 1930's and 1940's ten percent alcohol and ninety percent gasoline blends were marketed domestically for motor fuels in standard automobiles. Some other countries whose petroleum resources are limited continue to utilize alcohol or alcohol blend fuels today. Studies have indicated that alcohol blend fuels are higher in octane rating and produce lesser amounts of effluents than gasoline alone.

Recent initiatives by Congress to increase the amount of biomass research, including research by the Department of Energy through ERDA and by the Department of Agriculture through the land grant universities, are important steps, but small ones. The newly authorized federal government loan guarantees for construction of four alcohol fuel production facilities, as provided by the Food and Agriculture Act of 1977, also are small but positive steps. We also commend the recent decision by the Senate Finance Committee in its markup of the energy tax bill to recommend removal of the four cents per gallon federal excise tax from gasoline-alcohol blends containing at least ten percent alcohol derived from agricultural or forestry products.

These recent efforts to stimulate research and utilization of alcohol fuels have made obvious to us the need for a comprehensive national effort to seek and exploit the most efficient fuels which can be produced from domestic renewable resources. Whether alcohol fuel will become commercially competitive as well as environmentally superior can ony be learned by the application of our best technology to this effort. Similarly, our best technology should be applied to learn whether corn, wheat, sugar cane, sugar beets, timber, or other growing crops which may not yet be identified may be the most efficient producers of fuel from renewable resources.

Whatever may be the results, we can not afford to give less than a major national commitment to develop fuels from the productive capacity of our farmland and forestland. This is especially true at a time when our government is asking farmers to leave part of their farmland idle due to excess supplies of some farm products.

We urge your prompt response to this request for a comprehensive new effort by the Departments of Agriculture and Energy which you head.

Sincerely,

Birch Bayh, Russell B. Long, James O. Eastland, Floyd K. Haskell, James Abourezk, Alan Cranston, Spark M. Matsunaga, George McGovern, Edward Zorinsky, Frank Church, Howard M. Metzenbaum, Thomas F. Eagleton, Jesse Helms, John Melcher.

Herman E. Talmadge, Robert Dole, Jacob Javits, S. I. Hayakawa, Donald W. Riegle, Charles H. Percy, Hubert H. Humphrey, John L. McClellan, Carl T. Curtis, Wendell H. Ford, Lee Metcalf, Patrick J. Leahy, Walter D. Huddleston.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., November 1, 1977.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: The Department of Agriculture has had a long interest in the conversion of agricultural crops into marketable industrial products. The 1938 report on motor fuels from farm products mentioned in the letter from you and your colleagues is an early product of over 40 years of effort by USDA. This particular area of work on alcohol fuels has taken on new significance when reviewed in the light of our current energy situation.

The provisions in the Food and Agriculture Act of 1977 for pilot facilities to produce and market hydrocarbons and alcohols is a significant step adding to the previous research approach. The production and utilization technology for alcohols is well known. Its ability to economically compete as a fuel or energy form remains to be demonstrated.

The Food and Agriculture Act of 1977 has only recently become law and we are in the process of developing procedures for implementing its many provisions. We have issued a public notice for submissions under Section 1420 which provides authority for up to four pilot projects. A copy of that notice is enclosed and we will advise your office on any subsequent procedures developed.

Energy is a vital input to our whole agricultural and forestry system. We can assure you the Department of Agriculture will aggressively pursue any opportunity to contribute to the solution of our Nation's energy problems.

Sincerely,

BOB BERGLAND,
Secretary.

DEPARTMENT OF ENERGY,
Washington, D.C., December 6, 1977.

Hon. BIRCH BAYH,
U.S. Senate, Washington, D.C.

DEAR SENATOR BAYH: Thank you for your letter of October 12, 1977, to Secretary Bergland and Secretary Schlesinger regarding the need for a comprehensive national effort to seek and exploit the most efficient fuels which can be produced from domestic renewable resources.

The Department of Energy (DOE) is in agreement with your assessment of the potential offered by alcohol fuels to reduce petroleum consumption. In considering alcohol fuels, however, it is useful to make the distinction between ethanol, which would be produced by fermentation of crops, and methanol, which would be produced from coal or biomass. The primary reason why plants are not on line today producing either form of alcohol from these sources is the *economics* of production. Neither ethanol nor methanol can be made at cost which are competitive with petroleum-based products. Although there are other problems that would appear in the distribution and use of these fuels, these other problems are technical, and we foresee reasonable solutions to them. The ongoing alcohol research activities, which are now in the Department of Energy, in areas of methanol production, improved biomass conversion processes and automotive fuel applications have been directed toward alleviating the production cost problems as well as the technical problems.

I am aware of the urgent need to intensify the efforts of the American public to reduce petroleum consumption. It is possible that mass participation in a "new" energy technology whose base is either renewable or plentiful domestically could be a significant step toward awakening the consciousness and enthusiasm needed to accomplish this. As a result, I am reassessing all of the DOE alcohol fuels activities with a view toward a stronger, well-integrated, near-term program. I expect that we will complete this reassessment by January 1978. I will promptly make my views known to you at that time.

Sincerely,

DALE D. MYERS,
Under Secretary.

S. 2400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the National Alcohol Fuels Commission Act.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a)(1) There is hereby established a Commission to be known as the National Alcohol Fuels Commission, hereinafter referred to as the "Commission".

(2) The Commission shall make a full and complete investigation and study of the long and short term potential for alcohol fuels, from biomass (including, but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops) and coal, making a significant contribution to meeting the Nation's energy needs. It shall take into consideration the technical, economic, legal, environmental and social factors associated with the production, manufacture, distribution and use of such fuels. It shall evaluate the costs and benefits of alternative feedstocks, and their possible end uses, and analyze the feasibility and desirability of converting these resources to alcohol fuels. Based on such study it shall recommend those policies, and their attendant benefits, most likely to minimize our dependence on petroleum, insure adequate energy supplies, encourage competition in the energy industry and contribute to the economic health of the Nation.

(3) Such Commission shall be comprised of 19 members as follows:

(A) 6 members appointed by the President pro tempore of the Senate from the membership of the Committee on Energy and Natural Resources, the Committee on Appropriations, and the Committee on Agriculture, Nutrition and Forestry of the United States Senate;

(B) 6 members appointed by the Speaker of the House of Representatives from the membership of the Committee on Appropritions, the Committee on Science and Technology, and the Committee on Agriculture of the United States House of Representatives; and

(C) 7 members of the public appointed by the President, including a broad representation from industrial, labor, agricultural, and consumer groups.

(c) The Commission shall not later than December 31, 1980, submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(d) Such report shall include the Commis-

sion's findings and recommendations with respect to:

(1) The long and short term potential of alcohol fuels making a contribution to reducing reliance on both foreign and domestic petroleum.

(2) The relative costs and benefits of developing alcohol fuels from alternative feedstocks, taking into account technical, economic, legal, environmental, and social factors associated with their production, distribution and use; their most appropriate end uses; and a recommended time frame for their introduction into the Nation's energy mix.

(3) The existing policies and programs of the Federal Government which affect the development of such alternative fuels.

(4) New policies and programs required to develop alcohol fuels from coal and alcohol and other fuels from the biomass to meet the Nation's projected short-term and long-term energy needs.

(e)(1) The Chairman of the Commission, who shall be selected by the President Pro-Tempore of the Senate, in consultation with the Speaker of the House of Representatives, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to a national alcohol fuels policy to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section. Such departments and agencies shall include, but not be limited to, the Department of Energy, the Department of Agriculture, the Department of Transportation, the Environmental Protection Agency, the Department of the Interior, the Department of Justice, the Department of Treasury and the Small Business Administration.

(2) In carrying out its duties the Commission shall seek the advice of various groups interested in a national alcohol fuels policy including, but not limited to, State and local governments, public and private organizations working in the field of alternative fuel development, industry, labor, and the environment.

(f)(1) The Commission or, on authorization of the Commission, any Committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

(2) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

(g)(1) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the Senate, or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission, except Members of Congress shall each receive compensation for such periods of time as they are engaged in the business of the Commission at a rate not in excess of the maximum rate of pay for GS-18 as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the Senate, or subsistence and other necessary expenses incurred by them in performance of duties while serving as a Commission member.

(h)(1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption of loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code.

(2) The staff director shall be compensated at Level II of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(3) The Director and Commission personnel shall be reimbursed for travel, per diem in accordance with the Rules of the Senate, or subsistence, and other necessary expenses incurred by them in performance of duties while serving the Commission staff.

(i) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations or consultants, and, if necessary, to transfer funds to and accept funds from Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

(j) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(k) Subject to the provisions of the Federal Advisory Committee Act, the Chairman may appoint advisory committees to aid in the work of the Commission.

(l) The Commission is exempt from the requirements of 5 U.S.C. 4301.

(m) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. STAFFORD:

S. 2402. A bill to require that competitions be conducted to enhance the Nation's architecture and determine the design of certain new Federal office buildings; to the Committee on Environment and Public Works.

ARCHITECTURAL EXCELLENCE ACT OF 1978

Mr. STAFFORD. Mr. President, I am today introducing the Architectural Excellence Act of 1978, legislation intended to foster improvements in the architectural design of new Federal office buildings.

In 1972, the Congress added what I believe was the first requirement that GSA assure architectural excellence in its new designs. But testimony to the Committee on Environment and Public Works has shown little impact as a result of this directive. In 1976, the Congress enacted an important new initiative in the area of public buildings policy. This was the Public Buildings Cooperative Use Act (Public Law 94-541). I was pleased to be a sponsor of that law, which encourages the Federal Government to acquire and preserve buildings of historic or cultural importance, converting the space into new Federal offices. Flexibility of this nature should improve our Federal buildings program, making the Federal Government a better neighbor.

But more can and should be achieved. New Federal designs often appear to be cut from molds, with little imagination or recognition of what we hope are the lofty ideals upon which this Government stands. We can and we should utilize the Federal building policy as an innovative tool in architectural design for new buildings. Such a policy would serve to encourage new, young architects, giving them opportunities they may not otherwise be able to obtain for years.

The architectural critic, Wolf Von Eckhardt, testified to our committee that "practically all the best buildings in the world have been the result of competition." Let me cite just a few of the better known ones: The White House, the U.S. Capitol, the New York Public Library, the State Capitols of Missouri and Washington, the Houses of Parliament in London, the new Coventry Cathedral in England, the Boston City Hall, the Cathedral of St. John the Divine in New York, and the new Sydney Opera House in Australia. Many of these buildings are structures for the ages, structures deserving worldwide attention. I do not claim that this bill would necessarily produce such exciting and important buildings, but I do believe it will create a better atmosphere for achitectural innovation and excitement.

I recognize that such an approach may not be a popular one among all architects. But it is working elsewhere. The British Government is using competitions wisely. And my approach involves a very limited first step. It would mandate competitions on each Federal building project that is expected to cost $25,000,000 or more. That figure is an arbitrary one, I will admit. But it is designed to test the concept, and thus should be a valid starting point.

My bill would set aside between one-half of 1 percent and 1 percent of the cost of the building to be used to run the competition, with the prize limited to a maximum of $250,000. These figures, too, are arbitrary. But I would hope that we will obtain testimony on how a more valid figure can be established, if this one is inadequate. The actual architectural fee, of course, would then be negotiated as if the winner were selected as the most qualified, under the normal procedure.

Mr. President, this bill also requires that all the proceedings of the panel of judges be held in public so that the public and local community officials can observe and participate.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was

ordered to be printed in the RECORD, as follows:

S. 2402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Architectural Excellence Act of 1978."

SEC. 2. The Public Buildings Act of 1959, as amended, is amended further by inserting a new Section 8 as follows, and renumbering subsequent sections accordingly:

"SEC. 8(a)(1) Whenever the Administrator is authorized under the terms of this Act to construct a public building at a cost that is estimated to be in excess of $25,000,000, the Administrator shall set aside a sum of not less than ½ of 1 percentum or greater than 1 percentum of the estimated cost of such public building to finance a competition for determining the design of such public building. Such competition should stress innovative designs that will be compatible with the community, conserve energy and materials, encourage public use of and access to the building, and reflect the purpose and dignity of the United States.

"(2) Notwithstanding paragraph (1) of this subsection, the Administrator may conduct a competition for determining the design of any building which he is authorized to construct, provided that not greater than 1 percentum of the estimated cost of such project is utilized for such competition.

"(b) The Administrator shall establish the prize to be awarded to the winner of each competition under this section in accordance with the scope of each project, but in no event shall such prize exceed $250,000.

"(c) To determine the most appropriate design under the terms of this section, the Administrator shall appoint a panel of five persons. Such panel shall be composed of an architect who shall not be associated with any entrant in the competition and who shall serve as chairman, a representative of the municipality in which such building will be constructed, a nominee of the National Endowment of the Arts, an architectural educator or critic, and a representative of the Administration. Meetings of such a panel shall be open to the public, and the decision of such panel shall be final. The winner selected by the panel shall be considered as the "highest qualified firm" for the purposes of Section 904 of the Federal Property and Administrative Services Act of 1949.

"(d) The requirements of this section include any public building, whether owned initially by the United States or to be so owned as part of a long-term financing arrangement, or to any public building constructed specifically for the United States under a lease arrangement.

"(e) For the purposes of this Section, the word "design" includes the general architectural appearance and general engineering of a public building, together with such information as will be reasonably required to provide detailed architectural and engineering plans and specifications for such public building."

By Mr. STAFFORD (for himself, Mr. MCINTYRE, Mr. DURKIN, and Mr. LEAHY):

S. 2403. A bill to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21; to the Committee on the Judiciary.

AMENDMENTS TO THE NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT

Mr. STAFFORD. Mr. President, today I am introducing legislation, on behalf of the Senators from New Hampshire and Vermont, which would amend the New Hampshire-Vermont Interstate School Compact.

The purpose of this compact, as passed by the Congress in 1969, is to increase the educational opportunities within the State of New Hampshire and Vermont by encouraging the formation of interstate school districts, each of which is a natural social and economic region with adequate financial resources and sufficient pupils to permit the efficient use of school facilities within the district, thereby providing improved instruction for the students involved. Essentially, this legislation has successfully permitted the towns involved to solve their educational problems along friendly community lines without hindrance by State boundary lines.

The legislation we are presenting to the Congress today pertains to the Dresden Interstate School District and is identical to measures which have been passed this year by the State legislatures of both New Hampshire and Vermont. It is now time for the U.S. Congress to consent to these amendments, and it is my hope that this will be done as expeditiously as possible.

By Mr. LUGAR:

S. 2405. A bill to authorize an intermediate term Commodity Credit Corporation credit program for the purpose of financing the sale and export of agricultural commodities produced in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

INTERMEDIATE TERM AGRICULTURAL EXPORT CREDIT ACT OF 1978

Mr. LUGAR. Mr. President, today I am introducing a bill entitled the "Intermediate Term Agricultural Export Credit Act of 1978."

As a member of the Senate Agriculture, Nutrition, and Forestry Committee from a major agricultural production State, I am concerned about the level of farm prosperity now being experienced by our Nation's farmers. The U.S. Department of Agriculture has estimated that U.S. farm income will be $19.3 billion in 1977, which would be the lowest farm income level since 1964, adjusted for inflation. This bleak situation is bound to worsen as the prices farmers must pay to produce crops increase dramatically and the prices received for crops go down or remain constant.

Although I supported the current farm bill to give farmers a form of income security in depressed times and to help cover their costs of production, I do not believe that either the country or producers should grow to rely on the long-term availability of commodity loans and deficiency payments. With Government dictating what farmers can produce and the prices they should receive, they are unlikely to reach the reasonable rate of return which they deserve. Meanwhile, many already overburdened taxpayers may grow to resent, and eventually reject, the expenditure of Federal funds for these programs.

To maintain a strong agricultural sector by assuring a stable and reasonable rate of return, we need a vigorous export policy which would increase farm income and help to better feed a hungry world. If we fail to do so, loan rates on commodities will become a ceiling as well as a floor on prices, and farm incomes will remain depressed.

Some skeptics may contend that we cannot export more grain than is now being exported. They will cite the fact that, in fiscal year 1977, we exported approximately $24 billion of farm products, an increase of more than $1 billion from the 1976 fiscal year and a new record. They will also say that, despite a substantial increase in the value of agricultural imports during fiscal 1977 to $13.4 billion (largely because of higher prices for coffee, tea, and cocoa), we still had an agricultural trade surplus of more than $10 billion. While this is true, it must be emphasized that our share of the world trade in wheat and coarse grain declined in fiscal 1977. This is due primarily to the fact that the Canadians and Australians did a better job of marketing their grain. Part of the reason for their success at the expense of the American farmer is that they offer more favorable terms of credit than we do.

Given the low-income levels of our producers and our large and ever-increasing balance-of-trade deficit, it is imperative that we increase our agricultural exports—especially since the USDA is now predicting a drop in the value of agricultural exports for fiscal year 1978.

At present, we have a short-term Commodity Credit Corporation credit program (which involves loan terms of from 6 months to 3 years), and a long-term concessional credit program (which involves loan terms up to 40 years) administered through title I of Public Law 480. The current CCC credit program was created by Congress in 1956 to make the United States more competitive with other exporting nations which also offer credit arrangements. At first, the CCC program was limited to commodities drawn from Government-owned supplies. In 1964 and 1966, the program was modified to make it apply to exports of privately owned stocks. Under this program, grain is sold by a private domestic firm to an importing country which pays for it through the mechanism of a CCC loan. The importing country then must repay the loan to the CCC with interest that approximates commercial rates. The current CCC allocation is $1.7 billion.

The present CCC short-term credit program has been very successful over the years. Since 1956, the United States has extended CCC credit to 85 countries with a total of over $5.5 billion in credit extensions. The repayment record has been excellent. U.S. commodities are purchased with a CCC loan, then once the shipment is received, the commodity is then milled or processed and sold for cash and the CCC loan is repaid with interest in accordance with the agreement.

Title I of Public Law 480 is a separate, though much smaller, credit program which has changed in character and objectives over the years it has been in existence. Public Law 480 was first passed in 1954. At that time, our Nation was struggling with growing farm surpluses. The law was created to reduce the excess

agricultural supplies while at the same time helping to feed hungry people all over the world. It was in this initial period that Public Law 480 was often described as a "give-away" program with an emphasis on using up American surpluses. Changes began in the 1960's with the granting of loans of up to 40-year terms with low rates of interest as provided under title I of the program. At present, about 95 percent of all the agricultural products marketed through the Public Law 480 program are title I sales which involve extending long-term credit to countries which are carrying out economic development programs. Emphasis under title I is on rural and agricultural development and nutrition so as to improve the lives of the poorest people in recipient countries.

The Public Law 480 title I program now provides for distribution of $800 million in commodity shipments to 30 countries. This amounts to about 5 million metric tons of food aid, of which slightly more than 75 percent has been allocated to countries which have less than $550 annual per capita income, the poverty criterion.

The bill which I am introducing today provides for an intermediate CCC credit program to allow loan terms of from 5 to 10 years in order to develop and expand our foreign markets for agricultural commodities, including breeding livestock. This is not a giveaway program. Interest must be paid at a rate which would be one-half of 1 percent above the average cost of funds borrowed from the U.S. Treasury. The Secretary of Agriculture must take reasonable precautions not to preempt cash export sales. In addition, no sale may be made involving intermediate CCC credit unless it is determined that such a sale would expand permanently our foreign markets for agricultural commodities. If, however, under provisions of laws, there is a requirement that a portion of such commodities be transported by U.S. flag vessels, the CCC shall pay any difference in freight charges. The one-half of 1 percent above the cost of funds from the U.S. Treasury which is to be included in the interest rate has been added to defray in part or total any ocean freight differential.

The emphasis of this bill is on market development and trade expansion. There is no reason to have an intermediate credit program if it is not tied to long-run trade expansion and market development. In many instances, the short-term CCC credit program is sufficient. Commodities are purchased, processed, marketed, and the loan is repaid. This whole process should not take over 3 years. A simple extension of this program to longer loan terms would be unwise for obvious reasons.

There are several instances in which intermediate credit is very valuable if tied explicitly to trade and market development activities. For example, there are several countries which would like to buy grain on a medium-term basis, using the funds generated by the transaction for building facilities to improve the marketing, storage, or distribution of food or other commodities which would in turn increase our markets for future shipments. A port facility, a grain storage terminal, or a model bakery are examples of such worthwhile projects. If CCC intermediate credit is granted, the contract would stipulate that such generated funds must be used for such facilities specifically described in the contract.

Another area in which intermediate credit is appropriate, is that of breeding livestock. As distinct from grain sales, in which the commodity is processed and marketed, it takes a long time for a herd to be established from imported breeding livestock. Intermediate credit would enable an imported animal to be productive or a herd to be established before the loan would become due.

This bill does not establish the eligibility for nonmarket economy countries to participate in CCC credit programs. The reason is simple. Although I am in full agreement with extending credit in these instances, such a bill has already been introduced and discussed. Senator ROBERT DOLE, the distinguished Senator from Kansas, introduced such a bill last year which would amend title IV of the Trade Act of 1974. Hearings were held on this bill by the Subcommittee on International Trade of the Finance Committee on July 13, 1977. If that bill, which I support, is the will of the Congress, it will pass and apply to the provision in this bill I am introducing. Should Congress decide not to enact it, however, there is no reason to jeopardize increased agricultural exports which are provided with intermediate credit to the so-called market economy countries.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intermediate Term Agricultural Export Credit Act of 1978".

SEC. 2. In order to develop, expand, and maintain foreign markets for agricultural commodities produced in the United States, the Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized, through the Commodity Credit Corporation, to finance the sale and exportation of agricultural commodities, whether from private stocks or from stocks owned by such Corporation, under the provisions of this Act.

SEC. 3. The terms of credit for commodities sold under this Act shall be as favorable to the United States as the economy of each recipient country will permit except that—

(1) payment shall be in dollars with interest at a rate which will be, as nearly as practicable, equivalent to the average cost of funds borrowed by the Commodity Credit Corporation from the United States Treasury, plus one-half of 1 per centum.

(2) the repayment period shall be not less than five years or more than ten years from the date of sale; and

(3) the Secretary may, if he deems such action appropriate to protect the interest of the United States, require an initial payment from the purchaser at the time of sale or shipment of the commodity.

SEC. 4. (a) In carrying out the provisions of this Act, the Secretary shall take reasonable precautions to safeguard usual marketings of the United States and to avoid displacing any sale of United States agricultural commodities which the Secretary finds and determines would otherwise be made for cash dollars.

(b) The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other countries, or use for other domestic purposes, of agricultural commodities purchased under this Act.

SEC. 5. (a) No sale may be made under this Act in the case of any foreign country unless the Secretary determines that such sale will—

(1) develop, expand, or maintain such country as a long-term foreign market for the commercial sale of agricultural commodities;

(2) increase the sale and export of agricultural commodities produced in the United States, including the sale and export of breeding cattle and swine, on a long-term basis;

(3) improve the marketing, storage, handling, or distribution in such country of agricultural commodities; or

(4) otherwise improve the capability of such country to purchase and utilize, on a long-term basis, agricultural commodities produced in the United States.

(b) Agreements entered into by the Secretary under this Act for the sale of agricultural commodities to foreign countries shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to the approval of the National Advisory Council on International Monetary Financial Policies.

SEC. 6. The Commodity Credit Corporation shall finance ocean freight charges incurred pursuant to agreements for sales of agricultural commodities entered into under this Act only to the extent that such charges are higher (than would otherwise be the case) by reason of a requirement that the commodities be transported in United States flag vessels. Such agreements shall require the balance of such charges for transportation in United States vessels to be paid in dollars by the countries with which such agreements are entered into.

SEC. 7. The authority provided under this Act shall be in addition to and not in place of any authority granted the Secretary or the Commodity Credit Corporation under any other Act.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, Mr. JAVITS, Mr. RANDOLPH, Mr. PELL, and Mr. CHAFEE):

S. 2410. A bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development; to the Committee on Human Resources.

HEALTH PLANNING AMENDMENTS OF 1978

Mr. KENNEDY. Mr. President, 3 years ago, the Congress enacted the National Health Planning and Resources Development Act of 1974 (Public Law 93-641) and today, I am pleased to introduce the Health Planning Amendments of 1978 along with my distinguished colleagues Senators SCHWEIKER, WILLIAMS, JAVITS, RANDOLPH, PELL, and CHAFEE. These amendments build on and strengthen that historic piece of legislation, and should help us achieve a rational system of health planning so that every Ameri-

can will be able to receive quality health care at a reasonable cost.

Mr. President, as chairman of the Senate Subcommittee on Health and Scientific Research, I will be holding extensive hearings on this and related legislation. These hearings are specifically designed to elucidate the problems in the planning process and to hear constructive suggestions for improvement.

Mr. President, in enacting Public Law 93–641, Congress made the following finding:

> The achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government.

With the rapidly escalating costs of health care we are perhaps further from that goal today than we were 3 years ago. National health expenditures tripled between 1965 and 1975. In fiscal year 1976, the annual expenditures for health totaled $139.3 billion up 14 percent over the $122.2 billion spent in 1975. That rate of increase was approximately twice the CPI for the same period. Without any intervention it has been estimated that this $139 billion spent on health care in 1976 will grow to $230 billion by 1980.

Expenditures for hospital services—which account for 40 cents of every dollar Americans spend on health care—have been escalating far faster than the overall cost of living for more than two decades. The cost of medicare and medicaid went up $5 billion last year alone, and individual States paid twice as much for medicaid in 1976 as they did in 1971. These increased costs, which come out of the pocket of every American, have not produced an adequate supply or distribution of health resources, and consequently have not made possible equal access for all to such resources. In fact, unless we begin to slow down the rate of increase in health care costs, we may never be able to afford to provide access for all Americans to the health care they need.

During the last session of this Congress, the Human Resources Committee ordered reported S. 1391, the Hospital Cost Containment Act of 1977. The bill included a short-term revenue limitation that would, in part, accomplish this de-escalation of hospital costs. Unfortunately, movement on this important bill has slowed, but I am hopeful that early this year the revenue limitation portion of that bill will pass the Senate and then become law. Many of the changes proposed in title II of that bill have been incorporated into the planning amendments that I am introducing today.

National health planning, as we know it, has undergone several transformations. The earliest Federal effort on behalf of health planning was incorporated as part of the Hill-Burton program enacted in 1946. States were expected to conduct surveys of their need for various health facilities and to develop individual State plans to meet these needs. This program, unfortunately, was not a major success. The location of hospitals built under Hill-Burton often bore no relationship to those areas of the country where health levels were the worst. Many obsolete and deteriorating urban hospitals were ineligible for funds because of the complex formula which favored rural hospitals.

Some of these shortcomings were remedied under the Hill-Harris amendments of 1964 which provided specific Hill-Burton grants for hospital renovation and modernization and also brought us to the next stage in national health planning—the creation of regional or areawide voluntary health facilities planning councils, known to most of us as "318" agencies. My own long association with health planning dates to about this time, shortly after I first came to the Senate, and helped in the development of the legislation which later led to the regional medical programs in 1965 and the comprehensive health planning program in 1966.

The regional medical programs, or RMP, were originally developed in response to the need for regional cooperative arrangements among health care institutions, medical schools, and research institutions as the principal means of making available to patients the benefits of advances in the diagnosis and treatment of heart diseases, cancer, and stroke. The comprehensive health planning program, or CHP, created the so-called 314(a) and (b) agencies, through formula grants to State for support of State comprehensive health planning programs and project grants to nonprofit private organizations for operation of areawide health planning agencies.

Although both the RMP and CHP programs made extensive contributions over the course of their history, they were also hampered by austere financing, overlap and duplication of responsibilities, and absence of a sufficient mandate for implementation of their plans. Additionally, there was inadequate Federal guidance as to national health priorities and goals. Planning agencies were in turn accused of knuckling under to health providers and paying little attention to the cost implications of their decisions.

It was this concern over fragmentation and mixed success of these earlier planning efforts that led Congress in 1974 to combine and integrate these programs through enactment of the National Health Planning and Resources Development Act (Public Law 93–641). In drafting that law, we sought to avoid some of the pitfalls which had plagued earlier health planning efforts. For example, clearer lines of authority were drawn with responsibilities and accountability specifically detailed. Broader mandates were provided for actual implementation of the short- and long-range plans developed by the planning bodies. Stronger sanctions were authorized, along with improved funding arrangements, so that agencies would not be dependent on contributions from health care providers.

The development of new health resources was tied directly to approved State medical facilities plans. Health system agencies were to be given special funds to encourage development of needed health resources in their respective areas. Unfortunately, that section has not been funded. And perhaps most importantly, the legislation recognized State certificate-of-need programs to be the basic component in an overall program to control the unnecessary capital expenditures which contribute so greatly to our total national health bill.

At the time that the law was passed, I do not believe anyone claimed it was perfect. Some charged that it had not gone far enough—for instance, by omitting recertification requirements for existing facilities. Others feared that it went too far—by allowing, for example, HSA's to exercise control over use of Federal funds in their respective areas. Now, after 3 years of experience with the law, we are in a position to say what has gone wrong and needs to be corrected, and what has proved right and needs to be encouraged even more.

Mr. President, as I introduce this bill today, I view this as only the second stage in the process of strengthening the health planning effort. In November, I, along with my distinguished colleague Senator SCHWEIKER, solicited comments from over 400 individuals and organizations that deal daily with the planning process. We received numerous thoughtful comments and many of the suggestions have been incorporated into the bill that we are introducing today. Throughout the drafting of this bill, compromises were made, and I expect that the bill will be modified as we hear from a variety of thoughtful witnesses at the upcoming hearings.

In drafting this bill, I adhered to a basic belief that the planning process can work and thus have attempted to strengthen this process—not disrupt it. The past 3 years have been full of turmoil for those involved in planning for health care. It has taken more time than we anticipated for the health system agencies, the State health planning and development agencies, and the State health coordinating councils to get themselves fully organized and functioning. The Department of Health, Education, and Welfare has been negligently slow in promulgating the required regulations and some of the working relationships between the local and State agencies are still unclear. The amendments that I am introducing today should strengthen the process. I purposely have not mandated changes in the board composition of the HSA's or the SHCC's for fear of slowing down the process further. I believe we have to let the law work.

A number of proposed changes in the law will strengthen the role of consumers and should encourage the development of health maintenance organizations. Experience has demonstrated that the planning law has worked against those wishing to organize and operate an HMO. Other changes will assure that the Governor of each State has a role in finalization of the State health plan. This plan, which will not be institution specific, will become the planning document for health services throughout the State and will be the foundation on which certificate-of-need decisions are based. This bill encourages cooperation and coordi-

nation between HSA's and units of local and State government, and yet insures that local planners are not subject to undue pressure or influence from organized political interests. Although a close working relationship between local and State planners is essential, the HSA's cannot be stripped of their independence and must remain the cornerstones of the planning process. This bill will foster closer coordination and uniformity in the planning and review processes.

When the 1974 planning law was drafted, the Congress felt strongly that consumer participation must be fully and effectively realized at all levels. In some instances, this participation has been thwarted. The bill that I am introducing today should correct some of the past injustices, and provides for the education of consumers so that they are not placed at a disadvantage in challenging information and the community influence often wielded by health providers. Additionally, the definition of indirect provider has been changed to allow certain individuals who serve on the boards of other health programs, such as community health centers or mental health centers to participate as consumers in the business of the HSA's. The conflict of interest provisions are likewise strengthened.

It has been estimated that about 15 percent of the total cost of health care in the United States is for mental health care and that a significant proportion of physical health problems have an emotional basis. Unfortunately, in too many instances there has been lack of effective coordination between mental health care systems and physical health care systems, both by providers and planners, and this has promoted fragmentation, lack of continuity, and the inappropriate utilization of the Nation's health care resources. It is, therefore, important to build better linkages between the planning for mental and physical health in order to insure that this unneeded duplication of resources and facilities is avoided. This bill is a step in that direction.

Nationwide it has been estimated that we may have as many as 100,000 unneeded hospital beds costing all of us well over $2 billion a year, and that the competition to acquire expensive medical equipment has placed an additional financial drain on the health care system. We hear countless reports of underutilized, duplicative facilities. In order to address these concerns, this bill includes a section that establishes a program to encourage hospitals to close, merge, or convert unnecessary facilities and services. This would be a voluntary program. In this program hospitals would submit applications for financial assistance to accomplish these reductions in services.

In this same section a system of incentive payments is included to encourage the planning, development, and delivery of ambulatory care services, home health care services, long-term care services, and other important alternatives to hospital care. Another section of the bill would extend State certificate-of-need authority to medical equipment, valued at more than $150,000, irrespective of location. At the hearings on this bill, I hope to hear suggestions on ways to modify title XVI of the planning law to provide for grants, loans and loan guarantees, and interest subsidies in order to insure that there are adequate primary care centers, out-patient departments, and inpatient services in urban and rural poverty areas.

There is no question in my mind that if planning is to work, it must be generously funded. Without an adequate financial base, the local and State agencies will not be able to carry out their already extensive responsibilities. In the absence of such support, the HSA's and the SHPDA's will face serious obstacles in attracting competent staff in sufficient numbers and in acquiring the technical assistance for data analysis so essential to their jobs. The bill provides this financial base.

Mr. President, I look forward to a series of important hearings on the bill that I am introducing today. I anticipate that the bill will be modified, and I encourage the witnesses at the hearings and others to comment fully. Unfortunately, hearings are never able to accommodate all who wish to testify; I do, however, look forward to receiving thoughtful written comments which will then be included in the hearing record.

I ask unanimous consent that the bill, and a section-by-section descriptive summary be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Planning Amendments of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—REVISION AND EXTENSION OF NATIONAL HEALTH PLANNING AND DEVELOPMENT AUTHORITY

SEC. 101. The last sentence of section 1511(a) is amended by (1) striking "if the Governor of each State" and inserting in lieu thereof "if the Governor of any State" and (2) striking "in order to meet the other requirements of this subsection".

SEC. 102. Section 1511(b)(4) is amended to read as follows:

"(4)(A) The Secretary shall review on his own initiative or at the request of any Governor or designated health systems agency the appropriateness of the boundaries of the health service areas established under paragraph (3) and, if he determines that the boundaries for a health service area no longer meet the requirements of subsection (a), or if the boundaries for a proposed revised health service area more appropriately meet the requirements of subsection (a), he shall revise the boundaries in accordance with the procedures prescribed by paragraph (3)(B)(ii). If the Secretary acts on his own initiative to revise the boundaries of any health service area, he shall consult with the Governor of the appropriate State or States, the chief executive officer or agency of the political subdivisions within the State or States that would be affected by the revision, the appropriate designated health systems agency or agencies and the appropriate established Statewide Health Coordinating Council. A Governor may request a revision of the boundaries of a health service area only after consultation with the Governor of any other appropriate State or States, the chief executive officer or agency of the political subdivisions within the State or States that would be affected by the revision, the appropriate designated health systems agencies, and the appropriate established Statewide Health Coordinating Council and shall include in such request the comments concerning the proposed revision made by such individuals and entities. A designated health systems agency may make a request to revise the boundaries of its health service area only after consultation with the Governor of the appropriate State or States, the chief executive officer or agency of the political subdivisions within the State or States that would be affected by the revision, the other appropriate designated health system agency or agencies, and the appropriate established Statewide Health Coordinating Council and shall include in such request the comments concerning the proposed revision made by such individuals and entities. No proposed revision of the boundaries of a health service area shall comprise an entire State without the prior consent of the Governor of such State. In addition, for each proposed revision of the boundaries of a health service area, the Secretary shall give notice and an opportunity for a hearing on the record by all interested persons and make a written determination of his findings and decision.

"(B) The Secretary shall, by January 1, 1979, by regulation establish criteria for the revision of the boundaries of health service areas.".

SEC. 103. Section 1511(c) is repealed.

SEC. 104. (a) Section 1512(b) is amended by adding the following new subsection at the end thereof:

"(7) CONFLICT OF INTEREST.—Each health systems agency shall adopt procedures in accordance with regulations promulgated by the Secretary to insure that no member, employee, consultant or agent participates in any matter regarding any person, institution, organization or other entity with which he or she has or has had within the past three years any substantial direct or indirect employment, fiduciary, competitive, or ownership or other financial interest."

(b) Section 1524(b) is amended by adding at the end thereof the following new paragraph:

"(4) A SHCC shall adopt procedures in accordance with regulations promulgated by the Secretary to insure that no member, employee, consultant or agent participates in any matter regarding any person, institution, organization or other entity with which he or she has or has had within the past three years any substantial direct or indirect employment, fiduciary, competitive, or ownership or other financial interest.".

SEC. 105. The first sentence of section 1512(b)(2)(A) is amended by (1) striking out "and" after "health planning," and (2) inserting before the period at the end thereof ", (v) financial and economic analysis, and (vi) public health and prevention of disease".

SEC. 106. Section 1512(b)(3) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) SELECTION.—Each health systems agency shall establish a process for the selection of the members of its governing body, executive committee (if any), and any entity appointed by the governing body or executive committee which process is designed to assure that (i) such members are appointed in accordance with the requirements of subparagraph (C), (ii) there is the opportunity for broad participation in such process by the

residents of the health service area of the agency, and (iii) the participation of such residents will be encouraged and facilitated. Such process shall prohibit the selection of such members by members of such body, committee, or entity. Each agency shall make public such process and report it to the Secretary.".

SEC. 107. Section 1512(b)(3)(A) is amended by inserting before the period at the end of the first sentence the following: "except that a public regional planning body or unit of general local government which is a health systems agency is not required to delegate to its governing body for health planning the exclusive authority to—

"(i) appoint and with cause remove members of the governing body for health planning;

"(ii) approve the agency's budget; or,

"(iii) any combination of the activities described in clauses (i) and (ii)."

SEC. 108. Section 1512(b)(3)(B)(vi) is amended by striking out "reimburse" and by inserting in lieu thereof "reimburse (or when appropriate make advances to)".

SEC. 109. (a) Section 1512(b)(3)(B)(viii) is amended by (1) inserting ", except for confidential meetings called to discuss the performance or remuneration of individual members, employees, consultants or agents of the health systems agency" after "conduct its business meetings in public" and (2) inserting ", except for personnel records and data regarding individual members, employees, consultants and agents," after "records and data".

(b) Section 1512(b)(6)(A) is amended by inserting ", except to personnel records and data regarding individual members, employees, consultants and agents" after "such access thereto".

(c) Section 1522(b)(6) is amended by (1) inserting ", except for confidential meetings called to discuss the performance or remuneration of individual members, employees, consultants or agents of the state agency" after "conduct its business meetings in public" and (2) inserting ", except for personnel records and data regarding individual members, employees, consultants and agents," after "records and data".

(d) Section 1532(b)(10) is amended by inserting ", except to personnel records and data regarding individual members, employees, consultants and agents" after "State Agency review".

(e) The Secretary of Health, Education, and Welfare shall study and determine which, if any, of the records and data of a health systems agency, in addition to personnel records and data regarding individual members, employees, consultants and agents, should be confidential in order for the health systems agency to more efficiently and effectively perform its functions. Within six months of the date of the enactment of this Act, the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the results of the study and such recommendations for legislation action as the Secretary deems necessary.

SEC. 110. Section 1512(b)(3)(C)(i) is amended by (1) striking "(nor within the twelve months preceding appointment been)" and (2) inserting "including but not limited to unions and corporations" after "major purchasers of health care".

SEC. 111. The first sentence of section 1512(b)(3)(C)(ii) is amended by inserting "or have their principal place of business within" after "residents of".

SEC. 112. (a) The first sentence of section 1512(b)(3)(c)(ii) is amended by inserting "including doctors of medicine and osteopathy" after "(I) physicians".

(b) Section 1531(3)(A) is amended by inserting "(a doctor of medicine and a doctor of osteopathy" after "including a physician".

SEC. 113. The first sentence of section 1512(b)(3)(C)(ii) is amended by (1) striking "and" after "health professional schools," and inserting before the period at the end thereof ", (II) non-professional health workers and (VII) other providers of health care".

SEC. 114. Section 1512(b)(3)(C)(iii)(II) is amended by inserting "at least" before "equal".

SEC. 115. Section 1512(b)(3)(C)(iv) is amended by striking ", to the extent practicable,".

SEC. 116. (a) Section 1512(b)(4) is amended by (1) striking "member or employee" and inserting in lieu thereof "member, employee, consultant or agent" and (2) striking "if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it" and inserting in lieu thereof "if he could have reasonably believed he was acting within the scope of such duty, function, or activity, and acted, with respect to that performance, without gross negligence or malice toward any person affected by it".

(b) Section 1524 is amended by adding at the end thereof the following new subsection:

"(d) No individual who, as a member, employee, consultant or agent of a SHCC shall, by reason of his performance of any duty, function or activity required of, or authorized to be undertaken by the SHCC, be liable for payment of damages under any law of the United States or any State (or political subdivision thereof) if he could have reasonably believed he was acting within the scope of such duty, function, or activity, and acted, with respect to that performance, without gross negligence or malice toward any person affected by it.".

SEC. 117. (a) Section 1511(b)(5) is amended by striking "509(a)" and inserting in lieu thereof "501(c)(3)".

SEC. 118. (a) The first sentence of section 1513(b)(2) is amended by striking "and" before "(C)" and inserting after "health resources and services" the following: "; (D) which describe the institutional health services (as defined in section 1531(5), but not including any data identifying any specific person, institution, organization or other entity needed to provide for the well-being of persons receiving care within the health service area including, at a minimum, the number and type of medical facilities, nursing homes, beds, and equipment needed to provide acute inpatient, psychiatric inpatient, obstetrical inpatient, neonatal inpatient, and long term care; the extent to which existing medical facilities, nursing homes, beds and equipment are in need of modernization or conversion to new uses; and, the extent to which new such medical facilities, nursing homes, beds and equipment need to be constructed or acquired; (E) which describe other health services (other than institutional health services as defined in section 1531(5), but not including any data identifying any specific person, institution, organization or other entity) needed to provide for the well-being of persons receiving care within the health service area including, at a minimum, the number and type of health maintenance organizations; the number and type of outpatient (including primary care), and other medical facilities and equipment needed to provide public health services and outpatient care and the extent to which such outpatient and other medical facilities and equipment are in need of modernization or conversion to new uses and the extent to which new such health maintenance organizations and outpatient and other medical facilities and equipment need to be constructed or acquired.".

(b) The second sentence of section 1523(a)(4)(B) is amended by inserting "and that are consistent with the State health plan required by section 1524(c)" after "found to be needed".

(c) The first sentence of section 1524(c)(2)(A) is amended by striking "Prepare" and inserting in lieu thereof "With the concurrence of the Governor, prepare".

(d) Section 1524(c)(2) is amended by (1) redesignating subparagraph (B) as subparagraph (C) and (2) by inserting after subparagraph (A) the following new subparagraph:

"(B) In addition to the requirements of subparagraph (A), a State health plan shall be coordinated with the State mental health plan developed pursuant to the Community Mental Health Centers Act and shall describe the resource requirements of manpower, facilities, equipment, and funds necessary to provide access, availability and quality services at a reasonable cost to persons receiving care within the State including, at a minimum—

"(1) the institutional health services (as defined in section 1531(5), but not including any data identifying any specific person, institution, organization or other entity) comprising, but not limited to, the number and type of medical facilities, nursing homes, beds, and equipment needed for acute inpatient, psychiatric inpatient, obstetrical inpatient, neonatal inpatient, and long term care; the extent to which existing medical facilities, nursing homes, beds and equipment are in need of modernization or conversion to new uses; and, the extent to which new such medical facilities, nursing homes, beds, and equipment need to be constructed or acquired, and

"(ii) other health services (other than institutional health services as defined in section 1531(5), but not including any data identifying any specific person, institution, organization or other entity comprising, but not limited to, the number and type of health maintenance organizations and the number and type of outpatient (including primary care) and other medical facilities and equipment needed for public health services and outpatient care and the extent to which such outpatient and other medical facilities and equipment are in need of modernization and conversion to new uses and the extent to which new such health maintenance organizations outpatient and other medical facilities and equipment need to be constructed or acquired.".

(e) Section 1524(c)(2) is amended by adding at the end thereof the following new subparagraph:

"(D) If a State health plan as required by this subsection is not in effect for the State, the Secretary may not make any grant to the State health planning and development agency pursuant to section 1525.".

SEC. 119 (a) The second sentence of section 1513(b)(2) is amended by inserting "in the process of annually reviewing an HSP, and before amending an HSP" after "Before establishing an HSP,".

(b) Section 1513(b)(3) is amended by adding at the end thereof the following new sentence: "The AIP shall be established, annually reviewed, and amended in accordance with the procedures set forth in the last two sentences of paragraph (2).".

SEC. 120. Section 1513(c)(2) is amended by (1) striking "may" and inserting in lieu thereof "shall" and (2) inserting "in obtaining and filling out the necessary forms" after "technical assistance".

SEC. 121. (a) The fourth sentence of section 1513(c)(3) is amended by inserting "except that if such grant or contract is renewed, funds may be carried forward to the subsequent grant or contract period without being deducted from the amount of the

subsequent grant or contract" before the period at the end thereof.

(b) The second sentence of section 1516(a) is amended by striking "renewed (as the case may be)" and inserting in lieu thereof "in the event that the grant is renewed, may be carried forward to the subsequent grant period without being deducted from the subsequent grant award".

(c) The second sentence of section 1525 (a) is amended by striking "renewed" and inserting in lieu thereof "in the event that the grant is renewed, may be carried forward to the subsequent grant period without being deducted from the subsequent grant award".

(d) Section 1526(c) (1) is amended by inserting "except that if such a grant is renewed, funds may be carried forward to the subsequent grant period without being deducted from the subsequent grant award" after "such grant was made".

SEC. 122. (a) Section 1513 (d) is amended by (1) redesignating paragraph "(4)" as paragraph "(5)", (2) striking "and" in paragraph (3), and (3) adding after paragraph (3) the following new paragraph:

"(4) any entity of the State in which the agency is located which reviews the rates and budgets of health care facilities located in the agency's health service area, and".

(b) Section 1522 (b)(7)(A) is amended by inserting "and for the coordination by the State Agency in the conduct of its activities with any entity of the State which reviews the rates and budgets of health care facilities in the State" after "health care,".

SEC. 123. Section 1513(g) is amended by adding at the end thereof the following new paragraph:

"(3) In making the appropriateness review required by paragraph (1), each health systems agency shall address at a minimum issues of need, accessibility, financial viability, costs and charges to the public, and quality of service provided.".

SEC. 124. Section 1513(g)(1) is amended by (1) striking "all" and inserting in lieu thereof "at least those" and (2) inserting "identified in the State health plan prepared pursuant to section 1524(c)(2)" before "offered".

SEC. 125. Section 1514 is amended by striking "may" and inserting in lieu thereof "shall".

SEC. 126. (a) The last sentence of section 1515(b) is deleted.

(b) The last sentence of section 1515(c) (2) is deleted.

SEC. 127. (a) The second sentence of section 1515(c)(1) is amended by striking "twelve months" and inserting in lieu thereof "three years".

(b) Section 1515(c)(3) is amended by (1) inserting "(A)" after "(3)"; (2) striking "twelve months" and inserting in lieu thereof "three years"; (3) inserting "during the period of the agreement to be renewed" after "section 1513"; and (4) by adding at the end thereof the following paragraph:

"(B) If upon review (as provided in section 1535) of the agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 1513 during the period of the agreement to be renewed or does not continue to meet the requirements of section 1512(b), he may be terminate such agreement or return such agency to a conditionally designated status under subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such agency or enter into an agreement with such agency under paragraph (1).".

SEC. 128. Section 1515(d) is amended by (1) inserting "agreement" after "If a designation" and (2) inserting "or is not renewed" after "prescribed for its expiration".

SEC. 129. (a) Section 1516(b)(1)(A) is amended to read as follows:

"(A) if the population of the health service area for which the agency is designated—

"(i) is not over one million, the product of $0.70 and the population of such area,

"(ii) is over one million but not over two million, the sum of $700,000 and the product of $0.50 and the population of such area which is over one million, or

"(iii) is over two million, the sum of $1,200,000 and the product of $0.30 and the population of such area which is over two million, or".

(b) Section 1516(b)(2)(A)(i) is amended to read as follows:

"(i) the greater of (I) the amount determined under paragraph (1) without regard to this paragraph or paragraph (3), or (II) the amount determined under paragraph (3), and".

(c) Section 1516(b)(3) is amended to read as follows:

"(3) The amount of a grant under subsection (a) to a health systems agency designated under section 1515(c) may not be less than $250,000 in the fiscal year ending September 30, 1979, $270,000 in the fiscal year ending September 30, 1980, and $290,000 in any succeeding fiscal year.".

(d) Section 1516(c)(1) is amended by (1) striking "and" after "1976" and (2) inserting ", $150,000,000 for the fiscal year ending September 30, 1979, $175,000,000 for the fiscal year ending September 30, 1980, and $200,000,000 for the fiscal year ending September 30, 1981" before the period.

(e) Section 1516(c)(2) is amended by striking out "; except that" and all that follows in that section and inserting in lieu thereof a period.

SEC. 130. (a) The third sentence of section 1521(b)(3) is amended by striking "twelve months" and inserting in lieu thereof "three years".

(b) Section 1521(b)(4) is amended by (1) inserting "(A)" after "(4)"; (2) striking "twelve months" and inserting in lieu thereof "three years"; (3) inserting "upon review (as provided in section 1535) of the State Agency's operation and performance of its functions," before "he determines"; and (4) adding at the end thereof the following new paragraph:

"(B) If upon review (as provided in section 1535) of the State Agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed or if the applicable State administrative program does not continue to meet the requirements of section 1522, he may terminate such agreement or return the State Agency to a conditionally designated status under paragraph (2) of subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such State Agency or enter into an agreement with such State Agency under paragraph (3) of subsection (b).".

SEC. 131. Section 1521(d) is amended to read as follows: "If an agreement under this section for the designation of a State Agency for a State is not in effect by September 30, 1980, the Secretary shall reduce by 25 per centum the amount of any allotment, grant, loan, loan guarantee to be made and the amount, if any, of any contract to be entered into under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect. If such an agreement is not in effect by September 30, 1981, the Secretary shall reduce such amounts by 50 per centum until such time as such an agreement is in effect. If such an agreement is not in effect by September 30, 1982, the Secretary shall reduce such amounts by 75 per centum until such time as such an agreement is in effect. If such an agreement is not in effect by September 30, 1983, the Secretary shall reduce such amounts by 100 per centum until such time as such an agreement is in effect.".

SEC. 132. Section 1522(b) is amended by adding at the end thereof the following paragraph:

"(14) Provides that any person who is adversely affected by a final decision of the State Agency pursuant to paragraph (4), (5), or (6) of section 1523(a) may, within a reasonable period of time after such a decision is made, obtain judicial review of such a decision in an appropriate State court. Upon such judicial review, the decision of the State Agency shall be affirmed unless it is arbitrary or capricious, or was made not in conformity with the applicable law.".

SEC. 133. Section 1522(c) is amended by striking "once each year" and inserting in lieu thereof "once every three years".

SEC. 134. Section 1523(a) is amended by adding the following new paragraph at the end thereof:

"(7) Provide technical assistance in obtaining and filling out the necessary forms to individuals and public and private entities for the development of projects and programs.".

SEC. 135. Section 1523(a)(4)(B) is amended by (1) striking "which is satisfactory to the Secretary" and inserting in lieu thereof "which are consistent with standards established by the Secretary by regulation" and (2) inserting "In addition, such program shall provide that after a certificate of need is issued a periodic review (at least every twenty-four months) shall be conducted of the progress being made in making the service, facility, or organization for which the certificate was issued available for use, and if it is determined, after notice and an opportunity for a hearing on the record, that substantial progress is not being made, the certificate shall be withdrawn." before the last sentence thereof.

SEC. 136. Section 1523 (a)(5) is amended by inserting "except that this function shall not be performed if the State has in effect a certificate of need program as required by paragraph (4)" after "such services".

SEC. 137. (a) Section 1524(c)(1) is amended by striking "Review annually" and insert in lieu thereof "Establish (in consultation with the health systems agencies within the State and the State agency) a uniform format for HSP's and AIP's and review annually".

(b) The first sentence of section 1513(b) (2) is amended by inserting "(in accordance with the format prescribed pursuant to section 1524(c)(1))" after "establish".

SEC. 138. Section 1525(c) is amended by (1) striking "and" after "1976" and (2) inserting ", $40,000,000 for the fiscal year ending September 30, 1979, $45,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981," before the period.

SEC. 139. Section 1526(e) is amended by (1) striking "and" after "1976," and (2) inserting ", $6,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, and $7,000,000 for the fiscal year ending September 30, 1981," before the period.

SEC. 140. Section 1531(3)(B)(1) is amended by inserting "except that an individual shall not be considered an indirect provider of health care solely because he is a member of a governing board of an entity described in subclause (II) or (IV) of clause (ii)" after "clause (ii)".

SEC. 141. Section 1531(5) is amended to read as follows:

"(5)(A) The term 'institutional health services' means (i) the health services provided through health care facilities as defined in regulations of the Secretary including, but not limited to, private and public hospitals and nursing homes; and (ii) diagnostic or therapeutic equipment, acquired through purchase, rental, lease, or gift, valued at the time of acquisition in excess of $150,000, used in the delivery of health care services by any person, institution or other entity, except such equipment utilized exclusively, except in unusual circumstances, for patients of a health maintenance organization.

"(B) In determining whether diagnostic or therapeutic equipment has a value in excess of $150,000 for purposes of subparagraph (A), the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.".

SEC. 142. Section 1532(a) is amended by (1) striking "(e), (f), and (g)" and inserting in lieu thereof "(e), (f), (g), and (h)" and (2) by adding at the end thereof the following: "Procedures and criteria for reviews by health systems agencies pursuant to section 1513(f) and reviews by State Agencies pursuant to paragraphs (4) and (5) of section 1523(a) must provide that applications be submitted in accordance with timetables established by such agencies and Agencies; that such reviews be undertaken in a timely fashion; and that completed applications pertaining to similar types of services, facilities, or organizations affecting the same service area are considered in relation to each other at appropriate times (but no less often than twice a year). Procedures and criteria for reviews by health systems agencies pursuant to section 1513(g) and by State Agencies pursuant to section 1523(a)(6) must provide that reviews of similar types of institutional health services affecting the same service area be considered in relation to each other. Health systems agencies and State Agencies within a State shall cooperate in the development of procedures and criteria under this subsection to the extent appropriate to the achievement of efficiency in their reviews and consistency in criteria for such reviews.".

SEC. 143. Section 1532(b) is amended by adding the following paragraph at the end thereof:

"(12) In the case of reviews pursuant to subsections (f) and (g) of section 1513 and subsections (4), (5), and (6) of section 1523, and where appropriate for other reviews—

"(A) presentation by each participant, if requested by such participant, of evidence and arguments orally and/or by written submission,

"(B) maintenance of a record of the hearing, and

"(C) provision that the decision of the agency and Agency be based solely on the record of the hearing."

SEC. 144. Section 1532(b)(1) is amended by inserting "and to all other persons who have asked to have their names placed on a mailing list maintained by the agency and Agency" after "affected persons".

SEC. 145. Section 1532(b)(7) is amended by striking "Notification" and inserting in lieu thereof "Timely notification".

SEC. 146. Section 1532(b)(8) is amended by inserting "prior to any decision" after "State Agency review".

SEC. 147. Section 1532(c)(9)(B) is amended by inserting "and on the costs of providing health services by other persons" after "construction project".

SEC. 148. (a) Section 1534(a) is amended by striking "or contracts, or both,".

(b) Section 1534(b)(1) is amended by (1) striking "or contract" each place it occurs; (2) inserting "and be able to provide assistance and dissemination of information to health systems agencies and State Agencies as provided in subsection (a) and (c)" after "paragraph (2)" and (3) inserting "and is able to provide such assistance and dissemination of information" after "such requirements".

(c) Section 1534(c)(2) is amended to read as follows:

"(2) shall develop and use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies planning approaches, methodologies (including methodologies to provide for education of new board members and new staff and continuing education of board members and staff of such agencies and State Agencies), policies, and standards.".

(d) Section 1534(d) is amended by (1) striking "and contracts", (2) striking "and" after "1976,", and (3) inserting ", $12,000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, and $18,000,000 for the fiscal year ending September 3, 1981," before the period.

SEC. 149. Section 1535 is amended by adding the following new subsection at the end thereof:

"(e) In making the reviews required by subsections (c) and (d), the Secretary shall consider the comments submitted by any interested person.".

SEC. 150. Section 1536 is amended by striking "may" in paragraph (3) of subsection (b) and inserting in lieu thereof "shall".

SEC. 151. (a) Section 2(a)(3)(B) of Public Law 93-641 is amended by deleting the "and" and inserting after section 2(a)(3)(C) the following:

"(D) lack of effective coordination between the mental health care system and physical health care system, both by providers and planners, have promoted fragmentation, lack of continuity, and inappropriate utilization of the nation's health care resources; and

"(E) lack of attention to and emphasis on the behavioral aspects of physical health care and status.".

(b) Section 1502 in amended by adding the following new subsection at the end thereof:

"(11) the promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and the maintenance of health.".

(C) Section 1513(b)(2), as amended by section 118(a) of this Act is further amended by inserting before the period the following: "; and (E) include a mental health component which reflects coordination with the local mental health planning agencies or entities otherwise established pursuant to law.".

(d) Section 1523(a)(2), as amended by this Act, is further amended by inserting "and the State mental health plan developed pursuant to the Community Mental Health Centers Act" after "agencies".

TITLE II—REVISION AND EXTENSION OF HEALTH RESOURCES DEVELOPMENT AUTHORITY

SEC. 201. Section 1603(3) is amended by inserting "and the Governor of the State" after "Council".

SEC. 202. Section 1613 is amended by (1) striking "and" after "1977," and (2) inserting ", September 30, 1979, September 30, 1980, and September 30, 1981" before the period.

SEC. 203. Section 1622(e)(2) is amended by (1) striking "and" after "1976," and (2) inserting ", September 30, 1979, September 30, 1980, and September 30, 1981" before the period.

SEC. 204. Section 1625(d) is amended by (1) striking "the fiscal year ending September 30, 1978" and inserting in lieu thereof "the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981" and (2) striking "for such fiscal year" and inserting in lieu thereof ", $75,000,000, $100,000,000, and $125,000,000 for such fiscal years respectively".

SEC. 205. Section 1640(d) is amended by (1) striking "and" after "1976," and (2) inserting "$120,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, and $180,000,000 for the fiscal year ending September 30, 1981" before the period.

SEC. 206. Title XVI is amended by adding at the end thereof the following new part:

"PART G—PROGRAM TO ASSIST AND ENCOURAGE THE VOLUNTARY DISCONTINUANCE OF UNNEEDED HOSPITAL SERVICES

"ESTABLISHMENT OF PROGRAM

"SEC. 1641. The Secretary shall, by April 1, 1979, establish a program under which financial assistance and encouragement shall be provided, in accordance with this part, for the consolidation of duplicative hospital services and the discontinuance of unneeded hospital services.

"ASSISTANCE UNDER THE PROGRAM

"SEC. 1642. (a)(1) Under the program established under section 1641, any hospital which was in operation on the date of enactment of this part and—

"(A) which intends to discontinue providing inpatient health services may apply for a debt payment and an incentive payment under section 1643 for such discontinuance,

"(B) which intends to discontinue an identifiable unit of the hospital which provides inpatient health services may apply for an incentive payment under section 1643 for such discontinuance, or

"(C) which intends to convert an identifiable part of the hospital into providing ambulatory care services, long term care services, or any other service designated by the Secretary may apply for a conversion payment under section 1643 if the State health planning and development agency which would have jurisdiction over such service has determined, after taking into consideration the recommendations of the health systems agency which would have jurisdiction over such service, that such service is needed.

"(2) The incentive payment authorized by paragraph (a)(1) may be used for—

"(A) the planning, development (including the cost of construction and the acquisition of equipment), and delivery of ambulatory care services, home health care services, long term care services, or other services (designated by the Secretary) for the community served by the applicant for such payment, which services the State health planning and development agency, after consideration of the recommendations of the health systems agency with jurisdiction over such community, has determined are needed;

"(B) if the applicant has merged with another hospital, preparation of that hospital to serve patients of the closed hospital;

"(C) reasonable (as determined under guidelines prescribed by the Secretary) termination pay for personnel of the applicant who will lose employment because of the discontinuance of inpatient services to be made by the applicant, retraining of such personnel, and assisting such personnel in securing employment; or

"(D) any combination of the activities described in subparagraph (A), (B), and (C).

"(b) An application of a hospital for a payment under section 1643 shall include—

"(1) a description of the service (or services) to be discontinued or the part of the hospital to be converted;

"(2) an evaluation of the impact of such discontinuance or conversion on the provision of health care in the health service area in which such hospital is located;

"(3) if the services of a unit of a hospital or of all services of a hospital are to be discontinued or converted, an estimate of the change in the applicant's revenues which will result from such discontinuance or conversion;

"(4) with respect to the incentive payment for the discontinuance of all the services of hospital—

"(A) a description of the activities for which the applicant intends to expend such payment,

"(B) a description of the means with which (including a description of any Federal financial assistance the applicant intends to apply for), and the manner in which, the applicant will carry out such activities,

"(C) the amount the applicant intends to expend for such activities, and

"(D) if the applicant will not be responsible for making expenditures for such activities, identification of the person (or persons) who will be responsible for making such expenditures;

"(5) with respect to the incentive payment for the discontinuance of an identifiable unit of a hospital, a description of the use of applicant will make of such payment;

"(6) an evaluation of the impact of such discontinuance or conversion on the employees of such hospital; and

"(7) such other information as the Secretary may by regulation require.

A hospital which has an application under this subsection approved by the Secretary is entitled to receive the payments applied for.

"(c) The health systems agency for the health service area in which an applicant under this section is located shall determine the need for the service (or services) proposed to be discontinued by such applicant or for the part of the hospital to be converted, as the case may be, and shall make a recommendation to the State health planning and development agency for the State in which the applicant is located respecting approval by the Secretary of such applicant's application. A determination of a health systems agency under this subsection shall be based upon criteria developed pursuant to section 1532(c).

"(d) A State health planning and development agency which has received a recommendation from a health systems agency under subsection (c) shall, after consideration of such recommendation, make a recommendation to the Secretary respecting the approval by the Secretary of the application with respect to which the health systems agency's recommendation was made. A State health planning and development agency's recommendation under this subsection with respect to the approval of an application (1) shall be based upon (A) the need for the service (or services) proposed to be discontinued by the applicant or for the part of the hospital to be converted, as the case may be, and (B) such other criteria as the Secretary may by regulation prescribe, and (2) shall be accompanied by the health systems agency's recommendation made with respect to the approval of such application.

"(e) In considering applications submitted under this section, the Secretary shall consider the recommendations of the State health planning and development agency and the health systems agency. The Secretary may not approve an application which a State agency recommends not be approved.

"(f) For purposes of this title, the term "hospital" means, with respect to any fiscal year, an institution (including a distinct part of an institution participating in the program established under title XVIII of the Social Security Act) which satisfies paragraphs (1) and (7) of section 1861(e) of such Act, but such term does not include a Federal hospital.

"AMOUNT OF PAYMENTS

"SEC. 1643. (a) The amount of a debt payment which shall be made to a hospital, with an approved application under section 1642 for the discontinuance of all of its inpatient services is the sum of—

"(1)(A) the lesser of—

"(i) the total outstanding financial obligation of the applicant attributable (as determined under regulations promulgated by the Secretary) to the acquisition of equipment and facilities of the hospital, or

"(ii) the amount of unexpensed depreciation attributable (as determined under regulations promulgated by the Secretary) to the equipment and facilities of the hospital, less—

"(B) the fair market value (as defined by the Secretary) of the equipment and facilities of the hospital; and

"(2) any other debt expenses (as defined by regulation by the Secretary) which result from the financial obligation of the applicant being satisfied before due.

"(b) The amount of an incentive payment which shall be made to a hospital, with an approved application under section 1642 for the discontinuance of all of its services or the services of an identifiable unit of the hospital is—

"(1) in the case of the discontinuance of all of the inpatient services of a hospital, an amount not to exceed the amount reported by the hospital under section 1642, and

"(2) in the case of the discontinuance of the services of an identifiable unit of the hospital, an amount not to exceed 30 per centum of the charges reported by the hospital for such unit in the previous hospital accounting fiscal year pursuant to generally acceptable accounting principles prescribed by regulations of the Secretary.

"(c) The amount of a conversion payment which shall be made to a hospital, with an approved application under section 1642 is 50 per centum of the reasonable (as determined by criteria established in regulations of the Secretary) cost of the conversion approved in such application.

"(d) The debt payment, incentive payment, and conversion payment to which a hospital is entitled shall be paid in a single payment.

"(e) If an incentive payment is to be made for the discontinuance of all the services of a hospital or an indentifiable unit of a hospital, the health systems agency designated for the health service area in which such hospital is located shall receive a payment equal to 10 per centum of such incentive payment. Such health systems agency may use a payment under this paragraph only to make grants and contracts in accordance with section 1513(c)(3) for projects and programs within the community served by such hospital or if such community does not need any such project or program, within another community.

"(f) To make the payments required by this part, there are authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1979, $200,000,000 for the fiscal year ending September 30, 1980, and $250,000,000 for the fiscal year ending September 30 1981.

"STUDY

"SEC. 1644. The Secretary shall make a study of the first twenty-five applications approved under section 1642 to determine their effect on the elimination of unneeded hospital services. The Secretary shall report the results of such study to Congress together with his recommendations for any revisions in the program which he determines to be appropriate, including any revision in the authorization of appropriations for such program.".

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. Section 314 is amended by repealing subsections (a), (b), and (c).

SEC. 302. Title IX is repealed in its entirety.

SECTION-BY-SECTION DESCRIPTIVE SUMMARY

Section 101 amends section 1511(a) to permit the governor of a State involved in an interstate health system agency to request redesignation of an interstate health service area made up of an entire standard metropolitan statistical area. Present law requires that all governors involved must agree to split the SMSA if it is to be split. The Secretary of HEW retains the final authority.

Section 102 amends section 1511(b)(4) to direct the Secretary to review, on his own initiative or at the request of any governor or HSA, boundaries of health service areas and to redesignate those boundaries if he finds that they no longer meet the requirements of section 1511(a) or that proposed boundaries represent an improvement, and stipulates the conditions under which Governors and HSAs may request boundary revisions and with whom consultation is required. Provides that no proposed revision of the boundaries of a health service area shall comprise an entire state without prior consensus of the governor. Under current law, redesignation requires a finding that an area is no longer appropriate. This has proven troublesome and unnecessarily restrictive. Some restrictions are necessary, however, since redesignations are not to be encouraged. The proposed change would permit more flexibility to respond to changes that may influence the effectiveness of planning. Additionally, the Secretary shall give notice and an opportunity for a hearing on the record by all interested persons and make a written determination of his findings and decision.

Section 103 repeals section 1511(c) which gives priority for designation of health service areas which formerly had an area-wide CHP agency under previous health planning authority. Such a provision is no longer necessary.

Section 104 amends section 1512(b) and section 1524(b) to add new subsections expanding and clarifying conflict of interest provisions for HSA and SHCC members. This proposed amendment directs HSAs and SHCCs to adopt procedures (in accordance with regulations of the Secretary) to ensure that no member or staff participates in any matter regarding any persons, institutions, organizations, or other entity with which such individual has an actual or apparent conflict of interest. While directed at all HSA and SHCC members and staff, this amendment is also intended to avoid any potential conflict of interest arising from the redefinition of "indirect provider" described in Section 140.

Section 105 amends section 1515(b)(2)(A) to add additional requirements for HSA staff to assure expertise in financial and economic analysis and public health and disease prevention. Research has indicated that many HSAs are focusing almost exclusively on medical care. Health is also a function of nutrition, life style, environmental factors, etc. In order to improve health and reduce costs, HSAs should take a broader perspective on health and the reaction between health and medical care. Similarly, if HSAs are to be successful in their newly expanded hospital cost control mission, they must be aided by staff who can provide sound economic analysis of the health system and the probable financial impact on the community of various HSA decisions.

Section 10 amends section 1512(b)(3) to add a new subparagraph setting forth the

broad outlines for the selection process to be used by the HSA in selecting members of its governing body, executive committee (if any), and any other appointed entity. Members must be appointed in accordance with the requirements of subparagraph (C); there is to be opportunity for broad participation by residents of the health service area; and such participation is to be encouraged and facilitated. HSA members are not to select other members of the HSA. The selection process is to be made public and reported to the Secretary. This proposed amendment addresses the concern of many observers of the program that HSAs have not to date pursued a consistent and aggressive policy to include members reflecting the full range of consumer, provider, and public interests in the community. HSAs must encourage public participation in order for issues of equity to be considered and board decisions to be creditable and acceptable to the general public. By providing more concrete direction as to selection of board members, it is hoped that the intent of the law will be more effectively realized. This is also designated to deal with certain cases where HSA boards have apparently been self-initiated and self-perpetuating. It is important that current HSA members not be allowed to select new participants. There have reportedly been situations of many self-perpetuating HSA boards where new representatives are selected by combined vote of consumer and provider representatives, and this has, in some instances, resulted in provider domination of the selection of consumer representatives. Because of the diversity of organization of HSAs, it is not feasible to prescribe a particular method of selection, and the provisions of the proposed amendment will allow for greater accountability to the public at large as well as the particular organization or group that an individual may represent.

Section 107 amends section 1512(b)(3)(A) to provide that an HSA that is a public regional planning body not be required to delegate to a separate governing body for health planning the exclusive authority to appoint and with cause remove members of the governing body for health planning or approve the agency's budget. The respective roles and relationship of the regular governing board and the separate governing body for health planning of a public HSA have proved to be a source of continuing controversy. This revision would expand the degree of control that may be exercised by a public HSAs regular governing board over its separate governing body for health planning. It is also designed to remove the conflict in public HSAs between their regular governing boards and separate governing bodies, which now have virtually exclusive authority for HSA matters. Under present regulations, the governing board of a public HSA has little function except to appoint the members of the governing body for health planning. After appointment, however, the governing body for health planning is totally independent, and as a result, is not accountable to the governing board. The proposed amendment would re-establish the supervisory relationship between the governing body for health planning and the governing board and yet give the governing board for health planning the necessary independence.

Section 108 amends section 1512(b)(3)(B)(vi) to allow HSAs when appropriate to make advances to HSA members for their reasonable costs incurred in attending meetings.

Section 109 amends section 1512(b)(3)(B)(viii), section 1512(6)(A), and section 1532(b)(10) to exclude from the open meeting requirement confidential HSA meetings on personnel issues. Also excludes from disclosure requirements personnel records and data on HSA and SHPDA members and staff. Directs the Secretary to study and report to Congress on the data disclosure requirements of HSAs. The current language is unnecessarily broad and beyond the standard requirements of Federal and State programs. To be consistent with the provisions of and the protection offered by the Freedom of Information and Privacy Acts, the present requirements should be modified to exclude public access to the personnel records of agency staff. In revising this section, it should be made clear that it is not intended to conflict with any State requirements on access to rate regulation data or other publicly collected data.

Section 110 amends section 1512(b)(3)(C)(i) to remove the "12-month waiting period" in the definition of consumers for purposes of HSA board membership. Presently, anyone who has been a provider within the preceding twelve months may not serve as a consumer member of an HSA governing body. This requirement has had the effect of precluding a person who serves or has recently served as a bona fide consumer member of the board of a health provider institution or organization (e.g., hospital boards of trustees, community health center advisory councils), from service on HSA boards for at least a year, even if he or she is willing to step down from his/her present position which makes him/her an indirect provider under current definition. Frequently, these are the consumers who by virtue of their experience, interest, and motivation would be among the most effective consumer members of HSA boards.

Section 110 also amends section 1512(b)(3)(C)(i) to stipulate that major purchasers of health care include but are not limited to unions and corporations. In many areas, labor unions are major purchasers of health care through the collective bargaining process. As a result, neither HEW nor most HSAs have recognized labor unions officially as major purchasers of care. Similarly, while it would seem self-evident that corporations are major purchasers of health care for their employees, the proposed amendment underscores this point in order to assure that corporation representatives receive adequate opportunity to participate on HSA boards.

Section 111 amends section 1512(b)(3)(C)(ii) to expand residency requirement as it pertains to providers of health care to allow HSA participation by providers who do not necessarily reside in but have their principal place of business within the respective health service area. While the majority of health providers reside in the health systems area where they work, there are circumstances where this situation does not exist. For example, in metropolitan areas, the situation exists where a provider lives in an area surrounding the health service area. It is assumed that HSAs will seat members to their governing body from the health service area to the extent possible. The purpose of this amendment is to allow maximum flexibility to the HSAs to determine appropriate representation from the provider as well as consumer interests.

Section 112 amends section 1512(b)(C)(ii) to clarify that the term physician includes both doctors of medicine and osteopathy. This amendment would assure that the health planning program is consistent with other Government programs such as Medicare in treating osteopaths on an equal basis with medical doctors.

Section 113 amends section 1512(b)(3)(C)(ii) to broaden the provider of health care definition pertaining to HSA governing body composition. This adds two additional provider categories for "non-professional health workers" and "other providers of health care". This is a clarifying amendment to permit providers who do not represent, or fall into, one of the current five enumerated categories to serve on HSA governing bodies.

Section 114 amends section 1512(b)(3)(C)(iii)(II) to provide flexibility (but not mandate) for increased non-metropolitan representation on HSA boards. The proposed amendment is designed to assure that the percentage of representatives from nonmetropolitan areas is "at least" equal to the percentage of residents in such nonmetropolitan areas. In final deliberations on P.L. 93-641, concern that rural areas would be under-represented on HSA governing boards resulted in the current language providing for representation "equal to" the percentage of nonmetropolitan residents. However, rather than acting as a floor for participation by rural interests, this provision has placed a cap on their involvement. In two California HSAs, HEW is requiring a re-organization of the governing body because of too many rural representatives, despite the fact that the composition represents a consensus of both urban and rural interests. Local areas must develop a means of accommodating non-urban interests when there is a large metropolitan county surrounded by rural areas. Often, these accommodations may over-represent rural areas yet are satisfactory to both rural and urban counties. The goal of this amendment is to maximize flexibility and to insure that these issues are resolved within the health service area.

Section 115 amends section 1512(b)(3)(C)(IV) to mandate that subcommittees of HSA boards have the same representation patterns as full boards. Current law stipulates that subcommittees must meet such composition requirements "to the extent possible." Although it may be difficult for all committees to meet all representational requirements, because of small size, there is no reason not to require consumer majorities. In practice, committee reports often become decisions of the larger bodies. The current loophole has in some cases resulted in provider-dominated committees. It has been reported that, in one area, the subarea councils (which must conform to HSA composition requirements) were reconstituted as area advisory committees because they lacked consumer majorities and were thus out of compliance with requirements for SACs, and thus subverted the intent of the law.

Section 116 amends section 1512(b)(4) and section 1524 to broaden scope of protection against personal liability suits for HSA and SHCC staffs and members while in the scope of their official duties. Failure to provide such protection could discourage the active citizen participation necessary to the success of the program. Existing language is not sufficiently protective as it requires the person to have exercised "due care" (which can be construed as meaning acting without negligence), and to have acted "within the scope" of official duties. Something that appeared non-negligent and/or within the scope of official duties at the time the act was committed could be determined retrospectively by a judge or jury to be either negligent or outside the official scope of a person's duties, or both. Greater protection is provided in that a more limited retrospective test is provided.

Section 117 amends section 1512(b)(5) to broaden the scope of potential outside funding sources for HSAs. The proposed amendment would allow HSAs to accept funds from non-profit tax exempt organizations (as described in section 501(c)(3) of the Internal Revenue Code of 1954).

Section 118 amends section 1513(b)(2) to increase the material to be included in the HSP in conformity with the increased scope of the State health plan. In addition to other requirements, the HSP must include a description of institutional health services needed for the well-being of persons receiving care within the health service area, in-

cluding at a minimum, the number and type of medical facilities, nursing homes, beds, and equipment needed to provide acute inpatient, psychiatric inpatient, obstetrical inpatient, neonatal inpatient, and long-term care, and the extent to which such facilities and services are in need of modernization or conversion to new uses. Similar information would have to be provided on other, noninstitutional health services, specifically the number and type of health maintenance organization and outpatient (including primary care) and other medical facilities and equipment needed to provide public health services and outpatient care.

Section 118 amends section 1524(c)(2) to require that the State health plan contain information similar to that set forth above for the plans developed by HSAs. The State health plan is also to address the resource requirements of manpower, facilities, equipment, and funds necessary to provide access, availability, and quality services at a reasonable cost to persons receiving care within the State. Concurrently the amendment to section 1523(a)(4)(B) requires that certificate-of-need decisions be consistent with the State health plan.

Section 118 also amends section 1524(c)(2)(A) to require that the State health plan prepared by the SHCC have the concurrence of the governor and stipulate that until a State health plan is in effect, no grants to the SHPDA may be made under section 1525.

Currently, certificate-of-need decisions need not comply with State health plans. Meaningful health planning requires that regulatory decisions meet the objectives included in the health plan. The proposed amendment would in effect require that no certificate-of-need could be issued unless the project in question was consistent with the State health plan. The proposed amendment calling for concurrence of the governor in preparation of the State health plan by the SHCC provides an opportunity for the chief executive in each State to bring to the attention of the SHCC certain fiscal priorities of the State government which may have an impact on the State health plan and to also assure that the plan developed by the SHCC conforms with the State's overall health policy.

Section 119 amends section 1513(b)(2) to expand the public hearing requirements of HSAs for amending as well as establishing the HSP and to extend such public hearing requirement to the establishment, review, and amendment of the Annual Implementation Plan as well as the HSP. This proposed amendment is intended to rectify an omission in the original law.

Section 120 amends section 1513(c)(2) to mandate HSAs to provide technical assistance in obtaining and filling out necessary forms to applicants applying for projects needed to achieve the HSP. Current law provides that HSAs may at their option provide technical assistance, the nature of which has been left undefined. The proposed amendment clarifies the specific type of assistance which HSAs must provide.

Section 121 amends section 1513(c)(3), 1516(a), 1525(2), and 1526(c)(1) to allow for carry-over of grant funds. This would modify current requirements that Federal funds to HSAs and SHPDAs must be used during the period for which they were granted.

Section 122 amends section 1513(d) to provide that an HSA will also coordinate its activities with entities which review rates and budgets of health care facilities in the health service area, and amends section 1522(b)(7)(A) to provide that the State agency coordinate its activities with such rate and budget review entities in the State. This is a corollary to the HSA's and SHPDA's expanded responsibilities in the area of cost containment.

Section 123 amends section 1513(g) to clarify that HSA appropriateness review should, at a minimum, address the issues of need, accessibility, financial viability, costs and charges to the public, and quality of services provided. At present, HSAs' functional criteria for review are left unspecified. This proposed amendment defines the scope of priorities which are to be addressed under the main types of review conducted by HSAs.

Section 124 amends section 1513(g)(1) to focus but not limit the scope of mandated HSA appropriateness review to services included in the State health plan. Current law requires that HSAs review all institutional health services on a periodic basis, but at least every five years. The law does not presently limit appropriateness review requirements to institutional services of a certain minimum size or impact. HSAs do not have adequate funds or manpower to review every institutional health service offered in the health service area. Cost effective appropriateness review demands that HSAs first review those services that are the largest or have the most impact. To be consistent within a health service area and/or on a Statewide basis, and to ensure appropriateness review requirements, the HSA should review, at a minimum, those institutional health services identified in the State health plan. This would not preclude the HSA from reviewing services not so identified, but would ease the burden on the HSA's of reviewing every service.

Section 125 amends section 1514 to require the Secretary to provide technical assistance to agencies that have the potential to become HSAs as defined in the law.

Section 126 deletes the last sentence of section 1515(b) and the last sentence of section 1515(c)(2) in order to eliminate the priority for HSA designation of former 314(b) agencies and regional medical programs formerly authorized under title IX. These former CHP and RMP authorities no longer serve any purpose and reference to them is eliminated for purposes of clarification.

Section 127 amends section 1515(c)(1) to extend the period of full designation agreements of HSAs from one year to three years, and permits the Secretary, if he finds an HSA has not been performing satisfactorily, to terminate it or return it to a conditional status for one year, after which time the agency must either be automatically terminated or returned to full designation. This extension would enable agencies to enter into more effective long-range planning and outside contracts without the threat of termination hindering their efforts. It would also offer the Secretary an alternative to the extreme option of not renewing the designation agreement.

Section 128 amends section 1515(d) to provide a conforming amendment pertaining to HSA designation agreements.

Section 120 amends section 1516(b) and (c) to provide for a three year extension of authorizations for the health planning program and to raise the minimum grants to HSAs. This would provide that if the population in a health service area were less than one million, the HSA grant would be the product of 70¢ and the population of the area; if between one and two million population, the sum of $700,000 and the product of 50¢ and the population of the area which is over one million; or if over two million population, the sum of $1.2 million and the product of 30¢ and the population of the area over two million. No grant could be less than $250,000 in FY 1979, $270,000 in FY 1980, and $290,000 in succeeding fiscal years. This section authorizes appropriations of $150 million for FY 1979, $175 million for FY 1980, and $200 million for FY 1981. The increase in minimum planning would ease the burden of smaller HSAs serving large sparsely populated areas which have experienced budget problems due to high travel costs for board members and staff. Increases in the authorization levels would allow for the provision of additional funds as the program assumes new and broader responsibilities. The increased per capita funding amounts are intended to take account of increases in the cost of living since the HSAs got underway as well as to allow agencies to meet the added responsibilities of hospital cost containment.

Section 130 amends sections 1521(b)(3) and (4) to change designation requirement for the SHPDs from annually to every three years and to permit the Secretary the option of returning a fully designated SHPDA to conditional status for non-performance of its functions for one year, after which time the Secretary must either fully designate the SHPDA or terminate its agreement. This change is a logical corollary of the amendment proposed under section 127 pertaining to HSA designation.

Section 131 amends section 1521(d) to provide that a State without a State agency designations agreement in effect by September 30, 1980, would be subject to a 25% reduction in the amount of any allotment, grant, loan, loan guarantee, and any contract under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 for the development, expansion, or support of health resources until such time as an agreement is in effect. Such amounts would be reduced by 50% if no agreement were in effect by September 30, 1981, by 75% after September 30, 1983, and by 100% after September 30, 1983.

This proposed amendment would act to encourage States to be in compliance with requirements for full designation, especially with regard to certificate of need programs but not be as punitive as in current law.

Section 132 amends section 1522(b) to add a new paragraph providing for judicial review of a final decision rendered by a State agency under certificate of need or appropriateness review. Provides that the State agency decision is to be affirmed unless it is arbitrary or capricious, or was not made in conformity with the applicable law.

Section 133 amends section 1522(c) to effect a conforming change proposed under section 130 changing annual designation of the SHPDA to triannual.

Section 134 amends section 1523(a) to require SHPDAs to provide technical assistance in obtaining and filling out the necessary forms to individuals and public and private entities for the development of projects and programs. The intent of this proposed amendment is consistent with that described under section 120 pertaining to technical assistance to be provided to applicants by HSAs.

Section 135 amends section 1523(a)(4)(B) to clarify the Secretary's role in approving certificate of need programs and to require that State certificate of need programs provide for review at least every 24 months of the progress being made by an institution granted a certificate of need applications. Requires that a certificate of need will be withdrawn if substantial progress is not being made toward making the service, facility, or organization for which the certificate was issued available for use.

Section 136 amends section 1523(a)(5) to provide a technical and conforming amendment which clarifies the role of the HSA in States with approved certificate-of-need programs. Would in effect delete requirements of section 1523(a)(5) once there is an acceptable certificate-of-need program in place. These provisions were originally included to require the review of new institutional health services prior to the enact-

ment and implementation of certificate-of-need programs in those States which did not have acceptable programs. The requirement should not be applied once States have certificate-of-need programs in place, in order to avoid redundant review processes.

Section 137 amends section 1524(c)(1) and section 1513(b)(2) to direct the SHCC to establish in consultation with the HSAs and the State agency a uniform format for HSPs and AIPs. Current law requires the SHCC to develop a State health plan based on the various HSPs submitted to it by the HSAs. This proposed amendment would establish a basic consistency in the form of the plans submitted by the HSAs and would aid considerably in the process of developing a State health plan.

Section 138 amends section 1525(c) to increase authorization levels for grants to State Health Planning and Development Agencies. This amendment would authorize $40 million for FY 1979, $45 million for FY 1980, and $50 million for FY 1981. These increases are necessitated by increases in the cost of living and expansion of responsibilities.

Section 139 amends section 1526(e) to extend authorizations for grants for rate regulation as follows: $6 million for FY 1971, $7 million for FY 1980, and $7 million for FY 1981.

Section 140 amends section 1531(3)(B)(i) to allow consumers who serve on boards of other health organizations and agencies to be considered as consumers, rather than indirect providers, for purposes of this Act. The current definition of indirect provider prevents many individuals who might otherwise be considered among the most informed potential candidates from participating as consumers on HSA boards. This particular restriction has met with widespread criticism from individuals, planning bodies, and organizations concerned with implementation of the program. The intent of this proposed amendment is similar to that described under section 110. When linked to the proposed expansion of conflict of interest provisions set out in section 104, there appears to be little reason to preclude such individuals from consumer membership.

Section 141 amends section 1531(5) to broaden State certificate of need requirements to include expensive equipment regardless of location. Items of diagnostic or therapeutic equipment acquired through purchase, rental, lease, or gift with a value over $150,000 would be covered by the proposed amendment except for such equipment utilized exclusively (except in highly unusual circumstances) for patients of health maintenance organizations. The present authority restricts Federally-mandated certificate of need coverage to "new institutional health services". This leaves a large loophole in the case of certain kinds of very expensive equipment which is increasingly being used by individuals to acquire such equipment. This omission from certificate of need coverage has been a major problem area and an increasing source of concern. The inclusion of all expensive equipment, regardless of location, is necessary for the coordinated utilization of existing services, and to protect against the unnecessary proliferation of services connected with expenditures which are presently exempted from review.

Section 142 amends section 1532(a) to stipulate that procedures and criteria for review by HSAs and State agencies must provide that applications be submitted in accordance with established timetables, that reviews be undertaken in a timely fashion, and that applications for similar types of services, facilities, or organizations be considered in relation to each other no less often than twice a year.

Section 142 also provides that HSAs and State agencies must cooperate in the development procedures and criteria to the extent appropriate to the achievement of efficiency in their reviews and consistency in criteria for such reviews.

Section 143 amends section 1532(b) to provide that, for HSA and State agency reviews for certificate of need applications and appropriateness of services, each participant may present evidence and arguments orally and/or by written submission; that a hearing record be maintained; and that the HSA and State agency be based solely on the hearing record.

Section 144 amends section 1532(b)(1) and requires that all persons who have asked to have their names placed on a mailing list maintained by the HSA or the SHPDA be notified of certain reviews by such agencies.

Section 145 amends section 1532(b)(7) to provide for timely notification of providers of health services and other persons of certain information.

Section 146 amends section 1532(b)(8) to specify that public hearings are to be held prior to any decision made in the course of HSA or State agency review if requested by persons directly affected by the review.

Section 147 amends section 1532(c)(9)(B) to provide that in the case of a construction project, HSA and State agency review will consider the probable impact of the project on the costs of providing health services not only by the person proposing such construction project (as currently provided) but also "on the costs of providing health services by other persons."

Section 148 amends section 1534(a), (b)(1), and (c)(2), to require the Secretary to enter into grants with the Centers for Health Planning, rather than allowing the existing option of grants or contracts. Requires the Centers to provide the types of assistance and dissemination of information to HSAs and State agencies explicitly set forth in subsections (a) and (c) of section 1534 in order to be eligible for contracts from the Secretary. By amending section 1534(c)(2), adds a new requirement that Centers develop and disseminate methodologies to educate new board members and staff of the HSAs and new staff of the State agencies by revising the funding provisions to include grants only, the proposed amendment would enable Centers to respond flexibility to changing needs of planning agencies and to engage in a wide variety of activities without being subject to the kinds of limitations presently imposed under contract arrangements, whereby a Center can perform only those services specified in the contract.

This section also amends section 1534(d) to extend the authorization for the Centers for Health Planning as follows: $12 million for FY 1979, $15 million for FY 1980, and $18 million for FY 1981. The increased authorization is consistent with the centers broadened mandate.

Section 149 amends section 1535 to broaden the comment authority to any interested party. This would pertain to the process undertaken by the Secretary to review in detail at least every three years the structure, operation, and performance of each HSA and SHPDA and insures that the Secretary will consider the comments of representatives of state and local government as well as any other person.

Section 150 amends section 1536(b)(3) by clarifying the functions of the State agencies in States eligible for section 1536 status.

Section 151 amends Section 2(a)(3)(B) of Public Law 93-641 as amended, and sections 1502, 1513(b)(2) and 1523(a)(2) in order to insure more effective coordination of the planning efforts at the local and state level between the planning entities designated under the Community Mental Health Centers Act and the Health Planning and Resources Development Act of 1974 and to insure the more effective coordination of health and mental health services.

Section 201 amends section 1603(3) to require that the Governor as well as the State Health Coordinating Council approve the State Medical Facilities Plan.

Section 202 amends section 1613 to authorize appropriations for allotments to States under section 1610 as follows: $135 million for FY 1979, FY 1980, and FY 1981.

Section 203 amends section 1622(e)(2) to authorize for appropriations such sums as necessary for FY 1979, FY 1980, and FY 1981 for purposes defined in section 1622(d).

Section 204 amends section 1625(d) as amended to authorize appropriations for grants for construction or modernization projects under section 1625 as follows: $75 million for FY 1979, $100 million for FY 1980, and $125 million for FY 1981.

Section 205 amends section 1640(d) to authorize appropriations for grants for Area Health Services Development Fund under section 1640(a) as follows: $120 million for FY 1979, $150 million for FY 1980, and $180 million for FY 1981.

Section 206 amends Title XVI of the PHS Act by establishing a program of financial assistance to encourage the voluntary consolidation of duplicative hospital services and the voluntary discontinuance of unneeded hospital services. Any hospital in operation on the date of enactment of this Act and which (1) intends to discontinue providing all inpatient health services could apply for a debt payment and an incentive payment for this discontinuance; (2) intends to discontinue an identifiable unit of the hospital that provides inpatient health services could apply for an incentive payment; or (3) intends to convert an identifiable part of the hospital into providing long-term care services, ambulatory care services, or any other service designated by the Secretary could apply for a conversion payment if the SHPDA has determined, after considering recommendations of the HSA, that such service is needed.

Incentive payments could be used for the planning, development, (including the cost of construction and acquisition of equipment), and delivery of ambulatory care services, home health care services, long-term care services, or other services designated by the Secretary. Incentive payments could also be used, in cases where the applicant has merged with another hospital, for preparation of that hospital to serve patients of the closed hospital, and such payments could also be used for reasonable termination pay for personnel who lose employment because of discontinued inpatient services, or for retraining such personnel and assisting them in securing employment.

Applications for such payment would have to include:

(1) a description of the service or services discontinuances or conversions;

(2) an evaluation of the impact of such action on the health systems in the area;

(3) an estimate of the change in the applicant's revenues that would result from such discontinuances or coversions;

(4) if all services are to be discontinued, a description of the activities for which payment is intended, the means and manner in which the applicant will carry out such activities, the amount meant to be expended for such activities, and the person responsible for making such expenditures;

(5) with respect to incentive payments for discontinuance of identifiable hospital units, a description of the use the applicant will make of the payment; and

(6) other information as the Secretary may by regulation require.

In accordance with criteria developed under section 1532(c), the HSA would be required to determine the need for the service to be discontinued or for the part of the hospital to be converted. The HSA would then make its recommendation to the SHPDA, which would in turn make a recommendation to the Secretary. The Secretary could

not approve an application which a State agency has recommended against.

The debt payment to be made to a hospital that is discontinuing all its services would be a sum consisting of the lesser of (a) the total outstanding financial obligation attributable to the equipment and facilities of the hospital, or (b) the amount of unexpended depreciation attributable to such equipment and facilities, less the fair market value of the equipment and facilities, plus any other debt expenses resulting from the financial obligation of the applicant being satisfied before due.

Incentive payments for discontinuance of all services would include an amount not in excess of the amount reported by the hospital under section 1642. If a hospital is discontinuing a unit, the incentive payment would equal 30 percent of the charges reported as attributable to that unit in the previous hospital accounting fiscal year.

Conversion payments would equal 50 percent of the reasonable cost of conversion approved in the application. The debt, incentive, and conversion payment would be paid in a single payment. Health systems agencies would receive 10 percent of any incentive payment that is due any facility or facilities in the agency's area. The HSA could use this payment only to make grants and contracts in accordance with section 1513(c)(3) for projects and programs within the community served by such hospital, or if such community does not need any such project or program, within another community.

The Secretary is directed to make a study of the first 25 applications approved under this section and report the results of such study to the Congress together with his recommendations for any revisions in the program which he determines to be appropriate, including any revisions in the authorization of appropriations for such program.

This section of the bill addresses the problem of excess capacity which contributes unnecessarily to the high costs of medical care. If these excess beds are closed, considerable savings will accrue to the system on an annual basis. Various estimates have indicated that the amount of the savings will depend on how the beds are eliminated:

If capacity is reduced 10 percent by closing or converting whole hospitals there will be an estimated savings of about 8 percent of total hospital expenditures. Annual savings would be $40,000 per bed or a total of about $4 billion based on 1976 expenditures.

If the 10 percent reduction results from closing particular service departments, the savings will be an estimated 4 percent of total expenditures. Annual savings would be $200,000 per bed or a total of about $2 billion.

The savings from closing scattered beds would be minimal.

There have been numerous suggestions that the health planning program deal with the problem of excess capacity through a mandatory decertification authority to be added to the existing mandate for certification of proposed new institutional health services. The approach envisioned in these proposed amendments, however is purely voluntary in nature and depends for its success upon the cooperation of both providers and planning bodies. It would remove the hospital's primary financial barrier to closure—outstanding debt, and provide other incentives for the development of alternative health services for the community in which the closing hospital is located. It would also recognize and deal with other conerns associated with hospital closure, such as impact on employment.

Finally, and perhaps most importantly, it would provide health planning bodies, hospitals, other providers, and consumers with additional leverage and funds to move the health delivery system toward realization of the goals set forth in each agency's HSP and AIP, and in the SHP.

Section 301 repeals subsections (a), (b), and (c) of section 314 of the PHS Act. These former CHP authorities are now obsolete.

Section 302 repeals title IX of the PHS Act in its entirety. These former RMP authorities are now obsolete.

Mr. SCHWEIKER. Mr. President, I am today joining with Senator KENNEDY in introducing a bill to amend the Health Planning Act, Public Law 93-641. I have long been a supporter of the concept of health planning. It is and should be a major part of our effort to insure quality of care at a reasonable price.

Health planning, as established in Public Law 94-641, has developed significantly since 1974. As it has developed we have noted its successes but also become aware of some of the problems.

For instance, we are aware of the criticisms voiced with regard to the health systems agencies, in particular that they are not accountable and are dominated by special interests. We are also aware of the criticisms of the States, that the role of local and State governments is too limited.

We are concerned about the criticism that planning was essentially a "top-down" program with the local HSA's and the States relegated to the role of functionaries administering a Federal program. Certainly the Federal guidelines proposed in September 1977 raised serious questions whether they were guidelines, or in fact were goals and quotas.

As the ranking Republican on the Senate Subcommittee for Health and Scientific Research, I have been working with Senators KENNEDY, JAVITS, and WILLIAMS to develop amendments to Public Law 93-641 designed to address the problems we identified.

During this process we have sought the views of the many groups involved in health planning or directly affected by Public Law 93-641. An extensive series of meetings was held with interested groups, and we received over 300 responses to our letter containing questions on the effectiveness of the structures set up by the act to meet local health needs and to begin to achieve quality care at reasonable costs. Using the comments of those intimately involved in the planning process, we have come up with legislation we feel will improve the process and eliminate many of the problems previously experienced. In doing this we have attempted as little disruption of the health systems agencies as possible. Many have had little time to develop and a substantial change at this point in their makeup or duties would seriously hurt implementation of the act.

However, we did make substantial changes in the structure of the planning process itself. State governments will now rightfully have much more control over the process as the Governor will have final veto power over the State health plan developed by the State Health Coordinating Council. This State plan will not be bound by the Federal guidelines nor would the Department of Health, Education, and Welfare have any authority to approve the plan developed by the State.

This plan will prove increasingly important as we have also tied the certificate of need process to it. Obviously, no plan can ever foresee unusual developments or cover every contingency, and a reasonable exceptions process will be drawn up to take care of these situations. However, planning, unless it is tied to certificate of need, is of limited value. If we are serious about providing quality care and reducing exorbitant health costs, it is necessary for the States to move seriously in this direction. In addition, we have added in the certificate-of-need process a provision for voluntary elimination of unneeded facilities and services.

For the first time the HSA's will be asked to identify specific unneeded services and/or facilities, and also for the first time the Planning Act will contain an authorization to provide grant funds for those facilities which agree to eliminate services or facilities. The grants are intended to compensate for the costs involved in the terminations. I think it is important to note that this is a strictly voluntary program and neither the HSA nor the Federal Government would be given authority to, in effect, "condemn" property.

Other significant changes in Public Law 93-641 have been the inclusion of provisions to insure that existing planning mechanisms for mental health services are effectively utilized rather than duplicated. The problems of States with unique physical characteristics or population problems have been recognized. Also, we have exempted portions of HMO's from certificate-of-need to insure that the discrimination they have experienced in the past no longer continues.

The bill, in its present form, does not make any substantive changes in title 16 of Public Law 93-641. I am concerned that the programs authorized therein to provide funds for updating antiquated public hospitals and for funding renovations required to conform to life and safety standards have not been implemented. It is my intention to solicit input from all affected parties with regard to title 16 so that the final bill will reflect the changes necessary to implement an effective program.

The subcommittee has scheduled several days of hearings with regard to the proposed bill. I would hope that these hearings will enable us to make whatever changes are necessary to develop a health planning program which is both effective in assuring access and containing costs and at the same time preserves the principle of State and local planning which takes into account local needs.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator KENNEDY and others in sponsoring the Health Planning Amendments of 1978.

For three decades, both government and the private sector have attempted to develop systems for the allocation of resources to improve the health of Americans. During this period a number of health planning programs emerged with

different histories and responsibilities, but with some overlap in their activities.

The National Health Planning and Resource Development Act of 1974 built on the experience of these programs, combining their best features into one planning structure involving the talents of health care consumers, providers, planners, and administrators, and representatives of State and local government.

By providing a balanced planning mechanism for developing services and rationally allocating capital investment in the health care industry, the 1974 Act sought to achieve equal access to quality health care at a reasonable cost.

Progress made to date in implementing the present law has clearly demonstrated that the general approach to planning set forth in the act is workable. However, specific problems still exist which, if not corrected, may interfere with the attainment of national health planning goals.

The Health Planning Amendments of 1978 are designed to correct these problems by building on the strengths of existing law. Specifically, the bill makes the following provisions:

Expands the role of the consumer in the health planning process;

Broadens the Governors' responsibilities in the coordination and development of the State health plans;

Encourages the development of health maintenance organizations; and

Establishes, in conjunction with the existing certificate-of-need review procedure, a voluntary program for closing, converting or merging unnecessary facilities and services.

These and other important provisions of the bill were developed after careful attention to the concerns of those most closely involved in health planning across the Nation. I am confident that these amendments include the elements necessary to assure achievement of national health planning goals in the near future, and these elements form a solid foundation for consideration by the Committee on Human Resources in the weeks ahead.

Mr. JAVITS. Mr. President, today I join with Senator KENNEDY, chairman of the Subcommittee on Health and Scientific Research of the Human Resources Committee, of which I am ranking minority member, in introducing the Health Planning Amendments of 1978, a 3-year renewal of the National Health Planning and Resources Development Act of 1974—Public Law 93-641.

I was a coauthor of that legislation which was signed into law 3 years ago and established through the Nation a network of 205 health systems agencies to carry out health planning and resources development at the regional and local levels. This, combined with 56 State and territorial agencies, provides for a Federal, State, and local network for planning and allocating increasingly scarce resources for the organization and delivery of personal medical care services.

These health systems agencies, which are determining regional blueprints for the delivery of medical care, are governed by a board of consumers and providers living in that region, so that local needs and local voices can determine the individual health priorities for each health service area. Although this is a complex and intense process, I am pleased with the progress that we have seen to date under the law. Within the next year all 205 health systems agencies will have health systems plans for their regions, so that we will have a clear idea of the health needs of our population.

The amendments which I join my colleagues in introducing today are primarily to correct minor administrative and organizational inconsistencies in the original act. There are, however, a few significant changes which will be closely examined during the intensive hearing process which will begin on this legislation during the first week of February. Among these are requirements that: First, refine the certificate of need process in the current legislation, including making certificate of need decisions consistent with the State health plan and broadening certificate of need requirements to include any equipment valued at more than $150,000 irrespective of location; second, establish a voluntary program to encourage hospitals to close, merge, or convert unnecessary facilities or services for which financial assistance would be made available; and third, authorize the Governor of a State to approve the State health plan developed by the statewide health coordinating council, over which he now has no authority. These, as well as the many other provisions, are outlined in detail in the accompanying summary of the legislation and section-by-section analysis.

In addition section 1625(d) of the Health Planning and Resources Development Act provides for grants to public hospitals for construction and modernization projects designed to, first, eliminate or prevent imminent safety hazards, as defined by Federal, State, or local fire, building, or life safety codes or regulations, or second, avoid noncompliance with State or voluntary licensure or accreditation standards.

Until last year funding for this section depended upon a 22 percent set-aside of funds appropriated for all hospital construction under the act. Unfortunately since the enactment of Public Law 93-641 no such funds have been appropriated, and the 22 percent set-aside has been limited to about $11 million, which was the required share of carryover funds.

Last year during the Human Resources Committee's consideration of the Health Programs Extenson Act of 1977, it was brought to my attention that HEW had received 136 applications for $138 million for renovation and improvement projects to make hospitals safe. HEW's initial review showed that 50 applicants for $66 million met basic eligibility requirements. Since that time the need for this assistance has become even more pressing.

It was for this reason that I included a provision in the Health Programs Extension Act which was signed into law last year for a separate funding authority of $67.5 million for such projects. In the amendments being introduced today I have had included authorizations of $75 million for fiscal year 1979, $100 million for fiscal year 1980, and $125 million for fiscal year 1981.

Funding of this provision must be a top priority for the fiscal year 1979 appropriations process. Public hospitals, which serve primarily the medically indigent of our Nation, have too long been without even the basic assistance to meet the minimum life and safety codes required of all hospitals in the Nation. Not only are the medically indigent, particularly in the country's urban areas, facing a shortage of resources from which to receive medical care, but when those who finally are able to obtain care receive it, it is in an institution to which you and I would be unwilling to send our own famlies.

In this legislation, as well as in the Public Health Service authorities which we will be renewing shortly, I plan to emphasize the need for a focus on our citizens living in the Nation's medically underserved urban areas.

The public general hospitals in our innercity areas serve as the routine source of medical care for much of their community, which in many cases is primarily poor and medically indigent. Frequently these facilities are the only source of care for persons covered by medicaid and for the working poor who are not eligible for such assistance.

The need for medical care is so intense that public hospital emergency rooms and outpatient departments are deluged by people who have basic medical needs which do not require emergency room treatment, or hospitalization. But the needs are so great and the resources are so limited that the public hospital is the only identifiable medical resource in the community.

One of the significant problems in this area is a lack of attention in the planning process to the immediate need to reform the organization and delivery of primary care and institutional health care services in the inner city. In addition to making good use of the resources that are provided for in section 1625(d) for the renovation and modernization of public hospitals, HSAs must move ahead immediately to target their efforts on innercity health problems. The developmental funds provided for HSAs under section 1640 should be first targeted on initiatives to increase accessibility, availability, and quality of medical care for medically underserved areas.

As the subcommittee proceeds with hearings and markup on this legislation, I intend to work for specific requirements in the law to meet these needs. I look forward to the input of those organizations representing the public hospitals, the community health centers, and the millions of medically underserved Americans who reside in our inner cities and in other areas.

By Mr. DECONCINI:

S. 2411. A bill to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses by U.S. marshals for transportation ex-

penses for persons released from custody pending their appearance to face criminal charges before that court or any court of the United States in another Federal judicial district; to the Committee on the Judiciary.

Mr. DECONCINI. Mr. President, today I am introducing a bill designed to authorize the payment by U.S. marshals of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court or any court of the United States in another judicial district.

Frequently defendants arrested upon Federal criminal charges in a district, or division within the district, other than the one where the prosecution is pending, and required upon a warrant of removal to return to the district, or division within the district, of prosecution for arraignment and trial will lack the funds to provide their own transportation to the district, or division within the district, where their appearance has been ordered. At present there are no provisions for the expenditure of Government funds to pay for the transportation of such persons released under the authority of the Bail Reform Act.

This means that such defendants must be held in the custody of the U.S. marshal so that the marshal may have the defendants escorted to their destination. Thus, persons who would otherwise be entitled to release, on bail or otherwise, must be retained in custody in order to arrange for their transportation at Government expense. This bill would help to facilitate equal protection of the law by providing that a defendant be released from custody when he is so entitled under the Bail Reform Act without regard to the financial position of the defendant. Further, providing for the defendant's release from the custody of the U.S. marshal pending his trial should allow him additional time to prepare for his defense by giving him a greater opportunity to meet with counsel and gather evidence on his own behalf.

Mr. President, such practices have not only imposed an unnecessary strain upon the resources of the U.S. marshals, but this practice has resulted in great delay in criminal proceedings and has on occasion posed a threat to the ability of the courts to comply with the prosecution time limits set by the Speedy Trial Act of 1974.

Mr. President, the bill being submitted to you today would rectify these problems by authorizing any court of the United States, upon releasing a needy defendant pending his appearance in another Federal judicial district, or in another division within the district, in which charges are pending against him, to direct the U.S. marshal to furnish such an individual with transportation to the place where the charges are pending. In addition, this bill would authorize the marshal to furnish the defendant with money for necessary subsistence expenses en route in an amount not exceeding the subsistence allowance to which a Government employee in travel status would be entitled. Such travel and subsistence expenditures would be paid by the marshal out of funds authorized by the Attorney General.

Because of the nature of the subject matter addressed by this bill, it is difficult to make a reliable estimate of its exact financial effect. However, most probably the bill's impact would result in a cost savings to the Government or if any unforeseen additional expenses would be incurred, they would be of a very minimal nature.

On the basis of the enactment of this bill, money would be saved from the present expenditures of the marshal service because it would no longer be necessary to have the released defendant escorted by deputy marshals, conserving the time of the deputy marshals and allowing the defendants to travel more expeditiously. In the light of this, it has been estimated that this bill would result in an annual savings of approximately $500,000 from the U.S. Marshal Service's transportation budget.

Mr. President, the problem of criminal defendants who are ordered removed from one judicial district to another, or are ordered removed from one judicial division to another, and lack the personal funds to pay for their own transportation is a very common one. I believe that the enactment of this bill would expedite criminal proceedings in the Federal courts by enabling a defendant's being removed within a judicial district or to a different judicial district, and who is otherwise eligible for release, to travel on his own. This procedure would considerably reduce the travel time to the district or division of prosecution that would be needed if the defendant must be committed to the custody of the U.S. marshal for this purpose.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 315 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 4285. Persons released pending further judicial proceedings.

"A court of the United States, when ordering a person released under chapter 207 on a condition of his subsequent appearance before that court or any court of the United States in another judicial district in which criminal proceedings are pending, may, when the interests of justice would be served thereby and the person cannot provide the necessary transportation on his own, direct the United States marshal to arrange for that person's means of non-custodial transportation or furnish the fare for such transportation to the place where his appearance is required, and in addition may direct the United States marshal to furnish that person with an amount of money for subsistence expenses to his destination, not to exceed the amount authorized as a per diem allowance for travel under section 5702(a) of title 5, United States Code. When so ordered, such expenses shall be paid by the marshal out of funds authorized by the Attorney General for such expenses.

"SEC. 2. The section analysis of chapter 315 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"4285. Persons released pending further judicial proceedings."

By Mr. WEICKER:

S. 2412. A bill to prohibit the importing of Ugandan articles into the United States; to the Committee on Finance.

S. 2413. A bill to amend the Export Administration Act of 1969 to prohibit the exporting of goods to Uganda; to the Committee on Banking, Housing, and Urban Affairs.

S. 2414. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Finance.

Mr. WEICKER. Mr. President, I am today introducing legislation to end U.S. commercial support of the Ugandan Government of Idi Amin.

Thomas Jefferson once said that the denial of freedom anywhere is a threat to freedom everywhere. Nowhere in the world today are the basic rights and freedoms of human beings more abused than under the rule of Idi Amin. Reports from within Uganda reveal a nation ruled by institutionalized persecution, torture, and execution. More than 100,000 Ugandans have perished or disappeared under a systematic government policy of genocide against certain tribal, religious, and political groups. Our last American Ambassador to Uganda, Dr. Thomas Melady, offers a sobering and frightful description of Amin as the new Hitler in Africa.

The legacy of brutality and tyranny established by Amin during his short dictatorship of 7 years is well known and understood by the American people and the Members of this body. Some may be unaware, however, of the key role played by American trade in maintaining Amin's absolute power.

The Ugandan economy is dependent upon the exportation of green coffee to Europe, Asia, and the United States for its survival. Today over 90 percent of Uganda's export income and 15 percent of its gross national product is derived from international coffee sales. The United States has been purchasing large and increasing amounts of this coffee over the past 5 years. In 1976, U.S. firms purchased over 62 tons of coffee from Uganda, valued at $176 million. This represents over one-third of Uganda's coffee exports.

Data from 1977 indicate a 30-percent increase in U.S. purchases over the previous year, with payments to Uganda reaching $218 million for the first 6 months of last year. On the other side of the trade picture, Uganda has imported from the United States millions of dollars worth of sophisticated communications equipment and luxury goods. During the first 7 months of 1977,

$11 million dollars worth of equipment and goods were exported to Uganda, more than double the previous year's total.

Uganda's balance of trade has improved significantly in the past several years because of increasing U.S. imports of coffee and the rising world price of that commodity. It is this hard currency surplus, which reached $285 million in 1976, which permits Amin to import military hardware to equip his Army and buy the luxury goods used to maintain the support of military leaders and the dreaded "State Research Bureau" which enforces his rule of terror.

Mr. President, American commercial support for the economy and Government of Uganda is substantial and it is growing. The legislative package I have introduced today is designed to end this unsatisfactory state of affairs.

The bills I lay before the Senate are essentially identical to those introduced in the House of Representatives by Congressman DONALD J. PEASE of Ohio and 74 cosponsors. The package consists of the following: First, a bill to prohibit the importation of any article which is the growth product or manufacture of Uganda into the United States; second, a bill to amend the Export Administration Act of 1969 to prohibit exportation of U.S. products, materials or supplies to Uganda; and finally, to specifically address the United States-Uganda coffee trade, a bill to amend the Tariff Schedules of the United States to prohibit entry of Ugandan coffee.

Our strength as a Nation is derived from the commitment we have made to the freedom and basic rights of all human beings. We have affirmed and defended that commitment from Yorktown to Normandy to Selma, Ala. For the United States to support, at this time, the madness and destruction of life which reigns in Kampala, with its dollars and prducts, makes a mockery of what America is all about. Mr. President, I urge the members of the Senate to carefully consider this legislation and end U.S. trade with Uganda.

ADDITIONAL COSPONSORS

S. 727

At the request of Mr. GRIFFIN, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 727, a bill to amend section 408 of the Federal Meat Inspection Act.

S. 818

At the request of Mr. WILLIAMS, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 818, a bill to end the use of steel-jaw, leg-hold traps.

S. 2151

At the request of Mr. WILLIAMS, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2151, a bill to authorize loans for the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes.

SENATE RESOLUTION 302

At the request of Mr. MCINTYRE, the Senator from Nevada (Mr. CANNON) and the Senator from Arizona (Mr. LAXALT) were added as cosponsors of Senate Resolution 302, expressing the sense of the Senate with respect to a reorganization of the Department of Housing and Urban Development.

SENATE RESOLUTION 355—SUBMISSION OF A RESOLUTION RELATING TO DISCRIMINATION IN EXPORT-IMPORT BANK FINANCING

(Referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. DOLE submitted the following resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 355

Resolved, That it is the sense of the Senate that there be no discrimination between the financing of agricultural and industrial exports by the Export-Import Bank in administering the Export-Import Bank Act of 1954. For purposes of the preceding sentence, if agricultural export supplies are adequate as determined by the Secretary of Agriculture, discrimination will have occurred if during any fiscal year Export-Import Bank financing of agricultural exports is not at least equal to the percentage of such exports among total U.S. exports for the previous fiscal year.

EXPORT-IMPORT BANK POLICY DISCRIMINATES AGAINST FARM EXPORTS

Mr. DOLE. Mr. President, I am afraid that the plight of U.S. farmers, especially wheat and feed grain farmers, who find themselves caught in a vicious cost-price squeeze is not fully understood by those who make Export-Import Bank policy.

I am convinced that the farmers' best hope for escape from the disastrous situation facing them lies in increasing the U.S. share of world trade in agricultural commodities. One of the tools that could be used to stimulate farm exports is Export-Import Bank credits. Provision of such credits to our overseas customers would help our farmers better meet the keen competition of world commodity markets, would mean additional exports, and improved farm incomes. However, this useful marketing tool is not being utilized in the interest of American agriculture. Only a meager $75 million worth of Ex-Im Bank credits for financing agricultural exports has been made available this year. This constitutes a single credit to Japan for the financing of a single commodity—cotton; and, I might add, this was made available only after considerable congressional interest was made evident.

It is difficult to understand why the administration has not been more forthcoming with Ex-Im Bank credits for farm exports. The repayment record for farm commodities financed under the program is excellent and the interest rate received is above the cost of money to the U.S. Treasury. This is not a give-away program but rather a sound and useful means to stimulate additional exports which would not otherwise occur.

On September 8, 1977, I wrote the President of the Export-Import Bank, asking that the Eximbank's farm commodity export policy be revised. I suggested that the meager $75 million financing of agricultural exports be increased to at least $500 million annually. Farm exports, which annually represent over 20 percent of total U.S. exports, deserve a more equitable share of the $6–10 billion of annual U.S. export financing by Eximbank.

I believe that in years of adequate supplies such as we are now experiencing that the Ex-Im Bank should finance farm exports commensurate with the share which they constitute of total U.S. exports. To do less, it seems to me, constitutes discrimination against the farm sector of our economy which is in dire need of this export stimulation.

Therefore, Mr. President, I am submitting a resolution which states that it is the sense of Congress that there be no discrimination between the financing of agricultural and industrial exports by the Export-Import Bank. I ask for the support of my colleagues for this resolution which will make it clear to those that develop Export-Import Bank policy that the American farmer and rural America expect fair treatment.

If this sense of Congress resolution does not produce this fair and equitable treatment for our farmers, I intend to introduce legislation which will mandate such treatment when the Export-Import Bank Act comes up for extension in this session of Congress.

AMENDMENTS SUBMITTED FOR PRINTING

U.S. PARTICIPATION IN THE SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND—S. 2152

AMENDMENTS NOS. 1666 AND 1667

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. PROXMIRE (for himself and Mr. BROOKE) submitted two amendments intended to be proposed by them, jointly, to the bill (S. 2152) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund.

Mr. PROXMIRE. Mr. President, on behalf of Senator BROOKE and myself I am submitting two amendments to S. 2152, the bill to authorize U.S. participation in the supplementary financing facility of the International Monetary Fund which will be marked up in the Banking Committee on Tuesday, January 31.

The first amendment would require that the U.S. agreement to participate in the facility not be concluded until funds have been appropriated to meet the U.S. contribution to the facility, and would authorize an appropriation for such purpose. The second amendment

would reduce the present exorbitant salaries of the U.S. Executive Director and Alternate Executive Director of the International Monetary Fund to the same levels as those of the Assistant Secretary and Deputy Assistant Secretary, respectively.

The U.S. contribution to the facility belongs in the budget where it can be weighed against other priorities and counted in the sum of U.S. financial obligations. The administration has taken the position that an appropriation is not needed for the facility, and that the U.S. commitment to participate need not appear in the budget, because the United States will receive liquid claims on the fund in exchange for the dollar contributed when calls are made. Such claim could not be used to meet the ordinary expenses of Government, however, and would only be encashable when the United States could show a balance of payments need.

In any case the Treasury would be required to provide dollars to the facility on call, and the agreement to participate in the facility would constitute a binding commitment to make dollar outlays. The Budget Act of 1974 requires that every bill authorizing such contracts to make outlays be limited to amounts to be provided in advance in appropriations acts. If S. 2152 were to be reported without provisions requiring an appropriation it would be subject to a point of order on the floor.

The second amendment would take a step toward bringing IMF staff salaries down from their current astronomical levels. The U.S. executive director of the IMF is eligible for a salary of $83,000, which is far more than is received by Cabinet secretaries, Congressmen, or Supreme Court Justices. The amendment would reduce the compensation for the executive director to the same level as assistant secretaries receive, and reduce the salary of the U.S. alternate executive director to the amount received by deputy assistant secretaries. Similar action was taken earlier this year by the Congress with respect to the salaries of U.S. representatives to the World Bank and the regional development banks.

The amendment would also require the Secretary of the Treasury to make recommendations to the IMF for reductions in all IMF staff salaries and benefits to levels comparable to those within National Government service. Such reductions could yield substantial savings to IMF members without sacrificing quality and efficiency within the institution.

Mr. President, I ask unanimous consent that the amendments and explanations thereof be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1666

On page 2, after line 11, add the following:

"(c) Notwithstanding any other provision of law, the authority of the Secretary to enter into agreements to make resources available under this section shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) There are authorized to be appropriated from time to time to the President to carry out the purposes of this section amounts not to exceed the equivalent of 1,450 million Special Drawing Rights.

"(e) Amounts appropriated under this section shall remain available for a period not to exceed five years from the effective date of decision numbered 5509–(77/127) of the International Monetary Fund."

EXPLANATION

The purpose of the amendment is to make U.S. participation in the IMF Supplementary Financing Facility (the Facility) subject to the appropriations process. The original language of S. 2152 assumes that U.S. participation in the Facility involves an exchange of assets (U.S. dollars for SDR-denominated claims on the Facility) for which no appropriation is needed. U.S. agreement to participate in the Facility constitutes a contract obligating the U.S. to make budgetary outlays within the meaning of Section 401(c)(2)(A) of the Budget Control Act of 1974 (31 U.S.C. 1351). The Budget Act provides that bills containing such contract authority or other new spending authority must be limited to amounts provided in appropriation Acts. The amendment is necessary to bring the bill into conformity with the Budget Act of 1974.

The United States obligation to the Facility would be 1,450 million Special Drawing Rights and the obligation would last five years from the date upon which the Facility is established. The amendment would limit the authority to appropriate funds to meet the U.S. obligation to the Facility to the amount and time period specified in the agreement to be concluded by the U.S. with the Fund. Any expansion or extension of U.S. participation would require a new authorization from Congress.

AMENDMENT NO. 1667

Add a new section: Section 2: Section 3(c) of the Bretton Woods Agreements Act (22 U.S.C. 286a(c)) is redesignated as section 3(c)(1) and amended by adding at the end thereof the following new paragraph:

"(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) The Secretary of the Treasury shall instruct the United States executive director of the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national government service. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the Congress prior to February 1, 1979."

EXPLANATION

The amendment would reduce the salaries of the Executive Director and alternate to correspond to salaries received by other U.S. government officials with responsibilities of similar level and scope. The amendment would also provide for the submission by the U.S. to the IMF of a proposal for a general realignment of all IMF salaries to achieve a correspondence between the compensation afforded those employed by the international organization and those employed by national governments.

The salary of the U.S. Executive Director of the International Monetary Fund is $83,830.00. By comparison, the salaries of the Secretary of the Treasury, and Assistant Secretary of the Treasury, a United States Senator and a Supreme Court Justice are respectively: $63,000.00, $50,000.00, $57,500.00, $72,000.00. The salary of the United States Executive Director would be reduced to the same level of an Assistant Secretary and the salary for the alternate U.S. Director would be reduced to that for a Deputy Assistant Secretary.

Mr. BROOKE. Mr. President, I am pleased to cosponsor these two amendments proposed by the distinguished chairman of the Banking Committee because I strongly believe that U.S. participation in the IMF supplementary financing facility should be subject to the appropriations process and, also, that the salaries of the U.S. Executive Director and Alternate Director of the IMF should correspond to those received by other Government officials in similar capacities.

Furthermore, I believe that the full amount of the U.S. commitment to participate in the IMF facility, the equivalent of SDR 1,450 million—approximately $1.7 billion—must be appropriated if the United States is to be committed to that amount. I intend therefore to move that language to that effect be included in the Banking Committees report, and I will, as a member of the Appropriations Committee, work toward that end.

REFORM OF THE FEDERAL CRIMINAL LAWS—S. 1437

AMENDMENT NO. 1668

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, on February 3, 1978, beginning at 9:30 a.m. in room 6202 of the Dirksen Senate Office Building, the Committee on Veterans' Affairs will conduct hearings on S. 2384, the proposed "Veterans' and Survivors' Income Security Act," a measure to provide for a comprehensive reform of the VA pension program, and H.R. 5029, a bill to extend the VA's authority to contract for hospital and medical care for certain Filipino veterans and to maintain a regional office in the Philippines until September 30, 1979.

Persons wishing to testify or submit written statements for the hearing record should contact Mary Sears at 224-9126 by Tuesday, January 31.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. TALMADGE. Mr. President, I wish to announce that the Senate Committee

on Agriculture Nutrition and Forestry has invited Secretary of Agriculture Bob Bergland to appear before the Committee on Tuesday, January 24, at 9 a.m. to discuss the economic crisis which faces our Nation's farmers. Although this meeting has been planned for some time, the presence of thousands of farmers in Washington this past week has made the hearing even more timely. I am hopeful that this meeting will provide at the least some short-term relief for the farmer. The committee will meet in room 5110, Dirksen. Anyone wishing further information should contact Denise Love. hearing clerk, room 322, Russell (Ext. 40014).

SUBCOMMITTEE ON NUTRITION

Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Nutrition of the Senate Committee on Agriculture Nutrition and Forestry will hold an organizational meeting on Wednesday, January 25 from 8:45 to 9:30. The purpose of the meeting will be to determine what areas subcommittee members would like to become involved in this year as well as to introduce subcommittee staff members. The meeting will be held in room 324, Russell. Anyone wishing further information should contact Denise Love, hearing clerk, room 324, Russell (Ext. 40014).

DISTRICT OF COLUMBIA PRETRIAL DETENTION AMENDMENTS

Mr. EAGLETON. Mr. President, on behalf of the Subcommittee on the District of Columbia, I wish to announce that the subcommittee will hold hearings on Tuesday, January 31, and Monday, February 6, on the House-passed amendments to the District of Columbia pretrial detention law, contained in H.R. 7747.

SUBCOMMITTEE ON AGING

Mr. EAGLETON. Mr. President, the Subcommittee on Aging of the Human Resources Committee will hold a series of hearings on extension and revision of the Older Americans Act of 1965 beginning on February 1, at 9 a.m. in room 6226, Dirksen Senate Office Building. Subsequent hearings will be held on February 3, 9:30 a.m., room 457, Russell Senate Office Building; February 7, 9 a.m., room 6202, Dirksen Senate Office Building; and February 8, 9 a.m., room 457, Russell Senate Office Building.

All persons interested in presenting written testimony to the subcommittee for inclusion in the hearing record should contact Marcia McCord, staff director of the Subcommittee on Aging, room 4230, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

SENATOR DEWEY BARTLETT AND THE RIGHT TO LIFE

Mr. HATCH. Mr. President, last week, Senator DEWEY BARTLETT announced that he would not seek reelection to another term in the Senate. Regardless of party affiliation or political beliefs, every Member of the Senate recognizes that our distinguished colleague from Oklahoma has brought to Capitol Hill integrity, intelligence, and moral insight. He will be missed on the floor of the Senate. But I know that, with his accustomed generosity, he will continue to make available to us his sage advice even after the completion of his term.

This day, the fifth anniversary of the Supreme Court's tragic decision legalizing abortion on demand throughout the United States, reminds us how much the Congress needs the leadership of Senator BARTLETT, who has for years unflinchingly kept before us the horrid truth that abortion is the taking of a human life.

It is time for us to follow his counsel.

It is time to listen to the voices of those thousands of dedicated Americans assembled today on the doorstep of the Capitol.

It is time to restore the protection of our laws to unborn children.

We need not give testimonials to Senator BARTLETT today. The marchers outside this building, overcoming the cold of wintry Washington with the fervor of their prolife ideals, are themselves the best testimonials to his foresight. Every year their numbers have grown. With every session of the Congress, more red roses sprout up here among us in the halls of the Capitol and across the land.

They are more than a prolife symbol. They are bouquets for DEWEY.

THE LAW OF THE SEA: RETHINKING U.S. INTERESTS

Mr. JACKSON. Mr. President, when the sixth session of the U.N. Law of the Sea Conference adjourned last summer, Ambassador Elliot Richardson, head of the U.S. delegation, issued a stinging rejection of the draft treaty issued by the Conference, the so-called informal composite negotiating text. Testifying befor the Committee on Energy and Natural Resources, Ambassador Richardson subsequently identificd the source of his unhappiness as the last-minute revisions of the deep seabed mining text, carried out independently by Committee One Chairman Paul Engo.

The U.S. delegation has since been undertaking an across-the-board review of its position, with U.S. withdrawal from the Conference a distinct possibility. While the outcome of this review has not yet been announced, Richardson will apparently lead the delegation to the forthcoming seventh Conference session at Geneva in March.

This session increasingly takes on the aspect of an all-or-nothing last try at bringing back a comprehensive law of the sea treaty for Senate ratification. Thus, the underlying assumptions and strategies of our negotiators are matters of great concern.

Consequently, when Richard Darman, who was vice chairman of the U.S. delegation at the last Conference session, chooses to discuss such considerations in an article appearing in the January issue of Foreign Affairs magazine, one is compelled to give close attention.

Darman argues the need for a drastic reorientation of the entire U.S. negotiating strategy. He would cast aside some long-cherished preconceptions. In the course of his analysis of the U.S. position vis-a-vis the Conference, he proposes that, first, the prospect of Conference failure should be accepted as "nondisastrous" and perhaps even beneficial to U.S. interests; second, greater efforts should be devoted to breaking down the North-South polarity within the Conference delegations; and third, the development of a "minitreaty" outside the Conference should be undertaken, perhaps utilizing reciprocal agreements between ocean-mining nations to establish rules for the orderly recovery of deep seabed resources.

I might add that such reciprocal arrangements are contained in S. 2053, the Deep Seabed Mnieral Resources Act, a bill now pending before the Senate Energy and Natural Resources Committee, and in bills reported out by the House Interior and Insular Affairs Committee and Merchant Marine and Fisheries Committee.

Mr. President, I believe Mr. Darman's article will prove to be of interest to my fellow Senators, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LAW OF THE SEA: RETHINKING U.S. INTERESTS

(By Richard G. Darman) *

According to conventional wisdom, a failure to achieve a comprehensive agreement at the Law of the Sea Conference would have potentially disastrous consequences. A reappraisal of U.S. interests in these negotiations, however, indicates that this assumption is, at least in part, fallacious. The United States can best serve its proper interests and the world's by reorienting its Law of the Sea strategy and advancing a set of policies and initiatives that do not depend upon Conference approval for their beneficial effect.

The closing events of the last session of the Conference provided a strong stimulus to a fundamental rethinking of U.S. interests and strategy with regard to the Law of the Sea. On July 20, 1977, the president of the Conference released a negotiating document that many hoped would mark the final stage in the seemingly unending quest for a comprehensive treaty. On the same day as the "Informal Composite Negotiating Text" (ICNT) was released, the United States—without whose participation there cannot be a workable treaty—termed the deep seabed provisions of the text "fundamentally unacceptable." The chairman of the U.S. Delegation stated publicly that in light of the text's unfortunate, last-minute deviation from what had seemed to be an emerging direction of promise in the deep seabed negotiations . . . our government must review not only the balance among our substantive interests, but also whether an agreement acceptable to all governments can best be

* Richard G. Darman, currently Lecturer in Public Policy and Management at Harvard University, was Vice Chairman of the U.S. Delegation to the 1977 session of the Third United Nations Conference on the Law of the Sea, and formerly Assistant Secretary of Commerce for Policy, 1976–1977. The views of the author should not in any respect be construed to represent the views of the U.S. government.

achieved through the kind of negotiations which have thus far taken place."

Among those familiar with diplomatese, this was interpreted as very strong language—threatening what many internationalists view as unthinkable, the withdrawal of the United States from a major U.N.-sponsored negotiating effort, and a possible "rupture" in the "North-South dialogue." Indeed, such a withdrawal is taken to be unthinkable by the Conference leadership, who plan confidently for a degree of procedural reform, resulting in the participation of the United States at the resumption of the formal conference in March 1978, *and* preparation of a full draft treaty by April 1978.

Within the U.S. government, the announced state of "searching review" continues. And this is surely a good thing. It is desirable for tactical reasons at a minimum. But it is also desirable substantively. It is perhaps the last practicable opportunity to reexamine conventional Law of the Sea wisdom—before the executive branch becomes engaged in what may be an uncertain quest for ratification.

One of the many remarkable characteristics of the U.N. Conference on the Law of the Sea is the scope of its ambition. Simply put, it seeks to establish a system of government—political, economic, administrative and judicial—for two-thirds of the earth's surface. The apparent grandiosity of this conception should be set against the consideration that the surface involved is now largely undeveloped—indeed, covered with water. Nonetheless, the simple geopolitical conception is inescapably impressive. And it is obviously the more so when consideration is given to the fundamental connections between the oceanic two-thirds and the continental one-third of the earth.

The oceans are not merely a historic source of life and romantic undertaking. They remain literally vital to human existence and a source of exciting promise. They provide major portions of the world's protein, oil and gas supplies, and are of increasing importance to the satisfaction of expanding global food and energy demands. They enable efficient expansion of international trade through economical commercial transportation. They permit efficient global information exchange via undersea cable communication. On their seabeds rest vast quantities of hard minerals essential to industrial development. Their ecology influences patterns of weather, the quality of the atmosphere, indeed, the basic global environmental war, and also the protection of peace—particularly through the preservation of a strategic military balance. And, not least, they are a source of aesthetic satisfaction and a vast frontier for man's continuing inquiry and exploration. Further, the goal of the conference to regulate all these areas gives the oceans an additional function, also arguably vital: they now provide the focus for a major experiment in global problem-solving and global institution-building.

The United States, of course, has important interests associated with military functions—have been predominant in the development of U.S. policy toward a comprehensive treaty on the Law of the Sea.

In 1966–67, the primary motive for initial U.S. attention to the possible desirability of a new Law of the Sea conference was an interest in stemming the tide of "creeping jurisdiction," the expanding claims of coastal states to increasingly "territorialist" extension seaward. In the preceding decade, since the close of the first U.N. Conference on the Law of the Sea in 1958, the expansionist pattern had become clear. Whereas 54 percent of coastal states claimed territorial seas of three nautical miles or less in 1958, a decade later the number had dropped to 85 percent. In the same period, the number of coastal states claiming teritorial extensions of 12 miles or more increased from 18 percent to 43 percent.

This pattern presented obvious difficulties for the military, in the face of apparent U.S. foreign policy demands. Expansion of territorialist claims of 12 miles or more, if accepted, threatened to "close" more than 100 straits, removing from them the traditional high seas freedom of transit, and imposing instead the restrictions of "innocent passage." In particular, imposition of an innocent passage regime could require submarines to surface when passing through straits, and could seriously limit air overflight in crisis situations. Further, the functional expansion of coastal state jurisdiction toward increasingly broad "security zones," "economic zones," and "environmental protection zones"—independently of the straits problem—could threaten the capacity of the military to preposition and project force. Given the then-limited reach of submarine-launched strategic missiles and the associated concern for maximum ocean space in which to hide, and given the apparently unlimited intended reach of U.S. conventional forces a decade ago (the United States was increasingly committed in Southeast Asia), it was perhaps inescapable that the United States should consider the avoidance of "creeping jurisdiction" to be a dominant oceans-policy interest.

It is this perception of national interest that led the United States to help foster the current Conference. Along with a genuine concern for the disparities in international wealth, this perception also importantly influence the United States to pursue a comprehensive treaty—linking the lure of revenue-sharing from resources of the ocean floor to the effort to restrain coastal state territorialism. It is the perceived importance of this interest in stemming jurisdictional "creep" that has given the Department of Defense special weight within the U.S. Law of the Sea Delegation. And it is this assumption that has consistently guided not only the thinking of U.S. Delegation heads, but also the allocation of their direct personal negotiating effort.

However, this view of national interest—and particularly its tie to an interest in a comprehensive, global treaty—may now be misguided. It is at least excessive in its emphasis—a conclusion that can be reached by any of the following three lines of argument.

The first is the most extreme and most heretical. One might argue that it is not in the U.S. interest to stem the jurisdictional "creep" which threatens generally to limit freedoms of military maneuver. For purposes of argument one might assume the following U.S. foreign policy framework, which corresponds to outlines increasingly accepted today: that the United States has an overriding interest in maintaining a satisfactory strategic balance, a need to assure stability in the Middle East, and a need to control the spread of nuclear destructive capability; that U.S. policy must be particularly sensitive to the obvious special importance of relations with the great American countries with which it shares thousands of miles of borders and a certain amount of history; that the premise of "trilateralism" is to be taken seriously—that security alliances with Japan and Western Europe are to be given primacy; and that the implied premise of, for example, the "Nixon Doctrine" and the announced intention of Korean troop withdrawal is to be generalized. That is, one might assume that there is to be a consistent practical accommodation of the limits on U.S. politico-military capacity with respect to intervention in distant developing countries.

In terms of conventional requirements of the military, such a U.S. foreign policy would be less global in its ambition (which is not to say that the policy itself would be less ambitious) than it was when Law of the Sea policy was conceived a decade ago. Given this policy framework, we must now reconsider the extent to which increased territorialism would constrain direct U.S. foreign policy interests—and the comparative impact on the Soviet Union.

With the increased range and sophistication of U.S. missiles and missile-launching submarines, it is arguable that transit through straits is not necessary to assure strategic deterrence. Further, there are neither straits nor third-party economic zones separating the United States from either Japan or Western Europe. And the posited foreign policy would not seek the capacity to project force off the coasts of distant developing countries—the legal status of their waters would not, therefore, be a determinative constraint. (Even if the policy did seek such capacity, the realities of U.S. domestic politics and competing demands for resources would be the determinative constraints on distant force projection.) In the limited number of hypothetical cases where the United States might justifiably move militarily to protect its citizens from gross abuse in a distant developing country, it would presumably do so, for the foreseeable future, regardless of the state of international law—and with the understanding of the world community.

In contrast to this pattern of irrelevance with respect to most direct U.S. interests, however, the degree of territorialism has significant relative impact on Soviet interests. In the first place, the Soviet Union is far more dependent on transit through straits than is the United States. Second, the Soviet Union's foreign policy is less constrained by domestic politics than is that of the United States; the relative impact of external constraints is, therefore, greater for the Soviet Union. This suggests what may be a counter-intuitive conclusion: that an increasingly territorialist regime could be of net advantage to the United States.

The argument has not, however, addressed the obvious problem that universal territorialist expansion could create with respect to U.S. interest in Middle Eastern stability. In particular, territorialist expansion could seriously limit naval and air transit of Gibraltar and fleet movements in the Mediterranean. To the extent such limits are even arguably unacceptable, the United States (joined in some cases by the Soviet Union) should simply and firmly, in both diplomacy and practice, stand on what has been traditional international law with respect to military freedoms in the Mediterranean.

It is not utterly inconceivable, although it is highly unlikely, that the interested parties might negotiate a special Mediterranean agreement (possibly in the context of a Mideast settlement), which would formally affirm and preserve necessary freedoms. More likely, the United States would be asked to pay a price for these freedoms through increased pressure in otherwise unrelated bilateral negotiations with a limited number of Mediterranean states. In view of the fact that these freedoms have already proved negotiable in the Conference—without the payment of a significant price to these Mediterranean states, and without causing them evident pain—and given the breadth of interest in preserving Middle East peace, it does not seem unreasonable to expect that the necessary Mediterranean freedoms could be preserved, in any likely case, at a thoroughly tolerable price.

Be that as it may, the fact that universal "creeping jurisdiction" can be shown to present serious problems—with respect to a specific area such as the Mediterranean, or one (perhaps as many as four) of the 116 straits

that a 12-mile territorial sea would affect—is hardly sufficient to justify a conclusion that "creeping jurisdiction" must be universally opposed.

A second general line of argument questioning the notion that a fundamental U.S. national security interest is in stemming the tide of jurisdiction "creep" proceeds inductively from the evidence of contemporary events. In the 20 years since the first U.N. Conference on the Law of the Sea, claims of territorial seas have consistently expanded. Sixty-nine percent of coastal states now claim territorial seas of 12 nautical miles or more. Eleven states claim territorial seas of 200 miles. In addition, 20 states specifically require prior permission or notification for warships to enter their territorial seas, and 32 states now claim one form or another of "security zone." The pattern of territorialist expansion has been inescapably clear—as, of course, have the individual cases. And the pattern of U.S. response has been equally clear. It has been, in general, a pattern of acquiescence. While religiously continuing obeisance with respect to the traditional high seas legal position, the United States has nonetheless consistently allowed that position to be eroded in practice. In the overwhelming majority of cases, the United States has treated the state of "relations" with the country involved as more important than the high seas freedom that may have been lost.

In addition to this executive branch pattern, there is the evidence of congressional behavior. It is generally agreed that the U.S. Congress has been a major force in increasing, not stemming, the territorialist tide—particularly by enacting the Fisheries Conservation and Management Act of 1976. The Congress is now seriously considering unilateral extension of U.S. jurisdiction for purposes of environmental protection. It is also seriously developing deep seabed mining legislation that, although it technically does not violate the traditional high seas conception, will be interpreted by many as doing so. It seems reasonable to suggest that if stemming the tide of "creeping jurisdiction" were a fundamental national security interest, one would have observed a different general pattern of executive and congressional behavior.[1]

The third line of argument that might challenge the prevailing perception of national interest and the Conference is less heretical than the first two. It could accept the emphasis on the need to stem "creeping jurisdiction," but it would question whether this objective is best pursued through comprehensive negotiations.

It is comprehensive negotiations, of course, that seemed attractive to the United States, and to several other key states, in planning for the Conference. As noted, the initial U.S. position called for a favorable linkage of restraint upon coastal state territorialism with revenue-sharing from resources beyond the 200-meter isobath and a licensing system for seabed mining. While this position may have adequately conceived the attractiveness of revenue-receiving, it failed to take into account the associated unattractiveness of revenue-sharing for those (including important allies) who would otherwise receive more. In addition to this practical shortcoming, the U.S. revenue-sharing proposal suffered from a psychological weakness in the connotation of its label, "trusteeship." For all practical purposes, the proposal has been rejected.

In rejecting the "trusteeship" proposal and limiting revenue-sharing to resources beyond 200 miles from shore, the Conference has changed fundamentally the nature and value of linkage. It has drastically reduced the amount of near-term revenue to be shared by excluding the vast oil and gas reserves located within 200 miles beyond the 200-meter isobath. In so doing, it has shifted the collective developing-country perception of interests. Revenue-sharing would now apply principally to deep seabed mining, and significant revenue from this source would not be available until 1990 at the earliest. Given this removal of direct, positive, near-term economic interests for most developing countries, there is a tendency for them to give greater weight to their ideological interests, while also viewing more sympathetically the need to avoid near-term economic costs that might be paid by only some among them, the land-based hard mineral producers. As a result, the Conference now presents the United States with a comprehensive treaty text that includes limitations on territorialist expansion, but that also includes an ideologically antithetical deep seabed mining regime with a highly undesirable limit on production. This obviously is a very different trade from that originally conceived by the United States. Indeed, the original conception did not involve a "trade," but simply the linkage of independently desirable proposals.

The trade now suggested by the Informal Composite Negotiating Text could have a further absurdly ironic twist: the proposed new International Authority could combine normal bureaucratic expansionary tendencies with the legal authority to regulate scientific research, mining, and associated activities affecting the environment—and thus limit traditional high seas freedoms beyond 200 miles. But even without this twist, it seems clear that in assessing the value of a comprehensive treaty, the gains associated with limiting territorialist expansion will have to be balanced against considerable losses in other areas.

This suggests the possible desirability of "un-linkage." It is feasible analytically to separate broad substantive areas for independent negotiation. And in practice, the business of the Conference has been conducted this way through formally separate committees. But it is probably not possible to get the Conference to agree to separate that which it has now brought together. Although the work of the committees has been conducted independently, it has been with the understanding that their ultimate combined product must constitute a "package deal." And while there has been no significant, formal cross-committee trading, the concept of a "package deal" has surely influenced the development of delegations' substantive positions and tactics. Indirectly, it has influenced the capacity to achieve what is essentially conditional compromise. For this reason, if not simply for reasons of inertial force, the Conference is now likely to rise or fall as a "package." And "un-linkage" is a practical possibility only if one would assume or accept the Conference "falling."

The United States is obliged, therefore, to assess the likely consequences of the Conference "falling," to weigh the full range of its interests in possible "packages," to analyze current limits on the negotiability of any acceptable package, and to reorient its strategy in the light of this analysis. The remainder of this article is a subjective assessment of these issues, organized as an extended line of argument toward one possible reorientation of strategy.

III

The United States announced its entry into the 1977 session of the Law of the Sea Conference with a rhetorical flourish: "Rarely has any generation had so clear a choice to make between order and anarchy."[2] One might be inclined to interpret this statement more as a commentary on the real competition for media attention in America than on the likely competition for control of the oceans. But the statement generally conforms to what has become a conventional view among Conference advocates: that without a treaty, the world will witness "the biggest smash and grab since the European powers at the Berlin Conference in 1885 carved up black Africa."[3]

This view reflects what is, as one might expect, a profound cultural aversion to unilateralism within the community of individuals (not states) involved in multilateral negotiations. It is perhaps particularly characteristic of the Law of the Sea Conference community, peopled as it is predominantly by internationalist lawyer-codifiers. The internationalists' tendency to favor collective over individual action is combined with the codifiers' tendency to wish to see the world in neat, static terms. Above and beyond practical considerations, there is an aesthetic antipathy toward the "disorder" of nonuniformity, and a general distrust of the possible benignness of self-regulating, dynamic processes. More directly to the point: warnings of the "disaster" of Conference failure and associated unilateralism merit careful examination—not only because they may be right, but also because they may not be.

The practical concern from the U.S. perspective, among those who fear "disastrous consequences" of unilateralism, is that the oceans will be "carved up"—and that, as a result, scientific research and commercial and military mobility interests will be affected extremely adversely. The fear of adverse effects of unilateralism upon the freedom of scientific research is justified. But the realities of the negotiating process are such that the best likely outcome of the Conference will not significantly slow the "creep" of coastal state jurisdiction over scientific research. Having discussed military interests above, the need here is to focus on the seriousness of the threat to commercial interests.

It must, of course, be granted that commercial navigation interests are important to the national interest. Indeed, they are essential—as is most evident in the case of oil transportation. Serious interference with such transport could legitimately be said to promise disaster. But it must be asked: What are the prospects of such serious interference without a treaty?

The doomsayers seem to imagine that a decentralized, nonuniform legal framework will result in something like a rampant medieval disease with states spreading pikes across sealanes, breeding violent parochial conflict. This is, of course, a theoretical possibility. But then one must assume not only that states would wish to behave in this manner (as some might), but also that a state's assertion of legal power to close a strait, set a prohibitive fee, impose an unreasonable environment standard, or otherwise limit transit will endow that state with sufficient power to do so. This assumption is simply not valid.

Further, the very fact that some hypothetical abuses by individual states could have extremely adverse effects for the United States, for other major powers, or for the global economy should suggest that such abuses would not be tolerated, in practice, by major powers or the global community. Indeed, the suggestion should be so obvious that it would only rarely, if at all, be put to the test. The extreme hypotheticals—irrationally diverting tankers or "closing" Gibraltar, Bab el Mandeb, Hormuz or Malacca—make the argument considerably more dramatic, but considerably less realistic.

The more reasonable worry is not that, absent a treaty, consequences will be "disastrous"; rather it is that the system may be marginally less efficient. It is likely, for example, that a decentralized system would yield incongruent environmental protection requirements—initially. But as the incongruity became irrationally burdensome, pres-

Footnotes at end of article.

sures would mount and appropriate mechanisms would be found to reconcile differences, as necessary. It is possible that increased costs of investment, fees, or delays might arise. But the logistics of enforcement and alternative routes would ordinarily hold these to an acceptable minimum. Where intolerable monopoly rents were sought, they would either not be tolerated—or, as in the recent evolution of fishing zones, the global system would endure some tolerable friction and would adjust. Indeed, the recent history of coastal state seaward expansion generally is an argument that the current decentralized system can move itself to a new equilibrium without centrally negotiated rules, and without throwing itself disastrously out of balance in the process.

There is a major new source of worry for some, however: the prospect of unilateral deep seabed claims, starting with U.S. legislation and resulting ultimately in the "carving up" of the entire ocean. This, too, is a seriously exaggerated concern. In order to preserve the traditional high seas status of the deep ocean area, the bill developed by the U.S. House of Representatives is intentionally drafted in a manner that "in no way asserts any territorial or sovereignty claim." Instead, it would regulate U.S. citizens' deep-sea mining activities under the principle of "nationality" jurisdiction, i.e., a principle based on a state's authority to regulate its citizens and corporations wherever they may be. Arguably, it could nonetheless stimulate territorialist seabed claims. But the number of such claims would likely be very few. And support for such claims in the world community would likely be slight. Developed countries generally would wish to preserve the high seas status and, insofar as they mined the seabed, would likely do so through one legal contrivance or another intended to protect property interests without making sovereign claims. Developing countries generally would wish to preserve the principle of the "indivisibility" of "the common heritage of mankind"—and would have difficulty enforcing deep ocean territorial claims in any case. Their more likely reaction would be to oppose the action of seabed miners by legal counteraction, and to seek effective means of economic reprisal—although their legal case would have to counter the powerful high seas tradition by resting principally on nonbinding U.N. General Assembly resolutions passed in 1969 and 1970, and opportunities for economic reprisal would be seriously limited by a combination of self-interest and logistical difficulty.

It is at least conceivable, however, that countries would make extensive deep ocean claims—and that the "carving" would take place. In terms of ocean "territory" and resource distribution, this would mean that the United States and other developed countries would fare very well—at the expense of the majority of developing countries. The pattern would be similar to the one associated with the expansion of economic zones, which most benefits developed countries.[4] Actually the overall effect of carving up the entire ocean by fully extending coastal state jurisdiction would probably have an even more exaggerated tendency to favor developed nations.[5] Were developing countries to act in their collective interest, this fact should act as a deterrent to their stimulation of claims. But the same point has been equally evident with respect to economic zone expansion—and individual states have nonetheless pursued their individual interests.

Thus it seems reasonable to argue that further unilateralism would not likely be either destabilizing or fundamentally disadvantageous to the United States.

But unilateralism could have an adverse effect on the balance of global wealth—in which, as a matter of equity and humane concern, the United States must have a profound interest. For it is clearly more likely that states would decide to transfer ocean-based wealth in the context of multilateral negotiation of a more centralized deep seabed regime than in a "unilateral" system. Interest in the pursuit of greater equity is, therefore, a proper conception of a rationale for multilateral Law of the Sea negotiation—as in interest in the possible avoidance of marginal, but tolerable, levels of systemic friction or inefficiency.

However, to conceive of an interest in the avoidance of "disastrous consequences" or "anarchy" as a rationale is to be fundamentally misguided, for it is fallacious to presume that such an interest is at stake. To fail to place this perception of U.S. interest in proper perspective is to ensure that the Law of the Sea Conference must fail. In contrast to the equity-interest conception, which puts the United States in a positive posture, the avoidance-of-disaster conception is doubly negative. It can only lead foreign governments to demand more than they must have—and U.S. negotiators to give away more than they should.

IV

The principal area of negotiation in which more is now being demanded of the United States than can, or should, reasonably be given—the principal area of stalemate—concerns the regime for the deep seabed. It is on the deep seabed that vast mineral resources—including more than 1.5 trillion tons of mineral-rich manganese nodules—await development.[6] Here, too, it is essential to place in reasonable perspective what may really be at stake.

From one point of view, aptly expressed in *The American Journal of International Law*, it would be "one of the great ironies in the history of codification and progressive development of international law," if formalization of agreements already reached in other areas were jeopardized by disagreement over mining of deep seabed manganese nodules—"an activity that has yet to begin; that by the end of the century may account for little more than a dozen mine sites . . .; and that is likely to have less immediate effect on the basic interests of most states than other activities dealt with in the text." On one level, this deflated view of what is immediately at stake through seabed nodule mining is probably appropriate. It fails however, to treat two difficult questions: What are the longer term interests at stake, and how are they to be weighed in the overall balance? Unfortunately, the United States has tended to view its seabed interests primarily in terms of mining, and without much regard for the longer term.

Although the U.S. view has not been entirely consistent—the United States has at times postured as if access to seabed minerals were a fundamental matter of national security—the State Department, and more recently the Defense Department, have sought to place the spector of U.S. "vulnerability" in more balanced perspective by arguing that the prospects of land-based cartelization in these minerals are neither analogous to OPEC nor likely to prove consequential; that the combination of land-based reserves and reasonable stockpile policies provide adequate protection; and that deep seabed mining itself would be vulnerable in wartime.[7]

The State and Defense Department arguments on non-vulnerability may be seen as consistent with their general concern for the stemming of "jurisdictional creep"—and the specific negotiating situation that seems to demand seabed concessions as a price for a treaty. It is a fair assessment, however, that nodule mining is not a strategic U.S. interest for the near term. But there remains the question of long-term access to minerals. The U.S. steel industry, for example, has expressed some serious concern that the land-based supply of manganese—essential to the manufacture of steel—may be exhausted within 30 years. The current seabed negotiations contemplate a formal review of the seabed regime after 25 years. At that point, developed-country negotiating leverage will have decreased—if, as promised, technology and self-financing capability have been transferred to the new International Seabed Authority. (If these have not been transferred, negotiators will have to cope with difficult arguments as to prior misrepresentation or bad faith.) At that point, also, seabased production should represent a major portion of world nickel, cobalt, and manganese demand. The future potential for cartelization or political abuse of market power—through the new Authority—could be very high. If this potential is to be dealt with responsibly, if it is not to be traded away by default, it must be addressed in the current negotiating context.

The most important issues at stake in the deep seabed negotiations, however, are not merely questions of manganese nodule mining. What is fundamentally at stake is a set of precedents with respect to systems of governance.

The Law of the Sea Conference seeks to establish an ongoing governmental apparatus for the deep seabed area (the area beyond coastal state jurisdiction—at least half the earth's surface). It would do so through the creation of an International Seabed Authority, which would have policymaking and regulatory powers, along with taxing powers and direct operational capabilities intended to allow it to become fully self-supporting. Its jurisdiction would initially be limited to exploration for, and exploitation of, seabed mineral resources—which, as a practical matter, would seem to mean manganese nodules for the near term. But to assume, therefore, that the precedent-setting importance of the issues involved is similarly limited could prove to be naive and short-sighted.

At a minimum, the seabed regime would govern the development of other seabed mineral resources as these become commercially interesting—petroleum, various gases, water and steam, sulphur, salts, phosphorites, ore-bearing silts, hard minerals in the ocean floor, etc. Commercial prospects for these are not now promising. But exploration and technological development are at what may be a very early stage for the deep seabed. In thinking about the seabed potential, it may be useful to recall the general lack of imagination that characterized the environment in which, for example, Alaska was purchased (and sold) a century ago. (The Alaska analogy may, of course, be misleading; it is in the nature of the problem that one does not know.) Even more to the point is the 1958 Geneva Convention on the Continental Shelf. The weakness of drafting in the definition of its scope reflects the fact that when it was signed—less than two decades ago—there were few who imagined that commercial manganese nodule mining would be technologically feasible.

In time, the Seabed Authority would likely expand its direct jurisdiction beyond mineral resources. It might do so within its initial charter, as noted above, through its responsibility for mining-related environmental regulation. And as the international community finds greater need for regulation of activities beyond coastal jurisdiction, it seems reasonable to expect that it will turn to the relevant governmental apparatus it may have already created, expanding the Authority's charter as necessary.

The precedential significance of the seabed regime extends beyond its direct jurisdiction, however. The world is struggling with the development and modification of

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global institutions for the increasing number of problems perceived to require global treatment. The struggle ranges from development of conventions for the governance of outer space to the somewhat more earthly reform of the increasingly complex set of institutions associated with the U.N. system. In this context, a new Authority for ocean governance must be a model that commands attention. Indeed, for a very large number of countries, the same individuals who are involved in the Law of the Sea Conference are also involved in the wide range of institution-building efforts associated with the U.N. system. And processes of connection are often rather direct.

There is a less direct process of precedent-setting connection that also merits consideration. It involves not the linkage among evolving global institutions, but the linkage between global institutions and the evolution of state systems of governance. In most federal or quasi-federal systems, the character of the central regime is replicated to some degree among the constituent parts. There seems sufficient reason to assume that this pattern will hold for many states—particularly, perhaps, the newer states—as global institutions are strengthened in their role and influence.

Given all these reasons for attention to precedents, the direction of the seabed negotiations must be deeply troubling for those who believe that the principles of governance affirmed by American experience are worthy of extension. Indeed, the inertial tendency of the Conference is clearly toward a regime that affirms principles of government and economics fundamentally antithetical to both American ideology and pragmatic experience.

This regime would impose an arbitrary governmental system of production and price controls—oriented toward protection of the current system of production and producers, without favorable regard to what may be the economic advantages of new systems of production or the dictates of consumer demand. It would mandate technology transfer—treating technological development as if it were a right in itself, not a favorable consequence of economic incentives and property rights. It would charter a new global commercial entity entitled to do business throughout the world, in favored competition with conventional commercial entities, without being subject to any state taxation. It would establish a new international governmental Authority with tax and regulatory reach far beyond the scope of activities and jurisdiction which require its creation. This Authority would be governed by a "supreme" Assembly on the basis of one-state-one-vote "majoritarianism"—a system which bears no sensible relationship to one-man-one-vote democracy, or to the real distribution of power, values or interests. And it would be governed without checks and balances, without adequate procedural protection of minority interests and without adequate scope for judicial review.

Unless the inertial tendency of the Conference is shifted significantly, the seabed regime of any likely draft treaty will conform in some considerable degree to all (or most) of these objectionable characteristics. From the perspective of one who would weigh these precedential elements heavily, the notion of conceding these to avoid the precedent of Conference "failure" (meaning "lack of agreement") seems absurd. It would be to trade long-term, substantive failure for avoidance of temporary procedural failure. Trading these objectionable elements for marginal gains in the systems of environmental protection and dispute settlement seems out of proportion.[8] Trading them for questionable interests in treaty protection of distant-water military mobility seems a tie to the past at the expense of the future. And trading them to protect interests that might just as well be protected without a comprehensive treaty seems no trade at all.

v

Weighing heavily the precedential elements of the seabed *regime* (as distinguished from seabed *mining*), and taking the rest of the treaty as being close to fully negotiated (and unamenable to significant change), it is easy to identify what must be the U.S. strategic negotiating objectives from here on. The Conference's inertial tendency with respect to the deep seabed area must be changed considerably—if a treaty worth signing is to emerge. There is, however, no easy means to accomplish this objective.

The negotiating realities seem inescapable. The Conference is regrettably polarized. The United States and a few developed countries are, in effect, on one side, with the "Group of 77"—now comprising over 110 developing countries—on the other. The Group of 77 as formally adopted a full set of extreme positions and associated texts. Although many in the Group of 77 may have accepted the texts for only tactical reasons, it is extremely difficult for them formally to moderate their positions.[9] They enforce a kind of rule of unanimity among themselves, which, in effect, now gives veto power to a relatively small number of extremists. The problem is compounded by the fact that many states, believing they have no interest higher than Group of 77 solidarity, instruct their delegations simply to "vote with 'the 77'."

Insofar as there is a significant split within the Group of 77, it is between a group of pragmatists and a group of ideological purists. The former has been dominated by a few land-based producers who are willing to compromise on some issues of principle in exchange for extreme production controls. The ideological purists are dominated by a few individuals whose countries have no significant direct economic interest in a Law of the Sea treaty and who are free to insist on their principles to the end. The split, then, simply suggests the possibility of two different types of unacceptable "compromise"—which elements of the Group of 77 would be willing to substitute for the unacceptable Informal Composite Negotiating Text seabed regime.

There is, of course, no natural groundswell seeking to displace the ICNT regime. Were it not for firm U.S. opposition, the ICNT seabed regime might be accepable to an overwhelming majority of Conference participants. The U.S. reaction may help assure that the ICNT regime is put aside. But replacing it with an acceptable regime is obviously an entirely different matter.

Analytically, one can identify several types of economic regime that might be acceptable to the United States: a simple licensing regime; a "clean parallel system" in which access is unequivocally assured for state-sponsored parties, and in which an international "Enterprise" is also assured of effective participation; a "unitary joint venture system" in which access is permanently assured, and in which equity interests of state-sponsored parties are fully valued and fully protected on a continuing basis; and, perhaps, a "mixed"' system along the lines of the compromise proposed by Norwegian Minister Jens Evensen, but in which access on reasonable terms is more clearly assured and the production control is less severe.[10] Such a mixed system could result in a pluralistic variety of seabed miners—including state entities, private corporations, an international "Enterprise," and a range of joint arrangements involving groups of these. Each regime could be designed in a manner that would not affirm undesirable institutional precedents. (There are, of course, additional variants. But all raise the same difficult negotiating issues; and one must beware of the fallacy of the presumed greater negotiability of that which has not been negotiated.)

The first of these alternatives is certainly not negotiable. The second is virtually non-negotiable. The third has less than one chance in 20 of proving satisfactorily negotiable. And the fourth—which is the only alternative among these with a plausible chance—would represent an improvement, from the U.S. perspective, upon a proposal that the Group of 77 is willing to treat as a "basis for further negotiation, but not compromise." Further, in order to get the necessary improvements, the United States might have to agree to a more stringent, quasi-mandatory system of effective technology transfer (through supplementary fair licensing or joint-venture arrangements). But this new "mixed" alternative, negotiated in its very best possible form, would have highly uncertain prospects of Senate ratification.

Indeed, relating the international negotiating realities to domestic political realities seriously compounds the dilemma. The non-seabed provisions of the treaty (as they now stand) are unlikely to gain a high degree of visibility. Although scientists would probably oppose the treaty, internationalists, many concerned with military and commercial navigation, and many environmentalists would support it, and the balance would be moderately affirmative. But it would not be vigorously affirmative. Senate ratification, in any case, must be viewed with respect to potential negative constituencies, and the one-third of the Senate sufficient to veto.

In assessing the prospects of non-ratification, it would be easy to be misled by the continuity of support for the Law of the Sea Conference during two Democratic and two Republican presidential administrations—and by the further consideration that the principal compromises of economic ideology were advanced by a Republican administration. The substance of the negotiations has had very little public attention, and it has had relatively narrow attention within the Senate. This will change, of course, if there is a treaty to be examined. And if the seabed provisions were to conform with the current inertial tendencies of the Conference, their exposure might prove shocking. They would not only be criticized vigorously and visibly by the mining industry. They would attract criticism from economic interests generally, and from conservative and some traditional liberal philosophers and idealogues. For the seabed provisions would not only lend themselves to extensive criticism on the merits, but also to a high degree of demagogic excess.

Continued quest for a comprehensive treaty, therefore, must be viewed as a risky course. In returning to the Conference, the United States would presumably gain approval of means to remove the grounds for its recent objections to Conference procedures. But having done so, the United States would face the very high probability of finding itself a party to unobjectionable processes of negotiation, capable of producing a widely supported "compromise" that improves on the ICNT—but which is non-ratifiable.

vi

The U.S. strategy, therefore, must not only seek to change the Conference's inertial tendency with respect to the seabed regime; it must also seek to develop a sound contingency plan to be activated in the event of Conference failure. These two general objectives can be mutually reinforcing. A strategy to serve them both could be oriented well by effective pursuit of three more specific objectives.

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First, the United States must dispel the impression that it believes, at least partly, that it could not satisfactorily endure Conference failure to reach agreement. This is not an unfounded impression. It reflects what has been a weakness in underlying U.S. policy analysis—compounded by tactically misplaced rhetorical excess, and by the natural tendency of some states to confuse the strength of interest in modifying adverse texts with an affirmative interest in those texts once modified.

For reasons stated, the belief is not only self-defeating as a negotiating posture, it is also wrong. And it is wrong not only with regard to the interests directly treated by the Conference. It is wrong insofar as it presumes that failure to reach agreement would have a serious adverse effect on the "North-South dialogue." The economic interests at issue in the "dialogue" are sufficiently fundamental not to be significantly affected by the outcome of the Law of the Sea Conference. In any case, there is little or no practicable room for developing-country positions to become more extreme. The "climate" might temporarily be affected marginally. But, on the other hand, it could not long be well served by disguising fundamental differences on the merits, where these may be present.

As a second more specific objective, the United States must seek, within the Conference framework, to end what is excessive and artificial polarization between the developed and developing countries by encouraging the potentially wide moderate base within the Group of 77, beyond the land-based producers, to assume greater leadership responsibility. That is, the relative power of extremists within the Group of 77 must be reduced. The United States has no significant leverage to bring to bear upon them, however. Their principal Conference interests are ideological, not economic. They weigh precedential considerations more heavily than the United States has—and seem prepared to insist on their principles to the end. And for some of them, the "threat" of U.S. unilateral mining action is no threat at all. They would welcome the visible opportunity to condemn what they would characterize as "exploitative economic imperialism in violation of 'the common heritage of mankind.'" If the power of the extremists is to be reduced, it must be done by the Group of 77 itself. This requires that the Group come to perceive the extremists' veto as an abuse of power—an abuse which is contrary to the interests of the majority of the Group of 77.

It requires a more sophisticated appreciation of where real interests lie than is possibly connoted by North-South bloc posturing. Here the United States could help by refusing to accept the absurdly simplistic North-South mindset. Indeed, the specific interests and cultures within the South are so widely varied, that were it not for a posture of unity reactively assumed by the North, it is difficult to imagine what abstraction could serve to hold the Group of 77 together.

Abandoning the North-South mindset would help expand U.S. intellectual and practical attention to interests that cut across North and South. Those who worry about Conference "failure," for example, could usefully increase their attention to the extent of this worry among land-based producers (who have a powerful interest in getting some form of production control), and among moderate African states (who have a major interest in proving the workability of U.N. machinery). Those concerned about an international commercial "Enterprise" out of control could find eager colleagues among land-based producers who have far more confidence in multinational corporations' ability to plan and execute rational market entry (without spoiling markets) than they do in the Enterprise's. And so on—for consumer interest; interest in becoming sea bed miners; interest in the avoidance of any tyranny of a majority; and even interest in a framework that respects pluralism and allows diverse policies to thrive.

The third more specific strategic objective for the United States must be to develop support for a seabed "mini-treaty"—to be developed outside the U.N. Conference framework, and brought into effect only if it is clear that the Conference will not reach satisfactory agreement. Given the heavy odds against satisfactory agreement, this objective must be pursued as a matter of responsible policy development. As it happens, it would also serve to increase marginally the probability of Conference success.

The current seabed contingency plan seems to assume that if the Conference fails, U.S.-led consortia will mine the seabed "unilaterally," along with a small number of other states' mining entities. This approach would preferably include reciprocal agreements among mining states to assure orderly process, regulatory consistency, and mutual respect for security of tenure at mine sites. (Occasionally, this scheme is conceived more formally, by some, as a limited "mini-treaty" among mining states.) In the absence of a satisfactory international regime, this approach could be sensibly followed. It has two disadvantages, however. It is likely to fail to address adequately the international equity issue; that is, it is unlikely to be structured to provide much direct benefit to developing countries. And as a matter of appearance, it would tend to confirm the negative image of multinational corporations and of the United States.

The "mini-treaty" approach advocated here would be designed specifically to remove, or at least reduce, these disadvantages. It would be a treaty open to all states. Although a large number of states would not be expected to participate, it would be intended to attract both developed and developing countries. It would conform to the U.S. view of an optimal regime through which to develop seabed resources in the best interests of the United States and all mankind. It would be essentially a licensing regime, with a framework through which to coordinate the development of environmental regulation, but without any significant new bureaucracy, nor any international "Enterprise." As such, it would be unattractive to the Group of 77. But the mini-treaty would also provide for developing country participation through loan guarantees by signatory states to participating developing countries. It would provide for the transfer of necessary technology to developing countries through their participation in joint ventures. It would also provide for the taxation of seabed miners and the transfer of associated revenues to those among the poorest developing countries that would be parties to such a treaty.

It is not inconceivable that this "mini-treaty" would prove attractive to several developing countries with high potential as seabed miners—e.g., Mexico, Brazil, India, Nigeria, Iran, Saudi Arabia. Only a few of the poorest states would likely wish to participate. But this would mean that revenue-sharing per state would be at a level capable both of having significant effect and of attracting interest. In encouraging developing countries to become seabed miners and to share in seabed revenues, the "mini-treaty" would not only provide an attractive legal and political framework for developed country miners, it would also address responsibly the equity interest in meaningful developing country participation.

Such an approach would, of course, be denounced by many developing countries while a realistic hope of Conference success remains. But this predictable public reaction should not be taken as a measure of the mini-treaty's practical prospects. In the event of Conference failure, it would provide the United States, other mining countries, and many developing countries with a far more satisfactory alternative than bare unilateralism.

In sum, U.S. strategy should be reoriented in three rather different, but nonetheless mutually consistent, directions: (1) it should exhibit a clear-eyed willingness to accept Conference failure as a non-disastrous, indeed thoroughly tolerable, outcome. (2) It should deliberately seek to break down "North-South" polarization—not by concession, but by greater attention to, and argument on behalf of, interests that cut across North-South lines. (3) As both a hedge against Conference failure and a prod toward Conference success, it should proceed with the development of a "mini-treaty," outside the Conference framework. In addition, the United States must, of course, continue all conventional elements of negotiation in good faith—relying particularly on vigorous interesessional consultation and pre-Conference informal negotiation—across the full range of disputed issues. Whether this would be enough to yield a satisfactory comprehensive treaty, however, must remain uncertain.

VII

Considering the scope of the Conference, the existence of these problems is not unreasonable, nor should it have been unpredictable. In view of the Conference's ambition, the divergence of views and interests, and the need to negotiate among 150 nations simultaneously, the fact that it is now in its fifth year should not be surprising. With the conflict among ideologies, however, the only likely compromise on a seabed regime would seem to be a form of "mixed" regime This could be structured as an exciting ongoing experiment in cooperative pluralism—worthy of wide affirmation as such.

But if agreement cannot be reached on a satisfactory seabed regime, the United States should hardly despair. It should wait for a more favorable world negotiating climate, while continuing to mine within the framework of a satisfactory "mini-treaty." Contrary to the general view, time may be on the U.S. side. The recent history of ideological conflict notwithstanding, it is conceivable that as the many newer states gain pragmatic experience and leave rigid ideology behind, they may come to appreciate the need for sound economic incentives, for decentralization, for greater tolerance of diversity, for a more flexible pluralism. If, on the other hand, it is assumed that the future evolution of states and attitudes is not likely to be in this direction, it is all the more reasonable for the United States to treat the principles of government and economics it thinks to be right as if they are precious.

FOOTNOTES

[1] It is, of course, possible to argue that the evidence cited should be dismissed. Some would argue that Congress is not adequately sensitive to broad national foreign policy interests (which raises the philosophical problem as to how "interests" are properly to be determined and weighed in a democracy). And one might very well suggest that the systems for managing policy development within the State Department are so inadequate that the relationship between individual cases and broad policy may never have been explicitly raised for decision, or that general policy decisions have little influence in any case. Were it not for the general consistency of the pattern, such arguments might be persuasive.

[2] Press conference by Ambassador at Large Elliot L. Richardson, the Department of State, Washington, D.C., May 18, 1977.

[3] Lord Ritchie Calder quoted by John Tem-

ple Swing in "Who Will Own the Oceans?," *Foreign Affairs*, April 1976. p. 546.

[4] Economic zone expansion to 200 miles enlarges U.S. jurisdiction more than any other country's—adding area more than double the present U.S. land area. This includes addition of economic zones of U.S. territories and the trust territory of Micronesia. The added area is more than 80 per cent of current land area if these territories are not included. Six of the top ten economic zone gainers are developed countries; and when consideration is given to the distribution of valuable economic resources, the pattern is clearly one that widens the gap between rich nations and poor.

[5] The prime manganese nodule mine sites now identified are in an area of the Northeast Pacific Basin, south of Hawaii. This area would be divided by one developed and one developing country, the United States and Mexico. For a view of the extent to which the overall pattern would favor the richer countries, see map, "World Lake Concept: A Theoretical Division of the Seabed," Office of the Geographer, U.S. Department of State, Washington, D.C.

[6] Manganese nodules form naturally over millions of years, generally in depths greater than 2,000 meters. They were first discovered and brought to the surface in 1872, but only recently have technology and economics made their exploitation commercially interesting. The nodules vary in metal content, and are estimated to average about 24 percent manganese, 14 percent iron, 1 percent nickel, 0.5 percent copper, 0.35 percent cobalt, in addition to small percentages of 22 other metals. (Nodules recovered from prime mine sites would have higher nickel and copper percentages—estimated now at roughly 1.4 percent nickel and 1.2 percent copper.)

[7] In 1976, the U.S. imported (net) 98 percent of its manganese and cobalt demand, 71 percent of its nickel and 15 percent of its copper—totaling roughly $1.5 billion in value. Deep sea-based reserves of these minerals are estimated at thousands of times land-based reserves. For more detailed statistics and discussions, see Congressional Research Service, *Ocean Manganese Nodules*, prepared for U.S. Senate Committee on Interior and Insular Affairs, 94th Con., 2nd sess., February 1976. See also testimony of Assistant Secretary of Defense David E. McGiffert, "Testimony before the International Relations Committee of the U.S. House of Representatives," July 25, 1977.

[8] The ICNT provides a framework within which states may responsibly develop environmental regulations; it does not, in and of itself, promise to affect the quality of the environment significantly. The ICNT also establishes a system of compulsory settlement of disputes. While this is a valuable precedent in the abstract, it has a number of specific weaknesses—particularly in the selection of judges and the scope of judicial review.

[9] Members of the Group of 77 can and do informally agree to moderate positions. But they cannot then "deliver" the Group as a whole. Rather, they can at best—and this is not insignificant—prevent the Group of 77 from formally rejecting a possible compromise.

[10] The Evensen "Proposed Compromise Formulations" were the product of weeks of "informal" negotiation among all Conference participants within the formally established Committee I Chairman's Working and Negotiating Groups, see UNCLOS II, Document 77-76231, 3rd rev., June 11, 1977 and Document 77-76619, June 29, 1977. Both the United States and the Group of 77 seemed willing to accept the "Evensen text" as a "basis for further negotiation." (The Group of 77 was unable to agree to oppose it.)

NAACP ENERGY POLICY STATEMENT

Mr. BARTLETT. Mr. President, recent press accounts of a supposedly surprising stance taken on energy policy by the National Association for the Advancement of Colored People have focused new attention on this Nation's energy dilemma.

I find the NAACP position not at all surprising. It has long been evident that a healthy, growing economy—with steady increases in employment—is dependent on an abundant supply of energy.

It has also been evident that a declining energy supply leads to a lower standard of living, impacting most severely on those represented by the NAACP.

The NAACP has come to the logical and correct conclusion that every source in the energy mix must be developed fully, and that to insure adequate supplies of oil and gas we must return to the free marketplace.

Mr. President, so that my colleagues may have the benefit of the NAACP energy policy statement, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NAACP ENERGY POLICY STATEMENT

The National Association for the Advancement of Colored People has for many years been dedicated to the task of defending the economic, social and political rights and interests of Black Americans. The growing national debate about energy has led us to examine this question to ascertain the implications for Black Americans. In an effort to gain a better understanding of the energy problem, the National Board of the NAACP convened a Conference on Energy in Washington, D.C., November 18 and 19, 1977. Leaders of our organization at all levels from every area of the country came together, exchanged ideas among themselves and listened to experts on the subject from Government, industry and public interest groups.

We are convinced that the nation faces a serious energy problem. The evidence is overwhelming that the primary fuels that supply our homes, factories, farms, transportation systems and commercial establishments are rising in cost at an alarming rate. It is also clear that our ability to supply the demand for oil and natural gas from domestic sources is diminishing while the level of imports of these fuels continues to grow. At the same time there appears to be a myriad of governmental constraints on the production and use of coal, our most abundant domestic fuel resource, and nuclear power. Efforts to develop alternative sources of energy are confronted with severe problems of raising the necessary capital in light of the many uncertainties regarding governmental policies.

Since the early 1960's gains have been made toward bringing the nation's Black Citizens into the mainstream of American Economic Life. This has occurred largely during a period of expansion in the economy which created new opportunities for jobs. However, a great deal more remains to be done. We still have tremendous unmet social and economic needs. The unemployment rate in the black community is still twice the national rate. Perhaps more importantly, unemployment among black teenagers ranges up to 50 percent. Over the next 15 years we must undertake to rebuild and revitalize our cities and urban areas where a very high percentage of black people live. We need to revamp urban and inter-urban transportation systems to facilitate urban dwellers' access to places of employment. An abundant energy supply will be necessary if we are to have any chance to meet these challenges.

We note the historic direct correlation between the level of economic activity and energy availability and consumption. Energy supply development throughout our nation's history has been critically important to economic growth. We find it very disturbing to contemplate a future in which energy supply would become a constraint upon our ability to solve these critically important social and economic problems which confront black citizens.

We have examined the Administration's National Energy Plan in the light of the agenda for economic growth and development for America's black people. What we see in the plan is an emphasis on conservation, and a reduction in the growth of total energy demand and consumption. The plan basically takes a pessimistic attitude toward energy supplies for the future. It seems to make the basic assumptions that (1) we will run out of all primary fuels, except coal, relatively soon and (2) essentially nothing can be done to substantially increase or even to maintain existing production rates for oil and natural gas. This emphasis cannot satisfy the fundamental requirements of a society of expanding economic opportunities.

We think there must be more vigorous approach to supply expansion and to the development of new supply technologies so that energy itself will not become a long-term constraint, but instead can continue to expedite economic growth and development in the future. All alternative energy sources should be developed and utilized. Nuclear power, including the breeder, must be vigorously pursued because it will be an essential part of the total fuel mix necessary to sustain an expanding economy. Other alternative sources, such as solar, geothermal, biomass, tidal, oil shale and synthetic fuels from coal must also be developed and made commercially available at the earliest possible time. A more positive attitude by the Administration toward supply development is extremely important because future developments will be largely determined by the policy choices being made now by the Administration and the Congress.

While we endorse the Plan's objectives of eliminating energy waste and to improve utilization efficiency, we cannot accept the notion that our people are best served by a policy based upon the inevitability of energy shortage and the need for government to allocate an ever diminishing supply among competing interests. Those aspects of the Plan which would perpetuate price controls on newly discovered oil and natural gas and extend those controls to new areas appear to us to be incompatible with the need for new supply development. We also believe that many of the prohibitions proposed with respect to the industrial use of oil and natural gas will force the closing of many job-producing industries in urban areas and cause a massive shift of industries away from areas where most Black people live and work.

We recognize there is disagreement as to whether the Plan does in fact offer more incentives for new supply development. However, we are impressed with the conclusion reached by the Comptroller General of the United States in his evaluation of the NEP:

"* * * (T)he plan's incentives are not greater than those which would be avail-

able if existing policy were continued through 1985. * * *

"Also, the Plan will reduce revenues to producers for most oil already discovered and may adversely affect oil companies' financial ability to support additional exploration. By not increasing the financial incentives for additional exploration and by reducing companies' financial strength, the Plan fails to come to grips with the problem of increasing domestic crude oil production."

For many years we have been encouraged to believe that a significant percentage of our total energy requirements of the future would be supplied from nuclear power. The National Energy Plan, however, seems to call for a retreat from nuclear energy on the basis that the environmental and safety costs may be too high. The NAACP too is concerned about environmental and safety matters. But as long as fourteen percent of our people are unemployed, as long as the earnings gap between Black and White Americans continues to widen and as long as a majority of Black Americans continue to face a constant struggle to attain even the basic necessities of life, our first priority must be the attainment of economic parity for Black Americans. We are fearful that an energy policy with an overriding concern for the protection of the environment may cause governmental policy-makers in this area to lose sight of other more compelling economic and social objectives that are more important to Black Americans. The basic approach of the Plan as relates to energy supply reflects the absence of a Black Perspective in its development.

We recognize that nuclear power does present certain problems. But we think these problems can be solved through dedicated efforts by government, the scientific community and industry working cooperatively together. Notwithstanding the claims of opponents of this source of energy, the fact is that nuclear power will be required to meet our future needs for electricity. If we do not move ahead now with nuclear, the next generation is likely to be sitting around in the dark blaming the utilities for not doing something this generation's officials would not let them do.

The National Energy Plan proposes sharp increases in the cost of oil, natural gas and gasoline through a complex system of new taxes. Domestically produced crude oil would be taxed an amount equal to the difference (in 1980) between the federally controlled price and the world oil price. In addition a tax on the industrial use of oil and natural gas would be imposed that could reach $3.00 per barrel by 1985. Over the next five years these taxes have been estimated to produce new government revenues of over $50 billion, which make the "Energy Plan" one of the largest tax increase bills in history. A major portion of these new taxes would be passed on to consumers in the form of higher prices not only for energy products but also for other goods and services. To mitigate the adverse effects on the economy, the Plan does provide for tax rebates to the public and other tax credits. It is estimated that the per capita tax rebates flowing from the crude oil equalization tax in 1978 would range somewhere between $15 and $22.

As we understand it the new energy taxes are proposed for the purposes of (1) encouraging energy conservation by making energy more expensive, (2) creating incentives for industry to shift from so-called scarce fuels to coal, and (3) making oil and natural gas prices roughly equal to their current value in world markets.

For the great majority of people the NAACP represents, the cost of energy today is sufficiently high to discourage any unnecessary use. They have borne the brunt of the fourfold increase in the price of natural gas and skyrocketing increases in electric utility bills since 1973. Even without new energy taxes, we have every reason to believe energy prices will continue to rise at a faster rate than prices for other goods and services for the foreseeable future. This will certainly come about as the percentage of total energy supplies from newer, more expensive sources increases.

If energy prices are to be raised artificially through the mechanism of taxes, a major portion of the new revenues should be used to develop new energy supply, particularly from non-conventional sources such as coal gasification and liquefaction, oil shale, solar etc. Putting the funds to such uses appear to us to be much more desirable in terms of the objective of reducing dependence on imported energy than distributing token payments to the general public.

The NAACP, therefore, concludes that there are serious deficiencies in the National Energy Plan as proposed. We recognize that the Congress is now in the process of making certain changes and that the final energy policy that evolves must reflect an accommodation of differing views. This statement of our views will be communicated to the Members of Congress and others who may have an impact on the final outcome of this extremely important policy issue.

Finally, we view with alarm the fact that nowhere in the President's proposals on energy; the joint House and Senate conferees deliberations; nor the action of energy Secretary James Schlesinger, himself, does there exist evidence of input from America's minority community, in both policy making and employment opportunities. To avoid the deleterious impact of our merging energy policy on future generations of Americans, whom we of the NAACP represent, we call on President Carter, the Congress, Secretary Schlesinger, various regulatory governmental units, industry, and where need be, those persons in the private sector, to encourage and seek out increased minority participation on all levels in our merging energy policy.

HUBERT HUMPHREY AND THE VIETNAM WAR

Mr. McGOVERN. Mr. President, yesterday's Washington Post carries a most interesting historical piece by Chester L. Cooper relative to our dear late colleague, Hubert Humphrey, and the 1968 Presidential campaign.

This article sheds historical perspective on Senator Humphrey's position with regard to the Vietnam issue that so dominated American politics in the late 1960's and early 1970's.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DECISION THAT MAY HAVE COST HUMPHREY THE PRESIDENCY

(By Chester L. Cooper)

In the late spring of 1968, Vice President Hubert Humphrey's campaign for the presidency against Richard Nixon had not officially been launched, but was already in trouble. For reasons that never have been satisfactorily explained, this appeared to be a matter of indifference, if not satisfaction, to President Lyndon Johnson.

The problem was Vietnam—the very one that had convinced LBJ that he would be prudent to retire from the White House. In particular, Humphrey's problem was whether to disassociate himself from the administration's attempt to bomb North Vietnam into serious peace negotiations. It was a difficult choice, involving, as it did, a decision either to abandon the President or to imply his approval of a policy for which he had little enthusiasm and over which he had virtually no influence.

In June, 1968, Humphrey had made this decision. He had a speech in hand that advocated an immediate, total bombing halt and, as I recall, a ceasefire. He was anxious to deliver this before the Democratic Party's platform drafting committee meeting scheduled for late July. Humphrey knew that such a speech would mark a break with the President on Vietnam and would undermine Lyndon Johnson's insistence that the drafting committee ride along with the administration's bombing policy. Humphrey, I was told by a member of his entourage, had decided to stand up to LBJ on this issue as a personal declaration of independence.

Humphrey had only two related concerns about his public break with the administration's war policy. One was that his advocacy of a bombing halt would destroy the chance of a breakthrough at the peace talks in Paris, where Averell Harriman and Cyrus Vance were then meeting with North Vietnam's representatives. Despite President Johnson's claim that his Vice President was being kept closely informed of the talks in Paris, Humphrey actually was told little. For all he knew, a breakthrough was imminent and his speech might thwart it. Humphrey's second problem was Lyndon Johnson himself. No matter what the true situation, Johnson, in his present mood, would be likely to claim that Humphrey had thrown away a trump negotiations card. The American delegation would surely be queried on this point by the press. If Harriman and Vance felt Humphrey's speech would not affect the negotiations, it was important that they be willing to say so publicly.

I was then a consultant to Gov. Harriman. Before my departure for Paris in early June, Robert Nathan, Humphrey's chief policy adviser, asked me to press Harriman and Vance about whether Humphrey's advocacy of a bombing halt would jeopardize their efforts—and, if not, whether they would be willing to say so.

When I arrived in Paris I put the question to Harriman and Vance, both close friends and strong political supporters of Humphrey. Although they themselves favored an immediate bombing halt and ceasefire and were becoming increasingly impatient with Johnson's rigid stance, they were reluctant to embarrass the President by what, in effect, would be a public endorsement of Humphrey's position. They also felt that there was still some hope that LBJ might accept a proposition their staff was then preparing that involved an early, complete bombing halt. Humphrey's speech, they said, might only stiffen Johnson's adamant refusal to halt the bombing. So neither Harriman nor Vance felt he could take Humphrey off the hook, even though, as we all glumly agreed, this might cost him the election.

I returned to Washington a few days later and met with Larry O'Brien, Humphrey's campaign manager. The platform committee was already preparing for a battle royal over the bombing question. If Humphrey could make his speech it would clear the air, would put the Vice President on the side of those whom he respected and whose support he wanted, and would demonstrate that he intended to be his own master. O'Brien and I had a long, agitated session. In the end, he agreed that without the willingness of Harriman and Vance to say that Humphrey's call for a bombing halt would not hurt the American negotiating position, the speech should be shelved. It was.

In hindsight, Humphrey's speech probably would not have made any difference in Paris, and his early waffling on the bombing issue hurt his chances, possibly critically, Hum-

phrey, so far as I know, never mentioned this incident publicly. He made the agonizing decision in good grace on the assumption that his political fortunes should be given lesser priority than the prospect for an early agreement on Vietnam. Hubert H. Humphrey prided himself on being a good politician. Some of us knew years ago that he was also a statesman.

RESOLUTION OF GEORGIA HOUSE OF REPRESENTATIVES RELATING TO GUN CONTROL

Mr. TALMADGE. Mr. President, the Georgia House of Representatives, now in session in Atlanta, has adopted a resolution which, for myself and my colleague, Senator NUNN, I bring to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A RESOLUTION

Whereas, the National Rifle Association has been and remains this country's most effective spokesman against the erosion of the constitutional right to keep and bear arms; and

Whereas, the National Rifle Association correctly maintains that the control of guns by government would leave law-abiding citizens unarmed while criminals would continue to possess and use guns; and

Whereas, the National Rifle Association recognizes that if legislation were adopted to require the registration of handguns, it would represent a giant step toward totally disarming law-abiding American citizens; and

Whereas, the position of the National Rifle Association on this crucially important issue represents the viewpoint of the vast majority of Georgians.

Now, therefore, be it resolved by the House of Representatives that this body hereby goes on record as being in complete support of the position of the National Rifle Association on the subject of gun control legislation.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to the Honorable Jimmy Carter, President of the United States, to each member of the Georgia Delegation to the United States Congress, and to the National Rifle Association.

IS THERE REALLY SUPPORT FOR THE PANAMA CANAL TREATY?

Mr. HATCH. Mr. President, many administration officials, including the President himself, have maintained that there is growing widespread public support for the new Panama Canal Treaty. The basis of their claim is the fact that several groups and organizations have come out in defense of the agreement. There is no doubt this is true.

But, Mr. President, I question the legitimacy of this so-called support. I sincerely believe that the leaders of these influential organizations helping the President in his campaign for ratification of the treaty may have gone out of bounds in speaking for the entire membership of their groups. For example, each Member of this body may find in his mail a letter from Leslie H. Doty, a South Bend, Ind., businessman and a 30-year member of the Epworth United Methodist Church in South Bend. Mr. Doty learned that the National Council of Bishops of the United Methodist Church had, on behalf of the nationwide membership of the church, endorsed the ratification of the Panama Canal treaties. Being skeptical that this was the actual opinion of the whole church, Mr. Doty polled the members of his own congregation. The results were 214 against ratification, 23 for ratification, and 48 undecided or not wishing to take a position.

I understand that this poll is a mere straw vote, so I hasten to add that all of the professionally conducted, scientific surveys conclude the very same thing—that a vast majority of Americans are opposed to this treaty.

Individual citizens oppose this treaty. The heads of the various organizations in many instances have been aloof from their rank and file and have lost sight of their representative responsibilities. I hope that we do not take the same path and become so unresponsive that we reverse the progress toward restoring trust in Congress. If the U.S. Senate believes it can proceed without regard to the outpouring of public opinion, then it will deserve all the negative consequences that are the people's prerogative to bestow.

HUMAN RIGHTS IN THE UKRAINE

Mr. METZENBAUM. Mr. President, on January 22, Ukrainian Americans in all parts of the country met to commemorate the 60th anniversary of the Proclamation of Independence of the Ukrainian National Republic. That independence, proclaimed in 1918 in the ancient city of Kiev, lasted only a few short years. But in spite of the fact that their nation was incorporated by force into the Soviet Union in 1924, the 50 million people of the Ukraine have never waivered in their determination to resist systematic Soviet attempts to Russify their distinctive culture, to suppress their religious faith and to destroy their sense of nationhood.

Ukrainians have suffered greatly under Soviet rule. The famines that followed upon Stalin's forced collectivization of agriculture, for example, took literally millions of Ukrainian lives in the early 1930's. More recently, Soviet authorities have used all the mechanisms of repression at their disposal to suppress the strong and growing Ukrainian movement in support of human and national rights. Many in the West are familiar with the case of the noted Ukrainian intellectual, Valentyn Moroz, who has been imprisoned, incarcerated in psychiatric hospitals, and subjected to treatment with dangerous drugs and chemicals for his refusal to abandon his beliefs. Fewer, perhaps, are aware that Mykola Rudenko and Oleksa Tykhy, leaders of the Kiev Ukrainian Public Group to Promote Implementation of the Helsinki Accords, were sentenced last summer to lengthy prison terms as a result of their human rights activities.

Soviet policy in the Ukraine is and long has been in clear violation of the Helsinki Accords and the Universal Declaration of Human Rights. The inherent right of the Ukrainian people to self determination vanished the day the Red army marched into their country. Like the Soviet Jews, Ukrainians, both Catholic and Orthodox, have been denied their right to freedom of religion. In addition, the Soviet Government has done everything in its power to discourage the use of the Ukrainian language and to prevent contact between people living in the Ukraine and their friends and relatives living abroad.

Mr. President, in his state of the Union address, President Carter spoke forcefully of our Government's continued commitment to the defense of human rights around the world. I welcome this emphasis in our foreign policy—it is long overdue—and I trust that in a practical sense, it will be translated into unremitting pressure upon the Soviet Union to provide its own citizens with the fundamental rights for which so many have struggled so bravely.

THE 60TH ANNIVERSARY OF THE UKRAINE

Mr. ROTH. Mr. President, it is my privilege to join the Ukrainian-American community in observing the 60th anniversary of the Ukraine.

The Ukraine is one of Europe's oldest and most important nations. It is a country which has supplied many thousands of immigrants to the United States, creating a Ukrainian-American community that now numbers 2 million individuals.

January 22 has great significance to the people of the Ukraine and their friends everywhere, because it was on this day six decades ago that the Ukraine proclaimed its independence. Its constitution guaranteed such basic rights as speech, press, religion, and association, but the people of the Ukraine lost these freedoms only 3 years later when the Ukraine was forcibly integrated into the Soviet Union.

The Ukrainian people have continued their efforts to maintain their cultural identity and restore their freedom. In remembering this anniversary of Ukrainian independence, we in the United States are expressing our support for the aspirations of the Ukrainian people and our fervent hope that the Ukraine will again recover its freedom.

FUTURE BUSINESS LEADERS OF AMERICA

Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I would like to call your attention to a student vocational organization—the Future Business Leaders of America—Phi Beta Lambda—whose 200,000 members in 8,000 chapters in high schools and colleges across the country are pledged to learn more about the free enterprise system and how they can fit into it. During FBLA-PBL Week, February, 12–18, these young people will be focusing on "free enterprise—it works because we do." They are bringing business people into the classroom to get

firsthand information about how business works.

Men and women from all walks of business and industrial life cooperate on the local level with FBLA-PBL by providing plant and office tours, talking about their businesses and their jobs and participating in workshops making the business world come alive for young people.

In my own State of Wisconsin, Fran Renz of CUNA Mutual of Madison, Wis., has devoted the last 10 years to working with FBLA as a speaker, workshop participant, and confidant. This year he is chairman of the organization's national advisory council made up of businessmen and educators.

Project Awareness-Free Enterprise, initiated last year, is a three-phase program. The first phase, begun last year, was devoted to learning about the concepts of free enterprise. The current or second phase is concerned about economic problems ranging from youth employment, to automation, to energy conservation, as well as specific businesses such as banking, publishing, advertising, and so forth.

An attractive poster was designed for the national project by Sue Schenning, a 1977 graduate of Burlington High School, Burlington, Wis., who won the 1977 FBLA poster event.

During phase III which begins officially next year, FBLA-PBL will share its knowledge with the community through a variety of programs. A pilot series of energy awareness forums to be held early in 1978 will set the stage for a national program during the 1978–79 school year. These forums will feature panelists from energy users, both business and consumer; energy suppliers, coal, gas, oil, and nuclear and representatives of the U.S. Department of Energy.

FBLA-PBL's national headquarters is in Reston, Va. Edward D. Miller is executive director.

JEWISH MUSEUM CEREMONIAL TEXTILES EXHIBIT NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. JAVITS. Mr. President, I wish to bring to the attention of my colleagues an outstanding project in New York City's Jewish Museum located on Fifth Avenue, now being supported by the National Endowment for the Humanities.

As part of its ongoing efforts to share the richness of our Nation's diverse cultural heritage with all Americans, the endowment is sponsoring an exhibition of Jewish ceremonial textiles through August of this year. This exhibit is particularly significant as it is the first major display of this kind anywhere in the world. Visitors to the Jewish Museum can see and touch the textiles, and can avail themselves of descriptive materials explaining the relevance of the various items to Jewish religious observance both in the synagogue and in the home.

I had the distinct pleasure of viewing these very beautiful articles shortly after the exhibit opened in December; their artistic and historical value should be of great interest to any of my colleagues who may have an opportunity to visit the exhibit.

The Jewish Museum has earned special renown for making its extensive collection of ethnic decorative arts and accompaning educational materials readily accessible to all with an interest in Jewish culture. For the additional information of interested individuals, I ask unanimous consent to have printed in the RECORD a recent NEH press release which describes the textile exhibit in detail and mentions two other NEH projects related to Jewish history and culture.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

NATIONAL ENDOWMENT FOR THE HUMANITIES FUNDS FIRST MAJOR EXHIBITION OF JEWISH CEREMONIAL TEXTILES

WASHINGTON, D.C.—The first major exhibition of Jewish ceremonial textiles anywhere in the world is on view at The Jewish Museum in New York City between December 15, 1977 and August 27, 1978. The exhibition entitled "Fabric of Jewish Life: Textiles from The Jewish Museum Collection" was made possible by two National Endowment for the Humanities* grants totaling $105,000 (a $10,000 planning grant in 1974 followed by a $95,000 grant in 1976 to complete and install the exhibition).

IMPORTANCE OF JEWISH TEXTILES

Ceremonial textiles play an important role in Jewish religious observance in the synagogue and in the home. Varied in style and exquisitely crafted, these textiles provide a wealth of historical information and represent a significant art form. They provide insights into the social, economic and cultural fabric of Jewish community life around the world and through the centuries.

Synagogue textiles figure prominently in ceremonies of public worship, while personal and domestic objects reveal the impact of religion on everyday Jewish life. Ceremonial textiles in The Jewish Museum Collection are from Russia, Italy, North Africa, the Middle East and from Jewish communities destroyed during World War II.

THE EXHIBITION

Over 250 textiles, dating from the early 16th to the 20th centuries, are displayed in "Fabric of Jewish Life: Textiles from The Jewish Museum Collection." The exhibition includes textiles used in the synagogue, such as Torah ark curtains and valences, Torah mantles and binders, and desk covers for the reading of sacred texts. Also to be shown are objects used in the home, such as tablecloths, ceremonial towels, and matzoh and hallah covers.

The textiles are made of silk, linen, wool, and cotton and include velvets, satins, brocades, rare handwoven fabrics, laces, and rugs. Many are embroidered with metallic threads through the use of such techniques as needlepoint, appliqué, crocheting, knotting, and tatting. Several large Torah curtains, for instance, weigh more than fifty pounds each because of the richness of their metallic embroidery and other decorative elements.

The ceremonial textiles depict different subjects in Jewish religion and range in style from the sophisticated to the simple. For example, a sophisticated 17th century Italian Torah curtain is embroidered with representations of the Walled City of Jerusalem, Mount Sinai and the Tablets of Law, while a more simple Eastern European piece is appliquéd with large flowers in bright colors and naively styled "Lions of Judah."

THE INTERPRETIVE PROGRAM

In making grants for museum exhibitions, the National Endowment for the Humanities stresses the importance of the use of interpretive materials which will arouse the visitor's interest and expand his knowledge about the artifacts and objects being displayed. Various interpretive methods being used by The Jewish Museum to help visitors understand the role of ceremonial textiles in Jewish life include:

Color Slide Show: As an orientation to the exhibition, a 10-minute color slide show presents the role of textiles in ceremonies in the home and in the synagogue. Many of the works on display in the exhibition are also included in the slide presentation. This serves to call the viewer's attention to each piece as he is enjoying the tour of the gallery.

Interpretive Panels with Explanatory Texts: Panels with texts which translate the Hebrew inscriptions and explain the symbolism found on each ceremonial textile are placed throughout the exhibition. In addition, these panels underscore the differences found in Jewish textiles produced in various countries.

Special Interpretive Area to Display Fabrics and Techniques: A "please touch" display allows both adults and children to touch representative samples of the types of fabrics used, and to examine at very close range characteristic types of embroidery.

Illustrated Catalogue: The catalogue, a significant interpretive document, contains reproductions of the exhibited works in both color and black and white plates, as well as technical identification and historical and stylistic analyses. Also included is an essay explaining the relationship between Jewish textiles, Jewish thought and religious observance, and discussion of the preservation of the historical textiles on display.

Materials for Schoolchildren and Parents: Pre-visit kits are available to teachers and their students to acquaint them with the history and use of ceremonial textiles. These kits are circulating to public and private schools in the New York City area, and, in the course of the exhibition, over 700 classes are expected to benefit from their use. In addition, as they visit the museum, parents and children may obtain self-guided tour materials which include ten activity cards describing various aspects of the exhibition.

Guided Tours: Trained docents are available to conduct guided tours for individuals or groups of adults and schoolchildren.

Lecture Series on Jewish Textile Art: In conjunction with the exhibition, a series of lectures by scholars and artists is being planned for the public. These lectures will investigate the uses of ceremonial textiles and their continuing role in Jewish life.

OTHER JEWISH RELATED PROJECTS IN THE NEW YORK CITY AREA

In addition to the Jewish ceremonial textiles exhibition, the National Endowment for the Humanities has supported several other projects in the New York City area which focus on Jewish culture and history. Most recently, The Jewish Theological Seminary of America received a grant of up to $162,777 from the Humanities Endowment to establish an "Institute for the Teaching of the Post-Biblical Foundations of Western Civili-

*The National Endowment for the Humanities is the principal cultural agency of the Federal Government. Its mission is to award grants to support education, scholarship and other programs which involve media, libraries, museums and national and cultural organizations as means of reaching a broad, general public. Programs funded through National Endowment for the Humanities grants affect every aspect of the cultural life of America.

zation." And, with a $10,292 Youthgrant in the Humanities, Steven Brand of New York City is preparing a filmic study of Jewish-American survivors of the Holocaust.

THE MONEY FLOW FOR RURAL WATER

Mr. GRAVEL. Mr. President, as the administration focuses on the problems of blighted urban areas, it is important to remember the needs of the rural areas of America. As I see it, the rural communities have a basic need for infrastructure, those amenities of urban and suburban life which result in economic development and social well-being. The problems in my State of Alaska are particularly extreme. As late as 1974, 38 percent of Alaska Natives lived in communities without a public water system, 45 percent in communities without sewer systems and 18 percent in communities without electricity. A full quarter still lacked telephone services, even of the variety of one village phone. Of course, provision of these facilities is hampered by the isolation, climate, and topography of rural Alaska.

But these problems are not unique to Alaska. An article in this morning's Washington Post speaks to the need for rural water and sewer systems throughout the United States. The national demonstration water project has provided technical assistance and advocacy services for rural communities in need of these services. While the need is compelling, the commitment of the Government is waning. NDWP is faced with a cutoff of funding by the Government's antipoverty agency, the Community Services Administration.

In the rare instance where all parties agree that a Government-funded enterprise is performing a worthwhile function, such a move seems unwise. I commend this article to my colleagues and urge continued funding for this endeavor.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MONEY FLOW FOR RURAL WATER

(By Colman McCarthy)

When Andrew Mansfield, mayor of Grambling, La., came to Washington the other morning, people he met wanted to talk about the legendary football team of Grambling College. But Mayor Mansfield had another sport in mind: the gamesmanship of winning grant money for his impoverished town of 4,400 where 25 per cent of the citizens lack safe drinking water. Mansfield, telling the story of Grambling's hardship to an audience of 100 in a Capitol meeting room, was one of a dozen officials from rural America who came to rally support in Congress for the National Demonstration Water Project (NDWP).

NDWP, which began in 1968 in the Roanoke Valley area of Virginia and went on to be funded as a national program by the Office of Economic Opportunity (OEO) and its successor, the Community Services Administration (CSA), is a coalition of 400 community groups working to get drinking water and sewer systems to the rural poor. A high official of CSA says that NDWP is "clearly a good program." Others agree, from the Congressional Rural Caucus to state and local officials who have come to rely on NDWP's financial and professional help.

Among the latter is Gov. David Pryor of Arkansas. The situation in his state is part of the national pattern. Pryor, in recent hearings, said that when local officials in Arkansas were asked to list "the most important development projects" the state should consider, 80 per cent listed the need for drinking water and sewer systems. At the same hearings, a state senator from North Dakota said his state's small towns had "no way" of raising the money to comply with the federal Safe Drinking Water Act of 1974. In Grant County, Okla., more than half the farm homes lack adequate water supplies; two families are leaving their farms annually because of water problems. In Vermont, where 70 per cent of the poor earn less than $2,000 a year, 2,700 homes (according to the 1970 census) are without water. Nationally, it is estimated that of the 36 million Americans using self-supply water systems, 18 million are getting contaminated water. The bleakness was summarized by Charles Ross, the mayor of Lincolnville, S.C.: "The small towns have more problems than the big towns because, number one, we don't have the tax base; number two, we don't have the industries and we don't get the industries because we don't have the water and sewers."

Small-town water problems were only coming into national focus when NDWP received federal funds in 1970. Between 1961 and 1971 at least 128 known outbreaks of disease of cases of poisoning had been caused by drinking water. Twenty deaths and over 46,000 illnesses occurred. Accounts of local water problems seldom turn into national news, but an exception occurred last week when officials in Vermont confirmed that the water supply of Bennington was contaminated.

What OEO liked about NDWP in the early Nixon years was that it had been conceived locally and proven locally. It was not a Washington idea. During the years when the Nixon administration sought to kill off or weaken many of the OEO programs—from Head Start to Job Corps—NDWP ducked low and avoided the crossfire. A year ago, its officials were relieved when the Carter administration came to power, because at last here was a President with a rural background. Moreover, his choice to run CSA was Grace Oliveras, who also knew of rural problems.

None of this was missed by Mayor Mansfield and the other local officials who came to Washington last week seeking clean water. What unnerves them is the fear that NDWP is now endangered in the Carter administration as it never was in the Nixon-Ford years. The project's funding runs out at the end of January, with doubts mounting every day that the renewal application for $5.2 million will be approved by CSA. Agency officials say, first, that they have little money for R&D projects and, second, even if it did, NDWP has already proven its need and success and should therefore be "spun-off" to another agency, as were earlier OEO successes.

The challenge, then, is how, will the Carter administration take advantage of an asset. What is the fate of a program that has earned praise within the administration, from Congress and those in the rural places who are perhaps the sharpest judges of NDWP's worth. It might be thought that CSA would want to keep the project within its fold, or at least become its advocate before other federal agencies—HEW, HUD (which recently announced its intentions to become more open to rural projects) or EPA—so that one of them would come forward to take over what is a proven success. CSA has sympathy for the project and, likewise, officials in NDWP support the agency.

The issue, however, is not good feelings, but of finding a way to keep on serving the rural poor who have benefitted by NDWP. Some suggest that the congressional appropriations committees earmark funds for drinking water and sewer projects. Others say a line item in the budget would do it, though, it is late for that now. A third option is for the White House to involve itself by bringing together CSA, NDWP and the Congressional Rural Caucus to devise a strategy for pulling together the needed $5.2 million.

Citizens in Grambling, La., Grant County, Okla., or the prairie towns of North Dakota have little concern how the policymakers in Washington finally work out the funding for NDWP. Their sole concern is that it be done, and done quickly. The water can't flow unless the money flows first.

UKRAINIAN INDEPENDENCE DAY

Mr. BURDICK. Mr. President, Sunday, January 22, 1978, marked the 60th anniversary of the proclamation of a free and sovereign Ukrainian Republic. The significance of this date takes on added importance at a time when the Congress, executive branch, and American public hope to extend to the world community our concern for human rights and individual freedom.

Destroyed by the superior force of Soviet Russia in 1921, the Ukrainian republic was short-lived. The spirit in which it was created remains, however, in the hearts of the 50 million Ukrainian citizens struggling to resist total "Russification." The imprisoned dissidents and vocal emigrés are only the most noticeable element of a population committed to national independence and personal liberty.

The Ukrainian people are justifiably proud of their unique cultural, historical, and intellectual traditions. The contributions of Americans of Ukrainian descent to the political, social, and economic vitality of our Nation have been numerous and significant, and well deserve recognition on this anniversary.

While we commemorate past achievements, we must also renew and strengthen our support of the ongoing struggle for Ukrainian freedom and self-determination. This struggle serves as an excellent reminder that efforts to achieve these stated goals should be continued. Let us celebrate the 60th anniversary of the Ukrainian proclamation of independence by adding a new zeal to our crusade for the protection of the basic human rights that this independence would afford.

A NATIONAL RURAL-URBAN GROWTH AND DEVELOPMENT PROGRAM BASED ON A LOCAL-STATE-FEDERAL PARTNERSHIP

Mr. NELSON. Mr. President, I am presenting to the Senate today the general outline of a proposal which I believe will bring a rational coordinated approach to the dilemma which has developed as a result of the search for a new "urban policy."

Newspapers have reported the dilemma faced by a special administration task force which seeks dramatic new proposals to deal with the problems of our

cities, at a time when spending on urban related programs is already extremely costly and when budget and inflation considerations seem to rule out any major new expenditures.

This proposal is very simple and is not costly when compared with other suggestions.

First, it would extend the existing system of Regional Development Commissions to serve the entire Nation. We presently have eight so-called "Title V Regional Commissions" serving 34 States, and the Appalachian Region Commission serving 11 States. Eight States are not in any commission.

Second, it would require each of these Regional Commissions to take on the additional responsibility of preparing comprehensive "urban development strategies" for each designated urban area within its boundaries.

Third, the proposal would provide specific, additional funds to enable the commissions to implement plans and projects in urban areas. The proposal would create an Office of Regional Economic Development within the Executive Office of the President to help coordinate all development programs through the Regional Commissions.

There would be no other major change in existing law. The present authority of various Federal, State and local agencies relating to Federal programs would not be changed.

Under this concept, each State would be given an opportunity to indicate its desire to participate in a Regional Commission, and a reasonable deadline would be set by which all participating States would be designated as members of Regional Commissions. States not now served could create new commissions or join existing commissions. Basic funding would be increased so that the present fund allocations to existing commissions would not have to be cut in order to serve more States. In essence, commissions would retain their present level of funding for continuing their present efforts, and an equal additional amount would be made available just for urban areas.

Once established, commissions would follow present procedures. In a four-State commission, for example, the four Governors, joined by a Federal Cochairman appointed by the President, would prepare a comprehensive, long range development plan for their entire multistate region, just as commissions do today. They would continue using their existing level of funding to implement projects to carry out this plan.

In addition, the commission would be required to prepare a new "urban development strategy" for each designated urban area within its region above a certain population level. I would suggest a population of about 250,000 or more, and I would suggest giving the commission power to decide which units of government to include defining the urban area.

This urban development strategy would be developed in close partnership with local elected officials and their planning and development staffs. I would propose that each Governor be required to appoint an "urban development council" of local elected officials in each designated urban area to supervise preparation of the urban development strategy for that area. Where such bodies already exist—as councils of government or regional planning commissions, the option of using such existing institutions should be offered.

Once approved, the urban development strategy would guide the commission in approving specific projects out of its allocation of specifically earmarked urban development funds, just as the commission's regional investment strategy now guides its current investments.

I would propose a separate allocation of $100 million for the commissions' urban programs. I estimate that title V regional commissions could be extended to serve all States not now served—at the present level of funding—by increasing the title V basic appropriation from $64 million to about $100 million. Thus this proposal would cost $36 million to extend present coverage, and an additional $100 million for urban programs, or an increase of $136 million. This assumes no change in the present, separate funding for the Appalachian Regional Commission.

However, in addition to making decisions on the specific regional commissions funds allocated to it, the commission would be expected to affect indirectly the expenditures of much larger amounts of money made available through the full range of local, State and Federal programs which relate to economic growth and development.

The commission's rural and urban development strategy would be expected to serve as a guide to funding agencies and to Federal regional offices in making their various grants. The commission's development strategy also would aim at effectively coordinating and integrating all programs in the area aimed at growth and development, whether they were local, State, Federal or private sector in their funding.

RESTORE STATE AND LOCAL RESPONSIBILITY

If enacted, what would this proposal accomplish?

Most important, it would put responsibility for urban as well as rural problems back where it belongs—on specific communities and their local elected officials, on State officials, and on citizen leaders of the community. But these State and local leaders would have a Federal working partner at their side as they seek solutions to their problems.

We would have, at long last, a "national urban policy"—not a rigid, arbitrary policy forged in Washington and imposed on thousands of communities, but a policy geared to the exact needs of every distinct urban area in the Nation, developed out of a close working partnership between local, State and Federal officials—people who know the area and its distinctive characteristics and are accountable both to the region and the Federal Government.

Furthermore, in all parts of the Nation, we would have a simple, low-cost forum and format—the regional commission—for the badly needed ongoing coordination and integration of all local, State, and Federal programs which deal with growth and development. This, of course, would take time and skill to accomplish.

Thus, we would achieve something this Nation has sought for many years—a national growth and development policy, a policy dealing with both urban and rural problems, and a policy capable of carrying out national goals and objectives by fitting them into the real needs of specific regions, States and communities.

NOT REVENUE SHARING OR CATEGORICAL PROGRAMS

This proposal is not a new Federal categorical program. We cannot realistically try to solve rural or urban problems, or to deal with the complex problems of growth and development through any categorical program, no matter how large or well administered.

No Federal categorical program can possibly anticipate the complex variety of State and community needs which exist across this Nation.

Furthermore, no Federal categorical program can be effective unless it is carefully linked at the State and community level with other Federal programs and with local, State and private efforts aimed at similar problems.

The missing link in Federal categorical programs is the connection with local, State, and private expenditures.

I submit that we have learned through hard experience in the past 10 or 15 years that no single Federal program, no single Federal agency, not even a well-intentioned collection of Federal agencies such as the Federal regional councils, can complete that connection. It has to be done at the State and community level.

Also, it should be made clear that this proposal is not a new kind of block grant or revenue sharing. I think we have also learned from hard experience that block grants and revenue sharing, although they have a place in the State-Federal system, can only accomplish so much. They do provide almost total State and local flexibility, which in some instances is highly desirable.

But for that very reason, they provide virtually no accountability, they do not target resources on people or areas of maximum need, and, consequently, they are of very little value to us in carrying out specific national objectives.

Multistate regional commissions, made up of elected Governors and Presidentially appointed Federal cochairman, supplemented by urban development councils of local elected officials, provide an excellent alternative, offering great flexibility while still maintaining a high degree of accountability, targeting on areas of great need, and fulfilling nationally stated objectives.

ECONOMIC DEVELOPMENT PROBLEMS

Rural and urban problems have common origins. Both are really a result of national growth and development patterns. They change dramatically as the Nation changes. Rural problems were once problems of lack of basic infrastructure—roads, sewers, water systems, elec-

tricity, education and health facilities. Today, in many parts of the country, those facilities have been available for many years, and rural leaders are now overwhelmed with completely different kinds of problems.

Urban problems arose from the massive conversion of this country from a rural to an urban nation, the movement of millions of people from farms to urban industries, and the social and economic problems that created.

Today, many of our urban areas are desperately concerned about a reverse trend—the outmigration of industries as well as citizens, leaving behind a costly infrastructure built at great public expense to serve a different age.

Because rural and urban problems are interrelated, because they differ so much across the Nation, because they change so dramatically from time to time, it is fruitless to try to attack them through either an "urban" or "rural" program.

National problems of rural and urban growth and development can be successfully dealt with only by a stable, long-term and yet regionally flexible process, a process which allows responsible persons, accountable at the State and local level, to apply national solutions to State and local needs.

It is fine to have national programs to encourage industrial development, mass transit, recreation and tourism, and so forth, for example, but we need scme institutional mechanism to decide which of these, and how much of each, is the answer in a given region, State, or community.

I emphasize the need for long-term stability in promoting economic growth. Too often the Congress has sought to stimulate economic development on an emergency basis, because of some sudden swing in the economic pendulum. Although I have generally supported these efforts, I am afraid that, with the benefit of hindsight, they do not appear very effective.

For example, in the last 2 years the Congress spent $6 billion on local public works programs—a staggering amount of money—the greatest outpouring of Federal construction dollars since the Depression of the 1930's. I am sure some good was done. But the problems were serious. Thousands of communities devoted much time, money, and energy to developing applications but got no benefits. The nature of the application process encouraged communities to submit low-priority projects which their own governing bodies had specifically passed over for funding. We got the leftovers. More carefully planned projects with long-range benefits were bypassed because they were not "ready to go." The overriding weight given to immediate readiness and job intensity eliminated many projects of long-term economic benefit. Little attention was paid to the effect of "dumping" billions of dollars at one time in areas where contractor capability was limited. Worst of all, in my opinion, virtually all of the costly State and local planning systems which the Federal Government has mandated in recent years were bypassed.

If they are to make effective use of limited Federal assistance dollars, States and communities need time to plan, to budget, to package funds from different sources. Many of them need a great deal of technical assistance if they are to obtain the benefits they need, and which Congress wants them to have.

The Nation desperately needs a stable, ongoing institutional system which will bring communities, States and the Federal Government together in a bona fide working partnership for healthy, long-term economic growth and development.

ROLE OF GOVERNORS

Governors are uniquely situated to provide regional as well as State leadership in developing national growth and development policy. States have undergone great changes in recent years. Governors now have State planning offices, State departments of administration, departments of community assistance, and the kinds of tools that are needed to plan and administer effective programs. Governors have also assumed increasing responsibility for urban problems and for economic distress. Governors working through regional commissions could, I am convinced, shoulder increased responsibilities for growth and development policy.

Giving Governors increased responsibility and requiring them to work with local elected officials offers much more hope for good policy development and priority setting than trying to build a new Federal bureaucratic system at the regional level.

UPPER GREAT LAKES COMMISSION

While a member of the Senate public works committee in the early 1960's, I had the privilege of sponsoring the amendment which led to our present Upper Great Lakes Regional Commission, established under the Public Works and Economic Development Act of 1965. I believe that in the past decade of its active operation it has demonstrated—along with the other commissions serving other regions—that it has a great capability to stimulate improved State and regional development, to commit a limited number of project dollars in a way that will leverage substantial additional amounts of funds, and that it offers a great deal more if it is effectively utilized.

Regional commissions are not a panacea. I am aware that some negative evaluations have been made of them by the Office of Management and Budget and others. However, it must be remembered that these commissions were a creature of the Congress—particularly of a relatively small number of Senators and Congressmen serving on their respective public works committees. They have not enjoyed strong administration support under either Democratic or Republican leadership.

Their funding has been extremely limited. For several years they fought against Presidential directives for their abolition and were saved only at the last minute by congressional intervention.

Although they have been given the legislative mandate to coordinate Federal programs, a difficult task under any circumstances, they have had almost no support for doing so within the executive branch. The fact is, regional commissions have never been told exactly what their mission is—a further example of the lack of Federal policy in economic development.

Most commissions have not undertaken urban programs because their funds were so limited, and also because the commissions grew out of a legislative climate in which they were originally viewed as agencies to stimulate growth in depressed regions such as Appalachia, the Ozarks and the northern Great Lakes cutover region. Yet today we have commissions made up of as many as five entire western States, which are anxious to deal with the full range of growth and development problems facing their regions, and with new problems such as energy development, urban sprawl and complex regional water problems. Why not tap this great source of creative leadership?

Regional commissions have been repeatedly endorsed by their participating Governors and by the National Governors' Association.

If we extended their capabilities to urban problems as I have proposed, in partnership with local officials and without changing the present way in which Federal funds are allocated and committed, I am confident they would win strong support from urban officials as well.

The proposal I make does not contemplate creating a large new bureaucracy, nor further proliferating the planning process. At present, title V regional commissions altogether have fewer than 65 Federal employees, and the Appalachian Regional Commission has 10. Contrast that with any other Federal program. The commissions themselves have small additional staffs of non-Federal employees. The commissions would not be a new layer of government or planning authority. Their small Federal and commission staffs would primarily link together the existing State, local and Federal planning and administrative agencies. The commission role would be primarily developing sound regional policies, setting priorities between competing projects and activities, and building linkages between programs.

SUMMARY

Mr. President, in summarizing let me reiterate that this Nation needs a greatly improved system for developing policy relating to growth and development, and then applying this policy to the complex, different, and swiftly changing situations which exist across the land. We need clearly stated national objectives to create and to manage our growth and development, and we particularly need tools which will enable us to achieve these objectives in the many States and communities where our people live.

We need flexible national programs. Yet we want to maintain accountability, and to know that national goals are being met when national dollars are spent.

I am convinced that our experience of recent years indicates that there is an excellent chance of reaching these goals

by much more effective use of the system of regional development commissions which we already have. We should expand these commissions to serve all parts of our Nation. We should give them a special urban responsibility as well as responsibility for the rest of the State. We should insist that they enlist local officials in their search for urban solutions.

We should give them some limited funds specially earmarked for urban areas, so they do not have to divert their present funds from hard-pressed areas which they are now serving. But we should expect them to have an effect on a much larger range of programs.

Most of all, we should give them a strong mandate to coordinate and integrate the programs which we already have to stimulate jobs, economic development, and social improvements.

If we will do that, I think that in a short time we will have a true national policy for growth and development, a policy that will fit changing conditions all across America, and a policy that offers some reasonable hope of managing some of the Nation's most difficult problems within the limits of our funding capacities over the years to come.

Mr. President, I ask unanimous consent that the text of a draft bill on the subject be printed in the RECORD. I hope to obtain comment from State and local officials on this draft within the next 6 to 8 weeks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Title V of the Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new section at the end thereof:

"COORDINATED URBAN AID

"SEC. 518. (a) The Nation's cities are in great distress. Their physical infrastructures are obsolete; their fiscal bases are eroded; they suffer from extremely high levels of unemployment and concentrations of poor and disadvantaged people; and the efforts of the Federal, State, and local governments and the private sector are not adequately coordinated to deal with these problems. The present system of dealing with urban problems in isolation from each other, and particularly on a crisis-management basis, is not very effective. The structure of the regional commissions provides an excellent institutional framework for dealing with these inadequacies and to develop and implement coordinated public investment strategies for the Nation's urban areas.

"(b) Each regional commission is authorized to carry out special urban developmental assistance projects and programs within its region, including projects and programs addressing the economic, social, human resource, and environmental problems of the large urban areas. Each regional commission shall identify within its region such urban areas needing special assistance and which possess the following characteristics:

"(1) a population of 250,000 or more, concentrated in a single standard metropolitan statistical area (SMSA), and

"(2) an average areawide unemployment rate which was at least 20 per centum above the national (or the average for the state in which the area is located) for the previous twelve-month fiscal year, or

"(3) a percentage of population with low income (that is, below the nationally determined poverty line) which is 25 per centum above the national average for the previous fiscal year, or

(4) a rate of annual population growth which is at least 25 percent lower than the national average for the previous fiscal year.

"(c) For each such urban development area designated by the Commission, there shall be established an urban development council, consisting of no more than 10 and no fewer than 5 local elected officials, appointed by the Governor of the State in which such area is located. The council members shall include the chief executive officers of the largest city and the largest county (parish or town, where applicable) included in such an area, and they shall serve as the cochairpersons of the council.

Each Commission shall also establish an urban advisory group, consisting of the cochairpersons of each of the urban development councils in the region. A chairperson shall be elected on a one-year rotating basis from among the members. The urban advisory group shall advise the Commission regarding the Commission's overall resource allocation policies and priorities and shall apprise the Commission of the changing needs and concerns of the region's urban areas.

"(d) For each such urban development area, the council shall prepare an urban investment strategy, including a comprehensive urban development policy and an annual priority-setting for both the public and private sector. Such investment strategies shall be prepared in consultations with all appropriate local, substate (regional), State, and Federal agencies and the private sector and the Commission shall provide (at least 50 percent, but) not more than 75 percent of the cost of preparation and updating of the investment strategies. Each such urban investment strategy, and any projects designed to implement the strategy, shall be approved by the urban development council before submission to the Commission for approval.

Each regional commission is authorized to make grants to urban investment projects, and to carry out demonstration projects in connection with the development of innovative approaches to dealing with the unique problems of the urban areas in the region. Each Commission is further authorized to provide supplements to Federal grant-in-aid programs, pursuant to section 509, to enable the local entities within the urban development council jurisdictions to take advantage of Federal assistance programs for which they are eligible.

"(e) In addition to all other authorizations under this Act, there are authorized to be appropriated for each fiscal year beginning October 1, 1978, $100 million for special grants to regional commissions to carry out the activities under this section.

(I am still working on the distribution formula.)

OFFICE OF REGIONAL DEVELOPMENT

"SEC. 519. (a) The President, in order to facilitate the formulation and implementation of national growth and development policies, particularly utilizing the nationwide system of regional commissions, shall (may) establish in the Executive Office of the President an office to be known as the office of Regional Development which shall be composed of the Director, appointed by the President an office to be known as the Office sent of the Senate, and such other personnel as may be necessary to carry out its functions.

"(b) The Director, together with the Federal Cochairmen, shall also assist and advise the President and the Domestic Council (or the President's Cabinet) on policies and programs affecting the regional commissions.

The Director shall further assist the Federal Cochairmen in fostering maximum coordination, cooperation, and participation of planning and program activities of the appropriate Federal departments, agencies and instrumentalities in the achievement of goals and objectives established pursuant to this Act. The Director shall chair a Council of the Federal Cochairmen of Regional Commissions. The Council shall assist the Executive Office in the formulation and implementation of an ongoing national growth and development policy.

"(c) There is authorized to be appropriated to carry out this section $——— for the fiscal year ending October 1, 1979.

THE GENOCIDE CONVENTION: FOUR GOOD REASONS

Mr. PROXMIRE. Mr. President, the opening of the second session provides a very appropriate time to review once more both our commitment to human rights and four good reasons why the Senate should end its procrastination and ratify the Genocide Convention immediately.

First, the participation of the United States in this treaty would provide strong support for the creation of a system of international law based on human dignity. At present we are both the most prominent United Nations member and the most outspoken advocate of human rights which has not ratified the Genocide Convention. The only other significant block of nonratifiers are the nations of central and south Africa, and our ratification of the treaty now would have a direct and powerful impact on the future of these and other developing nations.

Second, our refusal to join this convention thus far cannot be blamed on any legal or technical flaw in the document. Each and every legal objection to the genocide treaty has been refuted not once, but many times since 1948. As Arthur Goldberg, the U.S. representative at the Helsinki discussions of human rights has often noted, it is almost anachronistic that these objections continue to be raised.

Third, the failure of the Senate to accede to the Genocide Convention is a very real and unnecessary diplomatic embarassment. Not only does it provide our enemies with ammunition to use against our efforts for human rights, but it reduces the credibility of the United States throughout our international negotiations—and which is made even worse because it is unexplainable.

Finally, this convention outlaws acts which are absolutely repugnant to the American people. When the will of a people is known with such certainty and intensity as it is on this issue, the Government's righteous indignation is not enough. Instead, it must utilize the powers and fulfill the duty given it by the Constitution to put into law the convictions of its people.

Mr. President, as we approach the new session, I ask my colleagues to reflect on the true meaning of the American commitment to human rights and urge that we ratify the Genocide Convention immediately.

CRUISE MISSILE TESTING IN ZAIRE

Mr. ABOUREZK. Mr. President, on December 15, 1977, I placed in the CONGRESSIONAL RECORD an article by Mr. Tad Szulc which raises some very serious questions about the alleged testing of the cruise missile in the Shaba Province of

Zaire with the full knowledge, involvement, and cooperation of the Government of the Federal Republic of Germany.

The appearance on this article has brought a response from the Ambassador to the United States, His Excellency Berndt von Staden, on behalf of the Government of the Federal Republic of Germany. Because it is important that both sides of this important issue be heard, I therefore ask unanimous consent that the Ambassador's letter to me concerning this article be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMBASSADOR OF
THE FEDERAL REPUBLIC OF GERMANY,
Washington, January 9, 1978.

Hon. Senator JAMES ABOUREZK,
Dirksen Senate Office Building.

MY DEAR SENATOR: It is with great concern that I noticed the insertion in the "Congressional Record" of December 15, 1977, of the claim put forward by Penthouse Magazine, according to which the government of the Federal Republic of Germany is testing cruise missiles and intermediate range ballistic missiles in Zaire. I have been instructed by my government to point out to you the incorrectness of these assertions, as our two governments have already done through the media.

First of all I would like to state clearly and unambiguously that the Federal Government is not testing cruise missiles or IRBMs either in Zaire or anywhere else. Strictly observing the Brussels Treaties of 1954, the Federal Government has renounced the production of long range missiles and guided missiles.

I would now like to consider in greater detail the article in question which has been reprinted in the "Congressional Record." This article gives an entirely wrong impression of the activities of the German company mentioned therein.

The Orbital Transport and Raketen Aktiengesellschaft (OTRAG) is a small private German company which is testing a satellite launcher system in Zaire for exclusively peaceful use in space. The shares of the company are held by a fairly large number of small private shareholders. German authorities do not have any stake in it, nor is anything known about Dornier or Messerschmidt holding an interest in the company. To claim that the Federal Intelligence Agency (BND) is co-operating with OTRAG is—I do not hesitate to use such a strong term—preposterous. The Federal Government does not promote OTRAG's activities with funds from either the defense budget or any other budget. Nor has OTRAG been exempted from paying taxes.

It is correct that OTRAG has concluded an agreement with the government of Zaire by virtue of which the company has been granted rights of use in one part of Shaba province. This, however, is a matter which exclusively concerns the two contracting parties and in which the Federal Government has never been involved in any way. German companies, like their American counterparts, are free to conclude agreements and to select contracting partners.

As to possible uses of the tested launcher system, the technical concept of OTRAG is based on simple and cheap production methods and the assembly of small rocket components into bigger units. It is obvious even to the military layman that cruise missiles as well as IRBMs require entirely different technologies. In this context I would like to refer you to the December edition of the London-based magazine "Africa" and to the 12 September 1977 edition of "Aviation-Week and Space Technology." Surely these articles written by space experts will carry greater weight than the allegations put forward by Penthouse.

Incidentally, I should like to mention that to allege the Federal Government supplied ammunition and small machine guns to Zaire in 1977 is incorrect as well.

In a speech of January 6, 1978, President Mobutu of Zaire rejected unjustified criticism of the OTRAG project. I may enclose the relevant passages.

I would be grateful if you could have my letter printed in the "Congressional Record."

Sincerely yours,

BERNDT VON STADEN,
Ambassador.

MORE EVIDENCE FOR PUBLIC FINANCING OF ELECTIONS

Mr. CLARK. Mr. President, the increasing domination of special interest dollars in congressional election is well known and well documented. So too is the fact that special interest dollars flow overwhelmingly to incumbents, and that there is usually a direct correlation between the congressional committees on which these incumbents serve and the interest groups that contribute so generously to their campaigns.

These facts have been brought to light largely through the efforts of Common Cause and the outstanding work of its campaign finance monitoring project. Only this week, Common Cause has made another invaluable contribution to our understanding of the political process with the publication of a massive 3-volume study entitled "1976 Federal Campaign Finances."

Common Cause and many others have concluded that there is only one way to stem the tide of special interest money in congressional campaigns—the same solution that worked so well in 1976 Presidential campaign—public financing of elections.

Mr. President, last summer a determined minority prevented the Senate from reaching a vote on the question of extending public financing to Senate elections. I believe that those who participated in the filibuster knew full well that they were voting to preserve a system increasingly in the grip of large special interest groups. But if they need any further proof of the consequences of failing to enact congressional public financing, this new Common Cause study should provide it.

Mr. President, I ask unanimous consent that the press release announcing publication of the Common Cause report be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

INTEREST GROUPS CONTRIBUTE $2.4 MILLION
IN FIRST TEN MONTHS OF 1977

Special interest groups made campaign contributions of $2,405,000 during the first ten months of 1977, according to an analysis released today by Common Cause.

Common Cause also released today a three-volume publication setting forth the more than $22.5 million in campaign contributions made by special interest groups to 1976 Congressional candidates. The great bulk of interest group contributions are made during an election year, according to Common Cause.

The Common Cause publication lists by Congressional candidate and by individual interest group giver, the interest group contributions made for the 1976 Congressional elections.

Corporate and business trade association committees led the 1977 non-election year giving, with contributions of $987,000 as of late October, 1977. They were followed by labor groups which gave $844,000. The political committees of the American Medical Association and the dairy-related committees continued their traditional roles as leading group givers with 1977 contributions of $104,499 and $104,561 respectively.

The analysis shows that more than 230 new interest group political committees registered for the first time in 1977 with the Federal Election Commission. This included committees formed by General Motors Corporation; American Telephone and Telegraph; United Airlines; Boeing Company; Motorola Inc.; Nabisco, Inc.; Honeywell, Inc.; Ashland Oil Company; General Dynamics Corporation and the American Petroleum Refiners Association.

The Common Cause analysis also showed that aviation-related interests made contributions of more than $160,000 during the first ten months of 1977. The Airline Pilots Union, for example, which gave a total of $22,842 to House candidates for the entire two years leading up to the 1976 Congressional elections, had already contributed $19,400 to House candidates as of late October 1977.

Fourteen of the twenty-three members of the Subcommittee on Aviation of the House Public Works and Transportation Committee received non-election year contributions from aviation-related interests which could be directly affected by their legislative decisions. Eight members of the subcommittee received contributions from six or more aviation-related political committees in 1977.

HIGHLIGHTS OF COMMON CAUSE PUBLICATION
ON 1976 SPECIAL INTEREST GROUP GIVING

Set forth below are highlights of the campaign finance activities that took place during the 1976 Congressional races—

There were 860 House general election candidates who spent a total of approximately $61 million on their Congressional races, and 64 Senate general election candidates who spent a total of approximately $38 million. The overall total spent by these candidates—$99 million—represented a significant increase over the $74 million spent in 1974 by House and Senate general election candidates. The 1974 totals included $45.1 million by House candidates and $28.9 million by Senate candidates.

Incumbents in 1976 received a total of $13.2 million from interest groups compared with $4.1 million received by their challengers—a ratio of better than 3 to 1 for incumbents. Candidates in general election open races received $3.1 million, and the remainder went to primary losers and candidates in special elections. Agriculture groups favored incumbents over challengers by 7 to 1, business groups favored incumbents over challengers by 4 to 1, health groups favored them by 3½ to 1, and labor groups favored incumbents over challengers by a margin of 3 to 1. (See Appendix A)

Republican incumbents in the House and Senate overwhelmingly outdrew their Democratic challengers from business groups—$1,728,000 to $31,000 in the House and $557,000 to $64,000 in the Senate. But Democratic incumbents in these two bodies also strongly outdrew their Republican challengers from business-oriented groups—by 2½ to 1 in the House ($1,868,000 to $776,000) and by almost 2 to 1 in the Senate ($624,000 to $331,000). Overall giving by business groups to 1976 general election Congressional candidates in-

cluded $3.8 million for Republicans and $2.9 million for Democrats.

Almost all of the contributions from labor groups went to Democrats with Republicans receiving less than $250,000 of the $7.4 million given by labor to general election candidates.

The Common Cause study of 1976 interest group giving also shows:

Special interest groups contributed a record $22.6 million to candidates for Congress in 1976, nearly double their 1974 contributions of $12.5 million.

The most dramatic increases were in contributions by corporate and business trade association political committees who contributed over $7.1 million to Congressional candidates in 1976, almost 300% more than the $2.5 million they contributed in 1974. Labor union groups continued to maintain an edge over business groups, however, providing $8.2 million to Congressional candidates in 1976—some $2 million more than they gave in 1974.

Political committees of the American Medical Association again led interest group giving in 1976, with contributions of $1.8 million to Congressional candidates. In 1974, they gave nearly $1.5 million. The AMA was followed by dairy groups, which provided $1.4 million to Congressional candidates; AFL–CIO COPES, which gave approximately $1 million; and committees of the maritime-related unions which gave $980,000.

Congressional candidates in 1976 received $22 from special interest groups for every $1 received by Presidential candidates, whose campaign funds came primarily from the dollar check-off public financing system.

CHART A

INTEREST GROUP CONTRIBUTIONS TO CANDIDATES IN 1976 GENERAL ELECTION

Category	Congress [1] total	Incumbent	Challenger	Challenger to incumbent ratio	Open races
Agriculture	$1,378,955	$973,090	$133,425	7.29 to 1	$272,440
Business	6,732,027	4,776,128	1,191,850	4.01 to 1	764,049
Health	2,386,091	1,569,305	457,271	3.43 to 1	359,515
Lawyers	218,085	157,235	26,850	5.86 to 1	34,000
Business/professional	10,715,158	7,475,758	1,809,396	4.13 to 1	1,430,004
Labor	7,389,262	4,666,610	1,568,661	2.97 to 1	1,153,991
Miscellaneous	1,103,704	649,661	270,217	2.40 to 1	183,826
Ideological	1,239,436	378,058	547,846	.69 to 1	313,532
Total, interest committees	20,447,560	13,170,087	4,196,120	3.14 to 1	3,081,353

Category	Congress [1] total	House Democrats	House Republicans	Senate Democrats	Senate Republicans
Agriculture	$1,378,955	$894,460	$291,077	$138,373	$55,045
Business	6,732,027	2,084,210	2,832,081	819,435	996,301
Health	2,386,091	751,897	1,219,245	159,374	255,575
Lawyers	218,085	69,935	46,950	63,200	38,000
Business/professional	10,715,158	3,800,502	4,389,353	1,180,382	1,344,921
Labor	7,389,262	4,842,301	134,740	2,318,371	93,850
Miscellaneous	1,103,704	714,931	193,313	139,010	56,450
Ideological	1,239,436	365,523	591,041	191,177	91,695
Total, interest committees	20,447,560	9,723,257	5,308,447	3,828,940	1,586,916

[1] These figures represent total contributions for the period Jan. 1, 1975, to Dec. 31, 1976, to candidates who ran in the general election. They do not include contributions from interest groups to primary losers or to special election candidates, thus accounting for the difference between the $20,400,000 total set forth here and the $22,500,000 overall total contributed by interest groups to 1976 congressional candidates.

NATIONAL INVENTORS' DAY, FEBRUARY 11

Mr. WILLIAMS. Mr. President, I would like to make some brief remarks on behalf of the New Jersey Patent Law Association and the inventors of the State of New Jersey to commemorate National Inventors' Day, February 11.

As a Senator representing the State of New Jersey, I take special pride in observing this day. Our State was the home of Thomas Edison, whose birthday of February 11 provides the occasion for National Inventors' Day. Menlo Park and West Orange were the sites of the laboratories in which most of Edison's inventive contributions, such as the incandescent light, phonograph, and technology for moviemaking, were made.

This inventive tradition is not, however, merely a thing of the past. We in New Jersey are particularly aware of the importance of research and development to America's future progress. Our State is presently the home of a substantial portion of the country's privately financed research and development activities. By way of example, New Jersey houses the research and development efforts of such major pharmaceutical companies as Merck, Hoffman-LaRoche, and Warner-Lambert; of such petroleum and petrochemical companies as Exxon, Celanese, and Allied Chemical; and of such major electronics firms as Bell Laboratories and RCA. The result of all this activity is most impressive—the patents on such recent major inventions as the transistor, Indocin, black and white and color television, and Valium were all issued to New Jersey inventors. The Garden State stands third among all States in the total number of patents granted to inventors, with 3,875 patents as of 1976, and second to our southern neighbor, the State of Delaware, in number of patents per capita with one for each 1,893 people again as of 1976.

The people of New Jersey have significant reason to pay particular tribute to the great contributions of our Nation's inventors. In this day and age, it is more important than ever to sustain a research and development effort which will allow the United States of America to maintain its leadership in technology. I sincerely hope that National Inventors' Day, February 11, and the week following it, National Inventors' Week, will both spur public recognition of this Nation's inventors and emphasize the importance of their contributions throughout 1978.

PRELIMINARY NOTIFICATION, PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that four such notifications were received on January 17, 20, and 23, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S116 in the Capitol.

Mr. President, I ask unanimous consent that the notifications be printed in the RECORD.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 17, 1978.

In reply refer to: I–7873/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

WASHINGTON, D.C.,
January 17, 1978.

In reply refer to: I–7490/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

WASHINGTON, D.C.,
January 20, 1978.

In reply refer to: I-375/78.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: Our letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

WASHINGTON, D.C.,
January 20, 1978.

In reply refer to: I-8547/77 ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: Our letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

WELCOME TO THE FEDERAL RELATIONS NETWORK

Mr. PELL. Mr. President, as chairman of the Senate Subcommittee on Education, Arts, and Humanities, I want to extend a cordial welcome to the Federal Relations Network meeting of representatives from the National School Boards Association.

The Federal Relations Network is a commendable example of a participatory and policymaking body dealing with the challenges of educational issues on local levels throughout the United States.

The ongoing challenge of providing quality education is an obligation requiring the participation and cooperation of educational groups all across America. We look forward to the results of the Federal Relations Network meeting in helping us fulfill that obligation.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

CRIMINAL CODE REFORM ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1437, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

UP AMENDMENT NO. 1092

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate consider en bloc the amendments of the Committee on the Judiciary to S. 1437, located in the bill as follows——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, Senator ALLEN called me earlier this morning and indicated to me on the telephone that he had cleared the consideration of these amendments en bloc.

Mr. HELMS. That is correct.

Mr. ROBERT C. BYRD. And he has a staff member on the floor who has indicated to me that that is correct.

I have no objection, Mr. President.

Mr. KENNEDY. Mr. President, reserving the right to object——

Mr. HELMS. Mr. President, in the unanimous-consent request, it is the intention that such amendments will be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc and agreed to en bloc.

Mr. HELMS. Mr. President, all the amendments involved in this unanimous-consent request are as follows: Those appearing on pages 30, 31, 32, 35, 36, 37, 38, 40, 43, 44, 45, 46, 47, 49, 50, 51, 53, 58, 60, 64, 65, 66, 70, 71, 77, 80, 81, 87, 88, 91, 95, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 117, 118, 121, 123, 126, 127, 128, 129, 131, 132, 133, 134, 135, 136, 138, 139, 140, 141, 142, 143, 145, 147, 149, 152, 154, 155, 158, 159, 167, 170, 171, 175, 181, 183, 184, 185, 186, 189, 190, 191, 194, 196, 197, 198, 200, 201, 202, 205, 209, 212, 213, 247, and 256, the amendment appearing at lines 4 and 5 on page 41; the amendment appearing at line 24 on page 56; the amendments appearing at lines 3 through 9 on page 72; the amendment appearing at lines 30 and 31 on page 76; the amendments appearing at lines 23 and 24 and at line 28 on page 79; the amendments appearing at lines 21 through 36 on page 85; the amendments appearing at lines 1 and 2 and at lines 24 through 29 on page 122; the amendments appearing at lines 15 through 39 on page 141; the amendments appearing at lines 8 through 15 on page 206; the amendment appearing at line 6 on page 216; the amendment appearing at line 24 on page 217; that part of the amendment on pages 234 and 235 as appears at line 28, page 234, through and including line 24, page 235; the amendments appearing at lines 5 through 12 on page 251; and the amendment appearing at line 26 on page 252.

The amendments agreed to en bloc are as follows:

On page 30, line 1, strike in its entirety;

On page 30, line 2, strike "(D)" and insert "(C)";

On page 30, beginning with line 7, strike through and including line 9;

On page 30, line 10, strike "(4)" and insert "(3)";

On page 30, line 11, strike "(5)" and insert "(4)";

On page 30, line 19, strike "(6)" and insert "(5)";

On page 30, line 39, after "treason," insert "or";

On page 31, line 1, after "States" insert a semicolon" and strike the remaining through and including line 2;

On page 32, line 18, strike "of the United States";

On page 32, line 39, strike "(A)"; and insert "(1)";

On page 35, line 26, strike "or is" and insert "or that conduct or another element of an offense is pursuant to, or";

On page 36, line 24, strike "An" and insert "Except as otherwise expressly provided, an";

On page 36, line 25, after "the offense" strike the comma and "in whole or in part";

On page 36, line 30, after "authority" insert a comma and "and is intended to benefit the organization";

On page 37, line 2, strike "A" and insert "Except as otherwise expressly provided, a";

On page 37, line 17, strike "A" and insert "Except as otherwise expressly provided, a";

On page 37, beginning with line 28, insert the following:

"(b) DEFENSE.—It is a defense to a prosecution in which the criminal liability of the defendant is based upon section 401, 402, or 403 that all of the persons for whose conduct the defendant is alleged to be criminally liable have been acquitted because of insufficient evidence determined by the court not to have been occasioned by a suppression order.

On page 37, line 33, strike "(b)" and insert "(c)";

On page 37, line 33, strike "It" and insert "Except as provided in subsection (b), it";

On page 38, line 25, after "to" insert "a";

On page 40, line 22, after "to" insert "a";

On page 41, line 4, strike "amounts to more than mere preparation for" and insert "constitutes a substantial step toward";

On page 43, beginning with line 21, strike through and including line 25;

On page 44, line 9, strike "foreign";

On page 45, line 3, after "of" insert "dangerous";

On page 45, line 4, after "use of" insert "such";

On page 45, line 20, after "that" insert a comma and "in fact,";

On page 46, beginning with line 3, strike through and including line 4;

On page 46, beginning with line 22, insert the following:

"(1) in time of war or during a national defense emergency; or

"(2) at any other time and by which he causes damage to or impairment of a major weapons system or a means of defense, warning, or retaliation against large scale enemy attack.

On page 46, line 35, after "(1)" insert "(B)";

On page 47, beginning with line 30, insert the following:

"(b) PROOF.—To the extent that conduct described in section 1343(a)(1) is an element of an offense described in this section, the provisions of section 1345(b)(2) and (c)(2) that apply to section 1343 (Making a False Statement) apply also to this section.

On page 47, line 34, strike "(b)" and insert "(c)";

On page 49, line 32, strike "245" and insert "146";

On page 50, line 9, strike "252" and insert "146";

On page 50, line 18, strike "251" and insert "145";

On page 50, line 30, strike "251" and insert "145";

On page 51, line 1, strike "253" and insert "147";

On page 51, beginning with line 3, strike through and including "of" on line 4 and insert "section (4)(b) of the Subversive Activities Control Act of";

On page 51, line 12, strike "253" and insert "147";

On page 53, line 15, strike "section" and insert "sections";

On page 53, line 18, strike "(2)" and insert "(1)";

On page 53, line 18, after "subsection" insert "(a)";

On page 53, line 18, after "(3)," insert "or";

On page 53, line 18, after "(4)" strike the comma and "or (a)(5)";

On page 53, line 21, strike "(1)" and insert "(2)";

On page 53, line 21, after "(a)" strike "(1)" and insert "(5)";

On page 53, line 22, strike "226" and insert "223";

On page 53, line 23, strike "2276" and insert "2273";

On page 53, line 24, strike "223" and insert "226";

On page 53, line 26, strike "2273" and insert "2276";

On page 56, line 24, strike "1525" and insert "1526";

On page 58, line 10, strike "or";

On page 58, line 31, strike "in any other case";

On page 60, line 27, strike "(E)" and insert "(F)";

On page 60, beginning with line 28, strike through and including line 31, and insert in lieu thereof:

"(b) PROOF.—To the extent that conduct described in section 1343(a)(1)(A) through (F) is an element of an offense described in this subchapter, the provisions of section 1345(b)(2) and (c)(2) that apply to section 1343 (Making a False Statement) apply also to this subchapter.

On page 64, line 26, after "sentence" insert a comma and "pending surrender for service of sentence,";

On page 64, line 30 strike "or";

On page 64, line 31, strike "if the person was released in connection with a charge of a misdemeanor or for appearance as a material witness" and insert "in any other case";

On page 65, line 33, strike "or";

On page 66, line 24, after "proceedings," strike "or";

On page 70, line 31, strike "that" and insert "by which he";

On page 70, line 34, after "(A)" insert "the attendance of a witness or party at an official proceeding, or";

On page 71, line 4, strike "is" and insert "is:";

On page 71, beginning with line 5, insert the following:

"(1) a Class E felony in the circumstances set forth in subsection (a)(1);

On page 71, line 7, before "a Class A" insert "(2)";

On page 72, beginning with line 3, insert the following:

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that the communication was to a grand juror and consisted solely of a request to appear before the grand jury.

On page 72, line 6, strike "(b)" and insert "(c)";

On page 72, line 8, strike "(c)" and insert "(d)";

On page 72, line 37, strike "AFFIRMATIVE";

On page 76, line 30, strike "unreasonable";

On page 76, line 30, after "noise" insert "that is unreasonable";

On page 77, line 5, after the colon, strike through and including line 7, and insert in lieu thereof the following:

"(1) was invalid and that the defendant took reasonable and expeditious steps to obtain a judicial review of its validity, or a judicial decision with respect to a stay thereof, prior to the disobedience or resistance charged, and was unsuccessful in obtaining such review or decision within a reasonable period of time; or

"(2) was constitutionally invalid and constituted a prior restraint on the collection or dissemination of news.

On page 79, line 23, after "the" insert "physical";

On page 79, line 24, strike "or" and insert "or";

On page 79, line 28, strike "(3)" and insert "(4)";

On page 80, line 23, strike "or under any section incorporating by reference any provision of section 1343,";

On page 81, line 8, strike "and such proof is sufficient for convictions";

On page 81, line 19, strike "(a)(1) or (a)(3)";

On page 85, beginning with line 22, strike through and including line 23;

On page 85, line 25, strike the colon and "(1)";

On page 85, line 26, strike "that" and insert "by which he";

On page 87, line 24, after "file" insert "under the Internal Revenue Code of 1954, as amended";

On page 87, beginning with line 26, strike through and including line 28;

On page 87, line 29, strike "(3)" and insert "(2)";

On page 87, line 32, strike "(4)" and insert "(3)";

On page 87, line 36, strike "(5)" and insert "(4)";

On page 87, line 38, strike "(6)" and insert "(5)";

On page 88, line 6, strike "(4)" and insert "(3)";

On page 88, line 8, strike "(5)" and insert "(4)";

On page 88, line 8, strike "(6)" and insert "(5)";

On page 91, line 7, strike "kind of";

On page 91, line 30, strike "Smugglings" and insert "More than one smuggling, trafficking, or receiving";

On page 95, line 22, strike "or" and insert "of";

On page 95, line 32, strike the following:

"1517. Making a Political Contribution as a Foreign National.

"1518. *1517.* Making An Excess Campaign Expenditure.

"1519. *1518.* Definitions for Subchapter B.

On page 100, line 2, strike "or" and insert "of";

On page 100, line 15, strike "communications, or" and insert "communications; or";

On page 100, line 23, strike "(2)";

On page 101, line 8, strike "(2)";

On page 102, line 26, strike "includes" and insert "means";

On page 102, line 26, strike the comma and "obtained from" and insert "in";

On page 102, line 27, after "itself," insert "and includes information";

On page 103, line 31, after "(Aggravated" insert "Criminal";

On page 109, line 1, after "of a" insert "federal, state, or local";

On page 109, line 1, after "crime" insert "of violence";

On page 109, beginning with line 29, strike through and including line 32;

On page 109, line 33, strike "(b)";

On page 109, line 35, strike "(1)" and insert "(a)";

On page 109, line 37, strike "(2)" and insert "(b)";

On page 110, line 1, strike "(A)" and insert "(1)";

On page 110, line 4, strike "(B)" and insert "(2)";

On page 110, line 5, strike "(i)" and insert "(A)";

On page 110, line 5, strike "(ii)" and insert "(B)";

On page 110, line 31, strike "Service" and insert "System";

On page 111, line 3, strike "or";

On page 112, line 20, strike "unlawfully and";

On page 104, line 12, after "of" insert "neither";

On page 104, line 13, strike "or" and insert "nor";

On page 104, line 27, strike "Service" and insert "System";

On page 105, line 30, strike "curcumstance" and insert "circumstance";

On page 106, line 17, strike "Service" and insert "System";

On page 106, line 25, strike "or";

On page 107, line 40, strike "existed" and insert "exists";

On page 108, line 4, after "to commit, a" insert "federal, state, or local";

On page 108, line 6, strike "to be" and insert "is";

On page 108, line 7, after "of a" insert "federal, state, or local";

On page 108, line 17, strike "kidnaped" and insert "kidnapped";

On page 108, line 36, after "commit a" insert "federal, state, or local";

On page 108, line 39, strike "to be" and insert "is";

On page 117, line 1, strike "spouse, or causes such other person to engage in sexual contact with him" and insert "spouse";

On page 117, beginning with line 21, strike through and including line 24, and insert in lieu thereof the following:

"(3) 'spouse' means a person to whom the actor is legally married, and a person sixteen years old or older with whom the actor is living as husband and wife.

On page 118, line 28, strike "or";

On page 121, after "a" insert "federal, state, or local";

On page 121, line 16, after "United States" insert "and is occupied by a United States official";

On page 121, line 25, after "a" insert "federal, state, or local";

On page 121, line 35, strike "or vehicle";

On page 122, line 1, after "United States" insert "and is occupied by a United States official";

On page 122, line 24, strike "not privileged" and insert "without privilege";

On page 123, line 9, after "United States" insert "and are occupied by a United States official";

On page 126, line 30, after "a" insert "federal, state, or local";

On page 126, line 32, after "a" insert "federal state, or local";

On page 127, line 19, after "value" insert "being $500 or less";

On page 127, line 25, after "counterfeiting" insert "or forging";

On page 127, line 39, strike "(c)" and insert "(d)";

On page 128, beginning with line 9, insert the following:

"(2) 'forging implement' has the meaning set forth in section 1746(d);

On page 128, line 11, strike "(2)" and insert "(3)";

On page 128, line 16, strike "in fact";

On page 128, line 26, after "1737. Fraud in a Regulated Industry.", insert "1738. Consumer Fraud.";

On page 128, line 26, strike "1738" and insert "1739";

On page 129, line 7, after "value" insert "being $500 or less";

On page 129, line 25, after "(B)" insert "notwithstanding the provisions of paragraphs (1), (2), and (3),";

On page 131, line 4, after "1002(4))," insert "or by both,";

On page 131, beginning with line 13, strike through and including line 15;

On page 131, line 16, strike "(18)" and insert "(17)";

On page 131, line 22, strike "(19)" and insert "(18)";

On page 131, line 26, strike "(20)" and insert "(19)";

On page 131, line 33, strike "(21)" and insert "(20)";

On page 131, line 39, strike "(22)" and insert "(21)";

On page 132, line 5, strike "(23)" and insert "(22)";

On page 132, line 11, strike "(24)" and insert "(23)";

On page 132, line 13, after "bankrupt" insert "by or";

On page 132, line 14, strike "under" and insert "pursuant to";

On page 132, line 16, strike "(25)" and insert "(24)";

On page 132, line 21, strike "(26)" and insert "(25)";

On page 132, line 28, strike "(27)" and insert "(26)";

On page 132, line 32, strike "(28)" and insert "(27)";

On page 132, line 36, strike "(29)" and insert "(28)";

On page 132, line 38, strike "(30)" and insert "(29)";

On page 132, line 39, after "bond," insert "treasury bond,";

On page 132, line 39, strike "or" and insert "certificate of deposit,";

On page 133, line 1, after "coupon," insert "or any form of debt instrument bearing interest,";

On page 133, line 6, strike "(31)" and insert "(30)";

On page 133, line 11, strike "transferred" and insert transferred; or";

On page 133, line 13, strike "(32)" and insert "(31)";

On page 133, line 21, strike "kind of";

On page 133, line 23, strike "if a circumstance specified in section 1731(c) exists or has occurred." and insert "if:";

On page 133, beginning with line 25, insert the following:

"(1) a circumstance specified in section 1731(c) exists or has occurred;

"(2) the property is an interest bearing obligation of the United States; or

"(3) the property has a value of $5,000 or more, or is ammunition, a firearm, or a vehicle, and, after having been stolen, is moved across a State or United States boundary.

On page 134, line 3, strike "kind of";

On page 134, line 5, after "1731(c)" insert "or 1732(c)(3)";

On page 136, line 29, after the semicolon, insert "or";

On page 136, line 30, strike "(B)";

On page 136, line 30, after "States" strike the semicolon and "or" and insert a period;

On page 136, beginning with line 31, strike through and including line 32;

On page 138, beginning with line 23, insert the following:

"(c) PROOF OF MATERIALITY.—To the extent that materiality is an element of an offense described in this section, the provisions of section 1345(b)(2) that apply to section 1343 (Making a False Statement) apply also to this section.

On page 138, line 27, strike "(c)" and insert "(d)";

On page 138, line 29, strike "(d)" and insert "(e)";

On page 138, line 36, strike "when considered";

On page 139, beginning with line 25, insert the following:

"(3) the purchase or sale of stolen property by a person who traffics in property as a business, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, constitutes prima facie evidence that the person buying or selling the property was aware of the risk that it had been stolen;

On page 139, line 31, strike "(3)" and insert "(4)";

On page 140, line 3, strike "solely" and insert "primarily";

On page 140, line 4, strike "public, and did not derive anything of value from obtaining, using, or disseminating it" and insert "public";

On page 140, line 19, after "if" insert "he makes or utters";

On page 141, line 4, after "bond," insert "treasury bond,";

On page 141, line 4, strike "or" and insert "certificate of deposit,";

On page 141, line 5, after "coupon," insert "or any form of debt instrument bearing interest,";

On page 141, line 15, after "if" insert "he makes or utters";

On page 141, line 19, after "if" insert "he makes or utters";

On page 141, line 19, after "instrument" insert "and it";

On page 141, line 28, after "if" insert "a circumstance specified in section 1741(c) exists or has occurred";

On page 141, beginning with line 30, strike through and including page 142, line 8;

On page 142, line 18, after "if" insert "he signs, endorses, or utters";

On page 142, line 19, after "instrument" insert "and it";

On page 142, line 22, after "if" insert "he signs, endorses, or utters";

On page 142, line 23, after "instrument" insert "and it";

On page 142, line 31, strike "if:" and insert "if a circumstance specified in section 1741(c) exists or has occurred.";

On page 142, beginning with line 33, strike through and including page 143, line 11;

On page 143, line 18, strike "is a Class D felony." and insert "is:";

On page 143, beginning with line 20, insert the following:

"(1) a Class D felony if he issues or utters the written instrument;

"(2) a Class E felony in any other case.

On page 143, line 38, strike "he:" and insert "he";

On page 143, beginning with line 39, strike through and including line 40;

On page 145, at the beginning of line 22, insert "treasury bond,";

On page 145, line 22, after "debenture," insert "certificate of deposit,";

On page 147, line 24, strike "expenses" and insert "expense";

On page 149, line 31, after the semicolon, strike "or";

On page 152, line 14, strike "U.S.C." and insert "C.F.R.";

On page 154, line 39, after "is" insert "not more than";

On page 154, line 39, strike the comma and "or the alternative authorized fine set forth in section 2201(c)";

On page 155, line 18, after "in," insert "or controls";

On page 158, beginning with line 29, insert "1324 (Retaliating Against a Witness or an Informant), 1325 (Tampering with Physical Evidence)";

On page 159, line 7, after the comma insert "1842(a)(2) (Disseminating Obscene Material),";

On page 159, line 12, after the comma, insert "theft, trafficking in stolen property,";

On page 160, line 16, strike "and to a term of parole ineligibility of not less than two years," and insert "without designating eligibility for early release during the first two years of the term,";

On page 167, line 7, strike "Agency" and insert "Administration";

On page 167, line 20, strike "urges participation in,";

On page 170, line 8, after "locality" insert "or foreign country";

On page 171, line 6, strike "or";

On page 171, beginning with line 7, strike through and including line 8;

On page 175, line 11, strike "and" and insert "as";

On page 175, line 19, strike "692" and insert "6928";

On page 175, line 35, strike "maximum" and insert "authorized";

On page 175, line 36, after "is" insert "not more than ";

On page 175, line 37, strike "maximum" and insert "authorized";

On page 175, line 39, strike "maximum" and insert "authorized";

On page 181, line 23, strike "direct";

On page 183, line 1, strike "direct";

On page 183, line 20, after "treatment," insert "including treatment for drug or alcohol dependency,";

On page 183, line 26, strike "six months" and insert "one year";

On page 183, line 27, after "during" insert "the first year of";

On page 184, line 1, strike "promptly";

On page 184, line 3, strike "or";

On page 184, beginning with line 4, insert the following:

"(19) notify the probation officer promptly if arrested or questioned by a law enforcement officer; or

On page 184, line 6, strike "(19)" and insert "(20)";

On page 184, line 8, after "may" insert a comma and "after a hearing,;

On page 184, line 11, strike "probation" and insert "probation, pursuant to the provisions applicable to the initial setting of the conditions of probation";

On page 184, line 28, after "imprisoned," insert "other than as a condition of probation under section 2103(b)(11),";

On page 184. line 37, after "may" insert a comma and "after a hearing,;

On page 185, line 1, strike "probation" and insert "probation, pursuant to the provisions applicable to the initial setting of the term of probation";

On page 185, line 8, after "may" insert a comma and "after a hearing pursuant to Rule 32(e) of the Federal Rules of Criminal Procedure:";

On page 186, line 24, strike "direct";

On page 187, line 19, section 2303, after "Included in" insert "a";

On page 187, line 19, section 2305, after "Calculation of" insert "a";

On page 189, line 4, strike "or term of parole ineligibility to the time that the defendant has served in imprisonement;" and insert "and may establish or increase a portion of the term subject to the defendant's early release;";

On page 189, at the beginning of line 9, insert "or a portion of the term subject to the defendant's early release";

On page 189, line 10, strike "or term of parole ineligibility";

On page 189, line 15, after "imprisonment" insert "in excess of one year";

On page 189, line 15 strike "in the case of a felony or of a Class A misdemeanor";

On page 189, line 19, strike "D" and insert "E";

On page 189, line 26, after "to the" insert "early release on";

On page 189, line 34, strike " "(1)";

On page 189, line 37, after "imprisonment" insert "imposed at the same time";

On page 189, line 39, strike "If multiple terms of imprisonment are ordered to run consecutively, any included terms of parole ineligibility also run consecutively" and insert "Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently";

On page 190, beginning with line 5, strike through and including line 7;

On page 190, line 15, after "sentenced" insert "at the same time";

On page 190, line 21, strike "included terms of parole ineligibility" and insert "portions of such terms during which the defendant is to be subject to early release";

On page 190, line 23, strike "term of parole ineligibility" and insert "portion";

On page 191, line 1, strike "and Parole therefrom";

On page 191, line 4, strike "Parole" and insert "Early release";

On page 191, line 6, after the period, insert "Parole following imprisonment is governed by the provisions of subchapter E of chapter 38.";

On page 191, line 12, at the end thereof, add the following:

"3003. Investigation of Offenses Subject to Extraterritorial Jurisdiction.

On page 191, beginning with line 25, insert "or (c)(9) or 1732(c)(3)";

On page 194, line 4, strike "(a)(4)";

On page 194, line 7, strike "or delegated";

On page 194, beginning with line 14, insert the following:

"(14) offenses described in section 1731, if there is or may be jurisdiction over the offense as set forth in section 1731(c)(16), are within the primary responsibility of officers or employees of the Department of Labor assigned such responsibility by the Secretary of Labor;

On page 194, line 19, strike "(14)" and insert "(15)";

On page 194, line 24, after "1733," insert "and";

On page 194, line 24, strike "and 1861,";

On page 194, line 28, strike "(15)" and insert "(16)";

On page 194, line 29, strike "those" and insert "the";

On page 194, line 29, strike "agencies" and insert "agency";

On page 196, line 1, strike "(d)" and insert "(4)";

On page 196, line 4, strike "(e)" and insert "(5)";

On page 196, beginning with line 6, insert the following:

"(b) DEFINITION.—As used in this section the term 'agent of the Federal Bureau of Investigation' includes the Director, Associate Director, Assistant to the Director, an assistant director, and an inspector of the Federal Bureau of Investigation.

On page 197, beginning with line 39, insert the following:

"(6) the spouse of a Presidential or Vice-Presidential nominee of a major political party within sixty days prior to the general Presidential election as set forth in Public Law 94-408 (90 Stat. 1239) if such protection is requested by the Presidential or Vice-Presidential nominee;

On page 198, line 4, strike "(6)" and insert "(7)";

On page 198, line 6, strike "(7)" and insert "(8)";

On page 198, line 8, strike "(8)" and insert "(9)";

On page 198, line 11, strike "(9)" and insert "(10)";

On page 198, line 13, strike "(10)" and insert "(11)";

On page 198, line 13, after the comma, insert "or other distinguished foreign visitor,";

On page 198, line 16, strike "(11)" and insert "(12)";

On page 198, beginning with line 20, insert the following:

"(d) DEFINITION.—As used in subsection (a)(1), the term "agent of the United States Secret Service" includes the Director, Deputy Director, Assistant Director, Assistant to the Director, and an inspector of the United States Secret Service.

On page 198, line 29, strike "federal";

On page 198, line 29, after "the" insert "care,";

On page 198, line 29, after "custody," insert "or control";

On page 200, line 7, strike "reasonable grounds" and insert "cause";

On page 201, line 22, under "B" strike "Compulsory" and insert "Compulsion";

On page 201, line 22, under "B" strike "of Witnesses" and insert "after a Claim of Self-Incrimination";

On page 202, line 12, strike "1118" and insert "1117";

On page 205, line 6, after "tried" insert "in the investigation";

On page 205, line 7, after "tried" insert "in the investigation";

On page 206, line 8, strike "purposes" and insert "objectives";

On page 206, line 14, strike "purposes" and insert "objectives";

On page 209, line 15, strike "chapter" and insert "subchapter";

On page 212, line 18, strike "Chapter" and insert "Subchapter";

On page 212, line 35, strike "1525" and insert "1526";

On page 212, line 36, strike "acquire the contents of a communication through the use of an eavesdropping device" and insert "acquire, through the use of an eavesdropping device, the contents or a communication in the course of its transmission to a party to the communication";

On page 213, line 4, strike "1525" and insert "1526";

On page 213, line 6, strike "of Witnesses";

On page 213, line 6, under "Bill" strike "Generally" and insert "after Refusal on Basis of Privilege against Self-Incrimination";

On page 213, line 7, strike "Generally" and insert "after Refusal on Basis of Privilege against Self-Incrimination";

On page 216, line 6, under "3121" strike "Facilities for Witness Protection" and insert "Witness Relocation and Protection";

On page 216, line 6, under "3122" strike "for Witness Protection" and insert "of";

On page 217, line 24, strike "for Witness Protection and insert "of";

On page 217, line 25, strike "offer" and insert "provision";

On page 234, beginning with line 28, strike through and including page 235, line 3, and insert in lieu thereof the following:

"(b) ELECTION OF DISTRICT COURT TRIAL AND TRIAL BY JURY.—If a person is charged with a Class A misdemeanor, either he or the attorney for the government may elect to have the case tried before a judge of the district court for the district in which the offense was committed. If the attorney for the government does not elect to have the case tried before a judge, the magistrate shall explain to the person that he has a right to a trial before a judge of the district court and that he has a right to a trial by a jury whether he is tried before the magistrate or elects to be tried before a judge. The magistrate shall not proceed to try the case unless the person, after such explanation and after advice by his counsel, signs a written statement consenting to be tried before the magistrate and waiving both a jury trial and non-jury trial before a judge of the district court. If such a statement is signed, the magistrate shall try the case with a jury, unless, with the approval of the magistrate and the consent of the attorney for the government, the person, after advice by his counsel, also signs a written statement waiving a jury trial. If a person is charged with a Class B or C misdemeanor or an infraction, he may not elect to have the case tried before a judge of a district court and may not elect to have the case tried by a jury except as may be required by the United States Constitution.

"(c) REMOVAL TO DISTRICT COURT.— The attorney for the government may, pursuant to regulations issued by the Attorney General, file a petition to the district court for removal of a case pending before a magistrate on the grounds that the importance, complexity, novelty, or other characteristics of the case warrant its being tried before a judge. The district court, upon a showing of good cause, shall grant the petition and remove the case.

On page 247, line 22, after "section" insert "or section 3602";

On page 251, line 5, strike "Director of the Bureau of Prisons" and insert "Attorney General";

On page 251, line 7, strike "(1)" and insert "(a)";

On page 251, line 9, strike "(2)" and insert "(b)";

On page 251, line 11, strike "(3)" and insert "(c)";

On page 252, line 26, strike "make available efforts to" and insert "unless not possible";

On page 252, line 33, strike "insofar as possible" and insert "after it is determined that he is a juvenile";

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will withhold that, what the Senator has just read means that the Senate has approved en bloc something like 300 committee amendments by virtue of this consent; is that correct?

Mr. HELMS. That is correct.

Mr. ROBERT C. BYRD. I thank the Senator, and I thank Senator ALLEN and Senator KENNEDY.

Mr. KENNEDY. Mr. President, as a matter of information for the benefit of Senators, there are Members who have some amendments that are prepared, that they would be willing to offer today. Will there be objection filed to considering amendments on the sentencing provisions, preserving other Senators' options? There is Senator ABOUREZK who has an amendment to shorten the maximum terms; Senator SCOTT has one to prolong them.

Then there is the amendment on the question of transactional versus use immunity. We have use immunity. Senator ABOUREZK wants to change that to transactional. On that particular issue I think the committee was overwhelmingly in opposition.

Then Senator HART has a series of amendments on sentencing. In terms of getting the Members over here, we are prepared to do business, and preserving the rights of other Members to object, I wish to find out whether we can do business?

I am glad to do whatever the leader wants or whatever the Senator from North Carolina wants.

Mr. HELMS. Mr. President, I say to the Senator that obviously I cannot speak for any other Senator.

Mr. KENNEDY. That is right.

Mr. HELMS. Moreover, I do not want to foreclose my right to object.

Mr. KENNEDY. That is right.

Mr. HELMS. But I have no specific intent to object to any matter that the Senator referred to.

Mr. KENNEDY. Good. That is fine.

I thank the Senator.

We understand that even in these areas there may be substantive amendments that will be offered to alter and change the bill. We understand that. But at least we are beginning the process.

Mr. HELMS. I think it is obvious that both sides wish to be accommodating to the other on this, and this is largely due to the good works of the majority leader who as always worked with both sides and I appreciate it.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1093

Mr. HELMS. Mr. President, I ask unanimous consent that the printing error appearing in line 22, page 201, be corrected by causing the letter "l" to be inserted in the word "claim" and a space to be inserted between the word "claim" and the word "of".

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the drafting error appearing at line 20 on page 85 be corrected by inserting at the end of line 20 the following: "or".

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

UP AMENDMENT NO. 1094

(Short statement of purpose: To impose a substantial term of imprisonment for crimes committed while released on bail.)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator request unanimous consent for the immediate consideration of the amendment, inasmuch as the Senate is now considering the committee amendments?

Mr. DOLE. Yes, I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 354, line 9, strike "supervisory capacity." and insert the following: "supervisory capacity; or

(4) committed a crime of violence which constitutes a felony while on release pending trial, sentence, or appeal from a federal, state or local felony for which he was ultimately convicted."

Mr. DOLE. Mr. President, this amendment has been discussed. I think the amendment is acceptable, but I would just point out, in a very brief way, that one of the most serious problems with our criminal justice system is the delay between commission of a crime and the ultimate trial and punishment, if the defendant is found guilty. As the backlog of cases in Federal courts increases, these delays become longer and longer. The Senate has tried to address this problem by passing the Federal judgeship bill which would place hundreds of new Federal judges on the bench, if passed by the House.

Yet, even with more judges, some delay between arrest and conviction is inherent in the trial system. The philosophy of Congress as expressed in the Bail Reform Act and carried forward in S. 1437 is that the accused should be released between arrest and trial. In part, this system of almost automatic pretrial release is a manifestation of the principle that a man is presumed innocent until found guilty. While some problems do exist in the pretrial release system, and I also have amendments to that part of S. 1437, there is no realistic alternative to pretrial release in the majority of cases.

SYSTEM LETS CRIMINALS LOOSE

An unavoidable byproduct of the relatively unrestricted pretrial release system is to put many persons who will later be found guilty back on the streets. Those persons who either plea bargain or are convicted serve their time after the judicial process has run its course. During the interim, these yet to be convicted criminals are free to resume their criminal activities. I do not suggest that this happens in all cases, but it happens in a great many.

The high rate of repeat offenders is substantial proof that the system of pretrial release has the undesirable effect of allowing criminals an extra opportunity to "practice their trade."

STATISTICS ARE FRIGHTENING

Several academic studies of the continuing criminal habits of persons granted pre-trial release have revealed startling conclusions. The institute for law and social research found that 26 percent of all felonies committed in the District of Columbia were committed by a person on some form of conditional release. Another study by the U.S. attorney's office of over 500 indicted robbery defendants reported a 70 percent rearrest rate while on pretrial release. While property crimes such as burglary evidence the highest recurrence rate, serious crimes against the person are repeated at alarming rates. Up to 28 percent of all murders and 19 percent of all rapes are committed by persons on conditional release.

SOME BAIL SYSTEM IS NECESSARY

The answer is not to eliminate pretrial release or institute preventive detention. Not only would those actions raise possible constitutional problems but they would be inconsistent with the American sense of justice. Nevertheless, the American public deserves some deterrent to protect it from those identified as potential criminals but not yet formally convicted.

AMENDMENT WOULD DETER CRIMES ON RELEASE

The amendment that I have sent to the desk is a simple one and fits into the sentencing structure of S. 1437. The amendment would insure that persons who commit crimes while on conditional release will receive the maximum range of punishment allowable for that crime. The higher penalty will be imposed for the commission of any Federal felony whether the criminal was originally released by a Federal, State, or local court. We are talking about any Federal, State, or local felony for which the criminal was ultimately convicted. Any crime committed while on pretrial release or release pending sentencing or appeal will trigger the increased punishment.

SENTENCING STRUCTURE WOULD BE SAME

S. 1437 totally renovates the sentencing procedure for Federal courts. The U.S. Sentencing Commission is established to set guidelines for sentencing. The aim is to punish similar crimes committed in similar circumstances. A judge would not be bound by these guidelines, but a sentence outside these guidelines would be subject to a special review.

My amendment would not alter this procedure in any way. The Commission is directed in the bill to develop guidelines that insure a "substantial term of imprisonment" for three types of cases. These special circumstances are where an individual has a history of felony convictions, or the person is a professional criminal, or the offense involved organized crime at a high level of authority.

My amendment adds a fourth category of especially serious offenses to the three in the bill. The new category is an offense committed while the person was released from custody pending trial, sentencing, or appeal. The Justice Department has no objection to this expansion of the list of particularly disturbing crimes.

AIM IS DETERRENCE

Persons who are victimized by criminals out on bail rightly feel that the criminal justice system has failed to protect them. To the extent that punishment serves as a deterrent, my amendment would be an extra deterrent for this class of criminal. The knowledge that their time in jail would be substantially increased will give these potential repeaters an extra incentive to not commit another crime. If the warning is not heeded, society will be certain that the criminal will be treated with appropriate severity in his sentencing.

Mr. President, I do not know whether there are any questions about the amendment. It is my understanding that the

amendment is acceptable to both the majority and the minority, and I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I intend to recommend that the Senate accept this amendment when the discussion terminates. I think the Senator from Kansas has pointed out a very important factor which is all too often overlooked—that the greatest percentage of crime is committed by the repeat offender. He illustrated this point in his opening comments and that is very true.

For example, in my own State of Massachusetts, former Chief Justice Walter McLaughlin, in a speech 2½ years ago, pointed out that more than 50 percent of all crime in certain Massachusetts counties was being committed by defendants who are awaiting trial.

The public is entitled to more protection.

I applaud the spirit in which the Senator from Kansas offers the amendment. In recognizing and trying to deal with this issue, we do not want to preclude the opportunity for bail or question the presumption of innocence.

The Senator's amendment recognizes that there ought to be in these guidelines a recognition that there has been a crime of violence, which constitutes a felony, while on release pending a trial, for which he is ultimately convicted. This, I believe, guarantees further protection. The individual must first be convicted.

I think the amendment is targeted toward hardened criminals. Those involved in the criminal justice system understand that they constitute the real danger to society. To include in the guidelines a recommendation to the Commission seems to me entirely consistent with the spirit of the legislation. As a matter of fact, just below this provision we have the provision that the commission shall insure that the guidelines reflect the appropriateness of imposing a sentence, other than prison, in cases where a defendant is a first offender, and has not been convicted of a crime of violence or an otherwise serious offense.

This seems to me to be the reverse of the Dole amendment. It also seems justified and worthwhile.

I believe the amendment is an addition to the bill. It is targeted to the repeat offender. This is a national problem. I think the amendment is a very clear signal and yet it is also one which shows restraint. It shows balance—the defendant would have to ultimately be convicted of the other crime in order for this guideline to be applicable.

I welcome the amendment and intend to support it. I thank the Senator from Kansas.

Mr. DOLE. I thank my colleague.

Mr. President, I believe the Senator from Utah wanted to be heard on the amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, on behalf of the minority, I have reviewed Mr. DOLE's amendment. I think that it is appropriate and adds a decent change to the bill. We have no objection to this amendment.

The PRESIDING OFFICER (Mr. ABOUREZK). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 o'clock p.m. today.

There being no objection, the Senate, at 1:13 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HODGES).

Mr. HART. Mr. President, I ask unanimous consent that Mr. Peter Gold, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, we have with this pending legislation the very rare opportunity to improve our system of criminal sentencing.

The need for improvement is apparent to anyone familiar with its operation. Offenders are sentenced to prison for an indeterminate length of time and neither the offender, nor the court, nor the public has any idea or control over how long the offender will remain in prison.

Sentences imposed in similar cases are often perceived by the public as unduly lenient or severe. When the public has little confidence in the impartiality and general effectiveness of its judicial system, respect for the law is seriously compromised.

The system is characterized by glaring inconsistencies. Sentencing judges exercise wide-ranging discretion, and their actions are subject to only limited review. Parole at times reduces disparity in sentences actually served in similar cases. Too often, however, parole only exacerbates the injustice done to individuals, especially the least fortunate.

The U.S. Parole Commission determines when a prisoner is "ready" to be released. In theory the magic moment is when further incarceration will do the offender no good and his or her release will do the community no harm. Most experts agree that this decision has not been and cannot be made in a fair manner.

Prison behavior is simply not a statistically valid predictor of how an offender will behave when returned to the community. Recidivism rates demonstrate that for every correct prediction of future behavior there are at least two mistakes.

Studies show that whatever deterrent effect can be achieved by the use of imprisonment is through certainty rather than severity of punishment. Statistics suggest that offenders are less likely to return to crime if they serve shorter, rather than longer, terms of incarceration. This is one reason why prisons are thought by many to be a failure, and why many recommend imprisonment as a punishment of last resort.

Any reform of criminal sentencing practices, then, should encourage alternatives to incarceration, except for the most serious offenses and the most serious offenders. Second, any reform should set forth a coherent rationale for sentencing, eliminating those standards which have proven ineffective or inappropriate. Third, judicial discretion should be narrowed and carefully defined. Judicial discretion must be defined in order to be fairly exercised. Finally, parole should be phased out so that the offender, the court, and the public know at the time of sentencing both the certainty of punishment and the date of its completion.

These are general principles for sentencing reform. The bill before us, S. 1437, goes a long way toward promoting these principles in its provisions relating to sentencing. It reflects a general definition of justice under which like cases are treated alike and unlike cases are treated proportionately to their differences.

Sentencing is an integral part of the entire criminal system. The idea of a Sentencing Commission to promulgate guidelines for sentencing will perhaps be the most important reform which results from this effort to recodify the Federal Criminal Code. It is therefore important that we give careful consideration to what kind of direction we want to provide the Sentencing Commission.

If the bill were enacted into law in its present form, it would undoubtedly represent an improvement over the current administration of justice, especially in the area of sentencing. However, I am concerned about several features of the bill and am offering several amendments in the hopes of refining what is already a very good piece of legislation.

The amendments I plan to offer are consistent with the spirit of S. 204, the Federal Sentencing Standards Act of 1977, which I introduced, along with

Senator JAVITS over 1 year ago. And they are generally consistent with the thrust of S. 1437.

Before offering my amendments, Mr. President, I want to state for the record my appreciation for the consideration shown by the distinguished floor manager, the Senator from Massachusetts, and his staff, in working with me and members of my staff in an effort to resolve some of the minor differences in approaching some of these issues.

Finally, I should also express my appreciation to the members of the minority staff of the Judiciary Committee and to the representatives of the Department of Justice.

I also want to acknowledge the diligent work and longstanding interest in criminal justice shown by my colleague, Senator JAVITS of New York, and the members of his staff.

Mr. President, I ask unanimous consent that Mr. Paul Freeman, of my staff, be granted the privileges of the floor during the consideration of these amendments and the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1095

(Purpose: To amend Rule 32(c) with respect to the disclosure of a presentence report to the defendant.)

Mr. HART. Mr. President, I call up my amendment, an amendment to amend rule 32(c) with respect to disclosure of presentence reports, and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is required to obtain unanimous consent to call up the amendment.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to call up this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Will the Senator please send his amendment to the desk?

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART for himself and Mr. JAVITS) proposes an unprinted amendment numbered 1095.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 329, between lines 15 and 16, insert the following:

"(6) by deleting "exclusive of any recommendations as to sentence" in subparagraph (c)(3)(A).".

On page 329—

(1) on line 16, strike "(6)" and substitute "(7)";

(2) on line 20, strike "(7)" and substitute "(8)";

(3) on line 22, strike "(8)" and substitute "(9)"; and

(4) on line 23, strike "(9)" and substitute "(10)".

Mr. HART. Mr. President, this amendment concerns the availability of presentence reports to the defendant and his counsel. Under the bill as drafted, the defendant, upon request, can see the presentence report, exclusive of any recommendations as to sentencing. This amendment would insure that the fundamental recommendation as to sentencing be made part of the presentence report released to the defendant and his or her counsel.

The amendment accomplishes this by amending rule 32 of the Federal Rules of Criminal Procedure. While requiring that the sentencing recommendation be made part of the report released to the defendant, this amendment would not require disclosure of potentially harmful information, such as the names of informants who provided information under the promise of confidentiality, or any diagnostic opinion which might cause harm to the defendant.

The reason for this amendment is clear: It is only fair, it seems to me, that the defendant and his or her counsel know what they are up against before the sentencing hearing begins.

Since judges are free to sentence outside of the guidelines, the sentencing recommendations would be an important element to consider in any further appeal.

Mr. President, we have had discussions with the distinguished floor manager on this amendment. I urge the support of the committee and my colleagues for its adoption.

Mr. KENNEDY. Mr. President, I think this amendment is justified. I think the Senator from Colorado has stressed what is, perhaps, the most important reason—fairness and equity in terms of notification to the defendant.

As the Senator from Colorado knows well, in many Federal jurisdictions at the present time, such a step is already taken without any really adverse effect.

So it seems to me that, for the reasons that have been outlined by the Senator from Colorado—fairness, knowledge, and information to the defendant—it is a valuable and worthwhile amendment. Where it has been tried previously, it has not been anything but successful. The Department of Justice supports the amendment; so I hope the Senate will accept it.

Mr. HATCH. Mr. President, I think the distinguished Senator from Massachusetts has summed this up well. Of course, we have no objection to this amendment, also.

Mr. HART. Mr. President, I move the adoption of the amendment. I thank the Senator from Massachusetts and the Senator from Utah for their comments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. For the information of the managers of the bill, there are remaining amendments that we have discussed with the committee that are in the process of being sent over from the Legislative Drafting Service. They should arrive momentarily, so, if it is agreeable to the floor manager, I shall suggest the absence of a quorum for just a short period.

Mr. KENNEDY. That would be fine. If the Senator would like to describe them, we can consider them when they arrive. I am familiar with the amendments and we could talk about them, then submit them, if the Senator would like. Otherwise, we can wait.

Mr. HART. I think that is agreeable to me if we can go ahead and do that.

Mr. KENNEDY. Then, obviously, we would ask that they be printed at the appropriate place.

Mr. HART. Mr. President, with that understanding, I ask unanimous consent that it be in order, when the amendments do appear and are sent to the desk, that the record reflect that the description of that amendment will appear after the introduction of the amendment. I am prepared to go forward.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1096

(Purpose: To provide that four members of the U.S. Sentencing Commission be appointed by the President by and with the advice and consent of the Senate and that three members of the Commission be designated by the President from a list of recommended judges submitted by the Judicial Conference.)

Mr. HART. Mr. President, the next amendment which we discussed with the committee concerns the selection of the members of the Sentencing Commission. The bill as presently drafted provides that four members be appointed by the President and three members be appointed by the Judicial Conference. The practical effect of the amendment I am proposing is not that different.

Under this amendment, the President would still be appointing four of the members, and three of the members would still be designated by the Judicial Conference. The principal difference would be that the President and the Judiciary Committees of the Senate and the House of Representatives would play a greater role in the selection of the commission members. This amendment would provide that the President select four members of the commission, by and with the consent of the Senate, one of whom, with the consent of the Senate, would be named as chairman. The President would be required, before appoint-

ing these four to the commission, to consult with the Judicial Conference.

The Judicial Conference, in turn, would present to the President and to the Judiciary Committees of the Senate and the House a list of at least seven judges it feels are most qualified to serve as members of the sentencing commission. The President would then designate three judges from this list to serve as members of the commission.

The amendment I have introduced will accomplish the following objectives: First, it will permit the Judicial Conference to participate in the selection of each of the seven members of the sentencing commission. Second, it would give the Congress and the President more influence in selecting the judges to serve on the sentencing commission.

Third, by having the President designate, rather than actually appoint, the three judges to serve on the commission, the amendment eliminates the problem of forcing a sitting judge to go through a second advise and consent procedure in the Senate.

Sentencing is a judicial function. In the judgment of the Senator from Colorado, it is, therefore, important that the Judicial Conference be assured that its recommendations are considered in selecting members of the sentencing commission. The amendment which has been proposed does that by requiring the President to consult with the conference before naming its appointees to the commission and by insuring that three judges selected by the Judicial Conference are appointed to the commission.

While sentencing is a judicial function, it is not the sole concern of the judiciary. Sentencing is the responsibility of the Congress and a political concern of the general public. By having the President select three judges from the list presented to him and to the Congress by the Judicial Conference, there is a greater assurance that a broad range of interests will be represented on and considered by the sentencing commission.

Sentencing is an important concern of the Congress. If we are to delegate this important responsibility, we must at least play a major role in deciding who assumes that responsibility. The amendment proposed gives Congress a greater role by requiring Senate confirmation of four of the members and by giving the Senate and the House Judiciary Committees the opportunity to comment on the names suggested by the Judicial Conference for the other three slots on the commission.

That, Mr. President, is the substance of the amendment offered. Once again, we have discussed this with the committee and the distinguished floor managers, and I urge their support, and the support of my colleagues, of the amendment.

Mr. KENNEDY. Mr. President, the Senator from Colorado has correctly stated what the provisions of S. 1437 are in terms of the appointment of the members of the commission. I shall take just a moment of the Senate's time to explain how this particular provision was developed.

Under the present system, for example, the Rules of Evidence are developed by judges and then recommended to the Congress for approval. The actual rules are developed by the judges. In the early drafts of this legislation, it was believed that the best way for us to proceed, since we are dealing with sentencing, was to have a panel to develop the guidelines, make the recommendations, and make such recommendations subject to congressional approval.

Now, I think the case in terms of sentencing is different from the rules of evidence as well as the Federal rules of criminal procedure. There are other kinds of policy questions. I remember very well the excellent statement that the Senator from Colorado made on this issue as well as a number of the other issues that he is presenting today when he appeared before the committee. We profited immensely from his presentation and the opportunity to work with him.

During the shaping of the panel, it was felt that an adjustment should be made between the public on the one hand, and the judiciary on the other. So the bill decided on four by Presidential appointment, and three by the Judicial Conference.

That is the way it was reported out of the committee but during the past weeks, the constitutional issue has been raised about whether all the members should not be all appointed by the President.

The Justice Department, after making a very extensive review, does not believe there is a serious constitutional question.

I have had an opportunity to review both the Library of Congress study briefly and then also the Justice Department report and I am satisfied that there is no constitutional issue. It was, however, raised in the introduction of one of the amendments by the Senator from Virginia.

The proposal of the Senator from Colorado, I think, remedies this whole situation by retaining the ultimate power of appointment in the Executive. If there ever was a constitutional issue, his amendment cures it. It insures that the President will appoint four members and then will also appoint the other three members from a group that will be recommended by the judges.

The four that will be public appointments must be, with the chairman, approved by the Senate. The remaining three would not be subject to advice and consent since they have been previously approved by the Congress as judges.

So it seems to me that this is a constructive recommendation. It is consistent with a view the Senator from Colorado has had for some period of time.

It is an appropriate amendment and it seems to resolve any of the constitutional issues that might develop.

The Senator's amendment insures the input of the Judiciary and also preserves the Presidential authority in making the appointment.

I congratulate the Senator from Colorado for helping us in this area. It seems to me to be a sound way of dealing with this issue. I am very hopeful that his amendment will be accepted and that the members of the Judiciary will understand exactly what our intention is on this issue and the reasons that we have reached this conclusion.

Is the amendment on its way?

Mr. HART. I understand it is on its way.

Mr. KENNEDY. It is on its way. That is fine.

Mr. HART. I thank the Senator from Massachusetts for his remarks, particularly the personal references.

I think his summary of the amendment is exactly on point. It captures the purpose of it exactly, I appreciate his willingness to accept it.

If it is agreeable to the floor manager we will, pending the arrival of the actual wording of the amendment, go forward and discuss another amendment which I think the committee is willing to accept.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT RELATING TO LENGTH OF PRISON TERMS

Mr. HART. Mr. President, I will be offering an amendment shortly which has to do with the single issue of length of prison terms.

Once again, as before, we have had the opportunity to take this up with the floor manager and with the committee. This amendment is designed to address the fear that many have expressed about this bill: That the result could be longer terms of incarceration than we have under current law.

The amendment which will be offered directs the sentencing commission, in promulgating its guidelines, to be guided by the average time served for particular offenses under current law, except in the most exceptional cases, where the average time served does not adequately reflect a basis for sentencing consistent with the purposes of sentencing set forth in the bill.

The intent of this amendment which will be offered is clear. Sentences of imprisonment should not be higher than they are now, except where the current average time served is proved to be an inadequate deterrent to crime.

For example, in white collar crime, it seems imprisonment might be appropriate in some instances where it has not been imposed in the past. On the other hand, we overused incarceration for many kinds of offenses, caging people behind bars when they really represent no real threat to the community.

The language of the amendment to be offered in no way circumscribes the authority of the commission or locks the commission into basing its guidelines on the system we have now. There would be no need to reform if the present system were adequate.

This amendment would provide the commission with the flexibility it needs, in light of the purposes of sentencing

approved by the Congress, to establish its guidelines in an intelligent, thorough fashion. Yet, it makes clear the intent of Congress that prison terms be longer than they are now only in the most exceptional cases.

Once again, we have discussed this with the committee and the floor managers and we hope that they will be in a position to accept this amendment without the necessity of a vote.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment is entirely consistent with the purposes of the legislation, on page 354 of the bill, that deals with guidance to the commission.

We point out:

"(b) The Commission, in initially promulgating guidelines for particular categories of cases, shall take into consideration the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served.

The Senator from Colorado makes an important point, and I think that his amendment strengthens the thrust of this legislation.

What we are interested in is finding out what the actual time is that is being served, not the judicially imposed sentence. Under current law, the latter is not reflective of what the time served actually is.

That is why when we debate the issue of prison minimums or maximums, we witness some magnificant rhetoric, but not much else. The issue is actual prison time served, not minimums or maximums. The guidelines address this point.

What the Senator is stressing is actual average time, while recognizing in some areas the actual time itself is not reflective of the gravity of a particular crime. The Commission ought to be aware of that and ought to be sensitive to the fact that it will not be guided in every single instance by the average time served in some areas. Actual time today may be too long or too short.

We are really flagging that problem. We are trying to bring a sense of realism to the sentencing process.

This is completely consistent with the spirit of what we are intending to do. I think the amendments of the Senator from Colorado in this area underscores and underlines what we intend to do—perhaps make it clearer.

When the Senator does submit the amendments, we will recommend that they be included. It seems to me to be a wise improvement.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. HELMS. The Senator does not or the one preceding it. Is the Senator have the text of either this amendment from North Carolina correct in that?

Mr. HART. The Senator is correct. They are not at the desk. They are being sent over by the legislative drafting service.

Mr. HELMS. As I understand it, the Senator is just discussing the principal two amendments, or more.

Mr. HART. The Senator is correct.

Mr. HELMS. I thank the Senator.

Mr. HART. Mr. President, once again the Senator from Massachusetts has described accurately both the substance and the purpose of this amendment. We will be offering that amendment, along with others, very shortly, and I hope that the committee will be prepared to accept it.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1097

(Purpose: To provide that four members of the United States Sentencing Commission be appointed by the President by and with the advice and consent of the Senate and that three members of the Commission be designated by the President from a list of recommended judges submitted by the Judicial Conference.)

Mr. HART. Mr. President, the distinguished floor manager and I have discussed an amendment relating to terms for selecting the sentencing commission. The text of that amendment is prepared, and I ask unanimous consent that it be in order to call up that amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I send the amendment to the desk for myself and Senator JAVITS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 349, strike out lines 25 through 32 and insert in lieu thereof the following: "consist of seven members. The President, after consultation with the Judicial Conference of the United States, shall appoint, by and with the advice and consent of the Senate, four members of the United States Sentencing Commission, one of whom shall be appointed, by and with the advice and consent of the Senate, as the chairman. The Judicial Conference shall submit to the President, to the Committee on the Judiciary of the Senate, and to the Committee of the Judiciary of the House of Representatives, a list of at least seven judges of the United States whom the Conference considers best qualified to serve on the Commission. The President shall designate three of the judges from the list of recommended judges submitted by the Conference to serve on the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for malfeasance in office. The Com-".

On page 350, strike line 30 and insert in lieu thereof:

"(1) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and".

On page 350, strike line 33, and insert in lieu thereof:

"(2) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and".

On page 350, strike line 36 and insert in lieu thereof:

"(3) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and".

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, I have previously outlined the purpose and scope of this amendment. The Senator from Massachusetts, the floor manager, has commented on it.

I am hopeful that it is agreeable to the minority floor manager and that the committee and the Senate will adopt it.

Therefore, I ask that it be adopted.

Mr. KENNEDY. Mr. President, this is the amendment that was described earlier. For the reasons I have outlined I hope that the Senate will accept the amendment.

Mr. HELMS. Mr. President, the Senator from North Carolina has not even seen the amendment. He has heard it discussed. The Senator from North Carolina has sent for a copy of it, and until we can take a look at it, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I find the amendment of the distinguished Senator from Colorado (Mr. HART) to be acceptable. In fact, I commend him on it because it improves the bill.

I shall ask the distinguished manager of the bill, the able Senator from Massachusetts, a question.

On the bottom of page 350, line 38, it says:

"(b) No member may serve more than two full terms. A member designated or appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was designated or appointed shall be designated or appointed only for the remainder of such term.

Does that mean, for example, that if a judge is appointed to fill a vacancy created by the death of a previously appointed judge and he serves 5 years, he may serve two full terms subsequent to that or that 5-year period plus one full term in the maximum?

Mr. KENNEDY. The Senator has asked a good question. Why do we not just ask for a quorum. I understand the Senator's concern. The question is whether it is two terms beyond the expired term. So if a member is appointed halfway through the term, understanding he or she is appointed for the remainder of that term, can that person then be appointed, in addition, to two other full terms?

Usually the rule is that if the term to which one is appointed has not been com-

pleted by more than half you can be reappointed to two terms. If it is less, not so. But we ought to be exact on this. I will check and see what we did in the report on that.

Mr. HELMS. I thank the Senator.

Mr. KENNEDY. I suggest the absence of a quorum.

Mr. HART. If it is agreeable with the manager of the bill, I will move the adoption of the amendment.

Mr. ALLEN. Mr. President, will the Senator yield for a question? Is this the composition of the Sentencing Commission, is that what the Senator has reference to?

Mr. HART. The Senator from Alabama is correct.

Mr. ALLEN. I want to obtain a little more information on it before voting. I know particularly on page 2 of the amendment it says:

> The chairman and members of the commission shall be subject to removal from the commission by the President only for malfeasance in office.

One of the things we are trying to correct right now regarding the Federal judiciary is that they serve during good behavior, and they could become senile, and there is some suggestion that a district judge out in the far West has reached that stage, but there is no way to remove him from office nor would there be any way to remove one of these members of the Commission from office. This is the most limited requirement for removal from office that I have ever seen.

They do not use the "high crimes and misdemeanors" applicable to the President. Malfeasance in office—now, that would probably allow a man to be guilty of malfeasance outside of the office; in other words, he could be guilty of illegal activities as long as they were not connected with the performance of his duties.

So it seems to me we are greatly limiting the right of the President to remove a person who is not giving satisfaction.

I do not mind giving him some sort of protection, but to say he could not be removed from office except for malfeasance in office would seem to indicate in the performance of his official duties. He could be just as corrupt, just as guilty of illegal practices, unethical practices, outside of the office, but if he is not guilty of malfeasance in office there is no way to get rid of him. So I feel that needs a little more consideration, that particular point there.

I would like for the distinguished author of the amendment to clarify this somewhat.

Mr. HART. Well, I would call to the attention of the Senator from Alabama, first of all, this is language from the bill itself, merely adopted in this amendment.

Mr. ALLEN. That does not make it sacrosanct, I say.

Mr. HART. May I respond? To the degree the Senator has objection to the language, I would strongly urge that he take that up with the committee. I have no strong feeling on it one way or the other. Obviously this amendment is not set out to correct every ill anyone may perceive in the bill, but to merely clarify one procedural aspect of the selection of the members.

I think, as the distinguished Senator from North Carolina indicated, it does, in fact, improve that from the standpoint of expanding the participation of the Congress in selecting the membership of the Sentencing Commission.

The amendment does not reflect particular preference for the language regarding terms of office; it merely incorporates language already in the bill as a drafting matter in terms of presenting this amendment.

If the Senator from Alabama wishes to raise objection to that I would urge him to take that up with the manager of the bill.

Mr. ALLEN. I thank the distinguished Senator.

I would then direct that question to the distinguished manager of the bill.

Mr. KENNEDY. There would be no objection to changing that to another criterion such as "high crimes and misdemeanors."

The problem which we faced was a situation in which a member shows incompetency, where he may have illness or sickness, and although it is not a crime, he is unable to perform the functions of his office. That is what we were attempting to deal with.

I think "high crimes and misdemeanors" would be satisfactory, although I can see the possibility where circumstances would be such where the individual would be unable to perform his duty for other reasons. If the Senator from Alabama has other words with respect to this he could submit them; otherwise we could just make it "high crimes and misdemeanors."

Mr. ALLEN. What about senility? Would that not be such condition as might require his removal?

Mr. KENNEDY. There may be other health problems. I want the Senator from Alabama to understand with respect to illness as well as senility, we were trying to get language to deal with the whole range of possibilities, and malfeasance seemed the best. If it is more acceptable to have "high crimes and misdemeanors" we will deal with it that way. But if the Senator does have another suggestion—I am more concerned really with inability to perform the job. But there may be those who feel that that gives too much authority to the Executive to dismiss a Commission member. It may be that if someone is doing the job and others are trying to get rid of him—and there are all different kinds of fact situations that could be developed—you would want, at least, some process to prevent that.

These are all matters of balance. I have no strong view on it. If the Senator has a particular word he thinks can deal with that, fine. Otherwise I would prefer to leave it as is, given the reasons I have suggested.

Mr. ALLEN. I do not have particular words, and I do not know that I like the suggestion that it be "high crimes and misdemeanors" because that would imply it would take impeachment to get rid of him, and I do not think they would go to all that trouble, certainly not impeachment before the U.S. Senate.

They have got to the point now where they do not bring impeachment proceedings against Federal judges because it would take action by the Senate over a period of weeks and months. So putting in that criterion, who would determine whether he would be guilty of high crimes and misdemeanors? Would it be an impeachment proceeding?

Mr. KENNEDY. I imagine it would be a determination made by the President, in consultation with the Department of Justice.

The language which we have, the malfeasance language, is boilerplate language. It is used by the Federal Trade Commission, the Federal Power Commission, and others.

That does not mean, obviously, that the issue the Senator has raised is not a legitimate one. But that is the genesis of the language, and the reason for it. We could consider "high crimes and misdemeanors," "malfeasance in office," or "medical condition that precludes the performance of his duties."

I will be glad to work with the Senator. If that is not satisfactory, I think we could, over the period of the afternoon or evening, perhaps, get language which would be satisfactory. But it is boilerplate language, used by the various Commissions, and that is the reason for it. The reason for the use of that term was to provide some degree of flexibility that may reflect the ability and performance of a Commissioner.

Mr. ALLEN. I would rather state that the President could remove a person for a certain reason, rather than imply that he has to be impeached, which would in all likelihood never be done.

I wonder if we might pass over this amendment and see if we cannot agree on the language. I have no objection to the amendment, if we can cover this point adequately.

Mr. HART. Mr. President, I wonder if we could not dispose of the amendment, since the amendment does not do anything beyond what the bill does. If the Senator wants to agree to changes in the language, he is perfectly free to do that even if my amendment were adopted. I see no reason for postponing action on this amendment, since the language has nothing to do with my amendment.

Mr. KENNEDY. Mr. President, if we can dispose of the amendment, I will certainly communicate with the Senator, and if it is objectionable to the Senator——

Mr. HART. Mr. President, this Senator has no real stake in the discussion going on now, and really has no view on the matter whatsoever; so if we could dispose of the amendment and the Senator from Alabama could negotiate with the Senator from Massachusetts on his specific objection, I think we could keep apples and oranges separate here.

Mr. ALLEN. That is well and good, except that the Senator does not take note

of the fact that this provision is in his amendment, and once accepted, it would be frozen into the bill; and an amendment would not lie to this language, inasmuch as it is an amendment which has been put into the bill. So to say that it is not in the amendment is not quite correct, because it is there, at the top of page 2.

Mr. HART. I am sorry; I did not mean to say it was not in the amendment. What I was saying is that the substance of this amendment has nothing to do with this issue. It is merely a peripheral question. Perhaps in 30 seconds we can rewrite the amendment to take the offending language out, and then the train can go on. I would like to dispose of the amendment, if possible.

Mr. ALLEN. It cannot be brought up, though. That is the trouble. Once this amendment is adopted, it is frozen in, and an amendment would not lie to this amendment.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Tht PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is it in order for the Senator from Colorado to modify the amendment at the desk?

The PRESIDING OFFICER. The Senator would have to obtain unanimous consent to do so.

Mr. HART. I ask unanimous consent to modify my amendment, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1097 AS MODIFIED

Mr. HART. Mr. President, I send a modification to the desk. It is the amendment as submitted, with the exception that the removal of the members of the Commission would be or for other good cause shown. That is the suggestion of the Senator from Alabama, who raised the question. There is certainly no objection on the part of the Senator from Colorado, the sponsor of the amendment. The Senator from Alabama or the distinguished floor manager may wish to address this modification.

Mr. ALLEN. Let me suggest instead of knocking out "malfeasance in office," to leave that in, and to add the phrase "or for other good cause shown."

Mr. HART. The Senator from Colorado could not be more agreeable to however the Senator from Alabama wishes to work out that language.

Mr. ALLEN. It is to keep all of the words in the amendment but to add after the words "malfeasance in office" on the third line on page 2 the phrase "or for other good cause shown."

Mr. KENNEDY. Mr. President, I ask unanimous consent that the amendment be so modified.

Mr. ALLEN. I might say to the manager of the bill and the author of the amendment that by linking these two terms together it is shown that the "other good cause shown" would have to come up to very nearly the same degree as malfeasance in office. But if we left that out, there might be a good cause, for example, that he would not be of the right political party. The alternate phrase would have to rise pretty much to the same level.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 349, strike out lines 25 through 32 and insert in lieu thereof the following: "consist of seven members. The President, after consultation with the Judicial Conference of the United States, shall appoint, by and with the advice and consent of the Senate, four members of the United States Sentencing Commission, one of whom shall be appointed, by and with the advice and consent of the Senate, as the chairman. The Judicial Conference shall submit to the President, to the Committee on the Judiciary of the Senate, and to the Committee of the Judiciary of the House of Representatives, a list of at least seven judges of the United States whom the Conference considers best qualified to serve on the Commission. The President shall designate three of the judges from the list of recommended judges submitted by the Conference to serve on the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for malfeasance in office or for other good cause shown. The Com-".

On page 350, strike line 30 and insert in lieu thereof:

"(1) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and".

On page 350, strike line 33, and insert in lieu thereof:

"(2) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and".

On page 350, strike line 36 and insert in lieu thereof:

"(3) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and".

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. ALLEN. I have no objection to the approval of the committee amendment, as amended by the Senator from Colorado.

Mr. KENNEDY. Mr. President, has the amendment, as modified, been agreed to?

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, with regard to the terms of office, the President of the United States can only be elected to two terms if he has served less than half of an additional term. But the language in S. 1437 says two full terms. So it is two full terms plus anything less than a third full term. That is the way we are interpreting that particular language.

UP AMENDMENT NO. 1098

(Purpose: To require that the Commission, in establishing its sentencing guidelines, be guided by the average sentence served except in certain cases.)

Mr. HART. Mr. President, previously the Senator from Colorado had discussed, and the Senator from Massachusetts had responded favorably to, an amendment to be offered concerning prison terms. The record will show the outline of that amendment and the comments of the Senator from Massachusetts. I ask unanimous consent that it be in order to offer that amendment now. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART for himself and Mr. JAVITS) proposes an unprinted amendment numbered 1098.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 354, line 27, strike "take into consideration" and insert in lieu thereof "be guided by".

On page 354, line 30, immediately after "served,", insert the following: "unless the Commission determines that such a length of term of imprisonment does not adequately reflect a basis for a sentencing range that is consistent with the purposes of sentencing described in subsection 101(b) of title 18, United States Code.".

Mr. STEVENS. Will the Senator identify which amendment it is? We have three.

Mr. HART. It is the one about requiring the Commission, in establishing its sentencing guidelines, be guided by the average sentence served, and so forth.

Mr. STEVENS. I thank the Senator.

Mr. HART. Mr. President, if there is further discussion on the amendment——

Mr. KENNEDY. For the benefit of the Senator from Alaska, we have had a good exchange. This really carries forward the sense of the legislation to consider time actually served. It is completely consistent with the thrust of the legislation. For the reasons outlined earlier, I hope the amendment will be agreed to.

Mr. STEVENS. I thank the Senator. The Senator from North Carolina had a general objection to the whole commission proposal. Will this impede his amendment, which is pending?

Mr. KENNEDY. I believe he was in the Chamber during most of the earlier discussion. If there is objection, I will ask the Senate to reconsider it.

Mr. STEVENS. Senator SCOTT also had some question about it. I wanted to be sure that as we amend we will not get into the parliamentary situation where a general amendment will be out of order. If there is an understanding that there will be no points of order about it—may I inquire of the Chair if that is understood, that these amendments will not bar the consideration of the Scott-Helms amendment concerning the commission?

Mr. KENNEDY. Mr. President, I would ask if there are amendments on this, irrespective of the parliamentary situation, that they not be considered out of order.

Mr. STEVENS. If there is no objection to that. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to send another amendment to the desk and ask for its immediate consideration.

Mr. ALLEN. Reserving the right to object, Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. The pending business, of course, is consideration of committee amendments. From time to time permission is granted to consider another amendment, not one of the committee amendments. In such cases would not such amendments be subject to points of order? The unanimous consent does not guarantee that the amendment would be in order or for amending a committee amendment.

Mr. STEVENS. Is the Senator inquiring about the unanimous-consent agreement I just requested?

Mr. ALLEN. No, sir, unanimous consent generally, because one amendment was offered a moment ago that was not to the text of the bill but to a committee amendment. The point the Senator from Alabama wishes to make is that by allowing the matter to be called up, that would not waive any points of order that might be made, would it?

The PRESIDING OFFICER. Points of order are not waived.

Mr. ALLEN. I thank the Chair.

UP AMENDMENT NO. 1099

(Purpose: To provide that the sentencing guidelines reflect the general appropriateness of a sentence other than imprisonment for any first offender convicted of a nonviolent or nonserious offense.)

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART for himself and Mr. JAVITS) proposes unprinted amendment numbered 1099.

Mr. HART. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 354, line 11, insert "general" immediately before "appropriateness".

On page 354, line 12, strike "under twenty-six years".

On page 354, line 13, strike "of age".

Mr. HART. This amendment can be discussed very briefly. It concerns alternatives to incarceration. Under the bill pending on the floor, the Commission, in promulgating its guidelines, is directed to consider alternatives to incarceration—but only for nonviolent, first-time offenders under the age of 26.

The age of 26 is admittedly arbitrary. Beyond that, statistics show that it is the youthful offender, and not those over 26, who is most likely to return to crime. If anything, then, we should be encouraging alternatives to incarceration to those over 26. Of course, it makes the most sense to encourage alternatives to incarceration for all offenders who are first-time offenders convicted of a nonviolent, nonserious offense, regardless of age. The amendment that I offer would do precisely that, and I urge its consideration and adoption by the committee.

Mr. KENNEDY. Mr. President, earlier this afternoon, we accepted the Dole amendment that stated if a defendant were on appeal or on bail, or not in custody, and committed an act of violence or a serious crime and later was found to be guilty of that crime, the guidelines would call for a substantial term of imprisonment.

What we are doing is, in the area of recidivism, strengthening the guidance to the Commission. On the other hand, the Senator from Colorado is saying that, with regard to the first offender, if it is a nonserious crime and a nonviolent crime, the Commission is going to note that factor as well in recommending a sentence other than imprisonment. At 354, we draw the age at 26 years. His amendment would, effectively, eliminate that age limit. That seems to me satisfactory.

It seems to me to be an eminently fair and sound amendment. I think I state what is the purpose of the Senator from Colorado. I think, particularly against the background of the action earlier in the afternoon on the Dole amendment, this is the other side of the coin.

Mr. HART. The Senator is correct. He has, once again, accurately and adequately summarized the purpose of the amendment.

Mr. KENNEDY. I point out that if there are circumstances where, for example, there is a guideline on this but the judge feels that, given the circumstances of that particular defendant, he wants a tougher sentence, he can do so. Appeal may follow and that is an additional protection.

Mr. STEVENS. Mr. President, I thank the Senator from Massachusetts for his explanation of the background of the participation by the Senator from Kansas here today. I wonder if it is possible, in view of the fact that—I assume the Senator from Colorado has not discussed this with the Senator from Kansas.

Mr. HART. That is correct.

Mr. STEVENS. It is my understanding that this does not affect the amendment of the Senator from Kansas. On that basis, I have no objection. If he raises objection, I hope that we shall consider his position at a later date.

Mr. HART. It is certainly not the intent of the sponsors of the amendment to contradict the action taken by the Senator from Kansas.

Mr. KENNEDY. I point out that, actually, it is complementary to what I think the Senator from Kansas was intending to do. That is to isolate those that are most involved in crime. As we are doing that on the one hand, the Senator from Colorado is pointing out, really, the other side of the coin.

Mr. STEVENS. Our staff informs me that they are completely in accord with what the Senator from Massachusetts has said. I just wanted to reserve whatever rights the Senator from Kansas may have if he does not agree with that.

Mr. HART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1100

(Purpose: To provide the court sentence within the guidelines set by the Sentencing Commission, except in certain cases.)

Mr. HART. Mr. President, I ask unanimous consent that it be in order to offer an amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART for himself and Mr. JAVITS) proposes unprinted amendment numbered 1100.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 180, between lines 2 and 3, insert the following:

"(2) The court shall impose a sentence within the range described in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a different sentence.".

On page 179, line 14, insert "(1) immediately before "The".

On page 179—

(1) on line 17, strike "(1)" and substitute "(A)";

(2) on line 19, strike "(2)" and substitute "(B)";

(3) on line 20, strike "(A)" and substitute "(i)";

(4) on line 21, strike "(B)" and substitute "(ii)";

(5) on line 23, strike "(C)" and substitute "(iii)";
(6) on line 26, strike "(D)" and substitute "(iv)";
(7) on line 29, strike "(3)" and substitute "(C)";
(8) on line 30, strike "(4)" and substitute "(D)";
(9) on line 36, strike "(5)" and substitute "(E)"; and
(10) on line 39, strike "(6)" and substitute "(F)".

Mr. HART. This is a very simple and straightforward amendment that accomplishes exactly what the bill sets out to do. That is, it says that a judge shall sentence a convicted offender within the guidelines established by the sentencing commission unless there are aggravating or mitigating circumstances of an extraordinary nature; then, that he must report what those circumstances are in deviating from the guidelines laid down by the sentencing commission. That is exactly what the purpose of this measure that we are presently debating is. Yet nowhere in the language of the pending legislation does it specifically state the fact.

All this amendment does is to state a sentence the judge must operate within the framework of the guidelines unless there are aggravating and mitigating circumstances. Then he must state what those circumstances are in rendering his sentence outside the guidelines.

Once again, I am hopeful that the distinguished floor managers will be agreeable to accepting this amendment.

Mr. KENNEDY. Mr. President, this is, again, completely consistent with the thrust of the legislation. We provide in the language that the judges shall consider the recommendations of the commission. This language is "shall impose unless," and then the guidelines. It preserves the bill's guidelines, unless there are aggravating or mitigating circumstances, appellate review remains.

What we are attempting to do is assure the following of the guidelines, preserving the options, obviously, for the defendant or for the prosecution. We want to make sure these guidelines are followed in the great majority of cases. I think this amendment of the Senator from Colorado makes that more specific with "shall impose unless." Then it has the "mitigating and aggravating" factors.

I think it is advisable. This is what we are attempting to do to get consistency.

I think it makes clearer what was the basic understanding of the members of the committee that support the legislation and I think it strengthens the bill itself.

I recommend we approve it.

Mr. STEVENS. Let me see if I am certain I understand the amendment of the Senator from Colorado.

It is an inserting in the bill. Therefore, it does not modify an existing provision, as I understand it. Is that correct?

Mr. HART. The Senator is correct.

Mr. STEVENS. This adds, in effect, a reclaimer for the trial judge if he feels the commission has not taken into consideration aggravating or mitigating circumstances that he is aware of, that he does not think the commission was aware of, or gave adequate consideration to; is that right?

Mr. HART. The Senator is not quite correct, because the commission will establish the guidelines for sentencing under the bill as it is pending before the Senate.

Trial judges then will operate within those guidelines, hopefully reasonably narrow guidelines, in arriving at the sentence unless there are aggravating and mitigating circumstances.

Mr. STEVENS. Aggravating or——

Mr. HART. Or mitigating; yes.

Now, that is exactly what the purpose of this bill is, except that nowhere in the bill does it say that. So all this amendment does is state the obvious effect of what the entire purpose of the bill is.

Mr. STEVENS. It is my interpretation, as a country lawyer, giving the trial judge back some of his authority. Is that right or wrong?

Mr. HART. No more and no less than the intent of the committee in offering this bill.

This amendment does not do anything, in my judgment, the committee did not intend to do in drafting the legislation. All it does is spell it out and state it clearly where not so stated in the present formulation of the bill.

Mr. STEVENS. If the trial judge finds that the guidelines, or the sentencing commission in formulating the guidelines, did not take into account circumstances that would either aggravate or mitigate the situation before him, he can deviate from the range provided in subsection 84?

Mr. HART. I would state it the other way around. That is to say, the presumption is that the judge will sentence within the guidelines unless there are aggravating or mitigating circumstances, which is the purpose of this bill.

Mr. STEVENS. Is that an appealable thing, an issue as to whether or not there was an aggravating or mitigating circumstance, that would be appealable?

Mr. KENNEDY. If the Senator will yield, if they go above the guidelines, appeal as a matter of right lies for the defendant; below the guidelines, by the Government; and if it is within the guidelines, it is appealable if the guidelines themselves have been misapplied.

What the Senator from Colorado is attempting to do is get a greater degree of certainty.

Obviously, the court has the power to go either above or below the guidelines. But an appeal does lie if they go outside.

What the Senator from Colorado is effectively insisting on is to make clearer the basic presumptive aspects of the guidelines. That is really the thrust.

I think it sharpens the language, and that is why there was really no objection.

Mr. STEVENS. I meant no offense to the Senator from Colorado.

I might point out that some people around today say that they are for the Panama Canal treaties if they are amended. There are others who say that they are adamantly opposed unless they are amended. Some people say that they mean the same thing.

I want to assure the Senator I do not mean the same thing.

So I gather the Senator from Colorado does not totally interpret what he has put in the way I would have interpreted it. I accept his explanation. He is looking at the other side of the coin, so we have no objection.

Mr. HART. The Senator is correct.

Hopefully, this amendment will have nothing whatsoever to do, one way or the other, with the disposition of the Panama Canal. [Laughter.]

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1101

(Purpose: To prohibit imprisonment solely for purposes of rehabilitation of the defendant.)

Mr. HART. Mr. President, I ask unanimous consent that it be in order to take up an amendment to the pending legislation, and I send the amendment to the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART for himself and Mr. JAVITS) submits an unprinted amendment numbered 1101.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 188, between lines 27 and 28, insert the following:

"(b) LIMITATION ON IMPOSING A TERM OF IMPRISONMENT.—The court may not impose a term of imprisonment in a case in which the sole purpose of such imprisonment is to provide the defendant with needed educational or vocational training, medical care, or other correction treatment, for the purposes of rehabilitation of the defendant.".

On page 188, line 38, strike "(b)" and insert in lieu thereof "(c)".

On page 183, line 22, insert "other than prison" immediately after "institution".

On page 352, strike lines 6 through 11 and insert in lieu thereof "(2) the guidelines shall specify that a term of imprisonment is not available where the sole purpose of such imprisonment is to provide the defendant with needed educational or vocational training medical care or other correction treat-

ment for the purposes of rehabilitation of the defendant.".

Mr. HART. Mr. President, this amendment would eliminate rehabilitation as the sole purpose of imprisonment. The word "sole" is important to the understanding of the amendment. The amendment in no way discourages rehabilitative efforts in prisons or in any other place. In fact, as the sponsor of the amendment, I wholeheartedly support expanding such programs within our prison system. This amendment in no way discourages rehabilitative efforts outside prisons, which I also strongly support.

What this amendment says is this: Prisons are for punishment and for incapacitation, not for experimentation. One offender should not be given a sentence different from that of another offender because a judge feels that a program in a prison facility might "do him some good." And a prisoner's release from prison should in no way rest on someone's subjective opinion as to whether the offender has been "cured" of the problem the rehabilitative program was supposed to eliminate.

The problem, Mr. President, is that while we can sometimes make predictions for the group, we cannot make them for the individual. To quote from testimony presented before the Senate Subcommittee on Criminal Laws and Procedures by the American Civil Liberties Union:

> This is not to say that we must abandon rehabilitative efforts in prison, only that the state of the art is such that no one can justly be sent to prison or kept in prison for the purpose of rehabilitation. Programs in prisons should be encouraged. In order to be successful, participation in the programs should be voluntary and not tied to release.

By eliminating rehabilitation as a purpose of imprisonment, this amendment recognizes that it is illogical and unjust and perhaps even arbitrary, to imprison someone to do something we do not yet know how to do—namely, rehabilitate. It also recognizes that such a practice contains too great a potential for continuing the kind of disparity and unfairness that exists today in our courts and prisons.

Mr. President, I realize that S. 1437 as drafted goes a long way toward accomplishing the purpose of my amendment. But it falls short. It leaves a crack in the door. I am concerned that too many people are going to go through that crack.

Even if rehabilitation worked, I would have some concern about basing a sentence on the rehabilitative model. In doing so, we are not depriving someone of his liberty because of what he has done, and thus deserves, but rather on what we expect him to do in the future.

But it does not work. To quote Attorney General Bell, before the Senate Subcommittee on Criminal Laws:

> In fact, I do not know of anyone that has really been rehabilitated by being put in prison. You rehabilitate someone by putting them on probation.

In fact, the distinguished floor manager of this bill, Senator KENNEDY, said during hearings held this June:

> What we are really attempting, as I understand, in terms of sentencing is that we do not believe that a prison term should be based on the idea of rehabilitation. Rehabilitation is an important goal . . . but what we are basically saying is that rehabilitation is not a purpose of sentencing.

During the same hearings, Senator HATCH asked the Honorable Marvin E. Frankel—a U.S. district judge in the southern district of New York State and one who has been in the forefront of sentencing reform—his views on rehabilitation as a possible goal of imprisonment. Judge Frankel replied:

> I think the bill makes an error—and it may be an error of some consequence—when it makes rehabilitation one of the purposes of a sentence. I do not think anybody ought to be sentenced for rehabilitation. I think we kid ourselves, and I think we lead ourselves into needless cruelties when we say we are locking somebody up for rehabilitation. There is widespread recognition of this now. . . . I think once we sentence somebody, which should be for purposes other than rehabilitation, we should, of course, do everything we can to help the person, if we can. Just as we do with people outside the prison. We should extend to them any kind of service—education, medical, therapeutic—that we can make available. But the important point—and it is a critical point—is that we ought not to put anybody in prison for so much as one day with the notion that that is good for him and that we are confining him for rehabilitation.

Mr. President, if anyone should have a feel for the role rehabilitation as played in prisons, it is the Director of the Federal Bureau of Prisons, Norman A. Carlson. Here is what Mr. Carlson said to the subcommittee:

> Nearly everyone who is involved in the administration of criminal justice today is willing to abandon the "medical model" or the use of rehabilitation as a reason for imprisonment. This does not mean that I suggest pulling back in terms of the programs we provide for offenders.

But, Mr. Carlson continued to say:

> We recognize today that change cannot be coerced. When offenders change, they change because they want to. All those of us work in the field or corrections can do is facilitate change. We cannot legislate or require change by the sentencing process.

Mr. President, at this time I shall insert into the RECORD part of the written statement Mr. Carlson presented to the subcommittee. In his statement he says:

> . . . it is difficult to imagine a situation where a defendant's educational, vocational or medical needs could be better provided in a prison setting than in the community. And even if, for example, the medical services in the prison were superior to those available to an indigent defendant in the community the other negative aspects and ramifications of incarceration far outweigh any such advantage.

Mr. President, I ask unanimous consent to print in the RECORD part of the written statement Mr. Carlson presented to the subcommittee.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SENTENCING CRITERIA

Among the criteria which the proposed Code requires the sentencing judge to consider in imposing a sentence is "the need for the sentence imposed to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner." Section 2003(a)(2)(D). In view of the state of the art of corrections and recent research concerning rehabilitation, we frankly question using this criterion as a basis for imposing a sentence of imprisonment. We can see, however, that it would be an appropriate criterion for the judge to consider in imposing a sentence of probation. It is difficult to imagine a situation where a defendant's education, vocational or medical needs could be better provided in a prison setting than in the community. And even if, for example, the medical services in the prison were superior to those available to an indigent defendant in the community, the other negative aspects and ramifications of incarceration far outweigh any such advantage.

As I mentioned in the beginning of my testimony, another problem we have with this kind of sentencing criteria is that, at least with respect to vocational, educational and other correctional programming, it is premised on the old "rehabilitative" model. Clearly, the Bureau of Prisons should be with medical care, and to make educational, vocational and other correctional programs and services. However, unless the offender's participation is voluntary, the impact of these programs and services, in terms of changing offender behavior patterns for the better, will be minimal. I suggest that the Bill be clarified to indicate that this criterion would be primarily used in connection with imposing a sentence of probation, and that it should not be used as a basis for imposing a term of incarceration. In addition, the Conforming Amendments should include a section indicating that one of the Bureau of Prisons' responsibilities and duties is the provision of educational, vocational, medical and other correctional programs and services to offenders.—Mr. Norman A. Carlson from page 8887 of hearings before the Subcommittee on Criminal Laws and Procedures, June 8, 1977.

Mr. HART. Mr. President, other witnesses, besides Mr. Carlson, appeared before the Subcommittee on Criminal Laws and expressed the same sentiments regarding rehabilitation as a purpose of imprisonment.

I submit for the RECORD part of the statement of Ernest van den Haag, a lecturer in psychology and sociology at the New School for Social Research and a professor of law at New York Law School. Professor van den Haag has published about 200 articles and 7 books, the most recent of which is "Punishing Criminals: Concerning a Very Old and Painful Question." Part of his statement on rehabilitation concludes: In unfavorable circumstances prison may lead to criminalization more readily than rehabilitation.

Mr. President, I ask unanimous consent that Professor van den Haag's statement and the credentials which he represents be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WHY REHABILITATION DOES NOT WORK

There are three major reasons for the failure of rehabilitation, even under favorable circumstances. In unfavorable circumstances prison may lead to criminalization more readily than to rehabilitation.

1. Only diseases can be cured by treatment. Few offenders are sick. There is no convincing independent evidence that convicts are more sick than nonconvicts. Those who feel that all offenders suffer from some disorder to be corrected by treatment confuse their moral disapproval with a clinical diagnosis. Theoretically, it seems likely that many offenses are rational acts on the part of the offender; to minimize offenses one must change not the offender but the cost-benefit ratios that cause offenses to be rational.

2. Even the offenders who are clinically sick—some certainly are—are not likely to be rehabilitated coercively. As Norval Morris puts it, "facilitated change" must replace "coerced cure"—i.e., the comforts of the prisoner and the duration of his incarceration must be entirely independent of his acceptance of a treatment program, which should be addressed only to those who want it. However, Prof. Morris has given no evidence of an available program that, if uncoerced, would be successful. It is one thing to point out that coerced rehabilitation does not work; it is quite another to show that if uncoerced it does work.

3. Rehabilitative treatment is necessarily ineffective, unless it follows or is part of independent retributive punishment for another reason as well. When a person decides *sua sponte* to undergo psychotherapy (or for that matter medical treatment), he does so because he is dissatisfied either with his state of mind—e. g., he may suffer from anxiety—or because he is dissastified with his own behavior. However dimly, he realizes that he does not achieve what he intends to or succeed in the relationships or careers he wants because he defeats himself, perhaps because of an unconscious conflict. He seeks treatment to help him decide what he wants and to help him achieve it.

In contrast, the offender's intention is defeated by his own behavior only inasmuch as it is punished. Otherwise he need have no reason for dissatisfaction. It is the punishment that makes his behavior unrewarding and thus, perhaps, causes him to wish to change it. Unless his offense is punished, his behavior need not be self-defeating or irrational; therefore he has no reason to desire the change that the psychiatrist might have helped him make had he desired it. To be a successful thief may be immoral, but it is not self-defeating or irrational. To be an unsuccessful one may be. A criminal becomes unsuccessful inasmuch as he is punished. Rehabilitative efforts make sense only if offenses are made unrewarding, selfdefeating, irrational, and ultimately painful. Only punishment can achieve this. Hence rehabilitation can follow, but it cannot take the place of punishment.—From page 8926 of hearing record.

Mr. HART. Mr. President, the U.S. Department of Justice sponsored a Bicentennial lecture series during 1976. One of these lectures was presented at the University of Denver College of Law, in my home State of Colorado. The title of the lecture was "Punishment, Desert and Rehabilitation," and it was presented by Norval Morris, who is dean of the University of Chicago Law School—and one of the leading authorities on sentencing in this country.

Mr. President, in that lecture Dr. Morris said as follows:

Power over a criminal's life should not be taken in excess of that which would be taken were his reform not considered as one of our purposes. Rehabilitative programs in prison must not define either the duration or the conditions of incarceration; prisons must be entirely facilitative, never coercive.

Mr. President, it has been suggested that there must surely be some exception to the rule; some instance in which rehabilitation as the sole purpose for imprisonment is appropriate. But I certainly cannot think of one.

One example often put forth is that of the drug-dependent offender who apparently needs to be confined in order to "kick his habit." But under S. 1437 as drafted, a sentence of probation can always be imposed in lieu of imprisonment. The language of my amendment would not change this. And under a term of probation, terms and conditions can be set including up to 364 days of confinement—long enough, it would seem, for administering the very finest medical program we have for drug dependency. Also, I should emphasize that my amendment does not rule out consideration of rehabilitation for imprisonment; it prohibits imposing a prison term solely for the purpose of rehabilitation. In the instance of a drug-dependent offender, for example, if that person were picked up for some crime other than possession of a controlled substance, he could be imprisoned for that crime—and, at the same time, take advantage of any special program which the prison to where he was sentenced might have to offer.

Mr. President, I wish to insert into the RECORD a sentencing memorandum delivered by Judge Marvin Frankel in the District Court for the Southern District of New York on June 17, 1976. To quote from that memorandum:

The court agrees that this defendant should not be sent to prison for "rehabilitation." Apart from the patent inappropriateness of the concept to this individual, this court shares the growing understanding that no one should ever be sent to prison *for rehabilitation*. That is to say, nobody who would otherwise be locked up should suffer that fate on the incongruous premise that it will be good for him or her. Imprisonment is punishment. Facing that simple reality should help us to be civilized.

Mr. President, I ask unanimous consent to print in the RECORD the sentencing memorandum delivered by Judge Frankel, whom I have previously quoted.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

The court agrees that this defendant should not be sent to prison for "rehabilitation." Apart from the patent inappositeness of the concept to this individual, this court shares the growing understanding that no one should ever be sent to prison *for rehabilitation*. That is to say, nobody who would not otherwise be locked up should suffer that fate on the incongruous premise that it will be good for him or her. Imprisonment is punishment. Facing that simple reality should help us to be civilized. It is less agreeable to confine someone when we deem it an affliction rather than a benefaction. If someone must be imprisoned—for other, valid reasons—we should seek to make rehabilitative resources available to him or her. But the goal of rehabilitation cannot fairly serve in itself as grounds for the sentence to confinement.—from page 9338 of hearing record.

(Sentencing Memorandum 75 Cr. 785, delivered in United States District Court, Southern District of New York, June 1, 1976.)

Mr. HART. Mr. President, the amendment presently pending at the desk says that rehabilitation should no longer be the sole purpose of imprisonment. Virtually every expert who testified before the appropriate subcommittees and committees agree with this opinion.

Mr. President, based on these experts and upon the logic of the amendment, I urge the committee to consider it favorably and I certainly urge my colleagues if they are called upon to vote for it to support this amendment.

Mr. STEVENS. Mr. President, if the Senator will yield, I know he wishes to address the amendment, but I wish to address the Chair about the procedure here.

We would not be in position to accept this amendment on any voice vote.

Mr. KENNEDY. No.

Mr. STEVENS. I do not know what the Senator's position is going to be about asking for a rollcall. I wonder if I might ask the Senator from Colorado what his intentions are:

Mr. KENNEDY. Mr. President, I think this is an important issue, and I would expect we would have an up-and-down yea and nay vote.

Mr. STEVENS. I thank the Senator.

Mr. HART. Mr. President, I might say to the Senator from Alaska I do not intend any extended debate except to respond briefly to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from Colorado, myself, and I believe the majority of the members of the committee, are very close in terms of the approach taken on this particular issue, but there is a rather basic and fundamental difference which I think should not be lost track of, and I think it is important enough that we have an expression of the will of the Senate on this particular issue.

For a period of some 3 years it has been my position to point out very clearly that rehabilitation should not be the purpose for sentences of imprisonment. We point out at page 13 that the general purpose of this legislation is to establish justice in the context of a Federal system:

* * * promote the correction and rehabilitation of persons who engage in such conduct, recognizing that imprisonment is generally not an appropriate means of promoting correction and rehabilitation; * * * .

We become more specific on page 354 where we talk about the role of the commission, and I shall read the pertinent language.

We point out that:

The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of providing the defendant with needed educational or vocational training, medical care, or other correctional treatment, other than in an exceptional case in which imprisonment appears to be the sole means of achieving such purpose and in which the court makes specific findings as to that fact.

That is the exceptional case where imprisonment appears to be the sole means of achieving the purpose. The court must make specific findings. Thus, we are closing the door 98 percent of the way, but we do not believe in this major

undertaking that we have sufficient knowledge and understanding to say that we can close the door the rest of the way.

When I have been asked about the kinds of examples where rehabilitation in prison might apply in a given fact situation, the only one that I can foresee is perhaps the area of drugs and drug rehabilitation. I can see a set of circumstances where an individual, perhaps, is first given outpatient treatment and then violates the law and goes to a halfway house and then again becomes involved in violation of the law. In terms of their own future, their own health, and their own safety as well as the public's safety, it maybe required that they serve a period of time in the Lexington Prison, for example.

There are a variety of different programs that are taking place at the State level all around this country in terms of rehabilitation. If we accept the amendment of the Senator from Colorado we are effectively saying we are making a finding and a judgment that rehabilitation in terms of prison just cannot work—ever.

I know there is a distinction. All of us are—I would hope—for rehabilitation. If an individual defendant is sentenced to jail obviously we want to see what can be done for his rehabilitation. We all start off with that assumption.

But I can see circumstances in those rare cases where—it would be the exceptional, extraordinary circumstance to sentence to prison for the purpose of medical rehabilitation. We are legislating now for a period of years and those whose opinion I respect in this area, along with the opinion of the Senator from Colorado, say that perhaps we do not have all the knowledge that we might have or should have or that we can possibly foresee in terms of the future.

Other circumstances and breakthroughs may yet take place. S. 1437 makes clear that it will be "the exceptional case," it can apply.

(Mr. HODGES assumed the chair.)

Mr. KENNEDY. The Senator from Colorado mentions that basis for an individual could be sentenced to a term of probation of 364 days in jail.

But it may take 6 months of that period just to improve the individual's health, let alone to teach him a trade.

So, Mr. President, I want to indicate, as I have to the Senator from Colorado in our discussions on this particular amendment, that we are in substantial agreement on the thrust and direction of effectively eliminating, except in the extremely rare cases, the interweaving of rehabilitation and prison.

But in terms of looking down the road, we should still preserve that extremely small but important option, and I think for those reasons, I would be forced to reject the amendment.

Mr. HART. Mr. President, let me respond very briefly to this one argument made by the distinguished floor manager. He has cited once again the problem of drug-related crime or persons under a drug-dependent situation.

The fact of the matter is, Mr. President, this amendment would certainly permit the drug-related rehabilitative programs and, in fact, encourage them. If those programs involved some sort of commitment or incarceration that would not be precluded.

But the point is that an offender would not be sent to prison merely because he was drug dependent.

We can always construct facilities which are for the purpose of rehabilitation, medical treatment and therapy for purely drug-related cases. But what the amendment is seeking to do is to close that final gap which would permit people to be imprisoned solely because we want to treat them. That is the purpose of the amendment, and I think that is the best argument I have to offer against the position of the floor manager.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the Senator makes a good point and, as I say, I do not want to separate myself far from his position. But there is a fundamental difference in this particular instance, and it is an important one. I think there are those who have tragically been involved with serious violations of the law and where treatment in a halfway house outside of prison would be extremely difficult, if not impossible, in terms protecting themselves as well as the public.

I do not think we can say that there are no circumstances whatsoever we can possibly foresee where an individual should be imprisoned with the view toward rehabilitation.

I think the Senator's amendment would virtually preclude that, and that was the principal reason for my objection to the Senator's amendment.

Mr. STEVENS. Mr. President, I am not a member of the committee that has handled the bill, as the Senate knows. But having served, as I said the other day, as a U.S. attorney for over 3 years, it seems to me that, with due respect to the Senator from Massachusetts, the committee recommendations already go too far and the committee bill goes too far, and there ought to be greater discretion with the trial court.

I can remember, I tell my friend from Colorado, a case in which the defendant himself or herself requested incarceration because they had tried voluntary means of curing their drug addiction or of trying to prevent recidivism on numerous occasions. I have got in mind one young man for whom I personally went out on the limb several times, and he kept popping back up. We finally decided we ought to give him a longer sentence and send him to an institution where he could get some educational training. Today he is a fairly responsible—he is more than fairly—he is a responsible and fearly wealthy member of our community.

I think to close this door entirely, as the Senator from Massachusetts says, is wrong. As a matter of fact, again I say for a district attorney or a judge to try to work out a situation with a knowledgeable defense attorney and defendant to squeeze through that door as narrowly as it is opened now is going to be very difficult.

So I would be constrained to oppose the amendment. I think if the members of the committee on our side were here, they, too, would oppose the amendment.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield? In order to accommodate the swearing-in of the new Senator from Montana, which will probably occur at about 4:45 p.m. today, I wonder if we could dispose of this amendment, say, at 4:30, which would give us a 15-minute rollcall, and then we would be ready to swear in the new Member and, in the meantime, set the amendment aside temporarily. Would that be agreeable to the Senator?

Mr. HART. It would be acceptable.

Mr. STEVENS. We have no objection to that procedure.

Mr. ROBERT C. BYRD. Mr. President, I then ask unanimous consent that a vote occur on the disposition of the pending amendment at 4:30 p.m. today. This would mean that Senators would reserve their rights to move to table the amendment.

Mr. ALLEN. Mr. President, reserving the right to object—and I shall not—I believe we can vote on this amendment before 4:30.

Mr. ROBERT C. BYRD. My thought was that if you voted at 4:30, at the end of the rollcall we would have a full Senate to welcome the new Member.

Mr. ALLEN. I will defer, of course, to the distinguished majority leader.

Mr. ROBERT C. BYRD. If that is agreeable, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on a tabling motion of the amendment of the Senator from Colorado.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. I so ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to temporarily lay aside the amendment of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it has been laid aside.

UP AMENDMENT NO. 1102

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1102.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, is the language too technical to be of benefit? I know the Senator is going to explain it, but——

Mr. GLENN. Do you want the amendment read?

Mr. KENNEDY. Why not just the clerk go ahead with it?

Mr. GLENN. That is fine. I ask unanimous consent, then, that the clerk proceed with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The second assistant legislative clerk read as follows:

After line 16 on page 359, insert a new section 128 as follows:

SEC. 128. (1) Amend title 28 by inserting a new section as follows:

"§ 539. Crime Reporting.

"The Attorney General shall direct the Federal Bureau of Investigation to classify arson as a major, index crime for the purpose of the Uniform Crime Reporting System of such Bureau."

(2) The analysis at the beginning of the chapter is amended by adding:

"539. Crime Reporting."

Mr. GLENN. Mr. President, this amendment is essentially S. 1882, the Arson Control Assistance Act, a bill that I introduced last year to combat the alarming increase in the vicious crime of arson for profit.

My amendment and S. 1882, would, by legislative fiat, classify arson as a "part 1" or "major" crime under the FBI's uniform crime reports system. At present, arson is not considered a major or "part 1" crime for purposes of the FBI statistical crime index. Murder, forcible rape, robbery, assault, burglary, larceny, and auto theft are so classified and arson is not, even though human and property losses from arson often exceed those of these other major crimes. Arson has increased over 400 percent over the past decade. An estimated 1,000 people, including 45 firefighters, die each year in arson fires, 10,000 people are injured annually. Annual total damage estimates are as high as $15 billion. Insurance losses exceed $3 billion. We are faced with a pattern that is national in scope. Unscrupulous property owners are "arranging" for fires for the purpose of receiving large insurance payments and favorable tax benefits. Most often, this torching is occurring in denser and poorer inner city communities although it is not exclusively confined to these areas. We have the spectacle of entire neighborhoods turning into block-by-block rubble, of a crime undermining Federal community development effort, while we stand here in Congress talking about "neighborhood revitalization." Mr. President, the crime of arson is directly related to many of the specific economic problems in housing, employment, and services that our cities face today. New York City loses 300 to 400 buildings a month by fire, the majority of which are arson. Over the past 10 years, more than 30,000 buildings in the south Bronx have been burned and abandoned—30,000. This pattern is repeated on a smaller scale throughout the Nation. Think of the impact of these constant losses on a city's tax base.

Mr. President, on December 14 and 15, I chaired hearings before the Senate Governmental Affairs Subcommittee on Intergovernmental Relations on the impact that arson-for-profit has had on States and localities. As the witness list which I will make part of the record indicates, these hearings were very comprehensive. We heard experts from across the country. Included were law enforcement officials, neighborhood groups, insurance industry representatives, fire officials, and more. The thrust of the hearings was that arson-for-profit is a white-collar crime, with growing links to organized crime. Our witneses painted a picture of inadequate and uncoordinated Federal effort in investigation, detection, training, and prosecution. Our witnesses felt that arson had often been "winked" at by public officials, tolerated as a "business cost" in the inner city, because the perpetrators were often so-called "respectable" citizens while the neighborhoods victims were often aging and poor. Most witneses felt that at the very least, arson should be classified as a major crime so that public awareness of and attention to this crime would grow and so that there would be central, reliable statistical information on arson.

Mr. President, I agree. Over the years the uniform crime reports, particularly the crime index, have become vital to public and governmental perceptions on criminal activity. These figures are widely used to measure progress, or the lack of it, in crime fighting. Resource deployment flows from this awareness. Including arson as a part 1 crime would surely increase public awareness and prod law enforcement officials into stronger action.

Why is arson not now considered a "major crime"? Why is it listed with such offenses as vagrancy, public intoxication, and violating a curfew as a "part 2" crime, not required to be reported by the 11,000 jurisdictions that report, jurisdictions that contain 94 percent of the U.S. population. Why?

Mr. President, I asked that question over and over at our hearings and received a surprising answer. It seems that in 1928 a procedure was set up whereby the International Association of Chiefs of Police, by vote at their annual meeting, determine what crimes are to be considered as major crimes for the purpose of FBI statistics reports. For 50 years, despite enormous changes in circumstance and the proliferation of newer, more sophisticated crime, no additions have been made to the "major crime" category. Repeated votes by the police chiefs have resisted inclusion of arson as a major crime.

Supposedly, there are four criteria for inclusion of an offense in the crime index: one, seriousness; two, high frequency of occurrence; three, strong likelihood of the crime being reported to the police; and four, the existence of uniform reporting procedures for the whole country. Opponents of major crime status for arson freely concede the first two criteria, but argue that many incidents of arson are either not reported to police or are reported late due to the difficult physical curcumstances involving arson. Often, they argue, police may be unable to determine arson due to lack of investigators, equipment, or whatever. I sympathize with these difficulties. I hope to help correct them in other legislation. However, the fact is that there are many arsons reported to the police, cases that have been determined to be arson. We all know that many burglaries and larcenies also go unreported. Yet those crimes are "Part 1" crimes.

Furthermore, Mr. President, I believe that it is time to reexamine this entire procedure of crime reporting. Whatever the original intention, our crime reporting system is now viewed as a major social indicator. It should be modern and it should be standardized and certified by the Federal Government and not by some outside group. I am very disturbed by the FBI's opposition to my amendment. This is too important an issue to play bureaucratic games with. At our hearings and in the press it was implied that one of the underlying reasons for opposition to this amendment was that full revelation of the extent of the growth of arson would demolish the recently painted pictures of a decrease in crime. If this is in any way true, it is disgraceful.

Mr. President, I do not think the American public wants false security. I think we want to know the facts and to be exposed to our problems, not kept ignorant of them. Only by focusing public attention on the problem can we hope to develop the support and awareness necessary to make the fight against arson a top national priority. We can make a much-needed start by facing reality and declaring arson a major crime.

I urge adoption of the amendment.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. STEVENS. I would be pleased if he would add my name as a cosponsor.

Mr. GLENN. I thank the Senator very much. Mr. President, the amendment is cosponsored by Senators CHAFEE, MATSUNAGA, and FORD; I ask unanimous consent that the name of the Senator from Alaska be added to that list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I know of Senator KENNEDY's efforts in this area in his own State, and that he has worked closely with Representative MOAKLEY in this regard. So this is an area in which I know we have a mutual interest, and I would hope we can have the amendment accepted.

I urge the adoption of the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I wish to join Senator GLENN in offering my support for this amendment.

Anybody who reads the daily newspapers or follows the news on television is keenly aware of the appalling toll that arson exacts from our communities.

Yet, if one were to undertake a detailed study of the effects of arson, he would be unable to find accurate and comprehensive statistics concerning arson in the FBI's crime statistics report.

Mr. President, arson is a serious and growing disease that afflicts many urban areas across this country. Attempts to cure this disease are made extremely difficult by a lack of available factual knowledge. We see the symptoms in the hollow shells of our burned-out cities, just as President Carter did during his recent visit to the Bronx. And, without this data, we are a long way from seeing a cure.

Classifying arson as a Part 1 crime would go a long way toward providing the information necessary to wage a vigorous and effective fight against those individuals who are engaged in burning down America's cities just to make a buck.

Rhode Island police and fire chiefs, chambers of commerce, and insurance companies have emphatically stated that the legislation that we are considering would be an important step in combating the devastating crime of arson.

Mr. KENNEDY. Mr. President, this amendment, as the Senator from Ohio has pointed out, is crucial. For the reasons that have been outlined very eloquently by the Senator from Ohio, there is no crime in the urban areas of this country which is more serious today than arson. There are major areas, I know, in the cities of my State—and the Senator from Ohio has referred to this—where there has been actual torching of major facilities resulting in very serious loss of life to inhabitants as well as to firefighters. The Senator's amendment, with the uniform crime statistics focusing on this crime, would give us new information and give arson the attention and priority it should have. It seems to me absolutely warranted and justified.

The statistics indicate that it is the fastest rising crime in the country. It clearly is concentrated in urban areas. With the amendment of the Senator from Ohio, we shall have improved FBI reporting, and I think a very significant difference in terms of how the crime of arson is emphasized.

I think it is a very reasoned approach. I know the Senator has been frustrated by the whole issue. I think this will give us very important assistance in terms of giving arson the kind of priority and standing that it deserves. I think it is a welcome addition to the legislation. I applaud the Senator for bringing it to our attention.

Mr. GLENN. I thank the Senator from Massachusetts. I might add in response, we had excellent cooperation from some of the people from Boston, particularly David Scondras. The Senator may know him. He is with the Symphony Tenants organization. David is a mathematician by trade; he teaches in that field. He has developed a mathematical model for even predicting where fires may occur by certain patterns, mortgage, resale, and so on. It is a different approach.

I do not want anybody to think we have completely addressed the arson problem by what we have done here today. This is a first step. We want to take experiences that some people have had, like the group, Symphony Tenants Association, some of the things being developed by the National Fire Prevention and Control Administration, and, sometime later on, put together a more comprehensive bill to take care of what the Senator from Massachusetts indicated is the fastest rising crime in this country and the most difficult to detect.

The statistics we had before the committee were that once arson occurs, less than 1 percent of those crimes ever results in anyone serving time in prison for them. The figure was actually 0.7 percent, I believe.

So we do need to do a lot of work in this area. This is but a first step to try to get a statistical basis on which to base further legislation.

Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized to make a motion to table.

Mr. KENNEDY. Mr. President, I move to lay on the table the amendment of the Senator from Colorado.

UP AMENDMENT NO. 1101

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Colorado, UP amendment No. 1101. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina, Mr. HOLLINGS), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

On this vote, the Senator from Utah (Mr. HATCH) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Utah would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 70, nays 13, as follows:

[Rollcall Vote No. 637 Leg.]

YEAS—70

Allen	Gravel	Nunn
Anderson	Griffin	Packwood
Baker	Hansen	Pearson
Bartlett	Hayakawa	Pell
Bayh	Heinz	Proxmire
Bellmon	Helms	Randolph
Burdick	Hodges	Ribicoff
Byrd, Harry F., Jr.	Inouye	Roth
Byrd, Robert C.	Jackson	Sarbanes
Cannon	Johnston	Schmitt
Chafee	Kennedy	Schweiker
Church	Laxalt	Scott
Clark	Leahy	Sparkman
Culver	Long	Stafford
Curtis	Lugar	Stennis
Danforth	Magnuson	Stevens
DeConcini	Matsunaga	Stevenson
Dole	McGovern	Stone
Domenici	McIntyre	Talmadge
Eagleton	Melcher	Tower
Eastland	Metzenbaum	Weicker
Ford	Morgan	Williams
Glenn	Moynihan	Zorinsky
	Muskie	

NAYS—13

Abourezk	Hart	Nelson
Biden	Haskell	Percy
Brooke	Huddleston	Riegle
Case	Javits	
Cranston	Mathias	

NOT VOTING—15

Bentsen	Goldwater	McClure
Bumpers	Hatch	Sasser
Chiles	Hatfield	Thurmond
Durkin	Hathaway	Wallop
Garn	Hollings	Young

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, before the swearing-in ceremony proceeds, I should like to make a brief announcement and seek a unanimous-consent agreement, if we can have order in the Senate.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, Mr. SCOTT has two amendments, No. 1659 and No. 1660, on each of which he would be agreeable to a 1-hour time limitation, with the understanding that he will call up amendment No. 1659 shortly after the swearing in of the new Senator. The time on that amendment would begin running tomorrow at 12:30 p.m., at the close of the period for eulogies.

Upon the disposition of that amendment, he would call up his second amendment, No. 1660, with the same time limitation of 1 hour, and then have a vote on that amendment, if it is agreeable to the Senator from Massachusetts.

Mr. KENNEDY. It is entirely agreeable.

Mr. LEAHY. Mr. President, reserving the right to object, when did the Sena-

tor from West Virginia say that the vote would occur following the eulogies?

Mr. ROBERT C. BYRD. The first amendment by Mr. SCOTT, which would be called up tonight and made the pending amendment, would come up immediately upon the close of the eulogies tomorrow, at 12:30 p.m. There would be not to exceed 1 hour. The Senator from Virginia says he does not think he would take his 30 minutes. There would be a 1-hour limitation on that amendment, after which there would be a vote on it. Then we would proceed to the second Scott amendment.

Mr. LEAHY. Would it affect badly the running of the schedule if the first vote did not occur before 1 p.m.? The reason I ask is that I have been asked to deliver a eulogy for Senator Humphrey at Georgetown tomorrow, at noon, and I would be back about 1 or 1:10.

Mr. ROBERT C. BYRD. Mr. President, I shall include that in my unanimous-consent request, that the vote on the first amendment by Mr. SCOTT not occur before 1:15 p.m.

Mr. LEAHY. That will give me ample time. I appreciate the courtesy of the leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. SCOTT. Mr. President, reserving the right to object, and, of course, I am not going to object, will the majority leader have the further understanding that one amendment would not be explained until after the vote on the other amendment?

Mr. ROBERT C. BYRD. Yes. That will be in concurrence with the Senator's wishes.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. At what time does he expect the vote to occur?

The Republican Policy Committee meets at 1, which is rather unusual, due to our accommodating the visiting Soviet delegation.

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. So what time would the vote occur?

Mr. ROBERT C. BYRD. The vote would occur probably around 1:30 p.m. We could delay that.

Mr. TOWER. Could the majority leader put that over until 2 p.m., does he think?

Mr. ROBERT C. BYRD. It is up to the Senator from Virginia. If he has no objection, all right, but this would mean he would begin discussing his second amendment before the vote occurred on his first amendment.

Mr. SCOTT. Mr. President, certainly I do not want to inconvenience the Republican conference, being a member of it, but I just sort of hate to speak to the Senate when none of my colleagues on this side of the aisle are present, when they are all attending a conference, because then some of my support would be eroding. I would hope some alternative could be found to that.

Mr. ROBERT C. BYRD. Mr. President, I do not want to further delay the swearing in of our new Senator.

May we agree on the 1-hour time limitation on each of the two amendments and agree that Senator SCOTT may lay his first amendment down this evening and that a vote will not occur at least prior to the hour of 1:15 tomorrow? Perhaps we can accommodate the other problem tomorrow, may I say to Senator TOWER.

Mr. SCOTT. We will talk about accommodation later. All right.

Mr. TOWER. I thank the Senator.

SENATOR FROM MONTANA

The PRESIDENT pro tempore. The Chair lays before the Senate the certificate of appointment of Mr. PAUL G. HATFIELD of the State of Montana.

Without objection, it will be placed on file.

The certificate of appointment will be read.

The second assistant legislative clerk read as follows:

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Montana, I, Thomas L. Judge, the governor of the State of Montana, do hereby appoint PAUL G. HATFIELD a Senator from said State to represent said state in the Senate of the United States until the vacancy therein, caused by the death of Lee Metcalf, is filled by election as provided by law.

Witness: His excellency, our governor Thomas L. Judge, and our seal hereto affixed at Helena this twenty-second day of January, in the year of our Lord 1978.

By the Governor:

THOMAS L. JUDGE,
Governor.

The PRESIDENT pro tempore. If the Senator-designate will present himself at the desk, the Chair will administer the oath of office required by the Constitution and prescribed by law.

Mr. PAUL G. HATFIELD of Montana, escorted by Mr. MELCHER, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the official Oath Book.

[Applause, Senators rising.]

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

RECESS UNTIL 5:01 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 4:56 p.m., recessed until 5:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PELL).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the recess be extended for 2 additional minutes so that we may complete our expressions of welcome to our new colleague.

There being no objection, the Senate, at 5:01 p.m. recessed until 5:03 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PELL).

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

AMENDMENT NO. 1659

Mr. SCOTT. Mr. President, I call up my amendment No. 1659 and ask that it be stated and be made the pending business before the Senate.

The PRESIDING OFFICER. Without objection, the amendment is in order, and the clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 1659:

Beginning on page 349, line 20, strike out everything through line 15 on page 359 and make such technical changes in the remainder of the bill as may be necessary due to the elimination of chapter 58.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time on the amendment begin running today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there has been morning business already for the day, has there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that during the consideration of S. 1437, Mr. Theodore Blanton of my staff be given the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Michael Clipper and Mr. Riley Temple of my staff be permitted the privileges of the floor during the debate on the pending legislation and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Mr. Marc Steinberg have access to the floor during the consideration of this legislation and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRICT CONSTRUCTION OF PENAL STATUTES

Mr. CRANSTON. Mr. President, the American Civil Liberties Union's Washington office has prepared a memorandum responding to the arguments in the committee report regarding the proposed code's repeal of the canon of strict construction of penal statutes.

I urge Senators to read this memorandum before our amendment to restore the maxim of strict construction to a rightful place in federal criminal law CUMFS to a VVTF.

The memorandum underscores the fundamental points that the role of strict construction does not exclude the application of commonsense to the terms made use of in a penal statute and that statutes must be strictly constructed to

avoid any abridgement of the free exercise of constitutional rights.

I ask unanimous consent that the text of the memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

STRICT CONSTRUCTION OF THE CRIMINAL LAW

S. 1437 rejects the time honored maxim that penal statutes are to be strictly construed and adopts in its place the principle that criminal statutes should be construed "in accordance with the fair import of their terms to effectuate the general purposes of this title." The Committee Report on this change is inaccurate and misleading as it erroneously states that the Supreme Court has adopted this principle and that the Brown Commission recommended this change. It is well-established that in the area of constitutional law, statutes must be strictly construed to avoid any abridgement of the free exercise of constitutional rights. In the area of general criminal law, the Supreme Court throughout its history has given ambiguous statutes narrow interpretations in accordance with the principle of strict construction.

This issue was expressly addressed by Justice Harlan in *Yates* v. *United States*, 354 U.S. 298 (1957). In limiting the term "to organize" in the Smith Act, he quoted Chief Justice John Marshall speaking more than a century before:

"The rule that penal statutes are to be construed strictly, is perhaps not much less old, than construction itself. It is founded on the tenderness of the law for the rights of individuals; and on the plain principle that the power of punishment is vested in the legislative, not in the judicial department. It is the legislature, not the Court, which is to define a crime, and ordain its punishment."

Justice Harlan then explained the proper application of the principle. "The maxim is not to be so applied as to narrow the words of the statute to the exclusion of cases which those words, in their ordinary acceptation, or in that sense in which the legislature has obviously used them, would comprehend." Thus, the principle of strict construction is to be used to resolve ambiguities in the language of the statute, not to defeat the intent of Congress where the language of a statute is clear and unambiguous.

In the *Yates* case, the Government had urged a broad reading of the term "to organize" so that it would reach not only activity surrounding the formation of a Communist organization but also activities subsequent to actual formation. In order to preserve the constitutionality of the statute and to avoid significant infringement on freedom of expression and association, the Court rejected the Government's argument.

Yates reaffirmed the doctrine of strict construction as it applied in constitutional law, and cases since have consistently followed the principle.

Recently, in *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court strictly construed the term "political committee" in the Federal Election Campaign Act thus limiting the scope of the Act to those organizations which in express terms advocate the election of defeat of a clearly identified candidate. The Act could not be interpreted to cover other organizations which attempt to affect the electoral process because, as the Court of Appeals in the *Buckley* case held, it would have created an intolerable chill on the free exercise of First Amendment rights.

Similarly, in the area of general criminal law, the Supreme Court when faced with an ambiguous statute continues to choose the narrow meaning. Cases cited by the Committee Report in support of the current language of Sec. 112 in fact support the principle of strict construction.

In *United States v. Bass*, 404 U.S. 336 (1971) the Court narrowly construed the firearms provision of the Omnibus Crime Control and Safe Streets Act. The question presented was whether the Government had to prove that the transportation of a firearm had to affect interstate commerce or, as the Government argued whether mere transportation of the firearm across state lines was sufficient. Speaking for the majority, Justice Marshall chose the narrow reading, that the government had to prove that transportation was in commerce or affected commerce. In rejecting the government's broad interpretation, Justice Marshall said " . . . where there is ambiguity in a criminal statute, doubts are resolved in favor of the defendant".

The Committee Report correctly states that this is the principle of lenity. But, the Committee Report misinterprets this principle. The principle of lenity is merely a corollary of the canon of strict construction as explained by Justice Harlan in *Yates*, that is, that statutes must be constructed strictly, but not to the exclusion of clear legislative intent. There is nothing in the Bass decision that even suggests that the principle of lenity stands for the language of Sec. 112. Indeed, Justice Marshall stated that he was employing the doctrine of strict construction: "This is not the narrowest possible reading of the statute, but canons of clear statement and strict construction do 'not mean that every criminal statute must be given the narrowest possible meaning in complete disregard of the purpose of the legislature' ". 404 U.S. at 351 (emphasis added) (citations omitted).

Other cases cited by the Committee Report only support the proposition that the principle of lenity is in reality a corollary of the rule of strict construction. The phrase "principle of lenity" was coined by Justice Frankfurter in *Bell* v. *United States*, 349 U.S. 81 (1954). The decision in that case resulted in a narrow construction of the Mann Act. Justice Frankfurter explained the principle of lenity: "It may fairly be a presupposition of our law to resolve doubts in the enforcement of the penal code against the imposition of a harsher punishment." 349 U.S. at 83.

The principle of lenity then is a canon of construction favoring the defendant. However, Sec. 112 of S. 1437 requires resolution of ambiguous language in favor of the Government. The phrase "to effectuate the general purposes of this title" is another way of stating to effectuate the general purposes of law enforcement. If applied to ambiguous statutory language this would result in resolution in favor of the government, in direct contrast to the result using the principle of lenity and the doctrine of strict construction.

It must be stressed that strict construction is only employed when statutory language is ambiguous and is not used to defeat the clear intent of the Congress. The Supreme Court has so stated in above cited cases. Thus, the fear that the principle of strict construction would work mischief on the criminal law is unfounded.

Finally, it must be noted that the Brown Commission refused to repudiate the canon of strict construction. Although preliminary drafts attempted to repeal the canon, the final report omitted any language which would indicate a repudiation. There are no principles of construction. Rather, the final report sets out a number of specific and narrow purposes for which the criminal code is intended. None suggest the broad scope of the general principle of construction of Sec. 112 of S. 1437.

Thus, the doctrine of strict construction has neither been repudiated by the Supreme Court nor has its repeal been proposed by the Brown Commission, statements in the Committee Report notwithstanding. Because S. 1437 significantly expands federal jurisdiction and encroaches on the traditional criminal law jurisdiction of the States, and because so many of its provisions are new substantive law in areas affecting the free exercise of First Amendment rights, strict construction should remain the principal means of interpreting the criminal law.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRIKING OF NATIONAL MEDALS

Mr. ROBERT C. BYRD. Mr. President, there is a joint resolution on the calendar which has been cleared for passage on both sides of the aisle. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 558.

There being no objection, the Senate proceeded to consider the joint resolution (H.J. Res. 386) to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 4, line 1, strike "less than one medal each year for thirteen years" and insert "more than 104,000 medals";

On page 4, line 6, strike "thirteen";

On page 4, line 9, strike "1989" and insert "1978";

On page 4, beginning with line 10, strike through and including the period on line 14;

On page 4, line 14, strike "thirteen";

On page 4, line 20, following "expenses" insert a comma and "plus a surcharge equal to 25 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts";

On page 4, beginning with line 23, strike through and including the period on page 5, line 1;

On page 5, line 3, following "manufacture" strike "and announcement of the medals";

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. Presi-

dent, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A joint resolution to provide for the striking of a national medal to commemorate the bicentennial of an outstanding historic event or personality during 1777.

EMERGENCY INTERIM CONSUMER PRODUCT SAFETY RULE ACT OF 1978

Mr. FORD. Mr. President, I send a bill to the desk and ask unanimous consent that it be considered as having been read the first time by title and the second time at length, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I do not plan to object, I think it might be well for an explanation of the bill to be given before unanimous consent is given for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 2401) to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes.

Mr. FORD. Mr. President, this legislation will accomplish two primary objectives. First, it will direct the Consumer Product Safety Commission to adopt within 120 days an interim mandatory consumer product safety standard to protect homeowners from an unreasonable risk of injury associated with flammable and corrosive cellulose insulation. Second, it will direct the Consumer Product Safety Commission to study the various safety aspects of other forms of home insulation and to report its findings to the Congress. If this Nation is to meet its national energy goal of insulating 90 percent of American homes by 1985, it is essential that consumer confidence in the safety of insulating products be maintained at a high level. If we are to ask millions of Americans to bear the cost of insulating their homes, and if we are to encourage such action through a tax credit, it is essential that Congress take all possible steps to see that consumers who purchase home insulation can be reasonably sure that the product is safe.

This legislation will direct that cellulose insulation be manufactured in compliance with the existing General Services Administration purchasing standard HH–I–515c, which provides the most widely recognized and accepted current method for testing the flammability and corrosiveness of this product. The present GSA standard is currently being subjected to proposed revisions and modifications. Additionally, the Consumer Product Safety Commission estimates that within 18 to 24 months it may be able to develop a safety standard for cellulose installation. Despite its shortcomings, I am convinced that the existing GSA standard for flammability and corrosiveness is far better than having no standard at all.

The Department of Commerce recently estimated that 10 new cellulose manufacturers enter the market each month. There are disturbing reports that an increasing quantity of cellulose insulation is being sold that meets neither the existing Government purchasing standard nor any voluntary standard followed by reputable cellulose manufacturers. I am concerned that the reputations of legitimate cellulose manufacturers, who produce a safe and efficient product, are being unfairly damaged by the small but growing number who are producing an unsafe product. In testimony before the Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation, and in hearings held by both the Consumer Product Safety Commission and the Department of Energy, reputable cellulose manufacturers have requested the help of the Federal Government in protecting their industry from fly-by-night operators who do not produce a safe product.

This legislation will protect both the legitimate manufacturer and the individual consumer from those who are producing and selling an unsafe consumer product.

Mr. President, because of the growing demand for cellulose home insulation I am convinced that Congress must act now. The longer we wait before setting a mandatory standard for cellulose insulation, and in studying the safety problems of other insulation products, the greater the risks that homes will burn, tax dollars will be wasted, and lives may be unnecessarily lost. It is for these reasons that I urge the immediate passage of this vital legislation.

As chairman of the Consumer Affairs Subcommittee of the Committee on Commerce, I have held hearings and have seen the dangers inherent if we do not set standards. So what this bill really does is, for the next 12 months, set standards for cellulose. We have checked with the industry and those concerned about safety, and they applaud this bill. Secondly, we direct the Consumer Product Safety Commission to set the standard through their tests and rigid procedures already outlined by Congress and a part of the law.

This bill will reduce the necessary time for the implementation of such standards from a possible 18 to 24 months to 12 months. I think it is important not only for the safety of our people, but to insure a quality product, when we are looking forward to giving tax credits for insulation and other items, that we at least set minimum standards.

So, Mr. President, if my request is now in order, I renew it.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, it is my understanding that this procedure has been cleared with the chairman of the Committee on Commerce (Mr. MAGNUSON), the ranking minority member of the committee (Mr. PEARSON), the Senator from Alabama (Mr. ALLEN), and others; and that being the case, I have no objection.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I might add that it is my understanding that the Senator from Kansas (Mr. PEARSON), who is the ranking Republican member on that committee, has no objection.

Mr. FORD. I have also checked with the ranking Republican member on the Consumer Subcommittee, the distinguished Senator from Oregon (Mr. PACKWOOD).

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2401) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Interim Consumer Product Safety Rule Act of 1978".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) existing Federal, State, and local laws and regulations are insufficient to protect the consumer from improperly manufactured insulation;

(2) an unreasonably large quantity of insulation is being distributed that does not meet minimum safety standards;

(3) an urgent need exists for the expedited setting of interim mandatory Federal standards for the manufacture of cellulose insulation;

(4) such standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation; and

(5) the Consumer Product Safety Commission should study all forms of insulation within the jurisdiction of the Commission to determine where appropriate standards should be developed and promulgated by the Commission to reduce the possible health and safety risks.

(b) It is the purpose of Congress in this Act to—

(1) provide an interim mandatory safety standard for cellulose home insulation; and

(2) direct the Consumer Product Safety Commission to study the forms of home insulation commonly used in the United States and to recommend appropriate legislative and administrative action in regard to reducing the possible health and safety risks that may result from the manufacture or use of such insulation.

INTERIM CELLULOSE INSULATION SAFETY STANDARD

SEC. 3. The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end thereof the following:

"INTERIM CELLULOSE INSULATION SAFETY STANDARD

"SEC. 35. (a) On and after the last day of the one-hundred-and-twenty-day period beginning on the date of enactment of this section, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH–I–515C (as that specification read on December 1, 1977), shall

be deemed to be an interim consumer product safety rule which shall have all the authority and effect of any other consumer product safety rule promulgated by the Commission under this Act. During such one-hundred-and-twenty-day period, the Commission may make, and shall publish in the Federal Register, such technical nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety rule. At the end of such one-hundred-and-twenty-day period, the Commission shall publish in the Federal Register such interim consumer product safety rule, as altered.

(b) Judicial review of the interim consumer product safety rule specified in subsection (a) shall be limited solely to the issue of whether any technical changes made by the Commission are nonsubstantive.

"(c)(1) The interim consumer product safety rule specified in subsection (a) shall be enforced in the same manner and to the same extent as the Commission enforces any other consumer product safety rule until such time as there is in effect a final consumer product safety rule, promulgated by the Commission in accordance with section 553, title 5 of the United States Code, setting health and safety standards for cellulose home insulation. A violation of the interim consumer product safety rule shall be deemed to be a violation of a consumer product safety rule shall be deemed to be a violation of a consumer product safety standard promulgated by the Commission under section 7.

"(2) Until there is in effect such a final consumer product safety rule, the Commission shall incorporate into the interim consumer product safety rule each amendment to such requirements promulgated by the General Services Administration, unless the Commission finds, after consultation with the Secretary of Energy, that—

"(A) such amendment is unnecessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose home insulation;

"(B) implementation of such amendment will create an undue burden upon the cellulose home insulation industry, or

"(C) additional time is required to study the safety or economic consequences of implementation of such amendment.

"(3)(A) At least thirty days before any amendment to such requirements is to become effective, after action by the General Services Administration, the Administrator of the General Services Administration shall notify the Commission of such amendment.

"(B) Any amendment to the interim consumer product safety rule shall be promulgated by the Commission in accordance with section 553, title 5 of the United States Code.".

INSULATION SAFETY STUDY

SEC. 4. (a) In addition to research or other action already in progress, the Consumer Product Safety Commission shall conduct a thorough and complete study of—

(1) the need for safety standards for fiber glass, rockwool, cellulose, urea-formaldehyde, styrene, urethane, vermiculite, perlite, and other forms of commonly used home insulation;

(2) methods of testing the safety of home insulation; and

(3) methods of enforcing home insulation standards.

(b) In conducting the study specified in subsection (a), the Consumer Product Safety Commission shall consult with the Secretary of Energy, the Secretary of Commerce, the Director of the National Bureau of Standards, the Administrator of the National Fire Prevention Control Administration, the Secretary of Housing and Urban Development, the Chairman of the Federal Trade Commission, and the head of any other Federal agency, department, or other entity. The head of each Federal agency, department, or other entity is authorized and directed to cooperate fully with the Consumer Product Safety Commission in its efforts to carry out the purpose of this section. Each such head shall submit to the Consumer Product Safety Commission all documents and information which the Commission requests and such head determines to be reasonable and necessary.

(c) Within one hundred and eighty days after the date of commencement of the study specified in subsection (a), the Consumer Product Safety Commission shall submit to the Congress a preliminary report on the results of such study. Such interim report shall include the Commission's preliminary findings with respect to those issues specified in paragraphs (1), (2), and (3) of subsection (a). As soon as practicable, but not later than three hundred and sixty-five days after commencement of the study, the Commission shall transmit to the Congress a full and complete final report stating the nature, extent, and adequacy of existing home insulation safety standards, safety standards, safety tests, and research and safety standard enforcement methods. The Commission's final report shall contain recommendations for legislation or rulemaking which should be enacted or promulgated, or changes in existing law or rules which should be made, regarding home insulation, to protect the public health and safety. The Commission's final report shall specifically discuss the adequacy of existing testing facilities and quality control methods for home insulation and the need for technical assistance for manufacturers to insure an adequate supply of safe home insulation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated, for each fiscal year beginning with the fiscal year ending September 30, 1978, such sums as are necessary to carry out the purposes of this Act.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. I thank the majority leader and the minority leader for their courtesy.

Mr. ROBERT C. BYRD. The Senator is welcome. He is always entitled to that courtesy.

THE IMPENDING RETIREMENT OF SENATOR SPARKMAN

Mr. JAVITS. Mr. President, on Friday last, just as the Senate was about to go out, Senator JOHN SPARKMAN of Alabama announced that after 42 years in the U.S. Congress, he planned to retire at the end of this term, and not to stand for reelection.

Mr. President, this announcement caught my office by surprise, including me, and I was not in the Chamber at the time to express my deep regret that so distinguished a Senator and so wonderful an American of such high character as JOHN SPARKMAN should be leaving the Senate.

I believe, Mr. President, that this is not only the loss of the State of Alabama, but the Nation's loss. Senator SPARKMAN has been chairman of the Committee on Foreign Relations, of which I have the honor to be a member. I do not believe there is a chairman of any committee in the Senate who stands superior to Senator SPARKMAN in his understanding of, friendship for, and accommodation with the members of his committee, majority and minority alike. He is the very symbol of fairness and deep patriotism, and has a profound conscience respecting all he does.

He is, in addition, an extremely enlightened American. His views on foreign trade, on foreign aid, on détente with the Soviet Union, on the question of nuclear disarmament, on nuclear nonproliferation, and on the laws of the sea, in which the distinguished present occupant of the chair (Mr. PELL) has such a burning interest, have been of the highest order of American patriotism, American thoughtfulness, and a deep sense of American responsibility.

Senator SPARKMAN also served as chairman of the then Committee on Banking and Currency when I was a member of that committee. He had a great deal to do with housing legislation for our country, as well as banking legislation, and I would like to pay him a singular tribute: A Southern gentleman of the finest school, he had an understanding of and an intuitive feeling for the slums of New York, Philadelphia, Chicago, San Francisco, Boston, and, yes, Atlanta, and Providence, R.I., if you will, which was unbelievable; and he bent very hard and helped very much in the most selfless way to do all he could for the passage of housing legislation to ameliorate those conditions, demonstrating an extraordinarily national point of view as well as a highly humane point of view by a highly cultivated gentleman.

Also, I have served with Senator SPARKMAN on many foreign missions, for the ITU and for the North Atlantic Treaty Organization; and only the other day he and other members of the Foreign Relations Committee, including the occupant of the Chair and I, traveled to Panama on the latest of our series of efforts to bring about a favorable resolution of the critically important treaties respecting the Panama Canal.

Mr. President, I believe we have a deep right to feel that JOHN SPARKMAN has been one of the most distinguished Senators ever to serve in this body. He has served his State and his country with great nobility, great distinction, and great usefulness. I think we suffer a very great loss in his going.

I am heartened by the fact that he and Mrs. Sparkman will continue to have a home in Washington, and I hope very much that he will continue very actively his very lively interest in the foreign affairs of our country and in its domestic affairs as well. As a person and as a Senator, I wish him great happiness in all he does, great good health, and many, many years of fruitful living.

The PRESIDING OFFICER (Mr. PELL). The occupant of the Chair joins in that wish.

Mr. ROBERT C. BYRD. Mr. President, sometime during this past weekend, it was announced that Senator JOHN SPARKMAN of Alabama would not be a candidate for reelection when his term expires at the end of this session of the 95th Congress. His retirement will bring

to a close one of the most distinguished careers in the Senate. Senator SPARKMAN was first elected to this body in 1946, after serving nearly a decade in the House of Representatives. Indeed, JOHN SPARKMAN holds the distinction of being the only man in the history of the United States to be elected simultaneously to both Houses of Congress. In the election in which he was elected to the Senate, he was also returned to his seat in the House of Representatives, from which he subsequently resigned.

Senator SPARKMAN, the son of a farmer, was born and reared in rural Alabama. He worked his way through the University of Alabama by selling his own cotton crop. Graduating Phi Beta Kappa with a B.A. degree in 1921, he went on to earn his M.A. and LL.B. degrees.

JOHN SPARKMAN belongs to that generation of Congressmen that helped to lift this Nation out of the distress of the Great Depression. Over the years, he has been actively committed to the improvement of the housing of the American people, and has led the fight for housing legislation that has made possible better housing for millions of Americans.

In 1952, Senator SPARKMAN was chosen as the Vice-Presidential candidate of the Democratic Party, to run with the late Gov. Adlai Stevenson. After the election campaign, JOHN SPARKMAN returned to his Senate duties, and has been elected by the people of Alabama to represent them four consecutive times since. He has held the chairmanship of the Senate Committee on Banking, Housing, and Urban Affairs, and is presently the chairman of the Foreign Relations Committee.

Over the years, JOHN SPARKMAN has ably represented the citizens of Alabama in the Senate, and has made major contributions to the improved well-being of all the citizens of this country. It has been a genuine pleasure to serve with him in this body, and I hope that JOHN SPARKMAN realizes the deep esteem and appreciation that he will take with him upon his retirement from the Senate. We shall all miss our colleague from Alabama when he retires.

Mr. BAKER. Mr. President, I shall, tomorrow, have remarks which I hope are appropriate to the sad occasion of Senator SPARKMAN's impending departure from this body. Rather than give them extemporaneously, I prefer to prepare them with more care and deliver them from the floor at that time.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9 a.m. tomorrow morning. Following the prayer by the Chaplain and recognition of the two leaders or their designees under the standing order, eulogies will be given in memory of our late departed colleague, Mr. Humphrey, and in memory of our late departed colleague, Mr. Metcalf. Eulogies will extend for at least 3 hours.

At no later than 12:30 p.m., tomorrow, the Senate will resume consideration of the unfinished business, at which time, the amendment by Mr. SCOTT, amendment No. 1659, will be pending. It has already been laid down. There is a time limitation of 1 hour on the debate of that amendment tomorrow.

It has already been agreed that no rollcall votes will occur before the hour of 1:15 p.m. tomorrow. It will be my purpose tomorrow to endeavor to make that vote occur around 2 p.m. to accommodate the Members of the Senate on both sides of the aisle who have, subsequent to the time the order was entered, discussed this with me. This is agreeable with Senator SCOTT, but until tomorrow, I shall not be sure that we can change that time. I have reasonable hopes that that vote will occur at around 2 p.m. tomorrow.

THANKS TO SENATOR ALLEN AND SENATOR HELMS

Mr. ROBERT C. BYRD. I take this occasion to express appreciation to the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished Senator from North Carolina (Mr. HELMS) for the very methodical approach which they have taken during debate on this measure, and for the effort and time and work which they and their staffs gave over the past weekend to developing a list of committee amendments which could be adopted en bloc and without taking up the time of the Senate. About 300 amendments, I believe, were agreed to en bloc by virtue of the accommodation and cooperation of Senator ALLEN and Senator HELMS.

It is my understanding that over this coming night, they and their staffs will pursue the matter and, by tomorrow, will be ready to suggest, perhaps, another couple of hundred amendments which can be disposed of en bloc. This is splended cooperation and, on behalf of the leadership in this side of the aisle, I felt it my duty—and I wanted to, anyhow, whether it was the call of duty or not—to express my gratitude to them for their courtesy and understanding and helpfulness.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the distinguished majority leader for his very courteous and generous remarks.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 5:27 p.m., the Senate adjourned until tomorrow, Tuesday, January 24, 1978, at 9 a.m.

NOMINATION

Executive nomination received by the Senate, January 23, 1978:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Holloway Cushman, XXXX XXXX (age 56), Army of the United States (major general, U.S. Army).

HOUSE OF REPRESENTATIVES—*Monday, January 23, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He that abideth in Me and I in him, the same bringeth forth much fruit.—John 15: 15.

O God, our Father, in the quiet of this sacred moment we turn our thoughts unto Thee and open our spirits to Thy spirit that we may see clearly the ways in which we should walk. Grant that we may be understanding in all our thinking, loving in all our relationships, merciful in all our judgments, and honest in all our dealings. Move Thou through our hearts this day enabling us to discharge our duties faithfully, fairly, and fully.

We pray for the leaders of our people in church and state, in labor and business. So rule their hearts and so direct their endeavors that they may use wisely the trust committed to them. Make plain to them Thy will, give them the courage to do it, and keep them confident in doing it until their life's end. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3215. An act for the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1503. An act to provide for the payment

of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes;

S. 1704. An act to provide for two additional Assistant Secretaries of Agriculture, and for other purposes; and

S. 1730. An act to provide for an additional Assistant Secretary in the Department of the Treasury.

CRIPPLING THE CIA AND FBI

(Mr. SISK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SISK. Mr. Speaker, I and many other Americans are increasingly concerned about the continuing attacks on our intelligence community and particularly the FBI and CIA, very vital, necessary agencies of our Government.

Mr. Jack Valenti has written a spirited defense of these agencies in an article appearing in the Washington Star of Friday, January 20, 1978. From his vantage point as a high ranking White House official, Mr. Valenti developed a broad knowledge of the necessity of maintaining these agencies as a key facet of our national defense.

The article is printed below in full, and I commend it to my colleagues for serious evaluation.

CRIPPLING THE CIA AND FBI

(By Jack Valenti)

This is not going to be applauded in the dining salons of my East Side Manhattan liberal friends, but somehow I cannot shake the queasy notion that we—as a nation, goaded by well-intentioned people—are systematically destroying the ability of the CIA and the FBI to function effectively in the long-range best interests of this country.

It is politically given that denouncing "dirty tricks in Chile" and the alleged blunders and felonies that are ascribed to every action, real or imagined, of the CIA are guaranties of maximum publicity.

Moreover, one need say only "J. Edgar" and the senses are stunned by an emotional avalanche of black-bag treachery and stealthy bureaucratic Machiavellianism. Mr. Hoover's critics are of a piece with Anglican clergyman Hurrell Froude who when speaking about a sullied archbishop who met his end by being fried to a crisp at the stake, said: "The only good thing I know of Cranmer is that he burnt well."

There is little doubt that Hoover not only "burnt well" but, even worse, he stayed too long. With his apotheosis, he became crotchety and overbearing (when mortals assume divinity there is a noticeable loss of humility). But one need not embrace Hoover lovingly to point out that the FBI over a long stretch of time has been and remains the most professional and highly motivated police force in the world.

During my three years as a White House assistant under President Johnson, I discovered the work of the FBI and the CIA was invariably superior. Both made errors but their excellence more than outweighed their laxities. To find this quality confounds the rhetoric of so many who distrust and disprize both organizations.

During the great intragovernment debates of 1965 when the decisions to intrude more troops into Vietnam were taken, it was the CIA's estimates which time has shown to be most nearly correct. If the agency's dour assessments were overlooked or over-ridden the CIA cannot be faulted. It did its job.

If the CIA was deployed into areas and into events that later lacerated their reputation one must understand that Higher Authorities instructed the CIA and, once again, it did its job as ordered.

To rawhide the FBI for the latter-day imperfections of an old man, implacable, grown to legend, is to misplace the location of what Lytton Strachey in another context referred to as the "seats and nurseries of vice."

The fact, as any sober intelligence will perceive, is that the FBI is still the best police force in being; with a spirit-shrunken, unevenly motivated FBI, we would be less than slightly under-guarded in a more than substantially unsafe society.

And while it is not inappropriate for the CIA to place faith in the abstruse technology of satellites and laser beams and whatever else is now possible, most experienced observers agree that an alert and effective intelligence gathering organization is needed more than ever. Is it really a confirmation of idealism to be blind and mute in a world seething with rude uncertainties?

Yet the virulent shredding of the FBI and the CIA hangs over the future of both those groups.

From my intimate government experience I count the steady, exhausting blows on the FBI and CIA to be the first assaults on the way to an irretrievable national blunder. The world and this nation are sometimes a collection of not very nice neighborhoods. Moreover, in our free and liberty-loving land it is not possible (nor would we choose it to be possible) to deal sternly, summarily and finally with either criminals or spies as is done with such dispatch in totalitarian countries.

Therefore, if we strip the CIA and FBI raw, if we so foul their environment that no professional would want to risk his life and his family's for a flimsy gratitude or a shaky cause, if no person would be willing (for whatever reason) to tell either group something that he or she knew that might be of value in appraising an enemy or identifying a criminal since no file is safe from intrusive eyes, then we will be, by intent and conditioned judgment, collapsing our once-professional intelligence gathering and our once proud and incorruptible investigatory police force. How sure then would we be that justice, however slow, would be readily available—until it is all too late to measure?

It is wrong to blind the CIA and to stunt the FBI. It is wrong because the alternatives are so meager.

"THE DEATH OF A DAUGHTER"

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker and colleagues, I would like to draw your attention to a special story in yesterday's Washington Post entitled "The Death of a Daughter," written by Victor and Rosemary Zorza. The authors were writing about the death of their 25-year-old daughter Jane and the hospice way of dying.

I imagine I was one of thousands of Post readers who were deeply moved with tears of sorrow but, more importantly and more abundantly, tears of joy. This is a story about a girl whose body was ravaged by cancer and who teaches us how to die with peace and dignity when our time comes.

In the story Victor Zorza writes as follows:

. . . if she could only make me accept the thought I had always pushed away, if she could show us that it was possible to die with peace and in dignity when our time came—that, she said, would be a great thing to leave behind her. It would be the greatest gift she could bestow on us. And in the very act of accepting the gift, we would be returning it to her and making her own dying easy. And that is how it worked.

In a society, Mr. Speaker, that has had difficulty in dealing with death, Jane, Victor, and Rosemary Zorza help us to better understand the final mystery of life. I recommend the story to my colleagues and the American people.

Mr. Speaker, I will include the complete article in the Extension of Remarks today, for the further information of the Members.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2664, INDIAN CLAIMS COMMISSION ACT OF 1946 AMENDMENTS

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 94–844) on the resolution (H. Res. 958) providing for the consideration of H.R. 2664 to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes, which was referred to the House Calendar and ordered to be printed.

INTRODUCTION OF RESOLUTION INSISTING THAT SOUTH KOREA PROVIDE ACCESS TO WITNESSES

(Mr. ERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERTEL. Mr. Speaker, today I am introducing a resolution which insists that the Republic of Korea provide the Committee on Standards of Official Conduct and its special counsel with access to Tongsun Park and Kim Dong Jo. Mr. Jaworski has made it clear that the House investigation of the so-called Korean scandal depends upon their testimony, but, thus far, the Republic of Korea has refused to make them available.

Any further delay in this investigation can only continue to erode the honor of this House and the already fragile relations between the United States and the Republic of Korea. South Korea must make these men available and make them so with all due speed.

Mr. Speaker, I came to this House prepared for the hard work and frustration that important undertakings necessarily include. But Mr. Speaker, I was unprepared, and I continue to be unprepared to live under the cloud of suspicion that membership in this body—at this time—involves.

Before I came here, I served as a prosecutor. Those with whom I was acquainted and those on whose behalf I served, trusted me to strictly and vigorously enforce the law. Now, for the first time in my life, I am the suspect. We are all suspects, not because of anything we have done, but because of what many citizens think of the institution in which we serve. That opinion of this great House, does a profound disservice to its great history and to the reputations of the outstanding and decent people who serve here.

And, that disservice is a result of lingering doubts about the Korean question.

Mr. Speaker, in the last session you placed your considerable authority and enormous fund of goodwill behind a strong code of ethics and a full investigation of the matter of Korean influence in Congress. Those strong and ambitious efforts will be nullified, however, if the Republic of Korea does not cooperate in the committee's investigation. It is therefore time for the Members of this House to join you in insisting that this investigation be fully and judiciously resolved. We must insist upon the Republic of Korea's cooperation and we must do so in forceful terms.

Mr. Speaker, some have said that a resolution of this troubling affair is necessary to many of our reelections. Perhaps that is true. But it is even more apparent that unless the honor of this House is restored, reelection will not be worth having.

WHO FIRED DAVID MARSTON?

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, last Thursday, I stood in the well and introduced a resolution calling for the retention of David Marston as U.S. attorney in Philadelphia until the completion of his on-going investigation of corruption involving public officials. Thirty-four of my colleagues, of both parties, have joined in that resolution.

The next day, in an apparent effort to head off a growing firestorm of public opinion, David Marston was fired—not because he did not perform adequately, but because he belonged to the wrong political party.

The politically inspired firing of Mr. Marston has cast a dark cloud over this administration's desire to aggressively prosecute corruption wherever it is found.

When a prosecutor can be canned because his investigation gets too close for comfort to a Congressman or powerful political boss, then our whole judicial system is in trouble.

Therefore, I urge the distinguished chairman of the Judiciary Committee to schedule hearings into this whole affair, in an effort to find out who really fired David Marston.

The public demands to know if politics or merit is more important to this administration in its quest for equal justice under law.

STATEMENT BY SPEAKER THOMAS P. O'NEILL, JR., CALLING FOR SOUTH KOREAN COOPERATION

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I take this time to inform the Members of the House about the status of the South Korean investigation being conducted by our Committee on Standards of Official Conduct.

You will recall that this House adopted a resolution by a vote of 407 to 0 to proceed with this investigation. You will also recall that when the committee needed a new chief counsel, the chairman of the committee, the gentleman from Georgia (Mr. FLYNT), the majority leader, the gentleman from Texas (Mr. WRIGHT), and I arranged for Leon Jaworski, who had distinguished himself in the Watergate investigation, to take the job. At that time, I pledged to do all in my power to aid Mr. Jaworski in the pursuit of the investigation. The people of the United States and the Members of this House deserve no less.

The committee and its very able staff are now at the point where they need information that can only be supplied by Tongsun Park and several Korean Government officials. Toward this end, I sent for the present South Korean Ambassador last week when I heard he was returning to Seoul. I told him in very precise terms that he should tell President Park that we must arrange to have Tongsun Park testify before our committee immediately after the current interrogation of Mr. Park by the Justice Department is completed in Seoul.

I stressed to the Ambassador that the investigation was seriously affecting the relations between our countries and that it was in the best interests of both nations that we come to a resolution of this matter. I added that this House will be voting on aid to South Korea this year and that I could not assure him of House approval of this aid if the present conditions continue. The Ambassador said he would pass this information to President Park.

In addition to Mr. Park's testimony, the committee and this House require that we be given access to other information that is under the control of the Government of South Korea.

Continued efforts to achieve these goals have been futile up to now. It is time to end these formalities and come to some agreement. The South Korean Government should be fully aware of the dire circumstances that will result from a continued confrontation in this matter.

The friendship between the United States and South Korea is at stake here as well as our continued support of that country.

I deplore these circumstances and anxiously await the answer of the South Korean Government.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the chairman of the Committee on Standards of Official Conduct.

Mr. FLYNT. Mr. Speaker, I concur in the statement and remarks that have just been made by the Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL), and associate myself with those remarks toward the end that the necessary procedures are followed so as to obtain the necessary information and witnesses that are now required before our committee, and so that all of the information may be brought before the committee, the House of Representatives, and the American public at the earliest possible time.

Mr. Speaker, this is an unusual procedure in which we are about to engage, but it is one which is absolutely necessary because we have, up until this point, used every means, available to the Committee on Standards of Official Conduct and our staff to obtain all the facts in this case.

Mr. Speaker, the principal purpose of this investigation is to secure the truth and the whole truth. That we intend to do, and under the procedures which the Speaker of the House has just outlined, we feel that the remaining testimony and information that this committee needs will be forthcoming, so that the work of this committee can be completed without further delay.

Mr. O'NEILL. I thank the gentleman from Georgia (Mr. FLYNT) for his remarks.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I am happy to yield to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I thank the Speaker for yielding to me and I wish to associate myself with the remarks that he has just made and also the remarks made by the distinguished gentleman from Georgia (Mr. FLYNT), the chairman of the Committee on Standards of Official Conduct.

I believe the most important thing which faces this House as a body right now is the completion of this investigation as rapidly as possible and in such a way that the American people can be assured that we have looked under every stone and that we have uncovered every bit of evidence which might bear on the integrity of this House or on any Member of this House. And if there is wrongdoing and if the wrongdoing has been exposed that then the proper punishment for those concerned shall be meted out.

I have been advised, as the Speaker has been advised by Mr. Jaworski and by Mr. Peter White that the investigation is at a point where the testimony of Tongsun Park and the former Ambassador from South Korea is absolutely necessary before the investigation can be wound up.

I wish to associate myself again with the remarks of the Speaker regarding the necessity that we have cooperation from the Government of South Korea in doing this. It is a vital matter and it is a matter in which I am sure both parties will join in whatever actions may be necessary. I sincerely hope that it will not be necessary for us to take any action unilaterally as far as South Korea is concerned. South Korea is a friendly country and we consider it is an important ally, but it should understand that these are important matters also and that the importance of them affects our integrity here in the House of Representatives, and is something which we believe is indeed paramount.

Mr. O'NEILL. I thank the minority leader, the gentleman from Arizona (Mr. RHODES).

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 20, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:40 a.m. on Friday, January 20, 1978, and said to contain a Message from the President wherein he transmits the Economic Report of the President.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–279)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Joint Economic Committee and ordered to be printed:

To the Congress of the United States:

I will be working closely with the Congress in 1978 to enact a program addressed to the immediate and the long-term needs of our economy. I am proposing tax reductions and reforms to continue our strong economic recovery, to encourage increased investment by American businesses, and to create a simpler and fairer tax system. I am seeking legislation to address the special problems of the disadvantaged and the unemployed. And I am taking new steps to combat inflation.

This report to the Congress on the condition of the economy sets forth the overall framework within which my economic proposals were formulated. It outlines, for you and for the Nation, my economic priorities for the years ahead and my strategies for achieving them.

I have begun from the premise that our economy is basically healthy, but that well-chosen Government policies will assure continued progress toward our economic goals.

Last year more than four million new jobs were created in our country—an all-time record—and unemployment was reduced by more than one million persons. Output rose by almost 6 percent, and the benefits of this large increase were widely shared. The after-tax income of consumers, adjusted for inflation, rose substantially during 1977. Wages of the typical American worker increased by more than the rise of prices, and business profits also advanced.

The American economy is completing three years of recovery from the severe recession of 1974–75. Recovery in most other nations has lagged far behind our own. In the economies of our six major trading partners, seven million persons were unemployed at year's end—more than at the depths of the 1974–75 recession. Our inflation rate is also lower than in most other nations around the world. We have a great many accomplishments. But much progress remains to be made, and there are problems to be dealt with along the way.

The recession of 1974–75 was the worst in 40 years, and the substantial increase in output over the past three years still leaves the economy operating below its productive potential. We cannot be content when almost 6½ million people actively seeking jobs cannot find work, when 3¼ million workers take part-time jobs because they cannot find full-time employment, and when one million people have stopped looking for a job because they have lost hope of finding one. We cannot be content when a substantial portion of our industrial plant stands idle, as it does today.

We cannot be satisfied with an economic recovery that bypasses significant segments of the American people. Unemployment among minorities is more than twice as high as that among whites—and unemployment among minority teenagers is tragically high. Women have fewer satisfying job opportunities than men, and older Americans often find their access to the job market blocked. Farm incomes have dropped precipitously.

We must also address other problems if we are to assure full restoration of prosperity. Inflation is a serious economic concern for all Americans. The inflation rate is too high and must be brought down. Moreover, a residue of unease and caution about the future still pervades the thinking of some of our people. Businesses are still hesitant in their long-term investment planning, and the stock market remains depressed despite the substantial increase in business profits.

The economic difficulties that we face in the United States also confront most nations around the world. Our mutual problems are the legacy of the trauma suffered by the world economy during the early 1970s. The massive escalation of oil prices since 1973 continues to impose great burdens on the world economy. Oil imports drain away the purchasing power of oil-importing nations and upset the international balance of payments.

Many foreign governments have been reluctant to adopt policies needed to stimulate economic growth because they are concerned that inflationary pressures might be renewed or that their balance of international payments might be worsened. Abroad, as well as at home, concerns about the future have deterred business investment in new plants and equipment. As a consequence, economic growth has stagnated in many countries, and the rise in the capital stock needed to increase productivity, raise standards of living, and avoid future inflationary bottlenecks is not occurring.

The problems we face today are more complex and difficult than those of an earlier era. We cannot concentrate just on inflation, or just on unemployment, or just on deficits in the Federal budget or our international payments. Nor can we act in isolation from other countries. We must deal with all of these problems simultaneously and on a worldwide basis.

Our problems cannot be solved overnight. But we can resolve them if we fix our sights on long-term objectives, adopt programs that will help us to realize our goals, and remain prepared to make adjustments as basic circumstances change.

In making my decisions on tax and budget policies for fiscal 1979, and in planning more generally for our Nation's future, I have been guided by four objectives for our economy that I believe our Nation should pursue.

We must continue to move steadily toward a high-employment economy in which the benefits of prosperity are widely shared. Progress in reducing unemployment of our labor and capital resources must be sure and sustainable. Over the next several years I believe we can increase our real output by 4½ to 5 percent per year, and reduce unemployment by about one-half of a percentage point each year. An especially high priority is to increase job opportunities for the disadvantaged, particularly for black and Spanish-speaking Americans, and to deal more effectively with local pockets of unemployment, such as those in urban areas. We should eliminate unfair advantages through reform of the tax system, and restructure our welfare system to assure that the fruits of economic growth are enjoyed by all Americans.

We should rely principally on the private sector to lead the economic expansion and to create new jobs for a growing labor force. Five out of every six new jobs in the economy are created in the private sector. There are good reasons for continuing to rely mainly on the private sector in the years ahead. By emphasizing the creation of private jobs, our resources will be used more efficiently, our future capacity to produce will expand more rapidly, and the standard of living for our people will rise faster. Reliance upon the private sector does not mean neglecting the tasks that government can and must perform. The Federal Government can be an active partner to help achieve progress toward meeting national needs and, through competent management, still absorb a declining portion of the Nation's output.

We must contain and reduce the rate of inflation as we move toward a more fully employed economy. Inflation extracts a heavy toll from all Americans, and particularly from the poor and those on fixed incomes. Reducing inflation would benefit us all. A more stable price environment would make it easier for business firms and consumers to plan for the future. Thus, reduced inflation would substantially enhance our chances to maintain a strong economic expansion and return to a high-employment economy. In the years ahead we must seek to unwind the inflation we have inherited from the past and take the steps necessary to prevent new inflationary pressures as we approach high employment.

We must act in ways that contribute to the health of the world economy. As the strongest economy in the world, the United States has unique responsibilities to improve the international economic climate. The well-being of the United States depends on the condition

of other nations around the world. Their economic destiny is, in turn, shaped by ours. The United States can retain its stature in the world only by pursuing policies that measure up to its role as a leader in international economic affairs.

These four economic objectives are sufficiently ambitious to constitute a serious challenge, but sufficiently realistic to be within our reach. A well-designed program will permit us to achieve them. The principal elements of my economic strategy are:

—Adopting promptly an effective national energy program;

—Managing Federal budget expenditures carefully and prudently, so that we can meet national needs while gradually reducing the share of our national output devoted to Federal spending;

—Using tax reductions to ensure steady growth of the private economy and reforming the tax system to make it fairer, simpler, and more progressive;

—Working to reduce the Federal deficit and balance the budget as rapidly as the developing strength of the economy allows;

—Improving existing programs and developing new ones to attack the problem of structural unemployment among the disadvantaged;

—Promoting greater business capital formation in order to enhance productivity gains, increase standards of living, and reduce the chances that capacity shortages would inhibit expansion later on;

—Adopting more effective programs to reduce the current rate of inflation and prevent a reacceleration of inflation as we approach high employment; and

—Pursuing international economic policies that promote economic recovery throughout the world, encourage an expansion of world trade, and maintain a strong international monetary system.

PROMPT ADOPTION OF THE NATIONAL ENERGY PLAN

It has now been over four years since our economy was buffeted by the oil embargo and its aftermath of sharply increased oil prices. The massive oil price increase in 1973–74 contributed to the double-digit inflation of 1974 and to the worst recession in 40 years. It is a primary factor today behind the large deficit in our international balance of payments. Yet the United States still has not enacted a comprehensive and effective energy policy.

Our dependence on imported oil is sapping the strength of the American economy. Last year our imports of oil reached a total of about $45 billion, compared with $8½ billion in 1973. The increased expenditures on those imports have been like a sudden and massive tax imposed on the American people. Only part of the revenues have been returned to the United States in the form of higher exports of American goods to oil-producing countries. As a consequence, that "tax" has become a major obstacle to economic growth.

The huge deficit in foreign trade arising from our oil imports has contributed to the fall in the value of the dollar abroad. The dollar's decline has raised the cost of the goods we import and contributed to inflation. Our deficit also has unsettled international monetary markets, with adverse consequences for our international trading partners. Our response to the energy crisis is therefore a central element in our international and domestic economic policy. The energy program will not solve our problems at once, but it will pave the way for a balanced foreign trade position and a strong and sound dollar.

Our energy problems will worsen in the years to come unless we curb our appetite for oil and gas. Without decisive action, we will put additional pressure on the world oil market, aggravate inflationary pressures at home, and increase our vulnerability to the threat of oil supply disruptions. Together, these forces could severely limit the potential for continued economic progress over the coming decade.

The United States has no choice but to adjust to the new era of expensive energy. We can only choose when and how. If we act today, we have time to make a gradual transition to more efficient energy use—by conserving energy, increasing domestic energy production, and developing alternative sources of energy. If we delay, adjustment later will be harsh and painful, requiring draconian measures to accomplish what can now be done gradually and with far less anguish.

The energy problem we face is enormously complex. Finding an acceptable and effective solution has not been easy for me or for the Congress. I look forward to working closely with the Congress early this year to assure a speedy resolution. An acceptable bill must satisfy the following principles:

—First, the program must effectively reduce our consumption of limited energy supplies—oil and gas—while encouraging energy production and promoting a transition to the use of resources that are more abundant.

—Second, the program must be fair. No segment of the population should bear a disproportionate share of the cost or burden of adjustment, and no industry should reap unnecessary and undeserved windfall gains.

—Third, the program must be consistent with our overall economic strategy. It must neither undermine our efforts to continue the recovery nor obstruct achievement of our long-term budgetary goals.

Dealing with the energy problem is a difficult test for our Nation. It is a test of our economic and political maturity. Our people would surely react if there were an immediate crisis. But I am asking them to undertake sacrifices to prevent a crisis. If we fail to act today, we will bring a crisis upon ourselves and our children in years to come.

CAREFUL MANAGEMENT OF FEDERAL BUDGET EXPENDITURES

My Administration has given high priority to making more effective use of limited Federal resources. In fiscal 1976, Federal outlays amounted to 22½ percent of the Nation's gross national product. This is considerably higher than the share devoted to government spending that prevailed for many years. To some degree, the recent higher share reflects the fact that the economy is still performing below its capacity, and that Federal programs to support the unemployed and the needy are larger than they would be in a high-employment economy. But it also stems from very rapid growth in a number of Federal programs instituted over the past 10 to 15 years.

Most of our Federal expenditure programs are designed to achieve important national goals that the private sector of the economy cannot accomplish. Only the government can provide for the national defense, and government resources are essential to cushion the hardships created by economic recession, to preserve our national resources, to protect the environment, and to meet other critical needs.

The Federal Government has a particular obligation to provide assistance to those who remain in need even during good times. Last year I presented to the Congress a program to reform the welfare system—the Better Jobs and Income Act of 1977—that is a concrete example of our commitment to devote resources to the most pressing national needs. My program will cost money. But it also will establish a more easily understood welfare system that is less costly to administer, less subject to abuse, and more responsive to the true needs of those who receive a helping hand from government. This program will create up to 1.4 million jobs for those able to work, and it will replace the patchwork of Federal, State, and local programs with a consistent income-support system that will relieve much of the enormous burden now placed on State and local governments.

In the management of a business enterprise, efficiency is enforced by the discipline of the market place. The collective judgments of millions of consumers establish an environment in which waste and efficiency are eventually penalized. The government, however, is not subject to that discipline. We in government must therefore impose stringent controls on ourselves to ensure greater efficiency and to make better choices among the possible uses of the taxpayers' money.

To assist us in this endeavor, I have adopted methods of budgetary control that have been tested in the business community. Early last year I asked the Office of Management and Budget to inaugurate a system of zero-based budgeting throughout the Federal Government. Within this budgetary system, every Federal program is given careful scrutiny—no matter how large or how small it may be, no matter how long it has been in existence or how recently established. This new system of budgetary planning helped to hold down less essential outlays in the budget for fiscal 1979 and focus our resources on our important national needs. It will produce even greater savings in subsequent years. A process of multiyear budgeting also has been inaugurated within the Federal Govern-

ment that will require tentative budget plans to be developed and reviewed for three years ahead. With this system we can more effectively control future expenditures—by avoiding commitments now to endeavors that would grow in the future beyond the proportions we desire.

In formulating my recommendations for the 1979 budget, I have exercised very strict controls over spending. Adjusted for inflation, the increase in outlays has been held to less than 2 percent and the share of Federal expenditures in GNP will fall to 22.0 percent. I intend to continue prudent expenditure controls in the future. With good management we can, I believe, achieve our Nation's important social goals and still reduce over time the share of gross national product committed to Federal expenditures to about 21 percent.

USING TAX REDUCTIONS TO PROMOTE STEADY ECONOMIC EXPANSION

I propose to rely principally upon growth in the private sector of the economy to reduce unemployment and raise incomes. Special Federal efforts will, of course, be necessary to deal with such problems as structural unemployment, but tax reductions will be the primary means by which Federal budget policy will promote growth. Careful management of budget outlays and a growing economy should permit substantial reductions in the years ahead. Tax reductions will be needed to strengthen consumer purchasing power and expand consumer markets. Stable growth in markets, together with added tax incentives for business, will lead to rising business investment and growing productivity.

As inflation and real economic growth raise the incomes of most Americans, they are pushed into higher income tax brackets. The tax burden on individuals is raised just as if higher rates had been enacted. The payroll taxes levied on workers and business firms for social security and unemployment insurance will also increase substantially over the years ahead. These are very large increases, but they are needed to keep our social security and unemployment insurance systems soundly financed.

Between 1977 and 1979, taxes on businesses and individuals will rise very sharply as a result of these several factors. Even though our economy is basically healthy, this increasingly heavy tax burden would exert a mounting drag on economic growth. It must, therefore, be counteracted by tax reductions. The magnitude and timing of the reductions should be designed to maintain economic growth at a steady pace, taking into account the effects both of the growing tax burden and of other factors at work in the economy.

Consistent with this strategy, I am proposing a $25 billion program of net tax reductions accompanied by substantial tax reforms.

Individual income taxes will be reduced primarily through across-the-board reductions in personal tax rates, with special emphasis on low- and middle-income taxpayers. Personal taxes also will be simplified by my proposal to replace the existing personal exemption and credit with a tax credit of $240 for each person in the taxpayer's family.

There also will be important reforms that will improve the individual income tax system and raise substantial revenues, enabling me to recommend larger personal tax reductions.

Overall, I am proposing personal tax reductions of $24 billion, offset by $7 billion in tax reforms. These tax cuts, which will take effect next October 1, will significantly improve the progressivity of the tax system. The typical four-person family with $15,000 in income will receive a tax cut of $258—or more than 19 percent. As a result of the changes I am recommending, filling out tax returns will be simpler for many people.

Individuals also will benefit from reductions I have proposed in the Federal excise tax on telephone bills, and in the Federal payroll tax for unemployment insurance. These two proposals will add about $2 billion to consumers' purchasing power that will be realized principally through lower prices.

Business taxes will be reduced by more than $8 billion in 1979 under my tax program, offset partially by more than $2 billion in business tax reforms for a net tax reduction of nearly $6 billion. I have recommended that the overall corporate tax rate be reduced on October 1 from the current 48 percent to 45 percent, and be cut further to 44 percent in 1980. I also recommend that the existing 10-percent investment tax credit be made permanent, and that the benefits of this credit be extended to investments in industrial and utility structures. My proposal will enable businesses to use the investment tax credit to offset up to 90 percent of their Federal tax liability, compared with the 50-percent limit now imposed.

Important new tax reforms also will affect business. I am, for example, proposing to reduce the deductibility of a large class of business entertainment expenses. I have also proposed changes in the tax status of international business transactions that are of significant cost to taxpayers but that benefit the public insufficiently.

Because tax reform measures will raise $9 billion in revenue, it has been possible for me to recommend $34 billion in overall tax reductions while keeping the net loss revenues to $25 billion, the level I believe is appropriate given the state of our economy and the size of the budget deficit.

These proposals do not include any adjustment to take account of congressional action on my energy proposals. I proposed last April that the Congress pass a wellhead tax and rebate the proceeds of that tax directly to the American people. This is the best course to follow because it protects the real incomes of consumers and avoids a new source of fiscal drag. If the final energy bill includes a full rebate of the net proceeds of the wellhead tax, no further action on my part will be necessary. However, if the final bill allows for a rebate only for 1978—as provided in the House version—I will send a supplemental message to the Congress recommending that the individual tax reduction I am now proposing be increased by the amount of the net proceeds of the wellhead tax.

These tax reductions are essential to healthy economic recovery during 1978 and 1979. Prospects for continuation of that recovery in the near term are favorable. Consumers have been spending freely, and many other economic indicators recently have been moving up strongly. Without the tax reductions I have proposed, however, the longer-term prospects for economic growth would become increasingly poor. Because of the fiscal drag imposed by rising payroll taxes and inflation, economic growth would slow substantially in late 1978, and fall to about 3½ percent in 1979. The unemployment rate would stop declining and might begin to rise again, and the growth of investment outlays for new plant and equipment would slow significantly.

With the reductions in taxes I have proposed, on the other hand, the economy should grow by 4½ to 5 percent in both 1978 and 1979. Nearly 1 million new jobs would be created. Unemployment would therefore continue to fall and by late 1979 should be down to around 5½ to 6 percent. Capacity utilization and after-tax business profits would both improve, and thus the rate of investment in new plants and equipment should increase significantly.

Success in keeping a firm rein on spending will permit further tax reductions in years to come. Our ability to foresee the future course of the economy is not good enough, however, to enable us to know when additional reductions will be needed or how large they should be. It would therefore be imprudent to plan specific policy measures now for more than the current and the next fiscal year. But I will make recommendations for budget and tax policies for 1980 and beyond that are in keeping with our objectives of steady growth in the economy, more stable prices, and principal reliance on the private sector to achieve economic expansion.

WORKING TO REDUCE THE FEDERAL DEFICIT AND BALANCE THE BUDGET AS SOON AS THE STRENGTH OF THE ECONOMY ALLOWS

Federal budgetary policy can play a constructive role in maintaining the health of the economy. There are times when large deficits in the Federal budget must be tolerated because they are needed to bolster the purchasing power of consumers and businesses. A budget deficit that persisted during a period of high employment and strong further growth of private demand, however, would put upward pressures on prices and would aggravate our inflationary problem. Under those circumstances, a budget deficit would also absorb savings that would be better used by the private sector to build new factories and offices and to purchase new machines. In order to assure that our economic progress remains on a solid footing and is not undermined by inflation, we must reduce the Federal budget deficit and achieve a balanced budget as soon as the developing strength in the economy allows.

The first requisite is careful management and control of Federal spending. The second is a prudent weighing of the need for tax reductions against the goal of budget balance.

This year I have proposed budgets that call for a deficit of $62 billion in 1978, and one only slightly smaller in 1979. Had I decided not to recommend a tax cut to put additional purchasing power in the hands of consumers and businesses, the deficit in 1979 could have been $15 to $20 billion smaller. But I believe that tax reduction is essential to continued progress in an economy still characterized by substantial unemployment and idle plant capacity.

How rapidly we can restore budget balance depends on the strength of the private economy. Over the next few years, two factors will be of particular importance.

The first is the financial condition of State and local governments. In the past, the aggregate budget of these governments tended to be approximately in balance. Today the State and local sector as a whole is in surplus. In 1977, for example, aggregate State and local receipts from all sources exceeded expenditures by nearly $30 billion. This overall surplus does not mean that every State and local government is in good financial condition. Many are hard pressed. Moreover, a large part of the aggregate surplus represents accumulations of pension funds for the 13 million employees of State and local governments.

Substantial surpluses in the State and local sector are likely to continue in the future. They absorb the incomes of consumers and business, and so act as a drag on the economy.

The second factor affecting the pace at which we can expect to move toward budget balance is the large deficit in America's foreign trade in goods and services. Imports into the United States have been swollen by the enormous quantity of oil we buy abroad to drive our cars, heat our homes, and fuel our industry. Our exports have grown only slowly, in large measure because economic growth abroad has been much slower than in the United States. As a result, the United States last year recorded a deficit of close to $18 billion in our current international accounts. This deficit has the same general effect on economic activity as a multibillion dollar increase in taxes.

Enactment of an effective energy program ultimately will reverse our growing dependence on oil imports. Moreover, economic growth in other countries should be improving over the next few years. But we may expect a current account deficit of some size to continue in the near future.

If strong economic expansion is to be maintained in the face of these major drains on the economy, additional tax reductions may be necessary beyond those I have proposed for 1979. But we will be better able to judge this question in a year or two, and we should not prejudge it now.

In formulating my budgetary decisions thus far, I have been careful to avoid commitments that would make it impossible for us to balance the budget by 1981. With unusually strong growth in the private economy, we would need a balanced Federal budget. In an economy growing less strongly, however, balancing the budget by 1981 would be possible only by forgoing tax reductions needed to reach our goal of high employment. In those circumstances, the date for reaching the goal of budget balance would have to be deferred.

What is important is that the planning and execution of Federal fiscal policies proceed in a prudent manner. Every decision on spending and taxes during my Administration has been, and will continue to be, made in the context of long-run budgetary planning that avoids the creation of excess demand during periods of high employment. That is an essential ingredient of responsible budgetary policy.

PROGRAMS TO ATTACK THE PROBLEM OF STRUCTURAL UNEMPLOYMENT

Meaningful job opportunities ought to be available for all Americans who wish to work. But overall fiscal and monetary policy alone will not provide employment to many in our Nation. If we are to reduce unemployment satisfactorily, we must do more.

Eleven percent of adult American workers from minority groups are now jobless—close to the rate a year ago, and over twice as high as the unemployment rate for white adults. About 17 percent of our teenagers are unemployed today; among black teenagers the unemployment rate is nearly 40 percent. These intolerably high rates of unemployment must be brought down. This is an important goal, but achieving it will be a difficult task.

A generally healthy and growing economy is a prerequisite for dealing effectively with structural unemployment, but it is not enough. Even in good times some groups suffer from very high unemployment, which adds to the difficulty of achieving low unemployment and low inflation simultaneously. As the economy moves toward high employment, employers try to fill job vacancies from those groups of workers with substantial training and experience. Wage rates are bid up and prices follow, while large numbers from other groups are still looking unsuccessfully for work. Efforts to reduce unemployment among the unskilled and otherwise disadvantaged can be frustrated by inflationary pressures set off in those sectors of the labor market already fully employed.

To reach high levels of employment while maintaining reasonable price stability, we must take effective and adequate measures now to increase the employment opportunities of the disadvantaged. This principle is a key element of the Humphrey-Hawkins Bill—The Full Employment and Balanced Growth Act. I support this legislation and hope the Congress will enact it.

We have already taken several significant steps in this direction. Last year I proposed and the Congress appropriated $8.4 billion to expand the Public Service Employment Program to 725,000 jobs. These jobs are more sharply targeted on the long-term unemployed and the poor than previous programs under the Comprehensive Employment and Training Act. Direct opportunities for youth also have been expanded. The Youth Employment and Demonstration Projects Act of 1977, which is providing job experience and training in skills to unemployed youths, also was proposed by my Administration and enacted in 1977, providing 166,000 work and training positions for unemployed youths.

Several further measures are proposed in my 1979 budget. I have recommended that Public Service Employment be continued at the 725,000 job level throughout 1979, and that the number of jobs be phased down gradually in subsequent years as progress is made in reducing the overall level of unemployment. I have also recommended an expansion to $1.2 billion of the Youth Employment and Demonstration Projects Act to provide work opportunities and skill training for the unemployed youth who most need help. The Better Jobs and Income Program that I sent to the Congress in mid-1977 will create up to 1.4 million jobs, supplemented by cash allowances, for poor people who are able to work. An initial demonstration project for this program that will create 50,000 jobs is proposed in my 1979 budget, and more jobs will be phased in gradually once the welfare reform program is enacted.

Government programs can provide valuable assistance to the unemployed. In the end, however, we must turn to the private sector for the bulk of permanent job opportunities for the disadvantaged. It is in private industry that most productive jobs with opportunity for advancement are found. For this reason, I am requesting $400 million in my 1979 budget to begin a major new initiative for private sector hiring of the disadvantaged. Details of this proposal will be submitted to the Congress shortly. I am requesting the fullest cooperation of the business community in this initiative and have been assured by business leaders that it will be forthcoming.

GREATER EMPHASIS ON PROMOTING BUSINESS CAPITAL FORMATION

Over a broad expanse of years, improvement of the standard of living in this Nation depends primarily on growth in the productivity of the American work force. During the first two decades of the postwar period, the productivity of American labor increased at an average annual rate of about 3 percent. Over the past ten years, however, productivity growth has slowed markedly—to about 2 percent or less a year.

The reasons for this break with past trends are complex, but one factor that clearly stands out is the relatively slow growth in the stock of business plant and equipment. Historically, improvements in productivity have been linked closely to investment in plant and equipment. Investment in new facilities has embodied new and more productive technology and has provided our work force with more and better tools.

Business investment has lagged during the recovery for several reasons. Some of the fears engendered by the steep recession and severe inflation of 1973–75 have remained and have reduced the incentive for businesses to invest. Uncertainties about energy supply and energy prices have also been a deterrent to investment, and so have concerns about governmental regulations in a variety of areas. Finally, high costs of capital goods

and a depressed stock market have diminished the incentives and raised the costs to businesses of investment in new plant and equipment.

Industrial capacity is ample now. But without a substantial increase in investment over the next few years, problems would build for the future. Rapid growth of capacity is needed to assure that shortages of particular products do not emerge before we regain high employment. If capacity is not sufficient, bottlenecks may develop in some sectors, forcing up prices of industrial commodities. Inadequate rates of capital formation will also hold back the gains in productivity needed to improve standards of living and to avoid further aggravation of our inflation problem.

My tax and other economic proposals will encourage a greater rate of business investment in several ways. By promoting a sustainable rate of economic recovery, they will assure businesses of an expanding market for the output from new factories and equipment. The specific tax reductions for business I have proposed will increase after-tax profits and so directly provide additional incentives for investment.

We must also have conditions in financial markets that permit businesses to raise the funds they need for investment. Prudent Federal budgetary policies will contribute significantly to that end, as will policies that deal effectively with inflation. Both will ease the Federal Reserve's task of pursuing monetary policies that support full recovery.

MORE EFFECTIVE PROGRAM TO REDUCE THE RATE OF INFLATION

We cannot achieve full prosperity unless we deal effectively with inflation. We must take steps to reduce the high rate of inflation inherited from the past and to guard against a renewed outbreak of inflation as we regain a high-employment economy.

Our economy is not suffering at present from excess demand. Monetary growth in recent years has not been excessive, and Federal budget deficits have occurred in an economy with high unemployment and excess capacity. Yet prices continue to rise as a result of an inflationary process that has been under way for a decade.

Our present inflation began back in the late 1960s and accelerated sharply in the early years of the 1970s. Since 1974 the rate of consumer price inflation has declined substantially—from 12 percent to between 6 and 6½ percent at present. But that improvement is due largely to the termination of special influences affecting prices during 1974—the sharp rise of food and fuel prices, and the bulge in price following the removal of wage and price controls.

Recent experience has demonstrated that the inflation we have inherited from the past cannot be cured by policies that slow growth and keep unemployment high. Since 1975, inflation has persisted stubbornly at a 6 to 6½ percent rate—even though unemployment went as high as 9 percent and still stands above 6 percent, and even though a substantial proportion of our industrial capacity has been idle. The human tragedy and waste of resources associated with policies of slow growth are intolerable, and the impact of such policies on the current inflation is very small. Moreover, by discouraging investment in new capacity, slow growth sows the seeds of future inflationary problems when the economy does return to high employment. Economic stagnation is not the answer to inflation.

Our first task in combating inflation is to guard against a renewed outbreak of higher price increases in the future. Firm discipline over the Federal budget and a prudent monetary policy are the most important steps that can be taken. Programs to attack structural pockets of unemployment among our people will make it possible to achieve higher levels of employment without exerting pressures on prices. Greater investment also will make a major contribution toward assuring that the capacity of our industry will be adequate to meet the needs of a high-employment economy.

Enactment of an energy program will eventually reduce the demand for oil imports—contributing to market conditions that discourage substantial oil price increases, and combating the inflation that results from a decline in the exchange value of the dollar. The programs I have inaugurated to build a 30- to 35-million metric ton grain reserve will provide a buffer against sudden upward movements in food prices in the event of bad weather.

Our second task—reducing the current rate of inflation—will be harder. Yet we must tackle the problem. Unless the inflation rate is brought down, the rate of price increase may well rise as unemployment falls to lower levels in later years, with consequences that would thwart our efforts to bring about full recovery.

The government has an obligation to set an example for the private sector, and we can play an important role in moderating inflation by reducing the effects of our own actions on prices. By adopting tax incentives and other policies to improve the growth of investment and productivity, we will help reduce the rise in costs and hence in prices.

The excise tax reductions I have proposed in my 1979 budget also will contribute moderately to lower costs and prices.

Government regulations also add to costs and raise prices. To some extent, this is the inevitable cost of much needed improvements in the environment and in the health and safety of workers and consumers. But there is no question that the scope of regulation has become excessive and that too little attention is given to its economic costs. We should not, and will not, give up our efforts to achieve cleaner air and water and a safer workplace. But, wherever possible, the extent of regulation should be reduced. We have eliminated hundreds of unneeded regulations already and will continue to pare down the remainder.

I also intend to put a high priority on minimizing the adverse effects of governmental regulations on the economy. To this end, I have established a high-level interagency committee that—together with the relevant regulatory agency—will review the economic effects of major regulations. This committee will seek to assure that the costs of each regulation have been fully considered, and that all alternatives have been explored, so that we may find and apply the least costly means of achieving our regulatory objectives. I have also directed my advisers to explore ways in which we can undertake an assessment of the impact of regulation on the economy as a whole and within each major sector. We need to find a way to set priorities among regulatory objectives and understand more fully the combined effects of our regulatory actions on the private economy.

Where regulation of economic activity has become outmoded and substantial overhaul is called for, I will pursue effective legislation. For example, I have supported actively congressional efforts to reform regulation of the airline industry, and I am considering proposals to reform the regulation of other industries.

I have given special attention to reducing the runaway cost of health care. The cost of a day in the hospital has more than doubled since 1970. Continuing escalation in the charges for hospital care can no longer be tolerated. I have submitted legislation, the Hospital Cost Containment Act of 1977, that would limit sharply the rate of growth in hospital spending, and I urge the Congress to enact this legislation in 1978.

The States can also play a role in moderating the current inflation. In 1976, State governments collected $50 billion in sales taxes. For the most part, these taxes enter directly into the cost of goods we buy and thus increase the price level. Today, State governments with significant surpluses are considering tax reductions. I urge those in a position to do so to consider the advantages to the national economy of reducing sales taxes, thereby helping to slow inflation.

Government alone cannot unwind the current inflation, however. Today's inflationary process is largely the consequence of self-fulfilling expectations. Businessmen, expecting inflation to continue, are less resistant to cost increases than they might be, since they have come to believe that, with all prices rising, their own increased costs can be passed on to consumers through higher prices. Wage increases are based on the expectation that prices will continue to rise. Wage gains in one sector spur similar demands in others.

There are gainers and losers in this process, since some groups in the economy are more successful than others at defending themselves against inflation. On the whole, however, the main result is continued inflation. No one group—neither business, nor labor, nor government—can stop this spiral on its own. What is needed is a joint effort.

Since the current inflation has developed strong momentum, it cannot be brought to a sudden halt. But we can achieve a gradual but sustained deceleration—having each succeeding year's inflation lower than the previous one. The benefits of slower growth of prices

and wages would be broadly shared. Everyone would be better off. A conscious effort should be made by those who make wage and price decisions to take the individual actions necessary to bring about an economy-wide deceleration of inflation.

I am therefore asking the business community and American workers to participate in a voluntary program to decelerate the rate of price and wage increase. This program is based on the initial presumption that prices and wages in each industry should rise significantly less in 1978 than they did on average during the past 2 years.

I recognize that not all wages and prices can be expected to decelerate at the same pace. For example, where profit margins have been particularly squeezed, or where wages are lagging seriously, deceleration in 1978 would be less than for other firms or groups of workers. In exceptional cases deceleration may not be possible at all. Conversely, firms or groups that have done exceptionally well in the recent past may be expected to do more.

To enhance the prospects for success of this deceleration program, I have asked that major firms and unions respond to requests from members of my Administration to discuss with them on an informal basis steps that can be taken during the coming year to achieve deceleration in their industries. In reviewing the economic situation prior to making my recommendations to the Congress on the size of the pay raise for Federal workers, due to take effect next October, I will keep this objective of deceleration in mind.

This program does not establish a uniform set of numerical standards against which each price or wage action is to be measured. The past inflation has introduced too many distortions into the economy to make that possible or desirable. But it does establish a standard of behavior for each industry for the coming year: every effort should be made to reduce the rate of wage and price increase in 1978 to below the average rate of the past two years.

I have chosen this approach after reviewing extensively all of the available options. There is no guarantee that establishing a voluntary deceleration standard will unwind the current inflation. I believe, however, that with the cooperation of business and labor, this proposal will work. Deceleration is a feasible standard of behavior, for it seeks restraint in wage and price actions in exchange for a general reduction in inflation. It is also a fair standard. Industries and workers with far different histories and current situations will not be asked to fit within the constraint of a single numerical guideline.

The inflation problem will not be easy to overcome. It will take time and patience. But the importance of these efforts cannot be overestimated. Unless we gain better control over the inflation rate, the prospects for regaining a fully employed economy will be seriously reduced. My Administration cannot and will not pursue policies in the future that threaten to trigger a new and more virulent round of inflation in this country. To do so would be the surest way of destroying the hopes of our citizens for a long-lasting prosperity.

INTERNATIONAL ECONOMIC POLICIES THAT PROMOTE ECONOMIC RECOVERY THROUGHOUT THE WORLD

Outside the United States, the world economy has seen a hesitant recovery from the deep recession of 1974–75. The rapid pace of economic growth that was widespread over most of the postwar years has all but disappeared. Unemployment is high, and in most industrial countries except the United States it is rising. Inflation is at high levels and declining only very slowly.

The imbalances in the international economic system continue to strain the world economy. Because of the surpluses of oil-exporting countries, many countries have sizable deficits, including the United States. Some industrial nations are also running large and persistent surpluses—thus increasing the pressures on countries in deficit. These imbalances have been a major factor contributing to disorder in exchange markets in recent months.

The condition of the world economy requires above all that nations work together to develop mutually beneficial solutions to global problems. If we fail to work together, we will lose the gains in living standards arising from the expansion of world commerce over the past three decades. If the world economy becomes a collection of isolated and weak nations, we will all lose.

The first priority in our international economic policy is continued economic recovery throughout the industrial world. Growth of the U.S. economy—the largest and strongest in the world—is of vital importance. The economic program that I have proposed will ensure that America remains a leader and a source of strength in the world economy. It is important that other strong nations join with us to take direct actions to spur demand within their own economies. World recovery cannot proceed if nations rely upon exports as the principal source of economic expansion.

At the same time all countries must continue the battle against inflation. This will require prudent fiscal and monetary policies. Such policies must be supplemented by steps to reduce structural unemployment, measures to avoid bottlenecks by encouraging investment, and cooperation in the accumulation of commodity reserves to insulate the world from unforeseen shocks.

Reducing the widespread imbalances in international payments will require several parallel steps. To begin with, each individual country must ensure that its own policies help relieve the strains. The United States will do its part. In 1977 we had a current account deficit of about $18 billion. While not a cause for alarm, this is a matter of concern. We can take a most constructive step toward correcting this deficit by moving quickly to enact the National Energy Plan.

Countries in surplus should also do their part. Balance of payments surpluses in some countries have contributed to the economic stagnation among their trading partners. Where their own economies have slack, it is appropriate for nations in surplus to stimulate the growth of domestic demand—thereby increasing their imports and improving the prospects for growth in deficit countries. In some countries, lifting restraints on imports from abroad and reducing excessive government efforts to promote exports would be useful. After consultations with the United States, the Japanese have indicated they will take a series of steps toward reducing their large surplus.

The system of flexible exchange rates for currencies also can be helpful in correcting unsustainable imbalances in payments among countries. Since its inception in 1973, this system has operated well under unprecedented strains.

During 1977 the U.S. dollar has fallen in value against several key currencies. The decline in the dollar's value has occurred primarily against the currencies of those nations that have large trade and payments surpluses, and was not surprising in view of our large payments deficit and their surpluses. Late in 1977, however, movements in our exchange rate became both disorderly and excessively rapid. The United States reaffirmed its intention to step in when conditions in exchange markets become disorderly and to work in close cooperation with our friends abroad in this effort.

Under the flexible exchange rate system basic economic forces must continue to be the fundamental determinant of the value of currencies. However, we will not permit speculative activities in currency markets to disrupt our economy or those of our trading partners. We recognize fully our obligation in this regard, and we have taken steps to fulfill it.

Although substantial progress can be made toward a balanced world economy, some imbalances will persist for a substantial period of time. Financing requirements will remain large while adjustments occur. The private markets can and will continue to channel the bulk of the financing from surplus to deficit countries. But it is essential that adequate official financing also be available in case of need, to encourage countries with severe payments problems to adopt orderly and responsible corrective measures. To meet this critical need the United States has strongly supported a proposal to strengthen the International Monetary Fund by the establishment of a new Supplementary Financing Facility.

The United States also will continue to contribute resources to promote growth in the economies of the developing nations. International assistance efforts—through bilateral aid and multilateral institutions—must continue to expand. We must also keep our doors open to imports from developing countries, so that their economies can grow and prosper through expanded trade.

A keystone of our international economic policy is to work with our trading partners to protect a free and open trading system. The American economy benefits by exporting those products that we make efficiently, and by importing

those that we produce least efficiently. An open trading system increases our real incomes, strengthens competition in our markets, and contributes to combating inflation.

The United States will firmly resist the demands for protection that inevitably develop when the world economy suffers from high unemployment. The ensuing decline in world trade would worsen our problem of inflation, create inefficiencies in American enterprise, and lead to fewer jobs for American workers. But international competition must be fair. We have already taken and we will, when necessary, continue to take steps to ensure that our businesses and workers do not suffer from unfair trade practices.

I place great importance on the Multilateral Trade Negotiations now under way in Geneva. I believe our negotiators will bring home agreements that are fair and balanced and that will benefit our economy immensely over the years to come. The importance of these discussions can hardly be overemphasized. The trading system that emerges from the negotiations will set the tone for international commerce well into the 1980s. Our commitment to a successful conclusion to these talks underscores our long-term emphasis on the retention and expansion of open and fair trade among nations.

THE CHALLENGE BEFORE US

In this message I have outlined my fundamental economic goals and the strategy for attaining them. It is an ambitious, but I believe a realistic, agenda for the future. It calls for a broad range of actions to improve the health and fairness of the American economy. And it calls upon the American people to participate actively in many of these efforts.

I ask the Congress and the American people to join with me in a sustained effort to achieve a lasting prosperity. We all share the same fundamental goals. We can work together to reach them.

JIMMY CARTER.

JANUARY 20, 1978.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 20, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:40 a.m. on Friday, January 20, 1978, and said to contain a Message from the President wherein he transmits the ninth annual report—National Science Board.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

NINTH ANNUAL REPORT OF THE NATIONAL SCIENCE BOARD ENTITLED "SCIENCE INDICATORS—1976"—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

To the Congress of the United States:

I am pleased to submit to the Congress the Ninth Annual Report of the National Science Board, entitled *Science Indicators—1976*. This report is the third in a series of reports describing key aspects of the status of American science and technology.

The data and indicators presented herein should prove useful to anyone needing an authoritative source of information on various aspects of the scientific enterprise in this country.

Many of these indicators show that the United States continues to rank high in most areas of science. It is particularly important to maintain this strength through an adequate level of national investment in basic, long-term research because that type of research precedes and underlies advances in many areas of national interest such as health, energy, defense, agriculture, and industrial productivity.

I commend *Science Indicators—1976* to the attention of the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *January 20, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *January 20, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:40 a.m. on Friday, January 20, 1978, and said to contain a Message from the President wherein he transmits the thirteenth periodic report on the Cyprus negotiations as required by Public Law 94–104.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

REPORT DESCRIBING PROGRESS MADE DURING LAST 60 DAYS TOWARD A NEGOTIATED SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–282)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by Public Law 94–104, this report describes the progress that has been made during the last sixty days toward a negotiated settlement on Cyprus.

In my last such report to the Congress, submitted on October 28, I described with cautious optimism the efforts that the Administration had been undertaking to promote an early resumption of meaningful intercommunal negotiations under the auspices of the United Nations. Over the past sixty days we have continued to discuss the Cyprus issue extensively with Turkish, Greek and Cypriot representatives and with U.N. officials, our purpose remaining that of persuading the parties to resume intercommunal talks at the earliest possible date and to be prepared to come to the table with substantive, negotiable proposals.

The Cyprus situation was discussed in the bilateral meetings that Secretary Vance held with Greek Foreign Minister Papaligouras and Turkish Foreign Minister Caglayangil in Brussels in early December. These conversations and contacts with the two Cypriot communities have fortified our belief that a Cyprus settlement is earnestly desired by the parties concerned, and that they accept the need to resume negotiations to this end. Foreign Ministers Papaligouras and Caglayangil also met bilaterally in Brussels, and in a joint communique stated that Greece and Turkey would continue to encourage a prompt resumption of negotiations as a means of promoting a comprehensive solution of the Cyprus problem.

We hope that the recent elections in Greece will give new momentum to the search for a Cyprus settlement. Prime Minister Caramanlis said in his policy statement to the Chamber of Deputies in Athens on December 14 that his government "will continue to support the intercommunal talks under U.N. aegis and will provide its full support to the people of Cyprus . . ."

The Turkish Government has in recent weeks given public evidence of its favorable attitude toward a settlement on Cyprus. In a series of public interviews late in November, Foreign Minister Caglayangil declared his support for an early resumption of negotiations and indicated Turkish flexibility with respect to both territorial and constitutional aspects of a package agreement. He also called for economic cooperation between the two Cypriot communities, and reaffirmed the Turkish Government's intent to withdraw its troops from the island once a settlement is in effect. This Administration has welcomed Foreign Minister Caglayangil's statements as containing a number of positive elements, and we have also noted as steps in the right direction the Turkish Government's decisions to withdraw an air force unit and 700 of its ground forces from Cyprus. It is our hope and expectation, based on the Turkish Government's announcement, that additional troop withdrawals will be made. Steps such as these might improve the general atmosphere so as to encourage the sense of trust required to make meaningful talks possible.

Since late October the Administration has actively encouraged the two Cypriot communities to reach agreement on formulation of a joint committee—with International Red Cross participation—to investigate cases of persons reported as missing and unaccounted for since the

intercommunal violence of the 1960's and the Turkish intervention of 1974. Work toward establishment of such a committee is proceeding. Tracing missing persons is, of course, a humanitarian rather than a political matter. Nevertheless, the experience of these past 2 months demonstrates that practical solutions to the problems that divide Greek and Turkish Cypriots might indeed be attainable. The readiness of both Cypriot parties to accept a simple and non-controversial resolution on missing persons in the U.N. General Assembly's Third Committee testified to a constructive attitude on this issue.

The United Nations General Assembly conducted its annual debate on Cyprus November 7–9, and the Security Council approved on December 15 the extension for a further six months of the mandate of the U.N. peacekeeping force on Cyprus (UNFICYP). The General Assembly debate provided the opportunity for a thorough debate of the issues involved in the Cyprus dispute. Renewal of the UNFICYP mandate, in itself an important step, was significant also for the commendable spirit of compromise displayed by the several parties concerned.

Resolute movement toward intensified negotiations is still required, and in the weeks and months ahead we will persist in our efforts to achieve this goal. We believe we are proceeding in the right direction, and we remain hopeful that substantive progress toward a just and lasting Cyprus settlement can be achieved.

JIMMY CARTER.

THE WHITE HOUSE, *January 20, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *January 23, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:58 a.m. on Saturday, January 21, 1978, and said to contain a message from the President concerning taxes.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

PROPOSED TAX REFORM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–283)

The SPEAKER laid before the House the following message from the President of the United States which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed with illustrations:

To the Congress of the United States:

I recommend that Congress enact a series of proposals that will reform our tax system and provide $25 billion in net tax reductions for individuals and businesses.

Fundamental reform of our tax laws is essential and should begin now. Tax relief and the maintenance of a strong economy are essential as well. The enactment of these proposals will constitute a major step toward sustaining our economic recovery and making our tax system fairer and simpler.

THE NEED FOR TAX REDUCTION

I propose net tax reductions consisting of:

—$17 billion in net income tax cuts for individuals, through across-the-board rate reductions and a new personal credit, focused primarily on low- and middle-income taxpayers.

—$6 billion in net income tax cuts for small and large corporations, through reductions in the corporate tax rates and extensions of the investment tax credit.

—$2 billion for elimination of the excise tax on telephone calls and a reduction in the payroll tax for unemployment insurance.

These tax reductions are a central part of the Administration's overall economic strategy, which will rely principally upon growth in the private sector to create the new jobs we need to achieve our high-employment objective. The tax reductions will more than offset the recent increase in social security taxes and will provide the consumer purchasing power and business investment strength we need to keep our economy growing strongly and unemployment moving down.

Together with the programs that I will outline in my Budget Message, these tax cuts should assure that our economy will grow at a 4½ to 5 percent pace through 1979, with unemployment declining to between 5½ and 6 percent by the end of 1979. Without the tax cuts, economic growth would slow markedly toward the end of 1978 and fall to about 3½ percent in 1979. Unemployment would be unlikely to fall below 6 percent and, by the end of 1979, might be moving upward.

This tax program will mean up to one million additional jobs for American workers. It should lead to a pattern of economic growth which is steady, sustainable, and noninflationary.

In addition, I believe that our taxpayers, particularly those in the low and middle-income brackets, *deserve* significant tax relief—I am determined to reduce Federal taxes and expenditures as a share of our Gross National Product.

THE NEED FOR TAX REFORM

The $25 billion in tax reductions are net reductions, *after* taking account of $9 billion in revenue-raising reforms which I am also proposing. Indeed, the full cuts in personal and corporate tax rates which I recommend would not be desirable in the absence of significant reform.

But these reforms stand on their own merits and would be long overdue even if I were not proposing any net tax reductions to accompany them. They focus on simplification for the individual taxpayer and the elimination of some of the most glaring tax preferences and loopholes.

Guided by the need for tax simplification and tax equity, I propose that Congress adopt reforms that would:

—Sharply curtail tax shelters.

—Eliminate the deductions claimed by businesses for theater and sporting tickets, yachts, hunting lodges, club dues, and first-class airfare and limit the deduction for the cost of meals to 50 percent.

—Provide a taxable bond option for local governments and modify the tax treatment of industrial development bonds.

—Strengthen the minimum tax on items of preference income for individuals.

—Repeal the special alternative tax on capital gains, which only benefits individuals in the highest tax brackets.

—Replace the personal exemption and general tax credits with a $240 per person credit.

—Simplify return preparation and recordkeeping by:

—eliminating the deductions for sales, personal property, gasoline, and miscellaneous taxes;

—combining the separate medical and casualty deductions and allowing them only to the extent they exceed 10 percent of adjusted gross income;

—repealing the deduction for political contributions but retaining the credit; and

—liberalizing and modifying the Subchapter S and depreciation rules applicable to small businesses.

—Include unemployment compensation benefits in the taxable income of taxpayers above certain income levels.

—Ensure that the tax preferences available for fringe benefits assist rank-and-file workers as well as executive officers.

—Eliminate the special bad debt deduction for commercial banks, reduce the bad debt deduction available to savings and loan associations, and remove the tax exemption for credit unions.

—Phase out the tax subsidies for Domestic International Sales Corporations (DISCs) and the deferral of tax on foreign profits.

These reforms will make our tax system both fairer and simpler. Many of them are targeted at tax preferences and subsidies for activities that do not deserve special treatment and that largely benefit those who have no need for financial assistance. The average working man and woman pay for the loopholes and the special provisions in our tax laws—because when some do not pay their fair share, the majority must pay higher taxes to make up the difference.

Low and middle-income workers, struggling to make ends meet, are discouraged by tax laws that permit a few individuals to live extravagantly at the expense of government tax revenues. The privileged few are being subsidized by the rest of the taxpaying public when they routinely deduct the cost of country club dues, hunting lodges, elegant meals, theater and sports tickets, and night club shows. But the average worker's rare "night on the town" is paid for out of his *own* pocket with *after-tax* dollars.

Likewise, individuals who pay taxes on nearly every penny of earnings are treated unfairly compared to the few who

are able to "shelter" their high incomes from taxes. Some persons with incomes exceeding $200,000 have little or no tax liability, while other high-income individuals return to the Federal government nearly 60 cents of every dollar received. There is no good reason for next-door neighbors, in the same economic circumstances, to have vastly different tax bills because one has found tax shelters and loopholes.

In addition to the preferences for expense account items and tax shelter activities, there are a number of equally inappropriate and inefficient corporate tax subsidies. For example, there is no justification for the DISC export subsidy under which we pay over $1 billion a year in foregone tax revenue (mostly to our largest corporations) to encourage our firms to do what they would do anyway—export to profitable foreign markets. Nor can we rationalize proposals to reduce business taxes to increase investment at home while the deferral subsidy encourages multinational corporations to invest overseas by letting them pay lower taxes on their foreign profits than they pay on money earned in the United States.

I ask Congress to join with me to end these unwarranted subsidies and return the revenue to the vast majority of our taxpayers who want no more or less than to pay their fair share.

The tax reforms and tax reductions which I am proposing have been carefully balanced to coordinate with our overall economic and budgetary strategy. Large tax reductions are premised on substantial reforms.

I must, therefore, caution that fiscal prudence will require significantly reduced tax cuts for low and middle-income taxpayers if we cannot help finance the reductions I have proposed through enactment of these revenue-raising reforms. I am proposing a balanced tax program, and I urge Congress to consider these recommendations as an integrated package.

TAX REDUCTION AND SIMPLIFICATION FOR INDIVIDUALS

Under this tax program, virtually all Americans will receive substantial tax relief, principally through a simple, across-the-board reduction in personal tax rates. Lower withholding rates will be put into effect October 1, 1978, and taxpayers will experience an increase in take-home pay and purchasing power as of that date.

The typical taxpayer in all income classes up to $100,000 will pay lower taxes. But the bulk of relief has been targeted to low and middle-income taxpayers.

The $240 credit will be especially beneficial for low and middle-income families. It will remove millions of Americans at or near the poverty level from the income tax rolls. No longer will the tax savings for dependents be worth more to high income than low income families. Instead, the credit will be worth just as much to the moderate income blue-collar worker as to the wealthy executive.

Over 94 percent of the net individual tax relief will be provided to individuals and families earning less than $30,000 per year, and every income class up to $30,000 will bear a smaller share of the overall tax burden than it does now. (See Table 4.) Under my proposals, the typical family of four that earns $15,000 a year will save almost $260, a 19 percent tax reduction.

For most persons in the low and middle-income brackets, there will be a sizeable net reduction in combined income and payroll taxes even after the scheduled social security tax increases are taken into account. (See Table 10.) Without this cut in income taxes, the social security tax increases would cause a reduction in the take-home pay of American workers. With this tax program, we will have restored the integrity of the Social Security system—returning that system to a sound financial basis and assuring the stability of future benefits for retired workers—without increasing total taxes for most working people or causing a slowdown in our economic recovery.

We must also act to ease the burdens of tax return preparation and recordkeeping. We have a tax system that requires millions of individuals to compute their own tax liability. The Government relies upon the good faith and conscientiousness of our taxpayers to an extent unparalleled in the rest of the world. But in order for our system to remain successful, it must be comprehensible to the average taxpayer.

Judged by this standard, the current tax structure is seriously defective. Millions of honest and intelligent Americans find themselves confused and frustrated by its complexity. The cost of this complexity is enormous in terms of hours and dollars spent.

Accordingly, tax simplification has been a goal of this Administration from the outset. The tax return individuals will file between now and April 15 has been simplified as a result of the Tax Reduction and Simplification Act which I proposed and Congress enacted last year. The short form 1040A has been reduced from 25 lines to 15 lines. Form 1040 has been restructured so that it can be completed more systematically. Tax tables have been revised to reduce arithmetic computations. The language of the tax forms and the instructions has been made more understandable.

The simplification efforts that were begun in 1977 will be continued and expanded in the tax program I am presenting today. The replacement of the existing personal exemption and general tax credits by the $240 personal credit will simplify return preparation for taxpayers and enable millions of individuals at or below the poverty level to file no tax return. Changes in itemized deductions (which will be more than offset by the rate cuts) will increase the number of nonitemizers to 84 percent of all taxpayers. Six million Americans will be able to switch to the standard deduction and avoid keeping detailed records for tax purposes. The preparation of returns by itemizers will be simplified, and the tax program will reduce recordkeeping burdens on small businesses.

BUSINESS AND ANTI-INFLATION TAX REDUCTIONS

Our Nation's employment and anti-inflation goals cannot be met without a strengthening of private business investment. In recent years, capital spending in the United States has been inadequate. Capacity growth in manufacturing has declined from a growth rate of about 4.5 percent during the period 1948–1969, to 3.5 percent from 1969–1973, and to 3 percent from 1973–1976. Real business fixed investment in the third quarter of 1977 was 5 percent below its 1974 peak.

In order to encourage needed capital outlays in the period ahead, my tax program contains annual net business tax reductions of approximately $6 billion. The corporate tax rate will be reduced on October 1, 1978 from 20 percent to 18 percent on the first $25,000 of income and from 22 percent to 20 percent on the second $25,000—this will result in a 10 percent reduction in tax liability for most small corporations. The tax rate for large corporations will be cut from 48 percent to 45 percent on October 1, 1978 and to 44 percent on January 1, 1980.

I also recommend several important changes in the existing 10 percent investment tax credit: the 10 percent credit should be made permanent; liberalized to cover up to 90 percent of tax liability; made fully applicable to qualified pollution control facilities; and extended to investments in industrial and utility structures including rehabilitation of existing structures). These changes should be particularly beneficial to developing businesses that are seeking to expand their productive facilities and should help to increase expenditures for the construction of new factories.

The corporate rate reductions and extensions of the investment tax credit which I am proposing will encourage capital formation by providing an immediate increase in cash flow to business and by enhancing the after-tax rewards of investment.

All small businesses will receive significant cuts in their tax rates under my program: reducing the bottom as well as the top corporate rates will be of special benefit to small corporations; small business proprietorships and partnerships will benefit from the individual rate cuts. In addition to these tax reductions, my program will simplify the depreciation rules applicable to small business and liberalize the provisions governing the deductions of losses on stock held in small companies.

Vigorous business investment will help ease inflationary pressure by averting capacity shortages that might otherwise occur as our economy continues to grow. The $2 billion reduction in telephone excise taxes and employer payroll taxes should provide additional relief from inflation by reducing costs and prices. These tax measures, applied in conjunction with other anti-inflation policies announced in my Economic Report, will support the objective of reducing and containing the rate of inflation.

The combination of these tax cuts and needed business tax reforms will result in a tax system that meets the needs of the broad spectrum of U.S. businesses more efficiently and equitably.

A detailed description of my program follows.

RECOMMENDATIONS TO REDUCE TAXES AND SIMPLIFY RETURNS FOR THE AVERAGE TAXPAYER

TAX REDUCTIONS FOR INDIVIDUALS

Individual taxes will be reduced through across-the-board rate cuts and substitution of a single $240 personal credit for the existing personal exemption and alternative general credits. This tax relief will be reflected in decreased withholding rates for employees as of October 1, 1978.

The tax reductions I am now recommending do not include adjustments for Congressional action on the National Energy Plan. In April, I proposed that Congress pass the crude oil equalization tax and rebate the proceeds to the American people on a per capita basis. This course is essential if we are to protect the real incomes of consumers. If the final energy bill includes a full rebate of the net proceeds of the crude oil tax, no further action on my part will be required. However, if the final bill contains a rebate provision only for 1978—as provided in the House version—I intend to send a supplemental message to Congress recommending that the individual tax reductions proposed in this Message be increased by the net proceeds of the crude oil tax.

(1) *Rate Cuts.* The proposed rate schedule will range from a lowest bracket of 12 percent to a top bracket of 68 percent, compared with the current 14 to 70 percent range. As under current law, the top rate bracket will apply with respect to income in excess of $200,000 for joint returns and $100,000 for single returns. The entire schedules are set forth in Tables 11 and 12. This new rate structure will, in and of itself, increase the overall progressivity of the individual income tax because the cuts are proportionately larger in the low and middle-income brackets.

(2) *Per Capita Tax Credit.* The tax benefits for dependents currently favor the wealthy over persons with modest incomes. A taxpayer is now entitled to a $750 exemption for each family member in addition to a general tax credit, which is equal to the greater of $35 per family member or 2 percent of the first $9,000 of taxable income. The net effect of the complicated series of exemptions and credits is this: a family of four in the 50 percent tax bracket enjoys a tax savings of $1,680 for dependents while families earning $10,000 save about one-third of that amount.

I propose that the existing exemption and general credits be replaced with a single credit of $240 per family member. Unlike the current structure, the new credit will provide the same benefit at all income levels; for a family with four members, the per capita credit will be worth $960 whether that family is middle class or wealthy. The $240 credit will ensure that most families at or near the poverty level will pay no taxes. Also, a single tax credit will simplify tax return preparation by eliminating the confusion caused by the existing combination of exemptions and alternative credits.

CHANGES IN ITEMIZED DEDUCTIONS

The primary source of complexity in the tax laws for many middle-income individuals is itemized deductions. Average taxpayers have to maintain burdensome records in order to substantiate the deductions and are required to decipher complex tax rules to complete their tax returns. Restructuring of itemized deductions is essential if the tax laws are to be simplified for typical, middle-class individuals and families.

I am recommending changes in itemized deductions that will enable approximately 6 million taxpayers to switch to the simple standard deduction. The number of taxpayers who use the standard deduction will be increased from 77 percent to 84 percent. And the calculation of the deductions for itemizers will be simplified greatly.

The deductions that will be curtailed are ones that add complexity and inequity to the tax system without advancing significant objectives of public policy. We will have a simpler, more efficient tax system if we eliminate these deductions and return the revenue directly to taxpayers through the rate cuts I propose.

(1) *State and Local Taxes.* The special deduction will be eliminated for general sales taxes, taxes on personal property (but not on residences or buildings), gasoline taxes, and miscellaneous taxes. These itemized deductions are claimed at nearly uniform rates by all itemizers and result in a relatively small tax benefit. For those taxpayers who do not use the published deduction tables, the recordkeeping burden can be substantial.

Moreover, a deduction for these types of taxes cannot be defended on public policy grounds. A deduction for gasoline taxes runs counter to our national effort to conserve energy. And the present level of State sales taxes cannot be said to depend upon the fact that those State taxes are deductible for Federal income tax purposes.

(2) *Poltical Contributions Deduction.* Political contributions are now deductible as an itemized deduction in an amount not exceeding $200 for a joint return. Alternatively, a taxpayer may claim a credit against his tax for one-half of his political contributions, with a maximum credit of $50 on a joint return.

The reform program will repeal the political contribution deduction but retain the credit. The deduction is undesirable because it provides a larger subsidy to high-bracket contributors. Due to the present deduction, the wealthiest individuals can contribute $200 at an after-tax cost to them of only $60; middle-income Americans incur a cost of $150 for the same contribution. Elimination of the deduction will enhance tax equity and diminish the confusing complexity of the current scheme of deductions and credits.

(3) *Medical and Casualty Deductions.* The medical expense deduction is one of the most complicated items on the tax forms. Currently, one-half of the first $300 of health insurance premiums is deductible outright for those who itemize Other medical expenses (including additional health insurance premiums) are deductible to the extent they are in excess of 3 percent of adjusted gross income. The latter category of deductibility also includes medicines and drugs to the extent they exceed 1 percent of adjusted gross income. And there is a separate deduction for damage to property from a casualty (such as theft or fire) if the loss exceeds $100 and is not reimbursed by insurance.

I recommend substantial simplification of these provisions. The deductions for medical and casualty expenses will be combined, and a new "extraordinary expense" deduction will be available for medical and casualty expenses in excess of 10 percent of adjusted gross income. In the case of casualty losses, the excess over $100 will be included in this computation. Medical insurance premiums and medicines will be treated the same as other medical expenses.

Medical and casualty expenditures should properly be deductible only when they are unusually large and have a significant impact on the taxpayer's ability to pay. The medical expense deduction originally met that standard. But, as a result of the changing relationship between medical costs and income, that standard is no longer satisfied. Substantial recordkeeping burdens and administrative problems can be eliminated through the proposed simplification of the deduction and the redefinition of "extraordinary" in the light of current experience among taxpayers.

PROPOSALS TO CURTAIL INAPPROPRIATE SUBSIDIES, SPECIAL PRIVILEGES, INEQUITIES, AND ABUSES OF THE TAX SYSTEM

ENTERTAINMENT AND OTHER EXPENDITURES FOR PERSONAL CONSUMPTION

One feature of the current tax system that is most disheartening to average taxpayers is the favorable tax treatment accorded extravagant entertainment expenses that are claimed to be business-related. Some individuals are able to deduct expenditures that provide personal enjoyment with little or no business benefit. And, even where entertainment expenditures may have some relationship to the production of income, they provide untaxed personal benefits to the participants. More than $2 billion of tax revenue is lost every year through these tax preferences.

For example, one person claimed a deduction of $17,000 for the cost of entertaining other members of his profession at his home, at a country club, at sporting events, at restaurants, and at a rental cottage. Another individual wrote off the cost of business lunches 338 days of the year at an average cost far exceeding $20 for each lunch. But there is no deduction in the tax laws for the factory worker's ticket to a football game or the secretary's lunch with fellow workers.

These special tax advantages for the privileged few undermine confidence in our Nation's tax system. The disparity must be eliminated by denying a deduction for expenditures to the extent they provide the participants with such untaxed personal enjoyment and benefits.

(1) *Theater and Sporting Events.* No deduction will be permitted for purchases of tickets to theater and sporting events. Present law, by allowing a deduction for the purchase of such tickets, provides a "two for the price of one" bargain to some taxpayers. As long as an individual is in the 50 percent tax bracket

or above, he may be able to invite a business friend at no cost to himself by having the Federal Government pay for at least one-half of the total ticket costs. The overwhelming majority of our citizens pay for their theater and sports tickets out of their own aftertax dollars. No taxpayer should be asked to help subsidize someone else's personal entertainment.

(2) *Other Entertainment Expenses.* The tax reform program will also deny deductibility of any expenses of maintaining facilities such as yachts, hunting lodges and swimming pools, and for fees paid to social, athletic, or sporting clubs. During a recent tax year, one small corporation deducted $67,000 for yacht expenses incurred in entertaining customers and potential customers on cruises and fishing trips. Another small company deducts over $100,000 a year to maintain hunting and fishing lodges to entertain employees of customers. Asking taxpayers to subsidize these kinds of activities for a tiny minority of our citizens strikes at the fairness and integrity of the tax system.

(3) *Business Meals.* Fifty percent of currently deductible business entertainment expenses for food and beverages will remain deductible, and 50 percent will be disallowed. A substantial portion of business meal expenses represents the cost of personal consumption that must be incurred regardless of the business connection. The millions of Americans who work on farms, in factories, and in offices should not be required to provide their tax dollars to support the high-priced lunches and dinners of a relatively small number of taxpayers. The 50-percent disallowance represents a reasonable and fair approach to compensate for the untaxed personal benefit involved.

(4) *Foreign Conventions.* Many professional, business, and trade organizations can furnish their members with tax-deductible foreign vacations. The method of conferring such tax-subsidized luxury is to sponsor a foreign convention or seminar. A brochure for one professional organization provides the appropriate atmosphere in promoting its foreign seminars:

"Decide where you would like to go this year: Rome. The Alps. The Holy Land. Paris and London. The Orient. Cruise the Rhine River or the Mediterranean. Visit the islands in the Caribbean. Delight in the art treasures of Florence."

The Tax Reform Act of 1976 placed some limits on the deductibility of foreign convention expenses. But the rules still permit taxpayers to take two foreign vacations a year partially at public expense—an exception that did not escape the attention of the organization whose 1977 brochure I have quoted.

I am proposing that the deductibility rules for foreign conventions be modified in a manner that will curb abuses while relaxing the current restrictions on conventions held in foreign countries for legitimate business purposes. The two convention rule will be stricken. In its place will be a rule that denies deductibility for foreign convention expenses unless factors such as the purpose and membership of the sponsor make it as reasonable to hold the convention outside the United States and possessions as within.

(5) *First Class Air Fare.* Another example of public support for private extravagance is the deductibility of first class air fare. Business travel constitutes a legitimate cost of producing income. However, the business purpose is served by purchasing a ticket at coach fare. The undue generosity of a deduction for first class air fare was recognized by Congress in 1976 when a deduction was denied for first class flights to foreign conventions. I propose that the rule be extended to tickets for domestic business travel.

TAX SHELTERS

Through tax shelters, persons can use "paper" losses to reduce taxes on high incomes from other sources. These shelter devices can slash the effective tax rate for many affluent individuals far below that of average income Americans. Moreover, such shelters attract investment dollars away from profit-seeking businesses and into ventures designed only for tax write-offs; legitimate businesses suffer competitive disadvantages as a result.

In the Tax Reform Act of 1976, Congress enacted reforms intended to restrict tax shelter abuses. The principal methods used in that legislation were revisions of the minimum tax and the adoption of an "at risk" rule to limit the deductibility of certain tax shelter losses.

However, some promoters have now adapted their operations to provide shelters in forms that were not specifically covered by the 1976 Act. In fact, shelter activity in 1977 may have surpassed the level reached in 1976. Form letters, addressed to "All of Us Who Wish to Reduce Our Taxes," boldly promised tax write-offs several times larger than the amount invested, and persons are urged to pass the message along "to anyone you think may have interest in tax reduction." Tax shelter experts promote their services in large and expensive advertisements in the financial sections of our Sunday papers.

Such flagrant manipulation of the tax laws should not be tolerated. I recommend action that will build upon the 1976 reforms and further reduce tax shelter abuses.

(1) *Strengthening of the Minimum Tax.* The minimum tax has proved to be one of the most useful devices to limit the attractiveness of tax shelter schemes, and it should be made still more effective. In its current form, the minimum tax is imposed at a rate of 15 percent on the amount of certain tax preference items enjoyed by a taxpayer. But the total amount of tax preferences can be reduced by the greater of $10,000 or one-half of regular tax liability (in the case of individuals) before the minimum tax is applied.

I recommend that the minimum tax for individuals be strengthened by eliminating the offset of one-half of regular tax liability against preference income. This change will make the minimum tax more progressive and a more sharply focused deterrent to the use of tax shelters. Persons making excessive use of preferences will be taxed on their preference income without regard to regular tax liability. On the other hand, those individuals with modest preference income will still be totally exempted from the minimum tax by the $10,000 preference offset, and the minimum tax will not be applied to capital gain realized on the sale of a personal residence. Ninety-eight percent of the $284 million in revenue raised by this proposal will come from taxpayers with incomes exceeding $100,000 and more than 77 percent will come from the income class over $200,000.

(2) *Extension of "at risk" Rule.* One of the 1976 reforms that should be toughened is the "at risk" rule. That rule denies deductibility for a shelter investor's paper losses that exceed his cash investment and indebtedness for which he has personal liability. My tax reform plan will generally extend the "at risk" provisions to cover all activities (except real estate) carried on individually, through partnerships, or by corporations controlled by five or fewer persons.

(3) *Changes in Real Estate Depreciation.* Reform of real estate depreciation practices is needed to reduce much of the wasteful tax shelter investment that has led to overbuilding of commercial real estate in such forms as shopping centers and office buildings. Real estate shelters were left virtually untouched by the 1976 Act. Consequently, these shelters have continued to thrive.

It is time to move depreciation for tax purposes more closely into line with a measurement of actual economic decline. The reform program will generally require taxpayers to base their depreciation for buildings on the straight-line method, using the present average tax lives claimed by taxpayers for different classes of property. Exceptions from the general rule will be granted until 1983 for new multi-family housing, which will be permitted to use a 150 percent declining balance method; new low-income housing will remain eligible for a 200 percent declining balance method until 1983, and for 150 percent thereafter. Needed investment in industrial plants will be encouraged by an extension of the investment credit, as explained below. The investment credit is a more efficient and straight-forward means to provide a tax subsidy for such construction.

(4) *Taxation of Deferred Annuities.* Another flourishing tax shelter gimmick is the deferred annuity contract. Currently, a person can generally invest in an annuity contract and postpone taxation on the interest build-up until the annuity is actually received. Although originally designed primarily to provide a safe flow of retirement income, the deferred annuity contract is now used commonly as a convenient tax dodge for a wide range of investment opportunities. The shelter benefits are aptly described by the promotional literature:

"How To Postpone Taxes Legally and Earn Interest on Uncle Sam's Money . . . With An Investment That Never Goes Down, Always Goes Up, and Is Guaranteed Against Loss."

I recommend that this tax abuse be eliminated. Under my proposal, the earnings of most deferred annuities will be

taxed currently to the purchaser. However, in order that an individual may still use a deferred annuity with guaranteed interest as a means to provide retirement income, the proposal will allow each person to designate a single contract, contributions to which may not exceed $1,000 annually, as a contract that will remain eligible for tax deferral. Also unaffected will be the tax treatment of qualified employee annuities.

(5) *Classification of Nominal Partnerships as Corporations for Tax Purposes.* In many cases, tax shelter schemes can offer the desired tax benefits to investors only if the shelter vehicle is organized as a partnership rather than a corporation. At the same time, limited partnerships can now provide traditional nontax attributes of a corporation, such as limited personal liability, centralized management, and transferability of interests without sacrificing partnership tax benefits.

Promoters should not obtain the nontax attributes of a corporation for their shelters while using technicalities to avoid corporate tax treatment. I recommend that new limited partnerships with more than 15 limited partners be treated as corporations for tax purposes; however, partnerships engaged primarily in housing activities will be excepted from this classification rule.

(6) *Tax Audit of Partnerships.* Tax shelter partnerships are not themselves subject to the tax assessment mechanism of the Internal Revenue Service; therefore, each individual partner must be audited separately even though the same substantive determinations may be involved. I recommend that legislation be enacted to permit a partnership to be treated as an entity for the purpose of determining tax issues. Tax shelters based on illegitimate deductions should not be permitted to succeed merely because of the difficulties involved in conducting an IRS examination of their activities.

TERMINATION OF ALTERNATIVE TAX FOR CAPITAL GAINS

The wages of most workers are fully subject to tax at the rates contained in the published tax tables. But persons whose income arises from the sale of assets such as stock or land generally receive preferred treatment; a deduction for long-term capital gains has the effect of taxing these gains at a rate that is one-half of the rate for ordinary income. This preference results in an annual revenue loss to the Treasury of $8 billion.

Taxpayers in the highest income brackets are granted an additional tax preference over and above the special capital gains deduction. Individuals above the 50 percent tax bracket can take advantage of a 25 percent tax ceiling on the first $50,000 of capital gains, a provision known as the "alternative tax." The benefits of this provision go exclusively to persons with taxable incomes exceeding $52,000 (if filing a joint return) or $38,000 (if filing a single return)—less than one percent of all taxpayers.

Through the alternative tax, a wealthy investor can shield nearly 65 percent of his capital gains from taxation—a benefit that is grossly inequitable when middleclass investors are taxed on one-half of such gains, and most workers are taxed on every cent of their wages and salaries. The alternative tax costs the Treasury over $100 million every year, almost 90 percent of which goes to taxpayers in income classes above $100,000. I propose the repeal of this unfair and complicated tax benefit.

FRINGE BENEFITS UNAVAILABLE TO RANK-AND-FILE WORKERS

Our tax system generally operates under the principle that employees should be taxed on their compensation no matter what form that compensation assumes. A worker who receives cash wages that he uses to provide benefits for his family should not ordinarily be taxed more heavily than the employee who receives those benefits directly from his employer. There are now exceptions to this general rule for certain types of employee benefits. I urge Congress to act so that these tax preferences benefit rank-and-file workers as well as the executive officers.

(1) *Non-discrimination Requirement for Health and Group Life Plans.* An example of a tax-preferred employee benefit is a health or group life insurance plan. If an individual purchases medical insurance, the premiums are deductible only within the limits applicable to the medical expense deduction. However, if an employer establishes a medical insurance program for its employees, the premium payments by the employer are deductible while neither the premiums nor the benefits are taxable to the employee.

Although this tax preference was designed in theory to secure basic protections for a wide range of employees, it often serves instead to subsidize expenses of only the high-level corporate managers. It is now possible for a businessman, through his controlled corporation, to establish a health plan that covers only one employee—himself—and permits all of his medical and dental expenses to be deducted. Meanwhile, that corporation's other employees have to provide health care for their families with nondeductible expenditures.

To curb this abuse, I recommend denial of the tax exemption for employer-established medical, disability, and group life insurance plans if those plans discriminate in favor of officers, shareholders, and higher-paid employees. Preferential tax treatment is now available to pension plans only if nondiscrimination standards are met. The tax law should require similar nondiscriminatory treatment for workers in the case of medical, disability, and group life insurance plans.

(2) *Employee Death Benefits.* Current law provides an exclusion for the first $5,000 of payments made by an employer on account of the death of an employee. I recommend the repeal of this exclusion. Typically, these death benefits are in the nature of deferred wages that would have been paid to employees in high tax brackets. Adequate tax relief for an employee's heirs is provided through a complete tax exemption for insurance proceed.

(3) *Integration of Qualified Retirement Plans and Social Security.* Certain employer-sponsored retirement plans have a preferred tax status. Employer contributions to a qualified plan are currently deductible while the employee can defer taxation until retirement benefits are received. Although qualification for this special treatment is generally dependent upon non-discriminatory coverage of employees, the tax laws now permit a qualified plan to cover only employees who earn amounts exceeding the social security wage base—a base that will rise to 25,900 by 1980 under the recently enacted social security financing legislation.

It is unfair to grant tax preferences for private pension plans that bar all low and middle-income employees from participation. I propose that a new integration formula be enacted so that a qualified pension plan cannot provide benefits to supplement social security for highly compensated employees unless all employees receive some coverage under the plan.

UNEMPLOYMENT COMPENSATION

Unemployment compensation is a substitute for wages that generally provides needed relief to persons in financial distress. But, in some cases, the unemployment compensation system discourages work for taxable income. Since unemployment benefits are tax-free, they are more valuable than an equivalent amount of wages. This means that if two individuals have the same total income, the one who remains idle several months and receives unemployment compensation will be better off financially than his colleague who works the whole year. There can be no justification for conferring this tax-free benefit upon middle and upper-income workers.

I propose that the current tax exemption for unemployment compensation benefits be phased out as an individual's income rises above $20,000 for single persons or $25,000 for married couples.

TAXABLE BOND OPTION AND INDUSTRIAL DEVELOPMENT BONDS

Present law exempts from Federal taxation the interest on certain bonds issued by State and local governments. There are now two general categories of tax-exempt bonds: Obligations issued for the benefit of the State and local government itself, and industrial development bonds issued by the Government to provide facilities such as pollution control equipment, sports facilities, waste disposal facilities, industrial parks, and facilities (including hospitals) of private, nonprofit organizations. Also, there is a "small issue" exemption for certain industrial development bonds with face amounts that do not exceed $1 million, or $5 million where the total cost of capital expenditures on the financed facility does not exceed the $5 million amount.

My tax program preserves the freedom of State and local governments to issue tax-exempt bonds. I am recommending reforms that will restrict the tax avoidance opportunities available to the wealthy in the tax-exempt market while, at the same time, increasing the ability of State and local governments

to obtain low-cost financing. In particular, I propose the following:

(1) *Option for Bonds Benefitting Governmental units.* State and local governments will be given the option of continuing to issue tax-exempt bonds or issuing fully taxable bonds, accompanied by a direct Federal interest subsidy to the governmental units. For bonds issued in 1979 and 1980, the subsidy will be equal to 35 percent of the interest cost; the subsidy will rise to 40 percent for bonds issued after 1980. The Federal government will exercise no control over the purposes for which state and local governments use subsidized financing. State and local governments will benefit under the taxable bond option regardless of whether they decide to issue taxable or tax-exempt bonds: those issuing taxable bonds will benefit directly from the interest subsidy, and those continuing to issue tax-exempt bonds will benefit because the reduced supply of such bonds will allow governments to sell them at lower interest rates.

(2) *Pollution Control Bonds, Bonds for the Development of Industrial Parks, and Private Hospital Bonds.* The tax exemption will be removed for interest on pollution control bonds and bonds for the development of industrial parks. Also, the exemption will be removed for bonds issued to finance construction of hospital facilities for private, non-profit institutions unless there is a certification by the state that a new hospital is needed. These activities are essentially for the benefit of private users, and the tax exemption for the bonds has the effect of undermining the financing of governmental functions. Moreover, the general exemption for hospital bonds encourages excessive expansion of unneeded hospital facilities and runs counter to the Administration's Hospital Cost Containment proposal.

(3) *Small Issue Exemption.* The existing "small issue" exemptions will be retained only for economically distressed areas; and, with respect to those areas, the $5 million exemption will be raised to $10 million.

(4) *Option for Certain Industrial Development Bonds.* Industrial development bonds which continue to enjoy tax-exempt status (such as those to finance sports facilities, housing, airports and convention facilities and small issues for economically distressed areas) will be eligible for the taxable bond option on the same terms as obligations issued for the benefit of state and local governments.

ACCRUAL ACCOUNTING FOR LARGE CORPORATE FARMS

Most taxpayers that are in the business of selling products must use an accrual method of accounting so that income is reflected accurately for tax purposes. However, farmers have historically been permitted to use the simpler cash method on the grounds that they lack the accounting and bookkeeping expertise required by the accrual system.

Congress acted in 1976 to deny the cash accounting privilege to most large corporate farms (with annual gross receipts exceeding $1 million), but retained an exception for large corporations that are "family owned." This distinction between family and nonfamily corporations bears no relationship to the rationale of preserving simple bookkeeping methods for small farmers. It has resulted in severe competitive imbalances between large corporations now required to use accrual accounting and those that are equally large but happen to fall within the definition of a "family farm."

This inequitable exception should now be eliminated. Corporate farms with gross receipts exceeding $1 million cannot fairly claim that they lack the sophistication necessary to comply with accrual accounting standards. Nor can lack of financial sophistication be claimed by farm syndicates used as investment vehicles by nonfarmers. Therefore, I recommend that the accrual accounting requirement cover corporations with gross receipts greater than $1 million, regardless of their ownership, and all farm syndicates.

TAX TREATMENT OF FINANCIAL INSTITUTIONS

Financial institutions now have a favored tax status that is based largely on outmoded concepts regarding the nature of these businesses. Commercial banks, mutual savings banks and savings and loan associations were permitted to deduct artificially inflated reserves for bad debts in order to protect the banking system from catastrophic losses that were prevalent prior to the extensive banking legislation of the 1930's. Credit unions were exempted from taxation in the days when these institutions were small entities with close bonds among the members and few powers to provide extensive financial services. I am recommending changes that will recognize the contemporary practices of financial institutions and will bring the tax treatment of commercial banks, savings and loan associations and credit unions more in line with the taxation of other businesses. These reforms will raise $300 million per year in revenue.

(1) *Commercial Banks.* Commercial banks may now claim bad debt deductions that greatly exceed their actual losses. Under legislation enacted in 1969, this special bad debt deduction is scheduled for elimination after 1987. I propose that the effective date for repeal be accelerated so that beginning in 1979 banks, like other businesses, will base their bad debt reserves on their own experience in the current and 5 preceding years.

(2) *Mutual Savings Banks and Savings and Loan Associations.* Mutual savings banks and savings and loan associations are also permitted a special bad debt deduction that bears no relationship to actual experience. These thrift institutions are generally entitled to deduct 40 percent of their net income (this percentage is scheduled to apply in 1979) as a bad debt reserve as long as a significant portion of their deposits is invested in real estate loans. My tax program will reduce the percentage to 30 percent over a 5-year period.

(3) *Credit Unions.* Credit unions are tax-exempt. Yet, their powers and functions are defined so broadly that the term "credit union" can include financial institutions that are functionally identical to a savings and loan association. The tax exemption provides them with an unfair financial advantage over their competitors. I propose that the percentage of exempt income be phased out over a 4-year period, and that credit unions be taxed in the same manner as mutual savings banks and savings and loan associations after 1982.

DOMESTIC INTERNATIONAL SALES CORPORATION (DISC)

Business incentives form an integral part of my tax program. I am recommending measures that will encourage American businesses to invest in productive facilities and to create jobs. However, adoption of those incentives must be accompanied by the elimination of tax preferences that have proved to be wasteful. The so-called "DISC" provision is a prime example.

In 1971, Congress enacted a special tax program for exports. This program permitted tax benefits for exports channeled through a company's specially created subsidiary, usually a paper organization, known as a domestic international sales corporation (DISC). Artificial pricing rules on transactions between the parent company and its DISC permit a favorable allocation of export profits to the DISC, and the taxation of one-half of eligible DISC income is deferred as long as these profits are invested in export related assets.

DISC has proved to be a very inefficient and wasteful export subsidy in the current international monetary system. A recent Treasury study indicates that DISC may have contributed only $1 to $3 billion to U.S. exports in 1974—an increase of less than 3 percent in total exports—at a tax revenue cost of $1.2 billion. In the long run, even these increased exports are probably offset by rising imports that result from the operation of the flexible exchange rate system. DISC does nothing for, and may even disadvantage, our import sensitive industries and our exporters not using the DISC provision. Independent experts believe that DISC may have had *no* positive effect on our balance of payments.

Congress has recognized the wasteful nature of DISC and, in 1976, limited its applicability. However, DISC continues to cost U.S. taxpayers over $1 billion per year, with 65 percent of DISC benefits going to corporations with more than $250 million in assets.

I propose the elimination of one-third of DISC benefits in 1979, two-thirds in 1980, and all DISC benefits in 1981 and thereafter.

FOREIGN TAX DEFERRAL

Domestic corporations can now avoid paying a U.S. tax on the earnings of their foreign subsidiaries as long as those earnings remain overseas. A U.S. tax is generally deferred until dividends are paid by the subsidiary to its domestic parent, and then U.S. tax liability is offset by a tax credit for foreign income taxes paid on those remitted earnings. Fifty percent of all the benefits of tax deferral is obtained by 30 large multinational corporations.

I recommend that this deferral privilege be phased out over a 3-year period.

At least one-third of a foreign subsidiary's earnings will be taxed to the U.S. parent in 1979, at least two-thirds in 1980, and all the subsidiary's earnings after 1980. The tax reform program is designed to create incentives for investment in the United States and the creation of jobs for American workers. Tax deferral runs counter to these objectives. By providing a preference for foreign source income, the current deferral provision provides an incentive for investing abroad rather than in the United States, thereby having the effect of reducing job opportunities for Americans. Moreover, deferral can encourage multinational corporations to manipulate internal transfer prices in order to allocate income to low-tax countries.

There is no reason to defer the imposition of a U.S. tax just because business operations are conducted abroad rather than in the United States, regardless of the motivation for creating a foreign subsidiary. Congress eliminated in 1969 certain special tax preferences for businesses conducted in the United States through multilayered corporations. I propose that Congress act in a similar manner to end the present preference for business operations conducted internationally through such multinational corporate structures,

The foreign tax credit will be retained in its present form. Therefore, elimination of deferral will not result in a double taxation of overseas earnings. And, in the event it appears to be in the national interest to permit tax deferral with respect to specific countries, such treatment can be provided selectively under negotiated tax treaties involving mutual concessions.

SPECIAL TAX REDUCTIONS PROPOSED TO REDUCE COSTS FOR CONSUMERS AND BUSINESSES

I propose two tax reduction measures—outside the income tax system—that will assist our efforts to attain price stability.

REPEAL OF EXCISE TAX ON TELEPHONE SERVICES

The present 4-percent excise tax on amounts paid for telephone services is now being phased out at the rate of 1 percentage point a year, with full repeal scheduled as of January 1, 1982.

I recommend complete repeal of this tax as of October 1, 1978. This action will reduce the cost of living directly. It will also lower consumer prices indirectly through a reduction of the business cost associated with telephone services.

FEDERAL UNEMPLOYMENT INSURANCE TAX

I recommend a reduction in the Federal unemployment insurance tax to reduce the payroll costs of employers. On January 1, 1978, the unemployment insurance tax rate rose from 0.5 percent to 0.7 percent of an employer's taxable wage base. This tax increase was instituted in order to replenish general revenue funds that have been loaned to the unemployment insurance trust fund during recent periods of high unemployment. But the issue of unemployment compensation financing requires a thorough reexamination to determine the best means of providing future benefits. To this end, I will soon appoint the National Commission on Unemployment Insurance which the Congress established to make this study and to offer recommendations. In the meantime, I am guided by my concerns about inflation. I propose that the tax rate be reduced to the 0.5 percent level as of January 1, 1979.

RECOMMENDED BUSINESS INCENTIVES TO FOSTER GROWTH OF THE ECONOMY

CORPORATE RATE CUT

I recommend a corporate rate cut that will reduce business taxes by $6 billion. Tax relief in this form is sizable, easily understood by taxpayers, and applicable across the board.

The corporate tax rate is now 20 percent on the first $25,000 of income, 22 percent on the next $25,000, and 48 percent on corporate income exceeding $50,000. Effective October 1, 1978, this program will reduce the first two rate brackets to 18 and 20 percent, respectively, and the rate to 45 percent on taxable income in excess of $50,000. The top rate will be reduced an additional point, to 44 percent, on January 1, 1980. Small as well as large corporations will benefit from these rate cuts.

A corporate rate reduction of this magnitude will increase capital formation and help to assure a sustained economic recovery. In recent years, the level of business fixed investment has been unsatisfactory. One of the primary causes of this inadequate investment performance has been the low rate of return businesses receive on their investments—after tax liability is taken into consideration. The lower tax rates I recommend will enhance the anticipated after-tax profits on corporate investment projects and increase cash flow immediately. Businesses will thereby be encouraged to increase capital spending and to create jobs for American workers. Corporate rate cuts this large are made possible by, and depend upon, passage of the revenue-raising business tax reforms I have described earlier.

LIBERALIZATION OF INVESTMENT TAX CREDIT

The investment tax credit has proven to be one of the most potent tax incentives for capital formation. It provides a direct reduction in tax liability generally equal to 10 percent of a business' qualifying investments. But there are now several limitations that restrict its effectiveness.

I recommend changes that will make the investment credit a stronger, more efficient, and more equitable incentive. These changes will reduce business taxes by approximately $2.5 billion per year.

(1) *Permanent 10 Percent Credit.* The present 10 percent investment credit is not a permanent feature of the Internal Revenue Code. On January 1, 1981, the credit level is scheduled to revert to 7 percent. I propose that the credit be extended permanently at a 10 percent rate. So that businesses can plan ahead with greater certainty of the tax benefits that will be associated with projected capital expenditures.

(2) *Increased Tax Liability Ceiling.* The investment credit claimed during any taxable year cannot generally exceed $25,000 plus 50 percent of tax liability in excess of that amount (with excess credits being eligible for a 3-year carryback and a 7-year carry-forward). My tax program will provide a ceiling of 90 percent of tax liability (including the first $25,000) and will thereby increase the incentive for those businesses with relatively high investment needs and low taxable incomes. Developing businesses and firms suffering from temporary business reversals will be helped to compete more effectively with their larger or more stable competitors.

(3) *Eligibility of Structures.* The investment credit now applies only to machinery and equipment. My tax program will extend eligibility for the credit to utility and industrial structures, where investments have been especially sluggish. Investment in these structures reached its peak over 4 years ago and is now 16 percent below that level. It is important that we act to remedy the existing tax bias against structures and encourage balanced industrial expansion. In order to ensure that this provision has no anti-urban bias, I propose that the investment credit be available for both new structures and the rehabilitation of existing structures.

I recommend that this provision apply to construction costs incurred after December 31, 1977. In the case of new structures, there will be an additional requirement that the facility be placed in service after that date.

(4) *Liberalized Credit for Pollution Control Facilities.* I propose that pollution abatement facilities placed in service after December 31, 1977, be allowed to qualify for a full 10 percent credit even if special 5-year amortization is claimed under the provisions of existing law. Currently, only a 5 percent credit may be combined with rapid amortization. This proposal will provide significant tax relief for industries that are forced to make pollution control expenditures in order to comply with environmental regulations.

REVISION AND SIMPLIFICATION OF REGULATIONS UNDER THE ASSET DEPRECIATION RANGE SYSTEM

The asset depreciation range (ADR) system provides substantial tax benefits to businesses. Under ADR, generous class lives are prescribed for categories of assets, and a taxpayer can select useful lives for depreciation purposes within a range that extends from 20 percent below to 20 percent above the designated class life. However, certain complexities in the ADR regulations discourage most businesses, especially small ones, from electing this depreciation system and impose administrative burdens on those businesses that do use ADR.

I recommend legislation expressly permitting the Treasury Department to issue regulations that will simplify the ADR system. Included among the changes will be a termination of the annual reporting requirement.

PROPOSALS FOCUSED ON SMALL BUSINESS

The tax reductions I recommend will provide significant benefits for small businesses. For example, a small corporation with annual income of $50,000 will save $1,000 in taxes due to corporate rate reductions. For that corporation, tax liability will be reduced by nearly 10 percent. Moreover, those small businesses conducted in partnership or

sole proprietorship form will benefit substantially from the rate cuts I have proposed for individuals.

But in addition to providing these general tax incentives, I recommend three proposals designed specifically to assist small businesses. First, my tax program will simplify and liberalize the rules (Subchapter S) that treat certain small corporations as partnerships; the number of permissible shareholders will generally be increased from 10 to 15, and the rules governing subchapter S elections will be made less stringent. Second, a simplified method of depreciation will be authorized for small businesses that will provide tax benefits similar to the current ADR system without complex recordkeeping requirements. And third, risk-taking will be encouraged by doubling the amount of a small corporation's stock (from $500,000 to $1 million) that can qualify for special ordinary loss treatment and by eliminating several technical requirements that needlessly restrict the ability of small businesses to use this provision.

CONCLUSION

Enactment of these recommendations will effect major reform of our tax laws, provide significant tax relief, and sustain our economic recovery.

This program will eliminate a number of the inequities that undermine the integrity of the tax system. It will make preparation of returns simpler and more understandable for millions of taxpayers. Prompt passage will strengthen the confidence of consumers and businesses in our growing economy and lead to the creation of up to one million new jobs for workers who need them.

I look forward to working in partnership with Congress to enact this program of tax reform and tax reduction.

JIMMY CARTER.

THE WHITE HOUSE, *January 20, 1978.*

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

The SPEAKER. A call of the House is ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 4]

Addabbo	Diggs	Mikva
Alexander	Dingell	Milford
Ambro	Dornan	Moore
Anderson, Calif.	Drinan	Moorhead, Pa.
Andrews, N.C.	Early	Nolan
Archer	Edwards, Calif.	Oakar
Armstrong	Edwards, Okla.	Patterson
Ashley	Erlenborn	Pattison
Aspin	Evans, Ind.	Pease
Aucoin	Fountain	Pepper
Bellenson	Fraser	Poage
Bingham	Frey	Pursell
Bowen	Gammage	Quie
Breaux	Giaimo	Rodino
Brinkley	Goldwater	Rose
Burke, Calif.	Gonzalez	Rosenthal
Burton, John	Harsha	Rostenkowski
Burton, Phillip	Hillis	Ruppe
Carney	Holland	Scheuer
Cavanaugh	Hollenbeck	Shuster
Chappell	Holtzman	Skubitz
Chisholm	Jeffords	Spence
Clay	Jenrette	Stokes
Conyers	Kastenmeier	Stump
Davis	Kemp	Teague
Dellums	Latta	Tucker
Dent	Livingston	Walsh
Derrick	Mann	Wilson, Bob
Dicks	Meyner	Wylie
	Michel	Zeferetti

The SPEAKER pro tempore (Mr. FARY). On this rollcall 343 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE BUDGET MESSAGE OF THE PRESIDENT, 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-280)

The SPEAKER. The Chair lays before the House the following message from the President of the United States, which the Clerk will read.

The following message from the President of the United States was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed with illustrations:

To the Congress of the United States:

The first complete budget of any new administration is its most important. It is the administration's first full statement of its priorities, policies, and proposals for meeting our national needs. Last February, after just one month in office, I submitted a revised budget to the Congress. That revision changed the direction of the prior administration's budget, but was—of necessity—based upon a review of limited scope. I promised then that future budgets would reflect detailed, zero-based reviews of Federal spending programs, reform of the tax system, and reorganization of the Government. This budget is my first major step in meeting that promise. It reflects, I believe, a determination to face and make difficult decisions in a manner that places the common good above that of any particular interest.

This budget represents a careful balancing of several considerations:

—The importance of a fiscal policy that provides for a continuing recovery of the Nation's economy from the 1974–75 recession;

—The obligation of the Government to meet the critical needs of the Nation and its people;

—The fact that resources are limited and that Government must discipline its choices and its scope; and

—The need for careful and prudent management of the taxpayers' resources.

BUDGET TOTALS

[In billions of dollars]

	1977 actual	1978 estimate	1979 estimate
Budget receipts	357	400	440
Budget outlays	402	462	500
Deficit (−)	−45	−62	−61
Budget authority	465.2	502.9	568.2

My budget provides for total outlays of $500 billion, an increase of $38 billion, or 8%, over the 1978 budget, and receipts of $440 billion. This budget total is a restrained one that:

—Meets essential national needs;

—Imposes strict priorities upon Federal expenditures and

—Decreases the share of the Nation's gross national product taken by the Federal Government from 22.6% to 22.0%.

This budget places us on a path that will permit a balanced budget in the future if the private economy continues its recovery over the coming years.

At the same time, my budget embodies a fiscal policy that will strengthen the economic recovery. I propose a progressive tax reduction of $25 billion to help assure continued economic recovery and reduction in unemployment. An integral part of this tax reduction proposal is a set of recommendations for tax reform that will make the tax system simpler and more equitable. Without the reduction, I would have been able to announce a decline in the deficit of $15 to $20 billion between 1978 and 1979. With the reduction, the budget deficit will still decline slightly, because of careful restraints on expenditures. But I judged that the most important priority this year was to reduce the burdens on taxpayers. Only in this way can we ensure a vigorous economy, a declining unemployment rate, a strong expansion of private investment, and a stable budget balance in future years.

While the expenditures I recommend in this budget are restrained, they are, nevertheless, directed toward overcoming our Nation's crucial problems. I have looked carefully at existing approaches to these problems and improved those approaches where possible. The spending priorities of the past are now being shifted toward long-neglected areas. These new priorities are based on the following judgments:

—*An effective national energy plan is essential to reduce our increasingly critical dependence upon diminishing supplies of oil and gas, to encourage conservation of scarce energy resources, to stimulate conversion to more abundant fuels, and to reduce our large trade deficit.*

The national energy plan I proposed last spring defined these goals. This budget includes the programs and initiatives designed to meet those objectives. Included are increased emphases on conservation and nonnuclear research and development, energy grants and technical assistance to States and localities, accelerated acquisition of the strategic petroleum reserve, and greater emphases on nuclear waste management. I continue in the unswerving belief that the Nation's leaders have the obligation to plan for the future, and that the national energy plan is essential to the future health and vigor of the American economy. The United States also must take the lead in minimizing the risks of nuclear weapons proliferation as we advance nuclear power technology. Thus, this budget increases research and development funding for systems that present fewer risks than the plutonium-fueled liquid metal fast breeder reactor.

—*The essential human needs of our citizens must be given high priority.*

In the spring of 1977 I proposed a long-overdue reform of the Nation's welfare system. This reform recognizes that this is a Nation of men and women who do not wish to be wards of the Government but who want to work and to be

self-sufficient. It includes a combination of employment opportunities and incentives for those who should work, and a basic income for those who cannot. This budget anticipates that Congress will pass the program for better jobs and income, and begins the process of careful planning for the implementation of an efficient and equitable system.

The budget also recognizes that ensuring the opportunity to compete and excel remains very important to our people. To give all children the healthiest possible start in life, I propose major expansion of medical care and nutritional supplements for low-income expectant mothers and infants. In addition, I propose major increases in educational assistance at all levels. Because of the continued high level of unemployment, particularly among minorities, I believe public employment programs should be continued at high levels for another year. Major increases in programs stressing employment for unemployed youth are recommended. A new effort will be mounted to place more disadvantaged persons in private sector jobs by increasing the involvement of the business community in local employment and training programs.

I view a workable urban strategy as an important link in a well-articulated domestic program and essential to the contining recovery of the national economy. This budget includes increases for many programs benefiting urban areas and supports several efforts to improve these programs. I anticipate sending to the Congress early in the spring a set of further proposals dealing with the Nation's urban problems.

—*The Nation's armed forces must always stand sufficiently strong to deter aggression and to assure our security.*

My request for defense provides for the steady modernization of our strategic forces, and for substantial improvements in the combat readiness of our tactical forces. To parallel commitments made by our European allies, I am proposing significant increases in our overall defense effort, with special emphasis on those forces and capabilities most directly related to our NATO commitments. The defense budget I recommend also emphasizes modernization and research and development to meet future challenges to our security. But at the same time, I am restraining defense expenditures by introducing important efficiencies and by placing careful priorities upon our defense needs. The 1979 defense budget is prudent and tight, but consists of a real growth in outlays of 3% above the current year's budget. Consistent with campaign pledges to the American people, it is $8 billion below the defense budget projected for 1979 by the previous administration.

—The Federal Government has an obligation to nurture and protect our environment—the common resource, birthright and sustenance of the American people.

This budget provides for substantially increased emphasis on protection of all our environmental resources, for new attention to our common heritage, and for substantial additions to our system of public lands. Planned use of our natural resources has been designed so that the most important of our unspoiled areas can remain forever in the hands of the people.

—*The Federal Government must lead the way in investing in the Nation's technological future.*

Shortly after taking office, I determined that investment in basic research on the part of the Federal Government had fallen far too low over the past decade. Accordingly, I directed that a careful review be undertaken of appropriate basic research opportunities. As a result of that review, this budget proposes a real rate of growth of almost 5% for basic research in 1979. I believe this emphasis is important to the continued vitality of our economy.

This budget also reflects this administration's commitment to two important approaches to making government work more efficiently and responsively: reorganization and zero-base budgeting.

The reorganization effort I have launched seeks more than just a streamlining of organization structure and the elimination of overlaps and duplication. It seeks to make our Government more responsive, more efficient, and more clearly focused on the most pressing needs of our society. In 1977 I proposed—and the Congress accepted—a Cabinet-level Department of Energy, a streamlined Executive Office of the President, and a consolidation of our international information activities. In 1978 I will propose further reorganizations in such areas as the Federal Government's civil rights activities and the Federal civil service system to make it more responsive and effective.

As I promised during my campaign, zero-base budgeting systems have been applied throughout the Federal Government. This budget is the product of a comprehensive zero-base review of all Federal programs, both existing and new. In reviewing each agency's proposals, I have used zero-base budget alternatives and agency rankings to compare and evaluate the many requests competing for resources. As a result of the first year's effort, we have a gained a better understanding of Federal programs and have made better, more evenhanded judgments. Because of this system the budget includes dollar savings, and improvements in the way programs are operated. With experience, zero-based budgeting should be even more effective in future years.

Other significant changes in the budget process are reflected in this document. First: I have directed the Office of Management and Budget to establish a multi-year budget planning system using longer range budget projections. This will ensure that budget decisions are made with full awareness of their longer range implications. Second: we are using better techniques for estimating outlay so as to avoid the chronic "shortfalls" of recent years. Third: we have explicity related the classification of the budget in terms of functions performed by Government programs to the national needs and agency mission served, as called for in the Congressional Budget Act of 1974.

In formulating this budget I have been made acutely aware once more of the overwhelming number of demands upon the budget and of the finite nature of our resources. Public needs are critically important; but private needs are equally valid, and and the only resources the Government has are those it collects from the taxpayer. The competition for these resources and my belief and commitment that we must firmly limit what the Government taxes and expends have led me to the premises on which my first budget is based.

—Critical national needs exist—particularly human and social ones—to which resources must be directed.

—Government resources are scarce; their use must be planned with the full awareness that they come from the earnings of workers and profits of business firms.

—The span of government is not infinite. Priorities must be set and some old priorities changed. If we are to meet adequately the most critical needs, some demands must also be deferred. Government action must be limited to those areas where its intervention is more likely to solve problems than to compound them.

—We have an obligation to manage with excellence, and to maintain proper priorities within the $500 billion proposed in this budget. We all know that in a budget of this scale—larger than the gross national product of all but three nations in the world—there are dollars wasted and dollars misspent. These must be minimal.

These premises are unexceptionable in general, but difficult and controversial to apply. They have guided my actions in formulating this budget and they will continue to do so in the future. But to be successful I will need, and will work for, the help and cooperation of the Congress. Both the Congress and the Executive have a clear, joint interest in an approach that helps us to meet the demands of the future. In recent years the Congress has taken important steps—through the establishment of the congressional budget process—to improve its own means of establishing priorities. This administration has worked closely with the congressional appropriations and budget committees and has found them invaluable sources of advice We will continue in this spirit of cooperation, and I look forward to working with the Congress and its leadership to obtain adoption of my budget for fiscal year 1979.

JIMMY CARTER.

JANUARY 20, 1978.

THE PRESIDENT'S BUDGET

The SPEAKER pro tempore (Mr. YATES). Pursuant to the previous unanimous-consent request, the Chair recognizes the gentleman from Texas (Mr. MAHON) for 30 minutes.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their re-

marks in the RECORD in regard to the budget message of the President of the United States.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, the chairman of the Committee on Appropriations traditionally makes some preliminary remarks about the President's budget after it is presented to the Congress.

I would commend these remarks to the Members and I would hope that they would make it easier for Members to obtain a preliminary grasp of the budget before we begin our detailed work.

This document will be the subject of continuous consideration by the Appropriations Committees, the Budget Committees, the Ways and Means and Finance Committees and the entire Congress and others in the country throughout the year. No other document submitted this year by the President will demand and secure such sustained attention and consideration. It is the administration's blueprint of the year. It will affect every citizen of the country and every segment of the economy. It will have a worldwide impact.

U.S. BUDGET—A REMARKABLE DOCUMENT

The budget of the U.S. Government is always a remarkable document. It is the convening point for all the competing and often conflicting interests for the Federal dollar. It is the product of thousands of decisions. It always contains an amazing wealth of factual information, abundant projections, and some well polished words.

The budget calls for spending over $500 billion of the people's money. Half a trillion dollars. And it projects an increase in the national debt of $89.6 billion.

I recall just a few years ago when Lyndon Johnson anguished over presenting the first $100 billion budget to the Congress. Now we are presented with a budget which calls for a debt increase alone in the range of $100 billion and it seems likely to create only limited shock waves.

I recall in 1935, my first year in Congress, total Federal spending was $6 billion. This was a time of economic crises and the Government was seeking to end the Depression. At that time $6 billion was considered an unbelievable sum of money for the Federal Government to be spending. Never, in my most gloomy days, did I consider I would see the Federal Government spending $500 billion—half a trillion dollars—in a single year.

Along that line it is interesting to note that since 1935, the Federal Government by the end of the present fiscal year will have spent just over $5 trillion and the public debt will have increased to $777 billion.

Mr. Speaker, I have been examining budgets for better than 40 years. It is fascinating to pick up the budget each year and to peel back the always present lustrous veneer and seek to discover what is really underneath. There are a number of time tested yardsticks that may be used to help place the budget in perspective. It is impossible for anyone to grasp all the details of the budget, but we can all come to our own conclusions as to its central theme.

All budgets are different but yet the same. Presidents always put their best foot forward. They always have, they always will. This budget is no exception.

ALL GOALS NOT ATTAINABLE

For months and months we have been considering and evaluating the objectives of a balanced budget by 1981, 4½ percent unemployment, and sharply reduced inflation within the framework of a prosperous economy. It now appears that the budget as submitted recognizes that those goals are not compatible and not fully attainable within the timetable that has been projected.

I do not say this critically for we must have direction, and one of the most important features of this budget is that it represents the first real ordering of priorities by the administration.

This budget, like all budgets, will not satisfy everyone. There will be cries of "not enough" and cries of "too much".

But in the end it will be the basic blueprint of the Nation for a year. It is, of course, heavily impacted by an accumulation of decisions which have been made over the years under all administrations and by circumstances beyond the control of any administration.

The Congress will thoroughly consider the proposed budget. It will, as it must, challenge many of the assumptions and recommendations contained in the document.

The Congress will as in previous years ask such questions as—Is the budget adequate or is it too much? Will it sufficiently sustain economic growth? Will it lower unemployment? Will it increase inflation? How will it affect the world economy? Will its proposed debt and deficit increases stifle the economy? Is it realistic?

It is now up to the Congress to promptly consider the President's legislative blueprint for the year. That is what we will do. The Appropriations Committee will begin its hearings and deliberations immediately and I am sure other committees will do likewise.

BUDGET TOTALS

The budget proposes spending in fiscal year 1979 of $500.2 billion. This is an increase of $38 billion between fiscal year 1978 and fiscal year 1979. This will cause a unified budget deficit of $60.6 billion. However, the increase in the public debt, and this is the real measure of deficit spending, between 1978 and 1979, will be some $89.6 billion. Between 1977 and the current fiscal year, the public debt increase will be some $78.0 billion.

Thus in 2 years' time, the public debt will have increased some $167.6 billion. If that figure does not startle the American people, then we as a nation have lost the ability to be concerned about the Nation's fiscal situation.

For years now the Federal Government has been generating large budget deficits and increases in the national debt. During the severe recession of 1974–75, there was probably some justification for this, as strong economic stimulus measures were needed to help end the worst recession since the depression.

However, that recession is clearly behind us, and we are now in the third year of economic recovery.

The same economic philosophy that calls for Government spending stimulus in economically depressed times calls for surpluses or at least less deficit spending in improved times. But instead of following this philosophy, the President and the Congress are applying only the spending side of the philosophy, not the restraint side.

While no one can speak with absolute certainty about the consequences of such an approach to spending, it seems clear to me that increased inflation must be one result along with increased interest rates and a tightening of funds for private borrowers as the economy continues to improve and the idle productive capacity of our economy begins to be utilized.

A STRATEGY FOR GROWTH

The President and his advisers have obviously sorted through many alternate fiscal plans. They have selected a bold and daring course of action—a strategy for growth.

The centerpiece of the budget is the so-called $25 billion tax cut. The budget is banking on the hope that a stimulative Federal policy will propel the current economic upswing by encouraging investment to provide jobs for the growing labor force and to boost productivity through more modern and efficient plant and equipment.

The plan is to spend our way—through tax cuts for citizens, incentives to business, and more government outlays and higher debt—to economic stability and prosperity. The die is cast.

CONCERN ABOUT INFLATION

But the plan, in my judgment, is not without considerable risks. The greatest risk appears to be inflation.

One wonders, with industrial capacity utilization at about 82 percent and unemployment high, why inflation will not come down more or less on its own.

One of the main reasons is that we are confronted with built-in or guaranteed inflation in the form of wage and price increases. The administration recognizes this and the President, in his state of the Union message last Thursday and in his economic report submitted last Friday, outlines his program for voluntary restraint within the business and labor communities. The label is "suasion." But this will be difficult to achieve as this year is not a big year for labor negotiations. Contracts up for renewal during 1978 involve less than half the workers affected by contracts renewed in 1977 or 1976. It is the lightest year in at least 3 years. Wage increases in the range of 7 percent are already agreed to. There may not be much room to achieve restraint on labor contracts in months ahead.

Unfortunately, there is also abundant incentive for business to raise prices. In addition to projected increases in labor costs in the range of 9 percent—including fringe benefits and the employer's share of social security—the minimum wage goes from $2.30 to $2.65; fuel promises to be more expensive; cost cutting through productivity increases be-

comes more difficult and skilled workers become less available as the upward limits of capacity are reached. Interest costs in an expanding economy are also a factor.

The Government itself is also likely to add fuel to the inflation fire with the huge increases in the debt of $64 billion in 1977 $78 billion in 1978, and about $90 billion in 1979. These are huge deficits by any measure, but especially in an expanding economy.

Our economy is growing at a faster rate than many of our major trading partners—about 4.5 percent compared to about 3 percent for the rest of the industrialized world. Will we find it impossible to reduce our balance of payments deficit and support the dollar? There are inflationary implications here.

What about the money markets? Will the credit demands of an expanding private sector coupled with increased Federal borrowings cause severe problems especially in the sensitive housing industry?

Will the economic upswing which began some 30 months ago be sustained? No peacetime recovery since World War II has lasted more than 39 months.

Mr. Speaker, these are some of the questions that arise as I contemplate this growth strategy.

FIRST ORDERING OF PRIORITIES

Mr. Speaker, I think by far the most significant aspect of this budget is that it represents the first real ordering of priorities by the administration. It is essential that we have stability and certainty in regard to Federal policy. The business community can not and will not make maximum investment decisions in an atmosphere of uncertainty, confusion, and frustration.

The President has now advanced his proposals and identified his directions for the coming years. While we will individually disagree with certain ingredients of his proposal, I heartily applaud the concept of placing reliance on the private sector. The President in his economic report casts the Government in the role of an active partner in promoting economic growth and his budget orchestrates this by means of proposed tax legislation, not stimulus through massive new shotgun spending programs. I have not been impressed with the results of big, hastily conceived spending programs as a cure for the Nation's economic woes. I think we are on the right track here and I hope appropriate results will occur.

Mr. Speaker, I have indicated that I believe the tax cut is the centerpiece of today's budget. Let us take a moment now to examine the tax proposals. There is more here than meets the eye at first blush.

TAX PROPOSALS—CENTERPIECE OF THE BUDGET

The President's proposals for tax reduction and reform constitute the centerpiece of the 1979 budget. There are three primary features to the President's proposals and we must look carefully to understand fully these measures: $34 billion reduction of taxes; $9 billion of tax increases through tax reform; and $8.3 billion reduction in taxes through extension of the temporary tax reductions enacted last year.

These proposals yield a net tax reduction of some $33 billion, not the $25 billion that has been prominently featured in the media, as most analysts have not discussed the proposed extension of last year's temporary tax cuts.

Mr. Speaker, I support efforts to sustain the Nation's economic recovery through tax reductions as opposed to spending programs. By making tax reductions rather than creating huge new Government programs, businesses and individuals become the base for economic growth, which, of course, is the way it should be in the first place.

I recognize that some tax reductions may be necessary this year—particularly to offset the so-called fiscal drag caused by the tax increases occurring in the social security area and those that may occur in the energy area.

I am concerned, however, that the President's proposals for tax reduction may be too large. This is especially true in view of the large deficits and increases in the public debt that are projected on the spending side of the budget.

In a time of economic recovery, it seems important to me that the Government must exercise caution about the inflationary effect of its spending. I believe nearly all thoughtful Americans have become aware in recent years that our greatest enemy in the economic field is inflation—in terms of not only increasing prices which is obvious, but also in terms of increasing unemployment, creating a lack of business confidence, and in general creating a set of conditions that destroy opportunities for real economic growth.

The proposed tax reductions may also need to be decreased if the reforms proposed by the President are not agreed to. And in my opinion, many of them will not be.

OPPOSITION TO CERTAIN TAX PROPOSALS

I am personally opposed to those so-called reforms which would hit most heavily in middle-class America, such as the elimination of deductions for State and local sales, gasoline, and personal property taxes; eliminating the alternative tax of 25 percent on up to $50,000 of capital gains; elimination of accelerated depreciation; and certain others.

I am also skeptical of the President's proposals to increase business taxes in certain areas, particularly in the area of tax benefits for domestic international sales corporations. It seems to me we need to do all we can to encourage export of American products, particularly farm products, especially in light of the very serious balance of trade problem the Nation faces.

While nearly all Americans generally support the reduction of taxes, I think we must be cautious about embracing huge tax cuts as long as the budget remains so dangerously out of balance.

THE REAL AMOUNT OF DEFICIT SPENDING

Mr. Speaker, it is unfortunate that accounting techniques used in the budget so greatly distort the amount of real deficit spending that is contained in this budget. This is not a deliberate trick played by any one President but a product of the Budget Concepts Commission some 10 years ago that probably should be changed.

The President's budget estimates that for fiscal year 1979 the public debt will increase by $89.6 billion—roughly some $90 billion.

Yet the unified deficit is advertised as only $60.6 billion. Let us examine the reason for these differences.

The amount of deficit spending proposed for items in the budget for 1979 is $74.5 billion. This is the so-called Federal funds deficit. From this Federal funds deficit is subtracted borrowings from surpluses in various trust fund to help finance temporarily deficits in spending. This amounts to $13.9 billion in 1979. The idea was that since from time to time there are excess funds in various trust funds such as health insurance, highways, Federal retirement and unemployment, that these surpluses should be used so that fewer private funds were required to finance the deficit and so that the Federal temporary surpluses could be used more effectively. By law, these borrowings must ultimately be paid back with interest.

Thus, when trust fund borrowings are subtracted from the Federal funds deficit, the result is the unified budget deficit. Invariably this is the lowest deficit figure in the budget and is the deficit figure which is referred to by Presidents.

There is another major "catch" which increases the Federal funds deficit of $74.5 billion to an even higher figure. This involves the amount of funds required to finance the activities of the so-called off-budget agencies. These are Government entities that for a variety of reasons are not included in the budget, although they spend Federal funds or affect Federal spending as any Federal agency in the budget might.

For 1979, funding for the off-budget entities amounts to $12.5 billion.

So this amount must be added to the Federal funds deficit of $74.5 billion for a new deficit total of $87 billion.

In addition there are other minor accounting pluses and minuses that increase this figure by $2.6 billion for a total increase in the public debt of $89.6 billion.

THE TAX BITE

Mr. Speaker, on the first page of the President's budget message, we note that the outlay total reflects decreases in the share of the Nation's gross national product taken by the Federal Government from 22.6 to 22 percent. Outlays of off-budget entities add another sixteenths of a percent to both this year's budget and last year's budget.

While this is a movement in the right direction, the final outcome of action on the budget and new proposals that are likely to be submitted by the President seem nearly certain to reduce or eliminate the decrease entirely.

Reducing the portion of the Nation's output represented by Federal spending is an important and worthwhile objective. Of course, the surest direct way to continue this trend is to restrain the growth of total Federal commitments, but they go up this year by $65 billion.

The President indicated in his state of the Union message that this budget represented less than a 2-percent real

growth in Federal outlays. I would note, Mr. Speaker, that if we continue to have real growth in the range of 2 percent each and every year, we do not exactly hold the line on Federal expansion. In this regard, I call attention to the four-page display of new initiatives beginning on page 472 of the budget. They total some $20 billion in fiscal 1979 and $32 billion in 1983. While the outlays associated with these new proposals are only about $4 billion in 1979, they are $22 billion in 1983. And undoubtedly, the budget next year and each succeeding year will advance proposals to be layered on top of this $20 billion list. It is often tempting to embrace spending plans when they have low outlay impact on the budget year.

INCREASED STATE AND LOCAL GOVERNMENT EMPLOYEES

Further I would say, Mr. Speaker, as taxpayers savor the projected relative decline in the Federal share of the national product, they will not rejoice should they turn way back to page 209 of the special analysis of the budget and look at the chart showing the growth in the number of government employees on the State and local tax rolls. It shows that the number of State and local employees will have grown from about 4 million in 1950 to about 13 million next year while Federal civilian employees have remained in the 2 million range over these years.

The Federal Government has not discouraged this growth. Federal aid to State and local governments has grown from $2 billion in 1950 to $85 billion. We have revenue sharing programs—general revenue sharing and countercyclical revenue sharing—to the tune of about $9 billion this year. The Federal Government, which will incur a debt increase next year of about $90 billion, will share revenues of about $9 billion with State and local governments which now have an aggregate surplus position of about $30 billion. In this context we will want to look carefully at the $7 billion proposal to give States and localities the option to issue taxable municipal bonds instead of tax exempt securities. The proposal includes an interest subsidy of 35 percent to 40 percent to equalize benefits.

So, Mr. Speaker, the goal of government having a declining share of the Nation's output is not without opportunity and will certainly require greater effort in the future.

SPECIFIC PROGRAMS OF THE BUDGET

Mr. Speaker, the real substance of the budget is not its overall totals, but the thousands and thousands of different programs it contains.

I have analyzed the broad totals of the budget and their overall impact, and at this time I do not plan to discuss in any detail the various individual proposals which make up the budget.

I do think it might be helpful, however, simply to highlight some of the main issues in the budget which are likely to interest the Congress.

If this budget could be characterized by any single expression, it might be "business as usual." Existing programs are continued for the most part and expanded slightly. This budget is probably closer to what the Congress will accept than recent budgets have been.

DEFENSE

The Department of Defense budget is increased by $10.3 billion for a total of $125.6 billion. After inflation is considered, this represents a real growth rate of approximately 2 percent. There will be many in the Congress who are likely to propose greater defense spending, while I myself believe the President's overall proposals are generally adequate for a sound defense posture, although the individual details may be somewhat rearranged by the Congress.

LABOR–HEW

Labor and Health, Education, and Welfare spending would total some $219 billion under the President's proposals. These sums will probably appear adequate to a majority of the Congress given actions in the past in this area. However, there are proposals for reducing the costs of certain programs that have been proposed in the past and that generally have been rejected by the Congress. These total some $1.9 billion in outlays and $694 million in budget authority and include such items as hospital cost containment, various changes in the social security program, and impact aid reform.

PUBLIC WORKS

In the area of public works, there is likely to be considerable controversy again this year, as numerous studies, planning designs, and projects that have strong congressional support have either been eliminated or deferred in this budget.

ENERGY

While Congress in the field of energy will focus mainly on energy taxes and oil and gas pricing, there is likely to be considerable controversy surrounding the President's proposals on nuclear energy, particularly in the breeder reactor.

NEW PROGRAMS

The President has also announced that he plans to submit to the Congress sometime in the near future a proposal for national health insurance and a comprehensive program dealing with urban problems. The costs of these programs are unlikely to affect significantly the fiscal year 1979 budget but could be quite significant in future years.

WELFARE REFORM

A short time ago the President announced his proposals and guidelines for welfare reform. One of the appealing features of the President's plan was that welfare reform would involve no additional costs over that of existing programs. That guideline seems to have disappeared as very large additional costs are now projected for so-called welfare reform in future years. In fiscal year 1980, costs are projected at $1.4 billion but by 1983, will rise to $12.9 billion. And as with most programs of this nature, these costs are likely to be much higher.

If there is a single disturbing feature of this budget, it is these potentially huge costs associated with welfare reform.

CONCERN ABOUT AGRICULTURE

Mr. Speaker, there is a crisis in agriculture. In my judgment Congress must take action, and I hope promptly, to undertake to deal effectively with the problem. It is too early to know to what extent such action might impact on the Federal budget.

Mr. Speaker, there are numerous other programs whch could be discussed, and they will be as the Congress does its work this year, but I believe I have pointed out the principal ones.

MANAGEMENT OF THE FEDERAL GOVERNMENT

Mr. Speaker, there is a section of the budget entitled "Better Management of the Federal Government." I commend several subjects discussed under this heading to Members and others concerned about fiscal management.

I am encouraged by the commitment to multiyear budget planning. This is an essential financial management tool. I have made reference to this subject in the past especially in testimony during the development of the Congressional Budget Act beginning in 1972. I have been pleased to note that executive budgets have given increased emphasis to a longer range view, and I continue to feel that improvements can be made in this regard in the Congress. In legislating we must carefully consider our spending decisions in the light of existing commitments and resources in future years.

CONTROL OF FEDERAL CREDIT PROGRAMS

I am also heartened by the recognition contained in the budget of the need to establish a systematic review of the Federal lending and loan guarantee programs. These programs are an increasingly important part of resource allocation and must compete with other demands. The administration will soon transmit to the Congress a set of control procedures for credit activities. I believe the basic elements of the proposal as outlined in the budget are sound. The Committee on Appropriations will work to insure the success of the President's proposals for congressional approval of limitations in annual appropriation acts on the amounts of new direct loans and loan guarantees for each program.

ZERO-BASE BUDGETING

We have anxiously been awaiting the results of the much heralded zero-base budgeting concept employed by the executive branch for the first time this year. In our discussions with financial management officials in recent months, we have been impressed with the magnitude of the effort and paperwork which has apparently been associated with the undertaking. We conducted a modest test in the Appropriations Committee last spring. While I have found considerable discussion of ZBB in the budget, I am yet to find specific accomplishments identified. We will explore that further.

OFF BUDGET AGENCIES

As I noted earlier, outlays of off-budget Federal entities are estimated at $12.5 billion. There are a number of off-budget activities and they were put "off-budget" by individual pieces of legislation. Last year the January budget included a commitment by the administration to propose legislation to return these activities to the budget. I had hoped to see a similar commitment in

this budget. The Appropriations Committee is prepared to contribute to the achievement of this goal.

CONCLUSION

Mr. Speaker, this analysis of the budget has been a preliminary one. No single person can comprehend the budget in its entirety and certainly not in a short period of time. But I have tried to point out its highlights in a manner that will perhaps be helpful to the Members.

We will now begin our deliberations on the budget. I must say Mr. Speaker, that in this regard, the leadership is to be commended for the tough work schedule it has laid out for the House this session. This will be particularly helpful to the Appropriations Committee.

Mr. Speaker, the administration has now set forth its priorities to the Congress. It is our turn to respond and establish what the programs for fiscal year 1979 will actually be.

Mr. CEDERBERG. Mr. Speaker a Federal budget is a wonderful and fascinating document. The budget contains incredible detail, and numerious totals, subtotals, and classifications of budget data.

All of this information is intended to allow Congress, the press, and the public to see the broad outlines, as well as the details, of the President's program.

In this process we follow certain conventions, looking first at the totals in the budget for budget authority, outlays and receipts, the resulting deficit and debt, and finally the increases and reductions for individual programs.

If we follow these conventions, we will see figures which tell us that, for fiscal 1979:

Budget authority is proposed and estimated at $568.2 billion.

Outlays are estimated and proposed at $500.2 billion.

Receipts are estimated at $439.6 billion.

The deficit is estimated at $60.6 billion.

The gross Federal debt, which includes Federal debt held by Government agencies, is estimated at $873.7 billion by the end of fiscal 1979, and the debt held by the public is estimated at $690.8 billion by the end of fiscal 1979.

But the budget is indeed a wonderful document. There are all kinds of interesting things in it, if you know where to look.

And if you know where to look, you will find that, in effect, this budget presents Congress and the people with the first $100 billion deficit, and the first trillion dollar debt.

For all Federal and federally assisted activities for fiscal 1979:

Budget and loan authority proposed is $638.7 billion;

Outlays are $544.8 billion; and

Borrowing from the public is $109.9 billion.

The total debt outstanding at the end of fiscal 1979 is $1,036.1 billion.

You will also conclude that there is no chance whatever that the President will balance the budget during his first term.

These totals for budget and loan authority and outlays were calculated by first including the off-budget agencies and Government-sponsored enterprises, second, adding to 1979 budget authority, supplementals proposed for fiscal 1978, and third, adding in receipts from the public which are deducted in reaching the unified budget totals.

TABLE 1

(Fiscal 1979, in billions of dollars)

	Budget and loan authority	*Outlays*
Unified budget totals	568, 172	500, 174
Program supplementals for 1978	5,229	
Proprietary receipts from the public	17, 244	17, 244
Off-budget agencies	16, 087	12, 538
Government-sponsored enterprises	32, 005	14, 801
Totals	638, 005	544, 801

The totals for borrowing from the public, and debt outstanding, were taken directly from table E–2 and E–10 in the special analyses for fiscal 1979. I will summarize these tables below, and include a historical table at the conclusion of my remarks.

TABLE 2

(Fiscal 1979, in billions of dollars)

Unified budget deficit	−60. 6
Deficit of off-budget agencies	−12. 5
Financing other than borrowing	. 1
Net Government-sponsored borrowing	−13. 7
Net Government guaranteed borrowing	−23. 2
Total Federal and federally assisted borrowing from the public	−109. 9
Estimated debt outstanding, end of fiscal 1979	1, 036. 1

At the end of fiscal 1979, total Federal and federally assisted borrowing will amount to almost 46 percent of GNP for fiscal 1979. Since we depend on private investment to create new job opportunities, and the private sector must compete with Federal and federally assisted borrowing, it is not really surprising that the private sector cannot create enough jobs for our labor force.

The President has flatly stated that he will balance the budget by the end of his first term. I recommend that my colleagues examine closely the 5-year projections on page 11 of the budget. Those projections show that under current and proposed tax rates, and under current and proposed programs, the Federal budget would show a surplus of $45 billion in fiscal 1982.

However, for this surplus to materialize would require that no new programs or tax cuts be enacted during fiscal years 1980, 1981, and 1982.

The projections show an average growth in Federal outlays of about 7 percent per year, from 1979 through 1983, compared to the 13.4 percent rate of growth which has occurred from fiscal 1974 through fiscal 1978. Even if the growth rate could be held to 10 percent per year, the budget would be in deficit by about $10 billion in 1982.

I am including at the end of my remarks a table which shows actual, estimated, and projected deficits and surpluses in the budgets for fiscal years 1969 through 1979. It is a very interesting table.

Mr. Speaker, at this point I would like to share with my colleagues some comments about individual program proposals in the President's budget.

In the area of national defense, the administration budget proposals do not always seem to carry forward the aims as stated in some of the budget documents.

For example, the administration states as a primary proposal the need to modernize naval forces through the construction of new ships. The budget itself constrains shipbuilding in fiscal year 1979.

We are told it is essential we strengthen our ability to repel any attack against NATO nations. The budget proposes a reduction in our Reserve and Guard strength, and the construction of fewer facilities for Reserve Forces training.

The budget narrative emphasizes the modernization of strategic forces, while the budget downplays development of new strategic weapons such as the M–X, provides for no new Minuteman III ICBM's, and cuts by 75 percent the research funds for the B–1 bomber.

It is stated by the administration we must upgrade and improve conventional forces and general military capabilities, yet the budget proposes reducing our Armed Forces strength by 20,000, largely by reducing the numbers of those who are being trained and by cutting the numbers of highly specialized instructors.

The President is to be commended, however, for continuing many of the programs of his predecessors in the development and procurement of equipment and systems conceived prior to his taking office. The M–60 tank and the XM–1 tank will continue to strengthen our defense posture. New aircraft such as the F–14–15–16 and F–18 series will join the inventory as will the A–10 tank killer. One new Trident submarine will be funded, and the cruise missile, long in development, soon will be a part of our Nation's defenses.

But the administration cannot have it both ways. It cannot modernize our Navy by slowing the rate of shipbuilding. It cannot improve readiness by cutting Reserve Forces strength. Our training levels will not be improved by reducing the numbers being trained and their instructors. Strategic forces will not be modernized without emphasis on our ICBM fleet and on essential research.

The Congress, therefore, must carefully examine the disparity between what is actually proposed and what is said to be proposed as regards national defense.

Foreign Aid proposals put forward by the administration seem, in at least one major instance, to be restatements of requests already denied by the Congress.

The fiscal year 1979 request for International Financial Institutions is $3.5 billion, up from $1.9 billion in 1978 and $1.1 billion in 1977. Over one-half of this increase however, is for funds previously denied by the Congress.

The Foreign Aid budget is $8.4 billion, up from $6.7 billion in fiscal year 1978, but this substantial increase may be understated in view of the administration's commitment to provide up to $1.7 billion in additional funds for the Wid-

deveen Facility of the International Monetary Fund. These funds may be needed to help underdeveloped countries meet their debts.

These are proposals which will require careful congressional scrutiny and monitoring.

The space program, especially the Space Shuttle, is being reduced in scope from plans previously announced by the administration.

Last year, there were planned to be five Shuttle orbiters to meet civilian and military needs. The fiscal year 1979 budget now proposes there be only four. This action does not impact on the 1979 budget, but could result in future costs to retain a solid rocket capability to meet mission requirements.

The President's energy budget again recommends termination of the Clinch River breeder reactor. The fiscal year 1978 supplemental recommends $80 million for this project, but does not prohibit termination. The President, therefore, reportedly has been advised he can proceed with termination regardless of legislative history.

The total budget request for the breeder reactor program is $367 million, down $150 million from the current fiscal year. These funds would be used for alternative breeder reactor concepts such as Thorium and other options dropped over the years as unfeasible.

The budget seems to reflect the President's plan to push only conservation of existing energy rather than new, feasible sources.

Environmental protection operating costs continue to soar, with the proposed budget requesting $1.1 billion and 10,840 positions. This represents an increase of $278.8 million and 690 positions over fiscal year 1978. In the past year, almost 1,300 people have been added to the EPA payroll.

As we move to the 1980 census, we also move closer to what is being called the billion dollar head count. The fiscal year 1979 budget requests $237.3 million for the Census Bureau to prepare for the census, which will cost nearly a billion dollars. By comparison, the 1970 census cost a total of $222 million.

The administration's transportation budget gives the appearance of increasing mass transit funding by $2.4 billion, but this increase is simply a reflection of legislation creating a formula grant program to replace contract authority.

The administration also supports enactment of user charge legislation to support the inland waterway network.

Congress has, in the past, supported increased funding for Amtrak and has refused to enact user charge legislation. Should the congressional position again prevail, the transportation budget as submitted will bear little resemblance to the end product.

The Public Works Budget reflects no new starts in fiscal year 1979. Funds are requested to continue 180 projects but 38 of these are to be slowed down.

Included in the new budget is a $175.4 million carryover from 1978 which OMB decided could not be spent, but which Congress appropriated.

In view of the fact there were no new starts in 1978, and none are requested for 1979, and with a conscious policy of slowing down current projects, we may soon see an end to water resources projects as we know them.

Housing and Urban Development subsidized housing programs as proposed by the budget seem to have been cut by $6.8 billion, but this is not the case. Actually, the administration is estimating a carryover of $6.4 billion in authority and this will be applied against the total program.

We are told to expect a Presidential urban policy statement later this year, and with that may well come a major request for supplemental funding or dramatic increases in the 1980 request. So, the HUD budget request now before us is likely to grow sizably before this time next year.

In other community development budget requests, it should be pointed out the Economic Development Administration shows an increase from $383.5 million in fiscal year 1978 to $627.4 million in 1979. Increased emphasis is placed by this agency on grants and loans to urban rather than nonurban areas where it traditionally has operated. This move is a continuation of the policy brought to us in the form of a $117 million supplemental request to expand EDA into the cities.

The administration's budget for the Department of Labor raises serious questions as to directions being taken.

Programs funded by Congress are proposed for termination, including a veterans-hire program expected to provide 92,000 jobs by the end of this year, and a skill training program projected to provide 58,000 jobs.

The Summer Youth Employment program is reduced, and the cut could mean 165,000 jobs.

On the other hand, the OSHA budget increases by $21 million at a time it has been loudly announced that hundreds of nuisance standards would no longer be enforced.

In his state of the Union message, the President carefully said:

> I am also recommending that the Congress continue the Public Service Employment Programs at more than twice the level a year ago.

The fact is, this carefully worded recommendation, while striking a happy accord with some, means nothing. We are already authorized and funding at twice the level of a year ago.

Finally, with regard to the Labor budget, it seems to be based on extremely optimistic economic assumptions. It tells us we can expect an inflation rate of only 5.46 percent in 1979 and unemployment at only 6 percent. By 1983, the budget tells us, inflation will be 3.65 percent and unemployment will be 4.2 percent.

Few Members of this body are so optimistic, and if we are correct, the budget is not based on reality.

The HEW budget proposal begins some questionable new programs, and terminates some useful existing ones.

Terminated are capitation grants for schools of veterinary medicine, optometry, pharmacy, and podiatry. Funding for the support of nurses training is cut from $122 million to $21 million.

New programs include a proposal to establish a $125 million fund to provide disaster relief including fuel cost assistance to low income people. This would, in effect, make permanent the temporary Community Services Administration program funded for $200 million in fiscal year 1977, and for which $200 million is included in the fiscal year 1978 supplemental bill.

Also started in the new budget is a welfare reform pilot program for 10 cities. If enacted, this $200 million program will require annual outlays of $10.6 billion in 1982.

Substantial cuts are made in requests to support the direct student loan program, medical, osteopathic and dental schools, and community mental health centers show no new starts.

There is, however, an apparent reduction of $419 million for supplemental security income benefits from the 1978 level, but this is because 13 monthly checks were mailed in 1978 and only 11 will be mailed in 1979.

TABLE 3.—FEDERAL AND FEDERALLY ASSISTED BORROWING FROM THE PUBLIC AND DEBT OUTSTANDING, FISCAL YEARS 1969-79

[In billions of dollars]

	Unified budget surplus or deficit (—)	Off-budget agencies deficit (—)	Financing other than borrowing	Federal repayments to or borrowing from (—) the public	Net borrowing by Government-sponsored enterprises	Net Government guaranteed borrowing	Total Federal and federally assisted borrowing	Debt outstanding end of year
1969	3.2		−2.2	1.0	−5.1	−7.5	−11.6	424.4
1970	−2.8		−2.6	−5.4	−11.1	−4.0	−20.5	444.9
1971	−23.0		3.6	−19.4	−.9	−13.3	−33.7	478.6
1972	−23.2		3.8	−19.4	−4.3	−14.9	−38.6	517.2
1973	−14.3		−4.9	−19.3	−10.7	−14.0	−44.0	561.2
1974	−3.5	−2.7	3.1	−3.0	−14.8	−6.2	−24.1	585.3
1975	−43.6	−9.5	2.3	−50.9	−8.2	−5.7	−64.7	650.0
1976	−66.5	−7.2	−9.3	−82.9	−4.7	−10.3	−97.9	747.9
1977	−45.0	−8.7	.2	−53.5	−11.4	−14.1	−78.9	826.8
1978	−61.8	−11.5	7.3	−66.0	−16.9	−16.5	−99.4	926.2
1979	−60.6	−12.5	.1	−73.0	−13.7	−23.2	−109.9	1,036.1

TABLE 4.—UNIFIED BUDGET SURPLUSSES AND DEFICITS: ACTUAL, ESTIMATED, AND PROJECTED IN THE BUDGETS FOR 1969 THROUGH 1979

[Fiscal years; billions of dollars]

Budget	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
1969	−8.8	−19.8	−8.0														
1970		−25.2	+2.4	+3.4													
1971			+3.2	+1.5	+1.3												
1972				−2.8	−18.6	−11.6											
1973					−23.0	−38.8	−25.5										
1974						−23.2	−24.8	−12.7									
1975							−14.3	−4.7	−9.4								
1976								+3.5	−34.7	−51.9	−30.6	−19.6	+0.4	+25.0			
1977									−43.6	−76.0	−43.0	−22.8	+9.6	+40.6	+75.5		
1978										−66.5	−57.2	−47.0	−11.6	+13.4	+26.1	+28.6	
1979											−45.0	−61.8	−60.6	−37.5	+8.6	+45.2	+76.2

THE PRESIDENT'S BUDGET

The SPEAKER pro tempore. Pursuant to the previous unanimous-consent request, the gentleman from Alabama (Mr. EDWARDS) is recognized for 30 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, today the very distinguished chairman of the Committee on Appropriations, the gentleman from Texas, and the committee's ranking minority member, the gentleman from Michigan, presented statements on the fiscal year 1979 budget. I would like to commend them for their remarks. Each year they come to the floor on the day the budget is submitted to give the Members a timely and informative report on its contents.

I would like to speak for a moment on the Department of Defense budget.

FINANCIAL OVERVIEW

Mr. Speaker, the Department of Defense budget request for fiscal year 1979 totals $126 billion in new appropriations. If approved in full and if pending and future supplementals and rescissions were also approved, the new request would exceed last year's appropriations by about $10.3 billion or 8 percent. Of the proposed increase, approximately $6.9 billion would be absorbed by inflation and the remainder—$3.4 billion or 2 percent—would constitute "real program" growth.

Expenditures, by comparison, are expected to rise by $9.9 billion from an estimated $105.3 billion in the current fiscal year to $115.2 billion. This would represent 23 percent of total Federal outlays, up 0.2 percent over last year, and 5.1 percent of the gross national product, down 0.1 percent compared to last year.

DEFENSE APPROPRIATION BILL

Mr. Speaker, the Defense Appropriations Subcommittee will be reviewing the largest single portion of the proposed defense budget—the $119.2 billion requested in the fiscal year 1979 defense appropriation bill, plus $2.3 billion in supplementals expected at a later date to cover military and civilian pay raises and other legislative proposals.

Within the defense bill, the requested funds are distributed among the various accounts as follows:

Military personnel—$27.2 billion; retired pay—$10.1 billion; operation and maintenance—$37.4 billion; procurement—$31.9 billion; and research and development—$12.5 billion. Although there is an increase requested in each case, the vast bulk of the increase—$7.3 billion in all—is concentrated in three areas—procurement, research and development, and operation and maintenance, reflecting the continuing effort to improve force readiness and modernization.

NEW PRIORITIES

There is a significant shift in military priorities proposed in the new budget. While renewed emphasis and priority is being placed on increasing the combat capabilities of our conventional NATO forces, the shipbuilding and strategic missile programs are being curtailed.

The request for the Navy shipbuilding program alone is three fewer ships and $1.1 billion below the program approved by Congress last year, and no funds were included for a new aircraft carrier—big or small—pending the conclusion of a congressionally directed study of the costs and combat effectiveness of alternative sea-based aircraft platforms. This study, I am told, will be submitted to the Congress by February 1.

We on the Defense Subcommittee will be holding detailed hearings on the shipbuilding program again this year. We also plan to take a close look at other controversial aspects of the bill such as the plan to beef up our NATO forces and the MX ICBM program.

AREAS OF MAJOR CONCERN

Mr. Speaker, during our review of the fiscal year 1979 defense budget and programs, I intend to focus my efforts on two rather specific issues: First, V/STOL aircraft technology and how it might fit into the whole land and sea-based air picture over the next 25 years; and two, production plans and facilitization costs for the XM–1 tank.

While I have already conducted some preliminary investigations on my own, I have not yet reached any conclusions on these matters. I am at a point where I have a whole lot of unanswered questions. Further probing is needed, and toward that end, I am asking the chairman to schedule special hearings on tactical air programs and to initiate a special investigation of XM–1 facilitization costs.

So far as V/STOL is concerned, I know of no other development effort, if brought to fruition, that would weigh so heavily on so much of the Navy. Over the long run, it could bring about a fundamental change in ship design and cost, operations and tactics, and logistics. The Defense Department and the Navy have made this a top priority effort, and before we enter a new round of multi-billion dollar V/STOL programs, I intend to gain a much better understanding of all facets of the problem.

With respect to the XM–1 tank, I am deeply concerned over facilitization costs. As recently as September 1977, the Army testified before our committee that XM–1 facilitization costs would be from $900 million to $1 billion or more, including $130.5 million in production planning costs. On the surface, those costs appear excessively high, and in my view could jeopardize the whole program which is otherwise in good shape. For that reason, I am requesting a full-scale innvestigation of XM–1 and M60A1/A3 production plans and attendant facilitization costs.

Mr. Speaker, it is not possible at this time to determine what level of funding is needed to support our defense posture in fiscal year 1979, but as our review progresses, and after we have had an opportunity to hold some hearings, we should be in a position to know what, if any, cuts should be made. In approaching that task, I think we need to be ever mindful of the continuing Soviet military buildup. The best available intelligence estimate made public only this month, suggest that the Soviets are outspending us in defense activities by about 40 percent overall and by about 75 percent in the area of weapons procurement. In the face of this problem, we must maintain a strong defense posture, but we must also find ways to get more defense for each dollar spent.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

GEORGE C. MARSHALL STATUE

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9165) to authorize the Secretary of State to acquire a statue or bust of George C. Marshall for placement in the Department of State.

The Clerk read as follows:

H.R. 9165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in honor of a great American soldier and statesman,

the Secretary of State (hereafter in this Act referred to as the "Secretary") may acquire on behalf of the United States a statue or bust of General George C. Marshall (hereafter in this Act referred to as the "memorial") to be placed in an appropriate location within the Department of State.

SEC. 2. (a) To assist the Secretary in carrying out the first section, there is established a Commission composed of seven members as follows:

(1) The Secretary, who shall be the Chairman of the Commission.

(2) Two members appointed by the Secretary.

(3) Two members appointed by the chairman of the Committee on Foreign Relations of the Senate.

(4) Two members appointed by the chairman of the Committee on International Relations of the House of Representatives.

Members of the Commission shall serve without compensation.

(b) The Commission shall operate under the direction of the Secretary and, subject to final approval by the Secretary, shall select the sculptor for the memorial and select its size, style, design, and material.

SEC. 3. (a) Except as provided in subsection (b), all costs incurred in carrying out the first section shall be paid by the Secretary with funds contributed to the United States for such purpose.

(b) Effective October 1, 1978, there are authorized to be appropriated to the Secretary $10,000 for payment of costs incurred in carrying out the first section. Funds appropriated under this subsection are authorized to remain available until expended.

SEC. 4. The Secretary shall be responsible for all maintenance and care of the memorial.

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9165, which would authorize the Secretary of State to acquire a statue or bust of George C. Marshall to be placed in the Department of State.

Few would dispute the enormous contributions made by this great American. During the first half of this century, General Marshall distinguished himself both as a solder and as a statesman. But perhaps his most significant contribution was the creation and implementation of the European recovery program—the Marshall plan—during his tenure as President Truman's Secretary of State. One of the boldest and most imaginative strokes in diplomatic history, this concept permitted Europeans to design a recovery program in which the effort would be largely their own.

As a result of the success of the Marshall plan, many nations have honored General Marshall. As a symbol of this Nation's pride in a great leader in both war and peace, the International Relations Committee feels that it is appropriate to honor Gen. George C. Marshall with a memorial in the Department of State.

Toward this end, H.R. 9165 would establish a seven-member advisory commission to assist the Secretary of State, who would preside as chairman, in carrying out the purposes of the legislation. The Commission would then select a sculptor and would provide advice concerning the size, style, design, and material of the memorial. Any recommendation would be subject to the final approval of the Secretary.

I would like to emphasize to my colleagues that members of this Commission will not receive compensation for their services and will be responsible for their own expenses. An authorization of $10,000 is provided as the sole U.S. Government contribution and will not be effective until fiscal 1979. All other costs will be paid from private contributions.

Mr. Speaker, I urge my colleagues to support H.R. 9165 and join in honoring a truly distinguished American.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9165. The placing of a bust or statue of George Marshall in the Department of State is a most fitting tribute, in my judgment, to a great American humanitarian and statesman.

His inspiring leadership in the Department of Defense and later at the Department of State was instrumental first in winning the war and then in winning and maintaining the peace.

George Marshall was a man of vision, a man who even while plotting the strategies to win the war, labored as well to prepare for peace.

His military career spanned World Wars I and II. He entered the military service in 1902 and earned even greater responsibilities—becoming Chief of Operations of the First Army during World War I. After the war, he spent many months traveling with General Pershing meeting with future world leaders and viewing the destruction caused by the war.

On the day on which Germany invaded Poland, September 1, 1939, General Marshall was sworn in as Chief of Staff of the U.S. Army, thus launching a brilliant career during the second war as well. It was his performance during this phase of his career which led Winston Churchill to dub him the "True Organizer of Victory."

After the victory was won, General Marshall accepted the position of Secretary of State to President Truman and organized the Marshall plan to help the peoples of Europe so devastated by the war. The success of this massive reconstruction plan earned General Marshall the Nobel Prize.

It is, therefore, Mr. Speaker, particularly appropriate that the first Secretary of State to occupy the present Department of State building and a man who worked so tirelessly for peace, should be honored in this way.

I urge our colleagues to support this modest expenditure in recognition to a man who contributed so much to the search for peace, to our Nation and to the world.

Mr. ASHBROOK. Mr. Speaker, we never should spend any money for a bust for the late George Marshall. Although, it is probably appropriate to put it in the State Department rather than the Defense Department since he seemed to understand their ways better.

On second thought, if the Congress wants to squander that kind of money for something unneeded, at least put him on a horse—maybe the horse he was riding on the morning Pearl Harbor was bombed when he was out of reach. Or maybe with Mao. He was the architect of American disaster in China which resulted in the Communists taking over and 20 million Chinese executed in their path as they established their terrorist regime.

General Marshall does not look that good in true historical perspective. It was a young Congressman from Massachusetts who referred to the blunderous policy in China that the diplomats "frittered away" what our young men had given their lives for. I recall the Congressman was John Kennedy. I think he was referring to George Marshall. Small matter. Who cares any more?

Mr. FISHER. Mr. Speaker, the sculpturing of a statute or bust of Gen. George C. Marshall and its placement in the Department of State is a suitable way of honoring one of America's greatest patriots. A Virginian himself, General Marshall has joined other great Virginians who have earned a respected place among our military and civilian whom we do not have to wait for the verdict of history to be confident of his greatness.

During the latter years of his life General and Mrs. Marshall maintained a beautiful home in Leesburg in Loudon County, located in the Congressional District I represent. A number of older friends of the Marshalls and younger admirers, many of whom live in that lovely and historic part of Virginia, hope that the Marshall home can be preserved. I trust this can be accomplished so that future generations of Americans will be able to visit this home and find the inspiration it will give.

I urge my colleagues to vote for H.R. 9165.

Mr. FASCELL. Mr. Speaker, I have no further requests for time.

Mr. BUCHANAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and pass the bill H.R. 9165.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PAYMENTS TO FORMER SPOUSES

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8771) to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

The Clerk read as follows:

H.R. 8771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8345 of title 5, United States Code, relating to payment of civil service retirement benefits, is amended by redesignating the last two subsections as subsections (h) and (i) and by adding at the end thereof the following new subsection:

"(j)(1) Payments under this subchapter which would otherwise be made to an employee, Member, or annuitant based upon his service shall be paid (in whole or in part) by the Commission to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall only apply to payments made by the Commission under this subchapter after the date of receipt in the Commission of written notice of such decree, order, or agreement, and such additional information and documentation as the Commission may prescribe.

"(3) As used in this subsection, 'court' means any court of any State or the District of Columbia.".

(b) Section 8346(a) of title 5, United States Code, is amended by striking out "section 8345(g)" and inserting in lieu thereof "subsections (h) and (j) of section 8345".

SEC. 2. The amendments made by the first section of this Act shall only apply to payments made from the Civil Service Retirement and Disability Fund after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Maryland (Mrs. SPELLMAN) and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes each.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in its simplest form, this bill, H.R. 8771, simply authorizes the Civil Service Commission to comply with the terms of a valid State court decree, order, or property settlement, granted in connection with a divorce, annulment, or legal separation of a Federal employee who is entitled to payments under the civil service retirement system.

Under existing law, the Civil Service Commission honors almost all State court decrees relating to the garnishment of civil service annuity payments, in order to enforce court-ordered child support or alimony payments. The exception is that the Civil Service Commission does not and may not honor that part of a State court decree which recognizes an employee's retirement as a property right and thereby divisible.

Under existing law, payments under the civil service retirement system are not assignable or subject to execution, levy, attachment, garnishment or other legal process, except as may be expressly provided by Federal laws. Section 459 of the Social Security Act, as added by Public Law 93–647, permits the garnishment of civil service annuity payments but only when necessary to enforce court-ordered child support or alimony payments. The commission now is not authorized to comply with the terms of a court order, decree, or property settlement issued in connection with a divorce or legal separation.

Approximately 4 million individuals rely on the civil service retirement system for retirement benefits. However, this retirement system fails to provide proper economic protection to a divorced employee or to the former spouse of this employee. This failure in the system in many cases leaves the dependent spouse with no direct retirement benefits, although, if the spouse in question is the wife, she may have spent many years working without pay managing a home, raising children, and contributing time and effort to the joint marital enterprise. In other situations, the courts require the Federal employee to provide considerable UP-front benefits to the divorced spouse since the retirement annuity may not be shared.

The committee finds that if this bill is enacted into law, it will not only eliminate the obstacles presented by existing law to the enforcement of State court decrees, but it will reinforce what is already the law in many jurisdictions of this country. The committee who encouraged by both men and women in its efforts for passage of this legislation.

I am also pleased to announce that this bill has the full support of this administration. Because of the strong belief that passage of this bill will help bring about justice and equity to a group that is often ignored, the committee strongly urges enactment of H.R. 8771.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 8771, a bill I cosponsored with other members of the Subcommittee on Compensation and Employee Benefits.

This bill, like most legislation brought to the floor, is the result of a compromise. H.R. 8771 has the support of the administration, and as the able chair of the Subcommittee on Compensation and Employee Benefits, Mrs. SPELLMAN, has explained in detail, if enacted it would simply allow the Civil Service Commission to honor all State court divorce decrees in toto. Under existing law, the Civil Service Commission cannot legally recognize an employee's annuity as a property right which is divisible.

While I applaud the efforts of Congresswomen SPELLMAN and SCHROEDER for bringing this issue to our attention, and the committee for reporting this "compromise" measure to the floor, I think all would agree it is just a good start. There is much more to be done.

To this end, upon completion of the hearings on this subject, I introduced H.R. 8738, and I have been joined by 13 colleagues in cosponsoring H.R. 9412, an identical bill.

This legislation, unlike H.R. 8771 would require a statutory division of property if the State courts, in considering all the rights and resources of both parties to the divorce, refused or failed to include the Member's or employee's annuity as divisible property.

This approach offers relief to qualified former spouses without preempting the divorce jurisdiction of State courts.

Prof. Henry H. Foster of New York University Law School, who testified before our subcommittee, informed my staff this past week that there is widespread support for H.R. 9412 in the family law section of the American Bar Association. He said before our subcommittee:

> Without the inclusion of such benefits . . . available for distribution upon the dissolution of the marriage, then equity, certainly would be denied to a substantial number of spouses; and more important, financial hardship may be occasioned, especially to women in their later years who may not be readily available for the labor market.

However, in order to facilitate the approval of H.R. 8771 in committee, and after receiving assurances from Mrs. SPELLMAN that hearings would be held on broader legislation early in this second session, I withheld offering it as a substitute.

Mr. Speaker, the legislation before us today, H.R. 8771, is a fair and reasonable first step in granting equity to former spouses, male and female, who have earned through marriage a legal right to a spouse's Federal annuity. I urge its adoption.

Mrs. SPELLMAN. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 8771, which authorizes the Civil Service Commission to honor State court orders or decrees or property settlements that split Federal retirement benefits. I appreciate the special attention that Representative SPELLMAN has given to this issue and the lengthy hearings held by the Compensation Subcommittee.

Federal pensions have long been immune to State court orders. Even with the passage of Public Law 93–647 in 1974, garnishment of civil service retirement moneys is allowed only for alimony and child support and does not apply to community property settlements.

This immunity has insulated the Federal pension from division between

spouses in divorce action, although in many cases the pension is the largest family asset.

As a result of this immunity, the States' rights of those States which consider pensions a joint asset have been thwarted.

The general rule in the eight community property States is that a pension due one of the spouses becomes part of the jointly owned property to be divided equally at divorce if it arises from a contractural obligation and is considered partial payment for services rendered during the marriage.

However, under the supremacy clause (Article VI, cl. 2) of the Constitution, valid congressional enactments preempt conflicting State community property provisions. As a result past court decisions have sustained under the supremacy clause the doctrine of Federal preemption supercedes conflicting State law regarding marital and family property.

This Federal-State conflict also applies to areas other than pensions. For instance, in 1950 in Wissner against Wissner the Supreme Court overruled the California judicial system's ruling that awarded the estranged wife one-half the proceeds of the National Service Life Insurance Act—when the husband changed his beneficiary at the time of divorce.

In a second case, Bland against Free (1962), the Texas Supreme Court ruling which upheld the right of survivorship in co-owned U.S. savings bonds was overturned by the U.S. Supreme Court based on congressional intent.

It must be pointed out that these decisions were handed down before the recent wave of divorce reforms which made no-fault divorce the rule in all but three States—making divorce readily obtainable upon unilateral demand.

Our soaring divorce rate, which peaked at 1 million annually in 1974, has caused us to rethink many of our policies affecting divorced persons.

In 1965 Congress amended the Social Security Act to provide benefits to former spouses of social security recipients married at least 20 years. Last month Congress reduced the marriage requirements to 10 years by passage of H.R. 9346, the social security financing amendments.

Even though Federal employees are not automatically covered by social security, no similar changes have been made to the Federal retirement system to provide equal protection to the spouses of Federal employees.

Since I first introduced H.R. 3951, my bill to provide former spouses of Federal employees a prorata share of the retirement benefits, my office has been deluged by calls and letters from women who after long careers as homemakers find themselves with no retirement or survivors benefits following a divorce. They send me copies of letters they receive from Federal retirement officials saying they are not eligible for benefits after a 30-year marriage. They send me copies of letters they have received from their congressional representatives pointing them toward the local welfare office, instructing them how to secure food stamps and medicaid.

We are a society which places value on home and family, encouraging women to stay home to take care of children. Yet one of the most severe forms of economic discrimination is that we fail to attach an economic value to this service.

The issue is whether these women have a vested interest in the retirement and death benefits earned during the marriage.

But the bottom line is that if Congress fails to reform its pension laws to recognize the nonmonetary contribution of the spouse, the taxpayers will pick up the tab in additional welfare costs.

While I approve of the intent of H.R. 8771, and find it a necessary first step, it is far from being an adequate solution to the economic problems of former spouses of Federal employees.

This bill applies only to the Federal retirement annuity and it denies State courts the right to assessing a portion of the survivor benefits to a former spouse.

Furthermore, current policy denies even the employee himself the right to request that his survivors benefits be signed over to his former spouse.

The death benefits are essential to the older woman—who becomes too old or sick to hold a job, who does not receive social security, who is not eligible for medicare or SSI.

While H.R. 8771 moves us in the right direction, I hope the Subcommittee on Compensation and Employee Benefits will hold additional hearings on another bill, H.R. 8317, introduced by Representative JIM LEACH, which addresses these issues.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the ranking member of the committee, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of H.R. 8771, a compromise measure unanimously approved by our committee, which simply authorizes the Civil Service Commission to honor any court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system.

This legislation is necessary, because under existing law the Civil Service Commission may only honor that part of a divorce decree that speaks to alimony and/or child support. As pointed out by Mrs. Spellman, this legislation not only has the support of our committee but is also supported by the administration.

Mr. Speaker, H.R. 8771 will bring a measure of equity to former spouses of Federal employees who through marriage have earned entitlement to some part of their spouses' annuity.

I, therefore, urge approval.

Mrs. SPELLMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, it is unjust that an ex-wife of a Federal employee cannot be eligible for some of the retirement and health insurance benefits earned by the former husband. I hold the view that marriage is an economic partnership and that homemakers—particularly those who "hold down the fort" at home, and thus enable the spouse to work—should receive some economic recognition for their long years of dedication to the home and family. All too often, the wife in this situation is left with little or no income and economic resources upon divorce. And after having spent many years in the home, reentry into the job market is extremely difficult.

It is a national disgrace that 2.3 million of this country's women over 65 are below the poverty level. I believe that we must have a system that enables everyone to have an adequate income and comfortable standard of living for themselves and their children. Unfortunately, many of our retirement systems are inadequate in this area.

In the House Post Office and Civil Service Committee, on which I serve, I participated in extensive hearings on the problems of ex-spouses whose former spouse was eligible for civil service retirement benefits. Many women and women's groups testified before the subcommittee and presented dramatic and distressing evidence of the economic adversities of a divorce for themselves and their children. As a result, the committee has reported a bill which I wholeheartedly support to allow the Civil Service Commission to honor all court orders dealing with the disposition of property in a divorce. Under the bill, the pension would be treated as "property" and the court could order that a portion of the pension should go to the ex-spouse. While not totally satisfactory, I believe that this bill is a good and important step toward recognizing the important contribution the ex-spouses, usually the woman, has made to the marriage, family and home. While this bill will not affect military personnel, it could be an important precedent for needed changes in the military retirement law and our efforts in the commitee have definitely elevated national attention to the problems of ex-wives.

Under the social security program, a spouse, if married for 20 years, can collect benefits as a widow or wife even if divorced and remarried or if the covered spouse remarries. This law may be a good model for our Federal pension plans and is a subject I will continue to pursue.

Mr. LEACH. Mr. Speaker, I have no further requests for time.

Mrs. SPELLMAN. Mr. Speaker, we have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill H.R. 8771.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RETIREMENT CREDIT FOR JAPANESE-AMERICANS

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9471) to amend title 5, United States Code, to provide that Japanese-

Americans shall to allowed civil service retirement credit for time spent in World War II internment camps.

The Clerk read as follows:

H.R. 9471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8332 of title 5, United States Code, relating to creditable service for civil service retirement purposes, is amended by adding at the end thereof the following new subsection:

"(1) (1) Any employee or Member who—

"(A) is of Japanese ancestry; and

"(B) while a citizen of the United States or an alien lawfully admitted to the United States for permanent residence, was interned or otherwise detained at any time during World War II in any camp, installation, or other facility in the United States, or in any territory or possession of the United States, under any policy or program of the United States respecting individuals of Japanese ancestry which was established during World War II in the interests of national security pursuant to—

"(i) Executive Order Numbered 9066, dated February 19, 1942;

"(ii) section 67 of the Act entitled 'An Act to provide a government for the Territory of Hawaii', approved April 30, 1900 (chapter 339, Fifty-sixth Congress; 31 Stat. 153);

"(iii) Executive Order Numbered 19489, dated October 18, 1944;

"(iv) sections 4067 through 4070 of the Revised Statutes of the United States; or

"(v) any other statute, rule, regulation, or order;

shall be allowed credit (as civilian service) for any period during which such employee or Member was so interned or otherwise detained after such employee became 18 years of age.

"(2) For the purpose of this subsection, 'World War II' means the period beginning on December 7, 1941, and ending on December 31, 1946.".

(b) Section 8334(g) of title 5, United States Code, relating to deposits, is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) any period for which credit is allowed under section 8332(1) of this title.".

SEC. 2. (a) The amendments made by this Act shall take effect the first day of the first month which begins after the date of the enactment of this Act.

(b) Subject to subsection (c) of this section, the amendments made by the first section of this Act shall apply with respect to annuities which commence before, on, or after the effective date of this Act, but no monetary benefit by reason of such amendments shall accrue for any period before such effective date.

(c) (1) An annuity or survivor annuity based on the service of an employee or Member who performed service described in section 8332(1) of title 5, United States Code, as added by the first section of this Act, shall, upon application to the Civil Service Commission, be recomputed in accordance with such section 8332(1).

(2) Any recomputation of an annuity under paragraph (1) shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received in the Commission.

(d) (1) The Civil Service Commission shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited under section 8332(1) of title 5, United States Code, as added by the first section of this Act, or to have any annuity recomputed under subsection (c) of their entitlement to such credit or recomputation.

(2) The Civil Service Commission shall, on request, assist any individual referred to in paragraph (1) in obtaining from any department, agency, or other instrumentality of the United States such information possessed by such instrumentality as may be necessary to verify the entitlement of such individual to have any service credited under such section 8332(1) or to have any annuity recomputed under subsection (c).

(3) Any department, agency, or other instrumentality of the United States which possesses any information with respect to the internment or other detention of any employee or Member as described in such section 83832(1) shall, at the request of the Commission, furnish such information to the Commission.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Maryland (Mrs. SPELLMAN) and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes each.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. ROUSSELOT. Mr. Speaker, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of H.R. 9471, a bill which would provide that Japanese Americans shall be allowed civil service retirement credit for time spent in World War II interment camps. This bill, which I cosponsored, was reported by the Post Office and Civil Service Committee on October 12, 1977, by a unanimous voice vote.

History has shown that there were never any proven acts of sabotage by Japanese Americans. As a result of Executive Order 9066, however, issued by President Roosevelt in 1942, 110,000 Japanese Americans were deprived of due process of law. They were forced from their homes, farms, businesses, and schools and removed to a segregated environment for an extended period of time. In the relocation camps, these people performed services which otherwise the Federal Government would have been forced to provide. For this work, ranging from teaching in the camps schools to maintenance activities, they were compensated at the token rate of between $12 and $19 per month. Technically they were Federal employees although they received no "fringe benefits" and were not allowed to participate in a retirement plan. In many ways, the Japanese Americans actually operated the camps, saving the Federal Government millions of taxpayer dollars.

I do not believe that there is a Member here today who does not recognize that a serious injury was done to, and injustice sustained by, these Japanese Americans interned as "security risks." There is wide public recognition of the tragic mistake to intern the Japanese Americans and some restitution has been made, notably through social security legislation which enables Japanese Americans interned to receive social security credits for the time they spent in the camps. H.R. 9471 would allow civil service retirement credit for time spent by Japanese Americans in World War II internment camps. The Civil Service Commission estimated last year that between 500 and 1,000 people would be affected by the enactment of H.R. 9471. It must be noted that some unfunded liability would result to the civil service retirement fund, although estimates have ranged from between $13,600 per individual to $21,700.

In recognition of the hardships experienced by internment and to bring justice and deserved compensation to a group of citizens who served our country well under the worst of circumstances, I urge my colleagues to support H.R. 9471. Through the enactment of this legislation, Congress can, in a substantive way, provide some measure of justice for a terrible wrong. We can correct an inequity which occurred during a period of national crisis and hysteria and we can thank the Americans of Japanese ancestry who have contributed so much over the years to the growth and development of our Nation.

Thank you, Mr. Speaker.

Mrs. SPELLMAN. Mr. Speaker, the sole purpose of this bill is to authorize civil service retirement credit for periods during which employees or members of Japanese ancestry were interned against their will in World War II internment camps.

Pursuant to an Executive order, issued on February 19, 1942, 110,000 persons of Japanese ancestry were placed in internment camps. Approximately two-thirds of these people were American citizens.

As a result of their confinement, in many cases up to 4 years, many of these internees experienced severe economic injury. They were in fact denied their inalienable right to live their lives in pursuit of life, liberty, and pursuit of happiness.

Notwithstanding the unpleasant living conditions and the emotional stress of confinement, many of these internees found ways to serve the very Government which had foresaken them. Many Japanese-Americans worked as doctors, nurses, laborers, teachers, and clerks in the camps in which they were interned. Others volunteered to fight the war and formed one of the most decorated units to emerge from World War II.

With the closing of the last internment camps in late 1946, a shameful situation, brought about by overreaction, was ended. Years, later, in recognition of the hardships experienced by the internees, two laws were passed during the 82d and 86th Congresses, which granted special civil service pay and retirement benefits to those individuals of Japanese ancestry who had been interned and who were employed by the Federal Government as of July 15, 1952. However, these

benefits were limited to those employees who: first, were separated from Federal service; second, lost opportunity for or were denied appointment to a civil service position; or third, were denied reinstatement to a civil service position.

Subsequent to the enactment of Public Laws 82–545 and 86–782, the 92d Congress, in recognition of the services performed by Japanese Americans during the most trying of times, as well as a desire to partially compensate those men and women for the indignities which they had suffered. Enacted Public Law 92–603 which granted social security credit to Japanese-Americans for the periods of their confinement, after age 18, in World War II internment camps.

The committee has found that there are a small number of individuals who have received little or no benefit from the legislation discussed above. These are the World War II internees who entered Federal service after July 15, 1952. As Federal employees, many will not qualify for social security benefits. This legislation recognizes the hardships experienced by these individuals and provides for them benefits similar to those granted by the Congress to other internees, and the committee urges its enactment.

Mrs. FENWICK. Mr. Speaker, will the gentlewoman yield?

Mrs. SPELLMAN. I am happy to yield to my colleague, the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague, the gentlewoman from Maryland (Mrs. SPELLMAN), for yielding me this time.

Mr. Speaker, I would ask the gentlewoman approximately how many people would benefit by this legislation?

Mrs. SPELLMAN. About 800.

Mrs. FENWICK. Mr. Speaker, I heartily support and applaud my colleague's desire to introduce this legislation. We committed a great wrong and it is time that this Congress redressed the wrong perpetrated by a previous administration.

Again I thank my colleague for yielding.

Mrs. SPELLMAN. Mr. Speaker, I thank the gentlewoman from New Jersey (Mrs. FENWICK) for her kind remarks.

Mr. Speaker, I would call the attention of the Members on both sides of the aisle to the fact that we have some photographs on the easel, one of which shows an elderly woman and an elderly gentleman being escorted by troops out of their home to be sent to an internment camp. We have only to look at their faces, and it is almost difficult to do so because one immediately recognizes all of the misery and the great injustices that was done them.

Then the next picture on the easel shows the living conditions within the camp.

There is a third picture which shows a closing out and evacuation sale—the merchandise being sold from the store of a family of American citizens of Japanese ancestry forced to dispose of their business, having been ordered to a detention camp. We must consider the great financial loss that was caused because of our own hysteria.

I thank the gentlewoman from New Jersey (Mrs. FENWICK) for supporting this legislation.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 9471, which I cosponsored and which would accord civil service retirement credit to certain Japanese-Americans interned during World War II.

The gentlewoman from Maryland, Mrs. SPELLMAN, has already explained the bill and the background of Congress' efforts to repair a small part of the damage done by Executive Order 9066 interning approximately 110,000 persons of Japanese ancestry in 1942. I will, therefore, confine my remarks to emphasizing that this is a very modest piece of legislation, both in cost and in terms of the very few who are affected. But it is profound in implication.

It is, therefore, with sincere disappointment that I note that the administration opposes the approach outlined in this bill. It seems to me that if our country is to effectively advocate respect for human rights abroad, we must do everything in our power to rectify abuses of human rights that have occurred in our own system of justice.

Ten years ago a former college roommate of mine, Daniel Okimoto, chronicled in a biography some of the repercussions of being raised in one of the internment camps.

He noted that he came to consider himself "an American in disguise, a creature part of, yet somehow detached from, the mainstream of American society."

Importantly he warned that there are a number of Americans today who, looking back on internment, fear it could be used against other minorities in the future, particularly those of different skin color.

This is the background of social injustice which this bill so modestly addresses.

I urge its adoption.

Mrs. SPELLMAN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, H.R. 9471 would provide civil service retirement credit to Americans of Japanese ancestry who were interned in relocation camps during World War II and who, since that time, have become Federal civil servants.

In 1942, shortly after the outbreak of World War II, President Franklin Roosevelt issued Executive Order 9066, authorizing the Secretary of War to designate military areas within the United States and to exclude any or all persons from those areas.

This Executive order initiated the process whereby more than 110,000 American residents of Japanese ancestry were evacuated and interned in relocation camps.

It is true that we were at war with Japan. We were also at war with Germany and Italy but no Americans of German or Italian descent were ever imprisoned in camps like these.

More than 70,000 of the persons interned were U.S. citizens. None of them were ever accused, indicted, or convicted of any illegal or criminal act. The sole reason for their removal and imprisonment was the nature of their ancestry.

As one who was interned in a camp along with members of my family, I can give personal testimony to the mental anguish and economic consequences endured by loyal American citizens forced from their homes, their friends, and their employment.

Moreover, these Americans suffered the humiliation of being classified as potential traitors to their country. Yet history has not recorded a single act of treason or sabotage committed by a Japanese American throughout World War II. Over 25,000 Japanese Americans served with distinction in the armed services during the war and many gave their lives as part of the famed 442d Regimental Combat team.

There were 10 "relocation camps" (as the Government chose to call them), located in remote and often desolate areas of the West and Midwestern United States. Life in the camps was far from pleasant. The evacuees lived in tar paper barracks surrounded by barbed wire fences. Each family had a total space of approximately 20 by 25 feet. Heat was provided by crude wood or coal burning stoves. Everyone slept on cotton mattresses, filled with straw and placed upon a single iron folding bed.

The environment in those camps was cruel and hostile. But Japanese Americans overcame the hardships and remained loyal to the country they loved. The internees themselves assumed the responsibility for running the camps. Since there was a terrible shortage of available medical personnel, medical care was provided by the inmates themselves. There was no one available to cook for those in the camps, so volunteers from the ranks of internees were solicited to prepare meals.

Carpenters and plumbers were needed to build housing for all the evacuees. Teachers, policemen, and farmers were also needed. These people were performing services which, under other circumstances, would have been provided by the Federal Government. Technically, then, the very people who were incarcerated were also serving as Federal employees. For their work they were compensated a very small amount, $12 to $19 per month.

Without this voluntary effort, the Federal Government would have had to spend literally millions of dollars and countless manpower hours that were instead available to the war effort.

In 1972, the U.S. Congress saw fit to allow Japanese Americans interned in the camps the opportunity to receive social security credit for the time spent in the camps.

However, a number of Japanese Americans became Federal employees after being released from the camps. As you well know, Mr. Speaker, Federal employees are not eligible to receive social security benefits because they have their own retirement system. H.R. 9471 would give Federal employees who were interned in the camps the same benefits which were

accorded to those working in the private sector. This group of Japanese Americans have devoted their entire careers to working for the very Government that forced them into these camps and they deserve at least the same kind of benefits as those working in the private sector.

Mr. Speaker, I would like to point out that those who stand to benefit from passage of the bill are already contributors to the civil service retirement fund and in many cases have been in the Federal service for 25 to 30 years.

Public Law 82–545 granted civil service retirement benefits to those internees who suffered a disruption or denial of their civil service careers as a result of internment. I think it is only fair to extend the same benefits to those who joined the Federal Government after their release from the camps.

There is no way to accurately measure the suffering which resulted from this tragic incident in our history. While some have estimated property losses at $400 million—it is a conservative figure and it is even more difficult to evaluate the lost income for Japanese Americans during the time they were held in the camps.

H.R. 9471 enjoys strong support in the House of Representatives with 75 cosponsors. Through its adoption, we can achieve some equity. In a narrow sense, we can provide to Federal employees the same treatment afforded to present and future social security recipients interned during World War II. On a broader scale, we can provide some redress for the wrongful and deplorable actions of some 30 years ago—taken in the name of "the national security"—which deprived 110,000 individuals of their constitutional and human rights.

Mr. Speaker, I urge the adoption of H.R. 9471.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I commend the gentleman from California (Mr. MINETA) for his statement in support of this legislation. He has referred poignantly to the relocation centers for Japanese Americans during World War II. I just want to say I had some experience with people who had been assigned to those centers during that period. I was at the time assigned to the Navy Japanese language school in Colorado for training. Had it not been for some of the American Nisei assigned to the relocation centers who volunteered to help out the instructing Navy personnel in the Japanese language, I do not think that program would have succeeded as well as it did. The people who came to the University of Colorado from those tar paper shacks the gentleman has described to do this job turned out to be some of the top Japanese American business people from the west coast. They proved to be excellent teachers, incidentally. It was a remarkable job of patriotism they undertook in spite of all the indignities that had been heaped on them in the relocation process. They merit our thanks and congratulations.

I support the gentleman's statement and hope the legislation will be passed overwhelmingly.

Mr. LEACH. Mr. Speaker, first I would like to congratulate the gentleman from California, whose leadership has brought this bill to the floor of the House.

I yield 2 minutes to the distinguished ranking minority member of the committee, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of the legislation, but just for the record I think the House should be advised that as of this moment at least the OMB is still opposed to the measure. Presumably they speak for the people downtown, so just for the record I would like to make that point.

Although this bill sailed through the committee with little trouble, the House ought to know that the official position of the Carter administration is in opposition to it. The Civil Service Commission in September submitted unfavorable views on the measure as introduced and—as far as I am able to determine—still holds those unfavorable views.

The bill grants a no-cost civil service retirement credit to Japanese Americans, who were interned during World War II and who were at least 18 years of age, for periods of such internment.

Under existing law, Japanese Americans employed as of July 15, 1952, who were Federal employees—or who lost opportunity for Federal appointment from civil service registers—at the time of internment, and who would have lost service credit, tenure, and status as a result, are already entitled to credit for the internment period for retirement, leave, and other purposes where length of service is a factor in Federal employment.

H.R. 9471 would extend the service credit privilege to individuals who were not Federal employees or even applicants for Federal service at the time of internment and who, therefore, incurred no loss of Federal service credit, status, or tenure because they were interned.

In its report, the Civil Service Commission gave a number of reasons for opposing this grant of credit on such a basis. The Commission indicated that it would not oppose extension of our present law's benefits to all Japanese Americans who became Federal employees, whether or not they were employed in 1952, or expansion of the credit period if the criteria of the present law are met.

These criteria have to do with an individual having been either uprooted from a Federal job or denied a Federal appointment during the period of internment.

This bill would change our current law by saying that some form of restitution is due Japanese Americans who were neither uprooted from Federal jobs nor denied Federal employment due to internment—if they later became Federal employees.

While it is rumored that the Civil Service Commission may have modified its position on this bill, no official blessing has come down from the Office of Management and Budget. That, of course, would be a key agency in having the President's ear for advice on a possible veto.

I offer this information simply in the interest of having the House aware of the cloud hanging over this legislation and to be prepared if the White House insists in its opposition.

Mrs. SPELLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, as a coauthor I, too, urge the adoption of this bill. A number of years ago while I was a member of the California Senate I assisted in getting a similar bill put into the laws of the State of California. It has been very well received and has worked out very well.

I also point out, and the Members will recall, that some 6 or 7 years ago the House did pass, and it became law, another bill which wiped out the possibility of internment camps in the future.

We have been attacking the problem of repairing the damage of the World War II Japanese internment piecemeal. This particular bill is an important step. There may be one or two other bills still to come, but I urge everyone to vote in favor of this bill.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I fully support this legislation.

I have a rather large and really personally close group of Japanese Americans back home, and this legislation has been called to my attention any number of times. I think we have heard the expression of what has happened here these many, many years ago. It really does seem just a little late in history that we are reaching the point where we are perhaps bringing justice to a group of loyal Americans who have so definitely displayed their great forbearance with a nation that really has I think sorely tried them in this period of history.

I hope this legislation will be passed, and I hope any other matters of this character would quickly come forward so we could perhaps wipe this slate clean.

Again I thank the gentleman for yielding.

Mrs. SPELLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, I rise in enthusiastic support for this legislation. I would like to commend my colleague and good friend, the gentleman from California (Mr. MINETA) for his leadership on this legislation. I think the step that we hopefully will be taking by our vote today represents a very modest compensation, if you will, for a wrong that has already been discussed in some detail here a few minutes ago.

If we are going to be honest with ourselves, we have to realize that this country has done pitifully little to compensate these 110,000 Americans of Japanese descent who for no reason other than racial prejudices have been subjected to the types of treatment they were during World War II; so I hope, as my colleague, the gentleman from California (Mr. DANIELSON) already indicated, this

legislation will, in the words of Winston Churchill, merely represent the end of the beginning, rather than the beginning of the end.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I am pleased to rise in strong support of H.R. 9471 because I believe it rights some wrongs we made during World War II and have since left unattended. Furthermore, I am pleased and proud to associate myself with the remarks of my fellow Californian, NORMAN MINETA, who was a prime mover in this legislation which will provide civil service retirement credit for Japanese Americans who were forced to spend time in World War II internment camps.

This measure is directed toward trying to compensate partially for what many of us in California saw as a serious injustice. In 1942 we interned approximately 110,000 persons of Japanese ancestry—of which two-thirds were actually U.S. citizens. The living conditions in these camps were inadequate and the confinement was intolerable.

Since 1946, with the closing of the last camp, the Congress has enacted several measures to rectify this breach of equality and justice. This bill seeks to provide benefits to Federal employees who were World War II internees and were not covered by previous legislation.

In my district there are a number of Japanese Americans, many who are outstanding citizens. I can personally attest to their commitment to the United States throughout the years and I believe this is the least we can do to put the injustice of internment behind us.

Mrs. SPELLMAN. Mr. Speaker, may I apologize to my colleague, the gentleman from California (Mr. LEGGETT), for not having looked on the other side of me because, indeed, the gentleman was in the Chamber and ready to speak.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I want to thank the gentlewoman from Maryland for addressing this issue and attempting to bring a small degree of equity to the survivors of Japanese-American internment camps during World War II. As has been indicated, 110,000 persons were involved. We did not intern everybody. We, in fact, had lots of Japanese Americans who overcame internment, to join military units, invade some of the primary aggressor bases around the world, and make world history with respect to valor and courage in their activities in those encounters.

This legislation is not, unfortunately, all that monumental. It would benefit nominally that group of folks who were age zero to 5 in 1940, and there were approximately 7,134 of those; and that group that were aged 5 to 9 of Japanese Americans in 1940. There were approximately 8,281 of those.

There is an additional group, age 10 to 14. There were about 12,743 of those.

There is an additional group of 15 to 19 years of age. There were around 17,893 of those.

There is an additional group of 20 to 24 years of age. There were some 14,193 of those.

There is an additional group of 25 to 29 years of age and there were about 7,075 of those. Of course, the oldest are now 65 years of age. There is a total group of 67,319. All of those are not working for the Federal Government. We estimate there are somewhere between 500 to 1,000 that are currently working for the Federal Government.

The State of California has indicated that it certainly feels shamed, and feels that actions of this type require a degree of compensation, if compensation can be made in money; and as a result, the State of California some years ago has determined that retirement credit will be allowed for time spent in these internment camps. And so, for the Federal Government now to follow in the footsteps in the State of California, I think, is only reasonable. There are some 700 to 800 people that are involved who will benefit by this legislation at the rate of perhaps $500 to $1,000 per year; a very nominal expense.

Mr. Speaker, for a number of years I have proposed and supported the passage of legislation to provide civil service retirement credits for Japanese-Americans interned during World War II. I believe that the time has come when we must act on this matter. I am, therefore, extremely happy that we are considering H.R. 9471 on the floor today.

In the spring and summer of 1942, 110,000 persons of Japanese ancestry were evacuated from designated areas of Washington, Oregon, California, and Arizona and placed in war relocation camps. The forced evacuation of these people, the great majority of whom were American citizens by birth, was one of the most unconscionable decisions ever made by our Federal Government. Moreover, the impact on the State of California was enormous. With a substantial Japanese-American population, California was the State most responsible for carrying out internment orders by establishing camps and evacuating thousands of individuals. Fearful of forcible separation from their families and loyal to the American war effort, these citizens willingly cooperated with the military personnel assigned to carry out the evacuation orders. Bundles, trunks, and odd pieces of furniture lined sidewalks and train stations within the State while bewildered evacuees awaited transportation to the camps they were expected to call home. Those who had worked many years to achieve some degree of security suffered irreparable financial losses as businesses were closed and properties confiscated. Although internees attempted to make the best of their situation, life in the camps can only be described as bearable at best. This well-known story of the extreme sacrifices of California's Japanese Americans, as well as those of other Western States, requires no further description. What is imperative now, is that we acknowledge our responsibility of internment some 30 years ago.

Today, we have before us a piece of legislation which would at least partially amend for this tragic mistake by granting retirement credit to those internees who have since pursued Federal careers. It has been my privilege to introduce such legislation in the 93d and 94th Congresses, as well as in this Congress. Past administrations have chosen to oppose these efforts ostensibly on grounds of "economy." Now, however, I believe the political climate is such that the proposed legislation can be successfully adopted.

In enacting this admirable proposal, Congress can provide a measure of justice to a small group of loyal citizens who have devoted their entire careers to the service of the very Government that prompted their incarceration. In effect, these persons were Federal employees even during imprisonment. From 1942–46, internees willingly performed services that would otherwise have had to have been provided, of necessity, by Federal personnel. As teachers, policemen, medical and military personnel, carpenters, and plumbers, these dedicated Americans received a pitiful compensation of $12 to $19 a month—10 cents an hour. Without this voluntary effort, the Federal Government would have had to expend literally millions of dollars and countless manpower hours that were instead available to the war effort. Is it not time that we recognize the tremendous sacrifice and effort on the part of these persons to aid their country, the United States, in time of war? Were they not, in reality, Federal employees, by virtue of the services performed while unjustly incarcerated?

Past action by Congress has confirmed the fact that internees did, indeed, perform valuable services for which retirement credit should be available. Public Law 82–545, amended in September 1960, granted civil service retirement benefits to those internees who suffered a disruption or denial of their civil service careers as a result of internment. As recently as 1973, Congress passed legislation affording retirement credit to social security recipients for time spent in war relocation camps. Moreover, a number of States, including California, now credit State employees for the time period during which they were interned. Are we to exclude this small group who were, for all intents and purposes, in the Federal employ while interned, and have since pursued civil service careers? Denial of these benefits flies in the face of the aforementioned State and Federal legislation. We can in no way attempt to make amends for the misguided treatment of our Japanese-American citizens during World War II if we are to deny compensation to one group of wage earnerns while making it available to all others. Enactment of H.R. 9471 would correct this blatant inconsistency in our efforts to at least partially recompense for the sacrifice and loss suffered by this most loyal group of American citizens.

Opponents argue that implementation of the proposed program would generate pressures for extending retirement credit during any time period in which an employee-employer relationship did not exist between the Government and any

individual. It is important to note, however, that this legislation does not seek to indemnify all World War II internees regardless of occupation or length of Federal service. Those that stand to benefit from passage of the bill are already contributors to the Civil Service Retirement Fund and in many cases have been in the Federal employ for 25 to 30 years. These people are asking for retirement credit not simply as retribution for abuses suffered during World War II; but, as an acknowledgement of the fact that services performed during internment should realistically be considered Federal employment. At issue here is a unique case, the circumstances of which preclude its utilization as a universal precedent. The opposition's fears that granting the requested credits will stimulate false claims upon the Civil Service Retirement Fund and lead to its degradation are, thus, entirely unfounded.

Perhaps the greatest evidence discrediting such a misconception is the overwhelming support the measure has enjoyed by many Federal employee unions and organizations whose members are contributors to the retirement fund. Such groups include: The American Postal Workers Union, the National Federation of Federal Employees, the National Treasury Employees Union, and the National Association of Retired Federal Employees. This united front of Federal employees is a convincing argument for the necessity and demand for the requested retirement credit.

In a second related argument against this legislation, the opposition contends that the cost of the program is too high to warrant its adoption. However, the Congressional Budget Office estimates show that the annual cost of the program is $617,000 a year and that the total number of eligible recipients is of the order of 750 people. This translates into an increased expenditure of about 8 cents for every $1,000 now dispersed through the Civil Service Retirement Fund. The argument that the program is too costly simply does not hold water. It is my contention that we can no longer allow this necessary legislation to be thwarted by those who have presented this argument in the past. I am confident we would all agree that the actual cost of the program is a small price to pay in restitution for the abuse these loyal Americans suffered at the hands of the Federal Government some 30 years ago.

Executive Order 9066 uprooted 110,000 men, women, and children from their homes, their livelihood and schools, and denied them the right to live as Americans. Today we recognize the tragedy of this mistaken decision to intern our Japanese-American citizens. These patriotic and long-suffering members of our communities now facing retirement after years of Federal service are humbly requesting retirement credit for the time spent in internment. They are not asking for a handout, but a small compensation for the months and years taken from their lives. There is no price tag for the sacrifices made by these Japanese-Americans, we can only hope to extend to them the same degree of compensation already enjoyed by those internees who are social security recipients, State employees, or were civil service employees prior to internment. With this in mind, I urge your vote in favor of H.R. 9471—a commendable effort to compensate for one of the most tragic episodes in the history of our Nation.

Mrs. SPELLMAN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I appreciate the gentlewoman yielding time. I want to commend her and my good friend and colleague from California (Mr. MINETA) for this legislation. I think that this was one of the most shameful acts in the history of the United States, and I think it is just and significant that we are trying to make amends for it even in this small way. I am pleased to be associated with it, and I hope that perhaps we can even take some further steps.

I was in Japan in 1946 and 1947 and met some of the Japanese-Americans who had been interned and felt themselves subjected to such humiliation that they left the United States renouncing their citizenship. I think we should take some steps to encourage their return as full-fledged American citizens.

Again, I want to commend the committee members, and especially Mr. MINETA, for their efforts.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I rise in wholehearted support of this legislation. It may seem a little bit odd that there are so many of us rising from the State of California, but perhaps we feel a little bit more uniquely about this problem than some of our other colleagues, because it happened to us.

I am particularly interested in this legislation because, as a young man in California, I attended elementary, high school, and college with a good many of my friends who were of Japanese ancestry, and when December 7 came, and shortly thereafter the proclamation, I believe that I reflected the outrage of people of my age when our friends were interned.

When I saw their assets, as the wolves moved in picking up lifelong assets that these individuals had earned, for 10 and 5 cents on the dollar, as these people had no choice but to sell before they were rushed off to the internment camps, it seemed strange to me that we were not interning any Italian-Americans, with whom we were at war; we interned no German-Americans, with whom we were at war; only these people because they were easy to identify, as a wave of hysteria swept across this Nation.

What we do today is certainly evidence of the strong sense of shame that we have at having reacted in this manner so many years ago. What we do here today is only symbolic of an apology, if you will, to those individuals. It is a tiny step.

If Members believe that the United States is not, indeed, ashamed of this, let me remind those of you of my era who served in World War II, that you could go back this very day to many of the camps you served in, and find those camps still standing. Then, I would ask you to come to my district and visit Manzanar and see if there are any buildings standing there. I will tell you that you will see nothing but a small gatehouse, because in our shame we wiped Manzanar off the face of the Earth as if to obliterate a blot on this country's honorable escutcheon.

I vigorously hope that there will be not one dissenting vote on this piece of legislation. I congratulate my colleague from California (Mr. MINETA) as we express our apologies to a group of wonderful American citizens who have done so much so well for our country.

Mr. VAN DEERLIN. Mr. Speaker, the memory of the internment of Japanese-Americans during World War II is a painful one. But we must not let it dim with the passage of years.

Legislation before us today, H.R. 9471, introduced by my fellow Californian, Congressman MINETA, focuses our attention on one group of these internees. Those who were employed by the civil service after 1952 may still be suffering disabilities as a result of their internment. If they do not qualify for social security, the time spent in the camps will not be credited to any retirement pension plan.

Is it right that any of these individuals should go uncompensated for these "lost" years? This would be particularly unjust because, despite the treatment the internees received, most worked to serve the United States as doctors, nurses, laborers, teachers, clerks, and soldiers.

Though we can never repay these individuals in full for the humiliation and hardships of those years, we can at least assure that all receive compensation, in the form of retirement credit, for their sufferings.

Mr. WHALEN. Mr. Speaker, most Americans know that on December 7, 1941, our Nation was attacked by Japan, and hence, drawn into World War II. It was truly a "day of infamy."

Yet not all Americans are aware of how, during this period, our Government failed many of its own citizens. We slandered innocent Japanese-Americans as "traitors." We stripped them of their freedom and thrust them into a world of barbed wire, searchlights, tar paper barracks, and armed sentries. In short, by allowing pettiness and suspicion to supersede constitutional rights, we acted disgracefully and deserted those principles upon which our Nation is founded.

It is not possible for us to rationalize what we did to the Japanese-Americans. Like others, their ancestors came to this land with the same hopes and aspirations of other immigrant groups. Like their fellow Americans, they fought valiantly in World War I and in both the Pacific and European theaters during World War II.

Many Japanese-Americans served in World War II, even though our Nation denied them the full rights of citizenship. Their highly distinguished service during that war seems even more ex-

traordinary when we realize that their sacrifices were made at a time when their friends and family were herded like cattle into lonely confinement, far from the free world our Constitution guarantees.

Yet their sacrifices made in these wars were indicative, not only of a willingness to defeat a common enemy and to preserve those principles our Nation holds dear but, too, of their beliefs that eventually the injustices suffered would be corrected, that the ideals of our country would ultimately triumph.

We have before us a bill which will grant civil service benefits to Japanese-Americans interned during World War II. Aside from the monetary aspects, the symbolism of this bill is highly important. While we can never adequately compensate these citizens for the damage done to their lives, we can vindicate their faith in their country. Already, in the Social Security Amendment of 1972, Congress attempted to compensate persons eligible for social security by making the time spent in the camps applicable toward social security credit.

By passing H.R. 9471 we will reaffirm that what happened to one group of citizens was unjust and that such odious acts must never occur again. This bill will reinforce the belief that our Nation should not be governed by hysteria and stereotypes but the principles of law, reason, and brotherhood.

As I find such a belief to be most sacred, I, therefore, urge the expeditious passage of this measure.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill H.R. 9471.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8771 and H.R. 9471.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

FISHING VESSEL LOAN GUARANTEES

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9169) to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel, as amended.

The Clerk read as follows:

H.R. 9169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1104(b)(2) of the Merchant Marine Act of 1936 (46 U.S.C. 1274(b)(2)), is amended by striking the semicolon at the end thereof, and inserting in lieu thereof a colon and the following: *"Provided, further,* That in the case of any vessel to be used in the fishing trade or industry, such obligations may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the vessel;".

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 9169 is to place fishing vessels in the same category as most other vessels eligible for Federal loan guarantees under title XI of the Merchant Marine Act of 1936.

Currently, title XI of the act authorizes the Secretary of Commerce to guarantee private credit financing up to 75 percent of the cost of constructing or reconstructing certain domestic vessels. However, specific provisions of the Act make exceptions to authorize 87½ percent guarantees for all vessels eligible for mortgage aid under section 509 of the act and for certain barges. Fishing vessels do not qualify for any of the exceptions, therefore, the general 75-percent limitation remains applicable to all fishing vessels.

Mr. Speaker, the National Marine Fisheries Service estimated that in 1974 there were about 85,000 U.S. boats and vessels actively engaged in fishing. Of this total, about 15,000 consisted of vessels of 5 net tons and over, and these are the vessels that are eligible to participate under this XI guarantee program. According to the Coast Guard's 1974 registry of fishing vessels, the average age of these vessels was about 21 years.

Mr. Speaker, when we passed the 200–mile fisheries zone legislation in 1976, we committed ourselves at that time to support and encourage the development of the fisheries resources off our coastal shores—particularly those that were underutilized or not utilized by our fishermen—in order to increase their production so that the citizens of the United States could benefit from the increased food supply, employment opportunities, and revenues which could be generated by this greater productivity.

Mr. Speaker, I might also point out that more than 60 percent of the fish we consume in the United States consists of imports.

The potential for increased fisheries production in the United States to assist in meeting our fisheries' needs is enormous and a wise and forward looking fisheries program will call for the rehabilitation of our domestic fishing fleet to assist in meeting this need. H.R. 9169 will go a long way in providing this assistance.

Since 1973 only 157 vessels of various kinds have been built under the title XI guarantee program. By increasing the obligation guarantee to a maximum of 87½ percent it will make the title XI program become an even more important avenue for financing fishing vessel construction and for increasing our fisheries production.

Mr. Speaker, I now yield such time as he may consume to the gentleman from California (Mr. LEGGETT), chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. LEGGETT. Mr. Speaker, I thank the committee chairman for yielding this time to me.

Mr. Speaker, H.R. 9169 is a simple bill and it will only do one thing. It will authorize the Secretary of Commerce—under title XI of the Merchant Marine Act of 1936—to guarantee up to 87½ percent—which is presently 75 percent—of the actual cost of constructing or reconstructing vessels designed for commercial use in the fishing trade or industry of the United States.

Mr. Speaker, this will result in fishing vessels being placed in the same category as most other vessels receiving Federal loan guarantees under the act.

Mr. Speaker, it is estimated the enactment into law of this legislation will not result in any additional cost to the Federal Government. In fact, it could result in realized revenue based on past experience with the administration of this program by the Department of Commerce. In this regard, the Maritime Administration, which administers all but $50 million of a $7 billion program, has experienced only 2 losses in the last 10 years, and a total of 10 in the last 20 years. This record translates into payments on obligations of approximately $15 million compared to realized revenues of approximately $100 million. The National Marine Fisheries Service, which administers $50 million of the $7 billion program, has had a similar experience. During the 17 years of its program, accumulated reserves have amounted to approximately $1.6 million while payments on obligations have been approximately $300,000.

Mr. Speaker, H.R. 9169 has the support of the administration, it was unanimously reported out of our Committee on Merchant Marine and Fisheries, and it has the strong support of our fishing industry.

Mr. Speaker, I think H.R. 9169 is a good bill; it will go a long way toward rebuilding our obsolete fishing fleet and I urge its prompt passage.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, as I understand it, the present practice, as exemplified by the following case, pertains only to commercial and not to all fishing vessels—or am I wrong about that?

In any event, this is the case: The *Stuyvesant* went down the ways in Brooklyn at a cost of $63 million of which $9 million was put up by the company and $27 million by the Federal Government, with the remainder yet outstanding in loans guaranteed by the Government.

Now, would this bill open it up to fishing vessels? That, it seems to me, would be most useful. Would this same procedure still be open to them, or would this legislation be necessary to make it open to them?

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Speaker, as to the boat to which the gentlewoman referred, undoubtedly if it had Federal money in it, it would in fact be under what we call the CDS, or the construction differential subsidy, that we provided under a separate act for merchant marine ships.

Mrs. FENWICK. I see.

Mr. LEGGETT. Normally that CDS program, just in round numbers, amounts to about $100 million or $150 million a year. The ODS subsidy, which subsidizes the wages of seamen in the operation of the ship, amounts to roughly $200 million to $300 million a year.

Mrs. FENWICK. Right.

Mr. LEGGETT. The fishing boats are not entitled to either the CDS or the ODS.

Mrs. FENWICK. I understand that.

Mr. LEGGETT. All they are entitled to is a loan guarantee.

Mrs. FENWICK. And no construction aid?

Mr. LEGGETT. And no grant construction aid.

So that all of this money we are talking about is not Government money; it is banks' money. So if the bank wants to finance it, say, at 100 percent, it can get an 87½ percent guarantee. It is very much like FHA or some of the other housing guarantee programs.

The fact that the Government has experienced no losses indicates that the program, which is a relatively small program, is well thought out.

Mrs. FENWICK. Mr. Speaker, if the gentleman will yield further, it seems to me most proper that we should to some extent aid the fishing industry, since we have so handsomely supplied the merchant marine with aid. This does not seem to me to be a very extravagant program.

Mr. LEGGETT. It is not extravagant at all.

Of course the policy not only of this administration but of the last three administrations before that—and we should include them all—has been not to do too much for the fishing industry.

Mrs. FENWICK. Why is that?

Mr. LEGGETT. Well, because they thought they were WPA-ing it.

Now, with the 200-mile fishing limit bill and with the new conservation limit legislation, we have had in mind redeveloping the American fisheries, and we still want to accomplish that. The gentleman from New Jersey (Mr. FORSYTHE) and I have a lot of work to do in monitoring this program to see that the fishing industry is in fact built up. We are trying to close out some of the foreigners, and we must build up the domestic fisheries even further.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for his explanation.

Mr. FORSYTHE. Mr. Speaker, I rise in support of H.R. 9169, which amends title XI of the Merchant Marine Act of 1936 by increasing the guarantee authorization from 75 to 87½ percent.

While the present program may satisfy the capital needs of large commercial fishing enterprises, the fact of the matter is that most of our domestic fishermen are small, independent businessmen. Considering the rapidly rising costs of constructing new fishing vessels, the great majority of our fishermen are unable to generate the 25-percent equity contributions required by the current law. For this reason, title XI, as currently written, is somewhat ineffective in alleviating the fishing industry's equity capital problem—and this is a problem we must address.

The fisheries off the U.S. coast are capable of supplying the U.S. fleet with eight times the amount of fish currently harvested and with the enactment of the Fishery Conservation and Management Act, U.S. fishermen were given priority access to these extensive fish stocks.

However, to fully utilize this resource, the domestic fleet must be modernized and expanded. In fact, the National Marine Fisheries Service estimates that if domestic fishermen are to provide two-thirds of the U.S. supply of fishery products in 1985, a $900 million investment in new vessels will be required. H.R. 9169 will facilitate this investment and will accelerate the revitalization of our fishing industry.

Mr. Speaker, I urge the adoption of this legislation.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of H.R. 9169, a bill to amend title XI of the 1936 Merchant Marine Act authorizing the Secretary of Commerce to guarantee loans of up to 87.5 percent for the cost of constructing or reconstructing fishing vessels.

Increasing the maximum guarantee from the current 75 to 87.5 percent will assist our fishermen in obtaining long-term financing and will result in increased domestic fisheries production.

This legislation is particularly significant as we approach the first anniversary of our 200-mile fishing limit. The law went into effect on March 1, 1977. We are beginning to see the benefits of our conservation efforts in terms of a steadily increasing supply of all fisheries species. The increased production available to our domestic fishermen together with the financing of new vessels, as provided for by this legislation, will mean a healthier domestic economy and a dependable supply of fish and fish biproducts for the American consumer.

I urge my colleagues to join me in supporting this meaningful and worthwhile legislation.

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I certainly rise in support of H.R. 9169, and I would like to start by commending the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. MURPHY); the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT); and my distinguished colleague, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Speaker, I want to commend the gentleman from Mississippi (Mr. LOTT). This is his bill, and certainly this bill was pioneered out of the gulf area. It is a very good idea, and I certainly hope that it will result in the building of a lot of ships down in the gulf, in the northwest, and in the northeast areas. I really hope this program works and assists in rebuilding our obsolete fishing fleet.

Mr. LOTT. Mr. Speaker, I thank the gentleman from California (Mr. LEGGETT) very much.

I think the program will work. I appreciate the very expeditious manner in which the gentleman has handled this legislation. I think it will help.

Mr. Speaker, the gentleman preceding me pretty well explained what this bill will do, but let me go into it a little further.

I am pleased to address this House today in support of H.R. 9169, legislation amending title XI of the Merchant Marine Act of 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ percent of the actual or depreciated actual cost of each vessel.

At this time certain title XI provisions authorize 87½-percent guarantees for first, all vessels eligible for mortgage aid under section 509 of the act; and second, certain barges, whether or not eligible under section 509. Fishing vessels do not qualify under either of these exceptions and the general 75-percent limitation remains applicable to all fishing vessel guarantees.

H.R. 9169 is designed to place fishing vessels on an equal status in the law with most other vessels qualifying for title XI guarantees. In doing so the increase to 87½ percent of cost from the present 75 percent will make the fishing vessel portion of the loan guarantee program much more responsive to the long-term debt capital needs of the fishing industry.

Enactment of this legislation will result in no additional cost to the Federal

Government. The cost of administering this program is paid by user fees, rather than appropriations.

Although it is difficult to assess the risk of loss to the Treasury, recent defaults, and I understand there have only been 2 losses in the last 10 years and 10 in the last 20 years, have been negligible for fishing vessels with financing guaranteed by the fund. In fact, the fund has shown a net income in each of the past 7 years.

It is hoped that the enforcement of the 200-mile limit jurisdiction will help to expand the present U.S. fishing fleet and enable the industry to recoup some of the losses it has experienced over the past 50 years. At the turn of the century, the fishing industry was a close-knit, family operation, passed from father to son. This is a tradition that has passed away, due primarily to the depletion of our marine resources, low prices paid to the fisherman for his product, and the ever-increasing cost of vessel construction.

It has come to my attention that the seriousness of the problem is breeding fraud against the Government. I understand that in some cases shipbuilders are padding the price of a vessel quoted on a loan application in order to make up for the portion of the downpayment the purchaser cannot meet. Certainly this is a despicable practice, but I have heard of several small fishermen who would be out of business today if it were not for this back door approach.

Today's fishing fleet is, for the most part, made up of vessels which are in need of major repair or replacement. Those wishing to enter the fishery are hampered in their efforts, particularly with regard to financial assistance by the Government. At the present time and at present construction prices, only the wealthy can qualify for Government-guaranteed loans to enter the fishing industry. Those people who work as engineers, deckhands, and fishermen in today's fishery may never have the money to become owner-operators, thus causing the industry to become a virtual tax dodge for persons not truly interested in the state of the fishery.

Therefore, I urge the passage of H.R. 9169 so that our Nation's fishermen will be required to make a downpayment of no more than 12½ percent of their vessel's cost.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's yielding.

I am impressed by the arguments that he and the others who have spoken have made on behalf of this particular bill, and I will be voting for it.

I just want to point out, Mr. Speaker, that those of us from New York City will have occasion later on this year to come before this House and also point out the dire needs of our city and the dire needs of our people in that city.

Of course we also need the benefit of and the extension and renewal of loans and perhaps some new type of loans which also do not cost the Federal Government any money at all, in fact, at the current rates they are making the Federal Government some $10 million. So I appreciate the purpose of the gentleman and support it. I hope that when the appropriate time arises the gentleman will listen very carefully and support the position that those of us from New York will be advancing for a loan program for the city of New York.

Mr. LOTT. I think that that is certainly a well-timed statement by the gentleman from New York (Mr. WEISS) and I appreciate his remarks.

Mr. Speaker, again I thank the gentleman from New Jersey (Mr. FORSYTHE) for yielding me this time.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I appreciate very much the gentleman yielding me this time but I will not take the full 5 minutes.

Mr. Speaker, I rise to endorse and support this legislation. I believe it will be of some assistance to my area. Again I reluctantly must mention that the fishery industry in the gulf coast of Texas, every time that we have had a fishing agreement with other nations it seems that it works to the disadvantage of that industry in my area. However, I think this is a small way at least for some initiative by the Congress to try and assist them as best we can.

I might add that these "farmers of the sea" if we may call them that, are having the same drastic problems as the farmers of the land are. This is a small way to try to assist them and rectify what the administrations past and present in their arrangements with other countries have not been helpful to these people. I am glad that now we are going to at least have this small measure of support, such as these guarantees. If you would look at the figures presented by the committee, you will see that there has been very, very little loss in this area and that mostly it has been a profit making operation. I think it would be well to continue this program. I thank the chairman and my colleagues on the committee, and respectfully ask all my colleagues in the House to support this legislation.

Mr. MURPHY of New York. I have no further requests for time.

Mr. FORSYTHE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 9169, as amended.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules. Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 9165, by the yeas and nays.
H.R. 8771, by the yeas and nays.
H.R. 9471, by the yeas and nays.
H.R. 9169, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

GEORGE C. MARSHALL STATUE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 9165).

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and pass the bill H.R. 9165, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 351, nays 22, not voting 59, as follows:

[Roll No. 5]

YEAS—351

Abdnor	Caputo	Fascell
Akaka	Carr	Fenwick
Allen	Carter	Findley
Ambro	Cavanaugh	Fish
Ammerman	Cederberg	Fisher
Anderson, Ill.	Chisholm	Fithian
Andrews, N.C.	Clausen, Don H.	Flippo
Andrews, N. Dak.	Clawson, Del	Flood
Annunzio	Clay	Florio
Applegate	Cleveland	Flowers
Armstrong	Cochran	Foley
Aspin	Cohen	Ford, Mich.
Badham	Coleman	Ford, Tenn.
Bafalis	Collins, Ill.	Forsythe
Baldus	Conable	Fowler
Barnard	Conte	Frenzel
Baucus	Corcoran	Fuqua
Beard, R.I.	Corman	Gaydos
Beard, Tenn.	Cornell	Gephardt
Bedell	Cotter	Gibbons
Beilenson	Cunningham	Gilman
Benjamin	D'Amours	Ginn
Bennett	Daniel, Dan	Goodling
Bevill	Daniel, R. W.	Gore
Biaggi	Danielson	Gradison
Blanchard	Davis	Grassley
Blouin	de la Garza	Gudger
Boggs	Delaney	Guyer
Boland	Derwinski	Hagedorn
Bolling	Devine	Hall
Bonior	Dickinson	Hamilton
Bonker	Dicks	Hammer-schmidt
Brademas	Dingell	Hanley
Breckinridge	Dodd	Hannaford
Brodhead	Downey	Harkin
Brooks	Drinan	Harrington
Broomfield	Duncan, Oreg.	Harris
Brown, Calif.	Duncan, Tenn.	Hawkins
Brown, Mich.	Eckhardt	Heckler
Brown, Ohio	Edgar	Hefner
Broyhill	Edwards, Ala.	Heftel
Buchanan	Edwards, Calif.	Hightower
Burgener	Eilberg	Holt
Burke, Fla.	Emery	Holtzman
Burke, Mass.	English	Horton
Burleson, Tex.	Ertel	Howard
Burlison, Mo.	Evans, Colo.	Hubbard
Burton, John	Evans, Del.	Huckaby
Butler	Evans, Ga.	Hughes
Byron	Fary	Hyde

Ichord	Montgomery	Shuster
Ireland	Moorhead, Calif.	Sikes
Jenkins	Moorhead, Pa.	Simon
Johnson, Calif.	Moss	Sisk
Johnson, Colo.	Motti	Skelton
Jones, N.C.	Murphy, Ill.	Slack
Jones, Okla.	Murphy, N.Y.	Smith, Iowa
Jones, Tenn.	Murtha	Smith, Nebr.
Jordan	Myers, John	Solarz
Kasten	Myers, Michael	Spellman
Kastenmeier	Natcher	St Germain
Kazen	Neal	Staggers
Kelly	Nedzi	Stangeland
Ketchum	Nichols	Stanton
Kildee	Nix	Stark
Kindness	Nolan	Steed
Kostmayer	Nowak	Steers
Krebs	O'Brien	Steiger
Krueger	Oakar	Stockman
LaFalce	Oberstar	Stokes
Lagomarsino	Obey	Stratton
Le Fante	Ottinger	Studds
Leach	Panetta	Taylor
Lederer	Patten	Thompson
Leggett	Pattison	Thone
Lehman	Pease	Thornton
Lent	Perkins	Traxler
Levitas	Pettis	Treen
Lloyd, Calif.	Pickle	Trible
Lloyd, Tenn.	Pike	Tsongas
Long, La.	Pressler	Udall
Long, Md.	Preyer	Ullman
Lott	Price	Van Deerlin
Lujan	Pritchard	Vander Jagt
Luken	Pursell	Vanik
Lundine	Quillen	Vento
McClory	Rahall	Volkmer
McCloskey	Railsback	Waggonner
McCormack	Rangel	Walgren
McDade	Regula	Walker
McEwen	Reuss	Wampler
McFall	Rhodes	Watkins
McHugh	Richmond	Waxman
McKay	Rinaldo	Weaver
McKinney	Risenhoover	Weiss
Maguire	Roberts	Whalen
Mahon	Robinson	White
Markey	Roe	Whitehurst
Marks	Rogers	Whitley
Marlenee	Roncalio	Whitten
Marriott	Rooney	Wiggins
Martin	Rosenthal	Wilson, Bob
Mathis	Roybal	Wilson, C. H.
Mattox	Runnels	Wilson, Tex.
Mazzoli	Russo	Winn
Meeds	Ryan	Wirth
Metcalfe	Santini	Wolff
Mikulski	Sarasin	Wright
Mikva	Satterfield	Wydler
Milford	Sawyer	Wylie
Miller, Calif.	Scheuer	Yates
Mineta	Schroeder	Yatron
Minish	Schulze	Young, Alaska
Mitchell, Md.	Sebelius	Young, Mo.
Mitchell, N.Y.	Seiberling	Young, Tex.
Moakley	Sharp	Zablocki
Moffett	Shipley	
Mollohan		

NAYS—22

Archer	Goldwater	Quayle
Ashbrook	Hansen	Rousselot
Bauman	Harsha	Rudd
Collins, Tex.	Jacobs	Snyder
Cornwell	Keys	Symms
Crane	McDonald	Young, Fla.
Flynt	Miller, Ohio	
Glickman	Myers, Gary	

NOT VOTING—59

Addabbo	Dornan	Mann
Alexander	Early	Meyner
Anderson, Calif.	Edwards, Okla.	Michel
Ashley	Erlenborn	Moore
AuCoin	Evans, Ind.	Murphy, Pa.
Bingham	Fountain	Patterson
Bowen	Fraser	Pepper
Breaux	Frey	Poage
Brinkley	Gammage	Quie
Burke, Calif.	Giaimo	Rodino
Burton, Phillip	Gonzalez	Rose
Carney	Hillis	Rostenkowski
Chappell	Holland	Ruppe
Conyers	Hollenbeck	Skubitz
Coughlin	Jeffords	Spence
Dellums	Jenrette	Stump
Dent	Kemp	Teague
Derrick	Latta	Tucker
Diggs	Livingston	Walsh
	Madigan	Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Anderson of California.
Mr. Breaux with Mr. Derrick.
Mr. AuCoin with Mr. Hollenbeck.
Mr. Carney with Mr. Conyers.
Mr. Chappell with Mr. Latta.
Mr. Giaimo with Mr. Jeffords.
Mrs. Burke of California with Mr. Michel.
Mr. Dent with Mr. Coughlin.
Mr. Diggs with Mr. Walsh.
Mr. Fountain with Mr. Madigan.
Mrs. Meyner with Mr. Dornan.
Mr. Pepper with Mr. Skubitz.
Mr. Rodino with Mr. Kemp.
Mr. Rostenkowski with Mr. Spence.
Mr. Teague with Mr. Ruppe.
Mr. Zeferetti with Mr. Quie.
Mr. Jenrette with Mr. Patterson of California.
Mr. Gonzalez with Mr. Moore.
Mr. Bingham with Mr. Edwards of Oklahoma.
Mr. Alexander with Mr. Erlenborn.
Mr. Ashley with Mr. Stump.
Mr. Rose with Mr. Holland.
Mr. Early with Mr. Tucker.
Mr. Bowen with Mr. Fraser.
Mr. Brinkley with Mr. Hillis.
Mr. Phillip Burton with Mr. Frey.
Mr. Evans of Indiana with Mr. Murphy of Pennsylvania.
Mr. Mann with Mr. Gammage.

Mr. SKELTON changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MOFFETT). Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

PAYMENTS TO FORMER SPOUSES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8771.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill H.R. 8771, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 369, nays 7, not voting 56, as follows:

[Roll No. 6]

YEAS—369

Akaka	Armstrong	Beard, Tenn.
Allen	Ashbrook	Bedell
Ambro	Aspin	Beilenson
Ammerman	Badham	Benjamin
Anderson, Ill.	Bafalis	Bennett
Andrews, N. Dak.	Baldus	Bevill
Annunzio	Barnard	Biaggi
Applegate	Baucus	Blanchard
Archer	Bauman	Blouin
	Beard, R.I.	Boggs
Boland	Gradison	Moorhead, Pa.
Bolling	Grassley	Moss
Bonior	Gudger	Motti
Bonker	Guyer	Murphy, Ill.
Brademas	Hall	Murphy, N.Y.
Breckinridge	Hamilton	Murphy, Pa.
Brodhead	Hammer-schmidt	Murtha
Brooks	Hanley	Myers, Gary
Broomfield	Hannaford	Myers, John
Brown, Calif.	Hansen	Natcher
Brown, Mich.	Harkin	Neal
Brown, Ohio	Harrington	Nedzi
Broyhill	Harris	Nichols
Buchanan	Hawkins	Nix
Burgener	Heckler	Nolan
Burke, Fla.	Hefner	Nowak
Burke, Mass.	Heftel	O'Brien
Burleson, Tex.	Hightower	Oakar
Burlison, Mo.	Holt	Oberstar
Burton, John	Holtzman	Obey
Butler	Horton	Ottinger
Byron	Howard	Panetta
Caputo	Hubbard	Patten
Carr	Huckaby	Pattison
Carter	Hughes	Pease
Cavanaugh	Hyde	Perkins
Cederberg	Ichord	Pettis
Chisholm	Ireland	Pickle
Clausen, Don H.	Jacobs	Pike
Clawson, Del	Jenkins	Pressler
Clay	Johnson, Calif.	Preyer
Cleveland	Johnson, Colo.	Price
Cochran	Jones, N.C.	Pritchard
Cohen	Jones, Okla.	Pursell
Coleman	Jones, Tenn.	Quayle
Collins, Ill.	Jordan	Quillen
Conable	Kasten	Rahall
Conte	Kastenmeier	Railsback
Corcoran	Kazen	Rangel
Corman	Kelly	Regula
Cornell	Ketchum	Reuss
Cornwell	Keys	Rhodes
Cotter	Kildee	Richmond
Crane	Kindness	Rinaldo
Cunningham	Kostmayer	Risenhoover
D'Amours	Krebs	Robinson
Daniel, Dan	Krueger	Roe
Daniel, R. W.	LaFalce	Rogers
Danielson	Lagomarsino	Roncalio
Davis	Le Fante	Rooney
de la Garza	Leach	Rosenthal
Delaney	Lederer	Rousselot
Derwinski	Leggett	Roybal
Devine	Lehman	Rudd
Dickinson	Lent	Runnels
Dicks	Levitas	Russo
Diggs	Lloyd, Calif.	Ryan
Dingell	Lloyd, Tenn.	Santini
Dodd	Long, La.	Sarasin
Dornan	Long, Md.	Satterfield
Downey	Lott	Sawyer
Drinan	Lujan	Scheuer
Duncan, Oreg.	Luken	Schroeder
Duncan, Tenn.	Lundine	Schulze
Eckhardt	McClory	Sebelius
Edgar	McCloskey	Seiberling
Edwards, Ala.	McCormack	Sharp
Edwards, Calif.	McDade	Shipley
Eilberg	McDonald	Shuster
Emery	McEwen	Sikes
English	McFall	Simon
Ertel	McHugh	Sisk
Evans, Colo.	McKay	Skelton
Evans, Del.	McKinney	Slack
Evans, Ga.	Madigan	Smith, Iowa
Fary	Maguire	Smith, Nebr.
Fascell	Mahon	Snyder
Fenwick	Markey	Solarz
Findley	Marks	Spellman
Fish	Marlenee	St Germain
Fisher	Marriott	Staggers
Fithian	Martin	Stangeland
Flippo	Mathis	Stanton
Flood	Mattox	Stark
Florio	Mazzoli	Steed
Flowers	Meeds	Steers
Foley	Metcalfe	Steiger
Ford, Mich.	Mikulski	Stockman
Ford, Tenn.	Mikva	Stokes
Forsythe	Milford	Stratton
Fowler	Miller, Calif.	Studds
Frenzel	Miller, Ohio	Symms
Fuqua	Mineta	Taylor
Gaydos	Minish	Thompson
Gephardt	Mitchell, Md.	Thone
Gibbons	Mitchell, N.Y.	Thornton
Gilman	Moakley	Traxler
Ginn	Moffett	Treen
Glickman	Mollohan	Trible
Goldwater	Montgomery	Tsongas
Goodling	Moorhead, Calif.	Udall
Gore		Ullman
		Van Deerlin

Vander Jagt	Whalen	Wright
Vanik	White	Wydler
Vento	Whitehurst	Wylie
Volkmer	Whitley	Yates
Waggonner	Whitten	Yatron
Walgren	Wiggins	Young, Alaska
Walker	Wilson, Bob	Young, Fla.
Wampler	Wilson, C. H.	Young, Mo.
Watkins	Wilson, Tex.	Young, Tex.
Waxman	Winn	Zablocki
Weaver	Wirth	
Weiss	Wolff	

NAYS—7

Abdnor	Conyers	Roberts
Andrews, N.C.	Flynt	
Collins, Tex.	Harsha	

NOT VOTING—56

Addabbo	Edwards, Okla.	Meyner
Alexander	Erlenborn	Michel
Anderson, Calif.	Evans, Ind.	Moore
	Fountain	Myers, Michael
Ashley	Fraser	Patterson
AuCoin	Frey	Pepper
Bingham	Gammage	Poage
Bowen	Giaimo	Quie
Breaux	Gonzalez	Rodino
Brinkley	Hagedorn	Rose
Burke, Calif.	Hillis	Rostenkowski
Burton, Phillip	Holland	Ruppe
Carney	Hollenbeck	Skubitz
Chappell	Jeffords	Spence
Coughlin	Jenrette	Stump
Dellums	Kemp	Teague
Dent	Latta	Tucker
Derrick	Livingston	Walsh
Early	Mann	Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Mann.
Mr. Breaux with Mr. Michael O. Myers.
Mr. AuCoin with Mr. Stump.
Mr. Chappell with Mr. Teague.
Mr. Bingham with Mr. Skubitz.
Mr. Fountain with Mr. Coughlin.
Mr. Dent with Mr. Ruppe.
Mr. Jenrette with Mr. Jeffords.
Mrs. Meyner with Mr. Erlenborn.
Mrs. Burke of California with Mr. Quie.
Mr. Pepper with Mr. Frey.
Mr. Rodino with Mr. Kemp.
Mr. Rostenkowski with Mr. Hagedorn.
Mr. Rose with Mr. Latta.
Mr. Giaimo with Mr. Michel.
Mr. Early with Mr. Hillis.
Mr. Carney with Mr. Moore.
Mr. Ashley with Mr. Hollenbeck.
Mr. Alexander with Mr. Livingston.
Mr. Evans of Indiana with Mr. Spence.
Mr. Zeferetti with Mr. Tucker.
Mr. Anderson of California with Mr. Walsh.
Mr. Bowen with Mr. Brinkley.
Mr. Phillip Burton with Mr. Derrick.
Mr. Dellums with Mr. Fraser.
Mr. Gammage with Mr. Gonzalez.
Mr. Holland with Mr. Patterson of California.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RETIREMENT CREDIT FOR JAPANESE AMERICANS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 9471.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill H.R. 9471, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 366, nays 12, not voting 54, as follows:

[Roll No. 7]

YEAS—366

Abdnor	Duncan, Tenn.	Long, La.
Akaka	Eckhardt	Long, Md.
Allen	Edgar	Lott
Ambro	Edwards, Ala.	Lujan
Ammerman	Edwards, Calif.	Luken
Anderson, Ill.	Eilberg	Lundine
Andrews, N.C.	Emery	McClory
Andrews, N. Dak.	English	McCloskey
	Ertel	McCormack
Annunzio	Evans, Colo.	McDade
Applegate	Evans, Del.	McDonald
Archer	Evans, Ga.	McEwen
Armstrong	Fary	McFall
Aspin	Fascell	McHugh
Badham	Fenwick	McKay
Bafalis	Findley	McKinney
Baldus	Fish	Madigan
Barnard	Fisher	Maguire
Baucus	Fithian	Mahon
Bauman	Flood	Markey
Beard, R.I.	Florio	Marks
Bedell	Flowers	Marlenee
Beilenson	Foley	Marriott
Benjamin	Ford, Mich.	Martin
Bennett	Ford, Tenn.	Mathis
Bevill	Forsythe	Mattox
Biaggi	Fowler	Mazzoli
Blanchard	Frenzel	Meeds
Blouin	Fuqua	Metcalfe
Boggs	Gaydos	Mikulski
Boland	Gephardt	Mikva
Bolling	Gibbons	Milford
Bonior	Gilman	Miller, Calif.
Bonker	Ginn	Miller, Ohio
Brademas	Glickman	Mineta
Breckinridge	Goldwater	Minish
Brodhead	Goodling	Mitchell, Md.
Brooks	Gore	Mitchell, N.Y.
Broomfield	Gradison	Moakley
Brown, Calif.	Grassley	Moffett
Brown, Mich.	Guyer	Mollohan
Brown, Ohio	Hall	Montgomery
Broyhill	Hamilton	Moorhead, Calif.
Buchanan	Hammer-schmidt	
Burgener		Moorhead, Pa.
Burke, Fla.	Hanley	Moss
Burke, Mass.	Hannaford	Motti
Burleson, Tex.	Hansen	Murphy, Ill.
Burlison, Mo.	Harkin	Murphy, N.Y.
Burton, John	Harrington	Murphy, Pa.
Butler	Harris	Murtha
Byron	Harsha	Myers, John
Caputo	Hawkins	Myers, Michael
Carr	Heckler	Natcher
Carter	Hefner	Neal
Cavanaugh	Heftel	Nedzi
Cederberg	Hightower	Nichols
Chisholm	Holt	Nix
Clausen, Don H.	Holtzman	Nolan
	Horton	Nowak
Clawson, Del	Howard	O'Brien
Clay	Hubbard	Oakar
Cleveland	Huckaby	Oberstar
Cochran	Hughes	Obey
Cohen	Hyde	Ottinger
Coleman	Ichord	Panetta
Collins, Ill.	Jacobs	Patten
Conable	Johnson, Calif.	Pattison
Conte	Johnson, Colo.	Perkins
Conyers	Jones, N.C.	Pettis
Corcoran	Jones, Okla.	Pickle
Corman	Jones, Tenn.	Pike
Cornell	Jordan	Pressler
Cornwell	Kasten	Preyer
Cotter	Kastenmeier	Price
Coughlin	Kazen	Pritchard
Crane	Kelly	Pursell
Cunningham	Ketchum	Quayle
D'Amours	Keys	Quillen
Daniel, Dan	Kildee	Rahall
Daniel, R. W.	Kindness	Railsback
Danielson	Kostmayer	Rangel
Davis	Krebs	Regula
de la Garza	Krueger	Reuss
Delaney	LaFalce	Rhodes
Derwinski	Lagomarsino	Richmond
Dickinson	Le Fante	Rinaldo
Dicks	Leach	Risenhoover
Diggs	Lederer	Roberts
Dingell	Leggett	Robinson
Dodd	Lehman	Roe
Dornan	Lent	Rogers
Downey	Levitas	Roncalio
Drinan	Lloyd, Calif.	Rooney
Duncan, Oreg.	Lloyd, Tenn.	Rosenthal
Rousselot	Stangeland	Wampler
Roybal	Stanton	Watkins
Rudd	Stark	Waxman
Runnels	Steed	Weaver
Russo	Steers	Weiss
Ryan	Steiger	Whalen
Santini	Stockman	White
Sarasin	Stokes	Whitehurst
Satterfield	Stratton	Whitley
Sawyer	Studds	Whitten
Scheuer	Symms	Wiggins
Schroeder	Taylor	Wilson, Bob
Schulze	Thompson	Wilson, C. H.
Sebelius	Thone	Wilson, Tex.
Seiberling	Thornton	Winn
Sharp	Traxler	Wirth
Shipley	Treen	Wolff
Sikes	Trible	Wright
Simon	Tsongas	Wydler
Sisk	Udall	Wylie
Skelton	Ullman	Yates
Slack	Van Deerlin	Yatron
Smith, Iowa	Vander Jagt	Young, Alaska
Smith, Nebr.	Vanik	Young, Fla.
Snyder	Vento	Young, Mo.
Solarz	Volkmer	Young, Tex.
Spellman	Waggonner	Zablocki
St Germain	Walgren	
Staggers	Walker	

NAYS—12

Ashbrook	Flippo	Jenkins
Beard, Tenn.	Flynt	Myers, Gary
Collins, Tex.	Gudger	Pease
Devine	Ireland	Shuster

NOT VOTING—54

Addabbo	Erlenborn	Michel
Alexander	Evans, Ind.	Moore
Anderson, Calif.	Fountain	Patterson
	Fraser	Pepper
Ashley	Frey	Poage
AuCoin	Gammage	Quie
Bingham	Giaimo	Rodino
Bowen	Gonzalez	Rose
Breaux	Hagedorn	Rostenkowski
Brinkley	Hillis	Ruppe
Burke, Calif.	Holland	Skubitz
Burton, Phillip	Hollenbeck	Spence
Carney	Jeffords	Stump
Chappell	Jenrette	Teague
Dellums	Kemp	Tucker
Dent	Latta	Walsh
Derrick	Livingston	Zeferetti
Early	Mann	
Edwards, Okla.	Meyner	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Mann.
Mr. Breaux with Mr. Michael O. Myers.
Mr. AuCoin with Mr. Stump.
Mr. Chappell with Mr. Teague.
Mr. Bingham with Mr. Skubitz.
Mr. Fountain with Mr. Edwards of Oklahoma.
Mr. Dent with Mr. Ruppe.
Mr. Jenrette with Mr. Jeffords.
Mrs. Meyner with Mr. Erlenborn.
Mrs. Burke of California with Mr. Quie.
Mr. Pepper with Mr. Frey.
Mr. Rodino with Mr. Kemp.
Mr. Rostenkowski with Mr. Hagedorn.
Mr. Rose with Mr. Latta.
Mr. Giaimo with Mr. Michel.
Mr. Early with Mr. Hillis.
Mr. Carney with Mr. Moore.
Mr. Ashley with Mr. Hollenbeck.
Mr. Alexander with Mr. Livingston.
Mr. Evans of Indiana with Mr. Spence.
Mr. Zeferetti with Mr. Tucker.
Mr. Anderson of California with Mr. Walsh.
Mr. Bowen with Mr. Brinkley.
Mr. Phillip Burton with Mr. Derrick.
Mr. Dellums with Mr. Fraser.
Mr. Gammage with Mr. Gonzalez.
Mr. Holland with Mr. Patterson of California.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FISHING VESSEL LOAN GUARANTEES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 9169, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 9169, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 309, nays 68, answered "present" 1, not voting 54, as follows:

[Roll No. 8]

YEAS—309

Abdnor	Dodd	Lagomarsino
Akaka	Dornan	Le Fante
Allen	Downey	Leach
Ambro	Drinan	Lederer
Anderson, Ill.	Duncan, Oreg.	Leggett
Andrews, N. Dak.	Duncan, Tenn.	Lehman
	Eckhardt	Lent
Annunzio	Edwards, Ala.	Levitas
Applegate	Edwards, Calif.	Lloyd, Calif.
Armstrong	Eilberg	Lloyd, Tenn.
Aspin	Emery	Long, La.
Badham	English	Lott
Bafalis	Ertel	Luken
Baldus	Evans, Colo.	Lundine
Barnard	Evans, Del.	McClory
Baucus	Evans, Ga.	McCloskey
Bauman	Fary	McCormack
Beard, R.I.	Fascell	McDade
Beilenson	Fenwick	McEwen
Benjamin	Findley	McFall
Bennett	Fish	McHugh
Bevill	Fisher	McKay
Biaggi	Fithian	McKinney
Blanchard	Flippo	Madigan
Blouin	Flood	Maguire
Boggs	Florio	Mahon
Boland	Flowers	Markey
Bolling	Foley	Marks
Bonior	Ford, Mich.	Marlenee
Bonker	Ford, Tenn.	Marriott
Brademas	Forsythe	Mathis
Breckinridge	Fowler	Mattox
Brodhead	Frenzel	Mazzoli
Brooks	Fuqua	Meeds
Broomfield	Gaydos	Metcalfe
Brown, Calif.	Gephardt	Mikulski
Brown, Mich.	Gibbons	Miller, Calif.
Brown, Ohio	Gilman	Mineta
Buchanan	Ginn	Minish
Burgener	Glickman	Mitchell, Md.
Burke, Fla.	Goldwater	Mitchell, N.Y.
Burke, Mass.	Goodling	Moakley
Burlison, Mo.	Gudger	Moffett
Burton, John	Guyer	Mollohan
Butler	Hanley	Montgomery
Byron	Hannaford	Moorhead, Calif.
Caputo	Harkin	
Cavanaugh	Harrington	Moorhead, Pa.
Cederberg	Harris	Moss
Chisholm	Hawkins	Mottl
Clausen, Don H.	Heckler	Murphy, Ill.
	Hefner	Murphy, N.Y.
Clay	Heftel	Murphy, Pa.
Cleveland	Hightower	Murtha
Cochran	Holt	Myers, John
Cohen	Holtzman	Myers, Michael
Coleman	Horton	Natcher
Collins, Ill.	Howard	Nedzi
Conte	Hubbard	Nichols
Corcoran	Huckaby	Nix
Corman	Hughes	Nolan
Cornell	Hyde	Nowak
Cornwell	Ireland	O'Brien
Cotter	Johnson, Calif.	Oakar
Coughlin	Johnson, Colo.	Oberstar
Cunningham	Jones, N.C.	Panetta
D'Amours	Jones, Tenn.	Patten
Daniel, Dan	Jordan	Pease
Daniel, R. W.	Kazen	Perkins
Danielson	Kelly	Pettis
Davis	Ketchum	Pike
de la Garza	Kildee	Pressler
Delaney	Kindness	Preyer
Derwinski	Kostmayer	Price
Dicks	Krebs	Pritchard
Diggs	Krueger	Pursell
Dingell	LaFalce	Quillen
Rahall	Sikes	Vander Jagt
Railsback	Simon	Vanik
Rangel	Sisk	Vento
Regula	Skelton	Volkmer
Rhodes	Slack	Waggonner
Richmond	Smith, Iowa	Wampler
Rinaldo	Smith, Nebr.	Watkins
Risenhoover	Solarz	Waxman
Robinson	Spellman	Weaver
Roe	St Germain	Weiss
Rogers	Staggers	Whalen
Roncalio	Stangeland	White
Rooney	Stanton	Whitehurst
Rosenthal	Stark	Whitley
Roybal	Steed	Whitten
Runnels	Steers	Wilson, Bob
Russo	Stokes	Wilson, C. H.
Ryan	Studds	Wilson, Tex.
Santini	Thompson	Wirth
Sarasin	Thone	Wolff
Sawyer	Traxler	Wright
Scheuer	Treen	Yatron
Schroeder	Trible	Young, Alaska
Sebelius	Tsongas	Young, Fla.
Seiberling	Udall	Young, Mo.
Sharp	Ullman	Young, Tex.
Shipley	Van Deerlin	Zablocki

NAYS—68

Ammerman	Hammer-schmidt	Pickle
Andrews, N.C.		Quayle
Archer	Hansen	Reuss
Ashbrook	Harsha	Roberts
Beard, Tenn.	Ichord	Rousselot
Broyhill	Jacobs	Rudd
Burleson, Tex.	Jenkins	Satterfield
Carr	Jones, Okla.	Schulze
Carter	Kasten	Shuster
Clawson, Del	Kastenmeier	Snyder
Collins, Tex.	Keys	Steiger
Conable	Long, Md.	Stockman
Conyers	Lujan	Stratton
Crane	McDonald	Symms
Devine	Martin	Taylor
Dickinson	Mikva	Thornton
Edgar	Milford	Walgren
Flynt	Miller, Ohio	Walker
Gore	Myers, Gary	Wiggins
Gradison	Neal	Winn
Grassley	Obey	Wydler
Hall	Ottinger	Wylie
Hamilton	Pattison	Yates

ANSWERED "PRESENT"—1

Bedell

NOT VOTING—54

Addabbo	Erlenborn	Michel
Alexander	Evans, Ind.	Moore
Anderson, Calif.	Fountain	Patterson
	Fraser	Pepper
Ashley	Frey	Poage
AuCoin	Gammage	Quie
Bingham	Giaimo	Rodino
Bowen	Gonzalez	Rose
Breaux	Hagedorn	Rostenkowski
Brinkley	Hillis	Ruppe
Burke, Calif.	Holland	Skubitz
Burton, Phillip	Hollenbeck	Spence
Carney	Jeffords	Stump
Chappell	Jenrette	Teague
Dellums	Kemp	Tucker
Dent	Latta	Walsh
Derrick	Livingston	Zeferetti
Early	Mann	
Edwards, Okla.	Meyner	

The Clerk announced the following pairs:

Mr. Breaux with Mr. Mann.
Mr. AuCoin with Mr. Stump.
Mr. Chappell with Mr. Teague.
Mr. Bingham with Mr. Skubitz.
Mr. Fountain with Mr. Dent.
Mr. Jenrette with Mr. Ruppe.
Mrs. Meyner with Mr. Jeffords.
Mrs. Burke of California with Mr. Erlenborn.
Mr. Pepper with Mr. Quie.
Mr. Rodino with Mr. Frey.
Mr. Rostenkowski with Mr. Kemp.
Mr. Rose with Mr. Hagedorn.
Mr. Giaimo with Mr. Latta.
Mr. Early with Mr. Michel.
Mr. Carney with Mr. Hillis.
Mr. Ashley with Mr. Moore.
Mr. Alexander with Mr. Hollenbeck.
Mr. Evans of Indiana with Mr. Livingston.
Mr. Zeferetti with Mr. Spence.
Mr. Anderson of California with Mr. Tucker.
Mr. Bowen with Mr. Walsh.
Mr. Phillip Burton with Mr. Brinkley.
Mr. Addabbo with Mr. Derrick.
Mr. Dellums with Mr. Fraser.
Mr. Gammage with Mr. Gonzalez.
Mr. Holland with Mr. Patterson of California.

Mr. LONG of Maryland changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2637, TO AUTHORIZE SECRETARY OF AIR FORCE TO CONTRACT WITH AIR CARRIERS TO ACQUIRE CIVIL AIRCRAFT TO PROVIDE CARGO CAPACITY FOR NATIONAL DEFENSE

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–845) on the resolution (H. Res. 960) providing for consideration of H.R. 2637, to amend title 10, United States Code, to authorize the Secretary of the Air Force to contract with air carriers to acquire civil aircraft to provide greater cargo capacity for national defense purposes in the event of war or national emergency, and to modify existing passenger aircraft for this purpose, which was referred to the House Calendar and ordered to be printed.

ADMINISTRATION OF OFFICIAL REPORTERS OF DEBATES AND OF COMMITTEES VESTED IN CLERK

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 959) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 959

Resolved, That effective March 1, 1978, clause 1 of Rule XXXIV of the Rules of the House of Representatives is amended to read as follows:

"1. The appointment and removal, for cause, of the official reporters of the House, including stenographers of committees, and the manner of the execution of their duties shall be vested in the Clerk, subject to the direction and control of the Speaker."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, it is my understanding that the only change this effects is the transfer of the oversight authority from the Speaker's office to the Clerk of the House. Is that correct?

Mr. WRIGHT. The gentleman from Maryland is correct. The Speaker understandably has been loath to exercise or presume to exercise direction or jurisdictional authority over all of the Reporters of Debates and deliberations in committees and feels that the Clerk of the

House, having broad administrative jurisdiction over the personnel and the legislative support functions of the House, is the proper person to exercise this control and to make the determinations as to whom we should employ, when, and to what extent those persons are adequately fulfilling their duties, and so forth.

Mr. BAUMAN. And further than that, I believe it also permits, without the use of a special resolution, the Reporters of Debates to come under the ordinary cost-of-living increases that the other employees on the Hill receive?

Mr. WRIGHT. The gentleman is exactly correct. By placing them in the same category with other employees of the Members and the committees of the House, it places them in the same category with respect to pay, and, as the gentleman knows, in the past the Reporters of Debates have not been automatically subject to those increases that come from time to time. Now they would be, as well as the other employees of the House.

Mr. BAUMAN. Further reserving the right to object, I would only say to the distinguished majority leader that it probably is an appropriate occasion at this point to observe the fact that of all the employees of the House of Representatives who make our life easier and assist us in many ways, the Reporters of Debates and their transcribers and their staff certainly have one of the most difficult jobs of any employees of the House, not only in compiling the CONGRESSIONAL RECORD and in providing in a timely fashion what is said, but also in having to sit here and listen to us hour after hour and day after day and year after year; and for that alone I think they deserve some commendation.

Mr. WRIGHT. I thank the gentleman. Really they deserve our sympathy as well as our appreciation, and I trust that the Reporters today have adequately and sufficiently transcribed the remarks the gentleman has just made.

Mr. BAUMAN. I have no doubt they have done so.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MERIT SELECTION FOR U.S. ATTORNEYS IS NOT AND SHOULD NOT BE A PARTISAN ISSUE

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, it has been only in the last few weeks that the American people have once again seen firsthand how the political spoils system is spoiling the system. The case of David Marston has galvanized hundreds of my constituents, many of whom have never raised their voices before on any other issue. They are Democrats, Republicans, and Independents. They are citizens who have respect for our system of justice, who believe that our pluralistic society has room for more than one political party.

The appearance of impropriety in the handling of this case has cast a dark cloud over the Carter administration. For many of my constituents, it is a simple case of the party in power protecting its own. These people are understandably outraged when the chief law enforcement officer of the land, the Attorney General, acknowledges that the "ins are the Democrats," which implies more consideration for Democrats. I share their outrage. Our justice system is supposed to be blind to everything except the merits of a case.

The President was elected in part because he represented a breath of fresh air from old-style backroom politics of the past. We expected that his government would be run efficiently, and that he would seek the best qualified people to serve. We applauded his statements during the campaign that U.S. attorneys would be selected on a merit basis. We applauded when his nominee for Attorney General in his confirmation hearing endorsed the merit selection and retention pledge. Apparently our applause was premature. David Marston was given the axe not because he did not perform his job competently. He was removed solely because he is a Republican.

Mr. Speaker, the furor surrounding this case has been raised only within the last few weeks. However, the battle to retain a competent, independent U.S. attorney for the eastern district of Pennsylvania has been going on for some time. In March and October of 1977, I conveyed my belief to the Attorney General that Mr. Marston should be retained for the duration of the political corruption investigations. In June, I cosponsored a bill by Congressman DRINAN which would be a first step toward merit selection of these positions. When Mr. Marston's job appeared to be threatened, I communicated my support for him to almost anyone who would listen. I talked personally to the President, to the Attorney General, and to their aides. To no avail.

Now that the deed is done, we have a big job ahead of us to restore some of the confidence which has been lost.

First, the Attorney General and the President must promptly appoint a replacement for Mr. Marston. The qualifications of the replacement must be of equal or higher caliber than Mr. Marston's. He or she must be assured of the authority to discharge the duties of the office independent of any political pressures.

Second, we must learn from this experience that there is no place in our system of justice for political clout to exercise influence. I plan to introduce legislation this week which will make the process of selection and retention of U.S. attorneys as free as possible from political considerations. Whereas the Drinan bill makes the first step, my bill will move much further in this regard.

Mr. Speaker, as a member of the congressional advisory committee for Citizens United to Save David Marston, I can testify that merit selection for U.S. attorneys is not and should not be a partisan issue. To say that other administrations have continued the patronage system does not answer the question. Continuing a bad process, especially in contradiction of a campaign pledge, flies in the face of what this administration stands for.

I urge this House to learn from the unfortunate handling of the Marston case, and to move promptly to consider my bill, and other bills, to assure that the U.S. Department of Justice and its U.S. attorneys are immune to politics.

ADMINISTRATION'S TAX REDUCTION AND TAX REFORM PACKAGES SHOULD NOT BE TIED TOGETHER

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, the administration's proposed tax reductions for the stimulation of the economy and its suggestions for tax reforms contain many sound and worthwhile ideas. It is a bold and ambitious program.

I regret, however, that the administration has sought to tie the tax reduction package and the tax reform package together. If the debate on the energy legislation has taught us anything, it is that the Congress is simply not organized to deal with massive and grandiose legislative packages. I believe we can and should pass a tax reduction bill as soon as possible. I believe we can and should pass a tax reform bill later this year. But to combine these two packages threatens them both. If tax reform and tax reduction must remain combined, final agreement will be reached only very late in 1978 at best—so late as to cause the IRS additional expense in printing revised forms and in informing the public of the last minute changes.

I believe that the Congress will give the President much of what he wants if he will accept two separate bills—an early tax reduction bill and a subsequent tax reform bill.

On the tax reduction bill, I would suggest several changes to make it more palatable and equitable. I would hope that the individual tax reductions could begin before October 1, 1978. The economy is growing as it should, and the stimulus is needed at once.

There are other pressing reasons for making the effective date of the tax cut earlier. The tax cuts for October through December will more than offset the January 1, 1978 automatic increase in social security taxes for workers making less than $15,500. But because workers making just above $15,500 suffered a big jump in social security taxes this year, the proposed tax cut will not be adequate. An earlier tax cut will insure that many middle-class families earning between $15,000 and $20,000 will not face a net Federal tax increase in 1978. Finally, if the investment tax credit changes are being made effective as of January 1, 1978. I do not see why the tax relief for

individuals has to wait until late in the year.

Like the tax cut for individuals, the corporate tax cut could use some changes. During the past 6 years, I have conducted a study of the effective Federal corporate tax rate paid by America's 150 largest corporations. These studies have shown a steady decline in the effective rate, from about 28 percent in the early 1970's to 13.4 percent for tax year 1976. In short, the big corporations do not even begin to pay the 48 percent Federal corporate tax rates. Rather, it is the smaller corporations who cannot utilize capital formation procedures designed for large entities. Therefore, I believe it would be more useful to concentrate the reduction in the corporate tax rates on the smaller corporations. The administration proposed reducing the corporate tax rate on the first $25,000 of taxable income to 18 percent; I would recommend a still lower rate. The revenue loss of an even lower rate can be cancelled by postponing a portion of the proposed reduction from 48 to 45 percent.

In the area of tax relief, I do not understand the need to give away almost $3 billion in telephone excise taxes over the next 4 years. In my 13 years of service on the Ways and Means Committee, I can remember seeing only one lonely constituent letter asking for the early repeal of this excise tax—a provision which is already scheduled to expire by the end of 1981. The factsheet explaining the reasons for this proposal note that it will save businesses $550 million in 1979 and "if passed through in the form of price cuts, will reduce inflation through lower consumer prices."

This is a pipe dream. Businesses will not pass on this "savings." What is likely is that the telephone companies will use this opportunity to slip in rate increases. This proposal is an absolutely irrelevant waste of $1.2 billion in 1979 at a time when the Government is planning a $61 billion deficit. The telephone excise tax cut will simply permit the industry to absorb the excise tax cut into higher rates.

The tax reform proposals are ambitious and controversial—and the administration is to be commended for tackling many of these loopholes. Some proposals—such as the business lunch crackdown—are likely to raise more anger than revenue. Others, such as a 10-percent floor under medical casualty losses, will probably never see the light of day. I hope, however, that most of the proposals can be adopted.

As a Member interested in tax reform, I support the idea of repeal of DISC and the foreign tax deferral provision. As chairman of the Ways and Means Trade Subcommittee, however, I am deeply concerned that the administration has no clear policy on ways to reduce the U.S. $30 billion trade deficit, to encourage exports, or to compensate for the exports, however small, which may be lost because of the repeal of these provisions. In addition, I find it strange to propose these ideas at a time when the administration is opposing efforts to impose countervailing duties against foreign nations which rebate value added taxes on exports to the United States. Our foreign trading partners have innumerable tax subsidies and export promotion programs; most of them are probably ineffective and we certainly should not copy their wasteful programs—but we should be seeking to eliminate these foreign subsidies and programs through multilateral negotiations. To unilaterally repeal export promotion programs seems naive and surrenders an opportunity to obtain foreign trade concessions.

In the area of trade, American businesses are often burdened with the heavy cost of social legislation, such as OSHA and EPA requirements, which our trading partners do not bear. As a result, American goods often incur additional costs which make them noncompetitive in export markets or which increase the likelihood of import competition. I believe that more consideration should be given to providing the immediate tax writeoff of OSHA and EPA expenses. The cost of such a proposal, while it would be enormous, could be offset by reducing some of the other, proposed corporate tax cuts. The result would be more rapid compliance with worthwhile social goals—but without threatening the ability of American industry to compete with foreign nations.

TRIBUTE TO REPRESENTATIVE LLOYD MEEDS ON HIS PROSPECTIVE RETIREMENT

(Mr. UDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, when I heard that LLOYD MEEDS was retiring from Congress, I thought immediately of an ancient but little known axiom of political science called Udall's Fourth Law. It deals with congressional retirements, and declares, "Them that should, won't; and too many that shouldn't, do"—or something similar.

Representative MEEDS has always been one of the special, unsung people in this institution. A workhorse rather than a showhorse, he was a glutton for the tough, detailed work that so many of us shun.

When we had a tough problem, whether ethics reform, or the impossible job of restructuring our committees, or the difficult, critical problems of labor, education, Indians and Native Americans, or the tough resource and energy problems of Interior committees, we called on LLOYD MEEDS. Time after time, it was he who produced the key compromise.

He has been a man with one of the finest honed minds in Congress, coupled with a sensitivity and compassion that set him apart.

For the past year, I have watched him agonize over the decision whether to continue his long career, or to retire.

Last month, he decided to turn to other pursuits. His retirement statement is such a classic and perceptive declaration of the dilemmas faced by the conscientious men and women who serve in this House, that it deserves wider attention.

STATEMENT BY REPRESENTATIVE LLOYD MEEDS

I will not be a candidate for Congress. The decision is irrevocable. I have no plan to run for any other elective office. My hope is to return home to Washington State.

This decision is based on many factors. A major consideration—a very personal one is this: I just celebrated my 50th birthday. My wife and I would like to be freer to pursue some activities that the demanding schedule of Congress and the press of district affairs simply don't permit. I like to fish and hunt, to hike and ski and other outdoor activities which we enjoy in the Pacific Northwest. Mary and I like to travel—together. I would hate to look around in 15 to 20 years to discover that I have vast seniority and great power, but no longer either the youth or the stamina to "play" as well as "work".

The next election itself is a major factor. Could I win it? My judgment is that I could. Some may disagree. But what is certain is that it would require a campaign treasury in the vicinity of ¼ million dollars.

You have to raise that kind of money in big chunks and the donors are not investing in just "good government."

I recall the comment of a California politician, "If you can't take their money and vote against them, you shouldn't be in this business." That is too cynical for me and the alternative is totally unacceptable.

I have accepted sizable campaign contributions along with small ones in the past. But contributions can get so large that there is a clearly implied obligation that I have never had before and that I don't intend to incur now.

I might note here that publically financed campaigns would eliminate this ethical dilemma. If every person in the Second Congressional District would contribute just 25¢ the candidates of both major parties could run well financed campaigns without having to take a dime from any special interest. I was hopeful that we would pass legislation providing for public financing this year but that legislation died in committee. Someday we will make this fundamental reform in our electoral system. But who can say many more ¼ million dollar campaigns I would have to wage every two years before this reform becomes reality.

Another factor is that what I am trying to do is often overshadowed with conjecture of why I am trying to do it.

I am currently sponsoring several pieces of legislation whch I consider to be of substance and value. Due to the very narrow margin of victory in my last election, my motivation in sponsoring these measures is questioned. I believe these bills to be of sufficient importance that I would like to see them considered on their merits, rather than as some re-election tactic.

An example of this problem is seen in recent legislation dealing with American Indian tribal powers. Because the Indian fishing controversy was a big factor in that close election, I find, not surprisingly, the question of how this bill would effect the 1978 election has become a pre-eminent concern—instead of the substantial issues raised by the legislation.

The same problems have plagued my efforts to find legislative solutions to the complex problems of Northwest regional power and Alaska lands. Again, because my efforts to hammer out a compromise last term on the controversial Alpine Lakes Wilderness was also an issue in that close election, many conservationists have suggested that my position on these issues is a political reaction aimed at engratiating myself with affected resource industries.

My withdrawal from next year's election

should direct attention to the substance of these measures. They will be controversial even then, but the debate can center on what I am proposing rather than my supposed political motivation in proposing it.

Underlying these issues, incidentally, is the widespread belief that everything a politician does is self-serving. It is my belief that most politicians—even those with whom I almost always disagree—generally do what they think is right and in the best interest of their constituents.

The Watergate affair seems to have changed a healthy American skepticism for politicians into an unhealthy cynicism. This will not serve the Republic well in the long run.

Also, on a philosophical note; When Eric Sevareid retired from CBS he urged journalists to "not underestimate the intelligence of the audience and not overestimate its information." It's an excellent concept for politicians too.

The average citizen, occupied with earning a living and a host of matters affecting his daily life, cannot learn all the complex details of all the issues that we are elected to spend full time learning about. But that lack of information often leads people to ask for faster, simpler answers than can be found.

I used to believe in simple answers too. But the longer I have served the more I become convinced there are no easy solutions to complex problems. And most of our problems are complex.

It took we human beings many thousands of years to create some of these problems. It took death, wars, prisons, child abuse, poverty, ignorance, famine, prejudice, hatred, insecurity and a lot of other things to spawn most of our problems. We're simply not going to develop effective solutions to them overnight.

Yet, when people are hurting, when they are angry, when their futures are jeopardized, perhaps they need a leader who can more easily share their desire for ready, easy answers. Dealing with slow, difficult and complex solutions rarely meets the demands of an impatient society; be it blacks burning the cities or fishermen denied the right to fish or farmers demanding 100 percent of parity—now.

But then, being the patient counselor may well be the role of the philosopher, the priest and the teacher—not the politician.

Finally, let me say that I understand better today than I did 15 years ago when I first ran for office the attitude of Thomas Jefferson: that elective office is a gift the people give you, not the other way around. Being Congressman for the people of the Second District of Washington has been an experience so rewarding, so challenging and, overall, so gratifying that I sometimes wonder that a young man from Monroe really made it.

I will cherish this gift—the opportunity to participate in some of the great decisions of our times—all my life.

AMERICANS BURIED IN THE PANAMA CANAL ZONE

(Mr. ROBERTS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, much has already been said about the proposed Panama Canal Treaty and there will be additional debate on the treaty within the next few weeks and months. I shall not dwell on the proposal except to say that I think it needs to be thoroughly reviewed and debated as there remain so many unanswered questions.

I am concerned about the disposition of two cemeteries in the Canal Zone, in which American veterans are interred. There are two American cemeteries within the zone—Corozal Cemetery on the Pacific side, and Mount Hope Cemetery on the Atlantic side. These cemeteries come within the jurisdiction of the Panama Canal Company, and according to the VA, they were initially established for the burial of employees of the Company. The Company is a corporate agency of the Government of the United States. It operates under the direction of a Board of Directors appointed by the Secretary of the Army. Management is by a staff comparable in selection and status to career personnel under the U.S. Civil Service and includes certain U.S. military officers assigned to the organization.

The mission of the Company is to "efficiently operate and maintain the Panama Canal as well as the business-type activities incidental to operations of the canal and to the Canal Zone Government."

Under the draft Panama Canal Treaty, the Corozal Cemetery would remain under U.S. control until the canal is completely returned to the control of the Government of Panama. The other, Mount Hope, would pass immediately to Panamanian control following ratification of the proposed treaty. I understand no provision was made in the treaty for maintenance or other disposition of Mount Hope.

Mount Hope contains the graves of 1,332 Americans, of whom 175 are veterans. It also contains the graves of 36,878 non-Americans, all of whom were involved in some way in the construction or operation of the canal since the canal operation began in 1903.

The Corozal Cemetery contains the graves of 741 veterans. In each cemetery the graves are not restricted to an area set aside for veterans, but scattered throughout the cemetery.

The Panama Canal Company has received several requests for the disinterment of remains for return to the United States. I am advised by the State Department and the Department of the Army that they are considering, on a preliminary basis, several alternatives. They are:

First. Negotiating an agreement with Panama wherein the Government of Panama would agree to continue and maintain these cemeteries.

Second. Authorizing the American Battle Monuments Commission to assume responsibility for maintaining the graves of the 1,332 Americans, buried in the two cemeteries.

Third. Enactment of legislation that would provide for the disinterment and reinterment, in a national cemetery in the United States at Government expense.

Mr. Speaker, it was aptly stated many years ago by a British Prime Minister, "Let me see the way a nation reveres its dead, and I will show you with a mathematical certitude the quality of civilization of that nation." We are now in the process of ending over 74 years of official presence in the Canal Zone. One of the lasting memorials and reminders of that presence will be the cemeteries containing the graves of Americans, to which I have referred. While we must show proper reverence and respect to the graves of all Americans, I am particularly concerned about the future of the grave sites of the American veterans interred in these cemeteries. While these cemeteries are not in the United States, they nonetheless are a piece of America which will be a perpetual monument to those who served our Nation during the years of our exclusive operation of the canal.

These cemeteries must not be permitted to deteriorate, the graves must not be allowed to be desecrated, especially those who served in our Armed Forces. I have always been strongly committed to the principle that proper respect and honor shall be provided to veterans wherever they may be buried. The fact that these veterans' graves are far from their original homes in the United States should be the basis for a redoubling of our efforts to assure that the cause for which these veterans served in our Armed Forces shall live and that their grave sites will represent our Nation as a proud remembrance of their contribution to this great Nation and the successful operation of the Panama Canal during a crucial period of American history.

I have asked the chairman of our Subcommittee on Cemeteries and Burial Benefits to schedule early hearings on this matter so that we can be sure the remains of Americans buried in the Canal Zone shall not be desecrated and will continue to receive the same care and respect as presently prevails.

HOUSE ARMED SERVICES STAFF STUDY PROVES U.S. MISSILE FORCE VULNERABLE BY 1981

The SPEAKER pro tempore, (Mr. MOFFETT). Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 10 minutes.

Mr. STRATTON. Mr. Speaker, the adequacy of America's strategic nuclear deterrent force is always a matter of major importance, but especially now with negotiations underway in Geneva looking toward a SALT II Treaty that could impose new restraints on strategic nuclear forces, both American and Soviet.

Accordingly the questions recur: What is enough when it comes to such forces? Do we presently have enough? What impact will the new SALT agreement, as reported in the press, be likely to have on whether we can count on having enough in the future?

Dealing with such questions is difficult because there are many different opinions, and people adhere to them with considerable vehemence. The "hawks" say we do not have enough, and that our deterrence vis-a-vis the Soviets needs improvement and reinforcement. The "doves" say we not only have enough but perhaps more than enough, so that we can safely cut back our existing nuclear forces.

Those who support this latter position point out that while the Soviets may exceed us in total throw weight and in the

yield of many of their missiles, we have more individual warheads and hence are at the very least in a position of "rough nuclear equivalence" with the Russians.

Some of those who argue this way also espouse the view—expressed on occasion by both Mr. Warnke and Dr. Kissinger—that in such matters there is such a thing as "minimum deterrence," and that once a nation has achieved a position of minimum nuclear deterrence there is no additional advantage to be gained from increasing nuclear weapons. In other words, nuclear "superiority" is meaningless, and numbers added beyond a certain point represent no increased deterrence.

In sharp contrast was a recent statement by Mr. Paul Nitze, confirmed to some extent by top Pentagon officials, that at some point in the 1980's U.S. land-based ICBM's will become vulnerable to a Soviet first strike. If his statement is true, it is most disturbing, and those of us in Congress charged with providing for the common defense have an urgent obligation to determine its truth or falsity.

Accordingly, I requested the staff of the House Armed Services Committee to analyze Mr. Nitze's charge and advise me whether his contention could be supported by fact. How can we know whether the Soviets can knock out most of our land-based ICBM's in the 1980's? Can we demonstrate the truth of such a proposition in terms that can be clearly and simply presented to the average citizen?

Too much of the discussion about nuclear weapons must be carried on behind closed doors and in classified documents. I insisted, therefore, that our staff give me the facts about the alleged vulnerability of our land-based ICBM force in unclassified form, if available, so that the full story on this obviously highly important issue could be made public.

The attached document is the report provided to me in response to that request. It is a sober and disturbing study and deserves, in my judgment, to be read and understood by every American. So far as I am aware this is the first time this particular issue has ever been presented in unclassified form and supported by specific numbers.

This unclassified assessment was made possible by virtue of the fact that there appeared in the CONGRESSIONAL RECORD for September 20, 1976, an article by Representative THOMAS J. DOWNEY, Democrat of New York, containing a full table of Soviet nuclear missile numbers and types, together with their yield and a measure of their accuracy. This table forms the basis for the committee staff's conclusions. Since Mr. DOWNEY has been a staunch advocate of the adequacy of America's present nuclear force his figures must be assumed not to be weighted in the direction of making Soviet capabilities look more impressive than they actually are.

In this connection, let me make it clear that while we accepted Mr. DOWNEY's figures on those items which would be classified in any official Department of Defense study, we did not necessarily accept the Downey chart's estimates on those items that do not involve hard intelligence but only personal estimates as to the time at which the Soviets can be expected to make certain improvements in their nuclear capabilities.

For example, the drafters of the Downey chart have almost uniformly assumed that the Soviets will not have until the "late 1980's" certain capabilities which General Brown, chairman of the Joint Chiefs of Staff, indicated in his defense posture statement submitted to the Congress last January, indicated very clearly they were likely to have by the early 1980's at the latest.

We have felt it more prudent to accept the best estimates of the Chairman of Joint Chiefs of Staff on these key military matters rather than those of the drafter of Mr. DOWNEY's chart.

Briefly, the study reaches the following conclusions:

First:

It can be concluded that by 1980 or 1981, depending upon Soviet reentry vehicle (RV) warhead yield, 12 percent to 60 percent of the land-based U.S.S.R. reentry vehicles could kill at least 75 percent of the U.S. silos—790. This would leave thousands of RV's for other targets.

Second:

It can be concluded that through 1980, if 4,285 U.S. RV's (100 percent of the U.S. land and sea-based ballistic missile forces on alert) were dispatched against U.S.S.R. silo targets, as many as 15 per cent—209 out of 1,300—Soviet silos might be destroyed.

Third:

By the mid 1980's U.S. silo kill capability could reach as high as 65 percent "only if the 550 Minuteman III missiles are upgraded in accuracy and yield per current U.S. Air Force plans."

Fourth:

U.S. sea-based Poseidon nuclear missiles (SLBM's) do not have either the accuracy or yield to be Soviet ICBM "silo-busters."

Fifth:

Even if the projected Air Force program of improving the accuracy and yield of our Minuteman III force is carried out, that force "would remain vulnerable to a first strike * * * unless a silo-hardening program or some alternate basing scheme [such as the mobile MX] is pursued, at great cost."

Sixth:

The Soviet Union has used the very liberal (to them) SALT I provisions to achieve a position of numerical parity and a position of superiority with respect to throw weight and warhead yield.

Seventh:

"Considering the asymmetry which will exist between the Soviets and United States forces," current SALT II negotiations "which center around reductions in the total numbers of missiles and the number of missiles with MIRV capabilities" * * * are "meaningless" * * * "without any concurrent consideration of weapon yields and accuracy, as well as throw weight * * *"

Eighth.

Without some verifiable limitation on yields and accuracy, any limitations on missile flight testing [as recently proposed by the USSR] can only freeze the United States into a position of strategic inferiority—a condition which can only grow worse if an agreement is observed by the United States, but not by the Soviet Union.

One other observation is necessary. Those who argue that when it comes to nuclear deterrence numbers are meaningless—and that any country is fully protected against a nuclear attack, even a first strike, so long as it has a "minimum deterrent" capability—may argue that although the Soviets have the capability of knocking out much of our land-based ICBM force, they would never exercise that capability in practice. Why? Because our submarine missile force would still be intact and with it we could deliver devastating counterblows against Moscow and other major Soviet cities.

But this argument overlooks one significant fact spelled out in the study, namely, that even after a postulated Soviet first strike wiping out a sizable portion of our land-based ICBM forces, the Soviets would have thousands of nuclear reentry vehicles left over. Since, as this study has explained, U.S. SLBM's do not have either the yield or accuracy to knock out these remaining Soviet ICBM's, their retaliatory capability could only be directed against Soviet cities and industrial targets.

To be sure, in that mode they could still deliver considerable devastation to many parts of the Soviet Union. But because the Soviets would still have thousands of warheads available, a decision on our part to launch an SLBM retaliatory attack would in all probability be followed by an immediate counterattack against our cities. Under those circumstances, therefore, a decision to launch American SLBM's would, as a practical matter, amount to a decision to wipe out our own principal cities. Hence any rational American leader would obviously think twice before launching these SLBM's. In fact, once the full consequences were understood, those SLBM's would almost certainly not be launched at all.

Of course, this failure to launch would amount in turn to a surrender to the Soviets because of their superior remaining nuclear capability. In other words, with a vulnerable ICBM force and an SLBM force incapable of silo-busting, the United States would in fact not have a nuclear force capable of deterring a Soviet first strike. Clearly that is not an adequate deterrent.

One unidentified U.S. official expressed it graphically in Aviation Week and Space Technology for November 7, 1977:

A credible deterrent only exists on the basis of assured retaliation if an aggressor disarms himself in the process of aggression and knows the U.S. would respond with nuclear weapons. Having expended strategic weapons in a first strike, the aggressor would be powerless to shoot back when the U.S. retaliated. But that is no longer true today. If the U.S. responds, it must worry about the large and growing reserve force of Soviet strategic weapons.

This is the serious, sobering truth which the attached study brings out, and to which the American people and the Congress must promptly address themselves. Moreover, these conclusions must

be fully understood and pondered before Congress agrees to any strategic arms limitation agreement that would freeze America permanently into such a dangerous and devastating nuclear inferiority.

Under leave to extend my remarks, the study referred to above follows:

STRATEGIC MISSILE COUNTERFORCE CAPABILITY
UNITED STATES VS. THE SOVIET UNION

QUESTIONS

Does the United States now possess a secure and survivable land-based intercontinental ballistic missile deterrent?

Could the United States, even in a first strike situation, destroy the land-based intercontinental ballistic missile capability of the Soviet Union in order to prevent a retaliation by those forces?

Could the Soviet Union, in a first strike situation, destroy the land-based intercontinental missile forces of the United States so as to prevent a retaliation by those forces?

SUMMARY

This study shows that the land-based intercontinental ballistic missile (ICBM) forces of the United States are vulnerable at this time and that they will become more vulnerable within the next four to five years as the accuracy of the Soviet ICBM's improves. A careful analysis shows that, if the entire available force of ICBM's and sea-launched ballistic missiles (SLBM) of the United States were to be targeted on 1,300 silos considered to be operational within the Soviet Union, at best about 16 percent of the Soviet missile silos would be put out of action by current U.S. systems. This percentage could increase to 68 percent by the 1980's only *if* the 550 MINUTEMAN III missiles are upgraded in accuracy and yield per current U.S. Air Force plans.

Conversely, the study shows that due to the high yields of Soviet missile warheads and the lack of sufficient hardening of the silos in the United States, the Soviet Union could put out of action a large fraction of all United States land-based ICBM's and still have a considerable percentage of its land-based missiles and all of it's sea-based missile forces available for other targets.

The study assumes that a sufficient number of reentry vehicles (RV) carrying warheads will be targeted on each silo so as to assure a 75 percent probability of destruction. Improvements in Soviet missile accuracy, as was announced recently by the Secretary of Defense, (and the deployment of their missiles at a rate of 100 and 150 a year) could be used to either increase the probability of destruction of U.S. missile silos above 75 percent, or to target other U.S. assets.

All of the data used in this study are from unclassified sources. A major source was the CONGRESSIONAL RECORD of September 20, 1976, pages 31250–31252. Tables III and V of that reference included the data used in this analysis on the number of reentry vehicles per missile, warhead yield, system accuracy, availability, and reliability.

THE CONCEPT OF COUNTERFORCE

Counterforce as a deterrent envisions the targeting of the nuclear strike forces of a potential enemy in order to destroy those forces and prevent an attack, or to limit the enemy's ability to retaliate with unacceptable force. Several scenarios are obvious within the concept of counterforce. One obvious scenario is that the Soviet Union might launch a massive surprise attack aimed at the destruction of the United States' ICBM and manned bomber forces. In a "worst case" situation, Soviet planners might calculate that such an attack could destroy the land-based portion of the U.S. deterrent along with a part of the manned bomber leg of the triad. In such a case, the Soviets might be willing to absorb an attack by less accurate and lower yield sea-launched missiles and by penetrating bombers which might escape the Soviet antiballistic missile and air defense systems. If the United States were to receive sufficient warning, and if all United States ICBM's were fired on warning at the Soviet Union, the Soviet missiles would, of course, fall upon empty holes. In such a case, some portion of the missiles of the United States would also fall upon empty holes and some upon the Soviet missiles retained in reserve.

Various scenarios can be conceived where only a limited number of missiles are fired at a limited number of targets. Because of the many variables and unknowns involved, an analysis of what could happen in each and every possible scenario is impractical. This study examines the overall capability of United States strategic missile systems to destroy hardened Soviet silos and the capability of the Soviets to destroy hardened United States silos. A first strike is assumed in both cases.

EFFECTS OF WEAPONS ON SILOS

A great deal of information has appeared in the public press concerning the effects of nuclear weapons on "soft" targets such as cities and industrial sites. However, very little information has appeared concerning weapons effects upon hardened underground targets such as missile silos.

There are several ways to destroy a silo—by crushing it with sufficient overpressure, by creating a crater, or creating enough ground motion. Crushing requires the creation of peak overpressures of thousands of pounds per square inch (PSI). Cratering, on the other hand, by the explosion of a nuclear weapon close to the ground, can dig out or rupture silo walls or bury the silo headworks under the tons of debris ejected from the crater.

The distance from the target which a weapon must be detonated in order to create sufficient overpressure and/or cratering is known as the weapon's lethal radius. In the past, the overpressure effect has had the larger lethal radius. However, as silos have been increasingly hardened, cratering phenomena have become more important; and for this reason, the accuracy of missile systems in relation to the weapon's explosive power, or yield, has become more important. A weapon with very good accuracy relative to other missiles may not damage a hardened silo because its low yield may not provide a large enough lethal radius. On the other hand, a relatively inaccurate missile with a high yield may destroy a hardened silo because of its large lethal radius. The September 20, 1976, CONGRESSIONAL RECORD insert refers to new or refurbished Soviet silos which are hardened to 3500 PSI. A few examples with respect to the effect of nuclear explosions on targets of that hardness may, therefore, be useful.

A 1 kiloton (KT) nuclear explosive detonated on a relatively flat surface will produce a peak overpressure of 3500 PSI at 95 feet. A 40 kiloton explosion produces 3500 PSI at 320 feet, while a 900 kiloton (9 megaton) explosion produces the same overpressure at 1917 feet. Where overpressure is concerned, therefore, a 9 megaton weapon can be about 6 times less accurate than a 40 kiloton weapon and create roughly the same degree of damage.

Cratering phenomena vary according to the ground in which a silo is built. Data are available on hard rock, soft rock, and ordinary soil, either wet or dry. A silo can be rendered inoperable by cratering by a 1 kiloton explosion at about 50 feet in dry hard rock due to rupturing and/or burial. An explosion of the same size can destroy the silo out to 80 feet in wet soil or wet soft rock. The lethal radius from cratering doubles with a 10-fold increase in the explosive yield. For example, 1 kiloton creates a crater with a radius of 60 feet in dry soft rock, while it would require a 10 kiloton explosion to create a crater with a radius of 120 feet in the same geological material. Ejected material causes a significant mound of debris around the crater, usually at a distance which is 25 percent greater than the crater radius.

The lethal radius for cratering and burial doubles with a 10-fold increase in explosive power, while overpressure will double with an 8-fold increase in yield. This would indicate that with current and predicted silo hardness, and with published system accuracies, overpressure will be the major factor in silo destruction. As system accuracy improves, however, the silo will be within the crater generated by a surface burst, thereby providing two lethal mechanisms. For the remainder of this report, only the effects of overpressure will be considered.

The following table indicates lethal radius doubling for an 8-fold increase in yield—1 KT vs. 8 KT vs. 64 KT. It also indicates the scaling factor and 3,500 PSI lethal radius for certain nuclear weapon yields attributed to Soviet and U.S. ballistic missile systems.

EFFECTS OF WEAPONS ON SILOS

Yield (kiloton)	Scaling Factor	3,500 p.s.i. radius (feet)
1	1.00	95
8	2.00	190
40	3.38	320
64	4.00	380
100	4.57	435
170	5.45	515
350	6.91	655
600	8.26	785
1,000 (1 Mt)[1]	9.77	930
4,000 (4 Mt)	15.83	1,500
9,000 (9 Mt)	20.18	1,920
25,000 (25 Mt)	28.27	2,685

[1] 1,000 kilotons is generally referred to as a megaton (Mt).

The scaling effect of overpressure makes the accuracy of delivery systems a key factor in silo destruction or incapacitation. For instance, a 1 kiloton explosive has an overpressure of 3500 PSI at 95 feet; this peak overpressure falls to 400 PSI at 200 feet. On the other hand, had the explosion occurred 70 feet from the target, the peak overpressure at the target would have been 10,000 PSI.

Strategic missile system accuracy (sometimes expressed as inaccuracy) is given in terms of the circular error probable (CEP) for each delivery system. The CEP is defined as the radius of a circle within which 50 percent of all missiles aimed at the center of the circle will impact. The other 50 percent will impact beyond that radius. It follows, therefore, that if a warhead (RV) has a lethal radius equal to its CEP, one-half of the time it is fired at a target it would be sufficiently close to kill the target. If the lethal radius of the warhead is smaller than the warhead's CEP, then the probability of a target kill by the warhead is less than one-half. For weapons having a larger lethal radius than their CEP, the probability of a target kill is increased accordingly. For this reason, it is necessary to compute the single shot kill probability (SSKP) for each system. This determination is necessary in order to assess the relative capabilities of strategic missile systems. In many cases, several RV's must be assigned to each hardened target in order to attain a desired probability that the target will be destroyed or disabled. Some of these RV's simply make up for the nonperfect reliability of each of the system, provided they come from different missiles. When one warhead does go off near another warhead, the first may destroy the subsequently arriving one. This phenomenon is known as fratricide. This paper will ignore

this possible fratricide. Because the values of destruction achievable by the Soviets depend less on multiple RV attacks of single targets than does that of the U.S. this approximation will overstate U.S. capability much more than that of the Soviets. It should be borne in mind, however, that the targeting of more than 3 RV's on a target is highly impractical.

U.S. STRATEGIC MISSILE SYSTEMS VS. U.S.S.R. STRATEGIC MISSILE SYSTEMS

The CONGRESSIONAL RECORD article, cited earlier, gives all the parameters needed to develop single shot kill probability (SSKP) values for each system of both nations. The SSKP is most readily determined using special circular slide rules. For those interested in calculating SSKP values, Appendix I lists the slide rule designers. The appendix also provides the necessary equations and charts to develop the SSKP values mathematically.

Two assumptions have been made in determining whether the U.S. or U.S.S.R., or neither, has an edge in silo destruction. The first assumption is that the new Soviet ICBM missiles—the "Fourth Generation" which Secretary Brown described recently—will be housed in the best silos available. These can be hardened to 3500 PSI, as indicated in the CONGRESSIONAL RECORD article. Second, the United States appears to have no plans to build new silos or install a new missile system, with the possible exception of MX. U.S. silos, therefore, are probably in the hardness range of 1000 PSI to a maximum of 2000 PSI.

To attain a desired level of probability that an attacked silo will be destroyed can require that one or many weapons be targeted on that silo. The number of weapons required is related to the single shot kill probability and the desired confidence level. Computational procedures are explained in Appendix I.

For this report, an expected kill level of 75 percent has been chosen as representative and reasonable. Table I indicates the SSKP—single shot kill probability—of killing a Soviet silo hardened to 3500 PSI. Using POSEIDON as an example, note that its SSKP is 2 percent. This is the result of a low yield warhead and a large circular error. As a consequence, it would require 35 RV's to provide 50 percent assurance of killing one silo. This huge number indicates that POSEIDON cannot be categorized as a "silo buster."

Table II considers projected numbers of missiles, RV's, availability of the system to be on an alert status and system reliability—its ability to get to the target. Using TITAN II as an example, note that 46 of the RV's, with 9 megaton warheads, are available to be targeted. However, because of its large CEP, 3040 feet and reliability of 0.8, it requires 5 RV's to achieve at least the desired 75 percent probability of destruction of one 3500 PSI silo. Therefore, with 5 RV's per the target, the entire TITAN II force would be expected to kill only 7 silos.

Footnotes 3 and 4 of Table II indicate that the total U.S. MIRV'ed force is below the 1320 total allowed under SALT I. Table II also assumes that the MINUTEMAN III is significantly upgraded from a current SSKP of 11 percent to MM III/MK 12A with a SSKP of 55 percent. If these qualitative changes are not made, it is obvious that the U.S. silo kill capability will remain closer to the 200 value than the 800 value attributed to the 1980's force.

Table III is the projected Soviet land-based ICBM capability against U.S. silos, using the CONGRESSIONAL RECORD article values. It should be clearly understood that, according to Secretary Brown's remarks about the new Soviet ICBM systems, these systems will be in place in the very early 1980's.

Table III projects the number of RV's, of different assumed yields, that would be required to achieve a 75 percent probability of destroying a U.S. silo hardened to 1000 PSI and to 2000 PSI. Note that above 4 megatons, at the assumed CEP, only one RV is required per silo.

The U.S. has 1054 silos. Table IV indicates the number of Soviet RV's that would be required to destroy 75 percent of these 1054 silos, if the RV's contained warheads from 300 kilotons up to 4000 kilotons—4 megatons. It should be recalled that the Soviets are given credit for having single RV missiles with warheads up to 25 megatons and MIRV'ed missiles with warheads up to 9 megatons.

Under the limits of SALT I, it is assumed that the Soviets have 1300 silos. With SS–17, SS–18, and SS–19 systems in place, this could represent 7,000 or more MIRV's, in fact these systems do or can carry 6 to 8 RV's. These warheads, however, according to the CONGRESSIONAL RECORD table, would be in the megaton and below range.

The answers to the questions posed at the beginning of this study appear to be as follows:

The land-based intercontinental ballistic missile (ICBM) deterrent of the United States is vulnerable to a surprise attack by high-yield Soviet ICBM's. Vulnerability will increase as new and more accurate Soviet missiles are deployed.

Current U.S. ICBM and SLBM forces constitute only a 16 percent threat against Soviet hardened ICBM sites. This threat can be increased to 65 percent only if MINUTEMEN III missiles are upgraded in accuracy and yield. Unless a U.S. silo-hardening program or some alternate basing scheme is pursued, at great cost, the upgraded MINUTEMAN III force would remain vulnerable to a first strike.

Given a scenario wherein warning times are insufficient, or where there is a breakdown in command, control and communications, where U.S. ICBM's were not fired on confirmed attack, Soviet ICBM forces in the early 1980's could destroy all U.S. ICBM's in a first strike with a high degree of confidence.

If the objective of the United States is to maintain a credible deterrent and strategic stability, Soviet improvements in missile accuracy must be countered. Further hardening of U.S. silos may not be the answer because of cost of survivability reasons. The most reasonable means to accomplish these ends is probably to develop accurate mobile missiles with sufficient yields. Some such multiple aimpoint basing scheme would cause the Soviets to expend very large numbers of RV's targeted at many different aimpoints in order to be sure of getting one RV onto a U.S. ICBM.

The relative positions of the United States and the Soviet Union with respect to ICBM's, and other nuclear forces, brings into serious question several aspects of the ongoing SALT II negotiations. It is acknowledged in most quarters that the Soviet Union has used the very liberal (to them) SALT I provisions to achieve a position of numerical parity and a position of superiority with respect to throw weight and warhead yield.

Current SALT proposals center around reductions in the total numbers of missiles and the numbers of missiles with MIRV capabilities. Closely related to numbers limitations are proposals to limit missile flight testing and the testing of nuclear warheads. Considering the asymmetry which will exist between the Soviet and United States forces, negotiations on the basis of numbers without any consideration of weapon yields and accuracy, as well as throw weight, are meaningless.

Without some verifiable limitation on yields and accuracy, any limitation on missile flight testing and nuclear warhead testing can only freeze the United States into a position of strategic inferiority—a condition which can only grow worse if an agreement is observed by the United States, but not by the Soviet Union. Such agreements would be not only imprudent, but they would also be contrary to national policy as expressed in Public Law 92–448 [1] which, "... *urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.*" (Emphasis added)

CONCLUSION

It can be concluded that through 1980, if 4285 U.S. RV's (100 percent of the U.S. land- and sea-based ballistic missile forces on alert) were dispatched against U.S.S.R. silo targets, as many as 15 percent—209 out of 1300—Soviet silos might be destroyed. By the mid-1980's, U.S. silo kill capability could reach as high as 65 percent if the MINUTEMAN III missile system is upgraded.

It can be concluded that by 1980 or 1981, depending upon Soviet RV warhead yield, 12 percent to 60 percent of the land-based U.S.S.R. RV's could kill at least 75 percent of the U.S. silos—790. This would leave thousands of RV's for other targets.

[1] Public Law 92–448, 92nd Congress, H.J. Res. 1227, Sepember 30, 1972. Joint Resolution: Approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms.

TABLE III.—U.S. MISSILES

Missile	Numbers to be operational	Throw-weight (pounds)	Availability (percent)	Reliability (percent)	RV's per missile	Yield per RV (MT)	AMTE per RV	Countervalue: Operational missiles required for 200–400 AMTE deliverable	Countervalue: Inaccuracy (nm)	Countersilo: Lethality (per RV)	Countersilo: Theoretical [1] kill Probability (percent)	Countersilo: USSR silos [2] surviving attack (percent)	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
											Target silos 500 p.s.i.[23]		
Present:													
Titan II	54	7,000	85	80	1	9	1.93	153–306	0.5	17	73	98	
Minuteman II	450	2,000	90	85	1	2	1.23	212–242	.3	18	71	83	[3] 52
Minuteman III	550	2,400	98	90	3	.17	.59	128–256	.2	7	37	66	
Polaris A–3 [4]	160	1,500	55	95	1	.6	1.01	379–757	.5	4	25	99	[3] 38
Poseidon	496	3,000	53	90	10	.04	.38	111–222	.3	1	7	90	

Footnotes at end of table.

TABLE III.—U.S. MISSILES—Continued

Missile	Numbers to be operational	Throw-weight (pounds)	Avail-ability (percent)	Reli-ability (percent)	RV's per missile	Yield per RV (MT)	AMTE per RV	Countervalue: Operational missiles required for 200–400 AMTE deliverable	Countervalue: Inaccu-racy (nm)	Countersilo: Lethality (per RV)	Countersilo: Theoret-ical [1] kill Prob-ability (percent)	USSR silos [2] surviving attack (percent)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
											Target silos 1,000 p.s.i.	
Early 1980's: [30]												
Minuteman III, Mk. 12A	550	2,400	98	90	3	.35	.73	106–212	.1	49	83	19
Trident I,[3] 4,500-nm. range [4]	[6] 768	3,000	66	90	8	.1	.50	82–165	.25	3	12	77
											Target silos 3,500 p.s.i.	
Late 1980's:												
M–X, Mk. 12A [5]	450	11,000	98	98	14	.35	.73	23–46	.1	49	62	17
M–X, MARV [6]	550	11,000	98	98	7	.1	.50	59–118	.02	538	99	1
M–X, Countervalue [7]	550	11,000	98	95	31	.1	.50	15–30	.1	22	28	73
Trident II,[6] Countervalue, 6,000-nm. range	[6] 336	6,000	66	95	14	.15	.57	36–73	.3	3	5	91
Trident II,[6] MARV, short range	([15])	8,500	66	95	14	.04	.38	54–109	.02	292	96	1
Trident I,[6] MARV, short range	([16])	3,500	53	95	7	.04	.38	146–292	.02	292	96	7

TABLE V.—U.S.S.R. MISSILES

Missile	Numbers to be operational	Throw-weight (pounds)	Avail-ability (percent)	Reli-ability (percent)	RV's per missile	Yield per RV (MT)	Countervalue: AMTE per RV	Countervalue: Operational missiles required for 200–400 AMTE deliverable	Countersilo: Inaccu-racy (nm)	Countersilo: Lethality (per RV)	Countersilo: Theoret-ical kill Prob-ability [1] (percent)	USSR silos surviving attack [2] (percent)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
											Target silos 650 p.s.i.	
Percent: [10]												
SS–9	306	12,000	85	80	1	25	3.62	81–162	.7	17	66.0	87 } [3] 81
SS–11 [11]	1,000–1,050	2,000	85	75	1	1	1.	313–626	1.0	1	6.0	96 }
SS–N–6 }	750–950	2,000	12	80	1	1	1.	2,000–4,000	1.0	1	6.0	99
SS–N–8 }												
											Target silos 1,000 p.s.i.	
Early 1980's:												
SS–18 [12]	306	16,000	85	85	8	.67	.85	40–80	.25	12	39.0	45
SS–19 [13]	([17])	7,000	85	85	6	.29	.61	76–152	.25	7	24.0	63
SS–N–? [14]	?	?	?	?	?	?	?	?	?	?	?	?
											Target silos 3,500 p.s.i.	
Late 1980's:												
SS–18, Mk. 12A technology	306	16,000	85	85	8	1.38	1.14	30–61	.1	124	86.0	78
SS–19, Mk. 12A technology	([17])	7,000	85	85	6	.62	.82	56–113	.1	72	71.0	15
SS–N–?? [14]	?	?	?	?	?	?	?	?	?	?	?	?
1990's:												
SS–18, MaRV [6]	306	16,000	90	90	15	.2	.52	31–62	.02	855	99.9	1
SS–19, MaRV [6]	([17])	7,000	90	90	7	.2	.52	67–134	.02	855	99.9	1
Trident II [6] equivalent, MaRV, short range	288(?)	8,500	60	90	14	0	.28	70–140	.02	292	96.0	2

FOOTNOTES TO TABLES III AND V

[1] The effect of a single reliable RV upon a single silo.
[2] Assumes the entire listed missile system is used in an attempt to destroy the entire enemy silo complex. 2 RV's per silo are used to the extent permitted by available numbers.
[3] Combined attack.
[4] A 3-unit nonindependently targeted MIRV, best visualized as a single RV with a triangular explosion.
[5] Aviation Week and Space Technology, Oct. 13, 1975, p. 17.
[6] Hypothetical but plausible countersilo-optimized configuration.
[7] Hypothetical but plausible countervalue-optimized configuration.
[8] 12 Trident ships with 24 missiles each plus 30 formerly-Poseidon ships with 16 missiles each.
[9] 14 Trident ships.
[10] Approximately 100 very old soft-sited SS–7 and SS–8 ICBM's with 5MT yield, low accuracy, and dubious reliability are omitted for brevity since they are being retired and make no significant contribution to the counterforce/countervalue balance. Similarly, the approximately 60 SS–13s are omitted, as are the 21 SS–N–5 low-capability missiles.
[11] A small number of SS–11's may be deployed as a 3-unit MIRV. This is omitted since it has no significant effect of force capability.
[12] While the SS–18 has been tested as a MIRV, deployed versions reportedly use single warheads. I assume all will be converted to MIRV, since this gives higher capability for both countersilo and countervalue.
[13] Some of these missiles will probably be SS–17s, SS–16's, or MIRV SLBM's. The pure SS–19 force is assumed for simplicity and because it presents a worst-case situation in that it has higher countersilo and countervalue capability than the alternatives.
[14] I have no basis for predicting the nature of future Soviet SLBM's since they will probably differ significantly from the present rather primitive models. We can, however, assume that by 1980 Soviet SLBM's will posess countervalue sufficiency, and that they will not have a significant countersilo capability until terminal guidance is deployed.
[15] Replacing Trident 11 countervalue.
[16] Replacing standard Trident in Poseidon ships.
[17] SS–11 replacement.

TABLE I.—SINGLE AND MULTIPLE SHOT PROBABILITY OF DESTROYING A SILO HARDENED TO 3,500 p.s.i.[1]

System	Yield (kilotons)	Lethal radius (feet)	CEP (feet)	Single shot P_k	Number of RV's for at least the desired kill probability: 0.50	0.75	0.90
IN PLACE							
Poseidon	40	320	1,824	0.02	[3] 35	69	114
Polaris [2]	600	900	3,040	.05	14	27	45
MM–II	1,000	1,050	1,824	.22	3	6	10
MM–III	170	600	1,216	.15	5	9	15
Titan II	9,000	2,200	3,040	.30	2	4	7
1980'S							
MM–III/MK–12A	350	730	608	.65	1	2	3
Trident	100	450	1,520	.07	10	19	32

[1] Assumes yield from 3 RV's in a fixed triangular pattern.
[2] Derived using the GE missile effectiveness calculator.
[3] Any number greater than 3 is highly impractical.

TABLE II. OVERPRESSURE KILL OF SOVIET SILOS HARDENED TO 3,500 LB/IN

System	Number of missiles	RV's	Total RV's	Availability (percent)	Reliability (percent)	RV's available to target	Number of silos that can be attacked so that the probability of destroying each silo is at least 0.75
IN PLACE							
Titan II	54	1	54	0.85	0.80	46	9
MM–II	450	1	450	.90	.85	405	61
MM–III	550	3	1,650	.98	.90	1,617	170
Polaris [1]	160	1	160	.55	.95	88	3
Poseidon	496	10	4,960	.53	.90	2,629	35
Total	[2] 1,710		7,274			4,785	275
EARLY TO MID-1980'S							
MM–III/MK–12A [4]	550	3	1,650	.98	.90	1,617	1,026
Trident [1]	240	8	1,920	.53	.90	1,018	48
Titan II	54	1	54	.85	.80	46	9
MM–II	450	1	450	.90	.85	405	61
Poseidon	496	10	4,960	.53	.90	2,629	35
Total	[5] 1,790		9,034			5,715	[6] 1,179

[1] Some tradeoff may occur between Polaris and Trident; Polaris is considered dropped by 1980's.
[2] Only 1,206 are MIRV'ed.
[3] Of these 275 silos, at least 206, or 16 percent of the Soviet silos, would be expected to be destroyed.
[4] MM–III is expected to be converted to MM–III/MK–12A by mid-1980's.
[5] Only 1,286 are MIRV'ed.
[6] Of these 1,179 silos, at least 884, or 68 percent of the Soviet silos, would be expected to be destroyed.

TABLE III.—SOVIET STRATEGIC MISSILE OVERPRESSURE KILL OF U.S. SILOS [1]

Yield (kilotons)	1,000 psi. Lethal radius (feet)	1,000 psi. Single shot kill	1,000 psi. Number of RV's to achieve 0.75 kill probability per target [2]	2,000 psi. Lethal radius (feet)	2,000 psi. Single shot kill	2,000 psi. Number of RV's to achieve 0.75 kill probability per target [2]
300	985	0.35	4	788	0.25	6
1,000	1,500	.63	2	1,170	.50	3
2,000	1,840	.80	2	1,475	.65	2
3,000	2,105	.85	2	1,685	.80	2
4,000	2,315	.91	1	1,855	.82	2
6,000	2,650	.96	1	2,120	.90	1
9,000	3,030	.98	1	2,420	.95	1

[1] Assumes Soviet ICBM systems CEP is 1,250 ft for each system. Assumes MIRV'ed warheads can have range of yields from 300 Kt to at least 9 Mt.
[2] Reliability of .85.

TABLE IV.—U.S.S.R. OVERPRESSURE KILL OF U.S. SILOS

U.S.S.R. RV yield	Number of warheads to attack 1,054 U.S. silos, with 75 percent probability of destroying each [1] 1,000 p.s.i.	2,000 p.s.i.
6,000 Kt or higher	1,054	1,054
4,000 Kt or higher	1,054	2,108
3,000 Kt	2,108	2,108
2,000 Kt	2,108	2,108
1,000 Kt	2,108	3,162
300 Kt	4,216	6,324

[1] Assuming a reliability of 0.85.

APPENDIX I

Circular slide rules

The General Electric (GE) Company's Heavy Military Electronic Systems Division developed a "Missile Effectiveness Calculator" which provides a means of quickly evaluating the effect of changes in various weapon system parameters on the performance of the system.

The Missile Effectiveness Calculator is used to show the lethal radius of a weapon when used against point targets of specified hardness, to convert this to single shot kill probability (SSKP) for a range of CEP's and to show the cumulative kill probability when more than one weapon is fired against a target.

The Rand Corporation has developed the "Damaged Probability Computer for Point Targets with P and Q Vulnerability Numbers." It is designed to aid military analysts and planners in making quick estimates of the expected outcomes of attacks against overpressure-sensitive targets (PVNs) and dynamic-pressure-sensitive targets (QVNs). It was prepared under the Project RAND task entitled "Future Strategic Aerospace Force Requirements," a U.S. Air Force contract. Unfortunately, use of this RAND computer is somewhat restricted by the fact that the vulnerability numbers are in a classified Department of Defense document. However, reasonable results which match those of the GE calculator are obtainable if one assumes the peak overpressure hardness of a given target, and the yield of the weapon. Only the SSKP percent figure is obtained from the RAND computer.

Calculating SSKP and confidence level

To calculate SSKP, one must know the CEP and yield of the incoming weapon, and the hardness of the target. The lethal radius of the weapon is directly related to its yield and can be scaled from a one kiloton explosion. Following are one kiloton lethal radii for a range of silo hardness values.

1 KT Lethal Radius Table

PSI Hardness:	*Lethal Radius (FT)*
500	190
650	170
1000	150
2000	120
2500	110
3000	101
3500	95
4000	91

Lethal radius increases (or decreases) as the 0.33 power of the weapon of interest compared to a one kiloton weapon. By equation:

$$\text{Desired lethal radius} = (1\text{ KT lethal radius}) \times (\text{Weapon Yield})^{0.33}$$

This equation can be solved using logarithm tables or the Y^x or logarithm functions available on most calculators. Knowing CEP and the lethal radius, one can calculate SSKP from:

$$\text{SSKP} = 1 - 0.5\left[\frac{\text{Lethal radius}}{\text{CEP}}\right]^2$$

If one now includes system reliability, ρ, the probability, P_k, of one warhead destroying a target is then:

$$P_k = \rho(\text{SSKP})$$

When more than one weapon is fired at a target, the cumulative kill probability—$P_k(n)$—can be obtained from:

$$P_k(n) = 1 - (1 - P_k)^n$$

where "n" is the number of weapons fired at the target from different missiles.

The number of weapons—n—to give the desired $P_k(n)$ is obtained from:

$$n = \frac{\ln [1 - P_k(n)]}{\ln [1 - P_k]}$$

Arithmetic calculation of values

If one does not have a hand calculator or logarithm tables, values of lethal radius, etc., can be derived arithmetically. It was pointed out that lethal radius doubles with an 8-fold increase in yield. The following table indicates the increase in lethal radius for increases in yield.

OVERPRESSURE SCALING TABLE

Increase in yield	2×	3×	4×	5×	6×	7×	8×
Increase in lethal radius	1.25	1.44	1.59	1.71	1.82	1.91	2.00
Proportional parts mid-point	(1.345)	(1.515)	(1.65)	(1.765)	(1.865)	(1.955)	

Consider the following example. What is the lethal radius of a 16 KT weapon against a target hardened to 500 PSI? A 160 KT weapon against the same target? 1 megaton?

From the 1 KT Lethal Radius Table, 500 PSI is found to a distance of 190 feet. A yield of 16 KT is (8x2) the value of 1 KT. From the Overpressure Scaling Table, 8=2.00 and 2=1.25.

The lethal radius for a 16 KT weapon against a 500 PSI target is:

Lethal Radius = (190) (2) (1.25) = 475 feet

For 160 KT, one finds the scaling value by dividing 160 by 8 until a number less than 8 results:

$$\frac{160}{8}=20;\frac{20}{8}=2.5$$

Each value of 8 doubles the lethal radius. Note that 2.5 is midway between 2x and 3x on the Overpressure Scaling Table. The lethal radius for a 160 KT weapon against 500 PSI is therefore:

Lethal Radius = (190) (2) (2) (1.345)
= 1,022 feet.

One megaton would be:

$$\frac{1000}{8}=125;\frac{125}{8}=15.63;\frac{15.63}{8}=1.95$$

The increase in radius provided by 1.95 can be determined by dividing it by the value for 2x or

$$\frac{(1.95)(\quad)}{(2.00)(\quad)}1.25=1.22$$

The lethal radius for a 1 megaton weapon for 500 PSI is:

Lethal Radius = (190) (2) (2) (2) (1.22)
= 1854 feet

It is assumed that system CEP is given. The SSKP can then be determined from the equation:

$$SSKP=1-0.5\left[\frac{\text{Lethal radius}}{CEP}\right]^2$$

Representative values of SSKP for various ratios of lethal radius to CEP follow:

SSKP percent:	*Lethal Radius CEP*
1	0.12
10	0.39
30	0.71
40	0.86
50	1.00
75	1.40
90	1.84
95	2.10
99	2.60

The final parameter of interest, the number of weapons necessary to assure destruction at any given confidence level is derived from:

$$n=\frac{\log(1-\text{desired probability of damage})}{\log(1-\text{reliability times single shot kill probability})}$$

Some representative values are presented below, for a reliability of one:

SSKP (percent)	n for given P_k 50 percent	75 percent	90 percent	95 percent
10	7	12	(1)	(1)
20	3	6	10	13
30	2	4	7	9
40	2	3	5	6
50	1	2	4	5
60	1	2	3	4
75	1	1	2	3

[1] Indicates n greater than 20.

STATE GRANTS FOR LONG-TERM CARE INITIATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. Mr. Speaker, I am introducing legislation today with my colleague on the House Select Committee on Aging, Chairman PEPPER, to set up a program of special grants to States to help meet the needs of this Nation's chronically ill and disabled elderly. We intend to offer this legislation as an amendment to the Older Americans Act when it is considered for reauthorization later this year.

The Older Americans Act—often thought of as our Magna Carta for the elderly—has catered mainly to the needs of these elderly citizens who are in good health. The health and social needs of the more than 8.5 million elderly who have chronic impairments have not received adequate attention under the Older Americans Act. While title III of the act calls for social services of many kinds, the delivery of these services has not been linked with the intensive medical services of other Federal programs to serve the needs of the aging. Instead, the existing service delivery system labels older people as either "healthy" and not in need of services or "sick" and needing institutional care.

As their disabilities increase, the elderly poor have no other place to turn but Federal programs. They find themselves either without help or placed in costly institutions. Institutional care is often not the best mode of care, but because financial alternatives to such care are not available, it becomes necessary. A study contracted by the Department of Health, Education, and Welfare in 1975 cited figures which draws attention to this problem. The study indicated that between 14 and 25 percent of the institutionalized elderly may not need that form of care.

Nevertheless, the need for some type of care is evident. The extent of chronic illness in the United States has been growing in direct relation to increases in life expectancy. The number of people 60 and older has increased more than 12 percent since 1970. This rate of increase includes those 85 and older who represent the fastest growing segment of our population. Their numbers have increased 39.6 percent during the same period. In raw numbers, the elderly total roughly 20 million persons, and almost one-fifth are limited in mobility, while over two-fifths are limited in activity by chronic disabilities. This is more than double the incidence of chronic disability in any other age group.

In the past, Federal programs have not fostered the interrelationships between social and medical services which are necessary to meet the needs of the chronically ill and disabled elderly. The needed steps have not been taken largely because of anticipated cost and proliferation and fragmentation of those service delivery efforts we do have.

The cost issue was highlighted last year when testimony was taken by the Subcommittee on Health and Long-term Care on the impact of medicaid cutbacks on the elderly. The flexibility of Federal reimbursement policies make it impossible for States to control costs for services which account for the overwhelming portion of their medicaid budgets. While only 5 percent of the medicaid population reside in institutions, they account for approximately 40 percent of total expenditures under the program. States can only cut costs by eliminating outpatient, preventive services and reducing provider fee schedule allowances which would benefit the vast majority of the elderly with disabling chronic conditions who are not institutionalized. These cutbacks not only decrease the willingness of providers to serve the elderly poor, they also increase the likelihood that medical assistance will only be sought through expensive, inpatient means.

The evidence is growing that other forms of community support, such as home health and homemaker services, will better meet the needs of the chronically ill and disabled elderly at a lower cost per person. The GAO report concludes that "until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care." This estimate of the cost of home care includes the value of general support services provided by family and friends. The Government has been reluctant to pick up the costs for these less intensive service delivery systems because they would greatly increase total Federal expenditures.

Proliferation and fragmentation in existing long-term care and social services are the other elements which frustrate the elderly in their quest for appropriate assistance. For example, more than a dozen programs, including medicare, medicaid, title XX social services and the Older Americans Act, provide long-term medical or supportive services for the elderly in their homes. Each of these programs has a different set of eligibility requirements and income limits, and often they are governed by conflicting regulations. No wonder it is a nightmare for the elderly individual trying to avail himself of his entitlements.

My bill begins the process of breaking through these barriers by granting States money to establish within communities "single entry point" programs for the entire range of medical and social services needed by the chronically ill and disabled elderly. These programs would be responsible for patient assessment, referral to the most appropriate level of care, and progress reporting.

PATIENT ASSESSMENT

The primary purpose of patient assessment is to improve patient care by determining the type and intensity of services needed. These services would be drawn from the services already authorized under title III of the Older Americans Act, emphasizing those designed to meet the diagnostic, therapeutic, re-

habilitative, supportive, and maintenance needs of individuals with chronic physical or mental impairments.

REFERRAL

Working with the patient, program managers will develop a plan for referral of the individual to local providers. This service plan is not intended to duplicate various provider plans of care, but it would contain information necessary to follow the individual as he or she enters and leaves the health care delivery system.

PROGRESS REPORTING

Progress reporting, or "follow-up," makes it possible to identify those patients who should be in different levels of care. By monitoring patient problems, conditions, and outcomes, program managers have the flexibility to reassign persons to different care settings in order to prevent unnecessary and inappropriate patient placement.

The benefits of a single entry point within the community are twofold. The elderly would have the assurance that there is a place in the community where there are individuals trained to understand and assist in meeting their long-term care needs, taking into account their individual preferences. The community will have the assurance that public and private resources are being combined in the best possible manner consistent with cost and quality.

Each State desiring funding under this program would be responsible for developing a single plan for providing institutional and community-based long-term care services. The State plan would also have to assure, within the limits of existing law, the coordination and delivery of services that cut across several Federal and State agency lines on a local basis. In short, the State would become the fiscal manager for the program, allowing those involved with client assessment, referral, and followup, to devote their attention fully to those tasks. Finally, the State plan must outline how individual assessment, referral, and followup, will be administered, including assistance from existing advisory councils to local area agencies on aging, whether the program be statewide or limited to particular planning and service areas, as defined by the Older Americans Act.

The responsibility for this plan would lie with the State unit on aging, unless the Governor demonstrated, with the approval of the Commissioner, that another State agency would be more appropriate for preparing and implementing the plan. Grants would be limited to one per State and would be awarded by the Commissioner, based upon the quality of the applications submitted, as far as moneys were available. Initial grants would be awarded for 3 years with optional 2-year renewals. First year funding of the program is estimated at $40 mililon and would rise in increments to $100 million at the end of the first 3-year grant cycle. These moneys would cover 90 percent of program costs. Each State would contribute the remaining 10 percent of the cost.

States receiving grants will be under obligation to submit a yearly report to the Commissioner. The Commissioner in turn will evaluate these programs and make a report to the Congress within 3 years.

Although the Commissioner would administer the program, the Secretary of HEW would have the power to set regulations and provide technical assistance for State proposals. Crucial to the success of this legislative initiative is the willingness of the Secretary to encourage financial participation for all appropriate modalities of care. The modest funding sought by this legislation is intended only for the direct activities of the local long-term care program.

My legislation draws upon our knowledge about the needs and resources of the chronically ill and disabled elderly, and translates it into a workable program that will not be prohibitively expensive. As we evaluate the successes of these initial grants, we will be able to further consolidate our resources in a realistic and efficient manner to the benefit of our elderly population.

The needs of the elderly are more than health-related and beyond the scope of the traditional health programs we have for them. We must establish a new system that views aging on a continuum, requiring different supports at different stages of the process. This proposal was developed in consultation with experts in the field, and I believe it is an important first step to provide for the long-term care needs of older people.

THE U.N. MYTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, seldom has the United Nations been more cogently analyzed than it was in a recent speech by Francis L. Dale. Delivered at the Town Hall of California in Los Angeles on September 8, 1977, Mr. Dale's remarks were reprinted in a recent issue of "Vital Speeches of the Day." By every measure and standard, it is a vital speech with a vital message.

Francis L. Dale is publisher of the Los Angeles Herald-Examiner. His distinguished journalistic career once included a term as publisher of the Cincinnati Enquirer.

Mr. Dale is regarded as a thoughtful and articulate spokesman of the conservative cause. Given this background, it was especially encouraging to read his comments on "The U.N. Myth." In a concise and balanced approach, Mr. Dale reviews the history of the U.N., thus enabling his audience to acquire a better understanding of its current status. His analysis of the pertinence and meaning of these facts to the United States is particularly insightful and compelling. The accuracy and validity of his overall view was clearly demonstrated during the 3 months I recently spent at the U.N. as a U.S. Delegate.

To all my colleagues—regardless of their view on the United Nations—I urge a full and careful reading of Mr. Dale's comments. To that end I am pleased to place his speech in the RECORD at this point:

"THE U.N. MYTH"

IDEALISM WITH PRACTICALITY

(By Francis L. Dale)

It has always been a matter of intense fascination for me to watch Americans as they react to events and trends in international affairs, particularly as reflected in resolutions of the United Nations Organization.

For 30 years the drumfire of political debate in the UN's General Assembly and Security Council has kept the spotlight of publicity centered on the world's personalities and the sometimes pathetic political posturing they pursue on the banks of the East River. Rarely are Americans exposed to the substantive details of the work of international organizations. Given this substantial distortion of world affairs, it is little wonder that a long list of myths about the UN has developed and that the general public knows very little about our role in the UN or about the more than 70 other international organizations to which the United States belongs.

The international minded amongst us feed on a list of myths that's as long as your arm and if you believe them, the UN and all the other international organizations represent our only hope for world peace, our last line of defense against communism, our greatest opportunities for economic trade and development, the best vehicle for humantarian and disaster relief, and the only peaceful way to influence other nations to recognize human rights. The World Federalists, the UN Association and the many Councils on World Affairs and Foreign Policy Associations, to varying degrees, support such views; but most of the claims, on close examination, are so exaggerated as to take on the aura of myths.

On the other hand, the isolationists and nationalists amongst us also feed on a different set of myths that, for the most part, are also exaggerated in their claim. For example, some say that the United States pays a disproportionate share of the financial support for the UN and other international organizations, that all the new and underdeveloped nations always outvote us, that they politicize every issue just to embarrass us, that our diplomats never stand up for our interests, that we never get anything out of our membership in the UN except abuse and the ingratitude of the world, despite all the money we give them. These views, in varying degrees, are held by the John Birch Society, some labor union groups, some veteran's organizations, and some business and employer groups. Again, most of these claims, on closer examination, are so exaggerated that they are myths, kept alive by continuous repetition and refusal to face facts.

Briefly, let's take that closer examination and find out what are the facts. Much of the confusion over whether the UN and our membership in it is beneficial or not is the result of fast pace of change that has taken place.

The pace of change throughout the world is nowhere more vividly exposed than at the level of international relations. In this milieu—especially in intergovernmental organizations such as the United Nations and the Specialized Agencies—one soon learns that the quickening pace of change differs in every country and region of the world. The drummers of change *do* continuously beat their drums, but each one has his own tempo. It is not surprising then, that change, moving so rapidly at so many different rates, brings about conflicts. Since the fallout of those conflicts at the intergovernmental level is so central to many of our nation's objectives and purposes, it is entirely appropriate and timely to ask, "What's

in it for us?" and "What are we in for at the U.N.?"

To answer those questions, we must look at the "changes" and "choices" before us.

Among the great changes of the last 31 years, I would like to focus on three which portend what we're in for in the U.N.:

First, the significance of a U.N. membership expanded roughly three times, from some 50 to nearly 150 sovereign nations.

Second, the change in the role and influence of the United States.

Third, the changes in the problems with which the world community must cope.

When the U.N. was founded over 31 years ago, most of its original 51 members shared Western traditions of government and practiced traditional forms of diplomacy. Our main preoccupation in the early years was to contain threats from the Soviet Union and its allies—the so-called East/West issues—through the cold war up to detente. We did well in this task; most of the world, most members of the U.N., were solidly with us.

In the 1960's dozens of new countries emerged from colonialism. We welcomed the newly independent states—indeed we were foremost among the major powers in pressing for a rapid end to colonial empires. We did so because the right of people to rule themselves is one of our bedrock beliefs, enshrined 200 years ago by Jefferson's pen at Philadelphia. We cannot forget our own first premise. The principle of self-rule transcends the inconvenience and conflict which we and other governments have to endure as new states scramble over unfamiliar terrain on the road toward their rightful place in the family of nations.

But the consequences for the UN have been profound. Originally, the UN's problems were those of its founding members—predominantly Western countries. Originally, we practiced diplomacy there in the traditional mode, even allowing for an occasional outburst as when a Soviet leader once employed a shoe noisily on this table to capture the world's attention.

Today, the UN is preoccupied with issues important to both new and older states—problems related to the growing gap between the rich and poor countries and the need for economic links between the developing and industrial worlds—the so-called North/South dialogue as well as the process of completing the liquidation of colonalism and racial discrimination in Southern Africa. And the style has changed. Today, UN debates feature a rough and tumble style of diplomacy, practiced by many representatives of the newer states which have no quiet, genteel diplomatic tradition. The emphasis in the UN has changed over the last three decades from East/West issues to anti-colonialism to North/South issues. We've shifted from peace-keeping to economic and social development.

These changes have good and bad aspects. It is good that most of the world is now represented in the UN, and that the world body has begun to tackle global problems of far-reaching importance to the world's peoples, problems such as food production, population growth, threats to the global environment, and the ownership of resources found in the world's oceans. Increasingly, we have been able to get other countries to involve themselves, along with us, in these problems. Whereas, at one time, the United States paid 47 percent of the costs of such activities, now we pay only about 25 percent of such costs. That's good progress. But it is bad when international institutions are selfishly misused, when impatience and passion lead to confrontation, abusive rhetoric and illusory tests of strength thereby delaying or missing opportunities for real progress.

While the UN has been changing, the role and influence of the United States also has undergone fundamental alterations over the past 30 years. When the UN was founded, many former power centers of the world had been devastated. United States' influence and power were overwhelming. Everybody needed our help—desperately. And we gave generously of our immense wealth. This situation of almost total U.S. preponderance was, of course, reflected at the UN.

As we all know, the situation has changed dramatically, Europe and Japan, with our assistance, have made brilliant recoveries. The economic and military strength of the Soviet Union and its allies have been increased greatly. The People's Republic of China is now a major actor on the world scene. And many of the 100 new countries have become significant participants in the world's equation of supply and demand.

This does not mean that we have become in any sense a second-rate nation. We are still the world's strongest country—militarily and economically. Each of several of our larger states has a greater production of goods and services than nine-tenths of the world's nations. And more important, America and American ideals are still a source of hope for much of the world. Our creativity and our ability to find innovative solutions to new challenges are greatly admired. But others are also important now and play vital roles along with us. This change too is reflected in the UN. Indeed, it would be strange if it were not.

But the opening up of the world's stage so other actors can play a part should not be a cause for alarm or fear; isn't this the purpose of the whole exercise? Isn't it our goal to make it possible for lesser developed countries to so develop that they can graduate into being developed countries and then trading partners of ours? Of course it is, but we're in for even more rapid changes and even greater challenge to our ingenuity and resourcefulness, because at the very time when our own relative power to control events has lessened, we find ourselves confronted by new problems of enormous complexity—problems which even raise questions about mankind's ability to survive into the 21st Century.

Now, we must work on human and economic questions: Food production and distribution, economic and technological development, environmental protection; and, of course, some of the age-old problems remain as vital, as demanding, as ever—the need to contain local conflict, to resolve disputes, and to avoid world war. Because of all these changes, we're in for creative opportunities and the opportunities require some significant "choices." First, are we going to ignore these changes or face up to the new facts of the world?

We often feel privileged—a little apart from the troubles of the rest of the world. Having been spared many of the defeats and frustrations of others and having experienced unparalleled economic growth, it's hard to realize the gap between the "haves" and the "have nots." But now our only realistic choice is to accept the reality that our problems are interwoven with those of others. This is so for many reasons:

Because local wars, as in the Middle East, can easily escalate to world wars.

Because global conflict today can destroy the entire planet in a nuclear holocaust.

Because our economic prosperity depends on cooperation and trade with other countries, rich and poor—13 percent of our gross national product is now directly or indirectly related to foreign trade and by 1985, that could reach 20 percent. If it does, one out of five jobs by then will depend upon our links with other countries.

Because we need the raw materials and the markets of many others to continue to grow ourselves. To maintain our modern industry, for example, we need to import not only much of our oil and energy requirements, but we are now also dependent on foreign sources for essential mineral needs, including more than half the nickel, zinc and tungsten and more than three-fourths of the bauxite, manganese, cobalt and tin we consume. It is said that of the 31 basic materials we need in our economy, only 18 of them are in adequate supply within our control.

And finally, our nation's destiny is linked with that of others because we could not long survive as a free and creative society if we were surrounded by a world of hostility and hatred.

On the other hand, others depend upon us, too, particularly for food supplies. We all depend on each other. The facts are that if there is a Middle East oil boycott against us, we'll be short of gasoline; if we're short of gasoline, a farmer in Iowa won't be able to start his tractor so as to harvest his grain crops; if he can't harvest his crops, hundreds of people in central Africa or Southeast Asia may starve.

These are the facts of interdependence. And our only realistic choice is not to deny them but to accept them. For otherwise we would be choosing isolation, stagnation, choosing to turn our backs on the needs of others—and the undermining of our confidence, our values, and even our freedoms.

To choose realistic options in international affairs also means that we must accept and understand the limits of our own capabilities. This is not easy for Americans. Our prestige and comparative wealth were so great after the Second World War that it seemed we could get our way on almost any issue by urging enough friendly and grateful countries to support our position. And we seemed to have virtually unlimited resources to throw at every problem. Now, however, we must learn to work in a more complex environment, knowing that we no longer have overwhelming weight.

We must also face the fact that for the foreseeable future the poor nations, impatient to improve their lot, will continue to resent the great inequalities existing under a world system which they did not create. And many will blame the rich countries who in their eyes were the creators of this system and are its main beneficiaries.

But let us not forget: The poor countries are trying to do something with which we Americans deeply sympathize—to improve the quality of life for their peoples. And they are struggling against nearly the overwhelming odds. We should recognize that these nations vary enormously in their history, in their geography, in their cultural backgrounds, in their natural resource assets. It is inevitable that many will not choose paths to nation-building that are the same as ours. Indeed, they cannot do so.

Our second major choice is this: Whether or not we are willing to commit our energies to international cooperative endeavors within the framework of the UN and other international organizations, to help deal with and hopefully solve some of the world's problems.

As I've traveled this country, talking to people of all walks of life about my work in Geneva, the only portion of such a commitment to international cooperation that troubles people is that part about working "within the framework of the UN." The ever-present myths have frightened our people. But at the UN itself, the facts are that almost all decisions made by the UN General Assembly are by overwhelming consensus in which the United States' views are supported by others. Only rarely is a vote taken and then only on the political opinion resolutions which have no force of law. Even then we are not always outvoted.

On the other side, passing resolutions, whether by consensus or by vote, does not by

itself cause actions to be taken. There's no requirement that the U. S. abide by resolutions it rejects, no matter how great the majority votes behind it. It's a myth that the UN is the assurance of world peace and economic improvement—the nations themselves, not the UN, are the only actors on the world's stage. And the myths about our not getting anything back for our money paid in support of the organizations in the UN framework also disappear in the face of facts. I can show you that the U.S. actually gets more money back from some parts of the UN system than it puts in.

The UN system—or collection—of international organizations includes 14 specialized agencies, which are independent organizations with memberships all their own supplying their budgets wholly separate and apart from the UN budget.

The United States is a member of all 14 of these Specialized Agencies. The group includes, for example, The World Health Organization, The International Telecommunications Union, The World Meteorological Organization, The Intergovernmental Maritime Consultative Organization, The International Civil Aviation Organization, The UN Educational Scientific and Cultural Organizations and The World Bank and its group of monetary organizations. All of these, and the others, are mainly independent of the UN and its General Assembly, but little is known in the United States of their work.

In addition to the specialized agencies, there is a group of 19 funds and programs which are within the UN but which are entirely or in part financed by voluntary contributions of members rather than through the UN budget. Here I'm referring to such funds and programs as the UN Development Fund, the UN Children's Fund, and the World Food Program, and the Office of the UN High Commissioner for Refugees. Again, except for UNICEF, little is known in the United States about the work of these organizations.

How much does it cost the U.S. each year to participate in these organizations, i.e., in the UN as well as the Specialized Agencies and the various other UN-related organizations? In fiscal 1975, the U.S. contributed toward assessed budgets of 60 organizations, including the UN itself, a total of $217 million. The U.S. in 1975 made additional voluntary contributions in cash, commodities and services to 34 special programs in support of economic development and humanitarian activities totaling $319 million. Exclusive of peace-keeping contributions and capital fund replenishment ot the World Bank, in 1975 the U.S. contributed a total of $536 million to some 65 international organizations. Now, that is the equivalent of about 10 B–1 bombers or about $2.37 for each citizen of the U.S. per year.

As against that cost, let me provide a few concrete illustrations of the kind of work these and other organizations within the UN system accomplish and what's in it for us. And because some of us have trouble evaluating and translating them into benefits for us, let me put dollar signs alongside some of the specific benefits we get out of our participation—the hard dollar figures will tell the story.

1. *The World Health Organization,* among other things, protects us from diseases abroad and provides us with the results of world-wide research. One program alone more than pays for all the money we've contributed to WHO. Ten years ago, at the initiative of the U.S., WHO undertook a campaign to eradicate smallpox from the face of the earth. By 1972, the campaign was so successful that the U.S. Surgeon General permitted us to terminate our routine smallpox vaccination program, saving the $140 million annual cost. The total U.S. contribution to this program over the past 10 years was only $25 million. In fact, the total cumulative U.S. regular assessments paid to WHO from its beginning in 1948 through 1976 amounted to only approximately $350 million—and so, in return for our relatively small investment of $25 million we've already saved almost $750 million.

2. *The UN Educational, Scientific and Cultural Organization,* UNESCO, among other things, provides us with the dramatic opportunity to exert U.S. intellectual influence on the rest of the world. UNESCO's special "coupon program" alone, which helps "soft currency" countries purchase U.S. books and films, was responsible for $43 million of purchases in the U.S. in 1975.

3. *The International Civil Aviation Organization,* ICAO, sets safety standards for airports, airplanes, and all aspects of aviation. This not only protects our citizens but directly affects and benefits U.S. airplane manufacturers and their exports and also ICAO helps us control air and noise pollution.

4. *The Intergovernmental Maritime Consultative Organizations,* IMCO, among other things, protects and supports standards for U.S. shipping and also sets internationally accepted standards to reduce oil spills which might spoil our fishing areas and beaches along our shoreline. This is the *only* way to control marine pollution around the world—it can't be done unilaterally—how much is this worth? It's incalculable. The U.S. is the largest shipper and trader in the world—by far—but our costs for this organization are only 5 percent of the total budget.

5. *The World Bank* group gives the U.S. its greatest return. The bank provides capital to lesser developed countries, on soft terms, with which to purchase goods and services needed in their economic development. In 1975, U.S. industries sold over $415 million through this vehicle. The Bank spent $139 million more in the U.S. for expenses and supplies in that year. Interest payments to U.S. holders of Bank loans and bonds totalled another $158 million in 1975. Since the Bank's inception up through 1975, procurement from U.S. industries has totalled over $5 billion.

6. *The UN Development Program.* UNDP, which sponsors development projects through all the specialized agencies and other international organizations, also actually brings a profit to the U.S. By the UNDP's own calculations, in 1975, when U.S. contributions totalled $77.8 million, UNDP expenditures in the U.S. totalled $119.5 million and this figure excludes salaries and investments benefitting U.S. citizens.

7. Even the *UN itself,* with its headquarters on the East River in New York City, brings a profit to the U.S. It costs New York City and the Federal Government about $12 million in diplomatic tax exemptions and police protection each year, but members of the UN Secretariat and the UN Diplomatic Corps are estimated to spend between $50 and $180 million in this country for official and personal expenses. $2 million more is spent by the UN to rent extra office space.

These few examples—and there are many more—overwhelm the critics of the UN and its system who believe the myth that the U.S. pays too much of the expenses of the international organizations and gets nothing back but abuse. Actually, we only pay about 25 percent of the total assessed budgets of all these organizations. If we were required to pay to the UN budget under the same criteria as other countries have to pay, we would be required to pay more than the 25 percent. We enjoy a privileged status. On top of that, we probably make a sizable dollar profit each year, not counting enormous intangible benefits to us and the world generally.

In summary, we're involved in a system of international organizations which not only serves our diplomatic goals, and our humanitarian and moral desires, but also actually gives us a substantial return for our financial investment. The facts, once they are known and appreciated, erase the myths and compel us to make the choice of a *commitment* to international cooperation. We cannot abandon the UN—and other international organizations—to do so would only require us to form another one which probably would not serve our interests nearly so well. Withholding our financial support would only be counterproductive.

We need to continue our efforts to define our interests, work to make all international organizations more effective in their work and then relate that work to our nation's economic, diplomatic, and moral goals and interests.

In this way, we can combine our idealism with practicality. Our horizons now have been enormously expanded. Ambassador Adlai Stevenson on the occasion of the UN's 20th anniversary, shortly before his death, described the situation this way:

"Already science and technology are integrating our world into an open workshop where each new invention defines a new task, and reveals a shared interest, and invites yet another common venture. In our sprawling workshop of the world community, nations are joined in cooperative endeavor: Improving soils . . . purifying water . . . harnessing rivers . . . eradicating disease . . . feeding children . . . diffusing knowledge . . . spreading technology . . . surveying resources . . . lending capital . . . probing the seas . . . forecasting the weather . . . setting standards . . . developing law . . . and working away at a near infinitude of down-to-earth tasks—tasks for which science has given us the knowledge, and technology has given us the tools, and common sense has given us the wit to perceive that common interest impels us to common enterprise. Common enterprise is the pulse of world community—the heartbeat of a working peace . . ."

That's what's in it for us.

I can find no better words to describe my own moral commitment and choice to the work of the UN and other international organizations than the words in three phrases, which my wife and I have used to sustain us—

I looked in the distance and saw an animal;

I came closer and saw that it was a man;

I came still closer and saw that it was my brother.

IDA NUGEL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 2 minutes.

Mrs. HECKLER. Mr. Speaker, the plight of Soviet Jewry continues, and another violation of the Helsinki Accords has been brought to my attention. I refer to the case of Ida Nudel who, until applying for an exit visa in 1971, worked at the Moscow Institute for Planning and Productions. Upon requesting permission to emigrate to Israel for the sole purpose of being with her only two living relatives, Mrs. Nudel lost her job.

In the intervening 6 years, Ida Nudel has been arrested countless times, placed in prison punishment cells; beaten, tortured, and starved. This punishment is meted out to her for her untiring efforts on behalf of the prisoners of Zion. To the prisoners, Ida is the surrogate mother, sister, friend. She keeps in touch with them, by correspondence, by visiting in person, by supplying soup cubes, vitamins, or badly needed drugs. In many

cases, the families of the prisoners have been allowed to leave for Israel, so that Ida is their only family. Ida has thus become the "Angel of Mercy"—much beloved by the prisoners, and she continues her mission despite the obstacles placed in her path by Soviet officials.

I shall be sending a letter to Ambassador Dobrynin on behalf of Ida Nudel and take the opportunity to urge my colleagues to join our plea that this courageous woman be allowed to emigrate and join her relatives in Israel.

RULES KEEP CHANGING FOR CREDIT CARD CONSUMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, millions of credit card consumers across the country have just won a great victory. After 2 years, Citibank of New York has decided to stop imposing a 50-cent service charge on Master Charge accounts that are paid in full each month. As chairman of the Consumers Affairs Subcommittee, I viewed with alarm this concept of penalizing a customer for paying his bills on time. I opposed Citibank's measure and introduced legislation last summer that would prohibit these kinds of service fees—H.R. 8753, the Consumer Credit Protection Act amendments.

While I applaud the bank's actions to terminate this program, I am not convinced that the consumer is any more protected from the whims of bankers than before. If anything, it makes clear the need for legislation that will set the rules straight and prevent financial institutions from changing their minds every 2 years or every 1 year or whenever they please.

When Citibank first launched this ill-fated service fee arrangement, my distinguished colleague from the District of Columbia Walter Fauntroy, also a member of the Consumer Affairs Subcommittee, and I warned that the bank was playing a game of "spider and fly." We live in a credit card society and the consumer, lured by massive advertising campaigns to acquire one credit card or another, must play by constantly changing rules without a scorecard. I would suggest that the game now seems more like "pitch and catch," with the consumer playing the role of a monkey in the middle watching helplessly as the rules switch back and forth.

The Citibank incident is particularly distressing in light of statements bank officials made regarding the profitability of the credit card business. Citibank President William Spencer even wrote me that the Master Charge service fee was needed to "almost but not quite break even." At the same time, however, I found it strange that Citibank was also soliciting new VISA (BankAmericard) applications and promising consumers there would not be a fee on those cards. Now, 2 years later, Citibank has decided it does not need the extra charges so badly after all. In fact, I noticed in one news account that for the first time in years Citibank made a profit on its Master Charge operation.

Mr. Speaker, the Consumer Credit Protection Act amendments, H.R. 8753, will establish guidelines to prevent the consumer from becoming just another guinea pig in the experiments of large financial institutions. Credit cards should be for the consumer's convenience, not solely for the card issuer's increased profit margin. There are more than 500 million credit cards in use today and without regulation there is too much room for consumer abuse. The cardholder is at the mercy of card companies that increase finance charges and devise new billing schemes.

This bill will also set regulations on electronic fund transfers (EFT), which, like credit cards, foretell the era of a "cashless society." But the credit card is a mirror of the EFT, for 20 years ago few would have guessed its future impact. And what has happened to credit cards could happen to EFT's. With these amendments we can get a jump on EFT's and inform consumers, retailers and banks how to use the system and how to protect themselves.

The banks and card companies say the credit card business is running smoothly. They also say we should let an EFT policy evolve by itself. But facts speak for themselves and evidence points in the other direction. I would suggest we let an EFT policy evolve with the consumer's interests in mind. The banks, after all, will receive the full benefits of EFT's as in many cases they can switch current credit card customers to an EFT card.

Mr. Speaker, we are dealing with specifics. We are dealing with the very real complaints of consumers who find themselves confused and frustrated. The Consumer Credit Protection Act amendments is a law we all need.

ASSESSMENT OF INFLATIONARY IMPACT OF 1977 AMENDMENTS TO OUTER CONTINENTAL SHELF LANDS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, last July I had the privilege of accompanying President Carter on his visit to a petroleum drilling rig off the coast of Louisiana. During his visit the President said that he wanted to see expedited development of the Outer Continental Shelf, particularly off the Atlantic coast, along with the development of appropriate environmental safeguards for this type of activity. I fully agree with President Carter that OCS development and the protection of the marine environment are not only mutually compatible goals but are necessary goals.

The Ad Hoc Select Committee on the Outer Continental Shelf has been wrestling with these and other issues for some time now. I compliment the chairman, the members of the committee and the staff on the long and difficult hours they have spent and the expensive hearings that they have held in the affected areas of the United States and abroad. The committee, however, has reported a bill, H.R. 1614, to amend the Outer Continental Shelf Lands Act that fails to meet its stated objectives of establishing a policy for the management of oil and natural gas in the Outer Continental Shelf or the protection of the marine and the coastal environment. In addition this legislation will have a negative effect on the economy of the Nation and the job security of numerous empoyees working in support of the oil and gas industry throughout the country.

This afternoon I had an opportunity to testify before the Rules Committee during consideration of the OCS bill. My remarks related directly to the problem of inflation, something that is of concern to every Member of this House. I would like to share with you the problems I have discovered with this bill and its impact on our Nation's economy. Clearly something of great interest to all of us as we consider this legislation.

Prof. John R. Moroney, a brilliant microeconomist at Tulane University found that, contrary to the assertion by supporters of H.R. 1614 that it would step up offshore oil and gas development, the bill would actually delay OCS production significantly. His study, based or other academic analyses, estimates that this bill could cause up to 6 years of delay in developing our offshore resources. The sources of delay are:

First. Jurisdictional confusion between and among the several Federal departments and agencies directed by H.R. 1614 to implement its provisions;

Second. The "dual leasing" provisions and the separation of exploration and production called for in section 25;

Third. Citizen suits and other litigation encouraged by the bill;

Fourth. Increased economic uncertainty on the part of OCS exploratory drillers and developers;

Fifth. On-structure drilling as provided for in H.R. 1614.

Referring to the five sources of delay outlined above Professor Moroney reasons:

> All such delays would be inflationary because the postponed purchases of capital and deferred employment of labor would require that these imputs be purchased at higher costs than they would otherwise be.

The ad hoc committee contends in its report that H.R. 1614 would cause a potential decrease in the world price of oil which in turn would be reflected in lower prices and costs of virtually all products and services in the U.S. economy. Professor Moroney points out the serious flaw in this contention by calculating that if the OCS were opened up for leasing (and without the delays necessitated by the bill) to the extent forecasted in the President's national energy plan, the most additional production that could be squeezed out by 1985 would be 321 million barrels a year or less than 1 million barrels a day. This is roughly 1.5 percent of the projected 20 to 25 billion barrels of annual world oil production.

Let us face it, 1.5 percent of a market cannot control world prices, nor force

them to drop, nor, in turn, reduce the costs of foods and services consumed in the United States.

Further, in its report, the ad hoc committee asserts the bill would facilitate production of natural gas particularly on the eastern seaboard, thereby exerting a net deflationary impact on the national economy.

Here Professor Moroney shows that the built-in delays in the OCS bill would not facilitate stepped up production on the east coast or anywhere else on the Outer Continental Shelf. He reasons:

The foregone domestic production is quite important in a different respect. Postponed output attributable to even a 2- or 3-year delay would impose a burden of $1.8 billion to $2.5 billion in our balance of payments. In the more drastic case of a 6-year delay, the balance of payments burden would approach $5 billion annually. It would ill behoove our nation to place such an additional potential strain on our already besieged balance of payments.

Professor Moroney quotes the committee report on pages 202–204 as estimating Federal implementation costs at $691 million between now and 1982. To this point he responds:

To these costs must be added an indeterminate, but unquestionably large, volume of private implementation costs attributable to potential citizen suits and litigation, the preparation and filing of EIS, and the substantial inefficiencies in the allocation of capital and labor in an environment of induced uncertainty.

Mr. Speaker, the Moroney study alone should be sufficient justification for this House to defeat the bill as reported for the sake of the Nation's future economic stability. So that the Members of this House will have the benefit of Professor Moroney's fine work, I ask unanimous consent to insert his study in the RECORD:

AN ASSESSMENT OF THE INFLATIONARY IMPACT OF THE 1977 AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

(By Prof. John R. Moroney)

The purpose of this study is to assess the inflationary consequences if the amendments to the Outer Continental Shelf Lands Act of 1953, embodied in S. 9 and H.R. 1614, were adopted.

These amendments are intended to affect the development and production of crude petroleum and natural gas in the Outer Continental Shelf (OCS) of the United States. But two strongly differing points of view prevail concerning the likely effects of this legislation on the development of frontier OCS areas and the continued development of established areas such as the Gulf of Mexico. The first, typified for example in a study conducted under the supervision of Dr. Warren F. Rogers of the University of Rhode Island, is that the amendments could conservatively be estimated to engender six years of additional delays to the development of leases in frontier OCS areas (Source: Dennis W. McLeavey, "Projected Time to Commercial Production in OCS Frontier Areas", 1977); and that the amendments could conservatively be estimated to cause, on average, three-year delays in the development of new leases in the Gulf of Mexico (Source: Dennis W. McLeavey, "Revision of the Projected Time to Commercial Production in OCS Frontier Areas", in *The Economic Impact of the Jackson/Murphy Amendments to the Outer Continental Shelf Act on the State of Louisiana*, University of Rhode Island, August, 1977).

The sources of such delays inherent in the amendments are several. First, a wide range of overlapping jurisdiction by two or more federal agencies would be created in many areas. For example, the Department of Labor would have an enlarged jurisdiction in matters relating to worker safety, whereas under the existing system, primary responsibility for worker safety is vested in the Coast Guard. If a jurisdictional dispute were to arise, yet a third agency, the Office of Management and Budget, would likely decide where precedence lay. Such questions of jurisdictional authority, and their resolution, would undoubtedly be time consuming and expensive.

Second, the implementation of "dual leasing" would surely lead to susbtantial delays. The Secretary of the Interior would be able to issue separate leases for exploration and for development. There would certainly be political pressure for him to do so. The separation of OCS exploration from OCS development and production would be accentuated by the requirement that an environmental impact statement (EIS) be filed after exploration but before lease development. The federal government would, under "dual leasing", make a decision as to when exploration on a specific tract was complete, and then undertake the development lease. However, experience in the Gulf of Mexico and elsewhere plainly shows that it is highly uncertain, economically, when further exploratory drilling on a tract should be discontinued. It is often the case that further exploratory drilling on a lease is warranted after certain tracts are being (or have been) developed.

Third, citizen suits and other litigation would be encouraged by the proposed legislation. A fundamental change in the terms of private contract would issue from this legislation, since third party suits would be facilitated. Even within the framework of the present OCS Act, the Baltimore Canyon Sale has been delayed by litigation for more than a year. The additional opportunities for third party suits created by this legislation could be expected to create much additional, time-consuming litigation.

Fourth, economic uncertainty on the part of exploratory drillers and developers would be increased. This is so in part because the legislation would require the filing of EIS both before and after exploratory drilling, and these statements would be open to challenges by third parties. Investors would understandably be less willing to commit expensive capital equipment and highly trained, highly paid workers in the face of such uncertainties than they otherwise would be. It is unquestionably true that in comparison with present arrangements, the ordering of costly development platforms would be substantially delayed under the circumstances created by the proposed legislation.

Fifth, on-structure drilling in frontier areas has been estimated by McLeavey ("Projected Time to Commercial Production in OCS Frontier Areas", 1977) to likely cause additional delays of at least three years to ultimate tract development.

All such delays would be inflationary because the postponed purchases of capital and deferred employment of labor would require that these inputs be purchased at higher costs than they otherwise would be.

A fundamentally different viewpoint concerning the effects of H.R. 1614 is expressed in the "Inflationary Impact Statement" issued by the Ad Hoc Committee on the Outer Continental Shelf (Source: Outer Continental Shelf Lands Act Amendments of 1977: Report by the Ad Hoc Committee on the Outer Continental Shelf; U.S. Government Printing Office, Washington, D.C., August 29, 1977, pages 204–205). In this statement it is argued that enactment of H.R. 1614 would: (1) facilitate the development and production of oil resources on the OCS, and thereby increase the domestic supply of petroleum; (2) potentially cause a decrease in the world price of oil, which would in turn be reflected in lower prices and costs of virtually all products and services in the U.S. economy; (3) facilitate production of natural gas, particularly on the Eastern Seabord and thereby help stabilize its price; and therefore exert a net deflationary impact on the national economy.

This alternative view is not tenable, for several reasons. First, and quite apart from the central question of whether the bill would or would not cause delays, the flow of new crude production from the OCS is but a drop in the world's oil bucket. Whether it is or is not available in the world market, it would not affect the world price of oil at any time.

The Federal Energy Administration, in its draft version of the *1977 National Energy Outlook*, incorporated the Project Independence Evaluation System model to estimate the effect of changes in OCS leasing schedules on U.S. crude petroleum output by 1985. Using this model, it is estimated that a delay of one year for leasing one million acres in the OCS will reduce U.S. crude petroleum production by 100,000 barrels per day (36.5 million barrels per year) by 1985. The projected Federal OCS lease schedule implicit in the Administration's National Energy Plan (which is also roughly equivalent to the revised OCS lease schedule issued by the Department of the Interior in August, 1977) is as follows:

TABLE 1.—*Total acres leased annually*

[In millions]

1978	2.0
1979	1.4
1980	1.4
1981	1.4
1982	1.4
1983	1.2
1984	1.2
1985	1.2

(Source: Brian P. Sullivan, "Cost of Delays in OCS Leasing," September 8, 1977, American Petroleum Institute.)

Thus if the pending OCS legislation were to delay the above lease schedule by 1 year, 2 million potential acres would be postponed for one year, and the implied flow of production from this acreage (200,000 barrels per day) would not be available in 1985. If the legislation were to delay the lease schedule by two years, 3.4 million potential acres would be postponed, and the implied flow of production (340,000 barrels per day) would not be available in 1985. One may use this methodology to estimate the potential domestic crude production foregone in the year 1985 caused by delays of various lengths, and the costs of replacing this foregone production by imported crude at $14.50 per barrel. These estimates are as follows:

TABLE 2

[Dollars in billions]

Length of delay (in years)	(1)	(2)
1	73	$1.06
2	124	1.80
3	175	2.53
4	226	3.27
5	277	4.02
6	321	4.65

[1] Foregone production in 1985 (millions of barrels per year.)

[2] Costs of imported crude in 1985 (per year.)

In the most drastic case of a full six-year delay in the lease schedule, the potential domestic output foregone would be 321 million barrels per year in 1985. Recall that this

computation is based on the assumption that 100,000 barrels per day (36.5 million barrels per year) are postponed for each million acres of OCS lease postponed. Making the more liberal assumption (more nearly consistent with experience in the Gulf of Mexico OCS) that 200,000 barrels per day (73 million barrels per year) would be postponed for each million acres of OCS lease postponed, the above estimates of foregone production and costs of imports would be doubled.

In either case, the potential output postponed would be a miniscule fraction of world production. The world production of crude petroleum in 1974 was 20.5 billion barrels [Source: *Minerals Yearbook, 1974;* U.S. Department of the Interior, U.S. Government Printing Office, Washington, D.C., 1977). World production in 1985 could reasonably be projected to be in the range 20 to 25 billion barrels per year. Potential output of 321 million barrels per year from the U.S. OCS would be roughly 1.5 per cent of the world total; and whether available or not, that portion of U.S. production would not appreciably affect world price.

Yet the foregone domestic production is quite important in a different respect. Postponed output attributable to even a two-or-three-year delay would impose a burden of $1.8 billion to $2.5 billion in our balance of payments. In the more drastic case of a six-year delay, the balance of payments burden would approach $5 billion annually. It would ill behoove our nation to place such an additional potential strain on our already beseiged balance of payments.

The amendments are intrinsically inflationary on several counts. For example, the costs of implementation are quite substantial. The committee has estimated the annual implementation costs on the part of the government alone (excluding the costs of the Coast Guard that would occur under Title II of HR 1614) as follows:

TABLE 3.—*Government implementation costs*

[In millions]

Fiscal year:	
1978	$105.6
1979	159.4
1980	174.4
1981	118.3
1982	133.3

Source: Report by the Ad Hoc Committee on the Outer Continental Shelf; (U.S. Government Printing Office, Washington, D.C., August 29, 1977), pp. 202–204.

To these costs must be added an indeterminate, but unquestionably large, volume of private implementation costs attributable to potential citizen suits and litigation, the preparation and filing of EIS, and the substantial inefficiencies in the allocation of capital and labor in an environment of induced uncertainty.

Given the proposition that HR 1614 would cause sizeable delays in further development of the Outer Continental Shelf of the United States, there can be little doubt that it would stoke the flames of inflation in this country and add yet a greater burden to our beleaguered balance of payments.

PANAMA CANAL TREATY PROPOSALS: MAJOR FALLACY EXPOSED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, over the last decade, I have made many addresses in and out of the Congress on Isthmian Canal policy questions. These addresses repeatedly stressed that the key issue involved is that of the continued sovereign control by the United States over the Panama Canal and its indispensable protective frame of the Canal Zone, which have long been under a detrimental assault aided and abetted by certain elements in our own Government.

In the arguments against surrender of U.S. rights, power and authority over the Panama Canal enterprise, entirely too much stress has been placed on minor angles in the problem, such as "access" to the canal and the "defense of neutrality" after the Canal Zone is surrendered. These and many other details in the treaties are not basic issues but only strawmen that confuse the realities in the situation, such as the maintenance, operation, sanitation, and protection of the canal for which purposes the zone is absolutely essential.

It was, therefore, with the greatest interest that I read in a recent issue of the Washington Report of the American Security Council a most thoughtful article by Asst. Prof. M. Northup Buechner of St. John's University of New York.

In this article, Professor Buechner makes these basic points:

The primary issue is not the military importance of the canal. It is not the economic importance of the Canal. And it is certainly not the details of the new treaties. The primary issue is the right of the United States to exist.

Instead of attempting to mislead the people of the United States and the Congress by the specious propaganda of fear as is now being done largely by the State Department, the President should make clear that, in the interest of saving lives of both Panamanians and North Americans, any assault on the canal or zone territory will be repulsed with whatever force that may be required and the Congress should reject the pending treaties in their entirety. With continued U.S. sovereignty over the Canal Zone thus reaffirmed, the way will then be clear for starting on the long overdue major modernization of the existing canal under existing treaty provisions, which authorize "expansion and new construction."

Mr. Speaker, as the indicated article by Professor Buechner should be readily available to all Members of the Congress and the Nation at large, I quote its full text:

WHY WE MUST KEEP THE CANAL

(By M. Northrup Buechner)

(EDITOR'S NOTE.—Quite a bit has appeared in the news media recently about the Panama Canal issue. Most of it has been in response to the PR campaign orchestrated by the White House to gain Congressional and popular support for the proposed Treaties. The White House effort has been primarily theatrical, with the elaborate dinner for the Latin American leaders being the big event carefully staged for maximum TV coverage.

(Leading opposition voices have been given grudging play in the press. And the powerful popular opposition has been relegated to sparse reports of public opinion polls.

(The article below is one we recommend highly to WR readers. It goes to the issues behind the Treaties. It reveals the inadequacy of the opposition arguments that have been presented so far in the Congress. And it provides a valuable service on behalf of the general public, by offering a compelling rationale for the so far inarticulate cry of objection from the American heartland.)

The abysmal level of the public debate over the Panama Canal was epitomized in a national interview with a prominent undecided Senator. Asked what considerations he was weighing in making up his mind, the first thing he mentioned was the veto power the new treaties give Panama over a second canal. The public pondering of such details has spread the impression that only trivia is at stake in this debate. Nothing could be further from the truth.

The public advocates of keeping the canal, however, have missed the point almost as badly as that Senator. The primary issue is not the military importance of the canal. It is not the economic importance of the canal. And it is certainly not the details of the new treaties. The primary issue is the right of the United States to exist.

The moral principle at stake is the right of the United States to keep her values, her achievements, her wealth, in the face of overwhelming global opposition. And since a country, like a man, cannot survive without values, at issue is the right of the United States to survive.

That is why the American people oppose the new treaties. *That* is the principle behind their desperate feeling that giving away the canal would be wrong in some way much more important than they know how to say. When they tell reporters "we have given away too much already," and "we have to stop letting them push us around," *that* is what they are trying to say. Though they lack the words, they see surrender of the canal for what it would be: a step in the direction of renunciating the United States' right to her values and her life.

Unfortunately, a national debate cannot be won without the words. It is not enough for people to be right. They must know *why* they are right. They must have the words and principles to defend their position. What happens when they do not has been most evident in the United States Senate.

Because they did not know how to oppose surrender of the canal in principle, a number of Senators have tried to prevent its surrender by becoming enmeshed in debate over the details of the new treaties. In doing so, they have made several significant contributions to the other side.

They have accepted a context for debate where it is treated as already established that we should give up the canal and the dispute therefore, is only over the side conditions. They have trapped themselves in a position where, if the conditions to which they object are changed, they cannot vote against the treaties. And they have been diverted from giving any effective leadership or voice to their enormous support in the general population.

What position should they have taken? How should the new treaties be opposed? The most damning evidence against the treaties is the arguments that are given in their favor. Those arguments fall into two general categories: the practical arguments and the moral arguments; or the arguments from fear and the arguments from guilt.

THE PRACTICAL ARGUMENTS

The most extreme, and therefore the clearest, of the practical arguments holds that if the Senate rejects the new treaties, Panama will become "another Vietnam." In other words, we should give up the canal out of fear of a war with Panama or, even more disgraceful, out of fear of independent guerrillas.

This argument marks a new low in the level of political discourse in this country and not many have had the effrontery to make it openly. That it has been left largely to implication and innuendo is the only sign that our leaders retain any respect for the American people.

For example, it was argued explicitly before the Senate Foreign Relations Committee that the best way to retain access to the canal is to give it to Panama so they

will be on our side if we should have to defend it. It is very revealing (and somewhat frightening) that this argument was taken at face value by all the news media, and its implications went completely unnoticed.

Militarily, observe the helplessness of the United States implied by so desperate a need for support, and from Panama of all places, as to justify giving away the canal.

Strategically, observe the absurdity of assuring access to the canal by placing all the complex, delicate machinery and equipment and controls for its operation in the hands of a potential enemy.

And, finally, since attacks by Panama are the only current dangers to the canal's security, observe the threat implied by raising the issue of, and hence doubts about, our access to the canal. The real meaning of that argument was that if we try to keep the canal, Panama will deprive us of its use, and therefore we had better give it to them.

To spread this kind of thinking, an unforgiveable campaign has been carried on through the media for the last several months, specifically directed at undermining the self-confidence of the American people and frightening us into giving up the canal. Its most disgraceful element has been the effort by our own military leaders to leave the impression, again by hint, insinuation, and innuendo, that the United States is militarily impotent to assure the security of the Panama Canal.

The argument about access to the canal, for example, was repeated several times before the Senate Foreign Relations Committee by military leaders. When the Panamanian dictator was making thinly veiled threats of guerrilla war, the chairman of the Joint Chiefs of Staff did not dismiss him as absurd. Rather he implied that the threat was serious by saying he could not defend the canal with 100,000 men.

In the face of this atmosphere of national self-abasement, when President Carter clearly stated that we can and will defend the canal, his declaration came like a breath of fresh air. Then, he threatened that it would be a major, difficult, dangerous undertaking, thus contributing to that atmosphere himself.

It is shameful that this kind of fear was a major factor in the negotiations for the new treaties. Fear is a disastrous motive on which to base policy in any case. But whatever consequences might have been expected from such a policy, ceding the canal out of fear of Panama would have been beyond anyone's ability to predict.

There is no way that Panama could become another Vietnam. Militarily, the two situations have nothing significant in common. Guerrillas could be even a minor problem only if we insisted on following the same insane policy we pursued in Vietnam of fighting effects rather than causes.

In this case, however, fighting of any kind can be avoided altogether. All that is necessary is a statement by the President that an attack on any part of the Canal Zone would be considered an attack on the United States, and that any country supporting such an attack would be considered an enemy of the United States and treated accordingly.

The practical argument also holds that surrender of the canal is essential for good diplomatic relations with the Latin American countries. But even if *they* were the great powers of this hemisphere, it would be obvious self-defeating to curry their favor by giving away our possessions.

Yet, blinded by a frantic, suicidal anxiety over the good opinion of the world in general and our southern neighbors in particular, that is the course insisted on by most of our political and intellectual leaders. The tragic failure of their leadership to be worthy of the American people was never more evident.

It would undoubtedly be pointless to remind those leaders that it is we who are the great power here, and if anyone should worry about good opinions, it is our southern neighbors who should worry about ours.

THE MORAL ARGUMENTS

But if the practical arguments are insulting, the moral arguments are worse, much worse.

It is said we stole the canal and our presence in the area represents a colonialist affront to the sensitive feelings of the Latin American people. We should give up the canal, it is implied, out of guilt for these offenses.

The charge of colonialism, though repeated mindlessly by everyone, is a transparent fraud. A colony was a settlement of people, not an industrial engineering enterprise. A colony, by definition, was administered for the economic benefit of the mother country. The Panama Canal is not a colony nor has the United States ever had a colony anywhere in the world.

But the vilest distortion in the whole debate is the charge we stole the canal. It is the exact opposite of the truth.

The opposite of theft is production. We did not steal the canal; we built it. The moral right of the United States to the canal is the right of any creator to what he has created. That right, however, is a property right, the root of all property rights, and it is not surprising that modern intellectuals and politicians are unwilling to defend anything based on that source.

It is their view that control of the canal by the Panamanians is a legitimate aspiration of the Latin American people. But there is no such thing as a "legitimate aspiration" by some to an achievement created by others.

Not only did the United States pay the costs of constructing the canal. It was her citizens who figured out how to conquer the previously unconquerable obstacles and then directed the construction in an enormously heroic effort. The Panama Canal was the greatest engineering feat in the history of many up to that time and we did it.

Nothing is more depraved than ridiculing the American people for their pride in their canal, a tactic adopted by some, not all, of the advocates of the new treaties. No people ever had a better right to pride in any national accomplishment. The Panama Canal is a reflection and embodiment of all that is best in the American character.

Whatever shenanigans were involved in getting sovereignty over the Canal Zone, and no one's account makes them very serious, they are nothing next to the incredible achievement of the canal itself. Without us, the Canal Zone would be just so much empty, deadly, malaria infested lakes and jungle—as would the rest of Panama.

If one considers what Panama would be like today without the canal, it is clear who has received a disproportionate share of the benefits, and if moral debts were to be collected, who would owe what to whom. Then consider that an agreement reached in conjunction with the new treaties calls for us to pay them some 345 million dollars. This is over and above the negotiated increase in payments for use of the Canal Zone from 2.3 million to about 60 million dollars a year.

WHY THEY WANT THE CANAL

There is no moral justification whatever for the demand that the United States give up the canal. What then is the cause of that demand? The same cause that is the leitmotiv in the treatment of the United States by most of the undeveloped world.

It is the motive behind the burning of American consulates, the attacks on American diplomats, the seizure of American fishing boats, the expropriation of American property, the constant attempts to humiliate us in the U.N., all of it accompanied by demands for more money, and lately, by claims of a right to a share of our wealth.

Stripped of the meaningless vicious jargon about colonialism, imperialism, and exploitation, the moral argument holds that we must give up the canal to satisfy the malice, hatred, and envy of the worst elements in the Latin American countries, and indeed, in the whole undeveloped world. Those are the "sensitive feelings" we are accused of affronting.

What is the cause of this global hostility toward the United States? It comes from two related sources.

First, whether communist, fascist, socialist, or non-ideological, the undeveloped countries of the world are almost all dictatorships. As such, their hatred and fear of the United States has a purely practical element.

We are the last, best, shining example of the kind of life that is possible to man on earth when he is left free. We are the unavoidable proof that the brutality, torture, terror, and death they have imposed on their people are unnecessary.

But the more fundamental cause of their opposition is also the cause of tyranny as such. It is "envy" in its most vicious, virulent, destructive sense. It is what Ayn Rand has identified as "hatred of the good for being the good."

Today that motive is widely regarded as normal and natural. It is sympathetically explained, "Of course they hate us and would like to see us destroyed. After all, we are rich and they are poor; we are great and they are small; we have created achievements they cannot approach; we built a canal they could not conceive."

What that view sanctions and expresses is the ultimate evil in human psychology, the lowest and worst motive that is possible to man. It represents a hatred of every living human value, the same motive that sets up concentration camps, torture chambers, and dictatorships as ends in themselves.

The canal is a hatred symbol all right, but not of a nonexistent American colonialism. What the canal really symbolizes, and what the value-haters want symbolically to wipe out by making us give it up, is the overflowing abundance of energy, efficacy, and pride of a free people.

To surrender the canal in the face of such a motive is unthinkable. It would mean accepting their view of our virtues as vices and our achievements as stains on our national character. It would mean sanctioning hatred of the United States as natural and right and deserving a positive response. To what portion of our wealth and achievements could we claim a right after that and on what grounds?

That is *the* most important reason for keeping the Panama Canal. If there were no other reason whatever, *that* would be sufficient to hold on to it for dear life.

CONCLUSION

Those who think the Vietnam War demonstrated the unwillingness of the American people to fight for their values should think again. The only thing that war demonstrated was that the American people will not fight indefinitely for nothing.

The difference between Vietnam and the Panama Canal is the difference between fighting to save the house of a remote neighbor you have never met and fighting to save your own home.

The American people want to keep the Panama Canal. They are right to want it. And they will support the policies necessary to do so.

There is no practical reason for surrendering the canal. There is no moral reason. There is nothing but the pressure of a viciously irrational global opposition. The Senate should confound that opposition and assert the United States' right to keep her

values and her life by rejecting the new treaties.

SOUTH KOREAN GOVERNMENT SHOULD COOPERATE WITH U.S. CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa, (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, there is considerable concern within the Congress and among the citizenry about the prospect of influence peddling in the U.S. Congress by agents of the Government of South Korea. Very serious questions have been raised about the conduct of public officials and about the activities and intentions of a foreign government, and I think it is imperative that they be thoroughly and objectively investigated.

Last February the House Committee on Standards of Official Conduct was empowered to conduct such an inquiry and, after some initial interruptions, the committee has made substantial progress on their investigation of this matter. However, in a briefing last week, Mr. Leon Jaworski, special counsel to the committee, stated that the current investigation of illicit Korean lobbying in Congress cannot be properly conducted without the testimony of two key South Korean witnesses—former Ambassador Kim Doug Jo and accused agent Tongsun. Park. He also raised the possibility of introducing a resolution in the House which would express the sense of Congress that the South Korean Government produce Kim Dong Jo, Tongun Park, and others for full and free testimony before the committee, or face a cutoff of U.S. aid.

It is my understanding that the Speaker of the House, the Honorable THOMAS P. O'NEILL of Massachusetts, has already reinforced Mr. Jaworski's position by making it clear to the South Korean Government that continued United States aid will be questionable without their cooperation on this matter. I commend the Speaker for this initiative.

In my view, this approach to South Korean reluctance to cooperate with the House investigation is both appropriate and necessary. Clarification of this episode is essential not only for the state of public confidence in our governmental institutions, but also for rational assessment of our Nation's relation with South Korea. The South Korean Government, a traditional ally of the United States and long-time recipient of U.S. economic and military aid, could make key Korean witnesses available for questioning before the appropriate congressional committees, but, to this date, they have been unwilling to do so. It is my strong conviction that if the South Koreans want our help and good will, they should cooperate in good faith with our efforts to get to the bottom of possible influence peddling in Congress. I thus hope that the Committee on Standards of Official Conduct and the leadership of the House will proceed to bring a resolution to the floor which let the South Korean Government know that it cannot count on continued aid if it remains recalcitrant on this matter.

EFFECTS OF CERTAIN LOGGING PRACTICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, I was most gratified to read Senator RANDOLPH's remarks in the December 15 CONGRESSIONAL RECORD as chairman of the Senate Environment and Public Works Committee in reporting the fine work of the conferees on the amendments to the Federal Water Pollution Control Act of 1977 which are known as the Clean Water Act of 1977 (H.R. 3199). Senator RANDOLPH referred to the applicability of the section 404 permit process of silvicultural activities which have the potential for damage to the integrity of watercourse and wetland areas and for the impairment of water quality.

I would like to quote from the Senator's statement:

> In its development of this legislation the Committee on Environment and Public Works provided an exemption from the permit process for "normal silvicultural activities". This exemption was endorsed by the Senate and is retained in the conference report. The Committee report on the bill emphasizes, at my urging, that "normal silviculture" does not include clearcutting in eastern mixed hardwood forests. The intent of the committee was clarified in a colloquy with Senator Church during debate on the bill. I believe it is important for any legislation which seeks to protect water quality to insure proper regulation of those activities which would damage the integrity of our waters. This definition of "normal silviculture activities" does not prohibit clearcutting. Rather it insures that this method of harvesting timber will be carefully controlled so as to reduce the potential for damage to water quality. * * * The (Conference) committee did not agree to alter the statement in the Senate Report. Therefore, it remains the policy of this legislation that clearcutting on eastern mixed hardwood forests is not a normal silivculture activity, and it is subject to the permit requirements of the Act.

For my own State I am glad that the Senator has pointed out to us the applicability of the 404 permit process to control the destructive ravishing of watercourse areas as a result of unwise silviculture or logging practices. For instance, how can we, in good conscience, apply regulation to the steel industry to keep the slag wastes from mills from being allowed to slide or be dumped into a stream and not apply regulation to timbering operations to make certain that there are not piles of debris and slash from logging operations left to choke and jam watercourses or that, as a consequence of a timbering operation, massive slides of earth, slippages of soil in mass movement or significant erosion might be anticipated to result and choke our watercourses, impair their integrity. We have seen in my own State how the destruction of the binding networks of tree roots by cutting of all trees on slopes or the scarring and cutting of slopes with an undue amount of road and trail footage or unwisely planned and engineered roads and trains can lead to slides or slippages of large amounts of earth into "waters."

While the Senator has a particular concern with the treatment of eastern hardwood forests, being a citizen of West Virginia, and particular knowledge of the problems being caused by unwise application of timbering practices in those forests based on years of study and communications with the people of his fine State, I am grateful that the Senator pointed out that any timbering practice applied anywhere in our Nation which would adversely affect the integrity of "waters of the United States" will be subject to the provision of the 404 permit process. This is most needed and I thank the Senator and the conferees for their extremely valuable work on this particular section. Our people will reap the benefits of their wise work in the years ahead.

I also am satisfied that the Senator has focused the 404 permit process on the condition that "waters" are being interdicted or filled as triggering the permit process rather than the method of delivery of the interdiction or fill as triggering the permit process which, and I agree with him, is as it should be in the 404 permit program, indeed, as it always was either explicitly or certainly implicitly with regard to the 404 permit program.

THE STATE CIVIL RIGHTS COMMITTEES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing the State Civil Rights Committees Act, a bill to amend the Civil Rights Act of 1957 to make mandatory the constitution of State civil rights advisory committees in each State.

Under the original provisions of the Civil Rights Act of 1957, constitution of State advisory committees is optional on the part of the Commission. Recognizing the value of State input, however, the Commission formed advisory committees in each of the 50 States and the District of Columbia immediately upon its own establishment.

It is ironic that a few short months after the Commission published "The Unfinished Business Twenty Years Later," a 221-page summary of the accomplishments of these State committees, that the Office of Management and Budget recommended that the 51 committees be abolished and folded into 10 regional committees. But it is worth noting that representatives of OMB admitted in testimony before the Senate Judiciary Committee that the cutback would not save a single dollar. The elimination of 41 committees is apparently solely for the purpose of upping the total number of committees that are abolished, despite what I believe are incalculable contributions by these committees to the assurance of "liberty and justice for all."

Mr. Speaker, before coming to the

House, I served as Director of HEW's Office of Civil Rights, during a troubled time when the effort to desegregate our Nation's schools was met with bitterness and hostility by many. Time and time again, that bitterness and hostility was tempered or eliminated, once local officials were given the opportunity to work as partners with the Federal Government. Each of us in his role as representative has seen that process at work in diverse situations. People who are given a stake, a say, in what happens to them will respond with reason and compromise; people who are shut out will respond with resentment and resistance.

This is all very nice in theory, but let me offer some example of how it has worked in practice in the activities of some of the State committees. A study by the Louisiana Advisory Committee on the problem of the lack of low-cost housing in New Orleans has documented and highlighted that issue, so that local and Federal officials may find it easier to get housing assistance. In my own State of California, the State committee investigated the fact that minority students made up an unexpectedly large percentage of those in special education programs for the mentally retarded, chiefly because their lack of good schools or familiarity with the English language severely handicapped them. This was one of the first reports to shed light on what educators have now found to be a significant problem and are presently attempting to deal with. Equal employment opportunity has been an active concern of the Massachusetts group, leading to executive orders by Governor Dukakis to require affirmative action in the hiring by the State of women and minorities. Some years back, the Illinois committee worked with the mayor of Peoria to develop a police-community relations project, to address and, to a very large extent, to quell the anxiety among minorities that they were the recipients of police brutality.

I have deliberately chosen these examples to show that the activities and accomplishments of the Civil Rights Advisory Committees have not been restricted to one region of the country or one issue. And I might ask each Member of this House—are not these achievements, with their emphasis on cooperation, dialog, working within the system, the same kind that we would seek ourselves? The same kind of mediation that we practice when representing our constituents before Federal agencies and departments?

Increasingly these days, we are coming to recognize that the power and influence of the Federal Government must be tempered with the wisdom and experience of the people themselves. More than any other issue, perhaps, civil rights calls for local involvement. The members of the State advisory committees bring that local involvement. Reading through the membership lists of the committees, I was particularly struck by the fact that very few of the names are well known. That is as it should be. These are working committees, not honorary ones. Are we going to take the cumulative local experience and local ties of these 861 men and women and merge them into 10 giant, regional committees? Will Arizona be able to understand the civil rights problems of Hawaii? Will New York comprehend the issues in Vermont? Will Kentucky understand Mississippi's difficulties better than Mississippians would? I think not and nor do I think any of us would like another State other than our own to have to try. I urge my colleagues to join me in supporting reinstitution of all 51 State committees.

A partial text of the bill follows:

H.R. 10501

A bill to amend the Civil Rights Act of 1957 to require the constitution of advisory committees within each of the several States

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Civil Rights Committees Act".

SEC. 2. Subsection (c) of section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975) is amended—

(a) by striking out the word "may" the first time it appears and inserting in lieu thereof the word "shall";

(b) by striking out the word "such" the first time it appears;

(c) by inserting after the word "within" the words "each of the several States";

(d) by adding at the end thereof the following new sentence: "For the purposes of this subsection, the term 'States' means the fifty States, Puerto Rico, the District of Columbia, and the Virgin Islands."

SAVING THE PERE MARQUETTE RIVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

Mr. CARR. Mr. Speaker, I take great pleasure today in introducing a bill which will include a major portion of Michigan's Pere Marquette River in the National Wild and Scenic Rivers System. This action to preserve the Pere Marquette is long-awaited, and will be welcomed by those in Michigan and elsewhere who cherish the many resources of this unique river.

The people of Michigan value the Pere Marquette River for a number of reasons. The river's varied environments support a diverse abundance of wildlife, ranging from deer and turkey to small game. The stream itself is renown for its excellent trout fishing, and also houses the spawning coho and chinook salmon. A variety of recreational opportunities, including canoeing and boating, camping, picnicking, and hiking are available in the area, and the proposed river management zone contains a number of undisturbed and unstudied archeological sites.

Finally, the river has a special historical significance. It is named after the famed Jesuit priest, Father Jacques Marquette, who explored the Mississippi with Joliet. On the long return trip to his mission in St. Ignace, Mich., Marquette became fatally ill. He died in a crude shelter at the mouth of the river that now bears his name, and was buried there until his body was exhumed and returned to the mission.

Unfortunately, this very special river is increasingly threatened by large groups of canoeists and fishermen and by individuals interested in developing various riverside properties. Congress recognized this threat to the Pere Marquette in 1968, when it designated the river as one of the areas to be studied for potential inclusion into the National Wild and Scenic Rivers System. This study is now complete, and President Carter has joined the Department of Agriculture in recommending that the Pere Marquette be included in the national system. Conservation groups have endorsed this action, as have the majority of the participants in the public meetings which took place during the river study.

In specific terms, the bill which I am introducing today would include in the National Wild and Scenic Rivers System a 66.4-mile segment of the main stem of the Pere Marquette. The bill would also establish a river management zone comprising approximately 13,000 acres of public and private lands, and authorize the expenditure of $8,125,000 for the purchase of such lands and interests in lands. Of the land to be included in the management zone, 2,014 acres are presently national forest land, 1,236 are owned by the State of Michigan, 260 are local government property, and the remaining 9,544 are in private ownership.

Some local landowners have expressed concern that the inclusion of this river in the Wild and Scenic Rivers System would adversely affect their property rights and cause increased river use. In response, however, the Department of Agriculture has noted that most present uses of private lands would be unaffected by the inclusion of the Pere Marquette in the national system, and the Department has also pledged to conduct all possible transactions on the basis of willing seller-willing buyer. The power of eminent domain will be used only as a last resort. In response to the problem of river use, it is important to note that the river is already suffering from overuse, and that State and local zoning measures will not affect current land-use practices and developments. Inclusion in the Federal rivers system is necessary to protect the Pere Marquette.

In sum, prompt passage of this bill is necessary to insure that the Pere Marquette is not loved and developed to death, and I urge my colleagues to lend their support to this measure. If current trends continue, and if protecting legislation is not enacted and enforced, it will only be a matter of time before the natural splendor and spontaneity of this river setting are replaced by the drab geometric precision of an urban park.

HEARINGS ON INDOCHINA REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary has scheduled a public hearing tomorrow to consider a proposal by the

administration to parole an additional 7,000 "boat case" refugees into the United States.

The hearing will be held in room 2141, Rayburn House Office Building, and will commence at 10 a.m. Testimony will be heard from Patricia M. Derian, Assistant Secretary for Humanitarian Affairs, Department of State, and Leonel J. Castillo, Commissioner, Immigration and Naturalization Service.

TRIBUTE TO CLAUDE PEPPER

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, one of the most illustrious Members of this body is the Honorable CLAUDE PEPPER. His career spans both Houses of Congress and some of the most eventful decades in our national history. Over the course of his remarkable public service, CLAUDE PEPPER has had tremendous accomplishments in many fields, but particularly in the areas of health care, employment, and retirement programs for our senior citizens and other needy persons.

CLAUDE's achievements have been truly inspirational—so much so that not only we, his colleagues who work with him on a daily basis, but his appreciative constituents also recognize the noble goals and selfless concerns of this son of Alabama who has done so much to help the people of our Nation and of his adopted State of Florida.

In view of CLAUDE's lifetime of brilliance and devotion, it is not surprising that many of us find ordinary prose inadequate to describe our feelings for him. He is among those giants who become the subject of poem and song. Recently, I had occasion to see one such expression of esteem and gratitude penned by one of my constituents. Because this poem, by Mr. Jack Frank, expresses a fondness for CLAUDE PEPPER that we share, I am pleased to bring it to the attention of our colleagues:

[Dedicated to the Honorable Claude Pepper, Congressman From Florida]

YOU CAN LOOK BACK AND BE PROUD

Through the years you serv'd with distinction
And you've earned a love and respect,
And it comes for a job well done
Representing every sect.
The things that we take for granted
Was built on toil and on sweat,
Enshrined in the pages of hist'ry
There are names we will never forget.

The ties that bind us together
Are reasons we feel we belong,
And it's people like you in congress
Who keep those ties ever strong.

You liv'd up to the highest standards,
The traditions pass'd down to this day,
And all that we hold so precious
You'll find here in the U.S.A.

JACK FRANK.

TWELFTH ANNIVERSARY OF THE SIGNING OF THE CUBAN EXILES' DECLARATION OF FREEDOM

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, January 23, 1978, marks the 12th anniversary of the signing of the Declaration of Freedom by the Cuban exiles in the United States.

On that day in 1966, in Key West, Fla., these proud and noble Cubans who had been forced to flee their country and the oppression of the Communist, Castro-dominated government, stated firmly and clearly their total commitment to fight constantly "to free Cuba from communism."

This occasion affords us the opportunity to reflect on the principles of freedom and independence which once marked the way of life in Cuba. It also gives us the opportunity to remember the cruel acts of tyranny which have deprived the Cuban people of their basic human rights.

In the declaration, these brave Cubans reaffirmed their devotion to the fundamental principles of freedom. I urge our colleagues careful consideration of their commitment to the democratic principles which have meant so much to our own Nation and call our colleagues attention to the full text of the Declaration of Freedom:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

In view of the aforegoing, we declare.

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideas of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slave, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from Communism.

The fundamentals of this Revolution for Freedom are.

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23d day of January, 1966.

FEDERAL RELATIONS NETWORK OF THE NATIONAL SCHOOL BOARDS ASSOCIATION

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Speaker, school boards are a vital force in education. With them lies the responsibility of exercising the American principle of local control of education.

During the 11 years I have been chairman of the Education and Labor Committee, I have drawn many times upon their advice as spokespersons of the needs and feelings of our local communities.

Since this year is such an important one for elementary and secondary education, with all the major Federal programs coming up for renewal, I am especially pleased to welcome to Washington the National School Boards Association's Federal Relations Network participants. The representatives which make up the Federal Relations Network will, I am sure, make a valuable contribution during their 3-day workshop by offering us a better understanding of how current educational issues affect local policymakers.

I feel that all who are concerned with the future of education should take note of the ideas resulting from this meeting, and I wish the participants a fruitful and enjoyable visit to the Nation's Capital.

READER'S DIGEST ANALYZES ALASKA LANDS ISSUES

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Reader's Digest, in its issue for December 1977, began a two-part analysis of the issues which will soon be before the House concerning the designation of Federal lands in Alaska for inclusion in the National Parks, National Wildlife Refuges, National Wild and Scenic Rivers, and the National Wilderness Protection System. Because these articles present a most useful overview of these important questions, I believe all Members will find them a useful way to get a quick introduction to the subject.

The Subcommittee on General Oversight and Alaska Lands of the Committee on Interior and Insular Affairs devoted the entire first session of this Congress to consideration of a number of bills dealing with these proposals, and we are currently marking up a revised version of H.R. 39, sponsored by the chairman of the full committee, Mr. UDALL, and more than 70 of our fellow Members.

The article from the December 1977, issue of Reader's Digest, by their roving editor, James Nathan Miller, follows these remarks:

THE GREAT ALASKAN LAND BATTLE

(By James Nathan Miller)

(By December 18, 1978, Congress must decide the outcome of a momentous struggle—one that has been brewing since Alaska became a state in 1959. At stake: The future of an empire of government-owned fjords, mountains, rivers and flatlands of such awesome beauty and such ecological and economic worth that Interior Secretary Cecil Andrus has called the lands "America's crown jewels."

(The battle involves one of the most far-reaching national land-policy decisions of our generation, and the debate over it is just now getting into full swing. In this first of a two-part series, James Nathan Miller—just back from looking at the lands involved and talking to many leaders on both sides of the debate—looks at the facts behind the arguments.)

Jack Hession, Alaska representative of the Sierra Club: "In sheer magnitude, there's never been anything like this fight before, and it's unlikely that there will ever be anything like it again."

To get an idea of what he means, spread 48 states, with the southeastern tip of the Alaska panhandle placed on the North Carolina coast. You'll find that Alaska's northwestern point would be located on the Minnesota-Canadian border, and the far-western tip of its Aleutian string of islands would be on the Pacific coast of southern California. If you fly from the western end of Alaska to Hawaii, your course takes you southeastward, back toward the U.S. mainland.

It will help you put all this vastness into perspective if you keep a single statistic in mind: 375 million. That's the state's total number of acres. It's equal to the aggregate of Texas' 171 million acres, California's 101 million and the 103 million of the six New England states plus New York and Pennsylvania.

Traveling through these 375 million acres is like leafing through color photographs of a world left untouched by man. Alaska doesn't have a landscape; it has an art gallery full of them. It has seven major mountain ranges, with so many peaks that many of them are still unexplored and unnamed. Mt. McKinley, North America's highest peak, is nearly a mile higher than the highest mountain in Europe, but it's only a few thousand feet taller than half a dozen of the state's other huge snow-and-glacier massifs.

You can get a good idea of Alaska's beauty by cruising up the coast, starting at the tip of the southeastern panhandle. (To cruise the entire Alaskan coastline would take you months, since its 6640-mile length is 33 percent greater than the lower 48's Atlantic, Gulf and Pacific coasts combined.) Heading northwest, you find yourself floating through hundreds of miles of fjords that rival anything in Norway—their forested slopes punctuated occasionally by the blue-green buttress end of a glacier shedding ice floes into the foggy water, occasionally by the lonely, far-off puff of stream from a salmon cannery nestled in the shoreline like a pebble in the fold of a green curtain.

Eventually, your boat will reach the flat, gaunt, forbidding coast of the Bering Sea. There turn inland on the Yukon River, a wide, placid, navigable boulevard that's one of the state's main travel routes and America's sixth-longest river. Halfway up the Yukon, you come to a flat-as-a-pancake valley called the Yukon Flats. About the size of Connecticut, with a handful of log-hut villages supporting a population of only 1100 Indians and 100 whites, the Flats look to an outsider close to worthless—nothing but 40,000 shallow, swampy lakes bordered by stunted trees. The area is afflicted by heat of up to 95 degrees in summer and by cold down to 65 below in winter, and it's host to one of the world's largest, most industrious communities of mosquitoes and biting flies.

But, actually, the Flats are a national treasure. The little lakes, each one a soup-like broth of fish eggs, decaying plants, water bugs and mosquito larvae fringed by a mile or two of perfect habitat for a wide variety of wildlife, make the Flats one of the most productive waterfowl-breeding areas in the world. One out of every five North American waterfowl summers in Alaska.

Like most of Alaska, the Flats are owned by the federal government, and their future—along with the future of even larger portions of the state—is what Congress must decide. The decision revolves around which government agency shall manage the Flats. Right now, they're controlled by the U.S. Bureau of Land Management. The BLM is one of the government's two "multiple use" land agencies (the other is the Forest Service). Because of weaknesses in both the land laws and the way they have been administered nationwide, over the years the two multiple-use agencies have become dominated by development-minded interests—loggers, miners, cattle grazers, road builders, etc. This has resulted in widespread damage to the public domain and, despite a recent law strengthening the BLM's authority over its acres, conservationists still don't trust it or the Forest Service as stewards of the land.

And that, very simply, is the central issue of the great Alaskan land battle. Since Alaska became a state in 1959, almost all of its roughly 350 million federally owned acres have been run by the two multiple-use agencies (about 295 million acres by the BLM, 20 million by the Forest Service), which means that over 90 percent of the state has been vulnerable to the bulldozer. The only slice that has been protected is the 30 million acres run by the two main "special use" agencies, the Park Service and the Fish and Wildlife Service. Conservationists are trying to convince Congess to reverse these percentages, shifting the bulk of the land to the protection of the special-use agencies. Developers—mainly oil, mining and logging companies—are trying to prevent the shift.

William C. Reffalt, staff director, Alaska Planning Group, U.S. Department of the Interior: "Though gigantic in proportions, Alaska is a fragile land. The web of life is stretched very near to breaking."

If you scratch Alaska, the wound can last for decades. This is because about half of the state is underlain by permafrost—ground that froze centuries ago and, insulated from the air above it by a thin vegetative cover of moss, lichen and scrub growth, has never thawed out. Special construction techniques are required on permafrost because by putting a conventionally built road on it, or scraping it with a bulldozer, you kill the insulating layer of living tundra and expose the frozen ground to the heat of summer. Each year the scratch will expand a bit as more of the permafrost melts and caves in at the edges. Eventually your road may turn into a stream or your bulldozed hole into the large, gaping wound known as a "cave-in lake." To build a house on ice-rich permafrost you must elevate it so that heat losses through the floor cannot melt the ice. Otherwise, your house will begin to yaw and crack and tip like a boat.

This queer phenomenon of a thin slice of workable soil sandwiched between frozen ground and freezing air is the controlling fact of life for many of the state's animals, plants and humans. In the Yukon Flats, for instance, a 100-year-old white spruce, which in a good climate would be four feet thick at the base and higher than a ten-story building, is barely large enough to make a decent-sized telephone pole. On the North Slope (the vast, prairie-like plain that slides from the Brooks Range of mountains to the Arctic Ocean), lichen, which serves as the main sustenance of caribou herds feeding there in the summer, grows only an inch high. To get their fill of lichen, the herds must keep constantly on the move, ambling more than a thousand miles each year, sweeping over millions of acres like a vast vacuum cleaner. A North Slope grizzly bear needs a hundred square miles to keep himself fed; if New York's vegetation were equally sparse, it would take only 500 grizzlies to gobble up the whole state in a year.

And here we come to another basic issue underlying the coming battle in Washington: how to protect the increasingly threatened wildlife on Alaska's federal lands.

Report of the Joint Federal-State Land Use Planning Commission for Alaska: "Only a few years ago it was customary for residents of Fairbanks or Anchorage to drive out of the city in the fall to harvest a moose or several caribou for the winter. But, now, game animals have been so heavily hunted near these urban areas that this is seldom possible."

Except for its waterfowl and seabirds, Alaska is actually less productive of wildlife than many of the lower 48. Per acre, for instance, it has fewer large land animals than Michigan. What it does have that other states don't is a large number of rare or exotic species that elsewhere either don't exist or are close to the vanishing point: grizzlies, bald eagles, polar bears, wolves, caribou, peregrine falcons, curly-horned Dall sheep, sea otters, etc.

Strangely, the question of how to protect these animals will involve the federal lawmakers in one of Alaska's most serious internal problems: the racial tensions between its 320,000 whites and its 80,000 Eskimos, Aleuts and Indians.

Wherever you go in Alaska today you hear well-authenticated horror stories of senseless slaughter of its animals by both whites and Natives. The problem has been worsening since the 1960s. The jet plane and Alaska's recent oil-boom population surge (from 226,000 people in 1960 to about 400,000 today) have skyrocketed the number of white hunters looking for antlers and bearskins, while the introduction of the snowmobile—with its 60 m.p.h. speed and 300-mile-a-day range—has given Native hunters a range and deadliness many times greater than in the old dog-sled days.

Telling hunters to cut back on hunting is a touchy issue anywhere, but in Alaska it is made far worse by the fact that the Natives have lived off the land for centuries and re-

gard the right to unlimited hunting as an ancestral heritage. A Fish and Wildlife Service official told me of visiting an Eskimo village to give a talk on obeying the hunting laws, only to find himself confronted by an enraged audience shouting, "Land grab!" and "Genocide!"

The problem came to an alarming head last year when the state's biggest caribou herd—population 242,000 in 1971—was suddenly discovered to have plummeted to 50,000 animals. Nobody is sure of the precise reasons for the collapse of the herd, but it seems clear that overhunting was at least one cause.

Indeed, I found no one in Alaska who thinks its wildlife is getting proper protection. And things may get even worse—particularly if, as many Alaskans are now demanding, the state enlarges its present minuscule highway network. This would eliminate one of the animals' main protections: the difficulty hunters have, even today, in getting to where the game is. Which brings us to the final Alaska peculiarity that is involved in the Congressional fight—the state's fantastically unreliable transportation system.

The Alaska Catalog: "Always remember that when traveling to areas of Alaska that are accessible only by air, it's easy to get pinned down for days at a time by adverse weather conditions."

A two-lane highway on permafrost costs about a million dollars a mile to build, since huge amounts of gravel must be hauled in to raise its surface as much as seven feet above the ground to insulate the permafrost. (Several years ago, when the highway department ignored this requirement in its haste to build a road to the state's oil fields, the road turned into a canal with the first spring thaw.) As a result, Alaska is the closest thing the United States has to a trackless wilderness. If you hike northwest from Anchorage to Point Barrow, 700 miles away on the Arctic Ocean, you cross not a single highway. Indeed, there are only 3,062 miles of paved road in the entire state (17 percent of Connecticut's paved mileage).

Though the two biggest cities Anchorage and Fairbanks, are connected by a railroad and highway, the vast majority of communities—including Juneau, the capital—sit in roadless isolation, making Alaska the only state that depends mainly on the airplane for getting from town to town. (There's also a "maritime highway," consisting of seven state-operated, oceangoing ferries, that services isolated coastal communities.) On paper, the system is well-organized: 27 Federal Aviation Administration-manned airports, many with regularly scheduled jet service, from which hundreds of bush planes haul groceries, mail and people into the wilderness. But because it's totally dependent on Alaska's miserable weather, parts of the system frequently grind to a halt for days on end, leaving scores of communities connected only by telephone.

Because of the expense and unreliability of this queer hybrid transportation system, about three fourths of all Alaskans find themselves bottled up in and around the state's half-dozen cities—a bitter frustration to them, since most Alaskans were born outside the state and moved there because they wanted to be close to wilderness. On summer weekends in Anchorage (which contains almost half the state's population), residents pour onto the single two-lane road to the city's playground area, the Kenai Peninsula, a collage of fjords and glacial lakes, moose, bald eagles and salmon streams. Result: Overcrowded campgrounds and bumper-to-bumper traffic only too familiar to any resident of the lower 48.

For years, Alaskans have been fighting bitterly over whether to build a road system. Many city-bound wilderness lovers want one, as do the state's developers, who say that without roads Alaska's presumably vast, but so far largely unexplored, store of minerals will remain untapped. But conservationists see the roadlessness as the state's saving grace. Build roads, they say, and the animals will soon be hunted out, and all the unbelievable natural beauty will be hidden behind tacky roadside developments, like the ones already springing up near the state's biggest tourist attraction, Mt. McKinley.

Besides most of Alaska is still owned by the federal government. In coming years, as the nation's already overcrowed park system in the lower 48 becomes even more jammed with people—and as travel improvements promise to make Alaska more easily accessible—these magnificent Alaskan lands will become increasingly valuable as parks and wildlife refuges. Therefore, say the environmentalists, whatever land-use decisions are made now should be based on the interests not just of 400,000 Alaskans but of all 216 million Americans.

REGULATIONS FOR THE ACCEPTANCE OF DECORATIONS AND GIFTS, INCLUDING TRAVEL OR EXPENSES FOR TRAVEL, BY MEMBERS, OFFICERS, OR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES FROM FOREIGN GOVERNMENTS

(Mr. FLYNT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, by direction of the Committee on Standards of Official Conduct, I submit the regulations promulgated pursuant to amendments made to 5 U.S.C. 7342, known as the Foreign Gifts and Decorations Act.

These regulations prescribe certain conditions and circumstances under which Members, officers, and employees of the House of Representatives may accept gifts, decorations, and travel expenses from foreign governments.

Additional copies of the regulations may be obtained in pamphlet form from the committee:

REGULATIONS FOR THE ACCEPTANCE OF DECORATIONS AND GIFTS, INCLUDING TRAVEL OR EXPENSES FOR TRAVEL, BY MEMBERS, OFFICERS, OR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES FROM FOREIGN GOVERNMENTS

1. AUTHORITY

The Committee on Standards of Official Conduct is authorized to issue regulations on this subject by U.S.C. §§ 7342(g), 7342(a)(6), as amended by P.L. 95-105, commonly known as the Foreign Gifts and Decorations Act.

2. PURPOSE

The purpose of these regulations is to establish standards for the acceptance and disclosure of decorations, gifts of more than minimal value, and gifts of travel or expenses for travel taking place entirely outside the United States tendered by foreign governments to Members, officers, and employees of the House of Representatives.

3. GENERAL STANDARDS

(a) The United States Constitution (Article I, Section 9, clause 8) prohibits a Federal official from accepting gifts of any kind whatever from a foreign government without the consent of the Congress.

(b) The Foreign Gifts and Decorations Act (5 U.S.C. 7342) prohibits an officer or employee of the Government from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government, and prohibits the acceptance of such gifts other than in accordance with the provisions of that Act as implemented for Members, officers, and employees of the House by these regulations.

(c) Rule XLIII, clause 4 of the Rules of the House of Representatives prohibits a Member, officer, or employee of the House from accepting gifts (other than personal hospitality of an individual or gifts with a fair market value of $35 or less) in any calendar year aggregating over $100 from a foreign national not acting as a representative of a foreign government. Food, lodging, transportation, and entertainment provided on an official basis by a foreign government to members of the House of Representatives are not subject to the provisions of House Rule XLIII, clause 4, as such matters are deemed controlled by Constitutional and statutory prohibitions.

4. DEFINITIONS

As used in this section and sections 2, 3, 5 and 6 of these regulations:

(a) "Member, officer, or employee of the House of Representatives" includes the spouse of such individual (unless such individual and spouse are separated) or a dependent of such individual (as defined in section 152 of the Internal Revenue Code);

(b) "foreign government" means—

(i) any unit of foreign governmental authority, including any foreign municipal, local, State, and national government;

(ii) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (i); and

(iii) any agent or representative of any such unit or such organization, while acting as such;

(c) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government; and

(d) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

5. CONSENT OF CONGRESS FOR THE ACCEPTANCE OF DECORATIONS

The Congress has consented (5 USC 7342(d)) to the accepting, detaining, and wearing by a Member, officer, or employee of the House of Representatives of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Committee on Standards of Official Conduct.

(a) *Decorations of Minimal Intrinsic Value.* Decorations presented to Members, officers, or employees of the House tendered or received from a foreign government may be accepted by such Member, officer, or employee where the intrinsic value of the decoration is of minimal value; without prior approval of the Committee on Standards of Official Conduct. Decorations of minimal intrinsic value are defined as those having a retail value in the United States of $100 or less.

(b) *Decorations of more than Minimal Intrinsic Value.* Unless acceptance is specifically approved by the Committee on Standards of Offical Conduct, decorations of more than minimal value, if not promptly returned, are deemed to have been accepted on behalf of the United States and shall become the property of the United States. Within 60 days after accepting such a decoration, the decoration must be turned over to the Clerk of the House of Representatives for disposal; or, with the approval of the Committee on Standards of Official Conduct, deposited with the Comimttee for official use. At the time such decoration is turned over to the Clerk by a Member, officer, or employee, such individual must file a disclosure statement concerning such decoration with the Committee, detailing information as provided in section 7 of these regulations.

6. CONSENT OF CONGRESS FOR THE ACCEPTANCE OF GIFTS

Congress has consented to the acceptance of certain gifts, or gifts under particular circumstances, from foreign governments by officers or employees of the Government, in-

cluding Members, officers, and employees of the House:

(a) *Gifts of minimal value.* Members, officers, and employees of the House may accept gifts of minimal value from foreign governments tendered and received as a souvenir or mark of courtesy. Gifts of minimal value are defined as those having a retail value in the United States of $100 or less.

(b) *Gifts of more than minimal value where refusal may cause offense or embarrassment.* A Member, officer, or employee may accept tangible gifts of more than minimal value when refusal would be deemed likely to cause offense or embarrassment or otherwise adversely affect United States foreign relations. However, any such tangible gift received and not promptly returned is deemed to have been accepted on behalf of the United States, and upon acceptance becomes property of the United States. Within 60 days after accepting such a gift, the gift must be turned over to the Clerk of the House of Representatives for disposal, or, with the approval of the Committee on Standards of Official Conduct, deposited with the Committee for official use. At the time such gift is turned over to the Clerk by a Member, officer, or employee, such individual must file a disclosure statement concerning such gift with the Committee, detailing information as provided in section 7(a) of these regulations. Intangible gifts of more than minimal value may only be accepted in accordance with section 6(c) and (e) of these regulations.

(c) *Education scholarship or medical treatment.* Members, officers, or employees of the House may accept a gift of more than minimal value from a foreign government when the gift is in the nature of an educational scholarship or medical treatment.

(d) *Foreign educational or cultural exchange.* Acceptance of assistance from a foreign government for participation in foreign exchange or visitors programs by Federal officers or employees is consented to by Congress in certain instances outlined in 22 U.S.C. 2458a, the Mutual Educational and Cultural Exchange Act. Assistance or grants received under the act are not considered "gifts" under these regulations.

(e) *Travel or expenses for travel outside of the United States.* A Member, officer, or employee of the House may accept gifts of travel or expenses for travel taking place entirely outside of the United States offered by a foreign government when such travel or expenses for travel relate directly to the official duties of the Member, officer, or employee. Gifts of travel or expenses for travel include food, lodging, transportation and entertainment relating to the official duties of the Member, officer, or employee. This provision allows a Member, officer, or employee to take advantage of opportunities such as certain onsite inspection or fact findings while in a foreign country. A spouse or dependent of a Member, officer, or employee of the House may accept such travel or expenses for travel when accompanying the Member, officer, or employee of the House. Such travel or expenses for travel may not be accepted merely for the personal benefit, pleasure, enjoyment or financial enrichment of the individual or individuals involved. The acceptance of any such travel or expenses for travel shall be reported within 30 days after acceptance to the Committee on Standards of Official Conduct, providing information required in section 7(b) of these regulations. For the purposes of these regulations, travel or expenses for travel are deemed accepted upon departure from the donor country.

7. REPORTS AND DISCLOSURE

Any gift provided to a spouse or dependent should be considered to be a gift provided to the Member, officer, or employee and therefore must be disclosed by such Member, officer, or employee.

For the purposes of these regulations, any decoration presented by a foreign government to the spouse or a dependent of a Member, officer, or employee of the House is considered to be presented to the Member, officer, or employee when it is apparent the decoration would not have been offered but for the recipient's relation to the Member, officer, or employee, and therefore must be disclosed by such Member, officer, or employee.

An appraisal of tangible gifts or decorations, if necessary, may be obtained through the Clerk of the House of Representatives.

(a) *Tangible gifts and decorations.* At the time of depositing a tangible gift or decoration of more than minimal value accepted by a Member, officer, or employee pursuant to section 5(b) or 6(b) of these regulations, the Member, officer, or employee shall report to the Committee the following information:

(i) the name and position of the reporting individual and the recipient;

(ii) a brief description of the gift or decoration and the circumstances justifying acceptance;

(iii) the estimated value in the United States at the time of acceptance;

(iv) the date of acceptance of the gift or decoration;

(v) the identity, if known, of the foreign government and the name and position of the individual who presented the gift or decoration;

(vi) disposition or current location of the gift or decoration.

(b) *Other gifts.* Within 30 days after acceptance of gifts of travel pursuant to section 6(e) of these regulations, the Member, officer, or employee shall report to the Committee the following information:

(i) the name and position of the reporting individual;

(ii) a brief description of the gift and the circumstances justifying acceptance; and

(iii) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

8. PUBLIC INSPECTION

Reports filed under these regulations as promulgated under 5 U.S.C. 7342 shall be maintained by the Committee on Standards of Official Conduct and made available for public inspection at reasonable hours. Not later than January 31, 1979, and January 31 of each succeeding year, the Committee on Standards of Official Conduct will compile a listing of all statements filed during the preceding year and will transmit such listing to the Secretary of State for publication in the Federal Register.

Reports filed with the Committee under these regulations will be maintained for public inspection for a period of 7 years following transmittal to the Secretary of State.

DISCLOSURE FORM PURSUANT TO 5 U.S.C. 7342

Name.

Position.

Recipient (if other than reporting person).

Description:

(1) Tangible gift(s) of more than minimal value.

(2) Decoration(s) of more than minimal intrinsic value.

(3) Travel provided by a Foreign Government.

(4) Expenses for travel provided or reimbursed by a Foreign Government.

Circumstances justifying acceptance:

Date or dates of acceptance (for official travel give inclusive dates travel occurred):

Donor government (if items are received from more than one Foreign Government, use additional forms):

(1) Name and Position of individual who presented item:

For tangible gifts or decorations of more than minimal value only:

(1) Estimated value in United States at time of acceptance:

(2) Disposition or current location of accepted item(s):

Signature.

Date of the report.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. DENT (at the request of Mr. WRIGHT), for an indefinite period on account of medical reasons.

To Mr. FOUNTAIN (at the request of Mr. WRIGHT), for today on account of official business.

To Mr. GUYER (at the request of Mr. RHODES), for January 25 and remainder of this week, on account of death of his sister, Mrs. Dorothy (Guyer) Browning.

To Mr. JEFFORDS (at the request of Mr. RHODES), for today on account of official business.

To Mr. STUMP for today, January 23 and tomorrow, January 24, 1978, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STRATTON, for 10 minutes today.

(The following Members (at the request of Mr. EMERY) and to revise and extend their remarks and include extraneous matter:)

Mr. COHEN, for 5 minutes, today.

Mr. QUIE, for 60 minutes, on Wednesday, January 25.

Mr. WHALEN, for 10 minutes, today.

Mrs. HECKLER, for 2 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mrs. BOGGS, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mr. VAN DEERLIN, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. CARR, for 5 minutes, today.

Mr. EILBERG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STRATTON, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,288.

Mr. MAHON, for 30 minutes today, following the budget message of the President.

Mr. EDWARDS of Alabama, for 30 minutes today, following the remarks of Mr. MAHON on the budget message of the President.

Mr. CEDERBERG, to revise and extend immediately after the remarks of Mr. MAHON today, and to include extraneous matter.

Mr. ASHBROOK, to revise and extend his remarks immediately prior to ordering the vote on the Marshall bill.

(The following Members (at the request of Mr. EMERY) and to include extraneous matter:)

Mr. RINALDO.
Mr. DERWINSKI in two instances.
Mr. KASTEN in two instances.
Mr. QUAYLE.
Mr. FINDLEY.
Mr. YOUNG of Florida in five instances.
Mr. GRASSLEY.
Mr. RUDD.
Mr. STEERS in two instances.
Mr. HAGEDORN.
Mr. PURSELL in two instances.
Mr. WHALEN.
Mrs. HOLT.
Mr. BOB WILSON in three instances.
Mr. LAGOMARSINO.
Mr. SYMMS in two instances.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. TEAGUE in 10 instances.
Mr. WAXMAN in two instances.
Mr. AUCOIN.
Mr. RICHMOND.
Mr. DE LA GARZA in 10 instances.
Mr. MAZZOLI in three instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. HAMILTON.
Mr. KASTENMEIER.
Mr. UDALL in two instances.
Mr. NATCHER.
Mr. MINISH.
Mr. DRINAN.
Mrs. SCHROEDER in two instances.
Mr. MCDONALD in five instances.
Mr. JENRETTE.
Mr. HARRIS.
Mr. PEPPER.
Mr. BONIOR.
Mr. FOWLER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1503. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes; to the Committee on the Judiciary;

S. 1704. An act to provide for two additional Assistant Secretaries of Agriculture, and for other purposes; to the Committee on Agriculture and the Committee on Post Office and Civil Service;

S. 1730. An act to provide for an additional Assistant Secretary in the Department of the Treasury; to the Committee on Ways and Means and the Committee on Post Office and Civil Service; and

S. 2355. An act to extend the Emergency Natural Gas Act of 1977; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3215. An act for the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Toni K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies; and

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 13 minutes p.m.), the House adjourned until Tuesday, January 24, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3048. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the National Gallery of Art for "Salaries and expenses" for fiscal year 1978 has been apportioned on a basis which indicates a necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

3049. A letter from the Chairman, Federal Communications Commission, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

3050. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend chapter 5 title 37, United States Code, to restructure the rates of special pay for sea duty; to the Committee on Armed Services.

3051. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report covering the quarter ended December 31, 1977, on property acquisitions of emergency supplies and equipment, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

3052. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with Furnas Centrais S.A., Brazil, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended (88 Stat. 2335; 91 Stat. 1210); to the Committee on Banking, Finance and Urban Affairs.

3053. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–132, to provide for the conveyance of certain real property of the District of Columbia to the Pennsylvania Avenue Development Corporation and for other purposes, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3054. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during December 1977, pursuant to section 234 of Public Law 91–510; to the Committee on Government Operations.

3055. A letter from the Governor of the Canal Zone and President, Panama Canal Company, transmitting the report on disposal of foreign excess property by the Panama Canal Company and the Canal Zone Government during fiscal year 1977, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3056. A letter from the Secretary of Agriculture, transmitting a further revision to the regulations governing operations under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, pursuant to section 408(d)(3) of the act (91 Stat. 957); to the Committee on International Relations.

3057. A letter from the Chairman, Board for International Broadcasting, transmitting, the fourth annual report of the Board, covering fiscal year 1977, pursuant to section 4(a)(8) of Public Law 93–129; to the Committee on International Relations.

3058. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3059. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the direct and affiliated medical residency program data, pursuant to section 771(b)(2) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

3060. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the fifth annual report of the Commission, covering fiscal year 1977, pursuant to section 27(j) of the Consumer Product Safety Act; to the Committee on Interstate and Foreign Commerce.

3061. A letter from the Chairman, National Advisory Council on Services and Facilities for the Developmentally Disabled, transmitting the Council's annual evaluation of the efficiency and administration of the Developmental Disabilities Services and Facilities Construction Act, covering fiscal year 1977, pursuant to section 108(c)(5) of the act (89 Stat. 500); to the Committee on Interstate and Foreign Commerce.

3062. A letter from the Deputy Fiscal Assistant Secretary of the Treasury, transmitting the statement of liabilities and other financial commitments of the U.S. Government as of September 30, 1977, pursuant to section 402 of Public Law 89–809; to the Committee on Ways and Means.

3063. A letter from the Comptroller General of the United States, transmitting a report on the financial status of major acquisitions of the U.S. Government, including acquisitions financed solely with Federal funds and those financed jointly with Federal, State, and other funds (PSAD–78–60, January 20, 1978); jointly to the Committees on Government Operations, and Armed Services.

3064. A letter from the Comptroller General of the United States, transmitting a report on the interrelated military, economic, and political problems which must be resolved if NATO standardization is to be advanced (PSAD–78–2, January 19, 1978); jointly to the Committees on Government Operations, Armed Services, and International Relations.

3065. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report (GGD–77–32) entitled "What Needs to be Done to Improve the Supply System of the District of Columbia," pursuant to section 736(b)(3) of Public Law 93–198; jointly, to the Committees on Government Operations, and the District of Columbia.

3066. A letter from the Comptroller General of the United States, transmitting a report on the need to define the radiation authorities of the Environmental Protection Agency to eliminate jurisdictional confrontations and correct existing staffing and funding limitations (CED–78–27, January 20,

1978); jointly to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

3067. A letter from the President, National Academy of Sciences, transmitting a report prepared by the Academy's Committee on Impacts of Stratospheric Change, on the effects of human activities on the stratosphere and consequent implications for human health and welfare, pursuant to section 153 (d) of the Clean Air Act, as amended (91 Stat. 726); jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MEEDS: Committee on Rules. House Resolution 958. Resolution providing for the consideration of H.R. 2664. A bill to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes (Rept. No. 95–844. Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes (Rept. No. 95–846). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2076. An act to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon National Park, Ariz., to the Grand Canyon Unified School District, Ariz., and for other purposes; with amendment (Rept. No. 95–847). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 960. Resolution providing for the consideration of H.R. 2637. A bill to amend title 10, United States Code, to authorize the Secretary of the Air Force to contract with air carriers to acquire civil aircraft to provide greater cargo capacity for national defense purposes in the event of war or national emergency, and to modify existing passenger aircraft for this purpose (Rept. No. 95–845). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN:

H.R. 10479. A bill to amend the Internal Revenue Code of 1954 to allow a charitable deduction for certain crops furnished by farmers to certain tax-exempt organizations; to the Committee on Ways and Means.

By Mr. BAFALIS (for himself, Mr. BROWN of Ohio, Mr. BUCHANAN, Mr. CONABLE, Mr. EDWARDS of California, and Mr. PATTERSON of California):

H.R. 10480. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. CARR:

H.R. 10481. A bill to designate a segment of the Pere Marquette River in the State of Michigan as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COHEN (for himself and Mr. PEPPER):

H.R. 10482. A bill to amend the Older Americans Act of 1965 to require the Commissioner on Aging to etsablish a special grant program to enable States to establish community long-term care initiatives to assess the needs of chronically ill or disabled older persons for services and to provide for the efficient delivery of such services to such older persons; to the Committee on Education and Labor.

By Mr. CORNWELL:

H.R. 10483. A billy to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 10484. A bill to promote the development of methods of research, experimentation, and testing that minimize the use of, and pain and suffering to, live animals; to the Committee on Science and Technology.

By Mr. DUNCAN of Tennessee:

H.R. 10485. A bill to allow civilian employees of the Department of Defense in overseas areas to receive routine dental care in military facilities where adequate civilian facilities are unavailable; to the Committee on Armed Services.

H.R. 10486. A bill to amend an act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality; to the Committee on Interior and Insular Affairs.

H.R. 10487. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. ERTEL (for himself, Mr. SKELTON, Mr. DICKS, Mr. GLICKMAN, Ms. OAKAR, Mr. GEPHARDT, Mr. VOLKMER, Mr. WATKINS, Mr. IRELAND, Mr. WEISS, Mr. CORRADA, Mr. KOSTMAYER, Mr. TUCKER, Mr. RAHALL, Mr. BENJAMIN, Mr. KILDEE, Mr. FLIPPO, and Mr. CORNWELL):

H.R. 10488. A bill insisting that the Republic of Korea cooperate fully with the Committee on Standards of Official Conduct and its special counsel and declaring that a failure to cooperate will have a negative impact on relations between the United States and the Republic of Korea; to the Committee on International Relations.

By Mr. ERTEL (for himself, Mr. LEDERER, Mr. TUCKER, Mr. CORRADA, Mr. DE LUGO, Mr. BRODHEAD, Mr. ROE, Mr. GORE, Mrs. LLOYD of Tennessee, Mr. ZEFERETTI, Mr. AKAKA, Mr. NEDZI, Mr. ERLENBORN, Mr. EDGAR, Mr. CHARLES WILSON of Texas, Mr. CARR, Mr. WALGREN, Mr. EILBERG, Mr. GEPHARDT, Mr. CORNWELL, Mr. MCDADE, and Mr. DRINAN):

H.R. 10489. A bill to improve the criminal justice system by eliminating and improving overcrowded and unsafe conditions in State, county, and local prisons through the provision of grants to assist in the construction, acquisition and renovation of such facilities; to the Committee on the Judiciary.

By Mr. FINDLEY (for himself, Mr. FORD of Tennessee, Mr. BONIOR, Mr. EDGAR, Mr. EILBERG, Mr. GUYER, Mr. HARKIN, Mr. HARRINGTON, Mr. HUGHES, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. MCHUGH, Mr. MILLER of California, Mr. MURPHY of Pennsylvania, Mr. QUIE, Mr. ROE, Mrs. SPELLMAN, Mr. VENTO, and Mr. YATRON):

H.R. 10490. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by speech-impaired or hearing-impaired individuals for use of toll telephone service by means of teletypewriters; to the Committee on Ways and Means.

By Mr. FISH (for himself and Mr. WEISS):

H.R. 10491. A bill to provide for paper money to the United States to carry a designation in braille indicating the denomination; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FISH (for himself, Mr. MOORHEAD of California, Mr. BOLAND, Mr. LEGGETT, Mr. VANDER JAGT, Mr. D'AMOURS, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. FRASER, Mr. RUNNELS, Mr. FOUNTAIN, Mr. LIVINGSTON, Ms. KEYS, Ms. HECKLER, Mr. CORRADA, Mr. EILBERG, Mr. SIMON, Mr. PRITCHARD, Mr. HOWARD, Mr. CAPUTO, Mr. MAZZOLI, Mr. HARRINGTON, Mr. CARR, Mr. MCHUGH, and Mr. EDGAR):

H.R. 10492. A bill to amend section 1332 of title 28, United States Code, to grant jurisdiction to the district courts to enforce any custody order of a State court against a parent who, in contravention of such order, takes a child to another State; to the Committee on the Judiciary.

By Mr. KASTEN:

H.R. 10493. A bill to amend tilte 18, United States Code, and to exercise the power of the Congress under article IV of the Constitution; to the Committee on the Judiciary.

By Mr. MILLER of California (for himself and Mr. ROSENTHAL):

H.R. 10494. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY (by request):

H.R. 10495. A bill to amend title 38, United States Code, to improve the death and disability pension program for veterans of the Mexican border period, World War I, World War II, the Korean and Vietnam wars, and for their surviving spouses and children; to the Committee on Veterans' Affairs.

H.R. 10496. A bill to amend chapter 19, title 38, United States Code, so as to provide a statutory total disability for insurance purposes to any veteran who has undergone kidney or heart transplants or anatomical loss of use of both kidneys; to the Committee on Veterans' Affairs.

H.R. 10497. A bill to amend section 312(c) of title 38, United States Code, so as to provide for additional presumptions relating to certain diseases and disabilities of prisoners of war; to the Committee on Veterans' Affairs.

H.R. 10498. A bill to amend title 38, United States Code, to improve the dependency and indemnity compensation program for dependent parents, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 10499. A bill to amend chapter 39 of title 38, United States Code, to provide that beneficiaries of United States Government Life Insurance and National Service Life Insurance policies, who are 65 years of age or older, shall have the right to select options; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself and Mr. OTTINGER):

H.R. 10500. A bill to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflicts, and the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PANETTA (for himself and Mr. BEDELL):

H.R. 10501. A bill to amend the Civil Rights Act of 1957 to require the constitution of advisory committees within each of the several States; to the Committee on the Judiciary.

By Mr. ROYBAL (for himself and Mr. PATTERSON of California):

H.R. 10502. A bill to provide for payment by the United States for certain medical services and treatment provided to U.S. citizens and permanent residents suffering from

physical injuries attributable to the atomic bomb explosions on Hiroshima and Nagasaki, Japan, in August 1945; to the Committee on the Judiciary.

By Mr. JOHN T. MYERS:

H.J. Res. 684. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE:

H.J. Res. 685. Joint resolution to designate May 21, 1978, as Firefighters' Memorial Sunday; to the Committee on Post Office and Civil Service.

By Mr. EVANS of Delaware (for himself, Mr. BROYHILL, Mr. COHEN, Mr. FRENZEL, Mr. GUYER, Mr. HAGEDORN, Mr. LAGOMARSINO, Mr. LEACH, Mr. LIVINGSTON, Mr. LOTT, Mr. MARRIOTT, Mr. SARASIN, Mr. WIGGINS, and Mr. YOUNG of Alaska):

H. Con. Res. 457. Concurrent resolution expressing the sense of the Congress that David W. Marston, U.S. attorney for the Eastern District of Pennsylvania, be retained in his current position until all ongoing investigations of corruption involving public officials under the jurisdiction of such U.S. attorneys and concluded; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H. Con. Res. 458. Concurrent resolution to inspire the President and the Secretary of Agriculture to use existing law to achieve parity for farmers and ranchers; to the Committee on Agriculture.

By Mr. FLYNT:

H. Res. 961. Resolution providing funds for the expenses of the Committee on Standards of Official Conduct; to the Committee on House Administration.

By Mr. BROWN of Ohio:

H. Res. 962. Resolution to refer the bill H.R. 10470 for the relief of Maj. John E. Doyle to the Chief Commissioner of the U.S. Court of Claims; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COHEN:

H.R. 10503. A bill for the relief of Fisheries Communications, Inc.; to the Committee on the Judiciary.

By Mr. McKINNEY:

H.R. 10504. A bill for the relief of David Sundar; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

384. The SPEAKER presented a petition of the AFL–CIO, Washington, D.C., relative to the proposed creation of a separate Federal Department of Education, which was referred to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. STUDDS:

Page 227, strike out line 16 and all that follows down through and including line 15 on page 233 and insert in lieu thereof the following:

"SEC. 30. Fishermen's Gear Compensation Fund.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

"(2) 'commercial fishing vessel' means any vessel which is used primarily for the handling or harvesting of living marine resources for commercial purposes; and

"(3) 'fishing gear' means (A) any commercial fishing vessel, and (B) any equipment, whether or not attached to such a vessel, which is used in the handling or harvesting of living marine resources for commercial purposes.

"(b)(1) There is hereby established in the Treasury of the United States a Fishermen's Gear Compensation Fund (hereinafter in this section referred to as the 'Fund'). The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $600,000. Amounts paid pursuant to the provisions of paragraphs (3) and (4) of this subsection shall be deposited in the Fund. The Fund may sue or be sued in its own name.

"(2) The Secretary is authorized to establish and maintain an area account within the Fund for any area of the outer Continental Shelf for purposes of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

"(3) Upon assessment by the Secretary, any holder of a lease issued under section 8 of this Act for any tract in any area of the outer Continental Shelf shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. In any calendar year, no lessee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(4) Subject to paragraph (1) of this subsection, each area account established pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area.

"(5) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

"(A) Administrative and personnel expenses of such area account and administrative and personnel expenses of the Fund which relate to such area account.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

"(C) Reasonable attorney's fees awarded pursuant to subsection (e)(1) of this section.

"(6) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in any area of the outer Continental Shelf shall contain a condition that such lessee, upon assessment by the Secretary, shall pay the amount specified by the Secretary for purposes of the establishment and maintenance of an area account for area under paragraph (2) of this subsection. In any calendar year, no lessee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(7) Whenever the amount in any area account is not sufficient to meet the obligations of such account for which the Fund is liable pursuant to this section, such Fund may issue, in an amount not to exceed $250,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Moneys obtained by the Fund under this paragraph shall be deposited in such area account, and redemptions of any such notes or other obligations shall be made by such Fund from such area account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations requiring all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any area account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $75,000 per incident;

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim; or

"(iv) when the damage set forth in the claim was sustained prior to the date of enactment of this section.

"(d) With respect to any claim for damages filed pursuant to this section, there shall be a presumption that such claim is valid if the claimant establishes that—

"(1) the commercial fishing vessel was being used for fishing and was located in an area prescribed by the Secretary of Commerce as an area affected by outer Continental Shelf activities;

"(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

"(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

"(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

"(e) (1) Upon receipt or any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. If such hearing is in favor of the person filing the claim, the hearing examiner shall include as part of the amount certified to the Secretary under paragraph (4) of this subsection reasonable attorneys' fees incurred by such person in pursuing such claim.

"(2) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award from the appropriate area account. Such decision shall not be reviewable by the Secretary.

"(f) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

"(g) Not later than one year after the date of the establishment of any area account under subsection (b) of this section, the Secretary shall submit a report to the Congress seting forth his recommendations as to whether or not claims should be paid from such account which are based on damages caused by materials, equipment, tools, containers, or other items, the ownership and responsibility for which is known on the date of the submission of such claims."

EXTENSIONS OF REMARKS

LEGISLATION TO ASSIST STATES IN ESTABLISHING COMMUNITY LONG-TERM CARE INITIATIVES FOR CARE OF CHRONICALLY ILL OR DISABLED ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. PEPPER. Mr. Speaker, I have today joined my colleague, Congressman WILLIAM COHEN, in introducing legislation which carries the potential for vast improvement of current efforts to provide services for the elderly.

The bill we offer would establish a special program of grants to the States, administered through the Administration on Aging, to establish community initiatives to assess the long-term care needs of chronically ill or disabled older persons and to provide for the delivery of necessary services in a coordinated, efficient manner.

As chairman of the Select Committee on Aging and its Subcommittee on Health and Long-Term Care I have, as many of my colleagues are aware, called often and long for development of a full range of noninstitutional services to prevent the needless institutionalization of so many of our elderly citizens who can be cared for in a more appropriate manner at home. But we have noticed in recent years that even in those areas in which a broad range of community-based services exists, many persons still do not have ready information and access to services to which they may be entitled. For that reason, Congressman COHEN, who serves very capably as ranking minority member of the subcommittee, and I have developed legislation which can begin to bring the pieces together using the established aging "network"—State units on aging and area agencies on aging—as well as other community resources. The result, we believe, can be a much improved system of health and social service delivery. Our goal, simply, is to match people with services—the kinds of services they need when they need them.

Mr. Speaker, this legislation would add a new section under title III of the Older Americans Act, which provides grants for State and community programs on aging, to add a long-term care component, which currently is absent from the act. It seeks to build on the information and referral services which are required of area agencies on aging, and to provide for establishment of single-entry programs of assessment, referral, monitoring, evaluation, and outreach.

Under the provisions of this bill, State units on aging would be entitled to apply to the Administration on Aging for grants to establish long-term care programs on a statewide basis or in certain areas of a State. Other State agencies would be eligible for grants on approval of the Commissioner, but only with the approval of the State unit on aging.

In order to qualify for a grant, the applicant would be required to demonstrate the need for a program of this kind and the capacity of the applicant to deliver a wide range of services in the area to be served. State and area plans on aging, as well as information provided by health systems agencies would be utilized in assessing the capacity of the applicant to carry out a coordinated program.

The grant program is designed to ensure that the needs of individual older persons are identified; that these individuals are referred to the appropriate kinds of services, both community-based noninstitutional as well as institutional services; and that follow-up and evaluation procedures are in place to ensure that the services being received by individual older persons are responsive to their changing needs.

The bill would allow grantees to contract with appropriate public or private nonprofit agencies which have the capacity to undertake the program. Program personnel would be required to represent a balance between persons trained in the provision of health and social services, to assure that all forms of care are considered in the referral of individuals.

With the involvement of older persons in the development of their service plans, the program personnel would assess the needs of individual older persons for services including those which are diagnostic, therapeutic, rehabilitative, supportive, and maintenance oriented; develop a service plan for each person; arrange for the provision of services through the most appropriate means and in the best possible setting; carry out ongoing monitoring and evaluation of the adequacy of the services which are provided; arrange, to the extent necessary, for changes in the kinds of services which are provided; and undertake outreach programs.

It must be pointed out, Mr. Speaker, that the program we envision would be entirely voluntary on the part of persons to be served. Those who operate these programs would have access to medical and other records, but only in accord with Federal and State laws.

Under the provisions of our bill, each agency would be required to report annually to the Commissioner. And the Commissioner would, in turn, report to the Congress at the end of the initial 3-year grant period.

Moreover, the Secretary of Health, Education, and Welfare would be required to furnish any and all possible assistance to grantees. It likely will prove necessary for grantees to apply for waivers under current Federal statutes in order to put together the package of services required; in these instances, the assistance of the Secretary would be vital.

Our bill requires that these long-term care programs be established in facilities which are located in areas where the largest number of chronically ill or disabled older persons reside and in buildings which are accessible to the handicapped and elderly. In determining the location of the programs, the grantee will be encouraged to consider existing facilities such as multipurpose senior centers, outpatient clinics, social service agencies, health maintenance organizations, day

care facilities, or long-term care institutions.

Consistent with the other provisions of the Older Americans Act, any person age 60 or over would be entitled to services under this new section.

The bill we offer, Mr. Speaker, would provide for the awarding of grants for 3 year periods, with provision for 2-year renewals as determined by the Commissioner. We propose that programs be funded at a 90 percent Federal match.

The bill requires only modest funding, Mr. Speaker. We understand the limitations involved in the creation of new services; therefore, we have not sought, in this limited proposal, to create services but rather to pull together in a coordinated fashion those which already exist. We have recommended modest funding: $40 million for fiscal year 1979; $ 5 million for fiscal year 1980; and $100 million for fiscal year 1981.

Mr. Speaker, we are laboring under no illusions in proposing this bill. Instead, we seek to address the very real need for action to end the fragmented, overlapping, slipshod manner in which health and social services are provided to the nation's chronically ill or disabled elderly.

As many of our colleagues are aware, current Federal medical programs seek to aid only the sick elderly. The acute, crisis-oriented programs do not address the needs of the majority of our older citizens—care for chronic illness. While we have seen the development of programs aimed at addressing the predominantly social needs of elderly citizens, much remains to be done to develop a coordinated, systematic network of health and social services—a spectrum of services which meet the changing needs of persons as they become older or more disabled. We want to make it possible for older persons to receive the services they need—when they need them. We want to make it possible for older citizens to remain in their homes and their communities, when noninstitutional care is the most appropriate form of care, as it is for the vast majority of older citizens. We want to put some order into our current disorganized system of delivery of health and social services, and we believe this bill is a large step in the right direction.

It has been developed with the consultation of major organizations representing the elderly, and we believe it deserves the early and favorable attention of the Congress.

UNIQUE CONGRESSIONAL GROUP SAVES ESSENTIAL COMMERCE PROGRAM

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mrs. HOLT. Mr. Speaker, late last year a unique group of my colleagues and I became concerned about a small program in the Commerce Department which faced bureaucratic oblivion. The program, Invest in USA, is responsible for encouraging foreign investors to locate their businesses in the United States. As such, it has provided many thousands of jobs for American workers, and also has had a direct effect on our Nation's balance-of-payments deficit (estimated to be over $25 billion in the coming year). Most important of all, Invest in USA has done all this on a yearly budget of only $100,000, and with a staff of only two.

A little over a year ago, however, the program had its funding taken away, and plans were made to discontinue Invest in USA. It has become an unfortunate byproduct of the bureaucracy that useful programs are cut back or discontinued, while those that do not work are given bigger budgets in wild efforts to save them. In this manner useless and totally inoperable programs waste millions of dollars, while good, workable programs shrivel up and die.

When I became aware of the dilemma facing Invest in USA, I sent the following letter to Juanita Kreps, Secretary of the Department of Commerce:

DEAR MADAM SECRETARY: We, the undersigned, are concerned over plans to discontinue your Department's Invest In USA program. Official funding for the program was discontinued in November of 1976, and the operation now exists on a day-to-day basis.

Invest In USA has a staff of two, and a budget of only $100,000, yet it is responsible for creating several hundred thousand permanent jobs in this country. Since foreign investors are providing these jobs, the program has a positive effect on our country's balance of payments deficit.

The program is responsible for encouraging foreign businesses to locate in the United States. There are 1.5 million American workers who owe their jobs to foreign-owned businesses, and although it is impossible to say exactly how many of these companies located here directly because of Invest In USA, most of the companies have had at least some contact with the program.

With our high unemployment figures, and our balance of payments deficit growing every day, we feel that a program that has created so many jobs on such a small budget should not be allowed to die.

We urge you to include this program in your plans for the next fiscal year, and budget enough money for the program to operate comfortably. With the total Commerce Department budget totaling nearly $2 billion, the few hundred thousand dollars required to operate this program is a small price to pay for the monumental success it has achieved.

This letter was signed by my colleagues from the following States: California (Mr. BURGENER, Mr. BADHAM); Colorado (Mrs. SCHROEDER); Illinois (Mr. CORCORAN); Kansas (Mr. WINN); Louisiana (Mr. TREEN); Maryland (Mr. STEERS); Michigan (Mr. TRAXLER); Minnesota (Mr. FRENZEL, Mr. STANGELAND); Mississippi (Mr. LOTT); New Jersey (Mr. HUGHES); New York (Mr. KEMP, Mr. LAFALCE, Mr. MITCHELL); Ohio (Mr. KINDNESS); Tennessee Mr. DUNCAN); and Texas (Mr. BURLESON).

As you can see, this group represents all areas of the country, and also spans the entire spectrum of political ideologies. After she received our letter, Secretary Kreps sent back the following reply:

Thank you for your letter of September 23 and the concern expressed for our Invest In USA Program.

I can assure you that the Department of Commerce will continue to assist foreign investors through Invest In USA-type support. We agree that the foreign investment encouraged by this program has resulted in jobs for thousands of Americans. Previous economy measures which had been contemplated did envision elimination of this program. However, we have concluded that this service should be continued and we will make every effort to continue it.

I am sure I speak for all my colleagues in expressing delight that the Commerce Department has decided to continue the operation of Invest in USA. There is no issue more important than making sure there are enough jobs. Putting people to work is our greatest priority, and Invest in USA has provided an inexpensive, effective way to create large numbers of jobs.

I would like to extend my personal appreciation to those of my colleagues who chose to sign this letter. Their support shows a genuine interest in reducing our unemployment, and putting people back to work. Many people talk about doing something about unemployment; however, the congressional supporters of Invest in USA have taken a positive step in that direction, and they are to be applauded for it.

TRIBUTE TO VENTURA POLICE CHIEF RICHARD BAUGH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. LAGOMARSINO. Mr. Speaker, today I would like to pay tribute to Richard Baugh, chief of police for the city of Ventura, Calif., a respected and admired American who has spent a total of 28 years in law enforcement—the last 13 as chief of police in Brea and Ventura, Calif. He will soon retire from the Ventura police force.

There are many reasons why he is well liked by those who come in contact with him—his rich sense of humor, his down-to-earth manner, his spiritual leadership, to name a few. He is that rare combination of man who possesses the qualities of leadership, friendship, and courage.

Mr. Baugh has a long and distinguished record in his military, civilian, and educational life. He served approximately 6 years in the military, including 1 year during the Korean war, seeing combat at Pearl Harbor, Guadalcanal, and Bougainville. During the Korean conflict he served as a special investigator to the provost marshal's office at Camp Roberts, Calif., and attended investigator's school for 6 weeks at Fort Gordon, Calif., graduating as an honor student.

Mr. Baugh has been employed by four different cities in his years on the police force, working first in the Los Angeles and Downey police departments—becoming a full commander in Downey—and then serving as chief of police for Brea, Calif., from 1964–72, and in Ventura, Calif., from 1972–78.

His educational background has been an extensive one as well. He has attended the Universities of Southern California, Virginia, and Northwestern from 1960–73. In 1968 and 1969, Mr. Baugh attend-

ed two sessions at the Federal Bureau of Investigation in Washington, D.C., being elected class president in the 81st session. In all he has achieved a total of approximately 800 hours in specialized police science courses through the years.

Mr. Speaker, the city of Ventura owes a great debt to this fine man who has furthered the cause of justice in everything he has done with the police department.

CONGRESS AND THE CITIES: SHAPING A NEW URBAN POLICY

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. FOWLER. Mr. Speaker, many years ago, H. L. Mencken said,

For every human problem, there is a solution that is simple, neat, and wrong.

This year, the Congress will be called upon to assist in the development of policies that will have a far-reaching effect on our cities. Selecting the necessary programs to alleviate urban problems will be no easy task.

The American city is much more than clusters of buildings against a skyline. A city is people, living and working and raising families. Perhaps because of the rich cultural and educational resources that are only found in a thriving urban area, more families are taking the responsibility for the revitalization of inner-city neighborhoods. This is a very positive sign since a city's most valuable resource is people who care and are willing to put effort toward creating a desirable quality of life in their communities.

In the past, Federal programs did little to discourage the out-migration of families and dollars from the city to the suburbs, mainly because of unfair tax and transportation policies.

There have been many suggestions made to correct the problems brought about by these past policies. One proposal is the creation of a "Marshall Plan" to inject Federal funds into ailing cities. Given the current constraints on our national budget, this plan would not be affordable and would quite likely replicate many of the failed programs of the 1960's.

During my 8 years as a city official, I became well aware of the need to coordinate the efforts of federal, state, and local government toward a common goal. Just as we in Atlanta know that any solution cannot simply be an "Atlanta solution," that we must look to our entire region as we continue to grow, so must we formulate a coherent national objective.

Our major goal should be to establish a policy which promotes the reinvestment of both money and effort in our cities by government, business and individuals. We know that Federal dollars cannot do the whole job without the cooperation and involvement of the private sector and neighborhood groups.

REDLINING

"Redlining" remains the single greatest disinvestment factor affecting neighborhoods. Loan for individual housing units are frequently denied because of the neighborhood's age, income level, and racial composition. This denial of loans has discouraged moderate-income families from investing in inner-city residential areas.

Owners of properties in "redlined" neighborhoods who wish to make repairs find home improvement loans unavailable and are forced to allow their properties to deteriorate. This often results in excessive housing abandonment, accompanied by a cutback in municipal services. As a result, an area which was once stable can be defined as a "poor risk" neighborhood.

At present, the Federal Home Loan Bank Board is considering regulations designed to halt this sort of discriminatory home lending practice. The proposed regulations would prohibit the denial of loans based solely upon the age of the house or because of the neighborhood in which it is located. We are not asking the financial community to underwrite unsafe or unsound loans, but rather to recommit themselves to serving the basic needs of the community in which they do business.

Neighborhoods are the basic building blocks of cities and unless we nuture them through legislation encouraging a more positive financial climate, they and the cities in general will suffer.

Toward this goal, the Congress, with the President's support, has passed into law the Community Development Act of 1977, to provide needed funding to cities through 1980.

COMMUNITY DEVELOPMENT ACT OF 1977

This year, $14,040,000 in Federal community development funds will be allocated in the Fifth District of Georgia. Due to revisions in the new Community Development Act of 1977, there will be noticeable changes in how those funds are spent, with an emphasis on the revitalization of neighborhoods.

"Neighborhood conservation" has come to the forefront in recent years, both as a community cause and a primary concern within the Department of Housing and Urban Development. As a result, new directions in Government programing have incorporated the philosophy of renovation and preservation of existing housing as opposed to the more costly construction of new projects.

COMMUNITY DEVELOPMENT BLOCK GRANTS

The Community Development Act of 1977 reauthorizes the community development block grant program for 3 years with a new, alternative formula for determining grant allocations to metropolitan cities and urban counties. The new dual formula for distributing funds more accurately reflects the needs of older, declining communities. The alternate formula would measure statistically the relative amounts of old housing, the comparative rate of decline or stagnation of population growth and poverty and weight them at 50, 20, and 30 percent, respectively. Under the new law, communities such as Atlanta will be able to choose which formula is most beneficial to them.

First passed by Congress in 1974, the community development block grant program consolidated several categorical grant programs, including urban renewal and model cities, into one program of block grants to give local governments more flexibility to deal with urban problems and find decent housing for the poor. To insure community participation, an applicant must submit a written plan giving citizens an opportunity to have some say in the development of the application.

URBAN DEVELOPMENT ACTION GRANTS

A new section of the Community Development Act establishes the urban development action grants program to infuse capital into distressed cities for the purpose of attracting long-term, solid, private investment. This is a cornerstone of the Carter administration's urban philosophy of using economic development projects to get the private sector committed to the cities. The UDAG program is designed to give cities the needed "shot in the arm." The goal of the program is to stimulate new, increased private investment in order to revitalize local economies and reclaim deteriorated neighborhoods.

Many types of activities can be considered for action grant funding. Some of those could include projects designed to revitalize the local economic base or reclaim neighborhoods with many abandoned yet potentially inhabitable houses. New housing construction can be supported if the applicant can demonstrate that it is consistent with the locality's community development and housing strategy and that other resources are not adequate. A proposed project cannot be considered for action grant funding unless the applicant can provide assurances that the private sector will participate financially in the project and that there will be input from community residents.

As a former Atlanta City Council president and an original participant in the formation of the Atlanta City Charter, I have seen the importance of neighborhood planning in any major urban policy. That is why I introduced the Fowler amendment to the Community Development Act which provides for this kind of citizen input. The amendment insures that residents will have a voice in what happens to their neighborhoods before UDAG's are approved.

SECRETARY'S DISCRETIONARY FUND

A new program to be administered under the Secretary's discretionary fund will provide for direct contracts to neighborhood organizations and neighborhood development corporations for technical assistance in planning, program development, and program management. The program is still in the planning stages and will be considered by HUD officials and finalized this year.

SECTION 312 REHABILITATION PROGRAM

A section 312 rehabilitation loan consists of funds made available to low-income property owners by HUD through city or county government, local public agencies, a housing authority, or other local departments of government. Owners must use the funds to rehabilitate, improve, or repair their property.

To qualify for a rehabilitation loan, the borrower must own the property or be buying it under an installment contract. The property must be located in a federally aided code enforcement or urban renewal area, or in a community development area funded with community devleopment block grant funds.

URBAN HOMESTEADING PROGRAM

In its 2 years of existence, the urban homesteading program has been shown to be a promising tool for stabilizing innercity neighborhoods and providing needed housing for low- and moderate-income families.

For the price of $1, a selected applicant to this program is given ownership of a vacant, HUD-held property in need of repair, providing that he or she agrees to live in the house for 3 years and invest personal resources in its improvement. Homesteaders are also eligible for section 312 rehabilitation loans.

Section 208 of the Community Development Act increases the authorization for the urban homesteading program from $5 million to $15 million for fiscal year 1978.

HOMEOWNER COUNSELING PROGRAM

HUD will award grants to HUD-certified local agencies to provide counseling services for low-income homeowners. Groups interested in being considered for HUD certification in order to qualify for the grants should contact their HUD regional office.

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROGRAM

Labor Department funds have been transferred to HUD to support this new program in 10 cities, authorized under the Youth Employment Act. Young people between the ages of 16 and 19 will be put to work on community-related projects such as home repairs, landscaping, and neighborhood revitalization.

CONCLUSION

All of these programs are premised on the idea that individuals and neighborhood groups are exerting tremendous efforts to make cities livable. I know that this is the case in Atlanta.

But all the individual effort in the world will be insufficient if the Federal Government does not provide the supportive environment necessary for neighborhood preservation and revitalization. If lending institutions continue to restrict loans to neighborhoods within cities, if the tax code provides incentives for people to leave the cities, if people are not given a financial assist in the tremendous task of rebuilding urban neighborhoods, we will not have livable cities in the future.

I believe that the new "redlining" regulations and the various programs of the Housing and Community Development Act are an important step forward in helping people to preserve their neighborhoods, but much remains to be done; 1978 will be a crucial year for determining the future direction of national urban policy. The Carter administration will be presenting its recommendations to the Congress. Therefore, it is important that we in the Congress be kept informed of views and needs of people on the local level. The proper urban policy of this Nation must be one which emphasizes revitalization and which recognizes the limited but supportive role of the Federal Government.

PHILADELPHIA PLANS $1 BILLION IN NEW CONSTRUCTION IN 1978

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. EILBERG. Mr. Speaker, I am pleased to be able to report that the city of Philadelphia will undertake over $1 billion worth of new construction activity in 1978—the highest in the city's history.

According to Mayor Frank L. Rizzo, the $1.1 billion of new public, private, and institutional construction will generate 11,000 new jobs, of which 6,000 would be related to the construction industry and 5,000 would be in the manufacturing and nonmanufacturing industries.

Futhermore, many of the projects will continue well beyond 1978, although the hard figures cover only the 12-month period, and the city has kept its estimates purposely at a conservative level.

The biggest single component is the public sector, totaling $645 million. This includes the city's capital budget, SEPTA capital budget, and Philadelphia Parking Authority program, generating 2,600 new construction jobs in 1978 and 900 permanent jobs. The major projects in this sector are—

Commuter tunnel, connecting Reading Terminal and Penn Center (suburban) stations along Filbert Street—$146 million to be committed in 1978 out of a total $308 million project cost, creating 1,500 construction jobs in 1978 with an estimated 10,000 construction related jobs over the life of the project.

This project will link the area's two passenger railway systems, then proceed north to 9th and Poplar Streets, where it will join the existing Reading tracks.

Water pollution control plants, located at 3900 Richmond Street, Packer Avenue and Swanson Street, and 80th and Penrose Avenue—$203 million in 1978 out of a total $420 million project cost, generating 1,900 construction jobs in 1978.

Philadelphia Gas Works, synthetic gas plant at 31st and Passyunk Avenue—$51 million in 1978, generating 800 construction jobs. This project will strengthen Philadelphia's capability to respond to future industrial, commercial, and residential growth.

Airport high speed line, extending from Penn Center Station, 16th and John F. Kennedy Boulevard, to Philadelphia International Airport—$30 million to be committed in 1978 out of a total project cost of $71 million, generating 500 new construction jobs in 1978.

Line will connect with the commuter system and will have a significant impact on the city's development.

American Street revitalization—project will construct a new modern street along American Street, between Second and Third, from Girard Avenue to Cambria Street. Total project cost of $16.9 million will generate 350 new construction jobs. Project will strengthen the existing industrial, commercial, and residential community adjacent to the corridor.

The private sector will total $319 million, generating 1,900 new construction jobs and 4,000 permanent jobs. Major projects in this sector are—

Franklintown, 16th-17th and Race Streets—$87 million total project cost for new Franklin Plaza Hotel, Smith-Kline office buildings and parking garage will generate 1,100 construction jobs, with 850 new permanent jobs upon completion.

Atlantic Richfield Co. expansion—$50 million for expansion of ARCO refinery at 26th and Passyunk Avenue, generating 300 construction jobs.

The institutional sector totals $75 million, generating 800 new construction jobs. Major elements in this sector are—

Graduate Hospital, 19th and Lombard—$22.7 million for a new 300-bed facility, generating 190 new construction jobs.

Wills Eye Hospital, 9th and Walnut Streets—$16.7 million for a new hospital facility, generating 150 construction jobs.

World Forum for Science and Human Affairs, 36th and Market Streets—$21 million for a new hotel conference center and parking garage, generating 300 construction jobs. An estimated 330 new permanent jobs also will result upon completion.

Housing and community development comprised the remaining $64 million, generating 700 new construction jobs.

Mayor Rizzo paid tribute to the cooperation of labor and industry with government, which has "enabled us to work together for the common good."

He said:

Last week, I expressed the hope that Philadelphia would be known as the city that works.

Today we can say that Philadelphia is working, and can look forward to its Tricentennial with confidence.

Today, in Philadelphia, we take a positive forward step in that direction.

FIGHTING IRISH—NATIONAL CHAMPS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. MAZZOLI. Mr. Speaker, as we begin this second session of Congress, I would like to take just a moment to commend my alma mater, the University of Notre Dame, on its outstanding victory over the University of Texas in the 1978 Cotton Bowl, and its unanimous selection as the national collegiate football champion.

Watching the Fighting Irish in their rout of the Longhorns, I was reminded vividly of the legend and tradition of Notre Dame football.

Knute Rockne's powerful teams of the 1930's, the Four Horsemen, Frank

Leahy's nearly invincible teams of the 1940's, the great victory over Oklahoma in 1957 ending the Sooners' longest ever college winning streak, and the resurgence of the Irish under Ara Parseghian who guided Notre Dame to two national championships during the "Era of Ara." These all came to my mind.

So, I doff my hat to this year's talented and hard-working football team, and to its deserving coach, Dan Devine. They made me proud to be an alumnus of the University of Notre Dame.

ISSUES IN SOVIET ARMENIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. DERWINSKI. Mr. Speaker, we must recognize the fact that the Soviet Union is an empire in which over 100 million non-Russian people are held captive by the Communist dictatorship in Moscow.

One of the most unique peoples held captive in the U.S.S.R. are the Armenians. Over 60 years ago, the Armenian people suffered a great tragedy when the Ottoman Turks threatened their people with extinction in the first deliberate genocide undertaken in this century.

Since then, the Armenians, with great spirit and determination, have managed to maintain their culture, their national church, and identity wherever they have relocated. The Armenians held captive within the U.S.S.R. have persisted in maintaining a nationalistic spirit and identity, despite the fact that in the 60 years under Soviet rule, they have been denied legitimate self-determination.

In the Christian Science Monitor of January 10, Dr. Vahakn N. Dadrian, professor of sociology at State University of New York, comments on issues in Soviet Armenia. The article follows:

THOSE AUDACIOUS ARMENIANS

(By Vahakn N. Dadrian)

There is a new ferment in Soviet Armenia. In a formal letter to party leader Leonid Brezhnev, one of the leading writers of Soviet Armenia, a member of the Soviet Communist Party since 1943, has bitterly complained about anti-Armenian acts in neighboring Karabagh [Karabakh] Autonomous Region and boldly demanded the area's restoration to the Armenian Republic. Karabagh is under the jurisdiction of the Soviet republic of Azerbaijan, but 80 percent of the population is Armenian.

The letter to Brezhnev, written by Cero Khanzadian, is the culmination of growing unrest in both Karabagh and Armenia proper marked by unrelenting tensions and hostilities between Turkic Azerbaijanis and Armenians that have been erupting into occasional violence involving armed clashes, atrocities, and loss of lives on both sides. It was smuggled out of Yerevan, the capitol of Soviet Armenia, and its dispatch to the free world shows the despair of the Armenians, whose sustained efforts to have the Kremlin resolve the conflict over a period of several decades appear to have proved abortive.

Nor is that letter the first of its kind. In the post-Stalin era, numerous individual and collective steps were initiated, including petitions from Karabagh, informal discussions at higher levels between Yerevan and Moscow, riots in soccer games, and countless letters of protest in the Central Committee of the Soviet Communist Party.

At the heart of the dispute is a territorial claim based on history, current demography, and geography, and on formal Soviet commitments—made in connection with the advent of the Soviet regime in the Transcaucasus—to restore Karabagh as well as nearby Nakhichevan to Soviet Armenia.

In the turbulent and tortured history of Armenia, Karabagh, as a mountain stronghold, has occupied a particular place in terms of its epic struggles against tyranny and conquest, thus remaining an island of liberty and independence when most of the rest of historic Armenia was reduced to a status of subjugation and destruction. Armenian folklore, literature, and music are replete with works exalting the sagas of Karabagh freedom fighters. To entice Armenia into the incipient Soviet fold and to facilitate its absorption in it, a host of prominent Soviet leaders formally and solmenly promised the return of Karabagh, along with other parcels of adjoining territories, to Armenia.

These commitments were never carried out. But their existence on the one hand inspired hopes among the Armenians, who persisted in reminding the Kremlin about them, and, on the other hand, exacerbated the Azerbaijanis, whose resolve to consign these hopes to oblivion led to subtle forms of oppression, individual and group dislocations, forcible changes in the demographic composition of the land, and to occasional purges of the intelligentsia.

Referring to such a purge in 1975, a companion document sent to Brezhnev speaks of "the organization of a veritable massacre of Armenian intellectuals in 1975" for "the sin" of collecting signatures in a referendum through which "the entire adult population of Karabagh opted for the annexation of Karabagh Autonomous Region to Soviet Armenia proper." The same document invokes Article 3 of the 1951 UN Convention on Genocide, which was ratified by the Soviet Union in 1954, as applicable to the behavior of Azerbaijani authorities. By creating unbearable conditions, they are accused of all but having eliminated the Armenian population of Nakhichevan, which is geographically separated from Azerbaijan proper but is also under Azerbaijani rule. "In Nakhichevan all vestiges of Armenian culture and civilization are being systematically destroyed, and the tombstones are being utilized for housing construction," states the document. It goes on: "Having successfully executed genocidal methods by which they got rid of the Armenian population of that region, the same authorities seem to be now disposed to extending these methods to Karabagh for the same purpose. . . . It is difficult to believe that in a land where human relations are led and directed by the Communist Party, such perpetrations can be inflicted on a small nation which in the past has experienced indescribable tragedy. . . ."

Similar if not identical charges were levelled in a petition signed by 2,500 Armenians of Karabagh during the rule of Khrushchev, who promptly dispatched to the area Marshal Bagramian, an Armenian who was then Soviet Deputy Defense Minister. The latter's mission proved only a temporary palliative.

Khanzadian's letter to Brezhnev calls for a single solution, namely the return of Karabagh to mother Armenia as the redemption of a long overdue Soviet promise, and as the vindication of a basic principle of so-called Leninist nationality policy. His solicitude regarding "the unresolved Karabagh issue" is matched by his implicit condemnation of the Soviet regime as the perpetuator of "an injustice lasting more than half a century."

Perhaps the most signal part of the Armenian protest movement against Moscow and the party Central Committee is the incidence of apprehension regarding the growing influence of Muslim Communists within and without the Soviet Union—as by-products of Soviet tactical rather than strategic goals. It is a fact that muslim countries in Central Asia are assuming growing importance for the Soviet Union, as reflected in their increased representation in key positions in the party councils of Moscow. Buried in Khanzadian's letter to Brezhnev is a reference to the ominous portents of "pan-Islamism" making inroads into the Soviet system that epitomizes the origin, nature, and extent of Armenian anxieties and accounts for Armenia's craving for territorial consolidation.

CLIFFORD H. SMART

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. PURSELL. Mr. Speaker, it is with great sadness that I report to the House today of the death of Clifford H. Smart. A man who genuinely loved people and valued their friendship, Mr. Smart excelled in two careers. In education, as a teacher, principal, and administrator, and, as a distinguished member of the Michigan House of Representatives.

Born in Sault St. Marie, Mich., Clifford Smart received his bachelor's and master's degrees from Wayne State University. From his beginnings, at age 19, as a teacher in a one-room rural school in northern Michigan, Smart devoted four decades of his life to the field of education. He, also, served as State president of the Michigan Education Association, and of the Michigan Association of School Administrators, chairman of legislation for the Michigan Congress of Parents and Teachers, and for 20 years was the Walled Lake Superintendent of Schools.

He received the distinguished service award from the Michigan Education Association in 1952, and, also, received the Rotary Award for distinguished service to his community and his State in 1954.

At age 60, Mr. Smart, shunned retirement, feeling that there was much more he could contribute, and launched his political career as the State representative from the 60th district (R). Subsequently, he was elected to four additional terms in the State legislature before retiring in 1974. During his decade in government, he championed such challenges as property tax reduction, educational reform and State budget reductions. His special skills as a school administrator were quickly recognized, as Smart was named chairman of the House Education Committee, and in 1971 was chosen as minority leader of the House. Clifford Smart gained great admiration and respect for his long service and determined hard work in an effort to improve the quality of life in the Great Lakes State.

I extend my deepest sympathy and condolences to his wife, Martha, and his family.

THE B–1: AN INFORMED EDITOR SPEAKS OUT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. DORNAN. Mr. Speaker, last month, the House of Representatives acted wisely by refusing to rescind funding for the completion of B–1 aircraft numbers five and six. The Senate majority leadership, however, did not allow the Senate to act on that decision before adjournment. I believe they did not because they did not have the votes at that time to defeat the B–1.

It is now probable that the B–1 issue will be called up in the Senate this month. When it is, it is imperative that the Senate weigh all the evidence on both sides of the question. The evidence is voluminous—so much so that it cannot be thoroughly digested by many legislators who must follow various other issues as well.

For that reason, I call the attention of my colleagues to a recent open letter to Senate Majority Leader ROBERT BYRD which was written by Mr. Virgil Pinkley, editor and publisher of the Daily Review of Burbank, Calif. Rarely have I seen an explanation of the salient facts of the B–1 controversy so clearly enunciated.

It is obvious that Mr. Pinkley understands the broad principles involved in the struggle for the B–1. Let us hope that after reading his letter, our colleagues in the other body also do.

The text of his letter follows:

[From the Burbank Daily Review, Dec. 9, 1977]

WE MUST HAVE THE B–1 BOMBER!

(NOTE.—This letter was written primarily to Senate Majority Leader Robert C. Byrd, D–W.Va., by Virgil Pinkley, editor and publisher of this newspaper. Copies also were sent to Senate Minority Leader Howard Baker, R-Tenn.; Sen. Henry "Scoop" Jackson, D-Wash., a leading defense expert; Sen. Alan Cranston, D-Calif., Senate Democratic whip; Rep. John Rhodes, R-Ariz., assistant speaker of the House; and Lt. Gen. Ira Eaker, ret., national security affairs expert.)

MY DEAR SENATOR:

Thank you for your most friendly note containing every good wish for the season, which I reciprocate heartily.

Enclosed is the front page of today's evening local newspaper carrying the story from Washington which reads: "The House of Representatives Tuesday refused to rescind funding for the completion of B-1 bombers five and six, keeping live hopes that Congress might approve financing."

I hope and pray that, after due consideration, you will decide to go along with the House and induce your fellow senators to do the same.

In my opinion it is absolutely essential that we develop the B–1 bomber program. It makes no difference to me whether they are produced in West Virginia, Maine or Montana, just so long as the United States of America has these magnificent planes, which constitute a gigantic insurance policy for our survival and safety.

As you may know, I lived and and worked in Europe for 19 years as head of the United Press, and I am appalled about how few Americans appreciate the true menace of communism and the long range plans of the Soviets to conquer and rule.

In the end it is a matter of sheer survival and prevention of our being placed in a position where the Soviets can blackmail us constantly. If we lose our freedom, or if we are forced to change our institutions and ways of life, all of the social benefits in the world won't be worth a tinker's dam. First we must survive.

In this age of missiles and rockets we can't afford to be second best.

It makes no sense whatsoever to say that after the Russians might have destroyed our centers of population, productivity and communications we in retaliation could at least get a thin sandwich while the Russians were having a seven-course gourmet dinner at our expense.

The Russians know where our missile installations are and they undoubtedly have the means to knock some or most of them out.

This would lead me to concur that we must have a variety of ways to deliver our missiles to Russia. The B–1 bombers would be magnificent in this role because they can attack at such high speeds, so close to the ground under radar screen detection, and into all parts of Russia, that a great many of them would get through. Then we should have a growing fleet of nuclear submarines because they are hard to spot and destroy and they too could deliver, in the event of necessity, nuclear weapons.

I favor movable missiles or those such as the XM, which could be fired from trenches located in various parts of the country and whose exact locations would not be known to the Kremlin.

The day I saw you on that rainy afternoon in Washington, I also had a long talk with my old friend, General Ira Eaker. I have known, respected and admired him greatly since the days he arrived in London to form the U.S. Army 8th Air Force. I was with him all during the time he championed high daylight precision bombing, which the British and Churchill opposed so bitterly. In the end Averill Harriman's daughter Kathy went to Winston Churchill at Eaker's request and secured a private audience for him. At its conclusion the Prime Minister said, "Young man, you haven't convinced me but at least I think you have earned the right to try." We all know what our daily bombing did to Germany along with the massive raids staged at night by the R.A.F. and its affiliated forces.

General Eaker told me last month, "One hundred B–1 bombers could virtually wipe out the Soviet surface fleet."

You appreciate fully the need for us to live under a freedom of the seas rule and our ability to control or keep open the lines of communications with friendly nations and to areas where raw materials exist which we have not at all or only in limited supply.

Destruction of the Russian surface fleet would be a further insurance policy for the safety and survival of our nation.

So again, I repeat that I hope and pray that you and your colleagues will see the wisdom of continuing and developing the B–1 bomber program, and not solely on the basis that it will create jobs. There is far more at stake in this equation than just jobs.

I don't enjoy paying high income taxes any more than anyone else, but if it were necessary for our security and our survival I would gladly pay double the existing rates if the money were spent wisely and well on our national defenses. All other matters and considerations are secondary to just sheer survival.

May God give you the wisdom and the courage to make the right decision on this vital issue at this Christmas time so that for at least a few more years there can be peace on earth and good will among men.

VIRGIL PINKLEY.

PANAMA—A FAIR DEAL AT THE TIME

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. SYMMS. Mr. Speaker, Mr. Guy Trotter wrote an editorial recently that appeared in the Lewiston, Idaho, Morning Tribune concerning Panama and the history of the Canal. I found it to be quite interesting and I would like to read it into the RECORD at this time:

PANAMA—A FAIR DEAL AT THE TIME

(By Guy Trotter)

A lot of us are becoming weary of people who should know better bad-mouthing Uncle Sam for the mistreatment of poor little Panama in acquiring the Canal Zone.

In the context of the times, the acquisition was almost benevolent. Much is made of quotes by Teddy Roosevelt and others in his administration about what a great deal they had made.

So what? Like Carter & Co., they had to convince the Senate to ratify a treaty. Should we expect them to have said that Panama was getting the better of the deal?

In a recent editorial, "The Panama error," (LMT-Saturday, Sept. 10th), Bill Hall seemed to imply that those who compare the circumstances surrounding the Hay-Bunau-Varilla treaty with the Louisiana Purchase are something less than bright. He referred to the Louisiana Purchase as a "fair-and-square deal," thus revealing a painfully shallow understanding of American history. Let's consider how "fair-and-square" the Louisiana Purchase was:

The territory France sold us belonged not tó France but to Spain.

France sold Louisiana only because President Jefferson let Napolean think that if France refused to sell it, the U.S. would form an alliance with England against whom France was then at war. (There was a clear implication that the U.S. would then take Louisiana by force.

Jefferson kept Congress completely in the dark concerning progress of the negotiations, terms, price and on the ultimate agreement until after the treaty was signed by John Jay and Talleyrand, Napolean's minister.

Hall claims, "Panama was flim-flammed . . . one of the most incredible cheats in our history." And again, ". . . the original canal treaty was written, signed and rushed through the Senate before the Panamanian delegation arrived in Washington."

Surely, Hall knows better than that. I find it hard to believe that he is ignorant of the history of the Hay-Bunau-Varilla Treaty of 1903:

1. At the time the treaty was written, there was no such nation as Panama; it was just the northwesternmost state of the United States of Colombia.

2. Phillippe Bunau-Varilla, an appointed representative of the French "Panama Canal Co." was already in Washington, negotiating with the U.S. trying to sell the canal concession and assets in Panama.

3. When the Colombian Senate, (feuding with the Colombian President), refused to ratify the Herran-Hay Treaty, Bunau-Varilla suggested that perhaps a group of Panamanian revolutionaries might be interested in assuming Colombia's end of the contract if the U.S. would back their "uprising" against Colombia.

4. While the U.S. offered no written guarantees, on Oct. 19, 1903, three warships were sent to Panama with order to prevent the landing of Colombian troops. When the USS

Nashville, appeared off Colon, the Panamanians revolted on Nov. 4.

5. By Nov. 6 a revolutionary junta had control of the situation in Panama City. One of their first official acts was to cable authority to Bunau-Varilla, (as Panamanian Plenipotentiary), to negotiate a canal treaty with the U.S. He presented his credentials on Nov. 12.

6. Panama was anxious to negotiate the treaty because they knew the U.S. was prepared to negotiate with Nicaragua for a canal across that country.

7. The treaty—virtually the same treaty as that which the Colombian Senate had rejected in August—was signed in Washington on Nov. 16 and was ratified in Panama City by the junta on Dec. 2.

8. It was not ratified by the U.S. Senate until Feb. 24, 1904, more than three months after it was signed!

Now that scarcely conforms to Bill Hall's description of a treaty which was "... .signed and rushed through the Senate", does it?

The canal cost the U.S. $375 million and more than 5,000 Yankee lives to build.

As a direct result of U.S. actions in implementing the Hay-Bunau-Varilla Treaty:

Panama received $10 million cash and an annual rental fee of a quarter million.

The twin scourges of malaria and yellow fever, (which were killing more Panamanians than all other diseases combined), were brought under control by the U.S. Army Medical Corps.

Panama was enabled to develop one of the highest per capita incomes in Latin-America with virtually no natural resources. (The Panama Canal Co. has the largest payroll in the country).

Panama won its independence from Colombia.

The treaty was revised with increased benefits to Panama in 1936 and again in 1955, so it is not the 74-year-old dinosaur its detractors would have you think.

Yes, sir, that was some lousy treaty for poor little Panama!

It must be admitted that—judging by today's standards—we obtained the Canal Zone by means less than totally straightforward. It was not, however, Panama which was the injured party; it was Colombia. This fact was recognized by the U.S. when, in 1922, President Harding's administration prevailed upon Congress to award Colombia an indemnity of $25 million. Panama was what would now be characterized as an "unindicted coconspirator."

The media—in trying to flim-flam the public—does little for its own credibility. The readership and the nation are better served when journalists consult history books rather than parroting self-serving politicians.

CONNIE CRAWFORD RECEIVES DAYTON SERTOMA CLUB AWARD

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. WHALEN. Mr. Speaker, on Wednesday, January 25, the Dayton Sertoma Club will present its 1977–78 "Service to Mankind" award to Miss Connie Crawford of Vandalia, Ohio. The award is given each year by the Sertoma Club to recognize an outstanding citizen for humanitarian, heroic, and civic service to the Dayton area community.

Connie, at the age of 20, has made a greater contribution to human kind than most people twice her age. For several years, Connie has been involved in the annual "Hike for the Handicapped." Her efforts, and those of her friends, have resulted in the donation of thousands of dollars to help the handicapped. She is the founder of the "Youth Ohio Association for Retarded Citizens" and the "Concerned Youth for Cerebral Palsy."

A tireless worker for the common good, Connie, as a member of the Dayton Area Red Cross Youth Disaster Team, was among the first to respond after a devastating tornado struck the city of Xenia in 1974. The team stayed for 2 weeks to help tornado victims. Their work was honored by the National Red Cross Convention in Minneapolis.

Connie's compassion, Mr. Speaker, stands as an example to all of us. I know that my colleagues join me in congratulating this year's recipient of the Dayton Sertoma Club's "Service to Mankind" award. Connie Crawford is living proof that one need not be old to be venerated.

I am honored to add my congratulations to her to those of the Dayton Sertoma Club.

OFFSET OF SOCIAL SECURITY BENEFITS A COSTLY MISTAKE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. HARRIS. Mr. Speaker, on January 19, 1978, I introduced H.R. 10465, cosponsored by Mr. STEERS and Mrs. SPELLMAN, to eliminate the offset provision from the recently enacted Social Security Financing Amendments of 1977 (Public Law 95–216). This provision requires a dollar-for-dollar reduction of social security dependents and survivors benefits earned by one spouse by the amount of Federal, State, or local retirement income received by the other spouse. Specifically, my bill will repeal language in section 334 of the Social Security Financing Amendments relating to the offset of these benefits for spouses receiving Government pensions. In doing so, it will prevent the reduction or loss of a significant portion of rightfully earned benefits for thousands of people nearing retirement age.

OFFSET UNFAIR, DISCRIMINATORY

One of my fundamental objections to the offset provision is that it will force serious financial hardships on people who have paid into the social security system for years and who are counting on receiving their full share of social security benefits to see them through retirement. In my view, it is unfair to attempt to shore up the social security system by depriving people of benefits they worked for and earned, simply because their spouses happened to work for the Government.

The apparent rationale behind the offset provision is that men who receive a public pension would be getting some sort of a "windfall" if they also receive benefits based on their wives' social security coverage. To clarify this intent, an exemption is provided for women who will become eligible to retire from the Government within 5 years. Men can only get permanent exemptions if they received, or were eligible to receive, social security benefits prior to enactment of the offset provision, or if they can "prove" their dependency on their wives.

Last March, in the Goldfarb against Califano case, the Supreme Court ruled that men need not prove their dependency in order to receive dependents and survivors benefits earned by their wives under social security. The offset provision attempts to make an exception to this ruling for men who receive public pensions, by requiring them to prove that they were eligible to receive social security benefits prior to the Supreme Court decision. I feel it is blatantly discriminatory to require dependency tests only for men who receive public pensions, when we do not—and constitutionally cannot—require proof of dependency from men who worked in the private sector.

PROVISION CONTRADICTORY

Ironically, while portions of section 334 of the new law appear to reverse the Supreme Court ruling on dependency tests for men with public pensions, other portions of the same section contain language upholding the so-called Goldfarb decision. For this reason, my bill removes only the language relating to the offset provision, retaining language which prohibits any sort of dependency tests for men.

EXEMPTIONS INEQUITABLE, OFFER LITTLE PROTECTION

Because it was agreed that the offset provision would have a more adverse impact on women than men, a special exemption is allowed for women who will become eligible to retire from their Government jobs in 5 years. This provision is designed to protect women who earned significantly smaller incomes than men during their years of Government employment from having to face drastic cutbacks in their retirement income. I would like to point out that this exemption, while understandable, will offer only shallow protection for women nearing retirement age, while offering little or no protection for men who worked in lower-paying Government jobs.

The authors of the offset provision realized that providing a special exemption for women was likely to be challenged in court, and added a clause that would repeal the exemption entirely if it is ruled to be discriminatory. This means that both men and women could be penalized for their social security benefits, regardless of the size of their Government pensions, within the next 5 years.

OFFSET NEVER FULLY CONSIDERED

The offset provision originally appeared in the Senate's version of the Social Security Financing Amendments of 1977. There was no similar provision in the House bill, and consequently, The House never had the opportunity to vote on or debate the offset as a separate issue.

Moreover, the final language of the offset provision was agreed to only 1 day before the conference report on the social security financing bill was scheduled for

floor action, due to a waiver of the usual 3-day layover for conference reports. This gave Congress very little time to understand the complex modifications that had been made in the offset provision during the conference, and no time to discuss its potential benefits and drawbacks.

It seems to me that there are a number of problems with this controversial provision; its constitutionality is questionable, it is inequitable, and it will cause people inordinate financial hardship. In light of the fact that Congress has never addressed these questions fully, we should repeal the offset language from section 334 of the Social Security Amendments of 1977 and have thorough legislative consideration of this issue.

WHY WE MUST KEEP THE CANAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. McDONALD. Mr. Speaker, as the time for Senate debate on the new Panama Canal Treaty approaches, the discussion appears to be increasingly concerned with details of the proposed Treaty rather than its effect. Whether or not the United States keeps the Panama Canal is not only vital to our economy and our national defense, but, it is vital to our national morale and sense of values. If we give up the Canal, we will actually be on the road to second class power status with nowhere to go but down. Prof. M. Northrup Buechner of St. John's University expressed these thoughts very well in a recent article for the Washington Report of the American Security Council for December, 1977. I feel he speaks for a majority of Americans and commend his article to the attention of my colleagues.

WHY WE MUST KEEP THE CANAL

(By M. Northrup Buechner)

(NOTE.—Quite a bit has appeared in the news media recently about the Panama Canal issue. Most of it has been in response to the PR campaign orchestrated by the White House to gain Congressional and popular support for the proposed Treaties. The White House effort has been primarily theatrical, with the elaborate dinner for the Latin American leaders being the big event, carefully staged for maximum TV coverage.

Leading opposition voices have been given grudging play in the press. And the powerful popular opposition has been relegated to sparse reports of public opinion polls.

The article below is one we recommend highly to WR readers. It goes to the issues behind the Treaties. It reveals the inadequacy of the opposition arguments that have been presented so far in the Congress. And it provides a valuable service on behalf of the general public, by offering a compelling rationale for the so far inarticulate cry of objection from the American heartland). Editor

The abysmal level of the public debate over the Panama Canal was epitomized in a national interview with a prominent undecided Senator. Asked what considerations he was weighing in making up his mind, the first thing he mentioned was the veto power the new treaties give Panama over a second canal. The public pondering of such details has spread the impression that only trivia is at stake in this debate. Nothing could be further from the truth.

The public advocates of keeping the canal, however, have missed the point almost as badly as that Senator. The primary issue is not the military importance of the canal. It is not the economic importance of the canal. And it is certainly not the details of the new treaties. The primary issue is the right of the United States to exist.

The moral principle at stake is the right of the United States to keep her values, her achievements, her wealth, in the face of overwhelming global opposition. And since a country, like a man, cannot survive without values, at issue is the right of the United States to survive.

That is why the American people oppose the new treaties. That is the principle behind their desperate feeling that giving away the canal would be wrong in some way much more important than they know how to say. When they tell reporters "we have given away too much already," and "we have to stop letting them push us around," that is what they are trying to say. Though they lack the words, they see surrender of the canal for what it would be: a step in the direction of renunciating the United States's right to her values and her life.

Unfortunately, a national debate cannot be won without the words. It is not enough for people to be right. They must know why they are right. They must have the words and principles to defend their position. What happens when they do not has been most evident in the United States Senate.

Because they did not know how to oppose surrender of the canal in principle, a number of Senators have tried to prevent its surrender by becoming enmeshed in debate over the details of the new treaties. In doing so, they have made several significant contritions to the other side.

They have accepted a context for debate where it is treated as already established that we should give up the canal and the dispute therefore, is only over the side conditions. They have trapped themselves in a position where, if the conditions to which they object are changed, they cannot vote against the treaties. And they have been diverted from giving any effective leadership or voice to their enormous support in the general population.

What position should they have taken? How should the new treaties be opposed? The most damning evidence against the treaties is the arguments that are given in their favor. Those arguments fall into two general categories: the practical arguments and the moral arguments; or the arguments from fear and the arguments from guilt.

THE PRACTICAL ARGUMENTS

The most extreme, and therefore the clearest, of the practical arguments holds that if the Senate rejects the new treaties, Panama will become "another Vietnam." In other words, we should give up the canal out of fear of a war with Panama or, even more disgraceful, out of fear of independent guerrillas.

This argument marks a new low in the level of political discourse in this country and not many have had the effrontery to make it openly. That it has been left largely to implication and innuendo is the only sign that our leaders retain any respect for the American people.

For example, it was argued explicitly before the Senate Foreign Relations Committee that the best way to retain access to the canal is to give it to Panama so they will be on our side if we should have to defend it. It is very revealing (and somewhat frightening) that this argument was taken at face value by all the news media, and its implications went completely unnoticed.

Militarily, observe the helplessness of the United States implied by so desperate a need for support, and from Panama of all places, as to justify giving away the canal.

Strategically, observe the absurdity of assuring access to the canal by placing all the complex, delicate machinery and equipment and controls for its operation in the hands of a potential enemy.

And, finally, since attacks by Panama are the only current danger to the canal's security, observe the threat implied by raising the issue of, and hence doubts about, our access to the canal. The real meaning of that argument was that if we try to keep the canal, Panama will deprive us of its use, and therefore we had better give it to them.

To spread this kind of thinking, an unforgiveable campaign has been carried on through the media for the last several months, specifically directed at undermining the self-confidence of the American people and frightening us into giving up the canal. Its most disgraceful element has been the effort by our own military leaders to leave the impression, again by hint, insinuation, and innuendo, that the United States is militarily impotent to assure the security of the Panama Canal.

The argument about access to the canal, for example, was repeated several times before the Senate Foreign Relations Committee by military leaders. When the Panamanian dictator was making thinly veiled threats of guerrilla war, the chairman of the Joint Chiefs of Staff did not dismiss him as absurd. Rather he implied that the threat was serious by saying he could not defend the canal with 100,000 men.

In the face of this atmosphere of national self-abasement, when President Carter clearly stated that we can and will defend the canal, his declaration came like a breath of fresh air. Then, he threatened that it would be a major, difficult, dangerous undertaking, thus contributing to that atmosphere himself.

It is shameful that this kind of fear was a major factor in the negotiations for the new treaties. Fear is a disastrous motive on which to base policy in any case. But whatever consequences might have been expected from such a policy, ceding the canal out of fear of Panama would have been beyond anyone's ability to predict.

There is no way that Panama could become another Vietnam. Militarily, the two situations have nothing significant in common. Guerrillas could be even a minor problem only if we insisted on following the same insane policy we pursued in Vietnam of fighting effects rather than causes.

In this case, however, fighting of any kind can be avoided altogether. All that is necessary is a statement by the President that an attack on any part of the Canal Zone would be considered an attack on the United States, and that any country supporting such an attack would be considered an enemy of the United States and treated accordingly.

The practical argument also holds that surrender of the canal is essential for good diplomatic relations with the Latin American countries. But even if *they* were the great powers of this hemisphere, it would be obviously self-defeating to curry their favor by giving away our possessions.

Yet, blinded by a frantic, suicidal anxiety over the good opinion of the world in general and our southern neighbors in particular, that is the course insisted on by most of our political and intellectual leaders. The tragic failure of their leadership to be worthy of the American people was never more evident.

It would undoubtedly be pointless to remind those leaders that it is *we* who are the great power here, and if anyone should worry about good opinions, it is our southern neighbors who should worry about *ours*.

THE MORAL ARGUMENTS

But if the practical arguments are insulting, the moral arguments are worse, much worse.

It is said we stole the canal and our presence in the area represents a colonialist affront to the sensitive feelings of the Latin American people. We should give up the canal, it is implied, out of guilt for these offenses.

The charge of colonialism, though repeated mindlessly by everyone, is a transparent fraud. A colony was a settlement of *people*, not an industrial engineering enterprise. A colony, by definition, was administered for the economic benefit of the mother country. The Panama Canal is not a colony, nor has the United States *ever* had a colony anywhere in the world.

But the vilest distortion in the whole debate is the charge we stole the canal. It is the exact opposite of the truth.

The opposite of theft is production. We did not steal the canal; we built it. The moral right of the United States to the canal is the right of any creator to what he has created. That right, however, is a property right, the root of all property rights, and it is not surprising that modern intellectuals and politicians are unwilling to defend anything based on that source.

It is their view that control of the canal by the Panamanians is a legitimate aspiration of the Latin American people. But there is no such thing as a "legitimate aspiration" by some to an achievement created by others.

Not only did the United States pay the costs of constructing the canal. It was her citizens who figured out how to conquer the previously unconquerable obstacles and then directed the construction in an enormously heroic effort. The Panama Canal was the greatest engineering feat in the history of many up to that time and *we did it*.

Nothing is more depraved than ridiculing the American people for their pride in their canal, a tactic adopted by some, not all, of the advocates of the new treaties. No people ever had a better right to pride in any national accomplishment. The Panama Canal is a reflection and embodiment of all that is best in the American character.

Whatever shenanigans were involved in getting sovereignty over the Canal Zone, and no one's account makes them very serious, they are *nothing* next to the incredible achievement of the canal itself. Without us, the Canal Zone would be just so much empty, deadly, malaria infested lakes and jungle—as would the rest of Panama.

If one considers what Panama would be like today without the canal, it is clear who has received a disproportionate share of the benefits, and if moral debts were to be collected, who would owe what to whom. Then consider that an agreement reached in conjunction with the new treaties call for us to pay them some 345 million dollars. This is over and above the negotiated increase in payments for use of the Canal Zone from 2.3 million to about 60 million dollars a year.

WHY THEY WANT THE CANAL

There is no moral justification whatever for the demand that the United States give up the canal. What then is the cause of that demand? The same cause that is the leitmotif in the treatment of the United States by most of the undeveloped world.

It is the motive behind the burning of American consulates, the attacks on American diplomats, the seizure of American fishing boats, the expropriation of American property, the constant attempts to humiliate us in the U.N., all of it accompanied by demands for more money, and lately, by claims of a right to a share of our wealth.

Stripped of the meaningless vicious jargon about colonialism, imperialism, and exploitation, the moral argument holds that we must give up the canal to satisfy the malice, hatred, and envy of the worst elements in the Latin American countries, and indeed, in the whole undeveloped world. Those are the "sensitive feelings" we are accused of affronting.

What is the cause of this global hostility toward the United States? It comes from two related sources.

First, whether communist, fascist, socialist, or non-ideological, the undeveloped countries of the world are almost all dictatorships. As such, their hatred and fear of the United States has a purely practical element.

We are the last, best, shining example of the kind of life that is possible to man on earth when he is left free. We are the unavoidable proof that the brutality, torture, terror, and death they have imposed on their people are unnecessary.

But the more fundamental cause of their opposition is also the cause of tyranny as such. It is "envy" in its most vicious, virulent, destructive sense. It is what Ayn Rand has identified as "hatred of the good for being the good."

Today that motive is widely regarded as normal and natural. It is sympathetically explained, "Of course they hate us and would like to see us destroyed. After all, we are rich and they are poor; we are great and they are small; we have created achievements they cannot approach; we built a canal they could not conceive."

What that view sanctions and expresses is the ultimate evil in human psychology, the lowest and worst motive that is possible to man. It represents a hatred of every living human value, the same motive that sets up concentration camps, torture chambers, and dictatorships as ends in themselves.

The canal is a hatred symbol all right, but not of a nonexistent American colonialism. What the canal really symbolizes, and what the value-haters want symbolically to wipe out by making us give it up, is the overflowing abundance of energy, efficacy, and pride of a free people.

To surrender the canal in the face of such a motive is unthinkable. It would mean accepting their view of our virtues as vices and our achievements as stains on our national character. It would mean sanctioning hatred of the United States as natural and right and deserving a positive response. To what portion of our wealth and achievements could we claim a right after that and on what grounds?

That is *the* most important reason for keeping the Panama Canal. If there were no other reason whatever, *that* would be sufficient to hold on to it for dear life.

CONCLUSION

Those who think the Vietnam War demonstrated the unwillingness of the American people to fight for their values should think again. The only thing that war demonstrated was that the American people will not fight indefinitely for nothing.

The difference betwen Vietnam and the Panama Canal is the difference between fighting to save the house of a remote neighbor you have never met and fighting to save your own home.

The American people want to keep the Panama Canal. They are right to want it. And they will support the policies necessary to do so.

There is no practical reason for surrendering the canal. There is no moral reason. There is nothing but the pressure of a viciously irrational global opposition. The Senate should confound that opposition and assert the United States' right to keep her values and her life by rejecting the new treaties.

CAPITALISM AND THE INTELLECTUALS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. SYMMS. Mr. Speaker, today I ran across an article that appeared in the Wall Street Journal a few months ago by Prof. Robert Nisbet of Columbia University. The article is entitled "Capitalism and the Intellectuals" and it documents the hostility that has existed for many years on the part of many intellectuals toward the capitalist economic system. I commend it to my colleagues in Congress:

CAPITALISM AND THE INTELLECTUALS

(By Robert Nisbet)

One of the persistent mysteries of Western intellectual history has been the question of why capitalism, with its unique record in the production of goods and services and its utterly vital role in making possible the liberal democracies of the West, has been almost from its beginning the object of continuing attack. Why from the outset was it faced with the radical question of whether it could continue to justify itself by spreading the employment of goods it was able to produce to the great mass of mankind?

This is the mystery explored by Paul Johnson in his important new book, "The Enemies of Society" (Atheneum, 278 pages, $9.95). Mr. Johnson, a journalist and former editor of the influential English weekly, The New Statesman, is also the author of several historical works, including his recent and widely praised "A History of Christianity." In his current book, the "Society" of the title is Western society—more specifically, the liberal democratic, middle class, capitalist society which from the first has had such trouble defending itself against its "Enemies." Just who those "Enemies" are I shall come to later on. They do Mr. Johnson honor.

The first few chapters of the book deal with the nature of the modern Western society that Paul Johnson admires, and with the conditions and forces that brought it into existence in the first place. Behind the kind of free democracy which highlights modern Western history, Mr. Johnson stresses, lies a large middle class that is itself the product of capitalism. Apart from capitalism—its incentives, mechanisms and astounding power to produce and distribute—our historic political rights and freedoms would not exist.

Mr. Johnson's theory of the rise of capitalism is astute (though one must fault him for asserting that Max Weber's historic theory of capitalism's rise reduces itself too simply to the Puritan Ethic; Weber himself repeatedly and successfully refuted that criticism). Mr. Johnson finds the crucial cause of capitalism, and in particular the explanation for its earliest appearance in England, to lie not in economic, political or social forces but rather in a complex of "property rights in a body of impersonal law, guarded by the courts and safe from crown and government." He approvingly quotes Hayek's notable conclusion on the subject: "There is probably no single factor which has contributed more to the prosperity of the West than the relative certainty of the law which has prevailed here."

THE SPIRIT OF SCHUMPETER

As for why the system thus produced should have become the object of such sus-

tained animosity, this is the same question, somewhat differently stated, that preoccupied the economist Joseph Schumpeter a half-century ago; and Johnson's own response to it is in the spirit of Schumpeter. Schumpeter wrote—and Mr. Johnson argues—that the demise of capitalism would come not from any revolt by the allegedly exploited working classes but from the erosion of "precapitalist strata" such as family and social class and—more important, perhaps—from the "alienation" of the intellectual class that capitalism had created. This alienation would bring ever-increasing assaults upon the capitalist system.

It is hard to dispute Schumpeter. There are exceptions—Adam Smith preeminent—but from Hobbes through Rousseau, even Burke and Tocqueville, down to the present, the prevailing attitude of intellectuals toward businessmen and what they do has been negative. It has ranged from contempt and caricature to outright hostility and attack. With today's big and growing government effectively in the hands of the intellectuals who dominate congressional, judicial and presidential staffs, we may expect this attitude to become more rather than less evident.

Mr. Johnson gives us 13 chapters of examples in which the Enemies of capitalist, middle class society are identified, often brilliantly and always clearly and petinently. These Enemies include ecological fanatics, philosophers, social scientists, artists, novelists and dramatists, college professors, teachers in the schools and those at home and out in the Third World who have been inspired by minds such as those of Herbert Marcuse and Franz Fanon.

Mr. Johnson speaks of the far reaches of "the ecological lobby": "What makes ecological eschatology important and dangerous—and, as we shall see, even destructive—is that it is part of a very widely based movement in the West. The ecological lobby should be seen as the 'respectable' end of a spectrum of middle class cranks which embraces such sects as the Christian Scientists, the anti-vivisectionists, and those who campaign fanatically against the fluoridation of water-supplies. But the lobby itself includes a large number of presentable intellectuals, and even a few distinguished scientists."

Other chapters deal with what Mr. Johnson calls "The Uncertain Trumpets"—that is, those voices whose calculated distortions of language, written and spoken, threaten the core of any civilization. In religion, for example, we have moved "From Priests to Witch Doctors" (he is devastating to popular theologian Harvey Cox and his like). And for those who would take seriously the things now going on in American philosophy, Mr. Johnson's delicious "Dancing Angels and Bottled Flies" is the proper antidote. Here he shows how the fatuities of late medieval Scholasticism, which so disgusted Erasmus, are fully equaled by the fatuities of the modern language-choppers and logic-whoopers who have reduced philosophy to a charnel house inhabited by intellectual zombies.

To take another example, Mr. Johnson argues that behind much of the degeneration of our universities and the general softening and thinning of our culture lie what he calls "Schools for Attilas"—that is, our public schools, where pap has replaced curriculum and mindless indulgence of the pupil has succeeded the discipline that once marked education at all levels in this country. There are, as he shows, some real monsters issuing forth from these dens of indolence and ignorance.

MAKING US WRETCHED

There are, as I noted above, yet other Enemies, but the few I have highlighted will perhaps lead the reader to them directly. I am sorry Mr. Johnson didn't see fit to include those New Prohibitionists who, with hands not on the Old Testament but the latest FDA report, jump gleefully to the task of preventing the great majority of us from having our smoking, drinking, driving, dressing and eating pleasures—not, God knows, in the interests of saving, but of making wretched, our lives and, of course, smiting the business class. Not since I was five years old, in the presence of Bible-belters, have I heard cigarets and liquor spoken of as they are today in just about any Berkeley or Hampton household.

There are some faults in Mr. Johnson's book. Signs of haste are present—the misspelling of proper names and a clear misinterpretation of a key passage from sociologist Emile Durkheim. More generally, Mr. Johnson is much too enchanted by science, the support of which is one of the book's concluding prescriptions.

The major fault of this book, though, lies in the author's unawareness of what the late A. J. Nock called "Our Enemy, the State." Now there is a monstrous enemy indeed when we are considering the perils faced by the middle class and capitalism. I don't say that Mr. Johnson is totally without appreciation of the moral destructiveness which can lie in the uses of state power, but I would beg him to ponder longer the malign relation between extension of the state's centralizing, monopolizing power into the social-economic sphere and the slow but inexorable erosion of those centers of moral and social authority which once did a fairly good job of holding Mr. Johnson's Enemies in check.

I beg Mr. Johnson to memorize Lamennais's apothegm: Centralization breeds apoplexy at the center and anemia at the extremities.

But enough carping. Paul Johnson has given us a book that, in our Age of Certainty—that is, among intellectuals of the mass—comes as manna, I wish it the widest possible reading.

CALIFORNIA COUNCIL OF DESIGN AND MARKETING

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. WAXMAN. Mr. Speaker, I wish to bring to the attention of the Members the work of the California Council of Design and Marketing during its 3 years of active existence. The council's general purpose was stated in a 1971 statute which, "recognizing the unique qualities of the California lifestyle and the enormous reservoir of design talent residing there, empowered the council's 15 members to identify the ways in which California products might be vigorously marketed through excellence in design and manufacture and to establish design centers to exhibit products designed and made in California and which had been selected by the council for their excellence, and considering among other elements their functional efficiency, human factors, quality of workmanship, appropriate use of material, and attractiveness of appearance."

The council was authorized to maintain and distribute comprehensive information about products designed and made in California and to make awards for design excellence. It was to display California-designed products in various markets, in exhibitions, stores, and other distributive facilities, acquaint residents with the possibility of careers in design and marketing, encourage institutions of learning to adopt and expand their curriculums in these areas, and encourage them to include the appreciation of design in courses of instruction.

In the very brief time since the council began its work it has had a very perceptible effect on California business, stimulating competition for excellence in all parameters and bringing the manufacturing and marketing communities undeniable benefits in increased business.

The accomplishments of the California Council of Design and Marketing have impressed me to such an extent that I have authored legislation (H.R. 7848) to create a National Design Council. The future of the designing professions and related industries is far too important to be life to a patch quilt partial system of State and local groups. The National Design Council will improve communications among Government agencies, industry groups, individual designers, and consumer organizations concerned with product safety and value, and last but not least, personalities in the arts and humanities concerned with the esthetic dimensions of the design field. The National Design Council would stimulate new business and would also result in the creation of new jobs and new career possibilities. I hope the Members of Congress will review carefully the work achievements of the California Council of Design and Marketing and visualize the benefits of such an organization operating on a national scale.

CONGRESSMAN GONZALEZ TELLS IT LIKE IT IS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. TEAGUE. Mr. Speaker, one of our very distinguished colleagues in this august body, the Honorable HENRY GONZALEZ, a gentleman for whom I have much respect, sent his constituents a Yuletime message on energy which I feel is worthy of reading by every Member of this body. It appeared in an editorial of the San Antonio Light for January 3, 1978. The message follows:

[From the San Antonio Light, Jan. 3, 1978]

GONZALEZ SETS HOPES DANGERS

In his Yule message, U.S. Rep. Henry Gonzalez, one of Bexar County's outstanding congressmen, presented a thoughtful, yet hoping, approach to our energy problems.

Here is what he said, a good message:

"There is no easy choices in the energy crisis. There are not even very many good options open to us. Politically, every action that is taken to change our habits of energy use has a harmful effect on somebody. A decision just to forbid the installation of decorative gas lights in front yards, or to prohibit the use of gas barbecue grills—will affect hundreds of jobs, but still not save much gas.

"A decision to burn coal involves a commitment of billions upon billions in new capital plant, but everything from railroad

ties to boilers. It makes a bonanza for the railroads, for certain coal-producing states (those that are wise enough to have a high severance tax, which we should have but don't, on Texas oil and gas); creates immense environmental problems; and results in no perceptible change in how we live—electricity will still be the same at the end of the switch. It is very hard, on the one hand, to persuade people that they have to make sacrifices, and on the other, to force changes in fuel sources, when in the end, the change that we can actually see is almost nothing. Politically, dealing with a problem of this kind is like trying to nail jelly to the wall.

"Where we have failed in this problem is fundamentally in not recognizing a situation for what it is. We are seeing the news, but we are not getting the message. Our basic understanding of the economic realities of the world is running perilously behind the times. It is those economic realities that actually shape the ambitions of princes and nations, and thereby the politics and perils of the world. Those are the powers that we ought to recognize and understand and deal with.

"It we are going to have an energy policy, it will only come about from a true understanding of what we are up against. I can understand the reluctance of the president to talk about it—but if we are going to become believers in the moral equivalent of war, we had better understand what the war is all about. That won't be an easy task; but we must learn that for all the importance of decisions made in Washington, the sun does not rise and set here; and an intelligent understanding of the true shape of the world is going to be required of all of us, if we are going to avoid pitfalls and disasters in the future.

"In this season, we think of hopeful things. We think of the greatest of all blessings given to us, the babe of Bethlehem. His message was one of love, forgiveness, above all selflessness. Would we understand our world? Would we overcome our challenges? Then we have to be selfless. We have to be caring. We have to be intelligently concerned and informed. We have to have faith. And we have to act on that faith. If we do that, we will understand things for what they really are, and we can summon up the strength to resolve our problems for ourselves. It is a hopeful season—and I am filled with hope."

YOUNG AMERICANS AND THE RIGHT TO LIFE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. DORNAN. Mr. Speaker, 21 years ago a small group of students caught the attention of the world and galvanized the conscience of America when they asserted their constitutional rights by walking into a school in Little Rock, Ark. They thereby gave us all a lesson in courage and awakened us to our long-overdue agenda for civil rights.

But that business is not yet finished. A small group of students at the University of California at San Diego has taken a stand as bold and as necessary as the position of those boys and girls in Little Rock. Remember their names. Susan B. Erzinger, Margaret G. Patton, and Albin Rhomberg, now joined by several more young men and women, have refused for reasons of conscience to participate in the university's mandatory health program which, for several hundred preborn children, has been a program of extermination.

The University of California has willingly, wittingly made itself a party to abortions; and every student enrolled therein is obliged to join in the financing of abortions through student fees.

This matter is now before the courts. Whatever its outcome, let there be no mistake about the significance of what these courageous students have done. They have blazed a trail which other students will follow, in California and across the country. They have set an example for thousands more, just as the students in Little Rock in 1957 unleased upon a complacent society the revolutionary force of moral integrity and human rights.

The universities of this country will not have an easy time facing this challenge, but there is no way for them to escape the most fundamental ethical issue of our time: the casual destruction of preborn human beings. As long as institutions of learning—or any other kind of institutions, including this Congress—aid and abet abortions, they will be plagued by the most powerful force on Earth: the power of truth when it confronts falsehood, the power of life when it confronts darkness, the power of love when it confronts those who deal in death.

Like the abolitionists of old, Susan Erzinger, Margaret Patton, and Albin Rhomberg have taken a stand and shall not be moved. Against the force of their conscience, their truth, their love, the mighty enterprise of the University of California cannot stand.

The material follows:

THREE FILE SUIT AGAINST UCSD ABORTION POLICY

STUDENTS SAY MANDATORY HEALTH PLAN FORCES THEM TO HELP FUND ABORTION

(By Alan Russell)

(This is the first in a four part series dealing with the abortion controversy on campus.)

Three UCSD students filed suit Dec. 12 in Superior Court challenging that portion of their Registration fees which provides for abortions through the mandatory health insurance program.

The students, and plaintiffs, Susan Erzinger, Margaret Patton, and Albin Rhomberg, are represented by Attorney Burton Shamsky.

Named as defendants are the University of California Board of Regents and the American National Finance Corporation (the insurance company which underwrites the school's health service program).

This action comes months after an earlier measure taken by the three students, that of placing their fall quarter reg-fee payments in trust (see Triton Times Sept. 28). The students had withheld those portions they felt were used for "abortion counseling, abortion referral and abortions" for UCSD students.

Assistant Vice-chancellor for Academic Services, Harold Temmer, refused to accept the "validity" of the trust, and also has turned down the offer of the students to pay that part of their fees not involved with abortions. As a result, the enrollment of Erzinger, Patton and Rhomberg was cancelled, and they have been denied registration material for the winter quarter.

Because of this the students have asked the court for an injunction to prohibit the Regents from denying them registration, and at the same time are asking that credit be given for that work done last quarter. Further, the students are seeking damages from the defendants, and are also asking that their costs be recovered, including attorney's fees.

Of primary concern to the students is the abortion issue, as indicated by section twelve of the "First Cause of Action" in their suit, which states that their refusal to pay is "a matter of conscience" in that they believe "abortion constitutes the taking of human life without due process of law."

TAKING OF LIFE

The section went on to say that the students, by paying into that portion "of the compulsory registration fee used directly or indirectly to fund abortions, would place them in the position of being forced, as a condition of attendance at said University, to pay for the taking of innocent human life, in a cruel, savage and painful manner."

The section concludes that the end result of this for the plaintiffs would be their "being forced to consider themselves, and to live the rest of their lives with the stigma and mental anguish of being aiders, abettors, and/or conspirators in the perpetration of a heinous offense against mankind and the children whose lives will be taken by the abortions."

Defending against the suit will be the University of California Counsel for the Regents.

The case promises to affect more than the three plaintiffs, as it is announced that another three students have put their reg-fees in trust for the winter quarter.

No trial date has as yet been set.

CHALLENGERS REACT AS ABORTION ISSUE CONTINUES

(By Alan Russell)

The three individuals, the three personalities, are quite different. But what Susan Erzinger, Peggy Patton and Albin Rhomberg, the students who have taken up a court challenge of UCSD's mandatory health insurance fees which provide for abortion, have in common is a collective sense of purpose, a shared confidence and determination that they are going to eradicate something which they see as very wrong. Their path to vindication, however, has not been an easy one, as was learned in a recent interview with the three.

"It has been a big hassle," said Albin Rhomberg, Applied Physics and Informational Science (APIS) graduate student. "Because the case was taking up so much of my time I got very little work done this quarter and found it necessary to ask for a leave of absence."

In addition to delaying his career goals, Rhomberg detailed other difficulties brought on by the situation, including his having to "fight" for the university apartment he currently lives in because of his not being an officially registered student (see Triton Times Jan. 9). As for the holidays, Rhomberg felt there were "too many things up in the air" (in regards to the case) to allow him a vacation with his family in Iowa.

Susan Erzinger, who was to be an entering UCSD freshman last fall, faces different kinds of problems. Because of the uncertain situation of credit for academic work, she opted not to attend classes but rather get a job.

"It's been strange," said Erzinger. "My friends have come home from school during Thanksgiving and Christmas vacations and asked me, "How's school?' I'd hear how they were having such a good time at college, and naturally I wished I could be doing the same."

"I really miss not being in school."

TRANSFERRED TO USD

Because of this, and the fact that she just doesn't know "what's going to happen," Erzinger applied and was accepted at the University of San Diego, and starts classes there Jan. 30.

Peggy Patton, Muir sophomore has stayed with her studies, and said that she didn't spend "eight hour days studying for finals for that work to be in vain."

Most of Patton's difficulties came from not being on the "official" class roles, forcing her on several occasions to explain her presence. Until matters are better settled in the courts, her grades remain on file with teaching assistants and professors.

"We're going to win this case," said Patton, "and so I've done my work with that in mind."

Support for the students has come from a number of fronts, according to the three. Rhomberg said that a "great many" UCSD students expressed pleasure at the very idea of challenging the fee system. Outside of the university it was seen that various pro-life groups volunteered their help, but were asked by the three to act as individuals, not organizations, for their cause, writing letters and the like. An editorial of support in the San Diego Union also heartened the three.

Despite all the difficulties inherent in the situation, the students say they have never had any serious thoughts of giving up the struggle. Rhomberg admitted that, "So far it doesn't seem like we've made any progress," but felt that when the case came to court there would be seen a "clear discrimination (on the university's part) on the basis of religion." The three students are all Roman Catholics.

Dissatisfaction was voiced among the three as to the way the situation has been handled by the UCSD administration. The students are incredulous, if not suspicious, that the administration has been unable to come up with a figure on how many abortions were performed last year.

"It seems to me someone has to know," said Patton. Rhomberg, perhaps more cynical of the situation, said, "They (the administration) know those facts they want to know." He also said, "Talk (with the administration) has been very cheap," making the court case all but inevitable.

Despite what they call the "bureaucratic razzle-dazzle" over the figures, Patton said, "The numbers shouldn't be important. I still disagree with it. It's against our morals."

And it is those same morals which drive on the self-termed "conscientious objectors." "We can't give up," said Patton. "That wouldn't solve anything. The situation wouldn't change and they'd continue what they're doing."

THE DEAF SHOULD BE HEARD

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. FINDLEY. Mr. Speaker, today with 18 cosponsors, I am introducing legislation to provide an income tax credit to deaf individuals and others who require the use of a teletypewriter for communication. A TTY, as it is called, is a typewriter attached to a phone and capable of transmitting a message over telephone lines to any other teletypewriter in the country.

The telephone is without question one of the most important items found in any household. It serves as a means of communicating with the outside world, and is used in virtually every aspect of daily life. Yet, nearly 2 million deaf persons in the United States must go without access to the telephone every day. And an additional 4.3 million persons with significant bilaterial hearing impairment have varying degrees of difficulty using the telephone. Their inability to use the phone impairs communication with friends, family, neighbors, and emergency services. It isolates them from the rest of the world and makes it difficult or impossible for many to care and provide for themselves. It is a discouraging irony that the device which Alexander Graham Bell developed first as a means of communicating with his deaf wife has become a substantial burden for all deaf people.

The cost to the deaf of using a TTY to make long distance calls can be as much as three times higher than the charge paid by people with normal hearing. The reason is the vastly longer time it takes the deaf to communicate by phone.

Last May President Carter addressed the White House Conference on Handicapped Individuals and pledged his help in making life better for the handicapped. This is one thing that can be done right now at little cost.

It is time for this silent minority to be heard. The passage of this bill, or inclusion of a similar provision in the President's tax reform package, will help to accomplish that goal.

THOMAS HARRY ROSE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. PURSELL. Mr. Speaker, in just a few days, an outstanding citizen from the Second Congressional District in Michigan will be beginning a new life. On February 1, after 30 years of exemplary service, Mr. Thomas Harry Rose will be retiring from the Ford Motor Co., and will embark on his new life with his wife, Marjorie, in Punta Gorda, Fla. He leaves his post as the supervisor of the service engineering-unit body engineering office, Mr. Rose can be proud of his perfect employment record and hope that it will be an inspiration to his successors. His life is especially noteworthy because of the quiet and simple way he accomplished so much.

I would also like to make note of Mr. Rose's active interest in the government of his home town—Livonia, Mich. In addition to accumulating a perfect voting record, Mr. Rose has put in many long and hard hours for the betterment of Livonia government. His campaign work on such things as Livonia City Council races will always be remembered and appreciated by those he served. He stands as a shining example of a person who took the time to care about his government and worked to improve it.

Thomas and Marjorie Rose will be missed as they leave Livonia, but we in Michigan should be thankful to have known them. The years of dedication to career and government will always be appreciated and should serve as an example to all of us of the kind of good things that can be accomplished by all of us—if we just try. We congratulate Thomas Harry Rose on his well-deserved retirement, and wish him the very best of luck always.

AMERICANS SEND CONGRESS A MESSAGE ON ABORTION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. MAZZOLI. Mr. Speaker, today, in commemoration of the fifth anniversary of the Supreme Court's abortion ruling, I joined thousands of concerned citizens to show our respect for the unborn and our commitment to insuring them their full constitutional safeguards and to prohibiting the expenditure of tax dollars for abortion activities.

Today's message to Congress was clear: Many Americans do not condone abortion-on-demand, and a solid majority of Americans do not want their tax dollars spent on abortions. I hope this message is heeded.

I wish to include at this point a statement I prepared for the March for Life activities, and a summary of my pro-life activities during the first session of the 95th Congress:

IN COMMEMORATION OF THE RIGHT TO LIFE

Today is the fifth anniversary of the Supreme Court's landmark and disappointing abortion ruling. We join together to mourn the thousands of unborn killed since the ruling and to renew our commitment to gaining the passage of a Human Life Constitutional Amendment and, in the meantime, to prohibiting the expenditure of tax dollars for abortions.

The message to Congress must be made clear: Americans do not want their tax dollars spent on abortions, and Americans do not condone abortion-on-demand.

I have personally introduced Human Life Constitutional Amendments since 1973 and I have worked hard for their passage. But, the adoption of a Constitutional Amendment is a long, arduous process.

As we pursue the effective—but time-consuming—remedy of a Constitutional Amendment, we must work in other areas as well.

We all have a serious and weighty responsibility to treat the social, economical and medical problems which lead women to "solve" their problems with abortion.

Along these lines, I have sponsored bills to establish multi-purpose counseling centers to advise pregnant, unwed adolescents of alternatives to abortion available to them in dealing with their pregnancies.

I have also sponsored bills to make adoption easier—to provide tax deductions for adoption-related expenses.

I also feel the Supreme Court's ruling that private industry is not required to offer its female employees compensation for pregnancy leave has a negative impact on our efforts to make less viable the abortion alternative. Accordingly, I have sponsored legislation to prohibit discrimination on the basis of pregnancy.

Those of us who feel abortion is incorrect law and unwise public policy cannot stop with anti-abortion efforts—we cannot see these efforts as the "end-all" "be-all" answer to the overall problem.

I respect life. We must continue to pray for the day when the lives of all individuals—regardless of age, health or stage of development—are given equal protection under the Constitution.

RON MAZZOLI REPORTS ON PRO-LIFE ACTIVITIES OF 95TH CONGRESS (FIRST SESSION—1977), JANUARY 1978

DEAR FRIEND: As the first Session of the 95th Congress comes to a close, it is timely to issue an update on the pro-life struggle and on my personal efforts in the Congress to protect the lives of the unborn and insure them their full Constitutional safeguards.

With your continued prayers, your counsel and your help, we can win the struggle to drastically alter—and ultimately overturn—the Supreme Court's 1973 decision that sanctions abortion on demand.

Since 1973, thousands of concerned citizens have come to the U.S. Capitol in Washington on January 22, the anniversary of the Supreme Court decision, to March for Life. As in previous years, I participated in the 1977 activities. We are now gearing up for the 1978 March.

When the 95th Congress was only a few days old, I sponsored Resolutions to amend the Constitution to prohibit abortions, except to save the life of the mother. Numerous "Pro-Life" Resolutions have been introduced in this Congress. But, as in years past, these Resolutions are tied-up in Committee with no real likelihood of Committee action.

On another front, I introduced—and secured passage in Committee and in the House—an amendment to the Legal Services Act prohibiting Legal Services funding of abortion-related legal activities. I am happy to report that the language of my amendment was in the final version of the Legal Services Corporation Amendments Act of 1977.

I am sure you are well aware of the monumental struggle between the House and the Senate this year over the so-called Hyde Amendment to the Labor/HEW Appropriations bill for 1978.

The Senate pushed for more lenient funding of Medicaid abortions, while the House remained firm on its stricter version of the Hyde prohibition.

Twice during the controversy I sent letters to all of my House Colleagues urging them to reject the weak Senate anti-abortion language. I stood at the House door "lobbying" my Colleagues to stay with the Hyde Amendment—to prohibit Medicaid funding of abortions except to save the life of the mother.

The controversy ended on December 7, 1977. A weary, spent House voted 181 to 167 to accept compromise language whereby Medicaid funding of abortion is permissable: 1) to save the life of the mother; 2) in cases of rape and incest; and 3) in instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term, provided that such damage has been certified by two physicians.

Needless to say, I was disappointed that the House language was not finally adopted. I have joined Congressman Henry Hyde to send a letter to the Secretary of Health, Education and Welfare urging him "to carefully follow developments in the area of abortion funding requests and specifically to analyze doctors, state agencies and other Medicaid providers who have in the past, when the law permitted such payments, submitted large and substantial claims for abortion reimbursements."

Meantime, 1978 promises another Congressional battle over Medicaid funding of abortions. I'll again work to make the prohibitions against federal funding strong and tight.

I respect life. I work toward the day when the lives of all individuals—regardless of age, health or stage of development—are given equal respect and protection under the Constitution.

Keep up your good work. I send you best wishes and personal regards.

Sincerely,

ROMANO L. MAZZOLI,
Member of Congress.

AN END TO THE ARMS RACE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. UDALL. Mr. Speaker, in the November 27, 1977, issue of the New York Times Magazine, there was an article by Harvard Prof. George B. Kistiakowsky entitled, "The Arms Race: Is Paranoia Necessary for Security?"

As science and technology advisor to President Eisenhower with long involvement in the cold war policies of our Nation, Professor Kistiakowsky now expresses his fear that hardliners both in the United States and the Soviet Union will jeopardize our best chance for a safer world offered by the current SALT II negotiations.

As I wrote to Professor Kistiakowsky after reading the article, it is powerful, compelling and well documented, and I hoped that President Carter, Secretary Vance and Director Warnke would have the courage to accept and preach the doctrine of compromise, rational decisionmaking and meaningful arms control. There must be a stopping point in the ever-growing arsenal of destructive capability of both sides or the future is bleak indeed.

In view of the choices we in the Congress face regarding the SALT agreements, B–1 bombers, cruise missiles, nuclear technology and the like, I thought all my colleagues should have an opportunity to read this excellent article and I insert the article in the RECORD at this point.

THE ARMS RACE: IS PARANOIA NECESSARY FOR SECURITY?

(By G. B. Kistiakowsky)

Thirty years after the start of the cold war, the United States and the Soviet Union still live in a state of uncertainty and insecurity. In America, this condition has been attributed from the start to the aggressiveness of Soviet Communism, which is seen as striving for world hegemony and bent on the destruction of its principal obstacle, the United States. In Moscow, just as consistently, the guilt has been assigned to the evil designs of American militarism and imperialism.

Today, in facing the consequences of this confrontation, we Americans are at a crossroads. Depending on which road we take, we may win, or lose, one of those rare opportunities in modern times to bring a measure of stability to an increasing dangerous world.

For five years now, an iterim agreement known among the experts as SALT I has limited the number of strategic land-and sea-based ballistic missile launchers on each side. The agreement expired last October, and although both sides have promised to continue abiding by its provisions, the self-restraint this requires, in the absence of a new formal agreement, could well erode fairly soon. For waiting in the wings on both sides are new types of strategic weapons—bigger and more accurate ICBM's with multiple warheads, some even mobile, and the long-range air-, land-and sea-based cruise missiles. Many of these new weapons are clearly capable of more than a deterrent or defensive mission, and are, therefore, provocative by nature. Others are difficult to detect by reconnaissance satellites, and thus add to the other side's sense of insecurity. Some are destabilizing in both ways.

The Soviet-American negotiations for a new agreement—SALT II—that were resumed last spring have been making headway, but accord is still blocked by a number of technically complex issues. President Carter, Secretary of State Cyrus Vance, Secretary of Defense Harold Brown and Arms Control Director Paul Warnke have all shown a clear understanding of the dire potential consequences of the arms race, and have given arms control new priority on their agenda. Yet, despite the urgency of the situation, the Administration's policy, and the narrowness of the gap that separates the parties to the talks, there is real danger that no agreement will be reached—or, if reached, that it will not be ratified by the Senate.

Why?

Part of the answer has to do with the technicalities of missile performance, and with differences between the strategic doctrines and negotiating tactics of the two sides. But another, and perhaps the major, reason, is to be found in the domestic politics of arms control.

Once again, as so often in the past, there are powerful voices in this country urging intensification of the cold war and rejection of efforts at moderation—efforts that are construed as serving Moscow's aggressive designs. Once again, we are asked to determine our actions not in the light of our demonstrated ability to more than compensate for any Soviet military advance, but, rather, in response to imaginings, fueled by fears, as to what the Soviets *might* do. This, lamentably, has been the pattern of our decisions on weapon acquisitions and arms control since World War II. To understand it, we must go back to the beginnings of the nuclear age.

While the origins of the cold war are too complex to go into here, it is undeniable that, by the end of the 1940's, political positions in Washington and Moscow had hardened. West Berlin was under Soviet blockade; the Korean War was only months away; the United States was heavily committed against Communist insurgency in Greece; and, in Congress, the House Un-American Activities Committee was riding high. Stalin's extreme secretiveness at home, and his iron curtain on the world, kept the Truman Administration guessing about Soviet military capabilities and foreign-policy objectives. Diplomatic negotiations were at a standstill. Then, in September 1949, the first Soviet atom bomb shattered American illusions of a prolonged United States monopoly in atomic weapons.

In January 1950, President Truman ordered a speedup on research on the hydrogen bomb and asked for a secret reassessment of our defense and foreign posture. The resulting paper—N.S.C. 68—made predictions that were nothing short of apocalyptic in substance and tone. "It is quite clear . . . that the Kremlin seeks to bring the free world under its dominion," wrote the

authors of the report; being "inescapably militant," the Soviet Union "seeks to impose its absolute authority over the rest of the world"; and so on. Given its grim conclusions, which had strong impact on government policy and fed the country's apprehensive political mood, the paper naturally urged a sizable increase in the country's military budget. With the additional stimulus of the Korean War, military budgets rose from $15 billion in 1949 to $50 billion in 1953.

Though much of this money was spent fighting in South Korea's defense, a good portion went to a general buildup of military strength, and especially of the Strategic Air Command. Fragmentary and filmsy intelligence about Soviet bomber forces was characterized by Air Force partisans as evidence of disastrous "bomber gap." The result was a great buildup of our nuclear-armed heavy-bomber forces—first of the B–47, and then of the intercontinental B–52. Some years later, it was generally agreed that the Soviet heavy-bomber force was modest in size, and that the "bomber gap" was a myth. But, by then, another "gap" was in the making.

In 1957, a top-secret study group (the Gaither panel) reported to President Eisenhower that, according to the latest intelligence, the Soviet threat would "become critical by 1959 or early 1960," since, by then, the U.S.S.R. would "acquire significant ICBM delivery capability with megaton warheads." Once again, the White House was urged to increase military spending—and, in addition, to initiate a multibillion-dollar civil-defense program to counter a similar program attributed to the Soviet Union.

President Eisenhower took unkindly to most of the report's recommendations. But the contents were leaked to the press, and, in the summer of 1959, the syndicated columnist Joseph Alsop argued for the existence of a "missile gap." Secretary of Defense Thomas Gates denied the existence of this new gap, but Senator John F. Kennedy used the issue effectively against the Republicans in his 1960 Presidential campaign. And although Kennedy learned upon entering the White House that the "missile gap" was indeed a myth, he had our Minuteman and Polaris strategic-missile programs greatly enlarged in compliance with his campaign promises.

The real missile gap, in point of fact, had been in our favor. This advantage over the Soviets continued on an increasing scale well into the 1960's. It probably was a factor in Nikita Khrushchev's 1962 decision to deploy medium-range missiles in Cuba—and it certainly was a factor in his subsequent compliance with American demands to remove the missiles from the island. In the aftermath of this fearful crisis, the Soviet Union embarked on a buildup of its own strategic missile forces, both land-and submarine-based. A decade later, these Soviet forces were substantially larger numerically (in terms of launchers, not warheads) than those of the United States. This massive Soviet program was underestimated by Secretary of Defense Robert McNamara and overestimated by his successor, Melvin Laird.

The shifts in numerical strength had been accompanied by shifts in strategic doctrine. The American doctrine of massive retaliation, devised when the United States still had a virtual monopoy of nuclear weapons, was succeeded in the early 1960's by the concept of "mutual deterrence." The reasoning was that, by that time, both the United States and the Soviet Union knew, beyond any doubt, that each had the means to visit on the other a degree of destruction exceeding anything that any government could accept. The American program projected a force of 1,000 land-based Minuteman ICBM's; 54 of the larger but older land-based Titan II ICBM's; 41 Polaris submarines deploying a total of 656 missiles, and a fleet of B–52's and other heavy bombers—an arsenal considered powerful enough to assure "unacceptable damage" to he Soviet Union (and/or China) even after a surprise Soviet or Chinese nuclear attack.

In spite of that, there were suggestions at several junctures during the 1960s—indeed, they took on the proportions of public campaigns—that Soviet weapons development might have rendered our capability for "assured destruction inadequate to the task—and, hence, that deterrence might fail.

First came stories about a rapid expansion of the Soviet civil-defense program—measures that would give the Soviet population added protection against any retaliatory American strike, and that would therefore make the option of a Soviet first strike more tempting to the Soviet leaders.

Then came reports that our intelligence-gathering satellites had spotted a ring of antimissile defenses (ABM's) around Moscow, as well as signs of another ABM system being deployed in other parts of the Soviet Union. To Pentagon officials dedicated to the "worst-case" approach to uncertain intelligence data—what is the worst that the potential enemy is capable of doing to us?—these sightings raised the specter of a countrywide Soviet air-defense system. The following sequence of events was thereupon envisaged: The Soviets could launch a first strike; those of our missiles that survived this attack would be launched against their Soviet targets; yet most of the retaliatory American warheads would be unable to penetrate the Soviet air-defense system; and the damage inflicted by the few that did penetrate the Soviet shield would not be "unacceptably" severe. Expectations of this outcome would make the Soviet leaders confident of the military superiority.

Though rejected on available evidence by more objective American analysts, this projection was a major factor in the decision to develop a new missile system—MIRV's. Each MIRV (Multiple Independently Targetable Re-entry Vehicle) would be equipped with several warheads; each warhead could be released at a separate target; the new system would multiply the warhead count of an American retaliatory strike and overwhelm the best air defense the Soviets could put up.

While the MIRV's were being developed, however, new and clearer evidence indicated that the Soviet countrywide air-defense system had been designed not against missiles but against bombers, and that construction of the ABM system around Moscow had been halted halfway. In spite of that, the MIRV program was continued—justified by the new argument that we had to be able to destroy a larger number of targets in the U.S.S.R. It didn't take great expertise to understand that deploying these MIRV's could destabilize the state of mutual deterrence: With each MIRV'ed missile capable of destroying more than one missile silo, a surprise pre-emptive strike aimed at destroying the other side's entire land-based missile force would become a worrisome possibility. Yet little heed was paid to this aspect of the program.

It stood to reason that the Soviet Union would match our MIRV program with one of its own. Yet when the strategic arms limitation talks (SALT) began in 1969, the Pentagon vetoed suggestions that the United States propose a moratorium on MIRV development by both sides. At that juncture, such a freeze could have been accomplished by simple agreement, with little likelihood of undetectable violations. Today, with MIRV's being extensively deployed within the Soviet Union, detection is a much more difficult problem, and concern about this new factor is understandably acute in the United States. Once again, a missed opportunity for restraint has led to another erosion in our own security.

The same blind opposition to restraint in American weapons development has plagued every effort to arrive at a total nuclear-test ban. Opponents of the idea in the 50's and 60's concocted elaborate scenarios on the feasibility of clandestine Soviet tests, befogging the central issue that a comprehensive ban would have been to our advantage, in view of our technological lead. Once again, the political opposition prevailed: The Kennedy Administration had to settle for a partial ban, limited to tests in the atmosphere, in outer space and under water. The treaty, concluded in 1963, is now adhered to by many nations, though not, among the nuclear powers, by France and China. It has resulted in an immense reduction in radioactive fallout from nuclear testing above ground. But underground testing has been pushed by the superpowers at a much faster clip, so that development of new nuclear weapons has continued as before.

The SALT I agreement signed by President Nixon and Secretary General Brezhnev in Moscow in 1972 was accompanied by much fanfare about detente that has been rendered questionable by the passage of time. Yet the atmospherics were accompanied by a significant accomplishment—a treaty to limit each side to only two ABM sites (later reduced to one); to refrain from testing and deploying new ABM technology; and, most important, to refrain from interfering with each other's technical means, such as satellites, of gathering intelligence on each other's weapons development.

The American and Soviet Governments' willingness to virtually strip their territories of ABM defenses made the population of each of the two countries hostage, in effect, to the other's strategic nuclear force. By inference, the treaty recognized that a surprise attack by either side would be too wildly irrational for any sane Government to undertake. Under the conditions that prevailed in 1972, no surprise attack could be expected to destroy the other side's offensive forces; most of those forces would be left undamaged—far more than enough to inflict lethal destruction on the aggressor nation's populace and civilization. In such a war, there could be no winner.

SALT I also produced a five-year interim agreement on offensive missiles. This left our strategic forces unchanged, while putting a ceiling on further expansion of Soviet land-based missiles—but, in recognition of the Soviets' weaker overall position, permitting further numerical expansion of their sea-based missile force. Today, the forces on both sides stand at about the agreed level—some 1,500 Soviet versus 1,054 American land-based ICBM's, and about 880 Soviet versus 656 American submarine-based ballistic missiles. To these should be added more than 400 American heavy bombers, armed with air-to-ground missiles or gravity bombs, versus 140 rather obsolescent Soviet bombers. The Soviet Union now has about a two-to-one advantage in megatonnage—the total nuclear payload or "throw weight" of its missile forces. But the United States, because of its more extensive MIRV-ing, has about 7,500 missile warheads, smaller but much more accurate than the Soviet Union's 3,500. This gives the United States a two-to-one advantage in targeted warheads—the truest measure of nuclear strength—quite apart from our superiority in bombers.

There the situation remains, except for the refinements added by President Ford and Secretary Brezhnev at their 1974 meeting in Vladivostok. The guidelines produced there—never converted to a formal agreement—set a top limit of 2,400 offensive delivery vehicles (whether strategic missiles or bombers) for each side, with the qualification that only 1,320 of these could be MIRV'ed. Our forces

today are well below this total, but not much below the MIRV-ing limit; the Soviet Union's forces are slightly over the total numerically but nowhere near the permitted quota for MIRV's. The destructive potential on each side is staggering—at least a thousand times greater than that of all the bombs exploded during World War II.

In this history of the nuclear arms race, the United States has been first with most of the technological innovations and new weapon systems, except for some systems of defense, to which the Soviet Union has traditionally dedicated a far greater portion of its military effort. The American innovations—such as heavy bombers, solid-fueled missiles (whether land-based or aboard submarines), inertial guidance and MIRV's—were all followed a few years later by the Soviet versions. Soviet political and military writers have argued that the nuclear arms race is in large measure a consequence of this pattern of American innovation—and, hence, solely the fault of the United States. The truth is not that simple.

Soviet military intelligence analysts, reading transcripts of Congressional committee hearings, the budgets and annual "posture statements" of the Secretary of Defense, periodicals like Aviation Week and other open material, have no trouble obtaining fairly accurate knowledge of American forces in being and of what they will be like a few years hence. For us, however, reliable estimates of current Soviet military capabilities were virtually unobtainable a couple of decades ago, and only the advent of sophisticated "national technical means" of information gathering, such as satellites, has rectified this deficiency to some degree. Projection of future Soviet capabilities, however, still depends largely on value judgments, in view of the lack of open public debate on these matters in the Soviet Union, and in view of the Soviet practice of shrouding official policy statements in generalities. By necessity, therefore, American projections, such as the National Intelligence Estimates, involve a wide range of possibilities. The "worst-case" assessment that frequently prevails can often call for anticipatory measures, including a research-and-development project for some novel weapon system. This prudent, if often exaggerated, American reaction has not differed, in essence, from the ways other nations have responded to similar stimuli. It is something the Soviet leaders would have been wise to foresee, since prodding the American military industry into greater production cannot have been part of their objective, and is clearly against their interests, as it is against ours.

On several occasions, as we have noted, Amerian proponents of an uncompromising "worst-case" view of Soviet intentions have sought to swing public opinion behind them. Sometimes their efforts have taken the form of exaggerated stories devoid of technical foundation—current science fiction about particle-beam weapons are an example of the genre—that tend to spread concern. That, in turn, tends to generate additional pressures for a new American arms program to meet the new alleged threat. A heated campaign of this type has now been under way for about a year, led by two private groups—the newly formed Committee on the Present Danger and the older American Security Council (not to be confused with the National Security Council, the President's advisory body).

The campaign was highlighted last December by leaks to the press about a collision between the professional group responsible for the National Intelligence Estimate and what the reports described as the winner of the contest—an ad-hoc "Team B" of outsiders selected by the Ford White House to represent the "hard line" view. "Team B" concluded, to no one's surprise, that there was an imminent threat of Soviet domination of the world. Its findings are said to have been largely dismissed by the Carter Administration, after a detailed study, but the thrust provided by the episode is still very much with us. The views of the hard-liners deserve our careful consideration.

While some members of this school have made much of a possible gap between Soviet and American capabilities, it is Soviet intensions that have dominated the new debate, almost to the exclusion of technical realities. Those who have sounded the alarm anew are fond of citing Soviet military writers to show that the Soviets reject the concept of mutual deterrence, stress the Clausewitz dictum that war is but an extension of diplomacy, and deny that nuclear weapons have ruled out war as a policy option. For instance, it is pointed out, in his 1963 book on military strategy, Soviet Marshal Vassily Sokolovsky argued that nuclear war can be fought and won by the Soviet Union.

Citing Soviet military writers as guides to Soviet military policy is, however, of questionable value. The argument attributed to Sokolovsky has been developed by other Soviet officers as well, but what should one expect from a senior Soviet military figure? Should he tell his juniors that they cannot win a future nuclear war? In the old Stalinist days he could have been stood up against the wall and shot for such heresy.

Even if genuine, belief that nuclear wars can be "won" is not limited to Soviet generals and marshals. Gen. Curtis LeMay, of Strategic Air Command fame, used to urge on us an ability "to fight and win any war—including a general war." Former Defense Secretary Melvin Laird, in his book "A House Divided" (issued in 1962 and reissued in 1969), wrote that our "strategy must aim at fighting, winning and recovering"; that we must therefore develop "the willingness . . . to wage total nuclear war," and that we must make it "credible to the enemy that we will take the initiative and strike first." Another Defense Secretary of the Nixon era, James Schlesinger, talked repeatedly while in office of "surgical" strikes against military targets, and of other aspects of waging "flexible" nuclear wars.

The plain fact is that it is easy to find examples of aggressive or provocative utterances on both sides. But it is definitely not a fact that they represent the stated policies or known beliefs of the leaders of either country. In any case, statements of political intent, unsupported by capability, should be pretty much discounted. The real question is whether the Soviet Union could arrive at the military capability to bring the United States to its knees.

The hard-line scenario for such an eventuality goes something like this:

By the time it completes deploying its very heavy—and now MIRV'ed—SS–18 ICBM and its somewhat smaller SS–19, the Soviet Union will have the capability to destroy virtually all American ICBM's in their silos, all our bombers not in flight, and all our missile submarines in port—all this at one blow and with the expenditure of only a small part of its missile forces. A massive Soviet civil-defense program, now under way, will provide blast shelters for the country's political and industrial cadres, while the plain people will be told to evacuate the cities and dig fallout shelters for themselves in the countryside—a process, according to Soviet civil-defense manuals, that is to take three days. Since the only remaining American forces would be those armed with small warheads, Soviet cities and industrial plants could be restored within an acceptable period of time after an American retaliatory strike; and, because of the mass-evacuation measures, there would be only 10 million to 20 million Soviet citizens killed—no more than perished during World War II. By contrast, the remaining Soviet strategic forces could destroy American society totally, and kill a large part of the population. Confronted with such a prospect, the United States would concede world hegemony to the Soviet Union without war.

How is one to evaluate this kind of thinking? What, for one thing, is the past record of the prophets? Many of the men who proclaimed the bomber gap, the missile gap and the ABM gap are the very ones who today warn of the civil-defense gap and the Soviet Union's nuclear superiority. Paul Nitze, for example, was chairman of the staff that produced N.S.C. 68 in 1950 and a member of the Gaither panel in 1957. During the missile buildup, the test-ban debates and the ABM scares of the 60's, he was Secretary of the Navy and Deputy Secretary of Defense. He was a member of "Team B" in 1976, and is one of the moving spirits of the Committee on the Present Danger.

Men of Nitze's persuasion are entitled, of course, to their opinion, and no one should question their motives or their good faith. But the American public, in evaluating that opinion, may well ask whether it is a reflection of reality or a repetition of the all too familiar myth-making of the past.

It is difficult to regard these doomsday scenarios as anything more than baseless nightmares. First, an attack on our very hard—that is, blast- and shock-resistant—missile silos would be a highly complex and very uncertain operation. The first nuclear explosions of the first incoming warheads can destroy the other warheads still coming into the target area, and they can do so in ways and for periods of time that cannot be calculated accurately in advance. Some of the targeted missile silos would thus be left undestroyed, and the attacker would have to cope with an unpredictable number of retaliatory ICBM's launched during and after his strike.

Nor would it be a simple matter for the Soviets to catch us off our guard with a surprise attack. We would in all likelihood have advance warnings of a less obvious nature than the trek of millions of Muscovites armed with shovels to the countryside. Our space sensors would be primed to signal a Soviet launch; or they would be put out of commission in advance by Soviet antisatellite systems, and this in itself would alert us to imminent attack. The Soviets well know that, instead of waiting a minute longer, the American President could order our own ICBM's launched against the Soviet Union, leaving empty silos for the Soviets to destroy.

Moreover, an American retaliatory strike by only a portion of our strategic force would inflict damages of such magnitude that the ability of Soviet society to recover from the blow would be in serious question. By the mid-80's, our Polaris, Poseidon and Trident submarines—two-thirds of them safely at sea at all times—will be armed with about 7,000 missile warheads. The smallest of these warheads will have at least three to four times the explosive power of the Hiroshima bomb. The Soviet Union has a fragile transportation system, mostly railroads and ship canals; its heavy industries tend to be concentrated in giant units; its cities are compact. Our submarine-based warheads alone could wreak total destruction on nearly all Soviet habitation centers, industrial plants, railroad yards, canal locks and airfields.

As to the latest evocation of the spector of Soviet civil defense, this rests on gross exaggeration of the program's ability to protect the populace. It is asserted that the Soviets spend five to 10 times more on civil defense than we spend in the United States, and it is true that their manuals imply a state of great preparedness, including plans for the evacuation of their cities. But American civil-defense manuals simply claim a state of readiness that includes shelters for near-

ly the entire population; the literature goes into descriptions of blast shelters for millions in mine galleries. Yet it requires only a short sojourn in our cities to realize that the populace, except for the civil-defense officialdom, is so uninvolved in these preparations that it would take a long and arduous effect by the American Government to put the country on a state of civilian preparedness.

Common sense suggests that the Soviet civil-defense program is not unlike our own. But let us, for the sake of argument, accept the claims that our hard-liners make on its behalf. How effective, even then, could the program be? The Soviet populace and the more privileged cadres, on emerging from their shelters shortly after an American strike, would find themselves without transportation; facing starvation; without shelter for the winter in a landscape of ruined cities and towns contaminated by radioactivity and millions of decaying bodies; with tens of millions of victims of radiation sickness to care for, and with epidemics certainly in store.

What rational policymaker would take action inviting consequences of that sort? Our "realists" nonetheless insist that the Soviet Government can be expected to do just that—and to use arms-control agreements as subterfuge for advancing toward global hegemony. What they propose is that we proceed to arm ourselves at an accelerated pace, so as to put the United States in a position of military superiority beyond the Soviets' reach. What awaits us if we succumb to this advice and, in the words of one of the proponents of that course, former Under Secretary of State Eugene Rostow, "arm ourselves to the teeth"?

Some of our actions are likely to be potentially provocative. Thus, by equipping our Minuteman III with the new Mk 12A warheads, and with the ultraprecise guidance systems that are now in an advanced state of development, we would make that missile into an effective weapon against the Soviets' landbased ICBM's, the backbone of their strategic forces. If we then proceed to deploy our MX ICBM—a larger follow-up on the Minuteman that is now under development—it would increase the explosive potential of our offensive force still further. If the MX missiles are made mobile, instead of being stationary, as our silo-based missiles are at present, the Soviets will be left in the dark about the very magnitude of our ICMB forces.

President Carter's decision to deploy the long-range cruise missile, designed to be launched from B–52 bombers some distance from Soviet borders, may be compatible with the mutual-deterrence posture, if kept within the authorized limits. But deploying a much larger number of cruise missiles with long-range capacity—missiles that could be launched from land or sea from just about all points of the compass—would totally negate the mutual monitoring of strategic forces now in effect and could be regarded as highly provocative by the Soviet Union.

The Soviets, of course, will not be indifferent to such moves; we can be sure that, once again, they will respond in kind. Deployment of the MIRV'ed SS–18, and of the still more advanced missiles that, according to Defense Secretary Harold Brown, are now under development, will doubtless be stepped up. Mobile ICMB systems can be expected to spread over the land mass of the Soviet Union, leaving us in reciprocal ignorance about the number of missiles involved. After a few years' time, we will learn of the deployment of the Soviet version of our long-range cruise missiles—perhaps aboard ships off our coasts.

In this atmosphere of all-out competition for military superiority, any political crisis that may arise between the United States and the Soviet Union is not likely to be resolved the way the Cuban missile crisis was in 1962. That experience must have been a humiliating one not only for Khrushchev but for the entire Soviet hierarchy. Since then, the Soviets have made major sacrifices for their huge armament effort, designed to assure that never again will they have to back down on a major issue because of military inferiority to the United States. The American people, for their part, have had much difficulty in accepting the Soviet Union as equal to the United States in power terms on the international plane. To give in to the Soviet Union in some future crisis might be infinitely difficult for us. Because of these attitudes both in Washington and in Moscow, the crisis could become unmanageable, in spite of the hot line and the Soviet-American agreement of 1973 not to seek recourse to nuclear arms.

Apart from the risk of war by miscalculation, due to the hair-trigger readiness of the strategic forces on both sides, there are other factors that will make crisis situations increasingly probable if the strategic arms race is allowed to heat up. For example, increased emphasis on nuclear arms by the superpowers would intensify the urge among non-nuclear states to acquire nuclear weapons. That would create new focuses for the germination of nuclear wars. In that new context, Soviet-American cooperation on measures against nuclear proliferation is likely to collapse. And without such East-West cooperation—evidenced recently by the intense pressure on South Africa to suspend preparations for a nucelar weapons test—nuclear proliferation around the world is certain to accelerate.

Another adverse effect would arise in the area of "conventional" arms. The strategic arms race has been paralleled by an arms race for general armed forces, including tactical (or battlefield) nuclear warheads and all types of conventional arms. Advanced conventional weapons and delivery systems have become a substantial part of international trade. Some of the hardware being provided to the non-nuclear countries could be used to deliver nuclear warheads, and this makes acquisition of a nuclear capability more tempting to those states.

Imported modern arms have been used in numerous local wars since the end of World War II. Through the sale of such arms, the superpowers have acquired a patron status in many of these regions—this apart from local conflicts in which the superpowers' involvement was more direct. If the arms race heads up, the patron-client relationship characteristic of the third world will inevitably be emphasized, and the occasions for Soviet-American confrontations, like the one that occurred during the 1973 Mideast war, will be multiplied.

Is all this inevitable? Yes, but only if we fail to make a genuine effort to end or at least curb the Soviet-American arms race and progress toward a more satisfactory state of détente, or peaceful coexistence, than we now have. There are, of course, risks inherent in the effort—though far smaller than the risks of an intensified nuclear arms race—and we should be clear-eyed in making the attempt. We should, for example, assure ourselves of adequate means to verify Soviet compliance with any agreements we reach. But to reach such agreements, we must—unequivocally—concede equal status to the Soviet Union and accept its own legitimate security needs.

The ultimate objective should be the elimination of all nuclear arsenals. But more immediately urgent is the need to stop deploying those new strategic weapon systems that destabilize deterrence and increase tensions by virtue of their provocative character. Top priority should go to an agreement to curtail further deployment of any "counterforce" missiles (those aimed against the other side's missile silos) that have already been developed. A close second should be an agreement to limit missile tests to those necessary for the quality control of deployments already in effect. Both agreements could be monitored by currently accepted, nonintrusive means of verification. Each would go far toward stabilizing the state of mutual deterrence.

High priority should also go to an international treaty for a total nuclear test ban. A move in that direction would signify to the rest of the world that the superpowers are in earnest about ending the nuclear arms race. Constraints against nuclear proliferation would be immeasurably strengthened if the ban covered not only weapons tests but so-called peaceful nuclear explosions—a proposition seemingly agreed to by Brezhnev in a recent speech.

Progress along this road would be rocky, at best, because of the different natures of American and Soviet societies, because of mutual suspicions nurtured by many years of angry confrontation, and because of the opposition of the hard-liners in both camps. President Carter's SALT proposals of last March constituted an important move toward genuine arms control, and it is regrettable that they were summarily rejected by the Soviet Union. Progress, or lack of it, in the current SALT II negotiations will indicate whether the proposals were rejected because they were sprung on the Soviets, as some say; or because some of the specifics were disadvantageous to the Soviets, as Moscow claimed; or because of an intrinsically hard-line position of the Soviet Union, as our own hard-liners assert. One must hope that the initial Soviet reaction is not the final one, that a SALT II agreement will be reached, and that this will be the starting point for a winding down of the arms race and a new and safer era.

RAMBAM TORAH INSTITUTE—25TH ANNIVERSARY DINNER HONORING MARCUS LOWY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. WAXMAN. Mr. Speaker, it is a great pleasure to honor jointly an organization which has contributed greatly to the Jewish Community in Los Angeles and an individual who has, in turn, contributed greatly to this organization. Rambam Torah Institute will celebrate its 25th birthday with a silver anniversary dinner on February 5, 1978. With a staff of 32 educators, the institute now serves almost 200 students at 2 campuses. It is exciting to review the growth of this fine school, which started with an enrollment of less than a dozen. The institute is now a complete high school offering 67 courses in Hebrew studies and standard high school classes, as well as many college-level advanced placement classes in chemistry, biology and physics.

This exceptional school will, on its 25th anniversary dinner, honor its longtime associate, one of the founders and its first president, Marcus Lowy. A survivor of the holocaust, Marcus Lowy was born in Czechoslovakia in 1909. Immigrating to the United States in 1949, he settled in California in 1955. His contributions to his community have been numerous. In addition to his association

with Rambam Torah Institute, he has served as vice president of Hillel Hebrew Academy and as executive vice president of Congregation Shaarei Tefila. He has three children, Allan and Rudolph Lowy and Mrs. Ruth Fasman—all of whom are graduates of Rambam. I am delighted to record the accomplishments and contributions of Marcus Lowy on the silver jubilee of Rambam Torah Institute. On the occasion of its 25th birthday, I ask the Members to join with me in extending warm good wishes to both Marcus Lowy and the Rambam Torah Institute.

WOMEN CAN'T AFFORD NICE WARM CAVES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mrs. SCHROEDER. Mr. Speaker, on this bitterly cold day many women from all over the Nation are gathering for the National Women's Political Caucus meeting in Washington. They will be around talking to Members about legislation concerning women. On a day like today many of us would rather return to our warm cave or home. I have attached a recent column with statistics on the status of American women that concern me very much. We cannot afford the luxury of the warm cave this year.

The article follows:

WOMEN CAN'T AFFORD NICE WARM CAVES

(By Jane O'Reilly)

Bears have the right idea about winter. They skip it, simply crawl into a cave and sleep. It must be lovely to be able to put life on hold for a few months.

If I were asleep in a cave I wouldn't have to try to summon the energy to explain to my 18-year-old friend Sarah that the battle for women's equality has not been won, even if she is majoring in engineering. When the wind chill factor is 40 below it seems hard to remember why I am maintaining a place at the barricades. It would be so much more comfortable inside, tending to a warm chauvinist.

I have been browsing through the official briefing book of the National Women's Conference, searching for smudge pots, for facts about women which might take the chill off frozen motivations. If I paste up enough horrible facts my cave might seem less inviting. Even a she-bear might think twice about hibernating if she had to try to rest under a sign reading "18 women, 417 men." I refer, of course, to the proportion of men and women in the United States House of (So-called) Representatives.

Women are 51.3 percent of the population, but the Senate has no women at all. The Supreme Court never has had a woman justice. Only 10 women have ever been appointed to the federal courts. Women hold only about 5 percent of the elective offices in the United States.

In 1975, women held only 7 percent of the top-paying senior library jobs in the country. Those were "women's jobs" until 1956, when the Library Services Act was passed giving more money to library budgets, and since then men have taken over the best jobs.

The United States is the only industrial nation without a national program of child care services for children of working mothers. Of all the mothers of children under 18, 46 percent are working. That means there are 28.2 million children with working mothers, only 900,000 of whom receive any kind of federally supported child care. The national average income for a female head of a family is $75 a week.

Women earn, on the average, half what men earn, and they are earning less, not more, in comparison to men than they were at the beginning of the decade.

Women make up 20 percent of the members of state boards of education. 3 percent of junior high school principals, and 7 percent of senior high principals.

Women professors, on the average, earned $3,096 a year less than male professors in 1975–1976, compared to $2,820 less in 1974–1975.

The illiteracy rate among the women of the world has grown in the last 15 years from 58 percent to 62 percent.

Women make up 25 to 35 percent of the workforce in the media, but hold only 5 percent of the policy-making jobs. Of the 803 members of the American Society of Newspaper Editors in the spring of 1977, only 22 were women.

The median income of women over 65 is $1,899 a year compared to $3,476 for men.

IN DEFENSE OF THE STAR SPANGLED BANNER

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. GRASSLEY. Mr. Speaker, there are some people in the United States who would like to see the "Star Spangled Banner" replaced as our National Anthem. In response to these criticisms, I would like to bring the following article, which appeared in the Pennsylvania American Legion News, to the attention of my colleagues.

THE PADRE'S CORNER . . .

(By The Reverend Charles William Hanko)

Recently, an outstanding television presentation carried an account of a woman's attempt to replace the present National Anthem due to its emphasis upon the heroic deeds of the American Military. She cannot realize why an anthem, symbolic of the Republic, should be based upon her military might and upon killing.

Need the American people be reminded that such thinking is far from the Spirit which Francis Scott Key imparts. It is not the glorification of war, but, the valor of those who were willing to sacrifice their lives that Free-Men, everywhere, might continue in this blessed state of which they were endowed by the Creator. It is their example which gives strength to the Nation and to Free-Men and insures that God-given "Rights of Life, Liberty, and the pursuit of Happiness" to all.

If one will only think, it is the willingness to sacrifice life upon the Altar of Freedom that brought the United States to her exalted position of world leadership. When certain would-be "leaders" failed to realize this, we began to lose the esteem of the international community. This Nation no longer presented the answer to their prayers as "the land of the Free and the home of the Brave."

The purpose of an anthem for any nation is to inspire men in "thought, word, and deed": to bring to him a willingness to exert his utmost endeavors in service to God and to Man. Jesus, by his death at Calvary for the sins of man, sacrificed His all to insure "Eternal Salvation" and changed the History of the World and set the foundations for Western Civilization. The American Youth—at Lexington and Concord, at New Orleans, at Vicksburg, at San Juan Hill, at Verdum, at Normandy and at Iwo Jima, at Kumwha, at Pleiku (among other battles)—gave hope to man of the American intention to insure Freedom to all by the sacrifice of their lives. These asked, not that someone else give to assure life: they gave their own lives that others might live and signed this binding obligation in blood.

What greater witness could be given to the world of the love of a Nation for humanity than the most beautiful words of "The Star Spangled Banner?" May she ever wave over "the land of the Free and the home of the Brave." May we ever sing these resolves with every effort that they require with meaning and in our every action.

May God continue to bless America that she might continue to be the hope of the World in the Spirit of Him who established her.

SOUTH AFRICA: AMERICA'S NEWEST COLONY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. DORNAN. Mr. Speaker, during the adjournment period, I spent a week in South Africa. While I was there, I talked to blacks, whites, and coloreds of all stations and walks of life. The stories I could relate to my colleagues—and shall when the proper time arises—would fill many pages of this RECORD. Suffice it to say that my one overpowering impression was of a valiant nation and her people who have been terribly maligned by the news media and the political establishment in America.

During my long association with the media before coming to Congress and through my own reporting of politics here in Washington, I was aware of a distorting bias among the media in regard to many issues. Because of my experience, I was inclined to believe that the stories I heard in the Capitol and read in the press about South Africa were less than objective.

Occasionally, I came across articles and editorials by informed Americans who had been there and observed firsthand the status of blacks and coloreds in South Africa. One such article appeared in the December issue of Government Executive magazine. In an editorial by C. W. Borklund, the distortions about the situation in South Africa made by the White House and the United Nations were completely discredited.

Since I had read this editorial before having set foot in South Africa myself, I withheld judgment on its merits and objectivity. However, upon my return, I reread it and can only state that based on my own experiences, it is entirely accurate.

Since it is unlikely that many of my colleagues will have the pleasure and the privilege of visiting this beautiful nation and her brave people in the near

future, I ask that the Borklund editorial be reprinted in the CONGRESSIONAL RECORD. I also urge my colleagues to do as I did: Withhold judgment on its merits and objectivity until they have been to South Africa and seen for themselves. If they do, go and see for themselves, they cannot but be impressed by the disservice which has been done to this proven ally of the United States by our politicians and our media.

The editorial follows:

[From the Government Executive, December 1977]

A LOOK AT AMERICA'S NEWEST COLONY: SOUTH AFRICA

(By C. W. Borklund)

Beginning next month, *Government Executive* will run a series of articles on South Africa, the result of spending half a year gathering reports and other material, then spending three weeks in November in the country, itself. We interviewed upwards of a hundred people: black, white and several skin shades in between; Government leaders, opposition leaders, politicians, businessmen, professors, students, military officers and all kinds of people-on-the-street.

What you'll read in the series are facts from the reports and opinions from the people themselves. But we are stirred by a kind of grinding outrage to fire off here some of our reactions, too, to what we learned.

A basic one is, if our Government really believes all the stuff it has pumped out of the White House and the United Nations building and several other press conferences here and there, then it's simple-minded. And if it knows its stated "human rights" ambitions in South Africa can be much better achieved by other means but is bulling ahead regardless because of domestic strife here, then it is becoming downright dangerous.

And if it persists in its present inclination to try to impose its imperial will—and that of the leaders of the Organization for African Unity—on its "colony" in Southern Africa, the end result can easily be some scary threats and frightening penalties for U.S. military, economic, and even international political security. We are, in short, "blowing it;" and about the only difference we can detect in our ham-handed fumbling here and the farce our leaders strategized in Vietnam 15 years ago is we haven't had to send troops to Africa—yet.

But for sheer cold-blooded, callous imperception, this Administration is setting new records. Among them: the view foisted on American listeners that some four million bigoted whites are keeping about 20 million blacks under their heel, segregated, enslaved, and without political power.

First off, it's not "20 million blacks." It's five million Zulus; 4.8 million Xhosa (pronounced Koza); two million Tswana; 1.6–2 million, each, Pedi and Seshoeshoe; 800,000 Shangaan; 750,000 Indians and other Asians; 2.5–3 million "Coloureds" (people of a mixed black-white heritage we might still call "mulattoes" except for the hypersensitivity of some American negroes today); 600,000 Swazi; 500,000 Venda and about 600,000 "other."

The Zulus and Xhosa have blood feuds festering that go back centuries. Whole batches of Blacks from all those various tribes hate the thought of "coloureds" as much or more than they do "whites." Given half a chance, the Zulus, for one—as they demonstrated in 1948—and warn even today—would slaughter, imprison or drive out of the country all the Indian-Asiatics they could lay their hands on. In short, the "black community" is not one big homogeneous family, "struggling" for "liberation."

Thus, the American notion, as espoused by Vice President Walter Mondale in Vienna some months back, of "one man, one vote" translates for nearly all of them as "One Man, One Vote—Once." The Zulus are for it because their numbers tell them they would come out in charge of the government. And enough others see the same possibility so that they're against it.

For one thing, the members of these black tribal nations, their "men on the street," so to speak, just cannot envision the White Man's (U.S. version) form of democracy. Their individual chiefs are there by divine right—unless a brother or a cousin or another black group kills the guy off. They simply do not understand the idea that their ordained link with God can be "Chief" one day and out on the street, running for re-election the next.

According to Pik Botha (pronounced Boata), the South African Foreign Minister, he tried to explain all this, and much of major economic, military, and political importance in addition, to Mondale, President Jimmy Carter and Carter foreign affairs advisor Zbigniew Brzezinski in the White House recently. As he was being led firmly to the door, Botha says the only comment he got on his presentation was from Brzezinski who reportedly said:

"That's all very interesting, even moving; but the only trouble is, the locomotive of time is going to run you over."

Pontius Pilate couldn't have said it better.

And to a legion of White, Black, Coloured, Asiatic peoples, whether living in so-called "White-controlled" South Africa or the tribal-Nation homelands, U.S. policy toward and treatment of that country is earning us a label easily as onerous as the one the British suffered there 80 years ago. For many of them, regardless of racial origin, it is, as one said, "Like a dear, old friend who suddenly yells at you in a public meeting, "Get away from me!"

A couple months prior to our trip, an Israeli counter-intelligence officer turned international business man warned us, "The only way you'll be able to understand the pressures being put on South Africa is if you realize first that the objective is the annihilation of the white man in Africa."

U.S. Ambassador to the UN, Andrew Young, claims, "Nobody is trying to destroy South Africa"—then says the South Africa Prime Minister, John Vorster (pronounced Foster), is "over the hill;" calls Cuban troops a "stabilizing influence" in Angola; and is photographed, smiling with his arm around a Mozambique communist dictator whose export of revolution and guerilla warfare, murder and mayhem makes a farce of U.S.-style "Human rights."

At another press conference, President Carter, talking about the U.S.-endorsed UN arms embargo on South Africa and the threatened economic sanctions, says, according to the *Washington Post:*

" 'This crisis,' as Carter put it, was touched off . . . when South Africa 'eliminated many of the organizations' seeking racial equality in that nation, closed down the two leading black newspapers, and arrested many leading opponents of its racial apartheid system."

Fact is, the two "leading black newspapers" are white-controlled and run by a publishing house out of Fleet Street, London; the arrested black editor had earlier been warned by a newspaper editor, "Your writing is a credit to neither South Africa nor journalism;" (SOWETO residents will tell you he was using his columns to tell the Marxist-trained revolutionaries what buildings and people to attack and intimidate next); and the "many leading opponents" of apartheid are all pushing for overthrow, violently, of the Government.

One such, Steve Biko, now martyred beyond belief (to South Africans) in the world's press (and by Andrew Young), had a secretary who said she typed stencils of pamphlets for distribution to blacks. A sample passage from one:

"This is an appeal to all Black people to show solidarity with the exiled and the jailed . . . Wherever you are, organize yourselves into groups to deal with those who do not heed this appeal. (Which means other Blacks.) Beat them, burn their books, burn their cars and shops. Show no mercy to informers and other collaborators—they must all be killed.

"There must be cries, burning houses, people with clenched fists, bodies lying in the streets, bruised and bleeding people—then there will be freedom—yes, freedom . . . Long live the revolution. Power to the people."

Just a decade ago, the American people went into an angry panic when subjected to the same message and the same fire bombings. Yet, now, as South Africa sees it, this Administration is lining up on the same side with that murderous mentality. But the real tragedy is, according to the people in South Africa, itself, that these aren't the leading opponents of apartheid at all.

The leaders, White and Black, have been pushing and shoving behind these scenes, in private and with considerable success—until America went public with its "moral crusade." Summed up an American businessman in South Africa, "These stubborn Afrikaners do need to be pushed. But you never, ever do it in Public. If you do, they won't budge. That has been the gross miscalculation of the Carter people."

And he added, "The people in Pretoria had some drastic changes in race-relations laws ready to go right after the election. You can see the clues to that in South West Africa (where the last week we were there the Government abolished the black-hated "Pass book" laws and the laws banning inter-racial marriage, and promised more such things to come.) Now, I'm not confident any more, they will do that. Carter, Carter, such an overkill!"

Just prior to Mondale's Vienna press conference announcement of what South Africa policy should be, he had been in a meeting with Vorster. Vorster had insisted on knowing what African nation, South Africa should model its government after. According to a Vorster friend who was there, it "ticked Mondale off" enough that he asked for a recess; came back to announce "Two wrongs do not make a right."

"Thank you," Vorster said. "I now have a message to take back" to the African countries with which South Africa is trying, against currently incredible odds, to establish some kind of rapport. The message, he said: "The United States thinks your governments are bad, too." And by any human rights measure, not to mention economic well-being of the people, they are.

Yet, at every turn, it seems to South Africa, America comes down on the side of those dictators and warmakers. For example, by any southern African standard, the roughly 11 major ethnic elements—ranging from sophisticated, well-educated whites and blacks to still-primitive Stone Age Bushmen—have achieved what two years ago was considered an impossible job.

Tribal Nations who, until then, were shooting each other, have come to a majority agreement on what kind of Government they want in South West. It's a radical-enough change that the right wing of the white Nationalist Party has divorced itself from the proceedings—which means they'll sit out in the cold unless they change. Yet, way out on the left wing, the Western Allies (and, of course, the Organization for African Unity) are backing SWAPO (South West Africa People's Organization.)

Using secure military staging areas in Angola and communist-made weapons, SWAPO has been carrying out raids into South West Africa—killing and intimidating mainly Owengo tribal people—while claiming in the UN that it represents that group which, in turn, accounts for nearly half of South West's population.

SWAPO "wouldn't last six months," one South African military strategist told us,

"if it couldn't retreat to the haven of those Angola bases." The real irony of this U.S.-supported terrorist group is that it wasn't founded by blacks at all. It was organized in the mid-1950's by three white communists in Cape Town.

Among the more deep-thinking South African leaders, black or white, they are leaning to the conclusion that U.S. pressures on them are the result of (a) "Inordinate impact, as compared to their voting power, of Blacks in the U.S. Government;" (b) the conclusion that "You can beat Russia out of influence in Africa by wiping out the whites here, which, you apparently think, will eliminate the basis for revolution."

Looking at their neighbors to the north, one Afrikaner said, "Carter gives legitimacy to those self-made governments, a legitimacy they don't deserve in terms of popular support. And because of how they achieved power and how they have to hold on to it, they could each fall tomorrow. Friendship between America and the African states is not a 'growth industry.' "

In sum, the problems of South Africa's pluralistic society are tremendously complex—and the U.S. is handing them simplistic solutions. And with only a $30 billion annual gross national product and Government budget of only about $9 billion, from a cost standpoint alone, South Africa can't do everything at once. Yet, outsiders, including the U.S., are demanding just that—and trying to apply sanctions that make raising the money even more difficult. Sad thing is, a vastly more perceptive policy toward South Africa could also be a good deal simpler than the hot-and-cold emotional gyration the U.S. is going through now.

The policy need have only three inviolable tenets. The three:

Regardless of UN votes or any other totalitarian pressures, the U.S. will support any Government whose form and substance is backed by a verifiable majority of the people in the country concerned.

The U.S. will do everything feasible to provide arms to a country whose Government is so chosen to whatever extent it deems necessary to maintain internal security and protection from outside invasion.

Because economic growth is the foundation of political democracy, the U.S. will also encourage its vast industrial base to make investments in and establish trade relations with any such country.

Obviously, to date, this Administration has done the reverse of the second; is threatening the reverse of the third; and has denied the first by insisting that the form of Government selection will be done in the American (but really the OAU) manner or it will not be satisfactory. In short, we're dictating South Africa's internal affairs.

Our Congress has been threatening to try people, such as the CIA, for allegedly doing the same thing elsewhere in the world. Why is it all right for the Government to do the same thing in South Africa?

As one brown-skinned leader in Cape Town, afraid his once-optimistic program may be destroyed in the polarization the U.S. is forcing "equal rights," summed up to us for virtually the whole spectrum of political and economic leadership in South Africa:

"You (the U.S. Government) have made your point. Now back off!"

UKRAINIANS COMMEMORATE 60TH ANNIVERSARY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. MINISH. Mr. Speaker, on January 22, people of Ukrainian descent commemorate the anniversary of the noble and just attempt of their forebears to win freedom from Russian rule. This year marks the 60th anniversary of that event and regardless of the ensuing years of Soviet domination, hope for the Ukrainian cause shines no less brightly in the hearts of Ukrainian Americans.

As the American conscience has forged a vigorous position on human rights during the past year, we have become increasingly aware that our own freedom relies upon guarantees of freedom and justice in those places where the rights of humanity are denied.

For this reason, it is all the more urgent that the United States offer its support and encouragement to the millions of Ukrainian Americans who cherish the bittersweet memory of their friends and relatives who fought to throw off the tyranny of Russian rule.

These fine Americans set an example to the rest of us and because of them, those everywhere who remain in subjugation are not forgotten.

We, who are fortunate to live in freedom, must intensify our efforts to insure that someday freedom will be reality for those now suffering under the oppression of the Ukraine.

THE NEUTRON QUESTION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. STEERS. Mr. Speaker, during the consideration by the House of the decision whether or not to build enhanced radiation warheads, I felt a delay would have been warranted to enable emotional aspects of this issue to subside. I therefore supported an amendment offered by my distinguished colleague from Connecticut (Mr. DODD) that would have provided more time to make this decision.

I would like to present to my colleagues an editorial that appeared on January 3, 1978, in the Washington Post. This editorial points out the complicated nature of the question whether or not to develop enhanced radiation warheads.

THE NEUTRON QUESTION

The leaders of the Soviet Union and Poland have now chimed in with their personal judgments on the neutron bomb—the new nuclear warhead, relatively small in blast but large in radiation, that the United States proposes to deploy in Western Europe against the specific threat of a massive Soviet tank attack. Many Europeans have the jitters about this new device. Some accept the hysterical argument that, by being designed to hurt people more than property, it is somehow "immoral." Others see it as a weapon close enough to being considered conventional that it might invite early use and bring on an escalating nuclear exchange. The Soviet and Polish leaders sought to propel these jitters along, warning that the deployment of this "inhuman" weapon would touch off a new arms race, lower the nuclear threshold, and much more.

They are entitled to their views. But the genuine dilemma at the heart of the neutron-bomb dispute, and at the heart of Russian as well as Western nuclear dialogue, remains: How can the threat of using a tactical nuclear weapon be made to appear persuasive or credible enough to deter an enemy, without, at the same time, making nuclear war itself more "thinkable" or perhaps provoking that enemy to go nuclear first in an armed confrontation? The Army, in setting out to modernize some of its 7,000 tactical nuclear weapons in Europe, wanted chiefly to make a NATO nuclear response to an overwhelming Soviet conventional attack more credible. We do not dismiss the Army's logic. But we find the answering argument more persuasive: NATO's temptation to use a neutron warhead, and the Warsaw Pact's anticipation of its use, could too easily initiate a nuclear exchange that no one could be sure would be contained. The proper alternative, we believe, is to improve conventional defense. A number of specialists believe the new precision-guided anti-tank missiles fill the bill.

In Warsaw Friday, President Carter contended that the Soviet Union's new mobile SS–20 missiles, trained on West Europe, are more destabilizing and destructive than the neutron bomb would be. He suggested that SALT discussions on strategic weapons be followed by Soviet-American talks on all tactical nuclear arms. But the begininng, let alone the end, of such talks is surely some years away. The issue of neutron warhead deployment is pending now.

Given the Carter administration's pledge to await a pro-neutron consensus in NATO before deploying, the issue will be decided in West Europe, especially in West Germany, NATO's key European member and the country in which the warheads would be deployed. So far the peculiar mixture of emotional and strategic considerations drenching this issue has prevented the Germans from taking a public decision. We hope that they decide against the new weapon and that they explain their choice in terms contributing to reason and calm in the security debate. In a system where decisions of considerable technical complexity and emotional content are taken by democratic process, the way in which strategic issues are discussed can determine the way they are decided, too. The neutron question goes far beyond the question of the merits of the bomb.

INVESTIGATION OF HUMAN RIGHTS IN EL SALVADOR

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. DRINAN. Mr. Speaker, I recently visited El Salvador with John J. McAward, Associate Director for International Programs of the Unitarian-Universalist Service Committee, and Dr. Thomas P. Anderson, author of "Matanza, El Salvador's Communist Revolt of 1932."

From January 7 to 12, 1978, we investigated the condition of human rights in El Salvador, and specifically inquired into serious allegations of violence and repression. Upon our return to Washington, D.C., we summarized our findings at a joint press conference on January 13, 1978.

I submit for the consideration of my colleagues a joint statement issued at the press conference by Mr. McAward, Dr. Anderson, and myself, followed by individual statements of Mr. McAward and Dr. Anderson.

The joint statement follows:

During the visit to El Salvador I saw the President of that nation, General Carlos Romero, for over one hour. All three of the visitors to El Salvador visited extensively with the Vice President of that nation and the Ministers of Interior and Justice. We had extended conversations with the leading members of the opposition political parties, officials of labor unions, authorities at the nation's one newspaper not dominated by the government and with many other governmental and educational authorities.

We also talked at length with Archbishop Oscar Romero of San Salvador and with all of the highest officials of the Catholic Church in El Salvador.

Most importantly, we spent the majority of our time speaking with literally hundreds of peasants in the countryside.

Our visit was benefited greatly by the total and excellent cooperation of the U.S. Embassy in El Salvador.

It is very clear that the persecution of the church in El Salvador is being intensified as the by-product of the repression of the peasantry. Two peasant federations, the Christian Salvadorean Peasant Federation (FECCAS) and the Union of Rural Workers (UTC), have been encouraged by church officials. This appears to be the major reason why government authorities at the highest level allege that priests are engaged in subversive activities and that the clergy has been infiltrated by communist forces.

The Romero government which took power on July 1, 1977, seeks to pride itself on the fact that no priests have been killed or deported since July 1, but the fact is that a more subtle and more profound repression of religion now exists in El Salvador than at any time within recent memory.

The persecution of the church may be less visible today than it was on March 5, 1977, when the Bishops of El Salvador, in a message to the 4.5 million Salvadoreans, stated that "repression against the peasants . . . in their just cause has increased and that the number of dead persons and those who disappeared . . . has increased." But the war of the government against the rural poor is in effect a war against religion because most of the leadership in the struggle of the peasants against collective injustice comes from the 225 priests in El Salvador.

We heard countless persons report to us that they are afraid to have the Catholic Bible in the house, that they are afraid to listen to the Mass on the Catholic radio station and that any connection with the church will prompt the quasi-military group called ORDEN to summon the omnipresent National Guard to arrest, detain, torture or otherwise victimize persons known to have any association with religion.

On March 5, 1977, the Episcopal Conference stated that there "has been a campaign against the church not only through the press, but through other means, such as threats and intimidation of priests, laymen, institutions and publications of Christian orientation". This campaign continues and is characterized by a systematic attempt to divide the church by alleging that Christian leaders who want change in the social order are subversives or communists.

In the countryside one can literally feel the fear, anguish and desperation which fills the lives of the peasants. We heard at least 40 separate stories of the murders, the disappearances or the jailing of husbands or sons against whom no charge was brought. We experienced a uniquely beautiful sharing in the lives of the rural poor one evening when we were invited to concelebrate Mass and dialogue with the parishioners at the church where Father Rutilio Grande, S.J., was pastor until the day he was martyred on March 12, 1977. These families had chosen an isolated plot in a vast sugar plantation where the military police could not possibly locate them. Like the early Christians in the Catacombs and the Catholics in the Reformation period in England we celebrated the Eucharist and talked at length about the devious ways by which a government hostile to human rights was intensifying its militancy against all efforts for agrarian reform.

A large number of labor union officials were unanimous in their conclusion that repression of their efforts by the government of El Salvador had sharply increased since July 1. They related how the National Association of Private Enterprise (ANEP) and the National Agricultural Exporters Association (FARO) were systematically dominating the government for the benefit of the business and propertied classes to the detriment of workers, both unionized and nonunionized.

Lay officials and indeed almost everyone related to us the insidiousness of the "Ley de Orden"—an act passed on November 25, 1977, authorizing the banning of strikes and demonstrations, the suspension of habeas corpus and the banning of any statement which could be construed to disparage or even question an act of the government or the armed forces. This law gives the government even more power than the state of siege which the government repealed.

There are no foreign military assistance credits for El Salvador in the budget for fiscal 1978. Economic assistance distributed through AID will continue in the modest $3 to $4 million category. Since there has been no improvement in the human rights situation in El Salvador, the Congress may well be required to consider the termination of all economic assistance to El Salvador for fiscal year 1979.

The termination of assistance by the United States to a country that systematically denies internationally guaranteed human rights is a feeble and sometimes fruitless act. But there can be no alternative if it is clear that additional assistance merely enhances the domination of a tiny ruling class and thereby deepens the despair of people struggling to undo the institutionalized violence that keeps them poor, oppressed and voiceless.

In El Salvador we saw an unrepentant gavernment dominated by the military, perpetuating terrorism and a persecution of religion seldom if ever seen in any nation in the Western Hemisphere within living memory.

There are few if any good options for the Congress in dealing with a nation like El Salvador which continues to violate the political, social, religious and economic rights of its citizens. But the Congress and the country must persevere persistently and patiently in seeking ways to educate the rulers of El Salvador about those fundamental human rights, the implementation of which is now a basic policy in the foreign policy of the United States.

STATEMENT OF MR. MCAWARD

The Unitarian Universalist Service Committee is a Boston-based international organization, non-sectarian by charter, which provides funding and consultation for nationals in the developing countries of Latin America and Sub-Saharan Africa in order to enable them to carry out programs of social change. It receives all of its support from individual donors and foundations and receives no funds from the U.S. government. Current program commitments include integrated family planning in Haiti; agricultural development in Peru; a literacy experiment in Tanzania; and leadership training and empowerment in Guatamala and El Salvador. It maintains no expatriate staff overseas.

In connection with our program in El Salvador which has been carried out with the cooperation of the Archdiocese of San Salvador, I have had the opportunity to visit that country many times over the last five years. During this period I have been made very much aware of the climate of oppression and repression and the suffering that the majority of Salvadorans must endure under their present and past military governments.

In view of the fact that there has been no improvement in the observance of internationally guaranteed human rights in El Salvador since the fraudulent election of General Romero in February, 1977, and his becoming President on July 1, it is surprising and disappointing that the U.S. State Department instructed the U.S. representative on the Inter-American Development Bank to vote on November 3, 1977, in favor of a $90 million loan for the San Lorenzo Dam in El Salvador. That loan had been held up by the International Development Bank since May of 1977. It was the decision of the Deputy Secretary of State, Warren Christopher, to assist El Salvador in the construction of the hydroelectric project. United States taxpayers will provide roughly half the cost of financing that project. State Department spokesmen have indicated that the decision to go forward with the San Lorenzo project is a "carrot and stick" approach to prodding Central and Latin American governments into easing repression on their domestic political dissidents. Unfortunately, in the case of San Lorenzo, it is all "carrot" and no "stick." El Salvador had already arranged for European financing of the San Lorenzo Dam. Consequently, a continued denial of loan funds from the IDB by the United States would not have deprived the people of El Salvador of the presumed benefits of the hydroelectric project. But the granting by the United States of very advantageous funding for the San Lorenzo project has symbolized to the people of El Salvador and of all of South America that the United States is not going to demand very much evidence of human rights developments or initiatives before it casts a favorable vote in an international agency for assistance to a country with a notoriously bad record on human rights.

After the February 28, 1977 post-election massacre carried out by Salvadoran security forces, I spent three weeks in El Salvador doing a human rights study. The results of my visit were presented in testimony given to Rep. Donald Fraser's Subcommittee on International Organizations which charged the government of then President Molina with widespread electoral fraud, the killing of over two hundred unarmed demonstrators and bystanders on February 28, 1977, the use of assassination, arbitrary arrests, and torture to instill fear, and a campaign of repression against the Catholic Church.

A promise was made to our Salvadoran friends that I would make every effort to publicize my findings and to inform the Congress and the Carter Administration.

To best accomplish the latter, it was decided to arrange a visit for up to three representatives of the Congress. Representative Drinan was the first to accept the Service Committee's offer.

I was in El Salvador from January 2 until yesterday while Representative Drinan arrived with Dr. Thomas Anderson on January 7.

Dr. Anderson is the most knowledgeable American scholar on El Salvador having written the definitive work on the campesino uprising in 1932 entitled La Matanza.

Reports from the State Department would lead one to believe that the climate of repression had been greatly reduced. Congressman Drinan will speak for all three members of the investigatory team and share our findings.

STATEMENT OF DR. ANDERSON

The government of El Salvador has only rarely been known for its scrupulous regard

for human rights, and its record since the abortive Communist revolt of 1932 has been particularly dismal. In this country a wealthy oligarchy of prestige and power, coupled with an ascendant military officer corps, have formed an uneasy partnership to repress the peasantry which does the work of the country. However, the level of repression in this country has varied from government to government.

The current military clique. the Party of National Conciliation (PCN), came to power by coup in 1960, and has maintained itself by fraudulent elections. Indeed, there have been no really free elections since 1931. At first, the PCN genuinely sought social reform, but in the period since the war with Honduras in 1969, it has turned more and more to repression and an alliance with the oligarchs.

President Molina, who preceded the present incumbent, did indeed instigate a timid land reform program, to benefit the peasantry, in late 1976. This was met by such opposition from the great landholders, in this country in which 2 percent of the people own 60 percent of the land, that Molina quickly dropped the scheme. Other than that, his record in regard to human rights was not good. He conducted fraudulent elections which led to his PCN gaining every seat in the national legislature and every one of the 250 mayorships. He exiled prominent opposition leaders, temporarily closed the only independent newspaper, and, through his security forces, caused the disappearance of many dissidents, and the jailing and torture of many more.

In the presidency of Col. Colina, the Catholic church in El Salvador began to find its social conscience. It began to promote peasant groups and to champion human rights. As a result the church became the focus of repression. Priests were exiled, arrested, tortured, and in two cases murdered by persons who have never been brought to trial although these murderers are openly known to collaborators of the government.

The government of General Carlos Humberto Romero took over on July 1, 1977. Romero at first appeared to extend the olive branch to Msgr. Oscar Romero, the Archbishop of San Salvador, and his church. Gen. Romero claims to have started with a clean slate and has promised changes, but in reality only the emphasis of repression has shifted. No longer are prominent opposition leaders arrested; no longer are priests being tortured, exiled or killed. Instead the peasantry, anxious for genuine reform and loyal to its church, has borne the severity of Gen. Romero's white terror.

Based on the many interviews which this group took and the many documents given to us, I can honestly say, as one who has had long familiarity with El Salvador, that the level of repression and human rights violation is higher today than at any time in the last 45 years.

IRON CURTAIN LIFE: A CHURCH BECOMES A VODKA WAREHOUSE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. DERWINSKI. Mr. Speaker, at a time when the administration seems determined to embrace détente even more vigorously than previous administrations, it is important to note the truth behind the false facade of Soviet propaganda.

The Reverend Joseph Prunskis, a Catholic priest who escape from Lithuania, comments on the suppression of the Catholic Church in the U.S.S.R. in an article appearing in the Chicago Tribune of January 17. Reverend Prunskis now serves as director of information of the Lithuanian American Council.

The article follows:

IRON CURTAIN LIFE: A CHURCH BECOMES A VODKA WAREHOUSE

(By Rev. Joseph Prunskis)

The widely accepted separation of church and state guarantees a free church in a free state and noninterference of church authorities in state affairs or vice versa. Such a situation creates conditions in which the church has a desirable climate for ecclesiastical progress and cultural and charitable activities.

But separation of church and state under Communist rule constitutes elimination of any church influence in state affairs and strict control of the church by the state. In Communist countries the church is separated from the state, but atheism is not. All state institutions, means of communication, all schools and all government offices are obligated to propagate atheism and eradicate religion. The suppression of church is the aim of the state, disregarding an assurance of freedom of cult in the state constitution. In the Soviet Union and other Communist countries officials do not observe constitutional guarantees and citizens are punished if they try to enjoy certain guaranteed freedoms—of speech, of the press, or of religion.

Such an attitude by Moscow presents an unbearable situation. The appointment of priests is controlled by atheistic officials. Bishops who try to resist this are exiled from their dioceses, as were two Lithuanian bishops, the Most Rev. Vincentas Sladkevicius and the Most Rev. Julius Steponavicius. Priests are fined for teaching children religion even in church. Parents of boys who serve mass are interrogated and harrassed.

Churches are declared "public property" and parishioners are obliged to pay high rent, disregarding the fact that they constructed these edifices at their own expense without state help. Numbers of churches are converted into storehouses, museums, even dance halls.

Priests are slandered by the state and have no possibility for rebuttal of these lies.

There remains only one true source of information—the underground press. An impressive example of such a "samizdat" is The Chronicle of the Catholic Church in Lithuania, published since 1972.

In the last issues of this Chronicle received in Chicago [Numbers 28 and 29], we find information that St. Casimir's church, constructed in Vilnius in 1604, has been converted into a storehouse for vodka. In Vilnius only one-fourth of all churches remain open. The Church of the Visitation convent has been converted into a jail, the chapel in Antakalnis destroyed. On July 28, 1976, a new law in Lithuania forbade priests to perform religious duties in any churches except the one in which they are registered. This law forbids the teaching of religion except at the priests' seminary [there still remains one priests' seminary in Lithuania, instead of four before the Soviet occupation].

The library of the Marian Fathers, which had about 50,000 volumes, was destroyed.

The situation is worse in Byelorussia and the Ukraine. In Minsk there are 40,000 Catholics and no Catholic church.

The condemnation of such oppression by means of public opinion by the countries of the free world is one of the ways to alleviate these injustices against believers. The people of the captive nations expect sympathy and understanding from their brothers in the free world and look to them with hope to ease their burden in an intolerable situation.

THE DEATH OF A DAUGHTER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. BONIOR. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Washington Post, Jan. 22, 1978]

THE DEATH OF A DAUGHTER

(By Victor and Rosemary Zorza)

Sometimes the things that we dread the most turn out to be altogether different than we anticipated. The particularly painful way in which our daughter Jane's cancer developed seemed to presage a period of suffering and torment so great that we quailed at the prospect. As things worked out, the time of greatest suffering was when the doctors were refusing to tell her what her chances of survival were. Once she was told, after several months of uncertainty, that she has less rather than more time to live, she cried a little, and then smiled through her tears. There was no great, anguished sobbing, but a sad, resigned little sigh, almost of relief, and just a few tears.

"Now that I know," she said, "I want to enjoy every day I have left. I want to be happy—and I want you to help me be happy." Slowly, she dragged herself round the garden with the aid of a stick—she had come home from the hospital in between treatments to spend the weekend with us. It was to be the last time she walked under the trees, the last time she watched the still waters of the pond and heard the rustle of the stream that feeds it. She smiled at the sound. "Could you cut my hair," she said to a friend who was visiting us. "It got too long at the hospital." And to us she said, "Every extra day is a bonus now."

We promised her that she would die at home, but first the hospital would have to be informed. When they previously refused to tell her she was dying, we said we might talk to her ourselves, but the doctors said they knew better. "You don't tell a 25-year-old she is dying, and make the rest of her days a misery," they said. "You don't know whether she is going to have weeks, months, or years. Why, we have known remissions . . ." The doctors brainwashed us so completely—"We know how to handle this, we have had so many of these cases"—that when Jane's brother bombarded us with phone calls from America, insisting that he knew she would want to be told, we could only reply weakly that the doctors knew better. "It's her life," Richard kept saying. "Let her decide what she wants to do with what's left of it."

The doctors wanted to give her another course of radiation treatment, more chemotherapy, to fit her out with a stiff collar to ease the pain in her neck—all of which meant staying in the hospital. They had been trained to save lives, and all their actions and emotions—because in their own way they were as emotional about Jane as her friends and relations—were dedicated to making Jane live longer, even when they knew that her chances were infinitesimal. "We must not give up," the young doctor kept saying. "She is too young to die." He who had seen death so many times, had still not come to terms with it.

Before long Jane was moved to the farthest corner of the ward, where the nurses had few occasions to pass. They would come only to administer the pain killers, and that only after all the other patients had been taken care of, although Jane had been ready and crying for a pill long before. They had strict orders that the pills were to be given only every two or three hours—so, to be on the safe side, they made it every three hours.

They who had come to love Jane and joke and pass the time of day with her earlier did not now dare to come and sit with her for a moment. They were too busy with the other patients, for whom they could still do something.

In the end it was our local general practitioner, the doctor who had known Jane since she was a child, who told her the truth. Once the hospital knew that she had been told, they hurried up her various treatments so that she could be discharged.

We brought her home from the hospital in London to the quiet English countryside, to Dairy Cottage in Buckinghamshire, where she could look out from her bad by the window at the squirrels feeding in the garden. Once or twice she came out on the terrace, but no farther, to take in the view, the land falling away steeply to the pond at the bottom of the garden, and the hill rising from there up to where it met the sky, so that she was enclosed in her own little universe with no other house in sight.

But there was a good deal of life around her, and she loved it. Sometimes the cows on the hillside would stampede to the bottom in a mad rush, and she would look up with interest. The ageless feeling of the garden gave her comfort, for the old avenue of tall yew trees reminded her, she said, of all the beauty that was there before her, and would remain after her.

We were confident we could nurse her at home. Our family doctor—we had become his patients under the National Health Service when we first came to live in the early Sixties—said he would come at any time of day or night if Jane wanted him. The "district nurses"—also part of the health service—had worked out a roster so that they would come several times a day. The "district health visitor" came every day to see if she could help with any problems that were not strictly medical, talked to us learnedly about the care of the dying, about other families in the same predicament, about how we can adjust to it—and then she went in to meet Jane. She came out crying. She did not know until she saw Jane that she had met her before, when Jane was a teacher at a local school and the health visitor had gone to see her to help sort out the health problem of one of the children. "It is always more difficult when it is someone you know," the health visitor said, half apologetically.

Jane was more comfortable than she had been at the hospital. Her pain had eased a little. She had said earlier that she wanted to die at home, but at the same time she was uneasy about it. "I'll be such a nuisance to you," she said. She was reassured a little when she saw all the help we were getting from the National Health Service.

In all these months of hospitals, tests, treatments, operations, money was never mentioned—it was never an issue. Under the "socialized medicine" system of the National Health Service, all this is paid for out of taxes. From the first local hospital to the two London hospitals with highly specialized facilities, the treatment she received was the best available—as good, we found out when we considered bringing her to the United States, as any in the world.

Her friends came from London, sat by her bed, talked about old times, held her hand, cooked her favorite vegetarian dishes. Her brother had come from America. We put up a bird table just outside the window by her bed. All day the birds and squirrels came. We robbed the pantry and put out raisins, wheat, nuts, all the leftovers. More birds came every hour, and Jane would say with delight: "A greenfinch . . . a sparrow . . ." She was enjoying herself, forgetting all the claustrophobic months in the hospitals, telling us which of her friends should come to stay and make their farewells—when the cancer again began moving in on her, more and more rapidly. The pain in her body grew to the point where she couldn't bear us to touch her, let alone lift her or even wash her. She needed expert care day and night, but most of all she needed relief from pain. Our doctor gave her everything he knew, but relief never lasted long. Once again we were becoming desperate, squirming with a pain deep inside us every time she winced, every time she held back a complaint.

Jane knew about the hospices for the dying, several of which had been opened recently under the National Health Service, and she had expressed a mild interest in them once or twice when she worried about "being a nuisance." But how could we, having promised her that she would die at home, now tell her that she might be better off in the hospice?

She solved the problem herself. Would they really be able to control the pain? That was all she cared about now, for the pain was getting worse not just day by day, but hour by hour. She had to be moved—yet we dared not, for fear of causing her more pain. The nurses came, did whatever was necessary, but the slightest motion still made her grimace with pain—yet she only cried out once. As the ambulance men carried her gently out of the house wrapped in a red blanket, up the steep path, the younger man fumbling at what was obviously a new job to him, the birds were still singing—but she gave no sign of hearing them now.

What does a father think when his 25-year-old daughter is being carried off to a home for the dying? This father thought, with a shudder, that she would never see her home again—and that she would be much better off at the hospice than at home. What does a mother think? This mother thought that the most terrible moment of all had come, and she was overcome by a sense of failure—a feeling that she had failed to preserve a child to whom she had given life and had nurtured for so many years.

The ambulance journey was a nightmare. With every jolt, with every grimace, it was as if a knife was being driven into Jane, deeper every time. The younger man drove, very slowly, very carefully. The older man stood up in the back, with us, watching Jane's face, repeatedly telling the driver to go more gently, trying to make bright conversation to distract her, while her eyes reflected the pain and the desperation which communicated itself from Jane to him at every jolt. In the end, he told the driver to go more quickly rather than more slowly—the injection the doctor gave her at the outset was wearing off, and the ambulance man decided that the quicker we got to the hospice the better. But the pain was now so intense that the decision had obviously come too late. It was good to have someone else make the decision.

By the time Jane was carried into the single room they had prepared for her at the hospice, the pain which was already unbearable when she left home had become doubly so. How does an unbearable pain become even more so? As the hospice doctors told us later, anxiety and the expectation of pain can greatly increase the level of pain. Now, in spite of all the pain killers Jane had been given before and after arriving at the hospice, the pain was becoming still worse. The first increase in pain had generated the fear and expectation of more pain.

Instead of the relief we had promised Jane, the hospice was proving a disaster. Wouldn't she have been better off if left to die at home, among the things she loved, the faces she knew?

What happened next was not a miracle, but the slow and thoughtful application of medical knowledge and of loving care by the nurses to yet another cancer patient—and the patient's family. What did Jane want, the doctors asked her. She wanted one of us, her father or mother, to be with her—always, until she died. That was easy. The nurses wheeled another bed into Jane's room, and from then on one of us was with her day and night—except once or twice, when we were talking to the doctor. Then a nurse—or once, when the nurses were too busy, the hospice porter—came to hold her hand and talk to her.

They asked if we would rather take turns at going home to rest, or did we want to stay at the hospice. We didn't want to go home. Home was where Jane was. So they gave us a room with two beds. Earlier, when Jane had been told that she might not have much time left, I (Victor) told her that I would give up writing my columns for the duration of her illness, so that I might devote myself completely to her. Jane's reply was to cry out in mock horror. "Help!" she exclaimed—and she made me promise that I would keep up the column, whatever happened. She did not, she said with a smile, want me to devote myself "completely" to her—or there might be trouble. Now, at the hospice, they gave me the other empty room which they kept for visitors, and I used it as a study. It was important, as they explained to us later, that the patient should be comfortable—but it was no less important that she should know that her loved ones are suffering no undue discomfort or disturbance on her account. Helping the family was as important as helping the patient. Jane would adjust to the hospice far better, they explained, if she knew we were happy.

Happy? What a word to use in the circumstances. And yet that was the word Jane used herself, repeatedly, once her pain had been brought under control. She used it to describe her own state of mind—and she urged me to share it with her. I pretended that I did—of course, I would do anything to make her happy. If she was happy, then so was I—or so I said, automaticallly, for the word meant nothing to me. Jane looked up at me, thoughtfully, with a small smile, "Dad, you're just saying it. That's no good. There is only one way that I know to make you accept it—by a dialectical discussion."

And into a dialectical discussion we went—to please her—to and fro, back and forth, session after session. We had never before discussed my attitude to death. Now Jane was telling me something I had never fully reasoned out with myself. I *was* afraid of dying, Jane told me, and so long as I remained afraid for myself, I would be afraid for her. But, she said, she herself could only retain the state of happiness about her own dying if she could make me share in it. She could only be happy if she could make us happy too, she said.

Jane was quite unashamedly calculating about it. She worked on her friends who came to see her as she had worked on me. If she could only leave that to us, she said, if she could only make me accept the thought I had always pushed away, if she could show us that it was possible to die with peace and in dignity when our time came—that, she said, would be a great thing to leave behind her. It would be the greatest gift she could bestow on us. And in the very act of accepting the gift, we would be returning it to her and making her own dying easy. And that is how it worked.

Of all Jane's friends, only one, her childhood companion since the age of 5, could not reconcile herself to the thought of Jane dying. ("Don't let her drive home alone," Jane said after her friend had come to make her last farewell. "She's too upset.") To the rest of us Jane gave something that will always be with us, something that we will be able to pass on to others—for she asked us to do so. She made us promise that we would write about it. Perhaps this might make the hospice movement known more widely in England and beyond, she said. The National Health Service has only half a dozen or so hospices. The one Jane was in has only 25 beds—13 of them empty because funds are short. In the United States,

300,000 people die of cancer every year, so that hardly a family can remain untouched by it. There are so many people who could be helped, she said, if only they knew about the hospices.

A girl of about the same age as Jane who remained in the London hospital after Jane left died in torment and in misery, in great pain and in anguish of mind, without being told that she was dying, though no doubt suspecting it and fearing it. She needn't have—if only she had been moved to the hospice. They gave the other girl all the conventional pain killers, but still it did not help. At the hospital, Jane had to beg for pain killers, but she would be given pills only as prescribed by the doctors, at regular intervals. At the hospice, the doctors had studied carefully the sources and the channels of the pain coursing through her body—they identified eight of these—and treated each of them separately. They didn't wait the regulation two hours, until the effect of the pain killer had worn off. They made sure that the drugs would be administered to Jane before the pain had a chance to start clawing at her again. They didn't make her into a zombie filled with drugs.

During the first couple of days the drugs—some of which would be forbidden in the United States as habit-forming—did bring on hallucinations from time to time, but these eased off later. On one occasion she informed me, with a wicked smile, that my face was "quite funny": My ear was where my nose should be, my eye was in my chin, and there was a gaping hole in my forehead through which, she said, she could see the sky. When I looked distressed, she consoled me. "It's rather like a good Picasso," she said. Next time this happened, she said she could only see half of my face, inordinately elongated. "Very interesting," she chuckled. What, I asked, another Picasso? No, she answered thoughtfully, rather like a Modigliani.

Soon the drugs brought the pain under control. She was probably never completely out of it, but after what she had been through, the relief was so great as to make it possible for her to forget the physical discomfort. She was able to give her mind to music. One morning I had put on a Mozart tape for her, just as she was waking up. She slowly opened her eyes, listened with obvious enjoyment for a few minutes, and glanced at me. What can she be thinking of, I wondered, when she is listening to Mozart—that she will have to leave all this loveliness behind her, to go into nothingness? She was not thinking that at all. "How beautiful you are making it for me to die," she said slowly.

The tape was still on when the doctor came in. "Ah," he said with the air of a connoisseur, "Mozart." When he left the room, Jane turned her head toward me. "He s to have my Mozart tapes." The doctor was a deeply religious man and we had been a little concerned that Jane's atheism might cause problems. There was a priest at the hospice for those who wanted him. When we arrived we were asked what Jane's religion was, and when we said "none," the subject was never mentioned again.

She used to have long talks with the doctor and the nurses. Everybody had time for her, as for any other patient who wanted to talk. That was part of the treatment. "I cannot keep calling you Dr. whatever-it-is," Jane said to him after a few days. "Call me Robert, then," he said matter-of-factly.

"What will it be like to be dying?" she asked on another occasion, and before we had time to frame a suitable reply, the nurse who had just come into Jane's room said: "You'll probably just go to sleep, Jane, and you won't feel anything." The nurse knew, as we didn't, that what Jane was really asking was whether there would be a great flash of pain, a violent convulsion, a breaking up of her body, a tearing of her organs. Jane closed her eyes briefly, to absorb the information the nurse had just given her, and then opened them up again with an expression which showed that she believed what she had been told. This gave her greater peace than she had known since her illness began. That was another important thing about the hospice. At the hospital, Jane could never be sure they were telling her the truth. At the hospice, she knew that they would never tell her a lie. When you are dying, this can be more important than any medical treatment.

When we ask ourselves what it was that made it possible for Jane to say again and again at that time that she was happy to be dying, we can think of no single answer. The only satisfactory answer that would be made up of the hundreds of little incidents of life at the hospice during her last days. Like the time when she said "I would like to touch a piece of velvet before I die"—and soon a piece of velvet was brought to her. She touched it, and a nurse then put it on her bare shoulder, where it remained—forever. Or the time when a friend brought a bunch of roses, put it by her bed, extracted one flower, and held it out to Jane. "Would you like one?" the friend asked. "I have always wanted to wear a rose in my hair," Jane said, "but never dared." The nurse put the red flower in her hair, and there it stayed—forever. Every time Jane was turned to make her more comfortable—which happened every hour or two—the piece of velvet and the red roses were handled with the greatest gentleness and delicacy, as if nothing in the world was more precious.

The atmosphere of the hospice, relaxed and casual, more like that of a family home than an institution, makes an important contribution to the patient's—and the family's—ease of mind. Before that terrible ambulance journey, Richard had gone ahead to the hospice to prepare Jane's room for her, to make it as homelike as possible, to arrange her personal belongings around it, to put on her bed the woolen shawl she had crocheted and treasured so much—and, very important, to put food on the bird table outside the window.

There is no sense of hurry at the hospice, no clatter of busy feet on hard floors, no sense that someone much more important, more seriously ill, is next in line, as might happen in a hospital. The doctor comes not at the head of a swift-moving posse of assistants, nurses and juniors, but usually alone, moving and speaking gently, without noise or stress. He talked alone to Jane for long periods, often late at night, sometimes on his way home from dinner in town. The second doctor was quiet too. One day he came when she was almost asleep. He tiptoed to the bed, bent over, and they whispered together.

Perhaps the best explanation of what the hospice does was given by Robert, the doctor. Its approach, he said, was based on providing relief from symptoms as well as emotional support—and on being honest with the patient. And relieving symptoms was not just relieving pain, important as that was, but also easing nausea to prevent vomiting, or a sore throat, or an itch, or a hundred other small things, such as helping Jane to wash out her mouth when she could hardly part her lips—but could still express her delight at the feeling of freshness it gave her.

It helped, too, that the hospice windows looked out over the countryside. One early evening, outside the open door the sky glowed a rosy pink. The sun had set some time ago, and soon the stars would come out. But as yet there was still plenty of light to see by. We listened to the nightingales singing in the trees. I (Rosemary) tried to describe the evening for her. "A rabbit is coming out from under the hedge, Jane," I said. "He's eating the grass the other side of the path."

"A rabbit!" Jane exclaimed, thrilled. "I must see him. Lift me up."

"It will hurt you, Jane," I said, doubtful.

"Oh, Mum, my last rabbit," she begged—and I knew I must help her do whatever she wanted, even though it would hurt her, even though she could not see clearly by now. I put her arms over my shoulders and lifted her body. Her hands hung limply down my back. No, she couldn't see the rabbit—but her memory of other rabbits was refreshed by this visitor.

During her long illness she must have imagined more than once how horrible the final coming apart of everything might be—and yet now that it was happening, it wasn't horrible at all. The contrast between what she had once expected and the present reality must have helped a lot—and for this the hospice alone was responsible. These were the happiest days of her life, she said, because there is nothing more important in life than being born and dying. At birth, she said, I knew nothing. At death, she said, I know everything that I will ever know, and everything around me is good, not evil. That's a good way to die.

She had been in the hospice for eight days. As she sank into unconsciousness, and her breathing became more and more shallow, she was still being turned over by the nurses every few hours to make sure she was comfortable. As the rose in her hair faded and withered, so did Jane's body. Then, as we sat by her bedside, each of us holding one of Jane's hands, she breathed her last, quietly, easily, deep in sleep, as the nurse had promised her. We sat with her for a little while, kissed her lips, and touched the piece of red velvet and the red rose. As we walked out of the hospice, we knew that one day we would tell others how Jane had died—hoping that it would help them too. We cried a little—but we were able to smile, all at the same time.

Jane died on June 25, at 5 o'clock. She had been ill since February. Her ashes were scattered over the garden, as she had asked. She wanted no funeral, but asked that we should instead give a party in the garden, to make up to her for the 25th birthday party she had missed because she was in the hospital. It was a beautiful day. All her friends came, and the doctor and the nurses from the hospice, and all the people who had helped us during her illness. We made more friends during those few months than we had made for years.

Now that we are back in Washington, we notice one important change. We think far more than we ever did about what really matters in life, about feelings, about the more abiding human values, about people—about people as individuals. Jane talked about these things in her last weeks, and she made them more real to us than they had been. She also took pleasure in giving her more cherished possessions to her friends. She gave a lot of thought to it. She liked to see them walk away with something she had given them, after they had said goodbye.

"I don't need a 'thing' to remember Jane by," said one of her friends. "Jane taught me how to make bread. Whenever I make bread, I think of her." Before she died, we talked of how people live on in what they had done, in their actions, in the memories of those they had influenced. That's how Jane hoped she would live on. And she will.

FLEXTIME AND PART-TIME—VIABLE EMPLOYMENT OPTIONS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mrs. SCHROEDER. Mr. Speaker, during the first session of this Congress the Post Office and Civil Service Subcommittee on Employee Ethics and Utilization, which I chair, held a series of hearing (Ser. No. 95–28) on bills to expand flexible work hours experimentation and part-time employment opportunities in the Federal Government.

Testimony presented by Members of Congress, Federal agencies, representatives of employee organizations, and interested members of the public, including representatives of the educational community and elected State officials revealed the degree to which alternative work scheduling is being successfully used in both the public and private sector and the considerable benefits to both employees and employers.

I recommend to my colleagues the following series of articles by Kathy Sawyer entitled "Time Out—America Begins to Work Less" and the editorial from the Washington Post:

WORKING LESS AND ENJOYING IT MORE

In what we found to be a most illuminating series of articles last week, Washington Post staff writer Kathy Sawyer described a phenomenally pervasive upheaval in America today—namely, the changes in the way people perceive and handle their work time. Lifestyles and income distribution are undergoing new security as more and more people decide they want to work less—and are willing to give up some of their pay to do so. While they may get no immediate sympathy from the millions who are now out of work and need and want jobs, the shifts that are occurring could well mean at least a piece of the action for many of the unemployed.

As the series points out, the increasing demand for more flexibility in work hours has been spearheaded by the growing number of women—now estimated to be 40 per cent of the total U.S. work force—who are trying to balance conflicting job and family responsibilities. Swelling this movement are the elderly, the physically handicapped and many younger workers who for various reasons find the 40-hour week an obstacle. These conflicts between work and personal lives have in many instances led to domestic turmoil, tension and re-examinations of values.

The reactions of employers, unions and jobholders to these changes have not been entirely friendly, either. The new patterns do not fit all job situations equally well—but they are finding supporters. There is job-sharing, for example, which seems to be an answer for certain compatible people whose responsibilities can be clearly defined. In one instance cited in the series, Georgetown's Fillmore School and the D.C. public school system are apparently content with the work of Andrea Adler and Pat Mitchell, who share the job of principal. The two women, who wanted time to devote to their children, have a strong personal and professional relationship and don't mind sharing the job and the pay.

When it is not a matter of preference, work-sharing—which means redistributing the available work as well as sharing the unemployment—has often proved more acceptable than laying off a percentage of the work force. Still another change in work habits is "flexitime," in which employees' work hours may stay the same, but the schedule allows them to vary their starting and quitting times or to do a week's work in four days.

Some employers resist these sorts of changes out of a concern for extra costs or administrative inconvenience, or because they believe that the commitment or skills of part-time workers cannot match those of full-time employees. Other opponents, including many of the labor unions, maintain that these programs do little to ease unemployment problems and indeed may even aggravate them by pulling more people into the work force and depressing wages and other contractual rights of full-time workers. They are understandably concerned about what might happen to all sorts of benefits, seniority, premium pay for overtime and the rest.

Yet many of their members today want more time off instead of more pay, and sensitive union leaders are taking hard looks at alternatives. Employers, for their part, may find that the changes increase productivity, improve morale, decrease turnover and, as the Civil Service Commission suggests, "improve the quality of working life." In any event, the changes in lifestyles and perceptions of work do not appear to be mere passing fads. They are going to require—among employers and members of the work force alike—a new measure of flexibility and willingness to experiment.

"KEEPING UP WITH JONESES" BEGINNING TO LOSE ITS APPEAL

(By Kathy Sawyer)

The sturdy image of the stoic American worker always striving for an ever fatter paycheck to keep up with the Joneses is being challenged by a growing number of people who want to work less—and are willing to give up some of their pay to do so.

"People say, time is money. Well, I say less money is more time," explains Jim Quarto, a 27-year-old utility rate analyst for the state of Wisconsin who now shares his job and $14,500 salary with another worker. Quarto wanted more time to "fool around with the tenor sax." The elderly man who shares Quarto's state job, William Scanlan, wanted more time off to care for his ailing parents. They each now work only two or three days a week.

Joe Lynde, a teacher in Wisconsin, would like to share his job with his wife, leaving them each with free time equally in the rearing of their infant son.

"Working full time, I spent most of my energy and most of my waking hours on the job," Lynde says, "and it's not even my top priority. My son is."

These workers are among thousands of advance troops in a movement that is changing the way Americans perceive and handle their work time.

In St. Paul, Minn., an inner city bindery plant allows mothers who had been on welfare to work part-time in the plant, while their children are in school, and then go home early in the afternoon.

In Bolivar, Tenn., a factory where rearvision mirrors for cars are made is experimenting with a new work agreement that allows United Auto Workers union members to leave work each day as soon as they have fulfilled their daily production quota, whenever that may be.

Flexitime, a work scheduling system in which employees work four 10-hour days each week—or vary their starting and quitting times but do not reduce their hours—has also been gaining ground in both government agencies and private industry across the nation. The Carter administration is urging greater use of flexitime for Federal employees, and the General Accounting Office estimates that about 1.5 million to 2.2 million federal employees already are on flexitime.

The rising demand for more flexibility in work hours has been spearheaded by the growing number of women trying to juggle conflicting job and family responsibilities. Women now account for 40 per cent of the total American work force—almost double their proportion of workers in 1940—a change that labor market export Eli Ginzberg has called "the single most outstanding phenomenon of our century."

This is not just a "women's issue." The movement to change work arrangements has been joined by the elderly, the physically handicapped and younger workers, among others, who for various reasons have felt burdened or shut out by the 40-hour work week.

Their ranks include the welfare mother who wants to help support herself, as well as the middle-class matron with a simple desire for something useful to do; the wife whose second income puts her family over the survival line; the auto mechanic who wants time on the side to make a go of a business of his own; the young professional woman who wants to have children, but also to maintain a continuous record of employment; the attorney who wants time to write a novel; and the woman with a master's degree who was paralyzed in an accident and needs weekly therapy.

In Madison, Wisc., under a special federally funded program, dozens of public employees like Jim Quarto are voluntarily sharing their full-time jobs and their salaries with people who had previously been excluded from the work force because they could not work full time.

While millions of people want work and can't get it, others led by working mothers, complain in growing numbers that they have more work than they want. Because of legal, institutional and cultural rigidities in most occupations, they have found until recently a career job an all-or-nothing deal.

At a time when technology has spawned the tantalizing myth of a "leisure society," many people still find themselves trapped for much of their lives in the rat race. With more wives employed, "the modern married couple contributes an average of about 65 hours a week to earning a living—or as many as a Victorian couple at the turn of the century," according to one study.

In fact, in a survey of 82,000 full-time Wisconsin state employees, an unexpectedly high 6 per cent expressed an interest in reducing their working hours. "This means that some people are holding full-time jobs because that's their only option," said Carol Lobes, head of that state's job sharing program.

Other surveys have indicated that workers often become happier and more productive when work hours are reduced or rearranged to meet the needs of employees.

Some advocates of greater flexibility in work hours feel their task is merely a matter of consciousness raising. "In Maryland, we have a former state official who used to be opposed to the idea of part-time work," said state Del. Marilyn Goldwater (D-Montgomery County). "He had to leave because of high blood pressure. Now's he's back at work part-time. He has changed his attitude somewhat."

* * * * *

The Civil Service Commission has been sending pamphlets to federal managers extolling the virtues of flexitime, part-time employment and job-sharing as ways to strengthen their equal employment opportunity record, increase productivity, relieve costs, tardiness, employee turnover and absenteeism, extend the agency's hours of serv-

ice to the public, and generally "improve the quality of working life."

Congress is considering legislation that would set more precise requirements for increasing flexible work opportunities in government, as a model for the rest of the economy. And growing numbers of state and local governments are initiating experimental programs. Several public employees unions have supported such programs.

Voices of opposition, or indifference, to such arrangements—including much of organized labor—maintain that part-time or work-sharing programs are of little use in easing unemployment problems, could even contribute to them by ushering more people into the labor force, and will tend to depress the wages and rights of full-time workers. Some characterize the issue of alternative work schedules, in the words of one union spokesman, as "a vehicle for bored housewives and the academic elite."

On the contrary, says Rep. Midge Miller, of Wisconsin, "this is basic to life. Many women in our society are doomed to spend the last 20 or 30 years of their lives unemployed or under-employed.

"One reason that affirmative action hasn't been working," she added, "is that we'd offer jobs on conditions that women often couldn't meet."

The mother of nine children herself, Miller became interested in the subject because of her personal experience with the problem, she said. Along with Wisconsin Sen. Gaylord Nelson, she has been active in pushing special programs for more flexible work arrangements. The state passed a bill last month to promote part time jobs.

The standard 40-hour work week "has been a sacred cow since the depression," Miller said. "Well, we have different problems now."

HALF-YEAR STINT GIVES HIS JOB MORE ZEST

The atmosphere of Madison, Wis. is brightened not only by the glimmer of sunlight off the lakes that crowd its office buildings, but also by the high percentage of well-educated, forward-thinking young professionals who settle there after graduating from the state's mammoth university at the other end of the main street. It is a good climate for breakthroughs.

Still, Rex Peterson, 31, a parole officer, gets the same reaction one might expect anywhere else, when he describes his strange work routine. Peterson is taking turns with another person working six months at the parole office and then taking six months off.

"In the barber shop, for instance, where it's natural for one man to ask another what do you do? When I tell them, they're likely to say, 'Well, you don't have a real job,' or 'you're just lazy.' "

Peterson doesn't have what some would consider a solid reason for wanting the extra time off, such as children at home, or an illness, or some specific creative urge. "I wanted some time for introspection," he said, "to think where I'm going and what I want to do, to read, to travel . . . to realize some dreams."

He doesn't miss the other half of his $16,000 annual salary much. He and his wife, a teacher, had agreed that some things are simply more important than money. "Our only sacrifice has been in no longer accelerating our standard of living . . . It's easy to make just enough to live.

"I suppose I haven't achieved the American dream of upward mobility," said Peterson, a trim, bookish-looking fellow with glasses and short hair. He and his wife have decided to put off having children for a while, and they have invested some of their income in a 50-year-old house in which they are doing their own remodeling.

Social services "is a very emotionally draining job," Peterson said. "I'm a compulsive worker, so it takes me a lot of time to turn myself off . . . Geez, I found out it took me four months just to wind down."

His wife's teaching year ended at the beginning of the summer, about the same time Peterson's six-month "weekend" began. The two of them traveled for a while around Canada, camping out. (Fortunately), he noted, the woman who is sharing the other half of his job prefers the winter months off). Peterson devoted subsequent months to reading and other side interests and "to thinking about my life."

"There is a distinction between free time and leisure time," he said. "The latter is open-ended. I think it is one of the biggest challenges in life. Few people know how to handle it. I've been trying to learn."

As his time off drew to an end, he said, he started looking forward to going back to work, to seeing the people he works with.

For years, without success, Peterson had been asking his bosses to give him a half-year work schedule. He finally got his wish when the state started a federally funded experimental program designed to split jobs up in unusual ways.

In his line of work, over a period of time, Peterson said, "a person gets to where he doesn't have much left to give. He becomes cynical . . . But if you've taken a half-time job over a full-time job, you've made a choice. You obviously expect the job to be more meaningful than just a check. So I figure, you're a pretty worthwhile employee, dollar for dollar . . ."

Of course, in a job where you aren't turning out something like widgets, he noted, "that's pretty difficult to measure, or prove."—Kathy Sawyer.

NEW TERMS FOR NEW PATTERNS

Permanent part-time: a long-term job that requires fewer than 35 hours a week and more commonly only about 18 or 20 hours.

Job sharing: a form of permanent part-time work in which two (possibly three) persons jointly fulfill the responsibilities of one fulltime position with some degree of cooperation between them. Salary and fringe benefits (if any) are pro-rated.

Temporary full time job: one in which the job holder works a standard work day but on a short term basis, to fill in for a sick employee to accommodate peaks in business and the like. Such workers commonly are paid and assigned to their jobs by agencies that specialize in such services.

Work sharing: a device for redistributing the available work, or hours of work, in order to share the burdens of unemployment. For example, instead of laying off 10 percent of its work force, a firm might share the work by reducing work hours for all employees by 10 percent.

Flexitime: a flexible work schedule that does not reduce hours, but which allows employees to vary their starting and quitting time around certain "core hours," during which all employees must be present. Another form of flexible hours is the "compressed work week," which allows employees to work four days, 10 hours a day, and then take a three-day week end.

TWO HUNDRED YEARS AGO—THE 12-HOUR DAY, THE 6-DAY WEEK

(By Kathy Sawyer)

In the late 1700s, when most Americans worked on farms or in small family business, the average full-time worker spent six days,—a total of 72 hours a week,—on the job.

In the 1800s, as workers moved to jobs in large factories, employers shortened these hours by standardizing work to the tempo of the factory whistle and using new technologies to raise productivity.

The work week declined to 68 hours by 1860, and to about 65 hours at the turn of the century. By 1930, it was down to 50 hours a week.

The work week declined most dramatically—to 40 hours—in the Great Depression. This decrease was largely the result of the federal government's attempts, as a matter of policy, to cope with mass unemployment by redistributing, or sharing, scarce work opportunities.

Since then, the average work week has held steady at 40 hours, though workers have gained additional time off in the form of annual vacations and holidays.

Now, the forces that have kept work time "propped up" since World War II are shifting, according to some observers, and "should tilt the scales "in the direction of increasing leisure, or time-off, once again.

These forces, which now seem to be abating, include the heavy family responsibilities of the post-war baby boom, the increasing costs of rearing and educating children, and the "persistent yearning for a rising standard of living" which followed the deprivation of the Depression and the war, according to labor economists Sar Levitan and Richard Belous.

Adding to the tilt toward leisure, they say, is a shift in the makeup of the labor force itself "in the direction of those (women and younger workers) who give added weight" to time off.

With reduced birth rates, and the growing number of multiple paycheck families, Levitan points out, "shorter hours don't necessarily mean a reduction of per capita income for a household."

Others point out that the old tyranny of the factory whistle is often no longer possible or even desirable, for employers as well as employees.

Indeed, according to economist John D. Owen, of Wayne State University, in general, the "worst possible work schedule" for making economic use of such costly public investments as trains, highway and parks is a standard work week which forces nearly everyone into standard commuting and leisure time patterns.

WISCONSIN CITIZEN DESERVES TRIBUTE

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. KASTEN. Mr. Speaker, today I would like to bring to the attention of my colleagues the work of one of my constituents who has brought great pride to my State of Wisconsin.

Dr. John P. Grausz, a resident of Milwaukee, has compiled an extraordinary record in the field of medical care for infants. Largely because of his pioneering efforts in the field of neonatal care, premature infants who once were given little chance for survival are now growing into healthy, contributing members of our society.

These children and their parents will never forget Dr. Grausz. Because of his compassion for life, devotion to medicine, and recognition of the difficult problems associated with premature birth, Dr. Grausz innovated ingenious solutions and developed new technology designed to improve the chances for infant survival.

An example of his innovative medical technology is the invention of the "Grausz Respirator", a device that has

greatly reduced the incidence of chronic lung disease for small infants.

This past December marked the 10th anniversary of the founding of a facility in Milwaukee designed solely for infant care. Dr. Grausz is the founder of that facility, which is connected to the Milwaukee County Medical Complex.

In that brief 10-year period, the intensive care unit for premature infants drastically reduced the mortality rate for newborn infants.

Born in Budapest, Hungary, in 1932, Dr. Grausz came to the United States in 1957 to study pediatric medicine at Yale University. In 1967, Dr. Grausz came to Milwaukee, Wis., a metropolitan community that had no facilities to care for premature infants. He immediately began setting up a special care nursery, educating doctors in outlying districts, and training pediatric residents in the use of recently acquired techniques.

The name of Dr. Grausz will forever be remembered in Wisconsin. His concern for life and his desire to support families through those difficult times when their children are sick have marked him as a true public servant. I join the citizens of Wisconsin in paying tribute to this outstanding American.

THE B–1 BOMBER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. RINALDO. Mr. Speaker, the controversy over the B–1 bomber has been before Congress since this plane was first proposed by the Department of Defense. Yet, despite President Carter's decision to cancel production, the debate still goes on.

Despite making good on a campaign pledge, the Carter Administration appears to have hedged its bet by suggesting that the FB–111H could be modified to perform the penetrating role for which the B–1 was specifically designed. It is this apparent indecision which buttressed the arguments of those of us who believe that a manned penetrating bomber still has a vital role to play in the strategic Triad defense system.

I would like to include in the RECORD at this point a letter to the editor which cogently outlines the concerns of many of my constituents. It states, in effect, that the United States can afford to be lax in its dealings with the Soviet Union and must remain firm in its commitment to deter a first-attack by that nation.

I commend Mr. Freund's comments to my colleagues' attention.

BLUEPRINT FOR DISASTER

(By Howard Freund)

For those skeptics and appeasers of the Soviet Union amongst us, who do not believe in the importance of the Cruise missile (which enables our planes to launch their missiles safely and far removed from the target) or the B–1 bomber (which enables our deterrent to be delivered at super-sonic speed at low level), let me lay out a blueprint of what could happen without them.

Our land based missile deterrent is composed of 1,054 ICBMs (InterContinental Ballistic Missiles) of which 1,000 are Minutemen type missiles of one megaton (equivalent to one million tons of TNT).

None of these missiles will be launched according to directives from Washington unless and until Soviet missiles actually land in the United States. A one megaton bomb is 50 times more powerful than the bomb dropped on Hiroshima, which killed or wounded 130,000 people. The Soviet Union has in its arsenal an SS–9 missile with the power of 25 megatons.

The SS–9 is a first strike weapon, which Dr. John Foster, U.S. Director of Research and Development, wrote in 1972 could destroy 95% of our land based ICBMs, when they had 420 of them. Those of us who fear for the security of the United States know that our enemy has achieved its goal and that they have MIRVed the warheads needed to wipe out our land-based missile deterrent in one blow.

Dr. Edward Teller, the father of the hydrogen bomb, was questioned in 1972 on our security as follows, "If the Soviets launch a surprise attack against the U.S., what would be the result?" Dr. Teller answered, "The question is when. Now they could do terrible damage. In a few years, if present trends continue, it is practically certain that it will be the end of the United States. The U.S. will not exist . . . not as a state, not as a power, not as an idea." That was five years ago and the trends did continue.

Back to the scenario of what could happen, if we don't build the Cruise missile and the B–1 bomber and do it fast! Our seaborne deterrent consists primarily of 41 ballistic missile firing Polaris submarines each carrying 16 missiles. Part of this fleet is in port at all times with the balance at sea. Soviet killer submarines are at all times following this American deterrent and it could be destroyed in a coordinated attack at the same time bombs were falling on the United States. With the modern means of detection very few of our Polaris submarines would survive.

This leaves our aging B–52 and F–111 as the remaining deterrent. These planes can carry an average payload of 20 megatons per plane flying like sitting ducks at subsonic speeds.

Since the attacker would have the option of the time and date for the attack, you could expect the Soviet Union to attack the U.S. at night so that the retaliatory strike from us would have to come in the daylight. The scenario would call for a simultaneous attack by the enemy on all our SAC (Strategic Air Command) bases leaving only that portion of our air deterrent that is airborne, a threat to the Soviet Union.

The nightmare which could come as written or in the form of an ultimatum to surrender the sovereignty of the United States to the United Nations is written in the hope that American people will demand of Congress and the President that they build the Cruise missile and the B–1 bomber. If the Soviet Union knows that it will be destroyed if it attacks the United States, then and then only will our country be safe from attack.

STREAMLINING GOVERNMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for December 28, 1977, into the CONGRESSIONAL RECORD:

STREAMLINING GOVERNMENT

Next year the Carter Administration will unveil a raft of reorganization proposals to streamline government.

The pledge to reorganize government was one of the main themes of the Carter campaign for the Presidency. This year the Congress quietly extended the Reorganization Act which allows the President's plans to create, abolish or consolidate federal agencies, or parts of cabinet departments, to become effective unless either House or Senate passes a resolution disapproving the plan. The reorganization aim is not so much the savings of dollars and manpower, although these considerations are important, as it is improving the efficiency and effectiveness of government services.

Given President Carter's emphasis on government reorganization in the campaign, his efforts to streamline government are off to a slow start. He has created a new federal department, the Department of Energy, and two of his reorganization plans have been approved by Congress: one shuffled the parts of the Executive Office of the President and the other combined the United States Information Agency and the State Department's Bureau of Educational and Cultural Affairs. The Executive Office reorganization plan, the basic thrust of which is to strengthen the role of the cabinet, will reduce the White House staff by 28% and save $6 million in payroll costs each year.

So far the reorganization moves have been only minor skirmishes compared to what is coming soon. The Office of Management and Budget, where most of the reorganization proposals originate, has been working diligently on reorganization and management plans, and at least eight proposals from 31 reorganization projects now underway are slated to go to the Congress next year. Plans to consolidate federal civil rights functions, now scattered throughout government, and to reform the management of the federal government's civilian workers are likely to come early in 1978, and two new departments, one for education and another for the environment, may also be recommended. Under present law the President may not abolish or create entire cabinet departments, so these proposals would require affirmative consent by the Congress. Other areas likely to be targets for reorganization next year are the 200 to 250 local and community development programs, the agencies dealing with the nation's borders, and the 110 federal agencies that enforce federal laws.

Other reorganization studies examine economic and food policy, intelligence agencies, defense management, civil disasters, and services to needy persons. Another group of projects are underway to improve management in government. These include the abolition of hundreds of advisory commissions, the reduction of paperwork, the simplification of OSHA rules, increased use of data processing in the delivery of government services, a reduction of requirements imposed by federal agencies on state and local governments, and the elimination of the collection of unnecessary statistics.

If only a part of these reorganization plans and management initiatives are implemented, major steps will have been taken to reduce the present bureaucratic mess. The offshoots of reorganization have already been significant. Requests to create additional governmental units are down sharply and several departments (HEW, HUD, Agriculture) are already reorganizing independently.

It is easy to be cynical about reorganization schemes. After all, procedures and organization are no substitutes for sound policy. Moreover, executive branch reorganization

has an enduring quality about it. The first comprehensive study of the workings of executive agencies took place in 1905 and at least since the 1920s reorganization of government has been a popular concept. Since then frequent commissions have recommended changes to various Presidents and Congresses, often without results. Although the increasing scope of federal government activity has compelled political leaders to focus attention on how to organize the government for better efficiency, reorganizations are often carried out as much for political as managerial purposes. Congress itself created many of the units of government that would be merged or eliminated and some Congressmen can be expected to want to preserve what they helped create. There is no shortage of advice on how to reorganize the executive branch since recommendations pour forth from national commissions, executive branch self-study panels congressional committees and private organizations.

I am encouraged by the major emphasis President Carter is placing on reorganization of government. I plan to consider sympathetically his reorganization proposals and to support them if they are reasonable. I favor the incremental approach to reorganization, that is, the step by step approach, rather than the sweeping reforms sometimes recommended by commissions. Next year will be a major year for government reorganization. I am hopeful that proposals will be presented to the Congress and approved which will make government more efficient and productive, eliminate unnecessary agencies, save money, reduce the government's impact on the lives of people, and allow cabinet members rather than White House staff to run the government.

DEREGULATION OF NATURAL GAS AND OIL

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. STEERS. Mr. Speaker, judging by the mail I have received this past year, the people of the Eighth Congressional District in Maryland are concerned about the lack of an effective energy policy for this country. In particular the people of Montgomery County have expressed their concern, both for and against, on the question of adequate incentives for the domestic production of natural gas and oil.

During House consideration of the President's energy bill, H.R. 8444, I voted against the deregulation of natural gas. I was concerned about the effects of deregulated gas on consumer bills. I was informed by people from the natural gas industry that the $1.75 per thousand cubic feet price the President proposed would be an adequate incentive for continued development of domestic natural gas. One of the best cases made for continued regulation of natural gas prices was in a column by Hobart Rowen in the Washington Post of October 13, 1977. I am inserting it into the record at this time.

[From the Washington Post, Oct. 13, 1977]

GAS DEREGULATION: "THE PUBLIC IS BEING HAD"

(By Hobart Rowen)

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.).

It's important to get some impression of the monumental nature of the rip-off. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 per cent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 per cent, and profits boomed by 50 per cent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observed that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural gas was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-taxtable maximum of 48 per cent. Of course, no industry pays 48 per cent. "If they paid more than 7 per cent [as an effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.03 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming. . . .

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious worldwide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispers, fretful of the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about moral attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural gas prices as well.

There is also a great deal of concern about the incentives present in the President's bill for domestic development of oil. Let us keep in mind that all new oil would "float" to the world price in about 3 years if the President's bill is approved. It is only oil that is already been drilled for that would be subject to the Crude Oil Equalization Tax. The stumbling block has been what to do with the revenues from this tax. At the present time, I have not heard of a plan for the sound use of these revenues that I can support. I certainly do not see the need for plowing back the tax to oil companies for an incentive on oil already drilled. The incentive on what can be realized for new oil drilled fits what the major oil companies have requested. It is my opinion that the new oil price will spur further the domestic development of oil reserves that is already going on now.

CRIPPLING THE CIA AND FBI

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. RUDD. Mr. Speaker, I have many times in this Chamber expressed my deep concern over the calculated assaults on the Federal Bureau of Investigation and the Central Intelligence Agency, by those who seem intent upon emasculating our Nation's vital intelligence efforts.

These concerns were eloquently stated in a recent "Point of View" column by Jack Valenti, former adviser to President Lyndon B. Johnson and currently president of the Motion Picture Association of America, which was published in the Washington Star.

Mr. Valenti warned that,

From my intimate government experience I count the steady, exhausting blows on the FBI and CIA to be the first assaults on the way to an irretrievable national blunder.

Mr. Speaker, these concerns transcend partisan politics, and cut to the very fabric of our Nation's security and the well-being and safety of all our people. I would like to include Mr. Valenti's sober warning at this point in the RECORD:

[From the Washington Star, Jan. 20, 1978]

CRIPPLING THE CIA AND FBI

(By Jack Valenti)

This is not going to be applauded in the dining salons of my East Side Manhattan liberal friends, but somehow I cannot shake the queasy notion that we—as a nation, goaded by well-intentioned people—are sys-

temically destroying the ability of the CIA and the FBI to function effectively in the long-range best interests of this country.

It is politically given that denouncing "dirty tricks in Chile" and the alleged blunders and felonies that are ascribed to every action, real or imagined, of the CIA are guaranties of maximum publicity.

Moreover, one need say only "J. Edgar" and the senses are stunned by an emotional avalanche of black-bag treachery and stealthy bureaucratic Machiavellianism. Mr. Hoover's critics are of a piece with Anglican clergyman Hurrel Froude who when speaking about a sullied archbishop who met his end by being fried to a crisp at the stake, said: "The only good thing I know of Cranmer is that he burnt well."

There is little doubt that Hoover not only "burnt well" but, even worse, he stayed too long. With his apotheosis, he became crotchety and overbearing (when mortals assume divinity there is a noticeable loss of humility). But one need not embrace Hoover lovingly to point out that the FBI over a long stretch of time has been and remains the most professional and highly motivated police force in the world.

During my three years as a White House assistant under President Johnson, I discovered the work of the FBI and the CIA was invariably superior. Both made errors but their excellence more than outweighed their laxities. To find this quality confounds the rhetoric of so many who distrust and disprize both organizations.

During the great intra-government debates of 1965 when the decisions to intrude more troops into Vietnam were taken, it was the CIA's estimates which time has shown to be most nearly correct. If the agency's dour assessments were overlooked or overridden the CIA cannot be faulted. It did its job.

If the CIA was deployed into areas and into events that later lacerated their reputation one must understand that Higher Authorities instructed the CIA and, once again, it did its job as ordered.

To rawhide the FBI for the latter-day imperfections of an old man, implacable, grown to legend, is to misplace the location of what Lytton Strachey in another context referred to as the "seats and nurseries of vice."

The fact, as any sober intelligence will perceive, is that the FBI is still the best police force in being; with a spirit-shrunken, unevenly motivated FBI, we would be less than slightly underguarded in a more than substantially unsafe society.

And while it is not inappropriate for the CIA to place faith in the abstruse technology of satellites and laser beams and whatever else is now possible, most experienced observers agree that an alert and effective intelligence-gathering organization is needed more than ever. Is it really a confirmation of idealism to be blind and mute in a world seething with rude uncertainties?

Yet the virulent shredding of the FBI and the CIA hangs over the future of both those groups.

From my intimate government experience I count the steady, exhausting blows on the FBI and CIA to be the first assaults on the way to an irretrievable national blunder. The world and this nation are sometimes a collection of not very nice neighborhoods. Moreover, in our free and liberty-loving land it is not possible (nor would we choose it to be possible) to deal sternly, summarily and finally with either criminals or spies as is done with such dispatch in totalitarian countries.

Therefore, if we strip the CIA and FBI raw, if we so foul their environment that no professional would want to risk his life and his family's for a flimsy gratitude or a shaky cause, if no person would be willing (for whatever reason) to tell either group something that he or she knew that might be of value in appraising an enemy or identifying a criminal since no file is safe from intrusive eyes, then we will be, by intent and conditioned judgment, collapsing our once-professional intelligence gathering and our once proud and incorruptible investigatory police force. How sure then would we be that justice, however slow, would be readily available—until it is all too late to measure?

It is wrong to blind the CIA, and to stunt the FBI. It is wrong because the alternatives are so meager.

THERE ARE TOO MANY TURKEYS IN GOVERNMENT

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. HAGEDORN. Mr. Speaker, one of the major problems facing the American farmer is the cost-price squeeze in which he is caught. But he has other problems as well. Time magazine sums up one problem in an article in its January 2, 1978, issue titled "Rage over Rising Regulation." Says Time: "To autocratic bureaucrats, nothing succeeds like excess."

Mr. Speaker, my friend and colleague, Congressman WILLIAM WAMPLER of Virginia, ranking Republican member of the House Agriculture Committee, pointedly discussed these and other problems facing the farmer in a speech before the annual convention of the National Turkey Federation in Houston, Tex., on January 12, 1978. I would like to take this opportunity to share his remarks with my colleagues in the House:

REMARKS OF REPRESENTATIVE WILLIAM C. WAMPLER

As one Virginian to another, thank you Chip Strickler, for that warm introduction. But I would like to clear up one thing.

When Chip introduced me as the bald eagle of the Cumberland, that didn't bother me. But what did bother me was his earlier suggestion that, in talking with you this morning, I let my hair down.

Chip, you can't have it both ways:

I'm sure there are many of you here who feel you're getting it both ways from the Federal government, however, you can help to change that—by making sure your views are known and your voices are heard in Washington.

Too often, men and women able to provide answers to problems or at least point us toward solutions are reluctant to get involved.

As a result, viewpoints presented to the legislative and executive branches of government are often unbalanced. When the Carole Foremans come before the Congress, for instance, they're laden down with facts and figures to support their pre-conceived—and often misguided—notions of what's best for the country. When the environmentalists and consumer advocates espouse their causes on Capitol Hill, their chorus drowns out other more experienced and reasoned voices.

The problem, as I see it, is not so much what these adversaries of agriculture are telling the Congress but rather what professionals like you are not telling the Congress.

I found this the case in developing legislation in 1976 and 1977 to expand Federal funding and support for agricultural research which had been sadly neglected in preceding years. As it turned out, we managed to incorporate the legislation into the 1977 farm bill—thanks in part to the support of your federation. But too many men and women who should have come forward to support this legislation did not.

However, we still need help on this one. Even though the Congress authorized over $1 billion for agricultural research, teaching and extension activities for fiscal 1979, the biggest amount ever, we still need to press for the full appropriation to ensure this program will move forward. You can help by contacting the Congressman from your district and the Senators from your State to support this vital funding.

There are other ways you can make your views known in Washington. Already, reverberations against excessive overregulation by the Federal bureaucracy are beginning to be felt across America and in the halls of Congress.

In an article entitled "Rage over Rising Regulation," Time magazine says in its issue of January 2, 1978, that the American people have about had it with autocratic bureaucrats to whom "nothing succeeds like excess." Time notes that there are 87 federal agencies and offices with 100,000 employees whose chief job is to "keep the private sector behaving as big brother sees fit." The combined operating expenses of only 30 of these agencies tracked down by the magazine totals nearly $3 billion a year.

Can you imagine a small farmer or rancher or businessman trying to defend himself against what he considers unjustified charges brought by a massive bureaucracy with near-unlimited funds and overabundant personnel?

He could go broke just paying the legal expenses necessary to win his case—and that's happened before:

According to Time magazine, there's a—and I quote—"deepening revulsion among Americans against the excesses of bureaucracy (which) suggests that a showdown is imminent."

You—each of you—can help in this showdown. If an agency of government is unduly harassing you, make sure your Congressman and your Senators know about it. If bureaucrats try to impose unwarranted restrictions on you, alert your federation and prepare to fight. You'll find a lot more people in your corner than you ever believed possible in this era which seems to hold that "big is beautiful" when it comes to Government.

Don't misunderstand me: There are valid areas for Government involvement and regulation. I'm sure we all agree on that. That's not the problem.

The problem is that congressional authorization to regulate soon becomes the bureaucrat's unlimited license to hunt and his unchecked mandate to control.

The public notices of products banned or businesses penalized become the markers justifying his agency's existence and his own slot on the payroll.

The American farmer has enough problems without being overloaded with excessive Federal regulations and overzealous administrators. Let me talk about the American farmer and his problems for a moment.

As I see it, the agricultural strike now underway is simply the farmer's way of dramatizing to the American people that he's in trouble. His costs are going up and up while the prices he receives from what he produces are going down. He is caught in a terrible economic squeeze.

On top of this, market conditions at home and abroad are deteriorating. There's an overabundance of crops and a scarcity of buyers. The farmer is in the midst of a severe credit crunch and cash flow crisis. Worse yet, this nation is headed for huge surpluses which will compound the problem even more.

If this isn't bad enough, the parity ratio—the difference between the farmer's purchasing power today and what it was in the 1910–14 period adjusted for the 10 most recent years—is at 66, near the lowest point since the great depression of the 1930's.

In spite of the fact that the President and his secretary of Agriculure were once farmers, this administration in less than one year has led American agriculture away from:

Total net farm income averaging $26 billion during the Ford-Butz years to less than $20 billion in 1977.

Record farm exports reaching $24 billion in 1976 to less than $22 billion in 1977.

Federal expenditures for farm programs at the rate of $2.3 billion annually a year ago to an annual rate today of $8.6 billion.

Individual farmer ownership of commodities toward a return of centralized government control which once cost taxpayers more than a $1 million-a-day just for storage.

Freedom for the farmer to decide on when and what to plant and market and toward a whole new and complex set of regulations governing planting and marketing.

Across most of rural America these days, the farmer is in the midst of a depression which has reduced his purchasing power to the rough equivalent of what it was for his parents in the early 1930's.

Unfortunately, the 1977 Food and Agriculture Act which passed the Congress and was signed into law in September fails to come to real grips with most of the problems facing the farmer. In fact, in some ways it compounds them.

The 1977 farm bill is a far cry from what Jimmy Carter promised as a candidate and what he delivered as President. One of my colleagues summed up the legislation well in these terms: "We ended up with less than we need, more than we expected and about all we could get—given the opposition of the White House and the makeup of the Congress."

The makeup of the Congress—that's a big part of the problem.

This is a liberal, urban-oriented Congress, the number of Congressmen representing rural areas is less than half what it was just a few decades ago . . . and many of the rural Members are liberals. It is consumer-minded. It is new and untested—certainly as far as agricultural problems are concerned.

Let me illustrate the point with some arithmetic:

Since the 1973 bill was passed, some 165 new House Members and 29 new Senators have arrived in Washington. In fact, well over half of the House—233 Members—has been elected since 1973, in the Senate, 42 Members are in their first term.

In the House Agriculture Committee, there's a new chairman TOM FOLEY of Washington. There's a new ranking minority member: me. Nine of the 10 subcommittee chairmen are new. In fact only 16 out of the 46 Members on this Congress' Agriculture Committee were in the House when the last major farm bill was written in 1973.

In spite of this, we developed legislation which contains parts of which I am proud—for example, the agricultural research title I mentioned earlier—and parts of which cause me concern. Unfortunately, too many of the amendments which would have made this bill better for the farmer and more effective for Agriculture were either beaten down in the Agriculture Committee or on the House floor during debate.

Although I don't want to sound too partisan a note here, I commend my Republican colleagues on the Agriculture Committee and in the House for their amendments—some of which helped to make this bill more palatable to farmers. I can tell you honestly the 1977 farm bill is better legislation because of their efforts. Unfortunately, I am afraid it doesn't go far enough to stave off economic hardship in the farm areas of the country.

What concerns me at this point is the way the tinkerers and meddlers have not only taken over implementation of the 1977 farm law but agricultural policy generally. Take, for instance, Government-controlled grain reserves. At a time we desperately need an aggressive policy to offset declining exports, we are re-establishing Government-manipulated grain reserves. The way I see it—the plan is to put between 30 million and 35 million metric tons of wheat and feed grains into a Government-controlled reserve this year and next—twice the amount we sold the Soviet Union in 1972.

This grain reserve idea ties in with "cheap food policies" advocated by the administration. As soon as prices for farm commodities start up, you can bet your last nickel the administration will release Government-owned supplies to drive prices down. This reserve pretty well assures farmers that prices won't rise much above the loan rate for the next two years . . . and "cheap food," as you know, eventually means "cheap turkeys."

In sum, the Carter administration's planners have set in place the policy markers which they want American agriculture to follow in the years ahead—with cheap food, Government-controlled grain reserves and fewer exports as starters. Before they tinker more, let me remind them that the road to farm prosperity is not mapped by heavy-handed bureaucrats or environmentalists or consumer advocates or the hunger lobby. It is charted by the hard work of the American farmer combined with a market place which assures him a fair return on his effort.

In my view, there's no question the problems facing the farmer must be eased and his situation improved. The responsibility to do that rests both with the Carter administration, which can use existing laws to help, and with the Democratic-controlled Congress, which can—and should—repair the obvious deficiencies in the 1977 farm bill.

As the senior Republican on the House Agricultural Committee, I will work with both the administration and my Democratic committee colleagues for a marketing system that will bring parity to the producer, plenty to the consumer and prosperity to our Nation.

The next move, however, is up to President Carter and the Democratic leadership of the Congress.

For the sake of American agriculture as well as the country, I wish them well.

VOLUNTARY CITIZEN FINANCING FOR THE ARTS AND EDUCATION

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. RICHMOND. Mr. Speaker, on January 4, 1977, I reintroduced legislation which would provide an opportunity to individuals to make volutary financial contributions, in connection with their income taxes, for the advancement of the arts and education. The arts and education in the United States are on the brink of disaster and unless drastic action is taken thousands of museums, symphonies, and community theatrical groups will be forced to shut down; while educational institutions curtail necessary and important programs.

The bill, H.R. 1042, seeks to utilize the Federal income tax returns as a conduit to substantially increase public support to both the National Endowment for the Arts and the National Endowment for the Humanities. The bill would provide for space on the first page of the Federal income tax returns for contributions to the National Endowments which would be made in addition to income tax payments or in lieu of refunds. The funds raised by the checkoff would be used for direct subsidies to institutions, organizations, community groups, and artists, and not for administrative costs of the National Endowments.

According to Harris polls called Americans and the Arts conducted by the National Research Center for the Arts, a checkoff provision such as this could generate nearly $2 billion annually for the cultural community. The polls show that 64 percent of the adult public would be willing to pay an additional $5 a year while 36 percent would pay an additional $50. Utilizing these statistics and projecting them over 83 million taxpayers, one could reasonably assume that $1,743,120,000 annually would be contributed to the National Endowments should this legislation be enacted.

It is a sad fact of life for the arts and education that revenues from tuition, gifts, tickets, royalties, or related services result in only half of the necessary expenditures. Other nations such as England, Germany, Sweden, and even the Soviet Union strongly support their arts and education through government subsidies, while our Nation's artists and educators continue to scrounge for every penny. The Federal Government has appropriated $255 million for the National Endowments of the Arts and Humanities, but that is not enough, not at a time when over $1 billion is necessary.

It is indeed ironic that the United States which boastfully considers itself the center of Western culture has permitted the arts and education to deteriorate to the point where each day more and more time and energy is devoted not to the development of the creative potential but in a fight for financial survival.

This legislation would substantially increase taxpayers participation in the financing of the arts and education insuring their continued growth, vitality, and strength while increasing participation and enjoyment. The effects of this bill would be felt not only by the large institutions such as Yale University and the Metropolitan Museum of Art but also by small community insitutions and groups such as Hamilton College, the Phoenix Theater, Brooklyn's Project Grow, and artists and educators throughout the Nation.

Since its introduction, H.R. 1042 has received endorsements from arts and education leaders. The benefits of this legislation are best described by the following statements from distinguished representatives of the cultural constituency which I submit into the RECORD:

COMMENTS BY ARTS AND CULTURAL REPRESENTATIVES ON H.R. 1042

Congressman Richmond's Bill to enable taxpayers to use their tax forms for making voluntary contributions to the National Endowment for the Arts and Humanities represents a major new approach that not only

benefits the nation's cultural life but heralds the unique method for forging a closer partnership between the national government and the individual citizen.

All recent surveys indicate that many millions of Americans are quite willing to contribute more and strengthen America's role in the arts. The Richmond Bill gives them a simple, effective vehicle for which they can express their support. It is truly an ingenious measure encouraging as it does a unique American spirit to voluntarism for the mechanics of government.

I sincerely hope that this Congress will grant its speedy approval—*Theodore Bikel, President, Actors Equity Association.*

I join other members of New York's cultural community in lauding Congressman Richmond's Arts and Humanities Bill as a means of relieving the intense financial difficulties of the nation's cultural institutions—*Thomas Hoving.*

The Associated Actors and Artistes of America and all of its affiliated bodies wish to express their full support for Congressman Richmond's Bill. Among its values is the opportunity it gives to citizens to express in terms of genuine interest and support their concern for the arts and humanities. It will also give the individual patron a sense of closeness and participation in those cultural elements that make the greatest contribution to a civilized society—*Frederick O'Neal, International President, Associated Actors and Artistes of America.*

As President of the New York Shakespeare Festival, one of the oldest nonprofit theaters in the United States, I foresee a sorely needed increase in revenues resulting from the enactment of Congressman Richmond's proposal.

It should prove to be a most important contribution toward encouraging gifts in support of the Arts and establish an ever broadening popular base for the National Endowment.

I strongly urge the widest support for this measure—*Joseph Papp, President, New York Shakespeare Festival.*

Anything that will get more money into the hands of the arts institutions is terrific. I don't see how this could fail to do so since it creates increased visibility for the arts while assuring their stability—*Harvey Lichtenstein, Executive Director, Brooklyn Academy of Music.*

I strongly favor this Bill since it will give an opportunity to all Americans to contribute toward the enrichment of their lives and especially in a time of economic crisis. The arts are indeed a part of everyday life which affect every person in every community theater, workshop, dance, murals, beautification of neighborhood. They are a common denominator which improves the quality of life of all Americans—*Charlene Victor, Executive Director, Brooklyn Academy of ture Association.*

For too many years, performing artists in the United States have subsidized the arts by working for substandard salaries and under the most insecure conditions. Meaningful public financial support for the arts is long overdue in the United States. Congressman Richmond's bill would provide the means for making secure the financial assistance of our prized musical arts institutions, making it possible to bring to millions of American people, in all parts of the U.S. the best performances of symphony, opera and ballet—*Irving Segal, Chairman, International Conference of Symphony and Opera Musicians.*

Congressman Richmond's bill is an innovative provision and a significant first step in the importance of the arts in this country. It would undoubtedly strengthen the National Endownment of the Arts enormously—*Martin Oppenheimer, Chairman of the Board, City Center.*

From the unusual vantage point of operating a non-profit theatre in the heart of Washington, I see not only the urgent needs of our national cultural institutions, but a new willingness of the public and its legislators to guarantee the survival of the arts. H.R. 1042 may well be the catalyst to bring these positive strains together in insuring the activities of our cultural institutions. Only then can the arts concentrate on their proper jobs—to enrich the quality of our lives.

I support Congressman Richmond's bill without reservation—*Louis W. Scheeder, Producer, Folger Theatre Group.*

The proposal, HR 1042, advanced by Congressman Richmond to permit our citizens to designate a contribution to the arts on their Federal Income Tax Form is a splendid solution to an increasingly difficult problem. Museums, a major part of the arts organizations of America, are experiencing great difficulties in continuing to provide the opportunities, services and resources which are so avidly utilized by our citizens. The fact is that private philanthropy, corporate support and governmental funding on a Federal, state, county, and municipal level have not kept pace with the rising cost and expanding services. The resulting crisis situation would be greatly ameliorated by permitting citizens from across the nation to directly participate in funding the arts. National surveys have demonstrated their willingness to do this.

The American Association of Museums endorses HR 1042 and urges its passage—*Joseph Veach Noble, President, American Association of Museum, Director, Museum of the City of New York.*

The NAEA endorses the Bill, H.R. 1042, which you have introduced to provide revenue for the arts.

As you know, the National Art Education Association represents the visual arts teachers in the United States and are concerned that arts be available to every child and every American would seem to be well served by your efforts.

The Board wished me to further convey to you our appreciation and support of your various activities and initiatives on behalf of the arts in America.—*John J. Mahlmann, Executive Director, National Art Education Association.*

Finally, Mr. Speaker, I would like to include some of the names of the organizations and individuals who have expressed to me their interest and support: (Institutional affiliation listed for purposes of identification only).

ORGANIZATIONS, COMPANIES, UNIONS

Actors Equity.
Alabama State Council on the Arts and Humanities.
Albright-Knox Art Gallery.
American Association of Community and Junior Colleges.
American Association of Museums.
American Composers Alliance.
American Crafts Council.
American Federation of Musicians, Local 802.
American Federation of Television and Radio Artists (AFTRA).
American Guild of Authors and Composers (AGAC).
American Guild of Musical Artists (AGMA).
American Guild of Organists, N.Y. City Chapter.
American Guild of Variety Artists (AGVA).
American Music Center.
American Music Conference.
American Society of University Composers.
American String Teachers Association.
Art Academy of Cincinnati.
Art Libraries Society of North America (ARLIS).
Artist's Rights Today (A.R.T., Inc.).
Artists Equity Association of Washington, D.C.
Artists Equity of New York.
Arts Council of North-West Essex (New Jersey).
Arts Council of Tampa-Hillsborough County (Florida).
Association of American Dance Companies.
Atlanta Art Workers Coalition, Limited.
Atlanta College of Art.
Atlantic Richfield Company.
Black Spectrum Theatre.
California Dance Management.
Center For The Study of Alternative Futures.
Chicago Screen Educators' Soviety, Board of Directors.
Childrens Theatre Association.
College Art Association of America.
Connecticut Commission on the Arts.
Contemporary Art/Southeast.
Cultural Executives Council, Inc.
Cummins Engine Co., Inc. (Columbus, Indiana).
Delta Omicron International Music Fraternity.
Department of Studio Arts, University of Minnesota.
Detroit Area Film Teachers.
Directors Guild of America, Inc.
Educational Film Library Association.
Eliot Feld Ballet.
Georgia Council For The Arts And Humanities.
Greater Tampa Chamber Of Commerce, Florida.
Hebrew Actors Union.
Hudson County Cultural And Heritage Affairs, New Jersey.
Idaho Alliance For Arts In Education.
International Alliance of Theatrical Stage Employees & Moving Picture Operators of U.S. & Canada (IATSE).
International Conference Of Symphony And Opera Musicians (ICSOM).
International Native American Council for Arts.
Iowa Arts Council.
Italian Actors Union.
Kauai Academy of Dance and Music (Hawaii).
League of Resident Theatres (LORT).
Memphis Arts Council.
Michiana Arts And Sciences Council.
Mid-America Arts Alliance.
Mid-Iowa Arts Association.
Minnesota American String Teachers Association.
Minnesota Dance Theatre And School.
Missouri Association of Community and Junior Colleges.
National Assembly of Community Art Agencies.
National Association of Composers, USA.
National Association of Music Merchants.
National Association of State Directors of Art Educators.
National Association of Teachers of Singing.
National Art Education Association.
National Council of Arts Administrators.
National Society of Literature and the Arts.
Nebraska Art Council.
New Jersey State Council on the Arts.
Northwest Film Study Center.
Oregon Music Educators Association.
Organic Theatre Company of Chicago.
Pacific Northwest Dance (Seattle).
Paramount Pictures.
Pennsylvania Council on the Arts.
Philadelphia Arts Exchange.
Philadelphia College of Art.
Puppetry Guild of Greater New York, Inc.
Reuben Mack Associates.
San Diego Dance Theatre, Inc.
Screen Actors Guild (SAG).
Screen Extras Guild.

The Asia Society.
The Associated Actors and Artistes of America (AAAA).
The Authors Guild, Inc.
The Brevard Arts Council (Cocoa, Fla.).
The CF Martin Organization.
The College Music Society.
The Community Film Workshop of Chicago.
The Cultural Education Collaborative (Boston, Mass.).
The Great-American Children's Theatre Company (Milwaukee, Wis.).
The Junior League of Harrisburg, Inc.
The Hymm Society of America.
The League of New York Theatres and Producers, Inc.
The Memphis Academy of Arts.
The Mime Workshop.
The Puppeteers of America.
The Shakespeare Players, Inc. (Richmond, Va.).
Theatre Memphis.
Theatre Vanguard.
University of Idaho, School of Music Faculty.
University Resident Theatre Association.
Virginia Island Council on the Arts.
Writers Guild of America, West, Inc.
Young Audiences.
Young Filmakers, Inc.
Edward Albee.
Eddie Albert.
Harold Arberg (Dir. Arts & Humanities, USOE HEW).
Paul B. Arnold (Pres. Nat'l Assoc. of Schools of Art).
Martina Arroyo.
Lewis M. Bachman (Exec. Dir. American Guild of Authors/Composers).
Richard Barr (Pres. League of NY Theaters & Producers).
William Baumol.
George Bayliss (Dean, School of Art, University of Michigan).
Elmer Bernstein (Pres. Composers & Lyricists Guild of America, Inc.
Leonard Bernstein.
Theodore Bikel.
Anthony A. Bliss (Executive Dir., Metropolitan Opera Association).
Martin Bookspan.
Michael Botwinick (Dir. Bkyn. Museum).
Robert Brustein (Dir. Yale Rep. Thtr.).
Burt Burda (Chr. Idaho Alliance for Arts in Education).
Dr. Richard Callner (Pres. Council of Art Dept. Chairmen, SUNY).
Harry Chapin.
Earl L. Collins (Co-Chairman Wisconsin Alliance for Arts Education).
Aaron Copeland.
Geri Crichley (Experiment in International Living, D.C.).
David Crownover (Exec. Dir. Philadelphia Arts Alliance).
Paul Curtis (Dir. American Mime Thtr.).
George Cuttingham (Pres. American Academy of Dramatic Arts).
Ellsworth Davis (Mng. Dir. Hartford Ballet).
John de Lancie (Dir. Curtis Inst. of Music).
Agnes DeMille.
Walter Diehl (Internat'l Pres. IATSE).
Barry Diller (VP Paramount Pictures).
Benedict Di Salvo, Dir. Oklahoma Arts & Humanities Council.)
Walter Drake.
John Duffy (Meet the Composer).
David Emmes (Artistic Dir. S. Coast Repertory).
Patricia Ewald (Dir. Worcester Office of Cultural Affairs).
Avery Fisher (Board Mem. Lincoln Center).
Robert Fitzpatrick (Pres. Cal. Inst. of the Arts).
Henry Fonda.
Jane Fonda.
Joan Fontaine.
Lukas Foss.
Robert Freeman (Dir. Eastman Sch. of Music).
Tom Frost (CBS Records).
Robert Glenn (Prod. Shakespeare Festival of Dallas).
Kenneth L. Graham (Chairman, Theatre Arts Dept., University of Minnesota).
Jack Gravelee (Chairman, Speech and Theatre Arts Dept., Colorado State U.).
Louis Bush Hager (President, American Academy of Dramatic Arts).
James Hall (Pres. Empire State Coll.).
Wynn Handman (Pres. Am. Place Thtr.).
John Hersey (Pres. Authors League of Am.).
Hiram R. Hersey (Dir. PA Counc. on the Arts).
John Hightower (Pres. South St. Seaport Museum).
Margaret Hillis (Dir. Chicago Sym. Chorus).
Lois Hobbs (Pres. Nat'l Sch. Orch. Assoc.).
Jeffrey Hoffeld (Dir. Newburgh Museum—NY).
Beverly Hoffman (Exec. Dir. Staten Island Council on the Arts).
Celeste Holm.
Thomas P. Hoving.
Dale Huffington (Pres. Am. Thtr. Assoc.).
Anthony Keller.
Kathleen Killilea (Dir. Arts Exchange NH).
Lincoln Kirstein (NYC Ballet).
Robert Klotman (Pres. MENC).
Ed Koch (Mayor of NYC).
Al Kochka (Exec. Dir. NJ State Council on the Arts).
Leo Kraft (Pres. Am. Music Cntr.).
Roger Larson (Dir. Young Filmakers).
Nat Lefkowitz (Chr. of Bd. Wm. Morris Agency).
Harvey Lichenstein (Exec. Dir. Brooklyn Academy of Music).
Viveca Lindfors.
Lorin Maazel (Dir. Cleveland Orch.).
John Mahlmann (Exec. Dir. NEAE).
Delbert Mann (VP Directors Guild of Am.).
Stanley Marcus (Chr. Nieman-Marcus).
Mary Martin.
Robert Martin (Arts Writer, Tampa Times).
Anthony Mazzocchi (Leg. Dir. Oil Chemical & Atomic Workers Internat'l Union).
Goldwin McClellan (Business Committee on the Arts).
Keith McPheeters (Dean, Sch. of Fine Arts and Architecture, Auburn U.).
Peter Mennin (Pres. Juilliard School, Lincoln Center).
Dina Merril.
Robert Merrill.
Bea Miller (Pres. Theater Memphis).
I. Irwin Miller (Chr. Cummins Engine Co.).
James Moeser (Dean, U. of Kansas).
Henry Moran (Exec. Dir. Mid-America Arts Alliance).
Robert Motherwell.
Louise Nevelson.
Joseph Noble (Pres. AAM).
Kathleen Nolen (Pres. Screen Actors Guild).
Eugene Ormandy (Dir. Phil. Orch.).
Frederick O'Neal (Internat'l Pres. Associated Actors & Artistes of America).
David Oppenheim (Dean School of the Arts NYU).
Joseph Papp.
Roberta Peters.
William W. Pisenti (Pres. Irate Taxpayers Committee).
Carl Pistilli (Artistic Dir. Children's Theater Association).
Jeno Platthy (Pres. Third Internat'l Congress of Poets).
Dennis Power (Dir. Santa Barbara Museum of Natural History).
Leslie Propp (American Music Conf.)
Jacinto Quirarte (Dean, Coll, of Fine & Applied Arts U. of Texas at San Antonio).
William Reynolds (Pres, Coll. Music Soc.).
Cliff Robertson.
Charles Robinson (Dir. Hudson Coun. Cultural & Heritage Affairs).
Richard Rodgers.
Dorothy Rodgers.
Mary Rodgers.
Leonard Rose.
Goerge Sadek (Pres. Coll. Art Assoc. of Am.).
Terry Sanford (Pres. Duke U.).
Robert Sarnoff.
John C. Sawhill (Pres. NYU).
Sam Scheer (Am. Craft Council).
William Scheide (Dir. Bach Aria Group).
Gerald Schoenfeld (Schubert Foundation).
Gunther Schuller.
Thomas Schutte (Pres. Phil. Coll. of Art).
Pete Seeger.
Rudolph Serkin.
Robert Shaw (Music Dir. & Conductor Atlanta Sym. Orch.).
Catherine Filene Shouse (Chr, Exec. Comm. Wolf Trap Farm for the Perf. Arts).
Elie Siegemeister (Pres. Nat'l Council for the Creative Arts, Libraries & Museums).
Beverly Sills.
James Sjoland (Dir. Comprehensive Arts in Education Planning).
Joseph Sloane (Chr. NC Art Comm).
Thomas Smith (Dir. Ohio Hist Soc.).
W. Thomas Smith (Exec. Dir., The Hymn Society of America.
Teri Solomon (Exec. Producer, The Great-American Children's Theatre Co.
Stephen Sondheim (President Dramatists Guild, Inc.).
George Sorenson (Chairman, Dept. of Theatre Arts, Texas Christian University).
David Spatola (Exec. Dir., Siouxland Arts Council, Sioux City, Iowa).
Janos Starker.
Henry Steinway (Pres. Steinway & Sons).
Isaac Stern.
George Stevens Jr. (Dir. Am. Film Inst. Kennedy Cnt. for the Perf. Arts).
Roger Stevens (Chr. Kennedy Cnt. for the Perf. Arts).
Robert Suderburg (Chancellor NC School of the Arts).
Nicholas Terrlizzi, Sr. (Pres. Capezio).
Bette Uris (Exec. Dir. Arts Council of Rockland County—NY).
Melvin Van Peebles.
Robert Vaughn.
Edward Villella.
John Vincent (Pres. Nat'l Association of Composers, USA).
Joseph Vincent (Exec. Dir. Rome (NY) Hist. Soc.).
Dean Charles Well, Bloomington, IN).
Richarad Westerburg (Music Dir. Cathedral of St. John the Devine).
Kaye Calfee Wideman (Pres. Delta Omicron Internat'l Music Fraternity).
Naj Wikoff (Dir. Dutchess County (NY) Arts Council).
Charlotte Wilcox (Gen. Mng. Nat'l Thrt. Co.).
Harold Williams (Dean Grad. Sch. of Management UCLA).
Willis Woods (Dir. Art Seattle Museum).
Charles Woolfolk (Asst. Dean Douglass Coll. Rutgers U).
M. J. Zakrzewski (Exec. Dir. Alabama State Counc. of the Arts & Humanities).

ENERGY RESOURCES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. BOB WILSON. Mr. Speaker, it is difficult to understand the meandering mind of California's Governor Brown, particularly with respect to the

obvious need for more energy sources in the future of America's fastest growing State.

He ignores the logic and conventional wisdom that supports nuclear power as a clean nonpolluting solution to today's energy needs, and instead opts for way-out unproved sources, thus jeopardizing the quality of life for our citizens. I include with my remarks today a column from the San Diego Union of January 22, 1978, entitled "How Brown Built His Case Against Sundesert":

HOW BROWN BUILT HIS CASE AGAINST SUNDESERT * * *

(A central issue in the case of the proposed Sundesert nuclear power plant is whether Southern California utilities can generate sufficient electricity from non-nuclear sources to supply demand which the Sundesert plant is designed to meet by 1985. These excerpts from the published record show how the alternatives of coal and oil, geothermal, solar, fuel cells and purchased power from Mexico were ruled out by the state Energy Commission and then, in the last two months, were resurrected by Gov. Brown and others in his administration in what appears to be an orchestrated campaign against approval of the Sundesert plant.)

April 14, 1977—"Both SDG&E and staff witnesses agreed that central station solar electric generation is not a viable generating alternative to all or part of the Sundesert project within the time frame it is proposed. John Garrick of SDG&E testified that the solar electric concepts now under consideration are generally estimated to be very expensive, even excluding the energy storage system which would be required before solar power could be used for base-load capacity. Alec Jenkins of the staff agreed with Mr. Garrick that this technology, although potentially highly productive, is not sufficiently developed to be considered a viable alternative during the next decade."—Preliminary report of the Energy Commission committee assigned to the Sundesert project, signed by commissioners Richard Maulin and E. E. Varanini III.

April 14, 1977—"According to R. W. Watkins, the company's price of oil for SDG&E's existing plants has increased eightfold since the beginning of this decade This, along with the federal government policy discouraging the use of oil as a fuel source and the significant air pollution problems of oil use, has convinced SDG&E that oil-fired plants are not a viable source of baseload power generation.

"The Commission staff agreed that because of its increasingly high prices, oil does not appear to be an economically competitive fuel for baseload plants. However, staff witness Miner did state that if the price of oil relative to the price of uranium decreases, combined cycle plans could become a viable baseload alternative.

"On the basis of this evidence, the Committee finds that oil-fired technologies do not represent a viable alternative source of baseload generation presently available to he applicant (SDG&E)."—Preliminary report of the Energy Commission committee assigned to the Sundesert project, signed by commissioner Richard Maullin and E. E. Varinini III.

Nov. 14, 1977—"On the basis of the evidence, it appears that fuel cells are a promising alternative to the technologies which have traditionally been relied upon. Because various technical and economic uncertainties remain as to precisely when fuel cell units will be commercially available, they cannot in our view be regarded as firm resources available to SDG&E during the next decade and thus as potentially providing an alternative to the proposed project."—Final report of the Energy Commission committee assigned to the Sundesert project, signed by commission chairman Richard Maullin.

Nov. 14, 1977—"Based on (the) evidence, we have concluded that a coal-fired facility represents an economically competitive generating alternative to the Sundesert project, but that air quality standards, and the absence of a technology adequate to permit their being met, are currently-existing obstacles to a coal fired plant representing a reasonable alternative to the Sundesert project at this time."—Final report of the Energy Commission committee assigned to the Sundesert project, signed by commission chairman Richard Maullin.

Nov. 14, 1977—"It is estimated that 500 to 600 megawatts of geothermal capacity would require 50,000 acre feet of water per year, which if supplied from Imperial Valley agricultural waste water, would lower the level of the Salton Sea by approximately two feet and significantly increase its salinity. And, as just discussed, numerous substantial technical and cost uncertainties remain as yet unresolved. Nevertheless, the staff concluded that if the various demonstration projects prove successful, there will exist no insurmountable obstacles to the production of up to 2,000 megawatts of electricity from geothermal reservoirs in the region by 1990 provided a vigorous effort to develop the resource is made.

"Because the economic and technical feasibility of geothermal will not be determined until about 1980, it cannot at this time be deemed a firm, realizable alternative to the Sundesert project."—Final report of the Energy Commission committee assigned to the Sundesert project, signed by commission chairman Richard Maullin.

Nov. 14, 1977—"Ronald Watkins, testifying for the Applicant indicated that SDG&E, the Republic of Mexico, and a third interested party have discusssed construction of either two 600-megawatt or two 350-megawatt units in Mexico, which would use either coal or oil. San Diego Gas & Electric has expressed to Mexico its interest in the purchase of energy from the plant. . . .

"The option of purchase power from Mexico is still in the discussion stages and is subject to a large number of uncertainties. While these uncertainties preclude any finding on whether or to what extent this purchase power option might affect the need for Sundesert, purchase power from Mexico should be subject to continuing scrutiny as a viable option for southern California electric needs."—Final report of the energy Commission committee assigned to the Sundesert project, signed by commission chairman Richard Maullin.

Nov. 14, 1977—"The Sierra Club will commit its moral and physical resources to challenge (the Sundesert) proposal. . . . It is a national question. . . . What we need to do is to explore . . . all alternatives to the nuclear future."—J. William Futrell, national president of the Sierra Club, at a news conference in San Diego.

Dec. 2. 1977—"The state Energy Commission is paying the Sierra Club up to $5,000 to study locations for a fossil-fuel burning alternative to San Diego Gas & Electric Co.'s Sundesert nuclear plant, it was learned yesterday. . . . Michael Eaton, a Sacramento lobbyist for the Sierra Club, said the environmental organization was asked to look at a selection of locations the commission believes could be used as sites for a fossil-fuel alternative to Sundesert."—From a new story in The San Diego Union.

Dec. 11, 1977—"There is a strong likelihood that no new nuclear plants will be built in California, partly because of Gov. Brown's increasing distrust of nuclear technology.

"Although he has not said so in public, the governor's opposition to nuclear power now is almost total, sources close to the Brown Administration have disclosed.

"His resolve about nuclear is becoming a lot firmer than it was a year ago,' one source said. 'Jerry is feeling very strong—no nuclear.' "—From a news story in the Los Angeles Times.

Dec. 22, 1977—"The state Energy Commission yesterday gave initial approval to San Diego Gas & Electric Co.'s Sundesert nuclear power plant, but cut the size of the project in half and set nearly 50 conditions for continued processing of the project. . . .

"(Commission Chairman Richard) Maullin demanded as a condition for proceeding with hearings that new notices of intention be filed to identify acceptable alternative sites and related facilities.

"Maullin later told a reporter that this meant SDG&E should look at other means of Generating its needed electricity as well as other locations for a power plant."—From a news story in The San Diego Union.

Dec. 23, 1977—"It is clear that current and planned air quality regulations will allow construction of new fossil fuel power plants in California. The plants will generally be required to incorporate the latest and best anti-pollution controls, but these controls are available at reasonabe cost."—Tom Quinn, chairman of the state Air Resources Board, in a letter responding to an Energy Commission inquiry about coal and oil fired power plants and air pollution.

Dec. 27, 1977—"The (Energy Commission) staff has identified an alternative strategy to Sundesert that deserves serious consideration and scrutiny . . .

"A 500 megawatt conventional coal plant could supply baseload energy for Sundesert participants . . . The staff assessment of air quality issues indicates that this alternative would be environmentally acceptable. However, certain unreasonably restrictive air pollution limitations would have to be modified to make this alternative legally permissible . . .

"Imperial Valley geothermal could provide 600 to 800 megawatts of baseload power by the mid-1980s if several planned demonstration projects are successful . . .

"Photovoltaic fuel cells, biomass, wind central station and solar energy might be used to provide limited amounts of electricity in the late 1980s, although each of these alternatives have yet to demonstrate practical, large scale commercial application . . ."—From an Energy Commission staff report on an inquiry into alternatives to the Sundesert project.

Dec. 29, 1977—"I recommend that geothermal and other energy alternatives be utilized where possible to defer construction of nuclear power plants until the probem of nuclear waste disposal can be satisfactorly solved. . . . Geothermal, perhaps in combination with a coal-fired plant of 500 megawatts, is in this particular area (Southern California) a viable alternative to nuclear energy."—Priscilla Grew, state director of conservation, in a letter to Governor Brown.

Jan. 14, 1978—"The Brown administration yesterday seized on San Diego Gas & Electric Co.'s negotiations to buy electricity from a proposed Mexican power plant as another reason why the proposed Sundesert nuclear project is not needed . . .

"Gov. Brown and California Public Utilities Commissioner Robert Batinovich encouraged construction of the Ensenada plant during a short meeting Thursday with Mexican President Jose Lopez Portillo and Roberto de la Madrid, governor of Baja California Norte.

"Brown then told a reporter the electricity SDG&E could buy from Mexico 'certainly **makes Sundesert less necessary.'**

"Batinovich went even further and said because of the Mexican electricity 'Sundesert is not needed in the time frame they (SDG&E) have been discussing.'

"SDG&E Vice President B. W. Colston, who has been pushing both the Sundesert nuclear project and the agreement with Mexico, disagreed. . . . Because the power would not be from a guaranteed source, Colston said, 'it could not be included in our energy plan by the PUC.'"—From a news story in The San Diego Union.

NONANSWERS WOULD NOT DO

Last September, Bob Moretti resigned from the state Energy Commission charging that this powerful new agency was leading California toward "catastrophic" energy shortages. He said he couldn't stomach its bureaucratic approach to problem solving—"taking the longest possible time, producing the greatest amount of paper, using the largest possible number of people to produce the least-offensive non-answer."

It was possible, in September, to attribute Mr. Moretti's blast to a political falling-out in Sacramento. The former Assembly speaker, a Democrat, had been an opponent of Governor Brown in the 1974 primary. But in January, with the benefit of watching the Brown Administration's performance in the Sundesert case, we can credit Mr. Moretti with an astute grasp of how the Energy Commission is producing nothing but non-answers to a major energy question.

For eight Southern California utilities, the answer to meeting their projected power demands for the period beginning in 1985 is to build a nuclear generating plant in the desert near Blythe—a proposal in keeping with environmental standards and the national goal of divorcing energy requirements from imported oil.

The utilities, which began planning their project in 1972, built a positive case for Sundesert in hearings which began in the fall of 1976 before the Energy Commission. Their $25 million worth of paperwork is a monument to regulatory demands. However, with the approach of D-day for the commission's recommendation to the Legislature on clearing the Sundesert plant, there has been an eruption of nonanswers of the kind Mr. Moretti described—an effort by Governor Brown and his aides to build a public case for alternative nonnuclear energy sources.

The contradictions and wild surmises by Brown appointees in the Sundesert record are a textbook example of how to deliberate an issue to death. A revealing summary of that record appears on our editorial page today. This retreat from logic would be be amusing if it did not threaten a decision that could launch Southern California into an era of rationed electricity under the euphemism of "conservation."

Richard Maullin, the governor's long-time political associate who heads the Energy Commission, was complaining in November that President Carter's coal conversion policy was bad news for California because our air quality standards do not make coal-burning a likely alternative for new power plants. But in December it was obvious that coal had to figure in any alternative scheme for Sundesert. Tom Quinn, who managed the governor's 1974 campaign and is now chairman of the state Air Resources Board, obligingly declared coal-burning plants would present no problem after all.

Testimony before the Energy Commission has established that commercial application of geothermal generating technology is too far in the future to be counted as an alternative to Sundesert. Never mind. Priscilla Grew, the state director of conservation, stepped forth to proclaim that a network of geothermal plants in the Imperial Valley and a large coal-fired facility could substitute for Sundesert.

The governor himself joined the anti-Sundesert chorus on his recent trip to Mexico, advancing the proposition that California could get electricity from a plant under consideration for Ensenada—another "alternative" to Sundesert. This was far-fetched enough for Assemblyman Alister McAlister of San Jose to conclude, and rightly so, that the governor and his commission are now grasping at straws—"concocting any pie-in-the-sky scheme" to avoid giving approval to a nuclear power plant.

Mr. Brown told us in his State of the State message that he wants California to be "the cutting edge of new ideas" for the technological future, but his bemused energy policy is simply aimed at cutting off the option of nuclear energy. In proposing to put state funds into demonstration projects to prove out the possibilities of drawing energy from the sun and wind, plant life and gassified coal, he is only admitting that those alternatives require more development.

Time is running out on Sundesert. The Energy Commission has the dice in its hand for a frightening gamble that fossil fuels and unproven technology can somehow keep our lights on through another decade of growing energy demand. The implications of forcing San Diego Gas & Electric Co. and seven other utilities to move back to square one in planning and building substitute power plants are staggering, considering the economic, technological and regulatory hurdles in their path.

In his resignation letter last September, Mr. Moretti urged the governor to beware of the "unsound judgment" of members of the Energy Commission who are dedicated to an antinuclear, no-growth philosophy in controlling energy development. The governor must have thrown the letter in the wastebasket.

FOREIGN MINISTER EXPLAINS—RHODESIAN LEADERS SEE YOUNG-OWEN PLAN AS SURRENDER

(By Robert Letts Jones)

SALISBURY, RHODESIA.—The U.S.-British "settlement" plan for Rhodesia is viewed here as a demand upon the white government of Ian Smith for unconditional surrender.

This blunt assessment of the recent diplomatic maneuvering of Andrew Young, U.S. ambassador to the United Nations, and Dr. David Owen, British foreign secretary, was expressed at length in an exclusive interview with P. K. van der Byl, Rhodesia's minister of foreign affairs.

With surprising candor, he outlined to me his theory of the outcome of smaller nations' having to conform to the dictates of the superpowers of the world on internal matters.

Specifically, he was referring to the one-man, one-vote pressure on his government.

Van der Byl made clear Rhodesia's feelings about the arrogant attitude toward his country of Young and Owen. He likened the recent maneuvering against his country to the western allies' decisions in World War II at the Casablanca and Yalta conferences.

Van der Byl described the demand position determined at Casablanca for the unconditional surrender of Nazi Germany as "an utter disaster." To him, that formula meant "that no German, however moderate, could do anything but fight to the death." As a result, the Rhodesian felt, World War II was prolonged for at least another year and, thus, millions of lives were unnecessarily lost.

"The most disastrous feature of the whole thing was that it gave the Russians the time to push their advance right into East Germany and absorb in the Soviet empire all of those countries of Eastern Europe for which we went to war to preserve their integrity against the Nazis."

His historical analysis was directed at the domineering attitude of the United States and Great Britain toward the concept of one-man, one-vote for the country where there are about 270,000 whites and six and one-half million blacks.

What happens to Rhodesia under such circumstances, he asked, when his country is the target of world scorn ever since its defiant declaration of independence from Great Britain in 1965?

Although the foreign minister had been born in South Africa, he had known the politics of Rhodesia since he moved there in 1951. His schooling had been gained at Cambridge and then Harvard, where he earned a degree in business administration.

During World War II he commanded a troop of the 7th Queen's Own Hussars throughout the Italian campaign.

Besides his foreign ministry post, he is minister of information in the Ian Smith cabinet.

Van der Byl declared to me that "if the disgraceful Anglo-American proposal, with the Russians backing it, should be successfully imposed upon my country, Rhodesia will disappear."

That would result, as he saw it, in all the whites going into oblivion and the twenty or thirty thousand people of mixed race and of Asiatic origin would disappear. "So would the more than six million blacks," he said.

"That would be disastrous for all of us, who would have to endure such pressure.

"However, as far the outside world is concerned, it wouldn't mean much.

"But from another point of view of the world, it would mean everything, because the whole of this business is making a kind of watershed."

He emphasized that an imposed U.S.-British formula would create "a whole new principle of international rule."

"You would have then established the fact that any country, which is not a superpower and which is of an independent, nationalistic disposition, will be unacceptable to the Russians.

"Furthermore, any country which, by its conduct, offends the latest interpretation of the socialist, so-called democratic ethic of the Anglo-Americans, which is all meshed in with the Russians, will be singled out for this sort of special attention.

"In other words, it will sound the death knell of independent nationhood for a country which is not a superpower."

To van der Byl, "it is the sort of bogeyman we have been fighting all our lives, a world socialist government imposing itself on the rest of the world.

"These proposals, presumably hallowed and sanctified by their pasage through the U.N. Security Council, become a United Nations plan which the whole world body sets out to impose."

He characterized this concept as being fostered by the United States, Great Britain and Russia, "working together," however much they may appear to differ on things like the SALT agreements, nuclear limitations and that kind of thing."

This forthright spokesman for Rhodesia's foreign policy made clear his belief that the three major powers were working together to a surprising degree. Furthermore, it was clear to him that the U.S. and Britain, "under no circumstances," would risk confrontation with the Russians.

"If all the business is established in principle in the case of Rhodesia, then that will not be the end of the matter.

"It will merely be the beginning of a whole new process where one country after another will be singled out for this attention.

"The next one obviously would be South Africa, with all that that action would imply in terms of global strategy."

He referred to the oil which goes around the Cape of Good Hope and "Russian naval domination of the Indian Ocean and southern Atlantic."

In effect, he inferred that the domination formula would, in time, mean communist control of the entire lower part of Africa.

If application of the formula were continued, the next country doomed for such big power attention would be Israel, as van der Byl foresaw the scenario.

"Israel offends the Russians. There are clear signs that it also offends the Americans and the British, because it is nationalistic and racist up to a point—infinitely more than we are.

"I don't think support for Israel today, in terms of the American administration, is as great as it was in the past, largely because it is offensive to the Soviets."

After Israel, van der Byl suggested Chile would likely be next on the list under the domination formula.

"Then Argentina, Uruguay, Paraguay, Guatemala, or possibly even Brazil.

"It would swing back across the Atlantic, and Iran would be next. Iran is highly offensive to the Russians because it resists them and it sits on the Soviets' border. On top of that, Iran got its original Persian provinces back from Russia.

The foreign minister also cited the large oil reserves of Iran, "which is a nice thing to divide up and highly offensive to the present interpretation of the Anglo-American democratic-socialist ethic."

"The Shah runs things in his country, which is what he was put in there to do. And he hasn't got one-man, one-vote, nor ceaseless strikes nor terrorists running free.

"It is an undemocratic and oppressive country, and he has that lovely oil to divide up."

Van der Byl put Saudi Arabia next on the list for treatment of the big-power domination formula.

"Saudi Arabia doesn't run itself on an American or Westminister democratic pattern. And it also offends the Russians mortally because it is doing such things as sustaining Egypt, in spite of Moscow's attempts to do so and after the fact that the Russians have been thrown out. Furthermore, Saudi Arabia resists the Kremlin's satellites, like Libya, and supports the Sudan, which, in turn, supports Somalia and the dissidents in Ethiopia.

"All of these places will be singled out for attention.

"It may take a century to do it, but it is the beginning of the end of any such thing as independent countries running their affairs on a basis of genuine self-determination.

"It's the biggest colonialization the world has ever seen. And the guinea pig is Rhodesia. If it works here, nothing will stop it.

"If we can stop it here, then there is a chance for the rest of the world."

Van der Byl didn't go so far as to say that the United States and Great Britain were supporting Russia's satellite states which border on Rhodesia. But he felt there was no doubt that the U.S. and Britain were "trailing along" with the Soviet take-over of southern Africa.

THE IMPACT OF NUCLEAR NON-PROLIFERATION TREATIES

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. McCORMACK. Mr. Speaker, the first session of the 95th Congress has seen extensive debate on the question of possible proliferation of nuclear weapons as a result of civilian nuclear power programs. Nowhere has this debate been expressed in as enlightening, candid, and thought-provoking a manner as in the remarks presented by Dr. Gerald F. Tape before the Atomic Industrial Forum on November 30, 1977. Dr. Tape is eminently qualified to address this subject, having served as Deputy Director of Brookhaven National Laboratory, Commissioner of the U.S. Atomic Energy Commission, U.S. representative of the International Atomic Energy Agency, and a a member of various advisory commissions. He is currently president of Associated Universities, Inc.

In his remarks, Dr. Tape identifies the confused and mistaken assumptions of the administration in its efforts to insure the nonproliferation of weapons grade nuclear material. He points out the unconscious use of dual standards within proposed administration policies, such as U.S. insistence on export conditions we would not accept if the roles were reversed and we were the importers. Finally, he shows how these attitudes are being carried into new nonproliferation initiatives, such as the international fuel cycle evaluation (INFCE), and how they may well prevent any positive results from these most important efforts.

Mr. Speaker, I believe Dr. Tape's views should be considered by all of us in the Congress who are sincerely trying to develop policies to help reduce the potential for nuclear weapons proliferation, while taking advantage of the God-given blessings of nuclear energy. I am therefore inserting the text of his remarks in the RECORD, and recommend them as important reading for all Members.

REMARKS BY GERALD F. TAPE, ATOMIC INDUSTRIAL FORUM

THE IMPACT OF NON-PROLIFERATION INITIATIVES

Nuclear non-proliferation initiatives are not new. In the early 1940's the scientists' self-imposed control on the dissemination of then sensitive nuclear information was soon followed by the rigorous policy of classification by the Manhattan Project. With the end of World War II and the early recognition of benefits to be obtained from nuclear developments in the civilian sector, new initiatives were needed; extensive security classification was not the long-term answer.

The Baruch Plan set forth in 1946 for internationalizing the atom was farsighted. It set forth the need for restraint in nuclear weapons development and for international safeguards and penalties for diversion in civil nuclear programs. All of us should, over thirty years later, re-read Mr. Baruch's June 14, 1946, speech to the United Nations Atomic Energy Commission; it is enlightening.

By the early 1950's, it was recognized that the national security classification route could not prevent proliferation. The facts of nature were available for discovery by those who sought them, and they were being acquired. Other nations, recognizing the benefits to be gained from various nuclear applications, initiated their own indigenous programs. Without constraints, such programs could have led to nuclear weapons proliferation. A new approach was needed.

President Eisenhower, in his Dec. 8, 1953, speech to the United Nations General Assembly, provided the stimulus; his theme was international cooperation. He recognized the inevitability of a widely dispersed base of nuclear knowledge and technology and the need for restraint and control in its use. Thus, a tradeoff was proposed, namely, assistance in bringing the benefits of the atom to mankind at an earlier date and at reduced cost but under international agreements that committed the recipient nations to limiting such benefits to peaceful pursuits.

At the same time, the Congress of the U.S. recognized the need for major legislative changes, and the Atomic Energy Act was significantly amended in 1954. The U.S. domestic nuclear program could then be pursued more in the tradition of openness and by private enterprise while still providing for safeguards against diversion. Similarly, consistent with the President's initiative, provision was made for international cooperation under suitable agreements for such cooperation.

The International Atomic Energy Agency (IAEA) was created to assist in the implementation of President Eisenhower's new initiative through the sharing of information, by bringing technical assistance to developing nations, and by creating and operating a system of international nuclear materials safeguards. Established in 1957, the IAEA now has 110 members; it has just observed its 20th anniversary.

The Non-Proliferation Treaty (NPT) that came into force in 1970 contains explicit declarations of obligation on the part of its adherents, which now number 101 states.

Thus the fabric of U.S. non-proliferation policy has been woven from 1) the Atomic Energy Act of 1954, as amended, including its requirement for international agreements for cooperation; 2) the International Atomic Energy Agency with its programs of safeguards and technical assistance; 3) the Non-Proliferation Treaty and the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco), with their obligations on the parties; and 4) the technical, economic and diplomatic resources of the U.S.

What has happened to stimulate the flurry of new initiatives now confronting the nuclear technical and diplomatic communities? There are too many factors to list them all; a few will serve to illustrate.

1. The Indian nuclear explosion of May 1974 caused people to recognize: a) that the development of a nuclear explosive capability is not necessarily confined to advanced, industrialized nations, and b) that indigenous nuclear explosive capabilities could be developed outside of established constraints.

2. The transfer of sensitive nuclear technologies to non-nuclear weapons states (NNWS) without a requirement for safeguards on plants constructed thereafter and on their special nuclear material products has become a serious problem. This concern for the transfer of sensitive nuclear technologies has been extended to include even NPT party NNWS.

With the production of increasing quantities of plutonium from civil activities, many have been ready to accept scenarios involving nuclear terrorism, overnight fabrication of nuclear explosives, and unjustified abrogation by some NNWS of their NPT commitments to peaceful application.

The knee jerk reaction has been to get tough, even to the extent of imposing, on a unilateral basis, conditions that go beyond existing agreements or treaty understandings. Such actions, however, could have the opposite and undesirable effect, that is, driving a nation into developing its own indigenous nuclear capability with or without safeguards. Also, in order to keep proliferation opportunities out of the marketplace, there must be a consensus among suppliers on conditions for export; the cooperation of customer nations is required as well. In other words, to be successful, new non-proliferation initiatives require an international consensus.

For the U.S. to be successful in promoting and achieving its non-proliferation objectives, it must be a leading exporter. If no one buys from us, we can be ignored. To be a successful exporter, we must meet the competition on all its terms. This is not to

say that the competition dictates, but it does say that we can't put our heads in the sand and ignore the real world of today. Obviously, the supplier with an available product and a record of dependability has an edge. The ability to deliver reactors and associated equipment, to supply enriched uranium, and to accept spent fuel for storage or reprocessing in an assured and timely way will provide considerable leverage. In general, bilateral negotiations that show respect and understanding for national sovereignty and for local conditions or problems can be successful where a unilateral "take it or leave it" posture will fail.

Soon after the NPT came into force, it was necessary for the parties to examine and define the conditions of export to non-NPT NNWS' so that NPT commitments would be met. As a consequence of the Zangger Committee deliberations in Vienna, many NPT party nations advised the IAEA that each had adopted certain conditions for export of nuclear materials and equipment to NNWS' and that IAEA safeguards would be required. Since NNWS-NPT parties were already covered by full-scope safeguards, they were not affected. The U.S. was a participant in the work of the Zangger Committee.

The U.S. has recognized that no nation can unilaterally set standards for controls in the interest of non-proliferation. Whatever actions are taken, they must be acceptable both to the suppliers (plural) and the customers (plural). The Zangger Committee, as a consultative group, took significant first steps for the export of special nuclear material and for specified equipment. The London Suppliers Group has taken additional steps, responding inter alia to problems associated with the categorization of so-called peaceful nuclear explosives (Prohibition on Nuclear Explosions), terrorism (Physical Protection), requirements for IAEA safeguards (Safeguards), sensitive technologies (Safeguards Triggered by Transfer of Certain Technology, Special Controls on Sensitive Exports, Special Controls on Export of Enrichment Facilities), and possession or use of weapons-usable materials (Controls on Supplied or Derived Weapons-Usable Material, Controls on Retransfer).

Other initiatives are now in various stages of implementation or consideration; for example, those contained in the Nuclear Non-Proliferation Act of 1977, and the search for more proliferation-resistant alternatives under the U.S. Non-Proliferation Alternate System Assessment Program (NASAP), and the International Fuel Cycle Evaluation (INFCE). Before proceeding, let me set the background by some personal observations.

Future actions taken to enhance U.S. non-proliferation objectives must inter alia be guided by the following:

1. We must build upon and strengthen the existing institutions, the IAEA and the NPT. If they are destroyed, there is no way that they can be replaced by something better.

2. The international character of the problem underscores the requirement at all levels—bilateral, multilateral and international—for full consultation and agreement. The IAEA and the NPT are the result of international agreements. Future agreements and understandings must have equivalent acceptance.

3. Unilateral actions by one government, especially actions that tend to alter or expand previous agreements or understandings, will be perceived as a breach of faith and in the long run will be counterproductive.

4. Although a longtime world leader and supplier in the nuclear field, the U.S. no longer has a monopoly. There now are other industrialized nations sophisticated in nuclear technology and able to supply nuclear power systems and enrichment and reprocesing services.

5. Differences among nations in economic conditions, in levels of development, in national security needs and in cultural backgrounds do exist; national sovereignty is also a factor. These cannot be ignored; differences must be accommodated.

Overshadowing all of the above is the foreign customer nations's view of the credibility of the U.S. as a responsible supplier of nuclear equipment and services.

In my view, an NTP party NNWS desiring to obtain a nuclear power plant and associated fuel supply services would be prepared to accept stringent proliferation controls, provided it had firm assurances that the continued fulfillment of the agreement on its part would result in essentially routine export of the call for materials and services as needed over the life of the agreement. The basic issue is whether or not the U.S. will fulfill its obligations under the agreement and not use subsequent arrangements and export licenses to "up the ante". The answer to this question will be a major factor in determining whether or not the U.S. will be a responsible and credible partner. If the answer is ambiguous, the potential customer nation will seek cooperation elsewhere, or, in the extreme, may initiate or accelerate its own indigenous developments. Either of these latter courses would erode the U.S. role as a strong nonproliferation force. Thus any process of implementation that is subject to uncertainty, delay, interference, etc., will be suspect.

Let me now turn to the International Fuel Cycle Evaluation (INFCE) program, which I consider to be a new initiative. What has its impact been, and what might it be in the future? On the positive side, the underlying reason as originally stated—to seek viable proliferation-resistance alternatives to a plutonium breeder economy—was good shock treatment to make us look at the safeguardability of a plutonium economy. On the negative side, the first pronouncements that called also for cancellation of the Clinch River Breeder Reactor (CRBR) and indefinite delay of reprocessing sounds like the first step in trying to eliminate worldwide the LMFBR as an energy option. For those of us who had had prior technical experience with some of the suggested alternatives, we were concerned that the President was abandoning known technologies and existing institutional arrangements for the unknown, a highly questionable move in the eyes of other nuclear advanced countries.

Nowhere is the technological fix more in demand than in the area of non-proliferation. But this is only one aspect, though a very important one, of the problem; political and institutional questions are also of great importance. To a considerable extent, these latter factors were of great importance for those nations that reacted negatively to the President's April 1977 pronouncements. However, this is now the end of 1977 and, as a result of much debate, many consultations, and acceptance of compromises, an orderly process of building a better decision base is under way.

Dr. Joseph S. Nye, Jr., Deputy to the Under Secretary for Security Assistance, Science and Technology, in an address before the Eighteenth Strategy for Peace Conference sponsored by the Stanley Foundation in October of this year said,

". . . Many have misinterpreted the position of the United States on the breeder. We are not anti-breeder. We believe that a breeder research program is an important energy insurance policy. Indeed, even without the Clinch River Breeder, President Carter proposed to spend some $450 million in this fiscal year on breeder research. What we do oppose is premature movement toward a breeder economy where the presence of directly weapons-usable material would be widespread. This, when combined with its economic and technological deficiencies, is the basis for President Carter's position on the Clinch River Project.

"We believe that we have time to explore on an international basis more proliferation resistant breeder fuel cycles, ones that would minimize the presence of directly weapons-usable material. This, of course, is one of the major objectives of the International Nuclear Fuel Cycle Evaluation. . . . We envision that it will examine all the factors that impinge on various fuel cycle alternatives—timing, cost, technical feasibility, and the like. In the end, we hope to separate myth from reality about the breeder and develop an international consensus based on agreed facts."

As a technology-oriented group, we here should support exploration of every option in an objective and straightforward way. But at the same time, we must ask the plutonium breeder opponents also to be objective, not to prejudge, and not to try to legislate technical outcomes. I abhor the sometime practice of winning by preventing the competition from competing. In an open technological competition, everyone's work can be scrutinized by others. Our non-proliferation policies must be based on technically sound grounds and not on dredged up expectations. I am pleased that INFCE will examine all alternatives including the breeder and reprocessing. I would note the following from the INFCE Communique issued at the conclusion of the Organizing Conference in October 1977.

"The participants agreed that INFCE was to be a technical and analytical study and not a negotiation. The results will be transmitted to governments for their consideration in developing their nuclear energy policies and in international discussions concerning nuclear energy cooperation and related controls and safeguards. Participants would not be committed to INFCE's results.

"The evaluation will be carried out in a spirit of objectivity, with mutual respect for each country's choices and decisions in the field, without jeopardizing their respective fuel cycle policies or international cooperation, agreements and contracts for the peaceful use of nuclear energy, provided that agreed safeguards measures are applied."

As technologists and industrialists, let us get behind INFCE and make it as technologically factual as we know how. Let us also treat the institutional problems in an open and fair way. This can be done through the various U.S. supporting efforts to INFCE and especially the Non-Proliferation Alternatives Systems Analysis Program (NASAP). Unfortunately, there is little if any time to develop new technical information through R & D. Whatever the final outcome, let us not give others a basis to conclude that the technological and institutional bases for decision were deficient or slanted.

In making this plea to the technical participants, I make a similar plea to those having more politically-oriented interests. If the U.S. objective is to use INFCE to cause confusion and delay in order to provide time to kill the plutonium breeder, U.S. influence as a non-proliferation force will be further destroyed and we will quickly become nuclear isolationists with no influence. INFCE now is not a study of alternatives to reprocessing and the breeder; it is a study of alternatives including the breeder and reprocessing. Good faith is required of everyone; our foreign participants expect it of us, and we expect it of them.

A second relatively new non-proliferation initiative (although it has been debated for some time, is the proposed Non-Proliferation Act of 1977. It includes many U.S. unilateral actions as well as U.S. initiatives to stimulate various international activities.

The proposed legislation (S-897) has not yet come up for Senate floor debate, and action has been put over until early next year. Senator McClure has proposed a number of

amendments to S-897; he has indicated that Senators Glenn and Percy, the principal proponents of S-897, would accept them. The fate of the bill is still in question; however, I anticipate that it will come up for consideration early in 1978.

This is a most important bill. I expressed my own concerns in testimony before Senator Church's Subcommittee on Energy, Research and Development of the Senate Committee on Energy and Natural Resources. We need legislation, or, in the absence of legislation, Executive Orders, in order to let other nations of the world know where we stand as to nonproliferation policy and, in turn, to make clear conditions and criteria for cooperation and export. We need such to provide guidance and to set responsibilities and procedures, principally for use by the Administration and the Nuclear Regulatory Commission.

The question is: Will the final bill, if passed into law, further U.S. objectives for non-proliferation, or, at the opposite extreme, might it be counter-productive by reducing U.S. influence, thereby increasing the risk of proliferation? Unless the potential cooperating nation sees the U.S. as a responsible and credible supplier-partner, I fear that it will conclude that its future imports would be better assured by a supplier other than the U.S. In my view, any financial inducements associated with U.S. supply, such as a lesser cost of acquisition and/or favorable financing, would have little impact on the final decision, since political factors and continuing government credibility are of overriding importance.

The draft bill is positive about restoration of U.S. credibility as a responsible supplier in terms of availability of material or services. Action is called for in providing new enrichment capacity, in providing for spent fuel storage, and in initiating action for the establishment of an international nuclear fuel authority. It is less positive, in fact the tone is even negative, in assuring potential customers that the services will be forthcoming when needed. Many of the McClure amendments are intended to rectify this situation. I hope that the final bill will be much more positive and that those nations which adhere to U.S. non-proliferation policies will be assured of export actions on an essentially automatic basis. Lack of such assurance will continue the trend toward the use of other suppliers. The reactor export record of the U.S. in recent times has been most discouraging.

It is impossible now to be at all definitive about the impact of the more recent and pending non-proliferation initiatives.

NASAP and INFCE are just getting started; the future of the CRBR is still in question, as is the role of the Barnwell reprocessing facility. Furthermore, will there be a Non-Proliferation Act of 1978, and, if so, what will be its key provisions? From the Congressional debates, the President's Veto message on the DOE authorization bill, the INFCE Communique, the U.S.-Japan agreement on Tokai, and from pronouncements of other governments, some important trends can be noted.

1. The President has made everyone more conscious of the need to control plutonium. While the Administration would have the world seek alternatives that would significantly reduce the quantities of plutonium in commerce, other nations argue for the utilization of this energy source but with technical and institutional controls to minimize its exposure to the possibility of diversion, theft, or national take-over.

2. There is renewed interest in alternate reactor and fuel cycle systems, especially ones that could be more proliferation-resistant. A by-product of this new interest is a better systems approach to a nuclear energy economy, that is, recognition that there is a real need for advanced converters so that more energy can be obtained from mined resources, with plutonium, whatever its form, being consumed.

3. The various factors that support nonproliferation are becoming codified through the enunciation of national policies, derived, for the most part, by multinational consensus. These reflect supplier guidelines and, in some cases, will be reinforced and extended by national legislation. This lets potential customers know what to expect; at the same time, it should bind the suppliers to meet commitments once agreed to.

4. Conditions for the application of sanctions in the case of violation of agreements are being spelled out. Again, clarification is useful.

In spite of these and other achievements, a number of uncertainties continue to exist. It is my fervent hope that these can soon be resolved, at most within the period of the INFCE activity. Let me identify a few for which the U.S. nonproliferation role or the impact on the U.S. program could be significant.

1. The unconscious use of dual standards, which are usually more apparent to others than to those who employ them. Let me give some examples.

The assumption that U.S. economic standards are appropriate for decision-making by other countries.

The downplaying by the U.S. of factors that can reduce import problems of others, e.g., the utilization of indigenous resources and the potential reduction of uranium imports, while the U.S. at the same time is making major changes in its own energy program to reduce its imports.

The U.S. insistence on export conditions we would not accept if the roles were reversed and we were the importers.

In brief, we must show respect and understanding for the other fellow's problems and point of view. There is still a need for international diplomacy and realism.

2. The oversimplification and assumed ease with which changes can be instituted successfully. The difficulties the U.S. is experiencing in getting an energy bill, any energy bill, should illustrate the problem. And legislation is only the start; implementation with all of its institutional problems must follow. The bottom line will always be economics and whether or not a supplier can operate at a profit. It has been pointed out that our energy crisis is not one of resources but one of cost.

Nuclear energy is a necessary component of our future energy mix, as it is with other countries. We must not oversimplify the problems and assume that the right technologies will be in place at the right time. There are many uncertainties; for example, acceptance of nuclear power itself, possible restriction on use of coal (CO_2 uncertainties), delays in economic development of other inexhaustible resources. We cannot underestimate the magnitude of creating and maintaining a stable domestic and foreign nuclear economy. We must be prepared for contingencies of all types; and we must carry the necessary insurance—a strong program of research, development and demonstration coupled to the institutions that will provide the energy supplies.

3. The nagging worry throwing a cloud over all of these concerns is whether the U.S. nuclear export program will be strong enough to give the U.S. a significant, continuing role in setting non-proliferation policy. We seem to have lost our leverage in the export of new reactors. With new foreign supply capability for SWU's coming on line, U.S. leverage here also will diminish. Furthermore, if potential customers view new U.S. criteria and procedures for agreements and export licenses as too uncertain or onerous, we will rapidly become a supplier of last resort.

It has not been my intention to prejudge or to be pessimistic, but to be candid; to recognize weaknesses in our past positions or actions; and to appeal to all for a more positive and realistic approach to nonproliferation. It is a delicate problem. Positive, constructive actions are needed from all of the players—the executives, legislators, diplomats, regulators, technologists, suppliers, etc.—both in and out of government.

Let us build on the achievements of the past; let us improve the technical bases for decision-making; and let us seek rational political compromises—all in the interest of providing a more stable and secure energy future for the world.

PROTECTING OUR CHILDREN THROUGH A COMMON BOND OF LAW

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. KASTEN. Mr. Speaker, last year CBS's "60 Minutes" reported on the topic of "child-snatching." In introducing the program, commentator Dan Rather stated:

"Americans have always taken pride in the way they protect their children, but in the 1970s things are happening to American youngsters that make us wonder whether we do indeed protect them as well as we did in the past."

A philosophical statement, but one that has become tragically true when applied to the problem of one parent "snatching" a child away from the other parent.

For every three marriages in the United States each year, one divorce is granted. In some States, the ratio is closer to one for one. The disintegration of the institution of marriage has affected millions of families. The problem of one parent illegally taking the child away from the other has only recently been brought to the public's attention.

"Child-snatching" refers to the abduction of a child from the parent with legal custody by the parent without legal custody. This frequently involves the disappearance of the abducting parent and child or flight to another State where the custody ruling is not in force.

Kidnaping implies an ugly, vicious and certainly traumatic act. But, in the eyes of the law, "child-snatching" is not a crime even though the aftermath is just as tragic. It is perfectly legal to "kidnap" one's own children. Even if custody has been legally awarded to one parent, "it isn't worth the paper it's written on outside the State in which it's been granted," as 60 Minutes noted. Indeed, our legal system virtually invites parents to "snatch" their children and flee across State lines.

The emotional trauma for the child is intolerable. Many suffer mental and often physical abuse because of the marital problems of the couple. In the name of love, two parents inflict pain on the

child who has become a pawn in their own emotional struggles.

A WISCONSIN EXPERIENCE

I first became aware of the dimensions of this problem when contacted by a young woman from Wisconsin. Her story may be similar to thousands now being brought to the public's attention. I would like to briefly recount her story for the benefit of my colleagues because she has made me vividly aware of the extent to which our institutions of government and our laws have become insensitive to the dimensions of the crisis she and many other parents are now experiencing.

My constituent was divorced from her husband in April 1976, and was granted custody of the couple's three children, ages 16, 7, and 5. The court decree was issued in Indiana after which she returned to her parents' home in Wisconsin. Her husband was granted limited visitation rights by the judge.

In October 1976, she placed the children on a bus to visit their father for a weekend. She talked with the father to assure that the children had arrived safely and made arrangements for their return that Sunday. That was more than a year ago, and she has not seen the two youngest children since.

When she returned to the bus depot on Sunday to pick up the children, they were not on the expected bus. She immediately talked with her former husband who replied only that they had missed the bus. The next day she learned from her oldest child that the father had apparently fled with the two youngest children. Her last contact with the children was a 15-minute telephone conversation Christmas Day, 1976. Her hopes for another call this past Christmas were in vain.

The interval has been a nightmare: Endless conversations with attorneys and law enforcement officials who can do nothing; threatening phone calls from the father saying she will never see the children unless she relinquishes custody; tremendous expenses of hiring a private investigator: battles with local, State, and Federal officials to secure help in locating the father. All her efforts have failed. She has no idea when or if she will ever see the children again. Indeed, even if she locates them, existing laws provide no guarantee that she can bring them back to her home in Wisconsin.

Her story can be repeated a thousand times over. Although a legal journal estimated that 25,000 child-snatchings occur each year, Arnold Miller, who established Children's Rights Inc., has conducted his own examination of actual kidnapping statistics through interviews with police, missing persons departments and letters and data in his own files. He estimates that the figure may be closer to 100,000 children taken by a parent last year alone. Mr. Miller has his own personal interest—he has not seen his son since June 1974.

LEGAL BATTLE

The legal resources available to the victimized parent are few. The maneuvers and machinations of noncustodian versus custodian are open to hearings and rehearings in the courtrooms of the 50 States that often do not recognize the court decisions of other States.

The Uniform Child Custody Jurisdiction Act, a model statute created in 1968 and approved by the American Bar Association, recognized the sister State's judicial ruling in custody matters. Adopted as law by 18 States, including Wisconsin, it includes penalties for "abduction and other unilateral removals of children."

In essence, this statute protects on paper one court's custody decisions—but does not address the issue of "child-snatching." It does little to assure a parent that the legal system will cooperate in the search and return of the youngster. It does not provide for a search for custody decrees, and another court might not know that they exist. It does not enlist the support of the Federal Bureau of Investigation, which is absolutely essential when the parent flees State boundaries.

LEGISLATION NECESSARY

It is time for our Government to take action to remove the legal barriers. As has been demonstrated countless times, action by State government has been ineffective. This is an area where action by the Federal Government is both necessary and proper.

Congress must recognize that reinforcing family law is necessary and that protecting children against violent and lawless parents is a priority.

Today I am introducing legislation designed to help those who have experienced the tragedy just described. It is by no means a solution to the problem, but it will offer parents the comfort of knowing that our legal system will protect their rights—and their children's—and will work with them to find their children. The bill would do three things:

1. Include "child-snatching" by a parent in the Federal kidnapping statute, thus making "child-snatching" a criminal offense, and enabling parents to enlist the assistance of the FBI in locating their children;

2. Make the crime punishable by a $5,000 fine and/or a maximum 1-year imprisonment;

3. Require all States and the District of Columbia to enforce any child custody decree until it is modified by the court which originally issued it. If the original court declines to exercise its jurisdiction, then the court in another State may act to change the order.

CONCLUSION

Several Members of Congress have introduced bills that deal with the problem of "child-snatching." However, my bill takes the most comprehensive approach to the problem—imposing staff criminal penalties for "child-snatching," enlisting the aid of the FBI, and requiring States to uphold the child custody rulings of other States. The bereaved parents should have a legal recourse, and we should be upholding the decisions of our courts. We can do both by enacting the legislation I am proposing.

TUITION TAX CREDIT ACT: A RETURN TO FREEDOM OF EDUCATION

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. QUAYLE. Mr. Speaker, at a time when an individual's right to attend the learning institution of his choice is being restricted by economic considerations, tuition tax credit legislation has become extremely important.

"Students should not be denied the benefits of continuing their education in either public or private schools because of the drawbacks of financial problems. I think that would be going against what America, the land of freedom and opportunity, stands for!" This comment by a constituent of Indiana's Fourth District sums up much of the sentiment behind tuition relief legislation.

The United States has prided itself for many years on having one of the highest education levels in the world. This has been made possible through the availability of learning institutions at all levels of education, and the ability to attend the school of one's preference. Unfortunately, drastic rises in costs and tuitions have threatened this choice of schools.

Studies have shown that private schools are attended primarily by students from middle- and lower-income families. Rising costs are greatly restricting this income grouping from attending private schools. Public schools are fast developing into a monopoly situation. If the trend is allowed to continue, many private schools will be forced to shut down. The strain of placing hundreds of thousands of students from these schools into the public school system will be very costly to the taxpayer, resulting in greatly increased school taxes and Federal aid for education.

With the recent documented decline in public secondary education, it is necessary to recognize the importance and maintain the vitality of private schools. Through the revitalization of private schools at all levels of education, it will be possible to provide important education alternatives to all students, as well as to ease the heavy tax burden on middle income families of Federal aid to public schools.

The Tuition Tax Credit Act is aimed primarily at higher education, as well as secondary and elementary levels. Tuition costs at this level are prohibitive. We cannot allow a situation to develop where only the very rich and the very poor, who qualify for financial aid, can afford a post-high school education. The Tutition Tax Credit Act would provide necessary aid to many highly qualified college students who deserve the right to higher education.

Tax credits would help to restore freedom of choice of education to the American people. The provisions of the Tuition Tax Credit Act are such as to aid those who are too poor to afford private

schools and college, yet not poor enough to qualify for Federal aid. The amounts specified are enough to be of real benefit to those students, yet are not high enough to encourage students who would not otherwise be interested in attending private schools or going on to higher education. This is not a give-away program, but an incentive to continue our high education standards in the United States and guarantee an education to all Americans.

Finally, one of the more attractive aspects of this bill is that it will not require any expansion of the Federal bureaucracy. It will provide needed aid to many students and can be administered through the IRS, without the need for the creation of a new administering agency. At a time when the Nation is demanding a cutback of the bureaucracy, a program which can accomplish a goal and provide real aid without bureaucratic expansion is to be commended and merits serious consideration by all legislators.

IRANIAN RIOT BLOCKED IN NEW YORK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. McDONALD. Mr. Speaker, on January 12, 1978, nearly 1,000 demonstrators, principally from rival Iranian revolutionary movements but with supporters drawn from several U.S. Marxist-Leninist groups, protested the visit to New York City of the Empress of Iran. The demonstration was organized by the same groups of revolutionary Iranian students resident in the United States who were responsible for a large-scale, violent riot in Washington, D.C., on November 15, 1977, in which 124 people, including several police officers, were injured, some of them still being hospitalized.

Although the Iranian student revolutionary movement has experienced increasing factionalization and splitting since 1975, the groups are able to contain their ideological quarrels in order to attempt disruptions during visits to this country by the Shah and Empress of Iran.

Until January 1975, the radical Iranian student movement abroad was led by a single organization headquartered in West Germany, the Confederation of Iranian Students—National Union (CISNU). At that time a split appeared in the CISNU between a Communist faction which was actually Maoist in its ideology, and a national front faction which looked to the Islamic Marxist movement derived from the followers of the deposed Mossadegh government. CISNU's U.S. affiliate, the Iranian Students Association (ISA) followed suit by splitting along identical political lines at its convention in Chicago later that summer. Additional splitting followed.

In August 1976, two factions of the splintered CISNU held a conference at Aachen, West Germany, which resulted in their U.S. affiliates uniting to form the Iranian Student Association in the United States (ISAUS). The ISAUS, operating from P.O. Box 4002, Berkeley, Calif. 94704 has editorial offices for its newsletter, Resistance, at P.O. Box A–3575, Chicago, Ill. 60690, is a member of the CISNU organization located at 75 Karlsruhe, Postfach 1953, West Germany. The ISAUS also uses P.O. Box 4000F, Berkeley, Calif. 94704 (415–848–3372). This organization describes itself as "an anti-imperialist organization working to mobilize international public opinion in support of the just struggle of the Iranian people."

A pamphlet produced in July 1977 by this group details their involvement with both revolutionary terrorist groups in Iran and with the Palestine Liberation Organization (PLO) which has as its goal the overthrow of all pro-Western governments in the Middle East. The pamphlet records the activities of their delegation to the PLO's 12th anniversary of struggle celebrations in January 1977, and publishes photographs and biographies of six of their comrades who have been killed in fighting with Iranian security forces. Their so-called martyrs, described as "poets," "workers," "physicians," and so forth were also, for the most part, members of the Revolutionary Organization of Tudeh, appropriately abbreviated in English ROT, the pro-Peking "people's war" oriented splinter from the Tudeh (Masses) Party, Iran's Moscow-directed Communist Party.

Although the ISAUS operates in close support of the Maoist Revolutionary Organization of Tudeh it has highly praised the OIPFG and OMPI terrorists as well. For example, in a leaflet issued a month in advance of the November state visit by the Shah, ISAUS stated that:

> The armed struggle is the only way for the Iranian people to free themselves from the yoke of neo-colonialism and the fascist rule of the Shah.

Members of the CISNU were arrested in Paris, France, in November 1976, and charged with having shot an Iranian diplomat in an attempted assassination. One of the men charged, Nader Oskoui, had been studying in this country and was active in the ISA. More than 90 ISA activists were arrested in a Houston demonstration at the French consulate to protest the Paris arrests * * *.

Iranian student violence in this, their host country, has a long and consistent history. Prior to the Washington riots, hundreds of ISA activists invaded the small Texas town of Corsicana to protest Navarro College student policies. The demonstrators had no permits and attacked police who came to remove them. Then after being detained in the Corsicana jail, the ISA militants vandalized the premises causing extensive damage.

In August 1977, the ISAUS again splintered, and the minority faction formed yet another group, the Union of Iranian Students in the U.S. (UISUS) Post Office Box 744, Berkeley, Calif. 94701. The ultimate cause of the split was criticism by the two most active Iranian terrorist groups, the Organization of People's Fedayee Guerrillas (OIPFG) and the Organization of the Mojahedin [Strugglers] of the People of Iran (OMPI). These two Marxist terrorist groups who describe themselves as forming the "vanguard" of the "new revolutionary movement" and its armed struggle criticized ISAUS and the other student movement splinters for their "lack of revolutionary practice." In plain language the terrorists in Iran were complaining that their comrades and sympathizers outside Iran were not sufficiently involved in carrying out terrorist actions.

With active and highly militant chapters in San Jose, the San Francisco Bay area, Sacramento, El Paso, Oklahoma, Tucson, Houston, and New York, UISUS has cooperated with the other ISA factions in holding anti-Iran demonstrations in San Francisco, Houston, Washington, D.C., and other cities.

UISUS has a program that seeks to mobilize Iranians resident in the United States for:

> (1) the overthrow of the Pahlavi regime, and smashing all the imperialists—specially [sic] the U.S. (dominant imperialism in Iran) [sic], (2) the unconditional support of the people's struggle and its vanguard the new revolutionary movement * * *.

As is common among Maoist-influenced groups who see armed struggle in the form of a "people's war" and terrorism as the principal way to take power, the UISUS is critical of the U.S.S.R. and notes that at the August 1977 founding conference of the UISUS the group "took a most decisive position against the reactionary clique of the Tudeh Party's Central Committee and its supporter, the reactionary government of [the] Soviet Union."

It is not possible to determine the total membership of UISUS; however, predicated on the numbers at demonstrations in various parts of the country, an active membership of about 1,000 appears probable.

The Federation of Iranian Students in the United States (FISUS), operating from P.O. Box 2310, Berkeley, Calif. 94702, is another Maoist splinter from the original ISA group. This one was formed after Mao died and the so-called "Gang of Four" was purged. For having backed the wrong horse, in this case Mrs. Mao, many revolutionary groups have been left with no state power to support their ideological "purity" except Albania.

Other organizations of Iranian Marxist-Leninists which are active in the United States include the Organization of Iranian Moslem Students (OIMS), with an address at P.O. Box 401, Wilmette, Ill. 60691; and the Young Moslems Organization which marched in united contingents during the November riots in Washington, D.C. The YMO, with chapters in Texas, Maryland and other States and an address at P.O. Box 463, Silver Spring, Md. 20707, supports extremist Islamic movements and leaders such as the Iraq-based "popular and progressive" Ayatollah Khomeini and attacked the Iranian Government for ending riots in the city of Qum on January 9 which culminated 2 days of demon-

strations by Khomeini's supporters demanding he be permitted to return from Iraq to Iran. YMO is identified with the Islamic Marxist revolutionary movement which evolved from Mossadegh's supporters.

The Trotskyite Communists of the Fourth International have their own organizations aimed at toppling the Iranian Government. The Committee for Artistic and Intellectual Freedom in Iran (CAIFI) is a nationally active front organized by the Socialist Workers Party (SWP), the U.S. section of the Fourth International. CAIFI's offices are located at 853 Broadway, in New York City, in the suite of offices occupied by the city-wide Socialist Workers Party/Young Socialist Alliance bureaucracy. CAIFI leaders include a poet named Reza Baraheni and an Iranian SWP member, Babak Zahraie. While CAIFI's staff are mostly non-Iranians drawn from the SWP and YSA, this SWP front has developed a list of sponsors drawn from a broad range of left groups and sympathizers. Early in 1977, from among Iranian members of CAIFI the SWP organized the smaller Sattar League, now the official Iranian section of the Fourth International. Reza Baraheni attended the closed sessions of the SWP national convention in 1977 as the representative of the Sattar League.

The New York demonstrations against the unofficial visit of the Empress to New York at a dinner given in her honor by the Asia Society on January 12 were preceded by several days of leafletting and small picket lines at the offices of the Asia Society, at the Waldorf Astoria Hotel, and by a press conference on January 11 in Washington, D.C. Called by the ISA chapter in Washington, D.C., which uses P.O. Box 772, Alexandria, Va. 22216, and a Washington, D.C., "Iran House" telephone number 202-483-9708, the press conference featured Don Luce, long a veteran propagandist on behalf of the Vietcong terrorists and North Vietnamese Communists. For several years co-director of Clergy and Laity Concerned (CALC) anti-imperialist programs in support of the Indochinese Communists, Luce, as CALC's "international representative" had led a CALC "observer" team in Iran during President Carter's visit to Teheran in early January. Luce and their comrades described their unhindered travels in Iran, their activities in meeting with so-called "dissidents," and their photographing the arrests of rioters. Despite their undocumented claims that Iran is a "repressive" country. Luce had to admit tht there was no interference with his activities in that country despite his well-known public record as an apologist for Marxist revolutionaries.

Luce asserted that "armed struggle is the only way" the Iranian government can be overthrown and said that "Iran will be the next Vietnam." Presumably this would mean a protracted struggle by the Communists combining ideological subversion with urban rural terrorism by forces based in neighboring Iraq which is heavily backed and armed by the U.S.S.R. Luce emphasized the "necessity" for a campaign to cut off arms sales to Iran. Presumably an Iranian military armed only with obsolete weapons would not be able to cope readily with Iraqi-based revolutionary forces supported by an Iraqi military trained and armed with the most advanced Soviet jets, missiles and other weapons. And it should be recalled that over the past 5 years it has been reported that Iranian terrorists have received training in Cuba, Lebanon and Iraq in guerrilla camps run by the Palestine Liberation Organization (PLO).

The New York demonstrations on January 12 were organized by the New York chapter of the ISAUS, 110 West 14th Street, New York, N.Y., and was supplemented by members of ISAUS chapters in Berkeley, Calif.; Houston, Texas; and the Washington-Baltimore area. Also participating in the event was the UISUS chapter, 20 West 22d Street, New York, N.Y., with additional support from their New Jersey chapters.

Participating with the CAIFI picket line group were writers familiar from their support of the anti-Vietnam movement including David Dellinger, Nat Hentoff, Kate Millett, Arthur Miller, Eric Bentley and Kurt Vonnegut as well as Poets, Essayists and Novelists (PEN) president Richard Howard and Dore Ashton, head of PEN's Freedom to Write Committee who has been active in CAIFI for several years.

The Iranian revolutionary contingents were joined by small contingents from the Workers World Party (WWP), a Marxist-Leninist organization which supports virtually every Third World revolutionary terrorist group and such Communist countries as North Korea, Vietnam, Cuba and Angola. A larger group was present from two front groups totally controlled by the Maoist Revolutionary Communist Party. These were the Vietnam Veterans Against the War (VVAW) and the Revolutionary Communist Youth Brigade (RCYB), formerly called the Revolutionary Student Brigade (RSB).

The demonstration began at 4 p.m. and continued until 9:46 p.m. In contrast to the November situation in Washington, the revolutionary groups were restricted to one site one block north of the hotel. This resulted in squabbling among the different factions as to what the ideologically "correct" slogans and insults should be. The Workers World Party and its Youth Against War and Fascism (YAWF) liked a syncopated "Armed Struggle Shakes the Fascist System Down,"—for the WWP/YAWF, any government which is not Communist is "fascist." The RCP/VVAW/RCYB gang countered with "Mass uprising in Iran/Shakes the Fascist System Down." which did not rhyme and was impossible for marching. But the Iranian militants and their U.S. supporters all joined in shouts of "Death to the Shah."

Again, many of the Iranian revolutionaries hid their identities behind masks cut from posters and leaflets. Still others wore ski masks. However, this time a large contingent of riot-equipped patrolmen and mounted police separated the revolutionary groups from the 800 people two blocks away who had come to welcome the Empress and express support for the Shah.

I also observed that the demonstrators were not allowed to carry clubs and weapons. On my way to the dinner in honor of the Empress, I observed a small cluster of radical demonstrators with posters wrapped around sticks stopped by uniform patrolmen who required them to surrender the sticks, but allowed them to keep their posters. The presence of a sufficient number of equipped police officers and the strict separation of the two groups of demonstrators ensured that no violence took place on this occasion.

Despite the efficient handling of the street demonstrations by the New York City Police, the Hilton Hotel's security guards enabled a number of UISUS members and supporters to invade the hotel lobby and banquet area. Some demonstrators obtained entrance to the banquet where they commenced making a disturbance, one after another, until they were removed. Among them was CALC's Don Luce.

The hotel disturbances resulted in the arrests of four women: Ilye Betinis, Zohre Amirahmadi, Leyli Shayhagn and Beverly Gerowitz; and of 10 men: Alipeza Apzal, Michael Cohen, Fred Friedman, Gary Hansjergen, Shanhrokh Khatami, Peter Lewis, Don Luce, Hanie Perhan, Ali Sonatl and Seyed Snity.

It should be noted that the ISA contingent used the occasion of the demonstration to publicize upcoming demonstrations and meetings on February 8 to commemorate the eighth anniversary of the commencement of "armed struggle" at the village of Siahkal in northern Iran by the OIPFG or "Fedayee" Marxist terrorists.

Several days before the scheduled demonstrations against the Empress of Iran, I wrote to Mayor Edward I. Koch, formerly our colleague in the House of Representatives, pointing to the record for violence compiled by the Iranian revolutionary groups in this country including the violent riots in Washington in November by Iranians wearing masks to conceal their identities. I asked Mayor Koch to insure that the police enforced all laws, including the New York State law forbidding demonstrations by persons wearing masks. I also wrote to the U.S. Attorney for the Southern District of New York reminding him of the provisions of the Civil Rights Act barring demonstrations by persons wearing masks, hoods, and disguises to conceal their identities.

Although measures were taken to prevent a riot, there was no enforcement of either the State or Federal provisions regarding demonstrations by masked individuals. I am taking this matter up with the Justice Department.

The texts of my letters to Mayor Koch and his reply follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 9, 1978.

HON. EDWARD I. KOCH,
Mayor, City Hall, New York, N.Y.

DEAR MAYOR KOCH: On January 12 a number of violence-oriented groups including the Iranian Student Association will be demonstrating in New York against the visit of the Empress of Iran. I am sure that you

will remember that when the same groups demonstrated in Washington, D.C. last November there was considerable violence and 124 people were injured. (See attached statement from the Congressional Record of November 18, 1977.)

The Iranian Student Association, the main organizers of the New York demonstration, have frequently engaged in violence in the past. They normally commit their acts of violence while wearing masks, in violation of both local and federal laws. The Iranian Student Association and their affiliated groups abroad have been closely associated with transnational terrorist movements. In the United States they have collaborated with the support apparatus of the Palestine Liberation Organization. Iranian terrorists have been trained at PLO camps in the Middle East. In October and November, 1977, bombings which took place in New York on behalf of the Iranian Revolutionary were reported to have been carried out by the FALN, a Puerto Rican terrorist group controlled by Cuba.

I have a law suit presently pending in the District of Columbia to prevent the Department of the Interior from issuing permits to this violent group for future demonstrations in our Nation's Capital. In this suit I am supported by the Fraternal Order of Police.

I know that the highly professional New York City Police Department will take every precaution to maintain public order. I urge you to instruct the Police Commissioner to ensure that the police are not hindered in carrying out their duties by political considerations. Please instruct the Police Commissioner to enforce all laws, including the State law which forbids demonstrations by persons wearing masks.

Should you need any additional information on this problem, the resources of my office will be at your disposal.

Sincerely,

LARRY P. MCDONALD.

OFFICE OF THE MAYOR,
New York, N.Y., January 11, 1978.

Hon. LARRY P. MCDONALD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MCDONALD: I have your letter of January 9th and have asked Police Commissioner Robert McGuire to give the matter raised in your letter his immediate personal attention. You need have no fear. The law of the City of the State of New York will be carried out in all respects and the police will never be hindered in my Administration "in carrying out their duties by political considerations".

I am attending one of the functions for the Shahbanou and look forward to greeting her in behalf of the people of the City of New York.

Sincerely,

EDWARD I. KOCH.

AUCOIN INTRODUCES GLEANING BILL

HON. LES AUCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. AUCOIN. Mr. Speaker, hunger is a condition too well known in this country.

What makes this sad fact even sadder is the knowledge that so much food is laid to waste each year on our Nation's farms. Bushels of tomatoes, cabbage, and other produce lie in the fields rotting because economic factors make it unprofitable to harvest or process.

Today I am introducing legislation which I hope will help change this.

My legislation attempts to bridge the gap between farmers who have too much food and men, women, and children who have too little.

It does it by granting to farmers an income tax deduction for crops they donate to charitable organizations when those crops would otherwise go to waste.

Legislation similar to this already has been adopted by the State of Oregon. Its aim and its result has been the creation of gleaning programs all over the State.

Gleaning programs are self-help programs aimed at providing a healthy diet for low-income, elderly, and disabled individuals. Crops which are left behind after commercial harvesting or which go to waste because of economic factors are donated to gleaning programs. Low-income individuals, supervised by a field boss, harvest these crops for their own use. In addition, each gleaner adopts an elderly or disabled household and provides them with fresh produce.

Some of the food is eaten fresh and the rest is canned at home and preserved for winter use. In 1976, the combined efforts of gleaning programs in Oregon harvested 239,000 pounds of crops, benefitting some 1,129 households.

My bill would expand this concept by allowing any qualified nonprofit organization to glean crops not just for their own use but for distribution in a manner consistent with their nonprofit status.

By granting tax deductions to farmers who donate such crops this bill simply extends to farmers the same benefits currently enjoyed by corporations which donate merchandise to nonprofit organizations.

Mr. Speaker, at a time when Congress spends millions of dollars to feed hungry people abroad, this one bill would do much to feed hungry people here at home.

It also would benefit another group much in the news today: Our Nation's farmers. Caught in a debilitating cost-price squeeze over the past few years, the tax relief which this bill offers, though modest, can only be welcome news to them.

Mr. Speaker, the spirit of self-help, cooperation and generosity evident in the gleaning programs in Oregon attest to the eagerness of people to participate in this kind of an effort if only given an opportunity.

My bill offers them this opportunity. I urge my colleagues in the House to support this legislation.

H.R. —

A bill to amend the Internal Revenue Code of 1954 to allow a charitable deduction for certain crops furnished by farmers to certain tax-exempt organazations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR CONTRIBUTIONS OF GLEANED CROPS.—

"(A) IN GENERAL.—If any taxpayer makes a qualified crop contribution, the amount taken into account under this section with respect to such contribution—

"(i) shall be the wholesale market price for the crop so contributed, and

"(ii) shall not be reduced under paragraph (1).

"(B) QUALIFIED CROP CONTRIBUTION.—For purposes of subparagraph (A), the term 'qualified crop contribution' means any contribution by a taxpayer engaged in the trade or business of farming of a crop grown in connection with such trade or business to an organization described in section 501(c)(3) and exempt from tax under section 501(a), but only if—

"(i) the crop is harvested by, or on behalf of, the donee,

"(ii) the use of the crop by the donee is related to the purpose or function constituting the basis for its exemption under section 501,

"(iii) the crop is not transferred by the donee in exchange for money, other property, or services,

"(iv) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (ii) and (iii),

"(v) harvesting the crop in the normal course of the taxpayer's trade or business would not be economically feasible, and

"(vi) without the contribution to the donee the crop would go to waste.

"(C) WHOLESALE MARKET PRICE.—For purposes of this paragraph, the term 'wholesale market price' means, with respect to any crop, the lowest wholesale market price for such crop in the nearest regional market during the month in which the contribution is made, determined—

"(i) without consideration of grade or quality of the crop, and

"(ii) as if the quantity of the crop contributed were marketable."

(b) The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act, in taxable years ending after such date.

THE OIL INDUSTRY AND GEOTHERMAL POWER

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. KASTENMEIER. Mr. Speaker, the oil industry is acquiring substantial interests in traditionally competitive alternative sources of energy. Since 1971, I have sponsored legislation to prevent the oil companies from completely dominating the energy industry, and in this Congress, I introduced H.R. 93 which requires divestiture by the oil companies of their coal, uranium, and geothermal power assets.

I would like to bring to the attention of the Members an article on geothermal power which appeared in the January 4, 1978, New York Times. This news report discusses the promising prospect for geothermal power and the oil industry involvement in this new form of energy:

[From the New York Times, Jan. 4, 1978]

GEOTHERMAL VENTURES: A GROWING ALTERNATIVE IN OUR ENERGY QUEST

(By Anthony J. Parisi)

Geothermal power, which for 17 years has been restricted to the West Coast, is about to cross the California border. The first private commitments outside that state came last week, and others are expected this month.

Alhough these initial steps are admittedly preliminary, they are nevertheless the first serious proposals to tap the vast geothermal deposits that lie beneath the Rocky Mountain states.

After a shakeout in the months ahead, final decisions should follow on building at least two demonstration plants to produce electricity from hot water released from the earth's crust. The Geysers Field in northern California, site of the nation's only operating geothermal recovery project, yields dry steam instead. This is a much easier form of the earth's energy to exploit.

Although the Federal Government is actively encouraging the geothermal project announced last week by the Utah Power & Light Company is going ahead without any sort of Federal assistance, at least for the moment. This utility has signed an agreement with the Phillips Petroleum Company and the engineering concern of Rogers International to negotiate exclusively with these companies for power from a 52-megawatt geothermal plant. Rogers will build the plant at Roosevelt Hot Springs, Utah, and Phillips will supply it with steam separated from the hot water.

Rogers, however, is expected to apply to the Department of Energy for a loan guarantee to help finance the project.

All the other new geothermal initiatives are direct results of the D.O.E.'s efforts to get a hot-water geothermal plant on line in this counrty. Such plants are already producing power in nine other countries.

Last May the department received "expressions of interest" from at least seven groups of companies willing to build and operate a hot-water geothermal plant of around 50-megawatts. The department now has a Jan. 31 deadline for responses to its "program opportunity notices" to work out a jointly financed effort to put up one of these plants.

"The purpose is to get an operating plant on line so all utility companies will have a fully described. fully engineered and fully instrumented paint to evaluate," said James C. Bresee, director of the D.O.E.'s division of Geothermal Energy in a phone interview. "This will become the prototype for the whole industry."

Much of the new interest in geothermal power comes from the Southwest. The Sierra Pacific Power Company, in Nevada, and the Public Service Company of New Mexico for example are two of the utilities rushing to meet the D.O.E.'s Jan. 31 deadline.

But there are also sizable hot-water deposits in Idaho, Oregon and Washington, as well as in California. The Imperial Valley in Southern California, stretching to the Mexico border, is one of the best-known areas where geothermal hot-water is found. The deposits there are unusually salty, however, and corrosion problems have frustrated efforts to develop them.

"We think we have found a solution to this problem," said Carel Otte, president of the Geothermal Division of the Union Oil Company. "Now we hope to have a 10-megawatt pilot-plant operating within two years."

The oil companies have staked out the biggest positions in geothermal energy, and none is more active than Union. This company heads a consortium that produces the steam at the Geysers Field for the Pacific Gas & Electric Company.

P. G. & E. now has 11 generating units capable of producing 502 megawatts of power, comparable to a medium-size fossil fuel plant. It also has a contract with Aminoil U.S.A. Inc. (a division of R. J. Reynolds Industries Inc.) and with the Hughes Aircraft Company to supply steam for six more units. The utility expects to be able to produce a total of 908 megawatts of power from geothermal steam by 1979, and it hopes to have a total of 1,128 megawatts of capacity by 1981.

The dry steam at the Geysers Field is ideal, water deposits. But the experts say hot water water deposits. But the experts say hot water is more widespread and more abundant.

If the nation can devise ways to use geothermal hot water, too, "we should be able to develop about 20,000 megawatts of geothermal power in the next two decades," predicated Dr. Otte of Union That is more electric power than the entire state of California now uses.

Union's geothermal operations now contribute a mere $15 million or so to its total annual revenues of around $5 billion. But the company likes to point out that its geothermal reserves, which have more than quadrupled in the last five years, add the equivalent of 130 million barrels of oil, or 15 percent, to its proved reserves of crude oil.

Another oil company actively plying the hot-water geothermal field is Phillips, which says it has recently been talking with utilities in southern California; Idaho and Nevada (in addition to the one in Utah) as well as with industrial companies in these states.

"Over the next few years utilities will make up the largest part of the market." said Fred Terry, manager of energy minerals development. "But as industries become pinched for other fuels, they may be forced to put up the capital for geothermal power." Industrial companies that want to make electricity from geothermal energy would have to build their own power plants, he explained; Phillips like other oil companies, merely wants to sell the energy for geothermal plants, not the power they produce.

The Shell Oil Company scored its first commercial success last year, though not with geothermal hot water. Shell signed a contract to supply the Northern California Power Agency geothermal steam for a 110-megawatt power plant that this agency will build for seven northern California towns and one rural cooperative utility.

ALASKANS COMMEND SEIBERLING

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. UDALL. Mr. Speaker, this year Congress will decide the fate of over 100 million acres of Alaska's magnificent wildlands administered by the Federal Government.

Congress, in recognition of the national interest, laid the groundwork for the protection of Alaska wilderness when it enacted the Alaska Native Claims Settlement Act in 1971 (ANSCA). The act first granted the Alaska Native peoples' claim to over 40 million acres of public domain. It also authorized consideration of up to 125 million acres of public domain for possible designation as national parks, wildlife refuges, wild and scenic rivers, and national forests. However, under the act, Congress must act by December 13, 1978 on these proposals or the lands will be opened up for possible development.

In recognition of the importance of this legislation, the Interior and Insular Affairs Committee, which has primary jurisdiction over the Alaska lands legislation, established a special subcommittee to handle the legislation. As chairman of the Subcommittee on General Oversight and Alaska Lands, Congressman JOHN SEIBERLING has conducted a thorough, exhaustive set of hearings and field trips on this major conservation initiative. Throughout this process, the subcommittee heard the views of more than 2,000 people, including over 1,000 Alaskans. The subcommittee also traveled twice to Alaska where 19 town meetings and 5 major hearings were held.

As the committee begins its deliberations on the merits of the various proposals before it, it is important to remember the devotion and dedication JOHN SEIBERLING has put into this most important task. Perhaps the following letter and resolution from the rural Alaska community action program says it best:

RURAL ALASKA,
COMMUNITY ACTION PROGRAM, INC.,
September 27, 1977.

Subject: RurAL CAP Resolution No. 77-24 (enclosed).

Congressman JOHN F. SEIBERLING,
Chairman, Subcommittee on General Oversight and Alaska Lands, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN SEIBERLING: The enclosed resolution was adopted by the Board of Directors of the Rural Alaska Community Action Program at our recently concluded annual meeting in Kodiak. As you can see, it expresses RurAL CAP's appreciation for the outstanding effort that you and the other members of your sub-committee made during the month of August to obtain a wide variety of input on the Udall "d-2" bill (HR 39). It was our observation that, at all times (and reports from the Anchorage press notwithstanding!), you and the committee members acted in good faith in obtaining the viewpoints of Alaska's rural residents on this vitally important legislation.

The resolution also underscores our concern that, no matter how the acreage of national interest lands may be determined, a management structure that is regionally based be established for the management of all federal lands in Alaska. Of course, you are well aware of this organization's position on the issue; however, as you enter "mark-up," we feel it would be an appropriate time to underscore this long-standing concern of our organization.

At any rate, please accept our sincere thanks for the exhaustive work of your subcommittee in Alaska.

Sincerely,

PHIL SMITH,
Executive Director.

RESOLUTION NO. 77-24

IN APPRECIATION TO CONGRESSMAN JOHN F. SEIBERLING

Whereas, resolution of the "d-2" question is of paramount importance to indigent rural Alaskans, and

Whereas, the Subcommittee on General Oversight and Alaska Land of the U.S. House of Representatives holds jurisdiction over the designation of new National Interest Lands in Alaska, as well as over the system of jurisdiction designed to manage those lands, and

Whereas, the Subcommittee, chaired by Congressman Seiberling, conducted exhaustive hearings throughout rural Alaska on the many issues surrounding the d-2 debate, and

Whereas, RurAL CAP interprets this as a good-faith effort by the Subcommittee and its chairman to incorporate the views of rural Alaskans into its final recommendations to the Committee on Interior and Insular Affairs, now, therefore, be it

Resolved, That the Board of Directors of Rural Alaska Community Action Program, Inc., does hereby commend Congressman John F. Seiberling and his House Interior Subcommittee on General Oversight and Alaska Lands for visiting rural Alaskan villages in August and encourages the chairman and the committee to design a regional approach for managing subsistence on federal lands in Alaska.

MORE STAGFLATION AHEAD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. McDONALD. Mr. Speaker, while the Carter administration keeps throwing money at the economy, it remains puzzled as to why the economy is not responding. There is really no mystery! Anthony Harrigan explained the situation very succinctly in a recent editorial that appeared in the United States Industrial Council Bulletin for October 1, 1977. He simply explained that free enterprise solutions are not being used, hence stagflation. The editorial follows:

MORE STAGFLATION AHEAD

(By Anthony H. Harrigan, Executive Vice President)

In recent weeks, the principal items in the news have been the proposed Panama Canal treaties and Mr. Bert Lance's overdrafts. Economic news has taken a back seat in the media. Nevertheless, the economic outlook—the dim outlook—deserves greater attention.

The prospect isn't good. All the signs point to continuing stagflation. While the economy has come back in extraordinary fashion since the grim recession days of 1974, the root troubles in our economy—and government—haven't been cured. The stock market reflects the basic lack of confidence on the part of investors. The huge foreign trade deficit—$25 billion or more this year—shows that we are buying too much abroad and selling too little. Meanwhile, bad news continues to come in—about the financial condition of New York City, the extent of unwise bank loans to East Bloc countries and unstable Third World nations such as Panama, and the dangerously slow development of energy resources.

The United States has everything going for it in a fundamental way—a rich land, an able people, and a huge internal market. But Americans have tolerated spendthrift government for a very long time. As a result, they are getting more and more inflation. This is reflected, for example, in the runaway costs of land and housing.

The Carter Administration doesn't have an inflation-fighting strategy. How could it? Its basic political strategy is that of transferring income from energetic, productive citizens to indolent and dependent people. Every dip in the economy, caused by one wave of excessive government spending, leads to new proposals for more government spending.

Mr. Carter cultivates an image which shows him to be preoccupied with human rights around the world. But the human rights of the American middle class are ignored. Among these is the right to enjoy the rewards of honest work and prudent behavior. The federal government isn't oriented towards the middle class. It has its sights set on the demands—and the votes—of those who regard receipt of food stamps as a civil right, for example.

The basic attitude of the administration is reflected in its energy policy. Its great "accomplishment," in its own view, is the creation of a new Energy Department, as though the recruitment of thousands of bureaucrats and their entrenchment in marble halls in Washington represents an authentic triumph.

In point of fact, the Carter administration has neglected the one, meaningful energy policy, namely increased production. It insists on regulating the price of oil to a politically desirable level, even though such regulation means that incentives are denied those who have the know-how to produce additional supplies of oil and other needed fuels.

The Carter administration also is bent on extending compulsory unionization of the nation's work force, though the American working people have made clear their increasing disinterest in union membership. More widespread union membership would mean wage increases beyond the level justified by productivity. And the United States already is pricing itself out of innumerable foreign markets because of non-competitive wage scales.

As a candidate Mr. Carter asked: "Why not the best?" But he hasn't given the nation the best in economic policy or energy development or other areas. The emphasis in the administration isn't on the best policy, but on the most votes. Stories coming out of Washington tell of a developing urban policy that will rival the Johnson "Great Society" in terms of public jobs created at taxpayer expense. The goal of balancing the federal budget is seldom discussed these days.

It's very important that the business community endeavor to mobilize public support for more rational, constructive programs that the nation is being offered by the administration. America's dependence on the OPEC nations becomes more dangerous every month. Our ability to compete abroad is worsening. The cost of government is near-ruinous.

Americans can't afford much more of the moralistic posturing that has passed for leadership in the last eight months. Congress must supply the leadership that is missing in the Executive Branch.

INSTITUTIONAL CHANGE IN OUR HEALTH CARE SYSTEM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. WAXMAN. Mr. Speaker, during the next few months, the Subcommittee on Health and Environment, of which I am a member, will review health planning guidelines, hospital cost containment legislation, and HEW objectives for national health insurance. These subjects should not be viewed as the special concerns of only our subcommittee. They deserve special attention from all Members of Congress, because they vitally affect the daily concerns of our constituents, and the health of the American economy as well.

The more I study the pattern of inflation in our health care industry, the more convinced I am that fundamental institutional change in that system is necessary to control rising costs. It is paradoxical that at a time when health costs must be contained, we continue to allow the supplier of health care to set the level of demand. It is astonishing that a nation which prides itself on technical competence and efficiency permits its $140 billion health industry to:

Have third parties pay 92 percent of all hospital charges;

Have superfluous hospital capacity increase hospital costs by 7 percent; that is nearly $4 billion in the year 1976 alone;

Discourage the growth of HMO's although their members are hospitalized 65 percent less than other Americans;

Have hospitals encourage doctors to admit patients regardless of need, just to fill beds; in New York City alone, studies indicate there are 5,000 surplus hospital beds;

Tolerate an estimated 2.5 million unnecessary surgical procedures a year, at a cost of $3.5 billion a year.

Robert Claiborne recently wrote an excellent article in the Saturday Review analyzing the institutional failures of our health care system. I think Mr. Claiborne's findings merit our serious attention, as we prepare to legislate reforms in our health care system.

[From the Saturday Review, Jan. 7, 1978]

THE GREAT HEALTH CARE RIP-OFF

(By Robert Claiborne)

In 1976, we Americans spent nearly $140 billion on our health needs—$640 apiece, or more than $2,500 for a family of four. Health care in all its forms soaked up more than one dollar in twelve of our gross national product, and by 1980, according to government estimates, the figure will exceed one dollar in ten. What's going on?

Inflation is obviously part of the answer, but only part: Since 1965, our health bill has risen more than twice as fast as prices have. Another part of the answer is that we are getting more care—and sometimes better care—now than we did then; yet another is that a minority of doctors and nursing home operators have been ripping us off, legally or otherwise. The main reason for rising health costs, however, is none of these, but rather the way the health care industry is organized. The individuals and groups that provide care—notably, the hospitals—and the organizations through which we pay for it—notably, Blue Cross—operate under incentives that reward inefficiency and outright waste. As a result, while a minority of Americans still get less health care than they need, collectively most of us get (and pay for) more, and more elaborate, care than we need—often, more than is good for us.

The American health care business is a peculiar industry in two fundamental ways. The first is its almost total immunity to the influence of supply and demand because "demand" is set largely by the supplier. Normally, the decision to purchase a given commodity or service, from a Cadillac to a shoeshine, is made by the buyer; in medicine, the decision is made mostly by the seller. About the only major medical purchasing decision most of us make is whether or not to see the doctor; thereafter, he decides what treatment we need, perhaps including hospital treatment, in which case he normally

specifies the hospital. There, he and other doctors decide what tests and X rays we require, whether or not we need surgery and/or intensive care, and when—assuming we survive—we can be discharged.

In theory, of course, we are still "free" to purchase or not to purchase. We don't have to get the prescription filled, go into the hospital, undergo surgery, and so on. In practice, few of us would have the nerve to go against doctors' orders, since we rightly doubt our own competence to make such decisions. Unfortunately, the people who do make the decisions too often have no incentive to question the cost of the decisions they make; indeed, their personal interests may well sway them toward high-cost rather than low-cost medicine. Even worse, we ourselves often have little reason to query the costs.

The reason in each case lies in the second peculiarity of the health care business: Its bills, unlike those of most businesses, are in large measure paid not by the customer directly but by "third parties"—Blue Cross-Blue Shield or commercial insurance companies or the governmental bodies that pick up the tab for Medicare and Medicaid. Thus a large part (over two thirds) of what we pay is effectively out of sight, which notoriously means out of mind.

Of course, we still pay the bill eventually; health, like anything else, operates on the venerable principle of TANSTAAFL. (There Ain't No Such Thing As A Free Lunch). Blue Cross or other health insurance is paid for either by payroll deductions, which cut our spendable income, or by employers' "contributions," which raise prices. Of the $4,800 you spend for a new Cutlass or Camaro, perhaps $110 goes to pay the health bills of the General Motors workers who made it, and probably as much again goes for health insurance covering the steel, rubber, and plastics workers who supply GM. Medicare and Medicaid payments come out of taxes—and you know who pays those. If inflation in health costs is a serious problem, it is one not only for the government or the company but for all of us.

To understand just how third-party payments and the lack of supply and demand pressures have inflated health costs requires a closer look at the health business. A good place to start is with the hospitals, whose charges are by far the biggest item (about 40 percent) in our national health bill. They are also, except for nursing home charges, the fastest growing item, costing us some six-and-a-half times what they did in 1960. Finally, an overwhelming 92 percent of all hospital charges is paid by third parties.

Perhaps the most basic fact about American hospitals is that for well over 30 years they have had more beds than they—or we—have needed. Medical economists figure that an efficient hospital should have an average of 85 percent of its beds occupied, the other 15 percent serving as a reserve for victims of epidemics and for seasonal fluctuations in illness. In 1946, the actual hospital bed occupancy rate was a mere 72 percent; 30 years later, it had increased only to 75 percent, though hospitalization had doubled. That is, the already underoccupied hospitals had added new beds almost as fast as their patient loads had increased.

A hospital is like a hotel: Empty rooms mean less income, which must be made up by increasing the charge for occupied rooms. Experts estimate that maintaining an unoccupied hospital bed costs between one half and two thirds as much as maintaining an occupied one; taking the lower figure, it turns out that excess hospital capacity is increasing hospital costs by some 7 percent—nearly $4 billion in 1976.

On the face of it, adding new beds when old ones were still empty was managerial insanity. Why did the hospitals do it? A little over a year ago, a prestigious committee of the Institute of Medicine, an affiliate of the National Academy of Sciences, issued what is probably the definitive word on the subject in a report entitled "Controlling the Supply of Hospital Beds."

As a major reason for hospital overcapacity, the committee cited "powerful community influences" to build new hospitals, expand old ones, and resist the closing of unneeded ones "regardless of their efficiency or even their financial viability." These influences included "community pride," "influential sponsors," and the economic lure of hospital payrolls. Another influence that the committee might well have cited is the political clout of local bankers, who handle hospital funds and make construction loans and of local contractors and building trades unions.

As against these powerful incentives to expand, the committee found essentially no incentives not to. Hospitals (as we have already noted) get nearly all their revenue from third-party payers, and *"these revenues are provided primarily on the basis of costs incurred"* (emphasis added). In simple language, the more the hospitals spend, the more they get. Thus, said the committee, when a hospital invests money in expansion, the risk is "largely transferred to the federal government and other third-party payers." In short, the forces that shape decision in the hospital business "virtually guarantee the widespread development of excess hospital bed capacity."

Though the committee did not address the point, the actual excess is a lot bigger than the difference between 75 and 85 percent occupancy: Hospitals not only have more beds than they need for their present patients but they also have more patients than they should.

The strongest evidence of this comes from the experience of the so-called health maintenance organizations (HMOs), the biggest and best known of which is the Kaiser-Permanente Medical Care Program, operating mainly in California. HMOs are technically "comprehensive, prepaid" plans—comprehensive because they provide care both in and out of the hospital, prepaid because the subscriber (or his employer) pays a flat annual fee regardless of whether he merely sees his doctor for an annual checkup or goes into the hospital for open-heart surgery. For HMOs, therefore, it's not a case of the more they get, but like most businesses, the more they spend, the less they have left. This means, among other things, that HMOs have a powerful incentive to use hospitalization—by far the costliest form of care—as little as possible.

As a result, the best (and biggest) of the HMOs take care of their members with 65 percent less hospitalization than the national average (even excluding the chronically ill): HMO subscribers and their families don't go into the hospital as often and don't stay there as long when they do. Yet, by and large, they are satisfied: HMOs have grown steadily and now service over six million people, a number equal to the entire population of Sweden.

This 65 percent reduction in hospitalization is admittedly not quite as impressive as it looks, since HMO members are on the average somewhat younger and (partly for this reason) healthier than the general population. But even allowing for these differences, the rest of us ought to be able to manage on 35 to 50 percent less hospitalization. Again taking the lower figure, the potential saving is on the order of $20 billion a year.

Why are we hospitalzed so much and at such cost? A big part of the reason is third-party payments, which means, in the Institute of Medicine committee's words, that "neither the patient nor the physician tends to be concerned with the cost of the treatment." But this is true only if the patient occupies a bed. Treatment or tests given on an outpatient basis or in the doctor's office are covered less thoroughly or not at all by insurance.

Thus, the doctor prefers to admit his patient to the hospital if at all possible, since his fee will probably be paid automatically and the patient will save money. The patient clearly won't object to saving money, and the hospital certainly won't object, since the more patients, the fewer empty beds. The only possible objector would be the third party; but, says the committee, the third party "usually conceives of itself as being in no position to do anything but pay the bill." We shall see in a moment why third parties act this way.

Some hospitals actively encourage doctors to admit patients regardless of need, simply to fill beds. A recent investigation in New York City, where more than 5,000 out of 37,000 beds are reckoned surplus, disclosed that patients were being admitted for such frivolous reasons as the treatment of warts; others were kept in the hospital for days or even weeks longer than necessary. In the words of one harassed hospital administrator, "At an 80 percent occupancy rate, I stand to break even. But if I go below 80 percent, I get zapped. Any admissions over the 80 percent rate are gravy, and you better believe we try to find a lot of it." Dr. Lowell E. Belling, the city's health commissioner, described the situation as "a chaotic, absurd system that can turn honest hospital administrators and physicians into crooks."

Nearly 20 years ago, Dr. Milton Roemer, of the University of California at Los Angeles, framed his own version of Parkinson's law: Hospital admissions multiply to fill the beds available. Nothing that has happened since has proved him wrong.

The hospitals' empty bed blues inflate costs in another way: They encourage the hospitals to install elaborate and expensive equipment to in the committee's words, "bolster institutional prestige and . . . attract physicians to their staffs." Quite simply, the more affiliated physicians, the more patients. What this clinical keeping-up-with-the-Joneses means can be seen from some recent figures cited by Bernard Tresnowski, a national official of Blue Cross. He reported that of 16 open-heart surgery facilities in Philadelphia, only 5 were being adequately used: of 30 megavoltage radiotherapy units—massive installations used to treat cancer—only 10 were being adequately used. Other figures come from a 1975 survey by the Chicago Hospital Council, which found that operating rooms in the city were underutilized to the point where 3 out of 10 were superfluous.

Underutilized equipment is obviously wasteful; it can also be dangerous. The reason is that in surgery or in any other hazardous procedure, the patient's chance of surviving depends heavily on the skill and experience of the doctor and his "team." Just as athletic teams that don't practice regularly lose more games, so medical teams that don't practice regularly lose more patients.

The relationship between practice and risk was spelled out in detail a few years ago by a group of Harvard radiologists who surveyed the diagnostic X-ray procedure called coronary arteriography. In hospitals doing 400 or more arteriographies a year, the risk was very low, with less than one death per thousand patients. But of the 75 percent of the hospitals doing less than 100 arteriographies a year (meaning that their equipment was grossly underutilized), the risk averaged more than eight times as high and in some cases, 50 times as high. In short, three quarters of our coronary arteriography units are (or were) dangerous to our

health—as well as being a waste of our money.

The existing figures on underutilized equipment, bad as they are, almost certainly understate the problem, since hospital equipment, like hospital beds, tends to be used because it is there, not necessarily because the patient needs it. This is unquestionably true of operating rooms; Americans undergo a lot more surgery than they need or than is good for them. Early in 1976, a congressional subcommittee estimated the number of unnecessary operations at nearly 2.5 million a year, at a monetary cost of over $3.5 billion—and at a human cost of 12,000 deaths; a study by The New York Times reached similar conclusions. The surgeons, of course, were furious: one of them declared that the author of the Times article "ought to be horsewhipped."

Though precise figures are, in the nature of things, hard to come by, those that are available indicate that both the subcommittee and the Times were a lot more right than wrong. For example, a very careful 1971 assessment of hysterectomies in six New York State hospitals found that 43 percent were unjustified; an equally meticulous review of urologic operations on children concluded that at least 69 percent were unneeded. Other persuasive evidence, like evidence of unnecessary hospitalization, comes from the records of HMOs. For example, in 1966 federal employees enrolled in HMOs had only 56 percent as much surgery as those enrolled in Blue Cross-Blue Shield.

Excess surgery, like excess hospitalization, has been fostered by the third parties, who tend to pay the bill simply on the surgeon's assurance that the operation was necessary. This is not to say that the surgeons are crooks (few are) but merely that they are human and, like the rest of us, sometimes biased by self-interest. As the distinguished senior surgeon George Crile, Jr., puts it, in many surgical decisions "the best interest of the patient is in sharp conflict with the financial interest of the surgeon."

As with hospitalization and surgery, so with laboratory tests and most other health services: Over the years, they have multiplied to soak up the funds available. And with the continued growth of third-party payments, more and more funds have become available, so that services have multiplied—and so have the prices of individual services.

Many medical organizations and some economists blame all this inflation not on hospitals and doctors but on "the law of supply and demand." That is, since the demand for health services has increased, the price was bound to go up. This, to speak plainly, is nonsense for at least two reasons. First, increased demand as such has never compelled any merchant—or doctor or hospital—to raise prices; the most it has ever done is allow him to get away with it. Second, in health services supply has kept pace with demand. Hospitals, as we have seen, still have more beds and equipment than they need. Doctors are certainly seeing more patients—but they aren't, according to American Medical Association figures working longer hours. Yet doctors' fees and hospital charges keep going up. Even a modest acquaintance with economic history would have shown that they were bound to do so as long as the people paying out the money felt they were "in no position to do anything but pay the bill."

Why, then, do third-party payers feel like this? The answer—to oversimplify somewhat—can be given in two words: Blue Cross.

Blue Cross—the national association of Blue Cross plans, with some 70 local and regional affiliates—was the pioneering supplier of hospitalization insurance. Despite strong competition from commercial insurance companies, it remains by far the biggest supplier, furnishing about half the total receipts of American hospitals. Its payment policies have influenced those of other insurance plans and have largely determined those of the federal Medicare program, nearly all of whose funds are funneled through Blue Cross and its "twin," Blue Shield.

At its birth in the 1930s, Blue Cross was an independent organization, but it lost that independence almost immediately. National Blue Cross shared directors with the American Hospital Association (AHA); the boards of local Blue Cross plans were controlled by doctors and hospital officials, which as late as 1970 made up an absolute majority of local board members. Of the (largely affluent) minority supposedly representing the public, few showed any inclination to quarrel with the industry majority. And the boards were almost totally self-perpetuating.

Whatever may have been the role of the "public" representatives on the boards, there can be no doubt whatever that the doctors and the hospital officials were, and are, involved in a conflict of interest. On the one hand, they had an obvious interest in raising their own incomes or those of the institutions they represented. On the other, they had an equally obvious responsibility to seek *lower* payments to doctors and hospitals—thereby getting Blue Cross subscribers a maximum amount of care per dollar. Doubtless most of them were honest people; but nobody, no matter how honest, can pursue both these goals at once.

Not very surprisingly, Blue Cross's policy from the beginning was to "pay the bill"—to reimburse the hospitals for whatever they spent. In 1971, the executive director of one local Blue Cross plan was asked by a Senate committee what he would do if an audit of a hospital's books revealed "clearly wasteful practices." His reply: "I am not aware of our audits ever uncovering wasteful charges, and I really wouldn't know what we would do if we ran into them." There is no evidence that other Blue Cross plans were hunting for waste any more vigorously—or had any clearer notion of what they would do if they stumbled on it.

Soon after these hearings, however, Blue Cross and the AHA decided on what one spokesperson called "a more arm's-length relationship." Neither group conceded it had been doing anything wrong, but both decided to stop doing it. Blue Cross now claims that 67 percent of its local board members represent the public—but it turns out that some of these public representatives also happen to be hospital trustees. The net result is that whereas 56 percent of Blue Cross board members had conflicts of interest in 1971, only 44 percent do today.

Blue Cross and AHA still share offices—two halves of a modern building on Chicago's lakefront. They still exchange officials: J. Alexander McMahon, AHA's current president, formerly headed North Carolina's Blue Cross-Blue Shield. The two organizations may be operating at arm's length, but they are still holding hands.

(In fairness, we should note that recently a few Blue Cross plans, often under heavy pressure from state governments, have begun to get a good deal tougher with the hospitals they reimburse. But if some plans have taken one step forward, others have moved backward. Just a few months ago, Michigan's Blue Cross-Blue Shield ousted consumer activist Charels H. Chomet from its board, claiming that he had abused the "privilege" of dissent and had become "counter-productive.")

The same conflicts of interest apply in spades to Blue Shield, which pays doctors for services rendered in the hospital (recently, for some outside services as well). *Half* of Blue Shield's local board members are doctors, and part of the remaining half represent hospitals and other providers of care.

The commercial insurance companies that pay most of the other half of our national hospital bill are not, of course, controlled by the health care industry. But they would have little incentive to query hospital costs, even if they had the means to do so. Their payments (unlike those of Blue Cross) are mostly made to the policy owner rather than to the hospital. If the payment doesn't fully cover the bill, that is the policy owner's problem—which he may, perhaps, try to solve by buying additional insurance coverage.

Given the many incentives for hospital waste and inefficiency and given the weakness of counterincentives when it came to paying the bill, inflation was already embedded in the American hospital system as early as 1950. Indeed, in the following 15 years, the national hospital bill—despite a relatively stable, overall price level—rose by nearly 9 percent a year. It was in 1965, however, that health care inflation really shifted into overdrive, with passage by Congress of the health care act familiarly known as Medicare-Medicaid. The Medicare part provided that the federal government would pay 80 percent of most medical bills for people over 65; Medicaid set up a somewhat similar system for poor people, using a combination of federal and state funds.

Medicare-Medicaid was passed in part because the people wanted it and in part because the hospitals allowed it. Until 1961, stonewalling by the AHA and other industry groups had killed every proposal for any kind of national health insurance. In that year, however, the AHA, feeling, perhaps, that some sort of insurance was inevitable, declared that it would not object to government insurance for the elderly, *so long as is was administered by Blue Cross*. As finally passed, the law provided that though the government would put up the money for Medicare, the actual payments to hospitals and doctors would be made by "fiscal intermediaries" *selected by the hospitals and doctors themselves*. In practice, this meant Blue Cross and Blue Shield, since nearly all hospitals and doctors picked them as intermediaries. As further assurance for the industry, the bill provided that hospitals would be paid, as before, for their "reasonable costs." The provisions on doctors' payments were even looser, involving (among other things) "prevalent and customary charges."

One might think that Medicare-Medicaid was written the way it was because of high-pressure lobbying by the health care industry. In truth, little pressure was needed. The AHA did, indeed, suggest that it couldn't guarantee hospital "cooperation" without the fiscal intermediary provision (though nobody used the nasty words "hospital strike," at least not in public). But in any case, the congressional leaders were so tickled at getting the bill through without a knockdown battle that they didn't worry too much about the details. After all, hadn't Blue Cross been acting as a sort of intermediary all along, so that it had the know-how? And hadn't it been paying hospitals for their "reasonable costs"? Almost nobody seems to have asked what Blue Cross policies had already done to hospital costs and what they would do when billions in federal and state funds were pumped into an already leaky system.

As soon as Medicare-Medicaid was passed representatives of the Social Security Administration (SSA) began secret meetings (even Congress was not allowed to see the minutes) with hospital representatives in order to spell out what "reasonable costs" meant. The regulations were made public—supposedly for discussion and criticism—only in May 1966, a bare month before they became effective.

A full account of how SSA's regulations were constructed so as to build a gravy train for the hospitals would fill a book. As just one example, consider the provisions governing depreciation—the money that a hospital, like any other business, must set aside to replace its worn-out plant. SSA allowed hospitals to depreciate the full cost of buildings that had already been partly, or even wholly, depreciated. They could depreciate buildings

constructed with federal grants—meaning that the government was paying twice for the same building. They could write off the cost of equipment well before its useful term of life. And so on.

Perhaps most important, hospitals were not required to "fund" their depreciation allowances, to actually set them aside for use only in replacing obsolete plants. Instead, they could (and did) use the funds for additional buildings and equipment—whose "reasonable costs" then became a ground for demanding still higher government payments.

Hospital costs surged. In the 15 years before medicare-Medicaid, they had been rising at an average rate of about 9 percent a year. During the five following years, the annual rise averaged over 16 percent. Hospital assets, thanks in part to the "depreciation" funds used for expansion, also surged, from an annual increase of about 9 percent to nearly 15 percent a year. Unsurprisingly, the increase in plant and equipment did not increase efficiency. Thus, while the number of patients rose 25 percent between 1965 and 1975, the percentage of occupied beds actually fell slightly.

If the hospitals did well out of Medicare-Medicaid, some of their suppliers did better. For example, the Texas wheeler-dealer H. Ross Perot. In 1964, Perot owned a small data-processing firm. Electronic Data Service, grossing perhaps $500,000 a year. However, he had friends in Texas Blue Cross, whose data-processing department he managed in his spare time, and in politics (he was, or soon became, a good buddy of President Nixon).

In 1965, Texas Blue Cross, disdaining competitive bidding, handed Perot a $5 million contract to do Medicare data-processing. To tool up for this tenfold expansion in his business, Perot borrowed $8 million from the Republic National Bank of Dallas, whose chief executive officer was also, oddly enough, the chairman of Texas Blue Cross. By 1970, Electronic Data Services was grossing nearly $50 million a year—two thirds of it from Medicare and Medicaid work in nine states, and one third of it representing clear profit. Perot's personal fortune had risen to an estimated $1.5 billion.

So far as is known, Perot broke no laws. He just knew the right people.

The fees that SSA set for doctors under Medicare were no less lucrative than the hospitals' "reasonable costs." Since Congress had instructed SSA to "consider" the "prevailing and customary" fees currently being paid, the first step was to try to define these rather slippery terms. SSA began by trying—in a remarkably haphazard way—to determine how much doctors were actually being paid.

With this information—accurate or inaccurate—in hand, SSA then set about defining "prevailing and customary." Most of us would consider that these two words, which the dictionary defines respectively as "most frequent or common" and "usual," mean pretty much the same thing and that as applied to doctors' fees, both would be roughly equivalent to the average charge by doctors in a given area. SSA, however, decided that the two words really meant quite different things. The prevailing—most frequent—fee, it decided, would be an amount equal to or greater than that charged by 9 out of 10 doctors, and no doctor could get more than that sum.

But even SSA couldn't claim that these prevailing fees were also customary—usual. It thereupon defined a doctor's customary fee as what he had been charging—or said he had been charging—over the preceding six months; Medicare would then pay him 80 percent of that sum, with the patient responsible for the balance.

On the face of it, this didn't look too bad: 9 out of 10 doctors would be paid on the basis of their existing fees, while the tenth would have to accept a lower fee for Medicare patients. However, SSA ignored two vital points. First, there was reason to believe that at least some doctors, well aware that Medicare had become law, had already raised their customary fees in anticipation of a bonanza. Second, there was nothing to stop any doctor from later raising his customary fee and after six months applying for higher Medicare payments. As a result, the customary floor tended to move up to the prevailing ceiling.

Congress had instructed SSA to "consider" the prevailing and customary principle; it had flatly ordered it to observe another principle: Medicare fees for a given service must not be higher than fees paid by the same fiscal intermediary for its other (non-Medicare) clients. SSA simply ignored this. When the staff of the Senate Finance Committee examined Medicare fees in 1970, it found that they almost invariably were higher—sometimes much higher. General American Life had been paying Missouri doctors $100 for cataract operations on its regular policyholders; for Medicare patients its fees averaged $416. John Hancock had been paying Georgia doctors an average of $163 to remove a gallbladder; under Medicare it paid $421. Alabama Blue Shield raised its payment for a cataract operation from $75 to $345, while Illinois Blue Shield pushed up its price for a prostate operation from $165 to $625.

SSA's tender loving care for the doctors showed up immediately in their fees. Before 1965, these had been increasing by less than 3 percent a year; during the first five years of the new program, the rate of increase more than doubled, to 6.6 percent a year. Doctors' incomes rose even faster, thanks to the influx of government-subsidized patients, by some 9 percent a year. One would like to believe that doctors were working harder for the extra money, but the truth seems to be that though they were seeing more patients, they weren't working longer hours—meaning, of course, that they were spending less time with each patient. If you were wondering why your doctor doesn't make house calls. . . .

After 10 years of Medicare-Medicaid, American doctors are the highest paid professionals in the world (with the possible exception of Swiss doctors). Their average net income (after expenses but before taxes) is now around $60,000 a year, with some well into the six-figure bracket. Moreover, they do distinctly better than other professionals of similar skill and experience, making some 10 percent more money than plant managers and economists, at least 20 percent more than lawyers, and nearly 25 percent more than engineers.

Most doctors have achieved their gilt-edged incomes within the law—and SSA's elastic regulations. Some have gone outside the law, especially in dealing with Medicaid patients. Medical groups in poverty areas have evolved the technique of "Ping-Ponging," in which a patient with, say, a stomachache is bounced from an internist to a dermatologist to a podiatrist to an optometrist, with Medicaid paying for all four. Another scam is "family ganging," in which a patient is told to bring in his or her entire family for examining and treatment—necessary or not. More conventional types of fraud include kickbacks from clinical laboratories and billing for nonexistent services; one practitioner billed for six tonsillectomies on the same patient.

Fraud has been even more spectacular in the nursing home business (largely created by Medicare-Medicaid), as has been attested by dozens of newspaper stories over the past five years. Indeed, it is fair to say that large-scale fraud (as opposed to large-scale waste) in health care began with these programs. As Franklin long ago observed, there is no vice into which otherwise virtuous men more easily fall than that of defrauding the government.

For all that, it would be wrong to see Medicare-Medicaid as merely a bonanza for doctors and hospitals, for sharpshooters like Perot, and for outright crooks like nursing home tycoon Bernard Bergman and the Medicaid-mill physicians. A bonanza it has certainly been, but for the poor and the elderly it has still been a real boon, giving them for the first time access to health care that they have badly needed. Doubtless some of the care they get is of low quality, and much of it, like much of the care we all get, is unnecessarily elaborate and expensive—but it is still better than none at all.

A no less serious mistake would be to see the current inflationary crisis in health care as caused by Medicare-Medicaid. As we have seen, the incentives for waste and inflation were built into our health care system long before 1965: Medicare-Medicaid merely made a bad situation worse. The moral of these measures is not that some people will rip off the government if they get the chance—this was hardly news in 1965 or even in 1865—but rather that if you pump more water into a leaky plumbing system, the leaks get worse. By the same token, if we pump in still more water, say, through an expanded system of national health insurance without first plugging the leaks, we could produce an inflationary flood.

So long as the people who run our health care system are rewarded—in money, prestige, and power—for being wasteful, waste is what we'll get; if we want to end the waste, we must change the system of rewards. How this might be done is material for another article; that it can be done has been demonstrated both by Canada's national health insurance system and by HMOs here at home.

W. O. BANKSTON OF DALLAS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. TEAGUE. Mr. Speaker, writers down through the years have on many occasions selected individuals from Texas to portray as garrolous flamboyant devil-may-care people and Myra MacPherson of the Washington Post did such an article on Mr. W. O. Bankston of Dallas, Tex.

It has been my pleasure to know Mr. Bankston for a number of years and I would like to include Ms. MacPherson's article about him in the RECORD. However, I would like to add that in my estimation Mr. Bankston in addition to Ms. MacPherson's description of him, is a well-known philanthropist, a down-to-earth person, and a good American.

[From the Washington Post, Jan. 16, 1978]

ONE DALLAS MILLIONAIRE HAS HIMSELF A SUPER BOWL WEEKEND

(By Myra MacPherson)

NEW ORLEANS.—W. O. Bankston, 64, wealthy Dallas car dealer, sports addict and longtime friend of athletes, pulls his plaid coat over his expansive belly. He checks the time on his large gold wristwatch encircled with diamonds, and moves on out of the New Orleans airport in a friend's 30-foot motor home complete with hot and cold running champagne.

It is 10:45 a.m., Friday, and Bankston is beginning the countdown to Super Bowl XII, his ninth Super Bowl game.

The first stop is the Dallas Cowboys' headquarters hotel by the airport. There Bank-

ston threads through milling officials and athletes to Texas E. Schramm, president and general manager of the Cowboys.

"How things going, W. O.?" asks Schramm.

"Well, I hit seven straight wells," says Bankston.

"You have? That'll knock hell out of your tax shelter."

"Damn right. I was doing all right when they was dry."

W. O., a man unafflicted by shyness, rushes over to Cowboys center John Fitzgerald. "I hear you're workin' with Carl Sewell Jr. (another car dealer). I've known him since he was an itty-bitty boy. Get him to tell you about the autographed ball I got him from Babe Ruth back in '47. I entertained Ruth in Dallas. He was dying of cancer—so we went out and got drunk."

Fitzgerald smiles that slightly indulgent smile athletes in their prime sometimes reserve for elderly men who talk of heroes past. Bankston then races up to Cliff Harris, All-Pro safety. "You better speak to me," says Bankston. "I got your little brother here. He's flying up in my airplane with my son tomorrow." A light dawns on Harris' face. "Oh yes sir, I really appreciate that."

Now, Bankston gets down to business, as they say in Texas. He takes out his "briefcase," a manila envelop loaded with precious jewels, the kind scalpers have risked arrest for all weekend. Bankston adds some more tickets to his collection and an invitation to the National Football League's annual bacchanalian blast.

"I got the Cowboys six cars for the coach to use here. They he'p me with my tickets—and I he'p them with their cars. That's the way it is in Texas."

FRIENDS, INDEED

W. O. Bankston is an American archetype, the businessman who lives by quid pro quo, the businessman who brings a touch of glamour into his life by mingling with jocks; who drops $7,000 "personal" money—to say nothing of Corporate funds he can write off—on a Super Bowl weekend. It's the supreme sports event—the game watched by 70 million Americans and another 54 million households around the world. It takes connection to get tickets, and Bankston savors the feeling, the sense of clout.

"I brought about 55 people down here. We're in four or five hotels and I paid all kindsa price to get those rooms. I personally got 30 some tickets to the game. I buy 100 tickets for every game in season besides my two boxes. I got two. A high-class Eye-talian and I bought one box and Lincoln-Mercury has a box.

"I carry a ton of people to the World Series and haven't missed but two since 19 and 34. You'd think I was one of the owners. Everybody knows me. I kept a box in Yankee Stadium for years. Mickey Mantle and I are best friends."

Best friends. Names are dropped like so much confetti during a long weekend with W. O. (William Orville). "Best friends" can, in the broad-gauge bonhomie of W. O.'s cosmos, mean someone you met once at a party, someone you saw on TV, someone who bought a car from you—and sometimes it can even mean best friends.

Pat Summerall, the play-by-play announcer is mentioned. "I know him", says Bankston. Summerall knows Bankston's name: "He hangs around with the Cowboys. He just sort of appears."

TEA AND CHICANERY

Bankston went up to Mickey Mantle in a hotel lobby in 1951 and introduced himself. "I did all kinds of things for Mantle. He'pped him get a house once." He and Mantle did become best friends. Another friend is Billy Kilmer.

It is 1 p.m. now and a gang is collecting at Manale's restaurant for oysters and barbecued shrimp—among them Kilmer and Kilmer's friend George Owen, a Dallas real estate investor and friend of many quarterbacks.

Kilmer, red-faced and cheerful, claps W. O. Bankston on the back. "He tells fantastic stories about Mantle and Babe Ruth. Those were my heroes. I met W. O. when I was with the Saints 10 years ago. We have something in common, he loves all sports. He wants to help anyone in trouble. So many of my friends if they ask about a car I send 'em right away to W. O. It's just automatic."

Owen chimes in. "W. O. put me in business hell four times or so. He's like a father to me. He got 600 people or so out of the penitentiary and rehabilitated most. He's very influential on the parole board. Eighty percent of his day is spent helping somebody. His business thrives because of that."

W.O. says of Owen "He'd go broke and I'd put him in business again. I never liked his first wife. I told him 'either you lose my friendship or you lose that gal.' He couldn't afford that. I told him 'if you lose my friendship you're losing your bank!' " Owen nods. "He got rid of the gal." Her name was Maureen and she later married Watergate figure John Dean.

Wine and beer pile up on the table and soon the stories flow. How Mickey Mantle and Owen and W.O. once won a bet and got a Baltimore pitcher drunk before a game—by rigging it so they could all drink tea instead of booze. Only W.O. didn't know about the tea and drank 18 drinks and passed out.

And there was the time Mantle and Owen tried to get Bankston drunk so they could steal his girl friend. "W.O. was between wives and we told this gal he was so old and wore out and broke. W.O.'s crazy like a fox. He pulled out $500 or so in bills and dropped it on the floor and asked us all to help him pick up the money. The gal took one look at all that money and we couldn't get her to say hello to us after that."

Bankston doesn't drink anymore. One of the first times he tried to stop was in 1948. "I dropped a gun I was drunk and it hit the pavement and done went off and shot me in the belly. Figured I'd better stop."

Bankston's round face is distinguished by a flattened nose that looks at if it ran up against Muhammad Ali's fist. "Oh I used to fool around with the police. The sheriff Bill Decker and I were great pals and I'd go out in my car with its siren and its police radio with him. Had a cowboy hit me one time and he put my nose clean over here" says Bankston touching the side of his face. We'd do some arresting. Actually Decker would do the arresting. I'd just sorta herd 'em to the car.

"Once a guy shot himself and I was carrying this dead man out and it went on National TV. (Baseball player) Cletis Boyer was watching and yelled to Mickey 'Here's W.O. draggin' this dead man out on TV.' " W.O. savors the story. "They called to tell me about it."

The check for lunch comes to $140. W.O. Bankston reaches for it. Nobody stops him.

The cab moves through the French Quarter to Bankston's hotel, the Monteleone. Total bedlam had not yet erupted: it is only Friday but already it is difficult to thread through the narrow streets. Bankston gives the doorman a $10 bill. In the lobby scalpers sidle up and say "you got any tickets?" Bankston brushes them aside and says to the Bellhop, "I'm gonna give you $10," he pauses. "One time. You help me along there'll be more." The bellhop says "Yes sir."

Bankston stuffs the wad of $20s and $50s, some $100s wrapped in a rubber band, back in his pocket. "I always carry $1,000 or so. I just feel better with it in my pocket. Credit cards don't have the same feeling to me. I just never want to go broke again."

THE SABLE AND SUEDE BRIGADE

Dallas has been described as not so much where the West begins as where the East peters out. It is filled with bankers and investors. While most pro-football fans look as if they have been very well fed for a long time, the Super Bowl Dallasites go them one better in affluence—they seem to have cornered the market on sable and suede. Bankston is no exception—his wife has a Neiman-Marcus mink with sable collar; he has a rust, custom-made all suede suit, pants and all.

But Bankston is a dying breed in Dallas, the wild-catting, self-made man. Bankston never got to the seventh grade; quitting school to help the family when his father, a railroad conductor, broke his back. He said he never had time to learn any sports. "First job I had was picking turkeys."

At 19, after a lifetime of odd jobs, Bankston hit the rails and was picked up along with 20 hoboes who had hopped a freight to Dallas. Sheriff Decker, then a patrolman, was there to escort them out of town, but W. O. convinced him he could get a job. He sold newspapers, worked in a funeral home, on the assembly line, then sold his first car in 1934 for $395 to a man named Tom Clark, who later became a Supreme Court Justice.

With his "Bank on Bankston" slogan, Bankston became third place in sales of Lincoln-Mercury luxury cars. He is asked if that is third place in Texas. "In the U.S. of A., honey."

Y'ALL COME

The NFL's Friday shindig for 3,000 of its most intimate friends—including Bankston, in pin-striped suit with vest. It is such a crunch that one guest goes up to Pete Rozelle, football commissioner, and says he'll come to next year's game on only one condition—that Rozelle promises him he won't get invited to the party.

It is an exercise in super self-indulgence and massive piles of shrimp, catfish, crab claws, oysters; bars in all corners of the monstrous Rivergate convention hall, two bandstands blasting out Cajun, country music, dixie rock and '40s jazz.

The owners and coaches and wives and assorted girl friends and friends are caged behind a picket fence. Partygoers lean over the fence to get Dallas coach Tom Landry's autograph. Bankston says hello to Landry in the crunch, who nods.

Bankston waits to say hello to Rep. Thomas "Tip" O'Neill (D-Mass.), House speaker and full-time football fan. O'Neill is surrounded by as many people greeting him as are athletes. He is talking with New Orleans mayor Moon Landrieu. "You still mayor?" asks O'Neill. "For another four months." After Bankston, who idles up, drifts away, O'Neill says, "Who is that guy? He says I met him at a fund-raiser for Jim Wright." Someone explains that Bankston is a good man to the Democrats and that he is on the Democratic National Committee finance committee. O'Neill files that information away.

Bankston meets a man for the first time and says, "Next time you get to Dallas, call me and I'll get you a car and driver. He'll keep you out of trouble." The man asks, "But what if I want to get into trouble." Bankston says, "Well, then, I'll see to it that the police don't bother you."

QUID PRO QUO FOR "LITTLE JOE"

Saturday starts slowly for everyone. The players go into hiding. Sports writers get drunk.

Only the fans are stirring. They shout "Cowboys" and "Go Bronks" as they run up against each other in packs. Denverites drink Orange Crush drinks in sleazy bars next to strip joints, and middle-aged women top off sable coats with Dallas cowboy knit caps. By late afternoon the bellows of fans sound like the mating calls of crazed water buffalo as they move up and down Bourbon Street in the Quarter, in freezing cold wind. It is so cold that Bankston remarks to nearly everyone he sees that the silver money in his pocket is like ice.

He uses the morning to change to a larger room, to barter away some leftover tickets, to phone the office to see how his oil wells and car business is doing. His son, Jimmy, 27, wanders into the room with Cliff Harris' brother and Richard Tharp, a buddy who was 1976 world champion drag racer.

Cliff Harris' brother says he's never seen his brother so nervous before a game. Bankston's son's crowd closed the bars at 6 a.m. They say they are saving themselves for the Cowboy blast after the game with Waylon Jennings. Bankston says he'll be in his plane on the way back to Dallas by then.

Bankston wanders up to the Presidential Suite to see John MacMillan, a Dallas Coors dealer, who had 17 cases of Coors flown in for pals who stop by. The suite is $250 a day. Bankston talks about how he is going to get a man named Warren G. Harding elected state treasurer. MacMillan says, "You can do it, W.O." MacMillan asks if Clint Murchison Jr., chairman of the board of the Dallas Cowboys has arrived. Bankston says: "Last I talked to him he was coming in just before the game. He don't like all this hootin' and hollerin. He was over in Paris when I talked to him on the phone. I want to put my plane in his damn old hangar. He's got the room."

Bankston goes down to the lobby and talks to "Little Joe," a short man with an Italian accent and a muffler around his neck. "Little Joe" has put aside 8 rooms at the hotel and has turned one of these over to Bankston. In exchange, he would like two tickets to the game he says. That night, "Little Joe" imperiously holds forth in a tuxedo as the maitre d' at Morgans—and magically finds a table for Bankston's party of 10.

"I knew the old man, Diamond Jim," says Bankston. Diamond Jim was a legendary New Orleans' restaurateur, longtime friend of Huey Long and wore diamonds on everything—including the fly of his pants. His two sons now run Moran's.

"Everything you want done, you can get done in New Orleans—if you live here," says Bankston. "When I want to put on the dog for some of my salesmen or customers, I call Little Joe and he'll have them met at the airport, get them a five-course meal and I catch the tab."

After dinner at Moran's, Bankston drops by the NFL players union party which is jointly sponsored by Mack Trucks. It is another intimate little do of 500 or so. Ed Garvey, the executive secretary of the union, is asked "Is there any such thing as an intimate gathering at the Super Bowl?" "This is it," says Garvey.

Players not in the Super Bowl and former players and female friends bolt down and drink. Bankston talks to Redskin center and vice president of the union Len Hauss. "I know you," says Hauss. "I met you with Kilmer."

Hank Greenberg, baseball's great, is on his way out and Bankston grabs him. There is not instant recognition, but then Greenberg finally says, "W.O. Yes! How are you. You're looking fine." Later Bankston says he helped Greenberg in an oil deal. Greenberg says he can't recall it. "I just remember him from always being at the games, being a fan."

BANKING ON THE BOWL

It is midnight before the game and the French Quarter is now total chaos. Police ride horses and wear walkie-talkies and barricade the streets from cars. People mill around, strolling, and sometimes, stumbling, up the streets with glasses of booze in hand. All week the Hotsy Totsy strip joint door had been left slightly ajar for a free peek of a topless dancer as an enticement. With Saturday's jammed crowd, there was no need for enticement. The door was closed to the nonpaying, teeming street mass.

There was an air of cheerful revelry, and one policeman predicted there would be no trouble. "Super Bowl doesn't draw trash. It draws money people. The Mardi Gras draws trash." He is asked if he is more tolerant of the drunks on Super Bowl eve. "Yaaa. You have to be. You can't lock up 100,000 people."

There are 58,000 visitors in town for the Super Bowl. It has been said that the whole thing would be a great event if they just called off the game. But W. O. Bankston is one of the few who decides to pass up the partying and get to bed.

"I came here for the game. You come by my seats at the stadium tomorrow and I'll introduce you around to near everybody from Dallas." He thinks the Cowboys will win and make the point spread, "but I don't have a wager on the game and that's on my mother's grave. You all run along to the Old Absinthe House. I don't drink no more and I don't want to stand around listenin' to all that drunk talk."

NAME-DROPPING, BAR-HOPPING

The Absinthe House in the heart of the French quarter, is an ancient brick and wood structure with a few socially redeeming qualities; it is the unofficial drinking headquarters and pack them in, literally 10 deep. It is the P. J. Clark's of New Orleans where former NFL players, usually stars, meet for their annual Super Bowl drink-drunk contest as opposed to NFL's pass-punt-kick contest.

Billy Kilmer calls it his "office." Saturday night he held forth in one corner. Two women shout to each other above the din. "I saw Joe Namath!" "You did?!" "Well, actually, I didn't see him. I saw his secretary." "His secretary?" The talk is of point spreads, and booze legends-in-the-making.

One night it was filled with names—Sonny Jurgensen, Namath, Kilmer, Summerall, Pete Rozelle, Ethel Kennedy, Rep. Jack Kemp (R-N.Y.), who always has an annual Super Bowl party for himself: Herb Klein, Jimmy the Greek, Dan "Semi-Tough Jenkins with a coterie of adoring young sports writers, Charlie Conerly former Giants quarterback, and Alex Webster, former New York Giants head coach and running back, Tim Mara, part owner of the Giants, and Tom Brookshier, formerly of the Eagles and present CBS analyst for the Super Bowl.

Brookshier said his shoulder was hurting, then paraphrased a Vince Lombardian requirement for pro-players who are injured. Lombardi always commanded them to "play hurt." Brookshier said that, despite the pain in his shoulder, he'd "drink hurt."

Few of the former stars lost their competitive zeal at the bar—and still objected to curfew restrictions. The bar closed at 5:30 a.m.

As they wended their way out near dawn to face Sunday's game as spectators, one ex-jock joked that he would leave a wake-up call—with the bartender.

THE BEST BOWL MONEY CAN BUY

Since the game started late to catch prime-time ratings, Sunday was more of the same—flowing bloody mary brunches, Dixieland bands blaring out frenetic welcomes to the tourists who ate hot dogs and milled around in the Hyatt Regency lobby and waited for the game to begin across the street in the Superdome, which looms like some Close Encounters saucer.

During the game, Bankston was an island of calm surrounded by a sea of wild Cowboy and Bronco fans who blew claxon horns, waved signs and kept up a steady roar.

The Broncos were obviously a sentimental favorite, but this didn't bother Bankston who predicted all along that the Cowboys would win by 10 points.

With nine minutes left and the score 20 to 10 in favor of the Cowboys, Bankston left the stadium. "They're gonna win. I think our defense player real well, and the only reason I'm leaving is to beat the rush and get my airplane out before the other private planes. There's some 700 of them down here, I hear."

Meanwhile, the Cowboys were scoring yet another touchdown, and some of W.O. Bankston's friends were whooping it up in a Chrysler-bought box—drinking, lounging around on the sofas, watching the game on TV as well as on the field. One of them said, "The Orange Crush was turned into orange mush."

The box was filled with the kind of high rollers who come to such super events as the Super Bowl. One executive summed up what is often the corporate view of sports as he shouted after that last touchdown, "I just won five big ones on that."

For those unfamiliar with the terminology, five big ones translates into $5,000.

It had been W.O. Bankston's Super Bowl. He had paid for it, with and without hot and cold champagne.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, January 24, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 25

8:45 a.m.

Agriculture, Nutrition, and Forestry

Nutrition Subcommittee

To hold an organization meeting.

322 Russell Building

9:30 a.m.

Foreign Relations

To resume hearings on the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Exec. N, 95th Cong., 1st sess.).

4221 Dirksen Building

10:00 a.m.

Armed Services

To continue hearings on the military questions and costs of maintaining and operating the Panama Canal and on the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Exec. N, 95th Cong., 1st sess.).

318 Russell Building

Banking, Housing, and Urban Affairs

Financial Institutions Subcommittee

To hold hearings on S. 1010 and H.R. 2777, to establish a National Consumer Cooperative Bank.

5302 Dirksen Building

Energy and Natural Resources

To hold a business meeting to consider committee budget resolution and pending nominations.

3110 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on urban policy.
357 Russell Building

Governmental Affairs
To resume hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.
3302 Dirksen Building

Human Resources
To mark up S. 1883, to strengthen the remedies and expedite procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 2300, to extend for five years the U.S. Commission on Civil Rights.
2228 Dirksen Building

Rules and Administration
To continue hearings on legislative and administrative business, and to hear arguments by attorneys in the matter of Lester Kinsolving vs. the Standing Committee of Correspondents of the Senate-House Press Galleries regarding the reaccreditation of Mr. Kinsolving.
301 Russell Building

Select Small Business
To continue hearings on legislation to establish a commission to study competition in American industry.
424 Russell Building

3:00 p.m.
Foreign Relations
To meet in closed session to hear Secretary of State Cyrus Vance on the situation in the Middle East and other matters.
S-116, Capitol

JANUARY 26

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on S. 276, to establish a national system to promote the reuse and recycling of beverage containers.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the GSA.
4200 Dirksen Building

Judiciary
Citizens and Shareholders Rights Subcommittee
To hold hearings jointly with the Administrative Practice and Procedures Subcommittee on S. 2117, to expand the bases upon which the U.S. can be held liable for the conduct of its employees under the Tort Claims Act.
235 Russell Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed fiscal year 1979 funding for Community Service Administration, Occupational Safety and Health Review Commission and the Soldiers and Airmen's Home.
S-128, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 1010 and H.R. 2777, to establish a National Consumer Cooperative Bank
5302 Dirksen Building

Foreign Relations
To begin consideration of the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on urban policy.
357 Russell Building

Human Resources
To continue markup of S. 1883, to strengthen the remedies and expedite procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 2300, to extend for five years the U.S. Commission on Civil Rights.
2228 Dirksen Building

Joint Library
To hold hearings on the proposed reorganization of the Library of Congress.
H-326, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed fiscal year 1979 funding for Corporation for Public Broadcasting, Railroad Retirement Board, and National Commission on Libraries and Information Sciences.
S-128, Capitol

Select Ethics
To hold a business meeting.
S-126, Capitol

2:30 p.m.
Foreign Relations
Foreign Economic Policy Subcommittee
To hold a closed business meeting.
S-116, Capitol

3:00 p.m.
Armed Services
Military Construction and Stockpiles Subcommittee
To hold hearings to examine the potential for application of new energy iniatives at DOD installations.
224 Russell Building

JANUARY 27

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on S. 276, to establish a national system to promote the reuse and recycling of beverage containers.
5110 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold an organization meeting to consider the committee budget and other administrative matters.
5302 Dirksen Building

Governmental Affairs
To resume hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.
3302 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed fiscal year 1979 funding for the Federal Mediation and Conciliation Service, National Labor Relations Board, and National Mediation Board.
S-128, Capitol

Foreign Relations
To continue consideration of the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on urban policy.
357 Russell Building

Human Resources
To continue mark up of S. 1883, to strengthen the remedies and expedite procedures under the National Labor Relations Act.
4232 Dirksen Building

Select on Intelligence
To hold hearings on the nomination of Ambassador Frank Carlucci, of Pennsylvania, to be Deputy Director of Central Intelligence.
6202 Dirksen Building

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to review the past years' housing programs with Patricia Harris, Secretary of HUD.
5302 Dirksen Building

JANUARY 30

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of foreign military sales through the Federal Financing Bank.
5302 Dirksen Building

Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 1812, the Family Farms Act, S. 242, to provide for consideration of the comparative productive potential of irrigable lands in determining non-excess acreages under Federal reclamation laws, and S. 2310, to permit the execution of certain contracts negotiated with irrigation districts under the 160-acre limitation.
3100 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings to receive testimony on the public debt and the implications of President Carter's budget upon the debt.
2221 Dirksen Building

Governmental Affairs
To resume hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.
3302 Dirksen Building

Judiciary
To hold hearings on the nomination of William H. Webster, of Missouri, to be Director of the Federal Bureau of Investigation.
2228 Dirksen Building

Select Small Business
Economic Development, Marketing, and the Family Farmer Subcommittee
To hold hearings on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

2:00 pm.
Select on Intelligence
To resume hearings on the nomination of Ambassador Frank Carlucci, of Pennsylvania, to be Deputy Director of Central Intelligence.
5110 Dirksen Building

JANUARY 31

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of Energy.
3110 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To mark up S. 2152, authorizing the U.S. to participate in the Supplementary Financing facility of the International Monetary Fund, and S. 2093, to bar availability of moneys in the Exchange Stabilization Fund for payment of administrative expenses of the Treasury Department.
5302 Dirksen Building

Environment and Public Works
To continue hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building

Governmental Affairs
To continue hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.
3302 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on S. 1464, to require a health warning on the labels of bottles containing certain alcoholic beverages.
Until 12:30 p.m. 4232 Dirksen Building

Select Intelligence
Secrecy and Disclosure Subcommittee
To hold hearings to receive testimony on secrecy and disclosure of classified documents within the Federal Government.
235 Russell Building

Select Small Business
Economic Development, Marketing, and the Family Farmer Subcommittee
To continue hearings on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

2:00 p.m.
Select Ethics
To hold a business meeting.
S-126, Capitol

FEBRUARY 1

9:00 a.m.
Human Resources
Aging Subcommittee
To hold oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 6226 Dirksen Building

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of Interior.
3110 Dirksen Building

Environment and Public Works
To continue hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building

10:00 a.m.
Armed Services
To resume hearings on the military questions and costs of maintaining and operating the Panama Canal and on the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operations of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Banking, Housing, and Urban Affairs
To resume markup of bills proposing simplification in the "truth-in-lending" laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Budget
To hold hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
Room to be announced

Select Intelligence
Secrecy and Disclosure Subcommittee
To continue hearings to receive testimony on secrecy and disclosure of classified documents within the Federal Government
235 Russell Building

Select Small Business
Economic Development, Marketing, and Family Farmer Subcommittee
To continue hearings on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

FEBRUARY 2

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of the Interior.
4200 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings on the proposed Carnegie/White House Conference on Families.
Until 12:30 p.m. 1318 Dirksen Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
Room to be announced

Energy and Natural Resources
To hold a business meeting on pending calendar business.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on H.R. 8149, the Customs Procedural Reform Act.
2221 Dirksen Building

Select Intelligence
Secrecy and Disclosure Subcommittee
To continue hearings to receive testimony on secrecy and disclosure of classified documents within the Federal Government.
235 Russell Building

FEBRUARY 3

9:30 a.m.
Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until 12:30 p.m. 457 Russell Building

Veterans' Affairs
To hold hearings on S. 2384, the Veterans and Survivors Income Security Act.
6202 Dirksen Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
Room to be announced

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings to receive testimony on Federal dam safety requirements.
4200 Dirksen Building

FEBRUARY 6

9:00 a.m.
Judiciary
Citizen and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 476, 477, 478, and related bills to amend the laws concerning diplomatic immunity.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on exchange rate policy.
5302 Dirksen Building

Energy and Natural Resources
To resume hearings on pending nominations.
3110 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To resume hearings to receive testimony on the public debt and the implications of President Carter's budget upon the debt.
2221 Dirksen Building

6:00 p.m.
Veterans' Affairs
To hold hearings on a National Academy of Science study of health care for American veterans.
6202 Dirksen Building

FEBRUARY 7

9:00 a.m.
Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 6202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the future of space science and space applications.
235 Russell Building

Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Federal Highway Administration, and to receive testimony from Secretary of Transportation Brock Adams on the Administration's highway legislative proposals.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings to receive testimony from HEW Secretary Joseph A. Califano, Jr., on S. 2084, the proposed "Better Jobs and Income Act."
2221 Dirksen Building

FEBRUARY 8

9:00 a.m.
Human Resources
Aging Subcommittee
To continue oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 457 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Nuclear Regulatory Commission.
4200 Dirksen Building

Environment and Public Works
Transportaion Subcommittee
To hold hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
1318 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings to review the current programs on child care and child de-

velopment and the need for additional legislation.
Until 12:30 p.m. 4232 Dirsken Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on the extension of NIH research authorities and community mental health centers.
Until 12:30 S-207, Capitol

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building

FEBRUARY 9

7:00 a.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on the reauthorization of the ACTION agency (P.L. 93-113).
Until 11:00 a.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for Title V's Regional Commissions of the Public Works and Economic Development Act of 1965, and the Appalachian Regional Commission.
4200 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Finance
Public Assistance Subcommittee
To resume hearings to receive testimony from Secretary of Labor F. Ray Marshall on S. 2084, the proposed "Better Jobs and Income Act".
2221 Dirksen Building

FEBRUARY 10

9:30 a.m.
Environment and Public Works
Water Resources Subcommittee
To mark up H.R. 7744, to permit the contract dredging for improvement of rivers and harbors by private industry.
4200 Dirksen Building

FEBRUARY 13

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the National Bureau of Standards.
5110 Dirksen Building

FEBRUARY 20

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for programs within the Department of the Interior, including General Services building proposals.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

6:00 p.m.
Human Resources
Child and Human Development Subcommittee
To continue hearings to review the current programs on child care and child development and the need for additional legislation.
Until 9:00 p.m. 4232 Dirksen Building

FEBRUARY 21

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Economic Development Administration.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing, and Urban Affairs Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on HUD crime and riot reinsurance programs.
5302 Dirksen Building

10:00 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Army Corps of Engineers.
4200 Dirksen Building

FEBRUARY 23

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on U.S. export policy.
5302 Dirksen Building

FEBRUARY 24

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue hearings on S. 1820, to preserve examples of all of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

FEBRUARY 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the impact of building codes on housing rehabilitation.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume oversight hearings on U.S. export policy.
Room to be announced

FEBRUARY 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on the Resource Conservation and Recovery Act of 1976 (P.L. 94-580).
4200 Dirksen Building

Veterans' Affairs
To consider committee budget resolution.
412 Russell Building

MARCH 1

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

MARCH 3

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To mark up S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection, and S. 1140, to encourage and assist States in development of improved programs for the conservation of "non-game" species of fish and wildlife.
4200 Dirksen Building

MARCH 6

9:30 a.m.
Environment and Public Works Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

6:00 p.m.
Veterans' Affairs
To resume hearings on a National Academy of Science study of health care for American veterans.
Until 10:30 p.m.
6202 Dirksen Building

MARCH 7

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from officials of the VFW.
318 Russell Building

MARCH 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

MARCH 13

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 14

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 15

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

MARCH 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on FDIC report on preferential bank lending policies.
5302 Dirksen Building

MARCH 20

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 21

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

Veterans' Affairs
To mark up S. 364, to provide for judicial review of administrative decisions promulgated by the VA, and to allow veterans full access to legal counsel in proceedings before the VA, and S. 2384, the Veterans and Survivors Income Security Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 22

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

APRIL 3

9:00 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AM-VETS, Paralized Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 4

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 6

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the National Bureau of Standards.
235 Russell Building

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, January 24, 1978*

The House met at 12 o'clock noon.

The Reverend O. H. Bertram, pastor, Good Shepherd Lutheran Church, Toledo, Ohio, offered the following prayer:

Let us bow our heads and pray.

Gracious Lord, our Heavenly Father, let our prayers not be a mere form, but a heartfelt need by all of us. Let our motto, "In God We Trust," not be a mere phrase, but a confession. Let our declaration, "This Nation, under God," not have a hollow ring, but be a hallowed proclamation. We thank You for the blessings of the many freedoms offered to us in our Nation. Let us use them wisely, and use them as a gift from You.

On behalf of our Congress, representing millions of people, we implore that You might direct their deliberations and endow them with wisdom to make God-pleasing and beneficial decisions. May our Nation be a better place because of their leadership. May corruption be uprooted and honesty be exaulted.

We stand humbly before Your Throne, asking for undeserved blessings through Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2401. An act to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time to announce to the membership that it now is the plan to bring up the bill H.R. 1614, the Outer Continental Shelf Lands Act, tomorrow, Wednesday, for adoption of the rule and general debate. I take this time, so that the Members might be advised, because we had earlier suggested that it would come on Thursday.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. WRIGHT. I yield.

Mr. BAUMAN. Is it the intention of the leadership to conclude consideration of this bill this week, because certainly it will take more than 1 day to conclude amendments and debate?

Mr. WRIGHT. Under the rule that has been offered, I believe there are 3 hours

of general debate. It would be our hope that we could debate the rule and perhaps conclude general debate tomorrow. That bill and such other parts of our schedule as may be necessary could be completed on Thursday. There still would be no Friday session.

Mr. BAUMAN. But the intention is to conclude amendments and final vote on the OCS bill this week?

Mr. WRIGHT. Let us say it is the hope of the leadership.

Mr. BAUMAN. And will the other bills already announced still be scheduled on Thursday?

Mr. WRIGHT. To the extent time remains and we can accomplish all the program, we would do that. Failing in that, we would accomplish as much of it as possible, and address the remainder of it next week.

Mr. BAUMAN. I thank the gentleman.

THE REVEREND O. H. BERTRAM

(Mr. LATTA asked and was given permission to address the House for 1 minute.)

Mr. LATTA. Mr. Speaker, the prayer was offered today by one of my favorite pastors, the Reverend O. H. Bertram, pastor of the Good Shepherd Lutheran Church of Toledo, Ohio, which he has faithfully served since December 1964.

Reverend Bertram not only spreads God's word among the members of his own congregation but also broadcasts it to many more over 11 radio stations and 10 television stations from Florida to Michigan and from Boston to Chicago. In his free time, he writes a column for several newspapers as well.

Reverend Bertram was accompanied here today by Mrs. Bertram and we are pleased to have both of them in our midst.

THE FARMERS' BILL FOR 100-PERCENT PARITY

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, the farmer is demanding parity for his crops and he should receive it. The average level of farm income is below the poverty level established by Government for welfare families.

It is time for the Congress and the American people to listen to the farmers. They produce the food and fabric which America requires and the world wants and needs. They cannot continue indefinitely to produce without a meaningful measure of the protection which is already provided to labor and most segments of the industrial world. The farmers who gathered in Washington last week served to focus attention on their plight. Theirs is a much more serious plight than America now understands.

Most commodities produced on the farm today are selling at less than the cost of production. Yet, costs to the farmer continue to grow by leaps and bounds. Farm operations and equipment require substantial financing. His products generally have little protection by way of subsidies or loan guarantees from the Government. Consequently, he is going deeper in debt year by year. Few understand that the farmer sells at the mercy of the buyer. He is the only producer who buys at retail prices and sells at wholesale.

The farmers are getting their act together. They have not heretofore been organized as have most other segments of industry in this country. Consequently, they have not had lobbyists representing their interests in the Congress and in the departments of the Government where decisions directly affecting them are made.

Congress should accept its responsibility toward the farmer before the proposed nationwide strike becomes a reality. His complaints are real and they are legitimate. If the average farmer should stop working and go on welfare he would probably be better off than he is today. That is not what we want for America.

I am today introducing a bill to insure 100 percent parity to the farmers of America. I urge my colleagues, not only from rural areas but also those who represent urban areas, to join in support of this legislation. We welcome your cosponsorship. I am very hopeful that the Agriculture Committee will favorably consider this proposal at an early date. The farmers need our help now.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 5322, PROVIDING DUTY-FREE TREATMENT FOR ISTLE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5322) to provide duty-free treatment for istle, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Black Lung Benefits Revenue Act of 1977".

SEC. 2. EXCISE TAX ON COAL.

(a) IN GENERAL.—Chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) is amended by inserting after subchapter A the following new subchapter:

"Subchapter B—Coal

"SEC. 4121. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—There is hereby imposed on coal sold by the producer a tax at the rates of—

"(1) 50 cents per ton in the case of coal from underground mines located in the United States, and

"(2) 25 cents per ton in the case of coal from surface mines located in the United States.

"(b) LIMITATION ON TAX.—The amount of the tax imposed by subsection (a) with respect to a ton of coal shall not exceed 2 percent of the price at which such ton of coal is sold by the producer.

"(c) TAX NOT TO APPLY TO LIGNITE.—The tax imposed by subsection (a) shall not apply in the case of lignite.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) COAL FROM SURFACE MINES.—Coal shall be treated as produced from a surface mine if all of the geological matter above the coal being mined is removed before the coal is extracted from the earth. Coal extracted by auger shall be treated as coal from a surface mine.

"(2) COAL FROM UNDERGROUND MINES.—Coal shall be treated as produced from an underground mine if it is not produced from a surface mine.

"(3) UNITED STATES.—The term 'United States' has the meaning given to it by paragraph (1) of section 638.

"(4) TON.—The term 'ton' means 2,000 pounds.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) is amended by adding at the end thereof the following new sentence: "For the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words '(otherwise than as material in the manufacture or production or, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)' shall be disregarded.".

(2) Section 4221(a) of such Code (relating to certain tax-free sales) is amended by inserting "(other than under section 4121)" after "this chapter".

(3) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by inserting "(other than the tax imposed by section 4121)" after "chapters 31 and 32".

(4) Subsection (b) of section 6416 (relating to special cases in which tax payments are considered overpayments) is amended—

(A) by inserting "(other than coal taxable under section 4121)" immediately after "in respect of any article" in paragraph (2), and

(B) by inserting "(other than coal taxable) under section 4121)" immediately after "with respect to the sale of any article" in paragraph (3).

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter A the following new item:

"SUBCHAPTER B. Coal.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales after March 31, 1978.

SEC. 3. TRUST FUND AND OPERATOR LIABILITY.

(a) ESTABLISHMENT OF FUND.—

(1) There is hereby established on the books of the Treasury of the United States a trust fund to be known as the Black Lung Disability Trust Fund (to which reference is made elsewhere in this section as the "fund"). The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it or deposited in it as provided in subsection (b).

(2) The trustees of the fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare. The Secretary of the Treasury shall be the managing trustee and shall hold, operate, and administer the fund.

(b) APPROPRIATIONS; OTHER RECEIPTS.—

(1) There are hereby appropriated to the fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the taxes received in the Treasury under section 4121, and by operation of section 4952, of the Internal Revenue Code of 1954. The amounts appropriated by this paragraph shall be transferred monthly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the amounts of such taxes received in the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

(2) There are authorized to be appropriated to the fund, as repayable advances, such

sums as may from time to time be necessary to meet obligations incurred under subsection (a) of section 424 of the Federal Coal Mine Health and Safety Act of 1969. Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the fund for such repayments. Interest on such advances shall be at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of any such advance, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt. When such average rate is not a multiple of one-eighth of 1 percent, the rate of interest on such advances shall be the multiple of one-eighth of 1 percent nearest such average rate.

(3) Amounts paid into the fund by a trust described in section 501(c)(21) of the Internal Revenue Code of 1954 (other than amounts paid under subsection (b) of section 424 of the Federal Coal Mine Health and Safety Act of 1969) shall be covered into the fund.

(4) Amounts repaid or recovered under subsection (b) of section 424 of the Federal Coal Mine Health and Safety Act of 1969 shall be covered into the fund as repayments of amounts erroneously paid out.

(5) Amounts paid as fines or penalties, or interest thereon, under section 423, 431, or 432 of such Act shall be covered into the fund as miscellaneous receipts.

(c) DUTIES OF THE SECRETARY OF THE TREASURY.—

(1) The Secretary of the Treasury shall hold the fund and (after consultation with the other trustees of the fund) shall report to the Congress not later than the last day of March of 1979, and of each succeeding year, on the financial condition and the results of the operations of the fund during the preceding fiscal year (including a detailed statement of the expenses paid out of the fund under subsection (a)(4) of section 424 of the Federal Coal Mine Health and Safety Act of 1969) and on its expected condition and operations during the fiscal year in which the report is made. The report shall be printed as a House document of the session of the Congress to which the report is made.

(2) It is the duty of the Secretary of the Treasury to invest such portion of the fund as is not, in his judgment, required to meet current withdrawals, including the repayment of advances made under subsection (b)(2). Such investments shall be made in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. The income on such investments shall be credited to and form a part of the fund.

(d) PAYMENTS FROM FUND.—Section 424 of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"SEC. 424. (a) Amounts in the Black Lung Disability Trust Fund (referred to in this section as the 'fund') established under section 3 of the Black Lung Benefits Revenue Act of 1977 shall be available, as provided by appropriation Acts, for—

"(1) the payment of benefits under section 422 in any case in which the Secretary determines that—

"(A) the operator liable for the payment of such benefits—

"(i) has not commenced payment of such benefits within 30 days after the date of an initial determination of eligibility by the Secretary, or

"(ii) has not made a payment within 30 days after that payment is due,

"(B) there is no operator who is required to secure the payment of such benefits,

"(2) the payment of obligations incurred by the Secretary with respect to all claims of miners or their survivors in which the miner's last coal mine employment was before January 1, 1970.

"(3) the repayment into the Treasury of the United States of an amount equal to the sum of the amounts expended by the Secretary for claims under this part which were paid before April 1, 1978, except that the funds shall not be obligated to pay or reimburse for benefits paid attributable to periods of eligibility before January 1, 1974,

"(4) the repayment of, and the payment of interest on, advances to the fund under subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977.

"(5) the payment of all expenses of operation and administration on and after the effective date of the Black Lung Benefits Reform Act of 1977 (or any other Act determined by the Secretary to contain substantially the same provisions) under this part (other than under section 427(a) or 433), including the administrative expenses incurred by the Department of Labor under this part, the administrative expenses incurred by the Department of the Treasury in administering subchapter B of chapter 32 of the Internal Revenue Code of 1954 and in carrying out its responsibilities with respect to the fund, and any expenses incurred by the Department of Health, Education, and Welfare in connection with the administration of this part, and

"(6) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) before April 1, 1978, in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated before January 1, 1970.

"(b)(1) If—

"(A) an amount is paid out of the fund to an individual entitled to benefits under section 422, and

"(B) the Secretary determines, under the provisions of sections 422 and 423, that an operator was required to secure the payment of all or a portion of such benefits,

then the operator is liable to the United States for repayment to the fund of the amount of such benefits the payment of which is properly attributed to him. No operator or representative of operators may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits to be paid by the fund, except that nothing in this section shall affect the rights, duties, or liabilities of any operator in proceedings under section 422 or section 423. In a case where no operator responsibility is assigned pursuant to sections 422 and 423, a determination by the Secretary that the fund is liable for the payment of benefits shall be final.

"(2) If any operator liable to the fund under paragraph (1) refuses to pay, after demand, the amount of such liability (including interest), then there shall be a lien in favor of the United States for such amount upon all property and rights to property, whether real or personal, belonging to such operator. The lien arises on the date on which such liability is finally determined, and continues until it is satisfied or becomes unenforceable by reason of lapse of time.

"(3)(A) Except as otherwise provided under this subsection, the priority of the lien shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954. That section shall be applied for such purposes—

"(i) by substituting 'lien imposed by section 424(b)(2) of the Federal Coal Mine Health and Safety Act of 1969' for 'lien imposed by section 6321'; 'operator liability lien' for 'tax lien'; 'operator' for 'taxpayer'; 'lien arising under section 424(b)(2) of the Federal Coal Mine Health and Safety Act of 1969' for 'assessment of the tax'; 'payment of the liability is made to the Black Lung Disability Trust Fund' for 'satisfaction of a levy pursuant to section 6332(b)'; and 'satisfaction of operator liability' for 'collection of any tax under this title' each place such terms appear; and

"(ii) by treating all references to the 'Secretary' as references to the Secretary of Labor.

"(B) In the case of a bankruptcy or insolvency proceeding, the lien imposed under paragraph (2) shall be treated in the same manner as a lien for taxes due and owing to the United States for purposes of the Bankruptcy Act or section 3466 of the Revised Statutes (31 U.S.C. 191).

"(C) For purposes of applying section 6323(a) of the Internal Revenue Code of 1954 to determine the priority between the lien imposed under paragraph (2) and the Federal tax lien, each lien shall be treated as a judgment lien arising as of the time notice of such lien is filed.

"(D) For purposes of this subsection, notice of the lien imposed under paragraph (2) shall be filed in the same manner as under subsections (f) and (g) of section 6323 of the Internal Revenue Code of 1954.

"(4)(A) In any case where there has been a refusal or neglect to pay the liability imposed under paragraph (2), the Secretary may bring a civil action in a district court of the United States to enforce the lien of the United States under this section with respect to such liability or to subject any property, of whatever nature, of the operator, or in which he has any right, title, or interest, to the payment of such liability.

"(B) The liability imposed by paragraph (1) may be collected at a proceeding in court if the proceeding is commenced within 6 years after the date on which the liability was finally determined, or before the expiration of any period for collection agreed upon in writing by the operator and the United States before the expiration of such 6-year period. The running of the period of limitation provided under this subparagraph shall be suspended for any period during which the assets of the operator are in the custody or control of any court of the United States, or of any State, or the District of Columbia, and for 6 months thereafter, and for any period during which the operator is outside the United States if such period of absence is for a continuous period of at least 6 months.".

(c) EFFECTIVE DATE.—This section shall take effect on April 1, 1978.

SEC. 4. OPERATOR'S TRUST FOR THE PAYMENT OF BLACK LUNG BENEFITS.

(a) ESTABLISHMENT OF TRUST.—Section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(21) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(A) the purpose of such trust or trusts is exclusively—

"(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Act;

"(ii) to pay premiums for insurance exclusively covering such liability; and

"(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts; and

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, or

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States, or

"(iii) payment into the Black Lung Disability Trust Fund established under section 3 of the Black Lung Benefits Revenue Act of 1977, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

For purposes of this paragraph the term 'Black Lung Acts' means part C of title IV of the Federal Coal Mine Health and Safety Act of 1969, and any State law providing compensation for disability or death due to pneumoconiosis.".

(1) ALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 of such Code (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 192. CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUST.

"(a) ALLOWANCE OF DEDUCTION.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

"(2) CURRENT YEAR OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

"(3) CERTAIN FUTURE OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the sum of—

"(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

"(B) the lesser of—

"(i) the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

"(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

"(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

"(II) such claims approved during any one of those 4 taxable years.

"(c) SPECIAL RULES.—

"(1) DETERMINATION OF EXPECTED FUTURE PAYMENTS.—The amounts described in subsection (b) shall be determined by using reasonable actuarial assumptions which are not inconsistent with regulations prescribed by the Secretary.

"(2) BENEFIT PAYMENTS TAKEN INTO ACCOUNT.—In determining the amounts described in subsection (b), only those black lung benefit claims the payment of which is expected to be made from the trust shall be taken into account.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment of a contribution on the last day of a taxable year if the payment is on account of that taxable year and is made not later than the time prescribed by law for filing the return for that taxable year (including extension thereof).

"(4) CONTRIBUTIONS TO BE IN CASH OR CERTAIN OTHER ITEMS.—No deduction shall be allowed under subsection (a) with respect to any contribution to a trust described in section 501(c)(21) other than a contribution in cash or in items in which such trust may invest under clause (ii) of section 501(c)(21)(B).

"(d) CARRYOVER OF EXCESS CONTRIBUTIONS.—If the amount of the deduction determined under subsection (a) for the taxable year (without regard to the limitation imposed by subsection (b)) with respect to a trust exceeds the limitation imposed by subsection (b) for the taxable year, the excess shall be carried over to the succeeding taxable year and treated as contributed to the trust during that year.

"(e) DEFINITION OF BLACK LUNG BENEFIT CLAIM.—For purposes of this section, the term 'black lung benefit claim' means a claim for compensation for disability or death due to pneumoconiosis under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 or under any State law providing for such compensation.".

(2) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 192. Contributions to black lung benefit trust.".

(c) EXCISE TAXES ON ACTS OF SELF-DEALING, TAXABLE EXPENDITURES, AND EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Chapter 42 of such Code (relating to private foundations) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Black Lung Benefit Trusts

"Sec. 4951. Taxes on self-dealing.
"Sec. 4952. Taxes on taxable expenditures.
"Sec. 4953. Tax on excess contributions to black lung benefit trusts.

"SEC. 4951. TAXES ON SELF-DEALING.

"(a) INITIAL TAXES.—

"(1) ON SELF-DEALER.—There is hereby imposed a tax on each act of self-dealing between a disqualified person and a trust described in section 501(c)(21). The rate of tax shall be equal to 10 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than a trustee acting only as a trustee of the trust) who participates in the act of self-dealing.

"(2) ON TRUSTEE.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any trustee of such a trust in an act of self-dealing between a disqualified person and the trust, knowing that it is such an act, a tax equal to 2½ percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any such trustee who participated in the act of self-dealing.

"(b) ADDITIONAL TAXES.—

"(1) ON SELF-DEALER.—In any case in which an initial tax is imposed by subsection (a)(1) on an act of self-dealing by a disqualified person with a trust described in section 501(c)(21) and in which the act is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than a trustee acting only as a truste of such a trust) who participated in the act of self-dealing.

"(2) ON TRUSTEE.—In any case in which an additional tax is imposed by paragraph (1), if a trustee of such a trust refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any such trustee who refused to agree to part or all of the correction.

"(c) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(d) SELF-DEALING.—

"(1) IN GENERAL.—For purposes of this section, the term 'self-dealing' means any direct or indirect—

"(A) sale, exchange, or leasing of real or personal property between a trust described in section 501(c)(21) and a disqualified person;

"(B) lending of money or other extension of credit between such a trust and a disqualified person;

"(C) furnishing of goods, service, or facilities between such a trust and a disqualified person;

"(D) payment of compensation (or payment or reimbursement of expenses) by such a trust to a disqualified person; and

"(E) transfer to, or use by or for the benefit of, a disqualified person of the income or assets of such a trust.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) the transfer of personal property by a disqualified person to such a trust shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien;

"(B) the furnishing of goods, services, or facilities by a disqualified person to such a trust shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for the purposes specified in section 501(c)(21)(A); and

"(C) the payment of compensation (and the payment or reimbursement of expenses) by such a trust to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the trust shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive.

"(e) DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which correction of the act of self-dealing is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that in the case of services described in subsection (d)(2)(C), the amount involved shall be only the excess compensation. For purposes

of the preceding sentence, the fair market value—

"(A) in the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and

"(B) in the case of taxes imposed by subsection (b), shall be the highest fair market value during the correction period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the trust in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

"(4) CORRECTION PERIOD.—The term 'correction period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (b)(1), extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the act of self-dealing.

"(5) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to a trust described in section 501(c)(21), a person who is—

"(A) a contributor to the trust,

"(B) a trustee of the trust,

"(C) an owner of more than 10 percent of—

"(i) the total combined voting power of a corporation,

"(ii) the profits interest of a partnership, or

"(iii) the beneficial interest of a trust or unincorporated enterprise,

which is a contributor to the trust,

"(D) an officer, director, or employee of a person who is a contributor to the trust,

"(E) the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in subparagraph (A), (B), (C), or (D),

"(F) a corporation of which persons described in subparagraph (A), (B), (C), (D), or (E) own more than 35 percent of the total combined voting power,

"(G) a partnership in which persons described in subparagraph (A), (B), (C), (D), or (E), own more than 35 percent of the profits interest, or

"(H) a trust or estate in which persons described in subparagraph (A), (B), (C), (D), or (E) hold more than 35 percent of the beneficial interest.

For purposes of subparagraphs (C)(i) and (F), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph. For purposes of subparagraphs (C) (ii) and (iii), (G), and (H), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph.

"(f) PAYMENTS OF BENEFITS.—For purposes of this section, a payment, out of assets or income of a trust described in section 501(c)(21), for the purposes described in clause (i) of section 501(c)(21)(A) shall not be considered an act of self-dealing.

"SEC. 4952. TAXES ON TAXABLE EXPENDITURES.

"(a) TAX IMPOSED.—

"(1) ON THE FUND.—There is hereby imposed on each taxable expenditure (as defined in subsection (d)) from the assets or income of a trust described in section 501(c)(21) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

"(2) ON THE TRUSTEE.—There is hereby imposed on the agreement of any trustee of such a trust to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by the trustee who agreed to the making of the expenditure.

"(b) ADDITIONAL TAXES.—

"(1) ON THE FUND.—In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expenditure and such expenditure is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

"(2) ON THE TRUSTEE.—In any case in which an additional tax is imposed by paragraph (1), if a trustee refused to agree to a part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable expenditure. The tax imposed by this paragraph shall be paid by any trustee who refused to agree to part or all of the correction.

"(c) JOINT AND SEVERAL LIABILITY.—For purposes of subsections (a) and (b), if more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

"(d) TAXABLE EXPENDITURE.—For purposes of this section, the term 'taxable expenditure' means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in such section.

"(e) DEFINITIONS.—

"(1) CORRECTION.—The terms 'correction' able expenditure, recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible, contributions by the person or persons whose liabilities for black lung benefit claims (as defined in section 192(e)) are to be paid out of the trust to the extent necessary to place the trust in a financial position not worse than that in which it would be if the taxable expenditure had not been made.

"(2) CORRECTION PERIOD.—The term 'correction period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (b)(1), extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable expenditure.

"SEC. 4953. TAX ON EXCESS CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUSTS.

"(a) TAX IMPOSED.—There is hereby imposed for each taxable year a tax in an amount equal to 5 percent of the amount of the excess contributions made by a person to or under a trust or trusts described in section 501(c)(21). The tax imposed by this subsection shall be paid by the person making the excess contribution.

"(b) EXCESS CONTRIBUTION.—For purposes of this section, the term 'excess contribution' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to a trust or trusts described in section 501(c)(21) exceeds the amount of the deduction allowable to such person for such contribution for the taxable year under section 192, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the excess of the maximum amount allowable as a deduction under section 192 for the taxable year over the amount contributed to the trust or trusts for the taxable year, and

"(B) amounts distributed from the trust to the contributor which were excess contributions for the preceding taxable year.

"(c) TREATMENT OR WITHDRAWAL OF EXCESS CONTRIBUTIONS.—Amounts distributed during the taxable year from a trust described in section 501(c)(21) to the contributor thereof the sum of which does not exceed the amount of the excess contribution made by the contributor shall not be treated as—

"(1) an act of self-dealing (within the meaning of section 4951),

"(2) a taxable expenditure (within the meaning of section 4952), or

"(3) an act contrary to the purposes for which the trust is exempt from taxation under section 501(a).".

(2) CLERICAL AMENDMENTS.—

(A) Chapter 42 of such Code is amended by striking out the chapter heading and inserting in lieu thereof the following:

"Chapter 42—PRIVATE FOUNDATIONS: BLACK LUNG BENEFIT TRUSTS

"SUBCHAPTER A, Private foundations.

"SUBCHAPTER B, Black lung benefit trusts.

"Subchapter A—Private Foundations"

(B) Subsections (a)(1) and (b) of section 4946 of such Code are each amended by striking out "For purposes of this chapter" and inserting in lieu thereof "For purposes of this subchapter".

(C) The table of chapters for subtitle D of such Code is amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"Chapter 42. Private foundations, black lung benefits trusts."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Section 6213(e) of such Code (relating to suspension of filing period for certain excise taxes) is amended—

(i) by inserting ", 4951 (relating to taxes on self-dealing), or 4952 (relating to taxes on taxable expenditures)" after "4945 (relating to taxes on taxable expenditures)",

(ii) by inserting "4951(e)(4), 4952(e)(2)," after "4945(i)(2)," and

(iii) by striking out "4975(f)(4)" and inserting in lieu thereof "4975(f)(6)".

(2) Section 6213(f) of such Code is amended by striking out "or chapter 42 or 43" each place it appears and inserting in lieu thereof "or chapter 41, 42, 43, or 44".

(3) Section 6405(a) of such Code is amended by striking out "private foundations and pension plans under chapters 42 and 43" and inserting in lieu thereof "public charities, private foundations, operators' trust funds, pension plans, or real estate investment trust under chapter 41, 42, 43, or 44".

(4) Section 6501(e)(3) of such Code is amended by striking out "or 43" and inserting in lieu thereof "43 or 44".

(5) Section 6501(n) of such Code is amended—

(A) by striking out "CHAPTER 42 TAXES" in the caption and inserting in lieu thereof "CHAPTER 42 AND SIMILAR TAXES", and

(B) by strikng out the first sentence of paragraph (1) and inserting in lieu thereof the following: "For purposes of any tax imposed by chapter 42 (other than section 4940) or by section 4975, the return referred to in this section shall be the return filed

by the private foundation, plan, or trust (as the case may be) for the year in which the act (or failure to act) giving rise to liability for such tax occurred.".

"(6)(A) Section 6503(g) of such Code is amended by striking "or section 507 or section 4971 or section 4975" and inserting in lieu thereof "or section 507, 4971, 4985, or 4986".

(B) Section 6503(g) of such Code is amended by striking out "or 4975(f)(4)" and inserting in lieu thereof "4975(f)(6), 4985(e)(4), or 4986(e)(2)".

(7) Section 7454(b) of such Code is amended by inserting "or whether the trustee of a trust described in section 502(c)(21) has 'knowingly' participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952)," after "section 4945),".

(e) PUBLICITY OF INFORMATION.—Section 6104 of such Code (relating to publicity of information required from certain exempt organizations and certain trusts) is amended.—

(1) by inserting "(other than in paragraph (21) thereof)" after "section 501(c)" in subsection (a)(1)(A), and

(2) by adding at the end of subsection (b) thereof the following sentence: "This subsection shall not apply to information required to be furnished by a trust described in section 501(c)(21).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions, acts, and expenditures made after December 31, 1977, in and for taxable years beginning after such date.

SEC. 5. GENERAL EFFECTIVE DATE RESERVATION.

Notwithstanding any other provision of this Act to the contrary, no provision of this Act (including any amendment made by any such provision) shall take effect or apply unless an Act, enacted after the date of enactment of this Act, contains a provision, explicitly in satisfaction of the requirements of this section, which states that it is the intent of the Congress that the provisions of this Act shall take effect.

Amend the title so as to read: "An Act to impose an excise tax on the sale of coal by the producer, to establish a Black Lung Disability Trust Fund, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I make this reservation for the purpose of asking the gentleman from Oregon and the gentleman from Kentucky just what is going on here. I think a lot of the Members do not know.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the matter before us is a House-passed bill, H.R. 5322, dealing with duty-free treatment for istle, which we passed in the House and which went to the other body. H.R. 5322 came back with Senate amendments that relate to the matter of black lung legislation that the House passed. There was a great deal of difficulty with that bill, in that it had what amounted to some revenue effects and revenue procedures in addition to black lung benefits. In the other body they separated out the revenue matters and set them up in a way that puts them clearly under the jurisdiction of the tax committees—the Committee on Ways and Means and the Committee on Finance—where they belong.

Before I describe these provisions, let me take a minute to mention the procedure being used by the conferees on the black lung bill. The House-passed black lung bill, H.R. 4544, raised revenue to fund black lung benefits, but designated its revenue-raising mechanism as an "annual assessment" rather than as a "tax." As a result, some people raised questions as to whether the House bill technically was a revenue bill and, therefore, whether the Senate had acted in accordance with the Constitution in putting the Senate's tax title on H.R. 4544. In order to ease the concerns that some people had expressed and to avoid any doubt on the subject, it was agreed by the conferees that the tax title—corresponding to title II of the Senate bill—should be passed separately by putting it on a bill that everyone would agree is a revenue bill.

That is what we are doing here, today. The tax title has been added as an amendment, in the nature of a substitute, to H.R. 5322, a bill to provide duty-free treatment for istle. The provisions as to istle which were in H.R. 5322 have already been enacted into law as Public Law 95–162.

We have written the effective date of the tax title of the black lung bill in such a way that the new tax on coal will not go into effect unless the Congress also enacts the benefits portions of the black lung bill. In this way, there will not be a tax unless there are benefits to be paid from those tax revenues; and also there will not be a revised benefits structure unless there is a tax to pay for the revised benefits.

Now let me briefly describe what we have in this tax amendment. This amendment imposes a tax on the sale of coal by the coal producer, at the rate of 50 cents a ton on underground-mined coal and 25 cents a ton on surface-mined coal. However, in no event is the tax to be more than 2 percent of the sales price.

This amendment makes it clear that the revenue-raising provision is a tax and thus brings into play all of the regular procedures for manufacturers excise taxes. If there were not a tax, then corresponding rules would have to be developed from scratch in this bill.

The second thing that this provision does is to set the rates in the statute. In its initial form, the House bill would have allowed the Secretary of Labor and trustees elected by coal mine operators to set the tax rates and change them from time to time. Only in extreme circumstances has the Congress ever allowed the executive branch or anyone else to establish or vary tax rates, and the conferees had no intention of departing from that very desirable standard in this case. If anyone wants to change the tax rates, then under this amendment they have to come back to the Congress, and the Congress has the power to decide.

Third, this provision establishes the idea that there is a limit as to how high the tax should go as a percentage of the value of the product. An ad valorem tax has less of a distorting effect on pricing systems and competition in the marketplace than a flat per-ton tax would have. Also, an ad valorem tax is easier to administer and less expensive, both from the point of view of the taxpayer and of the Government.

The revenues from the tax are put into a trust fund. The trustees are the Secretaries of Treasury, Labor, and HEW, with the Secretary of the Treasury as the managing trustee. Although the tax collections are automatically appropriated to the trust fund, payments out of the trust fund can be made only in accordance with appropriations acts. The benefits under what is called part C of the black lung benefits program are to be paid out of the trust fund; that is, out of the coal taxes. This program is not to be supported from the general revenues.

The amendment also includes provisions from the Senate-passed bill for trust funds established by coal mine operators to satisfy their obligations under the so-called responsible operator provisions of the black lung benefits program. Where a coal mine operator has been designated as the person responsible for payment of benefits to a miner, the operator will be permitted to fund its obligations in advance through contributions to a tax-exempt trust. These contributions will be deductible, within limits, and the amendment includes safeguards to insure that the money in the trust can be used only for the payment of these black lung benefits.

The conferees have acted responsibly and thoughtfully in moving forward with the tax provision. I want to take this opportunity to express my thanks to the distinguished chairman of the Committee on Education and Labor, Mr. PERKINS, and all the other House conferees for their assistance in working on this bill. I hope that we will soon have the benefits title before us so that we can complete action on the black lung legislation.

Mr. Speaker, I urge concurrence in the Senate amendments to H.R. 5322.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, am I to understand that the bill relating to istle is still in place, or is that completely wiped out?

Mr. ULLMAN. No. If the gentleman will yield further, they struck all after the enacting clause and substituted this matter in the House-passed bill.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, it seems that this is the type of procedure in the other body on which I hear so many times Members of this body pontificating. I am just wondering why in this instance we think it is expedient to find ourselves again subservient to the procedural machinations of the Senate. I thought we had made it rather clear over the years that we do not like that way of proceeding on matters of legislation.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I would be very glad to yield to the gentleman.

Mr. ULLMAN. Mr. Speaker, this procedure was worked out to accommodate both the House and the Senate. It was worked out by the House and the Senate conferees, of course, with the full concurrence of the conferees from the tax-writing committee, because this is the procedure that allowed us to get back to a sound jurisdictional division in this matter whereby the tax matters will come back to the jurisdiction of the Committee on Ways and Means. Yet we allow the black lung benefits procedure to stand, and that will apply in the future. Also, let me point out that the istle provisions of H.R. 5322, as it passed the House, have already been enacted, so that the House is not being short-changed by this procedure.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, is it my understanding that the legislative portion of the bill does not relate to financing, taxing, or lending, that that will be brought back at a subsequent time, and that this portion that has already been passed cannot be amended at that point?

Mr. ULLMAN. Mr. Speaker, perhaps the gentleman from Kentucky (Mr. PERKINS) would want to answer that question.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, although H.R. 5322 (Black Lung Benefits Revenue Act of 1977) is being managed by the Committee on Ways and Means, its chief purpose is to provide a trust fund mechanism to assist in the financing of the Federal black lung benefits program, a program which is within the jurisdiction of the Committee on Education and Labor. I would, therefore, like to take a very brief time to make a couple of points about this bill.

First of all, it should be noted that the House and Senate took dramatically different approaches in dealing with this black lung financing provision. Our approach was an insurance concept; the other body elected to impose a tax on coal producers. Additionally, the original House bill charged its insurance among coal operators according to tonnage mined. The Senate chose an ad valorem, excise tax on coal sales.

The conference committee, which was comprised of labor and tax committee conferees from both Houses, struggled long and hard with the dilemma of resolving these fundamental differences. Finally, as the weeks passed on, we came to agree; and the proposal now before us embodies that agreement. Simply stated, the House conferees accepted a tax as a basis for financing the costs of the black lung program, and the Senate conferees accepted tonnage (and not sales price) as a basis for imposing the tax. To the latter were added the requirements, first, that underground tonnage pay twice the tax as that paid by surface-mined tonnage in light of the higher incidence of black lung disease contracted by underground coal miners, and two, that no ton of coal be taxed more than 2 percent of its sales price. Since the conferees did agree to a tax concept, Mr. Speaker, the financing provisions were separated out of the legislation in conference (H.R. 4544) and are now before us in appropriate House-passed revenue measure (H.R. 5322) in order to comport with the constitutional prerogative of the House to initiate all revenue measures. (Article I, section 7.)

The second and final point I wish to make, Mr. Speaker, is to express my respect and gratitude to those members of the House Ways and Means Committee who joined us in conference on the black lung bill and who were so accommodating in shaping and in expediting the revenue legislation before us. I am referring specifically to the distinguished chairman of that committee. Mr. ULLMAN, and to his respected colleagues, Messrs. ROSTENKOWSKI, VANIK, and DUNCAN. These gentlemen attended virtually every session of the conference, even though it often dealt with matters alien to their own jurisdiction. We appreciate their interest in the black lung program and we are especially impressed by their sincerity in assuring us that they will not permit any underfunding of its needs.

Mr. Speaker, I urge the immediate adoption of this measure. Succeeding in that, the balance of the black lung legislation—still pending in conference—may be quickly concluded and we will have finally then completed the tremendous task of infusing needed equity into the Federal black lung program. The equity we achieve will be both with respect to the fiscal soundness of the program and also to the miners of America and to their survivors, for whom the black lung program has become the last vestige of hope and dignity.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I speak as one Member of this body who certainly is not intrigued with this particular way of handling legislation. However, I will not object.

It is my understanding that my able colleague, the gentleman from Tennessee (Mr. DUNCAN), if he were present, would have made a statement in support of this bill.

Mr. Speaker, it is early in the session, and I, therefore, think there is no need to cause problems right now. However, I think that many of us do not particularly like this way of legislating and perhaps we should serve notice that possibly in the future this way of legislating might not be met with the same response.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the first request of the gentleman from Oregon?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, will the gentleman from Kentucky (Mr. PERKINS) or the gentleman from Oregon (Mr. ULLMAN) tell us how much annually this per-ton tax on coal is going to raise?

Mr. PERKINS. If the gentleman will yield, Mr. Speaker, it will be approximately $100 million annually, maybe not that much the first year, but it will be about that in the second, third, fourth, and fifth year. Those are the best estimates we can come up with to help pay for the black lung benefits and to take the burden off the Treasury of the United States.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the figure is $92 million the first year.

Mr. BAUMAN. Does that cover the cost of the payments made out of the trust fund annually?

Mr. PERKINS. That, in combination with the response of the operators, will cover it all.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, we do not have any minority members of the committee involved here.

Further reserving the right to object, I say to the chairman that I think it is bad procedure for the House of Representatives, without any prior notice, to the Members, to pass a $90 million annual tax that the consumer eventually is going to have to pay.

Few knew this bill was coming up. I think according to our regular procedures, the House ought to protect its tax-writing powers and not let the other body send these things to us and just put them through on unanimous consent. If it is a highly important piece of legislation, let us bring it up tomorrow or next week under a rule.

Therefore, Mr. Speaker, I do object.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield for a moment?

Mr. BAUMAN. Yes, Mr. Speaker, I will withhold my objection; and I yield to the gentleman from Oregon.

Mr. ULLMAN. First, in further reply to the question of the gentleman from Maryland (Mr. BAUMAN) about whether the tax will cover the cost of the trust fund, let me say that, by the end of fiscal 1984 the tax will have produced more revenue than the estimated payments out of the trust fund to that time. This conclusion is based on the cost estimates set forth in the committee reports in both the House and the Senate. Second, Mr. Speaker, would the gentleman from Maryland (Mr. BAUMAN) object to a motion or a request to take it off the table and consider it at this point and then have a vote on it?

Mr. BAUMAN. Yes, Mr. Speaker. I say to the gentleman from Oregon that my concern is that the affected Members who might want to present their viewpoints apparently have not been informed of it. It is a $92 million tax bill. Despite the assurances that it is just for this one purpose, I think the taxpayers deserve a little better consideration than that.

Mr. ULLMAN. If the gentleman will yield further, Mr. Speaker, notice was certainly given to the minority in the usual way; and those people who are involved understand and agree with it. I think the reason they are not here is because they are sympathetic with what the bill is doing.

Mr. BAUMAN. Mr. Speaker, if the gentleman from Oregon operates on the premise that absence is approval in this

body, I think he is mistaken; and I do object.

The SPEAKER. Objection is heard.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5503, DEFENSE OFFICER PERSONNEL MANAGEMENT ACT AMENDMENTS

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–849) on the resolution (H. Res. 965) providing for the consideration of H.R. 5503 to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1614, OUTER CONTINENTAL SHELF LANDS ACT OF 1977

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–848) on the resolution (H. Res. 964) providing for the consideration of H.R. 1614 to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

RENEWAL OF REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 5322, PROVIDING DUTY-FREE TREATMENT FOR ISTLE

Mr. ULLMAN. I wonder, Mr. Speaker, if I might renew my request.

The gentleman from Tennessee (Mr. DUNCAN), the ranking minority member on the committee, has just come into the Chamber. He is the ranking minority member on the subcommittee involved.

The SPEAKER. Does the gentleman renew his request?

Mr. ULLMAN. Yes, Mr. Speaker. I renew my request and ask unanimous consent to take from the Speaker's table the bill (H.R. 5322) to provide duty-free treatment for istle, with Senate amendments thereto, and concur in the Senate amendments.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, I object, and I will continue to object.

The SPEAKER. Objection is still heard.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 9]

Alexander	Drinan	Moss
Ambro	Edwards, Ala.	Murphy, N.Y.
Archer	Emery	Myers, Michael
Armstrong	Erlenborn	Patterson
AuCoin	Evans, Colo.	Pepper
Barnard	Evans, Ga.	Pike
Bingham	Gammage	Poage
Blanchard	Giaimo	Risenhoover
Bonker	Gibbons	Roncalio
Bowen	Gonzalez	Scheuer
Breaux	Heckler	Shuster
Burton, John	Hefner	Solarz
Burton, Phillip	Hillis	Steiger
Byron	Hollenbeck	Stump
Chappell	Kemp	Teague
Clay	Lederer	Thompson
Conyers	McCloskey	Tucker
Cotter	McKinney	Udall
Dent	Meeds	Walsh
Diggs	Mikva	Young, Alaska
Dodd	Mitchell, Md.	

The SPEAKER. On this rollcall 370 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

RETIRED PAY FOR TAX COURT JUDGES

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8811) to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court, as amended.

The Clerk read as follows:

H.R. 8811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7447 of the Internal Revenue Code of 1954 (relating to retirement of Tax Court judges) is amended by adding at the end thereof the following new subsection:

"(i) REVOCATION OF ELECTION TO RECEIVE RETIRED PAY.—

"(1) IN GENERAL.—Notwithstanding subsection (e)(2), an individual who has filed an election to receive retired pay under subsection (d) may revoke such election at any time before the first day on which retired pay (or compensation under subsection (c) in lieu of retired pay) would (but for such revocation) begin to accrue with respect to such individual.

"(2) MANNER OF REVOKING.—Any revocation under this subsection shall be made by filing a notice thereof in writing with the Civil Service Commission. The Civil Service Commission shall transmit to the chief judge a copy of each notice filed under this subsection.

"(3) EFFECT OF REVOCATION.—In the case of any revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (d),

"(B) for purposes of section 7448—

"(i) the individual shall be treated as not having filed an election under section 7448(b), and

"(ii) section 7448(g) shall not apply, and the amount credited to such individual's account (together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

"(C) no credit shall be allowed for any service as a judge of the Tax Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

"(D) the Tax Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (e), and

"(E) if subparagraph (D) is complied with, service on the Tax Court shall be treated as service with respect to which deductions and contributions had been made during the period of service."

SEC. 2. (a) The amendment made by the first section of this Act shall apply with respect to revocations made after the date of the enactment of this Act.

(b) Any individual who elects to revoke under section 7447(i) of the Internal Revenue Code of 1954 within one year after the date of enactment of this Act shall be treated as having the requisite current service for purposes of redepositing funds in the Civil Service Retirement and Disability Fund and for purposes of reviving creditable service under subchapter III of chapter 83 of title 5 of the United States Code.

The SPEAKER. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8811 amends the Internal Revenue Code to allow any Tax Court judge or former judge of that court to revoke his or her election to come under the Tax Court retirement pay system. Such an individual then could attempt to qualify for civil service retirement benefits.

Under present law, a Tax Court judge may be covered either by the Tax Court retirement system or the civil service retirement system. In order to be covered by the Tax Court system, the Tax Court judge must make an election to be covered by it. This election is irrevocable. Once it has been made, the judge is forbidden to receive benefits under the civil service retirement system, regardless of whether he or she ever qualifies for Tax Court benefits, and regardless of whether he or she otherwise would qualify for civil service retirement benefits. As a result, if a judge elects to be covered by the Tax Court system but fails to serve long enough to qualify for Tax Court retire-

ment benefits, that judge will be excluded from both retirement systems.

The bill corrects this inequitable result. It allows a judge or former judge to revoke an election to be covered by the Tax Court retirement system at any time before becoming entitled to benefits. That individual then could attempt to qualify for civil service retirement benefits.

If the judge or former judge makes contributions to the civil service retirement fund that would have been required if the judge had been covered by civil service while on the Tax Court, then his or her service time as a Tax Court judge will be counted as creditable time for civil service retirement benefit purposes. Similar conforming amendments are made as to survivors' benefits. The bill, however, does not allow a person to receive both Tax Court and civil service retirement or survivors' benefits.

Mr. Speaker, the bill corrects an inequity in present law. Both the Treasury Department and the Civil Service Commission have stated that they have no objection to the enactment of the bill. I urge the House to approve H.R. 8811.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8811, a bill to amend the Internal Revenue Code of 1954, to allow the revocation of certain retirement pay elections made by judges of the Tax Court.

Currently, judges of the Tax Court may receive their retirement income under a separate system. The system also provides their beneficiaries with survivor benefits. To receive benefits under the system, the judge must file an irrevocable election and generally satisfy a minimum age or service requirement.

Existing law is not clear as to whether an individual, who has elected to participate in the Tax Court's retirement system, but who resigns prior to satisfying that system's minimum age or service requirement, may receive retirement benefits under the civil service system, based upon other Government service. The Civil Service Commission has ruled that such an individual may not receive benefits under the civil service system.

The Commission's ruling involved Mr. Russell E. Train, a retired judge of the Tax Court. While serving on the Tax Court, Mr. Train elected to receive his retirement income under the Tax Court system. However, he left the bench before satisfying the minimum age or service requirement of the Tax Court's retirement system. In addition to his Tax Court service, Mr. Train has served as minority counsel to the Committee on Ways and Means and a Presidential advisor on environmental matters. Thus, despite an outstanding record of public service in the legislative, judicial, and executive branches, Mr. Train, or anyone similarly situated, will not be able to receive any retirement income for Government service.

H.R. 8811 clarifies current law by allowing the election to participate in the Tax Court's retirement system to be revoked by the filing of a revocation with the Civil Service Commission. In addition, the bill allows an individual to receive credit under the Civil Service Retirement and Disability Fund, for his period of service as a judge of the Tax Court, by depositing a specified amount with the fund, if the amount has not been previously deducted and withheld. The Tax Court is required to make a matching contribution to the fund. H.R. 8811 also permits a former judge of the Tax Court to be refunded any contributions that he or she made to the Tax Court's survivors annuity fund. Thus, H.R. 8811 puts the retiree and the fund in the same position they would have been in had the Tax Court retirement system election not been made.

It should be noted that the bill will not allow an individual, or his beneficiaries, to receive benefits under both the Tax Court and civil service retirement systems.

H.R. 8811 allows the Tax Court and civil service retirement systems to be administered in a more equitable manner and I urge its passage.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore (Mr. KAZEN). The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 8811, as amended.

The question was taken.

Mr. ALLEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

TELEPHONE COMPANIES TAXES

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7581) to amend the Internal Revenue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax.

The Clerk read as follows:

H.R. 7581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (12) of section 501(c) of the Internal Revenue Code of 1954 (relating to certain organizations exempt from income tax) is amended by adding at the end thereof the following new sentence: "In the case of any mutual or cooperative telephone company, the preceding sentence shall be applied without taking into account any income received or accrued from a nonmember telephone company for the performance of communication services which involve members of such mutual or cooperative telephone company.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from Minnesota (Mr. FRENZEL) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. ULLMAN. Mr. Speaker, H.R. 7581 clarifies the definition of mutual or cooperative telephone companies which qualify for exemption from Federal income tax.

There are some 240 telephone cooperatives in 30 States, providing telephone service to more than 750,000 persons, mostly in rural areas of the country.

The Internal Revenue laws have provided since 1924 that a telephone cooperative can qualify for exemption only if at least 85 percent of its revenues consist of amounts collected from its members. In 1974, the Internal Revenue Service ruled that when a telephone cooperative completes calls to its members made by subscribers to another telephone company under reciprocal call-completion arrangements, the cooperative receives payments which constitute nonmember income. Since the telephone cooperative as a practical matter cannot establish the amount of these hypothetical payments from nonmember companies, the cooperative cannot show it satisfies the 85 percent member income test, and hence the cooperative cannot prove to the satisfaction of the Revenue Service that it qualifies for exemption.

The Ways and Means Committee has concluded that the 1974 ruling of the Revenue Service misinterprets the long-standing statutory definition of telephone cooperatives. Indeed, the committee understands that the Revenue Service ruling would preclude any telephone cooperative from qualifying for exemption. This result is clearly contrary to congressional purpose in providing the exemption.

In order to clarify the law, the bill provides that the 85 percent member-income test is to be applied without taking into account any income to the telephone cooperative from a nonmember telephone company for communications services which involve members of the telephone cooperative.

Mr. Speaker, I urge that H.R. 7581 be adopted.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7581, a bill to amend the Internal Rev-

enue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax.

A mutual or cooperative telephone company is exempt from Federal income taxation only if at least 85 percent of its income consists of "amounts collected from members for the sole purpose of meeting losses and expenses." In 1974 the IRS took the position that amounts earned by such companies from the completion of calls made to its members by subscribers of another telephone company constitute nonmember income. The result has been to jeopardize the tax-exempt status of mutual or cooperative telephone companies by arbitrarily increasing the amount of revenue classified as "nonmember income." These telephone companies find themselves in the predicament that they may lose their tax-exempt status because of long-distance telephone calls made to persons within their service area.

H.R. 7581 amends the Internal Revenue Code of 1954 to exclude amounts earned by servicing their customer's needs in this manner from the determination of whether or not a mutual or cooperative telephone company has earned more than 85 percent of its gross income from qualified sources.

I urge the Members to join me in supporting H.R. 7581.

Mr. BUTLER. Mr. Speaker, I am pleased that the House of Representatives has under consideration H.R. 7581, the telephone companies' tax bill. Enactment of this legislation will benefit many, including a mutual telephone company located in the rural community of New Hope, Va.—the New Hope Telephone Co. The telephone company asserts that the organization should qualify for Federal income tax exemption under section 501(c)(12), relating to local benevolent life insurance associations, mutual irrigation and telephone companies, and like organizations. The Internal Revenue Service denied the company's application for exemption based on revenue ruling 74–362, 1974–2, C.B. 170.

To be exempt under section 501(c)(12), the company must receive 85 percent of its gross income from subscribers. The Internal Revenue Service has ruled that when the New Hope Telephone Co. terminates calls to its subscribers which are made by individuals who are customers of another company, New Hope switchboard association constructively receives income for this service from another company. No payment is made, but the other company performs similar services to the New Hope Co.'s subscribers. This treatment of constructive income is causing the New Hope Telephone Co. to fail to qualify for tax-exempt treatment because they cannot prove that 85 percent or more of their income is from members. It appears that there is no way this can be proven or disproven.

The New Hope Telephone Co. has not paid Federal income tax for past years, and if they are required to start paying, they will be forced to raise telephone rates to meet the additional expense.

The Committee on Ways and Means, in the Tax Reform Act of 1974, tentatively approved section 534 which would eliminate the inclusion of any income from a connecting nonmember telephone company in the 85-percent test. This section would make revenue ruling 74–362, 1974–2, C.B. 170 null and void.

A similar provision was not considered for inclusion in the Tax Reform Act of 1976 as, according to the National Telephone Cooperative Association, cooperative telephone companies had been granted requested tax exemptions until recently.

I ask my colleagues in the House today to join with me in support of this measure.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 7581.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING DUTY-FREE TREATMENT FOR ISTLE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5322) to provide duty-free treatment for istle, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk proceeded to read the Senate amendments.

(For Senate amendments to the bill H.R. 5322, see prior proceedings of the House today.)

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, earlier today I made the point that I think it is a poor procedure on the part of the House to bring up a $92 million annual tax bill, as this legislation creates, by unanimous consent, wtihout any chance for the Members to understand what the bill contains.

Mr. Speaker, the gentleman from Tennessee is here now. He was not here earlier. I would certainly yield to him for any comments he has at this point, further reserving my right to object.

Mr. DUNCAN of Tennessee. Mr. Speaker, reserving the right to object, may I say that I rise in support of H.R. 5322, the Black Lung Benefits Revenue Act of 1977.

This legislation is intended to provide the revenue raising function necessary to fund the benefits provided by H.R. 4544, the Black Lung Benefits Reform Act of 1977. H.R. 5322 imposes an excise tax of 50 cents per ton on underground coal and 25 cents per ton on surface-mined coal. In addition there is a 2 percent ad valorem cap based on the selling price. The cap means that the tax may not exceed 2 percent of the coal's selling price.

There has been debate about the appropriateness of imposing a tax burden on surface mines to pay black lung benefits, when black lung is principally identified with underground mines. Consequently, the two tier structure of this tax and the 2 percent ad valorem cap are designed to achieve an equitable balance between the underground and surface coal mines.

The bill establishes a Black Lung Disability Trust Fund to collect the tax and to pay necessary benefits. Both the tax and the fund are straightforward concepts. The bill itself addresses the many details involved in collecting a new excise tax and managing a new trust fund. The provisions enumerating the treatment of these details is what actually gives the bill most of its bulk.

Although H.R. 5322 comes to this body as a free-standing piece of legislation it is meant to be an integral part of the Black Lung Benefits Reform Act of 1977, H.R. 4544. This bill contains explicit language which conditions its effectiveness on the enactment of the more comprehensive Black Lung Reform Act.

Mr. Speaker, I believe that H.R. 5322 is a bill which will underwrite the disability benefits to which many coal miners are entitled. It will collect the revenue necessary to provide just compensation for those workers who have labored long and hard to extract our Nation's greatest natural resource. If we are to recruit the new coal miners necessary to meet the increased demand for coal in the rest of this century, then we must not turn our backs on the coal veterans of the past generation.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, at least the gentleman from Tennessee has now had a chance to comment on the legislation. I just hope that in the future, when we have bills of this magnitude which would not even be eligible for the Consent Calendar, much less Unanimous Consent, notice will be given all Members, not just a select group on the floor. It is not my disposition, having discussed this legislation during the quorum call with the gentleman and with some other persons interested, to object at this point; but without there being any evidence of softness on the part of the gentleman from Maryland, I will not object at this point.

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I yield to

my distinguished colleague, the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I would agree with the gentleman's theory that we should have more notice than we now have. We do not have adequate notice, and I thank the gentleman for calling the attention of the House to the fact that we do need more notice in matters of this kind in the future.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding, and I wish to say that I concur with everything the gentleman from Maryland (Mr. BAUMAN) has said. Unfortunately, it seems to be the attitude of some Members, whether it be on the majority or minority side, that notice to several Members or even the ranking minority member is notice to everyone. I think if we have done nothing else, we have clearly indicated to the House leadership that notice should be given to the full membership, and that notice to one or two Members of this body is not necessarily notice to everybody or at least to those of us who do stay on the floor for all of our debates and procedural matters. I hope this principle we have attempted to uphold is followed in the future.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. DUNCAN of Tennessee. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the first request of the gentleman from Oregon?

Mr. CARTER. Mr. Speaker, reserving the right to object, I wish to state that I certainly support this legislation, and I want to thank the distinguished gentlemen for bringing it up, the Members from both the majority and the minority side. In addition, I wish to thank the distinguished gentleman from Maryland (Mr. BAUMAN) for his acquiescence.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask uanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

ADMINISTRATIVE CONFERENCE AUTHORIZATION

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7662) to amend the Administrative Conference Act, as amended.

The Clerk read as follows:

H.R. 7662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Appropriations

"To carry out the purposes of this subchapter, there are authorized to be appropriated sums not to exceed $1,700,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. DANIELSON) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7662 is an amendment to the Administrative Conference Act to provide an authorization for appropriations for the fiscal years ending September 30, 1979, 1980, and 1981 respectively.

I wish to point out, first of all, that this is an authorization bill; it is not an appropriation bill. The Administrative Conference was organized in 1964, after having been contemplated for a number of years, for the purpose of studying administrative procedures and making recommendations to improve the efficiency, effectiveness, and adequacy of those procedures. It has been in operation now for a period of 14 years.

During that period of time its duties have increased from time to time and, particularly in the last 2 or 3 years, added responsibilities have been given to the conference. Among the most significant of these are the responsibilities imposed by the Freedom of Information Act, the Consumer Products Safety Act, and the Magnuson-Moss Act, which has consumed a great deal of its time and its budget, as well as a number of other acts which have broadened its original commitment and volume of work and which have made the present budgetary restrictions inadequate if the conference is to continue to carry on its work.

The Administrative Conference is made up of 91 members, one of whom is the conference chairman, who is a permanent paid employee. The other 90 members are representatives of administrative agencies of the Government, and persons from the private sector who are knowledgeable of and familiar with the various aspects of administrative procedure. The 90 members, other than the chairman of the conference, are not salaried. They receive expense funds for the time they attend meetings of the conference, but not otherwise. The bulk of the work of the conference is done by the staff.

The staff is presently composed of 16 members. It is scarcely able to cope with its present responsibilities, due to mandated work which we have placed upon it, in addition to its original responsibilities.

The authorization which we would provide in this bill would enable the conference to expand its staff to some extent and to provide for additional contract research so that it can meet its responsibilities.

Mr. Speaker, I urge that the amendment be adopted, and that the authorization bill be passed.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to ask the distinguished chairman of the subcommittee several questions concerning this bill, but, first, I would like to commend the gentleman and the committee for bringing up this legislation, which for the first time limits to 3 years the authorization for this conference rather than having it an open-ended authorization. I think the committee has exercised certainly an important role of oversight. I believe this conference, as well as other agencies, need some sort of oversight from time to time.

My question is this: I note that there is one research director, a GS–15, and 2 staff attorneys, GS–13's, who are assigned full-time research responsibilities.

Am I correct in believing that a substantial amount of the research and reporting that is done by this conference is contracted out to attorneys and others?

Mr. DANIELSON. That is correct. A substantial amount of the research is contracted out, which has enabled the conference to keep its staff rather small.

Mr. LEVITAS. Does the gentleman's subcommittee have in its records any information relating to the amount of fees paid out for this research?

Mr. DANIELSON. We do have that. It was brought before the subcommittee at the time of the hearings. I do not have it in my hands.

Mr. LEVITAS. But it would be available for Members of Congress; is that correct?

Mr. DANIELSON. Absolutely. It is available; it is in our records.

Mr. LEVITAS. One other point I am very concerned about is this: Since this Conference does make reports that apparently have been implemented in such things as the Moss-Magnuson Act, the Consumer Products Safety Commission, and a few others, what means are taken by the conference or by the Congress with respect to oversight, so as to assure that there is not a bias in the selection of those people who prepare the report by contract in order to assure that we get impartial and objective reports from this Conference?

Mr. DANIELSON. I would submit that the safeguard against bias is sort of built into and results from the structure of the conference.

Please bear in mind that the Conference, which has 90 members in addition to the chairman, is made up of representatives of Government agencies in the various administrative fields, and also of individuals from the private sector, who are prominent in the extent, and the type of work they do with administrative agencies. Therefore, we have both a Government approach and a private sector approach, blending together in the Conference itself.

Mr. LEVITAS. Mr. Speaker, I thank the chairman.

I would simply urge that in conducting the oversight responsibilities with which the gentleman's subcommittee is charged with respect to this Administrative Conference, that some look be taken, retrospectively, if need be, at the reports which have been prepared and issued so that the subcommittee members may assure themselves and this House that there is no bias in the selection of people preparing these reports or in the reports themselves.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for his suggestion, which is a good one. We will keep that in mind, for we will conduct some oversight hearings.

Mr. Speaker, the bill, H.R. 7662, as amended by the Committee on the Judiciary, would amend section 576 of the Administrative Conference Act to increase the limit on appropriations authorization for that agency. The authorizations would be limited to 3 fiscal years as follows:

1979	$1,700,000
1980	2,000,000
1981	2,300,000

The bill would make this revised authorization effective as of October 1, 1977. I would also point out that authorizations for future years would require action by the Congress, and therefore a further opportunity to review the basis for Conference funding.

In 1972, section 576 of title 5 was last amended to increase the appropriation authorization for the Conference and the limit for 1978 and succeeding years, as presently fixed in that section, is $950,000.

On May 11, 1977, in an executive communication directed to the Speaker, the Chairman of the Administrative Conference noted that Congress in 1972, when the authorization was last considered, contemplated a review of the ceiling for fiscal years beginning with 1979.

The bill, H.R. 7662, was introduced to provide the basis for such a review and was the subject of a subcommittee hearing on July 26, 1977. While the executive communication had requested language authorizing "such sums as may be necessary" for fiscal years 1979 and thereafter, the bill H.R. 7662 provided for an increased sum for just the 3 fiscal years 1979, 1980, and 1981. The subcommittee amendment contains the amounts found to be necessary for the work of the Conference and its staff and they were fixed after study and evaluation of the testimony presented at the hearing and upon the additional information requested by the subcommittee following the hearing.

The Administrative Conference was created in 1964 and is charged by statute to study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies and to make recommendations for the improvement of those procedures. In effect, the Conference was established as an overseer of administrative procedures throughout the Government. To meet this obligation, its current authorizations ceiling, as set in 1972, was $950,000. It seeks to fulfill its task with a permanent staff of 16 persons. The subcommittee found that a change was needed in the current ceiling so that the Conference can do the job for which it was created.

The Administrative Conference is comprised of 91 members, who are officials and experts in administrative procedure in agencies or from related activity in the private sector. As Conference members, they examine problems of administrative procedure and develop recommendations for improvements. The membership is divided into committees, whose work is supported by staff of the Office of the Chairman and by research consultants. In addition to the development of recommendations through research and membership deliberation, the Conference has other important responsibilities which are carried out by the staff of the Office of the Chairman. The Conference budget is primarily for the staff and for research contracts.

The subcommittee has concluded that the Conference should have a broader continuing responsibility to monitor all the basic aspects of administrative procedure. Some of these are governed by procedural statutes of general applicability to agencies, such as the Administrative Procedure Act, the Freedom of Information Act, and the Government in the Sunshine Act. Other basic procedural concerns arise as functions performed by many agencies like rulemaking, informal adjudication, and the exercise of grantmaking authority, or as procedural aspects of major governmental issues such as reorganization and regulatory reforms. This means it should be able to initiate research in all of these areas as necessary to address major procedural problems encountered in Government.

The value of such Conference activity is demonstrated by its "procedural audit" of the Internal Revenue Service, which resulted in many improvements in IRS procedures affecting individuals. This project cost $216,000 in contract funds, plus substantial staff and other support, in fiscal years 1974 and 1975. In each of those years, expenditures for this project were substantially more than all other research activities combined. Only a few projects in the future would approach or attain such a scale. But to conduct some substantial studies leading to recommendations for improved administrative procedures, together with a number of smaller scale projects also leading to recommendations, will require enlarged contract research funds and enlarged staffing.

Also, from time to time, new statutes give specific responsibilities to the Conference. Two recent examples are the "Freedom of Information Act," "Government in the Sunshine Act" of 1976, and in 1975 the Magnuson-Moss, Federal Trade Commission Improvement Act. The latter mandated a study which has cost over $220,000 in fiscal 1976 and 1977 and preempted research contract and staff resources to such an extent that it has been possible to initiate very little new research in 1977.

The levels of authorization recommended by the subcommittee would permit a total staff of 34, a relative increase in contract research funds, and modest additional support for Conference publications and library. It is urged that the amended bill be considered favorably.

I will insert in my remarks a letter from the Administrative Conference, dated September 7, 1977, setting forth a detailed summary of current staffing and of current research contracts by the Conference.

ADMINISTRATIVE CONFERENCE OF
THE UNITED STATES,
Washington, D.C., September 7, 1977.

WILLIAM P. SHATTUCK, Esq.,
Counsel, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. SHATTUCK: Attached for use in connection with the Subcommittee's consideration of H.R. 7662 is the supplemental information you requested in your August 23 letter. If you have any questions about this material, or wish any additional information, please let us know.

Sincerely yours,

JOSEPH B. SCOTT,
Executive Director.

CURRENT ACUS PERMANENT AND TEMPORARY STAFF

Executive Secretary—GS–18

This is the senior staff position and the incumbent serves as the first assistant to the Chairman in respect to all aspects of the Conference's operations. The incumbent also serves as the Conference's General Counsel. He also exercises the primary responsibility for the Office of the Chairman for providing advisory and consultative services concerning administrative law matters to Congress, OMB and the agencies and preparing positions of the Office of the Chairman on proposed legislation and occasionally testifying before committees of Congress. The incumbent also shares with the Executive Director and Research Director responsibility for supervising the Conference's permanent staff. The incumbent is currently involved as the chief staff person in the preparation of the Conference's interpretive guide to the Government in the Sunshine Act. He is also being called upon to provide advice and guidance to the President's task force on reorganization of the Government's equal employment opportunity activities, and is currently serving as the staff person on the Conference's Ad Hoc Committee on Members' Disqualification. The incumbent also has a regular assignment as Staff Liaison to the Conference's Committee on Agency Organization and Personnel.

Executive Director—GS–17

The incumbent provides sustained administrative leadership and coordination of all Conference activities. He prepares the budget, allocates funds, and shares in supervision

of the permanent staff. He also reviews the work of Conference consultants and experts and offers recommendations of subjects of Conference study. He assists in the preparation of agendas for plenary sessions and prepares the Conference's annual report. The incumbent is currently involved in budget deliberations with OMB, including preparation of the Zero Based Budget submission for FY 1979, and in planning for the upcoming Regulatory Agency Management Seminar. The incumbent is also assigned as Staff Liaison to the Committee on Rulemaking and Public Information where, among other things, he is involved in review of the consultant's study of FTC's trade regulation rulemaking procedures.

Research Director—GS–15

The incumbent serves as a senior advisor and manager on the Chairman's staff. With the assistance of less senior staff attorneys, he has immediate and direct day-to-day supervision over the work of consultants to the Conference and responsibility for the work product of the contractors furnished to the Conference. The incumbent also assists in selection of research consultants and in the shaping of proposed studies. He also participates in the development of recommendations for consideration by the Committees. The incumbent is currently involved in overseeing the Conference's empirical study of FTC's trade regulation rulemaking procedures. He is also supervising development of a Conference study of the procedures used by agencies for resolving scientific and technical issues and completion of a Conference study of judicial review of Customs Service actions. The incumbent also has responsibility for preparation of a research plan for FY 1978. He has a regular assignment as Staff Liaison to the Committee on Grants, Benefits and Contracts.

Supervisory Attorney-Advisor—GS–15

The incumbent reviews and supervises the work of several academic consultants. He is assigned difficult and complex legal research problems and in addition to conducting research he is called upon to draft reports, prepare opinions and serve as Conference representative to various task force and study groups set up to deal with administrative law issues. He has responsibility for the Conference's program of regulatory reform and its clearinghouse of information on regulatory procedure. The incumbent is currently assigned responsibility for development of a pamphlet on rulemaking for distribution to the agencies. He is also staff liaison to the Committees on Licenses and Authorizations and on Ratemaking and Economic Regulation and is currently involved in review and oversight of four major research studies: nature and sources of delay in ratemaking proceedings and procedures to ameliorate its adverse consequences; relationship between regulatory agencies and standards that are developed and drafted outside the agency but are used by the agency as part of its regulatory scheme; relationship between Federal and State banking regulation; separation of adjudicative and legislative functions between banking regulation; separation of adjudicative and legislative functions between OSHRC and OSHA and effects thereof on occupational safety and health policy. The incumbent is also assisting in preparation of the 1977 Report on Implementation of Recommendations of the Administrative Conference (hereafter Implementation Report).

Staff Attorney—GS–13

The incumbent conducts in-depth legal research and prepares opinions and recommendations for changes on matters of procedure with respect to administrative law. He participates in Plenary Sessions and ACUS meetings and supervises the work of consultants and contract employees. The incumbent is staff liaison to two Conference committees, Committee on Informal Action and Committee on Judicial Review. He is currently involved in work on the Conference's study of Judicial Review of Customs Service actions, in the development of studies in the area of informal adjudication (most notably, concerning procedures for mitigation of civil penalties), in the development of a study of State administrative procedure acts, and in review of the work of the Civil Service Commission's Advisory Committee on Administrative Law Judges. The incumbent is also the principal staff person responsible for preparation of the Conference's Uniform Caseload Accounting System (UCAS) report and is also assisting in preparation of the Implementation Report.

Staff Attorney—GS–13

The general responsibilities are the same as those of the other GS–13 staff attorney position. The incumbent has current responsibility for the Conference's study of scientific and technical decision-making, including original research and writing in the area as well as review and oversight of the consultant's activities and the work of a temporary para-legal specialist. The incumbent is responsible for review and oversight of four other Conference studies: time limits for agency action; exercise of prosecutorial discretion in the FDA; the use of surveys in FTA decision-making; and study of agency procedural self-appraisal. The incumbent has a permanent assignment as Staff Liaison to the Committee on Agency Decisional Processes and has substantial continuing responsibility for assisting in the preparation of the UCAS and Implementation reports.

Staff Attorney—GS–12

The incumbent has the same kinds of responsibilities assigned to staff attorneys at the GS–13 level, although he usually performs his duties with greater supervisory control. He is the principal, permanent staff person responsible for the preparation of the Implementation Report. He also has been assigned to assist the Executive Secretary in the preparation of the Conference's interpretive guide to the Government in the Sunshine Act and the Executive Director in preparation of the Zero Based Budget submission. The incumbent also has substantial responsibility for development of the Conference's Regulatory Agency Management Seminar. He has a permanent assignment as staff liaison to the Committee on Compliance and Enforcement Proceedings.

Librarian—GS–9

The Conference's librarian performs regular library duties, including the classifying and cataloging of ACUS's collection of legal and reference materials and the arranging of them in an organized fashion. The incumbent also manages the acquisition of new library materials and establishes systems for distribution of pertinent legal research and other reference materials. He also serves more generally as the Conference's information specialist.

Staff Assistant—GS–10

Serves as personal secretary to the Executive Director and also performs duties of the administrative officer, including payment of all bills and handling of all personnel actions.

Private Secretary to the Chairman—GS–10

Incumbent performs the full range of secretarial duties for the Chairman and also assists him in liaison with Conference Members and in the making of arrangements for Conference Plenary Sessions, committee meetings and the like.

Secretary—GS–8

Incumbent performs secretarial duties for the Executive Director and one staff attorney. She also serves as backup secretary to the Chairman and assists Chairman's private secretary in full range of activities she performs.

Secretary—GS–7

Incumbent serves as personal secretary for the Research Director and, on a time available basis, assists staff attorneys by providing secretarial services to them.

Secretary—GS–7

Incumbent provides secretarial duties for several staff attorneys and also serves as Conference receptionist.

Secretary—GS–6

Incumbent serves as personal secretary to the Executive Secretary and, on a time available basis, assists staff attorneys by providing secretarial services to them.

Clerk typist—GS–2

Incumbent performs routine typing duties, serves as copy machine operator and messenger.

Para-legal Specialist (temporary)—GS–7

Incumbent, on a temporary basis, assists a staff attorney in work on the Conference's study of scientific and technical decision-making. Duties include research and legal writing.

STATUS OF OUTSTANDING RESEARCH PROJECTS

(a) *FTC Project*—an evaluation of the procedures employed by FTC in prescribing trade regulation rules.

Total Authorization—$224,000.

Project Staff—Professor Barry Boyer is the principal contractor and the balance of the project staff is as follows:

Jamie Bennett—Research Manager;
Michael Bowers—Attorney;
Carol DeVita—Research Analyst;
Sharon Page—Secretary;
Helene Toiv—Research Analyst;
Miriam Witlin—Attorney;
J. Bradley Reese—Coder;
Lin Hoffman—Coder; and
B. Cartwright—Consultant.

Status—$209,000 of the contract amount has been disbursed. Professor Boyer has submitted a draft of a portion of the report and he and staff are working on balance of report. Delays in completing the project have been caused by the FTC time table and the fact that the new rulemaking process is taking longer than expected.

ACUS Staff Assistance—Research Director has devoted substantial time working with Mr. Boyer for past year and a half, and other professional staff members have worked a total of about 3 months on the project.

(b) *Waiver and Exemption Project*—a study of the procedures for waivers and exemptions from rules of general applicability.

Total Authorization—$3,500.

Project Staff—Marshall Breger, contractor.

Status—None of the contract money has yet been disbused. Project is expected to be completed by 7/30/78.

ACUS Staff Assistance—None.

(c) *FTC Survey Project*—A review of the use by FTC of surveys in its decisionmaking.

Total Authorization—$3,500.

Project Staff—Ernest Gellhorn.

Status—No contract funds have yet been disbursed and we are awaiting submission of the contractor's report.

ACUS Staff Assistance—None.

(d) *Outside Standards Project*—Study of the relationship between regulatory agencies and standards that are developed and drafted outside the agency but are used by the agency as part of its regulatory framework.

Total Authorization—$8,000.

Project Staff—Robert W. Hamilton, contractor.

Status—Mr. Hamilton has submitted an initial draft of his report and on that basis $2,000 of the contract amount has been dis-

bursed to him. Conference staff are currently reviewing the draft and it will soon be returned to Mr. Hamilton for revision.

ACUS Staff Assistance—General supervision and review only.

(e) *Emergency Procedures*—Study of the procedures used in emergency economic control programs.

Total Authorization—$8,000.

Project Staff—Edmund Kitch, contractor.

Status—No contract funds have yet been disbursed to the contractor.

ACUS Staff Assistance—None.

(f) *State Administrative Law Procedures*—Project to identify specific procedural ideas drawn from state administrative law, which may be appropriate for adaptation and use in the reform of federal administrative law.

Total Authorization—$8,500.

Project Staff—Leslie Levinson, contractor.

Status—Approximately $800 of the contract amount has been disbursed to cover the expenses of research assistants. No additional contract funds have been disbursed and the project is expected to be completed by September 1978.

ACUS Staff Assistance—General supervision and review only.

(g) *Prosecutorial Discretion in Antitrust Enforcement*—Justice and FTC discretion in investigating and prosecuting antitrust cases.

Total Authorization—$5,000.

Project Staff—Thomas J. Maroney, contractor.

Status—No contract funds have yet been disbursed, although in accordance with the contract terms, Mr. Maroney has been reimbursed for travel expenses he has incurred and for a small amount of research assistance. The project is expected to be completed by 6/30/78.

(h) *Judicial Review Alternatives*—A study of alternatives to judicial review of administrative action.

Total Authorization—$12.850.

Project Staff—Theodore Miles, contractor.

Status—Approximately $4.300 of the total contract price has been disbursed to cover expenses associated with research assistance and related matters.

ACUS Staff Assistance—General supervision and review only.

(i) *Ratemaking Delay*—A study of the sources and delays in ratemaking proceedings and procedures to ameliorate its consequences.

Total Authorization—$8,000.

Project Staff—Thomas D. Morgan, contractor.

Status—On the basis of the submission of a preliminary outline, and in accordance with the terms of the contract, $2,000 of the contract amount has been disbursed to the contractor. Additionally, and again pursuant to the terms of the contract, approximately $528 has been disbursed to the contractor to reimburse him for research assistance he obtained in connection with the project.

ACUS Staff Assistance—General supervision and review only.

(j) *Judicial Review of Rulemaking*—A study of the effects of judicial review on the procedures agencies use in their Section 553 of the APA rulemaking proceedings.

Total Authorization—$6,000.

Project Staff—Nathaniel Nathanson, contractor.

Status—Under the terms of the contract and on the basis of an initial submission, $2,000 has been paid to the contractor. Because of the press of other responsibilities, the contractor has indicated his inability to complete the project and the Conference is now in the process of finding a new contract consultant. Approximately $1,400 has also been disbursed to cover costs of research assistants.

ACUS Staff Assistance—General supervision and review.

(k) *Scientific/Technical Project*—Study of agency procedures for making scientific and technical determinations.

Total Authorization—$18,950.

Project Staff—Michael Baram, contractor. On a fairly regular basis, contractor has used the services of: Edward Selig (Attorney); Brian Coyne, Richard Rook, Brian Cassidy (Research Assistants); Susan Cartwright and Donnaleen Rousseau (Clerical).

Status—$9,950 of the contract amount has been disbursed, largely to cover salary expenses of Mr. Baram's assistants. Contractor has submitted a number of initial drafts concerning various facets of the project and Conference staff is awaiting imminent submission of additional material. A tentative judgment has been made that the project is far larger than originally contemplated and the Conference is now considering possible methods of further funding.

ACUS Staff Assistance—One staff attorney and one temporary paralegal specialist have assisted for several months each in the research and writing associated with the project. There has also been extensive supervision and review by the ACUS Research Director.

(l) *Agency Procedural Self-Appraisal*—A survey of methods used within past three years by selected regulatory agencies in reviewing their administrative procedures.

Total Authorization—$16,115.

Project Staff—Max D. Paglin, contractor.

Status—Approximately $7,500 of the contract amount has been disbursed on the basis of work done by the contractor.

ACUS Staff Assistance—Regular clerical and secretarial assistance provided to the contractor by ACUS permanent staff.

(m) *Federal Advisory Committee Act Project*—Survey of agency experience under the legislative guidelines of the Federal Advisory Committee Act.

Total Authorization—$7,500.

Project Staff—Robert E. Park, contractor.

Status—There has been no disbursement to the contractor of contract funds.

ACUS Staff Assistance—General supervision and review by the Executive Secretary.

(n) *Disclosure Project*—study of the employment of disclosure requirements and procedures to guide the design of improvement of programs of federal agency regulation.

Total Authorization—$8,500.

Project Staff—Roy Schotland, contractor.

Status—No contract monies have yet been disbursed.

ACUS Staff Assistance—None.

(o) *OSHRC-OSHA Interface*—study of the separation of adjudicative and legislative functions between OSHRC and OSHA and effects thereof on occupational safety and health policy.

Total Authorization—$4,300.

Project Staff—Neil J. Sullivan, contractor.

Status—Contractor has submitted a draft report and on that basis, $1,500 has been disbursed to him. Project is expected to be completed during September.

ACUS Staff Assistance—General supervision and review only.

(p) *Time Limits Project*—a study of the experience of selected agencies with statutory requirements that rules be promulgated within a fixed period of time and/or license applications be acted on within a fixed period of time.

Total Authorization—$8,000.

Project Staff—Edward A. Tomlinson, contractor.

Status—$2,000 of the contract price has been disbursed to the contractor on the basis of his submission of an initial draft and pursuant to the contract terms. The completed report is due December 30, 1977.

ACUS Staff Assistance—General supervision and review only.

(q) *Federal and State Bank Regulation Project*—Project to review recently completed Conference study on federal and state banking regulation and design additional project concerning economic implications of the dual banking regulation system.

Total Authorization—Consultant is on a per diem at the rate of $152.32 per day.

Project Staff—Frances K. Topping, consultant.

Status—Consultant has submitted several proposed project designs and has been paid a total of $609.28. Additional payments are pending review of her further submissions.

ACUS Staff Assistance—General supervision and review only.

(r) *Grants Dispute Project*—A report on the feasibility of a project concerning mechanisms for dispute resolution in intergovernmental grant programs.

Total Authorization—Consultant is on per diem at the rate of $150 per day.

Project Staff—Lee Albert, consultant.

Status—Professor Albert has submitted a final report entitled, "A Role for the Federal Judiciary in the Federal Grant Programs: An Evaluation Report for the Administrative Conference of the United States", and on that basis, total payment of $1,050 has been made.

ACUS Staff Assistance—General supervision and review only.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7662, a bill to establish authorization levels for the Administrative Conference of the United States for fiscal years 1979, 1980, 1981. Currently, the Administrative Conference labors under an unrealistically low authorization ceiling of $950,000. The Subcommittee on Administrative Law of the Judiciary Committee received considerable testimony demonstrating that the current authorization level seriously limited the potential effectiveness of the Conference. Consequently, our bill would amend the Administrative Conference Act and set the authorization ceiling for fiscal year 1979 at $1.7 million, fiscal year 1980 at $2.0 million, and fiscal year 1981 at $2.3 million.

The Administrative Conference of the United States was established in 1964 with the enactment of the Administrative Conference Act (5 U.S.C. 571–576). The principal purpose of the Conference is to identify the costs of delay, inefficiency, and unfairness in the administrative-regulatory process and to recommend necessary improvements to the President, Congress, the agencies, and the courts. The Conference develops and conducts research in the broad subject area of administrative law; it also acts as an information clearinghouse with respect to developments in administrative procedure in the Federal agencies, and in State and local government.

The Conference is made up of three distinct organizational echelons: the chairman, the council, and the assembly. The chairman of the Conference is appointed by the President for a term of 5 years. He acts as the day-to-day chief executive officer of the Conference. The current chairman is the very able Mr. Robert A. Anthony. Bob is a former Cor-

nell University law professor and a nationally respected expert in the field of administrative law. He approaches his job with both ingenuity and determination.

The 11-member council, consisting of the chairman and 10 others appointed by the President for 3-year terms, act as the board of directors of the Conference. The assembly is composed of the entire membership, ranging in size from 75 to 91 members. Currently there are 82 members of the assembly. By law, the assembly must meet at least once annually and it is during these "plenary" sessions that the formal recommendations of the Administrative Conference are debated and adopted.

With the exception of the chairman, no member of the Conference is compensated. Members of the assembly come from both inside the Federal Government and from various places in the public sector (private practice, universities, State government, et cetera.) It is my view that the membership of the Conference should be expanded in terms of its background and outlook. Consequently, during our oversight hearings I urged Chairman Anthony to seriously consider broader membership from the private sector; that is, corporations, unions, and public interest groups.

During the subcommittee hearings the following items were emphasized: inadequate staffing, the impact of inflation (on salaries, in particular) and the cost which had to be absorbed because of unforeseen responsibilities. On this last point, the testimony brought out the fact that within the past 3 fiscal years the Conference has been assigned four major but unanticipated special projects. Three of these were imposed by statute; that is, Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Public Law 93–657); Railroad Revitalization Act (Public Law 94–210); and the Government in the Sunshine Act (Public Law 94–409).

The Administrative Conference is an organization that holds out a potential reservoir of talent that Congress has just begun to tap. They provide a badly needed overview of regulatory-administrative agencies and their recommendations frequently find their way into law. If this Congress is genuinely committed to the concept of regulatory reform, it can take no more substantive action than to provide the Administrative Conference with adequate funding to carry out its statutory responsibilities. Therefore, I urge my colleagues on both sides of the aisle to support the passage of this measure.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of California. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding me this time.

It has been stated that the purpose of H.R. 7662 is to authorize funding for the Administrative Conference of the United States for a 3-year period, from fiscal year 1979 through to fiscal year 1981: $1.7 million for fiscal 1979; $2 million for fiscal 1980; and $2.3 million for fiscal 1981.

Comparatively speaking, these appear to be "modest" dollar figures. However, these amounts do represent a considerable increase for this small agency, which current functions with a full-time professional staff of less than 10 persons. Their current authorization level is $950,000 and the actual appropriation for this year is approximately $910,000.

But a review of the facts supports the increases contained in H.R. 7662. In fact, our hearings demonstrated that this lack of adequate funds has seriously limited their range of activities. In particular, research efforts have been hampered as increasing portions of their budget have had to be allocated for operating expenses. Add to this the fact that Congress has frequently turned to the Administrative Conference in recent years to provide advice and technical assistance to agencies implementing newly enacted legislation. Notable examples of this are the study mandated by the Magnuson-Moss Federal Trade Improvement Act (which has cost the Conference over $220,000) and the advisory assistance called for under the Government in the Sunshine Act. While the Conference willingly accepted assignments of this nature, it nevertheless received no additional funds to carry out these unanticipated responsibilities.

The Administrative Conference needs a more realistic budget if it is to fulfill its statutory mandate. It is their responsibility to oversee administrative practices and procedures in the Federal Government, and to recommend needed reforms in the various procedures and policies of the regulatory agencies. They scrutinize the activities of the various Federal agencies from the standpoint of fairness, consistency, and tax efficiency. Importantly, the Conference provides a forum for both the regulators and the regulated to come together and exchange thoughts and ideas. They can, and to some extent have, "humanized" bureaucracy. Their evaluative research and annual recommendations have provided both the Congress and the executive branch with the needed information and data upon which to base important decisions in the area of administrative law.

But the full potential of the Administrative Conference has yet to be tapped by the Congress. We all have felt the wrath of constituents, properly irate, over regulations issued by an arbitrary OSHA or a paternalistic FDA. The search has begun in earnest for ways to limit the discretionary powers of administrative agencies. There is speculation about "regulatory reform" and pressure for "sunset" legislation. The congressional veto device has frequently been utilized as a means of achieving a legislative-executive balance of power. My point is that the Administrative Conference provides us with a promising resource in this struggle to achieve genuine oversight of administrative action. They have been, and should increasingly become, an essential helpmate in this effort. Through the passage of H.R. 7662, Congress would recognize the accomplishments and usefulness of the Administrative Conference; while at the same time serving notice that we intend to call on them for help with frequency when dealing with needed reforms in the regulatory field.

The bill we are considering here today is nearly identical to S. 1792, which passed the Senate on November 4, 1977. However, there is one important distinction that should be pointed out. The Senate version contains language continuing the fiscal year 1981 authorization figure indefinitely ("and for each fiscal year thereafter").

H.R. 7662 contains no such open-ended language. We are talking about a flat 3-year authorization bill. Then, after that period, Congress would again review the work of the Conference and make its budgetary judgments based upon performance. To me this is the preferable approach. It certainly is the one which is most consistent with the overall philosophy of congressional oversight that the existence of the Administrative Conference, itself, symbolizes. I think that the Administrative Conference deserves our concentrated attention at least that often.

In conclusion, I want to urge my colleagues to support H.R. 7662. After being underfinanced for some years, the Administrative Conference has earned this showing of confidence.

Mr. MOORHEAD of California. Mr. Speaker, I reserve the balance of my time.

Mr. DANIELSON. Mr. Speaker, I wish to state that in my revision and extension I shall include some of the data that the gentleman from Georgia (Mr. LEVITAS) requested. Beyond that I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill H.R. 7662, as amended.

The question was taken.

Mr. LEVITAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the bill H.R. 7662.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TO ENCOURAGE REDUCTION OF RADIATION IN URANIUM MILL TAILINGS

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 266) to amend Public Law 92–314 to

authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes, as amended.

The Clerk read as follows:

S. 266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

APPROPRIATIONS AUTHORIZATIONS

SECTION 1. In addition to amounts otherwise authorized to be appropriated and appropriated, there is authorized to be appropriated for the fiscal year 1970, $1,500,000 to carry out the provisions of title II of the Act of June 16, 1972 (Public Law 92-314; 86 Stat. 226).

AMENDMENTS TO PROGRAM PROVIDING REMEDIAL ACTION REGARDING URANIUM MILL TAILINGS

SEC. 2. (a) Section 202 of the Act of June 16, 1972, is amended—

(1) in subsection (b), by striking out "four years" and inserting in lieu thereof "eight years"; and

(2) by striking out "and" at the end of subsection (f), by striking out the colon at the end of subsection (g) and inserting a semicolon in lieu thereof, and by inserting after subsection (g) the following new subsections:

"(h) that, notwithstanding any requirement under subsection (b) or (c) of this section, payment for any remedial action commenced before the date of the enactment of this subsection may be made by the State to the property owner of record at the time such action was undertaken, but only if application therefore is filed by such owner with the State of Colorado within one year after such date of enactment and if the Secretary determines that such remedial action was undertaken in accordance with otherwise applicable provisions of this title and regulations thereunder; and

"(i) that the provision of subsection (c) of this section requiring any remedial action undertaken under this title be performed by the State of Colorado or its authorized contractor may be waived in writing by the State, with the approval of the Secretary, but only if application therefor is filed with the State by the property owner of record requesting such waiver and such waiver is granted before the commencement of such remedial action:".

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"SEC. 205. Not later than one year after the date of the enactment of this section, the Secretary of Energy shall prepare and submit a detailed report to the Committees on Interstate and Foreign Commerce and on the Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate with respect to actions taken or to be taken under this title, including data on payments made to the State and owners of record and a timetable of those actions yet to be taken.".

(c) Section 202 of such Act is further amended—

(1) by striking out "Atomic Energy Commission" each place it appears and inserting "Secretary of Energy" in lieu thereof;

(2) by striking out "Commission" each place it appears and inserting "Secretary" in lieu thereof; and

(3) by striking out "the Joint Committee on Atomic Energy" each place it appears and inserting "both Houses of Congress" in lieu thereof.

(d) Section 203 of such Act is amended—

(1) by striking out "Atomic Energy Commission" and inserting "Secretary of Energy" in lieu thereof; and

(2) by striking out "as it deems necessary" and inserting "as he deems necessary" in lieu thereof.

(e) Authority to make payments under title II of such Act under amendments made by this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, S. 266 was unanimously reported out by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs. The bill, as reported, includes identical amendments adopted by both committees which would provide extension of the time for filing applications to 4 years from June 1976 and would authorize an appropriation of $1.5 million in fiscal year 1979.

This legislation is designed to complete this program and terminate it as quickly as possible. It is recognized, however, that some additional time and money will be needed in order to achieve this objective. The bill does not specifically provide funds in fiscal years 1977 and 1978 because Congress has already provided those funds through Public Law 95-3 which includes appropriations for ERDA.

This program was initiated in the early 1970's with passage of title II of Public Law 92-314 which authorized a program of limited financial assistance to the State of Colorado to prevent radiation exposure to people in homes, schools, churches, businesses, and other buildings in the area of Grand Junction, Colo. The problem arose from the widespread use of uranium mill tailings found in an abandoned mine which produced uranium for the Federal Government. These tailings were used in the construction of a number of buildings around the Grand Junction area.

Initially, the statute authorized $5 million for the program which is cost-shared by the State of Colorado on a 75/25 percent basis. Property owners were required to file for remedial action by June 16, 1976. The remedial action was to be conducted by the State or its authorized contractor. Once done, any mill tailing liability of the United States is waived.

The program ran out in June of 1976, although additional applications are still pending and additional studies have not yet been completed. It is estimated that a total of about 600 structures may require some sort of remedial action. The legislation before us, initially proposed by Congressmen WIRTH and JIM JOHNSON, provides the needed extension of time and money to complete the program. The amendments adopted by our committee and the Interior Committee are designed to insure that the entire program will be completed at the end of this time extension and that no further funds will be needed.

It should be noted that the DOE has been conducting additional studies of the similar problem in other States. Recent DOE reports estimate significant expenditures for this problem in those States. Additional legislation will be needed to deal with that problem. Our committee will be reviewing any proposals that the Department of Energy may put forth in this Congress or the next concerning those studies. I emphasize the provisions of this bill do not affect those studies.

Mr. Speaker, I urge passage of this bill.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this measure. S. 266 seeks to extend the funding of a remedial program authorized in 1972 to deal with radiation hazards created by the use of sand containing uranium mill tailings in the construction of public and private buildings in the Grand Junction, Colo. area. The mill tailings contain and emit radon, a short-lived but dangerous radioactive gas. Previous radiological surveys of these structures have revealed that radon gas may enter the structures, thereby posing a public health hazard.

The State of Colorado, which has provided 25 percent of the funds for the program, has the responsibility for administering the program under a cooperative agreement with ERDA which has provided the remaining 75 percent. It has been estimated that at the end of 1977, 280 structures in the Grand Junction area have been involved in the remedial work. The combined efforts of the Federal Government and the State of Colorado in performing this remedial work to date has cost $10.700.000 with $1,500,000 needed to complete the program. Therefore, S. 266 authorizes the amount of $1.5 million for the successful completion of this program and I urge my colleagues to support its passage.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, I rise in support of S. 266.

However, I must most strongly urge the Secretary of Energy, who is administering this program, to expeditiously bring this project to its conclusion.

When the program was authorized in 1972, it was originally estimated that the program would be completed within 4 years (by June 16, 1976) at a cost to Federal taxpayers of $5 million.

In fiscal year 1977, cost overruns re-

quired an additional $3 million appropriation bringing total Federal expenditures to $8 million.

And now, the bill before us authorizes another $1.5 million and extends the deadline for eligible owners to file for an additional 4 years from the original June 16, 1976, deadline.

Mr. Speaker, to be sure, several factors beyond the Government's control have required the extension of this program, including inflation and the discovery of a larger number of buildings needing remedial action than was originally anticipated. But I am becoming increasingly concerned that this program will continue to drag on for years in the future.

Therefore, Mr. Speaker, although I support S. 266, I would hope that this program be wrapped up soon at no further cost to the Federal Government.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I rise in support of passage of S.266. The legislation was reported as amended in identical form from the House Interior and Insular Affairs Committee and the House Interstate and Foreign Commerce Committee. There is a full consensus in both committees regarding the scope and need for this legislation.

The intent of the bill is to provide sufficient time extension and additional funding authorization to bring the remedial action uranium mill tailing program in the Grand Junction, Colo. area to a close. The objective of the program, which was first authorized by the 92d Congress, is to limit the radiation exposure and potential health problems brought about by the presence of uranium mill tailings which were used for construction and other purposes in the Grand Junction area. Over the years, it has been determined that the presence of these tailings, especially in, under and around residential, business and public buildings, may pose a potential health hazard. The 92d Congress responded to the problem by providing for a Federal/State cooperative program to remove the potential hazard. The Federal funds provided are matched on a 75/25 basis by funds appropriated by the general assembly of the State of Colorado. The original program expired in June of last year.

In order for all those persons impacted by the presence of the tailings to apply for assistance under the joint Federal/State remedial action program, S. 266 provides an extension of the program for 4 additional years. The extension of time is necessary to allow the air sampling program to be completed, after which property owners will be advised as to whether or not remedial action is recommended. ERDA officials testified at our committee hearings that this additional time will be sufficient to bring the program to a close. In addition, an additional 1½ million dollars is authorized for fiscal year 1979 to provide the Federal share of the costs of bringing the total program to a close.

Another feature of S. 266 is that it allows reimbursements to be made to those persons who accomplished the tailings removal or other corrective action on their own. The bill also prvides that property owners may contract on their own in the future to have the work done by persons other than the State or its contractors, with prior approval of the appropriate agencies. During the hearings on this legislation, ERDA officials pointed out that in most cases, the cost is less than when the work is performed by a State contractor—therefore resulting in lower total costs to the government. The legislation also requires a full report to Congress regarding the remedial action program.

Mr. Speaker, I fully support this legislation as reported by the Interior and Commerce Committees and urge its adoption. I also want to commend the chairman of the Commerce Committee, Mr. STAGGERS; and the chairman of the Interior Committee, Mr. UDALL, for the cooperative and expeditious manner in which they considered this worthwhile legislation.

Mr. ROGERS. Mr. Speaker, I rise in support of S. 266. Unfortunately, this is another example of trying to right a wrong through patchwork legislation rather than taking the proper action which would have prevented the radioactive contamination of this area in the first place.

The Subcommittee on Health and the Environment is today opening a series of hearings that I anticipate will result in legislation which will provide a consistent policy of protecting the health of the American public from such radiation hazards.

Mr. Speaker, I support this bill, because I share the view expressed in Public Law 92–314 in 1972 that Congress has the "compassionate responsibility" to provide the State of Colorado with financial assistance to protect the public health of its citizens from the threat of radiation in buildings constructed with uranium mill tailings. I support this program to try to undo that damage, but I remain concerned that sufficient steps have not been taken to prevent similar threats to the public health.

As my colleagues are aware, the problem in Grand Junction developed when a uranium mill, which operated under contract with the Federal Government, permitted people to come on to its premises and take away contaminated sand which it had separated in the processing of uranium ore, over a 10-year period.

This was permitted, because the Atomic Energy Commission regulated only what it defined as source material, that is material composed of greater than .05 percent uranium and thorium combined. In the recovery process, the tailing did not contain these levels, and so they were unregulated by the AEC, leaving the company to its shortsighted policy of giving sand away for use in constructing dwellings and office buildings and whatever else.

In discussions with DOE and NRC officials, I have learned that the NRC definition of source material has not been changed, despite the experience in Grand Junction. It is true that NRC is indirectly regulating mill tailings, by requiring mill operators to include in their environmental impact statements their plans for stabilizing mill tailings piles. However, it is my understanding that NRC has not developed standards either by regulation or in proposed legislation, by which to judge these plans.

I am concerned because the problem is not limited to Grand Junction, Colo. The Department of Energy has recently completed a study of some 22 uranium mill tailing sites across the country, and plans to send over legislation in the very near future to authorize a program to stabilize these sites and to remedy damage which has already occurred from leakage from the sites. The lack of standards in the past has clearly resulted in a danger to the public health, and is requiring costly remedial programs such as the Grand Junction program and the proposed legislation for the other sites. However, it is my understanding that, although the lack of standards is recognized both at DOE and the NRC, the proposed legislation will not contain such standards for the future.

I believe legislation may be necessary if the public health is to be protected from the threat of unnecessary exposure to uranium mill tailings, and the Subcommittee on Health and the Environment will be looking into this as our hearings progress during the coming weeks.

Mr. UDALL. Mr. Speaker, I rise in support of S. 266 as reported amended by the Committee on Interstate and Foreign Commerce. This bill for the remedy of a nuclear waste problem in Grand Junction, Colo., was referred jointly to the Commerce Committee and to the Committee on Interior and Insular Affairs. The members of these committees reached substantial agreement on S. 266, and we reported out nearly identical amendments. Therefore, I support the passage of the version reported by the Commerce Committee and brought to the House now by my colleague Mr. DINGELL.

The control of uranium mill tailings is a big problem in the West, and one which the Congress will be looking at closely in the near future. The Grand Junction area was particularly beset by a radiological threat to public health and safety, and was in need of quick Federal help. I believe we should carry through with the commitment made by Congress in 1972 to alleviate the situation in Grand Junction by passing S. 266, while we acknowledge our responsibility to insure that future handling of uranium mill tailings does not lead to any more such expensive situations.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the Senate bill S. 266, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title was amended so as to read: "An Act to authorize appropriations for financial assistance to limit radiation exposure to the public from uranium mill tailings used for construction, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, S. 266.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 8811.

H.R. 7662.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RETIRED PAY FOR TAX COURT JUDGES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8811, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 8811, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 1, not voting 32, as follows:

[Roll No. 10]

YEAS—399

Abdnor	Armstrong	Bevill	Broomfield	Grassley	Mitchell, Md.	Studds	Volkmer	Wilson, Tex.
Addabbo	Ashbrook	Biaggi	Brown, Calif.	Gudger	Mitchell, N.Y.	Symms	Waggonner	Winn
Akaka	Ashley	Bingham	Brown, Mich.	Guyer	Moakley	Taylor	Walgren	Wirth
Alexander	Aspin	Blouin	Broyhill	Hagedorn	Moffett	Thompson	Walker	Wolff
Allen	Badham	Boggs	Buchanan	Hall	Mollohan	Thone	Wampler	Wright
Ammerman	Bafalis	Boland	Burgener	Hamilton	Montgomery	Thornton	Watkins	Wydler
Anderson, Calif.	Baldus	Bolling	Burke, Calif.	Hammer-schmidt	Moore	Traxler	Waxman	Wylie
	Baucus	Bonior	Burke, Fla.		Moorhead, Calif.	Treen	Weiss	Yates
Anderson, Ill.	Bauman	Bonker	Burke, Mass.	Hanley		Trible	Whalen	Yatron
Andrews, N.C.	Beard, R.I.	Bowen	Burleson, Tex.	Hannaford	Moorhead, Pa.	Tsongas	White	Young, Alaska
Andrews, N. Dak.	Beard, Tenn.	Brademas	Burlison, Mo.	Hansen	Moss	Udall	Whitehurst	Young, Fla.
	Bedell	Breckinridge	Burton, John	Harkin	Mottl	Ullman	Whitley	Young, Mo.
Annunzio	Beilenson	Brinkley	Butler	Harrington	Murphy, Ill.	Van Deerlin	Whitten	Young, Tex.
Applegate	Benjamin	Brodhead	Byron	Harris	Murphy, N.Y.	Vander Jagt	Wiggins	Zablocki
Archer	Bennett	Brooks	Caputo	Harsha	Murphy, Pa.	Vanik	Wilson, Bob	Zeferetti
			Carney	Hawkins	Murtha	Vento	Wilson, C. H.	
			Carr	Heckler	Myers, Gary			
			Carter	Hefner	Myers, John		NAYS—1	
			Cavanaugh	Heftel	Natcher			
			Cederberg	Hightower	Neal		Collins, Tex.	
			Chisholm	Holland	Nedzi			
			Clausen, Don H.	Holt	Nichols		NOT VOTING—32	
				Holtzman	Nix	Ambro	Dodd	Pepper
			Clawson, Del	Horton	Nolan	AuCoin	Erlenborn	Poage
			Clay	Howard	Nowak	Barnard	Evans, Ga.	Risenhoover
			Cleveland	Hubbard	O'Brien	Blanchard	Gammage	Santini
			Cochran	Huckaby	Oakar	Breaux	Giaimo	Steiger
			Cohen	Hughes	Oberstar	Brown, Ohio	Gonzalez	Stump
			Coleman	Hyde	Obey	Burton, Phillip	Hillis	Teague
			Collins, Ill.	Ichord	Ottinger	Chappell	Hollenbeck	Tucker
			Conable	Ireland	Panetta	Cornwell	Lederer	Walsh
			Conte	Jacobs	Patten	Cotter	Myers, Michael	Weaver
			Conyers	Jeffords	Pattison	Dent	Patterson	
			Corcoran	Jenkins	Pease			
			Corman	Jenrette	Perkins			
			Cornell	Johnson, Calif.	Pettis			
			Coughlin	Johnson, Colo.	Pickle			
			Crane	Jones, N.C.	Pike			
			Cunningham	Jones, Okla.	Pressler			
			D'Amours	Jones, Tenn.	Preyer			
			Daniel, Dan	Jordan	Price			
			Daniel, R. W.	Kasten	Pritchard			
			Danielson	Kastenmeier	Pursell			
			Davis	Kazen	Quayle			
			de la Garza	Kelly	Quie			
			Delaney	Kemp	Quillen			
			Dellums	Ketchum	Rahall			
			Derrick	Keys	Railsback			
			Derwinski	Kildee	Rangel			
			Devine	Kindness	Regula			
			Dickinson	Kostmayer	Reuss			
			Dicks	Krebs	Rhodes			
			Diggs	Krueger	Richmond			
			Dingell	LaFalce	Rinaldo			
			Dornan	Lagomarsino	Roberts			
			Downey	Latta	Robinson			
			Drinan	Le Fante	Rodino			
			Duncan, Oreg.	Leach	Roe			
			Duncan, Tenn.	Leggett	Rogers			
			Early	Lehman	Roncalio			
			Eckhardt	Lent	Rooney			
			Edgar	Levitas	Rose			
			Edwards, Ala.	Livingston	Rosenthal			
			Edwards, Calif.	Lloyd, Calif.	Rostenkowski			
			Edwards, Okla.	Lloyd, Tenn.	Rousselot			
			Eilberg	Long, La.	Roybal			
			Emery	Long, Md.	Rudd			
			English	Lott	Runnels			
			Ertel	Lujan	Ruppe			
			Evans, Colo.	Luken	Russo			
			Evans, Del.	Lundine	Ryan			
			Evans, Ind.	McClory	Sarasin			
			Fary	McCloskey	Satterfield			
			Fascell	McCormack	Sawyer			
			Fenwick	McDade	Scheuer			
			Findley	McDonald	Schroeder			
			Fish	McEwen	Schulze			
			Fisher	McFall	Sebelius			
			Fithian	McHugh	Seiberling			
			Flippo	McKay	Sharp			
			Flood	McKinney	Shipley			
			Florio	Madigan	Shuster			
			Flowers	Maguire	Sikes			
			Flynt	Mahon	Simon			
			Foley	Mann	Sisk			
			Ford, Mich.	Markey	Skelton			
			Ford, Tenn.	Marks	Skubitz			
			Forsythe	Marlenee	Slack			
			Fountain	Marriott	Smith, Iowa			
			Fowler	Martin	Smith, Nebr.			
			Fraser	Mathis	Snyder			
			Frenzel	Mattox	Solarz			
			Frey	Mazzoli	Spellman			
			Fuqua	Meeds	Spence			
			Gaydos	Metcalfe	St Germain			
			Gephardt	Meyner	Staggers			
			Gibbons	Michel	Stangeland			
			Gilman	Mikulski	Stanton			
			Ginn	Mikva	Stark			
			Glickman	Milford	Steed			
			Goldwater	Miller, Calif.	Steers			
			Goodling	Miller, Ohio	Stockman			
			Gore	Mineta	Stokes			
			Gradison	Minish	Stratton			

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Barnard.
Mr. Dent with Mr. Erlenborn.
Mr. Cotter with Mr. Risenhoover.
Mr. Ambro with Mr. Hillis.
Mr. Dodd with Mr Steiger.
Mr. Pepper with Mr. Brown of Ohio.
Mr. Santini with Mr. Teague.
Mr. Giaimo with Mr. Tucker.
Mr. Gammage with Mr. Hollenbeck.
Mr. Breaux with Mr. Michael O. Myers.
Mr. Blanchard with Mr. Evans of Georgia.
Mr. Phillip Burton with Mr. Stump.
Mr. Chappell with Mr. Weaver.
Mr. Cornwell with Mr Patterson of California.
Mr. Lederer with Mr. Gonzalez.

Mr. BROWN of Michigan and Mr. AMMERMAN changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADMINISTRATIVE CONFERENCE AUTHORIZATION

The SPEAKER pro tempore .The unfinished business is the question of suspending the rules and passing the bill H.R. 7662, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill H.R. 7662, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 292, nays 103, not voting 37, as follows:

[Roll No. 11]

YEAS—292

Addabbo	Andrews, N. Dak.	Baucus	Bevill	Brademas	Conyers	Fascell	Hannaford	Lloyd, Calif.	Mottl	Rangel	Stark
Akaka		Beard, R.I.	Biaggi	Breckinridge	Corcoran	Fenwick	Harkin	Lloyd, Tenn.	Murphy, Ill.	Regula	Steed
Alexander	Annunzio	Bedell	Bingham	Brinkley	Corman	Findley	Harrington	Long, La.	Murphy, N.Y.	Reuss	Steers
Allen	Applegate	Beilenson	Blouin	Brodhead	Cornell	Fish	Harris	Long, Md.	Murphy, Pa.	Rhodes	Stockman
Ambro	Armstrong	Benjamin	Boggs	Brooks	Coughlin	Fisher	Harsha	Lott	Murtha	Richmond	Stokes
Anderson, Calif.	Ashley	Bennett	Boland	Broomfield	Crane	Fithian	Hawkins	Lujan	Myers, Gary	Rinaldo	Stratton
	Aspin	Bevill	Bolling	Brown, Calif.	Cunningham	Flippo	Heckler	Luken	Myers, John	Roberts	Studds
Anderson, Ill.	Badham	Biaggi	Bonior	Brown, Mich.	D'Amours	Flood	Hefner	Lundine	Natcher	Robinson	Symms
Andrews, N.C.	Baldus	Bingham	Bonker	Broyhill	Daniel, Dan	Florio	Heftel	McClory	Neal	Rodino	Taylor

Blouin	Hamilton	Obey
Boggs	Hammer-	Ottinger
Boland	schmidt	Patten
Bolling	Hanley	Pattison
Bonior	Hannaford	Pease
Bonker	Harkin	Perkins
Bowen	Harrington	Pettis
Brademas	Harris	Pickle
Breckinridge	Hawkins	Pike
Brinkley	Heckler	Preyer
Brodhead	Heftel	Price
Brooks	Hightower	Pritchard
Broomfield	Holland	Quie
Brown, Calif.	Holtzman	Railsback
Brown, Mich.	Horton	Rangel
Broyhill	Howard	Regula
Buchanan	Huckaby	Reuss
Burke, Calif.	Hughes	Rhodes
Burke, Fla.	Hyde	Richmond
Burke, Mass.	Ireland	Rinaldo
Burlison, Mo.	Jeffords	Rodino
Burton, John	Johnson, Calif.	Roe
Butler	Johnson, Colo.	Rogers
Byron	Jordan	Roncalio
Carney	Kasten	Rooney
Carr	Kastenmeier	Rose
Carter	Kazen	Rosenthal
Cavanaugh	Kemp	Rostenkowski
Cederberg	Ketchum	Roybal
Chisholm	Keys	Ruppe
Clausen,	Kildee	Russo
Don H.	Kindness	Ryan
Clay	Krebs	Sarasin
Cochran	Krueger	Sawyer
Cohen	LaFalce	Scheuer
Coleman	Le Fante	Schroeder
Collins, Ill.	Leach	Schulze
Conable	Leggett	Seiberling
Conte	Lehman	Shipley
Conyers	Livingston	Sikes
Cornell	Lloyd, Calif.	Simon
Coughlin	Long, La.	Sisk
Daniel, Dan	Long, Md.	Skubitz
Danielson	Lundine	Slack
Davis	McClory	Smith, Iowa
de la Garza	McCloskey	Snyder
Delaney	McCormack	Solarz
Dellums	McDade	Spellman
Derrick	McEwen	St Germain
Dickinson	McFall	Staggers
Dicks	McHugh	Stanton
Diggs	McKay	Stark
Dingell	McKinney	Steed
Downey	Madigan	Steers
Drinan	Maguire	Stockman
Duncan, Oreg.	Mahon	Stratton
Duncan, Tenn.	Mann	Thompson
Early	Markey	Thornton
Eckhardt	Marks	Traxler
Edgar	Mattox	Treen
Edwards, Ala.	Mazzoli	Tsongas
Edwards, Calif.	Meeds	Udall
Eilberg	Metcalfe	Ullman
Emery	Meyner	Van Deerlin
Evans, Colo.	Mikulski	Vander Jagt
Evans, Ind.	Mikva	Vanik
Fary	Miller, Calif.	Vento
Fascell	Mineta	Volkmer
Findley	Minish	Waggonner
Fish	Mitchell, Md.	Wampler
Fisher	Mitchell, N.Y.	Waxman
Flippo	Moakley	Weiss
Flood	Mollohan	Whalen
Florio	Moore	White
Flowers	Moorhead,	Whitehurst
Foley	Calif.	Whitley
Ford, Mich.	Moorhead, Pa.	Wiggins
Ford, Tenn.	Moss	Wilson, Bob
Forsythe	Murphy, Ill.	Wilson, C. H.
Fraser	Murphy, N.Y.	Wilson, Tex.
Frenzel	Murphy, Pa.	Winn
Fuqua	Murtha	Wirth
Gaydos	Natcher	Wolff
Gephardt	Nedzi	Wright
Gibbons	Nichols	Yates
Gilman	Nix	Yatron
Gore	Nolan	Young, Mo.
Gudger	Nowak	Young, Tex.
Guyer	O'Brien	Zablocki
Hagedorn	Oberstar	Zeferetti

NAYS—103

Abdnor	Collins, Tex.	Fenwick
Ammerman	Corcoran	Fithian
Archer	Crane	Flynt
Ashbrook	Cunningham	Fountain
Bafalis	D'Amours	Fowler
Bauman	Daniel, R. W.	Frey
Beard, Tenn.	Derwinski	Ginn
Burgener	Devine	Glickman
Burleson, Tex.	Edwards, Okla.	Goldwater
Caputo	English	Goodling
Clawson, Del	Ertel	Gradison
Cleveland	Evans, Del.	Grassley
Hall	Marlenee	Runnels
Hansen	Marriott	Satterfield
Harsha	Martin	Sebelius
Hefner	Mathis	Sharp
Holt	Michel	Shuster
Hubbard	Milford	Skelton
Ichord	Miller, Ohio	Smith, Nebr.
Jacobs	Moffett	Spence
Jenkins	Montgomery	Stangeland
Jenrette	Mottl	Symms
Jones, N.C.	Myers, Gary	Taylor
Jones, Okla.	Myers, John	Thone
Jones, Tenn.	Neal	Trible
Kelly	Oakar	Walgren
Kostmayer	Panetta	Walker
Lagomarsino	Pressler	Watkins
Latta	Quayle	Whitten
Lent	Quillen	Wydler
Levitas	Rahall	Wylie
Lott	Roberts	Young, Alaska
Lujan	Robinson	Young, Fla.
Luken	Rousselot	
McDonald	Rudd	

NOT VOTING—37

AuCoin	Erlenborn	Pursell
Barnard	Evans, Ga.	Risenhoover
Blanchard	Gammage	Santini
Breaux	Giaimo	Steiger
Brown, Ohio	Gonzalez	Stokes
Burton, Phillip	Hillis	Studds
Chappell	Hollenbeck	Stump
Corman	Lederer	Teague
Cornwell	Lloyd, Tenn.	Tucker
Cotter	Myers, Michael	Walsh
Dent	Patterson	Weaver
Dodd	Pepper	
Dornan	Poage	

The Clerk announced the following pairs:

Mr. Lederer with Mr. Blanchard.
Mr. AuCoin with Mr. Dornan.
Mr. Dent with Mr. Walsh.
Mr. Cotter with Mr. Phillip Burton.
Mr. Dodd with Mr. Teague.
Mr. Giaimo with Mr. Studds.
Mr. Stokes with Mr. Barnard.
Mr. Gammage with Mr. Hillis.
Mr. Chappell with Mr. Erlenborn.
Mr. Corman with Mrs. Lloyd of Tennessee.
Mr. Pepper with Mr. Tucker.
Mr. Cornwell with Mr. Patterson of California.
Mr. Gonzalez with Mr. Stump.
Mr. Santini with Mr. Hollenbeck.
Mr. Risenhoover with Mr. Michael O. Myers.
Mr. Weaver with Mr. Steiger.
Mr. Evans of Georgia with Mr. Pursell.
Mr. Breaux with Mr. Brown of Ohio.

Mrs. FENWICK changed her vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a similar Senate bill (S. 1792) to amend the Administrative Conference Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Appropriations

"(a) There are authorized to be appropriated sums necessary not in excess of $1,600,000 for the fiscal year ending September 30, 1979, $1,950,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981, and for each fiscal year thereafter, to carry out the purposes of this subchapter.".

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves to strike out all after the enacting clause of the Senate bill S. 1792 and insert in lieu thereof the text of H.R. 7662, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7662) was laid on the table.

CONFERENCE REPORT ON S. 1585, PROHIBITING THE SEXUAL EXPLOITATION OF CHILDREN

Mr. CONYERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium or live performance, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 4, 1977.)

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977. The conference committee unanimously approved the report on Wednesday, November 2, 1977. I am hopeful the House will unanimously adopt the report as the Senate did on November 4, 1977. We will then be able to send the bill to the President to be signed at the very beginning of the 2d session of the 95th Congress.

The conference committee report addresses two problems: the great increase in juvenile prostitution and the use of

children in the production of pornographic materials. S. 1585 would make three changes in title 18 of the United States Code. First, it would add a new section 2251 that would make it a Federal crime to cause any child under the age of 16 to engage in sexually explicit conduct for the purpose of producing materials that are to be mailed or transported in interstate commerce. It also adds a companion section that prohibits the sale or distribution of any obscene materials that depict children engaging in sexually explicit conduct if such materials have been mailed or transported in interstate commerce. Finally, it amends section 2423 of title 18 to prohibit the interstate transportation of both males and females under 18 years of age for the purpose of engaging in prostitution or other sexually explicit conduct for commercial purposes.

The details of these agreements are set forth in the conference report and the joint explanatory statement of the managers.

I am pleased to state that the conferees agreed to report a bill that is very similar to the bill passed by the House on October 25, 1977. On that date, the House conferees were instructed to accept the Roth amendment in the Senate bill relating to the transportation, distribution, and sale of printed or visual matter containing children engaging in explicit sexual conduct. A majority of the House conferees voted to accept the Roth amendment with the qualifying language that the printed or visual medium be obscene. The Senate receded and a compromise was struck.

I feel both Houses of Congress acted carefully to avoid unnecessary infringement on first amendment rights. None of us wished to present to the country a law which we knew was in danger of being declared unconstitutional by the Supreme Court. The Supreme Court's standard for obscenity as established in the Miller case requires that first, the average person applying contemporary community standards would find that the work, as a whole, appeals to a prurient interest in sex; second, the work depicits in a patently offensive way sexual conduct; and third, the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

As chairman of the subcommittee responsible for this legislation, I have received thousands of letters from citizens declaring the use of children in pornography to be grossly offensive. It is my firm conviction that citizen juries required to review this material would adjudicate it obscene under the present standard articulated above.

The danger of not inserting an obscenity standard in the Federal law is clearly set out in the recent opinion of the U.S. District Court of the Southern District of New York. A portion of the New York statute dealing with child pornography was declared to be an infringement on the plaintiff's first amendment rights and the State was enjoined from enforcing that law. The deciding judge was concerned that "while New York's interest in protecting children from exploitation is both legitimate and important * * * there is serious question whether the State in choosing to punish publishers, distributors, advertisers and booksellers for their activities with respect to a nonobscene book has chosen the least drastic means of accomplishing its goal consistent with preserving first amendment rights."

I feel S. 1585 deals with the issue in a manner which will insure its constitutionality and closes the door to the possibility of a decision like the one in the New York case. I must commend Congress for its rapid action in developing legislation on this subject. The Judiciary Committee clearly acted in a precise, careful, and responsible manner in reporting out a bill which is both constitutional and protects the rights of children.

In short, Mr. Speaker, S. 1585 as reported by the Conference Committee, is a necessary and responsible piece of legislation that represents a suitable compromise between the bills passed by the Senate and the House. In addition, it is the bill that will give the Department of Justice a constitutional tool to employ against the evils of child pornography and child prostitution.

This measure has been passed unanimously by the House, and I am very pleased to bring to the Members the results of the conference report which is a compromise of the House- and Senate-passed versions of the bill.

The agreement amends the Federal Criminal Code to make subject to criminal penalties the following new matters. First of all, anyone who uses children under 16 years of age in the production of pornographic material will now be subject to new criminal penalties that are in new section 2251 and section 2252 in title 18 of the Federal Criminal Code.

Second, any parent, guardian, or other person having custody or control over a child under 16 who knowingly permits the child to be used in the production of pornographic materials will now also be subject to penalties.

Finally, we amend the Mann Act to now proscribe anyone transporting, selling, or distributing obscene materials depicting the sexual exploitation of children under the age of 16.

I am very happy to report that all the conferees joined in the conference report on the part of the House and the Senate. It was unanimously signed by all of the conferees on November 2 and reported on November 4.

One portion of the bill that met with a great deal of examination was whether or not criminal penalties could be imposed upon distributors, publishers, and retailers of pornographic materials who may themselves not have had original contact with the operation or the production or the enticement of the young people. That was known as the Roth amendment and was also in the Kildee amendments brought forward in another bill. We performed under the instructions of the House to the conferees, and we were able to maintain the language of the Roth amendment, and we added or modified that language to make it stronger by requiring a finding of obscenity as already set forth by the courts. The word "obscene" was added and we expect the Supreme Court standard for obscenity to be applied.

We have also added the new penalty provisions including a mandatory sentence of not less than 2 years for any second offender.

We have also amended the language that has previously been employed in title 18 in the Mann Act to include juveniles to fight what has been determined by this subcommittee to be a growing and very insidious development in our society generally, and that is the use of minors in prostitution, both male and female.

I might also point out to my colleagues that the Mann Act has now been amended to include both men and women, boys and girls, and so we no longer have the rather outdated limitation that applied to females only.

That, Mr. Speaker, is my brief initial statement.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. I thank the Speaker.

Like the chairman of the subcommittee, I am pleased to report this bill back from conference. It was a very difficult subject to write into legislation and the whole area does run across the grain of many constitutional decisions and constitutional concerns as well as the concerns of many civil libertarians.

To reduce the problem to its most simple form, I think every single one of us basically agrees that any movie-making that includes the explicit sexual conduct of minors is absolutely reprehensible and the film maker should be prosecuted. I think there was somewhat of a natural difference of opinion and concern, however, at the next level when that action was reduced to a film or magazine picture and when that film or print was introduced into interstate commerce. Then, other concerns were expressed when that film or print became something given to a second or a third party and they displayed or sold that particular film or print.

There were many concerns that at that point possibly the first amendment, possibly other constitutional protections would make this bill inoperative as violative of the first amendment. As the chairman indicated, I think we have drafted about as well as we can legislation to prevent this abuse.

I would like to ask my colleague, the chairman, several questions for the purpose of legislative history.

As a Member who attended the entire conference, it is my recollection that at no time during the conference was it stated or inferred that the conferees expect the same standard on this bill as is currently being utilized by the U.S. attorneys in the present Federal law and case law. I know this was an area where the chairman and I had some difference. I am wondering what the response to that is. Does the chairman think we did create a second category here—a category for minors the standards of which we legislatively make more stringent?

It is my understanding we felt sufficient precedent is on the record to set

out the treatment of children in a more favorable way than what might be found in the general obscenity statute designed by the U.S. attorneys.

Mr. CONYERS. Yes, if the gentleman will yield, we have approximately five Federal statutes that deal with obscenity. They generally prohibit mailing, interstate transportation, importation and broadcast of obscene materials. None deals specifically with the use of minors in this awful field.

What we have done, as my colleague well knows, is create two new sections in title 18 in which we now provide specific penalties for those who entice or induce minors into this reprehensive conduct, with penalties of $10,000 per year and/or a maximum of up to 10 years in jail for the first offense and stronger penalties for the second offense. We have now found a way to go after the distributors and transporters and those who may not have been initially involved in the first activity. That we do by adding the language of the so-called Roth amendment with an obscenity standard which has been established by a line of Supreme Court decisions. The new sections require the materials with children in them to be "obscene." The Supreme Court now uses the Miller case standard for obscenity, but if any new standard were to be adopted that would be automatically built into the new law.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Yes, I would be glad to yield to the distinguished gentlewoman.

Mrs. FENWICK. Mr. Speaker, on page 3 of the conference report, section 2423, part (2) of (a), why is the limiting word "commercially" involved, "will be commercially exploited by any person;"?

Suppose, in other words, the transportation were not being done for the purpose of commercially exploiting the child, but could be using the child without commercial advantage or causing that child to be so used; why is the word "commercially" there?

Mr. CONYERS. Mr. Speaker, if the gentleman will yield further, what we were trying to do is to amend the Mann Act of the Federal Code, which refers to prostitution or "immoral purposes," such as "debauchery." We want these penalties to be tied to a commercial activity, to make it clear that we are not going after the random crime activity that may occur, because there are other Federal statutes and State statutes that deal specifically with anything that is less than a commercial nature. The vague definitions for "immoral purposes and debauchery" should not be used in the specific crime of juvenile prostitution.

Mrs. FENWICK. Mr. Speaker, if the gentleman will yield further, I am afraid I am not being clear in proposing my question.

Would it not be better if we omitted those words?

Section 1 has no commercial limitation, neither has (b) under the same heading; but this particular one requires that the person who is transporting the minor knows that this prohibitive conduct would be commercially exploited; that will not be punished, as I see it.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield further, section 2423 is a part of the Mann Act and is separate from the other two provisions of the statute and we require there the interstate nexus to keep the law.

Mrs. FENWICK. But section 1 does not mention "commercial" and section 2 does.

Mr. CONYERS. Section 2522 is totally commercially; anyone who knowingly transports or ships in interstate or foreign commerce, is the beginning line.

Mrs. FENWICK. Maybe I am looking at the wrong print. This is under section 2423.

Mr. CONYERS. Yes; if the gentlewoman would look at section 2423, we have a commercial requirement, because section 2423 is a part of the Mann Act, which did not have that requirement previously.

Mrs. FENWICK. But the rest of section 2423 does not contain the requirement that it be commercial, only this particular one.

Mr. CONYERS. Well, it applies to all of the subsections that flow from 2423. That is why it was not repeated.

Mrs. FENWICK. It is not in the heading.

Mr. CONYERS. It is not in the heading because 2423 is another subsection of the Mann Act. If the gentlewoman will look at the Federal Code, title XVIII, she would see that it would fit as one of the pieces in a larger statutory purpose.

Mrs. FENWICK. I simply am not getting through to the gentleman. If the words "commercially exploited" were to apply to the entire section 2423 as it appears on page 3 of the report, it would seem to me that they ought to be in (a). They are not in (a). There is (a) with no commercial exploiting; there is (a)(1), no commercial exploiting; (a)(2), in which it appears. Then, we come to (b), and there is mention of commercial exploitation. That does not suggest that the words "commercially exploited" are supposed to obtain to the entire section 2423.

Mr. CONYERS. Well, I could repeat what I said before, but there are wiser and more articulate minds in this Chamber than mine, presumably the gentleman on the other side of the aisle, to whom I will yield.

Mr. ASHBROOK. I certainly do not rise to that particular description, but I think the gentleman has adequately answered the question. In the definition, it says that the term "commercial exploitation" means "having as a direct or indirect goal monetary or other material gain." That is what we are talking about. We are not talking about the private relations of individuals, or those of consenting minors or consenting adults. We are talking about commercial exploitation. That is the heart of the measure, as my colleague has indicated.

Returning to the colloquy the chairman and I had, I want to reiterate what we said, that I think in this legislation we know we are going through a mine field. I do not think any of us can peer into the future and indicate what some court is going to do, how strict it will be in applying prior obscenity decisions as they relate to minors, which we are trying to effectively deal with in this legislation. There is one question that has been raised continually by those who have asked me whether or not we are establishing a different conduct standard to punish child abusers, or whether we are leaning on the same obscenity statutes and decisions to be taken before courts all over again.

Can my colleague respond to that?

Mr. CONYERS. Yes, I would be pleased to respond to the gentleman's comment, because I think it is an important one.

We are establishing for the first time in our history a specific criminal statute aimed at those who would exploit minors for commercial advantage. We have not developed a special standard of obscenity for materials with minors in them, but we are confident that juries will find materials with children in them obscene under present standards. In fact, the subcommittee has received thousands of letters from citizens deploring this activity who if they were on juries would surely find child pornography obscene.

Mr. ASHBROOK. As my colleague well knows, there are several basic Supreme Court decisions in this area and it would be very hard for us to legislate as if they were not on the books even if we wanted to.

I particularly want to pay tribute and give my respects to all the members of the committee, and particularly to one Member who is not a member of the Judiciary Committee, the gentleman from Michigan (Mr. KILDEE), who I think did an excellent job. The conference was very fair. There were different ideas. As my colleague well recalls, the Miller case approach was brought up as an amendment. That amendment was not accepted. We really had a working conference with a free exchange of ideas. I think what we fashioned was a reasonable bill.

At the minimum, we have put the Attorney General on notice that the Congress expects some special treatment, some special prosecution of those who would profiteer from child abuse, child pornography, and the sexual exploitation of minors. I think, at best, those of us who have studied it realize a court will surely pass on the merits of this legislation. We hope that in the minefields that lie ahead on this bill, the courts will fashion some protection for the minors that is consistent with the first amendment and other constitutional guarantees.

Mr. MARRIOTT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Utah.

Mr. MARRIOTT. I thank the gentleman for yielding.

Mr. Speaker, I am still confused on one issue, and that is the Roth language in this conference report as we originally understood the language.

Mr. ASHBROOK. The chairman accurately stated the situation. The Roth language which came before the Con-

gress was not accepted specifically as it was adopted in the Senate. It was modified then to include the word "obscene." I believe this did reduce some of the value and strength of the Roth amendment. I think, in all fairness, we have about 90 percent of the Roth amendment. We are looking down the road to what a court is going to do. I would say that the thrust of the Roth amendment was accepted with a modified amendment. I myself did not approve of the change but in all honesty the courts might very well apply standards of previous obscurity decisions whether or not we included the word. That remains to be seen. I hope not but those who voted for the inclusion of the word should not be criticized because they may be correct.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Speaker, the answer is yes, the Roth amendment is included on page 2, section 2252, subparagraph (B). We have added the word, which I think makes the amendment stronger; namely, the word "obscene." The impact of that is that the prosecution is subject to the test of the obscenity, as has been derived from the Miller case and other U.S. Supreme Court cases. By doing this, the Department of Justice will be more prone to handle cases under this law now that it has no constitutional problems. So the answer is, yes.

Mr. MARRIOTT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Speaker, basically, we have still no teeth in this bill, so far as transporting obscene material. My understanding, under the Supreme Court ruling now, is that nothing is obscene. Therefore, we really have not done much to curb transportation, have we, in this bill?

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, in answer to the gentleman, I would like to argue to the contrary. We now have a piece of legislation that will allow the Department of Justice in interstate activity, the sex industry, to prosecute not only the person who actually entices or induces the minor into this activity, and has actual contact, but we can now get to the transporter and the distributor. All are now subject to prosecution for handling child pornography. And anyone who has contact with the child, whether it be a producer, issuer, advertiser, parent or guardian is open to prosecution. The "teeth" are not only $10,000 and/or a maximum of up to 10 years in prison for the first offense, but we have accepted from the Senate bill a mandatory minimum sentence of not less than 2 years or more than 15 years on a conviction of a second offense, with an increase of up to a $15,000 fine. So I would suggest, respectfully, that we have now a statute with which the Department of Justice can now go after the actors, the distributors and those who transport children across State lines for prostitution.

Mr. ASHBROOK. Mr. Speaker, I would only add to what the chairman said that I, too, had that concern, and I voted against including that word. On the other hand, the court cases seem to be clear that in applying the standards of the Miller case and the Ginsberg case that we are not in an ironclad situation. The courts have indicated the treatment of minors could be different in the obscenity statute. I am one Member who is hanging his hat on that, hoping that the courts in the future will apply a different standard in the case of minors than that which has been applied in the case of those over 21.

Mr. Speaker, today the House will vote to adopt the conference report on the child pornography, and obscenity bill. I hail this as a particularly great legislative step forward. Hopefully, we will see the Attorney General move with dispatch to prosecute those who traffic in smut and pornography which involves youth.

This has been a long and crucial fight. It was not easy to have the bill written in as strong language as that which emerged from conference and while I would have made it stronger, I think it is the best we could do under the circumstances. As one of the conference managers for the House I was present at every session in their entirety.

Because of the change in the original Roth language of the Supreme Court I should like to examine the history of Federal obscenity case law we were dealing with. The committee did not intend to make more difficult the prosecution of traffickers, nor did it intend to make notice of the elements of a crime difficult to ascertain by potential defendants in the proposed crime dealing in child pornography.

"Obscenity" has been defined in various ways throughout history. The Supreme Court has spoken of State action—and not, in most cases of Federal action. In *Roth* v. *U.S.*, 354 U.S. 476 (1957), Justice Brennan argued that "the unconditional phrasing of the first amendment was not intended to protect every utterance." The Court pointed out that practically all of the State legislatures ratifying the first amendment had laws against blasphemy or profanity, or both. "Implicit in the history of the first amendment," wrote the Court, "is the recognition of obscenity as utterly without redeeming social importance."

The clear and present danger test, applicable in internal security cases, was rejected for obscenity. However, the problem is not whether the first amendment protects obscenity but what obscenity is. Justice Brennan held that "obscene material is material which deals with sex in a manner appealing to prurient interest." And the Court arrived at the test for obscenity that a publication in its dominant theme appealed to the prurient interest of the average person, applying contemporary community standards. This test was again upheld in the *Fanny Hill* decision, 383 U.S. 413 (1966). But despite this affirmation, rulings since 1966 have tended to broaden the definition of obscenity, to reverse convictions for obscenity, and, in the opinion of many, to undermine the meaning of the Roth decision. In *Stanley* v. *Georgia*, 394 U.S. 557 (1969), the Court upheld the right of an individual to possess obscene materials in his home, though it reasserted the Roth standards.

However, in decisions of 1973, notably *Miller* v. *California*, 413 U.S. 15 (1973), the definition of obscenity was altered somewhat. Henceforward, a work is to be considered obscene if, as a whole, it appeals to a prurient interest, portrays sexual conduct in a patently offensive manner, and does not, taken as a whole, have "serious literary, artistic, political, or scientific value." This latter phrase replaced the Roth ruling that it must be "utterly without redeeming social importance" and is thus a more stringent standard. The Court also emphasized the role of the community in providing determination of obscenity, but whether this is to be the State or local community is not yet clear. A national, uniform definition of obscenity is, however, no longer required to declare a work obscene.

The conference committee realized its duty to enact criminal legislation to stop the interstate transportation and distribution of child pornography, in accordance with the Senate Roth amendment, and my floor motion to instruct on sale and distribution. By adding the obscenity stipulation, the conference did not, in my view, specifically require the application of some undisclosed prior obscenity case law. The Miller language was considered by the conference, and not adopted. The Roth Senate language was substantially adopted, with the inclusion of the word "obscene" as a prefix. This, in the view of this manager, is not intended to bind the application of the law to the prior case decisions.

The Miller language, considered as one of several options to include in the report by the conference, was not adopted. The language which was accepted provides that obscene print or visual material is actionable if the production involved the use of a minor engaged in the conduct, it depicts the conduct, and the material is transported or distributed across State lines. It is my belief that the word "obscene" merely serves to define the conduct which we are seeking to prosecute. It would not be in the interest of effective prosecution, nor would it properly provide notice to the public to require some amorphous study of the prior obscenity standard, in which the prosecutor must make that application, as well as the "prohibited conduct" application incorporated in our child abuse bill. The word "obscene" serves as a definitional word, which will allow the court to look within the act itself, and will allow the application of a new "obscene prohibited conduct test which would apply to the prohibited acts incorporated within the act only."

At no time during the conference was it stated that conferees expect the same standard under this bill as is currently being utilized by the U.S. attorneys under present Federal laws. Our interest is in punishing sexual child abusers, and

those who profit from the abuse. Police officials, prosecutors, sociologists, all testifying before our subcommittee, said that to stop the profiteering, you must stop the distribution. All of the language of the conference report involves the sexual child abuse. Never has any legislation come before either body which would envision an additional obscenity standard which would duplicate the current existing standard, adding to that a requirement that the prohibited sexual acts be proven.

As I said in my remarks on the House floor October 25, in discussion regarding H.R. 8059, and the ensuing instruction to conferees to adopt the Roth transportation and distribution language, "Sufficient precedent is on record to set out treatment of children in a more favorable way." Throughout all hearings in the Senate and the House we heard repeated testimony on the need for special consideration for children. During the conference, no one said at any time that these people who mistreat and profiteer from sexual child abuse should be given first amendment exemptions. To the contrary, there is sufficient evidence, as I pointed out during debate on the offering of my motion to instruct conferees October 25, 1977:

If the Constitution had been designed to protect all publications from restriction, then libel, slander, false advertising, and falsely shouting "fire" in a crowded theater would be legal today. Fortunately, our courts have wisely held that certain kinds of speech are so inflammatory that great public harm can come from a line of conduct.

A Library of Congress American Law Division report, prepared March 1, 1977, states, in a discussion of obscenity having been sold to minors:

In *Ginsberg* v. *New York*, 390 U.S. 629 (1968), the U.S. Supreme Court upheld a New York criminal statute that makes it unlawful to knowingly sell harmful material to a minor. The defendant in *Ginsberg* contended that the State statute violated the First Amendment. In response, the Court stated that the statute applied only to sexually oriented material that was found obscene under a Constitutionally acceptable definition of obscenity. There was no First Amendment violation since, as the Court had noted in prior decisions involving "general" (adult) obscenity statutes obscene material is not protected under the First Amendment.

The *Ginsberg* opinion also noted that the State had ample justification to sustain its regulation of an activity that was not protected by the First Amendment. The Court noted two State interests that justified the New York limitations on the commercial dissemination of obscene material to minors. First, the Legislature could properly conclude that those primarily responsible for children's well-being are entitled to the support of laws designed to aid discharge of that responsibility. Second, the State has an independent interest in protecting the welfare of children and safeguarding them from abuses.

Further, we see the embodiment of special child protective legislation in child labor laws, juvenile delinquency statutes, and legal limitations on tort and contract liability.

The Subcommittee on Crime heard evidence from Memphis D.A. Larry Parrish that obscenity prosecutions have been discouraged by the Attorney General's people. By passing this law, are we not putting the Attorney General on notice that we expect special treatment of child abusers and ensuing profiteers? This legislation seeks to punish child abusers and profiteers under a simple "conduct" standard, does it not?

Referring to your statement in the initial debate on this legislation on October 25, 1977, Chairman CONYERS said on page 34994 that:

Because present Federal obscenity laws focus almost exclusively on the mailing, distribution, and importation of obscene materials, they do not directly address the use and abuse of children in the production of obscene materials which are introduced in interstate and foreign commerce.

I believe it was the conference committee's desire to stop that distribution of materials and the intent of our conference committee to use our own standard of conduct . . . simply defined as acts which we deem to be "obscene."

Several States have taken, or are taking, steps to disallow child abuse. At the present time 47 States have statutes regulating the distribution of obscene material to minors. However, only six States have statutes on the books which specifically prohibit the use of children in an obscene performance which would be harmful to them. The States are Connecticut, North Carolina, North Dakota, Rhode Island, South Carolina, and Tennessee.

The most recently passed legislation on the child pornography issue was by Rhode Island on May 10. Legislation has been introduced in the Senate of my own home State to clarify the law on child pornography. The bill prohibits the sale and distribution of sexual material involving children. Two nearly identical bills have been introduced in the Michigan House and Senate to stop the exploitation of children for pornographic purposes by parents or guardians, producers, financiers, distributors or sellers of a sexually explicit film, magazine, or picture.

State legislation alone, however, cannot effectively stop this activity without at least Federal prohibition on transportation through the mails and/or across State boundaries. The ability of an individual State to prove its case as regards distribution is severely limited if the publisher or "child" is located in another State.

The National Council on State Legislatures testified before our Subcommittee on Crime and told us that it was their desire to see us enact tough Federal legislation in just that area—sale and distribution.

I believe that a court can properly bring a conviction under this act without the physical presence of the minor in the courtroom. That is, would a conviction be brought if the minor is deceased, unwilling to testify, kidnapped, being held ransom, or unavailable for any other reason? I think that a court or jury could be trusted to determine the person's age even in their absence. I am concerned that we not get into a situation where we are only prosecuting the producers. As we know, if you can catch one of these porno film makers in action, you can arrest him, once his product is reduced to a picture; once it is reduced to a negative, once it is reduced to film, the notion that child pornography dealers, distributors, and purveyors who show the sick, pornographic films are innocent bystanders and are protected in the exercise of their freedom of speech as an extension of the first amendment seems without merit. The courts have never granted that ridiculous extension, and I believe that the legislation before us does not require actual physical presence of the minor in the courtroom for the judge or jury to find that a pictorial representation which purports to be a person under age 16 is, in fact, a minor under age 16.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, while this legislation does not go as far as I would prefer in protecting children, I feel that the passage of the legislation will be a marked achievement in a number of areas.

For the first time, the Congress has indicated that the sexual abuse of children in pornographic materials is a separate category from general obscenity laws, and in so doing, has reaffirmed the concept that children warrant special protection.

Also, for the first time, the abuse of children in the production of these materials is forbidden. The purpose of this bill is to prevent such abuse and to state in the strongest way possible that the individuals who cause or participate in such abuse should be prosecuted.

The conferees also decided that the tainted fruits of such abuse should be regulated. Section 2252 of this bill contains language which would make the sale and distribution of such materials illegal if they are obscene.

Although I opposed the inclusion of the word "obscene," the majority of the conferees felt that it was necessary to meet any possible first amendment questions. The inclusion of the word "obscene" did not alter the purpose of the legislation. All of the conferees agreed that the reason for this legislation was to protect children from a particularly vicious form of abuse.

I also think that the inclusion of a definition of "sexually explicit conduct" should give the courts some guidance as to exactly what the Congress feels is obscene when children are involved in the publication of materials.

There was one particular omission in conference that I found to be particularly significant. None of the conferees expressed the opinion that the same obscenity standards should apply to the depiction of children as to the depiction of adults. Indeed, during hearings on the bill the proponents of an obscenity provision often expressed the opinion that the standards would likely be different.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. KILDEE. Yes. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, the gentleman from Michigan (Mr. KILDEE) will concede, however, that none of the conferees, and certainly not this conferee, in any way said that the present standards would not apply.

Mr. KILDEE. Mr. Speaker, I will let the gentlewoman's statement stand without challenge.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman.

Mr. KILDEE. Mr. Speaker, in closing, I consider this bill to be a signal accomplishment of the Congress. I would like to express my personal thanks to all of those who worked so hard in developing a workable and constitutional piece of legislation. Mr. MURPHY of New York, who joined me in developing and working with the original piece of legislation, and Mr. CONYERS deserve special recognition. Recognition should also be given to each of the 146 Members of the House who sponsored or cosponsored legislation in this area. They all made a contribution to the passage of this legislation.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

(Ms. HOLTZMAN asked and was given permission to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Speaker, I would simply like at this point to compliment the chairman of the subcommittee (Mr. CONYERS), the gentleman from Michigan (Mr. KILDEE), and the other Members who have fought so hard for this legislation.

This conference report reflects an effective and constitutional response to the serious problem of child prostitution and the use of children in the production of pornographic films and materials.

Mr. Speaker, I was glad to play a part in the shaping of this important bill and I urge the adoption of the conference report by the House.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I would first like to commend the gentleman from Michigan (Mr. CONYERS), the chairman of this subcommittee, for his work and the great many hours he and his subcommittee spent on this bill in hearings and in markup, as well as on the floor and in conference. I wish to express my thanks to the gentleman for the leadership he showed in working this bill up and bringing us to the point where we are today. I am especially appreciative of his efforts to make the legislation constitutionally sound and yet effective.

Also, Mr. Speaker, I wish to commend the other gentleman from Michigan (Mr. KILDEE) for his work in dealing with sexual abuse of children and exploitation of children. I think we should remember that it was on February 23 last year, approximately 11 months ago, that my distinguished freshman colleague, the gentleman from Michigan (Mr. KILDEE), first introduced the essence of this most important and needed legislation. He had been a Member of Congress for less than 2 months at that time.

Mr. Speaker, DALE KILDEE's untiring efforts in search of a legislative response to this form of child abuse is really the only reason we are here today, Mr. Speaker.

Without Mr. KILDEE's unwavering commitment to the children of America;

Without Mr. KILDEE's thoroughness and legislative abilities, and I am referring now Mr. Speaker, to the Kildee-Roth amendment, which is the heart of this bill;

Without Mr. KILDEE's precise judgment in dealing with the many forms of child abuse, we would not be here today passing this major legislation.

The Congress can be proud of its actions today, Mr. Speaker. But the proudest of all must certainly be the citizens of the Seventh District of Michigan. They have sent Congress a true legislator, and a sincere humanitarian.

Mr. JEFFORDS. Mr. Speaker, I applaud the House for acting today to help curb the problem of sexual exploitation of children. At the same time, I have some serious questions about this bill's actual prospects.

The Select Education Subcommittee held hearings last summer in Los Angeles, New York, and Washington to investigate this pernicious aspect of child abuse. As a result of these investigations, I became convinced that sexual exploitation is one of the most difficult abusive practices to identify and treat. Several States have made it a crime to abuse children sexually, but prosecutors find it extremely difficult to locate and prosecute the perpetrators of sexual exploitation.

On September 26, the House voted to extend the Child Abuse Prevention and Treatment Act, including a provision making it a Federal crime to abuse children sexually by using them in pornographic materials. The Senate passed a very similar provision on October 10, originating in the Senate Judiciary Committee. Although the approach embodied in H.R. 6693 was endorsed by all but 12 Members, the House is acting on quite a different bill today.

It concerns me that some of the language agreed to by the conference committee on S. 1585 will not make it easy for Federal officials to prosecute criminal activities in this area. The addition of an obscenity standard will make the prosecutor's burden much heavier, by requiring additional, unnecessary proof. It will also result in uneven enforcement of the law. Furthermore, the deletion of language prohibiting the manufacture or reproduction of pornography involving children means that the persons most responsible for the actual exploitation of children will escape prosecution.

Mr. RODINO. Mr. Speaker, I rise in support of S. 1585, the conference report which is entitled "The Protection of Children Against Sexual Exploitation Act of 1977." I want to commend Congressman CONYERS and all of the members of the Subcommittee on Crime for their considered and thoughtful attention to this issue. The conference report is the result of legislative action which began last May in response to two problems brought to the attention of the Members; the great increase in juvenile prostitution and the use of children in the production of pornographic materials.

I am pleased that the House and the Senate were able to agree on a bill which would combat the evils uncovered in our hearings but which would also be fully constitutional. I am proud that in the rush to legislate the Congress was mindful of first amendment issues and developed a responsible piece of legislation which will give the Department of Justice a constitutional tool to employ against the evils of child pornography and child prostitution.

The conference report is very much like H.R. 8059 approved on the House floor October 25, 1977, by a vote of 420 to 0. The conference report makes three changes in title 18 of the United States Code. First it would add a new section 2251 that would make it a Federal crime to cause any child under the age of 16 to engage in sexually explicit conduct for the purpose of producing materials that are to be mailed or transported in interstate commerce. It also adds a companion section that prohibits the sale or distribution of any obscene materials that depict children engaging in sexually explicit conduct if such materials have been mailed or transported in interstate or foreign commerce. This is the Roth amendment which the conferees were instructed to accept, with an obscenity standard built in. Finally, it amends section 2423 of title 18 to prohibit the interstate transportation of both males and females under 18 years of age for the purpose of engaging in prostitution or other sexually explicit conduct for commercial purposes.

Once again I must praise the members of the House and Senate Judiciary Committees for reaching a suitable and effective compromise in this legislation.

Mr. CONYERS. Mr. Speaker, I have no further requests for time.

Mr. ASHBROOK. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic de-

vice, and there were—yeas 401, nays 0, not voting 31, as follows:

[Roll No. 12]

YEAS—401

Abdnor	Derwinski	Jones, Tenn.
Addabbo	Devine	Jordan
Akaka	Dickinson	Kasten
Alexander	Dicks	Kastenmeier
Allen	Diggs	Kazen
Ambro	Dingell	Kelly
Ammerman	Dornan	Kemp
Anderson, Calif.	Downey	Ketchum
	Drinan	Keys
Anderson, Ill.	Duncan, Oreg.	Kildee
Andrews, N.C.	Duncan, Tenn.	Kindness
Andrews, N. Dak.	Early	Kostmayer
	Eckhardt	Krebs
Annunzio	Edgar	Krueger
Applegate	Edwards, Ala.	LaFalce
Archer	Edwards, Calif.	Lagomarsino
Armstrong	Edwards, Okla.	Latta
Ashbrook	Eilberg	Le Fante
Ashley	Emery	Leach
Aspin	English	Lederer
Badham	Ertel	Leggett
Bafalis	Evans, Colo.	Lehman
Baldus	Evans, Del.	Lent
Barnard	Evans, Ga.	Levitas
Baucus	Evans, Ind.	Livingston
Bauman	Fary	Lloyd, Calif.
Beard, R.I.	Fascell	Lloyd, Tenn.
Beard, Tenn.	Fenwick	Long, La.
Bedell	Findley	Long, Md.
Beilenson	Fish	Lujan
Benjamin	Fisher	Luken
Bennett	Fithian	Lundine
Bevill	Flippo	McClory
Biaggi	Flood	McCormack
Bingham	Florio	McDade
Boggs	Flowers	McDonald
Boland	Flynt	McEwen
Bolling	Foley	McFall
Bonior	Ford, Mich.	McHugh
Bonker	Ford, Tenn.	McKay
Bowen	Forsythe	McKinney
Brademas	Fountain	Madigan
Breckinridge	Fowler	Maguire
Brinkley	Fraser	Mahon
Brodhead	Frenzel	Mann
Brooks	Frey	Markey
Broomfield	Fuqua	Marks
Brown, Calif.	Gaydos	Marlenee
Brown, Mich.	Gephardt	Marriott
Brown, Ohio	Gibbons	Martin
Broyhill	Gilman	Mathis
Buchanan	Ginn	Mattox
Burgener	Glickman	Mazzoli
Burke, Calif.	Goldwater	Meeds
Burke, Fla.	Gonzalez	Metcalfe
Burke, Mass.	Goodling	Meyner
Burleson, Tex.	Gore	Michel
Burlison, Mo.	Gradison	Mikulski
Burton, John	Grassley	Mikva
Butler	Gudger	Milford
Byron	Guyer	Miller, Calif.
Caputo	Hagedorn	Miller, Ohio
Carney	Hall	Mineta
Carr	Hamilton	Minish
Carter	Hammer-schmidt	Mitchell, Md.
Cavanaugh		Mitchell, N.Y.
Cederberg	Hanley	Moakley
Chisholm	Hannaford	Moffett
Clausen, Don H.	Hansen	Mollohan
	Harkin	Montgomery
Clawson, Del	Harrington	Moore
Clay	Harris	Moorhead, Calif.
Cleveland	Harsha	
Cochran	Hawkins	Moorhead, Pa.
Cohen	Heckler	Moss
Coleman	Hefner	Mottl
Collins, Ill.	Heftel	Murphy, Ill.
Collins, Tex.	Hightower	Murphy, N.Y.
Conable	Holland	Murphy, Pa.
Conte	Holt	Murtha
Conyers	Holtzman	Myers, Gary
Corcoran	Horton	Myers, John
Corman	Howard	Natcher
Cornell	Hubbard	Neal
Cornwell	Hughes	Nedzi
Coughlin	Hyde	Nichols
Cunningham	Ichord	Nix
D'Amours	Ireland	Nolan
Daniel, Dan	Jacobs	Nowak
Daniel, R. W.	Jeffords	O'Brien
Danielson	Jenkins	Oakar
Davis	Jenrette	Oberstar
de la Garza	Johnson, Calif.	Obey
Delaney	Johnson, Colo.	Ottinger
Dellums	Jones, N.C.	Panetta
Derrick	Jones, Okla.	Patten
Pattison	Sarasin	Trible
Pease	Satterfield	Tsongas
Perkins	Sawyer	Udall
Pettis	Scheuer	Ullman
Pickle	Schroeder	Van Deerlin
Pike	Schulze	Vander Jagt
Pressler	Sebelius	Vanik
Preyer	Seiberling	Vento
Price	Sharp	Volkmer
Pritchard	Shipley	Waggonner
Pursell	Shuster	Walgren
Quayle	Simon	Walker
Quie	Sisk	Wampler
Quillen	Skelton	Watkins
Rahall	Skubitz	Waxman
Railsback	Slack	Weaver
Rangel	Smith, Iowa	Weiss
Regula	Smith, Nebr.	Whalen
Reuss	Snyder	White
Rhodes	Solarz	Whitehurst
Richmond	Spellman	Whitley
Rinaldo	Spence	Whitten
Roberts	St Germain	Wiggins
Robinson	Staggers	Wilson, Bob
Rodino	Stangeland	Wilson, Tex.
Roe	Stanton	Winn
Rogers	Stark	Wolff
Roncalio	Steed	Wright
Rooney	Steers	Wydler
Rose	Stockman	Wylie
Rosenthal	Stokes	Yates
Rostenkowski	Stratton	Yatron
Rousselot	Studds	Young, Alaska
Roybal	Symms	Young, Fla.
Rudd	Taylor	Young, Mo.
Runnels	Thompson	Young, Tex.
Ruppe	Thone	Zablocki
Russo	Thornton	Zeferetti
Ryan	Traxler	
Santini	Treen	

NAYS—0

NOT VOTING—31

AuCoin	Gammage	Risenhoover
Blanchard	Giaimo	Sikes
Blouin	Hillis	Steiger
Breaux	Hollenbeck	Stump
Burton, Phillip	Huckaby	Teague
Chappell	Lott	Tucker
Cotter	McCloskey	Walsh
Crane	Myers, Michael	Wilson, C. H.
Dent	Patterson	Wirth
Dodd	Pepper	
Erlenborn	Poage	

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Blouin.
Mr. Dent with Mr. Crane.
Mr. Cotter with Mr. Erlenborn.
Mr. Dodd with Mr. Walsh.
Mr. Giaimo with Mr. Tucker.
Mr. Gammage with Mr. Stump.
Mr. Chappell with Mr. Hollenbeck.
Mr. Breaux with Mr. Teague.
Mr. Patterson of California with Mr. Lott.
Mr. Sikes with Mr. Huckaby.
Mr. Risenhoover with Mr. McCloskey.
Mr. Charles H. Wilson of California with Mr. Steiger.
Mr. Wirth with Mr. Hillis.
Mr. Phillip Burton with Mr. Michael O. Myers.
Mr. Blanchard with Mr. Pepper.

Mr. AMBRO changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS OF 1977

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. LEVITAS. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Georgia reserves the right to object.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Speaker, prior to proceeding in that regard, I would like to propound a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEVITAS. Mr. Speaker, assuming that there is no objection and the unanimous-consent request is agreed to, would it then be in order for a motion to instruct the conferees with respect to any portion of the matter which will be submitted to conference?

The SPEAKER pro tempore. Yes, one proper motion is in order.

Mr. LEVITAS. Mr. Speaker, further reserving the right to object, in the legislation that will be before us, which is the amendment to the Federal Trade Commission Act, there is a House amendment which was adopted by almost a 2-to-1 majority providing for a legislative veto of FTC rules and regulations, and I wonder if the chairman of the committee and the chairman of the subcommittee would care to state their positions with respect to support of the House position on the legislative veto amendment when this matter goes to conference?

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I would say to the gentleman, as chairman of the conference I will do everything in my power to uphold the House position. I always have in any conference with the Senate.

I would say that I would very much dislike the fact of being told they cannot negotiate any part of the bill. I have never been that way since I have been chairman of the committee for 13 years or in the 30 years I have been here, never have I known that to take place. I have always tried to uphold the House position and I will in this instance, to the best of my ability.

Mr. LEVITAS. Mr. Speaker, further reserving the right to object, I would like to place the same question to the chairman of the subcommittee.

Mr. ECKHARDT. Mr. Speaker, will the genteman yield?

Mr. LEVITAS. I am happy to yield to the distinguished gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, the gentleman knows, of course, I have personal opposition to the gentleman's amendment and voted against it; but I feel it is the duty of a conferee to at-

tempt to support the position of the House. I shall do so.

I must say that in any conference ultimately the objective is to get the best deal possible between the House and the Senate position. I shall support the House position on the conference report and attempt to get this bill achievable under such circumstances.

Mr. BROYHILL. Mr. Speaker, reserving the right to object, I had intended to offer a motion to instruct the conferees with respect to section 6 of the engrossed bill, which does include a congressional review and veto procedure on the Federal Trade rules. The concern that I have is that of the 10 conferees that are proposed to be appointed by the House, only three supported the amendment when it was offered by myself and the gentleman from Georgia (Mr. LEVITAS) back in October. If I have the assurance of the chairman of the full committee and the chairman of the subcommittee that they will do all in their power to uphold the House position, then I would be persuaded not to offer the motion at this time and not take up the time of the House in this regard.

I would be glad to yield to the gentleman from West Virginia for any comment the gentleman would like to make on the comments I have made.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from North Carolina. I believe the gentleman from North Carolina is one of the conferees; is that correct?

Mr. BROYHILL. That is correct.

Mr. STAGGERS. The gentleman would be there and the gentleman has been on many conferences with me in the last 10 or 12 years or more. I do not believe at any time that the gentleman has found I did not uphold what this House has endeavored to pass. I shall endeavor to do so in this case. I do not like to be bound by any conflict on any subject, because when we go to the conference it is a matter of having a conference between two separate bodies and resolving the conflict.

I will say to the gentleman, as I said before, I will try to uphold the House position.

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from Texas for any comment the gentleman may have.

Mr. ECKHARDT. Mr. Speaker, the chairman of the full committee in our discussion said that all members of the subcommittee would be conferees. In addition, the gentleman from Virginia (Mr. BUTLER) had reported an amendment and the gentleman admits he was appointed with respect to his amendment. That is the reason for the personnel of the committee.

The gentleman is probably right. I am sure the gentleman is right to so state that the division of the committee is as the gentleman described; however, for this Member, although I retain my position personally with respect to the amendment, I would on the conference endeavor to support the House position.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for this comment.

I yield to the gentleman from Texas.

Mr. KRUEGER. I thank the gentleman for yielding to me. I would assume and would ask my distinguished subcommittee chairman and full committee chairman whether the assurances of upholding the position of the House would also apply with regard to the section permitting class-action suits, which was struck by the House by a vote of 281 to 125. That would seem to me a decisive vote. I understand that the Senate bill contains no class-action suit provision.

Mr. BROYHILL. I will point out to the gentleman from Texas that since that is not in the Senate bill either, it would not be subject to conference.

Mr. KRUEGER. I thank the gentleman from North Carolina for that assurance.

Mr. BROYHILL. I thank the gentleman and appreciate the positions that have been taken by the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Texas (Mr. ECKHARDT). I will not offer my motion at this time.

The SPEAKER pro tempore. Does the gentleman withdraw his reservation of objection?

Mr. BROYHILL. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and, without objection, appoints the following conferees: Messrs. STAGGERS, ECKHARDT, METCALFE, KRUEGER, CARNEY, SCHEUER, LUKEN, DEVINE, BROYHILL, and RINALDO, and as an additional conferee, the gentleman from Virginia (Mr. BUTLER), solely for consideration of section 112 of the Senate amendment and modification thereof committed to conference.

There was no objection.

MANFORD BLACKSHER, TOP CUB SCOUT IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, I am very proud that a young constituent of mine, Manford Blacksher of Mobile, Ala., son of Mr. and Mrs. James U. Blacksher, has won the symbolic rank as the top Cub Scout in America and I want to take this opportunity to offer congratulations.

The 10-year-old Cub Scout was selected from six regional winners. He is a member of Pack 52, Little Flower Church, Mobile, which is associated with the Mobile Area Council, Boy Scouts of America.

An A-average student at Leinkauf public school, Manford is a member of the safety patrol, the PATS program for gifted and talented students and was a tutor for fourth graders. He is active in the Prince of Peace Roman Catholic Church, where he serves as an altar boy.

Interested in conservation activities, he has participated for 3 years in Project SOAR—Save Our American Resources—including roadside cleanup and recycling. Other community activities have included Christmas toy and food collection and assistance with handicapped senior citizens.

Manford is an amateur magician; a member of the Smithsonian Institution; plays fullback on a soccer team; and belongs to a reading club.

As you can see, Manford is an outstanding young man and I am sure we will be hearing more from him in future years.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 15 minutes.

Mr. FISH. Mr. Speaker, the schedule for tomorrow has been changed, and the first order of business when the House convenes is a consideration of the rule and the general debate on the Outer Continental Shelf Lands Act amendments. This may come as a surprise to many Members, as it did to the members of the minority of the committee. As of last week, we understand that the Committee on Rules would consider a rule this Wednesday. After 5 p.m. last Friday, a nonlegislative day, the minority staff was informed that the Committee on Rules would meet Monday morning at 10:30. At that time we had evidence of some 12 Members of the House, 4 Democrats and 8 Republicans, who had previously indicated a desire to testify on the rule. The staff was able to locate only four who would be witnesses at that early and unusual hour Monday morning when the Committee on Rules met on this issue.

A rule was granted, by a narrow vote, which calls for 2 hours of general debate on the committee bill and 1 hour of general debate on two substitutes, one offered by the gentleman from Louisiana (Mr. BREAUX), and one offered by myself, on behalf of the minority, for which we will control the time. The majority leader has indicated that the order of business tomorrow would be the rule and the general debate on the bill. It was not even listed on the whip's notice for this week which I received on January 20.

Mr. Speaker, this does not leave a great deal of time for Members to familiarize themselves with the bill as it will be coming before us, much less the Republican substitute. The substitute is available in room 719 of annex 1, the old Congressional Hotel, and the telephone numbers are 53521 and 51245. Every effort is being made by the minority staff in this short time we have prior to general debate to explain to as many Members as possible the thrust of our substitute.

Mr. Speaker, the bill that is reported out of the ad hoc select committee is basically that which the House had before it 2 years ago and which the House rejected by recommitting the conference report, and we have not had an opportunity to vote on the measure since that time. But it is just as bad a bill today as it was at that time. In our substitute we have made every effort to clear away the matters in the committee bill which will cost the taxpayer money in lost revenues, delay exploration and development of the Outer Continental Shelf and

tie the hands of both those doing the exploring and the various administrators involved in enforcing this law. The substitute is only 40 percent as long as H.R. 1614. We have knocked out, for example, all of the parts of the bill which simply codify regulations which have been promulgated under Secretaries of the Interior in recent years. We should not limit the flexibility of future Secretaries to meet as yet unperceived problems. By freezing regulations into statutory law, we in the Congress will put ourselves in the position of having to revise the law where, under the present law, the Secretary can do himself by regulation.

We think it is by far the wiser course to allow the Secretary flexibility to react to continued growth and operational change as OCS operations move into the presently untouched frontier areas off Alaska and the east coast.

Mr. Speaker, the purpose of the Ad Hoc Select Committee on the OCS was to update the OCS Lands Act of 1953, in order to expedite a systematic and judicial development of our energy resources on the OCS, provide maximum possible protection of the coastal and marine environment, provide for cooperation between the States and the Federal Government, and provide for the greatest possible financial return to the public for the leasing of their energy resources on the OCS. It was not created to draft legislation which would create a morass of Government redtape, create as many as 40 new, and in many cases, unneeded sets of regulations, duplicate legal authority already existing in regulations, or create an immediate and potentially long-term loss of revenues to the Federal Government by leaving money now paid into the Treasury in the coffers of big oil. However, this is exactly what the majority has done in drafting H.R. 1614.

Not only will H.R. 1614 create the above situations, but it is filled with technical errors, and provisions that are inoperative due to incorrect references, many of which were not found until our substitute was drafted. Such errors will undoubtedly give rise to delay-causing lawsuits where none could now be filed. Even more important are the substantive problems with the bill that will prove counterproductive; stifle the free enterprise system and cost the taxpayers of the country literally billions of dollars.

It should also be pointed out that many of the reasons for the new legislation are no longer pertinent since authority to accomplish the purposes for which H.R. 1614 was drafted exists in the 1953 OCS Land Act, and other public laws. It is for these reasons that we have created a minority substitute.

The technical errors and inoperative provisions, which are the subject of 50 administration amendments, have been corrected in the substitute and the duplication of authority and the inclusion of regulations as major provisions of the bill has been eliminated. This will eliminate many new grounds for delaying lawsuits. More important are the changes the minority substitute makes in provisions of the bill which affect free enterprise, delays in production, and Federal revenues.

A major change that the substitute makes from H.R. 1614 concerns the bidding systems to be used in leasing mineral rights. H.R. 1614 contains seven specific new untried systems, and additional authority for the Secretary to formulate his own through the Administrative Procedures Act. Unfortunately, the majority has mandated the use of these unknown and untried systems in at least 50 percent of the areas offered for lease, and USGS has stated that it will not be used in more than 33 percent of the time. If this provision becomes law, it means that, for the sake hoped for improvements in competition and wholesale experimentation the American people will lose at least $1.6 billion over the next 5 years according to the Congressional Budget Office's statement in the committee report. While long-term revenues may recoup some of the losses after 8 to 11 years, this is not known and cannot be guaranteed.

In the substitute, the new systems are retained, but only for the purposes of experimentation. They are to be used in no less than 10 percent and no more than 30 percent of the time. The Secretary is also given authority not to use the systems if he determines they are contrary to the goals of the bill. In addition, the substitute requires that the administrative branch be more open in informing the Congress and the public as to their activities in this area by requiring an annual report, and additionally requiring that the Department publish in the Federal Register and report to Congress 30 days before each lease sale as to which systems they are using and why, which tracts they are offering to lease and under what conditions

This will cut back on lost revenues, provide for all possible increases in competition. It will also enhance our ability to determine if, indeed, these new systems offer greater potential than the current systems.

The substitute also curtails the direction in H.R. 1614 that the Government conduct its own exploration including core and test drilling by striking such language in H.R. 1614 and maintaining the language as in the current law. No Secretary of the Interior has conducted exploration under the provisions of the present act, mainly because any information he might obtain is currently provided by private enterprise, as a condition of their exploration permits.

The substitute deletes from H.R. 1614 the section requiring a 5 year leasing program because authority exists under current law, and the provision already exists in regulation. The Secretary has already promulgated his 5 year plan. Other provisions which are already in regulation that have been struck by the substitute are the authority for assignment of relinquishment of a lease, authority for unitization pooling, and drilling, and authority for drilling or easements necessary for exploration.

The minority substitute also strikes the 20-percent small business set-aside provision since this is below the traditional level small firms receive through normal market operations. Also, H.R. 1614 references EPAA on the standard for "small" refiners. Unfortunately, EPAA does not deal with gas.

H.R. 1614 also revises the safety and health provisions of the 1953 Lands Act by making OSHA the lead agency for regulating skin diving as well as involving them in other areas of the OCS. This is done contrary to the mandate in OSHA's enabling legislation that directs them to regulate industries only where other Federal regulations do not exist. The substitute bill retains the specific delineation as to areas of responsibilities, but gives authority in these areas to the Secretary of the Interior and the Coast Guard, eliminating any expansion of OSHA as in H.R. 1614.

Many other sections have been altered with similar philosophical corrections, while others were deleted due to the fact that they are duplicative of other laws or regulations, such as the delineation of the development and production plans since this already appeared in regulation.

Other changes include removing the unconstitutional limitation on employment provision in H.R. 1614 and inserting a limitation which complies with current Federal law, H.R. 1 and S. 555 and deleting title III, the offshore oil spill pollution fund since it has already been the subject of hearings and legislation reported by the House Merchant Marine and Fisheries Committee and the House Public Works Committee. That legislation has passed the House and is pending in the Senate.

The substitute bill, approximately one-half the size of H.R. 1614, provides for a more open administration of our leasing program, eliminates the potential raid on the Treasury in favor of big oil that existed in H.R. 1614, promotes and maintains competition, eliminates many of the delays that would be caused by H.R. 1614 and adds to current law only those new authorities that will aid in the solution of problems without creating new ones.

The minority substitute is a concise, simplified, clean bill that will accomplish the purposes for which the ad hoc select committee was created. It will provide for an orderly and systematic development and production of our energy resources on the OCS. It allows States to have their proper role in assuring the protection of their vested interests, guarantees ample financial returns to the Treasury and protects the human, marine, and coastal environment.

I would like to close my remarks by pointing out to all Members that the passage of H.R. 1614 will result in a multibillion-dollar gift to big oil. This is a gift that they may want, but that the Treasury of the United States should not be forced to yield to them.

HONORABLE SPRUILLE BRADEN: DIPLOMAT, AUTHOR, AND STATESMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in the course of my years of activity in the Congress on interoceanic canal problems, I have become acquainted with many leaders in various parts of the Nation and in many walks of life. Among them was the Honorable Spruille Braden of New York (1894–1978), former U.S. Ambassador to Colombia (1939–42), Cuba (1942–45), and Argentina (1945), and former Assistant Secretary of State for American Republic Affairs (1946–47).

Among his accomplishments was the negotiation in 1935 of the peace treaty between Paraguay and Bolivia that ended the bloody war over the Gran Chaco.

Another important service was his testimony in 1954 before the Senate Subcommittee on Internal Security in which he exposed a Soviet agent in the State (Alger Hiss) for having erroneously reported the U.S. Canal Zone to the United Nations as an "occupied territory." (H. Doc. No. 474, 89th Congress, p. 176.)

His years of service in Colombia and Cuba during a crucial period in U.S. history enabled him to become extensively familiar with the strategic Caribbean, including the geopolitical aspects of the Panama Canal and much of its history.

When agitations for new Panama Canal treaties started after the 1964 Red-led Panamanian mob assault on the Canal Zone, Ambassador Braden studied the questions involved, made many addresses, wrote significant papers, and consulted with Members of the Congress, all in support of the vital interests of the United States. He was strongly opposed to any weakening of the U.S. sovereign control over the Canal Zone and canal.

After retirement from active service in the State Department, he did not rest on his laurels but continued to be intensely active in business and civic activities. He published his memoirs in 1971, "Diplomats and Demagogues," and served as the president of the Metropolitan Club of New York, one of the most influential private clubs of the Nation.

Shortly before flying to California in December 1977, on what proved to be his last trip, when discussing the motivation for his active schedule at his advanced age, he said:

I would rather wear out than rust out.

Mr. Speaker, in order that the notable career of Ambassador Spruille Braden may serve as a model to inspire some of the youth of our great country, I quote his biographical sketch from "Who's Who in America" and the obituary notice published in the New York Times as parts of my remarks:

[From "Who's Who in America," 1976–77]

SPRUILLE BRADEN

Braden, Spruille, diplomat; b. Elkhorn, Mont., Mar. 13, 1894; s. William and Mary (Kimball) B.; Ph.B. in Mining Engring., Yale, 1914; hon. degree U. Buenos Aires, 1938; LL.D., Johns Hopkins, 1939, Clark U., Albright Coll., 1946; E.D., Mont. Sch. Mines, 1947; H.H.D., Hillsdale Coll.; m. Maria Humeres de Solar, Sept. 5, 1915 (dec. May 1962); children—Maruja (Mrs. Luiz de Meirelles), Laurita Isolina (Mrs. John Burgess Young), William II, Patricia (Mrs. William L. Clark), Spruille; m. 2d, Verbena Victoria Williams, May 29, 1964. Miner, 1912, engring, various mining constrn. activities, 1912–20; negotiated contracts for electrification Chilean State Rys. Westinghouse Electric Co., 1920; organized Cohoe Processes, Inc., 1926; reorganized Englishtown Carpet Co. (renamed Monmouth Rug Mills Inc.), 1925–29, also dir.; organized Rehab. Corp., financing income-producing properties, 1932; dir. Am. Ship and Commerce Corp., W. A. Harriman Securities, Pa. Coal and Coke, Marion Steam Shovel Co., Kingscote Realty Corp., Capitol Theatre Corp., others; trustee, mem. exec. com. Dry Dock Savs. Bank. numerous assignments as ambassador and spl. rep. U.S. Pres. 1935—; ambassador to Colombia, 1939–42, Cuba, 1942–45, Argentina, 1945; asst. sec. state Am. Republic Affairs, 1946–47. Pres., Americas Found., 1960–66. Colombia Found., Colombian Assn. Mut. Aid. Chmn. N.Y.C. Anti-crime Com., 1951–58. Recipient decorations from many fgn. countries including grand cross of Brazil, Chile, Peru, Colombia, Bolivia, Paraguay, Haiti; grand cross Ruben Dario (Nicaragua), grand cross Order of Quetzal (Guatemala), grand cross Knightly Order St. Brigitte, grand cross Cuba's Legion of Honor; many citations including Order of Lafayette Freedom award, 1962, gold medal Cubans in Exile, Eloy Alfaro grand cross L.I. U.; recipient Medal of Freedom (U.S.). Conservative. Mem. PanAm Soc. U.S. (Pres. 1953–59, hon. pres. 1959—), Inter-Am. Edn. Assn. (hon.), Chevaliers du Tastevin (grand officer), Soc. of Cincinnati (hon.), Am. Arbitration Assn. (dir., exec. com.). Clubs: Metropolitan (past pres. N.Y.C., hon. life); Nejapa Country (Managua, Nicaragua). Author: Diplomats and Demagogues—the Memoirs of Spruille Braden, 1971. Negotiated peace treaty settling Chaco War between Bolivia and Paraguay. Address: 320 E 72d St New York City NY 10021

[From the New York Times, Jan. 12, 1978]

SPRUILLE BRADEN, FORMER OFFICIAL OF STATE DEPARTMENT, IS DEAD AT 83

Spruille Braden, former Assistant Secretary of State for American Republic Affairs, died yesterday of a heart ailment at Good Samaritan Hospital in Los Angeles, where he had been visiting friends. He was 83 years old and lived at 320 East 72d Street.

Mr. Braden had been ambassador to Colombia, Cuba and Argentina before being appointed Assistant Secretary of State by President Harry S. Truman in 1945. Mr. Braden retired from government service two years later and became a consultant for many United States companies in their relations with Latin America, retiring three years ago.

Mr. Braden was a fervent foe of Communism and advocated maintaining United States positions abroad. Last fall he testified before a Senate hearing in strong opposition to treaties that would give control of the Panama Canal to Panama by the year 2000.

AN OUTSPOKEN DIPLOMAT

(By Murray Illson)

Spruille Braden was a big man with an amiable disposition that did not keep him from saying what he thought even when he was functioning in the realms of diplomacy.

In 1945, when he went to Argentina as Ambassador, he was known as a convinced democrat, who hoped to see democracy and liberty prevail everywhere. It was not long before he incurred the antagonism of Juan D. Peron.

Eighteen years later, Mr. Braden was listed as a member of the national council of the ultra right-wing John Birch Society. That membership did not inhibit Mr. Braden, however, in publicly criticizing a policy of Robert H. W. Welch Jr., founder of the John Birch Society.

In July, 1961, when it became known that the society was compiling a file on leading Communist sympathizers, Socialists and liberals, Mr. Braden made the following comment in his characteristic, forthright fashion:

"Bob Welch thinks you've got to identify Communists. I maintain that's a lot of poppycock. It's a hell of a lot of work to do in the first place. When you identify them, somebody else comes along instead."

Mr. Braden himself was once the target of a charge that he had aided Communists. The charge, made public in February 1961, was part of earlier testimony by William D. Pawley, former Ambassador to Peru and Brazil, before a closed session of the Senate Internal Security subcommittee.

Mr. Pawley had testified that Mr. Braden had been dismissed as Assistant Secretary of State in the Truman Administration after having been accused of helping Latin-American Communists. The accusation was based on an intelligence memorandum prepared by an Army undercover agent.

Mr. Braden replied that the subcommittee had documentary evidence that he had warned repeatedly of Communist infiltration in Latin America. He noted also that President Truman had praised his service. The former President, vacationing at the time in Bermuda, was quoted as saying: "Spruille Braden did a good job."

At any rate, the following year Mr. Braden was calling for a military invasion of Cuba by United States forces as the "only way to rid that island of Soviet domination and Communist control."

Spruille Braden was born March 13, 1894, in the mining town of Elkhorn, Mont., the son of William and Mary Kimball Braden. His father, who had mining interests in the West and in South America, was the founder of the Braden Copper Company.

At 16 young Braden entered Yale University's Sheffield Scientific School. He was graduated at the age of 20. At Yale he was an All-America goal on the water polo team.

After graduation he went to Chile to work with various companies and as a general representative of the Anaconda Copper Company and of his father's mining interests. In 1915 he married Maria Humeres del Solar, daughter of a prominent Chilean physician. They had five children. Mrs. Braden died here at her home in May, 1962. Mr. Braden was a rich man.

In 1964 he married the former Verbena Williams Hebbard, who died last June.

Mr. Braden's reputation as a diplomat was founded on his settlement of the Chaco war that Paraguay and Bolivia had been fighting from 1932 to 1935.

In 1957, Mr. Braden told a House Foreign Affairs Committee hearing in Washington that the United States was "going broke" and "committing suicide" through its foreign aid programs. He asserted that the Communists "never will be defeated by our give-away program."

In a 1973 letter to The New York Times Mr. Braden wrote:

"Never have I intervened in the internal affairs of Argentina, nor of any of the other countries to which I was accredited as ambassador." He wrote that he had sought to clarify what he termed this "myth" in his memoirs, "Diplomats and Demagogues: the Memories of Spruille Braden," which was published in 1971.

Surviving are three daughters, Maruja de Meirelles, Laurita Young and Patricia Clark; two sons, William 2d and Spruille Jr.; 16 grandchildren and 12 great-grandchildren.

CLARIFICATION OF SAFE BANKING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

Mr. CAVANAUGH. Mr. Speaker, as a

member of the Subcommittee on Financial Institutions, I have been concerned by the development of the Safe Banking Act (H.R. 9086). The work of the subcommittee on this legislation and its substitute measures has in some quarters been incorrectly interpreted. Our colleague, MARY ROSE OAKAR, made an effort to bring the confusion surrounding the Safe Banking Act into focus for all interested observers. Responding to a syndicated article by George Lardner, Jr., of the Washington Post, Ms. OAKAR wrote the following article for the Cleveland Plain Dealer, December 13, 1977:

[From the Cleveland Plain Dealer, Dec. 13, 1977]

FORUM COLUMN

It is no surprise to Members of the House of Representatives that the final weeks of a legislative session are made up of busy and hectic days. A great deal of legislation is acted upon in short order. Nonetheless, when members of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance were faced with consideration of a complex and highly controversial bill in those autumn weeks, it was both startling and unmanageable.

In a recent commentary (Plain Dealer, Forum Column, December 6), George Lardner, Jr. examined the brief history of the Safe Banking Act of 1977 (H.R. 9086). Mr. Lardner related the reluctance of some members of the House to proceed headlong with this sticky wicket of new banking and regulatory law. Yet, Mr. Lardner does not accurately convey the reasons behind the Subcommittee's reticence.

The Safe Banking Act is a conglomeration of legislative initiatives that are intended to strengthen the supervisory authority of those who regulate our banks, savings and loan associations, credit unions and other types of financial institutions. In addition, this bill makes other very important changes in the structure of the federal regulatory framework, as well as the supervision of foreign bank operations.

While it is an ambitious attempt to improve our financial institutions, it is not a suitable presentation, in its present form, for positive and constructive action by Congress. Many of us on the Banking Committee share a great many of the sentiments incorporated in the Safe Banking Act, yet because this legislation has touched upon so many different aspects of the supervisory issues that come before Congress, it is unlikely that any single member would agree with this lengthy bill of some 14 titles and 200 pages, just laid upon the legislative table.

It is a matter of public record that I am a co-sponsor of the Safe Banking Act. I supported the introduction of this legislation because it is imperative that we in Congress discuss the need for new supervisory powers and take action to impose new requirements on individuals charged with the responsibility of managing and directing our depository institutions.

The need for this type of legislation was highlighted by the recent revelations of banking privileges afforded to so-called "insiders." During Senate and House hearings on the activities of former Budget Director Bert Lance, it became evident to the public that a bank officer had been afforded privileges that were not available to other depositors. This, in fact, had occurred in some banking circles in the past, and Congress should have remedied this situation long before the Lance affair provided the catalyst for public awareness.

In a peculiar way the Lance hearings became a hindrance to effective bank supervisory legislation. The ballyhoo created by the activities of Bert Lance led some individuals to believe that immediate action had to be taken. For several years, Members of Congress had been concerned with the issues of conflicts of interest, correspondent accounts, overdrafts and financial privacy. Still, Congress recognized that to build a stronger regulatory framework, methodical and prudent planning was required. This view, however, was not shared by all members of the Banking Committee. There were some who insisted that it was in the best public interest to produce a final supervisory amendments bill before the adjournment of the first session of the 95th Congress.

Fernand J. St Germain, chairman of the Subcommittee on Financial Institutions, introduced the original version of the Safe Banking Act in mid-September. The Subcommittee held nine days of hearings. We heard from representatives of the financial trade associations, consumer groups and unions, as well as officials of the federal regulatory agencies and the Department of Treasury. The hearings concluded on October 3rd. Chairman St Germain convened the Subcommittee on October 18th to begin "markup" of the bill. Members of the Subcommittee then had 15 days to digest and assess thousands of pages of testimony and related information before making any legislative recommendations. This, of course, did not please many members of the Subcommittee—both Democrats and Republicans.

Several members of the Subcommittee protested that the Safe Banking Act was too bulky; that it attempted to do too much in too short a time frame and left too many gaps to achieve true reform. They were inclined to work with a limited version passed by the Senate (S. 71). In addition, the Subcommittee had two other substitute bills being offered by Representatives John LaFalce and Clifford Allen. I believe that adequate time should be set aside to thoroughly examine all these options. Finally, many of my colleagues on the Subcommittee wanted this time at home in our districts to study the issues and the needs of the financial institutions and the public.

After a number of futile attempts to markup or amend the Safe Banking Act in Subcommittee, Chairman St Germain recognized the need for additional time. As a result, consideration of the Safe Banking Act was postponed until the early days of our next session. I have been assured by Chairman St Germain that this bill will be the first order of business for our Subcommittee upon our return in January.

Contrary to Mr. Lardner's assertion, the lobbying efforts of the American Bankers Association and similar banking groups clearly were not a driving force in the postponement of the Safe Banking Act. Instead of responding to any special interests, members were simply showing concern for good public policy and realizing the need for more research and discussion in order to make a conscientious legislative decision.

In sum, I would submit that there is little disagreement among members of the Subcommittee on Financial Institutions that we need a new supervisory statute. This legislation must provide safeguards against the abuse of power and position that plagues some depository institutions and understandably shakes the trust of many depositors.

Most importantly, this legislation must be the result of a well-reasoned decision-making process. My colleagues on the Subcommittee are neither obstructionists nor bidders for a powerful banking lobby. We are responding to the need for a much needed refashioning of our regulation of public financial institutions and will be prepared to take this necessary action next month.

CHAIRMAN ULLMAN, COMMITTEE ON WAYS AND MEANS, ANNOUNCES EARLY PROGRAM OF COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, this is to advise my colleagues in the House as well as other interested parties of the public hearing schedule of the Committee on Ways and Means for the early months of 1978—including probable schedule for public hearings on President Carter's tax reform proposals, as well as a separate hearing on four other unrelated subjects involving different specific aspects of taxation, some of which involve matters of dual jurisdiction with other committees.

For your information, there follows the committee release outlining the details of these hearings:

CHAIRMAN AL ULLMAN ANNOUNCES PUBLIC HEARING SCHEDULE OF FULL COMMITTEE ON WAYS AND MEANS FOR JANUARY AND FEBRUARY

Chairman Al Ullman (D., Oregon), Committee on Ways and Means, U.S. House of Representatives, today outlined the prospective program of the full Committee on Ways and Means with respect to public hearings to be conducted in the early months of 1978. The Chairman said that it was his understanding that President Carter's tax message would be sent to the Congress soon after the state of the union message. On the assumption that the tax message will be received approximately at that time, the Chairman stated that the Committee would receive testimony on the President's tax program from the Secretary of the Treasury and from other officials of the Executive branch beginning on Monday, January 30, 1978.

The Chairman further stated that in order to give the general public opportunity to review the Administration testimony on the President's tax proposals, the Committee will not begin to receive testimony on that subject from the general public before Monday, February 27, 1978, or possibly later. While a more detailed press release will be issued later with respect to the hearings on the President's tax proposals, the deadline for receipt of requests from the general public to be heard on that subject is not later than the close of business Monday, February 6. Those interested in testifying on that subject should notify John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, Room 1102 Longworth House Office Building, Washington, D.C. 20515, telephone: (202) 225-3625.

During the period February 6 through February 24, the Committee will conduct public hearings on four other unrelated subjects involving different specific aspects of taxation, some of which involve matters of dual jurisdiction with other committees. These four subjects are as follows:

(a) Provisions of H.R. 8729, the Airport and Aircraft Noise Reduction Act, which relate to Committee on Ways and Means' jurisdiction. (This bill was favorably reported by the House Committee on Public Works and Transportation on December 13, 1977.)

(b) Legislation which is expected to be submitted in the near future by the Administration calling for an extension of the highway trust fund.

(c) Proposals relating to tax credits, tax deferrals, and other methods of providing tax relief associated with educational expenses.

(d) H.R. 9973, relating to changes in bankruptcy tax law; and other tax aspects of bankruptcy, insolvency proceedings and collection matters.

The cutoff date for receipt of requests to be heard on the above four subjects is not later than the close of business Tuesday, January 31. After the requests are received on the four subjects, depending upon the number who have requested to be heard on each subject, the staff will announce specific dates on which the testimony on each of the subjects will be received. However, the four subjects will be heard in the order in which they are listed above, with the first subject, H.R. 8729, the Airport and Aircraft Noise Reduction Act, to be scheduled on Monday, February 6. In all probability, the second subject, the highway trust fund, will be heard on February 7 or February 8, with the subject of educational tax credits following next, beginning about February 14, and the tax aspects of bankruptcy beginning about Tuesday, February 21.

The Committee will first receive the views of the appropriate Administration witnesses on each of these four subjects, followed by testimony from the interested public on that subject, before proceeding to the next subject.

All of these hearings will be held in Room 1100 Longworth House Office Building, the Main Committee Hearing Room, beginning at 9:30 a.m. each scheduled day.

All requests to be heard should be submitted to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, Room 1102 Longworth House Office Building, Washington, D.C. 20515, telephone: (202) 225-3625. Those scheduled to appear will be notified of their date of appearance as soon as possible after the cutoff dates. Once a witness has been advised of his date of appearance, it is not possible to change this date. If a witness cannot appear on that day, he may wish to substitute the spokesman or file a written statement for the record of the hearing.

All requests to be heard should contain the following information:

1. The name of the witness, his title, address, firm affiliation, and/or organization he will represent.
2. If appearing in an individual capacity, a list of any clients at whose request or in whose employ the witness appears.
3. A list of the proposals (or proposal) which will be discussed.
4. Whether in support or opposition.
5. A brief outline of testimony to be presented.

If any person or organization has previously requested to be heard on any of the subjects that will be involved in either or any of these hearings, it is suggested that reaffirmation of the request to be heard be made at this time.

Persons and organizations having a common position must make every effort to designate one spokesman to represent them. It may be necessary for each witness to confine his oral presentation to some designated limited time, in summary form, with the understanding that a more detailed statement can be submitted for review and for inclusion in the printed record of the hearings. This will afford more time for interrogation of the witness by the members of the Committee. If it becomes necessary, the staff will group the witnesses into panels to expedite the hearing and will establish strict time limitations on such panel arrangements.

Persons scheduled to appear must submit 75 copies of their prepared statements to the Committee office, Room 1102 Longworth House Office Building, at least 24 hours in advance of the appearance. An additional supply may be furnished for distribution to the press and public.

Any person or organization may instead of appearing in person file a written statement for the Committee's consideration and for inclusion in the printed record of the hearings. For this purpose, the Committee requires five copies. Written statements for the printed record will be accepted by the Committee throughout the course of each of these proceedings.

AMERICAN FARM PROBLEM OF CRISIS PROPORTIONS, SOLUTIONS MUST BE FOUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, all of the Members of the Congress are well aware that tens of thousands of American farmers came to Washington last week to dramatically emphasize the magnitude of the problems facing them.

Today I am introducing a bill which would go a long way down the road toward meeting that problem, but I am well aware that its provisions are not the total solution. With the support of the leaders of the farmers in my district, I am introducing a bill which calls attention to the problem and one possible solution.

We will be working together in the coming days to come up with a more comprehensive program.

My strong plea to my colleagues in the House and to the Members of the Senate is that we move with all due haste to schedule hearings and to give the farmers of America a chance to be heard.

Their plight is serious. Many are nearly bankrupt, remaining in business only because of Government loans which are going to have to be repaid. The solutions of the past simply are not working.

I am well aware that the solutions called for in the bill which I am presenting today are but a beginning. This afternoon and in the days to come, I and some of my colleagues, will be redrafting, adding, and deleting so that a comprehensive measure containing all of the proposals will be available when hearings are held.

The American farmer has a story to tell, and the place to tell it is in the committee room. Even those of my colleagues who disagree with any or all of the solutions that have been set forth should be fair minded enough to give this vital sector of our Nation a chance to be heard before their legally elected Representatives.

As my good friend Bobby Hawkins of Lake Butler, Fla., chairman of the Florida farmers' movement, said last week "We are responsible people, God fearing and dedicated, but we are determined to be heard."

In meeting with the farmers from my district, which must have been over 80 percent of the delegation from my State, they asked the tough questions. And I am convinced that if this Nation will just listen to what they are saying a new attitude and willingness to help will evolve.

These people are not looking for a handout or charity. They want only a fair price for the products we receive and which we must have to survive.

It is only because of the bounty we have gained through the sweat and toil of the American farmer that we enjoy the highest standard of living of any people that have ever existed on the face of the Earth.

Again quoting Mr. Hawkins—

If the American people and our elected officials just understood what our collective voices are trying to say, we won't have any problem in getting a fair solution.

There is an answer, and we can find it by working together. When these farmers came here last week, they were asking to be heard. I join with them in this plea and since so many of them are barely hanging on by their fingertips, speed is of the essence.

ENERGY POLICY AND BLACK PEOPLE

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from California (Mrs. BURKE) is recognized for 10 minutes.

Mrs. BURKE of California. Mr. Speaker, considering the grave importance of the energy crisis facing our Nation, I recommend to the attention of my colleagues the statement which follows:

ADDRESS BY VERNON E. JORDAN, JR., PRESIDENT, NATIONAL URBAN LEAGUE AT NORTHERN STATES POWER COMPANY CONSUMER/UTILITY CONFERENCE, JANUARY 20, 1978, MINNEAPOLIS, MINN.

ENERGY POLICY AND BLACK PEOPLE

Rarely, if ever, has our nation been confronted with a major policy issue so little understood by so many people. Americans have been exhorted to respond to an energy crisis which many doubt exists, and which few pretend to comprehend. Many sectors of our society have advanced proposals, produced massive tomes of documents, and argued fiercely. But even after years of this, the public still has the feeling of giants groping in the dark.

And amid this confusion, black people and poor people have seen their fuel costs rise, their jobs endangered, and their interests ignored. It is only within the past few weeks that the media has paid any attention to the black stake in the energy debate, and public policy-makers have never shown even passing interest in the black role in energy policies.

Tonight I would like to talk about some of the major issues in the energy crisis and state some of the major factors the National Urban League believes should be part of national energy policies.

By way of preface to my remarks, I want to point out that the National Urban League has been active in proposing energy policies and speaking out on the impact of such policies on blacks and other minorities since the inception of the energy crisis back in 1974.

Just about everyone agrees on some basic principles governing energy discussions. It is recognized that our advanced industrial economy depends on an assured supply of energy sources; that there is a need to make our use of energy as efficient as possible; that development of renewable energy sources is desirable, and that lessened dependence on imported energy is vital.

How we reach those goals is a matter of debate, and while passions have been inflamed in the process of debate, we should remember that reasonable people may differ, and differ profoundly. Honest opinions may diverge, interests may clash, and legitimate social and economic considerations may be pursued. So let us recognize that at the outset, and let us also recognize that the interests of America's poor must be granted equal weight with those of other interest groups in the course of this national debate.

The energy crisis consists of the damaging effects caused by rising energy prices and of the long-term depletion of non-renewable

energy sources such as oil. The era of industrial development powered by cheap fuel is over. There is no free market for oil—the market is effectively controlled by the OPEC monopoly. Cheaper domestic resources are rising to meet artificially high world prices. At the same time, more intensive use accelerates their depletion. World energy resources are still enormous.

No one knows for sure how much oil there is, but it is reasonable to assume that present reserves are vastly understated, and that new fields are certain to be discovered. Since the inception of the energy crisis in late 1973, massive fields have been developed in Alaska, Mexico and the North Sea. As one expert has said, "the crunch . . . is like the horizon—it recedes as you approach it."

But oil is a finite resource. Sooner or later it will be depleted. Sooner, if demand increases at the rate it has been—this nation uses twice as much oil today as it did in 1963. Clearly, that cannot continue.

Oil and gas prices have risen to the point where other energy sources have to be part of a national energy plan. Coal, nuclear energy, and others are most often mentioned. But traditional energy sources require immense amounts of capital for their development.

We all understand the higher prices we are paying for current supplies. But the glib expectations that drilling more oil fields, digging more mines, or building more reactors will mitigate this inflationary impact are false. The capital requirements needed for energy development are tremendous, both in physical costs and in the costs of the skills, labor, materials and other aspects of development.

Whether financed by private industry or by the government, traditional energy sources will impose unbearable financial burdens on our economy. They would create sharp inflationary pressures and would drain from other sectors of the economy the dollars and skills they need.

Industry seems prepared to cope with this. Calls for deregulation and for price rises as incentives to produce more oil, gas, and other energy sources treat energy as if it were a typical consumer item. If prices rise for, let us say, widgets, you and I could decide whether or not we want to buy widgets and act accordingly. Widget manufacturers would point to the higher prices as being an incentive to them to make more widgets, and if volume declines then their higher profit margins on those that are sold could well induce them to keep their prices high.

But energy is different. Most of us have no choice about heating our homes or driving our cars. Industry can't run its plants without energy. Higher prices—no matter how much people cutback—of necessity must work their way through the economy and affect all prices of all products.

So deregulation does not seem to me to be the route to go. Energy is different; its importance is manifest. It has to be treated differently. Deregulation and allowing domestic prices to rise to the OPEC monopoly levels would indeed provide more income—much more income—to oil and gas producers, but at an intolerable cost to the rest of us. And there is a healthy suspicion that present price levels offer enough incentives to industry. Gas and oil prices have risen sharply over previous levels and the companies engaged in resource production are doing well. Their claim that current profits are not high enough to meet future capital needs has to be taken seriously. But at the same time, we must realize that investment is never financed solely from profits. Profits need only be high enough to attract and cover debt and equity funds over the long term.

Therefore, I oppose deregulation, and further suggest that price controls and regulations be extended to all domestic gas and oil and to intra-state natural gas as well. Prices should be high enough to ensure reasonable profits and incentives for development of new fields, consistent with the public's need for reasonably-priced energy.

The Administration has attempted to meet national energy needs with a program that would encourage conservation, continue to regulate prices while imposing massive tax increases that would bring consumer prices to world levels, and then rebate those taxes to cushion their inflationary impact.

This plan is flawed in that the specifics of its proposals on conservation and price are matched by the vagueness about the rebates—who would get them and how they would work. Nor has Congress adequately dealt with the issue. If we can be sure about anything in this unpredictable world, it is that the poor will suffer from whatever energy plan emerges from Washington in 1978.

I have already discussed how price rises and capital costs associated with development of traditional energy sources will inevitably lead to an inflationary spiral that would devastate the poor and minority community while crippling the economy. Unemployment would be likely to increase, especially for underemployed and unskilled workers.

Black people have a stake in national economic growth. Our piece of the pie has always depended to an unjust extent on the growth of the national economic pie. A shrinking economy inevitably means compounded black disadvantage.

Economic growth and sound energy policy are not incompatible. Economic growth and conservation are not incompatible. Economic growth and the development of renewable energy resources are not incompatible. Economic growth and measures to shield poor people from the negative effects of an energy policy are not incompatible.

Continued—and increased—national economic growth must be the central element of a national energy plan. There can be no compromise, no adoption of slower national economic growth as the cost of implementing energy policies.

And, in my view, the three pillars of a sound energy policy include conservation, development of renewable energy resources, and shielding the poor from negative fallout effects of energy policies. These three pillars must support the structure of continued economic growth with emphasis on including the poor and miorities in that growth.

The first pillar of a sound energy policy should be conservation. We are familiar with exhortations to save energy but often refuse to bite the bullet and implement programs that will lead to energy conservation. Distasteful as it may be to many of us, our cars and trucks will have to be made more fuel-efficient, our homes insulated, our transit systems improved, and our materials recycled. It is of relatively little importance whether deadlines to meet specific requirements are set for 1980 or 1983, or even 1987. The point is that such requirements are inevitable and they'll have to be implemented, the sooner the better. Where imposition of such requirements may be economically unsettling in the short term, they should be delayed or compensated for in some fashion. But there is no way they can be totally avoided. The sooner administrators and industries come to grips with this, the better it will be for all.

Phasing in such regulations can be arrived at with a due understanding that industry needs assistance to readjust to an energy-scarce environment, and incentives to do so voluntarily. Above all, the national priority of economic growth must be central to our efforts to help industry's conservation efforts.

I disagree with those who say conservation must mean slower economic growth. Conservation means rational use of limited resources. It means using different forms of energy for uses to which they are best suited. It means eliminating waste. Per capita energy usage in the United States is tipically several times that of other highly industrialized nations with high living standards. We as a nation must not fall into the trap of assuming that slower growth of energy usage means slower economic growth or no growth at all.

The major attraction of conservation is that it offers the greatest savings at the least cost. Some experts claim that conservation and application of low-cost technical aids could nearly double the efficiency with which we use energy. Changes in building design and modification of existing structures could save significant portions of our energy use while saving huge capital sums that would otherwise be expended on non-productive fuel costs.

In general, sound conservation policies could lead to efficient use of energy at no loss of jobs or major lifestyle compromises, while avoiding the inflationary impact of energy costs.

The second pillar of a sound energy policy should be massive development of non-renewable resources and non-conventional technologies.

There is plenty of gas, oil and coal in the ground and under the sea. But whatever the price and whoever develops them, they are finite and ultimately will be used up. The closer we get to exploiting the marginal wells and mines, the higher the cost. Present energy resources have to be seen as aids in the transition to renewable energy themselves.

Nuclear development has often been cited as eventually supplanting the more traditional energy sources. Ever since the first atomic bomb went off, mankind has been hypnotized by the possibilities of peaceful development of the atom, and nuclear breeder reactors have been looked upon as the long-awaited technical fix that will free us from dependence on finite gas, oil and coal.

But there are serious objections to nuclear energy that should lead us to stress other energy sources. One of these is cost. Reactors are the most expensive way to meet energy needs. Their construction and development impose price restraints that must be considered. Expanded nuclear energy carries with it capital costs that encourage inflation. There are also serious safety considerations: there is no known way in which radioactive nuclear wastes can be safely disposed. This is not an idle consideration; the health and safety of the nation are involved. Other objections to expansion of nuclear energy include international proliferation, terrorist attacks, health and safety risks, and the irreversability of nuclear dependence once it is developed on a wide scale.

Other forms of energy also have serious drawbacks, but may be more amenable to technological solutions. Coal, for example, has been out of favor because of air pollution considerations. But there now exist technologies that can burn coal cleanly, use it more efficiently, and to raise steam and to power turbines, all at far lower costs than conventional power stations.

Co-generation is another major area of adapting technology to the needs of the economy. This is the term used for generating electricity as a by-product of the steam normally produced in many industrial plants. A study by industry economists estimates that half of the electricity needs of American industry could be met by co-generation within the decade. This is yet another example of how growth and jobs can be reconciled with sound energy use.

This also suggests that non-conventional energy sources utilizing new technologies can provide much of the Nations' energy needs at only a fraction of the immense capital outlays required for oil exploration and for nuclear development.

The energy debate has largely ignored this. It has focused on traditional energy sources at the expense of solar, wind and other natural, renewable energy sources. Yet such sources do exist, the technologies required to develop them are either in existence already or would be with adequate research funds, and many are at the brink of commercial viability.

A national energy policy that stressed renewable energy resources, not for some distant future, but here and now, could well bring the potential of such sources to fruition.

I believe we should regard the claims of the active supporters of renewable energy with the same suspicions with which the claims of vested industry interests are regarded. Both groups tend to promise so much that we wonder if they really can deliver. But even looking at renewable energy conservatively, it is clear that the potential is impressive and should be supported by a massive research, development and implementation program.

A national energy pattern that uses energy sources based on their applicability to intended use is vital. More traditional, high-cost energy will still be needed for many uses. But for many other energy uses, low-cost renewable sources are more rational. This is especially so since fossil fuels are consumed for low-grade purposes for which they are not suited. It has been said, for example, that electricity meets 13 percent of the nation's low-grade end use needs, and generating that electricity takes up 29 percent of our fossil fuels.

Black people have a major stake in the development of renewable energy sources, first because they would likely mean far lower fuel and heating costs, and second, because of their economic potential.

Development of renewable energy sources amounts to creation of a new sector of the energy industry, an industry in which black participation has been minimal. Adaptation of new energy technologies typically requires less capital, fewer skills, and are more labor intensive. Neighborhood-based heating installations, roof-top solar devices and community-based energy technologies are suited to small scale business development and to the training and employment of poor people and minorities. So too, are programs of insulation and of modifying existing structures to make them more energy-efficient.

Here again, it is clear that economic growth and sound energy policy are not mutually exclusive but mutually reinforcing.

The third pillar of sound national energy strategy has to be assistance to poor people. This means not only maintenance of economic growth and preservation of jobs, but assurance, that energy considerations will not jeopardize jobs in industries with concentrations of minority workers. It also means that effective measures must be taken to shield the poor from the effects of high energy prices and shortages.

This relates directly to utility pricing practices. Various demonstration projects are now under way to determine the modification of rate designs to encourage conservation, shift usage patterns for more efficient use of power capacity, and ameliorate the effect of utility prices on consumers. Such measures should move beyond the demonstration stage with all possible speed.

The poor spend a disproportionate percentage of their meager income on heating their homes. Typically, residential users pay more per unit of energy used than do large-scale users. Poor households paid an average of over seven percent more per unit for their oil and natural gas than did more affluent households, because rates decline as usage increases. Price structures operate to create hardships on those least able to afford them. In effect, poor people are penalized for using less energy.

The Federal Energy Administration reported in 1976 that a typical poor family of four consumed four times less energy than a smaller family with an income of $20,000. Only a quarter of the poor have clothes dryers; only four percent have air-conditioners; poor families use about a fourth of the gasoline used by more affluent families. So poor families don't have to be lectured about conservation; they're already forced to do without the energy-guzzlers regarded by most Americans as essential.

At the same time, poor families are forced to use their higher-priced energy in inefficient ways. Three-fourths of the poor don't have storm windows or doors and half have no insulation. The federal weatherization program is notorious for its failure to be effective in assisting poor families to insulate their homes. For many poor people in urban ghettos, there is no adequate heat and hot water, and rents reflect higher fuel costs, even when services are erratically supplied.

So it should be clear to all that massive federal assistance to meet the energy needs of the poor is a necessity. I have little confidence that any rebate system will effectively compensate lower-income families for the damage done by higher prices and taxes. It may well be that more innovative means are needed. A system of energy stamps may be required, or some other form of effective income transfer adopted. Vague promises of rebates have to be replaced with certain assurances of payments that fully cover increased costs.

Further, indirect means of assisting lower-income families to make their homes more fuel-efficient should be replaced by direct programs that train and employ community-based operations to do the job.

Energy is an enormously complicated issue touching on every aspect of our national existence. Decisions made now will affect us for generations to come. The central thrust of energy policy should be to foster economic growth. Continued reliance on non-renewable energy sources inevitably means high inflation and fewer job opportunities. A sound program of conservation, development of non-conventional technologies and renewable resources, and massive assistance to cushion low-income families and neighborhoods from negative effects of energy policies are essential elements of a sound energy program.

We should not allow ourselves to get locked into a stance that sacrifices growth for fossil energy. We should not get caught into sacrificing real long-term energy policy for short-term waste. We should avoid accepting as irreconcilable the need for jobs and the need for energy.

We should be pragmatic, and flexible. We should preserve the environment. Black people, the most urbanized group in the nation have a stake in clean air and water too. We need jobs, but we also need to be healthy enough to hold those jobs, and that means adopting energy sources that will minimize pollution. And we need jobs, not only in the plants and factories of America, but at policy-making levels at the Department of Energy and Environmental offices, where policies affecting our lives are set.

Above all, we must remember that a national energy policy cannot be framed in a vacuum. It cannot be shaped by powerful interests to the exclusion of groups traditionally left out of policy formulation. The President has called development of a national energy policy "the moral equivalent of war," and like war, we cannot be successful if a significant portion of our people are excluded from full participation in all aspects of that policy.

To date, black people and low-income families have been allowed to participate to the extent of bearing the burdens of energy prices. It is time now for those groups to participate in framing the policies as well, so that their interests, their concerns, and their needs may be honored.

THE CONTINUING CONTROVERSY ON THE CANAL TREATY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, communications with the people of my district and those from other parts of the Nation indicate to me beyond question that our people want the United States to retain sovereignty in the Panama Canal Zone. However, it is becoming obvious that more and more people are confused about the issues involved. There has been a steady drumfire of pressure and propaganda from the administration supporting the canal treaty. The Members of the U.S. Senate are under heavy pressure from the administration to approve the treaty. Spokesmen from Government agencies are working the countryside to "sell the American public" on the advantages of a treaty. The New York banks to whom the Torrijos government in Panama is heavily in debt also are bringing pressure for the treaty and they have long arms.

To get a clearer picture, I went to Central America during early January for personal observations of the canal situation and our standing in Panama and nearby countries. I found that there is strong sentiment in Panama for the return of the Canal Zone. It has become a matter of national pride. In other Central American countries which I visited, there is support in the respective governments for the treaty. They consider it a matter of standing together with a neighbor state in a confrontation with the colossus to the north. They want our friendship, but they also feel neglected by us. Panama is close at hand.

However, they are apprehensive that Panama would raise the rates for passage through the canal and this would be injurious to their shipping. They are concerned that at some time in the future the Torrijos government would be overthrown and that a Castro-type regime would seize power. If that should happen, the Central and South American countries know that any treaty in existence would be declared void and no one could predict the outcome. Even though the treaty may be amended in the Senate to insure America's right to intervene to protect our national interests and those of the hemisphere, there is no certainty this country would have the courage to stand up for its rights.

In recent years we have done little or nothing to demonstrate our determination to stand by our policies. Anyone can kick us in the shin. About all we do is offer the other shin. All in all however, the other Latin countries feel safer with the United States operating the canal.

If the treaty should be rejected or seriously amended, there probably would be riots in Panama led by university student organizers who are leftist taught. Whether or not the Torrijos government could survive is unpredictable. However, we would not be left friendless in Latin America. Each country there has its own interests to consider and the United States is important in their considerations.

I feel that it is in our interest to maintain sovereignty. I can find no valid reason to give up the canal, except to satisfy the Torrijos government which seeks to claim a major triumph over the United States by reclaiming the Canal Zone. The United States bought the zone in a legal transaction from the Panamanian Government. We then paid the individual landowners for their holdings. We spent many millions and our people endured great hardships to dig the canal when it seemed an impossible dream. Although we make no profit on the operation of the canal, we have continued to pay the Panamanians annually from the receipts of the canal as a token of good will.

U.S. property and improvements in the Canal Zone now are valued at $12 billion. For this we would receive nothing. In addition, the treaty proposes that we pay in the next 22 years, approximately $1.5 billion to the Panamanians. Since the canal pays its way, there seems to be no rhyme or reason to pay Panama to accept it. A token U.S. sovereignty would be maintained until the year 2000; U.S. control would become virtually nil after the year 1990.

If we remove all American forces as the treaty provides, we will be jeopardizing the continued operation of the canal and the security of our own interests. The treaty permits no American forces there after the year 2000, yet we have in effect treaties all over the world in places much less important to our interests and in those areas we do have the right to maintain American forces.

The United States could, in good conscience, pay more to the Panamanians. We could also give up some territory which is not essential for the security of the canal. We could make available to Panama some unused port and industrial-type facilities which we do not now require. All this would be an important interim step to the economy of Panama. But we should not give up sovereignty of the canal.

WASTEFUL AND UNNECESSARY DESTRUCTION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Defense Logistics Agency has offered for sale and demilitarization approximately 290,000 .30-caliber M–1 Army rifles located at Anniston Army Depot, Ala. Bids were invited from prospective buyers. These are weapons which are not considered serviceable by Army standards and it is anticipated that the buyers would scrap them.

Immediate protests were made by organizations of sportsmen, by private citizens, and by Members of Congress. They realize that a rifle that is not considered serviceable by Army standards may have much useful life after reasonable repair or replacement of parts and adjustments. To sell them for scrap for a few cents on the dollar is a wasteful and unnecessary destruction of valuable materials and weapons. When these weapons first came on the market, they were purchased at $80 to $120. Since that time the cost has increased and replacement costs now would be approximately $250. A used M–1 rifle in serviceable condition will sell for $100 to $150.

The chairman of the Investigations Subcommittee of the Armed Services, the Honorable SAMUEL STRATTON, has directed an examination by his subcommittee staff into the proposal. Other committees of Congress as well as individual Members, are making inquiries into the matter.

There are many citizens who are interested in buying these rifles for civilian marksmanship clubs and for collector's items. It may be even more important that there are friendly nations who would be highly interested in acquiring these weapons for rehabilitation and use in their own armed forces at fair prices. For instance, the Republic of China rehabilitated great quantities of weapons and other military supplies which were considered useless for our purposes during the Vietnam war.

It is important that there be a more specific definition of serviceable weapons and what their disposition should be. I am happy to note that the Department of the Army has indicated a satisfactory interest in clarifying this situation.

However, it is important that other interested Members express their feelings to the Army on this matter.

READER'S DIGEST SUPPORTS ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, in its issues of December 1977 and January 1978, the Reader's Digest examined the far-reaching implications of the proposed Alaska National Interest Lands Conservation Act, currently being marked up by the Subcommittee on General Oversight and Alaska Lands of the Committee on Interior and Insular Affairs. After carefully analyzing the various issues involved, the Digest concludes that it would be a disaster if H.R. 39, the proposal advanced by Chairman UDALL with the support of more than 70 of our fellow Members, were emasculated. The Digest concludes:

> Such an outcome would represent a deep loss to the American people and a serious blot on Congress's record . . . If Congress now allows the defilement of these towering, delicate lands in Alaska, it will prove that we have learned nothing from our history. And we will have come to the end of the road—with no more land to defile.

Mr. Speaker, as a result of the subcommittee's extraordinary hearings on this legislation, in which over 2,000 witnesses were heard in every section of the country, including Alaska, the subcommittee adopted as the vehicle for the markup of this bill, which began last week, a modified version that addresses itself to many of the issues described in the Reader's Digest article. For example, in the revised bill, the total acreage of Federal lands to be set aside has been reduced by about 14 million acres. The proposed acreage to be designated as wilderness has been cut nearly in half. A process has been drafted to allow the opening up of areas to mineral exploration and development, if the President finds that the national interest requires and Congress, under an expediting procedure, approves his findings.

A similar process has been included to handle major transportation systems across the national park and wilderness lands. Sport hunting and fishing rights would be expressly authorized in millions of acres of the National Park and National Wilderness Systems in Alaska, and the bill would expressly grant to the State of Alaska the authority to regulate the taking of fish and game on Federal lands.

Mr. Speaker, yesterday I placed in the RECORD the article from the December 1977 Reader's Digest by their roving editor, James Nathan Miller, which gives a background analysis of the Alaska question. The article from the January 1978 issue follows immediately after these remarks:

WHO WILL WIN THE BATTLE OF ALASKA?

(By James Nathan Miller)

The battle now raging in Washington began 20 years ago when Congress granted statehood to the Territory of Alaska. At that time, the new state was given the right to take its pick of 104 million acres from federally owned land, an area greater than the size of California. It was an enormous birthday present—the biggest such grant ever made to a state—and Congress quickly discovered that in making the gift it had set off a domino-effect reaction involving three very powerful lobbies.

First to fall were the Alaskan Natives. Infuriated that they had got no land at all in the deal, they organized statewide. So tough was their pressure (they were materially helped by the impetus of the 1960s' civil- and Indian-rights movements) that it forced the Secretary of the Interior to take an unprecedented action: in 1966, he slapped a freeze on all federal lands in the state, decreeing that nobody would get another square inch until the Native claims were settled.

That pushed over a second domino: a second big lobby, the oil industry, which made a ten-billion-barrel discovery at Prudhoe Bay in 1968. Its problem was that Prudhoe Bay was icebound most of the year, which meant that a pipeline was needed to get the oil to an ice-free port in the south. Since the pipeline would have to cross long stretches of federal land, it couldn't be built as long as the Interior Department's freeze remained on the land.

The involvement of the oil industry tipped over the third big lobby, the conservationists. They sued to stop the project, bitterly assailing the failure to provide environmental safeguards for such a massive heavy-construction project across the fragile vegetation of permafrost lands and the caribou migration routes.

How could Congress possibly satisfy all three lobbies? Incredibly, it found a way: the Alaska Native Claims Settlement Act of 1971 and the Trans-Alaska Pipeline Authorization Act of 1973. These two laws solved the problem by throwing an enormous bone to each of the conflicting parties.

For the Natives, there was a cash settlement of $962 million, plus a huge land grant of 40 million acres. For the oil companies, there was a guaranteed pipeline right-of-way, smack across the state. And for the conservationists, there was a promise that by December 18, 1978, Congress would take a new look at all the federally owned multiple-use lands in Alaska, and then vote on which of them should be set aside as parks and refuges.

That's where we stand now. The Natives have chosen their land, the oil companies have built their pipeline, and now a conservationist lobby called the Alaska Coalition is fighting to get as much as possible of the remaining lands taken out of multiple use. Last January the environmentalists revealed just how big a slice of the state they were after when a bill numbered HR–39, written by the Coalition, was introduced in the House by Rep. Morris Udall (D., Ariz.). The bill was based on a new concept of land-use planning—the "ecosystem" approach. It calls for setting aside not just a valley here and a mountaintop there, but entire mountain ranges, river watersheds, animal migration routes, etc.

This approach is so sweeping that it makes Yellowstone National Park, the largest (2.2 million acres) national park in the lower 48 states, a comparative pygmy. In northwest Alaska, the Coalition wants to create a *solid* mass of parks and refuges whose 26.5 million acres encompass *several* ecosystems—including the entire watershed of the 425-mile-long Noatak River. In southern Alaska, the Coalition would turn most of the Wrangell Mountain Range—15.8 million acres—into a national park. The Yukon Flats—all 12.3 million acres of them—would be set aside as a wildlife refuge, and adjoining it would be a huge, 21-million-acre refuge, the two forming a single game-preserve area *larger than the state of New York*. These, and similar epic brush strokes, would take from the BLM 115 million of its roughly 200 million multiple-use acres, in the process more than tripling the size of the nation's park system (from 25 to 89 million acres) and more than doubling the country's wildlife-refuge area (from 30 to 77 million acres).

But even that is just the beginning. The Coalition wants to take this entire 115-million-acre package, add to it the 26.2 million acres of existing Alaska parks and refuges, and wrap the whole, almost-Texas-sized package in the official designation of "wilderness." This means that no roads can be built in any of these areas, and the only places where planes, motorboats or snowmobiles can be used are where they have a history of past use.

Not surprisingly, many Alaskans are outraged by Udall's bill. The state's press, strongly development-minded, has been whipping up anti-Udall feeling for months. Prodevelopment interests—oil companies, unions, hunting guides, mining companies—are planning a $900,000 lobbying campaign against the bill. Not to be outdone, the major national conservation organizations have made HR–39 their top legislative priority. As the battle waxes, here are the main claims and charges, along with the facts—or lack of facts—behind them.

"We ask the Congress to consider multiple-use administration of these lands. The mining industry and the U.S. Forest Service have made the multiple-use concept work to the benefit of the American people on Forest Service lands. We think the model is worth emulating in Alaska because similar management authority is now available to the BLM."—Congressional testimony of Howard L. Edwards, American Mining Congress.

The reason the mining lobby favors the Forest Service and the BLM is simple:

Under the multiple-use concept, mining prospectors may build roads and make exploratory diggings virtually wherever they want on Forest Service and BLM lands. Wherever they find hard-rock minerals, they can file a claim, take legal possession of the land and dig a mine. The law that permits this—the Federal Mining Act of 1872—has no environmental-protection provisions.

As a result, in many areas where the BLM and the Forest Service have been in charge of multiple-use lands in the lower 48 states, millions of publicly owned acres have been scarred or destroyed by miners. Other millions of acres have been denuded of their trees by irresponsible logging practices or nibbled bare by the over-grazing of cattle and sheep.*

"These ultra-preservationists want to lock up all Alaska's resources and send us back to the days of wearing animal skins and eating raw blubber."—Rep. Donald Young (R., Alaska).

This "lock-up" charge is the rock on which the developers base their case. Here are opposing arguments.

Vast Resources. According to Young, the Coalition's 146 million acres contain enormous quantities of raw materials—oil, coal, copper, uranium—many of which the United States is now forced to import. (The bill specifically forbids any mining on these lands.) However, Young's opponents say, most of his estimates are mere guesses. "The fact is," says a 1976 report on Alaska by Resources for the Future, a Washington, D.C., private foundation, "that Alaska has simply not been carefully explored. We don't know the extent and grade of deposits on most Alaskan lands."

The case of oil is a good example. Ever since 1867, when the first oil claims were staked in Alaska, promoters have been pushing the area's oil potential. How big is it? No one knows. Says Patrick L. Dobey, petroleum manager of the Alaska Department of Natural Resources, "The whole question of how much oil there is, and where, is buried in greed and propaganda. It's very hard for professional people to talk rationally about oil when the issue has become so political."

Moreover, say HR–39's backers, Young's claims of vast material resources don't touch on one crucial point. Because of Alaska's roadless, top-of-the-world remoteness, none of these minerals (except for oil) is now competitive on world markets. These minerals, they add, are being "locked up" only in the sense of being put away in a safe-deposit vault; Congress will keep the key, and if and when the country needs them they will still be there.

"Worthless Lands." "If the preservationists get their way," says Young, "they will make the state and Native lands worthless." He points to several wilderness areas that surround or wall off non-HR–39 lands, making them inaccessible.

HR–39's supporters concede that this is a legitimate point, and they're now changing the bill to include a process that would allow roads to be built across wilderness areas—*if* they can be *proved* to be in the national interest or necessary to meet state or local needs. Why all the caution? They want to guard against the kind of careless decision-making that led Congress to approve the trans-Alaska pipeline. Rep. John Seiberling, Jr., (D., Ohio) explains:

"Congress was stampeded into the pipeline decision. The main reason we allowed the pipeline to cross Alaska instead of going through Canada was that the oil companies told us Canada objected to it; later we learned that Canada actually wanted it. The companies denied the conservationists' claim that there would be an oil surplus on the West Coast, and Congress believed the denial. When the pipeline was finished, the companies admitted that there would be a West Coast surplus and asked for permission to ship the oil to Japan. They also said the pipeline would cost two billion dollars; it's already cost seven billion, which means the oil will be priced far higher than anyone expected."

"We think that both subsistence hunting and sport hunting will disappear under the provisions of the Udall bill."—Ronald Somerville, game biologist, Alaska Fish and Game Department.

Of all the bitter talk you hear in Alaska about HR–39, some of the most explosive comes from hunters. While it's probably a considerable overstatement to predict the end of all hunting in the state, there's little question that HR–39 would radically alter the hunting picture. Under HR–39, sport hunting would be banned on most of the National Park lands and permitted on the refuges only at the option of the Fish and Wildlife Service. But, the Coalition points out, most wildlife refuges are open to hunting at some time during the year.

As to the Natives' ancestral right to kill all the animals they need for survival, the Udall bill creates a chain of local, state and federal controls that puts the ultimate decision in the hands of the Secretary of the Interior; it tells him to do his best to let subsistence hunting continue, but gives him the right to ban it if he thinks it's getting out of hand. This angers some Natives, who say no official should be given the authority to question their centuries-old right.

"If the Udall bill goes through in its original form, there would likely be a bitter backlash in Alaska."—Jay Hammond, governor of Alaska.

This brings us to the final, fundamental question. Whose interests should come first in Congress's decision: the 400,000 Alaskans, or the 216 million other Americans who own these lands but would use them only occasionally?

To a large extent, the question answers itself. The United States has been generous in its land settlements with Alaska; now it's time to think in terms of the national interest. Even if the environmentalists get all they're asking for (which they almost certainly won't), Alaska will still have enormous areas open to development: the state's unprecedented California-sized gift from the American people, plus the Natives' Missouri-sized settlement, plus the roughly 80 million federal acres (an area the size of New Mexico) that will remain in multiple use under the BLM and Forest Service.

During the coming year, the battle for Alaska will probably become one of the hottest fights in Congress. In the House, the pro-development lobby is now starting an intensive drive to emasculate HR–39. In the Senate, Sen. Theodore Stevens (R., Alaska) could stage a filibuster, wiping out the hope of getting any land put aside. For if Congress fails to take action by December 18, 1978, the entire package of "ecosystems" in the Udall bill will revert to the multiple-use hands of the BLM.

Such an outcome would represent a deep loss to the American people and a serious blot on Congress's record. Congress must remember that the interests calling for multiple use in Alaska today are the same interests that have defiled the landscape elsewhere in the United States. Always before in our history, America has blinked at the devastation and persuaded itself that what the miners, loggers, ranchers and oilmen demanded was what the country needed. If Congress now allows the same defilement of these towering, delicate lands in Alaska, it will prove that we have learned nothing from our history. And we will have come to the end of the road—with no more land to defile.

*See "The Crisis of Our National Forests," The Reader's Digest, December '71; "The Outdated Law That Ravages the West," The Reader's Digest, September '72; "The Nibbling Away of the West," The Reader's Digest, December '72.

RELIGIOUS LEADERS SHED LIGHT ON TREATIES

(Mr. SIMON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIMON. Mr. Speaker, one of the little known facts of the looming debate on the Panama Canal treaties is that the

religious leaders of this Nation and other nations who have had a chance to examine the treaties are virtually unanimous in support of those treaties.

I am inserting into the RECORD a letter sent to the President by Richard Maass, president of the American Jewish Committee; a statement by the Administrative Board of the United States Catholic Conference on Panama/United States Relations; a resolution on Panama/United States relations approved by the Governing Board of the National Council of Christian Churches in the U.S.A.; an unusual, open letter to North American Christians by some Christian leaders in Costa Rica; a plea for justice by Rev. Carlos E. Smith of the Methodist Church of Panama; and a solid statement by one of the most impressive leaders in Panama, Archbishop Marcos McGrath.

Let me suggest to my colleagues in the House and Senate that these statements might be worth clipping out and sending to some of your constituents who do not understand these issues as well as some of the religious leaders who have had a chance to examine them in some detail.

DEAR MR. PRESIDENT: May I extend to you on behalf of the American Jewish Committee, our best wishes on the occasion of the forthcoming signing of the Panama Canal Treaty. You, as well as Ambassadors Sol Linowitz and Ellsworth Bunker, are to be congratulated for dealing so effectively with a problem so complicated, so emotion-laden and with so many implications affecting our relationships with the nations in Latin America.

The American Jewish Committee, which has been actively involved in Latin American Affairs since 1948, considers the signing of this treaty to be a momentous event which has a wide-ranging, positive impact on U.S. relationships with Latin America and with the rest of the world. We are certain that our Congress will recognize the importance of ratifying the treaty and we pledge you, Mr. President, our support to achieve this end.

RICHARD MAASS,
AJC President.

[Statement by the Administrative Board of the United States Catholic Conference]

PANAMA-U.S. RELATIONS

The United States and the Republic of Panama are currently engaged in active negotiations regarding a treaty involving the Panama Canal. It is a moral imperative—a matter of elemental social justice—that a new and a more just treaty be negotiated.

The history of these negotiations spans a seventy-year period, beginning with the original Treaty of 1903 by which the United States assumed virtually sovereign and perpetual control over the heartland of the Panamanian Isthmus. More recently, in February, 1974, the two nations signed the Kissinger-Tack Agreement on Principles, which provides a significant basis for a new treaty.

Why is a new treaty imperative? In the first place, the 1903 treaty is, in itself, of dubious moral validity, drafted as it was when international affairs were frequently determined by precepts of power. Since that time, and despite the seventy years that have passed in this century in which other peoples have achieved their independence or have established functional control over their territory, this treaty has remained essentially unchanged at the insistence of the more powerful of the two parties.

In the second place, a more fundamental issue is the right of every nation to utilize its natural resources for the development of its people. In his 1963 encyclical *Pacem In Terris*, Pope John XXIII emphasized this basic principle of international justice which had been strongly affirmed in the previous year's declaration of the U.N. General Assembly (Resolution 1803, XXVII, December 14, 1962). Nations, the Holy Father stressed, "have the right to play the leading part in the process of their own development" and "no country may unjustly oppress others or unduly meddle in their affairs."

The principal natural resource of Panama is and always has been its geographic location and its configuration. The treaty of 1903 established a monopoly, "in perpetuity," in favor of another government over the principal natural resource of the Republic of Panama.

The question, therefore, lies in whether or not we accept the fact that Panama is a free and independent nation. As such, her claims over the Canal area are a simple consequence of her basic right. In other words, if we accept the rights of Panama over her territory, then instead of Panama negotiating with the United States to obtain for herself some compensation for the use of the Canal and the Canal Zone, it might be reasoned that negotiations should be the other way around. The main benefits from the Canal should accrue to Panama, as a nation with principal control over its natural resources, and a fair compensation should accrue to the United States for its investment in Panama.

For peace in the world, which can come only with justice in the world, it is essential that we citizens of the United States, including our elected representatives, approach the Panama Canal issue with the same moral sensitivity we would apply to issues of justice within our own society.

Our national response to the new treaty will be a significant test of that sensitivity. Not only the rest of the Americas, but the whole world will be watching. The fundamental rights of the people of Panama, as well as the high ideals and long-range interests of the United States, require a new and just treaty. It can become a sign of and a significant contribution toward world peace based upon justice and fraternity between peoples.

A RESOLUTION ON PANAMA U.S.A. RELATIONS

(Approved by the Governing Board of the National Council of Christian Churches in the U.S.A., October 1975)

The United States and the Republic of Panama are currently engaged in negotiations for a new treaty covering the Panama Canal. It is in the interests of peace and justice that both nations agree to a new relationship which truly reflects the sovereignty of Panama over its own territory.

Therefore, the Governing Board of the NCCC/USA;

1. Urges the U.S. government immediately to recognize the sovereign rights of the Republic of Panama over all Panamanian territory including the present Canal Zone, and accordingly calls on the U.S. administration and Congress to support a serious negotiation of new relationships between our two countries based on this principle.

2. Calls on the member churches of the NCCC/USA to undertake educational programs concerning the urgent need for a new relationship with Panama, including the history of the present relationship, the injustices of the past, the injustice of the existing treaty, and the prospects of peaceful and just relations in the future.

3. Calls upon the member churches of the NCCC/USA, as one means to that end, to send delegations to the Republic of Panama to discuss with appropriate groups there the present reality and their hopes for the future, for the purpose of increased awareness and informed action within the churches.

4. Instructs the General Secretary in the near future to constitute a delegation, including Third World persons, which on behalf of the NCCC/USA shall go to Panama for the same purposes mentioned in the previous paragraph.

OPEN LETTER TO NORTH AMERICAN CHRISTIANS

SEPTEMBER 11, 1977.

DEAR BROTHERS IN CHRIST: As Latin American Christians we are shocked at the opposition of so many United States citizens to the new Panama Canal treaty. Since your press provides ample coverage of the historical and diplomatic factors that have prompted your government to negotiate a new treaty, we do not propose to rehash the arguments.

However, since you have sent thousands of missionaries to Latin America, telling us to study and obey the Bible as God's Word, we would like to point out three passages of Scripture that we see as particularly relevant to the new treaty.

1. The story of Naboth's vineyard (1 Kings 21). Ahab, a wealthy king, was not content with his riches, but coveted the vineyard of poor Naboth, that it might serve as the royal vegetable garden. Naboth protested, "The Lord forbid that I should give you the inheritance of my fathers" (v. 3). When Naboth refused to sell his vineyard, Queen Jezebel devised a wicked scheme to secure the vineyard for her husband.

The United States wanted a canal in Panama for the benefit of its growing industries. To secure its ends it fomented a rebellion, established a puppet government, and imposed an unjust treaty on the newly created nation—a treaty never signed by a Panamanian and never approved by the Panamanian people, who for 70 years have protested, "The Lord forbid that I should sell you the inheritance of my father." The new treaty, correcting some of the grosser injustices in the original, is long overdue and deserves the support of the Christian public.

2. Nathan's parable (2 Samuel 12). King David had many wives, but in a moment of weakness committed adultery with Bathsheba, the wife of Uriah, and then had Uriah killed to cover up his crime. God sent Nathan the prophet with a parable about a rich man, with many flocks and herds, who stole the one little ewe lamb of a poor man. David angrily declared that the man who did such a thing deserves to die. Nathan said, "You are the man."

Panama is a poor nation: its only natural resource of any great value is the narrow stretch of land which the United States took over for canal. You didn't "buy it"—you stole it. And although you proclaim the virtue of free enterprise, you have imposed extremely low rates on canal traffic throughout this century, saving billions in shipping costs for U.S.A. businesses (and other nations)—all at the expense of Panama. It is time to begin to correct this injustice and let Panama share in some of the benefits of the free enterprise you preach. How would you feel if the French had managed to get control of the Mississippi River and the states bordering it, in exchange for their support of your revolution?

3. The Year of Jubilee (Lev. 25), which Jesus made the basis of his own proclamation of the "Good News to the Poor" (Luke 4:18–19) provides that at the end of 50 years all properties of the poor which have fallen under the control of the rich are to be restored to their original owners. By this provision God legislated against the developments of extreme wealth and poverty in Israel.

1964 marked the Jubilee year from the inauguration of the canal in 1914. The United States refused to rectify its dishonest and unjust treatment of Panama and violence broke out, leaving 20 Panamanian students and 4 of your marines dead. Had you followed the Jubilee teaching of Moses, the prophets, and Jesus, this violence would have been averted. As one of your biblical scholars concludes: "Applied to nations, the prin-

ciples underlying the jubilee condemn permanent colonialism and unbridled exploitation of the soil to the detriment of its inhabitants" (Interpreter's Dictionary of the Bible: Supplementary Volume, Abingdon Press, p. 498).

Inscribed on your Liberty Bell are words from the Biblical Jubilee laws. Recently you celebrated the 200th anniversary of your own liberation from British colonialism. Panama has waited patiently while you procrastinated in the renegotiation of the treaty through the years of Vietnam, Watergate, and the recent elections. You condemn the relics of colonialism in white racist rule in Rhodesia and South Africa. Why are you so slow to see the "beam in your own eye"?

During the construction of the canal more than 25,000 poor laborers from the Third World laid down their lives on the altar of First World economic development—yet your politicians have the gall to boast "we built it"! Your founding fathers never intended the greatness of the United States to be as a colonial power, but as an example to the world of a nation that seeks to "do justice, to love mercy, and to walk humbly with your God" (Micah 6:8). Your senators have been swamped with letters from citizens blinded by ignorance, greed and ethnocentrism. We exhort you as brothers in Christ to write your senators today, indicating your support for the new treaty as a step toward justice for Panama and better relations with all Latin America.

Sincerely, in our Lord,

MEMBERS, PROFESSIONAL GROUP,
AGRUPACIÓN UNIVERSITARIA CRISTIANA,
(I.F.E.S. and Inter-Varsity), San José, Costa Rica, Central America.

Signed:

Rolando Mendoza H., Dean, Science Faculty, Universidad Nacional Autónoma.
Nelly García de Mendoza.
Maud Curling R.
Alfredo Paredes.
José María Blanch, Ph. D.
Elsie Blanch.
Orlando Costas, Ph. D.
Rosie Costas.
Anne Langerak de García.

DECLARATION TO AMERICAN CHRISTIANS

(By Rev. Carlos E. Smith, Methodist Church of Panama)

To the Christian Conscience of the people of the United States on the problem of the Panama Canal Zone:

The Methodist Church, since its beginnings in the eighteenth century, has been an advocate for social justice. Today, I believe that I find myself in a country where that justice and liberty are proclaimed. Nevertheless, we have a common problem which concerns us, that of the Panama Canal Zone.

It is worthwhile to refer to that historic moment when the Canal Zone treaty was signed in 1903. At the moment that Panama proclaimed its separation (from Colombia), November 3, 1903, it was occupied in its principal natural resource—its geographical position. The treaty in itself is of doubtful moral validity, because it was negotiated with intrigue and in the absence of Panamanians, and accepted under pressure.

This situation makes us think, especially us who are Christians, that there is doubt about our capacity and right to use that which is ours, our right to national sovereignty.

Perhaps some will think that the Church ought not to be involved in a subject of this nature. The Church, however, cannot remain silent. As President of the Evangelical Methodist Church of Panama I wish to speak for peace and justice, a peace and justice based on truth: truth which denounces the colonial situation Panama has suffered since the treaty of 1903, a treaty signed with deceit and maintained by the politics of the Big Stick; and truth that denounces the imperialist presence which keeps us as a nation from finding our own destiny.

The United Nations have declared that each nation has the right to control its natural resources in benefit and development of its own people (resolution 1803, XXVIII, December 14, 1962). The Evangelical Methodist Church of Panama has recognized this fact and has believed that, for the sake of justice, Panama has the inalienable right to give impulse to its full development, for which it is necessary that it exercise its sovereignty over the greatest riches of its people—that is the so-called Canal Zone which is an inseparable part of our national patrimony.

There is no doubt that in speaking of development, various aspects are implied: there is the implication of economic, political and cultural distortions which have affected in a subtle form our national identity.

We cannot accept the proposition of the American negotiators that the present treaty should last another 25 years, but that the U.S. should be given another 50 years for the defense of the Canal. Nor do we accept that: "After the 50 years the United States shall have the right to continue defending the Canal for an indefinite period", which is equivalent to perpetuity. Another proposition which is impossible for Panama to accept is that of "maintaining the 14 military bases that now exist". For "these 14 military bases constitute a force greatly superior to the requirements of the defense of the Canal and have forced Panama into a military alliance. Besides this, Panamanian soil is used as a center for the control and repression of popular movements in Latin America. All of this is an affront to national dignity."

Today, in the mid-twentieth century, the Canal Zone is a clear demonstration that colonialism, against which great leaders have fought, has not disappeared. The Evangelical Methodist Church of Panama celebrates the awakening of the Panamanian national conscience in the face of the injusticies I have mentioned.

Allow me to greet this great nation on the eve of its bicentennial celebrations: celebrations which recall the historic movement when this people became free and independent. Nevertheless, the colonialist enclave of the Canal Zone, right in the heart of the Panamanian nation, is an open contradiction to the liberty which you are preparing to celebrate.

It is for this reason that in this moment we appeal to the conscience of the Christian people of the United States that they become informed of the truth and act so that justice may be done to the Panamanian people. It is for this reason that we appeal to those who govern this great nation which professes peace and universal justice, that they deal with the reality, the just aspirations of the Panamanian people

There is urgent importance that the old treaty be abrogated, that more just bilateral relations be developed; and that we insist and persist in the building of a new kingdom which the Holy Scriptures call "The Kingdom of God."

THE CANAL QUESTION: A CHRISTIAN VIEW

(By Marcos McGrath, Archbishop of Panama)

I am here today to speak to you as a Panamanian interested in the welfare of his country; but above all as a Christian, given a task of leadership in the Church, convinced that there is here a clear-cut issue of justice. Fortunately this issue has become more clear of late. But there is danger that it be lost sight of. Ignorance could hide it: ignorance of the history involved; ignorance of the facts. Old slogans, emotional slogans, could deform it. Indifference could obstruct it. Difficult details could obstruct the solution of the major issue.

I am here before you tonight, in the hope of being a catalyst for understanding, for peace with justice, in a case vital to my nation, important to the United States, and a test case that can become a cornerstone of that edifice of inter-American and international justice and understanding, which all nations profess to desire.

It is no secret that U.S.-Latin American relations in the past Alliance for Progress years of "benign neglect", of the so-called non-policy of the U.S. for the south have come to a dangerous standstill or regression. Many in Latin America would call me an ingenuous moralist for saying I am firmly convinced that this "benign neglect" on the part of the U.S. is in large measure the result of rather "benign ignorance" and widespread misinformation about the facts.

There is a double state of injustice and extortion affecting the bulk of our peasant, Indian and worker population in Latin America. The first is inner oppression: that of the few in our countries who in no small measure still live off the many, or who living better simply forget about a structure which favors them and holds others down. Within our borders, the rich will justify their lives and their actions and cite all they do for the poor—whose plight, in this version, is the result of their laziness and general ineptitude.

There is the other oppression of our peoples which is due to international, especially inter-American structures which oppress. In this case it is the United States which, benefitting from this structure, maintains it. And all the while it seems to be public opinion in the United States that this country is generously assisting the southern nations whose sorry plight and ingratitude is fruit of their dishonesty, or laziness or communism, or something similar.

The facts are different. But how few know them! Permit me to quote a few passages from an article I wrote which was published in the October 1973 issue of Foreign Affairs—

"Objective economic reports establish an annual deficit for Latin America, in its trade with the United States, of approximately three-quarters of a billion dollars. How can this be balanced by the bare $300 million assigned annually by the United States for aid? The bulk of this is loan money, given at near commercial interest, which so heightens Latin American foreign indebtedness that some nations are hard pressed to cover their debts, even with new loans. A former U.S. AID director pointed out quite frankly, for the rest, that very little money is turned over in cash by AID. More than 80 percent is spent on its own personnel, on U.S. technical advisors, and on materials bought in the United States and shipped in U.S. bottoms. Even development loans at two percent interest can become exorbitantly expensive when the borrower must spend a large part of the monies on 'services' which refund the monies into the U.S. economy.

"The multilateral aid agencies should be completely free of these trammels. In fact, they are not. The Inter-American Development Bank, for example, determines its aid—mostly loans, most of them at semi-commercial rates—by vote. The United States has 40 percent of the voting power, a fact painfully felt by nations whose requests were turned down because they had nationalized previously U.S. controlled interests.

"This recalls the post-colonial issue of a nation's right to control its natural resources, a right affirmed by the United Nations and in Papal encyclicals. Washington manifests concern at the small capital control exercised within its own frontiers by foreign investors. But it finds it hard to understand the resentment, leading to government takeovers, toward U.S. or other foreign control in some of our nations of the bulk of industry and commerce, including that based upon prime natural resources.

"One could discuss the growing power of the multinational corporations—whose cap-

ital and production so far exceed that of the smaller nations (for example, the gross annual sales of General Motors are five times the gross national product of Peru). The consequences in economic-political power are obvious, especially when U.S. based multinationals claim both benefits: national rights where they operate, and U.S. political support when they are threatened there.

"What about military expenses? In 1970 they totaled world-wide $204 billion, exceeding the total income of the poorest half of mankind. Ninety percent of this was spent by the richer nations, two-thirds by the United States and Russia. At their peak the U.S. war expenditures in Vietnam in one week surpassed the total U.S. annual AID program for Latin America. Is this 'containing communism?'

"Does the growing 'detente' between Russia and the United States offer hope to the poorer nations? Perhaps, if it means less military expenditure and more control over nuclear weapons. But hardly in economic terms, given the fact that both nations have been grossly neglectful of international social and economic obligations: both decline year after year in their commitment to economic aid, falling very short of the one percent of GNP requested by the United Nations; both exercise 'colonialist' economics in their principal trade areas. An understanding between them, on this basis, sends shivers through the underdeveloped world . . . .

"Experts on inter-American relations know the facts. But the people of the United States do not. North Americans have a strong conviction that their government has given huge sums of money to our nations; that this money has been lost by corrupt and ineffective governments; that our people are hugely ungrateful for this largesse; that this foreign aid had best stop so that we learn to sink or swim by ourselves.

"How does one break through these barriers—of ignorance (in a well-informed people), of indifference (in a generous people), of myth (in an otherwise pragmatic people)?"

The canal issue illustrates this general situation. The facts—historical and present—are scarcely known by the general U.S. public. There is hope of understanding, justice and peace in the present negotiations for a new treaty. The eight principles to guide this treaty, signed in Panama by Secretary Kissinger and Foreign Minister Tack of Panama, offer good hope. They reflect the facts and a reasonable approach to justice, based on these facts and a conscious mutual respect. But Secretary Kissinger in his speech on that occasion stated: "While we have taken a great stride forward, we must still travel a difficult distance to our goal. There is opposition in both our countries to a reasonable resolution of our differences. Old slogans are often more comforting than changes that reflect new realities. It is the essence of revolutions that to their contemporaries they appear as irritating interruptions in the course of a comfortable normalcy. But it is equally true that those who fail to understand new currents are inevitably engulfed by them".

The U.S. people and its leaders have certainly, time and again, proven their generosity in coming to the aid of suffering peoples around the world. What is more, the U.S. by its origin, spirit and many declarations is committed to international justice and the elimination of colonialism in Africa, Asia and around the world. But these same people and their leaders in large measure ignore many of the facts about Latin America, and specifically about Panama.

There is no doubt that the presence of the Canal has brought economic and social benefits to Panama. No one will deny the fact. Personally, also I am aware of the many social and charitable services provided our people in Panama by persons and institutions in the Canal Zone. But the coin has two sides. The benefits to the United States have been considerable, even apparently far greater; and what is more they have been unilaterally determined by the United States. Here are a few facts.

The savings to the United States Military Forces in the use of the Canal in the sixty years since its inauguration are calculated in excess of $11 billion.

The toll fees on the Canal were frozen at the 1914 level on the principle unilaterally established by the United States that the Canal should be non-profit, except for the repayment of the initial investment made by the U.S. Various technical studies, by ECLA (Economic Commission for Latin America, of the United Nations) and United States firms, advise differential rates and an overall increase of two to three times the present rates, as perfectly commercial. Since 70% of the goods that transit the Canal come from or go to U.S. ports, the present non-commercial fees represent a 700 million dollar saving annually to U.S. commerce. In this way, Panama, a poor nation, is subsidizing the richest nation of the world and world commerce in general.

The toll fees are used, in part, to subsidize many educational and other social services for Canal Zone employees (even though these pay federal taxes for the purpose), as well as for U.S. military personnel in the Canal Zone.

The Canal Zone, which roughly measures 10 by 50 miles in area and close to 100,000 hectares of land, is the heartland, the most valuable economic area of Panama. The present use of this land represents a large waste of this natural resource: reserved for military purposes, most of which is not used at all, 68% of the land; for Canal installations, 3.6%; for miscellaneous use, 3.2%; not utilized 25%. For this entire territory, including fourteen military bases established by the United States without any negotiations with Panama as to their establishment, the U.S. has paid an annual $1.9 million.

Neither Panama City nor Colon has adequate port facilities at its disposal; nor does Panama posses a transisthmian oil pipeline or train. It is now contemplaing huge expenditures for ports and pipe line, even though these facilities exist in the Canal Zone and are only partially employed. (There are four pipe-lines in the Canal Zone, of which apparently none is in use.)

According to information presented in the United States House of Representatives (Sept. 22-23, 1971) the military investment in the Canal Zone ($4,794,000,000.00) more than doubles the civilian ($2,247,000,000.00). Obviously this military expense goes far beyond any notion of the "defense of the Canal". In fact there is no effort made to disguise the scope of the U.S. Southern Command located in the Canal Zone which is a training center for military from all over Latin America and a nerve center of military contact over the continent. Even military bases established within a nation should be the object of negotiation. How much more Panama can and must object to the large military establishment functioning within its borders without any adequate information, negotiation or compensation.

Approximately 20% of Panama's gross national income derives from the Canal, such as salaries and sales. The rise and fall of this income according to changes in building and other operations within the Canal Zone, has a strongly distorting effect upon the Panamanian economy for the simple reason that these changes are entirely out of Panamanian control.

Very little of Panamanian income from the Canal Zone accrues to the national government since land, income, etc. in the Canal Zone are exonerated from any Panamanian taxes. This produces a situation in which the national government cannot extract revenues from the main natural resource of the nation. As a result, the Panamanian government has one of the lowest percentages in Latin America of participation in total national income. In this situation it has not been able to adequately undertake programs of economic infrastructure and socioeconomic development, particularly for the impoverished rural areas. What it has been able to accomplish has been made possible by a public development policy financed by foreign capital, the majority of which comes from United States sources. This has built up a large foreign debt (the largest per capita in Latin America), and at the same time limits considerably the freedom of Panama in negotiating on the Canal.

In short, the facts of the case are clear. They are known by the governments of Latin America—all of which support the cause of a new treaty; by the Latin American divisions of the Catholic and Protestant Churches of the U.S. which also support a new treaty; by all the member nations of the Security Council of the United Nations who voted last year for a new treaty—even Britain which abstained, and the U.S. which voted against United Nations treatment of the question but has declared itself for a new treaty . . .

This, I think, is the attitude worthy of the United States. Not to tighten up and not listen to the voice of this small nation to the south; but to sense the value of that voice. As the U.S. proclaimed almost two hundred years ago the principle of national dignity and independence; as it fought two world wars to free other nations from political servitude and without any territorial aims nor gains for itself; as it declared the Philippines independent, and after World War II led the cause of independence of old European colonies; so it can now recognize Panama's claim to genuine and complete national independence. In so doing it will find its interests in the canal sufficiently guaranteed; and its respect in the world, especially in this New World of the Americas, newly refurbished.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. STEIGER (at the request of Mr. RHODES), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BADHAM) and to revise and extend their remarks and include extraneous matter:)

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. RHODES, for 60 minutes, on January 25, 1978.

Mr. FISH, for 15 minutes, today.

Mr. CONABLE, for 60 minutes, on January 26, 1978.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. CARR, for 10 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.
Mr. CAVANAUGH, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. FUQUA, for 10 minutes, today.
Mr. BREAUX, for 10 minutes, today.
Mr. CARR, for 60 minutes, on January 25, 1978.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIMON, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $885.50.

Mr. BUTLER, to revise and extend his remarks to be placed in RECORD immediately preceding vote on H.R. 7581.

(The following Members (at the request of Mr. BADHAM) and to include extraneous matter:)

Mr. FORSYTHE.
Mr. CONABLE in two instances.
Mr. MICHEL.
Mr. STEERS.
Mr. LIVINGSTON in two instances.
Mr. SCHULZE.
Mr. ASHBROOK in two instances.
Mr. COLLINS of Texas in three instances.
Mr. LAGOMARSINO in two instances.
Mr. ARMSTRONG.
Mr. LOTT.
Mr. SYMMS in two instances.
Mr. ROUSSELOT in two instances.
Mr. DERWINSKI in two instances.
Mr. BROWN of Ohio.
Mr. YOUNG of Florida.
Mr. FINDLEY.

(The following Members (at the request of Mr. RAHALL) and to include extraneous material:)

Mrs. BURKE of California.
Mr. MINETA.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. MAZZOLI in two instances.
Mr. JOHNSON of California.
Mr. HAMILTON.
Mrs. SCHROEDER in two instances.
Mr. RICHMOND.
Mr. FRASER in two instances.
Mr. LEDERER.
Mr. CARNEY.
Mr. ROSENTHAL.
Mr. LONG of Louisiana.
Mr. PEPPER.
Mr. LEVITAS.
Mr. ROONEY.
Mr. LONG of Maryland.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2401. An act to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 3215. For the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies; and

H.R. 7691. To distinguished Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 25, 1978, at 3 o'clock p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3068. A letter from the Secretary of Defense, transmitting five reports of violations of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

3069. A letter from the Deputy Secretary of Defense, transmitting notice of approval of an annual compensation rate in excess of $45,000 for an official of the Center for Naval Analyses, University of Rochester, pursuant to section 407(b) of Public Law 91-121; to the Committee on Armed Services.

3070. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend Public Law 95-18, providing for emergency drought relief measures; to the Committee on Interior and Insular Affairs.

3071. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Foster-Miller Associate, Inc., Waltham, Mass., for a research project entitled "Develop a Mechanical Scaling Bar," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

3072. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Human Resources Research Organization, Alexandria, Va., for a research project entitled "Training System for Mine Hoist Operators," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

3073. A letter from the Counsel, U.S. Army Audit Agency, transmitting a request received by the Agency under the Freedom of Information Act for certain audit reports on the American National Red Cross; to the Committee on the Judiciary.

3074. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting an evaluation of the equal employment opportunity activities of several major Federal agencies during the past 2 years, pursuant to section 104(b) of Public Law 85-315, as amended; to the Committee on the Judiciary.

3075. A letter from the Comptroller General of the United States, transmitting a report on establishment of timber harvest levels for national forests by the Forest Service, Department of Agriculture (CED-78-15, January 24, 1978); jointly, to the Committees on Government Operations, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 964. Resolution providing for the consideration of H.R. 1614. A bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes (Rept. No. 95-848). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 965. Resolution providing for the consideration of H.R. 5503. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes (Rept. No. 95-849). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURLISON of Missouri:

H.R. 10505. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes; to the Committee on Agriculture.

By Mr. BYRON (for himself and Mr. BAUMAN):

H.R. 10506. A bill to increase the distance which officers and members of the Metropolitan Police Force and the Fire Department of the District of Columbia are authorized to reside from the U.S. Capitol Building from 25 miles to 50 miles; to the Committee on the District of Columbia.

By Mr. CEDERBERG:

H.R. 10507. A bill to modify the authorization for the project for flood protection on the Saginaw River and tributaries, Michigan; to the Committee on Public Works and Transportation.

By Mrs. COLLINS of Illinois:

H.R. 10508. A bill to amend title V of the Elementary and Secondary Education Act of 1965 to establish a National Advisory Council on Quality in Education; to the Committee on Education and Labor.

H.R. 10509. A bill to provide for greater consideration of whether U.S. foreign assistance is being provided to those less developed countries which are attempting to deal with their development needs; to the Committee on International Relations.

H.R. 10510. A bill to amend the Trade Act of 1974 in order to authorize the President to designate members of the Organization of Petroleum Exporting Countries who have not withheld supplies of vital commodity resources from international trade as eligible for the tariff preferences extended to developing countries under title V of that act; to the Committee on Ways and Means.

By Mr. CORMAN (for himself and Mr. BRODHEAD):

H.R. 10511. A bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. DELANEY:

H.R. 10512. A bill to amend the Federal Food, Drug, and Cosmetic Act to repeal the exemption from regulation under that act for hair dyes; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 10513. A bill to amend the Railroad Retirement Act of 1974 to eliminate the disqualification of employed spouses for certain annuities; to the Committee on Interstate and Foreign Commerce.

By Mr. EDGAR (for himself, Mr. KOSTMAYER, and Mr. WALKER):

H.R. 10514. A bill to amend title 28 of the United States Code to provide for the merit selection of U.S. attorneys; to the Committee on the Judiciary.

By Mr. FISH (for himself, Mr. HARKIN, Mr. FORD of Tennessee, Mr. KREBS, Mr. LOTT, Mr. GUYER, Mr. BUTLER, Mr. ERTEL, and Mr. BEVILL):

H.R. 10515. A bill to amend section 1332 of title 28, United States Code, to grant jurisdiction to the district courts to enforce any custody order of a State court against a parent who, in contravention of such order, takes a child to another State; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 10516. A bill to provide 100 percent parity to farmers; to the Committee on Agriculture.

By Mr. HECKLER:

H.R. 10517. A bill to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service; to the Committee on Post Office and Civil Service.

H.R. 10518. A bill to authorize Federal agencies to experiment with flexible and compressed employee work schedules; to the Committee on Post Office and Civil Service.

By Mrs. KEYS (for herself, Mr. CAVANAUGH, Mr. GLICKMAN, Mr. BROWN of California, and Mr. BLOUIN):

H.R. 10519. A bill to amend the Internal Revenue Code of 1954 to simplify tax preparation by allowing individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability, and for other purposes; to the Committee on Ways and Means.

By Mr. MATHIS (for himself, Mr. POAGE, and Mr. WAMPLER):

H.R. 10520. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; jointly, to the Committees on Agriculture and International Relations.

By Mr. MOTTL (for himself, Mr. HYDE, and Mr. SIMON):

H.R. 10521. A bill to amend the Elementary and Secondary Education Act of 1965 to provide assistance for the establishment of basic standards of educational proficiency applicable to public school students; to the Committee on Education and Labor.

By Mr. RICHMOND (for himself, Mr. AMBRO, Mr. BEARD of Rhode Island, Mr. BIAGGI, Mr. BINGHAM, Mr. BLANCHARD, Mr. BONIOR, Mr. BONKER, Mr. BRODHEAD, Mr. CONYERS, Mr. DELLUMS, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. GIBBONS, Mr. GILMAN, Mr. HANLEY, Mr. HANNAFORD, Mrs. HECKLER, Mr. HOLLENBECK, Mr. HOWARD, Mr. HUGHES, and Mr. JACOBS):

H.R. 10522. A bill to establish a Commission on the Humane Treatment of Animals; to the Committee on Agriculture.

By Mr. RICHMOND (for himself, Mr. KEMP, Ms. KEYS, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. MAGUIRE, Mr. MAZZOLI, Mr. MCDADE, Mr. MCKINNEY, Mrs. MEYNER, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MURPHY of Illinois, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PEPPER, Mr. RODINO, Mr. ROE, Mr. ROSENTHAL, Mr. SARASIN, Mr. SCHEUER, Mr. SOLARZ, Ms. SPELLMAN, and Mr. STEERS):

H.R. 10523. A bill to establish a Commission on the Humane Treatment of Animals; to the Committee on Agriculture.

By Mr. RICHMOND (for himself, Mr. STOKES, Mr. WALGREN, Mr. WAXMAN, Mr. WEISS, Mr. CHARLES H. WILSON of California, Mr. CHARLES WILSON of Texas, Mr. WIRTH, and Mr. WOLFF):

H.R. 10524. A bill to establish a Commission on the Humane Treatment of Animals; to the Committee on Agriculture.

By Mr. ROSENTHAL (for himself and Mr. STEERS):

H.R. 10525. A bill to establish an independent agency, to be known as the Visa and Naturalization Administration, in order to improve the efficiency and economy of the operations of the Federal Government with respect to immigration, and for other purposes; to the Committee on Government Operations.

By Mr. ST GERMAIN (for himself and Mr. BEARD of Rhode Island):

H.R. 10526. A bill to amend the Emergency School Aid Act to extend to Franco-Americans the same benefits afforded other minority groups under the act; to the Committee on Education and Labor.

By Mr. SAWYER:

H.R. 10527. A bill to amend titles 18 and 39 of the United States Code to make lawful certain activities concerning certain foreign and domestic legal lotteries; jointly, to the Committees on the Judiciary, and Post Office and Civil Service.

By Mr. SIKES:

H.R. 10528. A bill to provide 100 percent parity to farmers; to the Committee on Agriculture.

Mr. SISK (for himself and Mr. KREBS):

H.R. 10529. A bill to name the Veterans' Administration–University of California, San Francisco School of Medicine medical education building to be located on the grounds of the Veterans' Administration Hospital, Fresno, Calif., the Milo E. Rowell Medical Education Building; to the Committee on Veterans' Affairs.

By Mrs. SMITH of Nebraska:

H.R. 10530. A bill to amend Public Law 95–18, providing for emergency drought relief measures; to the Committee on Interior and Insular Affairs.

By Mr. STEERS (for himself, Mr. STOCKMAN, Mr. MARKS, Ms. MIKULSKI, Mr. LONG of Maryland, and Mr. BYRON):

H.R. 10531. A bill to amend the Consumer Product Safety Act to provide that electrical wiring systems shall be considered to be consumer products for purposes of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. UDALL (for himself, Mr. SISK, Mr. ULLMAN, Mr. EVANS of Colorado, Mr. JOHNSON of California, Mr. MCFALL, Mr. MEEDS, and Ms. SMITH of Nebraska):

H.R. 10532. A bill to amend Public Law 95–18, providing for emergency drought relief measures; to the Committee on Interior and Insular Affairs.

By Mr. WAGGONNER:

H.R. 10533. A bill to eliminate the reduction in social security benefits for spouses and surviving spouses receiving certain Government pensions, as recently added to title II of the Social Security Act by section 334 of the Social Security Amendments of 1977; to the Committee on Ways and Means.

By Mr. WAGGONNER (for himself, Mr. ROBERTS, Mr. SANTINI, Mr. HALL, and Mr. HILLIS):

H.R. 10534. A bill to amend the act incorporating The American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. BYRON:

H.J. Res. 686. Joint resolution to authorize and request the President to issue a proclamation designating May 21, 1978 as National Fallen Heroes Day and for other purposes; to the Committee on Post Office and Civil Service.

H.J. Res. 687. Joint resolution to authorize the President to issue a proclamation designating the Sunday following Fire Service Recognition Day as Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year; to the Committee on Post Office and Civil Service.

By Mr. LENT:

H.J. Res. 688. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H. Con. Res. 459. Concurrent resolution to declare the sense of Congress that full parity remains the goal of American Agriculture; to the Committee on Agriculture.

By Mr. ULLMAN:

H. Res. 963. Resolution to provide for expenses of investigations and studies to be conducted by the Committee on Ways and Means; to the Committee on House Administration.

By Mr. ASHBROOK:

H. Res. 966. Resolution providing for the impeachment of U.S. District Judge Frank J. Battisti; to the Committee on the Judiciary.

By Mr. ERTEL (for himself, Mr. SKELTON, Mr. DICKS, Mr. GLICKMAN, Ms. OAKAR, Mr. GEPHARDT, Mr. VOLKMER, Mr. WATKINS, Mr. IRELAND, Mr. WEISS, Mr. CORRADA, Mr. KOSTMAYER, Mr. TUCKER, Mr. RAHALL, Mr. BENJAMIN, Mr. KILDEE, Mr. FLIPPO, Mr. CORNWELL, Mr. GUDGER, Mr. MATTOX, Mr. WALGREN, and Mr. WALKER):

H.Res. 967. Resolution insisting that the Republic of Korea cooperate fully with the Committee on Standards of Official Conduct and its special counsel and declaring that a failure to cooperate will have a negative impact on relations between the United States and the Republic of Korea; to the Committee on International Relations.

By Mr. FINDLEY (for himself, Mr. EVANS of Georgia, Mr. GINN, Mr. JENRETTE, Mr. MCEWEN, Mr. OBERSTAR, Mr. STOCKMAN, and Mr. WYLIE):

H. Res. 968. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIS (for himself, Mr. ADDABBO, Mr. SKELTON, Mr. BRODHEAD, Mr. WON PAT, Mr. RISENHOOVER, Mr. BRINKLEY, Mr. BAFALIS, Mr. LAGOMARSINO, Mr. DAVIS, Mr. MILFORD, Mr. WHITLEY, Mr. DON H. CLAUSEN, Mr. WHITEHURST, Mr. HUGHES, Mr. STOCKMAN, Mr. DORNAN, Mr. ERTEL, Mr. CHARLES WILSON of Texas, Mr. BENNETT, and Mr. EILBERG):

H. Res. 969. Resolution to establish a Select Committee on International Terrorism; to the Committee on Rules.

By Mr. MATHIS (for himself, Mr. YOUNG of Alaska, Mr. LENT, Mr. LE FANTE, Mr. WALGREN, Mr. LIVINGSTON, Mr. STEERS, Mr. HYDE, and Mr. MARRIOTT):

H. Res. 970. Resolution to establish a Select Committee on International Terrorism; to the Committee on Rules.

By Mr. PREYER (for himself and Mr. WIGGINS):

H. Res. 971. Resolution to provide funds for the Select Committee on Ethics; to the Committe on House Administration.

By Mr. PRICE:

H. Res. 972. Resolution to provide for the expenses of investigations, and studies to be conducted by the Committee on Armed Services; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

286. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to the classification of the crime of arson; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. BREAUX:

(H.R. 1614, an amendment in the nature of a substitute.)

Strike all after the enacting clause and insert the following:

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natrual gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) deposits

of oil, natural gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any coastal State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, conditions, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and workover drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C 41 et seq);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California, including the Santa Barbara Channel.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)) is amended—

(1) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(2) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(3) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes the Natural Labor Relations Act, as amended, any unfair labor

practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraph shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in delays in the exploration, development, or production of resources unless the Secretary publishes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment.

In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee to facilitate proper development of a lease in the national interest, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph (other than a lease cancelled for reasons of national security or defense at the request of the Secretary of Defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this pargraph, or a lease cancelled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with subclause (I) of clause (ii) of this subparagraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitizing, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued

under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule on the record after an opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair and timely return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set fourth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(1) The bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during

the five-year period beginning on the date of enactment of this subsection, in each region in a frontier area.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding systems or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(vii) any recommendations, accompanied by detailed justifications, for additional legislation which would further revise the bidding systems used under this Act.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after the Secretary has determined the tracts to be included in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1).

"(b) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.".

"(c) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions.

and as long after such initial period as oil or gas may be produced from the area paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the areas for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of its interest in the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds after notice and hearing that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. In his notice of each lease sale the Secretary shall identify each lessee who has been notified by the Secretary that he, at the time of such notice, is not meeting due diligence requirements on one or more of his oil and gas leases. All other lessees not identified in such notice shall be conclusively presumed to be meeting due diligence requirments for the purposes of this subsection.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OTHER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) The Secretary or any other agency of the United States and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the Outer Continental Shelf which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

(2) In order to obtain more accurate and adequate information regarding the oil and gas resources of the Outer Continental Shelf, prior to the first lease sale in each frontier area the Secretary shall publish in the Federal Register a request that potential permittees apply for a permit to participate in

a continental offshore stratigraphic test or other such economically feasible off-structure test drilling operations as are authorized by regulation. Should no potential permittee apply for such a permit within sixty days of the publication in the Federal Register of the Secretary's invitation to participate, the Secretary may contract for such off-structure drilling: *Provided*, That no funds shall be appropriated for such drilling prior to the fiscal year beginning October 1, 1978: *Provided further*, That budget requests for the funds necessary to implement this subsection shall be displayed as a separate line item and appropriately justified, as part of the department's annual budget request.

"(3) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare, periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative evironmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(J) relevant baseline and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the prepartion of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(3) After such prepartion and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Federal Trade Commission, the Governors of affected States, and through the Governors, the executives of affected local governments, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5)(A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Management Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged information and may provide the Secretary with any privileged information he requests to assist him in preparing the leasing program. Privileged information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or sixty days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a)(1) The Secretary shall cnduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas

studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety standards and regulations.

"(d)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the Outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT OF ENVIRONMENTAL AND SAFETY REGULATIONS—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to regulations issued pursuant to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility to conduct an onsite inspection; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 23. CITIZENS SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter or right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately and irreparably affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, the Attorney General, or any other appropriate Federal official, if not a party, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove

any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing, or refining of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once in each frontier area declare the approval of a development and production plan or plans to be a major Federal action. In preparing an environmental impact statement on such action the Secretary shall evaluate the cumulative effect on such area and the affected states as a result of actions proposed in the plan or plans submitted for approval, plans previously approved and available preliminary plans for production in the area.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State, and the executive of any affected local government area shall have sixty days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act. Any modification required by the Secretary which affects land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal

zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease cancelled after disapproval of a plan under such subparagraph (B) which was issued after the date of enactment of this section, the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of—

"(i) the fair value of the cancelled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease; or

"(ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement).

In the case of any lease cancelled after disapproval of a plan under subparagraph (B) of this paragraph which was issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (i) of this subparagraph. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and a representative interpretation of any such data, which the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary pursuant to subparagraph (aA) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted, nor at any such inspection shall the appropriate state official be permitted to copy or abstract from, or in any way make written notes concerning, the privileged information inspected. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provisions of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State can not or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained under this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) Except as otherwise provided in section 12(b) of this Act, the United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued under this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on

imported oil or gas, are in the national interest, and are in accordance with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across part of an adjacent foreign state and reenters the United States.

"SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months proceeding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUNDS.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the outer Continental Shelf for the purpose of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in an area of the outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this section.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which such fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations for all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the revolving account established for a fishermen's gear compensation fund for any area of the outer Continental Shelf to compensate commercial fishermen for actual and consquential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any revolving account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $10,000 per claimant for any incident; and

"(iii) to the extent that damages were caused by the negligence or fault of the commerical fisherman making the claim.

"(d)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or in the United States Court of Appeals for the District of Columbia.

"(f) Not withstanding any other provision of this title, no authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

"SEC. 301. For the purposes of this title, the term—

"(a) 'Secretary' means the Secretary of Transportation;

"(b) 'fund' means the fund established by section 302;

"(c) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

"(d) 'incident' means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

"(e) 'vessel' means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined

in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362));

"(f) 'public vessel' means a vessel which—

"(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

"(2) is not engaged in commercial service;

"(g) 'ship' means either of the following types of vessels carrying oil in bulk as cargo:

"(1) a self-propelled vessel, or

"(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

"(h) 'facility' means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

"(i) 'offshore facility' includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

"(j) 'oil pollution' means—

"(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

"(2) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

"(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

"(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of the United States; or

"(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

"(k) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(l) 'foreign claimant' means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(m) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

"(n) 'oil' means petroleum, including crude oil or any fraction or residue therefrom;

"(o) 'cleanup costs' means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

"(p) 'damages' means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

"(q) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility;

"(r) 'claim' means a demand in writing for a sum certain;

"(s) 'discharge' means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

"(t) 'owner' means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement; or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

"(u) 'operator' means—

"(1) in the case of a vessel, a charterer by demise or any other person, except the owner who is responsible for the operation, manning, victualing, and supplying of the vessel; or

"(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

"(v) 'property' means littoral, riparian, or marine property;

"(w) 'removal costs' means—

"(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

"(2) cleanup costs, other than the costs described in clause (1);

"(x) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(y) 'gross ton' means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

"(z) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

"FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

"SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

"(b) The fund shall be constituted from—

"(1) all fees collected pursuant to subsection (d);

"(2) all moneys recovered on behalf of the fund under section 308; and

"(3) all other moneys recovered or collected on behalf of the fund, under this title.

"(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

"(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

"(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

"(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

"(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

"(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

"(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

"(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

"(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate

determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

"DAMAGE AND CLAIMING"

"SEC. 303. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

"(1) removal costs;

"(2) injury to, or destruction of, real or personal property;

"(3) loss of use of real or personal property;

"(4) injury to, or destruction of, natural resources;

"(5) loss of use of natural resources;

"(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(7) loss of tax revenue for a period of one year due to injury to real or personal property.

"(b) A claim authorized by subsection (a) may be asserted—

"(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel of offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

"(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

"(5) under item 7, by any State or political subdivision thereof;

"(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(B) the claimant is not otherwise compensated for his loss;

"(C) the oil was discharged from an offshore facility or from a vessel in connection with the activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and

"(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

"(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

"(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(d) If the number of members of a class in an action brought under subsection (b)(7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

"LIABILITY

"SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

"(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(1) in the case of a vessel, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater, or

"(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

"(c) There shall be no liability under subsection (a)—

"(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

"(2) to the extent that the incident is caused by an act or omission of a person other than—

"(A) the claimant,

"(B) the owner or operator,

"(C) an employee or agent of the claimant, the owner, or the operator, or

"(D) one whose act or omission occurs in connection wtih a contractural relationship with the claimant, the owner, or the operator;

"(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

"(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

"(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

"(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 304(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(g) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

"(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to a liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(i) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

"FINANCIAL RESPONSIBILITY

"SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge

that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

"(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

"(b) The owner or operator of a facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less

"(c) Any claim authorized by section 303 (a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

"(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

"NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

"SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

"(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

"(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(c) In a case where—

"(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b).

"(2) the source of the discharge was a public vessel or

"(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b), the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

"CLAIMS SETTLEMENT

"SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

"(b) All claims shall be presented to the fund—

"(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c), or

"(2) where the owner or operator may recover under the provisions of section 303 (b)(1).

"(c) In the case of a claim presented in accordance with subsection (a), and in which—

"(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

"(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

"(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c) or (d), and in which the fund—

"(1) denies all liability for the claim, for any reason, or

"(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306(c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

"(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

"(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

"(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

"(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as

amended, regarding special government employees, apply to panel members appointed from private life.

"(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

"(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

"(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him or books, papers, documents, or any tangible things.

"(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

"(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

"(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

"(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(2) The fund may intervene in the action as a matter of right.

"(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(5) If neither the plantiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(k) In any action brought against the fund, the plantiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

"(1) No claim may be present, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

"SUBROGATION

"SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

"(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator or guarantor or against any other person or governmental entity who is liable pursuant to any law to the compensated claimant or to the fund for damages for which the compensation was paid.

"(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

"(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

"(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction;

"(B) interest on that amount, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(2) for a claim presented to the fund pursuant to section 307(c)(2)—

"(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

"(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs and attorneys' fees; or

"(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) the amount the fund has paid to the claimant, without reduction;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept the offer, inclusive.

"(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction to the claim of the fund to the date which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"JURISDICTION AND VENUE

"SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

"(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

"PREEMPTION

"SEC. 310. (a) Except as provided in this title—

"(1) no action may be brought in any

court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 303(a), a claim for which may be asserted under this title, and

"(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

"(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

"PROHIBITION

"SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful is prohibited.

"PENALITIES

"SEC. 312. (a)(1) Any perosn who fails to comply with the requirements of section 305, the regualtions promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

"(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

"(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

"(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

"ANNUAL REPORT

"SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

"SEC. 314. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation regulations shall be effective on the date of enactment of this Act.

"(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

"SEC. 316. If any provisions of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby."

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DISPOSITION OF REVENUES.—Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"(a) Beginning June 5, 1950; and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts."

"(b)(1) For the period beginning October 1, 1978 all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts; and of the amounts so deposited, in each fiscal year, 20 percentum shall be paid by the Secretary of the Treasury in annual grants to affected states in accordance with the provisions of this subsection; *Provided*, that any monies paid to any State shall be used by such State and its subdivisions as the legislature of a State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities and (C) provision of public services; except that the State shall first apply any monies received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 145a(d)(1))

"(2) the amounts granted to affected states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) An amount which bears, to two-fifths of the amount granted to affected states under this section for each fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continental Shelf acreage which is newly leased by the Federal Government in the immediately preceding fiscal year: *Provided*: That, for all purposes of this subparagraph, acreage which is leased exclusively for exploration shall be considered as acreage which is newly leased, but any subsequent leasing of such acreage for purposes of development and production shall not be considered as acreage which is newly leased.

"(B) An amount which bears to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all Outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected states in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded Outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such Outer Continental Shelf energy activities.

"(3)(A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each federal department, agency, and instrumentality shall provide to the Secretary of the Treasury such assistance in collecting and evaluating such information.

"(B) For purposes of making calculations under paragraph (2), (i) 6000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) Outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal States enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any State may not exceed 30 percent of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected States in accordance with paragraph (2). No State in the area in which Outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than 1 per centum of the total amount granted to affected states in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1979 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1979, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and denominator of which is the Consumer Price Index of October of 1978.

"(c) Any funds paid to the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section; and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purposes of such distribution such sums shall be deemed to have been deposited in the Treasury in the fiscal year in which they were paid to the Secretary or the Secretary of he Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit, or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the Outer Continental Shelf.

"(e) Notwithstanding any other provision of this title, no authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

SEC. 402. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation of flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 403. As soon as feasible but no later than ninety days after the date of enactment to this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 404. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 405. Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 406. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act, shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of the MER (maximum efficient rate) and MPR (maximum production rate) in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas in terms of end-use markets so as to ascertain the consumption by different classes and types of end users;

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall

include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the date of enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this section, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purpose of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 408. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 409. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

By Mr. McKINNEY:

Section 28 is struck in its entirety. Insert in lieu thereof the following:

SEC. 28. LIMITATIONS ON EXPORTS.—(a) Any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calender days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection (b). If either House of Congress within such time period passes a resolution of disapproval stating disagreement with any of the President's findings concerning the requirements of subsection (b), further exports made pursuant to such Presidential findings shall cease.

(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience for increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

By Mr. PANETTA:

Page 177, immediately after line 13, insert the following new section:

RESERVATIONS BY THE CONGRESS

SEC. 207. Section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) The Congress of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf by the passage of a concurrent resolution so declaring and identifying the lands to be withdrawn.".

Redesignate sections 207 and 208 as sections 208 and 209, respectively.

Page 128, in the table of contents, redesignate the items relating to section 207 and 208 as 208 and 209, respectively, and insert immediately below the item relating to section 206 the following new item:

Sec. 207. Reservations by the Congress

By Mr. STUDDS:

Page 227, strike out line 16 and all that follows down through and including line 15 on page 233 and insert in lieu thereof the following:

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUND.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States who owns, operates, or derives income from being employed on, a commercial fishing vessel;

"(2) 'commercial fishing vessel' means any vessel which is used primarily for the handling or harvesting of living marine resources for commercial purposes; and

"(3) 'fishing gear' means (A) any commercial fishing vessel, and (B) any equipment, whether or not attached to such a vessel, which is used in the handling or harvesting of living marine resources for commercial purposes.

"(b)(1) There is hereby established in the Treasury of the United States a Fishermen's Gear Compensation Fund (hereafter in this section referred to as the 'Fund'). The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $600,000. Amounts paid pursuant to the provisions of paragraphs (3) and (4) of this subsection shall be deposited in the Fund. The Fund may sue or be sued in its own name.

"(2) The Secretary is authorized to establish and maintain an area acconut within the Fund for any area of the outer Continental Shelf for purposes of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

"(3) Upon assessment by the Secretary, any holder of a lease issued under section 8 of this Act for any tract in any area of the outer Continental Shelf shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. In any calendar year, no lessee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(4) Subject to paragraph (1) of this subsection, each area account established pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area.

"(5) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

"(A) Administrative and personnel expenses of such area account and administrative and personnel expenses of the Fund which relate to such area account.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

"(C) Reasonable attorney's fees awarded pursuant to subsection (e)(1) of this section.

"(6) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in any area of the outer Continental Shelf shall contain a condition that such lessee, upon assessment by the Secretary, shall pay the amount specified by the Secretary for purposes of the establishment and maintenance of an area account for such area under paragraph (2) of this subsection. In any calendar year, no lessee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations requiring all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any area account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $75,000 per incident;

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim; or

"(iv) when the damage set forth in the claim was sustained prior to the date of enactment of this section.

"(d) With respect to any claim for damages filed pursuant to this section, there shall be a presumption that such claim is valid if the claimant establishes that—

"(1) the commercial fishing vessel was being used for fishing and was located in an area prescribed by the Secretary of Commerce as an area affected by outer Continental Shelf activities;

"(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

"(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

"(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

"(e)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. If such decision is in favor of the person filing the claim, the hearing examiner shall include as part of the amount certified to the Secretary under paragraph (4) of this subsection reasonable attorneys' fees incurred by such person in pursuing such claim.

"(2) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award from the appropriate area account. Such decision shall not be reviewable by the Secretary.

"(f) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

"(g) Not later than one year after the date of the establishment of any area account under subsection (b) of this section, the Secretary shall submit a report to the Congress setting forth his recommendations as to whether or not claims should be paid from such account which are based on damages caused by materials, equipment, tools, containers, or other items, the ownership and responsibility for which is known on the date of the submission of such claims.

SENATE—*Tuesday, January 24, 1978*

The Senate met at 9 a.m. and was called to order by Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, before whom the generations rise and pass away, make us mindful of those whom we have "loved long since and lost awhile," who have fought a good fight, kept the faith, finished their course, and are at rest with Thee. We thank Thee for the great and good lives of our comrades LEE METCALF and HUBERT HUMPHREY, for their high idealism, their selfless service, their pure patriotism, their devotion to human betterment, their dedication to justice, their pursuit of peace, and their manly religion. May we be bound to them eternally by ties of memory and hope. Grant us a measure of their qualities that with Thy help, we may continue to build on Earth that kingdom whose builder and maker is God.

We pray in His name which is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 24, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWARD M. METZENBAUM, a Senator from the State of Ohio, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. METZENBAUM thereupon assumed the chair as Acting President pro tempore.

QUORUM CALL

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, January 23, 1978, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EULOGIES TO SENATOR HUBERT H. HUMPHREY AND SENATOR LEE METCALF

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of eulogies for Senators HUMPHREY and METCALF for not to exceed 3 hours.

SENATOR LEE METCALF: A MODEST MAN OF MANY GREAT ACCOMPLISHMENTS

Mr. MELCHER. Mr. President, a great American leader was lost when Senator LEE METCALF of Montana passed away. Senator METCALF's accomplishments were literally legion in many fields—education, conservation, human rights, consumer protection, economic development, natural resources, labor legislation, agriculture and others.

Senator METCALF will be remembered with the highest esteem by leaders in all the movements he served, entitled to the "Most Valuable Player" award in many of them, and entitled to far greater recognition as a national leader than he ever received during his lifetime because of his own selflessness; he did not boast of his accomplishments, or even mention them. His office did not issue press releases except on occasions when those releases were to expound a cause.

LEE METCALF believed in working men and women and fought for people and their livelihoods. Farmers and their families shared his interest and concerns and his votes were for their betterment. He never shirked or ducked. He delivered.

I ask unanimous consent to have printed in the RECORD a biography of the Senator which, I am advised, was revised after he passed away to include materials about his accomplishments somewhat beyond the facts of his birth, education, military service, election to the Montana Supreme Court, and then Congress and the United States Senate—the bare facts that he supplied about himself.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. MELCHER. Even so, the revised biography is not an adequate measure of the man.

Before Senator METCALF came to Congress, he proved himself a great jurist and he was involved in the promotion of measures which he felt constructive—a fact of his life not mentioned in any biography I have seen.

One of those movements was a regional committee for a Missouri Valley Authority—an effort to copy the applicable features of the Tennessee Valley Authority Act in the Missouri basin as President Franklin D. Roosevelt had proposed to do in six valleys, including the Missouri. Although no such authority was created, the work of that committee, to which METCALF contributed liberally in time, energy, and leadership, brought an end to infighting between the Corps of U.S. Army Engineers and the Bureau of Reclamation and got water development in our valley off dead center. We built hydroelectric power dams instead of fighting over who should build them.

Hundreds of thousands of Missouri basin citizens now have electricity in their homes and on their farms and ranches as one consequence, and at reasonable rates, which were Senator METCALF'S very special interest. His book, "Overcharge," is written testimonial of his interest in keeping the charges for modern utility services at a reasonable level. It also typifies his gloves-off rhetoric in his efforts on many fronts to benefit people who he felt were disadvantaged in our society.

As a fine lawyer, Senator METCALF blazed the trail that destroyed the myths of the fifties that there was something unconstitutional about Federal aid to education. In keeping with, and his devotion to and understanding of, the Constitution, he repeatedly and successfully pointed out that Federal aid to education predated the Constitution, having first become a national policy in the Northwest Ordinances of 1785, later reaffirmed in the Constitution.

The famed Murray-Metcalf bill, passed by the Senate in 1959 as part of the National Defense Education Act amendments—only to land in what was then the graveyard of social legislation, the House Rules Committee—was the forerunner of the Elementary and Secondary Education Act. Later, Congress enacted the bill. Incidentally, its fate led to reform of the House Rules Committee also.

It can truly be said that Senator METCALF'S love of children and his faith in our public school system was second to none who ever served in Congress in his accomplishments in that respect, including impact aid and the vocational education amendments. They are a part of the legend and fruits of LEE METCALF'S House and Senate service.

There is no area in Senator METCALF'S biography which I have had printed in the RECORD in which his impact has not been greater than is indicated, for his knowledge of law, his careful research, and his intimate understanding of social, economic, legal, and environmental problems was unsurpassed.

I am sure that other Members of this body will discuss many other issues on which this remarkable man made major contributions.

LEE METCALF'S personal attributes were as outstanding as his accomplishments. He was scrupulously honest in every respect; we all knew him as a man whose word on legislative matters or anything else was as good as a bond. He was a humanitarian constantly concerned for the welfare and rights of the disadvantaged. His fight for educational opportunity for all reflected his love of children and his devotion to the concept of equal opportunity. He made many personal sacrifices to assist his colleagues, including, most humbly, myself, and the causes to which he was devoted. If he had been intent on his personal career instead of bettering the state of our Nation and the lot of all its citizens, he might have been Speaker of the House, but he moved from the House to the Senate to conserve time spent campaigning every 2 years. At one time he surrendered his seniority on the Interior Committee to accommodate the Senate leadership and Senator Carl Hayden, who late in his career sought a seat on the Interior Committee to work for the central Arizona project. That was typical of LEE.

The affection and respect of Montanans for LEE METCALF is reflected in many editorials which have appeared in the Montana press. I ask unanimous consent, Mr. President, to have several such editorials printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MELCHER. Those editorials range from the heartfelt praise of editors who agreed with LEE METCALF'S philosophy to that of an ideological foe of Senator METCALF who described LEE'S love of "God's Country"—his home State—and concluded that "on matters of conservation and protection of the environment, we could relate to him." He added:

> Senator METCALF was cooperative and responded promptly to all inquiries we directed at him and he recognized the value of communication. We will miss him.

In another editorial, Editor Mel Ruder of the Pulitzer Prize-winning paper, the Hungry Horse News, properly classes Senator METCALF with three of our State's most distinguished Senators—Mansfield, Walsh, and Wheeler—concluding that:

> This vast but thinly populated state has contributed much to the Nation in having such United States Senators.

I very humbly agree.

Senator METCALF and I saw eye to eye on most issues. I shall always be proud and grateful for his energetic support of my candidacy for the House and Senate. And I shall always be grateful that the Senator kept in perspective and recognized my right to exercise my individual judgment in the few cases when we did not see eye to eye.

LEE METCALF was a great citizen and a great public servant in every respect and Montana will long mourn his premature passing. Although we know that he suffered constantly from war injuries and had a heart condition, none of us were prepared for his unexpected passing.

Senator METCALF had announced his intention of retiring at the end of this Congress. He wanted to return to God's Country to finish out his life.

Montanans will always regret, and feel a great loss because he did not have the opportunity to fulfill his wish and enjoy many more years at home in the Great Sky Country—God's Country—which he so deeply loved.

EXHIBIT 1

LEE METCALF OF MONTANA, U.S. SENATOR

PERSONAL BACKGROUND

Lee Metcalf has served in public office almost continuously—with time out for wartime duty in the U.S. Army—since first being elected to the Montana State Legislature in 1936, the year he was graduated from law school.

Born January 28, 1911, in Stevensville, Montana, he is the son of the late Harold E. Metcalf, cashier of the First State Bank of Stevensville, and Rhoda (Smith) Metcalf, the daughter of Bitter Root Valley pioneers.

His wife is the former Donna Hoover of Wallace, Idaho, a 1935 journalism graduate of the University of Montana. They have a foster son, Jerry, who was graduated from the University of Montana in 1960, completed a master's degree at Northwestern University the following year, and subsequently worked for advertising agencies in New York City until 1971, when he returned to Montana to establish a small business. In 1976, Jerry ran successfully for the Montana Legislature and is currently serving as State Representative from the Helena area.

Metcalf completed grade and high school in Stevensville, attended the University of Montana for one year, and then transferred to Stanford University, where he earned a degree in history and economics. He returned to the University of Montana to attend law school, from which he received his law degree.

Shortly after the outbreak of World War II, he volunteered for the Army. He trained with the 607th Tank Destroyer Battalion, went overseas for the Normandy invasions, and served with the 1st Army and the 9th Infantry Division in five campaigns through France, Belgium and Germany. After the surrender, he assisted in drafting the ordinance for the first free local elections in postwar Germany.

GOVERNMENT SERVICE

Metcalf served as a Representative from Ravalli County in the Montana Legislature for one year, resigning in 1937 to accept appointment as an assistant State attorney general. In 1941, after completing his term as first assistant attorney general, he practiced law briefly in Hamilton, Montana.

Following his Army discharge, in 1946, Metcalf was elected on the State's non-partisan judicial ballot as an Associate Justice of the Montana Supreme Court. He served on the court until 1952, when he was elected to succeed Mike Mansfield as U.S. Representative from Montana's First Congressional District. He was reelected to three additional terms in the House before being elected to the U.S. Senate in 1960—he is the only native born Montanan to serve the State in this capacity—to succeed retiring Senator James E. Murray. He was reelected to the Senate in 1966 and again in 1972.

While a Member of the House of Representatives, Metcalf was elected first chairman of the Democratic Study Group, of which he was a founder, composed of some 150 of his colleagues. He was also elected by the full Democratic Party membership of the House to serve on the Ways and Means Committee, which then was responsible for selecting Democratic Members to fill vacancies on all other House Committees.

In the Senate, Metcalf was unanimously chosen in 1963 as acting president *pro tempore*, and has been reelected ever since, serving in this position—in which he presides over the Senate in the absence of its President—longer than any other Senator.

In addition to Ways and Means, Metcalf served on the Committees on Education and Labor, and Interior and Insular Affairs, and on the Select Committee on Astronautics and Space Exploration while in the U.S. House. In the Senate he has served on the Committees on Public Works (1961–1966)—of which he was chairman of the Subcommittee on Mississippi Plains Regional Flood Control—Labor and Public Welfare (1963–1965), and Finance (1966–1968).

At present, he serves on the Senate Committees on Energy and Natural Resources and Governmental Affairs. On the former, he has served as chairman of the Subcommittee on Indian Affairs (1965–1966) and the Special Subcommittee on the Outer Continental Shelf (1969–1970), and is now chairman of the Subcommittee on Public Lands and Resources. He is also chairman of the Government Operations Committee's Subcommittee on Reports, Accounting and Management.

Metcalf was a member of the temporary Joint Committee on the Reorganization of the Congress (1965–1968) and in 1973 was elected as first Senate chairman of its successor, the Joint Committee on Congressional Operations. He was appointed by Senator Mansfield to the select committee which reorganized the Senate committee system (1966–1976) and since 1976 has served as chairman of a special committee established by the joint leadership to guide the Senate's response in a series of Federal Court proceedings.

From 1961 to 1975, for all but a brief period, Metcalf served on the Migratory Bird Conservation Commission—composed of the Secretaries of Interior, Agriculture and Transportation, and three other Members of Congress—which acts on proposals for additions to the national waterfowl refuge system. He attended every Commission meeting held during his tenure, in which the Commission decided on the purchase of a total of 525,000 acres of land and the creation of 43 new refuges as well as additions to many others.

LEGISLATIVE ACTIVITIES

Metcalf is widely recognized for his interest in and work on behalf of public education, conservation, consumer protection, economic development and governmental reform. Highlights of his legislative activities in these and related areas include:

Education and human resources

Early in his Congressional service, Metcalf assumed a leading role in the development of the legislative proposals and enactments that culminated in the mid-1960s in a massive Federal commitment to support public education.

He helped shape and extend the National Defense Education Act of 1958—the first major Federal aid to education legislation since passage of the Morrill Act of 1862—and the following year he joined the late Senator Murray in sponsoring new legislation for general aid to education. The Murray-Metcalf bill, designed to provide for transfer of Federal funds to the states to help hard-pressed local school districts, was the forerunner of the landmark Elementary and Secondary Education Act of 1965.

His other proposals in the field of education have included legislation, now law, to release surplus government property to schools (and hospitals) to improve library service, to assist schools and colleges in classroom construction, to fund student and teacher scholarships and student loan programs, and to extend the G.I. Bill to veterans of both the Korean and Vietnam wars.

Metcalf also joined in introducing legislation to provide medical care for the elderly through Social Security, enacted into law in 1965, and has cosponsored proposals since 1970 for extension of health security through a national medical insurance system.

Throughout, he has worked to provide for full participation of Indians in Federal assistance programs in support of improved educational opportunity—he was a cosponsor of the Indian Self Determination and Education Act of 1974 as well as of similar legislation in 1972—better health care and welfare programs.

Conservation and natural resources

Metcalf has participated in the development of much of the major legislation dealing with conservation and environmental protection over the past decade, and has sponsored numerous additions to the Nation's wilderness and national parks systems.

Early in his House service, he led opposition to a bill that would have given vested rights in the national forests to commodity interests. Later, as a Senator, he joined in successful efforts to reverse a Forest Service decision to permit logging of the 200,000-acre Magruder Corridor adjacent to Montana's southwestern border.

Beginning in 1956, he sponsored wilderness preservation legislation, eventually enacted in the Wilderness Act of 1964, giving statutory protection to areas which had been protected only by agency fiat. Since passage of this Act, he has supported designation as wilderness of each area subsequently added to the system. He was especially active in designation of the Lincoln-Scapegoat Wilderness Area, passage of the Montana Wilderness Study Act in 1976 to study 973,000 acres in nine parcels scattered throughout the State, and enactment of legislation creating the small Welcome Creek Wilderness Area near Missoula. He is currently working on bills to give wilderness protection to nearly a million acres in the Absaroka-Beartooth region adjacent to Yellowstone National Park, and to nearly 400,000 acres of the Great Bear Area just south of Glacier National Park.

Metcalf has also been a staunch supporter of the National Wild and Scenic River System and was instrumental in including in the system over 200 miles of the three forks of the Flathead River in Western Montana and approximately 150 miles of the Missouri River in Central Montana.

Concurrently, he has supported additions to the national wildlife refuge system, and his was the original proposal, introduced in 1956 and enacted the following year, for a comprehensive study of the effects of pesticides on fish and wildlife.

He joined in sponsoring legislation for the inventory of the Nation's outdoor recreational resources and needs (the Land and Water Conservation Fund Act of 1965), and, similarly, was a sponsor of the following laws to combat air and water pollution:

Clean Air Act (1963) and Amendments (1965 and 1966); Air Quality Act (1967); and Air Quality Improvement Act (1970, incorporating provisions of three Metcalf bills).

Water Quality Act (1965); Clean Water Restoration Act (1966); and Water Quality Improvement Act (1970).

Solid Waste Disposal Act (1965); and Resource Recovery Act (1970).

Beginning in 1971, he became a leading Congressional proponent of proposals for regulation of strip mining and the reclamation of lands from which coal is mined. On two occasions, in 1973 and again in 1975, he conducted hearings of the Senate Interior Committee on legislation to assure that mining activities are conducted so as to prevent or minimize degradation of the environment and to bar such activities where reclamation is not feasible.

As Senate Floor leader, he led debate for strip mining legislation in both 1974 and 1975, when congressionally approved acts were killed by presidential vetoes. Two years later, however, Metcalf conducted new hearings and once again served as Floor leader for Senate passage of the Surface Mining Control and Reclamation Act of 1977 that was finally signed by the President and enacted into law.

Jobs and economic development

Metcalf has maintained an active interest in labor and manpower legislation, economic development and efficient use of the Nation's energy resources.

He has sponsored legislation to increase unemployment compensation, to increase the minimum wage and extend its coverage, and to improve job safety. He cosponsored extension of the National Wool Act in 1954. Two years later, he chaired hearings by a special subcommittee on health and safety in underground mines which led ultimately to enactment of the Mine Safety Act of 1961.

In 1961, Metcalf joined in introducing legislation calling for creation of a Youth Conservation Corps, patterned after the Civilian Conservation Corps of the 1930's. This proposal was incorporated into the Economic Opportunity Act of 1964.

He cosponsored the Area Redevelopment Act of 1961, to aid economically depressed areas; the Public Works and Economic Development Act of 1965, to encourage regional economic development; and the Rural Development Act of 1972.

In 1967, Metcalf sponsored legislation limiting the tax advantage of "hobby" farmers, a proposal incorporated, in part, in the Tax Reform Act of 1969 and included in most of its particulars in the tax reform measure passed by the House in 1975.

In 1969, he conducted hearings on problems associated with utilization of natural resources on the ocean floor. Two years later, he introduced the first Deep Seabed Hard Minerals Resources Act, to protect the Nation's interest in access to mineral deposits—some of which, such as manganese, are in critically short supply—pending development of an acceptable international agreement for their recovery. He has since been the leading Congressional proponent of legislation in this area and has been represented in the international Law of the Sea Conferences held to negotiate a seabed treaty.

Metcalf has sponsored Federal development of hydro-electric generation facilities—including the funding necessary to build the Libby and Yellowtail Dams in Montana—and expansion of research and development of non-nuclear alternative sources of energy. Since 1970, he has been the sponsor of legislation to establish a National Power Grid System, to provide for efficient use of—and reduced rates for—electrical energy.

He has also maintained a particular interest in conservation—the wise use, not misuse—of the Nation's forests and their resources. He has been critical of the overemphasis on commodity uses, especially the cutting of timber at high elevations in important watersheds, and has advocated restricting timber harvesting to those areas where intensive management can assure rapid regeneration. He sponsored legislation which was the forerunner of the Forest and Rangeland Renewable Resources Act, enacted in 1974, calling for a nation-wide assessment of resources and a statement of goals by the Forest Service extending beyond the turn of the century. He was also a principal architect of the landmark National Forest Management Act of 1976, which redefines "sustained yield" and requires a more rational economic basis for selecting cutting sites.

Consumer protection and information

Metcalf has for many years been a leading Congressional advocate of measures designed to give consumers a more effective voice in government.

He has consponsored, among others, bills in such areas as fair packaging and labeling (1965), disclosure of the costs of consumer credit (1969), and warranty and standards performace (1969).

In 1963, he joined in sponsoring legislation to establish a Federal office to handle consumer complaints, to generally represent the economic interests of consumers before the various executive departments, and, when necessary, to intervene and speak for consumer interests in cases pending in the Federal regulatory agencies or in the courts.

Since then he has devoted particular attention to the need for representation for the consumer—through consumer's legal counsels—in the regulatory process. Included in legislation he has sponsored in this area have been the Intergovernmental Utilities Consumer's Counsel Act, in 1968, and the Transportation Consumer's Counsel Act the following year.

In 1972—to insure that all parties to Federal regulatory actions have ready access to reliable information—Metcalf initiated a major inquiry into the adequacy and accuracy of information submitted by regulated companies. He subsequently chaired hearings on the findings of this study, resulting in the development of a proposal for adoption of uniform corporate disclosure and reporting requirements. Announced in 1975, this model code is presently

being considered bly the various Federal regulatory agencies.

Congressional and governmental reform

Since the mid-1960s, Metcalf has been increasingly identified with measures to improve the effectiveness and responsiveness of the Federal government.

In 1967, he introduced legislation calling for use of the income tax check-off method to encourage more small contributions in Federal election campaigns, reducing thereby the disproportionate influence of large contributions. This proposal embodies the principle of public financing of such campaigns, enacted in 1974.

Metcalf served on the committee which reported the recommendations that were incorporated in the Legislative Reorganization Act of 1970, and led debate during passage of this measure—the first comprehensive Congressional reform legislation in almost 25 years—in the Senate. Two years later, to assure citizen and media access to important Congressional committee deliberations, he initiated a rules change permitting Senate committees and, ultimately, joint Senate-House conference committees to open up legislative markup meetings, which had been held behind closed doors under the previous rules.

In 1973, as chairman of the Joint Committee on Congressional Operations, he submitted a report to Congress recommending the opening of the House and Senate chambers to direct radio and television coverage. Subsequently, both Houses have been considering ways to provide for such coverage, thus giving the vast majority of Americans who are unable to watch in person an opportunity to see and hear important debates in their National Legislature.

The same principle of openness is incorporated in the Federal Advisory Committee Act, which he originated and which became law in 1972. Governing the hundreds of committees established to advise Federal officials on public policy matters, this Act requires all such committees to broaden their membership and to conduct their business publicly in meetings announced in advance. Moreover, it also provides for identification and termination of those committees which have outlived their usefulness, a procedure followed in reducing the number of such committees by almost half in 1977.

In 1973, Metcalf conducted the hearings on proposals for strengthening control over the Federal budget that resulted in enactment the following year of the landmark Congressional Budget and Impoundment Control Act. Containing most of the provisions of legislation sponsored by Metcalf, this Act replaces a fragmented Congressional process with one that permits Congress to look at proposed Federal spending and revenues "whole" each year, to determine what levels are needed under existing economic conditions, and to establish priorities among various governmental activities.

The Act created Budget Committees in the House and Senate, to direct the new process, and a Congressional Office of the Budget to provide current information relating to spending and revenue decisions. And to maintain the constitutional power over the purse, the Act also provides for legislative veto of actions by the Executive to withhold spending for Federal programs or activities approved by Congress.

AFFILIATIONS AND AWARDS

Metcalf has served on the Executive Committee of the American group in the Interparliamentary Union—an international organization of elective legislative officials—since 1969, when he was a member of the U.S. delegation to the organization's New Delhi, India conference. He was vice-president of the American group in 1972–1973, and was a delegate to the organization's conference on economic cooperation and security held in Belgrade, Yugoslavia, in 1975.

He has also participated in numerous other international conferences dealing with the problems of elected legislative officials, including:

Canada-United States Interparliamentary Group meetings in Ottawa and Quebec, Canada (1961);

NATO Parliamentarians' Conference in Paris, France (1961);

Conference of American Legislators at Ditchley Park, Oxfordshire, England (1964);

North Atlantic Assembly, in Brussels, Belgium (1968);

U.S.-Japan Parliamentary Exchange Conference in Tokyo (1969);

Conference of American Legislators at Ditchley Park, Oxfordshire, England (1970);

Interparliamentary Union Spring Meeting in Caracus, Venezuela (1951);

U.S.-Japan Parliamentary Exchange Conference in Tokyo (1971); and

Canada-U.S. Interparliamentary Group in Victoria, B.C. (1977).

Metcalf is a member of the Montana Bar and has been admitted to practice in all Federal courts, including the U.S. Supreme Court and the U.S. Court of Military Appeals. His memberships in fraternal and other organizations include the American Law Institute, the National Judicature Society, the Masons, Elks, American Legion, Veterans of Foreign Wars, Disabled American Veterans and Amvets, Sigma Chi, and Phi Delta Phi national honorary legal fraternity.

He has received recognition for "Distinguished Service to Conservation" from five major national organizations, the Izaak Walton League of America, National Parks Association, National Wildlife Federation, Wilderness Society and Wildlife Management Institute. His other awards have included citations for distinguished service by the Legislative Commission of the National Education Association and by the Mid-West Electric Consumers Association, the Leland Olds Award of the Western Water and Power Consumers Conference and recognition for outstanding assistance from the National Telephone Cooperative Association.

Most recently, in 1975, he received the Distinguished Service Award of the Consumer Federation of America for "dedicated service to consumers throughout his legislative career."

[From the Hungry Horse News, Jan. 19, 1978]

METCALF OF MONTANA

Much in contrast were the funerals and national publicity given the deaths last week of two United States senators, both 66 years old and veterans of the Washington scene.

There was national and state ceremony and tribute for HUBERT HUMPHREY, former vice president, presidential contender and long-time United States senator from Minnesota who died Jan. 13. He was born May 27, 1911.

On the other hand, national radio and television had only brief mention of Lee Metcalf, born Jan. 28, 1911 who died Jan. 12 from an apparent heart attack during the night in Helena. Metcalf was elected to the United States Senate in 1960, re-elected in 1966 and 1972, and was to retire the end of this year. Previously he had served as a U.S. representative for eight years.

Funerals of Humphrey and Metcalf were in contrast. Metcalf shunned publicity, and private funeral services for him Sunday were attended by his wife, Donna, foster son, Jerry, and a niece of the Metcalfs. Cremation took place Friday.

Montana newspapers, especially the Missoulian, provided good coverage of Metcalf's passing. He was the son of Harold E. and Rhoda Smith Metcalf, born near Stevensville where his father was a cashier in the bank.

In 1936, the year he was graduated from the University of Montana law school he was elected a state representative from Ravalli County. He previously had a Stanford degree with major in economics and history. After one year as a state representative he resigned to be appointed assistant state attorney general. In 1941 when he was first assistant attorney general he resigned to become a lawyer in Hamilton.

Following distinguished Army service in Europe, Metcalf in 1946 was elected to a six-year term as an associate justice of the Montana State Supreme Court, completed the term, and was elected a U.S. representative succeeding Mike Mansfield who was elected a U.S. Senator. After four terms in the House, he was elected to the Senate to succeed retiring Senator James Murray in 1961.

Metcalf received many national awards for his interest in natural resources and conservation. He was a co-sponsor of the Wilderness Act of 1964, helped write the National Defense Education Act, was the scourge of private utility companies, accusing them of reaping excess profits.

Likely no other United States senator did more for conservation, and he was especially active in this field in recent years. The proposed Great Bear Wilderness between the Bob Marshall Wilderness and Glacier National Park is coming about much faster because of Metcalf and he more than anyone else brought about wild and scenic river designation for a part of the Missouri.

There have been many statements by Montana's Metcalf.

Joe Crosswhite, Columbia Falls, who was president of Montana's AFL–CIO from 1957 until 1969 had long association with Metcalf, and commented: "He was a skilled effective legislator, always for the working man."

The Hungry Horse News editor took a number of pictures of Metcalf starting in the 1950s.

About two years ago, Lee stopped by the office, and Cliff Greenland, local sculptor, wanted to give him a small Indian head he'd made. Lee wouldn't take it, and then we said: "I'll buy it from Cliff, and I want to give it to you."

About ten days later, a package arrived from Washington, D.C. with two brass donkeys, attractive bookends. The price was still affixed and there was a nice card. It was somewhat more than the $25 we paid Cliff.

In this day when congressmen are off on junkets all over the world, Metcalf was in contrast. Somehow one doesn't imagine him vacationing at taxpayers' expense.

Former Senator Mike Mansfield said Metcalf ". . . was the best partner I ever had . . . such a good and intelligent man." Mansfield, now ambassador to Japan continued: "Metcalf would most like to be remembered for his independence." He also praised his grasp of constitutional law, his great concern for human rights—particularly the rights of Indians.

Mansfield and Metcalf concurrently represented Montana for 16 years.

This was a high caliber team from Montana in Washington, a state that earlier had Walsh and Wheeler.

This vast, but thinly populated state, has contributed much to the nation in having such United States senators.

[From the Havre (Mont.) Daily News, Jan. 16, 1978]

LEE METCALF'S LOVE FOR MONTANA

Several years ago while visiting in Havre, U.S. Senator Lee Metcalf told us that there were times during his long political career he envied the people at home in Montana because they lived in what he termed, "God's country."

"Imagine," he said, "how wonderful it is to be able to leave the cares of your daily work and in a few minutes be in the great outdoors, relaxing and just having a wonderful time. I enjoy my work in Washington

serving our people but there is nothing like being home and Montana is home. There are so many grand people who make a home what it should be, a place of comfort and shelter where contentment prevails."

Then the senator talked about the need to protect the environment of home and he meant not only one's personal surroundings but an entire area enjoyed by his fellow man. He was in his element and his enthusiasm left us with a warm feeling.

When he came into our office we wanted to talk about some anti-corporation stand he had taken on an issue but in hearing Sen. Metcalf talk about the joy which could be found in one's surroundings we completely forgot his brief encounter with big business. He left us feeling so much more appreciative of the wonders of Montana. The senator's sincerity about protecting our surroundings for future generations to enjoy left us satisfied and we have a lasting memory of a man who cared for God's gifts of nature.

This in part is reflected in the senator's service as a member of the Senate Energy and Natural Resources Committee and his dedication to work on subcommittees such as energy conservation and regulation, parks and recreation, public lands and resources of which he was a chairman.

Much of his political philosophy was not in line with ours, liberalism vs. conservatism, but on matters of conservation and protection of environment we could relate to him.

Senator Metcalf was cooperative and responded promptly to all inquiries we directed at him and he recognized the value of communication. We will miss him. HCW

[From the Great Falls (Mont.) Tribune, Jan. 14, 1978]

SENATOR LEE METCALF

Sen. Lee Metcalf was a man of integrity and courage.

He was a Democratic liberal who took strong positions and talked bluntly and plainly on positions he considered in the public interest.

During his long and distinguished career in government, Lee Metcalf was recognized as an outstanding champion of education and conservation.

In his four terms in the U.S. House of Representatives and three in the Senate, Metcalf was a leader in moves to improve education. In 1959, as a member of the House, he and the late Sen. James E. Murray of Montana, co-authored the Murray-Metcalf bill to extend federal aid to public schools. That became the forerunner of the Elementary and Secondary Education Act of 1965 which has played a significant role in public school financing.

The late Sen. Wayne Morse of Oregon called Metcalf "Mr. Education" for his efforts to improve education.

Metcalf was proud of his sponsorship of legislation to aid libraries, especially those in rural areas.

As a senator, Metcalf was recognized as one of the most able parliamentarians in Washington, D.C. He was invited frequently to participate in international parliamentarian conferences.

Mike Mansfield, now ambassador to Japan and Senate Majority Leader for a record 16 years, credited his friend and "best partner" Metcalf with having the finest legal mind in the Senate. Metcalf was elected acting president pro tempore of the Senate and held that position longer than any other person in history.

In an interview with Tom Kotynski of the Tribune's Capitol Bureau a week before he died, Metcalf confided that he thought his worst political mistake was leaving the House to run for the Senate.

He explained that opportunities for leadership in the Senate had been closed to him because of Mansfield's powerful position as Majority Leader. Senate rules prohibit two senators from the same state holding leadership positions.

If he had remained in the House, Metcalf would have achieved top leadership positions. In his first term in the House, he helped organize and became the first chairman of the Democratic Study Group, composed of young liberals who wanted to reform the archaic practices of the House.

Metcalf understood the importance of seniority in Congress and said he would resign as soon as his elected successor, Democrat or Republican, was certified.

Metcalf's untiring work on behalf of the outdoors won him many honors. He was one of a handful of persons cited by the five major national conservation organizations for distinguished service to conservation.

That award, presented after Metcalf's first term in Congress, was given to the Montanan by the late Bernard DeVoto, Pulitizer prize-winning historian, on behalf of the Izaak Walton League of America, the National Parks Association, National Wildlife Federation, Wilderness Society and the Wildlife Management Institute.

The citation, which indicated the path Metcalf would take in following years in the House and Senate, might well serve as an epitaph for the senator. It read:

"Lee Metcalf's alert and continuing work in the nation's capital has won him widespread respect and admiration. By virtue of his profound interest and comprehensive understanding of conservation and its objectives and problems, he has, during the first term of office as a member of the House of Representatives of the U.S., emerged as a defender of the principles of better management and wise use of natural resources for the benefit of all the people . . ."

Future generations of Americans will appreciate Lee Metcalf's hard work and foresight on behalf of conservation measures and wilderness areas.

[From the Helena (Mont.) Record, Jan. 13, 1978]

THE UNKNOWN SENATOR?

A 1971 magazine article about Sen. Lee Metcalf was headlined "The Senator No One Knows."

If Lee Metcalf was known as the senator that no one knows it was because he was more concerned with his work in the Senate than he was with publicity.

Metcalf accomplished a great deal during his years in Congress and the Senate, but he shunned publicity. Congressmen usually make it a point to visit newspaper, radio and TV offices when they return to their home states. Not Lee Metcalf. When he returned to Montana he visited with his constituents—not the press. He did his job and let the results speak for themselves.

Whether you agreed with his political philosophy or not you had to admire a man who truely was his own man. He voted his conscience.

Metcalf served in Congress for almost 24 years. During this time he gained a reputation as an ardent foe of investor owned utilities, a champion of the rights of the American Indian, a man who zealously sought to protect the interests and rights of the average person.

In recent years he zeroed in on investigating the role of the thousands of advisory committees that he felt exercised undue influence over government; he was instrumental in revising Congress' control over the budget and gained a national reputation for his staunch advocacy of tough federal strip mine reclamation laws.

It was Metcalf who fought to preserve the Missouri River—a long fight that he only recently won. He also was a strong supporter of wilderness legislation.

Maybe Lee Metcalf was the senator no one knew in Washington. But he was a man who was known and respected in his home state.

Lee Metcalf will be remembered by his colleagues and his friends in Montana as a fiercely independent man; a man who gained a reputation as an expert on constitutional law; a man who presided over the Senate more than any other senator.

He has more than earned his place in Montana history.

[From the Great Falls (Mont.) Tribune, Jan. 13, 1978]

CENTRAL MONTANANS REMEMBER SEN. METCALF AS STAUNCH SUPPORTER OF WORKING PEOPLE

Lee Metcalf was once described in a biography as "one of one hundred."

In his book, "Metcalf of Montana," Richard Warden wrote, "The United States Senate has just 100 members representing almost 200 million Americans in the 50 states. They are not average people sent to Washington to do an average job, but are leaders chosen by their fellow citizens for the all-important task of directing our country's government."

This is the kind of job Montanans think Metcalf did:

Ray Graham, Great Falls, retired smelterman—"You'd have to go back to Montana's Sen. Thomas Walsh to find a senator comparable to Lee Metcalf. I met him first when he was in the legislature and I campaigned for him the first time when he ran for the Supreme Court. He was a people's representative. He represented no particular group. What was best for the common good of all the people was what he supported. For instance, he believed the wilderness belongs to all of us, not just those who want to sink a mine shaft or dig an oil well for personal gain. It belong to all of us. I'll tell you the kind of man he was: He said he wouldn't get into any fights over his successor. But he did say that whoever was elected, he would resign right after the election so Montana's new senator would have seniority. That speaks for him."

James Pasma, Havre, Democratic national committeeman—"I think it may very well be that the conservationists, the working people, the minorities and the less fortunate in our midst have lost their most consistent ally from the U.S. Senate."

Archie McInnis, Great Falls, retired rancher and former legislator from Judith Basin County—"When my son, Jack, was going to Georgetown University and his wife was going to University of Maryland, my wife and I went back to babysit their youngster for more than a year. I used to go down to the Capitol and chew the fat with Sen. Metcalf. He was wonderful. He was also very direct and to the point. I was sitting in his office once waiting for him to get off the phone. I heard him tell someone, 'And you tell them I think he is a son-of-a-bitch!' I laughed. There were all those secretaries around, you know. The senator looked at me in surprise, as if to say, 'You think I'm joking, don't you?' "

P. J. "Pat" Gilfeather, Helena, member of the Public Service Commission—"Ever since he started running for office, he tried to do that which he thought would serve the future, as well as the present. He felt we needed to preserve our wilderness and natural resources in a way which would benefit not only us, but those who are to follow. Some today give thought only of today and how to get out of the mess they're in. I'm very sorry I didn't repay him for a dinner I think I owed him. When I first ran for the Public Service Commission, right after the formation of the new districts, I had the honor of having him speak for me at a big Democratic get-together in Great Falls. This was because of his interest in public utilities. I promised I'd take him out to dinner. I reminded him of it last fall when

he paid the commission a visit. But we never got around to it."

Loretto Lohman Roberts, Great Falls, longtime Democratic volunteer—"Sen. Metcalf certainly has been a protector of Montana and a great asset to us. And he certainly worked to keep the utilities in line. Remember that whole page he took out in the Great Falls Tribune? And the book he wrote? He's gone to bat for us to keep things equalized. I've known him for maybe 25 years. I remember visiting his office in Washington in 1964 at the time of the Democratic National Convention. I remember a beautiful reception for the delegates at the National Gallery, at which Mrs. Metcalf served as a hostess. We met all the Kennedy family and the cabinet, Senate and House wives. The Marine Band played in the midst of red and white azaleas. This isn't important but it was what he was a part of back there. Yet he always spent his time working for us."

Dorothy Floerchinger, Conrad, retired educator and community worker—"I knew Lee Metcalf from the time he was a young congressman. I attended a Farmer-Labor Institute at the University of Montana during the 1950s and I remember how thrilled I was to meet a young person with such big ideals. I was so shocked to hear about his death. I had been reading about him retiring and I was hopeful he and Mrs. Metcalf would have some years to travel and have some fun."

N. J. "Doc" Dougherty, Cascade County Democratic chairman—"When I heard the news I couldn't help but think back to a recent news story telling how Sen. Metcalf had not really wanted to run for Murray's Senate seat back in 1960, and how he believed he could have made more impact by remaining in the House. I think that may be true. But I also think his leadership in the Senate has brought about much correction in corporate structures. He was the most anti-big corporation in the U.S. Senate. I'm referring to the cartel-type corporate structure. I think he probably treasured his recognition in the environmental field more, however. He was a walking encyclopedia there."

[From the Helena (Mont.) Standard, Jan. 13, 1978]

MIKE MANSFIELD MOURNS LOSS OF HIS "BEST PARTNER"

TOKYO.—Former U.S. Sen. Mike Mansfield, notified Thursday afternoon of Sen. Lee Metcalf's death, said he had lost his "best partner."

Mansfield, American ambassador to Japan, learned of his former colleague's death in a telephone call from the Standard State Bureau. In a brief interview, Mansfield eulogized his former colleague as "the best of men and the finest legal mind in the Senate."

Mansfield, whose voice broke several times during the interview, said he was "shocked and saddened" at the news. "It's terrible . . . he was the best partner I ever had . . . such a good and intelligent man."

The ambassador said it was especially ironic that Metcalf, who had announced retirement plans, was unable to serve out his term of office.

Mansfield said he had received a letter from Metcalf Wednesday in which Metcalf indicated he was looking forward to his last year in the Senate "and looking forward even more to his return—permanently—to the Big Sky country so he could enjoy the state and his retirement with (his wife) Donna."

Mansfield said he would be unable to return of Metcalf's funeral because of on-going U.S.-Japan trade negotiations. Mansfield was reached at 7:30 a.m. Friday, Tokyo time, and had to temporarily abandon a negotiating session to take the call.

He said he thought Metcalf would most like to be remembered for his independence. "The occasion was not rare when he stood alone in voting against popular Senate sentiment," Mansfield said.

The ambassador also said Metcalf should be remembered for his grasp of Constitutional law and his "great concern for human rights—particularly the rights of Indians."

Metcalf succeeded Mansfield as Western District congressman when Mansfield was elected to the Senate in 1952. In 1960, Metcalf, too, advanced to the Senate, where the two men concurrently represented Montana 16 years.

EXHIBIT 2

[From the Missoula (Mont.) Missoulian, Jan. 13, 1978]

LEE METCALF

The shock of Lee Metcalf's sudden death is profound. He was a controversial man, not a great one, but a person of courage and intelligence and fundamental humanity.

The mind immediately turns to the political implications of this. Will Gov. Tom Judge resign and have himself appointed to Metcalf's United States Senate seat by his successor Lt. Gov. Ted Schwinden? It could resuscitate Judge's faltering political career. Or will . . .

But enough of that Speculation is reflexive, but at this moment it somehow smacks of throwing dice for a martyr's cloak. There is time to allow the politics of this to jell.

For now there is a feeling of deep sadness over the death of this strange man, this honored yet bitter man, who served his state so well.

Metcalf said in an interview published just last Sunday that he wishes he had remained in the House of Representatives.

It wasn't, he said, that he and Mike Mansfield didn't get along, it was just that the Senate has room for only one man from any state in a high leadership position, and Mike was already there.

Men who, like Metcalf, entered the House in 1953, rose to positions where they could get what they wanted done, he said. By going to the Senate, he never achieved that vital edge of power.

Metcalf was a founder of the Democratic Study Group—a loose coalition of liberal representatives who banded together to counterbalance the conservative and southern influence in the House. When Metcalf in 1960 went to the Senate, he stepped off that growing power base, and mired his career.

Yet he served Montana well. This year his wilderness study bill, S. 393, was enacted. He constantly rattled the corporate cages, the regulatory commissions, the secret committees that advise federal agencies.

His instinct for the little person and his gut distrust of the powerful were right on. Though he executed his designs sometimes clumsily, he struck fear where fear belonged that this bear of a man would somehow break loose and devour his enemies.

Lee Metcalf made a difference. Wait and see. Because love him or loath him, you always knew where he stood, and why. And when he took a stand, he knew what he was talking about. There are many persons in high office who are slicker, and smoother, and who talk better, and who always will be lesser men than he.

[From the Butte (Mont.) Montana Standard, Jan. 16, 1978]

LEE METCALF

Lee Metcalf was a fighter.

Really.

Once, when he was a corporal in the army, he knocked his sergeant down a flight of steps. Despite that, he later became an officer in an anti-tank unit and fought the Nazis, too.

In the early 1960s, an elevator operator in the Senate building got sassy with Metcalf. Metcalf gave him a good dressing down and a stiff shaking up.

A well-known Washington reporter once wrote that Metcalf had "a quick temper that he has sometimes released through his fists."

Metcalf's blunt, to-the-point personality expressed itself in other ways, of course Constituents who wrote him letters urging him to change his viewpoint on an issue often got a letter back that said "no," and very little more. And when Sen. John Melcher criticized parts of wilderness legislation Metcalf was supporting, Metcalf responded that Melcher was, well, a prevaricator.

Metcalf wasn't a run-of-the-mill, glad-handing politician. He did not court the press. In fact, the only time one editor ever saw Metcalf in his newsroom was shortly after the editor had expressed doubt to a Metcalf aide that the Senator really existed. Having personally assured the editor that he did exist he left the newsroom and never showed up again. He generally ignored the press even during campaigns. But it wasn't hostility, as far as we know, it was just the way he was—independent.

But Metcalf also was a fighter in another sense—he fought for what he believed in throughout his public career.

He fought against what he felt was greed and irresponsibility in corporate interests. His ties to organized labor were strong (perhaps too strong at times), and he seldom let down labor in a legislative battle. His was a key vote in passing the federal "bailout" plan for Lockheed Aircraft Co. a few years ago. Metcalf had planned to vote against the federal loan guarantee for the company, but changed his mind at the last minute, saying he couldn't vote away the jobs of Lockheed's many workers.

He fought for civil rights. At one point in 1970, when Congress was considering the District of Columbia Crime Bill—which would have allowed persons suspected of being potential wrongdoers to be held without bail and which would have allowed police to conduct warrantless searchers—a Senate vote favored the bill, 80–1. Metcalf was the one.

In recent years, the battle for more wilderness areas occupied much of Metcalf's time. He believed in preserving generous amounts of Montana's unspoiled magnificence for future generations. It may have been his noblest cause, and we wish Metcalf had lived to come back to Montana, as he had hoped to do, to enjoy a long and happy retirement in the state he loved.

Metcalf was no saint. But we'll miss him, flaws and all, and so will thousands of other Montanans. All in all, he was a pretty good man.

Mr. MELCHER. Mr. President, I now yield to my colleague from Montana, Senator PAUL HATFIELD.

LEE METCALF: A GREAT JURIST AS WELL AS U.S. SENATOR

Mr. HATFIELD. Mr. President, I am pleased that my first remarks on the floor of the U.S. Senate can appropriately be a tribute to my distinguished predecessor, the late Senator LEE METCALF, whom I am succeeding.

LEE METCALF was my friend and mentor. I regarded myself highly honored when the Senator mentioned my name among others as a possible successor upon his retirement. Like all other Montanans, I was shocked and saddened by Senator METCALF's passing, because we had lost a great Senator and I had lost an admired friend, and because he could not return to Montana, as he had planned, to enjoy many years as an elder statesman in what he always called "God's Country," or the Big Sky Country, where we still have unmarred mountain peaks, great tracts of primitive

lands, and an abundance of still unpolluted air and water.

The Members of this body know LEE METCALF's record as a U.S. Representative and Senator more intimately than I, so I shall not dwell on his great record here as a conservationist, as a champion of human rights, of equal educational opportunities, and an abundance of them, for every American youth, of wise use of our natural resources, and many other things.

I am LEE METCALF's successor not only in this body but also as a member of the Montana Supreme Court on which he served before coming to Congress.

Justice Metcalf, perhaps more than any other member of the court, underscored and firmly established for the courts of Montana the principle of unyielding protection of the rights of the individual against the power of Government at any level. His decisions are still beacons for all who have followed him on the Montana bench. He was a strict constructionist for the individual rights guaranteed by the Montana and U.S Constitutions.

He never wavered from this stance. Some years ago, his was the only vote cast in this body against a so-called no-knock, search and seizure bill, which he regarded as an invasion of individual constitutional rights. Later, the U.S. Supreme Court declared the law unconstitutional, in language strongly parallel to that used by Senator METCALF when he cast that lone vote against the bill. The incident was typical of his courage and of his unusual knowledge and grasp of the basic law of our republic.

LEE METCALF left another legacy for future generations in Montana in his strong defense of our State school lands.

Montana still owns 4 million acres of lands granted to the State when it was admitted to the Union.

As happened in other States, certain interests coveted those lands and their riches. LEE METCALF, as an assistant attorney general and as a Supreme Court justice, was adamant that those lands and the income they produced were the birth-right of the children of Montana and were for no other purpose. They still serve that purpose. Senator METCALF's protection of those lands was, of course, only one of his initial battles for education—a precursor of his great work for education in Congress.

SENATOR METCALF CANNOT BE REPLACED

I am not his replacement, but his successor. I hope, with your help and that of his beloved Montanans, that I can carry on in his footsteps in this great body and serve my State and the Nation as he served them throughout his whole career in public life.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I join my colleagues in extending heartfelt condolences to Donna Metcalf and to the people of the State of Montana on the loss of their distinguished senior Senator, LEE METCALF. The people of our Nation owe a great debt to LEE METCALF, the author and sponsor of many pioneering environmental measures, including the Wilderness Act. The progress made during the last decade in cleaning up our environment is due in large measure to the senior Senator from Montana who in his farsighted efforts in the 1950's and early 1960's pioneered the way. His leadership also made the difference on measures involving strip mining, clean water, clean air, agriculture, and environmental education.

But LEE's interests extended far beyond the environment. A founder, in the 1950's, of the House Democratic Study Group of which I was once a member, he promoted many of the congressional reforms adopted by subsequent congresses which have made the U.S. Congress more responsive to the people. His latest efforts, as a member of the Governmental Affairs Committee and chairman of its Subcommittee on Reports, Accounting and Management, were aimed at making big business more accountable and more sensitive to the needs of minorities and women. He was particularly interested in young people and helped draft improvements in the Federal Government's educational aid programs and job training programs.

As traveling companions to Senator and Mrs. METCALF in 1969, my wife and I enjoyed their company even more than the sights seen.

Senator METCALF's death leaves a gap in our ranks which will not be soon filled. As one who was fortunate to share his personal friendship and counsel, I too will miss him dearly. Mrs. Matsunaga and I extend our deepest sympathy to his widow, Donna, and other members of his family, and pray that the good Lord will be with them and comfort them.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. METZENBAUM. Mr. President, I rise today to speak about HUBERT HUMPHREY, beloved Member of the Senate who recently passed away, but I must confess that I find words inadequate to express my admiration for this brilliant, vibrant, and compassionate man, my respect and gratitude for his enormous achievements, and my profound sadness at his passing.

For me, as for so many millions of others, HUBERT HUMPHREY was the embodiment of much that is great in the American spirit. He was a man of intellect—a great learner, always open to new ideas, curious about everything. But he was also an eminently practical man—a master of politics in the classic sense, a peerless legislative craftsman, a man accustomed to getting results. He was an optimist and a realist, a visionary and a pragmatist. He believed deeply in the promise of America and he did as much as any man of his time to make that promise a reality.

Mr. President, there will be many monuments to HUBERT HUMPHREY. Schools and other public buildings will bear his name. University professorships will be endowed in his honor. But his real monument—the one I am sure he would value the most—is the fact that through his efforts, he was able to make his beloved country a fairer and more decent place to live in.

Working men and women in America know that HUBERT HUMPHREY supported them in their struggle to secure fair wages and safe working conditions.

Black Americans remember that HUBERT shared their passion for freedom and that he stood by his commitment to equal rights from the beginning of his public career until his dying day.

Jewish-Americans remember HUBERT as a determined foe of ethnic and religious prejudice and a faithful friend of Israel.

Poor people in America know that HUBERT fought tirelessly to insure jobs and human dignity for all. They will not forget that he stood up against those who would punish the poor for their poverty.

It can be truly said of HUBERT HUMPHREY that the world is a better place for his having lived in it. We shall not soon see his like again.

And finally, Mr. President, I want to extend my condolences to the Humphrey family and, above all, to Muriel Humphrey, the one who stood by HUBERT through all his triumphs and disappointments. Her gentle spirit was his support and her great courage sustained his own.

During these last trying months there was none to compare with Muriel Humphrey. She conducted herself as only she could. She provided all of us with a living model of courage and dignity. After HUBERT HUMPHREY left this Earth, those of us who were present during the funeral services saw again this wonderful human being standing tall, as her HUBERT would have wanted her to.

She had a warm word for those who came to pay their respects, and she provided a sense of dignity to the funeral services that was incomparable.

She has my deepest sympathy, my family's deepest sympathy, for her loss, and my warmest best wishes for her happiness in the future.

She is a lady in every sense of the word. As we cherish HUBERT HUMPHREY's memory, we also pay our respects to his beloved Muriel.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. METZENBAUM assumed the chair as Acting President pro tempore.)

Mr. ANDERSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempport. Without objection, it is so ordered.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, it is no insult to anyone in this body to say that there is no one here like our late and beloved colleague, HUBERT H. HUMPHREY.

However successful, however productive, no present Senator can claim his role—as the most effective Senator of the 20th century—as a creative and persuasive advocate of the public good—as a symbol of hope that life could be better for people all over this world.

We already desperately miss his voice—not only on the public issues before this distinguished forum, but also in the quieter, personal moments we all cherished and shared with him.

HUBERT asked, before his death, that we not spend our time in eulogies, and said in his typical wit:

I have had enough eulogies for two life times.

That might have been true for others, but enough cannot be said for this remarkable man. If he received eulogies for two life times, it was totally appropriate since he accomplished two or three or more times what most productive people do in their lives.

Over a third of his life was spent in this body—23 of his 66 years—and during that time he led this body and this Nation to historic accomplishments—civil rights legislation, Federal aid to education, arms control and disarmament, medicare and other health legislation.

His concerns were universal, his interests broad. And they led him beyond his monumental accomplishments into every field of Senate activity, from farm policy to oceanography, from job and labor legislation to Government reorganization, from sewerage treatment plants at home to major foreign policy problems in the most distant corners of the world.

Like few others, HUBERT HUMPHREY could see what was ahead and he knew what he wanted America to do about what he saw. He was an uncommon common man who believed in the brotherhood of man and that every American certainly should have a chance to be whatever his talents would permit him to be. To those who had little—victims of poverty, discrimination, and neglect—he devoted himself tirelessly. HUBERT HUMPHREY insisted that this country belonged to everyone and because of him, it more nearly does.

HUBERT was not perfect and often said of himself, "I did not run on the sainthood ticket," but he set the standard of public leadership for all of us. He earned acclaim and respect because his goals were noble, never self-serving; because get even was less important to him than get on with the work at hand; because tolerance and joy and love were not words only, but the guiding realities of his life.

What better sums up his view of life than his own words:

I have enjoyed my life, its disappointments outweighed by its pleasures. I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, and without apology, about this country and about the American experiment in democracy.

Mr. President, HUBERT HORATIO HUMPHREY was the ultimate patriot who gave this Nation all of himself, who never held back, who never asked more of others than he did of himself.

He put everything he had into every honorable battle he fought. He gave his God and mankind everything he could every day of his life.

He lived and worked and served "with malice toward none, with charity for all; with firmness in the right, as God (gave him) to see the right."

If HUBERT could give us his voice yet another time, his voice might well be like that of Lincoln, "Let us strive on to finish the work we are in."

Mr. President, "His life was gentle, and the elements so mixed in him that nature might stand up and say to all the world, "This was a man.' "

I, for one, never expect to know another man like him. We honor HUBERT HUMPHREY today in death; he blessed us with his life.

Mr. President, I am also submitting as part of this tribute to HUBERT H. HUMPHREY and ask unanimous consent to have printed in the RECORD the highlights of his legislative record in the Senate. In addition, I will submit for the RECORD in the next few days a compilation of the many tributes paid to Senator HUMPHREY at the time of his death.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF THE LEGISLATIVE RECORD OF SENATOR HUBERT H. HUMPHREY

There are two significant points about the legislative activities of Hubert H. Humphrey, during his 23 years as a United States Senator (1949–64, and 1971–77) and four years as Vice President (1965–69). First, he was an innovator, a legislator on the cutting edge of evolving national issues, and perceiving rights and needs of people that had not yet been effectively addressed.

Second, the range of issues in which he became directly involved was extremely broad—from projects of immediate concern to people in Minnesota, and the needs of disadvantaged and minority groups which otherwise might not have been subjects of national interest, to major domestic issues and problems of profound international concern.

No attempt to assess the legislative record of Senator Humphrey can deal only with the large number of bills he sponsored. It also must take account of his intensive and highly visible efforts in Senate committee work, including the issuance of major studies and reports by committees where he served as chairman.

It must recognize his contribution in negotiating consensus on the Senate floor in support of the passage of key legislation, as well as his vital roles as floor manager for a bill, as Senate Majority Whip during 1961–64, and as President of the Senate during his term as Vice President.

Finally, such an assessment must include Senator Humphrey's numerous other activities, including well-timed public and Senate speeches, and unilateral negotiations with the Executive branch and with primary interest groups, in the course of action on a particular bill.

On the basis of these various considerations, Senator Humphrey generally is associated with the following national policies, laws, and programs:

Medicare (initial legislation jointly sponsored in 1949—enacted in 1965).

Policies and programs on behalf of the elderly—expanded benefits under Social Security; restriction on discrimination in employment on the basis of age; creation of the National Commission on Aging, and the Administration on Aging, in HEW.

Commission on Civil Rights (initial bill sponsored in 1949).

Civil rights policies based on initial bills, first sponsored in 1949 and 1951, to outlaw lynching, to eliminate the poll tax as a voting requirement in national elections, to desegregate public transportation, to protect constitutional rights and political participation under federal law, and to affirm equal employment opportunity.

Civil Rights Act of 1964, and subsequent voting rights and fair housing laws.

Creation of the Senate Subcommittee on Disarmament in 1955, the sole public forum in Congress for several years on arms control issues.

Establishment of the Arms Control and Disarmament Agency (1961).

Senate approval of the Limited Nuclear Test Ban Treaty of 1963.

Establishment of the Peace Corps (initial bill in 1960).

Creation of the Food for Peace program (proposed in 1950, and established in 1954).

Immigration reform (initial bills sponsored in 1952—basic revision enacted in 1965).

Continuation and major reforms of foreign economic assistance programs, most recently in the International Development and Food Assistance Act of 1977, which includes a focusing of aid on problems of poverty, hunger, and self-development needs.

The International Security Assistance and Arms Export Control Act of 1977—an important initiative in establishing controls over governmental sales of conventional weapons to other nations.

Strengthening U.S. participation in International Financial Institutions and revising the purposes of their assistance to developing nations.

Establishment of the Department of Housing and Urban Development (an initial bill, sponsored by Sen. Humphrey, was favorably reported by his subcommittee in 1957).

Basic housing and urban assistance laws of 1961 and 1964.

Promotion of national policies and studies focused on balanced growth and development (including legislation, S. 3050, introduced in the 93rd Congress, and economic planning legislation, S. 1795, sponsored with Sen. Javits, in the 94th Congress).

Proposal for establishing a national urban development bank—initially, as Vice President, in 1968, and most recently as provided in S. 1396, introduced in 1977.

Revenue Sharing (with Rep. Reuss, PL 92–512) and anti-recession aid to state and local governments (with Sen. Muskie—enacted in 1976).

Emphasis on developing effective intergovernmental relations, beginning with legislative activities as subcommittee chairman, 1949–50, and highlighted in his work, while Vice President, as the President's Liaison to Local Governments.

Creation of the Job Corps (associated with initial bills by Sen. Humphrey, beginning in 1949, to create a Youth Conservation Corps, and his subsequent efforts in support of enactment of the Economic Opportunity Act of 1964).

Migrant farmworker assistance (beginning with initial legislation sponsored in 1952, to establish a Federal Committee on Migratory Labor).

Jobs for youth—given repeated emphasis by Sen. Humphrey, including initial legislation in 1956 on vocational training for youth—provisions of which were incorporated in the Manpower Development and Training Act of 1962, and continuing through 1977, with his strong support for the enactment of the

Youth Employment Act and his initiative in proposing the OECD International Conference on Youth Unemployment, held in Paris in December, 1977.

Establishment of the Headstart program on early childhood development.

Continuous legislative efforts to strengthen labor-management relations and to improve working conditions and minimum wages—beginning with the activities of the Senate Subcommittee on Labor, which Sen. Humphrey chaired in 1951–52.

First federal programs of aid to elementary and secondary education (based on bills reported by a subcommittee chaired by Sen. Humphrey, and enacted in 1950).

Federal scholarship program (subsequently incorporated in the National Defense Education Act of 1958).

Washington seminar programs for high school youth (including the U.S. Senate Youth program, created in 1962, and the Allen J. Ellender Fellowships program, enacted in 1972).

Support for the creation of the Woodrow Wilson International Center for Scholars (associated with the Smithsonian Institution).

The Food Stamp program (enacted in 1964).

Nutrition programs for mothers, infants, and children (including W.I.C., and significant improvements in school lunch programs, as well as the development of nutrition education programs).

Veterans and dependents assistance (beginning with bills sponsored in the early 1950s to improve educational, health, and employment benefits, to extend life insurance coverage, and to aid maternal and infant care; and subsequent initial legislative proposals later incorporated in the Cold War GI Bill of Rights).

Creation of the National Council on the Arts, and the National Foundation on the Arts and Humanities (Sen. Humphrey sponsored an original bill in 1957 and introduced the basic authorizing legislation in 1963).

Associated with the establishment of the National Portrait Gallery (sponsor of the initial bill in 1961); the Frederick Douglass Museum of African Art, and the Kennedy Center.

The Wilderness Preservation Act of 1964 (beginning with legislation sponsored in 1957).

The Forest and Rangeland Renewable Resources Planning Act of 1974.

The National Forest Management Act of 1976.

The Consolidated Farm and Rural Development Act of 1972 (preceded by a nationwide series of public hearings by the newly created Subcommittee on Rural Development, chaired by Sen. Humphrey).

Key improvements in federal programs to strengthen American agriculture and to assist farmers, most recently in the Food and Agriculture Act of 1977.

Enactment of legislation on grain export standards, making reforms in U.S. inspection procedures (1976).

The Commodities Futures Trading Commission Act (1974).

Policies addressed to combating world hunger (including, in addition to the Food for Peace program, early legislative initiatives on broadened agricultural export policies to assist food-deficit nations, the Senate-approved World Food Action program of 1974, and proposals for establishing emergency strategic grain reserves).

Statutory law providing for the humane slaughter of livestock and poultry, based on initial legislation sponsored in 1955.

Major emphasis upon formulating a comprehensive employment policy for the 1970s, highlighted during Sen. Humphrey's term as chairman (1975–76) of the Joint Economic Committee, which conducted extensive and in-depth hearings in Washington and across the nation to focus public concern, and produced major studies and reports. These committee activities led to innovative legislative proposals by Sen. Humphrey on promoting private sector initiatives and developing multi-faceted federal policies and programs on full employment, anti-recession aid to cities and longer-term urban development, tax incentives, youth employment, expansion of public works projects, capital formation, and small business aid. In addition to calling for new national and regional policies targeted on balanced and stable economic growth, as well as on specific and newly arising job-creation problems in America, Sen. Humphrey focused public attention on emerging, critical international economic issues associated with the increasing independence of nations.

Early and continuous efforts on achieving reforms in election laws, campaign financing, code of conduct for federal officials and members of Congress with respect to financial interests, as well as modernizing the organization and procedures of Congress, including its budget management capabilities, as reflected in the following original legislation he sponsored and activities he undertook:

1950: an initial resolution to establish a Joint Committee on the Organization of Congress.

1951: an original bill to establish a code for official conduct of Executive officers and employees.

1952–53: bills on constitutional amendments to provide for the direct popular election of the President and Vice President, and to give 18-year-olds the right to vote; to provide for campaign finance reforms in federal elections; and to establish financial disclosure requirements for members of Congress.

1961: an initial bill to revise the Senate rule on cloture.

1971: chaired Senate Democratic Caucus committee which proposed reforms in the process for selecting committee chairmen.

1973: legislation to modernize Congressional procedures and facilities, and to examine reforms in Senate committee jurisdiction responsibilities.

1973–74: chaired the Democratic Party's Commission on Vice Presidential Selection, which proposed reforms for national party conventions; and participated in legislative efforts to establish procedures for filling a vacancy in the office of the Vice President.

The Humphrey-Durham Drug Act of 1951 (consumer protections with respect to potent or habit-forming prescription drugs).

Programs for handicapped persons:

Original bills in 1952–53 on aiding physically handicapped persons, and to include mentally disabled persons in programs under the Vocational Rehabilitation Act.

The Community Mental Health Centers Act of 1962.

The Mental Retardation Facilities Construction Act of 1962.

Support for affirmative action requirements and expanded education opportunities on behalf of handicapped persons (including amendments to the Rehabilitation Act of 1973).

Disability benefits for the blind (most recently, in an amendment to the Social Security Financing Act of 1977).

Maternity and infant health care assistance programs—initial bill sponsored in 1951.

Promotion of world health research and information communication—particularly in the course of activities as a subcommittee chairman during 1958–64.

Early and continuous emphasis on consumer protection, as exemplified in his introduction in 1958 of legislation on automobile safety (seat belt standards), and his joint sponsorship in 1959 of a bill to establish a Department of Consumers. Primary consumer economic concerns were highlighted during hearings by the Subcommittee on Consumer Economics, chaired by Sen. Humphrey during 1973–76, of the Joint Economic Committee.

The Solar Energy Research Act of 1974, and subsequent solar and other alternative energy resource research and development authorizations. Sen. Humphrey introduced initial bills on solar energy research in 1962 and 1964.

Promotion of scientific research, including:

An initial bill in 1958 to create a Department of Science and Technology, and to establish the National Institutes of Scientific Research.

As chairman of the Senate Government Operations Subcommittee on Reorganization and International Organizations, Sen. Humphrey initiated important studies and reports on worldwide activities in health research, and proposed cooperation between the United States, the Soviet Union, and other nations on cancer research (1958–64).

As Vice President, he served as Chairman of the National Aeronautics and Space Council, and of the National Council on Marine Resources and Engineering Development.

In 1972, Sen. Humphrey worked in support of the establishment of the Congressional Office of Technology Assessment.

Principal bills enacted during Sen. Humphrey's service as Majority Whip of the Senate (in addition to previously listed laws), 1961–64:

Area Redevelopment Act of 1961 (depressed areas).

Juvenile Delinquency and Youth Offenses Control Acts of 1961 and 1964.

Manpower Development and Training Acts of 1962 and 1963.

Trade Expansion Act of 1962.

Public Works Acceleration Act of 1962.

Public Welfare Amendments of 1962.

Vocational Education Act of 1963.

Health Professions Education Assistance Act of 1963.

Nurse Training Act of 1964.

Urban Mass Transportation Act of 1964.

Library Services and Construction Act of 1964.

Land and Water Conservation Act of 1964.

Economic Opportunity Act of 1964.

Revenue Act of 1964 (tax cut).

Presidential appointments during his early service as a Senator:

U.S. Delegate to the United Nations in 1956–57.

U.S. Delegate to the UNESCO Paris Conference in 1958.

U.S. Delegate to the Geneva Conference on Nuclear Test Suspensions in 1958.

Principal responsibilities as Vice President, 1965–69:

President of the Senate.

Member of the Cabinet, and of the National Security Council.

Chairman of the President's Council on Youth Opportunity—stimulated nationwide programs, leading to the provision of 1.4 million summer jobs for disadvantaged youth in 1967 alone.

Chairman of the President's Council on Recreation and Natural Beauty.

Chairman of the National Council on Indian Opportunity.

Chairman of the President's Council on Physical Fitness and Sports.

The President's Liaison to Local Governments (developed an original resource on federal domestic programs, entitled "The Vice President's Handbook for Local Officials").

Honorary Chairman of the National Advisory Council to the Office of Economic Opportunity.

Chairman of the National Aeronautics and Space Council.

Chairman of the Peace Corps Advisory Council.

Chairman of the National Council on Marine Resources and Engineering Development.

Chairman of the Special Task Force on Travel USA.

Members, Board of Regents, Smithsonian Institution.

The President's Liaison to "Plans for Progress."

At the request of the President, Vice President Humphrey undertook a number of foreign missions—to Latin America; Southeast Asia, India, and Korea; Africa; Canada; and Europe.

Overseas trips by Senator Humphrey on official business during 1972–75:

In December, 1972, on behalf of the Senate Agriculture and Forestry Committee, he held discussions on food policy with officials in the Soviet Union, Poland, and the Federal Republic of Germany.

In 1974, he was a member of the Congressional delegation to the People's Republic of China. His personal report on this visit was widely reprinted in the news media. In 1975, the Joint Economic Committee, under his chairmanship, issued a major report, entitled "China: An Economic Reassessment."

In November, 1974, he was a Congressional advisor to the U.S. delegation to the World Food Conference in Rome—his proposals led to new U.S. initiatives in international efforts to aid hungry nations.

In April, 1975, he led a Congressional delegation to Europe to assess the status of NATO and U.S. military assistance policies.

In June, 1975, he led a 14-member Senate delegation to Moscow, for the first formal meeting between a delegation from the U.S. Congress and the Supreme Soviet. Discussions in the Kremlin covered trade relations, the emigration of Soviet Jews, arms control negotiation issues, Middle East tensions, agricultural production, and formalizing future contacts between American and Soviet parliamentarians.

Senator Humphrey's offices in the Senate:

Assistant Majority Leader (1961–64).

President (as Vice President of the United States) (1965–69).

Deputy President Pro Tempore (1977).

Senator Humphrey's assignments to Senate Committees, and his chairmanships of Senate subcommittees:

Agriculture and Forestry (renamed as Agriculture, Nutrition, and Forestry in 1977)—1951–60, 1971–77:

Chairman of the Subcommittee on Agricultural Research and General Legislation, 1957–60.

Chairman of the Subcommittee on Rural Development, 1971–72.

Chairman of the Subcommittee on Foreign Agricultural Policy, 1973–77.

Appropriations—1961–64.

Foreign Relations—1953–64, 1973–77:

Chairman of the Subcommittee on United Nations Affairs, 1955–56.

Chairman of the Subcommittee on Disarmament, 1955–56, 1959–64.

Chairman of the Subcommittee on Near Eastern and South Asian Affairs, 1957–58.

Chairman of the Subcommittee on African Affairs, 1973–74.

Chairman of the Subcommittee on Foreign Assistance, 1975–77.

Government Operations (prior to 1952, named the Committee on Expenditures in the Executive Departments; in 1977, renamed as the Committee on Governmental Affairs)—1949–64, 1971–72:

Chairman of the Subcommittee To Study Intergovernmental Relations, 1949–50.

Chairman of the Subcommittee on Reorganization and International Organizations, 1958–64.

Labor and Public Welfare (renamed as the Committee on Human Resources in 1977)—1949–52:

Chairman of the Subcommittee on Labor and Labor-Management Relations, 1951–52.

Chairman of the Subcommittee on Construction of Educational Facilities, 1949–50.

Chairman of the Subcommittee on Howard University, 1949–50.

Chairman of the Subcommittee on Improvement of the Skills of the Nation's Work Force, 1949–50.

Post Office and Civil Service (merged under the Committee on Governmental Affairs in 1977)—1949–50:

Chairman of the Subcommittee on Postal Service, 1949–50.

Chairman of the Subcommittee on Retirement, 1949–50.

Select Committee on Nutrition and Human Needs—1973–77.

Select Committee on Small Business—1950–59:

Chairman of the Subcommittee on Retailing, Distribution, and Fair Trade Practices, 1955–59.

Special Committee To Discuss Problems with the Consultative Assembly of Europe—1951.

Special Committee To Study the Foreign Aid Program—1956–58.

Joint Committee on Arrangements for the Commemoration of the Bicentennial of the United States—1975–76.

Joint Economic Committee—1971–77:

Chairman of committee, 1975–76.

Vice-chairman of committee, 1977.

Chairman of the Subcommittee on Consumer Economics, 1973–76.

Co-chairman of the Subcommittee on Economic Growth and Stabilization, 1977.

Joint Committee on Labor-Management Relations—1949.

Technology Assessment Board (oversight of the Office of Technology Assessment)—1973–77.

National Ocean Policy Study Group (ad hoc)—1974–77.

Important bills, initiated by Senator Humphrey, that will be pending in Congress in 1978, include:

The Full Employment and Balanced Growth Act (with Rep. Hawkins), as revised in a substitute amendment to S. 50, to be introduced in January.

The International Development Cooperation Act of 1978, to be introduced in January with the joint sponsorship of members of the Senate Committee on Foreign Relations.

The Agricultural Trade Expansion Act (S. 2385).

The National Domestic Development Bank Act (S. 1396).

The Small Business Economic Policy and Advocacy Reorganization Act (with Sen. McIntyre), (S. 1726).

The National Rural Development Bank Act (S. 1630).

Handicapped Persons in Sheltered Employment (S. 506, with draft revisions on income assistance scales).

Victims of Crime Act (the Senate version, S. 551, of the House-passed bill).

The Investment Policy Act (S. 1055).

The Surplus School Recycling Act (S. 2192).

The Rural Housing Act (S. 1150).

The Education Reorganization Act, to establish a separate Department of Education (S. 255). (Senator Humphrey also testified in support of provisions of S. 991, by Sen. Ribicoff.)

The Solar Energy and Energy Conservation Act (S. 1284).

The Solar Energy Government Building Act (S. 672).

The Marine Science, Engineering, and Resource Development Act (S. 447).

The Child and Maternal Health Care Extension Act (S. 324).

The Child Nutrition Act (a universal food service program for children) (S. 1251).

The National Education Investment Act (S. 1037).

The Political Leadership Intern Program Act (S. 1569).

The National Climate Program Act (S. 1652).

(In 1977, the provisions of some 14 bills and 16 amendments introduced that year by Senator Humphrey, were enacted into law. He successfully floor managed Senate passage of 5 bills in the field of international relations, and agriculture and nutrition legislation, which later became law.)

Prepared by:

ALBERT C. SAUNDERS,
Director of Legislation, Office of Senator Humphrey.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the sessions of the Senate today and tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished minority leader yield to me for two requests?

Mr. BAKER. I am happy to yield.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the sessions of the Senate on today, January 24; tomorrow, January 25; and Wednesday and Thursday, February 1 and 2, to consider the Panama Canal treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Military Construction and Stockpiles Subcommittee of the Armed Services Committee be authorized to meet during the session of the Senate on Thursday, January 26, to examine energy initiatives which might be applied at Department of Defense installations to accelerate solutions to the energy problem.

The PRESIDING OFFICER. Without objection, it is so ordered.

EULOGIES TO SENATOR HUMPHREY AND SENATOR METCALF

Mr. BAKER. Mr. President, the Senate has suffered a double loss. In the passing of our colleagues, Senator LEE METCALF of Montana and Senator HUBERT HUMPHREY of Minnesota, we do indeed feel a grevious loss. As we begin the 2d session of the 95th Congress, we shall continue to feel, to a greater degree, the loss of our companions and colleagues.

Senator METCALF, while he did not play out his role on the world stage, as HUBERT HUMPHREY did, was diligent and effective in representing his own beautiful State of Montana and the concerns of the West, as well as our Nation as a whole.

During his 17 years in the Senate, he embodied the great tradition of the western populist. He had a deep and abiding respect for the wisdom of the people he represented, and his compassion extended to all of God's creatures. We will remember his deep concern for wildlife and wilderness, as we attempt to carry on without him.

His intellect, his articulate voice, his friendliness and fair-minded, reasonable manner will be missed in this Chamber. He did not seek a larger role nor push himself into the spotlight of national affairs, but rather he went about his work with a quiet dignity. His achievements as a strong advocate for conservation and consumer interests, in education and other fields, make us realize how much we will miss our friend, who served so effectively in this body.

Despite the remarkable outpouring of eloquent and deeply felt tributes to our colleague, HUBERT HUMPHREY, that all of us have heard, seen, and read during the past few days, it is still difficult to think of him in the past tense. For 30 years, he was a political institution in this country, "one of the compass points of our politics," as one writer termed him.

Blessed with a special grace that allowed him to accept defeat without bitterness and victory and acclaim without conceit, he matured and grew—always in full public view—during his public life, but he did not change his basic beliefs.

Even when we disagreed with him, we felt his compassion and his commitment. He was a good man. In its editorial of Sunday, the Washington Post drew the important distinction between the sometimes overused "great," and "good," and described HUBERT HUMPHREY as a good man who did great things.

The battles he fought—for human freedom, for civil rights, voting rights, arms control, and a host of other towering causes—were the hallmarks of an enormously productive and influential career. But HUBERT HUMPHREY may well be remembered more for the qualities of the human spirit, which transcend even the greatest of public issues.

We will miss his oratory, fueled by his personal vitality, energy, and enthusiasm, in this Chamber. We will miss the sparkle and twinkle of his eyes, those windows of the soul, that signaled the humanity, spirit, and courage within. We will miss the warmth of his handclasps.

But we can console ourselves a little, in this time of profound national sorrow, that we were able to tell our friend that we loved and admired him while he lived; that we had a chance to tell him thank you, for all he has given us.

It is appropriate, Mr. President, that the HEW building bears his name. But the lasting monument may be the memory of the man himself.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

LEE METCALF MADE A DIFFERENCE

Mr. JACKSON. Mr. President, "efficiency of a practically flawless kind may be reached naturally in the struggle for bread. But there is something beyond—a higher point, subtle and unmistakable touch of love and pride beyond mere skill." These words of Conrad's explain why it is difficulty for me to pay adequate tribute to LEE METCALF.

In his 25 years in Congress, he made a great contribution to legislation to protect consumers and encourage education. But above all, he was a fearless advocate for balanced use and protection of our Nation's natural resources.

It was in this area, that I worked closely with LEE METCALF for the last 17 years. Here LEE combined one of the finest intellects I have seen in the Senate, and his fundamental decency and fairness with the "subtle but unmistakable touch of love and pride" to produce a magnificent record of accomplishment.

A list of some of the laws on which he played a major role indicates the duration and depth of his concern. These are only a few examples:

First comprehensive study of the effects of pesticides on fish and wildlife—1957.

The original air and water pollution control laws in 1963 and 1965.

Enactment of Wilderness Act in 1964.

Land and Water Conservation Fund Act of 1965.

Wild and Scenic Rivers Act of 1968.

The Alaska Native Claims Settlement Act of 1971.

In all these and many other matters, LEE METCALF demonstrated his dedication and selflessness. For example, he served for 16 years on the Migratory Bird Conservation Commission which acts on proposals for addition to the national wildlife refuge system. LEE attended every Commission meeting during his tenure, in which the Commission decided on the purchase of a total of 525,000 acres of land and the creation of 43 new refuges as well as additions to many others.

In recent years, as chairman of the Minerals, Materials, and Fuels Subcommittee of the Interior and Insular Affairs Committee and as chairman of the Public Lands and Resources Subcommittee of the Energy and Natural Resources Committee, LEE had many of his finest hours.

The truly remarkable culmination of his work as subcommittee chairman was the enactment within a 12-month period in 1976 and 1977 of five major laws dealing with Federal lands and resources:

Federal Coal Leasing Amendments Act;

Mining in the Parks Act;

Federal Land Policy and Management Act of 1976;

National Forest Management Act of 1976;

Surface Mining Control and Reclamation Act of 1977.

Mr. President, these are landmark laws that establish policies and guidelines for management of our national land heritage for years to come.

LEE METCALF played a vital role in shaping each of them. He based his approach on the principle set out by Aldo Leopold:

> We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect.

To LEE METCALF, conservation meant wise use. All of these laws strongly reflect LEE's philosophy that we can use our lands and resources for our benefit today and leave them in a condition which will allow our children and our children's children to use and enjoy them tomorrow.

This same philosophy was evident on legislation dealing directly with resources in Montana. LEE was especially proud of the designation of the Lincoln-Scapegoat Wilderness area, establishment of the Missouri Breaks Wild and Scenic River as a "Bicentennial gift" to the Nation in 1976, and passage of the Montana Wilderness Study Act in 1977.

When he died, LEE was working on bills to give wilderness protection to nearly 1 million acres in the Absaroka-Beartooth region adjacent to Yellowstone National Park and to nearly 400,000 acres of Great Bear area just south of Glacier National Park. I intend to do everything I can to insure enactment of these bills this year. There could be no more fitting tribute to LEE METCALF than preservation for the benefit of all Americans of these areas he loved so much.

I must also mention, Mr. President, LEE METCALF's deep interest in the ocean and its resources. He frequently pointed out that a Senator from a State "with as much coastline as Montana was naturally interested in the ocean." LEE was concerned about Outer Continental Shelf oil and gas development. He was floor manager of the first effort to reform the OCS Lands Act in 1974. It now appears that legislation will, at long last, be enacted this year.

LEE also was deeply interested in the effort to establish a Law of the Sea Treaty and in the prospects for recovery of minerals from the deep ocean floor. Here again, it appears likely that 1978 will be the year of enactment of legislation for which he was for so long the only real champion.

Mr. President, LEE METCALF was an uncommonly intelligent and decent man. He was also a man who, despite his great accomplishments and honors, frequently doubted whether his career had been truly meaningful. In all his work, LEE set impossibly high standards and sometimes berated himself when he did not achieve them.

Many years ago, Oliver Wendell Holmes, then Chief Justice of Massachusetts, revealed the same kind of concern. He said:

> I ask myself, what is there to show for this half lifetime that has passed? I look into my book in which I keep a docket of the decisions of the full court which fall to me

to write, and find about a thousand cases, a thousand cases, many of them upon trifling or transitory matters, to represent nearly half a lifetime . . .

Alas, gentlemen, that is life . . . We cannot live our dreams. We are lucky enough if we can give a sample of our best, and if in our hearts we can feel that it has been nobly done.

Over a year ago, LEE METCALF announced his intention to retire from the Senate at the end of this year. His untimely death has not only robbed me of my good right arm on the Energy and Natural Resources Committee, but it has deprived us all of the chance to honor him in person. I simply hope that LEE felt in his heart what we, his colleagues, know in ours—that his work was indeed nobly done.

I know of no better summation of this brilliant, decent, and courageous man than the following lines from the Missoula, Mont., Missoulian:

Lee Metcalf made a difference. Wait and see. Because love him or loath him, you always knew where he stood, and why. And when he took a stand, he knew what he was talking about. There are many persons in high office who are slicker, and smoother, and who talk better, and who always will be lesser men than he.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. JACKSON. Mr. President, to many, HUBERT HUMPHREY was Mr. Democrat. But he was more than that—he was Mr. America. His concerns were human concerns—he loved his country. His engrossing aim was to help others without regard to race, creed, color, or political affiliation.

Above all, HUBERT was an undaunted optimist, moved by a sense of larger prospects and new hopes.

One is reminded of the two travelers, one a veteran and the other a novice, who were climbing the Pyrenees. At sundown they were trapped on one of the peaks and had to sleep upon a ledge. Toward morning, a violent storm came up and a howling wind thundered around them. The frightened novice waked his companion and said: "I think it is the end of the world!" "Oh no," said the veteran, "this is how the dawn comes in the Pyrenees!"

That was HUBERT. He lived through a long series of major disappointments—but they never got him down. He was undiscouragable. He everlastingly believed in human possibilities and plunged in to make the most of them.

HUBERT left behind a formidable legacy of positive accomplishments and liberal legislation. Probably his greatest hour was at the 1948 Democratic National Convention in Philadelphia, where he aroused the Democratic Party to accept the cause of civil rights. We will never forget his rallying cry:

The time has come for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights.

HUBERT was the prime mover behind the Civil Rights Act of 1964, medicare, the poverty program, and the equal opportunity legislation. He fathered the Peace Corps and led the early efforts on behalf of international human rights.

I like to remember that just a year ago HUBERT joined me on the Senate floor to protest the arbitrary arrest of Alexander Ginzburg, Yuri Orlov, and Mykola Rudenko, the heroic monitors in the Soviet Union of the Helsinki agreement.

Some people argue that standing up for such courageous human rights leaders is "interference in internal affairs." HUBERT knew this was nonsense. We are simply asking a nation to respect the international standards of conduct established in international accords and conventions to which they are a party, and which they have freely accepted as a part of international law.

Back in the days when Senator and Vice President HUBERT H. HUMPHREY was an active campaigner, there were times his voice would break with hoarseness and his body would become numb from virtual exhaustion.

But there would be another crowd, in the Watts section of Los Angeles, in the condominiums of Miami Beach, or on the snow-banked streets of Minneapolis—and the requirement for another speech. And he would rise to the occasion, wave his arms, and with great vigor speak about the many things that were so dear to his heart and mind.

He explained his renewed vigor in a tired body with a simple comment: "I draw strength from people."

In his months of personal pain before death, HUBERT was his gallant, zestful self. He struck no despondent note. He made stimulating company. He displayed an undefeated spirit. Wordsworth has the words for it:

Who, doomed to go in company with Pain,
And Fear, and Bloodshed, miserable train!
Turns his necessity to glorious gain;
In face of these doth exercise a power
Which is our human nature's highest dower;
Controls them and subdues, transmutes, bereaves
Of their bad influence, and their good receives.

There has been a tremendous outpouring of love and affection for HUBERT HUMPHREY, not only because of his illness but also because of his bigness. America has lost one of its most beloved political leaders and courageous public servants.

TRIBUTE TO SENATOR LEE METCALF

Mr. MATHIAS. Mr. President, the mark of LEE METCALF's public service was his concern for people. As a great consumer advocate, he fought the battles of little people against what he felt were predatory interests that cost average citizens more to live then they should have been charged.

LEE METCALF's concern for people, however, went far beyond the consumer advocacy for which he was noted. An incident in his early career, I think, illustrates not only his early and abiding concern about people, but his enormous faith in the ability of ordinary people to make intelligent decisions about their own fate.

Throughout World War II, in which he fought as an enlisted man and as a commissioned officer in some of its most desperate battles including the invasion of Normandy and the Battle of the Bulge, he never lost faith in people's ability to make their own decisions. Characteristically, after the fighting stopped, he drafted the local ordinances for the first free elections in Bavaria. This, I think, is a most convincing demonstration of LEE METCALF's conviction about the strength of the democratic principle which had not been extinguished even by one of the most vicious and bloodthirsty wars in all history.

LEE METCALF has been our colleague both in the House of Representatives and in the Senate. His election to four terms in the House speaks eloquently of the confidence and affection in which he was held by the people of Montana. It is sometimes a happy accident to be elected to Congress once, but successive reelections cannot be judged accidental. His election by the people of Montana to represent them in the Senate in 1960 and again in 1966 and 1972 further confirms LEE METCALF's place in the esteem of his friends and neighbors who knew him best.

I can testify that his place in our hearts is secure. My wife, Ann, and I join in expressing our sympathy to Mrs. Metcalf.

HHH AS WE REMEMBER HIM

Mr. MATHIAS. Mr. President, it says something about the measure of a man when his initials are recognized instantly anywhere in his own country. Whenever the triple initials HHH appeared in the United States there was never any doubt about who was meant. HUBERT HUMPHREY shared this distinction with few others in our lifetime—I can only think of two, and both of them were Presidents.

But HUBERT HUMPHREY's fame was not limited to the United States. He was known just as familiarly and fondly around the world. On the occasion of the first legislative exchange between the U.S. Senate and the Supreme Soviet, Senator HUMPHREY was about to enter a building in the Kremlin on his way to attend one of the sessions of the conference. He noticed a crowd of people walking down one of the streets of the Kremlin and he paused to ask if anyone knew who they were. His act of pausing kept him still long enough so that the approaching crowd recognized him and began to applaud. HUBERT HUMPHREY simply could not resist this invitation to friendship, and he immediately turned on his tracks and went over to shake hands. They turned out to be a group of tourists from the Ukraine, paying their first visit to the Kremlin. They should have been somewhat surprised to see HUBERT HUMPHREY wandering about there but, on the other hand, it may have seemed quite natural to them because they obviously viewed him as a citizen of the world whose record and whose face was familiar to them.

One of the refreshing things about Senator HUMPHREY was his total lack of sanctimony. He obviously was involved in many crusades of conscience, in many struggles which were motivated by moral fervor, but he never lost the sense of realism and of humor that kept him from sounding overly righteous or sanctimonious. He could engage in debate with great zest and zeal and yet not forget that, at least in part, it was a theatrical performance in which he could laugh

at himself as he pulled some of his finest dramatic gestures out of his bag of tricks. He would, of course, also laugh at his opponents who were doing the same thing. And he would laugh all the harder if they took themselves more seriously than he took himself.

For a number of years, HUBERT HUMPHREY was my constituent. During the years he served in the Senate before he became Vice President, he and Mrs. Humphrey lived in Chevy Chase, in Montgomery County, Md. As a result, we had a great many personal contacts—all extremely friendly and positive. And, although his credentials as a leader of the Democratic Party will never be subject to challenge, he never said an unkind or thoughtless word about the kind of representation I was providing for him in his Maryland home. He was always willing to consult on any problems in which we had a mutual interest and his advice and counsel was always sound and positive, never negative or partisan.

After be became Vice President, he deserted suburban Maryland for the greater convenience of southwest Washington. We understood his decision but we regretted it and, in a way, I think he regretted it too.

As I visited shops and stores in suburban Maryland in the intervening years, I have been told of the great delight it gave the friends with whom he had lived for so many years when he returned to the neighborhood to renew acquaintances with the local business people and with the neighbors that he had known for so long. He was a particular favorite at Ponders' lunch counter and it was an occasion for great rejoicing when he returned for a cup of coffee with his friends there. Packett's Drug Store aroused all of his old pharmaceutical instincts and he could not visit the store, even in the last few years, without offering to assist the pharmacist on duty by typing the labels or by doing any of the other chores that needed to be done. These very genuine gestures—so typical of him—proved to people that his interest was not passing or political, but abiding and deeply felt.

The catalog of Senator HUMPHREY's political accomplishments has long ago been written. It has appeared in the preceding pages of the CONGRESSIONAL RECORD over a period of many years. It needed not be recounted here. What cannot be put on these, or any other, pages is a sense of the personal warmth that he generated.

There are thousands of Marylanders for whom HUBERT HUMPHREY was the keystone to political life. To his judgments and to his opinions, they gave greater weight than to those of any other political figure on the American scene. For these people, and for all of us, there has been not only a tremendous personal loss but also the loss of the lodestone which had guided their compass.

But I believe that HUBERT HUMPHREY saw politics as a regenerative process where the spirit of one generation is passed on to another and refined and defined in endlessly subtle and useful ways. It is in this spirit that we return to work in the Senate after saying farewell to HUBERT HUMPHREY, resolved never to say farewell to his spirit and his example.

THE FINAL VICTORY OF A "PUBLIC MAN"

Mr. ROBERT C. BYRD. Mr. President, every Member of the Senate and millions of Americans joined this last week in mourning the passing of Senator HUBERT HUMPHREY of Minnesota. Indeed, his presence in this chamber and his influence in American life will be sorely missed in the years ahead.

But the New Testament states that to each of us certain talents are granted in trust, and from each of us, it is expected that a full use of these talents be made. From his record of achievements, qualities, and genuine triumphs, it is apparent that HUBERT HUMPHREY did not disappoint the expectations of his Creator in the full utilization of the talents which were given him in overabundance. Few men in the history of this Nation have lived as fully and richly, or exerted such an influence on this country, as did Senator HUMPHREY. He was one of those rare individuals whose accomplishments are so notable that their names are borrowed to identify eras and generations, and whose deeds serve as yardsticks by which men measure their own achievements.

At one point in his career, Senator HUMPHREY said:

> In my years of public life, I have tried to serve as a voice and worker for the cause of equal justice and equal opportunity, for the general welfare, and for the common defense of our country. In all these years, I have never felt truly alone. I have always been aware of the innate good sense and good will of the American people.

No statement by others could better summarize the life and career of this great man. Through his personal and professional experience, as well as his formal academic training, he forged a vision of the possibilities of American life that always looked toward the future. His philosophical and spiritual commitments were of such depth and integrity that even those who opposed him ideologically were often led to respect and even love him personally.

HUBERT HUMPHREY was an important and dynamic part of our national life for nearly three decades; he will remain part of our national memory forever. His vitality, brilliance, foresight, and well-invested talents are, moreover, a renewed proof of the excellence of a system that provides the opportunity for such a man to achieve positions of leadership among us, regardless of the modesty of his origins or circumstances.

Death is an experience for which we are seemingly never really prepared, and the death of a great and good man is always an occasion for sorrow and a sense of irreplaceable loss. Often, indeed, such a death is tragic, for it brings to an importunate close a life of unfulfilled, unrealized, and unexpressed potential.

But the passing of a man like HUBERT HUMPHREY brings to us a feeling of gratitude for the gift of such a life, mixed with our sorrow over its loss. Joy, admiration, marvel, and love attend our mourning and regret. HUBERT HUMPHREY was not a tragic man; he was a triumphant man, a challenging man, and a fulfilled man.

Senator HUMPHREY has left his mark on our times as few men are privileged to do. But, possibly more significantly for each of his colleagues here today, he has left his mark on us and on this Senate.

Tennyson said, "I am a part of all that I have met." Each of us is a part of HUBERT HUMPHREY, and we are fortunate in this for having had the privilege to live at a time when he lived and to serve at a time when he served so well. For us, his passing is more than just a public loss; it is a personal and deep one.

But many of us can be thankful for the opportunity that has been ours to serve together with HUBERT HUMPHREY in the Government and the Senate for many years; and all of us can take pride in our membership in an institution whose stature was enhanced and elevated because of his presence in it.

Mr. President, an excellent and moving article on Senator HUMPHREY appeared in the December 1977, issue of American Heritage magazine, entitled "I'm a Born Optimist." I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"I'M A BORN OPTIMIST"—THE ERA OF HUBERT H. HUMPHREY

(By Hays Gorey)

They were Hubert Humphrey's kind of people trudging through the corridors of the U.S. Capitol that day. Ordinary Americans from everywhere—blue-collar workers, men and boys in sports shirts and polyester pants, women and girls in shorts or jeans and halters, businessmen in double-knit suits. Humphrey's kind of people.

But they seemed singularly leaden. Perhaps too much sightseeing had left them numb; their eyes were glazed by too many monuments, too many museums, too much history crammed into too little time. They hardly seemed to notice when the pale, frail, thin man wearing a suit that no longer fit stepped into their midst. Uncharacteristically, he avoided eye contact, hurrying toward a wood-paneled door where he fumbled with keys until he found the one that worked. Now, I thought, Hubert Humphrey will turn around and give this crowd a charge, just as he had done with hundreds of crowds on three continents, in virtually every state, over three decades. He had always had a special talent for sharing his exuberance, for bringing sparks to dull eyes, smiles to sullen faces. Well, here was opportunity again.

But that day no one shouted "Hiya, Hubert!" or "There's old Humphrey!" And he needed something like that to get his own juices to flow. These people were not intentionally slighting him. Chemotherapy had ravaged his once-robust body, thinned and whitened his hair (and still the cancer cells raged and multiplied). Hubert Humphrey no longer looked like Hubert Humphrey. The tourists simply did not recognize him. He entered his office, beckoning me to follow, and closed the door.

Hubert Humphrey. A faintly comic name. Almost hilarious the first time one saw it with the middle name—Horatio—spelled out. Now he was sixty-six and dying—and still working fifteen-hour days. And smiling, laughing, and talking. It was true that he

could never learn to stop talking. "Minnesota Chats," Johnny Carson had once dubbed him. Many people felt that a man who talked that much might not have time to run the country. He had another weakness—many, in fact—but the one least possible to conceal was his need to be loved, or at least liked, by everyone. No exceptions. That came across as a grievous fault—fine trait for a minister, but not for a President. And so Hubert Humphrey never made it to the Oval Office. Yet to have lasted in national politics for so long—thirty years—and to have had a major role in so much that had changed the pattern of American life, he had to have remarkable strengths. He was never counted out of national life, though he could have been—ten, or more likely fifteen, times.

Ridiculed? Often. Defeated? Many times. But he never told people that they would not have Hubert Humphrey to kick around any more. Quite the opposite.

Humphrey's personal view of the impact of his three decades as a national political figure focuses on his accomplishments, particularly as a legislator. It is unarguably an astonishing record. But the people who kept sending him to the United States Senate, the senators who chose him as one of their leaders, the never overwhelming but always substantial national constituency that made him a formidable presidential contender three times, sensed something more in Hubert Humphrey, something transcendent, something to do with his *spirit*.

Hubert Humphrey was born in 1911, and began working by washing glasses in his father's tiny drugstore in rural Doland, South Dakota. He was seven years old. He would have gone to work earlier if he had been tall enough to reach the glasses. It was a dreary period in America, and South Dakota was a dreary place in which to live, but young Humphrey never seemed to notice. Life was a series of buffetings—dust storms, crop failures, foreclosures, the Great Depression. He saw friends and neighbors go under. The farmers had no money to buy at the Humphrey drugstore, and no money to pay for what they had already bought, so the drugstore failed too. Humphrey was sixteen when he saw his father, Hubert Humphrey, Sr. weep because he had to sell the family home to pay his debts. The younger Humphrey wept too.

It was a searing experience, but in his autobiography, *The Education of a Public Man*, Humphrey managed to regard the incident as a plus: "It is something I have never forgotten, not just because it moved me so deeply, but because what followed was so typical of my father's approach to life." The family simply moved to a smaller house and began anew. Despite "such total and public humiliation . . . my father never looked back. He showed not a discernible ounce of acrimony, apology or defeatism . . . he plunged on . . . he had an undiminished appetite for life, accepting the bitter, enjoying the sweet." The son's later stoicism in the fact of political and personal setbacks, at times interpreted as failure to get the point, owes much to his father's character.

From Hubert Humphrey, Sr., he first learned about ideas, books, magazines, newspapers, politics, politicians—and social issues. The elder Humphrey was a rarity in conservative Doland, a Wilsonian Democrat, and he drilled the Fourteen Points and the dream of the League of Nations into his eager, receptive son. They discussed issues, and the older man must have sensed that the son had a quick and retentive mind, a debater's skills, and an unquenchable thirst to know more and to talk more—about everything.

After being named valedictorian of his class at Doland High School, Humphrey spent the next decade dropping in and out of the University of Minnesota, in concert with his own and his family's constantly fluctuating financial condition. At length he earned a degree, *magna cum laude*, and a Phi Beta Kappa key. He also managed to gain a certificate from the Denver College of Pharmacy, and got his first personal glimpse of the plight of the Negro when he studied for a master's degree in political science at Louisiana State University. He also married an attractive and sensible young woman, Muriel Buck, and the two lived in one-room flats, accepting with equanimity the notion that a nickel beer and a sack of popcorn constituted a night on the town.

These were the influences then—near-poverty, failure, defeat, dust storms, depression, liberal education, indomitable father, understanding wife—that forged one of the most innovative legislators of the twentieth century. His entry into politics was like a duck's introduction to water. His father had been a delegate to Democratic National Conventions, and, whenever his recurring impoverishment eased, a minor officeholder. The extroverted, garrulous son, warm and engaging, irrepressibly excited about the New Deal, intelligently concerned with issues, landed a job in the early 1940's as director of a Workers Education Program, a by-product of the WPA. This brought him into contact with local labor leaders, who in 1943 were casting about for someone to support for mayor of Minneapolis. On a Sunday walk, Humphrey bumped into a pair of labor officials and casually asked where they were headed. To a meeting, they said, one adding: "We're trying to find a candidate for mayor." Suddenly it occurred to them that the candidate was standing right there before them. Humphrey ran and lost that year, but learned enough to run and win in 1945 and again in 1947.

In 1948 he burst into the national consciousness for the first time. That year Mayor Humphrey was a candidate for the U.S. Senate, and led the Minnesota delegation to the Democratic National Convention. There this talkative upstart—hardly known outside his own state, but already determined to correct social injustices wherever he saw them—forced a strong civil rights plank on the convention and down the throat of President Harry S Truman. Party chieftains had argued that only "party unity" could give Truman, the underdog, any chance at all against Republican Thomas E. Dewey. So the "fix" was in: a Southern "States' rights" plank would be proposed and defeated. The same fate would befall the strong civil rights plank that Humphrey intended to introduce. Then the convention could proceed to adopt a "compromise" Truman plank that would placate the South and avert a walkout. But Humphrey, who had no black voting constituency whatsoever back home— there were hardly any blacks in Minnesota—refused to go along. His own father, a delegate from South Dakota, told him that what he was doing "may tear the party apart." Powerful party figures warned him that the course he had charted for himself would lead him "from mayor to pip-squeak to oblivion." But his mind was made up. When Hubert Humphrey, Sr., sensed as much, he finally told his son: "You've got to go with it. You can't run away from your conscience." Humphrey took the floor and delivered a fiery speech, full of passion and conviction. It may have been the most persuasive he ever delivered.

"The time has arrived," he admonished the delegates, "for the Democratic party to get out of the shadow of States' rights and walk forthrightly into the bright sunshine of human rights." Adlai Stevenson and Paul Douglas, who would not lead the parade, fell in behind Humphrey, and so did some of the big-city bosses, whose continuation in power depended in part upon black and liberal support. And so the no longer obscure mayor prevailed. From that moment he was a major national figure, reviled in the South (some of whose delegates walked out of the convention), but a hero to liberals everywhere. From 1948 until Humphrey became Lyndon Johnson's running mate in 1964, the liberal agenda in America was Hubert Humphrey's agenda.

In those years he compiled a record as one of the most influential senators in U.S. history:

In 1949, after many years of fruitless congressional debate, Humphrey won passage of a federal antilynching law;

He wrote the bill that set up the first federal Commission on Civil Rights;

As early as 1951, he introduced legislation setting up a Fair Employment Practices Commission;

A decade before the Freedom Riders traveled South, Humphrey introduced federal legislation prohibiting segregation in public transportation;

Also in 1951, when he was widely ridiculed as a "visionary," Humphrey offered legislation to outlaw the poll tax in national elections;

The Peace Corps, the cornerstone of President Kennedy's foreign policy toward the Third World, was appropriated from Humphrey—who zestfully pushed to passage the measure establishing the corps;

The first generation of a series of health-care bills that finally emerged into law as the Medicare program was introduced by Humphrey during the *Truman* administration;

He proposed Project Head Start;

The Department of Housing and Urban Development was established after passage of a Humphrey-sponsored bill.

The list of his legislative landmarks is seemingly endless: the U.S. Arms Control and Disarmament Agency; the Alliance for Progress; the Federal Scholarship Program; the 1963 Nuclear Test Ban Treaty; the 1964 Civil Rights Act; the Council on Youth Opportunity; Vista; Food for Peace; the Job Corps; the Municipal Fair Employment Act; the International Security Assistance and Arms Export Control Act; the Supplemental Food Assistance Program for Women, Infants, and Children; the Solar Energy Research Act; the Consolidated Farm and Rural Development Act; and the Forest and Rangeland Environmental Act. And on and on.

Humphrey did not function in a vacuum. Although he sponsored and was the energetic floor manager of the 1964 Civil Rights Act, for example, passage of that measure owed much to Lyndon Johnson's forceful advocacy of the Act as a memorial to John F. Kennedy, and to Senate Majority Leader Everett Dirksen's belated admission that it was a measure "whose time had come."

Humphrey's exuberant personality was responsible for some of his success in Congress. But he was shrewd as well. In the 1964 struggle to pass a civil rights bill, Humphrey was all over the floor, grabbing arms, slapping backs, cajoling. He was alternately jovial and deadly serious. After hours, he would plot the next day's strategy with civil rights attorney Joseph Rauh and the NAACP's Clarence Mitchell.

The three realized that the only hope of breaking a Southern filibuster was to enlist Republican votes. Wily Everett Dirksen was playing his cards close to his vest, but Humphrey sensed that Dirksen, who could bring several wavering members of his party along with him, could be manipulated, and he knew how. Thereafter, he built up Dirksen to the press, exaggerating his power. Soon Dirksen emerged nationally as the senator who could determine whether there would be a bill or not. Wallowing delightedly in the limelight, Dirksen played it for all it was worth, then dramatically made his declara-

tion. Humphrey's administrative assistant Ted Van Dyk recalled those hectic days: "Humphrey created the illusion that Dirksen held the power of life or death for civil rights, an illusion even Dirksen came to believe."

By any measure, Humphrey's record is an impressive monument to one man's creative energy, and it was compiled by a legislator who was essentially immobilized during his earliest Senate years by the hatreds he had engendered at the 1948 Democratic Convention. When Humphrey first arrived in the Senate the year after that bloodletting, he found the Southern barons who ruled that body unforgiving. Conversations stopped in mid-sentence and colleagues conspicuously turned their backs whenever he entered the senatorial dining room. He was being frozen out of the "club." Ostracism. Nothing could have been more foreign or destructive to Humphrey's nature. And it was to last for months with some senators and years with others. It ended for most only after he proved by his skillful handling of legislation, his understanding of the minutest detail of measures he sponsored, and his voracious appetite for work that he was a force too able and too hyperactive to ignore. His "adoption" by the increasingly influential Lyndon Johnson (who used Humphrey as a conduit into the liberal camp) eventually thawed the icy atmosphere that had made Humphrey's Senate life miserable.

On only two major issues of the Humphrey era was the Minnesotan either uncharacteristically mute, or ambivalent, or both. He was anything but a vociferous critic of Wisconsin Senator Joseph McCarthy. In fact, Humphrey, in retrospect, seems to have been himself overimbued with an aversion to Communism that made him clearly more tolerant of excesses against its adherents or suspected adherents than he ever was concerning similar actions against any other segment of American society. Perhaps this was in part due to his having been one of the best-known liberal politicians in the land at a time when conservatives were not hesitant about equating liberalism with Communism. Thus, Humphrey himself was a potential target for smear. That period coincided also with the beginning of Humphrey's efforts to lay the groundwork for re-election to his Senate seat in 1952. At any rate, he lent his formidable legislative talent to pushing repressive measures directed against suspected U.S. Communists, and some were enacted into law.

Vietnam was the issue that troubled Hubert Humphrey the most, costing him dearly in terms of liberal support, and perhaps denying him the Presidency. Very simply, the man who in 1948 had so courageously moved his party toward "a necessary goal" by taking on what he termed "the Establishment" was, in the 1960's, part of the Establishment and unable to bring himself to defy it, even though he believed, and argued in private, that the Johnson policy was bankrupt.

Humphrey had been opposed to Vietnam involvement in the beginning, then for it, then against it again. Early in the Johnson years, he wrote a private memorandum sharply warning against escalation of the war. LBJ's reaction was to exclude Humphrey from the inner councils of the administration, and the Vice President—as he had during his early Senate years—bled. In 1966 he flew off to Saigon ostensibly to dramatize land redistribution and other "good works" which the administration was aiding in Indochina, and came back an unabashed cheerleader for the war. Doubtless, he wanted to believe, because he wanted to belong. He was back in the fold, but uneasy still at the burgeoning domestic opposition to the war. In October of 1967 he returned to Saigon and warned the leaders of South Vietnam that U.S. support for the war was deteriorating. They smilingly told him there was no turning back for the U.S., no matter how many years the conflict lasted. It was the turning point for Humphrey. Upon his return, he submitted a blistering report to Johnson. LBJ never released the report, but by now support for the war had so eroded that the President no longer could isolate and ignore its critics as he had done before.

Many observers were convinced in 1968 that Humphrey could have defeated Nixon in the presidential campaign if he had broken completely with Johnson. He thought many times about doing just that. But he felt that even if it meant winning the Presidency, he could not turn against the man whose Vice President he was.

"It might have been better—tactically better—to break with Johnson," he conceded later. "But it would have destroyed the Paris peace negotiations. I couldn't do that. I was Vice President. I was obliged to be a member of the team. I consulted with Averell Harriman on September 14 [1968] and urged that he and Cy Vance [Harriman and Cyrus Vance were the U.S. negotiators] agree to a withdrawal of U.S. troops. Harriman was upset. Vance was upset. Johnson was upset." Two of Humphrey's ablest advisers, Ted Van Dyk and campaign manager Larry O'Brien, told him never mind—he had to turn his back on a policy that no longer had general support and which, moreover, he knew was wrong. It had placed Johnson's chances for renomination in peril, rendered his re-election virtually impossible, and dissuaded him even from running. But despite a partial break, following which his standing in the polls soared, it was not in Humphrey's nature to abandon Johnson completely. He stayed aboard the sinking Johnson ship too long and went down with it.

I had sat with Humphrey and his entourage during the tumultuous days of the 1968 Democratic Convention in Chicago, when heads were being broken, stink bombs thrown, antiwar demonstrators arrested. Agonized, knowing his chances for election were waning with every moment of televised violence, Humphrey still could not desert his President.

"I don't know if that one issue cost the election," he later said. "There were a lot of factors. It was a period of unrest throughout the world. In the U.S., there had been three tragic political assassinations. There was so much unrest over civil rights, and of course there was unrest over the war. Still, it was one of the most exciting periods in American history. I may have made some little impact on it. It was a great adventure. I think as a nation we came through it all right. We learned something. I'm a born optimist."

Whatever he did, whatever stand he took, Humphrey always wanted his audience, be it one person or thousands, to understand. It was the reason he talked overly long—approaching a subject from the front, the back, and every side.

"I believe I helped bring out a social consciousness in people. I always stressed things important to people. Back at the convention in 1948, we were instrumental in opening up the area of civil rights. At the time, it was a very lonely and a very sad journey. I loved the South. I'll never forget how badly I used to feel because my friends from the South didn't see Hubert Humphrey as I thought he was. But that's all in the past now. I was in Dallas recently and someone said to me: 'Humphrey, you've changed.' Well, Dallas has changed. This country has changed."

Why had he risked his career to lead a fight that meant nothing in terms of his electability in his home state?

"I had been taught that the way you treat people is the way you treat God," he once explained, and added, "I was taught that religion should have something to do with your daily life—not just with Sunday."

Now Humphrey was a desperately sick man. On the day when tourists in the corridor had failed to recognize him, when I had accompanied him into his office, he talked of the United States as it had been when he had first come to the Senate and as it was now, thirty years later.

"It's a very different country. Drastic changes. Everything has changed. Mobility is up ten times. So are communications. And technology and science. Thirty years ago television was not even a factor. We didn't have a computer in 1948. And we had a different population then. It was soon after the war, and we knew who our friends and our enemies were. Political strength has shifted drastically. State legislatures were unrepresentative back in the forties. They totally ignored urbanization. The members were an average of seventeen or eighteen years older than they are now. In the fifties, suburbia developed, leading to new social patterns. People moved out of the central city, leaving it to the old, the poor, the black—and the large commercial centers. The automobile, the interstate highway enabled white-collar workers to live outside the city and commute to work inside the city. At the same time, the blue-collar workers, many of them, lived within the city and commuted to the factory outside.

"In the main, the country is better. Of course moral values have changed. There's more permissiveness, greater freedom of action." His thoughts were tumbling over each other. "We have a great problem of social disintegration. Fifty per cent of the women are in the work force. The women's liberation movement is fundamental. A tremendous force of power and talent is being tapped."

But is all this good? How is the country better off?

"One, there are more opportunities for more people.

"Two, there is more social concern for the poor, the elderly, the sick, the blacks—even the Indians. You didn't hear about the plight of the Indians thirty years ago.

"Third, there is a better educational structure—although I'm concerned by the fact that there is less writing and less reading. But the pendulum is swinging back. What's more important is that now 25 to 30 percent of our people go to college. Why, my mother and father would have given anything to be able to go to college.

"Fourth, there is much better medical care.

"I have to say also that America is restless, anxious for improvement. That makes us indulge in self-criticism. It compels us to do something about our faults—not as fast as Hubert Humphrey wants, of course. But there's a good generation coming up. It has a sense of stewardship and conservation.

"On the negative side, we do lack self-discipline. We're a little irresponsible. We don't appreciate the value of so much we got so fast. Our great cities have been allowed to deteriorate—not only physically but they've deteriorated in terms of the social and physical environment. That's bad, because cities ought to be the epitomes of civilization." One could sense a disappointment that there had never been a "Marshall Plan for the cities" because there had never been a President Humphrey to launch one. "On the other hand, the countryside is better for living than it ever was. That's where the community colleges are springing up, the new art galleries and theaters. That's where the cultural boom is taking place. And America has boomed culturally. Since 1950, we've left the Stone Age."

Humphrey was particularly proud of one of his contributions: "I have engaged and interested a large number of young people to enter public life, especially in Minnesota." That was true. One of them, Orville Free-

man, became Governor of Minnesota and Secretary of Agriculture. Another was Eugene McCarthy. A third, Walter F. Mondale, became Vice President of the United States. He had been a Humphrey disciple since he was eighteen years of age.

"What can you say?" Mondale asked in reviewing Humphrey's role in the many changes that had come to the nation since 1948. "With any other public figure, you hit upon one subject, analyze what he did, and that's it. There just isn't anyone else whose involvement was so total, whose record touches just about everything that has happened in this country over the past thirty years."

Humphrey came closest to describing his own meaning to America when he referred to himself as "a born optimist." That is what made him so special and so durable.

Ted Van Dyk understands this: "People look at Humphrey and think to themselves that maybe man really *can* overcome almost any obstacle. They see Humphrey stabbed in the back one day and embracing the one who stabbed him a week later."

Van Dyk was in Vice President Humphrey's office one day in 1966 when Franklin D. Roosevelt, Jr., called. Roosevelt had gone to West Virginia in 1960 to campaign against Humphrey and for Jack Kennedy in the Democratic presidential primary. Fair enough. But FDR, Jr., has been less than fair in his speeches, accusing Humphrey—falsely—of having been a World War II draft dodger. The charge did not defeat Humphrey, but it hurt him deeply and contributed to the lopsidedness of his loss. His presidential campaign never recovered. Now Roosevelt was telling Humphrey that he feared President Johnson was going to oust him from his post in the administration. He wanted Humphrey to intervene with Johnson and save his job!

Van Dyk listened to Humphrey's end of the conversation. "I was hoping to hear Humphrey really give that son-of-a-bitch the kind of dressing down he had coming to him." Van Dyk could hear Roosevelt wind up his plea by saying, "You've got to save me."

Humphrey replied, "I'll go to bat for you, Frank," and hung up the phone.

"What the hell . . . ," Van Dyk began. Then he shrugged.

"After all he's done for me," said Humphrey, "it's the least I can do."

For years, he represented the nation's hopefulness, unalloyed. Millions of people sensed that Humphrey was living proof that it *was* possible in a cutthroat world to think the best of everyone and everything—and still survive. During the period of his realistic eligibility for the Presidency, the American people chose John F. Kennedy, plainly a tougher politician, one with the instinct for the jugular that Humphrey lacked; Lyndon Johnson, more calculating, more devious; Richard Nixon, whose attitude toward "enemies" real and imagined was thoroughly documented during the Watergate years; and Jimmy Carter, whose single-mindedness and ambition led him past better-known opponents to the Presidency.

With one or more of these traits, Hubert Humphrey might have become President of the United States.

He did not become President. What he did become, through his indomitably optimistic spirit and the astonishing legislative record that he compiled, was a unique national resource.

THE PASSING OF ONE OF THE SENATE'S MOST CONSCIENTIOUS CONSERVATIONISTS

Mr. ROBERT C. BYRD. Mr. President, the ranks of the distinguished Members of the Senate have been reduced in recent weeks by the deaths of three Senators. In addition to Senator John L. McClellan of Arkansas and Senator HUBERT H. HUMPHREY of Minnesota, we also have lost Senator LEE METCALF of Montana.

The senior Senator from Montana, LEE METCALF, was born in 1911 on one of America's last frontiers. As a result, he came to understand and appreciate our wilderness heritage in a unique and personal way. LEE METCALF was one of the leading advocates of conservation in the Senate, and has worked throughout his career for the preservation and wise use of the natural resources of this country.

As a young man, LEE METCALF, after completing his education at Stanford University and the University of Montana, was elected to the legislative assembly, and subsequently served as an assistant attorney general for his home State.

Following the attack on Pearl Harbor, he volunteered for the Army, and saw action as an officer in the 607th Tank Destroyer Battalion. After taking part in the Normandy invasion, he participated in five campaigns in France, Belgium, and Germany.

Elected to the Montana Supreme Court in 1946, he was thereafter successful in his bid for a seat in the House of Representatives in 1952.

After four terms in the House—it was my privilege to serve with LEE METCALF in the House of Representatives—he was chosen by the voters of Montana to represent them in the Senate in 1960, where he served three terms.

Senator METCALF was deeply concerned about America's energy problems, and was a vital member of the Senate-House conference committee searching for a compromise on the energy package. In his efforts on that committee, he displayed the same sense of responsibility and commitment to his ideals that characterized him throughout his Senate career.

Senator METCALF will be missed by his colleagues in the Senate and by his constituents in Montana. But he will also be especially missed by those who share his deep love for America's wilderness riches. He will be remembered with fondness and appreciation by future generations in Montana and across this country for the efforts that he exerted over the years in behalf of the natural glory that is part of the legacy of every American citizen.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Will the Senator defer so that I may make some remarks?

The PRESIDING OFFICER. Will the Senator withhold?

Mr. WALLOP. I withhold.

Mr. METZENBAUM. Mr. President, I rise to express my deep personal grief at the death of a warm friend and valued colleague. LEE METCALF was my good friend, and I had tremendous respect for him, and I will miss him, as will many others in this body, as a giant among his peers.

With the passing of LEE METCALF, we in the Senate have lost the wise counsel and the good company of a true gentleman. The people of Montana and of the Nation as a whole have lost a powerful advocate of the rights of the ordinary citizen against the insistent claims of entrenched economic privilege.

LEE METCALF was never one to seek public acclaim for his accomplishments, but we in the Senate know him as a creative legislator and a decent man, profoundly devoted to simple justice, fundamental human rights, and the future of his country. He took the lead in the long struggle to protect our magnificent natural heritage from those who would despoil it for immediate gain and he was among the first to confront the growing contradiction in our society between concentrated economic power and the public interest.

Mr. President, future generations of Americans will have LEE METCALF to thank for the tough environmental safeguards he wrote into the Surface Mining and Reclamation Act of 1977. Without him, that bill probably never would have come to pass.

Future generations will also have cause to remember LEE for his tireless efforts to bring the great utility, energy, and banking monopolies under control, on January 19, his Subcommittee on Reports, Accounting, and Management of the Committee on Governmental Affairs issued a report documenting the fact that the power to vote stock in the Nation's largest corporations is concentrated in the hands of fewer than two dozen institutional investors, mainly banks. This report, I believe actually published after he had passed away, is an appropriate testament to his colleagues, and the mark that he will make upon America even though he has left this Earth.

Mr. President, although I am a relative newcomer to the Senate, I have had the good fortune to work closely with LEE METCALF. In 1974, when I held a 1-year Senate appointment, I served with LEE as a member of the Committee on Interior and Insular Affairs. At that time, LEE was willing to extend an extra helping hand to work with a lame duck and to help me make my brief term in office a productive one. Later, when I was elected to a full term and reappointed to the committee, LEE once again greeted me with unfailing kindness and consideration. I had the privilege to serve under him when he was vice chairman of the Subcommittee on Public Lands and Resources.

LEE METCALF was in every sense of the word a beautiful human being and a dedicated American. I treasure his memory and I shall not forget the example he gave to all of us of the dignity of public service.

To Donna Metcalf and to the Metcalf family I extend my deerest sympathy. My best wishes for the future with them.

Mr. President, on April 2, 1974, the Dayton Daily News published a brief, but highly appropriate tribute to Senator METCALF. I ask unanimous consent that this editorial and an article from the January 19, 1978 edition of the New York Times on the Metcalf report on voting rights in major corporations be printed in the RECORD.

There being no objection, the articles

were ordered to be printed in the RECORD, as follows:

[From The Dayton Daily News, Apr. 2, 1974]

QUIET HONESTY

Politicians have a bad name these days, and a lot of them deserve it. But there are a few who actually are what civics textbooks say they're supposed to be: honest people who work hard for the public interest.

One of them is Lee Metcalf, a Democratic Senator from Montana who most Ohioans never heard of. Mr. Metcalf is one of those peculiar Senators who isn't running for President. You rarely see his name in the headlines or before a TV camera.

That might change. The issues Mr. Metcalf has been pushing tirelessly for years—closer regulation of utilities and the break-up of monopolies—are suddenly fashionable. The energy crisis and growing public awareness of corporate shenanigans have made them so. Until recently, other politicans could look on Mr. Metcalf as a harmless reformer.

Now he looks like a prophet.

[From the New York Times, Jan. 19, 1978]

STOCK VOTING POWER HELD CONCENTRATED IN A FEW INVESTORS

(By Ann Crittenden)

The power to vote stock in the nation's largest corporations is concentrated in fewer than two dozen institutional investors, the majority of them banks, according to a new study by the staff of a Senate subcommittee.

Of all these investors, none has greater voting power than the Morgan Guaranty Trust Company of New York, according to the report, which represents the first significant attempt in the postwar period to pull together publicly available information on who controls the stock in American industry.

Morgan is the major stock voter in 27 large corporations, including Federated Department Stores and Burlington Northern Inc., and is among the top five voters of shares in 56 leading corporations. Citibank ranks second as the largest identifiable voter of shares in seven corporations.

VOTES SUPPORT MANAGEMENT

The big institutional investors generally throw the weight of their votes behind management, the report shows. A major exception is the Teachers Insurance and Annuity Association-College Retirement Equities Fund, which manages the funds of college professors and is the third-largest holder of voting rights in the country. The TIAA-CREF more frequently supports minority resolutions than do other institutions, which overwhelmingly vote with management.

The report also notes that Citibank "passes through" fully 83 percent of its voting rights, back to a co-fiduciary or investment manager of the shares it is legally enttiled to vote, as a matter of policy.

"In our view," a 1976 Citibank report noted, "the right to vote is inherent in stock ownership, not in its custody or management."

"We consider that an enlightened view of handling voting rights," commented one of the authors of the report.

Banks are potentially the most influential votes of corporate shares, the study found, primarily because they manage so many institutional stock plans, particularly pension funds and other employee benefit plans.

REPORT BY SUBCOMMITTEE STAFF

The report, which attempts to reveal the voting rights in 122 corporations whose stock accounts for 41 percent of the market value of all outstanding common stock in the United States, was prepared by the staff of the Senate Subcommittee on Reports, Accounting and Finances chaired by the late Senator Lee Metcalf, the Montana Democrat, who died last week.

For years Mr. Metcalf and his staff had expressed concern that the various regulatory agencies, particularly the Securities and Exchange Commission, had not utilized their statutory authority to require corporations to disclose the identities of the institutions and individuals that actually control their stock.

The report, released yesterday, was undertaken in large part to demonstrate that to a great extent such information could be gathered relatively easily.

"Congress gave the regulatory commissions extraordinary power to ask for disclosure of control of corporations, but the tailwagging commissioners haven't asked for it," said Victor Reinemer, staff director of the subcommittee. "We wanted to show the timid government agencies that the job can be done."

Before his death, Senator Metcalf had said that such disclosure was becoming more needed because the rapid growth of pension funds in particular was increasing the potential influence of the large institutional investors that manage such funds.

A spokesman for Morgan, asked to comment on the study, noted that "they describe the holding of voting rights as a great power in being, but they haven't demonstrated that anyone has ever abused it."

He pointed out that Morgan already voluntarily discloses its holdings of voting power every year. The Comptroller of the Currency also requires such disclosures of all national banks.

State-chartered banks, however, including some of the nation's largest, are not required to disclose such information, and Morgan and the Harris Trust and Savings Bank in Chicago are the only two that regularly do so voluntarily. The subcommittee was able to obtain information on voting rights from the other leading state banks, although a few, including the Irving Trust in New York, the Wilmington Trust Company, in Delaware, the Cleveland Trust Company, and the United California Bank, refused to provide any information on their holdings.

Banks and trust companies, foreign investors, investment companies, insurance companies, foundations and educational endowments now hold voting rights to about half of the stock in the United States corporations, according to the report.

INFLUENCE ON BOARD AND POLICIES

Because of the fragmentation of stock ownership, control of as little as 1 or 2 percent of a company's stock is frequently sufficient to exert tremendous influence over its board of directors and its policies, the report suggested. The report came to these other conclusions:

The principal stock voters in major banks are other large banks. Morgan is the principal voter of stock in five of the nation's 10 largest banks, and in turn, the top four stock voters of J. P. Mogan & Company, Morgan's parent holding company, are other leading New York banks.

In 19 corporations a single institutional investor controls more than 5 percent of the voting rights.

Five or fewer investors have more than 10 percent voting interest in 24 corporations, including American Broadcasting Companies Inc., CBS Inc., six banks, four major airlines, five transportation companies and three retailers.

Family interests control 10 percent or more of the votes of 13 major corporations, including the Coca-Cola Corporation, E. I. du Pont de Nemours & Company and the Ford Motor Company. One family group, headed by F. M. Kirby and Allan P. Kirby Jr. of Morristown, N.J., controls the largest mutual fund complex in the world., Investors Diversified Services. It is the largest voter of shares in Northwest Airlines Inc., and the third-largest stock voter in the Travelers Corporation.

Morgan Guaranty alone votes more than 5 percent of the stock in seven corporations: American Airlines, American Express, the Consolidated Freightways, the Goodyear Tire and Rubber Company, Pepsico Inc. and UAL Inc.

The Republic of Texas Corporation, a holding company for a major Dallas bank, votes more than 5 percent of the shares of Safeway Stores Inc. and Tenneco Inc., the study reports.

Surprisingly, a single institutional investor controls more than 5 percent of the stock of the gigantic General Motors Corporation. The National Bank of Detroit holds a 6.21 percent voting interest in the nation's second-largest industrial corporation.

Not so surprisingly, the study shows that Rockefeller family interests control at least 1.85 percent of the stock of the Chase Manhattan Bank. It also reports that Chase holds almost twice as much debt in the 25 major American air carriers as any other bank and that Laurence S. Rockefeller alone controls 4.66 percent of the voting stock in Eastern Air Lines.

In spite of its findings, however, the authors of the staff report admit that it is incomplete because of significant gaps in the disclosure requirements of the various regulatory commissions.

The S.E.C. requires only that the "beneficial owner" of at least 10 percent of a company's outstanding shares or anyone seeking to acquire at least 5 percent of the shares, report to the commission. Beneficial owners are defined narrowly as those receiving a financial benefit from the stock ownership.

Thus, many reports on corporate ownership to the S.E.C. include numerous nominees as stockholders, and do not reveal what institutions actually vote the stock. Moreover, the public records on stock holdings of individuals, private organizations and foreign investors are "sparse," according to the report, unless the blocks are large enough to require filing or are held by officers or directors of a company subject to the reporting requirements.

"We still don't really know who owns and controls the stock in American corporations," said Michael Locker, the president of Corporate Data Exchange, a New York-based nonprofit research organization that did much of the analysis for the subcommittee study.

The S.E.C. is studying new rules that would require disclosure of any holding of at least 5 percent of the shares and, more importantly, that would broaden the definition of "beneficial owner" to include any person or institution that has the right to vote or dispose of securities.

The new rules would also require investors to disclose not only their own ownership, but also any holdings of subsidiary companies, thereby aggregating all of the holdings of a single investor complex, which is not now done.

These new rules were approved by the commission last February and were originally scheduled to go into effect last August. They were postponed in the face of a storm of corporate protest that compliance with the regulations, as designed, would be too expensive and burdensome.

The commission now hopes to be able to promulgate the new rules, which would close most of the reporting gaps on ownership by this spring. According to John Granda of the S.E.C. staff, "something close to what we adopted in February will be the law."

The subcommittee of the Senate Committee on Governmental Affairs is planning to release a companion staff study this spring showing the direct and indirect interlocks among the boards of large corporations. Joint hearings on this and the voting rights study

just released had been planned with a judiciary subcommittee headed by Senator Howard Metzenbaum, the Ohio Democrat, before Senator Metcalf's death, although now Congressional follow-up of the studies is in doubt.

WHO VOTES THE BIG BLOCKS: EXTENT OF STOCKVOTER INTEREST OF MAJOR INVESTORS (FROM A STUDY OF 122 CORPORATIONS)

Name of investor	Number of companies in which the investor is— Among top 5	Top stock voter
Morgan Guaranty Trust Co. of New York	56	27
Citibank	25	7
TIAA-CREF (Teachers Insurance & Annuity Association—College Retirement Equities Fund)	24	2
Capital Research & Management Co	19	2
Prudential Insurance Co. of America	18	4
Dreyfus Corp	17	4
National Bank of Detroit	17	5
Kirby Family Group—Alleghany Corp	16	4
BankAmerica Corp	15	1
Fidelity Management & Research Corp	13	2
Manufacturers Hanover Trust Co	12	1
Bankers Trust Co	11	0
First National Bank of Chicago	11	2
Lord Abbett & Co	11	2
Equitable Life Assurance Society of the United States	10	2
First National Bank of Boston	10	0
Harris Trust & Savings Bank	10	2
Chase Manhattan Corp	8	3
Continental Illinois National Bank & Trust	8	3
Marlennan Corp (Marsh & McLennan Cos., Inc.)	7	0
Massachusetts Financial Services Inc	7	2

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. I do not recall, Mr. President, at least dur'ng my service in the Senate, any other time when we have suffered three losses within, I guess, less than a month. Surely that record ought to stand for a while.

Any one of these losses would have been too many, Mr. President. Each of the individuals who died within this recent period left a deep mark upon the Senate and upon each of his colleagues. It is easy now to see that each of them was a most unusual and singular person, and very much of a person.

We have spoken in regard to Senator McClellan on another occasion. We still feel as if he were among us, and his memory will long hang over this Chamber.

Senator METCALF I have known personally for longer than either of the other two colleagues, because we served together in the House of Representatives. When I first got to know him, I was impressed with his quiet dignity with its mixture of humor, which lightened his character at all times, which lightened the job of his colleagues at all times, and which contributed to his ability to make a telling point without long argument.

He loved his State. He really always wanted to get back to it. I was surprised that he stayed in Congress as long as he did. I wish that he had stayed much longer. We shall miss him very greatly, and he, too, will be remembered for a long time—as long as any of those of us who served with him either in the House of Representatives or the Senate has any capacity to remember.

If there was ever a legend in his own time, Mr. President, it was Senator HUMPHREY—one of the most remarkable men, I think, that I have ever met, and yet utterly without pretense. He carried his great gifts lightly.

He, too, was good fun. He loved life. He loved people. He loved his State. He loved this Nation and its history, and he loved this body. He was ideally suited to be a Senator. His influence upon his colleagues, for years and years, was as great as anyone's that I know of, or that I can think of now.

We learn to rely on our colleagues very heavily, and it is very seldom that we are let down, because in this body one comes to know his colleagues pretty well, to know what he can expect, to know his colleagues' strengths and their weaknesses, to know when they are really speaking from the depths of their understanding and from the deep sincerity of their hearts and when they are engaged in a pro forma exercise, which occasionally everyone must do.

There were very few pro forma moments, though, to Senator HUMPHREY. He was always on the high wire. He was always himself. Who else could talk for hours, literally, and hold a weary, tired Senate, weary members of the press, and the weary members of that most abused group of all, I think, our Senate staff? I never have known a time, however, when any of us wanted him to stop.

This was not something that people talked about behind closed doors; it was something that was discussed almost daily, and enjoyed by him as well as by all of us. It was even enjoyed, Mr. President, at his funeral, as Senators know, when the most gracious and meaningful remarks by his pastor included a reference to the fact that the service had gone on for an unusually long time.

That could not have been avoided. It would have been much longer if everyone who wanted to have a piece of it had been allowed to do so. But we remember the minister saying that there had not been a longer service within his memory in that church since the last time that Senator HUMPHREY had occupied the pulpit.

It was possible to say that kind of thing at the funeral of a man like HUBERT HUMPHREY and to give no offense, to cause nothing but gentle smiles and happiness and gratitude for his memory.

He will live long in our hearts.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

Mr. LEAHY. Mr. President——

The PRESIDING OFFICER. Will the Senator from Wyoming withdraw his suggestion?

Mr. WALLOP. Yes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. How much time does the Senator want?

Mr. LEAHY. About 4 minutes.

Mr. MATSUNAGA. Go ahead.

Mr. LEAHY. Mr. President, later today I shall be giving a eulogy for Senator HUMPHREY at the noon mass at Georgetown University and I ask unanimous consent that, at the conclusion of the remarks that I shall make on the floor today, that separate eulogy be printed in the RECORD with a statement showing that it is a eulogy being given at Georgetown by me for the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, last fall, our colleague and good friend, HUBERT HUMPHREY, returned to the Senate where he had done so much over the decades. It was one of the most joyful occasions in the Senate and one of the most honest and heartwarming of welcomes.

During the following several weeks, most of our colleagues gave statements of much-deserved praise and welcome to Senator HUMPHREY. Mr. President, I did not.

My failure to give a welcoming speech for HUBERT HUMPHREY was not because I did not admire him, because there is no one here that I admired more. It was not because I did not love him, because I loved him as I would a member of my own family. It was not because I did not welcome him—because I did that with an unabashed eagerness. Rather, Mr. President it was because, perhaps in a true Irish sense, I was afraid that that welcome would be too much a eulogy rather than a welcome and that, by not giving it, in some way, I might postpone what all of us realized was inevitable.

During the months following HUBERT'S illness, we all began to realize more and more what a wondrous man he was. We all began to know how different the Government of the United States and this body would be without him. And I know that all of us wished there would be more time.

We all wished we had more time with him—and now we can all think of debates we should have stayed for, stories we should have listened to, or requests for help we should have granted.

All of us know that HUBERT HUMPHREY lived nowhere near long enough to allow the country to have the full measure of his boundless talents. But Plutarch said the measure of a man's life is the well spending of it, and not the length. By that measure, HUBERT HORATIO HUMPHREY'S life was well spent, indeed.

My colleagues have today, and during the past week, cataloged so many of the achievements of this great man—achievements which will insure his place in history as much as the Presidency ever would. I hope therefore, Mr. President, I can be forgiven if I do not go back over all of these accomplishments but speak only of a weekend my wife, Marcelle, and I spent with HUBERT and Muriel Humphrey in Vermont.

HUBERT and I were constantly and totally chauvinistic about our own States, He would tell me of the joys of Minnesota and I would speak of the beauty of Vermont. Partly as a result of this, and partly because of the warm friendship he had extended to this new, young, and inexperienced Member of the Senate, the Leahys and the Humphreys spent a weekend in the State of Vermont. We, along with our 11-year-old son, Kevin, traveled throughout a large part of the State. Everywhere HUBERT went, he was surrounded by people who wanted to see him, hear him, touch him, and be with him. In all this he showed such a warmth and genuine affection for them, touching their lives, answering their questions, inspiring them by being so personal and accessible.

In the evening, we were at one of the political affairs so familiar to all of us. As the evening wore on, HUBERT made a point to talk to everyone and to introduce them to Muriel—herself, as we know, a most special person.

Finally, at 11 p.m. that night, HUBERT told me that he and Muriel were going back to where we were staying and they thought our son, Kevin, should go with them because it was past his bedtime. We made plans to join them there later.

When we arrived an hour later, we found the Humphreys, in their bathrobes, sitting before a television set turned so low that it was almost impossible to hear it. The door to our son's room was open and HUBERT explained to me that they were sitting there because they felt our son might awaken and be frightened if he saw no one there. So, after making sure that he had gotten ready for bed, said his prayers, and was safely tucked away, these two warm and wonderful people were now babysitting on a cold winter's night in Vermont.

It was HUBERT'S ability to be human although great, to be caring while involved, and to love while being admired that was so much the mark of the man.

This Christmas, we all received greetings from HUBERT and Muriel. The message was very simple. It said: "God loves you, so do we." God loved HUBERT HUMPHREY and so do all of us.

I yield the floor.

EXHIBIT 1

EULOGY FOR SENATOR HUBERT H. HUMPHREY BY SENATOR LEAHY AT THE 12:10 P.M. MASS AT GEORGETOWN UNIVERSITY, JANUARY 24, 1978

The history books will say that Hubert Humphrey was a significant figure in the political life of America for 30 years. They will list his achievements: the programs enacted into law that fed millions, that slowed the arms race, that ensured justice for those to whom the political and cultural patterns of generations had denied justice.

These achievements are much in our minds as well. We, his colleagues and friends and admirers, remember in thankfulness the blessings that Senator Humphrey's participation in the political life of our age has meant for America.

But what we remember most these days, and most fervently give thanks for, is the man, Hubert Humphrey. He could lift our hearts. He stands as an exemplar of determination and principle. His instincts for what were the crucial issues of our time always corresponded to what is most central and authentic in the founding ideals of our nation and in the tradition which is their source. One always knew that behind his espousal of the ideals of peace or justice of human rights lay, not clever staff work or the calculations of pollsters and public relations advisers, but the man himself—well-informed, incisive, and passionately devoted to the good, a man who loved others.

His loyalty to aides and friends bespoke that same integrity.

If his life as a politician and as a man touched us, if we consider his influence and his person a blessing to us all, then we see his working as his God would have wished. Scripture speaks of God as love, and it speaks of him as a consuming fire, and the two come to much the same thing. God's love shatters our idols, in order that we might live in his light. God upsets the wisdom of the world, with its rigid calculus of winning and losing. "Weakness argues its own futility," the wicked say in the Wisdom of Solomon, but God summons us beyond that self-serving conviction to a knowledge of the transforming power of his love, a power which is "perfected in weakness."

Hubert Humphrey knew these things. His political defeats were painful for him, but he never gave in to resentment or vindictiveness. The disease that ended his life might have destroyed his spirit, but he knew that it would not have the last word, any more than the other disappointments and sorrows of his life could have the last word. He never succumbed to self-pity or indulged in Promethean defiance, for he was able to accept, and to grow, and we can feel that God was at work in his life.

He wanted to be President and never did, but no one would call Hubert Humphrey a failure. He died of cancer at a relatively early age, but no one would say his life ended tragically. He is a blessing to us because he showed that "winning" and "losing" are terms whose meaning hard-eyed practitioners of power politics and self-styled realists about human life cannot begin to know. He showed that fidelity, integrity, sacrifice, and charity are the things in life that count for most—that count for everything. He is a blessing to us because God was at work in his life, as he is at work in ours, and for this we give thanks.

Each year, my family and I have received a Christmas card from the Humphreys. Usually it has had a photograph of Hubert and Muriel, and often their grandchildren.

This year, the card was very simple. It said only: "God love you, and so do we." God loved Hubert Humphrey, and that love showed through in all he did.

A READING FROM THE BOOK OF WISDOM

The godless call with deed and word for Death; counting him friend, they wear themselves out for him, and they make a covenant with him, and are fit to be his partners.

For they say to themselves, with their misguided reasoning: "Our life is short and dreary, nor is there any relief when man's end comes, nor is anyone known who can give release from Hades.

As for the just poor man, let us oppress him; let us not spare the widow, nor respect old age, white-haired with many years.

Let our strength be the yardstick of virtue, since weakness argues its own futility."

This is the way they reason, but they are misled, their malice makes them blind.

They do not know the hidden things of God, nor hope for the wages of holiness, nor discern the prize for blameless souls.

But the souls of the just are in the hands of God, no torment will ever touch them.

In the eyes of the foolish, they did appear to die, their going was though to be an affliction, their leaving us, like annihilation; but they are in peace.

Having been disciplined a little, they will receive great good, because God tested them and proved them worthy to be with him.

Like gold in the furnace he tried them, and accepted them as a holocaust.

In the time of their visitation they will shine forth, and will run like sparks through the stubble.

This is the Word of the Lord.

Mr. MATSUNAGA. Mr. President, I rise to join my colleagues in paying tribute to the memory of our late colleague and a former Vice President, HUBERT H. HUMPHREY, of Minnesota. So much has been said in such eloquence by so many that I can hardly add to the great tribute which has been paid to one of the greatest human beings of all times. Gentleman, statesman, scholar, leader, teacher—conjure whatever adulating adjective you might, they would fittingly describe HUBERT HUMPHREY.

But more than all others, HUBERT HUMPHREY was a man of human compassion. As Vice President, candidate, and Senator, he won the hearts of millions of people throughout the world. His devotion to human rights and his dedication to the cause of justice was superhuman. His adherence to principles in the face of disappointment, defeat, and even death has won him a place among the greatest of world leaders.

When the former Vice President returned to this Chamber last year, he received an unprecedented ovation for a Senator returning to the Senate, from both the floor and the visitors' galleries—an ovation which lasted for over 5 solid minutes. I remarked to him later:

HUBERT, if you had returned as President of the United States, you would not have received a warmer, more enthusiastic reception. The reception you received today was for HUBERT HUMPHREY, the man. Not even the office of the President could top that.

He responded with that well-known smile in his voice:

Sparky, I don't need to tell you, I would have preferred it the other way.

No one, not even his worst political enemy today, doubts that HUBERT HUMPHREY would have made a great President, perhaps one of our Nation's greatest. But, today, I rise to salute the man, a friend whose philosophy I shared and whom I respected and loved for more than 20 years. HUBERT operated on much the same principle throughout his life. If he saw someone in trouble and in need of help, he reached out, pulling them into the mainstream of American life. He believed that all Americans were "ours" and should share the fruits of our democratic system, regardless of income, color or creed. The landmark civil rights acts of the 1960's will be among his most lasting memorials, for it was HUBERT HUMPHREY who germinated the idea in the 1950's and who, as Vice President, helped engineer their final enactment. The original employment act also bears his name—a measure which sought to insure every American willing to work a decent-paying job. At the time of his death, he was working with characteristic

fervor for the enactment of a new and more comprehensive employment bill. Medicare, medicaid, Federal aid to education, the Food for Peace Act, the school lunch program, the Older American Act—all bear the mark of HUBERT H. HUMPHREY.

HUBERT HUMPHREY was no less active on the international scene. He was the father of the Peace Corps and was one of the architects of the limited nuclear test ban treaty, one of the early triumphs of the Kennedy-Johnson administration. During his lifetime, HUBERT HUMPHREY never complained, never really tried to defend himself. He was a man of extreme loyalty, to his country and to his friends. He was also a man of unflagging faith in the American system who believed the best way to change the system was from within it. While he chafed at bureaucracy's slowness, and complained frequently about the inequities remaining in our society, he infused more enthusiasm in our democratic system than any other American in this century. In his vision of America, he was often far ahead of his colleagues and the man on the street. And yet, he was never a "loner" but a man who loved to be with people and to work with them for a better world.

HUBERT HUMPHREY was frequently referred to as "the happy warrior." To paraphrase William Wordsworth, "who is the happy warrior? Who is he that every American should wish to be?" The following words written by Wordsworth more than 150 years ago appear to have been written in anticipation of HUBERT'S coming:

Who is the happy Warrior? Who is he
That every man in arms should wish to be?
—It is the generous Spirit, who, when brought
Among the tasks of real life, hath wrought
Upon the plan that pleased his boyish thought:
Whose high endeavors are an inward light
That makes the path before him always bright:
Who, with a natural instinct to discern
What knowledge can perform, is diligent to learn;
Abides by this resolve, and stops not there,
But makes his moral being his prime care;
Who, doomed to go in company with Pain,
And Fear, and Bloodshed, miserable train!
Turns his necessity to glorious gain;
In face of these doth exercise a power
Which is our human nature's highest dower;
Controls them and subdues, transmutes, bereaves
Of their bad influence, and their good receives:

An idealist who never lost sight of the pragmatic, HUBERT HUMPHREY was a whole man, a man of integrity in the truest sense of the word. He could always be trusted, because his basic principles and values never changed. He was always the same person wherever he was—be it Minnesota, Washington, Hawaii, or Timbuktu. His death leaves a painful gap, in our ranks and in our hearts. As one who was enriched by HUBERT'S personal friendship, and one who learned to love the great man as we traveled together in Japan, Korea, Alaska, and Hawaii, I deeply grieve HUBERT'S passing. Mrs. Matsunaga and I extend our heartfelt condolences to his beloved widow, Muriel, and to the rest of his family. May God bless them in their bereavement.

Mr. SPARKMAN addressed the Chair.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Alabama.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. SPARKMAN. Mr. President, I want to take advantage of this opportunity to make brief remarks regarding HUBERT HUMPHREY.

I first knew HUBERT HUMPHREY when he was mayor of his hometown. I was there to speak on some occasion. He invited me to come over to his office to visit with him, and I did. I enjoyed it very much.

Later on, in fact not very long thereafter, we were engaged in a political campaign in 1948 and I was back in his hometown on the campaign trail. Again, I met with him and, as I recall, HUBERT, Mrs. Roosevelt, and I shared the speaking platform at the Democratic meeting that was held.

I knew HUBERT through the years thereafter. I remember when he came to the Senate. I had the privilege of serving on two committees with HUBERT HUMPHREY. The Joint Economic Committee and the Foreign Relations Committee. On both of these committees, HUBERT was always out in front.

He was a man who could reckon with the economic affairs of the day and he always had a heart that looked toward helping those who could not help themselves.

I recall his campaigns. I remember that campaign in 1968 when a few thousand votes would have turned the tide and he would have been President of the United States. I have often thought how different the course of history might have been had HUBERT HUMPHREY been elected President at that time.

I shall miss him, as everyone in the Senate and elsewhere throughout the country will miss him, but it has been great to know him and to be closely associated with him.

Mrs. Sparkman and I join my colleagues in extending to Muriel and to other loved ones of his our deepest sympathy, and we share with her the pride of having known and been associated with HUBERT HUMPHREY.

TRIBUTE TO SENATOR LEE METCALF

Mr. SPARKMAN. Mr. President, I first met our departed comrade, LEE METCALF, on the campaign trail. I was speaking in the western part of the country, campaigning for the Democratic Party, and one of the places in which I spoke was Helena, Mont. As I recall, Mike Mansfield was running for reelection, and LEE was running for the first time for the House of Representatives. I enjoyed the meeting there with LEE, and I enjoyed my association with him in this great body.

He was a wonderful Senator. He was always diligent about making known and protecting his interests in that great western part of our country. He was a great and fine Senator who has left us.

Mrs. Sparkman and I extend to his loved ones our deepest sympathy, and we cherish the privilege of sharing with them a long association with LEE in this body.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. WALLOP. Mr. President, I join my colleagues and Americans everywhere in expressing sorrow at the loss of our colleague HUBERT HUMPHREY.

Though my personal acquaintance with him was short, it was a rich experience in my life.

One of the first things I remember about Senator HUMPHREY is that shortly after I had come to the Senate, I was having lunch in the Senate dining room with some young high school students from Wyoming. Senator HUMPHREY walked in, and naturally they were excited in the presence of a political celebrity, a political hero, and wanted to meet him. Senator HUMPHREY, as he did with everyone, had time enough to come over and greet those young people and, indeed, wait for the photographer, so that he could allow them to have their picture taken with him. I am sure that will remain a high point in their lives and a treasured photograph in their albums, one which probably will be shown to children and grandchildren.

Senator HUMPHREY had time for new Senators as well as for his older colleagues. Among the early experiences I had in the Senate was the opportunity to sit with him and talk of a variety of issues, some important, some amusing, some just tales of life in politics. I enjoyed that and felt privileged to have had the opportunity to share those things in his presence.

Politics is the combat of ideas in a civilized arena. In this arena, the best of friends are made by those who battle with words and love that democratic freedom. HUBERT HUMPHREY'S great legacy is his fierce loyalty to his ideas, to the Senate as the arena, and to his colleagues on both sides of the great struggles he waged.

As such, he was a great American, whose memory will linger on past that of many of us who served with him.

TRIBUTE TO SENATOR LEE METCALF

Mr. WALLOP. Mr. President, the Senate also suffers the loss of my colleague and my neighbor to the north, Senator LEE METCALF. He was a pivotal force in defending the rights of our Western States and, as has been stated here this morning many times, a staunch advocate in protecting our national environmental heritage.

Long before I even thought of coming to the Senate, I was here testifying on behalf of a national strip mining bill. That will go down, I think, as Senator METCALF'S most notable accomplishment, that he was able to guide a workable strip mining bill that was fair to the industry and fair to the energy needs of this Nation—to guide it through the complicated maze of congressional action and public understanding and misunderstanding, to the point that it became a national law under which we can all operate with considerable sense of comfort that in the future, while we are using the energy of this Nation, we will not be abusing the land of this Nation.

He was always a fair-minded person and a gentleman. We often talked about giving each other honorary citizenships in each other's State. Indeed, a portion of his State had asked to come into my State, and we joked about it, never taking the proposal seriously, and enjoying the company that westerners frequently share most comfortably with each other.

He was a true spokesman of the West and a true spokesman of a great deal of the sentiment that existed in his State during his most recent service and at the time of his death. Naturally, those of us in the West and those of us who were friends will miss him.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HUBERT H. HUMPHREY

Mr. SARBANES. Mr. President, while Senator HUMPHREY's death did not really come as a surprise, it came, nonetheless, as a profound shock to the Senate and the Nation and the world, in whose consciousness, and conscience, he had played such an important and vital part for more than 30 years. In many ways HUBERT HUMPHREY was the symbol of the great dream that millions of Americans have been brought up to treasure, have sought to share, and have striven to make more real. He not only symbolized the dream; he was also the living proof of its strength, its durability and its generosity of spirit. He taught us all that the American people are indeed capable of surmounting the difficult problems that must inevitably face a nation as large and diverse as ours. He taught us that adversity need not lead to discouragement, cynicism or despair. He proved through the example of his own life and that of Muriel and the family through his long and splendid career in public service, with its extraordinary accomplishments, that dedication, compassion, intelligence, imagination, and good humor can often bring about near-miraculous results, and that affection lavished on others will be returned many times over.

HUBERT HUMPHREY had a rare ability to be ahead of his time. He applied his amazing energy to the central concerns of American life, not to the marginal or peripheral ones. Up to the very moment of his death he was deeply engaged in two major legislative efforts to strengthen our society at home and to improve the quality of our Nation's contribution to societies abroad. The first, the Humphrey-Hawkins full employment and balanced growth bill which bears his name and which he has introduced yearly since 1974 is designed to put an end to the terrible, debilitating handicap that unemployment places on millions of Americans and their families, and indeed on our Nation as a whole. The second, major foreign assistance legislation, would establish new priorities and guidelines for foreign aid programs to give help to the people abroad who need it most. These two efforts, which will always remain associated with HUBERT HUMPHREY's name, clearly reflect his decency and compassion, his unfailing efforts to bring out and put to work the finest which we have as a nation.

HUBERT HUMPHREY was at various times mayor, Senator, Vice President, and teacher. From time to time teaching was his profession, as in the period prior to his return to the Senate in 1971. Beyond that, teaching was an integral part of his public service. He had the genius to translate abstractions into human terms and to make us understand our problems and assume our responsibilities. He taught us both by what he said and by the example he set. He made us feel better about ourselves because he appealed to the best in us.

As one who had the good fortune to benefit from his teaching, from his guidance, and from his friendship, I feel a tragic and enduring loss at his death.

He loved America deeply and served the people as few have done in our Nation's history. While we mourn his death, we shall remain true to his example and draw strength and inspiration from his life for the future.

A TRIBUTE TO HUBERT HORATIO HUMPHREY

Mr. MUSKIE. Mr. President, the Senate will not be as happy, or as stimulating and challenging a place, without HUBERT HUMPHREY. We will miss his easy smile, his boundless enthusiasm, his courage, his honesty, and his warmth.

In the past few months, he has been honored here and in his beloved Minnesota as a warm and beloved friend. In death he was accorded Presidential honors he was denied in life. And history will hold him in higher regard than many if not most Presidents.

I think HUBERT realized in the last months of his life that he had truly won something more important than elections—an enduring place in the hearts of his people and in the history of our country.

It was HUBERT's ambition to be President. He lived in a time when ambition in politics was regarded by many people as unseemly. But HUBERT was proud of his ambition, because he was driven not by a need for glory or personal power, but by an intense desire to make things better.

HUBERT saw government as society's most powerful tool for fashioning the public good. And by the public, HUBERT meant the people. He treated everyone equally and well. He thought not of social needs, but of human needs. I think that distinction is a key to our understanding of what made HUBERT a great man.

HUBERT was a tireless campaigner as I have personal reason to know because he genuinely liked everyone he met. A story I heard about a visit HUBERT made to Connecticut in 1972 illustrates what I mean.

HUBERT had agreed to speak at two rallies, one before dinner and one after dinner. To no one's surprise, he arrived late to the first rally, and spoke a little longer than everyone had planned, including, I am sure, HUBERT himself. The organizers knew it would be impossible to have dinner and then make the second rally, so they offered to cancel the rally. HUBERT cancelled dinner instead.

HUBERT gained his sustenance not from food, but from his contact with people. He campaigned so hard and so often that he knew the politics and issues of some places better than the local party leaders.

In 1968 HUBERT fell a half-million votes short of his dream of the Presidency. He chose me to be his Vice-Presidential running mate that year—the supreme political experience of my life—and during the long uphill campaign I came to know him well.

In the last few days of that campaign, we knew we had a chance to win. But we did not. It is a measure of HUBERT's courage and eagerness for life that he did not dwell on that defeat.

After the campaign, our two families vacationed together, and he never once in that 10 days brought up the subject. On a few occasions when he was by himself, one was temped to believe he might be dwelling on his disappointment and possibly feeling some bitterness. If so, he never let it show. He loved having the kids around and they would drag him off to play on the beach or go swimming or snorkeling. And there was never any suggestion in his demeanor or his behavior that he was anything but happy and content and looking forward to what the future held.

Beyond HUBERT's many legislative accomplishments, I think it was this refusal to accept the results of adversity that most affected us. He did not talk about the past. He wanted to talk about the future.

He believed in the American dream, and he was proud to say so. He believed that the average citizen can learn and grow and prosper in a democracy, and that we can do anything we really want to do. And he knew the job of government was to help the individual find his own satisfaction.

He always had hope. He always had dreams. He always wanted our lives to be better.

I talked with him often in his last months and, after my back operation, I found it difficult to get the subject around to HUBERT's health. He was always much more interested in finding out how I was. He must have been in great pain. He must have known his time was short. But he never conceded it. He would always tell me, "Oh, I'm feeling better."

And despite the pain, the certainty of his death, he never succumbed to self-pity; he never lost his eagerness for tomorrow; he never stopped thinking, planning, working, or talking.

Someone said once HUBERT had more answers than there were problems. The truth is, he saw many problems before most of us were aware of their existence. And he was always ready to take them on, before they were ready to take him on.

I will miss HUBERT—my open-hearted, generous, always considerable friend.

I will miss the sight of him—reaching out to people—and especially the children—my children. They instinctively loved him, sat on his lap, listened to his stories.

I will miss the sound of him, that voice which was built for optimism and good cheer, the quick mind ceaselessly conjuring word pictures to convey the ideas to move people. If he felt he was not getting through, he tried again with new phrases and images—and so his speeches may have been long, but never dull. They vibrated with the excitement of his beliefs and his hopes.

I will always miss, with a deep sense of loss, what we can never have—a HUMPHREY Presidency. What an exciting and challenging experience that could have been. We would have believed in him—as we all did in the end. He would have had us believing in each other—as we once did. He would have had us building once more—the country of our faith and our hopes.

FRITZ MONDALE said it for me in his moving eulogy:

He taught us how to hope and how to love, how to win and how to lose; he taught us how to live, and finally, he taught us how to die.

Lest the record of the Senate be incomplete, I ask unanimous consent that the entire text of that moving eulogy, which touched me deeply, be reprinted in the RECORD at this point.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

EULOGY OF VICE PRESIDENT WALTER F. MONDALE

Dear Muriel, the Humphrey family, and guests. There is a natural impulse at a time like this to dwell on the many accomplishments of Hubert Humphrey's remarkable life. By listing a catalogue of past events as though there were some way to quantify what he was all about. But I don't want to do that because Hubert didn't want it and neither does Muriel.

Even though this is one of the saddest moments of my life and I feel as great a loss as I've ever known, we must remind ourselves of Hubert's last great wish, that this be a time to celebrate life and the future, not to mourn the past, and his death.

But, Muriel, I hope you will forgive me if I don't entirely succeed in looking forward and not backward, because I must, for a moment. Two days ago, as I flew back from the West over the land that Hubert loved, and to this city that he loved, I thought back over his life and its meaning. And I tried to understand what it was about this unique person that made him such an uplifting symbol of hope and joy for all people.

And I thought of the letter that he wrote to Muriel over 40 years ago when he first visited Washington. He said in that letter, "Maybe I seem foolish to have such vain hopes and plans. But, Bucky, I can see how, someday, if you and I just apply ourselves and make up our minds to work for bigger things, how we can someday live here in Washington and probably be in government, politics or service. I intend to set my aim at Congress."

Hubert was wrong only in thinking that his hopes and plans might be in vain. They were not, as we all know. Not only did he succeed with his beloved wife at his side, he succeeded gloriously and beyond even his most optimistic dreams. Hubert will be remembered by all of us who served with him as one of the greatest legislators in our history. He will be remembered as one of the most loved men of his time. And even though he failed to realize his greatest goal, he achieved something much more rare and valuable than the nation's highest office. He became his country's conscience.

Today the love that flows from everywhere, enveloping Hubert, flows also to you, Muriel. And the presence today here, where America bids farewell to her heroes, of President and Mrs. Carter, of former Presidents Ford and Nixon, and your special friend and former First Lady, Mrs. Johnson, attest to the love and respect that the nation holds for both of you.

LIVED BY THREE PRINCIPLES

That letter to Bucky, Muriel, also noted three principles by which Hubert defined his life: work, determination and high goals. They were a part of his life's pattern when I first met him 31 years ago. I was only 17, fresh out of high school, and he was the Mayor of Minneapolis. He had then all the other sparklingalities he maintained throughout his life; boundless good humor, endless optimism hope, infinite interests, intense concern for people and their problems, compassion without being patronizing, energy beyond belief, and a spirit so filled with love there was no room at all for hate or bitterness. He was simply incredible.

When he said that life was not meant to be endured but, rather, to be enjoyed, you knew what he meant. You could see it simply by watching him and listening to him. When Hubert looked at the lives of black Americans in the 40's, he saw endurance but not enjoyment, and his heart insisted that it was time for Americans to walk forthrightly into the bright sunshine of human rights.

When Hubert looked at the young, who could not get a good education, he saw endurance and not enjoyment. When Hubert saw old people in ill health he saw endurance and not enjoyment. When Hubert saw middle-class people striving to survive and working people without jobs and decent homes, he saw endurance and not enjoyment.

Hubert was criticized for proclaiming the politics of joy, but he knew that joy was essential to us and is not frivolous. He loved to point out that ours is the only nation in the world to officially declare the pursuit of happiness as a national goal.

But he was also a sentimental man, and that was part of his life, too. He cried in public and without embarrassment. In his last major speech in his beloved Minnesota, he wiped tears from his eyes and said: "A man without tears is a man without a heart." If he cried often, it was not for himself but for others.

Above all, Hubert was a man with a good heart, and on this sad day it would be good for us to recall Shakespeare's words: "A good leg will fall, a straight back will stoop, a black [beard will turn white, a curled pate] will grow bald, a fair face will wither, a full eye will wax hollow, but a good heart is the sun and the moon. Or, rather, the sun and not the moon for it shines bright and never changes but keeps his course truly." Hubert's heart kept its course truly.

He taught us all how to hope and how to love, how to win and how to lose; he taught us how to live, and, finally, he taught us how to die.

Mr. MUSKIE. Mr. President, I will also miss something that ought not to be lost in history, and that is HUBERT HUMPHREY's sense of humor and his wit. Malcolm Forbes in the February 6, 1978, edition of Forbes' includes some examples of that sense of humor in his editorial entitled "I Can't Resist One More Happy Hubert Humphrey Memory." I ask unanimous consent that that editorial be printed in the RECORD at this point so that those who read the RECORD may enjoy once more that incomparable combination of humor and optimism which was the hallmark of HUBERT HUMPHREY.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

I CANNOT RESIST ONE MORE HAPPY HUBERT HUMPHREY MEMORY

A little more than a decade ago, we marked FORBES' 50th Anniversary with a tented dinner at our home for some 600 corporate presidents, board chairmen, CEOs and their wives.

The then Vice President Humphrey captivating this not-too-many-Democrats gathering, beginning with these chuckleful off-the-cuff observations:

". . . After standing in the receiving line with Malcolm and Bertie for two hours and 50 minutes here this evening, I've come to the conclusion that I must be the only vice president present tonight. . . ."

". . . One man came through the line and was introduced as the head of Hertz. A little later came a gentleman introduced as the head of Avis. I tell you, you'll never know how good it is to meet another Number Two. . . ."

". . . Somebody asked me tonight, and this is a true statement, 'Mr. Vice President, how do you manage this job, how do you get along with President Johnson?' I told him what Disraeli had replied when asked how, as Prime Minister of Britain, he was able to get along so well with Queen Victoria, and Disraeli replied, 'I never refuse, I never contradict and I sometimes forget.' That's the secret of being Vice President. . ."

". . . Among other things tonight, our host has taken a strong stand in favor of inheritance. I do, too. Vice President, and then you-know- what. . . ."

In a now-poignant reflection of his boundless optimism, Hubert Humphrey commented:

". . . There's just one point that I'd like to take exception to. Malcolm said that this is the 50th Anniversary of Forbes Magazine and that he doubted we'd be here for the 100th. I wish Malcolm would speak for himself. I've never felt better in my life. . . ."

SENATOR LEE METCALF

Mr. MUSKIE. Mr. President, another of our colleagues was also my friend, LEE METCALF. We worked together on many issues, shared many interests, and cooperated on a number of projects.

LEE served the Senate well. He was the Senate's lawyer. He gave a great deal to this institution. He worked steadfastly to modernize the lawmaking mechanism. And he was the primary advocate of many recent Senate reforms.

He was, at the time of his death, in charge of the effort to defend the franking privilege. He was selected for that role by his colleagues, because of our tremendous respect for his brilliant legal mind. And he justified our confidence in his ability.

Mr. President, I have a very personal reason for missing LEE METCALF. He was the first Member of this body to endorse my candidacy for President. He was an unstinting supporter. He was enthusiastic. Given my shortcomings—demonstrated by history—I shall never forget his confidence. He did more than support me with word and political assistance. He took on important projects in the Government Operations Committee, in

which we were mutually interested and from which I was distracted during the campaign.

In his work on the Governmental Affairs Committee, LEE was concerned about a government grown unresponsive to the needs of ordinary Americans.

As chairman of the Subcommittee on Budgeting, Management and Expenditures, he was responsible for guiding historic budget reforms through subcommittee and full committee. As chairman of the Senate Budget Committee, I hope we can justify his efforts and his commitment.

He pursued the elusive phenomenon of Federal advisory committees, which grew in number by leaps and bounds over the last decade with little or no public accountability. Under the Federal Advisory Committee Act, enacted in 1972 as a result of LEE's work, the number of Federal advisory committees has actually been reduced, and their operations have been opened up to increased public scrutiny.

LEE's constant concern with protection of consumer interests was evidenced in his determined pursuit of a fair deal for consumers before State utility commissions. After countless hearings and study, LEE's idea of a State utility consumer council was enacted into law as part of the Federal Energy Administration Reorganization Act.

And every year, for the last several years, LEE's subcommittee, along with my Subcommittee on Intergovernmental Relations, has released a report on State utility rate increases, pointing out repeatedly the enormous—and sometimes questionable—increase in fuel adjustment clauses which pass higher costs automatically onto customers.

But, above all, LEE was a valued source of friendship and help to me over the years in the give and take of committee work.

Mr. President, LEE METCALF was as much a Member of the House of Representatives as he was a Member of the Senate. It was in the House of Representatives that he first proved his leadership qualities. He was a founder of the Democratic study group—an institution in the other body which was formed to provide liberal Democrats with a mechanism to balance the dominance of conservatives in control of that body in the 1950's.

Had LEE METCALF stayed in the House, there is no doubt that he would have been elected to its leadership. In an interview in the Great Falls Tribune, printed shortly before he died, LEE commented on aspirations in his final year in the Senate and his career in politics. I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD as follows:

SENATOR LEE METCALF APPROACHES HIS FINAL SESSION IN CONGRESS

(By Thomas Kotynski)

HELENA.—Sen. Lee Metcalf begins his final session in Congress Jan. 19 which will bring to a close a political career which has spanned 42 years.

In a Tribune interview during the congresssional break Metcalf said:

—He plans to resign his Senate seat as soon as his successor, Democrat or Republican, is certified as elected. Metcalf wants the new senator to have an edge in seniority.

—Metcalf has no plans to get involved in primary campaigns or publicly support any particular candidate as his successor.

He says he intends to support only the Democratic nominees for such posts as U.S. Senate or House of Representatives from the Western District.

—Metcalf says one of his biggest political mistakes was his decision to run for U.S. Senate.

He believes he could have had more impact and realized more self satisfaction had he remained in the House.

Metcalf says he found his Senate options closed because of former Senate Majority Leader Mike Mansfield's prominence and the Senate taboo against letting two senators from the same state rise to leadership post.

—He has no retirement plans other than returning to Helena. Metcalf says he doesn't intend to get any other job and doesn't expect to travel or play any role in state Democratic politics.

—Metcalf doesn't believe the loss of Montana's seniority, because of his and Mansfield's retirements, will affect the state's relations and influence with Congress and the federal government.

—He expects to be immersed in his last session with: His bill to set aside immense portions of Alaska into national parks, wilderness and wildlife refuges; passage of two major Montana wilderness areas, the Great Bear and Absoroka-Beartooth; his legislation to revise and open to the public governmental advisory committees; oversight hearings on his probe into regulation of accountants; and work for a better farm bill, ratification of the Panama Canal Treaty, an energy bill and President Carter's tax revision proposals.

Does Metcalf, who served four House terms and three Senate terms, have any final goals he'd like to accomplish?

"No," he says tersely, "I think whether or not this is my last year in the Senate will not make much difference. It will go along as it has in the past. Legislation will pass or fail just the way it would pass or fail as it has for the last 26 years. I have supported a lot of legislation that hasn't gotten anywhere and I suppose that it still won't."

Metcalf, who will be 67 on Jan. 28, began his political career in 1936 when he was elected to the Montana House of Representatives, from Ravalli County.

He resigned from the legislature in 1937 to become an assistant attorney general, a post he held until 1941 when he began law practice in Hamilton.

After World War II he was elected to the Montana Supreme Court, a job he held for six years.

In 1952 he succeeded Mike Mansfield as Western District congressman. He ran for Sen. James Murray's seat in 1960 and was re-elected twice.

Metcalf has been in poor health in recent years, bedeviled by a right knee injured playing football and then wounded during the war, he also has a erratic heart beat. Last fall he had a throat hemorrhage which hospitalized him for nine days.

Elaborating on his political "mistake" of running for the Senate in 1960, Metcalf said he didn't resent Mansfield, but that his own inability to rise in prominence was "just one of the facts of life. I was delighted for Mike. But had I remained in the House I could have done parallel and analogous things that I couldn't do in the Senate."

Metcalf noted that all those in his freshman House class (1953) "are in a lot better and advantageous positions of leadership than I am in the Senate and doing the kinds of things that I would have liked to do but were foreclosed to me because I was from the same state as the majority leader."

Metcalf dismissed the notion that Montana will be hurt because it won't have senators in positions of seniority and leadership now that he is retiring.

"I don't think it will make a great deal of difference," he said, "we'll get along just as well as we ever have before."

He said he was referring particularly to the amount of money the state could expect to receive from various national programs.

Congressmen from all sparsely populated and western states would continue to work for distribution formulas in such areas as aid to education, Indians, vocational education and recreation.

There also will be congressmen from neighboring states, such as Idaho's Sen. Frank Church who will look out for Montana's interests as well as Idaho's, just as "Mansfield and I looked out for Idaho as well as Montana," he said.

And, when Church is no longer around, "he'll transfer his interest in Montana to someone else."

An example of this, Metcalf said, was Church's special interest in keeping MHD in Montana.

As far as those projects referred to often as "porkbarrel," Metcalf said, "every once in a while there are special projects (where lack of seniority) might make a difference."

But, he added, "It will be a long time before there is another senator from Montana who has the special interest in wilderness that I have had, or the special interest in jobs in relation to the labor community. But, that will be offset by the interests of the other Montana congressmen and senators.

"The framers of the constitution said that every state shall have two senators and that can't be changed and as long as Montana has as many senators as Rhode Island, we'll have just as much to say in the Senate as New York or California."

Metcalf said when there are major changes in such things as defense, weapons systems and base closures, there is nothing much even ranking members of Congress can do about it, no matter what the weight of seniority.

He noted that when Strategic Air Command (SAC) bases were being closed, Arkansas could do nothing about closure of its SACA base despite having Rep. Wilbur Mills as chairman of Ways and Means, Sen. William Fulbright as chairman of Senate Foreign Affairs and Sen. McClellan in charge of Armed Services, and Rep. Harris chairing banking and finance.

"And I don't think that Mansfield or Metcalf could have saved Malmstrom if there was a change in weapons policy in the U.S.," he said.

Metcalf said that with the relationships Rep. Max Baucus and Sen. John Melcher have built up in Congress that if Malmstrom were threatened in any way, "they could save it." Malmstrom is in no trouble now, however, he indicated.

Metcalf also denied the Montana congressional delegation is not getting along, to the detriment of the state's interests.

He said he blasted Melcher last summer only because he disagreed with Melcher on the impacts of his Montana Wilderness Study Act, SB393.

He admitted he and Melcher have different approaches to economic, labor and federal-state relations ("and that's his privilege"); but that he and Melcher and the rest of the delegation and their staffs communicate and cooperate.

Most recently, he said, he and Melcher fought together on the Northern Tier pipe-

line issue (which Melcher strongly supports), and they appeared together on the farm bill.

The Montana delegation's staffs, including Republican Rep. Ron Marlenee's, meet together weekly, although the meetings don't always consist of top administrative aides as in the past.

That's partly because of Mansfield's retirement and the fact that his top aide, Peggy DiMichele had spearheaded such meetings and Metcalf's top aide Britt Englund died, Metcalf said.

Metcalf says he has no particular hobbies, interests or plans for retirement other than returning to Helena.

As far as future Democratic party involvement, he said, "Look, no one was more rejected by the Democratic party than I. Three times I've sought to be a delegate to the national convention and three times I've been rejected. I know the Democratic party officials (the precinct people, not the party chairman) are not fond of me or I would have gotten to be a delegate, senators almost always get to be delegates. I'm not going to impose myself and I won't try for it in 1980."

Mr. MUSKIE. Mr. President, the Senate did not have the opportunity to say goodby to LEE METCALF in the way each of us personally, and as a group, would have liked. I do so now—with warm affection and deep respect.

I will miss LEE and the Senate will miss LEE. I know that the legacy of LEE METCALF participating in conservation of the Nation's dwindling public lands and wilderness areas will hold his memory for all Americans.

He was a good man—a man of keen intellect, sound judgment, unquestioned integrity, unswerving commitment to the public welfare, and a rare capacity for friendship.

Jane and I extend to Donna our profound sympathy, and we presume to share her sense of loss.

THE SPIRIT OF HUBERT HUMPHREY WILL LIVE ON

Mr. RANDOLPH. Mr. President, HUBERT HORATIO HUMPHREY was a gallant fighter, who dedicated himself to the causes in which he believed. He was respected and loved by all of his colleagues.

Americans, regardless of their political beliefs, remember this great and good leader. West Virginians recall his visits in 1960, when he narrowly lost that key State primary to John F. Kennedy. Yet he returned to win overwhelming support in 1972. He came among us with high spirit and boundless hope, and he touched each of us with a special gallantry that called for reconciliation.

Millions of words have been spoken and written in tribute to this man from Minnesota, and each of us struggle for an expression or phrase which can adequately describe our love and admiration for him.

There is one scene that I shall always remember which, perhaps, is the best tributes to his long career of public service to people.

As we drove from the services in St. Paul to the cemetery in Minneapolis, accompanying the "Happy Warrior" to his final resting place, there were hundreds of older people lining the snow-covered streets, in below-zero weather. They came to express their respects to one of their own. But no generation can claim this vibrant leader with his dynamic ideas and ideals.

I noticed that there were hundreds of young people lining the streets, teenagers mostly. At one point, the entourage slowed and our bus stopped alongside two boys, ages probably between 12 and 14. They were holding a large cardboard sign, on which had carefully been printed in red crayon these words:

We will keep his spirit alive.

Mary and I offer our special sympathy and our prayers to his wonderful helpmate and wife, Muriel, and to those members of the family.

To the end, he insisted there be no eulogies at his passing. Yet Americans feel they must speak of his qualities. They say he taught us how to live, how to laugh, how to cry, how to win, how to lose, how to die.

It should be added that there is one other lasting quality about the man we must all remember. He taught us how not to quit. He said:

Even when you know you're losing, don't give up. Because the name of the game is fight, and that determination is why the spirit of mortal can be proud.

LEE METCALF MADE OUR EARTH BETTER

Mr. RANDOLPH. Mr. President, the sudden loss of a dear friend and colleague leads us to reflect on life's meaning. We search our memories for examples of deeds done to improve the human condition, of legacies left behind that will benefit the society of the future.

In evaluating LEE METCALF, it is not difficult to project what rewards his quarter-century of service in the Congress will bring to America in the years ahead. He was a tireless champion of preserving and protecting our Nation's natural heritage for succeeding generations to use and enjoy. This gentle man from Montana loved the Earth and all its living creatures.

Last summer, I was privileged to introduce, with LEE, the Natural Diversity Act (S. 1820). It is before our Committee on Environment and Public Works. Senator METCALF had long held a conviction that our great wilderness areas of this country must be guarded. The legislation we proposed would provide a program to protect both living creatures and unique geological features.

As a member of the Senate Energy and Natural Resources Committee, his imprint looms large on the progressive legislation enacted in the first session of the 95th Congress, such as the surface mining law which regulates the utilization of our richest resources.

He was, in the words of his fellow Montanan, Ambassador Mike Mansfield:

A friend of the working people and family farmers.

His early sponsorship of legislation for clean water, Federal aid to education, and land reclamation demonstrates his vision.

Mary and I understand the loss that Donna is experiencing during this time of special sadness. We extend our condolences to all who grieve for this good man, whose passing is a real loss to Montana and the Nation.

SENATOR HUBERT HUMPHREY

Mr. MOYNIHAN. Mr. President, I rise on this occasion to speak of the passing of two of our most beloved and closely known associates; and in particular, Mr. President, I wish to speak a eulogy to the memory of HUBERT HUMPHREY.

The President has said that Senator HUMPHREY was the most beloved man in the Nation when he died. But this fact, surely, that he came to be beloved is not the mark of his political achievement. His achievement lay in defining the dynamic political principles of this generation and this meant that while he lived he could not be universally beloved. It would be necessary that there would be those who would oppose him. We remember that in 1948, he responded to the twin moral crises of our post-war world—the preservation of liberty abroad, the extension of liberty at home. He enunciated—and he embodied—the two central principles of the liberal democratic creed in our time: Racial equality, which is to say the struggle for human rights in our own country, and antitotalitarianism, which is to say the defense of human rights abroad. There was resistance to the coupling of these propositions, a resistance which led to the fracturing of the Democratic Party in 1948. There were those who could accept one but not the other, and they in a sense were to collaborate in later years against HUBERT HUMPHREY precisely because he chose to endorse both inseparable aspects of American liberalism. He endorsed them, he affirmed them, such that to many he became indeed a loathesome symbol.

Now President Carter was surely right when he said that the crusade for civil rights—the rights of black Americans—has become fully absorbed into the mainstream of American life, such that a President of the United States from Georgia could embrace that crusade, became a recognized leader of it, become an authentic political spokesman for millions of black Americans. But of this other matter, the matter of HUBERT HUMPHREY'S uncompromising resistance to Communist totalitarianism, are we yet prepared to say that HUMPHREY'S position has achieved the level of full acceptance comparable to that of his civil rights position

We should like to think that it has. Yet it would be unfair of me to ignore the obvious fact that the greatest crisis in HUBERT HUMPHREY'S political life, the thing which ultimately denied him the Presidency of the United States, was the unwillingness of many to understand his fundamental antitotalitarian posture. I have a remembrance of this. I remember an occasion in December of 1971. It is recalled for us in the pages of a newspaper which reported on the annual meeting of the American Association for the Advancement of Science:

A small band of radical scientists today pelted Sen. Hubert H. Humphrey with a ripe tomato and paper gliders made from Vietcong flags as the Minnesota Democrat spoke on ways to insure peace.

The tomato splattered against the podium.

The report continues:

Humphrey, an unannounced candidate for the 1972 Democratic Presidential nomination,

is often heckled during speeches for not publically opposing the Vietnam war while he served as Vice President under Lyndon B. Johnson.

I recall this episode, not because it was uniquely outrageous for surely Senator HUMPHREY was subjected to far worse in 1968. It just happened that I was then vice president in the Social Sciences of the American Association for the Advancement of Science at whose convention Senator HUMPHREY had been scheduled to speak. I was to deliver the vice presidential address the next day. Senator HUMPHREY persevered even in the face of such outrageous conduct—by scientists. But I chose to cancel my own address, stating that where HUBERT HUMPHREY was not permitted to speak I chose not to speak.

As ever indomitable, the old campaigner wired me from the next city where he was speaking—Miami, as I recall. He would need me with him in Washington in 1973, he proclaimed, ever ebullient, ever confident. But, of course, I knew and we all knew that he was not going to be nominated in 1972, nor yet in 1976. He had become the object of hate and abuse in the very political and social groups which he had once led. It was not good to be too close to him. Only the Washington Post, to my knowledge, took note of the episode. But to its lasting credit in my view, it stood up for the former Vice President and his right to speak.

What was it about HUBERT HUMPHREY'S political beliefs or political behavior which could make him a target of this sort? Why, at that time, could HUBERT HUMPHREY not be the most beloved of all Americans? What fed a kind of behavior which doomed the HUMPHREY Presidential campaign in 1968 and later quest for the nomination? I think we must say that once again in 1968 and in 1972—as in 1948—there were those who could not accept the clarity or the consistency of the man's commitment to individual rights. No matter the abuse or provocations, HUMPHREY remained a man whose capitulation to the forces of totalitarianism or its apologists was unimaginable. So, while we recall that HUBERT HUMPHREY was good to America, his goodness should be remembered in the context of those who were not at all good to him or to the things he represented.

About those who cursed and abused HUBERT HUMPHREY, we can say that they are remembered by few, and beloved by few, and their legacy is little. This occasion today in the Senate, his funeral in Minnesota, the memorial service in the rotunda of the Capitol, the outpouring of affection from Americans of every station—all these suggest that it is HUMPHREY who endures and who lives on—surely not those mean spirits who thought they might silence the most important political voice of this generation with paper airplanes made from Vietcong flags.

TRIBUTE TO SENATOR LEE METCALF

Mr. MOYNIHAN. Mr. President, I have been a member of the Senate but a year—a year surely, of accomplishment, but also of sadness, for our institution has been diminished by the unhappy deaths of three of our colleagues. Today I want to speak especially about the role of Senator LEE METCALF of Montana, who, even in my brief span of observation, was an important source of enlightened policy and personal concern in the Senate. He served in the Congress for nearly a quarter of a century and was an important incarnation of that strain of progressive thinking we customarily associate with the American West. It was a strain of thought conditioned by the unique experience of bringing the American system—the law, representative institutions, economic institutions—to a part of our continent one would have thought too severe and too inhospitable to such an historic enterprise. And yet LEE METCALF and his predecessors and his colleagues achieved not only that much but more: They made of this newer part of our country a leading source of political thinking. They were pioneers in every sense.

Theirs is an important contribution to the political life of the United States and those who participated in it deserve special recognition and gratitude. All this is apparent in Senator METCALF'S distinguished career of public service. If we associate our progressive political tradition first of all with a reform and revitalization of State government, let us recall Senator METCALF in that context. He was an associate justice of Montana's Supreme Court; he was a State prosecutor. And when he was sent to the Congress and then to the Senate, it was evident that these early years spent in the tradition of fair play and simple justice would infuse all his legislative activities. His range of interests was extraordinary—in education, in consumer affairs, in concern for the protection of our natural inheritance. He was amongst the first to grasp the need for a coherent national approach to the Nation's resources properly suited to the conditions and variations of our own day.

If these and other matters were enriched by other strains of political thinking from other parts of the country, we must nonetheless remember their origins in the hard-won political traditions of the American West. Surely, it is no coincidence that LEE METCALF worked intimately for so many years with another great Western progressive, his Montana colleague, Mike Mansfield, a beloved majority leader of this body.

LEE METCALF was a worthy trustee of one of America's important political legacies. He served the country and the Senate with unfailing decency and courtesy, with a sure sense of the impact of grand legislation on individual citizens, with a sure sense of the balance between the requirement for Government activism on the one hand and the strengthening of individual liberty on the other. My wife and I join with my colleagues in expressing to Senator METCALF'S family our sense of personal loss at his passing and of an enduring debt for having known him.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I want to take a few moments this morning to pay special tribute to our distinguished departed colleague from Minnesota, Mr. HUMPHREY, and will do likewise for our departed distinguished colleague from Montana, Mr. METCALF, at a later time.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. MORGAN. Mr. President, HUBERT HUMPHREY is dead and our Nation has lost a true and steady patriot. Those of us here have lost a close and trusted friend, a distinguished colleague and with our fellow Americans, we grieve at his passing.

HUBERT HUMPHREY was never at a loss for words and for that reason, I feel especially inadequate today as I rise to express my deep sense of loss and to comment on the accomplishments of this remarkable man. But I know, if I stumble and reach for words, that HUBERT would have excused that and upon my completion he, with kind words of appreciation, would have made believe that the best of the Roman orators could not have done better. That was his way and we loved him for it.

I, my wife, and children who adored him, my staff who worked next door to his, loved the Senator and admired his efficient office operation and competent fellow workers, and the people of my home State of North Carolina, who will always have a special place in their hearts for HUBERT HUMPHREY, mourn this great statesman. They will not soon forget him.

And I will not forget him either.

I will not forget the Senator from Minnesota, who fought the tide and finally turned it, insuring that generations of Americans to come would stand, each equal with the other, sharing the full protection of our laws and the benefits of our society and our economic system.

I will not forget the Senator who believed that the poor, the deprived, the uneducated, the sick, the elderly, and the handicapped deserved a champion, too, and was willing to labor on their behalf when there were more popular causes which he could have undertaken.

I will not forget the Vice President whose loyalty to his President he saw as duty and put above all else, including personal ambition and his desire to serve in our Nation's highest office.

I will not forget the tireless campaigner who carried my party's banner high, even when it became tattered by strong winds of opposition and, by his spirit and sheer determination, almost accomplished for us what many all along considered the impossible.

I will not forget the great human being I saw who loved people, showered his affection upon all whose lives touched him, and, at the busiest of times, still could stop to exchange warm greetings, sign an autograph, or wade into a group of excited schoolchildren with the enthusiasm of a first-time campaigner.

I will remember my friend, HUBERT HUMPHREY, who did not forget me, who willingly and enthusiastically, in the midst of a session of Congress, came to the small town of Buies Creek, N.C., to help me kick off my bid for the U.S. Senate, who raised the rafters with a speech which continued to inspire my friends and supporters throughout my campaign, and who convinced those there, including many former detractors, that greatness was in him.

I will remember my friend, HUBERT HUMPHREY, who, in his last days, provided a model for courage which stirred the hearts of Americans of every political persuasion and philosophical bent and for years to come will inspire those of us who live in these times and saw the passing of "The Happy Warrior."

All of us will remember our friend, HUBERT HUMPHREY, who brought new meaning for all of us to the words of St. Paul who proclaimed:

O death, where is thy sting. O grave, where is thy victory.

Death had no sting for HUBERT HUMPHREY. I personally find consolation in the fact that, through his indominable will, HUBERT HUMPHREY was, in fact, the final victor.

I will miss HUBERT HUMPHREY deeply and in a very personal way, but I certainly shall not forget him. And when I think of him, I shall be happy remembering the happiness he shared with all about him—his family, his colleagues, his staff, his league of friends, and the people of this Nation and the world.

Mr. President, I ask unanimous consent to have printed two newspaper editorials from North Carolina expressing the feelings and emotions of our people for our friend, HUBERT HUMPHREY. I note that Roy Parker, Jr., the editor of the Fayettville Times has been a longtime admirer of the Senator and that Hoover Adams, the editor of the Daily Record of Dunn, N.C., has long considered Senator HUMPHREY one of the most knowledgeable of American statesmen and a valued friend of the people of my home county of Harnett and the State of North Carolina.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Fayetteville (N.C.) Times, Jan. 16, 1978]

HUBERT HUMPHREY'S LEGACY

As he died, the courage and indomitable good humor of Hubert Horatio Humphrey were emphasized. He was indeed, they said, the "Happy Warrior" of American politics in the past three decades.

Certainly his last months emphasized these qualities. Stricken with inoperable cancer, suffering both the mental as well as physical pain that "terminal" illness can cause, he nonetheless put his face to the future, kept his wit and his warmth, never succumbed to despair or self-pity.

And so he was a "Happy Warrior," always the gentleman and very much a member of the inner club of American political power in the last few years.

But he was also something more than a smiling face over a strong will. He was something harder, something more basic to the American Dream than merely one of its more appealing personalities.

He was that strain of nagging conscience, that demanding voice of alarm and concern, that keeps even so fat and happy a country from sinking into the frame of mind that it has accomplished the mighty work of the Republic laid down by the Founding Fathers.

Humphrey was accused in his earlier days of being a dog in a manger, a dangerous critic of sacred traditions and sacred cows. It was no "Happy Warrior" who forced the 1948 Democratic National Convention to "walk in the sunshine of civil rights." No, he was a terrible swift sword then. He rang a bell in the night which, while it called the conscience of the country to begin anew a task to forge "one nation, indivisible," also struck terror, rage, and hatred in the hearts of those who were the comfortable and the powerful.

And so he continued to do throughout his career. He left his mark on a generation of public servants, on both domestic and international matters. He called on the country and its people to open eyes to the changes in the world of our times, especially to the yearnings of oppressed, suppressed, and depressed peoples, at home and abroad.

It is recently fashionable to say of HUBERT HUMPHREY that his answers to the problems of the times were grandiose or expensive. He was called a "gadfly" because he seemed to have answers to every problem. His critics, and even his friends, were moved to say he was the originator of the notion that the way to solve any problem was to "throw money at it," preferably money from the treasury.

But time is proving that HUMPHREY was wiser than his critics, or his friends, would acknowledge. A more truthful measure of his solutions would say that they call on Americans to give their best, either of service, money, or support, not to mere fiscal solutions, but to solutions of the heart.

Being a great apostle of justice, he was also imbued with the immense strain of love and devotion to ideals that marks all true prophets. He was the living embodiment of the great description of the essential human being contained in the Book of Micah, the man who would "do justice, love kindness, and walk humbly with God."

With those qualities ever in his heart and mind, HUBERT HUMPHREY strove to make a better America, a better world, to make come true the promises also contained in Micah:

"And they shall beat their swords into plowshares;

"And their spears into pruning hooks;

"Nation shall not lift up sword against nation;

"Neither shall they learn war anymore;

"But they shall sit every man under his vine and fig tree;

"And none shall make them afraid."

Because of HUBERT HORATIO HUMPHREY, the nation and the world have made some advances toward those goals, advances which shall stand as his legacy to them.

[From the Dunn (N.C.) Daily Record, Jan. 16, 1978]

MORGAN PAYS TRIBUTE TO HUMPHREY

(By Hoover Adams)

U.S. Senator Robert Morgan, expressing great personal sadness at the passing of his dear personal friend and colleague, today described the death of Senator Hubert Humphrey as "a great loss to all of us."

"I consider Hubert Humphrey one of the greatest Americans of all time," said Senator Morgan.

"The country has lost the man who has made the greatest contribution for change in my lifetime—change for good."

"You could dislike some of his political philosophy, but you couldn't dislike the man," said Morgan. "He was a great, a gracious man who loved people. The nation, indeed the world, is poorer indeed because of his passing. His death has left a void that will not soon be filled."

Morgan was speaking as a U.S. Senator whose office adjoined that of Senator Humphrey in the Dirksen building, as a friend who fought the political wars together for many years, as a colleague with whom he had twice made overseas trips, and one with whom he worked on legislation right up until a few days before Humphrey's death on Friday.

Senator Morgan and Senator Humphrey co-sponsored legislation to provide free lunches for all school children and to provide rural housing for all who need it.

During the Christmas holidays, Senator Humphrey aware that his own days were numbered, wrote Morgan and asked him to carry forward with these two pieces of legislation.

"That's the kind of man Hubert Humphrey was," said Morgan. "Even with death approaching, his thoughts were with the school children of our nation and on providing better housing for our people. That's the way he was—always thinking of others."

Senator Morgan described Humphrey as the sort of man who always put other people first.

"I can recall one day when the President sent for him," related Morgan. "Mr. Humphrey was hurrying out of the Capitol for the White House but a group of little school children met him and wanted to take his picture."

"He stood there and posed for pictures just as long as those children wanted to take them," said Morgan. "It didn't bother him a bit that he was keeping the President of the United States waiting. That's the kind of fellow Hubert Humphrey was; that was the sort of life he lived."

Senator Morgan regarded Humphrey as "one of the most human people I've ever met. He never held grudges, in the bitterest of political fights he was always the kind gentleman. He sometimes seemed even kinder to those who disagreed with him than his friends. "I won't call them enemies," said Morgan, "because I don't believe Hubert Humphrey had an enemy. Nobody who ever met the man could dislike him."

On August 19, 1974, Senator Humphrey came to Harnett County to speak for Morgan in his campaign for the Senate at Buie's Creek. It was the only time in history that a former Vice President had ever visited Harnett and what a great occasion it was.

The big dining hall at Campbell College was filled to over-flowing and Senator Humphrey was a tremendous hit, keeping the audience applauding and bringing it to its feet in a standing ovation.

"He was at his best as an orator that night," recalled Senator Morgan, "and even though it was a partisan speech, the address Senator Humphrey made would have been equally well received in a church or civic gathering anywhere in this entire country."

Harnett folks were endeared to Mr. Humphrey as never before. Even some of those who hadn't been too fond of him before that night went away singing his praises.

After the dinner that night, Senator Humphrey stuck around for nearly an hour to shake hands with the people and to pose for pictures for all who wanted their pictures made with him. He did so despite the lateness of the night and the fact that he had to rush to the airport for the flight back to Washington.

Just a few months ago, despite his illness, Humphrey told Morgan he'd be happy to come back to North Carolina any time he could to make a speech for him.

Senator Morgan said he felt that "The farmers of North Carolina in particular have lost a great friend. Last year, Humphrey

pulled a portion of the tobacco program out of the fire and saved it on the Senate floor.

Senator Morgan considered Humphrey as "probably the best informed single individual on governmental matters in Washington" and cited his long career as a Senator and as Vice President.

He said his ability to get along with people was absolutely amazing. And he always loved a good joke on himself. He could take one defeat after another and bounce back with no bitterness at all.

On January 9, just four days before his death, Senator Humphrey phoned to say "Happy Birthday" to Richard Nixon, the man who defeated him for the Presidency. He and Mr. Nixon had a long, friendly talk.

"Again, that's the sort of man Hubert Humphrey was," said Morgan.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDERSON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR HUMPHREY

Mr. CHILES. Mr. President, I would like to add my voice today to those that are eulogizing our colleagues.

Senator HUMPHREY certainly was a unique man. I had the privilege of coming into the Senate as a freshman with Senator HUMPHREY. I was the freshman. Senator HUMPHREY had served a number of years in the Senate previous to that and had a distinguished career in the Senate. He had also been the Vice President of the United States. But he came back to the Senate in 1970 and he was a Member of the freshman class like I was.

I will always remember that, having been a former Vice President and a former U.S. Senator and at that time a national and a world leader, Senator HUMPHREY had a volume of mail that was 10 times the mail of the freshman Senator from Florida, and many more calls upon his time and service. Yet, at that time, the Senate had made no arrangements for Senator HUMPHREY. He had the same kind of office space, being on the bottom of the ladder. He was moved around about three times, bumped from offices while he was here.

He went to the freshman class meetings when we all bemoaned our fate and the fact that we could not get anyone that would ever give us a permanent assignment for an office, or space anywhere else.

I will always remember the good humor he had and the advice he would give the rest of us, this man who had served all these years and gone through all that period of time previously and, as I say, had achieved this position of world leadership, and he could with such good humor and humility accept that fate. But, as we wanted to rattle the chains a little bit and try to rebel against the establishment, he always encouraged us in that.

He always felt that we did not really provide for ourselves so that we could do our job as Senators and take care of our people.

But just from that kind of association and in the way he joined in, never as someone above where we were, or someone who knew it all, or someone who would give this advice which he could well have done, but he was always just a participant with us. He was a colleague. Whatever we wanted to do, if we wanted to storm the citadel, he was ready. But he never tried to be the leader in that.

Everyone, of course, has his own wonderful memories about this man. But I just always remember that period of time and how many years it was before, finally, the Senate recognized that he was entitled to a little extra help to answer the mail he had, that a former Vice President was entitled to some kind of recognition; but never in that period of time, 6 years, did Senator HUMPHREY ask for that. Finally, some people in this Senate woke up to what some of his problems were, but they were never raised by him.

I am happy, though, that prior to Senator HUMPHREY's passing, he did have recognition, that we did get a chance to honor him. I think that is unique. It does not happen to many world leaders that there is an opportunity to show some kind of honor and respect for them prior to the time of their passing.

It was my feeling that if the Senate had stayed in session and had not recessed, Senator HUMPHREY would still be here; because every time the Senate was in session, he seemed to grow in strength. The relapses would only seem to come when we would adjourn or go out of session. As long as the Senate was in session and performing work, he was here, and he seemed to grow in strength all the time.

I recall my feeling, after seeing him return to Washington, that there would not be any great sadness on my part, because in my mind he had conquered death, and I think very few people have the opportunity to do that. He did overcome, by his tremendous strength and will and good humor and the understanding that he had, when all these sieges were taking place, and his ability to return not once but a number of times after he had been completely counted out. It was not just to return here but actually to perform tremendous service.

If we just catalog some of the service he performed from the time of his illness, we will see that some of his greatest leadership was performed after he was besieged by the illness. I think that all of us who were associated with him or touched his life in any way gained by that association.

I continue to run into people in my State who met HUBERT HUMPHREY, met him one time, and when they talk with you, it is though he was a very close friend of theirs and they had a very close association with him. He had a wonderful way of relating to individuals and showing them that he did believe they were important.

I think that our greatest problem in government today is that people have the feeling that no one does listen to them and that their voice does not count. If all of us could have the ability that HUBERT HUMPHREY had, of making people know that they did count, we would have a much better understanding on the part of the people and I think we would have much better respect. But that is a legacy that he leaves us, to try to strive for that, not to be in such a big hurry that we cannot say hello to folks and have an opportunity to meet with them.

The services that took place after his death, both here and in his home State, convinced me that his spirit continues, because they were very uplifting services. Many people in my State remarked that they received something from these services in the recounting of this man's life.

Mr. President, I join my colleagues in the Senate today in making these brief remarks about Senator HUMPHREY.

TRIBUTE TO SENATOR LEE METCALF

Mr. CHILES. Mr. President, Senator LEE METCALF is probably one of the least heralded Members of the Senate. Yet, I think that as history writes its pages, we will look back on some of the legislation that LEE METCALF fathered, and we are going to see that this man was a very strong and a very fine Senator. We are going to see that this legislation had much to do with changing the course of what had been the way in which things were done in this country prior to that time.

I think of the work he did in reorganization. I think of the work he did for years in trying to do something about hundreds and hundreds of commissions that have been started, that went on and on; that we had people with jobs who played hi-fi music, did not know what to do; that there was a frustrated feeling out there of the people knowing that we were not going back and looking back and pruning off waste and inefficiency in areas that perhaps had a reason for being started at some time but no longer had any reason.

When he started that task, it was not very glamorous. It was not a task for which he could get any attention. But LEE METCALF was really like the water dropping on a rock. He kept up until finally he cracked that rock. We see now that many of us talk about sunset legislation; we talk about putting an expiration date on commissions we start; we talk about all the areas in the way we should look back. But I think the champion of that cause had to be LEE METCALF.

With respect to the historic legislation and the work that he did in the field of conservation and in the field of strip mining, those chapters are still being written. Senator METCALF was the founder and the person who started progress in many of those areas.

I know that he is going to be missed greatly, but he has left us a legacy for us to strive to achieve.

I join my colleagues in issuing these words about Senator METCALF.

Mr. JAVITS. Mr. President, I should be very brief so that all my colleagues may be accommodated by our time on this.

Mr. President, I rise——

Mr. McINTYRE. Mr. President, I thank my distinguished colleague from New York for yielding at this moment, and I rise to say a few fine words, a few

nice words about an unsung hero and quiet achiever.

The PRESIDING OFFICER. I do not think the Senator yielded.

Mr. JAVITS. I said I will take 2 minutes but if the Senator from New Hampshire is in a great hurry I will yield to him.

Mr. McINTYRE. Let the Senator from New York go ahead.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, HUBERT HUMPHREY deserves far more extended and detailed memorial than any of us are able to give him on the floor today.

This was truly an historic figure in American public life, and it showed that you do not have to be President to be a great man. I think that is the one thing about HUBERT HUMPHREY that is crystal clear.

Here is a man who never attained the Presidency, and yet will go down in history, perhaps only because of his flaming spirit, as a very great American.

To me he was always a noble American. I found in him such high aspirations for our people and our time, such profound sympathy for the longings and the misfortunes of his fellow Americans as to really distinguish him as a unique figure on the national scene.

He had a higher and loftier view of our national destiny than almost anyone whom I knew and at the same time he understood our mission, what we meant in the world, what we were put here for. As he saw it we were put here to do justice without discrimination and according to the profound Judeo-Christian principles which dominated his life.

Senator HUMPHREY and I were partners in many critical pieces of legislation. Whether it was national planning or the reform of the welfare system, national health or labor bills, unemployment compensation or the great civil rights and civil liberty struggles, it was one of the joys of my life here in the Senate that I could stand in team with so distinguished and fine a character.

Mr. President, in both the services in the Capital and in Minneapolis, there was great emphasis upon HUBERT HUMPHREY's joy in living and in a very strange way, and yet very true of him, his joy in dying; and WALTER MONDALE never said anything more accurate than the fact that he showed us how to live and he showed us how to die. That is probably the greatest epitaph for any man.

So, Mr. President, I honor and indeed revere my colleague. He is an enormous personal loss, and I communicated in this way to Muriel and to Senator HUMPHREY the love, the respect, the admiration which I had for him and the joy which I took in his living and the joy which I took in the enormous courage with which he passed from among us.

Just one other word, Mr. President, about LEE METCALF, whom I knew very well, and served with him on the Governmental Affairs Committee. He was a magnificent, unconquerable, and in many many ways uncompromising American Senator.

LEE's fight, for example, for breaking down the administration of justice into district courts was—I may not have agreed with him—but it was a most admirable side of his nature. This was a big country and every part of it was just as smart, just as able, just as sophisticated, just as learned in the law as every other part.

Then there was his passion, Mr. President, for Montana. I know a little bit about Montana, its beauties, the openness and freedom of its land and its lakes, its forests and its people. And he was as stalwart and true and honest and as real as any one of the great trees which stands in its forests. The people of Montana have every reason to take enormous pride in the achievements of their son LEE METCALF.

Thank you, Mr. President.

Mr. McINTYRE. Mr. President, will the Senator from New York yield me 3 minutes?

Mr. JAVITS. Of course.

Mr. McINTYRE. I am asking the junior Senator.

Mr. MOYNIHAN. As you wish.

LEE METCALF: UNSUNG HERO AND QUIET ACHIEVER

Mr. McINTYRE. Mr. President, there are Senators who, by virtue of personality, eloquence, charisma, timing or luck, garner an inordinate, though not always undeserved, amount of public attention throughout all or much of their careers. There are others who labor quietly and effectively outside the celebrity limelight.

Our departed colleague from Montana was one of the latter. It was his uncomplaining fate to spend most of his years in the Senate in the shade of the former majority leader and to pass from this scene while the Nation's attention was focused on the final days of HUBERT HUMPHREY.

This combination of circumstances distracted the American people from giving proper respect and paying proper homage to Senator LEE METCALF'S truly outstanding record as a champion of the consumer, the elderly, the disabled, the environment and the children of this Nation and, I fear, obscured the degree of affection and admiration that existed in this Chamber for the Senator from Montana.

I did not work closely with him, because our committee responsibilities and regional concerns were quite different. But I knew him as a colleague, as a disciplined intellect, as a man with a deep and abiding commitment to the best interests of his country and his fellow citizens.

Mr. President, the Washington Post of January 13 recognized the stature of LEE METCALF by placing his obituary across six columns at the top of the page. Like most obituaries the surface facts were there, but not all of the underlying significance.

For that reason, I was pleased to read the tribute to Senator METCALF written by Norm Williams of Washington in the leters to the editor column of the Post a few days after the obituary appeared.

Because Mr. Williams' letter so eloquently explains the significance of one of LEE METCALF's major achievements, I ask unanimous consent that the text appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEN. LEE METCALF

The death of Sen. Lee Metcalf (D-Mont.) must not be allowed to slip into history without mention of the crucial part that he played in passage of this nation's first federal strip-mining bill. Unfortunately, The Post's review of Sen. Metcalf's accomplishments fails to do justice to the importance of consumer-protection, reform and conservation legislation that he initiated and supported during his remarkably productive years in Congress.

More particularly, by overlooking his contribution to the development of effective reclamation standards within a national program for rehabilitating lands surface-mined for coal, The Post's account inadequately conveys to its readers any sense of the tremendous debt of gratitude owed Lee Metcalf by all Americans who cherish the fast-disappearing quality of our outdoor resources.

Lee Metcalf, perhaps more than any other individual, deserves credit for the eventual passage of Public Law 98-87. Despite failing health and the daily discomfort and physical pain that strongly inclined him toward early retirement, he set aside his personal preference in order to help complete the protracted hammering out of this controversial bill.

As subcommittee chairman on the former Interior and Insular Affairs Committee (now the Energy and Natural Resources Committee), Lee Metcalf carried major responsibility in the Senate: Through endless hearings, committee markups, floor-fights (he was floor manager for the bill), and conference-committee debates, he persisted. The bill was twice vetoed by President Ford. This required repetition of the whole process three times between 1970 (when Sen. Metcalf first became interested in strip-mining legislation) and the final signing into law by President Carter on Aug. 3, 1977.

I believe it is an accurate assessment to say that, without Lee Metcalf's fair-minded, good-humored and unrelenting effort in behalf of a tough yet equitable strip-mining law, many of its key provisions would have been gutted. The personal cost of that effort was certainly high—how high only those who shared the experience of working with this dedicated and deeply humane man can appreciate.

In a real sense, the new strip-mining law stands as a memorial in the minds of many of us who loved Lee Metcalf and mourn his passing.

Mr. McINTYRE. I thank my junior Senator from New York.

Mr. MOYNIHAN. Mr. President, I take the occasion to thank the Senator from New Hampshire for calling to the body's attention Mr. Williams' letter in the Washington Post which certainly describes so succinctly the unique and indispensable role Senator METCALF played in the strip mining legislation that this Congress has enacted. It took him from 1970 to 1976 to get it.

And if anything might be said in celebration of his life it is the thought that we know there is progress, even a progressive, a western progressive, and it is possible to learn. If anything marks the dark satanic horror of the beginnings of the industrial revolution, it is the coal mines and the coal miner's lives of the 19th century, and how grand that they

should now in the 20th century come out into the daylight and sunlight with the great efficiency of the strip mining techniques of his own State of Montana and of the West, and simultaneously we should learn not only to get our people out of those holes in the ground but learn to make the ground whole when the coal has been removed from it.

It is one of those things in a world which does not seem very linear; it seems much more often circular and fated to repeat generation after generation one mistake after the other. The fact is that there is such a thing as progress, and that fact is very much owing to the further fact that there are true progressives in our land and a tradition that LEE METCALF so wonderfully embodied and enhanced in this Chamber.

Mr. GRIFFIN. Mr. President, the death of LEE METCALF—being both untimely and unexpected—is a severe loss not only to the people of Montana, whom he served so well and long, but to all Americans who shared his desires to guarantee a better life for us all.

Whether in conservation, consumer interests, energy, or education, LEE METCALF was a pioneer in the great tradition of the West that he loved and made his home.

His causes were, first and foremost, people causes—preserving the wilderness for current and future enjoyment; undoing the damage wrought by pollution to our air and waters; providing medical assistance for the elderly, education for our youth, and jobs for the needy.

That is why so many have referred to LEE METCALF as one of the last of the prairie populists.

But his interests were far broader than that term too often implies. In his quarter century of congressional service, his expert grasp of many complex issues issues—coupled with his keen intellect—made him one of this Nation's most outstanding legislators.

Certainly the prior service that he had as a judge in Montana was most valuable in this body.

His former colleague, Senator Mike Mansfield of Montana, put it this way: LEE METCALF was "a superb Senator."

I have had the good fortune to serve with LEE METCALF both in the House of Representatives and in the Senate. Together, we worked on many projects, including the National Defense Education Act in 1958. Then we served together on the Joint Committee on the Organization of Congress which took testimony and worked for a number of months on various reforms of Congress, many of which had been put into effect and some of which still need to be put into effect.

Though our philosophies often differed, I always counted LEE METCALF as one of my close friends. He was unfailingly courteous, fair and thoughtful and accommodating. He was a reflective and a judicial man befitting the position of judge that he once held.

LEE METCALF's many contributions and his presence among us will be sorely missed.

EULOGY TO SENATOR HUBERT H. HUMPHREY

Mr. ALLEN. Mr. President, it is a solemn occasion when the Senate meets to eulogize and pay tribute to one of its own whose life has ended. It is a time of remembrance and recognition and, in great measure, it is also a time of rededication.

When HUBERT HUMPHREY died on the 13th day of January, there was a sadness of the people of this Nation, for America had lost a man whose devotion to the public was limitless. His life brimmed over with magnificent achievement and dedicated service to the citizens of this Nation which he loved so well.

The story of HUBERT HUMPHREY's life is well known. In recent days and again in this assembly today, his contributions to the public welfare and his notable service to the Nation have been surveyed. Their range is broad, for his interests spread as wide and as far as the plains of the Midwest he called home. There is hardly a facet of American life that has not been touched by the legislative work of HUBERT HUMPHREY.

Much has been said here today about Senator HUMHPREY's work for the great body of people of our country who have not enjoyed the economic opportunities realized and enjoyed by other citizens, and with this no one can take issue. HUBERT HUMPHREY wanted a better life for all people, and throughout his public life he worked to achieve this objective. His commitment to his fellow man was total, with no reservation. All the talents with which he was endowed, all the skills he acquired, these were every day invested in the never-ending task to which he was committed.

High on my list of Senator HUMPHREY's efforts in behalf of his fellow man was his outstanding work in the field of agriculture. The farmer and the resident of rural America never had a more devoted friend in the Congress of the United States. We served together on the Senate Committee on Agriculture, Nutrition, and Forestry, and I was proud to stand shoulder to shoulder with Senator HUMPHREY on a number of issues designed to improve and enhance the quality of life of our farmers and their families.

Senator HUMPHREY's friendship for agriculture was not confined to that of his section of the country. He labored with the problems of cotton, soybeans, and peanuts as well as with those of wheat, corn, and dairying. He labored for fair and adequate prices for all farmers in all sections of the Nation. He played a leading role in fashioning and passing legislation to help our farmers and the residents of rural America enjoy the benefits of modern living.

For decades, the American farmer was the special victim of depression. Today he is the special victim of inflation. In recent days, thousands of our beleaguered farmers have visited Washington requesting their Government to assist them by placing in operation programs to insure them a fair return for their products. Obviously, we must press vigorously this year to grant the American farmer relief from the problems besetting him, and I only wish we would have the benefit of the wisdom, energy, and dedication of HUBERT HUMPHREY in our effort.

I was especially privileged to serve under Senator HUMPHREY in the 92d Congress when he was chairman of the Rural Development Subcommittee and to be an original cosponsor of the bill authored by him which eventually became the Rural Development Act of 1972. With the passage of time, this law, I believe, will come to be recognized as one of Senator HUMPHREY's greatest achievements. It is a pilot plan for progress in the nonmetropolitan areas throughout our Nation.

I shall miss HUBERT HUMPHREY greatly. We did not always agree; but he was always my friend. While we often voted diversely, our pleasant association was never disturbed, and we maintained a mutual understanding and respect for each other's views. I knew there was a great deal to be said for Senator HUMPHREY's positions on the issues before the Senate for I knew, too, that his positions were in complicity with the deepest promptings of his conscience.

The sympathy of Mrs. Allen and myself goes out to Mrs. Humphrey and her children.

TRIBUTE TO SENATOR LEE METCALF

Mr. ALLEN. Mr. President, Senator METCALF served his country and the people of his beloved Montana continuously until his death since first being elected to the Montana State Legislature in 1936. He was a public servant in the truest sense of the word. Prior to 1952, when he was elected as a member of the U.S. House of Representatives from Montana's First Congressional District, he had served as a member of the Montana State Legislature, as assistant State attorney general, in the U.S. Army, and as associate justice of the Montana Supreme Court. In 1960, after serving four terms in the U.S. House of Representatives, he was elected to the U.S. Senate and was the first native-born Montanan to serve his State in this capacity. It has been my privilege to serve with him as a Member of the U.S. Senate since my election in 1968. It should not go unnoticed that he served longer than any other Senator as Acting President pro tempore of the Senate since first being elected to that position in 1963.

Many of us remember him best for his efforts in the area of conservation and environmental quality. He dedicated himself to preserving the greatness of the lands and waters of America and worked to renew the beauty of these lands and waters which man had carelessly soiled. Even before the issues of conservation, natural resources, and environmental quality came to be fashionable, he helped shape national policies for these vital concerns.

It can be said that he has left his mark on the valleys, mountains, and streams of this country. In doing so, he came to represent a larger constituency than the good people of Montana; namely, the people of the entire United States. In a city where monuments honor greatness, Senator METCALF worked to enact legislation which will be a lasting monument to his memory across the land. He left his mark on history by helping awaken people to the need for conservation and the protection of our limited natural

resources and the environment in which we live. Many Americans who have never met Senator METCALF and many Americans yet unborn will be deeply indebted to this man for his dedication to conservation. It should be said that he was a rational and tempered environmentalist. In this day of conflict between preservation and improvement of the environment, and the development of the economy, particularly that sector of the economy dependent on the supply of energy, his was a calm and practical voice. He became a leading congressional proponent of proposals for the regulation of strip mining and the reclamation of lands from which coal is mined. In his passing, the Earth has, indeed, lost a friend.

The environment was only one of the concerns to which Senator METCALF lent his talents and energy. His concern for conservation was not confined to natural resources. He was concerned over the conservation of human life. His interest in Federal aid to education, social security, medicare, and his compassion for the American Indian are indicative of his concern over the development and preservation of human resources.

It was my privilege to serve with him for a time as a member of the Senate Committee on Government Operations. I was continuously impressed with his dedication to the improvement of the effectiveness and responsiveness of the Federal Government during this period. Mr. President, in the death of our esteemed colleague, Senator METCALF, the Nation has lost one of its foremost conservationists, the State of Montana has lost a vigorous champion, and the Senate has lost an effective member. I join my colleagues in extending our sympathy to his wife, Donna, and to the other bereaved members of his family.

A TRIBUTE TO SENATOR HUMPHREY

Mr. INOUYE. Mr. President, shortly before he died HUBERT HUMPHREY told the pastor of the House of Hope Church where his funeral service was to be held that he had had enough eulogies to last a man two lifetimes. Since then he may well have had enough to last him all eternity. These remarks result less then from any sense that any words of mine will add something new or different to what has been said by so many than it does from my felt need to express my thoughts about this beloved man.

The universal affection and almost universal admiration with which HUBERT HUMPHREY was regarded in his later years was one which I shared and shared fully throughout his long career.

As a non-Caucasian, and as a Hawaiian who could not vote in national elections, I was particularly moved by his stirring call for a strong commitment by our Democratic Party to the cause of human rights in 1948. He was a strong advocate of statehood for Hawaii and this, too, was consistent with his basic philosophy of human rights.

When I came to the Congress, it soon became evident to me that here was a man of uncommon ability and uncommon energy who yet had within him an almost uncanny ability to find the common ground upon which legislative monuments are built. While we did not often disagree, he was certainly one with whom one could disagree and still find the warmest of personal receptions. The high regard in which he was held by people of widely differing political philosophies stands in testimony to his endearing qualities as a human being. All kinds of people loved HUBERT HUMPHREY.

I was privileged to be temporary chairman and keynoter of the 1968 Democratic Convention which nominated HUBERT H. HUMPHREY as the Presidential candidate of our party even as it made his election almost impossible. Never before has our party handed to any man such a tarnished prize. The assassination of Martin Luther King and Robert F. Kennedy and the riots in the cities had already poisoned the atmosphere of American politics enough. Add to these the burden of Vietnam and the spectacle of the Chicago Convention and it was enough to discourage any man and to make a mockery of his "politics of joy." But HUBERT HUMPHREY went on to campaign valiantly—to almost snatch victory from the jaws of defeat. While he lost by less than a percentage point, the effectiveness of his campaigning saved many a Democrat in the Congress and kept our party in control of both Houses.

I shall be forever proud of the fact that I campaigned long and hard, in many parts of this country, for the Humphrey-Muskie ticket and remain grateful for the opportunity to have done so. Many have since expressed their remorse that their faith in HUBERT HUMPHREY failed them during those weeks and months of strife in 1968 and have asked his forgiveness. This he has freely given for one of HUMPHREY's greatest traits—some would call it a weakness—was his willingness to forgive others. He could not bear a grudge—nor could anyone bear a grudge against him for long. It was this about HUBERT HUMPHREY—probably more than any other characteristic—which led our President to refer to him as "the most beloved of all Americans."

HUBERT HUMPHREY's concern was truly for all mankind. In recent years, I worked with him closely on matters affecting our Nation's efforts to help the people of the world's less developed countries improve their living standards. I have served as chairman of the Foreign Operations Subcommittee of the Appropriations Committee while HUMPHREY served as chairman of the Foreign Assistance Subcommittee of the Foreign Relations Committee. In these capacities, we shared a common purpose. Many whom he helped will never know his name. Neither was foreign aid something which was popular with HUMPHREY's constituents but that never concerned HUMPHREY. When he saw someone in need, he reached out to help. He did not weigh the political pluses and minuses. Government to him meant an opportunity to serve and to help those in need. The causes which enlisted his talents and almost indefatigable energies were as numerous as the problems of mankind.

The HUBERT we knew and loved was not a loner but an enlister and a teacher. He built a political party in his State which is a model of popular grassroots participation and electoral success. The people he inspired fill the ranks of government service in his own State and throughout our Nation at every level from Vice President on down. Through the Humphrey Institute of Public Affairs and through the example which he gave us, he will continue to inspire generations of Americans yet unborn. He was a most uncommon, common man.

A TRIBUTE TO SENATOR METCALF

Mr. INOUYE. Mr. President, I wish to pay tribute to the memory of our recently departed colleague, Senator LEE METCALF. His sudden death on January 12 was a shock and surprise to his family, his constituents, and his former colleagues.

Montana will long remember and greatly miss its experienced and liberal spokesman whose voice was so clear on humanistic and conservation issues.

Hawaii will remember his struggle to fairly represent the less powerful elements of society, his concern for rural problems, and especially his interest in education as exemplified by his great leadership in securing passage of the National Defense Education Act.

The consequences of two of his initiatives—the Democratic study group, and the Congressional Budget and Impoundment Control Act—will long continue to influence changes in Congress. It is unfortunate that death cut short his service in the Congress and, moreover, preempted a reflective period which should have followed his scheduled retirement. I am sure that LEE's keen intellect and legal interests would have made such reflection on these changes productive and instructive to us.

LEE METCALF's passing is itself a reflective moment for me. We have spent many years together in the Congress. My prayers are with his family.

A TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. STENNIS. Mr. President, I rise to pay my personal tribute to our departed colleague, Senator HUBERT H. HUMPHREY. With his death the Nation has lost one of its most distinguished citizens, the Senate has lost a legislator of great talent, and I have lost a friend.

When I came to the Senate he was in his second term as mayor of Minneapolis, and a year later, in November 1948, he was elected to the Senate. We have been colleagues and coworkers since, though of course, he was Vice President and President of the Senate for 4 years, and was away from the Senate for a 2-year period. We faced many serious and complex issues together. On some of them we held different views. Whether or not we were together or opposed on an issue I knew and respected his great sincerity in his efforts to do what he thought best for the public good.

HUBERT had a capacity for sharing the problems and feelings of American people. He was a man of heart, and compassion, who truly desired to help those who needed it. Americans felt this, and had a great affection for him as a public figure, even those who differed with pro-

grams he supported. His colleagues had this same affection for him, and in addition the admiration that came from the opportunity to be his friend and to observe him in action as a skilled legislator.

He was instinctively a man of action. To perceive a need was to act upon it, and with his great energy he involved himself in a wide spectrum of legislation, and had an impressive record of success with it. I think this is why he loved his profession. He loved people, and the chance to do something for them, and it was a joy for him to work at it.

It is difficult for me to accept his loss, but I am consoled by many happy memories of him, and of his great enjoyment of life while he was with us.

Mrs. Stennis joins with me in expressing our sympathy to Muriel and their children, and in the hope that they will receive consolation from the warm affection for HUBERT held by his countrymen. No man ever tried harder to do what he thought was useful and right. He followed good intentions with the strongest possible effort.

A TRIBUTE TO SENATOR METCALF

Mr. STENNIS. Mr. President, the recent death of Senator LEE METCALF of Montana deprives us all of a colleague who had a very long and distinguished career as a public servant.

Senator METCALF began his service to the people of Montana in 1936. Since then, except for military service in World War II, he has served successively in the State legislature, the Montana Supreme Court, and in the Congress. He had four terms in the House of Representatives, and since 1961 has been our colleague in the Senate.

I did not have the privilege of working closely with him in committees, for we had different assignments, but I know that he was a hard worker, persevering and thorough in his pursuit of facts and good legislation. He had a deep and abiding interest in conservation of natural resources, and in the course of his career did much toward that end. I know that when he addressed a subject on the floor he had carefully prepared himself and marshaled his facts. He was a strong advocate for the people of Montana, and they owe him a debt of gratitude for his many years of dedicated public service.

We in the Senate are also indebted to him for his willingness at all times to undertake his part and more of the work we share. He accumulated an impressive record of hours of service in presiding over the Senate, and he chaired endless hours of hearings. He had a fine record and he will be missed.

Mrs. Stennis and I join in offering our condolences to his widow, Mrs. Donna H. Metcalf, and to their foster son Jerry, in their great loss.

A TRIBUTE TO HUBERT H. HUMPHREY

Mr. PEARSON. Mr. President, more than any other man, HUBERT HUMPHREY fought and prayed for the betterment of his fellow man. It was through his many initiatives, his contagious appeals, that we are continuing to build a morally stronger, wiser, and more compassionate Nation. One cannot think of a higher tribute.

He was a man who did not fight his battles unfairly, using the personalities and weaknesses of others. He fought using only the powers of reason. He shunned equivocation and taught us that truth is a jealous mistress.

He wanted to be remembered and most certainly he will. And he shall never be gone so long as he is remembered.

A TRIBUTE TO LEE METCALF

Mr. PEARSON. Mr. President, LEE METCALF yielded to the ordinary law of life and nature, as must we all, but he was not an ordinary man.

He was a thoughtful person who was dedicated to the quality of life. He strove for the improvement of the next generation as well as his own. He used his time doing what he most wanted to do, and he did it well.

Words to express our respect and our friendship dash about in each of our minds. Yet no matter the outcome the phrases fall short when put next to the man and his accomplishments.

SENATOR HUBERT H. HUMPHREY

Mr. BURDICK. Mr. President, HUBERT HUMPHREY was a truly remarkable human being. Yet I am at a loss to add to the eloquent eulogies already delivered. He and I campaigned together in Fargo-Moorhead on many occasions. He and I worked closely during the formative stages of the Democratic-Nonpartisan League in North Dakota and the DFL in Minnesota, sister parties in the progressive populist tradition. He and I shared Dakota as the place of our birth. And he and I shared a strong commitment to agriculture and rural America.

I have the feeling that this sharing was the genius of HUBERT HUMPHREY. From the events of this past week, it seems that few Americans did not share something with HUBERT HUMPHREY. He was a man of wide interests, of great enthusiasm and of great love. A small measure of his outpouring of love for this country has been expressed to date. As the days unfold, the true picture of HUBERT HUMPHREY "the happy warrior" will come clear. He was truly a remarkable man.

In HUBERT HUMPHREY the average American knew a friend. The farmers of America had a strong voice of support. HUBERT HUMPHREY was a friend to people in all walks of life in America. Farmers, laborers, consumers, and business all were welcome in HUMPHREY'S door.

In HUBERT HUMPHREY we know a man of conscience, yet also a man who knew how to compromise. HUMPHREY knew when to push for victory and he knew how to accept lesser gains. He made "politics" and "politicians" into good words again, not just because he played politics so well, but because he showed us the art in politics, and the humor in politics and the honesty and the anguish in politics. In all the eulogies delivered no one has called HHH a man above humanity. For that he was not. He was amidst the human condition and from that experience he derived the great and noble principles to which he dedicated his life.

SENATOR LEE METCALF

Mr. BURDICK. Mr. President, the passing of my friend and neighbor LEE METCALF calls to mind the words of the great poet E. B. White:

> I am pessimistic about the human race because it is too ingenious for its own good. Our approach to nature is to beat it into submission. We would stand a better chance of survival if we accommodated ourselves to this planet and viewed it appreciatively instead of skeptically and dictatorially.

LEE METCALF'S philosophy of life and legislation was as poet White suggested. He was a friend of the environment.

Though a quiet man, he distinguished himself here in Washington as well as in his native Montana through his dedication to principle. He was a persuasive legislator, a man who gloried in the substance of politics. As one Montana editorialist put it:

> He shunned publicity, detested the glare of TV lights, and rarely was excited to see his name in the paper.

This was LEE METCALF'S special genius. His advocacy was not just a series of speeches. LEE METALF translated his principles and dreams into legislation. A prime example of his effectiveness in the Congress is the Surface Mining and Control Act, which he managed on the Senate floor. His advocacy of this important idea was the sine qua non of this act.

While the strip mining bill was a highlight in his career, Senator METCALF is to be credited with other numerous achievements. LEE METCALF lead the fight in 1964 for the Wilderness Act, the results of which are only beginning to be realized today. He provided forceful and effective leadership as Chairman of the Migratory Bird Conservation Commission. He was a strong voice in Washington for agriculture. He also left his mark in the areas of health, jobs for young people, human nutrition, Indian affairs, and education. His dedication to education was singular. But above all, LEE METCALF was a champion of preservation and wise dedication of this great Nation's natural resources. LEE METCALF was a friend of people.

TRIBUTE TO SENATOR HUMPHREY

Mr. BAYH. Mr. President, with the opening of the 2d session of the 95th Congress, the Nation is without one of its most inspirational leaders, HUBERT HORATIO HUMPHREY. Those of us who were his colleagues in the Senate have lost a dear friend and wise counsellor. His family has suffered the loss of a beloved husband, father, and grandfather. Certainly no words spoken here today can do more than catch a glimpse of what he was to those of us who knew him personally and what he accomplished for the Nation he served.

While it is difficult to avoid a sense of loss and grief at his death, one of the last things HUBERT HUMPHREY wanted to surround his passing was sadness. It will be more fitting to remember how courageously HUBERT HUMPHREY lived and to dedicate ourselves to continuing the fight

for true social and economic equality for all Americans.

For as long as I can remember, HUBERT HUMPHREY was at the forefront of the on-going struggle for social economic justice throughout our society, and HUBERT HUMPHREY did not wait for issues such as civil rights to become popular before becoming involved. He has always searched for what was right and devoted his extensive energy to winning people over to his positions.

HUBERT HUMPHREY understood the problems that face the average citizen, particularly the never-ending search for affordable health care and a decent education for our young people. As a result of his understanding, compassion, and commitment, he was instrumental in the creation of such programs as Head Start, medicare, community mental health centers, and aid to elementary and secondary schools. Today, these programs enrich and enhance the lives of millions of Americans.

Although HUBERT HUMPHREY has a lengthy and illustrious list of legislative achievements, I believe his approach to government was equally as important. HUBERT HUMPHREY was not afraid to squarely face the depths and complexity of the many social and economic problems facing this country. He truly felt the problems of those who were disadvantaged as a result of prejudice of all sorts—race, religion, sex, or age. However, HUBERT HUMPHREY never stopped believing that no matter how serious the problems, through hard work and commitment we would find and implement solutions. This optimism, born out of a deep understanding of our Nation, serves as an inspiration to everyone of us who ever had contact with HUBERT HORATIO HUMPHREY. The happy warrior is a most fitting description of HUBERT HUMPHREY'S exuberant approach to problems.

Few persons have had as great an impact on this Nation and on the times in which we live. All who knew him can only say that HUBERT HORATIO HUMPHREY was no ordinary man. He ran where others walked; laughed and cried where others showed no emotion; cajoled where others cowered. He raised the conscience of this Nation by refusing to accept equality as being anything less than equal. I believe that all of these qualities will continue to serve as an inspiration as together we continue to seek to provide each citizen with the best possible quality of life—the kind of life that HUBERT HORATIO HUMPHREY worked throughout his entire career to achieve for all of us.

TRIBUTE TO SENATOR HUMPHREY AND SENATOR METCALF

Mr. FORD. Mr. President, in recent days many eloquent words and well-deserved tributes have been spoken about our late departed colleagues, Senator HUMPHREY and Senator METCALF, and there is little I can add except to say I share a deep and personal sadness over the loss of two most respected and beloved Members.

It was my privilege to know and work closely with both of them over the past 3 years, and I hold each in the highest regard.

Senator HUMPHREY was a very personable and extremely wise and caring human being. He had the unusual ability to bring people together in time of need, something he showed us time and time again. He was an inspiration to all the Members of the Senate—both old and new alike—and a voice to which we looked for insight and wisdom. His leadership in the Senate and the country will be sorely missed.

If HUBERT HUMPHREY symbolized the spirit of the Senate, then LEE METCALF epitomized its conscience.

Quiet and effective, LEE METCALF was a man of the highest ideals and convictions. His life was dedicated to public service and he served the people of his State in many capacities—as Assistant Attorney General, as an associate justice of the Montana Supreme Court, as a Member of the U.S. House of Representatives for 8 years, and, finally, 18 years in the U.S. Senate.

LEE METCALF fought diligently to advance the many causes in which he so strongly believed, among them education, conservation and consumer protection. He was a conscientious and able legislator who, like Senator HUMPHREY, had a major impact on countless pieces of landmark legislation over the past 26 years.

Even though their public careers followed different courses, each left his mark on the Senate and this country in a very special way. Though their presence will be missed, it will never be forgotten, nor will the high measure of respect we hold for each who gave so much of his life to our country.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator GOLDWATER.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GOLDWATER

Hubert Humphrey. How does one describe this man? I would say he was one heck of a man and I think that would be understood by every person in America. I had the privilege of knowing him far better than most men have been able to because we were constantly engaged in arguments, but we never became disagreeable over them. I remember when I campaigned for the Presidency and Hubert was opposing. He was strong and he was a tough foe, but never once did he descend to the depths that some of his fellow politicians did. I have often felt that he would have been a fine President and, frankly, I regret that he did not have the chance to be the leader of our country. He has been an example to all of us, not only as a man of honesty, but a man of extreme courage, dedication and purpose, and I know that Heaven is going to be a better place to go to, if that be our lot, because Hubert will be there awaiting us with his broad, cheerful grin, a pat on the back, and an offer to help us get acquainted and get along.

Mr. ANDERSON. Mr. President, I ask unanimous consent that the family funeral service for Senator HUBERT H. HUMPHREY, conducted by the Reverend Edward L. R. Elson, Chaplain of the U.S. Senate, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FAMILY FUNERAL SERVICE FOR SENATOR HUBERT H. HUMPHREY CONDUCTED BY THE REVEREND EDWARD L. R. ELSON, CHAPLAIN OF THE U.S. SENATE, IN THE CAPITOL ROTUNDA PRECEDING THE PUBLIC "LYING IN STATE," JANUARY 14, 1978

OPENING SENTENCES

God is a Spirit and they that worship Him must worship Him in spirit and in truth.

The souls of the righteous are in the hand of God, and there shall no evil touch them. They are in peace.

Blessed are the pure in heart, for they shall see God.

They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; and they shall walk, and not faint.

PRAYER

O Thou, Living Christ whom having not seen, yet we know and love and serve, come to us in all the vividness of Thy resurrection power to comfort, to heal and instruct us.

Our Father-God, we thank Thee that in Thy Providence Thou didst give HUBERT HUMPHREY to the world, and especially to this company here gathered.

O Lord, grant the consolation of Thy love, the healing of Thy grace, the companionship of Thy presence to Muriel, the children and grandchildren and all who are near and dear to Thy servant.

Be with all of us that our family memorial and the public tributes may be according to Thy will. Make us strong in body and mind and spirit. May some measure of HUBERT'S love, his spirituality, his idealism, his innate goodness be gathered into us and expressed in our lives.

Be with this Nation and the world in its loss. May all people learn the lessons of life and freedom and service which is his legacy.

Now speak to us through the scriptures, in sacred silences and in hallowed memory.

Through Jesus Christ, our Lord. Amen.

OLD TESTAMENT SCRIPTURE

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?

One thing have I desired of the Lord, that will I seek after; that I may dwell in the house of the Lord all the days of my life, to behold the beauty of the Lord, and to inquire in His temple.

I offer in His tabernacle sacrifices of joy; I will sing, yea, I will sing praises unto the Lord. (Psalm 27:1,4,6)

The Lord is my Shepherd; I shall not want.

He maketh me to lie down in green pastures:

He leadeth me beside the still waters.
I shall not want.
He restoreth my soul:
He leadeth me in the paths of righteousness for His name's sake.
I shall not want.
Yea, though I walk through the valley of the shadow of death,
I will fear no evil: for Thou art with me:
Thy rod and Thy staff they comfort me.
I shall not want.
Thou preparest a table before me in the presence of mine enemies:
Thou anointest my head with oil;
My cup runneth over.
I shall not want.

Surely goodness and mercy shall follow me all the days of my life:

And I will dwell in the house of the Lord forever.

I shall not want. (Psalm 23)

NEW TESTAMENT SCRIPTURE

Beloved, let us love one another: for love is of God: and everyone that loveth is begotten of God, and knoweth God. He that loveth not knoweth not God; for God is love.

In this the love of God was manifested toward us, that God sent his only begotten Son into the world, that we might live through him. Herein is love, not that we loved God, but that he loved us and sent his Son to be the expiation of our sins. Beloved, if God so loved us, we also ought to love one another. (I John 4:7–11)

FROM "THE PROPHET" BY GIBRAN

You give but little when you give of your possessions.

It is when you give of yourself that you truly give . . .

And there are those who give, nor do they see joy, nor give with mindfulness of virtue;

They give as in yonder valley the myrtle breathes its fragrance into space.

Through the hands of such as these God speaks, and from behind their eyes He smiles upon the earth.

MEMORIAL TRIBUTE

We have paused here, before the public ceremonies are opened to the whole world, to offer our simple tribute of affection and thanksgiving. Memory speaks to each of us with its own silent eloquence, though Hubert's voice is stilled.

He had scores of friends among the clergy—Priests, Rabbis and Ministers. He was a genuine Christian layman—committed to Christ and His Kingdom in a catholicity of spirit which transcended any one denomination, although he was a devoted member of a particular church. He was steeped in the message of the Bible.

Not long ago my phone rang before eight o'clock in the morning and it was Senator Humphrey. "Chaplain", he said, "where do you find the passage in the Bible about the seven fat years and the seven lean years?" "How soon do you need it, Senator?" I asked. "In three minutes, minutes", he replied. "I can tell you now within half a dozen verses just where it is." He found it and went off to make his speech.

The Senate Chaplain's position is nonpartisan and non-denominational but that doesn't control the activities of our grown children. To you we confess that our adult children, especially two redheads, worked untiringly in campaign offices for his election to the Vice Presidency and Presidency. They shared in both the joy and sorrows of those experiences.

After my election as Chaplain of the Senate in January 1969 I learned about the meaning of his quiet friendship. President Johnson sent him as his representative at the funeral of Trygve Lie. Thus, he would not be at the Democratic Caucus which was to nominate a new Senate Chaplain. But before taking off he called Senator Richard Russell, the President pro tempore, and said, "It is time for us to elect Dr. Elson Chaplain of the Senate". Senator John Stennis made the nomination and the election took place January 9, 1969. All this I learned after assuming the office.

There are a thousand memories like these among us today.

Let me as a Christian clergyman salute him in three sentences—(1) In his condemnation of social evil and especially injustice he sounded like an Old Testament prophet calling for repentance and summoning all men to the way of righteousness. (2) In his compassion for the dispossessed and the suffering he had the character of a New Testament saint. (3) In his inclusive love of all mankind he was like his Lord and Master.

PRAYERS

Eternal God, our fathers in their pilgrimage walked by Thy guidance and rested on Thy compassion. Still to their children be Thou the cloud by day, the fire by night. Take now the veil from every heart and join us in one communion with all those Thy servants, who trusted in Thee and were not ashamed.

We seem to give him back to Thee, O God, who gavest him to us. Yet, as Thou didst not lose him in the giving, so we have not lost him by his return. Not as the world givest, givest Thou, O Lord, what Thou gavest, Thou has not taken away. For what is Thine is ours always, if we are Thine. Life is eternal, love is immortal, and death is only an horizon, and an horizon is nothing save the limit of our sight.

Lift us up, strong Son of God, that we may see further: cleanse our eyes that we may see more clearly; draw us closer to Thyself that we may know ourselves nearer to our beloved who are with Thee. And while Thou dost prepare a place for us, prepare us for that place that where they are, and Thou art, we too may be.

We bless Thee for Hubert's home life, for his gift of friendship and outreach, for the breath of his human sympathies, for his infectious humor, for his keen intellect and polished gift with words, for his joy in the work of Thy Kingdom, for his influence reaching out to the ends of the earth, for his trust in Thee, and his devotion to the Church universal. Surely he was one who did justly, loved mercy, and walked humbly before Thee all the days of his mortal life. Remembering that he lived generously and served faithfully, may we enter into his unfinished labors. Thus may the past find fulfillment in the faithfulness of the present, and our memory of Hubert strengthen us in our delight to do Thy will.

Unto Thy mercy, O God, and the care of Thy love we commit Thy servant, in the sure and certain hope of the resurrection to eternal life.

Into the care of Thy love we commit ourselves, praying that Thou wilt lead us in the way of Thy commandments, and that Thou wilt grant unto us comfort in our loss and the peace which Thou alone canst give.

Lord, support us all the day long of our life, until the shadows lengthen and the evening comes, and the busy world is hushed, and the fever of life is over, and our work is done. Then in Thy mercy grant us a safe lodging and a holy rest and peace at last; through Jesus Christ our Lord; who taught us to pray, saying—

THE LORD'S PRAYER (IN UNISON)

Our Father, who art in heaven; hallowed be Thy name.

Thy kingdom come; thy will be done; on earth as it is in heaven.

Give us this day our daily bread and forgive us our trespasses, as we forgive those who trespass against us.

And lead us not into temptation, but deliver us from evil.

For thine is the kingdom and the power and the glory for ever and ever. Amen.

BENEDICTION

The God of peace, that brought again from the dead our Lord Jesus, that great Shepherd of the sheep, through the blood of the everlasting covenant, make you perfect in every good work to do His will, working in you that which is well-pleasing in His sight; through Jesus Christ, to whom be glory for ever and ever. Amen.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. SCHWEIKER. Mr. President, the passing of Senator HUBERT H. HUMPHREY leaves a void in the American experience that will not soon be filled. He was admired and respected by more Americans than perhaps any other public figure of our time. The love expressed for HUBERT HUMPHREY by his countrymen grew out of his unyielding compassion for the common man, his boundless energy, and his eternal optimism.

I know the other Members of the Senate share fond personal memories of their association with Senator HUMPHREY. I would like to share one of the very pleasant memories I have which typifies the HUMPHREY personality as well as any.

On the day I was sworn in as a freshman Senator in 1969, HUBERT spent a considerable amount of time with my wife, my children, and my parents in the Vice President's office. He fondly recalled the day he was first sworn in as a freshman Senator from Minnesota, and pulled out his pictures to show us. The graciousness he exhibited and the time he spent with us made a deep impression on my family since it came only a few short weeks after his loss in the 1968 Presidential race.

Certainly, the actions of HUBERT HUMPHREY that day and his ability to maintain that sort of perspective even in the face of great personal loss are the mark of a truly great man. He will be sorely missed by all of us who served with him and grew to cherish his friendship, rely on his wisdom, and appreciate his outstanding contributions to the Nation and to the world.

A TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. CURTIS. Mr. President, many fine tributes have been paid today to our colleague, Senator HUMPHREY, and many on other occasions. These statements carry a vast amount of factual information about this man who is such a part of American life. He is deserving of all that has been said about him.

It shall not be my purpose to try to add to the details concerning the life and work of Senator HUMPHREY. Scholars will be devoting full time to this for a long time to come. I merely wish to make a brief statement for the benefit of the record and to express my sincere sympathy to Mrs. Muriel Humphrey and all of the Humphrey children and grandchildren.

HUBERT HUMPHREY was foremost a fine individual. He was a high-class human being. He was the type of man that, if I were to pick a next-door neighbor, Senator HUBERT HUMPHREY would lead the list.

I shall greatly miss HUBERT HUMPHREY and I extend my sympathy to all those who mourn.

TRIBUTE TO SENATOR HUMPHREY

Mr. YOUNG. Mr. President, there is little that one could add to the beautiful thoughts already expressed by members of the news media and almost everyone about HUBERT HUMPHREY. His memory, the things he stood for, and his accomplishments will live on for years and years to come and be a great influence for our people and especially our young people.

An editorial in the Arizona Republic, of January 15, beautifully expressed the

sentiments of the innumerable eulogies and tributes paid to our late friend, HUBERT HUMPHREY. Permit me to quote in part from this editorial.

So, the once-bouncy, always ebullient Minnesota Senator knew from the start, when doctors intoned the dread verdict of his final and incurable illness, that he had no chance to survive.

But it was characteristic of HUMPHREY, in these last six months, to face his end with the same realism which had pulled him through painful political setbacks throughout his public career.

He would not, and did not, let inner personal grief and despair darken the hopes and prayers of those who admired and idolized him. To the end, he fought to keep the spirits of millions high.

It is understandable that HUBERT was so admired and especially in the last several months of his life. This was when his finest qualities became evident to all. He was always a courageous, kindly person. I doubt if he ever hated a single soul. He might have disliked a few, but he was always a lovable person and in his heart would have liked to have made every person a king. I am sure he found his greatest enjoyment in life in helping others.

I first came to know HUBERT when he was mayor of Minneapolis, shortly after I came to the Senate in 1945. On the first day I met him he offered to help me. This was at a time when plane service was very poor and quite often I was stranded in Minneapolis. Rooms were very difficult to get, but HUBERT would see that I had a place to sleep.

When HUBERT came to the Senate he soon became a member of the Senate Agriculture Committee and served on that committee most all the time during his long service in the Senate. This was a committee that I was assigned to the first week I came to the Senate and have served on ever since. I mention these assignments of ours because we worked closely together on agricultural matters. It was here that he demonstrated his great sympathy for farmers and their often very difficult financial problems. Perhaps the major reason why he stayed on the Agriculture Committee was much the same as mine. He was born on the prairies of South Dakota and I was born on the prairies of North Dakota.

He demonstrated early his effectiveness on the Agriculture Committee, and that effectiveness soon became evident on the floor of the Senate on many different subjects. His major interest was always trying to help people, no matter what walk of life. It was a real joy to be working on any legislation in which the two of us were involved.

In the more than 30 years that I knew HUBERT HUMPHREY, and was associated with him on agriculture legislation, there was never an unkind word between us.

Mr. President, may I quote again from part of the editorial in the Arizona Republic of January 15. This so succintly describes HUBERT'S great qualities and why he was so loved and respected by people:

The imprint Sen. Humphrey has left on American life goes far beyond legislation which carries his name, or structures dedicated to his memory.

His most enduring mark is in the hearts of millions of Americans for whom he personally cared, and reached out to touch with kindness, hope, encouragement and joy.

A nation has lost one of its most beloved and respected citizens and I have lost a wonderful friend.

Mrs. Young and I extend our deepest sympathy to all the family and especially Muriel. She is in her own right a remarkable person and was always close by HUBERT'S side in triumph and misfortune.

TRIBUTE TO SENATOR METCALF

Mr. YOUNG. Mr. President, the U.S. Senate, the people of Montana and the people through this Nation mourn the loss of a very fine Senator, LEE METCALF.

LEE was always a friendly, likeable person. This coupled with many other fine qualities made him an effective legislator.

LEE had a very special interest in agriculture and environmental questions. He had great knowledge and sympathetic understanding of the rugged and beautiful areas of the West. He spent much of his time and considerable influence in trying to preserve that beauty and great resource.

While I never served on the same committee as LEE METCALF, we were both interested in legislation affecting agriculture and reclamation and he was a powerful influence.

One could not help but like and respect LEE. He was always a friendly, personable man and he tried his best to help others if he thought they were right.

LEE has left his mark on a great amount of legislation during the time he served here and, even more important, on the lives of people who came to know and respect him.

Mrs. Young and I extend our deepest sympathy to all the family and especially to his wife, Donna. Mrs. Young is a close friend of Donna and she has always loved and respected her.

TRIBUTE TO SENATOR HUMPHREY

Mr. HOLLINGS. Mr. President, he seemed bigger than life in so many ways, yet HUBERT HUMPHREY'S greatness was his very humanity. There lived in his heart all those good and decent virtues for which his country stands. He learned them as a youth and he lived them through his life. There was determination, there was courage, there was unbounded good will. But the core was a basic faith which made all the rest possible. HUBERT HUMPHREY believed. He believed in building. He believed in working together. He believed in the essential goodness of man. These beliefs were held with a depth of conviction that I have known in no other man. From that faith came the goodness that was in his heart, the vision that was in his mind, and the sunshine that was his personality.

Not long after my election to the Senate, I was speaking at C. A. Johnson High School in Columbia, S.C. On the platform was the finest looking Navy man I had ever seen. I learned that he was a midshipman from Annapolis and the second honor graduate. I asked the principal as we were leaving who had appointed this man to the Naval Academy. He hesitated, and then in a quiet voice said, "Senator, we couldn't find a Senator or a Congressman to appoint a black, so we got in touch with Senator HUMPHREY." The Senator from Minnesota had appointed this South Carolinian, and if I did not understand when I went into that high school auditorium, I knew when I went out that HUBERT HUMPHREY practiced what he preached.

Throughout his years, he gave meaning to the American dream. When some cry "reform, reform," let the record show that this man was giving America reform before half our present population was born. And for many of us who only recently understood the need to reaffirm our belief in human rights, recall that it was 30 years ago when HUBERT HUMPHREY exhorted his party to "get out of the shadow of States rights and walk forthrightly into the bright sunshine of human rights."

The greatest strides of those 30 years carry the imprint of this most creative of Americans. Civil rights, Federal aid to education, Job Corps, Head Start, Test Ban Treaty, and dozens more. His solution went to the heart of the problem. He treated causes rather than effects. And each program was based foursquare on his trust of the people.

HUBERT HUMPHREY believed in open, participatory democracy. It never occurred to him to condemn democracy because there were those who breached the public trust. The cure for abused democracy was, he always believed, more democracy. Through the worst excesses of the past decade, he was convinced that the American people lacked only true and faithful leadership to make their ideals effective in government. For those who say they do not believe in politicians any more, the outpouring of grief we witness on this sad occasion is proof that the American people are waiting for more politicians like HUMPHREY who believe in the people.

He sought office not for the title but only for the time to serve, to participate, to keep the public trust. He knew that situations are not hopeless—it is only men who are hopeless about situations. Seeing him, listening to him, I often was reminded of that statue in New York Harbor that I saw for the first time upon returning home from 3 years at war.

Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door.

Just as stalwart, just as brilliant, just as inspiring, HUBERT HUMPHREY lifted his lamp beside the golden door of democracy.

He died as he lived, with almost unbelievable courage, with hope, with his faith unshaken. Few of us can match his example; but all of us can try.

As I say farewell to this greatest of Americans and warmest of friends, I see him standing before us, exhorting us once again with that favorite Carl Sandburg quote that he spoke so often:

I see America, not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun,

fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision.

Mr. President, before concluding, I would express our thanks to the many people involved in handling the arrangements for Senator HUMPHREY's funeral.

We would like to acknowledge the numerous offices and agencies which gave their full assistance and cooperation in the services for Senator HUMPHREY, both in Washington and Minnesota.

Within the Senate, we especially thank the Sergeant at Arms and his staff for coordinating and handling the transportation of the remains of Senator HUMPHREY, his family, and the Members of the Senate and House of Representatives between Washington, D.C., and Minnesota, and for his assistance with regard to the ceremonies in the Capitol Rotunda.

Other offices within the Congress to whom we also owe a tremendous debt of gratitude include the Secretary of the Senate, the Architect of the Capitol, the U.S. Capitol Police, the Senate Chaplain, and the Speaker of the House.

In addition, we also thank the President and his staff, the Vice President and his staff, and U.S. Air Force, the military district of Washington, the Secret Service, and Gawlers Funeral Home.

In Minnesota, we acknowledge the excellent cooperation and assistance of the offices of Senator HUMPHREY and Senator ANDERSON, the Governor of Minnesota, the mayor of Minneapolis and the other local and regional elected officials, the State, county, and local law enforcement officials, Werness Brothers Funeral Home, the pastor and staff of House of Hope Presbyterian Church, the Leamington Hotel, and the many private citizens who offered their services.

TRIBUTE TO SENATOR METCALF

Mr. HOLLINGS. Mr. President, recent weeks have not been kind to the Senate or to the country. Our people have suffered the irreplaceable loss of three of the ablest public servants who ever entered this Chamber. And we as individual Senators have lost the close friendship of 3 men of character and genuine warmth.

LEE METCALF was not given to posturing or image-building. He believed that actions speak louder than words, and in his years of public service he built a record of solid achievement for the people of Montana and, indeed, of all the country. Before the so-called consumer issues became so fashionable, LEE METCALF was hard at work in the search for solutions. He was alive to the seriousness of the energy issues before almost any of his colleagues. He was fighting to preserve the environment before environmental issues could rate a headline. And, as one of the authors of the National Defense Education Act, he played a crucial and creative role in the formulation of our educational programs. Senator METCALF will be remembered, too, for conducting the hearings which led to the enactment of the Congressional Budget and Impoundment Control Act which established the congressional budget committees and the new and greatly-improved budget procedures of the Congress.

But achievement is just a part of the story, and in fact the product of something more important. That is character. LEE METCALF had character. He had genuine compassion for the people of this country. He asked only to work in their behalf. He went about that work directly, quietly, openly, with a depth of integrity that is seldom seen. His candor and cordial demeanor won him many friends here and throughout the country. And I shall always treasure the friendship which he bestowed upon me. We have lost a wise and good man. We can be grateful for the legacy of achievement and the example of character which remains.

LEE METCALF

Mr. BARTLETT. Mr. President, LEE METCALF's contributions to the Senate and to his country were extensive. He was a fairminded individual, who consistently strived for what he thought was best for the majority of Americans. While he and I were on different sides of the aisle, and frequently took opposing stands, I admired his power of conviction, his disciplined approach, and his ease as a public speaker.

His efforts for consumers, interest in health care for the elderly, determined energy stance, conception of the National Defense Education Act, protection of the rights of workers, were but a few of the issues he solidly supported. He spoke for what he truly believed in, not for political gain.

Montana and the country have lost a good man. With vigor he effected the movement of legislation in Congress and influenced the lives of many Americans. We will all miss him.

HUBERT HUMPHREY

Mr. BARTLETT. Mr. President, while HUBERT HUMPHREY was never President of the United States, he was a leader of our country in other ways. He was a model to everyone on Capitol Hill as well as to people across the Nation.

Senator HUMPHREY was usually the keystone of the liberals, and I was usually in opposition to his ideologic approach. Yet I always admired the man for his courage to speak and act on his convictions. When there is a critical issue at stake, there will be at least two opinions, each of which needs to be evaluated and clarified. It is healthy and productive to debate these issues on the Senate floor, and Senator HUMPHREY was one of the best at presenting and defending the ideals in which he believed.

HUBERT HUMPHREY gained the love of virtually every American in his final days. His zest for life, his appealing qualities as a human being became examples for all of us to emulate. His optimism in spite of disappointment, his determination to succeed in the shadow of overwhelming circumstances, and his witty sense of humor when most of us would have given up, have left an impression on all of us.

Senator HUMPHREY's accomplishments include his battle for civil rights, initiation of the Peace Corps, and the establishment of the food-for-peace program. So many of the issues he fervently fought for will continue to be vital issues for years to come. HUBERT HUMPHREY's causes and style will long be remembered in Congress, and his position as a revered, humanitarian statesman will be etched in our history and in our hearts.

He was one of the most genuinely friendly individuals I ever met.

TRIBUTE TO SENATOR METCALF

Mr. HODGES. Mr. President, it was not my privilege to serve long in the Senate with LEE METCALF. His death occurred shortly after I was sworn in. But my brief association with him will always be important to me, because Senator METCALF administered the oath of office to me when I entered the Senate. I considered it an honor then, and I consider it an honor now to have entered the Senate in such distinguished company.

Therefore, Mr. President, I rise with others of my colleagues to salute LEE METCALF. He was more than just a U.S. Senator. He was a distinguished statesman a great American, and served his country with ability, determination, and skill. In addition, he gave generously of his time and counsel to me when, I am sure, there were other things on his mind than educating one of the newest Members of the Senate. His death was a personal loss for me, and caused our Nation to lose a man who shall not easily be replaced.

THEY WILL BE MISSED

Mr. HANSEN. Mr. President, the Senate and our country suffered a very real loss with the passing of Senators HUMPHREY and METCALF.

They were outstanding legislators and friends of the people and I cherish the fact that I knew them and worked with them on matters of mutual concern and interest.

The people of the West have lost a devoted friend and staunch advocate of their interests. For the past 11 years, I served with Senator METCALF on the Senate Interior Committee, now known as the Senate Energy and Natural Resources Committee, which has such enormous influence over life in the public lands States of the West.

No one has worked harder than LEE did to protect and preserve the unique lifestyle of the West and to see that the feelings and desires of western people were heeded in Washington.

The fact that there now is a tough Federal law requiring restoration of surface-mined areas is due to years of effort by Senator METCALF, who first wrote and introduced the legislation.

He was a man of great intelligence and ability.

He will be missed.

I did not work as closely with Senator HUMPHREY as I did with Senator METCALF but I was always impressed by the depth of interests exhibited by the senior Senator from Minnesota.

He had a deep and abiding concern for people and dedicated his life to making America a better place. He was always available, always eager to help with a cause and was unfailingly ready to meet and visit with people, no matter

what his schedule or the demands on his time.

HUBERT HUMPHREY personified what has made America so great and the envy of so many other countries. His memory and the good he accomplished stand as an excellent memorial to his name.

All of us can learn a great deal from the efforts that both Senators METCALF and HUMPHREY brought to the legislative process. They were dedicated. They were determined. They were dynamic. And they were always eager to serve their constituents at home and throughout the country.

None of us could ask for more than that. All of us have been enriched by having worked with them.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. HAYAKAWA. Mr. President, I would like to take this opportunity along with my colleagues to pay tribute to HUBERT HORATIO HUMPHREY, a man whose memory will be cherished by the people of this Nation for many years to come. It is one of those memorable occasions when the Senate is very much of one mind and heart, brought together by the admiration and affection we all hold for this distinguished man.

We are all aware of the monumental record of public service which HUBERT HUMPHREY compiled during his years in this body. His counsel was sought and adhered to by many of us, as well as by leaders of this country in times of peace and war. At the same time, we witnessed in him a true and lasting devotion to his wife and family.

It has been a great inspiration and a special privilege to have served as a Member of the Senate with a man of so many achievements. We all feel a profound sense of loss and will miss his remarkable presence.

TRIBUTE TO SENATOR LEE METCALF

Mr. HAYAKAWA. Mr. President, I would like to join my colleagues in paying tribute to LEE METCALF, a man dedicated to the best interests of all Americans. The United States and the State of Montana have lost a distinguished citizen.

His concern for the conservation of our natural resources was well known, and as a member of the Energy and Natural Resources Committee, he ably represented the special needs of the Western States.

He had a keen mind which he combined with great integrity. He was a fair man, a gentle man, admired by all, regardless of political persuasion. He was a man of consistent and unwavering dignity. We will miss him.

TRIBUTE TO LEE METCALF

Mr. STEVENS. Mr. President, in politics, few men are able to achieve the recognition and acclaim they sometimes deserve.

LEE METCALF belongs to that group of Senators whose faces are not easily recognized by the general public, yet whose presence in this institution enables it to carry on. The ability and influence of these Senators may only be known to the people they represent, and to the men with whom they serve.

I am one who worked closely with LEE, and we often found ourselves on opposite sides of the issue. Yet I will always respect the total commitment he made to the cause he so ably represented—the protection of the environment. Proponents of wilderness conservation had no stronger, more vocal ally in the Senate than LEE METCALF.

This zealousness and dedication was evidenced in every issue he believed in, from environmental protection to consumer protection. He played a primary role as watchdog of the multi-billion-dollar power industry and insured that the American taxpayer was fairly dealt with.

LEE METCALF was a man of whom Montana is justly proud. His many contributions to the legislative process will long be remembered, just as his presence in this body will be sorely missed.

TRIBUTE TO HUBERT HUMPHREY

Mr. STEVENS. Mr. President, this is a very difficult moment for all of us here in the Senate, for today we have come to express our feelings about the man we loved so dearly—HUBERT HUMPHREY.

Ever since the first news of HUBERT's passing spread throughout the Nation, millions of Americans have been moved to pay him their respects. But not every American had the good fortune of knowing HUBERT personally, though I am sure each and every person in this country has been somehow touched by his relentless spirit.

Today those of us who know him as a friend find it very hard to express on paper, or to read aloud, the feelings we hold for him so deeply in our hearts. It is not an easy task to summon up the right words for this moment.

Frankly, I am not surprised that HUBERT would want his passing to be met with celebration rather than sorrow. This request is indicative of the kind of man he was—the eternal optimist. HUBERT always had a kind word for everyone, regardless of that person's stature. He greeted pages with the same enthusiasm he greeted presidents. No man or woman, black or white, rich or poor was insignificant in HUBERT's eyes.

At a time when the image of politicians in this country was at its lowest point, HUBERT showed the American people that there was indeed such a thing as a truly dedicated public servant. In his duties, HUBERT's loving wife, Muriel, was always by his side providing quiet and strong support to him, even during the years that their family demanded much of her time and energy.

HUBERT's many accomplishments in the field of public service are well known. There is no need to cite them in detail.

Suffice it to say that the story of HUBERT HUMPHREY reflects the true celebration of life. I consider myself very fortunate to have served in the Senate with HUBERT HUMPHREY, just as the people of this Nation should consider themselves fortunate that it was they he chose to serve.

TRIBUTE TO SENATOR METCALF

Mr. TALMADGE. Mr. President, it was with great sorrow and profound sadness that I learned of the tragic and untimely passing of our colleague, Senator METCALF.

Almost continuously from 1936, Senator METCALF dedicated his life to the service of his fellow citizens. He served in the Montana Legislature. He was an assistant State attorney general. He served on the Montana Supreme Court. And, Mr. President, for the past 25 years, this great Montanan served his State and Nation in the U.S. Congress—for the last 17 years as a Member of this body.

I am proud to have had the privilege of serving with this distinguished American. He was a man of the highest integrity and character. He brought honor and distinction to all his endeavors. He will be long remembered for his long and unselfish labor on behalf of protection of the wilderness, public education, and governmental reform.

Senator METCALF's passing is a great loss to all of us here in the Senate. It is a great shock to the millions of Americans who have benefited from his outstanding service. I extend my most sincerest sympathy to Mrs. Metcalf and the entire family.

TRIBUTE TO SENATOR HUMPHREY

Mr. TALMADGE. Mr. President, our Nation has lost one of its greatest assets. The Senate has lost an articulate and effective leader. And, all Americans have lost a true and loyal friend.

I know I join the entire Senate in mourning the passing of our friend and colleague, Senator HUBERT HUMPHREY. He served so well and so unselfishly, and I will always cherish our association.

I was especially fortunate to have worked alongside Senator HUMPHREY on the Agriculture, Nutrition, and Forestry Committee where my friend from Minnesota characteristically labored with conviction and unlimited energy. He was an expert on agricultural exports. He was deeply involved in the food for peace program. Mr. President, there was no aspect of agriculture beyond the expertise of Senator HUMPHREY.

As we all know, however, Senator HUMPHREY's influence spread throughout all of America and into virtually every level of human endeavor. In his long and distinguished public service as mayor, Senator, and Vice President, HUBERT HUMPHREY contributed enormously in the fields of human rights, child nutrition, education, economic policy, national defense, and foreign affairs. He gave direction to our Nation when there was none. He gave hope to people who had none.

But, perhaps Senator HUMPHREY's greatest contribution and lasting monument was his extraordinary human qualities and values. In all his undertakings, Senator HUMPHREY was a man of dignity, honor, and the highest sense of duty. More than any other politician I have ever seen, Senator HUMPHREY practiced what he preached. He said what he meant and he meant what he said. He loved his friends and forgave his adversaries. He refused to yield in defeat, but nor would he gloat in victory. And, just as HUBERT's illness could not rob from

him his courage and good will, neither can it take from us his spirit. It lives deep in the hearts of millions of Americans everywhere. It is etched forever in the law books and in landmark legislation he championed. And, the spirit of HUBERT HUMPHREY and all he stood for will live, and prosper, in the generations yet to to come.

Senator HUMPHREY was an American in every sense of the word, and he was proud of it. I, too, am proud that he was my countryman and I extend my deepest sympathy and best wishes to Mrs. HUMPHREY and the entire family.

SENATOR HUBERT HUMPHREY

Mr. JOHNSTON. Mr. President, with a deep sense of loss I learned of the passing of our colleague, HUBERT HUMPHREY. As much as any government leader in our time, he represented an idealism and energy that is rare among elected officials. He shaped much of the legislation—popular and unpopular—of the last 30 years. Above all, HUBERT HUMPHREY lived optimistically, setting his hope on the future of our country.

As we all know, HUBERT was a dominant figure in Democratic Party politics for three decades, including some of the most turbulent years of recent memory—encompassing assassinations of three national leaders, the civil rights movement, and the bitter division over the Vietnam war. HUBERT was always a champion of the common man, espousing the causes of labor and civil rights, the family farm, small business, health care for the elderly, and public job programs. Deeply impressed by the hard times of the depression, Senator HUMPHREY's political view was formed with special concern and empathy for victims of deprivation and discrimination.

In 1944, HUBERT joined a group of other young liberals to merge the Democratic and Farmer Labor Parties. At the same time, he was State campaign manager for President Franklin D. Roosevelt. His political involvement launched Mr. HUMPHREY into the mayoralty of Minneapolis in 1945 and again in 1947, during which time he established the Nation's first municipal fair employment practices commission.

HUBERT HUMPHREY came visibly upon the national scene in 1948 at the Democratic National Convention that year, where he led a dramatic and successful fight for a strong civil rights plank in the party platform, announcing,

> The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights.

Senator HUMPHREY served in the U.S. Senate as a representative from Minnesota from 1949, when he defeated the incumbent, to 1964, at which time he was selected by President Lyndon Johnson as his running mate on the Democratic ticket. He had been reelected to the Senate in 1954 and again in 1960, and served as Senate Democratic Whip from 1961 to 1964. From 1948 on, HUBERT HUMPHREY was considered unbeatable in Minnesota. Of course, HUBERT also served his country as Vice President from 1965 to 1969. His term was an active one, and he was instrumental in planning and implementing many of the Great Society programs.

Though HUBERT lost the Presidency in 1968 by less than 1 percent of the vote, he was not long removed from public life. He returned to the Senate in 1970, much to my pleasure. The country again had the benefit of his imagination and leadership, and I personally had the opportunity to know and work with him from 1972 when I first represented Louisiana here.

I watched HUBERT carefully in these 6 years, and was particularly impressed by his energetic chairmanship of the congressional Joint Economic Committee. When HUBERT was chairman, it seemed that the committee met every day. One week there were hearings on small business and its continuing role in the American economy. The next week there were oversight hearings on the energy crisis and its impact. The following week there would be a JEC report challenging the then Republican President's economic strategy. HUBERT was relentless. He believed that the economy was being mismanaged in the midseventies, and he used his chairmanship and the Joint Economic Committee to continually explore how to put Americans to work more quickly and to stop the inflation hurting everyone in this country.

I have also seen HUBERT as he managed bill after bill from the Foreign Relations Committee, where he chaired the Foreign Assistance Subcommittee. I will admit that he and I had our differences about the approach to American foreign aid. But I also listened with interest as he argued for this program to boost agricultural production or that program to provide better health care for the indigent in developing countries. Certainly HUBERT HUMPHREY was a citizen of the world—as proved by the outpouring of affection and sympathy from all nations at his death.

It was my privilege to work with Senator HUMPHREY on many issues. Perhaps most recently we worked together to strengthen the Close Up program, a program which brings high school pupils and teachers to Washington to study the political process in action. Senator HUMPHREY and I acted to increase funding for the Ellender Fellowships to finance Close Up participation for underprivileged students across the country. These fellowships have benefited many young people in our Nation today and enabled countless youngsters who would have never visited the Capital to spend time in Washington and to understand our democratic system. I know some participants in this program who were here because the Ellender Fellowships existed and because HUBERT HUMPHREY thought they were important as tomorrow's leaders.

During his few years out of public life, Senator HUMPHREY taught at Macalester College in Minnesota and the University of Minnesota, where he received his Phi Beta Kappa in 1939. He earned his masters degree at the Louisiana State University in political science, so Louisiana can take at least a small part of the credit for giving such a great and unusual man to our country. A fundraising "national tribute" dinner held in Washington on December 2, 1977, generated pledges and contributions of more than $1 million for the Humphrey Institute of Public Affairs at the University of Minnesota, part of almost $6 million collected to date.

In October 1977, the Senate held a special session of tribute to honor HUBERT, and in November Congress named the south portal of the new HEW building in his honor to commemorate his efforts on behalf of the needy.

These recent tributes reflect the themes dominating most of Senator HUMPHREY's career. In victory and in defeat he set an example of spirit that made him an inspiration to us all. His devotion to public service has set an example for all of us who served with him and continue in the Senate to which he dedicated much of his life.

SENATOR LEE METCALF

Mr. JOHNSTON. Mr. President, I was saddened to learn of the death of our colleague, LEE METCALF. LEE and I often worked together in the Senate, particularly on the Energy and Natural Resources Committee. Senator METCALF had served in the Congress for 25 years—in the House from 1953 until 1961, and in the Senate from 1961 until his death. His presence will be missed not only by his Senate colleagues and by his native Montana, but also by all who valued the work of this Western populist man for conservation, education, and the consumer.

A former assistant attorney general of Montana and a former associate justice of Montana's supreme court, Senator METCALF became a natural arbiter, helping to resolve committee differences and to reach consensus in the Senate. LEE was known for his fairness, strong sense of ethics, and good conscience.

Notable accomplishments during the Senator's House career included the defeat of a grazing bill to allow private interests to take over public lands and the defeat of a bill that would have given unwarranted privileges to timber companies. In 1958, he was coauthor of the National Defense Education Act.

In the Senate, LEE supported other educational programs, including the extension of the GI educational benefits to Vietnam veterans. He supported proposals to insure clean air and water, fair packaging and labeling laws for consumers, and measures to make Government more responsive. In 1973, he conducted hearings leading to passage of the Congressional Budget and Impoundment Control Act.

While many Americans were aware of LEE's active involvement in energy and natural resource issues, his chairmanship of the Subcommittee on Reports, Accounting, and Management of the Committee on Governmental Affairs was sometimes overlooked. This subcommittee, under LEE's direction, recently published a major report on the accounting profession in the United States. At his instigation, the profession was carefully scrutinized in order to determine its strengths while understanding its problems. This initiative was highly sig-

nificant, as the financial integrity of our Nation rests in large part on the accurate reporting of business activity. For that reason, LEE was concerned about the practices of the professional group entrusted with the fair representation of corporate results in this country.

Although Senator METCALF left much legislation by which he will be remembered, probably one of the best examples of his legislative perseverance was his sponsorship of the strip mining bill. After the bill was passed twice, only to be vetoed by the President, a strip mining bill was finally enacted on the third round. I disagreed with the concept of this legislation in many respects, but I respected Senator METCALF always as an honorable colleague and expert champion of his position. As a member of the present Energy Conference, too, he was well informed and willing to work with others.

Senator METCALF was a good lawyer, a good representative, and had a great feel for the common man. He set a good example for those of us who remain in the Senate, and his presence will be sorely missed.

HUBERT HUMPHREY'S "SPECIAL KIND OF GALLANTRY"

Mr. McINTYRE. Mr. President, what more can be said about a departed colleague of whom so much has been said so well?

For those of us who knew HUBERT HUMPHREY and loved him—and we were legion—every phrase, every sentence of every eulogy, rang its own special note in our hearts.

Many said that while it was possible to dislike his politics, it was impossible to dislike the man. And who could dispute that?

The President called him the "most beloved American." And who can dispute that?

The Vice President said he taught us how to live—and how to die. And who can dispute that?

David Broder said he inspired a political party—the Minnesota Democratic Farmer Labor Party—that "is the Nation's greatest resource of honest, effective, and visionary political leadership." And who could survey Minnesota's contributions and dispute that?

James Reston said that while "he fought the battles of his age with fierce and often excessive partisan energy, he never failed to remember that he had to fight in such a way that when the particular legislative struggles were over, he had to go on living and working with his opponents on other issues." And who in this body could ever dispute that?

And finally, Archibald MacLeish put the touch of the poet to the quintessential HUMPHREY. "He had," he said "a special kind of gallantry." And who could dispute that?

So all of the right things have been said about HUBERT HUMPHREY by the people who could say them best, Mr. President. Those of us of more prosaic bent must then content ourselves with fervent amens and our own special memories of the man.

For myself, I confess to being selectively selfish. We were not always in agreement on the issues, the senior Senator from Minnesota and I. Nor were our political philosophies always in tune. But when I was up against it on the floor of this Chamber or on the campaign trail in New Hampshire, there was no colleague I wanted more at my side—and speaking in my behalf—than HUBERT HORATIO HUMPHREY.

It is consoling to know how much the richer we were for having had him with us for so many years. But it is devastating to consider how much the poorer we are for his passing.

God rest his great heart and gallant soul.

TRIBUTE TO HUBERT HUMPHREY

Mr. PERCY. Mr. President, few Americans in either public or private life ever championed as many human causes as HUBERT HUMPHREY. He often stood alone.

As mayor of Minneapolis, HUBERT early understood the destructive tension that existed between the races. Ardently and courageously, he supported far-reaching civil rights goals, a basically unpopular position to take at the time.

He carried on his work as a U.S. Senator. HUBERT played a key role in creating the Arms Control and Disarmament Agency as well as the Peace Corps. The passage of the Civil Rights Act of 1964 was a testament to his dynamic leadership as Senate majority whip.

Because he was the son of a middle-class working family and a man of sincerity and sensitivity, HUBERT understood firsthand the problems and concerns of his fellow citizens. He was a spokesman for the issues of human welfare, housing, health care and economic growth, issues that have a profound impact on the everyday lives of every American.

One issue of particular concern to HUBERT was the energy crisis, which he believed was one of our Nation's most important challenges. He displayed his sincere dedication to this crucial issue when he joined with me last year in founding the Alliance to Save Energy.

He once said about the alliance:

This could indeed be one of the most important contributions I have ever made.

As a Presidential candidate, HUBERT HUMPHREY carried his message and his record, simply and honestly, to the American people. It was then that he popularized "the politics of joy" and earned the title "the Happy Warrior."

HUBERT HUMPHREY possessed an indefatigable zest for life and a sense of humor that never failed him. He carried those rare qualities with him as he faced his debilitating personal health crisis.

As a statesman, HUBERT was second to none. He always told us just where he stood. He never feared confrontation. Representing no single interest or cause, HUBERT became an ideal in himself. He will occupy a unique position in the Nation's history.

HUBERT summed it up best when he gave his view of America's strength, saying:

The real strength of America is not in government. It is in America's businessmen, its workers, its farmers, its professional people. It is in its wide array of non-governmental organizations—its churches, its civic groups, its trade associations and trade unions, its professional societies, its universities, and—not least—its political parties.

Surely the strength of America is personified in individuals such as HUBERT HUMPHREY. He demonstrated tremendous courage, tenacity, and devotion.

We will truly miss him.

TRIBUTE TO SENATOR METCALF

Mr. DOMENICI. Mr. President, I would like to take this opportunity to pay tribute to a distinguished colleague, the Senator from Montana, LEE METCALF.

Having worked closely with him on the Senate Energy Committee, his dedication and enthusiasm on projects and ideas he believed in never failed to impress me. His intellect and attention to detail were attributes highly regarded by his colleagues, myself included.

Although from different sides of the political aisle, Senator METCALF shared my concern for the consumer and the average American whose interests are too often lost to special interests.

The State of Montana and the Senate of the United States have lost a valuable asset.

TRIBUTE TO SENATOR HUMPHREY

Mr. DOMENICI. Mr. President, I would like to add my tribute to the many already recorded for a distinguished American and colleague, the late Senator from Minnesota, HUBERT H. HUMPHREY.

Senator HUMPHREY's courageous battles throughout his life and career were highlighted by his courageous battle against the disease that ultimately felled him. His tenacity in the face of adversity and staggering odds can serve as an inspiration to everyone.

His accomplishments in the areas of civil rights, full employment, social legislation, and fairness in an often unfair world marked him as one of the Nation's great leaders.

Senator HUMPHREY and I were from different sides of the political aisle, but he regarded no one as his enemy, only his temporary political opponent. If he lost the battle, he immediately rallied to the side of the victor, offering his services as a devoted and generous public servant.

Minnesota, the U.S. Senate, America, and the world will feel acutely the loss of one of the foremost leaders and public servants in U.S. history.

TRIBUTE TO SENATOR HUMPHREY

Mr. BIDEN. Mr. President, along with my colleagues in the Senate and millions of Americans from every corner of our Nation, I pay tribute to Senator HUMPHREY. His creative mind, irrepressible spirit and monumental legislative record represented what is best in our political process and what can be accomplished if one is willing to apply his talents to the fullest.

I was only 5 years old when HUBERT HUMPHREY first appeared on the political horizon as the young mayor of Minneapolis. The fact that he has served in pub-

lic life almost as long as I am old is testimony to Senator HUMPHREY's durability in a field where few men are able to dominate for even a fraction of the time that HUMPHREY stood in the forefront of political reform. Despite the changing times of recent decades, Senator HUMPHREY's legislative agenda continued to be fresh and relevant. His ideas never grew old because they were fundamental to the American goals of equal opportunity for all and equal justice before the law.

When I first came to the Senate in 1973, Senator HUMPHREY took me under his wing. He counseled me like a father. His boundless enthusiasm for politics was invigorating. It was at a conference in England in June of that same year that I first realized the "Happy Warrior" had as much substance as he did form. For it was in England that I saw the Humphrey intellect match wits with international leaders who were supposedly the experts in a particular field. Regardless of the subject, Senator HUMPHREY displayed an unforgettable array of knowledge that cut to the core of a problem.

His command of facts and sense of historical perspective enabled HUMPHREY to dominate discussions. Although the Humphrey spirit seems to be his hallmark, the Humphrey intellect, in my mind, was equally impressive. As I left that conference, I kept thinking how Senator HUMPHREY measured up to and surpassed each and every one of those international leaders who had gathered in England for that conference. And how many times since then, during debate on the Senate floor or committee discussion on legislative alternatives, or simply talking face-to-face, have I come to realize those rare intellectual qualities that Senator HUMPHREY possessed.

In life Senator HUMPHREY earned the reputation as the "Happy Warrior." In death, he left a legacy that is long and lasting. He was the father of aid to education the standard bearer for those who were poor and oppressed, and the inventor of legislation that opened voting rights to many Americans and public accommodation to those who had been deprived of their basic rights. These few specific accomplishments are but the tip of the iceberg for Senator HUMPHREY's lengthy legislative record places him at the top of the list of the 20th century lawmakers. Yet, the spark that ignited those legislative achievements was a resiliency to bounce back from defeat and disappointment. Senator HUMPHREY never let self-pity stand in the way of his drive to better his country. When he failed, he never withdrew. When he became stymied, he would regroup to make another charge again. In my opinion, it was his irrepressible spirit that fueled his many accomplishments.

Few men who hold positions of power gained the respect that Senator HUMPHREY gained in his lifetime. Perhaps this is because he always traveled the high road and never wasted his energies on vindictive deeds or comments. Or perhaps Senator HUMPHREY chose carefully what to fight for and in that fight, seemed to champion a course that was, in the end, undeniably right.

As a friend and colleague, Senator HUMPHREY will be sorely missed, but he will not be lost to the routine of daily problems that will tax our imagination in the months and years ahead. Instead he exists in the Halls of the Senate and the conscience of his fellow countrymen and women, reminding us of the American dream, and the fact it can be realized if we are willing to pay the price.

IN TRIBUTE TO THREE OUTSTANDING MEMBERS: SENATORS M'CLELLAN, METCALF, AND HUMPHREY

Mr. NUNN. Mr. President, in the short space of 60 days, the Senate has lost three of its outstanding members: Senators John McClellan, LEE METCALF, and HUBERT HUMPHREY. The passing of these great men leaves a tremendous void in the Senate leadership.

SENATOR M'CLELLAN

Senator McClellan's achievements over his some 40 years of service in the House and the Senate were enormous. Whether it be in the areas of national defense and security, appropriations, the strengthening of our criminal justice system, or in the improvement of government operations generally, Senator McClellan leaves a record of achievement, devotion to: The Constitution, the public welfare, individual rights, and hard work that have been of immeasurable benefit to the Nation—a record to guide this and future generations of Senators.

The record will speak for itself. Senator McClellan's will be one of the brightest and most constructive chapters in the history of the Senate. I think it important that we read this history and be guided in our judgments by what has gone before. Senator McClellan's career contains lessons in honor, devotion to the Nation, personal integrity, and commitment to principle for all of us who are privileged to serve here.

My real feeling at a time like this is a sense of loss—the loss of a wise counselor and good friend; the loss of the kind of steadying influence Senator McClellan's presence brought to the Senate for so many years.

My closest association with Senator McClellan was as a member of the Senate Permanent Subcommittee on Investigations—which I am now privileged to serve as vice chairman. As everyone knows, some of the Senator's most outstanding work was done throughout his long tenure as chairman of the permanent subcommittee and of the Senate Select Committee on Improper Activities in the Labor or Management Field—popularly known as the Labor Rackets Committee.

Over the years, Senator McClellan's name became almost synonymous with Senate investigations.

No other chairman of a congressional investigating committee in the history of the U.S. Congress conducted as many hearings, heard as many witnesses and produced more substantive results than did Senator McClellan.

My association with Senator McClellan on the permanent subcommittee was a rare opportunity to observe his unique qualities of leadership, courage, and compassion. Under his leadership the subcommittee maintained a standard of excellence in all of the investigations it pursued. The reputation the Senator achieved as our chairman stemmed from his patience, his dedication to duty, and his adherence to the rules of fair play.

Senator McClellan's ability as a cross-examiner was unequaled in the Senate. Unresponsive witnesses who appeared before the subcommittee quickly felt his wrath. His style was stern but fair. He was judicious in his approach. Friendly witnesses were subject to the same scrutiny as adversaries.

Senator McClellan's dedication to the task of exposing corruption in the labor and management field and fighting organized crime earned him national stature.

Under his chairmanship, the "Labor Rackets Committee" held hearings over a period of almost 3 years and was primarily responsible for enactment of the Labor-Management Reporting and Disclosure Act of 1959 (the Landrum-Griffin Act).

The select committee worked long and effectively in its 3-year life. Some 1,526 witnesses testified before the committee during 270 days of hearings. Their testimony covered 46,150 pages in 58 printed hearing volumes. Eight thousand subpenas for witnesses and documents were served.

Based on the abuses it found, the committee, under the leadership of Senator McClellan, recommended legislation:

To regulate and control pension, health, and welfare funds;

To regulate and control union funds;

To insure union democracy;

To curb activities of middlemen in labor-management disputes; and

To clarify what was then a "no man's land" in labor-management relations.

The legislative purpose for which the select committee had been constituted was clearly achieved.

In 1963, Senator McClellan, as chairman of the Permanent Subcommittee on Investigations, also conducted extensive hearings into organized crime in the United States. These hearings—on nationwide television—gave the American people, through the testimony of Joseph Valachi, a detailed analysis of the workings of a major part of organized crime in the United States.

Mr. President, one could go on for hours recalling highlights of Senator McClellan's work in the investigative area. The important point to be made is that in all these efforts the Senator established and adhered to standards of thoroughness and fairness that should guide other Senators as we try to follow in his footsteps. His was an amazing record of concern for the well-being of America's working men and women. His exposure of abuses in the labor-management area, and the protective legislation that followed are important legacies, not only to unionism in America but to all of our people.

Equally significant in Senator McClellan's distinguished record of public service was his unrelenting effort on the

Judiciary Committee to revise and recodify Federal criminal law and to bring to the Nation's criminal justice system a new measure of consistency and purpose.

Senator McClellan labored mightily to accommodate the views of other Senators and to arrive at a consensus of Senate opinion as to how best to achieve the most monumental revision of our Federal criminal laws ever undertaken.

Senator McClellan died before this goal was achieved, but he did set the process in motion and, when the final revision is attained, this will be yet another monument to Senator McClellan.

John McClellan long ago gained bipartisan respect for his judgments, his devotion to constitutional principles, his personal integrity—his fairness and decency. He left his mark of greatness on the Senate.

He will be sorely missed, but has left us a rich legacy. The challenge for those of us who are privileged to carry on here is to continue to build on the foundations he laid and strive for the wisdom that marked his presence here.

SENATOR METCALF

It was my privilege to serve with Senator METCALF on the Governmental Affairs Committee and on the subcommittee he chaired: Reports, Accounting, and Management.

When I came to the Senate in 1972, one of my priorities was to push for congressional reform of the Federal budgetary procedure. I found many allies in this effort, but none more ardent in his support than Senator METCALF. At that time, Senator METCALF was chairman of the Government Operations Subcommittee on Budgeting, Management, and Expenditure. In early 1973, Senator METCALF conducted extensive hearings on several proposals, including my own, which addressed the revision of our budgetary process. It was these hearings which laid the foundation for the Congressional Budget and Impoundment Control Act which passed the Congress in late 1974. All of us owe a tremendous debt to our colleague for his wise and able counsel on this important legislation.

Senator METCALF'S career in public service spanned 42 years of dedicated and conscientious attention to the needs and problems of his constituents. During those 42 years, he served as a State representative, assistant State attorney general, associate justice of the Montana Supreme Court, and Congressman from the first district—all before being elected to the Senate in 1960.

In the Senate, he has been a leading advocate of environmental legislation, leaving his imprint on the major conservation and environmental measures introduced over the past 20 years. LEE METCALF was one of the principal sponsors of such visionary legislation as the Clean Air Act and the Water Quality Act, and was constantly working to preserve our natural resources for future generations.

From the beginning of his congressional career, he worked tirelessly to extend Federal aid to public schools. He was one of the authors of the National Defense Education Act of 1958, the first major Federal aid to education legislation since the Morrill Act of 1862. The landmark Elementary and Secondary Education Act of 1965 was also among his credits.

Much of the work LEE METCALF did to bring needed legislation to fruition was done far from the limelight of public attention. He was a knowledgeable and articulate spokesman on a wide range of major issues—from education, to energy, to the environment. His diligent work and broad expertise made him an invaluable member of the Senate, and he will be sorely missed.

SENATOR HUMPHREY

HUBERT HUMPHREY is a charter member of that relatively small group of truly great leaders which the 20th century has produced. With his passing he joins other giants of the Senate, including Richard Russell and Everett Dirksen, in a small elite fraternity of men who have shaped the destiny of this country in the tradition of our forefathers.

HUMPHREY, like Russell and Dirksen before him, was a man of tremendous personal discipline, unswerving courage, steadfast devotion to duty, and unbounded compassion and understanding for his fellow man. Of such ingredients, great leaders are made.

He was the kind of individual the poet Madeline S. Bridges had in mind when she wrote:

For life is the mirror of king and slave
'Tis just what we are and do;
Then give to the world the best you have
And the best will come back to you.

The life and the career of HUBERT HUMPHREY reflects that of a man who gave the best of himself every day—to his community, his State, and his Nation.

He enjoyed life, and was richly blessed in the life he led. All of us have been richly blessed by our association with him. It is for us here remaining to move forward in the spirit of hope, enthusiasm, and optimism of HUBERT HUMPHREY to tackle the great tasks which confront us. HUBERT would have wanted it no other way. We shall miss him—his advice, his wise counsel, his good humor—but his spirit will always be with us.

TRIBUTE TO SENATOR HUMPHREY

Mr. HUDDLESTON. Mr. President, it is impossible to express the sense of loss and sorrow that my wife Jean and I feel over the death of Senator HUMPHREY.

Millions of words have been spoken and written in the past few days about the great deeds and accomplishments of Senator HUMPHREY, and I will not attempt to reiterate or expand upon those worthy tributes.

Rather, I would like to say a few words about HUBERT HUMPHREY, my friend and colleague, and his wonderful wife Muriel.

I remember that shortly after coming to the Senate in 1973 I held an agricultural conference in Kentucky and I asked Senator HUMPHREY to be the keynote speaker.

Even then he was having health problems, and this was a particularly uncomfortable time. But he readily accepted and came to Lexington, and was, of course, a smashing success.

From that very first year until we adjourned last year, HUBERT HUMPHREY went out of his way to be helpful to me, a junior Senator who could never hope to reciprocate.

I, for one, feel much richer just from having known and served with HUBERT HUMPHREY; I feel much wiser from having listened to his counsel; and I feel much better about the condition of mankind knowing there was a HUBERT HUMPHREY among us.

It is remarkable that a man of such great love and compassion could advance to the very highest levels of our Government, then suffer great disappointment and physical pain, without ever becoming cynical or losing that essential goodness we all identify with HUBERT HUMPHREY.

There are so many lessons to be learned from HUBERT HUMPHREY'S life and death: When you see injustice and wonder what can or should be done about it, think of HUBERT HUMPHREY; when you see opportunity, think of HUBERT HUMPHREY; when you get angry or suffer great disappointment, think of HUBERT HUMPHREY; and, yes, when the time of death arrives, think of HUBERT HUMPHREY.

HUBERT was indeed a man for all seasons; gracious and magnanimous in victory; good-spirited and without bitterness in defeat; and always in love with life.

Jean and I will miss him dearly, but we will fondly and frequently remember him for the rest of our lives.

TRIBUTE TO SENATOR METCALF

Mr. HUDDLESTON. Mr. President, one of the saddest things about serving in the U.S. Senate is that because of the nature of the institution you often become close friends with someone only to have that friendship interrupted by retirements, electoral defeats, or death.

We have all lost just such a friend in LEE METCALF.

I only served on committee with Senator METCALF for 1 year, and I was fortunate enough on a few occasions to work with him on legislation affecting my State. Without fail, he was always as helpful and accommodating as possible.

I think the public often gets the erroneous impression that all men in public life, and especially those in Congress, are hard-bitten, cynical, and somewhat uncaring.

LEE METCALF was the very opposite of all those things. He was essentially a very kind, gentle person who throughout his career maintained a compassion for and a desire to help the less fortunate.

Much like HUBERT HUMPHREY, he never became bitter and cynical—and he accomplished much good along the way.

We will all miss LEE METCALF. He was a trusted friend and colleague and an outstanding Senator.

EULOGY TO SENATOR HUBERT H. HUMPHREY

Mr. ZORINSKY. Mr. President, the struggles of HUBERT HUMPHREY were the struggles of our Nation to grow amid the challenges of the 20th century. The expanse of his interest and experience

seemed limitless. He spoke, and his words gave us vision, energy and hope whether the discussion concerned civil rights, economics, or foreign policy.

HUBERT HUMPHREY was a good and decent man—our friend. His compassionate and forgiving nature and his dedicated and tireless work became standards of measure. I am grateful for having known him.

It seems inconceivable that HUBERT HUMPHREY has left us. The institution of the Senate and the political life of the Nation are diminished by his parting, though forever enriched by his giving.

TRIBUTE TO SENATOR HUMPHREY

Mr. HATHAWAY. Mr. President, we knew for some time that our colleague HUBERT HUMPHREY, was dying.

And we knew this because, characteristically, he insisted upon telling us of it.

His struggle with impending death was carried on with the same courage and unabashed optimism with which he always conducted his political campaigns and his legislative battles.

His feeling for the American people ran so deep, his relationship with them was so close, that the intimacy and dignity of his death was shared with all Americans and with the world. It was this open, unusual, exemplary conduct which caused Vice President MONDALE to conclude his remarks in the Capitol last week with the observation that HUBERT HUMPHREY taught us how to die.

HUBERT'S great faith in our country and his hope for its future led him to describe and work for goals which at first often seemed impossibly lofty.

But he was more than just a poet expressing dreams. Articulating his visions of how the country could be improved, the goals became tangible and realistic because of the strength of his faith.

Like Governor Stevenson, HUBERT HUMPHREY believed that

> What America needs and the world wants is not bombast, abuse and double talk, but a sober message of firm faith and confidence.

HUBERT delivered all of that and more.

In a difficult profession, he triumphed.

Andrew Oliver said in Boston nearly 200 years ago:

> Politics is the most hazardous of all professions. There is not another in which a man can hope to do so much good for his fellow creatures. Neither is there any in which by mere loss of nerve he may do such widespread harm.
>
> Nor is there another in which he may so easily lose his own soul. Nor is there another in which a positive and strict veracity is so difficult, but danger is the inseparable companion of honor. With all the temptations and degradations that beset the politician it is still the noblest career any man can choose.

HUBERT HUMPHREY enhanced the reputation of politicians because he escaped the occupational pitfalls of our profession, savored some of its most rewarding moments and, while conceding momentary sadness upon disappointment, was without bitterness, or self-pity.

Good ideas, sound solutions, improvements in the common weal—HUBERT HUMPHREY taught us that these are the things which survive defeat, endure and prevail.

Defeat did not diminish HUBERT'S dreams for a better country. Many of his ideas, policies, and projects were at first defeated, only to become victories when his ideas took root in the minds of the people.

He knew that America became what it is not only because of the dreams of its people, but because those people had the will to act upon those dreams.

Even though we knew he was dying, it was impossible to prepare for the loss of his insight, his experience, wit, and wisdom.

We are, for the time being, at a loss without his articulate vision of America.

Robert Bly, another Minnesotan, speaks of loss, change, and adaptation in his poem "Surprised by Evening"; and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

SURPRISED BY EVENING

There is unknown dust that is near us,
Waves breaking on shores just over the hill,
Trees full of birds that we have never seen,
Nets drawn down with dark fish.

The evening arrives; we look up and it is there,
It has come through the nets of the stars,
Through the tissues of the grass,
Walking quietly over the asylums of the waters.

The day shall never end, we think:
We have hair that seems born for the daylight;
But, at last, the quiet waters of the night will rise,
And our skin shall see far off, as it does under water.

TRIBUTE TO SENATOR METCALF

Mr. HATHAWAY. Mr. President, I would like to pay tribute to our friend and colleague, LEE METCALF, whose death last week saddened and shocked all of us.

It can be said of LEE that he was one of the few people who truly dedicated his life to public service. For 40 years, LEE held public office in one capacity or another. He had served the people of his State as a member of the Montana Legislature, as an assistant State attorney general, as a justice of the Montana Supreme Court, as a four-term U.S. Congressman and as a three term U.S. Senator. This remarkable record of devotion to public service can be a source of great pride for both his family and the people of Montana.

Although his legislative achievements are many and varied, LEE is probably best known for his work in the area of conservation and environmental protection. Five major national environmental organizations recognized his distinguished service. But LEE METCALF also realized that environmental protection and economic development are not mutually exclusive. He sponsored Federal development of hydroelectric generation facilities in Montana, and the expansion of research and development of nonnuclear alternative sources of energy.

I personally will remember LEE METCALF for his superb book "Overcharge" which exposed the rate charging activities of private power companies. This book will long remain a prime source for anyone who investigates the electric power industry.

LEE METCALF was a devoted public servant who worked tirelessly for the public good and against the special interests. His intelligence, skill and friendship will be sorely missed by all of us who knew him.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. ABOUREZK. Mr. President, throughout his decades of public service in Government, HUBERT HUMPHREY earned the respect and admiration of people the world over. The vitality, quick intelligence and good humor he brought to every position, from his early days in city politics on through his career as Vice President and Senator, are legend.

Yet he never forgot his humble origins or the common people who first put their trust in him as a leader. Through the years he remained in close touch with those he knew from his early days in South Dakota. Literally thousands of South Dakotans still treasure him as a devoted friend.

He will be remembered as a man who loved his fellowmen of all races—and above all as a man who put this love into action to improve the lot of the poor and persecuted. His legacy remains the many laws bearing his name, laws designed to resolve social injustice and to heal the wounds of prejudice and poverty.

He died as he lived—with courage and without self-pity. He set an example we all can emulate, both in the energy and enthusiasm he brought to living and in the grace and dignity he brought to dying. HUBERT HUMPHREY will be sorely missed; he surely will not be forgotten.

TRIBUTE TO SENATOR LEE METCALF

Mr. ABOUREZK. Mr. President, with the passing of LEE METCALF, the people of Montana, South Dakota and of the Nation have lost a true and steadfast friend. He was a popular leader for whom populism was not a political slogan but a deeply felt commitment to the public interest, and he is distinguished by the vision, clarity, and intelligence he brought to bear upon a broad range of issues critical to the public welfare. Over the course of a long and notable career he addressed, among other matters, education, tax reform, health security, rural development, wilderness protection, and governmental reform, but his voice was singularly resonant and his commitment unmistakably clear on regulatory reform, energy development, and Indian affairs.

LEE METCALF was always in the forefront, and frequently alone, in fighting for public utilities that effectively served the public and for a regulatory process that was responsive to those whose interests are ultimately at stake. His advocacy of legal counsel and access to information for consumers has now been written into law, and his concerns for utility tax and rate reform, an effective national electric transmission system, and the development of municipal power stand as challenges for the future. He

was a staunch defender of public lands against exploitation by special interests and a champion of the public interest in formulating national energy policy.

Included in his conception of the commonweal was a sensitivity to the special needs and problems of Indians, and that sensitivity was translated into legislation for health care, education, and self-determination. For these achievements he is respected by all concerned for Indian welfare, and he will be fondly remembered by the many Indians to whom he was personally close.

As an outstanding individual and as a public servant with a unique sense of social justice, LEE METCALF is irreplaceable. Yet the issues he addressed are those of the highest order, those which are so crucial and so difficult that they are never fully and completely resolved, and we are now charged with bringing to our consideration of these issues a measure of his progressive and public-spirited orientation. His voice can never be imitated, but let us hope that something of its inflection, its searching and incisive tone, will continue to be heard in future deliberations. This would be the most honest and fitting tribute we can pay LEE METCALF.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. GRAVEL. Mr. President, in rising to praise our late friend HUBERT H. HUMPHREY, it seems that all our words have been used up when our feelings have hardly begun to be expressed.

We cite his compassion, his energy, his good will and good humor, his intelligence, his honesty, and his resilient courage—and it is not enough.

We praise his generosity, his optimism, his many achievements—and we seem hardly to have touched the man.

The truth is that our loss cannot be compensated by any recital of the qualities which we admired in Senator HUMPHREY, and we can only say how much he will be missed.

HUBERT HUMPHREY seemed immune to the temptations of pettiness and revenge. He will be missed in the Senate, where his very personality helped us to overcome the factionalism and the passions of the moment which, from time to time, can threaten to paralyze any democratic body.

Perhaps with his passing we need to recognize again, as HUBERT HUMPHREY did, the good will and the patriotic intentions of each of the Members of the Senate—to remember that, despite our differences of opinion, we are all seeking what is best for the people of this Nation and the world—to recall that Senator HUMPHREY's faith in democracy reflected his faith in the goodness of people, and that a body like the Senate cannot survive without that fundamental optimistic faith. HUBERT HUMPHREY, by his very presence, reminded us of this faith. Without him, it is incumbent on us more often to remind ourselves.

Senator HUMPHREY's sincere empathy for all people has been a gift to our country, and all citizens have reason to miss that quality, so evident in his campaigns and in all his work as a public servant. The Civil Rights Act, the Peace Corps, and the food for peace program are all offspring of that understanding of the plight of others.

I would like to make special note of HUBERT HUMPHREY's dealings with Alaska and Alaskans. I believe he understood and admired the "pioneer spirit" of territorial Alaska, and he was an early supporter of statehood. He saw the great potential of Alaska—but more remarkable, he saw how much building there was to be done in the Nation's largest State before its potential would be realized. He saw very early the need for something more than simple exploitation of Alaska's natural resources. He saw the State's opportunity in terms of the needs of her citizens.

Perhaps Senator HUMPHREY's most prescient observation of Alaska was his early support of hydroelectric power in our State. Alaska, with her vast water resources, has the opportunity to draw the bulk of her energy from this nonpolluting source. Of Alaska's rivers, Senator HUMPHREY said:

Their tremendous potential, one of the greatest of all Alaska resources, will in the future provide the power to turn the wheels of industry. This power is a vital and essential requirement for the development of Alaska as a whole and most of (her) resources. Let's move Alaska into the electrical age so that our biggest State can keep her rendezvous with her great destiny.

Today, we are in the first stages of realizing the hydropower potential of Alaska. The largest hydroelectric dam in North America is proposed for construction on the Susitna River, halfway between Anchorage and Fairbanks. I believe it would be appropriate to name this project after HUBERT HUMPHREY, and I intend to make such a recommendation at the proper time.

I ask unanimous consent to have two editorials, one from each of the daily Anchorage newspapers, printed in the RECORD. They record the affection for Senator HUMPHREY which Alaskans share with the rest of the Nation.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News, Jan. 16, 1978]

OUR VIEWS: THE HAPPY WARRIOR

A man America loved and respected, but never quite elected president, is dead and the tributes to him are only just beginning.

Hubert Horatio Humphrey—HHH to the headline writers fought an unflagging battle against cancer as he fought his political battles all of his life.

His 66 years were filled with optimism and good cheer, two attributes that endeared him to the public. He had energy and drive, intelligence and wit. While working as a public servant he tried to uplift the people he represented rather than degrade or demoralize.

He served the public interest, and his standards and spirit will give that public something to remember and strive for again.

Although he never achieved the country's highest office, and he tried harder than possibly any other individual, he was accorded a final ceremony befitting of those who did attain the presidency.

Only 24 others have rested in the Capitol Rotunda, including Presidents Lincoln, McKinley, Kennedy and Johnson. Not only was Humphrey given that honor, but three who have been President attended, including Richard Nixon who defeated him in 1968.

"He was the country's conscience," said Vice President Walter Mondale of Humphrey, a fellow Minnesotan.

"He was a wise and honest counsellor," said President Jimmy Carter.

Hubert Humphrey served in the U.S. Senate for six terms, was vice president and the 1968 Democratic candidate. He tried again for the presidency in 1972 but the nomination went to George McGovern.

Those who watched him and admired him gave Hubert Humphrey high marks for sportsmanship and stamina. They called him "the happy warrior." In victory he was ecstatic, but in defeat he bled, but never for long. He was able to look at the same set of facts and replace gloom with cheer.

There are many who think he should have been President, and that he would have been a good one.

Still, Hubert Humphrey undoubtedly will have a place in history nearly as high as if he had been President.

[From the Anchorage Times, Jan. 18, 1978]

HUBERT HUMPHREY

When Sen. Hubert Humphrey was laid to rest in his family's burial plot in Lakewood Cemetery in Minneapolis, there was a haunting echo of coincidence in the date that may have stirred a memory among old-time Alaskans grieving over the death of the former vice president and honored national leader.

The 66-year-old senator from Minnesota, victim of cancer after a gallant struggle in which the vibrancy of his personality was never dimmed, was buried Monday, Jan. 16.

Eighteen years ago on that exact date Hubert Humphrey was the featured speaker at the Democratic State Convention in Ketchikan.

From all over Alaska Democrats had gathered for what was forecast to be—and what turned out to be—one of the party's most rousing rallies.

The Democrats had much to celebrate. The meeting convened just 13 days after the first anniversary of Alaska's statehood. The joy and excitement of statehood was still very much a part of the fabric of Alaska. To borrow a phrase that has become the favorite buzzword of today, statehood was very much the lifestyle of Alaskans in 1960.

And the Democrats were firmly in control. They dominated the legislature. They held every elective office—that of the governor, the secretary of state, the two U.S. Senate seats and the state's only seat in the U.S. House.

The Ketchikan convention was like a birthday celebration for the happy Democrats. Statehood was a reality, their party was in control of Alaska's politics, the first presidential election in which Alaskans could participate was on the horizon.

And into this marched the happiest Democrat of them all—Hubert Horatio Humphrey, accompanied by his wife, Muriel.

William A. Egan, the former president of the Alaska Constitutional Convention and former territorial legislator from Valdez who had just completed the first year of his term as the first year of his term as the first governor of the state, hailed Sen. Humphrey as a man "whose support for the cause of Alaska statehood has never wavered over the years." And the governor added:

"It is more than remotely possible that the next president is here with us today—as our honored and distinguished guest."

"I AM AFTER THE VOTES OF YOUR DELEGATION"

And on that Jan. 16 of long ago—it was a Saturday, not a Monday—the Alaskan Democrats honored and distinguished guest was the principal speaker at the convention's main banquet.

The party faithful packed the Elks Hall and into that crowded gathering came Sen. Humphrey. There was nothing shy or reticent about him then, any more than there was in his later life.

"To come right out with it," he told the Alaskans, "I am after the votes of your delegation to the National Presidential Convention in Los Angeles."

And in pursuit of those nine votes, Sen. Humphrey talked about Alaska and its destiny. It was one of the longest political speeches ever delivered in Alaska—because that was Sen. Humphrey's way. His enthusiasm bubbled constantly as he talked, seemingly without an end in sight.

But the Alaskans loved it and they loved him.

The Republican administration in Washington, he said, had treated Alaska's resources "with a policy of neglect."

More than any other state of this great country, he said, Alaska "needs resource development, roads, transportation of all kinds." And he added:

"There are acres of diamonds under our feet if we can but only see them. Alaska is our great testing ground of what America can do in the emerging areas of the world."

Alaska's rivers, he proclaimed in the ringing voice that later became a national symbol of Democratic forcefulness, have the greatest hydroelectric potential in this hemisphere.

"Their tremendous potential, one of the greatest of all Alaska resources, will in the future provide the power to turn the wheels of industry," he said. "This power is a vital and essential requirement for the development of Alaska as a whole and most of your resources.

"Let's move Alaska into the electrical age so that our biggest state can keep her rendezvous with her great destiny."

A WEEKEND ON THE WATERFRONT

Sen. and Mrs. Humphrey spent all weekend with the Alaska Democrats. They browsed in the gift shops and purchased souvenirs for their children. They strolled in the rain, laughing and greeting happy children who scurried up to say hello. They were visibly moved by the grandeur of the forests and the shifting scenic panorama and the nearby mountain slopes. They walked along the waterfront and listened as the salt water slapped the pilings of the docks. They admired the fishing fleet and expressed amazement at the way the small craft moved in and out in the fog that lay low in the coves and channels.

In the course of political events, Sen. Humphrey did not win Alaska's nine national convention votes that year. The Ketchikan convention recessed for the start of the 1960 legislative session and when it resumed April 2 in Anchorage it voted to send its delegation to Los Angeles unpledged to any candidate.

In the political maneuvering of the national convention, Sen. Humphrey withdrew—his time not yet come for the party's presidential nomination.

The nod went instead to Sen. John Kennedy of Massachusetts and to him went Alaska's nine votes under the so-called unit rule which requires a unanimous vote for the person favored by a majority of the delegation.

In a caucus poll just before Alaska's vote was cast, 12 of the delegates from the 49th State—each casting one-half vote—favored Sen. Kennedy, including Gov. Egan and Sen. Ernest Gruening. Two delegates—Sen. E. L. "Bob" Bartlett and U.S. Rep. Ralph Rivers—cast their one-half votes for Sen. Lyndon Johnson of Texas. Two others—Rep. Helen Fischer of Anchorage and Lew Dischner of Fairbanks—voted for Sen. Stuart Symington of Missouri. The final two delegates, Richard Greuel of Fairbanks and John McNeese of Nome, voted for Adlai Stevenson of Illinois.

But Sen. HUMPHREY was not then or ever forgotten by Alaskans.

No less than others, Alaskans mourn the death of a man whose spirit and zest provided an uplift to America's political life.

As his great good friend Vice President Mondale said in a eulogy,

"He taught us how to win and he taught us how to lose. And, finally, he taught us how to die."

He failed in his greatest aspiration, to attain the presidency, but he achieved something even greater, the vice president said. He became "the most loved and most respected man in America."

Eighteen years ago this week Alaskans were provided with a glimpse of the man and his character and embraced him as one who recognized fully, even then, the true destiny of the 49th State.

TRIBUTE TO SENATOR LEE METCALF

Mr. GRAVEL. Mr. President, I would like to join my colleagues in expressing deep sorrow for the loss of LEE METCALF, the distinguished senior Senator from Montana. During his 17 years in the Senate, he became respected not only for his legislative abilities but also for his indefatigable good humor. Highly regarded and genuinely well-liked, LEE METCALF was a most effective advocate of the traditional Western populism of his native Montana.

Throughout his congressional service, LEE METCALF was a strong advocate of Federal support for public education. In 1965 he was a leader in passing the landmark Elementary and Secondary Education Act, the first legislation to provide massive Federal funds for public education.

LEE METCALF was also one of the earliest consumer advocates. In the 1960's he took the side of the consumers against the coal and power companies. Investigating and presenting evidence of exceptionally high electric utility rates, he brought pressure on the industry to end its monopolistic practices. In 1963 he joined in sponsoring legislation to establish a Federal office to handle consumer complaints. His support for consumer interests continued throughout his career with his cosponsorship of legislation in such areas as fair packaging and labeling, disclosure of the costs of consumer credit and warranty and standards performance.

In yet another area, conservation, LEE METCALF was identified as the people's advocate. Coming from a Western State with vast natural resources and scenic beauty, LEE METCALF appreciated the importance of preserving land for future generations. He has been a leader in developing wilderness legislation. He was especially active in the designation of the Lincoln-Scapegoat Wilderness Area, passage of the Montana Wilderness Study Act in 1976 and enactment of legislation creating the Welcome Creek Wilderness Area near Missoula.

His interest in my own State of Alaska and his understanding of the complexity and magnitude of the wilderness issues there, will be sorely missed in developing suitable Alaska wilderness legislation.

His leadership in advocating regulation of strip mining is well known. As Senate floor leader, he led the debate for strip mining legislation in 1974, 1975, and finally in 1977, when the bill successfully passed both Houses and was signed into law.

LEE METCALF also had an active interest in the efficient use of our natural resources. In 1969 he conducted hearings on the problems of utilizing the minerals on the ocean floor. Then in 1971, he introduced the first Deep Seabed Hard Mineral Resources Act, to protect the Nation's interest in access to rich mineral deposits. Over the years, LEE METCALF's concern for developing hydroelectric energy resources resulted in Federal funding of the Libby and Yellowtail Dams in Montana. He was also active in encouraging research and development in nonnuclear alternative sources of energy.

Finally, LEE METCALF was a leader in governmental reform. In 1973 he conducted the hearings on proposals for strengthening control over the Federal budget. The following year, as a result of the hearings, Congress enacted the landmark Congressional Budget and Impoundment Control Act. Senate committee reform, televised Senate proceedings and many other reforms were supported by LEE METCALF in order to improve the effectiveness and responsiveness of the Federal Government.

At this time I wish to express my deepest sympathy to the Metcalf family. It was my privilege to have known LEE and I am grateful for the wisdom and warmth he brought to this body.

LEE METCALF: AN UNCOMMON MAN OF OUR TIMES

Mr. McGOVERN. Mr. President, I am one of the few Members of the Senate who has served with LEE METCALF in the House of Representatives. When I first came to the House in 1956, LEE was already a respected member of that body. During my early days in the House, I recall one of the senior members saying that Montana was substantially overrepresented. When reminded that Montana only had two Congressmen he responded, "Yes, but on agricultural and interior matters, at least 95 Congressmen call LEE METCALF for his advice before they vote."

It was in those early days that LEE METCALF joined with other young liberal Congressmen to found the Democratic Study Group. This fledgling organization bloomed and is now considered by all of us as one of the established institutions in the House.

Though LEE METCALF will long be remembered in the Senate for his contribution to legislation associated with wilderness, forest management and natural resources, I feel it appropriate to recall that in his House service he developed a dedication and expertise in education and our school systems. I served with him on the Subcommittee on Education of the House Education and Labor Committee. There he fathered legislation giving aid to federally impacted areas. The original Murray-Metcalf bill, though it never became law, was the forerunner for what we now know as Federal aid to education.

With the resignation of Senator Murray, LEE METCALF came to the Senate in 1960 to become a harness mate with his life-long friend, Mike Mansfield. Together they advanced the position of Montana and the Nation. They also formed a parliamentary alliance that colleagues grew to know and respect. With LEE METCALF in the Chair and Mike Mansfield the majority leader, the parliamentary level on the floor was always under control.

LEE METCALF brought to the Senate of the United States all those intangible human ingredients that were bound to leave their sign on this body. He was marked from boyhood with that tradition of Upper Great Plains populism that grew out of an abiding concern for the common man. As a product of the Great Depression, his sensibilities were tuned to the downtrodden. Toughened by service in the Great War and fashioning the reconstruction of Western Europe through the establishment of the first civilian court system following the invasion of Germany, he came to government intellectually prepared by an early career in the law tempered by distinguished service as an associate member of the Montana Supreme Court.

I will remember LEE METCALF as a man who wore his heart on his coatsleeve and who told you what he thought with that straightforward blunt honesty that is all too uncommon in this slick age of papier mache virtue and talk that can be tuned in all directions.

But perhaps I shall remember him most for the straight arrow support he gave me in the 1972 Presidential election in Montana, where my candidacy fell somewhat short of the support Washington football fans give the Redskins. LEE won his own election that year narrowly, but I shall not soon forget how he stood for my candidacy at a time when it obviously was putting his own campaign in jeopardy.

In the U.S. Senate, LEE METCALF moved with grace and sureness and we should all be thankful for his presence and his friendship.

HUBERT HUMPHREY: SOUTH DAKOTA NATIVE, NEIGHBOR AND FRIEND

Mr. McGOVERN. Mr. President, those of us who were raised in the dust bowl days of South Dakota in the 1930's, as was HUBERT HUMPHREY, have a special appreciation for the trials and tribulations that forged the character of this man who was to go on to such national prominence and leadership.

In fact, South Dakotans have had a life-long love affair with this tireless "happy warrior." Born in Wallace, educated in Doland and a businessman in Huron, S. Dak., HUBERT'S roots were firmly implanted in the State from which he came.

We never lost our fascination, respect and affection for this most uncommon of common men who taught us that we could, with effort, make a better life for ourselves and our fellow humans.

In the early 1950's when the South Dakota Party was beginning to stir from its nearly two decades in the backwaters of the political life of our State—it was always HUBERT who would come home to speak, to educate, to persuade—and, like the good neighbor he was—to lend a hand where it was needed; never neglecting his own chores in Minnesota and the U.S. Senate.

Those of us in South Dakota's Democratic Party who have enjoyed some measure of political success, have built upon HUBERT'S rich legacy of what it really means to be a public servant.

I mourn him as a colleague, as a neighbor and as a dear friend. There perhaps will not be another man like HUBERT HUMPHREY, but those of us who have stood with him in so many battles and in support of so many worthwhile causes—must go forward as he would want us to. The continuation of his efforts for a better America may, ultimately, be his finest and most eloquent tribute.

Mr. President, so that all may know the feelings of South Dakota on HUBERT'S death, I ask unanimous consent that my public comment as well as editorials from the Rapid City Journal, Watertown Public Opinion, Aberdeen American News, Mitchell Daily Republic, and Sioux Falls Argus Leader be printed at this point in the RECORD:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Argus-Leader]

MCGOVERN: HHH CREATIVE LAWMAKER

(EDITOR'S NOTE. This is a commentary by Sen. George McGovern on the death of Hubert H. Humphrey, his friend and neighbor for 25 years. It was released Saturday to the Argus-Leader.)

(By Senator GEORGE MCGOVERN)

Hubert Humphrey's death has silenced the most vital and eloquent voice in American public life. He was the most creative lawmaker of his generation.

He was my friend and neighbor for 25 years.

His passing is a painful loss to me and to millions of other Americans. We loved him for his own inimitable love of life. He taught us how to live and how to die.

We are comforted now in the knowledge that he crowded half a dozen careers into one all-too-brief a life.

It is entirely appropriate that as a thoroughly public man, he died with the accolades of his countrymen ringing across the land.

Thirty years ago he called his fellow citizens to walk out into the sunlight of human rights. He made Minnesota a model of progressive politics. His leadership energized the force of liberalism across the Midwest.

He pioneered in the development of the Peace Corps, Food for Peace and the nuclear-test ban. His name now adorns a far-reaching proposal to put our nation back to work.

Sometimes I have thought that Hubert Humphrey's life has been a testing ground for mine. Our lives have frequently moved along similar lines.

We were both born and reared in Depression and drought-scarred South Dakota.

We both educated ourselves to become college professors. We both felt the lure of prairie politics and eventually emerged as the presidential nominee of our party—Hubert in 1968 and I in 1972.

Although we were divided over the war in Vietnam and became presidential rivals for a brief time, the bonds of personal friendship survived that division.

It was not possible to hold a grudge against Hubert. He healed the wounds of political rivalry with humor and love.

During one decade—1956 to 1965—we were next door neighbors in Chevy Chase, Md., where our children grew up together, our wives visited daily and Hubert and I rode together to Capitol Hill.

As a freshman congressman in the 1950s, I was enriched by the warmth of this remarkable older neighbor and friend.

He helped us furnish our first Washington house with things he said his family no longer needed.

He knew the nicknames of every child in the neighborhood.

When he entered their sandlot baseball or touch football games, he did them the honor of trying to beat them or at least make everybody laugh.

Always, there was the joy of being alive, the love of his fellows, and his passion for public service.

Once, on a warm summer night, I heard him singing happily at 2 o'clock in the morning while he scrubbed the walls of his kitchen. On other occasions, he burned up surplus energy by sweeping out his garage well after midnight.

He seemed never to be tired or depressed, believing that work and politics and crowd reactions could cure any malady of body or spirit.

On another occasion, he left his Washington home sick with the flu and a fever of 102—simply to be introduced for a feeble wave to a waiting crowd he had been scheduled to address at a nearby hotel.

Instead, he orated for 45 minutes to a wildly applauding crowd and proudly announced when it was all over that his fever was gone and that he felt "just great."

I knew of no one else who was quite like him!

He was still exorting us to be of good cheer when he died.

[From the Rapid City Journal, Jan. 16, 1978]

HUMPHREY DISPLAYED THE CHIVALRY OF GOOD WARRIOR

Much was written about Hubert Horatio Humphrey's bravery in the face of death. But it was not his view of death but his view of life that earned him respect and affection, even from his political opponents.

Although he fought for his ideals and his programs with sometimes excessive partisan energy, he never forgot that when the particular legislative struggles were over, he had to go on living and working with his opponents on other issues. He knew everything was subject to chance and change and he should always, if possible, avoid making personal enemies while fighting the issues that divided the nation.

The Happy Warrior from Minnesota, by way of South Dakota, had a way of criticizing and accepting criticism without showing personal resentment. It enabled him to win the admiration of his enemies for his character if not for his policies.

His character was forged in the hard times of small communities in South Dakota where he was born and lived his early years. That beginning made him sympathetic to the lot of the less fortunate, both in this country and abroad, and was the basis for the social legislation which he sponsored and fought for.

When it came to a struggle between the mind and the heart, Hubert's heart always won. Even when he lost, there were regrets but never rancor.

Hubert Humphrey struggled almost all the way to the top and lost. But he took his political defeats and his long and fatal illness in stride. He had wit and spirit, the spark and the spunk of life. Bitterness was not in him.

There was no malice in Hubert Horatio Humphrey, only the chivalry of a good warrior.

The poet Archibald MacLeish described Humphrey's quality as "a special kind of gallantry."

We can think of no better epitaph.

[From the Watertown (S. Dak.) Public Opinion, Jan. 14, 1978]

HUBERT H. HUMPHREY

America now bids a final farewell to Hubert H. Humphrey, a man whose almost boundless energy, unquenchable spirit and love for people took him from the main street of Wallace, S.D. to the vice presidency of the United States and almost to the presidency itself. It made him a national leader, a keystone figure in the U.S. Senate, and a man whom it was impossible to dislike. It will have left him among the great figures of American history.

Fate made Humphrey the victor in great political battles. It denied him the victory in his final battle yet it could not quell the upbeat spirit which made him stand apart—a fighter, an everlasting optimist, a man who could take defeat in good grace, victory with the humbleness of a true champion.

Watertown area people share many memories of Hubert Humphrey. It was not only that he was born at Wallace, grew up in Doland, and lived in Huron before beginning an illustrious political career. He never forgot nor forewent his origins and he returned whenever he could—to a summertime family reunion at Lake Kampeska, to the funeral of a relative at Lily, to a high school class reunion at Doland, numberless times to visit his aged mother in Huron.

It was characteristic of Humphrey that while returning from the funeral at Lily and with his plane waiting at the airport here, he insisted upon stopping a few minutes at Wallace, his birthplace. School was just out and youngsters flocked to see the famous visitor. There is an appealing picture of Humphrey standing in the center of a milling entourage of excited kids. The one smiling most broadly and obviously enjoying it the most is Humphrey.

Many years ago, the great Lou Gehrig of the New York Yankees also spent his final weeks with a known terminal illness. A now-forgotten sports writer interviewed Gehrig and later wrote this paragraph:

"One must talk with him, laugh with him, learn to know him, to get even an inkling of the way a real sportsman stands up under one of the worst beatings a man can take."

Humphrey took that kind of beating at the end but surely no one ever stood up with more courage or more unflagging spirit. In the best sense, he was a sportsman.

One of the many Associated Press stories filed upon his death carried this lead:

"Not one to wallow in self pity, Hubert H. Humphrey in his final days never gave up hope."

Nor did his thousands of friends even as the inevitability of the outcome became more obvious day by day. With him there was always hope.

One of America's great men has passed from the nation's scene. He will be missed, partly because of the heights he scaled in an illustrious political career but mostly because of his unflagging high spirits and unmatchable charisma with his fellow man. That was Hubert Humphrey.

[From the Aberdeen (S. Dak.) American News, Jan. 15, 1978]

HHH HAS BEEN STATE'S MOST FAMOUS SON AND SOUTH DAKOTANS ARE PROUD OF HIM

Some of the last telephone calls made by HUBERT H. HUMPHREY, who died at his Waverly, Minn., home Friday night, were to former schoolmates and his favorite school teacher at Doland, S.D.

He told them then as he had in previous conversations that there was something about growing up in Doland during the depression years of the 1930s that set the course of his life.

Memories of living in Doland, working in the family drug store and graduating from high school there were cherished.

That speaks well for Doland and for South Dakota.

In way of reciprocation South Dakotans have cherished memories of HUBERT H. HUMPHREY too.

His idealism, his active encouragement of civil rights and human rights, his enthusiasm, optimism and effective oratory combined to make him a moving force in government and engendered loyal followers from many sectors of American life.

His bravery and unwillingness to say quit in his battle for life added to the characteristics that endeared him to the people who favored the government goals which he advocated and for which he devoted the greater part of his adult career.

Although other South Dakota native sons have distinguished themselves in government and in other fields of endeavor none has achieved the national and world acclaim that was given HUBERT H. HUMPHREY in the final months of his public service.

There were many highlights in the life of the South Dakotan who built a sphere of influence as a U.S. senator, as vice president of the United States and as a seeker of the presidency in four campaigns.

The good he accomplished will be recorded in history. And South Dakotans will give him due credit.

[From the Daily Republic, Jan. 17, 1978]

HUBERT HUMPHREY

Hubert Humphrey never accomplished his highest goal, the Presidency, but to a nation and to the world, the Humphrey influence in the building of this nation will be comparable to that of Presidents.

For three decades, the Happy Warrior from Minnesota gave this country a conscience and a leadership in the various positions of government he held—mayor, senator, vice president and a return to the senate.

When presidents looked to the senate for key support for their programs they looked to Humphrey, knowing his influence was such that he could generate the kind of support that was needed to bring success to Administration programs.

South Dakotans hold him up as a model citizen of this state, and for special reasons, he was often called our third senator. That particular love he held for his home state was gratifying to its people, for here was a man who never forgot his heritage and never sidestepped an opportunity to do something extra for the people of South Dakota.

His presence, his leadership, his knowledge of government, his joyful approach to politics and his sincerity in dealing with his constituency will be sorely missed by this nation.

That dedication and that personality brought him respect of a bipartisan nation.

His failures were often the topic of second guessers when it came to analyzing his loss to Richard Nixon in a bid for the Presidency in 1968. The failure to break with President Johnson on the Vietnam War was probably the crucial factor in his defeat, yet he never alibied for his strategy.

His colleague in the senate and now Vice President Walter Mondale once said of Humphrey, "As I traveled around the country, I was overwhelmed at the love the people of this entire nation had for this marvelous man." It was that assessment, some feel, that led Mondale to give up his presidential bid in 1976 in favor of Humphrey. But a tired and worn Humphrey declined the third try clearing the way for the nomination of Jimmy Carter and the eventual naming of Walter Mondale as vice president.

The nation is richer for having had the benefit of Humphrey's presence, but poorer for never having the opportunity to draw on it again.

With gratitude to Hubert Humphrey, we bid farewell to a great man.

[From the Argus-Leader, Jan. 16, 1978]

A LEGACY OF CHEER AND OPTIMISM

It's hard to realize that Hubert Horatio Humphrey, South Dakota's most famous native son, is gone.

Americans have known for months that the "Happy Warrior" was fighting a losing battle with cancer. He probably knew it, too, but it didn't dampen his optimism or his fighting heart.

There will never be another HHH. In nearly 30 years on the national scene he made major and far-reaching contributions to civil and human rights and to almost every facet of American life. Through it all, he never forgot his native South Dakota even though Minneapolis and Minnesota were his springboard to national fame. The residents of the state in which he was born saw him in the irrepressible and boundless energy of his political youth, saw him reach for the presidency many times and never attain it, saw him as a humanitarian vice president and senior senator, saw him in victory and in defeats.

Through it all, in office and out of office, Humphrey was the eternal optimist. He could look back to dust bowl days in South Dakota and quip about the problems of the future being challenges for man to use as opportunities.

He could rouse Democratic crowds at major state political meetings at the Sioux Falls Coliseum from 1948 when he was campaigning for President Harry S. Truman to 1964, when his party was celebrating his election as vice president.

Humphrey narrowly missed being elected president in 1968, which must have been one of the greatest disappointments of his lifetime. He lost to Richard Nixon. Many Americans believe Humphrey might have won, if he'd taken a stand on the Vietnam war against the policies of President Lyndon B. Johnson. Humphrey wouldn't do it.

Sen. George McGovern, a longtime friend and protege of Humphrey, confounded the political experts by winning the Democratic nomination in 1972. In doing so, McGovern defeated Humphrey, and effectively ended the Minnesota senator's hopes to become president. Humphrey was back in South Dakota that fall, campaigning for McGovern and also for Rep. James Abourezk, then running for his Senate term.

In numerous trips to South Dakota, whether on the campaign trail or to see his mother in Huron while she was living, Humphrey remembered the areas and the state from whence he came: Wallace, where he was born May 27, 1911; Doland, where he lettered in sports despite a scrawny frame, achieved state fame as a debater and graduated as valedictorian of his high school class; and Huron, where he worked in the family drug store.

During the 1964 campaign he was pictured in Huron making a cash sale at the Humphrey Drug store, in which he owned an interest. He also put up a prescription for old time's sake. He portrayed himself as the only national candidate who had part of a drug store in South Dakota. "I might as well put in a commercial here . . . when you're in Huron stop at the drug store." After election as vice president, he picked up a bottle of aspirin at the drug store and said, "I might need a lot of these."

He was a fast-talking campaigner and public servant. The ideas spilled out of Hubert Humphrey in torrents. He was never at a loss in political repartee or even when heckled. Youths for Sen. Barry Goldwater, the Republican presidential candidate in 1964, heckled Humphrey at the National Corn Picking contest near Sioux Falls chanting, "We want Barry." Humphrey retorted: "My young friends, I don't know if you want strawberry or raspberry . . . Besides, the berry picking season is over."

During that Sioux Falls stop he and Goldwater crossed paths at Joe Foss Field. The two shook hands and exchanged pleasantries. Humphrey said later that he wished Goldwater well, but not too well. Johnson and Humphrey swamped Goldwater and Rep. Edward Miller of New York. The winners carried South Dakota, which normally was still a Republican state then.

As vice president in 1967 Humphrey told a graduating class at South Dakota State University, Brookings, that like Thomas Jefferson, he liked the dreams of the future better than the history of the past. He foresaw a world of the year 2000 in which personal income would double, disease would be virtually eliminated and man would have more leisure time. He foresaw the world avoiding nuclear war and thought the United States and a greatly changed Russia would be cooperating partners. In his view, the world would not be Utopia, but highly livable. He saw only one-eighth of mankind hungry in the year 2000, compared to two-thirds in 1967.

Humphrey made that trip to Brookings because his nephew. Ralph Gosch, was graduating with a degree in pharmacy from SDSU. Humphrey was given an honorary doctor of science degree.

He also gave the commencement address at Doland's new gymnasium in May 1968. He told the graduates that they couldn't relive the yesterdays. "Tomorrow is here, exciting and challenging, full of crisis and yet it's just as filled with promise and hope . . ."

Hubert Humphrey's last tomorrow brings a sigh and tears for Americans. There are condolences for the family—especially for the onetime Huron girl, Muriel Fay Buck, whom he married in Huron and who was his No. 1 political backer. Humphrey once said of her helping him through the University of Minnesota: "Long before there was a federal scholarship program, I married one."

In a recent interview, Humphrey was asked what lesson he'd learned from life. He replied "that there are some things over which a man has no control . . . when you're young you feel that you can conquer almost anything." About his illness, he said, "It's not what you've lost. What counts is what you've got left. And I've got a lot left."

What Humphrey left to America is hope, boundless good cheer, optimism for the future and confidence that tomorrow will bring the best of times. The tributes and the honors that have come to South Dakota's most famous native son are well deserved. It is not possible to recite them here.

The nation and the world are a better place because of Hubert Humphrey. South Dakota can take pride in his career and in his roots. His ties to South Dakota were an inseperable part of the "Happy Warrior" and his lifetime of service and help to his fellow man.

A TRIBUTE TO SENATOR HUMPHREY AND SENATOR METCALF

Mr. SASSER. Mr. President, I want to take this opportunity to join my colleagues in paying tribute to two late Members of this distinguished body—Senators HUBERT H. HUMPHREY and LEE METCALF.

For three decades HUBERT HUMPHREY fought with passion and dignity for those principles which have long made our Nation great. Whenever his name is mentioned, HUBERT HUMPHREY will be remembered for his courage and willingness to lead the American people to support just causes, no matter how unpopular that cause might be.

HUBERT HUMPHREY was an articulate and brilliant, and most importantly, compassionate man. Never was HUBERT HUMPHREY afraid to state his dedication and personal commitment to providing every American with the opportunity to earn a decent and respectable role in life. He demonstrated his true compassion in individual cases of injustice, as well as in widespread occurrences of discrimination. For this, he earned the respect and admiration of millions of people throughout the world.

Although I served only 1 year in the Senate with HUBERT HUMPHREY, I shall never be able to forget the example he has set for all of us. In a time when too many people believe elected officials seek only personal gain, HUBERT HUMPHREY demonstrated on a daily basis that we still have leaders who are willing to make tremendous perscnal sacrifices for the betterment of society. And in a time when too many express frustration and despair over the state of our Nation and the ability of Government to carry out its responsibilities, HUBERT HUMPHREY'S optimism and zestful pursuit of a better world uplifted our spirit and gave us confidence.

The Senate and the Nation have lost one of their greatest leaders, but the tradition of HUBERT HUMPHREY will long be a force in American life.

To compound the sorrow we all feel, every Member of this body is also deeply saddened by the death of our friend and colleague, LEE METCALF.

As a new Senator last year and a new member of the Governmental Affairs Committee. I was especially privileged to have served with LEE METCALF. His committee work was always outstanding and earned him the respect of every Member. He could always be counted on to attend meetings and to speak up for the causes in which he believed. We knew that, when LEE METCALF supported a bill, he would be there at the hearings and the markup to lend his expertise and influence.

Senator METCALF was not one to seek publicity or to ask for praise. He went about his work quietly and diligently, always fighting for the underdog against concentrations of power. He had a conscience and he was a dedicated legislator. In education, on energy, on the environment, he provided a strong voice and we will miss his leadership.

While it is Senator METCALF'S legislative accomplishments that are now foremost in our minds, I will remember him as President Carter did in his state of the Union address, as a "good and honest man."

Our sadness at the deaths of HUBERT HUMPHREY and LEE METCALF will surely be overshadowed in time by the profound influence their careers will have on others in public service and on the course of this Nation in years to come.

A TRIBUTE TO SENATOR HUMPHREY

Mr. HEINZ. Mr. President, I want to express, on behalf of my constituents and my family, the deep and heartfelt sense of loss and sorrow we all share at the passing of HUBERT HUMPHREY.

In his lifetime, Senator HUMPHREY enriched the spirit of this Nation and nurtured its capacity for compassion and justice. For that, we are eternally grateful. In his death, he leaves us with a boundless legacy of hope, confidence, and love. And for that, we are eternally blessed.

During his more than 30 years in public life, HUBERT HUMPHREY enlightened us with his wisdom, uplifted us with his faith, and strengthened us with his courage. We are immeasurably poorer because he no longer walks and works among us, but even now the light of his example illuminates our way.

LEE METCALF

Mr. PERCY. Mr. President, I would like to add to my previous comments about one of our former colleagues. The death of LEE METCALF robs the Senate of one of its most gentle and kindly men. Senator METCALF was a man who could think no evil of others and always went out of his way to find the good in his fellow man.

But LEE METCALF was also a battler for those causes which he thought were right. Whatever cause he became involved in—public utilities, the environment, or others—he always defended vigorously the rights of the individual. He believed that the resources of this country—both material and human—should be preserved for future generations for the benefit of all Americans.

I have had the pleasure of serving for many years on the Governmental Affairs Committee with LEE METCALF. He has taken major positive roles in the work of the committee—creating the Congressional Budget Act, protecting the rights of privacy of all Americans, and all the energy reorganization work the committee has done including the creation of the new Department of Energy.

In recent years I worked most closely with him on his vigorous oversight of the Federal Advisory Committee Act which resulted in the reduction of several hundreds of Federal advisory committees. The work of the present administration in this regard is but an extension of the work Senator METCALF began several years ago.

This past year Senator METCALF focused his energy on the accounting profession and began the first serious inquiry into the profession in decades. The work Senator METCALF has already done has led to a new spirit of self-reform within the profession and to more active involvement by the Securities and Exchange Commission. I certainly intend to keep this work alive in the committee and to follow through on Senator METCALF'S initiative.

Mr. President, one of the men in this city who most admired Senator METCALF was Admiral Rickover of ERDA. I would like at this point to read Admiral Rickover's tribute to Senator METCALF as I think it captures his essence beautifully:

TRIBUTE BY ADMIRAL RICKOVER

Emerson put it simply, "The only true gift is a portion of thyself." Senator Lee Metcalf will be sadly missed by his many friends, but his accomplishments in his twenty-five years of dedicated service in Congress will remain a true memorial to a man who worked long and hard in the best interests of his state, his country, and for all those who knew him.

Senator Metcalf gave his brilliant gifts of unwavering honesty, sturdiness of character, and staunch love of American ideals without hesitation, and they were gratefully received by those who realized their depth and uniqueness. He was an example of a man faithful to his own responsibilities and, if intelligence is the art of illuminating a subject by binding together aspects that others had not yet linked or sought out, he was profoundly intelligent.

He not only succeeded in making sense of experiences in a troubled era without despairing, he insisted on changing the shape of the environment that pressed upon him—before it was the "popular" thing it has now become. In education, he emphasized the need for science, technology, and languages in this country if it was to survive in the world of advanced scientific knowledge and overpopulation. In other words, he was a man ahead of his time. He divined the true goal in a complicated situation and steered his course for it with unerring accuracy.

It is difficult to express all I learned to admire in him. The main thing he instilled deep into my mind was his peculiar passion for truth, clarity, and common sense. It is only through the intense efforts of such men that our form of government will be preserved.

Mr. President, I agree totally with the thoughts expressed by Admiral Rickover and am deeply sorry that LEE METCALF will no longer be with us to carry on his important work.

TRIBUTE TO SENATOR LEE METCALF

Mr. BAYH. Mr. President, it is with great sadness that we mark the death of one of the best and most disciplined intellectuals in Congress. While rarely in the limelight, LEE METCALF diligently devoted his time and energies to the issues that are only now getting the attention he believed they deserved.

Born and raised in rural Montana, he obtained his law degree from Montana State in 1936. He served as assistant attorney general, and following combat service in World War II, completed a 6-year term as associate justice of the Montana Supreme Court. It was during his assignment as assistant attorney general that LEE METCALF developed a strong belief in expanded representation of the people before Federal and State agencies. Likewise his Supreme Court experience in Montana left him with a love for the law and the adversary process which he carried with him to the House and Senate of the United States.

Although he shunned publicity, LEE METCALF etched a deep impression on the House where he served for 8 years before coming to the Senate in 1961. He sought House reforms which enabled the new and younger House Members to better represent the people who elected them. In addition, he devoted unusual resources to serving his constituents in Montana.

The distinguished Senator from Montana left his mark on this body where he has at times been one of the few torchbearers for the tradition of outspoken Western progressivism. It was here in the Senate that he continued to be a strong advocate of increased access to information about Government and expanded representation of the people. This interest led to legislation reforming Federal advisory committees. The Senator was an early leader in reform efforts which led to the Congressional Budget and Impoundment Control Act. As a strong advocate of wise use of our natural resources, Senator METCALF advocated surface mine reclamation legislation which would bring a balance between the need to protect the environment and development of coal resources to meet our national energy needs.

None of our colleagues has done more to champion the interest of the average citizen.

We will all miss him. We have suffered a great loss with his passing. I extend my deepest sympathies to his wife, Donna, and other members of his family.

A TRIBUTE TO SENATOR METCALF

Mr. ROTH. Mr. President, when Senator LEE METCALF passed away recently, the Nation lost a good friend. We will long remember LEE as a leader in protecting and preserving America's public lands for our future generations. Long before it was popular to do so, LEE was a staunch advocate of consumer protection. His efforts on behalf of America's consumers will live long after him. More recently, he struggled tirelessly and effectively to enact comprehensive energy legislation.

I will miss Senator METCALF—both as a friend and a colleague. No Senator worked harder. Unlike many politicians, LEE avoided the public spotlight, preferring instead to bring about accomplishments quietly and effectively out of the limelight.

Having been raised in Helena, Mont., we often talked and reminisced about the State's natural beauty. LEE's one wish was to return home to Montana. And now he has finally returned home to his beloved State—the State that he represented for over a quarter of a century in the U.S. Congress.

The man from Montana had a heart as big as the Big Sky Country itself. I remember he was always eager to be of help and would often go out of his way to assist me.

Now there is an empty chair in Washington, in politics and in the hearts of his colleagues and constituents. We are all saddened by his untimely passing.

Yes, the Nation lost a good friend when LEE METCALF passed away. It was my honor and privilege to have served alongside him in the Senate of the United States.

We shall all miss him.

A TRIBUTE TO SENATOR METCALF

Mr. HATFIELD of Oregon. Mr. President, the Senate, the people of Montana, and the Nation have lost a dedicated public servant with the death of Senator LEE METCALF. I have had the good fortune to serve on the Energy and Natural Resources Committee, formerly the Interior and Insular Affairs Committee, with Senator METCALF. His leadership and attentiveness there resulted in concrete improvements in the laws which govern the uses of our Nation's resources. Last year, the enactment of new surface mining legislation was due, more than anything else, to LEE METCALF's hard work. Passage in the Senate of the Montana wilderness bill is another example of Senator METCALF's diligent efforts to protect the Nation's natural heritage, often against overwhelming odds.

But more important than his many legislative accomplishments are the personal qualities which endeared LEE METCALF to those of us who had the opportunity to know him. His sense of fairness, which marked his distinguished career as a jurist, was always evident in the manner by which he dealt with people. He was a compassionate man, who would not hesitate to take on the powerful to help those who were without power. His untiring and persistent efforts on behalf of the causes which he espoused made him an extremely effective Member of this body. Yet, I believe that rather than hear words of praise for his deeds, LEE METCALF took satisfaction in knowing that his efforts resulted in a real and constructive change.

With the loss of LEE METCALF, the Senate loses a Member who was vitally concerned about its ability to deal effectively with the many and complex issues which face the Nation. I want to join my colleagues in expressing my sorrow to his family.

A TRIBUTE TO SENATOR HUMPHREY

Mr. HATFIELD of Oregon. Mr. President, while we knew HUBERT HUMPHREY'S days on Earth were but few, none of us actually believed he would leave us, nor were we prepared for the void in our lives which was to follow.

From the beginning of his political life, HUBERT HUMPHREY was a fighter, a strong voice for those who had been crying out in vain. The causes to which he dedicated his efforts were the causes of decency and compassion, of equal opportunity and of love. He will be remembered as a man whose actions and conversation were ruled by the heart in an era marred by political motives that often are self-serving.

But most of all, HUBERT HUMPHREY strove to uplift our spirits, to renew our faith in our system of government and our people and then motivate us to plan our course for the future.

A FRIEND OF AGRICULTURE

Mr. CLARK. Mr. President, Senator HUBERT H. HUMPHREY was truly a friend of those who toil in the vineyards of agriculture in virtually every corner of the world.

It was as an ailing statesman that he battled to gain American wheat producers an extra nickel in target price payments in the farm bill conference this past summer.

It was as a vibrant visionary that he worked to redirect U.S. development policies that he believed were working to the disadvantage of small farmers in remote corners of this planet.

Indeed, HUBERT HUMPHREY, a product of the Great Plains, was a friend of farmers—around the world.

It comes as no surprise to me that HUBERT's last speech dealt with the issue of world hunger and what role the land grant institutions of this great Nation could play in eradicating this age old nemesis.

The occasion was the International Symposium on Famine Prevention which was held this past December 19. I was very proud to participate in this conference which Senator HUMPHREY cochaired with Congressman PAUL FINDLEY.

This symposium had a very important purpose. It was to discuss the implementation of title XII to the Foreign Assistance Act of 1975.

Senator HUMPHREY authored title XII, the so-called famine prevention title, The objective of that legislation is to see the application of the profound capabilities of our land grant institutions in solving the problem of world hunger.

The theory behind title XII is that land grant institutions, which were and are at the forefront of the development of American agriculture, could play a meaningful role in combating hunger.

As always, HUBERT's comments touched me. He spoke that day as the leader he has always been.

He emphasized the fact that small farmers hold the best hope for the hungry of the world.

He wisely and accurately pointed out that people must have dignity to live a full life and that to keep them as supplicants would only doom their tomorrow.

HUBERT HUMPHREY was never afraid of a challenge. He was never afraid to innovate, to offer something new when familiar mechanisms for coping had failed.

HUBERT and I sat side by side on the Agriculture Committee for the past 5 years, and on both the Foreign Relations Committee and the Senate floor for the past 3 years. He taught me so much. Tirelessly he fought for the cause of America's farmers. His devotion to promoting the interest of farmers was and always will be inspiring to me.

HUBERT gave his heart to his country. In examining his accomplishments and devotion to duty it is too easy to pass over his relationship to world agriculture.

HUBERT never forgot his roots in the South Dakota prarie. He never forgot that agriculture is the backbone of any economy, no matter how developed.

No one can do justice to HUBERT and his commitment to farmers. But I think that we all can benefit from his example. I would like to share his parting comments, his speech before the famine symposium, with my colleagues. Mr. President, I ask unanimous consent that Senator HUBERT H. HUMPHREY's comments before the International Symposium on Famine Prevention be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

Mr. President, very distinguished members of the diplomatic corps from many nations, fellow citizens and my colleagues in Congress: the man I want to salute first, with all the sincerity that's in my heart, is Paul Findley for his leadership in making the Famine Prevention Act, the amendment to the Foreign Assistance Act of 1975, a reality.

Paul called me and asked if I'd be willing to join him. I said, "What's it all about?" We talked it over and I said, "Join? I'm your partner. There is no way that you can push me aside. I'm in with you and we'll pass it."

Then we got busy. Those of you who are members of Congress and those of you who are observers of the Washington scene know that it's not easy to pass within one year a major piece of legislation. But we got it done.

The reason is quite simple. The American people understand what President Ford just said—that the basic human right is the right to food, to life. There is no liberty without life and there isn't much life without liberty. And there is little pursuit of happiness if there's hunger. So the Famine Prevention Act is within the spirit and heritage of this vast land of ours.

Those of you who have traveled throughout America know that the Almighty has blessed us with a varity of climate and land such as hardly another spot on earth can claim. So we owe much, because we've been given much. We've been given, by Divine Providence, the resources to be of help to others as well as to ourselves.

I might also note that what we call Food for Peace was a bipartisan effort. Food is not partisan matter. The late Andrew Schoeppel, a Kansas Republican, and I teamed up to pass what is known as Public Law 480, Food for Peace. The lives of hundreds of millions of people were saved because of the vast supplies of American grain and other food products which were used to meet emergencies in country after country.

The food that was available under Public Law 480 also has helped build roads, schools and irrigation and health facilities

In ancient days the kings used to look around for the scientist of that time that could base metal of any kind and convert it into gold. They called him an alchemist. They'd lock him up in the tower and say, "Now here's a stack of iron ore. Change it into gold."

Well, we finally found a way to take a ton of grain and change it literally into gold—into health, into nutrition, into education and into facilities that make life a little better for millions and millions of people.

The Famine Prevention Act philosophy is a matter of sharing, not giving. And President Ford in his own inimitable manner, who always speaks to us directly and with great honesty and sincerity, has reminded us that the Famine Prevention program is designed to help make people self-sufficient, to enable them to produce for themselves, not to be supplicants. The Act helps people to improve their land, their technology of agriculture. It helps the person out on the land to have a sense of dignity, to live a better life.

Let us not forget, those of us who live in great urban centers, that over two-thirds of God's children are in rural areas. And let us not forget that the poverty which plagues mankind, even in America, is more persistent in rural America than it is in urban America.

So this Act is designed to strike at the roots of poverty, because a nation without food ceases to be a nation. It becomes nothing more or less than a band of wandering people literally fighting over the scraps which might sustain life. This Act provides for cooperation between what we have to offer here in America and what you have to offer in your respective countries. It is an opportunity for learning together, sharing together, producing together and building together.

That's the way we build peace. Peace cannot be bestowed upon people. Peace must be earned by people. It must be the product of the desire of humanity, wherever the humanity may be, to find answers to their mutual problems.

We are so fortunate, those of you who live on the broad expanse of land that is America—the prairies, the bread basket of the world, so to speak; the desert that blooms from irrigation; the mountainsides with their trees and other forms of vegetation. We are so fortunate.

At this holiday time it's most appropriate that we should be holding this symposium and studying how we can conquer man's ancient enemy, hunger. Hunger has plagued humanity for centuries and centuries and centuries. And now we have it within our means to eliminate it. We have the technology and know-how in this country, but we can learn a great deal from others.

For example, tropical agriculture is very different from the agriculture of Minnesota or Wisconsin or Michigan—very different. The agriculture of the arid lands is very different from that of the wetlands. But we can learn together. And that's what educational institutions are all about.

So this symposium is a first step in the implementation of an important part of our development process. Wasn't it Pope John who said, "Development is the name for peace." And it is. Without development, without relieving the burdens of a tired and at times beleaguered mankind, there is no peace. Peace is more than the absence of war. Peace is harmony, cooperation. Peace is the good life. It's hope—the hope of a better life.

All we are trying to do here in the legal, formal language that we have in these legislative enactments is to bring to bear upon the food problems of the world the spirit of cooperation. We must pool our resources. We have no monopoly on brain power in the United States—nor do you. But together we have a tremendous resource.

Agriculture is very different in every land and we're going to have to learn from each other. And the interchange of thoughts and ideas that occur here today may well be the spark which gets this effort underway. This effort has been on the books a year, or better. While it takes time to launch anything of this scope, we now must get it off the launching pad and into action.

At this time I call upon the great land grant universities to bestir themselves, to accept this as a mighty challenge. This is an international and interdependent world in which we live. No longer is nationalism adequate to our needs or our security. And our great land grant universities and colleges must be the first to understand that we are an interdependent world, an interdependent people.

President Ford, you understand that. You've been a great help to us. You helped us along when we were trying to pass the legislation. You gave encouragement to us. You told us that you would sign the legislation if we could work out some of the details. You always were cooperative. And I want this audience to know that, without his, help, it could not have been a reality. With his help, it today stands as a landmark of legislative achievement. We're proud of you, Mr. President. You deserve our everlasting thanks.

By the way, my esteemed and beloved friend, President Ford, and I had a little wager on a football game. We had about as much chance in Minnesota to win that game against Michigan as I have to be an astronaut to the planet Mercury or Mars. I figured that it was a hopeless thing. But—after all—when you receive a call from an old friend and a former President who'd like to rip you off a little, there isn't much you can do about it, is there? So we made a small wager. It's a piece of currency that will not

be in circulation. It will be on the wall in my library. It was a five-dollar bet. After we won (the Gophers from Minnesota beating the Wolverines from Michigan), I couldn't wait to get to the telephone. I had at least 40 members of the Secret Service tracking this man down asking him to please send the money.

And, because of the kind of a man he is, he sent it—good, solid, American currency. We've had a wonderful friendship—and, by the way—you look just marvelous. My goodness, he must scare the living daylights out of any contender.

Let me just say that of the many fine things that he's done—and he's done many, what he did for America at a time of desperate need was to restore to the Presidency and the White House those all-essential elements of honor, decency and integrity. And Mr. President, that is more important than any legislation that any President can sign or sponsor.

As I've said to you privately, you will be remembered in history as a great President because you came to us (I don't know why we're so lucky—Divine Providence does watch over us) at a time when our nation was frustrated, cynical, distraught, and worried. He came with this magnificent physical and spiritual presence which he has and said, "America is a good country. The people are good people, and we're going to have a good government." And he not only said it, but he acted that way. Mr. President, you will be remembered as a man of character, of honor, of real patriotism. You restored to our country the honor and the integrity which it so richly deserves. And I salute you.

Now the trouble with these Humphrey speeches is that I always give two or three. I'm not sure which one you will like, so I give you a choice! Imagine what I would be doing if I were in full physical vigor! But I've been having a bit of a struggle of late and once in a while I lose a little of the zest that was somewhat characteristic of my life. Yet it's not difficut to have enthusiasm and conviction for something that is as important as what we're doing here today.

And land grant colleges have been in the forefront of American agriculture. We don't produce like we do just because it rains or just because a farmer works hard. Farmers work hard the world over. We don't produce just because the sun shines upon the land, because the sun knows no boundaries. It shines throughout the entire earth.

We are able to have this fabulous production of American agriculture, because we've educated our farmers. The land grant institution is responsible for this education and training and the outreach of our county agent system which is so important.

You can't educate, unless you meet the pupil. The student and teacher must be in direct contact. We've learned that over the years.

Today our farmers, our fabulous producers, are unhappy with prices. I don't blame them. So am I. I don't know whether I'd be riding a tractor, but I'd sure be making enough noise around here so somebody would think it was a tractor.

But our farmers are able to do what they have done, because they've had the tools to get it done. By the way, it takes capital, and this comes into our development programs, our foreign aid programs, our World Bank—all these international institutions that for years felt that their money must go to the great industries, the big ports, the big plants. What good does it do to have a port if you've got nothing to ship? What good does it do to have a great factory if you have no customers? What good does it do to build a great urban center if you have riots from hunger?

Now, finally, we've gotten our international financial institutions and our own aid program turned around where a large percentage of the capital is going into agricultural development. Over 60 percent, Paul, of our entire foreign assistance program in the United States goes into agriculture—agricultural development. That's exclusive of Public Law 480.

In so many countries agriculture has been low on the priority list. Industry, the military, highways—they're high, because they're easy to see. They show results immediately. Well, you can't grow a tree overnight. But the world need reforestation, believe me. It has more to do with climate control than all of the rainmakers put together. You can't rebuild soil where the topsoil has been blown away because of the failure to take care of the land in a generation. It does take time. But it can be done.

I lived through the depression in America. I saw the land in the Midwest ravaged by wind, by drought. And I saw that same land rebuilt. We still have a job to do. I'm simply saying that our experiences are of a common nature. We're not that much different. No matter whether you're from—Africa, Asia, South America, North America—wherever you may come from, whatever part of the world—we're not that much different. We're people. We're endowed by our Creator with a brain, with intelligence. We have some resources, some more than others. And we have, if we get together and use those resources, the means of lifting ourselves, not having someone else lift us. We can lift ourselves.

So it is important that these institutions, which are cited in Title XII, begin to play a vital and integral role in the agricultural development of countries on this planet.

But may I say to my friends of the diplomatic corps who are here today that the effort won't work if we have to come knocking at your door. Rather, we have to join hands. We have to understand that we can help each other. And I want the land grant colleges not only to use their technicians to teach different forms of agriculture, but also to be ambassadors of goodwill.

This Christmas season is the right time to rededicate our lives to banish hunger from the face of the earth. There is no reason for hunger, except man's failure to use good judgment. I want this holiday season to be one in which the nations of the world come to an agreement upon a matter that has no controversy. It isn't a question of the size of a missile or who's got the biggest airplane or who has the largest bomb. We're not talking about that. What we are talking about is—can we increase the production of wheat, of maize, of millet, of beans, of cotton, of the numerous products that grow on our land which can be used to improve animal husbandry?

Can we teach more young men and women to be veterinarians? Can we train young men and women to go out and teach others how to do a little better job? Can we find the water that is necessary for irrigation? Yes, it's there. It's all there. It's just a matter of using it. Can we dig the wells? We can. If we can dig in the middle of the ocean for oil, in the North Seas, in the Gulf of Mexico—and I see these ads on television where they're going down 5,000 feet looking for oil—there's water to be found, too, so that once again, as scripture says, the deserts shall bloom.

In closing I'd like to express my deepest appreciation to you, Doctor Wharton, for the leadership that you've given to us, along with your board of directors.

And to you, Paul, you valiant soldier, you old rascal. We've had so many good battles. It seems like the best friends I have are the ones that I've had to engage in political combat for one reason or another.

And to you, Mr. Parker, former director of AID, and Mr. Gilligan and to Clem here, my dear friend over in the House of Representatives. He's been on top of this program since day one—a fine citizen, comes from a good state. One of his fellow congressmen said that Wisconsin was the gateway to paradise. I said, "That's right. Minnesota is just across the border."

So, on this happy note, let me again say how honored I am to be presented with this plaque by a former President of the United States and, as far as I'm concerned, one of the finest men that ever came to the halls of Congress.

May I express a special greeting to Betty. She was so good on television last night. It was marvelous. She was the narrator for the Nutcracker Suite Ballet. Besides that, she's pretty. Some fellows just outmarry themselves, you know.

But it is a unique and rare honor to be presented a plaque by a former President. And I'll guarantee you, Mr. President, that this plaque will be as close to that five dollar bill as my arms will be to my dear wife when I greet her on Christmas day.

God bless you and thank you very much for this symposium.

A TRIBUTE TO SENATOR HUMPHREY AND SENATOR METCALF

Mr. STONE. Mr. President, in the space of a few days, our country lost the leadership of two great men—Senators HUBERT HUMPHREY and LEE METCALF. We still have not recovered from the shock, and it will be quite a while before we fully appreciate the extent of our loss. That is why it is so important that we recognize how greatly our Nation has benefited from their wisdom, and how much we ourselves, here in the Senate, have been enriched by the experience of serving alongside them.

I had the honor of serving with Senator METCALF on the Senate Interior Committee for 2 short years. He was a man who truly loved his State—its people, and also its land. He was an outstanding conservationist who stood up to retain the natural beauty of Montana and the other Western States, and he was a leader in developing public power systems for the people who live in rural and remote areas.

When he first joined the House of Representatives in 1953, LEE METCALF brought with him a real understanding and respect for the law. He already had distinguished himself as a learned lawyer and a judge, having served 6 years on the Montana Supreme Court. He was a populist in the great American tradition, a man of the people.

Senator HUBERT HUMPHREY, too, was a man who had great faith in America. He had an abiding trust that our system of government could be made to work to serve its citizens—all its citizens—that there was no problem too great for our Government to solve. It was this faith that made him such an effective leader—that made him pick up the banner again even when his own dreams were crushed.

He will long be remembered for his willingness to speak up for those most in need of a spokesman—the victims of discrimination, the sick, the elderly, and the urban poor. Serving with him on the Senate Agriculture Committee, I had an opportunity to learn still another facet of his knowledge. He understood the day-to-day problems of the American farmer, and the important contribution these citizens make to our way of life.

HUBERT HUMPHREY was a beloved inspiration to all who had the privilege of

knowing him. From the first day I came to the Senate, he went out of his way to extend his friendship. His energy, his warmth, and his thoughtfulness often helped bring together those who disagreed. He set an example for all of us, in leadership, in compassion, in good will toward others.

Just a few months ago, I met HUBERT HUMPHREY as we were leaving the Senate Chambers, and walked with him from the Capitol steps to the Russell Building. We spoke the length of one block—just a few minutes—but his presence and conversation were so fine that I felt uplifted for a week. He was a man who in the space of one block could subtly alter your philosophy toward life—a man who, in the course of over 30 years of public service, changed the course of American history. We are all the better for it.

A TRIBUTE TO SENATOR HUMPHREY

Mr. EASTLAND. Mr. President, all too often—during my tenure in this body—we have gathered here to mark the passing of good and decent and able men and women who have served their States and this Nation in the Senate.

On rare occasions we have come to this Chamber to salute the memory of one of America's giants. This is one of those occasions—for today we mourn the loss of HUBERT HUMPHREY.

I am reminded of a poem by Longfellow entitled, "A Psalm of Life." Two of its lines seem to me to describe the life of our friend from Minnesota.

The lines say:

> Let us then be up and doing—
> With a heart for any fate.

Every person who associated with HUBERT knows that there was no day when he was not up and doing—up early—and doing his best until late.

And—If ever a man lived who had a heart for any fate—that man was HUBERT HUMPHREY.

He was a talented and tenacious and courageous fighter—this happy warrior of ours—but he fought his countless battles without malice—and he won or lost with grace and style and generosity of spirit.

This gallant man looked adversity—defeat, tragedy, and even death in the eyes—and started them all down.

He was a recognized and respected leader, in national and international affairs. To his enduring credit he met every challenge head on and, in this age, when we are told that there are no more heroes he finished his course a great hero here at home and around the world.

When he accepted the Nobel Prize—my fellow Mississippian William Falkner—spoke eloquently of "the old verities and truths of the heart." He listed "love and honor and pity and pride and compassion and sacrifice."

I see our friend, HUBERT, through Faulkner's words.

I see him full of love for his family, his friends, his State, his country, and her system of government.

His life and his career did honor to all who came in contact with him.

Pity and compassion were woven into his character and were reflected in his endless variety of interests and achievements.

He had great pride, not in himself, but in his loved ones and in America for all our land has done for men and women and children in 50 States—and across the Earth.

And he knew sacrifice on a very personal basis.

Long ago it was written, "Where there is no vision—the people perish."

As we bid farewell to HUBERT and extend our deepest sympathy to his fine family, let us keep in our minds and in our hearts his happy vision and let us continue to work toward the goal he dedicated his life to—a better and a brighter future for all people, everywhere.

TRIBUTE TO SENATOR METCALF

Mr. EASTLAND. Mr. President, with the passing of LEE METCALF, the Senate has lost a true man of the West and of the Nation.

Senator METCALF has served in public office almost continuously since first being elected to the Montana Legislature in 1936, the year he was graduated from law school, except for a period he served in combat in World War II.

While a Member of the House of Representatives, he was elected as the first chairman of the Democratic study group, of which he was a founder, composed of some 150 of his colleagues. As much as any other man, he brought constructive change to the Congress.

LEE METCALF was my friend. While we differed in political philosophy on many occasions, my respect for him never diminished. He was a liberal, a populist, and a progressive Senator. He stood for conservation, education, and the preservation of our natural environment. He helped shape and extend the National Defense Education Act of 1958, the first major Federal aid to education legislation since passage of the Morrill Act of 1862. The following year he joined the late Senator Murray in sponsoring new legislation for general aid to education. The Murray-Metcalf bill, designed to provide for transfer of Federal funds to the States to help hard pressed local school districts, was the forerunner of the landmark Elementary and Secondary Education Act of 1965.

Throughout his career, LEE fought for wilderness areas, land and water conservation, clean air, reclamation, and responsible strip mining. The list is endless and need not be repeated here.

LEE METCALF was a quiet man, a kindly man, and a man of unquestioned integrity. His word was his bond, and his colleagues knew that he would stand and fight, sometimes alone, for those things in which he believed.

Senator METCALF loved the Senate and was ever vigilant in preventing encroachment on this institution from the executive branch, the judicial branch, or any other source.

LEE labored long and tirelessly in the legislative vineyard, and he will be missed. He will be sorely missed.

Mrs. Eastland and I extend our deep condolences to Donna and his son, Jerry.

MEMORIAL TO SENATOR LEE METCALF

Mr. CRANSTON. Mr. President, just a few years ago in this Chamber LEE METCALF rose to pay tribute to the late Wayne Morse. He was saddened on that occasion, he said, because so many of his friends and colleagues were, in Tennyson's words, "returning home." And now LEE METCALF, too, has returned home for the last time.

With his death the Senate sees the fading of a proud and stirring tradition among progressive Western lawmakers. It is a tradition that says the wealth of Western land and water shall belong to the people, and that any who would encroach upon the people's stewardship of their natural resources are in for a fight. In the past the West has given the Nation champions like William Jennings Bryan, George Norris, William E. Borah, Wayne Morse, and Clair Engle: men to stand firm against the private exploitation of public wealth. They have been called populists, progressives, and even radicals. It should be said of these legislators, however, as Earl Warren said of Wisconsin's Bob La Follette:

> If his ideas were radical, they were only in the sense that freedom itself is radical. They were radical only if government "of the people, by the people, for the people" is radical.

LEE METCALF breathed in that tradition from the mountains and plains of his native Montana. There he built a political career—as State's attorney general, associate justice of the Montana Supreme Court, Congressman and U.S. Senator—with roots deep in soil of Western populism. He moved instinctively to the side of copper miners, small farmers, consumers, workers, and ordinary citizens. He was their advocate and defender in countless legislative encounters with mine owners, public utilities, timber and ranching interests, and with government itself. His stands in favor of pesticide control, wilderness protection, and strip mine reclamation were in direct conflict with some of the most powerful political forces in his State. His career is a direct denial of Heywood Broun's definition of a liberal as someone who leaves the room as soon as a fight starts.

LEE METCALF and I graduated the same year from Stanford University. One might assume it was his college experience that made him so willing to help on California problems. But I know his fair-minded concern for others was not bound by any State or region. On two occasions in recent years he rendered great service to the people of my State.

During the Lockheed loan controversy in 1971, LEE was reluctant to vote for what some considered an unjustified bailout for the aerospace industry in California. Halfway through the rollcall vote in the Senate, he saw that his vote would be decisive. He said to me then:

> I can't cast a vote that will throw 20,000 people out of work.

He voted for the loan and provided the single-vote margin of victory. He did

save those jobs and—as subsequent events have shown—benefited all U.S. taxpayers.

Then in late 1975 we learned that large mining companies were conducting destructive open-pit surface mining inside Death Valley National Monument in California. The mining was technically legal, but causing irreparable damage with each passing day to a world-renown desert landscape. LEE METCALF introduced a bill stopping surface mining in Death Valley and in five other parts of the national park system where mining had been permitted. LEE and I worked together closely on that bill. Thanks to his persistence and quick action, a 4-year moratorium on mining in the parks was enacted within 6 months.

LEE METCALF's convictions about the rights of American consumers led him, in 1971, into the area of consumer education. Again we worked together with much mutual satisfaction to enact a program of consumer education in the Nation's schools. He knew that education is the essence of successful democratic self-rule. And he was determined that citizens should have the knowledge they need for self-determination in the marketplace as well.

That determination also led him to study the flow of money in America and to probe the dim recesses of concentrated wealth. Together with Senator MUSKIE he led two Government operations subcommittees on a thoroughgoing search for corporate ownership and responsibility in our country. The report they had published disclosed vital information previously withheld from Congress and the public. It is there for any citizen to see, in large measure because of the courage and diligence of the Senator from Montana.

Earlier in this decade, when our Nation's constitutional balance was in serious jeopardy, LEE METCALF spoke up for a stronger, more responsible Congress. He pioneered the congressional budget process so legislators could better supervise Federal spending. In matters foreign and domestic his was a reliable voice in favor of giving Congress a larger and more coherent role in determining national policy.

In the last century one who shared LEE METCALF's belief in an assertive Congress was Thaddeus Stevens, a so-called radical Republican and Congressman from Pennsylvania. He also shared LEE METCALF's view that service in the House or Senate could be a way to give power to the powerless. Thaddeus Stevens once said:

> It is easy to protect the interests of the rich and powerful. But it is a great labor to protect the interests of the poor and downtrodden. It is the eternal labor of Sisyphus forever to be renewed.

That labor was renewed in the life and career of LEE METCALF. It will be carried on by others yet to come.

MEMORIALS TO SENATOR HUBERT H. HUMPHREY

Mr. CRANSTON. Mr. President, I have many wonderful memories of HUBERT HUMPHREY, from the indelible impression he made upon me the very first time I met him—with the ebullience, enthusiasm and energy—in 1948; through many a campaign, and many a battle as allied in a common cause on or off the Senate floor; to the last time I saw him when his indomitable spirit still drove him onward, despite his illness.

The American national character is many faceted. And our beloved fallen colleague, HUBERT H. HUMPHREY, of Minnesota, symbolized for many of us the upside of that character—the unfailing optimism that makes great achievement possible simply because one does not linger over the possibility of failure. "C'mon, boys, can do," you can almost hear him saying, in that inimitable prairie twang. "Better days are coming tomorrow."

It is unnecessary—even redundant—that we stand here and try to eulogize and memorialize this unique and wonderful man. For the memory of his many remarkable achievements in a lifetime of dedicated service to the people of this Nation will live far longer than our tributes today. But, again, we can almost hear him advising, "Do it, fellas; it'll make you feel better."

And so, Mr. President, I pay tribute to the memory of Senator HUBERT HUMPHREY.

This would usually be a sad occasion. But, one cannot think of HUBERT HUMPHREY for long and remain sad. For one unique quality of this great man was his unfailing affability. No one ever enjoyed being a politician more. And no one ever spread more joy around him than HUBERT HUMPHREY.

He had kind words for everyone, and always found the time to express them fully. And, if that delayed his appearance for the next event on his schedule, then tardy he would be—and often was.

He believed—and frequently pointed out—that America alone among nations included the pursuit of happiness among her national goals. And so, it was not surprising that time and again he offered legislation to improve the quality of life for the unfortunate. It was totally in keeping with his optimistic nature that he had not lost faith—as some others may have—in Government's ability to improve the lives of people.

"Happiness is contagious, just exactly like being miserable," he has been quoted as saying. "People have to believe that they can do better. They've got to know there's somebody that wants to help and work with them, somebody that hasn't tossed in the towel."

He never did toss in that towel, Mr. President. The Humphrey-Hawkins bill that this session of Congress will be considering is only the latest of his many contributions to give people a chance to better themselves.

The Senator from Minnesota had a long public career, spanning more than 30 years from his election as mayor of Minneapolis in 1945. He became Vice President of the United States, and nearly became President. Yet he never lost his concern for the distressed and the oppressed.

His successful Democratic Convention efforts in 1948 to bring his party into "the bright sunshine of human rights" marked the beginning of his recognition as a national figure. But devotion to the cause of human and civil rights remained constant throughout his career. In 1974, he joined with me on the Senate floor in efforts to end U.S. military assistance to oppressive, authoritarian governments, and the following year chaired hearings in his Foreign Relations Subcommittee on that subject. On that occasion, he said:

> How the United States will be regarded by other nations in the future will depend as much on what we stand for as what we oppose. And this brings us back to the concerns of our own people who view the human rights question as a major area of weakness in our foreign policy.

And, when the newly-elected President Carter set out to correct that weakness in our foreign policy, Senator HUMPHREY was among the first to rise in applause. He joined me and six of our colleagues in a letter to the President, on March 23, 1977, which read in part:

> We freely concede that we, too, like all nations, have unfinished business in human rights, but you have properly reminded the world that there can be no understanding among nations unless formal pledges about human rights are implemented. Your statements imply no special status for America, but simply demonstrate a world-wide commitment to the belief that human rights must be clearly stated and energetically pursued.

Washington, D.C., is a city where contact with the great and the near great becomes commonplace. But even here, there are a very few who are special. Clearly, HUBERT HUMPHREY was one of these—the possessor of seemingly boundless energy which throughout his life he would pour forth in devoted service to humanity. At the end of the 94th Congress, already stricken with the disease which eventually took his life, HUBERT went home—and there were those who thought he could not or would not return. But, after the 95th Congress opened, Senator HUMPHREY was there on the Senate floor with a vigorous and rousing speech which eased the confirmation of Paul Warnke to be our chief arms control negotiator.

Some of his words that day reflect the attitude that endeared him to all with whom he came in contact over his long career:

> To disagree does not mean that you have to be disagreeable. To disagree does not mean that you hold the other person's views in disrespect. It is simply that we sometimes see things differently.

No wonder, then, that the Nation would not wait until his death to shower its affection and tribute on him: he survived to be honored by a joint session of Congress, and to see the new headquarters of the Department of Health, Education, and Welfare named after him—a rare tribute to a living statesman—as a permanent reminder of his concern for the needy.

He was well prepared for his death, and asked that this "be a time to celebrate life and the future" and not be a time of sorrow.

Certainly, this last wish will be granted, for he has affected all whose

lives he touched with his buoyant optimism, his unremitting good will, his boundless energy, his dedicated spirit. These will give us the strength to get past this moment, and remember him only with joy at having known him. Still, knowing HUBERT, I know he would permit us a few tears for our irremediable loss.

I have many.

PROUD TO HAVE SERVED WITH THE "HAPPY WARRIOR"

Mr. ROTH. Mr. President, hundreds of thousands of words have been written and spoken in remembrance of HUBERT HUMPHREY recently, and most of them have conveyed—as did HUBERT himself—a warmth and sentimentality seldom experienced in the hurly-burly of today's politics.

I have my own fond memories of Minnesota's "Happy Warrior," of course, even though he and I were often philosophistically at odds on how to deal with the Nation's problems. HUBERT was, as so many eulogies have noted, the archetypal liberal, convinced that the ailments suffered by modern society are best treated by heavy governmental doctoring. I have always shared HUBERT's restless concern over national and world social ills, to be sure, but I have also, more often than not, disagreed with his precriptions, believing as I do that the less society is subjected to government nostrums the more healthy it will be.

Politics aside, however, there is a melancholy void in the government, now that HUBERT is gone. He took away with him a unique brand of cheeriness, civility and human kindness which I will miss in a most personal way. In the Senate, a setting that is invariably electric with the tension that derives from political rivalries and individual ambitions, he had a way of showing the other 99 Senators—even his most dedicated political opponents—that each of us truly matter to him as friends and Americans.

The first time I met HUBERT he was Vice President. I was a freshman Congressman, one of the guests at a meeting sponsored by the chamber of commerce, and he was among the speakers. His performance was extraordinary, in that he turned what at the outset was a cool and politically unsympathetic audience into a throng of cheering friends. His magnetism was such that I, as a relatively obscure newcomer to Capitol Hill, felt that he knew I was there in the crowd and had been talking directly to me.

In subsequent years, as I moved along to the Senate and in even broader view of National Government, I got an even better view of HUBERT as a man, and despite our political sparring, we developed a fine personal relationship. I became particularly impressed with the fact that, for all his exuberance, HUBERT was a truly humble person. For instance, when he and I were reelected to the Senate together and were attending the various orientation lectures for new Members, he sat and listened—participated—without once flaunting the savvy he had compiled over his many years of government service. Helpful in an unassuming way, yes; condescending or prideful, no. And only a few weeks before his death and despite the fact he disagreed with me, he crossed the Senate Chamber to tell me how well he thought I had presented the case for college tuition tax credit legislation. His gentle encouragement gave me a tremendous lift.

The world will remember HUBERT HUMPHREY for the tenacious hard work that placed him among the most renowned and effective of American public officials.

I will remember him for those things, too, naturally. But I will also be especially grateful to him for having brought a continuing measure of dignity to the all-too-often maligned title "Politician." He brought the profession a graciousness and sincerity that will provide an enduring standard for those who aspire to honorable public service.

TRIBUTE TO SENATOR METCALF

Mr. SARBANES. Mr. President, Senator LEE METCALF once summed up the job of a Member of the U.S. Congress in the following words: a Senator or Congressman, he said, "finds himself serving his constituency—and, in many instances, the country—not only as a legislator but as a troubleshooter, a newsgatherer, education and information source—an ombudsman of the people." Senator METCALF carried out all these responsibilities himself in his 25 years of service in the two Houses of Congress.

LEE METCALF was a principled and dedicated legislator. The touchstone of his work in the Congress was his commitment to the public interest, and his readiness to defend that interest in the face of strong opposition from special interests. He was a forceful spokesman for consumer interests long before there was an articulate national consumer movement. He was an outspoken and effective conservationist, deeply concerned to preserve for the American people their priceless natural heritage, long before the word environmentalist became a common noun in our national vocabulary. He was an author of the very first wilderness bill, and virtually all wilderness legislation has taken inspiration from the strength and certainty of his early vision. It was LEE METCALF's Public Lands and Resources Subcommittee that developed the landmark strip mining legislation enacted earlier by this Congress.

Although it was my privilege to serve with Senator METCALF in the Senate, we were never contemporaries in the other body; his service there ended following his election to the Senate in 1960. However, as a former Member of the House and as a member of the Democratic Study Group which he was instrumental in founding and of which he was the first chairman, I—as well as many of my colleagues—owed a great debt to him for his pioneering work in establishing the Democratic Study Group.

His dedicated service helped to make the two Houses of Congress stronger and more effective institutions, and our Nation a better place in which to live. We will remember Senator METCALF with gratitude for his dedicated public service and affection for his outstanding personal qualities.

SENATOR METCALF

Mr. HARRY F. BYRD, JR. Mr. President, during his 17 years in the Senate, our good friend LEE METCALF built a well-deserved reputation for expertise in the complex fields of resources and the environment.

As a member of the Committee on Energy and Natural Resources, heading the Subcommittee on Public Lands and Resources, Senator METCALF devoted years of his life to the difficult problems in these areas which were and are of such commanding importance to his State of Montana, and indeed to the whole Nation.

Less well known but also of great importance were Senator METCALF's contributions in the field of governmental operations, particularly in the technical aspects of reports and accounting. He did very significant work in these unglamorous but important areas as a member of the Committee on Governmental Affairs.

But able thought he was as a public servant, we who knew him will remember LEE METCALF equally well as a kind and generous human being.

I believe I shall always recall Senator METCALF's face as a smiling one. No matter what problems he was facing, or what controversial matters he was wrestling with, LEE METCALF greeted everyone with a smile that obviously came from the heart.

Because he was an acknowledged expert in several important legislative fields, because he worked long and uncomplainingly with issues that were not in the limelight, and because he was a warm and considerate friend, LEE METCALF will be missed.

SENATOR HUMPHREY

Mr. HARRY F. BYRD, JR. Mr. President, I think that all who knew HUBERT HUMPHREY, of whatever political persuasion, remember him with warm affection.

Few Americans of our time gave more unselfishly of himself in public service.

I can recall several debates with my dear friend from Minnesota on the subject of foreign aid—a matter on which we were not exactly in perfect agreement.

One debate in particular sticks in my mind. Senator HUMPHREY was the floor manager of the bill at the time, and I rose to make a few comments on the bill. After I had finished a few sentences, he asked me to yield briefly for a response.

About 40 minutes later, I was still yielding. During that time, I think the only word I got on the record was "but."

Indeed, HUBERT HUMPHREY could bury almost anyone in an avalanche of words. But no one really minded, because they were eloquent words, spoken from the heart.

Furthermore, when the debate was over, HUBERT nearly always would come over to his opponent with a broad, heartwarming smile and apologize for talking so much.

From the time of his first, unsuccessful bid to become mayor of Minneapolis in 1943, right up to the last days of his life, HUBERT HUMPHREY was a man in perpetual motion, fighting innumerable battles, standing in the frontline of every one of them.

Hundreds of thousands of words have been written and spoken about Senator

HUMPHREY during the last 11 days. The dominant themes of these tributes have been his courage, his dedication, his personal warmth, his great store of energy, and his persistence in seeking the goals in which he believed.

I can add but little to this cascade of well-earned praise for a great American.

But I can say this: In this Senate which he knew so well and loved so well, he can never be replaced.

HUBERT HUMPHREY

Mr. CHURCH. Mr. President, no one better personified the American faith than HUBERT HUMPHREY. His death leaves a void which we may not see filled again in our time. As others in public life look back on their past accomplishment, HUBERT HUMPHREY preferred to look ahead. He focused on the future and always approached it with joyous optimism, confident that no problem defied solution. He was a man who believed with all his heart in Edmund Burke's aphorism that "government is a contrivance of human wisdom to provide for human wants."

HUBERT HUMPHREY was the father of the Peace Corps. He was among the first to focus attention on the need to control the spiraling arms race, and it remained an abiding cause throughout his career. Long before its time, he saw the need for national health insurance for the elderly. He was the constant champion of those in need, no matter who they were or where they might be. But by far, his greatest legacy was the cause of civil rights. For a generation, he was the conscience of Congress, never letting us forget that when discrimination grips one of us, it grips us all.

Yet, for all of this, I will remember HUBERT HUMPHREY as much for his unquenchable spirit and ready wit, as for his remarkable legislative record.

I remember 1960, when John Kennedy defeated HUBERT HUMPHREY in the West Virginia primary, dashing his hopes for the Presidency that year. It was a crushing blow. But the next morning, when lesser men would have stolen away to lick their wounds, HUBERT HUMPHREY had returned to his place in the trenches. I ran into him in the Senate baths, getting into a fresh suit, on his way to the Senate floor. He had already bounced back and was ready to take up a complicated bill on compensation to State and local government in lieu of taxes on Federal property. Despite his great disappointment, he entered into the debate full of determination, ready to carry on, as if nothing had happened. It was an unforgettable exhibition of fortitude.

I will also remember his wit and laughter. If HUBERT HUMPHREY was never at a loss for words, it was because he enjoyed levity, including the stories he told on himself, as much as he enjoyed serious, substantive debate in the Senate or on the campaign trail.

I recall one of the times HUBERT was in Idaho, when he was running for Vice President in 1964. He was speaking at a crowded auditorium in Pocatello, where a number of supporters of Senator GOLDWATER, the Republican Presidential candidate, started interrupting with shouts of "We want Barry! We want Barry!"

HUMPHREY shot back: "What berry?" "Strawberry or raspberry?"

And just a few months ago, I had gone to the White House to meet with President Carter. After our meeting, HUBERT offered me a ride back to the Capitol in his car. He said he knew a shortcut out of the West Wing, and so I followed him through a labyrinth of hallways and corridors, until finally, he had to admit he was hopelessly lost.

"HUBERT," I said, "you're the last man on Earth I'd ever expect to get me lost in the White House."

"But you don't understand, Frank," he replied. "I've spent all of my life trying to find the way in, not out."

Mr. President, HUBERT HUMPHREY is gone. Each of us takes what solace we can in our own private memories of the man, knowing that there are more than enough to go around.

I count it my good fortune to have served 21 years in his company.

LEE METCALF

Mr. CHURCH. Mr. President, LEE METCALF was not only a great Western Senator, but a very dear friend. His untimely death was a personal blow to me. He came from my neighboring State of Montana. We shared much in our years together and were frequently allied in pursuit of common goals.

One does not have to search hard for the words that epitomize LEE METCALF's life: Honesty, integrity, decency. His service in public life was always characterized by a fundamental belief that Government exists to champion the cause of public interest over private gain. If he relished his battles on behalf of the consumer, or in favor of sound conservation, he was scrupulously fair, and he never lost the respect of those with whom he disagreed.

The causes he supported were many and varied: Protection of the public domain, a viable wilderness system, aid to education, new laws to insure clean air and water, fair packaging and labeling protection for consumers and, perhaps most important, efforts to give Congress the tools to play a more important role in the setting of national policy. He chaired the hearings that led to passage of the Congressional Budget Act. That law may be his most enduring legacy.

Throughout his public career, LEE METCALF spoke for the ordinary people of his State and his Nation—the miners and loggers, consumers, and housewives, young veterans, the disabled, the elderly—with the abiding conviction that they were the constituency most in need of representation. It was an effective voice, one the Senate will miss.

Mr. President, my wife, Bethine, shares the loss I feel in the passing of LEE METCALF. Our hearts go out to his widow, Donna, and all surviving members of his family.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. DOLE. Mr. President, the man we honor today said that enough eulogies had been given him. If he were an ordinary man, he might have been right. But HUBERT HUMPHREY was no ordinary man. The tributes we offer today are not just to honor a great American, but they represent our attempts to keep alive the indomitable spirit which was HUBERT HUMPHREY'S.

INFLUENCE AT HEARINGS

Anyone meeting HUBERT could not help but be engulfed by his enthusiasm and his zest for living. Many a time I have been sitting in a rather humdrum hearing when HUBERT marched in, late as usual. Almost instantly, the tempo quickened. The questions and answers became more intense as we now had to compete to be recognized. What had previously been a rather routine hearing was injected with HUBERT'S humor, and transformed into an interesting informative session. We have all at one time or another been stimulated by his excitement and insatiable curiosity.

Recently, I have had several occasions to team up with HUBERT as we worked together on food stamps, the farm bill, the supplemental feeding program for women, infants, and children, and other nutrition issues. After having experienced HUBERT as both cosponsor and challenger, I prefer having his support. When he was arguing against you, it was like heading into a stiff north wind blowing in from Minnesota. But when he was backing you up, it was like the warm summer breezes blowing off the prairie.

HHH BUILDING

I am proud to have had the opportunity to introduce S. 2219, now Public Law 95–141, which named the new south portal building of the Department of Health, Education, and Welfare, after Senator HUMPHREY. This bill had 98 cosponsors, and was signed into law aboard the Air Force One, when HUBERT was flying back to Washington on October 23. It is a fitting recognition for the man who has worked so hard to improve social and economic justice in our country.

The lives of millions of Americans—the old, the young, the disadvantaged—are better today because HUBERT HUMPHREY did not hesitate to champion unpopular causes, blazing the trail in key national issues before they were national issues.

ACCOMPLISHMENTS

Like any great leader, he had critics. But none doubt his sincerity and good will. Few have done more to improve the health, education, and welfare of our citizenry. Due in no small part to his efforts, our senior citizens are healthier, the young are better fed and better educated, and the daily lives of the poor in America are more bearable. There is still more for us to do before HUBERT'S dreams are completed.

PROGRAMS

Scores of vital Federal programs administered by the Department of Health, Education, and Welfare are operating today largely because HUBERT fought for them: Medicare, Head Start, the Elementary and Secondary Education Act, the Health Professions Scholarships Act, and others. The list reads on and on.

CONCLUSION

He was a man of uncommon decency and compassion, a great political leader, a patriot, a kind and generous man who will continue to contribute to the better-

ment of this Nation even after his death. The people of the United States, whatever their party affiliation, whatever their philosophy, are fortunate to have had HUBERT HUMPHREY in their service. He has been a great national asset. I consider it a privilege to have known him as a colleague. I have worked with him and fought with him, but have always admired him.

My hope is that the exuberance, the faith in mankind, and the perpetual optimism that were HUBERT HUMPHREY'S can be carried on through the legislation, the friends, and the dreams he left behind.

SENATOR LEE METCALF

Mr. DOLE. Mr. President, I join my Senate colleagues in paying tribute to one of our trusted and valued colleagues, Senator LEE METCALF.

The Senator from Montana had announced his intention to retire and return home to Montana at the end of this Congress. He truly loved his home State and its people and I regret that he was not able to finish out his term and retire home to his beloved Montana—or "God's Country," as he called his home State.

As a leading liberal on the other side of the aisle, Senator METCALF and I had frequent occasion to vote on opposite sides of issues. However, that never diminished my respect for his abilities and qualities. An open-minded man with a great sense of fairness, he earned the well-deserved respect of his colleagues and the people of Montana.

During his 8 years in the House and 17 years in this body, he sponsored many important pieces of legislation and championed many causes, marking him as a strong advocate in the Western populist tradition.

A critic of public utilities and their rate structures, he authored a book, "Overcharge," which presented his case on the practices of utility companies.

Dubbed "Mr. Education" by Wayne Morse, Senator METCALF was known as a strong advocate of educational opportunity for all. He supported extension of the GI bill to Vietnam veterans, was one of the authors of the National Defense Education Act—a part of this Nation's response to Sputnik, and supported other measures providing substantial Federal aid to education.

The late Senator won several battles for environmentalists throughout his career and won for himself many well-deserved awards from environmental groups in recognition for his work.

Of course, we are most familiar with his activities in the Senate. Nevertheless, he also had a record of substantial achievement in the House. As one of the founders and as the first chairman of the Democratic Study Group, he assisted in the establishment of an organization which has become a major asset to liberals on the House side.

His accomplishments in both Chambers will be long remembered by his colleagues, and will be long appreciated by environmental groups, educators, and others who strongly identify with his work. He was a fine man who contributed a great deal to the Senate as an institution. He will be sorely missed.

HUBERT HUMPHREY—THE FINAL MESSAGE: BRIDGING THE VALLEY OF SHAME

Mr. BROOKE. Mr. President, in our personal sadness these past days, all of us have taken strength from our memories of HUBERT HUMPHREY'S optimism, his joy in life, and his boundless vitality. I believe that history will best remember him as a towering figure leading the endless struggle for human rights. Thirty-years ago HUBERT HUMPHREY first stirred the conscience of the Nation by proclaiming that the time had come "to march forthrightly out of the shadows of States' rights into the sunshine of human rights."

And, for three decades HUBERT HUMPHREY never wavered in his championship of those who suffered under the burdens of prejudice, poverty, or infirmity. He always believed that our efforts could make life a little easier, make our society more just, and make our Nation more truly democratic and thus truly strong.

HUBERT HUMPHREY'S own words will inspire more than any we can utter about him today. He taught us that our progress as a nation could be judged, as he said, by how we treat—

Those in the dawn of life—our children and young people; those in the shadows of life—the poor, the jobless and those who suffer from prejudice and discrimination; and those in the twilight of life—the elderly and those in poor health.

Mr. President, HUBERT HUMPHREY spent his life sometimes nearly alone teaching concern for those in the dawn, the shadows, and the twilight of life. In time such leadership brought a generation of dedicated civil libertarians to positions of influence and authority. But freedom is constantly beset by attacks, beseiged by enemies and in grave danger. There are, sadly, too few in the Government of our land who have the strength and the courage to do continuing battle for our threatened liberties. And the loss of one of our strongest, most steadfast champions is not only painful, it is a blow to our small ranks and we are much diminished. Freedom's cause needed HUBERT HUMPHREY. His energy will be deeply missed. And, now that he has left his unfinished work to his heirs, we must build on his legacy and honor his contributions.

It was, most fitting that HUBERT HUMPHREY'S final message to the American people was delivered on his behalf as part of the Martin Luther King, Jr., birthday commemoration on January 14. Black Americans, above all, owe an eternal debt of gratitude for HUBERT HUMPHREY'S work. His message was a stirring call to bring black and white America together. In this his final message Senator HUMPHREY spoke sadly of the "huge valley of shame," which despite our progress, still "separates black and white America." And, his very last public words to us are these:

We must keep up the fight. If we do, I assure you it will be well worth every effort you make.

Mr. President, I ask unanimous consent that Senator HUMPHREY'S remarks be printed in the RECORD, for none of us can do him so much honor as his own words do honor him.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SPECIAL TRIBUTE TO HUBERT HUMPHREY

It is an honor for me to be here with you tonight to accept your warm tribute to my brother, Senator Hubert H. Humphrey. Hubert has asked me to express his sincere regret at not being able to be with you this evening. You have all been such an important part of his life.

My brother has prepared a brief message which I would like to share with you now:

"Fourteen years ago Dr. Martin Luther King, Jr. shared with us his dream for America. That cherished dream of what our nation could and should be, became our dream as well. Today we come together to celebrate the forty-ninth anniversary of the birth of this champion of the rights of all people. We come together to recommit ourselves to the struggle to reach the promised land which he described from the mountain top.

"I am deeply moved by the tribute bestowed upon me tonight. To be linked to Dr. King in the battle for equal rights is a distinct honor. My own regret is that I cannot be with all of you tonight to share in your warm friendship.

"Your work, your sacrifice, your vision, your determination and your commitment to an equal chance in life for all of our people have made great progress possible. Because of your efforts we have rewritten the nation's laws to clearly recognize equal rights for all Americans. And, don't let anyone sell this achievement short—it is monumental. Without it, equality of opportunity is not possible in education, in employment, in your neighborhood, in any important aspect of American life.

"Today, life is better for most black Americans than it was for their parents or grandparents. Incomes are better, educational opportunities are greater, health care has improved, political influence and representation has increased, and much more. That is progress. Progress which reaches into the homes of millions of our fellow citizens and directly affects their lives. It is real progress, and we must not forget that it has occurred.

"But, we cannot be satisfied in measuring our progress solely by the distance we have come from the abominable conditions that existed in a period of gross injustice. We must face the facts. For despite our progress, a huge valley of shame separates black and white America:

Black family incomes average only 62 percent of white family incomes.

Less than half of all black people over age eighteen have a high school diploma.

Unemployment rates for black Americans have been double the rates for white Americans for two decades.

Twenty seven percent of our black families still struggle to survive on incomes below the poverty line.

"These are only a few of the facts, but the point is clear. We are a long way from our goal of a society with equal opportunity and justice for all. In moving toward this goal, our focus today must be on jobs—decent jobs, good paying jobs, jobs with a challenge, jobs with a future.

"That is why my first priority, and I think it should be yours, as well, is passage of the Humphrey-Hawkins Full Employment Bill. This bill will commit the government to full employment in a politically accountable manner that has never existed in the past. It will make full employment the central focus of our nation's economic policy. It will result in a new and unparalleled push for full employment in America.

"Don't listen to those who say this bill is watered down and not worth fighting for. Most of these people have no idea how national economic policy decisions are made. Many of these instant experts have never

taken the time or trouble to read the bill. Some of these commentators are trying to kill the bill by convincing its supporters that it is meaningless.

"I will never deceive you, and I believe you know it. This legislation is a must. It is no miracle cure, but it is an indispensable step toward economic justice. We must keep up the fight. If we do, I assure you it will be well worth every effort you make."

TRIBUTE TO SENATOR METCALF

Mr. CULVER. Mr. President, it is recognized that true humility is one of the greatest and rarest qualities we see in public leaders. Our departed colleague, Senator LEE METCALF, exemplified this quality as much as any person I have known in the Congress. His self-effacing manner belied his great quality as a person and the dimension of his far-reaching achievements in his long years of public service. Founder and organizer of the Democratic Study Group, member of the Ways and Means Committee and outstanding leader in conservation, education and many other areas, LEE METCALF became a legend in the House in only 8 years. He continued his outstanding record in the Senate in such fields as energy, natural resources, Indian affairs and Government reform. His colleagues in the Congress recognized his intellectual capacity and leadership qualities and esteemed him for his legislative achievements through the years. Personally, they will remember him for the quiet, friendly, unassuming way he went about doing great things for his State and for the country. He enriched our lives and his presence will be sorely missed.

A TRIBUTE TO SENATOR LEE METCALF

Mr. HATCH. Mr. President, I join my colleagues in paying tribute to our friend and colleague, the late Senator LEE METCALF. I am grateful for the opportunity and the privilege to have worked with him in the U.S. Senate.

Senator METCALF showed me innumerable kindnesses and was a great encouragement to me during my first months in the Senate. But what I shall remember most about him was his cheerfulness and prevailing good humor. I recall a letter I received from Senator METCALF soon after the vote on the Surface Mining bill in which he quipped:

I believe that if the bill had been recommitted to conference, I would have jumped out the window rather than go through another such repetitious ordeal.

I would also like to point out the generous cooperation he gave me on this legislation and in turn, pay recognition to Senator METCALF's hard work in this area. His efforts will have a lasting impact.

While Senator METCALF and I did not see eye to eye on the legislation, he was always most helpful to me, permitting me to participate in the hearings, and advising me of any developments as they occurred. I must stand in gratitude to Senator METCALF for those courtesies.

I have the deepest respect for LEE METCALF, as a Senator and as a genuine human being. I extend my sincerest sympathy to his family and to the citizens of Montana.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. HATCH. Mr. President, Our colleague, HUBERT HUMPHREY, was a unique man and exhibited such special qualities that it is difficult to find sufficient positive superlatives to adequately describe his life and the deep loss that each of us feels.

He had the highest integrity and strength of character. Even as he pursued partisan politics, he maintained his dignity and honor and upheld the public trust. He was, and will remain, an example for us and those who, in the future, aspire to public office.

He was a fighter. I had the privilege of serving with Senator HUMPHREY in two capacities off the Senate floor, the Joint Economic Committee and the Technology Assessment Board. In both of these pursuits, as in his other Senate initiatives on behalf of all American citizens, our colleague was truly the "Happy Warrior." His philosophy and legislative diligence alone earned him the respect not only of his political allies, but of his adversaries. This alone would earn him a place in the history books.

But, he was also a man of courage—courage of a type which would see him through to the very end. Courage which would be an inspiration to every American and a hallmark to the American spirit. Last spring, Senator HUMPHREY shared a large dose of this courage with a young constituent of mine, 12-year-old Bill Ficken, who was also faced with the reality of terminal cancer. I recall the day that Bill and his mother visited with Senator HUMPHREY and me during a Joint Economic Committee meeting. He gave Bill and his mother the same "You Can't Quit" encouragement he gave to his country. He always knew that if we have faith and are devoted to our cause, that we can win in the end.

HUBERT HUMPHREY was my friend. He loved people and valued personal relationships. Probably nothing greater can be said than that. His remarkable spirit of compassion, his good humor, his magnanimity, and his warm heart will be long remembered and sorely missed. And in our remembering what he stood for and how he lived, HUBERT will know that one of his greatest goals has been achieved.

HUBERT H. HUMPHREY

Mr. KENNEDY. Mr. President, it is an honor to join today with so many friends on both sides of the aisle in paying tribute to one of our best loved and most outstanding colleagues. His death earlier this month has deprived the Congress of one of the giants in Senate history.

In commorating his life today, we also pay tribute to the great social issues he served so well throughout his life and throughout his brilliant career in public service.

He was one of the truly illustrious statesmen in the long history of American politics. He made us all proud to be politicians. He was a great practitioner of the words of John Buchan in Pilgrim's Way:

Public life is regarded as the crown of a career. And to young persons, it is the worthiest ambition. Politics is still the greatest and the most honorable adventure.

I believe that history will rank HUBERT HUMPHREY among the Senate giants of the past—Clay, Calhoun, and Webster of the 19th Century, and LaFollette and Taft of the 20th Century.

To many, he was America's favorite political bridesmaid. Like Henry Clay, Senator HUMPHREY will be remembered more favorably by history than many Presidents. He joins Clay as a great American Senator who came within a hairs' breadth of the Presidency, and who enjoyed the great affection and respect of the Nation.

His narrow defeat in the 1968 election was a tragedy for Senator HUMPHREY. But it was also an Amrican tragedy. We are still recovering from the wounds of the past 8 years. We still bear the scars. So very many things would be so very different now, if HUBERT HUMPHREY had been elected President then.

His record in the Senate is so full of landmarks and achievements that it would take a HUMPHREY speech to do them justice. Wherever you look, he left his mark as an outstanding and progressive leader.

If you called the roll of leading issues in the Senate in recent years, you would find HUBERT HUMPHREY at the helm. To all of us, he was Mr. Economy, a past chairman of the Joint Economic Committee, the father of the Humphrey-Hawkins bill. He was one of the most effective spokesmen Congress had on economic issue, doing his best to bring unemployment down, to hold the line against inflation, and to bring the economy back to health.

And that was only the beginning of his talent and great ability. His reputation as Mr. Civil Rights goes back for a generation. On foreign policy, he was Mr. Arms Control because of his leadership in seeking nuclear arms agreements and halting the flow of U.S. arms to unstable areas of the world.

He was also Mr. Agriculture for his leadership on issues vital to the farms of Minnesota and so many other States. He was Mr. Senior Citizen for his efforts to help the elderly. On everything he touched, he left it better than he found it.

He also knew how to represent the constituents of his State. I doubt that the people of Minnesota ever had a better champion of their interests. He loved his State and he served its people well.

For these and many other reasons, I believe that HUBERT HUMPHREY will go down in history as one of the finest Senators America ever had. I wish we had more like him. It is a privilege and honor for me to join in this fitting tribute to his remarkable achievements.

Mr. President, on the day after his death, Senator HUMPHREY was to have been honored in Atlanta in a Tribute From Black America at the Ebenezer Baptist Church. After Senator HUMPHREY's death, the program was changed to a memorial service, and Senator HUMPHREY's prepared statement—his last speech, a clear reaffirmation of his life long commitment to civil rights—was delivered by Ofield Dukes.

I believe that the statement will be of interest to all of us, and I ask unani-

mous consent that the statement by Senator HUBERT HUMPHREY and the introductory remarks by Mr. Dukes may be printed in the RECORD.

I also ask unanimous consent to have printed in the RECORD the eloquent eulogies delivered to Senator HUMPREY by President Carter and Vice President MONDALE at the U.S. Capitol memorial service on January 15, and at the House of Hope Presbyterian Church in St. Paul, Minn. on January 16.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KING CENTER, BLACK LEADERS PAY TRIBUTE TO HUBERT HUMPHREY

SENATOR HUMPHREY'S FINAL SPEECH READ AT MEMORIAL PROGRAM

(SPECIAL NOTE: Mrs. Coretta Scott King, President of the Martin Luther King, Jr. Center for Social Change, and heads of major Black organizations had planned a Tribute from Black America for Senator Hubert H. Humphrey on Saturday, January 14, at the Ebenezer Baptist Church in Atlanta. The program was to be part of the 10th annual Birthday observance of Dr. Martin Luther King, Jr., with Senator Humphrey receiving the Martin Luther King, Jr. Humanitarian Award. After Senator Humphrey's death the night before, the program was changed to a Memorial Service. What turned out to be the Senator's last speech, a strong statement on civil rights, was delivered by Ofield Dukes, who was an assistant to Humphrey when he was Vice President. Mr. Dukes' remarks and the Humphrey message follow:)

REMARKS OF OFIELD DUKES

There was a touch of divine irony in the passing Friday night of the best friend that Black America has had in the higher echelons of government.

At the exact moment he died, Senator Hubert H. Humphrey was being honored by some of his closest and most loyal Black friends and supporters, the Black press (National Newspaper Publishers Association) at a dinner meeting in Miami.

During the week preceding his death, I spoke with the Senator's office every day regarding the planned tribute to him sponsored by the Martin Luther King, Jr. Center for Social Change and Black leaders throughout the country. This had particular meaning to him because, as you know, his entire public life revolved around his enthusiastic and unwavering commitment to civil rights.

Original plans called for his son, Skip, and his sister, Frances Howard, to represent him here tonight. And if circumstances permitted, he would telephone Mrs. Coretta King for a few amplified words during the ceremony.

On Friday afternoon (January 13) as I arrived at National Airport to board a flight for Miami, for the annual Mid-winter Meeting of Black editiors and publishers, a member of the Senator's staff was waiting. She had a written message on the worsening condition of the Senator's health and copies of his last two speeches for me to deliver on his behalf. One speech was for the publishers' meeting on Friday night and the other was his remarks for tonight.

Knowing Senator Humphrey as I did, after spending almost three years on his staff when he was Vice President, I have a deep feeling that if he had written the scenario for the final activities of his bountiful life, he would want to be honored for his life's work. I am fairly certain he would have wanted his final speech to be on civil rights, his final words directed to his Black friends and supporters in the civil rights struggle.

I think he would have wanted the first memorial service, after his death, to be sponsored by the people he loved so much and who benefitted from the fruits of his labors. He would have wanted it to be held in this historic Ebenezer Baptist Church, a spiritual fortress for the civil rights movement.

And, if he had to choose a final, single award to receive, I think it would have brought tears to his eyes and pride to his soul to receive an award . . . a humanitarian award . . . named after a man he admired so very, very much . . . Dr. Martin Luther King, Jr.

For civil rights was not just a social and political cause for Hubert Humphrey. It was a part of his upbringing, his creed, an extension of his religion and something deeply inbedded in his mind, heart and spirit.

The Senator would have been pleased with the divine irony of this Memorial Program . . . I can hear him say: "Now, you know how much I love praise and kind words, but don't spend too much time extolling my virtues . . . because there is too much work yet to be done. We cannot afford to break stride . . ."

Yes, a touch of divine irony through the mysterious works of Our Lord.

Now I will read Senator Humphrey's final message.

SENATOR HUMPHREY'S FINAL MESSAGE

"Fourteen years ago Dr. Martin Luther King, Jr. shared with us his dream for America. That cherished dream of what our nation could and should be, became our dream as well. Today we come together to celebrate the forty-ninth anniversary of the birth of this champion of the rights of all people. We come together to recommit ourselves to the struggle to reach the promised land which he described from the mountain top.

"I am deeply moved by the tribute bestowed upon me tonight. To be linked to Dr. King in the battle for equal rights is a distinct honor. My only regret is that I cannot be with all of you tonight to share in your warm friendship.

"Your work, your sacrifice, your vision, your determination and your commitment to an equal chance in life for all of our people have made great progress possible. Because of your efforts, we have rewritten the nation's laws to clearly recognize equal rights for all Americans. And, don't let anyone sell this achievement short—it is monumental. Without it, equality of opportunity is not possible in education, in employment, in your neighborhood, in any important aspect of American life.

"Today, life is better for most Black Americans than it was for their parents or grandparents. Incomes are better, educational opportunities are greater, health care has improved, political influence and representation has increased, and much more. That is progress. Progress which reaches into the homes of millions of our fellow citizens and directly affects their lives. It is real progress, and we must not forget that it has occurred.

"But, we cannot be satisfied in measuring our progress solely by the distance we have come from the abominable conditions that existed in a period of gross injustice. We must face the facts. For despite our progress, a huge valley of shame separates Black and white America:

—Black family incomes average only 52 percent of white family incomes,

—Less than half of all Black people over age eighteen have a high school diploma,

—Unemployment rates for Black Americans have been double the rates for white Americans for two decades,

—Twenty-seven percent of our Black families still struggle to survive on incomes below the poverty line.

"These are only a few of the facts, but the point is clear. We are a long way from our goal of a society with equal opportunity and justice for all. In moving toward this goal, our focus today must be on jobs—decent jobs, good paying jobs, jobs with a challenge, jobs with a future.

"That is why my first priority, and I think it should be yours, as well, is passage of the Humphrey-Hawkins Full Employment Bill. This bill will commit the government to full employment in a politically accountable manner that has never existed in the past. It will make full employment the central focus of our nation's economic policy. It will result in a new and unparalleled push for full employment in America.

"Don't listen to those who say this bill is watered down and not worth fighting for. Most of these people have no idea how national economic policy decisions are made. Many of these instant experts have never taken the time or trouble to read the bill. Some of these commentators are trying to kill the bill by convincing its supporters that it is meaningless.

"I will never deceive you, and I believe you know it. This legislation is a must. It is no miracle cure, but it is an indispensable step toward economic justice. We must keep up the fight. If we do, I assure you it will be well worth every effort you make."

REMARKS OF PRESIDENT CARTER IN EULOGY OF SENATOR HUBERT H. HUMPHREY, U.S. CAPITOL, JANUARY 15, 1978

At critical times in our history, the United States has been blessed by great people who just by being themselves give us a vision of what we are at our best and of what we might become. Hubert Humphrey was such a man.

In a time of impending social crisis 30 years ago, his was the first voice I ever heard, a lone voice persistently demanding basic human rights for all Americans.

It was the most difficult moral and social issue that my own generation would have to face. In those early days, his was a clear voice, a strong voice, a passionate voice, which recruited others to join in a battle in our own country so that equal rights of black people could be gained—to vote, to hold a job, to go to school, to own a home.

I first met Hubert Humphrey when he was Vice President, torn because his heart was filled with love and a yearning for peace while at the same time he was meticulously loyal to a President who led our nation during an unpopular war.

I also remember him in a time of political defeat courageously leading a divided Democratic Party, losing his uphill campaign for President by just a few votes. But he was a big man. And without bitterness, he gave his support to the new President, and then came back later to the Senate to serve his nation once again.

For the last year of his life I knew him best. And that's when I needed him most, despite campaign disagreements and my own harsh words, spoken under pressure and in haste. It was not his nature to forget how to love or to forgive.

He has given me, freely, what I need: the support and understanding of a close and true friend, the advice of a wise and honest counselor.

When he first visited me in the Oval Office, I felt that he should have served there.

CONSCIENCE TO NATION'S LEADERS

I know that he's been an inspiration and a conscience to us all, but especially to the leaders of our nation: to Harry Truman, to Dwight Eisenhower, to John Kennedy, to Lyndon Johnson, to Richard Nixon, to Gerald Ford, and to me.

We and our families are here today to testify that Hubert Humphrey may well have blessed our country more than any of us.

His greatest personal attribute was that he really knew how to love. There was noth-

ing abstract or remote about it. He did not love humanity only in the mass. You could feel it, in the scope of his concerns, in his words, in the clasp of his hands, in the genuine eager interest in his eyes as he looked at you.

He always spoke up for the weak and the hungry and for the victims of discrimination and poverty. He never lost sight of our own human possibilities. He never let us forget that in our democratic nation we are a family, bound together by a kinship of purpose and by mutual concern and respect.

He reminded us that we must always protect and nurture the other members of our national family.

Yesterday as messages poured in to me as President, and to the members of the Humphrey family, from throughout the world, I realized vividly that Hubert Humphrey was the most beloved of all Americans. And that his family encompassed not just the people of the United States but of all people everywhere.

He asked, as the Vice President has said, that this service be a celebration. And in a way, that's what it is. Even as we mourn his death, we celebrate because such a man as Hubert Humphrey was among us. The joy of his memory will last far longer than the pain and sorrow of his leaving.

REMARKS OF VICE PRESIDENT MONDALE IN EULOGY OF SENATOR HUBERT H. HUMPHREY, U.S. CAPITOL, JANUARY 15, 1978

Dear Muriel, the Humphrey family and guests:

There is a natural impulse at a time like this to dwell on the many accomplishments of Hubert Humphrey's remarkable life, by listing a catalogue of past events as though there were some way to quantify what he was all about. But I don't want to do that because Hubert didn't want it and neither does Muriel. Even though this is one of the saddest moments of my life and I feel as great a loss as I have even known, we must remind ourselves of Hubert's last great wish:

That this be a time to celebrate life and the future, not to mourn the past and his death. I hope you will forgive me if I don't entirely succeed in looking forward and not backward. Because I must for a moment. Two days ago as I flew back from the West over the land that Hubert loved to this city that he loved, I thought back over his life and its meaning and I tried to understand what it was about this unique person that made him such an uplifting symbol of hope and joy for all people. And I thought of the letter that he wrote to Muriel 40 years ago when he first visited Washington.

He said in that letter:

"Maybe I seem foolish to have such vain hopes and plans, but Bucky, I can see how some day, if you and I just apply ourselves and make up our minds to work for bigger things, how we can some day live here in Washington and probably be in government, politics or service. I intend to set my aim at Congress."

Hubert was wrong only in thinking that his hopes and plans might be in vain. They were not, as we all know. Not only did he succeed with his beloved wife at his side, he succeeded gloriously and beyond even his most optimistic dreams.

Hubert will be remembered by all of us who served with him as one of the greatest legislators in our history. He will be remembered as one of the most loved men of his times. And even though he failed to realize his greatest goal, he achieved something much more rare and valuable than the nation's highest office. He became his country's conscience.

Today the love that flows from everywhere enveloping Hubert flows also to you, Muriel, and the presence today here, where America bids farewell to her heroes, of President and Mrs. Carter, of former Presidents Ford and Nixon, and your special friend and former first lady, Mrs. Johnson, attest to the love and the respect that the nation holds for both of you. That letter to Bucky, his Muriel, also noted three principles by which Hubert defined his life: work, determination and high goals. They were a part of his life's pattern when I first met him 31 years ago. I was only 18, fresh out of high school, and he was the Mayor of Minneapolis. He had then all the other sparkling qualities he maintained throughout his life: boundless good humor, endless optimism and hope, infinite interests, intense concern for people and their problems, compassion without being patronizing, energy beyond belief, and a spirit so filled with love there was no room for hate or bitterness.

He was simply incredible. When he said that life was not meant to be endured but rather to be enjoyed, you knew what he meant. You could see it simply by watching him and listening to him.

When Hubert looked at the lives of black Americans in the '40s, he saw endurance and not enjoyment, and his heart insisted that it was time for Americans to walk forthrightly into the bright sunshine of human rignts.

When Hubert looked at the young who could not get a good education, he saw endurance and not enjoyment. When Hubert saw old people in ill health, he saw endurance and not enjoyment. When Hubert saw middle-class people without jobs and decent homes, he saw endurance and not enjoyment.

Hubert was criticized for proclaiming the politics of joy. But he knew that joy is essential to us and is not frivolous. He loved to point out that ours is the only nation in the world to officially declare the pursuit of happiness as a national goal. But he was also a sentimental man and that was part of life, too. He cried in public and without embarrassment. In his last major speech in his beloved Minnesota, he wiped tears from his eyes and said, "A man without tears is a man without a heart." If he cried often, it was not for himself, but for others.

Above all, Hubert was a man with a good heart. And on this sad day, it would be good for us to recall Shakespeare's words: "A good leg will fall. A straight back will stoop. A black beard will turn white. A curled pate will grow bald. A fair face will wither. A full eye will wax hollow. But a good heart is the sun and the moon. Or rather the sun and not the moon, for it shines bright and never changes, but keeps its course truly." Hubert's heart kept its course truly.

He taught us all how to hope and how to love, how to win and how to lose, he taught us how to live and, finally, he taught us how to die.

REMARKS OF PRESIDENT CARTER IN EULOGY OF SENATOR HUBERT H. HUMPHREY, HOUSE OF HOPE PRESBYTERIAN CHURCH, ST. PAUL, MINN., JANUARY 16, 1978

Not too long ago I invited Senator Humphrey to go to Camp David to spend a weekend with me. He had never been there before and he was very effusive in his thanks, telling me over and over how great a favor I had done for him. It was the greatest favor I ever did for myself.

We spent two days on top of a mountain, in front of a fireplace, just talking and listening. We talked about people, common, ordinary people and great people in our country and all around the world. With some he had very friendly and good relations. They had always supported him in his campaign and always had good things to say about him. Others had sometimes disappointed him, and he had not always had their support.

But he never said a word of criticism. He tried to search in his own mind, no matter who it was, and find something good to say.

We talked about pain, about the physical pain that I could see that he was bearing. We talked about the pain of losing a political campaign. We talked about the pain of frustration when you have high hopes and great dreams and human fallibilities won't let you realize them all. But I never detected in any of his words any bitterness.

Yesterday I was honored to speak about Hubert Humphrey at the Nation's Capitol. I talked about what he had meant to our own Nation, but he knew, as I know, and Vice President Mondale knows, that one of the responsibilities of those who serve in the White House is to look beyond our Nation's borders, to foreign countries. He traveled a lot and he told me about the world leaders with whom he had met. He told me about the months during the Vietnam War when he was Vice President and how when he rode down the streets or got off the airplane or visited a college campus with his heart full of love.

Quite often he didn't see love in the faces of the crowds who faced him, and he didn't see love on the signs and the banners that confronted him and his President. He had a yearning for peace, and we talked about the mechanisms of peace, not always a popular subject for a political figure in a nation as proud of its military strength and its great influence. But in kind of a quiet and unpublicized way, because of what was in him he was the expression of the good and decent and peaceful attributes of our great, strong, powerful Nation.

He was always dedicated to breaking the log jams in the Cold War. He expressed a deep hope that we and the Soviet Union might reach agreements on difficult questions and resolve long-standing differences and get to know each other and search for a way to reduce the mad scramble for superiority in nuclear weapons.

We talked about the Arms Control and Disarmament Agency set up now to negotiate how we might reduce and perhaps eliminate atomic weapons and I discovered almost by accident that the author of that legislation was Hubert Humphrey.

We talked about the sale of military weapons to other nations, particularly the poor nations, the developing nations, the hungry nations who respond to the temptations of technological progress and the threats from border states and come to us, above all others, and other nations as well, to buy guns and ammunition to kill.

We are trying to change that policy and we talked about it and the mechanism under which we are trying to reduce our own participation in the marketing of weapons. It is his legislation.

One of the most difficult questions that a President has to face, or even a Member of Congress, is foreign aid. It is not popular in our country to be for foreign aid programs. But one of the stalwart defenders of our foreign aid program, the leader in the Congress, was Hubert Humphrey. He didn't see foreign aid as a give-away program. He didn't see foreign aid as billions of dollars going from our Nation to others. He saw human needs.

We talked about the sick people that he had seen overseas with no medical care at all and the unbelievable hunger that he had seen in families where the average income for a whole nation was sometimes less than 25 cents a person a day.

So he saw foreign aid as a great investment from a rich nation, a pittance, almost, compared to what we earn and have that builds up a wellspring of friendship between us and those hungry people.

We talked about the newly developed interest in our own Government toward Africa, not more than a year or two old, but it was not new to Hubert Humphrey. He was familiar with Africa, the nations therein, the people who live there, their hopes and yearn-

ings and frustrations and desire to be something and to have their own governments. He knew about Asia, and he knew about Indonesia and he talked about these things, not as a lecturer, but almost as a representative of those people, not just Minnesota.

He reached beyond our borders. It was a long time after my mother went to the Peace Corps that I knew that the Peace Corps was Hubert Humphrey's idea. It was an idea that he put forward a long time ago and it was eventually adopted and put into effect when John Kennedy was President; an opportunity for American young people to go overseas for, I think, $11 a month and get to know other people and serve them, and, along with Senator McGovern, he initiated the idea for the Food for Peace Program.

He and I talked about religion, about how deep his faith had grown since he became very ill. We talked about sin and how we know that everyone sins and we fall short of the glory of God, but how God forgives us.

Just a few days ago I was in India and I was visiting the Tomb of, a Memorial to Mahatma Gandhi, where his body was cremated. And I didn't think about Senator Humphrey—I will have to admit it—until I started to leave and one of the Indian leaders took me over to a wall and there on the wall there was a quote from Gandhi and the title of it was, "The Seven Sins," and when I saw that, I thought about Senator Humphrey's discussion on sin and I jotted it down.

According to Gandhi, the seven sins are wealth without works, pleasure without conscience, knowledge without character, commerce without morality, science without humanity, worship without sacrifice, and politics without principle.

Well, Hubert Humphrey may have sinned in the eyes of God as we all do, but according to those definitions of Gandhi's, it was Hubert Humphrey without sin.

REMARKS OF VICE PRESIDENT MONDALE IN EULOGY OF SENATOR HUBERT H. HUMPHREY, HOUSE OF HOPE PRESBYTERIAN CHURCH, ST. PAUL, MINN., JANUARY 16, 1978

Yesterday, our nation honored Hubert Humphrey in a wonderful outpouring of affection. Hubert would have liked it. But today is an even more special day—the day Hubert comes home to Minnesota for the last time, to rest in the place he loved best and the place which gave him spiritual and political sustenance. While he was an international figure and a national figure, as we in Minnesota well knew, he was always a Minnesotan and always a son of the prairie. There was something in this land and its lakes and especially its people that fed the springs of love, the streams of ideas, the torrents of enthusiasm and which nurtured the special genius and the immense humanity of Hubert Humphrey.

There was a kind of unity, of integrity in this love affair with the people of Minnesota that permitted Hubert's idealism to flower. He was a special man in a special place and I know he would want me to say today, 'Thank you, Minnesota.'

That mutual affection was important, for in a democracy, a leader can only pursue greatness if the people will let him. The people of Minnesota not only let him, they encouraged him, and are in a true sense a part of his greatness. I loved what a deputy sheriff was reported as saying yesterday in the paper. He said, "The people of this county thought he was an A–1, OK cat." And that's what Minnesotans think.

Carl Sandburg once said of another American hero, "You can't quite tell where the people leave off and where Abe Lincoln begins." What was true of Lincoln was surely as true of Hubert. He could not be separated from his people.

Muriel, you've heard words of praise for Hubert from many people and places. They are genuine and they reflect the deep affection for your husband and our friend. But beyond words, I think last night when we went to the State Capitol and saw masses of people, who stood for hours in severe cold and burst into spontaneous song of celebration when you arrived, that this confirmed if there was any doubt, and there's none, that this state loved Hubert in a very special way.

Yesterday I spoke to you about Hubert. Today I would like to say: Hubert your memory lifts our spirits, just as your presence did. And though these days have been especially long and emotionally draining, you would have been very proud of Muriel, who has received in your absence, the gifts of love with dignity and courage and strength. With her here, your spirit, your joy, your good heart remains with us.

Muriel, you have been an immense part of the life we celebrate today. For 41 years of marriage and before that, you were the force and the infinite resource which sustained this wonderful man. You have shared his triumphs and his disappointments. And you have been equal to his overwhelming love and returned it to him in a way that made possible for him to be the buoyant creature he was.

As usual, Hubert said it best, when he dedicated the story—his basic book on his life—to Muriel. He said this: "To Muriel: my partner and sweetheart, who has made my way easier, my life fuller, and without whom I could not have reached out to be what I wanted to be."

What the people of Minnesota have been to him in a general way, you have been in a personal and specific way. Without you, Hubert would have had to struggle far harder to reach the esteem he did. Ultimately, the nation has learned what we who were privileged to know him longest and best, knew first. That Hubert was an incomparable creator of great plans and grand designs, but that the big picture, the master program never, never replaced what was the essence of Hubert Humphrey. The ability to touch an individual's life, often a life of a stranger—if there were any strangers in his life—and make those lives better and more joyous.

Hubert loved people in the mass, but he also loved each human being in an almost saintly way. He had time for everybody, which is why he was always late. There was an article in the Washington Post yesterday that said it nicely. He instructed his staff not to schedule him so tightly. When he walked through the halls of Congress, he wanted to be able to spend as much time as possible with ordinary people. He said, "I can rush by people or I can go by and be good and gentle. Maybe say a little word to somebody and take a little time. Don't be worried if I am a little late or something like that, I am going to take some time to say hello to some kids."

The Mayor of Waverly said this weekend, "If he met someone, the next time he saw him he'd remember his name. He had a fantastic memory. My children met him at his home and when he went to visit the school he remembered them by name." It was really more than a fantastic memory. It was a will to reach out and to say I know you, you are an individual. And people knew he felt that way. A politician may fake it for an hour, or maybe a day, but you can't fake it for a lifetime.

To Hubert it didn't make any difference who you were or where you came from. Hubert was the ultimate, ecumenical spirit. He was the Pope John of American Politics. He accepted no distinctions which denied humanity in each individual. Race, age, religion, ethnic origin, color, economic class, sex, made no difference to Hubert Humphrey. He never found a person who was not worthy of his time, concern and love. Where others wearied, he took strength. Where others turned aside, he embraced. Where others snarled, he smiled. Where others spoke in bitterness, he spoke in love.

He was a universal man and that is why he struggled with problems of world hunger and poverty, education and medical care, of basic human conditions. That's why he worried, as few others did, about the issues of arms and nuclear holocaust. Hubert may have been wrong sometimes, he never claimed to be perfect. But when he was wrong, it was never a matter of the heart, because Hubert was a man of great and good heart.

I have tried since yesterday, to find a conclusion that was different, to say in another way what I felt about Humphrey. But I couldn't, so I would like to repeat it again. Hubert taught us all how to hope and how to love, how to win and how to lose, he taught us how to live and, finally, he taught us how to die.

LEE METCALF

Mr. KENNEDY. Mr. President, I am proud to join my colleagues today in tribute to the memory of our distinguished friend and colleague from Montana, LEE METCALF, whose death 2 weeks ago deprived the Senate of one of its most respected members.

To his colleagues, Senator METCALF was best known for his vigorous dedication to the interests of the consumer, especially his many years of effective work in the area of public utilities and utility rate reform.

But he was also an effective Senator in many other areas. I think particularly of his commitment to protecting the interests of the consumer in the long and continuing deadlock over the President's energy program. I also think of his deep commitment to tax reform, his longstanding interest in constitutional law, and his extensive study and interpretations of judical decisions that affect the role of Congress and members of both the House and the Senate.

He was also an outstanding representative of the people of Montana. I visited Montana six times during the Presidential election campaign of 1960. I first met LEE METCALF at that time, and I saw first hand his dedication to the citizens of Montana.

He was then a Congressman, campaigning for his first Senate term. He won that election, and 2 years later I joined him in the Senate, renewing the friendship we had made in the 1960 campaign and treasuring the increasingly warm and close relationship we developed in our service together in this chamber.

Now, the Senate and the people of Montana have lost a fine and dedicated friend and public servant. We shall remember him here in the Senate with affection and respect, as we carry on the work he did so much to champion throughout his long and distinguished career.

TRIBUTE TO SENATOR HUMPHREY

Mr. CULVER. Mr. President, no American leader of our times has been more eloquently and deservedly eulogized than our late beloved colleague, Senator HUMPHREY. His achievements and his peerless personal qualities have been movingly portrayed by our President, Vice President, and other distinguished Americans. I would presume only to add a brief personal footnote to the memorable tributes he has been so rightly accorded.

No political leader in my memory has been more generous in sharing the life blood of his precious time and energy with junior colleagues in public life than HUBERT HUMPHREY. This generosity was always his hallmark, but was even more remarkable in the last days of his life when he continued to share generously when his ebbing strength made the effort almost superhuman. President Carter has spoken of the great help and comfort HUBERT was to him in the first year of his Presidency. I would add that many lesser and even obscure individuals were also beneficiaries of this great American's warmth and wisdom. Greater love and capacity for sharing had no man. There was never another like him. There never will be.

TRIBUTE TO SENATORS METCALF AND HUMPHREY

Mr. SCHMITT. Mr. President, in losing HUBERT HUMPHREY and LEE METCALF we have lost a great deal. We have lost their valuable experience. We have lost their wit and wise counesl. We have lost their legislative initiatives and their eloquence. Perhaps the greatest loss is the pleasure of their company.

My personal association with Senator METCALF began only a year ago. As westerners, we found a shared concern for conservation, for economic development, and for regulatory reform. It was an honor to serve with the Senator and a greater honor to know him.

My association with Senator HUMPHREY is somewhat longer. His support of the space program during his tenure as Vice President was total. Further, he seemed to genuinely like astronauts. We genuinely liked him back. Then I came to the Senate and I saw HUBERT HUMPHREY the exemplary Senator. His zeal for our country, his concern for his colleagues, his determination to make certain that all men and women had the equal opportunity to excel were unsurpassed. He genuinely loved the Senate. We genuinely loved him back.

TRIBUTE TO SENATOR METCALF

Mr. STEVENSON. Mr. President, LEE METCALF was a populist from the heartland of America. In his life the endeavors of government and the aspirations of the common man were one. He was strong in his convictions, plain in his speech and to the end, a friend of all who knew him and a faithful servant to the people. He fought for the common good without guile or fanfare. He struggled to make the Congress a more faithful institution of self-government. He was one of the finest, most decent and generous men I have ever had the good fortune to know. The Nation and the Senate are made poorer by the loss of this good and gentle man.

TRIBUTE TO SENATOR HUMPHREY

Mr. STEVENSON. Mr. President, no words this morning will sum up the vitality and spirit of HUBERT HUMPHREY or do justice to his work. Yet, we cannot let him go without still another word of affection and a last chance to touch the hem of his goodness. Our words are a pale reflection of our feelings.

HUBERT HUMPHREY was a man of boundless goodwill. He was spontaneous and light-hearted. Like Jefferson and all those optimistic figures of the 19th century, he had faith in the possibilities for reason and progress in the world. He had faith in the good sense and decencies of the people and in the prospects for self-government by a free people. No failure, no defeat daunted him. He always rejoiced in what we were, was keenly aware of what we were not and remained deeply committed to what must be done.

Few men of such articulated conviction on the cutting edge of so many issues have received such acclaim. HUBERT HUMPHREY was a citizen of the world. He made the most of life. He exulted in life, even to the end. He devoted himself unremittingly to the welfare of humanity. And it is reassuring to people everywhere that he could have lived, and died, as he did.

AUTHORIZATION FOR THE RECORD TO REMAIN OPEN FOR 10 DAYS FOR EULOGIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open for 10 days for the convenience of other Senators who may not have had the opportunity on this day to express their condolences and sorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE EULOGIES TO BE COMPILED AND PUBLISHED AS SENATE DOCUMENTS

Mr. ROBERT C. BYRD. Mr. President, I further ask unanimous consent that at the end of that period all eulogies with respect to our late departed colleagues be compiled and published as Senate documents.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business so as to accommodate Senators in the introduction of statements, resolutions, bills, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOHN McCLELLAN

Mr. GRIFFIN. Mr. President, one of the giants of the Senate, John McClellan, died, and I have not heretofore spoken concerning his death.

An eminent South Carolinian, John C. Calhoun, once said:

> The very essence of free government consists in considering offices as a public trust, bestowed for the good of the country, and not for the benefit of an individual or party.

It seems most appropriate to recall those words as we reflect on the service of another towering statesman from the South, our good friend and colleague, John L. McClellan.

John McClellan felt strongly about the principle that service in public office is a public trust. He served his country mostly in the Senate, during three wars and the vast social and political upheavals that surrounded them. Through it all he held steadfast to other ideals as well which guided his life. They included his dedication to the principle of law and order as the foundation of a civilized people, his abiding sense of fairness, and his unswerving belief that this Nation's fate must ultimately rest with the people.

He came into national prominence in the mid-1950's when the Senate Permanent Investigations Subcommittee, which he headed, exposed abuses in labor unions and the insidious role of organized crime, particularly the Mafia, in this country. The committee's long and dramatic inquiry aroused the Nation to the dangers from lawless elements in its midst, and led to concerted Federal efforts to bring the guilty to justice.

Later, as chairman of the Senate Appropriations Committee, John McClellan used his great influence for Federal fiscal responsibility and a strong national defense in an uncertain and challenging world.

As a member of the Senate Judiciary Committee, he was not privileged to live to see the final enactment of what could become the outstanding monument of his career—the revision and simplification of Federal criminal statutes. This undertaking, to which he devoted years of grinding study and work, may well stand as the ultimate fruit of his devotion to the high principles of law and order.

While he attained national prominence, John McClellan never forgot where he came from. He worked unceasingly for the development of the waterways of Arkansas and its natural resources, and the attraction of new industry that would provide for those who sent him to the Senate a more abundant life.

It was not only in his public life that John McClellan revealed his amazing strength of character. His personal life was marked by tragedy in the loss of three sons in their young manhood—and he found, as his good friends knew, within himself the faith and courage to go on where other might have faltered.

John McClellan was often pictured in the media as dour and uncompromising. To those who worked with him and knew him well, he was a person of extraordinary grace and charm.

His announcement shortly before his death that he would not seek reelection to the Senate was expressed with typical dignity and felicity. He said there was a season for everything and the time had come (he would have been 82 years old on February 25) to retire from public life.

John McClellan often fretted that he was not able to accomplish as much as he would like. When we, who were his colleagues, reflect on what it meant to have the privilege of working with him through the years, we have little to regret—except that we could not have had his living example in our midst a little longer.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT—PM 142

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report, which, without being read, was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1976 Annual Report of the Federal Prevailing Rate Advisory Committee.

While not specifically addressed in the attached report, I want to express my concern that little progress appears to have been made in reforming the prevailing rate system for adjusting wages of Federal blue collar employees. In my February 22, 1977 message to the Congress, I strongly recommended early enactment of legislation to correct those provisions of current law that cause significant departures from the local prevailing rate principle, and result in an unfair competitive advantage for the Federal Government and unjustifiable payroll costs. A draft bill which would achieve these objectives was submitted to the Congress early last year. I am convinced that this bill will correct the most serious deficiencies in the prevailing rate system and I wish to reiterate my concern for its passage.

JIMMY CARTER.

THE WHITE HOUSE, *January 24, 1978.*

MESSAGES FROM THE HOUSE

At 12:19 p.m., a message from the House of Representatives delivered by Mr. Hacknev, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 8771. An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes;

H.R. 9165. An act to authorize the Secretary of State to acquire a statue or bust of George C. Marshall for placement in the Department of State;

H.R. 9169. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel; and

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 8771. An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes; to the Committee on Governmental Affairs.

H.R. 9165. An act to authorize the Secretary of State to acquire a statue or bust of George C. Marshall for placement in the Department of State; to the Committee on Foreign Relations.

H.R. 9169. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel; to the Committee on Commerce, Science, and Transportation.

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camp; to the Committee on Governmental Affairs.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The Presiding Officer laid before the Senate the following communications, together with accompanying reports, which were referred as indicated:

EC–2571. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Fiscal Year 1979 Budget (with accompanying documents); to the Committee on Appropriations and the Committee on the Budget, jointly, by unanimous consent.

EC–2572. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, January 1978 (with an accompanying report); to the Committee on Appropriations, the Committee on the Budget, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Governmental Affairs, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Human Resources, the Committee on Finance, and the Committee on Banking, Housing, and Urban Affairs, jointly, pursuant to order of January 30, 1975.

EC–2573. A communication from the Secretary of Agriculture, transmitting, pursuant to law, notice of further revision to the regulations governing operations under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2574. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to repeal the Tobacco Seed and Plant Exportation Act of 1940 (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2575. A communication from the Assistant Secretary and Chairperson, National Advisory Council on Maternal, Infant and Fetal Nutrition, transmitting, pursuant to law, the 1977 annual report of the National Advisory Council on Maternal, Infant and Fetal Nutrition (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2576. A communication from the Assistant Secretary for Food and Consumer Services, Department of Agriculture, transmitting, pursuant to law, a Study of the Factors Affecting Meal Quality Under the Summer Program (with an accompanying document); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2577. A communication from the Acting Director, Office of Management and Budget, Executive Office of the Secretary, reporting, pursuant to law, that the appropriation to the Department of the Treasury for "Salaries and expenses," United States Service for the fiscal year 1978 has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriations; to the Committee on Appropriations.

EC–2578. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Smithsonian Institution for "Salaries and Expenses" for the fiscal year 1978 has been apportioned on a basis which indicates a necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC–2579. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the National Gallery of Art for "Salaries and Expenses" for the fiscal year 1978 has been apportioned on a basis which indicates a necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC–2580. A communication from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of an REA insured loan in the amount of $5,442,000 to San Luis Valley Rural Electric Cooperative, Inc., of Monte Vista, Colorado (with accompanying papers); to the Committee on Appropriations.

EC–2581. A communication from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of an REA insured loan in the amount of $2,607,000 to Plumas-Sierra Rural Electric Cooperative, Inc., of Portola, California (with accompanying papers); to the Committee on Appropriations.

EC–2582. A communication from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of an REA insured loan in the amount of $14,765,000 to Tri-State Generation and Transmission Association, Inc., of Thorton, Colorado, for the financing of certain transmission facilities (with accompanying papers); to the Committee on Appropriations.

EC–2583. A communication from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of an REA insured loan to Plains Electric Generation and Transmission Cooperative, Inc., of Albuquerque, New Mexico, in the amount of $3,675,000, which includes $2,756,000 to finance certain transmission facilities, the remaining funds to be used to finance headquarters facilities (with accompanying papers); to the Committee on Appropriations.

EC–2584. A communication from the Chairman, Federal Communications Commission, reporting, pursuant to law, on a violation of Section 3679 of the Revised Statutes, as amended (with accompanying papers); to the Committee on Appropriations.

EC–2585. A communication from the Secretary, Railroad Retirement Board, reporting, pursuant to law, that no apportionment request was made for the 1977 fiscal year supplemental appropriation for the Regional Rail Transportation Protective Account nor was apportionment requested for the unobligated balance (carryover) remaining at the end of fiscal year 1977; to the Committee on Appropriations.

EC–2586. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend chapter 5, title 37, United States Code, to restructure the rates of special pay for sea duty (with accompanying papers); to the Committee on Armed Services.

EC–2587. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, reports of military construction projects placed under contract in Fscal Year 1977 in which it was necessary to exceed the amount authorized for the project by the Congress by more than twenty-five percent, or reduce the project scope by more than twenty-five percent (with accompanying reports); to the Committee on Armed Services.

EC–2588. A communication from the Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (ISA), Security Assistance, transmitting, pursuant to law, the required information concerning the Department of the Army's proposed Letter of Offer to the United Kingdom for Defense Articles estimated to cost in excess of $25 million (with accompanying papers); to the Committee on Armed Services.

EC–2589. A communication from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, on property acquisitions of emergency supplies and equipment for the quarter ending December 31, 1977; to the Committee on Armed Services.

EC–2590. A communication from the Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report on financial contributions to the states, personnel and administration (Reports Control Symbol DCPA/CONG(A)(2) for the fiscal year ending September 30, 1977 (with an accompanying report); to the Committee on Armed Services.

EC–2591. A communication from the President and Chairman, Export-Import Bank, reporting, pursuant to law, on an Eximbank transaction with Furnas Centrais Electricas S.A. (FURNAS); to the Committee on Banking, Housing, and Urban Affairs.

EC–2592. A communication from the Comptroller General of the United States, reporting, pursuant to law, on loan activities of the Lockheed Aircraft Corporation, Burbank, California; to the Committee on Banking, Housing, and Urban Affairs.

EC–2593. A communication from the Acting Chairman, National Transportation Safety Board, reporting, pursuant to law, on probable cause in General Aviation Accident of April 30, 1977, Englewood, Colorado (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–2594. A communication from the President, United States Railway Association, transmitting, pursuant to law, (1) a justification for an FY 1978 supplemental appropriation in the amount of $13 million; and (2) a justification for an FY 1979 appropriation in the amount of $27.2 million (with an accompanying document); to the Committee on Commerce, Science, and Transportation.

EC–2595. A communication from the President, United States Railway Association, transmitting, pursuant to law, the fourth annual report of the United States Railway Association (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2596. A communication from the Secretary of Transportation, transmitting, pursuant to law, a calendar year 1977 report on the utilization of the authority granted in 37 U.S.C. 306 (to pay special pay to U.S. Coast Guard officers holding positions of unusual responsibility and of critical nature) (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2597. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the Consumer Product Safety Commission's fiscal year 1979 budget request (with an accompanying document); to the Committee on Commerce, Science, and Transportation.

EC–2598. A communication from the Chairman, Federal Maritime Commission, transmitting a draft of proposed legislation to amend the Intercoastal Shipping Act, 1933, to make public the financial reports of common carriers by water in interstate commerce, and for other purposes (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–2599. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to designate certain lands in the State of Alaska as units of the National Park, National Forest, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2600. A communication from the Secretary of Transportation, transmitting, pursuant to law, the second annual report reviewing the progress made in formulating average automotive fuel economy standards (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2601. A communication from the Acting General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2602. A communication from the President, National Academy of Sciences, transmitting, pursuant to law, a report entitled "Response to the Ozone Protection Sections of the Clean Air Act Amendments of 1977: An Interim Report" (with an accompanying report); to the Committee on Environment and Public Works.

EC–2603. A communication from the Deputy Assistant Secretary, Department of the Interior, reporting, pursuant to law, on deferments granted under authority of the Act of September 21, 1959 (73 Stat. 584), amending the Reclamation Project Act of 1939; to the Committee on Energy and Natural Resources.

EC–2604. A communication from the Chairman, Pennsylvania Avenue Development Corporation, transmitting a draft of proposed legislation to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the United States Treasury to further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes (with accompanying papers); to the Committee on Energy and Natural Resouces.

EC–2605. A communication from the Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report, dated January 1, 1978, on the program of research and monitoring of the stratosphere during the years 1975 through 1977 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2606. A communication from the Chairman, Advisory Committee on Reactor Safeguard, Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the safety research program of the United States Nuclear Regulatory Commission (with an accompanying report); to the Committee on Environment and Public Works.

EC–2607. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the progress of the Upper Atmospheric Research Program, January 1, 1978 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2608. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of space by lease in Arlington, Virginia (with accompanying papers); to the Committee on Environment and Public Works.

EC–2609. A communication from the Office of Congressional Affairs, Nuclear Regulatory Commission, reporting, pursuant to law, the execution of a research contract which omitted the "Examination of Records By the Comptroller General" Provision from the usual contract format; to the Committee on Environment and Public Works.

EC–2610. A communication from the Deputy Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a statement of liabilities and other financial commitments of the United States government as of September 30, 1977 (with an accompanying document); to the Committee on Finance.

EC–2611. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the twelfth quarterly report on trade between the United States and the nonmarket economy countries (with an accompanying report); to the Committee on Finance.

EC–2612. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report concerning grants approved which are financed wholly with Federal funds (with an accompanying report); to the Committee on Finance.

EC–2613. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second annual report on the Child Support Enforcement program, December 31, 1977 (with an accompanying report); to the Committee on Finance.

EC–2614. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the 28th report of the United States International Trade Commission on the operation of the Trade agreements program (with an accompanying report); to the Committee on Finance.

EC–2615. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, standards relating to Part 232, Special Provisions Applicable to Title IV–A of the Social Security Act, Good Cause for Refusing to Cooperate (with an accompanying document); to the Committee on Finance.

EC—2616. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Combined Statement of Receipts, Expenditures and Balances of the United States Government for the Fiscal Year Ended September 30, 1977" (with an accompanying report); to the Committee on Finance.

EC–2617. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC–2618. A communication from the Chairman, Board for International Broadcasting, transmitting, pursuant to law, the Fourth Annual Report of the Board for International Broadcasting (with an accompanying report); to the Committee on Foreign Relations.

EC–2619. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC–2620. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC–2621. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC–2622. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC–2623. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Special Pesticide Registration by the Environmental Protection Agency Should Be Improved," January 9, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2624. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Agencies Should Be Given General Multiyear Contracting Authority for Supplies and Services," January 10, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2625. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Worker Assistance Under the Trade Act of 1974—Problems in Assisting Auto Workers," Department of Labor, January 11, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2626. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 11, 1977, which would impose a tax on hotel occupancy, to extend the surtax on corporations and unincorporated businesses, and for other purposes (Act 2–127) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2627. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal and District of Columbia Employees Need To Be in Separate Pay and Benefit Systems," January 12, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2628. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Status of Acquisitions, September 30, 1977," January 20, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2629. A communication from the Chairman, Indian Claims Commission, reporting, pursuant to the Government in the Sunshine Act, P.L. 94–409, 5 U.S.C. 552b(j); to the Committee on Governmental Affairs.

EC–2630. A communication from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2631. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Uniform Accounting and Workload Measurement Systems Needed for Department of Defense Medical Facilities," January 17, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2632. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Standardization in NATO: Improving the Effectiveness and Economy of Mutual Defense Efforts," January 19, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2633 A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on December 6, 1977, which would exempt all veterans in the District of Columbia who are totally and permanently disabled from paying the applicable motor vehicle registration fee for their personal noncommercial motor vehicles (Act 2–128) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2634. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 25, 1977, which would provide for the technical amendment of the Firearms Control Regulations Act of 1975, and for other purposes (Act 2–129) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2635. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 11, 1977, which would amend certain sections of the District of Columbia Age of Majority Act to include incorporators, and for other purposes (Act 2–131) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2636. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on November 8, 1977, which would regulate the practice of public accounting in the District of Columbia; to authorize the creation of a board of accountancy and to prescribe its powers and duties; and for other purposes (Act 2–130) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2637. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Environmental Protection Agency Needs Congressional Guidance and Support to Guard the Public in a Period of Radiation Proliferation," January 20, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2638. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office issued or released in December 1977 (with an accompanying document); to the Committee on Governmental Affairs.

EC–2639. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on January 10, 1978, which would provide for the conveyance of certain real property of the District of Columbia to the Pennsylvania Avenue Development Corporation, and for other purposes (Act 2–132) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2640. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "National Water Quality Goals Cannot Be Attained Without More Attention to Pollution From Diffused or 'Nonpoint' Sources," December 20, 1977 (with an accompanying report); to the Committee on Government Affairs.

EC–2641. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations entitled "Information Value/Burden Assessment," September 9, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2642. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations entitled "The Federal Information Locator System," July 15, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2643. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1977," January 9, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2644. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Section 236 Rental Housing—An Evaluation With Lessons for the Future," January 10, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2645. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations, Basic Skills Research Grants Program (with accompanying papers); to the Committee on Human Resources.

EC–2646. A communication from the Chairman, Vice Chairman, and Commissioners, Commission on Civil Rights, transmitting, pursuant to law, a report entitled "The Age Discrimination Study," December 1977 (with an accompanying report); to the Committee on Human Resources.

EC–2647. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "Health, United States, 1976–1977" (with an accompanying report); to the Committee on Human Resources.

EC–2648. A communication from the Chairman, National Advisory Council on Services and Facilities for the Developmentally Disabled, transmitting, pursuant to law, an annual evaluation report, December 1977 (with an accompanying report); to the Committee on Human Resources.

EC–2649. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the direct and affiliated medical residency program data (with an accompanying report); to the Committee on Human Resources.

EC–2650. A communication from the Chairman, Commission on Civil Rights, transmitting, pursuant to law, a report entitled "The Federal Civil Rights Enforcement Effort—1977, To Eliminate Employment Discrimination: A Sequel," December 1977 (with an accompanying report); to the Committee on Human Resources.

EC–2651. A communication from the Chairman and Commissioners, Indian Claims Commission, transmitting, pursuant to law, the 1977 annual report of the Indian Claims Commission (with an accompanying report); to the Select Committee on Indian Affairs.

EC–2652. A communication from the Attorney General of the United States, transmitting, pursuant to law, the Attorney General's biennial report on federal law enforcement and criminal justice assistance activities (with an accompanying report); to the Committee on the Judiciary.

EC–2653. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period December 16 through December 30, 1977, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying reports); to the Committee on the Judiciary.

EC–2654. A communication from the Administrative Officer, International Boundary and Water Commission, United States and Mexico, transmitting, pursuant to law, a report relating to the Freedom of Information Act, covering calendar year 1977 (with an accompanying report); to the Committee on the Judiciary.

EC–2655. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, a statement setting forth all the judgments rendered by the United States Court of Claims for the year ended September 30, 1977 (with an accompanying document); to the Committee on the Judiciary.

EC–2656. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report for fiscal year 1977 on the nature and disposition of all cases in which an institution, approved for Veterans Benefits, utilizes advertising, sales or enrollment practices which are erroneous, deceptive, or misleading, either by actual statement, omission, or intimation (with an accompanying report); to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM–434. A resolution adopted by the Legislature of the State of Michigan; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION No. 316

"Whereas, An official Coast Guard inquiry into the sinking of the freighter Edmund Fitzgerald during a Lake Superior gale on November 10, 1975, has raised more questions than it has answered; and

"Whereas, The Coast Guard's claim that the Fitzgerald sunk after taking in water for several hours through leaking hatch covers has been disputed by both the Seafarers International Union and the Great Lakes Carriers Association. However, these two groups are not in agreement as to the cause of the sinking. Furthermore, the seaman's union has voiced accusations that the Coast Guard has failed to implement recommendations made by two boards of inquiry after previous sinkings; and

"Whereas, Such disputes and charges indicate that the full story of the sinking of the Edmund Fitzgerald may not yet have been told. For the prevention of further tragedies and the preservation of the Great Lakes shipping industry's integrity, a full and impartial investigation should be made of the Edmund Fitzgerald disaster; now, therefore, be it

"Resolved by the House of Representatives, That the United States Congress be hereby urged to investigate the sinking of the Edmund Fitzgerald; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and to each member of the Michigan delegation to the Congress of the United States."

POM–435. A resolution adopted by the Capitol City Regional Association, Oakdale, Minn., regarding funding for the National Fire Academy, NFPCA; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SASSER, from the Committee on Governmental Affairs, with an amendment:

S. 666. A bill to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes (Rept. No. 95–615).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATSUNAGA:

S. 2415. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. JAVITS (for himself and Mr. KENNEDY):

S. 2416. A bill to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training; to the Committee on Human Resources.

By Mr. DOLE:

S. 2417. A bill to amend section 813 of the Agricultural Act of 1970 in order to require the Secretary of Agriculture to purchase 3 million tons of feed grains for inclusion in the disaster reserve provided for in such section; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATHIAS:

S. 2418. A bill for the relief of the Fondation Josee et Rene de Chambrun; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2419. A bill to authorize the Secretary of the Navy to convey to the State of Hawaii certain lands referred to as the Navy drum storage area for educational purposes; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself and Mr. KENNEDY):

S. 2416. A bill to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training; to the Committee on Human Resources.

NURSE TRAINING AMENDMENTS OF 1978

Mr. JAVITS. Mr. President, I am pleased to introduce this 2-year extension of the Nurse Training Act. Members of the Senate will remember our problems in enacting the 1975 version of this law. First it was pocket vetoed, then after we carefully reconsidered and revised that version it was vetoed by the President. However, both houses firmly indicated their strong support for nurse education by overwhelmingly overriding the President's veto (House 384 to 43; Senate 67 to 15).

Since then we have had to continue showing our support for nursing education in each appropriation bill, because of administration failure to give nursing a high budget priority. I hope this may now be ended.

This bill is a straight 2-year extension of existing nurse training authorities with only one revision. Financial distress grants (section 815) have been deleted and the $5 million authorized there added to the special projects grants (section 820). If capitation funds are made available to the schools, as the Congress has provided for annually through the appropriations process, the schools of nursing have indicated that there is no need for distress grants.

Also, because the special projects have been funded at their authorization limit for several years, the impetus for these project grants to generate new educational initiatives is being slowed. The additional $5 million will greatly assist these needed efforts.

Ten years ago I authored a major amendment to the Nurse Training Act to provide funds for recruitment and retention of minority students in schools of nursing. That effort has demonstrated positive results. In fact, now one of the options for schools to be eligible for capitation is to increase enrollment of minority students. I trust that the progress stemming from those early grants and contracts is being shared with all nursing schools and with other groups so that opportunities for minority students can be maximized.

During the Human Resources Committee's last hearings on nursing education, data on maldistribution of RN's and the factors contributing to that maldistribution were requested. Several studies are now in process which will provide data for the various States. In addition, the nursing profession is also funding a study on credentialing mechanisms and another on the appropriate entry level preparation for professional nursing. HEW recently sent the Congress a long overdue initial progress report on the current nurse education program, and another report is pending.

Once those activities and studies have been completed during the extension period, our committee will be in a much better position to develop permanent reforms to meet future needs.

Senator KENNEDY, chairman of the Subcommittee on Health and Scientific Research of the Human Resources Committee, has joined with me in cosponsoring this legislation and indicates rapid action by the subcommittee prior to the May 15 budget deadline.

By Mr. DOLE:

S. 2417. A bill to amend section 813 of the Agricultural Act of 1970 in order to require the Secretary of Agriculture to

purchase 3 million tons of feed grains for inclusion in the disaster reserve provided for in such section; to the Committee on Agriculture, Nutrition, and Forestry.

DISASTER GRAIN RESERVE

Mr. DOLE. Mr. President, today I introduce legislation mandating the Secretary of Agriculture to implement the disaster grain reserve provisions of the Food and Agriculture Act of 1977.

HISTORY OF DISASTER RESERVE

The disaster grain reserve was established in 1973 as a separate reserve of Commodity Credit Corporation inventories of wheat, feed grains, and soybeans for the sole purpose of alleviating distress caused by natural disaster. Stocks in the reserve, which was not to exceed 75 million bushels, were not subject to normal CCC sales, but were to be held for distribution, or sale at beneficial prices, to disaster-stricken livestock owners.

Prior to 1977, stocks for the disaster reserve could only be acquired through the price support programs. Consequently, there were insufficient stocks to cope with the feed emergency caused by drought conditions in the upper Great Plains States in 1976. By November 1976, all stocks available for assistance to drought-stricken livestock owners were depleted.

In order to provide continued assistance, the Department of Agriculture was forced to call upon the Federal Disaster Assistance Administration to use emergency authorities provided in the Disaster Relief Act of 1974. Three hastily conceived programs were rushed into existence under authority of the Disaster Relief Act. These programs were the hay transportation program, the cattle transportation program, and the emergency feed program.

My colleagues may recall that our experience with these three programs was far from satisfactory. Without going into details, I need only point to the highly critical program assessments released in 1977 by the General Accounting Office and by USDA's Office of Audit.

NEED FOR AMPLE RESERVE

The inadequacies of the hay transportation, cattle transportation, and emergency feed programs underscored the value and importance of the Disaster Grain Reserve. In order to assure that reserve stocks would be adequate to meet the needs of any future disaster, Congress gave the Secretary of Agriculture authority in the Food and Agriculture Act of 1977 to purchase stocks on the market if price support stocks were inadequate.

Unfortunately, the Secretary has not made us of this authority. The reserve has been empty since the last stocks of oats were depleted in November 1976.

With these considerations in mind, I introduce legislation today to increase the capacity of the disaster grain reserve to 3 million metric tons, and to require the Secretary of Agriculture to stock the reserve to capacity within 6 months of enactment of my bill.

Hopefully, the prolonged drought experience of 1976 and 1977 will not recur in 1978. But if drought or any other natural disaster, befalls our already troubled livestock producers in 1978, we must be prepared to respond with adequate assistance. I therefore, urge my colleagues in the Senate to give prompt and favorable consideration to this legislation.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2419. A bill to authorize the Secretary of the Navy to convey to the State of Hawaii certain lands referred to as the Navy drum storage area for educational purposes; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, I am introducing today, with Senator MATSUNAGA, a bill to authorize the Secretary of the Navy to convey to the State of Hawaii certain lands referred to as the Navy drum storage area, for educational purposes.

The Navy drum storage areas comprises approximately 43.813 acres of land located near the Pearl Harbor Naval Base, on the western boundary of Leeward Community College and is used by the Navy for fuel storage and supply purposes. As early as 1966, the University of Hawaii expressed interest in acquiring this land in order to provide for the expansion of the college. Despite a thorough investigation by the Navy and the State, of the means available to accomplish a transfer, no solution satisfactory to all parties concerned has been reached within existing legislative and procedural constraints. Accordingly the Governor has sought the help of the Hawaii congressional delegation to sponsor enabling legislation; that is, legislation that would provide for the replacement of the Navy facility on other Navy-owned property. The bill that I am submitting today will accomplish this by directing the State of Hawaii to pay to the Navy the fair market value of the property to be used for site preparation and construction of a replacement facility. A similar transfer was accomplished by Public Law 93-166, 93d Congress, which authorized the conveyance of the Fort Ruger land to the State of Hawaii for educational purposes.

Leeward Community College currently serves the academic and vocational training needs of about 5,177 students. Enrollment trends indicate that a significant increase in the student body can be expected over the next few years. The construction of the facilities necessary to accommodate this growth will, within 4 to 6 years, deplete all lands available within the present site. Once this happens the Naval drum storage area will be needed by the college to provide space for further enrollment increases and for the construction of facilities for new vocational programs. In the very immediate future, the acquisition of the drum storage area will furnish the necessary land resources for the school's recreational instructors program and for the recreation of its students including intramural activities.

In a 1974 letter to Christopher Cobb, chairman of the Board of Land and Natural Resources, the Commandant of the 14th Naval District, Rear Adm. T. W. McNamara agreed that the highest and best use of the Naval drum storage land would be for educational purposes. I cannot agree more with this assertion and I am most pleased with the cooperation and help the Navy has given this effort to legislatively effect a land transfer that will greatly benefit Hawaii's youth.

Mr. President, I ask unanimous consent to have the text of my bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Navy or his designee is hereby authorized to convey to the State of Hawaii, subject to the terms and conditions hereafter stated, and to such other terms and conditions as the Secretary of the Navy or his designee shall deem to be in the public interest, all right, title, and interest of the United States in and to certain land, with improvements thereon, referred to as the Navy Drum Storage area as described in section 3.

SEC. 2. In consideration for the conveyance between the United States of the property described in section 3, the State of Hawaii shall pay to the United States the fair market value of the property to be conveyed, as determined by the Secretary of Navy, or his designee, the money so paid shall be available for site preparation and construction by the Navy of the new storage facilities to replace the Navy Drum Storage Facilities (Ewa Junction) and the Secretary, or his designee, is authorized to accept, hold, obligate, and disburse such funds to accomplish the aforesaid placement.

SEC. 3. The lands authorized to be conveyed to the State of Hawaii as provided in the first section of this Act is an area of land referred to as the Navy Drum Storage Area and comprise approximately 43.813 acres, including an area designated as the "public works center" and the "naval supply center", together with improvements thereon, as generally depicted on the Real Estate Summary Map, Ewa Junction, Oahu, Hawaii, Department of the Navy (revised December 4, 1975). The exact description and acreage of the land to be conveyed shall be determined by an accurate survey as mutually agreed upon between the State of Hawaii and the Secretary of the Navy or his designee.

ADDITIONAL COSPONSORS

S. 1571

At the request of Mr. MCINTYRE, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 15171, a bill to grant the National Ski Patrol System a Federal corporate charter.

S. 1914

At the request of Mr. BAYH, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1914, a bill to amend title XIX of the Social Security Act.

S. 1967

At the request of Mr. ROBERT C. BYRD, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 1967, a bill to amend the Social Security Act to continue the requirement on the part of the States to make social

security payments and reports on a calendar-quarter basis.

S. 2261

At the request of Mr. HATHAWAY, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 2261, a bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

S. 2317

At the request of Mr. HEINZ, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2317, the Trade Procedures Reform Act.

S. 2373

At the request of Mr. INOUYE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2373, a bill to provide for the establishment of a division of minority mental health programs.

S. 2378

At the request of Mr. INOUYE, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2378, a bill to increase the amount of funds available for Native American employment and training programs.

SENATE JOINT RESOLUTION 101

At the request of Mr. DOMENICI, the Senator from Connecticut (Mr. WEICKER), the Senator from Nevada (Mr. LAXALT), the Senator from Arkansas (Mr. HODGES), the Senator from Alaska (Mr. STEVENS), the Senator from North Dakota (Mr. BURDICK), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Joint Resolution 101, a joint resolution to authorize the President to issue a proclamation designating a memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year.

PANAMA CANAL TREATY, EX. N, 95-1
AMENDMENTS NOS. 7 AND 8

At the request of Mr. DOLE, as in executive session, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of amendments Nos. 7 and 8 to the treaty concerning the permanent neutrality and operation of the Panama Canal.

AMENDMENT NO. 11

At the request of Mr. DOLE, as in executive session, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of amendment No. 11 to the treaty concerning the permanent neutrality and operation of the Panama Canal.

SENATE RESOLUTION 356—SUBMISSION OF A RESOLUTION RELATING TO COOPERATION OF THE REPUBLIC OF SOUTH KOREA

(Referred to the Committee on Foreign Relations.)

Mr. WEICKER submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 356

Resolved, That (a) the Senate insists that the Government of the Republic of Korea cooperate fully with the investigation being conducted by the Select Committee on Ethics to determine whether Members of the Senate, their immediate families, or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof. In particular, the Senate insists that the Government of the Republic of Korea take all steps within its power to ensure that Tongsun Park, Kim Dong Jo, and such other individuals as the Select Committee on Ethics may find necessary for its investigation will be available to the Select Committee for questioning, testimony, and other purposes relating to that investigation.

(b) The Senate declares that failure of the Government of the Republic of Korea to cooperate fully with the investigation being conducted by the Select Committee on Ethics will have a negative impact on relations between the United States and the Republic of Korea, including United States programs of assistance for that country.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Ambassador of the Republic of Korea to the United States for transmittal to his government.

Mr. WEICKER. Mr. President, yesterday, a resolution was introduced in the House of Representatives insisting that the Republic of Korea make available to the House Committee on Standards and Official Conduct the testimony of Tongsun Park and certain other Korean Government officials.

Today, I am submitting a companion resolution to insist that the Republic of Korea provide the Senate Ethics Committee and its staff similar access to Tongsun Park and others or else face curtailment of U.S. military and economic aid. I am firmly convinced that the testimony of Mr. Park and other Korean Government officials is essential if we are to shed any light on the allegations of Senate wrongdoing in what is now known as "Koreagate." Too many suspect Senate involvement, and the basis for flat denial of such suspicions is not in hand. We can neither accuse nor excuse without hard evidence.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

Mr. CHILES. Mr. President, on Tuesday, February 7, 1978, the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will continue hearings on the Oversight of Small Business Administration Reform Efforts of the 8(a) program. The hearing will be in 457 Russell Senate Office Building, beginning at 10 a.m. For further information regarding the hearing, please contact Mr. Ronald A. Chiodo, subcommittee chief counsel and staff director (224-0211).

SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUYE. Mr. President, I should like to announce that the Select Committee on Intelligence will hold hearings on the nomination of Ambassador Frank Carlucci to be the Deputy Director of Central Intelligence. The hearings will begin at 10 a.m. on Friday, January 27, in room 6202 Dirksen Senate Office Building.

Any party interested in appearing or filing a statement regarding this nomination should advise the committee. The committee's office number is 224-1700.

ADDITIONAL STATEMENTS

THE STATE OF THE U.S. AIRLINE INDUSTRY—AND A LOOK TO THE 1980'S

Mr. INOUYE. Mr. President, recently the president of the Air Transport Association, Paul R. Ignatius, addressed the New York chapter of the National Defense Transportation Association.

He reported on the state of the U.S. airline industry, and the outlook for the 1980's.

Mr. Ignatius reported that the present state of the U.S. airline industry is relatively good.

In terms of service to passengers and shippers, he said that 1977 was a year of record-breaking performance, and new records likely will be set in 1978. Air transportation in the United States is a growth industry, and will exceed $20 billion in revenues this year.

Airline earnings achieved records in 1977, but remained well below the levels necessary to meet urgent capital investment needs for the years immediately ahead. Mr. Ignatius concluded this continued deficiency in earnings is a matter of great concern.

Mr. President, during this session the Senate will be considering the Air Transportation Regulatory Reform Act of 1978.

What Mr. Ignatius said is, in my judgment, very timely and relevant. I therefore ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE STATE OF THE U.S. AIRLINE INDUSTRY—AND A LOOK TO THE 1980'S

At the start of what is certain to be an exciting year for all of us who are concerned with transportation and its vital role in contributing to the strength, security and quality of life in America, I welcome this opportunity to address the New York Chapter of the National Defense Transportation Association on the state of the U.S. airline industry and a look to the 1980's.

This is a time for review and a look to the future. In the State of the Union message to be presented by President Carter next week to a Joint Session of Congress and in the annual reports of corporations and organizations of all types, the nation is reviewing events and achievements of the past year and is looking toward the road ahead. It is especially appropriate to make a review of this kind before an NDTA group, which brings together people, in and out of uniform, who are committed to the excellence of public service in improving all modes of transportation.

I can report to you today at the outset of 1978—the year which marks the 75th Anniversary of the first powered flight at Kitty Hawk on December 17, 1903—that the state of the U.S. airline industry is relatively good.

In terms of service to passengers and shippers, 1977 was a year of record-breaking performance, and new records likey will be set in 1978. Air transportation in the United States is a growth industry and will exceed $20 billion in revenues this year.

Airline earnings achieved records in 1977, but remained well below the levels necessary to meet urgent capital investment needs

for the years immediately ahead. This continued deficiency in earnings is a matter of great concern.

As we approach the 1980's, the outlook for the U.S. airlines cannot—at least at this point—be described with full precision. Formidable challenges and opportunities lie ahead, and I shall have more to say on this.

Let me now briefly review what happened in 1977, and following that share with you some thoughts about the future.

In 1977, there were, in my judgment, four major developments in air transportation. The busy year was marked by:

Regulatory reform debate.

Experimentation with discount fares and mass transportation concepts.

Reorientation of Civil Aeronautics Board regulatory philosophy.

A burgeoning volume of passenger transportation.

First: At the take-off of 1977 and throughout the year, the air transportation scene in the United States was marked by extensive public policy debate on regulatory reform. At local levels, in the Congress, in the Administration, in the press, and throughout the airline industry, this complex and pervasive issue was debated with intensity and strong convictions. In 1978, this national debate continues. There is unanimous agreement only on the crucial need for the United States to maintain what it now has—the world's finest air transportation system. Views differ sharply on how best to assure this leadership.

There was, at year's end, legislative action that will bring profound changes in cargo transportation, and changes immediately ahead will be followed closely.

Second: While the regulatory reform issue remained on the national agenda for resolution, the airlines in 1977 initiated major experiments with discount fares, both domestically and internationally, and gave new impetus to mass transportation concepts through the skies. A recently completed Gallup Survey shows that 63 per cent of all adult Americans now have flown on commercial airlines. The "folks next door" have taken over from the so-called elite "jet set".

Third: Under the leadership of Chairman Alfred Kahn, the Civil Aeronautics Board in 1977 reoriented regulatory philosophy, giving new emphasis and precedence to competition, innovation, and lower fares. While it is yet uncertain where this reorientation will lead, the fact is that the airline industry, as it has demonstrated in the past, not only was able to adjust to this philosophy, but was able to do so in a manner that outperformed the general economy and achieved all-time performance records.

Fourth: The dominant role of air transportation in public intercity travel was demonstrated in 1977 as passenger traffic rose about 8 per cent above the previous record year of 1976. Some 240 million passengers relied on the airlines for business and personal travel, and accounted for more than 80 per cent of public intercity passenger miles. This rise in air travel exceeded significantly the rise in real Gross National Product, and again placed the airlines at the leading edge of growth in America. It is estimated that air travel will grow another 5-6 per cent this year.

There were other air transportation developments worthy of mention in this report on 1977.

As the nation focused high priority attention on energy issues, the airlines continued to emphasize conservation gains—a vital necessity to an industry which has seen fuel costs triple from 1973.

Addressing the reality of steeply rising costs of fuel, labor, landing fees and other major elements of air transportation, the CAB in 1977 took belated but welcomed action to adopt an anticipatory cost concept, and thereby to avoid in the future multi-million dollar penalties imposed on the airlines because of a lag in recovering cost increases. This action, I believe, demonstrates a strong recognition by the CAB that the air transportation system, if it is to meet consumer and defense augmentation requirements, must no longer be unduly penalized because of inflationary pressures throughout the economy.

On the environmental front, the House Public Works and Transportation Committee, following extensive hearings, reported favorably on legislation that provides the means, at no expense to the general tax payer, for the airlines to meet stringent retroactive noise standards imposed by the government. Enactment of this legislation in 1978 will make possible, with huge capital outlays by the airlines, the procurement and retrofit of hundreds of airplanes that will bring quieter skies to America, save millions of gallons of fuel, create thousands of jobs, and help assure U.S. technological leadership in aircraft development and production.

In 1977, the tourism industry in the United States, depending heavily on air travel, amounted to more than $100 billion, and directly accounted for an estimated four million jobs. Airline industry employment, after a dip in recent years, expanded to more than 300,000 with average total compensation of about $25,000, one of the highest of all industries.

But whatever the records of growth and service and job creation in 1977, air transportation throughout its first 51 years of scheduled service has been and is today a look-ahead industry, proud of past achievements, to be sure, but dedicated to meet future challenges and opportunities.

Already, for example, we are at work planning to meet the needs of an air transportation system, which the Federal Aviation Administration estimates will be carrying more that 400 million passengers a year just a decade from now. Investments are being planned today for aircraft which will still be operating in the early years of the 21st century.

So now, let us look ahead to the last years of the 70's and to the decade of the 80's.

What will be crucial above all else to the future of privately-owned air transportation in the United States—nationalization would be a disaster to our free enterprise society—is the ability of the airlines to meet enormous capital needs. Without capital resources, modernization and expansion plans will be only pieces of paper. Paper airplanes don't fly very far, and certainly they do not carry passengers or cargo, and certainly they cannot augment national defense.

Let me put this capital requirement in perspective.

The present fleet of 2,300 aircraft operated by the U.S. scheduled airlines, with supporting facilities and ground equipment, represents an investment of about $21 billion.

During the decade of the 80's, the airlines will need to spend about $60 billion for new equipment, roughly half of that outlay the result of inflation. By comparison, airlines acquired $9 billion worth of aircraft in the 1960's, and investments in the 1970's will be about $15 billion.

Clearly, the massive outlays necessary in the years ahead will require improved airline earnings. It is essential that airline earnings reach at least the level enjoyed by the rest of American industry as a whole—that is, five cents on each dollar of sales. This means, for example, that on revenues of $20 billion, the airlines require for healthy capital growth earnings of $1 billion.

Sustained improvement in airline earnings will stimulate airframe and engine manufacturers to develop more productive aircraft, which will be quieter and more fuel-efficient.

In bygone years, the commercial airlines were able to rely importantly on derivatives of military aircraft, but this is not the case today. The changed situation was illuminated by the recent Air Force decision to acquire for use as a tanker a derivative of a commercial jet.

How well the airlines are able to meet their capital formation needs will have a profound impact on our success in meeting a second challenge of the 1980's—the energy challenge.

The commercial airlines and the military must rely on jet fuel—there is no alternative source—and this is likely to be the case through the 1980's and beyond. Research and development into substitute fuels for aircraft engines for civilian and military requirements, together with the resources to mount such an effort, should be an important part of a national energy policy. Finding substitute fuel sources to power various types of internal combustion engines, including aircraft engines, demands a higher priority in our scientific community.

For the immediate future, the outlook is for further increases in the price of jet fuel—possibly to 75 cents a gallon by the mid-1980's. An upward movement in the price of jet fuel from 38 cents a gallon today to 75 cents in the mid-1980's would mean nearly $4 billion in additional airline operating costs for the same amount of fuel.

Because of soaring fuel costs, the airlines have instituted a series of comprehensive conservation measures, which made possible a reduction in consumption of an estimated 500 million gallons in 1977 compared with 1973, while at the same time carrying 38 million more passengers and more cargo.

To help assure incentives for production of adequate supplies of jet fuel, the airline industry has requested that jet fuel be decontrolled and that appropriate standby safeguards be established to deal with unforeseen supply and cost problems.

But conservation and decontrol of jet fuel prices are, at best, only partial steps in meeting the industry's challenge. Acquisition of more fuel-efficient aircraft represents a more fundamental solution.

There is air transport legislation pending before Congress that would help achieve dramatic results in terms of more productive and quieter aircraft. Passage of this legislation is essential.

The legislation is designed to help meet another airline industry challenge for the 1980's—the challenge of achieving meaningful and cost effective noise reduction.

When present airline aircraft were put into service, they met FAA noise standards then in effect. Recently, however, new Federal noise standards have been adopted. The widely supported bill would accelerate the replacement of older, noisier aircraft with new aircraft that are quieter. The new aircraft would also be more fuel-efficient.

Replacement of more than 400 Boeing 707 and DC-8 aircraft still flying in airline fleets would save 500 million gallons of fuel annually. Additionally, there is airframe, wing, and engine technology now in the works. By the mid-1980's this new technology will enable airline aircraft to reduce fuel consumption by about 20 percent or more per seat mile. And further gains could come from a research program on aircraft fuel conservation now underway at the National Aeronautics and Space Administration.

Aside from these hardware needs, there are other basic problems confronting the airline industry in the years ahead.

I have discussed the need for resolution of the debate on regulatory reform and decisions on the regulatory framework in which air transportation will function in the 1980's. But it is clear that whatever the legislative outcome, far-reaching changes are underway to meet mounting public demands for air transportation.

Change is necessary, and change has been a hallmark of the airline industry. But we must as a nation, make certain that the scheduled air transportation system, which has contributed so much to the strength

and vitality of America remains the finest transportation system in the world.

In this regard, the long-term effects of the variety of new bargain fares will be important to assess. Will they attract sufficiently large numbers of new passengers to make them economically viable over the long run, or will they weaken the airlines' ability to achieve a stable record of earnings? Clearly, it is too soon to tell, but it is something to watch, not only at home but also in the overseas markets where the U.S. flag carriers operate. For the role of our flag carriers in projecting a U.S. presence abroad and in augmenting the national defense must be recognized along with the obvious interest of the consumer in bargain fares. The upcoming Senate hearings on the international aviation policy will provide a needed forum to review the overall situation.

The growth of aviation in the United States in the 1980's will require new actions—and these must be initiated now—to reduce costly air traffic delays, with consequent waste of fuel. All elements of the aviation community, civilian and military, must work together with the Federal Aviation Administration, the Department of Transportation, and the Department of Defense, to solve this problem.

Aviation growth in America has resulted from cooperative endeavors. A striking example is the close cooperation of the airlines and the Department of Defense, particularly the Civil Reserve Air Fleet program. As I look to a future that will be characterized by sustained airline traffic growth, sharply increased development and acquisition costs, environmental concerns, a need to conserve precious resources such as fuel, and by a relentless requirement to maintain defense readiness, there will be, even more than in the past, a continued requirement for the closest possible cooperation between the airlines and the military. This need is being recognized, but more must be done.

Today, I have reported on airline industry progress in the year that has passed, and I have discussed some important challenges ahead. The record of the past gives us encouragement that these challenges will be met, and the result will be undiminished U.S. leadership in the skies.

IN-LIEU-OF-TAX PAYMENTS FOR ROANE AND ANDERSON COUNTIES, TENN.

Mr. BAKER. Mr. President, I am certain that the arrival of the President's fiscal year 1979 budget today evokes a wide variety of thoughts and reactions among my colleagues. I will have a great deal more to say at a later time regarding the budget in its entirety, but I want to specifically mention at this time one grave omission which directly affects the State of Tennessee.

The President's budget, once again, eliminates in-lieu-of-tax payments for Roane and Anderson Counties, Tenn. These two counties are the home of one of this Nation's largest energy research institutions, the Oak Ridge National Laboratory, as well as the Nation's first gaseous diffusion enrichment plant and the proposed site of the Clinch River breeder reactor. While $1.58 million is retained in the President's budget for the city of Oak Ridge, Anderson and Roane Counties receive no appropriation whatsoever. This is in spite of the fact that the Congress, for a number of years, has exercised its will to provide in-lieu-of-tax funds for such installations in the States of Washington and New Mexico, as well as Tennessee.

Mr. President, the thing that disturbs me most about these cuts is the fact that they have been, once again, administered at the staff level of DOE and OMB, with absolutely no regard for the will of Congress. In each of the past three budgets, the same sequence of events has occurred; and each time the Congress has reinserted the funds. I say to those in the Senate and in the bureaucracy that the Congress will, once again, work its will in this regard.

I am more than willing to discuss this matter publicly with any of my colleagues or any committee to establish once again the principle that, when the Federal Government becomes the chief and almost only industrial developer and landowner in a community, it must bear the responsibility for the impact such an installation has on public services, most importantly schools.

I will propose, once again, an amendment to restore approximately $780,000 for Anderson County and $794,000 for Roane County, as well as to restore the approximate $600,000 cut in payments to the city of Oak Ridge.

Finally, Mr. President, let me once again point out the need for permanent and uniform legislation spelling out the Federal Goverment's responsibility in localities such as these, not only in Tennessee, but in other places as well. I anticipate and appreciate the continued support my colleagues have offered me in this regard.

THE DOE COMMUNITY ASSISTANCE FUNDS SHOULD BE RESTORED

Mr. SASSER. Mr. President, I would like to commend the senior Senator from Tennessee on his statement regarding the reduction of in-lieu-of-tax payments for the city of Oak Ridge and Roane and Anderson Counties in Tennessee. I join him in his concern that this Department of Energy recommendation will work considerable hardship on these communities.

This is not the first time an administration has recommended that these payments be reduced or deleted. Over the past decade, several adminstrations have recommended similar action. In each instance the Congress has seen fit to exercise its will and provide the funds for these needed programs which affect not only the State of Tennessee, but Washington and New Mexico, as well. I sincerely hope that the Congress will again restore these funds. I will join Senator BAKER in offering an amendment to the DOE authorization bill and will work as a member of the Appropriations Committee to insure that these funds are provided once they are authorized.

Oak Ridge and her sister cities in New Mexico and Washington occupy unique positions in our country's history. They were vital to the Nation during the war effort, and they continue to direct a tremendous resource, our national laboratories, toward one of today's most pressing issues—the solution of the energy shortage.

Oak Ridge has relied on these funds over the years to supplement what might otherwise have come to them in industrial taxes, were it not for the fact that the city is so heavily dominated by the DOE facilities. The residents of Oak Ridge already pay one of the highest tax rates in the State, and it would be harmful to the future health of the community if an increase were required to accommodate declining Federal support.

The city of Oak Ridge has made a genuine effort in recent years to expand its tax base. The most recent blow to these efforts was the decision of Exxon to back off from the reprocessing plant which was planned for Oak Ridge. This illustrates a continuing problem for the city—the policies of the Federal Government conflict with the community's ability to grow and expand its tax base as other towns of its size do.

Again, I second Senator BAKER in my willingness to discuss this matter with any of my colleagues and in emphasizing the need for permanent legislation detailing the Federal Government's responsibility to these communities.

PANAMA CANAL TREATIES

Mr. TALMADGE. Mr. President, the Georgia House of Representatives, now in session in Atlanta, has adopted a resolution which, for myself and my colleague, Senator NUNN, I bring to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A RESOLUTION

Urging our two distinguished United States Senators to study carefully and to give the highest priority to American interests in considering the Panama Canal Treaty; and for other purposes.

Whereas, for 74 years, millions of Americans have been taught to view the Panama Canal as a symbol of United States engineering skill and ingenuity; and

Whereas, for more than half a century the Isthmus of Panama has been referred to internationally as "The Bridge of the World" because of the canal linking the Atlantic and Pacific; and

Whereas, Panama has prospered economically largely as a result of the industry, trade and tourism that have been drawn to the region by the canal and the country has become a financial center; and

Whereas, there remains much confusion regarding the proposed treaty and the absence of a reconciliation of Panama's national aspirations with the United States' strategic and economic interests despite years of negotiation.

Now, therefore, be it resolved by the House of Representatives that this body does hereby urge each of our two distinguished United States Senators to study thoroughly the matter of the Panama Canal Treaty and after said study to exercise his best wisdom and judgment in casting his individual vote in the best interests of the American people.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to forward an appropriate copy of this Resolution to each of the two distinguished United States Senators from Georgia.

WARREN LEE PIERSON

Mr. WEICKER. Mr. President, with the passing of Warren Lee Pierson, America has lost one of its great business leaders. On a more personal note, my

family, especially my father, has lost a firm and warmhearted friend.

Born in Princeton, Minn., just before the turn of the century, Warren Pierson served first France and then the United States with great distinction during World War I. After the successful practice of law, both indivdually and corporately, Warren Pierson then became active in the business world. His leadership of Trans-World Airlines has marked him with honor as one of the creators of America's preeminent position in commercial aviation. Under this guidance, Trans-World became the great global air carrier that it is today.

At a time when so many Americans seem to doubt themselves, or the capabilities of their nation, facts become the most valued guideposts. The fact is that American commercial aviation from its planes and their engines to its pilots to its corporations are the greatest in the world.

A feat accomplished literally within my lifetime.

That is why this tribute to a wonderful American—Warren Pierson.

PRESIDENT'S "E" AWARD

Mr. LEAHY. Mr. President on December 28, 1976, the Specialty Paperboard Division of Boise Cascade Corp. informed me of their intentions to apply for the President's "E" Award for export expansion.

Located in Brattleboro, Vt., this company has made a significant contribution toward expanding their export market. They were informed this past fall through the Department of Commerce they would be recipients of this award. The Specialty Paperboard Division has demonstrated their worthiness in receiving such an award. In 1973, their exports were 9.4 percent of their total sales. This increased to 24.1 percent in 1976. This is certainly a noteworthy contribution and a positive step in aiding our economy during this time of a declining balance of trade.

In order to receive this award, it is necessary for a company to demonstrate an outstanding and creative ability in developing export markets. The Specialty Paperboard Division worked closely with the Department of Commerce's export promotion plan. They have sales organizations in three countries. They have sales representatives who are fluent in various languages enabling them to adequately promote their exports in several areas around the world. To expedite their product delivery, the Specialty Paperboard Division have plans for establishing a warehousing facility in Western Europe.

During the award ceremony, the employees were continuously congratulated for their hard work which led toward such recognition. They were quite enthusiastic knowing this award was received in large part because of their contributions. I have known John Wasserlein, the general manager of this division, for a number of years. Like all Vermonters, I am extremely proud of the work he and the members of his company have done. Having recommended them for this award, I was quite pleased when I heard they received it. As is demonstrated here, this close Government-business cooperation can be quite profitable to both sides.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau estimates, the total population of the United States as of January 1, 1978, was 218,219,293. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,765,848 since January 1 of last year. It also represents an increase of 117,238 since December 1, 1977, that is, in just the last month.

Over the year, therefore, we have added more than enough people to fill the cities of Norfolk, Va., Providence, R.I., Nashville, Tenn., Grand Rapids, Mich., Dayton, Ohio, and Fresno, Calif. And in just 1 short month, our population has grown enough to more than fill the city of Lexington, Ky.

UNIVERSITY OF ALABAMA IN BIRMINGHAM TAKES ANOTHER STEP FORWARD

Mr. ALLEN. Mr. President, some years ago, as a result of the rapid growth of its extension programs, the board of trustees of the University of Alabama created three campuses: the University of Alabama in Tuscaloosa (UAT), which is the main campus; the University of Alabama in Birmingham (UAB), which includes the world-renowned university medical center and hospital; and the University of Alabama in Huntsville (UAH). There are, of course, a number of extension centers in communities elsewhere throughout the State of Alabama.

Including those enrolled in noncredit continuing education courses, the student body at the University of Alabama in Birmingham is the largest of the three campuses, and together with the medical center complex, including university hospital, UAB is the largest employer in the city of Birmingham.

So it was with great interest that I learned, early this month, that the University of Alabama in Birmingham had, for the first time, appointed two women to be assistant vice presidents, making them the highest ranking women in the UAB administration. Mrs. Gloria S. Goldstein has been named assistant vice president and director of institutional relations while Dr. Florence M. Monroe has been appointed assistant vice president and director for telecommunications at UAB.

The university, Mrs. Goldstein, and Dr. Monroe are to be congratulated for this action; the university for rewarding achievements and the two new assistant vice presidents for notable accomplishments in their fields, which led to their new high positions.

Mr. President, I ask unanimous consent that a news article, entitled "Two Women Named UAB Vice Presidents," from the Thursday, January 5, 1978, edition of the Birmingham News, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, Jan. 5, 1978]

TWO WOMEN NAMED UAB VICE PRESIDENTS

The University of Alabama in Birmingham has for the first time appointed two women assistant vice presidents, making them the highest ranking women in UAB administration.

Gloria S. Goldstein, director of public affairs at UAB since 1969, has been named assistant vice president and director of institutional relations.

Dr. Florence M. Monroe has been appointed assistant vice president for telecommunications at UAB.

Mrs. Goldstein's responsibilities will include supervising the UAB news bureau, as well as a department that helps in the design, writing, and layout for UAB catalogs, information booklets, and the Medical Center and the Beacon magazines.

A graduate of the University of Alabama, Mrs. Goldstein has been with UAB since 1961. She has served as editor of the Medical Center Bulletin (1961–62), assistant to the Medical Center deans (1962–68), assistant to the vice president of the UA Medical Center (1968–69), and director of public affairs (1969–present).

She is a member of the Advisory Council for the National Institute of Allergy and Infectious Diseases, National Institutes of Health.

Mrs. Goldstein is also active with committees responsible for governmental and public relations within the Council for the Advancement and Support of Education, the National Association of State Universities and Land Grant Colleges, the Association of American Medical Colleges, and the American Association of Dental Schools. She is a member of the Board of Directors of the Jefferson-Shelby Lung Association, and of several professional organizations.

Dr. Monroe will be in charge of the UAB Telecommunications Center, which will encompass public radio station WBHM and the present telecommunications center offices, to be known as the TV Studio. Also included under her supervision will be cable program transmission and a proposed radio service for specialized audiences, such as the sight handicapped and the elderly.

Currently director of radio for UAB and general manager of WBHM, she will work with such departments as the Division of Special Studies and others who are interested in using electronic media to develop programs. She will retain her position as general manager of WBHM.

Dr. Monroe came to UAB from station WNYE–TV and WNYE–FM in New York City where she was assistant director of broadcasting and station manager in charge of total operations of both stations.

She was the creator and producer of several award-winning television and radio series developed for children. She won "Emmys" from the Academy of Television Arts and Sciences, New York Chapter, as producer and associate producer of two programs.

She has had experience as an actress, script writer and television technician, and has instructed workshops for instructional television at New York University and has taught classes in the humanities.

She was graduated cum laude from New York University and subsequently earned her Master's and Ph.D. degrees in education communications at the same institution.

FOREWORD TO WYOMING

Mr. HANSEN. Mr. President, with the pellmell rush for energy sources in my native State of Wyoming, the following verse seems quite timely. The poet, Wilson O. Clough, the University of Wyoming professor of English, emeritus, has published a volume of verses—"Past's Persisting"—in which "Foreword to Wyoming" appears. It gives me great pleasure and pride to submit one of Dr. Clough's works.

Mr. President, I ask unanimous consent that "Foreword to Wyoming" be printed in the RECORD.

There being no objection, the verse was ordered to be printed in the RECORD, as follows:

FOREWORD TO WYOMING

Come, let us consider firsts in Wyoming.
Here, we are new, our roots are not yet deep.
"Only yesterday," the aged will say, "And we still living remember . . ."
And folding withered hands they muse, and these the vintage of their days:
The Oregon Trail, Jim Bridger, Washakie, Buffalo Bill;
The old fort, the ranch, the first white child, the last buffalo herd;
The great blizzard, the laying of rails, the crude bar, the treeless frame town.

"Powder River!" men cry, a wild surge in their throats.
For this is the land of the few against the unpersonal much;
Of uncommunicative spaces and stoic horizons, and the consciousness of holding on;
The newness of nostrils tingling to the untamed scent of sagebrush after rain;
Of a roving Spaniard, pausing at the edge, gazing northward on the Rio Verde;
Of a voyageur, shading wondering eyes on the Black Hills and the Montagnes Rocheaux;
Of lone mountain men, proving the Wind River Canyon, the Medicine Bow, Twogwotee Pass, and the lakes by the Tetons;
Of the first small bands, naming the Belle Fourche, the Chugwater, the Poison Spider.

And before them, the Indians, filtering into the valleys:
Blackfeet, and Sioux, the Cheyenne, the Shoshoni, Flathead and Nez Perces;
Out of what impenetrable past? And with what names before the white naming?
Making songs of the rivers, the Popo Agie, the Seeds-ke-dee Agie and the Niobrara.
But their first are not known: what councils they held in cold winters;
What wisdom was theirs of buffalo haunts and rare hunting, caves and hot waters;
When first they circled stone rings, or gathered the rock for the arrow and the great wheel;
Or painted with red berry stains; or carved the petroglyph on the deep canyon wall.

This is a new land, a story soon told. . .
But here in my hand, an egg-shaped, dull, glistering object;
Gastrolith; stomach-stone of old monsters, polished by juices, incredibly ancient.
And how shall we date these phantom feeders?
How envisage them, gorging on tropical green, here in Wyoming?
Stretching grotesquely long necks for matted marsh food; gobbling down pebbles for grinding;
Trapped by their weight in the slime, helpless, floundering,
Sluggish limbs caught, leaving huge boneframes to prove them?

This is new land, but newly known. . .
Yet here on a great space of short grass, centered in silence,
The summer sun brooding, the deep summer sky endlessly breathless,
There lies extended a tree, stone tree, perdurable stone.
And who will upraise it, and show it intact and alive?
Did it tower by some palm-scented sea a million, ten million time-counts ago?
Did it bend by a lake, before quadrupeds ventured to browse?
Did it cast its long shadow on some undiscoverable stream?

Firsts in Wyoming are strange beyond counting, out of man's listing.
Seas lipped at old shores; shores shrugged off the waters; landscapes folded in patterns;
Mountains sank into plains; plains rose, and were sky-reaching;
Centuries labored; fierce sunshine and rain, frost, wind and earth-weight persevered;
Shaping earth's tegument, fashioning climate and soil;
Finding room for odd creatures, Triceratops, Tyrannosaurus, Eohippus;
Dissolving these; giving place to new forms, more familiar;
The shrill coney, the grizzly, the white-tufted antelope;
Accepting proud man in due time, the red man, the white;
Molding each kind of life in its turn; molding us.

COPPERWELD: SUPERSAFE STEEL MILL

Mr. METZENBAUM. Mr. President, the timely subject of environmental health and occupational safety appears in a welcome light in the December issue of Monitor, a publication of the Industrial Commission of Ohio, Division of Safety and Hygiene. In an article entitled, "Safer Than the Average Steel Mill: Cooperation, Communication, the Keys at Copperweld," Judy L. Stewart presents an impressive illustration of a combined safety effort between management and labor which has produced a steel mill which the American Iron and Steel Institute has found to be three times as safe as any other plant in the 1,000 to 4,000 employee category. It possesses an accident rate one-third of the steel industry's average.

Recognition of the troubling consequences of prolonged negligence in the workplace has been met with good sense and sensitivity at the Copperweld Steel Mill in collaboration with the theme of the 1977 All-Ohio Safety Congress.

In view of the fact that the U.S. steel industry has been beset with grave problems recently, I was especially pleased to read this heartening article. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAFER THAN THE AVERAGE STEEL MILL—COOPERATION, COMMUNICATION, THE KEYS AT COPPERWELD

(By Judy L. Stewart)

Amid flying sparks, hot molten steel and temperatures so intense they make 90 degree weather seem like the middle of January, a sector of industrial workers perform their day-to-day jobs just as though they were sitting in an air-conditioned office. The hazards of their trade are mind boggling—a high noise level, the occasional splashing of liquid steel or sparks and powerful machinery that shapes the sizzling hot metal as if it were made of clay. Yet, employees at Copperweld Steel in Warren, Ohio are so safety-conscious they rarely experience the possible serious accidents that can occur while working. The reason behind their success—a combined safety effort between management and labor.

The idea of joining labor and management representation for an effective working environment seems a great task because often these two sectors of business have had conflicting viewpoints. However, the combined ingenuity of Herbert K. Bollenbacher, supervisor of safety and security, and John Giaurtis, chairman of the United Steelworkers Local 2243, has made Copperweld a steel mill that the American Iron and Steel Institute has found to be three times as safe as any other plant in the 1,000 to 4,000 employee category. It possesses an accident rate one-third of the steel industry's average.

"We approach," the outlook Copperweld takes towards safety, is part of its emphasis on people and an area where the plant's safety program differs from other companies, Bollenbacher said. The idea of labor and management working together was the theme of the 1977 All-Ohio Safety Congress and Copperweld is a shining example of the results achieved when proper steps are taken to insure everyone has an active say in safety policies. "We'd like other companies to realize that this kind of team effort really works," Bollenbacher said.

The Copperweld plant operates on 435 acres and includes a complete line of steelmaking equipment. The mill contains a melt shop with four electric furnaces, a 25-inch blooming mill, a 21-inch and 12-inch rolling mill, pouring heat treating, conditioning, stripping, cold drawing and finishing departments. The company also has a railroad complete with five locomotives and 300 railroad cars that operate on 26 miles of track.

Copperweld operates on a three-shift, seven-day workweek and employs 2,700 people. It can produce steel that is hot rolled, cold finished, annealed, or quenched and tempered to provide customers with the grade, additive, size and shape of alloy or carbon steel needed. "Anyone can sell you steel," Copperweld's slogan states, "but you come to Copperweld for quality."

Hand in hand with Copperweld's claim of quality products comes its quality interest in employees. The story of this firm's successful safety program began in 1972 when Bollenbacher was hired as safety and security director. Until that time the plant had experienced many serious accidents and frictional relations with union representatives on safety issues were common. The union didn't feel Copperweld was taking an active interest in the safety of its workers. So Bollenbacher, a man who had 10 years' working experience in the steel industry and reduced the accident rate at a Pittsburgh plant where he was formerly employed by 75 per cent, was hired to make renovations at Copperweld.

Bollenbacher said when he began at Copperweld a new union president was elected who also wanted a joint working relationship between labor and management. Since the 1973 fusion of these two forces, the

accident rate at Copperweld has been steadily on the decline, first to 7.1 per cent per 200,000 man-hours worked in 1974, then to a lowered rate of 4.3 per cent in 1977.

Communication and awareness are the key elements in Copperweld's safety program. Bollenbacher said the practice of making people aware provides a good balance between union and management. Before any safety sessions or meetings involving Copperweld are held, Bollenbacher makes certain the union is represented to offer viewpoints and take an active part in the proceedings.

The family feeling and involvement in Copperweld's safety program makes employees feel like leaders and the result of this is quality in worker production. "If people have a favorable attitude and morale it accounts for a low absenteeism rate and a low turnover of workers," Bollenbacher said.

Copperweld's safety is initiated with the orientation of new employees and a manual outlining basic accident prevention. All new employees must attend a dictatorial session on plant and safety rules. They are advised, "If you don't want to follow these rules, don't even start to work here." Also, new employees go through a 60-day probationary period when they wear yellow and black tape on their hard hats to signify they are learning.

One of the strongest points of Copperweld's safety education revolves around the Job Safety Analysis (JSA), written by department supervisors and approved by the safety department. This program outlines the safest way to perform each job in the plant and is used to establish safe job procedures. It highlights the hazards in a job, recommends required safety protections and establishes a reference file of safety literature. The JSA is the basis of individual safety instruction and discussion at monthly safety meetings conducted in all 26 departments by supervisors. At these meetings workers are urged to discuss plant conditions they feel are unsafe and supervisors present JSA literature in a lecture.

Another monthly requirement of supervisors is a personal contact and observation of each employee in his department. During this one-to-one talk the supervisor can hear individual problems or questions the worker has and discuss the best way of performing a job safely.

Three representatives from management and four union safety committee members meet each month to discuss problems on a larger scale that cannot be resolved in the departments. During this meeting suggestions to improve plant safety are presented and investigated to see if they are feasible. They also discuss suggestions for installing large-scale and sometimes costly equipment.

An example of topics discussed at these meetings is the air pollution control system installed in 1976 at Copperweld. Upon approval, a $4.5 million system was completed that reduced the company's melt shop air emissions by 97 per cent. The Bag House air control system filters out particles released in steelmaking by using the same principle as a vacuum cleaner.

The system consists of huge hoods over each furnace that draw smoke and effluent into a series of ducts. Three powerful fans force these emissions through ductwork to the bag house, a main collection point.

The bag house contains 16 large compartments with 228 semi-porous dacron bags, similar to those used in a vacuum cleaner. Air is blown up through the bags to trap the particles inside. After enough emissions are collected, the air pressure is reversed so dust and particles drop onto a conveyor belt which transports them to giant hoppers. When hoppers become full, the emissions are taken through closed conveyors into trucks that carry them to a storage area at the plant. The materials are later recycled or used as landfill.

Bollenbacher posted this slogan throughout the plant once the system was functioning, "We've cleaned up the air, let's clean up the earth."

Copperweld specialists conduct a thorough investigation of every accident in the plant and supervisors are regularly evaluated to determine their efficiency. Throughout the plant Bollenbacher makes use of the Division of Safety and Hygiene's Pattern for Progress program. He is a member of the Pattern for Progress committee. The posters are displayed and ideas relatinig to them are often discussed at monthly safety meetings. There are also reproductions of posters and other safety oriented stories in "The Communicator," a newsletter for Copperweld employees.

The wearing of safety glasses, hard hats and safety shoes is a condition of employment for Copperweld employees. However, Joe Halvis, a union safety committee member, said any man who refused to wear his equipment would be "crazy." Just one look inside the plant tells the story of flying sparks and splashing liquids as well as the heavy steel bars that could easily crush a foot. "The workers generally accept the wearing of safety equipment as just another part of going to work," Halvis said.

Evidence of the need for safety equipment is displayed in the "Communicator." Whenever a person prevents bodily injury by using protective equipment, he or she is eligible to enroll in the Wise Owl Club, Golden Shoe or Smart Cat Club. Those who join these organizations are usually pictured in the newsletter with the facts relating their experience. This type of communication and recognition helps workers to realize the importance of safety. When workers read about a friend's accident it makes them think about how protection is useful and appeals to their human emotion.

Bollenbacher said he offers no extensive rewards for using safety because he would rather earn the sincere efforts of workers by showing what can happen to them without it. However, there are a few benefits, like pins and certificates, for earning membership to the accident prevention clubs. Also, a housekeeping contest is held every month to determine which department in the plant keeps the cleanest operation. These housekeeping winners are featured in the newsletter and on an information board outside the plant. It makes for a friendly competition and benefits the plant's appearance and production in the long run.

Bollenbacher says one reason for a successful safety program is that employees take pride in their company's environment and safety record. Along with that pride come quality in production and fewer internal problems.

Another contributing factor is the total cooperation of labor and management in the plant. Bollenbacher is quick to point out that there is no labor and management separation in the name of safety. Everyone seems to work for the same goal. "To send these people home in the same condition they came to work."

Bollenbacher feels it is important to have total protection of buildings, equipment and materials as well as people in a plant. All of these things contribute to establishing a safe, productive operation. He feels an attitude of "Come let us reason together" can aid in the understanding and cooperation of a variety of people who are working at various jobs.

One can only surmise from the statistics and environment at Copperweld that they are indeed reasoning together—and it is working.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS PREPARES FOR NATIONWIDE USE OF ALCOHOL FUELS

Mr. PERCY. Mr. President, my distinguished colleagues, Senators JAVITS, BAYH, and ABOUREZK, along with myself, recently wrote to Rex Davis, Director of the Bureau of Alcohol, Tobacco, and Firearms concerning alcohol fuels. It was our concern that the nationwide use of alcohol fuels as a motor fuel will present ATF with the burden of insuring that alcohol produced for fuel utilization is not illegally diverted to beverage use. In addition, we feared that the lengthy, complicated application process for a permit to distill alcohol might hinder this important fuel's development. Farmers and farm cooperatives that could provide important sources of alcohol may not be able to assume this cost, nor wish to bother with the time-consuming process of applying to ATF.

I am pleased with ATF's timely, and comprehensive response to our letter. An ATF alcohol fuel task force will soon be formed which will examine the various issues concerning nationwide use of alcohol fuel. Recommendations will be put forth to simplify the application process, to develop or evaluate new denaturing methods, and to prepare an informative brochure for all prospective distillers on costs involved, systems to use, and procedures to follow. The Bureau is currently drafting legislation it feels is necessary to prepare for the increased use of alcohol.

Mr. President, the Senate has adopted several amendments to its energy tax bill to encourage the use and commercialization of alcohol fuels. As our balance of trade problems continue, the advantages of alcohol fuel are ever greater. Last year we spent over $45 billion to import fuel. This Nation has reached the point where development of a domestic, renewable fuel source is our most important priority. Alcohol, I believe, fits this bill exactly.

I am proud to say that it is now possible to purchase alcohol fuel in the State of Illinois at several locations. Customers have been enthusiastic about the performance of the fuel and sales are high. However, because of the higher cost of alcohol, service station owners say they need a tax break in order not to lose money on sales of "gasohol." An amendment I proposed and which was unanimously adopted to the energy tax bill would provide just such a tax break. Alcohol fuels would be exempt from the 4-cents-per-gallon Federal fuel tax. With this break, service station owners feel that sales of alcohol fuel will grow rapidly.

I cannot overemphasize the tremendous importance of that amendment to the energy bill now in conference. It provides the first important step toward creating a domestic, renewable fuel industry in this country. We must prepare for the future now—and we must do all we can to stop our needless export of $45 billion each year for fuel we can domestically produce.

Mr. President, I ask unanimous consent that the letter that Senators JAVITS, BAYH, ABOUREZK, and I wrote to the Bureau of Alcohol, Tobacco, and Firearms, along with the Bureau's response, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 16, 1977.

Mr. REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, Pennsylvania Avenue, Washington, D.C.

DEAR MR. DAVIS: As the supply of petroleum becomes more scarce and costly to consumers, Americans will most likely turn to alcohol fuel as both a gasoline "extender" and as a fuel in and of itself. The Senate has adopted several amendments to the Energy Tax Bill designed to encourage the use and commercialization of alcohol fuel. The concept is catching on quickly. Every day we receive requests for information on the fuel and on the procedure for producing alcohol by distillation.

The advantages of alcohol are many. It is higher in octane than gasoline, more easily produced, and environmentally more benign. Most important, it is domestic and renewable. Its utilization will provide a strong market for agricultural surplus and wastes. Individual farmers and farm cooperatives could use excess or distressed grains to produce the fuel this nation now spends billions of dollars to import. Different regions would produce different types of alcohol: some would use methanol from timber and urban wastes, others would use ethanol from plant distillation.

The nationwide use of alcohol fuels will present a serious problem for the Bureau of Alcohol, Tobacco, and Firearms—namely, how to ensure that alcohol produced for fuel utilization is not illegally diverted to beverage use. Members of our staffs recently met with Mr. Ted McFadden and Mr. Al Gonzales of ATF to discuss this very problem. It is our concern that ATF may be unable to cope with the enormous increase in ethanol production should alcohol replace gasoline as the principal motor fuel for our transportation needs. Present yearly gasoline consumption in this country is 103 billion gallons. Should alcohol fuel become a viable alternative, the many farms, farm cooperatives, and large plants desiring to produce it will place a great strain on the resources of the ATF.

We are thus presented with a challenge—how to enable those wishing to produce alcohol fuel to do so with relative ease, while, at the same time, ensuring that the United States Treasury is not shortchanged by the illegal diversion of alcohol fuel to beverage use.

To this end, we ask the following:

Can the process by which an applicant is granted a license to build and operate an alcohol distillery be simplified to facilitate the large number of applicants without jeopardizing U.S. Treasury income? For example, can a simplified process be devised for those applicants who agree to build a closed-line distillery which requires no ATF supervision?

Can the ATF develop a new formula for the complete denaturing of alcohol? In this way, alcohol could be denatured at the distillery and individual gas station owners who blended alcohol fuels themselves would not be required to post bond to cover their sales of alcohol. It should be kept in mind that the denaturing substances should be environmentally benign and safe to automobile engine parts.

Will the Bureau of Alcohol, Tobacco, and Firearms require additional personnel to process the many new applications for distillery permits, or additional inspectors for the supervision of newly constructed distilleries, should the use of alcohol fuel grow substantially. For example, if nationwide use of alcohol fuel is 15 million gallons by 1985, 50 billion gallons by 1990, and over 100 billion gallons by 1995, what would be the Bureau requirements?

Does ATF believe there is a need for an alcohol fuel task force to address the needs of enforcement, new regulations, and personnel required for an alcohol fuel industry?

In addition, we formally urge that the Bureau of Alcohol, Tobacco, and Firearms immediately undertake to prepare a brochure for prospective producers of alcohol fuel describing the legal process for obtaining a permit to distill alcohol, offering recommendations on the types of distilleries available, and outlining the costs of operating a distillery. This would be of great assistance to farmers and farm-cooperatives interested in converting idle grain into cash-crops.

We look forward to receiving your timely response to these inquiries. If the Department of the Treasury and the U.S. Congress can work together on this problem, we can provide a viable means for addressing the energy crisis which confronts this nation. If you have any questions concerning our requests, please feel free to contact us, or have your staff contact David Carol of Senator Percy's staff at 224-1113.

Sincerely,

CHARLES H. PERCY,
JACOB K. JAVITS,
BIRCH BAYH,
JAMES G. ABOUREZK,
U.S. Senators.

BUREAU OF ALCOHOL,
TOBACCO AND FIREARMS,
Washington, D.C., Jan. 8, 1978.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C

DEAR SENATOR PERCY: Thank you for your letter dated December 16, 1977, concerning the use of alcohol as a motor fuel. Because of the interest shown by farm-related and other groups to promote the use of alcohol for motor fuel purposes, ATF anticipates an increase in the number of facilities authorized to produce alcohol. Any significant increase in the number of such facilities will, as you recognize, expand our workload.

You posed several questions relating to simplification of the qualifying process for those persons desiring to produce alcohol fuel, while maintaining protection of revenue and simplicity of government administration.

As to your first question, we are establishing a special task force to examine applicable laws and regulations to determine what, if any, changes can be made in simplifying the procedures for qualification and supervision of persons desiring to produce alcohol intended for use as fuel, as well as those involved in the distribution and/or use of such alcohol. We anticipate completion of this study by mid-March.

Existing law and regulations currently provide for closed-line distilling systems; however, on-site ATF supervision of such operations is required unless approved meters (or other approved devices) are utilized by the proprietor of the distilled spirits plant to determine alcohol production. The eventual denaturation of alcohol—i.e., rendering unfit for use as a beverage—also may be conducted without direct ATF supervision if meters are utilized.

Although closed-line distilling and denaturing systems which entail the use of meters allow us to minimize on-site supervision, the meters are expensive and the choice of whether to install them is entirely up to the proprietor. We would expect that proprietors of small-volume alcohol plants—e.g., those which might be operated by farm-cooperatives—would not be willing to go to the expense of installing these types of metering systems. Based on current law, that situation would leave us with no choice but to provide substantially full time on-site supervision at the involved plants.

In regard to your second question, ATF regulations provide two formulations for rendering alcohol "completely denatured." Completely denatured alcohol (CDA) contains chemicals and additives to preclude its diversion for beverage purposes. Therefore, ATF does not restrict the purposes for which it may be used or require users to post bond to receive such alcohol.

Our laboratory personnel believe that components of either of the CDA formulations are sufficiently volatile so as to burn well in an automobile engine, particularly since one of the several required denaturants is either gasoline or kerosene. However, CDA use as fuel or a fuel additive would have to be studied (preferably by knowledgeable industry members) to determine (1) whether the cost of the required denaturants would be prohibitive and (2) whether the required denaturants would have any detrimental effect upon engines. ATF would be amenable to recommendations for additional CDA formulations, and would look favorably toward approval of new formulations which render the denatured alcohol unfit for use as, or conversion to, a beverage.

As to your third question, while we will need additional personnel (and related resources) to process applications for distilling permits, we do not believe that any substantial increase is likely. On the other hand, substantial increases in the ATF inspection force would be necessary for the on-site supervision of new distilleries. Elaborating on your example, we project that 2,410 plants would be necessary to produce 15 billion gallons of alcohol, 8,025 plants would be necessary to produce 50 billion gallons, and 16,050 plants would be necessary to produce 100 billion gallons. These estimates are based on an average daily production of 17,090 gallons of spirits for those plants operating in the U.S. during 1976; however, many of these plants are geared toward beverage production of spirits and concentrate on quality control for palatability rather than maximum production.

Under existing law, ATF would be required to provide daily on-site supervision for DSP operations, with a minimum of one inspector per plant. However, we believe that several factors could require less inspector staffing increases.

As we previously discussed, utilization of approved meters in process of alcohol production and denaturation could reduce on-site supervision. In addition, legislative changes which would give ATF discretion with respect to on-site distilled spirits plant supervision are being prepared.

The proposed legislation would provide for a system of controls, pursuant to regulations, which would apply to all distilled spirits plants with the government reserving the right to impose stricter controls (e.g., on-site ATF supervision) at any one distilled spirits plant where there was a need to provide for adequate protection of the revenue. If the proposed legislation is enacted into law, ATF on-site supervision of distilled spirits plants would be reduced greatly.

However, we do wish to point out that even if on-site supervision is eliminated (either through the use of meters or through statutory revision) ATF still must conduct periodic inspection of plant operations and audits of plant records. While we cannot predict what additional personnel might be needed to conduct such inspections/audits, it is ob-

vious that any significant increase in the number of qualified plants will result in increased personnel needs by ATF.

Concerning your fourth question, ATF soon will organize a task force for the purpose mentioned above.

We agree with your suggestion that ATF should prepare a brochure for prospective producers of alcohol fuel. This subject will also be studied by the upcoming task force.

We appreciate your concern and recommendations. If you or your staff have further questions, please contact Theodore P. McFadden, Chief, Industry Control Division at 566-7538.

Sincerely yours,

REX D. DAVIS,
Director.

DUARD LE GRAND RETIRES AS EDITOR OF BIRMINGHAM POST HERALD

Mr. ALLEN. Mr. President, on January 1, 1978, Alabama journalism suffered the loss, through retirement, of Mr. Duard Le Grand, editor of the Birmingham Post-Herald, the morning newspaper in Alabama's largest city. He had held that post for some 10 years, and had worked for that newspaper since January, 1939, when he was employed as a general reporter for the then Birmingham Post.

Although Mr. Le Grand and I had philosophic differences, I have always admired his forthrightness, his objectivity and his sense of fairness. Despite our differences, he and I have toiled in the vineyards of public service through the many years as we, each in our own way, have sought to serve the best interests of our State, the South and the United States.

Mr. Angus McEachran, who has served as executive editor of the Post-Herald since September, 1977, has assumed the editorship and Mr. Le Grand now begins a well-earned retirement. I wish for Mr. Le Grand a long, active and rewarding retirement, and for Mr. McEachran the greatest success in his new position.

In its edition of Wednesday, December 14, 1977, the Birmingham Post-Herald ran a news story announcing the changes in staffing and an article written by Managing Editor George Cook entitled "In Eufaula Or At White House, Le Grand First A Newspaperman."

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Birmingham (Ala.) Post-Herald, Dec. 14, 1977]

POST-HERALD WILL GET NEW EDITOR ON JANUARY 1

Angus McEachran, who has been executive editor of The Birmingham Post-Herald since September, will become editor of the Scripps-Howard morning publication Jan. 1.

Promotion of McEachran to the top position on the paper was announced by Gordon Hanna of Cincinnati, vice president and general editorial manager of Scripps-Howard Newspapers.

McEachran will succeed Duard Le Grand, who will retire Dec. 31, ending 39 years on the paper, the last 11 as editor.

In making the announcement, Hanna said: "After 39 years of good and faithful service Duard Le Grand is certainly entitled to cover his typewriter and sample some of the other things life has to offer. But he is going to be missed, both in and outside the Post-Herald newsroom. He can take pride in a career as an outstanding editor, whose sense of fairness and justice was seldom matched. All of his colleagues in Scripps-Howard wish him and his wife, Elna, the very best wherever their new adventures take them.

"Angus McEachran will be a worthy successor to Duard. He is well trained in his profession, his roots are deep in the South, and he has a bountiful supply of common sense. I know he will be a credit to his newspaper and his community."

A native of Memphis, McEachran came to The Post-Herald from The Commercial Appeal, where in addition to a variety of reportorial assignments he had served as assistant city editor, metropolitan editor and, since 1970, as assistant managing editor.

Educated at George Washington University in Washington and at Memphis State University, McEachran supervised The Commercial Appeal's coverage of the events growing out of the assassination of Dr. Martin Luther King Jr. in Memphis in 1968 and flew to London to cover the arrest and extradition of James Earl Ray, who is now serving a life sentence for the slaying.

Late last year McEachran went to Northern Ireland and produced a five-part series on that country's troubles which was used in The Commercial Appeal as well as in other Scripps-Howard newspapers.

McEachran is married to the former Ann Blackwell. Mrs. McEachran and their two children, Gib, 16, and Amada Simmons McEachran, 8, will join the new editor here during the Christmas holidays.

Le Grand, a native of Georgia who grew up in Eufaula, Ala., is a 1934 graduate of Birmingham-Southern College which named him a "distinguished alumnus" in 1972. After graduate study at the University of Alabama, Le Grand worked in Eufaula and in Atlanta before joining the staff of the old Birmingham Post in 1939.

Except for five years in World War II Air Force service, during which he attained the rank of major as an electronics intelligence officer, most of his working life has been spent on The Post and, after 1950, The Post-Herald. He served successively as general assignments reporter, copy editor, news editor, city editor and, from 1963 until his appointment as editor, managing editor.

He has been active in many civic enterprises here, having served at one time or another on the boards of the Birmingham Area Chamber of Commerce, the Jefferson County Association for Mental Health, the old Anti-Tuberculosis Assn., the Boy Scouts and the Urban League. He was one of the founding directors of Junior Achievement of Jefferson County and served as president of the group last year. He was one of the organizers of the State Committee on the Humanities and Public Policy, an agency of the National Endowment for the Humanities. He was chairman of the committee during the bicentennial year.

Le Grand said that he and his wife, the former Elna Sessions of Birmingham, plan to continue to live here and look forward to enjoying the increasing number of good things the community has to offer.

[From the Birmingham (Ala.) Post-Herald, Dec. 14, 1977]

IN EUFAULA OR AT WHITE HOUSE, LE GRAND FIRST A NEWSPAPERMAN

(By George Cook)

(EDITOR'S NOTE.—Duard Le Grand has always spoken for himself in the columns of The Post-Herald—but never about himself. This was written without his foreknowledge, and for good reason: Mr. Le Grand might have shied away from its publication had he known.)

Tag no term such as "journalist" on Duard Le Grand.

"Newspaperman" is the word he likes. And the retiring editor of the Post-Herald has been a newspaperman from first to last over a span of almost 40 years.

About 10 years ago, a few months after he had become editor, Le Grand stood in a gathering at the White House during the Johnson administration and (he recounted later) asked himself, "What is a Eufaula boy doing here?"

The reason at the time, of course, was that he was a member of the American Society of Newspaper Editors and its members were attending a presidential reception at the White House.

But the first steps toward that visit to the presidential mansion probably were taken when Le Grand threw papers and wrote a high school column for the Eufaula Daily Citizen a half century ago.

Born in Macon, Ga., he grew up in Eufaula, developing that sense of kinship and community that is so typically found in small southern towns.

He was graduated from Eufaula High School and attended Birmingham-Southern College on a four-year scholarship, receiving an AB degree in 1934.

Completion of his undergraduate years at Southern sent him out into the workaday world so young (19) that he found it difficult to find a job. (The Depression was on then, too.)

For the next several years he studied toward a master's degree at the University of Alabama, worked for a time on the Eufaula paper, and sold textbooks for a publishing firm.

But what he wanted and continued to seek was a job as a reporter on a big city daily. He got that job at last in January, 1939, going to work for the then Birmingham Post at $15 a week.

Two years later veteran Post-Herald courthouse reporter Jane Aldridge joined the staff.

"I got the reporting job Duard vacated when he went on the copy desk," Miss Aldridge remembered. "And I remember he was the first one on the staff to go into service in World War II. He seemed so young."

Le Grand served four years during the war, performing as an Air Force intelligence officer and attaining the rank of major. One time, during the early part of the war, Le Grand came back to Birmingham on a two weeks leave.

The then managing editor, desperate for a vacation, asked Le Grand if he would take on the job of news editor during his leave.

The arrangement was agreed to by the editor with some misgivings. And, as a matter of fact, when Le Grand sat in the "slot" on that first day, he found the editor had come in early just to make sure the paper was going to get out.

"He was satisfied by the end of the day," Le Grand later remembered. "It was a great experience for me."

At war's end, Le Grand returned to the staff as news editor. In 1949 he was named city editor, a post he was to hold for 16 years—for one year on the afternoon daily, the Post and then 15 years on its successor, the Post-Herald, the present morning paper.

During these years he was the man who allotted Post-Herald reporters their news-gathering tasks, imbuing them with the highest standards of newspapering, encouraging them to develop their own writing styles.

His patience was and is immense. But staffers recall a time when it was stretched a little thin.

One reporter, it seems, had shopped herself out of her rent money and had been required to vacate her apartment.

Le Grand learned that she had taken up residence on the company premises. "I must be the only Scripps-Howard editor in the country who's got a reporter living in the ladies lounge," he said.

Sid Thomas is city editor now of the Post-Herald.

"My association with Duard Le Grand has been gratifying because he believes in reporting the news factually without tinkering with it," he said.

"He holds that the public has the right to know the whole story—good or bad. This is not always true in newspapering."

Said Ernie Pyle award-winning columnist Clettus Atkinson:

"From the very first week I worked with Duard Le Grand I was impressed with his ability to keep his cool, no matter the situation. During his time as city editor, managing editor and editor of the Post-Herald he displayed the remarkable talent of keeping his head when others figuratively lost theirs. He could bring calm to chaos.

"Too, there was his custom of an 'open door' policy to his office. Many's the time I've gone to him, sometimes elated, sometimes dejected, and he'd listen until I got it off my chest. Then he'd reason, make sense in his answer.

"I particularly remember his encouragement when I ventured fourth with a daily column. It was Duard, not me, who entered my writings in the Ernie Pyle competition. I hadn't the confidence. He had.

"We've been together now almost 28 years. All the time I've been a learner. I was lucky Duard was the teacher."

Le Grand moved up to managing editor in 1963. Shortly afterward Jimmy Goodloe was named news editor, a post he still holds.

Some years ago Goodloe took time out each each year to serve as manager of the Goodfellow Store.

"I have always known Duard as a warm, compassionate person," Goodloe said. "I remember a time a few years ago when we had trouble getting toys because the supplier's warehouse had burned down. It turned out we had plenty of coloring books for the youngsters, but no crayons and little candy.

"Le Grand spent almost an entire day going from place to place about the city until he got enough crayons and candy."

After four years as managing editor, Le Grand was appointed editor of The Post-Herald in January, 1967.

During the years since Birmingham has changed more philosophically than at any other time in its history.

During that period Le Grand has written a distinguished column, "From the desk of the editor," which has been on the cutting edge of that change.

Politics has been his passion, and one of his greatest satisfactions has been the opportunity to attend national political conventions. His commentaries have not only burnished the pages of the Post-Herald, they've been widely published in other Scripps-Howard newspapers across the country.

Post-Herald political writer Ted Bryant and editorial writer Karl Seitz have been especialy attuned to Editor Le Grand.

"From a political standpoint," said Bryant, "one of Duard's most valuable assets as an editor is an acute and uncompromising sense of right and wrong. When public officials use their positions for personal gain, they are wrong where Duard is concerned. When they treat people with dark skin differently, they are wrong, purely and simply.

"To Duard, being wrong is not a matter of judgment, as politicians often claim, but a public official violating the trust placed in him.

"Another asset is his almost total recall of political events, a knowledge that grew from his deep interest in understanding people, particularly southern people. He can reel off not only the results of various events, but also the factors that brought about these results.

"It is worth nothing that Duard has his roots in Barbour County, which produced Gov. George Wallace and several other genuine Alabama political characters. But his philosophies are far different.

"A young man from out of state once asked him how far it is from Clio, Wallace's hometown, to Eufaula, where Duard grew up.

"Without hesitation, the editor replied, 'About a million miles'."

Said Seitz:

"There are two types of editorial pages in American newspapers. Those that say little of immediate concern to their readers and those that speak clearly and directly to the issues affecting the communities they serve.

"Duard Le Grand cannot be accused of making The Post-Herald editorial page one of the former. He wants editorials to have an immediacy of time and point of view which allows them to influence the course of events.

"He does not confuse fairness with the avoidance of controversy.

"Although he takes great delight in challenging the conventional wisdom, his intention is not to be contrary for the sake of contrariness. Rather, his keen knowledge of history has led him to the belief that testing the dogmas of the day against new ideas or ideas that are temporarily out of favor will lead to improvements of the human condition.

"If he has any prejudices, they are to favor the powerless over the powerful.

"There are no sacred cows for Duard Le Grand. People and organizations with which he basically agrees are not immune from criticism. And he is willing to praise those he has opposed when they deserve it.

"Le Grand wants the Post-Herald to be regarded as a serious newspaper providing the people with the information they need to know without sensationalism.

"Despite this serious purpose, he's shunned grimness. With his gentle, ironic humor, he is always ready to poke a little fun at the absurdities of human behavior."

Perhaps summing up for the readers at large is Willard L. (Jack) Hurley, president of First Alabama Bank and long-time friend and admirer.

Recently he wrote:

"Many hope you will not retire from writing. I am among them. The richness of prose; the sense of time and place; the ability to write of Alabama and the South without putting southern teeth on edge are rare talent. Talent that must not, just yet, subside.

"Your influence on those who read and those who write will survive your journalistic goodbyes by at least a generation.

"Your courage in disagreement with many who wandered into the easy path of identifying with the consensus is a talisman for any who have considered the 'path less traveled by.'

"Your awareness of the 'human condition' has caused those who know or read you to be more concerned with those around them.

"All of which and more give me pride in calling you friend. Retire then with the certainty that many of us are better people for the job you've done."

CONSUMERS, CONSUMERISM, AND NUTRITION

Mr. DOLE. Mr. President, in recent months the Congress like the administration has focused greater attention on the relationships between nutrition and health, an issue the American consumer has been encouraged to hear.

House Agriculture's Domestic Marketing, Consumer Relations, and Nutrition Subcommittee has initiated a five-part series of hearings on "the role of the Federal Government in nutrition education." The Select Committee on Nutrition and Human Needs worked hard for legislation which provides a nutrition education program for students in grades K through 12, in conjunction with federally supported school meals. In addition, the select committee has just issued a second edition of the dietary goals report, which seeks to further define and clarify many of the misunderstandings of the first report.

I am encouraged that under the Food and Agriculture Act of 1977, which I supported, human nutrition research and nutrition education will become matters of high priority at the Department of Agriculture. Of special importance is that act's promotion of better information on human nutrition research requirements, nutrition composition of foods, and factors affecting food selection.

Among other activities of the administration, the Office of Science and Technology Policy has recently examined federally supported human nutrition research efforts, and identified high priority areas and activities for the near future. I am very much encouraged by all of this activity. At the same time we are experiencing these matters in government, however, consumers are looking more and more to government and industry to help them become more knowledgeable about nutrition and also become better decisionmakers in the food market place.

Ms. Nancy Harvey Steorts, former Consumer Advisor to the Department of Agriculture, has captured the tenure of this consumer climate in recent remarks she made to the Junior League of Summit, N.J. She cites the growing assertiveness of the American consumer, the increasing role of older Americans as consumers, the demanding quality consciousness of consumers, and emerging nutritional awareness.

I would like to share with my colleagues in the Congress her timely remarks on the influence of American consumers in today's market place. I ask unanimous consent that a partial text of Ms. Steorts speech be printed in the RECORD.

There being no objection, the partial text was ordered to be printed in the RECORD, as follows:

THE INFLUENCE OF THE CONSUMER IN AMERICAN SOCIETY TODAY

The consumer movement is a major social, economic and political force in this country today and is a vital force to be contended with in the years ahead.

In a recent study, "Consumerism at the Crossroads," which was commissioned by Sentry Insurance in cooperation with Louis Harris Associates and the Marketing Science Institute of Harvard University, it was pointed out that the consumer movement is here to stay—and in fact is growing stronger every year. According to this survey, consumers still feel they are not being treated fairly in the market place and believe that the quality of goods and services has depreciated over the last ten years.

The study points out very clearly that the

business community is sharply out of step with the American people on consumer issues. It is predicted that if this attitude doesn't change business can expect to be continually attacked by both consumer activists and elected representatives which will more than likely result in more regulations.

TODAY'S CONSUMER IS DIFFERENT

Today's consumer is assertive and on the offensive. Today's consumer is a tough-minded, sophisticated tactician who's weathered a serious attack of both his food dollar and his confidence.

The consumer who only a few years ago zipped down the aisles with only a sketchy idea of what to buy is today studying labels, questioning additives, clipping coupons, making lists, comparing prices and insisting on nutritional quality in exchange for hard-earned dollars.

Grocery shopping is no longer regarded as a dumb-dumb chore. It may be frustrating, confusing and time consuming—but it is also a challenge that requires good strategy.

Supermarket purchases are being made by consumers who take this job seriously. Gone is the shopper who trusted the food companies and the supermarket implicitly. Gone is the shopper who was enchanted with convenience and eye appeal. Gone is the shopper who was indifferent about ingredients. Here today is the thinking consumer: assertive, label-reading, price-conscious, quality-oriented.

The American consumer market is undergoing new segmentation—three groups are emerging as dominant marketing forces—traditional marketing theory doesn't take them into account as they behave differently from the standard model. They are: older people, well-educated young adults, and married working women. These groups are causing marketing people to rewrite the rules. Each group has different needs and what is rational for one group may make little sense for the other group.

In recent years, consumers have been faced with rapidly changing life-styles. Coupled with the desire to live a more comfortable way of life amid this change, they have become more motivated, better prepared, and more attuned to the complexities of the society in which they live.

Consequently, today's consumers are taking more of an interest in the shopping experience. They are no longer indifferent to ingredients. Today's consumers have become label readers. They are more quality conscious. Today's consumers are more aware of nutritional value, wanting the highest quality for their food dollar.

Just as did their forebearers for generations back, today's consumers want the best possible product for the best possible price.

BACK TO THE BASICS

I think we've all noticed there is a trend to return to the basics. We've seen an increase in home gardens, a massive return to home canning and freezing, and an upsurge in the number of people preparing meals from scratch rather than depending on convenience foods.

The old adage, "You Are What You Eat," is very evident in a recent survey conducted by the Department of Agriculture which shows that there are a large number of people who want to change what they are.

The study shows that there is a large number of people who are worried about dealing with or preventing health problems. Almost two thirds of the 1,400 people interviewed said that they, or someone in their household, suffered from some type of ailment. High blood pressure, allergies and overweight were mentioned most frequently. (In fact, according to the AMA, about one in five Americans is overweight.) About 60 percent of those with a health problem said they had changed their diet.

Both groups appear to be cutting down on items high in saturated fats and oils, replacing them with other products.

Consumers are substituting fatty red meats today with fish, poultry and lean red meats. Other changes include drinking more low fat milk, eating more cheese and using more margarine instead of butter.

Many households are also looking for special information on the labels of food and beverage products to check for the number of calories, the amount of fat, or the presence of sugar. Other types of special information consumers are seeking include vitamins, minerals, and the amount of carbohydrates.

Rather than eating sweets, snacks and fried foods, changing dieters are turning more to fresh fruits and vegetables. They are eating more salad vegetables, especially green peppers, raw broccoli, cauliflower, spinach and mushrooms.

The time has now come for industry and government to listen to the consumer—and to devise new ways for government, industry, consumerists and the university community to work together to assess programs and policies to see that they are in the best interest of the consumer.

NUTRITION—A NATIONAL PRIORITY

Consumers are looking to government and industry today to help them become more knowledgeable about nutrition and the nutritional quality of the food they are buying.

I recently attended a Conference on Nutrition and the American Food System, which was sponsored by Family Circle Magazine, Food Marketing Institute & Community Nutrition Institute in Washington. Government, industry and consumers spent two days discussing this most important subject of nutrition which is now becoming a national priority.

Senator Robert Dole in his keynote address to this Conference said, "As more and more Americans are aware of the link between what they eat and how healthy they are, nutrition is likely to be the central consideration in all our food policies." Senator Dole predicted that as the food buying habits of the American people change, the production habits of the American farmer will change.

This could bring about an entirely different scene at the supermarket.

Congressman Fred Richmond, Chairman of the House Agriculture Committee's Domestic Marketing Consumer Relations & Nutrition Subcommittee, has spearheaded a thorough five-part investigation of the role of the federal government in nutrition education.

Consumers, food industry representatives, health and education professionals, public interest and private groups, and media experts are giving their perspective on how the federal government can play a more effective role in nutrition education.

In the recent Congressional hearings which I addressed in the late fall the witnesses represented leading scientific and consumer advocacy groups, mass media communicators, industry, state and local governments, professional and consumer organizations.

CONSUMER CONCERNS

Consumers were concerned about food safety, research linking contemporary diets to chronic disease and the lack of clear-cut guidelines from scientists for improving the healthfulness of diets. More specifically, consumers are worried about:

(1) lack of a highly visible, objective source of dietary guidance;

(2) role of fat, cholesterol, sugar, salt and fiber in disease;

(3) safety of processed foods;

(4) low visibility and accessibility of federal nutrition education programs;

(5) pervasive influence of food advertising and marketing practices on the diets of children and family shopping and eating habits;

(6) incomprehensibility and limited usefulness of food and nutrition labeling;

(7) lack of available information and counsel for individuals with medically modified diets;

(8) contradictory and confusing messages about nutrition, weight control and healthful eating in the popular media;

(9) motivational effectiveness of industry-generated nutrition education materials compared to those of the public sector;

(10) nutritional "illiteracy" of physicians, teachers, and marketers.

Consumers want answers to their nutrition questions in language easy to understand and apply. They want information in accessible places in their communities. They want guidance which is relevant to the individualized needs of the child, the teenager, the working wife or mother, the retired couple, and the busy executive.

MUCH CRITICISM OF FEDERAL PROGRAMS

Federal efforts in nutrition education were indicted in two ways:

(1) as inappropriate in content and

(2) inadequate in delivery.

Consumers told us that they cannot find comprehensible information from government sources:

(1) conflicting, misleading and simplistic messages abound;

(2) the subjects of greatest consumer concern are given the least attention;

(3) government food and nutrition policies are contradictory;

(4) nutrition education programs lack clear-cut goals;

(5) the least efficient and effective media are used to communicate nutrition information;

(6) outdated nutrition concepts and outmoded approaches are used;

(7) dietary guidance is out of step with contemporary styles of eating and living;

(8) consumers have little or no opportunity to influence the planning of programs;

(9) no coordination of efforts is apparent either at the community or at the federal level;

(10) traditional approaches to nutrition education are boring; more creative approaches are needed;

(11) nutrition information is not available where and when people need it—in classrooms grocery stores, food stamp offices, welfare offices; health centers, and in the popular media;

(12) no research effort to support national nutrition education programs; as a result, planning is based on guesswork; and there is a

(13) failure to involve experts in education, communications, and behavioral sciences in the development of programs;

RECOMMENDATIONS FOR IMPROVEMENT

Consumers and their representatives made a variety of recommendations to improve federal nutrition education programs. Among these were:

(1) development of an explicit Food and Nutrition Policy with goals and strategies stated in terms of consumer health and welfare;

(2) a national scientific board to advise agencies on controversial issues arising from human nutrition research;

(3) establishment of a national nutrition education program involving all agencies and cooperation of the private and voluntary sectors;

(4) a federal interagency nutrition education committee to coordinate planning and implementation of programs, with leadership assigned to a specific agency;

(5) coordination of activities at the state and local level with clear designation of leadership and responsibility;

(6) mandated education and evaluation in all federal food programs;

(7) research and testing to develop more innovative and relevant information and education programs;

(8) greater reliance on the mass media as a vehicle for nutrition information;

(9) change in the labeling program to improve consumer usage;

(10) efforts to counteract the influence of food advertising on young children;

(11) mandatory nutrition education in primary, secondary and professional schools;

(12) specific budget appropriations for nutrition education in all federal programs mandating it;

(13) support for the training of health professionals, food service workers and teachers in basic nutrition principles;

(14) a more visible, aggressive role for the Federal Government in efforts to improve consumer food and health;

The general attitude of consumers was that it is both feasible and necessary to improve the effectiveness of current federal efforts. Some improvements will require legislative actions, others policy clarification and administrative arrangements on the part of agencies.

At the conclusion of these hearings a report will be prepared and legislation will be introduced to insure that the federal government will play an active and leading role in determining national nutrition policy.

No one alone can determine national nutrition policies. It must be a joint effort. Congressman Richmond stated that Congress must allocate more funds for nutrition research, foster inter-agency coordination, disseminate more sophisticated consumer information materials by the government, consolidate all federal efforts, demand the government take a position on labeling and consumer oriented grading programs and establish federal policy and standards on food advertising.

We must have nutrition education today. It must be a national priority. It must be available when consumers need it. It must have high visibility—in advertising—at the grocery store—in the welfare office and throughout the media. Consumers need to have the facts about the food they are buying.

A concentrated effort is needed. Government officials, industry executives, nutritionists, health officials and consumers need to work together to define the goals and direction of future nutrition policy. By working together we should be able to devise an effective nutrition policy.

In closing, I would like to offer eight tips to strengthen your consumer voice:

1. Be an active member of a local consumer group and/or civic organization concerned with consumer issues.

2. Don't be intimidated! Speak up and give your point of view based on facts.

3. Actively support your county/state consumer office.

4. Let the appropriate consumer representative at the Federal, State, or Local level know your views on specific issues.

5. Keep well informed of appropriate government proposals (federal, state, and local) affecting you the consumer.

6. Write your news media and commend them for good coverage of consumer issues.

7. Support and write industries or businesses who implement sound consumer policy and procedures—be critical of those who are not consumer-responsive.

8. Use consumer power by using your consumer voice effectively both in the marketplace as well as in government.

VERMONT'S WOOD-FIRED POWER SYSTEM

Mr. LEAHY. Mr. President, the dinosaur perished with the advent of the Ice Age. Its skeletal remains were converted through the eons into fossil fuels. In years to come we Americans will, in the colder regions of our country, have to fight to survive against the cold, because of energy shortages. We will hopefully do better than the dinosaur, but we cannot be assured of doing so unless we reduce drastically our dependence upon the fossil fuels, the dinosaur's gift to us.

The United States is deplorably dependent upon imported oil. Much has been said about this issue, but little has been done to effect a change. Thus, the point cannot be made often enough in our efforts to assume greater control over our future energy supply.

As you know, the United States now imports more foreign oil than at the time of the 1973 oil embargo, when our precarious position as a net importer of energy was first brought forcefully home to us.

In New England alone, 70 percent of our energy needs are satisfied by oil. Two-thirds of that oil is imported. The high cost of this imported oil has driven some industry from New England, and discouraged others from locating there. The region has thus been deprived of new economic opportunities due to our oil reliance.

New England consumers pay the highest costs in the Nation to heat and cool their homes, whether they use electricity or oil. This last winter, the price of home heating oil increased by an average of 10 percent.

In light of the foregoing, I would now like to take the opportunity to congratulate the Vermont Electric Department of the city of Burlington on its recent conversion of one of its plants to burn wood waste. I think this action deserves recognition because not only is this the first effort by a public utility to convert to wood-burning capability solely for the generation of electricity, but it has successfully done so at a minimal cost.

I laud the department's resolve to seek out alternative energy resources and hope that it continues to have the courage to shape a better destiny for us all.

Mr. President, I ask unanimous consent to have printed the following article in the RECORD. The article appeared in the October 28, 1977, Times Argus, a Vermont newspaper, and outlines the department's plans.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"HOMEMADE" WOOD-FIRED POWER SYSTEM IS WORKING

(By Kate Inman)

BURLINGTON.—The best way to describe the project of converting and installing wood chip burning equipment at the Burlington Electric's Moran generating plant is "homemade," according to Thomas Carr, generating plant superintendent.

And homemade it is, down to the use of a first aid box to house the wires connected to the monitoring lights. The design, construction and installation of the new equipment was done entirely by Burlington Electric Department personnel at a cost of some $25,000. Carr lauded the merits of the system, saying: "If you do it yourself, you can modify and remake it."

With the wood burning capability the Moran plant becomes the first utility in the nation to burn wood chips solely for electric generation, according to Robert Young, general manager. It now produces some five or six megawatts of power. Young also said as far as he knows, the Burlington plant is now the only plant in the nation capable of burning four fuels—coal, oil, natural gas and wood chips.

The employes at the generating plant utilized the coal-handling equipment already in place at Moran for the conversion to wood and modified from there. The wood chips are brought into the plant by conveyer belt and dumped into the bunker.

From the bunker the wood chips gravity-feed down into a bin where they are pulled forward by four augers, which are capable of being operated independently. The augers pull the wood chips forward into the chutes going into the boiler where they are blown in and burned.

In the three days the wood chips have been used for power generation they have put out between five and six megawatts of power, Carr said. The boiler unit is capable of generating 10 megawatts and with some experimentation, said Carr, he hopes to raise the output to between seven and eight and one-half megawatts.

The heat in the boiler is regulated by the load, that is the amount of wood chips, and the air blown into the boiler.

Young said this conversion is the "first step" in the things Burlington Electric wants to do with the Intervale. Young was speaking of the 50-megawatt wood chip and solid waste plant that has been proposed for that section of Burlington.

The Moran plant is one of two coal generating plants in the Northeast, Young said. It was small enough to think of converting to wood since coal apparatus is capable of handling wood, he said.

"And," Young added, "we believe Vermont can do it (burn wood). We don't know about the Arabs, strip mining or the Canadian government."

The wood is being supplied from an experimental harvesting project in South Duxbury. The green wood is chipped at the site, blown into tractor-trailer and trucked to Burlington. The wood being used is low-quality cull wood.

The cost of the wood is $13.50 per ton. The boiler has been burning about 10 tons of wood per hour, said Young. BED officials say in terms of burning efficiency, the price is comparable to coal.

COMPETITION IN THE COAL INDUSTRY

Mr. THURMOND. Mr. President, during the 1st session of the 95th Congress, hearings were conducted in the Antitrust and Monopoly Subcommittee on S. 1927, a bill introduced by Senator KENNEDY, which would require major petroleum producers to divest themselves of any holdings in coal or uranium and would further bar their entry into both coal and uranium.

On December 30, 1977, GAO completed a report to Congress, requested by Senator EASTLAND and Senator ABOUREZK, entitled, "The State of Competition In The Coal Industry" EMD 78–22. Information provided in this report will assist the subcommittee in considering the necessity of S. 1927 as we move into the 2d session of the 95th Congress. It supplements the testimony of previous witnesses and certainly must be taken into account with the testimony of any future witnesses should further hearings be scheduled. There is a short

summary preceding the mentioned report.

Mr. President, I ask unanimous consent that this summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

[Comptroller General's report to the Congress]

THE STATE OF COMPETITION IN THE COAL INDUSTRY

DIGEST

A major part of United States energy policy is the maintenance of competition in the energy sector of the economy. Such competition must exist both within and among industries in this vital sector of our economy. This report analyzes the state of competition in one energy industry, coal production, and examines the potential for outside domination of this industry, particularly by petroleum companies. The study was initiated at the request of Senator Eastland as Chairman, Committee on the Judiciary, and Senator Abourezk.

CONCLUSIONS

A viable state of competition exists in the coal industry. Unless circumstances change, domination by any firm or group of firms is unlikely.

Control of current production is shared by numerous firms and ownership of coal reserves is dispersed even more. On a nationwide basis, petroleum firms account for less than 20 percent of total production and even less of coal reserves.

The degree of competition varies. In the Eastern market, large numbers of firms actively compete in both contract and spot sales; reserve ownership is well dispersed. In the two Western markets, however, the situation is dynamic and requires the continued vigilance by the Federal Trade Commission and the Department of Justice as well as by the Interior Department through its coal leasing program.

GAO's work is the result of a detailed analysis of "concentration ratios", i.e., the percent of production and reserves controlled by the leading companies as well as other pertinent factors such as entry barriers, expansion plans, and price actions.

NATIONAL CONCENTRATION RATIOS AND PETROLEUM FIRM PARTICIPATION

There is no universally accepted index to indicate monopoly power but there appears to be general agreement on the part of scholars on industrial organizations that a four-firm concentration ratio of 50 percent or more is required before there should be a presumption of monopoly power.

Estimates of concentration ratios in the American manufacturing sector as a whole range from 38 percent to 40 percent. On the basis of 1976 production, the concentration ratio in the coal industry is as follows: the top 4 firms control 25 percent, the top 8 firms 34 percent, the top 20 firms 50 percent.

GAO examined the trend since 1950 and found that the concentration ratio increased throughout 1950s and 1960s but has been declining since 1970. The reasons for the increase in the 1950s and 1960s appear to be related to generally unfavorable market conditions, merger activity, and the fact that many marginal producers left the industry. The declining concentration ratio in the 1970s appears to be the result of renewed interest in coal (particularly since 1973) and the expansion of western surface mining by new entrants into the industry.

Future concentration ratios for an extractive industry such as coal can be estimated by examining the concentration ratio of reserve ownership. GAO obtained data from the Federal Trade Commission on reserve ownership as of January 1, 1974. Unfortunately, these estimates are available only for this one point in time which makes it impossible to examine trends in the concentration levels of reserves. The concentration levels for reserves in 1974 were 13 percent; 18 percent; and 25 percent for the top four, eight, and twenty firms, respectively. These are lower than the production concentration ratios indicating that production concentration will probably continue its downward trend.

In 1974 petroleum companies as a group accounted for approximately 19 percent of production and 14 percent of reserves. The amount of reserves attributable to the petroleum industrial group is spread among twenty-four companies. These figures suggest that the potential for petroleum company domination of the coal industry, on a national basis, is low.

REGIONAL CONCENTRATION RATIOS AND PETROLEUM FIRM PARTICIPATION

GAO identified three distinct coal markets: (1) Eastern Appalachian consisting of states in the East including such major coal producing states as Ohio, Pennsylvania, West Virginia, and eastern Kentucky; (2) Central-Western extending from Indiana to Washington and including such key coal producing areas as Illinois, Wyoming, and Colorado, and (3) the Southwestern, consisting of Arizona, New Mexico and Nevada. (See pp. III–1 and III–2).

Eastern Appalachian

The top four firms control 44 percent of this market by any group of firms. Concentration ratios in this market closely approximate the National figures. For example, the top four firms control about 22 percent of production and about 15 percent of reserves. Petroleum companies accounted for 16 percent of production and 11 percent of reserves.

Central Western

The top four firms control 44 percent of production and 17 percent of reserves in this market. While production concentration is relatively high, the lower level of reserve concentration indicates a downward trend in the future. Included in this figure, however, are the large Federal Government reserves in this market which amount to 40 percent of the total. If these reserves were omitted from the calculation, the reserve concentration ratio for the top four firms would be increased to 27 percent.

While this still indicates a downward trend in the future, the large amount of unleased coal reserves in this market creates a dynamic situation. If some firms, for example, were to acquire large tracts of reserves either from the government or from private individuals, this could lead to an increase in concentration ratios above that presently indicated.

Federal reserves represent the main source of coal reserves in this market as such they could serve as an obstacle to any firm or group seeking to dominate this market. Through a policy of selective leasing the Secretary of Interior can effectively control the number and type of firms that enter the industry and thereby assure that a viable state of competition continues to exist.

The Federal Coal Leasing Amendments Act of 1975, if properly administered, appears sufficient to assure the competitive posture of this market. These amendments require that the Department of Justice continually monitor the state of competition in the coal industry and that the Secretary of Interior consult with the Attorney General regarding the effect on competition of all proposed leases.

Petroleum companies accounted for 24 percent of production and 16 percent of reserves in this market in 1974. What this does not reveal, however, is that petroleum firms have announced expansion plans which are more ambitious than other firms. These plans indicate that petroleum firms could control as much as 40 percent of this market's production by 1985. On this basis, it would appear that the potential for domination by the petroleum industry is greatest in this market. It must be stressed, however, that there are about 24 separate petroleum companies involved in this market. In order for them to dominate the market, they would have to act as a single decision-making unit, which is clearly illegal under Federal anti-trust laws. Further, since the petroleum companies will represent a fairly large number (about 10) of new entrants, they will actually reduce the concentration ratio. If all expansion plans by petroleum firms are accomplished, the four-firm concentration ratio would decline from 44 percent in 1976 to 30 percent by 1985.

Southwestern

The Southwestern market is small—representing only about 2 percent of national production. It is also unique in that almost all buyers are large electric utilities. There are five producers in this market and the four-firm concentration ratio is 97 percent, with 2 firms—Utah International and Peabody—producing 88 percent of this market's output. In view of the overwhelming dominance of these two firms in production, there is obviously a great potential for continued dominance of this market for the next several years. Four firms control 85 percent of the coal reserves under lease in this market. However, it is important to emphasize that only a small fraction of the deposits available for mining—perhaps as little as 11 percent—have been leased. Viewed in these terms, the 85 percent share of the four leading firms is reduced to less than 10 percent. Furthermore, the deposits not controlled by these four firms are principally under Indian or Federal government jurisdiction and as such, can be affected significantly by Federal leasing policy. The situation in the Southwestern market would appear to warrant explicit decisions by the Federal government to encourage entry by other firms.

Entry conditions and industrial behavior

In the long run, market power can be sustained only if entry into the industry by potential competitors is bared. Examples of such barriers in the coal industry are access to coal reserves and requirements for capital.

As discussed earlier, the Federal government holds the key to access to reserves in the Western markets in view of its large reserve ownership in this area. Properly managed, access to reserves should not be a formidable barrier to serious potential entrants into the industry.

Likewise, capital requirements do not appear to pose an insurmountable barrier. Starting capitalization of a new 5 million ton per year mine (a large mine) has been estimated at about $40 million, which would not be beyond the means of many U.S. corporations. Further, it is common practice for a new entrant to contract for delivery of the coal on a long term basis prior to actual development. Financial requirements necessary to begin production probably are subjected to less risk therefore than in most other industries where consumer demand is less certain until production is underway. Conversely, this raises doubts about the contention that the petroleum industry is needed as a source of financing if the coal industry is to expand.

With entry barriers as with other factors there are differences among markets. In the Eastern market, there are many small firms and small mines, a ready-made spot market for coal sales is available, and transportation facilities are abundant. In the Western markets, contract sales predominate and commitments for large scale deliveries of coal to a relatively few buyers are more common.

Therefore, entry by small producers appears easier in the Eastern than in the Central-Western or Southwestern markets.

Analysis of coal prices shows that throughout most of the post-war period, until approximately 1968, coal prices remained relatively stable. Between 1968 and 1973 the price of coal increased but at about the same rate as labor costs. Since 1973 the huge increase in world oil prices and the uncertainty of supply has stimulated a greatly increased demand for coal which has resulted in substantially higher coal prices without matching increases in costs.

This increase in coal prices since 1973 does not necessarily imply a non-competitive market. In a competitive industry, prices will rise in response to increased demand without increased costs. While higher prices for coal in response to higher world oil prices can be consistent with competitive behavior in the coal industry, one would expect a competitive and well-functioning industry to expand output and eventually reduce price in response to the greater demand. There is evidence that this is happening. An analysis of spot prices, which are the most sensitive to market conditions, shows that these prices increased sharply in 1974, but declined just as sharply in 1975. In December 1975 spot prices were at approximately the same point as December 1973 and they have remained relatively stable through mid-1977. As coal production capacity expands, contract prices should also begin to moderate. Further, the price of coal has not increased as much as other fuels. Adjusted for inflation the cost of coal to electric utilities increased about 54 percent between 1973 and 1976. During the same period, even under partial controls, the cost of oil to utilities increased 88 percent while natural gas costs more than doubled.

Comments on this report were solicited from six separate Federal agencies. Specific comments of each agency are reprinted as an appendix to the report with the exception of: the Federal Trade Commission, which provided oral comments; and the Department of Justice, which had no comments. Of the five agencies which offered comments, four were in general agreement with the conclusions of the report and/or characterized the report as informative and useful. In contrast, the Department of Interior concluded that the report was inadequate.

GENOCIDE AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, we have once again heard the call for human dignity. In his state of the Union message, President Carter stated that—

> The world must know that in support of human rights, the United States will stand firm.

In my opinion, there can be no greater demonstration of this commitment than the ratification of the Genocide Treaty.

This month marks the first anniversary of this administration's commitment to human rights. It has been an attempt to make a worthy ideal universal. However, it will take more than lip service on the part of the countries of the world to promote such rights.

The Genocide Convention makes attempts to destroy national, ethnical, racial, and religious groups, in whole or in part, a crime under international law. Thus, our ratification would insure participation in necessary sanctions to back up moral suasion in this area.

It is ironic that we spend so much time and energy in areas to preserve human life, such as SALT, the test ban treaty, and the Middle East negotiations, and at the same time fail to make the small effort to reaffirm formally the value of the lives we are trying to preserve. Our credibility in promoting human rights may be undermined if we continually fail to ratify this treaty that we played such an important role in drafting.

Since legal objections to the treaty have been shown to be invalid, what conclusion can other countries make from this failure? As President Carter noted last Thursday:

> The leaders of the world . . . now see that their attitude toward fundamental human rights affects their standing in the international community.

This is no less true for the United States than it is for other countries. Therefore, I urge your immediate passage of the Genocide Treaty. Previous failures to act on this treaty were damaging. Failure in the future would be disastrous.

FUTURE OF TRUCKING DEREGULATION

Mr. PERCY. Mr. President, the American Enterprise Institute for Public Policy Research recently sponsored a most informative conference on regulation and regulatory reform. At that conference, Dr. Thomas Gale Moore, professor at the Hoover Institute at Stanford University, and one of the Nation's most respected experts in the field of surface transportation, delivered a paper entitled, "The Future of Transportation Deregulation."

In his analysis of congressional attempts to deregulate the various modes of transportation, Moore states:

> We have good news and bad news . . . Two transportation regulatory reform measures have been enacted in the last two years: a major reform for a minor industry and a minor reform for a major industry.

Specifically, Moore is referring to the deregulation of the air cargo industry, signed by President Carter last November, and the Rail Revitalization and Regulatory Reform (4–R) Act of 1976.

Deregulation of the airline industry is likely to occur in the near future, Moore believes. The Senate is expected to pass the Kennedy-Cannon Air Transportation Regulatory Reform Act of 1977, though passage of this bill in the House may be more difficult.

As Moore observes, however, deregulation of the trucking industry has not shown similar promise. Yet the need for reform is readily apparent:

> Virtually from the passage of the Motor Carrier Act of 1935, economists have been critical of the regulation of such an inherently competitive industry. Congress has been shown that exempt trucking works well, is stable, with many firms having operated for years. It has been shown that rates are considerably inflated due to regulation.

In a previous paper, Professor Moore calculated that excess trucking rates cost consumers billions of dollars each year.

Mr. President, I am presently looking into the merits of comprehensive motor carrier reform legislation. An appropriate measure should aim at easing entry into the industry, removing illogical routing restrictions which waste millions of gallons of fuel each year, creating a more flexible rate structure that would allow rates to drop more quickly than is now possible, and making the trucking industry rely more on competitive forces. Such legislation, properly fashioned, could eliminate many of the regulatory encrustations which prevent true competition in the private sector.

Professor Moore states that besides the academic community, the goal of trucking deregulation can and will have the support of the Antitrust Division of the Justice Department, the Council on Wage and Price Stability, the Council of Economic Advisors, and key White House staff.

I am personally inclined to believe that the trucking industry can be substantially deregulated without sacrificing the stability and efficiency that we desire. In fact, reform could make the industry operate far more efficiently at a savings of billions of dollars to the American consumer.

I wish to commend the American Enterprise Institute for its fine conference and Professor Moore for his lucid, persuasive work in this area. If trucking reform is achieved, he and others who have written so much on this subject will deserve much of the credit.

Mr. President, because of its importance in culling out key issues for discussion and debate, I ask unanimous consent that "Future of Transportation Deregulation" by Thomas Gale Moore be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FUTURE OF TRANSPORTATION DEREGULATION

(By Thomas Gale Moore)

Six years ago I participated in a conference on "Promoting Competition in Regulated Markets" at the Brookings Institution. At that conference Professor M. J. Peck made the statement that he had attended a conference on deregulation ten years earlier, and he was looking forward to another Brookings conference recommending deregulation in another ten years. It is clear that Professor Peck was too pessimistic. Two transportation regulatory reform measures have been enacted in the last two years: a major reform for a minor industry and a minor reform for a major industry. While economists have not seen their prescriptions adopted 100 percent, Congress has begun to move.

AIR CARGO DEREGULATION

As the mod quip goes: We have good news and bad news. First the good news: The Congress has passed and the President signed a bill in November that almost totally deregulates the air cargo industry. This bill grants new certificates to any all-cargo carrier or to any passenger airline operating an all-cargo service. Next November entry is made virtually free: any U.S. citizen can submit an application to operate an all-cargo service, and the Civil Aeronautics Board (CAB) must issue the certificate within 180 days unless the applicant is found to be not "fit, willing and able." These requirements mean that existing air cargo operators can extend their operations to anywhere in the United States (except Hawaii and Alaska), can operate any sized aircraft, and charge any rates.

However, deregulation is not complete. Rates must be filed with the CAB and they

can be determined to be unlawful if the Board finds such rates to be unjustly discriminatory or predatory, or that the rates amounted to undue preference or unfair deceptive practice under existing regulations. The Board has no authority to suspend them, however.

Probably this bill moves about as far towards complete deregulation as can be expected until experience is gained with a reregulated transportation system. Nevertheless, it should be noted that some of the gains from deregulation will be muted under this bill. This bill also required that rates must be filed sixty days before they go into effect. Such a provision facilitates collusions and inhibits pricing flexibility. If a firm wanted to offer seasonal rates, it would have to file them well in advance. Seasonal rates could be considered as discriminatory as have such rates by the Interstate Commerce Commission when filed by household furniture carriers. Moreover, quickly changing rates to take account of special services is made difficult if not impossible by the new sixty-day requirement.

Nevertheless, this bill is a larger step towards total deregulation than is being contemplated for any other industry. This bill after a one-year lag opens entry completely. It is clear that the intention of the bill is also to free rates completely. Thus, it prescribes almost total deregulation. Competition will be stimulated both in service quality and in rates. Costs will be reduced due to both competitive pressures and to efficiencies that the bill permits. For example, Federal Express will no longer have to fly small planes wing tip to wing tip from major points but can put more economical larger aircraft into service. On the other hand, the residual regulation will provide carriers with an incentive to use the regulatory process to inhibit competition.

The fact remains though that this is a major regulatory reform of a minor industry. In 1975 scheduled air carriers moved 4.8 billion ton-miles of freight which is less than half of one percent of all freight carried in the United States. Even though air freight has been growing over twice as fast as freight traffic generally, it is still a miniscule proportion of total traffic.

Why did this major regulatory reform bill sail through Congress so easily? No doubt one reason was that removing this industry from CAB control did not endanger any of the major carriers. Air freight is only a small part of the business of all the regular trunk airlines whose chief business is passenger transportation. The firms for whom it is a major part of their business such as Flying Tiger Line, Federal Express, Summit Airlines, Seaboard World, and Airlift International were all supporters of the legislation. This act will be a great boon to such carriers as Flying Tiger Line which can expand from the ten U.S. cities authorized to serve by the CAB to the whole country.

It is true that some companies, especially Federal Express and Flying Tiger, have been lobbying hard for this bill for several years. It is also true that most shippers while not necessarily wildly enthusiastic over deregulation have not taken a strong stand. Few industries or companies are dependent on air freight for their business. It tends to be a special market for special occasions. Shippers in general use air freight only in emergencies. United Parcel and other trucking firms offer reasonably fast and good surface competition.

Opposition did arise from some shipper groups. The American Retail Federation in testimony last spring argued for free entry into the freight area but not freedom of pricing. That organization wanted the CAB to keep control over maximum rates. On the other hand, the National Industrial Traffic League (NIT League) testified in opposition to completely free entry while suggesting that the CAB relax their standards some. The members of NIT League also opposed letting freight carriers be free to establish their own prices. Other opponents of deregulation of freight included the Teamsters and most of the large certified carriers.

The small size of the market can only be a partial explanation for the deregulation of the air freight industry. Part lies in the support by carriers in the industry. Part is the result of the work of many economists and lawyers in demonstrating that free markets in transportation can work to the benefit of the public. Even though this evidence has not convinced many in the shipping community of the benefits of deregulation, it does seem to have influenced policy makers.

AIRLINE DEREGULATION

Now for the bad news: The White House under Presidents Kennedy, Johnson, Nixon, Ford, and Carter has been in favor of substantial deregulation of the transportation industries. The Antitrust Division of the Justice Department has been steadfast in its advocacy of the market over regulation. The Council of Economic Advisers has given steady support and at times leadership to the movement to free airlines, trucks, and railroads from government control. Recently leaders in Congress such as Senator Kennedy have become convinced that the evidence in favor of the free market over regulated market is overwhelming. Yet after 15 years of effort, no significant legislation has passed either House.

It is clear, though, that Congress has lagged behind the executive branch in accepting the deregulation view. In 1975 Senator Kennedy held extensive hearings on airline regulation and issued a major report indicting the system. This last spring the Senate Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation covered the same ground in additional hearings. With this background it is surprising that Senator Daniel Inouye (D-Hawaii) could say in a committee meeting on September 22 of this year that the arguments against automatic entry are "pure nonsense." He went on to charge that those seeking automatic entry had no idea "of what its consequences would be. There's no empirical data or evidence" that it would produce lower fares. After the studies by James Miller, William Jordan, and George Eads, that a senator could make such a statement is astounding.

The House is even less informed than the Senate. While the Senate or at least some senators have been considering the issue for several years, at least back to the hearings Senator Kennedy held in 1975, the first House hearings opened last August and concluded this fall.

HISTORICAL BACKGROUND

During the 1930's with the Great Depression, many economists and policy makers lost faith in the ability of the market to handle economic affairs. Reflecting this loss of faith were numerous governmental actions to bring economic activity under control. In the area of transportation, the 1935 Motor Carrier Act and the 1938 Civil Aeronautics Act were prime examples.

By the 1950s there was a growing recognition that the substitution of government regulation for market regulation was not always resulting in the best use of resources. Text books of the time while not supporting the abolition of the CAB or the ICC did often point out that the transportation industries had few of the characteristics of a "natural monopoly. The 1955 report of the Presidential Advisory Committee on Transportation Policy and Organization, chaired by Secretary of Commerce Sinclair Weeks, asserted that although the system of transportation had become competitive, regulatory policy continued to be based on the assumption that transportation is monopolistic.

It is probably fair to say that economists and policy makers during the 1950s were primarily interested in making regulation work better. In the airline industry, they were concerned with reducing the subsidies being received by airlines and secondarily in promoting competition within the industry. A major concern was how to treat the "nonskeds" and the threat they posed to the profitability of the scheduled trunk lines. The concern was with balancing regulation and not too much competition. It is striking that Samuel B. Richmond, Professor of Economics and Statistics at the Graduate School of Business, Columbia University, could write a book entitled: "Regulation and Competition in Air Transportation" (Columbia University Press, 1961) that concludes:

"It is clear that both competition and direct regulation can, in the appropriate circumstances, be substituted one of the other, as mechanisms for seeking to serve the public good in the economic phases of the air transportation industry. The difficult problem, and that which is yet unresolved, is the determination of the optimum blend of these two mechanisms. Whether the current blend is viable is not yet clear. There are those who argue for modification in both directions. What is clear is that some blend is superior to the exclusive use of one or the other mechanisms; i.e., a single monopoly carrier for the nation, or alternatively, unrestricted competition."

Professor Richmond does not appear to be an exception: An earlier study by F. W. Gill and G. L. Bates, Airline Regulation, (Graduate School of Business, Harvard University, 1949) concluded that multiple carriers (three or more) were wasteful and of little if any constructive value.

John Meyer, Merton J. Peck, John Stenason, and Charles Zwick in their otherwise excellent book "The Economic of Competition in the Transportation Industries" (1959) do not clearly come down against regulation of the airlines or for that matter motor carriers. To be fair to the authors, their book, notwithstanding its title, was primarily concerned with railroading and to a major extent the optimum allocation of traffic between surface modes. Nevertheless, they did discuss airline regulation without making a recommendation.

Richard E. Caves, Professor Economics at the University of California at Berkeley, changed the tenor of academic writing with "Air Transport and Its Regulators" (Harvard University Press, 1962). He concluded that "the air-transport industry has characteristics of market structure that would bring market performance of reasonable quality without any economic regulation. . ."

Caves' study was the first major empirical and theoretical work on airline regulation to come down clearly for deregulation. The deregulation movement can be traced back to his work fifteen years ago. Caves argued that competition could work in the airline industry. The market structure would be neither monopolistic nor excessively competitive. For economists his work gave strong evidence in favor of deregulation. For politicians it was not convincing. Simply showing that competition could work in an industry did not demonstrate that competition would produce significantly better results than the regulated system.

It was William A. Jordan first in his Ph.D. thesis written at the University of California, Los Angeles, on the Economic Effects of Airline Regulation (1968) and then in his book on the thesis Airline Regulation in America: Effects and Imperfections (Johns Hopkins Press, 1970) that demonstrated the difference between a CAB regulated airline industry and a largely unregulated environment. As is well known he contrasted CAB regulated car-

riers with California intrastate airlines which up until 1965 were free of entry controls and which faced only maximum rate regulation. The contrast was clear and unambiguous. To this day the strongest evidence in favor of airline deregulation is the performance of unregulated intrastate carriers in California and more recently Texas.

During the 1960's the economics profession was becoming increasingly convinced that regulation was a poor substitute for the market place. Graduate students and undergraduates all across the country were absorbing this view of the world.

The Annual Reports of the Council of Economic Advisers give one indication of what the economics profession was thinking about policy issues. The first mention of transportation regulation was about half a page in the Economic Report of the President of January 1963 but with no mention of the topic in the Annual Report of the Council. The first time the subject appears in a Council Report was in January 1965 when two paragraphs were devoted to the subject. The ICC was mentioned once and the CAB not at all. The next year contained a much stronger several page section devoted to surface transportation. The first mention of CAB regulation came in one paragraph in the 1970 Annual Report with the first extensive treatment in the 1971 Report.

For those who became discouraged with the pace of deregulation, the preceding narrative should give some perspective. The economics profession itself was not convinced of the merits of deregulation until the 1960's. Certainly prior to the appearance of Caves' book in 1962, it would be hard to justify any statement that the economics profession generally was supporting deregulation of the airlines. The first mention in the Annual Report of the Council of Economic Advisers didn't occur until 1970. It takes time to educate the public. A fair summary might be that the economics profession was educating itself on the subject throughout the 1960's and only with the appearance of Jordan's book was there general agreement. The last seven years have been spent educating the media, the Congress, and government officials.

The easy passage of the air cargo bill suggests that the education has taken effect. This process was helped by Senator Kennedy's hearings of his Subcommitee on Administrative Practice and Procedure of the Committee on the Judiciary.

This committee held hearings during 1975 and investigated the CAB's practices and procedures. Subsequently, they issued a report which developed the evidence on the effects of regulation in such a way that critics have had difficulty defending the status quo. For these hearings Senator Kennedy brought in a special counsel, Stephen G. Breyer, from the Harvard Law School. Breyer was at the time of his appointment a member of the American Economic Association, had published several pieces on regulatory questions, and of course fully aware of the research that had been done on airline regulation.

To summarize then, Caves, Jordan, Miller, Eads, and others educated the economics profession including individuals such as Stephen Breyer. Breyer and others educated the Senate or at least part of the Senate. The result was that the air cargo bill sailed through Congress.

Current Proposals. Congress appears likely to pass an airline partial deregulation bill. This fall the Senate Commerce, Science and Transportation Committee voted out (11–2) a regulatory reform bill, the Kennedy-Cannon bill. This was after 22 markup sessions which can be generally characterized as exercises in education. Notwithstanding all the hearings prior to this point, most senators and I regret to say, probably even a higher percentage of House members, have little knowledge of the evidence the effects of regulation of the airline industry or of surface transportation. They just don't know much about the regulation issue.

Besides the hearings and report that Senator Kennedy's Subcommittee on Administrative Practice held, the Senate Aviation Subcommittee held 14 days of hearings in March on a bill that Senators Kennedy and Cannon had introduced. Hearings had also been held in the previous Congress on other airline regulatory bills. Yet Congressional Quarterly reported that "Much of the early delay was caused by committee members' unfamiliarity with the regulation issue." (C.Q. November 5, 1977, 2380).

Representative Glenn Anderson (D-California) introduced last summer the first bill in the House to partially deregulate the airlines. While details differ, his bill has the same thrust as the Kennedy-Cannon bill described below. The Subcommittee on Aviation of the House Committee on Public Works and Transportation has now finished hearings and will presumably report a bill early next year.

The Senate bill as voted out would provide reform in two essential areas: rates and entry. For rates airlines could raise fares as much as 5 percent or lower them as much as 35 percent without CAB approval. The bill also provides route flexibility. Any existing airline would be allowed to automatically enter one new route of no more than 3,000 miles in each of the first two years after enactment. Beginning in 1981 each airline could enter two new routes a year, not exceeding 3,000 miles without CAB approval. During the first three years, each airline could designate three routes that would be protected from automatic entry by other airlines. Two segments could be protected from automatic entry in the fourth year and one in the fifth. After five years no route could be protected, but the Civil Aeronautics Board would have the option to change the program if it created hardships for some airlines of communities. Airlines could also drop routes but only after 90 days' notice. "Essential" services to small communities could be subsidized by the CAB.

For new firms desiring to become certified carriers, the law would be changed to have the applicant show that the new service is consistent with the public convenience and necessity. The bill states that more innovative or efficent methods of operation or significant price reductions are consistent with public convenience and necessity and the fact that a potential new competitor may divert revenue from an existing carrier is not necessarily inconsistent with the public convenience and necessity. After a long battle in committee, it was agreed that the burden of proof of showing "consistency" with the public convenience would remain on the applicant. However, the law does diminish the burden of proof by changing the requirement of showing necessity to showing consistency.

Smaller carriers than American, Delta, Eastern, TWA, and United would receive additional route protection under this bill. For all the smaller trunklines, only three existing routes could be opened for competition in the first year and four in the second. After that time they would all be open. Local service or intrastate carriers would only face the possibility of two existing routes each year being subject to new competition, but that limit would expire after three years.

PROSPECTS

The academic community has done its job. The studies have been made and little more additional research is needed. The prospects for reform now lie in the success that various groups will have in influencing the Congress. The proponents of at least partial deregulation consist of: The Carter White House, the Council on Wage and Price Stability, the Department of Justice's Antitrust Division, the Council of Economic Advisers, a somewhat reluctant Department of Transportation, and some voices from the Civil Aeronautics Board—in particular its chairman and some staff. In addition, a group entitled "The Ad Hoc Committee on Airline Regulatory Reform" with the most unlikely assortment of members is strongly supporting the effort. The members of this committee consist of such diverse groups as the American Conservative Union and the Americans for Democratic Action, the Aviation Consumer Action Project (a Nader group), the National Retail Merchants Association, the American Association of Retired Persons, Common Cause, Cooperative League of the USA, the National Student Lobby, Sears & Roebuck, the National Association of Manufacturers, the Food Marketing Institute, and the Cooperative League of the USA are supporting the senate bill. United Airlines, Pan Am, Frontier, Hughes Air West, and PSA are supporting the effort.

Opposing deregulation efforts are other major airlines which claim that United's support is based on their already having the largest network and being in a position to gain from the route flexibility. They argue that United knows that it will not be authorized by the CAB to expand its network. Thus, deregulation is the only way it can move into other markets. In addition, organized labor is strongly opposed to any deregulation. For example, the AFL–CIO Executive Council on Airline Deregulation stated:

"Proposals to radically change the Federal regulatory laws governing air transportation . . . would adversely affect the stability of the air transport industry and the job security of over 300,000 airline employees . . .

Specifically, the legislative proopsals, if enacted, would also threaten air service to many smaller cities; encourage cut-throat pricing practices in some markets and some higher prices and reduced service in smaller markets; increase the possibility of bankruptcy of several large carriers and impose financial hardship on several others, particularly local service airlines; encourage cost cutting in such vital areas as safety; jeopardize airport construction and improvements and discourage modernization of aging airline fleets."

Frank Fitzsimmons, General President of the International Brotherhood of Teamsters; John Peterpaul, General Vice President, International Association of Machinists and Aerospace Workers; Francis A. O'Connell, Legislative Director, Transport Workers Union; and representatives of the Airline Pilots Association, the Brotherhood of Railway and Airline Clerks, and the Flight Engineers' International Association have all testified in opposition to the Kennedy-Cannon Bill. The bill that came out of the Senate Commerce Committee does have a clause providing income protection to labor. If the CAB determined that lay-offs were caused by the bill, workers would be eligible for federal payments for up to three years. It is dubious that organized labor will mitigate its opposition because of this provision.

Some groups, such as the National Industrial Traffic League, support the route flexibility and entry provisions but oppose rate flexibility. Others, such as the Airport Operators Council International and the American Association of Airport Executives, oppose route flexibility but did not testify on rate flexibility.

The airlines have been attempting to convince the public by adopting a more price-competitive policy that a change in regulation is not necessary. The rapid expansion of discount rates is partially due to the liberalization of charter rules and partially due to this attempt to persuade policy makers that change is unnecessary. But at the

tion in the total quantity and quality of deny some rate cuts in order to protect the charter carriers point up the problem of continued regulation, even under a procompetition chairman.

Banks and insurance companies have also taken a negative view on the proposed legislation claiming that it will destroy the financial stability of the industry. William McCurdy, Vice President, Equitable Life Assurance Society, testified that:

"With respect to future investments under the drastic new regulations proposed, it is the consensus of the financial community that a period of substantial upheaval, if not chaos, will result probably over the next five years while present company positions change. Thereafter, the surviving larger carriers will need five additional years in which to establish a record of creditworthiness necessary to attract the long term capital required to retrofit and replace current less-productive equipment and to purchase the newer, more efficient aircraft which future survival and growth will require."

The momentum towards some deregulation is strong—so strong that it seems very likely that some bill very similar to the Kennedy-Cannon bill will pass the Senate. Action in the House will be more difficult. House members fear the loss of service to their home communities. They have explored the issue less and know less about regulatory reform.

It is unlikely that organized labor will lessen its opposition to deregulation. No doubt they are aware that deregulation is unlikely to reduce significantly the number of airline jobs. It is more likely to lead to an expansion with increased passenger traffic. Some employees may suffer though. But what organized labor really fears is the growth of non-union airlines that could spread if entry were reasonably easy. The provisions added to the Kennedy-Cannon Bill to protect labor does not and cannot address itself to this problem. Government aid to unemployed airline workers will not help maintain union wages well above opportunity costs. Labor therefore will lobby hard in the House to bottle up any bill.

The provisions in the Senate bill to protect small towns appears to be adequate to appease the worries of most small communities. Testimony before the Senate last spring tended to be muted on this subject. Thus, the only major opposition to a deregulation bill comes from most of the airlines and from organized labor. These special interest groups do have something to fear.

Nevertheless, it seems likely for the first time since airlines were regulated in 1938 that a major deregulation bill be enacted. The administration supports it. The previous administration supported it. Liberals and conservatives are behind it. The homework has been done well. The only question would seem to be timing. It may be that the House is not yet ready to pass a bill. But even if a bill fails to pass the House next spring, supporters of less regulation will try again. Within three or four years something very similar to the Kennedy-Cannon Bill will pass both houses of Congress; it might even happen within the next year.

It has now been 15 years since Richard Caves' book was published urging a free market for the airline industry. Before the 20th anniversary of its publication, a major step towards that goal will be taken. Whether you consider that excessively slow progress or not is a matter of taste. It is quick, however, compared to the progress towards deregulation of the trucking industry.

Finally, it should be noted that after this legislation does pass, no further deregulation steps can be expected in the airline industry for at least another decade. The Congress and public officials will want to see how this bill works. That will depend in part on how the CAB interprets it. Will they be liberal in approving applications for certificates of public convenience and necessity, or will they construe words "consistent with" very strictly? In any case those in favor of a free market for the airlines will have to live for some years with what comes out of the Congress this time.

MOTOR CARRIERS

The prospects for significant deregulation of the trucking industry are not nearly as bright as they are for airlines. No bill is currently before Congress. The administration has not indicated when or if it will act. The Secretary of Transportation, as is well known, is opposed to any deregulation. The White House which has generally expressed support of the concept is waiting for the outcome of the airline bill. White House staff have indicated that they do not want to muddy the deregulation effort on airlines with a motor carrier bill. Moreover, there is apparently a concern that the Carter administration has already flooded the Congress with more major bills than Congress can handle.

ACADEMIC CRITICISM

Virtually from the passage of the Motor Carriers Act, economists have been critical of the regulation of such an inherently competitive industry. Over the four decades since regulation was imposed, the impacts of regulation on trucking rates, costs, efficiency, and service quality have been subject to much analysis. One of the earliest was James C. Nelson's work when he was assistant director of the Division of Economic Studies of the Board of Investigation and Research between 1941 and 1944. In that pioneering work he analyzed and described the restrictions that the ICC had imposed in issuing the grandfather certificates of public convenience and necessity. Another pioneer was Walter Adams who in the mid 1950's with James B. Hendry did a study for the Senate Select Committee on Small Business on ICC policies and the growth of concentration in the regulated trucking industry. In 1957 Professor Adams gave a paper at the American Economic Association annual meeting on "The Role of Competition in the Regulated Industries" in which he clearly spelled out the rationale for moving to an unregulated trucking industry.

The Department of Agriculture studied the impact of court decisions during the 1950's that resulted in deregulating the carriage of specific commodities. They also published studies of unregulated exempt agricultural haulers. Nelson has continued to produce evidence supporting the abolition of regulation.

Unlike the airline situation, there has been little need to educate the academic economist on the virtues of an unregulated trucking industry. Nevertheless, economists have developed a welter of evidence on the subject. It has been shown that exempt trucking works well, is stable, with many firms having operated for years. It has been shown that rates are considerably inflated due to regulation. Transportation scholars have made various estimates of the costs of regulation and of the transfers to special interest groups due to regulation. The unregulated British and Australian trucking systems have been described. The subject of service to small communities and of less-than-truckload shipments has been well analyzed. Yet Congress remains unimpressed.

THE EDUCATION OF POLICYMAKERS

Back in the mid 1950's Secretary of Commerce Sinclair Weeks chaired a cabinet committee on transportation policy which recommended among other things more control over agricultural exempt carriage and private carriage. It is hard to believe that a cabinet committee would make the same recommendation today. There appears to be general recognition that regulation of trucking is not justified.

The Weeks committee also proposed a zone of reasonableness for railroads with minimum rates of variable costs and maximum rates at least equal to full costs with rates held to a "reasonable" limit for noncompetitive traffic. Some economists such as Walter Adams criticized the advisory committee's recommendations on the grounds that they promoted monopoly, not competition. While the criticism was justified in connection with the tightening of entry restrictions, the advocacy of a zone of reasonableness was timidly introduced 21 years later in the 4–R Act.

In 1962 President Kennedy proposed some significant deregulation of railroads, trucks, and barges. In particular he proposed removing minimum rate regulatory authority from the ICC, CAB, and the Federal Maritime Commission for bulk commodities, agricultural and fishery products, and passenger transport. Hearings were held in 1962 but nothing was enacted. The administration introduced a similar bill in 1963 and further hearings were held. In 1964 the House Committee put together a bill that included complete deregulation of agricultural carriage by all modes and repeal of the commodities clause. The administration felt that it had to oppose this much deregulation and the bill was allowed to die.

In the mid 1960's the president appointed a Task Force on Transportation Policy chaired by George W. Hilton. The task force which included Allen Ferguson, John Meyer, James R. Nelson, Robert A. Nelson, George W. Wilson, Franz B. Wolf, and Benjamin Chinitz recommended among other things the removal of legal barriers to entry and abandonment on the part of common carriers, the elimination of most of the authority of the Interstate Commerce Commission to regulate minimum rates, repeal of the long-haul-short-haul provisions of the Interstate Commerce Act, amendment of the Interstate Commerce Act to deny carriers the right to request suspension of proposed rates, and amendment of the Federal Aviation Act to eliinate rate regulation of all unsubsidized domestic air passenger transport. As is obvious, nothing resulted directly from this task force report; but it was widely circulated in the government, and it must have had an educational role.

The next major attempt to amend the Interstate Commerce Act occurred in 1971 under the Nixon administration. The Department of Transportation proposed the Transportation Regulatory Modernization Act after the White House refused to sponsor the act due to Teamster opposition. This bill would have reduced control over entry into trucking, would have facilitated the broadening of existing certificates both as to commodities and to routes authorized, and would have established a zone of reasonableness for prices. In particular, the bill would have added a new paragraph to the Interstate Commerce Act that would have read as follows:

"No certificate shall be denied upon the grounds that its issuance would result in the diversion of traffic from any existing carrier, unless the Commission finds that granting such license would result in a diminution in the total quantity and quality of service available to the public . . ."

Another amendment dealing with the restrictions in certificates would have read in part:

". . . the Commission shall not impose any term, condition, or limitation on any certificate or permit issued . . . with respect to commodities carried, points served, equipment used, or routes used or otherwise, for the purpose of preventing diversion of traffic from and existing licensed carrier or carriers, unless it finds that absent such restriction or restrictions, there would be a diminu-

tion in the total quantity and quality of service available to the public."

The zone of reasonableness for rates would have established a floor of variable cost and an upper limit of 150 percent of fully allocated cost. Any proposed rate within this zone would have been per se legal unless it violated the long-and-short haul clause or was unjust, preferential, prejudicial, or unduly discriminatory. The zone would have applied both to railroads and to trucking firms.

Both the Senate and the House held extensive hearings on this bill in the spring of 1972, but no bill was passed. Paradoxically, the bankruptcy of the Penn-Central in 1972 both helped and hurt the deregulation effort. It focused attention on transportation and especially rail transportation and made imperative some Congressional response. At the same time the concentration on bailing out the northeast railroad network diverted attention from the cost of regulation in trucking. Moreover, while regulation played a part in the sorry financial position of the railroads, it clearly was not the sole or even the major factor behind the Penn-Central problem. The most that could be expected by even the most optimistic deregulators was that over time some deregulation would help the railroads but it would take awhile. What was needed was a quick fix and not a long run change in the rules that might easily make the railroads worse off in the short run.

Nevertheless, the eventual passage of the Railroad Revitalization Act and Regulatory Reform Act of 1976 (the 4–R Act) can be attributed to the Penn-Central debacle and to the earlier studies on the advantages of less regulation. The 4–R Act is discussed in more detail below.

THE PROSPECTS FOR MOTOR CARRIER REFORM

As mentioned at the beginning of this section, the prospects for even partial deregulation of trucking are not great. For one thing the subject is not of great interest to many voters. Trucking regulation is arcane and of only tangential interest to not only the average voter but also to most congressmen and senators. Thus, while consumers groups can in principle be expected to support deregulation, it is not likely to get their best efforts.

Besides the academic community the goal of less regulation of motor carriers can and will have the support of the antitrust division of the Justice Department, the Council on Wage and Price Stability, the Council of Economic Advisers, and key White House staff. In addition, Senator Kennedy who was so instrumental in laying the groundwork for airline deregulation is planning to do the same thing for the trucking industry. His antitrust subcommittee has already commenced hearings on trucking regulation. The initial hearings held in October focused on the role of rate bureaus in establishing rates and restricting competition.

At Senator Kennedy's hearings Assistant Attorney General John H. Shenefield testified with the approval of the Office of Management and Budget in favor of substantial deregulation of the motor carrier industry. He asserted that the Carter administration is committed to this goal and that the Justice Department is working with other agencies to develop legislative and administrative proposals. The antitrust division chief recommended limitations on entry should be removed or substantially diminished and that motor carriers should be given the general freedom to set their own rates with a minimum of ICC interference. He promised the subcommittee that the administration would have a bill in January.

The Secretary of Transportation was apparently surprised by Mr. Shenefield's statement. Secretary Brock Adams has clarified the administration's position by saying that the interagency task force plans to have an option memo for the President by January 1.

Senator Kennedy is planning to broaden the hearings in the new year to include all aspects of motor carrier regulation, including entry restrictions. Even if the administration fails to agree on a bill, the senate antitrust subcommittee will continue to explore the issue in depth.

In the past Brock Adams has made no secret of his opposition to deregulation of transportation, especially trucking. On the other hand the Justice Department is committed to having an administration bill. President Carter's instincts are probably in favor of less regulation; but if next year the Congress is still bogged down dealing with his earlier proposals, the President may feel that sending another controversial bill to the hill will only make him lose credibility.

Outside of the government and academic specialists, it is hard to find support for deregulation. While some shippers are for free entry into trucking (not all of them were for it during the 1972 hearings), many are fearful of rate deregulation. Some worry about low rates for their competitors; others about their own rates possibly going up. Thus, unlike the issue of airline control where users (passengers) are for deregulation, users of trucking services are not unanimously or even overwhelmingly in favor of major deregulation.

Small communities also worry about the continuation of service with deregulation. Some regulatory assurance may be necessary to eliminate or mitigate this opposition.

Of course, the owners of certificates of public convenience and necessity and of operating permits are strongly opposed to any threat to the value of their assets. The New York Times has editorialized in favor of buying out the value of these assets. This may be a necessary step to negotiating any major deregulation bill through Congress. On the other hand many consumer groups, liberals, and conservatives will be opposed to giving taxpayer money to the owners of operating rights, many of whom are quite wealthy.

But buying out the asset value of the operating rights will not eliminate the vehement opposition of organized labor. The Teamsters Union will resist strongly attempts to deregulate trucking. They fear with some justification that under free entry, the industry would be inundated with nonunion trucking firms. Certainly owner-operators would be a major threat to the high wages currently received by Teamster members.

Within the trucking industry itself some support for deregulation may come. The editor and publisher of Overdrive, a magazine for independent truckers, has advocated deregulation. There are some certified carriers, both small and large, which can benefit by freeing entry restrictions.

The railroad industry is likely to be strongly opposed to deregulation of trucking. Lower freight rates for motor carriage will undoubtedly result from deregulation. This will divert traffic from railroads. While they can and will respond with lower rates, they will not believe that lower rates and the loss of business to trucks will be in their interest.

Academic and governmental supporters of deregulation have generally not faced this issue. Deregulation of trucking is very likely to make the already sick railroad industry worse. Even if deregulation of trucking results in the elimination of railroad regulation, in order to let them compete, it is unlikely in the short run to benefit rail carriers. Thus, deregulation of trucking could result in significant pressures to subsidize or nationalize our rail system. Total deregulation of all surface modes should eventually result in a more healthy and slimmer railroad industry. But the transition may be painful: so painful that Congress may not agree.

The Interstate Commerce Commission is, of course, opposed to any tampering with its authority. It is attempting to demonstrate that the goals of deregulation can be achieved under its existing authority. The Commission has extended the area of commercial zones around big cities which are free from regulation. The trucking industry has been very vocal in opposition to this partial deregulation. In addition, the Commission has been holding hearings on proposals to liberalize entry restrictions. They have found that industry spokesman are on both sides of the issue. Many small firms feel that entry standards are already too easy while some big firms anxious to expand feel that they are too stringent and would like to see some relaxation. Moreover, the ICC is looking into the question of rate bureaus. Thus, they claim that deregulation is unnecessary.

In summary, there is considerable opposition to deregulation of trucking. If Congress does act it will be a testimony to academic perseverance and scholarship that has convinced the public, congress, and government officials, who have individually only a little to gain, of the rightness of a cause. If Sam Peltzman's model of regulation is correct, there is little hope of deregulation. He argues that regulation is a result of a variety of special interest groups being given benefits through the process. The gainers from deregulations are individually unlikely to see any significant benefits while the losers will suffer large losses.

If through consumer groups, Common Cause, the media, and a combination of free market advocates with liberal groups can be induced to actively support and work for deregulation, then there is a chance. At this point two Senators, Kennedy and Percy, are actively in favor of change. With White House support legislation in the next three to five years is possible.

THE 4-R ACT

In the twenty odd years of effort to deregulate the surface transportation industries, one and only minor deregulation bill has passed Congress: The Railroad Revitalization and Regulatory Reform Act (4–R Act). This bill provides a no suspend zone of reasonableness, encourages seasonal rates, and makes abandonment even more difficult than before.

The Act provides new standards for just and reasonable rates. Any rate that is equal to or exceeds variable costs cannot be considered to be unjustly or unreasonably low. No rate can be considered to be too high unless the carrier has "market dominance." Rates cannot be held up to a particular level to protect the traffic of any other carrier or mode unless the rate is below variable cost. For a two year period after enactment, which was February 1976, railroads may raise or lower rates 7 percent from the level at the beginning of each year without suspension because of reasonableness. Rates, however, can be suspended because they are discriminatory, and decreases in rates can be suspended if unfair, predatory, destructive, or undermines competition.

The 4-R Act also restricts the rate bureau antitrust exemption. Within rate bureaus carriers cannot agree on or vote on single line rates. The Act instructs the ICC to facilitate seasonal rates and separate pricing for distinct services, both of which were legally possible prior to this Act.

Congress apparently wanted to provide additional flexibility of rate making. Unfortunately, the Act as it eventually was passed was so compromised between shipper fears and the desire to promote flexibility that not much was accomplished.

Very few rates have been filed under the Yo–Yo (the 7 percent up and down) provision. Partly this is because very little if any real additional rate freedom has been added.

Under the Yo–Yo provision higher rates can be suspended if the Commission finds market dominance. Proposals to increase rates under normal procedures also face a market dominance test. Lower rates face the variable cost floor. None of the few rates filed under the Yo–Yo provisions has been reductions.

The Commission has established three rebuttable presumptions of market dominance that are so strict as to seriously inhibit the rate flexibility that Congress and the administration had in mind. First, the carrier is presumed to have market dominance if it has a market share greater than or equal to 70 percent of the relevant market. The relevant market is defined narrowly to be that market for which the particular tariff has been filed. The Commission itself in its report to Congress has estimated that about 45 percent of current railroad traffic is likely to meet this market dominance test.

The second test of market dominance is rather strange from an economic point of view. If the rate equals or exceeds 160 percent of variable cost, the railroad is presumed to have market dominance no matter how small its market share. The Commission admits that its cost estimates may not be always the appropriate measure. About 11 percent of current traffic moves at rates estimated by the ICC to be equal to or over 160 percent of variable costs.

The third test is that shippers or consignees have made a substantial investment in rail-related equipment or facilities which prevents or makes impractical the use of another carrier or mode. The Commission has estimated that about one-quarter of rail traffic would meet this test of market dominance.

Altogether the Commission estimated on the basis of a waybill sample that some 48.5 percent of railroad traffic would meet one or more of these tests. Of the non-market dominant traffic, some 57 percent is carried at rates calculated to be below variable cost and therefore noncompensatory. Since railroads are free to raise these rates to variable costs, the fact that they do not do so implies that the rates do cover marginal costs and that competitive conditions are such that rates cannot profitably be increased. The Commission study also shows that most traffic for which there is market dominance consists of bulk commodities; manufactured commodities rarely are subject to market dominance. But for manufactured commodities, truck competition is a viable alternative and constrains rate increases.

Generally the market dominance test has inhibited the railroads from seeking higher rates where shippers would pay them and authorized the railroads to charge higher rates where market conditions will not permit them. As a consequence it has not facilitated rate flexibility.

The only real improvement in regulation due to the 4–R Act is the encouragement of seasonal rates. There have been three filings of seasonal rates under this provision. The Southern Freight Traffic Bureau has proposed a 20 percent increase in rates during the peak period of September 15 to December 15 for grain and soybeans. Proposals have also been submitted for reduced rates for 5 months for limestone by the Southern Railroad and off-season rates on wheat, corn, and soybeans by the Chicago and Northwestern railroad.

As both the ICC and the Department of Transportation have pointed out in reports to Congress, the Act is too new to adequately judge. Nevertheless, the interpretation of the Act by the Commission, especially the market dominance definition, can only frustrate legislative objectives. Early use of the Act by railroads to achieve additional flexibility has been meager and does not augur well for meeting Congressional aims.

There are at least two lessons to be learned from the 4–R Act. First, the railroads are not eager to aggressively cut rates to attract business from other carriers or modes. This lack of aggressiveness may be because price cuts would attract too little traffic to be profitable or because lower rates would be below marginal cost or because executives of railroad companies are not sufficiently market oriented to take advantage of the existing opportunities. Probably the truth is that all factors are at work. There are few markets where cutting rates would significantly add business. Moreover, most railroad executives do not think in terms of aggressive marketing strategies.

The second lesson is that significant regulatory reform is difficult to achieve. Congress is timid about permitting free pricing and the regulatory agencies will continue to stifle competition. Of course, the railroad industry is the mode for which it is most difficult to achieve competition. It is a declining industry where free entry has no meaning. Most narrowly defined traffic markets will have only a few competitors. The argument that one region of the country competes with another or that railroads carrying grain to Louisiana compete with railroads moving grain to Baltimore is not compelling to everyone. Thus, even total deregulation of the railroads would not work immediate miracles nor achieve a profitable low cost railroad system.

It is important to stress that weak legislation such as the 4-R Act cannot be considered an important regulatory reform measure. Airline regulatory reform must go beyond what the Congress did for railroads to be significant. Reform must be structured so that an unfriendly regulatory commission cannot frustrate the aims of the act.

CONCLUSION

This paper has not considered regulatory reform in other sectors of the transportation industries such as the maritime industry, barge lines, freight forwards, or surface passenger transportation. Each of these industries is worthy of deregulation, but little research has been done on the impact of regulation in these sectors. Reform will take years of building the case, developing regulatory reform proposals and educating policy makers.

The best chance of regulatory reduction now lies in the airline industry. The case for reform has been clearly made, the proponents of change are in a strong political position, and even some of the industry supports partial deregulation. If airline reform fails in Congress, there is no hope for deregulation of any other sector. It is likely that the Carter administration will not even introduce a trucking deregulation bill until it is clear whether Congress will act on changing the Federal Aviation Act.

Even if airline deregulation does come about, achieving trucking deregulation will be very difficult. Most if not all of the industry oppose it. Shippers are not eager supporters and some will oppose parts of any deregulation proposal. The effect on the railroads will have to be considered. Significantly, the Teamsters will wage an unrelenting fight against change. Thus, the prospects are not good, but the probability is not zero. The momentum towards reform is there. The industry is clearly worried that legislation will pass.

If motor carriers are deregulated, it will be important to return to the subject of ICC control of railroads and make a bold move towards deregulation. Under those circumstances the railroads would probably support deregulation and only shippers would be opposed.

To end on an optimistic note, economists have shown that they can be very influential. Without the studies made by numerous academics, there would be no movement towards deregulation. While economists can become discouraged with the pace with which Congress adopts their obviously brilliant analyses, given the opposition and that generally "they haven't met a payroll or run a railroad," it is amazing that academics have had so much influence.

U.S. FOREIGN ASSISTANCE

Mr. McGOVERN. Mr. President, as Director of the Food for Peace program under President Kennedy, I saw the desperate poverty that afflicts nearly one-quarter of the world's population. That program was but one aspect of an American commitment to relieve the suffering of those untold millions.

Now, nearly 20 years later, we find that commitment has not been met, not only because of inadequate funding, but also because of the changing nature of the needs of the underdeveloped countries and the failure of our Government to devise new programs to meet those needs.

Henry Bradsher has written an excellent two-part series for the Washington Star outlining the problem and some of the solutions being considered. Mr. Kai Bird has also written a perceptive article on the food for peace program for the Washington Post. I commend these two articles to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 29, 1977]

UNITED STATES RETHINKING HOW TO GET AID TO THE WORLD'S POOR

(By Henry S. Bradsher)

(*The United States can and will take the lead in such efforts . . . (to) guarantee the basic right of every human being to be free of poverty and hunger and disease. . . .* President Carter's "Statement to the World" on Inauguration Day.)

A recent administration study declared that, "if present trends in world hunger, population growth, environmental degradation, nuclear weapons proliferation, and armed conflict continue unabated, the world by the end of this century could become increasingly unstable, suffer economic stagnation and be a much more dangerous place in which to live."

In the past 11 months, President Carter has spent a lot of time trying to deal with the trends in weapons and conflict. His efforts have attracted a lot of public attention.

But the recent study was addressed to another presidential concern that has received little attention, That is Carter's strong humanitarian feeling for the "approximately oue-quarter of the world's population living in destitution and desperation."

That description of the size of the world poverty problem is given in the study by the Development Coordination Committee, which is composed of about a dozen administration branches.

For the first time since John F. Kennedy came into office talking about the importance to the whole world of alleviating poverty in countries like India, an American administration is taking a fresh look at the subject of foreign aid for economic development. It is framing that look with broader related questions such as poor countries' needs for greater trade opportunities.

The result so far has been new thinking on the strategy of getting aid to poor people, plans to improve the efficiency of aid delivery and a decision to spend more money on aid. But, according to some administration

sources and informed observers in Congress and elsewhere, some basic questions remain to be faced.

Carter has decided to ask Congress for a moderate increase in foreign aid in the fiscal 1979 budget that goes to Capitol Hill next month. The president has also set a target of trying to double economic assistance to about $8 billion by 1982.

But there is some question whether the fiscal 1979 request is large enough to establish a trend up toward that goal, or whether it shows a willingness to fight for large enough increases to reach it.

In uninflated terms, aid has slipped in the past decade. Turning it around could require a major political effort. With such other large struggles ahead as energy legislation, the Panama Canal treaties and eventually maybe a SALT treaty, Carter could be faced with a hard decision on how much political capital he can afford to spend on helping poor foreigners.

Kennedy increased the U.S. moral commitment to helping the poor abroad. But his successor, Lyndon B. Johnson, shifted the emphasis to the poor at home.

Official spending on social objectives in the United States rose as a result of the Great Society's new welfare programs from $216 a person in 1966 to $572 last year. At the same time, U.S. economic aid to developing countries fell from about $4.81 from each American to $1.59.

During this same decade, a study by the Brookings Institution notes, the per capita gross national product of the United States rose from $4,558 to $5,404 in uninflated terms of 1970 dollars, while per capital income in developing countries rose from $159 to $186 a year.

During the past decade, the number of American families below the officially defined level of absolute poverty has dropped by some 60 percent. It was approximately 7 percent of all families in 1975—a figure that shows economic aid problems continue to exist inside the world's richest country.

But outside, there has not been a significant drop. The problem of world poverty remains tremendous despite the progress in limited areas that can be attributed to a quarter-century of aid to what officials call less developed countries, or LDCs.

It is this continuing problem that touched the deep moralistic streak in Jimmy Carter. Aside from the arguments that can be made about American self-interest in the prosperity of countries that sell the United States vital raw materials and buy its food and industrial products, Carter wanted to increase and improve the U.S. response to the humanitarian problem.

The response has actually been decreasing and, many critics say, getting more tied up in bureaucracy rather than improving. Improving aid, raising the effectiveness of the American effort to help break cycles of hunger and disease, is a difficult job even with more money.

Inflation has cut the value of foreign aid in half since the 1950s, although the dollar figures have changed little. As a result, U.S. aid has been steadily declining in the real terms of improved seeds, supplies and advice for ending the pollution of drinking water and other help that the money voted by Congress can provide.

In the 1950s the emphasis in aid began to switch away from the recovery of Western Europe and Japan, to which the United States had devoted as much as 1.8 percent of its GNP. The emphasis moved to countries coming out of colonialism that were still primarily engaged in subsistence agriculture.

The United States spent about 0.65 percent of its GNP to help the developing countries in the mid-1950s.

The percentage has steadily declined as the economy has expanded, so that aid is now a much smaller burden on the country—and much less of an effort is being made to help those not so rich as Americans. In the 1976 fiscal year, only 0.29 percent of GNP was committed to aid. Only 0.26 percent was actually spent in the 1976 calendar year.

That meant the richest country did not try as hard to help poor countries as 11 other industrial nations did, according to the international authority on aid efforts. It is the Development Assistance Committee of the industrialized Western countries' forum, the Organization for Economic Cooperation and Development.

The other 11 supported economic development abroad with efforts from Sweden's most generous 0.82 percent of GNP down to Germany's 0.31 percent, DAC figures show.

Carter decided a few days before Christmas to ask Congress for a larger foreign aid allocation in the budget year that begins next Oct. 1. In the current fiscal year the total for economic development aid—excluding military assistance—is slightly under $4 billion.

The increase that Carter will seek for FY 1979 is a respectable one, according to official thinking. But "it hardly represents a landmark decision in the history of foreign aid," a key administration specialist says. "The really big decisions haven't been faced yet."

Another official said the coming fiscal year is not really the critical one. If the administration's long-term goals for helping the world are to be met, however, hard decisions about selling a larger aid program have to be taken by next year when the FY80 budget is being put together.

Meanwhile Congress is beginning to take a fresh look at aid. Sen. HUBERT H. HUMPHREY called last March for a complete rewriting of aid legislation. His foreign assistance subcommittee of the Senate Foreign Relations Committee has been studying the subject for the last few months in preparations for hearings early in the new session of Congress.

While Canada's aid program of some $1 billion is flexibly based on a one-page document, the present U.S. law is an accumulation of 207 articles, many no longer pertinent. "We want to scrape the barnacles off of it and start off with something more workable and up to date," says a subcommittee staff member.

One of Humphrey's specialists, Frank Ballance, recently told representatives of public volunteer aid agencies that Congress has to accept responsibility for the present problems of the aid program rather than just wait for the administration to take the lead.

Ballance said aspects that the subcommittee should examine include the need for a more innovative approach to development needs rather than choking every response in bureaucracy, for long-term consistency of purpose rather than seeking quick-fix solutions to basic economic and human problems, and for reaching the poor at the grassroots rather than letting aid go to an already relatively prosperous elite in poor countries.

Most important, Ballance said, is the need for an American approach that focuses on development goals and then puts cost figures on them. He and others have criticized past and present administrations for thinking in terms of budget allocations instead of needs and the capability of meeting them.

"There's a big gap between recognizing the humanitarian problems involved in people starving, or in being so malnourished that they can't do much to improve their situation, and putting a figure in a budget," one close observer said.

"Somehow, the government just never seems to bridge it very well. It doesn't seem to make a convincing connection between the need and the amount of money that it proposes to spend."

The Development Coordination Committee took a detailed look at that need. The DCC included representatives of the Agency for International Development that handles the $1.3 billion a year that the United States is providing in grants and concessional loans to foreign countries this year, the Agriculture Department that handles a bit more in food aid known as PL480 assistance, Treasury that supervises the $1 billion of U.S. aid channelled through the World Bank's cheap loan program and other multilateral organizations, the State Department, the president's special trade representative and other administration units.

The DCC study says population growth possibly should lead the list of global economic development problems, since the extent of such other problems as food, environment and energy will largely be determined by the number of people on the earth.

The president of the World Bank, Robert S. McNamara, said last spring that population growth rates may at last have begun to decline in developing countries. But the present world population of some 4.2 billion is already destined to increase to 6.3 billion by the year 2000, and without more effective efforts to limit growth the population will not stabilize until it reaches 11 billion, he warned.

Economists specializing in development problems have increasingly realized in recent years that family planning programs cannot be run in isolation, as was long tried from India to Central America. Unless impoverished villagers are educated in family planning methods as part of an overall effort to improve their health and standard of living, results will be limited.

A recent study by the National Academy of Sciences says developing countries will have to double their food production by the end of the century in order to meet food needs.

The United States has paid for much of its imported oil and other foreign needs by becoming the world's main food exporter. But it cannot supply the foreseeable needs of developing countries either in tonnage or in terms of prices that would not wreck American household budgets for groceries.

The DCC study notes that developing countries do not presently use much energy. They will need more, however. Relatively small, simple new ways like improving solar energy collectors are needed for them to make economic progress in a world that cannot supply oil or coal to every country at the rate it is consumed by those already industrialized.

These problems cannot be solved simply by giving aid money to poor countries.

Many of the countries need to make basic and politically very difficult internal reforms in order to achieve substantial economic growth that reaches the masses of their people. Aid, long seen as an outside solution, is now increasingly recognized to be useful primarily as a catalyst for essential changes that encourage and facilitate the natural desire of people to live better.

And as poor countries develop modern economies, they need to sell things to industrialized nations in order to continue their own growth from domestically generated resources.

These two aspects of the economic development process continue to cause policy problems for the United States.

[From the Washington Post, Dec. 30, 1977]

FOREIGN AID TARGET: FINDING A WAY TO HELP THE POOR

(By Henry S. Bradsher)

Photos of smiling farmers of a village high in the Andes who now have better diets, smiling fishermen on an African beach who now catch more fish, and smiling women by a South Asian dam who now have dependable irrigation for their rice fill the literature of economic aid agencies.

They point to successes in a quarter-century of rich countries' trying to help poor

ones. But the vague statistics of the less developed world indicate that more people today live in desperate poverty than ever before.

The Carter administration has been trying to figure out how to reshape the American aid program so that it more efficiently relieves the poverty of more people. So far the administration has come up with a number of new ideas and some changed aid priorities, but it has found that there are no simple answers, no easy formula.

There are three primary ways that the U.S. government can help what economists call less developed countries, or LDCs.

One is the traditional concept of aid as providing grants and concessional loans, backed up with training programs and advisers. Another is stabilizing the earnings of LDCs from such commodity exports as sugar, whose prices and therefore their incomes have fluctuated wildly in the recent past. The third is giving them more opportunities to sell the products of their new factories.

Most of the administration's new ideas have been about aid. The LDCs have been disappointed in the followup on its rhetoric about helping solve commodity problems. And they have found that U.S. domestic economic problems put trade liberalization for LDC products as far off as ever.

Thinking about traditional aid has changed a lot in the last decade.

In the 1950s the generally accepted concept was that what the LDCs needed most was the infrastructures of modern economics. That meant concentrating the available money and trained manpower on big hydroelectric power projects, improving railroads and building steel mills.

The peasants in their mud or thatch huts who tilled the soil with sharpened sticks in many countries got little more than a DDT spraying for malarial mosquitoes. The theory was that aid poured in at the top of national eocnomies would trickle down to benefit them eventually.

Little of it did. By the late 1960s that had become obvious. The peasants were not expanding food production fast enough to stave off periodic starvation as population growth was scarcely checked, and their lives remained brutish and bleak, while many of those who had been driven off overcrowded farms to the new industrial centers lived in shanty misery.

About the time the inequity of economic growth became obvious, the American liberals who had always supported foreign aid began to get disillusioned. They found less and less of the money was going to encourage poor countries to replace malnourished stagnation with healthy progress. More and more was being devoted to supporting the U.S. military role in Indochina.

By 1970 foreign aid was just staggering along on continuing resolutions in Congress. There was no enthusiasm for the idea, no support for allocating more dollars to match the inflation rate that was eating into the value of aid.

Then the idea developed in Congress that "new directions" were needed that would focus aid on the poor in small-scale programs to reach them more directly than the dam-building phase of aid had done. Beginning in 1973, aid legislation mandated efforts to develop programs in agriculture, family planning, health, education and related areas.

The idea was simultaneously to encourage more equitable use of land, provide more jobs, and alleviate human misery by providing basic services and commodities to the poor.

A study that the Carter administration asked the Brookings Institution to make says the "new directions" have not worked out very well.

A failure of Congress and the executive branch to agree on details of the new approach has resulted in limiting aid to inefficiently small projects that focus too narrowly on economic problems, the study says. The Agency for International Development that administers the current $1.3 billion annual program of grants and concessional loans has been too tied up in congressionally required paperwork and thus scared out of finding innovative new solutions for particular local development problems.

It is because of Congress, the study says, that "AID has a reputation for inefficiency, rigidity and slowness." Many observers also find the organization suffering from senility that makes it top-heavy with bureaucrats. It has two-thirds of its staff in Washington, most of the rest in foreign capitals, and few people actually working among those who are supposed to be getting help.

The developing attempt by Congress to rethink foreign aid and provide simpler, clearer legislation for it parallels the administration's new look at it. Close consultations have begun between congressional staffers and key administration officials who have been shaping the aid decisions presented to President Carter.

One of the first men to educate a former Georgia governor in foreign affairs in order to prepare him for a presidential campaign, Henry Owen of Brookings, has been working part time at the National Security Council to coordinate those officials. They outlined the decisions required on aid, commodity stabilization, and trade.

The first question about aid was how much.

Carter decided just before Christmas to ask Congress for what the administration considers a respectable increase for the fiscal year beginning next Oct. 1 over the current year's $1.3 billion for grants and loans.

The overall aid package this year also includes $1.5 billion for food, $2.2 billion for "security supporting assistance" given for political and military reasons that often have little to do with economic development, and $1.1 billion for multilateral aid through institutions such as the World Bank.

But there are officials inside the administration and people in the "aid lobby" of voluntary councils and church organizations who think a much more respectable effort than Carter decided on could be launched.

"The President just isn't prepared to spend any political capital fighting for aid," one senior official says. An outsider says the Office of Management and Budget is too concerned with keeping the overall budget down to allow much increase in aid spending.

A second question is how to distribute aid. This is a tough problem that has bothered a lot of officials.

Should the United States concentrate its aid on the poorest of the poor, countries such as Upper Volta or Rwanda or Burma whose average citizen survives on the equivalent of less than $100 a year? Or should it help countries like India and Brazil that have large modern economies alongside wide areas of subsistence agriculture?

Should it aid countries run by dictators whose city prisons hold political prisoners but whose rural masses need help to escape malnutrition? Should aid be directed to those who support Washington at the United Nations and withheld from those who oppose American policies?

A former AID worker who is now the head of the State Department's policy planning staff, W. Anthony Lake, recently suggested some answers.

He said the United States faces "a dilemma when we consider foreign assistance for countries where political and economic human rights are denied . . . (Regimes) inevitably derive some political boost from our assistance. But we do not want to deprive poor people because of the nature of their government.

"In such cases, our decisions must be made on a pragmatic, case-by-case basis and in very human terms," Lake said.

"Meeting basic human needs is not, in our view, a welfare program," he went on, "but a way for a country and a society to develop. Accordingly, we will encourage host governments to make an increasing commitment of their own to the needs of their poor. . . ."

Some of this thinking went into Carter's recent decisions about aid strategy.

The President has issued instructions to try to focus direct bilateral aid on poor countries and on poor people in other countries. He wants to use programs that foster local economic growth while emphasizing the social equity of spreading out the benefits derived from expanding production and improving health facilities.

A third question about aid is making the effort more efficient.

Part of the problem is finding people who can understand the very human complexities of working with illiterate peasants who are conservative because their margin of survival is too thin to permit failures in trying new agricultural techniques. The aid system often rewards the bureaucrat and ignores the dedicated field worker.

The Brookings study suggested several changes in the executive branch's aid structure. They included the appointment of an aid czar on the presidential staff who would coordinate agencies involved in different aspects of the work—AID and the State Department, Agriculture and Treasury, and many more.

Organizational changes are still being studied. Choices will be presented to Carter in the new year when the implications have been worked out more clearly.

Commodity stabilization schemes received a cool reception from the Ford administration. Like European industrial nations, it feared them as a way of establishing cartels that would drive up the prices of commodities imported from LDCs.

The Carter administration decided last spring to cooperate with efforts by a large group of LDCs to establish a common fund to stabilize their income from tea and timber, copper and coconuts, sugar and sisal and other basic products. But in recent discussions in Geneva, the administration argued that the fund must not raise prices and thus result in buyers' transferring resources to sellers.

The United States argued that such transfers would be indiscriminate, in many cases benefitting rich countries like Canada that are commodity exporters.

The administration was worried that higher prices for imported commodities would slow the U.S. economy. Rich countries contend that one of the best ways they can help poor nations is to become more prosperous and thus need to buy more commodities.

The U.S. stand had left the common fund in limbo. A number of unhappy countries that depend on commodity exports for most of their economic development funds will continue to find it difficult to plan ahead because of fluctuations. Prices of 34 commodities—excluding oil—went up 51 percent in 1974, down 35 percent in 1975, and back up 28 percent in 1976.

For those countries that have begun to develop, trade in manufactured goods has become important. Unless they can find markets for the things their expanding economies are beginning to make, they cannot pay their debts and buy the essentials for further expansion.

The Carter administration has paid little attention to the trade problems of LDCs. It

has been overwhelmed with the massive problems of trade with one of the most developed countries, Japan, and with oil-exporting countries.

There was a time some years ago when a slogan developed in the industrialized world that "trade, not aid" was the way to help poor countries. That has changed, and few economists think for the better.

Whatever the political difficulties of talking Congress out of more money for aid, it is even more difficult to get its members to support programs to raise commodity prices or lower trade barriers in ways that will affect particular groups of constituents back home.

[From the Washington Post, Jan. 4, 1978]

FOOD FOR PEACE—OR POLITICS?

(By Kai Bird)

Front-page headlines were recently made when it was disclosed that U.S. food-aid shipments have been held up by a State Department review of human rights. Three major beneficiaries of the Food for Peace commodities program—Bangladesh, Indonesia and South Korea—were placed on a "troublesome" list because of "serious" human-rights violations. These countries are still eligible for the long-term financing needed to buy U.S. grain surpluses under Public Law 480 Title 1 of the food-aid program—but they must first demonstrate that such food aid will indeed benefit the needy.

No other issue is likely to bring into such sharp focus some of the underlying contradictions between U.S. foreign policy in the Third World and the administration's humanitarian impulses. The attempt to apply human-rights standards to food aid is another instance in which Carter's human-rights diplomacy has unintentionally painted itself into a corner. The problem is that if the recipients of U.S. food aid were truthfully required to show that such food was actually targeted for the "needy," very few countries could qualify. The vast majority of U.S. food aid feeds the middle-class urban constituencies of countries like Egypt, Brazil, Bangladesh and Indonesia. In most countries food aid is simply budgetary support; the food is sold on a ration system to those most able to pay for it, and the receipts are used to pay the salaries of local government officials.

Bangladesh is a case in point. Though it is one of the most impoverished and hungry nations in the world, only 10 percent of U.S. food aid ever reaches its poor and destitute. Ninety per cent of the food-aid shipments are sold on a subsidized ration system designed, in the words of one State Department cable obtained through the Freedom of Information Act, to "keep potentially politically active Dacca dwellers supplied with low-priced foodgrains." Thirty per cent of the foodgrains distributed on the ration system is sold to civil servants, the police and the army—something necessary to the survival of Maj. Gen. Ziaur Rahman's military regime.

From the point of view of the State Department, U.S. food aid to countries like Bangladesh, Indonesia and South Korea is primarily political "stabilization" aid in support of moderate, non-Communist governments. From the point of view of the Department of Agriculture and the farm lobby in Congress, food aid is simply a system to dispose of U.S. grain surpluses.

In fact, at a time when the administration is under severe pressure to dispose of large grain surpluses and raise depressed farm incomes, the State Department never had any intention of cutting food aid on grounds of human rights. But gross and consistent violations of basic human rights are so well documented in Bangladesh, Indonesia and South Korea that the only remaining rationale for continued assistance is that such food aid will be feeding the hungry and poor in these nations. Few in the bureaucracy and fewer still in Congress ever investigate whether individual U.S. AID projects are actually benefiting the poor. Most policymakers simply take it for granted that food aid in particular, by its very nature, does so.

The Dacca regime depends in large measure for its survival on the disguised political support of food aid. If the United States should now withdraw this support, we would be accused of political meddling. Yet the question must be asked: Why should the American taxpayer finance the political stability of a relatively nonstrategic authoritarian regime known for its consistent violation of human rights?

No doubt cutting food aid would result in short-term political chaos and hardship for the urban constituencies of the regimes. But in the long term, I would argue, there is a good chance that a more rural-oriented—and thereby a more representative—government would evolve from the necessity to rely on the indigenous grain production of its own small farmers. Self-reliance would force the native elites in such countries to allocate a majority of the nation's investment resources to the small farmer. Urban food consumption would no doubt drop. But foodgrain production and consumption among the peasantry, where the severe malnutrition actually exists, would have every chance of rising dramatically.

Congress has mandated that the bulk of U.S. foreign aid should directly benefit the poorest of the poor in the most needy nations. But policymakers appear unwilling to face up to the ultimate question: What kind of aid funneled through authoritarian regimes has a chance of ever reaching the needy? Two decades of experience demonstrate that food aid rarely reaches the poor—and is often a disincentive to local agricultural production. Under present circumstances, only when voluntary relief organizations—such as the Catholic Relief Service—control the distribution, does food aid have a chance of reaching the hungry.

S. 1464 ALCOHOL LABELING BILL

Mr. THURMOND. Mr. President, on May 5, 1977, I introduced a bill to require a health warning on the labels of bottles containing 24 percent alcohol by volume. Almost 6 years have passed since I originally introduced this bill, and during this time the facts have verified that alcoholism is an ever-increasing problem that is destroying more and more lives with each passing day. I am gratified that Senator HATHAWAY, chairman of the Subcommittee on Alcoholism and Drug Abuse, has scheduled a hearing on this important legislation for January 31.

In the fall of 1977, the Food and Drug Administration issued a recommendation that a specific warning label be placed on all alcoholic beverages with respect to the dangers of the fetal alcohol syndrome. The fetal alcohol syndrome can impair morphological and neurological fetal development, resulting in mental and physical retardation, facial malformations, and abnormal behavioral patterns, such as jitteriness.

The risk of fetal alcohol syndrome is not limited to those expectant mothers who are chronic alcoholics. One-time heavy drinking during critical periods of pregnancy produces a risk to the fetus. The risk for consumption of smaller quantities of alcohol is still under study. Unfortunately, the public is not fully informed on either the risks or the results of the fetal alcohol syndrome. Fortunately, however, this syndrome is one totally preventable birth defect—totally preventable.

Barbara Luke, a clinical specialist in maternal nutrition at Sloane Hospital for Women at Columbia Presbyterian Medical Center in New York has done considerable casework and research in the area of the fetal alcohol syndrome. She has observed and counseled women in prenatal nutrition with special emphasis on the prevention of FAS. She has had the opportunity to observe the effects of alcohol in infants and on developing young children. The results are well documented and disturbing. Ms. Luke has agreed to participate in the hearing regarding S. 1464.

At this time, in order to share her findings with my colleagues, I ask unanimous consent that an article she wrote for the American Journal of Nursing on maternal alcoholism and fetal alcohol be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, approximately 10 million people in the United States are affected by alcohol, many are women and mothers, many are adults with alcoholic loved-ones, and many—far too many—are children who suffer with alcoholic parents or with their own physical and mental impairment as a result of the fetal alcohol syndrome.

Mr. President, the time has come to do something about this growing problem. I am not talking about morality, I am talking about documented medical evidence.

A health warning label like that I propose will be an effective method of informing the public of the physical dangers of alcohol. If this warning deters a potential alcoholic from taking his first drink, if it encourages an expectant mother to refrain or substantially moderate her drinking habits, or if it prevents a casual drinker who drives from having "one for the road," then this legislation will be effective and worthwhile.

EXHIBIT 1

MATERNAL ALCOHOLISM AND FETAL ALCOHOL

(By Barbara Luke)

Patty is 18 monhs old, but her size and development are about those of an eight-month-old child. In utero, she had been small for gestational age, and she weighed only 2,300 grams at birth.

She was born with bilateral hip dislocations and limited motion of both elbows.

At two months, she was admitted to the hospital in congestive heart failure, secondary to an atrial septal defect. At 18 months, she was diagnosed as mentally retarded. Patty's mother is an alcoholic, and Patty has fetal alcohol syndrome.

About three years ago, alcoholism was clearly related to a "pattern of craniofacial, limb, and cardiovascular defects associated with prenatal onset growth deficiency and

developmental delay."[1] This was the first reported association of maternal alcoholism with birth defects in the offspring. It became known as the fetal alcohol syndrome.

Some correlation has been made of maternal alcoholism and defective offspring since the time of the early Greeks. What, then, are the reasons for the seemingly recent development or the increased incidence of this syndrome? I propose that there are three principal reasons.

The most obvious answer could be an improvement in antepartum care over the past decade. There is more emphasis on screening and treating high-risk mothers, and alcoholism is a risk. Because of more intensive antepartum care, many alcoholic women who otherwise would have aborted carry their infants to term.

Another reason is that over the past several decades, our food supply has improved greatly in quality, quantity, composition, and availability. In turn, this probably has reduced the nutritional deficiencies of alcoholics.[2] Foods are processed so that they remain edible longer, and more foods are fortified, especially with B vitamins and iron.

Fortification of breads and cereals with thiamine has reduced the incidence of Wernicke's syndrome (a mental condition often seen in old age, consisting of defective memory, loss of sense of location, and confabulation), alcoholic beriberi, and the polyneuropathy often previously seen in the alcoholic because of the constant and accelerated metabolism of this vitamin by alcohol. Fortification of cereal products with niacin has reduced the incidence of alcoholic pellagra, with its accompanying classic symptoms of peripheral neuropathy (sensory disturbance with burning paresthesia of the feet). Recently, government assistance to the low-income population through food stamps and Women, Infants, Children (WIC) programs, have provided more food to pregnant and lactating women.

The third factor contributing to the fetal alcohol syndrome is the increased incidence of alcoholism. HEW has warned that an alcoholic intake above three ounces of absolute alcohol or six drinks a day can lead to birth defects.[3]

The National Committee on Alcoholism has established criteria for the diagnosis of alcoholism, based on physiological, clinical (including major alcohol-associated illnesses), behavioral, psychological, and attitudinal manifestations.[4]

Alcoholism is one of the more difficult diseases to recognize for several reasons. Drinking produces a socially accepted, legal "high." Neither the nutritional value nor the hazards of alcohol are stressed to the consumer. Because alcohol interferes with protein synthesis and with the absorption of many nutrients, and thus causes deficiencies, heavy drinking during pregnancy can affect the mother adversely and damage the fetus irreversibly.

Alcoholism often is not screened for by health professionals. Many patients will state the type, amount, and frequency of their alcohol intake if questioned honestly and nonjudgmentally. Many alcoholics want to be helped, but need to have a door opened for them.[5]

During routine antepartum evaluation, a history of any, or a combination of any, of the following alcohol-associated illnesses should alert the health professional to maternal alcoholism: [6]

Fatty degeneration in the absence of other known causes.

Hepatitis.

Cirrhosis.

Pancreatitis in the absence of cholelithiasis.

Chronic gastritis.

Hematological disorders—anemia—hypochromic, normocytic, macrocytic, hemolytic with stomatocytosis, low folic acid clotting disorders—prothrombin elevation or thrombocytopenia.

Wernicke-Korsakoff syndrome.

Cerebellar degeneration.

Cerebral degeneration in the absence of Alzheimer's disease or arteriosclerosis.

Toxic amblyopia.

Myopathy.

Cardiomyopathy.

Peripheral neuropathy/beriberi.

Pellagra.

Once the diagnosis of maternal alcoholism is suspected or a patient confides that she has drinking problems, a thorough nursing evaluation is important in planning care. A valuable nursing history tool to use with alcoholic patients can be found in a recent AJN article.[7] The interview is divided into two sections: the first deals with the patient's drinking history and the second with symptoms related to the gastrointestinal system. Supportive services, such as social service, psychotherapy, and nutrition counseling, are often helpful during the antepartum and postpartum periods. A high degree of patient motivation is needed, which can be indicated by the regularity of antepartum clinic attendance.

Alcohol interferes with the absorption and the utilization of nutrients and with protein synthesis.

Heavy alcohol consumption is most likely to affect fetal structure during the first trimester, when organogenesis is taking place. Frequently, the alcoholic who does conceive will spontaneously abort, often during the first trimester. During the second trimester, when there is mainly an increase in cell size rather than in cell number, poor diet, heavy alcohol consumption, or both are most apt to affect infant weight. Because a woman who chronically drinks may be malnourished, even a decrease in alcohol intake just before conception may leave her with depleted vitamin and protein reserves.

Daily food habits, allergies, and dislikes, as well as dietary supplements, should be considered in evaluating the adequacy of the maternal diet. The recommended daily food allowances during normal pregnancy appear in the box on the next page.[8]

Because food prices vary so much across the country and from month to month, cost is difficult, if not impossible, to estimate. In general, a low-cost diet for gestation might include milk, eggs, cheese, grains and legumes, less expensive meats, and chicken. Higher-priced diets could include seafood, more fresh vegetables and fruits, more expensive meats. I recommend the same diet for both income groups (see sample menu).

Dietary supplements may be indicated, depending on the degree of alcoholism, secondary illnesses, presence of fetal growth retardation, maternal antepartum complications, such as anemia, weight loss, or poor gain, and the patient's customary diet intake.

If enemia is present, therapy depends on the specific type. Macrocytic anemia, common among chronic alcoholics, can be corrected by folic acid and concurrent vitamin C therapy. Green leafy vegetables, liver, and mushrooms are all plentiful sources of folic acid.

Anemia due to iron deficiency (hypochromic, microcytic is common in pregnancy, but is aggravated by maternal alcoholism. Therapy for this anemia, as well as for fetal growth retardation, is a high-protein, high-iron diet. The best foods for this diet include animal proteins; elemental iron helps correct the anemia and meet the fetal demands for iron. Absorption of elemental iron and nonanimal sources of iron also is enhanced by vitamin C.

If an alcoholic mother has seizures, perhaps during withdrawal while she is hospitalized for the treatment of other complications, the daily administration of 100 mg. pyridoxine (vitamin B_6 may be beneficial. Delirium tremors have been associated with low serum magnesium levels and may respond to parenteral magnesium sulfate therapy.

Health professionals should suspect fetal alcohol syndrome when prenatal growth deficiency, low birth weight (2,500 grams or below, breech presentation, and poor Apgar scores occur in combination with an antepartum history of maternal alcoholism. A study of three infants of alcoholic mothers revealed these abnormal findings at birth and in early infancy: [9] Craniofacies—microcephaly, short palpebral fissures, epicanthal folds, maxillary hypoplasia, cleft palate, and micrognathia; Limbs—joint anomalies, and altered palmar crease pattern; Performance: postnatal growth deficiency and developmental delay. Other defects included cardiac anomalies, anomalous external genitalia, capillary hemangiomas, and fine-motor dysfunction.

Fetal growth retardation, a discrepancy between the fetus's actual and expected size for its gestational age, can be detected as early as 16 weeks gestation. Serial ultrasonography, at two-week intervals (16, 18, 20 weeks, and so on) is the best way to monitor intrauterine growth. The ultrasonogram clearly indicates the biparietal diameter of the fetal head, and deviations from the norm after 16 weeks of gestation can be detected easily.

After birth, depending on the extent of fetal retardation and the time and amount of the mother's last alcohol intake, the infant is either drowsy or irritable. For example, when ethyl alcohol is given to suppress labor, the infant often arrives in the nursery in either state.

The signs of fetal alcohol syndrome can range from severe retardation with extensive brain stem involvement to such slight retardation that it is not detected at all until much later when developmental problems arise. If there is brain stem involvement, the sucking reflex may be poor, and tube feedings are given. If sucking and swallowing reflexes are affected, gastrostomy feeding may be done. No food intolerances have been demonstrated.

Even if the syndrome is not detected at birth, several factors may lead the nurse to suspect it when the mother returns for a check-up with her infant. These include apathy, eating problems, failure to thrive, poor development and growth in the infant, as well as maternal behavior and attitude toward the child and her seeking of health care for him.

If the nurse cares for a pregnant woman with a drinking problem, she encourages her to stop drinking or to reduce the amount. Explore with her the reasons for the heavy use of alcohol and refer her for counseling. Explain the infant care problems, such as difficulty in eating and sleeping, that she may expect after her baby is born. She may need assistance in the home, and referrals to the public health nurse and social service.

An infant with FAS may be kept in the hospital or even placed in a home temporarily if the mother is unable to cope with the newborn.

Success in working with these mothers depends largely on their reasons for becoming pregnant in the first place and their motivation for completing the pregnancy. If she truly wants the baby, almost every woman will do everything in her power—including breaking such habits as smoking and drinking—to ensure a healthy pregnancy and baby.

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SAMPLE MENU FOR A PREGNANT WOMAN

BREAKFAST

2 eggs
8 oz. milk (whole or fortified)
2 slices toast (whole wheat)
4 oz. juice

MIDMORNING

Ice cream
Fresh fruit

LUNCH

Tuna fish sandwich
Lettuce and tomato
8 oz. milk
Oatmeal cookies

MIDAFTERNOON

Crackers
Cheese
Fruit

DINNER

Hamburger
Baked potato (with margarine or butter)
Salad
8 oz. milk

BEFORE BED

Pound cake
Ice cream

RECOMMENDED DAILY FOODS DURING NORMAL PREGNANCY*

Food for 1st half of pregnancy and for 2nd half of pregnancy—

Milk, cheese, ice cream: 2–4 servings; 4 servings.

Meat, fish, beans, poultry: 3–4 ounces; 6–8 ounces.

Eggs: 1; 1–2.

Vegetables (dark green or deep yellow): 1 serving; 1 serving.

Citrus fruits or juices: 1–2 servings; 1–2 servings.

Other fruits and vegetables: 1 serving; 2 servings.

Breads and cereals (whole grain or enriched): 3 servings; 4–5 servings.

*An alcoholic, pregnant woman will need additional protein and vitamin supplements because of her decreased reserves in these two areas.

THE ILLEGITIMATE CHILD OF THE MENTAL HEALTH MOVEMENT

Mr. INOUYE. Mr. President, the State of Hawaii has for a number of years now been most fortunate in being the home of a truly unique therapeutic community developed and run by individuals who have had problems with drug abuse during their lifetimes.

The Habilitat was founded in 1971 and has been directed ever since by Vincent Marino, a rather forceful individual, whose personal drive and enthusiasm have undoubtedly been the keystone to the Habilitat's success.

Mr. Marino recently had the opportunity to address his colleagues at the Second World Conference of Therapeutic Communities in Montreal, Canada, and in his presentation shared with them his own views on the reasons behind the Habilitat's outstanding track record.

All of us in Hawaii are extremely proud of this innovative program and, accordingly, at this time I ask unanimous consent that Mr. Marino's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE ILLEGITIMATE CHILD OF THE MENTAL HEALTH MOVEMENT

(By Vincent Marino)

If the Therapeutic Community can be considered "illegitimate," it is only because the marriage between the mental health movement and the conventional professions could not solve the needs of dope fiends. In essence, they were shooting blanks, not dealing with the problem. They didn't know what they were doing. Neither did the person who decided that the T.C.s should be placed under the auspices of Mental Health.

If the T.C. can be called illegitimate, what shall we call Mental Health, which has literally squandered billions of dollars working with dope fiends prior to the T.C. movement? The T.C. is nobody's illegitimate child. It is a legitimate response to a real need, created by ex-addicts who channeled their energies and intelligence to meet their problems by changing self-destructive and socially disruptive behavior. Since the degreed and credentialed experts couldn't help them change, they had to do it themselves, using unconventional methods and techniques. These worked.

The success of the T.C. has been universally acknowledged. I am living proof that what we do works. Even the experts praise our successes. Our greatest praise, though, isn't the accolades of the professionals but the knowledge that social misfits have been successfully rehabilitated and now lead useful lives. Our graduates are alive; they're functional. If left in the hands of the Mental Health professionals, many of them would now be dead or doing prison terms long enough to register as telephone numbers.

With all this success, the experts are worried. They want us under the professional mental health umbrella. We've stolen their thunder by accomplishing what they couldn't do. Now, they want us under their thumb. In my opinion, T.C.'s must move out from under the domination of mental health because the professionals still don't know what they're doing.

Mental health professionals have begun to rule us by their conventions, their standards. It is ridiculous to be acclaimed a success and then told that as a reward, we are required to use the conventional tools which the professionals already admit won't work with our residents. Why force this on us? The techniques are stale. Our people are wise to the rhythms of the street; they've pulled long and short cons; they've managed to survive. They've proven that they're tough to deal with, but so are we. We've lived through the same experiences, know all the angles, and have created the T.C. to deal with tho problems we've encountered and overcome.

Let us recognize that the professional mental health orientation isn't for us. To put it mildly, it stinks. The T.C. must be dealt with on its own terms. Therapeutic communities must be recognized as an alternative with validity, merit, and value. It has, after all, accomplished what professionals with all their degrees and theories couldn't do—salvage lives.

Problems only arise when we are judged by conventional and professional criteria. Strictly applied to the T.C., the conventional values are a real scam. Some T.C.'s have bought the whole thing, to the point of ridiculousness. Part of this fisco I blame on my own peers, who have been duped into using all the psychoanalytical and sociological terms, such as differential opportunity structures, inadequate socialization, viable psychosocial communication systems, and the pathology of schismogenetic patterning. Some of my peers are actually running around town proud of the title "Paraprofessional." To me, these people should be labeled "Certified Idiots." It is one thing to be certified to be eligible for funding, it is perverse to be proud of such a title.

Let's stop using the professional conventions and words. They aren't ours. What are ex-dope fiends doing masquerading as pseudo-intellectuals, talking in psychoanalytic terms some of us can't even spell, much less pronounce correctly or understand?

The ex-dope fiend wants to parade around in a conservative three-piece suit and tie and refer to Thoreau, Emerson, and Sartre (many of us dope fiends have, coincidentally, read and understood these authors), while the psychiatrists go the other way and wear groovy tie-dyed dungarees and talk hip to prove they're deep, real human beings. Ex-dope fiends are not psychiatrists and should not act that way—unless they, too, want to spend the time in classrooms earning their degrees. Neither can the professional ever be able to equal our cunning, our ability to manipulate, our instinct for survival, or our knowledge of what makes the dope fiend truly tick—unless he, too, lives our experiences.

In my business, I am a professional. I don't care who sees it otherwise. I know it must be difficult for professionals to accept the fact that people like me were running around doing what we wanted to do when we wanted to do it, where and how we wanted to do it, while they were busy in school, diligently studying for years. I would imagine that a great many professionals worked part of the time to earn their tuition and expenses. Then lo and behold a person like me, tired of being a bum, goes into a therapeutic community and learns, in a few years, what it took the professional 18–20 years of diligent study to assimilate. The point is that despite all their schooling, their credentials and degrees, they are not expert in my field. Lacking the titles and schooling, I am. I'm sure there is a certain amount of resentment, but it is a problem that the mental health professionals must resolve on their own and come to terms with. When people ask me why I am what I am, I tell them, "I failed as a bum, so I became a social leader."

At Habilitat, we don't have counselors. We are not paraprofessionals with modules and other mental health terms. All of our people working with people are called agents, because we serve as agents of change for our residents. As soon as my troops become accustomed to the word agent, I'll change that, too. I don't want them running around believing they're all Dr. Salks. We only act as catalysts so that individuals in our program can work to assume responsibility for themselves. Once professional values and conventions are forced into our organizations, it won't be long before we're running mental hospitals instead of therapeutic communities. We will have lost the vitality and sense of direction which made us effective in the first place. And, to be quite honest, we are not competent to run mental hospitals. However, unlike the professionals, we can at least admit our inadequacies and they are unable to do so.

What I think the dope fiend has done is created an entirely new dynamic which really has little to do with Mental Health. If any of you sitting in the audience really believes that my goal, as Executive Director of Habilitat is to get our troops well, you really belong in a therapeutic community, as a resident. Anyone living in this crazy, frenzied society, who thinks he is whole and well, is sick. The whole world is crazy. Basically, Habilitat is a survival school. We teach people to function in a crazy world, helping them grasp what little happiness exists and accept reality.

All of us, I'm sure, have our own little stories of the lunacy which prevails in our world. There are people who are literally languishing in penal institutions, senior citizens neglected and treated like dogs. There are Viet Nam veterans who, for strange reasons, are not afforded the same opportunities given to veterans of prior wars. In America, we face fantastically difficult problems with people. Yet, every once in a while, you hear some idiot saying: "Do you realize that 90,000 seals are clubbed to death?" Or, better yet, "Save a whale."

Where are our values? I am not saying that I'm not interested in the fate of seals or whales. I'm not saying that I am interested: I've never known either a whale or a seal. I am interested in humans first. Don't people realize that there are people who suffer deprivation? That thousands of people are overdosing every day in the United States?

The general topic of lunacy aside, I place the blame for misemphasis and misdirection squarely on Mental Health, which has been so threatened by what the therapeutic community has accomplished that they are constantly lobbying for laws which would prevent or constrain us from doing what we know how to do—salvage lives. The T.C. is probably in the same place hospitals used to be many years ago. There was a time when people were reluctant to send their families to hospitals, when hospitals were themselves charnel houses where people went to die. Today, there are hospitals in every country, every state, every city, every county. The value of the hospital has been recognized. I look forward to that same recognition for the therapeutic community.

I firmly believe that the T.C. should break away from Mental Health and operate in the same manner military schools do, bringing in professional teachers for the academic coursework and leaving the discipline to the people who know how to teach discipline. That most certainly would not be the Mental Health professional.

I find it ludicrous to use the title "Illegitimate Child of the Mental Health Movement." The T. C. movement as a whole has brought break-throughs in treatment as well as stability to the field of treating the addictive and character disordered personality, which the mental health professions could not do. I would, instead, like to have entitled this panel "The Legitimate Child of the Illegitimate Mental Health Professions." We have, I believe, been legitimatized by virtue of our effectiveness and successes.

There are many institutions in the United States run by Mental Health professionals which should be closed for incompetence, sheer waste of taxpayer's money, and because these institutions are unsuccessful in treating their residents. I really question why they are allowed to stay open. Why T.C.'s harassed over licensure, credentialling, and certification when incompetently run public institutions exist? Let's briefly review the Mental Health break-throughs. First, the professionals tranquilized their treatment populations so that no one would hurt himself. Then came electro-shock therapy. Failing that, they came up with insulin shock treatments. The real biggy was, of course, the frontal lobotomy, where people were reduced to vegetable states. I've always wondered why they didn't do a back lobe lobotomy or a rectal one.

Now, some of these same "professionals" object to our cruelty when we shave heads, place someone in the dishpan, and hold "brutal" encounter sessions. And yet, our methods—although unconventional—are neither as cruel nor as permanently damaging as those adopted in the past by the mental health professionals. And they work with our residents.

I have problems neither with my role nor with my identity. I'm an ex-addict who has risen through the ranks. I founded Habilitat in Hawaii and now serve as its Executive Director. If someone in the United States wants to recognize what I have accomplished by giving me a doctoral degree, in all probability, I would accept it. I won't gain or lose sleep over that piece of paper. It can't make me more effective than I am now. I would accept that parchment only because the standards the mental health professionals are rapidly imposing upon us require such credentialing for me to do my job. It cannot magically endow me with attributes I don't already possess. It can't buy dignity or self-respect. Dignity, self-respect and effectiveness must be earned.

The T.C. has paid its dues. It has proven itself successful and effective. It must be considered an autonomous and legitimate form in its own right—even if it is placed within the mental health spectrum. The Catholic Church does not tell Lutherans or Seventh Day Adventists how to conduct their religious business. What the Pope dictates in his Encyclicals means nothing to the Buddhist meditating in the Temple of the Golden Pavilion. They all represent different religions, separate and equally valid for those who believe in them. The T.C. should be judged the same way—separate from the professional conventions, answerable to its own. In my opinion, the T.C.s require a professional association comparable to the AMA or the American Psychiatric Congress. We have the beginnings of a professional body in the Therapeutic Communities of America. We must begin to establish our own standards, as has been done by the other professions.

In closing, I would like to say that I believe the T.C. to be the best thing under the mental health umbrella. If the professionals want to label the T.C. as illegitimate, let's take a hard and uncompromising look at the entire mental health spectrum and see what the professionals have accomplished. Above all, let's be honest in what our examination reveals. Let's see what the success rates are, where their effectiveness lies.

I'm not saying that there should be no accountability for the T.C. I firmly believe in that concept. Accountability should be equally applied, to the T.C. and to all other areas in the mental health field. Such accountability must consider the therapeutic community as a unique institution. I propose that every T.C. be required to publish a statement of objectives for each year, with accountability measured by success in meeting the published goals. I also believe that each T.C. should have an outside, independent audit conducted to establish fiscal responsibility, including accountability for funds and appropriate expenditures.

In the T.C , we deal with people, not titles. We rely on direct, immediate experience with our residents. Residents learn to value survival, sensitivity, empathy, generosity, and compassion—among other useful characteristics. Whenever I get caught up in titles, conventions, and psychotherapeutic terms, I stand in danger of losing those human values that saved my life and which serve as the foundations of my profession. Credentialed or not, the T.C. worker has a role, has an identity. And we live it.

SOME QUESTIONS AND ANSWERS ON THE NEED FOR WATERWAY USER CHARGES

Mr. DOMENICI. Mr. President, the issue surrounding waterway user charges and locks and dam 26 may be raise once again in the Senate within the next week or two.

This issue, unfortunately, has been the subject of a good deal of misinformation and misinterpretation. In an effort to clarify the issue and the need for my amendment No. 1460 to H.R. 8309, I have prepared a paper addressing a number of issues and points. I ask unanimous consent that this paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

QUESTION ON WATERWAY USER CHARGES AND LOCKS AND DAM 26; H.R. 8309 AND DOMENICI AMENDMENT NO. 1460

1. How is the inland waterway system presently financed?

The taxpayers, through the Corps of Engineers, pay the full costs—close to half a billion a year—for barge canal maintenance and improvements. Some $7.5 billion in new navigation projects are under construction or are authorized and awaiting construction. In addition, there are heavy waterway expenditures by the Coast Guard, as well as Maritime Administration equipment guarantees. The barge companies pay nothing in return.

2. Why are user fees necessary?

User fees would help to create better balance among modes and establish a rational national transportation policy. User fees would, for the first time, provide a discipline among the big barge companies for a more cost-effective waterway program. If the barge companies must pay a percentage of the costs, they will work with the taxpayers to obtain the best investment, not the most grandiose. The GAO in December issued a report, "Opportunities for Large Savings by Altering Some Inland Waterway Operations." These savings can't be expected until the users have a direct stake in efficiency.

3. Hasn't the Senate already decided this issue?

Yes. The Senate voted to adopt a user charge provision last June 22. The Domenici amendment is virtually identical to that provision. The Senate must now reconsider the issue because the House has refused to honor the Senate's request for a conference on the June legislation.

4. How do free waterways distort transportation?

By making barge travel relatively cheaper to shippers than competing modes that pay their own way, free waterways damage those competitors, forcing the Government eventually to subsidize both modes. By increasing the attractiveness of barge traffic, present policy also raises demand for new canal projects, and thus new taxpayer spending benefitting a few barge companies.

5. How do the Federal subsidies to the barge companies compare with those provided to other modes?

According to the Congressional Budget Office, the annual subsidy to the barge companies exceeds 40 per cent of the industry's annual revenues; the Federal subsidy to other freight modes is 3 per cent of revenues or less. The Library of Congress says the barge industry has received more net subsidy than all other modes combined.

6. What are the benefits of Locks and Dam 26?

Construction of a new Locks and Dam 26

will give the barge companies $53,411,000 per year in estimated cost savings. Such benefits, repeated over and over at other new projects, should, in part, be recovered by the taxpayers through user fees.

7. Who owns the barge lines?

Most are subsidiaries of major corporations such as Exxon, U.S. Steel, Ashland Oil, Cargill, Peabody Coal, Mobil, Texas Gas Transmission, Dravo, Continental Grain, etc.

8. Haven't the railroads received billions in offsetting subsidies?

No. Since 1967, the railroads, outside of bankrupt Northeast roads that are now Conrail, have received $138,000,000, all of it in loans or repayable stock investment.

9. What does the Domenici user charge amendment do?

Over an 11-year period, it phases-in a system of user charges on barge companies that would eventually (in 1990) recover all of the annual maintenance costs, plus half of the new construction cost. This would place the barge companies in 1990 under repayment rules that still provides greater subsidies to the barge companies than now received by many farmers using irrigation water, buyers of Federal hydropower, or users of other modes of transportation.

10. How does the Domenici amendment protect against exorbitant fees?

It contains four protections: No user fee can ever exceed 1 percent of the value of the commodity being shipped; user fees must be set in order not to disrupt commerce on any waterway; Congress can veto the entire package of fees by concurrent resolution prior to its imposition; there will be yearly studies on the impact of user charges to provide the Congress with the information it needs for a mid-course correction in the 1980s, if that proves necessary and wise.

11. How does the House bill (H.R. 8309) work?

It would impose a small fuel tax, unrelated to waterway expenditures. The House bill only imposes this charge on 40 percent of the nation's system of inland waterways, leaving 60 percent of the inland waterway mileage free of user charges. The House bill requires a technical amendment even to attain that minimum fee level.

12. Won't user charges force business off the waterways?

No. According to a DOT study, waterway business will grow by more than 40 percent over the next decade, even with the most severe assumptions of the full Senate-passed version. Annual barge growth is now several times greater than the growth in rail traffic.

13. Don't waterway user charges need more study?

No. Just in the past seven years, there have been 14 significant studies and evaluations of the impact of waterway user charges.

14. Won't farmers be hurt?

Farmers will be hurt far more by the unchecked deterioration of the railroads, now occurring in the Midwest, due, in large part, to major Federal subsidies to the barge industry. Far more grain moves from the grain states to market by rail than by barge. Farmers in Kansas, the Dakotas, and many other states are totally dependent on rail traffic. If a subsidy to farmers is needed, it should be given all farmers not just those who happen to ship by barge.

15. What is the position of the Carter Administration?

The Administration has described the House bill as "inadequate" and said the President won't "sign any bill authorizing a new Locks and Dam 26 which does not provide for waterway user charges that will recover a substantial portion of the operation and maintenance and new construction costs." The President reemphasized this position in his State of the Union message and in the Budget, which notes:

"The Administration strongly supports enactment of waterway user charge legislation that will establish charges to users of the inland waterways in amounts to recover a substantial portion of the Government's costs of building and maintaining the system."

To obtain legislation acceptable to the Administration, to build Locks and Dam 26, and to move the inland navigation program away from lengthy squabbles over new projects, the Senate should pass the Domenici amendment, then work out a reasonable compromise in conference with the House.

THE PANAMA CANAL TREATIES: A TOP PRIORITY

Mr. CRANSTON. Mr. President, a few days ago the President outlined for us what the goals and objectives of his administration would be in the forthcoming year. I think that it is important to note that the President counted among his top priorities the passage of the Panama Canal treaties. As President Carter stated:

The world is watching to see how we act on one of our most important items of business: approval of the Panama Canal treaties.

The treaties now before the Senate are the result of the work of four administrations—two Democratic and two Republican.

They guarantee that the canal will be open always for unrestricted use by the ships of the world.

Our ships have the right to go to the head of the line for priority of passage in times of need or emergency.

We retain the right to defend the canal with our own military forces if necessary to guarantee its openness and neutrality.

The treaties are to the clear advantage of ourselves, the Panamanians, and the other users of the canal.

Ratifying the Panama Canal treaties will demonstrate our good faith to the world, discourage the spread of hostile ideologies in this hemisphere, and directly contribute to the economic well-being and security of the United States.

Shortly, the full Senate will begin consideration of the treaties. I look forward to the debate on these agreements as an opportunity for us to explore all of the treaties' facets to insure that they are in our Nation's best interest.

MX MOBILE MISSILE SYSTEM

Mr. HATCH. Mr. President, I want to go on record expressing my concern over the recent decision by President Carter to cut the funding for the MX mobile missile system. The United States is fast falling behind the Soviet Union; and in doing so, we endanger the security of the American people. The Soviets have developed and deployed their own version of a mobile system, the SS–20. At the present time this system is considered to be a theater level missile with a range of only 3,000 miles. This would allow the Russians to target it in Europe, China, and the Middle East. This will also keep the SS–20 from being considered in the ongoing SALT negotiations in Geneva. However, defense experts in this country are worried that the Soviets will be able to extend the range of the SS–20 simply by adding a booster stage to the present two stages. That would give the missile a range of 5,500 nautical miles; a range that would allow them to target the SS–20 in the United States.

The current administration, under the direction of President Carter, has called for a complete ban on the development and deployment of mobile missile systems. For this and budgetary reasons the President has decided not to continue the funding of the development of the MX. The $245 million that was to continue the development has been eliminated and this will help Carter keep a campaign pledge to reduce the defense budget. To achieve this goal he is affecting the security of this Nation.

It has become apparent in the last year that the Soviets have developed the capability to strike the United States with a devastating blow. This capability, known as first strike, threatens the land-based ICBM portion of our defense Triad. Assuming that the Soviets continue to improve the accuracy of their missiles, they will soon reach a point where they will be able to eliminate our Minuteman force. Some opponents of the MX have argued that the development of such a missile will have a destabilizing effect upon relations between the Soviet Union and the United States. I think they are failing to see the issue in the proper context. Because the Soviets have developed that first strike capability, the MX would be able to avoid a first strike, thereby giving the United States a retaliatory system that has the capability of causing the type of damage needed to make the Soviets think twice about initiating such an attack. This would have a stabilizing effect on the relations between the two super powers. It will also buy us the time we need to catch up to the Soviets in many other areas where we have allowed ourselves to slip behind.

This is the second major weapons system that the President has either canceled or eliminated without any concession on the part of the Soviets. Just as we have allowed them to keep the Backfire bomber, the Soviet answer to the B–1, by promising not to deploy it in a strategic manner, we will allow them to keep their version of a mobile system since they have assured us that it is not a strategic system.

The United States has another weapons system in the development stage that I hope will not be axed, either by negotiations with the Soviets or the budgetary ax that Carer has wielded so far. The Trident II submarine-based missile is now being developed and will be capable of a 6,000 nautical mile range. Not only would this complicate the Soviet anti-submarine warfare program, but it would be the first U.S. submarine-launched missile that would have silo busting power. Such a weapon, along with the MX, would remove the temptation for the Soviets to use part of their missiles in a crisis to launch a first strike in an effort to knock out our land-based ICBM's. I think that it is important for the United States to retain a strong strategic force to deter the Soviets from even considering the thought of initiating a strategic conflict. I urge the President to reconsider his decision on the MX and to continue the funding for this essential program.

HOW NAVY HOPES TO SAIL INTO THE 21ST CENTURY

Mr. HARRY F. BYRD, JR. Mr. President, our Navy is facing serious challenges and the decisions made in the next several years will significantly affect the future of our Navy.

A ship which is authorized by the Congress this year will not even hit the water until the 1980's and will be in the active fleet well into the 21st century.

At the same time, new and expensive technologies are driving up the cost of Naval programs and placing increasing constraints on the numbers of ships and other equipment that can be purchased with available defense dollars.

These facts present a tremendous challenge and a tremendous burden to our decisionmakers.

One such decisionmaker is W. Graham Claytor, Jr., our Secretary of the Navy—an excellent and able individual.

In an interview with the magazine Government Executive, Secretary Claytor discussed these and other important issues.

So that my colleagues may have the benefit of Secretary Claytor's views I ask unanimous consent that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Government Executive magazine, December 1977]

HOW NAVY HOPES TO SAIL INTO THE 21ST CENTURY

(By C. W. Borklund)

When W. (for William) Graham Claytor, Jr., was named Secretary of the Navy last February, cheers, figuratively, went up in the Navy Department. The reason was not, particularly, his engineering training. (A Roanoke, Va., native, he took math and pre-engineering courses, mostly, to get his Bachelor of Arts degree from the University of Virginia in 1933; moved from there to Harvard Law School because, in the depths of a depression at the time, pursuit of an engineering career didn't look like a very good idea.)

Nor was it his legal training. (Graduated from Harvard in 1936, he worked initially as law clerk to brilliant U.S. Appellate Court Judge Learned Hand and Supreme Court Justice Louis Brandeis, was later partner in the Washington, D.C., law firm of Covington and Burling from 1938 to 1967. One of the many things he absorbed from Hand and Brandeis: "I learned what kind of arguments to make and what kind not to make in a court brief . . . You learn to get rid of all the secondary points and concentrate on the essentials.")

Nor was it his success as a businessman, first as Vice President—Law, in 1963, and then President, in 1967, and Board Chairman in 1976 of Southern Railway System, one of the very few profitably successful railroad systems in the U.S., even though the Navy Secretary's role, essentially is to run the "business end" of the Department (as compared to the strategy and tactics side which is run by the Chief of Naval Operations and the Commandant of the Marine Corps.)

COMBAT EXPERIENCE

What inspired the cheers, said one now-retired Vice Admiral, is "This is a Secretary who understands the Navy." Reason for that: Claytor is the only Navy Secretary in that job's long history who was an officer in command of combat ships in war. (Commissioned by the Navy in September, 1940, he was called to active duty in January, 1941; commanded a submarine chaser in 1942–43, two different destroyer escorts from 1943–45 and married another war-time Lieutenant Commander, the former Frances Hammond, in 1948.)

In short, going in, "He understands the relationship between Active-duty and Reserve (which Claytor was) personnel; he knows ships and combat readiness and opeartions; he knows the relationship between uniformed personnel and Navy civilians—in other words, he's already one of us and he doesn't even know where his office is, yet."

For all that enthusiasm, coping with the Navy's problems is hardly a picnic. As he, himself, pointed out recently, "For one thing, the size of the 1978 Navy budget is almost $40 billion (Southern Railway's revenues in 1975 were $839.6 million, second highest in the company's 82-year, at that time, history.) And whereas Southern has less than 21,000 employees, the Navy Dept. has some 700,000 people in uniform and 300,000 civilians."

Another big difference between his job today and the one at Southern: "I never thought much about the year 2000 and beyond before. In fact, in the railroad business as in most commercial industry, the planning doesn't go much beyond five years, and I always thought that anything much past three years in the future was sheer guesswork."

Yet, he has found, looking even past the turn of the century today is, for the Navy and "the future of our entire defense posture" a "frightfully important" demand. "Although the Navy has a tremendously talented collection of technical personnel and many highly capable men and women in the operating forces, we have not yet learned to be clairvoyant. No one today can predict with confidence what the naval environment will be 20 years from now."

Thus, a principle that is running through all his decision-making to date is: "We have to design our oncoming generation of ships, aircraft, and submarines to have the maximum flexibility possible."

MISSION BASED

That translates, in terms of procedures for instance, to: "Fundamentally, I believe in A-109 (the Office of Management and Budget circular that outlines proper ways to go about new systems acquisition) as the best way to approach these problems; the fastest and most effective way to bring U.S. industry resources to bear on these (Navy, at least) types of problems."

Of course, he adds, "You have to tailor it to each specific problem, and for some it won't work at all," but overall he clearly intends to see that the organization follows its guidelines in developing systems which, begun today, will still be in operation 30 years or more from now.

And, he noted in an interview, "We have dozens of new ideas in all types of areas. If I tried to list them all here and now, I'd probably leave some of the most important ones out." But among the ones he did mention:

V/STOL AIRCRAFT

And in V(STOL (Vertical and Short-runway Takeoff and Landing) systems, "Don't forget the 'S' in V/STOL. The Russians have only the 'V' and that's an important difference." Already, he points out, technologically, the aircraft can lift straight up and land straight down. The trouble is that, in the air, it doesn't have the necessary range or combat capability.

"Some doubt we will ever have it," says Claytor, "but most think we can develop it."

In fact the Marines have successfully operated the British built AV8–A Harrier, a VTOL in its own right and expect to have the more advanced AV8–B version operational in the early 1980's.

The advanced V/STOL "hopefully will become the backbone of the fleet air wing of the future. Through the use of V/STOL aircraft, we could equip a much greater range of Navy vessels—down to even frigates and transports—with their own combat air detachment."

In any case, "We are going to put a great deal of effort into finding those answers. The advantages of sea-based air power are so great, not just of the airplane but potential effectiveness of the entire combat system."

SURFACE EFFECTS SHIPS (SES)

Similarly, "We are building an SES to answer the question, 'What is its potential?' Can we maintain those kinds of speeds (60–80 knots) in all kinds of weather? Some have doubts. But the only way to find out is to build one and try it."

Navy's SES "game plan" is to prove the seaworthiness of an SES with enough size and weight to carry all types of combat systems; then configure and reconfigure that "hull" for all types of tactical missions from antisubmarine warfare to convoy escort to see if performance lives up to theoretical potential and where.

He also can cite new ideas being pursued in cruise missiles—"a truly all-purpose Navy tactical weapon that could be launched from submarines, surface ships and aircraft"—a "new air cushion landing craft that could revolutionze the Navy-Marine Corps amphibious assault capability"—new ships, including aircraft carriers—new electronic countermeasures and other fleet defense systems.

Again, in ships, the thread that runs through his thinking is "flexibility." "We would like to have a 600-ship fleet," he says, "and we hope we're going to get it. But one $2 billion (super) carrier soaks up a lot of money that could be spent on other ships." (Current ship fleet numbers 460, including 288 warships, 69 other combatants, and 103 auxiliaries plus another 59 ships in the Naval Reserve.)

If "we could get a large number of 90,000-ton, Nimitz-class carriers, obviously we would rather have them—because they can do almost anything the smaller carriers can do and in most cases do it better. But one thing no 90,000-ton carrier can do is be in two places at once.

And if the choice is between a very few, very large, capable ships or a great many smaller ships that can be very capable when brought together but can also be operated independently, I feel that the requirements of flexibility call for us to move in that (latter) direction."

But, he quickly adds, before people launch into a small vs. large debate, "We must always remember the Nimitz-class carriers, themselves, will be in service for 15 or 20 years after the turn of the century with service-life programs that can extend even that. So we are going to have both big carriers and small carriers for as far ahead as we can see.

"The question is, in what direction should we move with our shipbuilding program now; and that's going to be a question we will be dealing with over the next several years."

ADEQUATE FUNDING?

The bottom line in all this, really, is "available resources." Just as with all the other Services, Navy has a major cost-cutting, economizing program going that is touching virtually every facet of Navy procurement and operations and maintenance. "The object of the drive," says Claytor, "is to get the most for the least."

But economies within a fixed budget simply can't solve the whole problem. As House Armed Services Research and Development

Subcommittee chairman Richard Ichord (D-Mo.) summed up recently (See Government Executive, September, p. 44):

"From a force dedicated to coastal defense, the Soviet navy has evolved into a major maritime power—while our shipbuilding program has languished from indecision on a definitive ship-building program and contractual problems . . . These newer, more capable (Soviet) ships generally are more heavily armed than their older U.S. counterparts. Soviet command and control, at sea, has been thoroughly exercised with demonstrated effectiveness. U.S. command and control is grossly inadequate; communications with our submarine force vulnerable.

"Antiquated systems and inadequate funding for ship overhaul, repair parts, and training further degrade our readiness posture. Only in the area of Navy air power do we appear to have the lead. At best (we have) a draw, with all trends favoring the Soviet Union."

SOME NUMBERS

Since 1968, Navy active-duty personnel size has dropped from 588,000 persons to 535,000; reserves from 124,000 to 92,000; Marine Corps active and reserve forces from 354,000 to 225,000. The Navy civilian cadre is down from 429,000 to 317,500. Warships in the active fleet are down from 484 to 303; total aircraft down from 9,326 to 7,009 in 1978.

Yet, in the same 10-year time frame, because of inflation and other continually rising costs, the personnel and operations and maintenance costs (devoted today to a smaller number of assets) have more than doubled.

"I think we have a good, balanced program," claims Claytor, of tending to both current fleet readiness and also investing in research and development for the future. But, he adds, for all of that and all the cost-cutting drives, the fact remains, even though the idea in all this is "to get the most for the least," without "the resources—the money—we won't have any 'least' to begin with."

THE EXECUTIVE ORDER GOVERNING INTELLIGENCE ACTIVITIES

Mr. MATHIAS. Mr. President, the Executive order governing the intelligence activities of the United States, signed today by President Carter, results from a unique joint effort of the legislative and executive branches. It represents a year's work by President Carter, Vice President Mondale, NSC Cabinet members, the Senate Select Committee on Intelligence and their staffs. The Executive order is based on the experience of the Church committee which initially examined the abuses of the intelligence community and the reasons for those abuses. It also derives from the Ford Executive Order 11905 and from the study of the performance of the intelligence community done over the past year by the Rockefeller Commission, the Carter administration, and the Select Committee on Intelligence.

The Executive order is an important interim measure leading to statutes which will govern all the intelligence activities of the United States. I have long held the view that a statutory charter is needed and welcome President Carter's support in this matter. Intelligence activities are too important to the security of the United States, and the necessity to conduct these activities largely in secret makes them potentially too dangerous to our democratic society to permit anything but the most careful joint effort to formulate statutes.

In the drafting of this Executive order, members of the Intelligence Committee have been regularly consulted. Many of us believe that further strengthening of provisions to protect the rights of Americans will be required. During the process of hearings and joint consultation the committee and the executive branch will work through the draft bills to be introduced next week to reach as close a concensus as possible. The bill will then be brought to the floor for action. This process will permit further exploration of both the reasons for particular intelligence efforts and the degree of flexibility necessary and appropriate to intelligence activities. The most difficult problem facing the committee and the executive will be to provide adequate flexibility for intelligence activities in a legal framework that strengthens the protections to Americans guaranteed in the Constitution.

The draft charters which Senator HUDDLESTON and I and other members of the committee have worked on during the past year and which we will introduce next week, provide what is in effect an agenda for action during the coming year.

I believe that this joint effort—so fully supported by both the President and the leadership in the Senate and House over the past year—will produce sound law, consistent with the Constitution, to govern intelligence activities, which will command overwhelming support of the American people.

SENATOR HUBERT H. HUMPHREY

Mr. PELL. Mr. President, the death of HUBERT H. HUMPHREY has left me, as it has left the entire Senate and indeed our Nation, with a deep sense of personal loss. For me, I have lost a friend whom I admired and for whom I had huge affection and regard. His warmth and his infectious good spirits and decency will be missed by us all.

HUBERT HUMPHREY applied his own unique style of effective, vigorous and bouyant leadership for decades at every level of American government—in his beloved home State of Minnesota, here in the Senate, in the executive branch as Vice President of the United States, and in the Democratic Party as its spokesman and candidate for the Presidency of the United States.

His accomplishments and his contributions to our Nation through public service touched nearly every facet of American life. And to each issue, and each concern he brought the same intense interest, the same enthusiasm, and the same extraordinary ability to make things happen.

It is testimony to the broad range of his interests, that there is, I believe, not a Member of the Senate who did not have the experience of working with HUBERT HUMPHREY on some issue, on some legislation.

In my own case, I shared with HUBERT HUMPHREY an interest in improving our national oceans program and in giving greater emphasis to the possibilities of meeting more of the world's food needs from the oceans. As Vice President, HUBERT HUMPHREY served, ex officio, as Chairman of the Council of Marine Sciences and Engineering. While other Vice Presidents have treated such ex officio responsibilities lightly, HUBERT HUMPHREY plunged in and became an effective and articulate spokesman for an improved and expanded national oceans program.

Later, it was my pleasure to serve with HUBERT HUMPHREY on the Foreign Relations Committee, and there again, he immersed himself in the work of the committee with the vigor, the enthusiasm and with the great intelligence that he brought to everything he undertook.

HUBERT HUMPHREY was a great statesman, and gifted politician, but above all he was a humanitarian. He never forgot that the great issues with which he dealt were not mere abstractions, but the expression of problems that affected everyday people in their everyday lives. And that, ultimately, was the root of HUBERT HUMPHREY's greatness—he cared about people, he cared about them passionately, as individuals.

That passionate concern was the light that shined through every moment of HUBERT HUMPHREY's life. And it is that light that I will miss now that HUBERT HUMPHREY is gone.

My wife and I join in extending our deepest sympathy to his lovely and beloved wife, Muriel, and to their children and grandchildren.

UNSAFE BRIDGES

Mr. CULVER. Mr. President, unsafe bridges are an increasing threat to the American public, but fortunately I believe this problem is finally beginning to receive the urgent attention it deserves.

Congress must provide greater funding for replacing and repairing our structurally deficient and functionally obsolete bridges. Currently only $180 million is earmarked for bridge reconstruction, and at this level of funding it would take over 70 years to replace the 39,900 unsafe bridges nationwide. Clearly the financial resources earmarked for bridge reconstruction are inadequate and cannot meet the growing demands. To help remedy this shortcoming, I have introduced the "Bridge rehabilitation and Replacement Act of 1977" to increase the authorization of the Special Bridge Replacement program from $180 million to $600 million annually. This bill aso requires that not less than 15 percent of such funds allocated to each State should be used for work on defective bridges off the Federal system.

In May, I chaired a Senate Transportation Subcommittee hearing on this legislation in Ankeny, Iowa, and testimony by county engineers and farm groups alarmingly documented the critical safety problems caused by the growing numbers of defective and obsolete bridge spans. In Iowa alone, over 1,800 bridges on the Federal highways have been classified as in need of repair; this figure places Iowa fifth among the 50 States in

terms of unsafe bridges. Just as significant, another 10,500 bridges on local, off-system roads in my State are posted for less than the legal load limits.

A January 11, 1978 editorial from the Cedar Rapids Gazette recently discussed the need to undertake a vigorous national effort to provide the necessary funding to repair and replace the faulty bridges which threaten our safety and disrupt our economy. As the editorial concluded:

The bridge replacement program is going to be a costly one in dollars. But it will be more costly in lives if those dollars are not used to replace or reconstruct bridges before they reach the danger point of collapse.

Additionally, an article from the January 9, 1978 issue of the U.S. News & World Report lends further support for greater funding for bridge rehabilitation and replacement. According to this article, 1 out of every 5 of the 536,000 highway bridges in the Nation is deficient and dangerous to use.

Mr. President, I believe these articles accurately highlight the growing bridge crisis both in Iowa and the Nation, and I ask unanimous consent to have them printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BRIDGE PROJECT COSTLY

[From the U.S. News & World Report]

Of the nation's 536,000 bridges, 30,000 are in Iowa and a majority of them have passed or are approaching the end of their 40–50 year life spans.

Iowa has had a bridge replacement program since 1959. It really didn't get into high gear, however until 1972 after the Federal Highway Administration got into the act. The FHA was motivated by the Silver Bridge disaster on the Ohio River in West Virginia, where 46 persons lost their lives when the span collapsed at the height of rush-hour and Christmas-shopping traffic on Dec. 15, 1967.

The FHA's Office of Research has come up with survey figures showing that only 8 to 12 traffic deaths a year on the average are attributable to bridge collapses. But the problem is that more and more bridges are reaching the stage where they no longer can stand up to modern usage.

In 1970 Congress approved the Federal-Aid Highway Act which created a Special Bridge Replacement Program under the FHA's jurisdiction. Its purpose: To inspect and monitor bridges and to make certain funds are available where most needed.

In its first study the program listed 88,900 bridges as "critically deficient" and placed a $14.8 billion price tag on their replacement cost. Two thirds of these bridges are in 10 states, including Iowa, Wisconsin, Nebraska, Michigan, Ohio and Missouri in the Midwest. A later study found the number of bridges in need of prompt replacement had risen to 105,000—almost one in five—and the estimated replacement cost had risen to $23 billion.

Yet in its report of last May, the program showed that among the nearly 40,000 bridges qualifying for federal money, only 1,428 were being reconstructed or replaced, and only 245 of those had been opened to traffic.

Of Iowa's 30,000 bridges, 4,200 are in the primary system and 60 of those are "structurally deficient"—too weak to carry legal loads—according to the Iowa Department of Transportation.

They are getting the most attention at present, along with 257 other primary bridges programmed for reconstruction or replacement through 1983 at an estimated cost of $114 million. But an estimated 11,000 of the remaining 25,800 bridges on Iowa's county and city road systems are structurally deficient and in need of prompt attention.

Congress has provided $180 million for the Special Bridge Replacement Program to allocate on a need basis. Now pending too are bills that would increase this to as much as $2 billion.

From every viewpoint the bridge replacement program is going to be a costly one in dollars. But it will be more costly in lives if those dollars are not used to replace or reconstruct bridges before they reach the danger point of collapse.

WEAK BRIDGES: GROWING HAZARD ON THE HIGHWAYS

[From the Cedar Rapids (Iowa) Gazette]

At a time when cold weather is posing added problems, a survey of this country's highway bridges shows thousands so badly neglected that they comprise "a disaster just waiting to happen."

So reports a group of Federal Highway Administration engineers who have uncovered dangerous bridges in every part of the country.

Says W. J. Wilkes, director of FHA's Office of Engineering: "The hazard always grows at this time of the year, when bitter cold often causes the steelwork to become brittle, resulting in more bridge failures."

Among the findings of the survey—

One highway bridge out of every 5 in the U.S. is deficient and dangerous to use. More than 100,000 spans are officially in that category now, and the number is still rising.

Every two days, on average, another bridge sags, buckles or collapses.

Poor bridge approaches and lack of adequate signs and signals kill an estimated 1,000 Americans yearly, in addition to the 8 or 10 who die as a result of actual bridge failures.

DANGEROUS FAULTS

On highways built with federal aid—the nation's major roads—some 7,000 bridges are considered structurally unsound, FHA experts report, and another 25,000 are called "functionally obsolete" because they are narrow, have low overhead clearance or are poorly aligned with the road. Replacing these 32,000 unsafe bridges would cost about 10.4 billion dollars and would take 80 years at the present rate of the replacement program, the engineers estimate.

The cost of replacing all of the unsafe bridges, both those on federal-aid and non-aid local highways, is computed by FHA officials at 23 billion dollars.

Why have the nation's bridges been allowed to deteriorate to this extent? The main reason is that local governments tend to spend limited highway funds on other things first. A federal bridge-replacement program was started in 1972 to provide 75 percent of the cost of needed work on city or State bridges, but only 475 million dollars has been authorized, and work is going slowly. Up to December, 1976, just 978 bridges had been or were being upgraded under this program.

Examples of what has happened to bridges as a result include—

A span over the Hudson River at Troy, N.Y., collapsed in 1977, fortunately with no deaths involved.

Two persons died when a bridge over the South Canadian River in central Oklahoma fell in 1976.

In 1975, a link over the Yadkin River near Siloam, N.C., collapsed, causing four deaths and 16 injuries.

The biggest modern tragedy was the collapse of the Silver Bridge over the Ohio River in 1967, with a death toll of 46 persons.

There are lesser problems, too, that are aggravating and time-consuming.

Near Weatherford, Tex., is a highway bridge with a 20,000-pound weight limit. But the county fire department there reportedly exceeds the legal limit by driving its 22,000-pound truck over the span routinely—because the detour would require 30 miles of driving and perhaps an hour of extra time.

Ten States With the Most Unsafe Bridges

	Number of deficient or obsolete bridges
1. Iowa	14,000
2. Oklahoma	5,945
3. Pennsylvania	5,939
4. New York	5,750
5. Kansas	5,540
6. Texas	5,346
7. Missouri	4,786
8. Tennessee	4,755
9. Nebraska	4,500
10. Illinois	4,436

Source U.S. Dept. of Transportation.

Rerouting of school buses around unsafe bridges is an increasingly common necessity. In one rural Midwestern community, this practice costs the schools an extra $12,000 a year.

In Indiana, a survey by Purdue University showed that more than 6,500 county bridges are unsafe for standard-sized school buses carrying 60 or 64 children. Several schools there have been forced to close from time to time as a direct result of bridge conditions.

Narrow bridges, built before 1935 when cars and trucks were smaller, lighter and fewer, are a particular problem. Three-fourths of all spans in the country are in this category, and many cannot handle modern traffic. Typically, a truck-bus collision in 1972 on a narrow bridge near Fort Sumner, N.M., killed 19. A similar accident in Fort Stockton, Tex., took 15 lives.

HOW COSTS SHOOT UP

Meanwhile, the number of deficient highway bridges in the country reported to the FHA is rising steadily.

In 1968, it was estimated that 88,900 of the nation's crossings were either structurally deficient or functionally obsolete. The replacement cost then was estimated at 14.8 billions. By last year, the number of unsafe bridges recorded had risen to 105,500, an increase of 15.7 per cent, and the estimated replacement cost had risen by more than 50 per cent.

In Congress, hearings have been started, and 14 bills are pending to expand the nation's bridge-upgrading program by as much as 2 billion dollars a year, from the present level of 180 million annually. No bill is likely to reach the floor of either house until next spring.

As one official remarked recently: "With at least 105,000 bridges that people use everyday now listed as unsafe and the number rising steadily, it's only a matter of time before a series of bridge disasters occurs that will make the recent dam breaks look like a Sunday picnic."

SENATOR SPARKMAN'S DECISION NOT TO SEEK REELECTION

Mr. PELL. Mr. President, it was with deep sadness that I heard of the decision of the senior Senator from Alabama, Senator JOHN SPARKMAN, not to seek reelection to this body. Senator SPARKMAN has had a distinguished career spanning 42 years in the Senate and the House of Representatives. During those years, he has not only been an effective champion of his State's interests, but has earned a reputation nationally as a fair and enlightened legislator. Above all, however, he has always been a warm and gracious

human being and one whom I have long admired and whose friendship I greatly value.

While I was chairman of the Rhode Island Stevenson-Sparkman campaign of 1952, my close association with Senator SPARKMAN dates back to 1965 when I became a member of the Committee on Foreign Relations. Senator SPARKMAN was always helpful to me as a new member of the committee, and I have greatly valued his counsel through the years that we have served together on the committee. Among other things, we share a fascination with aquaculture, or fish farming, as an important means of meeting the world's protein needs.

Since he became chairman of the Committee on Foreign Relations in 1975, Senator SPARKMAN has guided the committee with great dignity and respect for the varied interests and points of view on the committee. The great harmony and spirit of cooperation that have marked the work of the committee have been due in no small part to Senator SPARKMAN's leadership.

I shall miss Senator SPARKMAN, as I know all of my colleagues will, and I wish him and his gracious wife, Ivo, all the best for the future.

MS. VANDERVELDEN'S OUTSTANDING SERVICE

Mr. CULVER. Mr. President, a recent article in the Des Moines Register recounts the story of a woman who has devoted 25 years to helping handicapped children.

Lelia VanderVelden was a child polio victim and she feels her illness helped her become more compassionate. This compassion has been channeled to touch the lives of others. For over one-half of her life, Ms. VanderVelden has been teaching handicapped children to cope with both the mental and physical barriers placed before them by society and to recognize their strengths as well as their limitations.

As the executive director of the Convalescent Home for Children in Des Moines, Ms. VanderVelden has initiated several new and innovative programs. Among her achievements is a crisis intervention program designed to aid parents who can no longer care for their handicapped children on a 24-hour basis.

Mr. President, approximately 35 million adults and children are physically or mentally handicapped—one-sixth of all Americans. This large segment of our population has often been denied the benefits and fundamental rights afforded to other citizens of the United States.

Only in the last decade have the needs, capabilities and concerns of people with mental or physical disabilities been nationally recognized. And only with the help of Lelia VanderVelden and many others like her has a national movement begun to help make possible for them more productive, participatory lives.

Mr. President, I wish to share with my colleagues this example of outstanding human service and I therefore ask unanimous consent that the Register story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Des Moines (Iowa) Register, Nov. 25, 1977]

HELPING THE HANDICAPPED GET BACK IN THE MAINSTREAM

(By Debra Kneeland)

For 25 years, Lelia VanderVelden has been teaching handicapped children a philosophy her mother taught her when she was a young girl: "Everybody's normal with a problem."

VanderVelden, 50, has spent half her life as executive director of the Convalescent Home for Children at 211 Twenty-eighth St.

And she has relied on her mother's comforting words to help hundreds of afflicted children accept their handicaps.

"Once a beautiful lady with a fur cape and glass high heels came into the home and a four-year-old boy in a wheelchair with polio asked, 'What's wrong with her?' " VanderVelden recalled.

"I said to myself, 'Don't let me fail this child,' even though the woman was the epitome of everything beautiful and seemed to be perfect.

"I told him, 'She likes to talk about people,' to show him she also had a problem."

WOMAN OFFENDED

The woman, a member of the board of directors, didn't understand when VanderVelden told her she had only said that to help the boy gain confidence in himself.

She was insulted and never spoke to VanderVelden again.

But that's the kind of person VanderVelden is. She couldn't betray the boy.

"The very next day, Greg said he wanted to learn to walk," VanderVelden said with a smile. "And about three years later after a lot of work, he left on crutches, but he was walking."

VanderVelden was triumphant. The foolproof philosophy that had helped her as a child had worked again.

When VanderVelden was 13 months old, she was stricken with polio. As a result, her right arm and leg grew more slowly than her left.

"When I was 13, doctors stopped the growth in my left leg so my right could catch up. I grew four more inches so now it is barely noticeable," VanderVelden explained.

Reflecting on her childhood, she says her illness helped her become more compassionate toward others.

BECAME RN

In her early 20s she became a registered nurse and worked at Broadlawns Polk County Hospital, where she met several children from the Convalescent Home for Children.

"I had planned to be a missionary in Africa, and I went to three years of Bible school, but I didn't pass the physical when they found out I had polio," she said.

"I'm glad now I took the job at the home instead because I wouldn't have made a good missionary anyway," she said with a laugh. "There are too many ordeals to go through as a missionary, but I was mad at the time."

The task she decided to undertake wasn't a small one, however.

As a licensed nursing home administrator, she handles the budget and oversees the staff, in addition to visiting daily with the 16 children who live there.

The children, ranging in age from 15 months to 16 years old, are afflicted with such diseases as cerebral palsy and muscular dystrophy. Some have convulsive disorders or congenital birth defects. One young girl suffered severe burns in a fire.

Many of the children have come to the home from foster homes after being rejected by their parents. Some have been sent to the home after their natural parents could no longer care for them 24 hours a day.

STARTED BY JUNIOR LEAGUE

The home, started by the Des Moines Junior League in 1928, moved to 211 Twenty-eighth St. in 1936. The Junior League turned it over to the community in 1952.

It now costs $50 a day to live at the home. That includes special care administered by a social worker, a registered nurse, licensed practical nurse, director of nurses, recreation therapist and five nurses aides.

Much of the cost is absorbed by Medicaid, private insurance companies, United Way and a foster care for institutions program under the National Social Security Act.

VanderVelden says the facility should be expanded because there are 52 children on the waiting list and one program she started has been cut back.

"I formed a crisis intervention program in 1960 so parents who needed a short break from severely handicapped children could leave them here for a while," VanderVelden said.

"One woman had three boys with muscular dystrophy, and she had never been away from them for a day, so she left them here for a while one summer.

"Now all our beds are filled up, and we can't serve the community in that way any more."

VanderVelden has always tried hard to get community groups involved with the children at the home.

The Variety Club here recently donated a van with wheelchair stalls so the children can go on more weekend field trips, including football and basketball games. Students from the College of Osteopathic Medicine make calls at the home and have taken some residents out for pizza.

Various downtown insurance companies have sponsored parties at the home or donated Christmas trees.

Despite support from certain community groups, VanderVelden says life remains a struggle for handicapped people who choose to strike out on their own.

"I admire people who can accept themselves," she said. "But it's often hard when you see other people doing things you want to do."

She said some of the older children who go to a school for the handicapped will be able to live independently when they are older, although they may need some kind of care.

"My dream is for . . . some kind of residential center for the handicapped, with perhaps a couple of counselors living there to help with problems," VanderVelden said.

"We've had the handicapped closeted and shut away. Now there is an effort to remove some of the barriers and get them into the mainstream," she added.

TAKES TIME

But VanderVelden said it will take time to make people "look beyond a handicapped body to the mind that's inside."

When VanderVelden goes to a super market, for example, she often sees perfectly healthy people parking in spots reserved for the handicapped. She said she is working with the Iowa Department of Transportation to have such offenders ticketed.

"At one store, a grocer hadn't put up his handicapped sign in the parking lot," she said. "He wouldn't listen to me until I said, 'Do you realize that you are losing business because one out of 10 people is handicapped and they can't come here to buy food?'

"I just think for all these handicapped people who have gotten shortchanged, things should be made easier for them."

Lately, when she isn't busy crusading for the handicapped, VanderVelden can be found floundering around in a swimming pool. Her latest hobby is scuba diving.

VanderVelden, divorced and the mother of two children, 25 and 18, also is an accomplished seamstress (she sells men's suits), a bridge player and a stamp collector.

But scuba diving is her current love.

"I just learned how to swim last year while I was on vacation in the Cayman Islands (northwest of Jamaica, south of Cuba)," she laughed.

"Now for my twenty-fifth anniversary here, my board of directors gave me $1,000 to go back in March, but I still don't think anyone should be rewarded just because they worked 25 years."

SENATOR LEE METCALF

Mr. PELL. Mr. President, I join my colleagues in mourning the passing of LEE METCALF, who served the people of Montana and the Nation with great distinction in the Senate for 17 years.

LEE METCALF and I came to the Senate in the same year, and took the oath of office for our first Senate terms on the same day, January 3, 1961. At the time of his passing, we were the only surviving members of the class of Senators first elected to the Senate in 1960, although he had previously served with great distinction in the House of Representatives where he was chairman of the minorities study group.

Through his years of service in the Senate, LEE METCALF proved himself a steadfast champion of the American consumer and one of the most effective and persistent battlers for electric utility rate reform. In his final months, he continued his efforts on behalf of consumers in his role as a Senator conferee on energy legislation.

LEE METCALF was a warm and compassionate man who had a smile and a friendly greeting for everyone, regardless of position here in the Senate or in life.

He will be missed both in his home State of Montana, which he so loved, and here in the Senate. I extend my deepest sympathies to his lovely wife, Donna, and their son.

CONSUMER PROTECTION AND ENERGY GOALS

Mr. METZENBAUM. Mr. President, extraordinary increases in heating costs in recent years, coupled with the continuing energy debate, has resulted in an unprecedented demand for energy conservation mechanisms. The result has been an influx into the marketplace of an inordinately high volume of home insulation products. The combination of market demand and absence of market safety standards has provided fertile ground for profiteers with get-rich-quick schemes.

If we are to propose energy conservation measures to the American consumer, then we must insure that those measures are safe and effective. Bills recently introduced in both the House of Representatives and the Senate address this issue by focusing on the need for safety standards for cellulose insulation, a product which, at present, is not required to follow any standard, and which is invading the marketplace at an unexcelled pace. The Department of Commerce has informed my distinguished colleague, Mr. FORD of Kentucky—

that ten new cellulose manufacturers enter the market each month.

In my own State of Ohio alone, Federal programs administered through the Community Services Administration weatherized about 13,000 units between October 1975 and November 1977. By September 1978, another 6,000 units are scheduled to be added to this number. Nationally, an estimated one-half million housing units will have been treated to some form of weatherization under this program by the end of 1978. Under the different methods of weatherizing, insulation is the one most commonly used, and cellulose material is that type of insulation most commonly installed. In view of the questions now unanswerable about the long-range effects and safety properties of cellulose insulation, certain standards must be applied as soon as possible to its content and its installation.

What is at stake here is the safety of millions of Americans who are responding to the need to save energy. When the prevailing Government policy, at Federal, State, and local levels, is bolstered by both private industry and public interest groups, imploring consumers to conserve energy, and enticing them through federally funded programs and tax credits, then it is the responsibility of Government to insure that insulating materials are safe and effective. Consumer protection in this case is obligatory.

As another frigid winter already drops its destruction upon city after city, Cleveland among the worst, time is a crucial factor if what we do is to count at all. The time-consuming and ponderous processes of promulgating regulations become all too ironic if they are promulgated after the dangers of an existing situation have been inflicted on millions of unknowing and trusting consumers. Americans, traditionally, tend to display total confidence when less than total confidence is warranted. Such a climate invites abuse and it is just such abuse that this legislation would discourage.

While many manufacturers and distributors of insulating materials follow the existing General Services Administration's standard for flammability and corrosiveness, some clearly do not. And the accelerating number of those who are too rapidly, with little preparedness, entering the market multiplies dangerously the risk to the health and safety of millions of consumers. A tragedy of incalculable dimensions could result if those very Americans who respond to the President's plea to conserve energy this winter invest in home insulation only to become victims of unsafe products manufactured and/or distributed by profiteers. As a preventive measure an interim bill is essential.

For this reason, I join Mr. FORD in his effort to direct the Consumer Product Safety Commission to establish mandatory interim standards for cellulose insulation. I am pleased to add my name as a cosponsor of the "Emergency Interim Consumer Product Safety Rule Act of 1977."

CRIMINAL CODE REFORM ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1437, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The pending question is on amendment No. 1659 on which there is a time limitation of 1 hour. There will be no rollcall votes before the hour of 1:15 p.m.

Mr. SCOTT. Mr. President, I have just had an opportunity to speak briefly to the distinguished majority leader, without obtaining an agreement from him, but I find that yesterday there was a change made in the section of the bill, of which I was unaware, that relates to amendment No. 1660, and also that the language is the language that was adopted by a committee amendment rather than the language of the original bill.

I ask unanimous consent that instead of considering amendment No. 1659 we now take up my amendment No. 1660.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER THAT NO ROLLCALL VOTES OCCUR TODAY BEFORE 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, with the concurrence of the distinguished Senator from Virginia (Mr. SCOTT) I ask unanimous consent that no rollcall votes occur today before the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, is is so ordered.

AMENDMENT NO. 1660

Mr. SCOTT. Mr. President, I ask that amendment No. 1660 be stated.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 1660:

On page 279, beginning with line 15, strike out through line 12 on page 281.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may not be taken off the floor, and that I be allowed to put in a quorum call so that the managers of the bill will be aware of the fact that the period for eulogies has ended and that the Senate is now on the bill. Will the Senator allow that?

Mr. SCOTT. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum, Mr. President, and I ask unanimous consent that the time not be charged to Mr. SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, on behalf of Senator DOLE I ask unanimous consent that Steve Kittrell and Ernie Garcia, of his staff, be allowed on the Senate floor during consideration of amendments to S. 1437.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, we are now considering my amendment 1660 rather than 1659 that we had previously agreed to consider at this time, and it is my understanding that we will have a vote on this amendment at 2 o'clock, and then after the vote at 2 o'clock, we will take up amendment 1659.

Mr. President, the amendment before us would strike section 3725 entitled, "Review of a Sentence." The portion stricken begins at line 15 of page 279 and goes through line 12 of page 281. It would change existing law to provide rights of appeal when either the defendant or the Government felt that a sentence by the trial judge was not in accord with guidelines established in this bill. Frankly, a number of trial judges have expressed concern to me about this provision of the bill and about this particular section.

In my opinion, most of our Federal trial judges are competent, hard-working individuals who attempt to mete out justice in a fair and impartial manner. They can observe everything that happens in their courtroom. They obtain an understanding of a case that is impossible for another individual, however learned he may be in the law, to obtain from a review of the transcript. I note on page 280 that the clerk shall certify to the court of appeals:

(1) That portion of the record in the case that is designated as pertinent by either of the parties;

(2) The presentence report; and

(3) The information submitted during the sentencing proceeding.

Upon that meager information, the appellate court would sit in judgment upon the wisdom of the trial judge in determining the length of the sentence for a convicted felon.

The chapter goes even further and indicates that the court of appeals in determining whether or not a sentence is unreasonable shall have regard for:

(1) the factors to be considered in imposing a sentence, as set forth in part III of this title; and

(2) The reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 2003(b).

Mr. President, a trial judge, learned in the law, sitting through a trial that may consume many days, weeks, or even months cannot possibly reduce to writing and state the reasons in exact detail as to why a given defendant is sentenced to a particular number of years in a specific instance, while another defendant is sentenced to a somewhat different term. He has presided throughout the trial. He has observed the demeanor of the defendant. He has heard the emphasis placed upon particular words. He has seen the expressions upon the faces of the witnesses. He has observed the reaction of the jury. He has the opportunity to become intimately familiar with every facet of the happenings in his court during the trial. No appellate judge can review portions of the record, the presentence report, and the information submitted during the sentencing proceeding and have anything comparable to the knowledge of the case that the trial judge has.

Even if the trial judge could express in detail every thought that crossed his mind, it would inevitably provide ammunition for a defendant, or for the Government, in the case of an appeal by the Government, to raise questions with regard to the validity of the processes within the trial judge's mind and rather than expedite the trial of lawsuits as presently needed to eliminate congestion in the courts, it would tend to prolong litigation and further congest the courts. Due process of law certainly does not require a series of hearings on every particular phase of a lawsuit but only one fair and impartial trial.

Of course, the Congress makes the law and the courts supposedly apply it as enacted by the Congress. Yet, it would be a frustrating thing for a trial judge to attempt to put down in writing every factor that crossed his mind. This individual who has spent the major part of his adult life studying the law may give some slight consideration and later discard some feature that might be difficult to explain in writing. Other matters might be given some credibility because of the sincerity reflected in the voice of a defendant or a witness.

My trial experience has been principally limited to civil cases but I have also reviewed many transcripts of cases tried by other lawyers. With 21 years in the Department of Justice, I have reviewed hundreds of transcripts to make recommendations to the Solicitor General as to whether or not an appeal should be taken in a given case. But there is a lot of difference between participation, observing everything that happens, and reading about it from a transcript. How many interpretations can you give to simple phrases like "thank you" or "good morning" when you hear the spoken words, as distinguished from reading the phrases? Inflection in the voice does make a difference. When you hear these words spoken, you may get a somewhat different feeling than when you read the words from a written page.

Any of us might write a book on the happenings of the Senate and another individual could read the book, but, Mr. President, he could not possibly learn from the reading of the book, regardless of its author, as much about activities in the Senate as we learn by serving as Senators. In my opinion, an appellate judge cannot possibly learn the details, nor acquire the necessary knowledge upon which to base a decision as to the proper sentence for one convicted of a crime, as that learned by the presiding judge in the actual trial of the case. To me, this section is a step backward in the administration of criminal justice and should be eliminated. That is why, Mr. President, I have asked that this portion of the bill be stricken.

Mr. President, I would like to have the yeas and nays on the amendment. Therefore, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, the arguments which have been raised by my distinguished colleague and friend from Virginia are matters which were given very substantial consideration during the drafting of this legislation. Sentencing was given a great deal of consideration by the Brown Commission and by the Judiciary Committee. I mentioned, and I shall mention again, because I think it is important for the record, that one of our most distinguished colleagues, Senator Roman Hruska, who was the senior member of the Judiciary Committee and a member of the Brown Commission—strongly favors appellate review.

Referring to the bills that he had introduced on appellate review, Senator Hruska said:

It was my thought in the bills that I had introduced that there should be appellate review with proper procedural requirements available to anyone who is convicted of a crime. The basis of that—and it is perhaps the most persuasive argument in favor of it—is that America is the only civilized country that I am aware of that does not have some form of appeal of sentence. We are the only country, Mr. Chairman, in which the word of one man is not supervised, is not reviewed, and is totally uncontrollable as it now stands, barring only those wide ranges in which the sentence may be imposed.

Indeed, Senator Hruska would have guaranteed as a matter of right, appellate review of all sentences. This particular legislation, as I have stated before, does provide for appellate review as a matter of right when the guidelines are not followed. If the sentences exceed the guidelines, the defendant may appeal; if they are lower, then the Government may appeal. Even within the guidelines, appellate review may be permitted. So we did not, in this legislation, go as far on the issue of appellate review as some would like. But the provisions will enhance the public's view of our criminal justice system.

I believe that that is one of the most important reasons for this provision, to gain the confidence of the American people in our system of justice. That may be a vague concept in some people's minds, but it is certainly not vague in my mind or in the thinking of the American Bar Association. It points out, in its support for appellate review of sentences, that the ability to review sentences will give the American people a greater respect for the judicial system.

In addition, as to those States that do provide appellate review, I think it is important to point out that there has not been a significant or substantial, or even a slight increase in the burden placed on the various appellate courts of those re-

spective States. As the bar association points out in reviewing those States which do provide such review, there has not been an additional burden placed on the appellate courts. To the contrary, the bar association believes—and, in their report, they indicate and justify the reason for that belief—that, actually, there may be a decrease in appellate review, because we will avoid the situation where defendants try to appeal convictions solely because of excessive sentencing. We deal with that issue in the guidelines.

I also believe that, by establishing appellate review, we shall establish very clearly a new case law of sentencing so that rational, principled sentencing will develop.

So, Mr. President, from practical experience, the record is clear that there have not been abuses of appellate review. From the standpoint of the citizen's perception of our system of justice, it is important. By promoting valuable case law, it is important.

There will also be, obviously, an opportunity at long last to correct grossly excessive sentencing.

Mr. President, these are the reasons why, in brief, the American Bar Association has supported the basic concept of sentencing review—equity, fairness, case law, respect for law by the American people. It is why our distinguished colleague, Senator ROMAN HRUSKA, who spent so much time on this code, supported enthusiastically an even broader appellate review procedure.

Mr. President, I also mention at this time the testimony of perhaps the most capable district judge in our country, Judge Marvin E. Frankel. He said, in his testimony:

> The appellate court looks at the sufficiency of the evidence to sustain a conviction. It looks at the rules on evidence. It looks at the sufficiency of evidence to justify all manner of things that the trial judge may have done. The appellate court looks at a lot of things that are peculiarly the business of trial judges. . . .

He says:

> Appellate courts do not empanel juries. They do not keep order in the court room. They do not select juries generally. They do not appoint counsel. But they do, in every one of those kinds of situations, have authority to review, revise, reverse what we trial judges have done.

Mr. President, why should sentencing review be any different? Judge Frankel put it best:

> I would say that, insofar as the things that the trial judge does are peculiarly within his competence, insofar as he has seen the witnesses, seen the defendant, and has, supposedly, some special advantage for judgment—that is handled by the appellate court by giving a certain degree of deference to what the trial judge has done. But it is not handled by closing the door on review altogether.

That is a distinguished judge talking about appellate review.

And that is where the Senate Judiciary Committee comes out in support of appellate review. Senator Hruska mentioned in his own testimony, and which any witness could have stated, we are the only civilized nation in the world committed to the rule of law that does not provide for a sentencing appellate procedure of some sort.

For all those reasons, I stand in opposition to the amendment of the Senator from Virginia.

Appellate review is limited in S. 1437, but what has been done is extremely important and expands in a very significant way the protections of individual rights and liberties of the American citizen.

For those reasons, I hope that the Senator's amendment will be defeated.

Mr. SCOTT. Mr. President, I appreciate the position of the distinguished Senator from Massachusetts.

One might, however, be led to believe by listening only to the remarks that he made, if they had lived in a vacuum, that no convicted felon ever appealed any case.

We are not talking about a right of appeal in a general sense. We are speaking of a right of appeal in a specific sense.

I believe the people of the country have a degree of disgust—and I use the word "disgust" advisedly—with the time consumed by people guilty of serious crime in going through the appellate process.

I believe that the penitentiary lawyers, people who are serving, who have been convicted and who are serving time in the penitentiary, seek writs of habeas corpus. They do it with a great deal of frequency. I believe they take up a lot of the time of our courts in doing this.

So, we are not talking about the right of a defendant to appeal from a case in which the rules, the Constitution, the statutes, have not been followed. We are talking only in the narrow sense of appealing a sentence that has been imposed by the trial judge. The defendant has been found guilty of committing the offense and the question then is, should he serve time in the penitentiary, should he be placed on probation? If he is to serve time, how much time shall he serve?

I believe that elsewhere in this bill there is a provision that establishes guidelines that the trial judge would follow as to the type of crime that was committed. Let me say that when we speak of a trial judge, a Federal judge of a U.S. District Court, we are not speaking of a new lawyer. We are speaking of a man that ordinarily the Department of Justice requires have a minimum of 15 years experience as a lawyer. They like to have someone's name submitted to them who has had a major portion of his experience in the Federal court.

So this is not a novice that we are speaking about that hears the testimony, that fixes the sentence. It is a man that has spent the major part of his life, and I believe he is much better able to judge the time that a convicted felon should serve from observing everything that happened in his courtroom than an appellate judge is from reviewing a record.

I know the distignuished Senator from Massachusetts is a graduate of the University of Virginia Law School and may well be familiar with the law in Virginia that our appellate courts or State courts never reverse a trial judge unless he is clearly—clearly—wrong. It is one of the principles of law that they resort to. They give great credence to the decisions of a trial judge.

I believe that we would consume more time. I believe we would congest our courts more. I believe it would be a step backward in the proper administration of justice for us to pass this bill as it is written. Therefore, Mr. President, I do hope that the Senators will give careful consideration to this measure and that my amendment will be adopted.

Mr. HODGES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twenty minutes.

Mr. KENNEDY. Mr. President, I yield such time as the Senator may need.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HODGES. Mr. President, I speak against the amendment on those narrow grounds mentioned by the distinguished Senator from Virginia.

No man, unfortunately, is perfect, and no individual has the wisdom of Solomon. Yet within our judicial system, on a Federal level, these sentencing decisions must be made by a single Federal judge on a regular basis.

The framers of our Constitution did not feel so august a body as the Senate and the House should go unchecked in the actions they take, and to place into the hands of a single man the life and liberty of a person who has been found guilty of a crime seems to me to be very shortsighted.

This amendment would do away with appellate review of sentencing and, as such, I think it strikes at the heart of the entire code. It surprises me somewhat. Although I do not personally know the distinguished Senator from Virginia, I know his concerns generally, and those concerns are often for individual liberties. I think I view what is at stake here as a matter of individual liberty. The liberty and right of a single man to have his destiny determined by someone other than another single man.

I have had trial experience in the Federal courts and have recently had a series of Federal cases involving insurance fraud, both by doctors and by individuals.

Mr. SCOTT. Mr. President, will the Senator yield, briefly?

Mr. HODGES. I yield on the time of the Senator from Virginia.

Mr. SCOTT. The Senator speaks of the fate being determined by a single man. Of course, as a lawyer, the Senator from Arkansas realizes that the fate is determined generally by a jury of the defendant's peers. So we are not talking about the fate of a man, his guilt or innocence, being determined by an individual. The judge who is presiding at the trial merely determines the law of the case and determines the sentence, in the event that a jury of the defendant's peers determines that the person is guilty.

We are not talking about a man's life, because I do not think we have any Federal statutes now under which the death sentence can be imposed.

Would not the distinguished Senator from Arkansas agree with this?

Mr. HODGES. I think if the distinguished Senator from Virginia will allow me to complete my thoughts, it will become clear to him what I have in mind.

I believe it clear to those of us involved in the practice of law that in the Federal courts, the juries do determine guilt or innocence, and the judge then determines what the sentence will be. Yet that is the heart of the problem.

To give the distinguished Senator from Virginia an example, in my State one judge thinks that white-collar crime is the most abhorrent crime known to man, and he is very harsh in his sentences. Yet, another judge in our State does not feel that way and, as a matter of fact, often puts these criminals on probation, giving very small fines.

As to a man's fate—that is, what happens to him after a jury makes its determination—that is determined in the Federal system by only one man, and with respect to that one man who sits there, never subject to the will of the people, except for being presented to the Senate for confirmation of his nomination, and who is on the bench for life, not responsive to the ordinary pressures of life, then, yes, I am talking about individual liberties and the fate of a man being determined solely by one individual.

Mr. President, what we are talking about is a situation in which we should picture ourselves, were we to be so unwise and injudicious as to commit a crime. In whose hands would we want our fate to rest? We would face a single man, as that is the system, and we must accept it. But I want to create the right for everyone individually to be able to go someplace for review—to someone else who is not biased for or against white-collar crime, to someone who can give a second judgment.

I repeat that no man is so perfect in his judgment that he should not be subject to review by another. There are no Solomons, and even Solomon determined that wisdom was a very elusive idea.

I think there are any number of good, sound reasons for defeating this amendment, but the most important is the right of a man to have review by some other person, which I call simply fundamental fairness—or the essential notion of justice that we have developed in this country. This amendment would do great harm and damage to that concept and that fundamental right.

Mr. KENNEDY. Mr. President, there is really nothing to add to the splendid statement by Senator HODGES on this issue.

I may be mistaken, but this might be the first time he has spoken on the floor of the U.S. Senate. It was a speech in behalf of individuals and individual liberty, striking at the whole sense of fairness and equity of our judicial system. It is a very eloquent and compelling argument. I commend the Senator for his statement and for the thoughtfulness with which he made it.

Mr. President, I reserve the remainder of my time.

Mr. SCOTT. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Virginia has 14 minutes and the Senator from Massachusetts has 13 minutes remaining.

Mr. SCOTT. Mr. President, I do not wish to consume all my time. I would like to retain, with the consent of the distinguished Senator from Massachusetts, just a minute or two to explain to Senators, before the vote, that we have changed from one amendment, from amendment No. 1659, to amendment No. 1660, so that they will know what they are voting on before they vote.

Mr. President, I should like to respond to the distinguished Senator from Arkansas. I regret than he has erred in speaking for the first time on the floor of the Senate, in opposing an amendment I have offered. I say that in jest, of course. We welcome him to the Senate, certainly not to replace our distinguished and departed Senator from Arkansas. I know that Senator HODGES just intends to be with us for the remainder of the term. We are very happy to have him with us. But I am sorry that he chose this time to give his maiden address, in opposition to my amendment.

Mr. President, I believe that one of the major features of the criminal law for confining someone in the penitentiary is as a deterrent to others in the commission of crimes. If all defendants can have an opportunity to delay a final decision on whether or not they are going to serve in the penitentiary, I believe that this tends to reduce the deterrent to commit crimes in the future.

In my judgment, due process of law, which is guaranteed to every American, merely means his right to notice, his right to be heard, his right to have his day in court. It only means one trial. Yet, we know that there are many appeals, that sometimes from the date a person is charged with crime until the date he actually starts serving his sentence often consumes many years. This, to me, would mean that it would be a further consumption of time between the date of the finding of guilt of a convicted felon and the time when he might commence paying for the offense of which he has been found guilty, in those cases in which guilt is found.

Mr. President, I do not intend to use the remainder of my time, except for just a moment to explain that we have transferred from one amendment to the other. I wonder whether we could set this amendment aside and conduct other business. I understand that we are not to vote on this amendment until 2 p.m. Would that be agreeable to the distinguished Senator from Massachusetts?

Mr. KENNEDY. Mr. President, it is my understanding that we will not vote until 2 p.m. The distinguished ranking member, Senator THURMOND, would like to address this issue. I yield such time as the Senator desires.

Mr. THURMOND. Mr. President, my experience has been as a lawyer for many years and as a circuit judge in South Carolina, which is the highest trial court of the State. The judges often go to the extreme in sentencing. For example, in liquor cases, if a certain judge was up and a defendant was charged with violation of the liquor law, the defendant would usually not want that judge to hear the case and would wait for another judge who took a more lenient position on such crimes to take over the docket.

And the same thing is true of other types of crime. I have often felt it would be helpful if we did have some guidelines that would keep the sentences more in proportion, because when one man receives 5 years for a crime and another one, with practically the same facts, receives 25 years. It just does not seem fair and just.

The military courts-martial law sets out guidelines, and I recall that when I was in the service I thought it was most helpful. It gives flexibility to the trial judge, but yet it does not allow him to go to extremes, so to speak.

For that reason, I will have to oppose this amendment.

Senator Hruska, in hearings last year made a statement which I think is pertinent on this point. He said:

> There should be appellate review with proper procedural requirements available to anyone who is convicted of a crime. The basis of that—and it is perhaps the most persuasive argument in favor of it—is that America is the only civilized country that I am aware of that does not have some form of appeal of sentence. We are the only country, Mr. Chairman, in which the word of one man is not supervised, is not reviewed, and is totally uncontrollable as it now stands, barring only those wide ranges in which the sentence may be imposed.

I think Senator Hruska has expressed it very well in those words, and during his testimony he made another statement I thought was applicable, too:

> In every other situation that we know of, there lies an appeal except where a man's liberty is taken from him by a judge whose action is not appealable as long as he stays within those guidelines.

So, Mr. President, in view of the great disparity in sentences, in view of the undue flexibility allowed judges in sentences, and in view of the fact that some judges seems to take a position on certain crimes and give heavy sentences in one type of crime whereas they might be extremely light on some other crime, it appears to me that this provision in the bill might be helpful. Therefore, I oppose the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that this amendment be temporarily set aside until 1:55 p.m. and that the remainder of the time be equally divided between the distinguished Senator from Massachusetts and myself.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Is that with the understanding that we vote at 2 o'clock?

Mr. SCOTT. With the understanding that there be a rollcall vote at 2 o'clock.

Mr. KENNEDY. Or whatever disposition will be made at 2 o'clock.

Mr. SCOTT. I am not foreclosing the right to make a motion to table if that is what the distinguished Senator has in mind.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr President, I ask unanimous consent that the Senate con-

sider en bloc, and if adopted consider as original text for the purpose of further amendment, the amendments of the Committee on the Judiciary to S. 1437 located in the bill as follows:

All of the amendments appearing on pages 257, 258, 260, 261, 262, 263, 267, 275, 276, 280, 281, 282, 283, 285, 287, 288, 298, 299, 301, 302, 305, 306, 307, 316, 317, 363, 369, 374, 375, 376, 377, 378, 379, and 380; the amendments appearing at lines 12, 30, and 35 on page 259; the amendments appearing at lines 2, 4, and 33 on page 264; the amendment appearing at line 5 on page 265; the amendment appearing at lines 38 and 39 on page 266; the amendments appearing at line 17 and line 19 on page 268; the amendments appearing at line 8 and line 19 on page 269; the amendments appearing at lines 3 through 13 on page 270; the amendments appearing at lines 11, 12, 24, and 28 on page 271; the amendments appearing at line 4 through line 17 and at line 21 on page 272; the amendments appearing at line 26 and line 34 on page 273; the amendments appearing at line 29 and line 30 on page 277; the amendments appearing at line 7 through line 15 on page 278; the amendments appearing at line 11, at line 18 through line 23, and at line 25 through line 39 on page 279; the amendments appearing at lines 1 and 2, at lines 19 and 20, and at line 36 on page 286; the amendments appearing at lines 1 through 8 on page 289; the amendments appearing at lines 3 through 16 and at line 22 on page 291; the amendments appearing at line 21 and line 27 on page 297; the amendment appearing at lines 13 and 14 on page 312; the amendment appearing at lines 23 and 24 on page 360; that part of the amendment on pages 368 and 369 as appears at lines 19 through and including 31 on page 368, and at line 36 on page 368 through and including line 14 on page 369; the amendments appearing at line 18 and at line 25 on page 369; and the amendments appearing at lines 1, 4, 8, 18, 23, and 25 on page 381.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Massachusetts?

Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 256, line 3, strike "or"." and insert "or";

On page 256, line 24, after "majority" insert a comma and "including the nature of past treatment efforts";

On page 257, line 28, after "disposition" insert "no later than 20 court days after trial unless the court has ordered further study pursuant to subsection (d)";

On page 257, line 30, after "delinquency, insert "enter an order of restitution pursuant to section 2006,";

On page 257, line 32, after the period, insert "With respect to release pending disposition, or pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of section 3504.";

On page 257, beginning with line 38, insert the following:

"(1) in the case of a juvenile who is less than nineteen years old, beyond the lesser of:

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that could have been imposed if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between nineteen and twenty-one years old, beyond the lesser of:

"(A) two years; or

"(B) the maximum term that could have been imposed if the juvenile had been tried and convicted as an adult.

On page 258, beginning with line 10, strike through and including line 14;

On page 258, line 15, strike "and 2104" and insert a comma and "2104, and 2105";

On page 258, line 37, after "which" insert "he shall have regular contact with";

On page 259, line 11, after "section" insert "3602(f) or";

On page 259, line 30, after "section" insert "3602(c) or";

On page 259, line 35, strike "3834" and insert "3843";

On page 260, line 17, after "victim," insert "or, if the victim is deceased, the immediate family of the victim";

On page 261, line 16, strike "3614. Hospitalization of a Convicted Person Suffering from Mental Disease or Defect.";

On page 261, line 16, strike "3615" and insert "3614";

On page 261, line 16, strike "3616" and insert "3615";

On page 261, line 16, strike "3617" and insert "3616";

On page 261, line 31, strike "3617" and insert "3616";

On page 262, line 2, strike "3617" and insert "3616";

On page 262, line 10, strike "mental hospital, or in another";

On page 262, line 11, strike "designated by the Court as suitable";

On page 262, line 12, strike "six" and insert "four";

On page 262, line 17, strike "six" and insert "two";

On page 262, line 23, strike "law." and insert "law;";

On page 262, line 23, insert "whichever is earlier.";

On page 262, line 27, strike "3616" and insert "3615";

On page 262, line 29, strike "MENTAL HOSPITAL" and insert "SUITABLE FACILITY";

On page 262, line 38, strike "3617" and insert "3616";

On page 263, line 19, strike "3617" and insert "3616";

On page 264, line 2, strike "3617" and insert "3616";

On page 264, line 4, strike "3617" and insert "3616";

On page 264, line 33, strike "MENTAL HOSPITAL" and insert "SUITABLE FACILITY";

On page 265, line 5, strike "3617" and insert "3616";

On page 266, line 38, strike "mental hospital" and insert "suitable facility";

On page 267, line 6, strike "3617" and insert "3616";

On page 267, line 8, strike "3617" and insert "3616";

On page 267, line 12, strike "mental hospital" and insert "suitable facility";

On page 267, line 15, strike "mental hospital, or in another";

On page 267, line 15, strike "designated by the court as suitable";

On page 267, line 16, after "of" insert "such";

On page 267, line 17, strike "in a mental hospital";

On page 267, line 19, strike "MENTAL HOSPITAL" and insert "SUITABLE FACILITY";

On page 267, line 23, strike "a mental hospital" and insert "such a facility";

On page 267, line 30, strike "3616" and insert "3615";

On page 267, line 33, strike "pursuant to this subchapter";

On page 267, line 36, after "dismissed" insert "solely";

On page 268, line 17, strike "3617" and insert "3616";

On page 268, line 19, strike "3617" and insert "3616";

On page 269, line 8, strike "MENTAL HOSPITAL" and insert "SUITABLE FACILITY";

On page 269, line 19, strike "3617" and insert "3616";

On page 270, line 3, strike "3617" and insert "3616";

On page 270, beginning with line 4, strike through and including line 6, and insert in lieu thereof the following:

"(a) DEFINITIONS.—As used in this subchapter:

"(1) 'insanity' means a mental disease or defect of a nature constituting a defense to a federal criminal prosecution;

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

On page 272, line 4, strike "3615, or 3616" and insert "or 3615";

On page 272, line 6, strike "continuing" and insert "containing";

On page 272, line 7, after "concerning" insert "the need for";

On page 272, beginning with line 11, insert the following:

"(f) VIDEOTAPE RECORD.—Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

On page 272, line 16, strike "(f)" and insert "(g)";

On page 272, line 21, strike "(g)" and insert "(h)";

On page 273, line 26, strike "(h)" and insert "(k)";

On page 273, line 34, strike "3616" and insert "3615";

On page 275, line 25, after "Court" insert "may";

On page 276, line 22, strike "is not" and insert "need not be";

On page 277, line 29, after "decisions," insert "judgments, and";

On page 277, line 30, strike "and judgments";

On page 278, at the beginning of line 7, insert "(a) APPEAL IN GENERAL.—";

On page 278, line 8, after "final" insert "decision";

On page 278, beginning with line 10, insert the following:

"(b) REVIEW OF AN ORDER UNDER RULE 35(b)(2).—A defendant may file with a United States Court of appeals a petition for leave to appeal an order of a district court granting or denying a motion to correct a sentence pursuant to Rule 35(b)(2) of the Federal Rules of Criminal Procedure.

On page 279, line 11, strike "(d)" and insert "(e)";

On page 279, line 18, after "includes a" insert "greater";

On page 279, line 18, after "fine or" strike "a";

On page 279, line 19, strike "or a term of parole ineligibility higher";

On page 279, line 20, after the comma, insert "or a lesser portion of a term of imprisonment subject to the defendant's early release than the minimum established in the guidelines,";

On page 279, line 27, strike "(2)" and insert "(1)";

On page 279, line 31, strike "(3)" and insert "(2)";

On page 279, line 34, strike "GOVERNMENT" and insert "GOVERNMENT.";

On page 279, line 37, after "includes a" insert "lesser";
On page 279, line 37, after "fine or" strike "a";
On page 279, line 38, strike "or a term of parole ineligibility lower";
On page 279, line 39, after the comma, insert "or a greater portion of a term of imprisonment subject to the defendant's early release than the maximum established in the guidelines,";
On page 280, beginning with line 5, strike through and including line 6;
On page 280, line 7, strike "(2)" and insert "(1)";
On page 280, line 11, strike "(3)" and insert "(2)";
On page 280, line 11, strike "equal to";
On page 281, line 13, strike "(D) Parole." and insert the following in lieu thereof:
"D. Early Release.
"E. Parole.
On page 281, line 17, after the comma, insert "or placed on probation pursuant to the provisions of subchapter A of chapter 36,";
On page 281, line 23, after the comma, insert "with or without compensation,";
On page 281, line 25, strike "in its discretion," and insert "for cause,";
On page 281, line 26, strike "previously";
On page 281, line 26, after "appointed" insert "to serve with compensation, and may, in its discretion, remove a probation officer appointed to serve without compensation";
On page 282, line 8, strike "court" and insert "judicial district";
On page 282, beginning with line 27, insert the following:
"(f) upon request of the Attorney General or his designee, supervise and furnish information about a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement;
On page 282, line 31, strike "(f)" and insert "(g)";
On page 282, beginning with line 33, insert the following:
"(h) conduct a pre-release or pre-parole investigation with respect to a person about to become eligible for release from imprisonment; and
On page 282, line 36, strike "(g)" and insert "(i)";
On page 283, line 13, after the comma, insert "or is permitted to proceed,";
On page 285, line 27, strike "(8)" and insert "(7)";
On page 285, line 35, after the period, insert "An order of restitution, pursuant to section 2006, does not create any right of action against the United States by the person to whom restitution is ordered to be paid.";
On page 286, line 19, strike "(g)" and insert "(f)";
On page 286, line 20, strike "503" and insert "6503";
On page 286, line 36, strike "or his delegate";
On page 287, line 14, strike "imposed or" and insert "imposed, or";
On page 287, line 15, strike "on parole" and insert "for satisfactory behavior pursuant to the provisions of section 3824, or until earlier released";
On page 287, line 20, strike "prison" and insert "penal or correctional";
On page 287, line 20, after "facility" insert "that meets minimum standards of health and habitability established by the Bureau,";
On page 287, line 24, strike "appears" and insert "the Bureau determines";
On page 287, line 30, strike "prison" and insert "penal or correction";
On page 287, line 33, strike "prison" and insert "penal or correctional";
On page 288, line 2, strike "prison" and insert "penal or correctional";
On page 288, line 34, strike "prison" and insert "penal or correctional";
On page 288, beginning with line 36, strike through and including page 289, line 3;
On page 289, line 4, strike "(3)" and insert "(1)";
On page 289, line 7, strike "(4)" and insert "(2)";
On page 291, line 3, strike "(b)" and insert "(d)";
On page 291, line 5, after the comma, insert "under the provisions of subsection (a)(1) or (a)(2),";
On page 291, line 8, strike "less than $200 nor";
On page 291, line 15, strike "Parole Commission" and insert "Director";
On page 291, line 22, strike "551" and insert "554";
On page 291, line 22, strike "559, and" and insert "557, and";
On page 297, line 21, strike "3834" and insert "3843";
On page 297, line 27, strike "(f)" and insert "(e)";
On page 298, line 2, strike "(f)" and insert "(e)";
On page 298, line 3, strike "less than one year nor";
On page 298, line 5, strike "less than one year nor";
On page 298, line 7, strike "less than one year nor";
On page 298, line 9, strike "less than one year nor";
On page 298, line 11, strike "a Class A misdemeanor" and insert "two or more misdemeanors";
On page 298, line 12, strike "less than three months nor";
On page 298, line 22, strike "(f)" and insert "(e)";
On page 298, line 24, strike "(18)" and insert "(19)";
On page 299, line 11, after "Commission," insert "after a hearing,";
On page 298, line 14, after the comma, insert "pursuant to the provisions applicable to the initial setting of the terms and conditions of parole."
On page 298, line 19, strike "3835" and insert "3844";
On page 298, line 35, after "that" insert "the parolee has been convicted of committing a federal, state, or local crime during the term of parole, or that";
On page 298, line 37, after "is" insert "other";
On page 299, line 37, strike "the" and insert "a";
On page 301, line 4, strike "(f)" and insert "(e)";
On page 301, line 30, strike "REPAROLE" and insert "RE-RELEASE";
On page 301, line 31, strike "be reparoled" and insert "again be released";
On page 301, line 32, strike "subchapter" and insert "chapter";
On page 301, line 33, strike "parole" and insert "release";
On page 302, line 3, strike "3836" and insert "3845";
On page 302, line 4, strike "(a) APPEAL IN GENERAL.—";
On page 302, line 7, strike "(1) parole is denied;";
On page 302, line 8, strike "(2)" and insert "(1) terms or";
On page 302, line 9, strike "3834(c)" and insert "3843(b) or (c)";
On page 302, line 11, strike (3)" and insert "(2) terms or conditions of parole are";
On page 302, line 37, strike "3837" and insert "3846";
On page 302, line 39, strike "551," and insert "554";
On page 302, line 39, strike "559, and" and insert "557, and";
On page 305, line 26, after the period, insert "The Attorney General shall establish procedures to turn over to the victim, insofar as practicable, proceeds forfeited pursuant to section 4001(a)(11) or (a)(12), to the extent of the loss by such victim.";
On page 306, line 6, after "subsection" insert "4001";
On page 307, line 2, after "performance" insert "or other";
On page 312, line 13, strike "appropriation" and insert "appropriate";
On page 316, line 9, after "source" insert "or receives restitution pursuant to section 2006";
On page 316, line 11, strike "files a claim" and insert "receives compensation";
On page 316, line 19, after "source" insert "or receives restitution pursuant to section 2006";
On page 316, line 38, after the period, insert "Recovery of any amount by the Attorney General pursuant to this section does not affect the obligation of the defendant to pay a fine for the offense giving rise to the claim for compensation.";
On page 360, line 23, strike "201" and insert "141";
On page 363, line 31, strike "202" and insert "142";
On page 367, beginning with line 1, strike through and including page 369, line 14 ;
On page 369, line 15, strike "C" and insert "B";
On page 369, line 18, strike "221" and insert "143";
On page 369, line 23, strike "D" and insert "C";
On page 369, line 25, strike "231" and insert "144";
On page 381, line 1, strike "F" and insert "D";
On page 381, line 4, strike "251" and insert "145";
On page 381, line 8, strike "252" and insert "146";
On page 381, line 18, strike "253" and insert "147";
On page 381, line 23, strike "254" and insert "148";
On page 381, line 25, strike "241, 242, and 243" and insert "145, 146, and 147";
On page 373, beginning with line 32, strike through and including page 380, line 39;
On page 381, beginning with line 27, strike through and including page 382, line 14;

The PRESIDING OFFICER. What is the pleasure of the Senate? Who yields time?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I call up amendment No. 1662.

Mr. KENNEDY. Mr. President, may I have the attention of the Senator from South Dakota?

Under the consent agreement, we have agreed to vote at 2 p.m. on Senator SCOTT's amendment and the 5 minutes preceding will be evenly divided. Will the Senator withhold?

Mr. ABOUREZK. I did not know that. I withdraw the request.

The PRESIDING OFFICER. The amendment has not been stated yet. There is no need for withdrawal.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Irene Margolis of the Judiciary Committee and Glenn Feldman of my staff may have the privilege of the floor during consideration and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I also ask unanimous consent that amendment No. 1662 be the pending business as soon as the Scott amendment is disposed of.

The PRESIDING OFFICER. There is an order——

Mr. KENNEDY. Reserving the right to object.

There have been two Scott amendments. The second Scott amendment deals with the abolition of the sentencing commission. He had indicated that, after the 2 o'clock vote, he would take just a short period of time and we could vote on that.

I ask unanimous consent that the amendment of the Senator from South Dakota may then be in order.

Mr. ABOUREZK. That is fine, after the second Scott amendment.

The PRESIDING OFFICER. Does the Senator from South Dakota ask unanimous consent that his amendment be called up after the second Scott amendment?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Tom Wasinger of Senator BARTLETT's staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Massachusetts and the Senator from Virginia will be recognized, each for 2½ minutes, with the vote to occur at 2 o'clock on the Scott amendment.

Mr. KENNEDY. Mr. President, I shall put in a quorum call and ask that it be equally divided and I shall wait until the Senator is here.

The PRESIDING OFFICER. Under the precedent, there is not enough time for a quorum call. The time of the two Senators under the previous order will run equally as of now.

Mr. KENNEDY. Then, Mr. President, I yield myself 2 minutes.

Mr. President. the amendment of the Senator from Virginia is a basic and fundamental attack on S. 1437, which establishes a comprehensive reform of criminal sentencing procedures. We recognize, as the Senator from Arkansas said very eloquently, that there should be, in the cases outlined in this legislation, the opportunity for appellate review as a matter of right when the sentencing guidelines are exceeded, and when the sentencing is below the guidelines.

We believe that, in this way, we can insure that individual rights and liberties are going to be protected—not just by the sentencing judge but by developing case law which will result in the increased confidence of the American people in our criminal justice system.

This concept of review has been very extensively considered by our committee. It has been endorsed by the American Bar Association. It has been endorsed by some of the leading, outstanding judges in this country, including the Chief Justice of the United States, Justice Burger.

We believe that, in the States where it has been initiated, the cause of justice has been well served.

Mr. President, I hope that the amendment of the Senator from Virginia is defeated.

I reserve the remainder of my time.

Mr. SCOTT. Mr. President, I shall make this short.

Each Senator understands that we are voting on amendment 1660, first. We were scheduled to vote on amendment 1659.

What this amendment does is eliminate the right of review of the sentence by a trial judge. It would not permit the appellate court to change the sentence once a defendant had been convicted of a felony. The same rights of appeal would continue to exist as now exist. I believe that this is an unnecessary thing that would tend further to delay the imposition of sentence.

The distinguished Senator and I agreed to divide the time left. We have a vote at 2 o'clock on amendment No. 1660 and, thereafter, we shall take up, under a 1-hour time agreement, amendment No. 1659. I have written a note that is on each Senator's desk with regard to amendment No. 1659 that will be taken up later.

Mr. President, I believe we do have the yeas and nays ordered.

The PRESIDING OFFICER. The yeas and nays on the amendment have been ordered.

The time of the Senator from Virginia has expired.

The Senator from Massachusetts has 30 seconds left. Does he care to yield his time or to use it?

Mr. KENNEDY. The Senator from Massachusetts is prepared to vote, Mr. President.

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order to suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator has that right.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is there an order entered now for a vote at 2 p.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. A quorum call will delay the vote notwithstanding that order?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. MOYNIHAN assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Virginia.

Mr. KENNEDY. Mr. President, I move to table the amendment of the Senator from Virginia.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

The result was announced—yeas 83, nays 9, as follows:

[Rollcall Vote No. 2 Leg.]

YEAS—83

Abourezk	Griffin	Morgan
Anderson	Hansen	Moynihan
Bartlett	Hart	Muskie
Bayh	Haskell	Nelson
Biden	Hatch	Nunn
Brooke	Hatfield, Oreg.	Packwood
Burdick	Hatfield, Mont.	Pearson
Byrd, Harry F., Jr.	Hathaway	Pell
	Hayakawa	Percy
Byrd, Robert C.	Heinz	Proxmire
Cannon	Hodges	Randolph
Case	Hollings	Roth
Chafee	Huddleston	Sarbanes
Chiles	Inouye	Sasser
Church	Jackson	Schweiker
Clark	Javits	Sparkman
Cranston	Johnston	Stafford
Culver	Kennedy	Stennis
Danforth	Leahy	Stevens
DeConcini	Long	Stevenson
Domenici	Lugar	Stone
Durkin	Magnuson	Talmadge
Eagleton	Mathias	Thurmond
Eastland	Matsunaga	Tower
Ford	McGovern	Wallop
Garn	McIntyre	Weicker
Glenn	Melcher	Young
Gravel	Metzenbaum	Zorinsky

NAYS—9

Allen	Curtis	Laxalt
Baker	Dole	Schmitt
Bellmon	Helms	Scott

NOT VOTING—7

Bentsen	McClure	Williams
Bumpers	Ribicoff	
Goldwater	Riegle	

So the motion to table Mr. SCOTT's amendment (No. 1660) was agreed to.

AMENDMENT NO. 1659

The PRESIDING OFFICER. The question recurs on amendment No. 1659.

Will the Senate be in order? Will Senators kindly take their seats.

There is to be 1 hour of debate on amendment No. 1659. The Senator from Virginia.

Mr. SCOTT. Mr. President, I ask that the amendment be stated.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The clerk will suspend. The Senate is not in order. The clerk cannot be heard. Will the Senators kindly show the courtesy to the Senator from Virginia that he customarily shows to them.

The clerk will resume.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 1659:

Beginning on page 349, line 20, strike out everything through line 15 on page 359 and make such technical changes in the remainder of the bill as may be necessary due to the elimination of chapter 58.

Mr. THURMOND. Mr. President, I ask unanimous consent, at the request of Senator PERCY, for Jerry Block, of the Governmental Affairs Committee, to be on the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I make the same request for Brian Conboy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I make the same request for Claire Engers, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, if I may have the attention of Senators.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senators from Massachusetts and Virginia are correct. The Chair must ask the Senators who are not participating in the debate to withdraw to the rear of the Chamber. A matter of the utmost consequence is before the Senate. The leaders of debate have asked for the attention of the Senate, and the Senate will be in order. The Senator from Virginia.

Mr. SCOTT. I thank the Chair.

Mr. President, I understand there have been some changes in the bill, part of which may relate to this amendment, so I ask unanimous consent that regardless of any changes that may have been made that my amendment still be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCOTT. Now, Mr. President, this amendment would strike the portion of the bill providing for a U.S. Sentencing Commission. The proposal before us includes the establishment of a Federal Sentencing Commission made up of seven members appointed for 6-year terms, four to be appointed by the President and the remaining three by the Judicial Conference.

It is my understanding, Mr. President, that yesterday—and I am not thoroughly familiar with the action of the Senate—the power of appointment was in some manner altered so that part of these members would be appointed by the President on the recommendation of the Judicial Conference.

I am not at all sure that the President, making an appointment on the recommendation of a Judicial Conference, would have any bearing on the constitutionality. I am informed by the Library of Congress that there is no case-law on this subject, but it would still remain in doubt as to whether or not this would be a valid appointment.

In any event, each of these seven members would receive a salary of $57,500. That is the executive level II, and the same as a member of the circuit court, the U.S. Circuit Court of Appeals, and the same as a Member of the U.S. Senate.

They would have the right to employ a staff director, and appoint such officers and employees as they consider necessary to execute the function of the commission.

Now, page 358 of the bill indicates that the employees would be exempt from part 3 of title 5 of the United States Code relating to employee pay and allowances, except that the staff director would be paid no more than the highest supergrade, GS–18, and I am not sure of the exact pay at the present time of a GS–18. It is something in the neighborhood of $50,000.

But other than the staff director, the other officers and employees, those employed by the Commission, could be paid any amount that was determined by the Commission subject, of course, to the appropriating process of Congress.

At a time when Congress has before it a suggested budget—and I have not had an opportunity to review in any detail the budget for the next fiscal year that was submitted by the President yesterday, but it is approximately $500 billion, and it provides for a deficit for the 1 fiscal year of approximately $60 billion, I believe it is $60.2 billion—it just does not seem to be timely to create a new commission unless it is a most vital one.

The work of this proposed Commission could very well be performed and, I believe, is now being performed by national Judicial Conferences and the Judicial Conferences of the various circuits around the country, and the judges have other meetings from time to time in which they discuss the question of sentencing.

Frankly, I believe the Commission as constituted is contrary to the Constitution and that, as it appears in the bill and reported by the committee, it would permit three of the members of the Commission to be appointed by the Judicial Conference, which conflicts with the recent case of *Buckley* versus *Valeo*, 424 U.S. (1976).

Again, Mr. President, even with the changes that I am told have been made I still have doubt as to the constitutionality of this provision.

The Library of Congress prepared a 16-page research memorandum, and I have put a copy of that memorandum, together with the covering letter, on the desk of each Senator, and the Library of Congress has concluded that such a method of appointment would violate the Presidential power in article II of the Constitution.

The concluding paragraph of the Library of Congress' legal memorandum reads:

The members of the proposed United States Sentencing Commission will have significant authority pursuant to the laws of the United States and thus are "officers of the United States."

Now, as the Chair and the Senators well know, the power of appointment under article II, section 2, clause 2, is:

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and other officers of the United States . . . . .

"Other officers of the United States" is the phrase we are looking at at this time.

I believe that these members of the commission are considered officers of the United States and come within this appointment clause:

Appointment of three members by the Judicial Conference does not appear to comply with that clause, since that body is not a court. Further, if the proposed method of appointment of three members of the commission is invalidated, the entire commission may be invalid also, since a full complement of seven members appears integral to the legislative scheme.

Mr. President, as Senators know, the Supreme Court in the Buckley case, held that Congress could not appoint members of the Federal Election Commission because article II of the Constitution provides that the President shall appoint officers of the United States except for such inferior ones as the Congress thinks proper.

I would submit that members of this commission, receiving the same pay as Members of the Senate, $57,500, being at executive level II, could not be considered inferior officers. Therefore, if the amendment now before us should not be adopted, I may offer, or I had intended to offer, a substitute amendment to provide that all members of the commission be appointed by the President, to remove the constitutional barrier.

More important to me, however, Mr. President, is that this proposal creates a new and unnecessary commission. A trial judge, under the controls that have been laid down by Congress, can determine the proper sentence. Under the proposal that we just debated earlier today—my amendment 1660, which was defeated, or was tabled—we still have the right of

the appellate court to review the sentences. It seems to me that the trial judge can confer with other judges, including the appellate courts, people in the judicial conferences of the various circuits, and the National Judicial Conference, without creating a new bureaucracy within our judicial system.

In my judgment, this proposal will only tend to impose additional burdens and further contest our court dockets.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, the amendment of the Senator from Virginia goes to the very heart of this measure. If it is accepted by the Senate, and I do not believe that it will be, I would move to recommit the bill, because it is a matter of that much importance and magnitude.

What we are really talking about, is perhaps the most important aspect of this entire piece of legislation changing from the indeterminate sentence to the determinate sentence. We have reviewed, over the past few days, the abuses of the indeterminate sentence, and I do not intend to take the time of the Senate at this time to go into those abuses. The record is very clear on that issue.

What we are attempting to do by this legislation is develop determinate sentences. The Senator from Virginia would say we do not want a public panel to study that issue. It amazes me that the Senator from Virginia would make such a suggestion, when we are talking about individual freedom, individual liberties, and individual rights.

We have the Securities and Exchange Commission to consider business and corporate practices. We have the Federal Power Commission to consider policies dealing with power. We have the Federal Trade Commission to consider competition. But the Senator says that we cannot appoint a commission to deal with the issue of how long people ought to be put away. The issue is individual freedom; but the Senator from Virginia does not, apparently, believe that it is an issue of sufficient importance justifying new expertise.

But why not take the statement of the career officer who is the Director of the Bureau of Prisons? Let us hear what the Bureau of Prisons has to say, the statement of its Director, a career officer in the field of penology. This is what Norman Carlson says:

> To me, the most significant innovation that has been suggested in the proposed bill is the establishment of a sentencing commission. The commission will establish sentencing guidelines for the Federal district courts. Federal judges will be required to spell out the reason and rationale for all sentences. In my opinion, Mr Chairman, the commission should significantly reduce two basic problems we have in the system today. One is disparity of sentences; the second is uncertainty in terms of what conviction means in terms of length of sentence.

Mr. President, we are speaking of fairness and equity. Individual liberty is what we are talking about when we discussed this issue. What does one of our outstanding jurists Marvin E. Frankel say, on the question of the commission itself?

> The idea is splendid and deserves wide understanding and support.
>
> The great change would be the substitution of law in sentencing—rules, criteria, standards—for a non-system in which every judge is a law unto himself or herself and the sentence a defendant gets depends on the judge he or she gets.

What Judge Frankel is talking about here is developing a system where we will have understandable criteria and established standards, precisely what is missing under the present system.

A distinguished lawyer and scholar who supports this sentencing commission, Norval Morris, who has spent a lifetime on the subject, in his article entitled "A Way Out of Anarchy," describes the present system of sentencing. From his excellent article, I read just one relevant paragraph:

> . . . we need a discriminating sentencing practice, graduated carefully to social harm and to social need—a just and orderly system, severe where it should be, lenient where it should be.

That, Mr. President, is where we are. Those who have studied the issue, the leaders in the field, support this concept. Those who are dealing on the front line, the trial judges, support this concept. Those who are dealing in penology, and have spent a career in the Bureau of Prisons, endorse the concept. Commonsense and justice endorse this concept.

Finally, Mr. President, the issue is raised about the question of constitutionality. As the Senator quite appropriately pointed out, the alteration and change that was made as a result of the amendment of the Senator from Colorado insures that there will be Presidential appointment. Granted, three members would be selected upon the recommendation of the Judicial Conference, but the appointments would be made by the President of the United States. Whatever issue or question has been raised in terms of constitutionality, I believe, has been resolved.

So, Mr. President, I would hope, for the reasons that we have outlined here, that the amendment would be defeated.

I reserve the remainder of my time.

Mr. SCOTT. Mr. President, I should like to join with the distinguished Senator from Massachusetts, in the event that my amendment is adopted, to cosponsor his motion to recommit the bill. It would appear to me to be a very fine thing if we did do that. I should be happy to cosponsor his motion to recommit.

He speaks of the fact that we are discussing individual liberties. I thought we were discussing convicted felons and how to handle convicted felons, rather than individual liberty. That is what this bill applies to. If it is a person who has not been convicted of a serious crime, of a felony, this law does not apply to him. So I do not believe we are discussing individual liberty. We are discussing how best to handle convicted felons.

Another matter that it seems to me we must not overlook and we must give emphasis to is the creation of a new commission, the creation of a new Government agency and, I believe, the creation of additional paperwork. Because, if we look at this bill, this provision of the bill, this one section, under the U.S. Sentencing Commission, chapter 58, starts on page 349. It goes on through 350, 351, 352, 353, 354, 355, 356, 357, 358, and 359.

It sort of reminds me a little bit of the OSHA regulations, because we are tending to put our judges somewhat in a straitjacket in determining just what they can do.

It has a group of categories of offenses. It has categories of defendants. Then it has a provision that the maximum of the sentencing range established for such a term shall not exceed the minimum of that range by more than 25 percent.

In other words, if a person were convicted of a serious crime, where the minimum sentence would be 20 years, no one, regardless of how heinous the crime would be, could receive more than 25 percent additional, so his maximum term would be 25 years, or it would be between 20 and 25 years.

That is a rather narrow range between offenses, it appears to me.

I believe that the guidelines would leave very little for the discretion of the judge, because it says, under the category of offenses, that it is necessary to consider the grade of the offense; second, the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense; third, the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust; fourth, the community view of the gravity of the offense; fifth, the public concern generated by the offense; sixth, the deterrent effect a particular sentence may have on the commission of the offense by others; seventh, the concurrent incidence of the offense in the community and in the Nation as a whole. There are several pages of guidelines.

The category of defendants is another matter that it discusses: the age; the education; the vocational skills; the mental and emotional condition to the extent that such condition mitigates the defendant's culpability, or to the extent that such condition is otherwise plainly relevant; the physical condition, including drug dependence; previous employment record; family ties and responsibility; community ties; role in the offense; the criminal history; and the degree of dependence upon criminal activity for a livelihood.

When we think about the time that a judge gives to all of these specific things, we are not leaving a great deal for his discretion. Mr. President, it seems to me that, when we are talking about a lawyer who has devoted the major part of his adult life to a study of the law, he should not be tied down by such restrictions as this.

Then, the commission can do many things by an affirmative vote of at least four of the commission. By a 4 to 3 decision, they can tie the hands of the trial judges and they can set guidelines and general policy.

One can read on and on in this committee bill. In fact, it talks about the powers of the commission and it has 23 itemized powers that are specified, plus

additional ones that are necessary to carry out the first 23 that are enumerated.

They shall establish general policies and promulgate such rules and regulations for the commission as are necessary to carry out the purposes of this chapter; appoint and fix the salary and duties of the staff director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest grade now or hereafter prescribed for grade 18 of the General Schedule pay rates.

They shall have the power to deny, to revise, or ratify any request for regular, supplemental or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman; procure for the commission temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5 of the code. So it goes on and on, indicating the authority that this commission shall have.

Then, under the staff director, on page 358, it says:

The staff director shall, subject to the approval of the commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code—

That includes the pay that they would receive under the General Schedule for classified employees—

except—

They are subject to good parts here; except the following chapters:

81 (Compensation for work injuries); 83 (Retirement), 85 (Unemployment compensation), 87 (Life insurance); and 89 (Health insurance).

They can be paid whatever the commission wants to pay them and they are not bound by the restrictions of the Pay Act, but they receive all of the additional benefits that classified employees receive.

Mr. President, once again, this is not the time to create a new Commission when we have a deficit suggested of $60.2 billion for the coming fiscal year.

I urge the adoption of my amendment because, in my judgment, the provision of the bill is an unnecessary provision and it is an unnecessary expense upon the American taxpayer.

Mr. President, I retain the remainder of my time.

Mr. KENNEDY. Mr. President, I will not take much time, but the statement of the Senator from Virginia is completely inaccurate in terms of his understanding of the bill. That is point No. 1.

When he talks about the judge having his hands tied in terms of the recommendations of the Commission, he is, in fact, in error. The judges will be able to go either above the guidelines or below them.

The 25-percent differentiation is only related to the guidelines themselves.

So in particular aggravating circumstances the judges may make a decision to go above the guidelines and when there are mitigating indications they will go below them.

Mr. SCOTT. Will the Senator yield briefly?

Mr. KENNEDY. Yes. I will yield to answer on my time and yield for purposes of questions on the Senator's, with that understanding.

Mr. SCOTT. Is it not true, if the guidelines were exceeded, then that does activate the right to appeal on this sentencing review process to the circuit court of appeals?

Mr. KENNEDY. The Senator is correct that if the guidelines are exceeded, the defendant would have the right to appeal. The Senator is correct.

Mr. SCOTT. Then there are some teeth in the matter, as I suggested.

Mr. KENNEDY. The Senator can use whatever words he wants to describe his own impression. But the representation that if the guidelines say 20 years, and there is a 25-percent deviation, that therefore the judge is "tied down," is not an accurate statement of what the legislation either intends or includes.

Obviously, what we are trying to do is to create a degree of certainty and yet some degree of flexibility.

We are caught in that particular dilemma. But we have worked out a procedure which was strongly endorsed by Senator McCLELLAN and strongly endorsed by Senator Hruska, a procedure which establishes that delicate balance in terms of certainty in flexibility.

But to state that the judges are tied down by this panel and are not able to consider aggravating or mitigating circumstances is not what the bill states and is not what is intended by the authors of the bill.

Mr. SCOTT. Mr. President, let me just read at the beginning of page 352 of the bill:

If a sentence specified by the guidelines includes a term of imprisonment: (1) the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 percent.

What I said was that in case of a serious felony, if the minimum sentence was 20 years, the maximum could not be more than 25 years, regardless of how the offense might be.

I believe that is what the statute says.

Mr. KENNEDY. Well, that really is not what the statute says.

It says that, with regard to compliance with the guidelines, judges can go outside the guidelines by 25, 50, or 100 percent. The 25-percent limitation is addressed to the Commission, not the judges.

Thus, on page 180, Statement of Reasons for Imposing Sentence, it says that at time of sentencing, the court shall state the reasons for its imposition of the particular sentence and, if the sentence is outside the range described in (a)(3), the specific reason for the imposition of a sentence outside such range.

Now, outside of that range means they can exceed it or go below it.

Mr. SCOTT. But then there is a right of appeal to the circuit court of appeals.

Mr. KENNEDY. And the Senate just resolved that issue by a vote of 83 to 9.

The Senator's amendment deals with striking the whole sentencing commission. I am glad to express what I believe is going to be the function of the sentencing commission. This is a concept which, according to those experts, those studying and practicing penology, as well as the two former leaders of the Criminal Laws Subcommittee, Senator McClellan and Senator Hruska, has broad support. We must meet head on the current anarchy of criminal sentencing.

Mr. SCOTT. Mr. President, I do not believe any useful purpose can be served by the distinguished Senator from Massachusetts and I debating this matter further. We are diametrically opposed with regard to our interpretation and the need for the law.

The only thing I think we can agree on is in the event my amendment is adopted I will be glad to join in a motion to recommit the bill.

Mr. KENNEDY. We can agree on that.

Mr. SCOTT. I am glad to yield back my time if the Senator is prepared.

Mr. KENNEDY. I am, but before yielding back, I would like to suggest the absence of a quorum for the purposes of establishing a quorum for the yeas and nays.

The PRESIDING OFFICER (Mr. ABOUREZK). We cannot ask for a quorum until the Senators have yielded back all time.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment itself.

Mr. SCOTT. On the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent to order the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. KENNEDY. On the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. I did not hear the motion.

Mr. KENNEDY. To ask unanimous consent it be in order to have a quorum call to establish a quorum to get a seconding for the purposes——

Mr. SCOTT. Mr. President, I hope to win the amendment on its merits, not on a technicality. I have no objection.

The PRESIDING OFFICER. There has been no motion.

Mr. KENNEDY. Mr. President, I renew the motion that it be in order to ask for the quorum call at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I make a motion to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Virginia wish to yield back his time?

Mr. SCOTT. I am glad to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the motion to table the amendment of the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "yea."

Mr. BAKER. I announce that the Senator from Arizona (Mr. GOLDWATER) the Senator from Idaho (Mr. MCCLURE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 82, nays 8, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—82

Abourezk	Glenn	Metzenbaum
Anderson	Gravel	Morgan
Baker	Griffin	Moynihan
Bartlett	Hansen	Muskie
Bayh	Hart	Nelson
Biden	Haskell	Nunn
Brooke	Hatch	Packwood
Burdick	Hatfield, Oreg.	Pearson
Byrd, Harry F., Jr.	Hatfield, Mont.	Pell
	Hayakawa	Percy
Byrd, Robert C.	Heinz	Proxmire
Cannon	Hodges	Randolph
Case	Hollings	Roth
Chafee	Huddleston	Sarbanes
Chiles	Inouye	Sasser
Church	Jackson	Schmitt
Clark	Javits	Schweiker
Cranston	Johnston	Stafford
Culver	Kennedy	Stevenson
Curtis	Leahy	Stone
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	Magnuson	Wallop
Domenici	Mathias	Weicker
Durkin	Matsunaga	Williams
Eagleton	McGovern	Young
Ford	McIntyre	Zorinsky
Garn	Melcher	

NAYS—8

Allen	Laxalt	Stennis
Bellmon	Scott	Talmadge
Helms	Sparkman	

NOT VOTING—9

Bentsen	Goldwater	Ribicoff
Bumpers	Hathaway	Riegle
Eastland	McClure	Stevens

So the motion to table Mr. SCOTT's amendment No. 1659 was agreed to.

The PRESIDING OFFICER (Mr. LEAHY). Under the previous order, the Senator from South Dakota (Mr. ABOUREZK) is recognized to call up an amendment. The Chair recognizes the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HODGES). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1662

(Purpose: Decrease maximum sentence lengths for Class B, C, D, and E, felonies)

Mr. ABOUREZK. Mr. President, I call up my amendment No. 1662, and ask for its immediate consideration.

The PRESIDING OFFICER. The committee amendments have not been disposed of, so it will require unanimous consent. Is there objection?

Mr. ABOUREZK. There is already an order which allows that.

The PRESIDING OFFICER. It requires unanimous consent.

Mr. ABOUREZK. I ask unanimous consent that amendment No. 1662 be considered in order at this time.

The PRESIDING OFFICER. Is there objection to considering the amendment at this time? Without objection, it is so ordered. The amendment will be stated.

Mr. ABOUREZK. I ask unanimous consent that the reading of the amendment be waived, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment is as follows:

On page 187, strike lines 25 through 30 and substitute in lieu thereof the following:

"(1) for a Class A felony, the duration of the defendant's life or any period of time;

"(2) for a Class B felony, not more than twenty years;

"(3) for a Class C felony, not more than ten years;

"(4) for a Class D felony, not more than five years;

"(5) for a Class E felony, not more than two years.".

Mr. ABOUREZK. Mr. President, this amendment would reduce slightly the maximum sentence levels for the four lowest classes of felonies in S. 1437.

Under the bill as reported, the maximum prison term for a class B felony is 25 years. My amendment would reduce that maximum to 20 years.

The bill sets 12 years as the maximum penalty for a class C felony. I would lower it to 10 years.

For a class D felony, the bill sets 6 years. I would propose to decrease it to 5.

And finally, I would lower from 3 years to 2 the maximum sentence for a class E felony.

This is not a drastic or radical change in the sentencing procedure. It should be noted that I would leave unchanged the life sentence for class A felonies. As to the others, I am suggesting a decrease of 5, 2, 1, and 1 years respectively.

We all recognize, of course, that the sentencing levels established in any bill such as this are, to some degree, arbitrary. I also recognize that the maximums in S. 1437 are reduced somewhat from those of its predecessor, S. 1.

Still, I cannot help but feel that the maximums are still too high. Frankly, I would point out that prison sentences in the United States are higher than in any other Western democracy. Yet, as each of us knows, the recidivism rate amongst our prisoners is appallingly high.

I would like to see us moving in the direction of swifter and more certain punishment for convicted criminals, but not necessarily longer prison terms. In this regard, I support the views of Norman Carlson, the Director of the Federal Bureau of Prisons, who has stated:

By increasing the certainty of the punishment rather than its length or severity, I believe that we can be more effective in deterring crime.

While I generally support most of the sentencing reform contained in S. 1437, I am greatly concerned that an inadvertant consequence of our actions here may be to both increase sentence lengths for individual defendants and, as a result, dangerously increase our overall prison population in this country. In my view, both of these results should be avoided.

The problem of how high to set sentence maximums is one of the most difficult to be dealt with in any effort such as this. On the one hand, it is easy to conjure up any number of horrible offenses which seem to cry out for maximum punishments. The reality of the situation, however, is that the overwhelming majority of convicted offenders are sentenced to terms considerably below the maximum. As was noted by the Brown Commission in 1970:

The point, of course, is not that long sentences are never appropriate, nor that the average prisoner is serving a sentence which is too long. The point is that there is an enormous disparity between the sentence, which the system authorizes and the sentence which it, in fact, exacts in most of the cases.

The Commission report continued:

As has been demonstrated time and again over the years, the practical consequence of such widespread disparity between authorized terms and exacted sentences in indefensibly disparate treatment of comparably situated offenders. As noted in the ABA Report "if the range is 20 years for an offense where most offenders should go to prison should get less than 5, the authorized range is an open invitation—and the results verify the hypothesis—to sentences which irrationally spread the whole gamut of the authorized term.

And on this point, the Commission concluded:

The draftsmen of a penal Code are thus in a basic dilemma. It is perfectly clear, on the one hand, that long sentences need to be authorized for use in the case where the offender does indeed pose a serious risk to the safety of the public. The system badly needs to develop the capacity to identify, at the sentencing stage, offenders who pose such a risk so that errors on the side of leniency will be minimized. On the other hand, legitimate concern over such offenders should not be permitted to distort the entire penal structure.

It is precisely this distortion which concerns me and which my amendment

is designed to alleviate to some degree. I am convinced that the maximum felony sentences that I am proposing are long enough to provide adequately for the very small percentage of offenders who deserve sentences at the upper end of the spectrum, yet would not unduly distort the sentencing structure for the more typical defendant.

Let me conclude with this point. The sponsors of S. 1437 make note of the fact that the authorized maximums in this bill are somewhat lower than those in current law. While this may be the case, that argument fails to take into account two important factors:

First, S. 1437 essentially abolishes the parole system as we know it. And with all of its inequities and inadequacies, the parole system has operated to allow for release of most prisoners after service of approximately one-third of their sentences. Without parole, and with authorized maximums that approach current levels, the possibility of greatly increased sentence lengths is obvious.

Second, and I have another amendment to deal with this problem, S. 1437 drastically reduces the "good time" that a Federal prisoner can earn toward a reduction of his sentence. Here again, the likelihood of increased sentence lengths is apparent.

My amendment will not solve all of these problems. But I believe that it is a step in the right direction and is consistent with the other sentencing reforms contained in this legislation.

I have discussed the amendment with the managers of the bill, Senator KENNEDY and Senator THURMOND, and they have agreed to accept it. I move its adoption.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment deals with the upper maximums which will be included in the legislation.

We expect under the sentencing provisions that the commission will review the actual time that is served today and use that as a guidepost, a guideline in terms of making recommendations to us concerning the guidelines. Thus, any discussion of maximums or minimums loses much of its force.

When we consider the maximums today, and the maximums in S. 1437, there are two important considerations. One, we have eliminated parole; two, we have dramatically reduced good time.

Good time and parole combined, insure that today when a defendant is imprisoned he will be eligible for release after serving only one-third of the sentence.

Current law—regardless of maximum sentences—guarantees sentencing chaos and early release.

What we have effectively done in S. 1437 is eliminate parole. And we have changed the system of good time to one-tenth instead of one-third.

Most of the testimony indicated that in various penal institutions good time was not vital to assure order. Other kinds of privileges—visiting privileges, television, participation in work programs, and a variety of other factors, could be used to prevent disruption.

So we reduced the good time to one-tenth, which means if a person is sentenced to 10 years, he will have 1 year off for good time, not over 3 years.

What we also insure is the vesting of good time. The defendant will not lose it once it is earned, unlike present law where the defendant may accumulate a great deal of good time and then, as a result of a disciplinary infraction, lose it. This added to the uncertainty and confusion of sentence length.

It is against this background that the Senator from South Dakota offers his amendment which, in effect, takes the various A, B, C, D, and E felonies and alters the maximums slightly. Class A, the cases of murder, treason, sabotage, kidnaping, and the like, he does not touch.

B crimes, we go from 25 years to 20. C crimes, 12 years to 10. D crimes, 6 to 5. E, 3 to 2.

But such reductions are essentially irrelevant under S. 1437. For example, at the present time the maximum for perjury is 5 years; in theft, it is 10. But if we take the 10-year maximum today, a defendant is eligible for parole after one-third. The Abourezk amendment makes theft a 5-year maximum, but does nothing to upset the bill's provisions abolishing parole and reducing good time. As the Senator from South Dakota points out, without parole or good time, an offender may be no better off under the Abourezk amendment than he is under current law.

What we are basically attempting to do, Mr. President, for the first time, and I am hopeful we will be successful in doing it, is to try and eliminate the rhetoric over maximums or minimums. S. 1437 avoids all of this with its guidelines, elimination of parole and good time, and the like.

The fact of the matter is that today we have enormous variations in sentence. Even when a sentence is lengthy, there is no guarantee it will be served.

What we are interested in is certainty—for the defendant and for the public. S. 1437 does this.

The effect of the Abourezk amendment to lower the authorized maximum terms of imprisonment should be clarified. While it would preclude a sentence to a term of imprisonment that was above the revised authorized maximums, it does not affect the directive to the Sentencing Commission, under section 994 of title 28, to determine the average sentence actually served by offenders under current law in determining what should be the typical time served under the new code. Whether the bill regrades the particular offense involved or lowers its maximum term of imprisonment, the average term served for the offense continues to be the starting point for the Commission's consideration. Thus, for example, if an offense is now subject to a maximum term of imprisonment of 15 years and the typical amount of time spent in prison by persons convicted of that offense is 3½ years, the fact that the bill now provides a maximum term of imprisonment of 10 rather than 15 years would not affect the fact that the Sentencing Commission should begin its consideration of the appropriate term of imprisonment with the fact that the typical time now served is 3½ years. Reducing the maximum that can be imposed certainly is not meant to reduce the average that should be imposed.

Mr. THURMOND. Mr. President, as I understand it, the amendment would reduce the terms authorized for sentences in chapter 23, and it also would reduce the time for parole eligibility and eliminate time for good behavior.

Mr. ABOUREZK. That is correct.

Mr. THURMOND. So the consequence would be that a prisoner then would serve the full time which would be as much as if he had been given a longer sentence and received reduced time for good behavior.

That is correct; is it not?

Mr. ABOUREZK. If I might just clarify that, the provisions for good time in 1437 have been greatly reduced down to 3 days a month.

Mr. THURMOND. Yes.

Mr. ABOUREZK. And from what it used to be, that good time provision used to be a great deal more. Also, the original law used to allow great reductions of sentences.

If we do not have parole any more except in limited cases, and good time has been reduced, there is no reason to have the inordinately high sentencing structures we had in the old law.

Mr. THURMOND. What I am getting at is that the prisoner would serve as much time under this amendment as prior when we had consecutive sentences.

Mr. ABOUREZK. Probably serve more under this amendment.

Mr. THURMOND. In view of that, Mr. President, I have no objection.

Mr. ABOUREZK. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agred to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I understand the Senator from South Dakota does not have any further amendments.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John W. MacIlroy of Senator HARRY F. BYRD, Jr.'s staff be granted privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with Senators to be permitted to make statements up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS AT 11 A.M. TOMORROW, AND FOR RECOGNITION OF SENATOR DOLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 a.m. tomorrow, the Senate resume the consideration of the unfinished business, and that the Senator from Kansas (Mr. DOLE) be recognized at that time to call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order for Mr. DOLE to call up his amendment at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Senator DOLE will have two amendments tomorrow, and that he is inclined to call them up consecutively; so we ought to get off to a running good start, and I would hope that other Senators who have amendments would be prepared to call them up during the afternoon tomorrow. Tomorrow is Wednesday, and although we have made good progress, there needs to be further good progress made, and I would hope that tomorrow we could make further good progress.

RECESS UNTIL 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:23 p.m. the Senate took a recess until tomorrow, Wednesday, January 25, 1978, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 24, 1978:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The following-named persons to be Members of the General Advisory Committee of the United States Arms Control and Disarmament Agency:

Harold Melvin Agnew, of New Mexico (reappointment).

McGeorge Bundy, of New York, vice I. W. Abel, resigned.

Bert Thomas Combs, of Kentucky, vice Harold Brown, resigned.

Paul Mead Doty, of Massachusetts, vice William C. Foster, resigned.

Douglas A. Fraser, of Michigan, vice William W. Scranton, resigned.

Harry Arthur Huge, of Virginia, vice John Archibald Wheeler, resigned.

Joseph Lane Kirkland, of the District of Columbia (reappointment).

Arthur B. Krim, of New York, vice John A. McCone, resigned.

Wolfgang Kurt Hermann Panofsky, of California, vice Gerard C. Smith, resigned.

Brent Scowcroft, of the District of Columbia, vice James F. Chambers, Jr., resigned.

Thomas John Watson, Jr., of Connecticut, vice Gordon Allott, resigned.

Margaret Bush Wilson, of Missouri, vice Edward Clark, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Lawrence Owen Cooper, Sr., of Mississippi, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Carl M. Marcy, resigned.

EXTENSIONS OF REMARKS

USEFUL PERSPECTIVES ON THE MIDDLE EAST

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 23, 1978

Mr. BINGHAM. Mr. Speaker, two articles which appeared in the Jerusalem Post of Sunday, January 15, 1978, cast a great deal of light on the reasons for the breakdown in the Mideast talks. They also illustrate the high journalistic quality of the Jerusalem Post.

The first article, by David Landau, is based on a long interview with Sadat. The second is by Yosef Goell. Having just spent almost 3 weeks in the Mideast as a member of "CODEL Zablocki," I earnestly commend these two articles to my colleagues:

[From the Jerusalem Post, Jan. 15, 1978]

SADAT AND BEGIN—MINDS THAT DON'T MEET

(By David Landau)

Every foreigner meeting with Egyptian President Anwar Sadat these recent months has come away convinced of the sincerity of his desire for peace. Premier Menahem Begin himself affirmed that that was his own unequivocal impression. I came away convinced not only of this—but also of the sincerity of his bitter disappointment with Israel, indeed the sincerity of his failure to *understand* Israel's response to his Jerusalem visit.

There were moments during my interview with Sadat last Thursday (the full text is published on page 5 of this issue) when I felt that he had given it in order to announce, through *The Jerusalem Post*, the breakdown of the peace initiative. I trembled in trepidation.

But no, he would let the two committees, the military and the political, convene first—"and *then* I shall have *my* say." He seemed almost certain that those committees would not succeed in breaking the deadlock. And indeed to his confidant Anis Mansour, who sat in on part of my interview and then continued alone with Sadat, he said this in so many words.

I left with the anguished feeling that there is a total absence of communication between Sadat and Begin. Certainly there is no chemistry of warmth—though there is a certain respect on Sadat's part for the Israeli premier. But more than that—much more serious and ominous—there is no meeting of minds. There is an intercourse in two separate idioms; there is no dialogue.

This is written in full awareness of Sadat's consummate handling of the media for his diplomatic purposes, in keen realization that much of what he says in interviews is said for calculated impact.

And yet—either he is an unsung Laurence Olivier, or else—as I believe—he is genuine and sincere when he shouts, in savage bitterness: "Don't you see that you have got *everything*? And then you are starting to bargain with me on my land. No! You have lost the essence of my initiative . . ." Or, to "October" magazine: "If we tell them (Israel) 'We understand your problems and will accept you among us and give you peace and legality,' they just nod their heads saying 'We believe you absolutely' . . . But they ask about the nature of peace. They play the game of secure boundaries. When this is over, they play a new game called the nature of peace."

In part, no doubt, is the cumulative effect of 10 years of Labour government dissembling, rehearsing morning, noon and night that the "heart of the conflict" is neither the terrorists nor the Palestinians, but the Arab states' refusal "to accept us" in the Middle East. Well, Sadat took that literally. Perhaps he was naive to do so. Perhaps he is not as sophisticated as the savvy Westernized politician he appears to be.

At any rate, he decided, for whatever reasons, to give Israel what he *genuinely* believed she wanted: recognition-acceptance,

and security. (His security proposals in Sinai are not unbridgeably far from Israel's, and on the West Bank too he is prepared for security measures, provided they are not based on annexation of land.)

When he made his visit to Jerusalem, risking his political future and also his life, he honestly believed that he was effectively ending the conflict. Obviously there would still be a need for negotiations, maybe even tough negotiations. But they would basically be over mere details. The principles would, he expected, all fall naturally into place: for Israel real peace with normalization and legal recognition, for the Arabs the return of their land and the Palestinians' right to create their own state, which ought to be, for everyones' good, firmly tied to the sobering and moderating influence of Jordan.

Perhaps his obsession with "my land," its integrity, its "sacredness," is not really so fanatically abnormal. Perhaps it *is* reasonable to assume that a conquering army would return to universally accepted international boundaries once the cause of its conquest and occupation were removed.

Or perhaps he *is* obsessive, unnaturally so. After all, border changes *do* occur after wars.

Perhaps his Third World outlook, which itself contributes to the lack of understanding between him and us, prompts him to metaphysical extremism on this question of land.

But either way—and this is the point—he is immutably determined and unmistakable *sincere* in this preoccupation with the recovery of the land, all the land.

And thus, because it is he that we are dealing with, he is objectively right when he says that for Israel it is a question of land or peace.

Travelling up the length of the Nile for the first time, one is powerfully struck by the physical futility of Israel's being at war with Egypt. It is like a European state being at war with Russia in bygone days. You can defeat their army. You can threaten their capital. But you can never win in the regular sense that armies win wars. The land is just too big, the population too numerous, the national resilience too strong, the staying power eternal. Napolean and Hitler discovered that on the Russian steppes.

Anwar Sadat is not a superhuman figure, a freak comet on the horizon of his country. He is clever and impressive—but he is an ordinary person. No Napoleon—and no Churchill. The point is important, because it means that his peace initiative need not be seen as one man's mania, that will die if he dies. Rather it is the authentic expression of his country's political and, perhaps even more important, economic need, and can live on after him.

In the same way, the terms he is setting are not his mere personal caprice. They are, in broad strokes, what Egypt can objectively offer, given the leadership role in the Arab world which her size and pride and history endow her with.

These are the terms, this is the country, and this is the man, to which Israel must address herself—now.

[From the Jerusalem Post, Jan. 15, 1978]

BRINGING HUSSEIN INTO THE PICTURE

(By Yosef Goell)

Shortly after Anwar Sada left Israel, Prime Minister Begin was reported as saying that "we will have to break our heads" to come up with a satisfactory Israeli plan which could be expected to get real negotiations going between Egypt and Israel.

The plan that emerged from Begin's week of head-breaking constituted an attempt to trade off real and sweeping concessions in principle to Egypt over Sinai against a purposely vague granting of self-rule to the Arab population of Judea, Samaria and Gaza, while keeping in abeyance the issue of formal sovereignty in these areas.

The approach was predicated on the assessment (and possibly on a much harder understanding reached in private talks between Begin and Sadat) that it was feasible to strive for a separate agreement with Egypt with only a perfunctory nod in the direction of Jordan and the Palestinian Arabs in the territories.

If this assessment is correct, there is every reason to believe that the balance struck between real concessions and a vague formula, given the idealogical proclivities of the prime minister and of the major components of his government, may well serve as the basis for fruitful negotiations.

There are contrary indications, however, that the assessment on which Israel's plan is based is far from correct. Publicly, Sadat has lost no opportunity to stress his determination to wrest every inch of Judea, Samaria and Gaza from Israel's hands and to establish a Palestinian entity there, while leaving the question of its links with Jordan up to the local inhabitants.

To those not privy to Sadat's private conversations with Begin, it is of course impossible to say whether the Egyptian president has another less publicized but more flexible position on this issue. But even if he does, there are sufficient signs that the Americans and the moderate Arabs, whom the Americans are trying to rope into Sadat's camp, will not go along with a perfunctory granting of local self-rule to the Palestinian Arabs in the territories.

There is every indication that the Americans see their primary role in the talks as that of tailoring any agreement between Egypt and Israel so that it is accepted by these other Arab elements, and thus preventing Sadat's isolation in the Arab world.

It is at this point that the fears of Begin's in-house opposition—about the possibility that apparently innocuous self-rule will inexorably turn into radical-led Palestinian independence—cannot be written off as mere shadows on the wall.

For all of Begin's and Dayan's blunt assurances that the Israel Army will scotch any such developments, the key seems to lie in the hands of the U.S. And for all of Carter's contradictory statements, seeking to reassure first Begin and then Sadat, the impression is that the U.S. is committed at least to bringing Hussein into any agreement, before it is made final.

It will be possible to gauge whether this is the real U.S. position, and how determined the Americans are to bring it to fruition, within the first days of the negotiations in the political committee which Secretary of State Vance will be attending.

If this indeed proves to be the American policy, in the confines of the committee as well as for public consumption, there is much to be said for Israel's reassessing the West Bank part of her peace plan in terms of returning to the concepts on which the Allon Plan was based.

For Israel the rock bottom of any concessions on the West Bank has always been the retention of the Israeli Army along the Jordan River and of early warning stations on the eastern slopes behind the river. This was more or less the approach developed by the last Alignment government.

However, Begin and the majority of his government are committed to a much more ideological approach on the question of Israeli sovereignty over the West Bank and the Gaza Strip. Thus the adamant opposition to anything that reeks of a further partition of the area of former Palestine west of the Jordan, and the toying with plans to consolidate Israeli claims over this territory by establishing Jewish settlements in the heart of the Arab populated areas.

The word "toying" is used advisedly, for if Ariel Sharon's intentional leak from Cabinet deliberations on this issue are to be believed, he is the only Likud minister who voted outright for an immediate and large-scale settlement drive in Judea and Samaria. The others, including Begin, chose to tread much more warily.

If the Americans are prepared to buy such an Israeli position, which is doubtful although not entirely impossible, Begin's self-rule plan has a chance of working. But the Americans' consistent adherence to the approach underlying the Rogers Plan, which was first put forward in 1969, would seem to render such hopes questionable.

In the first blush after Sadat's visit to Jerusalem it seemed that both Israel and Egypt had upstaged the U.S. and that both principals might possibly be capable of reaching an agreement without American interference or aid. Now that the differences between Israel and Egypt on the specifics of an agreement are being highlighted, it seems that the American role will be as crucial as it would have been at Geneva.

From the substantive point of view an Israeli policy towards Judea, Samaria and Gaza based on clearly defined security needs has a chance of modifying the U.S. stand in the direction of a partition of the West Bank. The sophistries of the ideological, historical-cum-religious arguments will not move anyone.

More and more it appears that Sadat was correct in insisting during the past few years in his arguments with the other Arab states that only the U.S. can get Israel to make the sort of concessions she would not have made of her own free will. It is in Israel's interest, when the chips are down, that whatever concessions the Americans press for, they be the least harmful from the point of view of her security.

If Hussein is to be brought in as a signatory to a peace treaty—and there is a strong argument that he should be invited and persuaded to fill a possible political void in the West Bank—he will also need his inducements. Local self-rule for the indigneous population is meaningless in this context.

It may well be that at a final stage the most desirable, albeit painful, package for Israel would be a partitioning of the West Bank between Israel and Jordan, with a clear resolution of the issue of sovereignty, and symbolic concessions to Sadat, Hussein and the Saudis over East Jerusalem.

Whether Begin, who has travelled so far intellectually and politically in his close to seven months in office, will be able to bring himself and his supporters to take such a heart-wrenching step, is one of the major unknowns the developments of the next few months should clear up.

SIXTY-TWO CONGRESSMEN SPONSOR RESOLUTION FAVORING LOCAL NIGHTTIME RADIO SERVICE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. FINDLEY. Mr. Speaker, today I am reintroducing my resolution to provide meaningful nighttime radio service to the Nation's small towns and rural areas. This bill is especially important to the millions of Americans who live and work outside of the major metropolitan areas of the country. Many of them have no local radio service at night, because of antiquated rules promulgated decades ago which keep the small stations off the air early in the morning and after the sun goes down in the evening. It is time those rules were changed. That is precisely the message these 62

Members of the House are attempting to convey to the FCC.

Following is a list of the current sponsors of House Resolution 637:

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THE NEED FOR HIGHWAY SAFETY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. STEERS. Mr. Speaker, during the recent recess I had the privilege to meet with Mr. Kenneth Nathanson, who is president of the Citizens for Safe Drivers. Mr. Nathanson has been working hard to have the National Driver Register improved and updated so that the individual States can share information about unsafe drivers.

At the present time, our colleague, Representative OBERSTAR of Minnesota has introduced a bill that would provide for improvements in the National Driver Register. I want to take this opportunity to encourage all of the Members of the House to support this important legislation. I am inserting into the RECORD an editorial from the Washington Post of April 24, 1977, that explains the need for improvements in the National Driver Register.

[From the Washington Post, Apr. 24, 1977]

FOLLOW THAT DRIVER

It's rare to find a government data bank that should be gathering and sending out more, not less, information about citizens. The Department of Transportation, though, does have a system that is not being used well enough. It's the National Driver Register, and its effectiveness could make a life-or-death difference on the nation's roads.

The driver register helps the states exchange information on people whose driving privileges have been suspended or revoked. The aim is to prevent bad drivers, after losing one license, from hopping across state lines to get a new permit and keep right on driving as recklessly as before. The National Highway Users Association cites as a graphic example a truck driver who ran up over 25 moving violations and some accidents, had his North Carolina license suspended five times, then got a Florida license and started collecting violations there. Neither State found out about the other record until the driver had hit a parked school bus near Lynchburg, killing three children.

The clearinghouse does flag daily about 750 scofflaws who have lost one license and applied for a new one elsewhere. But some states do not use this service. California, for instance, prefers to get more detailed driving records directly from states in which applicants acknowledge having been licensed before. Few applicants lie about their records, one California official says. Other states are less trusting and see more potential value in the driver register, but use it sporadically because its reliance on the mail makes it too slow. And some states hand out at least temporary permits without making any real checks at all.

No clearinghouse can answer all the needs of all the states or do much for those that pass out driver's licenses as casually as highway maps. The driver register could be made more swift and useful, though, by linking it with NLETS, a nationwide telecommunications network operated by a consortium of state law-enforcement agencies. While this would have to be planned and phased in carefully, it does sound like a promising approach. After all, this is one data bank whose information should be shared, accurately and promptly. It's a good way to flag down the dangerous drivers who are a menace to everyone else.

NATURAL GAS MYOPIA

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mrs. SCHROEDER. Mr. Speaker, as the energy bill conferees begin to wrangle once again with the natural gas pricing issue, they might well take into consideration some counsel from the December 13, 1977, Rocky Mountain News.

ROUND ROCKS AND FLAT HEADS

Let us imagine that the federal government put price controls on, say, round rocks and that rock hunters could not supply the market at Washington's ceiling of $1.47 each.

And let's imagine further that folks in Kentucky and Pennsylvania could furnish rocks at $2 to $3, but the government said no because that would breach its ceiling price.

However, something had to be done about the rock shortage, so the bureaucrats decided to import some from an unfriendly foreign country at a price of $4.50 apiece.

Now this couldn't happen, you would say, because nobody is that rock-headed, but you'd be wrong. Government policy on natural gas prices actually is similar to and as silly as the rock story.

For more than two decades Washington has kept the price of natural gas moving between states under rigid control. And, as any competent economist could have forecast, controls inevitably led to shortages.

The ceiling price now is $1.47 a thousand cubic feet, and the Carter administration is struggling in Congress to keep the new limit at $1.75. Oilmen insist that a price above $2 would produce much new gas but Washington will not listen because (a) the bureaucracy always knows best, and (b) the industry is viewed as selfish and thus suspect.

Now, however, comes Congress Office of Technology Assessment, with no bias toward the oil industry, with word that shale deposits under Appalachia could produce important supplies of new natural gas if the price were right.

A careful study showed that so-called Devonian shale in 13 Eastern States could supply up to one trillion cubic feet of gas yearly, which is about 5 percent of the country's current gas production.

The congressional study said a price between $2 and $3 a thousand feet would be needed to produce that much new gas. The reason is that extracting gas from Devonian shale is more expensive than from conventional wells.

In addition, significant quantities of gas could be produced from coal seams in the East, from "tight sands" in the West and from geopressurized zones off the Gulf Coast.

Like gas from Devonian shale, production from these "exotic" sources would need a price incentive. Unfortunately, the control-minded Carter administration has not been able to bring itself to offer the prices needed to solve the natural gas shortage.

Instead, the administration is mulling proposals by a pipeline company to import one billion cubic feet of liquefied natural gas from Algeria, which cut off oil supplies to this country in 1973–74. The price? A mere $4.50 a thousand cubic feet.

This adds up to willingness to pay $4.50 for insecure Algerian gas while refusing to pay Appalachian producers $3 for reliable supplies. Does the fable of the round rocks sound so crazy now?

ARGENTINA

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. COLLINS of Texas. Mr. Speaker, our country is proud of the development and progress of our friend, Argentina. The strong economic development in recent years is the result of sound economics in the government leadership.

Argentina needed firm competent leadership to turn around its inflation spiral. Three years ago when the Junta faced the crisis, there was an inflation rate in Argentina of 700 percent. In 1977, this inflation rate had been slashed down

to 170 percent. Now they are looking to drop below 100 percent this year and anticipate 25 percent in a couple of years.

The top governmental executives have planned with vision. They are eliminating costly governmental operations. The government now has better management over departments. But the average citizen is the major beneficiary as public confidence is restored and progressive growth for business is gaining momentum.

While I was in Buenos Aires, I visited with several leaders among business, professors, medical doctors, bankers, lawyers, but I refrained from seeing Government officials or military leaders who may not be as objective. I wanted to discuss human rights. Everyone I talked to was enthusiastic about the Government's policy of protecting the average citizen. Argentina had suffered with kidnapping and murder of leading citizens, foreign business executives and children of prominent families, all of this had horrified Buenos Aires.

Today, families are safe and mothers can sleep well. The Argentina Government has taken a hard line in dealing with terrorists. Everyone I talked to approved of the law and order method of quick and positive action by the authorities.

A typical response was the view of a middle-class workingman. He told me of a 1-year-old baby that had been kidnapped. For many months, the family negotiated about ransom. The police then discovered the child was dead and had been dead all the time. He said the kidnappers were captured and tried to escape from jail. They were killed in the attempt. As he discussed it with me, he was entirety on the side of the police.

Human rights in Argentina means protecting women and children from kidnapers and murderers. Human rights means security for the Argentine family.

I heard the charge that the United States represented friends of the terrorists. Under the name of human rights, some U.S. intervention had arisen on civil procedures used in the apprehension of terrorists. With our own inadequate domestic policy of handling violent crime, I recommend that we give no advice to our friendly neighbors.

Argentina has a great decade of prosperity ahead of it. I look for the relations between the United States and Argentina to continue to grow closer through trade and economic understanding.

SCOUTMASTER CHETTI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. SKELTON. Mr. Speaker, certain special people touch the lives of young men with great influence. One such man who was a moving force in the lives of many young people was John L. Marchetti of Lexington, Mo. Mr. Marchetti, who was affectionately known as "Chetti," spent several years in the Boy Scout movement. Many of these years in the role of Scoutmaster. He contributed greatly to the youth programs of his community.

John L. Marchetti departed this life January 11, 1978. His loss is a very personal one for me, as I was one of the scouts whom he assisted and encouraged through the years from the rank of Tenderfoot to that of Eagle Scout. His passing leaves memories with many young men who first were challenged toward honorable achievements by "Scoutmaster Chetti." His teachings of determination, honesty, and achievement will be his greatest monument. His admonition, "there's no such word as can't" is indelibly burned into my memory. He was a good and decent man—but more than that, he was a great man because he gave so much of himself to make boys into better men. He will be greatly missed by his family and his scores of friends.

John L. Marchetti served the Lexington Presbyterian Church as superintendent and sunday school teacher, and he served his community as a member of the city council. He leaves his wife, three sons, and six grandchildren.

TRIBUTE TO MR. NORMAN P. "NICK" JOHNSON OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. CARNEY. Mr. Speaker, on February 2, 1978, Mr. Nick Johnson will be honored by friends and associates at a stag dinner in Hubbard, Ohio. Mr. Johnson recently retired as supervisor of athletics for the Youngstown Park and Recreation Department. He has contributed 31 years of his life to serving the youth of our community.

During his long tenure with the Youngstown Park and Recreation Department, Nick Johnson has been an outstanding community leader. His enthusiastic interest in basketball, football, and track and field, has led him to coach numerous local sports teams. He served as a grade school football and basketball coach at St. Columba School, and spent much of his free time coaching football at Ursuline High School. Both of these schools benefited from Mr. Johnson's coaching ability as evidenced by the fine records they have attained.

The activities and interests of Nick Johnson exemplify the high ideals of community involvement, and these deserve to be recognized. In 1969, he received the "Griper's Civic Achievement Award" for devoting 25 years of his life to the moral and athletic growth of Mahoning Valley youth. He received the Ursuline "Principal's Award" in 1967, and in 1963 he was named "Man of the Year" by the Chesterton Club. Finally, Nick Johnson has been named to the Curbstone Coaches Hall of Fame for his many outstanding contributions to sports in the city of Youngstown.

Nick Johnson's enthusiasm for the moral and athletic development of youth has spurred many young people to achieve excellence in sports. He has been an inspiration and motivating force for many youngsters who went on to play collegiate and professional football. The many hours he has spent coaching do not measure the effort he has freely given to his community. Rather, it is reflected in the sense of personal and civic pride that has been derived from his activities.

Nick Johnson was an ecumenist even before the ecumenical movement. His actions reflect his belief that every youngster should receive a good physical education, and be taught athletic skills regardless of race, color, or creed. His commitment to brotherhood has been demonstrated through his unselfish devotion to making Youngstown a better place to live for all its people.

Mr. Speaker, on behalf of my constituents, I wish to personally express my appreciation to Nick Johnson for the many outstanding qualities of citizenship and sportmanship that he has demonstrated throughout his many years of service to the city of Youngstown. We all wish this fine and decent man continued success, good health, and happiness.

TEXAS WOMAN STAR RISES

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. PICKLE. Mr. Speaker, over the past year, it has been my pleasure to meet and visit with Ms. Frances Garcia. Ms. Garcia is presently a commissioner on the Copyright Royalty Tribunal.

Mr. Speaker, Frances Garcia's story is the embodiment of the American dream. It is more than one can comprehend in many ways. It is also a story of hard work.

I am asking that a magazine article from the Journal of Accountancy detailing Ms. Garcia's story be placed in the CONGRESSIONAL RECORD. Briefly the article tells how a person who spoke poor English until age 14, waited tables before going to college, and worked all through college to become a top executive with an international accounting firm and then a Presidential appointment.

For those who wonder if success is possible, I commend this article to them:

CPA FRANCES GARCIA GOES TO WASHINGTON

(By John R. Linden)

When Congress confirmed CPA Frances Garcia's appointment by President Jimmy Carter to the new five-member Copyright Royalty Tribunal last month, the action held a special meaning for Ms. Garcia. Not only had she arrived "on the scene," so to speak, but she would now be able to prove that a woman, and a Chicano to boot, could make it in the world of business and politics.

The tribunal, which will adjudicate copyrights and royalty rates for songwriters, recording stars, jukebox distribution and cable television, is expected to be much in the limelight. Not that Ms. Garcia craves publicity for herself, but as she puts it, "As a member of this highly visible court, I am aware that I will be able to lend credibility to the fact that both women and members of minorities can achieve similar goals."

Ms. Garcia, a Mexican-American who couldn't speak English fluently until she was 14, now possesses a well-tailored professional air. She thinks it's an asset to be bilingual and observes that her heritage is a matter of pride and importance in an age when many people are looking for their "roots."

Until her appointment to the tribunal, Ms. Garcia was a manager in Arthur Andersen & Co.'s Austin, Texas office, where she had gone one year ago to assist in the office's opening. Before that, she had risen in five years from staff accountant to manager in AA & Co.'s Dallas office.

How did Ms. Garcia manage to achieve all this in so short a time despite the obstacles she faced? Her success has almost a storybook quality to it and illustrates how hard work and pluck has its rewards.

Frances Garcia was born in Wichita Falls, Texas, on July 21, 1941, the next to youngest daughter of Genaro and Rosalia Garcia, who eventually reared a family of 11 children. Although they were migrant farm workers, the Garcias instilled in their children a strong pride in their heritage and a desire to reach their full potential.

"This was no easy task," Frances recalls. "Both my father and mother, who are still very much alive at ages 86 and 76, are good in math. But they speak only Spanish. I had to learn English bit by bit at the English-speaking schools, and this was complicated by my family's frequent sojourns into Colorado and Oklahoma."

Despite a peripatetic life with the typical hardships of the migrant family, in which sons or daughters generally marry early and have menial jobs, Frances managed to graduate from high school (where she had excelled in mathematics and bookkeeping) while working all four years as a waitress. She then left Wichita Falls for Los Angeles and got a job as a clerk with a law firm. But she was determined to obtain even more education to gear herself for a professional career, so at nights she attended accounting classes at Los Angeles City College.

In 1960 she joined Bork-Warner as a credit investigator in the company's bookkeeping department. After one year she was assigned to a team establishing new BW offices around the country. This gave Frances a chance to travel, which further broadened her outlook and expanded her horizons.

In 1963, Frances took a leave of absence from the company to attend Midwestern University back in Wichita Falls. She continued to work for BW during vacations and summers, but in her junior year, she started doing tax forms and write-up work for R. Eugene Gant & Company, a Wichita Falls CPA firm.

When Frances was graduated from Midwestern University in 1968 with a BBA in accounting and a listing in "Who's Who in American Colleges," she was interviewed and hired by Arthur Andersen & Company as an accountant in the firm's Dallas office—the only woman professional in the Dallas office. She was promoted to senior accountant in 1971, the same year she passed the CPA exam, and became a manager in 1973.

At this point, Frances began to feel the pressure of "being a woman in a man's world," she recalls. "To the men on the auditing staff I was just 'one of the boys.' We'd all go to lunch or dinner together and there was never any discrimination.

"I was treated very fairly by AA & Co.; still, I saw instances of discrimination—such as women getting lower starting salaries than men and minority members not getting promotions they were entitled to—in other businesses."

Being a "woman in a man's world," Frances had to be hardnosed in her assignments. She says, "If you are competent and know what you are talking about, it doesn't matter to the client whether you are a woman, Chicano or whatever. I was the bearer of bad news in many instances." Yet, she says, "the clients were tuned into what I had to tell them. When you talk to clients about money—especially money that they're losing—they're going to listen."

When Frances moved to AA & Co.'s new Austin office last year, she became office manager of a 15-member staff—a position in which she demonstrated her administrative skills.

Frances has kept as busy working for others on her own time as she has for her employer in her 8-to-5 career activities. She was president of the Dallas Chapter of the American Society of Women Accountants in 1975 and is a trustee of the Austin Minority Economic Development Corporation and a member of the American Association of Spanish-Speaking CPAs. She is also on the AICPA minority recruitment committee and is chairperson of the Austin chapter's continuing professional education task force. In addition, she is a past vice-president of the Dallas Mexican-American Chamber of Commerce, a charter member of the Mexican-American Business and Professional Women's Club, and a trustee of the Austin United Way and KLRN-TV, the Austin public educational television station.

Apart from these activities, Frances frequently lectures at career days on college campuses throughout Texas. Her message is usually one of encouraging careers in public accounting.

"I try to encourage women and minorities to get into public accounting because of the profession's exposure to business. CPAs must know what's going on in the business world and, consequently, can reach positions which affect the whole of society. I tell the students that if they want to make an impact on society, they must do so in business because that's the pulpit where new ideas can be communicated to influential people."

Her spirit of participation and activism in her community and with minorities did not go unnoticed. Early this year she was recommended by the chairman of the Texas State Democratic Party, and by Senator Lloyd M. Bentsen (D-Tex), to fill the CPA post on the new tribunal. She was called to Washington, interviewed and then notified in September that she had been chosen from among some 100 nominees to fill one of the five posts. Congress confirmed the appointment on October 26. "I'm really excited about the appointment," Frances says. "I believe that by my example I will be able to prove that women and minority members have a place in business and politics."

As a member of the government tribunal, Frances has had to leave her position at Arthur Andersen, and this hasn't been easy because of the success she has achieved at the firm. Harvey Kapnick, AA chairman, encouraged her to accept the position. She will miss her co-workers, friends and family in Texas, but the nation's capital and her new job present a new challenge. Others on the tribunal include Thomas C. Brennan. chairman, an attorney; Douglas Coulter, a writer; Mary Lou Burg, a Wisconsin Democratic National Committeewoman; and Clarence L. James, Sr., also an attorney.

Under the Copyright Act of 1976, which created the five-member court, the tribunal will have a big workload and a controversial role in adjudicating many aspects of the new law, which for the first time in U.S. copyright history recognizes, that the manufacture, distribution, sale and profit of copyrighted works must be considered along with the rights of authors, users and the public.

To supplement her credentials, Frances plans to attend law school in Washington and become an attorney, in addition to being a CPA. "With a law degree, I believe I will be better geared to perform my duties on the tribunal," she explains. She also plans to continue jogging to keep herself in shape for her demanding government job and for her many active hobbies, which include dancing and travel. As a single career woman who enjoys dating, she has a full schedule and savors every minute of it.

What does Frances look forward to when her five-year term on the tribunal expires?

"Who knows?" says Frances. "I may return to Texas or I may go into practice for myself. It depends upon what doors are open by then."

Although Frances believes the road to equality for women and minorities has been a rough one, she believes the business world is now paving the way for those willing to make the effort

"This is the age of opportunity for all minorities," she says. "The ears of the business world are listening to the voices of leading minority people and the opportunities are there.

"But, of course, as with anything else worthwhile, the minorities will have to work hard to meet the challenges."

Finally, she declares, "It's been my experience in life that the things I have treasured the most are those I have worked the hardest to get. I intend to work hard in Washington."

THE CANDIDATE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mrs. SCHROEDER. Mr. Speaker, happy campaign year. I thought my friends here in Congress might like to see how a bright witty columnist in Denver, Colo., views us in our campaign roles. His perception is so sharp, it smarts a little.

THE CANDIDATE

(By Gene Amole)

I have called this press conference to announce my candidacy for the Congress of the United States.

While none of my friends and associates has urged me to run for this high office, I have decided to do so for several compelling reasons. As many of you know, I have never quite been able to get my law practice off the ground. My efforts at squeezing out some kind of profit from the private enterprise system have always met with failure. And I certainly don't want to go out, get a job, and actually work for a living. In short, I just can't make it in the real world.

The income a Congressman receives is definitely an improvement over what my wife describes as our present hand-to-mouth existence. As a member of Congress, I shall receive regular income increases, honoraria for speeches, articles, and other professional services, generous travel allowances, an excellent retirement plan with a superb "double-dipping" potential, outstanding health and hospital coverage, and other income opportunities too numerous to mention. I should like to state at this point that in instances of possible conflicts of interest, I shall do my best not to get caught. That failing, I shall "stonewall" in the highest Congressional tradition.

But make no mistake, I am not running for office just for the money. I am also attracted to the prestige. I shall revel in the deferential treatment one receives in Congress. I also take substantial pleasure in being near the center of power.

I shall conduct a hard-hitting campaign based on the advice of the best advertising and public relations firm that money can buy. This company is already hard at work securing advertising time adjacent to the most popular television programs. Spot announcements are now in production that

will skillfully distort my image so that I shall appear warm, honest, and concerned. I shall rely upon this media technique rather than subject myself and my candidacy to any candid examination of the issues. I shall avoid open debate because it encourages disaster.

All of this is going to take money—lots of money. On this point I want to make myself perfectly clear. Organizations and individuals who contribute the most to my campaign will command my political loyalty. This is as it should be. I have never been the sort of man who bites the hand that feeds him.

Although I shall avoid the issues in order not to betray my ignorance, I shall be a visible candidate. Actually, I have little use for people, but I'll be out there in the shopping centers, passing out cards and shaking hands with ladies in pink, plastic hair rollers. Frequently, while chatting with a voter, I'll look over his shoulder to see if there is someone more important behind him.

Here is my official campaign poster. You will note that it shows me with my collar open and my tie loosened. My coat is slung over my shoulder. I am talking to an attentive audience made up of the poor, the elderly, small businessmen, an interesting cross section of minority women, students, laborers in hard hats, and that brooding man in the corner who we think bears a striking likeness to Ralph Nader.

It goes without saying that I have never actually met any of these people. They were photographed separately in Chicago and my picture was dubbed in.

I share the popular view that the American bureaucracy is malignant and poses a grave danger to our country. My position on this is inflexible. I shall do absolutely nothing to halt the growth of government. To do so would cost my candidacy votes. And besides, I want to hook into the system for my own personal benefit before the whole mess falls apart on its own.

My Washington staff will be headed by my brother-in-law. His appointment as my Administrative Assistant will keep him off the welfare rolls, if not the streets.

If elected, I shall seek appointment to committees dealing with reclamation. I firmly believe that the apportionment of water is key to Western growth. There is an old political axiom that "water flows in the direction of money." It had been a Western custom that water will go to those who can afford to pay the most for it. This is in the finest tradition of competitive enterprise, and I wouldn't tamper with anything that basic.

As for school busing, I am opposed to it because I don't want my kids associated with inferior children. That's why when we move to the nation's capital, I shall enroll my kids in the best Maryland private schools.

You'll note that we have some refreshments for you at the back of the room. Meanwhile, if any of you have questions, I'll do my best to evade them.

ITC OFFICIAL SLAMS AGRICULTURE DEPARTMENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. MICHEL. Mr. Speaker, the Carter sugar mess caused the Chairman of the International Trade Commission to describe the U.S. Department of Agriculture as "the greatest concentration of incompetence" in any Federal agency.

I agree and I hope every Member of the House will read the following news story from the January 6, 1978, Journal of Commerce:

[From the Journal of Commerce, Jan. 6, 1978]

ITC OFFICIAL SLAMS AGRICULTURE DEPARTMENT

(By Anita Schrodt)

NEW ORLEANS.—International Trade Commission chairman Daniel Minchew wasted no time mincing words here as he accused the U.S. Department of Agriculture of "the greatest concentration of incompetence" in any federal agency and of jeopardizing the ITC's task of reporting to the President by March 15 on sugar imports.

Mr. Minchew's attack on the USDA came during the first of three hearings the ITC is holding around the country to determine if sugar imports are interfering with the President's recently ordered price support loan program for sugar.

OTHER HEARINGS

The New Orleans hearing, held Wednesday, will be followed by a hearing Jan. 17 in Minneapolis and Feb. 2 in Washington.

The trade commission held hearings last year to determine if sugar imports were hurting the domestic sugar industry and then asked that stronger import quotas be established. President Carter, instead, set import fees and tariffs and instituted the price support loan program to attempt to raise the price of raw sugar to 13.5 cents per pound. The current price is about 11.9 cents per pound.

Mr. Minchew opened the hearing yesterday with his severe criticism of the USDA, saying its attempt to handle the support program is the "most frequently bungled" attempt he's seen in his 16 years in government.

It was the failure of the USDA to send any representative to the hearing here which triggered Mr. Minchew's remarks.

Angered because USDA representatives have refused to be available to answer questions or testify until the commission's final hearing in Washington, Mr. Minchew said, "I think it's important for the government to come out to the people, not to hole up in Washington."

He accused the USDA of issuing sugar tariff proclamations with errors in them and for cutting off payments to sugar farmers after the USDA had contracted with them.

ABILITY JEOPARDIZED

The USDA's failure to testify until the final hearing will jeopardize the commission's ability to meet the March 15 deadline to report to the President, he added.

Witnesses at the hearing testified sugar farmers cannot survive even at the goal of 13.5 cents per pound and almost all asked for more stringent import quotas. Raw sugar production prices actually range between 15 and 18 cents per pound, according to the witnesses.

CERTIFICATE OF MERIT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. SKELTON. Mr. Speaker, the American Red Cross awards its Certificate of Merit to a person who saves or sustains a life by using skills and knowledge learned in a Red Cross volunteer program. The certificate and accompanying pin are the highest awards which the Red Cross can give to such an individual. Many times the recipients of these awards have performed actions that go far beyond mere technical skill. They may have risked serious injuries or even their lives in their efforts to aid their fellow men. When such acts of courage and humanitarianism do occur, it seems only fitting that such individuals be singled out for special praise.

On July 15, 1977, Missouri State trooper, Gary W. Walker of Blue Springs, Mo., was on patrol in his police car when he observed a speeding vehicle. When he attempted to halt the vehicle, the driver increased his speed, and Trooper Walker gave chase. The high-speed chase ended when the fleeing vehicle left the road and crashed into a tree, bursting into flames. Seeing that the two occupants were injured and trapped in the car, Trooper Walker first removed the passenger and then went back for the driver. With great difficulty, because of the advancing flames and the position of the victim, Trooper Walker finally extricated him also. Without doubt, the rescue of two victims by Trooper Walker saved their lives.

Trooper Gary W. Walker clearly deserves the praise of the American Red Cross and a salute from all citizens of Missouri. Trooper Walker's courage, his cool head under demanding circumstances, and his obvious respect for human life are shining beacons for all of us to follow.

SEVENTY-FIFTH ANNIVERSARY OF POTTSTOWN LODGE NO. 814

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. SCHULZE. Mr. Speaker, on February 1, 1978, the Pottstown Lodge No. 814 of BPO Elks will celebrate its 75th anniversary. In honor of the occasion, Edward A. Psota, Exalted Ruler, has invited Grand Exalted Ruler Homer Huhn of Latrobe, Pa., and C. Bennett Dry, president of the Pennsylvania State Elks Association from Berwick Lodge to be their guests at the annual membership banquet on Wednesday, February 1.

This anniversary is indeed an historic occasion and I am extremely proud of the Pottstown Lodge and the very beneficial work they have carried out. The lodge is a credit to our community and has been primarily concerned in the fields of health diagnosis, treatment, rehabilitation and prevention—with special emphasis on help for physically handicapped children.

The story of the Order of Elks is an illustrious one and the order will be 111 years old on February 16, 1978. The Pottstown Lodge has grown to be the second largest lodge in Pennsylvania and now has a membership of 2,178 individuals.

The major project of the Pennsylvania Elks State Association is that of a home service program for cerebral palsy victims. Pottstown Lodge has been the largest contributor in the State for 3 of the last 4 years, contributing an average $6,500 per year through a permanent endowment fund.

The Elks National Foundation, which is the Great Heart of Elkdom, assists crippled children, veterans hospitals and

awarded 1,151 boys and girls scholarships last year. Pottstown Lodge is second in the State and 75th in the Nation, out of 2,300 lodges, in their giving to the foundation.

Mr. Speaker, the Pottstown Lodge has earned our respect and praise. To all the past and present members of this fine organization, dedicated to practice the four cardinal virtues of charity, justice, brotherly love, and fidelity, and the enrichment of our community; I extend my hearty congratulations and best wishes for another 75 years of incomparable excellence.

ASSESSING THE SOCIAL SECURITY AMENDMENTS

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. CONABLE. Mr. Speaker, there are many of us who were dismayed by the recent social security amendments approved by Congress and signed into law by the President. The sharp increase in taxes was particularly disturbing, and unnecessary. Chancellor W. Allen Wallis, of the University of Rochester, who was Chairman of the 1974 Advisory Committee on Social Security, recently discussed the amendments on the editorial page of the Rochester (N.Y.) Times-Union. Chancellor Wallis' assessment is important for all of us to consider and I submit it here for the benefit of those concerned about the social security program.

[From the Rochester Times-Union, Jan. 6, 1978]

SOCIAL SECURITY: WHAT'S AHEAD

(By W. Allen Wallis)

The Social Security law provides that every four years there shall be a review of the system by an Advisory Council of 13 outsiders appointed fresh each time. The most recent Advisory Council worked in 1974 and its report was published early in 1975.

Having been chairman of the 1974 Advisory Council, I was naturally curious to see how far the new Social Security law enacted on Dec. 15 reflects the Advisory Council's advice.

Our work turns out to have been worthwhile, for the new law adopts many of our most important recommendations and it sets up studies and a Commission to prepare the way for further changes that we recommended.

The most urgent recommendation made by our council was to correct a technical error introduced in 1972 when cost-of-living adjustments in benefits became automatic. The method of adjustment, based on the consumer price index, was appropriate for people who have already retired. But a person who was still working got two adjustments for inflation, one from higher wages and another from higher prices.

The 1974 Council recommended, and now Congress has enacted, a procedure by which Social Security records of a worker's earnings in earlier years will be adjusted just before he retires.

Suppose, for example, that in 1956 a worker had $3,000 of earnings subject to Social Security tax. Since average wages were 2.846 times as high in 1977 as in 1956, the actual earnings in 1956 will be multiplied by 2.846. The result, $8,538, along with similarly adjusted figures for other years, will be used in calculating the worker's average adjusted earnings on which his initial benefits will be based when he retires. After he retires, benefits will be adjusted according to the consumer price index, as they are now.

The new law raises Social Security taxes substantially more than the Advisory Council considered necessary. As a result, the so-called "trust funds" will increase, both in dollars and as a percentage of annual outgo.

By the end of 1987 the trust funds are estimated to be about $140 billion, which will be about 70 percent of that year's outgo, although the trust funds will not have to be used because tax receipts will be $20 billion more than benefit payments. Thus the tax increases in the new law are considerably more than will be needed in the next decade and are simply a disguised general tax increase.

The trust funds are a fiction, since the only money available to pay Social Security benefits in 1987 (or any other year) will be money raised that year by taxes, borrowing or inflation.

In 1980, the first year in which the new law will generate a surplus of tax receipts over benefit payments, the surplus Social Security taxes will simply be spent on other government programs.

Pieces of paper acknowledging that there was a surplus will be given to the Social Security trustees. In some later year, when the Social Security system needs to recover the 1980 surplus, the only way the government can pay it will be from taxes it collects that year, money it borrows that year or new money it creates that year.

In view of considerations like this, and also of the uncertainty of predictions about the future, the Advisory Council recommended that increases in taxes above those already planned should be small. The new tax increases probably will have adverse effects on employment, prices, savings, investment and income.

The Advisory Council recommended that all workers be required to come under Social Security. The largest group not now covered are government employees. Although they generally benefit from generous pensions, many of them nevertheless manage to tap Social Security too—"double-dipping."

Frequently they also receive Social Security benefits that have been augmented to help the poor. It is estimated that about 40 percent of the enlarged benefits intended for the poor go to people who are not at all poor, many of whom are retired government employees.

Government employees and their relatives mobilized a massive blitz against universal coverage after the House Ways and Means Committee had the political courage (under the leadership of Al Ullman and Barber Conable) to support it. It was overwhelmingly defeated by the full House of Representatives.

Nevertheless this "rip-off" has to stop, and the new law orders a study of mandatory coverage of government employees and a report to the President and the Congress within two years. It would be better if this study were not made by government employees.

The Advisory Council pointed out that in the more than 40 years since Social Security started there has not been a thorough review of all its aspects and its social and economic effects and prospects. We urged that a searching review is essential. The new law establishes a National Commission on Social Security to be appointed jointly by the President and the Congress, to report in two years.

The Council recommended also a special study of the differential treatment of men and women by Social Security. The new law requires a task force on sex discrimination, to report within six months.

Ironically, a good deal of the discrimination against women in Social Security takes the form of not providing for their male relatives as generously as female relatives of male workers are provided for. To correct this would require either expensive increases in benefit payments, which would go mostly to men, or else elimination of some benefits now going to women by virtue of their relationship to men.

Other recommendations of the Advisory Council were also adopted, relating to liberalization of the earnings allowed to retired workers, tax rates for the self-employed, the minimum benefit, and a number of other matters.

In summary, the Advisory Council can take a good deal of satisfaction from the treatment of its report that is reflected in the legislation enacted last month—except for the tax provisions.

The next Advisory Council, which is due to be appointed any day now and is allowed by the new law to work until Oct. 1, 1979, will have even more reason than we had to take itself seriously, for the 1977 law shows that Congress will take the Council seriously.

Wallis, chancellor of the University of Rochester, was chairman of the 1974 Advisory Council on Social Security.

MYRTLE BEACH LOSES PUBLIC SERVANTS

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. JENRETTE. Mr. Speaker, the Sixth District of South Carolina has been deeply saddened this winter by the passing of two of its most dedicated and respected public servants. In December of last year the city of Myrtle Beach was grieved by the death of Councilman Allison Farlow. He was a fine man, a staunch supporter of his party and a man who took great satisfaction from serving his community during a period of growth such as few towns in this Nation have ever seen. As a member of the Horry County Development Board, Allison was instrumental in maintaining the economic expansion of his area and all the people of Horry County owe him a debt of gratitude for the prosperity that they have come to know. I worked with him often and valued his friendship as much as I now honor his memory.

On New Year's Eve, Horry County lost another of its most public spirited citizens. Mr. W. G. Sarvis, Sr., was a county councilman, president of Waccamaw Ford Tractor Co. and of the board of directors of the Horry Electric Cooperative. He served his community and county in politics, business, and church affairs. As a farm equipment dealer, he was particularly concerned with the plight of the small farmer and I counted him among my most trusted advisers on farm issues. No one will ever fully fill the gap in the public and private lives of the people that knew W. G. now that he is gone.

Mr. Speaker, I eulogize these two men in hope that the examples that they have set by their selflessness in the service of their communities will become examples for others and will insure that the Republic will never be without men dedicated to the protection and maintenance of its highest values.

MAYOR EDWARD I. KOCH

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. ROSENTHAL. Mr. Speaker, for the first time in nearly a decade, this Chamber is convening without the presence of our ebullient colleague from Manhattan, Ed Koch.

He says he found a better job. I'm not so sure. Ed was a superb Congressman—an effective legislator, an energetic worker and an accomplished negotiator. He labored diligently and enthusiastically on behalf of a myriad of worthy causes and made friends throughout this House.

Ed may no longer be a Member of the House—to which he was elected five times—but we have not seen the last of him in Washington. He will be a frequent visitor, I am happy to say, pleading the case of New York City as its 105th mayor.

In his New Year's Day inaugural speech, Ed spoke of how he feels about our great city.

"New York is unique in the history of man," he declared. "New York is not a problem. New York is a stroke of genius. From its early days, this city has been a lifeboat for the homeless, a larder for the hungry, a living library for the intellectually starved, a refuge not only for the oppressed but also for the creative. New York is, and has been, the most open city in the world. That is its greatness."

Ed's view of New York is eloquently stated in that address, and I am inserting it in the RECORD at this point so that it may be shared with everyone.

INAUGURAL ADDRESS BY EDWARD I. KOCH

Friends and fellow New Yorkers, this is a proud moment for me, for my family, and for the system that has once again transformed the argument and debate of the electoral process into an orderly change of government.

It is a privilege and an honor to serve as mayor of New York. I will do my very best to work for and defend the interests of every citizen in this city. I particularly look forward to sharing with City Council President Bellamy, Comptroller Goldin, and with other elected officials, the important work of saving this city.

I will talk about issues tomorrow. Today I want to tell you how I feel about the city.

In a certain way we have grown light-years older than we were when John F. Kennedy said: "Ask not what your country can do for you . . ." That moving sentiment was, seventeen years ago, a plea, a hope for the future. In our day and in this place, it is a necessity. If we who live in this great urban center are to survive, we must give more than we ask. Living in the heightened reality and splendor of this city demands a price. But it is a price worth paying.

I do not exaggerate when I say that New York is unique in the history of man. New York is not a problem. New York is a stroke of genius! From its early days, this city has been a lifeboat for the homeless, a larder for the hungry, a living library for the intellectually starved, a refuge not only for the oppressed but also for the creative. New York is, and has been, the most open city in the world. That is its greatness. And that is why, in large part, it faces monumental problems today.

It is not easy to characterize this city. New York is a place of bounding, exuberant diversity. More books are published here than anywhere else in the world. This city is an art center without equal, for the new and experimental as well as for established talents. Music, theater, dance, museums, can anyone question that New York still leads the way? On our streets is written the history of contemporary architecture. Our public school system has produced some of the finest minds of our age. And yet—unfortunately—the depth of our problems matches the scope of our achievements.

Without question, the city has made mistakes. But our mistakes have been of the heart. In my administration, I intend to bring the heart and the head together. In the past, programs that were meant to help the needy ended up as bonanzas for the greedy. All too often, those who were charged with caring for the disadvantaged turned the generosity of New Yorkers into a form of folly. By their callous acts, they tempted us to think what many were ready to believe—that somehow the poor are unworthy.

And now our city treasury is nearly empty, and must be wisely managed. We can no longer afford to subsidize poverty programs that do not help the poor. The money that is appropriated for the poor must directly benefit the poor. In my administration, a firm hand and a helping hand will be the same hand.

When we no longer waste our resources in ways that help no one, we will be able to do more to help everyone. That means better services for the middle class, and a healthy climate for commerce, business, and industry.

But the experiences of the past tell us that money alone is not the answer to our problems. If an ideal city could have been bought with money, we would have purchased and paid for it long ago. If a safe, prosperous city could have been acquired with dollars, we would have it today. But experience has shown that Utopia cannot be conjured up with a magic formula of more services, more agencies, more plans, and more programs. A better city requires the one ingredient that money cannot buy: people who are willing to give of themselves. People who will fight for a cause they believe in. People who are willing and able to defend and protect the city they love.

Fortunately, these people exist.

I know they exist because I spent the last ten months shaking hands with them in Bensonhurst and Harlem, in Bay Ridge and the South Bronx, in Greenwich Village and Rego Park, in Riverdale and Chelsea and Forest Hills and Crown Heights and Astoria and all the other neighborhoods that form this magnificent mosaic we call New York City.

I know that the people of New York have not forgotten how a city really works. They have not forgotten that it is we—the citizens—who form the city's first line of defense. People still remember that police officers are not hired to do our job for us. They are hired to help us do our job. That sanitation workers are not here to provide maid service for people who litter the streets. They are here to provide the assistance we need to keep the city clean. That teachers are not paid replacements for concerned parents and families. They are only one half of the vital partnership between the school and the home.

We are the ones who set the standards for our city employees. If we look the other way, if we don't do our job, how can we ask our employees to do theirs?

Government cannot do what the people will not do. In calling upon the people of New York City to join with me in the hard work needed to bring this city back to the top again, I call upon the only people who can do the job.

These have been hard times. We have been tested by fire, we have been drawn across the knife edge of poverty, we have been inundated by problems, we have been shaken by troubles that would have destroyed any other city. But we are not any other city. We are the City of New York. And New York in adversity still towers above any other city in the world.

New York is a special place because New Yorkers are a special people. They are a special people because they live in a city where religious services are held in forty different languages, a city where new ideas are tested and old ideas are honored, a city where a hundred different cultures have been woven together into a tapestry of tradition and teamwork.

But most of all we are a special people because we are the trustees of a national treasure—the City of New York itself. History will hold us accountable for how well we live up to that trust. We must not let this city dwindle and diminish. We must not fail.

Today we begin a new year and a new administration. The mistakes of the past are past. We have been tested and the testing will continue. But we have survived. And soon we will begin to flourish.

During the last three hundred years, New York City sent millions of Americans on a westward trek to "grow up with the country." Descendants of those New Yorkers are scattered throughout the nation.

Today, the great challenges that confront this country lie in a different direction. Today, it is the City of New York where the urban pioneers of this generation are to be found. Today, it is in Flatbush and Flushing, in Bushwick and Bedford Park, and in all our neighborhoods, where people are working and sweating to restore the most exciting city in the world to prime condition. There are houses to be rehabilitated and maintained, schools to be reclaimed and preserved, neighborhoods to be freed from the oppression of crime and the stranglehold of unemployment. There are patterns and precedents to be established. As New Yor'- in the 18th and 19th centuries led in the building of urban America, so we must now lead in the rebuilding of America's cities.

That is why I ask those who are not with us now, those who are seeking a challenge, to come east and join us. Come east, and grow up with the new pioneers, grow up with the new City of New York.

Thank you.

LISA L. SAPER

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. LOTT. Mr. Speaker, I would like to take this opportunity to recognize an outstanding young lady, Lisa L. Saper, of Pass Christian, Miss., who is here in Washington this week to participate in the 1978 Presidential Classroom for Young Americans.

I always enjoy discussing the operations of our Federal Government with the Presidential Classroom students and commend these young Americans on their interest and attitude toward our Nation's destiny.

C. THOMAS GIBBONS

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. LEDERER. Mr. Speaker, it is with the greatest sense of pride that I share with my colleagues in the House the outstanding contributions made to the cause of Scouting by the president of the Philadelphia Council of Boy Scouts of America, C. Thomas Gibbons. Mr. Gibbons' retirement from this office on January 30, 1978, marks his 30th year in Scouting, beginning appropriately enough as a tenderfoot Scout in the year 1948.

Since his tenderfoot days, Tom Gibbons has served Scouting in almost every conceivable capacity—as a Scout, scoutmaster, secretary to archdiocesan committee on Catholic Scouting, troop committeeman, member of the Philadelphia Council Executive Board and Finance Committee, vigil member of the Unami Lodge of the Order of the Arrow, chairman of the Keystone District, recipient of the Silver Beaver, and 2 years of dedicated and outstanding service as president of the Philadelphia Council of Boy Scouts of America.

Like a true Scout, Thomas Gibbons has found the time and made that extra effort to serve his community in a multitude of ways. As president, treasurer, and member of the board of directors of Horn and Hardart Baking Co., Mr. Gibbons has always made every possible effort to strengthen the economic foundation of the Philadelphia area. He has served most ably on the board of directors of not only Horn and Hardart Co., but on the East Pennsylvania Railroad Co., the Philadelphia Delaware Valley Restaurant Association, and the Chestnut Street Association as well. Tom Gibbons has also found time to serve on the executive committee of the Academy of Food Marketing of St. Joseph's College and as trustee of the Retail Clerks Pension and Health and Welfare Fund.

C. Thomas Gibbons has still managed to find the time to serve the community as member of the board of directors of March of Dimes, the Police Athletic League, the Easter Seal Society and the Philadelphia Civic Ballet. Despite this prodigious schedule, Mr. Gibbons is actively involved in Catholic charities, Knights of Columbus, Men of Malvern, Waldron Academy Fathers Association, Saint John's Hospice for Homeless Men, and the Saint Joseph's Prep Fathers Association.

Thomas Gibbons does not know the meaning of "too busy." Because of this, the Boy Scouts of America have been immeasurably strengthened, because of his dedicated service. The time he has found has made the city of Philadelphia a better place to live. I would like to take this time to pause in the business of the House of Representatives to thank C. Thomas Gibbons for his dedication to the cause of scouting, and the countless hours that he has volunteered and devoted to the betterment of the community and the city of Philadelphia.

THANKS TO THOSE WHO "GOT INVOLVED"

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. LEVITAS. Mr. Speaker, so often these days, we hear about the indifferent, apathetic people in our society, those who just do not seem to care about anything. These are the people who do not want to get involved, do not want to risk sharing themselves with neighbors or strangers.

I would like my colleagues to know that this is not a universal state of affairs; and indeed, may not be nearly so prevalent as some would have us believe. I would like to share with you two short letters to the editor from the Atlanta Journal and Constitution about some people who cared enough about their fellow citizens to get involved:

PULSE OF THE PUBLIC—THANKS TO THOSE WHO "GOT INVOLVED"

STONE MOUNTAIN.—My son and I would like to express our gratitude to those people who came to our aid during and after the fire at Shadow Hills Apartments on Dec. 21.

Bill and Judy Cox, the couple who were not afraid to "get involved," spotted the fire as they drove by, stopped and knocked on doors, warning us of the danger, and as a result saved many lives by their courageous action.

The American Red Cross Disaster Service team, headed by Bill Welhelm, was on the site almost immediately and provided many services, including financial and moral support to all of the families left homeless. Their prompt and compassionate assistance made our tragedy somehow more bearable. Every Red Cross worker involved, staff and volunteer, was simply wonderful. I can't imagine how anyone could have done more.

In addition, the management of Johnstowne Properties did everything they could to relocate families and provide a warm, safe place to gather as we began to reconstruct our lives.

We will be eternally grateful to each and every one.

BARBARA HAMILTON.
WESLEY BROWN.

RACHEL'S ADVENTURE

STONE MOUNTAIN.—Christmas is a time when most of us think of our families and return thanks for them. This year my family is especially thankful because yesterday (Dec. 14) we could easily have lost a daughter.

Our first-grade daughter Rachel decided to surprise us by walking from her school in Clarkston to my home in Stone Mountain. She crossed North Indian Creek and walked along Memorial College and then along Memorial Drive. When she reached the K–Mart at Memorial and Hamrick, she decided to cross.

A DeKalb County school bus driver saw her and helped her cross safely by putting on the lights to stop traffic in both directions. A passing motorist, Mrs. Martha Perry, became concerned and offered her a ride the rest of the way. By this time, the DeKalb County police were busy searching for Rachel who had been missing for more than an hour.

Through the concern of the bus driver, of Mrs. Perry, and several other anonymous persons, Rachel arrived safely. Our family is very grateful to these people and the DeKalb County police for their part in making Rachel's adventure end happily and with a lesson learned.

EDWARD G. SIMMONS.

PRESIDENT'S PLEDGE TO CONGRESS OPPOSING COMMODITY AND ASSISTANCE TO CERTAIN COUNTRIES IS NOT BEING CARRIED OUT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. YOUNG of Florida. Mr. Speaker, you may recall that the President of the United States promised the Congress that he would instruct the U.S. representatives to the international financial institutions to oppose and vote against loans to Vietnam, Uganda, Cambodia, Laos, Mozambique, Angola, Cuba, and for the production of palm oil, sugar, and citrus crops.

In the CONGRESSIONAL RECORD of November 2 and December 7, I reported two cases where the President did not keep his commitment to the Congress regarding U.S. opposition to providing assistance for the commodities and countries listed above. In one case the Soviet Union introduced and passed a resolution at the United Nations calling for the rebuilding of Vietnam. Despite the strong feelings expressed in the House and despite President Carter's pledge to oppose and vote against assistance to Vietnam, our own representative to the United Nations did not vote against the resolution or even ask for a recorded vote. In the second case, the World Bank approved a loan for palm oil production in Indonesia. Again, the United States representative failed to oppose the loan.

Now, I am forced to report a third case where the President's commitment has not been fulfilled. On December 27, the Board of Executive Directors to the World Bank approved a $15 million loan to Cameroon for the production of rubber and palm oil. Again, the U.S. representative did not oppose the loan, even though the President pledged to oppose loans for palm oil production. It appears the administration is going out of its way to find loopholes it can use to get around its commitment to Congress.

DECLARATION OF FREEDOM

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. PEPPER. Mr. Speaker, on January 23, 1978, we observed the 12th anniversary of the signing of the Declaration of Freedom by Cuban exiles in Key West, Fla.

On this historic date in 1966, a group of patriotic Cubans gathered in the deeply heartfelt hope that Cuba's people could again exist in a society governed by the doctrines of liberty and majority rule for which their predecessors had died in the first Cuban revolution of the late 19th century. That free society was destroyed with the advent, in 1959, of the regime of Fidel Castro, a regime forged in violence and usurping the will of the Cuban people for the military and industrial objectives of the Soviet Union.

The Cuba of today, ruled with the iron fist of Castro's totalitarian clique, represents none of the basic liberties inherent in the human aspirations of its freedom-loving inhabitants. Instead it has become a country enslaved to the imperialistic designs of a land far across the ocean. Therefore, in view of the valiant efforts of this group committed to the restoration of the human dignity and freedom of their brothers and sisters, may I call to the attention of our colleagues the full text of the Declaration of Freedom:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

In view of the aforegoing, we declare.

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slave, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from Communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23d day of January, 1966.

COLONEL WIKOFF PASSES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. SKELTON. Mr. Speaker, it is a sad duty for me to announce the death of Col. Lester Bascom Wikoff, former superintendent at Wentworth Military Academy in Lexington, Mo. I do so with a great sense of personal loss.

Colonel Wikoff's long career at Wentworth Military Academy began in 1915. He began as a coach and instructor before his career there ended in 1971, he left his imprint on every facet of academy life. Colonel Wikoff was a part of Wentworth Academy's glorious tradition. He was one of the key figures in the academy's development during this century into one of the country's finest military schools.

I was a high school student at Wentworth and later attended junior college there. During those years, I was impressed by Colonel Wikoff's integrity, his sense of duty, and his concern for the young people under his command. He set an example that all of us strove to emulate. I think that the rollcall of distinguished graduates of Wentworth Academy, in both the military and private sectors, bears tribute to the sort of leadership he displayed.

Colonel Wikoff was also an active participant in the community life of Lexington. He was past president of the Lexington Chamber of Commerce, a former district governor of Rotary International, district chairman of the Boy Scouts of America, and chairman of the 110th anniversary of Lexington celebration.

He is survived by his wife, Margaret, two sons, James Lester and Kent Franklin, and five grandchildren.

NADER ATTACKS BOB LIVINGSTON

Hon. Robert L. "Bob" Livingston

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. LIVINGSTON. Mr. Speaker, I would like to place in the record two columns from the New Orleans Times-Picayune. The columns, by Jim Gillis, are self-explanatory.

[From the New Orleans Times-Picayune, Jan. 14, 1978]

NADER ATTACKS BOB LIVINGSTON

(By James H. Gillis)

Ralph Nader has taken out after New Orleans' United States Rep. Robert L. Livingston Jr. of Louisiana's first Congressional District.

"In his half-year in the House, Rep. Livingston established a record as the only representative in 1977 never to support consumers," Nader says. "He has 1978 to avoid the title of the zero congressman."

Nader's remarks are quoted in a news release circulated by Public Citizen, an organization identified by the release as "a public interest group established by Ralph Nader which litigates, researches and participates before federal agencies, courts and the Congress on behalf of citizen interests and fosters citizen action and education in communities across the United States."

The release reports that "Rep. Livingston voted in the interests of consumers in zero of the 11 key votes he was present for during the first session of the 95th Congress, according to a survey released by Public Citizen.

"The votes selected for the survey were for key roll calls in 1977 on consumer protection, government reform, oil and gas policy, atomic power, tax reform, ecology and wasteful government subsidy issues."

The release adds that "Bob Livingston opposed bills providing for greater citizen access to courts through class action suits and opposed the phasing out of the dangerous Clinch River breeder reactor. He also opposes the most important consumer legislation of the decade—the establishment of an independent consumer advocacy office."

While the New Orleans Republican last year had the poorest record pertaining to consumer interests (by the standards set by Nader and Public Citizen) of any member

of the House, none of the present Louisiana members of House or Senate had a voting record which scored very high with Nader and Public Citizen in 1977.

In its 1977 congressional voting index pamphlet Public Citizen grades the consumer performances of every member of both the Senate and the House.

Public Citizen explains that there are "four measures which in our view are litmus tests of a member's devotion to consumer concerns.

"If votes were to be weighted according to their significance, we would highlight legislation creating an office of consumer representation (OCR); creating a bank for consumer cooperatives, (not) deregulating natural gas rates, which would cost consumers an estimated additional $70 billion by 1985; and (not) overruling the Transportation Department's 'passive restraint standard' because when the reactionary abstractions are stripped away, either you support an efficient life-saving technology or you support 9,000 easily avoidable auto fatalities a year."

However, the rating system used by Public Citizen only grades members of Congress on the basis of the number of times votes are cast for or against what it regards as consumer interests on congressional roll calls, rather than on the importance of each vote.

For 1977 Public Citizen listed 40 such roll calls in the House. They included roll calls pertaining to consumer protection, six governmental reform, seven; oil and gas, 12; nuclear and alternative energy, two; tax reform, six; ecology, four; and waste and government subsidy, three.

Livingston was recorded as voting on 11 such roll calls, always against what Public Citizen defined as consumer interests.

However, no member of either house from Louisiana had a public interest rating of as high as 50 percent. New Orleans Rep. Lindy Boggs of the Second District scored highest for Louisiana House and Senate members with 40 percent. On 16 of 40 roll calls she was listed as favorable to consumers.

Metaire Rep. David C. Treen of the Third District, one of Livingston's two Republican House colleagues from Louisiana, had a score of 10 percent, with only four votes defined as pro-consumer.

Baton Rouge's Rep. W. Henson Moore of the Sixth District, the third Republican, scored 15 percent.

The scores of the other four Louisiana House members were John B. Breaux of the Seventh District, 10 percent; Gills W. Long of the Eighth District, 28 percent; Jerry Huckaby of the Fifth District, 13 percent; and Joe D. Waggoner Jr. of the Fourth District, three percent.

In the Senate, on 24 roll calls, Sen. J. Bennett Johnston Jr. had a score of 25 percent, while Sen. Russell B. Long, Louisiana's senior solon graded only 15 percent.

The member of Louisiana's congressional delegation who was given the highest consumer score for 1977 was Livingston's immediate predecessor in the First District, former Rep. Richard A. Tonry, who had a grade of 67 percent.

However, Tonry voted on only three consumer roll calls, on two of which he was listed on the consumers' side, before he resigned his House seat, later to plead guilty to violation of the election campaign finance law, for which he currently is serving a federal prison term. Even being preponderantly on the side of the angels in Nader's eyes could not keep Tonry out of jail.

Nevertheless, present and future congressman should take note that to be opposed to natural gas price regulation or to air safety bags in automobiles is to be denied admission to Ralph Nader's Consumer Heaven, even if they have remained outside of earthly incarceration.

[From the New Orleans Times-Picayune, Jan. 12, 1978]

BOB LIVINGSTON ANSWERS NADER

(By James H. Gillis)

New Orleans' Rep. Robert L. Livingston of the First Congressional District maintains that he has more concern for the nation's consumers than does Ralph Nader.

It is up to the people to decide whether he or Nader is right, the young Republican said in reply to Nader's contention that Livingston had the worst record of any member of the Congress in 1977 as far as consumers were concerned.

"The self-anointed czar of consumerism Ralph Nader has seen fit to release an inflammatory, if poorly reasoned, attack on the voting record I have compiled in the latter three months of the 1977 session of Congress," Livingston said in a statement responding to Nader's assertion that on 11 roll calls affecting consumers Livingston voted against consumers' interest every time.

"Nader has singled me out to be branded an enemy of the people, notwithstanding the fact that none of my present colleagues in the Louisiana delegation scored better than 40 percent on his list of priorities. Each of the House members was scored on 40 votes throughout the year of 1977, while of course, my own record started with my oath of office on Sept. 7, 1977.

"The fact of the matter is that many of the issues judged by Nader as being 'in the interest of the consumer' couldn't be further from that purpose. Over the years, increased federal regulation has added to the cost of goods sold throughout the country, has fueled the fires of inflation, and has led to shortages of many goods sold.

"The poor and the elderly, the people on fixed incomes, are least able to keep up with the resultant rise in the cost of living. Where, then, is Nader's concern for the consumer?

"The rising number of federal agencies required to implement and police these regulations has tremendously added to the burden on the American taxpayer. We are rapidly approaching the point where the average American taxpayer will pay 50 cents out of every dollar earned in taxes in one form or another. Social security taxes will be tripling over 10 years.

"The proposed energy package would seek to force Americans to consume less energy through greatly increased taxes, but where is Nader? In favor of such a policy!

"Throughout my campaign and since I've been in Congress, I have condemned increased govermental interference in our lives through increased government regulation and taxation. That position was evidently what the voters felt was in their best interest when they elected me.

"None of us should be misguided by what Ralph Nader calls 'reform' or 'consumer interest.' For example, continued regulation of the oil and gas industry is diametrically contrary to the needs of the U.S. cities and the people of Louisiana, since it destroys incentive to produce needed energy resources which ultimately could solve the energy crisis. Yet Nader supports continued regulation. I do not.

"This nation has sent people to the moon and can divert its technological know-how to creating peaceful uses of nuclear energy. The net result would be cheaper utilities for the American consumer, yet Nader is against such development, while I am for it.

"The consumer agency Nader wants to head up would add hundreds, and maybe thousands of people to the government payroll at questionable benefit to American citizens. The cost to the taxpayer would be an overwhelming increase in taxes, yet Nader supports it and I don't.

"A bill was defeated by Congress which would have allowed every law school graduate to file a lawsuit against a business on behalf of any unidentified class of people, without their permission or knowledge and without penalty if he lost.

"The result would be a large number of lawsuits at a tremendous additional cost to the consumer, since the cost would be passed on to the consumer by the businessman. Nader supported the bill and I opposed it.

"Air bags went on the market for consumers a couple of years ago, but were pulled off when nobody bought them. Tests are inconclusive as to their potential benefit, but, in the name of the consumer, Ralph Nader says you MUST pay an extra $300–$500 for a new car and must take air bags whether you want them or not. I believe such a choice should be left to the individual."

Livingston added that: "On tax reform, the entire district must know by now that I have supported a 30 percent across-the-board tax cut for all working citizens. Mr. Nader evidently believes that working people should pay more, not less, taxes.

"Bob Livingston gets a zero in Nader's book, but Nader doesn't rate very high in Livingston's book. It's for the people to decide who is right. Do we really want government calling all the shots for us at our expense? If so, I'm in the wrong business."

RECENT DEVELOPMENTS IN SOUTH KOREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. FRASER. Mr. Speaker, during the holiday recess, a significant event took place in South Korea that I think should be brought to the attention of my colleagues. In the last week of December 1977, the Korean Government released 6 more of the 18 prominent South Koreans who were imprisoned following their signing of the March 1, 1976, declaration.

On March 1, 1976, 18 South Koreans, mostly professors, priests, and former Government officials, signed a declaration calling for the return of democracy in their country. They were arrested and given sentences ranging from 2 to 8 years, including suspension of citizenship ranging also from 2 to 8 years. With the help of international concern for their situation, most of the 18 were released throughout 1977, some conditionally.

The December 1977, release of the 6 leaves only 1 of the 18 still imprisoned: Kim Dae Jung, the popular Democrat who challenged President Park during the 1971 elections in South Korea. Kim, who has been critically ill, was moved to a hospital a few days before the release of the remaining six. Kim is reported to have protested his being moved to a hospital, saying he would prefer staying in prison rather than be under the care of Government doctors.

I think my colleagues should note this recent release as a positive step in the right direction by the Park government. It should be hoped that further substantial moves will be made by the Park regime toward a stronger respect for hu-

man rights to which the South Korean people, as any people, are entitled.

I would also call on my colleagues to join me in expressing very deep concern for the health of Kim Dae Jung and in urging his immediate release from jail.

NEW EVIDENCE ON GAS SUPPLIES

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. BROWN of Ohio. Mr. Speaker, as the energy bill negotiations go down to the wire, a fascinating Associated Press article has appeared which blows away the energy crisis atmosphere being manufactured by the administration. The article, which was in the Washington Post on January 22, is entitled "Geothermal Zone's Gas Exceeds Expectations."

To test the potential of geopressured gas reserves—gas dissolved under pressure in hot brine beneath the Gulf Coast —scientists took over a dead gas well in Louisiana, "tapped into the zone, and began bringing up hot salty water so full of dissolved methane gas, it fizzled like soda pop." The scientists expected to find only 37 cubic feet of gas dissolved in each barrel of water. Instead, they found amounts ranging from 40 to 88 cubic feet.

Those who have followed the drama surrounding the suppressed energy reports of ERDA's Market Oriented Program Planning Study (MOPPS) last spring will remember the furor which developed over the MOPPS I report. This report found so much natural gas available from conventional and nonconventional sources at reasonable prices that it severely weakened the case for energy taxes and price controls, and was therefore a threat to the energy bill. A substitute report, MOPPS II, managed to lose much of this gas. However, a third effort was made at a meeting at the U.S. Geologic Survey. Even lower estimates were arrived at, over the opposition of many of the geologists present.

This opposition was especially intense regarding what is by far the largest potential source of gas, the geopressured methane off the gulf coast. While most sources are measured in hundreds of trillion cubic feet, geopressured methane reserves are estimated at between 20,000 and 50,000 Tcf. Even if only 10 percent of this gas is recoverable, it represents a 100- to 250-year supply of natural gas at current rates of consumption.

The data from the test well tends to support the MOPPS I geologists and casts further doubt on the administration's claims.

The truth is, we do not need price controls. We do not need $30 billion in energy taxes. We do not need to lose several hundred thousand jobs, or to forego productivity and wage increases of as much as $1,000 per worker per year by the mid-1980's. We do need to get busy producing the energy we need to hire the unemployed, raise our incomes, and modernize our econmoy for the sake of our children.

I ask that this article be printed in the RECORD.

[From the Washington Post, Jan. 22, 1978]

GEOTHERMAL ZONE'S GAS EXCEEDS EXPECTATIONS

(By Bill Crider)

NEW ORLEANS, January 21.—An effort to tap a potentially enormous new source of natural gas along the Gulf Coast came up a lot richer than expected—and no one is quite sure why.

"People were waiting around to see what we found; from now on, it will be like a snowball rolling," said O. C. Karkalits, dean of the School of Engineering and Technology at McNeese University.

The experiment, still under analysis, involves the Gulf geothermal zone—a 100-mile-wide underground formation extending from New Orleans to Brownsville, Texas.

A project headed by Karkalits took over a dead gas well in Tigre Bayou near Delcambre, La., last summer, tapped into the zone, and began bringing up hot salty water so full of dissolved methane gas it fizzed like soda pop.

Scientists expected to find a maximum of 37 cubic feet of natural gas dissolved into each barrel of water by the zone's 11,000-pound-per-square-inch pressure.

"Much to our surprise, the gas we gathered ranged from 40 to 70 cubic feet per barrel," said Karkalits. "Actually, it got as high as 87 or 88 cubic feet."

To try to figure out what was happening, they recombined gas and salt water at the McNeese laboratory in Lake Charles, La., under reservoir conditions—238 degrees Fahrenheit heat and 11,000 pounds of pressure.

Karkalits said the water was saturated after 24 cubic feet of gas was dissolved into it. No more than that could be compressed into the water. So where was all that extra gas coming from?

"My theory is that there are little bubbles of gas in the water that couldn't get into solution after the water became saturated," said Karkalits. "When the water came up, the bubbles came out. But the theory is too new to be completely accepted."

Will Osborne of Bryan, Texas, senior partner of the engineering firm of Osborne, Hodges, Roberts and Weiland, said more experimental projects must be undertaken before the theory is proven.

The firm handled operations at the 13,000-foot-deep experimental well.

"We don't think so, but there is a possibility we had a little gas cap down there, or there could have been leakage somewhere up the casing from some other reservoir," he said. "We limit ourselves to cautious optimism."

Oil men long have known that the geothermal belt, a dangerous hazard to early drillers, was gaseous. However, it never seemed worthwhile to find a way to get the gas out—not until shortages began forcing gas prices up.

Researchers are fascinated by the geothermal zone because, theoretically, the Gulf zone and another one located in California could feed energy-hungry America for generations.

Oil men call that "pie in the sky."

As a measure of the potential, a U.S. Geological Survey study estimated the Gulf zone contains 24,000 quads of methane gas within normal drilling range.

A "quad" is the equivalent of one quadrillion British thermal units of heat, or roughly the energy in a trillion cubic feet of natural gas, 170 million barrels of oil, 50 million tons of coal.

THE PROPOSED PANAMA CANAL TREATIES

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. MURPHY of New York. Mr. Speaker, the Panama Canal treaties have been thrust upon the American people with undue haste. My position does not exclude a new treaty with Panama, but demands one which would protect the rights of both American and Panamanian citizens, one in which we could both work as partners to our mutual benefit. I submit that the treaties which have been presented for ratification to the Senate are not adequate in any of these respects.

An analysis of the proposed treaties reveals some very fundamental and fatal weaknesses. The treaties do not contain adequate guarantees for canal availability in the interest of U.S. national security. They do not guarantee preferential transit by U.S. warships in time of war, nor would they restrict vessels of enemies of the United States from using the canal during wartime. They do not guarantee any continued economic success for the canal, but rather jeopardize its viability as a balanced economic entity.

Many glaring defects of the proposed treaties have not been discussed because of the inordinate attention paid to the many inaccurate, misleading statements made by treaty proponents regarding the value of the Panamal Canal, the probability for interruption of canal operations, and the alleged attitudes of our Latin American friends toward the canal issues.

Moreover, the constitutional prerogatives of the House have been threatened. I point out the attempt by the Executive to transfer billions of dollars of U.S. property and territory by treaty alone. Bypassing the U.S. House of Representatives is an action which violates article IV, section 3, clause 2 of the Constitution and must, therefore, be thwarted.

It is now apparent that, in total disregard of article I, section 9, clause 7 of the Constitution, there will also be an attempt to disregard House prerogatives in the matter of necessary appropriations to execute the provisions of the treaty arrangement relating to payments to Panama.

However important the administration considers the canal treaties to be, a trampling upon the basic principles established 200 years ago in the U.S. Constitution can not be justified. The Members of Congress are trustees for the preservation of the powers of Congress and must continue to exercise diligence to protect and preserve the basic principles which comprise the separation of powers in our Government. The prerogatives of the House must be protected.

I would also like to point out for the consideration of my colleagues the military and commercial facts which unmistakably underline the continuing importance of the Panama Canal and Canal

Zone to the United States. First let us consider the canal's military value: the United States lack of assets to make up a true two-ocean Navy at a time when the United States has commitments in virtually every ocean and sea of the world makes the canal's availability for transit extremely important. A second fact which has been continuously ignored by treaty proponents is that 97 percent of our naval fleet can transit the canal. The other 3 percent was generally designed and built with no intention of them ever transiting from one ocean to the other. The future trend in naval ship design is toward smaller and faster vessels.

Historically, the canal has been a major resource in virtually every hostility since its opening in 1914—World War I, World War II, Korea, the Cuba Missile Crisis, and Vietnam. Located within the Canal Zone are: the only major ship repair facility within 1,600 miles of United States ports on the Atlantic side and 2,500 on the Pacific side; the only U.S. controlled air base within 1,000 miles of the United States; a military and communications crossroads for the Western Hemisphere; and the only existing trans-Isthmian pipeline for ship bunker oil and aviation fuel. Finally, the lack of adequate west coast port facilities for the loading of supplies and ammunition makes the canal crucial to any U.S. military contingency in the Pacific theater.

Commercially, the Panama Canal is of vital interest to the United States because two-thirds of those vessels transiting have a port in the United States as a point of origin or destination. Furthermore, assuming no exorbitant tolls increases, the Maritime Administration estimates that by the year 2000 U.S. exports through the canal will have doubled. The percentage of the total dollar value of U.S. foreign trade transiting the Panama Canal has steadily increased in the past and is expected to continue growing in the future. Even more striking is the fact that 70 percent of all the cargo which has transited the canal has done so in the last 25 years. Lastly, the commercial value of the canal to the United States is proven by the fact that 96 percent of the U.S. merchant fleet and 92 percent of the world's merchant fleet can transit the canal today.

Next, I would like to address the contention that the operation of the Panama Canal would be impaired should these proposed treaties be rejected. The argument has been made that the Panama Canal is vulnerable. But if the canal is vulnerable, so are hundreds of public works in the United States, and so is the U.S. Capitol, but we would scarcely consider this reason to negotiate over their futures. It should be noted that the Panama Canal is a durable concrete structure which was reinforced during World War II to protect its vital operations center from attack by air, sea, or land by the forces of the Axis Powers. It has been successfully protected during two World Wars, Korea and Vietnam. U.S. military officials charged with protection and defense of the canal have affirmed that the canal can be defended.

Proponents of the treaties have asserted that there is a need for a treaty relationship which would make Panama a partner in the canal defense. I agree wholeheartedly, but I point out to my colleagues that under article 10 of the 1936 treaty, both Panama and the United States are committed to respond to any danger to the canal by taking, and I quote,

such measures of prevention and defense as they may consider necessary for the protection of their common interest.

Furthermore, it is to the economic interest of every Panamanian that the continuous operation of the Panama Canal be insured whether or not there is a new treaty arrangement. Last and above all, I would like to stress that it is demeaning for our own treaty negotiators to have prompted the treaty approval under threats of violence. Selling the proposed treaties on the basis of threats of violence would be a disastrous precedent for the United States conduct of its own international relations. The United States must decide this matter on the basis of whether the proposed agreements are in the best interests of the United States and Panama, not on the basis of intimidation.

The attitude of our Latin American neighbors is one element of debate on the canal treaties with which proponents have dealt in a simplistic and inaccurate fashion. It is stated that all of Latin America wants a new canal treaty relationship, and that the canal issue unites all of Latin America. What goes unsaid by proponents is the fact that Panama has sought but failed to receive the kind of ironclad Latin support she has desired; that Latin American countries have sponsored several initiatives—such as the 1977 Organization of American States resolution asking that canal tolls cover only operating costs—which run directly opposite the thrust of the proposed treaties; that each Latin country has its own set of demands on the United States but all generally will make common cause to support each other's list of demands; and that despite the publicity given to the canal issue, few Latin nations will take strong steps if the treaties are rejected.

We are given the impression that the radical left in Latin America is against the canal treaties, and that these proposed treaties appeal to the mainstream of Latin American political thought. The Communist Party of Panama is not against the proposed treaties, but rather supports ratification, as do the Communist Party, U.S.A., and other Communist groups around the world. The record of debate should reflect this.

In bringing forward these points, the overriding principle to which we must adhere is that the United States will define its own foreign policy interests and proceed to protect them. The United States cannot allow the threats of a dictator of a small country, or any country, to determine our policy.

In closing, I would like to state that as former chairman of the Panama Canal Subcommittee and as chairman of its parent Committee on Merchant Marine and Fisheries, I appreciate the need for a new treaty. I urge that the Congress of the United States—and by this, I mean both Houses—be consulted and fully informed of the facts regarding what is being given up and what is being gained. Unfortunately, a comprehensive and fair accounting of all the facts has not been presented to this date.

THE 95TH CONGRESS: INDEPENDENT AND MODERATE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for January 4, 1978, into the CONGRESSIONAL RECORD:

THE 95TH CONGRESS: INDEPENDENT AND MODERATE

The first session of the 95th Congress did not run according to form.

In January of this year it was pegged to be a liberal, free-spending Congress, passing one new social program after another, and working harmoniously and easily with a new President, whose views it shared. Large Democratic majorities in both the House and Senate were expected to assure a smooth legislative session, marked by amity and unity and a prodigious production of new legislation. Congress was also expected to accept the recommendations of the new President and to give him everything he had promised the people in his campaign.

But it did not happen that way. Instead the Congress has been surprisingly moderate. There has been no tide of new spending programs. The Congress has had a rocky relationship with the President, often rejecting his proposals and going its own way. He succeeded in getting a few of the big items he sought, but on many other projects, like energy, he will have to wait. A number of his other proposals have been defeated or put on the shelf, including his proposals for common situs picketing, the consumer protection agency, the public financing of congressional campaigns, and nation-wide election day voter registration. His proposal for social security financing was largely rewritten in the Congress. Far from working harmoniously, the Congress has had internal dissensions, including some intense and protracted disputes between the House and the Senate over federal funding of abortions for poor women, the B–1 bomber, and energy.

The factors which operated to put the Congress on its independent and moderate course are worth examining because they tell us a lot about the government and its problems.

During his first year in office the President was learning to work with the Congress. He made a few mistakes, as he readily admits, and he did not show strong presidential leadership in advancing his legislative programs. Most Congressmen ran ahead of the President, felt no sense of political obligation to him, and had little reason to follow his leadership. Many Congressmen resented

the lack of consultation on legislation or patronage. Even so, the President's record was adequate, if not spectacular, and although he has had his bumps in his first year, he seems to be sharpening his skills with Congress. Nevertheless, Congress, controlled by Democrats, defied a Democratic President on issue after issue during 1977.

The erosion of presidential political power and the assertion of the Congress, begun in the Nixon years, has continued, making the President's leadership role more difficult. The Congress, with new and forceful leadership, has confidence in its judgment and is less willing to accept the lead of a President. An influx of aggressive younger Congressmen with broader interests than their predecessors and impatient to have an impact on policy, have also made the Congress less accepting of presidential leadership.

The exceedingly complex issues before the Congress, which defied easy solutions, contributed to the record of the Congress, too. The lack of a national consensus in the country on several of the key issues made a resolution of the problems more difficult in the Congress.

A significant factor in the independent and moderate record of the Congress was a shift of mood in the country toward the political right. Congressmen, many of whom are keen judges of the prevailing political winds, detected that their constituents were in no mood for new social programs, bigger government and bureaucratic solutions. Taking advantage of this shift, lobbyists mounted strong campaigns against such proposals. The lobbyists were assisted by voters who took much more interest in the work of the Congress than in previous years. By and large the voter simply did not rally behind new proposals.

The session repeatedly showed the diminishing power of political parties to command loyalty from their members. This was especially true in the Democratic party which had large majorities of the Congress. Many bills, like instant voter registration and consumer protection, were scrapped without a vote after the leadership determined there just were not enough votes to pass them. Although loyal members of a political party, Congressmen trusted their own political judgments about the dominant attitudes of the voters in their states or districts. They detected a general climate of increased skepticism about government's ability to improve many national situations.

Finally, judgments about the Congress after its first session should be tentative. The natural inclination of a legislative body is to postpone tough issues, and this Congress did just that with welfare reform, Panama Canal treaties, and other issues. A final evaluation of the 95th Congress will have to await the events of 1978.

SMALL BUSINESSES WORKING ON ENERGY PROBLEM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. SKELTON. Mr. Speaker, small businesses are working on the energy problem, and I attach a letter from a fellow Missourian concerning this matter:

DECEMBER 16, 1977.

Hon. IKE SKELTON
House Office Building, Washington, D.C.

DEAR CONGRESSMAN SKELETON: Not all energy saving devices are developed by the corporate conglomerates of industry. Recent studies have shown that individual inventors and entrepreneurs in small companies furnish a disproportionately large share of the really significant developments in energy conservation.

As our State Senator you always evidenced such a sincere concern for small business that I know you will be interested in an outstanding example of Missouri ingenuity here in Linn County. A new louver/damper has been developed by R. David Moore, President of the Moore Co., a small independent company in Marceline, Mo. This device is so aerodynamically efficient that it uses less than one fourth the energy of comparable louvers and costs less.

The Moore Co. has been making fans for the past thirty nine years. Before you get a mental picture of a small household fan, let me hasten to explain that the smallest fan they make is four feet in diameter and the largest measures thirty-two feet from blade tip to blade tip. Their fans are used primarily in the petro-chemical and power generation fields and nearly two-thirds of their production is exported around the world.

Using stressed skin structural techniques, as in the manufacture of their fans, and applying the latest in aerodynamic research, they have managed to produce the ultimate in streamlined adjustable louver/dampers at an unbelieveably low price per square foot.

By far the greatest cost in manufacturing aluminum louver/dampers is, in the cost of aluminum itself. Because of this, Moore designed a hollow, roll-formed, welded, airfoil blade using only two-thirds the aluminum of conventional extruded blades.

The aluminum extruders wouldn't touch his idea! The experts on roll-forming said it couldn't be done! The welding people said the required speed (one foot per second) was to great. David Moore simply gathered around him some competent engineers and practical Missouri craftsmen and designed and built a production line from scratch to accomplish the "impossible." Firm believers in the adage of the inventor Thomas Edison, "Genius is one percent inspiration and ninety-nine percent perspiration", their hard work and long hours may well revolutionize the louver/damper industry.

The Moore blade evolved into a relatively thick air-foil with a thin skin. Strong, stiff and resistant to torsion and bending, it has minimum weight. Two inches thick and eight inches from nose to tail it attained the desired mechanical rigidity but the blade thickness required to do so caused the air flow to suffer. Extensive series of wind tunnel tests did not solve the problem until Moore remembered some old work done in the early 1900's by L. Prandtl, pioneer in aerodynamics. Modifications, which are still secret due to patent limitations, decreased air resistance by as much as two-thirds and decreased the energy required by the same amount. This was done with minimum expense while retaining the thicker blade, thinner material, and lower cost.

Scientific research and design has produced a superior louver/damper. It has less than one-fourth the resistance to bending and fifty times the resistance to torsion (important in sealing and in avoiding vibration) of any other comparable blade.

The Moore concept couldn't have been developed at a better time, National focus on Energy conservation has called attention to the fact that the air is not free because it costs money to get it where we want it. Probably Moore's greatest selling point for his new product is its savings in energy. At a cost of 4 cents per kilowatt-hour and a 50 percent efficient fan-motor combination and a face velocity of only 1000 feet per minute, the Moore louver/damper can pay for itself in less than 3 years in savings on the electric bill alone. At higher air velocities, such as the 4000 feet per minute commonly used in large buildings it will pay for itself in under a month! When faced with an invitation to oblivion or energy conservation man will demand this kind of creative design. We must, it seems, have incentive even for our own survival.

Sincerely,

HARRY PORTER.

KENTUCKY VOTING RECORD—ONE OF THE NATION'S BEST

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. MAZZOLI. Mr. Speaker, the citizens of Kentucky were well served by the hard work of their House delegation in 1977.

By being present for 95 percent of all record votes in the House, my colleagues and I gave the taxpayers back home a solid "day's work for a dollar earned." Only one State with a sizable delegation, Virginia, had a better attendance record than our State.

And, with all due respect to our colleagues from Virginia, their proximity to the Capitol is not exactly a detriment to their maintaining a good voting attendance.

I am particularly pleased the Christian Science Monitor article featured Congressman BILL NATCHER'S remarkable record of 6,091 consecutive votes without a miss. BILL and our delegation's dean, Chairman PERKINS, have given unstintingly of themselves over the years. It is an honor to serve in Congress with these distinguished gentlemen and with all my colleagues from the greatest State in the Union, the Commonwealth of Kentucky.

Following is an article from the Christian Science Monitor of January 18, 1978:

CONGRESSIONAL VOTING RECORD IMPROVES IN 1977

(By Congressional Quarterly)

WASHINGTON.—Absenteeism was down in Congress during 1977, as it usually is when members don't have to campaign for reelection.

The average member participated in 90 percent of the votes taken last year, only one point below the 91 percent record level of 1975, according to Congressional Quarterly's annual survey of voting participation.

The 1977 figure compares with 86 percent for 1976, an election year.

Attendance was up even though Congress's vote workload was almost as heavy as it was in 1976. The Senate and House combined took 1,341 votes last year, only eight fewer than the 1976 record high.

Since Congress doesn't keep attendance records, voting participation scores provide

the closest thing to them. But they are only an approximation, because a member may be present and choose not to vote.

In general, House members had a better attendance record than senators. And House Republicans took part in voting slightly more often than House Democrats.

Only one Senator—Democrat William Proxmire of Wisconsin—answered every one of the 635 votes taken during the year. Mr. Proxmire extended a string of consecutive votes that began in 1966, when he last missed one, and reached a Senate total of 5,481 votes by the end of 1977.

HOW THEY VOTED

Democratic Sens. James B. Allen of Alabama and John Glenn of Ohio scored 99 percent, as did Republican Richard S. Schweiker of Pennsylvania.

Majority Leader Robert C. Byrd of West Virginia and five other Democratic senators voted 98 percent of the time (including Harry F. Byrd Jr. of Virginia, an independent who caucuses with the Democrats).

Freshman Sen. Richard G. Lugar of Indiana also scored 98. Five other Republican senators scored 95 to 97 percent.

There were eight perfect scores in the House in 1977, recorded by Democrats Charles E. Bennett of Florida, Phil Sharp of Indiana, William H. Natcher of Kentucky, Marilyn Lloyd of Tennessee, and Republicans Robert J. Lagomarsino of California, Charles E. Grassley of Iowa, W. Henson Moore of Louisiana and Ralph S. Regula of Ohio.

Kentucky's Natcher has not missed a vote since coming to Congress in 1954. He has voted a record 6,091 consecutive times.

Only three House members, and no senators, voted less than 50 percent of the time in 1977. Seventeen members were in this category in 1976.

Illness and off-year election campaigns contributed to the absences of some of the members with the lowest attendance records.

Scoring lowest were Democratic Reps. Olin E. Teague of Texas, 18 percent; John H. Dent of Pennsylvania, 26; and Edward I. Koch of New York, 36.

Mr. Teague and Mr. Dent had severe health problems during the year and Mr. Koch was busy in his successful campaign for election as Mayor of New York City.

LOWEST SCORES

The lowest Republican score in the House was 63 percent, recorded by Stewart B. McKinney of Connecticut.

Democrat Hubert H. Humphrey of Minnesota, hospitalized for cancer during much of the session, had the lowest Senate voting score, 50 percent.

The lowest voting percentage for Republican senators was 66 percent, scored by Barry Goldwater of Arizona and Robert P. Griffin of Michigan.

The average representative voted 91 percent of the time in 1977, the average senator 88.

House Republicans voted 91 percent of the time, Democrats 90. In the Senate, each party scored 88 percent.

In the House, Southern Republicans led members from all regions, with a 94 percent participation score. In the Senate, Eastern Democrats had the highest score—91 percent.

The Senate delegations having the highest voting participation scores were Ohio, 99 percent; Wisconsin, 97; Indiana, 96, Nebraska, 96, Pennsylvania, 96, Florida, 95; Missouri, 95; and West Virginia, 95.

In the House, the highest-scoring delegations with two or more members were Virginia, 97 percent; Maine, 96; Kentucky, 95; Nebraska, 95; and Oklahoma, 95.

COUNTING THE UNEMPLOYED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following William Randolph Hearst, Jr. editor's report: "Counting the Unemployed":

COUNTING THE UNEMPLOYED

NEW YORK.—The rate of unemployment in the nation—always a disputable figure because of the way it is compiled—now seems to be at its lowest level in three years. This is highly encouraging news, but it is especially cheering to the Carter administration which has come under increasing criticism for its economic ineptitude.

To recount those "good news" figures: The Bureau of Labor Statistics reports that the rate of unemployment fell from 6.9 percent of the nation's work force in November to 6.4 percent in December. This was revealed in the BLS's regular monthly announcement on the employment statistics.

On an annual basis, unemployment averaged 7 percent for 1977 compared to 7.7 percent in 1976.

This has led the experts to forecast that if the economy continues to grow at anything like its present rate, the unemployment figure may hit 6 percent by the time this year is out. This should be so, they say, even though the Department of Commerce economists say the 1978 growth rate will be about 5 percent, down from the 5¾ percent of 1977.

The welcome news that more people are able to find work came as a result of revisions made in the figures handled by the BLS. All fine and good.

The BLS says it made routine revisions in its employment figures to strip out confusing seasonal factors—for instance, the increase in retail employees at Christmastime and the jump in farm workers during harvest. This jiggling of the basic figures showed not only the larger-than-usual drop in unemployment in December, but suggests—says the BLS—that the rates quoted to us all during 1977 were too high. Fewer people have been unemployed than the government maintained.

To begin with, the career employees of the Bureau of Labor Statistics may be suspected of having "traditional" economic opinions that are shared by organized labor. Labor is a big believer in federal pump-priming techniques to ease unemployment. Therefore, when the unemployment rate is emphasized, our lawmakers and leaders tend to think about spending programs

I'm not saying that anyone has deliberately distorted the figures. I merely point out that there are pliable methods of compilation, and of adjusting the input of information.

There are some bare-bone figures that cause one to wonder about the entire reporting procedure. For example, in the 10 years from January 1, 1967 to January 1, 1977, the nation's population increased 10 percent while employment soared by 21 percent. How come, then, the increase in unemployment? The two facts don't jibe.

Actually, employment in the U.S. is at an all-time high of nearly 92.6 million, having posted a whopping increase of 4.3 million new jobs last year alone—almost all of them in private sector. The government, itself has done little about stimulating new employment.

I am no economist, but then, neither is a computer and I believe that's where our trouble lies.

The BLS surveys 47,000 households monthly and the findings of this poll become statistical truths for hundreds of so-called experts with their computers, graphs and projections. If a home were surveyed in which there were four residents, all of whom had worked at some time but only one of which was working at the time of the survey it would show a household with 75 percent unemployed.

The facts might be that the wife who had worked has gone back to taking care of her home and the two kids had come back to school or college from their summer jobs leaving only good old Dad still working. Thus the information fed to the computer would be warped: accurate, in one way, yet inaccurate in another.

Back last May, my long-time valued and wise friend and co-worker Charles Gould dropped me a memo in which he said: "If Mr. Carter is as clever as I think he is, he will soon shake up the statisticians in the Labor Department and start accentuating the positive. There's much to accentuate."

Thus I was less than surprised to read just before Christmas that Washington officials had made plans to make changes in three of the most widely watched economic barometers—the consumer price index, the wholesale price index and the unemployment rate.

This kind of manipulating can affect the pocketbooks of millions. Hundreds of labor contracts—including Social Security payments and Civil Service salary scales—are tied to the price indices. Change the measuring system and you change the payout.

Any good statistician knows that the unemployment figures can be used for all kinds of fun and games, either with an old-fashioned slide rule or a computer. For example, using the current survey method and current findings, our national unemployment rate could be clocked in at 1.9 percent if we only counted those persons out of work for 15 weeks or longer.

However, we use a much broader approach, resulting in us showing an unemployment rate ranging from over 7 percent down to its current 6.4 percent. About one million of this number are teen-agers who have never worked. Another million are housewives who gave up work to raise families and now want to get back into the work force. There are hundreds of thousands of retired persons who find it practical and profitable to get some kind of work, so they become job-seekers. And how many are there who just quit work because they prefer to loaf while still collecting income from a union, unemployment insurance, welfare, food stamps, etc.?

The raw figures show that less than 2½ million of those who are currently unemployed were actually dismissed from their last jobs. Of these, more than one million have been out of work less than a month.

The point I want to make is that I long mistrusted these government figures. If Mr. Carter juggles his measuring systems properly, he can have unemployment going down and consumer prices and wholesale prices stabilizing.

And there's no one to cry "tilt."

Someone once said, "He who controls the minutes of board meetings controls the corporation." To this might be added: "He who controls our national economic indices controls a piece of history."

MODERNIZATION OF COLORADO AIR NATIONAL GUARD WITH VOUGHT A–7D ATTACK BOMBERS

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. ARMSTRONG. Mr. Speaker, recently, the Denver Post carried an interesting article by Marice Doll reporting the modernization of the Colorado National Guard with A–7D attack bombers.

This is, indeed, good news. The modernization of Colorado's Air National Guard has been due for all too long a time. For too many years they have had to wait for modern high performance aircraft that permit our national security to benefit from the experience and expertise of Colorado's outstanding Air National Guard.

As the article points out, the A–7D is a fine aircraft. It has long range, a truly remarkable electronics system for navigation and bombing, carries a heavy and versatile weapons load, and has a 6,000 shot-per-minute machinegun. It is an attack bomber and it is also highly effective when used in close support of ground troops. I am personally glad to see the Colorado Air National Guard receive the A–7D, which is considered by many to be one of the finest light attack aircraft in the world.

What is also remarkable is its price—about $4 million each, a low price for such an airplane. This cost effectiveness is one reason I voted to reject President Carter's plan to stop production of the A–7D's. So, I am glad to say, did the majority of the House and Senate. Congress did not agree with the President that the A–7 was obsolescent.

The spectacular international victory of the United States A–7D's at the RAF competition in Scotland, soon after, proved Congress was right. And it also underlined the fact that our Colorado Air National Guard is now, with its A–7D's, flying a real champion.

I commend the attention of my colleagues to the article "Colorado Pilots Sold on A–7D" by Marice Doll, in the December 27, 1977, issue of the Denver Post:

[From the Denver Post, Dec. 27, 1977]

ONE MAN, BIG BOMB LOAD—COLORADO PILOTS SOLD ON A–7D

(By Marice Doll)

They resemble collapsible cups. Some even say they're ugly.

But, to the pilots of the Colorado Air National Guard, the 26 A–7D planes assigned to the 140th Tactical Fighter Wing, are the newest, most sophisticated and deadliest planes in the Air Force's inventory.

The 140th Wing, based at Buckley Air National Guard Base in Aurora, has received 18 of the bombers and has already put them in the air.

Three squadrons—one each in Calorado, New Mexico and Texas—make up the 140th Wing, a citizen-soldier unit.

The 140th Wing received the planes because of the number of its experienced fighter pilots, its historically good reputation—one need only glance at the rows of its decorations—and the success of its recent deployment and maneuvers in Holland.

Brig. Gen. John L. France, wing commander, deployed the units' 18 A–7s to Holland to support NATO's cold fire exercises and to practice field maneuvers under European conditions.

The A–7D, an attack plane which also provides close ground support for troops, has a big edge on the old B–17s, the Famous World War II bomber.

"The B–17s had four engines and a nine-man crew," explained Col. James Hall, director of information at Buckley. "This (the A–7D) carries 2½ times the bomb load with only one man and one engine."

With three navigational computers inside the plane, the plane can drop its 15,000-pound bomb load with deadly accuracy.

In addition, the plane carries a 750-pound bomb on each of the six pylons located on the wings. (The wings collapse for easy storage.) It also has a 20mm Vulcan Gatling gun which shoots 6,000 rounds per minute.

And it doesn't come cheaply.

"It costs about $4 million for one airplane—and that's quoting 1974 costs," said France. "That's why when a plane has an accident, we don't get it replaced. We just wait for new equipment."

The A–7D first flew combat missions in 1972 during the Vietnam War. After about 1,600 planes were built, production was stopped.

France said, "The F–100s (a fighter plane) never fired a shot in anger until Vietnam, and by then they were 12 years old."

He continued, "It takes a lot of years to get a plane into the air. That's how far behind the aircraft industry stays. A lot of technology goes into the airplane from its first inception," he said.

"A 20-year-old plane is in almost as good a condition as when it came out of the factory, which means tremendous maintenance costs," said France.

But overall, the plane is cost effective, said Hall. "Even to the men. If a B–17 went down, nine men were lost. With the A–7D, one."

The 140th Wing is accepting applications for ground crews to work on the planes. The 20 full-time air technicians employees will increase to 89.

"Because of the pilots domiciled in Denver, we have no trouble getting pilots," said France. "And most pilots are ex-military men." Thirty-nine Colorado pilots are combat-ready to fly the A–7Ds.

An example is Bill Neuens. A pilot for United Airlines, Neuens logged 3,000 hours in F–100s. Neuens said it took 3½ months for him to make the transition to the new A–7Ds.

"But to train a pilot from scratch—off the streets—would cost $225,000," said Hall. So, pilots are trained to the plane, but men aren't trained to be pilots at the base.

The pilots make three-hour sorties eight times a month, plus one weekend and the annual 15 days of field training. That totals 39 days of time a year. "For the lowest pay—a recruit gets only $1,100 a year," added Hall.

With 200 officers and 1,379 airmen attached to the 14 units, money doesn't seem to be the drawing card for the weekend warriors with wings.

CIVIL SERVANTS' MAGAZINE CONDEMNS CARTER POLICY IN SOUTH AFRICA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. ASHBROOK. Mr. Speaker, when an official of the U.S. Government like Andrew Young publicly praises Communist intervention in Southern Africa, when an official American attitude develops which frightens all responsible leaders, white, colored, and black, in South Africa, then it is time for every responsible voice in this country to call a halt. As C. W. Borklund, the publisher of Government Executive magazine, has put it so well, we have gone beyond the limits of simple policy disagreement and are now courting national disaster. For this reason, I would like to read Mr. Borklund's timely and eloquent warning into the RECORD as it appears in the December 1977 issue of Government Executive:

A LOOK AT AMERICA'S NEWEST COLONY: SOUTH AFRICA

(By C. W. Borklund)

Beginning next month, Government Executive will run a series of articles on South Africa, the result of spending half a year gathering reports and other material, then spending three weeks in November in the country, itself. We interviewed upwards of a hundred people: black, white and several skin shades in between; Government leaders, opposition leaders, politicians, businessmen, professors, students, military officers and all kinds of people-on-the-street.

What you'll read in the series are facts from the reports and opinions from the people themselves. But we are stirred by a kind of grinding outrage to fire off here some of our reactions, too, to what we learned.

A basic one is, if our Government really believes all the stuff it has pumped out of the White House and the United Nations building and several other press conferences here and there, then it's simple-minded. And if it knows its stated "human rights" ambitions in South Africa can be much better achieved by other means but is bulling ahead regardless because of domestic strife here, then it is becoming downright dangerous.

And if it persists in its present inclination to try to impose its imperial will—and that of the leaders of the Organization for African Unity—on its "colony" in Southern Africa, the end result can easily be some scary threats and frightening penalties for U.S. military, economic, and even international political security. We are, in short, "blowing it;" and about the only difference we can detect in our ham-handed fumbling here and the farce our leaders strategized in Vietnam 15 years ago is we haven't had to send troops to Africa—yet.

But for sheer cold-blooded, callous imperception, this Administration is setting new records. Among them: the view foisted on American listeners that some four million bigoted whites are keeping about 20 million blacks under their heel, segregated, enslaved, and without political power.

First off, it's not "20 million blacks." It's five million Zulus; 4.8 million Xhosa (pronounced Koza); two million Tswana; 1.6–2 million, each, Pedi and Seshoeshoe; 800,000

Shangaan; 750,000 Indians and other Asians; 2.5–3 million "Coloureds" (people of a mixed, black-white heritage we might still call "mulattoes" except for the hypersensitivity of some American negroes today); 600,000 Swazi; 500,000 Venda and about 600,000 "others."

The Zulus and Xhosa have blood feuds festering that go back centuries. Whole batches of Blacks from all those various tribes hate the thought of "coloureds" as much or more than they do "whites." Given half a chance, the Zulus, for one—as they demonstrated in 1948—and warn even today—would slaughter, imprison or drive out of the country all the Indian-Asiatics they could lay their hands on. In short, the "black community" is not one big homogeneous family, struggling "for liberation."

Thus, the American notion, as espoused by Vice President Walter Mondale in Vienna some months back, of one man, one vote" translates for nearly all of them as "One Man, One Vote—Once." The Zulus are for it because their numbers tell them they would come out in charge of the government. And enough others see the same possibility so that they're against it.

For one thing, the members of these black tribal nations, their "men on the street," so to speak, just cannot envision the White Man's (U.S. version) form of democracy. Their individual chiefs are there by divine right—unless a brother or a cousin or another black group kills the guy off. They simply do not understand the idea that their ordained link with God can be "Chief" one day and out on the street, running for re-election the next.

According to Pik Botha (pronounced Boata), the South African Foreign Minister, he tried to explain all this, and much of major economic, military, and political importance in addition to Mondale, President Jimmy Carter and Carter foreign affairs advisor Zbigniew Brzezinski in the White House recently. As he was being led firmly to the door Botha says the only comment he got on his presentation was from Brzezinski who reportedly said:

"That's all very interesting, even moving; but the only trouble is, the locomotive of time is going to run you over."

Pontius Pilate couldn't have said it better.

And to a legion of White, Black, Coloured, Asiatic peoples, whether living in so-called "White-controlled" South Africa or the tribal-Nation homelands, U.S. policy toward and treatment of that country is earning us a label easily as onerous as the one the British suffered there 80 years ago. For many of them, regardless of racial origin, it is, as one said, "Like a dear, old friend who suddenly yells at you in a public meeting, "Get away from me!"

A couple months prior to our trip, an Israeli counterintelligence officer turned international business man warned us, "The only way you'll be able to understand the pressures being put on South Africa is if you realize first that the objective is the annihilation of the white man in Africa."

U.S. Ambassador to the UN, Andrew Young, claims, "Nobody is trying to destroy South Africa"—then says the South Africa Prime Minister, John Vorster (pronounced Foster), is "over the hill;" calls Cuban troops a "stabilizing influence" in Angola; and is photographed, smiling with his arm around a Mozambique communist dictator whose export of revolution and guerrilla warfare, murder and mayhem makes a farce of U.S.-style "Human rights."

At another press conference, President Carter, talking about the U.S.-endorsed UN arms embargo on South Africa and the threatened economic sanctions, says, according to the *Washington Post:*

" 'This crisis,' as Carter put it, was touched off . . . when South Africa 'eliminated many of the organizations' seeking racial equality in that nation, closed down the two leading black newspapers, and arrested many leading opponents of its racial apartheid system."

Fact is, the two "leading black newspapers" are white-controlled and run by a publishing house out of Fleet Street, London; the arrested black editor had earlier been warned by a newspaper editor, "Your writing is a credit to neither South Africa or journalism;" (Soweto residents will tell you he was using his columns to tell the Marxist-trained revolutionaries what buildings and people to attack and intimidate next); and the "many leading opponents" of apartheid are all pushing for overthrow, violently, of the Government.

One such, Steve Biko, now martyred beyond belief (to South Africans) in the world's press (and by Andrew Young), had a secretary who said she typed stencils of pamphlets for distribution to blacks. A sample passage from one:

"This is an appeal to all Black people to show solidarity with the exiled and the jailed . . . Wherever you are, organize yourselves into groups to deal with those who do not heed this appeal. (Which means other Blacks.) Beat them, burn their books, burn their cars and shops. Show no mercy to informers and other collaborators—they must all be killed.

"There must be cries, burning houses, people with clenched fists, bodies lying in the streets, bruised and bleeding people—then there will be freedom—yes, freedom . . . Long live the revolution. Power to the people."

Just a decade ago, the American people went into an angry panic when subjected to the same message and the same fire bombings. Yet, now, as South Africa sees it, this Administration is lining up on the same side with that murderous mentality. But the real tragedy is, according to the people in South Africa, itself, that these aren't the leading opponents of apartheid at all.

The leaders, White and Black, have been pushing and shoving behind the scenes, in private and with considerable success—until America went public with its "moral crusade." Summed up an American businessman in South Africa, "These stubborn Afrikaners do need to be pushed. But you never ever do it in Public. If you do, they won't budge. That has been the gross miscalculation of the Carter people."

And he added, "The people in Pretoria had some drastic changes in race-relations laws ready to go right after the election. You can see the clues to that in South West Africa (where the last week we were there the Government abolished the black-hated "Pass book" laws and the laws banning interracial marriage, and promised more such things to come.) Now, I'm not confident any more, they will do that. Carter, Carter, such an overkill!"

Just prior to Mondale's Vienna press conference announcement of what South Africa policy should be, he had been in a meeting with Vorster. Vorster had insisted on knowing what African nation, South Africa should model its government after. According to a Vorster friend who was there, it "ticked Mondale off" enough that he asked for a recess; came back to announce "Two wrongs do not make a right."

"Thank you," Vorster said. "I now have a message to take back" to the African countries with which South Africa is trying, against currently incredible odds, to establish some kind of rapport. The message, he said: "The United States thinks your governments are bad, too." And by any human rights measure, not to mention economic well-being of the people, they are.

Yet, at every turn, it seems to South Africa, America comes down on the side of those dictators and warmakers. For example, by any southern African standard, the roughly 11 major ethnic elements—ranging from sophisticated, well-educated whites and blacks to still-primitive Stone Age Bushmen—have achieved what two years ago was considered an impossible job.

Tribal nations who, until then, were shooting each other, have come to a majority agreement on what kind of Government they want in South West. It's a radical-enough change that the right wing of the white Nationalist Party has divorced itself from the proceedings—which means they'll sit out in the cold unless they change. Yet, way out on the left wing, the Western Allies (and, of course, the Organization for African Unity) are backing SWAPO (South West Africa People's Organization.)

Using secure military staging areas in Angola and communist-made weapons, SWAPO has been carrying out raids into South West Africa—killing and intimidating mainly Owengo tribal people—while claiming in the UN that it represents that group which, in turn, accounts for nearly half of South West's population.

SWAPO "wouldn't last six months," one South African military strategist told us, "if it couldn't retreat to the haven of those Angola bases." The real irony of this U.S.-supported terrorist group is that it wasn't founded by blacks at all. It was organized in the mid-1950's by three white communists in Cape Town.

Among the more deep-thinking South African leaders, black or white, they are leaning to the conclusion that U.S. pressures on them are the result of (a) "Inordinate impact, as compared to their voting power, of Blacks in the U.S. Government;" (b) the conclusion that "You can beat Russia out of influence in Africa by wiping out the whites here, which, you apparently think, will eliminate the basis for revolution."

Looking at their neighbors to the north, one Afrikaner said, "Carter gives legitimacy to those self-made governments, a legitimacy they don't deserve in terms of popular support. And because of how they achieved power and now they have to hold on to it, they could each fall tomorrow. Friendship between America and the African states is not a 'growth industry.' "

In sum, the problems of South Africa's pluralistic society are tremendously complex—and the U.S. is handing them simplistic solutions. And with only a $30 billion annual gross national product and Government budget of only about $9 billion, from a cost standpoint alone, South Africa can't do everything at once. Yet, outsiders, including the U.S., are demanding just that—and trying to apply sanctions that make raising the money even more difficult. Sad thing is, a vastly more perceptive policy toward South Africa could also be a good deal simpler than the hot-and-cold emotional gyration the U.S. is going through now.

The policy need have only three inviolable tenets. The three:

Regardless of UN votes or any other totalitarian pressures, the U.S. will support any Government whose form and substance is backed by a verifiable majority of the people in the country concerned.

The U.S. will do everything feasible to provide arms to a country whose Government is so chosen to whatever extent it deems necessary to maintain internal security and protection from outside invasion.

Because economic growth is the foundation of political democracy, the U.S. will also encourage its vast industrial base to make investments in and establish trade relations with any such country.

Obviously, to date, this Administration has done the reverse of the second; is threatening the reverse of the third; and has denied

the first by insisting that the form of Government selection will be done in the American (but really the OAU) manner or it will not be satisfactory. In short, we're dictating South Africa's internal affairs.

Our Congress has been threatening to try people, such as the CIA, for allegedly doing the same thing elsewhere in the world. Why is it all right for the Government to do the same thing in South Africa?

As one brown-skinned leader in Cape Town, afraid his once-optimistic program may be destroyed in the polarization the U.S. is forcing "equal rights," summed up to us for virtually the whole spectrum of political and economic leadership in South Africa:

"You (the U.S. Government) have made your point. Now back off!"

REPORT ON XIII OLYMPIC WINTER GAMES

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. McEWEN. Mr. Speaker, I am proud to submit a copy of the yearend report of the project manager on the XIII Olympic winter games that are being held in my congressional district at Lake Placid, N.Y. The construction of federally financed permanent sports facilities began in the spring of 1977 and has progressed at an impressive pace. I am especially pleased that this complex project is on time and within budget.

XIII OLYMPIC WINTER GAMES

In the past the Project Manager has submitted Quarterly Reports to the Federal Environmental Task Force and Monthly Reports to the Lake Placid Olympic Organizing Committee. In preparing this report, the Project Manager has attempted to summarize the construction activities of the past year.

The past twelve months represent an historic milestone in the progress towards the staging of the XIII Olympic Winter Games. At the ground breaking ceremonies held on April 21, 1977, the Executive Director of the Lake Placid Olympic Organizing Committee stated: "We have attempted the ridiculous and achieved the impossible." The wisdom of this statement is being proven.

The Olympic Games are a sports competition and this has been a focal point of the design and construction effort to date. The sports facilities have been given primary concentration and the progress of construction to date is indicative of the effort. The Organizing Committee adopted a motto of "An Olympics in Perspective." To this goal, the design and construction effort has been dedicated. Budgets have been given primary importance and when a facilities cost has exceeded budget during design, the Committee has reanalyzed its program requirements giving priority to the sports program and eliminating the fringes that would have been "nice to have." To provide the finest of winter sports facilities within the funds available has been a reality to the Organizing Committee and not just words spoken. To this achievement, the Committee has to be complimented. The testimonies before Congressional Committees have not been just verbage but a total commitment.

As Project Manager, we must respect and admire the dedication of the Committee members and the efforts and long hours which they have put forth to achieve the goals established long ago. Their dedication has made our task achievable and justified the faith placed in those individuals responsible for staging the XIII Olympic Winter Games in 1980.

On March 28, 1977, a grant agreement between the Economic Development Administration, U.S. Department of Commerce, and the Lake Placid 1980 Olympic Games, Inc. was signed in Washingon, D.C. providing for a grant in the amount of $30,200,000. These funds were provided for the construction of the following facilities: 400-meter speed skating oval; field house; renovations/existing arena; administrative offices; 70- and 90-meter ski jump; luge; increased power; and sanitary and potable water.

In addition to these grant funds, an agreement between the Department of Justice, Federal Bureau of Prisons, and the Economic Development Administration provided $19,200,000 for the construction of the Athletes Village/Federal Correction Facility. To complete the Federal funding of the Olympics construction program, the U.S. Congress appropriated $5,000,000 in the current fiscal year budget. At this time, the Federal funds available to the Committee total $49,400,000. A grant request for the additional $5,000,000 appropriated by Congress will be submitted shortly bringing the total Federal funding to $54,400,000.

Following approval of the Final Environmental Impact Statement and the signing of the Grant agreement, it was possible to start the construction program. Advertisements for bids for the initial construction began in April of 1977.

CONSTRUCTION CONTRACTS

Bids were received for 42 construction bid packages during the past nine months. A total of 256 contractors submitted sealed bids for the work and 38 contract awards were made. Bids for 4 bid packages were rejected due to either a lack of adequate competition or high bids and the work was subsequently rebid as part of another bid package or is to be rebid after reconstructing the bid packages.

Construction contract awards totalled $25,212,370 as of December 20, 1977 representing 58 percent of the total construction contract budget. All construction contracts awarded were to the lowest qualified bidder. The awards to date remain within the project budget and adequate contingency funds are available.

The contract awards to date and the percentage bid by project are:

		Percent
Speed skating oval	$1,979,966	100
Field house	3,724,843	31
Renovations/existing arena	0	0
Athletes housing	14,679,471	92
Administrative offices	488,372	100
70- and 90-meter ski jump	2,098,613	70
Luge	487,900	14
Parking facilities	0	0
Increased electric power	1,716,119	100
Sanitary and potable water	0	0
Temporary and miscellaneous construction	37,086	1

OTHER COMMITMENTS

In addition to construction contract awards, commitments totalling $3,107,450 have been made as of December 20, 1977. These commitments represent design fees, project management, land acquisition, equipment and supplies, general conditions items of work, surveys, soils exploration, testing services, etc.

There are at the present time, eleven (11) design firms under professional services contracts with the Lake Placid Olympic Organizing Committee. Exhibit B provides a listing of the design firms by project.

VALUE OF WORK COMPLETED

As of November 30, 1977, the value of work completed for the total project is:

Construction contracts	$7,140,822
Other commitments	2,899,025
Total	10,039,847

Based upon payments to date, the project is 18 percent complete.

EMPLOYMENT

The Federal Environmental Impact Statement established a goal for the employment of local construction labor at 80 percent. During the past construction season this goal was exceeded with an average of 88 percent local labor employed on all projects.

Based upon an audit by Aetna Life and Casualty Company, labor manhours worked through November 1, 1977 totalled 214,014 manhours expended on the construction work. This exceeds the forecasted labor manmonths in the Federal Environmental Impact Statement for the same time periods. Assuming 174 man-hours equals one manmonth, 1,230 man-months were expended versus the forecasted amount of 1,040 manmonths.

If the direct wage of $9 per hour utilized in the preparation of the Federal Environmental Impact Statement were applied to the manhours expended, the direct labor payroll expenditure would be approximately $1,926,000. Utilizing the average percentage of local labor employed, $1,695,000 was paid in wages to people living within a ninety minute driving distance of Lake Placid.

SAFETY

According to the National Safety Council, construction rates as the 26th most hazardous trade in the country. Of the total labor work force in the United States, 8 percent are employed in construction and they account for 20 percent of the injuries.

As of November 1, 1977, this project has 32 reportable accidents of which 7 were lost time accidents. The seven lost time accidents resulted in 43 lost time days. There were no fatalities on the construction projects.

SCHEDULE

Based upon construction progress to date, it is fair to state that the overall progress schedule prepared in June of 1976 is being followed. While there have been variances in the day-to-day and month-to-month projections, the completion dates for each facility remain valid. The total progress to date for all projects has met our expectations and, in some cases, the progress has exceeded that anticipated.

THE 400-METER SPEED SKATING OVAL

The original schedule projected construction during the two summer seasons of 1977 and 1978. The oval itself has been poured and work on the support building is continuing through the winter. Current projections are for the total project to be completed in August of 1978, approximately 60 days ahead of the originally forecasted date. This facility fill be ready for use in conducting the World Sprint Championships in February of 1978.

FIELD HOUSE

Originally, work was scheduled to start in April of 1977 on this project. Due to the delay in receiving funding, actual construction started in mid-May. With the completion of structural steel in April of 1978, it is anticipated that completion of the structure will be approximately June 1, 1979.

RENOVATIONS/EXISTING ARENA

The original plan was to perform some work in this facility during April and May of 1977. The delay in funding prevented this from happening. It is now contemplated that the existing ice sheet will be replaced in the Spring of 1978 and work will continue in 1978 to make up for the lost time in 1977. This

revision to the schedule will permit project completion as originally planned by October of 1979.

ATHLETES HOUSING

Although this project started two months later than anticipated due to funding, the progress to date has been excellent and by working through the Winter, it is anticipated that progress will be one month ahead of schedule. With this advantage in the Spring of 1978, it is forecasted that completion will be on schedule in April of 1979.

ADMINISTRATIVE OFFICES

This project was scheduled to be completed on March 1, 1978, however, it now appears that occupancy of the building will take place towards the end of January 1978 or one month ahead of schedule.

THE 70- AND 90-METER SKI JUMP

The total project is on schedule with completion scheduled for the Fall of 1978. Both of the vertical concrete towers will be finished this month or five months ahead of the schedule for this phase of the work. However, the structural steel trusses and final sitework cannot be performed until next summer.

LUGE

After considerable redesign work made necessary to preserve the project's budget, earthwork started in September of this year and continued until December 1, 1977. Currently, the contracts for the refrigeration equipment and precast concrete are out to bid. With an early start in the Spring and a major construction effort next year, it is expected that the Luge facility will be ready for use by competitors in November of 1978.

INCREASED ELECTRICAL POWER

This project is on schedule with delivery of the substation transformers set for early March of 1978. The total project will be completed as originally forecasted by October of 1978.

STATUS OF INDIVIDUAL PROJECTS

The 400-meter speed skating oval

Construction of the concrete Speed Skating Oval is complete, with the exception of application of the concrete sealer.

Campito Plumbing and Heating, contractors for construction of the Speed Skating Oval, are currently concentrating their efforts on completing installation of the refrigeration plant, located in the lower level of the Field House. It is anticipated that the two-200 Ton refrigeration units, necessary to make and maintain ice on the Speed Skating Oval, will be operable by December 23, 1977.

Tracy Trombley Construction Company, contractor for construction of the Speed Skating Oval Support Facility, is currently engaged in construction of the Support Building and installation of chain link fencing. The Support Facilities Building is scheduled for substantial completion by February 1, 1978.

Leaver, Anthony, Holman and Associates are proceeding with the design of the Relocated Athletic Facilities at the Lake Placid Horseshow Grounds. Design of the facilities is scheduled to be complete early in 1978 so that construction can proceed in the Spring.

Field house

Construction of the lower level, including reinforced concrete footings, foundation walls and slabs is complete, with the exception of an opening in the slab at the 1,868 foot elevation which will be closed after the delivery of the two remaining 300 Ton refrigeration machines. Reinforced concrete footings for structural steel columns and buttressed retaining walls have also been completed. Approximately 2,000 cubic yards of concrete have been placed to date.

James A. McKinney and Son have completed the erection of the structural steel frame for Building #3 (Link Building). Fabrication of the structural steel framing for Building #2 has commenced and the contractor plans to begin erection on or about February 1, 1978.

Excavating and back-filling work, being performed by the Reale Construction Company, is substantially complete. In addition, Reale Construction Company, performing under a contract for Site Utilities, has installed the water main between West Valley Road and Main Street. The contractor has also installed storm sewers from the Mirror Lake Outfall to the foot of the embankment at the North side of the Speed Skating Oval.

The Gilbane Building Company is currently working with the architects, the Adirondack Park Agency, the Environmental Monitor, and the U.S. Department of Agriculture in an effort to solve the stabilization and revegetation of the slope at the North side of the building. Tentative plans indicate that the pitch of the slope will be reduced and the intermediate benches will be eliminated in order to achieve our objective.

General Steel Fabricators, Inc. of Latham, New York have been authorized to proceed under a pending contract for furnishing and erecting miscellaneous structural steel and metal deck. Erection of this material is scheduled for the beginning of April, 1978. In addition, superstructure concrete work, electrical work, plumbing-sprinkler work and HVAC work currently being advertised for bid, are scheduled to begin at that time.

Design work on the Field House is substantially complete. However, estimates based on the latest drawings indicated that construction costs would exceed the budget. Accordingly, the architect has been instructed to make design changes aimed at reducing costs without jeopardizing the program. These design changes should be complete by the end of December 1977.

Renovations/existing arena

Design of the new ice sheet will be complete by December 30, 1977. A decision has been made to utilize the two 75-Ton compressors in the Arena Mechanical Equipment Room for refrigerating the ice sheet in the Convention Center (Lussi Rink). Replacement of the ice sheet in the Arena and related mechanical and electrical work are scheduled to begin approximately April 1, 1978.

Athletes housing

The Athletes Housing Project consists of a complex of eleven (11) modernistic buildings with brick exterior. An architect was selected to do the design work in the middle of November 1976. Design work was complete by early Summer 1977. Bidding occurred during the Spring and Summer of 1977. Individual construction contracts have been signed by the Lake Placid Olympic Organizing Committee for nearly all the trades required.

Site work started during May 1977. Shortly thereafter the concrete-masonry contractor started constructing foundations and concrete-masonry walls. Roughing-in work for the electrical and mechanical trades also occurred. Record rainfalls, combined with ground water problems, created severe construction problems and erosion control during the last Summer. Nevertheless, the foundation work for nearly all buildings has been completed and superstructure work is continuing this Winter on three (3) dormitory buildings.

The outlook for the 1978 construction season is one of great activity. Structural steel erection should start in early Spring of 1978 along with the completion of the concrete and masonry super structures for the dormitory buildings. It is expected by the Fall of 1978 to start having some of the dormitory buildings complete.

Administrative offices

The Oympic Administrative Offices are being obtained by renovating the existing Town Hall belonging to the Town of North Elba. The original building was built during the first part of this century and the renovation work on the exterior is maintaining that same architectural style. The interior is nearly all new. A new superstructure steel frame has been erected to support one floor level and all electrical, mechanical and HVAC systems are new.

Construction started on May 16, 1977. Contracts were awarded to five contractors: architectural, electrical, mechanical and HVAC, elevator, and sprinkler. The building is expected to be ready for occupancy during January of 1978.

The 70- and 90-meter ski jump complex

The year started on a positive note for this project with the conceptual approval granted by the Adirondack Park Agency on January 10, 1977. This meant that there would be a Ski Jump and that it would be at Intervales. It did not, at that time, approve of the shape, size or appearance of this facility.

With the knowledge secure that there would be a project, the design contract with Stone and Webster Limited of Canada was finalized and the design effort started in earnest. It was by no means an easy task since it still involved a complicated permit procedure by the Adirondack Park Agency and an independent review by an architectural consultant as mandated by the Federal Environmental Impact Statement. Schematic drawings were prepared in February and submitted to the Adirondack Park Agency for review and the architectural consultant was engaged in March and immediately brought into the design process. The final construction permit by the Adirondack Park Agency was issued on April 22, 1977 based on schematic drawings contingent on staff review and approval of construction documents as they became available. The first bid package was thereupon, promptly issued on May 11, 1977 and the sitework and concrete contract awarded in early July. Design has since then proceeded to keep pace with the construction program and is now 95 percent complete. Only final landscaping plans are still to be completed. As already mentioned, sitework and concrete contracts were awarded in early July. Structural Steel followed in September and the Vertical Elevator in November. All of the remaining work with the exception of landscaping is expected to be bid in January with contracts to be awarded in February.

The construction started in May with the stockpiling of fill from the Field House site. Serious on-site construction, however, did not begin until the middle of July after award of the sitework and concrete contracts. The grading of the landing hill started immediately and in October was up to the middle of the Judges Tower. Concrete foundations for the various structures were cast in August and slip-forming of the 70 Meter Tower started in September. Slip-forming of the 90 Meter Tower was started and completed in October. The sitework was stopped at the level of the Judges Tower, fine-graded, seeded, and protected with jute mesh to prevent washouts during the Spring thaw.

During January and February, steel stairs within both towers will be installed as well as the Judges Tower steel structure. As soon as weather permits, building of the landing hill will resume and be completed the early part of Summer. At the same time, any concrete work remaining at the top of the hill will be completed and the assembly of the trusses started. Erection of the two steel trusses is scheduled for June and July. Thereafter, all other construction will proceed simultaneously, such as installation of the elevator, enclosure of the warming rooms, work on the moveable platform, electrical work and carpentry. Meanwhile, adjacent to the landing hill, work will proceed on the

terraced bleachers and reshaping and seeding of the smaller practice jumps.

Luge Run

The year started off with the selection of Sargent, Webster, Crenshaw & Folley as the American partner of the design team, complementing Jan Steler of France. Schematic drawings were prepared early in the year and the first layout of the run established based on computer runs of curve sections and theoretical speeds. Early in March, Jan Steler visited Lake Placid, checked out the layout in the field, and made minor modifications as a result. He returned to Marseille with instructions from the Lake Placid Olympic Organizing Committee to proceed with the final design. Detailed estimating and value analysis by the Gilbane Building Company were proceeding concurrently. In April Mr. Steler was back in Lake Placid with the final design documents. These were then reviewed by Sargent, Webster, Crenshaw & Folley and by the Gilbane Building Company for proper bidding format and for conformance to the budget. Unfortunately, it soon became apparent that the design was substantially over the budget. A meeting then took place in Marseille between Mr. Steler and representatives of the Lake Placid Olympic Organizing Committee and Gilbane Building Company to discuss the alternatives. The decision was made to redesign the run and in the process, eliminate various other cost-saving features.

Mr. Steler immediately went to work and the revised design was received in Lake Placid in August. In September, site clearing was bid and awarded and site grading was advertised for bid. October and November saw very intensive sitework activity. The clearing was completed, stumps were removed, topsoil unsuitable for fill was stripped and stockpiled for later use, and most of the drainage piping was installed.

Meanwhile, the drawings prepared by Mr Steler have been under review by Sargent, Webster, Crenshaw & Folley and the Gilbane Building Company. Refrigeration equipment and precast concrete are advertised for bidding. These are long lead time items and the contract will be awarded in January. The remaining work will be bid in January and February and all contracts should be awarded by March. Next Summer will be an extremely active construction season at this site. Proper steps have been taken to accommodate this level of activity and the facility will be complete by November, 1978.

Electric power improvements

During February the design criteria were analyzed by the design firm, O'Brien & Gere Engineers, Inc., and in March and April a schematic design report prepared suggesting criteria for design. The design program was approved by the Power Subcommittee in April and final design started in May.

The project was broken down into three (3) components for design and construction purposes as follows: (a) Transformers; (b) substation work; and, (c) transmission and distribution line work.

The design work is 100 percent complete. Three of the bid packages have been awarded.

Construction started on this project in September and an effort was made to complete the concrete work so that transformers could be received in early Spring. This has been accomplished. All of the concrete work at the new Subsection No. 3 is complete and the transformer pad has been installed at Substation No. 1.

Minimal construction activity is foresen during the Winter. Some transmission line work is anticipated in areas crossing bogs where the Winter freeze facilitates access. Transformers are due for delivery in March. The bulk of the construction activity will take place next Summer and be completed by Fall.

Broadcast Center

At the start of the year, the after-use of the facility had been established as a Town and Village Garage with a total square footage in the range of 42,500 square feet. As negotiations with the ABC Broadcasting Company were completed, their requirements were established at 16,000 square feet. New York Telephone requested 2,000 square feet.

The Final Environmental Impact Statement was filed in February and there was a question raised as to the suitability of the proposed site for this facility on the Chubb River. In March the Lake Placid Olympic Organizing Committee decided to relocate this facility to the Airport/Horseshow Grounds to minimize any environmental impact. In July, Gary Kearns was selected as the designer of the facility. The design program was reviewed by Mr. Kearns in August and in September, schematic plans were prepared. Thereafter, further design was held pending confirmation of space requirements of world broadcasters. It appears that this has been accomplished now and the start of the new year should see a resumption of design activity and completing it in time for Spring bidding. Construction is scheduled to start in the Spring and the shell of the structure will be ready in the Fall to be occupied and outfitted by the various broadcast organizations involved.

Press Center

There was minimal activity on this facility during the year. Preliminary plans had been prepared the previous year for the utilization of the High School for Press Center purposes and these were reviewed and revised now and then as more up-to-date information became available.

The construction work for this facility is anticipated to be minimal and is scheduled to be accomplished primarily during the Summer of 1970 during school vacations.

RECENT DEVELOPMENTS IN NICARAGUA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. FRASER. Mr. Speaker, the recent assassination of the famous Nicaraguan fighter for justice, Dr. Pedro Joaquin Chamorro, is a severe blow to the cause of human rights both in Nicaragua and throughout Latin America. Dr. Chamorro was editor of La Prensa, the only daily newspaper not owned by the Somoza government. I would like to insert into the record the New York Times articles that capture the active and long-time commitment by Mr. Chamorro to justice and the Nicaraguan people. I had hoped to meet Mr. Chamorro personally in 1976 when I invited him to testify before the International Organizations Subcommittee on the situation in his country. The Nicaraguan Government, however, did not grant him a visa.

The Somoza government has stated that it will take all necessary measures to find those responsible for the assassination. Last week, Amnesty International cabled President Somoza urging that his inquest into Dr. Chamorro's death be "carried out in cooperation with an independent international delegation." I think such international participation would considerably strengthen the credibility of the inquest findings. A copy of the cable is also below.

Our military and economic assistance to Nicaragua has been substantial. During fiscal year 1978, $2.5 million in foreign military sales credits was earmarked for that country. I understand that no sales have been granted, however, pending our Government's review of the human rights situation there.

Municipal elections are scheduled early next month in Nicaragua. Given our long-term relations with the Somoza regime and the unsettled human rights problems in that country, worsened most recently by the Chamorro assassination, the electoral procedure will test the Government's sincerity in strengthening its human rights record. Last month I wrote to Secretary of State Vance expressing my interest in the basic right of any people to vote for the candidates of their choice. I urged Secretary Vance that our Government make clear our concern that a fair electoral process take place in the Nicaraguan elections. A copy of my letter and the reply to it are printed below. I thought it useful for my colleagues to see the State Department's position on this question of elections.

[From the New York Times, Jan. 11, 1978]

ANTI-SOMOZA EDITOR IS SLAIN IN NICARAGUA

THREE MEN IN CAR SHOOT HIM 18 TIMES—REGIME SPOKESMAN PROMISES STRONG EFFORT TO FIND THEM

MANAGUA, NICARAGUA—Pedro Joaquin Chamorro Cardenal, an editor known for his outspoken opposition to the dictatorship of Gen. Anastasio Somoza Debayle, was shot to death today in downtown Managua.

The 53-year-old editor and published of La Prensa of Managua, the country's only opposition paper, was shot 18 times by three men in a car who forced his auto to the curb, according to the paper's managing editor, Danilo Aguirre Solis. Mr. Chamorro died in an ambulance on the way to a hospital.

Col. Alesio Gutierrez, Managua's police chief, said more than 50 policemen were investigating the shooting. He said witnesses told the police that the gunmen had carried a machine gun and two rifles.

General Somoza's spokesman, Roger Bermúdez, said the Government deplored the killing and had ordered authorities to spare no effort to find the gunmen.

EDITOR WAS HONORED IN U.S.

(By Laurie Johnston)

Pedro Joaquin Chamorro Cardenal's last visit to the United States, to accept a Maria Moors Cabot Award at Columbia University in October, came just after restrictions imposed on him by the Nicaraguan Government had been lifted.

For 2 months, his civil rights had been suspended, including the right to leave the country, and his newspaper, La Prensa of Managua, had been under Government censorship. The restrictions were imposed after Mr. Chamorro called for abstention from the 1974 presidential election, which returned President Anastasio Somoza Debayle to office. Mr. Chamorro also denounced the President and his Government for their handling of relief funds and reconstruction following the devastating earthquake of 1972.

The "state of the siege," as an acquaintance described it yesterday, was ended by the Nicaraguan Supreme Court after pressure was applied on behalf of Mr. Chamorro by United States officials and the Miami-based Inter-American Press Association.

Argentina Hills, president of the Inter-American Press Association and publisher of El Mundo in San Juan, P.R., said in a statement that Mr. Chamorro had been in the forefront of "struggles for freedom of the press and human rights generally: and had died "a martyr and a hero."

On Nov. 1, at Low Memorial Library on the Columbia campus, the editor-publisher received one of two 1977 Cabot Prizes of a gold medal and $1,000 for "distinguished journalistic contributions to the advancement of inter-American understanding." The award to Mr. Chamorro carried an additional citation for "journalistic leadership of those forces opposed to tyrrany in Nicaragua.

Mr. Chamorro's paper was founded in 1926 by his father, whose own grandfather had been a president of Nicaragua in the late 19th century. The father was an opponent of the dictator of Nicaragua from 1937 to 1956, Gen. Anastasio Somoza Garcia, father of the present President.

Since 1974, Mr. Chamorro had been president of the Democratic Union of Liberation, a broad-based coalition of anti-Somoza groups that included the Communist Party and Socialist Party as well as breakaway elements of the Conservative Party and the Somozas' own Liberal Party.

Mr. Chamorro, who considered himself a political conservative in most respects, said recently that what he opposed in Nicaragua was "violence, immense poverty and egotism on the part of people who want to perpetuate their own wealth."

WAS EXILED TO MEXICO

In 1944, as a first-year law student at the University of Managua, Mr. Chamorro joined an anti-Somoza group called "The Generation of 1944." When their demonstrations were suppressed, he was arrested and exiled to Mexico. He completed his law studies there.

Returning to Nicaragua in 1948, after the death of his father, Mr. Chamorro began a campaign against the Somoza family and their associates.

In 1954, he was sent to jail for two years on charges of conspiring to overthrow the elder General Somoza. After the President was assassinated in 1956, Mr. Chamorro led an invasion force based in Costa Rica against the general's son and successor, Luis Somoza Debayle. He was tried by a military tribunal and was jailed for a year. During that time he wrote a book, "Bloody Dynasty—the Somozas." After his release, he was confined to an area far from Managua. He escaped to Costa Rica and returned to Nicaragua during a 1960 amnesty.

In the 1967 elections, which put Gen. Anastasio Somoza Debayle in office, Mr. Chamorro backed Fernando Aguero Rochas of the Conservative Party. After a demonstration headed by Dr. Aguero, Mr. Chamorro was accused of terrorism, jailed and released 45 days later—after the election.

He is survived by his wife, Violeta, two sons and two daughters and his brother Xavier, who is manager of La Presna.

[From the New York Times, Jan. 13, 1978]

PROTESTERS DISRUPT NICARAGUAN CAPITAL

THEY LOOT AND SET FIRES IN SHOW OF SUPPORT FOR SLAIN EDITOR

MANAGUA, NICARAGUA, Jan 12.—Demonstrators looted and burned the customs building and set businesses and cars afire today to protest the machinegun slaying of the opposition newspaper publisher and editor Pedro Joaquin Chamorro Cardenal.

Officers used tear gas and fired machineguns in the air to disperse rioters but made no arrests. Several persons were trampled by crowds during the demonstrations and some were injured. Unofficial reports said one person had been killed, but the National Guard denied it.

Among the burned buildings was a branch of Citibank of New York, a branch of the Bank of Central America, a blood plasma company, a Renault auto showroom and offices of a construction firm where nearly 1,000 gallons of gasoline were stored.

CROWDS BLOCK FIREMEN

Authorities said more than a dozen cars had been set afire and 18 businesses burned before the funeral of Mr. Chamorro, an outspoken critic of the dictatorship of President Anastasio Somoza Debayle. Small groups gathered in the streets to block firefighters from reaching the blazes. Demonstrators restarted some of the fires after they had been extinguished.

During 30 years of political opposition, Mr. Chamorro was arrested or exiled repeatedly. He was killed by machine-gun fire from a passing car Tuesday in downtown Managua.

His widow, Violeta, accompanied at the funeral today by their children and several Roman Catholic priests, joined the crowd in shouting "Viva Pedro Joaquin Chamorro" and "Viva la libertad" and singing the Nicaraguan national anthem.

Authorities estimated damage before the funeral at $7 million. There was no violence at the funeral, which was held three hours earlier than planned, in hope of avoiding further violence. Several small groups at the funeral shouted "Muerta Somoza"—death to Somoza—and "Viva el F.S.L.N.," which means "Long live the Sandinista Liberation Front," a leftist guerrilla group.

The blood plasma business that was burned today is called Plasmaferesis. It is partly owned by the Somoza family and was accused by Mr. Chamorro's newspaper, La Prensa, of profiting in Western Europe and the United States on blood it bought from poor Nicaraguans.

La Prensa often denounced government corruption and blamed General Somoza, whose family has run this Central American nation of 2.5 million for the last 45 years.

30,000 ESCORT THE COFFIN

An estimated 30,000 mourners escorted Mr. Chamorro's glass-topped coffin to the La Prensa office for an overnight wake last night. Opponents of President Somoza called a rally, and the National Businessmen's Council urged all shops and factories to close for 24 hours to protest the assassination.

Mr. Chamorro's Democratic Union of Liberation had accused the Somoza regime of "resorting to repression as the only means of sustaining itself in power." Along with three other opposition groups, it called off a two-month-old dialogue with President Somoza.

The Government has disclaimed any responsibility for the killing and has promised a full investigation.

The National Guard, which serves as a combined police force and army, announced yesterday that four persons had been arrested and three cars and a number of firearms had been seized in connection with the assassination.

A spokesman said those arrested were all Nicaraguans. He gave their names as Domingo Acevedo Charvarria, Silvio Peña Rivas Harold Cedeños Escoto and Silvio Vega Zúñiga.

He said that Mr. Peña Rivas had turned himself in after policemen had found that one of the cars was registered in his name. Police sources said that Mr. Peña Rivas had contended that he sold the car months ago.

AMNESTY INTERNATIONAL U.S.A.,
Washington, D.C., January 13, 1977.

TEXT OF CABLE SENT FROM AMNESTY INTERNATIONAL TO PRESIDENT ANASTASIO SOMOZA DEBAYLE, OF NICARAGUA

"Having learned further to our cable of 11 January of your order that the National Guard initiate an inquest into the murder of Dr. Pedro Joaquin Chamorro, Amnesty International respectfully urges that the inquest be carried out in cooperation with an independent international delegation. Without such outside participation world public opinion would not accept inquest findings."

DICK OOSTING,
Deputy Secretary General.

DECEMBER 8, 1977.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I understand that municipal elections will be taking place in Nicaragua early next year. The right to freely vote for the candidate of one's choice is a basic human right, to which the U.S. Government should give major consideration in formulating foreign policy.

The number of political groups participating in these Nicaraguan elections will be limited. It is nevertheless important for the U.S. Government to make clear to the Somoza government that the United States hold great weight to a fair electoral process taking place in Nicaragua. This clarification would include emphasizing that voter registration and vote counting should be accurate. A firm communication to the Nicaraguan Government on this question of elections can only enhance U.S. credibility in the eyes of that government as well as other Latin American countries in terms of the seriousness with which the U.S. Government applies its human rights policy.

Your attention to this matter would be greatly appreciated.

Sincerely yours,

DONALD M. FRASER,
Chairman, Subcommittee on International Organizations.

DEPARTMENT OF STATE,
Washington, D.C., December 23, 1977.

Hon. DONALD M. FRASER,
Chairman, Subcommittee on International Organizations, Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of December 8 in which you raise the issue of one's ability to freely vote for the candidate of his choice and its relation to the forthcoming municipal elections in Nicaragua.

The Department of State shares your interest in this vital matter. Representatives of the Department both here and at Managua have on numerous occasions expressed our desire to members of the Government of Nicaragua that the entire process pertaining to the February elections be conducted in an honest and open manner. We shall continue to express this concern and will observe the developing situation with great interest.

If you have further questions, you may wish to contact Daniel R. Welter in our Bureau for Inter-American Affairs on 632–0552.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

REBIRTH OF NORTHSIDE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. RICHMOND. Mr. Speaker, last week, there was a quiet, largely unnoticed celebration in my district. It was the

celebration not of a victory over a particular issue or controversy, but a social victory which will have lasting and growing significance for millions of urban Americans.

The victory celebration, which I had the pleasure of attending, was held in Northside, a "back-muscle neighborhood" located in the Williamsburg section of Brooklyn. The winners are 38 Northside housewives, pioneer graduates of an innovative new inner-city school started by the National Congress of Neighborhood Women.

The education obtained by Northside women in this program is unique both in nature and origin. Adminstered by the La Guardia Community College of City University, the curricula is tailored to "make a virtue of Northside roots and the hidden strains of housewifery."

Mr. Speaker, I have worked with the people of Northside for more than 10 years, battling to improve services and preserve our mixed-use neighborhood heritage. Together, we have fought the social and economic foes facing our city. In 1973, we delayed the city's bulldozers until the new housing was begun on the Northside. In 1976 and 1977, we fought to save our firehouse. And now, in 1978, Northsiders are continuing the struggle to revitalize our community.

Mr. Speaker, the efforts and victories of the National Congress of Neighborhood Women can be translated into a triumph for all city dwelling Americans. I would like to share with my colleagues the following article that recently appeared in the New York Times so they, too, may celebrate the rebirth of an important inner-city neighborhood.

[From the New York Times, Jan. 21, 1978]

A QUIET REVOLUTION IN NORTHSIDE

(By Francis X. Clines)

The housewives of Northside graduate today in a triumph of blue-collar feminism and ethnic enrichment that will go unnoticed because it seems mundane. It is only a community celebration in a parish auditorium that is mundane the way evolution and procreation are mundane.

Tucked into the Williamsburg section of Brooklyn, Northside is one of the back-muscle neighborhoods of the city, tough and crucial, and unknown to people in places of greater power—Manhattan to the west, the suburbs to the east. It is a place where upward mobility can be an incredibly drawn-out process and where movements cast flickering shadows at best on their way through salons and media centers elsewhere.

But the housewives of Northside, and some of their daughters and mothers and sisters, are graduating after years of having implicit, unacknowledged power in all the block associations, P.T.A.'s, church socials and well-run walkup homes that have kept the neighborhood strong through decades of immigration and uncertainty.

No one is moving on to another place with today's commencement. They are all staying, working out of a four-year-old powerhouse of social forces, the National Congress of Neighborhood Women, situated poetically in a second-floor factory room on 145 Skillman Avenue over a quilt-making company that the women have nothing to do with.

The graduates are receiving two-year certificates after having lived through the adventure of the first half of a special sort of college education. The curriculum is administered through La Guardia Community College of City University but tailored by the National Congress members to make a virtue of Northside roots and the hidden power strains of housewifery.

Thus, the history and writing courses at the experimental college, conducted within the neighborhood at convenient off-hours, have produced such essays of personal research and honest beauty as "My Italian Grandmother, Theresa" by Elaine Carpinelli. She is third-generation in the neighborhood, and graduates today—a wife, mother, and National Congress staff worker offering financial-aid counselling to the next class in the neighborhood college.

There are 38 pioneer graduates today. The new class has 100. For Mrs. Carpinelli, this occasion can only be part of a history once hidden, the story of Grandmother Theresa, who raised six children on Devoe Street in Brooklyn after surviving as worker and mother, the great 1912 mill strike in Lawrence, Mass.—the "bread and roses" strike over the exploitation of women and children.

"My mother and I remember hearing many mill stories from Grandma and each time she told her stories with the same enthusiasm as the time before," Mrs. Carpinelli wrote. Fifty-six-hour work weeks at the looms were larded with housework at night while the man of the house rested in his traditional role. Mrs. Carpinelli has put each memory to work for her new self in Northside. "Now after reaching into her past, she is even more special to me," she said, "because now I discovered the woman Theresa who lived inside my Grandma."

Part of the National Congress success is simply in bringing the neighborhood women together to find strength in their similarities.

Thus Jean Kowalsky was one of those touched the night Mrs. Carpinelli read out loud all about Theresa. Mrs. Kowalsky earlier had read her essay, "My Russian Mother-in-Law" about the life of Julia Butko Kowalsky, a handsome 91-year-old neighborhood resident who went through Ellis Island in 1913 and two days later got a $4-a-week job in a jute mill on Box Street, Brooklyn, starting a long life of work and reproduction, and, Mrs. Kowalsky stressed, of the best lessons of humanity.

Similarly, the courses in government for the graduates stress their neighborhood, exploring ways to use such traditional strengths as block and church organizations to intrude into the politician's realm. The Northside women became known for blocking the plan to close their local firehouse. Just as important, the National Congress cornered 20 of the Federally funded Comprehensive Employment Training Act jobs that politicians have tried to monopolize.

There is no elitism evident. Laura Polla Scanlon, the 40-year-old president of the board, comes into Northside with a doctorate in literature and a strong grounding in 1960's politics and feminism. But she feels her real strength is her own working-class roots in Auburn, N.Y., in an ethnic hamlet like Northside where her parents worked in a delicatessen and macaroni factory and where she broke out in the same way as the women of Northside, through education.

The women of Northside sound remarkably free of recriminations about men and the past. They identify more than ever with their neighborhood, and their particular self-discovery seems less selfish than that of other revolutionaries.

Florence Montijo, a graduate and new paralegal worker holds dear her years of motherhood. But the great thing about the National Congress discovery, she said, is that her daughter, Brenda, has decided to push out from her own working-class woman stereotype in an office and has enrolled in the new class of the neighborhood college of Northside.

THE UNITED STATES AND EUROCOMMUNISM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1978

Mr. LAGOMARSINO. Mr. Speaker, the issue of Eurocommunism and its potential effect on the NATO Alliance has been the focus of much international attention. I believe that the following two editorials provide an interesting analysis of what future U.S. policy should be vis-a-vis the Communists in Western Europe:

ITALY'S COMMUNIST ELEMENT: AMERICA DOES MIND

(By Claire Sterling)

ROME.—The Italian left is pretty mad at the Carter administration for having come right out and said it does not favor Communist participation in the government here. Nobody seems mad at the Russians, though, for having come right out and said just the opposite—on the same day, in Pravda. Evidently such political intervention isn't always or necessarily a crime. It is simply a matter of whose side is getting intervened on.

The fact is that Italy's left-wing leaders have been basking for over a year in what they thought, or gave the Italians to think, was American intervention on their side. The happy interlude began the day Carter was elected and lasted until publication of the State Department's latest note. During those 14 months, the lions of the leftist press here—the Communists' L'Unita and pro-Communist Paese-Sera, the Socialists' Avanti, La Repubblica, L'Espresso, Panorama—conveyed the distinct impression that the cream of the radical chic in American universities had moved into the White House in a body. Indeed, a leading Communist in Rome told me as much, in those words.

Even as the presidential ballots were being counted, the Communists' shadow foreign minister, Sergio Segre, assured a national television audience here that Washington was going to be a lot more "open" to Eurocommunists from now. No sooner was Carter inaugurated than Segre was quoted in The New York Times as saying that "the old gap is already closing" (between official American and the Italian Communists, that is), adding that his party expected "more forthright relations" with incoming American ambassador Richard Gardner. On April 7, reporting the Carter administration's first formal pronouncement on Eurocommunism, a headline in the left Socialist La Repubblica announced "USA Drops Veto Against Government With communists." Three weeks later another front-page Repubblica headline declared "Carter Accepts the Italian Communist Party." By the following November, a Washington dispatch to Paese-Sera was headed "The Red Hunt Is Over" and in a less than altogether prescient dispatch barely three weeks before the end came, Paese-Sera spoke of "multiple signs . . . that this time, America will not help those who want to block the Italian Communists' entrance into the government."

A statement like that at a time like that could be put to devastating use, and was. It came just as the Italian Communist Party was peremptorily demanding immediate entrance into the government. Premier Andreotti's minority Christian Democratic cabinet was unmistakably breathing its last. His party's high mandarins were on the verge of accepting Communist demands and several among them, including the Christian Demo-

crats' assistant secretary-general and foreign minister, were saying openly that the Americans "wouldn't mind."

Well, the Americans would mind. Since coming to Washington, the new presidential team has tried to distinguish its position from Henry Kissinger's, show more interest in Eurocommunist progress toward genuine independence, and avoid throwing its weight around if possible. But a limited degree of pliancy, and a few incautious campaign utterances by Carter and his aides, have been distorted beyond recognition here in an exercise amounting to political forgery.

There is no evidence that this administration has ever been prepared to offer American blessings for a Catholic-Communist coalition in Rome. If its statement on Jan. 12 was unusually blunt, it said nothing really new. The President, his foreign-affairs adviser, Zbigniew Brzezinski, and Ambassador Gardner had said almost exactly the same thing at least eight times before in public and who knows how many times in private since their first official pronouncement last April 6. The two main points have never varied: 1) The United States recognizes the sovereign right of its European allies to decide for themselves about the status of their Communist parties and will not interfere in that process; 2) but, or and, the United States itself has the sovereign right to tell its allies that it could not be indifferent to a Communist presence in an allied government.

The "non-interference" clause has been featured prominently in Italy's left-wing press since April 6—the basis for La Repubblica's triumphant assertion that the "USA veto" was gone forever. As that headline suggests, however, the "non-indifference clause" clause sank like a stone in April, to rise again only this January with the "non" missing. Commenting on Carter's decision then to call Ambassador Gardner home for consultations, La Repubblica predicted a shift in American policy from "indifference" to "interference."

Such mischievous reporting suggests something of the pressures Washington was under to make the American position unequivocally clear. What with that and Italy's rapidly worsening political crisis, mounting pressure from several other of our European allies (most notably France and West Germany), and an increasingly alarmed public opinion at home, the position was not only bound to get stiffer but still keeps stiffening. Carter himself is saying now that he is not going to go down in history as the President who lost Italy. But stern words like these are not enough to straighten history out about the winner.

There are obvious limitations to this American policy. Italy is much too far gone for a simple expression of faith in the recuperative powers of its democratic parties in general, and ruling Christian Democrats in particular. The Communist Party, with a third of the national vote, is much too strong to be butted aside in a head-on collision. The economy is too ravaged to be restored merely with massive injections of international credit (if appreciably more is still forthcoming), and certainly too fragile for a perennial confrontation with the most militant working-class in Western Europe. Everything about the Italian case, in fact, cries out for a solution that has yet to be invented.

[From the Washington Star, Jan. 20, 1978]

THE UNITED STATES AND EUROCOMMUNISM

The Administration's turn toward a more cautious attitude on the possibility of a communist presence in the Italian government is welcome news, welcome because of what it implies about the immediate situation in Italy. The Christian Democrats are once again trying to put together a coalition that will satisfy the left without alienating the United States. It is welcome, too, because of the reverberations it is likely to have elsewhere in Europe.

Marxism may not be monolithic around the world, but Eurocommunism does have a composite identity beyond the sum of its national components in Italy, France and Spain. In all three of these Mediterranean neighbors, assorted factions are competing to change a highly volatile balance of power, with the Communist party the most volatile—and questionable—element in the question.

Former Secretary of State Kissinger was, and is, unimpressed by the claim that Eurocommunism is different. It is said by the communists in all three countries that their brand of Marxism would be humane, democratic and not aligned with the Soviet Union. So much so, indeed, that it has even been suggested that a Eurocommunist government might not automatically disqualify itself as a member of NATO.

Mr. Kissinger has argued persuasively in the other direction. When pressed, even the most liberal of the Eurocommunist leaders, Spain's Santiago Carrillo, stands by the idea of "democratic centralism," which is to say the control by a small party elite of every decision that counts. Mr. Kissinger admits that French, Spanish and Italian communists don't want to be controlled from Moscow. But, he says, in any showdown between the United States and the Soviet bloc, there would be only one way for a Eurocommunist country to go and it wouldn't be the NATO way.

Perhaps merely as a show of independence after the years when Henry Kissinger was American foreign policy, the Carter administration started out as ostentatiously neutral on Eurocommunism as it was ostentatiously committed to change in South Africa. It would be up to the people of each country—each country in Western Europe, anyway—to choose their own leaders and directions. As the possibility grew that this could mean significant communist participation in a new Italian government—with a predictable impact on the March election in France and further repercussions in Spain—there were second thoughts in Washington.

Now that a new Andreotti government is in the making, the State Department sounds more like the voice of Henry Kissinger again, and not a moment too soon. The future of NATO, which is to say the key to American strategic interests in Western Europe, is at stake. With Italy out of the alliance, either by its own choice or by that of the other NATO countries, the balance of power in the Mediterranean shifts dramatically against the Western democracies.

For the United States to take a stand against coalitions including communists in Italy, France and Spain is no more than acknowledging the obvious, and, in spite of a certain amount of huffing and puffing about "interference," such leaders as France's Valery Giscard d'Estaing know it. It doesn't have to mean crassly sending in the Marines. Or CIA dirty work. Or even the covert financial support the United States used to give the Christian Democrats in Italy.

There is plenty of weight to American favor and disfavor expressed in open and straightforward actions. The problem has been mobilizing the will to use it in the service of both American defense and human rights —in other words, to prevent Eurocommunism's further advance.

SENATE—*Wednesday, January 25, 1978*

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Be still and know that I am God: I will be exalted among the heathen, I will be exalted in the earth.—Psalms 46: 10.

Eternal Father, who makes Thyself known in the stillness of the sacred moment of prayer, grant us open minds and receptive hearts for Thy entrance. Teach us to pray by listening as well as by speaking. Thus, as we pause at this shrine of the patriot's devotion, may we open the door of our inner being to Thee that our lives may be purified and we may go to our labors in Thy strength and Thy love.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 25, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, January 24, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time and no requests, so I yield it back.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to discuss the Middle East and other matters.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., with statements therein limited to 3 minutes.

INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1978—S. 2420

Mr. SPARKMAN. Mr. President, it is a distinct privilege for me to join with my distinguished colleague from New Jersey (Mr. CASE) in introducing Hubert H. Humphrey's last piece of major legislation, the International Development Cooperation Act of 1978.

I join in introducing this important legislation because I strongly supported Hubert's efforts to bring greater coherence and efficiency to our development assistance programs. This bill is a living monument to our dear friend.

It epitomizes the spirit of a man who devoted considerable time and thought to the issue of how our Government could more effectively attack the global problems of hunger, disease, illiteracy, and population growth—problems which threaten our own national security if left unresolved.

Even during his last days, this piece of legislation was uppermost on Hubert's mind. He was thinking about this bill and discussing it with his staff almost until the very day he died. On Wednesday, January 11, he gave his approval to both the final draft of this legislation and the statement which he planned on making upon introduction of this measure.

This legislation represents the most far-reaching reform of our foreign aid programs ever developed by the Congress. It would reorganize and revitalize U.S. foreign assistance efforts and would replace the Foreign Assistance Act of 1961. It deals with a subject about which Hubert cared very deeply—the capacity of the United States to respond positively and effectively to the needs of the poorest one billion people in the developing countries.

Hubert Humphrey was excited about the commitment of President Carter to take a fresh look at U.S. foreign aid programs. However, he was concerned that the momentum for much-needed change was being lost. He felt very strongly that the time had come to reorganize the administration of U.S. foreign assistance programs in order that we could more coherently and effectively deal with the real economic problems of development in the coming decades.

The legislation would create a new International Development Cooperation Administration with permanent statutory authority. It would consolidate all the multilateral and bilateral development programs of the U.S. Government into one agency. Although the Administrator would still operate under the general foreign policy guidance of the Secretary of State, he or she would report directly to the President. Hubert felt very strongly that the executive branch was not well organized to grapple with development problems. There is no agency which has as its main mission that of representing development concerns in the formulation of U.S. international economic policy.

The delivery of U.S. foreign assistance is administered by several agencies—bilateral assistance through the Agency for International Development; participation in the International Financial Institutions, such as the World Bank and regional development banks, through the Department of the Treasury; support of United Nations agencies through the State Department; and the activities of the Peace Corps through ACTION. Therefore, all these activities would be consolidated in the new administration.

Hubert was particularly concerned that the private and public voluntary efforts in development had been underutilized. Therefore, the new legislation would create an International Development Institute, incorporating both the Peace Corps and private and voluntary organization programs. Although he recognized more work was required to perfect the Institute's relationship to our overall development efforts, Hubert was concerned that the voluntary efforts of both the private and public sectors should be enhanced.

This is a very complex piece of legislation. It is not a perfect instrument. Yet, it is reflective of Hubert Humphrey who, as usual, was out in front on the major issues of concern to this Nation. His ideas and efforts on this legislation were a major service to us all, and I believe there will be widespread support for this measure in the Congress.

The Committee on Foreign Relations will be giving serious consideration to Hubert's bill in the coming weeks.

Mr. President, I ask unanimous consent that Hubert Humphrey's statement and the International Development Cooperation Act of 1978 be printed at this point in the RECORD.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUBERT H. HUMPHREY ON THE INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1978

It was just a generation ago when the Marshall Plan was drawn up and implemented to raise Western Europe from the ashes of the most destructive war in the history of mankind. Planning, resources, and management accomplished this goal in one of the most successful redevelopment efforts ever undertaken. Yet, the decisive actions required to meet this crisis were taken by only a handful of leaders in the White House, the State Department, and the Congress.

It was an era in which decisions on foreign policy and domestic policy could be easily considered as separate entities. Yet, in one generation—one small time speck in the history of mankind—we were swept into an era of interdependence. We no longer can talk about American foreign policy as an isolated subject, sufficient unto itself.

What happens, or fails to happen, in America has an impact on the rest of the world. And surely what happens in other parts of the world—the Middle East, Africa, Western Europe, Asia and Eastern Europe—can have, and does have, a significant impact on our well-being and security.

The limitations of national sovereignty have become increasingly apparent. Today, there isn't a nation in the world which controls even the central symbol of independence—the value of its money. Inflation, recession, and stagflation are global in nature.

Problems we used to regard as domestic—such as energy, pollution, human rights, poverty education, science and technology, population, food, communications, terrorism, business and labor—all now have international dimensions. And in many instances the international aspects require our greatest attention.

In recognition of these circumstances, there also has been a great prolifieration in the international activities of practically every department in the Executive branch of government.

The Department of Housing and Urban Development not only concerns itself with domestic housing and urban problems, but it also is an active participant in addressing the problems of habitat globally.

Production and pricing decisions by the Department of Agriculture directly affect the global food balance, and these decisions can have a dramatic impact upon millions of malnourished and starving people around the world.

The Environmental Protection Agency finds that many forms of pollution require international cooperation to monitor and control.

The Department of Commerce finds itself primarily concerned with the export of U.S. goods and services as the balance of trade assumes a decisive impact on the viability of our domestic commerce.

And the Department of the Interior recently has had to address itself to the exploitation of the mineral wealth beneath our oceans.

The State Department, of course, remains the central reference point for policy-making in establishing the new relationships of interdependence. But other federal agencies, traditionally associated primarily with domestic matters, now are also players in the international scene. The Department of Justice must deal with sensitive international relations considerations as it handles such matters as the status of illegal aliens. The Department of the Treasury must address global debt-management issues. And the Federal Reserve Board has a dominant voice in determining the growth rate of the world's largest stock of international money, the U.S. dollar.

These are just a few examples of the implications of interdependence. Few activities in our nation, whether private or public, can be isolated from the international flow of events. We are compelled to recognize that no one nation dominates the international scene.

Our relations with the developing countries are fast becoming a major element in our foreign policy. Our nation sells more of its goods to developing countries than to

the European Community, Eastern Europe, and the Soviet Union combined. And developing countries provide us with both critical raw materials and essential consumer goods.

With only six percent of the world's population, we consume nearly 40 percent of the world's resources. By 1985, the United States will depend on imports for more than one-half of our supplies for nine out of the thirteen critical minerals necessary to maintain our industrial economy. By the year 2000, we will be dependent primarily on foreign sources for our supply of 12 of the 13 critical raw materials.

The demands of the developing countries and the requirements of the developed countries are a permanent feature of our evolving international relations. And how we respond will have a major impact on world peace, prosperity and stability for decades.

The major decisions in the world no longer can be made by a handful of Western leaders sharing a similar view of the world. These decisions increasingly are made in global forums, unwieldy in their size and struggling to achieve consensus in the face of the radically different perceptions of the world that are represented in their make-up.

Failure, frustration and stalemate on vital issues will persist until we change the very nature of our decision-making processes to reflect the democratization of world leadership.

Demand for change—yes, fundamental and radical change—has been coming. It is like a gathering storm, and it has now arrived in all its fury. We have hoped it might pass away or that minor adjustments would be sufficient to weather the storm. This is understandable. Change does not come easy. And change on a global basis is threatening, unsettling and revolutionary.

But the fact is that the balance of this century will continue to be a period of incredible, massive change in political, economic and social institutions.

The question is, will we, by our positive efforts, help to affect and move this global upheaval in a direction consistent with our values and beliefs? Or will we merely resist it? Will we design our future, or will we simply resign ourselves to it?

The complexities of the global dynamics of the present and future have provoked a sense of frustration and retreat among some. There are the doomsayers who question the capacity of free political systems to master current problems. They question whether democracies are even governable in this day and age.

I reject that view. It is possible to make changes.

The International Development Cooperation Act of 1978 is an attempt to start focusing our attention on these concerns. We live in an era in which man's scientific, political and sociological advancement should make poverty an anachronism. However, the human statistics demonstrate otherwise.

Today, there are 700 million adults in the world unable to read or write.

Today, there are 1.5 billion people in the world without effective health care.

Today, more than 500 million people in the world suffer from severe hunger and malnutrition.

Today, more people die in the world every day due to economic and social deprivation than they ever did from weapons of war.

And, without a major effort by the international community, some 800 million of the world's poorest people cannot expect any improvement in their conditions for the rest of the decade.

These are some of the facts of our time. And these cruel, ugly facts are as threatening to our future as is an uncontrolled arms race. These are the time bombs which threaten global peace.

As Pope John XXIII so dramatically emphasized:

"In a world of constant want, there is no peace. . . ."

Therefore, we must be as willing to respond to these threats as we are willing to face those of military aggression.

Last year the development assistance programs of the entire free world to the developing countries totaled only $17 billion. In the same time span, nearly $300 billion was spent in the world for guns, bombers and missiles.

The question we must decide is whether or not the conditions of social and economic injustice—poverty, illiteracy and disease—are a real threat to our security. I think they are.

And they require the same commitment of policy, will and resources as does our conventional national defense.

World hunger cannot be solved merely by American charity. It requires the application of technology and the improved production of food and fiber on a worldwide basis. It can be done.

Disease can be conquered or at least its ravages minimized. The modern world knows how to do this if we have the will and provide the means.

The basic changes now being undertaken in our international financial institutions, which originally were designed for a world of yesterday, can provide much of the capital which is needed for development.

It is possible to make changes. We have demonstrated that there are few if any physical or technological barriers that this country is incapable of overcoming, provided that we are willing to make the national commitment to do so.

And remember, we are not alone.

There is a whole world of skill, talent and resources that must be called to the task. What is needed is American leadership that understands and proclaims interdependence—the simple fact that we need each other; that no one is safe until all are secure.

Yet, I am deeply troubled by the fact that clear objectives for our programs of development cooperation with the poorer countries remain to be articulated and that we still lack effective machinery to carry out even the limited effort we are now making. Our development assistance programs, unlike our major expenditures in the Middle East to support political and security objectives, do not have specific goals, but only commendable emphasis, such as helping the poor and increasing food production. Our implementation machinery is badly fragmented and lacks the confidence of much of the Congress and the American people.

My conviction is that the Congress and the American people generally are among the most farsighted and generous of any nation. But they need to be shown a meaningful program which they believe has a reasonable prospect for being successfully and effectively implemented.

The International Development Cooperation Act of 1978 can and will meet this basic need. It is designed to address three fundamental issues.

First, it makes it very clear that we are out to assist the poorest countries and the poorest people to overcome the worst aspects of absolute poverty. And we are going to do it through food production programs, health programs, education programs, population programs, and similar activities to meet basic human needs in developing countries.

Second, by accepting this as the objective, we want to remove all legislative and administrative restrictions that do not advance this goal. In other words, any potential legislative restriction must be tested against this central purpose.

Third, given this central purpose, we need to organize ourselves administratively to accomplish this goal. This requires a consolidation of the many economic development transfer mechanisms, both bilateral and multilateral, that are now fragmented throughout the federal bureaucracy, into one development agency—the International Development Cooperation Administration. Through the creation of this new Administration, we are elevating our participation in development efforts as a key element in our foreign policy decision-making process.

In particular, we are proposing the establishment of policies which focus on three goals:

The encouragement of development processes in which individual, civil and economic rights are respected and enhanced;

The integration of the developing countries into an open international economic system; and

The alleviation of the worst physical manifestations of poverty among the world's poor majority.

At present, the Executive branch is not well organized to grapple with development problems. There is no agency which has as its main mission that of representing development concerns in the formulation of U.S. international economic policy. The delivery of U.S. foreign assistance is administered by several agencies—bilateral assistance through the Agency for International Development; participation in International Financial Institutions through the Department of the Treasury; support of United Nations agencies through the State Department; and the activities of the Peace Corps through ACTION. We are one of the very few OECD countries which have not yet established one agency with overall responsibility for defending development concerns in the making of overall international economic policy, or for providing general direction for development assistance.

This would seem a propitious time for the United States to exert its leadership in the North-South dialogue. Since the Seventh Special Session of the United Nations in September, 1975, discussions have moved slowly on restructuring the world economic system. The point has been reached on several issues involving commodities, debt, investment, and trade where the differences separating the developed and developing countries have been reduced. However, a concerted effort is needed to close the remaining gaps.

The United States could place itself in a position to develop and press for the necessary compromises. But we must first organize ourselves to do so. A dramatic and necessary move which would indicate our seriousness and which would position us to better address these issues would be the creation of a single agency in the United States Government to focus on development issues. Such an agency would have a major voice in the formulation of international economic policy and would be responsible for the planning, coordination, and delivery of all United States developmental and humanitarian assistance.

Development should be of priority concern to all Americans. The rate and means by which the developing countries attain their development goals are of considerable importance to the United States for three reasons.

First, the American people can, in the long run, continue to enjoy the kind of society we have only if many other nations share our values regarding individual civil and economic rights. If the frustrations encountered in the development process are met by greatly increasing the power of the state and diminishing the role of the individual, then we will be faced by the emergence onto the world stage of increasing numbers of countries which do not share our respect for human rights. Our society in turn will be imperiled.

Second, our own economic welfare depends to a large degree on an open world economy. We need to obtain raw materials from many countries. We need to continue expanding

high technology industries which rely upon growing world markets—markets which depend very heavily on the economic growth of developing countries. We need to export agricultural products worldwide to maintain the high-technology and large-scale agriculture at which we excel. We will not be able to do this if developing countries turn away from an open world economic system.

Finally, we are concerned about the plight of developing countries because we care as human beings. The American people have always accepted the premise that with good fortune comes the responsibility to assist those less fortunate. No other nation has the extraordinary record of voluntarism and private charity that the United States possesses. The kind of poverty that still exists in this world, involving hunger, high infant mortality, illiteracy, lack of health care, and inadequate shelter offends our sensibilities and cries out for action on our part.

We face great problems in America and in the world today. But we can, and we will, overcome them.

We can launch a global assault on the historic plagues of mankind—the bondage of hunger, disease, and illiteracy—if we have the will and creativity to do so.

And, as we do, we will move closer to fulfilling the promise of America—a life with dignity in the pursuit of happiness in a free society for our own people and for those throughout the world.

We are a young country with our future before us. Our people are builders. They are restless. They are energetic. They are idealists who want to put their ideals to the test. It is an exciting time. The frontiers of science and technology are constantly being pushed forward. But it is in the political, economic and social fields where mankind's ingenuity and inventiveness must now be directed. I firmly believe the International Development Cooperation Act provides us with a framework in which we can channel our creativity and inventiveness in meeting the challenge of abolishing the worst aspects of poverty from the face of the earth.

S. 2420

Be it enacted by the Senate and House of Representatives of United States of America in Congress assembled, That this Act together with the following table of contents, may be cited as the "International Development Cooperation Act of 1978".

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Chapter I—POLICY

SEC. 101. GENERAL POLICY.—The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties and economic prosperity of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and which work together to use wisely the world's limited resources in an open and equitable international economic system. Furthermore, the Congress reaffirms the traditional humanitarian ideals of the American people, and renews its commitment to assist people of developing countries to eliminate hunger, poverty, illness, and ignorance.

Therefore, the Congress declares that a principal objective of the foreign policy of

the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.

United States development cooperation policy should emphasize four principal goals:

(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced; and

(4) the integration of the developing countries into an open and equitable international economic system.

The Congress declares that pursuit of these goals requires that development concerns be fully reflected in United States foreign policy, and that United States development resources be effectively and efficiently utilized. In order to insure that the United States Government is organized to achieve these purposes the Congress establishes the International Development Cooperation Administration.

SEC. 102. DEVELOPMENT ASSISTANCE POLICY.—The Congress finds that the efforts of developing countries to build and maintain social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depends primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries, and accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

Provision of development resources must be adapted to the needs and capabilities of specific developing countries. United States assistance to countries with low per capita incomes which have limited access to private external resources should primarily be provided on concessional terms. Assistance to other developing countries should generally consist of programs which facilitate their access to private capital markets, investment, and technical skills, whether directly through guarantee or reimbursable programs by the United States Government, or indirectly through callable capital provided to the international financial institutions.

Bilateral assistance and United States participation in multilateral institutions shall emphasize programs in support of countries which pursue development strategies designed to meet basic human needs and achieve self-sustaining growth with equity.

The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work, and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in development, by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

Chapter II—BILATERAL DEVELOPMENT ASSISTANCE

TITLE I—GRANT AND LOAN ASSISTANCE

SEC. 201. BILATERAL DEVELOPMENT ASSISTANCE POLICY.—Assistance under this chapter should be used not only for the purpose of transferring financial resources to developing countries, but also to help countries solve development problems in accordance with a strategy that aims to insure wide participation of the poor in the benefits of development on a sustained basis. Moreover, assistance shall be provided in a prompt and effective manner, using appropriate United States institutions for carrying out this strategy. In order to achieve these objectives and the broad objectives as set forth in sections 101 and 102 in this Act, bilateral development assistance authorized by this Act shall be carried out in accordance with the following principles:

(1) Development is primarily the responsibility of the people of the less developed countries themselves. Assistance from the United States shall be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs, and shall be concentrated in those countries that take positive steps to help themselves. Maximum effort shall be made, in the administration of this Act, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities and institution building appropriate to the requirements of the recipient nations.

(2) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

(4) Development assistance provided by the United States under this chapter shall be increasingly concentrated in countries that will make the most effective use of such assistance to help satisfy basic human needs through equitable growth, especially those in greatest need of outside assistance. In order to make possible consistent and informed judgments in this respect, appropriate criteria shall be developed to assess the commitment and progress of countries in moving toward the objectives and purposes of this Act.

(5) United States development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries: food production and nutrition; rural development and generation of gainful employment; population planning and health; environment and natural resources; and education, development administration, and human resource development.

(6) United States assistance shall encourage and promote the participation of women in the national economies of developing countries and the improvement of women's status as an important means of promoting the total development effort.

(7) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, and private and voluntary agencies.

(8) The economic and social development programs to which the United States lends support should reflect, to the maximum extent practicable, the role of United States private investment in such economic and social development programs.

(9) Assistance shall be planned and utilized to encourage regional cooperation by developing countries in the solution of common problems and the development of shared resources.

(10) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries, including the planning and implementation of programs and projects on a multilateral and multidonor basis.

SEC. 202. AGRICULTURE AND FOOD PRODUCTION, RURAL DEVELOPMENT, AND NUTRITION.—(a) In recognition of the fact that the great majority of the people of developing countries live in rural areas and are dependent on agriculture and agricultural-related pursuits for their livelihood, the Administrator is authorized on such terms and conditions as he may determine, to furnish assistance for agriculture, rural development, and nutrition—

(1) to alleviate starvation, hunger, and malnutrition;

(2) to expand significantly the provision of basic services to rural poor people to enhance their capacity for self-help; and

(3) to help meet the need to create productive farm and off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards and contributions by rural poor people to the economic and social development of their countries.

There are authorized to be appropriated to the Administrator for the purposes of this section, in addition to funds otherwise available for such purposes $ for the fiscal year 1979, which amounts are authorized to remain available until expended.

(b) Assistance provided under this section shall be used primarily for activities which are specifically designed to increase the productivity or income of the rural poor, through such means as creation and strengthening of local institutions linked to the regional and national levels; organization of a system of financial institutions which provide both savings and credit services to the poor; stimulation of small, labor-intensive enterprises in rural towns; improvement of marketing facilities and systems, expansion of rural infrastructure and utilities such as farm-to-market roads, land improvement, energy, and storage facilities; establishment of more equitable and more secure land tenure arrangements, and creation and strengthening of systems to provide other services and supplies needed by farmers, such as extension, research, training, fertilizer, water, and improved seed, in ways which assure access to them by small farmers.

(c) The Congress finds that human suffering and deprivation are widespread and are growing in the poorest and most slowly developing countries. The greatest potential for significantly expanding availability of food for people in rural areas and augmenting world food production at relatively low cost lies in increasing the productivity of small farmers who constitute a majority of the people living in those countries. Increasing the emphasis on rural development and expanded food production in the poorest nations of the developing world is a matter of social justice and a principal element contributing to broadly based economic growth, as well as an

important factor in controlling inflation in the industrialized countries. In the allocation of funds under this section, special attention shall be given to increasing agricultural production in countries which have been classified as food priority countries by the World Food Council or which have been designated as relatively least developed by the United Nations Conference on Trade and Development.

(d) Assistance provided under this section shall also be used in coordination with programs carried out under section 203 to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. In particular, the Administrator is encouraged—

(1) to devise and carry out in partnership with developing nations a strategy for programs of nutrition and health improvement for mothers and children, including breast feeding; and

(2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

(e) Agricultural research carried out under this Act shall—

(1) be carried out to the maxium extent practicable in developing countries;

(2) take account of the special needs of small farmers in the determination of research priorities, including research having a focus on small farm production systems rather than simply crop related;

(3) include research on the interrelationships among technology, institutions, and economic, social, and cultural factors affecting small farm agriculture; and

(4) make extensive use of field testing to adapt basic research to local conditions.

Special emphasis shall be placed on disseminating research results to the farms on which they can be put to use, and especially on institutional and other arrangements needed to assure that small farmers have effective access to both new and existing improved technology.

(f) In programing sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954, the Administrator shall give careful consideration to the impact of such sales on agricultural development policies and programs of the proposed recipient countries, with the particular objective of avoiding undue negative impact on a recipient country's policies pertaining to food commodity pricing, marketing and market access, land tenure, credit, and other key elements needed to increase domestic food production.

(g) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section.

SEC. 203. POPULATION AND HEALTH.—(a) The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts. Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services, and is often a matter of political and religious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition. Good health conditions are a principal element in improved quality of life and contribute to the individual capacity to participate in the development process.

(b) (1) In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the Administrator is authorized to furnish assistance, on such terms and conditions as he may determine, for population planning. In addition to the provision of family planning information and services and the conduct of directly relevant demographic research, population planning programs shall emphasize motivation for small families through, but not limited to, education in responsible parenthood, the development of roles alternative to motherhood for women, and the modification of economic and social conditions supportive of the desire for large families. Population planning programs shall be coordinated with other programs aimed at reducing the infant mortality rate, providing better nutrition for pregnant women and infants, and raising the standard of living of the poor.

(2) There are authorized to be appropriated to the Administrator for the purposes of this subsection, in addition to funds otherwise available for such purposes, $———— for the fiscal year 1979, which amount is authorized to remain available until expended.

(c) (1) Assistance under this chapter shall be administered so as to give particular attention to the interrelationship between (a) population growth, and (b) development and overall improvement in living standards in developing countries and to the impact of all programs, projects, and activities on population growth. All appropriate activities proposed for financing under this chapter shall be designed to build motivation for smaller families in programs such as education in and out of school, nutrition, disease control, maternal and child health services, agricultural production, rural development, and assistance to the urban poor.

(2) The Administrator is authorized to study the complex factors affecting population growth in developing countries and to identify factors which might motivate people to plan family size or space their children.

(d) (1) None of the funds made available for assistance to carry out this chapter may be used to pay for the performance of abortions as a method of family planning or to coerce any person to practice abortions.

(2) None of the funds made available to carry out this chapter may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo involuntary sterilizations.

(e) (1) In order to prevent and combat disease to improve health conditions for the great majority, the Administrator is authorized to furnish assistance on such terms and conditions as he may determine for health, health education, disease prevention, and environmental sanitation. (2) There are authorized to be appropriated to the Administrator for the purposes of this subsection, in addition to funds otherwise available for such purposes, $ for the fiscal year 1979, which amount is authorized to remain available until expended.

(f) The provision of health and family planning services through assistance under this section shall emphasize low-cost integrated delivery systems, especially to rural areas and to the poorest people using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems and other modes of community outreach.

SEC. 204. EDUCATION, DEVELOPMENT ADMINISTRATION, AND HUMAN RESOURCES DEVELOPMENT.—(a) In order to reduce illiteracy, to extend basic education, and to increase manpower training and organizational capabilities in skills related to development, the Administrator is authorized to furnish assistance on such terms and conditions as he may determine, for education, development administration, and human resource development. There are authorized to be appropriated to the Administrator for the purposes of this section, in addition to funds otherwise available for such purposes, $ for fiscal year 1979, which amount is authorized to remain available until expended.

(b) Assistance provided under this section shall be used—

(1) to expand and strengthen nonformal education methods, especially those designed to improve productive skills of rural families and the urban poor and to provide them with useful information; and

(2) to increase the relevance of formal education systems to the needs of the poor, especially at the primary level, through reform of curricula, teaching materials and teaching methods, and improved teacher training; and

(3) to strengthen capabilities of country and regional institutions with respect to program planning, management, and technical expertise to permit them to address more effectively and comprehensively problems of poor people and enable the poor to participate in development.

SEC. 205. SELECTED DEVELOPMENT PROGRAMS.—(a) The Congress recognizes that the diversity and complexity of the development process requires a broad spectrum of efforts beyond the scope of the activities authorized by sections 202 through 204 of this Act. The Congress finds that full and effective implementation of United States development assistance policy established in section 201 may require the provision of assistance for activities that complement and enhance programs authorized by sections 202 through 204 of this Act. Accordingly, the Administrator is authorized to furnish assistance, on such terms and conditions as he may determine, for the following activities:

(1) Programs to help developing countries alleviate their energy problems by increasing their production and conservation of energy, through such means as research and development of suitable energy sources including relatively small scale, decentralized, renewable energy sources, conservation methods, collection and analysis of information concerning countries' potential supplies of and needs for energy, and pilot projects to test new or unconventional methods of production or conservation of energy, with due priority to be accorded to earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are widely and easily transferrable from one region of the world to another.

(2) Programs for developing and strengthening the capacity of developing countries to protect and manage their environment and natural resources, particularly to maintain and where possible restore the land, vegetation, water, and other resources upon which depend economic growth and human well-being, especially that of the poor.

(3) Programs of research into, and evaluation of, the process of economic development in developing countries and areas, the factors affecting the relative success and costs of development activities, and into the means, techniques, and such other aspects of development assistance as the Administrator may determine in order to render such assistance of increasing value and benefit.

(4) Programs in cooperation with developing countries to promote the development and dissemination of intermediate and other technologies appropriate for developing countries.

(5) Programs of urban development, with particular emphasis on adequate housing and related basic services in conjunction with housing investment guaranties authorized in section 332; small, labor intensive enterprises; marketing systems for small producers; and financial and other institutions which enable the urban poor to participate in the economic and social development of their country.

(6) Programs of reconstruction following natural or manmade disasters.

(7) Programs designed to help solve special problems of development in the relatively least developed countries, as determined by the United Nations Conference on Trade and Development, caused by inadequate physical infrastructure, including the absence of effective transportation and communications systems.

(8) Programs of technical cooperation and development, particularly the efforts of regional and international development organizations.

(b) There are authorized to be appropriated to the Administrator for the purposes of this section, in addition to funds otherwise available for such purposes, for the fiscal year 1979 $ to remain available until expended.

SEC. 206. ASSISTANCE TO UNITED STATES RESEARCH AND EDUCATIONAL INSTITUTIONS.—Not to exceed $ of the funds made available in any fiscal year under this chapter may be used for assistance, on such terms and conditions as the Administrator may specify, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

SEC. 207. COST-SHARING AND FUNDING LIMITS.—(a) No assistance may be furnished by the United States Government to a country under sections 202 through 205 of this Act until the country provides assurances to the Administrator, and the Administrator is satisfied, that such country makes a significant contribution to the cost of the entire program, project, or activity with respect to which such assistance is to be furnished. A significant contribution may be financial or "in kind," such as provision of personnel or other local resources needed for the execution of the program or project.

(b) No grant assistance shall be disbursed by the United States Government under sections 202 through 205 for a project, for a period exceeding four consecutive years, without further justification satisfactory to the Congress and efforts being made to obtain increased sources of financing within the recipient country.

SEC. 208. RELATIVELY LEAST DEVELOPED COUNTRIES.—(a) Countries determined to be "relatively least developed" by the United Nations Conference on Trade and Development are characterized by extreme poverty, very limited infrastructure, and administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under sections 202 through 205.

(b) For the purpose of promoting economic growth in these countries, the Administrator is authorized and encouraged, notwithstanding any other provision of the law, to make assistance under this chapter available on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives.

(c) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets, and that action to ease their debt service burden arising from official development assistance will be most unlikely to affect the operations of the private banking system. Insofar as possible prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, the Administrator may on a case-by-case basis, taking into account the balance of payments situation of each relatively least developed country, and notwithstanding the provisions of section 767 (c) waive interest payments on past indebtedness incurred under this Act and predecessor legislation, and direct that payments on principal due on such past indebtedness be paid, in equivalent amounts in local currencies as determined by the official exchange rate for United States dollars, into local currency accounts. Such funds shall be used by the developing country, with the concurrence of the Administrator, for activities which are consistent with section 201.

(d) The Administrator may waive all or part of the requirements of section 207(a) on a case-by-case basis for financial or "in kind" contributions in the case of projects or activities in relatively least developed countries which might otherwise be required by section 207(a).

(e) Section 207(b) shall not apply with respect to grants to relatively least developed countries.

(f) Notwithstanding the provisions of section 742 the Administrator may, in concert with other donors, waive procurement requirements with respect to the relatively least developed countries so that they are able to purchase needed goods and services on the most favorable terms on a worldwide basis. The Administrator shall submit a report to the Congress on the efforts to achieve a concerted procurement policy with donors of the Overseas Economic Cooperation and Development countries, and its estimated effect on the United States economy, in the annual report to the Congress required by section 781.

SEC. 209. SAHEL DEVELOPMENT PROGRAM.—(a) The Administrator is authorized to furnish assistance, on such terms and conditions as he may determine, for the long-term development of the Sahel region. Assistance furnished under this section shall be in accordance with a long-term, multidonor development plan which calls for equitable burden sharing with other donors and shall be furnised, whenever appropriate, in cooperation with an international coordinating mechanism.

(b) The Administrator shall prepare an annual report on the Sahel development program concerning the allocation of the United States contribution to the program, the extent of the contributions from other donor countries, the effectiveness of the integrated effort through the Club du Sahel, and the progress made in achieving the objectives of the program.

(c) There are authorized to be appropriated to the Administrator for purposes of this section, beginning in the fiscal year 1978, in addition to funds otherwise available for such purposes, $200,000,000. Amounts appropriated under this section are authorized to remain available until expended.

TITLE II—STRENGTHENING INSTITUTIONAL CAPACITY FOR AGRICULTURAL DEVELOPMENT

SEC. 221. GENERAL PROVISIONS.—(a) The Congress declares that the United States should strengthen the capacities of the United States land-grant and other eligible universities in program-related agricultural institutional development and research, consistent with section 202, should improve their participation in the United States Government international efforts to apply more effective agricultural sciences to the goal of increasing world food production, and, in general, should provide increased and longer term support to the application of science to solving food and nutrition problems of the developing countries.

The Congress so declares because it finds—

(1) that the establishment, endowment, and continuing support of land-grant universities in the United States by Federal, State, and county governments has led to agricultural progress in this country;

(2) that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with foreign agricultural institutions in expanding indigenous food production for both domestic and international markets;

(3) that, in a world of growing population with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger but also to build the economic base for growth, and moreover, that the greatest potential for increasing world food supplies is in the developing countries where the gap between food need and food supply is the greatest and current yields are lowest;

(4) that increasing and making more secure the supply of food is of greatest benefit to the poorest majority in the developing world;

(5) that research, teaching, and extension activities, and appropriate institutional development therefor are prime factors in increasing agricultural production abroad as well as in the United States, and in improving food distribution, storage, and marketing;

(6) moreover, that agricultural research abroad has in the past and will continue in the future to provide benefits for agriculture in the United States and that increasing the availability of food of higher nutritional quality is of benefit to all; and

(7) that universities need a dependable source of Federal funding, as well as other financing, in order to expand, or in some cases to continue, their efforts to assist in increasing agricultural production in developing countries.

(b) Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, various components must be brought together in order to increase world food production, including—

(1) strengthening the capabilities of universities to assist in increasing agricultural production in developing countries;

(2) institution-building programs for development of national and regional agricultural research and extension capacities in developing countries which need assistance;

(3) international agricultural research centers;

(4) contract research; and

(5) research program grants.

(c) The United States should—

(1) effectively involve the United States land-grant and other eligible universities more extensively in each component;

(2) provide mechanisms for the universities to participate and advise in the planning, development, implementation, and administration of each component; and

(3) assist such universities in cooperative joint efforts with—

(A) agricultural institutions in developing countries, and

(B) regional and international agricultural research centers,

directed to strengthening their joint and respective capabilities and to enlarge them more effectively in research, teaching, and extensive activities for solving problems in food production, distribution, storage, marketing, and consumption in agriculturally underdeveloped countries.

(d) As used in this title, the term "universities" means those colleges or universities in each State, territory, or possession of the United States, or the District of Columbia, now receiving, or which may hereafter receive, benefits under the Act of July 2, 1862 (known as the First Morrill Act), or the Act of August 30, 1890 (known as the Second Morrill Act), which are commonly

known as land-grant universities; institutions now designated or which may hereafter be designated as sea-grant colleges under the Act of October 15, 1966 (known as the National Sea Grant College and Program Act), which are commonly known as sea-grant colleges; and other United States colleges and universities which—

(1) have demonstrable capacity in teaching, research, and extension activities in the agricultural sciences; and

(2) can contribute effectively to the attainment of the objectives of this title.

SEC. 222. GENERAL AUTHORITY.—(a) To carry out the purposes of this title, the Administrator is authorized to provide assistance on such terms and conditions as he shall determine—

(1) to strengthen the capabilities of universities in teaching, research, and extension work to enable them to implement current programs authorized by paragraphs (2) through (5), and those proposed in the report required by section 225;

(2) to build and strengthen the institutional capacity and human resources skills of agriculturally developing countries so that such countries may participate more fully in the international agricultural problem-solving effort and to introduce and adapt new solutions to local circumstances;

(3) to provide program support for long-term collaborative university research on food production, distribution, storage, marketing, and consumption;

(4) to involve universities more fully in the international network of agricultural science, including the international research centers, the activities of international organizations such as the United Nations development program and the Food and Agriculture Organization, and the institutions of agriculturally developing nations; and

(5) to provide program support for international agricultural research centers, to provide support for research projects identified for specific problem-solving needs, and to develop and strengthen national research systems in the developing countries.

(b) Programs under this title shall be carried out so as to—

(1) utilize and strengthen the capabilities of universities in—

(A) developing capacity in the cooperating country for classroom teaching in agriculture, plant and animal sciences, human nutrition, and vocational and domestic arts, and other relevant fields appropriate to local needs;

(B) agricultural research to be conducted in the cooperating countries, at international agricultural research centers, or in the United States;

(C) the planning, initiation, and development of extension services through which information concerning agriculture and related subjects will be made available directly to farmers and farm families in the agriculturally developing countries by means of education and demonstration; or

(D) the exchange of educators, scientists, and students for the purpose of assisting in successful development in the cooperating nations;

(2) take into account the value to the United States agriculture of such programs, integrating to the extent practicable the programs and financing authorized under this title with such programs as are supported by other Federal or State resources so as to maximize the contribution to the development of agriculture in the United States and in agriculturally developing nations; and

(3) whenever practicable, build on existing programs and institutions, including those of the universities and the Departments of Agriculture and Commerce.

(c) To the maximum extent practicable, activities under this section shall—

(1) be designed to achieve the most effective interrelationship among the teaching of agricultural sciences, research, and extension work;

(2) focus primarily on the needs of agricultural producers;

(3) be adapted to local circumstances, and

(4) be carried out within the developing countries.

SEC. 223. BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT.—(a) To assist in the administration of the programs authorized by this title, the President shall establish a permanent Board for International Food and Agricultural Development (hereafter in this title referred to as the "Board") consisting of seven members, of whom not less than four shall be appointed from the universities. Terms of members shall be set by the President at the time of appointment. Members of the Board shall be entitled to such reimbursement for expenses incurred in the performance of their duties (including per diem in lieu of subsistence while away from their homes or regular place of business) as the Administrator deems appropriate.

(b) The Board's general areas of responsibility shall include, but not be limited to—

(1) participating in the planning, development, and implementation of,

(2) initiating recommendations for, and

(3) monitoring of,

the activities described in section 222.

(c) The Board's duties shall include, but not necessarily be limited to—

(1) participating in the formulation of basic policy, procedures, and criteria for project proposal review, selection, and monitoring;

(2) developing and keeping current a roster of universities—

(A) interested in exploring their potential for collaborative relationships with agricultural institutions, and with scientists working on significant programs designed to increase food production in developing countries,

(B) having capacity in the agricultural sciences,

(C) able to maintain an appropriate balance of teaching, research, and extension functions,

(D) having capacity, experience, and commitment with respect to international agricultural efforts, and

(E) able to contribute to solving the problems addressed by this title;

(3) recommending which developing countries could benefit from programs carried out under this title, and identifying those nations which have an interest in establishing or developing agricultural institutions which engage in teaching, research, or extension activities;

(4) reviewing and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Administrator and universities participating in programs under this title;

(5) reviewing and evaluating agreements and activities authorized by this title and undertaken by universities to assure compliance with the purposes of this title;

(6) recommending to the Administrator the apportionment of funds under section 222 of this title; and

(7) assessing the impact of programs carried out under this title in solving agricultural problems in the developing countries.

(d) The Administrator may authorize the Board to create such subordinate units as may be necessary for the performance of its duties, including but not limited to the following:

(1) a Joint Research Committee to participate in the administration and development of the collaborative activities described in section 222(a)(3); and

(2) a Joint Committee on Country Programs which shall assist in the implementation of the bilateral activities described in sections 222(a)(2), 222(a)(4), and 222(a)(5).

(e) In addtion to any other functions assigned to and agreed to by the Board, the Board shall be consulted in the preparation of the annual report required by section 225 and on other agricultural development activities related to programs under this title.

SEC. 224. AUTHORIZATION.—(a) The Administrator is authorized to use any of the funds made available under section 202 to carry out the purposes of this title. Funds made available for such purposes may be used without regard to the provisions of sections 206 and 207(b) of this Act.

(b) Foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States shall be used to the maximum extent possible in lieu of dollars in carrying out the provisions of this title.

(c) Assistance authorized under this title shall be in addition to any allotments or grants that may be made under other authorizations.

(d) Universities may accept and expend funds from other sources, public and private, in order to carry out the purposes of this title. All such funds, both prospective and inhand, shall be periodically disclosed to the Administrator as he shall by regulation require, but no less often than in an annual report.

SEC. 225. ANNUAL REPORT.—The Administrator shall transmit to the Congress, not later than February 1 of each year, a report detailing the activities carried out pursuant to this title during the preceding fiscal year and containing a projection of programs and activities to be conducted during the subsequent five fiscal years. Such report shall contain a summary of the activities of the Board established pursuant to section 223 and may include the separate views of the Board with respect to any aspect of the programs conducted or proposed to be conducted under this title.

TITLE III—AGRICULTURAL COMMODITIES FOR PEACE AND DEVELOPMENT

SEC. 231. PROGRAMING AND ADMINISTRATION.—Congress reaffirms that the agricultural abundance of the United States shall continue to be used for, among other things, to combat hunger and malnutrition and to encourage economic development in developing countries. The Congress finds that assistance through provision of agricultural commodities pursuant to the Agricultural Trade Development and Assistance Act of 1954, as amended, is a significant element in the overall international development strategy of the United States and that such assistance shall be furnished in coordination with, and wherever feasible, in complement to assistance activities authorized under this Act. Accordingly, the Administrator shall insure that programing and furnishing of such agricultural commodities for purposes of development, or any local currencies generated from authorized sales programs thereof, shall benefit the efforts of the poor people of the developing countries to improve their lives and their capacity to participate in the development of their countries.

SEC. 232. ADMINISTRATION OF FOOD DONATION PROGRAMS.—The Administrator is authorized to perform the functions authorized by sections 201, 202, 205, and 206 of the Agricultural Trade and Development Assistance Act of 1954, as amended. The Administrator is authorized to perform the functions which the President is authorized to perform under sections 201, 202, 205, and 206 of title II of the Agricultural Trade and Assistance Act and the aforementioned sections are amended accordingly.

SEC. 233. ADMINISTRATION OF FOOD FOR DEVELOPMENT.—The Administrator is authorized to perform the functions under title III of the Agricultural Trade Development Assistance Act of 1954, as amended, which the President is authorized to perform and the provisions of such title are amended accordingly.

Chapter III—ACCESS TO PRIVATE CAPITAL AND TECHNICAL EXPERTISE

TITLE I—GENERAL POLICY

SEC. 301. ACCESS TO PRIVATE CAPITAL AND TECHNICAL EXPERTISE.—The Congress finds and declares that private capital and expertise can be of vital importance in the development process. Within the developing countries the creative combination of human initiative and capital resources is necesary to maximize economic growth. A dynamic private sector can be instrumental in this process. Internationally, the private sector has the capacity to provide greater human and financial resources to support the development process than can be provided by governments.

The Congress finds that as development proceeds, increased human resources, more effective institutions, and an expanded economy should enable developing countries to reduce their dependence on concessional official external assistance and increase their use of domestic and international private captial, investment, and technical expertise.

The Congress finds that the transition from dependence on concessional assistance to greater reliance on domestic and international private sector resources can be facilitated through programs involving loan and investment guarantees and reimburseable services.

TITLE II—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 311. PURPOSE AND POLICY.—(a) The Overseas Private Investment Corporation (hereinafter called the "Corporation"), created by the Foreign Assistance Act of 1969 (22 U.S.C. 2191 et seq.) shall continue in existence and is hereby established as a constituent element of the Administration under the policy guidance of the Administrator. It shall be the purpose of the Corporation to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of developing friendly countries and areas, thereby complementing the development assistance objectives of the United States.

(b) The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

(2) give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities, to investment projects in less developed countries which meet the poverty criterion of the International Development Association.

(c) In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(1) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

(2) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(3) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(4) to conduct its insurance operations with due regard to principles of risk management including efforts to share its insurance risks and reinsurance risks;

(5) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects sponsored by or involving small businesses;

(6) to consider in the conduct of its operations the extent to which developing country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(7) to foster private initiative and competition and discourage monopolistic practices;

(8) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

(9) to conduct its activities in consonance with the activities of the Administration and the international trade, investment, and financial policies of the United States Government;

(10) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in developing countries and areas; and

(11)(1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1).

SEC. 312. CAPITAL OF THE CORPORATION.—The capital stock of the Corporation shall remain at $40,000,000 as issued to the Secretary of the Treasury against the payment of that amount by the President out of dollar receipts made available through the appropriation process from loans made under predecessor foreign aid legislation, in accordance with section 232 of the Foreign Assistance Act of 1961.

SEC. 313. ORGANIZATION AND MANAGEMENT.—(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

(b) BOARD OF DIRECTORS.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (the "Board") which shall consist of eleven Directors, including the Chairman, with six Directors constituting a quorum for the transaction of business. The Administrator of the International Development Cooperation Administration shall be the Chairman of the Board, ex officio. Six Directors (other than the President of the Corporation, appointed pursuant to subsection (c) who shall also serve as a Director) shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least one of the six Directors appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than two such Directors shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be officials of the Government of the United States, designated by and serving at the pleasure of the President of the United States.

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual places of business.

(c) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its chief executive officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

(d) OFFICERS AND STAFF.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided*, That under such regulations as the Administrator may prescribed, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

SEC. 314. INVESTMENT INSURANCE AND OTHER PROGRAMS.—The Corporation is hereby authorized to do the following:

(a) INVESTMENT INSURANCE.—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government; and

(C) loss due to war, revolution, or insurrection.

(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivision thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the propor-

tionate participation by eligible investors in the total project financing.

(3) Not more than 10 per centum of the maximum contingent liability of investment insurance which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

(4) In order to encourage the development of private multilateral investment insurance the Corporation may make arrangements, consistent with its purpose set forth in section 231 and on equitable terms, with private insurance companies, multilateral organizations, or others for participation in the liabilities arising from insurance of the risks referred to in paragraph (1) of this subsection.

(b) INVESTMENT GUARANTIES.—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 10 per centum of the maximum contingent liability of investment guaranties which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

(c) DIRECT INVESTMENT.—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requiremens of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may acquire as soon as reasonably feasible under the circumstances then retaining.

No loans may be made under this section to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.

(d) INVESTMENT ENCOURAGEMENT.—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private investors, except that—

(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000 in any fiscal year.

(e) SPECIAL ACTIVITIES.—To administer and manage special projects and programs, including programs of financial and advisory support which private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 766(a) or from other sources, public or private.

(f) OTHER INSURANCE FUNCTIONS.—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business.

(2) To enter into pooling or other risk-sharing agreements with other national or multinational insurance or financing agencies or groups of such agencies.

(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) against the Corporation purchasing or investing in any stock in any other corporation. The amount of reinsurance of liabilities under this title which the Corporation may issue shall not exceed $600,000,000 in any one year, and the amount of such reinsurance shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 315(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent possible.

SEC. 315. ISSUING AUTHORITY, DIRECT INVESTMENT FUND AND RESERVES.—(a)(1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 314(a) shall not exceed $7,500,000,000.

(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 314 (b) shall not exceed in the aggregate $750,000,000: *Provided,* That the Corporation shall not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 314(b) or similar predecessor guaranty authority.

(3) The Congress, in considering the budget programs transmitted by the President for the Corporation pursuant to section 104 of the Government Corporation Control Act, as amended, may limit the obligations and contingent liabilities to be undertaken under section 314 (a) and (b) as well as the use of funds for operating and administrative expenses.

(4) The authority of section 314 (a) and (b) shall continue until September 30, 1981.

(b) The Corporation shall hold a revolving fund, known as the Direct Investment Fund. Such fund shall be available for the purposes authorized under section 314(c), shall be charged with realized losses and credited with such additional sums as may be transferred to it under the provisions of section 316.

(c) There shall be established in the Treasury of the United States an insurance and guaranty fund, which shall have separate accounts to be known as the insurance reserve and the guaranty reserve, which reserves shall be available for discharge of liabilities, as provided in section 315(d), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be funded by (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 333(b) and the amount made available to the Corporation pursuant to section 314(c); and (2) such sums as shall be appropriated pursuant to section 315(f) for such purposes. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 316.

(d) Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 314 or under similar predecessor guaranty authority shall be paid first out of the insurance reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to section 315(f). Any payments made to discharge liabilities under guaranties issued under section 234(b) or under similar predecessor guaranty authority shall be paid first out of the guaranty reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to section 315(f).

(e) There is authorized to be transferred to the Corporation at its call, for the purposes specified in section 316, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer

(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the insurance reserve until the amount of funds in the insurance reserve is less than $25,000,000. Any appropriations to augment the insurance reserve shall then only be made either pursuant to specific authorization enacted subsequent hereto, or to satisfy the full faith and credit provision of section 317(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities

during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act.

The purpose for which securities may be issued under such Bond Act shall include any such purchase.

SEC. 316. INCOME AND REVENUES.—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund pursuant to section 315, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments transfers, and additions under subsections (a) and (b) hereof.

SEC. 317. GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAM.—(a) Insurance, guaranties, and reinsurance issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty, or reinsurance is to be made, and right, title, claim, or cause of action existing in connection therewith.

(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities under the Foreign Assistance Act of 1961, as amended, and all insurance, reinsurance, and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(d) Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing contracts for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced.

(e) No insurance, guaranty, or reinsurance of any equity investment shall extend beyond twenty years from the date of issuance.

(f) No insurance, reinsurance, or guaranty issued under this title shall exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings or profits actually accrued on said investment to the extent provided by such insurance, reinsurance or guaranty except that the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets. Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance by it under section 234 so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates except that this limitation shall not apply to direct insurance or reinsurance of loans made by banks or other financial institutions to unrelated parties. The preceding sentence shall not apply to the extent not permitted by State law.

(g) No payment may be made under any guaranty, insurance or reinsurance issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) Insurance, guaranties, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims arising as a result of insurance, reinsurance or guaranty operation under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(k) In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.

(l) (1) No payment may be made under any insurance or reinsurance, which is issued under this title on or after the effective date of this subsection, for any loss occurring with respect to a project, if any Federal agency (other than the Corporation) has made a final determination, or any court, of the United States has entered a final judgment, that an investor seeking payment under this title, or any agent of such investor, is responsible for an act of bribery, as defined in section 318(e), with respect to that project.

(2) The provisions of this subsection shall expire upon the date of enactment of general legislation providing for criminal penalties for acts of bribery commited by investors in order to influence actions of a foreign government.

SEC. 318. DEFINITIONS.—As used in this title—

(a) the term "investment" includes any contribution of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term "expropriation" includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term "eligible investor" means (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States or any State or territory thereof and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided, however,* That the eligibility of such foreign corporation shall be determined without regard to any shares in aggregate less than 5 per centum of the total issued and subscribed shared capital, held by other than the United States owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as the time the insurance or guaranty is issued;

(d) the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by this Act, the Foreign Assistance Act of 1969, sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties); and

(e) the term "act of bribery" means an offer or promise to pay, or a payment of, any significant amount of money, or an offer or promise to give, or a gift of, anything of significant value, by an investor seeking payment under this title or any agent of such investor—

(1) to an individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing such individual to use his influence within such foreign government or instrumentality to affect any decision or other action of such foreign government or instrumentality with respect to a project of such investor for which insurance or reinsurance is issued under this title;

(2) to any person if such investor or agent knows or has reason to know that all or a portion of such moneys or thing of value will be offered, given, or promised, directly or indirectly, to any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing such individual to use his influence within such foreign government or instrumentality to affect any decision or other action of such foreign government or instrumentality with respect to a project of such investor for which insurance or reinsurance is issued under this title; or

(3) to any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing such party, official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect any decision or other action of such foreign government or instrumentality with respect to a project of such investor for which insurance or reinsurance is issued under this title.

SEC. 319. GENERAL PROVISIONS AND POWERS.—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation at such time as he may determine, all obligations, assets, and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 314 (a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized un-

der this title as may be determined by the President.

(c) The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title.

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)); to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Auditor-General of the Administration (1) shall have the responsibility for planning and directing the execution of audits, reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Auditor-General shall report to the Board. The Administration shall be reimbursed by the Corporation for all expenses incurred by the Auditor-General in connection with his responsibilities under this subsection.

(f) In order to further the purposes of the Corporation there shall be established an Advisory Council to be composed of such representatives of the American business community as may be selected by the Chairman of the Board. The Administrator, the President of the Corporation and the Board shall, from time to time, consult with such Council concerning the objectives of the Corporation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code for travel and other expenses incurred by them in the performance of their functions under this section.

(g) Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia or Romania of the programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.

(h) Within six months after the date of enactment of this Act the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.

SEC. 320. REPORTS TO THE CONGRESS. (a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year, including an assessment of the economic and social development impact and benefits of such operations, and the extent to which such operations complement or are compatible with the development assistance programs of the United States and other donors.

(b) Not later than December 31, 1980, the Corporation shall submit to the Congress a report on the development of private and multilateral programs for investment insurance and any participation arrangements it has made.

TITLE III—HOUSING INVESTMENT GUARANTIES

SEC. 331. WORLDWIDE HOUSING GUARANTIES.—The Congress recognizes that shelter requirements are among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. Most financing for such housing must come from domestic resources. The Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved housing and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing credit for low-cost housing can be financially viable.

The Congress reaffirms, therefore, that the United States should continue to assist the private sector in marshaling resources for low-cost housing in developing countries. Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local financial institutions. The Congress declares that the longrun goal of all such programs should be to stimulate local credit institutions to make available domestic capital for financing low-cost shelter.

SEC. 332. AUTHORIZATION.—(a) To carry out the policy of section 331, the Administrator is authorized to issue guaranties to eligible investors, as defined in section 318 (c), assuring against losses incurred in connection with loans made pursuant to section 331. The total principal amount of guaranties issued under this chapter or heretofore issued under the predecessor legislation, outstanding at any one time shall not exceed $. The authority of this section shall continue until September 30, 1980. The Administrator may issue regulations from time to time with regard to the guaranties shall be issued and the eligibility of lenders.

(b) Activities to be carried out under this section shall emphasize—

(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

(2) projects comprised of expandable core shelter units on serviced sites;

(3) slum upgrading projects designed to conserve and improve existing shelter;

(4) shelter projects for low income people designed for demonstration or institution building purposes; and

(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

SEC. 333. GENERAL PROVISIONS.—(a) A fee shall be charged for each guaranty issued under section 332 in an amount to be determined by the President. In the event the fee to be charged for such type guaranty is reduced, fees to be paid under existing contracts for the same type of guaranty may be similarly reduced.

(b) The amount of $50,000,000 of fees accumulated under prior investment guaranty provisions repealed by the Foreign Assistance Act of 1969, together with all fees collected in connection with guaranties issued under section 332 or under prior housing guaranty authorities shall be available—

(1) for meeting necessary administrative and operating expenses of carrying out the provisions of section 332 and of prior housing guaranty provisions repealed by the Foreign Assistance Act of 1969 (including but not limited to expenses pertaining to personnel, supplies, and printing), subject to such limitations as may be imposed in annual appropriation Acts;

(2) for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guaranties made pursuant to section 332 or heretofore pursuant to prior Latin American and other housing guaranty authorities repealed by the Foreign Assistance Act of 1969;

(3) to pay the cost of investigating and adjusting (including costs of arbitration) claims under such guaranties; and

(4) for expenditure in discharge of liabilities under such guaranties until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this subsection.

(c) Any payments made to discharge liabilities under guaranties issued under section 332 or heretofore under prior Latin American or other housing guaranty authorities repealed by the Foreign Assistance Act of 1969, shall be paid first out of fees referred to in subsection (b) (excluding amounts required for purposes other than the discharge of liabilities under guaranties) as long as such fees are available, and thereafter shall be paid out of funds, if any, realized from the sale of currencies or other assets acquired in connection with any payment made to discharge liabilities under such guaranties as long as funds are available, and finally out of funds hereafter made available pursuant to subsection (e).

(d) All guaranties issued under section 332 or previously under section 240 of the Foreign Assistance Act of 1961, as amended, or heretofore under prior Latin American or other housing guaranty authority repealed by the Foreign Assistance Act of 1969 shall constitute obligations, in accordance with the terms of such guaranties, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations.

(e) There is authorized to be appropriated to the President such amounts, to remain available until expended, as may be necessary from time to time to carry out the purposes of this title.

(f) In the case of any loan investment guaranteed under section 332, the Administration shall prescribe the maximum rate of interest allowable to the eligible investor, which maximum rate shall not be less than one-half of 1 per centum above the then current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development. In no event shall the Administration prescribe a maximum allowable rate of interest which exceeds by more than 1 per centum the then

current rate of interest applicable to housing mortgages insured by such Department. The maximum allowable rate of interest under this subsection shall be prescribed by the Administration as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the Administration may amend such rate at its discretion, consistent with the provisions of subsection (f).

(g) Housing guaranties committed, authorized, or outstanding under prior housing guaranty authorities repealed by the Foreign Assistance Act of 1969 shall continue subject to provisions of law originally applicable thereto and fees collected hereafter with respect to such guaranties shall be available for the purposes specified in subsection (b).

(h) No payment may be made under any guaranty issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(i) Guaranties shall be issued under section 332 only for housing projects which are specifically designed to demonstrate the feasibility and suitability of particular kinds of housing or of financial or other institutional arrangements. Of the aggregate face value of housing guaranties hereafter issued under this title, not less than 90 per centum shall be issued for housing suitable for families with income below the median income (below the median urban incomes for housing in urban areas) in the country in which the housing is located. The face value of guaranties issued with respect to housing in any country shall not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Notwithstanding the provisions of the first sentence of this subsection, the President is authorized to issue housing guaranties until September 30, 1979, as follows: In Israel, not exceeding a face amount of $75,000,000, in Portugal, not exceeding a face amount of $30,000,000, and in Lebanon, not exceeding a face amount of $30,000,000.

(j) All funds made available for meeting the necessary administrative and operating expenses of carrying out the povisions of section 332 and housing guaranties heretofore authorized under this title may be invested in obligations of the United States which are determined to be appropriate for such an investment by the Secretary of the Treasury or in such other obligations or securities as the Secretary of the Treasury determines to be appropriate. Any interest or other receipts derived from such investments, together with any receipts derived from indemnities, or penalties derived from obligations incurred by parties to agreements made in connection with guaranties issued hereunder, may be used for the same purposes with respect to each section as the fees collected with respect to such section.

TITLE IV—AGRICULTURAL AND PRODUCTIVE CREDIT AND SELF-HELP DEVELOPMENT COMMUNITIES PROGRAMS

SEC. 341. A GENERAL POLICY.—(a) It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less-developed countries in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which such groups or individuals are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development, nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) To carry out the purpose of subsection (a), the Administration is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations in not more than five Latin American countries assuring against loss of not to exceed 50 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which such groups or individuals are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.

(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed $15,000,000. Not more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d) The Inter-American Foundation shall be consulted in developing criteria for making loans eligible for guaranty coverage in Latin America under this section.

(e) Not to exceed $3,000,000 of the guaranty reserve established under section 333(b) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section or any guaranties previously issued under sections 222A and 240 of the Foreign Assistance Act of 1961, as amended.

(f) The authority of this section shall continue until September 30, 1982.

(g) Notwithstanding the limitations in subsection (c), foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.

(h) Fees collected in connection with guaranties issued under this section shall be available to pay the administration costs incurred in connection with programs authorized by this section.

TITLE V—REIMBURSABLE SERVICES AND COMMODITIES

SEC. 351. GENERAL AUTHORITY.—(a) Whenever the Administrator determines it to be consistent with and in furtherance of the purposes of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid, including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available.

(b) Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

(1) Advances or reimbursements which are received under this section within 180 days after the close of the fiscal year in which such services and commodities are delivered.

(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within 180 days after the close of the fiscal year in which such services and commodities are delivered: *Provided*, That such agreements require the payment of interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526), and payment of such principal and interest does not exceed a period of three years from the date of signing of the agreement to provide the service: *Provided further*, That funds available for this paragraph in any fiscal year shall not exceed $1,000,000 of the total funds authorized for use in such fiscal year by chapter II of this Act, and shall be available only to the extent provided in appropriation Acts. Interest shall be accrued as of the date of disbursement to the agency or organization providing such services.

SEC. 352. REIMBURSABLE DEVELOPMENT PROGRAMS.—The Administrator is authorized to use $5,000,000 for the purposes of this Act in the fiscal year 1979 to work with friendly countries, especially those in which United States development programs have been concluded or those not receiving assistance under chapter II of this Act, in stimulation of reimbursable aid programs consistent with chapter I of this Act. Any funds used for purposes of this section may be used notwithstanding any other provision of this Act.

SEC. 353. EXCESS PROPERTY.—(a) No Government-owned excess property may be made available under this section, section 354, or otherwise in furtherance of the purposes of chapter I of this Act, unless, before the shipment of such property for use in a specified country (or transfer, if the property is already in such country), the Administration administering such chapter I has approved such shipment or transfer and made a written determination—

(1) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(2) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property, and

(3) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of such costs.

(b) Property classified as domestic excess property under the Federal Property and Administrative Services Act of 1949, as amended, shall not be transferred to the Administration for use pursuant to the provisions of chapter I or section 351 unless—

(1) such property is transferred for use exclusively by an agency of the United States Government; or

(2) it has been determined in the same manner as provided for surplus property in section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, that such property is not needed for donation pursuant to that subsection.

The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of chapter I of amounts of such property with a total original acquisition cost to the United States Government not exceeding $45,000,000.

SEC. 354. ADVANCE ACQUISITION OF PROPERTY.—(a) It is the sense of the Congress that in furnishing assistance under chapter I excess personal property should be utilized wherever practicable in lieu of the procurement of new items for United States-assisted projects and programs. The President is authorized to maintain in a separate account, which shall, notwithstanding section 1210

of the General Appropriation Act, (64 Stat. 765), be free from fiscal year limitations, $5,000,000 of grant funds made available under chapter II, which may be used to pay costs (including personnel costs) of acquisition, storage, renovation and rehabilitation, packing, crating, handling, transportation, and related costs of property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), or other property, in advance of known requirements therefor for use in furtherance of the purposes of chapter I: *Provided*, That the amount of property classified as domestic excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended, held at any one time pursuant to this section shall not exceed $15,000,000 in total original acquisition cost. Property acquired pursuant to the preceding sentence may be furnished—

(1) pursuant to any provision of chapter I for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred; or—

(2) pursuant to section 351 in which case such separate account shall be repaid in accordance with the provisions of that section for all costs incurred.

Chapter IV—MULTILATERAL DEVELOPMENT ASSISTANCE

TITLE I—GENERAL MULTILATERAL DEVELOPMENT ASSISTANCE POLICY

SEC. 401. GENERAL MULTILATERAL ASSISTANCE POLICY.—The Congress finds and declares that United States participation in international development assistance agencies furthers the purposes established in section 101 by—

(1) distributing the financial burden of development assistance among donor nations;

(2) providing a forum for coordination of development assistance plans and programs;

(3) facilitating the dialog between donors and recipients concerning development policies and programs;

(4) serving as a continuing source of the technical expertise required for formulation and implementation of development programs and projects;

(5) avoiding duplication of facilities and services; and

(6) maintaining an institutional capacity to undertake specific regional and specialized technical development efforts.

The Congress finds that international financial institutions and the specialized agencies of the United Nations have made an important contribution to the development process. The Congress declares its intention that a significant portion of United States development assistance resources should be provided through the international financial institutions, United Nations, specialized agencies, and other multilateral organizations.

SEC. 402. EQUITABLE CONTRIBUTIONS TO INTERNATIONAL DEVELOPMENT ASSISTANCE AGENCIES.—The Congress declares that it is the policy of the United States to encourage the international development assistance agencies to devise financial arrangements wherein all countries contribute to development efforts at levels commensurate with their financial capabilities. United States participation and funding levels in international organizations should be consistent with this principle.

SEC. 403. FURTHERANCE OF UNITED STATES POLICY GOALS.—Congress declares that United States representatives to the international development assistance agencies shall, through their positions and their votes, reflect the policies expressed in chapter I, and shall endeavor to further the adoption of such policies by those agencies.

SEC. 404.—WOMEN IN DEVELOPMENT.—The United States representatives to international organizations shall carry out their duties with respect to such organizations in such a manner as to encourage and promote the participation of women in the national economies of member and recipient countries and the recruitment and promotion of women into professional and policymaking positions within such organizations, thereby improving the status of women.

SEC. 405. EFFICIENT USE OF DEVELOPMENT RESOURCES.—The Congress declares that United States development assistance resources must be used with maximum efficiency and effectiveness. The Administrator shall—

(1) insure that United States bilateral development assistance policies and programs are coordinated with multilateral programs; and

(2) insure that the Administration's personnel are fully familiar with the policies and programs of international development assistance agencies and that the Administration provides regular and comprehensive evaluations of the effectiveness of such programs.

SEC. 406. REPORTING REQUIREMENTS.—The reports and reviews produced by the independent auditing groups established in the international financial institutions, and the United Nations specialized agencies and its affiliated organizations shall be submitted by the United States representative to these organizations to the Administrator for transmittal to the Congress and the Comptroller General. The Comptroller General shall periodically review such reports and transmit any suggestion or recommendation relating to such reports to the President and to the Congress.

TITLE II—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 411. GENERAL POLICY.—The Congress finds that in addition to the general characteristics set out in section 401, the international financial institutions—

(1) have maintained a sound financial record, in which no recourse has been made to callable capital;

(2) can provide credit to developing countries on terms which correspond to the development level and financial capabilities of particular countries;

(3) are able to work with developing countries in formulating sound development policies; and

(4) can strengthen the capability of governments of developing countries to work with private financial institutions.

The Congress recognizes that the international financial institutions must have the capacity to make long-term plans, and therefore requires that donors maintain their long-term commitments. The Congress declares that the United States will continue to participate at significant levels in the international financial institutions as an essential element in promoting economic development.

SEC. 412. POLICY GUIDANCE AND COORDINATION.—The Administrator shall be responsible for formulating United States positions and instructing representatives of the United States to the international financial institutions.

TITLE III—UNITED NATIONS PROGRAMS

SEC. 421. GENERAL POLICY.—When the President determines it to be in the national interest, the Administrator is authorized to make voluntary contributions on a grant basis to international organizations and to programs administered by such organizations, on such terms and conditions as he may determine, in order to further the purposes of this chapter. The Administrator shall be responsible for formulating United States positions and instructing representatives of the United States to the international organizations receiving funds under this title.

SEC. 422. AUTHORIZATION.—There are authorized to be appropriated to the Administrator for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, for the fiscal year 1979, $ which amounts are authorized to remain available until expended.

SEC. 423. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT.—The Administrator shall be responsible for formulating United States positions and instructing representatives of the United States to the International Fund for Agricultural Development. The Administrator shall submit to the Congress full and complete data concerning United States participation in, and operation of, the International Fund for Agricultural Development in the annual presentation materials on proposed economic assistance programs.

SEC. 424. INTERNATIONAL FERTILIZER DEVELOPMENT CENTER.—The President is authorized to permit United States participation in the International Fertilizer Development Center and is authorized to use any of the funds made available under this part for the purpose of furnishing assistance to the Center on such terms and conditions as he may determine.

Chapter V—SPECIAL PROGRAMS

TITLE I—ECONOMIC SUPPORT FUND

SEC. 501. GENERAL AUTHORITY.—The Congress recognizes that under special economic, political, or security conditions the national interests of the United States may require economic support for countries or in amounts which could not be justified solely under chapter II. In such cases the President is authorized to furnish assistance to countries and organizations on such terms and conditions as he may determine unless otherwise specified in this Act, in order to promote economic or political stability. In planning assistance intended for economic development under this chapter the President shall take into account, to the maximum extent feasible, the policy directions of section 201. Programs authorized under this chapter shall be administered by the International Development Cooperation Administration.

SEC. 502. MIDDLE EAST POLICY STATEMENT.—The Congress recognizes that a peaceful and lasting resolution of the divisive issues that have contributed to tension and conflict between countries in the Middle East is essential to the security of the United States and the cause of world peace. The Congress declares and finds that the United States can and should play a constructive role in securing a just and durable peace in the Middle East by facilitating increased understanding between the Arab countries and Israel, and by assisting the nations in the region in their efforts to achieve economic progress and politcal stability, which are the essential foundations for peace. It is the sense of Congress that United States assistance programs in the Middle East should be designed to promote mutual respect and security among the countries in the area and to foster a climate conducive to increased economic development, thereby contributing to a community of free, secure, and prospering countries in the Middle East.

SEC. 503. MIDDLE EAST AUTHORIZATION.—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1979 $_____ for economic support programs in the Middle East.

(b) Of the amounts authorized in subsection (a), not less than $ shall be available for Israel. Of this amount two-thirds shall be available on a grant basis, and one-third as loans with a cash grant component of $.

Economic support funds are provided to Israel so that it can maintain its economic

position without reducing its deterrent military strength.

(c) Of the amounts authorized in subsection (a), not less than $ shall be available for Egypt, of which $ shall be available as grant. Unless the President so determines and communicates in writing to the chairman of the appropriate authorizing committees, not less than $ of these funds authorized for Egypt in this section will be used consistent with section 201 of this Act. Economic support funds are furnished for Egypt to provide both short-term balance of payments and assistance and longer term development assistance in order to support and sustain Egypt's desire to bring peace to the Middle East. It is the sense of Congress that the President should take whatever steps necessary consistent with sound management policies to expedite assistance for Egypt. Further, the President is directed to establish in cooperation with Egypt a multiyear development assistance plan which takes into account basic human needs and infrastructure requirements. Such plan should be submitted to Congress by December 31, 1978, and should serve as the basis for greater United States cooperation with other aid donors.

(d) Of the amounts authorized in subsection (a), not less than $ shall be available for Jordan, with a grant budget support component of not more than $. Not less than $ of the funds available for Jordan shall be used consistent with the policy directions of section 201 of this Act. Economic support funds are provided for Jordan to support its economic development and help sustain its moderating influence in the Middle East..

(e) Of the amounts authorized in subsection (a) not more than $ shall be available for Syria. Not less than $ of these funds shall be used consistent with the policy directions of section 201. Economic support funds are provided to Syria to support its economic development and thereby strengthen its desire for a peaceful solution to the problems of the region.

(f) Of the amounts authorized in subsection (a), not more than $ shall be available for Lebanon to assist in the reconstruction of its war-torn economy and to strengthen its national unity.

(g) It is the sense of Congress that regional programs which stress scientific and technical cooperation between Israel and its Arab neighbors can contribute in an important way to the mutual understanding that must serve as the basis for permanent peace in the Middle East. Of the amounts authorized in subsection (a), not less than $———— shall be available on a grant basis to fund regional program which stress technical and scientific cooperation between Israel and its Arab neighbors.

(h) Of the funds authorized in subsection (a), not more than $———— shall be available to meet special requirements arising from time to time in carrying out the purposes of sections 502 and 503. The President may obligate or expend funds earmarked under this subsection—

(1) after he reports to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate concerning—

(A) the name of such foreign country or international organizations;

(B) the amount of such funds to be made available to such country or organization; and

(C) the purpose for which such funds are to be made available to such country or organization; and

(2) unless the Congress, within thirty calendar days after receiving any report under paragraph (1), adopts a concurrent resolution stating in substance that it does not favor the provisions of the report provided by clauses (A), (B), and (C) of paragraph (1).

SEC. 504. SOUTHERN AFRICA POLICY STATEMENT.—The Congress recognizes that the unstable political situation in southern Africa, resulting from the struggle to establish systems where all people have equal political rights, is a cause for concern by the United States. It is therefore the policy of the United States to support an internationally recognized constitutional settlement of the Rhodesian conflict leading promptly to majority rule based upon democratic principles and upholding basic human rights. The Congress has declared its intent to support a Zimbabwe Development Fund when progress toward such an internationally recognized settlement will permit its establishment. The Congress, further, recognizes that (1) the conflict has caused severe economic hardship for countries neighboring the minority-ruled regimes of Rhodesia and South Africa and (2) that these countries are economically dependent upon those minority-ruled countries. It is, therefore, the sense of Congress that the United States should provide economic support programs for southern African countries (Zambia, Botswana, Lesotho, Swaziland, and Mozambique) to strengthen their economies and minimize their dependency on minority-ruled regimes.

SEC. 505. SOUTHERN AFRICA AUTHORIZATION.—There are authorized to be appropriated to the President in the fiscal year 1979 not more than $———— for the countries of southern Africa to address the problems caused by the economic dislocation resulting from the conflict to relieve economic dependencies on the minority-rule regimes of South Africa and Rhodesia, to provide education and job training assistance to African refugees and persons displaced by war and internal strife in the region from Namibia, Rhodesia, and South Africa.

SEC. 506. GENERAL PROVISIONS AND PROHIBITIONS.—(a) Funds authorized under this title shall remain available until expended.

(b) Funds authorized under this title shall be available for economic programs only and shall not be used for military or paramilitary purposes.

(c) Policy justifications for economic support programs shall be provided by the Secretary of State in cooperation with the Administrator.

(d) Countries to whom economic support funds are provided under this chapter are prohibited from receiving funds authorized under title I of chapter II unless the Congress has specifically authorized such use of those funds.

(e) It is the sense of Congress that none of the funds authorized by this Act should be provided to any country which denies its citizens the right or opportunity to emigrate.

TITLE II—INTERNATIONAL DISASTER ASSISTANCE

SEC. 521. POLICY AND GENERAL AUTHORITY.—(a) The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

(b) Subject to the limitation on appropriations in section 522, and notwithstanding any other provision of this Act or any other provision of law, the President is authorized to furnish assistance to any foreign country or international organization on such terms and conditions as he may determine, for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad.

(c) In carrying out the provisions of this section the Administrator shall insure that the assistance provided by the United States shall, to the greatest extent possible, reach those most in need of relief and rehabilitation as a result of natural and manmade disasters.

SEC. 522. AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out section 521, $———— for the fiscal year 1979. Amounts appropriated under this section are authorized to remain available until expended.

SEC. 523. DISASTER ASSISTANCE COORDINATION.—The President is authorized to appoint a Special Coordinator for International Disaster Assistance whose responsibility shall be to promote maximum effectiveness and coordination by United States agencies and between the United States and other donors in response to foreign disasters. Included among the Special Coordinator's responsibilities shall be the formulation and updating of contingency plans for providing disaster relief.

Chapter VI—PRIVATE INITIATIVE IN DEVELOPMENT

TITLE I—GENERAL POLICY

SEC. 601. EXPANDED ROLE OF PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES IN OVERSEAS DEVELOPMENT.—(a) The Congress finds that the participation of rural and urban poor people in their countries' development can be effectively assisted and accelerated in an effective manner through an increase in activities planned and carried out by private voluntary organizations and cooperatives. Such organizations and cooperatives, embodying the American spirit of mutual self-helf and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human resources on behalf of poor people in developing countries. The Congress declares that, without compromising the private and independent nature of such organizations and cooperatives, it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts. Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contributions of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 201. The Administrator is authorized to furnish assistance for public and private voluntary initiatives in development, on such terms and conditions as he may determine.

(b) High priority shall be given to programs of technical and capital assistance for development of cooperatives in developing countries.

(c) In cooperation wherever practicable with institutions and organizations in developing countries concerned with fostering sustained economic and social progress, to this section assistance activities carried out pursuant to this section should—

(1) strengthen the bonds of friendship and understanding between the people of the United States and the people of developing countries.

(2) support self-help initiatives designed to enlarge the opportunities for individual and community development and to improve the quality of life for the people of the developing countries;

(3) stimulate and assist effective participation of the poor people of developing countries in their development proces; and

(4) encourage the establishment and growth of indigenous, participatory institutions, both private and governmental, that can respond effectively to the needs of rural and urban people.

(d) The Administrator, in implementing programs authorized under this Act, shall, to the maximum extent practicable draw on the resource of private and voluntary organizations and cooperatives to plan and carry out development activities.

(e) Nothing in this title may be construed to prohibit or limit private and voluntary organizations and cooperatives from serving as implementing contractors or coordinators of programs authorized by other sections of this Act, in particular sections 202 through 205.

SEC. 602. PAYMENT OF TRANSPORTATION CHARGES.—(a) In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of needy peoples, the Administrator is authorized to pay transportation charges on shipments by the American Red Cross and United States voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid.

(b) Reimbursement under this section may be provided for transportation charges on shipments from the United States ports, or, in the case of excess property supplied by the United States, from foreign ports to ports of entry abroad or to points of entry abroad in cases—

(1) of landlocked countries;

(2) where ports cannot be used effectively because of natural or other disturbances;

(3) carriers to a specified country or unavailable; or

(4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

(c) Where practicable the Administrator shall make arrangements with the receiving country for free entry of such shipments and for the making available by such country of local currencies for the purpose of defraying the transportation costs of such shipments from the port of entry of the receiving country to the designated shipping point of the consignee.

SEC. 603. INTERNATIONAL DEVELOPMENT INSTITUTE.—(a) ESTABLISHMENT.—There shall be in the Administration an International Development Institute (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall have the rank of Associate Administrator of the Administration. The Director shall be assisted by two Deputy Directors, one of whom shall be the Director of the Peace Corps, established under the Peace Corps Act, as amended (22 U.S.C. 2501 et seq.).

(b) PURPOSE.—The purposes of the Institute shall be to—

(1) mobilize and facilitate application of a wide range of private and public American human and financial resources to help people in developing countries improve their lives, incomes, and access to basic services and increase their participation in and contribution to the development efforts of their countries; and

(2) help strengthen the bonds of friendship and promote a better understanding of the American people on the part of the people of the developing nations and a better understanding of other people on the part of the American people thereby complementing and contributing more effectively to the international development objectives and foreign policy of the United States.

(c) FUNCTIONS OF THE INSTITUTE.—In carrying out its purposes, the Institute shall undertake—

(1) to plan and carry out, or coordinate the carrying out of, development activities involving cooperation of American volunteers, private and voluntary agencies and cooperatives, and others with the people of developing countries;

(2) to finance development activities planned and carried out by or through private and voluntary agencies, cooperatives, and the Peace Corps;

(3) to provide technical and administrative support, including research and information services, to the activities of private and voluntary agencies and the Peace Corps;

(4) to insure that activities authorized under this chapter are not inconsistent with activities authorized under other chapters of this Act;

(5) to register private and voluntary organizations and other bodies for purposes of receiving funds under this chapter; and

(6) to carry out such other development projects consistent with section 201 and the purposes of the Institute.

(d) ADVISORY BOARD.—To advise in the planning and administration programs authorized by the chapter, there shall be established a permanent Advisory Board to the Institute. The Board shall consist of seven members, to be, appointed by the President, of whom five members shall be selected from the private sector. Board members who are not officials of the United States Government shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the Institute and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual place of business.

(e) SPECIAL PROVISION.—Funds made available for the purposes of this Chapter may be utilized for the following:

(1) Procurement of goods and services notwithstanding the provisions of Sec. 742(a), outside of the United States.

(2) Contracting as required with individuals for personal services within the United States or abroad: *Provided*, that such individuals shall not be regarded as employees of the United States Government for the prupose of ayn law administered by the Civil Service Commission.

(f) AUTHORIZATION.—There is authorized to be appropriated to the Administrator for the purposes of this title, in addition to funds otherwise available for such purposes, $———— for fiscal year 1979, of which $———— shall be available for the Peace Corps to carry out the purposes of the Peace Corps Act, which amounts are authorized to remain available until expended.

SEC. 604. THE PEACE CORPS.—(a) The Congress declares that the availability of men and women of the United States who are willing and qualified to serve as volunteers overseas, under conditions of hardship if necessary, to help the people of the developing countries to improve their lives and their capacity to participate in the development of their countries can be a key element necessary in order to carry out the international development and foreign policy of the United States. Therefore, the Congress declares that an innovative Peace Corps enjoying wide administrative autonomy is a key instrumentality for the accomplishment of international development objectives in concert and coordination with other development activities carried out under the authority of this Act.

(b) The Peace Corps, established by the Peace Corps Act, as amended (22 U.S.C. 2501 et seq.) shall be a part of the International Development Institute.

(c) There are authorized to be appropriated to the Administration for fiscal year 1979 $———— to carry out the purposes of the Peace Corps Act.

Chapter VII—ADMINISTRATIVE

TITLE I—ORGANIZATION

SEC. 701. ESTABLISHMENT; PRINCIPAL OFFICERS.—(a) The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level I of the Executive Schedule under section 5313 of title 5, United States Code. Under the supervision and direction of the President, the Administration shall be administered, in accordance with the provisions of this Act, by the Administrator.

(b) There shall be in the Administration a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Deputy Administrator shall act for and exercise the functions of the Administrator during the absence or disability of the Administrator or in the event the office of Administrator becomes vacant.

(c) There shall be in the Administration an Associate Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level III of the Executive Schedule under section 5313 of title 5, United States Code. The Associate Administrator shall serve as Director of the Institute for International Development and shall act for and exercise the functions of the Administrator during the absence or disability of both the Administrator and Deputy Administrator or in the event of vacancies in both of those offices.

(d) There shall be in the Administration not more than twelve Assistant Administrators, each of whom shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Administrator shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5, United States Code and shall be primarily responsible for administering assistance authorized under this Act. The Administrator shall designate the order in which the Assistant Administrators and other officials shall act for and perform the functions of the Administrator during the absence or disability of the Administrator, Deputy Administrator, and Associate Administrator, or in the event of vacancies in any of those offices.

SEC. 702. COORDINATION.—(a) The President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the Administrator as Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, and Labor, the Executive Office of the President, and other executive departments and agencies, as the President shall designate.

(b) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

SEC. 703. ADMINISTRATIVE PROVISIONS.—(a) To the extent necessary or appropriate to perform any function transferred by this Act, the Administrator or any officer or employee of the Administrator may exercise, in carrying out the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

(b) The Administrator may from time to time promulgate such rules and regulations as may be necessary to carry out any function conferred upon the Administrator by this Act and may delegate authority to perform any such functions, including, if such delegation so specifies, the authority successively to redelegate to subordinates.

(c) The Administrator is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Administration as he may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions vested by this Act in any organizational unit or component.

(d)(1) Subject to the provisions of this section, the President, for a period of four years after the date of enactment of this Act,

may transfer to the Administration any function (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by this Act. In connection with any such transfer, the President may, under this section or under other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

(2) Whenever any such transfer is made before January 1, 1979, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(3) After December 31, 1978, no transfers shall be made under this section until—

(A) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress; and

(B) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

(e) Notwithstanding any other provision of law, an employee of the Agency for International Development, who is participating in the Foreign Service retirement and disability system under title VIII of the Foreign Service Act of 1946, as amended, and who is otherwise eligible for retirement under that system, electing to retire at any time during the period October 1, 1978, through September 30, 1979, shall have his annuity computed on the basis of his highest year of basic salary rather than the highest three consecutive years.

SEC. 704. OPERATING EXPENSES.—(a) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, for the fiscal year 1979—

(1) $———— for necessary operating expenses of the Administration; and

(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such Administration.

(b) Amounts appropriated under this section are authorized to remain available until expended.

TITLE II—PERSONNEL

SEC. 721. EMPLOYMENT OF PERSONNEL IN THE UNITED STATES.—(a) The Administrator is authorized to employ such personnel as he deems necessary to carry out the provisions and purposes of this Act.

(b) Of the personnel employed in the United States to carry out this Act not to exceed one hundred and ten may be appointed, compensated, or removed without regard to the provisions of any law, of whom not to exceed fifty-one may be compensated at rates higher than those provided for grade 15 of the General Schedule established by section 5332 of title 5 of the United States Code, but not in excess of the highest rate of grade 18 of such General Schedule: *Provided*, That, under such regulations as the Administrator shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.

SEC. 722. INTERNATIONAL DEVELOPMENT OFFICERS.—(a) The Congress finds that the effective administration of the programs authorized by this Act requires—

(1) the employment of personnel with a set of professional qualifications distinct from those of other United States career services;

(2) the continuing training and education of those employees to meet the changing demands of professional service in the international development process; and

(3) regular service abroad by employees responsible for formulation of policy or the implementation of programs authorized by this Act.

In order to meet these requirements, there is hereby established a category of officers of the Administration to be known as International Development Officers. Such Officers shall be appointed in accordance with the provisions of subsection (b).

(b) The Administrator may under such regulations as he may prescribe, appoint International Development Officers on the basis of qualifications and experience. The Administrator may make provisions for temporary, limited, and such other types of appointments as he may deem necessary. He is authorized to establish appropriate probationary periods during which newly appointed Officers, other than those appointed for temporary or limited services, would be required to serve. The Administrator may terminate at any time the services of Officers appointed for temporary or limited service and Officers who have not completed probationary periods, except that if such separation is by reason of misconduct the provisions of section 637 of the Foreign Service Act of 1946 would be applicable.

(c) International Development Officers will be primarily engaged in the formulation and implementation of programs, projects, and activities authorized under this Act with the exception of persons provided for in sections 701 and 721(b). To the extent that the functions of formulating and implementing policy, programs, projects, and activities authorized under this Act are performed in the United States, the Administrator shall assign International Development Officers, while on assignment in the United States, to these functions.

(d) The Administrator may, under such regulation as he may prescribe, provide for supporting staff to the International Development Officers and may use the authorities of the Foreign Service Act of 1946, as amended, relating to Foreign Service staff, in order to implement this provision.

(e) No person shall be eligible for appointment as an International Development Officer unless he is a citizen of the United States.

(f) International Development Officers appointed pursuant to subsection (b) shall be assigned for service by the Administrator in consideration of the Officer's (1) mastery of the technical field in which he is to serve, (2) reasonable proficiency in the principal working language or dialect of the country in which he is to serve, and (3) knowledge and understanding of the country's history, culture, and economic and political institutions. An International Development Officer or supporting Staff member may be assigned by the Administrator to serve in any other capacity for which he is eligible to serve under the terms of this or any other Act. In accordance with such regulations as he may prescribe, an International Development Officer or Staff member may be transferred from one position to another by order of the Administrator in furtherance of the purpose of this Act.

(g) In accordance with regulations which the Administrator may prescribe, International Development Officers may receive compensation at rates provided to Foreign Service Reserve and Staff by the Foreign Service Act of 1946, together with the allowances, benefits, and protections afforded by title VI (Personnel Administration) of the Foreign Service Act of 1946. International Development Officers and Staff members shall participate in the Foreign Service Retirement and Disability System established by title VIII of the Foreign Service Act of 1946 and shall be governed by the Foreign Service Grievance procedures set forth in part J of title VI of the Foreign Service Act of 1946.

(h) Every International Development Officer shall be assigned to duty abroad in the implementation of projects and activities in developing countries, except, as the Administrator may provide in regulations, for periods of training or assignment in the United States.

(i) The Administrator shall insure that every International Development Officer shall receive needed training to improve language proficiency and periodic training to keep him familiar with developments in his area of special expertise and in the general subject of political, economic, and social change in the developing world.

(j) In carrying out the provisions of this section, no political test shall be required and none shall be taken into consideration, nor shall there be any discrimination against any person on account of race, creed, sex, or national origin.

(k) The Administration shall pay particular attention to the effective recruitment and promotion of women as International Development Officers.

(l) The Administrator is authorized to prescribe by regulation standards or other criteria for maintaining adequate performance levels for personnel appointed or assigned pursuant to paragraph (2) of subsection (d) of this section and section 625 (e) of the Foreign Assistant Act of 1961, subject to an appropriate administrative appeal, separate employees who fail to meet such standards or other criteria, and also may grant such personnel severance benefits of one month's salary for each year's service, but not to exceed one year's salary at the then current salary rate of such personnel.

(m) Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government other than the Administration as well as personnel not employed by the United States Government.

(n) The principles regarding foreign language competence set forth in section 578 of the Foreign Service Act of 1946, as amended (22 U.S.C. 801), shall be applicable to personnel carrying out functions under this Act and the Administrator shall make appropriate designations and standards for such personnel.

(o) Notwithstanding any other provision of law, officers and employees of the United States Government performing functions under this Act shall not accept from any foreign country any compensation or other benefits. Arrangement may be made by the President with such countries for reimbursement to the United States Government or other sharing of the cost of performing such functions.

(a) The President may appoint or assign a United States citizen to be representative of the United States to the Inter-American Economic and Social Council and, in his discretion, may terminate such appointment or assignment notwithstanding any other provision of law. Such person may be compensated at a rate not to exceed that authorized for a chief of mission, class 2, within

the meaning of the Foreign Service Act of 1946, as amended.

SEC. 723. EXPERTS AND CONSULTANTS.—(a) Experts and consultants or organizations thereof may, as authorized by section 3109 of title 5 of the United States Code, be employed for the performance of functions under this Act, and individuals so employed may be compensated at rates not in excess of the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code, and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time.

(b) Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code.

(c) Persons of outstanding experience and ability may be employed without compensation by an agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

SEC. 724. DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS.—Whenever the Administrator determines it to be in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of his agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government or the acceptance of compensation or other benefits from any foreign country by such officer or employee.

SEC. 725. DETAIL OF PERSONNEL TO INTERNATIONAL ORGANIZATIONS.—Whenever the Administrator determines it to be consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of his agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organizations.

SEC. 726. STATUS OF PERSONNEL DETAILED.—(a) Any officer or employee, while assigned or detailed under section 724 or 725 of this Act, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits such as, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act.

(b) Any officer or employee assigned, detailed, or appointed under section 722, 724, 725, or 728 of this Act is authorized to receive under such regulations as the Administrator may prescribe, representation allowances similar to those allowed under section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C 1131). The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5 of the United States Code.

SEC. 727. TERMS OF DETAIL OR ASSIGNMENT.—Details or assignments may be made under section 724 or 725 of this Act—

(1) without reimbursement to the United States Government by the foreign government or international organization;

(2) upon agreement by the foreign government or international organization, to reimburse the United States Government for compensation, travel expenses, benefits, and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail; and such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits, or allowances, or to the appropriation, fund, or account currently available for such purposes;

(3) upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization; or

(4) subject to the receipt by the United States Governmet of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensations, travel expenses, benefits, and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with section 725.

SEC. 728. MISSIONS AND STAFFS ABROAD.—(a) The Administrator may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out the purposes of this Act. Each such special mission or staff shall be under the direction of a chief.

(b) The chief and his deputy of each special mission or staff shall be appointed by the Administrator, and may, notwithstanding any other law, be removed by the Administrator at his discretion: *Provided*, That, under such regulations as the Administrator shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from and position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such chief shall be entitled to receive (1) in cases approved by the Administrator the same compensation and allowances as a chief of mission, class 3, or chief of mission, class 4, within the meaning of the Foreign Service Act of 1946, as amended, or (2) compensation and allowances in accordance with section 722, as the Administrator shall determine to be appropriate.

(c) The President may appoint any United States citizen who is not an employee of the United States Government or may assign any United States citizen who is a United States Government employee to serve as Chairman of the Development Assistance Committee or any successor committee thereto of the Organization for Economic Cooperation and Development upon election thereto by members of said Committee, and, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law. Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1946, as amended, not to exceed those authorized for a chief of mission, class 2, within the meaning of said Act, as the President may determine. Such person may also, in the President's discretion, receive any other benefits and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under this section.

(d) Especially in the case of the smaller programs, assistance authorized under this Act may be administered abroad under the direction of the Chief of the United States Diplomatic Mission by the principal economic officer of the mission.

SEC. 729. TRANSFER OF PERSONNEL.—On the date of the creation of the Administration the President shall transfer to the Administrator of the Administration the personnel of the Agency for International Development.

TITLE III—ADMINISTRATIVE REQUIREMENTS

SEC. 741. COMPLETION OF PLANS AND COST ESTIMATES.—(a) No agreement or grant which constitutes an obligation of the United States Government in excess of $100,000 under section 1311 of the Supplemental Appropriation Act, 1955, as amended (31 U.S.C. 200), shall be made for any assistance authorized under title I of chapter II and title I of chapter V, if such agreement or grant requires—

(1) substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

(b) To the maximum extent practicable, all contracts for construction outside the United States made in connection with any agreement or grant subject to subsection (a) shall be made on a competitive basis.

(c) Subsection (a) shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

(d) In addition to any other requirements of this section, no assistance authorized under title I of chapter II or title II of chapter V of this Act shall be furnished with respect to any capital assistance project estimated to cost in excess of $1,000,000 until the Administrator has received and taken into consideration a certification from the principal officer of the Administration in the country in which the project is located as to the capability of such country's resources, both financial and human, to maintain effectively and utilize the project, taking into account among other things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

SEC. 742. PROCUREMENT.—(a) Funds made available under title I of chapter II and under chapter V of this Act may be used for procurement outside the United States only if the Administrator determines that such procurement shall not result in adverse effects upon the economy of the United States, with special reference to any areas of high unemployment and to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

(b) No funds made available under this Act may be used to finance directly the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and in terms of payment.

(c) In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended, for transfer by grant under this Act to any recipient country in accordance with its requirements, the Administrator shall, insofar as practicable and when in furtherance of the purposes of this Act, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act.

(d) In providing assistance in the procurement of commodities in the United States, United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing before the outbreak of World War II: *Provided*, That in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

(e) No funds made available under this Act may be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity.

(f) Notwithstanding any other provision of this Act, none of the funds made available to carry out title I of chapter II and chapter V of this Act may be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States: *Provided*, That where special circumstances exist including, but not limited to, the safety of personnel and prevailing conditions of operation, the Administrator is authorized to waive the provisions of this section in order to carry out the purposes of this Act.

SEC. 743. SHIPPING DIFFERENTIAL.—For the purpose of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), funds made available for the purposes of title I of chapter II or for the purposes of chapter V may be used to make grants to recipients to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

SEC. 744. SHIPPING ON UNITED STATES VESSELS.—The ocean transportation between foreign countries of commodities purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691 et seq.), and transfers of fresh fruit and products thereof under this Act shall not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241), or any other law relating to the ocean transportation of commodities on United States flag vessels.

SEC. 745. PATENTS AND TECHNICAL INFORMATION.—(a) Whenever, in connection with the furnishing of assistance under title I of chapter II and under chapter V of this Act—

(1) an invention or discovery covered by a patent issued by the United States Government is practiced within the United States without the authorization of the owner, or

(2) information, which is (A) protected by law and (B) held by the United States Government subject to restrictions imposed by the owner, is disclosed by the United States Government or any of its officers, employees, or agents in violation of such restrictions, the exclusive remedy of th owner, except as provided in subsection (b), is to sue the United States Government for reasonable and entire compensation for such practice or disclosure in the district court of the United States for the district in which such owner is a resident, or in the Court of Claims, within six years after the cause of action arises. Any period during which the United States Government is in possession of a written claim under subsection (b) before mailing a notice of denial of that claim does not count in computing the six years. In any such suit, the United States Government may plead any defense that may be pleaded by a private person in such an action. The last paragraph of section 1498(a) of title 28 of the United States Code shall apply to inventions and information covered by this section.

(b) Before suit against the United States Government has been instituted, the head of the agency of the United States Government concerned may settle and pay any claim arising under the circumstances described in subsection (a). No claim may be paid under this subsection unless the amount tendered is accepted by the claimant in full satisfaction.

(c) Funds appropriated pursuant to this Act shall not be expended by the United States Government for the acquisition of any drug product or pharmaceutical produce manufactured outside the United States if the manufacture of such drug produce or pharmaceutical product in the United States would involve the use of, or be covered by, an unexpired patent of the United States which has not previously been held invalid by an unappealed on unappealable judgment or decree of a court of competent jurisdiction, unless such manufacture is expressly authorized by the owner of such patent.

SEC. 746. USE OF FOREIGN CURRENCIES.—(a) Any Act of Congress making appropriations to carry out programs under this Act or any other law for United States operations abroad is authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

(b) In furnishing assistance under this or any other Act in or to any country, the Administrator shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. In those countries in which the United States owns foreign currencies determined by the United States Treasury to be excess to the needs of the United States Government, excluding those currencies generated under the Agricultural Trade Development and Assistance Act of 1954, as amended, the Administration is authorized to utilize such currencies to the extent agreed upon with the government of such country to carry out purposes for which new funds authorized by this Act would be available; and, notwithstanding the requirements of section 1415 of the Supplemental Appropriations Act, 1953, such funds may be used for such purposes.

SEC. 747. WAIVERS OF CERTAIN LAWS.—Whenever the Administrator determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act, may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.)), regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the Administrator may specify.

SEC. 748. RETENTION AND USE OF CERTAIN ITEMS AND FUNDS.—(a) Any commodity procured to carry out this Act shall be retained by, or upon reimbursement, transferred to and for the use of, such agency of the United States Government as the Administrator may determine in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the Administrator the best interests of the United States will be served thereby or whenever such retention is called for by concurrent resolution. Any commodity so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to conserve the usefulness thereof. Funds realized from any disposal or transfer shall revert to the respective appropriation, funds, or account used to procure such commodities or to the appropriation, funds, or account currently available for the same general purpose.

(b) Whenever any commodity is transferred to the United States Government as repayment of assistance under this Act, such commodity may be used in further of the purposes and within the limitations of this Act.

(c) Funds realized as a result of any failure of a transaction financed under authority of this Act to conform to the requirements of this Act, or to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under authority of this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

SEC. 749. PROVISIONS ON USES OF FUNDS.—(a) Appropriations for the purposes of or pursuant to this Act allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act, and funds made available for other purposes to the Administration shall be available for—

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of such appropriations of this Act, including (notwithstanding the provisions of section 9 of Public Law 60–328 (31 U.S.C. 673)) expenses in connection with meetings and persons whose employment is authorized by section [723];

(3) contracting with individuals for personal service abroad: *Provided*, That such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission;

(4) purchase, maintenance, operation, and hire of aircraft: *Provided*, That aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act;

(5) purchase and hire of passenger motor vehicle: *Provided*, That except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles and the cost, including exchange allowance, or each such replacement shall not exceed $3,500 in the case of an automobile for the chief of any special mission or staff outside the United States established under section 728: *Provided further*, That passenger motor vehicles other than one for the official use (without regard to the limitations contained in section 5 of Public Law 63–127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85–468 (31 U.S.C. 638(c))) of the Administrator may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(6) entertainment (not to exceed $25,000 in any fiscal year except as may otherwise

be provided in an appropriation or other Act);

(7) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

(8) expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment: *Provided*, That a certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the Administrator or such person as he may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified;

(9) insurance of official motor vehicles or aircraft acquired for use in foreign countries;

(10) rent or lease outside the United States for not to exceed ten years of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and costs of fuel, water, and utilities for such properties;

(11) expenses of preparing and transporting to their former homes, or, with respect to foreign participants engaged in any program under this Act to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities carried out with funds covered by this subsection;

(12) purchase of uniforms;

(13) payment of per diem in lieu of subsistence to foreign participants engaged in any program under this Act while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law;

(14) use in accordance with authorities of the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.), not otherwise provided for;

(15) ice and drinking water for use outside the United States; and

(16) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage.

(b) Funds made available for the purposes of this Act may be used for compensation, allowances, and travel of personnel including Foreign Service personnel whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government as may be necessary to accomplish the purposes of this Act.

(c)(1) Notwithstanding any other law, not to exceed $ of the funds available under section 704 may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act) to construct or otherwise acquire outside the United States (1) essential living quarters, office space, and necessary supporting facilities, and (2) schools, including dormitories and boarding facilities, and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents. In addition, funds made available under section 704 may be used, notwithstanding any other law, to equip, staff, operate, and maintain such schools and hospitals.

(d) Not to exceed $ of funds available under section 704 may be used in any fiscal year to provide assistance, on such terms and conditions as are deemed appropriate, to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

(e) Funds available under section 704 may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 625(d)(2) (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm; and the provisions of Public Law 91-648 (5 U.S.C. 3371 et seq.) may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act. Such training shall not be considered employment or holding of office under section 5533 or title 5 of the United States Code, and any payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however*, That any such payments to any employee in the nature of compensation shall be in lieu, or in reduction, or compensation received from the United States Government.

SEC. 750. SMALL BUSINESS.—(a) Insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of this Act, the Administrator shall assist American small business to participate equitably in the furnishing of commodities and services financed with funds authorized under this Act—

(1) by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with such funds;

(2) by causing to be made available to prospective purchasers in the countries and areas receiving assistance under this Act information as to such commodities, articles, and services produced by small independent enterprises in the United States; and

(3) by providing for additional services to give small business better opportunities to participate in the furnishing of such commodities, articles, and services financed with such funds.

(b) There shall be an Office of Small Business, headed by a Special Assistant for Small Business in the Administration to assist in carrying out the provisions of subsection (a).

TITLE IV—GENERAL PROVISIONS

SEC. 761. SPECIAL AUTHORITIES.—(a) The President may authorize in each fiscal year the use of funds authorized under this Act in a total amount not to exceed $25,000,000 and the use of not to exceed $10,000,000 of foreign currencies accruing under this Act or any other law without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act authorizing or appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.), in furtherance of any of the purposes of this Act, when the President determines that such authorization is important to the security of the United States. The authority of this subsection shall not be used to waive the limitations on transfers contained in subsections (c) and (d).

(b) Whenever the Administration determines it to be necessary for the purposes of title I of chapter II, not to exceed 15 per centum of the funds authorized under any provision of such title may be transferred to, and consolidated with the funds authorized under any other provision of such title, and may be used for any of the purposes for which such funds may be used, except that the total in the provisions for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision.

(c) Whenever the Administrator determines it to be necessary for the purposes of this Act, not to exceed 15 per centum of the funds authorized under title I of chapter V may be transferred to, and consolidated with the funds authorized under title I of chapter II, title II of chapter V, title I of chapter VI, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision.

(d) Whenever the Administrator determines it to be necessary for the purposes of this Act, the funds authorized under this Act may be used to augment the appropriations made available pursuant to section 704 by not more than 5 per centum.

(e) Neither the President nor the Administrator shall exercise any special authority granted to him above unless, before the date he intends to exercise such authority, he notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

SEC. 762. FINDINGS AND DETERMINATIONS.—(a) In any case in which the President or Administrator is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act of the Foreign Assistance and Related Programs Appropriations Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the appropriate official.

(b) No action may be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the appropriate official.

(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the appropriate official. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the appropriate official including the name and section of the Act under which it was made, shall be published.

(d) No committee or officer of either House of Congress may be denied any requested information relating to any finding or deter-

mination which is required to be reported to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, or the Foreign Assistance and Related Appropriations Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

SEC. 763. TERMINATION OF ASSISTANCE.—Assistance authorized under this Act may, unless sooner terminated by the Administrator, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed eight months from the date of termination of assistance authorized under this Act for the necessary expenses of winding up programs related thereto.

SEC. 764. AVAILABILITY OF FUNDS.—Except as otherwise provided in this Act, funds shall be available to carry out the provisions of this Act as authorized and appropriated each fiscal year.

SEC. 765. GENERAL AUTHORITIES.—(a) Except as otherwise specifically provided in this Act, assistance authorized under this Act may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this Act.

(b) The Administrator may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States and international organizations in furtherance of the purposes and within the limitations of this Act.

(c) The Administrator is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of developing countries with emphasis upon assisting long-range plans and programs. In so doing, the Administrator shall take into account—

(1) whether financing could be obtained in whole or in part from other free world sources on reasonable terms, including private sources within the United States;

(2) the economic and technical soundness of the activity to be financed, including the capacity of the recipient country to repay the loan at a reasonable rate of interest;

(3) the consistency of the activity with, and its relationship to, other development activities being undertaken or planned, and its contribution to realizable long-range objectives;

(4) the possible effects upon the United States economy, with special reference to areas of substantial labor surplus, of the loan involved; and

(5) whether or not the activtiy to be financed will contribute to the achievement of self-sustaining growth with an equitable distribution of benefits.

(d) Funds made available for chapter II shall not be loaned or reloaned at rates of interest excessive or unreasonable for the borrower and in no event shall such funds be loaned at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum, nor higher than the applicable legal rate of interest of the country in which the loan is made.

(e) In carrying out chapter II, the Administrator shall not allocate, reserve, earmark, commit, or otherwise set aside, funds aggregating in excess of $100,000 for use in any country under chapter II unless—

(1) an application for such funds has been received for use in such country together with sufficient information and assurances to indicate reasonably that the funds will be used in an economically and technically sound manner; or

(2) the Administrator determines with respect to each such allocation, reservation, earmarking, commitment, or set-aside that it is in the national interest to use such funds pursuant to multilateral plans.

(f) The Administrator may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(g) Any agency of the United States Government is authorized to pay the cost of health and accident insurance (1) for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program; and (2) for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

(h) Alien participants in any program of furnishing technical information and assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(i) In making loans under this Act, the Administrator—

(1) may issue letters of credit and letters of commitment;

(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and, as he may determine, refer any such obligations or rights to the Attorney General for suit or collection;

(3) may acquire and dispose of, upon such terms and conditions as he may determine, any property, including any instrument evidencing indebtedness or ownership (provided that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and guarantee payment against any such instrument;

(4) may determine the character of, and necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.).

(j) Claims arising as a result of investment guaranty operations may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Administrator may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(k) The provisions of section 955 of title 18 of the United States Code shall not apply to prevent any person, including any individual, partnership, corporation or association, from acting for, or participating in, any operation or transaction arising under this Act, or from acquiring any obligation issued in connection with any operation or transaction arising under this Act.

(l) Any cost-type contract or agreement (including grants) entered into with a university, college, other educational institution, or voluntary organization for the purpose of carrying out programs authorized under this Act may provide for the payment of the reimbursable indirect costs of said university, college, other educational institution or voluntary organization on the basis of predetermined fixed percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

SEC. 766. ALLOCATION AND REIMBURSEMENT AMONG AGENCIES.—(a) The President may allocate or transfer to any agency of the United States Government any part of any funds authorized under this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities or services. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(b) Any officer of the United States Government carrying out functions under this Act may utilize the services and facilities of, or procure commodities, from any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(c) In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out this Act, reimbursement or repayment shall be made to such agency from funds available to carry out such part. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be deposited into the Treasury as miscellaneous receipts.

(d) In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States—

(1) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the Assignment of Claims Act of 1940, as amended (second and third paragraphs of 31 U.S.C. 203 and 41 U.S.C. 15); and

(2) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations or persons upon presentation of contracts, invoices, or other appropriate documentation. Expenditure of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditure of funds of the United States Government: *Provided*, That such expenditures for commodities, services, or facilities procured outside the United States may be accounted for exclusively on such certification as may be prescribed in regulations approved by the Comptroller General of the United States.

(e) Credits made by the Export-Import Bank of Washington with funds allocated thereto under subsection (a) or under sec-

tion 522(a) of the Mutual Security Act of 1954, as amended, shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 7 of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635e).

(f) Any application or account authorized under this Act may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are authorized under this Act: *Provided*, That as of the end of such fiscal year such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes: *Provided further*, That such final charge to applicable appropriations or accounts shall not be required in the case of expenses (other than those provided for under section 704) incurred in furnishing assistance by the Administration where it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

SEC. 767. PROHIBITIONS.—(a) HUMAN RIGHTS.—(1) No assistance authorized under this Act may be provided to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

(2) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives may require the Administrator to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification, it may initiate action to terminate assistance to any country by a concurrent resolution under section 763 of this Act.

(3) In determining whether or not a government falls within the provisions of subsection (a) and in formulating development assistance programs under this part, the Administrator shall consider, in consultation with the Coordinator for Human Rights and Humanitarian Affairs of the Department of State—

(A) the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States; and

(B) specific actions which have been taken by the President or the Congress relating to multilateral or security assistance to a less developed country because of the human rights practices or policies of such country.

(b) DISCRIMINATION AGAINST UNITED STATES PERSONNEL.—(1) The Administrator shall not take into account, in assigning officers and employees of the United States to carry out any economic development assistance programs for which funds are authorized under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

(2) None of the funds which are authorized under this Act may be used to provide economic development assistance to any country which objects to the presence of any officer or employee of the United States who is present in such country for the purpose of carrying out any program of economic development assistance authorized by the provisions of this Act on the basis of the race, religion, national origin, or sex of such officer or employee.

(c) DEBTS.—(1) No assistance authorized under this Act may be furnished to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on any loan made to such country under this Act or the Foreign Assistance Act of 1961, as amended, unless such country meets its obligations under the loan or unless the Administrator determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

(2) No recipient of a loan made under the authority of this Act or the Foreign Assistance Act of 1961, as amended, any part of which is outstanding on or after the date of enactment of this subsection, shall be relieved of liability for the repayment of any part of the principal of or interest on such loan.

(d) INTERNATIONAL TERRORISM.—(1) Except where the President finds national security to require otherwise, the Administrator shall terminate all assistance authorized under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism and the Administrator may not thereafter furnish assistance to such government until the end of the one-year period beginning on the date of such termination, except that if during its period of ineligibility for assistance under this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

(2) If the President finds that national security justifies a continuation of assistance to any government described in subsection (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(e) COMMUNIST COUNTRIES.—No assistance authorized under this Act may be furnished to any Communist country. The restriction of the preceding sentence may not be waived pursuant to any authority contained in this Act unless the President finds and promptly reports to Congress that—

(1) such assistance is vital to the security of the United States;

(2) such assistance will promote the independence of the recipient country from other Communist states; and

(f) CONSTRUCTION LIMITS.—Without the express approval of Congress, no assistance authorized under this Act shall be furnished to any country for construction of any productive enterprise with respect to which the aggregate value of assistance to be furnished by the United States will exceed $100,000,000. No provision of this or any other Act shall be construed to authorize the President to waive the provisions of this subsection.

SEC. 781. ANNUAL REPORT.—(a) In order that the Congress and the American people may be better and more currently informed regarding United States development policy, including the amounts and effectiveness of assistance provided by the United States Government to developing countries and international organizations, the Chairman of the Development Coordination Committee shall transmit to the Congress not later than February 1 of each year a report on foreign assistance for the fiscal year ending the previous September 30. Such report shall include—

(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

(B) an assessment of the impact of such policies and programs on the well being of the poor majority in developing countries in accordance with the policy objectives of chapter I;

(C) an assessment of the impact of such policies and programs on the economic conditions in the United States including but not limited to employment, wages, and working condition;

(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

(B) as presented to Congress for the immediately preceding fiscal year;

(C) as obligated during the immediately preceding fiscal year;

(D) as planned for the fiscal year in which the report is presented; and

(E) as proposed for the fiscal year following the year in which the report is presented.

(3) the status of each loan and each contract of guaranty or insurance theretofore made under this Act, the International Security Assistance Act and predecessor Acts, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of defense articles or defense services on credit terms, and each contract of guarantee in connection with any such sale, theretofore made under the Foreign Military Sales Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of agricultural commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954, with respect to which there remains outstanding any unpaid obligation; and the status of each transaction in which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945, with respect to which there remains outstanding any unpaid or potential liability. Such report shall include individually only any loan, contract, sale, extension, or credit, or other transaction listed in this subsection in excess of $1,000,000;

(4)(A) the status of the debt servicing capacity of each country receiving assistance under this Act;

(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States;

(5)(A) the status of internationally recognized human rights, within the meaning of section 767(a)(1) in countries that receive foreign assistance provided by the United States Government; and

(2) any steps that have been taken to

alter foreign assistance provided by the United States Government because of human rights considerations; and

(f) such other matters relating to foreign assistance provided by the United States Government under this Act as the Chairman of the Development Coordinating Committee considers appropriate.

(b) For the purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this or any other Act, including but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country; and

(2) "provided by the United States Government" includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.

SEC. 782. NOTIFICATION OF PROGRAM CHANGES.—None of the funds appropriated to carry out the purposes of this Act (except for programs under title II or title III of chapter III, titles II and III of chapter V and title I of chapter VI) may be obligated for any activities, programs, projects, types of material assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligations under this Act for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligations.

SEC. 783. CLASSIFICATION OF REPORTS.—All information contained in any report transmitted under this Act shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time that the report is transmitted.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 791. EFFECTIVE DATE.—This Act shall take effect on October 1, 1978.

SEC. 792. STATUTES REPEALED.—(a) The Foreign Assistance Act of 1961, as amended, is repealed.

(b) References in law to the Acts, or provisions of such Acts, repealed by subsection (a) shall hereafter be deemed to be references to this Act or appropriate provisions of this Act.

(c) The repeal of the Act referred to in subsection (a) of this section shall not be deemed to affect amendments contained in such Act to Acts not named in that subsection.

SEC. 793. SAVING PROVISIONS.—(a) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 792(a) or by the Foreign Assistance Act of 1969 shall continue in full force and effect until modified by appropriate authority.

(b) Wherever provisions of this Act establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this Act, compliance with, or satisfaction of, substantially similar conditions under Act referred to in section 792(a) and the Foreign Assistance Act of 1969 or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this Act.

(c) Funds made available pursuant to provisions of law repealed by section 792(a) or by the Foreign Assistance Act of 1969 shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

SEC. 794. DEFINITIONS.—For purposes of this section the term—

(1) "Administration" means the International Development Cooperation Administration;

(2) "Administrator" means the head of the Administration;

(3) "commodity" includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance;

(4) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(5) "services" includes any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance;

(6) "surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or specification thereof, produced in the United States either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture;

(7) "agriculture" includes aquiculture and fisheries; and

(8) "farmers" includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters;

SEC. 795. UNEXPENDED BALANCES.—Unexpended balances of funds made available pursuant to this Act and the Foreign Assistance Act of 1961, as amended, are authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

SEC. 796. CONSTRUCTION.—If any provision of this Act, or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the applicability of such provision to other circumstances or persons shall not be affected thereby.

SEC. 797. EXCLUSIONS.—No provision of this Act may be construed to prohibit assistance to any country pursuant to the Peace Corps Act, as amended; the Mutual Educational and Cultural Exchange Act of 1961, as amended; or the Export-Import Bank Act of 1945, as amended.

SEC. 798. AMENDMENTS TO OTHER LAWS.—(a) Section 4(a) of the Bretton Woods Agreements Act, as amended, is amended by inserting "the Administrator of the International Development Cooperation Administration," immediately after "the President of the Export-Import Bank of Washington".

(b) Section 214 of the Foreign Assistance Act of 1961, as amended, is amended—

(1) by inserting "The Director of the International Communication Agency (hereinafter referred to as the Director)" in lieu of "The President" in subsection (a) and by inserting "Director" in lieu of "President" wherever else it appears therein;

(2) in subsection (c) by striking out "the fiscal year 1977, $25,000,000 and", and by inserting "and for the fiscal year 1979, $———," immediately after "1978, $25,000,000";

(3) in subsection (d) by striking out "1977 and 1978, $7,000,000" and by inserting in lieu thereof "1978 and 1979 $———";

(4) by striking out subsection (e); and

(5) by redesignating subsection "(f)" as "(e)".

Mr. SPARKMAN. Mr. President, I ask unanimous consent that this bill may lie on the desk until February 2 in order that interested Members of the Senate may cosponsor Senator Humphrey's bill.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object. I only want the RECORD to show that the distinguished Senator from Alabama and the Senator from New Jersey had consulted with the leadership on both sides about this procedure—that is to say, permitting the bill to lie on the desk for additional cosponsors. This is a practice that has obtained in the Senate for many years, but which we discarded and provided against by a general policy statement earlier.

I still do not want the Senate, for my part, to return to the business of letting bills routinely lie on the desk and remain open for cosponsors. In this case, and because of the special circumstances involved, I indicated to the distinguished Senator from Alabama and the distinguished Senator from New Jersey that, for my part, I shall not object. I believe the distinguished majority leader may have indicated a similar point of view—that it should not be thought of as a precedent for other bills. Indeed, I shall fully expect to lodge objection against similar action on other bills.

The ACTING PRESIDENT pro tempore. With this reservation, without objection, the request of the Senator from Alabama is agreed to.

Mr. SPARKMAN. I thank the distinguished minority leader, and I understand his reservation.

Mr. CASE. Mr. President, many times and on many bills in the future, Senator Humphrey's presence will be deeply missed. Today, the sense of loss is particularly deep, because this is a day Senator Humphrey really wanted to live for—to see the introduction of his legislation to bring up to date and improve our foreign aid developmental policy and machinery.

The International Development Cooperation Act of 1978, which we are introducing today is one of Senator Humphrey's major unfinished projects. Our dear friend was a man who inspired scores of initiatives and legislative ideas, and this bill was his last major legislative initiative—an initiative he wanted to pursue even though he knew his time was slipping away. It is so typical of the man that in his last days he concerned himself not only with his family and personal friends but also efforts to find better ways of helping starving and poor people around the world. But perhaps that should not be surprising to us, for Hubert was a man who felt a sense of family with the people of Mali as well as Minnesota, of Warangal as well as Waverly.

Thus it is partly with a sense of carrying out Senator Humphrey's wishes and in tribute to him that Senator SPARKMAN, the chairman of the Senate Foreign Relations Committee, and I are joining in introducing the International Development Cooperation Act of 1978.

Senator SPARKMAN and I have discussed the matter and concluded that the bill should be introduced at this time to allow the earliest possible consideration by interested parties, including our colleagues who might like to join as cosponsors.

I appreciate, especially in this connection, the minority leader's statement about that and his willingness to forgo an objection about this procedure, which he is not generally in favor of.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CASE. I am glad to yield.

Mr. ROBERT C. BYRD. I want to associate myself with the minority leader's remarks without taking any further time to explain my position. I am not objecting to this.

Mr. CASE. We on the committee are grateful to both of our leaders for their views and for their forbearance at this time.

Of course, this bill, Mr. President, is not introduced merely as some sort of last legislative will and testament by the late Senator Humphrey.

It is our hope that the bill will provide a durable framework for a revised and comprehensive foreign aid program.

Senator Humphrey, as chairman of the Senate Foreign Relations Subcommittee on Foreign Assistance, and I, as the ranking Republican member of the subcommittee as well as the full committee, spent many hours working together on foreign aid matters.

Last year, we agreed that the Congress and administration should take a new look at the foreign aid legislation now on the books, with the view of bringing it up to date, removing the obsolete and redundant sections, and making improvements.

The time has certainly come. The basic existing legislation, the Foreign Assistance Act of 1961, is nearly 17 years old. It has been amended by 28 separate acts of Congress. In 17 years, many provisions have been added but few repealed. The act is now 99 sections long. It includes everything from broad statements of policy to section 636's specific authority to purchase, "ice and drinking water for use outside the United States."

More important, the effect of the amendments has been to blur the intent of Congress. The act's provisions are often contradictory, and in some cases, unintelligible. The executive branch can point to provisions in that act to justify virtually any activity.

Further, many of the goals and objectives established by the act reflect foreign policy considerations at the time they were written—in the 1950's and 1960's. Concepts and concerns have changed since then.

Thus, Senator Humphrey proposed, and I agreed, that the task of reexamining and possibly rewriting the existing foreign aid laws on the books should be undertaken. The Foreign Assistance Subcommittee staff embarked on the formidable project last year.

Last December, after the subcommittee finished much of its preliminary work and Senator Humphrey and I decided that new legislation was needed. we relayed our observations to President Carter. In a December 13, 1977, letter, we said:

United States foreign aid programs operate under the authority of the Foreign Assistance Act of 1961, which has been amended on numerous occasions since that date to reflect changing world conditions and numerous Congressional concerns. The result is an amalgam of provisions—some out of date, some contradictory—that make it very difficult to administer a coherent aid program. Although a number of excellent provisions have been added, such as the New Directions focus of the 1973 amendments, the Act no longer contains the clear policy direction and the proper organizational structure to deal effectively with the complexity of United States relationships with the developing countries.

The letter also said:

We are convinced that there are vital issues to be faced in foreign assistance, and therefore we still believe that we need to strive in the coming year to make necessary legislative and administrative changes in our assistance efforts. The present Foreign Assistance Act should be replaced with a new, streamlined law that clearly sets forth an effective policy and operational framework for our assistance efforts and places it in the proper context o overall U.S. policy towards the Third World.

As the letter indicates, our concern is twofold. One is the effectiveness of our aid program in terms of the broad range of developmental and security objectives which may not only be good in themselves but have a bearing on our own prosperity and national security. The other concern is the organizational framework and our ability to coordinate more effectively the aid program within the overall international economic policy of the United States.

This proposed revision recognizes that the economic and technological changes of the past years have made the world interdependent. It also takes into account the impact of such changes on the United States—that the U.S. security and economy as well as its humanitarian concerns are affected by the developments throughout the world.

The act emphasizes four principal goals:

The alleviation of the worst physical manifestations of poverty among the world's poor majority;

The promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits; and

The encouragement of development processes in which individual civil and economic rights are respected and enhanced, and the integration of the developing countries into an open and equitable international economic system.

These general objectives should hold good year after year and in place after place.

Also, the bill addresses itself to helping with some specific problems, such as the Middle East. For example, it authorizes funds for regional scientific and technical projects in the Middle East involving Israel and its Arab neighbors.

In other technical areas, the bill also would continue the efforts Senator Humphrey and I started last year to foster international cooperation in developing solar energy and other substitutes for costly oil and gas energy in ways which can be used in nonindustrial countries.

Few would claim that our foreign aid programs have been as effective as they might be. And it appears most unlikely that in the future our foreign aid dollars and policies will be used in the most effective and productive manner unless our policies and programs are better coordinated.

Some of the problems may well be organizational. For example:

AID is primarily responsible for bilateral development assistance, but it must secure the approval of the Department of State.

The Department of State formulates security supporting assistance, but most of those programs are implemented by AID.

The Department of Agriculture is responsible for food for peace, but AID administers titles II and III.

Treasury is responsible for the international financial institutions and State for voluntary contributions to the development agencies and more share responsibility for international economic policy. We have coordinating mechanisms—NAC, DLC, ISC, DCL, but little coordination.

In dealing with the structure of our foreign aid program, the new act takes into account both the broad outlines and specific features of our foreign aid programs.

In brief, the new act:

First. Establishes a new development agency, the International Development Cooperative Administration (IDCA) which will have responsibility for administering all the major United States development assistance programs, including the bilateral assistance program now run by the Agency for International Development (AID); the contributions to the World Bank Group and the regional development banks now coordinated by the Department of the Treasury; the voluntary contributions to the United Nations technical and humanitarian agencies now coordinated by the Department of State, and the development and relief aspects of the Public Law 480 food for peace program, now coordinated by AID.

Second. Designates an Administrator of the IDCA, who will report to the President and be responsible for the effective and efficient administration of U.S. foreign assistance programs, and coordinate the making of overall United States development policies.

Third. Provides a clear statement of the importance the United States places on development, both because of the increasing importance to the United States of the developing world, and because of traditional humanitarian interests of the people of the United States in helping others. By establishing a new institution with an Administrator who has direct access to the President, the act assures that these development interests will be reflected in the formulation of overall U.S. international economic policy.

Fourth. Present clear, modern guidelines for U.S. development assistance policy, and repeals the outdated Foreign Assistance Act of 1961. The act further clarified the 1973 new directions goals of using direct U.S. grant and loan assistance in ways which promote economic growth with equity and assure that the basic human needs of the poor majority are met.

Fifth. Establishes an Interational Development Institute as the main focus of U.S. Government support for public and private voluntary programs involving development. The Peace Corps would be transferred to the Institute from ACTION, while maintaining its administrative autonomy.

Sixth. Introduces new measures for assisting the poorest developing countries, including the encouragement of assistance in the form of grants rather than loans, and a provision to allow these countries to satisfy official development debt obligations to the United States through local currency expenditures on development-related projects.

Seventh. Consolidates programs which improve the access of middle-income developing countries to private capital markets, investment resources, and technical services. These programs, such as the housing investment guaranties, entail almost no expenditure of U.S. Government funds, but involve guaranty programs for investments and loans, and reimbursable services.

Eighth. Establishes an economic support fund to replace the current security supporting assistance program, assuring that such funds will be spent on development-related activities to the greatest possible degree.

Also, the act emphasizes the cooperative aspects of foreign aid—that development is primarily the responsibility of the people of the less developed countries themselves. Assistance from the United States should be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs.

The bill thus makes clear that our consent is not one of paternalism. It is one of international partnerships in development.

The bill introduced today is a major contribution to that effort. I wish to thank and commend the staff of the Foreign Assistance Subcommittee, and also Dick McCall of Senator Humphrey's staff, for their intensive efforts.

The bill is very much a continuation of Senator Humphrey's initiative, and Senator SPARKMAN and I are introducing it in accordance with his wish. Because of the circumstances, it is not possible to say that we necessarily embrace all of the language or concepts.

However, there will be hearings and time to work out refinements and test the concepts with administration representatives and others.

I believe the bill deserves the most serious consideration of all those interested in foreign aid. The bill should be, and will be, considered as live legislation and not just a gesture.

Of course, the bill will take digesting and some of the concepts may be controversial—at least in certain areas of the bureaucracy. But it is my hope, as it was Senator Humphrey's, the administration will overcome the tendency of bureaucrats to fight over turf and recognize that the bill fits in with goals President Carter enunciated more than a year ago to reorganize and improve the federal government's machinery.

Mr. President, I would like to make one last comment.

Foreign aid is not exactly a subject to inspire the poets. However, in introducing Senator Humphrey's bill, it is only fitting to recall how often his words not only inspired listeners but had a poetic touch.

Thus, I would like to share a poem that I think expresses Senator Humphrey's hopes for foreign aid and foreign policy. I ask unanimous consent to place into the RECORD a translation of a passage of the Hebrew language poem, "I Believe," by Saul Tchernikowsky (1875–1943):

I believe that a time will come
Although it be delayed,
When nations shall meet and greet in peace,
Share blessings unafraid.

Mr. President, I ask unanimous consent that the letter to President Carter, from Senator Humphrey and me, which I have referred to, of December 13, 1977, be printed in the RECORD following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., December 13, 1977.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: In March of this year during the hearings of the Foreign Assistance Subcommittee on the FY 1978 foreign aid bill, we indicated that we intended to write new foreign assistance legislation during the second session of this Congress. We also expressed the hope that we could work together with the Executive Branch in the development of that legislation.

United States foreign aid programs operate under the authority of the Foreign Assistance Act of 1961, which has been amended on numerous occasions since that date to reflect changing world conditions and numerous Congressional concerns. The result is an amalgam of provisions—some out of date, some contradictory—that make it very difficult to administer a coherent aid program. Although a number of excellent provisions have been added, such as the New Directions focus of the 1973 amendments, the Act no longer contains the clear policy direction and the proper organizational structure to deal effectively with the complexity of United States relationships with the developing countries.

We have followed the progress of the Administration's various studies and reviews of foreign assistance programs with great interest and some concern. We find that the studies address primarily issues of the recent past and some of the controversies engendered by past AID administration of its programs. The studies seem to approach the entire topic of an appropriate level of effort in a policy vacuum, discussing in theoretical terms purported resource needs of the developing countries and possible aid levels in ways that largely overlook political realities in the Congress and throughout the country. The studies are essentially silent with respect to an appropriate role for foreign assistance programs within the total international set of economic relationships—trade and commodity prices, investment, technology transfer. There is insufficient stress on the need to make aid programs more effective and efficiently administered both by ourselves and by recipients. We also find lacking a sense of how foreign assistance can fit effectively as a major priority within U.S. foreign policy interests in an increasingly important Third World. There is little in the studies that would persuade a large body of opinion in the Congress to support larger authorizations (and appropriations) for foreign assistance.

We are convinced that there are vital issues to be faced in foreign assistance, and therefore we still believe that we need to strive in the coming year to make the necessary legislative and administrative changes in our assistance efforts. The present Foreign Assistance Act should be replaced with a new, streamlined law that clearly sets forth an effective policy and operational framework for our assistance efforts and places it in the proper context of overall U.S. policy toward the Third World.

We both understand that the relevance and effectiveness of our aid programs must be improved before aid levels are increased substantially. We want you to know that we plan to introduce legislation to replace the Foreign Assistance Act of 1961 in the next session of Congress. We look forward to working together on the development of that bill.

Sincerely,

HUBERT H. HUMPHREY,
Chairman, Subcommittee on Foreign Assistance.

CLIFFORD P. CASE,
Ranking Member.

Mr. CHURCH. I have decided to cosponsor the International Development Cooperation Act, a bill to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development by establishing the International Development Cooperation Administration.

Since 1946, the United States has spent about $200 billion for assistance to more than 130 countries in all regions of the globe.

In the past, that aid has been used for some of the most humanitarian and worthy purposes—to help victims of disasters, to feed the hungry and, when invited to do so, to provide technical assistance in controlling burgeoning populations. Some of our aid, in my opinion, has been misdirected—to prop up repressive governments, and to provide arms to governments that have no real need for them.

From lend-lease to the Marshall plan, the Vietnam war to the Middle East, American foreign aid sometimes reflected short term foreign policy priorities. Long range development considerations were secondary.

However, by the early 1970's, many Members of Congress, including myself, could no longer vote for aid which did insufficient good for poor people and which supported policies with which we disagreed.

When the Nixon administration showed no signs of changing their aid priorities, Congress took the initiative. In 1973, we passed legislation which shifted the focus of U.S. bilateral development aid programs from balance of payments support and large capital projects to efforts designed to help the majority of poor people in poor countries. Our aid programs were redesigned to focus on the most acute needs of these depressed people: food and shelter, health, education, and family planning.

In the forefront of this effort was Hubert H. Humphrey, the principal architect to this legislation. I strongly approve of the "new directions" approach in aid and hope this bill will be a step in the direction of improved administration of the various aid programs.

Over the years, I have questioned the

manner in which our foreign aid has been managed. It is time we review the entire process, and consider a reorganization of foreign aid administration.

Hearings will provide us with the information we need for our deliberations. In cosponsoring the International Development Cooperation Act, I will look to the testimony and evidence presented at these hearings. The introduction of this bill must be looked upon as the beginning of an effort to improve the administration of foreign aid.

Mr. JAVITS. Mr. President, I am pleased to be able to join my distinguished colleagues in cosponsoring the International Development Cooperation Act of 1978. The late Senator Humphrey was especially concerned about the need to modernize the foreign assistance process and this act represents the culmination of his efforts. The act is an important step in modernizing and providing for closer coordination within the U.S. Government in the formulation and delivery of the various U.S. foreign assistance programs.

For the first time, we will have before us a clear statement of the priority the United States places on assistance to the developing countries and on their efforts to achieve economic growth and meet the basic human needs of their citizens.

The act recognizes that economic growth in the developing countries is an important and primary interest of the United States and accordingly establishes an International Development Cooperation Administration, whose administrator will report directly to the President on all matters affecting development assistance. In addition, the administrator will be responsible for U.S. policy with respect to the World Bank group and regional development banks. Such coordination will improve and make more coherent overall U.S. development policy.

This act recognizes that important economic and technological changes have made for an interdependent world, to which the governmental as well as private channels of assistance are relevant.

The act also consolidates programs aimed primarily at middle income developing countries which no longer need concessional assistance if they can gain sufficient access to private capital markets, investment and technical expertise. Among these programs is the Overseas Private Investment Corporation which I am very hopeful will soon have its authority so that it can get back to the business of providing political and war risk insurance for U.S. investments abroad.

I support the general thrust of this act and when it becomes law it will be a living memorial to our late colleague, Senator Humphrey of Minnesota.

Mr. CLARK. Mr. President, it is a great pleasure for me to cosponsor a bill that Senator Humphrey would have introduced had he lived. The bill, the International Development Cooperation Act of 1978, rewrites and replaces the Foreign Assistance Act of 1961. It is the most significant legislative initiative on the subject of economic development since the early 1960's. This bill is a special legacy of Senator Humphrey. He was working on this most important new legislation right up to the last week of his life.

It is a fitting subject for his final legislative effort, as it deals with the role of the United States in improving the conditions of the lives of over a billion people in the developing countries. We know how passionately Senator Humphrey cared for the little man—the average citizen— whom he never saw as an abstract statistic but as a flesh and blood human being with feelings, cares, and needs. His concerns did not stop at the boundaries of this country; they were worldwide. He cared about, and fought for, unemployed ghetto youth in this country, as well as impoverished farmers in India and starving children in the Sahel.

The International Development Cooperation Act provides the administrative framework for a global attack on the worst manifestations of poverty in the developing countries. Senator Humphrey knew that this could only be undertaken in concert with other nations and by creating a climate of opinion in which U.S. leadership could be reaffirmed and willingly accepted by other nations. A new effort of this sort is almost impossible under present circumstances in the U.S. Government, where policymaking on international development issues is fragmented among a number of competing agencies. The result is that the United States still lacks coherent and dynamic policies on a variety of international economic issues; stalemate, rather than innovation, is becoming the hallmark of U.S. policy in certain forums. Executive branch inability to resolve important policy issues and to present a coherent development policy has led in part to much higher levels of congressional involvement in policymaking, some of it useful, some harmful, but almost entirely without an overall sense of the direction in which we should be moving.

Senator Humphrey's bill attempts to get to the heart of this problem. The International Development Cooperation Act would unify American development assistance in one agency, the International Development Cooperation Administration. By pulling bilateral and multilateral assistance together in one agency, we would not only assure the more efficient coordination of our aid, we would also raise the level of developmental concerns in international economic policymaking.

The bill has a number of innovative provisions. It maintains the present focus of bilateral assistance in the functional categories of agriculture and rural development, population and health, and education and human resource development. However, it clarifies and somewhat broadens these categories so that U.S. aid can deal with these problems in a wide variety of development conditions. It recognizes that the very poorest countries—those termed the relatively least developed—need special measures to help them overcome their problems. The spectrum of economic progress among developing countries, which has created groupings of countries at various intervals of development in recent years, is also dealt with by bringing together guaranty programs, such as housing guaranties and OPIC, in one chapter aimed at increasing the accessibility of middle-income countries to private capital and expertise.

A new International Development Institute has been established as the main channel for public and private voluntary efforts in development. It will include the Peace Corps as a constituent element, and will be the focal point for support of private and voluntary organizations and cooperatives.

Security supporting assistance has been replaced under this bill by an economic support fund, which will give Congress greater policy control and flexibility in setting the guidelines for political aid. Finally, large numbers of outdated and inconsistent restrictions and requirements have been deleted, so that the new administration can develop swift and efficient methods for channeling assistance without the burden of excessive documentation and legal requirements. New, simplified reporting requirements will enable Congress to determine total aid flows and administration activities more easily.

This is legislation that I feel is farsighted and deserving of widespread support. I support this legislation both because of its groundbreaking character and also in tribute to the work of Hubert Humphrey. The bill is perhaps the most fitting memorial to Hubert Humphrey. No monument that we could erect would please him half so much as our support for this legislation. I hope that the Foreign Relations Committee can mark up this bill this year and try to carry forward Senator Humphrey's foresight into law. I shall certainly work for that goal.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority.

I ask unanimous consent that the Subcommittee on the Constitution of the Judiciary Committee be authorized to meet today until 2 o'clock p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages

from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:33 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist order and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary and personnel matters; and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ECKHARDT, Mr. METCALFE, Mr. KRUEGER, Mr. CARNEY, Mr. SCHEUER, Mr. LUKEN, Mr. DEVINE, Mr. BROYHILL, and Mr. RINALDO were appointed managers of the conference on the part of the House; and as an additional conferee, Mr. BUTLER, solely for consideration of section 112 of the Senate amendment and modification thereof committed to conference.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5322) to continue for a temporary period the existing suspension of duty on certain istle.

At 1:48 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the bill (S. 266) to amend Public Law 92–314 to authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1792) to amend the Administrative Conference Act, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 7581. An act to amend the Internal Revenue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax; and

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.

ENROLLED BILL SIGNED

At 3:27 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

S. 1585. An act to amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 7581. An act to amend the Internal Revenue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax; to the Committee on Finance.

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court; to the Committee on Finance.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, January 25, 1978, he presented to the President of the United States the enrolled bill (S. 1585) to amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. 2220. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board (Rept. No. 95-616).

S. Res. 288. A resolution authorizing supplemental expenditures by the Special Committee on Aging for inquiries and investigations (Rept. No. 95-617).

S. Res. 291. A resolution authorizing supplemental expenditures by the Committee on Agriculture, Nutrition, and Forestry (Rept. No. 95-618).

S. Res. 314. A resolution authorizing supplemental expenditures by the Committee on Armed Services for inquiries and investigations (Rept. No. 95-619).

S. Res. 339. A resolution authorizing increased allotment for consultants for the Committee on Environment and Public Works (Rept. No. 95-620).

S. Res. 357. An original resolution to pay a gratuity to Ozzie P. Price.

S. Res. 358. An original resolution to pay a gratuity to Patricia M. Weldon.

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

H.R. 2960. An act to authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia (Rept. No. 95–621).

By Mr. WILLIAMS, from the Committee on Human Resources:

S. Res. 361. An original resolution authorizing additional expenditures by the Committee on Human Resources for inquiries and investigations. Referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SPARKMAN (for himself, Mr. CASE, Mr. BAKER, and Mr. CHURCH):

S. 2420. A bill to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development by establishing the International Development Cooperation Administration, and for other purposes; ordered held at the desk until February 2, 1978, by unanimous consent.

By Mr. HELMS:

S. 2421. A bill for the relief of Shyy Wen-Huei; to the Committee on the Judiciary.

By Mr. RIBICOFF (by request):

S. 2422. A bill to amend title 5 of the United States Code to provide survivor benefits to certain dependent children; to the Committee on Governmental Affairs.

S. 2423. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize transportation for certain persons engaged in the continuity of Government programs; to the Committe on Governmental Affairs.

By Mr. BAYH (for himself, Mr. CRANSTON, Mr. THURMOND, and Mr. ABOUREZK):

S. 2424. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 2425. A bill to make uniform with the general requirements of the Federal Food, Drug, and Cosmetic Act certain provisions relating to the labeling and notification of colored margarine and colored oleomargarine; to the Committee on Human Resources.

By Mr. BURDICK:

S. 2426. A bill to provide emergency price and income protection for farmers, to assure consumers an abundance of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PROXMIRE (by request):

S. 2427. A bill to amend the Federal Reserve Act to provide for deferral of the disclosure to the public of the Federal Open Market Committee's Domestic Policy Directive; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HASKELL:

S. 2428. A bill to amend the Internal Revenue Code of 1954 to encourage the continued investment of equity capital in independent small businesses; to the Committee on Finance.

By Mr. JAVITS:

S. 2429. A bill for the relief of Anthony Casamento; to the Committee on Armed Services.

By Mr. WILLIAMS:

S. 2430. A bill to amend the Foreign Assistance Act of 1961 to provide for a reduction of the United States contribution to the United Nations; to the Committee on Foreign Relations.

By Mr. MATHIAS:

S. 2431. A bill for the relief of Robert L. VanNess, of Gaithersburg, Maryland; to the Committee on the Judiciary.

By Mr. McINTYRE (for himself, Mr. HATHAWAY, Mr DURKIN, Mr. RIEGLE, Mr. WALLOP, Mr. JOHNSTON, and Mr. GRAVEL):

S.J. Res. 103. Joint resolution to declare 1978 to be Franco-American Friendship Year; to the Committee on the Judiciary.

S.J. Res. 104. Joint resolution to declare July 11, 1978, to be Franco-American Friendship Day; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPARKMAN (for himself, Mr. CASE, Mr. BAKER, and Mr. CHURCH):

S. 2420. A bill to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development by establishing the International Development Cooperation Administration, and for other purposes; ordered held at the desk until February 2, 1978, by unanimous consent.

(The remarks of Mr. SPARKMAN when he introduced the bill appear earlier in today's proceedings.)

By Mr. RIBICOFF (by request):

S. 2422. A bill to amend title 5 of the United States Code to provide survivor benefits to certain dependent children; to the Committee on Government Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Chairman of the Civil Service Commission, I am introducing legislation to amend title I of the United States Code to provide survivor benefits to certain dependent children.

Under existing law, survivor benefits are authorized to illegitimate children of a deceased Federal employee or retiree only if such children are living with the decedent at the time of death. In addition, according to information furnished by the Civil Service Commission, recent court decisions have cast doubt on the constitutionality of these provisions of law, and several court decisions have awarded civil service survivor benefits to dependent illegitimate children who did not live with the decedent at the time of death.

This proposed legislation is designed to clarify the situation in line with court decisions and to assure the achievement of the legislative purpose of replacing support lost by the death of a parent.

I ask unanimous consent that the text of the bill and the accompanying statement of purpose and need for the legislation be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8341(a)(3) of title 5, United States Code, is amended—

(1) by inserting "dependent" after "unmarried" each place it appears;

(2) by striking out "who lived with the employee or member in a regular parent-child relationship" in subparagraph (A)(ii) thereof; and

(3) by adding at the end thereof the following new sentence: "For purposes of this paragraph and subsection (e) of this section, a child shall be deemed dependent on the employee or Member except that in the case of a child who is not a legitimate child of the employee or Member, the child shall not be deemed dependent if the employee or Member was not living with or contributing to the support of such child at the time of his death.".

SEC. 2. Section 8901 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "For" at the beginning thereof;

(2) by inserting "dependent" after "unmarried" each place it appears in subsection (a)(5) thereof, as redesignated by paragraph (1);

(3) by striking out "who lives with the employee or annuitant in a regular parent-child relationship" in subsection (a)(5)(B) thereof, as so redesignated; and

(4) by adding at the end thereof the following new subsection:

"(b) For purposes of paragraph (5) of subsection (a) of this section, a child shall be deemed dependent on the employee or annuitant except that in the case of a child who is not a legitimate child of the employee or annuitant, the child shall not be deemed dependent if the employee or annuitant was not living with or contributing to the support of such child.".

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., November 29, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I submit for the consideration of Congress, and recommend favorable action on, the attached draft bill to amend the Civil Service Retirement law to extend eligibility for civil service survivor benefits to all dependent illegitimate children of a deceased Federal employee or retiree. Also attached is a statement of purpose and justification for the proposed bill.

We believe this proposal is necessary in view of several recent court decisions which cast doubt on the constitutionality of the present provision which allows survivor benefits only to those illegitimates living with the decedent at the time of death. These decisions have been based on the principle that a statute providing replacement of support lost through the death of a parent may be overinclusive, i.e., it may presumptively award benefits to some children not actually dependent, but it is not constitutionally permissible for the statute to be underinclusive; i.e., to presumptively deny, without opportunity to show actual dependency, benefits to other subclasses of dependent children. The present Civil Service Retirement statute is underinclusive in that it denies survivor benefits to dependent illegitimates who have not resided with the deceased. Since several recent court decisions have awarded civil service survivor benefits to dependent illegitimates who did not live with the decedent, immediate consideration of this legislative proposal is imperative.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this proposal to the Congress.

A similar letter is being sent to the Speaker of the House.

By direction of the Commission:

Sincerely yours,

ALAN K. CAMPBELL,
Chairman.

STATEMENT OF PURPOSE AND JUSTIFICATION

The attached proposed legislation would amend the Civil Service Retirement and Health Benefits laws to extend eligibility for civil service survivor and health insurance benefits to all dependent illegitimate children of a deceased Federal employee or retiree.

The Civil Service Retirement law provides monthly survivor annuity benefits to children of those deceased employees who have completed at least eighteen months of Federal civilian service and to children of deceased annuitants. "Child" for survivor annuity purposes includes:

(A) An unmarried child under 18 years of age, including (i) an adopted child, and (ii) a stepchild or *recognized natural child who lived with the employee or Member in a regular parent-child relationship,* and (iii) a child who lived with and for whom a petition of adoption was filed by any employee or Member, and who is adopted by the surviving spouse of the employee or Member after his death; . . . 5 U.S.C. 8341(a)(3)(A).

(Further subsections of the statute not relevant to this proposal are omitted; underlining supplied).

The legislative purpose of the "living with" provision required of illegitimates is unclear. Prior to July 18, 1966, a recognized illegitimate child was eligible for survivor benefits if he or she received more than one-half support from and lived with the employee or annuitant in a regular parent child relationship. Public Law 89-504, approved July 18, 1966, eliminated the half support requirement in order to "permit children of a working mother to receive a survivor annuity in the event of her death." S. Rep. No. 1187, 89th Cong., 2d Sess., 5 (1966). This seems to be the only statement in the legislative history of the reason for eliminating the half support requirement.

This elimination did accomplish its purpose of enabling illegitimates to receive a survivor annuity in the event of their mothers' death. However, one practical effect of this provision, both before and after this amendment is to deny survivor benefits to many illegitimate children whose fathers were the deceased employees or annuitants because many illegitimates live with only their mother. This denial of benefits is so even when the illegitimate is receiving substantial or even full support contributions from the non-resident parent (whether father or mother). This statute, then, designed to pay benefits to dependent children, actually conclusively denies survivor benefits to some dependent illegitimates.

Recent court decisions expanding the rights of illegitimates have cast doubt on the constitutionality of this conclusive denial of survivor benefits to some dependent illegitimates. The Supreme Court, when considering the rights of illegitimate children, has carefully examined the statutes involved in each case and has generally required that any discrimination on the basis of legitimacy (or even between classes of illegitimates) actually further a permissible state purpose. A mere statement by the state or Federal Government of the legislative purposes that the statute in question is designed to further has not been sufficient; the Court has looked behind the proffered objectives to determine if the statute actually does accomplish the purpose for which the law was enacted. The need of administrative agencies to draw arbitrary lines in order to lessen administrative problems of proof is recognized, but the Court has stated several times that this need cannot be made into "an impenetrable barrier that works to shield otherwise invidious discrimination." *Trimble* v. *Gordon,* 45 U.S.L.W. 4395 (U.S. Apr. 26, 1977); *Gomez* v. *Perez,* 409 U.S. 535, 538 (1973). *Weber* v. *Aetna Casualty and Surety Co.,* 406 U.S. 164 (1972).

Of several recent Supreme Court cases, two decisions considered the constitutionality of two sections of the Social Security Act somewhat analogous to the survivor provisions of the Civil Service Retirement law. In *Jimenez* v. *Weinberger,* 417 U.S. 628 (1974), the Court ruled that denial of disability benefits to certain illegitimates solely on the basis of birth after the onset of disability was violative of the claimant illegitimate childrens' right to equal protection. The statute did not allow these illegitimates the right to prove actual dependency. (The Government's stated legislative purposes were to provide

support for dependents of the disabled and to prevent spurious claims.) The Court found that these purposes were not rationally related to the classification here, and the statute was declared unconstitutional.

Another section of the Social Security law withstood the court's scrutiny, however, in *Matthews* v. *Lucas*, 427 U.S. 495 (1976). The dispute in this case was the result of Social Security's denial of benefits to two illegitimate children who could not prove actual dependency on the deceased wage earner at the time of his death.

The Social Security Act provision in question in *Lucas* provides survivor benefits to all dependent children of a deceased wage earner. Dependency is presumed (i.e., no proof is required) for all legitimate and some illegitimate children. If an illegitimate is not in one of the groups deemed dependent, however, eligibility for benefits may be established by proof of actual dependency. The plaintiffs in this case argued that their right to equal protection was violated because all legitimates (and some illegitimates) were automatically entitled to benefits even if they could not actually prove dependency.

Social Security contended that the purpose of the benefit statute was to replace support lost by the death of the wage earner, that the classifications were designed to minimize spurious claims and to facilitate administrative determination and that the statute promoted these objectives.

The Supreme Court held the statute constitutional, stating that the classifications, although not perfect, were reasonably drawn to qualify entitlement to benefits upon a child's dependency at the time of the wage earner parent's death. Some leeway is allowed for administrative convenience, especially when the statute errs on the side of overinclusiveness (i.e., awarding benefits to some children actually not dependent). No dependent illegitimate was conclusively denied benefits: any such child had the chance to prove actual dependency. The court ruled that Congress could rationally presume that there is less of an assumption of dependency of illegitimate than of legitimate children; some distinction on this basis is permissible.

In summary, what the Supreme Court appears to find objectionable is the idea of an irrebuttable presumption: i.e., illegitimates (or even certain sub classes of illegitimates) conclusively denied benefits with no opportunity at all to satisfy eligibility requirements. The statutory benefit may be overinclusive, but not underinclusive. If the law for instance, is designed to replace support, it must not exclude any classes of dependent illegitimates, although illegitimates may be required to meet burdens of proof not required of legitimates. The prohibition is not against discrimination *per se* (as in requirements of proof). The prohibition is against impermissible discrimination (conclusive denial).

The *Jimenez* and *Lucas* cases were precedents discussed by the Court of Claims in *Gentry* v. *United States*, 546 F. 2d 343 (Ct. Cl. 1976), a case directly involving 5 U.S.C. 8341(a)(3)(A). Gerald Gentry, the illegitimate son of a deceased civil service annuitant, was denied survivor benefits by the Commission because he did not meet the "live with" requirement of 5 U.S.C. 8341(a)(3)(A). Gentry claimed his father had contributed to his support. He took his case to the Court of Claims, contending that the statute's denial of benefits to all illegitimates except those living with their deceased parent at the time of death, even if the non-resident deceased parent had contributed to the child's support, violated the equal protection guaranteed him by the fifth amendment.

The Government argued that the statute was designed to replace support for dependent natural children, and that a secondary purpose of the live with requirement was to prevent spurious claims of parentage.

The Court of Claims found that the Government's stated objectives (which were the same objectives of the Social Security Statute claimed by the Government in *Jimenez* v. *Weinberger, supra*) could not be achieved by the statute as written. Applying the principles set out in *Jimenez* v. *Weinberger, supra*, the court found that many dependent illegitimates were excluded by the Civil Service retirement statute simply because they did not live with the parent who contributed to support. Nor could the statute as written achieve its purpose of preventing spurious claims because the potential for such claims was exactly the same for both included and excluded classes of illegitimates. The Court rejected the argument that application of *Matthews* v. *Lucas, supra*, in the *Gentry* case warranted a finding that the statute was constitutional. The Court said *Matthews* mandated no such result—a different statutory scheme was involved in that case, and one in which all dependent children could prove eligibility for survivor benefits. It concluded that since the Civil Service Retirement law conclusively excluded certain dependent illegitimates from being eligible for survivor benefits, it was unconstitutional; administrative convenience was not sufficient to make the discrimination permissible.

The effect of this declaration of unconstitutionality was limited to the individual before the Court-Gerald Gentry. Gentry had in fact asked for a declaratory judgment that the live with requirement of 5 U.S.C. 8341(a)(3)(A) was unconstitutional. With respect to this issue the Court stated:

"Our authority to issue a declaratory judgment is limited. . . . We are authorized to do so only where 'it is tied and subordinate to a monetary award.' . . . And of course we can do so where it is explicitly authorized, as in certain tax cases. . . . That portion of plaintiff's petition asking for a declaratory judgment is dismissed." (p. 20, slip opinion—Citations are omitted.)

The Court expressed reservations about the Government's characterization of the purposes of the annuity statute's survivorship provisions. However, the case has been remanded by the Court of Claims to the Commission for a determination of Gentry's status as the recognized supported natural child. But when considering the Government's motion for rehearing in the *Gentry* case, the Court expressed further doubt that dependency was even a real purpose of the Civil Service Survivor benefit provisions. The Court acknowledged that it had left open the extent of dependency to be required or whether dependency could be required at all. However, this issue was not ripe for determination until the Commission made a decision on plaintiff's eligibility. The Government's motion for rehearing (on the ground that a Supreme Court case decided after the original *Gentry* decision changed the outcome) was denied.

We believe that the Court of Claims' specific holding in the *Gentry* case coupled with the Supreme Court's steady expansion on the rights of illegitimates makes it only a matter of time before the "live with" requirement of 5 U.S.C. 8341(a)(3)(A) is directly declared unconstitutional by a court of competent jurisdiction. In recognition of this situation, we would like to transmit the attached legislative proposal to Congress for its consideration.

There are also several other reasons in favor of proposing legislation. First, the effect of *Gentry* is unclear. Although the Court did not rule out a requirement of proof of actual dependency, it implied that this might not even be required if the Commission and Mr. Gentry could not agree on the degree of dependency to be proven.

Second, although the Court believed the live with requirement unconstitutional, it actually restricted its holding to the case of Gerald E. Gentry because of its limited jurisdiction. In the absence of an actual court declaration of unconstitutionality, the Commission must continue to administer the law as presently written. This will invite repeated litigation which the Commission almost undoubtedly will lose (particularly in the Court of Claims), but will be obliged to defend. One example is the recent decision in *Myers* v. *Hampton*, Civ. No. 8682 (W.D. Ohio, August 8, 1977) in which the U.S. District Court for the Southern District of Ohio has ordered retroactive payment of survivor annuity benefits to a dependent illegitimate child of a deceased Federal employee who did not meet the "living with" requirement.

On the surface, it may appear that the first court with appropriate jurisdiction to declare the live with requirement unconstitutional will solve the problem. This would probably not be the case. Since there are several pending lawsuits there is a possibility of inconsistent decisions and the issue may ultimately have to be decided by the Supreme Court. In addition, the court decision might totally eliminate any dependency requirement or be otherwise unclear (as in *Gentry*) as to what should be required for illegitimates to establish eligibility for civil service survivor benefits. Finally, an expression of Congressional intent not to provide retroactive benefits to illegitimate children formerly denied such benefits may bear on a court's determination as to whether to give retroactive effect to an adverse decision.

Any retroactive extension of survivor benefits to illegitimates will result in overpayments having been made if there were any other children of the decedent receiving survivor annuities. This, for instance, will occur in the *Myers* case, since the decedent had other minor legitimate children and the benefits were awarded retroactively to 1966. This is so becaue the amount of annuity payable to each child decreases as the number of children of the same decedent increases. Due process problems with respect to the children already receiving benefit will arise. We could almost certainly expect substantial litigation on this point.

We believe that a dependency requirement should be made clear in the definition of child for survivor annuity purposes found in 5 U.S.C. 8341(a)(3). For consistency, a similar change is also proposed in the definition of family member for purposes of coverage under the Federal Employees Health Benefits Program. The legislation we are proposing aims, through use of language along the lines of the Social Security statute upheld in *Matthews* v. *Lucas, supra*, to achieve the purpose of replacing the support lost by the death of a parent. It presumes that all legitimates and certain classes of illegitimates are dependent. Only those illegitimates who neither lived with nor received support from the decedent are not dependent children. This would allow all illegitimates to prove actual dependency if they cannot meet the presumption of dependency raised by the fact that they lived with their deceased parent at the time of death.

Retirement legislation is generally prospective only in entitlement. This would mean that any change generally would apply only to the illegitimate children of an employee or retiree who died on or after the date of enactment. Since possible constitutional rights may be involved, however, we are proposing a limited exception to this principle of nonretroactivity. Date of death will not be directly relevant; however, no payment will be made for any period of time prior to enactment of the legislation. We propose this approach because any retroactive payment would result in overpayments being made in some cases to other children of the decedent. This would raise further questions of the constitutional rights with respect to these children. Health benefits coverage will also be prospective only.

Our actuary reports that no estimate of the

cost of this bill can be made since the number of possible eligibles is unknown.

By Mr. RIBICOFF (by request):

S. 2423. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize transportation for certain persons engaged in the continuity of Government programs; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Administrator of General Services, I am introducing legislation which would authorize the GSA to provide transportation on a continuing basis, to Government employees who are engaged in certain types of activities which involve continuity of vital governmental functions at Federal installations where no public transportation is available.

The functions involved were originally performed by the Department of Defense which was given permanent statutory authority to use appropriated funds for this purpose, following a decision by the Comptroller General forbidding the furnishing of transportation facilities to employees from place of residence to place of employment, in the absence of such authority.

In June, 1975, these functions were transferred from the Department of Defense to GSA. Thereafter, the required authority was provided, on a temporary basis, in the 1976 and 1977 GSA appropriation acts. Since the necessary authority will expire at the end of fiscal year 1977, the Administrator of General Services has requested permanent authority similar to that which Congress provided for the Department of Defense.

I ask unanimous consent that the text of the bill and the accompanying statement setting forth details relative to the need for this legislation be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 210(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490 (a)) is amended—

(1) by striking out "and" at the end of paragraph (18),

(2) by striking out the period at the end of paragraph (19) and by inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(20) to provide transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a military department under 10 U.S.C. 2632."

GENERAL SERVICES ADMINISTRATION,
Washington, D.C.

Hon. WALTER F. MONDALE,
President of the Senate, Senate Office Building, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend the Federal Property and Administrative Services Act of 1949 to authorize transportation for certain persons engaged in the continuity of Government program." This proposal is a part of the General Services Administration (GSA) legislative program for the 95th Congress. It is recommended that the Congress give early favorable consideration to the enclosed draft bill.

Congress has previously authorized GSA to provide temporary transportation in connection with the continuity of Government program through Fiscal Year 1976 by including appropriate language in the Preparedness Activities section of the 1976 GSA appropriation act, Public Law 94–91. House Report No. 94–350 states the Committee's understanding that permanent authorizing legislation to provide such transportation would be sought by GSA for the period after June 30, 1976. On June 7, 1976, a draft bill to provide permanent authority for such transportation was transmitted to the Speaker of the House and to the President of the Senate. The 94th Congress did not act on that draft bill. For that reason the enclosed draft bill is being resubmitted. By appropriate language in the Federal Preparedness Agency section of the 1977 GSA appropriation act, Public Law 94–363, Congress has authorized continuation of the transportation service through Fiscal Year 1977.

To enable you to understand what this proposal would accomplish, some background is necessary. During the 1950's, an installation was constructed at the direction of President Eisenhower to provide a capability for continuing the essential functions of the Government during an emergency. This top secret installation, referred to herein as the Special Facility, had been under the policy direction of the Federal Preparedness Agency and its predecessor agencies and operated by the Department of Defense from its beginning until June 29, 1975, when it was transferred to the jurisdiction of the General Services Administration by order of the Director of the Office of Management and Budget.

There are presently more than 600 Federal employees permanently assigned to the Special Facility to keep the installation in a constant state of readiness to perform its mission in the event of an emergency which requires the relocation of key Government officials to a relocation site. These employees are required to have top secret clearance, to reside within an hour's ride of the Special Facility, and to be available 24 hours a day to report for duty at the Special Facility in the event of an emergency for which the Special Facility was designed to serve.

Because of the remote location of the Special Facility, as well as its top secret classification, the employees assigned there are not able to use public transportation to travel between their homes and their jobs. Therefore, a bus transportation service, at reasonable rates of fare to the employees, has been operated by the Government between the Special Facility and the nearby communities where the employees reside. The buses remain nightly at predesignated community rendezvous points to ensure transportation for employees to the Special Facility in the event of after-duty-hour emergency recall.

During the years that the Special Facility was operated by the Department of Defense, the Secretary of the Army operated a bus transportation service, at reasonable rates of fare, between the Special Facility and various nearby communities where the employees lived. The Secretary was permitted to operate such a bus service under the authority of 10 U.S.C. 2632. That statute was necessary because the Comptroller General of the United States has ruled that the furnishing of transportation facilities to employees from their places of residence to the place of their employment is a personal expense of the employee and is not permitted to be paid from appropriated funds, unless authority to do so is provided for in legislation either expressly or by necessary implication. 27 Comp. Gen. 1(1947).

Furthermore, Congress has enacted legislation, codified as 31 U.S.C. 638a(c)(2), prohibiting the use of appropriated funds for the maintenance, operation, or repair of any Government-owned passenger motor vehicle used to transport officers and employees between their domiciles and places of employment. This statute further provides that any exception to it must be made specifically. Therefore, specific statutory authority to provide such transportation, such as the authority granted to the heads of the military departments by 10 U.S.C. 2632, is required to overcome the prohibitions of the Comptroller General and of 31 U.S.C. 638a (c)(2).

The Administrator of General Services does not now have the permanent authority granted to the Secretaries of the military departments by 10 U.S.C. 2632. The enclosed draft bill would give him that authority.

Evaluation by the General Services Administration revealed that there is no potential inflationary impact on the economy due to this proposal.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this proposal to the Congress.

Sincerely,

———— ————.

By Mr. BAYH (for himself, Mr. CRANSTON, Mr. THURMOND, and Mr. ABOUREZK):

S. 2424. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

Mr. BAYH. Mr. President, today I am introducing legislation which will make a simple yet important change in the present American Legion charter in order that membership eligibility dates will coincide with eligibility dates for veterans benefits for the Vietnam era. During the 59th national convention of the American Legion held in Denver, Colo., from August 23–25, 1977, a resolution was adopted by the Legionnaires present to broaden the Vietnam-era eligibility period from August 5, 1964 through May 7, 1975. At the present time, August 15, 1973 marks the cutoff date for membership.

As my colleagues know, the American Legion plays an important role in promoting the spirit of community-mindedness and public service wherever a Legion post is found. Of particular note is the Legion's sponsorship of annual statewide and national seminars where high school youth are able to learn more about government at the local, State, and national levels. Boys and girls State and Nation activities also give young people the opportunity to participate in actual elections. Such exercises provide better understanding of the workings of our democracy which will be useful to these young people as future community leaders.

Mr. President, this is just one of the many valuable community functions provided by the Legion. Clearly, by extending the eligibility dates for Vietnam-era veterans to become Legionnaires we will also be enhancing the ability of the Legion to pursue these activities through the additional memberships of those who have already served their country honorably.

Mr. President, I ask unanimous consent that a copy of the 59th American Legion national convention resolution 249 to be printed in the RECORD, together with the legislation I have proposed today.

There being no objection, the bill and resolution were ordered to be printed in the RECORD, as follows:

S. 2424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 USC 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950 to January 31, 1955; August 5, 1964, to May 7, 1975; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: Provided, however, That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

RESOLUTION 249

Committee: Constitutional Amendments.

Subject: Amending the Federal act and the national constitution of the American Legion to change membership eligibility dates

Whereas, The American Legion is composed of Veterans of Military service during wartime periods, and

Whereas, American Legion Eligibility Dates for World War II and Korean Conflict coincide with eligibility dates for Veterans' benefits for those two periods, and

Whereas, Vietnam Veterans are eligible for American Legion membership if they served during the period 5 August 64 to 15 August 73 and are eligible for VA benefits if they served during the period 5 August 64 through 7 May 75, and

Whereas, Action should be taken to provide for Vietnam eligibility dates on the same basis as are presently recognized for World War II and Korea; now, therefore, be it

Resolved, By The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, go on record as favoring a change in American Legion membership eligibility dates for Vietnam Veterans so that the ending date of (eligibility will coincide with the ending date of) VA benefits eligibility for that conflict, and we petition the Congress of the United States to further amend Section 5 of the Act entitled "An Act to Incorporate The American Legion", Public Law No. 47, 66th Congress, approved September 16, 1919, (c. 59, Sec. 541 Stat. 285; October 29, 1942; c. 633, Sec. 2, 56 Stat. 1012; July 9, 1946, c. 546, 60 Stat. 524; December 28, 1950, c. 1177, 64 Stat. 1122, July 26, 1955; c. 386, Sec. 2, 69 Stat. 180; September 1, 1966, Public Law 89-550, Section 2, 80 Stat. 372, Title 36 USC, Sec. 45) to read when amended as follows:

SECTION 5

No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; August 5, 1964 to May 7, 1975; all dates inclusive, or who being a citizen of the United States at the time of entry therein served in the military or naval service of any of the governments associated with the United States during said wars or hostilities; *Provided,* however, That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates; and be it further

Resolved, That when and if the Congress of the United States enacts the above amendment, and the President of the United States shall have approved the same and it becomes law, then the National Constitution of The American Legion shall be deemed amended in conformance therewith but subject to all consistent limits and restrictions in the Constitution contained all as provided for under Article 17 thereof so that Article IV, Section 1 and Article 13, Section 2 of the aforesaid Constitution of The American Legion shall read as follows: Article IV, Eligibility, Section 1 "any person shall be eligible for membership in The American Legion who was a member of the Army, Navy, Marine Corps, Coast Guard or Air Force of The United States and assigned to active duty sometime during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; August 5, 1964 to May 7, 1975 all dates inclusive or who being a citizen of the United States at the time of entry therein served on active duty in the Armed Forces of any of the governments associated with the United States during any of the said periods; *Provided,* however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably after any said periods; provided further that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscience, political or other grounds to subject himself to military discipline or unqualified service."

ARTICLE 13 AUXILIARIES SECTION 2

Membership in the American Legion Auxiliary shall be limited to the mothers, wives, daughters, sisters and granddaughters of members of The American Legion and to the mothers, wives, daughters, sisters and granddaughters of all men and women who were in the Armed Forces of the United States during any of the following periods: April 6, 1917 to November 11, 1918, December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; August 5, 1964 to May 7, 1975 all dates inclusive or who being a citizen of the United States at the time of their entry therein served in active duty in the Armed Forces with any of the governments associated with the United States during any of said periods, and died in line of duty or after honorable discharge; and to those women who of their own right are eligible for membership in The American Legion.

By Mr. HOLLINGS:

S. 2425. A bill to make uniform with the general requirements of the Federal Food, Drug, and Cosmetic Act certain provisions relating to the labeling and notification of colored margarine and colored oleomargarine; to the Committee on Human Resources.

LABELING OF MARGARINE

Mr. HOLLINGS. Mr. President, today I am introducing a proposal to simplify the Food, Drug and Cosmetic Act by improving its requirements for the labeling and notification of margarine.

My bill is a technical adjustment in the act that brings margarine labeling more in line with the regulatory policies developed by the Food and Drug Administration in recent years, and to make enforcement and compliance with the notification requirement easier.

This legislation, is not going to promote margarine, to mandate the use of margarine, or to cause any decrease in consumer protection. Instead, it will enhance consumer protection by modernizing the overly complicated and special requirements for margarine in section 407 of the act.

This bill amends section 407 in three respects. First, present law requires that an eating place do two things to notify patrons when it is serving margarine. It must post a sign on the wall or make a statement in the menu, and it must identify each serving by appropriate labeling or by a triangular shape. My bill would continue to require notice, but only suitable notice that is prominently and conspicuously displayed or labeled in such manner as to render it likely to be read and understood by the ordinary individual being served. This change was heard in 1971 by the Subcommittee on Health of the Committee on Labor and Public Welfare. No objection was made then nor has one been made since. There has been ample time to consider it. The agencies concerned have all approved it. The National Restaurant Association had no objection. The American Heart Association and a number of farm and processor organizations approved.

Second, this bill would continue for margarine the act's requirement that foods label their name conspicuously, but would remove the unnecessary and special requirement on margarine, that the letters be as large as any other on the label.

Thus, it brings margarine in this respect into line with other foods.

Third, the bill would remove the requirement, also obsolete and nonuniform, that margarine inner wrappers bear the product name in 20 point type—which under FDA rules triggers other labeling that becomes burdensome. Instead, my bill would put margarine where other foods are under FDA's rules on inner unit labeling.

All three of the above provisions in my bill have been approved by the Senate as part of the Federal Food Inspection Act of 1973 and the Consumer Food Act of 1975. While the House did not act on these bills, the notification in eating places proposal has been passed by the House on two occasions.

It should be noted that margarine is the major vitamin A spread consumed by the American public. Its consumption last year averaged 11.3 pounds per person. Practically all of its ingredients are produced in America. Also, in 1977 margarine utilized some 1,580 million pounds of soybean oil, the equivalent of about 5 million acres of soybeans and it contributed a cash farm income estimated at $400 million. Margarine is an important product and its requirements for labeling and notification should be simplified.

In summary this bill is a simple technical change which has two objectives: First, to provide better consumer protection by making the law easier to comply with and to enforce; and second, to simplify in one respect the burden of regulations on our expanding and important eating-out industry.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 407 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 347) is amended by—

(1) deleting "in type or lettering at least as large as any other type or letter on such label" in subsection (b)(3) thereof,

(2) deleting "in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than twenty-point type" in subsection (b)(4) thereof, and inserting in lieu thereof "in a separate wrapper", and

(3) amending subsection (c) thereof to read as follows:

"(c) No person shall serve colored margarine or colored oleomargarine at a public eating place, whether or not any charge is made therefor, unless a suitable notice or identification that such colored margarine or colored oleomargarine is served is prominently and conspicuously displayed or labeled in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place.".

By Mr. PROXMIRE (by request):

S. 2427. A bill to amend the Federal Reserve Act to provide for deferral of the disclosure to the public of the Federal Open Market Committee s domestic policy directive; to the Committee on Banking, Housing, and Urban Affairs.

Mr. PROXMIRE. Mr. President, today I am introducing legislation upon the request of the Board of Governors of the Federal Reserve System that would require deferral of any public release of the domestic policy directive of the Federal Open Market Committee (FOMC). The domestic policy directive embodies the FOMC's instructions to the manager of the system's open market account at the Federal Reserve Bank of New York for the period until the next regularly scheduled monthly meeting of the FOMC. The domestic policy directive is now made public a few days after the next monthly meeting, when it is superseded by a new directive.

A recent ruling of the Court of Appeals for the District of Columbia would require the FOMC to make each of its directives public immediately after the meeting at which it is adopted. The court's opinion concluded that the domestic policy directive is an effective and final policy decision of the FOMC, rather than a "predecisional" matter protected by exemption 5 of the Freedom of Information A .t. The court's opinion also noted that exemption 3 of the Freedom of Information Act allows nondisclosure of material specifically exempted by statute. The legislation I am introducing would provide such specific statutory authority for deferral, and thus would amount to an exemption from the prompt availability requirement of the Freedom of Information Act.

The Board of Governors of the Federal Reserve System has informed me that the Federal Open Market Committee believes that immediate release of the domestic policy directive would significantly impair its ability to carry out monetary policy and would be substantially contrary to the national interests. They have also supplied me with arguments supporting the Federal Open Market Committee's opinion.

Mr. President, I have not decided in my own mind whether the immediate release of the domestic policy directive would have harmful effe ts as indicated by the Federal Reserve. Therefore, I reserve judgment on the merits of the legislation I am introducing at the Federal Reserve's request.

Mr. President, I ask unanimous consent that the bill and the material sent to me by the Federal Reserve be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tenth paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 247a) is amended by inserting after the first sentence the following: "The Domestic Policy Directive issued by the Committee for the guidance of Federal Reserve System open market operations, and any amendments thereto, shall be withheld by the Board, the Committee, and the Federal Reserve Banks from disclosure to the public until three days after the next regular meeting of the Committee."

FEDERAL RESERVE SYSTEM,
Washington, D.C., January 13, 1978.

HON. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday you and I discussed a serious problem facing the Federal Reserve System which requires a prompt legislative remedy. I would like to take this opportunity to provide you with further information regarding the nature of this problem and a proposal for legislative relief.

In carrying out its responsibilitise for the nation's monetary policy, the Federal Reserve relies primarily on open market operations in Government securities. These operations—which totaled nearly $650 billion in 1977—are by law conduc.ted under the direction of the Federal Open Market Committee ("the FOMC"). At each of its regular monthly meetings the FOMC adopts a Domestic Policy Directive for the purpose of guiding its agent, the Manager of the System Open Market Account, in the conduct of operations during the period until its next monthly meeting. This Directive at present includes ranges of tolerance that the FOMC believes are acceptable for short-run growth rates in certain monetary aggregates, and for changes in a key market interest rate, the Federal funds rate. The Federal funds rate is the rate banks charge for one-day loans among themselves of excess reserve balances. The Domestic Policy Directive is made public a few days after the next monthly meeting, when it has been superseded by a new Directive.

The problem arises from a recent ruling of the Court of Appeals for the District of Columbia which would require the FOMC to make each of its Directives public immediately after the meeting at which it is adopted. The FOMC believes that such a practice would significantly impair its ability to discharge its statutory responsibility to carry out monetary policy and would be substantially contrary to the national interest.

The court's ruling was rendered in the case of *Merrill et al. v. Federal Open Market Committee of the Federal Reserve System,* No. 76-1379 (D.C. Cir. November 10, 1977). A copy of the opinion is enclosed. The primary issue before the court in this case was whether exemption (5) of the Freedom of Information Act, 5 U.S.C. 552(b)(5), was correctly relied upon by the FOMC to delay the public release of the Domestic Policy Directive for approximately 30 days following its adoption. The court answered this question negatively, principally because it viewed the Domestic Policy Directive as an effective and final policy decision of the FOMC, rather than a "predecisional" matter protected by exemption (5) of the Freedom of Information Act.

The court's opinion concludes with the following observation:

"For reasons state . . . Exemption 5 does not encompass the information that the District Court has ordered [the] FOMC to make available. We note in passing that Exemption 3 allows nondisclosure of material specifically exempted by statute. Should Congress determine that release of the Directives, tolerance ranges and other FOMC documents sought in this suit will impede implementation of national monetary policy, it has the option of enacting for this material a specific statutory exemption from the operation of the Freedom of Information Act, or a specific statutory authority for deferral, amounting to an exemption from the prompt availability requirement. But the making of such exceptions is the function of the legislature, not the court."

In accordance with this observation by the court, we are seeking legislative relief. Specifically, the FOMC respectfully requests that there be introduced in Congress a bill that would require *deferral* of any public release of the FOMC's Domestic Policy Directive including its tolerance ranges, until approximately one month after adoption—that is, until shortly after the next regular meeting of the FOMC

We would suggest the following language: "Section 10, paragraph 10 of the Federal Reserve Act (12 U.S.C. 247a) is amended by inserting at the end of the first sentence the following: Provided, however, that the Domestic Policy Directive issued by the Committee for the guidance of System open market operations, and amendments thereto, shall be withheld by the Board, the Committee and the Federal Reserve Banks from disclosure to the public until three days after the next regular meeting of the Committee."

Upon enactment of such legislation, the FOMC would be in a position to rely upon exemption (3) of the Freedom of Information Act, 5 U.S.C. 552(b)(3), which provides that an agency may withhold from public disclosure matters that are "specifically exempted from disclosure by statute . . . provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld."

I must emphasize that such legislation would not authorize permanent withholding of the Domestic Policy Directive. It would merely permit continuation of the current practice of deferring release of the Directive for about a month, in order to enable the Federal Reserve System to continue to conduct open market operations in an effective manner.

To clarify our reasons for believing that legislation is urgently required, I am enclosing a memorandum which outlines briefly the nature and purposes of Federal Reserve open market operations and the consequences that the court's order could reasonably be expected to have. The FOMC has requested the Solicitor General of the United States to seek review of the Court of Appeals' decision by the U.S. Supreme Court and the effective date of the Court of Appeals' order has been temporarily stayed pending determination of this request by the Solicitor General. This request has been supported by the Department of the Treasury and the Council of Economic Advisers in letters to the Department of Justice, copies of which are also included for your information. In

view of the possibility that the Court of Appeals' order could become effective in the immediate future, prompt attention to this critical matter is essential.

Your assistance in support of the legislative relief sought would be greatly appreciated. The FOMC and its staff would be pleased to provide you with any additional information you may need.

Sincerely your,

ARTHUR F. BURNS,
Chairman of the Board of Governors.

Enclosures:

MEMORANDUM CONCERNING FEDERAL RESERVE OPEN MARKET OPERATIONS AND RECENT COURT DECISION

This memorandum discusses the nature and purposes of the open market operations conducted by the Federal Reserve System and the consequences for those operations of the recent decision of the Court of Appeals in the case of *Merrill et al.* v. *Federal Open Market Committee of the Federal Reserve System*, No. 76-1379 (D.C. Cir. November 10, 1977).

NATURE AND PURPOSES OF OPEN MARKET OPERATIONS

Open market operations of the Federal Reserve System consist of purchases and sales of securities—chiefly U.S. Government securities—by the FOMC's agent at the Federal Reserve Bank of New York, in accordance with the guidelines and instructions to the agent embodied in a Domestic Policy Directive adopted by the FOMC at its monthly meeting. The Directive at present includes ranges of tolerance that the FOMC believes are acceptable for short-run growth rates in certain monetary aggregates, and for changes in a key market interest rate, the Federal funds rate. The Federal funds rate is the rate banks charge for one-day loans among themselves of excess reserve balances.

When the FOMC pays for Government securities that it buys, it issues a check to the selling dealer drawn on the nation's central bank, the Federal Reserve. The net effect of this transaction is to add to the reserves of the nation's banking system, and thus to provide a basis for the creation by the system of additional deposits. Since deposits are the main component of the nation's money supply, the additions to bank reserves in effect create an additional supply of the money in the economy. Conversely, when the FOMC sells securities in the open market, bank reserves are contracted and the base of the money supply is reduced. Open market operations thus directly and immediately influence the amount of money available for use in the U.S. economy.

Open market operations also influence the Federal funds rate, by encouraging or discouraging commercial banks from buying or selling excess reserves. Historically, a rather close relationship can be shown between fluctuations in the Federal funds rate and fluctuations in other short-term market interest rates.

These changes in bank reserves, the money supply, and interest rates in turn influence production, employment, prices, and other aspects of business activity in the nation. The broad objective of open market operations is to foster financial conditions that will encourage sustained expansion in economic activity and employment and stability in prices.

Enormous sums of money are involved in these operations. In 1977, for example, the total dollar volume of outright transactions in U.S. Government and Federal agency securities by the FOMC was approximately $29.6 billion, and the total dollar volume of matched sale-purchase transactions and repurchase agreements was approximately $617.7 billion. Obviously the FOMC is an extremely large and significant participant in the market for U.S. Government securities.

CONSEQUENCES OF COURT'S ORDER

The Court of Appeals directed that the FOMC's Domestic Policy Directive, including the tolerance ranges, be released to the public immediately upon adoption rather than—as at present—shortly after the next regular monthly meeting of the FOMC.[1]

Implementation of the court's order would have two seriously adverse consequences: it would create frequent opportunities for large speculative profits by sophisticated market operators, and it would often impair the ability of the Federal Reserve to carry out the monetary policy it deems to be necessary in the national interest.

As noted above, the Domestic Policy Directive embodies the FOMC's instructions to its agent (the Manager of the System Open Market Account) at the Federal Reserve Bank of New York for the period until the next monthly meeting of the Committee. The specific manner in which these instructions are formulated may be modified from time to time. Currently, however, the Directive typically includes ranges of tolerance for short-run rates of growth in two monetary aggregates (referred to as "M-1" and "M-2"); an initial objective for the Federal funds rate; and a range within which the Federal funds rate may subsequently be varied. In general, the instructions call for operations directed at raising the funds rate within its range if rates of growth in the monetary aggregates appear to be high relative to the ranges specified for them, and for operations directed at lowering the Federal funds rate if the monetary aggregate growth rates appear to be low relative to their ranges. The operations in question primarily involve purchases and sales of U.S. Government securities.

The court's order would require publication of the Committee's Directive at the beginning of the period to which it applies, with the result that all would know what course the Federal Reserve intended to follow. The Federal Reserve is by far the largest trader in the market for U.S. Government securities, and other market participants would have strong incentives to make use of this advance information on System intentions for speculative purposes. For example, if other market participants believed, after viewing the Directive, that the odds favored a rise in interest rates and a decline in securities prices, they would seek to reduce their own holdings as quickly as possible. This would, of course, tend to push up interest rates and to push down securities prices. Alternatively, if market participants concluded that interest rates would go down and securities prices up as the Manager proceeded to implement the Committee's Directive, they would see to add to their holdings; as a result, rates would fall and prices would rise. In short, the release of the directive at the beginning of the period to which it applies would have an "announcement effect" on financial markets.

At present, the Committee's Directive is made public after the close of the period to which it applies—that is, after it has been superseded by a new Directive, issued at the following meeting. As a result of this delay market participants, including the most sophisticated, must continually guess at the intended direction of FOMC policy. Often these guesses are correct; quite often, however, they are not. Because of their uncertainty, market participants tend to react cautiously rather than in a precipitous or abrupt manner. Furthermore, their actions do not occur simultaneously but at differing times and under a variety of circumstances. The net effect is that market reactions under the current timing for release of the FOMC's Directive tend to be moderate, without undue market disruptions. This moderate impact is desirable because, as noted below, sharp changes in capital values can have harmful effects in financial markets and in the real economy.

If, however, the Directive were released at the beginning of the period the "announcement effect" would tend to be abrupt; securities prices would rise or fall as market participants rush to buy or sell. The magnitude of the effect would depend on the nature of the policy described in the Directive and on the circumstances prevailing in credit markets; it would often be large, and it would often ramify from the market in Government securities to those in private bonds and stocks, and perhaps also to foreign exchange markets.

It is easy to see that the greatest speculative profits would accrue to those market participants with the expertise and resources to interpret the Directive accurately and to act rapidly in buying or selling securities, in accordance with their interpretation. These would tend to be the large, sophisticated operators; smaller investors coming along later—perhaps after the announcement effect had already run its course—would often be substantially disadvantaged.

It should also be noted that abrupt fluctuations in prices and yields on Government securities would likely affect the Treasury's ability to market debt at reasonable rates. The Treasury relies heavily on the banks and nonbank dealers in Government securities to help distribute its offerings to ultimate buyers. If the underwriting risks were increased by larger swings in yields,, the Treasury probably would, on the average, have to pay more interest.[2]

The System traditionally has sought to bring about any necessary changes in financial market conditions in a gradual fashion, for two important reasons. First, sharp changes in capital values can have harmful effects not only in financial markets but also, by injecting major uncertainties into the environment in which businesses and consumers make their spending decisions.

Secondly, at any time new data on the monetary aggregates or new data on the economy may call for a change in the tendency of monetary policy, and the more gradual the current movement the more readily it can be reversed without "whipsawing" markets.

Thus, the abrupt fluctuations in interest rates and securities prices that early release of the Directives would tend to produce would be damaging to System policy. Moreover, at times, speculative activity would carry the changes in security prices and yields too far; and at times—particularly if market judgments about the course of the monetary aggregates, and hence of the Federal funds rate, are wrong—these changes would be in the wrong direction. In such cases, the amplitude of fluctuations—and the consequent damage to monetary policy—would be greater still.

The Federal Reserve might seek to minimize the harmful effects of changes in se-

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[1] The Directive is contained in a document entitled "Record of Policy Actions of the Federal Open Market Committee." A copy of this record for the FOMC meeting of November 15, 1977, is attached. The court's decision did not relate to an additional FOMC document that was at issue in the early stages of this litigation, namely, the FOMC's Memoranda of Discussion. The Memoranda of Discussion, preparation of which was discontinued following that for the March 15-16, 1976, meeting, comprised detailed minutes of the FOMC meetings.

[2] Considering only the publicly held marketable debt of $344 billion, if the average rate of interest paid increased by 10 basis points, $344 million would be added to the annual interest cost borne by taxpayers.

curities yields and prices that are too rapid, or too large, or in the wrong direction, by undertaking offsetting open market operations. However, such efforts would also damage System policy, in that they would involve adding bank reserves not needed for other purposes or withdrawing bank reserves needed for other purposes. In short, they would weaken the System's control over reserves, complicate current open market operations, and increase the difficulty of controlling the monetary aggregates.

Finally, the release of the Directive each month would constitute a major news event, awaited eagerly here and abroad. The intense publicity focused on the Directive would inevitably become an element in the decision-making process and may distort it. For example, in order to minimize the risk of severe market disturbances, the Committee might find it desirable to permit less variability in the funds rate than it would otherwise have been prepared to accept, thereby impeding its ability to attain its longer-run objectives for the economy.

In short, if the FOMC is required to publish its Domestic Policy Directive at the beginning of the period to which it applies, its ability to discharge effectively its statutory responsibilities to carry out monetary policy in the national interest may be significantly impaired.

DEPARTMENT OF THE TREASURY,
Washington, D.C., December 9, 1977.

MS. BARBARA ALLAN BABCOCK,
Assistant Attorney General, Civil Division, U.S. Department of Justice, Washington, D.C.

DEAR MS. BABCOCK: This transmission is forwarded in support of the Federal Open Market Committee's (FOMC) petition for a writ of certiorari in the matter of Donald R. Merrill v. Federal Open Market Committee of the Federal Reserve System, No. 76-1389 (D.C. Cir. Nov. 10, 1977).

In its petition of December 1, 1977, the FOMC forwarded certain arguments concerning the financial market effects which might result from the immediate disclosure of the monthly FOMC directive to the Manager of the System Open Market Account at the Federal Reserve Bank of New York. It is to these arguments that this communication is addressed.

The FOMC directive customarily includes an initial objective for the Federal funds rate (the rate of interest at which banks lend reserve balances to other banks) expressed in numerical terms and a range within which the rate may be varied by the Manager on his own authority. The FOMC in its petition argues that the "announcement effect" from immediate disclosure of significant policy changes, such as a change in the target rate of ½ of 1 percent, could have sharp and, at times, disruptive effects on the market value of fixed income securities. Equities and, perhaps, foreign exchange rates could also be affected and large speculative profits could accrue to the most sophisticated market participants.

At present, as the FOMC's petition discusses in some detail, the market adjusts gradually to changes in the FOMC's policy as it perceives FOMC's intent from the Manager's market actions. As a consequence of the sharper market fluctuations which would result from immediate disclosure, dealer underwriting risks would be increased. Since dealers would surely seek increased compensation for such higher underwriting risks, increased financing costs for the Federal Government would appear to be a clear consequence of immediate disclosure.

To illustrate the basis for Treasury's concern, it is indeed a fact that all markets—fixed income, equity, and exchange—have in recent years become increasingly sensitive to perceived changes in the monetary policy of the Federal Reserve System. This development is clearly evident in the behavior of market participants immediately before and after the Federal Reserve System's weekly release of key financial statistics, especially the statistics relating to the monetary aggregates. Large changes in the monetary aggregates have resulted in large changes in security prices, some of which might properly be characterized as extreme in light of subsequent developments.

Moreover, because the market reaction to the release of these statistics is frequently unpredictable and potentially destabilizing, Treasury debt managers have avoided financing operations on these days, whenever possible, to minimize the possibility that the pending release of the statistics might distort the bidding process and the actual release have an adverse effect on the subsequent distribution of the issue. Since the Treasury must conduct over 100 separate financing operations each year, the need to forego 20 percent of the financing calendar days has already significantly complicated the scheduling of financing operations.

While the weekly release of financial statistics reflects financial developments that have already taken place, the monthly policy directive represents future policy intentions based upon the FOMC's current estimates of future economic and financial developments. This raises additional problems affecting the conduct of Treasury financing operations.

The market is likely to try to discount announced future policy intentions immediately, without regard to the necessarily somewhat tentative nature of such intentions. Under the present procedure, the Manager of the System Open Market Account can use his judgment and discretion in effectuating changes in interest rate levels in an orderly fashion and in light of new economic and financial information as it becomes available. Immediate disclosure, however, could result in the market trying to make the whole adjustment immediately, without due consideration to the possibility that new data would require modifications in the directive in subsequent weeks. Moreover, there is also the possibility that such market adjustment would go even further on the basis of unwarranted projections of policy into the future.

Thus, there would appear to be real cause to conclude that immediate release of the policy directive would tend to increase market volatility, and that this would be especially serious at any time the new directive revealed any change in the currently perceived policy.

It is also significant that the Federal Reserve System has been somewhat reluctant to rely on certain of its policy instruments, including changes in the discount rate and reserve requirements, because of an "announcement effect" that is analogous to the "announcement effect" of an immediate release of the directive.

It is also clear that an increase in market volatility is likely to be translated directly into increased financing costs for the Treasury Department.

The Treasury relies on a network of bank and nonbank dealers for the underwriting and secondary distribution of its security issues. Firms in this dealer network take into account a wide array of market considerations in assessing the risks involved in the underwriting commitments they make in each Treasury financing. Among these considerations, price stability is of major importance.

Thus, to the extent that the immediate release of the FOMC's monthly directive would tend to increase market volatility, and thereby to increase the underwriting risks of the dealer community, the cost of Treasury financing would rise with the taxpayer bearing the ultimate burden. Other borrowers in security markets would also be subject to similar increased costs for the same reason, and the net effect could be some overall reduction in the efficiency of U.S. capital markets.

Because the benefits to be derived from immediate disclosure of the directive appear small compared to the potential for market disruption and increased Treasury borrowing costs, the Treasury Department supports the FOMC's petition for a writ of certiorari.

Sincerely,

ROGER C. ALTMAN.

CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, December 30, 1977.

MS. BARBARA ALLEN BABCOCK,
Assistant Attorney General, Civil Division, U.S Department of Justice, Washington, D.C.

DEAR MS. BABCOCK: I am writing to support the petition of the Federal Open Market Committee (FOMC) for a writ of certiorari in connection with suit brought by David R. Merrill against the FOMC (No. 761389, D.C. Cir. No. 1977) to force immediate disclosure of the WOMC Directive.

Implementation of the Nation's monetary policy by the Federal Reserve System is presently accomplished largely through open market operations in U.S. Government securities. These operations are conducted with a view to providing supplies of money and credit, and a climate in financial markets, consistent with stable economic growth at relatively stable prices.

Accomplishing this objective sometimes requires substantial movements of interest rates and prices of financial assets in response to changes in underlying economic conditions. The marked advantage of open market operations, as opposed to use of other instruments of monetary policy employed both in the United States and in other countries, is that necessary changes in financial market conditions can be brought about gradually. Abrupt changes in the costs of borrowing—and the associated adjustments that occur in the prices of common stocks—would be unsettling to business and other borrowers.

It is difficult to predict with any confidence the probable reaction of financial markets to immediate release of the Directive. There are two potential problems, however, that require careful consideration.

First, the announcement by the FOMC that it intended to increase or decrease the Federal funds rate—the interest rate on overnight loans from one commercial bank to another—would elicit a relatively abrupt adjustment of market interest rates to levels deemed consistent with the FOMC's announced target for the Federal funds rate. This could be a problem for the conduct of debt management by the Treasury Department, since the number of financing operations required to manage the Federal debt effectively is so large that avoidance of any financing operations during such periods might not be possible.

Second, and potentially the most serious problem, is the fact that efforts of the Federal Reserve to avoid disruption of markets might interfere with the timely implementation of monetary policy consistent with the needs of the economy. One of the most difficult tasks faced by a central bank occurs when interest rates must be increased in the interest of curbing inflation. If the monetary policy actions needed to promote economic stability should, at a particular time, require a significant increase in interest rates, immediate release of the FOMC Directive would be headlined in the financial press. The Federal Reserve is subject to substantial criticism and adverse reactions to such moves. The pressures on the Federal Reserve not to take such action would be heightened by immediate publication of the Directive.

Over the long term, this could make the conduct of monetary policy more difficult than it already is.

These concerns are serious enough to warrant consideration by the Supreme Court of whether both the costs and benefits of disclosure have been properly weighed. The Council of Economic Advisers therefore supports the FOMC's petition for a writ of certiorari.

Sincerely yours,

CHARLES L. SCHULTZE.

By Mr. HASKELL:

S. 2428. A bill to amend the Internal Revenue Code of 1954 to encourage the continued investment of equity capital in independent small businesses; to the Committee on Finance.

SMALL BUSINESS AND FARMS CAPITAL PRESERVATION ACT OF 1978

Mr. HASKELL. Mr. President, I introduce today an amendment to the Internal Revenue Code. This bill can be identified as the Small Business and Farms Capital Preservation Act of 1978.

Mr. President, the bill I introduce today is presented as a solution to the present shortage of capital for independent small businesses. This bill will also help farmers whose farms are independent small businesses, to obtain needed capital.

This bill provides that if an investor in a small business enterprise sells his interest and reinvests at least 80 percent of the proceeds from the sale in a qualified small business investment, that recognition of gain will be deferred until a time when the proceeds are no longer so invested. The investor will keep his basis in his original investment.

Under present tax individuals who own interests in small businesses are encouraged to sell controlling interests to large conglomerate corporations. These corporations exchange stock for stock in tax-free transfers, thereby deferring payment of capital gains tax until the vendor of the small business ultimately sells the stock of the purchaser. Any person thinking of selling his or her business is obviously going to consider the tax consequence and these consequences certainly encourage concentration.

My bill offers individuals who own any interest in a small business concern an opportunity to sell their interest for cash, reinvest that money in a small business concern or concerns, and defer gain on the sale until the proceeds are taken out of small business concerns.

The Small Business Committee, of which I am a member, has done extensive research into the question of the ability of small firms to raise equity capital. The committee has found that the climate for new, small, family, and independent enterprises has deteriorated markedly since World War II for a variety of reasons, prominently including difficulties in raising capital in public securities markets, and periodic waves of mergers and takeovers by giant corporations.

Regulation A stock issues, which are subject to less formal SEC controls shrank from 817 in 1973 to 240 in 1976, and the amounts raised by these offerings has continuously declined for the past 4 years.

A particularly disturbing aspect of these small business capital formation problems which emerged in the latter part of 1977, was the purchase by foreign interests of controlling or near controlling interests in small U.S. high-technology corporations and these corporations are the cream of the next generation of technological achievement.

What does this all mean? It means that independent small business will look elsewhere than the United States for needed capital; that needed jobs in our country will be filled abroad; that profits will be foreign profits—not U.S. profits. It also means that the independent farm business will have to sell out to large conglomerates.

Small business accounts for 97 percent of all U.S. business enterprises, over 55 percent of all private employment, 48 percent of the Nation's output, 43 percent of the GNP, and over half of all industrial inventions and innovations.

The bill I introduce today will encourage U.S. investors to invest in independent small businesses. If passed, we will probably see a mutual fund market develop in small business stock and securities.

The President in his 1978 tax program says that the tax reductions he recommends will provide significant benefits for small businesses. However, these reductions do nothing to encourage investment in small businesses and farms to provide needed capital. My bill will provide this incentive. Mr. President, the capital formation problem of small business is becoming critical. Investors seem to be turning away from the smaller higher risk investment.

Rather than competing with giant corporations, face Government neglect or outright harassment, or deal with all the inherent headaches and responsibilities of operating a small business, many young people are opting for a safe nook in a private or public bureaucracy.

This bill will help to keep a significant portion of the funds currently invested there from flowing into Government securities or the Fortune 500.

The Small Business Committee will hold hearings on this bill in Denver, Colo., on February 14. As a member of the Finance Committee I also shall work for its incorporation into the administration's tax reduction bill. I urge my colleagues to support this sound proposal and welcome cosponsorship.

Mr. President, I ask unanimous consent that the text of the bill and a technical summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Small Business and Farms Capital Preservation Act of 1978".

SEC. 2. Part III of subchapter 0 of chapter 1 of the Internal Revenue Code of 1954 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALE OF CERTAIN SMALL BUSINESS AND FARM INTERESTS.

"(a) NONRECOGNITION OF GAIN.—If an individual who has held a qualified small business investment sells any such investment, at the election of the taxpayer, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the amount of any qualified small business investments made by the individual within 12 months of that sale.

"(1) LIMITATION.—Subsection (a) shall not apply with respect to any such sale if during such 12 month period the amount of qualified business investments made by the taxpayer is not equal to at least 80 percent of the amount realized on such sale. For purposes of the preceding sentence, the taxpayer shall take into account only such investments made during such period as are not taken into account with respect to any other sale.

"(2) DEFINITION OF QUALIFIED SMALL BUSINESS INVESTMENT.—For purposes of this section, the term 'qualified small business investment' means any equity or unsecured investment in any small business concern (within the meaning of section 3 of the Small Business Act), which, in the hands of the taxpayer, is a capital asset (within the meaning of section 1221) and which the taxpayer has held for 12 months or longer.

"(3) BASIS ADJUSTMENT.—If any qualified small business investment results in nonrecognition of gain under subsection (a), the basis of the property constituting such investment shall be reduced by the amount of gain which is not recognized.

"(4) ASSESSMENT OF DEFICIENCIES.—If the taxpayer has made an election under subsection (a) with respect to a sale, then notwithstanding any other provision of law or rule of law the statutory period for the assessment of any deficiency (including interest and additions to the tax) shall not expire until 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of the qualified small business investments or the failure to timely make such investments. Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter 0 of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 1041. Sale of Certain Small Business and Farm Interests"

(c) TECHNICAL AMENDMENTS.—

(1) Section 1245(b)(4) (relating to like kind exchanges; involuntary conversions, etc.) is amended by striking out "1031 or 1033" and inserting in lieu thereof "1031, 1033, or 1041".

(2) Section 1250(d)(4)(A) (relating to like kind exchanges; involuntary conversion, etc.) is amended by striking out "1031 or 1033" and inserting in lieu thereof "1031, 1033, or 1041".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales made after December 31, 1977.

SECTION-BY-SECTION ANALYSIS

This amendment to the Internal Revenue Code of 1954 will be the new section 1041 and may be cited as "The Small Business and Farms Capital Preservation Act of 1978."

Subsections (a) and (a)(1) provide that if an individual who has held an interest in a small business concern sells that interest and reinvests at least 80 percent of the proceeds of that sale in another qualified small business concern within 12 months of that sale, then no gain will be recognized in

regard to the proceeds so invested until the investor ultimately takes his money out of a qualified small business.

Subsection (a)(2) defines "qualified small business investment" as an equity or unsecured interest in a corporation, partnership, or sole proprietorship which meets the definition of section 3 of the Small Business Act. The investment must be a capital asset in the hands of the taxpayer and must have been held for at least 12 months.

Subsection (a)(3) provides that the taxpayer's basis in the original investment will be carried over to the new investment and any subsequent investments and reduced by any amounts of gain not recognized.

Subsection (a)(4) provides that the statutory period for the assessment of any deficiency shall not expire until 3 years from the date the Secretary is notified by the taxpayer of the qualified small business investments or the failure to timely make such investments.

Subsection (b) provides clerical amendments and subsection (c) provides technical amendments.

By Mr. WILLIAMS:

S. 2430. A bill to amend the Foreign Assistance Act of 1961 to provide for a reduction of the U.S. contribution to the United Nation; to the Committee on Foreign Relations.

LEGISLATION TO CUT U.S. FUNDS FOR U.N. SPECIAL UNIT ON PALESTINE

Mr. WILLIAMS. Mr. President, I am shocked at the recent decision by the United Nations General Assembly to set up a "special unit" to disseminate information about Palestinian rights. I take special exception to the fact that one of the designated purposes of this organization is to observe an "International Day of Solidarity with the Palestinian People." Although the creation of such an entity in the U.N. whose probable purpose is to propagate hatred against the State of Israel is tragic at any time. this latest action appears even more despicable when viewed in light of the progress toward peace which has been made in recent weeks in the Middle East.

It is essential to look beyond the seemingly innocuous language of the resolution which created the "special unit" in order to grasp the grievous impact which this action will have upon the hopes for peace in the Middle East. The newly created group is nothing more than an extension of the so-called Committee on the Exercise of the Inalienable Rights of the Palestinian People, 19 of whose 23 member states have no diplomatic relations with Israel. The continuing creation of such vehemently anti-Israeli units in the U.N. can only result in a further erosion in respect for the impartiality of that body.

Like the Palestine Committee before it, the new special unit will reflect the policy of the Palestinian Liberation Organization, a terrorist organization which is committed by its covenant to destroy the State of Israel by such atrocious acts as skyjacking, bombing, and assassination. Now two of the principal parties to the ongoing conflict in the Middle East have sought to leave behind the bloodshed of the past to embark on a new struggle—the struggle for peace. However, the PLO showed it still denies the fundamental principles of human decency when one of its member groups threatened to assassinate freely elected West Bank Palestinian leaders who accepted an Egyptian invitation to visit Cairo. Similarly, the leaders of al-Saiqa, another constituent member of the PLO, had only a few days earlier openly threatened to kill President Sadat. These actions, and others like them, clearly discredit recent efforts by the PLO to project a false front of respectibility.

The irresponsible performance of the Palestine Committee stands as more than ample testimony to the futility of allowing such organizations as the PLO to have excessive influence upon the organs of the United Nations. Even as two of the principal parties to the Middle East conflict moved toward the opening of a constructive dialog on the substantive issues separating them, the Palestine Committee continued to prescribe one-sided solutions from the sidelines. The time has come to realize that such dogmatic posturing, designed to win sympathy from the sizable anti-Israeli Third World bloc, can have no constructive role in the search for peace in the Middle East.

The creation of the special unit on Palestine is obviously contrary to the fundamental principles of the United Nations, for instead of preserving the peace, this unit will work to undermine all efforts toward a just and lasting settlement. Since it would be unconscionable to expect the American taxpayer to fund any activity so contrary to our own ideals and to the cause of world peace, I am introducing legislation which would eliminate from U.S. funding for U.N. activities any amount budgeted for the special unit on Palestine. With the U.N. already experiencing a financial emergency of a $100 million deficit, we should not tolerate the use of funds from the United States for an activity which is not only of no practical benefit but actually detrimental to the search for peace in the Middle East. By acting favorably on this legislation, the U.S. Congress will demonstrate its unwavering commitment to the true interests of all parties in the Middle East who seek a just peace.

Mr. President, I ask unanimous consent that the text of my legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(a)(1) of the Foreign Assistance Act of 1961 is amended by inserting immediately before the period at the end of the first sentence a comma and the following: "except that any part of such amount as may be available for the United Nations for any fiscal year shall be reduced by a sum equal to the product of the United States contribution to the United Nations for the immediately preceding fiscal year and the proportion which the aggregate budget of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights for such fiscal year bears to the budget of the United Nations for such fiscal year.".

By Mr. McINTYRE (for himself, Mr. HATHAWAY, Mr. DURKIN, Mr. RIEGLE, Mr. WALLOP, Mr. JOHNSTON, and Mr. GRAVEL):

S.J. Res. 103. Joint resolution to declare 1978 to be Franco-American Friendship Year; to the Committee on the Judiciary.

S.J. Res. 104. Joint resolution to declare July 11, 1978, to be Franco-American Friendship Day; to the Committee on the Judiciary.

FRANCO-AMERICAN FRIENDSHIP RESOLUTIONS

Mr. McINTYRE. Mr. President, today I am proud to introduce two Senate joint resolutions declaring 1978 as Franco-American Friendship Year and July 11 as Franco-American Friendship Day. Joining me as cosponsors are Senators HATHAWAY, DURKIN, RIEGLE, WALLOP, JOHNSTON, and GRAVEL

These resolutions mark the anniversary of a number of significant events in the history of Franco-American relations. In 1778 when the 13 colonies were seeking independence from England, France was our first ally. On February 6, 1778, France and the colonies signed the Treaty of Amity and Commerce, which initiated and signified the beginning of our lasting friendship with the French people.

July 11 has special significance because the first French fleet to aid the colonies arrived on July 11, 1778, and 2 years later on the same date Rochambeau arrived in Newport, R.I., with 44 vessels and 6,000 troops.

In the past 200 years our Nation has benefited from the proud and enduring flavor of the Franco-American culture. Neither ethnic consciousness nor ethnic pride is new with the Franco-Americans. They were part of the American dream from the start and it is indeed fitting that the Congress and the President should proclaim 1978 to be Franco-American Friendship Year and July 11, 1978, to be Franco-American Friendship Day.

Mr. President, I ask unanimous consent that the resolutions be printed in the RECORD.

There being no objection, the joint resolutions were ordered to be printed in the RECORD, as follows:

S.J. RES. 103

Whereas in the year 1778 the thirteen colonies of the United States were seeking independence from England; and

Whereas Louis XVI, King of France and of Navarre, signed a Treaty of Friendship and Commerce between France and the thirteen Colonies of the United States; and

Whereas the said Treaty of Friendship and Commerce proclaimed equality and perfect reciprocity in international relationships between the thirteen Colonies of the United States and France, the first ally of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a Proclamation designating 1978 to be "Franco-American Friendship Year" and calling upon

the people of the United States and interested groups and organizations to observe that year with appropriate ceremonies and activities.

S.J. RES. 104

Whereas after the Franco-American Treaty of Friendship and Commerce was agreed to by France and the thirteen Colonies of the United States on February 6, 1778, Charles Henri Theodat, Comte d'Estaing du Saillons, commanded the first French fleet which dropped anchor off Sandy Hook on July 11, 1778;

Whereas on July 11, 1779, the Marquis de Lafayette was in France seeking further aid from France for our fledgling nation;

Whereas on July 11, 1780, the Comte de Rochambeau arrived in Newport with forty-four vessels and six thousand troops, as well as with gifts for the Iroquois and the Indians of Canada whose friendship and alliance France maintained to aid in the struggle for freedom of the thirteen Colonies of the United States;

Whereas on July 11, 1784, the Marquis de Lafayette left his native land to visit every State from the Canadian border to South Carolina: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a Proclamation designating July 11, 1978, as "Franco-American Friendship Day" and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 1587

At the request of Mr. STONE, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local taxation, and for other purposes.

S. 2066

At the request of Mr. MATHIAS, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2066, a bill to complete and protect the Appalachian Trail.

S. 2236

At the request of Mr. RIBICOFF, the Senator from Oregon (Mr. MARK O. HATFIELD) was added as a cosponsor of S. 2236, the Omnibus Anti-Terrorism Act.

S. 2303

At the request of Mr. MELCHER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2303, a bill to declare a national policy on conservation, development and utilization of natural resources, assurance of resources for economic growth and national security, and for other purposes.

S. 2327

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2327, a bill to amend the Internal Revenue Code of 1954 to allow the payment of income tax on certain income support or deficiency payments to wheat and feed grain producers to be made in the year when the income normally received from the crops have been reported.

S. 2332

At the request of Mr. STONE, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 2332, a bill to permit U.S. 41 in Estero, Florida, to be widened along the existing right-of-way, by exempting this highway project from the Historic Preservation Act.

S. 2354

At the request of Mr. DOMENICI, the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), the Senator from North Dakota (Mr. YOUNG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Montana (Mr. MELCHER), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2354, the Equal Access to the Courts bill.

S. 2354

At the request of Mr. NELSON, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 2354, the Equal Access to the Courts Act.

S. 2383

At the request of Mr. DURKIN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2383, a bill to amend the Tax Reform Act of 1976 to delay for 1 year the effective date of changes in the exclusion for sick pay.

S. 2384

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Iowa (Mr. CLARK), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2384, the Veterans' and Survivors' Income Security Act.

S. RES. 258

At the request of Mr. RIBICOFF, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. Res. 258, a resolution to establish a Senate Office on Nominations.

PANAMA CANAL TREATIES, EXECUTIVE N, 95-1

AMENDMENTS NOS. 10 AND 12

At the request of Mr. DOLE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Amendment No. 10 to the Panama Canal Treaty, and to Amendment No. 12 to the treaty concerning the permanent neutrality and operation of the Panama Canal.

SENATE RESOLUTION 357—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 357

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ozzie P. Price, widow of Joseph B. Price, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 358—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 358

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Patricia M. Weldon, daughter of Ruth K. Taylor, an employee of the Senate at the time of her death, a sum equal to three months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 359—SUBMISSION OF A RESOLUTION PROVIDING FOR PRINTING

Mr. RIBICOFF submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 359

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Foreign Regulation, Volume V, Regulatory Organization" be printed as a Senate Document, and that there be printed one thousand additional copies of such document for the use of that committee.

SENATE RESOLUTION 360—SUBMISSION OF A RESOLUTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. HATHAWAY submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 360

Resolved, That the Standing Rules of the Senate are amended by inserting at the end of Rule XXIX the following new paragraph:

"6. (a) Each committee of the Senate, within thirty days after the initial publication by the executive branch of a proposed new or revised rule, regulation, or standard pursuant to a statute primarily within the jurisdiction of the committee, and within thirty days of the publication of any such new or revised rule, regulation, or standard in its final form, shall make a report to the Senate thereon and shall include in such report—

"(1) the text of any such rule, regulation, or standard, or part thereof, which the committee determines to be outside the scope of the legislative mandate contained in the statute;

"(2) a description of the manner in which the rule, regulation, or standard exceeds the scope of such mandate; and

"(3) recommendations to the Senate as to an appropriate course of action with regard to such rule, regulation, or standard, including but not limited to—

"(A) issuance of a statement to the appropriate executive branch on behalf of the committee;

"(B) enactment of a Senate resolution or concurrent resolution expressing disapproval of the rule, regulation, or standard;

"(C) enactment of an amendment to the appropriate statute; or

"(D) the bringing of a lawsuit by the committee on behalf of the United States.

The failure of a committee to report that any rule, regulation, or standard, or part thereof, is outside the scope of its legislative mandate shall not be construed as an approval of such rule, regulation, or standard.

"(b) There shall be created an office of Special Counsel to the Senate for the purpose of receiving, compiling, and publishing such reports and recommendations, and assisting the Senate and its committees in putting into effect such recommendations.".

Mr. HATHAWAY. Mr. President, I am submitting a resolution today to amend the Senate rules to require committees to report when any new or revised rule, regulation, or standard exceeds the scope of its legislative mandate. Each committee would be required to report within 30 days of initial or final promulgation of rules, regulations, and standards based on laws primarily within its jurisdiction. Committees would also be required to recommend appropriate Senate action in opposition to the new or revised rule, including issuance of a formal statement on behalf of the committee, enacting a resolution expressing disapproval of the rule, amending the law itself, or filing suit to overturn the regulation. A special counsel's office would be set up to assist the committees in compiling their reports and processing their recommendations.

I am urging the strong support of my colleagues for this resolution because I believe it is time Congress took a closer look at the way the bureaucracy administers the laws we enact. Too many times in my 13 years as a Member of the House and Senate, I have observed the intent of Congress thwarted, misinterpreted, or ignored by administration regulation-writers. We must begin to develop our own legislative tools to deal with this problem.

This resolution is quite similar to one I introduced in the 94th Congress, Senate Resolution 281, on which unfortunately there was no final action. Since that time it has become even more clear that such an approach is vitally necessary to preserve and protect Congress' legitimate and exclusive legislative authority as stipulated in the Constitution.

It is not without considerable study and deliberation that my proposal takes the form of an amendment to the Senate rules rather than the creation of an outright legislative veto, as some have proposed.

I must confess that the legislative veto, which might allow one or both Houses of Congress to disapprove all or part of any regulation within 30 or 60 or 90 days, has an easy appeal to it. Indeed, provisions creating such vetoes in specific situations now abound in much greater detail than one would imagine. Twenty such provisions were enacted in the 93d Congress alone.

The provisions are found in laws controlling situations as diverse as military arms sales, equal education opportunity for women, Federal pay comparability, public access to Presidential tape recordings and other materials, regional rail reorganization and Federal election campaigns.

I am convinced that in certain specific situations Congress must have the greater protection of its legislative prerogative that can be provided by such a veto. However, I am not yet convinced that a useful end will be served by setting into motion a wholesale regulation rejection apparatus at this time.

Not only do serious constitutional questions exist concerning the principle of separation of powers, but I also question whether any one formula for such a veto can be said at this time to be the correct one. Should Congress have 30 or 60 or 90 days to act to disapprove a regulation? By simple resolution or joint resolution? By one House or both? By a majority or two-thirds? And what should be the procedural process for such a veto? Since every regulation would be subject to such a veto, might it possibly be open to abuse when someone wants to obstruct the activities of the House or Senate?

I am not maintaining that these questions are unanswerable—only that we must think long and carefully before we attempt to answer them. It may well be that Congress needs an outright legislative veto over all administration promulgations. But first, I believe we must determine the scope of the problem by amending our rules to require committees to highlight for the Senate those regulations and standards which exceed the scope of the legislative mandate.

I urge my colleagues to join me in the speedy acceptance of this amendment to the rules. The longer we wait to bring some sense and order to the Government, the more unwieldy and uncontrollable the bureaucracy will become.

SENATE RESOLUTION 361—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS, from the Committee on Human Resources, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 361

Resolved, That, in holding hearings, reporting such hearings and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Human Resources is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $2,723,000, of which amount (1) not to exceed $100,000 may be expended after December 31, 1978, for support of activities transferred to the Committee from the Select Committee on Indian Affairs pursuant to the provisions of section 105(d) of S. Res. 4, 95th Congress, and (2) not to exceed $72,000, including $2,000 for Indian Affair actvities, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

ENFORCEMENT OF THE ANTITRUST LAWS—S. 1874

AMENDMENT NO. 1669

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (S. 1874) to restore effective enforcement of the Antitrust laws.

REFORM OF THE FEDERAL CRIMINAL LAWS—S. 1437

AMENDMENT NO. 1670

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

AMENDMENTS NOS. 1671 THROUGH 1675

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted five amendments intended to be proposed by him to the bill (S. 1437), supra.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on the handling of discrimination complaints in the Senate (Pursuant to Rule 50 and Section 310 of S. Res. 110) on Friday, February 3, 1978 at 10:00 a.m. in room 3302 Dirksen Senate Office Building.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business Subcommittee on Economic Development, Marketing, and the Family Farmer and Senate Agriculture Committee Subcommittee on Agricultural Credit and Rural Electrification will hold joint hearings to investigate recent difficulties that developed surrounding the delivery of Small Business Administration physical disaster loans for crop loss due to drought. The hearings will be held on January 30, 31, and February 1. They will begin at 10 a.m., in room 424 of the Russell Senate Office Building. The Senator from Georgia (Mr. NUNN) will chair the hearings.

Further information can be obtained from the committee office, room 424 Russell Senate Office Building, telephone 224–5175.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, on February 6, 1978, beginning at 6 p.m. in room 6226 of the Dirksen Senate Office Building, the Committee on Veterans' Affairs will hold the third of a series of hearings on specific subjects covered by the National Academy of Sciences report, "Health Care for American Veterans," and the VA's response to that report. The purpose of this hearing will be to examine issues relating to health care planning, resource allocation, and budgeting in the Veterans' Administration.

Persons wishing to testify or submit written statements for the hearing record should contact Ellen Miyasato, associate counsel, at 224–9126 by Tuesday, January 31.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, the Select Committee on Small Business will convene a hearing on S. 2259, the Small Business Procurement Expansion and Simplification Act on February 7, 1978. Senator WILLIAM D. HATHAWAY will chair the hearing which will begin at 10 a.m. in room EF–100 of the Capitol Building.

SMALL BUSINESS ASPECTS OF ADMINISTRATION'S TAX PROGRAM

Mr. NELSON. Mr. President, I wish to announce public hearings by the Senate Select Committee on Small Business on the small business aspects of the administration's 1978 tax program which was announced on January 21.

Hearings by the full committee, conducted by Senator HASKELL of Colorado and Senator HATHAWAY of Maine, are scheduled to take place as follows:

February 14 in Denver, Colo.; and February 20 in Portland, Maine; to take the testimony of the small business community, tax experts, and other interested members of the public.

February 28 in Washington, D.C.; to hear from Government witnesses.

Witness lists for the Denver, Portland, and Washington hearings will be released as soon as they are completed.

SCOPE OF 1978 HEARINGS

The administration's tax message of January 21 recognized the small business community. It proposed corporate rate reductions of 2 percentage points for the two brackets below $50,000 of income—from 20 to 18 percent on the first $25,000 of taxable income and 22 to 20 percent on the next $25,000. Above $50,000 corporations would receive a 3-percent reduction in October 1978 and a further 1-percent cut in January of 1980.

Also mentioned were: simplification of the asset depreciation range system, with particular attention to small business concerns for complexity and record-keeping; updating of Internal Revenue Code, section 1244, dealing with losses on stock of small corporations' stock that might become worthless; and incremental changes to "subchapter S" of the code, which allows corporations to be taxed as partnerships.

The February hearings will permit small business organizations to analyze the impact of these administration proposals upon smaller and medium-sized independent firms, to set forth any alternatives which they may favor, and to express their views about the relative merits of such proposals. Anyone seeking further information may contact the committee offices at 424 Russell Senate Office Building, Washington, D.C. 20510.

BACKGROUND

Because tax policies have a critical bearing on the abilities of small business to compete and survive, the Small Business Committee has been interested in the impact of the tax system on small business since it was established as an investigative body in 1950. During the past 3 years, this interest has been heightened because, during the 94th Congress (1975–76), six members also served as members of the tax-writing Finance Committee; and during the current 95th Congress (1977–78), there are four such dual memberships.

As a consequence, the committee held 12 days of hearings on small business tax matters in 1975, incident to congressional consideration of the stimulus bill of 1975 and the Tax Reform Act of 1976. This committee's investigation was continued in an additional day of public hearings in 1977, relating to the tax stimulus bill of that year, and particularly the employment tax credit.

As a result the following small business tax provisions were considered and enacted during this period:

1975

Temporary rate reductions for all corporations up to $50,000, the first rate relief since 1950 for earnings between $25,000 and $50,000;

A permanent 50-percent increase in permissible accumulated earnings;

Doubling in the amount of used machinery eligible for the investment credit ($50,000 to $100,000 in annual purchases).

1976

Extension of the 1975 small business rate reductions through 1977;

Reform of estate and gift taxes, for the first time since 1942;

Liberalization of Subchapter S of the Internal Revenue Code.

1977

Extension of small business rate reductions through 1978;

Employment tax credit ($2,100 credit for each new worker added in 1977 and 1978).

Following passage of the 1977 stimulus legislation, the committee continued to advocate tax simplification, relief and reform for the small business community. In October, we presented to President Carter and Vice President MONDALE an extensive memorandum suggesting a series of small business tax proposals, drawn up in consultation with 27 small business organizations, and recommended that they be included in the administration's tax program. I ask unanimous consent that a summary of these proposals be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SENATE SMALL BUSINESS COMMITTEE TAX RECOMMENDATIONS FOR INCLUSION IN THE ADMINISTRATION'S 1977 TAX REFORM MESSAGE AS PRESENTED AT THE WHITE HOUSE, OCTOBER 26, 1977

1. *Fair proportion of tax reductions to the small business community.*

It is possible to compute the portion of benefits that will be going to various income categories for each item and for the overall package. For example, in 1975, the administration's proposal would have given 25 percent of the revenues of the economic stimulus package to small business. Congress, however, decided that this proportion should be raised to 33 percent.

"Small business" accounts for 97 percent of the number of U.S. enterprises, 55 percent of all private employment, 48 percent of the business output, 43 percent of the GNP, and over half of all inventions and innovations.

Accordingly, the Committee's proposal is that one-half of the overall business tax reductions, including rates, capital recovery "integration" or whatever other measures are proposed, be allocated to "small business." A tentative definition for this purpose might be taxable income of less than $100,000.

2. *Corporate rates.*

The Committee believes there should be at least some reduction for the smallest corporations of less than $25,000 in earnings, since this would assist the great majority of companies whose owners are attempting to earn a livelihood for one or a few families. To encourage growth, innovation, and competition, the recommendations would extend to some tax reductions at the $50,000, $75,000 and $100,000 levels. The magnitude of these cuts should be dependent on the revenue available and in relation to balance of the entire proposal in accordance with the 50 percent share of total business benefits for the smaller firms.

3. *Capital transactions.*

To preserve the incentive to invest and therefore sacrifice immediate satisfactions, this suggestion would be to retain capital gains for family (primary) residences, family farms and family and small businesses. A tentative definition of small business limited to this context might be enterprises with less than 500 employees, which is the lowest boundary of the SBA's definition of manufacturers, and which is an administrable standard. This recommendation contemplates adequate safeguards to protect against abuse. For example, the requisite holding period could be lengthened to 5, or even 7, years.

The Committee also advocates increasing significantly the amount of actual losses which an investor can deduct against ordinary income if a small business in which he invested suffers losses or fails.

4. *Capital cost recovery.*

Because most small businesses use straight-line depreciation, the Committee proposes an optional simple straight-line depreciation system, with a shorter useful life—perhaps three years—for investments in new or used equipment up to an appropriate level (perhaps $100,000 to $200,000). Where this system is elected, it would eliminate the complicated combination of bonus depreciation, ADR, and rapid depreciation and amortization methods, investment credit, salvage value, disputes about useful life, and recapture provisions for smaller businesses. It would relieve much of the pressure for "indexing" depreciation or substituting replacement-cost accounting in the future. It is contemplated that this benefit would be available to businesses of

all sizes, but that it would be simple and understandable and therefore attractive to, and most used by, the great majority of small enterprises, for whom it would constitute a true reform in this important area.

5. *Unincorporated businesses.*

The Committee recommends that there should be an affirmative program of encouragement and assistance for unincorporated firms, which constitute about 85% of all U.S. enterprises, including:

a. A reduction in individual income tax rates which is sensitive to the problems of the sole proprietors and partners in supporting their families. The Schedules C and F, filed by individual businesspersons, should be closely examined to see what might be done to help these enterprises;

b. An optional use of "cash accounting" for small businesses up to an appropriate level of inventories or gross receipts (perhaps $1–2 million). The current law requires any businessman having inventories (every merchant) to use the accrual method of accounting. According to a spokesman of the National Federal of Independent Business this could save such businesses accounting fees of up to $500 a year, and allow them to fill out their own tax returns. It is also the simplest method—used by most individual taxpayers—and would assist business in complying with the law. For these reasons, it is understood that the Internal Revenue Service does not object to such a proposal.

c. Full utilization by unincorporated businesses of the limited accelerated depreciation provisions, including full extension to used equipment.

ADDITIONAL STATEMENTS

THE EXECUTIVE ORDER ON INTELLIGENCE ACTIVITIES

Mr. BAYH. Mr. President, yesterday the President of the United States signed an Executive order on intelligence activities. This order is a significant step toward the enactment of legislation to provide effective and lasting protection against illegal or improper intelligence activities. I believe the President's action opens the way for legislative charters strictly limiting intelligence activities that may affect the rights of Americans.

The order improves the standards and procedures protecting Americans against improper intelligence activities. Many of these changes are the result of close consultation between the administration and the Senate Select Committee on Intelligence. Although the improvements have not resolved every problem, they move in the right direction. The joint efforts of the select committee and the administration will go forward to develop effective safeguards in the statutory charters.

The lesson of history is that executive branch reforms are not enough. As long as intelligence operations are limited only by Presidential orders and Attorney General's guidelines, the restrictive policies of one administration can easily be set aside by another. Therefore, I believe that the only sure way to preserve our rights is for Congress to place clear and comprehensive legislative limits on intelligence activities affecting Americans, because executive self-restraint is a fragile safeguard.

The intelligence agencies of the United States are vital to the success of this country's foreign and military policies. But these agencies—by their very nature—always will be a potential threat to the rights of Americans, because they operate in secret and they have massive information-gathering capabilities. Fundamental constitutional rights of speech, press, assembly, and privacy are at stake. Unjustified investigation of the lawful political activities of Americans, at home or abroad, infringe first amendment rights. Unreasonable spying on law-abiding Americans using physical surveillance, undercover agents, or access to confidential information violates privacy rights. Electronic surveillance, physical search, and mail opening in the United States or against Americans abroad must satisfy basic fourth amendment standards.

We must never forget that all these rights have been violated in the past. In the name of collecting "foreign counterintelligence," the CIA mounted its worldwide CHAOS operation to monitor antiwar dissenters and black activists and to compile extensive files on their activities, both at home and abroad. In the search for "foreign intelligence," the CIA randomly opened the mail of Americans to and from the Soviet Union. In response to requests from the FBI, CIA, and military intelligence, the National Security Agency used its massive capabilities to collect, store, and disseminate information about Americans engaged in lawful protest activities. The FBI's misguided attempts to protect "national security" led to illegal domestic break-ins, wiretaps, mail opening, and the so-called Cointelpro operations designed to disrupt and discredit the activities of Americans in flagrant violation of the first amendment and due process of law.

Many of the abuses resulted from the vague mandates of these agencies. The scope of their authority was so broad that it provided no real barrier against improper spying on law-abiding Americans.

As the report of the select committee chaired by Senator CHURCH pointed out in 1976, the first Executive order on intelligence activities issued by President Ford, failed to provide adequate safeguards against abuse. Its restrictions on collecting information about Americans had broad exceptions for such practices as physical surveillance of Americans abroad who posed an undefined "national security threat." Most restrictions did not apply at all to spying on the overseas activities of law-abiding Americans.

The Attorney General did not have authority under the Ford order to approve the procedures for any covert intelligence-gathering activities in this country by the CIA or the military. Nor was he required to approve procedures for physical surveillance of Americans, for using undercover agents to spy on Americans, for access to confidential private information about Americans, or for the storage and dissemination of information about Americans. These weaknesses in the Attorney General's role were especially dangerous. The Church committee saw him as "the most appropriate official to be charged with insuring that the intelligence agencies of the United States conduct their activities in accordance with the law," and it recommended that he approve all regulations adopted to protect the rights of Americans.

President Carter's Executive order goes far toward remedying each of these deficiences. The reference to undefined "national security threats" is dropped, and the restrictions apply to spying on the activities of Americans abroad as well as at home. The Attorney General must approve procedures for any covert intelligence collection in this country, and for any other collection, storage, or dissemination of private information about Americans. A new provision bans the use of outside agencies or persons to undertake prohibited activities on behalf of an intelligence agency.

All these changes were strongly urged by the Intelligence Committee in its consultation with the administration. They are clear improvements. However, the safeguards of an improved Executive order are not a complete model for legislation to protect the rights of Americans.

For example, the order requires that any warrantless search or electronic surveillance directed against an American have Presidential authorization and the Attorney General's approval based on probable cause that the American is an agent of a foreign power. More detailed court order procedures should replace such Presidential authorization when Congress completes work on the pending Foreign Intelligence Surveillance Act (S. 1566) and on intelligence charter legislation. The Judiciary Committee recently approved S. 1566 and it is now before the Select Committee on Intelligence. The administration has made a firm commitment to supporting further legislation to close the loopholes for surveillance of Americans abroad and other warrantless searches.

Furthermore, the FBI is not covered in detail by the Executive order restrictions. Detailed standards are needed for FBI counterintelligence investigations of Americans. Under the order, however, the procedures for the FBI are not adequately defined. Charter legislation must establish such procedures for all counterintelligence activities directed at Americans, including FBI investigations and any CIA or military counterintelligence operations which may affect Americans.

An obvious reason for statutory procedures is that the Executive order allows investigations of Americans who are not suspected of committing crimes. "Counterintelligence" investigations cover not only legal activities, such as espionage or international terrorism, but also nebulous "clandestine intelligence activities" which are not linked to crimes. If such investigations of law-abiding private citizens are necessary, the standards must be spelled out carefully by law.

A third example of the need to go beyond the Executive order involves spying on Americans to obtain "foreign intelligence." As the order now reads, intelligence agencies can still gather private information about law-abiding American citizens and business firms if the information sought fits the category "foreign intelligence" or if the American

is in any way "acting on behalf of a foreign power." This could include interviewing an American's friends and associates without his consent to collect information about his meetings with foreigners, or even using undercover agents to report information about his private dealings with foreigners. Operations aimed at persons "acting on behalf of" foreign powers could include Americans who are asked to speak out publicly in support of a foreign government's interests or who are lawfully registered representatives of foreign governments.

These standards for gathering foreign intelligence about Americans without their consent are still too broad. Charter legislation must specifically address the question of when, if at all, a law-abiding American citizen or business firm can ever be the target of covert foreign intelligence-gathering, either at home or abroad. It must also include standards for handling information about Americans gathered as a by-product of spying on foreigners.

These are examples of a number of problems that have not yet been fully resolved by the Executive order, but must be addressed in charter legislation. Our primary aim should be to establish, by law, that no intelligence agency may conduct covert intelligence operations, at home or abroad, solely to gather information about lawful political activities, beliefs, and associations of Americans protected by the first amendment. There should be a flat prohibition against disseminating any such information about Americans for political or other improper purposes, including the discrediting of any person because he or she has criticized the President, an intelligence agency, or the policies of the Government.

Despite these remaining issues, I believe President Carter's Executive order is a prelude to strong safeguards in legislative charters. I look forward to working closely with the administration in this enterprise because I know we share the belief in the need to place strict legal limits on intelligence activities that may affect the rights of Americans.

SUPPORT FOR PANAMA CANAL TREATIES

Mr. PERCY. Mr. President, I believe that the proposed treaties serve our national interests and, with certain changes, I will vote for them.

I have carefully studied and considered the Panama Canal treaties since they were submitted to the Senate last September. As a member of the Senate Foreign Relations Committee, I actively participated in 13 days of committee hearings on the treaties and heard testimony from over 85 witnesses. I went to Panama to have a firsthand look at the situation and to discuss the treaties with those who would be most directly affected by them.

During all this time, I kept uppermost in my mind some very important questions which critics of the treaties in Illinois had asked me: "Why do we need a replacement for the 1903 treaty? Can the canal be operated at the same high level of efficiency by Panama as it has been by the United States? What is the justification for financial payments to Panama? Could we not best protect our rights to defend the canal by preserving the arrangements we have now? By approving these treaties, would we not be playing right into the hands of the Communists? Would we not be giving a helping hand to Fidel Castro?"

The Panama Canal issue is not simply one between the United States and Panama. How the United States deals with it will be significant for our future relations with all the countries of our own hemisphere.

I have always been impressed by what a magnificent technological achievement the building of the canal was for our country. But on my recent trip I also got a vivid picture of how the Canal Zone cuts a deep gash right through and divides the sovereign territory of Panama, and how a Panamanian traveling through the Zone from north to south is treated like a stranger in his own country. He is under the jurisdiction of the laws of another country. If he is involved in a traffic accident, he is tried in a foreign court, under a code of laws which is foreign to him. I tried to imagine what it would be like to have a similar situation in Illinois, with a foreign country encamped in a prime piece of territory, cutting a 10-mile wide strip from the western limits of Springfield to the eastern limits of Decatur, thus including both cities and all the land in between. I believe it is as natural for the Panamanians to want to exercise sovereignty over all of their country as it was for colonial Americans to want to exercise sovereignty in all of this country.

If we can come to a new arrangement which would take this factor into account and at the same time absolutely preserve our ability to defend the canal and protect our interest in keeping it running efficiently, it would seem a sound and wise thing to do. We will surely enhance our position internationally by demonstrating that we have the strength and flexibility to adapt to change, while making clear that we have no intention of abandoning our right to intervene against any aggression against the canal.

Not even the treaty opponents I questioned during the hearings believed it is possible to hold on to the old 1903 treaty without making substantial changes. I am convinced that the best interests of the two nations can be served by adopting new treaties now with terms that are clear and beneficial to both. Presidents Eisenhower, Johnson, Nixon, Ford, and Carter all believed that a new treaty with Panama was needed.

The first treaty—the one which is in effect until the year 2000—stipulates that the United States has the right and primary responsibility to defend the canal. The United States retains the right to maintain troops and use all land and water areas and installations necessary for the operation, maintenance, and defense of the canal. The United States will also set the tolls and establish and enforce the rules of operation.

The second treaty, the so-called Neutrality Treaty, goes into effect in the year 2000. It is intended to guarantee the canal's permanent neutrality, and to assure each country's right to defend the canal. In this treaty also, Panama agrees not to allow the stationing of any foreign troops on its territory.

During the course of the hearings I stated my strong concern that some parts of this treaty were so vague that they could be interpreted differently by the United States and Panama and could lead to misunderstandings in the future that might be disastrous. These provisions concerned our unilateral right to move troops in to defend the canal, and the right of U.S. warships to go to the head of the line in case of emergency. These provisions were clarified in a statement subsequently issued by President Carter and General Torrijos. However, the statement was not signed, and its legal effect is in question. I believe that to be really meaningful, the statement must be made a formal and binding part of the treaties. I am cosponsoring two Dole amendments which would do exactly this. I could not support the treaties otherwise. With these changes, however, I believe our interests would be well protected.

There still remains the question of whether we would not avoid all this concern about defense rights if we just stayed with the present treaty. I have concluded that we will be better off under the new treaties properly amended. With regard to an external threat, there is no doubt that the United States can and will do what is necessary to meet it, and we are fully authorized to do so under the treaties. However, internal threats are another thing, given how strongly Panamanians feel about exercising full sovereignty. And in this desire they are supported by nations all over the world.

I have seen the dense jungle surrounding most of the 51 miles of the Canal Zone from which a saboteur, perhaps aided by a canal employee willing to look the other way, could emerge and put the canal out of commission with one small weapon. This is only one form that a hostile action could take. I have questioned treaty opponents about the likely consequences in Panama if these treaties are rejected, and have asked whether they were ready and willing to deal with the resulting situation. I found that not one of them had fully addressed this problem.

Several years ago we had a similar situation with Okinawa. I visited there and concluded that it would be extremely difficult to maintain a secure base in a hostile surrounding environment. We negotiated a transition with Japan and thereby greatly enhanced our ability to protect our long-term interests. Gen. D. P. McAuliffe, Commander in Chief of the U.S. Southern Command, with whom I visited in Panama. has stated:

> My judgment of our capability to keep the Canal open and in use for our country and for the countries of the free world will be enhanced, by the provisions of the Treaty. . . . It really goes to the heart of having a friendly environment around the Canal in which to operate, and we can do all of our

defense tasks better in a friendly rather than hostile environment.

Under the present treaty, Panama has no real stake in the canal. The annuity she now gets is compensation for giving us property and base rights, and is not contingent on whether canal operations are disrupted. Under the new treaties, Panama will have a real interest in keeping the canal open and running properly. The benefits that Panama gets will depend on the canal traffic. Her source of revenues will dry up if the canal is closed. Therefore, the new arrangements encourage the kind of environment which is our best insurance against internal threats.

With regard to payments to Panama, the treaty provides that this money will come from tolls paid by the many countries which use the canal, and will not come from the U.S. Treasury. This means that from now until the end of the century, while we will continue to have bases in Panama, the users of the canal will be footing the bill through tolls.

The financial benefits accruing to Panama will depend on the volume of canal traffic. The more efficiently the canal is run, the more traffic it will attract and the more toll revenues it will bring in.

How efficiently can we expect the Panamanians to operate the canal? Right now almost 80 percent of the canal work force is non-United States, with Americans generally holding the most technologically complex jobs. Under the new treaty, Panama will have 22 years in which to learn from the Americans how to continue the high level of efficiency which has characterized canal operations from the beginning. In Panama I was told by American oil company executives that within a period of just 5 years Panamanians had been able to take over the complete operation of refineries with highly sophisticated and complex technology.

Finally, much has been made of the Communist threat in Panama, and whether by ratifying the treaties we will be playing into the hands of Fidel Castro and the Soviet Union. When I asked Secretary of Defense Harold Brown about this, his response was that,

> If I were Castro and I wanted to expand my influence and decrease that of the United States, I would certainly do all I could to prevent ratification of these treaties.

It should also be noted that Panama does not even have diplomatic relations with the Soviet Union or the People's Republic of China, and that it declared war on Japan the afternoon of Sunday, December 7, 1941, even before the United States did. In all the years under the 1903 treaty, Panama has never breached a single provision despite its patent unfairness.

It is significant that some of the most vocal support for the treaties has come from democratic regimes in Latin America such as Colombia, Costa Rica, and Venezuela. Surely, if the treaties were a means of furthering Communist intentions in the world, it would not be in the interest of these countries to support them.

After considering all these issues carefully, I have come to the conclusion that the new treaties will serve our interests better than attempting to cling to the old treaty. Certain changes which I have outlined must be made, but assuming that they are, I believe the new treaties will offer arrangements which are fair and beneficial to both our nations.

The Panama Canal is a glorious monument to American know-how and determination. After all these years the canal has not outgrown its usefulness. But the treaty with the country whose territory is bisected by the waterway has become outmoded. We owe it to ourselves to adopt new treaties which will satisfy the interests of our two nations and assure that the Panama Canal will continue to serve all the countries which have come to depend on it.

HYMAN H. HAVES RETIRES AFTER LONGTIME SERVICE TO B'NAI B'RITH

Mr. RIBICOFF. Mr. President, Hyman H. Haves, who grew up in Connecticut, worked and lived there for many years, and is a longtime friend, is retiring after some 40 years of service to B'nai B'rith.

It will be difficult for B'nai B'rith to replace Hy Haves, for his very professional service to that organization over these many years has earned for Hy a well deserved reputation for effectiveness, fairness, and dedication.

Persons of all faiths and beliefs who know and have worked with him respect Hy and share with me the sense that B'nai B'rith is losing a most capable man—but all of us also join in wishing Hy a full and productive retirement.

Hy, who is currently the western regional director of the National Appeal for the Anti-Defamation League, was ADL director for Connecticut when I was Governor of the State.

A graduate of Hillhouse High School in New Haven, Hy now lives with his wife, Ethel, in Pacific Palisades, Calif.

Hy will be honored at a retirement dinner February 19. Mrs. Ribicoff and I join with Hy's many other friends in congratulating this fine man on his great career. Knowing Hy, we can be sure that his will be a productive retirement, filled with continued service to his community, his Nation, and his faith.

Mr. President, an article has been written announcing Hy's retirement. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HYMAN H. HAVES

Longtime Connecticut resident Hyman H. Haves, veteran Jewish community worker and activist, will close out a 40-year career in community service upon his retirement February 15. The announcement was made in Los Angeles, where Haves is stepping down from his post as Western Regional Director of the National Appeal for the Anti-Defamation League (ADL).

Haves is a graduate of New Haven's Hillhouse High School (1932), where he was a member of the wrestling team, and performed as the comic star of the school's 'Happy Days' annual show.

Haves began his career in 1938, as the first director of the New York office of Aleph Zadick Aleph (AZA), the B'nai B'rith Youth organization, and later returned to New Haven as the ADL's first director here.

A specialist in audio-visual production, he created the "This Is Judaism" television show. Haves also was awarded the Mass Media Award presented by the National Conference of Christians and Jews, for his television program, "Rumors." His manual on Rumor Clinics enjoys wide distribution.

As a young man, Haves was active in the YMHA-Talmud Torah, later the New Haven Jewish Center. He served as president of the Jewish Youth Council, Joint Distribution Committee Youth Chairman, and authored a weekly column in the Jewish Community *Bulletin*. He also held the presidency of the local, state and regional organizations of AZA as well as serving on that group's governing body in 1937–38.

In 1938, Haves hosted the AZA's first European delegate, Boris Conforty, of Sofia, Bulgaria, on a 10,000 mile tour of the United States. Conforty is now an orthopeic surgeon in Israel.

During World War II, Haves was a combat navigator and served as acting Jewish Chaplain in the South Pacific.

His other posts during 27 years in Los Angeles include Program and Community Consultant, prior to assuming his present position. He also was a member of the staff of the United Jewish Welfare Fund, director of the Bay Cities (Santa Monica) and San Gabriel Valley Jewish Centers, and West Coast Director of the Jewish War Veterans.

A much sought after lecturer, Haves served on the American Speakers Bureau, lecturing on human relations at Yale University, Connecticut State College, University of California at Los Angeles, San Diego and Los Angeles State Colleges, Arizona State University and, in 1959, was Assistant Director of Human Relations Workshop at the University of New Mexico.

A longtime and devoted member of B'nai B'rith, Haves is a veteran member of Horeb Lodge in New Haven, where he served on the lodge ritual team, financial secretary, president, and was chairman of the lodge's 100th anniversary celebration. He also inaugurated a series of community lecture and debate programs, co-sponsored by Horeb Lodge and Yale University. He is currently a member of the Santa Barbara (Calif). B'nai B'rith Lodge.

In New Haven, Haves and his late wife, the former Sara Jane Ostrowsky, lived on Woodside Terrace with their son and daughter. Haves is now married to the former Ethel Lieberman a renowned artist. They reside in Pacific Palisades in the Santa Monica Mountains.

Haves marks his organization of the B'nai B'rith Youth program in New York as the most significant contribution of his career. In retirement, he said, he expects to continue consultant and community activities, as well as travel extensively to meet World Jewish community leaders.

FBI CHIEF

Mr. DANFORTH. Mr. President, on Thursday, January 19, Attorney General Griffin Bell announced President Carter's choice to head the Federal Bureau of Investigation. The choice is Judge William H. Webster of St. Louis, Mo.

I have known Bill Webster personally

for a number of years. I also know him as a judge, for I have practiced law in his court. He is highly regarded in whatever he does, be it community service or the practice of law. His service as U.S. attorney, district judge, and circuit judge is marked with distinction. He is a warm and decent human being. He is a capable person.

I applaud President Carter's selection. Judge Webster's appointment will be good for the Bureau and the American people. Judge Webster's service will be a source of pride to Missouri.

Mr. President, I wish to share with my colleagues, editorials on the appointment of Judge Webster which appeared on January 20 in his hometown papers—the St. Louis Globe-Democrat and St. Louis Post-Dispatch. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the St. Louis Globe-Democrat, Jan. 20, 1978]

SUPERB CHOICE FOR FBI CHIEF

President Jimmy Carter has made a superb choice for director of the Federal Bureau of Investigation by selecting U.S. Court of Appeals Judge William H. Webster of St. Louis.

St. Louisans should feel honored at the appointment. They can be confident that Judge Webster has the quality of character required to give the FBI sound leadership for the next decade. There is no apparent obstacle to his quick confirmation by the Senate.

When it became obvious months ago that the President would go outside the FBI for a new director, it was generally agreed that this was a sound move. While there are individuals of unquestioned integrity and first-rate ability serving in the bureau, veteran agents themselves conceded that it probably was essential to pick a new chief with no link to others in the ranks.

President Carter's initial nomination of U.S. Judge Frank J. Johnson of Alabama was widely hailed. Judge Johnson, who later withdrew his name because of health problems, is regarded as a tough-minded but eminently fair man with proper concern for law and order but no less regard for individual rights under the Constitution. Judge Webster is a man out of the same mold.

Bill Webster, a highly successful and skilled lawyer, left private practice at a financial sacrifice to accept appointment as U.S. District Judge here in 1970. He was promoted to the U.S. Court of Appeals for the Eighth Circuit in 1973. In 1960–61 he was U.S. District Attorney here.

Thomas B. Curtis, the distinguished former congressman who sponsored Webster for his appointment as U.S. Attorney and later for the federal bench, likens Webster's nomination as FBI director to the era when major league baseball reached out to U.S. Judge Kenesaw Mountain Landis to restore integrity to the sport after a major scandal. Curtis' comparison is apt. The FBI has been troubled with internal difficulties and charges of past irregularities to such an extent that a firm hand is needed to restore public confidence.

There is nothing in the makeup of Judge Webster to suggest that he would ever be power hungry or less than totally conscientious in performing his duties without thought of personal gain.

Webster, while decisive, is not heavyhanded. He is an extraordinarily well-disciplined man, handsome and athletic in appearance, gentlemanly in manner and scholarly in his opinions.

A measure of the respect Judge Webster enjoys is the fact that he was one of a few seriously considered for a U.S. Supreme Court vacancy during the Ford Administration. Now the Carter Administration has chosen him for a post of utmost importance and sensitivity.

Attorney General Griffin B. Bell can be credited with having made an honest search for the right man to head the FBI. In the St. Louis area, and anywhere else Bill Webster is well known, there is likely to be unanimous agreement that no better man could be found for the job.

Judge Webster has what it takes to restore trust in the FBI while at the same time upholding conscientious agents against the slanderous broadside attacks that have been made upon the bureau. Under William H. Webster's direction the FBI should regain its deserved stature as Public Protector No. 1.

[From the St. Louis Post-Dispatch]

JUDGE WEBSTER FOR THE FBI

President Carter's choice of Judge William H. Webster to direct the FBI would seem acceptable at any distance, but because Judge Webster is a St. Louisan and a known quantity here, it is the more possible to conclude that his nomination is particularly sound.

As a *Post-Dispatch* resume said, this 53-year-old Republican has compiled impeccable credentials as a private citizen, lawyer, former United States attorney, former federal district judge and now as a judge of the Eighth Circuit Court of Appeals. He is a man of integrity, and lawyers of both parties say that as a judge he has been fair and firm.

His opinions from the bench could not satisfy everybody, but they have been well-founded in law, for he has not been reversed often. He has generally abided by judicial restraint, yet he had the determination to order widespread improvements at the St. Louis city jail. In criminal cases he appears often to have favored the side of prosecution, but not automatically; indeed, in one recent case he denied an FBI request to keep confidential the identities of 19 informants.

Such a judge cannot be placed in an ideological pigeonhole, but the attributes of fairness, firmness and legal conviction are the special qualities to be sought in the next director of the Federal Bureau of Investigation. It is no secret that the Carter administration searched hard for a candidate who could improve the FBI's reputation in the area of civil liberties, nor is it any secret as to why.

Under the long reign of the late J. Edgar Hoover, the FBI became a law enforcement agency that too often disregarded the law, including the Constitution. The record is clear: the illegal break-ins, the wiretapping without court orders, the poison pen letters, the mail openings, the surveillance of distinguished citizens along with suspected dissidents, the promotion of journals and propaganda, the disruption of meetings and organizations (and marriages), the smearing of individuals. While the agency was doing an effective job of criminal law enforcement, as it is supposed to do, it was also abusing its authority.

Much of this has been changed. Under the present director, Clarence M. Kelley, domestic surveillance of Americans with unorthodox political views has been reduced from thousands of cases to a few score, and the Justice Department has imposed guidelines restricting such spying.

Still, questions remain. Are these actions sufficient protection for the public against any future repetition of FBI abuses? Are they, in addition, sufficient to produce within the FBI itself a healthier attitude toward law enforcement, or to revoke the operating notions of the Hoover era that the law can be skirted to enforce it? Even in recent days FBI agents have been defended against charges of illegal wiretapping and mail interceptions because their motives were pure and patriotic.

Against this background, Judge Webster would face two tasks upon confirmation. One is to keep the FBI to the grindstone of efficient law enforcement, and his record leaves little doubt that he will do that. The other task may be far more difficult. It is to make certain that the enforcers of law do not break the law themselves. Instilling a new respect for the Bill of Rights could be tantamount to building morale and self-respect in the FBI, as well as restoring its national reputation.

That second half of the task will demand from the next FBI director a singular and persistent determination as well as the qualities of fairness, firmness and a legal foundation. And it will require time. Upon the end of the Hoover dynasty, Congress wisely limited the director's term to 10 years. Judge Webster might need all of that to complete the awesome work proposed for him. Equally, he will deserve time in office before the nation can make any final assessment of the quality of his nomination. At this point it seems excellent.

THE QUALITY OF INTELLIGENCE

Mr. STEVENSON. Mr. President, the Select Committee on Intelligence is examining the quality of U.S. intelligence and assisting the executive branch to improve the intelligence community's performance. To that end intelligence studies are being conducted by the Subcommittee on Collection, Production, and Quality which I chair, and of which the Senator from New Jersey, Mr. CASE, is vice chairman. The first of these studies to be made public, in appropriate summary form, is "U.S. Intelligence Analysis and the Oil Issue, 1973–1974."

Last Monday, the New York Times published an article by Senator CASE that grows out of the work of our subcommittee. Building upon our oil intelligence study, the distinguished Senator makes significant suggestions for improving intelligence analysis. I commend this article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 23, 1978]

ANALYZING INTELLIGENCE

(By Clifford P. Case)

WASHINGTON.—Virtually all publicity about the Central Intelligence Agency has focused on covert operations, espionage, alleged abuses, and the use of sophisticated technology.

This emphasis has distracted attention from one of the intelligence community's fundamental missions: the analysis of intelligence information on political, economic and military issues.

As the Bay of Pigs and the 1973 Middle East war showed, it can be costly if available intelligence data are ignored or not properly analyzed.

There is agreement in Congress on the need for good intelligence. The Senate Select Committee on Intelligence has been looking not only at covert operations and possible abuses by intelligence operatives but also at ways of improving the intelligence community's legitimate gathering and assess-

ment of information to assist United States policy-makers.

The committee recently released a report on United States intelligence analysis of international oil prices and policy before and after the 1973 Arab oil embargo.

The staff study found that policymakers could have gotten at least as good an idea of what was going on—and what was likely to happen—from reading certain newspapers and magazines as from the classified report prepared by the C.I.A. The study listed several reasons for this poor performance, among them the following:

Analysts at C.I.A. headquarters who prepared the final intelligence product relied too heavily on United States Embassy reporting, relegating other sources to secondary roles. (Some C.I.A. officials may dispute this.) Partly as a result of this, intelligence analyses did not consistently identify changing Saudi Arabian intentions on the use of oil as a political weapon.

Economic analysts and political specialists at C.I.A. headquarters did not work together. Consequently political factors were not always fully considered when analyzing such questions as whether the Organization of Petroleum Exporting Countries could maintain the high price of oil established during the oil embargo.

Analysts were under great pressure to produce spot news reports for the C.I.A.'s daily publication, leaving too little time for systematic analysis. As a result, the analyses did not give policymakers an adequate understanding of the significance of events.

Intelligence analysts continue to employ traditional approaches to oil questions long after events warranted a new look. Their failure to challenge their own preconceptions resulted in analyses that did not alert policymakers to alternative predictions that existing intelligence information would also have supported.

This study and staff work already done on additional case studies undertaken by the Senate Select Committee on Intelligence suggest the following considerations:

Intelligence analysis should be less fragmented. Currently, the collection of information is split off from analysis of that information. Political analysts are separated from economists, and specialists in one region are separated from those handling other regions or global issues. Analysts should be trained and assigned to work in shifting teams that bridge geographical and functional barriers in order to analyze all aspects of an issue.

Intelligence agencies may have to cut back their daily reporting. Pressure on an analyst for daily reporting hinders development of good analysis.

Intelligence agencies should create more senior-level positions for analysts and should recruit more outsiders for middle-level positions. This would bring in fresh perspectives. It also would allow exceptional analysts to advance their careers without having to become administrators.

Finally, intelligence agencies must accept their vital role as intellectual gadflies. If analysts will not challenge preconceptions, it is unlikely that policy-makers will do so. The record from Pearl Harbor to the Bay of Pigs and Vietnam shows the dangers of a policy blinded by preconceptions. Intelligence agencies should require analysts to question their own assumptions. Agencies should also provide more analyses that counter policy-makers' preconceptions and challenge the dominant views of the intelligence community.

Of course, there are limits to what Congress can do to effect improvements in the daily functioning of the intelligence community. But the Senate Select Committee on Intelligence already is contributing an independent and careful critique of current intelligence analysis. Improvements in analysis could make a significant contribution to our overall foreign policy.

U.S. FOREIGN POLICY: DRIFT OR DESIGN?

Mr. BROOKE. Mr. President, our distinguished colleague from Maryland, Senator MATHIAS, recently addressed the Los Angeles World Affairs Council. His remarks were entitled "U.S. Foreign Policy: Drift or Design?" As usual, Senator MATHIAS has provided us with a perceptive commentary on many of the vital foreign policy issues of our day. I am confident that my colleagues will profit from a review of his remarks and, therefore, I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

U.S. FOREIGN POLICY: DRIFT OR DESIGN?

(By Senator CHARLES McC. MATHIAS, JR.)

As recently as 100 years ago a British envoy in East Asia boasted that he could "declare war and make peace" before the news ever reached Whitehall.

Now, the most remote outpost of the world is only hours away. Two days ago, I was in the People Republic of China. Tomorrow, I will be in Washington. This telescoping of time and space has profound and inescapable implications for our foreign policy.

The planet we live on is very small, and gets smaller every day. The problems we face are not local. They are universal. Everyone on earth shares them, which makes for a very complex, interdependent world.

The days when America could afford a foreign policy of splendid isolation are long gone. The development of intercontinental ballistic missiles and of an insatiable appetite for energy are but two of the things that foreclose that option.

Like Puck, we can almost "put a girdle round the globe in forty minutes." But, without Puck's magical ability to undo the mischief he created, we must be very careful how we use our powers. We cannot expect to dictate our vision of the future to others, neither can we afford to be without such a vision.

In my title, I question whether our foreign policy is by drift or by design because, while President Carter has moved boldly on a range of issues, he has not projected a vision of what America's role in world affairs should be as we approach the 21st Century.

It seems this omission is intentional.

Leslie Gelb, the President's new Director of the State Department's Bureau of Politico-Military Affairs, explains that "The Carter approach to foreign policy rests on a belief that not only is the world far too complex to be reduced to a doctrine, but there is something inherently wrong in having a doctrine at all." In other words, we are now to have a pragmatic, issues-oriented foreign policy.

Both President Carter's aborted trip to eight countries on four continents in 11 days and his just-completed trip to seven countries on three continents in nine days were designed to underscore the new issues and new areas that demand a place in our foreign policy. I agree that new issues and new areas demand attention. But I question the President's approach to the problem. By choosing to barnstorm the word to dramatize an idea at home, I think President Carter has badly underestimated both the sophistication of the American people and the validity of the idea.

The American people will support a forceful foreign policy, even when it involves risk and sacrifice. But they will not support a foreign policy that lacks coherence and direction. People do not need spectaculars to help them understand the new imperatives of a changing world. They do need leadership that can articulate a comprehensible vision of where our foreign policy is heading and why.

For example, the Panama Canal is difficult to explain and to sell to the American people as an isolated issue. But, Panama Canal Treaties, presented as one facet of a larger perceived vision of our role in an interdependent world, would be a different thing. The American people must understand the global context in which they are being asked to support the Panama Canal Treaties, a SALT II agreement, expanded foreign aid and so on. When they do understand the equities involved. I am confident they will respond appropriately.

Woodrow Wilson discovered, to his regret, the consequences of getting ahead of his constituency on the issue of United States participation in the League of Nations. I hope President Carter will learn from his example and not make the same mistake.

The world we live in today has little room for big mistakes. Military power remains concentrated in the arsenals of the Soviet Union and the United States. But, the nuclear club is expanding. The Chinese are developing a delivery system that soon will give them intercontinental capabilities, too. Economic and political power is more and more diffused. There are new centers of financial power in Japan, Western Europe and the Middle East.

Riyadh, Lagos and Brasilia—only exotic names a decade ago—now are known throughout the world as political power centers. We can no longer reckon national security in strictly military terms. Global problems—ecological, social and economic—crowd us. They have become so critical that B–1 bombers and cruise missiles may have little relevance to real national security within a very few years.

In Washington, we are constantly reminded of the world's population problems by a clock that has been installed at one of the city's busiest intersections. If you hit the traffic light wrong, you can watch the clock tick off the world birth count at the rate of 172 new lives a minute. The birth hand on that clock moves almost three times as fast as the second hand on your wrist watch. It's a sobering thing to see and to think about.

It took about three million years to reach a world population of one billion. Then, in only 100 years, it doubled. After that we really picked up speed. In another 30 years, the population reached three billion and 15 years later it hit four billion. By the year 2000, the world population is expected to top 6.5 billion. Estimates place close to five billion of those people as inhabitants of one of the 114 "developing" countries, not including the Peoples Republic of China.

How to absorb and feed these additional billions remains an open question. The earth's finite resources are already severely strained.

Lester Brown, President of Worldwatch Institute which trains a concerned eye on the condition of Planet Earth, reports that, "The health of the earth's principal biological systems—fisheries, forests, grasslands and croplands—is threatened by excessive human claims."

For example, between 1930 and 1970, the global fish catch rose from 21 to 70 million metric tons a year. But, since 1970 the catch has not grown at all. In fact, some years it has actually fallen below the 1970 level.

In the area of energy, we are all aware of the finite resources that sustain our highly industrial society. But how many know of the firewood crisis that devils the "developing" world? A generation ago villagers in the

Himalayan foothills of Nepal gathered all the firewood they needed in an hour or two. Now the process takes an entire day.

As our world and its problems change, so does our role in the world. The increasing diffusion of military, economic and political power, which I mentioned earlier, does not affect our absolute strength, which continues to grow militarily and economically. But, it does affect our relative strength. To put it bluntly, we are more dependent on the rest of the world than we have ever been before, and our dependence is increasing.

Fred Bergsten, Assistant Secretary of the Treasury for International Affairs, reports that today, "Imports provide more than one-quarter of our consumption of 12 of the 15 key industrial raw materials."

Oil, of course, is the most obvious example of our dependence. In 1971, we imported 25 percent of our oil, in 1976 that figure had risen to 41 percent, and last year it was up to 47 percent. The price tag of imported oil last year was a whopping $47 billion, which says all that need be said about our balance of payments deficit.

Less well known is the fact that we import 100 percent of the natural rubber we use; 98 percent of the manganese; 96 percent of the cobalt; 95 percent of the titanium; 94 percent of the bauxite; 92 percent of the chromium, and 90 percent of the tin, to name only the top seven.

Not only is our economy heavily dependent on foreign imports, it is also heavily export-oriented. Today, one in eight manufacturing jobs in the United States produces for export. Forty percent of our construction machinery is produced for export and exports account for 25 percent of the cash receipts of our agricultural sector.

I dwell on these facts and figures because they argue effectively the need for a new vision in U.S. foreign policy—a vision that is in tune with the complexities of a changing world. We will, of course, continue to be concerned with traditional security questions, particularly vis-a-vis the Soviet Union. We must deal with these issues both by negotiation and by maintaining a credible military posture.

But, more and more, we must center our concern on the global problems that threaten our existence. And, increasingly, we must focus on the Third World, where the bulk of the world's population will live by the year 2000, and which is rich in the natural resources so vital to our survival.

From what President Carter said before his election and from what members of his Administration have said since then, I believe the Executive Branch is aware of and concerned about these issues. But I am troubled that no Administration spokesman so far has come forth with a strategic approach to the problems of the Third World or, for that matter, to our allies' problems. And I am concerned because no one is telling the American people plain truths about what new directions we should be taking in foreign policy and about why they are a matter of national survival.

A hundred speeches about world interdependence by me would be meaningless beside one straight-from-the-shoulder, no-punches-pulled talk by the President of the United States. I hate to describe limits to the power of a U.S. Senator, but, I have to agree with Teddy Roosevelt: "The White House is a bully pulpit." Indeed, there is none bullier.

Just before Christmas an unexpected visit from an old friend started me thinking about why a foreign policy strategy is necessary even if you only intend to pursue a pragmatic policy of reacting to targets-of-opportunity. My friend, a distinguished European academician, came here in behalf of a group of Europeans concerned to know what the Carter Administration foreign policy was. He promised to send me his report and I promised to send him this speech. But the important point is that, offhand, neither of us could say with any certainty what U.S. foreign policy was or where it was heading.

That's a dangerous situation for us to be in, and it's dangerous for our allies and for our adversaries. Uncertainty can be very tempting to international adventurers.

The Carter Administration, of course, has not been inactive in foreign affairs this first year. Major departures in our arms transfer policy, nuclear proliferation and human rights have been discussed. But, in practice, most of President Carter's first year has gone to developing initiatives on SALT, the Middle East, Panama and Africa which were legacies from past administrations.

After a shaky start, which should be laid more to inexperience than to ineptitude, the Carter Administration now has U.S.-Soviet relations back on the track. A great deal of attention is being devoted to a range of negotiations with the USSR on SALT, the Indian Ocean, MBFR and the Comprehensive Test Ban Treaty.

As a Senate advisor to the SALT talks, I have closely followed this issue, which is the linchpin in U.S.-Soviet relations. I am generally impressed with the care that is being taken in these negotiations. Certain key issues remain unresolved still. But there has been substantial progress, and I think we will have a good agreement before too long.

I don't know how much credit President Carter deserves for the positive developments in the Middle East. Frankly, I doubt we'll ever know whether his joint declaration with the Soviets frightened Sadat and Begin into direct talks, or whether he urged them in that direction from behind the scenes. Both scenarios are available in Washington. But, no matter how they came about, the Sadat-Begin talks are cause for rejoicing.

As an Israeli friend says, "Now perhaps, perhaps, for the first time in our lives we can dream of peace coming to the Middle East."

President Carter has also brought to fruition the policy initiated by President Johnson, and continued by President Nixon and President Ford, of seeking a new relationship with Panama. Two treaties on the Panama Canal were signed on September 7, 1977, and now await Senate ratification. It won't come easily, however, unless the President finds some way of communicating to the American people just how much our national security requirements have changed since the Canal was built and precisely how these treaties fit into the national security picture in the year 1978 and thereafter.

And that brings me back to my central point: we urgently need a coherent approach to global issues within which we can weigh the consequences of such acts as ratifying, or failing to ratify, the Panama Canal Treaties. We need a coherent explanation from President Carter of how he views America's role in a complex interdependent world and of where he would like to see this country at the end of his term in office.

Not long ago Time magazine reported that President Carter does have some long-range goals, but that he has confided them only to Vice President Mondale, Secretary of State Vance and National Security Advisor Brzezinski. The time has come, it seems to me, for the President to confide in the American people as well. Perhaps he will do so tonight in his State of the Union Message. I hope so.

I certainly don't pretend to have a blueprint for foreign policy myself. And I agree with those Administration officials who warn of the dangers of an inflexible doctrine. But, I do think some strategic guidelines for the conduct of American foreign policy are overdue.

We urgently need to define what our vital interests in the world arena are. Then, we must condition ourselves not to get involved in every issue, large and small, that arises on the face of the globe.

I know a fellow who advocates what he calls a foreign policy of "eclectic neglect." By his definition, you could ignore most of the world's problems. I don't go quite that far, but I do think we have to learn to say "No." We must define the limits of the possible and then we must not stretch ourselves beyond them.

Obviously, the Soviet Union will occupy a good deal of our attention in the coming years and the Peoples Republic of China undoubtedly will be increasingly important in the geo-political picture. At the same time, we must reassure our Western European allies and Japan that we consider our relations with them to be the fixed star of our foreign policy.

We must also focus more attention on our important relationships with Third World nations, for the truly crucial problems of the future—energy, population, hunger, the destruction of the environment—all intimately involve the Third World. And they can only be solved by cooperation not by fiat.

I know it's not necessary to remind this audience that we can only be as strong abroad as we are at home. If our cities are decaying; if unemployment and inflation are sapping our strength and breaking our spirit; if our lakes and rivers are polluted; if the confidence of our business community is uncertain, then we cannot expect to provide leadership to a troubled world.

In great periods of American history, foreign policy has been bipartisan. Both parties have shared the takeoffs as well as the landings. The whole Senate has been broadly knowledgeable of the course and the goal of our foreign policy. It has interpreted them to the American people in the multiple, mysterious ways in which we communicate such things.

Out of such a bipartisan effort may grow a conviction that positions are taken in the national interest and not merely in the President's interest, or the Administration's interest, or in the interest of a particular political party.

From time to time, there are signs on both sides that this tradition is being neglected or forgotten today. I call for its revival, not out of sentiment, but out of a sense of urgency dictated by the decisions required of us and the need for consensus to support solutions yet to be found.

I pledge my best effort to rekindle the sparks of bipartisan foreign policy that enabled America to overcome great challenges in the past. I hope others will join me in the effort which is long overdue. But, no matter how ready the rest of us are for a bipartisan foreign policy, we cannot go it alone. The President must provide the leadership. He must move us from drift to decision.

UKRAINIAN INDEPENDENCE DAY

Mr. BAYH. Mr. President, on January 22 Ukrainian-Americans celebrated the 60th anniversary of the nation's independence. Unfortunately, the political independence of the Ukraine was short-lived. In 1921 this nation which now has a population of almost 50 million people was annexed by Soviet force. Still, the Ukraine strives to maintain the integrity of its culture, the distinctiveness of its language and the independence in spirit of its people. Unhappily, Soviet authorities have sought to "Russify" the people of the Ukraine and dispatch those who try to peacefully resist such efforts to psychiatric institutions or the infamous

Gulags of which Alexandr Solzhenitsyn writes. It is further ironic that the Ukraine actually has a vote in the United Nations General Assembly giving the U.S.S.R. three votes in that international organization. One really wonders what the United Nations voting record of the Ukraine would be today if it had not been incorporated into the Soviet Union. The same question could be asked on behalf of the peoples of the other captive nations.

Their unique cultural, historical and intellectual traditions provide for the Ukrainian people a source of real and enduring national pride which can never be subdued by the imposition of a foreign state's ideology. The present plight of Mykola Rudenko and Oleksiy Tykly, whose only crime appears to be their insistence on national traditions and identity, reminds free men and women everywhere that we must not remain silent when political liberty is denied to anyone. The struggle for Ukrainian independence is part of a larger process which find men and women everywhere insisting on democratic rights and political pluralism. As free men and women we must never disassociate ourselves from this process. I know my colleagues join me in commemorating the 60th anniversary of Ukrainian independence.

MIAMI TESTS SHOW LIQUID PROTEIN SAMPLES ALMOST WORTHLESS

Mr. PERCY. Mr. President, on January 2, 1978, Ms. Ena Naunton, a reporter for the Miami Herald, wrote an excellent series of articles on the myths of the predigested liquid protein diet.

One of those articles detailed the results of a study of nine substances sold as liquid protein products by biochemists and nutritionists at the University of Miami School of Medicine. The scientists concluded that protein used in these products was of poor quality. All samples were found to be deficient in one or more of the essential amino acids needed by the body.

Dr. William Whelan, chairman of the department of biochemistry at the University of Miami Medical School, was quoted as saying that every one of the products tested was "below par." He said:

> Considering the cost (of each bottle) there was absolutely no reason, except for convenience, why they (the public) should use such rotten protein. (The manufacturers) could put filet steak in there and still get a profit margin. They use the cheapest, nastiest thing they can lay their hands on. This is the stuff they use to make glue from . . . in effect, you may as well go out and buy a bottle of glue.

This is along the lines of what I said in my letter of November 22, 1977, to Dr. Donald Kennedy, Food and Drug Administration Commissioner, requesting the FDA to remove liquid protein from over-the-counter sales because of the deaths linked to its use. The number of suspicious deaths now stand at 46. Unfortunately, the FDA has merely proposed warning labels for protein products which would advise persons to consult with a physician before using. I find this response totally unsatisfactory as many of the victims were under a physician's care at the time of death. The Permanent Subcommittee on Investigations, on which I serve as the ranking minority member, is currently investigating the circumstances of FDA's lack of decisive action in this respect.

I ask unanimous consent that the Miami Herald article of January 2, 1978, be published in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Jan. 2, 1978]

"POOR QUALITY" OF LIQUID PROTEIN CONFIRMED BY HERALD-SPONSORED TESTS

(By Ena Naunton)

The U.S. Food and Drug Administration says the protein that millions of Americans have been drinking to lose weight is of "extremely poor quality."

Biochemists and a nutritionist at the University of Miami School of Medicine, who took part in a Herald-sponsored analysis of nine liquid proteins agree.

The manufacturers vehemently disagree. Here's how the test was done and what the manufacturers said about it:

The Herald purchased eight over-the-counter liquid proteins. And, at the invitation of Dr. Leonard Haimes, who runs a weight-loss clinic at Cedars of Lebanon Hospital, the liquid protein he and about 1,000 other doctors around the country have been using was also analyzed.

The purchased products were (with prices per quart): All Star Predigested Protein ($13); Pioneer Brand Liquid Protein ($7.75); Vangard Liquid Protein ($12); GNC Liquid Protein ($12); Prolinn ($17); Your Life (regularly $12, bought on sale for $7.76); Health Rite Pro-Lite ($13.95) and Cher-Amino ($13).

The liquid protein being used by the doctors and also available over the counter in some health food stores in Miami, for $12.65 a quart, is EMF (Enzymatic Modular Food) formula, produced by Control Drugs Inc., of Port Reading, N.J.

Dr. Philip Whitney, an assistant professor of biochemistry at UM, put the eight purchased products from Miami-area drug stores and health food stores, through an automated analyzer. He then compared the amounts of each of the 22 amino acids in protein that showed up in the test to the amounts claimed on the manufacturers' labels.

He found "no significant difference between the samples. Over all, they are pretty much what they say they are and pretty much alike." Asked about the quality of the protein, he said, "If you want to be on a healthy diet, this is not the kind of protein you would choose to live on."

Dr. Keith Brew, assistance professor of biochemistry, performed the analysis on the sample from Dr. Haimes' clinic. He found it "essentially identical with that of the other samples" although the concentration of protein in the liquid was about two-thirds of the other samples. All the samples were tested on the customary 30 milliliters (two tablespoons) serving.

All were found to be deficient in some of the essential amino acids. (The eight essential ones are not produced by the body and must, therefore, be included in nutrition to sustain life.)

"If any one essential amino acid is deficient, it wrecks all the others," said Dr. William Whelan, chairman of biochemistry at the UM medical school. To make a complete protein, you must have the minimum of everything (amino acids). You cannot be deficient in one and have all the others . . . a protein cannot be partially completed."

The UM test appears to bear out the statement in the Dec. 19 issue of the Journal of the American Medical Association that the popular liquid proteins are "nutritionally of low biological quality, indicating that they do not contain the full complement of essential amino acids."

"Every one of them is below par," said Whelan. "Considering the cost (of each bottle) there is absolutely no reason, except for convenience, why they should use such rotten protein.

"They (manufacturers) could put filet steak in there and still get a profit margin. They use the cheapest, nastiest thing they can lay their hands on. This is the stuff they used to make glue from . . . In effect, you might as well go out and buy a bottle of glue."

Arnold Gans, president of Control Drugs, who said his company has spent "close to $387,000" in studies of their product at Harvard Medical School, the Massachusetts Institute of Technology and UCLA Medical School, said he "didn't care" what the UM analyses showed.

"They may be very qualified at the University of Miami," he said. "But I have all these studies and data. And the computers don't lie."

Gans (and, he claims, his medical school advisers) takes a diametrically different approach to the value of liquid protein than that of the UM biochemists, the FDA and the AMA.

Gelatin from collagen, which is the basis for the protein liquids, is "positively, absolutely, a terribly poor quality protein, if you base it on the eight essential (amino acids)," said Gans. "However, if you base it on nitrogen and protein-sparing, it more than meets the needs."

Protein-sparing, according to its proponents, is the method by which the liquid protein "spares" the fasting fat person from chemically cannibalizing his or her own muscle protein, while fasting. This, the proponents say, is what makes the liquid protein a safety valve for persons who are otherwise starving their obesity.

Dr. George Christakis, the University of Miami School of Medicine's nutritionist, said there is "no way" that a person taking liquid protein that is low or lacking in some of the essential amino acids will not be forced to cannibalize his own protein.

But Gans says the high nitrogen content of EMF is what "spares" the fasting person's protein. The "classical" nutritionist's measurement of the biological quality of protein does not apply, he claims, under the "special circumstances" of the protein-sparing fast.

"The use of collagen is only bona fide in this program because it supplies the highest source of nitrogen," he said. One hundred grams of EMF, he added, provides 16½ grams of amino acid nitrogen "which is essential for growing and preserving lean body mass. That's the criteria for using collagen." Whole egg has 14 grams of nitrogen in an equivalent amunt of protein, he said.

David Blechman, president of Twin Labs, Deer Park, N.Y. producers of Cher-Amino said, "People are not taking this product for complete protein. They are taking it for retaining nitrogen in the body. We are not comparing the quality of our product to milk and eggs. It is used for a different purpose.

"Cher-Amino is derived from the hides of pigs. We have been selling this product for 12 years, under different names."

It has been marketed as a food supplement, said Blechman. The Cher-Amino label makes no reference to using it as a sole source of nutrition.

"We feel there is nothing wrong with this product. It is a food," said Blechman.

Emanuel Goren, president of the marketing company for Prolinn ("We have no con-

nection with Dr. Robert Linn"), said, "There are variations in the individual amounts of amino acids from batch to batch. That is the result of the natural breakdown of the product in the hydrolization (liquefying) process. The total amount of amino acids, adding them all up, will always be over and above the amount shown on the label."

Informed that the UM biochemists and a nutritionist said that a deficiency in one amino acid would destroy the balance needed to produce protein, Goren referred the questions to Dr. David Wallach, president of Wallach Pharmaceuticals Inc., which makes Prolinn. Through his secretary, Wallach refused to answer telephone questions.

Linn said an Associated Press report published in The Herald Dec. 9, and quoting the FDA saying that liquid proteins are "of extremely poor quality," was inaccurate and "had the facts mixed up."

But Nancy Glick, an FDA press officer, confirmed the AP report. The three "well-known" but otherwise unidentified liquid proteins were part of a random sample that, said Glick, "we felt were indicative of the entire problem . . . all of these products are poor quality protein. I am not saying that they are contaminated, but that they don't contain the essential amino acids needed for someone to subsist on them."

She quoted nutritionist Dr. Jean Mayer, who wrote "Gelatin is a source of protein. You could not live on it as your only source (of nutrition) because the protein in it is incomplete."

The gelatin in the Your Life product is imported from a British manufacturer who also makes soft capsules for drugs and vitamins.

Carl Short of Torrance, Calif., American marketing representative for Your Life, obtained a report from British pharmacists to respond to the University of Miami test of his product.

The British chemists said, "Our figures (on the label) are derived from classical, published analytical work, done in the 50s, and they concur with the figures from other publications. These establish the amino acid content of gelatin."

"In other words, they are saying that we are correct in our label claims," said Short. (The UM test had shown only about 20 per cent of the amount of one of the amino acids—L-Methionine—printed on the label.)

Short also said that the gelatin in his company's product is made only from bones and bone marrow.

"It doesn't have the same nutritional value as an egg or a milk protein. There's no question about that," he said. "But in terms of it being a high quality collagen protein, it is.

"This product has been used for years to put on muscle and for weightlifters. It has certain intrinsic values," said Short.

"It is obvious that some people are purchasing it for weight reduction and to use it as a meal replacement," he said. "We are recommending you can use it as a replacement for one meal a day for any length of time. If you choose to fast for three meals, then we would say use it once a week. One day out of seven."

Short pointed out, however, that the fine print on the Your Life label says "Consult your physician when used in a weight loss program."

Devlin Pharmaceuticals, of El Segundo, Calif., gets the basic material in Health Rite Pro-Lite from three suppliers, one of them in Argentina, where the gelatin is a by-product of the beef industry.

"We make absolutely no claims for the product," said Charles Karkalits, Devlin vice president. "The quality of the protein we used was based on the material available in the marketplace at the time when the demand for the product was created."

(Gans said his company stopped putting the amino acid analysis on its bottles at the peak of the protein boom, because the suppliers in the United States could no longer guarantee the quality of the basic gelatin "plus or minus 15 per cent." This was because they, in turn, were getting their raw materials from sources overseas as well as in the U.S. and "the animals were being fed differently.")

Karkalits said "we rejected many suppliers of raw materials" at the peak of the boom, because of the high standards his company set for cleanliness. "We used the finest raw materials we could find; bacteriologically clean," he said.

"We never sold (Pro-Lite) as a diet product," said Karkalits. "We sold it as a nutritional supplement."

However, the bottle label states: "Suggested food use: Two tablespoons of liquid three times daily as is or diluted with water or as directed by physician. Shake well before use." That's all.

Four of the products tested at the University of Miami were from the same company, although they are distributed under different labels. They are All Star; Pioneer Brand; Vangard and GNC Liquid Protein.

G. Robert Benjamin, national sales manager for General Nutrition Corp., headquartered in Pittsburgh, would not say exactly how much liquid protein his company distributes. But he said "It runs into millions of bottles under at least eight different labels."

A manufacturer of vitamins and supplier of food supplements to 500 of its own General Nutrition Centers (five of them in Miami and Miami Beach), General Nutrition Corp. is the largest organization of its kind in the world, said Benjamin.

Liquid protein has been "an essential part" for years of the company's sales to athletes and to "people into good nutrition" who use it as a diet supplement, he said. At present, said Benjamin, his company buys its protein from "10 or 12 different sources." He would not say if any of them are overseas.

"All of the protein we sell is quality tested and is made under specifications of our own research and quality control department, headquartered in Fargo, N.D. It is absolutely pure, scientifically safe. There is nothing harmful whatsoever," said Benjamin.

Claiming that the liquid protein has been "misused," he added, "People go on starvation diets. They don't get the other nutrition that is needed. That has been basically the problem with people who are ingesting predigested protein. It is simply a food supplement."

The bottles containing the GNC liquid protein say on the label: "Directions: One or two tablespoonful three (3) times daily, diluted with water or as directed by physician." There are no instructions telling a healthy person to be under a doctor's care; although there is a caution against using the protein when there is liver or kidney disease present. This caution is only on the Vanguard and Pioneer Brand bottles of the four GNC-distributed versions bought by The Herald.

"As long as it is used as an adjunct to normal diets, I see no reason to give any other instructions," said Benjamin. "The labeling that we have meets the requirements of all federal legislation and if the federal government decides to change it, we will conform."

Glick, speaking for the FDA, said the agency's recent proposal that a warning label be put on all the over-the-counter bottles of liquid protein is in "the public comment period."

"After we receive the comments, we will evaluate them and issue a final regulation. Then the warning would go into effect in 90 days," said Glick.

Although Congress could step in, as it did in the case of saccharin, and halt the warning process, Glick said, "We are having the opposite congressional pressure. They are asking why we are not moving faster."

Persons who want to comment on the protein diet food controversy may write to The Hearing Clerk, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

PRESENTATION OF A PETITION

Mr. HOLLINGS. Mr. President, subsequent to my remarks in tribute to our departed friend, Hubert H. Humphrey, I received from the House of Representatives of the State of South Carolina a resolution expressing that body's remorse upon the passing of Senator Humphrey and its condolences to Mrs. Humphrey and other members of the family.

Senator Humphrey was a good friend of South Carolina, and the esteem in which he was held is testified to in this resolution which extends "public thanks for his many contributions to a better America, his love of his fellowman, and his optimism and faith in the future of America and all mankind."

It is an honor for me to present this resolution to the Senate, and I ask unanimous consent that it be printed in the RECORD in tribute to Hubert Humphrey.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

To express the sorrow of the House of Representatives at the recent death of Senator Hubert H. Humphrey and extend sympathy to his widow and family

Whereas, Hubert H. Humphrey served for more than thirty years as Mayor of one of America's great cities, as United States Senator and as Vice-President of the United States; and

Whereas, Hubert H. Humphrey throughout his life displayed great human compassion, understanding and love for friends and opponents alike; and

Whereas, Hubert H. Humphrey was a defender and advocate of the rights and opportunities of the underprivileged, blacks, mentally retarded and working people; and

Whereas, Hubert H. Humphrey was an innovative, brilliant and dynamic legislator; and

Whereas, Hubert H. Humphrey loved and promoted the best interests of the United States of America, now, therefore,

Be it resolved by the House of Representatives:

That the South Carolina House of Representatives by this resolution expresses its sorrow and remorse at the passing of Hubert H. Humphrey, and extends heartfelt sympathy to Mrs. Humphrey and other members of his family, and officially extends public thanks for his many contributions to a better America, his love of his fellowman, and his optimism and faith in the future of America and all mankind.

Be it further resolved that a copy of this resolution be sent to Mrs. Humphrey and other members of his family, to Senator

Ernest Hollings for his action in having it included in the Congressional Record, and to the Vice-President of the United States for his information.

MAJORITY OF AMERICANS FAVOR LIMITED TENURE FOR CONGRESSMEN

Mr. DANFORTH. Mr. President, on Sunday, December 4, the Washington Post reported that "A solid majority of American voters, 60 percent, now favor a law that would limit Senators and House Members to a maximum of 12 years in office."

I have long believed this to be true. During my campaign for the U.S. Senate I discovered tremendous support among Missouri voters for my proposal to limit Senators to two 6-year terms and House Members to six 2-year terms. I hope that this new evidence convinces my colleagues that the idea of limited tenure deserves careful and serious attention.

Mr. President, I ask unanimous consent that a copy of the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWELVE-YEAR LIMIT FOR HILL MEMBERS FAVORED BY 60 PERCENT OF VOTERS

(By George Gallup)

PRINCETON, N.J.—A solid majority of American voters, 60 per cent, now favor a law that would limit senators and House members to a maximum of 12 years in office.

The proportion in favor of a limit on the time in office for senators is up sharply since 1971, when the figure was 48 per cent. (The question on members of the House was not asked in the earlier survey.)

Although the upward trend is across the board with all major population groups, it is most pronounced among younger, better-educated voters.

Sen. John C. Danforth (R-Mo.) recently proposed a constitutional amendment to limit senators and representatives to 12 years of service.

The sharp upturn in support for a limit on the terms of senators may be, in part, a reflection of their unfavorable public image. A recent Gallup survey showed both senators and representatives rated relatively low among a list of persons in 20 occupations in terms of honesty and ethical standards.

Another Gallup survey showed only 35 per cent of the public saying they approve of the way Congress is handling its job.

Here is the question asked 1,523 adults from Nov. 4–7 and the trend:

"A law has been proposed which would limit a senator to two terms, or a total of 12 years in office. Would you favor or oppose such a law?"

Favor:	Percent
Latest	60
May 1971	48
January 1966	50
March 1964	49
Oppose:	
Latest	30
May 1971	39
January 1966	38
March 1964	38
No opinion:	
Latest	10
May 1971	13
January 1966	12
March 1964	13

Here are the results of the current survey by political affiliation:

Favor:	Percent
Republican	64
Democrats	63
Independents	57
Oppose:	
Republicans	29
Democrats	27
Independents	36
No opinion:	
Republicans	7
Democrats	10
Independents	7

This question was also asked:

"A law has been proposed which would limit a member of the House of Representatives to three terms of four years apiece, or a total of 12 years. Would you favor or oppose such a law?"

Favor:	Percent
Latest	59
Republicans	62
Democrats	61
Independents	59
Oppose:	
Latest	31
Republicans	29
Democrats	29
Independents	34
No opinion:	
Latest	10
Republicans	9
Democrats	10
Independents	7

The plan to limit senators to two terms of six years each has been advocated by at least two Presidents—Dwight D. Eisenhower and Harry S Truman.

AIRLINE DEREGULATION

Mr. McGOVERN. Mr. President, the issue of airline deregulation will soon be formally before the Senate.

I have frequently expressed my concern over the impact such action would have on commercial air service to smaller communities. With no rail passenger service in my State of South Dakota, we are almost totally dependent on our four commercial airlines: North Central, Western, Frontier, and Ozark to meet intrastate and interstate transportation needs of our citizens.

Although the bill as finally approved by the Senate Commerce Committee appears to acknowledge the concerns of South Dakota and other essentially sparsely populated rural States, it continues to fall short of what we feel we need to have in the protection of our existing service and laying the groundwork for improvements as traffic volume warrants.

In a recent editorial, the Watertown Public Opinion discusses the pending legislation.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Watertown (S. Dak.) Public Opinion, Jan. 18, 1978]

STILL TIME TO REGISTER DEREGULATION OPPOSITION

Airline deregulation as provided in the Cannon-Kennedy deregulatory bill No. 689 has traveled an important step forward via an 11–2 vote by which it cleared the Senate Commerce Committee. It is expected to come up in the Senate during the second session of the 95th Congress next year. Hearings are also being held on a similar bill in the House.

But the idea is no more palatable nor acceptable now than it was weeks or months ago when airline deregulation was being widely argued publicly. The dangers of smaller communities finding themselves with grossly inferior air service—or none at all—still exist.

One of the most articulate opponents of deregulation is Joel M. Abels, editor and publisher of Travel Trade Publications who earlier this autumn wrote and published the findings of an exhaustive study into the subject and deregulation's probable impact on the nation's air transportation pattern.

Here are some of Abel's findings supporting his conclusion that deregulation would be a disaster.

1. "Although the communications industry has eagerly latched onto Sen. Edward M. Kennedy's contention which a General Accounting Office report of February, 1977, supports to the effect that the airline industry has been overcharging the public at the rate of $1.4 to $1.8 billion annually, the facts of the matter fail to bear out this conclusion. The famed GAO study is nothing more than a report on a theoretical thesis developed by a generally unknown assistant professor of economics which attempts to relate the fare charges of profitability of two minor intrastate air carriers with the overall pricing and policy and operational procedures of the national air transportation network."

2. "The controls and procedures encompassed within the bill to regulate route entry and exit, to subsidize local commuter airlines which would be expected to pick up dropped routes, to supervise air safety controls over the expected influx of new carriers and equipment, to handle the volume of rate changes and revisions which could be expected to multiply geometrically, and to simply watchdog a vastly expanded number of airlines, would result in more regulatory supervision and procedures than even the wildest bureaucrat could visualize."

3. So far as saving money for the traveling public is concerned, it should be remembered that while airline rates may be reduced on a few selected routes, they are almost always accompanied by price rises along the rest of the system which, in effect, help subsidize the cost of the price cutting.

4. Under S–689, with its easy entry procedures for new airlines and for commuter air services operating small craft, airline newcomers could hardly be expected to be as safety-conscious as the established carriers. Operating on slim budgets and necessarily having to be extremely cost-conscious, and utilizing second-hand aircraft in many instances, it is certainly reasonable to believe that some might sacrifice extra safety precautions for the sake of cutting cost corners."

There is still time to register a protest against airline deregulation, favorable as the outlook for it now appears to be.

ALASKAN OIL TRIMS FOREIGN FUEL IMPORTS

Mr. STEVENS. Mr. President, one of the primary goals of national energy policy is to revise the trend of increasing dependence on imported crude oil and petroleum products. Large daily volumes of imported oil are harmful to this country for two main reasons.

First, we are vulnerable to a severe economic crisis in the event that our supply of imported oil is curtailed for any reason. This sets rather tight constraints on what the United States can do in our relations with other nations because if we offend our supply nations then they may cut us off, as in the OPEC embargo of 1973–74.

Second, the huge balance of payments deficit which results from the outflow of

cash to pay for our oil imports causes further weakening of the dollar in world money markets.

To reduce our dependence on foreign oil, we must practice energy conservation, develop alternate sources of energy, and increase domestic production of oil.

In 1973, the Congress took action to increase the supply of domestically produced oil by authorizing the construction of the Trans-Alaska Pipeline System. The pipeline was started up last summer and is now flowing at the rate of about 700,000 barrels per day. It will not reach its originally planned throughput of 1.2 million barrels per day until March, because of a fire at one of the pump stations. But even at this reduced throughput, Alaskan oil is making a substantial contribution to the U.S. oil supply and has turned around the decline in domestic production.

A UPI story, printed in the Pittsburgh Press of October 31, 1977, documents this point. It starts:

Foreign oil imports into the United States will drop to 41 percent of demand next year from 45 percent in 1977 because of crude oil from the Alaskan pipeline, an oil company executive said.

Mr. President, I think that it is important to take note of this fact. Our record on energy legislation has fallen under criticism lately. But I hope we will not forget that we have taken action which relieves our supply/demand problem in a very substantial and positive way.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALASKAN OIL TRIMS FOREIGN FUEL IMPORTS

NEW YORK.—Foreign oil imports into the United States will drop to 41 per cent of demand next year from 45 per cent in 1977 because of crude oil from the Alaskan pipeline, an oil company executive said.

C. R. Turvey, executive vice president of worldwide marketing for Continental Oil Co., said U.S. requirements for petroleum products are expected to be 18.5 million barrels this year and then rise 2.7 per cent to 19 million barrels in 1978.

"We expect that the United States will need to import 5.7 million barrels per day of crude oil and 2.1 million barrels per day of products—mostly residual fuel oil—to satisfy this total requirement," Turvey said in remarks prepared for The Conference Board's 1977 marketing conference.

The decline in both the absolute level of imports and their percentage of demand to 41 per cent next year from 45 per cent in 1977 is "due to the forecast production of slightly over 1 million barrels per day of North Slope crude oil in 1978 compared with about 200,000 barrels per day average in 1977," Turvey said.

The Conoco executive told the private research organization's meeting that gasoline consumption in the United States should rise 1.5 per cent from 7.2 million barrels daily this year to 7.3 million barrels in 1978. "This compares with a 3.5 per cent increase in 1977 over 1976," he added.

"Distillate demand is forecast to be up 7 per cent to 7.5 per cent in 1977 over 1976," he continued, "primarily due to the excessively cold winter and the need for heating oils to supplant natural gas in many areas of the country."

If there is a normal winter in 1978, distillate demand should rise another 3 per cent to roughly 3.5 million barrels a day, Turvey said.

Demand for residual fuels is expected to climb 11 per cent this year and then 4 per cent in 1978 to a level of about 3.2 million barrels a day.

U.S. requirements for other products such as jet fuels and petrochemical feedstocks should be up by 3 per cent next year to 5.1 million barrels daily, according to the Conoco executive.

AMERICA'S FARM CRISIS

Mr. TALMADGE. Mr. President, the farm crisis is real. It is not imagined and unless steps are taken to stabilize the American agricultural economy, the problem will quickly spread into other segments of our society.

In short, the farm problem affects all Americans, regardless of their business or walk in life, and not just farmers.

When Agriculture Secretary Bergland appeared before the Senate Committee on Agriculture, Nutrition, and Forestry on Tuesday to testify on the state of American agriculture, I proposed to him and the Carter administration an action program for strengthening farm income and for bringing supply more in line with demand.

My proposals, which I urged upon the Secretary in the strongest possible terms, are authorized by existing law. They can be put into force immediately by administrative action. I hope the Secretary will see fit to take this action. If not, as I stated at the committee hearings, I will not shrink from introducing and pushing legislation to mandate my program.

I bring my statement on my five-point action program to the attention of the Senate, Mr. President, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF U.S. SENATOR HERMAN E. TALMADGE

We welcome Secretary Bergland to the Committee this morning to discuss the state of American agriculture.

In his State of the Union message last Thursday, the President proclaimed that "militarily, politically, economically and in spirit, the state of our Union is sound."

With respect to the state of the American agricultural economy, I respectfully disagree.

The state of American agriculture today is far from sound. Farmers are in deep trouble. The entire agricultural economy of the nation is caught up in a crisis of major proportions that has frightening implications far beyond the farm.

Unless bold steps are taken, and taken quickly, this crisis will spill over to the entire economy and will have dire consequences on the lives and security of millions of Americans in the non-farm sector.

The losers in this deepening crisis, unless it is quickly alleviated, will be not just farmers but all Americans.

That is why I have asked you to come before the Committee today, to urge action that can be taken, and taken immediately, to restore strength and vitality to the American farmer and agriculture.

The plight of the American farmer should by now be obvious to everyone. We here in Washington have heard it in the voices of protest, frustration, desperation and even anger from the thousands of farmers who have converged on the Capital during the past several days.

What we have seen and heard here is but the tip of the iceberg. The gathering farm crisis is painfully evident in terms every American should be able to understand—

Many farmers are being crushed by overwhelming debt.

The prices farmers must pay to produce the food and fiber for the nation and much of the world has multiplied manyfold.

They have been devastated by natural disasters of drought and flood.

They have been subjected to a vicious cycle of boom or bust.

And they have even become the helpless victims of international politics and diplomacy, emanating from as close as our own State Department and as far away as the Kremlin.

These are some of the reasons why American agriculture is in trouble and why the very future existence of many independent farmers hang perilously in the balance.

Last year, this Committee devoted many months of intensive effort in developing the Food and Agriculture Act of 1977. That Act is designed to give the President and the Secretary of Agriculture the broad authority they need to protect the viability of American agriculture, to provide price and income protection for farmers, and to achieve a balance in agricultural supply and demand.

It is a well known fact that this law did not go as far as I and members of this Committee would have liked. But we were compelled to legislate under an implied threat of Presidential veto that placed budgetary considerations ahead of what I felt were the needs of farmers. The bill as passed by the Senate was also more favorable to farmers than the House bill and we had to reach a compromise with the House in order to get legislation.

The bill that finally emerged from Congress and was signed by the President was the very best that could be enacted under realities we had to face at that time.

Not only was this the best bill obtainable, it was the best piece of farm legislation, the most favorable to farmers, that has been enacted during my time in Congress.

I for one do not apologize for what we were able to obtain in the face of enormous political and economic obstacles.

At the same time, I will not rest on last year's farm legislation or sit idly by and watch the American farmers forced into bankruptcy and driven off their land.

The fact is, Mr. Secretary, the Food and Agriculture Act of 1977 gives both the President and you broad and flexible authority to attack the farm crisis.

The authority is there. It was put there by Congress to use in a critical situation such as we now face. The present crisis demands that you exercise that authority.

I wish to congratulate you, Mr. Secretary, on some of the actions you have taken under the new farm law to improve the farmers' lot. Certainly this is a welcome change from the attitudes that prevailed under the previous Administration.

However, I am disappointed by the inadequacy of certain steps you have taken, particularly regarding set asides for wheat, feed grains and cotton.

Farmers I have talked to tell me the 20 per cent set aside for wheat and the tentative 10 per cent set aside for feed grains will not bring about meaningful improvement in the supply and demand situation for those commodities. Furthermore, to have no cotton set aside, in view of today's disastrous market conditions for that commodity, is totally indefensible. As matters now stand, producers of those commodities face yet another impossible year of overhanging surpluses and depressed prices.

Mr. Secretary, the set aside and other provisions in the new farm law were put there for a purpose. They are designed to protect farm income.

If fully implemented, the new farm law can ensure immediate and meaningful relief for farmers. It contains provisions that can bring supply and demand into better balance, shore up commodity prices and pump desperately needed dollars into the farm economy.

In preparation for this meeting today, as the Committee's first order of business in the new Session, I directed the staff to investigate every possible means to ensure adequate farm income.

I have today five major actions that you, as Secretary, have within your authority under the law to initiate immediately, which taken together will have a dramatic beneficial impact on the farm crisis.

This is what I strongly recommend and urge you to do.

First: Land Diversion Payments—

The new law provides authority for land diversion payments for wheat, corn and other feed grains, and cotton. I urge the Secretary to institute immediately a land diversion program for this crop year that will include adequate payments to divert enough acreage to bring supply into balance with need and to increase commodity prices across the board.

Such a land diversion program would be in addition to the set asides already announced for wheat and tentatively announced for corn and other feed grains. A 10 or 20 per cent set aside is far too modest to have any real impact. It will do little or nothing to shore up prices for these commodities.

The program of land diversion payments that I recommend would be costly, but not prohibitive. Based on a 1968 USDA study, updated for cost increases since then, we estimate that payments in the aggregate amount of $3.5 billion would retire up to 50 million acres in 1978. This is a small price to pay today to assure a strong and productive agriculture in the future.

As part of my land diversion recommendation, adequate safeguards should be provided to protect interests of tenants and sharecroppers. Payments made for land diversion should be equitably distributed between the land owner and the renter or sharecropper where such arrangements exist.

Second: Increase Loan for Wheat to $2.75—

The 1977 law gives the Secretary clear authority to set the loan rate on wheat at any level up to 100 per cent of parity. I recommend that the Secretary increase immediately the price support on wheat by 50 cents per bushel so that the loan will be not less than that $2.75 per bushel for the 1978 crop.

Such action would give wheat farmers the opportunity to make more effective use of the loan program and would give them appropriate incentive to participate in the wheat reserve program. At the currently announced loan of $2.25 per bushel, the reserve program simply is not working.

A $2.75 loan for wheat would provide an infusion of up to $1 billion in hard cash to some of our most severely impacted agricultural areas.

Third: Increase Loan for Corn to $2.50—

Under the new law, the Secretary has virtual blanket authority to raise the loan on corn to whatever level he sees fit. I recommend that the Secretary immediately increase the corn loan by 50 cents to $2.50 per bushel for the 1978 crop. Adjustments should be made in the loan level of other feed grains to make them commensurate with the higher level for corn.

My recommendation for corn and other feed grains, if implemented by the Secretary, would result in up to $3 billion in additonal income for corn producers. It would have a particularly beneficial effect in the Southeast area where the corn crop last year was almost a total loss and where the plight of many farmers is most acute.

Fourth: Increase Loan for Soybeans to $5.00—

Again, the new farm legislation gives the Secretary a virtual free hand in setting the loan level for soybeans. I recommend that the 1978 loan level be increased by $1.50 to $5.00 per bushel.

Since the current cash price for soybeans is above $5.00, this recommendation would not result in significant expenditures by CCC. But it would provide soybean producers with a guaranteed floor for the 1978 crop at a level that should cover production costs.

Fifth: Set Loan for Above-Quota Peanuts at $420 Per Ton—

The peanut provisions for the new farm law give the Secretary broad discretion to set the support price for "additional" or non-quota peanuts at whatever level he deems appropriate. These are peanuts produced by an allotment holder above his poundage quota and intended primarily for the export and oil markets.

I recommend that the loan level, which is the effective price support, for additional peanuts be set at $420 per ton for the 1978 crop. This is the minimum level that the Secretary must set for quota peanuts.

This recommendation, if implemented, would result in up to $40 million additional income for peanut farmers in the nine producing states. This sum, while relatively small, would have a significant economic impact in the peanut producing areas, which were among the hardest hit by last year's drought.

Unfortunately, the new law as written ties the hands of the Secretary in the case of cotton, prices for which are severely depressed at the present time. However, the voluntary land diversion program that I have recommended will provide indirect relief for cotton farmers by helping to bring supply into better balance with demand.

The total cost of the five recommendations I have made would be in the range of $8 billion.

This is a large sum of money. But I do not flinch from it whatever, and I think my credentials as a fiscal conservative are well established.

We are talking about the survival of American agriculture.

We are talking about maintaining the family farms of this country.

We are talking about preserving a viable agriculture that produces an abundance of food and fiber for the American people, and for millions overseas, at the most reasonable prices to be found in the world.

We are talking about the nation's largest and most important industry whose economic well-being provides the very financial foundation of the American economy.

I realize that the President has proposed in his budget increasing the borrowing capacity of the Commodity Credit Corporation to $20 billion. This will not be sufficient to accommodate the recommendations I have made. If the Secretary will implement my proposals, it will be necessary to increase CCC's borrowing capacity still further, and I will take the lead in seeing that this is done.

Mr. Secretary, these recommendations are based on provisions of the law as it now stands. They require no legislative action by Congress. They can be put into effect immediately.

The authority already exists for the President and the Secretary of Agriculture to take these actions. I cannot stress too strongly the importance of doing so or my commitment to American agriculture.

Therefore, I am formally calling upon you to implement the initiatives I have outlined. It is important that this action be taken administratively, and as soon as possible. The legislative route can be long and tedious.

However, in the absence of Administrative action, I will not shrink from introducing and pushing legislation to mandate my five-point program.

There is another and related matter that I would like to briefly discuss.

I am concerned about rumors and reports that foreign investors are buying up prime American farm land at prices totally beyond the reach of our own farmers. Some reports I have heard indicate that this foreign investment is going on at a disturbing pace in my own State of Georgia. If it is true in my State, I am sure it is also happening in other sections of the nation.

This is a matter that I believe should be of concern to the federal government and to Congress. It has many far-ranging ramifications. Certainly there is a question of national interest.

As far as I can determine, there has been no accurate and documented assessment of this situation. I, therefore, am calling upon the resources of the Comptroller General to assist this Committee in a thorough investigation of the extent to the reported foreign investment in farm land. We want to know the extent to which it may be happening, who the foreign investors are, prices that are being paid in comparison to non-foreign land sales, and domestic and international implications of these purchases.

This Committee will maintain a close scrutiny of this situation and will monitor the investigation by the GAO.

The investigation may well show that the reports of foreign land buying are well founded and that federal action is needed to control the situation.

SIXTIETH ANNIVERSARY OF UKRAINIAN INDEPENDENCE AND FIGHT FOR HUMAN RIGHTS

Mr. DOLE. Mr. President, on October 22, 1918, Ukrainians celebrated the declaration of their independence in Kiev, the Capitol of Ukraine. Now, 60 years later, Ukrainian-Americans throughout America and the Free World are commemorating that same occasion this week by religious services and community meetings.

SOVIETS DESTROY UKRAINIAN INDEPENDENCE

In Ukraine today, however, 50 million Ukrainians cannot do so openly. They are subject to Soviet rule despite the fact that the Government of Soviet Russia recognized the Ukrainian National Republic at its founding. The Soviets broke their promise to respect and honor Ukrainian independence by brutal military might and have been trying to break the spirit of the Ukrainian people ever since.

UKRAINIAN CULTURE AND RELIGION UNDER ATTACK

In the 1930's millions of Ukrainians lost their lives under the Stalin regime. Now the methods are geared to Russifying the Ukrainian ethos. Ukrainian history, culture, and traditions are surpressed. The Ukrainian language is persecuted as never before, multilated by littering it with Russicisms, changing the rules of orthography and presenting all lecture materials in institutes of learning in Russian rather than Ukrainian.

Similarly, the religious beliefs of the Ukrainian people are under constant at-

tack. Students and schoolchildren are assigned obligatory Sunday sessions to prevent church attendance. Easter, Christmas, and other holy days are declared workdays. Teachers warn their students not to go caroling or participate in traditional religious folk customs.

Churches are forced into disrepair and many times desecrated with government encouragement. Old priests are not replaced by new ones and even church bells cannot be rung in most cities.

DISSIDENTS IN FOREFRONT OF FIGHT FOR SELF-DETERMINATION

Yet despite these attempts to destroy the Ukrainian national identity in all areas, the Ukrainian people are tough and resilient. Their movement for national and human rights has been characterized by amazing strength, willingness to suffer prison, labor camps, and abuses in psychiatric prisons for the sake of principle and ideal. Among the well-known dissidents and political prisoners are Moroz, Rudenko, Tykhy, Romaniuk, Matusevych, and Marynovich. But these are just the few who are in the forefront of the fight for Ukraine's self-determination and human rights. The hopes and aspirations of the people of Ukraine are best expressed in the book, "Invincible Spirit." It contains the art and poetry of Ukrainian women political prisoners in the U.S.S.R. which have been smuggled out of the Mordovia camp where many of them were incarcerated. For these women, at least there is the comfort that their names and fate are known to the outside world. There are many thousands of other men and women, nameless political prisoners, whose "crimes" are unpublicized and whose fate will be unknown to us in the West.

AMERICAN SUPPORT FOR UKRAINIAN ASPIRATIONS

For our part, it is these people that we in the United States must support. We must do all in our power to remind the Soviets of their violations of the Helsinki Final Act.

We must support the goals and struggles for Ukrainian freedom and self-determination since our own freedom here in America can only be strengthened by sustaining those same principles abroad. Many people in the world depend upon us for this moral support. We must not let them down. If we do, we will be destroying and denying a vital part of our own heritage and moral strength.

APPEAL FROM SOVIET PARLIAMENTARY GROUP

Mr. SPARKMAN. Mr. President, on Monday I received from Soviet Ambassador Anatoly F. Dobrynin a letter conveying an appeal of the parliamentary group of the U.S.S.R. to the parliamentary groups of the West European countries, the United States, and Canada. As a matter of courtesy, and for the information of my colleagues, I ask unanimous consent that Ambassador Dobrynin's letter and the appeal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMBASSY OF THE UNION OF SOVIET SOCIALISTS REPUBLICS,
Washington, D.C., January 20, 1978.

Hon. JOHN SPARKMAN,
U.S. Senate
Washington, D.C.

DEAR SENATOR: I am sending to you a letter from the Chairman of the Parliamentary Group of the USSR A. Schitikov conveying to the Members of the U.S. Senate and the House of Representatives an Appeal concerning plans with regard to neutron weapons.

I trust you will convey this Appeal to Senators and Congressmen.

With best regards, and best personal wishes,

Sincerely,

ANATOLY F. DOBRYNIN,
Ambassador.

PARLIAMENTARY GROUP OF THE U.S.S.R.,
January 18, 1978.

Hon. JOHN SPARKMAN,
U.S. Senate, Chairman, Parliamentary Group of the U.S.A., Washington, D.C.

DEAR SENATOR SPARKMAN: I would like to inform you that a conference of the Parliamentary group of the USSR was held on the 16th of December, 1977 which adopted an Appeal with regard to the intention of the USA to arm its troops with neutron weapons and to deploy such weapons in the European NATO countries.

Conveying to you the text of the above mentioned Appeal, we ask you to bring it to the attention of the members of the United States Congress.

Sincerely,

A. SCHITIKOV,
Chairman, Parliamentary Group of the U.S.S.R.

APPEAL OF THE PARLIAMENTARY GROUP OF THE USSR TO THE PARLIAMENTARY GROUPS OF THE WEST EUROPEAN COUNTRIES, THE USA AND CANADA

MOSCOW, THE KREMLIN,
December 16, 1977.

The development of the international situation in recent years has been marked by important positive changes. Most clearly those changes can be seen on the European continent. Slightly over two years have passed since the Helsinki Conference on Security and Cooperation in Europe, and today we may note the deepening and widening of constructive contacts between the European states in all spheres and at all levels, parliamentary included.

Nevertheless, contrary to those positive changes in the world, particularly in Europe, certain circles in the West are attempting again to stop the process of the relaxation of international tensions, to provoke the wave of "antidetente". Plans on part of the USA to begin the production and deployment on the territories of a number of European countries of the neutron weapons create new and very dangerous situation in Europe and the whole world. Instead of accompanying the relaxation of political tensions by measures to reduce military tensions, instead of barring especially dangerous directions of the arms race, such as the development and production of new types of weapons of mass annihilation, actions by the US Administration can become the beginning of a new round of the arms race. Production of the neutron bomb and its deployment on the territories of the European countries will lead to destabilization of the strategic situation with all consequent results.

Referring to the Resolution of the 64th Conference of the Interparliamentary Union "Role of the Parliaments in Further Relaxation of International Tensions and Achievement of Progress in the Sphere of Disarmament, Including Nuclear Weapons and New Types of Weapons of Mass Annihilation", the Parliamentary Group of the USSR urgently appeals to the parliamentary groups and all parliamentarians of the West European countries, the USA and Canada to use their high authority and influence in order to prevent the production of a new type of weapons of mass annihilation which is the neutron bomb, and its deployment on the European continent.

To make the process of relaxation of tension irreversible, to make impossible the return to the times of the "cold war", to prevent the possibility of a nuclear conflict, parliamentarians, in full conformity with the provisions of the above mentioned Resolution, must say today their weighty word.

THE CAREER OF "CHAPPIE" JAMES

Mr. STEVENS. Mr. President, Gen. Daniel "Chappie" James, Jr., USAF, former Commander in Chief of NORAD, will retire from the U.S. Air Force February 1, 1978. In a fitting tribute to General James, Monday's Washington Post editorial depicts his notable military career. He served our Nation well and his leadership will be sorely missed.

This is a welcome opportunity to share this article with my colleagues and to express my best wishes to General James in his future endeavors. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CAREER OF "CHAPPIE" JAMES

In 1943 when Daniel "Chappie" James, fresh from college and eager to join the war effort, enrolled in the U.S. Army Air Corps, he was assigned to an all-black unit. That wasn't an unusual procedure then for either the Air Corps or the other armed services. In fact, it was the norm. The bitter irony of the American military fighting for democracy at home and abroad while itself being rigidly segregated wasn't officially recognized and remedied until after the war. Next month Chappie James retires from the Air Force, ending a 35-year military career. He retires as a four-star general whose last assignment was as commander of the North American Air Defense Command (NORAD). As such, he was the only American military official with emergency authority to deploy nuclear weapons without presidential approval.

There are only 36 officers of four-star rank in the entire U.S. military, so Chappie James is the outstanding exception rather than the rule among both blacks and whites. But reviewing his career does bring into focus the changed climate blacks have found in the military during the last generation. To state it simply, blacks have become an acknowledged integral part of this country's fighting force. The level of achievement they can aspire to is no longer circumscribed by their race. They can be, not black soldiers, but soldiers, period. A large measure of the credit for this progress must go to those black soldiers and airmen whose demonstrations against segregation in the armed forces during World War II forced the military to march down the right road on this matter.

Gen. James himself would be the last one to play racial politics in the military. His was a struggle to get in and gain an equal chance to prove his fitness. That he did, as an ace fighter pilot in Korea and Vietnam and in a variety of administrative posts. Some have found his old-fashioned patriotism and unshakeable faith in the American Dream

grating, particularly during the latter part of the Vietnam War when he was the chief spokesman for the Pentagon. But, as Gen. James described himself, he is "above everything else . . . an American . . . a general and a warrior." In all three capacities, he has served his country well.

NEW HAMPSHIRE BUSINESS OPPORTUNITIES

Mr. DURKIN. Mr. President, It is always a pleasure to see that others are discovering the joys of doing business in the Granite State. For that reason, I particularly enjoyed reading an article in the January 3 Wall Street Journal entitled "Does Out of the City Mean Out of Touch? Some Firms Say No."

James H. Kennedy, a newsletter publisher, has found that he is better off working in Fitzwilliam, N.H., than he was when he worked in New York City.

Mr. Kennedy is quoted as saying:

There's nothing like talking to Dallas on the telephone while you watch the snow pile up outside your window.

People say, "Boy, you've really got it made," and of course I have to agree.

I also agree, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOES OUT OF THE CITY MEAN OUT OF TOUCH? SOME FIRMS SAY NO

(By Roger Rickles)

FITZWILLIAM, N.H.—A few years ago, James H. Kennedy commuted over three hours a day between Westport, Conn., and a New York City skyscraper. His job was publishing a newsletter for management consultants.

Today, Mr. Kennedy lives in a 200-year-old red clapboard farmhouse near this colonial village and works in a home office overlooking the countryside. He still publishes the newsletter.

"There's nothing like talking to Dallas on the telephone while you watch the snow piling up outside your window," the 53-year-old Mr. Kennedy says. "People say, 'Boy, you've really got it made,' and of course, I agree."

In recent years, many city businesses have moved to suburbia. Hundreds of others have gone beyond the suburbs to rural locations. As the general dispersal of jobs from big cities has gained momentum, rural counties that lost three million inhabitants in the 1960s gained 1.8 million from 1970 to 1975, government demographers say.

But most of these relocations have involved comparatively self-contained operations, such as factories, training facilities and magazine-subscription agencies. Businessmen generally assumed that operations requiring constant personal contact outside the organization would be hard pressed to survive in a remote setting.

James Kennedy and others like him are bringing this assumption into question. Improvements in telephone service and the greater availability of air travel have taken down some barriers. Today, even some kinds of supposedly city-bound businesses and professional practices often can thrive in out-of-the-way places. Indeed, Mr. Kennedy, who often spends his lunch hour tramping through the woods with his dog, says his income of more than $50,000 last year exceeded anything he ever earned in New York.

Nobody knows how many city-bound businesses have moved to remote locations. Clearly, the number isn't large. But those that have moved are convinced that their ranks are growing. Moreover, because of rural attractions, "in the next five or 10 years, we will see a vast acceleration of these moves (from city to country offices)," one communications consultant predicts. Such relocations "are much more feasible than most people think," he adds.

Of course, moving a business from the city to the country has drawbacks, too. Some who have done it concede that the telephone can never be as effective as daily face-to-face contact with clients. Others complain of problems traveling to airports, especially in snowstorms.

And New Hampshire's country life isn't all picturesque charm. The spring's dreaded "Mud Season," caused by melting snow, is followed by "Black Fly Season," an even worse period of some weeks when swarms of flies attack anything that moves. Though the state has low taxes, residents often complain of poor services, such as the lack of kindergartens in many schools.

SOME SIMILAR CASES

Nevertheless, James Kennedy feels that the benefits of rural life outweigh the disadvantages. Others across the country agree. In Sedona, Ariz., for example, Robert J. Eggert operates an economic forecasting concern with clients throughout the nation. In Tigard, Oreg., near Portland, R. G. Lund runs a corporate planning and marketing consulting business from his farm; he holds management seminars in the barn.

Here in New England, many of the relocators have moved from New York, and the contrast between the former and present surroundings is striking. Fitzwilliam, a village of 1,400, is centered upon a village green and a white Congregational church with a tall steeple. Twenty years ago, the village had no dial telephones, and airline service was skimpy. Any business requiring continual contact with the outside world would have faced a struggle.

Today, Mr. Kennedy finds that he can easily keep in touch with old contacts through telephone service that approaches city standards. Moreover, a small town nearby has a computer service that handles his subscription list. Using the Keene, N.H., airport, a 30-minute drive from his house, Mr. Kennedy reaches midtown New York in little over two hours—not much longer than his old daily commute.

To keep posted and visible, Mr. Kennedy attends all the major conventions in his industry and makes five or six speeches a year.

THE EFFECTS OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I would like to take this opportunity to discuss some misconceptions held by opponents of the Genocide Convention regarding the effects of our ratification of this treaty.

One commonly voiced objection to the treaty is that our ratification might encourage foreign governments to try Americans on groundless charges under the guise of genocide. This objection is clearly misguided.

Under existing international law, Americans traveling in foreign countries are subject to the laws of the countries which they are visiting. We cannot assure any American traveling abroad the safeguards of due process if they are charged with a crime. Whether the law under which they are charged is fair or capricious or the sentence just or outrageous, American citizens cannot expect their Government to rescue them. Our diplomats can appeal to the host country for leniency, but we have no legal recourse in these cases. Thus, charges that ratification will make Americans traveling aboard vulnerable to unjust prosecution are irrelevant. They are already vulnerable.

In fact, our participation in the convention would have the opposite effect—it would protect Americans unjustly accused of genocide. A precise definition of what is and what is not genocide, would be established under international law. By being a party to the Genocide Convention, we could more adequately exert influence to insure fair trials. World opinion would be more favorable once we formally expressed our opposition to genocide.

The time has come to take a serious look at these and other arguments against the Genocide Treaty. I believe the conclusion that will inevitably be drawn from such an examination is inescapable: The treaty must be ratified. I, therefore, urge your immediate support in doing so.

ABUSING THE CIVIL SERVICE

Mr. GARN. Mr. President, I would like to draw attention to an article by columnist Jack Anderson, which appeared recently in the Washington Post.

The politicization of the Federal bureaucracy and political coercion of Federal employees are two of the major abuses the Hatch Act was created to prevent.

Mr. Anderson in his article points out the potential of a President and or his aides, to pervert even an agency created to promote the integrity of the Federal system and its workers.

Mr. President, I ask unanimous consent that the article by Mr. Anderson be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATTEMPTS TO "NIXONIZE" THE CIVIL SERVICE

(By Jack Anderson)

Perhaps the most audacious of Richard Nixon's schemes was his attempt to nixonize the federal bureaucracy and bring it under his tight, personal control. Without the consent of Congress, he intended to increase the power of the presidency in a revolutionary way.

If he had been able to pull it off, it would have amounted to almost a coup against our existing form of government. He succeeded to a degree in subverting the Civil Service Commission, which is supposed to protect the professional bureaucracy from political encroachment.

The story has never been fully told and the conspirators have never been held accountable. Here are the details:

Richard Nixon had an intense distrust of the millions who compose the permanent government. He often complained that the federal bureaucracy was dominated by "liberals" and "academics." He would confide to intimates that a "Jewish cabal" had taken over this office or that agency. He issued orders that no more "Ivy Leaguers" should be appointed to high positions.

Nixon's denigration of the Civil Service System led the White House to begin a quiet political purge. Those who were considered unreliable were shunted into obscure jobs and replaced by people with Nixon creden-

tials. The White House also set up a political clearance system, which checked the political philosophies and connections of hundreds of new applicants for government jobs.

This subversion of the regular institution of government, of course, was conducted in the utmost secrecy. Even in the backrooms of the White House, Nixon aides were careful not to refer to it in political terms. Fred Malek, the aide in charge of the purge, admonished them: "I propose we stop calling it 'politicizing the executive branch' and instead call it something like strengthening the government's responsiveness." The euphemism stuck, and the operation became known as the Responsiveness Program.

By executive decree, Nixon also sought to create a super-cabinet of loyal aides who would have total power over the bureaucracy. They would force his policies upon the government through White House agents who would be installed in every department. Nixon, meanwhile, intended to insulate himself from unnecessary turmoil, devote his energies to formulating policies and deal regularly only with those select few who were on his wavelength.

But he found out that a seething enterprise like the federal government could not be compartmentalized, cordoned off and led from a glass bubble. He left behind, nevertheless, Civil Service officials who not only supported his power play but who allegedly destroyed documents to prevent Congress from learning of the abuses.

The transition team, which helped turn over the reins of government to Jimmy Carter, was sharply critical of several career people at the Civil Service Commission. Although the transition papers have been kept secret, inside sources say the final report pointed an accusatory finger, for example, at John Cole.

He heads the powerful Bureau of Personnel Management Evaluation, which has the authority to examine the personnel practices of any government agency. Yet despite the critical evaluation of his own performance, Cole is still evaluating others. Furthermore, the commission has no plans to transfer him.

This has upset Rep. John Moss (D-Calif.), who has been keeping a watch on the commission for years. He has written a stinging, secret letter to President Carter calling for the removal not only of Cole but of the executive director, Ray Jacobson.

Declares the letter: "Suspending the authority of [Jacobson and Cole] is essential. Until questions of document destruction and concealment of the commission's role in violating the merit system are answered, these individuals should not be allowed to exercise authority."

Some of the past abuses may yet wind up in court. Congressional critics complain that the Justice Department has been less than vigorous about investigating these excesses of the Nixon era. But Civil Service Chairman Alan Campbell says he was assured by high Justice officials only last week that the investigation is still active.

Meanwhile, the agency that is supposed to enforce antidiscrimination standards throughout the government has been accused of discrimination itself. Its equal-employment director, Clinton Smith, complained in a memo, meant for official eyes only, that top commission officials are impeding efforts "to effectively enforce internally the very laws and regulations the Civil Service Commission is responsible for enforcing in the government-wide merit system and [equal opportunity] programs."

Footnote: Spokesmen for the Civil Service Commission claim that steps are now being taken to investigate all the allegations. The general counsel has been ordered to review the equal-opportunity program and an outside authority will investigate allegations that the commission violated the merit system.

PANAMA CANAL TREATIES GAIN SUPPORT IN CALIFORNIA

Mr. CRANSTON. Mr. President, Tuesday's Los Angeles Times published a poll—conducted by the California poll—which indicates a notable shift in Californians' opinion on the Panama Canal treaties.

Last October, the California poll's survey to determine people's views on the Panama Canal treaties showed that 49 percent of the people interviewed were opposed to the treaties while 35 percent were in favor. However, when people were questioned earlier this month on whether they favored ratification, 46 percent were opposed compared to 41 percent in favor. I think that this 6-percent increase in support for the treaties is very significant. As the Gallup poll taken last fall indicated, the more people know about the treaties, the more likely they were inclined to favor them. The recent California poll reaffirms this statement. As the American people gain a fuller understanding of these treaties, more and more come to believe that the agreements are in our Nation's best interest and support for them continues to grow.

Mr. President, I ask unanimous consent that the report on the poll be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CANAL TREATIES GAIN SUPPORT IN STATE POLL

(By Mervin D. Field)

Public opposition in California to the proposed Panama Canal treaties is eroding.

Last October The California Poll found that public disapproval of the treaties outweighed approval by a margin of 49 percent to 35 precent. This month, the gap has narrowed to just five percentage points, 46 percent against to 41 percent approval.

Republicans as a group are much stronger in their opposition than are Democrats.

Telephone interviews of 1,003 Californians were conducted during the period Jan. 7–18. The sample included 399 persons who said they were registered Democrats, 261 who said they were Republicans and 343 who gave other political affiliations.

This is the question asked: "As you may have heard, the Panama Canal treaties call for the gradual transfer of control over the canal to the country of Panama by the year 2000 with the United States retaining military defense rights. From what you have seen or heard, do you personally approve or disapprove of these treaties?"

The results and the trend are:

[In percent]

	Statewide	Southern California	Northern California	Democrats	Republicans
Latest measure (January 1978):					
Approval	41	39	44	46	29
Disapproval	46	51	40	42	57
No opinion	13	10	16	12	14
Previous measure (October 1977):					
Approval	35	30	41	41	27
Disapproval	49	54	42	42	61
No opinion	16	16	17	17	12

WATERWAY USER CHARGES: SUBSIDIZE, SUBSIDIZE, SUBSIDIZE! WHO GETS THE SUBSIDY?

Mr. DOMENICI. Mr. President, as legislators, we face a cacophony of pleas: "Subsidize, subsidize subsidize." Let's subsidize this, or that. But what we often find is that the first subsidy distorts something, often competition between businesses or types of businesses. So let us subsidize something else. And so on and so forth.

This Nation may be on the verge of a major new round of subsidies, subsidies that could cost billions. And they are subsidies for which there is no basic justification other than the extreme distortions caused by present subsidies to a direct competitor.

The situation to which I am referring is the major support provided to the barge industry through the fully paid Federal construction, operation, and maintenance of the inland waterway network. This subsidy exceeds 40 percent of the industry's revenues, according to the Congressional Budget Office. And this subsidy, the Library of Congress says, exceeds in dollars what has been given to all other modes combined. And that did not include the Coast Guard spending or the Maritime Administration equipment guarantees provided for the benefit of the barge companies.

This has, naturally, accelerated the spiral of decline in the rail industry. So we now hear two things: Some of the same colleagues who are vigorously opposing waterway user charges are also busy signing letters to the Secretary of Transportation, demanding billions in new rail subsidies. And we hear that the railroads that compete with the barge lines already are reaping a bonanza of subsidies. That is false.

I asked the Department of Transportation to examine the level of freight subsidies outside the loans and stock investments to ConRail and the bankrupt Northeastern railroads. This study found that the entire, total, full, complete list of freight subsidies to the rail industry over the past decade came to $138 million. And what kind of "subsidy" was this? Was it a nonrepayable half billion dollar construction grant, such as the taxpayers provide annually to the barge industry? No, all this so-called rail "subsidy" was in loans of one sort or another.

There is still time to return some balance to freight transportation, to prevent the emptying of both of the taxpayer's pockets. That can be achieved by adopting a reasonably, phased-in user charge system, such as the one in my amendment No. 1460 to H.R. 8309.

Mr. President, to place this issue in perspective with the close to half a billion the Corps spends on waterway improvements for the barge line, I ask unanimous consent that DOT calculations be printed in the RECORD.

There being no objection, the calculations were ordered to be printed in the RECORD, as follows:

DOT STUDY

Senator Domenici asked for the amount of subsidy money spent on the railroad industry outside the Northeast-Conrail region in the past ten years. We have interpreted "Northeast-Conrail" to mean money spent on Conrail and its bankrupt predecessors; any assistance to other railroads in the Northeast and the other Conrail-served regions is therefore included in our calculations. In some cases, however, it was not possible to exclude all expenditures for the bankrupts or for Conrail.

Table I shows repayable assistance to the rail industry over the past ten years. These expenditures have taken the form of loan guarantees, direct loans and redeemable preference share funding. Note that the loans guaranteed under the 1958 Transportation Act were obligated prior to 1967, but that many of the defaults occurred after that date.

Table II details outright grants to carriers; all of this money has gone for commuter rail subsidies, either for equipment purchases, rehabilitation work or operating subsidies. This assistance, funded by the Urban Mass Transit Administration, is funneled through cities, states, or regional transit authorities. Some portion of these funds has gone for services run by Conrail or its predecessors.

Indirect assistance has also been given to the industry through the research and development programs of the Federal Railroad Administration. Some $347.7 million has been obligated since 1967 for such diverse research projects as safer tank car design, fuel conservation, and examination of grain transportation networks in the Midwest.

There are other types of Federal assistance to the rail industry to which a precise dollar estimate of railroad benefits cannot be assigned. Specific railroads may benefit from Corps of Engineers or Bureau of Reclamation flood control projects, and other carriers may experience increased traffic as a result of federal efforts to develop ports. However, the carriers are not the sole, or even the primary, beneficiaries of such projects, and designating an arbitrary share of project cost as the railroads' "share" would be meaningless. The area of grade crossing improvements is another case where precise dollar figures are unavailable. Crossing warning devices are paid for by states (using federal funds) but maintained by the railroads. Grade separation projects may provide railroads some operating improvements, but the carriers are required to pay 5% of the cost of some types of projects if Highway Trust Fund monies are used; if the states use their own funds, they may set the railroad's share at whatever level they choose. Railroads are responsible for maintaining the separation if it takes the form of a bridge over a highway.

Grants to Amtrak are sometimes considered to be federal aid to the railroad industry. However, the railroads were being allowed to abandon their losing and little-used passenger services, albeit slowly, some years before Amtrak was established, and, when the national system went into effect, the carriers had to "buy in" to be allowed to divest of the rest of their service. Amtrak's operation bears little resemblance to the privately run system because it is trying to modernize and restructure passenger service to attract new riders, while the railroads, for the most part, were attempting to minimize their losses by making no new investments. Certainly, a burden was lifted from the railroad industry by the creation of Amtrak, but to consider all of the public funding for the system as a subsidy to railroads as freight carriers is inappropriate.

The Railroad Revitalization and Regulatory Reform Act is often cited as contained over $6 billion in Federal assistance to the railroad industry. However, the only portion of those funds set aside as aid for the industry in general was $1.6 billion in loan guarantees and redeemable preference share financing under title V. (see Table I). The rest of the money was distributed as follows: $2.1 billion was authorized for Conrail, $409 million for USRA, its monitoring agency, $1.9 billion for improving Amtrak service on the Northeast Corridor, and $485 million for use by states in subsidizing lines which had been abandoned or not included in Conrail and for subsidizing some commuter rail operations. Miscellaneous programs, funded at $32 million, made up the rest of the assistance package; such projects included revising the ICC Uniform System of Accounts, establishing the Rail Services Planning Office and the Office of Rail Public Counsel, and setting up a program to convert abandoned rights-of-way. Not all the money authorized in the bill has been appropriated, and, of the $1.6 billion in authorized repayable assistance, only $73.9 million has been obligated to date.

FEDERAL ASSISTANCE TO RAILROAD, 1967–1977 [1]

I. REPAYABLE ASSISTANCE

[In millions]

Program: Type of assistance	Obligations	Defaults at maturation
1958 Transportation Act Sec. 503 loan guarantees	[2]	$93.7 [3]
1970 Emergency Rail Service Act loan guarantees	$17.5	[4]
1973 Regional Rail Reorganization Act Direct loans	47.0	[4]
1976 Railroad Revitalization and Regulatory Reform Act		
Sec. 505 redeemable preference shares	61.9 [5]	[4]
Sec. 511 loan guarantees	12.0 [6]	[4]

[1] Excludes all assistance to Conrail or bankrupt predecessors.

[2] $243.9 million in loans guaranteed, all prior to 1967.

[3] 1967–1977. $13.3 million in defaults prior to 1967. May include defaults by bankrupt precedessors.

[4] Not yet matured.

[5] $600 million authorized in the Act, to be spent by 9/78; $120 million appropriated FY/77, $200 million appropriated FY/78.

[6] $1 billion authorized in the Act, $600 million appropriated.

SOURCES: Federal Railroad Administration, Interstate Commerce Commission

FEDERAL ASSISTANCE TO RAILROADS, 1967–1977

II. NON-REPAYABLE ASSISTANCE

[In millions]

Program: Type of assistance	Obligations
Commuter Rail Assistance under 1964 Urban Mass Transit Act, as amended	
Capital Expenditure Grants [1]	$1,200.0
Operating expenditure grants [2]	3.0 (est.)

[1] May include assistance to Conrail or predecessors.

[2] Grants are made to regional transit authorities or states, not directly to railroads. Operating subsidies program in effect since 1975.

SOURCE: Urban Mass Transit Administration

EXPORT-IMPORT BANK FINANCING NOTIFICATION

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act notifying the Congress of a proposed additional Eximbank loan to assist the construction of a nuclear powerplant in Brazil. Section 2(b)(3)(iii) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees for nuclear-related exports at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case, the Bank proposes to extend an additional loan in the amount of $23,400,000 to Brazil to assist in the purchase of U.S. goods and services to be used in the modification and completion of that country's first nuclear powerplant. Eximbank has previously made loans and guarantees totaling $163,920,000 in conjunction with this project. The new credit proposed by Eximbank will cover 60 percent of the total cost of additional U.S. goods and services for the project. The loan will bear interest at the rate of 8¾ percent per annum and will be repayable over a 12-year period commencing June 30, 1979.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 19, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

In late 1971, Eximbank authorized financial assistance of $138 million in the form of a credit of $69 million and a guarantee of commercial loans in an equal amount to Furnas Centrais Eletricas S.A. (FURNAS) to facilitate financing the U.S. costs for the Angra dos Reis Nuclear Power Plant, Brazil's first nuclear power plant, located on the coast between Rio de Janeiro and Sao Paulo. In May 1975, Eximbank increased the amount of its direct loan by $17.28 million and provided an additional guarantee of private bank loans of $8.64 million, for total Eximbank support of $163.92 million for this project. FURNAS has requested and Eximbank is prepared to provide an additional direct credit of $23.4 million.

FURNAS requires the additional financing for two primary reasons. First, in furtherance of the Government of Brazil's policy generally to conform to nuclear power plant guidelines recommended by the U.S. Nuclear Regulatory Commission (NRC), FURNAS has agreed to have its principal supplier, Westinghouse, revise its equipment supply and engineering services contract to allow for implementation of the latest NRC-recommended technical design criteria and safety standards. This policy is requiring ongoing reexamination and modification of the original designs of major plant components, together with the acquisition of additional plant-related equipment at a U.S. cost of approximately $16.0 million. These additional cost factors are common in current nuclear power plant projects as design technology of these plants

continues to evolve. The equipment needed pursuant to plant modification inlcudes components for upgraded piping systems, additional reactor components, a reactivity computer, additional controls, radiation protection equipment, laboratory equipment, security equipment and upgraded components included in many of the plant systems.

Second, FURNAS has requested Westinghouse to assume additional responsibilities in managing the project and coordinating the construction of the plant. FURNAS itself had performed this role but has now assigned it to Westinghouse, its major equipment and service contractor. These additional services will be performed by Westinghouse at a cost of approximately $14.2 million.

In addition, FURNAS needs $5.0 million for the purchase of additional spare parts, $1.1 million for additional construction inspection services and $2.7 million to cover price escalation of equipment.

Eximbank considers the reasons for and the amount of the increased U.S. costs to be reasonable and necessary to complete this plant which is now scheduled for 1979.

2. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction. According to State, on the basis of its review of the proposed loan, it was decided that "U.S. non-proliferation objectives would best be served by our continued cooperation with Brazil on the Angra I project" and therefore the Executive Branch "recommended to the Nuclear Regulatory Commission that the export license for the initial fuel core of Angra I be issued." State noted further that "these decisions are consistent with and reinforce our stated policy of seeking more stringent safeguards for nuclear energy without impairing the significant contribution nuclear projects such as Angra I will make toward meeting the urgent and legitimate energy needs of Brazil as well as other countries."

3. Identity of the parties

FURNAS is the largest subsidiary of Eletrobras, which is the Federal Government of Brazil's electric power holding company. Since 1973 FURNAS has held the status of a regional power company responsible for the supply of power to Brazil's southeastern region and for the construction of all power developments and high voltage transmission systems of regional interest. FURNAS sells its power under long-term contracts to private and government-owned utilities.

The Federative Republic of Brazil will issue to Eximbank an unconditional guarantee for repayment of the Eximbank direct credit.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $23.4 million will facilitate the export of $39 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Westinghouse has advised Eximbank that this sale will result in 2,984,000 manhours, which is equivalent to 1,435 man-years directly created. The majority of equipment and services will be supplied from Philadelphia, Pittsburgh and New York where the unemployment rates in September, 1977 were 6.9 percent, 6.1 percent and 8.5 percent, respectively. None of the goods to be exported are in short supply in the United States.

2. The financing plan

The total cost of United States goods and services to be purchased by FURNAS is $39 million which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$5,850,000	15
Eximbank Credt	23,400,000	60
Private Loans not guaranteed by Eximbank	9,750,000	25
Total	39,000,000	100

(a) Eximbank Charges:

The Eximbank Credit will bear interest at 8¾ percent per annum, payable semianually. A commitment fee of 0.5 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) The Eximbank credit and private loans, which total $33,150,000, will be repaid by the borrower in 24 semiannual installments beginning on June 30, 1979. Under this schedule, the first 7 installments and a portion of the 8th installment will be applied to repayment of the private loans and a portion of the 8th and all of the last 16 installments will be applied to repayment of the Eximbank direct credit.

Sincerely,

JOHN L. MOORE,
President and Chairman.

STUDY OF THE EFFECTS OF ERISA ON PRIVATE PENSION PLANS IN INDIANA

Mr. LUGAR. Mr. President, in 1974, Congress enacted the Employment Retirement Income Security Act (ERISA) in an effort to provide greater assurance to employees nationwide that their pension and profit-sharing plans would provide reliable sources of retirement income. After only 3 years, the evidence indicates that the financial and administrative burdens of complying with ERISA have led many employers to terminate their plans.

Internal Revenue Service Commissioner Jerome Kurtz recently testified before a congressional subcommittee that as many as 30 percent of the Nation's 500,000 private pension plans may have gone out of business since ERISA was enacted. This news disturbed me greatly.

Last autumn I mailed a questionnaire to approximately 15,000 Indiana businesses so that I might learn in detail what has occurred with pension plans in Indiana since enactment of ERISA. The more than 2,000 responses that I have received have been informative both for their statistical content and wealth of accompanying comments.

Mr. President, the increase in pension plan terminations and the decrease in the adoption of new plans since enactment of ERISA has led various groups and individuals to examine the effects of ERISA on private pension plans. Among these are plan termination studies currently underway at the General Accounting Office and the Department of Labor.

IRS already has published data in this area. The following chart represents the yearly totals of new plans and terminated plans from 1965 through 1976, together with the ratio between the two:

TAX QUALIFIED CORPORATE PLANS

Year	New plans	Terminated plans	Ratio of new plans to terminated
1965	13,532	1,036	13.1
1966	18,183	1,210	15.0
1967	20,521	1,307	15.7
1968	23,782	1,443	16.5
1969	28,075	1,729	16.2
1970	32,574	2,306	14.1
1971	40,664	3,335	12.2
1972	49,335	3,520	14.0
1973	59,605	4,130	14.4
1974	59,385	4,604	12.9
1975	30,039	8,108	3.7
1976 [1]	[2] 14,270	11,909	1.2

[1] Through September 1976.
[2] Includes a smal number of plans for the self-employed.
ource: Internal Revenue Service.

These figures show that the ratio of new plans to terminated plans reached a high in 1968, with a 16.5 ratio and registered a precipitous drop after the enactment of ERISA to a 3.7 ratio in 1975 and a 1.2 ratio in 1976.

This IRS data asks two basic questions relating to the effects of ERISA on private pension plans. First, what factors contributed to the rapid increase in plan terminations? Was ERISA the principal cause of these terminations? If so, which new costs or administrative burdens were considered overly burdensome? What influence did the economic recession have on plan terminations?

Second, what factors contributed to the decrease in plan initiations after 1974? Again, has ERISA been the key factor here? If so, which new requirements chilled interest in establishing new plans?

These are vital questions which deserve careful scrutiny. Commissioner Kurtz has drawn attention to the post-ERISA experience of existing plans. The future viability and scope of private pension systems requires that attention be drawn to the marked decline in new plan initiations.

I ask unanimous consent that the study form I mailed to Indiana businesses be printed in the RECORD.

There being no objection, the study form was ordered to be printed in the RECORD, as follows:

SENATOR DICK LUGAR STUDY: IRS APPROVED PENSION AND/OR PROFIT SHARING PLANS IN INDIANA SINCE ENACTMENT OF ERISA

Firm Name (Optional): ———.

Type of Business: — Partnership — Close Corporation — Publicly Held Corporation.

Number of Employees: ——.

Section A: Does your firm have, or has it ever had, a qualified pension plan? —— If no, go to section B.

Who administers or administered it?: — Bank — Insurance Company — Consultant — Other: —.

Type of Plan: Defined Benefit, Defined Contribution: Profit Sharing or Money Purchase. ————

Number of Participants: ——

Plan Formula: ———

Inception Date of Plan: ——

Has this plan been terminated? ——

If yes: Date terminated: ——

Reason: ——

If no: Are you considering or do you plan termination? ——

Section B: If your business does not cur-

rently have a qualified pension plan, Do you plan to initiate one? —

If yes: Which type?: — Defined Benefit — Profit Sharing — Money Purchase.

If no: Do you plan to initiate an Individual Retirement Account (IRA)? —

What percentage of employees have or would initiate an IRA? —

Reason for not initiating a qualified pension plan: —

Return to: ERISA Study, c/o Senator Dick Lugar, 5107 Dirksen SOB, Washington, D.C. 20510.

Mr. LUGAR. The following is a tabulation and percentage breakdown of the responses I have received to my ERISA study mailer. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Lugar ERISA study	0 to 10	11 to 25	26 to 50	Total, 0 to 50 (percent)	51 to 100	101 to 500	500-plus	Total, 51 to 500-plus (percent)	Grand total	percent total
Publicly held corporation:										
Never had	8	12	6	19	7	3	2	3	38	10
Had but terminated	3	4	5	9	1	1	3	1	17	5
Contemplating termination	3	6	6	11	2	5	2	5	24	6
Have	13	25	45	61	33	86	85	91	287	79
Close corporation:										
Never had	115	93	64	48	31	26	0	17	329	38
Had but terminated	20	17	16	9	11	10	0	7	74	8
Contemplating termination	13	24	12	9	0	14	0	9	63	7
Have	56	60	78	34	92	100	22	67	408	47
Partnership/sole proprietor:										
Never had	31	6	2	72	0	0	0	0	39	67
Had but terminated	0	1	2	6	2	0	0		5	9
Contemplating termination	0	0	0	0	0	0	0	0	0	0
Have	9	3	0	22	1	1	0		14	24
Total									1,298	

Mr. LUGAR. These figures indicate that the size of a firm more directly relates to terminations, contemplated terminations, or the lack of any plan at all, than does the form of the business; that is, publicly held corporations, closely held corporations, partnerships/sole proprietorships.

Combining the responses for firms with 0 to 50 employees yields the following results: For publicly held corporations, 19 percent never had a plan; 9 percent had a plan but terminated; 11 percent were contemplating termination; and 61 percent continued to have a plan without considering termination. For closely held corporations of 0 to 50 employees, 48 percent never had a plan, 9 percent had a plan but terminated; 9 percent were contemplating termination; and 34 percent continued to have a plan. For partnerships/sole proprietorships of that same employee range, 72 percent never had a plan; 6 percent had a plan but terminated; none were contemplating termination; and 22 percent continued to have a plan.

In contrast, businesses with between 101 and 500 employees had the following experience: For publicly held corporations of that employee size, 3 percent never had plans; 1 percent had terminated their plans; 5 percent were contemplating termination; and 91 percent continued to have a plan. For closely held corporations of that same employee range, 17 percent never had a plan; 7 percent had a plan but terminated; 9 percent were contemplating termination; and 67 percent continue to have a plan. For partnerships/sole proprietorships of that employee range, 100 percent continued to have a plan.

I would like to include at this point two letters from constituents who are professional consultants in the private pension field. These two letters articulate the thoughts and frustrations which were included on many of the returned questionnaires. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

INDIANAPOLIS, IND.,
November 2, 1977.

ERISA Study.
Senator DICK LUGAR,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR LUGAR: A client forwarded a copy of your October 25, 1977 letter to my office with the request that I forward my observations to your study committee.

Since the enactment of ERISA, I have personally recommended the termination of four (4) plans and the initiation of three (3) others. This is primarily because the new legislation has made it economically impractical to have a corporation plan unless the corporation is willing to commit a minimum annual contribution of $25,000. There is also some feeling among small business managers and owners that the government's encroachment into the regulation of private enterprise is becoming unbearable, and therefore the plans should be terminated regardless of the tax benefit.

There is no doubt that certain regulation is desirable and necessary. However, the legislation which divided authority over this function to more than one Federal agency creates unnecessary and monstrous reporting requirements. It is probable that it has also created significant bickering among the agencies as to who has authority over what.

The current legislation on social security taxes is going to make it impossible for many additional employers to continue their private retirement plans. In fact, from my brief conversations with business and professional men, the increases in F.I.C.A. and self-employment taxes will create major political and economic problems for the next decade.

It seems to me that the Federal government is attempting to enforce and administer ill-conceived legislation on private retirement plans when the Federal Social Security system appears to be the largest mismanaged and actuarially unsound program in history.

Yours very truly,

JOHN T. O'CONNOR.

BLOOMINGTON, IND.
November 1, 1977.

ERISA Study.
Senator RICHARD G. LUGAR,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR LUGAR: We are in receipt of your letter and questionnaire concerning the effects of ERISA on business men and their pension or profit sharing plans. You will note that I have not completed your questionnaire, but would like to take this opportunity to make some comments on this subject.

The questionnaire does not apply to our office since we are a pension consulting firm, and obviously we are able to handle and administrate our own plan at a very minimal cost. Our firm deals strictly and exclusively in the pension and profit sharing area. We are members of the Retirement Administrators and Designers of America (RADA) which, as you may already know, is a group of twenty-three of the nation's top pension consultants. Collectively we administer several thousand plans and have trust assets totaling several hundred million dollars. As you might guess, we are very definitely affected by ERISA.

Speaking for our firm only and not the RADA group as a whole, we are in constant communications with employers who wish to terminate their plan, largely due to the effects of ERISA, I might add. This ERISA Act, which was to have helped the business man and his employees, has instead turned into a nightmare of reporting and disclosure which of course leads to astronomically increasing administrative costs. Because of this the business man, and especially the small business man, can very often not afford to have a retirement plan at all simply because of the administrative cost! And even though we are 100% solidly behind the intent of ERISA to provide greater assurance to employees that their pension or profit sharing plans would provide reliable sources of retirement income, ERISA has thus far robbed more employees of their pension income from such plans than it has secured for them!

Enclosed you will find an article which we just received from one of our study guides. I feel that this article is very sufficient in displaying the type of situations that exist in Indiana, as well as the nation as a whole. Just to give you an example on a typical small business with four participants under its plan, a contribution might be, say, $5,000. Using my enclosed article as a reference, the administrative cost of $1,491 represents 30% of the annual contribution to the plan! This is a very common situation.

In closing I would just like to express my appreciation for your attention in this matter. Any action taken which will help alleviate the problem of reporting and disclosure brought on by ERISA will be appreciated by ourselves, our clients and colleagues. Especially important to ourselves as well as our other colleagues would be the area of commission disclosure.

With kindest personal regards.

Sincerely,

JAMES I. HOLDEN, Jr.

Mr. LUGAR. Mr. John T. O'Connor's letter specifies that he has recommended the termination of four plans and the initiation of three others since the enactment of ERISA. It is his professional opinion that ERISA has made it economically impractical for a plan to be initiated unless the firm is willing to commit a minimum annual contribution of $25,000. Mr. O'Connor attributes this amount to the increased administrative costs mandated by ERISA.

Mr. James I. Holden, Jr.'s letter expresses the thought that while he and other plan administrators are completely in agreement with the stated objective of ERISA in providing greater assurance to employees that their pension or profit-sharing plans will provide reliable sources of retirement income, ERISA has thus far robbed more employees of their pension income than it has secured for them.

The form I mailed to Indiana businesses requested that the firms indicate their reasons for never initiating a plan, terminating a plan, or contemplating termination of a plan. I believe the responses to this question strike at the heart of the questions raised earlier concerning the effect ERISA has had on private pension plans.

The following charts are a tabulation and percentage breakdown of the reasons given by Indiana businesses for terminating plans, planning, or considering termination of plans, and never initiating or not intending to initiate plans.

I ask unanimous consent that the charts be printed in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

REASONS FOR TERMINATION OF PLAN

Lugar ERISA study	0 to 10	11 to 25	26 to 50	Total, 0 to 50 (percent)	51 to 100	101 to 500	500-plus	Total, 51 to 500-plus (percent)	Grand total	Percent of total
No reason given	0	0	1	1	0	0	0	0	1	1
ERISA not mentioned:										
Change in ownership	0	0	0	0	0	0	0	0	0	0
Liquidation/disolution/closing	1	0	0	1	0	0	0	0	1	1
Adverse business	0	1	0	1	0	0	0	0	1	1
Plan too costly	1	1	0	3	1	0	0	4	3	3
Employer/employee needs not met	0	0	0	0	0	0	0	0	0	0
Other	0	4	0	6	2	2	0	17	8	9
ERISA mentioned:										
Cost of Erisa	5	10	7	32	3	4	1	36	30	33
Other Erisa factors	13	12	8	49	3	4	0	30	40	44
Erisa combined with other reasons	1	1	2	6	1	2	0	13	7	8
Total	21	29	18		10	12	1		91	100

REASONS FOR PLANNING OR CONSIDERING TERMINATION OF PLAN

Lugar ERISA study	0 to 10	11 to 25	26 to 50	Total, 0 to 50 (percent)	51 to 100	101 to 500	500-plus	Total, 51 to 500-plus (percent)	Grand total	Percent of total
No reason given	2	9	7	31	1	0	2	100	21	34
ERISA not mentioned:										
Change in ownership	0	0	0	0	0	0	0	0	0	0
Liquidation/dissolution/closing	0	0	0	0	0	0	0	0	0	0
Adverse business	0	0	0	0	0	0	0	0	0	0
Plan too costly	0	0	0	0	0	0	0	0	0	0
Employer/employee needs not met	0	0	0	0	0	0	0	0	0	0
Other	1	0	2	5	0	0	0	0	3	5
ERISA mentioned:										
Cost of Erisa	4	8	6	31	0	0	0	0	18	30
Other Erisa factors	4	8	7	33	0	0	0	0	19	31
Erisa combined with other reasons	0	0	0	0	0	0	0	0	0	0
Total	11	25	22		1	0	2		61	100

REASONS FOR NEVER INITIATING AND NOT PLANNING TO INITIATE A PLAN

Lugar ERISA study	0 to 10	11 to 25	26 to 50	Total, 0 to 50 (percent)	51 to 100	101 to 500	500-plus	Total, 51 to 500-plus (percent)	Grand total	Percent of total
No reason given	17	6	5	9	1	0	1	9	30	9
ERISA not mentioned:										
Change in ownership	0	1	0	1	0	0	0	0	1	0
Liquidation/disolution/closing	0	0	0	0	0	0	0	0	0	0
Adverse business	6	4	3	4	0	0	0	0	13	4
Plan too costly	25	10	7	14	4	2	0	14	48	14
Employer/employee needs not met	19	11	5	12	0	1	0	10	36	10
Other	23	11	10	14	3	4	1	15	52	15
ERISA mentioned:										
Cost of Erisa	2	0	1	1	1	0	0	1	4	1
Other Erisa factors	30	40	29	33	12	10	0	35	121	35
Erisa combined with other reasons	17	14	4	12	3	4	0	12	42	1
Total	139	97	64		24	21	2		347	100

Mr. LUGAR. Mr. President, these figures provide startling insights into the effect ERISA has had on plans in existence when ERISA was enacted and on firms which never initiated plans. The categories utilized in these charts are the same as those used by the Pension Benefit Guarantee Corporation in its "Analysis of Single Employer Defined Benefit Plan Termination, 1976."

Eighty-seven percent of firms with less than 50 employees mentioned ERISA as a reason for terminating their pension plans. Eighty-five percent of all firms which had terminated their plans cited ERISA as a reason for termination.

Sixty-four percent of those firms with less than 50 employees mentioned ERISA as a reason for planning or contemplating termination. Sixty-one percent of all firms in this category listed ERISA as a reason for their doing so.

Forty-six percent of those firms with less than 50 employees which have never initiated a plan and did not intend to initiate one cited ERISA as a reason. Forty-eight percent of all firms in this category named ERISA as a reason.

Mr. President, the IRS data cited earlier demonstrates that the ratio of new pension plans to terminated plans has narrowed sharply. Existing plans have terminated and firms without pension plans for their employees are not acting to initiate new plans.

My study clearly shows that ERISA has been the moving force behind plan terminations and decisions by employers not to initiate plans. It is true that the recent economic recession influenced plan terminations and stiffled the creation of new plans. Business cycles will always exert influences of that kind. However, the evidence reveals a deeper problem for private pension plans than the red ink of an economic recession.

I believe that if the Congress examines the evidence it will conclude that ERISA must be amended to make it a more reasonable law. The results of my study indicate that the administrative burdens imposed by ERISA have hit hardest on the small employer. Large firms have for the most part continued their pension plans.

Small firms do not have the resources to meet both the vesting and administra-

tive costs involved in complying with ERISA. They need legislation to ease the burden that only recently has been placed on them by this act of the Congress. I pledge my support and energy toward achieving this end.

IN PRAISE OF THE LATE SENATOR HUBERT H. HUMPHREY

Mr. CANNON. Mr. President, it is not easy to speak of the passing of Senator Hubert Humphrey. For one thing, he has been so eloquently eulogized by, among others, the President and Vice President that there is little I could add that has not been said before.

For another, working with a man like Hubert Humphrey for 19 years as I have, it is almost impossible to believe that he is gone. His vitality, his interest in virtually everything that could mean a better life for the American people pervade this chamber.

Senator Humphrey was already a towering figure when I came to the Senate in 1959, although his career in the national spotlight was just beginning. He had already established himself as a strong moral force in the country—if he was not then our national conscience he was on his way to becoming it.

Throughout the 19 years I was privileged to know him as a colleague, as Vice President, and finally as a Senator again, he continually demonstrated those qualities that have made him one of America's most beloved figures: energy, optimism, humor and, most of all, love.

To say we will miss Hubert Humphrey is, of course, an understatement, like saying you would miss an arm or other vital limb. He has been one of the supporting arches of our national life for nearly 30 years and it is hard to imagine the Senate without him. But, as President Carter said at the memorial service for Senator Humphrey here in the Capitol, "The joy of his memory will last far longer than the pain and sorrow of his leaving."

TRIBUTE TO SENATOR HUMPHREY

Mr. WEICKER. Mr. President, earlier this month the Senate and the Nation witnessed the passing of one of its finest men and most honored public servants. Hubert Humphrey is gone but much of what he believed in remains.

Senator Humphrey was a tireless voice throughout his career for the impoverished and disadvantaged of our Nation and world. His effective concern bore fruit in the landmark civil rights legislation of the sixties and the Peace Corps and food for peace programs.

He gave abundantly of his life and energy in service to his country, even when weakened by the disease which would eventually take his life. Hubert Humphrey learned well the great lessons of life which defeat, discouragement and death can teach us. It is his unconquerable spirit, his boundless enthusiasm and the dignity and courage of his passing for which we will always remember him. His inspiration to America was always to raise our sights and expectations to believe in the unlimited potential as a people and a nation.

Let us all embrace the idealism and optimism for America which he embodied and carry on in pursuit of the challenges he gave us.

RUSSIA'S NEW SURPRISE WEAPON

Mr. HATCH. Mr. President, I have spoken out before against the President's decision to cut the funding for the MX. I feel that this new missile system is essential to the future security of the United States. As I, and other critics of the administration, have mentioned before, the Soviet Union has already tested and deployed their own version of a mobile missile system. The SS–20, a scaled down model of the SS–16, which has inter continental range, poses not only a threat to all Western Europe, but in a crisis can be quickly adapted to intercontinental range so that it threatens the United States.

In the January 23 issue of U.S. News & World Report, the real thrust of this deployment is indicated—

Russia is stockpiling the three-stage SS–16's in storage depots. In a crisis, analysts say, the long-range missiles might be substituted quickly for intermediate-range SS–20's on the same mobile launchers. This could create a new force of long range mobile missiles.

The question that must be on everyone's mind is how much longer the United States can continue to allow the Soviet Union to acquire sophisticated weapons systems, keep them outside the SALT negotiations, and then either cancel or eliminate funding for our version of such a system. I think that the present administration owes the American people an answer. Mr. President, I ask unanimous consent that the article appearing in the January 23, 1977, issue of U.S. News & World Report be printed in the RECORD so that all my colleagues might have this important information.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RUSSIA'S NEW SURPRISE WEAPON

The Soviet-American arms race is taking an ominous turn—one that President Carter went out of his way to warn European Allies about during his visit to the Continent in early January.

What is happening is that Russia is deploying a new missile—aimed at the heart of NATO Europe—that military analysts say could make a mockery of any agreement designed to curb the competition in nuclear weaponry.

This missile—the SS–20—would not be covered by the strategic-arms-limitation accord with Russia that Carter hopes to sign in the spring. The reason: Technically, it is classified as an intermediate-range missile, not a strategic weapon designed to hit the U.S.

The catch, according to defense analysts, is that the SS–20 can be converted "relatively quickly" into an intercontinental missile capable of striking targets in this country.

In a crisis, the Soviets could have the ability to expand their strategic forces substantially above the ceiling of 2,400 delivery vehicles that the new SALT accord is expected to impose on the two superpowers.

Strategic experts say that deployment of the SS–20, confirmed in recent weeks by U.S. intelligence agencies, raises another question about the effectiveness of the new arms agreement that Russia and America are negotiating. This pact, if approved, would bar the U.S. and the Soviet Union from testing or deploying a mobile strategic missile for at least three years.

ALREADY TESTED

The SS–20 is mobile, carried on a tracked, tanklike vehicle. This means that the Russians, for all practical purposes, already have completed testing and development of a mobile intercontinental missile. Therefore, they will not be inhibited on this score by the proposed treaty.

The U.S. on the other hand, will be constrained since America's MX mobile missile has not gone beyond the research stage. And the Carter Administration has just vetoed a Pentagon proposal to go into full-scale development of the weapon in the fiscal year starting October 1.

Strategic experts offer this explanation of how the Soviets could convert the SS–20 into a mobile strategic missile that ostensibly would be outlawed by a new SALT agreement:

The weapon is a modified version of a strategic missile that the Soviets have tested and produced, but have not deployed. This is the SS–16, a three-stage rocket with a single warhead and a range of at least 5,500 miles.

The SS–20 is a two-stage version of this missile. It has a range reported to be close to 3,000 miles, and each missile carries three independently targeted warheads.

Russia is stockpiling the three-stage SS–16s in storage depots. In a crisis, analysts say, the long-range missiles might be substituted quickly for intermediate-range SS–20s on the same mobile launchers. This could create a new force of long-range mobile missiles.

Right now, the SS–20s reportedly are being deployed at sites in Russia that would cover mainland China as well as Western Europe.

It was at Carter's first news conference on his European visit that the President warned of the dangers posed by Soviet deployment of this new weapon. His aim then was to counter allegations by Soviet President Leonid Brezhnev that the U.S. would jeopardize stability and force another upward spiral in the arms race by placing neutron weapons in Western Europe.

These so-called enhanced-radiation weapons—actually nuclear artillery shells—are designed to kill enemy soldiers by radiation while reducing the destruction caused by blast. A debate is under way within NATO as to whether the U.S. should replace some of the 7,000 "dirty" nuclear bombs—weapons that produce radiation as well as widespread collateral destruction due to blast—now stockpiled in Europe.

Carter argued that the neutron bomb is a battlefield weapon, far less destructive or destabilizing than the new Soviet SS–20 missile. He proposed that all of these gray-area weapons should be dealt with in a third round of strategic-arms talks.

EUROPE'S WORRY

U.S. Allies in Europe fear that the Carter Administration, in the current negotiations with the Kremlin, may be giving up bargaining chips that could be used in SALT III to induce Russia to accept limits on the SS–20. Those chips are the new U.S. "cruise missiles," superaccurate drone bombers that some Allies consider an important potential addition to their arsenal.

In the treaty now being negotiated, the U.S. has agreed to bar for three years the deployment of ground-launched cruise missiles designed for use by NATO to counter the impressive Soviet build-up in Eastern Europe.

Some top-ranking European military leaders—in West Germany especially—complain that the Carter Administration, in order to get a SALT II agreement with Russia, could compromise NATO's prospects of developing a counterweight to Russia's SS-20. That, they say, would impair the prospects of dealing with the new Russian weapon through a future arms-limitation pact.

Thus, even as final details of a SALT II agreement are being hammered out by U.S. and Russian negotiators in Geneva, Moscow is confronting the Carter Administration with a new challenge in the arms race.

TRIBUTE TO SENATOR METCALF

Mr. HASKELL. Mr. President, my association with Lee Metcalf was all too brief. I knew him primarily as a colleague on the Committee on Interior and Insular Affairs (later the Committee on Energy and Natural Resources). I consider myself to be extremely fortunate to have served with him on this committee, thus permitting me the opportunity to work closely with him in an area which he knew and loved.

Senator Metcalf had the kind of deep knowledge and background in public land law, resource management and environmental protection which made him invaluable to the Senate and to the Nation. His knowledge cannot be replaced. My own interest and activity in these areas has been directed and sharpened by his leadership. Others may know him for his accomplishments in other fields. I knew him as the author and principal proponent of a series of laws aimed at preserving the populist tradition of proper management of the Nation's publicly owned resources, perhaps one of the Congress most important public policy responsibilities.

His accomplishments included passage of the Surface Mining Control and Reclamation Act, the Coal Leasing Amendments Act, the Federal Land Policy and Management Act, and the National Forest Management Act. He also was instrumental in passage of the Department of Energy Organization Act and the Outer Continental Shelf Lands Act amendments. At his death, he was working on legislation to revise the mining law of 1872 and to establish a fair and equitable means for the mining of the world's mineral resources underlying the sea.

In each of these efforts, his paramount goals were assurance that the public receive a fair return for the exploitation of its resources, protection of the environment, broadening the base of public participation, emphasis on proper land use planning, the end to speculation with the public resources and prevention of monopoly and the fostering of competition.

These are the goals which one might expect from a Senator who sought to preserve the national tradition of protection and proper use of resources owned by all, and yet owned by none. However, these are not goals which are easily accomplished. They are not accomplishments for which those who benefit—all the people and all future generations—were quick to thank him. They are not accomplishments which specific individuals or groups or corporations directly benefited. In fact, they often were goals which conflicted with the corporate interests within his own State. They are goals which, lacking a champion of the caliber of Senator Metcalf, quickly became subsidiary to the goals of those whose individual benefit is more immediate. They are goals which can only be sought by one who has an altruistic belief that it is his duty to protect that which belongs to all of us.

I want to thank Lee Metcalf, now, as I did on several occasions in the past, for all of us. He served in the finest tradition of the Senate, in the finest tradition of America. For the path he chose, he paid dearly. He was a fair man. He was a good man and he shall be deeply missed. We all owe him a gift of gratitude which we will never be able to repay nor which these few poor words can convey.

TRIBUTE TO SENATOR METCALF

Mr. WEICKER. Mr. President, I would like to join my colleagues in expressing sincere sorrow in the passing of our friend and distinguished colleague, Lee Metcalf. In working with him on the Government Affairs Committee and later on the Energy and Natural Resources Committee, I have come to know his sincere and thoughtful interest in important environmental, consumer, and economic issues. We all knew Senator Metcalf as a concerned advocate and respected colleague; his honorable service and exceptional achievements are a lasting tribute to this devoted public servant. Lee was a kind man who never settled for second best for the country he loved. We will miss him.

IN PRAISE OF THE LATE SENATOR LEE METCALF

Mr. CANNON. Mr. President, I would like to add my praise to that which has been given to our late colleague, Senator Lee Metcalf, who was a loyal and effective representative of the West for nearly 18 years in the Senate and 8 years in the House.

I noticed in press accounts of his death that he was referred to as a quiet man, one who shunned publicity—"the senator no one knew" according to one account.

I must say he was well known in this Chamber. As a ranking member of the Energy and Natural Resources Committee he was a leader in protecting the wildlife and wilderness areas that are so important to his native Montana and other Western States. His was a respected voice on matters such as grazing fees, timber policy, and conservation.

Perhaps his greatest legislative triumph came this year when President Carter signed legislation twice vetoed by former President Ford imposing Federal sanctions on strip mining. Although his health was declining, Senator Metcalf never wavered in support of this legislation. His tenacity and devotion to duty was an example to us all.

His interests extended to education, consumer affairs, and government operations. Senator Metcalf's hand was visible in passage of the landmark National Defense Education Act and he was also an ardent supporter of other vital education legislation.

Reflecting his concern for the average man—he was considered a populist in the best sense of that term—it was natural Senator Metcalf would become identified with consumer interests. At his death he was one of the Senate energy conferees who believed, that it would be unfair to consumers to eliminate price controls on natural gas.

Another aspect of Senator Metcalf's career was his belief that Congress should have an equal role with the executive branch in setting national policy. One way he showed his belief was in the fight for more Senate control over its own spending. It was Senator Metcalf who first held hearings leading to passage of the Congressional Budget and Impoundment Control Act under which we are currently operating so successfully.

In conclusion it should be said that if Senator Metcalf's accomplishments were those of "a senator no one knew," we should have more such Senators in this body. Lee Metcalf was a man of great intelligence, compassion and integrity—and that is something we all knew.

TRIBUTE TO LEE METCALF

Mr. RIBICOFF. Mr. President, Lee Metcalf faithfully served the people of Montana and the Nation in the U.S. Senate for over 25 years. He had a major impact on our lives before he reached the Senate. His strong leadership in the House of Representatives helped shape the National Defense Education Act of 1958. He led the way to the Elementary and Secondary Education Act by sponsoring new legislation for general aid to education.

I came to the Senate in 1963, 2 years after Lee, and was immediately impressed with his intellect, with his enthusiasm for the difficult and less popular issues of the day, and with his perseverence in successfully pushing legislation in those areas critical to our times.

His interests were wide. He cared about the wilderness, clean air and water, and the effects of pesticides on fish and wildlife. He pushed fair packaging and labeling laws for consumers and improved Federal financial support for education. He led the fight for regulation of strip-mining and the reclamation of lands from which coal is mined.

Lee Metcalf joined what is now the Governmental Affairs Committee in 1965. It was on this committee that I knew Lee best—where I came to know, respect, and appreciate him for the man he was.

On the committee, he became increasingly identified with measures to improve the effectiveness and responsiveness of the Federal Government. He handled the Legislative Reorganization Act of 1970—the first comprehensive congressional reform legislation in 25 years. He wrote the Federal Advisory Committee Act of

1972 which requires these advisory committees to broaden their membership, to give public notice of their meetings, and to conduct them in the open. It also provides for the termination of those committees which outlive their usefulness. Lee Metcalf worked hard to strengthen and focus the congressional budget role. He was a major contributor to the Congressional Budget and Impoundment Control Act of 1974.

The Subcommitee on Reports, Accounting, and Management, which he chaired, undertook a number of major studies of the accounting establishment, the structure of the utility industry, and the stock-voting power in our largest corporations. This most recent study has been described in the press as the study on "who owns America." He believed people had a right to know.

Yet more than the dozens of impressive bills and issues with which we identify Lee Metcalf, I will remember the quality of man he was. Lee Metcalf was a kind man—soft-spoken and gentle of heart. He had a compassion for his fellow men which was revealed often in his friendly smile and familiar handshake. The respect and loyalty accorded him by staff and friends alike was evident.

Lee Metcalf has been called "a populist who spoke for the working people." I believe he was a humanist who spoke for all mankind.

UKRAINIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, this past Sunday was the 60th anniversary of the declaration of Ukrainian independence. On January 22, 1918, the Ukrainian people liberated themselves from two centuries of foreign domination and proclaimed a free and independent nation dedicated to democratic principles. Their valiantly proclaimed freedom was recognized internationally, but not by the Soviets, who broke promises to recognize the new republic and to withdraw their troops from its territory. Within 3 years, the Ukrainians had fallen under the tyranny of Soviet rule.

Since then, religious persecution, economic exploitation, and the denial of fundamental human rights have been daily realities for the Ukrainian people. Yet, despite the oppression under which they live, the spirit of freedom remains strong among them. This past year, Americans have rededicated themselves to the cause of human rights throughout the world. Thus, the 60th anniversary of Ukrainian independence has become a special celebration of renewed hope, not just for the 2 million Americans of Ukrainian descent, but for all Americans who cherish human rights.

SENATOR ALLEN PINPOINTS MAJOR FLAWS IN THE PANAMA CANAL TREATIES

Mr. HATCH. Mr. President, on January 18, 1978, our distinguished colleague from Alabama (Mr. ALLEN) appeared before the House Committee on Merchant Marine and Fisheries to explain why the Panama Canal treaties are hostile to our national interests. As Senator ALLEN amply demonstrates, the treaties contain major flaws that jeopardize not only our national security, but also our established constitutional processes. The Senate should be on guard against cosmetic changes which purport to correct these inherent defects in the agreement but actually serve to conceal them.

Mr. President, Senator ALLEN's testimony is a tribute to his leadership in the Panama Canal controversy. It is perceptive and informative. I urge Members of the Senate to study it carefully, and, Mr. President, ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY JAMES B. ALLEN

Mr. Chairman, thank you very much for affording to me an opportunity to state to you and to the distinguished members of the Committee on Merchant Marine and Fisheries my reasons for opposing ratification of the proposed Panama Canal Treaty and the proposed so-called neutrality treaty. Although the defects in both documents are legion, in my judgment there are five major flaws, each of which on its own ground would warrant complete rejection of the arrangements negotiated, inasmuch as each would independently damage the national interest of the United States to such extent as to render it improper for the Senate or the Congress to give its consent.

The five major defects, at least as I see it, are (1) the failure of the Canal treaties to require Congressional authorization for the proposed cession to Panama of United States territory and property, (2) the decision embodied in the Canal treaties and related loan agreements to pay to Panama some $2.262 billion by means of various devices designed to circumvent the role of the House of Representatives or the Congress in appropriating funds from the Treasury of the United States, (3) the failure of the Canal Treaty to provide for an adequate defense of the Canal during its proposed 22-year term, (4) the failure of the neutrality treaty to provide for an adequate defense of the Canal thereafter, and finally (5) the astonishing provision of the Canal treaties which forbids the United States even to negotiate with another nation for the construction of any interoceanic canal in the Western hemisphere without the express consent of the Panamanian dictatorship.

THE CONSTITUTION IGNORED

The first major defect in the treaties is perhaps the most significant since it represents a direct assault by the executive branch on the prerogatives of the House of Representatives and since it would set a new precedent extending the authority of the executive branch far beyond the bounds contemplated by the authors of the Constitution of the United States.

As this distinguished Committee well knows, Article IV, Section 3 of the Constitution provides quite clearly that Congress, that is, the Senate and the House of Representatives acting together, "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Mr. Chairman, the Attorney General has advised that the proposed treaties do not in any respect violate this clause, but with all due deference to him as a very able lawyer, in this instance he is serving a client, and I cannot share his rationalization of the clear, unambiguous language of the Constitution on this subject, nor can I agree with his faulty characterization of consistent past practice in our dealings with Panama in matters of property transfer.

In 1936 and again in 1955, cessions of United States territory or property to Panama were made expressly contingent on Congressional authorization. Yet now that a truly major cession of virtually all United States territory in the Isthmus of Panama is contemplated, the executive branch has seen fit to assert a novel theory by which the Administration would circumvent the Congress. The reason for development of this novel theory of Constitutional law is, I believe, a matter of practical politics rather than legal scholarship since public opposition to giving up the Canal is so overwhelming that any Congressional authorization of a cession of territory would be difficult, if not impossible, to obtain.

But beyond this immediate issue, if we in the Senate and in the Congress permit this circumvention of the role of the whole Congress in any cession of United States territory, we will be setting a very dangerous precedent which will surely be used again by this or future administrations to assert power in an area heretofore preserved exclusively to the Congress. My own guess is that we would next see this precedent applied to the Guantanamo Naval Base in Cuba, but perhaps other cessions of territory or property are also in the works. This new precedent would haunt us down through the years, and we cannot allow it to be established.

So, Mr. Chairman, the Congress should not lightly endorse this proposed departure from sound Constitutional principles simply for the perceived political expediency of the moment. The Senate particularly should, instead, guard the prerogatives of the whole Congress by amending the proposed treaties at all appropriate points to make cessions of territory or property to Panama subject to the prior enactment of authorizing legislation by the Congress—in other words, no authorizing statute, then no transfer and a void treaty.

This distinguished Committee may be assured that I and other Senators will seek adoption of an amendment to the Canal treaty to preserve the Constitutional role of the Congress, particularly the role of the House of Representatives, in disposing of United States territory or property. Such an amendment could appropriately appear in Article I of the treaty by amending the language of that article to make the abrogation of the Treaty of 1903 subject to authorizing legislation of the Congress inasmuch as that abrogation is itself the primary means by which the property and territory of the United States is alienated and transferred to Panama. Additionally, any resolution of the Senate advising and consenting to ratification by the President should contain a specific reservation forbidding the President to exchange instruments of ratification with Panama until a statute is passed by the Congress authorizing the contemplated disposition of our territory and property in the Isthmus of Panama.

My own hope, of course, would be that such a statute would never pass, and I would certainly work to see its defeat. But notwithstanding a member's position on the Canal giveaway, we are all sworn to uphold the Constitution, and in this instance the issue is clear and there can be no room for doubt but that the whole Congress must act before any transfer can legally occur.

Finally, Mr. Chairman, I wish to emphasize that I have not reached this conclusion without study. As Chairman of the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, I have heard the testimony of 34 witnesses over 7 days of hearings dealing almost exclusively with this very question, and the overwhelming evidence is that the Administration position is devoid of any substantive legal support and ought to be rejected out of hand.

$2.262 BILLION TO PANAMA FOR THE RIGHT TO CEDE THE CANAL ZONE TO PANAMA

I regret to say to this distinguished Committee that the Constitution is ignored elsewhere in these treaties and related documents. Most citizens learn in eighth grade civics that bills for appropriation must originate in the House of Representatives and that the people's representatives in the House are charged with primary responsibility in matters regarding the nation's pursestrings. Yet, Mr. Chairman, our negotiators have somehow figured out a means for bilking the users of the Canal and the American taxpayers of at least $2.262 billion without any need to seek an appropriation from the Congress.

We are presented, gentlemen, with treaties which do not give the United States the right to guarantee its interests in the Canal, which do not provide for an adequate defense of the Canal, which do not allow the United States to initiate new Canal projects except with Panama's consent, but which do, on the other hand, give the Canal Zone entirely to Panama, which do also eventually give the Panama Canal Company to Panama, which do immediately give the most lucrative operations of the Panama Canal Company to Panama, which do give immediately 10 United States military bases to Panama, which do give Panama immediately political jurisdiction over 37,000 United States citizens living in the Canal Zone, and which do, finally, give to Panama $2.262 billion in 1977 dollars. And this last I find the most incredible part of all.

You know, Mr. Chairman, ordinarily the grantee pays the grantor, but our clever negotiators have figured out a way for us to give away the Canal Zone and pay the recipient at the same time. They have also figured out a way to make these payments without Congressional approval. I will not insist on going into great detail on how this $2.262 billion in 1977 dollars is to be paid to Panama because I know this Committee is fully familiar with the financial ramifications of this proposed arrangement. However, I would recommend to the Committee a careful reading of a speech given on August 19, 1977, before the Panamanian National Assembly by Panamanian Planning and Economic Policy Minister, Nicolas Ardito Barletta. Minister Barletta's analysis of the cash flow to Panama proposed by these arrangements is, in my judgment, highly accurate, and it is from his work rather than from the misleading Department of State estimates that I have drawn the figure $2.262 billion.

Why are we proposing to pay these tremendous sums to Panama? Why would we permit these proposed toll increases which will surely burden commerce and inflate consumer prices in the United States? The only reason I can ascertain is a desire to provide Panama with funds to repay outstanding loans from the large international banks.

The Library of Congress did a study at my request which indicates that the external public debt of Panama is some $1.7 billion. Interest on that sum is a tremendous burden on this small country of only 1.5 million inhabitants, and already 40% of current revenues in Panama go to carrying present indebtedness. Stating the matter bluntly, Panama is on the verge of bankruptcy and many of our large banks hold loans which may soon be bad debts, that is, of course, unless the United States taxpayer rescues the banks by providing the funds to Panama for repayment.

Mr. Chairman, sooner or later the Congress must draw the line and stop robbing American taxpayers to extend funds to bankrupt Third World countries so that international banks can collect principal and interest on shaky loans. In my judgment, the international banks should be required to write off their bad debts, to write off at least some portion of the loans they made in error, and the international banks should be put on notice that the American taxpayer will not always guarantee a profit in any loan transaction with unstable governments. Perhaps, rejection of the Panama Canal treaties would be a good method to send that message.

And another message ought to be sent. That message ought to be sent to the executive branch, and it ought to be that Congress will not permit its prerogatives to be trampled by clever devices designed to circumvent the power of Congress over appropriations. The plain fact is that we plan to give to Panama $2.262 billion. That being the case, Congress needs to say either "yea" or "nay", as the people may wish. I know how my constituents feel on this subject, and I am sure the distinguished members of this Committee know their own constituencies. But the executive branch has structured these arrangements in a manner to prevent Congressional authorization or appropriation.

The executive branch proposes to establish a Panama Canal Commission which would be a United States government corporation structured much as is the present Panama Canal Company. This new proposed Panama Canal Commission would replace the Panama Canal Company and would acquire back from Panama for a term of years, until year 2000, use of the principal assets now owned by the Panama Canal Company, save certain lucrative assets immediately transferred to Panama but not returned. This new Commission would then operate the Canal, serving up off the top, so to speak, Panama's slice of the pie. And that slice is a pretty big slice which all admit would require immediate toll increases and no doubt later new borrowings from the United States Treasury to enable the Commission to pony up this proposed average $100 million annual payment to Panama.

But under this plan what happens to the existing Panama Canal Company? This question is one of the many not yet answered satisfactorily by the Administration. Also unanswered and more importantly, what happens to the existing $319 million debt of the Panama Canal Company to the Treasury—a sum which apparently would not be transferred to the proposed new Commission? What happens to the approximately $16 million in annual interest payments the United States receives on this debt? The answer is the same answer we've been giving the people down through the years here in the Congress—the American taxpayer, as usual, will pick up the tab. That's right, Mr. Chairman, this section setting up this proposed Panama Canal Commission is a shell game fit for any carnival huckster, and it is going to cost our Treasury $319 million right off the bat and is going to deprive our taxpayers of some $16–$17 million in annual interest payments that have amounted so far to over $600 million in payments into the Treasury.

But there is an ever greater surprise waiting for the American taxpayer of year 2000, because in year 2000 the Panama Canal Commission folds up and is out of business, much as the Panama Canal Company is now slated for collapse. And once again, Mr. Chairman, the Department of State would have us promise to Panama under these treaties that the Panama Canal Commission would leave Panama in year 2000 and turn over all of the operating assets of the Canal to Panama clear of any liens or encumbrances. In other words, American taxpayers in year 2000 are going to be forced to swallow one more defunct government corporation with massive liabilities and no assets. Mr. Chairman, we have no way of predicting what it will cost in year 2000 when the business of the Panama Canal Commission is wound up, but certainly if the experience of the last few years is any guide, that expense will be well above $319 million the taxpayers are being asked to write off today.

Then there is the small matter of $345 million in various so-called soft loans which the State Department has seen fit to promise to Dictator Torrijos. I use the term "small matter" not because I consider it a small matter but because the big thinkers and planners down there at the Department of State figure $345 million is a mere drop in the bucket against the backdrop of $7 billion annually in foreign aid porkbarrel. Bear in mind, in assessing the magnitude of this figure, that we are talking about a country of only some 1.5 million people. I daresay there are few Congressional districts in the United States which would not return to office many times over a member who could produce that kind of money in development loans. So Panama has got some pretty powerful friends here in Washington when 1.5 million people can get their hand in the till for $345 million in development aid.

But, Mr. Chairman, the really annoying part about this $345 million is not so much the fact that it is an exorbitant sum but that, in blandly promising this $345 million, the Department of State has ignored entirely the Congress and, with the exception of certain appropriated monies in the military portion of the $345 million, the Department of State plans to get this money for Panama out of existing authority without any action by the Congress and without any action by the Senate in consenting to these loans as part of the proposed treaties. Again, the prerogatives of the Congress are being ignored by appointed bureaucrats answerable apparently to no one.

DEFENSE OF THE CANAL

I suppose that the United States could absorb this financial rip-off. Certainly, we have paid needlessly vast sums in the past down a variety of ratholes and yet continued as a great and strong nation. But other aspects of these proposed treaties are far more dangerous in the long term to our national well-being than are the massive proposed cash payments to Panama. Chief among these considerations is the dangerous and obviously adverse strategic effect of abandoning—after a decent interval—the Canal and the Canal Zone to a pro-Marxist dictator who receives direction from Cuba and the Soviet Union. What folly.

But in order to understand completely the immediate dangers of the defense provisions of the proposed treaties, to appreciate fully the sophistry of the media arguments on defense rights, and to understand the true extent of our proposed surrender, care must be taken to examine in detail the Executive Agreement in Implementation of Article IV of the Canal treaty, the article which deals with defense. Moreover, further study must be given to the annexes to the executive agreement, to the annexes to the annexes, and to the various notes, minutes and protocols—all of which form the fabric of the so-called joint military defense we would undertake with Panama.

I am particularly concerned, Mr. Chairman, that the drafters of the Canal treaty saw fit to set forth the major substantive defense provisions not in the Canal treaty in its Article IV, which is entitled "Protection and Defense", but instead in this Executive Agreement in Implementation of Article IV—an agreement which is several times as large as the entire Canal treaty itself. Article IV of the Canal treaty does not cover a complete printed page, yet the Agreement in Implementation of Article IV is some 53 pages long, excluding annexes and excluding an additional 22 pages of agreed minutes, the minutes themselves having their own annexes. So, Mr. Chairman, we have critical defense provisions not in the text of the treaty but

rather in this lengthy executive agreement and in other extrinsic documents which could be modified from time to time by the executive branch with no requirement whatsoever to obtain the assent of the Senate.

Moreover, Mr. Chairman, the defense provisions already set forth in this first executive agreement are, on their face, unworkable and portend a complete withdrawal of the U.S. forces from the Canal Zone well in advance of the projected date of 2000 AD. The Administration proposes in this first executive agreement to surrender 10 out of 14 bases. Thus, we are asked at the outset to permit the surrender of 10 out of 14 military bases and to permit our forces defending the Canal to be hemmed in from day one in four relatively small enclaves. These bases would indeed be enclaves because our freedom of action outside of the four bases would be severely limited by the treaty requirement for approval of operations by a joint military board in which the United States and Panama will have equal authority. Apparently, the doctrine of unity of command is imperfectly understood at the Department of State, but the Panamanians no doubt recognize fully that this provision of the executive agreement would give a de facto veto of United States operations outside of the four retained bases.

So our forces would be restricted to four relatively small enclaves, and only the naive would doubt that we would very soon see pressure on our forces to withdraw from the four sites retained. That process of withdrawal would be facilitated by the fact that the executive department could close down any one or all of the remaining bases by amendment of the executive agreement with the stroke of a pen without the consent of the Senate or the consent of the Congress. Now, Mr. Chairman, the members of this distinguished Committee may not think that this process of accelerated withdrawal is contemplated, but I would call attention to the provision of the executive agreement implementing Article IV which provides explicitly that the agreement will be renegotiated every two years or upon the request of either government and thus tacitly acknowledges what is coming.

This treaty is for a proposed term of 22 years. Yes, we are going to need tough-minded negotiators if we plan to hang on to these four defense sites for a term of 22 years with the Panamanians hounding us daily for complete withdrawal and with our own government already proposing to negotiate the matter on a biennial basis or upon request. Frankly, Mr. Chairman, these four defense sites would rest on a foundation of sand if, by Senate ratification of the Canal treaty, the Department of State were to be given the right to agree—and they seem pretty agreeable with this dictator down there in Panama—if the Department of State were to be given the right to agree with Panama more or less at any time that the time was propitious to shut down another base.

Finally, Mr. Chairman, I would ask the Committee to consider carefully the feasibility of successful joint military operations with Panamanian forces. Over the long term, we can expect problems. How can we expect full cooperation from an army whose recruits are taught to chant in unison at their recruit training base at Fort Cimmaron, "Down with the Yankees, death to the Yankees, to the wall with the Yankees". No, Mr. Chairman, over the long term we would be naive in the extreme to expect full cooperation from Panama in any joint defense of the Canal.

CANAL NEUTRALITY

Closely related to the issue of defense is the failure of the executive branch to negotiate for the United States a right to defend the neutrality of the Canal after 2000 AD. Much has been said in the media to the effect that the United States could unilaterally preserve Canal neutrality after a full withdrawal of U.S. forces from the Isthmus of Panama, but, Mr. Chairman, a careful reading of the neutrality treaty makes it evident that, in fact, the United States would have no such right whatsoever.

The neutrality treaty simply declares that the Canal Zone is neutral and sets forth an agreement by the United States and Panama that both parties recognize the Canal's neutrality. Nowhere is the United States granted permission to determine that the neutrality of the Canal is endangered or has been violated and nowhere is the United States granted the right to intervene to insure that the Canal is not made available to an enemy nation while being denied to our Navy and merchant ships.

Additionally, Mr. Chairman, the so-called right of expeditious transit given to United States warships is totally meaningless. The failure of our negotiators to insist on privileged passage for United States war vessels could permit Panama in an emergency to delay the movement of United States warships by simply requiring those vessels to transit the Isthmus on the same "expeditious" basis as merchant ships of all nations.

As Dr. Romulo Escobar Bethancourt, chief negotiator for Panama, put the matter, "If the gringos with their warships say, 'I want to go through first,' then that is their problem with the other ships there." Regrettably, Mr Chairman, Dr. Escobar's analysis of the practical meaning of our right to expeditious passage, although stated undiplomatically, is nevertheless precisely correct. His complete rejection of any claim that the United States is given the right to send troops to preserve Canal neutrality also accords accurately with the language in the text. In fact, the truth is, Mr. Chairman, that Dr. Escobar's construction of the neutrality treaty, unlike the construction placed on it by our own executive department, is a construction based on the language of the treaty itself rather than on wishful thinking or on the assertions of the mass media.

But, although much has been said of late about correcting by amendment the problems of priority transit and right of intervention, no amount of band-aid amendments can correct the basic faults embodied in any plan which gives control of the Canal to Panama at any time. No amount of words in no amount of amendments can ever provide to us the same needed guarantees as are provided by actual possession. Regardless of what these treaties might eventually say on keeping the Canal open or on maintaining a regime of neutrality—whatever that might mean—if we give up physical control, this country will still, sooner or later, find itself at the mercy of some petty dictator who decides, probably with the backing of the Soviet Union, to cause difficulties for the United States in using this vital strategic waterway. Our actions in Panama are sadly reminiscent of the mistaken British policies in surrendering the Suez Canal. Ironically, only two months ago, a British nuclear submarine was diverted from the Suez Canal on some pretense or other regarding safety regulations and was diverted around Africa on a journey of months which would otherwise have been only of days. How long will it be before the Panama Canal is closed to our ships in a time of emergency, if these treaties are ratified? When that occurs—and it surely will under these treaties—we will have no option but to attack Panama and recover possession, or to eat crow and begin the long voyage around South America. Some choice.

The unsigned Memorandum between the President and Dictator Torrijos has no legal standing, and, if it did, it would do little to clarify our rights under the treaties.

No, band-aid amendments based on this unsigned memorandum will not do either. Attempts at clarification are not enough. These treaties must be amended to retain physical control of the Canal or they must be rejected entirely.

A NEW CANAL

From the language of the Canal Treaty, rather than from press reports describing peripheral issues, we have also learned a final fatal defect. According to the terms of the Canal Treaty—and unlike other provisions, the treaty is quite unambiguous on this point—the United States agrees not to negotiate without express Panamanian consent with any country except Panama for the right to construct an interoceanic canal on any other route in the Western Hemisphere.

Mr. Chairman, knowing you as I do, I feel certain that you share my astonishment that the negotiators for the United States saw fit to preclude any possibility of construction of a new interoceanic canal, perhaps at sea level, without our country first obtaining the express consent of a pro-Marxist and highly unstable military dictatorship. Why was this concession necessary? What did the United States gain from the concession?

I notice with some amusement, Mr. Chairman, that the Republic of Panama purports to grant to the United States of America the right to add a third lane of locks to the existing canal. Inasmuch as the United States already has the right to add a third lane of locks to the existing canal, surely our negotiators did not think that a meaningless concession of that variety was sufficient consideration for giving the Panamanians a veto over any other project we may wish to undertake to connect the two oceans. Certainly, the negotiators for the United States could not have felt that the Panamanian agreement to commit Panama "to study jointly the feasibility of a sea level canal" warranted a countervailing commitment from the United States not to do anything whatsoever without Panamanian permission—but perhaps so. The bizarre behavior of our negotiators has produced other results equally as startling.

In any event, Mr. Chairman, one thing is sure and that is that the Panamanians know they got the best of this bargain. Discussing the sea level canal issue, chief Panamanian negotiator, Romulo Escobar Bethancourt, on August 19, 1977, with pride explained to the Panamanian National Assembly the unilateral benefits of the so-called sea level canal options. Dr. Escobar's remarks on the subject, like his remarks on neutrality, are illuminating and are worth studying in full. As Dr. Escobar explains, instead of the United States obtaining an option to build a sea level canal, the United States negotiators gave to the Panamanians the option to veto construction of any type of interoceanic canal, sea level or locks, proposed to be built by the United States anywhere in the Western hemisphere.

Now, Mr. Chairman, committing the United States to deal only with Panama about building another canal is a serious mistake. As the distinguished Chairman knows, the best route for a new canal is in Nicaragua, that being the route that Senator John Tyler Morgan favored during consideration of Isthmian routes in the early part of this century. Senator Morgan of Alabama, who was Chairman of the Senate Committee on Interoceanic Canals, felt strongly that Nicaragua provided a more favorable political and geographical solution to the immense problems involved in constructing a canal between the two oceans. Retrospectively, he may well have been correct, yet our present treaty negotiators propose to foreclose entirely the option Senator Morgan and many others favored, an option which should at least be kept open. Certainly, with the great volume of Alaskan oil which is only now beginning to come on stream and which must move to Gulf and East Coast refineries,

any relinquishment of the right to negotiate for a route in Nicaragua is a very grave mistake indeed.

RESERVATION, AMENDMENT, AND FILIBUSTER

In summary, Mr. Chairman, I believe that the Senate and the House of Representatives should play a significant role in the formulation and revision of these proposed treaties—and I might say in the rejection of these proposed treaties—so that the terms of any new arrangement with Panama can be made fully acceptable to the American public and so that the commercial and national security interests of the United States can be fully protected.

Mr. Chairman, I am sure you know of the early practice of including Senators in delegations sent to foreign countries for the purpose of negotiating treaties. That practice has unhappily in large measure ceased, and the Senate has been more and more asked for consent rather than advice. These treaties provide an excellent opportunity for the Senate to reaffirm its Constitutional prerogative and, indeed, duty to advise the executive—to advise the President—in matters of foreign policy, particularly with respect to treaty negotiation. The Senate can give its advice through the amending process. These treaties should be amended to cure their obvious defects, and since any substantive amendment—as opposed to these band-aid amendments we are hearing about—and since any substantive amendment will require a renegotiation of the amended treaty, the Administration will be advised by these Senate amendments of what is acceptable to the Senate and to the people of the United States and what might later receive Senate consent and the authorization of Congress.

Reservations to these treaties alone would be of little or no value. Any reservations must be coupled with substantive amendments explaining to the President what is acceptable to the Senate and to the people of the United States. Reservations can only affect the obligations of the United States and, even with Panamanian assent, they can do little to bind Panama to a course of action consistent with the best interests of our country. Reservations can be used, as I pointed out earlier, to forbid the President to take any action to exchange instruments of ratification until certain pre-conditions are met. I believe very strongly that a reservation should be adopted forbidding ratification except if the Congress should see fit to authorize these transfers of United States territory and property. I hope that even proponents of these treaties would vote for that reservation since, above all, the Senate has an obligation to prevent a usurpation of the prerogatives and powers of the whole Congress.

Reservations, however, cannot be offered, under Senate procedure, until the treaty has been considered in detail, first, in the Senate sitting as the Committee of the Whole and, second, in the Senate itself. In other words, the rules of the Senate provide for a double-barreled approach in consideration of treaties. These rules are designed to insure that treaties receive the utmost scrutiny and are considered with all appropriate deliberation. There will be, therefore, ample opportunity for amendment of these treaties in the Committee of the Whole and later on the floor of the Senate. Substantive amendments must be adopted to guide the President in renewed negotiation with Panama. Then, in my judgment, these particular treaties, being incredibly defective, should be defeated outright so that there is no question but that the Senate and the Congress intend to insist on the will of the people being put into effect by the executive branch.

Finally, Mr. Chairman, I would comment that I do not foresee a filibuster of these proposed treaties. I do foresee a full discussion, legitimate debate, and consideration of substantive and serious amendments. These proposed band-aid amendments can be dispensed with in short order, and I have no doubt they will be promptly adopted. The real deliberations will occur over the amendments of substance which are not cosmetic and which would provide some true safeguards to our vital interests.

But a filibuster would be pointless, both because a filibuster could be stopped by 60 Senators whereas the treaties could be stopped by 34 Senators, and because both treaties present questions which should be disposed of without undue delay so that the country can turn its attention to other dangerous developments which threaten our security—I refer chiefly to the Strategic Arms Limitation Talks which portend disaster for our country and which have in large measure been eclipsed by the Panama debate. But inasmuch as the concerns of the citizens of the United States regarding Panama are now abundantly evident, the Senate should with deliberation, but nevertheless promptly, discharge its duty in considering ratification. No good purpose can be served by having these proposed treaties more or less hang around for years. They should be put to the test of ratification without further delay and without further media posturing in Panama or elsewhere. My own sincere hope is that the wisdom and clear desires of the people of the United States will be respected for a change and that, accordingly, these treaties will be resoundingly defeated.

Thank you for the opportunity to appear before this distinguished Committee and before its distinguished Chairman.

VARIATIONS IN MEANING BETWEEN ENGLISH AND SPANISH TEXTS OF PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, I have frequently expressed the view that the proposed Panama Canal treaties lack clarity of expression, and are so replete with ambiguity that defective draftsmanship alone would warrant Senate rejection. I have also stated my apprehension that the Spanish text might not track the English language text and that future disputes might arise as a result of differences in the two versions of the proposed agreements.

For the past several days, I have been studying an analysis of differences which exist between the Spanish language text and the English language text of the two proposed treaties. This analysis confirms my earlier fear that the Spanish text does not accurately translate the English text. The analysis I have studied was prepared by Sylvia Costellanos, Research Director for the Senate Steering Committee. Miss Costellanos is bilingual and speaks Spanish fluently. The analysis she has prepared is a very scholarly document and reflects a great deal of work and study. I am advised that she was aided by several experts in Latin American law and legal terminology and that she has included in her analysis only those discrepancies which all agreed give rise to ambiguity and confusion. In other words, only clear errors in translating English legal terminology to Spanish legal terminology are included.

Finally, having read her analysis, I conclude that the errors in translation were very likely—at least in many instances—deliberate in that they are errors which would permit the Panamanian negotiators to assert that they had obtained the best of the bargain while the negotiators for the United States could assert that the documents have the meaning best suited for garnering votes for ratification.

Mr. President, I ask unanimous consent that the analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

OVERVIEW

Done at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

Signed in Washington, this 7th day of September, 1977, in the Spanish and English languages, both texts being equally authentic.

The quotations above are provisos found at the end of each of the Panama Canal Treaty documents. The first is the English text of the proviso; the second, a translation of the text as it appears in Spanish. Note that the Spanish text omits the phrase "in duplicate" found in the English.* This serves as an introduction to an important issue in the Canal Treaty controversy: the degree to which the language in the English and Spanish texts of the Panama Canal agreements correlate with each other.

On September 7, 1977, the United States and Panama agreed to a series of documents providing for the elimination of an American Canal Zone and the transfer of authority over the Canal to Panama. Among these documents are two treaties—the Canal Treaty and the Neutrality Treaty—several Agreements in Implementation, and exchanges of notes. The ensuing public controversy has related in some measure to the interpretation of key clauses in the Panama Canal documents. The U.S. government maintains the Neutrality Treaty gives the U.S. the right to defend the Canal after the year 2000. Panamanian Chief Negotiator Romulo Escobar Bethancourt denies this emphatically: [1] and his deputy negotiator Carlos Lopez Guevara further adds the treaty gives the U.S. "the right to hope that Panama and all other nations of the world will respect the right of American ships to transit the Canal," [2] and nothing more. Similarly, there have been varying interpretations of the term "expeditious transit," with some authoritative sources describing it as the equivalent of "right of way," and others, equally authoritative, refuting this claim.

These conflicting interpretations, although serious, nevertheless arise in connection with words that are mutually accepted. There is a second question as yet unconsidered; the possibility of discrepancies between the very words used in the English and Spanish texts. This issue constitutes a separate and distinct layer of problems. Yet it is evident that to identify all possible ramifications of the documents President Carter has assigned, one must not only analyse the English texts for ambiguous language, but also the Spanish texts for potentially imprecise translations of the language.

According to the State Department, approximately 400 man-hours were spent by its official translators and the negotiating team comparing the substantive contents of the two versions of the agreements. While the resulting documents broadly correlate, their relationship is more that of highly similar documents than of identical texts. Because of differing syntactical requirements and limitations in vocabulary, some modifications are always required in translation work. The differences in these two texts,

Footnotes at end of article.

however go far beyond those needed for a smooth translation. In the Spanish documents the syntax is repeatedly changed for no apparent reason, words are included which do not exist in the English text, and terms are used which are not totally accurate translations of the words in English.

Of these many differences, some clearly will have no effect on interpretation. Others could potentially alter the meaning of the provisions in which they appear. Had an understanding been reached that the parties would abide by the interpretation of the English text in case of a dispute, these discrepancies would raise little problem for the U.S. Instead, Article XIV of the Canal Treaty provides for the settlement of such disputes through consultation or mediation, tacitly acknowledging at the same time that both texts are equally valid. Thus, in the reconciliation of differences the Panamanian version would legally carry as much weight as the English.

Although disputes of this nature have not often occurred in connection with previous agreements with Panama, a few have taken place. In January, 1904, the Panamanian government sent Secretary of State John Hay a list of discrepancies between the two texts of the 1903 treaty.[3] These discrepancies, which it felt justified correction, were all minor. That is in itself an interesting point, given that just such minor inconsistencies permeate the 1977 agreements.

The principal reason for the traditional acceptance of the 1903 Treaty language, however, is not the absence of discrepancies *per se*, but rather a related agreement cited in the letter. "[T]he necessity of making further changes therein," Panama states, "will be obviated by your official statement that the English text shall prevail in case of such difference of interpretation."[4] Because of this understanding, the choice of language in the Spanish text was immaterial, as it had been determined the English text would predominate.

If the ability of the U.S. to impose its understanding of the texts is limited by the very language of the documents, appeals to Panama's "cooperative spirit" will not necessarily result in U.S. interpretations predominating. Mutual good will is a spirit to be hoped for, but hardly to be inferred a priori, in international relations. Unspoken understandings, as ephemeral in substance as the spirit they arise from, are no substitute for precise descriptions of the commitments being undertaken. When less than an unwritten understanding exists—only, as appears to be the case with possible disputes over the Spanish text, a general conviction that all will be well at the end—the risk is correspondingly greater. There are no gounds, in fact, to assume Panama would fail to insist on interpretations it regards as in its national interest, irrespective of their effect on the U.S. posture.

In general terms, the United States may face a problem with regard to the "grant" of certain functions it receives from Panama. The exact nature of America's role as Canal "manager" may be open to interpretation, as may be the exact degree of control America is empowered to exercise in regulating Canal traffic. The exact role of the Panama Canal Commission Board is also open to question. Disputes could arise about the scope of reimbursement to Panama for the public services it assumes in the former Canal Zone, and the effort Panama is under obligation to make in employing displaced Canal Company employees. Finally, as the U.S. text calls for a "feasibility" study of a sea-level canal, and the Panamanian text requires an analysis of the canal's "viability" questions may arise.

Footnotes at end of article.

While it is impossible to predict the exact nature and intensity of potential differences over the Treaty language, one fact clearly emerges: the natural assumption on the part of most Americans that the Spanish texts faithfully follow the English documents is incorrect. Inconsistencies abound in the documents. And before a complete understanding of our agreements with Panama can be attained, these inconsistencies will have to be fully analysed and their ramifications understood.

I. "MANAGEMENT" OF THE CANAL

Throughout the treaties, the word "manage" is used repeatedly, both about functions to be performed by the U.S. in the operation of the Canal and about those to be performed by Panama. The English-language text, however, gives no inkling of the subtle word play that takes place in the Panamanian documents on this subject.

In the Panamanian text, three words are used as translations of "to manage." "Administrar" and "dirigir" are both correct translations, with the former being perhaps the most precise. The third word used, "manejar," falls into a different category. Although similar in appearance to the English term, it is not the Spanish equivalent of "to manage." Its meaning is "to operate" or "to handle".

There is a definite pattern, moreover, to the use of the three terms. In almost every case that "manage" is used in reference to the U.S. role, the Spanish term employed is "manejar." With few exceptions it is "administrar" or "dirigir" that is found in the context of responsibilities being assumed by Panama.

Below is an example from Article 1 of the pattern:

"The Republic of Panama grants to the United States . . . the rights necessary . . . to manage (manejar) . . . the Canal."[5]

and:

"The Republic of Panama shall participate increasingly in the management (administracion) . . . of the Canal . . ."[6]

The distinction between "managing", with its connotation of administrative responsibility, and "operating" becomes increasingly blurred in subsequent sections, as one finds "manejar" used as the translation for "to operate." In the Treaty Annex, to cite just one example, one of the rights America may exercise is listed as the "operation (manejo) of the locks."[7] Finally, "manejar" is also used as the translation for "handling;" another of the American functions included in the Annex is the "handling (manejo) of cargo . . ."[8]

The Panamanians' choice of words in translating "to manage" obviously cannot prevent Americans, be their official role that of "managers" or "operators," from exercising the functions they retain under the treaty. But that is not to say the word play is without impact. The constant use of "manejar" helps create a perception of America's role as that of a "hired hand" rather than owner with legitimate administrative authority and control. This in turn supports the position that the Canal belongs to Panama, and the U.S. role is merely to operate it until Panamanian nationals achieve the expertise necessary to exercise full control over their property.

II. CONTROL OF TRAFFIC

In the Canal Treaty documents there are several references to the regulation of traffic in the Canal. Under Article I, section 4, "the United States and the Republic of Panama shall, cooperate to assure the uninterrupted and efficient operation of the canal."[9] In article III, Section 1, the "Republic of Panama grants to the United States of America the right . . . to provide for the orderly transit of vessels through the Canal."[10] Article III, Section 2(c) grants the United States the right to "make and enforce all rules pertaining to the passage of vessels through the Canal,"[11] and the Annex to the document repeats that "control of vessel movement" is one of the functions which the Panama Canal Commission "may perform."[12]

The importance of well-regulated, and above all, uninterrupted transit of ships in the Canal is paramount to the United States. The reason is obvious; the waterway is of military importance to America, and with 70% of the cargo transported through the Canal originating from or destined for the U.S., of economic significance as well.

The most revealing statement on the Panamanian attitude toward uninterrupted operations is contained in an August, 1977, speech by Panamanian Chief Negotiator Romulo Escobar Bethancourt to the Panamanian Assembly. In connection with the Neutrality Treaty, which deals with Canal operations after the year 2000, he explains his negotiating team had balked at U.S. insistence that Panama guarantee the Canal would remain permanently open. As his stated reason he explained that natural disasters or loss of revenue may someday cause Panama to close the Canal, thereby putting it in a position, if it signs the accord, of violating a treaty for reasons beyond its control.[13]

Some opponents of the treaty feel a second factor may have influenced Panama. Retaining flexibility over the flow of traffic through the Canal, including the right to shut down the waterway, provides Panama with a trump card over the United States. Significantly, the only guarantee ultimately incorporated in the Neutrality Treaty is that "the Canal shall be operated efficiently in accordance with conditions of transit through the Canal"[14] The qualifier included at Panama's behest makes the guarantee virtually meaningless.

To what extent can the United States draw upon the provisions cited earlier for undisputed authority to regulate Canal traffic until the year 2000, when control is transferred to Panama?

The language in Article I ("The United States and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Canal"), when analyzed closely, does not emerge as absolutely final. The mandate in the sentence relates to cooperation; "uninterrupted and efficient operation" occupies a secondary position as the purpose of the cooperation. The obligation being undertaken by the two nations is thus primarily to attempt to work together for the purpose of achieving efficient and uninterrupted operation. The language does not commit them to the achievement of this *per se*.

Under Article III, Section 1, the "Republic of Panama . . . grants to the United States of America the right . . . to provide for the orderly transit of ships through the Panama Canal." In the Spanish text this function is expressed as the right to provide for the "fluid transit" of vessels.[15] This discrepancy did not arise out of linguistic exigencies. Not only does Spanish contain a word equivalent to 'orderly" ("ordenado"), but this term is in fact used in other sections of the documents.

Interpreted literally, the Spanish version of the sentence merely gives the United States the right to ensure that the ships going through the Canal will have water (or some liquid) to sail on. From the context, of course, it is evident that the word is being employed figuratively. Yet the very use of figurative expressions in a legal document is to be questioned. Subjective imagery, open to dozens of more or less different personal interpretations, is normally avoided in international treaties in favor of highly precise terms with established legal meanings. This is regarded as the best assurance that inaccurate interpretations will not arise in the future. In this instance, however, the right

given to the United States in this section can be interpreted in as many different ways as there are opinions on the meaning of "fluid."

The references in Article III, Section 2(c) and the Annex, like those in other sections, are not as final as they appear to be. Neither explicitly gives the United States the authority to ensure, unilaterally, if necessary, smooth, uninterrupted Canal traffic. It can be argued that the grant to the U.S. to regulate traffic makes this unimportant, with the latter constituting sufficient authority. But an additional factor must be considered. Although it is not explicitly stated, it is evident that the grant of authority is qualified. The organ charged with implementing this and other functions is the Panama Canal Commission and, as shall be discussed later, differences between the English and Spanish texts raise the possibility that substantial influence may be exerted by Panama on its decisions.

In summary, the Canal Treaty documents do not give the United States the clear-cut right to control the Canal traffic. They refer to cooperation with Panama on the issue, the American right to guarantee the "fluid" transit of vessels, and the authority the U.S. is to exercise through the Panama Canal Commission, over which it will not have complete control. That which the treaties make no mention of is the U.S. having explicit, unilateral authority to regulate the transit of vessels through the Canal.

III. PANAMA CANAL COMMISSION AND BOARD

Article III of the Panama Canal Treaty establishes a Panama Canal Commission through which the United States will carry out its Canal management functions. In connection with this Commission, a Board is also established.[16]

The Commission is described as a "United States Government agency which shall be constituted by and in conformity with [17] the laws of the United States of America."[18] In connection with its duties, the U.S. may, among other things, "issue and enforce regulations for the effective exercise of [its] rights and responsibilities."

These points are significant in light of the role of the Board cited earlier. The English text describes the role of the Board and its relation to the Commission in this manner: "The Panama Canal Commission shall be supervised by a Board." This seems to imply the panel is one with oversight responsibility; that it shall serve as a watchdog ensuring the Commission is properly carrying out its established responsibilities.

The Spanish version does not present a literal translation of the sentence, stating, "The Panama Canal Commission shall be directed by a Board of Directors . . ." Under the Panamanian text a rather different panel seems to be created. "To direct" is not synonymous with "to supervise," the former implying the existence of policy-making authority. The combination of "to direct" and "Board of Directors" (in contrast to a simple "Board") seems to indicate that Panama expects the body being created to have far more authority than the U.S. presumably intends it to have.

The policy making power of the Board implied in the Panamanian text raises at least two problems. One is the degree to which a foreign country would have control over an agency of the U.S. government.

The make-up of the Board is significant in this context. The treaty stipulates it shall consist of five Americans and four Panamanians.[19] With Panamanian participation coming one vote short of control of the Board, this panel would almost certainly emerge as a vehicle for strong Panamanian influence on matters relating to the Canal's operation.

The 5–4 make-up, moreover, is no guarantee the U.S. will always have a majority. With full attendance, one American voting with the Panamanian bloc would be sufficient for the latter's position to prevail. Unavoidable absences from meetings and temporary vacancies in the American positions could similarly give Panama a temporary majority on the Board. The composition of the Board, in short, dilutes—and in some instances may vitiate—the rights granted to the United States in connection with the Canal.

The second problem relates to the question of responsibility. What entity is liable for possible improper Canal operation, or accidents? The U.S. is charged with managing the Canal, and the Panamanian Canal Commission is officially a U.S. government agency. On this basis, responsibility should fall on the United States. Yet if the Board is to have a policymaking role, the U.S. has less than full control over the actions of the Commission. Would the U.S. nevertheless be made liable for problems relating to the Canal?

IV. "GRANTS" OF RIGHTS TO THE UNITED STATES

The verb "to grant" appears eight times in the course of the documents. In Spanish it is translated in three different ways, using the word which is most precisely its equivalent ("otorgar"), but also the words meaning "to confer" ("conferir") and "to concede" ("conceder").

The verb "to concede" is used almost exclusively as the translation of "to grant" in the Spanish text of the 1903 treaty with Panama. It is employed, for example, in the crucial first clause in Article III:

"The Republic of Panama grants (in Spanish, "concedes") to the United States all the rights, power and authority . . . which the United States would possess and exercise if it were the sovereign of the territory . . ."[20]

The principal controversy surrounding this clause relates to the interpretation of "if it were the sovereign." A second source of debate has been the use of the word "concedes," with some Panamanians contending that in "conceding" these and other rights, their nation did not quite "grant" them.

This illustrates a problem that can occur when a word used is not the precise equivalent of the term agreed upon in the other language: its meaning is susceptible to questions. Had "otorgar" been used instead of "conceder," it is likely no question would have been raised. But with "conceder" employed, an argument can be made for the attribution of a different meaning on the not illogical grounds that if Panama had meant to make a "grant," it would have used the word "grant."

This particular dispute could have become far more complex than it did. As it was, it revolved around only one translation of "to grant." Upon ratification of the 1977 documents, by contrast, the governments involved will have not one, but three terms for which to sort out the nuances.

Given that grounds for distinguishing between the three terms may exist (in the opinion of present or future Panamanian officials, if nothing else), it is useful to examine what is "granted," what is "conferred," and what is conceded to the U.S. under the Canal Treaty.

Under Article I,

Panama . . . grants (confers) to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal.[21]

Under Article III,

Panama . . . grants (confers) to the United States of America the right to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment, and to provide for the orderly transit of vessels through the Panama Canal.[22]

The text then notes that the U.S. "accepts the grant (concession) of such rights . . ."[23]

The rights provided for in the two sections overlap, but are not identical. The rights to improve and protect the Canal are only "granted," while the right to manage, operate, and maintain the Canal's complementary works, installations and equipment is only conferred upon the U.S.

Under Article XI, certain rights are "conferred" on the United States in connection with jurisdiction over civil and criminal matters.[24] The text adds this authority "shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted (conferred) to the United States of America elsewhere in this treaty and in related agreements."[25]

If a difference exists between "to grant" and "to confer," how is the above to be interpreted? In a literal sense, it could be argued that this section applies only to those rights which were, strictly speaking, "conferred," and not to those which were "granted."

V. PAYMENT TO PANAMA FOR SERVICES

Article III stipulates that Panama will assume certain public services in what was formerly the Canal Zone, and is to be reimbursed for these services by the Panama Canal Commission.[26] The English text clearly calls for reimbursement for costs incurred "in" providing those services, but the Spanish text, by contrast, uses a preposition most accurately translated as "while."[27]

A strict interpretation of the sentence in the Spanish text thus commits the Commission to reimburse Panama for costs incurred at the same time as, but not necessarily in connection with, those services. This is indicated not necessarily to argue that Panama will insist on this position, but rather to point out that the language of the Spanish text allows it to do so if it wishes.

During the first three years the treaty is in force, this discrepancy would not have an impact, as the payment to Panama for public services is set at $10 million per annum. But at the end of three years, and every three years thereafter, the treaty calls for payment to Panama to be reviewed. The U.S. text calls for "the costs involved *in* furnishing said services to be reexamined,"[28] and the Spanish text again uses the preposition equivalent to "while." The U.S. text adds "inflation and other *relevant* factors" are to be taken into account,"[29] and the Panamanian text, compounding the ambiguity calls for the consideration of "inflation and other *important* factors." Obviously, "relevance" and "importance" are wholly different concepts.

Realistically, it is doubtful Panama would argue for the most literal interpretation of "while" and "important." Nevertheless, these terms give the government a degree of leeway it would not otherwise have. In a borderline situation, when the appropriateness of taking certain costs into account is being debated, these ambiguous terms provide Panama with an advantage it would lack under more precise language.

VI. FATE OF DISPLACED EMPLOYEES

A discrepancy appears in Article X of the Canal Treaty with regard to the future of former employees of the Panama Canal Company. Both texts agree that the two nations shall attempt to find positions for employees displaced because of the terms of the agreement. Then the documents differ. In every reference to this matter, the American version states reemployment goals will be carried out "to the maximum extent feasible,"[30] while the Panamanian version employs the more lukewarm "to the extent possible." Whether "feasible" and "possible" imply differing degrees of commitment is a debatable point; but the inclusion of "maximum" in the English text does convey a heightened sense of commitment not found in the Span-

Footnotes at end of article.

ish text. A situation consequently could arise in which the U.S., taking its mandate from the American text, would make efforts to retain displaced employees "to the maximum extent feasible," while the Panamanian government's efforts would be limited to "the extent possible," as called for in the Spanish text.

VII. DISCREPANCIES IN LEGAL TERMINOLOGY

Of the legal terms used throughout the agreements, there are instances in which the expressions used do not totally correlate. This absence of uniformity may or may not affect the execution of the treaties in a substantive manner; in most cases they probably will not. At the same time, however, their very existence seems to indicate a certain lack of careful study on the part of the officials responsible for analysing the correlation between the Spanish and English texts of the documents. That discrepancies should exist even in legal terminology is a telling point, as the choice of legal expressions, given their frequently highly technical definitions, is one normally made only after a study conducted with the utmost care.

In the Preamble and Article I there are three references to previous treaties being ended by virtue of these agreements. While the term used in English is "terminate" in both textual references (the third reference, in which "abrogation" is employed, occurs in the title to Article I), the Spanish text uses "abrogate" throughout. The words are not interchangeable. "Termination" relates to an agreement coming to an end,[30] while "abrogation", according to the authoritative *Black's Law Dictionary*, implies its repeal, annulment, or destruction.[31] Undoubtedly, "abrogate" is the more forceful of the two terms. Its selection by the Panamanian negotiators, be this the result of accident of design, will likely appeal to Panamanians opposed to existing treaties.

Because the Spanish language contains a word equivalent to "terminate" as well as one having the meaning of "abrogate," no linguistic impediment existed for a common term being selected by the two parties in the negotiations. Such consistent use of one term would have totally precluded any questions arising in the future about the exact circumstances under which previous treaties were made inactive.

Under Article III, the English language text gives the U.S. the right to "make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters." [32] The word used in the Spanish text as the equivalent of "to make" is "promulgar," meaning "to promulgate."

The authoritative *A New Pronouncing Dictionary of the Spanish and English Languages* by Mariano Velazquez de la Cadena (normally known, and hereinafter referred to, as the *Velazquez Dictionary*) translates and defines "promulgar" as "to promulgate, to publish." [33] The supremely authoritative Spanish-language *Diccionario de la Lengua Española* gives the following definition of "promulgar" as a legal term: "to formally publish a law of other measure by an authority." [34]

Clearly, while the "making" of a law or rule embraces all the steps involved in the process, its promulation relates to only one small aspect of that process. A purist would question if the right granted in the Spanish text to "promulgate" carries with it the authority to carry through the other steps involved. While Panama is scarcely likely to make this point, if a uniform term had been selected (and the Spanish language does contain words equivalent to "make"), the question would have been totally moot.

Finally, the word used in the Spanish texts as the equivalent of "to issue," "expedir," is to same degree open to question. The *Velazquez Dictionary* defines "expedir" as "to issue from a public office." [35] Thus in certain parts of the texts, such as in those dealing with the issuance of licenses for various activities, the use of "expedir" is correct. In connection with the issuance of government regulations (as, for example, under Article III, which gives the U.S. the right to "issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America . . ." [36]), legal experts regard the use of a separate term, "dictar," as more correct.

CONCLUSION

All multilingual documents contain, perhaps inevitably, some discrepancies with regard to the exact choice of words. To say it is a frequent occurrence however, is not to say it is one without consequences. Disputes, sometimes serious ones, can and do occur. Obviously, the very existence of a discrepancy will not automatically lead to a problem; at the same time, its presence opens the door to disputes. In the case of the Panama Canal Treaties, the differences in the two versions can easily result in problems of some degree of seriousness, particularly because there is no reason to believe Panama will automatically accept specific U.S. interpretations over its own.

The eventual acceptance or rejection of the treaties is a matter which will be decided in the coming months by the American people and the U.S. Senate. Many factors will be weighed in the course of the decision-making process. A number of these, such as the effect of the treaties on U.S. access to the canal and on its authority to defend the waterway, are of supreme importance. At the same time, an equally significant element in the decision making process is understanding what the treaty language actually says and what its word can be interpreted to mean. A thorough understanding of this aspect of the issue will be integral to an intelligent decision on the fate of the treaties.

FOOTNOTES

*The use of "done at" in English and "signed in" in Spanish does not have the same significance. Each nation is simply using the phrase that has been established by custom.

[1] *Matutino* (Panama City, Panama), August 20, 1977.

[2] *Miami Herald*, October 3, 1977.

[3] "Diplomatic History of the Panama Canal: Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers," Senate Document No. 474, 1914, p. 304.

[4] Ibid.

[5] U.S. Department of State, Selected Documents, Publication No. 6A, September 1977, p. 1. Hereinafter referred to as U.S. Department of State, *Treaties*.

[6] Ibid.

[7] U.S. Department of State, *Treaties*, p. 11.

[8] Ibid., p. 12.

[9] Ibid., p. 1.

[10] Ibid., p. 2.

[11] Ibid., p. 11.

[12] Ibid., p. 11.

[13] *Matutino* (Panama City, Panama), August 20, 1977.

[14] U.S. Department of State, *Treaties*, p. 14.

[15] U.S. Department of State, *Treaties*, p. 2.

[16] U.S. Department of State, *Treaties*, p. 2.

[17] In the Spanish text the words "by and" are omitted. The resulting sentence makes no reference to the Commission being constituted *by* the United States.

[18] U.S. Department of State, *Treaties*, p. 2.

[19] U.S. Department of State, *Treaties*, p. 2.

[20] U.S. Department of State, *Construction of a Ship Canal to Connect the Waters of the Atlantic and Pacific Oceans*, TIAS No. 431, p. 2.

[21] U.S. Department of State, *Treaties*, p. 1.

[22] Ibid., p. 2.

[23] Ibid.

[24] U.S. Department of State, Treaties, pp. 8–9.

[25] Ibid., p. 8.

[26] Ibid., p. 3.

[27] Ibid.

[28] U.S. Department of State, *Treaties*, p. 3.

[29] Ibid.

[30] Ibid., pp. 77–8.

[31] *Black's Law Dictionary* (St. Paul, Minnesota; West Publishing Company, 1962), p. 1641.

[32] Ibid., p. 21.

[33] U.S. Department of State, *Treaties*, p. 2.

[34] *A New Pronouncing Dictionary of the Spanish and English Languages* (Chicago, Illinois/New York, New York; Wilcox & Rollett Company, 1942), Part I, p. 520.

[35] *Diccionario de la Lengua Española* (Madrid, Spain; Editorial Espasa-Calpe, S.A., 1970), p. 1072 (author's translation).

[36] *A New Pronouncing Dictionary of the Spanish and English Languages*, Part I, p. 310.

[37] U.S. Department of State, *Treaties*, p. 2.

THE BALTIMORE SHOPSTEADING PROGRAM

Mr. MATHIAS. Mr. President, it is both instructive and heartening when our cities initiate innovative approaches to rebuild their economic vitality.

Such an example is underway in Baltimore in the form of "shopsteading." People who participate in this program need pay only $100 to receive title to the city-owned property. They then use their own money to improve the property. Private investment in the 15 properties Baltimore has just turned over is expected to be $750,000.

The Baltimore shopsteading program follows on the heels of their highly successful urban homesteading program which provided similar incentives to bring residents back into the city.

Of course, the city's involvement and commitment does not stop when it turns over property in such rebuilding efforts. It is assisting each shopsteader in financing his or her project, many through the city's commercial rehabilitation loan program. Others will be aided by the Council for Equal Business Opportunity in seeking financing from the Small Business Administration.

Baltimore's shopsteading program demonstrates how our cities, through resourceful and creative measures, are attacking problems not entirely of their own making. This is the kind of program we should encourage other cities to emulate to make themselves more attractive to new business. It is just one more sign that the cities of America want and deserve our help.

Baltimore has well earned its ranking as an All-American City. Mr. President, I ask unanimous consent that this description of Baltimore's shopsteading program be printed in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

Baltimore's first shopsteaders will open an ice cream parlor, a Mexican and a Jamaican restaurant, an Oriental gift shop, an upholstery shop, and a gourmet supply shop.

They will also have offices for an architect, engineering design firm, a commercial artist,

a real estate firm, a financial consultant and a management advisor, a beauty salon, delicatessen, and graphic services firm.

Mayor William Donald Schaefer today named the first participants in the program and turned over fifteen City-owned properties to them, in exchange for $100 per property.

The shopsteaders on West Baltimore Street are:

1316–18—Mr. & Mrs. P. Guzman and Mr. & Mrs. D. Hill, of Ellicott City, for a Mexican restaurant.

1436—Gerald Schlichting, Huntingdon Avenue, for a delicatessen and residences.

1501—Nelson Bolton, 218 East Churchill Street, for an ice cream parlor and residences.

1502—James Reilly, of Seabrook, for an Oriental gift shop and residences.

1506—Teresa Oliver of Columbia, graphic services.

1508—Attrices Young, of Columbia, management consultant.

1510—Icelda Ford, of Sanneta Avenue, for a Jamaican restaurant.

1511—William R. Bull, of Gilmore Street, beauty salon and residences.

1512—Alburt Sweetwine, of West Lexington Street, for an upholstery business and residences.

1521—David Villela of South Stricker Street, architect's office and residences.

1529—Devon Davison, of Park Avenue, commercial artist's studio and residences.

On East Baltimore Street will be:

807–9—Leon Amernick, of South Gay Street, for real estate offices and retail space.

811—C. P. Medaglia, of Overbrook Road, for engineering design offices.

813—Juliane Atwater, of Annapolis, for a gourmet supply house.

On West Frederick Avenue will be:

1625—Ronald Freeland, of Graden Avenue, for financial consulting offices.

Mayor Schaefer said the private investment in the new shops is expected to be near $750,000. At the same time, he pointed out, the City will be making public improvements along the West Baltimore Street corridor to improve the attractiveness of the commercial district.

The Mayor expressed pleasure at seeing the diverse group attracted by the shopsteading program. Six of the 15 awardees are black, two are Hispanic in background, and four are women. Five are from out of Baltimore and will, he pointed out, bring new investment dollars and jobs into the City.

"Like many of the other community development activities we have instituted here in Baltimore, the shopsteading program has attracted national attention," the Mayor said.

"The next step in the process," the Mayor continued, "is to assist each shopsteader with the financing for his or her project. Many of these projects will be financed through the City's commercial rehabilitation loan program. Others, through assistance from the Council for Equal Business Opportunity, will be seeking financing from the Small Business Administration. We are grateful to both organizations for the cooperation they have extended to us as this program has been developing."

Because of the national and local interest generated in the program the Department of Housing and Community Development, which has been responsible for shopsteading, arranged several inspection tours of the 18 properties in the 1300–1500 blocks of West Baltimore Street in the Union Square area and the two properties in the Jonestown/Shot Tower Park area in the 800 block of East Baltimore Street. HCD Commissioner M. Jay Brodie reported that thirty proposals had been received and that a review of each proposal had been conducted including an interview, a preliminary analysis of financial statements, projected business budget and a credit check. The fifteen proposals which passed this screening were also reviewed by the Union Square Local Development Corporation and the Jonestown Planning Council, two community groups that have been advising the Department on the neighborhood impacts of the shopsteading program and the Commercial Revitalization Coordinating Committee.

"We are pleased with the public response to our first shopsteading effort," Brodie stated. "We expect to offer additional properties in the Shot Tower Park area and in Washington Hill in the spring and look forward to working with others to redevelop these properties."

PROPOSED SALE OF F–15 AIRCRAFT TO SAUDI ARABIA

Mr. CHURCH. Mr. President, yesterday several of my colleagues on the Foreign Relations Committee and I wrote to Secretary of State Cyrus Vance on the proposed sale of F–15 aircraft to Saudi Arabia. We recommended that, because of the present delicate situation in the Middle East, the letter of offer on these sophisticated aircraft not be sent to the Congress at this time.

Two letters on this subject were delivered to the Secretary; one that I prepared in which Senators CASE, PELL, CLARK, BIDEN, SARBANES, and STONE joined; the other was signed by Senators JAVITS, PEARSON, and BAKER. A substantial majority of the Foreign Relations Committee, therefore, has indicated its opposition to the proposed sale at this time and I am hopeful that the administration will give the utmost consideration to these views.

Mr. President, I ask unanimous consent that the two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., January 24, 1978.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR SECRETARY VANCE: As you know, the State Department has started consulting with the Congress on the proposed sale of 60 F–15 aircraft to Saudi Arabia. We have grave reservations about the advisability of supplying the most advanced fighter bomber in the world to Saudi Arabia. There are several reasons why we consider such a sale unwise.

Sixty F–15's would destabilize the Arab-Israeli balance of power. The operation of such an aircraft by the Saudi Air Force would seriously enlarge the threat of an aerial strike against Israeli military and civilian targets. The Saudi airbase at Tabuk is only 150 miles from Israel's major southern port of Eilat.

We have no desire to harm our good relations with the Government of Saudi Arabia and we appreciate the constructive role, that they have played in efforts to secure a peaceful settlement. However, we cannot overlook the possibility that these aircraft might be transferred to other Arab governments in the event new hostilities break out. It must be remembered that Saudi Arabia has allowed Egyptian pilots to train on American-supplied F–5E fighter planes, despite the terms of the sale.

The absorptive capacity of the Saudi Air Force is not sufficiently advanced to fully assimilate as many as 60 F–15's. Yet, even if operated at only 50% efficiency, there would be a quantum jump in the Saudi capability to launch an attack. The real defense needs of Saudi Arabia can be adequately met by other types of interceptors. The F–5 system, which will be completed in the early 1980's, and the improved Hawk missile force would furnish Saudi Arabia with a fully dependable defense shield.

Moreover, the contemplated sale of the F–15's runs counter to the President's arms sales policy as enunciated in PRM–12. The transfer of the F–15's would impel other countries in the Persian Gulf to match the greatly enlarged Saudi striking power, thus leading to a dangerous escalation of the regional arms race.

The uncertain status of the suspended Middle East negotiations requires that no action be taken that would jeopardize a resumption of the talks. In addition, the Foreign Assistance Subcommittee of the Senate Foreign Relations Committee is preparing a major study of the proposed sale. We firmly believe that this is not the time to agree to the sale of such potent and sophisticated weapons to Saudi Arabia.

Mr. Secretary, at the very least, we strongly urge you to withhold the submission of the letter of offer until such time as the present uncertainty surrounding the peace talks has ended.

With best wishes,

Sincerely,

FRANK CHURCH,
JOSEPH R. BIDEN,
PAUL S. SARBANES,
DICK CLARK,
RICHARD (DICK) STONE,
CLAIBORNE PELL,
CLIFFORD P. CASE.

U.S. SENATE,
Washington, D.C., January 24, 1978.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: As you know, the State Department has started consulting with the Congress on the proposed sale of 60 F–15 aircraft to Saudi Arabia. A number of our colleagues have written urging you to withhold the submission of the letter of offer.

Without necessarily joining in each of their reasons, we do feel that under the circumstances it would be best if the Foreign Relations Committee, which is preparing a major study of the proposed sale, were not put under the deadlines which the law specifies, and which begin immediately upon submission of the letter of offer.

We hope very much that you and the President will see the desirability of this position and that the submission of the letter of offer will be withheld accordingly.

With best wishes.

Sincerely,

HOWARD BAKER,
JAMES B. PEARSON,
JACOB K. JAVITS.

EUROCOMMUNISM

Mr. HATCH. Mr. President, for some time I have expressed my concern over the growing threat of communism in Western Europe. Journalists who have covered this growing phenomenon have used the term "Eurocommunism" to separate the Europeans from their Soviet counterparts. You can call it by any name, but it is communism still the same. Every American should be concerned about this increasing threat, for it endangers the strongest alliance within the free world. In Italy we have a problem that has reached crisis proportion. While the Italian Communist Party has been

the strongest in Europe for quite some time, the Christian Democrats have been able to deter them from a position of importance in the government. The last election in Italy caused some new problems for the Christian Democrats because the Communists made significant gains in those elections. To deny them a voice in the ruling government will require a feat of herculean strength. This week the Prime Minister of Italy, Giulio Andreotti, was forced to resign in order to avoid having to accept demands that a coalition be formed between the Christian Democrats and the Communists. What the new government will bring is anybody's guess.

The administration has decided to adopt a policy of hands-off with respect to any foreign government. While this is idealistically commendable, we are being blind to the realities of world politics. The Communist objective is to acquire a seat of power in every country in the world. It only requires simple deductive logic for one to realize that the heart of communism is the Soviet Union and that it is in their interest to encourage such activity as is taking place in Italy at the present time. A presumption that they are not actively supporting the PCI (Italian Communist Party) would amount to an open invitation for a Communist takeover of the government in Italy. After the last elections the Christian Democrats held 38.8 percent of the electors' votes, with the PCI holding a close second at 34.5 percent. The Communists are now in a position to press their advantage, and they will do so with full force.

In response to this new crisis the administration has issued what has been termed a "stronger statement":

> Our position is clear: we do not favor such participation and would like to see communist influence in any Western European country reduced.

The statement further indicated that there has been no major change in the administration's attitude toward Western European Communist parties but that recent developments in Italy had increased the level of concern.

The Washington Star recently reported that privately some officials within the administration have indicated that the major factor behind the new statement was the desire by the administration to be on record with a firmer statement so as to avoid being accused of "fiddling while Rome burns" should the Communists enter the government in Italy. What amounts to just saving face is not going to benefit us in the long term.

Italy is a vital force in the NATO alliance. It forms the major portion of the southern flank of NATO. We should keep in mind that Italy could withdraw from the alliance at any time. Although Italy has been a member of NATO for 30 years, they have never been an active member. The fact they were reluctant to join in the first place should further indicate the tenuousness of their commitment. It was only American diplomatic pressure and the dependence of Italy upon the Marshall plan during the reconstruction years that forced the decision in favor of joining NATO. Because of this reluctance, the commitment to the defense alliance has not, in my opinion, measured up to the level of other members. Italy's defense budget has traditionally remained well below the average of the other European members of the alliance. In recent years we have seen a trend within the Italian defense budget community to spend the majority of their money on personnel and, in turn, neglect equipment.

The single fact that seems to point to the continued membership of Italy in NATO is the presence of U.S. ships and men in Italian ports along the Mediterranean Sea. This has a major economic impact on these areas, and, in light of the current economic situation in Italy, it is unlikely that the Italian Government would want to lose this income. Also, the U.S. presence does act as a stabilizing influence on the defense of Italy. It also allows them to get by with the minimum expenditure on defense that they have become accustomed to over the years.

Should the Communists come to power in the government, much of this is subject to change. There are many questions to be answered about continued Italian participation in the alliance: How will other European members feel about sharing defense secrets with a Communist government, especially in light of the espionage scandals that rocked West Germany this past year? Whose side will the Italians take in the event of a crisis? What will be the Italian commitment to the future spending of the alliance? Will they be willing to support the new concept of sharing the development of new weapons systems?

In the past the Communists in Italy have held to the positions that they would support the Soviet cause in a crisis between the Western nations and the Soviet Union. In recent years they have claimed more and more independence from the Soviet hierarchy and have indicated that they have softened their stand on the NATO alliance. During the 1970's official statements from the PCI have indicated they have abandoned their former policy that the bipolar system of military blocs must be dismantled. In March of 1975, at the Italian Communist Party's 14th National Congress, Enrico Berlinguer, the top Italian Communist, made this change official in the following statement:

> We do not pose the question of Italy's departure from the Atlantic Pact, because eventuality, and every other unilateral exit from one bloc or the other, in a situation like the European one, not only is not feasible, but would end up hampering or even reversing the process of international detente.

This proclamation has been one of the cornerstones for those who argue that the Eurocommunists have come to accept Western democracy and are not trying to overthrow the free governments within NATO. In reality, however, this policy of the PCI has only their interest at heart and in no way is designed to support the continued membership in NATO by Italy. One must realize that one of the reasons that the Communists can flourish in Italy is the fact that the Italian people do not feel threatened by the Soviet military force. So long as détente works, this threat will be diminished in the minds of the people of the world. This allows the PCI to continue to grow and expand their area of influence. Should the NATO alliance break down at this point, this threat would again become very real to the Italian people and, in turn, threaten the current freedoms enjoyed by the PCI.

Now is the time for the administration to take a hard stand against any Communist participation in a NATO country. Both Dr. Henry Kissinger and former President Gerald Ford have been outspoken in their criticism of Communist participation in NATO governments. In a speech before the Conference on Italy and Eurocommunism in June 1977, Dr. Kissinger stated:

> Therefore, we do our friends in Europe no favor if we encourage the notion that the advent of Communists and their allies into power will make little or no difference to our own attitudes and policies.

We should be quick to recognize that we are endangering the strongest alliance in the world by placidly sitting back and allowing Communist participation in the Italian Government.

A point that must be made in closing is that the Italian Communist Party has now, and always has had, a hard core of members that are blindly obedient to Moscow. This hard core is under no misapprehension as to what will happen to Berlinguer and the Eurocommunists in Italy should they become inconvenient to Moscow. It is inconceivable that Moscow would permit a new form of Communist heresy which would be so attractive to the peoples of the Eastern European countries such as Rumania, Hungary, and Poland, not to mention the Russian people themselves.

TRIBUTE TO JOHN J. SPARKMAN

Mr. BAKER. Mr. President, an announcement has been made recently which brings sadness and regret to this body. Our colleague, JOHN J. SPARKMAN of Alabama, the dedicated and able chairman of the Foreign Relations Committee, has said he will not be a candidate for reelection.

Senator SPARKMAN will have served longer than any other Alabamian when he completes his current term. He has been elected to represent his native State in the Senate four times. That service, admirable in itself, added to the six terms he served in the other body, means that he has given 42 years to public service.

No man, or woman, has been more dedicated to the people he represents. He has worked assiduously for his State and his country. Senator SPARKMAN has left legislative landmarks in the fields of housing, in banking, and in behalf of small business.

On occasion, Senator SPARKMAN and I may have disagreed on the precise remedy for a particular problem, but I must say that few people I have known can disagree with me in a more agreeable

fashion. His courtliness, his diplomacy, his mannerliness, his great personal kindness—while they do not indicate for one moment any firmness of resolves—have made our personal dealings a matter of great pleasure for me. I will miss this great Southern gentleman.

But I cannot argue with his decision to step down from his heavy responsibilities, particularly in view of the length and depth of his service.

Each of us brings something special to the U.S. Senate, an individual perspective and a unique combination of personal qualities. Each of us will also take away something unique and special. JOHN SPARKMAN has shared much of his life with us, the best of his efforts and all of his heart, and he will take away with him our very warmest wishes for happiness in the future.

TESTIMONY ON THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings today on the Panama Canal treaties and received testimony from the following:

The Honorable ELDON RUDD of Arizona.

The Honorable William D. Rogers, member, Committee of Americans for the Canal Treaties, Washington, D.C.

Peter V. Baugher, chairman, National Governing Board, the Ripon Society, Chicago, Ill.

The Reverend Jesse L. Jackson, national president, Operation PUSH, Chicago, Ill.

The Honorable ROBERT E. BAUMAN of Maryland.

Col. John P. Sheffey, executive vice president, National Association for Uniformed Services, Arlington, Va.

Egon Richard Tausch, on behalf of U.S. Industrial Council, Washington, D.C.

George Fox Mott, chairman, the Mott Research Group, Washington, D.C.

I ask unanimous consent that the prepared text of the statements given before the committee be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF HONORABLE ELDON RUDD

Mr. Chairman, Members of the Committee, I greatly appreciate this opportunity to appear today during this final session of hearings on the proposed new Panama Canal treaties.

Let me note by way of background that I am very familiar with the countries and people of Latin America, having spent several years on diplomatic assignment in many countries throughout Latin America.

My analysis and views of the proposed treaties are based upon my understanding of the history and aspirations of Latin American peoples, as well as considerable discussion about the treaties with academic and legal scholars, business and government leaders, and people in Arizona and other parts of our country and the world.

Mr. Chairman, I believe that Senate action on these treaties may well be the most important foreign policy decision confronting the United States in 1978.

While the full text of the two treaties and their accompanying implementing agreements are available from a number of sources, regrettably most Americans will not read the full texts. Their opinions will be shaped and their judgments formed by what the opponents and proponents say about the treaties

The President of the United States has signed the treaties. The White House has for many months been embarked on a full-scale, heavily financed propaganda effort to persuade the public and Members of Congress to ratify the President's questionable decision.

We are being told by the President and his emissaries that the treaties should be ratified for a number of reasons—among them that—

1. The U.S. presence in Panama is illegitimate.

2. Control of the Canal is no longer vital to our national defense.

3. The commercial importance of the Canal to U.S. and to world trade has diminished.

4. The Canal cannot be defended against enemy attack.

5. Failure to ratify the treaties will provoke the Panamanians to guerrilla warfare and create a second Vietnam.

6 All Latin and South American countries support the new treaties, and will be offended if they are not ratified.

7. Ratification will guarantee uninterrupted operation of the Canal.

8. Ratification will not impair or limit our present ability to defend the Canal.

9. Because it is in the self interests of Panama to keep the Canal open and operating, we should not be concerned over any aspects of the new treaties.

Mr. Chairman, if historical fact and current wisdom supports all these contentions—or even most of them—then indeed the people and the Congress should look favorably upon ratification of the treaties.

On the other hand, however, if historical fact and wisdom strongly contradict these claims in behalf of the treaties, then Congress and the people should refuse ratification. Our task is to determine the truth.

I would like to look at each one of these claims to see whether they stand up or fall under factual scrutiny.

1. Is the U.S. presence in Panama illegitimate? Does equity require the United States to revise the present treaty and make restitution to the Republic of Panama for past wrongdoing?

Vasco Nunez de Balboa crossed the Isthmus of Panama to discover the Pacific Ocean in 1513. The strategic importance of this narrow piece of ground was immediately recognized. It became the base for Spanish colonization and conquest of the New World.

Discontent in the Spanish colonies matured more slowly than it did in the English of North America. But there were numerous revolts. In 1821, the residents of the Isthmus of Panama signed a formal agreement declaring independence from Spain, and unification with Colombia.

It was a bad choice. Colombia suffered civil war and revolution. Between 1850 and 1902, the residents of Panama made 53 major efforts to achieve independence.

During this period, the United States, in support of Colombian sovereignty, landed troops on the Isthmus of Panama six times.

The discovery of gold in California heightened American interest in a proposed canal across the isthmus. In 1850, the Panamanian Railway was built by a consortium of U.S. companies and financiers. Anxious to protect the integrity of this commercial artery, the U.S. supported Colombian authority, while at the same time recognizing the legitimate claims of the Panamanians.

Between 1856 and 1870, the United States tried to negotiate a treaty with Colombia for the construction of a canal across the isthmus. Colombia rejected the American proposals and made an agreement with a French company for construction of a canal. The French failed.

In 1902, Congress passed the Spooner Act, providing President Theodore Roosevelt with authority and $40 million to purchase the rights to an isthmian canal that had been obtained by France from Colombia.

After passage of that Act, several months of arduous negotiations between U.S. Secretary of State John Hay and Colombian Charge d'Affaires Tomas Herran resulted in a treaty, which the U.S. Senate duly ratified on March 17, 1903.

The Hay-Herran Treaty would have given the United States the right to build and operate a canal through a 10-kilometer-wide strip of land across the isthmus, for an initial payment of $10 million and an annuity of $250,000.

But after the treaty had been signed by the two ministers, and ratified by the U.S. Senate, Colombia saw an opportunity to increase its U.S. payment to $50 million. The French company's rights to construct the canal were due to expire in a few months. And so the Colombia Senate refused to ratify the Hay-Herran Treaty in an attempt to also obtain the $40 million authorized by the Spooner Act for the purchase of those canal construction rights.

Colombia's gamble, motivated in part by greed, that rejection of the Hay-Herran Treaty would result in a more lucrative deal within several months did not work. The disappointed Panamanians revolted against Colombia, the United States recognized Panama's independence and negotiated a treaty with the new nation.

This treaty, signed and ratified by both countries on November 18, 1903, has been the the operating document ever since.

The treaty says, and I quote—

"The Republic of Panama *grants* the United States in perpetuity the use, occupation and control of the Canal Zone." (Emphasis added.)

Article III of the treaty states that—

"The Republic of Panama *grants* to the United States all the rights and power and authority within the zone mentioned and described in Article II, which the United States would possess and exercise if it were the sovereign, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." (Emphasis added.)

Did the United States take advantage of the new, fledgling Panamanian government?

We recognized the integrity of the new government and thereby protected the new republic from its old master, Colombia, or any other aggressor.

We paid the government $10 million for a strip of land about 10 miles wide and 50 miles long. We paid every individual landowner or squatter on this parcel of land—a total of $150 million—and by this payment acquired title in fee simple—*total ownership* of all land within the Canal Zone. These deed instruments were all recorded and are a part of the official U.S. Court record.

In addition, we paid the defunct French company $40 million for whatever rights they had to the ditch. We also paid the government of Colombia $25 million for whatever claims they still might have pressed, in return for which Colombia ratified the Thomson-Urrutia Treaty officially recognizing the legitimacy of Panama's independence and U.S. sovereignty over the Canal Zone.

On top of all that, the United States spent $366 million to construct the Panama Canal.

Is our presence in Panama legitimate? *Indeed it is.* We did not foment a revolution. We recognized a new government.

Under the terms of the 1903 treaty, Panama granted the Canal Zone to the United States. They did not rent it to us or lease it to us. The term *"grant"* is used 14 times in that treaty.

What we got for our money was the right to build the Canal, to own and occupy a strip of land about 10 miles wide and 50 miles long.

The land at that time was pest-ridden, mosquito-infested, and uninhabitable—and there was no guarantee that we could succeed where the French had failed.

We agreed to build the Canal at Panama instead of Nicaragua. We cleaned up Panama, and made a total investment of about $2 billion.

As a result, the people of Panama today enjoy the highest standard of living in Central America, and the fourth highest in all of the Americas.

2. Is control of the Panama Canal vital to our national defense?

Indeed it is. In fact, Lieutenant General Welborn Dolvin, one of the President's spokesmen who appeared in Phoenix on December 15th urging ratification of the new treaties, declared that the Joint Chiefs of Staff and the military in general consider the Canal to be of strategic military importance.

Four former Chiefs of Naval Operations—Admirals Thomas Moorer, Arleigh Burke, Robert Carney, and George Anderson—are all on record with the statement that—

"the loss of the Canal, which would be a serious set-back in war, would contribute to encirclement of the United States by hostile naval forces and threaten our ability to survive."

General V. H. Kulac, United States Marine Corps retired, has said—

"The Panama Canal is an essential link between the naval forces of the United States, both in the Atlantic and the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy."

The U.S. Commander-in-Chief Pacific Fleet recently stated that in the event of hostilities, the Panama Canal would be absolutely essential for the defense of American commitments.

He stated that if he were granted carte blanche use of every boxcar on every east-west railway line in the United States, without the use of the Canal he could not say with any degree of certainty that he could successfully carry out a defensive war.

Proponents of ratification have attempted to emphasize the fact that 13 of our aircraft carriers are too large to transit the Canal. This is true. But of the 176 combat surface ships, 41 nuclear-powered ballistic-missile submarines, and 75 attack submarines currently on active duty, these aircraft carriers are the only vessels which cannot transit the Canal.

I believe it is true that the overwhelming majority of high-ranking professional military men and women in the United States strongly believe that U.S. control of the Panama Canal is vital to our national defense.

More than 350 prominent generals and admirals have so stated by declaring their opposition to the proposed new treaties, in response to a survey by the Reserve Officers Association.

They include Admiral John S. McCain, former Commander-in-Chief of U.S. Pacific Forces; General Lyman Lemnitzer, former Supreme Allied Commander, NATO; General Charles L. Bolte, former Army Vice Chief of Staff; General Lewis W. Walt, former Commandant of the United States Marine Corps; Major General Ernest (Mike) Massad, former Deputy Assistant Secretary of Defense; and Brigadier General John S. Eisenhower, son of the late former President Dwight D. Eisenhower.

3. Has the commercial importance of the Canal to the U.S. and to world trade diminished?

Indeed it has not. In fiscal year 1975 there were 13,786 transits—an average of 40 vessels a day. Thirteen major trade routes funnel through the Caribbean Sea, Gulf of Mexico, Panama Canal region. Ninety-seven percent of the world's trade vessels use the Panama Canal, and 70 percent of all commerce using the Canal is bound to or from a U.S. port.

4. Can the Canal be defended against enemy attack?

Lieutenant General Dennis P. McAuliffe, Commander-in-Chief of the U.S. Southern Command headquartered in the Canal Zone, has testified that his troops are adequate to defend the Canal from any threat. He elaborated upon this statement when I visited with him personally in Panama early last year.

Because the Zone itself stretches five miles on either side of the actual ditch, guerrilla encroachments into the Canal Zone could be easily detected and stopped. Our troops are established at defensive strong points. This was the purpose in the plans of our forefathers.

The Canal is not a delicate, complicated installation. It is an engineering marvel in its simplicity. The locks are simple mechanisms, controls are manual. There are alternate power sources available. The maintenance crews on station could rapidly replace any damaged gate or lock.

An atomic bomb could destroy the Canal, but experts have testified that saboteurs would have great difficulty disabling any of the operating machinery. The so-called "suitcase bomb" theory is hardly imaginable, and I only view it as a scare tactic by those whose other arguments in favor of U.S. abandonment of the Canal are equally weak.

5. Will failure to ratify the treaties provoke the Panamanians to guerrilla warfare and create a second Vietnam?

That is highly unlikely, and this argument is typical of the "scare talk" that is being used to intimidate the American public which opposes U.S. abandonment of the Canal into accepting the proposed new treaties.

There are about 1,700,000 citizens of Panama. Many of these are violently opposed to the Torrijos military dictatorship. Panama's 8,000-man National Guard is essential to the maintenance of civil order—to perform customs and immigration duties. Only about 1,600 are trained as a military readiness force.

Student revolutionaries in Panama have caused riots in the past, and have done damage, but they are not a military force. Should they seriously attack the Canal installation, our troops would be established at defensive strong points, easily able to counter any threat to the Canal.

Vietnam was a war of mobility and position. Such is not the case in Panama. The substantial advantage would be with the U.S. defenders.

6. Do all Latin and South American countries support the new treaties? Will they be offended if the treaties are not ratified?

It is highly unlikely that many of them support the treaties. It is even more unlikely that any of them would be offended if the Congress refused to ratify them.

In fact, a number of Latin American governments are most apprehensive about the proposed new treaties. They do not believe that the Torrijos government can maintain a stable position in the Canal Zone. They are suspicious of the close ties between Torrijos and Castro Cuba, and recent agreements with the Soviet Union that have established a stronger Soviet political and economic presence in Panama.

It is an act of faith for Latin American spokesmen to attack the Gringos, to shout "Yankee go home," but uninterrupted operation of the Canal and reasonable tolls are vital to the economies of all South America.

The American presence guarantees not only the availability of transit. It also insures relative tranquility in the Caribbean-Gulf of Mexico sea space.

Addressing this question, the highly respected military writer Hanson W. Baldwin has stated—

"Even more compelling than the military and economic importance of the Canal are the political and psychological considerations. Since the failure at the Bay of Pigs the U.S. foreign policy has suffered a series of severe defeats. We have been in retreat in many places around the world. An accepted part of the Latin mystique is to condemn the damned Yankees, but weakness, conciliation and appeasement do not earn love and respect."

I have spent a career in Latin America. Every Latin American country and citizen wants a strong United States, both militarily and economically, to lead and protect this hemisphere.

7. Will ratification of the proposed new treaties guarantee uninterrupted operation of the Canal?

8. Will ratification not impair or limit our present ability to defend the Canal?

It is at this moment our uncontested, unilateral right to defend and operate the Canal. We do not need a new treaty to do that. This claim that we need a new treaty rests upon the implicit threat that Dictator Torrijos or Panamanian guerrillas will interrupt the operation of the Canal if we do not surrender the Canal to Panama.

But defense and control of the Canal without sovereignty is doublespeak.

Without sovereignty, we would have no rights in the Canal Zone, except any specifically granted by these new treaties. The Torrijos regime or a successor government could repudiate any U.S. role to guarantee uninterrupted operation and use of the Canal, and to defend it, and then any attempts that we might make along these lines would be as an invader of foreign territory.

Let me call your attention to the opening language of the proposed new Panama Canal treaty. After two paragraphs of recital, it says—

"Acknowledging the Republic of Panama's sovereignty over its territory. . . ."

This clause repudiates 75 years of legal understanding, and all the court decisions during that period. It abrogates all prior pacts and agreements—all U.S. rights and territories are immediately ceded to Panama. It amounts to a confession of wrongful taking on the part of American governments from the time of Theodore Roosevelt.

This is the whole treaty. All the rest is window-dressing.

It is this stark and foreboding reality of ceding U.S. sovereignty over the Canal Zone to Panama that explains the ambiguous language of any other key treaty provisions, which have been the subject of so much sharp questioning and concern.

First, once U.S. sovereignty is abandoned, the United States would no longer retain a "permanent" right to use military force to defend the Canal in an emergency. American military defense of the Canal could only come at the invitation and sufferance of the Panamanian government.

Second, while the treaty gives lip-service to "expeditious transit" for U.S. military vessels in time of emergency, they would not have any priority over other ships unless such priority was specifically granted by Panama any time it was needed.

Under terms of the current treaty, there is no question that the United States has and retains rights both to permanently defend the Canal and for priority passage for our vessels.

But despite Administration claims to the contrary, the new proposed treaty language on these points is subject to Panama's interpretation and whim, with no chance of

redress for the United States short of military force if Panama refuses to allow U.S. defense or priority use of the Canal once the new treaties are ratified and U.S. sovereignty is given to Panama.

On the subject of the Canal's neutrality and defense, Article IV of the proposed neutrality treaty simply states that—

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties."

Article V states—

"After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory."

On the subject of priority passage of U.S. military vessels through the Canal, Article VI of the proposed neutrality treaty states only that—

"U.S. vessels of war and auxiliary vessels will be entitled to transit the Canal expeditiously."

It is the position of the Administration and proponents of the new treaties that this language will allow the United States to intervene to protect the neutrality of the Canal, if it is ever subject to threatened obstruction, attack, or closure by a hostile force. But Panamanian officials have already sharply disagreed with this interpretation—and did so even before the proposed new treaties were signed by President Carter and Dictator Torrijos.

Panamanian chief negotiator Romulo Escobar Bethancourt has flatly repudiated the insistence of Secretary of State Cyrus Vance and U.S. negotiator Sol Linowitz that we would have the right unilaterally to intervene militarily to ensure that the Canal remains open and is not closed off to any country, if these new treaties are ratified.

Escobar stated to the press on August 22nd last year, and I quote—

"The neutrality pact does not provide that the United States will say when neutrality is violated."

Escobar has likewise repudiated Administration claims concerning interpretation of the proposed neutrality treaty's provision for so-called "expeditious passage" of U.S. military vessels. Escobar stated that "expeditious passage" would not necesarily mean "privileged passage" or "priority passage."

Escobar stated—

"As a matter of fact, the concept of privileged passage was rejected."

Emphasizing Panama's position that U.S. military ships would not be allowed to go to the head of the line to go through the Canal first, under any circumstances, Escobar also stated—

"We cannot go that far."

Another Panamanian negotiator, Carlos Lopez Guevara, has also flatly contradicted the Administration's assertion on the right of U.S. intervention to guarantee the Canal's neutrality, and the right of priority U.S. passage through the Canal.

Lopez recently stated that the U.S. would never have the right to intervene—under any circumstances—after the new treaties had gone into effect.

With regard to passage of U.S. ships through the Canal, Lopez stated—

"This neutrality treaty gives the United States the right to hope that Panama and all the countries in the world will respect the right of American ships to transit the Canal—but that is the only right it has received."

After proper questions were raised about these statements by Panamanian officials—following the treaty signing ceremony by President Carter and Dictator Torrijos on September 17th in Washington—a so-called "Statement of Understanding" was drafted for the two leaders by U.S. negotiator Linowitz and Panamanian negotiator Escobar.

This statement supposedly clarifies the U.S. right to defend the Canal, but reiterates even more strongly that the U.S. may not intervene in the "internal affairs" of Panama.

This confirms Escobar's earlier statement that only Panama will determine when the Canal's neutrality has been violated, thus precluding unilateral U.S. action in its defense. The statement would also preclude American defense of the Canal if the threat or aggression resulted from Panamanian action.

This "Statement of Understanding" was not signed by either President Carter or Dictator Torrijos. In fact, Torrijos boasted upon his return to Panama that he had not so much as "signed an autograph" while he was in Washington on that second mission.

The statement thus appears as another diversion for treaty proponents in this country, to placate legitimate concerns about the defense of the Canal, while Dictator Torrijos is able to continue assuring his own people that the terms of the proposed new treaty will mean total expulsion of the U.S. from the Canal Zone forever.

Mr. Chairman, Panama's strident, almost hysterical anti-U.S. campaign to secure approval of the proposed new treaties by the Panamanian people last October should warn us that Panama's negotiators have pressed hard on purpose for ambiguity and impreciseness in the treaty language, in order to secure U.S. ratification as well as to permit their own action to prevent future U.S. military defense and priority use of the Canal.

I have here a copy of the Torrijos regime's official campaign literature, with English subtitles inserted by an educational group in Texas, which shows the fever pitch of anti-American sentiment that was used by Dictator Torrijos to promote approval of the proposed new treaties by the Panamanian people. I would like this literature to be reproduced as part of the official hearing record at the end of my prepared statement.

This propaganda material is full of historical distortion concerning the U.S. role in Panama. And its Marxist overtones that the proposed new treaties represent a popular revolution against an oppressive U.S. presence in Panama illustrates perhaps another major flaw of these agreements with the Torrijos regime.

We are dealing here with a military dictatorship. Dictator Torrijos wields enormous personal power, and is responsible to no one. His regime is arbitrary and corrupt, and many of its top officials have been in and out of the Communist Party.

These new treaties make the United States a full partner—a guarantor—of the Torrijos regime. This is a regime that has—

Continued to express admiration and support for Fidel Castro and his revolutionary Communist objectives in Latin America, Africa, and around the world;

Signed a revolutionary anti-Zionist pact with Libya's pro-militant Arab Marxist dictator Moammar Khadaffi;

Formally aligned itself with the so-called Third World group, which is often guided and supported by the Soviet Union in its drive for world Communist expansionism;

Supported and promoted the illegal world drug trade, including the traffic of heroine and cocaine into the United States by Dictator Torrijos' brother, Moise Torrijos, who is under indictment in New York;

Continuously been cited as an oppressive violator of human rights by the nonpartisan Freedom House, which rates Panama under Dictator Torrijos in the "not free" category.

Such treaties giving Panama total sovereignty over the Canal Zone, which offer so many possibilities and opportunities for misunderstanding in their provisions over administration and defense of the Canal, provide a fruitful ground for infiltration, subversion, and control of Panama and the Canal by outside forces, such as Cuba and the Soviet Union.

At the very moment we were negotiating with the Torrijos regime, the Soviets were concluding new commercial relations with the Republic of Panama that included several multi-million dollar construction projects by the Soviets in Panama, use by the Soviets of facilities at old France Field airbase and the free port of Colon, and the opening of a branch of the Narodny Bank of Moscow in Panama to help orchestrate Soviet financial and commercial activities throughout the region.

Harold K. Milks, longtime expert on Latin America and currently managing editor of The Arizona Republic, recently stated that—

"These Soviet commercial agreements with Panama are exactly the same as the Soviet Union's opening gambit to gain a foothold in Cuba during the early 1960s."

Mr. Chairman, numerous courts have clearly held that the United States has full sovereignty in the Canal Zone. What near-term or long-term benefits will accrue to the American people by turning over this investment amounting to almost $10 billion to a military dictatorship?

Construction of the Canal by the United States made the Republic of Panama a viable nation. The commercial activities generated provide one-third of the gross national product of Panama. It is important to note that the first American of any authority to suggest the Panama Canal giveaway was convicted perjurer Alger Hiss.

In 1946, Hiss was head of the Office of Political Affairs at the State Department. He sent to the new United Nations a list of so-called U.S. occupied territories, which included the Panama Canal Zone.

Proponents of the new treaties argue that there is a moral requirement to give the Canal to Panama. In truth, we have a greater moral commitment to keep the Canal, to protect it, and to make it available for world commerce.

The first time that most of the American people learned that certain government officials in Washington were planning to give away the Canal was during the 1976 Presidential campaign. Candidate Carter said during the nationally televised debates with then President Ford—

"I would never give up complete control or practical control of the Panama Canal Zone."

One of his first official acts as President was to send Ellsworth Bunker and Sol Linowitz to Panama to negotiate these new treaties.

Sol Linowitz was sent to Panama on temporary appointment, good for only six months, so that he would not have to undergo Senate confirmation. A number of knowledgeable journalists have declared that President Carter did not ask for Senate confirmation of Linowitz because he knew that an airing of Linowitz' views in favor of giving away the Canal and the Canal Zone, later written into the terms of these new treaties, would have stopped the giveaway and Linowitz' appointment before they ever got off the ground.

President Carter campaigned against former President Ford with the complaint that foreign policy negotiations of the Ford Administration were conducted in secret. But then he kept details of the new treaties secret until about 24 hours before he signed them.

He did not seek the opinions of Members of Congress. He did not take the American

people into his confidence. He ordered the treaties written on his own.

Now we are told by political pundits and news commentators that the Carter Administration has another taxpayer-paid advantage in "selling" his treaties.

The State Department is distributing pamphlets which endorse the new treaties, explaining that they are "statesmanlike . . . and achieve a fair solution consistent with . . . our national interests." Torrijos' Communist ties are denied.

That the American people must pay for the Administration's propaganda program is a travesty.

President Carter himself demonstrated that his campaign is one of propaganda, not of facts, when he addressed the Panama Canal issue during his nationally televised Conversation With the President with four network journalists last December 28th.

About the proposed new treaty, he stated—

"What we wanted was one that treated us and Panama fairly, and we got it."

What is fair about giving away sovereign U.S. territory without compensation? What is fair about trying to deny the people's elected officials in the U.S. House of Representatives the right to exercise their Constitutional duty, as stated in Article IV, Section 3, "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States," with respect to the provisions of the proposed treaty?

What is fair about denying to the people of the United States the right to build another sea-level canal in another conutry, such as Nicaragua, for at least 23 years, if this treaty is approved?

The President stated—

"We wanted a treaty that did not put a financial burden on the American people, and we got it."

Not true. This treaty will not only give away to Panama the Canal and Canal Zone worth about $10 billion. We will also be paying Panama to take it—$60 million to $80 million a year for the next 22 years through increased tolls, which will eventually fall on the consumers.

Furthermore, the Carter Administration has promised in the side agreements that go along with the treaties to loan the Torrijos regime another $200 million from the U.S.-financed Export-Import Bank, $75 million from the Agency for International Development, $20 million from the Overseas Private Investment Corporation, and $50 million in military sales and credits—a total of $345 million guaranteed out of the U.S. Treasury, to be paid by the American taxpayers.

The President stated—

"We wanted treaties that would guarantee proper operation of the Panama Canal itself, for us and for foreign shipping, and we got it."

How so? The Panama Canal Company, which has operated the Canal in an extraordinarily safe, efficient, and fair manner over these many years, is to be abolished. The American workforce which is the key factor in this excellent operation of the Canal is to be arbitrarily cut by at least 20 percent within the first five years of the new treaty, and no non-Panamanian will be able to work as part of the Canal workforce for more than five years.

Panama does not now have—and cannot have within the short period required—the skilled workers to efficiently and safely operate the Canal. It takes 20 years of training to perform jobs such as ships' captain-pilot, to navigate vessels through the Canal. Panama does not have people qualified to do these jobs, and at present only 1 percent of the Canal's 200 ships' captains are Panamanians.

Panama has no navy to draw from to fill these positions that the new treaty would require to be filled by Panamanians when American workers are forcibly discharged.

The President stated—

"We wanted treaties that would also guarantee us permanently the right to take what action we think necessary to keep the Canal safe, to defend it, and to keep it open for us to use, and we got it."

Despite the unsigned "Statement of Understanding" to the contrary, the proposed treaty terms do not guarantee this, and the position of Panama on these points refutes the President's claim that the United States will have any such rights or guarantees.

The President stated—

"We wanted treaties—two treaties there are—that would give us the right for expeditious passage in time of need or emergency, for our ships to go to the head of the line and go through the Canal without delay, and we got it."

Again, this statement is not backed up by the actual proposed treaty language or by interpretataions of that language by key Panamanian officials. If it is the intent of both the United States and Panama that U.S. vessels should have priority passage in time of emergency, and that the U.S. should have the permanent right to defend the Canal against interruption of its operation or attack, the treaty language should say so in clear, unequivocal terms.

Failure of the treaty language to clearly state these rights on the part of the United States, leaving room for considerable misunderstanding and controversy, will only play into the hands of those who seek to generate instability and tension in key locations around the world.

And, finally, the President stated—

"We wanted treaties also that would be acceptable in the eyes of the international community, particularly in Latin America, and we got them."

It is difficult to believe that any complete, fair-minded evaluation of these treaties could result in favorable reaction around the world.

The ominous impact of the treaties on Canal tolls alone, which according to conservative Administration estimates will have to be increased by at least 25–30 percent, will be considerable to the economies of all nations who use the Canal.

Who except the Torrijos regime could possibly benefit from such huge toll increases? Who is to benefit from the lower-skilled Canal workforce, which will mean problems for vessels that use the Canal? Who can possibly be pleased by the hundreds of other unanswered questions and prbolems posed by these proposed new treaties and the radical restructuring of Canal operations that they will bring?

If the treaties are ratified, we will have earned the disdain and lost the respect of every nation in the world.

Why, indeed, is the United States Senate being asked to ratify these questionable treaties? Who is to benefit?

Why should the people of the United States, who now own the Canal, give this $10 billion asset to Dictator Torrijos, and then pay him an additional $2.2 billion over the next 22 years?

Murray Rothbard, one of the nation's more prominent libertarian thinkers, tells us why in the December, 1977, issue of a new magazine called Inquiry. The title of the Rothbard article is, "The Treaty that Wall Street Wrote."

The international money men who control the great banking institutions of Wall Street want the treaties adopted. Why?

There are two obvious reasons—

The first one is that they want to get their money back. They want to recover the approximately $2.9 billion that they have loaned to the Torrijos regime since 1970. The Torrijos government is, for all practical purposes, broke. About 40 percent of its national budget must go to pay the debt service on these loans.

Why did these great banks loan this money to Torrijos? Was it just a friendly American gesture of goodwill? Perhaps. Perhaps not.

In 1970, Torrijos rewrote the banking laws of Panama—free of taxes, free of onerous regulations. Panama became a haven for foreign banks. Now there are about 75 banks in Panama, with total assets of more than $8.6 billion, conducting transactions throughout the world.

Panama's shipping laws are equally accommodating to foreign owners, and a great fleet of merchant vessels flies the Panamanian flag.

Incidentally, ships of Panamanian and Colombian registry transit the Canal without paying tolls. It would be difficult to calculate the total value of this subsidy over the years of Canal operation.

If Wall Street wanted to write a new Canal treaty, to propitiate Torrijos, how did they go about it?

They arranged to send Sol Linowitz, who at the time of his appointment and during most of his service was a director of Marine Midland Bank, together with the aging Ellsworth Bunker, to write the treaties.

According to Arizona press accounts, when the Administration's Lieutenant General Wellborn Dolvin was in Phoenix last December 15th, attempting to enlist support for ratification, the General made quite a point of stating that Panama has never violated the 1903 treaty.

Of course little Panama hasn't violated the 1903 treaty. But in 1913, Panama did ask for additional payments, and during World War II we paid Panama substantial sums of money to enlarge our defense installations.

In June, 1972, the Torrijos government expropriated the power and light company in Panama that was owned by the Boise Cascade Company of Boise, Idaho. The takeover was made with troops of the Panama National Guard, and Panama finally agreed to pay Boise Cascade $22 million for property that was worth $87 million.

Then Panama borrowed some of the money from the United States Government to make the payment.

One month later, the Torrijos regime nationalized the Canal Zone bus service, a company incorporated in the State of Delaware and owned by U.S. citizens in the Canal Zone. Seventeen buses were hijacked. Our U.S. State Department forced the company to sell out to Panama.

Dictator Torrijos has held power in Panama for eight years—longer than any other ruler of Panama. Since 1902, Panama has had 32 presidents in more than 50 governments. The average life of the ruling regime has been 2.25 years.

These proposed Panama Canal treaties were written in secret. They serve the special interests of the New York bankers. They will transfer a capital asset worth $10 billion to an unstable dictator.

The American taxpayer, if the treaties are ratified, will give the Republic of Panama $2.2 billion over the life of the treaties.

Panama simply does not have the military strength to defend the Canal. If it is to be defended and kept open, the United States must do it. Ours is the only country on earth able to defend the Canal, but if we ratify the treaties our ability to defend this vital waterway will be dangerously weakened.

Mr. Chairman, Members of the Committee, the treaties that Wall Street wrote must be rejected. We cannot gamble with an installation so vital to the economic well-being and to the peace of the Western hemisphere.

Thank you, again, for this opportunity to appear to present these concers. I will be pleased to answer your questions.

STATEMENT OF WILLIAM D. ROGERS

I am honored that the Committee of Americans for the Canal Treaties, Inc. should ask me to appear on its behalf before the Committee in this closing session of your hearings.

I speak from a variety of perspectives—as a Deputy U.S. Coordinator of the Alliance for Progress during the Kennedy Administration, President of the Center for Inter-American Relations during the late sixties, and as Assistant Secretary of State for Inter-American Affairs, Under Secretary of State for Economic Affairs and member of the Canal Company Board from 1974 to 1977.

You have already heard from a number of witnesses on all manner of aspects of the new agreements. I will not attempt to recite the full litany of arguments in favor of the treaties now. Let me try instead to touch on a few of the issues which have lately emerged as the more significant, as your consideration of the treaties comes to a close, and then try to place the treaties in a broader context of world affairs, at least as I see those affairs from the perspective of my own experience.

First, as to the specific issues which seemed to have come to the fore in the last several weeks. The debate on the treaties has served the very purposes which a debate in a democracy should serve. It has, I think, narrowed the issues, eliminated some substantial early doubt and confusion and focused the attention of the country on a few specific and precise points.

The essential structure of the treaties is now clear, I believe, to the American people.

Our interest in the Canal, it has been emphasized, is in its use, not its ownership.

The debate has served to highlight how the treaties serve that purpose.

Under the treaties, the United States will continue to manage, operate and control the Canal, its maintenance policies, its employment practices and its toll rates, through the end of this Century.

We will have the lands and waters necessary for the Canal, and the base facilities around the Canal from which to defend it.

The formalism of the Canal Zone will disappear but otherwise the new treaties will cause virtually no alteration to the present mode of operation, management and control of the Canal.

Considerable attention during the debate has focused on the nature and character of Panama, its people, its leaders and its government. In my judgment, much that has been said comes close to nonsense but, nonsense or not, it is also irrelevant. Panama will take control of the Canal in the year 2000, not before. Until then, Panama will be called upon to play an increasingly participatory role in the management and security of the facilities, and to train and equip itself for the mandate it will assume in the 21st century, but it will not have the decisive vote for another generation.

Some of the opponents have suggested, however, that the new regime will attempt to force an immediate takeover by somehow expropriating the new Canal Commission and the Canal property the moment the new treaty becomes effective. This is fanciful. Would it have the legal right to? No. The internationally recognized power of nationalization has never been thought to extend to the property and operations of a foreign government. The Canal Commission will be an entity of the United States. It will not be subject to nationalization.

Who is to stop Panama? The Army, the Navy and the Marines, who will remain where they are for another 22 years.

Is Panama likely to try? Not very. Panama, though fretful and impatient under the 1903 Treaty, which it regards as vastly more unjust than the new arrangements, has never tried to abrogate it. It seems unlikely that Panama would breach the new pacts when it honored the old.

In the year 2000, Panama will assume management responsibility, but it will do so as a trustee, bound by its own obligation, and our endorsement, to a regime of neutrality and efficiency.

There have been those who have been concerned about the reliability of that neutrality commitment in the 21st Century. The answer is that the United States will have the right to take such action as it deems necessary to enforce that regime of neutrality.

The Carter-Torrijos Statement of October 14, 1977 confirms this common interpretation of Panama and the United States. It was made public by both parties prior to the Panamanian plebiscite on the treaties.

The Neutrality Treaty furthermore proscribes foreign military presence in Panama now and after termination of our operations. No such prohibitions are included in the existing arrangement. These also serve to support and insure the continued nondiscriminatory access to the Canal in the next century.

Article VI, paragraph (1) of the Neutrality Treaty, also as confirmed by the Carter-Torrijos Statement, provides that United States vessels are entitled to transit the Canal expeditiously. This means that such vessels receive passage as "quickly as possible" and in cases of emergency, go to the head of the line.

The Agreement carries over the same basic principle of neutralization elaborated in the 1901 Hay-Pauncefote Treaty and is consistent with the terms of that Treaty which would remain in effect.

Some opponents have nevertheless objected that, however responsible the treaties may be in substance, we should not ratify them because ratification would violate the principle that one should never negotiate under threat. They seem to imply that any request by another nation to alter an arrangement which has become so outdated as to cause difficulty and resentment, even if the request for the change is made through negotiation and conciliation, is a threat. It follows from this that one can never negotiate.

A somewhat related point is the Principle of the Misunderstood Motive. This Principle says that in foreign relations you should not now do an admittedly right action for fear that you will be understood to have done that action, not for reasons of simple justice but because you are afraid. It follows from this that if in these treaties the Senate consents to revision of the 1903 arrangement which is in our own interest, we will be seen by others to be saying that we will accept any proposal, no matter how indefensible, put to us with respect to SALT, Taiwan or human rights in the Soviet Union.

I now turn to arguments which have been put forward on the other side.

It has been said by those who support the treaties that the original 1903 Agreement was unjust, that we cleverly manipulated a local rebellion for our own larger purposes, participated in the division of another nation in flagrant violation of our own treaty obligations and then signed a treaty written by a representative of the new nation who had a personal financial interest in the arrangement and which represented a form of blackmail. All true. And yet this is not, in my view, the decisive reason for the new treaties. We should not support the treaties out of guilt.

It has also been said by those who support the new treaties that if we fail to ratify, and continue to insist on the 1903 pact, there will be violence. Also true, but this also is not a decisive reason for the new treaties, as I see them. We should not support the treaties out of fear.

We should support the treaties because they are right. In searching for the decisive reason for the new treaties we should, I think, look to the future, not to the past.

I think I comprehend the real reason for the reluctance and concern of opponents of the treaties. They are apprehensive, not only about the specific case of the Canal but in a broader way because they are tired of what they conceive to have been the American withdrawals and retreats elsewhere around the world in recent years. But Panama is scarcely the time or place for a demonstration of resolve and strength. It is the classic mistake from which international conflicts have emerged in the past, to become persuaded that it is either us or them, and that if we conceded on this particular issue, our ability to defend our interests elsewhere will be forever in jeopardy.

Such us-them conflicts over land are relatively rare on the agenda of issues which trouble international relations in the late 20th century. There are not now a large number of conventional clashes of nationhood over specific pieces of territory in the world today. However, those that do come to mind such as the West Bank of the Jordan bear an ominous similarity to Panama. Each could deteriorate into useless but serious violence.

I am convinced that the world in which we live is in a process of rapid change. The challenges to our diplomacy today are less and less the zero-sum conflicts of separate, national interests. The great issues facing mankind now are issues which call for cooperative solutions.

The real challenges of our age are the challenges of global poverty, of the threat of thermonuclear devastation, of the probability of recurring regional conflicts, of the prevalence of political torture and, of the nature and strength of democracy.

A new treaty relationship with Panama will not solve any of these problems. What the new treaty relationship with Panama will do, however, is to open the way for us to exercise the responsibilities of leadership which are thrust upon us by our own power, prestige and resources and which no other nation in the world is equipped to discharge. Panama, in this sense, is a symbolic issue, testing in a way which other nations cannot fail to notice the sort of nation we are in this last quarter of the twentieth century.

For those who fear change, there are reasons enough to oppose the new treaties; for the timid and the uncertain, the arguments are close at hand why we should stand on our ancient privileges. I hope, and sometimes I even trust, however, that this is not the dominant mood of this country today, that we are, now at least, prepared to look to the future and not to the past, that we can welcome change and embrace it and that our policy in the world is built of strength, essential morality, and confidence in ourselves and our future.

In a material sense, these treaties do much for Panama, and little that is tangible for the United States. What we do gain, however, is an enhancement of our stature in the world. This is an action which will say to others that we can be sensitive to their needs, that we are prepared to promote our vision of a world order of nations with respect for the rights and interests of others, that our policy is cooperation and not domination or confrontation, and that we have the self-confidence and inner strength to apply these principles to our future conduct throughout the world.

STATEMENT OF PETER VINCENT BAUGHER

Mr. Chairman, and Members of the Committee on Foreign Relations: I appreciate this opportunity to appear before you to urge that the Senate give its advice and consent to ratification of the proposed Panama Canal treaties.

INTRODUCTION

My name is Peter V. Baugher. I am a Chicago attorney and a member of that city's Council on Foreign Relations. I also serve on the Republican National Committee's Advisory Council on National Security and International Affairs and am Chairman of the National Governing Board of the Ripon Society, on whose behalf I am testifying this morning.

Founded in 1962, the Ripon Society is a national Republican research and policy organization which takes its name from Ripon, Wisconsin, the birthplace of the GOP. It has sixteen chapters across the country and members in all 50 states. The Society encourages young men and women to participate actively in public affairs. The Society also works to formulate the kind of sound programs that will enable our Party to better fulfill its potential for constructive political leadership. We believe that we can help the GOP to identify and claim the issues of the future, to raise the questions others will not ask, to grasp ideas whose times are yet to come. Above all, the Ripon Society seeks to serve as a spokesman for the progressive Republican tradition whose integrity and vision have inspired the GOP throughout its history.

Over the past fifteen years the Ripon Society has studied and taken positions on many issues of major public importance. Few matters have commanded as much attention, or aroused as much controversy, however, as has the debate over these treaties. And perhaps this widespread interest and concern is a good thing; for the agreements now before this Committee bear not only upon our military security and commercial well-being, but also on our future relations with Latin America, and on our capacity to deal fairly and wisely with a nation which, though far smaller and less powerful than we are, is motivated in this instance by the same legitimate aspirations that moved our forebears to action just 200 years ago.

UNITED STATES INTERESTS IN THE PANAMA CANAL

Since September you have heard from a broad range of witnesses whose opinions about the treaties and general political outlooks have spanned the spectrum. Each has had his own point of view, his special message to convey. As these lengthy hearings draw to a close, it may therefore be useful to return to the beginning—to a practical assessment of how in the decades ahead we can best protect our interest in the free, neutral, and efficient operation of the Panama Canal.

As the members of this Committee are aware, the Canal is in many respects a declining asset. Constructed at the beginning of this century, it faces increasing competition from alternative modes of transportation (such as railroads, trucking, airplanes, pipelines) and is too small to accommodate the oversized ships now being built. Neither the supertankers upon which America depends for its petroleum supply, nor the giant aircraft carriers on which we rely in part for our military security can move through the Canal. Moreover, as a product of the technology of 1914, and because of its enormous fixed investment in that technology, the Panama Canal suffers the economic disadvantage of having few opportunities to effect savings based on the introduction of new equipment and engineering discoveries.

Nonetheless, it is obvious that our stake in this waterway is substantial and will remain so in the future. Its strategic importance was demonstrated at the time of the Cuban missile crisis when U.S. Pacific fleet warships entered the Caribbean on short notice by means of the Canal, and throughout the Vietnam War during which (at its peak in 1968) nearly 70 percent of all American cargo support for Vietnam traveled across the isthmus. We do not, it further should be stressed, have a two-ocean Navy. In recent years the number of commissioned naval ships has decreased significantly, and the ability quickly to deploy Pacific Ocean vessels in the Atlantic and move Atlantic ships to the Pacific is essential if we are to meet our international responsibilities and defense objectives.

As for our commercial interest in the Canal, the percentage of total U.S. foreign trade that passes through Panama is relatively small. It is, nevertheless, a sizable amount in absolute terms and has a disproportionate impact upon our balance of trade since two-thirds of the Canal's American tonnage are exports. Despite the fact, finally, that the nations of Central America and the western coast of South America ship an especially large proportion of their foreign trade through the Canal, this country is the origin or destination point of well over half of all of the Panama traffic (traffic which is now being heavily augmented by shipments of surplus crude oil from Alaska to Gulf and East Coast ports).

The United States thus has a vital interest in ensuring that the operation of the Canal remains open, reliable, and secure. It is this interest which cannot be compromised—and which we believe the new treaties will advance.

For a variety of geopolitical and economic reasons we also have a special interest in strengthening our ties with the nations of Latin America and the Caribbean. Our hemispheric neighbors have expressed their support for the Panamanians' efforts to gain control over the Canal in the United Nations and Organization of American States, as well as in numerous bilateral statements and private communications. Rightly or wrongly, many Latin Americans regard America's continued presence in Panama as a vestige of colonialism and the Canal as the fruit of gunboat diplomacy. Whether we like it or not, the ratification contest now under way has become a test case for our inter-American relations: to reach a mutually satisfactory and sustainable new accord with Panama will not assure success elsewhere, but to adopt what is, at least in Latin American eyes, an intransigent posture here will certainly impede any progress that might be hoped for in other arenas.

THE NEED FOR A NEW RELATIONSHIP WITH PANAMA

Many Americans have come to associate our interest in guaranteeing the continued efficient operation and defense of the Panama Canal with the specific arrangements established by the Hay-Bunau-Varilla Treaty of 1903 (as modified in 1936 and 1955). In our view, though, and in the view of four successive Presidents—two Republicans and two Democrats—a treaty relationship with Panama of the sort now under consideration will better serve the long-term security and foreign policy of the United States.

The existing treaty arrangements between this country and Panama are out of step with contemporary realities. However we in the United States may look upon the 1903 Treaty, the rest of the world and especially the nations of this hemisphere do not acknowledge it as an equitable and freely negotiated agreement. Fervent, internationally-supported opposition to the present arrangements could readily threaten the peaceful operations of the Canal and jeopardize its reliability. The Canal will always be highly vulnerable to acts of sabotage, terrorism, and popular disturbances occurring within Panama, and our refusal to accept an altered role in its management could well result in a stream of incidents seriously harmful to the United States. Absent a restructuring of U.S.-Panamanian relations, this country could be faced with a sabotaged Canal, a repeat of the bloody 1964 riots, and perhaps a new and hostile Panamanian government. Under such circumstances negotiating a new treaty might prove impossible, and employing our armed forces to secure the Canal, even if militarily successful, could entail unacceptable costs to our foreign policy generally.

This is the practical problem. To insist on the perpetuation of the current treaty arrangements would mean that over time we would almost surely be compelled to fall back on the use of force as the ultimate basis for our presence. As Henry Kissenger commented earlier in these hearings: "This we should be prepared to do when our vital interest can be defended in no other way. But this is not the case here because the [pending] treaties give us a clear, and on balance a better, alternative."

ADVANTAGES OF THE NEW TREATIES

Aside from concern for Latin American and world opinion, why are the proposed treaties, as Dr. Kissinger says, a better alternative? To begin with, under the draft agreements the United States will remain in possession of the Canal and in full charge of its management and defense for the remainder of this century. We will continue to direct operation of the Canal, and our military forces will continue to provide for its defense from within Panamanian territory. At the same time, the new treaties contemplate a cooperative working relationship with Panama that will enhance our ability to protect and operate the Canal, permit an orderly transition from foreign to local control, and increase Panama's stake in the long-term prosperity and neutrality of its greatest national resource.

As the year 2000, when custodianship of the Canal is transferred to Panama, Article IV of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal becomes controlling. The Neutrality Treaty reaffirms the legitimacy of America's interest in the security of the Canal and sets forth the legal obligation of both Panama and the United States to maintain a permanently neutral waterway. The Treaty, moreover, describes neutrality (Articles II and III) in terms of concrete standards for the governance of the Canal which both parties are pledged to uphold.

Article IV makes the United States a guarantor of that permanent neutrality. It thus gives us a continuing right, which may be exercised unilaterally if necessary, to defend the Canal against any threats to its neutrality. And this same "regime of neutrality," and our rights and responsibility to support it, will (according to Article I) apply equally to any other interocean waterway that might subsequently be built across the isthmus. Furthermore, under Article V of the Neutrality Treaty, Panama relinquishes the right to invite or permit foreign military forces or installations anywhere in the Republic. This provision would forever prohibit Panama from allowing any other power to station military personnel on its soil. Panama's breach of that commitment would entitle and oblige the United States to take appropriate action to preserve the Canal's neutrality.

Finally, Article VI of the Neutrality Treaty provides that U.S. warships will be entitled to transit the Canal "irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried," and that such vessels will have the right to go to the front of the line and receive priority passage in times of need or emergency.

We would not, in short, have a general right to "intervene" in Panama's internal or domestic affairs. Nor would we want such a right. But we would have under the new treaties the right and obligation to take such steps as may be required to guarantee

that the Canal remains permanently neutral—free of the threat of foreign military presence and open always to the ocean-borne commerce of the world on a nondiscriminatory basis.

The new treaties will thus establish a far stronger legal underpinning and political environment for the protection of our most important interests in the Canal than could otherwise be achieved. We have retained all of the essential powers necessary to assure its security. Yet the pending treaties have the additional advantage of enlisting Panama, and (by means of the Protocol to the Neutrality Treaty) all of the nations of the world acceding to the Treaty's regime of neutrality, as our allies in pursuing this vital objective.

Most important, the new agreements provide the basis for an improved relationship between the United States and Panama founded upon cooperation, mutual respect, and our joint interest in the open and efficient operation of the Panama Canal. Were we redrafting these documents to suit our preferences, there are changes that we would make. The treaties—which were the subject of long negotiations over a period of thirteen years, and in which the United States was only one of the parties—are not, in our opinion, perfect. They do, nevertheless, embody a fundamental realignment in relations which we believe can satisfactorily serve as the framework for a mature and long-lasting settlement of our differences with Panama.

THE NECESSITY FOR CLARIFICATIONS

In supporting the ratification of these treaties we are relying on what seems now to be the unanimous interpretation of the provisions concerning (1) the extent of our right to "maintain the regime of neutrality" under Article IV of the Neutrality Treaty, and (2) the effect of our right to "expeditious transit" under Article VI of that Treaty. Ambiguities in these sections have led to considerable public confusion and have given rise to dangerously divergent opinions as to the true meaning of the pending agreements.

While the specific wording of the critical portions of Articles IV and VI is admittedly—and, in our view, undesirably—imprecise, a fair reading of these provisions supports the explanations offered by the Administration: (1) that we have the right to act unilaterally to defend the Canal's neutrality, and (2) that expeditious passage means priority passage in wartime and the speediest possible transit at all other times. These interpretations are contained in the Statement of Understanding approved by President Carter and General Torrijos on October 14, 1977, a statement that was well-publicized in Panama before October 23 plebiscite and with which the Panamanian electorate can be presumed to be in substantial accord.

The American people, however, are entitled to expect that any international agreements as important as the ones now before this Committee will, as far as possible, be free from uncertainty about their meaning or intention. Accordingly, the Ripon Society recommends that the Senate attach an understanding to its resolution of ratification endorsing the Carter-Torrijos communique and explicitly adopting its formulation as the correct, authoritative, and legally binding interpretation of the provisions in question.

Such an understanding would not require renegotiation of the pacts or the holding of a second Panamanian referendum, as a matter of law, an understanding does not substantively affect the relevant contractual relationship but seeks merely to clarify it. Such an understanding, though, would have the full force of international law by virtue of Panama's necessary acceptance of the understanding as an integral part of the formal exchange of instruments of ratification. Conditioning the Senate's advice and consent on inclusion of this language in the official text should in no way delay or disrupt final enactment of the proposed agreements and will provide the citizens of this country with the straightforward confirmation of American rights without which the treaties could not, at this point, responsibly be approved.

ARGUMENTS AGAINST THE TREATIES

Treaty opponents have raised numerous objections to ratification of the new agreements. Some of these arguments have merit; all changes in policy have their potential perils, and in that regard this issue is no different from any other. Although the charges that Omar Torrijos is an incipient communist or a brutal dictator are seemingly unfounded, for example, there is no question but that his rule is authoritarian and likely to remain so. Similarly, while Panama's apparent progress lately in the area of human rights is encouraging, much remains to be done.

With help from the United States there is little doubt that Panama will be capable of marshalling sufficient technical expertise successfully to operate the Canal after the turn of the century. But it is also a fact that Panama is a small country whose economy has not yet recovered from the 1974 recession, whose economic programs have frequently had to be abandoned, and whose financial future is heavily mortgaged to foreign (principally U.S.) lenders. Integration of the Canal Zone into the mainstream of Panamanian life may also present real difficulties.

These circumstances, together with the concerns expressed by current employees of the Canal Company, make us apprehensive about the Panamanians' ability to manage the Canal efficiently and reliably and their willingness to work with the United States in furthering the best interests of this collaborative enterprise. The treaties are premised upon the kind of reciprocal relationship that should facilitate close cooperation, but the desire to cooperate must come from both sides if the transfer of authority is to be carried out smoothly. The prospective problems alluded to above are not insuperable. They will, however, warrant careful monitoring, and we should enter into our new relationship with Panama mindful of this reality.

Other objections to the Canal pacts are plainly spurious. Because of our obligation to maintain the regime of neturality, it is sometimes claimed that even during a declared war we would be powerless to prevent our enemies' warships from sailing through the Panama Canal. But this misses the point. As several of the military officers appearing before you have explained, the critical strategic factor would not be our legal right to bar hostile passage, but our military capacity to prevent the enemy ships from reaching the Canal in the first place.

Doubts have also been expressed about the acceptability of the economic features of the agreements—specifically, the reference in Article XIII of the basic treaty to Panama's right until the year 2000 to receive (a) a royality of 30 cents per ton of cargo transiting the Canal, (b) an annuity of $10 million per year, and (c) a cumulative additional amount of up to $10 million annually if revenues permit. These doubts can easily be satisfied. Payments to Panama during the entire time that we retain jurisdiction over the waterway will come from tolls paid by countries using the Canal rather than from the U.S. Treasury. No appropriations will be required, and no American tax dollars need ever be expended.

Finally, criticism has been made of the provision whereby the United States agrees not to construct a new canal in any country other than Panama. Why, it is asked, should we forego the right to negotiate the Nicaragua or Colombia, or any other nation, for the building of a new sea level canal? There are several answers. Under Article XII(2) of the initial treaty Panama has in exchange for our promise given up the right to permit any power other than the United States (such as the Soviet Union) to dig a canal crossing its territory. More important, engineering studies comparing the various alternatives (most notably the 1970 report of the Atlantic-Pacific Interocean Canal Study Commission headed by former Treasury Secretary Robert B. Anderson) have all concluded that the most suitable routes lie in Panama. What is more, the cost of the conceded favorite of these routes was recently estimated by the Canal Company's accountants at $5–6 billion. At an interest rate of 7 percent the carrying costs alone for construction of this canal would be at least $350 million annually, double the current yearly income of the existing canal. No foreseeable increase in traffic or tolls could justify such an outlay.

The most pervasive and deeply felt objections to the treaties, however, stem from another source. Many Americans view the Panama issue against the backdrop of a succession of U.S. foreign policy setbacks in recent years. Still attempting to comprehend the Vietnam tragedy, these Americans wish to see an end to yielding and retreat by the United States. Many Americans who could not locate Panama on a map know beyond argument that U.S. enterprise and industry built the Canal against frightful odds, and that the U.S. has since maintained that waterway for the benefit of all nations. Why then, they wonder, should we now relinquish control?

We are sympathetic to these concerns. But the question of Panama is peripheral to our disillusioning post-war experience. It is the wrong issue to choose to demonstrate that we remain strong and resolute. Panama is the smallest and weakest of nations. We are not "giving" the Canal to Panama. We are, rather, assuring our ability to protect it. By acting positively now to modify our relationship with Panama—in an atmosphere free from crisis, and while we are still able objectively to assess the long-term risks and benefits—we will be demonstrating strength, not weakness. It is just this ability to distinguish between symbol and reality, to plan for future needs, and to take timely action to advance our basic interests that is the essence of a strong and effective global policy. As Secretary of Defense Brown has remarked: "The Canal is for shipping, not slogans."

In taking this position, we are unimpressed by the assertion that the U.S. owes anything to Panama by way of reparations for past injustices. The treaties should be judged purely on the basis of their projected impact on the interests of the United States and Panama. In the opinion of the Ripon Society the treaties mark a step forward, an improvement over what currently exists. They present us with an opportunity to modernize an outdated arrangement that has come to threaten the very purposes it was designed to promote. We believe that the agreements should be ratified.

CONCLUSION

The 1903 Treaty was the product of its era, a period of territorial expansion during which the U.S. emerged as a world power and American hegemony in the Caribbean became an indisputable fact. Panama's sweeping concessions to the United States were not unusual at the time. Britain, Germany, France, Belgium, and other countries were obtaining comparable rights in other parts of the world. But while most such colonial enclaves have disappeared in recent years—submerged in a tide of nationalism in

large measure encouraged by us—the U.S. continues to enjoy its original status in the Canal Zone.

What is at issue in Panama, more than anything else, is our country's conception of its international role. Some Americans would pick Panama as the right place to "draw the line," to show the world that the United States cannot be pushed around. But this is to substitute pride, soured by the bitterness of past defeats, for reason. Building the Panama Canal early in the twentieth century was a great American accomplishment, requiring ingenuity and audacity. It was, as Senator Baker noted at the outset of these hearings, one of mankind's most memorable achievements, the moon shot of its day. Keeping it open and secure in the future, however, will constitute another impressive feat, one demanding both intelligence and tact.

Last fall the *New Yorker* published a cartoon in which one of the patrons of a local drinking establishment exclaimed to his the bartender: "For thirty years I never thought about the Panama Canal. Now I can't live without it!" We have had an opportunity over the past year to think long and hard about the Panama Canal. In light of the many other foreign policy problems presently confronting the United States the time has come to resolve this matter and to turn our energies back to wider concerns of international affairs.

Mr. Chairman, based on examination of the agreements before you, we are satisfied that they are fundamentally sound and in the best interests of both this country and Panama. The Ripon Society therefore recommends approval of the treaties at the earliest possible date.

APPENDIX A

THE RIPON SOCIETY,
Washington, D.C., October 21, 1977.

To Republican Members of the United States Senate

DEAR SENATOR: The Ripon Society urges you to vote for ratification of the Panama Canal treaties.

We think it is important that any fruitful public discussion of the proposed treaties initially recognize that the Canal is becoming less intimately intertwined with our vital national interests, as it is of declining military and economic strategic importance. Neither the supertankers upon which America depends for its petroleum supply nor the 13 large aircraft carriers upon which we depend for our security, can fit through the Canal; our nuclear submarines do not use the Canal, and indeed, according to press reports, only 12 U.S. Navy ships transited the Canal in the four year period of 1971–75, and less than 7% of all foreign trade coming in or out of U.S. seaports passes through the Canal.

However, to the extent that our national interests are involved, we believe that the most significant factor compelling support of the proposed treaties is that ratification will maintain—if not enhance—our national security. The proposed Panama Canal Treaty reaffirms America's legitimate interest in the security of the Canal, for it expressly grants to the United States the right and obligation to be the primary defender of the Canal's security until the end of this century and to maintain the fourteen U.S. military bases in the Canal Zone.

On the other hand, we believe the arguments of treaty opponents to be without substantial merit. Their prime objection concerns the vague wording of Article IV of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Neutrality Treaty), in which after December 31, 1999 and in perpetuity, the U.S. and Panama "agree to maintain the regime of neutrality established . . ." by the treaty. Contrary to the claims of treaty opponents, surely this phrase would suffice to provide the legal basis for any American military action on behalf of the Canal's neutrality, were that ever necessary. That the Neutrality Treaty would establish this adequate legal basis was clearly underscored in the October 14, 1977 Statement of Understanding between President Carter and General Torrijos. Indeed, as a practical matter, the United States has often relied on treaty language far less specific than that of the Neutrality Treaty to justify the use of U.S. military force around the globe in the post-World War II years.

Actually, the danger is not that ratification of the treaties will diminish our national security—but rather that failure to ratify would have just such an effect. Virtually every informed observer agrees that a U.S. rejection of the treaties would substantially increase the likelihood that left-wing Panamanian guerrillas would move quickly to sabotage the Canal or that internal political pressures would force the Panamanian Government to renounce the current treaty. And that the Canal is eminently susceptible to sabotage and is essentially indefensible has been admitted by the Chairman of the U.S. Joint Chiefs of Staff.

America's refusal to adopt the treaties could foment an international crisis. The United States could be faced with a sabotaged Canal, a repeat of the bloody 1964 Panamanian riots, and perhaps a new and hostile Panamanian Government. Under such circumstances, negotiating a new treaty could prove impossible; employing force to secure the Canal could prove disastrous to our image in the eyes of the world.

Ratifying the treaties and averting this specter would not, however, mean that the U.S. was being blackmailed by Panama. The treaties should be ratified because of their intrinsic merit. They will, as noted, contribute to the security of the Canal, but in addition their ratification will signal to all of Latin America that the United States is willing to implement its stated policy of regarding Central and South American nations as sovereign partners. Ratification will not erase overnight the lingering, effects of the Monroe Doctrine and Theodore Roosevelt upon American policy toward these nations. It will however represent a significant step toward achieving an enlightened relationship with those nations who have long regarded America's continued presence in Panama as a vestige of colonialism and the Canal as the fruit of gunboat diplomacy.

We are deeply concerned that the imperatives of ratification will be obscured by a jingoistic campaign. While there obviously are those who oppose the treaties for sincere but, in our opinion, misguided reasons, we are distressed by those who short-sightedly seek political advantage in protesting what is speciously termed an American "give-away." A reasoned public debate about the merits of the new treaties would, we feel, convince a majority of Americans that ratification would be in the public interest. The impending emotional campaign could preclude this kind of debate and, we fear, cause an uninformed American citizenry to resist ratification of the treaties.

Republican Senators can take the lead in attempting to educate the public about the treaties and in advocating their ratification. This would surely enhance and broaden the appeal of the Republican Party as a whole. If instead Republican Senators become the critical and successful obstructionists to ratification, and if the Canal were sabotaged or some other crisis occurred as a result of American rejection of the treaties—a plausible turn of events—Republicans would doubtless bear the public blame. By voting to ratify the Panama Canal treaties, Republican Senators can avail themselves of a special opportunity to act in a responsible and enlightened manner—an action, we believe, that is in their and the country's best interests.

Respectfully,

GLENN S. GERSTELL,
President.

APPENDIX B

BIOGRAPHICAL INFORMATION ON PETER VINCENT BAUGHER

Peter Vincent Baugher is an attorney at Schiff Hardin & Waite law firm in Chicago, Illinois. He was Law Clerk to Judge Philip W. Tone, United States Court of Appeals for the Seventh Circuit, in 1973–74.

Born in Chicago in 1948, Baugher received his legal training at Yale Law School (J. D. 1973), and his undergraduate education at Princeton University (A.B. 1970), where he studied in the Woodrow Wilson School of Public and International Affairs.

Baugher is Chairman of the National Governing Board of the Ripon Society and serves on the Republican National Committee's Advisory Council on National Security and International Affairs. He is a member of the Chicago Council on Foreign Relations, the American Council on Germany, the Economic Club of Chicago, and a variety of other professional, civic, and community associations.

Baugher serves on several boards of directors, including those of the Chicago Educational Television Association (WTTW/Chicago Public Television), WFMT, Inc. (which owns and operates WFMT–FM radio and Chicago Magazine), and the Princeton Club of Chicago.

JANUARY 1978.

STATEMENT BY REV. JESSEE L. JACKSON

To The Foreign Relations Committee, U.S. Senate, Wednesday—January 25, 1978

MR. CHAIRMAN: The conclusion of a treaty between Panama and the United States which redefines the colonial relationship between our two countries and affirms soveignty of the Panamanian government and people over the "Canal Zone" is an act that is long overdue.

The old relationship, which has been in existence for three quarters of a century, is an anachronism left over from the era of "gun-boat diplomacy." Along with U.S. domination of the Panama Canal Zone, the racist practice of segregation was imposed upon the Panamanian people. "White-Only" restaurants, gasoline stations and other public accommodations, segregated public schools, discrimination in employment and pay scales became part of everyday practice in the Panama Canal Zone under the protective arm of the United States military. Beyond the insult to the Panamanian people of having a foreign colonial enclave of special privilege inside the Panamanian Republic was added the insult of a humiliating system of Apartheid patterned in every detail after the Southern states of our country. Here is a classic example of racism and colonialism wedded under American military occupation.

The American flag flew over this zone inside the sovereign territory of the Panamanian Republic, and today a Panamanian living in this zone, when tried in a court of law, is tried in an American court. If found guilty, he has to appeal his case, not to the courts of the Republic of which he is a citizen, but to the Federal Court of the United States in Louisiana.

Those who are insisting that the present Panamanian government "honor" the old treaty of 1903 are to be reminded that the United States has a poor record of honoring treaties, especially as it regards the native American Indian population. We might add to this the Social Contract which the government had with the Black population of the

United States as represented by the 14th and 15th Amendments, which were brutally and consistently violated in every Southern state from the period of the overthrow of Reconstruction, beginning in 1876, until the passage of the Civil Rights Act of 1964. This is undoubtedly one of the worst records of treaty violations to be found anywhere in the modern world.

It is a matter of historical fact that the Panama Canal Treaty of 1903 (The Hay-Buneau Varilla Treaty), authorizing the United States to construct an interoceanic canal through Panama, was a treaty signed by the Secretary of State and the representative of a French Canal Construction Company. The Panama Canal is a magnificent achievement of engineering technology; however, the diplomatic history and political maneuvers associated with the building of the canal, which resulted in establishing United States colonialism in the Republic of Panama, are as sordid and disgraceful as the canal is magnificent.

Mr. Chairman, I firmly believe that we as a nation should never become so sinful as to commit the ultimate sin—the desire to own another nation. Even President Woodrow Wilson in 1915 called the nation's attention to the fact that the United States "had engineered a fake revolution in Panama as the pretense for securing the right to build the canal . . . and has alienated all of Latin America in the process." A responsible Congress, carrying out its oath of office of responsibilities to the people of the United States, should have responded to President Wilson's comments at that time by restoring the Canal Zone to the sovereign Republic to which it belongs. But nearly 50 years later, in 1964, United States troops, stationed in Panama as part of the Southern Command, were shooting down Panamanian high school students in the riots that resulted from their trying to raise the Panamanian flag on a flag pole in front of Balboa High School.

When we visited and spoke to the student body at Balboa High School last November, we saw a vivid example of the chauvinist attitudes that have poisoned the minds of our American students in the Canal Zone. Before the student assembly program began, the school band played the "Star Spangled Banner" but did not play the Panamanian national anthem. In this school English is the only language of instruction and there are only a token number of Panamanian students. A couple of miles away, but still in the Zone, is Paraiso High School for Panamanian students. All of them are bilingual, speaking Spanish and English. This year Paraiso High School is being closed. Its students will be transfered to Balboa High School, where instruction will continue to be only in English. The tragedy is that our American students are being taught attitudes of superiority that blind them to the great opportunity they have to learn another culture and grow in the process. In an age of growing internationalism, these students are being encouraged to be closed-minded and provincial. They undoubtedly get these attitudes from parents, and the public school officials have been impotent to correct them.

The demands coming from the Panamanian people and the government of Panama for a new treaty covering the Panama Canal Zone and the Canal itself leave the United States three options:

(1) The United States can militarily *occupy* the Panama Canal Zone as a way of asserting its determination to reject the demands of the Panamanian people, or

(2) The United States can follow, as it has followed, a "hard line" that is short of military confrontation but frustrates and *alienates* the people of Panama in their effort to reclaim sovereignty over an important part of their country, or

(3) The United States can *participate with* representatives of the Panamanian Government in working out a new and just arrangement respecting the mutual self-interest of our two countries.

The first two options will not work toward any good end. A small nation determined to exercise its sovereign independent rights as a nation will eventually win in a military confrontation with an oppressor because world public opinion is on its side. It would be a wasteful misadventure to try the military option. Nor is anything to be gained by following the policy designed to frustrate and alienate the people of Panama. This would eventually alienate the whole of Latin America. So many countries—Costa Rica, Venezuela, Colombia, to name but a few—have their foreign trade tied into the operation of the Panama Canal that they regard the canal as a "natural resource" of the Latin American Continent and fully support their sister Republic. The third option, a new treaty of mutual respect and justice, is the United States' only viable course.

Mr. Chairman, in our visit to Panama we saw evidence of a developing nation of just 1½ million people supporting the effort of the Government to improve the general economic well-being. Reforms in health care over the past several years have expanded facilities into the rural areas for the first time; and the beginning of the development of the Cerro Colorado Copper Works will improve Panama's balance of payments condition and reduce unemployment. We were told about the considerable increase of students in higher education during this decade, especially in engineering, whose enrollment went from 300 students in 1970 to 5,000 today. New housing is being constructed for low-income families as this developing society comes to grips with acute housing shortages in the urban centers, a general characteristic of countries emerging from colonialism. The new governmental structure eliminates the old unicameral legislative body of 43 representatives, most of whom lived in Panama City. This has been replaced by redistricting the whole country into 502 districts; each legislator must live in the district from which he or she is elected. This certainly broadens the base of what we would call "representative government" and is an important reform.

There are also problems associated with the transfer of the Canal Zone to Panamanian sovereignty. There is reason to be concerned about the several thousand people who, it is estimated, will lose their jobs as the work force currently employed in the operation of this Zone is reduced in size. Many of these are Black Panamanians, whose families first came to Panama from the English-speaking West Indies at the turn of the century, when the Canal was being built. They have historically formed a kind of middle stratum among the work force, in that they did not enjoy equal pay with white Americans working in the Zone but generally had a higher income than the average Panamanian family in this semi-colonial country. These Black Panamanians are also apprehensive about the possibility that racist attitudes will be revived in this situation. General Torrijos discussed very frankly with our delegation certain judicial procedures that are viewed as repressive by some, in that certain capital crimes are handled in military courts rather than in the civilian judicial system. He was proposing to the executive council changes in the procedure that would remove such cases from the military to the civilian courts.

So there are problems, but they are problems that only a sovereign government, fully in charge of its national territory, can fully address. They are not problems that need to preoccupy the U.S. Senate as it deliberates ratification of the treaty. After all, we have 10 million unemployed in the United States, and the estimated 400 thousand people in jail in our country (of which about 80 percent are Black youth) represent one of the largest prison populations in the Western world. I want to take this occasion to appeal to President Carter, in the interest of human rights, to use the power of his high office to open up a full investigation of prison conditions in the United States and the causes which have resulted in such a high percentage of Black youth among the population in jail.

Mr. Chairman, I am sure we all realize that the Panamanian people, like all people, have a history. The body of national experience which has been theirs includes experience with the arrogance of colonialism and exploitation by foreign multinational corporations. The Panamanian national experience provides them with a set of definitions that may differ substantially from some of our own. For example, the term "dictator" carries a connotation that is sinister to the people of our country. It is unfortunate but true that the foreign policy of the United States is frequently found in support of dictatorships in Iran, Chile, and Nicaragua, and a racial dictatorship of "white minority rule" in Southern Africa, to name only a few examples.

To the Panamanian people, on the other hand, given their national experience, a dictator may simply be a leader of sufficient strength, power, and character not to be overthrown or bought off. Given this operational definition, it is obvious they would prefer a Panamanian "dictator" to a CIA "democracy." For them the single overriding concern is the restoration of sovereignty over the Canal Zone and the removal of this insult to their national dignity.

Mr. Chairman, in the recent visit of our PUSH delegation to Panama, we met with religious leaders, like Monsignor Marcos McGrath, the Catholic Archbishop of Panama (Panama is a predominately Catholic country); Rabbi Kepfisz; Baptist clergy; student leaders; trade union leaders; as well as leaders of the Panamanian Government, including President Demetrious Lakas, Chief Justice Juan Materno Vasquez of the Supreme Court of Panama, and General Omar Torrijos Herrera, the Panamanian Chief of State. The determination of the Panamanian People at all levels of society to restore Panamanian sovereignty over the Canal Zone, as well as over the operation of the Canal itself, should not be underestimated.

The people of the United States, if provided with the facts, will also support the ratification of the treaty in overwhelming numbers. The Senate should act in this matter with integrity and with confidence that the people of our country will support the correcting of this injustice done to the Panamanian people.

What of the United States citizens who have been living and working in the Canal Zone? Their future is in the exercise of one of two choices—to return to the United States, the country of their citizenship, or apply to the Panamanian government for permission to continue to live in Panama.

The new Panama Canal Treaty should be ratified by the United States Senate, and without a lot of crippling amendments designed to embarrass not only President Carter and General Torrijos, but also the Panamanian people who have ratified the treaty in a national referendum. Indeed it represents both a morally and a politically sound effort at correcting an historic injustice. The assumption that the United States can own property in another sovereign country "*as if* in perpetuity," as the old treaty provides, is so inconsistent with the realities of today's world that it is ridiculous. So is the idea of the United States' holding the unilateral right to militarily intervene in Panama's af-

fairs whenever it feels the "neutrality" of the Canal is endangered. That is another example of North American chauvinism and an inclination to assume the costly and presumptuous role of world policeman.

It is in the national interest of our country that just and civilized relations with the people and government of Panama be established. The United States-Pamana Treaty of 1977, signed by President Jimmy Carter and General Omar Torrijos Herrera and providing for changes in the operation of the Canal and in the status of the Canal Zone, is a positive and welcome step in that direction.

Thank you, Mr. Chairman.

STATEMENT OF THE HONORABLE ROBERT E. BAUMAN

Mr. CHAIRMAN: Thank you for permitting me to appear before you today. I returned on January 11th from a week long trip to the Republic of Panama and the Panama Canal Zone which I visited in my capacity as a member of the Committee on Merchant Marine and Fisheries of the House of Representatives. My purpose in testifying before your committee today is to add to the considerable store of information which I am sure you have already received from previous witnesses regarding the Panama Canal Treaties.

I will not belabor the several major and more sensational points which have been debated thoroughly in public. However, I am convinced after an extensive trip through the Republic of Panama and the Canal Zone and after discussions with more than 150 officials and employees of the Canal Zone Company, U.S. Military, the government of the Republic of Panama as well as everyday citizens in Panama and the Zone that the whole story of the adverse impact of these treaties is not being told in the United States.

Let me concentrate first on the economic aspects of the Treaties. As you know, article XIII of the Treaties requires that the United States pay approximately $40 to $60 million annually to the Republic of Panama for the use of the Canal. I am sure that by now you are familiar with the equation which the Treaties provide including 30 cents per Panama Canal net ton for each toll-paying vessel going through the Canal. This 30 cents per ton will be indexed to the U.S. wholesale price index for manufactured goods and adjusted bi-annually. A fair estimate is that Panama will receive $40 million a year from this payment.

In addition, Panama will receive a $10 million annuity each year as compared to the current $2.2 million under existing agreements. In addition, an annual amount of up to $10 million per year will be paid to the Republic of Panama if the Canal operating revenues permit this. This contingent payment is a point that needs greater elaboration.

It was made clear to me in extensive discussions with Governor Harold Parfait of the Canal Zone and with a number of other officials of the Panama Canal Company that the single most important function aside from management of the traffic through the Canal is the maintenance of the existing equipment and structures. We are dealing with a 70 year old facility which requires not only regular maintenance, but preventative maintenance as well. This point was brought home to me during my travels through the Canal by boat, by helicopter and in my inspections of the locks and operating facilities.

Whether or not Panama receives the second $10 million payment is apparently open to question so far as American officials are concerned. The fact is, in my extensive discussions with the Panamanian Planning and Economic Policy Minister, Nicholas Ardito Barletta, it was made clear to me that the Panamanian government expects to receive the full $20 million payment which article XIII suggests each year beginning immediately upon the effective date of the Treaties.

Mr. Barletta also made it clear that he believes the tolls policy followed by the United States since the construction of the Canal and which consisted of charging only those tolls which constitute sufficient annual funding to operate the Canal and pay off indebtedness, was mistaken. He pointed out to me that in the Panamanian view, if tolls had been increased to meet inflation that had incurred since 1914 when the Canal began operating, the tolls would be 200 to 300% higher. He also said that if the tolls had to be increased the Panamanian government saw nothing wrong with requiring those increases.

In discussions with Canal Company officials, it was repeatedly emphasized that the cost requirements of Canal maintenance would not permit the payment of this second $10 million annually. Governor Parfait has estimated in previous testimony and repeated to me that last year alone, $65 million of the total Canal Zone operating budget of $163 million was devoted to maintenance alone. If a mutual agreement cannot be reached as to whether money shall be used for maintenance or diverted to finance payments under article XIII this will be a source of constant aggravation between the parties. In the Panamanian view, they are due the full payment and when they obtain sovereignty over the Canal Zone it will be difficult to dispute them. Maintenance could undoubtedly take a backseat to payments. If indeed Panama does receive the full amount of the proposed payments it will mean an annual income to Panama of $75 billion over a 20-year Treaty life.

But there are other costs that will accrue directly to the taxpayers of the United States and which are hidden in the Treaties agreement as well as in implementing legislation yet to be submitted to the Congress. We are all aware that the U.S. government has entered into a corollary agreement to provide the tune of $295 million. In addition, the United States has agreed to provide military sales credits in the amount of $50 million. I might add that much of this will be used to beef up the Guardia Naccinal in Panama which maintains the dictatorship of General Torrijos the presence of which is obtrusive during the time any foreigner spends in Panama.

In addition, the treaties provide that there will be transferred to the Republic of Panama over a period of time, immediately in some cases, a period of 30 months in others, Canal government services and facilities valued annually at at least $100 million or $2 billion over the life of the treaty. These services include oil bunkering and other facilities, housing, commissaries, theatres, retail stores and restaurants, service and recreational facilities.

Six months after ratification, 148 square miles of the Canal Zone's 372 square miles will be transferred to the Republic of Panama and at a conservative estimate of 10 cents per square foot or $4,356 per acre for prime real estate, this means that Panama will receive lands valued at at least $1.1 billion.

If one takes into account the value of the Panama Canal itself and adjacent improvements which will eventually come under the complete control and ownership of the Republic of Panama if these treaties are approved, another $3.6 billion can be added to the amounts Panama will receive.

In addition, the replacement cost of military installations which will be surrendered and transferred to the Republic of Panama immediately will be at least $1.5 billion.

My calculations do not include the fact that at present the operation of U.S. military installations and the Panama Canal company organization and their employees are estimated to provide in excess of $250 million annually in spending which benefits the Panamanian economy. This will be increased considerably because of the transfer to Panama of many of the facilities which provide services to the Canal. The new operators can then charge for such services as they see fit.

I think a word should be said at this point regarding the attitude of the government of the Republic of Panama toward those portions of the Canal Zone and the facilities which they will receive from the U.S. either immediately, or within a period of 30 months under the terms of the treaties.

After talking to Minister Barletta, it is plain to me that the Panamanians perceive this property and these lands as a gold mine to be stripped for the benefit of the Panamanian government and, one supposes, the people of Panama, though the history of the current regime certainly does not guarantee that those benefits to the people will follow. Minister Barletta made it plain that extensive plans are underway for the use of the money which Panama will receive. He presented me a 42 page document which explained in some detail these grandiose plans. Officials of the Canal Company made it clear that if the economic feasibility of these projects were as great as the Panamanian government supposes, they would have been developed by the Canal Zone government by now as a means of generating income for financing the operations of the Canal.

These plans include diversion of canal funds to Panamanian government projects once the treaties are ratified and include several sugar mills, a fishing port, container ports, an oil terminal, copper mining development, a cement plant, and expanding tourism.

In addition, it was estimated by Minister Barletta that the money can also be used for the expansion of Tocumen International Airport at Panama City which has been under construction for some time and is well behind its deadline for completion. Other funds will go to building the last remaining portion of the Pan-American Highway through the Darien Gap.

In talking with a number of officials of the Panamanian government as well as Panamanian and American businessmen in Panama, I do not think that members of the Senate or the House can take any great comfort in the ability of the Panamanian government to carry out these projects although we can certainly rest assured that the money that the canal generates will be demanded and taken by the government.

During the nine years of the Torrijos dictatorship, there have been a number of projects which have either fallen behind in their construction or have failed to come to completion. Among these are the airport which I mentioned, a major hydroelectric project which has yet to go on line though it is much behind in its planned operation date, several sugar mills, the Contadora Island resort, agricultural development programs and mineral and natural resources development. I would also cite the failure of a proposed public transportation system, particularly in the Panama City area. I heard from a number of Panamanians the woeful fate of several hundred buses purchased by the Torrijos government from Spain two or three years ago. Most of them now sit empty in parking lots because of lack of maintenance and the inability of the government to provide parts and labor.

Solely on an economic basis, I would predict that if indeed these treaties are ratified in their present form, we can expect rapid deterioration of the Canal and its facilities because of lack of maintenance since funds will be diverted from capitol improvements to the uses of the government of Panama. I

need not dwell on the inefficiency of the "double veto" system of government provided under the treaties under which either party can easily block the action of the other.

Now let me turn to the question of what this treaty is going to cost the taxpayers of the United States. The philosophy of the United States government in operating the Panama Canal since its beginning in 1914 has been to extract from the levy of tolls on canal transits only enough money to operate the canal and its facilities without making any great profit. In the last few years—although the situation has changed for the better over the last few months—the Canal has been losing money because of a combination of factors. As a result certain interest payments to the U.S. Treasury have been suspended by the Panama Canal Company as is permitted by law. We were told repeatedly by Mr. Linowitz and Ambassador Bunker in their testimony before the House Merchant Marine and Fisheries Committee last August that there would not be any additional costs to the United States and our taxpayers if these treaties go into effect. Secretary Vance in testimony has stated that payments to Panama will be completely derived from canal revenues and therefore "the treaties require no new appropriations nor do they add to the burden of the American taxpayer."

I would like to disagree emphatically with those assertions. It is unfortunate that this type of misleading statement has been part of the propaganda campaign in support of the treaties. In truth the American taxpayers are going to be asked to ante up millions for the next 23 years if Canal operation is to be assured, but they will lose control and sovereignty over the canal.

What else will the taxpayers lose? There will no longer be the approximate $17 million annual payment to the U.S. Treasury from the new Panama Canal Commission for interest on the U.S. government's past investment. Over the life of the treaties the taxpayers will lose $340 million which otherwise would have been paid to the Treasury. In addition, in a slick bookkeeping arrangement the Panama Canal Company will transfer to the U.S. Department of Defense for payment by the U.S. taxpayers an estimated $66 million annually for schools, sanitation, fire and police protection, customs, health, postal and other services which are now provided by the Canal Company. This will mean an additional cost of $66 million to the taxpayers to keep the Canal running or about $1.3 billion over 20 years of the treaty. These funds are currently paid out of the Canal revenues.

The U.S. Civil Service Commission estimates that the cost of early retirement of present Canal employees will exceed $135 million. And what will be the as yet uncalculated costs of transferring present facilities into the shrunken U.S. areas remaining? Or the cost of training Panamanians to take over U.S. jobs?

Lastly, it should be considered that even optimistic estimates hold that to finance the provisions of the treaty and related economic agreements there must be an immediate increase in tolls in the nature of at least 30% (which is the lower State Department figure) or 40% (which is the Canal Zone government figure.) In this regard the committee heard last week testimony from Mr. Brandes, who as you know has been commissioned by the State Department and the Panama Canal Company to study the matter of toll sensitivity. I am sure that I can not improve upon that expert study. But it is plain on its face that despite the assurances given to your Ambassador Bunker a large increase in tolls is going to be needed to finance the operation of the Canal. The alternative will be a demand from the Panamanian Government that the United States subsidize the operation of the Canal.

If that demand is made, I suspect the State Department will support it as several witnesses from the shipping industry did prospectively before your committee last week. The U.S. would then be confronted with a double dilemma. The taxpayers would have to cough up hundreds of millions of dollars to keep the Canal open and operating or the Canal would close. Such payments would be in addition to the 10 billion dollars I have estimated that the treaty already gives to Panama, and this equation does not even consider the increase in the cost of goods to American consumers shipped through the Canal once the tolls have been increased. I believe these figures demonstrate that there most certainly will be an additional burden placed on the American taxpayer.

This leads me to a suggestion that I really think your committee ought to consider. That is that all of the implementing legislation which will carry out the terms of these treaties, should they be ratified, ought to be demanded from the administration immediately. This implementing legislation should be before the Senate and House and all appropriate committees including the committee on which I serve in the House, the Committee on Merchant Marine and Fisheries, before these treaties are ever brought up for consideration in the Senate. It makes no sense at all in my view to begin debate on the treaties when the economic terms and eventual costs these documents will produce are shielded from public view until after the fact of ratification. I am confident that if the implementing legislation is presented to Congress, the treaties will be in great trouble. In spite of the repeated assurances of the Administration that these treaties will not cost one additional dollar to the American taxpayer, the truth is otherwise.

There are many other aspects which I would like to discuss with your committee and its membership but I will leave such topics as the character of the Torrijos regime, my meeting with Dr. Romulo Escobar Bethancourt, chief Panamanian negotiator, and questions regarding the U.S. right to intervene to a full report we will be submitting shortly to the Merchant Marine and Fisheries Committee of the House.

Once again, I thank the distinguished members of the committee for their courtesy.

STATEMENT OF JOHN P. SHEFFEY, COLONEL U.S. ARMY (RET.)

Mr. Chairman, Gentlemen, I am Colonel John P. Sheffey, U.S. Army (Ret.). My experience in Panama Canal affairs has been rather extensive—five years as the Secretary of the Army's Military Assistant for Canal matters, five years as the Executive Director of the President's Atlantic-Pacific Interoceanic Canal Study Commission, and three years in the Department of State as Special Advisor to the U.S. Canal Treaty Negotiator on an appointment that was terminated by the Department of State in 1974. Subsequently, I have maintained contact with the State and Defense negotiators and have followed the development of the current treaty drafts. However, I have no official capacity today and am here only in the hope that I can help contribute to your understanding of the canal treaty problem. I do not speak for the members of the National Association for Uniformed Services. Most of them strongly oppose giving up the Panama Canal and are not happy with my view that a generous new treaty with Panama is both necessary and unavoidable.

The record of your earlier hearings includes almost every known argument for and against ratification of the proposed treaties, and I will not repeat them. Instead, let me clarify a couple of issues in which I can claim expertise. Then I will attempt to frame the Panama treaty problem in its true political context and suggest what should be done.

First, as the former Executive Director of the $22 million sea-level canal study in 1965–70, I assure you that there are no foreseeable circumstances in which the United States would be likely to consider building a new Isthmian canal outside Panama. The only feasible routes are in Panama. The economic, technical and political objections to the far longer routes in Colombia and Nicaragua eliminate them from practical consideration. Limiting the choice of routes to Panama for the remainder of this century costs the U.S. nothing, and the treaty proposal for this prevents other powers' meddling in the matter.

The theoretically feasible routes in Nicaragua and Colombia are 140 miles and 100 miles in length, respectively, as compared with 40 miles or less for the Panamanian routes. The movement of large ships in narrow canal waters is a slow and hazardous operation. Ship operators would not readily accept the risk and time lost in transit. The construction and operating costs of these longer canals would be three or four times the cost of the shorter canals in Panama, and even the shorter Panamanian routes are not economically feasible at currently forecast traffic levels.

In the 1970 study, the Nicaraguan and Colombian routes were considered only for a *sea-level* canal constructed by nuclear excavation. Nuclear excavation is of questionable technical feasibility at best, and is politically infeasible beyond doubt. Conventional excavation costs on these longer routes were so great that they were not even estimated with any precision. Today's construction costs on either route would be in excess of $20 billion, and this could easily double by the time such a canal might be needed.

Certainly, the foreseeable traffic cannot support two Isthmian canals, and 95% of the world shipping projected for the year 2000 will still be of sizes that can pass the present Panama Canal. The 5% of superships that need a larger canal cannot possibly support its cost even in Panama. The military advantages of a relatively indestructible sea-level canal are attractive, but have not moved us to build one in Panama. They are far from sufficient to justify a $20 billion investment in a technically unsatisfactory and politically abrasive canal outside Panama.

The second issue that I want to address is that of alleged Administration pressures on the Joint Chiefs of Staff to agree to the treaties. The pressures were real and continuing, but certainly were not political threats to their careers. They were in the form of persuasion by the Secretary of State and the treaty negotiators as to just what was possible to negotiate, and ultimate acceptance by the JCS that control of the canal by a friendly Panama under an umbrella of U.S. defense would better serve U.S. defense interests than a canal controlled by military force exerted against a hostile Panama. This took a long time and involved many successive Joint Chiefs. In the years since 1962 when President Kennedy first made the tentative decision to negotiate a new canal treaty with Panama, the U.S. position has progressively softened in the face of repeated Panamanian refusals to accept the terms offered. President Johnson and his National Security Council sought 100 more years of U.S. control and defense of an Isthmian canal, along with the right to build a sea-level canal. Upon the rejection of the 1967 treaties negotiated with this guidance, President Nixon and his NSC sought 50 more years of control of the present canal and dropped the sea-level canal objective. A treaty drafted under these terms was rejected by General Torrijos in early 1972, and subsequently Secretary Kissinger persuaded President Ford and his NSC to accept less than

50 years of U.S. control and defense. President Carter and his NSC finally accepted the 23 years proposed in the current drafts in return for Panamanian agreement to the permanent U.S.-Panamanian guarantee of the canal's neutrality. All the civilian and military officials involved have been intelligent and patriotic men, and all have acted in what they believed to be our country's interests.

You should note, however, that in the proposed treaties the Panamanians have wholly accomplished their original objectives at the outset of the negotiations in 1964. The only compensation offered the U.S. for the $8 billion gift of the Canal Zone and sacrifice of its military position on the Isthmus is goodwill. Goodwill between nations endures only so long as their interests do not conflict. Unfortunately, the conflict of U.S. and Panamanian interests in the canal is permanent. The new treaties will change its impacts, but they will not end it. Obviously, the U.S. has not used its true negotiating power in this situation, and I'll try to explain why.

From the beginnings of the Good Neighbor policy in the 1930's, the Foreign Service professionals in the Department of State have increasingly believed that the U.S. should withdraw from Panama. Public support for this view until recently has been limited to a liberal minority; but it is a view consistent with the anti-colonialist foreign policy the U.S. has followed since World War I.

Throughout most of this period, U.S. retention of the canal was an article of faith in the Department of Defense, supported by an overwhelming majority of the Congress and the American people. However, this period has been marked by a wholesale retreat of the colonial powers from Asia, Africa, and the Mideast. We freed the Philippines and gave Okinawa back to Japan. Egypt took the Suez Canal from the British. U.S. policy makers chose to accept, for good reasons, a stalemate in Korea, compromise of the Monroe Doctrine in Cuba, and abandonment of our objectives in Vietnam. We have castigated our own leaders for undemocratic actions in support of our interests in Iran, Greece, Chile, and elsewhere. Linkage of our position in Panama with this trend has been unavoidable. Equally unavoidable is the symbolism of the canal as a place for the U.S. to take a stand and stop its worldwide retreat.

If modern history has any lesson for us to apply to the Panama situation, it is that retention of overseas possessions and democratic treatment of the local inhabitants are utterly incompatible. While the Canal Zone is technically not a colony, Panama has been a U.S. satellite for all practical purposes. U.S. control of the canal and maintenance of this relationship are inseparable, but what U.S. President would now send in the CIA to topple Torrijos and replace him with a U.S. puppet?

Panama, her Latin neighbors, and our Communist and Third World critics long ago recognized the contradictions in the U.S. position in Panama, and they have played upon them so skillfully that our own policy makers, including the Joint Chiefs, have accepted that the Panamanian cause is a just one, and it would be in the best interests of the U.S. to end the tensions of our present relationship by giving up the canal and our military bases on the Isthmus. All have concluded that the ruthless actions that would be required to hold the canal are no longer feasible. The President and the Congress will not order them; and in the long run, they wouldn't work anyhow. Torrijos has been created by the situation in Panama, and the next Panamanian leader and the one thereafter will be equally determined to take possession of the canal. The world has changed since 1903. The U.S. today cannot use the methods of our "manifest destiny" days when we were assembling our empire. A foreign policy that requires shooting the natives who get in our way is no longer acceptable at home or abroad. This is the real issue in the Panama treaties. Our desire to adhere to our democratic principles and live by the golden rule in Panama has run head-on into the historical policies that made the U.S. great and powerful. Our current policy makers are acting in support of our principles but a vast number of Americans intinctively fear that the new Panama treaties are one more step in the decline and fall of the American empire.

There is no wholly satisfactory solution to the canal problem. The proposed treaties present a Hobson's choice between existing problems in our relations with Panama and a host of new ones. Our presence in Panama is not comparable with our bases in Germany or Japan. In those countries our presence is desired. In Panama it is not. A more applicable historical example would be the experience with the NATO line of communications across France. Common sense and our perception of France's obligations and self-interest gave no warning that de Gaulle would throw us out—but he did.

Every Administration since 1964 has attempted to negotiate terms acceptable to Panama that would continue to protect the irreducible minimum of U.S. interests in the canal. Unfortunately, from the time Kissinger became Secretary of State and Ambassador Bunker the treaty negotiator, all the signals to Panama were that we would make almost any concession to reach early agreement. Ambassador Linowitz's known views and short term appointment by President Carter were a similar signal: This gave the Panamanians unwarranted bargaining power in reaching agreement on the proposed treaties. Had these signals of U.S. softness not been made, the U.S. could have negotiated a more advantageous treaty that would have been acceptable to Panama. This now will be extremely difficult, if not impossible. However, the Senate is now faced with a decision that is far less complicated than the contradictory testimony before this Committee would indicate. There is no real choice of rejecting the treaties outright and maintaining the status quo. A U.S. show of force and determination won't change Panamanian goals or end worldwide support for them. The choice is only between accepting the treaties as drafted or advising the President that their broad concepts are acceptable, but some critical details must be changed. The U.S. can further delay making this choice, but in the end a treaty embodying the general principles of the proposed treaties is inescapable.

I believe only one aspect of the treaties creates an unacceptable risk to U.S. interests. That is the ambiguity of U.S. defense rights in Article IV of the Neutrality Treaty.

The argument that Panamanian self-interest will keep the canal open after 1999 is demonstrably nonsense. I have already cited the experience with the NATO line of communications across France. The experience with the Suez is more directly comparable. Egypt desperately needed Suez Canal revenues, but closed the Suez in the 1967 war and let it remain shut down for eight years. Our experience with the Berlin Corridor is another example of the futility of dependence upon goodwill. In any event, U.S. rights to take whatever action is necessary to keep the canal in operation must be so specific that they cannot be legally challenged by Panama. This is the surest guarantee that the U.S. will never be forced to use such rights.

Under the proposed treaties, an overt military threat to the canal would present no decision problem for the U.S. The problem would be in dealing with political closure after we have departed from the Isthmus. There are many scenarios in which hostility to the U.S. could develop in Panama. Suppose that sometime after 1999 another Cuba-type situation develops in Latin America, and the U.S. again must use the canal to deploy an assault force to protect its interests. The Panamanian government (or the labor union then controlling the canal operating force) does not support U.S. objectives, and the canal operating force goes on strike and closes the canal at the critical period when the U.S. needs it most. The Government of Panama gives lip service to its treaty obligations, but tacitly supports the strikers and makes only token efforts to terminate the strike.

Does the proposed neutrality treaty give us the right to bring in operating personnel and protective forces in these circumstances? Department of State lawyers claim that it does, but I very much doubt that General Torrijos would agree. In any event, neither side can be sure of what interpretation a future Panamanian government will put on the currently proposed treaty language, and our Presidents and Joint Chiefs of Staff after 1999 should not be handicapped by such vague wording, nor should an issue of such critical importance be in any measure dependent upon Panamanian goodwill.

We can live with the problems that are bound to come with the relinquishment of sovereignty and the transfer of Zone activities to Panamanian control. But there should not be the smallest shadow of doubt as to our responsibility and determination to insure that the canal is kept in operation. This is the one single duty to ourselves and the world that is more important than all of our other objectives in a new treaty with Panama. The world understands and accepts that great powers have such responsibilities. Doubt as to our intentions or will to act is what will invite trouble in Panama. Therefore, I recommend that the Senate advise and consent to ratification of the new treaties only with the reservation that Panama must agree that *"in the event of any failure to keep the canal in operation and available to the U.S. and the world, unilateral U.S. action on Panamanian territory, aimed solely at restoring the canal to operation, would not be considered an act of war or intervention in Panama in violation of the Rio Pact and the UN Charter."* This so-called derogation of Panama's sovereignty is a small price for Panama to pay for the gift of the canal.

The recommended reservation is not a treaty change, and there is no constitutional requirement in Panama that it be voted upon by the Panamanian people. It is nothing more than a formalization of what General Torrijos as already stated in different language. If he were to refuse to concur in the reservation because it derogates Panamanian sovereignty, this would be a frank admission that Panama insists upon the right to deny the canal to the U.S. in some circumstances. In that event, the proposed treaties should not be ratified.

Thank you.

STATEMENT OF MR. EGON TAUSCH

The value of the Panama Canal to our national defense has been the subject of testimony by high-level military officials, active and retired. Some believe that the U.S. cannot be defended without the use of that waterway; others qualify such statements. But a recurring theme involves our ability to protect the Canal itself from local guerrilla activity or sabotage.

To judge this threat we have to know just how vulnerable the Canal is, under which conditions the Canal would be least vulnerable, and from what quarter we can expect danger. These questions are not only military matters; they are also technological and political.

The proposed treaties call for delivery of the Canal Zone to General Torrijos' government almost immediately after ratification

with retention, by the U.S., of military bases within the Zone, and of practical control of the Canal itself until about the year 1990. If the treaties are not ratified, the U.S. retains control of the entire Canal Zone.

As long as the entire Zone is in the American hands there is little reasonable fear of guerrilla war with Panama. The tactical advantages adhere to the U.S., and the Panamanians are not interested in self-immolation.

Although large parts of Panama are jungle, the population is concentrated in the two major cities. Panama has never fought a war. The *Guardia Nacional*, which serves as both the army and the police of Panama, is 8,000 strong, almost all stationed in downtown Panama City, for political uses only. The *Guardia* doesn't like the jungle. The most committed fighters Torrijos has are the thousands of Leftist professional students, and these do better in romantic street demonstrations than in individual acts of sabotage or concerted struggles. The "martyrs" of the famous rights of 1964 were killed when a department store they were looting caved in.

Panamanians could be trained to fight—the U.S. Army has been trying to do this in jungle warfare schools in the Zone for years—but the probability, if war broke out, would be that Cubans would do all the fighting.

The analogy with Vietnam is valid, but not the way treaty supporters think it is. The crippling difficulty faced by the U.S. military in Vietnam was that geographic territory was irrelevant in that war. Fortifying towns or hilltops, though easy, was pointless; Vietnam remained a war of movement because the U.S. and Saigon forces had to maintain the offensive tactically in order to maintain political control. In the few instances when American installations were assaulted directly, the Vietcong and North Vietnamese attackers were slaughtered.

The Canal Zone, on the other hand, is only about fifty miles long and ten miles wide. Perimeters can be established and fortified. There are no "hearts and minds" to be won; only Americans live there. There are no Panamanian villages within the Zone to worry about, nor any reason why the frontier should not be cleared of vegetation for fields of fire. General Torrijos knows all of this. Difficulties would arise if and when the Zone were abandoned before the Canal was surrendered, and this is precisely what the new treaties propose to do.

The idea that the Canal itself, within an American Zone is vulnerable to sabotage by dissidents or guerrillas is based on ignorance of the physical structure of the Canal and on underestimation of 1910 technology. The Canal is not a complex, delicate mechanism. The locks are merely chambers built of solid concrete, with holes in the bottom through which the water passes by gravity when the valves are opened. The gates are steel, pivoting on posts, and locking under pressure of the water. The machine parts are simple, solid steel and brass, and every piece is manufactured in workshops on the banks.

The gates and valves are controlled from an electric table on the deck of the control house; if the table controls become inoperative, the circuits can be reconnected on a floor below; if these are destroyed, there are steam-operated controls within the concrete banks, and a final set of manual controls. Communication at the locks is by sight and voice—computers were installed, but found to be less effective than the old method and were discontinued. As few as eleven employees can operate the entire lock system. All of the original machinery is still functioning, though minor parts are replaced regularly.

There have been comments by the media to the effect that the Canal could be disabled by dropping a few hand-grenades into the locks. Actually, as I discovered by operating the locks myself and examining the entire structure, disabling the Canal would require aerial bombardment, or satchel charges placed at dozens of different locations—a project that would require almost complete control by hostile forces in order to carry out.

The greatest danger from guerrillas or saboteurs would occur only if the Canal Zone were abandoned by the U.S. before the waterway or the military bases.

Why ratification of such treaties would give the Panamanian government, or any of its people, cause to attack the Canal is a political and an ideological question.

By now Americans should have few delusions about the nature of the Torrijos regime. The General has exiled over 1,300 Panamanians and murdered over 500. He has bankrupted Panama with his mismanagement and socialist schemes. Private enterprise is paralyzed and unemployment soaring. Torrijos has blundered in and out of a soviet-style economy, reacting either to his own whims or to unknown foreign orders.

All political parties have been outlawed, but the members of each retain their hostility to Torrijos. This is true of the Arnulfistas, the Liberals, the Republicans, the Democratic Action Party, the Christian Democrats, and the new and growing Social Democrats. All maintain underground newspapers and masses of supporters. All stand against ratification of the treaties for fear of the power such treaties would give General Torrijos.

As the official organ of the Social Democrats has put it, "To change masters if not to become free . . . to oppose the United States only to fall into the hands of the Communist world is pointless." The political parties of Panama have announced that if any of them come to power they will immediately renounce the treaties. The Democratic Action Party states, "The Panamanian people still have the last word. A treaty signed with a dictatorship, without civil rights, will be of short duration and have at its origin the reasons for its prompt repudiation."

Obtaining the new Canal treaties is Torrijos' only hope for staying in power indefinitely; not because the Panamanian people want the agreements so badly, but because the American aid that comes with them will bail the dictator out financially, because the treaties will give Torrijos needed prestige among anti-American governments, and because the immediate disappearance of the Zone will increase the jurisdiction of his secret police, and give him a power base against the remaining U.S. presence.

He must maintain this hostility to remain in power. Ratification of the treaties will add to the motives for violence, and its probability of success. The proposed treaties do not give all American holdings to Torrijos at one time. Leftist students of the F.E.P. (Federation of Panamanian Students) have been demonstrating against the provision for American bases and against any American participation in the Canal during the transition period. Since the F.E.P. is an official government organization, its position should not be dismissed lightly. Torrijos profits sufficently from the ratification of the treaties. Honoring his obligations under those treaties will gain him little more, and failing to do so might be the more prudent course.

On August 12, 1977, shortly before the proposed treaties were released, Romulo Escobar Bethancourt, chief Panamanian negotiator and friend of Torrijos who makes no effort to hide his Communist background and connections, made a significant speech at a closed meeting with the students of the F.E.P. The diplomat began with his usual *Yanqui*-baiting then got to the meat of his exhortation. Although the new treaties he helped bring about were necessary, he said, "there are still theories that we can get more, much more, through confrontation. I believe this is true." But those who oppose the continuing bases in the Zone should do the fighting themselves. "When they talk to me, I tell them to go to the Canal Zone and attack it. I have not yet met a revolutionary who asks the government for permission to attack any blasted thing." After the applause, Escobar Bethancourt added, "In the past, when we set the bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. *You* have never asked anyone for permission . . . When one wants a confrontation, one puts his knapsack on his back, his bomb at the waist, and goes to stage the confrontation. This is not written in any book . . .

". . . as General Torrijos has said: I prefer a nation of Castroite youths to one of castrated youths."

This incitement to violence was predicated on ratification of the proposed treaties by the U.S. Senate.

It is speeches like Escobar Bethancourt's which disprove the argument that Panama would have no reason to sabotage its own Canal when the treaties go into effect. There will still be differences between the Americans with their partial control and their bases, and the Panamanian Leftists. If the Canal is sabotaged after the Zone is lost, it probably will not be done by level heads in the Panamanian government, but by radical students whom that government has so incited for so many years that the economic value of the Canal means little to them.

Ratification of the proposed treaties would betray the majority of the people in Panama, give decisive support to a dictatorship, and invite violence—guerrilla war and sabotage—against the United States and the Panama Canal.

STATEMENT BY DR. GEORGE FOX MOTT

Mr. Chairman and members of your committee, I am here today on a matter of importance to me, to my clients, and, I believe, to our nation. The issue is one involving our government's primary responsibility to American citizens, and deals with the good faith and sincerity of a nation with whom we are now discussing new international treaties.

At this point, what you gentlemen want to know—and want I want you to know—is what this is all about.

There is a tract of land comprising some 1,000 square miles on the Caribbean coast of Panama. This tract, known as "El Nispero," was purchased in 1912 by a group of about 800 Americans incorporated as the Isthmian Timber Company. They bought at the open market price of $220,000 U.S., with clear title which went back to a grant from the King of Spain. These Americans saw a chance to develop and share in the development and growth of the new nation of Panama.

At that time Panama was a remote and primitive country with a population of 600,000. The Americans poured into their project all the resources they were able to harness, gradually, as they were able to do so.

In 1931, Panama brought suit to challenge title to the land. The Americans won in the local court and later, in 1936, in the Panama Supreme Court—this, incidentally, at a time when Panama was hoping for Senate ratification of the 1936 treaty. At the very time when the Americans' title to the land was confirmed by the Panama Supreme Court, Pan-

ama was moving illegally and secretly to take the property from the American owners by kangaroo court actions that made a mockery of justice. They were held in secret, and were not disclosed for the public record until two years had passed—until, indeed, after the U.S. Senate had ratified the treaty, in 1939.

Our legal counsel has advised that in his opinion the whole proceeding was void and therefore the property legally still belongs to our claimants.

As of this date, Panama has refused to do anything. The U.S. State Department has stated on the record that the whole matter is such as embarrassment to Panama that it should not be made public. "Don't call us," they said. "We'll call you."—and the call is never going to come.

The property was valued in 1937 at 130 million dollars. In 1942, the stockholders in desperation to salvage something out of their loss put a value of 6 and a half million on the property. That amount compounded at 6 percent since 1937 is now One Billion, 370 Million Dollars.

We have had the 1937 timber cruise reviewed by experts and the minimum value of the timber alone on today's market is 700 Million Dollars. There are exploitable quantities of gold, silver, platinum and copper in the land.

We should request of Panama that she demonstrate her good faith by righting the wrong perpetrated by public officials secretly and illegally wresting title from the American owners.

There are those who may argue that those actions were the actions of a prior regime. If the U.S. Senate accepts this argument, where will the United States be when the next regime says of these treaties currently under consideration—"They were the treaty of a prior regime and we have nothing to do with them."?

This, in highly condensed form, is what I am talking about.

May I add that the responsibility of our nation—indeed, the first essential duty and the first justification for any form of government since tribal times—is to provide protection to its citizens for life and property at home and abroad. In reality, all other functions are simply extensions of this basic responsibility.

This case is pertinent to your hearings because it parallels in a striking way the history of U.S.-Panama relations from the beginning—namely, from 1903 to 1978, as you will discover when you read the summary calendar comparison of events in our formal presentation.

Before I go further, Mr. Chairman, may I introduce my key associates? Our Chief Counsel, Mr. Royal E. Cabell, Jr., distinguished attorney of Richmond, Virginia; Dr. E. Y. Ham, political scientist with doctorate from the University of Wisconsin; and my associate-at-large, Colonel John T. Carlton, known to many of this committee as the longtime Executive Director of the Reserve Officers Associate, recently retired from that position, and my friend of 30 years.

As a matter of record, I also wish to tell you that on November 17 and 18, 1977 a copy of our full presentation including bibliography and other pertinent material was hand-delivered to each Senator and Congressman and receipts were obtained in every case. To my amazement on an issue of this magnitude, less than 10% of Senate and House members even made *pro forma* acknowledgment, and some of my close friends in The Congress, when queried personally, affirmed they had never seen nor heard of it. Of course, I understand, but it does suggest that staff are not tending the store and votes are being pressured before facts are known!

I should also like to say that though a press release was prepared and made available through normal media channels, including all the great newspapers, the national editor of two such—one in Washington and one in San Francisco—told me that pressures were being exercised to prevent this story from being told. (As the editor of a leading textbook on journalism, I ask myself, "When did we lose a truth-serving media? Of what value is the first amendment?)

At this point, Mr. Chairman, may I ask that our basic "White Paper," a copy of which is before each of you, be placed in the Congressional Record after this testimony? It should also be of record that complete sets of copies of supporting documents have been deposited with the Librarian of the Senate and of the House, and in Library of the Hoover Institution on War, Revolution and Peace, at Stanford University.

I also ask that I may be allowed to provide additional data, if such information is desired by your committee or seems to be germane to the story of Panama and what her citizens and government have or have not done to develop her own resources in addition to subsisting on moneys and expertise from the United States. I request this consideration for a 30-day period after this hearing. Do I have your permission to provide such additions to your committee for information and consideration?

In this connection, I quote from a letter received recently from a Panamanian now resident in this country. Professor Gustav Anguizola, teaching at the University of Texas in Arlington, wrote:

I quote: "Panamanian courts are quite venal and this goes for the Supreme Court."

He says, also; "It is interesting that in the new treaty or treaties there is no proviso for a claims commission which might do justice to your clients.

I suggest to you that instead of conciliatory efforts, we try calling the shots. A good start would be to require return of this tract of land stolen from American citizens; or, at least, reimbursement to the claimants for their lost property. At compound interest—or at current value of the timber alone (something more than 715 Million Dollars)—it is quite a sum. And since the government of Panama is demanding enormous sums from us to go along with the gift of the Canal, let us stipulate that she uses some of this money to reimburse fully these American claimants.

In view of these considerations, I suggest further that before any treaty or understanding with Panama is formalized, either the property be officially returned by Panama to the claimants, or reimbursement to them should be made without further delay. Our claim in 1942 was $6,747,900.00. The value of the land and its timber and other resources can now be variously calculated, considering interest and the changed value of the currency, at from One to Two Billion Dollars U.S. Something a little over One Billion Dollars may be a reasonable claim.

We are not seeking "pie in the sky," but we feel that our clients are entitled to an indemnity which rightfully should come from Panama—unless the United States feels that the raising of the issue would be damaging to international relations, as the State Department has contended over the years. If at this juncture it behooves the United States of America not to embarrass a foreign power because of the wrongful acts of its highest officials—to the point that the United States is not willing to protect the rights of its citizens to have their property, it would appear that this is a cost which should be borne by the public treasury and not by the private investors. All of the claimants are people of conservative nature; nevertheless we feel that if this is the position of our government, then these claimants should be granted an indemnity by all of the people by way of a bill for private relief.

This is not a hypothetical issue. For unpaid taxes U.S. citizens go to jail. For unpaid reimbursement to American citizens someone is responsible. The United States Federal Government which was founded to protect the lives and property of its citizens has been negligent.

The evidence of this miscarriage of justice to private Americans is compelling. In view of our native penchant for generosity to foreign powers, is it not meet and proper that property plainly stolen by arch chicanery from American citizens be given equal billing?

After reading nine thousand clippings about the Canal treaties—pro and con—it is clear to me and to our group that money looms first and foremost in Panama's thoughts of the new treaties. Before we officially hand over to her further vast sums, with or without total control of the Canal, let us pay back a debt to some of our own people. Let us do it publicly and give the world clear proof that we still stand back of our citizens and that our American system of "freedom with responsibility" is a two-way street.

CRIMINAL CODE REFORM ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1437, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERIM REGULATORY REFORM ACT—FEDERAL TRADE COMMISSION AND CONSUMER PRODUCT SAFETY COMMISSION

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared with the minority.

I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3816.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and com-

pulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. FORD, Mr. DURKIN, Mr. GRIFFIN, and Mr. DANFORTH conferees on the part of the Senate.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIFTEEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 11:04 a.m., recessed until 11:19 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEAHY).

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to speak for 1 minute, notwithstanding the Pastore rule of germaneness.

The PRESIDING OFFICER. Without objection, it is so ordered.

AREA FOR HANDICAPPED VISITORS IN SENATE GALLERIES

Mr. ROBERT C. BYRD. Mr. President, during the adjournment period, structural modifications were made to the Senate galleries to provide seating for the first time for handicapped visitors using wheelchairs.

A special platform with a railing was constructed in the southwest corner of the galleries to permit as many as 10 visitors in wheelchairs to be accommodated at one time. Prior to this remodeling, wheelchair visitors were restricted by gallery stairs to viewing Senate proceedings one at a time from a limited vantage point immediately inside of the gallery doors.

The new accommodations for wheelchair visitors in the galleries are part of an overall remodeling program authorized by the Congress intended to correct obsolete structural designs within the Capitol and adjacent office buildings. These modifications are eliminating numerous physical barriers to handicapped visitors, thereby making the Congress more accessible to all citizens.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. The Senator from Kansas would like to commend the distinguished majority leader for his statement because, having worked a great deal with people seeking access to our Nation's Capitol, this is a giant step in the right direction. It certainly will be appreciated by all those who visit here.

Mr. ROBERT C. BYRD. I thank the distinguished Senator, who has taken a very great interest in accommodating and helping the handicapped, and I appreciate his comments as well as his efforts along these lines.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. LEAHY. I ask unanimous consent to speak for just 1 minute out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I wish to associate myself with the statements of the distinguished majority leader and the distinguished Senator from Kansas.

Just before the recess I had occasion, because of a temporary illness, to have to spend a day in a wheelchair, including coming into the Senate Chamber for a vote.

I think it would be good if all of us had to do that for 1 day. We would realize, first, the problems created by barriers; but, second, how satisfying it is when those barriers are removed.

I commend the Sergeant at Arms for this step, and I join my distinguished colleagues in saying that.

Mr. ROBERT C. BYRD. I thank the Senator from Vermont.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. LEAHY assumed the chair.)

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. DOLE. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I understand that the Senator is going to offer two amendments. Would the Senator object if I ask unanimous consent, since committees have permission to meet until 12:30 today, that any rollcall votes be delayed until after that time?

Mr. DOLE. I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I have cleared this matter with the manager of the bill (Mr. KENNEDY); therefore, I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1104

(Purpose: To allow local areas to apply their own standards of obscenity.)

Mr. DOLE. Mr. President, I call up an unprinted amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) and Mr. STEVENS offer an unprinted amendment numbered 1104: On page 171, line 27, after the semicolon add the following new paragraph:

"(2) 'community' means the State or local community in which the obscene material is disseminated."

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, line 27, after the semicolon add the following new paragraph:

"(2) 'community' means the State or local community in which the obscene material is disseminated."

On line 28, strike the "(2)" and insert "(3)".

On line 33, strike the "(3)" and insert "(4)".

On line 35, strike the "(4)" and insert "(5)".

Mr. DOLE. Mr. President, section 1842 of S. 1437 substantially rewrites current Federal law on the dissemination of obscene material. The Judiciary Committee stated that the reason for drawing back from current law is that the Federal interest in this area is "less urgent and pervasive." The committee concluded that recent cases have enabled States and localities to prosecute obscenity cases more effectively and thus reduce the need for Federal action.

SUPREME COURT HAS CHANGED VIEWS

The test used by the Supreme Court has for many years required the jury to apply "contemporary community standards." While the word community does not seem inherently vague, the Supreme Court has struggled with a proper definition for it. In the cases preceding Miller against California, the Court interpreted community to mean a national standard. Since the Miller case in 1973, it has been constitutionally permissible to use the State or local community standard.

A subsequent case, Jenkins against Georgia, held that Miller does not mandate use of State or local standards but

merely allows use of such standards. Therefore, the current state of the obscenity standard is that "State or local" standards may be used in the jury instruction but such an instruction is not constitutionally required.

AMENDMENT CONSISTENT WITH SUPREME COURT DECISION

Section 1842 defines obscene material in accordance with the Miller against California decision. However, the bill fails to define what "community" is the appropriate "community" for Federal obscenity prosecutions. My amendment provides that "community" means the State or local community in which the publication was disseminated. For Federal obscenity prosecutions, "community" shall not be interpreted as meaning the Nation as a whole.

I think that is a very significant difference. This amendment would allow the citizens of each town the opportunity to decide what publications they feel are obscene.

In other words, there are some of us in the Midwest who may not want to be guided by the standards of New York City or some other large metropolitan area.

AMENDMENT CONSISTENT WITH S. 1437

The committee report accompanying S. 1437 reflects the view that States and localities should have the primary role in suppressing obscene materials. My amendment is consistent with that philosophy. Adoption of this amendment would require a jury instruction in all Federal obscenity trials of the type held constitutional in Miller against California. That instruction would require the jurors to apply the State or local standard of obscenity rather than a mythical national standard. My amendment would insure a consistency in the standard applied for all Federal obscenity prosecutions.

AMENDMENT REFLECTS PROPER CONGRESSIONAL ROLE

Mr. President, the Supreme Court has laid down the permissible choices in defining the word "community." Adoption of my amendment would be a legislative choice of the definition which gives individual localities the final decision on what is obscene. The determination of what is obscene should belong to the local community. Therefore, I urge the adoption of my amendment.

Mr. KENNEDY. Mr. President, this amendment relates to the obscenity provisions of the legislation; the issue of obscenity and its relationship, to first amendment rights, is an issue which has been before the Supreme Court on a number of times.

Strong views on this particular issue are held by many Members of the Senate. What we did in the committee was indicate the standard which would apply—the average person applying contemporary community standards. That is our understanding of the current law. The Supreme Court has been unable to agree on this issue. We have, in this recodification specified "contemporary community standards" which is the present law, but have gone no further.

It seems to us that that is a responsible position. It is, we believe, a correct restatement of the current law, and it does conform to the Court opinions at the present time.

I think if we were to accept the amendment of the Senator from Kansas, it would lock into the statute an issue which may yet evolve.

I know that the view and attitude expressed by the Senator from Kansas is sincerely held, and I know that similar views, may be held by many other Members of the Senate. But it may very well be that by adopting his amendment we would foreclose change in this highly volatile area of obscenity.

We in the committee have attempted to restate the case law. That is what we did in this particular instance, and it seems to me to be wise to do nothing further.

Therefore I hope that, when the time comes to vote, this amendment will not be accepted.

Mr. President, I reserve the remainder of my time.

Mr. DOLE. Mr. President, I appreciate the comments of our distinguished colleague, and I understand the question he raises and the concerns he has.

I think, just to make it perfectly clear, I should state that all the Senator from Kansas seeks to do is to add a definition, to define that "community" means the State or local community in which the obscene material is disseminated.

I understand, through staff, that the Department of Justice has indicated this is the present law. All my amendment would do is make the definition a matter of statute.

Going back to one of the cases I cited, Miller against California, with reference to the first amendment question, the Court said in that case:

> It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas, or New York City.

They cite a long list of cases supporting that view. They go on to say:

> People in different States vary in their tastes and attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity. As the Court made clear in *Mishkin* v. *New York*, 383 U.S., at 508–509, the primary concern with requiring a jury to apply the standard of "the average person, applying contemporary community standards" is to be certain that, so far as material is not aimed at a deviant group, it will be judged by its impact on an average person, rather than a particularly susceptible or sensitive person—or indeed a totally insensitive one. See *Roth* v. *United States*, *supra*, at 489. We hold that the requirement that the jury evaluate the materials with reference to "contemporary standards" of the State of California serves this protective purpose and is constitutionally adequate.

Under the Supreme Court ruling, no first amendment problem exists.

In a later case of Jenkins against Georgia, the Court said:

> We agree with the Supreme Court of Georgia's implicit ruling that the Constitution does not require that juries be instructed in state obscenity cases to apply the standards of a hypothetical statewide community. Miller approved the use of such instructions; it did not mandate their use.

All the Senator from Kansas seeks to do is to mandate their use through definition in the bill. It seems to me that that would do a service to Federal courts. This amendment would make certain that we do not have this mythical national standard applied to my State of Kansas or this mythical national standard applied to the State of California, to the State of Wyoming, or any other State or any other locality. I would hope that the amendment will be accepted. If not accepted, then the Senator from Kansas at the appropriate time will ask for yeas and nays.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr KENNEDY. Mr. President, with this particular provision in the legislation, the amendment of the Senator from Kansas would preclude the opportunity to alter the important question of what standard—local or national—should be applied. That particular option is still available under the legislation as it is currently before the Senate, it permits either local or national standards.

The basic issue, Mr. President, if this amendment as stated by the Senator is adopted, would be to further the possibility of prosecution in a local jurisdiction which has very little interest in the magazine or book. This would be a mistake.

There are strong views on this particular issue. We have attempted to avoid that particular thicket by the simple restatement of case law. That seems to me to be the wisest way to proceed. If the Senator wants to introduce separate legislation on this, I would certainly make sure that it received a fair hearing in the particular committee.

On the question of dealing with the whole issue of obscenity, as in espionage and a variety of other controversial areas, it just seemed to be the wisest course to avoid controversy. That seems to me to be the wisest course in this particular instance as well.

For those reasons, at an appropriate time I hope the Senate will reject this amendment.

Perhaps we can discuss the other amendment.

Mr. DOLE. The Senator from Kansas would like to make one more point in reference to the Senator's statement. I am not in any way attempting to interfere with State law. We are talking about Federal prosecutions and the instructions to the jury in a Federal prosecution. So I think the potential problem raised by the Senator from Massachusetts would not be the result from passage of my amendment.

Certainly, I have no desire to prolong the debate. It would seem to the Senator from Kansas that this is an appropriate place to determine whether or not there is any support for so-called local standards, or whether we have this mythical

national standard; whether or not we have some respect for the States and communities which might directly be affected. On that basis, I regret that I cannot offer it separately.

I am perfectly willing to have a rollcall or go on to the next amendment.

Mr. KENNEDY. I think the leader requested that we have the first rollcall at a later hour.

Mr. DOLE. Does the Senator have any objection to an up-or-down vote on the amendment?

Mr. KENNEDY. I believe I will be making a motion to table the amendment, because I believe there are people who might be sympathetic on the merits, but feel this is not the appropriate bill to consider the question. I am sure that there are those who feel this way.

Mr. DOLE. Mr. President, the Senator from Kansas has another amendment which is to be discussed this morning. I understand the Senator from Michigan (Mr. GRIFFIN) may have a similar amendment to offer as a substitute or separately. I wonder if, before going to that amendment, the distinguished Senator from South Carolina or anyone else wishes to speak on the first amendment offered by the Senator from Kansas. If not, I will proceed to discuss the second amendment.

UP AMENDMENT NO. 1105

(Purpose: To allow denial of pre-trial release to individuals charged with serious crimes against the person who poses a continuing danger to the community.)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration. I ask that the first amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is temporarily laid aside.

The second amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment numbered 1105.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, beginning on line 12 and on page 246, between lines 5 and 6, in the item relating to section 3503, strike "a Capital Case" and insert in lieu thereof "Certain Cases".

On page 248, line 15, insert between the words "authorized" and "shall", the following language: "or who is charged with the offenses of murder (1601), rape (1641), kidnapping (1621) while armed with a dangerous weapon or device, robbery (1721) while armed with a dangerous weapon or device, or if a person charged with any felony seizes any hostage during the commission, attempted commission of, or immediate flight from the commission of, any felony, or for any other purpose, and uses such hostage for the purpose of negotiating the release of such person," immediately after "authorized".

On page 248, line 13, strike "a Capital Case" and insert in lieu thereof "Certain Cases".

Mr. DOLE. Mr. President, S. 1437 carries over the basic structure of the Bail Reform Act of 1966, 18 U.S.C. 3141–3149. Sections 3502 and 3503 of S. 1437 relate to release pending trial in noncapital and capital cases, respectively. The committee report accurately states that the effect of section 3502 is "in noncapital cases a person is to be released under those minimal conditions reasonably required to assure his presence at trial." In other words, the only important discretion left to the judge is to set the conditions of release.

STRICTER PROCEDURE FOR CAPITAL CASES

The procedure found in section 3503 is significantly different in capital cases. For offenses punishable by death, the Government has the opportunty to show that the person poses a danger to the community. If the judge is convinced, pretrial release may be denied.

ONLY ONE CAPITAL CRIME IN S. 1437

Certainly, crimes punishable by death are so serious that pretrial release may have to be denied in some cases. Yet, S. 1437 virtually repeals the death sentence. The only crime which carries a constitutionally adequate death penalty is aircraft hijackng if another person dies. The absence of any death penalty provisions makes section 3503 effectively a dead letter at this time.

SERIOUS CRIMES AGAINST THE PERSON COVERED

The Senator from Kansas does not intend to raise the issue of capital punishment here. Nevertheless, I strongly believe that certain crimes are so inherently serious that pretrial release may be inappropriate for some offenders. Individuals accused of serious crimes against the person may represent such a danger to others that no conditions of release may be adequate to prevent further criminal activity.

The amendment I am offering expands the types of offenses for which pretrial release may be denied. The offenses represent very serious crimes against the person. The offenses are murder, rape, armed kidnapping, armed robbery, or when a hostage is seized to negotiate the accused's release—as happened in the District of Columbia last year.

SAME PROCEDURE AS FOR CAPITAL CRIMES

Persons who have been charged with these serious offenses will be subjected to the same bail procedure as those charged with a capital offense. Bail would not be automatically refused. Rather, the very structure already in place in the Bail Reform Act and in S. 1437 is used.

Mr. President, the only change my amendment makes is to acknowledge that the serious offenses I have enumerated justify the same pretrial procedure as capital crimes. It should be noted that all of these crimes carried the death penalty, either in State or in Federal statutes, at one time.

The proponents of S. 1437 have repeatedly stated that the bill leaves many areas for Congress to fill in later. Presumably, one of these gaps is what crimes justify imposition of capital punishment. Of the 112 bills introduced in the 95th Congress imposing the death penalty, the crimes justifying that penalty include murder, rape, kidnapping, explosive offenses, and placing a person other than the victim in grave danger. There are 21 Members of the Senate who have cosponsored legislation to impose the death penalty for serious crimes. I hope that these Senators will look carefuly at this amendment, which is very limited, and does not institute capital punishment, but does try to protect the innocent victim on the streets of America from someone who may be inherently dangerous and should not be released prior to trial.

COMMUNITY NEEDS PROTECTION

Mr. President, if my amendment is adopted, the vast majority of persons charged with these serious crimes against the person would still be granted pretrial release. This is not an effort to do away with that concept. Only those few offenders who are a continuing threat to the community would be denied pretrial release.

If the Government can prove that they are a danger to the community, a real and present threat to the community, I do not know why the judge should not be given the discretion to deny their release. Again, I refer to the Hanafi incident in the District of Columbia during the first week in March 1977, where the defendants were released even though they had threatened the lives of 124 hostages.

Americans all across the country are being victimized by crime at an ever-increasing rate. My amendment would keep the worst and most dangerous criminals off the streets until they are tried so they will not go out and commit another crime in the interim.

The Senate has discussed in depth crime on the streets and criminal code reform and I certainly commend my distinguished colleagues for the efforts made in this bill. Yet, the Senator from Kansas is convinced that the American public deserves at least as much protection as my amendment provides. The only ones who are going to benefit from this amendment are the American public—the innocent men, innocent children, innocent women—those who cannot identify a criminal until he is in the process of committing another crime of violence.

Mr. President, if this amendment is not acceptable to the floor leaders, again it will be the intention of the Senator from Kansas to ask for a rollcoll vote.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, this amendment I also oppose. I listened to the Senator from Kansas talk about the issue of discretion. The discretion is already in existence, Mr. President. The discretion is already available to judges either to refuse bail or set it so high that the defendant will not be released. That is the existing law at the present time. It is effectively recodified in the measure before us. The Senator from Kansas would change the presumption of innocence of individuals who are charged with a particular crime to create the presumption of guilt instead of innocence. That is what we will be doing

with the amendment of the Senator from Kansas. If you are charged with a crime—any one of these crimes, some of them not even capital offenses—you stay in jail on the basis of that presumption, rather than being considered innocent. Obviously, Mr. President, that degree of discretion, whether the judge is going to release or continue to hold the defendant, rests with the Federal judge today.

I ask my colleague, the propounder of this legislation, to provide us with information or evidence that Federal judges are releasing kidnapers on bail. Does the Senator from Kansas have examples of where Federal judges have released rapists and kidnapers, or murderers? I challenge the Senator from Kansas to give us examples—give us one, two, three, or five.

Show us where the abuse is. Show us where there is a case.

Is this a raging problem in terms of the Federal courts? If so, where is the evidence? We are about to tamper with the basic and fundamental concept of the presumption of innocence. A judge can now raise bail so high that an offender will not be released.

Where is the problem, Mr. President? Or are we just making rhetorical and polemical comments about what may be the situation?

This debate has been going on for a period of years. I should like to find out where this problem exists. I do not believe there is one. I await his response.

Mr. DOLE. Mr. President, let the Senator from Kansas read the law that has been reported on the Senate floor. That is the thing we are concerned about.

"§ 3502. Release Pending Trial in a Non-Capital Case

"(a) RELEASE CONDITIONS.—A person charged with an offense, other than an offense for which a sentence of death is authorized, shall, at his appearance before a judge, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judge, unless the judge determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required.

All they are talking about is his appearance. The Senator from Kansas is addressing his possible threat, his possible danger to the community. On this point, I recall that the so-called District Bail Reform Act, which we passed in Congress, almost parallels this law. Under that, we had last March in the District of Columbia a judge forced to release defendants who had held hostage, for a period of 40 hours, over 120 people.

That is the kind of conduct we are trying to get to. That is the kind of conduct the Senator from Kansas is trying to address.

Now, if that does not bother the Senator from Massachusetts, that is his prerogative. It does bother the Senator from Kansas.

I do not see anything so tough, in this pretrial release section for noncapital cases. The Senator from Kansas understands the only capital case in S. 1437 is aircraft hijacking when another person dies. I do not see any great threat to anyone's rights.

The Senator from Kansas would like to address the rights of the victims and the rights of potential victims.

Again, as the Senator from Kansas indicated, I understand the great amount of work that has gone into this by the distinguished Senator from Massachusetts, and the distinguished Senator from South Carolina. I understand that there is an effort to encourage some of us to hold off on a long series of amendments and come in with those later. I do not really quarrel with that because it has been a long time getting this bill to the floor despite the tireless efforts of those who now manage the bill.

Mr. KENNEDY. Mr. President, when challenged and asked about abuse we hear either silence or a reference about the Hanafi case.

Now, the Hanafi release was on the express condition that the hostages be freed. Those individuals are alive today. They were not shot, or killed.

Maybe we can second-guess those who negotiated that case, and second-guess the Attorney General. But the fact of the matter is that those particular offenders were tried, convicted, and sentenced to life.

The fact of the matter is, Mr. President, judicial discretion exists at the present time in Federal court. I do not know, but maybe the Senator can provide examples of where judges are letting murderers and rapists out on the streets.

I do not know of it and I do not believe that is the pattern or practice.

It seems to me, Mr. President, that Federal judges can make judgments about the dangers of release in the community. I think they can make those judgments. It seems to me they have been making them and they have done it well.

We are back again to the basic question, Is there a need? Basically, this is a recodification of existing law and it seems to me to limit amendments to that unless we can find some extraordinary instance where we are just failing to meet our responsibilities to the community.

We accepted the other amendment of the Senator yesterday because it was needed.

It seems to me that was a targeted approach which can make some sense. But in terms of this one, Mr. President, if that is the only example he can give, I have more confidence in the judgment of the Federal judges and in the basic concept of the presumptions of innocence which I am reluctant to change or alter.

Mr. DOLE. Mr. President, not to belabor the point, but we are changing a law. As the Senator from Massachusetts knows, the only capital case, if we change the law, would be the one I have cited.

The reason it does not happen now is because murder is a capital offense. It would no longer be a capital offense under the new law. That is why the Senator from Kansas raises the point.

Just a few weeks ago someone convicted of second-degree murder, released while awaiting sentencing, went out and killed a police officer.

It just seems to me there is a very fine balance here between the rights of the accused, on the one hand, and potential future victims on the other hand.

I do not quarrel with the distinguished Senator's intent. I do bring up the Hanafi case as an example just because they did not murder someone subsequently, what does that prove? They certainly would not have if they had not been granted pretrial release at that time. How many lives have to be threatened before we act?

Under S. 1437, if the judge believes the defendants will appear at trial, he cannot keep them in jail, no matter what danger they may pose to the community.

The Hanafi case is one example of where we just automatically turn everybody out on bail, back on the streets, back to victimize the American people.

I, for one, appreciate the fact the Senator accepted the amendment offered 2 days ago. But it seems to me we are raising a very fundamental point in the amendment now before us.

Should the law provide for a very limited group of crimes of violence that a judge can evaluate, in addition to making a finding of whether or not the man or woman may appear, the fact of whether or not that person is a danger to the community or a danger to some person in that community.

It seems to me if that is proved, not just speculated about, but proved, and demonstrated in good faith to a judge, the judge ought to have a right to say, "Well, based on the evidence, this person if released is a threat," and that ought to be enough to deny release.

Mr. KENNEDY. Mr. President, what we have attempted to do during the course and development of this legislation is to profit from statistics, not to be guided by the statistics, but to try and look factually into existing problems.

We have had statistics and information on each of those matters. We have tried through Senator HRUSKA, Senator McClellan, Senator HART, Senator THURMOND, and many of the rest of us, to deal in an intelligent way with all the problems and to make a record that can be justified, not just concepts and rhetoric which may sound very good, but really are not relevant.

We have not been able to make a case either in the course of our hearings or on the floor of the U.S. Senate to justify and support the amendment of the Senator from Kansas. The only example he uses is the Hanafi example. A deal was made, Mr. President. A deal was made, with the understanding and the tolerance and permission of the Attorney General of the United States. Those hostages are alive, and the offenders are in jail for life.

The Senator uses that as an example, as a danger, the Hanafis being out of jail. I do not doubt for a moment that if the Hanafis were arraigned in a Federal court, the Federal judge would not have let them out on bail.

So, Mr. President, it seems to me that this amendment is not wise; it is not justified. It may very well in some circumstances—in the Hanafi instance, for example—even complicate the releasing of those hostages. They are alive today.

But those who perpetrated that crime are in jail for life, and the hostages have been released. That is the only instance the Senator has been able to provide for us.

Mr. DOLE. Mr. President, the Senator from Kansas wants to make it clear that we are not taking discretion away from the judge. The judge still makes the decision. I have full confidence in most judges, that they will make the right decisions.

The Senator asked for examples which cannot be furnished because he is changing the law. If this bill is passed, murder will no longer be a capital offense. I am suggesting that if someone is murdered after this bill is passed, then, that judge should be able to say, "This person might appear, but he also is a threat to the community, and should be kept in jail."

That is all the Senator from Kansas wishes to do. It is not a question of examples. I will have a lot of examples a year from now, if this bill is passed without my amendment. Then we would change the law. Why not protect people now? Why wait until someone is released who is a danger to the community and commits a crime of violence? Why not prevent those statistics from building up? Why make it necessary for the Senator from Kansas to come back next year and say, "Here is what happened: This is the record. This bill that was passed has allowed some people to go out and commit crimes of violence."

I do not think it is necessary to wait for a record to be made, to wait for examples. It seems to me that the old saying is appropriate: An ounce of prevention is worth a pound of cure. We have an opportunity here for a great deal of prevention.

We can talk about the Hanafi trial, about deals that were made, about the people who are alive, and we can talk about the young man who was murdered. After that murder, the leader of that gang was immediately released. It does not seem to the Senator from Kansas to be a very far out or radical approach to try to make certain that we protect the American people.

Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CULVER). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, as manager of this bill on behalf of the minority on the Senate Judiciary Committee that reported S. 1437, I felt it appropriate to vote to table the amendments offered thus far.

As for the amendment offered by the Senator from Kansas, I shall again take the position of the committee and vote to table. If that motion fails I intend to vote for the amendment as I believe it would be in the best interests of the public.

Mr. DOLE. Mr. President, will the distinguished Senator yield briefly.

Mr. THURMOND. I yield.

Mr. DOLE. The Senator from Kansas wants to point out what the court said in Jenkins versus Georgia. It said:

> We agree with the implicit ruling of the Supreme Court of Georgia that the Constitution does not require that juries be instructed in State obscenity cases to apply the standards of the hypothetical Statewide community.

So it is not clear. It is sort of optional. It is sort of fuzzy. That is why the Senator from Kansas feels it is necessary. This would make it very clear. It would mandate that instruction.

They go on to say, and Miller is the case I am referring to:

> Miller approved the use of such instructions. It did not mandate their use.

That is the key. It did not mandate their use.

The amendments of the Senator from Kansas would mandate the use of that instruction, and that is why it seems to me very necessary that it be made a part of this law.

As I have said, I appreciate the years of effort by both Senators managing the bill, but I think this is an obvious reference and an effort to strengthen what the Senators have done, not to weaken it, not to tear it down, but to clear up a fuzzy area and mandate the use of that instruction.

I offered a separate bill, S. 1035, and it has been asleep ever since the day I introduced it.

I note in reference to the bail reform amendment that other Senators have much broader amendments. Under those amendments, denial of pretrial release would apply to any crime where my amendment contains very narrowly defined specified crimes of violence.

If we have to wait for statistics as the Senator from Massachusetts suggested, I assume we will have statistics. Give us a year. Give us 2 years. Turn the people loose. Let those who are a threat to the community and a danger to other people in the community out on the streets, then we will have statistics. And then we will all be back in the Senate saying, "Why didn't we do something when we had S. 1437 before us?"

It seems to me in this one case we do not want to wait for statistics. If we can avoid one rape or one murder, one crime of violence, then we have made a step in the right direction.

I understand the difficulties the Senators have had over the years in getting this bill to the floor. But, on the other hand, if we are to be told we cannot amend this bill because we might upset the applecart then that should apply to tax bills and other bills where I know some of the Members have numerous amendments from time to time.

I am not trying to load the bill up with amendments.

These are the final two amendments the Senator from Kansas has. They are rifleshot approaches to areas that it seems to me need some attention.

I hope my colleagues would take a serious close look at the amendments.

Mr. KENNEDY. Mr. President, I will not take much time. I shall respond to the Senator and then work out an orderly procedure so that we can vote on the amendments.

First of all, on the issue of the Senator's amendment concerning the community standards, I wish to compare what we did in the present statute, chapter 71, on obscenity and what is in the legislation.

There is no reference in the present statute on obscenity about applying contemporary community standards. If it had been up to me we would have just restated current law without including the words we have in this particular legislation. But it was, again, a part of an adjustment to try to at least restate current law.

We can differ and express judgment about what each of us believes ought to be the current law. But the Supreme Court has effectively ruled on this issue of standards about 15 times in the last 15 years.

What we have attempted to do is to indicate, at least legislatively, what the current standing of the law at the present time is, which is contemporary standards. Beyond that, the issue is simply too controversial.

The inclusion of anything further would, I think, be objected to in committee. But in the spirit of a restatement we did include community standards language in S. 1437.

On the second issue, Mr. President, on preventive detention—and I will only take a minute of the Senate's time on this issue—when the Senator said for all practical purposes that the Federal judges do not allow for the preventive detention of individuals who are listed in the Senator's amendment—kidnapers, rapists, and murderers—I asked the Senator for examples. He said he does not want to come back a year or 2 years from now and give those examples; the fact is that there are no such examples.

The fact of the matter is that when individuals are dangerous to society they are incarcerated. I mean that is the practical effect of raising bail to a high level.

So it just seems to me to be an unnecessary and unwarranted amendment at this time which can only complicate our deliberations. Any reasonable reading of the current situation indicates our judges have acted responsibly, and if they have acted responsibly, I do not see any reason why we need to alter or change the law.

Now, Mr. President, in which order would the Senator from Kansas like to take them up?

Mr. DOLE. I would like to take obscenity up first.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1654

(Purpose: Provides that an information filed against an individual be current in regards to prohibiting his eligibility for acquiring a firearm in interstate commerce.)

Mr. STEVENS. Mr. President, I have an amendment at the desk, No. 1654, and I would like to call it up, please.

The PRESIDING OFFICER. It will take unanimous consent to set aside the pending amendment.

Mr. STEVENS. I ask unanimous consent to take the amendment up out of order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

Section 142(b)(2)(I), page 364, lines 26 and 27, delete the words "nor has an information been filed against me for," and insert in lieu thereof the words "nor is an information currently on file against me for,".

UP AMENDMENT NO. 1106—MODIFICATION OF AMENDMENT NO. 1654

Mr. STEVENS. I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment numbered 1106.

UP amendment No. 1106 is as follows:

Section 142, (b)(2)(I), page 364, lines 26 and 27, delete the words "nor has an information been filed against me for," and insert in lieu thereof the words: "nor is an information pending against me for,"

Mr. STEVENS. Mr. President, this deals with the question of a pending information, and I seek to delete the words "nor has an information been filed against me for," and change that to read "nor is an information pending against me for."

The amendment, as modified, requires knowledge of the pending information and adequately protects the rights of the individual involved. In many places, under the procedures of the grand jury, an information can be on file, and yet not have been published. An individual, therefore, could sincerely believe that there was not an information on file against him when, in fact there was. This is what I wish to avoid, and I believe the language "pending against me for" effectively assures that an individual will have been notified of any information against him.

I have discussed this with the Senator from Massachusetts—his staff and mine have, that is—and I am hopeful this modified amendment, which has been modified at the suggestion of the Department of Justice, will be acceptable.

Mr. KENNEDY. Mr. President, I basically consider this to be a technical amendment, a clarification, in that particular area, and I have no objection to the amendment, and I would urge its adoption.

Mr. STEVENS. I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to unprinted amendment No. 1106.

The amendment (No. 1106), was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1658

(Purpose: Prevents attaching penalty to crime in which the firearm is not, or might not be, a central element and in which no threat is posed to a person or property.)

Mr. STEVENS. Mr. President, I have another amendment that I think will be noncontroversial. It is No. 1658, and I ask unanimous consent that we can take this up at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

In section 1823(a), page 166, line 3, delete the word "crime" and insert in lieu thereof the words "crime of violence", and in section 1823(a)(2), line 5, delete the word "possesses" and insert in lieu thereof the words "carries on or about his person".

UP AMENDMENT NO. 1107—MODIFICATION OF AMENDMENT NO. 1658

Mr. STEVENS. I send a modification of that amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes Amendment No. 1658, as modified by an unprinted amendment numbered 1107.

The modification is as follows:

Section 1823(a), page 166, line 3, delete the word "crime" and insert in lieu thereof the words "crime of violence."

Mr. STEVENS. Mr. President, this deals with the question of the mandatory sentencing provision of section 1823 and inserts in the section the words "crime of violence."

In order to have a separate offense, and a mandatory penalty under this section, which deals with the commission of a crime and the use of a firearm, a crime of violence must have been committed. Through this amendment, we would avoid the problem of a mandatory penalty for a person who might have a firearm but commits a white-collar-type crime.

I know my friend finds that unlikely, but I think it could occur, and I would not want to see that happen.

Mr. KENNEDY. Mr. President, there is no objection to this amendment. Clearly what we are dealing with are "crimes of violence" and it is an acceptable amendment. I have always added "crimes of violence" to my legislation. I think the Senator makes a good point. I think that is basically what we are trying to reach, and I think that is probably what the Members of the Senate would want. I move that we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to unprinted amendment No. 1107.

The amendment (No. 1107) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I might say to the Senator from Massachusetts, if I may, through the Chair, that we have some other items that have been the subject of negotiations between his staff and mine on which we are not entirely in accord as yet. I would hope that at some time this afternoon we might go into two other items, in particular. These deal with the question of firearms as far as this recodification is concerned. I will be available at the Senator's convenience whenever he would like to take those matters up.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1104

Mr. KENNEDY. Mr. President, I move to lay on the table unprinted amendment No. 1104 of the Senator from Kansas (Mr. DOLE), and I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, the motion will be considered in order.

The motion was agreed to.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be considered in order to move at this time to lay on the table the second Dole amendment, and to ask for the yeas and nays on that amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I ask unanimous consent that the vote on the second Dole amendment follow immediately after the vote on UP Amendment No. 1104.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table unprinted amendment No. 1104 of the Senator from Kansas (Mr. DOLE). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from Arkansas (Mr. BUMPERS and Mr. HODGES), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Sena-

tor from Louisiana (Mr. LONG) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from New Mexico (Mr. SCHMITT), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 44, nays 44, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—44

Abourezk	Hatfield, Paul G.	Muskie
Bayh	Hathaway	Nelson
Biden	Inouye	Packwood
Brooke	Jackson	Pell
Burdick	Javits	Percy
Case	Kennedy	Proxmire
Chafee	Leahy	Ribicoff
Clark	Lugar	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Sasser
Eagleton	Matsunaga	Stevenson
Glenn	McGovern	Stone
Gravel	McIntyre	Thurmond
Hart	Metzenbaum	Weicker
Haskell		Williams

NAYS—44

Allen	Domenici	Melcher
Anderson	Durkin	Morgan
Baker	Eastland	Nunn
Bartlett	Ford	Pearson
Bellmon	Garn	Randolph
Bentsen	Griffin	Roth
Byrd, Harry F., Jr.	Hansen	Scott
Byrd, Robert C.	Hatch	Sparkman
Cannon	Hatfield, Mark O.	Stafford
Chiles	Hayakawa	Stevens
Church	Helms	Talmadge
Curtis	Hollings	Tower
Danforth	Huddleston	Wallop
DeConcini	Johnston	Zorinsky
Dole	McClure	

NOT VOTING—11

Bumpers	Laxalt	Schweiker
Goldwater	Long	Stennis
Heinz	Moynihan	Young
Hodges	Schmitt	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. HATHAWAY). The question recurs on agreeing to the amendment.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOLE. I move to reconsider the vote on the amendment.

I shall ask for the yeas and nays on the amendment.

Mr. KENNEDY. A parliamentary inquiry.

Does the Senator have a right to move to reconsider? He was not on the prevailing side.

The PRESIDING OFFICER. The Senator does have a right to move to reconsider.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is it in order to ask for the yeas and nays on the amendment itself?

The PRESIDING OFFICER. Yes, the Senator may request the yeas and nays.

Mr. DOLE. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. HODGES) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 49, nays 41, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—49

Allen	Durkin	Melcher
Anderson	Eastland	Morgan
Baker	Ford	Nunn
Bartlett	Garn	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Sasser
Byrd, Robert C.	Hatfield, Mark O.	Schmitt
Cannon	Hayakawa	Scott
Chiles	Helms	Sparkman
Church	Hollings	Stennis
Curtis	Huddleston	Stevens
Danforth	Johnston	Talmadge
DeConcini	Lugar	Thurmond
Dole	McClure	Tower
Domenici	McIntyre	Wallop
		Zorinsky

NAYS—41

Abourezk	Haskell	Muskie
Bayh	Hatfield, Paul G.	Nelson
Biden	Hathaway	Packwood
Brooke	Inouye	Pell
Burdick	Jackson	Percy
Case	Javits	Proxmire
Chafee	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Stafford
Eagleton	Matsunaga	Stevenson
Glenn	McGovern	Stone
Gravel	Metzenbaum	Weicker
Hart		Williams

NOT VOTING—9

Bumpers	Hodges	Moynihan
Goldwater	Laxalt	Schweiker
Heinz	Long	Young

So Mr. DOLE's amendment was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the second amendment of the Senator from Kansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from Arkansas (Mr. BUMPERS and Mr. HODGES), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 29, nays 62, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—29

Abourezk	Gravel	Mathias
Bayh	Haskell	Matsunaga
Biden	Hatfield, Paul G.	Melcher
Brooke	Hathaway	Nelson
Case	Inouye	Pell
Chafee	Javits	Proxmire
Clark	Kennedy	Ribicoff
Culver	Leahy	Wallop
Eastland	Magnuson	Weicker
Glenn		Williams

NAYS—62

Allen	Garn	Packwood
Anderson	Griffin	Pearson
Baker	Hansen	Percy
Bartlett	Hart	Randolph
Bellmon	Hatch	Riegle
Bentsen	Hatfield, Mark O.	Roth
Burdick	Hayakawa	Sarbanes
Byrd, Harry F., Jr.	Helms	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Huddleston	Scott
Chiles	Jackson	Sparkman
Church	Johnston	Stafford
Cranston	Long	Stennis
Curtis	Lugar	Stevens
Danforth	McClure	Stevenson
DeConcini	McGovern	Stone
Dole	McIntyre	Talmadge
Domenici	Metzenbaum	Thurmond
Durkin	Morgan	Tower
Eagleton	Muskie	Zorinsky
Ford	Nunn	

NOT VOTING—8

Bumpers	Hodges	Schweiker
Goldwater	Laxalt	Young
Heinz	Moynihan	

So the motion to table Mr. DOLE's amendment (No. 1105) was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

COMMITTEE AMENDMENTS

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The second assistant legislative clerk read as follows:

On page 29, line 38, after the semicolon, insert "or";

The PRESIDING OFFFICER. The question is on agreeing to the committee amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that a member of my staff, Mr. Chip Terrill, be accorded the privileges of the floor during the debate on this bill and rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I ask unanimous consent that Mr. Tim Moore of my staff be permitted floor privileges during the consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1108

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate consider en bloc, and if adopted consider as original text for the purpose of further amendment, the amendments of the Committee on the Judiciary to S. 1437 located in the bill as follows: The amendment appearing at line 14 on page 56; the amendments appearing at line 13, line 15, and line 22 on page 61; the amendment appearing at line 19 on page 62; the apparent amendment that appears at lines 4 and 5 on page 63; the amendment appearing at lines 37 and 38 on page 72; the amendments appearing at lines 24 and 25, line 32, line 34, line 35, and line 36 on page 75; the amendment appearing at lines 17 through 21 on page 79; the amendment appearing at line 3 on page 85; the amendments appearing at lines 18 and 19 and at line 34 on page 90; the amendments appearing at lines 17 and 18, lines 30 and 31, and line 37 on page 97; the amendments appearing at line 1, line 21, and line 33 on page 98; the amendments appearing at line 12 and line 13 on page 99; the amendment appearing at line 25 on page 114; the amendments appearing at lines 26 through and including 31 on page 120; the amendment appearing at line 20 on page 125; the amendment appearing at line 1 on page 144; and the amendments appearing at lines 16, 17, and 18 and lines 26, 27, and 28 on page 160.

All of the amendments appearing on pages 164 and 165; the amendments appearing at line 24 and lines 26 and 27 on page 168; the amendments appearing at lines 12 and 13, line 20, line 31, and line 33 on page 172; the amendments appearing at line 1 and line 2 on page 176; the amendment appearing at lines 27 and 28 on page 177; the amendment appearing at lines 4 and 5 on page 178; the amendments appearing at lines 2 and 3, lines 10, 11, and 12, line 29, line 30, and lines 34 through 39 on page 179; all of the amendments appearing on page 180; the amendments appearing at lines 18 and 19 and lines 26 and 27 on page 188; the amendments appearing at line 7 and line 21 on page 192; the amendments appearing at line 16 and line 34 on page 193; the amendments appearing at lines 21 through 30 on page 195; the amendments appearing at line 33 and line 34 on page 199; the amendments appearing at lines 25 through 30 on page 217; the amendment appearing at line 26 on page 237; the amendment appearing at line 29 on page 245; the amendments appearing at lines 2 through 7, line 20, lines 22 and 23, lines 24 and 25, and lines 29 through 32 on page 292; and the amendments appearing at lines 3 through 8, lines 14 through 19, and lines 25 through 37 on page 293.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 56, line 14, strike "to any person" and insert "material that he knows is";

On page 61, line 13, strike "(b)" and insert "(c)";

On page 61, line 15, strike "(c)" and insert "(d)";

On page 61, line 22, after "function" insert "in fact";

On page 62, line 19, strike "(d)" and insert "(e)";

On page 63, line 4, strike "prevents the" and insert "prevents the";

On page 72, line 37, strike "AFFIRMATIVE";

On page 72, line 37, strike "an affirmative" and insert "a";

On page 75, line 24, strike "or federal judge,";

On page 75, line 32, strike "section" and insert "section, 'court' includes";

On page 75, at the beginning of line 34, strike "and";

On page 75, line 34, after "court," insert "and";

On page 75, line 35, after "title 19" insert a period and strike "of the United States;";

On page 75, line 36, strike "(2) 'federal judge' includes";

On page 79, line 17, after "national credit institution" insert "or a small business investment company as defined in section 103 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 662)";

On page 85, line 3, strike "to be" and insert "is";

On page 90, line 18, after the comma, insert "regardless of its monetary value or duty being $500 or less,";

On page 90, line 34, strike "kind of";

On page 97, line 17, after "Class" strike "A misdemeanor" and insert "E felony";

On page 97, line 30, after "Class" strike "A misdemeanor" and insert "E felony";

On page 97, line 37, strike "whom" and insert "who";

On page 97, line 37, strike "to be" and insert "is";

On page 98, line 1, strike "whom" and insert "who";

On page 98, line 1, strike "to be" and insert "is";

On page 98, line 21, strike "1518" and insert "1517";

On page 98, line 33, strike "1519" and insert "1518";

On page 99, line 12, strike "(d)" and insert "(c)";

On page 99, line 13, strike "1517";

On page 114, line 25, strike "such" and insert "the";

On page 120, line 26, strike "(b)" and insert "(a)";

On page 120, line 27, strike "actor believed that his" and insert "actor's";

On page 120, line 29, strike "and that he was not reckless in so believing" and after the comma insert "or that the actor believed his conduct was so consented to and was not reckless in such belief";

On page 125, line 21, strike "or";

On page 160, line 16, strike "and to a term of parole ineligibility of not less than two years," and insert "without designating eligibility for early release during the first two years of the term,";

On page 160, line 26, strike "the conduct constituting the offense was principally the conduct of another person, and the defendant's" and insert "whose";

On page 160, line 27, after "participation" insert "in the offense";

On page 164, line 4, after "a" insert "federal, state, or local";

On page 164, line 8, strike "201" and insert "141";

On page 164, line 14, after "(46 U.S.C. 170 (14))" insert "(relating to the regulation of carriage of explosive materials on vessels)";

On page 164, line 17, after "(49 U.S.C. 1472 (h)(2))" insert "(relating to the transportation of hazardous materials in air commerce)";

On page 164, line 20, after "(49 U.S.C. 1809 (b)" insert "(relating to the transportation of hazardous materials in commerce)";

On page 165, line 17, after "A" insert "federal, state, or local";

On page 165, line 19, strike "202" and insert "142";

On page 168, line 24, after the semicolon, insert "or";

On page 168, line 26, strike the semicolon and "or" and insert a period;

On page 168, line 27, strike through the end of the line;

On page 172, line 12, strike the comma and "and is primarily disseminated to such" and insert "dissemination to such";

On page 172, line 20, strike "(c)" and insert "(d)";

On page 172, line 31, strike "(d)" and insert "(e)";

On page 172, line 33, strike "(e)" and insert "(f)";

On page 176, line 1, after "is" insert "not more than";

On page 176, line 2, strike "maximum" and insert "authorized";

On page 177, line 27, after the period, insert "A sanction authorized by section 2004, 2005, or 2006 may be imposed in addition to the sentence required by this subsection.";

On page 178, line 4, after the period, insert "A sanction authorized by section 2004, 2005, or 2006 may be imposed in addition to the sentence required by this subsection.";

On page 179, line 2, after "alternatives" insert "and procedures";

On page 179, line 10, strike "the examiners provide";

On page 179, line 10, after "court" insert "be provided";

On page 179, line 10, after "report" insert "of the results of the examination";

On page 179, line 12, strike "3614" and insert "3616";

On page 179, line 29, insert "(3) the kinds of sentences available;";

On page 179, line 30, strike "(3)" and insert "(4)";

On page 179, line 34, strike "committed the offense" and insert "is sentenced";

On page 179, line 35, strike "and";

On page 179, line 36, strike "(4)" and insert "(5)";

On page 179, line 37, strike "pursunt" and insert "pursuant";

On page 179, line 37, strike "(2)" and insert "(2) that is in effect on the date the defendant is sentenced; and";

On page 179, beginning with line 39, insert the following:

"(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar criminal conduct.

On page 180, line 4, strike "general";

On page 180, line 6, after "(a)(3), the" insert "specific";

On page 180, line 8, strike "a";

On page 188, line 18, after "term" insert "and whether any portion of the term should be subject to the defendant's early release,";

On page 188, line 26, strike "to be served as a term of parole eligibility" and insert "during which the defendant is to be subject to early release";

On page 187, line 19, section 2303, after "Included in" insert "a";

On page 187, line 19, section 2305, after "Calculation of" insert "a";

On page 187, line 19, section 2306, strike "and Parole Therefrom";

On page 188, beginning with line 1, strike through and including line 5, and insert in lieu thereof the following:

"(c) AVAILABILITY OF EARLY RELEASE.—A term of imprisonment in excess of one year may be imposed to be served in full or may be imposed to be served subject to the defendant's early release during any portion of the term pursuant to the provisions of subchapter D of chapter 38. A term of imprisonment of one year or less shall be imposed to be served in full, confinement during such period of one year or less being authorized as a condition of probation by the provisions of section 2103(b)(11)."

On page 188, beginning with line 28, strike through and including line 37, and insert in lieu thereof the following:

"(b) MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.—The court may not modify a term of imprisonment once it has been imposed except that: ";

On page 192, line 7, strike "offenses" and insert "offense";

On page 192, line 21, strike "(27)" and insert "(25)";

On page 192, line 21, strike "(28)" and insert "(26)";

On page 193, line 16, after "property" insert "owned by, or under the care, custody, or control,";

On page 193, line 34, strike "(21)" and insert "(19)";

On page 195, beginning with line 21, strike "The Director, Associate Director, Assistant to the Director, an Assistant Director, an inspector," and insert "(a)";

On page 195, line 22, after "AUTHORITY." insert a dash and "Subject to the direction of the Attorney General,";

On page 195, line 23, strike "and";

On page 195, line 25, strike "(a)" and insert "(1)";

On page 195, line 26, strike "(b)" and insert "(2)";

On page 195, line 29, strike "(c)" and insert "(3)";

On page 199, line 33, strike "Service" and insert "System";

On page 199, line 34, strike "Service" and insert "Systems";

On page 217, line 25, strike "facilities" and insert "transportation, housing, subsistence, or other assistance";

On page 217, line 27, after "reimbursement" insert "of expenses";

On page 217, beginning with line 29, strike "of the cost of maintaining and protecting such person";

On page 225, line 27, strike "and" and insert "a court martial, military commission, court of injury, Provost court, and any other military court, and,";

On page 237, line 26, strike "Appearing" and insert "Appearance";

On page 245, line 29, strike "shall" and insert "do";

On page 291, beginning with line 25, strike through and including line 33, and insert in lieu thereof the following:

"SUBCHAPTER D.—EARLY RELEASE

"Sec.
"3831. Consideration of a Prisoner for Early Release.
"3832. Pre-Release Reports.
"3833. Early Release Interview Procedure.
"3834. Appeal from Parole Commission Determination.
"3835. Inapplicability of the Administrative Procedure Act.

"§ 3831. Consideration of a Prisoner for Early Release

"(a) ELIGIBILITY.—A prisoner who has been committed to the custody of the Bureau of Prisons to serve a term of imprisonment that includes a designated portion of the term during which the prisoner is subject to early release, is eligible for early release by the Parole Commission during that designated portion of the term.

On page 292, line 20, strike "parole" and insert "such release";

On page 292, line 22, strike "parole" and insert "early release";

On page 292, line 22, after "for" strike "parole" and insert "such release";

On page 292, line 24, strike "parole" and insert "early release";

On page 292, line 25, strike "(f)" and insert "(e)";

On page 292, line 25, after "the" insert "Parole";

On page 292, line 29, after the comma, insert "including the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar criminal conduct";

On page 293, line 3, strike "parole" and insert "early release";

On page 293, line 4, strike "parole" and insert "early release";

On page 293, line 5, strike "parole is granted" and insert "the prisoner is released";

On page 293, line 6, strike "parole" and insert "early release";

On page 293, line 7, after "that" insert "an early";

On page 293, line 14, strike "Preparole" and insert "Pre-Release";

On page 293, line 15, strike "Preparole" and insert "Pre-Release";

On page 293, line 17, strike "parole" and insert "early release";

On page 293, line 19, strike "inquiring into" and insert "with regard to";

On page 293, line 25, strike "parole" and insert "early release";

On page 293, line 26, after "of the" insert "pertinent";

On page 293, line 29, strike "parole" and insert "early release";

On page 293, line 29, strike "and in determining the appropriate terms and conditions of parole";

On page 293, line 31, strike "PREPAROLE" and insert "PRE-RELEASE";

On page 293, line 33, strike "parole" and insert "early release";

On page 293, line 36, strike "a" and insert "the";

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, we have been on this bill for 5 days, this being the fifth day. We started consideration of it last Thursday. Tomorrow is Thursday. I would suggest that Senators who have amendments come to the Chamber and call up their amendments, because there will come a time when no amendments will be available to be called up and I am sure the managers of the bill, I, or someone, will ask for third reading. I know there is no desire to cut off any Senator from the opportunity to call up his amendment. But Senators have had ample time, this being the fifth day of debate.

I believe I feel constrained to say that there will come a time, if no amendments are here, or Senators are not here to call up amendments, that someone will ask for third reading.

There has been a lot of progress made on this bill. I want to compliment the managers. They have been very patient. But there are Senators who have amendments, and I know there are Senators who have amendments. We keep pleading, urging, imploring that they call up their amendments.

I will close with a candid reminder that the Senate is here to do business. We ought to finish this bill this week, and I believe we can finish this bill this week. I hope we can finish this bill this week. We are going to do everything possible to finish this bill this week.

I would hope that our respective cloakrooms will do their best to get Senators to come forward unhesitatingly and confidently and offer their amendments.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I will yield

May I say the Senator from Alabama has been one of the most cooperative Senators in the course of this debate. It is with great painstaking effort and labor that he has cleared amendments every day, scores of them.

I want to say the same for the Senator from North Carolina (Mr. HELMS). What I just said a moment ago certainly does not reflect upon the Senator from Alabama or the Senator from North Carolina.

Mr. ALLEN. I appreciate the customary gracious remarks of the distinguished majority leader, particularly as his remarks apply to the Senator from Alabama.

When the bill was laid down for consideration, the majority leader expressed the hope that the bill might be concluded in 1 week.

Actually, the bill encompasses such a tremendously wide scope—that is, codifying the entire Federal statutory criminal law and the decision law in criminal cases as well. Certainly, this is a task of tremendous scope and tremendous importance. The Senator from Alabama has felt that this measure is of such great importance that we should avoid even the appearance of rushing the bill through to final passage. For that reason, the Senator from Alabama has not wanted to see precipitate action on the bill. He was of the opinion that the Senator from North Carolina (Mr. HELMS) was acting constructively when he sought to have the committee amendments considered separately, rather than en bloc, the reason being that some of these amendments are substantive and of utmost importance. It would be the responsibility, where the amendments are not considered en bloc, of the managers of the bill to justify these amendments, rather than for the Senators who sought amendment to justify the amendments which they offered.

Since there were some 800 or so committee amendments, many of them being technical amendments having to do with a comma or semicolon or minor changes in the bill, we have been willing and able to approve some 650 of these amend-

ments, the last 100 having been approved just a few moments ago. I am hopeful that many of the remaining amendments can be agreed upon, but where they are substantive, I feel that they should be acted on separately.

The main reason that the Senator from Alabama has desired careful deliberation on this bill is that the citizens of the country might be alerted to the pendency of the bill here, in the Senate, and that they might come forward with suggestions as to changes, suggestions as to ill-advised action, if any, by the committee, and suggestions for modification. I am hopeful that, by the end of the week, we shall be able to take final action on the bill, but I have noticed that since we have been having a little more careful consideration of the amendments, other amendments have emerged. I believe that that probably will continue. But, actually, the order of business is the consideration of the committee amendments. I think we have those down to a point where we can take separate action on them.

I have at least two amendments that I wish to offer that have come to my attention already, but it is not appropriate at this stage of the parliamentary proceedings to offer them. I have expressed my view on these amendments to the distinguished Senator from Massachusetts (Mr. KENNEDY) and I think that, at the proper time, we can probably reach an agreement on these. I am hopeful to get final action on the bill, but I do feel that we need more deliberate consideration of the bill than was originally anticipated.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. I agree fully, looking backward, that my previous assessment was overly optimistic. I generally try to be on the cautious side with my optimism, especially my expressions of it, but in this instance, I was under the impression that most of the problems had been worked out. The measure had been under consideration, I think, for something like 8 or 10 years and I know that the committee has labored long and dutifully and has done a splendid job. I was under a mistaken impression and I think I am the one who probably gave out the idea that we could possibly finish it in 2 days. That would have been a mistake, because the bill is too important a piece of legislation.

I think that the Senator from Alabama and the Senator from North Carolina and other Senators have performed a service in insisting that we go into the bill more thoroughly than it would have been possible to do in 2 days.

So the Senator has performed a service. I not only have no complaint, but I compliment him and I compliment the others who have taken the time here to take a closer look at the bill. That is all said without any reflection on the committee, because I think the committee is entitled to be commended. I commend the manager of the bill (Mr. KENNEDY) and also our late departed colleague, Senator McClellan, who spent years on it.

Actually, I was overly optimistic and it would have been a mistake, now that I look back on it, to have passed the bill in 2 days. I think this time we have spent has been well spent.

My comments, again, may I say, were not at all directed to the Senator from Alabama. I know he has some amendments to the bill and is waiting for the appropriate time to call them up. There are other Senators who have amendments. I see the distinguished Senator from Wyoming (Mr. WALLOP) here, with that beautiful smile on his face. He is ready to call up an amendment. This is what I was urging, that the Senators who have amendments call them up and we can proceed in that way.

I thank the Senator from Alabama.

GOOD NEWS FROM MINNESOTA

Mr. KENNEDY. Mr. President, just a moment or two ago, I had the opportunity to go out to the cloakroom and pass by the wire service machine. I saw the good news that Mrs. HUMPHREY has been selected by the Governor and will be appointed to serve in the U.S. Senate to succeed the late, beloved friend of the U.S. Senate, Hubert Humphrey.

I think the people of Minnesota will be well and effectively represented by Mrs. HUMPHREY. She has been an important voice, an important light in her own right, in the great cause of compassion for her fellow citizens and fellow humans. She is an extremely knowledgeable person on the issues which are before that State and before our country and I think all of us will benefit from her presence. I know that the State of Minnesota will be extremely well represented by the two Senators from Minnesota, MURIEL HUMPHREY and Senator ANDERSON, who will serve that State. I think it is appropriate for us in the Senate to take note of that good news and our good fortune in having Mrs. HUMPHREY join us here.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. KENNEDY. Mr. President, I yield to the Senator from Wyoming.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. WALLOP. Mr. President, I intend to call up two amendments to the bill. I want to say before beginning that one is an improvement—or I hope it is an improvement—over an amendment that I offered in committee dealing with child snatching. This broadens and expands the scope of that amendment which was accepted by the committee.

The second one, in all fairness to the committee, is one which I did not offer during the markup. I do think, however, that it is worth the time the Senate might spend in making a judgment upon it, as it deals with a situation which I know affects my State and I think, in most respects, affects everyone else's State to some degree.

The whole process of working on the criminal code was an interesting and rewarding opportunity for me as a layman, serving on the Committee on the Judiciary, to sink my teeth into some of the more specific problems that I have had with the way we civilians look at the law, those who practice law, and those who judge in the law.

Interestingly enough, with regard to the criminal code reform bill that we are now considering, while I pretend in no way to be expert on it, I can recognize that it is the product of years of thorough legal research, legislative drafting, and a genuinely bipartisan effort in updating and improving Federal criminal laws.

The part of the process that I sat through, and, goodness knows, it was a miniscule part compared to that which many people sat through, was not without its rough moments.

The predecessor to S. 1437 was doomed until Senators from both sides of the aisle agreed to do all possible to reconcile their differences and arrive at the best possible piece of legislation. It was in the spirit of this compromise that the Judiciary Committee processed S. 1437 in 1977 and reported it to the Senate.

Legislation as comprehensive and voluminous as the criminal code demands the commitment and energies of its principal sponsors.

I, for one, have the greatest respect and admiration for the manner in which Senator KENNEDY, Senator THURMOND, and the late Senator McClellan, devoted themselves to this task for this and preceding years.

I think with regard to Senator McClellan, it is accurate to say that he devoted himself to this task for a great many years and the Senate and the country are in his debt for that.

It was fitting that the fruit of his labors was reported out of the Judiciary Committee in his final days. Senator McClellan's perseverance and determination to upgrade and codify the mass of Federal criminal statutes proved indispensable in bringing together the opposing camps. Compliments are also in order to Senators KENNEDY and THURMOND who did all possible at committee level to encourage the participation and cooperation of all members of the committee and of the Senate in order to effect their mutual goal: Enactment of a modernized criminal code. Senator KENNEDY's management of this legislation has served as a model for all of us.

I think it is fair to say he could not have done it had it not been for the encouragement and cooperation, and, indeed, the brilliance of Senator THURMOND in the process.

Finally, I would like to commend the staff of the Criminal Laws Subcommittee for their able assistance to me and my staff both at the committee level and on the floor as we process this bill.

S. 1437 as reported out of the Subcommittee on Criminal Laws and Procedures embodied the compromise reached between the principal sponsors of the legislation. However, S. 1437 was carefully scrutinized by the full committee at a series of markup sessions. There was a forum for all of us on the committee to offer amendments; many of

these were accepted and did, in fact, improve the bill. Those amendments which were not accepted were aired in an open forum with opportunity for debate. Various interest groups were present during the entire process and had frequent contact with the members of the committee and adequate opportunity to present their views. As in previous years, there was some disagreement on the committee about particular sections—complaints ranging from "infringements on civil liberties" to "not hard enough on criminals."

Mr. President, the end product of the many days of markup is the bill now before us. No one, I am certain, is entirely satisfied with it, and I could only say from my own standpoint that such an event would be improbable, and so it should be. I think I could only express the gravest reservation if the code satisfied every legal mind's interpretation at this point.

I am satisfied that what we have here is far superior in substance and in form to the existing criminal laws which are in some areas outmoded and in all instances, scattered almost irretrievably throughout the many titles of the United States Code.

The format of this code will make the Federal criminal laws more understandable to most Americans, a feat in and of itself. In respect to the controversial sections of the bill, we must remember that this divergence of opinion is not unique to S. 1437. It is rare, indeed, that Congress unanimously agrees on all aspects of important legislation. What is of the utmost importance to the democratic process, however, is that all viewpoints expressed during the legislative process; I am satisfied that both proponents and opponents have had sufficient opportunity in committee to present their views on S. 1437. After debate by the full Senate, I sincerely hope that this legislation survives the arduous legislative process.

As a freshman Senator, I found the criminal code both a timely and appropriate vehicle for improving our laws; during committee markup I offered important amendments which I am confident substantially improve the code and, generally speaking, our Federal laws.

Given a wave of publicized "child-snatching" incidents that have been brought to the public's attention and after an indepth study of this growing problem in America, I offered an amendment to the "Kidnapping" sections of S. 1437 to deal with this problem. The committee was sympathetic to these amendments which were accepted by a strong margin. I will be offering a comprehensive substitute for this amendment which has both a civil and criminal component and which is cosponsored by a number of my distinguished colleagues. I am hopeful that this will relieve the child-snatching problem upon enactment of the code.

At the committee level, I concentrated my efforts on improving chapter 36, subchapter B, the section dealing with offenders in the Federal criminal justice system who are suffering from mental disease or defects. My amendments accomplish several important objectives which will protect the human rights of prisoners and other offenders in the Federal criminal justice system. These amendments will:

First, reduce the period of time during which a psychiatric examination could be conducted to determine competency to stand trial or the need for care or treatment of an offender;

Second, specify a period of time during which a psychiatric examination could be conducted to determine whether the offender poses a risk of danger to persons or property;

Third, reduce the period of time during which an alleged offender could be committed prior to trial to determine whether he will become competent to stand trial from 1 year to 6 months;

Fourth, authorize the attorney for the offender to make a motion to the court in order to gain release of the offender from a treatment facility;

Fifth, permit the attorney for the defendant to request that a video-tape record be made of the interview by the director of the treatment facility with the offender;

Sixth, require psychiatric testing by a psychiatrist or a team consisting of a medical doctor and a clinical psychologist.

Of greatest significance amongst the many amendments to subchapter B is the provision requiring that, prior to the use of psychosurgery, electric shock treatment or psychotropic drug therapy on an offender, the offender, or his legally appointed representative must give his informed consent. This is a protection that should be denied to no person, whether in or out of the criminal justice system.

An inequity in existing law which is carried forward in S. 1437 was brought to my attention by one of my constituents. Again, after an analysis of the problem and an examination of the possible solutions, I am offering an amendment which would allow the advertisement of and dissemination of information about lotteries, games of chance and similar undertakings which are legal under both the laws of the State in which the games are conducted and the State from which the information is transmitted. This amendment will not authorize any games of chance which are not otherwise legal in both the sending State and the receiving State. What it will accomplish, however, is to restore to the States the exclusive jurisdiction to decide for themselves whether or not they will permit such forms of gambling. If State policy permits it, then the Federal Government will no longer be able to penalize its advertisement.

This legislation is a significant improvement over existing Federal criminal laws. In urging the support of S. 1437 by the Members of the Senate, I simply want to remind this body that, in taking this step forward, we are not precluded from applying our efforts on a continuing basis to the betterment of the criminal laws. This is a major step in that direction, but by no means an exclusive or final statement about where the criminal laws should be. Let us vote for passage of this bill and continue to take whatever steps are necessary to insure that the criminal laws of the United States comport with the needs of the American people.

Mr. President, I ask unanimous consent that Pat Hoff of my staff be granted privilege of the floor during the time spent on my amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that my two amendments be in order at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WALLOP. I thank the Chair.

UP AMENDMENT NO. 1109

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 1109.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be printed in the RECORD.

The amendment is as follows:

(a) On page 112, line 14, re-number section 1624 as section 1625, and insert before it the following new section:

"§ 1624. Restraint of a Minor Child by a Parent

"(a) OFFENSE.—A person is guilty of an offense if:

"(1) he intentionally restrains his child in violation of any person's right of custody or visitation arising from:

"(A) a child custody determination entitled to enforcement pursuant to the provisions of 28 U.S.C. 1738A;

"(B) a valid written agreement between the child's parents or guardians; or

"(C) the relationship of parent and child, or guardian and ward, absent the circumstances set forth in paragraphs (A) and (B) of this subsection;

"(2) the child is not more than fourteen years of age; and

"(3) the actor:

"(A) secretes the child, and holds him in a place where he is not likely to be found, for a period exceeding seven days; or

"(B) restrains the child without good cause and for a period exceeding thirty days.

"(b) DEFENSE.—It is a defense to a prosecution under this section that:

"(1) no person claiming entitlement to a right violated by the offense reported the offense within ninety days after the beginning of the restraint; or

"(2) the child was returned unharmed by the defendant and prior to arrest or issuance of a warrant for arrest for this offense.

"(c) INITIATION OF INVESTIGATION.—The Federal Bureau of Investigation may not commence an investigation of an offense under this section unless at least sixty days have elapsed after the filing of a report with local authorities and of a request for the assistance of the Parent Locator Service.

"(d) GRADING.—An offense described in this section is:

"(1) a Class B misdemeanor in the circumstances set forth in subsection (a)(3)(A);

"(2) a Class C misdemeanor in any other case.

"(e) JURISDICTION.—There is federal jurisdiction over an offense described in this section if a circumstance specified in section 1621 (c)(1), (c)(2), or (c)(3) exists or has occurred, or the exercise or enjoyment of the right of custody or visitation violated by the offense requires the crossing of a state or United States boundary by the child, parent, or guardian."

(b) On page 113, line 15, change "or 1623" to "1623, or 1624".

(c) On page 5, line 6, and on page 110, line 10, change the table of contents to re-number 1624 as 1625, and insert:

"1624. Restraint of a Minor Child by a Parent "Familial Rights."

(d) On page 112, lines 28–31, change the affirmative defense to read:

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under section 1622(a)(2) or 1623 that the actor is a parent or guardian of the person restrained and that the person restrained is less than eighteen years old."

(e) On page 112, strike lines 32–39.

(f) On page 113, strike lines 1–8.

(g) On page 113, line 13, change "(e)" to "(c)".

(h) On page 354, add the following after line 30:

"(m) The Commission, in promulgating guidelines pursuant to subsection (a), for an offense described in 18 U.S.C. 1624, shall consider the effect that the return of the minor child, other than a return that is a defense under 18 U.S.C. 1624(b)(2), should have on the sentence."

(i) Redesignate the remaining subsections of 28 U.S.C. 994.

(j) on page 359, after line 2, insert the following:

SEC. 124A. Chapter 115 of title 28, United States Code, is amended as follows:

"(a) A new section 1738A is added after section 1738:

"'1738A. Full faith and credit given to child custody determinations

"'(a) The appropriate authorities of every state shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made by a court of another state consistently with the provisions of subsections (b) through (f) of this section, unless:

"'(1) the primary basis for the child custody determination was punishment of a contestant and not the best interests of the child; or

"'(2) the child custody determination is inconsistent with a strong public policy of the former state.

"'(b) As used in this section:

"'(1) "child" means a person under the age of eighteen;

"'(2) "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States;

"'(3) "custody determination" means a judgment, decree, or other order of a court providing for the custody or visitation of a child, includes permanent and temporary orders, and includes initial orders and modifications;

"'(4) "contestant" means a person, including a parent, who claims a right to custody or visitation of a child;

"'(5) "physical custody" means actual possession and control of a child;

"'(6) "modification" and "modify" refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

"'(7) "home state" means the state in which the child immediately preceding the time involved lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period; and

"'(8) "person acting as a parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

"'(c) A child custody determination made by a court of a state is consistent with the provisions of this section, whether or not the child is physically present in such state, only if:

"'(1) such court has such jurisdiction under the law of such state; and

"'(2) one of the following conditions is met:

"'(A) such state (i) is the home state of the child at the time of commencement of the proceeding, or (ii) had been the child's home state within six months before commencement of the proceeding and the child is absent from such state because of his removal or retention by a contestant or for other reasons, and a parent or guardian continues to live in such state; or

"'(B) it is in the best interest of the child that a court of such state assume jurisdiction because (i) the child and his parents, or the child and at least one contestant, have a significant connection with such state, and (ii) there is available in such state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

"'(C) the child is physically present in such state and (i) the child has been abandoned or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected; or

"'(D)(i) it appears that no other state would have jurisdiction under paragraphs (A), (B), (C), or (E), or another state has declined to exercise jurisdiction on the ground that the state whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

"'(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

"'(d) The jurisdiction of a court of a state which has made a child custody determination consistently with the provisions of subsections (b) through (f) of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such state remains the home of the child or of any contestant.

"'(e) Reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child, before a child custody determination is made.

"'(f) A court of a state may, if it has jurisdiction to make a child custody determination, modify a determination of the custody of the same child made by a court of another state if the court of the other state no longer has jurisdiction, or it has declined to exercise such jurisdiction, to modify such determination.'.

"(b) The section-by-section analysis at the beginning of the chapter is amended by adding after the item relating to section 1738 the following new item:

"1738A. Jurisdiction to make child custody determinations; full faith and credit given to such determination.".

(i) On page 373, after line 31, insert the following:

"PART D—AMENDMENTS RELATING TO THE PUBLIC HEALTH AND WELFARE, TITLE 42, UNITED STATES CODE

"SEC. 144A. (a) The Congress finds that:

"(1) There is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(2) The laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are ill-defined, conflicting, and in many instances unsound.

"(3) Those characteristics of the law and practice in such cases, along with the limits imposed by a federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to resort frequently to the seizing, restraint, concealment, and interstate transportation of children; disregard of court orders; excessive relitigation of cases; obtaining of conflicting orders by the courts of various jurisdictions; and interstate travel and communication that is so expensive and time-consuming as to disrupt their occupations and commercial activities.

"(4) Among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions; the deprivation of rights of liberty and property without due process of law; burdens on commerce among such jurisdictions and with foreign nations; and harm to the welfare of children and their parents and other custodians.

"(5) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

"(b) Section 453 of the Social Security Act as added by section 101(a) of the Act of January 4, 1975 (42 U.S.C. 653) is amended as follows:

"(1) At the end of subsection (a), change the period to a comma and add 'and information as to the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of making or enforcing a child custody determination, as defined in 28 U.S.C. 1738A, entitled under that section to be enforced by the appropriate authorities of other States.'

"(2) The first time the word 'parent' appears in subsection (b), insert after that word the words 'or child'.

"(3) At the end of subsection (b) delete the period and substitute ', (c)(4), (c)(5), or (c)(6).'

"(4) At the end of subsection (c)(2) delete 'and'.

"(5) At the end of subsection (c), delete the period and substitute a semicolon.

"(6) Add the following new paragraphs after subsection (c)(3):

"'(4) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under the law of such State to enforce a child custody determination, as defined in 28 U.S.C. 1738A, entitled under that section to be enforced by the appropriate authorities of other States.

"'(5) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such a court; and

"'(6) any parent, legal guardian, attorney, or agent of a child sought to be located pursuant to subsection (a) of this section.'"

"(7) In subsection (f), after '(c)(3)' add ', (c)(4), (c)(5), or (c)(6)'.".

(j) On page 381, re-designate Part D as Part E.

Mr. WALLOP. Mr. President, today I am offering a comprehensive amendment with both civil and criminal components which addresses a growing problem that too many parents and children face in America—the problem of child-snatching. This amendment is cosponsored by Senators KENNEDY, THURMOND, and MCGOVERN, and I thank them for their support and interest in this matter

Child-snatching—a word of art—refers to the abduction of a child from the parent with legal custody by the parent without legal custody. This frequently involves the disappearance of the abducting parent and child or flight to another State where the custody ruling is not in force. When this occurs, it is difficult for the parent from whom the child has been snatched to get legal assstance. This is particularly true where the child has been removed to another State where the custody order is not recognized. This problem often leads to severe emotional harm to the child who is moved from State to State and bandied about as though a piece of personal property without human qualities.

While there are no firm statistics on the incidence of child-snatchings, it has been estimated that there may be some 25,000 occurring each year.

The present Federal kidnapping statute (18 U.S.C. 1201 (a) specifically excludes a parent from prosecution for transporting a child across State lines. At the committee level, the members accepted an amendment I had offered which would have made it a Federal offense for parents who snatch their children in violaton of custody awards. Briefly, that amendment would have removed the availability of the affirmative defense set forth in existing law for a parent or guardian who acted in violation of a custody award. One part of my amendment today significantly improves the language as it appears in S. 1437 as a committee amendment and makes child-snatching a less serious offense. The impetus to amend the Federal criminal laws to treat "child-snatching" as a form of kidnapping or as another Federal crime is based upon the recognition of the obstacles that a State faces when a child custody determination made by one of its courts is violated, the violating parent takes or keeps the child in another State, and the State needs to locate them and enforce the court order. Those obstacles are most formidable when the child is concealed, and under present law are often insuperable.

Making "child-snatching" a Federal crime would, by authorizing the FBI to locate parents—and thereby children—mitigate the particular problem of the limitation of each State's investigative power to its own boundaries.

However, a criminal statute only touches upon one aspect of this phenomenon. A principal motive for a parent to "snatch" his child is usually the desire to obtain a more favorable custody or visitation order in another State. That motive is encouraged by the fact that many States freely exert jurisdiction based solely on presence of the child, freely modify the custody orders of other States, and otherwise fail to give full faith and credit to such orders.

Last year Assistant Attorney General Patricia Wald indicated the Justice Department's support, subject to certain specified reservations, of a proposal similar to the amendment I am offering today. In a letter to Congressman RODINO in regard to H.R. 9913, Ms. Wald explained the need for legislation to solve the child-snatching problem. Excerpts from this letter follow:

Although the full faith and credit clause of the Constitution mandates interstate recognition of state decrees, its applicability is limited to those orders deemed "final." Since custody orders are always modifiable by the original forum, either because of changed circumstances or, in some states, discovery of facts not brought out at the first hearing, the second forum may modify also without obligation to extend full faith and credit. Frequently, the second state switches custody to the parent within its boundaries, thus encouraging child-snatching by rewarding the *de facto* physical custodian regardless of the existence of any order or decree to the contrary.

The inability of state courts to effectively enforce custody decrees outside of their jurisdictions, and the willingness of courts to disregard or modify decrees entered in other states, both operate to encourage child-snatching as a form of extralegal self-help. The problem therefore has its marks in the fact that our form of government is a federation of states, each of which retains jurisdiction over domestic relations within its boundaries. Since it is the province of the federal government to resolve problems which are interstate in origin, and which the states, acting independently, cannot resolve, it might seem that federal legislation would be particularly appropriate in this area.

The Uniform Child Custody Jurisdiction Act is one method which would enable the states to deal with the problem. The Act, which is not reciprocal and may be enacted by individual states, establishes standards for choosing the appropriate forum to determine custody. Once the jurisdictional tests are met, usually by the "home state" of the child, any other state which has enacted the Act will defer to the appropriate forum and cooperate with its jurisdiction. The Act also provides that out-of-state custody decrees be recognized and enforced.

The problem, therefore, is to preserve the traditional state court control over child custody determinations and at the same time place federal restrictions on forum shopping and non-compliance with state court orders, without disturbing the delicate balance between state and national jurisdictions that is the foundation of our federal system.

As in other matters affecting child custody, we believe that the paramount consideration in evaluating this proposed legislation should be the best interests of the child. Although in such cases, a number of states may have a legitimate interest in the child's custody, and particular circumstances might tend to favor one state over another in individual cases, we believe that, in general, the best interests of the child would be promoted by designating any one state with jurisdiction to decide the case as the only forum in which the merits of the case could be considered. The establishment of a general rule by which such a state could be unambiguously designated is therefore the primary goal.

Because the problem of child-snatching is a complex one, the amendment I am offering today is fashioned to attack each of its roots. This amendment has both a criminal and civil provision. On the criminal side, in lieu of the language in S. 1437 which deletes the affirmative defense for parents who wrongfully snatch their children, I am offering an entirely separate provision entitled "Restraint of a Minor Child by a Parent." This section would make it an offense for a parent to violate a custody or visitation right which arises from either a custody determination in accordance with the new civil sections, or in violation of a valid written agreement of the parents or guardians, or where neither a valid court decree or express agreement exist, in violation of the natural custodial rights of parents. In order to be punishable under this provision, the actor would have to restrain a child of not more than 14 and either secrete and conceal the child for more than 7 days or restrain the child without good cause for more than 30 days. The parent would have two possible defenses to prosecutions: First, if no person claiming a right violated by this offense reports the offense within 90 days; or, second, the child is returned unharmed prior to the arrest or issuance of a warrant for arrest of the defendant.

Furthermore, the FBI may not commence an investigation until at least 60 days have elapsed after the filing of a report with local authorities and after requesting the assistance of the Parent Locator Service. The offense is punishable as a class B misdemeanor—not more than 6 months, not more than $10,000, or both—in certain cases and a class C misdemeanor—not more than 30 days, not more than $10,000, or both—in all other cases. Finally, the sentencing commission is instructed to take into consideration the fact that the child is returned when sentencing.

The civil component of this amendment consists of three parts: First, this amendment would require that full faith and credit be given to custody determinations which are made in compliance with the standards set forth in the succeeding subsections. A State would be compelled to enforce a decree of a sister State which exercised its jurisdiction in accordance with these standards. A court would have authority to modify the decree of a sister State only if it would have jurisdiction to make a child custody determination in the first instance and if the sister State either no longer has jurisdiction or has declined to exercise its jurisdiction. Second, a sister State custody determination would be entitled to full faith and credit provided that the State court exercised its jurisdiction in accordance with certain specified standards.

Briefly, a court will have to consider such factors as:

First, whether, in the first instance the court has jurisdiction;

Second, whether the child has made his home in that State for at least 6 months prior to the commencement of the proceeding;

Third, whether it is in the best interests of the child that the court assume jurisdiction;

Fourth, whether the child is physically present in the State and has either been abandoned or other emergency circumstances exist;

Fifth, whether no other State has jurisdiction or has declined to exercise jurisdiction and it is in the best interests of the child that the court assume jurisdiction.

Third, the Parent Locator Service of HEW would be enlisted to help find parents who take, restrain, or conceal their children. The PLS is designed to promote cooperation among various States in locating parents. Such cooperation, coupled with the locating system which has been established in all 50 States and 4 territories as well as the Federal Government, has proven to be very successful in locating parents. Interstate cooperation, once established during the investigative stage of a custody dispute, should carry over significantly to promote cooperation among the State courts and the State welfare and other agencies that assist the courts in gathering information for custody cases.

This civil-criminal package of legislation should greatly assist in reducing the occurrence of child-snatching incidents throughout America. Many States have looked at the problem and have already adopted the Uniform Child Custody Jurisdiction Act (UCCJA) which, in principle, parallels this proposal. The UCCJA provides for cooperation between signing States in regard to child custody disputes. It limits custody jurisdiction to the State where the child has his or her home or strongest contact and provides for recognition and enforcement of out-of-State custody decrees under specified circumstances. To date, 20 States have adopted the UCCJA and this Federal legislation will serve as a model to the remaining States. I might add here that my own State of Wyoming has adopted the UCCJA as well as criminal statutes dealing with the problem of child-snatching.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, an analysis of the constitutional bases of Federal jurisdiction in this area. To summarize this report, the commerce clause in article I, section 8, the full faith and credit clause of article IV, section 1, section 5 of the 14th amendment, and the constitutional right to travel are all valid bases upon which Congress can exercise Federal jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, I thank my distinguished colleagues who have seen fit to cosponsor this amendment: Senators KENNEDY, THURMOND, and MCGOVERN. We are in agreement that the existing state of the law does not tackle the child-snatching problem in any respect. This amendment will provide a criminal-civil arsenal for combating this problem. We have taken this first step toward eradicating the child-snatching problem after careful analysis of recent legal writing on the subject and on a hearing record developed in 1975 by the Senate Subcommittee to Investigate Juvenile Delinquency. Should additional information surface which would be useful in improving the proposal, we will have the next 2 years in which to make the necessary and appropriate modification.

I urge the support of all Members of the Senate. Today we can make a truly meaningful and important addition to the laws of our land.

EXHIBIT 1

CONSTITUTIONAL BASES FOR "CHILD-STEALING" LEGISLATION

Among the sources of Congressional power to enact legislation dealing with "child-snatching" are the Commerce Clause, the Full Faith and Credit Clause, and the Fourteenth Amendment Due Process provision.

It is clear that the Commerce Clause in Article I, Section 8, authorizes the enactment of Federal criminal legislation dealing with unlawful restraint of a person where ". . . movement of the victim across a state or United States boundary occurs in the commission of the offense . . . ," a jurisdictional criterion applicable to sections 1621 through 1623 of the proposed new Federal Criminal Code. Where there is such interstate or foreign movement, there probably is power under the Commerce Clause likewise to enact the other, civil, legislation here proposed to deal with the same kind of conduct.

Article IV, Section 1, provides not only that "Full Faith and Credit shall be given in each State to the . . . judicial Proceedings of every other State," but also that ". . . the Congress may by general Laws prescribe the manner in which such . . . Proceedings shall be proved, and the Effect thereof." That section appears to be a sound basis for enactment of key portions, if not all, of this proposed legislation. *See* Rather, *Child Custody in a Federal System*, 62 Mich. L. Rev. 795, 798–99, 815, 827 n. 153 (1964); Hudak, *The Plight of the Interstate Child in American Courts*, 9 Akron L. Rev. 257, 298–99 (1975); Hudak, *Seize, Run, and Sue: The Ignominy of Interstate Child Custody Litigation in American Courts*, 39 Mo. L. Rev. 521, 547 (1974); Bodenheimer, *Progress Under the UCCJA. . . .*, 65 Cal. L. Rev. 978, 1002 n. 142 (1977); Currie, *Full Faith and Credit, Chiefly to Judgments: A Role for Congress*, Sup. Ct. Rev. 89, 109–18 (1964); Ratner, *Legislative Resolution of the Interstate Child Custody Problem: A Reply to Professor Currie and a Proposed Uniform Act*, 38 S. Cal. L. Rev. 183 (1965).

Section 5 of the Fourteenth Amendment, which forbids the states to deprive any person of life, liberty, or property without due process of law, grants to Congress "power to enforce, by appropriate legislation, the provisions of this article." The opinion has been expressed that "since the due process clause . . . provides a limitation upon the exercise of state judicial authority, Congress, pursuant to its power to enforce by appropriate legislation the provisions of that amendment, could probably specify . . . a requirement [that the former state in a child custody case have been the established home of the child for at least six months] for the exercise of state custody jurisdiction over nonresidents." Ratner, *supra* at 827 n. 153.

Thus it appears that each aspect of the proposed civil legislation to deal with "child snatching" has at least one, and in some instances two or three, sound bases in the constitutional power of Congress to legislate.

Mr. WALLOP. Mr. President, I yield to Senator THURMOND for brief comments, and then, at the appropriate time, I will yield to the Senator from Massachusetts (Mr. KENNEDY).

Mr. THURMOND. Mr. President, I support the amendment of the able and distinguished Senator from Wyoming.

Congress has constitutional power to enact the civil provisions of Senator WALLOP's amendment. The full faith and credit clause explicitly gives the Congress power to enact laws to "prescribe * * * the Effect * * *" to be given by one State to the judicial proceedings of another State. Indeed, Congress has previously exercised that power in other contexts.

The provisions of this amendment dealing with jurisdiction of a State court to determine custody of a child are merely a limitation on that portion of the amendment that requires one State to enforce another State's custody order. They could not, and do not, limit the force the full faith and credit clause has in its direct operation. Neither do those provisions restrict the freedom of any State to exercise jurisdiction beyond that described in the amendment in an intrastate custody dispute. All they do is to limit the proposed statutory requirement, that one State enforce another State's custody orders, to those orders that meet criteria patterned on the jurisdictional provisions of the Uniform Child Custody Jurisdiction Act.

In other words, those provisions merely limit the application of a full faith and credit statute Congress has power to enact. I am satisfied, therefore, that Senator WALLOP's amendment is within the power of Congress.

It is worth noting also that this amendment is based also on other powers of Congress to legislate, including the commerce clause and the power to enforce the due process clause.

We need Federal legislation creating national standards so States will know which out-of-State custody orders deserve enforcement. Only if we enact such a law will parents no longer have a motivation to engage in child snatching. We should exercise this congressional power, and thereby give the children who are victims in these cases the protection they need.

Mr. President, current title 18 of the United States Code excludes parents who restrain their children during custody disputes from the coverage of the kidnaping offense.

S. 1437 as reported by the Judiciary Committee brings parents within the scope of the criminal restraint offenses defined in sections 1622(a)(2) and 1623.

The amendment now proposed by Senator WALLOP would exempt parents who restrain their children from those offenses. It would create instead a new section 1624 for such cases. The new section is drafted so as to deal less harshly and more effectively with such offenses.

The amendment also would add to the bill important provisions designed to eliminate the root causes of child snatching, and to provide a sound basis for determining what child custody orders must be obeyed under section 1624.

This amendment is an enormous improvement over what is now in the bill, especially because it adds those civil provisions. For that reason, I support the amendment.

Mr. WALLOP. Mr. President, I thank my colleague, and now yield to my colleague from Massachusetts, Senator KENNEDY.

Mr. KENNEDY. Mr. President, this whole area of child snatching and kidnaping has been an area of very substantial interest to the Senator from Wyoming. I know that as a member of the Judiciary Committee and while he served in the State of Wyoming he was enormously interested. He has been extremely helpful to the committee in working out legislation to deal with this in a way that is responsible from a law enforcement point of view as well as compassionate from a human point of view.

This amendment really clarifies what we did in the full committee. I think it establishes a separate section to give it the importance it should have.

It also mentions the parent-locator service. It has not really been as successful as it could, but it is a new program and it is improving.

So the amendment stresses voluntary compliance, working with the program through the States and the local communities. The FBI is involved as a last resort. I think it is a valued contribution to the bill. I urge its adoption.

Mr. WALLOP. Mr. President, I assume that I may take from what my friend has said that the committee is prepared to accept the amendment.

Mr. KENNEDY. Yes.

Mr. WALLOP. If that is the case, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, under the previous unanimous-consent agreement I had another amendment which I was to call up, but the Senator from Massachusetts (Mr. KENNEDY) has requested that I yield to Senator CRANSTON for an amendment at this time while they take time to prepare a defense to the onslaught I am about to unleash upon them.

In that case, I am prepared to yield to the Senator from California.

AMENDMENT NO. 1648

Mr. CRANSTON. Mr. President, I thank the Senator very much for yielding. And I thank the distinguished chairman for his cooperation.

I call up amendment No. 1648, and ask for its immediate consideration, and I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Does the Senator seek unanimous consent that this amendment be in order at this time?

Mr. CRANSTON. If that is necessary, I so seek it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, strike out lines 30, 31, and 32, and substitute in lieu thereof the following:

(a) CONSTRUCTION IN GENERAL.—The provisions of this title shall be construed in light of the principle that penal statutes are to be strictly construed.

Mr. CRANSTON. Mr. President, the amendment is cosponsored by Senators ALLEN, STEVENS, JAVITS, and HELMS.

UP AMENDMENT NO. 1110

Mr. President, I now send to the desk a modification of the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes modification numbered UP 1110 to printed amendment No. 1648.

On page 26, line 32, strike the period at the end of section 112(a) and insert thereafter the following: "particularly to assume definition and notice of the conduct prohibited in accordance with the rule of strict construction as applied by the federal courts.".

Mr. CRANSTON. Mr. President, the best reason for adoption of a rule of strict construction was offered by our distinguished colleague, Senator STEVENS, who stated on January 20:

I served for over 3 years as a U.S. attorney, and I had many occasions to present criminal cases to grand juries. Those people who feel they have been offended by actions of other citizens, and even grand juries, are inclined to try to stretch the criminal law to include conduct which previously had not been considered to be criminal in an attempt to punish what they consider to be offensive actions in terms of the light of peculiar circumstances in the community at a particular time.

I think unless all people are put on notice that this new code is going to follow the concept of strict construction, then U.S. attorneys may try to stretch this code to encompass actions which we do not intend to make criminal. In most instances, I presume, a trial jury and a trial court would do their best to restrict such actions.

This would lead to harassment of our people and consequently to a denial of freedoms, particularly the freedom from being charged with a crime based on an extension of the intent of Congress in the promulgation of this new criminal code.

I think that is a very fine statement of the intent of our amendment to deal with that problem. That statement, as I noted earlier, was made by one of the cosponsors of this amendment in its original form and one who supports the modification.

The rule of strict construction has served well to limit the tendency of courts and prosecutors to stretch the law beyond the requirements of notice and the specific intent of the legislature to prohibit certain conduct.

It is well established that in the area of constitutional law, statutes must be strictly construed to avoid any abridgement of the free exercise of constitutional rights. In the area of general criminal law, the Supreme Court throughout its history has given ambiguous statutes narrow interpretations in accordance with the principle of strict construction.

This issue was expressly addressed by Justice Harlan in *Yates* v. *United States*, 354 U.S. 298 (1957). In limiting the term "to organize" in the Smith Act, he quoted Chief Justice John Marshall speaking more than a century before:

The rule that penal statutes are to be construed strictly, is perhaps not much less old, than construction itself. It is founded on the tenderness of the law for the rights of individuals; and on the plain principle that the power of punishment is vested in the legislative, not in the judicial department. It is the legislature, not the Court, which is to define a crime, and ordain its punishment.

Justice Harlan then explained the proper application of the principle.

The maxim is not to be so applied as to narrow the words of the statute to the exclusion of cases which those words, in their ordinary acceptation, or in that sense in which the legislature has obviously used them, would comprehend.

Thus, the principle of strict construction is to be used to resolve ambiguities in the language of the statute, not to defeat the intent of Congress where the language of a statute is clear and unambiguous.

Yates reaffirmed the doctrine of strict construction as it applied in constitutional law,, and cases since have consistently followed the principle.

The modification of our amendment is consistent with the rule of strict construction as applied by the Supreme Court and will remove any suggestion that the courts are to read the code with mindless literalism.

For these reasons, Mr. President, I urge adoption of the amendment.

Mr. KENNEDY. Mr. President, I reviewed the other day when we began the discussion of this particular amendment the reasons for the inclusion of section 112(a), that the provisions of this title be construed in accordance with the fair import of their terms.

What we have attempted to do in the drafting of this legislation is to have the language as clear as possible and as understandable as possible so that the average citizen would be able to understand the nature of the laws and the actions which are proscribed as Federal crimes in this country.

We followed the model penal code and also the Brown decision. In the several States that have adopted this same language there have not been abuses of it. But it is a matter of concern to some of the Members, and this language has been carefully worked out by the Senator from California and the cosponsors, and I think it is desirable language. Perhaps it would even be of greater value than the language which came from the committee because, as the Senator from California has pointed out, it says, "particularly to assure definition and notice of the conduct prohibited."

That is basically what this whole recodification is attempting to do, that is, to provide the definition of crimes in readable, understandable language so

that the individual is going to understand as clearly as the English language can permit what actions would be proscribed; and second, to insure notice of the conduct. We are talking about giving notice—"fair warning"—of what is a crime.

It is in accordance with the rule of strict construction as applied by the Federal courts. It seems to me that it is a desirable and worthwhile goal for a criminal code to have clear definitions and to provide notice to individuals.

It seems to me that when the language of the rule of strict construction is applied to definition and notice as applied by the courts it is basically what is current law. It stresses definition and notice. It seems to me to be entirely consistent with the thrust of the legislation, and I would urge its adoption.

The discussion of the rule of strict construction indicates that though different Members have suggested different statutory formulations of the rule of construction, there is broad agreement on the basic principle:

First, a person may be convicted of an offense only if Congress has made the conduct in question a crime;

Second, a person may be convicted of a Federal crime only if Congress has provided Federal jurisdiction over the offense in question;

Third, a criminal offense must give notice a "fair warning," of the conduct prohibited;

Fourth, though penal statutes are to be strictly construed, this does not "require that the act be given the 'narrowest meaning.' It is sufficient if the words are given their fair meaning in accord with the evident intent of Congress." *United States* v. *Cook*, 384 U.S. 257, 262–263 (1966); and

Fifth, if there is ambiguity with respect to an offense, then the rule of lenity requires that less harsh interpretation be accepted.

Finally, there is one overriding principle, that criminal statutes, like all laws, must be construed to protect constitutional rights and liberies.

That is what the committee intended in the bill, and that is what the sponsors of this amendment intend. So I am willing at this point to accept the amendment which will clarify this intent and urge its adoption. I would also like to insert at this point some examples of cases illustrating the rule of construction.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CASES APPLYING THE RULE OF STRICT CONSTRUCTION

A few cases illustrate the strict construction rule as that rule is understood by the courts.

In *United States* v. *Giles*, 300 U.S. 41 (1937) a bank teller was charged under an offense punishing any person "who makes any false entry in any book, report, or statement of the [bank] association, with intent" to defraud the bank. Giles had not actually made the false entry which was actually made by a clerk. However, by withholdng deposit slips, he caused the clerk, and intended to cause the clerk, to make false entries. Supreme Court rejected the defendant'sargument that the rule of strict construction should prohibit his conviction under these facts where his acts caused a false entry to be made. The court said "the rule, often announced, that criminal statutes must be strictly construed does not require that the words of an enactment be given their narrowest meaning or that the lawmaker's evident intent be disregarded". Id. at 48.

Another example illustrating interpretation of criminal statutes is the case of *United States* v. *Healy*, 376 U.S. 75 (1964). Healy had kidnapped at gunpoint the pilot of a private Cessna 172 airplane and compelled him to transport Healy and others from Florida to Cuba. He was charged with aircraft piracy. His lawyer argued that the statute should be strictly construed and a district court dismissed the indictment. The district court held that a private airplane is not "an aircraft in flight in air commerce" within the meaning of the aircraft piracy provision which it read strictly as limited to commercial airlines.

The Supreme Court reversed the dismissal of the indictment. The Supreme Court even more significant rejected the defendant's argument that the act did not cover piracy of a private Cessna aircraft, because the Cessna was not "an aircraft, in flight, in air commerce." The defendant contended that while he obviously took an aircraft, "air commerce" was limited to commercial airlines. The court rejected the defendant's argument for a narrow construction of air commerce The court pointed out that air commerce was defined in the Federal Aviation Act of which the Piracy Act was a part and that the Aviation Act defined air commerce to include any operation or navigation of aircraft which directly affects, or which may endanger safety in interstate overseas or foreign air commerce. The point is that the Supreme Court allowed a prosecution for piracy of a private aircraft by applying well understood definitions of air commerce contained in the Federal Aviation Act.

Another example of a case illustrating the rule of strict construction to criminal offenses is *United States* v. *Cook*, 384 U.S. 257 (1966). In *Cook* the defendant was charged with embezzlement under an offense prohibiting embezzlement by an employee of "an individual" engaged in commerce as a common carrier. The defendant argued that since he was employed by an individual operating a trucking business he was not within the terms of the offense covering embezzlement by employees of "any firm, association cr corporation engaged in commerce as a common carrier." The defendant argued that this offense covered only corporations, partnerships and other similar legal entities. The Supreme Court rejected the defendant's argument indicating that the legislative history of the act indicated a clear Congressional intent "to reach the employees of any carrier, whatever the form of business organization." Id. at 260. The court also stated with respect to the construction of the statute:

"We are mindful of the maxim that penal statutes should be strictly construed. But that canon "is not an inexorable command to override common sense and evident statutory purposes," *United States* v. *Brown*, 333 U.S 18, and does not " require that the act be given the 'narrowest meaning,' It is sufficient if the words are given their *fair meaning* in accord with the evident intent of Congress," *United States* v. *Raynor*, 302 U.S. 540. Id. at 262–263. (emphasis added)

Mr. CRANSTON. Mr. President, I thank the distinguished Senator from Massachusetts. I agree with his comments. I am delighted that he supports the proposal. As far as I am concerned we are ready for a vote.

Mr. THURMOND. Mr. President, I have studied this matter and I am willing to go along with the modification which has been suggested. I have no further objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1111

Mr. KENNEDY. Mr. President, I have an amendment here by the Senator from Ohio (Mr. GLENN) which I will offer in his behalf. I ask unanimous consent that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for Mr. GLENN proposes an unprinted amendment numbered 1111:

On page 360, line 10, after the comma insert the following: "and Section 127 of this Act".

Mr. KENNEDY. Mr. President, the amendment that was offered by the Senator from Ohio on arson required that we put it on the uniform reporting list of the FBI.

Since this bill does not come into effect for 2 years after it is signed into law, that would defer action on that particular provision for a period of 2 years.

He obviously would want it to be done, to be put on the uniform reporting list as soon as possible. This amendment will make that possible.

It seems to be entirely consistent with what Senator GLENN wanted, and it seems to have no objection to it, so I offer it in his behalf and would hope it would be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1112

(Purpose: to provide disclosure of identity and location of certain witnesses relocated under section 3121 (Witness Relocation and Protection).)

Mr. HUDDLESTON. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Does the Senator seek unanimous consent that the amendment be in order at this time?

Mr. HUDDLESTON. Yes; I ask unanimous consent that it be in order to call up the amendment at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1112.

The amendment is as follows:

On page 217, between lines 23 and 24, insert the following:

"(c) CIVIL ACTION AGAINST A RELOCATED PERSON—Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall determine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person located to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.".

Mr. HUDDLESTON. Mr. President, this amendment is to correct a defect in section 3121 of S. 1437, which deals with the witness relocation and protection program.

This is a program, as Senators know, that is designed to protect witnesses who are beneficial to the Government in certain kinds of cases, and it frequently involves the giving of complete new identities to these individuals and to their families. Cases have developed when other individuals have had claims against such a protected witness and have virtually no way of asserting those claims and filing process, or of bringing into court such a witness so that they can have the case adjudicated. The U.S. Justice Department has done an outstanding job in carrying out its responsibilities under this program. Unfortunately, they have done their job too well and, as a consequence, witnesses are hidden from individuals who have a legitimate right to locate them.

This quirk in the program came to my attention through a constituent of mine, whom I will call Mr. Smith. In 1972 Mr. Smith was involved in an automobile accident with an individual who was in the process of being given a new identity and relocated in exchange for his assistance to the U.S. Justice Department. Mr. Smith's car was damaged and his wife was injured in the accident. When Mr. Smith attempted to locate the man who had caused the accident in order to reach some settlement on the matter, he found that the man's identity was phony and he was unable to make any contact with him. However, there was a trail which led to the U.S. marshal's office and from there to the U.S. attorney's office. Repeated attempts to locate the witness through the U.S. marshal, U.S. attorney, and the Department of Justice resulted initially in denials of any knowledge of the witness' existence and later with totally unsympathetic refusals to provide any information about the protection witness' whereabouts When Mr. Smith filed suit to recover damages, he was faced with the impossible task of serving process upon an individual whose identity was unknown.

Eventually Mr. Smith came to me for assistance and after repeated contacts by my staff with officials of the Justice Department, a blind service of process was made by the Justice Department. This entailed a certification by the Justice Department that service had been made without revealing the new identity or location of the witness. When the witness failed to appear to defend the claim, Mr. Smith's attorney moved for a default judgment. However, another catch arose at this time. Since this is a rather unique case, the court has been undecided on how to proceed with the matter and the case is still languishing in the courts. Even if there should be a judgment in favor of the plaintiff, Mr. Smith, it would be impossible for him to collect unless he knows the new identity of the witness or can convince the Justice Department to give some assistance—something they have been extremely hesitant to do in the past.

My amendment would correct this inequity and provide some protection for innocent parties who may be adversely affected by the secrecy involved in the witness protection program. It would designate the Attorney General as a party who may accept service of process for a civil suit filed against a protected witness. Once valid service has been made, the plaintiff could proceed with the suit. The witness would have the option of appearing to present his side of the case or designating an attorney to appear and represent his interests. These arrangements could be made by the protected witness, or the Justice Department could act as intermediary in order to provide adequate protection for the witness. If the court makes a finding in the case which is favorable to the plaintiff, the Justice Department would have the obligation of making certain that the protected witness makes a reasonable effort to comply with the judgment of the court. If the protected witness does not make a reasonable effort to do so, the Justice Department may disclose to the plaintiff the new identity and location of the protected witness.

I believe that my amendment will achieve two results. First, it will provide some protection for innocent parties who may have a legitimate claim, be it a debt or alleged tort, against a protected witness by assuring that they can have a court adjudicate their claims. Second, it protects the identity and location of a protected witness as long as the witness makes a reasonable effort to settle all claims that are found to be valid by a court.

The Department of Justice has reviewed my amendment and is in agreement with it.

I believe the managers of the bill feel the amendment is acceptable, and I move that the amendment be adopted.

Mr. KENNEDY. Mr. President, this is an excellent amendment and very much called for. As I understand the practical situation currently, it is that if an individual witness who cooperates with the Department of Justice may have some liability. Either he may have injured someone or may have some contractual obligations or other kinds of legal responsibilities. What happens is that after the witness has participated in the trial and worked and cooperated with the Justice Department, usually he disappears from the landscape, changes names, occupations, and locations, and the victim is left virtually powerless to have his or her interests pursued.

Obviously if they are legitimate interests, that should not be so.

What this particular amendment does is to assure that the Justice Department is going to defend that particular witness or help and assist in terms of getting a reasonable adjustment or settlement, in terms of the victim, whoever it might be. It seems to be entirely equitable.

I believe there are examples where the victims have been wrongfully treated. This is an attempt to deal with a very current problem. It does not happen every day, but it does happen. When it does happen, an injustice is created. The amendment of the Senator from Kentucky deals with that real problem.

I believe this strengthens the bill. We welcome the amendment and just wish we had thought of it.

Mr. HUDDLESTON. I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I move the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

UP AMENDMENT NO. 1113

(Purpose: Amendment clarifies the meaning of receipt as it relates to campaign contributions so that it will not be a crime to receive contributions which arrive at a federal office incidentally and unavoidably.)

Mr. STEVENS. Mr. President, I send to the desk an unprinted amendment and ask that it be considered.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I ask unanimous consent that it be in order to consider the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment numbered 1113.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 99 after line 17 add new section (d) "receives a political contribution" does not include contributions received by mail which are promptly transferred to any account in a campaign depository designated pursuant to sec. 308 of the Federal Election Campaign Act of 1971 or, in the case of a state or local campaign, which are promptly deposited in an account pursuant to a state or local law. It also does not include other contributions which are received by any person designated in accordance with Senate Rule XLIX to receive contributions.

Mr. STEVENS. Mr. President, this amendment clarifies the meaning of the "receipt of campaign contributions" so that it will not be a crime to receive contributions which arrive at a Federal office incidentally and unavoidably. This amendment conforms this code to the Senate action in the last session, when we revised the criminal laws dealing with the receipt of campaign contributions in a Federal building.

I believe the Members of the Senate recognize that we have a problem in this area. Since we are public figures and our offices are well known, our staff often receives contributions in offices that we occupy in Federal buildings. They arrive in the mail, and they are opened with other mail. They may be brought into our offices by messengers and left on the desks of our receptionists.

These unsolicited contributions would subject our staff to criminal prosecution, perhaps, under this code, since the mere receipt of a contribution in a Federal building is a crime. I am sure the drafters of this code did not intend that the incidental receipt of a campaign contribution, which is forwarded to the campaign account immediately, but which is initially received in a Federal office under these circumstances, should lead to criminal prosecution of our staffs.

The Senate recognized the problem of the incidental receipt of campaign contributions last year. In the Senate Code of Official Conduct we authorized two staff assistants to each Senator to receive contributions and made it clear in the legislative history that the opening of mail in an office did not constitute the receipt of a contribution. We also passed an amendment to S. 926 last year which amended the current law (18 U.S.C. 603) and provided that: Contributions received by mail which are promptly forwarded to an authorized campaign account would not subject the person who opens the mail to criminal prosecution; and contributions not received by mail would be permitted to be received by two assistants designated under the Code of Official Conduct.

My amendment would update this proposed criminal code to reflect the change the Senate made to the old law last year. It makes it clear that the incidental receipt of a contribution in an office in a Federal building is not a crime if that check is forwarded promptly to a designated campaign account. In the case of a Federal campaign, it would be an account designated to the Federal Election Commission; in a State or local race, it would be an account designated pursuant to State or local law. Other contributions—those not received through the mail but which are incidentally delivered to a Federal office building—would be received by persons designated pursuant to Senate rule XLIX.

This is the same form taken by the Senate in amending S. 926, although the language has been modified.

My amendment does not change the code insofar as solicitation in a Federal building is concerned. That would still be a crime under the code.

We do not seek to solicit campaign contributions from a Federal building. My amendment only makes it clear that the incidental receipt of a contribution in a Federal building, when that contribution is either forwarded to a campaign account or handled by Senate employees designated by the Senate rules to do so, would not be a crime.

I am informed by my staff that Senator CANNON, chairman of the Committee on Rules, has reviewed—at least, his staff has reviewed—this amendment and they recognize the necessity for offering it to this proposed code.

I am also requested to ask, and I do ask unanimous consent, that Senator FORD, chairman of the Democratic Senatorial Campaign Committee, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I am hopeful that the Senator from Massachusetts will see fit to accept the amendment.

Mr. KENNEDY. Mr. President, as I understand it, the chairman of the Committee on Rules (Mr. CANNON) has reviewed this amendment to S. 1437, and he believes that it conforms with the action that was taken in the Senate last year.

Mr. STEVENS. That is my information. I have before me S. 926, which amended the Federal Election Campaign Act and that provision, section 301 of the act, as it passed the Senate. My amendment does deal with provisions of the Senate rules as we amended them last year to authorize two persons to receive contributions under the circumstances—not to solicit them, in a Federal building, but only to receive those which arrive unsolicited.

Mr. KENNEDY. I think that is an important point as well. This is basically for unsolicited contributions that would come in. Is that correct? This does not cover mail campaigns operating out of offices of Members of Congress. As I understand what the Senator stated, as well as from reading the amendment, these are basically unsolicited contributions which will be promptly transferred to an account. The procedures will then be followed as outlined in the Senate rules.

Mr. STEVENS. That is the intent. It is not the intent to authorize or encourage any person to conduct a mail solicitation-type activity and have the returns from that mail solicitation returned to a Federal office. What this does is cover those that are brought or delivered to a Federal office. It allows our staffs to promptly transmit those contributions to the designated account under the Federal Elections Commission procedures or applicable State or local law and, if that is done, it would mean that the handling of such contributions would not constitute a crime under this code.

Mr. KENNEDY. So that, effectively, the amendment codifies the meaning of "receipt" as it relates to campaign contributions so that it will not be a crime to receive contributions which arrive at a Federal office incidentally and unavoidably.

Mr. STEVENS. That is correct. I am sure we have all had fund-raising events right here in the city. I know in connection with my campaign, I have had a post office box that those would return to. On occasion, people who received that solicitation have come in, instead of mailing the envelope back, and they have dropped a contribution at the desk of the receptionist. That would be the receipt of a campaign contribution under a technical interpretation of the code. We are seeking to make certain that these people on our staff know that when they are carrying out the functions that we have designated them to carry out under the Senate rules, there is no chance that they will be accused of violating the law.

Also, we have people who, because we are up for election, send us a contribution to our offices, totally unsolicited. The mail is opened and there is the campaign check.

Somehow or other, we have to deal with that. We have to deal with that under our rules and under our amendments to the United States Code in S. 926.

I think this is the reasonable balance. Again, it is nothing new. The Senate has passed on both these items before in this form.

We seek to avoid making it a crime for those who might have to handle these contributions which incidentally come into our offices.

Mr. KENNEDY. Mr. President, with that explanation and understanding in

reading, I have no objection to the amendment and would urge it be accepted.

Mr. STEVENS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 29, line 38, insert the word "or".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 34, line 37, strike "and".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 41, line 6, after "crime" insert a period, and strike the remainder through and including line 7;

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 42, beginning with line 8, insert the following:

"(c) DEFENSE.—It is a defense to a prosecution under this section that all of the persons with whom the defendant is alleged to have conspired have been acquitted because of insufficient evidence, not occasioned by a suppression order, that a conspiracy existed.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ALLEN. Mr. President, reserving the right to object, may we have an explanation of these amendments as we go along?

Mr. KENNEDY. What is the question?

Mr. ALLEN. Will the clerk please state the last amendment?

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

On page 42, beginning with line 8, insert the following:

"(c) DEFENSE.—It is a defense to a prosecution under this section that all of the persons with whom the defendant is alleged to have conspired have been acquitted because of insufficient evidence, not occasioned by a suppression order, that a conspiracy existed.

Mr. KENNEDY. Mr. President, this was an amendment submitted by Mr. ABOUREZK. We included it in the bill.

If all the other coconspirators are going to be found innocent on the basis of facts, not on the question of suppression of evidence, the other coconspirators are not to be tried as well. That was the reason for this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 42, line 12, strike "(c)" and insert "(d)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 42, line 12, strike "It" and insert "Except as provided in subsection (c), it";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 42, line 18, strike "(d)" and insert "(e)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 42, line 23, strike "(e)" and insert "(f)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 54, line——

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Can we be sure that these are not part of the en bloc amendments that were agreed to?

The PRESIDING OFFICER. The Senator is correct.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 54, beginning with line 25, insert the following:

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of every crime that was an objective of the conspiracy.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 54, line 30, strike "(b)" and insert "(c)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 54, beginning with line 36, insert the following:

"(d) DEFINITION.—As used in this section, a renunciation is not 'voluntary and complete' if it is motivated in whole or in part by:

"(1) a belief that a circumstance exists that increases the probability of detection or apprehension of the defendant or another participant in the crime, or that makes more difficult the consummation of the crime; or

"(2) a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 55, line 6, strike "(c)" and insert "(e)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 56, beginning with line 5, insert the following:

"(b) PROOF.—In a prosecution under this section, whether a detention order was issued pursuant to, or whether a clearance was required by, a federal statute designed to restrict or control the delivery of vessels, aircraft, goods, or services to belligerent foreign powers, or a regulation, rule, or order issued pursuant thereto, is a question of law.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 56, line 10, strike "(b)" and insert "(c)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 57, beginning with line 7, strike through and including line 10;

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 61, line 8, strike "in any manner" and insert "through misrepresentation, chicanery, trickery, deceit, craft, overreaching, or other dishonest means";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 62, beginning with line 4, insert the following:

"(c) PROOF.—The use by a public servant of clearly excessive force in the performance of a government function constitutes prima facie evidence that the public servant was not acting in good faith.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 62, beginning with line 7, strike through and including line 8;

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 62, beginning with line 9, insert the following:

"(d) GRADING.—An offense described in this section is:

"(1) a Class A misdemeanor except as provided in paragraph (2);

"(2) an infraction if the physical interference or obstacle:

"(A) is created in the course of picketing, or a parade, display, or other demonstration, otherwise protected by rights of free speech or assembly;

"(B) is non-violent; and

"(C) does not significantly obstruct or impair a government function.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 63, line 8, strike "or concealing him" and insert "or engaging in conduct by which he knowingly conceals the other person";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 73, line 26, after the colon, strike through and including line 28, and insert in lieu thereof the following:

"(1) was invalid and that the defendant took reasonable and expeditious steps to obtain a judicial review of its validity, or a judicial decision with respect to a stay thereof, prior to the disobedience or resistance charged, and was unsuccessful in obtaining such review or decision within a reasonable period of time; or

"(2) was constitutionally invalid and constituted a prior restraint on the collection or dissemination of news.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The second assistant legislative clerk read as follows:

On page 75, line 3, strike "a Class E felony." and insert in lieu thereof the following:

"(1) a Class E felony except as provided in paragraph (2);

"(2) a Class A misdemeanor if the official proceeding was conducted under the authority of Congress or of either House of Congress.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The second assistant legislative clerk read as follows:

On page 75, line 21, strike "in fact";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The second assistant legislative clerk read as follows:

On page 76, line 14, strike "this section" and insert "subsection (a)(1)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment.

The second assistant legislative clerk read as follows:

On page 76, line 15, strike "matter" and insert "question or object";

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The clerk will state the next amendment.

The second assistant legislative clerk read as follows:

On page 76, line 15, strike "under subsection (a)(1) is a question of law" and insert after the comma "and whether an official proceeding is conducted under the authority of Congress or of either House thereof, are questions of law";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

QUORUM CALL

Mr. ALLEN. Mr. President, in order that we might have more Senators here when these amendments are being considered, I suggest the absence of a quorum at this time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2 Leg.]

Allen	Hayakawa	Stevens
Baker	Huddleston	Thurmond
Byrd, Robert C.	Kennedy	Zorinsky
Cranston	Matsunaga	
Hart	Melcher	
Hatfield, Paul G.	Randolph	
	Stafford	

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Louisiana (Mr. LONG), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 83, nays 6, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—83

Baker	Hart	Muskie
Bayh	Haskell	Nelson
Bellmon	Hatch	Nunn
Bentsen	Hatfield, Mark O.	Packwood
Brooke	Hatfield, Paul G.	Pearson
Bumpers	Hathaway	Pell
Burdick	Hayakawa	Percy
Byrd, Harry F., Jr.	Heinz	Proxmire
Byrd, Robert C.	Helms	Randolph
Cannon	Hodges	Ribicoff
Case	Hollings	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Sarbanes
Clark	Javits	Sasser
Cranston	Johnston	Schmitt
Curtis	Kennedy	Schweiker
Danforth	Leahy	Scott
DeConcini	Lugar	Sparkman
Dole	Magnuson	Stafford
Domenici	Mathias	Stennis
Durkin	Matsunaga	Stevens
Eagleton	McClure	Stevenson
Eastland	McGovern	Stone
Ford	McIntyre	Talmadge
Glenn	Melcher	Thurmond
Gravel	Metzenbaum	Wallop
Griffin	Morgan	Williams
Hansen		Zorinsky

NAYS—6

Allen	Biden	Huddleston
Bartlett	Garn	Weicker

NOT VOTING—10

Abourezk	Goldwater	Tower
Anderson	Laxalt	Young
Church	Long	
Culver	Moynihan	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. KENNEDY. Mr. President, may we have order?

Mr. ROBERT C. BYRD. May we have order in the Senate, and may I be recognized?

The PRESIDING OFFICER. The Senate will be in order. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I now yield to the distinguished minority leader, and I hope that Senators will please withold their conversations momentarily.

Mr. BAKER. Mr. President, I thank the majority leader for yielding to me. As he knows, what I want to do is put the inquiry as to what we might expect for the remainder of the day today and, indeed, for the rest of this week, in terms of the legislative schedule.

LEGISLATIVE SCHEDULE

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

I would anticipate that the Senate will remain in session until about 6:30 p.m. today, and then be in session tomorrow until we finish with the pending bill, which might be late. It may be that we can finish it without going late, but there is a delegation that is going to Panama on Friday, and I would not want to detain those Senators, on both sides of the aisle, or keep them from having an opportunity to vote on this measure.

The Senator from Virginia (Mr. SCOTT) has indicated that he will call up only one amendment. I think he has 25 or 30 amendments at the desk, but he will call up only one amendment, and he is willing to agree to a time limitation of 1 hour on that amendment, equally divided. He would like to be recognized 1 hour from now, at 5:15 p.m., to call up his amendment; and if this is agreeable to the manager of the bill and the ranking minority Member, I would ask unanimous consent at this point, before continuing my response to the distinguished minority leader, that the Senator from Virginia (Mr. SCOTT) be recognized at 5:15 p.m. today to call up his amendment, and that there be a 1-hour limitation on that amendment, to be equally divided in accordance with the usual form.

Mr. KENNEDY. Mr. President, that is entirely satisfactory.

Mr. THURMOND. Mr. President, that is agreeable to me.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendment be in order at that time?

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order for the Senator to call up his amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I have discussed with the Senator from Alabama (Mr. ALLEN), who has manifested a very great interest in this bill throughout its long history, the possibility of completing action on this measure tomorrow, and I am cautiously optimistic that——

Mr. ALLEN. Mr. President, will the Senator yield right at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Did I understand the Senator to say that another trip by Senators to Panama is in the offing on Friday if this bill is not before the Senate at that time?

Mr. ROBERT C. BYRD. I did not say it quite like that.

Mr. ALLEN. If so, that might change the assessment of the Senator from Alabama as to the likely time of completion of the bill.

Mr. ROBERT C. BYRD. I did not say it like that, I will say to the Senator from Alabama. I said there were some Senators who were planning to go, and I did not want to see them precluded from casting a final vote on the bill.

Mr. ALLEN. I would like to say it another way: I would not have any objection to seeing them not precluded from making the trip.

Mr. ROBERT C. BYRD. Well, I think the chances are fairly good that the Senate will complete action on this bill tomorrow, in view of the fact that Senator SCOTT is only going to call up one amendment.

Upon the disposition of this bill, it would be the intention of the leadership to call up the nuclear nonproliferation bill—what is the title of that measure?

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Does the majority leader intend to call up the Nuclear Fuel Export Act——

Mr. ROBERT C. BYRD. That is it.

Mr. BAKER. Before the redwoods bill?

Mr. ROBERT C. BYRD. Yes: that would be the bill I would hope to call up next, and then, about next Monday or Tuesday, I would hope we could take up the redwoods bill, and then Wednesday proceed to further consideration of the conference report, which Mr. STENNIS manages, dealing with the supplemental appropriation bill, and continue to work on the matters that I have mentioned, which I believe will probably consume most of next week and would take us up to the time when we could proceed with debate on the Panama Canal treaties.

Mr. BAKER. Mr. President, I thank the majority leader. I think also, as we discussed today, that the Nuclear Fuel Export Act is a matter of particular interest to the junior Senator from Idaho. I see he is present on the floor, and he may wish to speak as to the status of that matter before we conclude how we will proceed in that respect.

Mr. ROBERT C. BYRD. Yes. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. One other matter I would hope we might be able to dispose of next week would be the waterway fees bill. If the Senator has any specific legislation that he wishes to address a question to me about, as to whether or not it would be brought up before the trip, I will be glad to yield to him at this time.

Mr. BAKER. Mr. President, I thank the majority leader, and I am particularly glad to put that question, because we have discussed it not once but a number of times: Can the majority leader now assure me, as well as all of us in the Senate, with respect to the labor reform bill, when and if it is reported, with respect to the consideration of the Panama Canal treaties?

Mr. ROBERT C. BYRD. That bill has been reported, but it would not be my plan to call it up prior to the consideration of the Panama Canal treaties.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. May I say, so there will be no misunderstanding, I am not—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Will the Sergeant at Arms help to get order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I do not want anyone to misinterpret what I have said to mean that we expect to complete action on all the legislation I have enumerated prior to the consideration of the treaties.

Once the committee has reported the treaties, and when the necessary requirement under the rules have been carried out, it would be my plan to move to go into executive session, which motion is not debatable, and to go immediately to the first treaty, which is not debatable.

May I say this, that no legislative matter can possibly delay the Senate from considering the Panama Canal treaties. It is not my intention to call up the labor reform bill prior to the consideration of the treaties.

What I have outlined consists of measures which have been on the calendar and in connection with which I have had many Senators prevail upon me to proceed. Mr. PERCY and Mr. GLENN, for example, want to go quickly with the nuclear fuel assurance legislation.

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. The Nuclear Fuel Assurance Act was subject to extended consideration in the months of last year concerning reaching an agreement concerning that bill and the time limits which might be necessary. While we were very close to agreement prior to the end of last session, we really have not had the opportunity to test whether or not the President's promises to India to provide heavy water, the assurances to the Shah of Iran that we would sell any number of pressurized water reactors to Iran have changed the administration's position with regard to that legislation. I think it is impossible for the Senator from Idaho at this time to be able to say to my leadership what time might be required. I say that simply from the standpoint that I do not know whether the administration has had reason to look at that legislation in a different light in the last 60 days.

Mr. ROBERT C. BYRD. I appreciate what the Senator has said. I know of his efforts during last fall while Congress was in session, and the efforts of Senator

GLENN and the efforts of Senator PERCY, to reach an agreement. I think we just have to call up the bill, go with it, and let the Senate work its will on it. I am sure the Senator can get the information he needs, and if he needs any assistance from me, if I can render the assistance he wants, I will be glad to help. With that measure, hopefully the waterway users legislation, and the conference report on the supplemental appropriations, I would hope that we could complete action on these before we are ready to go on to the treaties. I am not saying that we will complete action on these before we proceed.

Mr. GRAVEL. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GRAVEL. With respect to the waterway legislation, which has been a controversial issue over the years in this body, it strikes us right now there is an accommodation to go forward, that there are enough votes up or down to dispose of the issue. I would hope that with 3 days notice all parties could be prepared to go forward. I would hope we could get the issue resolved in an afternoon and that would take one part of our history and put it behind us.

Mr. ROBERT C. BYRD. I would hope, Mr. President, that the statement I have just made would constitute the necessary notice which the Senator from Alaska feels should be given for the debate. This would mean that possibly by next Tuesday the Senate would be ready to proceed on the waterway legislation, if Senator LONG is ready.

Mr. GRAVEL. And Senator DOMENICI, of course, would like to be advised of this.

Mr. ROBERT C. BYRD. I was also hoping we could proceed with the redwood bill before Wednesday, because a privileged matter is to be taken up on Wednesday of next week. The Senator from California (Mr. CRANSTON) has been very interested to the point of insistence, almost to the extent he is about ready to break off his friendship with me, if we do not call up that bill, on which there is a time agreement. Every effort will be made to call up that legislation.

Mr. RANDOLPH. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. While the chairman of our Committee on Water Resources makes his inquiry, I think it is very important for him to tell us of the projects that are in that legislation, other than the item he is discussing.

Mr. GRAVEL. I will assure the Senator every Member of the Senate has something at stake in this legislation. I hope that all parties will be prepared to go for an up or down vote. I think it is important to seize upon this commodious attitude, because otherwise controversy could delay the legislation for days and weeks.

Mr. ROBERT C. BYRD. Mr. President, I ask if that is satisfactory to the minority leader.

Mr. BAKER. I might recapitulate to make certain that our understanding is correct, Mr. President. May I ask for order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. It is my understanding, in recapitulation, we have unanimous consent that provides for the recognition of Senator SCOTT at 5:15 for the consideration of his amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. That we will proceed with this measure on tomorrow with the hope that we will finish it tomorrow, even if we have to stay late tomorrow.

Mr. ROBERT C. BYRD. That we will try to do that.

Mr. BAKER. That we will try to do that.

That the majority leader indicates it would be his preference or intention to try to proceed then, after completion of this measure, to the Nuclear Fuel Assurance Act, taking account of the assessment given us by the distinguished Senator from Idaho to the effect that it may require fairly extensive discussion; that after that we will proceed probably to the redwood bill or to the waterway user bill.

Mr. ROBERT C. BYRD. Yes. And we may even break in on the discussion of the Nuclear Fuel Assurance Act to do the redwood bill. Of course, the conference report is privileged.

Mr. BAKER. And, of course, to do the supplemental appropriation conference report.

In any event, to proceed to the consideration of the Panama Canal treaties when they are available on the executive calendar.

Mr. ROBERT C. BYRD. Yes. This would mean we will have a rollcall vote on Mr. SCOTT's amendment today. In the meantime, perhaps other have amendments to the bill or we could proceed with committee amendments.

Mr. BAKER. Mr. President, that does answer my inquiry. I thank the majority leader for a comprehensive report.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. KENNEDY. Mr. President, when this bill was being considered by the full Judiciary Committee our distinguished former chairman, Mr. McClellan, told me we would spend 1 month on the floor of the Senate on this issue.

Just in terms of my own timeframe, I think we would probably be about 3 weeks. I just want to give assurance to the membership that we are prepared, the members of the committee and myself, to spend whatever time the membership wants to spend on this measure. What we would hope to do is to receive the amendments so that we could give them timely consideration and then, hopefully, we could move the process forward, and expect if there are not Members here to offer amendments we could move to a final conclusion of the legislation. We welcome any amendments and we will try to adjust to those.

This is complicated and complex legislation. It involves the system of justice in this country. We want to insure that, for the first time in 200 years, the Members have full information on it.

Just for the benefit of the Members, I believe that the Senator from Oklahoma has an amendment which we shall accept. After that, the Senator from Connecticut has an interesting statement to make which we shall have some discussion on.

Then we still, I believe, have an amendment by the Senator from Wyoming. But after that, I think we can be back to the committee amendments. I know the Senator from Alabama has at least two amendments that he wants to offer and perhaps we shall have to see how to proceed under the committee amendments.

I withhold now and await the amendment of the Senator from Oklahoma.

UP AMENDMENT NO. 1114

Mr. BARTLETT. Mr. President, I have an unprinted amendment which I send to the desk and ask that it be considered.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes unprinted amendment numbered 1114:

On page 19, strike lines 38 and 39.

Mr. BARTLETT. Mr. President, this really restricts the definition of "individual" which is located on the bottom two lines of page 19.

Mr. McCLURE. Will the Senator yield a moment for a unanimous-consent request?

Mr. BARTLETT. Yes.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Jim Streeter, of my staff, may have the privilege of the floor at all stages of the proceedings on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator for yielding.

Mr. BARTLETT. The Senator from Idaho is very welcome.

Mr. President, this amendment merely avoids a conflict on the definition of "individual" which I think would otherwise occur. There are other definitions that I think are in the law, so this will not, in any way, injure or weaken this code.

I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, this is a satisfactory amendment. By accepting it, basically, we are incorporating the common law as to that definition, or whatever the case law might be. Rather than testing and retesting and challenging what may be the membership's opinion on it, I think that is the best way to leave it. That is what we have been doing in other areas and I think it is the best course to follow.

Mr. President, I hope this amendment will be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME FOR FILING REPORT

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be given until March 1, 1978, to file the report on the desirability of establishing rules and regulations for the establishment and maintenance of blind trusts, or other similar financial arrangements, by high-level Government officials during their period of governmental service, pursuant to section 311(a) of Senate Resolution 110.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPUTER-RELATED CRIME

Mr. RIBICOFF. Mr. President, if I may have the attention of the Senator from Massachusetts.

Mr. KENNEDY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order, please.

Mr. RIBICOFF. Mr. President, I want to call to the attention of the Senate legislation which I introduced with Senators PERCY, JACKSON, Metcalf, MATSUNAGA, THURMOND, GRIFFIN, DOMENICI, JAVITS, HEINZ, McClellan, and KENNEDY entitled the Federal Computer Systems Protection Act of 1977.

The measure, S. 1766, would amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce.

The bill, which was a result of a year-long investigation by the Senate Governmental Affairs Committee, was introduced June 27, 1977.

At this time, as the Senate considers the codification of the criminal laws, it is appropriate that we also address the need for the Federal Computer Systems Protection Act.

The measure is necessary because our Nation is becoming increasingly dependent on automatic data processing systems. As more and more of our country's financial affairs are processed by and through computers, the potential for criminal exploitation of these computer systems also grows.

Unfortunately, the criminal justice system is not properly equipped to control crime by computer and computer-related crimes.

This legislation would impose heavy prison terms and stiff fines for electronic burglars who use computers and computer technology to steal or manipulate information, financial instruments, and other property.

I am pleased to note that the Department of Justice has assured me that it supports the Federal Computer Systems Protection Act of 1977.

Because of that, discussions were held regarding the possibility of offering S. 1766 as an amendment to the legislation we are now considering.

However, owing to the very technical and sensitive charter of both the legislation now before us and S. 1766, I have decided against this course of action in the hope that in the near future the Senate Judiciary Committee will hold hearings on the Federal Computer Systems Protection Act of 1977.

I wish to make a special point of recommending to the Senator from Massachusetts (Mr. KENNEDY) that he join with me in calling to the Senate's attention the importance of this computer crime-related legislation.

Mr. President, I ask unanimous consent that S. 1766 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Computer Systems Protection Act of 1977".

SEC. 2. The Congress finds that—

(1) computer related crime is a growing problem in the Government and in the private sector;

(2) such crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime;

(3) the opportunities for computer related crimes in Federal programs, in financial institutions, and in other entities which operate in interstate commerce through the introduction of fraudulent records into a computer system, unauthorized use of computer facilities, alteration or destruction of computerized information files, and stealing of financial instruments, data, or other assets, are great;

(4) computer related crime directed at institutions operating in interstate commerce has a direct effect on interstate commerce; and

(5) the prosecution of persons engaged in computer related crime is difficult under current Federal criminal statutes.

SEC. 3.(a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1028. Computer fraud

"(a) whoever directly or indirectly accesses or causes to be accessed any computer, computer system, computer network, or any part thereof which, in whole or in part, operates in interstate commerce or is owned by, under contract to, or operated for, on behalf of, or in conjunction with, any financial institution the United States Government, or any branch, department, or agency thereof, or any entity operating in or affecting interstate commerce, for the purpose of (1) devising or executing any scheme or artifice to defraud, or (2) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(b) Whoever, intentionally and without authorization, directly or indirectly accesses, alters, damages, or destroys any computer, computer system, or computer network described in subsection (a), or any computer software, program, or data contained in such computer, computer system, or computer network, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(c) For purposes of this section, the term—

"(1) 'access' means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of, a computer, computer system, or computer network;

"(2) 'computer' means an electronic device which performs logical, arithmetic, and memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network;

"(3) 'computer system' means a set of related, connected or unconnected, computer equipment, devices, and software;

"(4) 'computer network' means the interconnection of communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers;

"(5) 'property' includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value;

"(6) 'services' includes, but is not limited to, computer time, data processing, and storage functions;

"(7) 'financial instrument' means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, or marketable security;

"(8) 'computer program' means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system;

"(9) 'computer software' means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system;

"(10) 'financial situation' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal Home Loan Bank Systems and any Home Loan Bank;

"(F) a member or business insured by the Securities Investor Protection Corporation; and

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities and Exchange Act of 1934.".

(c) The table of sections of chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following:

"1028----------Computer fraud.".

Mr. KENNEDY. Mr. President, the Senator from Connecticut has raised an extremely important area of law enforcement which, quite frankly, this recodification only deals with peripherally. It is an area which has enormous implications in terms of our commercial life as well as the private life of individuals. In S. 1437 there is only an extension of mail fraud and the provisions on conspiracy to defraud to reach the kinds of problems that the Senator from Connecticut has mentioned.

But those are somewhat unsatisfactory.

We recognize that they are unsatisfactory. That is the principal reason that I am cosponsor of the bill that has been introduced by the Senator from Connecticut. I want to give him assurance, even though I am not chairman of that subcommittee, that we will make every effort to have a hearing in this area. I think it has great importance to us as a country and to both the commercial and private lives of the people of this Nation. We will benefit from the Senator's past interest in this area. We shall call on him for help and we shall make every effort—I certainly shall as an individual to have prompt hearings. As soon as we get them, we will work them out with the Senator from Connecticut to see if we cannot move the proposal forward.

Mr. RIBICOFF. Mr. President, I am satisfied with this assurance. With the United States and the world becoming a computer society, it is important that we have laws to take care of some of the great potential frauds involved.

I thank the distinguished chairman for his assurance.

Mr. KENNEDY. I thank the Senator for his understanding. This is an important area. It is a relatively new area. It is going to take a good deal of thought. I want to give his assurance that we are not unmindful of the importance of it and we shall work very closely with the Senator to work out satisfactory legislation.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

I ask that the amendment be printed.

The PRESIDING OFFICER. Does the Senator not wish the amendment to be called up?

Mr. MATHIAS. No, not at this time.

The PRESIDING OFFICER. The amendment will be printed.

Mr. MATHIAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Under the previous order of the Senate, the Senator from Virginia is recognized to call up an amendment.

AMENDMENT NO. 1625 AS MODIFIED BY UP AMENDMENT NO. 1115

(Purpose: To provide for the death sentence and procedures relating thereto.)

Mr. SCOTT. Mr. President, I call up my amendment No. 1625.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 1625.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 191, insert the following between lines 7 and 8:

"Chapter 24.—DEATH SENTENCE

"Sec.
"2401. Sentence of Death.
"2402. Procedure to Determine Applicability of Sentence of Death.
"2403. Implementation of a Sentence of Death.

"§ 2401. Sentence of Death.

"(a) IN GENERAL.—Except as otherwise provided in subsection (b), a defendant who has been found guilty of a Class A felony under section 1101 (Treason), 1111 (Sabotage), 1121 (Espionage), or 1601 (Murder), shall be sentenced to death if:

"(1) the offense is under section 1101 (Treason), 1111 (Sabotage), or 1121 (Espionage) and:

"(A) the defendant has been convicted of another offense involving treason, sabotage, or espionage, committed before the time of the offense, for which a sentence of life imprisonment or death was authorized;

"(B) the defendant, in the commission of the offense, knowingly created a grave risk of substantial impairment of the national defense; or

"(C) the defendant, in the commission of the offense, knowingly created a grave risk of death to any person; or

"(2) the offense is under section 1601 (Murder) and:

"(A) the defendant committed the offense during the commission of an offense described in section 1101 (Treason), 1111 (Sabotage), 1121 (Espionage), 1313(a)(1) (Escape), 1621 (Kidnapping), 1631 (Aircraft Hijacking), or 1701 (Arson);

"(B) the defendant has been convicted of another federal offense, or a state offense involving the death of a person, committed either before or at the time of the offense, for which a sentence of life imprisonment or death was authorized;

"(C) the defendant has previously been convicted of two or more federal or state felonies, committed on different occasions before the time of the offense, involving the infliction of serious bodily injury upon another person;

"(D) the defendant, in the commission of the offense, knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(E) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(F) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(G) the defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value; or

"(H) the defendant committed the offense against:

"(i) the President, or a potential successor to the presidency as defined in section 1359(a)(1)(C);

"(ii) the chief of state or, head of government, or the political equivalent, of a foreign power;

"(iii) a foreign dignitary who is in the United States on official business; or

"(iv) a federal public servant who is a United States official, a law enforcement officer, or an employee of an official detention facility; or who is outside the United States for the purpose of performing his official duties; and who is killed while engaged in the performance of his official duties, or because of an official action taken or to be taken or a legal duty performed or to be performed by him, or because of his status as a public servant.

"(b) IMPOSITION PRECLUDED.—Notwithstanding the existence of one or more of the factors set forth in subsection (a)(1) or (a)(2), the court shall not sentence the defendant to death if, at the time of the offense:

"(1) the defendant was less than eighteen years old;

"(2) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(3) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution;

"(4) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor;

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the murder for which he was convicted would cause, or would create a grave risk of causing, death to any person; or

"(6) the defendant:

"(A) in addition to committing the murder for which he was convicted, also committed an offense described in section 1621 (Kidnapping) or 1631 (Aircraft Hijacking);

"(B) subsequently was assured by the Attorney General personally that the sentence of death would not be authorized for the murder if he released alive all hostages he then held; and

"(C) subsequently, in reliance on the assurance by the Attorney General and in accordance with the conditions upon which such assurance was made, released alive all hostages he held at the time of such assurance.

"§ 2402. Procedure To Determine Applicability of Sentence of Death

"(a) SEPARATE SENTENCING HEARING.—The court shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in section 2401(a)(1) or (a)(2) and section 2401(b), unless the government stipulates that none of the factors set forth in section 2401(a)(1) or (a)(2) exists or that one or more of the factors set forth in section 2401(b) exists. The hearing shall be conducted:

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impanelled for the purposes of the hearing if:

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt has been discharged by the court for good cause; or

"(D) review by a court of appeals of the original sentence to death has resulted in a remand for resentencing under this chapter; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the government.

"(b) EVIDENCE AND ARGUMENT.—At the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in the presentence report, if one has been prepared, except such material as the court determines is required to be withheld to protect human life or to avoid impairment of the national defense. Any information in the presentence report that is withheld from the defendant and his counsel shall not be considered in determining the existence of the factors set forth in section 2401 (a)(1) or (a)(2) or the nonexistence of the factors set forth in section 2401(b). Any information relevant to any of the factors set forth in section 2401(a)(1) or (a)(2) may be presented by either the government or the defendant, if admissible under the rules governing the admission of evidence at criminal trials. Any information relevant to any of the factors set forth in section 2401 (b) may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The government and the defendant shall be given fair opportunity to rebut any information received at the hearing, and to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in section 2401(a)(1) or (a)(2) and section 2401(b).

"(c) PROOF.—The burden of establishing the existence of any of the factors set forth in section 2401(a)(1) or (a)(2) is on the government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any of the factors set forth in section 2401(b) is on the defendant, and is not satisfied unless established by a preponderance of the evidence. The factors set forth in section 2401 (b) shall be liberally construed.

"(d) SPECIAL VERDICT.—The jury, or if there is no jury, the court, shall return a special verdict setting forth its findings as to the existence or nonexistence of the factors set forth in section 2401(a)(1) or (a)(2) and section 2401(b).

"(e) SENTENCE.—If the jury or, if there is no jury, the court finds:

"(1) that one or more of the factors set forth in section 2401(a)(1) or (a)(2) exists, and that none of the factors set forth in section 2401(b) exists, the court shall sentence the defendant to death;

"(2) that none of the factors set forth in section 2401(a)(1) or (a)(2) exists, or that one or more of the factors set forth in section 2401(b) exists, the court shall not sentence the defendant to death but shall impose any other sentence authorized for a Class A felony under the provisions of section 2001.

"§ 2403. Implementation of a Sentence of Death

"The implementation of a sentence to death is governed by the provisions of subchapter F of chapter 38.".

On page 8, insert the following between lines 2 and 3, after item 2306:

"Chapter 24.—DEATH SENTENCE

"Sec.
"2401. Sentence of Death.
"2402. Procedure to Determine Applicability of Sentence of Death.
"2403. Implementation of a Sentence of Death.".

On page 177, between lines 13 and 14, after item

"23. Imprisonment."

insert the following:

"24. Death Sentence.".

On page 303, insert the following between lines 2 and 3:

"Subchapter F—Death Sentence

"Sec.
"3852. Use of State Facilities.
"3851. Implementation of Death Sentence.

"§ 3851. Implementation of a Death Sentence

"A person who has been sentenced to death pursuant to the provisions of chapter 24 shall be delivered to the custody of the Bureau of Prisons until the sentence is to be implemented. The Bureau shall release the person sentenced to death to the custody of a United States marshal, who shall supervise the implementation of the sentence in the manner prescribed by the law of the state in which the sentence is imposed. If the law of such state does not provide for the implementation of a sentence of death, the court shall designate another state, the law of which does so provide, and the sentence shall be implemented in the latter state in the manner prescribed by such law. A sentence of death may not be implemented while the person sentenced to death is pregnant.

"§ 3852. Use of State Facilities

"A United States marshal charged with the supervision of the implementation of a sentence of death may use appropriate state or local facilities for the purpose, may use the services of an appropriate state or local official or of a person he employs for the purpose, and may pay the costs thereof in an amount approved by the Attorney General.

On page 11, insert the following between lines 5 and 6 after item 3846:

"Subchapter F.—Death Sentence

"Sec.
"3851. Implementation of Death Sentence.
"3852. Use of State Facilities.".

On page 281, between lines 13 and 14, after item

"E. Parole."

insert the following:

"F. Death Sentence".

The PRESIDING OFFICER. There is a time limitation of an hour's debate on this amendment, one-half hour reserved to the Senator from Virginia, and one-half hour to the Senator from Massachusetts.

Who yields time?

Mr. SCOTT. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may substitute for my amendment the bill S. 1382 as introduced by Senator McClellan and 19 cosponsors, with the staff authorized to make such technical changes as may be necessary.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, would the Senator state his unanimous-consent request again?

Mr. SCOTT. I ask unanimous consent to substitute for my amendment the substance of S. 1382, a bill introduced by Senator McClellan and 19 cosponsors, with the right of the staff to make any technical changes that may be necessary so as to conform with the bill presently before us.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, of course, the Senator would be able, under the rules of the Senate, to just introduce that as a separate amendment, would he not?

The PRESIDING OFFICER. At another time.

Mr. KENNEDY. At another time. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator from Virginia please send his substitute amendment to the desk?

The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an unprinted amendment numbered 1115 in the nature of a substitute for amendment No. 1625.

The amendment, UP amendment No. 1115, is as follows:

That chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged for good cause; or

"(D) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

A jury impaneled pursuant to paragraph (2) of this subsection shall consist of twelve members, but, at any time before the conclusion of the hearing, the parties may stipulate with the approval of the court that it shall consist of any number less than twelve.

"(c) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, no presentence report shall be filed with the court. In the sentencing hearing, evidence may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (f), (g), and (h). Any information relevant to any mitigating factors, including those set forth in subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any aggravating factors, including those set forth in subsections (g) and (h), shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the ade-

quacy of the evidence to establish the existence of any of the aggravating or mitigating factors, and as to the appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factors is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factors is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"(d) After hearing all the evidence, the jury, by unanimous vote, or if there is no jury, the court, shall return special findings setting forth the aggravating and mitigating factors, set out in subsections (f), (g), and (h), found to exist. If no aggravating factors, set out in subsections (g) and (h), are found to exist the court shall impose a sentence of life imprisonment. If one or more aggravating factors are found to exist, the jury, or if there is no jury, the court, shall then determine, in light of all the evidence, whether the aggravating factors found to exist sufficiently outweigh any mitigating factors found to exist, or in the absence of mitigating factors whether the aggravating factors are themselves sufficient, to justify a sentence of death. Based upon this determination, the jury, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(e) Upon the unanimous finding of the jury, or if there is no jury, upon a finding by the court, that a sentence of death is justified, the court shall sentence the defendant to death. In all other cases, the court shall impose a sentence of life imprisonment.

"(f) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered:

"(1) the youthfulness of the defendant at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such a duress as to constitute a defense to prosecution;

"(4) the defendant is punishable as a principal for aiding and abetting the offense, under section 2(a) of this title, but his participation was relatively minor; or

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing, death to any person.

"(g) If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title the following aggravating factors shall be considered:

"(1) the defendant has been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

"(h) If the defendant is found guilty of or pleads guilty to any other offense for which the death penalty is available, the following aggravating factors shall be considered:

"(1) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property in interstate commerce by explosives), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i), (n)) (aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of serious bodily injury upon another person;

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(1) of this title, if he is in the United States because of his official duties; or

"(D) a Justice of the Supreme Court, a Federal law-enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection, a 'law-enforcement officer' is a public servant authorized by law or by a Government agency to conduct or engage in the prevention, investigation, or prosecution of an offense.".

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy."

SEC. 4. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 5. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 3 of this title".

SEC. 6. Section 8(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 7. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 8. Section 1116(a) of title 18 of the United States Code is amended by striking the words ", except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

SEC. 9. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and if the death of any person results, shall be punished by death or life imprisonment".

SEC. 10. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 11. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 12. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 13. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 14. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 15. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item:

"3562A. Sentencing for capital offenses.".

SEC. 16. Section 3566 of title 18 of the United States Code is amended by adding a second paragraph as follows:

"In no event shall a sentence of death be carried out upon a pregnant woman".

SEC. 17. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 the following new section:

"§ 3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed after a proceeding under section 3562A of chapter 227 of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

On review of the sentence, the court of appeals shall consider the record, including the entire presentence report, if any, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the

sentencing hearing, and the special findings under section 3562A(d).

"The court shall affirm the sentence if it determines that: (1) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; (2) the evidence supports the jury's or the court's special finding of the existence of any aggravating factor or the failure to find any mitigating factors, as enumerated in section 3562A; and (3) the sentence of death is not excessive, considering both the crime and the defendant. In all other cases the court shall remand the case for reconsideration under the provisions of section 3562A of this title. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

SEC. 18. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3742. Appeal from sentence of death.".

SEC. 19. The provisions of sections 3562A and 3742 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I would like to have the bill back just for a moment so that I can read the names of the cosponsors.

The PRESIDING OFFICER. Does the Senator wish the clerk to report the names?

Mr. SCOTT. I have the names here. I have another copy.

Mr. KENNEDY. Mr. President, do I understand that these cosponsors are cosponsors of this amendment or are cosponsors of the bill?

Mr. SCOTT. They are cosponsors of the bill.

Mr. KENNEDY. Are they cosponsors of this amendment?

This is an amendment to the bill, as I understand.

Mr. SCOTT. My staff has called all of them who were in town and, with one exception, they did agree to cosponsor my amendment, but I am not suggesting they are cosponsors of the amendment. Since the identical bill is now before the Senate I feel I have the right to read the names of the Senators who cosponsored the bill introduced by Senator McClellan.

Mr. KENNEDY. I have no objection, obviously, to the reading of the names of the cosponsors of Senator McClellan's bill, but I would expect that if the Senators are cosponsoring this amendment, I would want to know, myself, or have it represented by the Senator, that each of those Senators understand that this is now an amendment to the pending bill; and I would hope they would also understand that since it is Senator McClellan's bill. Senator McClellan had given me assurances that it would not be offered as an amendment. I think Senators are entitled to that kind of information, and I would hope that the representation of Senators' positions would reflect accurately their disposition on this issue.

Mr. SCOTT. Mr. President, I am not going to misrepresent the view of any Senator. and whatever the distinguished Senator has to say about the matter I hope will be taken out of his share of the time.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. SCOTT. On your time.

Mr. KENNEDY. Will the Senator, in adding these names of cosponsors, give us the assurance that each and every one of them has indicated they understand this is an amendment to the bill?

Mr. SCOTT. I have not suggested that I was going to add these names as cosponsors.

Mr. President, at the time this measure was introduced by Senator McClellan, it was introduced by him for himself and for Mr. BARTLETT, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. DECONCINI—and I might add for the benefit of the distinguished Senator from Massachusetts that Mr. DECONCINI indicated that he would not want to be considered as a cosponsor of the amendment—Mr. DOLE, Mr. DOMENICI, Mr. EASTLAND, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. JOHNSTON, Mr. LAXALT—Mr. LAXALT, I might mention, is out of the city—Mr. MCCLURE, Mr. ROTH, Mr. SCOTT, Mr. THURMOND, and Mr. ZORINSKY.

As I recall, my administrative assistant, who called the offices of each of the Senators, indicated that there was one other Senator who is out of town. Mr. HATCH I talked with briefly on the telephone, and he can speak later with regard to his own feelings on the matter.

Mr. ALLEN. Did the Senator call the name of the Senator from Alabama as one of the cosponsors? If not, I would like to be added.

Mr. SCOTT. Mr President, I ask unanimous consent to add the name of the Senator from Alabama (Mr. ALLEN) as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I ask that the Senator add my name.

Mr. SCOTT. I ask unanimous consent to add the name of the Senator from South Carolina (Mr. THURMOND) as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SCOTT. I am glad to yield.

Mr. HATCH. I would like to be added as a cosponsor.

Mr. SCOTT. I ask unanimous consent that the name of the Senator from Utah (Mr. HATCH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mine also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, at the time that this measure was introduced by the distinguished Senator from Arkansas, who cannot speak for himself at this time, he had this to say—and I would like to read from his remarks, which are taken from the RECORD of April 26, 1977. He said:

In June of 1972, the Supreme Court handed down its decision in the case of Furman against Georgia, one of the Court's most significant decisions in recent years. For it was in the Furman decision that a bare majority of the Court—five of the nine Justices then sitting—determined that the death penalty could not constitutionally be imposed in the cases before the court, and thereby effectively eliminated capital punishment throughout this country as an authorized deterrent and punishment for even the most violent, brutal, and horrible crimes.

It is important to remember that the Furman decision did not declare that the death penalty itself was unconstitutional. In fact, there was no majority opinion in the case at all. Instead, each of the five Justices in the majority filed his own opinion in which none of the others joined. Of the five, only Justices Marshall and Brennan felt that the death penalty was, per se, unconstitutional. Justices Douglas, Stewart, and White were unwilling to reach that conclusion, but rather focused on the unlimited discretion given to the judge and jury under the then existing statutes in determining whether the penalty was to be imposed. The essence of their opinions, particularly those of Justices Stewart and White, was not that the death penalty itself was unconstitutional, but rather that, because of this unfettered discretion, it had come to be imposed so arbitrarily and capriciously as to constitute cruel and unusual punishment in violation of the Eighth Amendment.

Mr. President, after introduction of this bill by Senator McClellan, he contacted the present Attorney General, Mr. Bell, who responded to him on March 25, 1977; and I ask unanimous consent that Attorney General Bell's letter of that date be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 25, 1977.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLELLAN: In your letter dated March 3, 1977, you asked that the Department of Justice review your draft bill to authorize the death penalty for certain federal offenses, and requested the Department's comments with respect to the constitutionality of the draft bill in the light of recent Supreme Court decisions.

In summary, the draft bill provides that, before a sentence of death can be imposed for any offense under the laws of the United States, a hearing must be held in accordance with the bill's provisions. The hearing is normally to be before a jury of twelve with responsibility for rendering unanimous findings in the nature of special verdicts, but under certain circumstances the court also is empowered to conduct the hearing and to render the necessary findings.

The bill sets forth lists of aggravating and mitigating circumstances to be considered by the factfinder at the hearing. An aggravating factor may be proven only by legally admissible evidence, and the government bears the burden of persuasion on the matter beyond a reasonable doubt. A mitigating factor may be proved by any relevant information irrespective of the rules of evidence, and the defendant bears the burden of persuasion by a preponderance of the evidence. The sentencing court is required to disclose to the defendant all material in any presentence report except such information as the court determines to withhold for the protection of human life or the national security; no information so withheld may be considered in the determination of the sentence.

At the conclusion of the evidence, the jury is required to return special findings as to the existence of any aggravating and mitigating factors, and to determine whether any aggravating factors outweigh any mitigating factors found to exist; based on this deter-

mination, the jury must then conclude whether a sentence of death should be imposed. If the jury concludes that a death sentence should be imposed, the court must sentence the defendant to death. In all other cases, the court may impose a sentence of life imprisonment or any term of years.

The bill provides that any sentence of death may be appealed by the defendant for review in the court of appeals. The court of appeals is to consider the entire record of the trial and of the sentencing hearing, the presentence report, the procedure employed at the hearing, and the special findings. The court is to affirm the sentence only if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; that the evidence supports the special findings as to the existence of an aggravating factor or the failure to find a mitigating factor; and that the sentence of death is not excessive, considering both the crime and the defendant.

The offenses to which the death penalty would be applicable are treason, espionage, and certain murders—all offenses for which federal statutes currently purport to authorize a sentence of death.

The draft bill is modeled to a substantial extent upon the death penalty provisions of the federal aircraft piracy statute, 49 U.S.C. 1473(c), enacted by Congress in 1974 with the specific purpose of seeking to comply with the decision of the Supreme Court in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In our view, the procedures set forth in the draft bill are consistent with the decision in the *Furman* case, and are also consistent with the opinions of the Supreme Court in *Gragg* v. *George*, ——— U.S. ——— (1976), and *Proffitt* v. *Florida*, U.S. ——— (1976), sustaining the provisions of similar state death penalty statutes against constitutional attack.

The Court in *Furman* had struck down a Georgia death penalty law, written in the fashion of all present federal death penalty provisions except the one appearing in the revised aircraft piracy statute, on the ground that the law permitted the sentencing judge or jury to exercise unguided discretion in determining whether the death penalty should be imposed, and thus that it failed to guard against the "freakish" or "wanton" imposition of the death sentence. Thereafter Georgia revised its law in a manner similar to that employed in the draft bill in order to meet the requirements of the *Furman* opinion. In *Gregg* the Court sustained the new statute. The Court held that the setting forth of aggravating and mitigating factors of sufficient clarity and specificity substantially met the concerns expressed in *Furman* and provided the sentencing authority with standards to guide its exercise of discretion. The Court emphasized also its heavy reliance on the appellate review procedures of the revised Georgia statute, which are very similar to those in the draft bill, as a further basis for insuring that the death penalty would not be wantonly or freakishly imposed (see *Gregg, supra*, slip op. at pp. 9–10, 47–49 slip op. at pp. 16–18 (White, J. concurring)).

Because of the close resemblance (including in some instances an identity of language) between the draft bill and the State statutes sustained in *Gregg* and *Proffitt*, we believe that the proposed bill would be found by the Supreme Court to meet constitutional requisites.

I appreciate the opportunity you have afforded us to review the draft bill prior to its introduction. There are some variations in particular provisions of the draft bill that would warrant consideration, but these are matters that we can raise with you later after a more thorough review. Certainly the bill provides a firm foundation for congressional consideration of a death penalty for a limited number of federal crimes, and I support your efforts to bring it to the attention of the Senate.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

Mr. SCOTT. On page 3 of the letter it says:

Because of the close resemblance (including in some instances an identity of language) between the draft bill and the State statutes sustained in *Gregg* and *Proffitt*, we believe that the proposed bill would be found by the Supreme Court to meet constitutional requisites.

Mr. President, further on, in explaining the reasons why the late Senator from Arkansas felt that this bill should be enacted, he had this to say—and I believe he stated it as clearly as any present Senator can state it:

Mr. President, when all is said and done, when all the talking about deterrence and retribution and incapacitation is finished, what it all boils down to is whether it is ever "just" to impose the death penalty. Can a man ever be found to have acted so viciously, so cruelly and inhumanely as to justify society in imposing upon him the ultimate punishment? I firmly believe he can. Consider some recent cases.

What other punishment is "just" for a man, found to be sane, who would stab, strangle, and mutilate eight student nurses?

What other punsihment is "just" for a band of social misfits who would invade the homes of people they had never even met and stab and hack to death a woman 8½ months pregnant and her guests?

What other punishment is "just" for a man who would cold-bloodedly and needlessly execute four restaurant employees during the robbing of the restaurant?

What other punishment is "just" for a man who would lie in wait and murder a 17-year-old boy he had never met because "he wanted to do something different" and later murder two police officers who were pursuing him after he robbed a bank?

What other punishment is "just" for a man who would systematically murder 25 migratory farmworkers in one summer?

What other punishment is "just" for an escaped convict who would murder 13 people, including one woman he kidnaped and killed while he was an escapee, and another man he beat to death with chair legs and an ax handle as an initiation assignment for a motorcycle club?

What other punishment is "just" for men who would brutally murder four young children, including a 9-day-old baby, by drowning them in a sink, and kill another child and two women by shooting them at close range?

Mr. President, justice is not feeding and clothing these people for a few years and then returning them to society on parole to prey upon or pose constant threats to other innocent victims. Such a procedure inevitably burdens our society with forbidding dangers and exposes our innocent and law-abiding citizens to fatal assaults and debauchery by cruel and debased murderers.

I believe that the people who commit crimes like these to which I have referred forefeit their own right to live. They must be made to know that they too shall die and not be allowed to commit wanton and savage murder again.

Justice, Mr. President—to both society and murderer—demands no less.

That is the statement which was made by the late distinguished Senator from Arkansas. I do not believe any Member could state the case more eloquently than the distinguished Senator, and I adopt his words as my own.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 30 minutes.

Mr. KENNEDY. Would it be agreeable to the Senator from Virginia that we have a quorum call and then have 6 minutes to be charged to each side? I will be ready to go after the quorum call.

Mr. SCOTT. Six additional minutes?

Mr. KENNEDY. No. I have not taken any time. I will take 6 minutes of my time.

Mr. SCOTT. For the Senator to take his time before the quorum call?

Mr. KENNEDY. I will not take any time before the quorum call.

Well, Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. KENNEDY. I am going to indicate that it is going to be live.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, my intention is that we have a live quorum call, that we get the membership here, and that we have an equal amount of time divided between the Senator from Virginia, and those who support the amendment, and those who are in opposition to the amendment. Then it would be my intention to have the vote. What I would like to do is indicate to the membership that we will have a live quorum and as soon as the live quorum is established we will have 15 minutes, evenly divided, between the Senator from Virginia and those who oppose, and afterwards that we vote.

Mr. SCOTT. Mr. President, reserving the right to object, and I do not intend to object, it is my understanding that the distinguished Senator from Massachusetts intends that regardless of the fact that I have already utilized a portion of my time, that he and I, after the quorum, would have an equal amount of time, each of us 15 minutes. Is that correct?

Mr. KENNEDY. Fifteen minutes evenly divided. Each would have 7½ minutes, we would have no more people than we have here now.

Mr. SCOTT. It is perfectly all right for me, any time the Senator from Massachusetts wants, providing we have equal time, 7½ minutes apiece.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Leg.]

Allen	Helms	Scott
Byrd, Robert C.	Huddleston	Stennis
Cranston	Kennedy	Talmadge
Hatch	Matsunaga	Wallop
Hayakawa	Muskie	Williams

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Kentucky (Mr. FORD), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 87, nays 2, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—87

Abourezk	Hansen	Morgan
Allen	Hart	Moynihan
Baker	Haskell	Muskie
Bartlett	Hatch	Nelson
Bayh	Hatfield, Mark O.	Nunn
Bellmon	Hatfield, Paul G.	Packwood
Bentsen	Hathaway	Pearson
Bumpers	Hayakawa	Pell
Burdick	Heinz	Percy
Byrd, Harry F., Jr.	Helms	Proxmire
Byrd, Robert C.	Hodges	Randolph
Cannon	Hollings	Ribicoff
Case	Huddleston	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Sarbanes
Church	Javits	Sasser
Clark	Johnston	Schmitt
Cranston	Kennedy	Schweiker
Culver	Leahy	Scott
Curtis	Long	Sparkman
DeConcini	Lugar	Stafford
Dole	Mathias	Stennis
Domenici	Matsunaga	Stevens
Durkin	McClure	Stevenson
Eagleton	McGovern	Talmadge
Eastland	McIntyre	Thurmond
Garn	Melcher	Wallop
Glenn	Metzenbaum	Williams
Gravel	Morgan	Zorinsky

NAYS—2

Biden	Weicker

NOT VOTING—10

Anderson	Goldwater	Tower
Brooke	Griffin	Young
Danforth	Laxalt	
Ford	Magnuson	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order of the Senate, there will be 15 minutes of debate, equally divided between the Senator from Massachusetts and the Senator from Virginia, on an amendment offered by the Senator from Virginia.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Garin, of Senator HEINZ' staff, be permitted the privilege of the floor.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I hope that Senators will be good enough to remain with us. We have had an hour on the debate and we yielded back the time, so that we will have 15 minutes. I think it will be the most important vote cast on this bill. Extremely important issues are involved, and members of the committee would like to speak. I ask the Members to remain with us for 15 minutes, and then we will vote on this issue, and I expect it to be the final vote of the day.

The PRESIDING OFFICER. Does the Senator from Virginia wish to yield time?

Mr. SCOTT. Mr. President, I have utilized time, and the distinguished Senator from Massachusetts asked for the quorum call, so I expect that he will want to make his statement.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

The amendment which is offered by the Senator from Virginia is a bill which was introduced by the late Senator from Arkansas, Mr. McClellan, to deal with the death penalty. Senator McClellan strongly believed in the death penalty. There were a number of cosponsors of the bill when he introduced it. But Senator McClellan also introduced this bill, S. 1437. When Senator McClellan introduced this bill, the one we are debating here today, he said:

> As an accommodation to facilitate consideration of the criminal code bill, I am willing to process separately a capital punishment bill in the Senate.

Capital punishment was important to Senator McClellan. But in order to process a comprehensive recodification of the criminal code, he agreed to process the death penalty separately.

Senator McClellan told me directly and also told Senator Hruska—and Roman Hruska has corroborated this—that he would process it separately.

I am prepared to give assurance to the Senator from Virginia that I will vote to send a separate bill to the floor of the U.S. Senate, although I will vote in opposition to the death penalty.

But let us treat it separately—that was the position of Senator McClellan, whose bill is being offered as an amendment to this bill. It is also the position of the Attorney General of the United States, a copy of whose letter is on the desk of each Senator. In it, he indicates:

> It is my understanding, as a result of the discussions with you, Senator McClellan, Mr. Rodino, and others involved in the code reform, that any capital punishment legislation would be left to separate consideration by the Congress to pass or reject, as Congress saw fit.

In the committee report, he says the same thing.

We would not have this bill on the floor of the U.S. Senate if it had a death penalty. I understand that. We all understand the limitations in trying to recodify a criminal code which has not been recodified in 200 years—200 years, Mr. President. We could have a thousand amendments on espionage; we could have a thousand amendments on obscenity. I understand that. But the issue of the death penalty, is the most volatile of all.

If we are going to pass a death penalty bill, do it separately. Senator McClellan understood that.

This amendment runs contrary to the understanding, compromises, and representations made by those of us who have been working for years to recodify the criminal code.

I can assure the Senator that we will have prompt hearings on Senator McClellan's bill and that I will vote to send it to the floor of the U.S. Senate. At that time, I will not vote for it, but I will do nothing to obstruct its consideration.

Mr. President, I reserve the remainder of my time, and then I will yield to the Senator from Wyoming.

Mr. SCOTT. Mr. President, the amendment before the Senate is not the printed amendment which is on the desk of each Senator. The amendment before the Senate is the death penalty bill introduced by Senator McClellan, with 19 cosponsors, as amended and favorably reported by the Subcommittee on Criminal Law of the Senate Judiciary Committee. It is a bill that has been approved by the Attorney General of the United States as being constitutional, and I previously inserted a copy of the Attorney General's letter in the RECORD.

Mr. President, this is a matter that Senator McClellan felt strongly about, and I cannot improve on the language he used. I have said this earlier, when not as many Senators were in the Chamber. Senator McClellan said this:

> What other punishment is "just" for a man, found to be sane, who would stab, strangle, and mutilate eight student nurses?
>
> What other punishment is "just" for a band of social misfits who would invade the homes of people they had never even met and stab and hack to death a woman 8½ months pregnant and her guests?
>
> What other punishment is "just" for a man who would cold-bloodedly and needlessly execute four restaurant employees during the robbing of the restaurant?

He goes on and says other things. Then he says:

> Mr. President, justice is not feeding and clothing these people for a few years and then returning them to society on parole to prey upon or pose constant threats to other innocent victims. Such a procedure inevitably burdens our society with forbidding dangers and exposes our innocent and

law-abiding citizens to fatal assaults and debauchery by cruel and debased murderers.

I believe that people who commit crimes like these to which I have referred forfeit their own right to live. They must be made to know that they too shall die and not be allowed to commit wanton and savage murder again.

Justice, Mr. President—to both society and the murderer—demands no less.

Mr. President, the bill we have before us was introduced by Mr. McClellan for himself, Mr. KENNEDY, Mr. HATCH, and Mr. Humphrey. What more appropriate vehicle is there to attach a death penalty bill, introduced by the late Senator from Arkansas, than this bill, which he also introduced?

I do not feel that I should accept the mere assurance of one member of the Senate Judiciary Committee—I, too, am a member of that committee—who says that he will vote against it but will see that it is reported. It is before us right now. Right now is the time to vote on it, Mr. President.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. SCOTT. Mr. President, do I correctly understand that the Senator from Massachusetts is going to yield to the distinguished Senator?

Mr. KENNEDY. The assistant manager of the bill, the Senator from Wyoming; then the Senator from Arkansas; then the Senator from Arizona.

Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes.

Mr. KENNEDY. I yield 2 minutes to the Senator from Wyoming, 1 minute to the Senator from Arkansas, and 1 minute to the Senator from Arizona.

Mr. WALLOP. Mr. President, the distinguished Senator from Virginia has read to us a gruesome tale of the kinds of crimes for which there should be the death penalty; and I, for one, cannot say that I disagree with him.

The problem is that the amendment that is offered here would not provide the death penalty for those things unless they were circumstances in a hijacking. This is part of the reason why Senator KENNEDY has promised to have hearings at the committee level.

I support the concept, but why do a halfway job? Why not do a proper job; and when we get down to the subject of the death penalty, do something besides a death penalty for hijacking?

Read this thing! All it does is go right to the case of mitigating circumstances in hijackings; if the President of the United States is killed during a hijacking you have a death penalty; otherwise you do not. Surely this could not be what you intended.

I think that the promises that the Senator from Massachusetts has given, the assurances that there will be a bill on this, that he will hold prompt hearings, that we will have action on it this year are all the assurances any Senator in this body needs who favors the death penalty and wants to see a strong measure enacted. Those kind of assurances are all we need.

Senator McClellan had that in mind when he made those promises and made those remarks to Senator KENNEDY in the first place.

So, I urge Senators to proceed on the death penalty with judicious caution, make it applicable to the offenses that warrant it, and have something at the end that is slightly more than hijacking with mitigating circumstances.

I do not think we are going to do anything useful in this way.

Mr. DECONCINI. Mr. President, will the Senator from Wyoming yield?

Mr. WALLOP. I yield.

Mr. DECONCINI. I join the Senator from Wyoming. We have the understanding on the death penalty bill, and I was a cosponsor with the late Senator McClellan of that bill. I give the Senator from Virginia my assurance that I will vote in full committee to see that the bill is reported out, and I urge the Senator from Virginia to comply with the understanding that had been running through the spirit of getting a criminal code provision passed by the Senate. I believe that the Senator from Virginia will count votes right here that he can have assurance that that bill will be voted out of the Judiciary Committee, and I urge him to reconsider his amendment.

Mr. SCOTT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes remaining.

Mr. SCOTT. Mr. President, in view of the statement that was made about the content of the bill, let me spend the remainder of my 2 minutes reading the bill as it was understood by the Senator from Arkansas, Mr. McClellan, and this is from the RECORD of April 26, 1977.

Briefly, the bill would provide that, after a conviction for an offense for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty. The hearing would normally be before the same jury which sat for trial, or, if both parties agree, before the judge. After both sides have had an opportunity to present all relevant evidence, the jury would be asked to make special findings as to whether any of a list of mitigating or aggravating factors exists. The mitigating factors listed include such things as the youthfulness of the defendant, the extent of his involvement in the offense, any emotional problems or pressures, and the unforeseen nature of a resulting death. The aggravating factors would vary depending on whether the offense is one relating to treason or to murder.

After determining by unanimous vote whether any of these factors exists, the jury would be required to determine "whether or not any aggravating factors found to exist, when taken in conjunction with all the evidence, outweight any mitigating factors found to exist, and based upon this determination, shall return a finding as to whether or not a sentence of death should be imposed."

The bill further provides that the defendant shall have a right to appeal the sentence and that such review shall have priority over all other cases. In order to affirm the sentence, the appellate court must determine that the sentence of death was not imposed under the influence of passion, prejudice, or other arbitrary factor; that the evidence supports the special findings; and that the sentence of death is not excessive considering both the crime and the defendant.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. KENNEDY. Mr. President, I yield the remaining minutes to the junior Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. KENNEDY. May we have order, Mr. President?

Mr. HODGES. Mr. President, I feel compelled to speak both as a friend and successor to the late Senator McClellan. There is no doubt he felt strongly about the death penalty, but he felt even more strongly about the revision of the criminal code. And the issue today is not Senators' feelings on the death penalty but whether or not Senators want to honor an agreement to consider it separately, to have hearings on it, and to look at it on its own merits, because of the inflammatory and strong feelings that all people have about that, both pro and con.

So I think the issue should be clearly drawn as to what we are voting on, and it is not on the death penalty itself. It is simply on when it will be considered, and today is not the appropriate time.

Mr. LONG. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I think the time has expired.

The PRESIDING OFFICER. All time has expired.

Mr. LONG. Mr. President, I ask unanimous consent that I may have 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Could the Senator give us any indication or any reason to believe that when the death penalty bill comes before the Senate it will not be filibustered, that we will have a chance to vote on it up or down?

Mr. KENNEDY. I certainly give that assurance to the Senator. I will not be involved as a matter of principle in any kind of filibuster. I will not attempt to do so. But for the sake of all those who have labored with S. 1437—let us avoid this emotional issue. The bill is out of the subcommittee. It is before the committee. It has not been called up but I will not obstruct it.

I realize what the attitude of the Members of the Senate is. Statements have been made very eloquently on both sides for many years.

I give assurance to the Senator that I will not obstruct it.

Mr. LONG. If the Senator indicates his feelings are that he feels on this issue we will have an opportunity to vote on it, we will have a chance to vote on it, I am satisfied.

Mr. KENNEDY. The Senator states it correctly as far as I am concerned.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be granted 1 minute and that the Senator from Virginia have 1 minute if he chooses.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, when I was Governor of my State, after considerable agonizing, I signed a death penalty bill, but it was only after the bill had been refined in a way that I thought was the best of death penalty bills.

Here I tried to read through this amendment as I came to the Chamber. and I do not really know what it says.

So I have two observations to make to my colleagues. No. 1, I do not know of anything more serious than the death penalty from a humanitarian standpoint that this body can deal with, and I doubt very seriously that anyone here other than those Senators on the Judiciary Committee can really tell you what is in this amendment, whether it really conforms to what you think the death penalty ought to be no matter whether you favor it or whether you do not.

Second, out of deference to my late colleague and his agreement with the other members of the Judiciary Committee that he would not bring this up, that it would be treated separately, it would be debated separately that the people of this Chamber would have an opportunity to debate it and vote on it in an intelligent way, which we are not prepared to do today, for those reasons I must oppose the amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 1 minute.

Mr. SCOTT. Mr. President, this is not a hastily drawn bill. It is a bill that by unanimous consent we substituted for my amendment, the bill as introduced by Senator McClellan, but as amended and favorably reported by the Subcommittee on Criminal Laws of the Judiciary Committee to the full committee.

The full committee has not seen fit to act upon it, but it has been examined in detail by the subcommittee and favorably reported.

Mr. President, I believe it is time to vote.

Mr. KENNEDY. Mr. President, I make a motion to table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Virginia. On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), and the Senator from Kentucky (Mr. FORD) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 65, nays 24, as follows:

[Rollcall Vote No 9 Leg.]

YEAS—65

Abourezk	Hatfield, Paul G.	Nelson
Bayh	Hathaway	Nunn
Bentsen	Hayakawa	Packwood
Bumpers	Heinz	Pearson
Burdick	Hodges	Pell
Byrd, Robert C.	Inouye	Percy
Cannon	Jackson	Proxmire
Case	Javits	Randolph
Chafee	Johnston	Ribicoff
Chiles	Kennedy	Riegle
Church	Leahy	Sarbanes
Clark	Long	Sasser
Cranston	Magnuson	Schmitt
Culver	Mathias	Sparkman
DeConcini	Matsunaga	Stafford
Durkin	McGovern	Stevenson
Eagleton	McIntyre	Stone
Glenn	Melcher	Talmadge
Gravel	Metzenbaum	Wallop
Hart	Morgan	Weicker
Haskell	Moynihan	Williams
Hatfield, Mark O.	Muskie	

NAYS—24

Allen	Eastland	Roth
Baker	Garn	Schweiker
Bartlett	Hansen	Scott
Bellmon	Hatch	Stennis
Byrd, Harry F., Jr.	Helms	Stevens
Curtis	Hollings	Thurmond
Dole	Huddleston	Zorinsky
Domenici	Lugar	
	McClure	

NOT VOTING—10

Anderson	Ford	Tower
Biden	Goldwater	Young
Brooke	Griffin	
Danforth	Laxalt	

So the motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE A, 95TH CONGRESS, 2d SESSION

Mr. ROBERT C. BYRD. Mr. President, I have a request that has been cleared with the minority.

As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Sugar Agreement, 1977 (Executive A, 95th Congress, 2d session), transmitted to the Senate today by the President, that the treaty be considered as having been read the first time, that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

To the Senate of the United States:

I transmit herewith the International Sugar Agreement, 1977, accompanied by the report of the Department of State. Ambassador Young signed this Agreement on behalf of the United States of America on December 9, 1977.

The Agreement seeks to stabilize sugar prices to meet both our domestic interests as a major consumer and producer of sugar, and our international interests as the world's largest importer of sugar. The United States has been a member of previous international sugar agreements, including the first one in 1937. But we were not a member of the most recent, which was negotiated in 1968 and expired in 1973. Serious negotiations for this new Agreement began last April when sugar prices were low and surpluses were large. High prices during 1974 and 1975 had stimulated world production, cut world demand, and encouraged the development of high fructose corn syrup, a direct competitor with beet and cane sugar.

The new Agreement is designed to avoid the problems created by excess supplies of sugar, while providing assurances of adequate supplies in the future. It does so by stabilizing world prices between 11 and 21 cents a pound. The 11 cent minimum will be defended by a worldwide system of export quotas. The Food and Agriculture Act of 1977 establishes a domestic support price of 13.5 cents per pound which is roughly equivalent to the 11 cent minimum world price when normal duties and transportation are added. When domestic prices rise above that level, the Secretary of Agriculture may suspend the price support program.

The Agreement protects the interests of consumers by guarding against high prices and insuring adequate supplies for domestic needs. It calls for reserve stocks under which about 2.5 million tons of sugar will be set aside and held in exporting countries for release in case prices approach the 21 cent level. The 11 cent price will encourage sufficient investment to avoid sharp reductions in supplies and concomitant price increases.

The Agreement is consistent with our broad foreign policy objectives and with our intent to balance the interests of producing and consuming countries through international cooperation. Once in full operation, it should eliminate the need for the tariff and fee measures recently imposed to defend our domestic price support program. Such unilateral measures adversely affect the earning capacity of many developing countries and undermine our commitment to an open international trading system. Instead, the Agreement represents a cooperative effort among sugar exporting and importing countries to achieve their mutual interests in equitable and stabilized sugar prices and supplies.

For all of these reasons, I urge the Senate to give this Agreement favorable consideration and its advice and consent to ratification. The Department of State will submit legislation to implement the Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *January 25, 1978.*

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today?

The PRESIDING OFFICER. There has been.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR DOLE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow morning, the Senator from Kansas (Mr. DOLE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at no later than 10:30 a.m. tomorrow, with the right of Mr. DOLE to his full 15 minutes to be protected, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, this will mean that the Senate will get a fairly early start on the bill tomorrow, and will be proceeding with committee amendments. Amendments may be called up in numbers. Rollcall votes are expected, and hopefully the Senate can complete action on this measure tomorrow. I would anticipate, in order to do that, that it may be necessary for the Senate to stay in session until a reasonably late hour; so I hope Senators will schedule themselves accordingly.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 6:36 p.m. the Senate took a recess until tomorrow, Thursday, January 26, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 25, 1978:

DEPARTMENT OF JUSTICE

Charles H. Gray, of Arkansas, to be U.S. marshal for the eastern district of Arkansas for the term of 4 years, vice Len E. Blaylock.

DEPARTMENT OF LABOR

Robert B. Lagather, of Virginia, to be Assistant Secretary of Labor for Mine Safety and Health (new position).

DEPARTMENT OF ENERGY

Omi Gail Walden, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications) (new position).

FEDERAL RESERVE SYSTEM

G. William Miller, of California, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1978, vice David M. Lilly, term expiring.

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class of Career Minister:

Davis Eugene Boster, of Ohio.
Lawrence S. Eagleburger, of Florida.
Donald B. Easum, of Virginia.
Thomas O. Enders, of Connecticut.

Alan Carter, of the District of Columbia, a Foreign Service information officer of class 1, for promotion to the class of Career Minister for Information.

HOUSE OF REPRESENTATIVES—*Wednesday, January 25, 1978*

The House met at 3 o'clock p.m.

The Chaplain, Reverend Edward G. Latch, D.D., offered the following prayer:

God is love and he who abides in love abides in God and God abides in him.—I John 4: 16.

Eternal Father, whose love never falters and whose light never fails, may Thy Spirit be born anew in all our hearts that we may learn to love one another, seek to serve one another, and be strengthened to walk with Thee this day and all days.

Help us to heal the hurts of others, to meet the needs of distressed persons, and to foster a greater sense of brotherhood in our world that we may build bridges over the chasms which separate people and lead them to a better life together with peace on Earth, good will among men and women. To this end we offer Thee the dedication of our lives. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 3816) entitled "An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. FORD, Mr. DURKIN, Mr. GRIFFIN, and Mr. DANFORTH to be the conferees on the part of the Senate.

NEW YORK CITY HEARINGS

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I wish to announce that the Subcommittee on Economic Stabilization of the House Banking, Finance and Urban Affairs Committee will hold hearings February 23 on the administration's financial program for New York City. Testimony from Secretary of the Treasury Blumenthal will be heard on the 23d; testimony from others will be heard on subsequent days.

RESIGNATION FROM COMMITTEES ON AGRICULTURE AND INTERIOR AND INSULAR AFFAIRS

The SPEAKER laid before the House the following resignation from the Committees on Agriculture and Interior and Insular Affairs:

HOUSE OF REPRESENTATIVES,
Washington, D.C. January 25, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: In view of my appointment to the Appropriations Committee, I am hereby submitting my resignation as a member of the Committees on Agriculture and Interior and Insular Affairs, effective immediately

Sincerely,

MATTHEW F. MCHUGH.

ELECTION TO COMMITTEE ON APPROPRIATIONS

Mr. FOLEY. Mr. Speaker, as Chairman of the Democratic Caucus and by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 973) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 973

Resolved, That MATTHEW F. MCHUGH of New York be, and he is hereby, elected to the Committee on Appropriations of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATIONS TO CARTER AND CALIFANO

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I take the floor to express my congratulations to President Carter and Secretary Califano on their initiatives in the area of adolescent health services and pregnancy prevention for fiscal year 1979. There are three specific points of progress which I find deeply satisfying:

First, the President chose to raise the problem of adolescent pregnancy in his state of the Union address in this Chamber. It is heartening to know that

the President is so aware of the magnitude and impact of this problem area that he considered it appropriate to mention it along with other major areas of public concern.

Second, the President has submitted to the Congress a substantial, courageous, and generally well-conceived and thoughtful set of proposals to respond to the problems raised by early adolescent childbearing. While I have reservations about some of the particulars of his proposals—questions I shall be raising at the appropriate time—these programmatic initiatives and the commitment they dramatize deserve the applause of this House and the American people.

Finally, over the past year I have been concerned about indications from within HEW that the focus and importance of population activities was to be watered down and diffused in the process of reorganizing the Department. Specifically, the post of Deputy Assistant Secretary for Population Affairs (DASPA), mandated by the Family Planning Services and Population Research Act of 1970—of which I am proud to have been the coauthor with Senator Joe Tydings—was slated for consolidation with the position of Deputy Assistant Secretary for Health Programs. The latter position is that of "principal deputy" to the Assistant Secretary for Health and entails responsibility for a wide range of major Government health programs. No single human being could have possibly fulfilled the responsibilities of both positions at the same time, and the likely outcome would have been a substantial diminution of attention to the pressing problems of population within the United States. However, we have it on good authority that a process is now underway within HEW to reestablish the Deputy Assistant Secretary for Population Affairs position, as mandated by the law, so as to maintain the integrity and focus of population affairs within HEW.

All three of these initiatives by President Carter and Secretary Califano are deeply satisfying and should not be allowed to pass without our congratulations and support. In the coming days and weeks we will have comments and suggestions to make about the particulars of the legislative initiatives being proposed for prevention of adolescent pregnancy, as will other Members of the House. At this point, suffice it to say, that the three initiatives of the past week show this administration's intention to confront in a bold and pragmatic manner some of the most delicate issues facing our country.

I am confident my distinguished colleagues will join me in warmly welcoming the administration's constructive initiatives.

ANNOUNCEMENT AS TO VOTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, due to official business of the Committee on the Judiciary, I was compelled to be absent from one rollcall vote on Thursday, December 1, 1977, and would like to announce how I would have voted had I been present. Rollcall No. 759, authorizing funds for the investigation of Korean-American relations being conducted by the Subcommittee on International Organizations of the Committee on International Relations. I would have voted "aye."

THE SUGAR MESS CONTINUES

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, on December 15, 1977, I addressed the House on the Carter administration's unmitigated sugar mess.

I challenge the Democratic leadership of this body to do something about it.

Little has been done.

The mess continues.

Foreign refined sugar has been pouring into the United States loophole free. Chronic low sugar prices are hurting both the sugar grower and the corn farmer. The U.S. sweetener refining industry is suffering job losses as a huge surplus of sugar continues to build up.

On top of that, some $200 million in fat-cat sugar payments are being made to sugar processors.

This caused economist Eliot Janeway to comment on the American agricultural movement in the Washington Star of January 15, 1978, as follows:

> But it is only a matter of time before they refute the official argument that neither the consumers nor the Government can afford to foot the bill for 100 percent parity, or some approximation of it, by pointing out that in the past several weeks the Treasury has seen fit to pass out hundreds of millions in direct subsidies to the sugar processors alone. Moreover, the sugar tariff clause in the 1977 farm bill has been made meaningless for the country's sugar farmers by the President's tariff proclamation which riddled it with loopholes worth even more than direct payments to the sugar processors.

Mr. Janeway makes a valid point and I commend his message to the President and the majority leadership.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 24, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:36 p.m. on Tuesday, January 24, 1978, and said to contain a Message from the President wherein he transmits the 1976 Annual Report of the Federal Prevailing Rate Advisory Committee.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

CRITICISM OF THE PRESIDENT UNWARRANTED IN THE MARSTON CASE

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I rise only because the newspapers have been full of this discussion. Something very strange has happened in connection with the criticism directed toward President Carter because of his carrying out the longstanding tradition in the case of prosecutors, and even in the case of other Federal appointees who traditionally have been appointees reserved for the incoming President, and so much self-righteousness has been outpouring and gushing from all sections, even including editorial comments saying that the President has violated promises, et cetera, that I would like to remind the Members of the House that it sounds strange for the minority party to be critical because I remember the case of the prosecutor in New York, Morgenthau, who was hot on the trail of the secret account violators. Names were mentioned in New York who happened to be associated with the minority party, and the first thing President Nixon did was yank Morgenthau out as district attorney. He did not even suffer him to complete those first few months of the new regime. I did not hear anybody say that this was wrong that they were getting rid of a man whose competency was acclaimed and that nobody questioned—not a word.

Then we had President Nixon completely undermine the merit system with the so-called Malek manual procedure. So now President Carter cannot do what President Nixon could do, and that is to replace the old schedule C employees, political appointees, if you please, because they have been placed under the merit system. They were 100-percent political appointees, but they are now merit-system employees, and President Carter is having a difficult job replacing them.

It reminds me of some advice that Benito Juarez of Mexico gave my grandfather under similar situations. After they had defeated the French and kicked them out, a group came to my grandfather and said, "Say, how come President Juarez appointed that Spaniard to this position over here in the State of Durango?" My father said, "I do not know. I will ask him the next time I see him."

He did, and the President said, "Don Joaquin, have we taken care of our friends?" My grandfather said, "Yes, we have."

President Juarez said, "Don Joaquin, please tell our friends that we have taken care of all our friends. Do we have any friends we have not taken care of?"

Don Joaquin said, "No, everybody has been taken care of."

President Benito Juarez said, "Please take this message back to our friends and supporters. Tell them and those we have defeated, 'Justice, justice, justice at all times.' And to our friends, 'Justice and everything else that you can.'"

1976 ANNUAL REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1976 Annual Report of the Federal Prevailing Rate Advisory Committee.

While not specifically addressed in the attached report, I want to express my concern that little progress appears to have been made in reforming the prevailing rate system for adjusting wages of Federal blue collar employees. In my February 22, 1977, message to the Congress, I strongly recommended early enactment of legislation to correct those provisions of current law that cause significant departures from the local prevailing rate principle, and result in an unfair competitive advantage for the Federal Government and unjustifiable payroll costs. A draft bill which would achieve these objectives was submitted to the Congress early last year. I am convinced that this bill will correct the most serious deficiencies in the prevailing rate system and I wish to reiterate my concern for its passage.

JIMMY CARTER.

THE WHITE HOUSE, *January 24, 1978.*

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6362, TO ESTABLISH AN ADVISORY COMMITTEE ON TIMBER SALES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Report 95–850) on the resolution (H. Res. 974) providing for consideration of the bill (H.R. 6362) to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1614, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 964 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 964

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the ad hoc Select Committee on the Outer Continental Shelf, and one hour to be equally divided and controlled by Representative Breaux of Louisiana and Representative Fish of New York, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the ad hoc Select Committee on the Outer Continental Shelf now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title of the substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI, clause 5 of rule XXI, and section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 1614, it shall be in order in the House, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to move to take from the Speaker's table the bill S. 9 and to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions of H.R. 1614 as passed by the House.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 964) provides for the consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

PROVISIONS OF THE RULE

Mr. Speaker, the rule is unusual and, frankly, quite complicated. But there is nothing in the rule which need present any real controversy.

DISTRIBUTION OF TIME

The rule provides 3 hours of general debate. The time is divided in a somewhat unusual matter.

The gentleman from New York (Mr. MURPHY) would have 1 hour as chairman of the Ad Hoc Select Committee on the Outer Continental Shelf.

The gentleman from New York (Mr. FISH) would have 1 hour as ranking minority member of the ad hoc committee. The gentleman would have an additional half hour as the Member expected to offer the minority amendment in the nature of a substitute.

The gentleman from Louisiana (Mr. BREAUX) would have a half hour as a Member expected to offer a major amendment in the nature of a substitute.

There is nothing precedent-setting about this distribution. While it is a little unusual, it is certainly not the first time that the sponsors of extensive and complex amendments have been allotted time in excess of what they could obtain under the 5-minute rule.

In the Committee on Rules, the gentleman from Louisiana (Mr. LONG) proposed an amendment to the rule then pending. He proposed an additional hour divided between the two Members expected to offer the principal substitutes. The amendment was adopted by unanimous consent and I think there is a general consensus that the length and distribution of time under the rule is very fair.

PROCEDURE FOR CONSIDERATION

The rule provides that the committee amendment in the nature of a substitute now printed in the bill shall be considered as an original bill for the purpose of amendment. This is routine when a committee reports a substitute. The rules of the House prohibit amendments in the third degree. Without this provision in the rule, a simple amendment to an amendment would be ruled out of order as being, technically, tertiary.

The rule provides for the bill to be considered for amendment by title. This is not uncommon in the case of lengthy and complex bills. Without this provision, a section can be amended only during the moment that it is pending. In a case like the present one—when the amending process could last 2 days—the traditional method of considering amendments by sections greatly increases the chance that a Member might accidently lose the opportunity to offer an amendment.

The rule provides that the reading of the bill will be dispensed with. This is not routine but neither is it all that unusual. The bill and report have been available for 5 months so I see no constructive purpose in creating a situation in which a single Member, by objecting to a unanimous-consent request, can require the reading of the 277 page bill.

Because there is a substitute, the rule also provides that a separate vote may be demanded in the House on any amendment to it. The rule also protects the minority, for the same reason, by providing that a motion to recommit may contain instructions.

Pending final action on the bill, a companion measure from the other body has been held at the Speaker's table. The rule provides that it shall be in order to take that bill (S. 9) from the Speaker's table, to strike out all after the enacting clause

and to insert, in lieu thereof, the provisions of the measure as passed by the House. This is a straightforward provision which simply facilitates sending the measure to conference.

WAIVER OF POINTS-OF-ORDER

The rule waives numerous points-of-order at various stages of consideration. Under an agreement between the Ad Hoc Committee and the Committee on Budget, committee amendments—most technical in nature—will be offered to cure each instance in which there is a violation of the Congressional Budget Act of 1974 (Public Law 93-344).

The provisions of sections 401(a) and 402(a) of the Budget Act are waived against the bill as introduced. The Ad Hoc Committee reported an amendment in the nature of a substitute which, under the rule, will be considered as an original bill for purpose of amendment. As a result, it is not anticipated that the original text will ever actually be before the House.

The rule also waives section 401(a) to permit consideration of the committee substitute. And it waives a point-of-order against language in this substitute which would be considered to be an appropriation in a legislative bill in violation of clause 5, rule XXI.

The rule waives a point-of-order under clause 7, rule XVI that the committee's amendment in the nature of a substitute is not germane to the original bill. This is a purely technical matter since any committee can escape this point-of-order by reporting a clean bill in lieu of a substitute.

The rule also waives a point of order, under section 401(a) of the Budget Act, against the motion to take the companion bill (S. 9) from the Speaker's table. Under the agreement between the Committee on Budget and the ad hoc committee all the violations of the Budget Act and the appropriations language will be cured by committee amendments. Since the purpose of taking the measure passed by the other body from the Speaker's table is only to insert the text of the House bill thus perfected, the waiver is technical.

For the purpose of clarifying the situation on points of order, I insert in my remarks at this point the text of the letter from the Committee on Budget supporting a waiver:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., September 7, 1977.

Hon. JAMES J. DELANEY,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Committee on Rules will soon consider H.R. 1614, the Outer Continental Shelf Lands Act Amendments of 1977. As reported, the bill would be subject to points of order under sections 401(a) and 402(a) of the Congressional Budget Act.

Section 401(a) of the Budget Act bars the consideration of bills providing contract or borrowing authority, unless such authority is expressly limited "to such extent or in such amounts as are provided in appropriation Acts." Since the contract and borrowing authority provided by sections 30 and 321(c) of the bill are not so limited, the bill violates section 401(a) of the Budget Act.

Section 402(a) provides that it shall not be in order to consider a bill authorizing the enactment of new budget authority for a fiscal year unless the bill has been reported by May 15 preceding the beginning of that fiscal year. Since H.R. 1614 was not reported until after May 15, 1977, and sections 321(a) and title IV of the bill authorize the enactment of new budget authority for FY 1978, the bill would also be subject to points of order undel section 402(a) of the Budget Act.

However, I am advised that the Ad Hoc Committee on the Outer Continental Shelf (OCS Committee) will offer floor amendments (1) making affected contract and borrowing authority subject to appropriation Acts, and (2) converting section 321(a) of the bill into an FY 1979 authorization. I am further advised that title IV of the bill merely restates an existing FY 1978 authorization and thus it does not violate section 402(a) of the Budget Act.

Accordingly, I have no objection to waivers of points of order under sections 401(a) and 402(a) of the Budget Act in order to permit consideration of the bill and the proposed Committee amendments.

Sincerely yours,

ROBERT N. GIAIMO,
Chairman.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

In the 94th Congress, the prior Ad Hoc Select Committee on the Outer Continental Shelf brought its legislation as far as conference. The adoption in the House of a motion to recommit their bill to conference prevented enactment since sufficient time did not remain in the session to resolve the issues raised in conference.

On January 11, 1977, the Speaker obtained the consent of the House (H. Res. 97) to reestablish the ad hoc committee. Working tirelessly through hearings and mark-up, using the prior bill as a basis, the committee has produced a remarkable report.

I wish to commend the gentleman from New York (Mr. MURPHY) and his colleagues from the majority and minority. Although spirited differences remain to be resolved by the House, the Committee can take great pride in their work.

The Outer Continental Shelf Lands Act Amendments of 1977 represents the first major restructuring of the current law passed 25 years ago. It is a great step forward and will encourage increased oil and gas production while providing badly needed environmental protections as we move into the era of eastern coast OCS activity.

In particular, I would commend the committee for the steps it has taken to insure State participation in the planning process and to provide additional financial assistance to States to meet the economic impact of OCS activity off their shore.

I would hope, however, that the House would agree that the amendment to be offered by the gentleman from New Jersey (Mr. HUGHES) far better recognizes the actual economic impact of offshore activity. The level of funding and the distribution formula are a great improvement over the existing provisions in the committee bill.

PENDING LEASE SALES

Immediately after the Committee on Rules ordered reported the resolution (H. Res. 964) providing for the consideration of this bill, the Secretary of Interior issued a statement in connection with pending lease sales. I insert the text of the Department's press release at this point:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
January 23, 1978.

STATEMENT BY SECRETARY ANDRUS ON RULES COMMITTEE ACTION ON OCS LEGISLATION

Secretary of the Interior Cecil D. Andrus issued the following statement today following action January 23 by the House Rules Committee approving floor consideration of H.R. 1614, legislation to amend the Outer Continental Shelf Lands Act.

"I am pleased that the Rules Committee has responded favorably to the need for a vote by the entire House of Representatives on this crucial measure. By giving H.R. 1614 a rule, the committee has broken a critical log jam. I expect the bill to pass and be signed into law soon, eliminating much of the uncertainty that has developed over Outer Continential Shelf leasing in recent years.

"Now I can definitely state my intent to conduct the Georges Bank OCS lease sale (No. 42) as scheduled on January 31. I hope and believe that the Commonwealth of Massachusetts and others who recently filed lawsuits to block that sale will recognize that the chief issue can be considered moot, and that they will allow the legislative and leasing processes to work unhampered by court action. Should their application for a court-ordered halt to the Georges Bank sale be pressed nevertheless, the Interior Department will defend the integrity of the sale and of the procedures leading up to it."

Mr. Speaker, I deeply regret that the Secretary has misinterpreted the clear congressional intent in connection with the scheduling of this bill. As manager for the committee is this matter, I feel compelled to set the record straight.

This measure was originally scheduled to come before the Committee on Rules on Wednesday, January 25. As a practical matter this would have made it possible to even start the bill this week.

I explained the situation of the January 31 lease sales to the distinguished chairman of the Committee on Rules, the gentleman from New York (Mr. Delaney), and to the leadership. They were kind enough to accommodate us by rescheduling the matter for Monday, January 23 which has made it possible to call the bill up at this time.[1]

Not only as the floor manager, but as the Member who arranged for the bill to be on the floor this week and as a participant in the one vote margin that brought it to the floor at all, I feel competent to respond to the Secretary's statement as to the intent of this timing.

I have spoken to the Secretary on this matter and I do not want my comments to be misinterpreted. I know that Mr. Andrus is both concerned and sympathetic to our concerns. He feels, and I agree, that the 35-day period following the signing of a lease will allow adequate time for enactment of this legislation. And many of the statutory provisions will automatically apply to the leases at Georges Bank.

However, many provisions of this bill which concern what will be included in

[1] Hearings, Committee on Rules, January 23, 1978, pp. 13-7.

leases and how those leases will be awarded probably cannot apply retroactively if the Secretary decides to sign the leases under existing law on the eve of enactment of this major reform.

This is regrettable. To cite only one example, the bill provides a new section 30 which would authorize establishment of a fund to compensate fishermen for gear damaged as a result of OCS activity. The program would be funded by assessments written into the lease. Since the Secretary does not have the authority to include such provisions in leases signed under the current law, it is possible that the program will be left unfunded at Georges Bank. The bitter irony is this section was included in the bill in specific response to the kind of situations which could occur at Georges Bank.[2]

This is equally true of other provisions important to Georges Bank including dual leasing, baseline studies, and alternative bidding.

I hope that Secretary Andrus will reconsider his decision.

CONCLUSION

Mr. Speaker, this is vitally important legislation. I believe the rule provides a fair and orderly procedure for its consideration and I urge the adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a rather long and complicated rule. I say complicated because in order to even consider the legislation contemplated by the rule, points of order against violations of the Congressional Budget Act of 1974 and the Rules of the House are waived on at least six occasions.

Since it will take me a while to try and explain this rule, I had better begin. Two sections of the Congressional Budget Act, sections 401(a) and 402(a), are waived so that H.R. 1614, the Outer Continental Shelf Lands Act Amendments of 1977, may be considered. Section 401(a) precludes consideration of a bill providing new spending authority unless the bill also provides that such new spending authority is to be effective only in such amounts as are provided in appropriation acts. Section 402(a) prohibits the consideration of legislation authorizing new budget authority for a fiscal year unless it is reported on or before May 15 preceding the beginning of that fiscal year.

The first reading of the bill is dispensed with. General debate time is 3 hours, 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Ad Hoc Select Committee on the Outer Continental Shelf and 1 hour to be equally divided and controlled by Representatives BREAUX and FISH. The bill is open to all germane amendments.

The rule makes it in order to consider the amendment in the nature of a substitute recommended by the ad hoc select committee now printed in the bill as an original bill for purposes of amendment. The amendment in the nature of a substitute is open to all germane amendments, and it is to be considered for amendment by titles instead of by sections. Each title of the substitute is to be considered as having been read.

The ad hoc select committee substitute violates clause 7 of rule XVI—the germaneness rule—clause 5 of rule XXI—appropriations in a legislative measure—and section 401(a) of the Congressional Budget Act. Consequently, the rule waives all points of order against the substitute for failure to comply with these provisions.

A motion to recommit with or without instructions is in order.

After the passage of H.R. 1614, the rule waives section 401(a) of the Congressional Budget Act again and makes it in order to move to take from the Speaker's table S. 9 and to strike out all after the enacting clause and insert in lieu thereof the text of H.R. 1614 as passed by the House.

Perhaps some recent history of how this measure reached the floor today would be of interest. H.R. 1614 was ordered reported from the Ad Hoc Select Committee on July 27, 1977, by an 11 to 8 vote. Not until October 19 was the bill ever scheduled in the Committee on Rules. Bearing in mind that the House theoretically was to have concluded its business by mid-October and gone home, why on earth the majority waited until then to call up the long, complex OCS package escapes me. They must have thought they did not have the votes until then.

But on October 19 the committee's agenda did not allow enough time to consider the bill, and it was rescheduled for October 25. It was on that day that a tired and disgruntled Rules Committee voted 10 to 5 to postpone any action until the second session of this Congress.

This might lead one to conclude that, well, so what—this is the second session and here we are, fair and square as predicted. Not so. At 5 o'clock on Friday afternoon, January 20, I received a telephone call and learned that the OCS bill had been scheduled for Monday morning, not Tuesday—the regular meeting day—before the Rules Committee. Why the sudden rush? The floor agenda for the week of January 23 had already been announced, and it did not include H.R. 1614.

After receiving testimony all day Monday, the committee voted 8 to 6 to report the rule before us. So I submit that this rule, as so many rules have this past year, is being brought to you under color of fair play but, in fact, is not. Obviously, this makes no difference to some, but it should indicate clearly that the subject matter sought to be made in order by the rule is of questionable merit at best.

Permit me to mention very briefly but a few major faults with this legislation:

First. It is too complicated and rigid a regulatory scheme. This bill will discourage offshore activity because of too much Government involvement. It adds at least 40 new sets of regulations to those already in existence, resulting in anywhere from 3 to 6 years' delay. This is ridiculous when one considers that under current law it takes 8 to 11 years to bring production on line in frontier areas and that we are importing now 50 percent of our crude oil and adding to that every day. What is needed is greater flexibility, not increased rigidity.

Second. It is very expensive. The Congressional Budget Office estimates that H.R. 1614 will cost the American taxpayers an additional $1.697 billion in just the first 5 years after enactment. The Treasury will lose over $1 billion in expected revenues, and the implementation costs for the bill will be almost another half-billion dollars.

Third. There is no need for legislation when the problems sought to be addressed by it are being dealt with satisfactorily at the administrative level. The Department of Interior has and continues to issue regulations to implement the purposes and policies stated in H.R. 1614.

Mr. Speaker, it is for these and other reasons that I consistently have opposed this bill. I oppose the rule today because I believe it would be a gross misallocation of our time to consider the legislation and because it is being brought to you in such an unscrupulous fashion.

I urge defeat of the rule.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I thank the minority Member handling this rule, the gentleman from Mississippi (Mr. LOTT), for the facts that he has laid before this body concerning the way this rule was handled.

The fact is that the minority was informed after 5 o'clock on Friday, a nonlegislative day, that a meeting on this matter would be held in the Committee on Rules on Monday. I regret that some eight Members, Democrats and Republicans, who had indicated an interest in testifying, were unable to be reached by members of the staff over the weekend because they had dispersed to their homes.

I want to thank the Committee on Rules, however, for recognizing in the course of its deliberations on the rule the importance of the substitutes that will be offered. The substitute to be offered on behalf of the minority has been awarded 30 minutes of general debate time, to be controlled by the minority. In considering this substitute we will go into the issues in far greater length during the course of debate, of course. I commend that substitute to the Members as a vehicle for all Members who are troubled with various aspects of the committee bill, H.R. 1614.

In the substitute we have excised the controversial portions of that bill and brought it down to about 40 percent of H.R. 1614. We think we have reached those areas of the bill which will cause delay and cause nightmares in implementing and regulating operations offshore in the Outer Continental Shelf.

[2] H. Rept. 95–590, p. 173.

The Members will also hear during the course of this debate very basic concerns expressed by Members who are not on the committee. This legislation comes up at a time after we have created the Department of Energy, and there are those members of the committee responsible for its creation who will have lots to say as to whether or not we have perhaps caused enormous problems superseding previous legislation.

I would like to point out also to my colleagues that on January 24, 1978, I received from the Secretary of the Interior a document recommending 50 technical amendments to this legislation. It appears from these pages that he wishes to have this bill before us revised, and gives us an idea of the technical amendments he suggests and what amendments of substance he considers should be offered.

I submit to the Members, therefore, that in the rush to get this bill through, whatever we do will be ill-considered. I submit that this bill will be rewritten in conference, and I dare say that the Members might recall the experience we had a year and a half ago when we came back from conference and the House took the extraordinary step of recommitting the bill to the conference because of the damage that ensued when we went into conference with the Senate.

While this bill does not have the onerous provision in it for Federal exploration that it did 2 years ago, the present Senate version contains a far worse provision, and I would not be at all surprised if we get to that point where we will find ourselves back in the same posture we were in 2 years ago.

In my testimony before the Committee on Rules I pointed out that this bill is complicated and rigid, that it will cause delays of 3 to 6 years in the production of our offshore resources, and that it would aggravate our disastrous balance-of-payments situation and will result in a multimillion-dollar raid on the Treasury for the benefit of "Big Oil."

All these matters will be gone into in our deliberations after the vote on the rule. The question of delay has been tied to a lawsuit brought in Massachusetts, and a study of that situation indicates that some interests of fisheries must be protected or they will sue the Federal Government on a lease sale of the Georges Bank.

In the Committee on Rules I offered, and I offer now, to support the chairman of the Committee on Merchant Marine and Fisheries in adopting a law that will meet the legitimate needs of these fishermen. I would hope to bring that on the floor at the earliest convenient time under suspension of the rules and thereby remove the only grounds I know of for the hasty consideration of this legislation.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am glad to yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, in the Committee on Rules there was a good deal of discussion about the fact that the administration had, as a matter of fact, sent up 50 so-called technical amendments, 50 amendments from the administration, to this bill.

Have there been any further developments on that? Are those 50 amendments going to be offered or are they going to be accepted? What is the status of that?

Mr. FISH. Mr. Speaker, let me tell the gentleman that I just became aware of these 50 amendments prior to coming to the Committee on Rules.

I said at that time that no member of the majority side of the ad hoc select committee had mentioned to me anything with respect to whatever disposition they suggested; and to this date that state of facts remains the same. Therefore, I have no idea what disposition the chairman of the ad hoc committee expects to make of these 50 separate amendments. Although they are called technical in nature, some are and some are not.

Mr. LOTT. The gentleman says that they are all technical in nature?

Mr. FISH. No. Some are and some are not.

Mr. LOTT. If I may pursue this matter a little further, I know it has been a very difficult issue. As we will recall, the Ad Hoc Select Committee on OCS has been working on it for, I imagine, 3 years. I know that the chairman and the members of the committee have tried very hard to resolve the problems and the disagreements in this legislation. However, am I correct in saying that there are 50 technical amendments that may or may not be considered, and they may or may not be technical amendments, and there is the so-called Breaux substitute; then there will be a Republican substitute, which the gentleman from New York (Mr. FISH) will offer, and there will be an estimated 100 to 120 other amendments; is that correct?

Mr. FISH. Failing the adoption of one of the substitutes, I know that the minority has at least 40 separate amendments to try to correct the defects in the committee bill.

I have no idea of the number of amendments that may be expected from other Members of the House; but I can assure the gentleman that I have heard rumors that we are going to cover the gamut, including divestiture, if that is the will of this body, to tackle these issues at this time.

Mr. LOTT. Mr. Speaker, I might say to the gentleman that I was just handed a list of 74 amendments, at least 74, that are pending at the desk. I make this point because I want the Members to know that this is what we can expect to get into in dealing with a very complex, complicated bill.

In my opinion, there is still a lot of work which is needed to be done in the committee, but we are faced with writing a bill in this very important area on the floor of the House, and we do not have a very good track record when we attempt to do that sort of thing.

Mr. Speaker, I thank the gentleman for yielding.

Mr. FISH. Mr. Speaker, if the gentleman will recall, in the Committee on Rules I indicated that we had as a vehicle a substitute and that I was willing to sit down immediately with my colleagues in the committee and compromise our differences so that we would avoid this question of finding that the Secretary of the Interior has problems at the 11th hour on the 25th of January with the bill.

In fact, the House Members reflect this difficulty when, as the gentleman points out, there are some 70 amendments already pending. I am not sure that that figure includes the minority amendments since I have not put mine in the RECORD yet.

I want to point that out plus the fact that I can foresee this measure's not being written by us, but being written in the conference. Therefore, it is really a sad day for the House of Representatives that we are proceeding in this fashion.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I think one of the answers to the question put forth by the gentleman from Mississippi (Mr. LOTT) is that there apparently has been extensive infighting going on within the Carter administration over the content of this legislation.

All of us received today from the Secretary of the Interior's office, from Assistant Secretary Catron, a message dated January 24—they do not even number the pages; there are so many of them—detailing the changes they want at this late hour.

Apparently this represents the latest administration view.

This administration has been more or less in power, for about a year; and this bill has been kicking around for about 3 years. It seems to me that Secretary Andrus could have torn himself away from other problems long enough to address himself to this bill which literally will have a major impact on the last frontier area for production of gas and oil in the United States.

Mr. Speaker, we talk a lot about energy programs. The so-called energy bill was rammed through this House by the Speaker and his followers last year under a closed rule, with no chance for amendment. It still languishes in the conference.

In this pending legislation the leadership is getting a perverse chance to get back at us because they are now talking about some 50 amendments from the majority side as well as 40 amendments from the minority side. My good friend and colleague, the gentleman from New York (Mr. MURPHY), may indeed have to offer a substitute for his own bill based on the administration's request.

Mr. LOTT. But this is a substitute.

Mr. BAUMAN. I suspect that we will have to have a substitute national energy policy before this year is over. Indeed any energy policy would be a welcome surprise at this point.

Mr. FISH. Mr. Speaker, let me say

regarding the intervening history to the gentleman from Maryland (Mr. BAUMAN) that since this bill was first considered, and the powers were given to the Secretary of the Interior, we created the Department of Energy and we gave them the responsibility in the leasing of these offshore leases and it is my understanding that there has been very severe disagreement, and they testified as much, on the question of dual leasing. It is my understanding that they feel quite differently than does the Department of the Interior in the way we mandate the situation on bonus bidding, and that these are all matters that are yet unresolved downtown, much less here on the floor.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in opposition to the rule.

Once again we are being asked to legislate in haste and suffer the consequences later. Last session we quickly pushed through an entire energy package that looked like a Rube Goldberg invention. Now we are wondering why agreement has not been reached.

Today we are being asked to waive provisions of the Budget Act and immediately make a decision on a very important and complex matter. Drilling on the Outer Continental Shelf is a subject that demands thoughtful consideration. We are not being given an adequate time to examine this.

Mr. Speaker, the American people would prefer that the Congress do things right, rather than act in haste. I can remember my Army days when the rule was "hurry up and wait." Well, under the majority leadership, that old Army saying has been improved upon. We have an energy crisis and the legislation we are being asked to vote on would hinder, rather than help getting new energy supplies from the Outer Continental Shelf. So the majority is saying, in effect, "hurry up and freeze" to the American people.

It is time this Congress decided whether it is going to be an assembly line for every proposal desired by the majority or be what it was meant to be, an assembly of Representatives of the people sent here to think before they act.

I say that this rule should be voted down. I say we ought to begin this session with the idea in mind that we are not going to engage in the kind of fiasco that led to a grab bag of incentives, disincentives and assorted stuffed turkeys known as the President's energy package.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, here we are again. I think it is very interesting that in the state of the Union message the President led off his discussion on energy with production of energy, which was the leading solution to our energy problem. This morning in the hearing before the Committee on Science and Technology Secretary Schlesinger took this very same posture. It seems to me it is a very new posture for this administration if we look back at the plan that was passed through this body many, many months ago and which is still residing in the Senate.

I think in view of this change of posture by the administration, the fact that we see these 11th hour amendments from the Secretary, the fact that there is such major controversy over this legislation, all this leads me to conclude, as has been expressed here earlier, that this bill still needs major work to be done on it. It appears to lead to delay, it appears to lead to tremendous costs being assumed through the years by the American taxpayers, as estimated by the Congressional Budget Office. It has distressed us every step of the way, in the Ad Hoc Committee, and as it has moved into the Committee on Rules so that it seems to me very evident here that in the discussion of the rule that I believe it would behoove the House to reject this rule rather than by attempting to resolve these issues by trying to rewrite this complicated legislation here on the floor of the House.

Again I thank the gentleman for yielding.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I am fascinated with this rule. Why do we have to waive the budget provisions in order to handle this legislation? Part of this rule proposes to waive section 401(a) and section 402(a) of the Congressional Budget Act.

We have all heard a great deal of comment about how austere the President's budget for fiscal year 1979 is, and all of that is "garbage" in my judgment.

I wonder, can the gentleman on the Committee on Rules handling this, or the chairman of the subcommittee tell us why we have to waive these budget provisions. What did we not do in our authorization procedure for 1978 so that we have to waive the budget provisions?

Let me read the part of the Budget Act which this rule intends to waive. I know the gentleman is probably familiar with it, but let me read it for my colleagues who are not familiar with the budget process which we are supposed to abide by and which we said we were going to abide by. Section 402 of the budget provides that except as otherwise provided in this section, it shall not be in order in either the House of Representatives or Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for the fiscal year—which we are in—1978.

What new add-ons to this already inflated budget does the gentleman now want to add on?

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, in response to my distinguished colleague from California, I might say that I have discussed this issue with the Budget Committee and the chairman, the gentleman from Connecticut (Mr. GIAIMO).

Mr. ROUSSELOT. The gentleman from Connecticut (Mr. GIAIMO) is sick, we realize, and has not been able to be at our meetings. So whom has the gentleman consulted because he has not been there?

Mr. MURPHY of New York. This bill is not responsible for his present condition, I can assure the gentleman. But he has assured us that regarding the amendments that will be offered, the Budget Committee will waive the requirements of the Budget Act to conform to it.

Mr. ROUSSELOT. But the gentleman is asking us to waive it, too. What are the dollar amounts involved? Oh, we do not know. The staff is shaking their heads in the negative. Nobody knows. Does the gentleman mean this is another one of those wonderful things where we are going to give an open-end authorization? We do not even know what it is going to cost. The gentleman cannot be serious.

Mr. MURPHY of New York. This waiver relates to appropriations in fiscal years, and the costs of the final bill, of course, are not now estimable because the bill is being considered in one year but will apply to the following year. That is one of the reasons we have to have a waiver.

Mr. ROUSSELOT. So we are going to spread it out, the big add-ons, over 2 years instead of 1. That is very encouraging that the gentleman can tell us that. How much is it? How much are we adding on? Is this an add for fiscal year 1978 and fiscal year 1979? Even though you say we do not know, what is the guess? Does the chairman know? Somebody over there must know. This is supposed to be very well thought out legislation, I have been told.

Mr. MURPHY of New York. I can say to the gentleman we do have a question of how much revenue will go to States that will be decided in the House.

Mr. ROUSSELOT. Is that good reason to vote for a rule that waives the budget provisions?

Mr. MURPHY of New York. Yes, it is.

Mr. ROUSSELOT. That is terrific.

Mr. MURPHY of New York. The Senate version has one figure and the committee-passed bill has another figure as to grants and there will be amendments to that figure. Consequently, we have had to get that technical waiver from the Budget Act.

Mr. ROUSSELOT. We have to get away from the Budget Act. That is terrific. I have never heard of such a thing. Section 402 was specifically part of the Budget Act to prevent, except in the case of an emergency, the consideration of any bill or resolution authorizing the enactment of new budget authority for any fiscal year after such fiscal year has begun. The Budget Act was intended to improve congressional control over budgetary outlay and receipt totals, but no sooner was the ink dry on the act when Congress decided to start waiving its provisions. And we intend to do it

again today. This is absurd! We can never get control over the budget if we continually waive provisions of the Budget Act.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from California.

Mr. BADHAM. I thank the gentleman from California for yielding, one of our more senior Members from that State.

I am concerned about the rule. I am just about as new to the congressional process as the President is to his job, and I am concerned that the administration is offering—is it 50 amendments to this bill?

Mr. ROUSSELOT. Something like that. We cannot really be sure. The latest number of amendments is not known for sure.

Mr. BADHAM. And the minority side is intending to offer 40 amendments.

Mr. ROUSSELOT. I think there will be offered a substitute by both sides of the aisle, assuming, the rule allows that possibility.

Mr. BADHAM. I was going to ask that question next. Then, in addition to some 74 amendments by the majority side, I understand those would only be offered if either the majority or minority substitutes were rejected.

Mr. ROUSSELOT. Something like that.

Mr. BADHAM. I am somewhat confused. It would seem to me appropriate to settle the details of a bill in a committee system or in a committee, if that is how our system was designed to operate—a committee system. Would that seem logical to the gentleman?

Mr. ROUSSELOT. That certainly is a sensible and logical approach, but that does not necessarily mean it will take place.

Mr. BADHAM. So the gentleman would say a "no" vote on the rule would get this bill back into committee where the details could be worked out by those people who can spend an adequate amount of time working out the details?

Mr. ROUSSELOT. Absolutely, and we can at least get some knowledge or estimate of what the new add-ons for either fiscal year 1978 and fiscal year 1979 are proposed in this legislation, because we are waiving provisions of the Budget Act right up front in this rule, which makes it even worse, in my mind.

As a member of the Budget Committee, we constantly get lectured to that we are working toward a balanced budget, that we are trying to bring this thing under control, and here my good chairman, who is not really to blame, does not even know what the add-ons for authorization are as a result of waiving this budget provision. I cannot believe that.

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, the gentleman from California is one of the greatest students of the legislative process. I would like to point out it may be more tactical not to refer to amendments coming from this side as minority amendments, because then we run into numbers. We should refer to them as enlightened amendments or thoughtful amendments as a better label.

Mr. ROUSSELOT. I certainly concur. I stand corrected.

Mr. DERWINSKI. But the gentleman has been on the Budget Committee for 3 years and still has not balanced the budget.

Mr. ROUSSELOT. We are trying. We have 169 votes.

I thank the gentleman for that "enlightened" statement.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I have to apologize. I missed the meeting of the Committee on Education and Labor this morning. Was this voted out of the Committee on Education and Labor?

Mr. ROUSSELOT. Well, I believe it was.

Mr. ASHBROOK. We have 30 or 40 amendments prepared and offered. I cannot help but wonder, my long-time friend from California is worried about $50 million or $100 million. Can we not worry, too, that we spill that much on the floor here every day?

Mr. ROUSSELOT. Especially on this new carpet. I am very disappointed that some senior member of the Budget Committee is not here. I realize that our good chairman is not well and cannot be here. I am terribly disappointed that a senior member of the Committee on the Budget is not here to defend this waiving of the Budget Act and the good chairman of the committee is unaware of the amount to be added.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am always delighted to yield to the distinguished chairman of the committee.

Mr. MURPHY of New York. Mr. Speaker, I appreciate the gentleman's indulgence. This rule was first considered last year in the Committee on Rules and was laid over for consideration until this year. Of course, the rule was reported out on Monday. The language in the bill referred to the fiscal year 1978.

Mr. ROUSSELOT. I am fully aware of that.

Mr. MURPHY of New York. The technical fact is that we are now into fiscal year 1979. It is simply to conform to the fact that we did not act on the bill last year and we are acting on the bill this year. It is simply that technical.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's technical discussion. This is fiscal year 1978. I am already aware of that. My problem is that we are waiving parts of the budget law and we cannot even be told as an entire body why we have to waive that, why there are so-called emergency conditions that must be waived under the Budget Act. You must have emergency conditions to waive this rule. We cannot even be told what those emergency conditions are. We cannot even be told the dollar amounts of authorization add-on that will be required. I find that terribly difficult to believe and accept. I am sorry no senior member of the Budget Committee is here to explain it. The excess fragmentation of the budget process in Congress makes it difficult for us to effectively assess program priorities or to establish overall budget policy.

Mr. LOTT. Mr. Speaker, there is one final comment that I should make. This is not a partisan commission. It was voted 11 to 8 out of the ad hoc subcommittee and by the Committee on Rules 8 to 6. It has been bipartisan, although some of the discussion has been that the minority is proposing that the committee is made up of members of the Democratic and Republican Parties.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, so the general recommendation of the several members of the Rules Committee, both Republican and Democrat, is to vote down the rule.

Mr. LOTT. That is correct.

Mr. ROUSSELOT. This is a bad rule in any respect.

Mr. MOAKLEY. Mr. Speaker, to clear the record on the Budget Act waivers, they simply permit the bill to be considered, and there is agreement between the Budget Committee and the Ad Hoc Committee that violations will be cured by committee amendments.

Mr. Speaker, I assure the gentleman that the waivers are only technical. On the question of final passage, the House will be presented with a perfected bill against which no points of order would lie either under the Congressional Budget Act or the Rules of the House of Representatives. But there is no way to bring the bill to that perfected stage unless the points of order against consideration are waived.

I would make the second point that the waivers, in any case, do not apply to the major expenses in the bill. Nearly a quarter of the anticipated fiscal year 1978 cost of the bill is attributable to the "revenue-sharing provisions" which are subject to no point of order. The section now in violation of the Budget Act is the proposed new section 30 which authorizes the establishment of fishermen's gear compensation funds. It is anticipated that no such fund will ever cost more than $100,000 a year and each will be supported by leasor fee not the Treasury. Nevertheless, even in this case, the gentleman from New York proposes to offer a committee amendment making the program subject to annual appropriations.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly?

Mr. BREAUX. I yield.

Mr. ROUSSELOT. I thank the gentleman from Louisiana for yielding. Can the gentleman tell us what those agreements are between himself and the Budget Committee, so that those of us on the Budget Committee can know what they are?

Mr. MURPHY of New York. Just the technical amendments we talked about

on the floor and which I have just alluded to.

Mr. ROUSSELOT. What are they?

Mr. MURPHY of New York. Just technical as I have indicated to permit the bill to go on the floor and to be heard.

Mr. ROUSSELOT. But why do the authorization levels for 1978 have to be opened up? Does the gentleman know more than the subcommittee chairman?

Mr. MURPHY of New York. They are not opened up.

Mr. ROUSSELOT. But he said they were.

Mr. MURPHY of New York. They are not.

Mr. ROUSSELOT. Oh.

Mr. BREAUX. Mr. Speaker, my colleagues, I just want to say that if you think you are confused now, hang on, because you have not seen anything yet. As was correctly pointed out in the discussion on the rule, the administration in the last couple of days has come up with something like 50 amendments that they say are technical amendments, and an additional 12 amendments which they say are of a substantive nature.

I want to just kind of set out very clearly, if I can, in the minds of the Members what I perceive to be will be the order of presentation under this particular rule. I do want to congratulate the Rules Committee for at least acknowledging in the rule that they have come up with that there will be some major substitutes that are planned to be offered, the Breaux substitute being one of those. In allocating time so that our substitute might be clearly discussed in the light of the committee bill, the order as I perceive it is, after Mr. MURPHY presents the committee bill, I hopefully will be recognized at that time in order to present to the members of the committee the Breaux substitute which, in fact, is a completely new bill but making changes only in about five major substantive areas.

I understand at that time, in conversations with my good friend, the ranking minority member, the gentleman from New York (Mr. FISH), that after my substitute is offered he will immediately, at that time, offer a Republican substitute which will be debated and will be voted on. If the Republican substitute is defeated, I would hope that when we go back to the original Breaux substitute, the members of the committee will see the merit in that substitute and vote in favor of it.

If my substitute is passed, of course that will end the debate and the bill would be adopted with my substitute as the bill. So, that is the order of the sequence of events, and I hope that if the Members will bear with us, the legislation is extremely important, and I hope as many Members can be here as possible.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I rise in support of the rule to consider H.R. 1614, amendments to the Outer Continental Shelf Lands Act. This bill has had a long political history and I would like to remind my colleagues of some of the episodes in the development of OCS legislation. The last administration, which ranks as one of the least sympathetic to environmental issues, never formally opposed the OCS bill in the 94th Congress. They delayed the bill in committee by sending up reams of amendments and they did the same on the floor, yet they never opposed it outright. Why? Because although there was strong opposition to this bill on political grounds by major oil companies, the previous administration knew that there was support for OCS reform in the public. Not just by the "wild-eyed" environmentalists we all hear so much about, but by solid business leaders and civic organizations on both coasts. These groups feared careless OCS development; they were often outraged at the lack of interest in their concerns shown by the Federal Government and they wanted to protect local industries based on fisheries, tourism, and recreation.

We now have an administration committed to protecting our environment, an administration that understands that short-circuiting environmental safeguards leads to resource crises, just as unsafe drilling practices lead to blowouts. It is time to pass an OCS bill that will serve our needs and develop our resources for the next several decades. After years of legal battles, we have an OCS bill that is supported by coastal States, a bill that both protects their coastlines and economies, while developing Federal resources.

You will hear many speakers refer to the amount of work done on the OCS bill—the numbers of witnesses, the pages of testimony, the days of markup devoted to this task. I think this is important to mention not only to show the amount of time that we all devoted to this task, but to show the good faith effort made to work out a reasonable and practical bill. The bill we produced is long, but this is not only because the subject matter is complicated, expensive, and important, but because we wanted to remove uncertainties, clearly delineate all lines of responsibility, and to clarify many objections raised by those opposed to the bill. We have all listened to the same arguments time and time again about delays. Although this bill spells out many formal procedures in the development of the OCS, when judging this formal structure it is important to remember that, first, it provides certainty about what actions are expected of lessees and, secondly, that the procedures it outlines are occurring concurrently with OCS exploration, development, and production.

In the Rules Committee we heard a great deal about delays of 6 to 8 years between leasing and production. This delay is not due to the OCS laws or the Federal Government or layers of redtape or even to the Post Office and OSHA. These delays are due to the complex nature of offshore drilling, of the painstaking tasks of finding petroleum, building appropriate drilling equipment and putting it in place.

You will also hear a great deal in the coming debates about the amount of competition in the oil industry already and the dangers of encroaching Federal involvement in the OCS. Because of the defeat we suffered last year, we have changed the portion of the bill dealing with Federal exploration that caused so much havoc and misrepresentation in the waning days of the 94th Congress. But I would just like to remind you that H.R. 1614 deals with the development of the Outer Continental Shelf belonging to the people of the United States. We are not talking about regulating a private industry or requiring data about private economic activities. We are talking about leasing to private companies for private gain the property of all Americans, whether they live on the coasts or inland. And I believe we have an obligation to our constituents to make the best deal we can.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER (Mr. DANIELSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 158, not voting 27, as follows:

[Roll No. 13]

YEAS—247

Addabbo	Cavanaugh	Fowler
Akaka	Chisholm	Fraser
Alexander	Clausen,	Fuqua
Allen	Don H.	Gaydos
Ambro	Clay	Gephardt
Ammerman	Cohen	Gilman
Anderson,	Collins, Ill.	Ginn
Calif.	Conte	Glickman
Anderson, Ill.	Corman	Gore
Annunzio	Cornell	Gudger
Applegate	Cornwell	Hamilton
Ashley	Cotter	Hanley
Aspin	D'Amours	Hannaford
AuCoin	Daniel, Dan	Harkin
Baldus	Danielson	Harrington
Barnard	Delaney	Harris
Baucus	Dellums	Hawkins
Beard, R.I.	Derrick	Heckler
Bedell	Dicks	Hefner
Bellenson	Dingell	Heftel
Benjamin	Downey	Holland
Bennett	Drinan	Hollenbeck
Bevill	Duncan, Oreg.	Holtzman
Biaggi	Early	Howard
Bingham	Edgar	Hughes
Blanchard	Edwards, Calif.	Ichord
Blouin	Eilberg	Jacobs
Boland	Emery	Jenkins
Bolling	Ertel	Jenrette
Bonior	Evans, Colo.	Johnson, Calif.
Bonker	Evans, Del.	Jones, N.C.
Brademas	Evans, Ga.	Jones, Tenn.
Breckinridge	Evans, Ind.	Jordan
Brinkley	Fary	Kastenmeier
Brodhead	Fascell	Keys
Brooks	Fisher	Kildee
Burke, Calif.	Fithian	Kostmayer
Burke, Mass.	Flippo	Krebs
Burlison, Mo.	Flood	LaFalce
Byron	Florio	Lagomarsino
Carney	Foley	Le Fante
Carr	Ford, Mich.	Lederer
Carter	Ford, Tenn.	Leggett

Lehman	Neal	Simon
Levitas	Nedzi	Sisk
Lloyd, Calif.	Nichols	Skelton
Lloyd, Tenn.	Nix	Slack
Long, Md.	Nolan	Smith, Iowa
Luken	Nowak	Solarz
Lundine	O'Brien	Spellman
McCloskey	Oakar	St Germain
McCormack	Oberstar	Staggers
McFall	Obey	Stark
McHugh	Ottinger	Steers
McKay	Panetta	Stokes
Maguire	Patten	Stratton
Mann	Patterson	Studds
Markey	Pattison	Stump
Marks	Pease	Thompson
Mathis	Perkins	Traxler
Mazzoli	Pike	Tsongas
Meeds	Pressler	Udall
Metcalfe	Preyer	Ullman
Meyner	Price	Van Deerlin
Mikulski	Rahall	Vanik
Mikva	Rangel	Vento
Miller, Calif.	Reuss	Volkmer
Mineta	Richmond	Walgren
Minish	Rinaldo	Waxman
Mitchell, Md.	Roe	Weaver
Moakley	Rogers	Weiss
Moffett	Roncalio	Whalen
Moorhead, Pa.	Rooney	Wilson, C. H.
Moss	Rosenthal	Wirth
Mottl	Rostenkowski	Wolff
Murphy, Ill.	Roybal	Wright
Murphy, N.Y.	Russo	Wydler
Murphy, Pa.	Ryan	Yates
Murtha	Santini	Yatron
Myers, Gary	Scheuer	Young, Fla.
Myers, John	Schroeder	Young, Mo.
Myers, Michael	Seiberling	Zablocki
Natcher	Sharp	Zeferetti

NAYS—158

Abdnor	Frey	Moorhead, Calif.
Andrews, N.C.	Gammage	Pickle
Andrews, N. Dak.	Gibbons	Poage
Archer	Goldwater	Pritchard
Ashbrook	Gonzalez	Pursell
Badham	Goodling	Quayle
Bafalis	Gradison	Quie
Bauman	Grassley	Quillen
Beard, Tenn.	Hagedorn	Railsback
Boggs	Hall	Regula
Bowen	Hammer-schmidt	Rhodes
Breaux	Hansen	Risenhoover
Broomfield	Harsha	Roberts
Brown, Mich.	Hightower	Robinson
Brown, Ohio	Holt	Rose
Broyhill	Horton	Rousselot
Buchanan	Hubbard	Rudd
Burgener	Hyde	Runnels
Burke, Fla.	Ireland	Ruppe
Burleson, Tex.	Jeffords	Sarasin
Butler	Johnson, Colo.	Satterfield
Caputo	Jones, Okla.	Sawyer
Cederberg	Kazen	Schulze
Chappell	Kelly	Sebelius
Clawson, Del	Kemp	Shuster
Cleveland	Ketchum	Sikes
Cochran	Kindness	Skubitz
Coleman	Krueger	Smith, Nebr.
Collins, Tex.	Latta	Snyder
Conable	Leach	Spence
Conyers	Lent	Stangeland
Corcoran	Livingston	Stanton
Coughlin	Long, La.	Steed
Cunningham	Lott	Steiger
Daniel, R. W.	Lujan	Stockman
Davis	McClory	Symms
de la Garza	McDade	Taylor
Derwinski	McDonald	Thone
Devine	McEwen	Treen
Dickinson	McKinney	Trible
Dornan	Madigan	Vander Jagt
Duncan, Tenn.	Mahon	Walker
Edwards, Ala.	Marlenee	Wampler
Edwards, Okla.	Marriott	Watkins
Erlenborn	Mattox	White
Fenwick	Michel	Whitehurst
Findley	Milford	Whitley
Fish	Miller, Ohio	Whitten
Flowers	Mitchell, N.Y.	Wiggins
Flynt	Mollohan	Winn
Forsythe	Montgomery	Wylie
Fountain	Moore	Young, Alaska
Frenzel		Young, Tex.

NOT VOTING—27

Armstrong	Dent	Giaimo
Brown, Calif.	Diggs	Guyer
Burton, John	Dodd	Hillis
Burton, Phillip	Eckhardt	Huckaby
Crane	English	Kasten
Martin	Shipley	Waggonner
Pepper	Teague	Walsh
Pettis	Thornton	Wilson, Bob
Rodino	Tucker	Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Crane against.
Mr. Dent for, with Mr. Guyer against.
Mr. Eckhardt for, with Mr. Teague against.

Until further notice:

Mr. Shipley with Mr. Armstrong.
Mr. Pepper with Mr. Hillis.
Mr. Dodd with Mr. Kasten.
Mr. Giaimo with Mr. Brown of California.
Mr. John L. Burton with Mr. Charles Wilson of Texas.
Mr. Phillip Burton with Mr. Walsh.
Mr. English with Mr. Huckaby.
Mr. Diggs with Mr. Tucker.
Mr. Thornton with Mr. Martin.
Mr. Waggonner with Mr. Bob Wilson.

Mr. FINDLEY changed his vote from "yea" to "nay."

Mr. AMMERMAN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY AND ITS SUBCOMMITTEES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology and its subcommittees may be permitted to sit tomorrow, Thursday, January 26, 1978, during the 5-minute rule.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL MIDNIGHT FRIDAY, JANUARY 27, 1978, TO FILE REPORT ON H.R. 9214 AUTHORIZING THE UNITED STATES TO PARTICIPATE IN SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND

Mr. NEAL. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until midnight Friday, January 27, 1978, to file its report on the bill H.R. 9214, authorizing the United States to participate in the supplementary financing facility of the International Monetary Fund.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1614, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Under the rule, the first reading of the bill shall be dispensed with.

Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 1 hour and the gentleman from New York (Mr. FISH) will be recognized for 1½ hours and the gentleman from Louisiana (Mr. BREAUX) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I bring before you for consideration, H.R. 1614, a bill to amend the outmoded Outer Continental Shelf Lands Act of 1953 and establish a new statutory regime for the management of the oil and gas resources of the Outer Continental Shelf.

The House has granted an open rule allowing 2 hours of general debate, a waiver of certain points of order, and special consideration of one-half hour each for two proposed substitutes.

Gentlemen, this is not a new bill or issue, but this bill is much improved over that considered by the 94th Congress. It is extremely important for the Nation that we expedite its passage.

Over 1½ years ago I came before the House to urge passage of H.R. 6218. After 10 hours of debate and consideration of some 80 amendments, that bill was passed by the House overwhelmingly by a margin of 247 to 140. The bill then went to conference with the Senate-passed companion bill, S. 521, and a compromise bill was brought back to the House for consideration. Unfortunately, due to a number of factors including: a massive national lobbying campaign by big oil and other elements; the opposition of the Ford administration, which included the threat of a veto; a scheduling logjam on the House floor; and a threat of a Senate filibuster, the bill was defeated by a vote of 198 to 194.

I do not believe that it is necessary at this point to report that story in detail. I would, however, like to point out that we have, in the last 1½ years carefully examined the proposed OCS amendments and have made many changes which I feel have improved the bill significantly. As revised, the bill will

expedite OCS development by: Eliminating bureaucratic conflicts; reducing the possibility of frivolous lawsuits; minimizing present opposition to offshore development on the part of States and other interests; and insuring proper financial relief to coastal States, fishermen, and those affected by oilspills. The bill will also insure a more open OCS policymaking process by involving States, local governments, and citizens.

The bill will insure safe OCS development by providing for increased environmental and worker-safety controls. In addition, it will enhance competition by providing for new bidding systems which will facilitate the entry of smaller energy companies.

Let me briefly list some of the important provisions of the bill:

First. Declaration of a national policy for the Outer Continental Shelf.

Second. Improved provisions for lease administration, including the suspension or temporary prohibition of activities and, under certain conditions, lease cancellation.

Third. Revisions of bidding and lease administration, including the introduction of alternate bidding systems.

Fourth. Requires the submission of exploration and development plans.

Fifth. Allows for on-structure and federally contracted exploratory drilling.

Sixth. Requires the development of a 5-year leasing plan.

Seventh. Provides for coordination and consultation with Governors of affected States and through them affected local governments.

Eighth. Requires baseline and monitoring studies.

Ninth. Requires the promulgation and enforcement of safety regulations, including the use of the best available and safest technology where economically achievable.

Tenth. Allows for citizen suits and judicial review.

Eleventh. Provides for an OCS information program.

Twelfth. Establishes an offshore oilspill pollution fund.

Thirteenth. Establishes a fishermen's gear compensation fund.

Fourteenth. Requires U.S. crewing and manning, registration, and documentation.

I must emphasize that H.R. 1614 has the strong support of the Carter administration which has urged us to move expeditiously and enact this needed legislation. This wholehearted support was recently reiterated by President Carter in the state of the Union message. I feel it is important to quote that paragraph here in toto:

> Legislation to improve the management of the Outer Continental Shelf for oil and gas development is a major item of unfinished business pending before Congress. Prompt passage is necessary so that we can have the benefit of the new law as we move to open more offshore areas to development and production. This bill mandates long-needed reforms in the leasing program to provide for the necessary development of offshore oil and gas while enhancing competition among oil companies, assuring that the public receives a fair return for the sale of the public's oil and gas resources; and protecting our marine and coastal resources.

As stated by the President in forwarding his national energy program last year and recently reemphasized, H.R. 1614 is an important part of this country's national energy program.

In addition to the administration, the bill has the widespread support of State and local government representatives, gas distributors, many small energy companies, unions, environmentalists, fishermen, and other citizen groups.

The importance of OCS resources to the United States and the need for this legislation cannot be overstated. When the select committee began its work 3 years ago, the Nation was importing approximately 35 percent of its crude oil. That percentage has risen quickly and steadily. Our imports of foreign crude oil now exceed 50 percent of our domestic consumption.

We are now running a deficit in our balance of payments—and payments for foreign oil are a very large item on the debit side of the ledger—perhaps exceeding $45 billion this year alone. Furthermore, these dollars end up in the hands of countries whose interests do not always coincide with our own.

These figures underscore our vulnerability to another embargo by the producing nations that make up OPEC. If in fact another embargo occurs, the adverse economic impacts this country stands to suffer will be far more severe than those we suffered as the result of the 1973 embargo. I do not need to remind my colleagues of that difficult period of petroleum shortages and curtailments.

Another effect of the rising level of foreign oil imports is the continuing drain of American dollars to the oil-rich OPEC countries. This, as you know, has led to the weakening of the U.S. dollar relative to other currencies in the international monetary market.

Another crucial point relates to our defense posture and the implications of excessive dependence on foreign sources of oil—for it is oil that runs the wheels of any national defense program. The oil lifeline from the Mediterranean and Persian Gulf to the United States could be easily cut by a foreign superpower with large naval strength.

The oil and gas resources that lie beneath our Outer Continental Shelf are enormous, and I know that every Member agrees with me that it is vital that we develop these resources as rapidly as modern technology will safely permit. There is, of course, a statute now in existence for the management of these lands, the Outer Continental Shelf Lands Act of 1953. But it is now almost 25 years since that statute was enacted, and it is woefully archaic and inadequate.

Let me quickly note the inadequacies of the 1953 law. First, for all practical purposes, there is only one method in the present statute for awarding leases to Federal Outer Continental Shelf lands: bidding on the basis of up-front cash bonuses. However, we are now in a period in which investment capital is tight, and we are asking the oil companies to find and produce oil in areas they have never developed before. With money tight and the risks high, cash bonus bidding may no longer be the best system for the years ahead. We must spur competition among the oil companies in the bidding process. In doing so, we must strike a balance between a fair profit to the oil companies, which must risk their investment capital, and a fair return to the Federal Government as the owner of the leased lands. H.R. 1614 would provide alternative leasing arrangements and would require the Department of the Interior to use them during the next 5 years so that we may work out the best arrangements for the future.

Under the existing statute, the Secretary of the Interior administers the Federal leasing program and controls the Federal regulatory machinery supervising the development of offshore oil. He does so with almost no outside input. On occasion he may consider the view of outsiders, but acts under regulations that he himself devises. He is under no statutory compulsion to consider the view of State governments, local communities, or members of the public who may have a real interest. H.R. 1614 would open Interior's decisionmaking process so that relevant outsiders—and in particular, State governments—may present their views and be heard. If we are to have intelligent decisions, they must be highly informed ones. Only an open decisionmaking process can insure this result.

The development of the oil and gas resources of the Outer Continental Shelf will have an extensive impact on our coastal environment. Offshore oil and gas must be brought to shore, processed, stored, and transported. New offshore facilities will have to be built and operated. As new workers crowd into the communities near these facilities, they will need housing, schools, medical facilities, and a variety of municipal services. If the coastal States are to deal with the onshore environmental impacts and the secondary economic impacts of development, they must have Federal assistance. To provide this assistance, H.R. 1614 amends the Coastal Zone Management Act of 1972, to provide for increased grants to affected States.

H.R. 1614 contains other features designed to protect the environment. It would require the Department of the Interior through the National Oceanic and Atomospheric Administration to gather information about the present environment of affected areas and to monitor the environment on a continuing basis. It would require the Department of the Interior to conduct an environmental review after exploration and before production, and to prepare a formal environmental impact statement for every major lease area. It would establish liability for oil spills and a fund to cover cleanup costs and damages from oil spills. H.R. 1614 also contains provisions to protect the worker. It would require a review and if necessary, the promulgation of new safety and environmental regulations for the worker.

Recent events have detailed the need for this bill: Offshore oil spills, here and in the North Sea; reports of shut-in

wells; delaying and unsuccessful lawsuits; and noncompetitive lease sales have all led to increased public demands for reforms to the antiquated 1953 law.

H.R. 1614 is a long, detailed and well-considered bill. It is the result of 3 years of extensive hearings, in which the select committee heard more than 375 witnesses and compiled a hearing record totaling more than 10,000 pages, and months of markup, in which the committee considered hundreds of amendments. It is a bill which, if enacted, can make a profound contribution to the solution of the Nation's energy crisis and do so in a manner that takes into account the needs of our States and the protection of our marine and coastal environment. The implications for the Nation's economic security are clear.

I have attached both a short and a detailed summary of the bill's provisions to my statement.

I urge the House to pass this much needed legislation.

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the bill before us, the one that has been reported out of the ad hoc select committee, is basically that measure which the House had before it 2 years ago, and which the House rejected by recommitting the conference report. Since that time, we have not had a chance to vote on this measure, but it is just as bad a bill today as it was then.

The purpose of the ad hoc select committee on the OCS was to update the OCS Lands Act of 1953 in order to expedite the systematic and judicial development of our energy resources on the OCS; provide maximum possible protection to the coastal and marine environment; provide for cooperation between citizens and Federal Government; and provide for the greatest possible financial return to the public for the leasing of energy resources on the OCS.

It was not created, I submit, to draft legislation which would create a morass of government redtape; create as many as 40 new and, in many cases, unneeded sets of regulations; duplicate legal authority already existing in regulations, or create immediately a potentially long-term loss of revenues to the Federal Government by leaving money now paid in the Treasury in the coffers of "big oil."

However, Mr. Chairman, this is exactly what the majority has done in its work product, H.R. 1614. Not only will H.R. 1614 create the above situations, which I will go into in more detail, but it is filled with technical errors and provisions that are inoperative due to incorrect references, many of which were not found until the substitute was drafted. Such errors will undoubtedly give rise to delays, causing lawsuits where none could now be filed.

Mr. Chairman, I think it is fair to say that history has passed this particular bill by, and no attempt has recently been made to come to grips with this issue. We see this most in the jurisdiction granted the Secretary of Labor concurrent with that of the Coast Guard for safety in the OCS. Meanwhile, the Coast Guard, following its practice as to this law, has promulgated regulations to cover this area. Yet, this bill would make us take a step back to bring in OSHA, and delay OCS safety for a considerable amount of time, if indeed the matter could ever be resolved outside of an OMB decision.

We have also in this bill an odd twist. The committee—and I grant my chairman full marks for this—in our hearings all over the United States the last 3 years, through two administrations, had a profound impact on the sensitivity of the Department of the Interior to the legitimate interests of citizens, to environmental concerns, and starting in the last administration and accelerating to the present, we have seen regulation after regulation coming out that meets many of the issues that we have raised. So, what do we do in this bill? We take all those regulations and we stick them in H.R. 1614. We appreciate the flexibility and the progress of the Secretary, and now we say, "You have gone far enough; no more. Don't worry about the uncertainties out there in the OCS, the frontier areas where you have never tried to go before. Don't worry that your regulation may not be tailored to the particular needs. We are telling you now, this is it, and you are going to have to come back to Congress."

We think that is very foolish, and in our substitute, which we will be debating tomorrow, we have simply removed all reference to existing regulations on the Outer Continental Shelf.

Mr. Chairman, even more important are some of the substantive problems with the bill, which will prove counterproductive, stifle free enterprise, and cost the taxpayers literally billions of dollars.

I will mention some of this in the substantive sections which will be gone into at a later time. The safety regulations I have alluded to creation of two lead agencies for the same regulatory power; the mandatory use of experimental bidding systems, which I have learned recently the Department of Energy, having learned about for the first time, is highly critical of because under the DOA Act, they come in with an interest and a responsibility.

What we do in H.R. 1614 is to say absolutely no more than 50 percent. We say, "All right, we have a bonus bidding system that has developed in some two decades in the Outer Continental Shelf, in the Gulf of Mexico, but we are going to tell you that you cannot use that more than 50 percent of the maximum. You must the balance of the time use any one of a dozen untried experimental systems in your lease sales."

I have no objection to the Secretary using a dozen, using 2 dozens, if in the foreseeable future new techniques, new business arrangements, are found feasible. But I think it is the height of folly to pin him down and to say, "Regardless of what you think the merits are, you are confined and may not use bonus bidding beyond 50 percent."

Mr. Speaker, this legislation, as I have said, has been under consideration for 3 years, and it appears, obviously, that we are no closer to solution of the problems existing in the OCS today than we were 3 years ago. In fact, it was only on the 24th of this month that I received a 50-page critique by the Secretary of the Interior on this legislation, 50 technical amendments that we have not had a chance to go into, that the majority has not discussed any disposition with me. The dissatisfaction of the majority itself was shown in the debate on the rule. I understand there are over 70 majority amendments already on file.

It is complained that the bill is needed due to a threatened lawsuit in Massachusetts. I hope the Members are not fooled by this. I would like to point out that in this decade there have been six lawsuits that have held up lease sales. Each and every one concerned environmental impact statements.

There is nothing in this bill that amends NEPA. We would have no authority to do so. Therefore, we would have absolutely no effect whatsoever on this particular lawsuit or any other lawsuit that concerns environmental impact statements.

In addition to containing the traditional and proven bonus bid with a 12½-percent royalty, as I indicated, H.R. 1614 also contains alternative bidding systems that must be used at least 50 percent of the time. Now what does this mean? In addition to the procedural problems that we posed to the Secretary and the Department of Energy in administering this—and in fairness to the committee this information did not come out until the bill was reported out of committee—our own Congressional Budget Office estimates that we will lose in revenues $2.2 billion during the first 5 years of this program. Their figure actually, minus the Coast Guard losses, is $1,600 million, $1 billion in revenues, $600 million for implementation of the legislation.

The Coast Guard adds the balance, which brings us up to just over $2 billion.

Now, ordinarily in a bonus-bidding situation the successful bidder on the lease pays the Treasury this up-front money, although he will not necessarily have the lease on production for a great many years. Maybe there will be as many as 8 years of projected time before the OCS would really be producing but the money comes to the Treasury as part of the bid.

If we are only going to use a ceiling of 50 percent in that type of bidding, there is absolutely no way of projecting the revenue that may come eventually from these alternative bidding systems. Hence our own Congressional Budget Office says we will have this tremendous loss in the first 5 years of operation.

Let me give the Members one example. In 1974, there was taken into the Treasury in bonus bidding $5 billion. If H.R. 1614 had been law then, that take would have been cut in half, because of the ceiling, because of using only 50 percent. This provision in H.R. 1614 presents some very critical questions.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

Mr. FISH. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, these alternative systems were supposedly created in an attempt to produce greater revenues in bonus bidding. However, the Congressional Budget Office says that these systems are so speculative they cannot even estimate what revenues would be forthcoming.

As a matter of fact, I have heard nothing as an estimate of revenues from these systems, particularly since there has been absolutely no way of knowing which of the systems will ultimately be used or under what conditions it will be used. I would certainly appreciate someone giving the Members of this House a detailed explanation addressing this point, particularly since the majority has felt so strongly of these alternative systems that they have mandated their use at least 50 percent of the time. Of course, if the use of bonus bidding is less than 50 percent, we would get a greater loss in revenue.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I wonder if the gentleman would not agree that even though there might be a net drain initially if we change the bonus bid system, that in effect, once we utilize alternate systems, that over a period of time it is contemplated the leasehold will be producing more of a return and not less of a return to the public treasury?

Mr. FISH. We have no idea that that is a fact. The gentleman, I am sure, is familiar with my substitute. We have never had any problem as to encouraging these untried experimental systems. In fact, I prefer an open-ended system. I do not know the names of the systems that might be thought of next year.

Mr. HUGHES. Mr. Chairman, will the gentleman yield further?

Mr. FISH. I yield to the gentleman from New Jersey.

Mr. HUGHES. What other country in the world uses the bonus bid system ?

We are producing oil all around the globe at this point. Nations are using all types of systems, and other countries are getting more of a return to their treasuries than this country is receiving.

How can the gentleman say the alternative systems are experimental in nature?

Mr. FISH. Let me reply in this way: Can the gentleman answer my question, and that is this:

What country in the world received in 1974 an excess of $5 billion in revenues, which is what we received in front-end money?

Mr. HUGHES. Yes, but the other side of the coin is this:

How much in resources do the oil companies have that are in the ground? What is the other side of the balance sheet?

One report I have seen indicates that even though the oil companies have put out something like $18 billion in front-end money, in fact they have over $70 billion of oil and gas in the ground.

Mr. FISH. This is a problem, and the gentleman might well be aware that that is a matter of high priority in our Committee on Science and Technology. I refer to the problem of secondary and tertiary recovery. That may be one of the great pluses in our increasing our domestic production.

I am sure the gentleman goes along with all the efforts we are making in trying to find techniques that are environmentally sound and cost effective so that we may recover as much as 30 or 40 percent more in every single field.

But this is my point, and it is one that the chairman of the committee has stressed: The only people who benefit from the bonus bid system is the big oil companies. The gentleman probably knows that, because he is a member of the committee serving with me.

Is it not a fact that of all the independents that testified before us year in and year out only one expressed any opposition to the present bidding system?

Therefore, it is not the independents who are going to suffer.

Mr. Chairman, I am going to conclude here in just a minute, because I think I have said what I wanted to say, except that the chairman in his opening remarks started to enunciate the provisions of the bill, the declaration of national policy, the lease cancellation conditions, the new bidding systems, and on and on.

There are parallel conditions in our substitute. We worked off the committee bill. It is not something we dreamed up. It is simply a question of taking out those provisions which go against the very rhetoric that marked my chairman's speech, the rhetoric that can find no fault by anybody in this body.

We obviously face a serious situation. We obviously need to increase domestic production. We obviously are vulnerable in our position as a world leader and as a strong industrial state that is oil-based; and we obviously will suffer drastically, and it will only get worse with respect to our balance of payments. There is no argument about that. The only disagreement is with respect to how we met those problems responsibly and in the best interests of the country.

It is the position of the minority that this bill, as written, contains many provisions that are going to be not constructive enough to meet the common goals and purposes which we share.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, did I understand the gentleman from New York (Mr. FISH) to make objection to the committee bill, at least in part, because the gentleman projected a substantial fall-off in Federal revenues by virtue of the mandating of different bidding systems?

Mr. FISH. That was the testimony of the Congressional Budget Office, yes.

Mr. STUDDS. Can the gentleman hazard a guess, if that is the case and if, indeed, the gentleman would prefer the current system, which results in greater Federal revenues, in the form of up-front bonuses, as to whether that is, therefore, much more onerous on the oil companies which have to pay those bonuses? Why does the gentleman suppose it is that the oil companies favor that system if it is so expensive for them?

Mr. FISH. I do not know. We have to listen to the testimony.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

Mr. FISH. I yield myself 1 additional minute.

To continue, Mr. Chairman, as I indicated, we had no opposition from major oil companies. We had only one independent who testified against it.

I can only advise the gentleman from Massachusetts (Mr. STUDDS) to ask the oil companies that question rather than to speculate. They seem to like the system. They are used to it. They do not find it to be onerous. They find it to fit their needs in going out and taking the risk.

Mr. STUDDS. Mr. Chairman, if the gentleman will yield further, if the gentleman was a major oil company, would not the gentleman prefer a system that did not require, in an era of capital shortage, enormous front-end amounts of capital being put up?

Mr. FISH. No; the gentleman is not an oil company.

Mr. STUDDS. I did not suggest that the gentleman was.

Mr. FISH. I cannot answer that question. I just have to refer the gentleman to the oil companies.

Mr. STUDDS. If the gentleman will yield further, it always struck me as somewhat remarkable that the oil companies come in and say, "We bear this enormous burden. We have been responsible for these enormous Federal revenues."

Then when we suggest a system whereby they might not have to bear such a burden, they say, "No, we like the present system very much."

Mr. FISH. I really did not question the oil companies in this regard or really did not care what they thought.

I think exploration and development are what we should be concerned with. We are being confronted with untried systems.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

The Chair now recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted to see so many people who have not made up their minds on this bill sitting here this afternoon in patient anticipation of what information they are going to hear which is going to decide their vote.

Most of the Members here have been sitting listening to the debate of each of us for about 3 years now. I dare say that most of the Members here this afternoon have already made up their minds on how they are going to vote on the Breaux substitute to the committee bill. However, we go through this

whole routine every time we have major legislation, where we sit and look at each other and share thoughts with the hope that everyone in the Congress will read the CONGRESSIONAL RECORD tomorrow morning and be persuaded by what we say this afternoon. I hope that is the case.

Mr. Chairman, let me say in arguing for my substitute which I will be offering at the appropriate time basically the purpose of the substitute.

The present situation which we have in this country as regards the offshore oil and gas lands is that we are getting almost 16 percent of all of the oil and gas that we in this country need from the Outer Continental Shelf.

About 22 percent of all the natural gas that we use in this country from domestic sources comes from OCS. We have a situation where we are so dependent on foreign imports that we are now importing about 50 percent of all the oil and gas that our citizens use in this country from some very unstable sources, from the OPEC nations who are threatening us on a weekly and a monthly basis with price increases. I believe we should try to do everything we can to maximize production in every instance that we possibly can.

We have a situation under existing law that I think has served us very well. I think that we should not be trying to change the situation in a way which is going to discourage production, but that if any change is necessary, then it should be one that would encourage production.

Let us talk about revenues. The people who support the committee bill say that it will generate more revenue for the U.S. Treasury. Let me tell the Members what has happened under the existing legislation. Between 1945 and 1973, we had a situation where something like 7 billion barrels of oil and gas have been recovered under the existing system, and 62 trillion feet of natural gas have been found and used in this country raising the revenues. The total revenue of all of these sales has amounted to something like $63 billion. The cost to industry in getting those revenues is something like $22 billion for a net revenue to the industry of $41 billion. A heck of a lot of money. But the fact is they paid the U.S. Treasury in terms of bonuses something like $9 billion. In royalty, rent, and taxes, they have paid something like $20 billion. The Government share of all of these activities since we started OCS production under the existing legislation that we have has been 71 percent of the total revenues. Industry's share has been 29 percent. Seventy-one percent has gone to the Government. I do not think that is necessarily a very bad record. I think it is a real good record. Also sometime during the future they are going to start making money under OCS but no one can dispute the fact that they are suffering a net loss under OCS now. They are making a lot of money on onshore production, but hopefully in the future they will make some from OCS but right now that is not the situation.

Some say that we should change the bid system, because it has not worked very well. They say that we should try some new experiments. Why should we try new experiments without knowing all of the facts? We are trying nine new experimental bid systems. I say well, fine, I am agreeable to trying new experiments to see if we can make it work better. But the committee bill says that we are not only going to try some experiments, but they will have to use them in 50 to 100 percent of the new frontier lands. I do not believe that we should have to go out and experiment 100 percent of the time. This legislation says that we could experiment 100 percent of the time with new and unproven systems.

My substitute, on the other hand, says that we should experiment, but I do not think we should have to experiment as the committee bill says 50 to 100 percent. My substitute says we can experiment up to 50 percent of the time. I believe that if we are going to experiment with the taxpayers' dollars then let us not raise it more than up to 50 percent of the time, not 100 percent of the time.

There is talk about the loss of revenue to the U.S. Treasury. The Office of Budget and Management report on the committee bill says that the loss of revenue in the committee bill will be $1.35 billion, that is in lost revenue. Why? Because they will be experimenting, they will be trying out new bidding systems and no one knows what the outcome will be. That is a pretty expensive way to experiment.

I believe that we can handle this a lot better under the system that I am proposing.

Further in the committee bill it puts the Government in the position of having to authorize and conduct the core and test drilling by the Federal Government. I do not think that is necessary. The argument is that, well, it is necessary, because we need some more information about what is out there. Right now the Department of the Interior gets all of the geological and geophysical data on what exists out there already, and they will continue to receive it under the present situation, in other words, they can get every bit of information which is needed, and they will continue to get all of the information available.

The Department of the Interior has all of the information available. I do not think we need to put the Federal Government in the process of drilling for oil and gas just to find out what is down there, when they already have that information which is being provided to them free of charge.

One of the other things that I think is a very bad step in the wrong direction is the fact that we are deciding we are going to put OSHA in the business of regulating the safety features of OCS and regulating the diving industry. Right now we have got the Coast Guard doing that. If anybody is familiar with the Coast Guard, I think they are doing a heck of a good job. We have an industry that has a tremendous safety record. There have been accidents and there have been spills, but by and large the record under the supervision of the Coast Guard, under the Department of Transportation, has been a tremendous record.

I do not know how many Members have had problems with OSHA in their congressional districts. I just do not think that putting OSHA into OCS is in anyone's interest.

A final point: We need to move as quickly as possible to maxmize our energy production. Independent studies from Tulane University in Louisiana and Rhode Island Universitv, which is not in Louisiana but in Rhode Island—is of particular importance. The study, after looking at the bill, said:

> Our estimate is that it is going to take from 3 to 6 years additional time to bring oil onshore if the committee bill is passed.

Mr. Chairman, it already takes 8 years from the time a lease is granted to the time any oil and gas is ever brought onshore. They point out in their study that if H.R. 1614 were enacted, 53 new Federal regulations, a dual leasing program, and citizens' suits mandate and authorized by the legislation would cause a 3- to 6-year additional delay. We should be talking about ways to eliminate delays. We should be talking about ways to get away from taking 8 years from the time a lease is granted to the time it is finally brought onshore for us to use, instead of saying, "Well, we might increase it from 3 to 6 years." That, in my opinion, is a step in the wrong direction.

The final point I will make is something that a constituent of mine once said when he came to Washington. After listening to one of our hearings going on and on and on, he looked at me, and he said after the hearings were over:

> Congressman, if it ain't broke, don't fix it.

I guess that is the situation we have here. The present system is not broke. It is not defective. It has served this country by returns to the Treasury, by national security considerations in bringing on much-needed energy. We should not be tinkering with it merely for the sake of tinkering.

Mr. Chairman, I urge the Members at the appropriate time when my substitute comes up to please support it as a compromise approach which recognizes that we can make some changes but at the same time tries to approach it by not killing the system which is so vital to our security.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding. I appreciate my colleague's statements on this bill, and I share his views.

At one point the gentleman was giving figures on the amount of revenue derived by the Federal Government and the total value of production. I have before me the official report of the Geological Survey that shows for the years 1953 through 1976 the total cumulative product value of the resources recovered from the OCS was $27,626,000,000, and the Federal Government got of that $22,868,000,000 or 83 percent of the total revenues. I think the gentleman mentioned 71 percent. It might have been a different study, but this is an official study that indicates 83 percent for these particular years.

Mr. BREAUX. It could possibly be that we are talking about a different year, but I thank the gentleman for pointing that out. It is even higher than the figures I have cited with the definite conclusion that the Federal Government so far has come off very, very well.

Mr. TREEN. That is the point.

Mr. BREAUX. One final point I overlooked was the argument that somehow we ought to pass the committee bill, because we should help the small oil companies, the small mom-and-pop type operations which, apparently the implication is, have not been participating in the OCS. Let me cite something else that came out in the committee testimony, and that is the fact that in the last 20 OCS sales from 1967 through 1976 some 150 companies other than the 8 largest domestic producers have acquired an interest in 66 percent of those leases and have obtained 49 percent of the ownership.

Even more significantly, these companies have acquired interests in 51 percent of what was termed premium tracts on which $20 million of bonuses were obtained. They obtained 51 percent of ownership in those tracts. They have not been left out. They have been able to participate, and the facts bear it out, so do not let anyone be swayed by the argument that somehow we are saving the small oil companies with the committee bill. They are happy to be able to participate, as they have been in the last several years.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I come from an area which is a haven for the independent oil operators. The thing that keeps coming up is that those companies that have particiated in OCS leasing are what we would call the very, very large independents, the ones that can afford to come up with great amounts of cash.

The real issue that my independents are asking me is how they can participate in a leasing arrangement to permit those which do not have the $20 million or $25 million of cash to come up with, enable those to participate in these leasing arrangements.

Mr. BREAUX. It provides for joint bidding by a number of companies, such as the ones the gentleman is talking about. In addition to that the IPAA, the Independent Petroleum Association of America, is clearly on record as supporting the Breaux substitute. They find it is in their interest and will allow them to participate in the manner in which they wish to participate in all the OCS activities. That is their position. They are in support of it. It embraces the small independent oil companies as well as the larger ones, but still they are what we would term small oil companies. They support it.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, in response to the inquiry by my friend, the gentleman from Kansas, if we look at these companies we realize they do have interests in leaseholds on the Outer Continental Shelf, but they do not have control of the leases on the OCS. In addition, those places where the smaller companies have bid, have been in areas that are not the most promising geological structures. Smaller firms form mergers with large companies that are going to bid in those areas—but not controlling interest. Of course, where there is the probability of a successful find in those areas of those particularly more promising leases, leases are so highly bid up by the major oil companies that we find these lesser independents are relegated to the not-so-promising areas or to junior partnerships in other areas.

Mr. BREAUX. The statistics show that in the last 20 OCS sales, interests in leases were obtained by 150 companies other than the largest eight domestic oil and gas-producing companies in the country. We all know we are not going to make it possible for Joe's filling station to participate in OCS activities, and we are kidding ourselves if we think that small is necessarily good or efficient. If I wanted to start my own oil company and get 100 percent of all the oil and keep all the gas, I will probably be able to get a lease but then what would I do with that lease after I got it? Very little. The whole country would suffer.

The Breaux amendment allows for efficient operation and participation by small companies as well as large. That is the way it should be.

Mr. MURPHY of New York, Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, if we could convert the misconceptions and distortions that have been spread about this bill into oil and gas for this Nation, we would not have the crisis we now have.

We have been told by those who oppose the bill that it will throw thousands of people out of work, result in intolerable delays, and that it provides for Federal oil drilling.

When one witness came before the OCS Committee last year and charged that this bill provides for Federal exploration, I asked him to look through the bill and show me the page and line authorizing Federal exploration or drilling. I am still waiting. He could not find it at that time and he has not found it since that time.

The bill does not provide for Federal drilling. In fact, the committee specifically voted it down and I joined with the majority in that instance.

There is a provision authorizing prelease exploratory drilling, but it would be done by private companies at no cost to the Government, on a strictly voluntary basis.

On the issue of delays, I do not know how the situation could be any worse than it is now. The mid-Atlantic lease sale has been delayed for over a year now under existing law. Unfortunately, we are going to have continuing delays. A lawsuit in that instance was filed primarily because many of the most important concerns of coastal areas had been ignored up until Secretary Andrus took over at the Interior Department.

Under the old law, because of its inadequacies, we have had lawsuit after lawsuit, in California, Alaska, New York, and New Jersey. The Governor of Massachusetts has now indicated that he will file suit to block the North Atlantic lease sale scheduled for next week, if we do not have the protection provided by this legislation.

By addressing the legitimate concerns of the coastal areas and giving State and local officials a greater voice in offshore decisionmaking, this bill should actually expedite offshore development. If suits are filed notwithstanding the reforms, the bill also provides an orderly means of considering them.

Some of the studies projecting these delays require close scrutiny. One such study, by Dr. Rogers of Rhode Island University, indicated approximately 3 years of delay due to one provision authorizing private prelease exploration. That is very hard to imagine, particularly since a very similar program of offstructure drilling is now carried out routinely before each lease sale with absolutely no delays.

If that section is still cause for concern, however, everyone should know that right after that testimony they provided that stratographic test drilling will only be conducted one time during a 2-year period.

The real reason for opposition to the bill is its reform of the bidding systems. Offshore lands are now sold to the highest bidder, even though little is known of their true value.

A recent General Accounting Office Study Commission indicated that the Interior Department had no idea of the value of some 25 percent of the tracts that were offered for sale or lease in No. 40, that is the Mid-Atlantic lease sale. The Department of the Interior should certainly know a lot more about the sites they are leasing than that. That is no way to conduct a sale of public lands held in trust for the people of this Nation by the Department of the Interior. I think such a lack of knowledge is inexcusable. Not only are the people entitled to a fair return for the sale of their resources, but we also have no business accepting large sums of money from the oil industry or anyone else for lands which have no value. These funds would be much better used by putting them into the production of more oil and gas for this Nation.

We have heard now for the 3 years that I have served on the Ad Hoc Select Committee on the Outer Continental Shelf the oil companies complaint about the tremendous drain that dry holes have on their capital. They point to the Destin Dome failure as one example of what is happening to their capital resources; and yet when we suggest ways of changing the system that provides for capital up front, the industry complains that that is not what they want, either.

By changing the bidding systems, we are not forsaking revenues that would

otherwise come to the Treasury. Although we will not be receiving as much money in the form of front-end bonuses, we will make this up later on through increased revenues from royalties, net profit sharing, and other features. Ultimately, there will be no overall loss in Federal revenues from OCS development—in fact, I believe that the Nation will receive a fairer return.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Jersey.

Mr. HUGHES. If anything, I believe that the Treasury will realize a net gain.

Many believe that through the enactment of this bill we would be imposing onerous new restrictions on oil and gas companies in this Nation. That is just absolute nonsense. Many of the provisions in this legislation are already in place through regulations imposed by the Department of the Interior.

We must bear in mind that this legislation relates only to Federal offshore lands, lands that are owned by the Nation, and like any landowner we, the trustees, have the right to insist that the lands are sold and developed according to the conditions we prefer.

We must not legislate only in the interest of one industry. We must legislate in the interests of all the American people; but the important thing is that the conditions we are seeking are not unreasonable. They are the result of years of work and thousands of pages of testimoney by the OCS Committee. The majority on the committee believe that we have developed a program that is fair and workable to all concerned. It respects the legitimate needs of the coastal areas, while permitting development to go forward in an orderly manner. It encourages competition without stifling development.

It provides the protections and safeguards we need for the public health and safety and environment, without creating a morass of redtape, as some have charged.

I think it is a good bill. Although I am going to offer some amendments which I think will improve it even more, I think it is worthy of your support.

As a Member of Congress from an area which is going to experience development in frontier waters, it is very important that we have in place soon the protections afforded in this legislation.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I share the frustration of the gentleman from Louisiana (Mr. BREAUX) concerning the number of Members here, but at least I would like the RECORD to reflect a clarification of a subject of great consequence.

We have been subjected to an extraordinary amount of what I can only refer to charitably as propaganda in the last few days, in ads in the Washington Post.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

Mr. MURPHY of New York. Mr. Chairman, I yield 4 additional minutes to the gentleman from New Jersey.

Mr. STUDDS. On Monday there was a half-page ad; on Tuesday a full-page ad; and today a page and a half. Heaven knows what we will be confronted with tomorrow. That and a great many "dear colleague" letters have been circulated and have focused again and again and again on a claim, as if it were fact, that the enactment of this legislation would result in a delay of 3 to 6 years in offshore drilling, and through some mystical process they have managed to compute the number of jobs lost and the number of dollars lost.

The gentleman is the author of the section of this bill upon which that particular case rests—and which has led to an entirely baseless claim. The gentleman has referred to it a bit earlier.

I wonder if the gentleman might refer to that again, if he could. The requirement added by the gentleman from New Jersey calls for, in the next 2 years following enactment of the legislation, the Secretary of the Interior to solicit bids, in one instance, for on-structure drilling. Will the gentleman tell me what, if any, delay he thinks that will lead to?

Mr. HUGHES. I think the gentleman has put his finger on one of the gross distortions in the legislation. Right now, the Secretary of the Interior offers to the oil industry the privilege of sinking test wells off structure, that is in areas where we know there is probably no oil or gas. For instance, in the Baltimore Canyon Trough just about a year and a half ago, we had the rig Citgo J sink a test well down into the OCS roughly 15,000 feet. It cost close to $9 million. If, in fact, that rig had been moved over just a few miles to an area where we believe there is oil and gas, we might not be guessing today. We might have a little more information about whether oil and gas exists in the mid-Atlantic area of the OCS.

This particular amendment the gentleman refers to is one calling for on-structural stratographic drilling.

It just requires the Secretary to offer to the oil industry the right to sink such a test well one time in the frontier areas in the next 2 years. The oil industry does not have to accept the invitation; they do not have to accept the permit. But the major oil companies know that if it is offered, some in the industry will accept the offer. They also know that if, in fact, we induce some—in particular the independent oil companies—to form consortiums to sink test wells, lo and behold, we may know a little more about what we are leasing before we lease it. That means the value of the leasehold is going to go up, enable the country to realize more money and permit the independent oil companies to get involved in the leasing procedure.

Mr. STUDDS. Would the gentleman speculate, even if this particular amendment were accepted, to what extent it would lead to any delays?

Mr. HUGHES. It is ridiculous to argue that it would lead to any delays, because presently the Secretary of the Interior now offers such permits off of structure. It does not require any more to sink a stratographic test well into the structure.

Mr. STUDDS. That is precisely the point I wish to make. The heart and soul of the stated opposition, at least of the industry, to this legislation in all the advertising and many of the "dear colleague" letters we have received in the last few hours is that it would lead to these delays. All these contentions are based on a statement by W. F. Rogers, of the University of Rhode Island. He testified before our committee.

Mr. STUDDS. And his figures are based on the totally erroneous assumption that the provision of the gentleman from New Jersey, which he just discussed, would lead to a 6-year halt in all new OCS activity. No such thing is contemplated. No such thing is even remotely conceivable.

Let me read from this gentleman's statements:

> My analysis was undertaken for the American Petroleum Institute.

I think that ought to be underlined.

Then he goes on to say:

> I am a statistician by training and have had no previous analytical experience with the petroleum industry.

He then proceeds to make these claims, which have absolutely no foundation.

Mr. FISH. Mr. Chairman, I yield myself such time as 1 may consume.

Mr. BREAUX. Mr. Chairman, will the gentleman yield, to allow me to ask a question of the gentleman from New Jersey (Mr. HUGHES)?

Mr. FISH. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman a question, since the gentleman was referring to this. In section 11 of the committee bill, the statement is that the Secretary or any other Federal department or Federal agency may conduct geological and geophysical explorations, including core and test drilling.

What does that mean to the gentleman? I will tell the gentleman that, to me, it means the Federal Government can go out and drill on the Outer Continental Shelf through the core, the same way you drill when you drill for oil. To me, this means that we are saying that the Secretary can drill for oil and gas in the OCS. What would the gentleman's interpretation be?

Mr. HUGHES. If the gentleman will yield. If you will examine existing legislation you will find that the language is almost identical.

In fact, if the gentleman would like to join with me, I might be inclined to strike that provision. It does not add a thing to the bill. It has been suggested that this bill is the first step toward Federal exploration.

Mr. BREAUX. Apparently the gentleman does agree that this is a clear—as opposed to what might be in the law right now—authorization for the Federal Government to go out and drill in an oil dome where they seek oil and gas.

Mr. HUGHES. No. On the contrary, it is in existing law. It does not add a thing.

Mr. BREAUX. I am talking about what the gentleman thinks the words mean.

Mr. HUGHES. It would give the Federal Government the same right as it now has to gather information.

Mr. BREAUX. What right?

Mr. HUGHES. The same right on its public lands as the oil industry has once a permit is granted, that is to determine what potential exists for oil and gas production.

Mr. BREAUX. If the gentleman from New York will yield further, I interpret it to mean that the Federal Government can drill for oil and gas in OCS. Would the gentleman from New Jersey agree with that?

Mr. HUGHES. Here is what it permits in the instance of a lease sale. Were the oil industry has indicated an interest in certain tracts, it authorizes the Secretary of the Interior to collect that type of data needed to gain a little more knowledge about what we are selling before we sell.

Mr. BREAUX. How do they collect that data?

Mr. HUGHES. They contract it out in the private sector.

Mr. BREAUX. Drilling and paying for it with Federal Government money, taxpayers' money?

Mr. HUGHES. We are talking about public lands. For instance, I certainly would not sell, as a trustee or an executor of an estate, a piece of real property in Florida that I have not seen or had not appraised. I think the Secretary of the Interior has both a right and a duty to determine whether a particular lease should be offered for sale and the approximate value.

Mr. BREAUX. I would commend the gentleman for being aggressive and diplomatic with that answer.

Mr. FISH. Mr. Chairman, I will ask the gentleman from New Jersey, is the gentleman the author of section 11(g) of the committee bill, the onstructure tax drilling section?

Mr. HUGHES. What is the gentleman's question in reference to?

Mr. FISH. I asked the gentleman if he was the author of that particular section.

Mr. HUGHES. Yes; I was.

Mr. FISH. And the gentleman is familiar with the testimony and the presentation by Dr. Warren F. Rogers, chairman of the department of management science, University of Rhode Island?

Mr. HUGHES. Yes. I was present when he testified before the committee.

Yes; I was present when he testified before us.

Mr. FISH. Mr. Chairman, I think my recollection is correct that the gentleman from New Jersey argued with him when he recognized that he was critical of section 11(g), and the gentleman questioned him with a great deal of diligence during the hearings.

Mr. HUGHES. Mr. Chairman, I questioned him about his objectives. I think he was the first to admit that much of his data was based upon a lot of false assumptions. Of course, subsequently, after Dr. Rogers testified, the provisions of the bill relating to section 11(g) were modified, as my colleague well knows.

Mr. FISH. The gentleman, of course, recalls that this is the section that would be modified to reflect his intention.

I will ask the gentleman, did he at any time during his questioning of Dr. Rogers attempt to impugn his integrity or reputation as chairman of the department of the university, as was explicit in the statement of the gentleman from Massachusetts a few minutes ago?

Mr. HUGHES. Well, I do not know to what the gentleman is referring. If the gentleman is asking me whether or not Dr. Rogers admitted that his study was financed by the oil industry, he did so testify.

Mr. FISH. That is correct. So it was not a matter of whether we should be relying on his credibility?

Mr. HUGHES. I do think it is important to point out who financed the study. I think he was the first to admit that his work was financed by the American Petroleum Institute.

Mr. FISH. It was not approved, incidentally; it was financed, yes. I wanted to clarify that for the Members.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield for just 1 additional minute, I think that even Dr. Rogers admitted during his testimony—and I would ask the gentleman to examine the testimony—that much of his estimate of delays was based upon certain bold assumptions. I think one of the assumptions was that if in fact we permit one or more structural or stratographic tests to be drilled and oil or gas is found, that it will induce the Department of the Interior to offer more permits to try to delineate the field.

My response to that is that if in fact we discover there is oil or gas in a structure and the oil industry or some of the companies that are participating want more permits to delineate the structure, that we are truly discharging our public role in managing public lands.

Mr. FISH. Mr. Chairman, I thank the gentleman for his response. The testimony of Dr. Rogers is part of the record, and I think it clearly evidences the fact that he asked Congress what our intent is so that he could make certain assumptions. I appreciate the gentleman's response.

Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the uses of the English language are most illuminating in debate. When the industry spokesmen, people whose livelihood depend on this legislation, communicate with Congress, it is termed a barrage of propaganda, but when those who believe in governmental intervention in every aspect of our economy communicate with us, it is termed poetry.

In any event, Mr. Chairman, we are being consistent. We have put obstructions in the way of unemployed youth getting jobs by refusing to pass a youth differential bill, and now we are putting obstructions in the way of oil production by encumbering offshore drilling with a plethora of regulations.

Mr. Chairman, I want to salute the gentleman from New York (Mr. FISH) for his leadership in this vital issue.

Mr. Chairman, it is no wonder the American people doubt there is an energy crisis. Contradictions abound. The President periodically takes to the airwaves in an attempt to convince Americans that there is indeed an energy crisis. In his state of the Union message January 19, Mr. Carter said:

> Every day we spend more than $120 million for foreign oil. This slows our economic growth, it lowers the value of the dollar overseas, and it aggravates unemployment and inflation here at home. Now we know what we must do: increase production, we must cut down on waste, and we must use more of those fuels which are plentiful and more permanent.

The President has told us repeatedly that the goal of his administration is to increase available supplies of energy, including fossil fuels.

The Outer Continental Shelf areas are one of the last major untapped domestic sources of oil and gas. In 1976, 14 percent of U.S. domestic oil production was from OCS; 22 percent of U.S. domestic natural gas production was from OCS. Offshore potential reserves are estimated to be more than 80 percent of proven U.S. oil reserves and 47 percent of proven U.S. natural gas reserves.

The Outer Continental Shelf Lands Act amendments (H.R. 1614) before us today is being heavily lobbied by the Carter administration with its spokesmen claiming the legislation will help them "proceed expeditiously with development of our OCS oil and gas resources."

Nothing can be farther from the truth. The complicated procedures and regulations required by passage of the OCS bill will drag out Outer Continental Shelf leasing and cause delays of 3 to 6 years in development. The result of such delays is obvious: American dependence on foreign oil sources could easily jump to over 60 percent.

Further exploration and production will come to an abrupt halt if this bill is passed, and the "public interest" lawyers will have a field day preparing and filing their lawsuits. New agencies, with no experience in marine safety, will have to gear up and issue reams of regulations to further delay the job of beating the energy crisis.

For example, why involve OSHA? The U.S. Coast Guard has an excellent record of safety and supervision in this area. Why eliminate their experience and expertise for the untrained bureaucrats from OSHA? Will they get "on the job training?" How much will this cost in safety and dollars?

This bill obstructs our efforts at energy production; it will cost billions in lost wages and State and Federal taxes, not to mention depriving the Federal Government of billions of dollars in lease bonuses and royalties.

The President's state of the Union speech mentioned his understanding of the "limits of government," but this bill puts the Government into the oil and

natural gas business in competition with private industry.

If the term "counterproductive" ever had application, it does to this legislation. We are told this bill is supported by environmental groups. But by increased reliance on imported oil, don't we maximize the threat to the marine and coastal environment from tanker spills?

I cannot support legislation that will cost U.S. consumers $5 billion or more a year in foreign oil imports, and a loss to the economy of $13 billion, result in the loss of approximately one-half million jobs with an accompanying payroll loss of more than $2 billion.

I cannot support legislation that worsens the energy crisis and renders us even more vulnerable to the OPEC cartel. For America's sake, I hope this bill is resoundingly defeated. I do intend to support the Fish substitute when it is offered. This is a reasoned and responsible answer to our OCS problems.

Mr. FISH. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, at the risk of again repeating a statement made here just a short while ago—and it is one that seems very appropriate in the debate here today on the subject we are discussing—let me reiterate that Bert Lance left a very laudable principle in Washington, one that should be remembered in every bill we pass in this House, when he said, "If it ain't broke, don't fix it."

In my view, this is really what H.R. 1614 is now doing: It attempts to fix a system that has served this Nation very well by regulation authorized by the President and under the present act.

Again, as has already been said, almost all the inefficiencies of our present offshore development have been corrected, and H.R. 1614 adds massive new procedures that will only delay production at a time when we desperately need to be at the work of supplying the desperately needed energy for this Nation.

As I said in the debate on the rule, in my view, I think that finally the administration is now putting production at the head of its concerns in terms of where we are going to go in this whole field of energy.

I would also submit that all these new procedures involved in this legislation may well be tried in court. I am sure that the industry may well take that attitude. It has been said that we will stop suits in court if we only pass H.R. 1614, but we may well find that we have just created delay after delay by trying to make sure what is meant by the legislation that we are now considering.

It will surely add significant costs to the production of energy that will have to be paid by the American taxpayer. I think it will be long term, not just short term. The Congressional Budget Office estimates, of course, that this could be $2 billion in the first 5 years.

Further, Mr. Chairman, these mandated new bidding procedures could delay production.

The statement has been made that the present system works because when a company invests substantial front-end money, that is the best incentive there is in the world to get that money back by starting to produce. If we go to a system that does not have that investment incentive and where there may be a royalty as we produce the oil from this Outer Continental Shelf, then they will only be committed to pay as they produce. I think that destroys much of the incentive that is now in this system. I think it has been clearly demonstrated here today already that we do not bar or we do not keep out the massive numbers of smaller companies beyond the so-called Big Eight; they do participate now, and they do win awards under this present bidding system that is now used.

Mr. Chairman, both of the substitutes also provide that the Department can use these bidding systems. The issue is whether we mandate it and force them to use untried systems in this Nation in a free enterprise system which does not exist around the world when we try to point to the use of these systems in other nations.

I do not think this Nation is ready to do what many other nations do, and that is, they go into the back room and cut up the pie and arbitrarily allocate pieces to various companies, telling them how they may produce. The hitch is that if they do not produce, of course, they risk the loss of what they have been allocated.

I think we have a far better and far more automatic system and one that keeps the bureaucracy from getting in the way of energy production.

Therefore, Mr. Chairman, I hope we will not adopt H.R. 1614. I hope we will adopt one of the substitutes, and I truly prefer the substitute that will be offered by the gentleman from New York (Mr. FISH). Failing that, I think the Breaux substitute would also be a good answer to our problems in terms of finding a way to get away from the morass of amendments and dissension and discussion that we have now been involved in for these many, many months.

Mr. Chairman, again, I thank the gentleman for yielding.

Mr. BREAUX. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from Louisiana (Mr. BREAUX) for yielding.

I rise to speak in opposition to this bill and in favor of the Breaux substitute and other substitutes which try to bring more coherence and order to this whole process than does the committee bill.

We need legislation that will not delay any longer recovery of our own natural resources from offshore areas. In my judgment, this legislation, however well-intended, would cause delay in our energy recovery.

This past year we sent $45 billion overseas in payments to foreign suppliers of oil.

The very day after the House voted a $1.75 price ceiling on natural gas, it was announced that we may well import natural gas from Mexico at a price of $2.65. The price of liquid natural gas coming in from Algeria and Indonesia is even higher.

Therefore, Mr. Chairman, it is important to the American consumers that we maximize our own energy reserves and that we produce our own resources offshore.

In the case of my own State, some portion of our tidal lands were preserved to the State when we entered the Union. Those areas which have been under State control have had their reserves very substantially and largely explored because they did not come under all of the Federal regulations that other offshore lands did.

It is my judgment that had this bill been in effect, the areas in which we have brought exploration would have been much longer delayed. A company like the Houston Oil & Mineral Co. has had a very large growth in large part because it conducted exploration and development in State waters. It would like to work in the Baltimore Canyon. We read in the paper such as last Sunday of the possible reserves in that area, and yet that company, like so many other companies, has been held off time and time again by lawsuits. Esthetic sensibilities offended by the proposed drilling might cause even further delays to the production of such precious reserves because this bill would encourage more delay. The country as a whole would be even worse off in terms of developing the energy we need for our own purposes and for reviving our economy. Therefore, I support the Breaux amendment, which is a more realistic compromise than the legislation presented to us. There may be other proposals that will be worth our support.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KRUEGER. Mr. Chairman, I ask unanimous consent that I may proceed for 1 additional minute.

The CHAIRMAN. The Chair will state that the gentleman from New York (Mr. MURPHY) has control of the time.

Mr. FISH. Mr. Chairman, I will yield 1 additional minute to the gentleman from Texas.

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from New York (Mr. FISH) for yielding me this additional time. I might say that I have forgotten where I was in the midst of that sentence but I can begin with a new sentence.

Mr. Chairman, I would simply point out that I think it is in the interest of all Americans and all of the Members in this House to maximize our own energy reserves. It would help our economy if we could increase our reserves. When you look at the 1977 year and at the $45 billion going overseas for imports of foreign oil, that is a very, very heavy capital outflow and therefore it is very important for us to maximize our own reserves as promptly as we can. We must search offshore.

Mr. Chairman, as a concluding point, I might mention that only 1.3 percent of all oil spills in recent years have come from offshore drilling. The overwhelming cause for spillage affecting our environment has come from oil freighters,

carrying imported oil necessary only because our development of domestic sources has been inhibited by laws such as the committee has proposed to us in H.R. 1614.

Mr. MURPHY of New York. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I rise to take issue with some points that have been made regarding revenues and participation on the Outer Continental Shelf.

Last year according to the major oil companies the Government took out 94 percent of all the revenues, from the OCS, and according to the oil companies it was a losing proposition. The gentleman from Louisiana (Mr. BREAUX) said it was 71 percent. Then the gentleman from Louisiana (Mr. TREEN) took issue with him and said it was 83 percent. The fact of the matter is, as has been pointed out by the argument, it is a declining balance for the Government when you figure it at the 94 percent that they tried to push off on to the Congress last year. That was the cost of getting the job started. But when the oil starts to be produced, that percentage will decline every year, as was shown by the Congressional Research Service.

So I think it is important to know that if we continue the current policy that the Government will get an ever-declining amount of money from the public resources. I think we ought to know what we are doing. These companies are talking about a capital shortage as far as the Outer Continental Shelf is concerned when in fact many business journals say that the Government ought to quit taking bonuses from these companies because they have no relationship to the resources that may or may not be available after the development of that lease.

The bonuses are a barrier to the entry to the Outer Continental Shelf by smaller companies, and they use capital that otherwise could later be used to fully develop those leases. By the use of alternative bidding systems, we may speed up the development of current leases.

It has been said about the bonus bidding system in an article in the Wall Street Journal that—

> The greatest weakness of the present bonus bidding system for leasing government offshore lands is that it deprives the oil industry of desperately needed capital that should be put to work in discovering oil and gas. The system also stifles competition by perpetuating the dominance of the major companies.

Business Week called it "the biggest floating crap game, very likely in the world."

A report by the Congressional Research Service for the Department of the Interior Committee says:

> The Outer Continental Shelf leasing system has inadvertently allowed the majority of leases to be captured by the larger oil companies . . . This concentration of oil lease ownership is evidenced by the fact that 9 of the largest producing firms in the United States are also among the 10 largest OCS lease holders, and that these 10 firms hold 92 percent of the total OCS leased . . . The 17 largest operators own 90 percent of all producing Federal OCS leases. . . .

I suggest that that is not quite the open and full participation that was suggested earlier on this floor. I think it is very important that we ought to understand what the bonus bidding system does. Consider what happened off Florida where the companies apparently bid $600 million combined for some leases—the Destan Dome, I think it was called—and nothing was produced. Now they come and say to us:

"Hey, you guys got a bargain. You got $600 million and we didn't find anything." I think we should further understand: By what right should we extract $600 million from these companies if in fact there is no oil? Why do we not do what other nations of the world do—engage in a partnership. "If you find the oil, we share the royalties with you. If you do not find oil, there is nothing to pay. Let us use the money that you saved to go out and explore, to go out and develop." But somehow that is too rational. While the oil companies complain about the money left on the table and the Government extracts 71 percent or 94 percent of all the moneys, they do not want to change the system. I suspect they do not want to change the system because, while some people have stood here today and said this has been very good for the country, they are mixed up. It has been very good for the major oil companies and not terribly good for the country.

What this bill will do is to open up the system so it will be more competitive, so more people can participate, so we can get wider diversity, greater participation by more people in this line of business. It is not to suggest that the knowledge is a providence only of the major oil companies, because it is not. There are independent firms who contract out for them to do this work that will be done by others. We are the only country in the world that would give away resources as cheaply as we give them away when they belong to the people. Nobody questions our jurisdiction. Nobody questions that these are public lands. We are the only country in the world that gives them away for such small royalties, usually 16⅔ percent. Anywhere else these same companies pay royalties of 51 percent, 49 percent, 81 percent, and they are dying to drill in Southeast Asia, the North Sea, and anywhere else.

Finally, I want to take issue with the suggestion attributed to the Congressional Budget Office that says that if this bill were in place, the country would lose some $2.5 billion. What they are telling us is that we would lose the bonus bids in that amount, but they go on to say—what is not cited by any of the proponents of that study—that the revenues in fact are deferred and that they would be recovered through revenues if oil is found. Because they will be found in a later period of time, they are outside the scope of this study. So I ask the Members just to take the words of the opponents of this bill that the decline in revenues to the Federal Government under the existing system is in fact taking place, because last year these opponents were telling us it was 94 percent for the Government, and this year they are suggesting that it may be 71 percent, and somebody said, "Oh, no, it is really 83 percent." The fact of the matter is, Mr. Chairman, that it is declining under the current system. It can only drop down after we pay the barrier fee to keep the other competition out.

Somebody suggested they could pledge 100 percent of the oil to the Government so that they could get the natural gas. And if the Secretary of the Interior determines that it is in the best national interest, that is it. He does not have to accept bids made under these so-called experimental systems. If he determines it will not result in the best development of the OCS or in our national interest, he does not have to accept those, and, in fact, under this bill he could not accept those bids. He only has to offer. If the oil companies do not want to play, we can go back and use another system such as those that have worked out very well in other parts of the world.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. FISH. Mr. Chariman, I wonder if the gentleman can tell us what we might expect over the next 5 or 10 years in revenues if the alternative bidding systems are so much more attractive than the bonus system?

Mr. MILLER of California. The gentleman knows we have no way of knowing what systems the Secretary of Interior would in fact select, so I do not know. I can only tell the gentleman the California experience, that in the great State of California, with the city of Long Beach, they are receiving 94 percent of the revenues from State owned offshore oil.

Mr. FISH. I think the gentleman made reference, as did the gentleman from Massachusetts, to the experience in other countries. In the first place, in Great Britain, which has a very active program, it is not a question of the royalty of 50 percent or 60 percent. It is 51 percent Government owned. That is not an issue here. I wonder if the gentleman is aware of the facts with respect to the Indonesia nationalized oil company?

Mr. MILLER of California. We will be glad to take 51 percent if that is what the gentleman is suggesting.

Mr. FISH. It is going broke.

Mr. MILLER of California. Before they can participate they have to give up 51 percent of the oil as a royalty.

Mr. FISH. You are talking of ownership, as the British company.

Mr. MILLER of California. We can tell them to go out and drill and we will take 51 percent. And somehow the oil companies still find it within their capability to build rigs costing millions of dollars and still find it worthwhile to seek greater participation in the North Sea.

Mr. STUDDS. Mr. Chairman, if the gentleman will yield, in addition to taking one-half of the oil which belongs to the Government, they tax the remainder at 50 percent—for an effective tax rate of some 70 to 80 percent.

Mr. BREAUX. I yield 2 minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to address myself to the economic aspects of this bill and the adverse impacts it would have not only for the whole gulf coast region and particularly the State of Louisiana but also for our Nation as a whole because of its inflationary aspects.

First, the bill H.R. 1614 creates a range of overlapping OCS jurisdiction by several Federal agencies, including the Departments of Energy, Interior, Commerce, Defense, Justice, Labor, Transportation, and the Federal Trade Commission, among others. For example, workers' safety now covered by the Coast Guard would by expanded jurisdiction become the responsibility of the Department of Labor. Should there be protracted jurisdictional disputes among all these Federal agencies, the Office of Management and Budget would be forced to decide time and time again how to settle the issues. All this would take considerable time and extend OCS delays and be costly to the American taxpayers and consumers.

Second, "dual leasing"—separate leases for exploration and for development—will create substantial delay. "Dual leasing" drags the Federal Government into the offshore oil and gas business by granting it decisionmaking authority over the entire exploration process. This includes the right to choose which companies the Government will hire at taxpayers' expense to conduct offshore drilling operations and what work such companies will perform.

The bill also allows the Government to rewrite leasing regulations in a manner which actually puts the Interior Department into the oil and gas production business. Experience shows that a discontinuity between exploratory drilling and production creates grave economic uncertainty. Equally as inadvisable as launching the Federal Government into the offshore oil and gas business via a "dual leasing" program would be the costs and delays in developing U.S. energy resources inherent in such a program.

Third, citizen suits are encouraged by the proposed legislation, contrary to some of the statements that have been made, because of a fundamental change in the terms of contracts between OCS lessees and the Federal Government as third-party suits are initiated under H.R. 1614.

The CHAIRMAN. The time of the gentlewoman from Louisiana has expired.

Mr. MURPHY of New York. Mr. Speaker, I yield 1 additional minute to the gentlewoman.

Mrs. BOGGS. Mr. Chairman, fourth, we have heard about the Federal onstructure drilling in frontier continental shelf areas which will substantially delay development.

Mr. Chairman, these delays will have dreadful effect, not only upon the entire economy of the United States, but it will have an impact on the State of Louisiana and the gulf region that is really staggering. Just in terms of jobs and lost income, the impact will be most severe on at least 14,500 workers directly employed in drilling and production on the OCS of Louisiana with an estimated annual payroll of $201,550,000. There are 50,750 workers indirectly employed on OCS-related activities with an estimated payroll of $552,725,000 who will, indeed, be losing their jobs and this amount of payroll tax loss to our State and subsequently to our Nation.

Mr. MURPHY of New York. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, I yield to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise in strong support of H.R. 1614.

Mr. Chairman, H.R. 1614 is a landmark bill in energy resource development. Among other things, it provides for the planning and coordination of offshore oil and gas activities with coastal States which may be impacted. By opening up the OCS decisionmaking process in a consensus-building fashion, the bill will provide for more stable and efficient development, which will be less subject to delaying court actions. We must allow swift action on this bill to provide badly needed modernization of the outmoded 1953 act.

America's energy needs require our immediate attention—expeditious and orderly development of our OCS oil and gas resources is imperative. The mounting concern regarding the protection of our renewable offshore resources with their economic importance and the need for responsible legislation cannot be put aside.

It is important that H.R. 1614 be considered this session. OCS lands act reform is an integral part of the energy plan announced by President Carter in April. It is crucial that this bill be in place before upcoming OCS sales are carried out. Attempts by opponents of the bill to delay its consideration further, may in reality have the undesirable effect of delaying the OCS leasing program.

Passage of this legislation is a critical step in developing a comprehensive strategy for expediting development of our Nation's oil and gas reserves and for decreasing our mounting dependence on foreign sources of energy. This legislation would establish a framework for a system giving the public, for whom the government holds these lands in trust, a fair share of the revenues. I vigorously urge your support of H.R. 1614.

Mr. STUDDS. Mr. Chairman, I would like to take this time hopefully to put once and for all clearly into the RECORD the way in which the contentions made in the study so often cited by the opponents of this bill, by Dr. Rogers of the University of Rhode Island, are, whether the gentleman from New York (Mr. FISH) likes the term or not, quite literally incredible. In fact, the only thing I would find more incredible would be someone who would take this study as the basis for making any judgment or estimates of any kind.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, who commissioned Dr. Rodgers to do this study?

Mr. STUDDS. The American Petroleum Institute.

I may say, I am not at all wedded to ad hominem argument. I would like to argue not on the basis of people but on the basis of a literally incredible study. I suspect if Dr. Rogers were here, he would concede the study was based on a false premise and there was no way he could know that at the time. The entire estimate and all the figures coming to the House through ads in the papers and "Dear Colleague" letters and statements and reports is based on one section of the bill, section 11(g). The estimate of a 6-year delay, and the estimates regarding loss of dollars and countless thousands of lost jobs are based solely on his interpretation of section 11(g) of the bill. It is not the same section 11(g) that Dr. Rogers had before him when he made his study. What section 11(g) says is this:

(g)(1) The Secretary may permit qualified applicants to conduct geological explorations, including core and test drilling, in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary or the applicants believe contain significant hydrocarbon accumulations.

That is to say, on structure drilling. I quote again:

(2) The Secretary shall, at least once during the two-year period beginning on the date of enactment of this subsection, offer persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

There are only a few more lines, and they have to do with the nature of the regulations issued by the Secretary.

The study of Dr. Rogers is based on the assumption that the section which I have just read would require a 6-year moratorium on all lease sales. It does no such thing, and its author, the gentleman from New Jersey (Mr. HUGHES), has just stated unequivocally that this is not his intent. Whether that is his intention or not is irrelevant, because that is not what the language says. It simply says that once in the 2-year period after this bill becomes law the Secretary shall offer the opportunity for onstructure drilling in at least one instance. That is all it says. It does not say anything about stopping ongoing activities in the Gulf of Mexico, or holding off all future lease sales.

Let me read from Dr. Rogers' study:

Section 11(g) requires the Secretary to seek applicants for on-structure exploratory drilling prior to lease sale. Should he elect to pursue this option, then the sequence of actions required to implement it becomes the critical path. I will therefore address in detail the delays implicit in this action...

I continue to quote:

Although not specifically stated in the bill, we assumed that the intent of this section is to provide the government with improved estimates of the resource contents of a lease area prior to lease sale.

I read on:

We therefore assumed, in addition, that a moratorium on lease sales would be placed in effect pending the completion of this activity.

I read on:

We estimated that the time from enactment of the legislation to completion of the first test wells would be approximately three years . . .

We further estimated that a three-year delay would entail a loss to the economy of a minimum of 7.6 billion dollars and a three-year delay in creating 119,000 direct and 178,000 indirect jobs.

Those are the scare figures we have seen in the Washington Post today and yesterday. Those are the scare figures we have seen in the "Dear Colleagues" for the past week, and they are based on the totally false assumption of a 3-year moratorium. If that is not bad enough, he then doubles it.

I quote:

Now, on completion of this initial series of on-structure wells, which we estimate will take three years to accomplish . . . if the Secretary interprets the intent of Congress to be that lease sales take place only after the resource content of the lease areas is largely determined, then a very extensive drilling program will be required which we estimate very conservatively will take three years additional for a total of six years' delay.

The legislation requires no delays. The assumption of the gentleman from the University of Rhode Island is totally incorrect. There is no intention of the Congress for a 6-year delay, and that is precisely where the figures showing tens of billions of dollars and several hundreds of thousands of jobs lost come in. It is utterly without foundation, and I would suggest that whatever honest differences of opinion we may have on the bill, we once and for all put aside claims based on this study, which is without any claim of credulity on anyone's part.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BREAUX. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

The CHAIRMAN. The gentleman from Massachusetts (Mr. STUDDS) is recognized for 1 additional minute.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield.

Mr. BREAUX. Since the gentleman obviously does not agree with the study from the University of Rhode Island, I would like to ask for his comment on what his opinion of the validity of the Congressional Budget Office estimate is, of a loss of revenues of $1.325 billion if the committee bill were passed, between 1978 and 1982.

Mr. STUDDS. I suspect it is referring to foreseeable losses of the front-end bonus moneys if we move to alternate systems.

Mr. BREAUX. But the gentleman has no problems with agreeing with the Congressional Budget Office estimates?

Mr. STUDDS. Not this year's. But that does not take into account what we will get in future years from profit-sharing, royalties, and other new and better bidding systems.

Mr. BREAUX. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I yield 7 minutes to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Chairman, first of all, there have been remarks here about the fact that we permit oil companies to develop our natural resources at a ridiculously low royalty, and that may have caused some who hear this debate or who read it to believe that under the existing statute that the royalty is fixed at a maximum amount. The statute simply says that in bonus bidding the royalty must be fixed at not less than 12½ percent of the production.

Therefore, the Secretary of the Interior, if he chooses, may fix a high royalty, may fix it at 20 percent, 30 percent, 50 percent, whatever he believes the traffic will bear.

There are going to be a lot of charges made—and they have been made—today and tomorrow and probably into next week, as we consider this bill. One of those which has been made, and which cannot be sustained, is that under the present statute, the 1953 act and the regulations that have been promulgated under that act, our procedures for exploring and developing the OCS are anticompetitive or that they result in the domination of OCS oil and gas production by just a few companies.

Mr. Chairman, I have a summary of lease sales from 1970 through 1976, a total of 17 lease sales, in which 3,926 tracts were leased. Of those, 16 majors successfully bid on 1,617 tracts and independents obtained interests in 2,339 tracts. Thus, interests in 60 percent of all those tracts were acquired by independents, that is, companies smaller than the 16 largest petroleum companies fitting the FEA definition of a major company.

One study that we do not have—but I suggest that maybe it would bear out my view—is that in relation to their capital resources the independents are probably getting a bigger share of the acreage leased than the major companies. When one looks at this summary of 17 lease sales and finds that 16 major companies acquired 40 percent of the tracts and independents acquired 60 percent, that suggests, to me, that the balance is the other way. But let us look at one sale. Let us look at the latest sale, or one of the latest sales, off the Gulf of Mexico, in Louisiana, and Texas. This is lease sale 47, June 23, of last year. Over 70 companies obtained acreage under that sale. Over 70 companies. Who were some of those companies? We have heard it said here today that the majors dominate; if not the majors, some of the major independents. Observe some of the companies which were successful in this:

Amax Petroleum; American Natural Gas; Anadarko; CMG Producing; Decalta International; Diamond Shamrock; Exchange Oil & Gas; General American; General Crude; Hamilton Brothers; Highland Resources; Kerr-Magee; Knobb Hill Oil & Gas Co.; Cook Industries; McMoRan Exploration; Masa Petroleum; Natomas Exploration; Newmont; Ocean Oil & Gas; Ocean Producing; Oil Development of Texas; Pelto Oil; Pioneer Producing; Plato; Pogo; Research Oil; Sabine Producing; Samedan Offshore Oil; Santa Fe Mineral; Sonat Exploration; South Coast; Southland Royalty; Offshore Co.; Total Petroleum. And on and on.

And, of course, the list does include the majors.

I submit for the RECORD a summary of that lease sale, the same sale in New Orleans on June 23. Participating in the high bids in 93 out of 152 Louisiana tracts were the following smaller oil and gas companies:

OCS LEASE SALE NO. 47—SUCCESSFUL OCS BIDDERS

Member company	No. tracts obtained	Average interest in participation (In percent)
Allied Chemical	1	25
Amax Petro	1	30–50
Amerada Hess	5	39
American Nat. Gas	4	39
Aminoil [1]	6	25–100
Amoco	3	12–20
Anadarko	2	11–25
Ashland Explor	2	33–100
Atlantic Richfield	25	40
City Service	8	60–100
Chevron	11	17–50
CMG Producing	2	45–100
Continental	8	22
Decalta I'ntl	7	20–25
Diamond Shamrock	2	50
El Paso	1	21
Energy Reserves Group	4	21
Exchange Oil/Gas	1	100
Exxon	9	20
Freeport [2]	5	7–33
General American	5	18–75
General Crude	6	30–50
Getty Oil	6	100
Gulf	13	13
Hamilton Bros	1	9
Highland Resources	1	100
Houston Oil and Minerals	1	3
Hunt Industries	1	31
Hunt Oil	1	2
Hunt Petro	1	17–25
Ermagee	4	1
Knobb Hill Oil/Gas	1	33
Cook Industries	3	15
Louisiana Land	2	34–50
Marathon	3	6
McMoRan Explor	4	

OCS LEASE SALE NO. 47—SUCCESSFUL OCS BIDDERS—Continued

Member company	No. tracts obtained	Average interest in participation (in percent)	Member company	No. tracts obtained	Average interest in participation (in percent)
Masa Petro	5	34–100	Santa Fe Mineral	9	8
Mobil	12	63–100	Shell	12	100
Murphy	1	5	Sohio Petro	2	25
Natomas Explor	8	28	Sonat Explor	6	28
Newmont	6	16	South Coast	1	22
Northern Nat. Gas	4	33	Southland Royalty	1	10
Ocean Oil/Gas	3	8–50	Sun Oil	1	50
Ocean Producing	4	2–50	Superior	8	3–100
Oil Dvlp of Texas	3	25	Tenneco	9	50–100
Occidental Petro	5	20	Texaco	5	33–50
Pancanadian Petro	2	21	Texas Eastern Explor	2	33–50
Pelto Oil	2	10	Texas Gas Explor	2	20–50
Pioneer Prdcng	2	8	Texas Gulf	4	20–50
Placid Oil/Gas	4	31–100	Offshore Co	6	5
Plato	1	30	Total Petro	1	10
Pogo	2	30–90	Transcontinental Producing	6	46
Research Oil	3	14	Transocean	2	34
Sabine Prdcng	3	25	Union of Calif	9	50–100
Samedan Offshore Oil	2	10	United Gas Pipeline	1	25

[1] Number of tracts bid on: 15.
[2] Number of tracts bid on: 17.

Major oil companies—breakdown of interest in participation by tract

Company	Tracts	Participation (In percent)
Amoco	3	25, 50, and 100
Atlantic Richfield	25	5–33, 20–100
Chevron	11	3–100, 8–60
Exxon	9	100
Gulf	13	100
Mobil	12	1–100, 11–63 to 65
Shell	12	100
Sohio	2	25
Texaco	5	4–50, 1–33

OCS participation by DPC members

Member company	No. tracts bid on	No. tracts obtained	Average interest in participation (In percent)
Aminoil	15	6	40
Penzoil	9	2	50–60
Tenneco	18	9	50–100
Louisiana Land	7	2	15
Freeport Sulphur Co	17	5	20
Hunt Oil	--	1	31
Santa Fe	--	9	8
Southland Royalty	--	1	10

Sixty-six independents will acquire 382,230 net working interest acres or 51.7 percent of the acreage receiving bids in the sale. The eight largest oil companies bidding separately were high bidders on 357,096 net acres or 48.3 percent of the acreage receiving bids.

There is one other point that has been made or at least that has been suggested, and that is that somehow the large oil companies get together rather than compete under the system we use. In that same lease sale to which I referred, there were 12 bids on tract No. 27. Gulf Oil bid $77.9 million, compared with the next highest bid of $32 million. That is approximately $40 million that was left on the table by Gulf in that one tract.

On tract No. 104, in the East Cameron area, Gulf bid $72.3 million or $35 million more than the nearest competitor.

Mr. Chairman, I appreciate the argument that maybe we should not have these companies putting up so much capital in the form of front-end money. That is a legitimate argument. But it is not legitimate to argue that under the present act we do not have competition. That simply is not going to wash in this debate.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TREEN. Yes, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I have a great deal of respect for the gentleman from Louisiana (Mr. TREEN), and I understand naturally the concerns of the oil-producing States.

However, I think the gentleman also shares the same concern we all have in protecting the national interests.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

Mr. FISH. Mr. Chairman, I yield 2 additional minutes to the gentleman from Louisiana (Mr. TREEN).

Mr. HUGHES. Mr. Chairman, will the gentleman yield further?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I am sure the gentleman from Louisiana (Mr. TREEN) has read the General Accounting Office report of June of last year in which it is indicated that on lease sale No. 40, involving some 25 percent of that acreage, the Department of the Interior had no seismic or geophysical information. They actually leased the property in the blind.

Does the gentleman think we are really comporting ourselves properly, recognizing what is required of us as fiduciaries of these public lands, when we lease without any knowledge whatsoever of the resources contained in those tracts?

Mr. TREEN. No, absolutely not. And, of course, the Department has a right to reject any bids, and it does reject bids. It has rejected many, many bids when it feels that it would result in an improper award. And there were, of course, some bids that were rejected in the sale the gentleman is talking about.

Mr. HUGHES. Mr. Chairman, will the gentleman yield further?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I am sure the gentleman knows that under the procedures followed the oil companies actually nominate the tracts they are interested in.

Mr. TREEN. Right.

Mr. HUGHES. Those particular tracts were nominated, even though there was no seismic or geophysical information, and those tracts were actually leased under this legislation.

Mr. TREEN. Mr. Chairman, if I may just respond, the point is that that is provided in the administration of the act. What we are talking about here is amending a statute.

Under the present law the administrators of this program can handle that problem very well. They do not have to go along with the nomination. They do not have to put up a lease sale until they get the seismic information they want. That is possible under the present statute.

Mr. HUGHES. That is precisely the point, and one of the provisions we want is the onstructure stratographic test drillings, which will furnish us with the kind of information that will give us a realistic assessment of those resources.

Mr. TREEN. That can be accomplished under the present law.

Mr. HUGHES. Not as it pertains to the onstructure.

Mr. TREEN. My understanding is that it can be done under the act as it is.

Mr. HUGHES. There is some question whether it can be authorized, but we are going to make it clear in this particular act.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my substitute to H.R. 1614 amends the Outer Continental Shelf Lands Act of 1953, and the Coastal Zone Management Act to provide new authority for the management of oil, gas, geothermal steam and other resources on the public lands of the OCS in order to expedite a systematic and judicial development of these energy resources, provide the maximum practicable protection for the marine and coastal environment, and to provide for the greatest possible financial return to the public for the leasing of their energy resources on the OCS.

The need for maximum and expeditious development of all of our domestic resources cannot be questioned by anyone who has watched our decline in domestic energy production, and our increased dependence on imported oil.

In a single generation, we have gone from an energy exporter to an importer. In just a few short years, we have seen our oil imports increase by almost 40 percent to just over 50 percent of our total consumption. This has caused great concern over the ability to adequately supply our people with sufficient supplies of energy due to the threat of an embargo. The volume of our energy imports has also created a disastrous balance of payments deficit which has caused drastic decreases in the value of the dollar around the world.

While even the most ardent supporter of energy self-sufficiency cannot expect OCS oil and gas to replace imports totally, it is hoped that the estimated reserves on the OCS, along with the increased use of coal, hydroelectric, solar, fusion, and some of the other more sophisticated energy technologies, can decrease our dependence on foreign oil, and will cut back on the depletion of the world supply of fossil fuels.

However, in our haste to expedite the development of the energy resources on the OCS, we must not sacrifice our environment, create a morass of Government redtape, nor allow the public to lose revenues from the leasing of these resources. We must also provide for States to play their proper role in preserving their environment and protecting their vested interests.

For these reasons, we have written a substitute.

SECTION-BY-SECTION ANALYSIS

TITLE II

Section 201—Definitions of the Substitute is essentially the same as the definitions section in H.R. 1614, but the definition of "frontier area" was improved by allowing the Secretary to determine which portions of the Santa Barbara Channel would be included in the definition for the purposes of this act.

Definitions are also included for the terms "lease", "coastal zone", "affected State", "marine, coastal, and human environments", "Governor", "exploration", "development", "production", "antitrust law", "fair market value", and "major Federal action."

Among the policies included in section 202 of the Substitute are statements to the effect that the offshore energy resources are a vital national reserve held by the Government for the people which should be made available for orderly development with strict environmental safeguards in a manner which is consistent with the maintenance of competition and the national interest. It is further recognized that the States may be adversely impacted and that the applicable Federal officials should strive to protect the marine, human and coastal environments, provide assistance to those adversely impacted, and ensure that operations on the OCS will be conducted by well-trained personnel using technology, precautions, and techniques to prevent or minimize damage to the environment or to property, or endanger life or health.

Section 203 of the Substitute for Law Applicable to the Outer Continental Shelf amends section 4 of the OCSLA to reflect the fact that new technology exists. The term "fixed structures" is changed to "all installations and other devices permanently or temporarily attached to the seabed".

This section also provides for the establishment of boundaries on the OCS between the States and for "international boundaries". Certain State laws are made applicable to the OCS to the extent they are not inconsistent with Federal law.

Jurisdiction over foreign vessels is granted to Coast Guard to ensure safe operations and compliance with U.S. laws and standards by operators of foreign-flag vessels voluntarily participating in OCS-related activities.

Section 204, OCS Exploration and Development Administration:

This section amends section 5 of the OCS Lands Act of 1953, by providing detailed requirements for the administration of leasing on the OCS.

This section provides that the overall OCS leasing program be administered by the Secretary of the Interior, even though several key leasing procedures are to be handled by the Secretary of Energy.

The Secretary of the Interior is to promulgate all necessary regulations to carry out his leasing responsibilities, as is the Secretary of Energy. Such regulations are not to be applied to existing OCS leases if they will cause undue delay in the removal of OCS resources or its failing to apply them would cause irreparable harm or damage to health, life, property, any mineral deposits, or to the marine or coastal environment.

This section also mandates the Secretary to act as the clearing house of all permits, licenses, leases, and other applications and hearings involving OCS activities. To do this he is directed to cooperate with the relevant agencies of the Federal Government in enforcing regulations. This will allow States, private industry, and other Federal entities to approach one source for regulatory information. Finally, this section designates the Department of the Interior as the lead Federal agency for environmental impact statements to provide for a single statement where many agencies are involved in the same activity.

The Secretary of the Interior is also required to coordinate his regulatory promulgation and enforcement with affected States by notifying such States of OCS related actions by other agencies, but he is not given authority to force compliance by permittees or lessees with State law or regulations as to activities on the OCS, except for those activities requiring "consistency" with the provisions of the Coastal Zone Management Act.

This section also provides for suspension of activities and lease time, when to continue activities would irreparably endanger the health and safety of the human, coastal, marine environment, or endanger property. Cancellation and compensation are provided for where continued suspension would not provide for the opportunity for amelioration of removal of the danger. This provision came about because of two court cases. First, in *Gulf Oil* v. *Morton*, it was held that the Secretary of the Interior did indeed have the authority to suspend operations on the OCS when the above dangers existed. In *Union Oil* v. *Morton*, it was determined that a permanent suspension amounted to cancellation which was not provided for in such circumstances under the Outer Continental Shelf Lands Act. This substitute provides the Secretary with the power to cancel a lease for environmental reasons.

Cancellation is provided for, at the request of the lessee or when the Secretary determines that no solution to the problem causing the suspension will be found during the period of any further suspension.

The Secretary's decision actually involves two questions: one, does irreparable danger exist, and two, can a solution be found in time?

If these two criteria are met, the Secretary may cancel a lease and the lessee is eligible for compensation. The question of compensation involves determining just compensation for property taken, as well as an equal applicability to both current and future lease holders. No cancellation will take place unless the Secretary is sure that all possible steps have been taken by the lessee to prevent the loss of his lease and that the conditions warranting cancellation are not the fault of the lessee. Careful consideration must be given in order that we assure current, as well as future lessees, that they will receive a fair compensation. Therefore, future OCS revenues will not be decreased due to attempts on the parts of bidders to compensate for the threat of cancellation without just compensation.

This section also contains a rather extensive revision of section 5(e) of the OCS Lands Act of 1953 to give the Secretary of the Interior, and where appropriate the Department of Transportation, broadened authority over the granting of pipeline rights-of-way on the OCS. Specifically, the limitation on the authority regarding pipelines to matters, pertaining to the survey, width and location has been eliminated and the Secretary's general regulatory authority under section 5(a)(1), to regulate offshore pipelines in the interest of conservation and for the prevention of waste, is made explicit.

In addition, the subsection has been revised to assure maximum environmental protections as to pipeline placement and safety.

It is clear that the Secretary of Transportation maintains his present authority, pursuant to his responsibilities under the Natural Gas Pipeline Safety Act, as to offshore pipelines. This section has been drafted with the intent that the jurisdictional responsibilities under the Memorandum of Understanding between the DOT and DOI be maintained.

Sec. 205, Revision of Bidding and Lease Administration:

This section greatly extends section 8 of the OCS Lands Act of 1953, by providing for increasing, where possible, and maintaining the already high level of competition in bidding for leases on the OCS; allowing the Secretary to issue a lease for ten years in areas of unusual geological conditions or adverse weather conditions; directing that greater information be dispersed to the public as well as to Congress on what the Administrative Branch of Government is doing in regards the sale of public mineral rights on the OCS; and providing that a fund be established by the Secretary from royalties to handle any claims a state may have to oil that has been extracted causing drainage of reserves that existed within their jurisdictions.

Under current law, bidding systems have been limited to bonus bids, with royalties of at least 12½ percent or a variable royalty with bonus bid determined by the Secretary. While these two systems have returned great amounts of revenues to the Federal Govern-

ment and may still be the most profitable systems, it is felt that perhaps other systems, as outlined in this section, offer potential to return greater revenues under certain conditions. In order to make this determination, we have these new, untried systems, as well as operating authority for the Secretary to establish systems of his own, and for experimental purposes, required that they be used in at least 10 percent and not more than 30 percent of the lease areas offered for sale each year unless the Secretary makes a finding that the use of one or any of these systems will be contrary to the goals for which they were established, which is detailed in Sec. (a)(5A).

Before the Secretary may use any of the systems outlined in (C)–(J), he must make such determination simply by rule.

Further, this section allows the Secretary, for the purposes of experimentation, to select lease areas by random selection. However, before he uses such system, he must publish in the Federal Register what method of random selection he will use.

In addition, the section requires the Secretary to report to Congress, six months after the beginning of each fiscal year, detailing activities, and proposed activities in OCS leasing, including what systems he plans to use, and what tracts he intends to offer for lease.

Since the Secretary is not bound by the contents of the annual report, and since the authors of this substitute wished to create a vehicle that would provide the public and Congress with a greater degree of information as to what the Administration's activities are in respect to their leasing of public resources on the OCS, the following additional reporting requirements have been included: Thirty days before any lease sale, the Secretary must publish in the Federal Register, and send a report to Congress, detailing which systems he will use, and why; which tracts he will be offering for lease, and why; and which systems will be used with which tracts, and why.

Subsection 11(b) of the substitute contains many provisions for terms under which leases shall be issued.

Under the original OCS Lands Act of 1953, a lease was to be for 5,760 acres. However, it was learned from testimony that in certain cases, leases for that amount of acreage might lead to inefficient exploration and development or possibly administrative burdens to the Government and potential lessees. In some situation, it might be preferable to lease entire structures or geological traps.

However, some structures or traps may be so large that only a few companies would be able to afford to bid and develop such leases; therefore, paragraph (1) of subsection (b) eliminates the prior absolute limitation of 5,760 acres and provides greater flexibility to the Secretary in order that he may lease less than or more than a "tract". Leases are to be initially let for five years, or ten years in cases of unusual geological or adverse weather conditions.

Other provisions to be included in a lease as required by this subsection provide for suspension and cancellation of a lease; provide that the lessee pay the value determined by the bidding system utilized in the sale of his lease; and to require due diligence in the exploration, development and production of a lease area.

The remainder of Section 205 contains the authority under which a lease may be transferred, since the 1953 OCS Lands Act contained no such authority, and also a direction that the Secretary create a fund from royalties to compensate a State in the event that production on the OCS may be draining reserves from structures under the jurisdiction of such State. If the Governor of such State and the Secretary cannot decide on an equitable division of the revenue, it is to be determined in court.

Section 206. Geological and Geophysical Exploration:

Authority to conduct exploration on the OCS remains unchanged from seciton 11 of the 1953 OCS Lands Act, as it is retained. However, added to the current requirements is a new stipulation which would prohibit any exploration activity without the prior approval of an exploration plan by the Secretary. To be included in such plan shall be: anticipated exploration activity, description of equipment to be used, general location of drilling activities, and such other information as deemed pertinent by the Secretary. In addition, provisions for revision, have been detailed.

Section 206, also provides authority for cancellation of a lease in the event that an exploration plan cannot be approved due to consideration of national security and defense; or if activity necessary to conduct exploration will irreversibly be detrimental to the human, marine, or coastal environment; which is beyond the fault of the lessee; and if a solution will not be provided in time.

Section 207, Annual Report;

Section 207 amends section 15 of the Outer Continental Shelf Lands Act to require the Secretary of the Interior to submit an annual report in two parts within 6 months of the end of each fiscal year.

Part One of the annual report would describe the OCS leasing and production program, including an accounting of all moneys, and all activities, a summary of management supervision and enforcement activities, a list of shut-in and flaring wells, and recommendations to Congress for improvements in management, safety, amount of production, and resolution of any jurisdictional conflicts.

Part of the report, to be prepared after consultation with the Attorney General, is to describe programs and plans for the promotion of competition. The report is to include recommendations and findings by the Attorney General, which are to be considered advisory only and not binding as to any future action or inaction, and plans for implementing recommended administrative changes or proposals for new legislation.

It is to contain an evaluation of the various bidding systems, an explanation for the failure to use any new bidding system, an evaluation of any other bidding system not authorized by the Act, an evaluation of the effectiveness of joint bidding limitations, an evaluation of other measures to encourage entry of new competitors, and an evaluation of measures to increase the supply of oil and gas to independent refiners and distributors.

Section "18". This section ensures that Governors of affected States and local government executives within such states, will have an active role in OCS decision-making and particularly as to potential lease sales, and development and production plans. In addition, it is intended to provide a mechanism for involvement of Governors and local Government officials.

The authors of this substitute do not believe that any State should have a veto power over OCS oil and gas activities, but it is intended that the advice the Federal Government receives from States be given careful consideration, and be incorporated into the ultimate decision of the Secretary insofar as the advice is not inconsistent with the balanced approach to OCS leasing and the policies which are set out in this bill. It is also intended, as set forth in subsection 19(e), that the Secretary make an effort to coordinate activities between Federal and State bodies. Explicit authority is granted for cooperative agreement between the Secretary and affected States for, among other things, information sharing, expert advice, planning, joint permitting and enforcement.

Section 19—Safety Regulations:

Section 19 establishes procedures for study review, coordination, and, if necessary, revision of safety and health regulations on the OCS.

While vague authority exists in the 1953 Act, granting regulatory authority to traditional agencies, such as Coast Guard and the Department of the Interior, the authors of this substitute felt that a study should be done to determine the adequacy of current health and safety regulations.

The authors also felt that specific direction as to which Federal agencies have specific jurisdiction, and their responsibilities in these areas, should be spelled out due to recent activities of other agencies in attempting to regulate activities on the OCS.

Specifically, OSHA attempted to issue temporary regulations for divers on the OCS. This was done in spite of the fact that there was common knowledge that the Coast Guard—the agency with jurisdiction in this area—was in the process of drafting their own health and safety regulations. It might also be pointed out that the House Education and Labor Committee pointed out the inadvisability of OSHA's issuing their proposed regulations.

It is interesting to note that the regulations issued by OSHA, were prevented from becoming effective due to an injunction by the Federal Courts in Louisiana.

This section provides that the Secretary of the Interior and the Secretary of the Department in which the Coast Guard is located, along with the heads of other Federal Departments conduct a study of the adequacy of health and safety regulations on the OCS, including currently unregulated activities, and file a report on their finding to the President in order that he may submit a plan to Congress of proposals in this area. It also calls for the promulgation of regulations by the Coast Guard, within sixty days after the enactment of this section, which are to apply to diving activities on the OCS.

This section also makes it clear that there is not to be a duplication of the responsibilities of the Secretary of Transportation to issue or enforce regulations for pipeline safety, and also to require the Secretary to supply any interested party with a compilation of health and safety regulations relating to OCS activities.

Section 20—Remedies and Penalties:

Section 20(a) authorizes the Attorney General, or a U.S. attorney, at the request of the Secretary of the Interior, to institute civil actions, including seeking restraining orders or injunctions, to enforce the Act, any Regulation or Order issued under this Act, or any team of a lease, license, or permit issued pursuant to this Act.

Subsection 20(b) provides for a civil penalty to be assessed against any person, who after notice, a reasonable period for corrective action, and a hearing, continues to fail to comply with the Act, any regulation or order under it, or the terms of an OCS lease, license or permit. The maximum penalty is $10,000 per day.

Subsection 20(c) provides criminal penalties for knowing and willful violations of any provision of this Act, any regulation or order issued under the authority of this Act, or the terms of any OCS lease, license, or permit, designed to protect public health, safety, or the environment, or conserve natural resources. There are also criminal penalties for any person who knowingly and willfully makes any false statement, representation, or certification in any application, record, report or plan or other document filed or required to be maintained under this Act; who knowingly and willfully falsifies, tampers with or renders inaccurate any monitoring device or record required to be under this Act; who knowingly and willfully falsifies, tampers with any data or information required to be kept confidential by this Act.

The criminal penalty is a fine of not more than $100,000, or imprisonment for not more than 10 years, or both. However, each day that a person violates a regulation, or each day that a monitoring device remains in-

operative or inaccurate, will be considered a separate offense, subject to the maximum fine and penalty.

Subsection 20(d) provides for application of the criminal penalties against corporate officials when the violator is a corporation or other business entity, and the officer or agent knowingly and willfully authorized, ordered or carried out the prescribed activity.

Subsection 20(e) states that the remedies and penalties in this section are to be concurrent with each other, and any other remedies afforded by any other law or regulation.

Subsection 20(f). Due to the complicated nature of this bill, and the opportunities that exist for the Secretary to issue regulations, rules or orders that may conflict with other Federal edicts, or cause the lessee to violate another regulation, rule or order, this section allows a lessee to use as a defense, exclusive of injunctive relief, the fact that the act or omission complained of was taken as a result of a good faith effort to comply with the Secretary's regulations, rules or orders.

Section 21—Development and Production on the OCS:

This section directs the Secretary to issue regulations establishing development and production plans in such form and containing such information as he feels necessary.

Any oil or gas development is prohibited from taking place unless the Secretary approves such plan in accordance with said regulations.

Authority to disapprove a development and production plan is also given to the Secretary for the following reasons: 1. The lessee fails to prove he can meet the requirements under this legislation and Federal laws, necessary to properly conduct development and production on the OCS; 2. if the activities outlined in the plan are contrary to a State's existing Coastal Zone Management Program; 3. if operations necessary to proper development and production threaten national security or national defense; 4. if implementation of the plan would cause irreparable harm or damage to the human, marine, or coastal environment; or 5. if the advantage of disapproving the plan outweigh the advantages of approving it.

If such plan is disapproved: (1) for national security or national defense reasons; (2) because it would be contrary to a State's Coastal Zone Management Program that was instituted after the lease was let; (3) because of irreparable danger or harm to the human, marine, or coastal environments; or (4) because it threatens to endanger property or the mineral resources on the OCS; then said lessee would be entitled to compensation in the amount he can show the Secretary is the fair value of the cancelled rights as of the date of cancellation.

In order to assure that this provision is not misused, specific clarifications and qualifications have been included, such as resubmission of disapproved plans and extension of the lease period in order to determine if "time" will serve any beneficial purpose, as well as calling for due diligence in the establishment of a plan.

Any plan dealing with natural gas shall simultaneously be submitted to both the Secretary of the Interior and the Federal Power Commission, and together they shall give equal consideration to the plan in their respective jurisdictions.

Section 22—Limitation on Exports:

Early in 1977, Congress approved amendments to the Export Administration Act that vastly limited the ability of the President to export Alaskan Oil. This was done due to the realization of the Congress of the importance of U.S. domestic production of energy resources being marketed in the U.S. in order to decrease our reliance on foreign oil.

The provisions in this substitute will accomplish the same goals for OCS oil and gas, since the limitations put on the President in the substitute are identical to those contained in the Export Administration Act Amendments of 1977.

Section 23—Conflicts of Interest:

Since Congress has gone on record in support of strong conflict-of-interest laws, which is a result of events over the past few years, the authors of this Substitute felt it necessary to provide a provision in this bill covering this point.

The provisions of this section are based on current Federal law and practice, as well as H.R. 1 and S. 555, which go rather far in restrictions on employment, but do not infringe on the Constitutional rights of an individual to pursue his chosen profession, and do not interfere with the ability of a business to hire the best available personnel.

The restrictions in this section are as follows:

1. If an employee of the Department is involved substantially and personally in actions that directly affect a particular industry, the employee may never represent that industry in a proceeding involving regulations, orders, leases, permits or other matters in which the Department has an interest.

2. If an employee of the Department is paid at or above the rate of GS-16, he may not, for a period of one year after leaving the Department, represent a firm by appearing personally before a Federal Court, Department, or Agency as an agent or attorney in connection with any regulation, order, lease, permit, or other matter in which the Department has an interest.

In neither case is the employee restricted in his ability to pursue his profession. Instead, the restrictions are based on the degree and area of involvement. Other employment restrictions have been discussed which are a great deal more stringent than this, and would not accomplish the goals set forth in this section.

We should also remember that, earlier this year, the House voted to increase the pay of top officials in the Federal Government. This was done primarily because the government has had difficulty in attracting and keeping top talent, due in part to the pay differential between private industry and government. This provision would not be so restrictive except that the goals and aims for which the salary increases were approved would be negated by overly restrictive provisions for future employment in an individual's career with the Federal government.

TITLE III

Title III, as contained in the Substitute, was designed to satisfy both proponents of direct revenue sharing, and the proponents of strengthening the Coastal Zone Management Act, in order to guarantee an adequate level of funding to assist impacted coastal States. This new proposal meets the concerns of all by earmarking 20 percent of the revenues generated by offshore leases under sec. 9 of the OCSLA and channeling it into an outer continental shelf energy impact fund in the Treasury, subject to appropriation, to be made available to the Secretary of Commerce for use under the provisions of the Coastal Zone Management Act, as amended and paid in annual grants to coastal States. The amount to which each State is entitled is determined under a four-point formula differing only in proportional emphasis from that formula presently found in the Coastal Zone Management Act as amended in 1976. Thus, as long as offshore activities are regulated under the Outer Continental Shelf Lands Act, revenues will be generated and impacted States will be guaranteed funds to meet the needs of their citizens.

Under the Mineral Leasing Act, interior States receive 50 percent of the revenues from mineral leases on Federal land within their boundaries. There is no restriction on how such funds are used, nor any formula for determining how much a State is to receive.

Unlike the Mineral Leasing Act's direct revenue sharing approach, the Substitute's provisions provide a guaranteed flow of funds for the implementation of the presently existing program which contains strict controls on how funds may be used. Those funds that cannot be distributed because of these controls will remain in the Treasury.

The effect of these proposed amendments to the Coastal Zone Management Act will be to make the Act more effective. States will be encouraged to proceed rapidly with development of their individual coastal zone management plans because of the prospect of reliable funding levels adequate to meet their legitimate needs.

TITLE IV

Section 401—Review of Shut-in and Flaring Wells:

This action requires the Secretary to report to the Congress and the Comptroller General all shut-in or flaring wells annually. The Comptroller General is to then review and evaluate the methods used by the Secretary in allowing the wells to be shut-in or to flare natural gas.

Section 402—Review and Revision of Royalty Payments:

This section will require the Secretary to annually review the problem of delinquent accounts and to detail new auditing and accounting procedures which have or should be adopted to assure accurate and timely payment of royalties.

Section 403—Natural Gas Distribution:

This section was incorporated into the Substitute to help alleviate the problems of natural gas dislocations and the possible lack of competition. It provides procedures and incentives for natural gas distribution companies to bid on, and then explore, develop, and produce OCS leases. This section would also guarantee that natural gas found by a distribution company on its own lease could be returned to its service region.

Section 404—Antidiscrimination Provisions:

This section simply assures that operations and activities on the OCS will be conducted in compliance with the Civil Rights Acts of 1964 and 1969.

Section 405—Sunshine in Government:

This section is intended to insure that the Department of Interior require that its employees who are involved with OCS activities file statements regarding any financial interest in any person or company involved in OCS leasing. Penalties are provided for those who fail to comply with this requirement.

Section 406—State Management Program:

This is simply a technical and conforming change to make the provisions of the Coastal Zone Management Act for the approval of exploration or development and production plans consistent with the provisions of this Act.

Section 407—Relationship to Existing Law:

This section provides for consistency of this Act with all other acts, including the Coastal Zone Management Act, the National Environmental Policy Act, and the Mining and Mineral Policy Act, unless expressly provided to the contrary.

Mr. BREAUX. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. GAMMAGE).

Mr. GAMMAGE. Mr. Chairman, I thank the gentleman from Louisiana (Mr. BREAUX) for yielding me this time.

Mr. Chairman, we are a Nation composed of different regions, and the people of each region are always particularly concerned with the questions that affect them most directly. But sometimes regional preoccupations can keep us from seeing how closely we are connected to

each other. The proposal under consideration shows us how easy it is not to notice when an issue which seems to be regional can actually have a larger impact.

My colleague from Louisiana has proposed some substitute provisions for H.R. 1614. I believe that if we adopt these provisions, the States along the Atlantic coast will obtain access to substantial supplies of natural gas. I also believe that these provisions will furnish the proper kinds of environmental protection, local control and disclosure needed to secure that supply in a safe, efficient and open manner. But I do not believe that we all understand the extent to which other areas of our country will share in the advantages of this proposal.

Most of us know that if gas is produced along the Atlantic coast, the supply of gas in coastal States will increase. But do we realize that this increase in offshore gas will improve the supply outlook for inland areas?

Last year, some of our Midwestern States almost shut down because they had so little natural gas. Ohio, Indiana, and Minnesota proclaimed states of emergency. Four hundred thousand workers were laid off in Ohio, where all gas service to industry was cut off; 245 schools were closed in downstate Illinois, and retail business in the Midwest dropped by as much as 50 percent. One steel company based in Dayton estimated that when three plants were closed, it lost $5 million in production, and its employees lost more than $1.2 million in wages. Detroit automakers suffered estimated losses of $400 million. In Ohio, Gov. James Rhodes called on the people of his State to pray for relief from the cold which was draining them of natural gas.

And yet, Mr. Chairman, many of my colleagues from these Midwestern States do not seem to perceive the connection between the proposal under consideration and the human suffering and economic loss I have just described.

The connection is clear. In 1975, some of the natural gas which was produced offshore in the Gulf of Mexico was sent to the Midwest. But even more of it was sent to Atlantic coastal States. As long as offshore resources along the Atlantic coast are not developed, the States in that region will continue to consume gas which could be sent to the Midwest.

In 1975, 28.5 percent of the gas produced in the Gulf of Mexico was consumed in four of the Midwestern States which suffered most severely from last winter's shortages—Illinois, Indiana, Michigan, and Ohio. During the same year, another 30.5 percent of this gas went to the Atlantic coast States, running from Maine to Florida. So, if Atlantic coast offshore resources had been developed 2 years ago, the supply of gulf gas available for use in the Midwest at that time could have been as much as twice what it was.

Two years ago, the Midwest did not need twice as much gas as it received. But last January, when Chicago, for example, used two times the reserves it had consumed during the previous winter, the Midwestern States needed more natural gas. And that need will not diminish. Unless this region can find a stable supply of natural gas in the future, the comfort and livelihood of its people will always be subject to the weather.

For the Midwest, there is no immediate way out of this dilemma. In 1975, Midwestern States as a whole produced less than 5 percent of the gas they consumed. Strict conservation measures can reduce demand to some extent. But, as we learned during the winter of 1976, there is a point beyond which conservation cannot go. Lowering the thermostat in a schoolroom, office building, or factory may conserve gas. But in some places last winter, there was no gas to conserve.

Mr. Chairman, the proposal which Mr. BREAUX has made will serve the interests of Atlantic coast States by providing them with natural gas supplies and safeguards for the development of these resources. This proposal will also serve the interests of Midwestern States by providing them with increased access to gas from the Gulf of Mexico.

This is not the time, Mr. Chairman, for us to put on regional blinders. In this case, developing one area of our country can help other areas as well. I urge my colleagues from the Midwestern States to protect their constituents from natural gas shortages by adopting this proposal. And I urge all my colleagues to join us in accepting a proposal which will, in a systematic way, secure more energy for our Nation.

Mr. BREAUX. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Chairman, we are being asked to consider a potentially dangerous piece of legislation. I find this legislation dangerous because the primary motivation for it is simply the fact that the existing OCS law is old. This should not be the premise for adopting legislation which could adversely affect national energy strategies. There needs to be a demonstrated need for a change, and here, no such need has been shown.

We have been operating offshore in Louisiana and Texas for more than 20 years. Considering the uniqueness of the work, the vast areas covered, the thousands upon thousands of people involved—working in a strange environment—the hurricanes on the gulf and deepness of the water, it has been a truly remarkable performance.

It has been performed with a minimum of delay, a minimum of trouble, and has maximized badly needed oil and gas production. This has been done within reasonable regulations by the Federal Government.

Do not misunderstand me—there has been regulation by the Federal Government—a great deal of it. However, the producers and the Government have worked together in bringing about an orderly process of regulation that protects the public and at the same time allows exploration and production to continue. It has worked darn well when taken in context.

It seems to me that perhaps we are trying to fix something that is not broken—and worse, that we might break something that is working, by trying to fix it. And the consequences of breaking this particular process could come close to being tragic.

It would be tragic for the hundreds of small business concerns that are the service companies to this industry. They cannot economically ride out the slowdowns and cessations that will result from overregulation, the changing of the rules in the middle of the ball game.

Also, it would add to an already tragic situation, that is, our dependence upon foreign sources for our oil.

Now, the major oil companies can probably withstand the huge increased costs of doing business offshore and the delays imposed by increased Federal regulations and litigation. The smaller companies—oil companies and service companies—are going to have a difficult time staying alive.

The additional time and cash requirements imposed by over 50 regulations called for in the proposed bill, plus the lawsuits they will almost certainly generate will close down many small oil and gas companies, offshore service contractors, and their suppliers. The potential unemployment impact stemming from these closings demand our attention. Studies by Tulane and University of Rhode Island estimate such an impact could translate into figures of between 221,500 and 297,000 lost or postponed jobs with accompanying payroll losses ranging from $2.3 to $4.5 billion.

Mr. Chairman, if this OCS bill becomes law, future offshore natural gas development might be slowed to a near standstill. This could mean more winters with closed schools and more people out of work.

As it stands, the Federal Energy Administration reports that several States could have serious curtailments of their natural gas supplies this winter. Natural gas supplies from the OCS are vital.

To consider a bill that might delay production of such resources flies in the face of reality. It currently takes about 8 years from the time an OCS lease is issued until oil or gas is produced from it. H.R. 1614, according to a recent study conducted by the University of Rhode Island, will add 6 years to this time frame. This means that the American consumer will not see oil or gas from 1977 OCS leases until 1991.

The OCS bill is likely to get nearly everybody participating in the OCS policy process; stop offshore development, overregulate the oil companies, get the Government into the oil and gas business, and create new offshore rules for solving problems where no problems exist.

With the energy dilemma we are currently facing, it should be clear that we stand to lose more time and expend more funds if we substitute efficient old laws with untried, unproven and unnecessary legislation, merely for the sake of change.

Mr. MURPHY of New York. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. DINGELL) the chairman of the Subcommittee on Energy.

Mr. DINGELL. Mr. Chairman, I thank my colleague the gentleman from New York (Mr. MURPHY) for yielding me this time.

Mr. Chairman, there are several matters that concern me about this legislation but I believe that H.R. 1614 is a generally commendable piece of legislation and I commend my colleague the gentleman from New York (Mr. MURPHY) on his efforts to bring this bill to the floor today because the gentleman has worked exceedingly hard on this matter.

Mr. Chairman, I repeat that there are several matters that concern me in the bill which I want to address today. Congressman BROWN of Ohio and myself will cosponsor several amendments to correct these problems.

First, as my colleagues know, Congress, in establishing the new Energy Department, transferred from the Interior Department to the DOE certain functions concerning oil and gas leasing, including functions relating to competition, alternative bidding, and rates of production. Included in this transfer were certain provisions of the Energy Policy and Conservation Act that apply to the OCS. That act originated in the Committee on Interstate and Foreign Commerce.

A review of H.R. 1614, as reported, indicates that the term "Secretary" in the 1953 OCS Act is retained. The term means Secretary of the Interior and it is used throughout H.R. 1614. It appears, therefore, that H.R. 1614, could be read to change the DOE Act and places all OCS functions in the Interior Department. We are opposed to such a change. We understand the Carter administration shares our view.

We, therefore, will offer an amendment to H.R. 1614, to correct this situation. Our amendment is in furtherance of section 707 of the DOE Act which makes it clear that Congress intended that the term "Secretary" in the 1953 law mean the Secretary of Energy or FERC, as appropriate.

Second, the new section 8(a)(4)(B) of the OCS Act requires that any bidding system established must be by "rule on the record after an opportunity for an agency hearing." This provision, when read in conjunction with section 402(d) of the DOE Act, would require the Federal Energy Regulatory Commission (FERC), not the Secretary of Energy, consider such a bidding system. FERC is understaffed and does not have the expertise to undertake such an effort, in addition to its many other duties.

Section 501 of the DOE Act contains adequate administrative procedures, including provisions for public hearings, for the DOE Secretary to consider such a rule. That section was adopted last summer on the House floor as an amendment offered by Representatives Moss, BROWN of Ohio, and myself.

We, therefore, will offer an amendment to make it clear the Secretary of DOE, not FERC, will hold such hearings.

Third, section 205 of the bill would appear to make it difficult, and possibly impossible, for the Secretary of the Interior and the Secretary of Energy to apply regulations to existing OCS leases. The current provisions of section 5 of the Outer Continental Shelf Lands Act clearly provide that all regulations may be applied to existing leases without exception. The law states:

> The Secretary shall administer the provisions of this Act relating to the leasing of the Outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act.

This important authority has been used in several very important instances. For example, following the disastrous oil spills in the Gulf of Mexico from the Chevron platforms and in the Santa Barbara area from Union Oil operations, new safety and antipollution regulations were promulgated by the Interior to correct deficiencies in the regulations and prevent future spills. This authority was also used in 1974, at the urging of Congressmen REUSS and Moss and myself, to halt the practice by oil companies of flaring or venting huge amounts annually of natural gas without any payment of royalties for such gas. A May 23, 1974, news release by Interior estimates that some 60 million Mcf of natural gas was vented or flared during 1973 which would have amounted to about $2 million in revenues to the United States.

Under H.R. 1614 it is at least doubtful, without extensive litigation, that either Secretary could issue such safety and conservation regulations in the future and make them apply to existing lease operations. Only oil company lessees, like Chevron, Union Oil, Exxon, Gulf, Texaco, and Mobil could benefit by such a change in current law, not the public interest.

We will offer the following amendment to cure this serious defect and restore the present provisions of law.

Fourth, section 508 of the bill and other provisions appear to affect the authorities, powers, and functions of the DOE in relation to energy information-gathering and functions transferred to the DOE from the Interstate Commerce Commission. In order to avoid possible conflicts and unnecessary duplication, we will offer an amendment.

Fifth, section 503 of the bill provides authority to the Federal Power Commission (now the Federal Energy Regulatory Commission) concerning the distribution of natural gas. This amendment affects matters within the jurisdiction of our committee. It is my understanding that the Chairman of FERC shares many of the concerns I will express below.

Section 503 may be criticized on two fundamental grounds. First, it is not needed in order to accomplish the objectives sought by the ad hoc committee. Second, the section goes far beyond its stated objectives, creating potential disruption for both interstate and intrastate pipelines.

With respect to the need for the section, FERC has the authority under present law to approve the transportation of natural gas developed by a local distribution company from the OCS to the distribution company's service area. The ad hoc committee's report points out the need to insulate this gas from the curtailment system of the interstate pipeline which transports the gas in order that the local distribution company can justify the investment in developing its own resources on grounds that it will be assured of receiving the gas. Under present law, this result is already reached. This gas passes outside the curtailment system of the interstate pipeline. Based upon the broad grant of authority in the Natural Gas Act, there is simply no need for this section.

Besides the fact that section 503 is unnecessary as drafted, the section goes far beyond its stated purpose and far beyond the description contained in the committee report, thereby creating serious adverse consequences. Let me say, however, that I am not opposed to some possible compromise of this provision that meets the concerns, I express here.

Section 503 requires FERC to issue a certificate "pursuant to its authority under section 7 of the Natural Gas Act." An ambiguity is thereby created since, under section 7 of the Natural Gas Act, FERC may condition its certificates. Is the retention of conditioning authority consistent with the mandate to issue a certificate? If not, the section would effectively preclude the FERC from reviewing whether transportation of the gas is consistent with the public interest. This is a dramatic departure from historical practice. In no other case is FERC required to issue such transportation certificates.

Numerous undesirable consequences flow from this procedure, several examples of which are illustrative.

What if the interstate pipeline which would transport the gas is already full? This section would require the pipeline to obey the FERC transportation certificate and transport the local distribution company's gas at the expense of reduced deliveries of natural gas to other distribution companies or industrial users whose gas supplies are displaced from the pipeline by the preferential transportation of the local distribution company gas certificated under this amendment.

A related problem is that the section facilitates sweetheart deals between a local distribution company affiliate of an interstate pipeline and a producing affiliate of the pipeline under which the local distribution company obtains preferential access to OCS gas suppliers which would otherwise be available to all customers of the interstate pipeline. This arrangement disadvantages gas customers served by local distribution companies which are not affiliated with an interstate pipeline.

A second, perhaps unintended, consequence of section 503 is that it extends FERC jurisdiction to intrastate pipelines which have historically been exempted from Federal regulation. The section does not limit itself to interstate transportation of natural gas. As a result, FERC could be required to issue a certificate for the transportation of natural

gas and this certificate, under the supremacy clause of the Constitution, would force intrastate pipelines to transport the local distribution company's OCS gas. The mandated transportation of this gas in interstate commerce by an intrastate pipeline could then subject the historically nonjurisdictional pipeline to regulation under the Natural Gas Act as an interstate pipeline. In the past, legislation reported by the Commerce Committee has been carefully drafted to include provisions to prevent such a result, the absence of such provisions in section 503 increases the likelihood that the courts will interpret this legislation as applying to intrastate pipelines and subjecting them to regulation under the Natural Gas Act.

With the exception of the amendment to section 503, the amendments we will offer are consistent with amendments offered by the Secretary of the Interior and are supported by the Carter administration. To my knowledge the administration has not opposed our amendment to section 503.

We urge your support for these amendments which are as follows:

AMENDMENT No. 1

Page 134, line 21, strike out "Paragraph (c)" and insert "Paragraphs (b) and (c)".

Page 134, line 22, strike out "is" and insert "are".

Page 134, after line 23, insert the following:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be."

AMENDMENT No. 2

Page 159, strike out lines 13 through 15 and insert the following: "shall be by rule, after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501.".

AMENDMENT No. 3

Page 147, strike out line 7 and all that follows down through the period on line 6 of page 148 and insert the following:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act."

AMENDMENT No. 4

Page 277, line 20, after "Sec. 508." insert "(a)".

Page 277, after line 24, insert the following:

"(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy."

AMENDMENT No. 5

Page 270, strike out line 17 and all that follows down through line 4 on page 271.

AMENDMENT No. 6

Page 270, line 18, strike out "The Federal Power Commission shall" and insert "The Federal Energy Regulatory Commission may".

Mr. FISH. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I will have more to say tomorrow during the amendment stage, and I do not want to take the time at this late hour.

I think it is interesting to observe, though, that by any estimate we are debating a major portion of the Federal energy policy in the possible adoption of this legislation, and throughout the entire debate I do not think there has been more than about an average of 30 Members on the floor, two-thirds of whom are members of the OCS Committee, the rest from Louisiana and Texas. I think it is unfortunate that more interest has not been demonstrated, but one assumes that with the massive staff that we have at our disposal, the word will get through to the Members before they vote. I would like to appeal, however, to the majority of the committee to do a little bit more than was done by the gentleman from California (Mr. MILLER), and others in addressing this point, which is clearly portrayed on pages 206 and 207 of the report of the committee.

The chronology of the committee's report is that we gave permission for this report to be filled, and then everyone went off on a junket or to their home districts for a month, and the report was filled in our absence. And in our absence we received from the Congressional Budget Office, which also has a massive staff and great talent at its disposal, a financial impact, a fiscal impact of what this bill will do.

The alternate leasing sections of the bill were touted throughout the 2- or 3-year history in our hearings as being some sort of solution that would bring in massive amounts of money to the Federal Treasury, but Ms. Rivlin and her staff have concluded, and have not been refuted at all in this debate or at any time since their August 5 report of their findings that in excess of $2 billion that the present statutes would provide to the Federal Government are going up in the air, and nowhere have I heard any response to this point.

The best answer we can get from the majority supporting the bill is that somewhere on down the road in some way and some place this money will be recouped and we will make a great deal more, which was the ultimate purpose of the bidding system.

So I appeal to the committee and the massive staff on both sides at some point to enter into the RECORD some sort of estimate, even if we can just have it for purposes of debate, as to what beyond this 5-year loss period the American taxpayers are going to glean from this section, which may appreciably delay production of oil and gas in the frontier areas.

I would like to make one other observation about the debate that occurred here today. We heard a great deal of refutation on the part of my distinguished colleague, the gentleman from Massachusetts (Mr. STUDDS), in an attempt to refute the report by Professor Rogers. All reports are issued for a purpose, depending on which side one serves, and one has to refute the findings, or embrace them if they are for one. I think it is unfortunate that Dr. Rogers is from Rhode Island and would have to be denigrated by another great New Englander, but I think the gentleman from Massachusetts did go a little bit beyond in his estimate and was a little extravagant in his description of what Dr. Rogers was predicting. All he was saying is that all provisions taken together with 11(g), that 3 years I think he volunteered would elapse if these provisions were exercised even in the manner the Department of the Interior indicates.

That is the crux of this legislation—whether or not the lights are going to go out and we are going to have natural gas shortages which are going to close factories and we will face in this Nation the same situation in future years that we faced last year.

There is much in this bill, but I do think we owe it to our constituents and the American people as a whole and to our colleagues now absent to provide in the RECORD answers for these questions, because this bill was not all that greatly supported by the committee. There is a bipartisan opposition to it. It certainly does not have unanimous support even in the administration, as evidenced by the infighting between the Energy Department and the Secretary of the Interior. Now we see the gentleman from Michigan coming up with even more amendments purporting to represent changes the administration wants.

We are playing with a very serious topic in a very frivolous way if we do not give this the consideration it deserves, so let us have something from those folks who want this bill. May we have an answer on where the $2 billion is to come from beyond the 5-year period and what estimates are of revenue? Could we have a little bit more frank discussion of the delays that are intended and inherent in this bill? Could we also perhaps have a better estimate of this vote count, because it appears to me that unless some substantial amendments are accepted this legislation may not pass. I would hope the gentleman from New York, who has an excellent record of being able to calculate votes, as does the gentleman from Maryland based on our previous differences, would realize that there might be some jeopardy attached to this.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, based on past experience, there was

quite a substantial majority in the House in support of this legislation.

But I would say on page 207 of the committee report on the bill in response to the comments by Ms. Rivlin, at the very bottom, under the Revenue Loss paragraph, we find this——

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume:

These experimental methods are designed to increase revenues in the production phase of OCS activity.

However, these revenue increases would occur after fiscal year 1982, which is outside the scope of this (the budget) estimate.

I think fair-minded people understand that the alternate type of system is designed to bring further revenues in, but through the production phase and not up front; so this is merely a transitional phase of the development of the resources of the Nation.

Mr. BAUMAN. The gentleman assumes in a great infusion of hope that we will arrive at some production under this bill. If that is the only answer we will get under these alternate systems, the gentleman is not responding to my concern.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield further, based on the bids from the Baltimore Canyon, I would say those most expert people in our larger oil companies have bid very substantially in those areas. They would not be taking that action if there were not great assurances that that product is there.

Mr. BREAUX. Mr. Chairman, I think there are a number of very important facts that have been brought out so far in the general debate this afternoon and, hopefully, some will read the RECORD tomorrow morning; but I think it is very clear, looking at the section on which I heard some discussion, that one of the things this bill clearly does is allow for the first time the Secretary of the Interior through the Federal departments and agencies to conduct geological and geophysical exploration, including core and test drilling. That is drilling for oil and gas. That is what oil and gas companies do. Any way you cut it, in my opinion, it is putting the Federal Government in the oil and gas business. I think that is a drastic mistake and a step in the wrong direction. It is said we do not need to get additional revenue. The facts the gentleman from Louisiana (Mr. TREEN) pointed out are that since 1953 through 1976 the Federal Government has received 83 percent of all the revenues coming from oil and gas operations in the Outer Continental Shelf. How much more do we want to try to get before we have a system that we can say is working?

No; instead, the committee bill says that apparently 83 percent is not enough, we should try an experiment, see if we can get a little more. Experimenting is one thing, but when the experiment is going to cost us $1.325 billion and we do not know where it is going to lead us, whether it is going to increase revenues or destroy the entire system, I say that that experiment is much too costly and much too expensive and we should stick with something that is working, something we know how is going to operate and something that has been fair to the American public.

I think we have before us a bill that has been drafted after 3 years which is still not complete because it has 60 some amendments pending, a bill that is going to cost us something like $2 billion before we see whether it works. I say that is hogwash. We should stick with what we have because that is working and it is working in the interest of the American public. We should really get on with more important things in the Congress, such as energy production and conservation is concerned, rather than tinkering with a system that has worked so well, so I urge Members when we vote on amendments tomorrow that we give my approach favorable consideration. It is not what everybody would like. Some major oil companies of the country do not like the Breaux substitute. It goes too far in the opposite direction as far as they are concerned. Some others say it does not go far enough; but I think the Breaux compromise is a middle ground position. It will make some changes that might be helpful and at the same time does not destroy the system that has served us for a quarter of a century and served us so well.

Mr. MURPHY of New York. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. FISH. We have only one final Member who wishes to speak. I think this debate has been very worthwhile, and I thank the indulgence of you, Mr. Chairman, and of those members of the committee who have sat with us throughout this afternoon.

Mr. Chairman, several times in the course of the debate on the rule and in general debate, the question of a document containing some 50 amendments from the Secretary of the Interior, which was received January 24 in our offices, came up. I confessed to not knowing precisely that they were entirely technical in nature. I was interested—and I think Members will be interested—that just a few minutes ago we had the highly respected chairman of an energy subcommittee, the gentleman from Michigan (Mr. DINGELL) in the well, who alluded to several amendments he and the gentleman from Ohio (Mr. BROWN) were going to offer tomorrow.

It has come to my attention that these amendments are contained in this material from the Secretary. I think the record should reflect that these are not merely technical in nature, but important in the total context and to the energy policy of the United States.

Mr. Chairman, at this time I am happy to yield 5 minutes to our final speaker, the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I thank the chairman, and I thank the gentleman for yielding to me.

Mr. Chairman, I guess I would like to close this debate on maybe the same strain on which it started; that is, wondering why we need a bill like this. The President of the United States stood in this very Chamber in April 1977, telling us that we had an energy crisis. He projected a $35 billion trade deficit this year. That tells us that we have an energy crisis. We are importing crude oil and becoming increasingly dependent on OPEC. That tells us that we have an energy crisis. The American people are telling us that we have an energy crisis.

That being the case, the Congress has struggled with an energy bill that has not yet passed, trying to solve this problem. One of the things is trying to produce more oil and gas, not less.

Then, we have this bill come before us, which by most popular estimates and two university studies tells us is going to delay production of oil and gas off our Outer Continental Shelf by anywhere from 3 to perhaps as much as 6 years. It also tells us that we are getting Government involved to a new degree in an industry where it has not been before to that degree.

I do not think there are too many people who will say that productivity in any American industry has been improved by Federal Government involvement, by more regulation and more laws. Quite the contrary, the increase in productivity of the American worker due to Federal Government involvement, among other things, has been steadily dropping behind other industrialized nations of the world. Therefore, at a time when we have an energy crisis, it seems inconceivable to me that we turn to legislation to further complicate and delay production of domestic energy, which can only worsen the crisis.

It seems to me that the NAACP had the right idea when they came out in their study indicating that for the poor people, the minorities, the disadvantaged, the unemployed and underemployed, for those people ever to have a chunk of the American dream, we have to have an expanded economy; and to have that, we have to have energy.

We are not just talking about oil companies and about revenues and about who ought to drill where or who ought to get what; we are talking about the American dream that most of our citizens want a piece of. We are not going to get it with this kind of legislation.

In particular, the thing that concerns me is the fact that most studies are showing that this bill may produce as much as 40 sets of new regulations on the Outer Continental Shelf drilling and exploration for oil and gas. That is only going to delay, and possibly even prevent, production of oil and gas. These 40 sets of regulations are going to come from as many as 9 different agencies, fighting over or trying to prevent conflicts from overproduction of rules and regulations on how to produce oil and gas.

Louisiana has been doing this for a long time on the Outer Continental Shelf, and so have other States. We would like to see it done in other States such as the mid-Atlantic coast. It is not going to be done in time if we are going to have these kinds of rules and regulations by these numbers of Federal agencies being involved for the first time in the production of oil and gas.

This concerns me to the point that I am going to offer an amendment to this bill. the legislative veto amendment which has been offered before, to give this Congress, either House, 60 days to veto any or all of these 40 sets of regulations that are going to be issued, to try to at least, if this bill passes—and I hope it does not pass in this form—give the Congress some remedial power to correct some excesses, with 9 agencies and the proliferation of regulations which will come forth.

So I would urge the House to reject this bill, to vote it down, and support some of the substitutes being offered instead. Certainly I intend to offer an amendment, in any event, to try to correct some of the problems which we are going to see.

Mr. LEHMAN. Mr. Chairman. I wish to go on record in support of H.R. 1614, the Outer Continental Shelf Lands Act of 1977. As we consider this legislation, I hope the needs of the country as a whole will take priority over the special interests who have lobbied hard in an effort to delay or kill H.R. 1614. The President, Secretary of Interior and other administration officials have announced their support of this legislation and I urge my colleagues to do likewise.

In recent years it has become apparent that the Outer Continental Shelf Lands Act of 1953 was badly out-of-date and needed revision. Consideration of H.R. 1614 has been postponed and delayed too long. Now we must take the time to review the thorough work of the Ad Hoc Select Committee on the OCS, and move toward the passage of the Outer Continental Shelf Lands Act Amendments of 1977.

During the 94th Congress, the Coastal Zone Management Act amendments were passed to establish funding for coastal States affected by OCS activity. But for coastal States, like Florida, this is not enough. We badly need policies for the management of oil and natural gas in the OCS and the protection the marine and coastal environment.

For this Congress energy is a critical issue. The resources on the OCS will provide much-needed oil and natural gas until domestic production is adequate.

The provisions of H.R. 1614 establish new bidding systems whereby leases for exploration and production are awarded on a more equitable basis. Under the present "front-end" system, the potential lessee is required to put up large amounts of capital for the payment of the front-end bonus immediately after the winning bid is accepted. This inhibits competition from the smaller companies who lack the capital.

One of the major criticisms of the present system is that the Government is awarding leases without the benefit of complete information. Before the sale of a lease, H.R. 1614 would permit on-structure exploration tests. The collection of geological information prior to leasing will increase the probability that the public will get a better price for these oil and gas reserves. Additionally, industrial capital investment will yield a greater return on investment without the risk of tying up great sums of money on useless property.

There is also a proposed new leasing system that would give the Department of the Interior more information on which to evaluate proposed bids. Dual leasing involves two separate leases: One for exploration only and another for development and production. When the Government sells an exploration lease, the Government and company share the cost of exploration, and the company gets a portion of the revenues on subsequent development production leases. The exploring company would be eligible to bid for the production lease. I believe this new leasing system has several advantages which we should consider.

Small companies claim they have been outbidded by the giants, because they do not have the capital to invest in potentially risky OCS leases. Under the dual leasing system, the drilling information would be made public insuring that the Government gets a fair price for the oil and natural gas. Smaller companies, fully aware of the resources available, could make a bid for the lease with only a limited amount of liability. This promotes competition and opens up the leasing processes for public inspection.

There are provisions in H.R. 1614 which provide for increased participation by State and local governments affected by OCS operations. I believe this is in the best interest of coastal States, as their input would provide better cooperation between States and the Federal Government in the awarding of leases and expedite the production process. Review of the proposed lease sales and development and production plans by the States would be allowed. The Secretary must accept the recommendations of the States if they are in the best interest of the Nation and the region. These revisions are necessary reforms which will benefit Florida and all coastal States.

The Secretary has ultimate responsibility for the promulgation and enforcement of OCS regulations and procedures. One major aim of H.R. 1614 is to provide for coordinated Federal action, thus limiting duplication of effort, overregulation, and conflicting standards. With coordination, the effort will be to expedite the process and minimize costs. Better and more useful information utilized by all participants in the effort will make these provisions work and answer the claims of critics that this is another example of Government "overregulation."

Because environmentalists are concerned with the impact that development of OCS resources will have on the marine ecosystem, the Interior Department would be required to conduct baseline studies of proposed lease areas before making a leasing decision. It is important that we not sacrifice a healthy marine environment as we endeavor to find new energy resources.

I believe the provisions of H.R. 1614 establish sound policies for the OCS at a time when oil and natural gas reserves are short. The new bidding procedures insure better competition and provide greater incentives for increased production. Government redtape has been minimized and efforts to streamline the OCS process are greatly enhanced by the role of the Secretary of the Interior. H.R. 1614 represents a balanced, well-developed plan for the establishment of sound policies that promote the competitive development of oil and natural gas reserves in the OCS while insuring the preservation of the environment.

Mr. ASHBROOK. Mr. Chairman. I rise in strong opposition to H.R. 1614, the Outer Continental Shelf Lands Act amendments. This legislation would hinder development of the new oil and natural gas supplies that we must have in the years ahead.

If we are to meet our energy needs we must step up production of our fossil fuels. That is why the Outer Continental Shelf has great importance. It is one of the last areas that hold large reserves of untapped oil and gas.

Let me give you some idea of the quantities we are talking about. According to a U.S. Geological Survey in 1975, the potential undiscovered offshore resources amount to 26 billion barrels of oil. In addition, there are an estimated 107 Tcf of gas. This would go a long way toward improving our energy picture.

Rather than expediting the development of these oil and gas reserves, however, the bill before us would delay their production. It would enact into law a series of complex procedural requirements that would slow development of the energy we need.

In fact, it is predicted that passage of H.R. 1614 could further delay production by anywhere from 3 to 6 years. This is due to such things as OSHA review periods, new EIS requirements, expanded legal intervention rights and extended federal review periods.

The cost to our economy from such delays is staggering. It means that we would have to import millions of barrels of foreign oil at inflated prices. A four year delay, for example, would mean that we would have to import as much as an additional 2.1 million barrels of oil per day by 1985. These oil imports would result in higher prices for everything from plastics to fertilizer.

Not only are the production delays in this bill intolerable. H.R. 1614 would also get the Federal Government deeply involved in the oil business.

The Secretary of the Interior would be specifically authorized to conduct exploration for oil and gas in the Outer Continental Shelf. Such exploration includes core and test drilling.

This is the typical camel's nose under the tent. Once the Federal Government begins exploration the next step would be outright production of oil and gas.

The Federal Government has no business getting into the oil and gas business. This is an area better left to private enterprise. Federal entry would produce a costly, bureaucratic nightmare.

Another unwise provision relates to the Occupational Safety and Health Administration. The authority of OSHA would be expanded to include worker safety on the Outer Continental Shelf.

This area has traditionally been within the jurisdiction of the Coast Guard and it should remain that way. The Coast

Guard has the experience and expertise in this regard whereas OSHA does not.

Ms. HOLTZMAN. Mr. Chairman, I cannot support H.R. 1614, a bill regulating the extraction of oil and gas from the Outer Continental Shelf.

The bill undoubtedly contains a number of improvements over present law. It places stricter environmental protections on drilling of oil on the OCS. For example, environmental impact statements must be filed and certain State environmental standards must be met. It also requires new safety regulations, establishes a new oil spill liability fund and a fund for damaged fishermen's gear. In addition, the legislation encourages, although to a limited extent, the use of new bidding systems. Finally, some revenues from OCS development are to be shared with the States.

Despite these improvements, the legislation is fundamentally objectionable because it does nothing to prevent a major giveaway of the public's oil on the Outer Continental Shelf. Traditionally tracts on the OCS have been leased by the Department of the Interior on a bonus bid plus a royalty of 16⅔ percent on production. The oil companies, that have explored the shelf and have an idea of the extent of the resources, are able to bid low enough to insure substantial excess profits. The Government relies solely on the oil companies' figures on the amount of oil believed to be in any tract.

There has never been any determination that the bonus and flat 16⅔ rate compensates for the oil and assures the public a fair return for the sale of its mineral rights. Indeed, the 16⅔ percent royalty was arrived at simply by pulling the figure out of a hat. As a result, oil companies are probably earning profits and a rate of return on equity far in excess of those necessary to insure development of the resources on the shelf.

In Sale 40 in 1976, the Department offered leases at a 33⅓ percent royalty rate. The response was impressive. Competition was significantly higher. The tracts in this sale got an average of two times as many bids as did the tracts in an earlier comparable sale with the customary 16⅔ percent royalty rate. This certainly suggests that the traditional rate is inadequate and that oil companies will pay more to develop oil resources.

Originally this bill required that various alternate bidding systems be used in at least 50 percent of the frontier areas offered each year. Although this would not insure that the public was in fact receiving a fair return for its resources, it would have been a step in the right direction. But this provision has been significantly weakened. Instead of requiring the use of alternate systems in at least 50 percent of the frontier areas, it requires that it be used in no less than 20 percent and no more than 50 percent of the leases.

In addition, the bill does not provide for Federal exploratory drillings. Unless the Federal Government knows the extent of the oil deposits, it—and the people—are at the mercy of the oil companies who base their bids on their own explorations and on the Government's ignorance.

Mr. WEISS. Mr. Chairman, I would like to outline the basis for my support of H.R. 1614, the Outer Continental Shelf Lands Act amendments.

Our present energy crisis demands that we expand our domestic energy supply. Further development of the Outer Continental Shelf will not only help us meet our immediate needs, but it will give the United States time to develop much needed alternatives, especially solar energy.

The law governing OCS oil and gas development has been virtually unchanged since its enactment 24 years ago. It has several weaknesses: The law fails to balance development with environmental protection and long-term energy policies, and coastal States have been left out of the OCS decisionmaking process even though their coastlines, environment, and economy are affected by its provisions. Passage of this legislation will address these weaknesses as we develop a comprehensive plan for management of the Outer Continental Shelf.

There are several amendments offered which will implement strong environmental safeguards. It is not necessary to recount the recent North Sea oil platform blowout or the *Torrey Canyon* oilspill to demonstrate the necessity for comprehensive offshore oilspill legislation. None presently exists, and the Federal Government must take responsibility for the effects of oil pollution resulting from OCS activities. I urge adoption of the amendment offered by Mr. MURPHY, as it will extend the safeguards of the Comprehensive Oil Pollution Liability and Compensation Act to the Outer Continental Shelf.

In addition, the bill will do much to insure that coastal States participate in OCS decisions. Of particular importance, is the provision for the affected State and local governments to review proposed lease sales and development and production plans. The bill attempts to involve local officials in the planning of OCS development by soliciting specific recommendations on the size, timing, and location of proposed lease sales. In keeping with this, increased Federal funds will be made available to these States to help them deal with OCS-related impacts.

One of the most important aspects of this legislation is the provision for dual leasing. It is imperative that this qualification be retained in the bill. Drilling information developed in the exploration phase would help the Department of Interior determine that it is getting a fair price for energy resources, as well as assisting States in impact and environmental planning. In addition, by providing smaller companies with information about an area's potential, more of them would be encouraged to compete for leases. Thus, I urge that Mr. TREEN's amendment, striking dual leasing, be rejected.

Mr. Chairman, we must decide in what manner the development of the Outer Continental Shelf will occur. H.R. 1614 insures that our resources will be explored, not exploited. I hope that a majority of my colleagues join me in supporting its passage.

Mr. FISH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Mr. MURPHY of New York. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MILLER of California) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that the committee, having had under consideration the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act, and for other purposes, had come to no resolution thereon.

H.R. 2664 RELATING TO THE BLACK HILLS CLAIM OF THE SIOUX NATION IS A GOOD BILL AND WARRANTS SUPPORT

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, H.R. 2664 will soon come to the floor under a rule reported by the Rules Committee. On September 27, 1977, this bill failed on suspension of the rules by a vote of 173 to 239. It was apparent to me that a large part of the negative vote was not due to the lack of merit of the bill, but rather to a lack of information of the merits.

Therefore, I would like to take this opportunity to provide some background information to the Members prior to Thursday's action.

The history of this claim and the litigation involving the claim is lengthy and complex. The claim arose in 1877, 100 years ago. The litigation began in 1920, over 50 years ago. I will try briefly to lay out the highlights for the Members.

HISTORY OF THE CLAIM

In 1868, the United States entered into a treaty with the Teton or Western Sioux Indians. In this treaty, the Sioux reserved to themselves the Great Sioux Reservation, comprising all of what is now western South Dakota, including the Black Hills area. The Sioux ceded to the tracts of land outside of the Great Sioux Reservation.

In return for this cession of land, the United States made certain promises to the Sioux, including—

1. They would never take anymore land from the Sioux without the consent of three-fourths of the adult male population of the Sioux;

2. The Great Sioux Reservation was set apart for the absolute, undisturbed use and occupation of the Sioux, and

3. The United States agreed that it would not permit any persons, other than authorized Federal personnel, to pass over, settle upon, or reside in the reservation.

Between 1868 and 1875, gold was discovered in the Black Hills area of the reservation. One exploratory expedition

was conducted by Lt. Col. George A. Custer. White gold seekers, in violation of the 1868 treaty, flooded into the Black Hills. Initially, the United States tried to fulfill its obligation under the treaty by having the Army prevent non-Indians from entering the reservation.

Then occurred a blatant, secret decision of President Grant, the Secretary of the Interior, and the commanding generals of the Army to violate that solemn treaty promise. Mr. Speaker, in support of this statement, I will cite in full the text of three secret letters obtained in 1974 from the files of the Library of Congress:

[Confidential]

Nov. 9th, (187)5.

MY DEAR GEN. TERRY: At a meeting which occurred in Washington on the 3rd of November, at which were present, the President of the United States, the Secretary of the Interior, the Secretary of War and myself, the President decided that while the orders heretofore issued forbidding the occupation of the Black Hills country by miners, should not be rescinded, still no further resistance by the military should be made to the miners going in; it being his belief that such resistance only increased their desire and complicated the troubles.

Will you therefore *quietly* (Emphasis added) cause the troops in your Department to assume such attitudes as will meet the views of the President in this respect.

Yours truly,

P. H. SHERIDAN,
Lieut. General.

CHICAGO, *Nov. 13-75.*

MY DEAR GENL SHERMAN: After my return from the Pacific, I was obliged to go East to see Mr. Chandler about the Black Hills and my report has thus been delayed.

Terry has been sick, but is now better and I am expecting his report daily.

The enclosed copy of Confidential letter to Terry will best explain the present status of the Black Hills.

The whole thing has gone along about as I had expected.

The Terry letter had best be kept confidential (Emphasis added).

Your truly,

PH SHERIDAN.

[Headquarter Army of the United States]

ST. LOUIS. MO., *Nov.-20 1875.*

Gen—P. H. SHERIDAN,
Chicago, Ill.

DEAR GENL: Your letter of Nov-13 with enclosure was duly received, and would have been answered immediately. Only I know that the matter of the Black Hills was settled at all events for this year. In the Spring it may result in Collision and trouble. But I think the Sioux Indians are all now so dependent on their rations, that they will have to do whatever they are required to do. My own idea of their Treaty is that settlements may now be made all along up the Western Boundary. And if some go over the Boundary into the Black Hills, *I understand that the President and the Interior Department will wink at it for the present* (Emphasis added).

Truly your friend,

W. T. SHERMAN.

Mr. Speaker, against the background of the 1868 treaty, nothing can be said of this exchange of letters and the surrounding history of the taking of the Black Hills by the United States, but that there was a knowing, secret violation of the solemn promise of the United States. In fact, the President, his generals, and the Secretary of the Interior intentionally kept this decision from the Senate, which had ratified the 1868 treaty, and from the House of Representatives.

What was the upshot of this secret deal? When the Sioux refused to sell the Black Hills and the Congress resisted the pressure of the President to unilaterally take the Black Hills, the administration, in the words of the Indian Claims Commission, "precipitated the Sioux situation into a crisis." In furtherance of this planned crisis, Custer found the Sioux on the Little Bighorn River on June 25, 1876, where he and a third of his command were destroyed.

Incensed by this shattering defeat, Congress attached a rider to the appropriation act of 1876 which refused to provide the treaty rations to the Sioux unless they agreed to sell the Black Hills. Both the Indian Claims Commission and the Court of Claims have characterized this as the "sell or starve" rider.

The Sioux still refused to sell. In 1877, by the act of February 28, 1877 (19 Stat. 254), Congress unilaterally took the Black Hills, comprising 7,345,157 acres, from the Sioux, in direct violation of the treaty provision requiring the consent of three-fourths of the adult male members of the Sioux.

HISTORY OF THE LITIGATION

Until 1946, the judicial tribunals of the United States were closed to Indian tribes seeking a redress of grievances against the United States. The only avenue open was a petition to the Congress to permit the tribes to present their claim to an impartial tribunal. During the years following 1877, the Sioux repeatedly sought such relief.

Finally, in 1920, Congress passed a special jurisdictional statute permitting the Sioux to bring their claims against the United States before the Court of Claims. The Sioux filed, among other claims, the claim for the wrongful taking of the Black Hills. Twenty-two years later, the Court of Claims dismissed the Black Hills claim with a muddled, confusing opinion. *Sioux Tribes* v. *United States*, 97 Ct. Cl. 613, cert. denied 318 U.S. 789 (1943). It is hard to decide whether the court dismissed the claim on the merits or for lack of jurisdiction under the jurisdictional act.

In 1950, the Sioux refiled this claim with the Indian Claims Commission, established in 1946. In 1973, the Commission ruled that the United States had taken the Black Hills from the Sioux in violation of the fifth amendment of the Constitution and that the Sioux were entitled to an award of $17,500,000 plus 5 percent simple interest per annum from the date of the taking. The Commission rejected the defense of the United States that the 1942 decision of the Court of Claims was res judicata, first, because the United States failed to properly plead the defense as required by the rules of procedure, and second, that the 1942 decision was not res judicata because it was a dismissal for lack of jurisdiction and not on the merits.

The United States appealed the Commission decision on a fifth amendment taking to the Court of Claims on the grounds that the 1942 decision was res judicata. After stating that—

A more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history. . . .

The court upheld the defense of res judicata with respect to the fifth amendment taking claim.

The court then said:

Since in 1942 this court did, *rightly or wrongly* (Emphasis added), hold on the merits . . . interest cannot be awarded. . . . The Congress which wiped out the rations offset could correct this situation also, but we are without power to do so.

H.R. 2664

The bill, H.R 2664, which the Members will shortly be asked to approve or reject, will carry out the suggestion of the Court of Claims. Simply put, it will waive the technical defense of the United States to the fifth amendment taking issue based upon res judicata and directs the Court of Claims to review, on the merits, that issue.

I want to emphasize that the bill does not make a congressional determination of whether or not the United States violated the fifth amendment. It does not say that the Sioux are entitled to the interest on the $17,500,000 award. It says that the court will review the facts and law in the case and determine that question.

Mr. Speaker, there has been some concern among the Members about setting a precedent on waiving the defense of res judicata and on violating the sanctity of that doctrine.

First, Congress has in the past enacted legislation waiving that defense, mainly in private claims cases. In addition, in two cases, Congress waived the defense with respect to Indian claims against the United States: Act of March 3, 1881, and act of February 7, 1925. No precedent will be established.

Second, the doctrine of res judicata is not a statutory or congressional doctrine. It is a judicially developed doctrine designed to avoid a multiplicity of litigation and relitigation of decided issues. However, it is not a doctrine which should be permitted to bring about a gross miscarriage of justice, particularly in those cases where the United States acts as trustee for Indian tribes and their lands and resources. As stated in American Jurisprudence 2d:

Res judicata, as the embodiment of a public policy, must at times be weighed against competing interests, and must, on occasion, yield to other policies. 46 Am. Jur. 2d., Judgments, s. 402.

I submit, Mr. Speaker, that this is one time when that public policy or res judicata should yield.

There has been some concern about the report of the Department of Justice on this bill. They say in their report that, first, Congress should defer action on this bill, because Justice is conducting a study of these class of cases, and second, if Congress chooses to act, the bill should be amended to permit a trial de novo on the issue. I understand that the Justice Department has communicated its position that no such review is underway or planned. With respect to the trial de novo, while we feel that it is unnecessary and meaningless, we are willing to accept an amendment so providing.

Mr. Speaker, it is said that justice delayed is justice denied. The Sioux have petitioned for 100 years for justice and for their full day in court. That justice has been denied for 100 years. If the Court of Claims is right when it says that "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history * * *," then we should not deny a full airing of that case in a court of law, because of the technical defense of res judicata.

ANATOLY SHARANSKY IS BEING UNJUSTLY DETAINED BY THE SOVIETS

(Mr. GRADISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GRADISON. Mr. Speaker, today, Anatoly Sharansky, unjustly detained and kept from emigrating to Israel, languishes in a Moscow prison, a symbol for all the world to see of the failure of the Soviet Union to grant the most basic of human rights to their citizens: The right to be united with his family, the right to independent counsel, and the right to a prompt trial.

As Members of Congress, we have an unusual opportunity this week to call attention to this gross injustice through the visit to Washington of the Soviet Parliamentary Delegation. Yesterday, I met with Mrs. Sharansky, and she has been on Capitol Hill today carrying the message not only of her husband's plight but also of continuing violations by Soviet authorities of the basic human rights of 3 million Jews in the U.S.S.R.

Soviet Jews are systematically denied access to places of worship and are allowed no educational institutions in which they may train future rabbis and teachers. Jewish printing presses are at a virtual standstill. Jewish children are cut off from the opportunity to learn Hebrew, the historic language of the Jewish people.

Soviet authorities have denied permission for hundreds of Soviet Jews to rejoin their families in Israel. Scores of would-be emigres, separated from their loved ones in Israel, languish in labor camps and prisons. Thousands have been forced to leave jobs and schools for attempting to emigrate.

Soviet authorities have harassed all those seeking emigration rights. In defiance of the spirit and letter of the Helsinki Final Act and its guarantees, the Soviet authorities continue to make difficult the process by which would-be emigres can receive exit permits. OVIR offices open at infrequent intervals in many cities; denials are often made with no explanations or with incorrect or arbitrary information; those waiting for permission to emigrate are denied all citizenship rights and are subjected to varying degrees of official and employment-related harassments.

In view of the goodwill and high hopes engendered by this historic exchange between parliamentary representatives of the Soviet Union and the United States, I trust that progress on the categories outlined above, and particularly on the case of Anatoly Sharansky, will be forthcoming.

I close with a statement in Mrs. Sharansky's own words. It is urgent that Soviet authorities know that we are watching and that we care.

The story of Sharansky has become a symbol:

First, it is a tragedy of a man who wants to live freely in his country with his wife, with his family.

Second, it is a Jewish tragedy. It could be the beginning of a catastrophe destroying the second biggest Jewish community in the world.

Third, the Sharansky case is part of the campaign to escalate anti-semitism in the U.S.S.R. Fear of death to an individual. Fear of arrest for hundreds. And danger, demoralization and loss of identity to all Russian Jews"—from a letter of 60 Jewish activists including Alexander Lerner, Vladimir Slepak, Dina Beilina, etc.

Above all that, it is a human tragedy. Anatoly Sharansky, a member of the group that monitored the Helsinki Accords, was, and is, a symbol of hope to thousands of persecuted Jews and other nationalities in the U.S.S.R. The arrest of the Helsinki group in Russia destroyed all hope for elementary human rights. Professor Andrei Sakharov said in a statement to us:

"Sharansky didn't ask only for the right to emigrate. He fought, and is fighting for basic human rights, for the very basic human existence. Anatoly was the hope and comfort for all the people who believed in freedom and human rights."—June 15, 1977, signed by all the members of the Helsinki monitoring group in Moscow.

Today in America there is a protest movement for Sharansky and for elementary human rights in every nation in the world. The freedom—the basic human rights that Sharansky fought for are the most precious principles in America. That is the reason for the movement in America which created a larger movement all over the world after Sharansky's arrest.

The statement of Senator Stevenson in Moscow came at the right time and at the most important moment, and I am truly grateful.

I thank you deeply for your support and help. Be assured that the Russians take notice of your support. They take it into account because Sharansky was held in prison for nine months, then extended for six more months for investigation. Two weeks later the investigation was closed. All of this indicates their confusion and insecurity because of publicity and response from the West.

They have violated their own laws time after time. Anatoly Sharansky has been a target of isolation torture and his 72-year-old mother is the object of ridicule as they send her from office to office in her fruitless search for justice. His 74-year-old father has suffered a dangerous heart attack, brought on by the suffering inflicted on his family by the Soviets.

I think that the Russians believe that time will weaken our efforts; but you, America, and each American citizen, are my hope and faith in Justice and Humanity.

MERIT SELECTION OF FEDERAL JUDGES AND PROSECUTORS

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RAILSBACK. Mr. Speaker, I would like to take this opportunity to strongly endorse the idea of merit selection of Federal judges and prosecutors. In June of 1976 President Carter made a statement to the Platform Committee of the Democratic Party which reads as follows:

All Federal judges and prosecutors should be appointed strictly on the basis of merit without any consideration of political aspects or influence.

The difference between this Chief Executive and others is that he campaigned on the promise to be different. This, in my opinion, was his greatest appeal to electorate. Politicians may readily overlook the many promises made by this President in the heat of battle, but the American people should not It appears from the latest statistics with regard to the appointment of Federal judges and prosecutors that it is the same old wine in an allegedly different bottle. For example, from the latest statistics that I was able to obtain of the 65 appointments made to the position of U.S. attorney, 64 have gone to Democrats, and of the 31 Federal judges nominated by President Carter and confirmed by the Senate, no Republicans have been included. This does not correspond to what we were lead to believe would be the case. This is not to say that other Presidents were different, although President Ford in his short time, did make an effort to select judges from both parties, and actually appointed a larger percentage of members from the other party than any other President in recent history.

Along the same line, Mr. Speaker, I hope our President can be persuaded to change his position with regard to merit selection of U.S. attorneys. I am somewhat appalled by a secret agreement made by members of this administration, with the blessing of the President, not to pursue a system of merit selection of U.S. attorneys. This agreement was uncovered by my good friend BOB DRINAN. (See CONGRESSIONAL RECORD, Oct. 21, 1977 p. 34820 and Jan. 4, 1978. p. 39733.) He and I agree that secret dealings of this sort are unfortunate and unacceptable, and I hope our Subcommittee on Courts will waste no time in looking into this matter. For the record, Mr. Speaker, I have attached an article on this subject written by BOB DRINAN which appeared in the Boston Globe, January 4, 1978.

Also, in this regard, I hope the subcommittee will quickly schedule hearings on Father DRINAN'S legislation, H.R. 5576, which would provide for the appointment of U.S. attorneys on a merit basis. I want to congratulate my colleague for his leadership in this regard.

President Carter will be making many appointments to the Federal bench during the next 3 years. The House Judiciary Committee will be bringing to this floor in the very near future a bill to provide 145 additional Federal judges. We made an attempt in that bill to provide a method of merit selection of Federal judges.

An appointment to the Federal bench and the prosecutor's office should be based on a person's merit, achievement, legal scholarship, and excellence—not merely a reward to the party faithful. I earnestly urge President Carter to try and stick by this particular promise and make a real effort to advance the ideal of

a balanced, truly nonpartisan, Federal judiciary.

[From the Boston Globe, Jan. 24, 1978]

BELL PLEDGED TO KEEP PATRONAGE IN U.S. ATTORNEY APPOINTMENTS

(By ROBERT F. DRINAN)

The present method of selecting the nation's 94 U.S. attorneys is obsolete. The Attorney General's removal of David Marston as U.S. attorney for Pennsylvania for concededly political reasons demonstrates that we need an entirely new way of selecting the person who represents the most important symbol in each state of the federal government's commitment to uphold and enforce the law.

The present selection method enacted in 1789 by Congress, requires that the President select an individual who, after Senate confirmation, is entitled to a four-year term. The Senate, however, has usurped the President's right and virtually appoints the attorneys with confirmation from the President.

Last March I introduced a bill to remove the Senate from the selection process and give the appointment exclusively to the Attorney General. This would mean the professionalization and depoliticization of the selection and retention of US attorneys. It would eliminate the spoils system and abolish patronage.

I thought I was implementing President Carter's campaign pledge: "All federal judges and prosecutors should be appointed strictly on the basis of merit, without any consideration of political aspects or influence."

On June 22, when Griffin Bell testified before the courts, civil liberties and administration of justice subcommittee of the House Judiciary Committee, I asked him if he would endorse my bill to elevate the appointment of US attorneys to Civil Service standards. The Attorney General declined support and added, "We have an agreement with the Senate that if they take the Court of Appeals judges out of the patronage system we would go along" on allowing federal judges and U.S. attorneys to remain inside the patronage system.

It took me until Dec. 20 to find out about that "agreement." Michael J. Egan, associate Attorney General, told me that the agreement was "an oral exchange" between Judge Bell and Senator Eastland in Atlanta in late December of 1976 or early January of 1977. Presumably the agreement was reached prior to Jan. 11, 1977, when Griffin Bell's confirmation hearing opened. In line with that agreement, Bell abandoned the pledge of candidate Carter for merit selection and told the Senate Judiciary Committee at his confirmation hearing that with regard to district judges "we are going to leave the selection just as it is, with the Senators." But Bell was less candid with respect to the selection of U.S. attorneys. He stated that "if we are really serious about doing something about crime in this country, then we must go into some career service in the prosecutorial forces. . . ."

In something of a contradiction, however, he also said that "with respect to U.S. attorneys . . . we expect to work with the senators in the states on a merit selection basis." Merit selection would also extend to merit retention, since Bell added that "if there is a U.S. attorney who warrants retention on the merit system . . . we would certainly give thought to retaining them. Otherwise, we would not be putting in a merit system."

One way for Griffin Bell to surmount his embarrassment over the Marston affair would be for him to recommend a plan by which he would appoint all the U.S. attorneys from career lawyers just as the Attorney General appoints most other officials in the Justice Department.

In such an arrangement the 94 top federal prosecutors would be accountable directly to the Attorney General. They would be appointed with absolutely no reference to their political affiliation. They would be responsive to firm national and regional directives of the Attorney General related to vigorous enforcement of laws against political crime or racketeering, investigation of environmental or consumer complaints or any other area of federal law.

The limitations of the present system were very clear in the South in the 1960s, when U.S. attorneys, selected by southern senators, were seldom seen in the Department of Justice efforts to advance civil rights.

Similarly, one can wonder whether a local U.S. attorney in Michigan is likely to take on the automotive industry for air pollution or whether a politically selected U.S. attorney in Pittsburgh will become a crusader against the environmental faults of the steel companies.

We can hope that the "agreement" made in Atlanta between Griffin Bell and Senator Eastland to perpetuate patronage and politics in the selection of U.S. attorneys will be abrogated in favor of a plan by which the Attorney General selects his top lieutenants solely on the basis of their competence and their courage.

THE 60TH ANNIVERSARY OF THE INDEPENDENCE OF UKRAINE

The SPEAKER pro tempore. (Mr. MILLER of California). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, we are celebrating today the 60th anniversary of the independence of Ukraine.

Ukraine, of course, is not independent today. In the long string of nations subverted and conquered by Soviet Russian imperiocolonialism it stands as the first major non-Russian nation which was victimized by imperialist Moscow.

As many of us know, with the collapse of the Czarist Russian empire the Ukrainian nation recovered an independent statehood it enjoyed a century and a half ago. On January 22, 1918, the right—the human right—of national self-determination was reexercised by the Ukrainian people, and the independent state of the Ukrainian National Republic was established. Because of a tragic convergence of historical circumstances, including our ignorance of the many nations in the Russian empire, this reborn state was destroyed by Trotsky's Red Army in 1920, Sovietized, and 3 years later forced into a new empire called the Union of Soviet Socialist Republics.

Sixty years, Mr. Speaker, are but a few minutes in historical time. The drive, the fight, the struggle of a major East European nation for its genuine independence continues to this day. Every decade since the teens is replete with heroic expressions and movements for recovered Ukrainian independence. In this decade, high-lighted by Moroz, Chornovil, Rudenko, and others, thousands of Ukrainian Nationalists make up the dissident roll of Ukraine and are now incarcerated in Russian labor camps and psychiatric hospitals. Anyone who is familiar with the contemporary history of this nation, knows that in all six decades resistance, sacrifice, and armed opposition to Moscow's imperialist rule have more than amply demonstrated the invincibility of the Ukrainian spirit and fight for independence.

This anniversary is not just a ritual of rhetoric but another time for us to reflect on the strategic significance of Ukraine in the global context and, hopefully, on the basis of our reflections, develop new and challenging dimensions in our foreign policy. No one fears an intensified interest in Ukraine than imperialist Moscow itself. It knows that Ukrainian nationalism has been a threat to its imperial rule over the nations in Eastern Europe and Asia. It knows that Ukraine is its largest resourceful colony, and trouble there would mean trouble throughout the Soviet Russian empire. Also, it knows that Ukraine—the largest non-Russian nation both in Eastern Europe and the U.S.S.R.; 50 million people—is the Achilles heel of Moscow's empire.

Mr. Speaker, in terms of human rights, in natural terms of nationalism, in terms of our own traditions and national strategy, Ukraine is a prime object of concern to us. For example, the Stalin genocide of the Ukrainian Orthodox and Catholic churches should be of keen human rights interest to us. We look forward to legislative action in this field. There is also the outcome of the Belgrade conference. Will the Helsinki-monitoring watchers in Ukraine be protected from arrest and punishment?

With regard to the genocide of the Ukrainian churches, I bring to the attention of our Members the House Concurrent Resolution 165, on which we expect early action in this session.

On this "60th" the myths surrounding Ukraine should be dissipated, and a captive nations policy should begin to see the light of day. Toward these ends, Mr. Speaker, I append to my remarks the message sent to each of us by Dr. Lev E. Dobriansky, professor at Georgetown University and president of the Ukrainian Congress Committee of America, and several illuminating letters on so-called Ukrainian anti-Semitism that one of our renowned papers overlooked for the disbenefit of its readers:

H. CON. RES. 165

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the Constitution of the Union of Soviet Socialist Republics article 124 unequivocally provides that "In order to insure to citizens freedom of conscience, freedom of religious worship, and freedom of antireligious propaganda is recognized for all citizens"; and

Whereas not just religious or civil repression but the genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches in a nation of over forty-five million brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the

concrete resurrection of both the Ukrainian Orthodox and Catholic Churches in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches that their own constitution provides for;

(3) raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two churches and its perpetuated effect on the posture of the Union of Soviet Socialist Republics in the light of the United Nations Charter and the Declaration of Human Rights.

DEAR CONGRESSMAN: In a recent speech Vice President Mondale declared, "Human rights know no boundaries. We cannot protect our freedom as Americans if we ignore those parts of the world which are not free." Some might view this as mere rhetoric, but the simple fact is that most, if not all, of the dominant events, developments and changes in the world since World War II are heavily weighted by the essence of this standing message.

If you believe in the meaning of this message, as I know you do, then the captivity of 50 million Ukrainians in the empire-state known as the Soviet Union must be of honest concern to you as it is to us. Contrary to misplaced impressions, such concern is not just one of those "ethnic concerns" exploitable in election campaigns, but is in reality a concern fundamental to the protection of "our freedom as Americans." Moscow knows this because in its imperialist rule of Ukraine—the largest non-Russian nation both within the USSR and in Eastern Europe—it capitalizes on this huge colony and its strategic assets for the spread of Russian hegemony and influence throughout the world. Unfortunately, this truth has yet to come into full bloom in our country.

As a representative of America's conscience and not just a constituency, you can propagate this powerful truth on the occasion of the 60th Anniversary of Ukraine's Independence this January 22. In sharp contrast to the "60th" of the Russian Bolshevik revolution—in itself an historical tragedy and curse upon humanity—this 60th symbolizes national freedom, human rights, and surcease of Soviet Russian imperio-colonialism. Ukraine was the first major victim of Russian Bolshevik conquest, but its struggle for renewed independence is invincible. The President is wrong in thinking that Poland's human losses exceed others; those of Ukraine or Russia more than double them. Such high-level error is just another example among many magnifying the need for a new dimension in our foreign policy, concentrating on the non-Russian nations in the USSR. For the protection of our own freedom this is necessary, and the opportunities are immense.

Your voice on all of this is needed during the week of the 22nd. In the House a special order will be placed by Representative Daniel J. Flood who, with Representative Edward J. Derwinski, will initiate the observance on a bipartisan basis. In the Senate we look forward to a colloquy on the theme of this "60th": Human rights know no boundaries—Human rights for Ukraine."

With much gratitude for your support and looking forward to seeing you at the reception in the Capitol on January 25,

Sincerely,

LEV E. DOBRIANSKY,
President UCCA,
Georgetown University.

[From the Philadelphia "America," Dec. 12, 1977]

"OBJECTIVITY" OF NEW YORK TIMES

EDITOR'S NOTE: Craig R. Whitney, a New York Times correspondent, wrote in an article from Kyiv, published in the December 1st, 1977 edition of The New York Times, that "Jews in Ukraine charge that age old anti-Semitism persists in Ukraine".

Replying to such an evidently slanted and derogatory statement, UCCA President, Dr. Lev Dobriansky, forwarded a letter to the N.Y. Times Editor pointing to the inaccuracies and misleading innuendos of C. R. Whitney's article.

Just as in previous cases the N.Y. Times disregarded Dr. L. Dobriansky's letter, adhering to its own peculiar code of ethics and journalistic objectivity.

Following is a text of Dr. L. Dobriansky's letter:

MR. KALMAN SIEGEL,
Editor, Letters to the Editor, The New York Times, New York, N.Y.

DEAR MR. SIEGEL: In the interest of the best Jewish and Ukrainian American understanding certain critical points deserve to be raised with reference to Craig R. Whitney's article of December 1 on "Jews in the Ukraine Charge That the Age-Old Anti-Semitism Persists." It contains a number of inaccuracies and misleading innuendoes which, if left unanswered, could adversely affect the working understanding and cooperation that have been achieved since World War II by Americans of the two heritages.

First, his unqualified statement that "anti-Semitism . . . was a powerful force in the Ukraine for centuries before the Nazis came" serves to revive the old myth of Ukrainian anti-Jewishness, with its unfounded imputation of some sort of a national disease. In addition to its false insinuation, such an assertion does grave injustice to the cumulative efforts and deeds of all Jewish and non-Jewish Ukrainians who have fought against this divisive instrument of foreign Russian Czars, Russian Communists and German Nazis. Scholarship in this field has firmly established the close correlation between the politicized anti-Jewishness of relatively few lackeys and imperialist authoritarianism or totalitarianism. As evidenced by the short-lived Ukrainian National Republic in the 1918–20 period, a free, independent and democratic Ukraine would certainly preclude any breeding ground for such political instrumentation. Mr. Whitney would do well to read the documented work "Ukrainians and Jews" (New York, 1966).

Hinging on the above point, my second criticism centers on his treatment of the Babi Yar massacre in 1941. Though he mentions the crime was committed by the Nazis, he fails to state specifically that along with the Jews a sizable number of Ukrainians and Russians were also annihilated in that massacre. More serious, in the full context of the article, featured as it is by "the age-old Anti-Semitism"and corollary assertions, the impression some readers might have obtained is that the Ukrainian people as such shared in the responsibility for this heinous crime. Nothing could be farther from the truth.

Insufficient care in handling facts is shown, too, in the writer's account of the desperate state the Jewish scientist Vladimir Kislik presently finds himself in. Considering all aspects of Moscow's barbarous emigration policy, it is grossly erroneous to imply that his loss of employment can be attributed to the Ukrainians and their mythical national disease. Wielding a double-edged sword, both Moscow and its puppet government in Kiev seek the desired political effect of such an association, and Whitney's article is a perfect example of how easily one could fall into the trap. The countervailing fact is that thousands of non-Jewish Ukrainians have also been deprived of employment at various universities, scientific institutes, etc. because of disloyalty to imperialist Moscow. As the Isareli specialist on Jewish-Ukrainian affairs, Leo Heiman, observed years ago, "By holding up the traditional Jewish scapegoat, Moscow hopes to provide a ready-made emotional outlet for all the pent-up hates and resentments against the regime and conditions of life. But the Ukrainians of 1961, according to all authoritative reports, are not the Ukrainians of 1941, just as the Jews of 1961 are not the Jews of 1941. This is the reason why Moscow gets contrary results in Ukraine" (*The Ukrainian Quarterly, Summer* 1961).

These phenomena of difference and contrary results are even more marked now. Somewhat naively, and again with the same innuendoes, Whitney makes much of a press campaign in Soviet Ukrainian organs against Mr. Kislik. But these same organs are also replete with scathing attacks against the Ukrainian Catholic Church, the Ukrainian liberation movement, and Ukrainian American leaders. Significantly, World Zionism and Ukrainian "bourgeois nationalism" are consistently viewed in these organs as being in an evil alliance.

Furthermore, the article is inaccurate on the exclusion of Jews from the Ukrainian dance or choral ensembles in Ukraine. For instance, the Ukrainian "Yatran" Dance Company, which visited the U.S. recently, had several young men and women of Jewish identity. In pursuit of its divisive policy the regime rarely operates by rule of sharp exclusion.

In conclusion, the writer stumbled on a most delicate and complex subject which evidently he could not manage with perspective and critical acuity. The subject requires open and fair discussion. Toward this end the recent lecture tour in the U.S. by Dr. Mikhail Stern, a Ukrainian Jew and author of *The USSR vs. Dr. Mikhail Stern* (New York, 1977) was a salutary contribution. It is regrettable that some of our Jewish communities feared opening their doors to him.

Sincerely,

LEV E. DOBRIANSKY,
Professor of Economics, Georgetown University, President, Ukrainian Congress Committee of America.

[From the Ukrainian Weekly, Jan. 15, 1978]

MORE OBJECTIONS TO NEW YORK TIMES ACCOUNT

(Below are copies of letters sent by our readers to The New York Times in response to Craig R. Whitney's article, entitled "Jews in the Ukraine Charge that Age-Old Anti-Semitism Persists," and published by that paper in its December 1, 1977, edition).

DISTORTED ACT

Anti-Semitism is a malady that has existed in various countries of the world including Ukraine. By identifying it, however, as a popular movement in Ukraine, Mr. Craig R. Whitney (The Times, December 1, 1977) distorts the true picture of Ukrainian-Jewish relations. He fails to state that anti-Semitism is an official policy of the regime. It is fanned in the press in all Soviet republics.

On the other hand, Mr. Whitney pretends not to know that there exists a widespread resentment among both Ukrainian intelligentisia and population as a whole to the policy of anti-Semitism. He extolls Yevtushenko, but glosses over the courageous speech of the Ukrainian literary critic Ivan Dzyuba at Babyn Yar in September 1966.

The presentation of the stereotyped "Ukrainian anti-Semite" is a distorted and potentially dangerous act of irresponsible journalism.

R. W. SOCHYNSKY, M.D.,
Brooklyn, N.Y.

SLANTED REPORT

The hackneyed caricature of the "traditional Ukrainian anti-Semite" seems to be a favorite of The New York Times recently. One gets the impression that anti-Semitism is a popular movement in the Ukrainian republic, that it is independent of the govern-

ment and the blame for it falls solely upon the Ukrainian people.

Reality, however, is rather more complex than a journalist's simplification. But one cannot forgive the oversimplifications used by Craig R. Whitney in his article "Jews in the Ukraine . . ." (December 1, 1977).

Even a freshman student of political science realizes that in the USSR, of which Ukraine is a part, anti-Semitism is a governmental policy.

It is not the Ukrainian people who have closed down the synagogues or forbade the publication of Yiddish and Hebrew textbooks. This was done by government which has imposed Russification upon the Ukrainian people as well.

The stereotype of the Ukrainian anti-Semite, as presented by Mr. Whitney, is as obnoxious as reading that Zionism is tantamount to racism.

The New York Times owes an apology to both its Ukrainian and Jewish readers for publishing such an irresponsible and slanted report. This manner of journalism only serves to widen the gap between two peoples who have suffered terrible tragedies and who sincerely want to come to an understanding between themselves.

MARIA SAVCHAK.

BROOKLYN, N.Y.

ASSAULTS OF RUSSIFICATION

Craig Whitney's article in The New York Times (December 1) focused attention on anti-Semitism in Ukraine, without mentioning the implications of the important fact that Ukraine is not a sovereignty state and that it is totally dominated and controlled by Russia through its official government, the Communist party and the KGB. Consequently, Moscow is not only fully responsible for every act of political, national and religious oppression, but indeed is the sole perpetrator of these injustices throughout its empire, the Soviet Union. In Ukraine, the principal victims of repression are the Ukrainian people. The Ukrainian Orthodox and Catholic Churches are totally banned in Ukraine.

Mr. Whitney seems to overlook that the official manifestations of anti-Semitism, such as dismissals from work, interrogations by the KGB and attacks on "refuseniks" in newspapers are concocted and carried out by the governing agencies which are entities of the Russian occupation regime, and in which the Ukrainians as well as the Jews and others may function only as collaborators of that regime. He appears to be unaware that in recent years thousands of Ukrainian patriots who criticized this regime for suppression of national, individual and religious freedoms (including criticism of anti-Semitism) have been incarcerated and subjected to treatment which, according to the surviving witnesses (Litvinov, Alekseyeva, Plyushch, Bukovsky, Stern) is even more onerous than the treatment of most other Soviet political prisoners. The New York Times itself has, on rare occasions, mentioned some of their names. About one-half of all Soviet political prisoners are Ukrainians.

The alleged anti-Semitic attitudes among the population of Kiev, as described in the article, can hardly be characterized as Ukrainian, considering that the bulk of Kiev's population no longer has a distinct Ukrainian composition. Many, if not most, either consider themselves Russians or have been sterilized into an ethically amorphous product by the longstanding assaults of Russification and cultural genocide to which everything Ukrainian has been subjected by all Russian regimes over the past three hundred years, not to mention the physical extermination of several million Ukrainians during Stalin's era. We know from former inmates of Soviet jails and labor camps, who have recently arrived in the West, that among the Ukrainian dissidents, who are the elite of the remaining nationally conscious Ukrainian element, there is an outspoken support for the Soviet Jews in their struggle for human rights and dignity. It is discouraging to see how Mr. Whitney chose to ignore the sordid reality of age-old persecution of Ukrainian patriots in their own homeland, as if it were of lesser priority, less immoral or less painful.

IHOR OLSHANIWSKY.

NEWARK, N.J. 07106.

Mr. DERWINSKI. Mr. Speaker, I am pleased to once again join with my colleagues in commemorating the anniversary of the proclamation of Ukrainian independence, and I commend the gentleman from Pennsylvania (Mr. FLOOD) for leading the House in this annual observance.

This year marks the 60th anniversary of the declaration of Ukrainian freedom and national independence by the founding of the Ukrainian National Republic in Kiev on January 22, 1918. After 2 years of this nation's existence, Russian control was once again restored by the forced incorporation of the Ukraine into the Soviet Socialist Republic.

This past November, the Soviets staged a great spectacle to commemorate the 60th anniversary of the Russian Bolshevik victory. However, rather than representing national freedom and progress, the Bolshevik Revolution actually imposed a Communist dictatorship upon the non-Russian peoples of the U.S.S.R., who number over 100 million.

The Ukraine is the largest of the non-Russian nationality groups within the U.S.S.R. The Ukraine is also one of the richest in resources of the captive nations, possessing tremendous agricultural and industrial assets. Not only rich in natural resources, the country possesses a strong culture, language, literature, traditions, and an indomitable human spirit.

During the six decades since the time of the Russian Communist takeover, the Ukrainian people have not given up hope of once more regaining the freedom which they knew only briefly. Their constant efforts are proof of the inability of the Kremlin rulers to break the noble Ukrainian nationalistic spirit. The tenacity of their dissident nationalist movement has never died, and on this occasion we all honor and salute it. Despite the extreme pressure tactics employed by the Soviet Union on the Ukrainian people, the ranks of its articulate dissenters continue to speak out against the cruel Soviet tyranny, and the determination of its people to retain their culture and intellectual freedom still grows.

Mr. Speaker, I also wish to salute the 3 million Americans of Ukrainian descent who have made tremendous contributions to the development and progress of the United States. Ukrainians have also played a major role in the economic and political life of our neighbor, Canada. They have added spiritually, culturally, and intellectually in their firm support of freedom wherever Ukrainians have settled in the free world.

At a time when a strong commitment for the ideals of human rights and individual freedoms has heightened significantly in the Congress, the Executive branch and the country as a whole, we must reassure the people of the Ukraine and others under Communist rule of our deep commitment to champion the rights of national, individual, cultural and religious freedoms for all peoples held captive by Communist oppressive policies.

As we once again commemorate another anniversary, marking the passage of one more year in their continuing struggle, we must make it known to the Soviets that we take quite seriously the issue of human rights, and in the case of the people of the Ukraine and others held captive, that we strongly support them in their aspirations for freedom and self-determination. Although we long for an easing of global tensions, we must not be so dazzled by treaties, negotiations, cultural exchanges, and other such activities that we forget the nations within the U.S.S.R. who are struggling to achieve real freedom.

Mr. ROONEY. Mr. Speaker, this week, 50 million Ukrainians residing in the Soviet Socialist Republic are "celebrating" the 60th anniversary of Ukraine's independence. It is not a celebration akin to our American Fourth of July, but rather a proud acknowledgement of glorious freedom past and a brave hope for renewed liberation in the future.

When we speak of freedom in the United States, we most often refer to the Constitution and the Declaration of Independence in one breath. Unfortunately, not even the Helsinki Accords nor membership in the United Nations holds for Ukrainians the powers of protection that our government wields for us. For only 2 brief years after World War II did the people of the Ukraine enjoy a life devoid of government coercion or constraint—a privilege which we in America take too much for granted.

And yet, the spirit in the Ukraine has never been one of resignation or despondency. There is a justified ethnocentrism which has sustained the non-Russian Ukrainian nation through six decades of imperialist Soviet rule. At a time when the concern for human rights is of paramount importance in the formation of U.S. foreign policy, can we continue to ignore 60 years of inhuman treatment by a repressive Communist regime? More importantly, can we, as a free state, afford to ignore opportunist advances of the Soviet Union?

The Ukrainian Congress Committee of America has, this year, asked Members of Congress to focus not on the indominable spirit or unique cultural heritage of the Ukrainian people, for those characteristics go without saying. It is the committee's wish that emphasis instead be placed on the Ukraine's strategic assets which Russia will employ to spread its party influence. I believe it is our job to stop the rampant persecution of peoples of all Nations, and to protect our own inalienable rights from the threat of a similar fate. Those of us serving in the House of Representatives will have a hand in determining that fate as we debate and formulate legislation of international relevance. I ask you all to remember with me the difficult struggle for Ukrainian independence and, as we consider foreign policy questions, to remember the words of the Final Act of the

Conference on Security and Cooperation in Europe reminding us:

That peace among nations cannot be guaranteed without free contacts between peoples and the free exchange of information and ideas.

Mr. HORTON. Mr. Speaker, 60 years ago, the peoples of the Ukraine enjoyed a brief period of independence from Russia. That independence, which came first in the form of autonomy under the provisional government of Alexander Kerensky, soon became subverted and attacked by the Bolsheviks and the Red army. The right of self-determination, which today is a cornerstone of America's rededication to human rights and freedoms, is not a right granted the people of the Ukraine or any other captive peoples. Instead the Soviet Union, a signatory to the Helsinki Agreement, continues to subjugate the Ukraine while professing to be an advocate of the principles that underlie the Helsinki Agreement.

Regrettably, self-determination for the peoples of the Ukraine is not the focus of America's crusade in behalf of human rights. Instead, the United States avoids this issue with the Soviet Union in the interest of détente and trade with the Soviet Union. However, our crusade becomes less than credible to the peoples of the captive nations because we steer clear of the more difficult and formidable examples of violations of rights enunciated in the Helsinki Agreement.

Moreover, the United States has chosen to adopt a policy of convenience and contradiction with regard to human rights. A little more than 2 weeks ago, the U.S. Secretary of State turned over to the Hungarian Communist regime of Janos Kadar a symbol of freedom, sovereignty, and political legitimacy in Hungary—the Holy Crown of Saint Stephen. By that act, the United States has lowered the standards by which it focuses on human rights around the world. To my mind, the criteria on which the return of the Holy Crown was judged, "improvements in our bilateral relations with Hungary," is not the criteria which coincides either with the meaning of the crown or the principles or self-determination or freedom. We have no such symbol for the peoples of the Ukraine, other than our dedication to human rights. How are we to be judged when our convictions are set aside in favor of trade or other considerations?

Mr. Speaker, in the interests of human rights and self-determination, the United States and all nations committed to these principles, should join free Ukrainians in commemorating the 60th anniversary of Ukrainian independence. The cause of a free Ukraine is no less noble, real or legitimate than the cause of a free Poland, Hungary or any other Eastern bloc country. Improved relations with the Soviet Union must not be the criteria by which we determine our commitment to human rights.

Mr. ARMSTRONG. Mr. Speaker, as others have pointed out, both this year and in years past, the Ukraine is the largest non-Russian captive nation in the U.S.S.R. Many people, and probably a majority of Americans, have forgotten that the Ukraine has been an independent nation for periods lasting hundreds of years, and that the Ukrainians today still have a fierce sense of independence and hunger for freedom from oppression.

From the 9th to the 14th century the Ukraine was a strong and independent nation. Again from the 16th to the 18th century, the Ukrainians ruled themselves, before Tsarist Russian troops moved in.

Then in the turmoil of the Russian Revolution, on January 22, 1918, the Ukrainian people declared themselves independent and established the Ukrainian National Republic. Even the Russian Government recognized the new government of the Ukraine.

That recognition was merely the prelude to conquest, as the Communist government invaded the Ukraine in 1920. By 1922, this proud land was once again under foreign domination. But the reign of terror had just begun. During the 1930's 3 to 5 million Ukrainians died or were executed outright under the forced Stalinist collectivization of Ukrainian agriculture. While figures are hard to obtain, estimates indicate that another 11 million may have perished through starvation, war, and police state measures under the rule from Moscow.

While over 2 million Americans are proud of their independent Ukrainan heritage and live under our free institutions, over 47 million live under continuing oppression in their homeland, without guarantees of civil rights, without self-government—still fiercely proud of a cultural heritage that predates the establishment of the United States by over 800 years.

In this light, I would like to call attention to the people of the Ukraine on the 60th anniversary of the founding of the independent Ukrainian National Republic—to a people who have not wavered in their independence of spirit, even as their human rights have been denied, and denied, and denied.

Mr. ANDERSON of California. Mr. Speaker, 60 years ago last Sunday, January 22, the nation of the Ukraine proclaimed its freedom as an independent state. In the spirit of concern for human rights, which has become such an integral part of our foreign policy, I feel it is important to recognize the more than 2 million Americans of Ukrainian descent as they commemorate their nation's independence.

At the same time, we should also recognize the oppression under which the Ukraine is forced to exist as a possession of the Soviet Union, and the strong desire for freedom which is still part of the Ukraine's national character.

When the czarist regime of Russia toppled in 1917, the Ukraine was able to break away and declare their freedom as a nation. On January 22, 1918, the Proclamation of Independence of the Ukrainian National Republic was issued in the city of Kiev. Exactly 1 year later, the Act of Union was signed in Kiev, which became the capital city of the Ukraine.

To this day, the 22d of January stands as a date on which human dignity, national freedom, and self-determination are symbolized. However, even as the new nation was being recognized by other governments—including Russia—the Soviet Union began a campaign to absorb the Ukraine into its own territory.

After 3½ years of bitter resistance, the Ukraine was conquered by the numerically superior Russian Army and incorporated as part of the Soviet Union. Today, the 48 million Ukrainians remain the largest non-Russian ethnic group in the U.S.S.R.

Ukrainians have suffered much under Soviet domination. In 1932, when Stalin ordered the great grain fields of the Ukraine into collectives, the people resisted. As a result most of the grain was confiscated. Over 7 million people died in the famine of 1932–33 as a result of that policy.

During World War II, a strong underground movement, the Ukrainian Partisan Army (UPA) was formed. The UPA fought both Nazi invaders and the Red army in an effort to regain freedom.

The desire for freedom that drove the UPA still burns brightly in the people of the Ukraine, and Americans of Ukrainian descent celebrate January 22 as a national holiday for their former country.

Mr. Speaker, it is important to recognize this 60th anniversary of the Ukraine's independence. For in recalling the spirit that created that nation—and its tragic loss of independence—we can better appreciate the importance of self determination and national freedom in our own country.

In the words of the great Ukrainian poet, Taras Schevchenko:

Our souls will never perish,
freedom knows no dying.

Mr. LE FANTE. Mr. Speaker, January 22 is a day which has great significance for more than 2 million of our fellow Americans. On that date in the year 1918, the newly formed Ukrainian Central Rada under the presidency of Prof. Michael Hrushevsky, Ukraine's foremost historian, issued a universal proclamation declaring the full independence and sovereignty of the Ukraine. The act of January 22, 1918, was the realization of Ukraine's right to self determination.

After many long years of struggle the Ukraine had finally received its reward. The new Soviet Russian regime, under Lenin, officially recognized the independence of the Ukraine and the people rejoiced. We can well imagine their hopes and dreams as they embarked on what they thought would be a new era of peaceful progress. But we also know their independence was to be short lived, for the Ukrainians were destined to fall victim to Communist Russia's aggressive campaign to dominate its neighbors and transform them into Communist states.

The same agreement which recognized the independence of the Ukraine contained provisions which required the withdrawal of Russian armies from the Ukraine. Lenin and his government did not respect this agreement and instead sent Russian troops to conquer the Ukraine. After 3 years of fighting and subversive activities, Russia defeated the

outnumbered Ukrainian armies, occupied the territory of the Ukrainian state, and forcibly incorporated Ukraine into the Soviet Union.

Over the past 60 years, the Ukrainian people have been persecuted and imprisoned by agents of the Government of the U.S.S.R. The Government of the Soviet Union has repeatedly failed to abide by the internationally agreed upon principles of human rights, which are set forth most recently in the Helsinki declaration of 1976. Despite their pledge to adhere to both the letter and the spirit of that historic document, the Soviets have chosen to continue unabated their policy of suppression and subversion of the human, national and religious rights of the Ukrainian people.

I deplore the lack of sensitivity on the part of the Soviet Government and the indifferent attitude which they have taken toward the expressed will of the people of the Ukraine who have sought to realize the principle expounded at Helsinki. The arrest and imprisonment of Mykola Rudenko and Oleska Tykhy, chairman and cochairman respectively of the Ukrainian public group to promote the implementation of the Helinski Accords, is an example of the total disregard the Soviets have for the Helsinki declaration.

In the fact of this disregard the American people—and all people who value their liberty—will strive to urge the Soviet Government to end its harassment of Ukrainians and its jailings of those courageous dissidents who stand up and speak out for their freedom and the freedom of their fellow citizens.

Mr. Speaker, the Congress and President Carter are keenly aware of the importance of human rights in the Ukraine and in all parts of the world, and both have taken steps to rectify the intolerable conditions under which so many must suffer. Accordingly, on this day marking the independence of the Ukraine, I urge my colleagues and the American people to continue their efforts in this direction until all Ukrainian citizens have been guaranteed the freedom and basic human rights to which all people, in all lands, are entitled.

Mr. MURPHY of Illinois. Mr. Speaker, this week persons of Ukrainian ancestry, as well as all freedom-loving Americans, are commemorating the 60th anniversary of the Ukrainian people's effort to win their freedom and independence from the Soviet Union.

On January 22, 1918, Ukrainians signed a proclamation declaring their independence and unification. Tragically, their move for independence was crushed only 2 years later by Soviet armed forces.

But the hopes of the Ukrainian people have never been forsaken. They continue to yearn for the same freedom we enjoy in the United States and all too often take for granted. It is fitting that the United States, with its cherished freedoms of speech, religion and the press, join with the citizens of the Ukraine in their aspiration for eventual independence and unification.

Mr. Speaker, during this week of commemoration, I call on all Americans to support the Ukrainian people in their hopes and efforts to throw off the yoke of Soviet domination.

Mr. PATTEN. Mr. Speaker, I would like to take this opportunity to comment on the 60th anniversary of the Ukraine's short-lived independence.

I am pleased to say that I was raised and have lived in a community, Perth Amboy, N.J., which has thousands of people whose forebearers came from the Ukraine.

The Ukrainians are highly regarded for their intelligence, industriousness and their Americanism. I take great pleasure in joining them as they mark the occasion of the 60th anniversary of the Ukraine's independence.

In the same breath, I call upon the President of the United States of America as well as this Nation's Department of State to use their good offices to do everything in their power to see that human rights and freedom in the Ukraine are realized.

Mr. BURKE of Massachusetts. Mr. Speaker, this week, marks the 60th anniversary of the Ukraine's short-lived independence. There has been a renewed focus on the plight of the Ukraine and the captive nations within the Soviet bloc in view of the convening of the Belgrade Conference and its discussion of human rights. Basket Three which encompasses greater individual freedoms through humanitarian, cultural, and educational cooperation, has systematically been denied or wholly ignored where the rights of the Ukrainian people are concerned.

What has happened to Soviet and East European assurances that all persons would be allowed freer movement of ideas and people? What has happened to the reunion of families? On these very basic issues there has been no visible improvement. In fact, when Ukrainian freethinkers joined together to form the Kiev Group to Promote the Implementation of the Helsinki Accords, their civil rights had been repeatedly violated and several of their leaders: Valentyn Moroz, Mykola Rudenko, and Myroslav Marynovych were jailed without charges.

The 50 million people of the Ukraine were once a proud and sovereign nation. Although the Ukrainian SSR and Byelorussian SSR were cosignatories of the Helsinki Final Act, neither was able to present their own views independently of the Soviet Union.

The Communist Party of the Soviet Union has done everything in its power to eradicate the national longing of those courageous people for a free and independent nation. Like their other non-Russian brothers they have maintained a tenacious grip on their national identity despite intensive Russification policies.

Besides individual and political liberties, religious freedom has been deliberately circumvented. The Ukrainian Orthodox and Catholic Churches in particular, have been the objects of a heavy-handed antireligious policy.

President Carter recently during his trip to Poland recognized the need to point out Soviet violations of the act when he asserted that—

> The treaty terms provide for an open and frank criticism of other signatories when standards are not met. There has been a free exchange of opinion between ourselves and the Soviet Union.

I urge my colleagues to use this anniversary of Ukrainian independence as a call for redoubled efforts in securing human rights for the Ukraine and throughout Eastern Europe.

Mr. ST GERMAIN. Mr. Speaker, I am honored to use this forum once again to pay tribute to the Ukrainian people on the 60th anniversary of the proclamation of Ukrainian independence. I am especially pleased to have this opportunity to speak out since I, myself, am half Ukrainian.

The passage of another year has seen no change in the captive status of 50 million Ukrainians. Still the Soviet Union's political control casts a black shadow of oppression across the country. Still the Soviet Government is unscrupulous in its attempts to destroy the Ukrainian culture and break the Ukrainian spirit. Still our sense of outrage is inflamed at the blatant robbery of the dignity, pride, and sense of accomplishment of a freedom-loving people.

Yet, the Ukrainian patriots pursue their ancient struggle for freedom with a patience and a dedication which is unparalleled. Steadfastly, they refuse to give up their identity. Remarkably, their yearning for independence is undiminished in the face of overwhelming odds. And admirably, their undaunted courage and their invincible will unite them in their fight for liberation.

I join with the millions of Americans of Ukrainian descent who mourn for their brothers back in their shackled homeland. Time and again during my boyhood, I saw the look of worry and sadness come into my own mother's eyes as she thought of the atrocities being perpetrated there.

Let all Americans share in this grief and be unremitting in their support for those who endure this tyranny. While exalting in our own freedom, let us be mindful, particularly at this time, of the crushing burden of sacrifice borne daily by these brave citizens.

Long ago, our American forefathers implanted in us the unwavering devotion to freedom which has preserved our country. This devotion has manifested itself most recently by the renewal of our pledge to the cause of human rights. We must lift our torch high for all to see, and we must speak out against the injustice which now binds our friends in the Ukraine. This done, together we will await the granting of God-given rights of national, individual, and cultural freedom.

Mr. DINGELL. Mr. Speaker, Sunday, January 22, marked the occasion of the 60th anniversary of the Ukrainian National Republic. In observing this anniversary of Ukraine's independence it is appropriate to note once again how much of their history has been a series of oppressions which sought to deny the Ukrainian people a national consciousness. However, it is especially a time to acknowledge the strong tradition of national independence which is an integral part of the character of Ukraine; and thus theirs is also a history of courageous

struggles to assert their own national identity and, in so doing, to affirm those principles of self-determination which are the basis of a free state. On January 22, 1918, these valiant people were able to realize, however briefily, their ultimate goal of a free and independent Ukraine.

It is fitting that on this occasion we should express our deeply felt support of and respect for the perseverance of the Ukrainian people, for their dedication, in spite of enormous obstacles, to those democratic principles that are the foundation of a free country; for their courage which, in the face of these obstacles, still pronounces the goal to be worth the suffering; and finally for the goal itself, that of self-determination and independence, which is the hope of all free men everywhere.

Mr. RHODES. Mr. Speaker, as we observe the 60th anniversary of Ukraine independence we realize that the hope for freedom and the spirit of the people from the Ukraine has not faltered through decades of oppression.

Philip Van Doren Stern once wrote:

> The fight for freedom is an endless battle. Its victories are never final, its defeats never permanent.

Therein lies hope for the future of captive peoples everywhere. In the broad scale of history, suppression of the freedoms of many peoples has come, and gone. Totalitarian regimes have sprung up and been replaced by brave men and women who have sought to be free.

Through the dark days of Communist tyranny, those of Ukrainian descent in the United States have kept the lamp of freedom lit. This observance is more than a date on the calendar that symbolizes a brief-lived free state. It is a revival of that hope and determination among the Ukrainians that one day their native land shall again know the joys and opportunities of freedom. It is fitting that this Congress, responsible for helping preserve our own liberty, pay tribute to the unflagging spirit of those who seek redress for freedoms long denied those who live under Soviet rule in what once was a free Ukraine.

We join in their fervent prayer that some day freedom will return to their homeland.

Mr. HUGHES. Mr. Speaker, although the formal celebrations and pageantries of the Bicentennial are over, the spirit of that anniversary and independence still lingers, and freedom is a daily fact of life for us. With the festivities of the Bicentennial still fresh on our minds, I suggest that we pause to remember those not as fortunate as we—the people of the Ukraine. The spirit of independence is very much in the hearts of these people, but the practice of freedom is far from reality. During this week which marks the 60th anniversary of the Proclamation of the Independence of the Ukraine, there will be no festivities as we enjoyed during our Bicentennial—for these people will be marking this occasion under the yoke of Soviet oppression.

On January 22, 1918, the Ukraine was declared an independent republic. But this independence was not to last long. During the next 3 years the Ukraine was invaded from all sides. The Ukrainian people fought gallantly against formidable military forces in the defense of their country, but they ultimately succumbed to the invasion and subjugation of the Russians. In 1922, the Ukrainian Soviet Socialist Republic was established.

The years of suffering these people have endured under Soviet domination have been exacerbated by religious and national persecution, Russification, and inhuman treatment. And yet, despite the attempts of the Russian Government to suppress the aspirations for independence in the Ukrainian people, their struggle for nationalism has been continuous and vigorous, and the flame of hope burns as brightly as it ever has. Suppression and domination have not quelled the desire for freedom in the hearts of these brave people nor arrested their prodigious efforts for independence.

It is a great privilege for me to join with my colleagues in paying tribute to the struggle of these brave people. I urge my colleagues to not merely reflect upon the past and present status of those under the yoke of oppression, but to renew our conviction to secure for all mankind their basic inalienable rights. Let us make this anniversary more than a time of commemoration, let us make it a time of commitment. It is my hope that our rhetoric this week is more than verbal tinsel, so that one day the spirit of independence and the reality of freedom will be inextricably linked for the Ukrainians, and that life, liberty, and the pursuit of happiness will become the birthright of all peoples.

Mr. WYDLER. Mr. Speaker, if we were to put a question regarding the largest nation in Europe territorially, and the fifth most populous, I wonder how many people would know that the nation in question is the Ukraine. With over 47 million people, the Ukraine is exceeded in population by only Britain, Germany, France, and Italy. And with an area of 232,000 square miles, slightly larger than France, the Ukraine is No. 1 in geographic size. Ukrainians have a distinct language and ancient culture. They are exceptionally talented people who have made important contributions in the arts and sciences. The Ukraine is rich economically, with fertile agricultural land which once earned for it the title of "Breadbasket of Europe," and an abundance of natural resources such as manganese and iron ore, coal, salt, and oil.

The question that comes to mind, Mr. Speaker, is why we do not hear more about this nation in world affairs. Here is a large and rich nation of very able people, and one would expect that such a nation would be taking an important role in current events on the world scene. Yet, in fact, we hear little of the Ukraine. Why is this?

The tragic answer is that, although the Ukraine is indeed a large nation compared with many in the world, it is overshadowed in size and military might by its neighbor Russia, and it has been the sad fate of the Ukraine to be totally dominated by this neighbor. Not content with simply overpowering and exploiting the Ukraine and its people, Russia, first under the czars, and now, as the dominant republic in the U.S.S.R., has been determined to destroy the national identity of the Ukrainian people.

The policy of "Russification" begun under the czars continues under the Soviets. For only a brief period was the Ukraine, whose 60th anniversary of independence we are commemorating, able to remain relatively free of Soviet tyranny and suppression. Three years of warfare followed the Ukrainian Proclamation of Independence on January 22, 1918, culminating in a defeat of the independence-minded Ukrainian forces. Incorporated into the Soviet Union as a federal republic in 1923, the Ukraine experienced a brief period of relative cultural autonomy before the dark night of Stalinist terror fell upon this unfortunate land and its people. Mass arrests and executions followed the reintroduction of the policy of "Russification," and millions of Ukrainians died of starvation in an artificial famine that was caused not by natural disasters but by the policies of Stalin.

With variations in degree of severity, depending on the inclinations of the Soviet leadership, the policy of repression and "Russification" continues to this day. That, Mr. Speaker, is why we do not hear more about the Ukraine in world affairs.

The Soviets are, themselves, well aware that, with respect to every criteria by which nationhood might be defined, the Ukraine and its people qualify as a nation. And indeed, the Soviets demanded and obtained a seat in the United Nations for the Ukraine. Furthermore, the Soviet Constitution says, on paper, that the Ukraine has its own government and even its own foreign ministry. But, of course, it is Moscow, not Kiev, that dictates domestic policy for the Ukraine, and the Ukrainian "foreign ministry" is not permitted to establish separate diplomatic relations with foreign governments or pursue an independent foreign policy.

This nation has been completely swallowed up by the Soviet Union, which exploits this land and its people while ruthlessly attempting to suppress the sense of cultural identity of the Ukrainian people.

Are the Ukrainians meekly submitting to this attempt at cultural genocide? The answer is emphatically no. Ukrainian dissidents are valiantly fighting the Soviet system. And because they speak out not only for individual, human, political rights, but also for national rights, they incur the particularly severe wrath of the Soviet leadership. But they continue. Mykola Rudenko and Olekska Tykhy, founding members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords, are but two of the courageous Ukrainians currently suffering imprisonment for their struggle against Soviet tyranny. I was pleased to cosponsor legislation urging that their case be taken up at the Belgrade review of the Helsinki Accords.

I have also cosponsored legislation to urge that the President call upon the Government of the Soviet Union to allow the reestablishment of the Ukrainian

Orthodox and Catholic churches. Freedom of religion is a basic human right, as is acknowledged by the U.N. Charter and Declaration of Human Rights as well as the Soviet Constitution.

Washington is known as a city of monuments, and not all of the monuments are as well known as those honoring our Nation's famous Presidents. I would on this occasion like to call particular attention to an impressive monument in a small park at 22d and P Streets in northwest Washington. It is a statue of Taras Shevchenko, "Bard of the Ukraine." A separate sculpture depicts a man attempting to break free from chains. The monument is "dedicated to the liberation, freedom and independence of all Captive Nations," and the inscription reads:

This momument of Taras Shevchenko, 19th century Ukrainian poet and fighter for the independence of Ukraine and the freedom of all mankind, who under foreign Russian imperialist tyranny and colonial rule appealed for "the new and righteous law of Washington," was unveiled on June 27, 1964. This historic event commemorated the 150th anniversary of Shevchenko's birth.

The inscription goes on to record that this memorial was authorized by legislation passed in the 86th Congress and signed into law by then President Eisenhower, and was erected by Americans of Ukrainian ancestry and friends.

The spiritual heirs of Taras Shevchenko are alive and well in the Ukraine today. If they can keep up their faith and courage, the sculpture of the man attempting to break free from chains will one day be a depiction of the past, not a tragic statement of the present.

Mr. HANLEY. Mr. Speaker, I rise to join my distinguished colleagues in observing the 60th anniversary of the independence of Ukraine, a time to pay tribute to the struggle of a brave nation.

While it is a day of honor for these great people, the Ukraine will spend this Independence Day under Soviet domination. Today 48 million Ukrainian people must live behind the Iron Curtain, under a puppet government, with the tragic reality that they are slaves in their own country, captives of the Soviet Union. But the efforts of the Soviets to stamp their initials onto the hearts, souls, and minds of the proud Ukrainians have proven fruitless. The people of Ukraine live each day with hopes of attaining personal liberty and political freedom, and we as Americans must continue to kindle their spirit.

As we enter this era of closer relations with the Soviet Union our efforts for détente are both admirable and essential. However, we must also be aware of our role as the champion of all free people of the world, and of all those who desire to be free. We must continue to support the people of the world who sustain their fight for freedom. In Congress we must support legislation regarding this matter. Second, we can act as a nation, by pledging ourselves to affording the people of Ukraine a degree of hope that in the end they shall, against all odds, have what is rightfully theirs.

We have a new administration fully dedicated to human rights. Our officials are now meeting with their eastern counterparts to discuss compliance with the Helsinki Accords. Congress, as a group, must assure our government's representatives that we will be following their efforts to assure basic human rights for the people of the Ukraine, and will hold them accountable for their actions. Only through the continued efforts of America will the hopes of freedom loving Ukrainians remain alive.

As the people of Ukraine look to America they must be proud of their people who have made a home in this great nation. I have been honored to represent many of these fine people and they are truly proud of their heritage. On this day of recognition let us not forget that the struggle of an oppressed nation has not ended, and we must continue to offer hope and guidance to the people of Ukraine.

Mr. HYDE. Mr. Speaker, this week the Ukrainian people, both here and abroad, are commemorating the 60th anniversary of Ukraine's short-lived independence prior to its occupation and subjugation by Soviet Russian armies. This is a significant and memorable date to millions of Americans of Ukrainian descent and to Ukrainians everywhere who still yearn to see independence and freedom restored to their homeland.

Monday night's CBS movie concerning the plight of Simas Kudirka serves to remind us that although his story had a happy ending, there are still millions of people throughout the world living under Soviet oppression. Simas Kudirka, in his attempt to defect to the United States spoke not only for himself as a Lithuanian, but for the Ukrainian people, and all the people of the captive nations, when he said so simply and yet majestically: "Me want be free."

Thousands of Ukrainians are presently languishing in Soviet prisons. Many in the West are familiar with the case of Valentyn Moroz the Ukrainian historian, who has been repeatedly subjected to cruel and unusual punishment. Perhaps less well-known are Mykola Rudenko and Oleksa Tyhy, leaders of the Kiev Ukrainian Public Group to Promote Implementation of the Helsinki Accords. They were both imprisoned because of their human rights activities.

In his state of the Union address President Carter reiterated our Nation's commitment to human rights. The people of Ukraine are among millions of others who are looking to America to live up to that commitment.

I join with the Ukrainian people, and the citizens of all Captive Nations, in praying that we will all see the day when people everywhere will be able to enjoy and cherish the freedom and independence that we Americans have been able to sustain for over 200 years.

Mr. YOUNG of Florida. Mr. Speaker, January 22 marks the 60th anniversary of Ukraine's independence. It is a time we take to memorialize the plight of the Ukrainian people, who have been overcome by the ruthless tyranny of the Soviet Union. The Ukraine was the first major victim of the Bolshevik conquest after the Russian Revolution. But the Ukrainians continue to this day their struggle for independence and human rights.

There has been much said and written about human rights throughout the world. It is important that international opinion be focused on those parts of the world where people are not free and are subjected to gross violations of human rights. No part of the world represents a more serious denial of human rights, including the right to national independence, than the imprisoning of 50 million Ukrainians. Soviet repression has been consistent and harsh. Human rights have been violated in numerous ways and these violations are continuing.

For this reason, it is imperative that the United States stand alongside the millions of Ukrainian Americans who are voicing their concern over the plight of the non-Russian nations in the Soviet Union. It is only by intensifying our efforts that we will be able to insure a future of freedom and justice for Ukrainians.

Mr. SARASIN. Mr. Speaker, the free exercise of human rights has always been the example set by the United States for the rest of the world, but on this 60th anniversary of the Ukrainian National Republic, I believe we should strive further than example-setting and see to it that the theme of human rights is felt around the world. With this in mind, we in the Congress must stand behind the Ukrainian people who have lived unwillingly under Soviet domination since 1923.

This domination has not dampened the spirits of the Ukrainian people, however, and today, on their 60th anniversary, they continue their ongoing struggle to preserve their cultural and traditional beliefs that have been so vital to their existence in the past. It is this conviction, known world-wide, that will pressure the Soviet Union into realizing the need for self-determination that these strong people have.

Sixty years ago, on January 22, 1918, the Ukrainian people had their dream of independence and sovereignty come true. But today that dream had been shattered by Soviet dominance. The people of Ukraine no longer have the right to free speech, assembly and worship. Through all of this hardship, however, the Ukrainian people have continued fighting to make their shattered dreams into reality once again. With the voices of the American people behind them, the Ukrainian people will see their dream come true. The Congress and the President must continue sending resolutions condemning violations by the Soviet Union of various provisions of the Helsinki Agreements and the United Nations Declaration on Human Rights and demand their observance of those documents.

Today on this 60th anniversary of the strong and determined people of Ukraine, I commend them on their valiant efforts and I offer my assistance in that ongoing struggle.

GENERAL LEAVE

Mr. CARR. Mr. Speaker, I ask unanimous consent that all Members may have

5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Pennsylvania (Mr. FLOOD).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A TRIBUTE TO HUBERT HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 60 minutes.

GENERAL LEAVE

Mr. QUIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of my special order today on the life, character, and public service of the late Honorable HUBERT H. HUMPHREY, Senator from Minnesota.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Speaker, Gretchen and I were deeply saddened by the death of HUBERT H. HUMPHREY, an end that could seem almost incompatible with his love and zest for life, except that it brought victory rather than defeat. In that his greatness was demonstrated.

He undoubtedly was the greatest Minnesotan the State has ever produced in the world of government. Few have ever given so much of their heart, mind, imagination and physical energy toward the cause of a more racially and socially just society—either in the United States or other nations. It is good for those of us in politics that he expressed and utilized his talents in government and politics.

Not long before his death he said that, more than anything, he wanted respect. Respect is a quality that is not given, but earned. And HUBERT H. HUMPHREY surely had the respect of us all. Throughout his life, he practiced the politics of joy, using his unbridled bundle of energy to nourish the hungry, improve the incomes of the poor, care for the sick, restore faith in the minorities and proclaim worth in the handicapped.

The grace in which he went about these monumental tasks—and the many achievements he made—won him an affectionate place in the American heart.

HUBERT H. HUMPHREY was in love with America and its people. But what really strikes me most is that the love he expressed in life, and the care he showed for people, was returned to him in death.

It would be HUBERT'S hope—I expect—that the love he had for others will someday come to pass for all the world. It is my hope that all will come to know the source of that love as it was our good fortune to know HUBERT HUMPHREY.

Mr. Speaker, I include the following letter from the Secretary of the Commonwealth of Puerto Rico Lic. Cristino Bernazard.

HOUSE OF REPRESENTATIVES,
San Juan, Puerto Rico, January 20, 1978.
Hon. CONGRESSMAN,
U.S. Congress
Washington, D.C.

DEAR MR. CONGRESSMAN: By direction of the House of Representatives of the Commonwealth of Puerto Rico, I am including for your information a copy of the House Resolution number 339, unanimously approved on January 16, 1978, on the occasion of the death of the Honorable Hubert H. Humphrey.

Sincerely,

CRISTINO BERNAZARD,
Secretary of the House of Representatives.

RESOLUTION

That the House of Representatives in its session of January 16, 1978 approved in final vote House Resolution No. 339 which reads as follows:

That this High Body express, in the name of the People of Puerto Rico, the condolences and sorrow evinced by the country on the irreparable loss of the dear friend of the Puerto Rican People, the Honorable Hubert H. Humphrey.

STATEMENT OF MOTIVES

The death of Hubert H. Humphrey at 66 years of age, has closed one of the richest and most enlightened political careers in the history of the United States of America. As President Carter once stated: "For thirty years his voice was heard throughout the country in defense of the oppressed, the hungry, the victims of poverty and discrimination."

In his political labors he was a democrat and a liberal. He aspired to the highest office of the land several times, and, because of absurd and ironic reasons, never fulfilled his aspirations, notwithstanding the fact that among the candidates he was one of the most capable and outstanding. With a great sense of drama, and as an example of his loyalty to his People and to the unity of the National Democratic Party, he announced his withdrawal as a candidate to the Presidency on April 29, 1976, although he continued his public service in the Senate of the Congress of the United States.

As a Crusader for Civil Rights, he always gave first priority to the health and protection of the aged, the workers, the disabled, the ill, the blacks and the unemployed. In their defense he often used his eloquent, persuasive and vibrant oratory.

They called him "the Happy Warrior", because he never showed fatigue or rancor in the face of adversity. He was a man of the People. He wanted to be known as he was—that people would sense his individuality. He had the most acute political perception of the North American people's thoughts and feelings. He was exuberant in his virtue as a public figure, without lessening his sentimentality, which he evidenced with tears in his eyes, on innumerable occasions.

His heart, mind, imagination and his boundless physical energy were determining factors in the continued improvement of the way of life in the United States through his own action and as an advisor. He did this as a first-class legislator and as a conciliator who always achieved a sympathetic response between controverted parties.

The New York Times places him among the great men in United States history, along with Robert Taft, Robert La Follete, Henry Clay, Daniel Webster, John Calhoun. His greatest concern was world peace. He was the leader in the creation of the Peace Corps, the Arms Control Agency, the 1963 Nuclear Arms Treaty, the Food Program and Economic Assistance to Needy Countries.

At the National Democratic Convention of 1948, he made history when he said

"There are those who say to you, we are rushing this issue of Civil Rights." I say we are 172 years late; the time has arrived to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights; People—human beings—this is the issue of this Twentieth Century."

He fought for the establishment of the Woodlands conservation program; Medicare, Universal Health Services; and a full-employment bill for anyone who wished to work. He was an idealist who turned many of his ideas into the realities that have propitiated greater well-being today for each American.

This happy warrior, who espoused the policy of happiness, was a dear friend of the Puerto Rican People, and we would be ungrateful if at the moment of his departure from this world, we did not try to express what is so deeply felt by all of the people of the country—our sorrow upon his passing, our sympathy to the surviving members of his family, and our gratitude for all that was good and admirable, embodied in the relationship between the People of Puerto Rico and the late Hubert H. Humphrey.

Be it resolved by the House of Representatives of Puerto Rico:

Section 1.—To express the condolences and sorrow of the people of Puerto Rico upon the irreparable loss of a sincere and dear friend.

Section 2—To remit a copy of this Resolution in the Spanish and English language to the relatives of the late Hubert H. Humphrey, the President of the United States, all of the members of the United States Senate and House of Representatives, the Resident Commissioner of Puerto Rico in Washington, the Executive Committee of the National Democratic Party, and a copy thereof to the information media of our country.

Mr. FRASER. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Speaker, the outpouring of heart-felt affection in memory of HUBERT H. HUMPHREY is a mark of the influence this great American has had on this country and the world.

We, in Congress, are fortunate to have been able to express in person our feelings last December when he was with us in this very Hall. How fortunate we are who have had the experience of working with him closely over the years of his service in the U.S. Senate and when he was Vice President of the United States during the 1960s.

My first year in Congress—1963—was a year of many important votes in the House and the Senate—and HUBERT HUMPHREY was in the forefront on many or most of them. Vocational education, foreign aid, the Kennedy tax cut, feed grains program, accelerated public works, aid to depressed areas. All were causes about which Senator HUMPHREY was extremely knowledgable and felt deeply. The first bill I introduced was medicare, which Senator HUMPHREY had introduced and was championing in the Senate.

I should like to take a few minutes to pass along to the Members and for inclusion in the RECORD a few of the expressions of appreciation for his life and his great service that I have received or have read, largely from the people of Minnesota, my home State, and his.

As you may know, Senator HUMPHREY's church in Minneapolis for many years was the First Congregational Church in the southeast part of the city. Wesley C. Ewert was one of the pastors during that time. I have received the text of Rev. Ewert's recent comment from the pulpit of the Plantsville Congregational Church in Connecticut, where he now serves. Rev. Ewert said:

We will remember him for unnumbered reasons, amongst which were the Sundays he and his family came to worship, and the scintillating experiences at coffee hours following the worship hour. The same passion he exibited in the political arena he brought to the pulpit of First church, and many churches and synagogues. HUBERT HUMPHREY never left friends or foes wondering where he stood.

Reverend Ewert continued:

Recently, when life was slipping away from him, he confessed he was going to make the most of every day the good Lord was giving him, and he was certain he would be given as many as he deserved. He lived each day to the full and he died in the hope that tomorrow will dawn.

The rush of memories of HUBERT HUMPHREY is expressed in a letter I received from a former resident of Minneapolis, Morton Newman of Philadelphia. He said:

I recall so clearly the exitement that he brought to politics in Minneapolis when he first became mayor, and inaugurated his radio broadcast discussing the problems of municipal government with the people. His voice for this generation was the clearest and most consistent for compassion, decency and integrity.

Cy Carpenter, president of the Minnesota Farmers Union, put it this way:

Hubert Humphrey's death is a personal loss to me. He had a warmth and sensitivity that you could feel. They're rare qualities.

He also added:

Sen. Humphrey said that no-one is irreplaceable. But if you take into consideration all the things he's done for the farmer and the rest of the country, then if anyone's irreplaceable, Hubert Humphrey's the one.

Gordon Spielman, editor of the Union Advocate of the St. Paul AFL-CIO recited a number of personal memories. He said:

There were the county fairs, which Hubert loved, mingling with the people playing a darts game (run by a veterans organization) with blankets as prizes. He was usually among the last to leave after visiting with as many people as he could. There was another dividend in knowing Hubert, and that was in getting to know Muriel, who often accompanied him and gave him great strength at times of trial.

Mary J. Kyle, editor-publisher of the Twin Cities Courier in Minneapolis, wrote:

As history records his accomplishments and defeats, future generations will know the statesman who refused to believe the world could not be a better place to live for all people from all walks of life. And Humphrey will be as real and viable to them as he is to us who were privileged to walk and talk with the man who cared very much about the racially scorned, the poor and deprived. They, too, will understand the visionary who translated personal concern into definitive action in the political arena.

Al McConagha, staff correspondent of the Minneapolis Tribune recited quotations from some who knew Senator HUMPHREY well:

Norman Sherman, former press aide and a Humphrey friend, said, "There is an old Jewish saying that a single candle can light a thousand more without diminishing itself. Hubert Humphrey was a man like that candle, and I loved him for the warmth and light he shed on my life just as he did on so many other lives. . . . It is hard to think of him in the past tense."

Pat O'Connor, a Humphrey confidant, said in a telephone interview from his winter home in Largo, Fla., "The thing that stays in my mind more than anything else is that it is hard to believe the senator is dead. I got to feeling he was an institution, like a bank, that would go on and on. . . . He really gave so many of us such a wide horizon."

Abigail McCarthy, former wife of Eugene McCarthy and an author, said, "For me it is very hard to think of the world without him. . . . He always believed that problems could be solved and things would get better. He loved work, and he loved having fun."

The Minneapolis Labor Review, edited by Richard Viets, concluded its story on his death with these words:

The list of his causes is a list of liberal progress in this country civil rights, Medicare, aid to the poor and handicapped, the list is a long. . . . It was a distinguished career, a good life, a wonderful memory.

The Labor Review prints the following quotes from prominent Minnesotans: Governor Rudy Perpich:

With the untimely death of Hubert Humphrey the world has lost a great humanitarian. He was undoubtedly the most compassionate, resourceful public servant of our time. His achievements were monumental. He was without peer as a spokesman for the less fortunate and the disadvantaged.

Virgil Moline, president of the Minneapolis Central Labor Union Council:

Hubert Humphrey got his start in politics in Minneapolis, which always supported him, and which he never forgot. He was the sort of man who never forgot his friends. For Minnesota, for Minneapolis, and for working people, a vacuum now exists which can never be filled. Labor has lost its greatest friend.

David Roe, Minnesota AFL-CIO president:

While the country lost a great American, the labor movement lost a great friend. Hubert Humphrey championed the causes of labor and minorities, did so early in his career when it wasn't always popular and never deviated from those principles. His philosophy and advocacy will be tough to replace.

Robert J. O'Keefe, staff writer for the St. Paul Dispatch/Pioneer Press recalled many of the contacts he had had with Senator HUMPHREY over the years, including the 1960 Presidential primary race. As a "prime example of HUMPHREY'S endurance" O'Keefe recites a 2-day segment of the Senator's schedule:

At noon he was at a DFL event in Duluth, which included a news conference. In the afternoon, he was in Superior addressing college students. At night he was back in Duluth singing Christmas carols with Steelworkers in their Union hall until almost midnight. The next morning he was in Ely. During the day, he was campaigning along the Iron Range with Lt. Gov. Karl Rolvaag. And in the evening he left by plane for Wisconsin.

A black bordered page in the Minneapolis Tribune has this message from Dayton's, the department stores:

HUBERT H. HUMPHREY

We think of him with his shirtsleeves rolled up, smiling, shaking hands, talking.
He talked us into believing in ourselves and in the future.
He talked us into making sacrifices.
He talked us into accepting the world as a great place to live, but one which could do with some improvement.
If we'd work at it.
The talk got through to all of us.
And it helped change so many things.
In this state and in this country.
In the world.
We'll miss his voice.

Mr. Speaker, I include in the RECORD the excellent editorials which have appeared in the Minneapolis Star and Tribune and St. Paul Pioneer Press-Dispatch in honor of Senator HUMPHREY.

[From the Minneapolis Star, Jan. 16, 1978]

HUBERT HORATIO HUMPHREY

Gladness of the heart is the life of a man, and the joyfulness of a man prolongeth his days.—The Apocrypha.

Hubert Horatio Humphrey could have been composing his own epitaph when he wrote, in his autobiography, of his father:

"What he felt, he felt wholeheartedly, without trying to protect himself with reserve, suspicion, or emotional caution . . . He was a missionary with a sense of humor."

And Sen. Humphrey relished the same candor in those he counted as friends and followers. So, while one usually hesitates to dwell in an obituary on the final illness of the mighty dead, any tribute to this public man's courageous life must begin with a tribute to the extraordinary way he died. As his physical strength—but never his spirit—ebbed he lived each hour as he had always lived, with combative cheerfulness. The venerable affection he had won before was thereby multipled many times. It's some consolation now that before the end he came to know first-hand just how much he was loved and by how many the whole world over.

But if, in the full tide of life, Sen. Humphrey, who in 66 years never seemed to grow old, found sustenance in cheerful intellectual candor, he found even more in the rich rhetoric and persiflage of politics. In the torrent of tender messages, he must have appreciated most those from his political arena peers, past and present. Even, one might guess knowing Sen. Humphrey's forgiving heart, the one from Richard M. Nixon. Because for our mayor, senator, vice-president and presidential candidate, politics was more than a way to make a living. It was a passion. His life's blood to the last.

Unlike so many who reach the top in public life, Sen. Humphrey was free of stuffy self-deception. An idealistic realist, he was also, and by free choice, a master of political maneuver and necessary compromise. Social goals, he taught students and colleagues alike, are not often reached quickly or easily.

But reach them he did. His legacy of attainments in social and economic legislation and foreign affairs is unmatched in the Senate. Among his many accomplishments history may well mark highest his bold pioneering blow for national civil rights legislation at the 1948 National Democratic Convention and his subsequent superb Senate leadership that secured passage of the landmark 1964 civil rights bill.

From a national perspective, history will doubtless mark Sen. Humphrey's career as a living link to the Roosevelt New Deal. That Depression Era shaped the unshakable core of his basic philosophy, which in essence was the government could improve the condition of our people. From our perspective in Min-

nesota he personified, of course, not only the Democratic Farmer-Labor Party but also the best of Minnesota's special tradition of decent government by and for the people. A simple measure of his place in our history is that it is impossible to imagine what Minnesota would be today had there been no Hubert Humphrey. Above all, he was the warmest and friendliest of human beings.

But, if, in the words of the Litany, he was largely innocent of envy, hatred, malice and all uncharitableness, he was not without pride. Often in the form of folksy egoism that could be just plain gauche. Too, like all of us, he was guilty of occasional hypocrisy. But he was quick to admit his faults. Let's not forget how much we enjoyed it when he laughed at himself for his long-winded speeches and his propensity to ham it up. Let's not take that engaging combination of fierce pride and humility away from him. Indeed, we sorely miss Hubert not because he was even near perfect but because we, all of us, could identify with his flaws. And because we could do that we could forgive them.

In the words of Oliver Goldsmith: "All his faults are such that one loves him still the better for them."

[From the Minneapolis Tribune, Jan. 14, 1978]

HUBERT HUMPHREY

"I have enjoyed my life, its disappointments outweighted by its pleasures. I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, without apology, about this country and the American experiment in democracy."

Life. Love. Joy. Politics. They were Hubert Humphrey. Even in his fight against cancer those traits continued to characterize him.

All Americans, but particularly Minnesotans, were fortunate to have had him among our leaders. His record in Minnesota and his record in Washington are known to most: Minnesota politics. Civil rights. The Senate. Major legislation. The vice presidency. Candidate for president. Senior statesman.

We in Minnesota knew him best of all: From us he came, and to us he returned to die. We knew his strengths, and we knew his weaknesses. And adding them all up, we loved him—even if we didn't always agree with him, even if he sometimes talked too long. The tributes to him from across the nation in recent months showed how many others felt that way about him, too.

Each of us will have his or her own special memories. Hearing on radio that 1948 speech on human rights, perhaps. Or his tearful concession statement in 1968. Or a lecture in a college classroom. Or perhaps just bumping into him at the State Fair, where a Humphrey stroll would leave a trail of animation behind.

His whole life left a trail of accomplishment. Last year Humphrey wrote: "In life it isn't what you've lost, it's what you've got left that counts." So we have lost Hubert Humphrey. But what he left us is what counts.

[From the Pioneer Press-Dispatch, Jan. 14, 1978]

SENATOR HUBERT HUMPHREY

He cared. Concern was the engine that drove his ambition, that informed his limitless energies, that directed his ego. He strove for high office that he might serve.

Our grief is for the passing of a man, our sadness for the end of a career that was long and distinguished but all too brief nonetheless, our regret that with him is gone an era and an aura we shall not experience again.

He was heir to the works and aspirations of generations of Midwestern Democrats—populists, if you prefer that word—and he took that inheritance and shaped it and infused it with his own fire and idealism and returned it to the people of his country in a vast body of legislation for which they shall never be out of his debt. He was a politician who gave his calling luster and respect.

Oh, he had his share of critics. More than his share. There were those who confused his volubility and enthusiasm with humbug, but long before his passing the substance of his achievements validated his sincerity. Admiration and affection replaced the sometimes snickering criticisms, and it is to the credit of his one-time detractors, and certainly testimony to his own nature, which was without rancor or malice, that when the tributes came—happily and so fortunately while he lived—they came from all sides and all shades of opinion.

His biographers will not overlook—indeed, can hardly minimize—his accomplishments, and if they are honest biographers they will not ignore his faults or his mistakes. But we do not have to wait for the biographies to appreciate the impact he had on his state and on his country.

In Minnesota he created a whole new political movement, fusing a Farmer-Labor Party to which he had given fresh life (and from which he had scrubbed the taint of Communist infiltration) with a Democatic Party which had had a singularly ineffectual history in this state. He led this new party to secure power in the state and to heights of influence nationally Minnesota the model political climate, Minnesota the font of presidential candidates, of Cabinet members and Supreme Court justices, the focus of admiring attention all out of proportion to its size—for all this he was mover and catalyst and proud sponsor.

For this country he did even more—much more. Where would civil rights be today without the impetus of his electrifying speech before the Democratic National Convention in 1948, before his election as senator, and without his sponsorship of and tireless push for the Civil Rights Act of 1964? Who can calculate the influence for good in the world, and the benefit to this nation's image, of his Peace Corps, of the Food for Peace program, of his championship of the Nuclear Test Ban treaty? How can we express the gratitude owed him for all the legislation, principally of his creation and all flowing from his boundless concern for people, that brought urban renewal, aid to education, help to the handicapped and to the underprivileged?

These are his legacy and his monuments and they need no marble shafts or words graven in granite on government buildings. The people know Hubert Humphrey cared, and that is enough.

Mr. Speaker, I include in the RECORD three statements on Senator HUMPHREY as they appeared in Minnesota Agriculture, the newspaper of the Farmers Union of Minnesota. They are written by Cy Carpenter, president of the Minnesota Farmers' Union; Bob Rumpza, assistant to the president; and J. D. Kendall, editor.

HUBERT HUMPHREY—A REMINISCENCE

(By Cy Carpenter)

I first met Hubert Humphrey back in the late 40s, when he was mayor of Minneapolis and first running for the Senate.

He came to Sauk Centre on a hot summer evening, and when he was through speaking, he was wringing wet with perspiration. That speech went longer that it was scheduled for. In fact, I can't remember an occasion that he didn't exceed his allotted time.

But the thing that impressed me most about the first speech I heard him make was how much of himself he put into it. And that never changed.

He picked up his detailed knowledge of agriculture over time—as he did with so many things—but he began with a concern for farmers and rural America from his background. He knew about the Dust Bowl and the Depression and their effects on rural life in the small South Dakota community where he was raised.

And what's not generally stressed is the fact that Hubert Humphrey was strong for cooperatives. He had a close association with M. W. Thatcher and other cooperative leaders. And whenever co-ops were threatened, Humphrey would be there to defend the whole cooperative idea. He took the lead in calling attention to the need for cooperatives.

With that concern for farmers and rural America and cooperatives that he gained from his upbringing, Hubert would add details to round out his basic attitudes. He would use that detailed knowledge and apply it in new ways. For example, he helped develop the school lunch and school milk programs, which helped feed those that needed it and also helped out the farmer with some of his surpluses.

He was a great one for asking people who knew what should be done about certain situations. And as you got into the discussion, his mind was always working and would be one or two steps ahead of you on it. That's why he had a great appreciation of working with people who spoke for organizations and who knew what they were talking about. For instance, he had a great appreciation of Farmers Union.

With his natural ability to become friends with people, Hubert was a great help to agriculture. He just had the knack of convincing people from totally different areas of the society of the need for a fair shake for family farmers.

That ability to make friends was one of the main traits of Hubert's personality. If you worked with him at all, you almost automatically developed a friendship with him and he with you. He just absorbed you into what you were both interested in and then into the personal side of his character.

For Hubert Humphrey, there wasn't much of a separation between his personal and public side. He was quieter in private, like everyone is, but he just didn't—maybe couldn't—separate the two parts of his life. He had so many interests and knew so much about so many things, that even in private he was discussing those issues that concerned him in the public areas.

And the same way with people. Hubert just didn't make a distinction between the everyday citizen and the leaders of the world. You could be talking with him about the leader of Israel or Harold Wilson of England, and in the next sentence he'd be telling you something about one of his neighbors on the lake in Waverly. And the tone would stay the same whether he was discussing a neighbor or one of the statesmen. They were just people he knew, and who knew him, and I honestly believe he didn't make a distinction of importance in his mind.

Hubert Humphrey's death is a personal loss to me. He had a warmth and sensitivity that you could feel. They're rare qualities.

On a broader scale, Hubert Humphrey's death will mean a lot for the family farmer in three main ways.

There wasn't a single piece of farm legislation that he wasn't a leader of or a key figure in its passage during the past 20 years;

He originated a great deal of the legislation that was favorable to the farmer as well as other people who needed his help, and

He was the single most persuasive advocate of agriculture on the Senate Agriculture Committee.

Sen. Humphrey said that no one is irreplaceable. But if you take into consideration all the things he's done for the farmer and the rest of the country, then if anyone's irreplaceable, Hubert Humphrey's the one.

HE WAS A CAMPAIGNER, TOO

(By Bob Rumpza)

"With a little more help from farmers, I think we could have won in '68" I vividly recall in March of 1976 when Hubert H. Humphrey said he felt let down by agriculture in the 1968 presidential election.

Although he was the "Happy Warrior", the deep wounds of losing his bid for the presidency showed that day at the small meeting of people who were encouraging him to run for President in 1976. He wasn't bitter. He wasn't angry. But he was hurt. He obviously had analyzed countless times why his dream of being President had slipped out of his grasp.

He outlined what went wrong, and how the campaign dollars were too little, too late. But I felt stung when he talked about how the farm vote had deserted him. He said immodestly, but truthfully, that no man in America had done more for the farmer than Hubert Humphrey. He said farmers let him down.

But when Humphrey returned to the Senate in 1970, he once again led the fight for family farmers, again becoming the toughest and strongest voice in the Congress on agriculture.

Every time I was in a meeting with him, he charged up the atmosphere. Maybe the meeting was a little longer because he had a few stories to tell, but the work always got done better and faster. At a meeting in Brainerd, in 1975, the Farmers Union was trying to lay the groundwork for a National Food Policy.

It was there I saw the political side of Humphrey. We saw his intimate knowledge of what would be accepted by Congress and his complete comprehension of detailed agricultural programs.

He could practically give the vote totals in the Senate for a bill.

More than anything, though, he was a man with kindness and love in his heart for every human being. We'll all miss him.

THE LAST FIGHT

(By J. D. Kendall)

It can be said of Hubert Humphrey what Carl Sandburg said about John Fitzgerald Kennedy, that he "walked among the American people in their vast diversity and gave them all he had . . ."

Hubert Humphrey won some big fights. For civil rights. For better housing and better jobs. For the Peace Corps. For protection and help for the family farmer.

And he took his licks—in three Presidential campaigns and, above all, in the bitter tangled brambles of Vietnam.

But his best fight was his last fight.

Cancer hurts. The things they do to try and stop cancer maybe hurt even more than the disease. All these torments can make people give up. To retreat to their beds and await the end.

But not Hubert Humphrey.

The doctors told him he had inoperable cancer. He heard them out, he went back home to Waverly for awhile, then he returned to where his political heart was—the U.S. Senate. And he went back with colors flying, aboard Air Force One.

He was treated with new drugs and new methods. These left him weak and played out. Most other people would have surrendered then.

But not Hubert Humphrey.

He continued to speak his mind. He addressed his beloved Senate. For the first time in the history of the country, a U.S. Senator made a speech before the U.S. House of Representatives. And, after 30 years of Washington public life, at last he was invited to Camp David.

He grew greyer and thinner. The honors piled up in embarrassing profusion, as if he were already gone. Probably other men would have become hopeless, seeing that friends already thought the situation hopeless.

But not Hubert Humphrey.

He came home for Christmas and New Year's. Again, he did it in style, escorted by the Vice President of the United States. He met the press at the airport, on his feet, and when someone asked if he were going to resign because of health, he flashed that smile and answered:

"My heavens no. I may even join something!"

That was the measure of the man.

When death finally won, it was not after an easy fight, for Death had to beat Hubert Humphrey. And, of course, that was impossible.

Like the battered contender in the movie "Rocky", who against all odds battles the champion to a barely lost decision, Hubert Humphrey fought toe to toe to the last. When he was finally decisioned, because of a quick count, Hubert Humphrey could know that the crowd was with him, that he had given as good as he got for as long as he could and that Death was made to look cheap in victory.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the only aspect of life that assuages my grief at the passing of HUBERT HUMPHREY is the welcome news today that Muriel Humphrey has accepted the invitation of the Governor of her State to become the new Senator from Minnesota. I know how proud HUBERT would be of her at this moment in our history.

I would like to express my feelings for the late Senator HUMPHREY, my admiration for him, and my devotion and love for him, and at the same time send our welcome to Muriel. I am sure the Members share my feeling that she will perform her job with high intelligence and devotion to duty, and that she will use her long years of special preparation, drawing on the general admiration in which she is held at home and abroad, in the performance of her duties. We recall her involvement in many of the projects in which HUBERT was interested, and we know of her devotion to her country and to the Senate. We are aware of her sense of duty and her feeling for the expansion of interests of all the women of America and all the women of the world.

As a former congressional wife, I feel that her appointment is a particular salute to all congressional wives, and I know that HUBERT would appreciate that as well.

This summer, when I was going over a great many books, photographs, and files, I discovered that in every one that had anything to do with the problems of people, whether they related to cancer research, Goodwill Rehabilitation Centers for the Handicapped, or remedial reading for the children of the District of Columbia, always there was a picture of HUBERT there with the congressional wives working and giving us courage and lending publicity and importance to our undertakings.

Mr. Speaker, I feel that in Muriel's selection, Mr. HUMPHREY would feel that once more he was here appearing with congressional wives; and it is on this note of happiness that I am able to stand without tears in giving any kind of memorial tribute to HUBERT HUMPHREY.

Mr. FRASER. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Speaker, I just want to thank the gentlewoman from Louisiana (Mrs. BOGGS) for her remarks and particularly for her expression of support for the action which our Governor has taken in naming Muriel Humphrey as the appointee to the U.S. Senate.

This appointment is going to be very widely approved of in our State. Muriel is very much beloved by everyone and as, of course, the wife of HUBERT HUMPHREY; but in her own right she is a fine person, a person of great substance, and we are very proud that she will be filling this spot.

Again, Mr. Speaker, I want to thank the gentlewoman for her remarks.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman.

Mr. MAHON. Mr. Speaker, I wish to join with my colleagues in paying tribute to the memory of HUBERT HUMPHREY.

I shall not undertake to expand upon the remarks which have already been made about this great American by my colleagues.

But I do want to say that HUBERT HUMPHREY wrote a record that is without parallel in the history of our country. It was my honor and privilege to be associated with him through the years on matters of great moment. When he was Vice President, I had frequent opportunity to confer with him on matters great and small.

He was a man of great integrity and good will. The country shall miss his zest for life and his endless enthusiasm.

Mrs. Mahon and I join together in offering our warmest sympathy and friendship to Muriel Humphrey—a woman of great charm to all of us who know her in Washington.

Mr. FARY. Mr. Speaker, I am proud to have this opportunity to join with my colleagues in memorializing our late colleague and dear friend Senator HUBERT H. HUMPHREY. I, like millions of Americans in all walks of life, was deeply saddened by his passing. The grief we feel at the loss of our friend must be swallowed up in exaltation when we ponder how perfectly HUBERT HUMPHREY today could declare that apostolic affirmation:

"For I am now ready to be offered,
And the time of my departure is at hand.

I have fought a good fight,
I have finished my course,
I have kept the faith."

Senator HUMPHREY is gone, a courageous warrior struck down by the most dreaded adversary of all, an enemy that

ravaged his body but never, not even at the end, diminished by a whit his indomitable spirit.

Only in the fullness of time will HUBERT HUMPHREY's true historical stature become clear. But in the philosophy he not only preached but practiced the philosophy of exuberant faith of human dignity of unceasing concern for the poor and the downtrodden Senator HUMPHREY was a beacon by which a nation could set the course of its conscience.

These qualities made him more than a politician, more than merely an American figure. As British Prime Minister James Callaghan put it, "He also belonged to the world for the values he upheld are universal."

Foreign leaders trusted him as no other American leader for they knew that while he was a party man, he was, above all, a man of integrity, honesty, principle. Few have dreamed the impossible dream so determinedly, resisted invincible foes so cheerfully, handled life's disappointments so gracefully, and preserved their basic ideals so uncompromisingly throughout a lifetime.

HUBERT HUMPHREY determined early in life to be a people's man—a servant of the public. And thus, began a lifelong love affair with the plain and simple, unpretentious average men and women of this land who sensed with some unerring instinct that here was a man whom they could trust. And trust him they could. Senator HUMPHREY pandered to neither the avarice of the rich nor the prejudice of the poor. Few if any of our time or of our memory have followed their convictions so undeviatingly. Few if any have served the humblest of their fellow humans so untiringly. Few have given of themselves so unsparingly. If there be those who seriously question that individual integrity can survive in the political environment, let them look at HUBERT HUMPHREY's public years, and marvel at the incorruptibility of his dream.

Mr. Speaker, I wrote Senator HUMPHREY several months ago expressing my deep respect for the tremendous courage he displayed during his recent illness, assuring him that the Nation was praying for his recovery. Several days later I received a warm letter thanking me and stating:

> Down deep I believe in miracles. They have happened to a lot of people who were given up to die and then were restored to health. The greatest healing therapy is friendship and love, and over this land I have sensed it. Doctors, chemicals, radiation, pills, nurses, therapeutists are all very, very helpful, but without faith in yourself and your own ability to overcome your difficulties, faith in the divine providence, and without the friendship and the kindness of friends such as you, there is no healing.

Senator HUMPHREY served his Nation well during varied and difficult times, and worked with purpose, determination, and with an expert competence that only comes through experience and dedication.

It is these qualities which will be sorely missed by the Congress, and by his constituents, and by the Nation he served so well.

So Mrs. Humphrey, your sons, Hubert H. Humphrey III, Robert and Douglas and your lovely daughter, Nancy Humphrey Solomonson, you will miss the twinkling eyes, the warm smile and never failing good humor but it may be of some comfort to you that there are many who will share your sense of loss, and many too for whom HUBERT's memory will be a lasting inspiration.

Your race, dear friend, is run; your battle done; your victory won. And from the eternal skies we know you will hear the words—"Well done."

This, then, is a time not only for sorrow but for thankfulness. We celebrate a life triumphantly lived: Senator HUBERT H. HUMPHREY!

Mr. FASCELL. Mr. Speaker, thank goodness HUBERT HORATIO HUMPHREY was a legend in his own time. His humanity and greatness are recognized by millions of people in the United States and throughout the world.

His life was so positive, so dynamic and spontaneous, and so full that it spilled out and tumbled over all who were fortunate enough to know him. It filled the lives of all of us with zest, vitality, enthusiasm, and a vibrant HUMPHREY spirit that will live on forever.

Even as death approached he continued to teach. We can accept his wonderful philosophy, courage, and determination because we all know how much we need it. We respect and admire that he demonstrated for all of us how to accept the inevitable.

HUBERT HUMPHREY has always been an inspiration to me, as he has to so many. He had one of the quickest minds and a limitless source of knowledge and experience from which he drew at will. It was as if he were tuned into and drew from the well of all knowledge.

The world will miss HUBERT H. HUMPHREY, as will the American people. The U.S. Senate and Congress will have a deep, quiet void. I will find it difficult to realize that he won't be sitting in the conference committees giving his wisdom, guidance, and leadership.

I join the multitudes in expressing my deepest sympathies to his lovely and gracious wife, Muriel, and to their family. They, together, during a lifetime, have given more than we can give or say here.

Mr. RODINO. Mr. Speaker, for all his life HUBERT HUMPHREY looked to the future with an unshakeable belief in his fellow human beings. It was not because he was naive that this remarkable man looked ahead with so much optimism, nor because he was blind to the failings of others. Rather, HUBERT HUMPHREY believed in mankind because he saw how far we have come—and the potential that we have to go further still. This was the greatest of his gifts, and it made him a leader who was both revered and respected by his colleagues and his fellow citizens.

He was called the "Happy Warrior," and he was said to have preached the politics of joy. True enough, but these characterizations fall short of the measure of the man. For HUBERT HUMPHREY possessed a basic decency and fairness which fought back against injustice; he possessed the qualities of leadership which rallied the Nation to the struggle against disease, poverty, and prejudice; he possessed vision and integrity which inspired confidence in all who knew him. And he possessed humility. A few years ago, a father was walking with his son near the Potomac River in Washington when they came upon a man sitting in a sand pile with three small black children. As the two approached, the man looked up and greeted them. "Hello," he said, "I would like you to meet some of my friends," and he introduced each of the children, by turn, by name. The man was, of course, HUBERT HUMPHREY—concerned as always with the problems of the Nation and the world—but with enough time to play with three small children and make them his friends.

HUBERT HUMPHREY befriended many people: the poor, the deprived, the oppressed, and the neglected. Again and again his voice rang out, urging that we guarantee equality and justice to all men and women, to insure that our precious liberties live safe in a truly democratic nation.

Mr. Speaker, HUBERT and I came to the Congress in 1949, and over the years I was honored to work with him on many occasions. Never have I known a man who cared more deeply about others, nor one who would more readily sacrifice himself for a cause without sacrificing his principles. HUBERT HUMPHREY was a good man, a decent man, a compassionate man. His legacy to us is one of hope for the future and determination to succeed. We shall cherish it always.

Mr. NATCHER. Mr. Speaker, it is a distinct honor and privilege for me to rise at this time to pay my respects to the late HUBERT HUMPHREY. Senator HUMPHREY was loved and respected by all of the Members of Congress and it is impossible for me to surpass in sincerity or in depth of feeling the eloquent words already said in memory of this great man. We are today honoring HUBERT HUMPHREY, in death, but he did not have to wait, for the many honors and the respect of his colleagues and Americans everywhere were accorded him during his life—a grand tribute to a grand man.

Mr. Speaker, Senator HUMPHREY's talents and professionalism as a legislator and leader are well known to all of us in the House. His hard work and conscientious representation were well appreciated by his constituents who first elected him in 1949 and saw fit to return him to the Senate in 1970 after his dedicated and loyal service as Vice President.

What an inspiration HUBERT HUMPHREY has been to me and other Members of Congress as he assumed the demanding duties and continued his outstanding work in the Senate. With the highest level of ability and integrity Senator HUMPHREY zealously defended the ideas and principles he believed in and upon which this Nation was built. He fought the good fight when he felt his principles were threatened, and in most cases, he won. When he did not, he exemplified a courageous ability to support the victors, to assist and to work with them.

As a member of the Committee on Appropriations in the House, I have served on many conference committees with Senator HUMPHREY and legislation he succeeded in passing in the Senate and the House are milestones long remembered by the people in this country.

Down through the years the outstanding Members of Congress have performed the demanding and necessary assignments which must be done everyday and these men have to make hard and unpopular decisions at times. During our time giants have walked the face of the Earth, and HUBERT HUMPHREY was one among them. Never was there anyone more dedicated to the service he performed or the people he served. He had a mind that never flagged. His guidance and his counsel have become monuments to the responsibility in public office.

All the Members of the House, regardless of party, Mr. Speaker, were impressed by HUBERT HUMPHREY's intelligence, dedication, charm, wit, compassion, and humor. He was an outstanding Senator, a leader, a Vice President who established a fine record.

Mr. Speaker, at the recent dedication of the HEW building in honor of the Senator, HUBERT HUMPHREY my friend, stated his opinion of a good government, a principle he followed his entire life:

> The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy, and the handicapped.

The loss of HUBERT HUMPHREY to the Nation will be felt down through the years and will be mourned by all of those who had the honor to have worked with him in seeking to build a better community, a better country. However, we have remaining with us still, the numerous results of his dedicated work—a lifetime of accomplishments in the fields of civil rights, educational programs, handicapped programs, medicare, the Peace Corps, U.S. arms control and disarmament and, of course, human rights. HUBERT HUMPHREY's memory will be an inspiration, a way of life for all of us to follow.

I join with his family, constituents, and many friends in a sense of this great loss and wish to convey to them my sincere expression of sympathy.

Mr. MAZZOLI. Mr. Speaker, on January 13, after a long battle against cancer, Senator HUBERT HUMPHREY, the Happy Warrior, lost his courageous battle.

And, this Nation suffered a tremendous loss.

Senator HUMPHREY requested that his death be celebrated, not mourned, however. And, our Nation can indeed celebrate the good fortune of having been blessed with a good and great leader.

When times were bad, Senator HUMPHREY always gave us hope and the courage to look ahead. When times were good, Senator HUMPHREY taught us humility. When we were apathetic, Senator HUMPHREY renewed our patriotic pride. When we were pessimistic, he brought us optimism.

HUBERT HUMPHREY loved America and he devoted his life to championing the causes of those who most needed representation in Washington—America's minorities, her working men and women, and her less-fortunate citizens.

The Senator was in there fighting for civil rights when it was certainly not fashionable to do so.

When he fought for jobs, he was told it was not enough. When he fought for quality health care, he was told it was too much.

Yet Senator HUMPHREY kept fighting and he kept smiling.

Many disagreed with the Senator's approach to our country's problems—but none ever questioned his intentions.

We mourn the death of the Happy Warrior, but we celebrate our country's great fortune in having had HUBERT HUMPHREY's courage, leadership, and devotion during some of our country's most difficult and yet finest hours.

Mr. WAGGONNER. Mr. Speaker, the passing of our friend and colleague, the well-respected Senator from Minnesota HUBERT H. HUMPHREY, is a sad occasion. I can in all honesty claim Senator HUMPHREY as a friend, even though we had philosophical and political disagreements. He was a man who knew no enemies. There was no way to dislike the Senator, because he was a man of integrity who followed his heart and did what he felt was right no matter the cost to him personally or politically. We need national leaders who have the same courage to be as honest with the American people as Senator HUMPHREY was.

His spirit was one of eternal optimism, and he had a personal ability to take bad news with more grace and dignity than most people accept good news. To look forward with the hope for a better tomorrow and the personal satisfaction that one has done all in his power to represent his people and his conscience is a challenge to every elected representative. And this can be truly said of Senator HUMPHREY.

On many occasions I have had the privilege of hearing Senator HUMPHREY tell of his deep affection for my home State of Louisiana. He had studied at Louisiana State University as a young man and received his M.A. degree from there. He was fond of remembering his pleasant experiences in Louisiana whenever he visited the State. The Senator has many friends and admirers in Louisiana, who join with me in extending our deepest sympathy to Muriel, a courageous lady in her own right. Our thoughts and prayers are with her and the family in this time of sorrow.

Mr. DERWINSKI. Mr. Speaker, each time a great leader passes away, we talk of the loss our country has suffered. Yet in the case of HUBERT HORATIO HUMPHREY, we have not only lost a great man, a great leader, and a true statesman, our Nation has lost a great example of the spirit that has made our country great.

HUBERT HUMPHREY displayed courage and determination in his long service to our Nation. A fighter who vigorously entered many battles, HUBERT HUMPHREY weathered every storm. Only after an insurmountable weariness of body did his fighting heart lay down to rest.

The universal affection and admiration with which HUBERT HUMPHREY was regarded was shown in the close election returns in his bid for the Presidency in 1968, a popular vote exceeded by only two other losing candidates, Richard M. Nixon and Gerald Ford. Although he never attained the Presidency, he will go down in history as a very great American, whose 33 years of public service, beginning as mayor of Minneapolis, as Senator from Minnesota, and as Vice President of the United States, were filled with productivity and service.

Senator HUMPHREY was usually the hero of the liberals, but he was deeply admired by all for his courage to speak and act on his convictions and his determination to succeed. We are all aware of the monumental record of legislative achievements, and I believe that he was one of the most outstanding Members of Congress in American political history.

His long record of devoted public service is a fine example of the positive spirit that is reflected in the best of American political traditions. During his many years of brilliant public service, HUBERT HUMPHREY was constantly a strong and eloquent voice for freedom, liberty, and human dignity. He was a man who made us aware in our own time of the true strength of our country's ideals.

HUBERT HUMPHREY was an individual whose personality was recognized throughout his long public career as warm, outgoing, generous, and optimistic. Senator HUMPHREY's personal courage and resilience in adversity, his obvious interest in the welfare of others, and his outstanding qualities as a human being are examples for all of us to emulate.

Today, we salute a brave man, who lived his life to the fullest. Memories of HUBERT HUMPHREY will live forever in the hearts of Americans. He made too great a mark to ever be forgotten.

Mr. HOWARD. Mr. Speaker, HUBERT H. HUMPHREY was an inspiration to those of us in public life. He was, in fact, an inspiration to all American citizens because he emphasized what was good in this country and its institutions. Perhaps the foremost optimist of this century, he was a firm believer in the age-old concept that man is basically good, not evil. He fought the tide of cynicism in this country with words of vision and encouragement.

During the Vietnam war years, a time of trial for this country, HUBERT HUMPHREY took to the college campuses, often facing audiences suspicious of public officials who represented the "establishment." In the spring of 1970, he spoke to a student audience at Monmouth College, West Long Branch, N.J., as my guest. His great love for this country was reflected in the words he spoke that day, and I would like to include some of them for the record:

> These have been times of disorder, times of dissent, demonstration, disenchantment, but also decision. Sometimes we forget the last. Sometimes those of us who are practitioners of what we call the democratic process spend our time saying democracy means the right to dissent, the right of debate, the right of dialogue, but it also carries with it the responsibility of decision. Somewhere along the line, you have to stop and add it up

and make some decisions. You have to move from doubt to decision. And I want to say to my friends, here, the college students, you never have all the information you want. The man that waits for all the information never makes a decision. He has to do the best that he can at the time he is called upon to do it.

I suggest that when we look back over the panorama of American history, we will say that many of the mistakes made were not mistakes of premeditation, but were mistakes of what I call the knowledge gap. Not the generation gap, but the knowledge gap where we just didn't have enough information. . . .

I think that possibly our involvement in a cruel and bitter war is primarily due to the fact that we are so ignorant, so ill-informed of Asia and all that it means in its culture, its economics, its economics, its religion, its politics, its people. We became a world power virtually over night in terms of history—World War I. But we had a half world knowledge. We are abysmally ignorant, ill-informed of this part of the world. This audience of young people in particular has as its first obligation not merely to condemn what might have happened, but inform itself of what is there, how people think, how people live, what is their history, what is their tradition.

None of us is going to live long enough to say, "I saw the dream or the day the purposes of the Constitution, the Declaration of Independence or the meaning of democracy were fulfilled. But everybody in this society has the responsibility to add something to it. We are builders of a great cathedral called freedom. And no cathedral was built at once. It requires the master plan of an architect. And it requires the dedication of citizens for centuries. . . . This country will not have its work completed in my time or yours."

I look over here and see this flag and I know that children in high schools and grade schools and others at civic functions have stood there and taken the pledge of allegiance to the flag just as if it's something you have to do, so you do it. I think we ought to remember what we're doing. That pledge is a contract and we either ought to take it in good faith or not take it. And that pledge says, number one, that we are pledging to a republic. That means representative government and it must be representative. But it also is a pledge to one nation, not two separate and unequal. It also is a pledge that recognizes that what we call human dignity is only that, not because we are flesh and bone and blood, but because we were created in the image of our maker. So we put in words like under God.

It is a pledge to a nation that is indivisible, not white, not black, not north, not south, not rich, not poor, but one nation with liberty, not license, and justice, not privilege, and it is for all. And if you don't mean it for all, then you mean it for none. Because there is no liberty unless it is for all.

Mr. BENNETT. Mr. Speaker, Senator HUBERT HUMPHREY has left to our country and to mankind a rich heritage of constructive, idealistic leadership. We in Congress have lost a dear friend in his passing; but knowing of his joyful warm approach to life we continue to feel the inspiration of his life among us much more than the sadness of his physical absence.

In the field of legislation I had the opportunity of coauthoring a number of bills with Senator HUMPHREY. The one in which I had, and have, the greatest personal interest is the legislation creating the Arms Control and Disarmament Agency.

I was the first in Congress to introduce this legislation but it had little chance of passage until the powerful and enthusiastic hand of Senator HUMPHREY came into the picture. With his cointroduction of the legislation and then his helpful reshaping and improvement, together with his vigorous support, the measure became law. I think our country and the world are better served because of this.

Senator HUMPHREY was a great American leader for better things for our country and mankind. We all extend to his lovely wife Muriel and his beloved family our very deepest sympathy.

Mr. HANLEY. Mr. Speaker, I will refrain from repeating the accolades to HUBERT HUMPHREY which have been echoed throughout the Nation and the world during the past few days. Certainly, no one was more deserving of them, and, certainly, they have proved that all the words known to man fall short of being able to describe what HUBERT meant to us and to this country.

In the broadest sense, dear HUBERT was an inspiration. More than one of us in this Chamber are here because of the inspiration of HUBERT HUMPHREY, of what he was and what he stood for, of how he conducted his life, both in public and private.

Countless men and women are in Government service at every level because of the inspiration of HUBERT HUMPHREY, because of the way he let us know that Government can work, that it can reach out and touch an individual and make his a better life.

HUBERT inspired us to believe that one man can make an enormous difference. He inspired us to believe that the politics of joy are the best politics of all. He inspired us to believe that love can conquer all. He inspired us to believe that we are such individuals, not merely statistics.

It is a rare man whose inspiration lives on after his passing. HUBERT HUMPHREY was among the rarest of men. I sense he is still with us, showing us the way, showing us what is right and what is best for our fellow man.

And, although HUBERT has left us physically, his indomitable spirit lives on, tugging at us, inspiring us all to do more than we otherwise would have thought possible.

Mr. GAMMAGE. Mr. Speaker, It is with profound sadness that I mark the passing of one of the great statesmen of our time, the Honorable HUBERT H. HUMPHREY. With the zeal and the vigor for which he has always been known, Senator HUMPHREY carried his party and his country to new heights of compassion for the nonprivileged and nonpowerful in America.

Both in his life and in his passing, HUBERT HUMPHREY has provided inspiration to me and to every American—to live each day with joy and optimism, to fight each battle with courage, to take each victory with grace and each loss with dignity.

The country, the Democratic Party and the Congress are diminished by the loss of this honored spokesman for those who have yet to realize the American dream. We will all miss the Happy Warrior, our treasured fighter for national conscience and human rights.

Mr. BALDUS. Mr. Speaker, Americans and people from throughout the world feel a sense of loss at the passing of HUBERT HUMPHREY. We in Wisconsin, however, feel a special loss, for HUBERT was especially close to the residents of his neighboring State. For years we watched from across the Mississippi River as HUBERT staked his claim on world history. We have followed his political career from the day he announced his candidacy for the office of Mayor of Minneapolis. A large portion of my own district borders on Minnesota, and the newspapers and radio stations provided us with ample opportunity to follow his progress.

Indeed, HUBERT quickly became known as "Wisconsin's third Senator." The amount of media attention given to HUMPHREY in Wisconsin certainly contributed to that. Another factor was the tendency of Wisconsin Democrats to look to HUMPHREY at a time when our own two Senators were Republicans. But mostly it was just the warmth, energy, and ability which emanated from him which attracted our attention.

Like any driven individual, HUBERT did not always please everyone, as was witnessed by his close defeat by his political nemesis, Richard Nixon, in his bid for the Presidency. Scholars will ruminate endlessly on how different the course of history would have been had a few thousand votes been cast differently. But HUBERT, no fan of contemplating what might have been, quickly rebounded from that setback and regained his position as one of the leading voices in American politics.

HUBERT's passing was slow and long, but the observer could never tell that it was painful, for HUBERT bore his affliction as a model of his refusal to acknowledge the difficulty of his fight. In a sense, it was fortunate that he passed on in the way that he did, for it gave us all an opportunity to express our gratitude and love. Few men have the opportunity of receiving the final gratitude of the people they loved and served, and I am sure that HUBERT savored it as his final vindication.

On November 3 of last year, in a unique expression of our sentiment, we welcomed HUBERT into this Chamber for a special ceremony. In typical HUBERT fashion, his eyes got a little misty for just one second, and then he reared back and delivered one of the most inspiring speeches about politics, Government, and the American people that I have ever heard. I hope and expect that his speech will long be read by students of Government around the world, for if you ever want to know what HUBERT HORATIO HUMPHREY was all about, you need only to read that speech.

HUBERT's passing leaves a tremendous void in our political scene. One can only wonder if it will ever be filled.

Ms. OAKAR. Mr. Speaker, if we were to study congressional records from days past, I am sure some of the most eloquent words already have been printed as congressional stenographers meticulously recorded for history the words of Senator HUBERT HUMPHREY himself.

May I simply say that when the country as a whole first stood up and took notice of HUBERT HUMPHREY—after his strong plea for civil rights at the 1948 Democratic National Convention—we saw a true expression of our human rights policy of today, and Senator HUMPHREY's life showed us these words from nearly three decades ago were not empty political rhetoric. This is because HUBERT HUMPHREY was not only a politician whose career included a lifetime of making our world better. This is because Senator HUMPHREY was a tall statesman in the finest sense, even when his body began to wither. All of us want to be part of his extended family that includes every man and woman whose life he ever touched. I am grateful that his life touched mine and I value the moments I was able to share with him during my first year in Washington. He remains with us in spirit. It is for all of us to take his lead.

Mr. BURKE of Massachusetts. Mr. Speaker, we are setting aside these few days to honor a man whom you yourself have so rightly called "the most genuine liberal this country has ever produced." It was such a short time ago when this beloved American stood before us in this Chamber, the first U.S. Senator to be so honored. As always, he was his ebullient self with his self-effacing wit and buoyant optimism.

Even in his last days, HUBERT HUMPHREY made us feel good about ourselves. He gave the American public a feeling that Government did care about its people; that Government had a responsibility to help people achieve what they could not do by themselves. The thrust of his legislation has been to materially and spiritually improve the life of the average man.

Senator HUMPHREY was a champion of the working man. During his early career, he led the drive for increased social security benefits for the elderly and the handicapped. He understood their need to live with dignity. This is something as subcommittee chairman on social security I can truly appreciate. Likewise, his compassion for people led him to spearhead legislative campaigns for medical aid programs as Senator and later as Vice President. He did the same for farmers, students, black Americans, and the people of the Third World.

There is one underlying trend that runs throughout: compassion, whether it be a helping hand for those less-advantaged or a voice for those without an advocate. His legislation demonstrates his confidence in the people given the chance to help themselves.

He was a man who understood the problems of the world which his country must face. He spoke of human and civil rights nearly a generation before the country was willing to listen. His emotional plea for equal rights for all Americans was crucial to the incorporation of the civil rights measure into the Democratic platform at the 1948 convention. Who can forget that voice, so clear, appealing to what our consciences knew was right? He kept faith with the American people and he was there 16 years later when the people were ready to listen to his call for civil rights. His influence as Vice President was instrumental in passing that law during the summer of 1964.

He recognized the need for détente and disarmament a full decade before it was fashionable. During this Congress he leaves with us a bill that would insure that all able Americans would have the right to hold a job. Yes, HUBERT HUMPHREY was tireless in his efforts on behalf of the American people.

A lesser man who had come within an eyelash of winning the Presidency might have been plagued with self-doubts, second-guessing, and self-pity. Not so HUBERT HUMPHREY, who put the past squarely behind him to continue his pursuit of solutions to the Nation's pressing problems.

Through it all, HUBERT HUMPHREY maintained the respect and love of the American people to the degree that few leaders in this century have enjoyed and I would suspect, will enjoy for a long time to come.

Mr. Speaker, throughout the various memorial tributes to this great man, I noticed that little mention was made of the great debt we owe to the people of Minnesota. Without the participation of the people of Minnesota, who in their wisdom gave to us this compassionate statesman, there would be no story to tell. To the people of Minnesota, please accept my most heartfelt condolences and deep sense of gratitude. For yours was a love affair that thrived for 30 years and you were generous enough to share him with all of us.

To Mrs. Humphrey, his children, his sisters, and all the members of his family, I say thank you for the superior service that HUBERT HUMPHREY gave to this Nation for myself and for the great people I represent.

Mr. NOLAN. Mr. Speaker, shortly before his death, HUBERT HUMPHREY suggested that America need not eulogize him, that he had already been eulogized to a quota of two lifetimes. He was, of course, talking about eulogies of words. And the fact is that no words, no matter how eloquent or profound will ever measure or adequately describe what HUBERT HUMPHREY means to America and to the world.

Historian Theodore H. White once observed that "politicians are artists who paint their pictures with the lives of people." It was with the lives of his fellow citizens that HUBERT HUMPHREY painted his pictures. And it is in the pictures of his generation, and of future generations—HUMPHREY's pictures—that his presence will continue to be felt, and his familiar voice heard, just as surely as the Sun and the Stars will continue to shine in the sky.

The black child or the Indian child or the Chicano child of today—with a chance to live a full and productive life and realize complete potential—and the America of tomorrow without one last vestige of the curse of racism—those are HUMPHREY's pictures.

The Nuclear Test Ban Treaty of today, and the peaceful world of tomorrow where we will all finally work together for a good life on this very small planet—those are HUMPHREY's pictures;

The Peace Corps and the food for peace efforts of today, and the people of tomorrow's world who need no longer live in hunger—those are HUMPHREY's pictures.

HUBERT HUMPHREY showed us his picture of America, his vision for all of us, with the example of his own life. And he hoped that we as a people will continue to know, in the words of Robert Frost, "that the utmost reward of daring should be still to dare."

Clearly, through a time in history when courage was the dominant rule, the courage of HUMPHREY was the dominant feature.

But perhaps his finest wish for us is the wish he expressed to one of the thousands of cancer patients to whom he lent his great spirit and his great strength of heart:

There is so much to live for—so live each day as if it were a gift, with all the energy and determination which you possess. Be of good cheer and strong faith. May God bless you and give you strength and spirit for the opportunities and challenges ahead.

Finally, Mr. Speaker, I would like to make a part of the record this very special prayer, delivered recently in Washington by the Reverend Albert C. Saunders at a dinner given in honor of the Hubert H. Humphrey Institute of Public Affairs soon to be built along the banks of the Mississippi River at the University of Minnesota.

The prayer follows:

God of our fathers; Lord of generations yet to be; Creator and Redeemer of our present living—

We honor a public man who enriches our private lives by showing us how:

To learn from the fear and despair of deprivation, and so to use privilege and advantage to help others look to the future with hope;

To live life to its utmost, and so to make each day a new beginning;

To fight discrimination in all its self-destructive forms, and so to treasure human dignity and strengthen the social fabric;

To work, and so to grasp hold of the impossible and unpopular task;

To promise, and so to establish a new commitment to be fulfilled;

To think, and so to seize and refine an idea that challenges common wisdom;

To demand, and so to mold a better opportunity for others;

To strive, and so to marry the limits of power with the strengths of responsibility;

To believe in people, and so to make them believe in themselves;

To be tested, and so to deal patiently and firmly with adversity and defeat;

To face pain, and so to share the deep knowledge of joy;

To weep, and so to feel, and know ourselves;

To love, and so to exercise discerning compassion;

To dream, and so to create a new possibility for mankind;

And to hope, and so to confront wonder.

As he so many times has made today's unformed thought or unanswered question become tomorrow's national priority,

So may we be lifted from our common pursuits to try the untried, to perceive and yet to cut through the complex, and to make the life that surrounds us a little better for our having been part of it.

And as he has unhesitatingly both grasped the hand of the powerful and embraced the crippled body of the disadvantaged,

So may we put aside our vanity, pretensions, prejudices, and self-gratification, and find beauty and possibility in all your people for whom you have called upon us to be servants.

Our Father, as you look upon him and each of us, your children:

Let us share an increased measure of your patience, your wisdom, your anger to oppose what is wrong, and your love to create what is right;

Let us not despair over what might have been, but rather be deeply thankful for what is and can yet be;

Let us not be troubled by the possibilities of tomorrow, but rather face the problems and seize the opportunities of today by which our futures are molded;

Let us open our hearts and minds to your truth and your hope for what ought to be;

And let us celebrate this moment by thanking you for the opportunity of knowing this man and saying straight-out;

We love him. Amen.

Mr. VAN DEERLIN. Mr. Speaker, HUBERT HUMPHREY'S death leaves a void that may never be filled. This was no ordinary political leader, but a man truly in tune with his Nation and his times—so much so that it seemed he and the country he served with such distinction were in a real sense inseparable.

Countless landmark laws that have helped shape our national life were to a large extent the product of HUBERT HUMPHREY'S vision, perseverance, and compassion.

Perhaps his greatest, most lasting memorial is the Civil Rights Act of 1964, enacted during my freshman term. This was the law that—as much as any statute can—unified the Nation by bringing an end to injustice and inequity which, dating back to the War between the States, had divided us. In this, as in so many matters, HUBERT HUMPHREY led the way. Despite Senate rules which favor resistance to change, HUMPHREY—as floor leader for the civil rights bill—worked patiently to outlast its last-ditch opposition.

He was in favor of good causes like racial equality long before they became fashionable. Think back to the 1948 Democratic National Convention when HUMPHREY, then the young mayor of Minneapolis, stirred the conscience of our party, with an appeal for decent treatment and a fair chance for all our citizens, regardless of color or origin. It was radical thinking for that time, and HUBERT HUMPHREY espoused these views not because they would win him votes—Minnesota's population was less than 1 percent blacks—but because he knew them to be right.

As is often the case with good men, Senator HUMPHREY suffered more than his share of personal tragedy. He was never quite able to achieve his greatest aspiration, the Presidency, although he came agonizingly close. In 1964 he was a hero to young people when he toured campuses like Notre Dame and Princeton as Lyndon Johnson's running mate. The students really empathized with him, and he with them. But only 4 years later, seeking the Presidency in his own right, HUMPHREY was a victim of the Vietnam war. He lost his biggest election, but not his resiliency or his sense of purpose. He bounced back from heart-breaking defeat, as full of enthusiasm and ideas as ever.

HUBERT HUMPHREY was as American as the prairies from which he stemmed. His love of country knew no bounds, and in the end the country reciprocated the affection showered on it by this splendid patriot.

I include at this point an editorial about Senator HUBERT HUMPHREY and his indomitable spirit that was published by the San Diego Evening Tribune shortly after his death:

HUBERT HUMPHREY

Hubert Humphrey will be remembered as long as the nation lives.

Warm-hearted, outgoing, doggedly optimistic, the man from Minnesota left an enduring impression on his times.

The sorrow widely expressed over his passing, from people in all walks of life, shows a depth of feeling rarely felt at the death of a political figure.

He was loved for his simple and yet great qualities. He liked applause and approbation, certainly, and the image of his beaming face as he was in the thick of political battles will not soon be forgotten, but his main purpose was to serve the nation.

He had a boundless sympathy for common people—he had never forgotten where he came from—and he was able to give voice to their hopes, and to speak courageously, good-humoredly, with a sensitive understanding of the points of view of those who differed with him.

It is with a sense of loss, but also a feeling of pride, that the nation mourns him.

And perhaps the best tribute the nation can pay to this extraordinary unabashedly patriotic American is to make certain that the same free society—vastly improved in many respects, certainly—that helped to shape him shall continue to exist.

For while many may scoff at small town life, it is obvious that there was something wholesome and good in his South Dakota upbringing. Life was not always easy there, times were sometimes bad, but the young Hubert learned that man, with effort and intelligence, can change the world for the better.

He was not so much typically American as supremely American, as he embodied in such a great degree those qualities that we admire.

The crucible of American life had shaped Humphrey in this 20th Century, and it is a reason for lasting pride.

But he would want us to look at the future. We do, and hope that tomorrow brings more men like Hubert Humphrey.

Mr. FRENZEL. Mr. Speaker, only a few months ago we were able to render another unprecedented tribute to HUBERT HUMPHREY right in this very Chamber. His response to that tribute was a memory that most of us will cherish all our lives.

Now we are all saddened that it is necessary to eulogize HUBERT H. HUMPHREY, but I am proud to be able to take part in this most special order in his honor. A special order is a fitting title for a time to pay special tribute to a special person.

HUBERT HUMPHREY has received nearly every honor that his grateful fellow citizens can produce. His family has received thousands of statements of praise, respect and affection from all over the world. Eulogies at his memorial services, especially Vice President MONDALE'S, cannot be improved upon. HUBERT earned every one of them.

Even for those of us who tried to slow him down a little bit—unsuccessfully, of course—it was more than an honor to know him. It was rewarding, uplifting, and always fun.

His death was mourned by persons of every political persuasion who believe in representative government, who admire real ability and who respect a passion for effective public service.

Because HUBERT HUMPHREY was such a special and unique personality, his place can never be taken by any single individual. It will take more than one person to replace his leadership. His shoes were much too big.

Mr. SMITH of Iowa. Mr. Speaker, I have known HUBERT HUMPHREY personally since 1948 and on a first-name basis since 1952. I never knew a more compassionate person nor have I ever known anyone who was more totally consumed and dedicated in promoting the causes of good government. I have been with him many times in Iowa, Minnesota, the Nation's Capital and on trips to governmental and political functions. Every minute he was awake he was thinking of some way that he could promote the causes in which he believed.

While believing strongly in these causes, unlike some other people that I have known in government, he never became bitter in any way against anyone who disagreed with him or was unfair to him, nor did he ever think that the burdens he was presently carrying were so great that he could not shoulder some new ones.

His love for people was obvious from the twinkle in his eye when he would meet total strangers and discuss with them any subject they might desire. It was perhaps this love for people which helped to drive him daily toward achieving favorable results for the programs he was promoting.

HUBERT HUMPHREY was the very model of the kind of public servant and Senator every State would like to have. I feel a great deal richer for having known him so well, and I am confident that his example will live on for many generations to come. My wife and I extend our heartfelt sympathies to his family and loved ones.

Mr. PERKINS. Mr. Speaker, less than 3 months ago, Members of the House received a Member of the other body in this Chamber to pay him tribute. It was probably an unprecedented gesture, and that is as it should be. For the Member of the other body was HUBERT H. HUMPHREY—a former mayor of his city; a former Vice President of the United States; five times elected U.S. Senator by his fellow citizens; and a uniquely beloved American.

Ostensibly, the November 3 occasion was to welcome back Senator HUMPHREY from a period of hospitalization. But he was not fooled; and we were not fooling ourselves. We simply wanted to give HUBERT HUMPHREY some of his flowers while he lived. And that happy, optimistic, vivacious man was glad to get them.

Now he is gone, as he knew he would be when we greeted him affectionately on this floor just a few weeks ago.

What remains is a legacy that few Americans have ever been able to leave behind: a feeling of warmth, generosity, and good will, and a sense of gratitude that such a man as HUBERT HUMPHREY was once among us, and that his ideals will abide.

If it was a cruel blow that he was taken from us, I am sure its cruelty was greatly softened for him by the sure knowledge that he was loved by his fellow Americans.

In my own mind, the great tragedy of America's past decade was that we denied this man the highest office in the land—that in 1968 we did not put forward the best we had. We have paid dearly for that lapse.

HUBERT HUMPHREY had every right to be bitter and to nurse his disappointment into withdrawal from public life. But he just was not built that way.

When the 1968 election was over, he accepted the verdict and went on his cheerful, optimistic way, confident that somewhere there was a role for him, a job for him that involved making things better for America. How right he was.

No one has done more to unite this Nation after the painful and bitter divisions of the early seventies. No one has done more to restore America's faith in the basic fairness and decency of itself. And no one has done more to keep alive this Nation's sense of mission and purpose for the generations yet to come.

They sang "America the Beautiful" when HUBERT HUMPHREY was laid to rest, and I could not help thinking how appropriate that was for the occasion. For he made it the business of his life to dispel ugliness in this country, and particularly the ugliness which would let us accept poverty and sickness and despair, the neglect of our environment, and the erosion of our national principles.

I am sure that in the next few months or years, we will erect a suitable granite and bronze memorial to our friend, and that is as it should be.

But I think the best memorial we could erect to HUBERT HUMPHREY would be a rededication to the things he believed in in America, and to strive in our own lives to imitate his courage, his hopefulness, his kindness, his energy, and his wisdom.

There is some corner of a Minnesota cemetery that will forever contain a little bit of this generation's heart. But because he lived, there is an America that will always contain a great deal of the heart of HUBERT HUMPHREY.

Mr. MOORHEAD of California. Mr. Speaker, we will all miss HUBERT HUMPHREY. His effervescent enthusiasm, sincere kindness of heart, moral integrity, and cheerfulness was an inspiration to all of us. Although we did not see eye to eye on all the major issues that came before the Congress, I found agreement with HUBERT HUMPHREY on something more basic and more important: HUBERT'S ubiquitous optimism about life and mankind. It is a kind of Jeffersonian transcending optimism I am speaking of. Toward the end of his life, Thomas Jefferson wrote to a friend:

> You ask, if I would agree to live my seventy or rather seventy-three years over again? To which I say, yea. I think that it is a good world on the whole; that it has been framed on a principle of benevolence, and more pleasure than pain dealt out to us. There are, indeed (who may say nay), gloomy and hypochondriac minds, inhabitants of diseased bodies, disgusted with the present, and despairing of the future; always counting the * * * that the worst will happen, because it may happen. To these I say, how much pain have cost us the evils which have never happened! My temperament is sanguine. I steer my bark with Hope, leaving Fear in the stern. My hopes, indeed, sometimes fail; but not oftener than the forebodings of the gloomy.

I think HUBERT HUMPHREY steered his course with hope, leaving fear in the stern as did Jefferson.

Mr. ZABLOCKI. Mr. Speaker, HUBERT HUMPHREY has benefited the lives of countless millions of people in one fashion or another. The outpouring of tributes to this truly exceptional man has helped to illuminate the many ways in which he served mankind.

As one who has been privileged to know HUBERT HUMPHREY as a friend and colleague for many years, I can well recall the days when the then young and exuberant mayor of Minneapolis breathed new life into the liberal forces of Minnesota. We Democrats in neighboring Wisconsin were inspired by him then, and became increasingly proud of his accomplishments as he advanced on the national scene. It so happened that I was first elected to the House in the same year that HUMPHREY went to the U.S. Senate. Those were lonesome times for Democrats in Congress from Wisconsin—there were only a couple of us in the House at the time—and for us, the new Senator from Minnesota was our Senator from Wisconsin too.

Much has been said about HUMPHREY'S devotion to the causes of the poor, the minorities, and the disadvantaged in America, and justly so. Let it be noted that his concern for those who needed a helping hand, a better chance for a decent life, extended to those in foreign lands as well as at home. It was my privilege to have joined with him on foreign assistance legislation going back a couple of decades ago, which pointed toward the people-oriented, basic human needs aid which has become a central theme of U.S. help to poor countries today. We worked together on establishing U.S. sponsorship of the research hospital in Krakow, Poland, which has helped thousands of children from the Silesian coal mining area. We later joined in legislation giving cooperatives an important role in foreign assistance efforts. The humanitarian policies he espoused were eventually embodied in a major restructuring of the foreign aid law in 1973, which he sponsored in the Senate and I in the House, which targeted American assistance abroad to directly benefit the poor majorities in developing countries.

HUMPHREY'S mark is notable in many other areas of U.S. foreign policy and legislation. He was instrumental in enactment of the legislation establishing the Peace Corps. He secured Senate passage of the measure providing for creation of the Arms Control and Disarmament Agency. On one of his final appearances in Washington, he voiced further support for the title XII program to enlist U.S. Agricultural University assistance in fighting the war on hunger overseas, a program which he also helped to found.

To recite such achievements is to note only part of the contributions by this great and lovable American, and they will not be forgotten.

More importantly, HUBERT HUMPHREY—the man—will not be forgotten. For the impact of this individual on our Nation extended beyond his good works. As St. Paul said to the Corinthians, "Let all that you do be done in love" (1 Cor. 16, 14).

HUBERT HORATIO HUMPHREY lived this principle.

And his work through love is perhaps the greatest contribution for which we as a Nation are grateful and will remember him.

Mr. Speaker, I am deeply saddened by the passing of our beloved colleague and friend and I offer my sincere condolences to his wife Muriel and his family.

Mr. MURPHY of New York. Mr. Speaker, I would first like to offer my personal condolences to HUBERT HUMPHREY'S devoted and beloved Muriel, and to his children, Nancy, Hubert, Doug, and Bob. In searching for the words to comment upon my thoughts and feelings about HUBERT HUMPHREY, two things come to mind as inescapable facts.

First, virtually every politician of this generation, and most of the previous generation who are still among us, have been affected in some manner by his ideas, his attitudes, and his overwhelming enthusiasm in his pursuit of life. Second, in spite of the universality of the man, his life touched each of us in a very personal way.

In national politics, newcomers often play follow the leader until they can find their way in the incredibly complex web of the legislative process. Over the past 30 years, that was a relatively easy thing to do, because HUBERT HUMPHREY was a leader in practically every field. Democrats and Republicans alike found that to follow HUBERT'S lead was to be on the right side of an issue—not necessarily because it was the politically proper thing to do, but because almost invariably his point of view involved doing the most good for the most people under a given set of circumstances. To give himself in service to his fellow Americans was HUBERT'S dream come true, and he applied himself heart and soul to the fruition of that dream.

I had the good fortune to serve as the Parliamentarian to the 1968 Democratic National Convention which nominated HUBERT HUMPHREY as its choice to be President of the United States. I had the even greater privilege to join his campaign during that election, including the Brooklyn street campaigns with Muriel early in the battle, and later with HUBERT, when the Vice President himself came to New York to campaign. I came to know them both well.

There are not enough positive words to convey his total devotion, his exuberance, and complete confidence in his

battle against the wrongs of the world. To be sure, he lost a few, but those that he won more than made up any difference. He was the driving force behind more major legislation than any other public figure of his time: the Civil Rights Act, Federal aid to education, Peace Corps, medicare, and the U.S. Arms Control and Disarmament Agency, among others. In the breadth of his interests, he was more than just a political leader; he was the prevailing climate of political opinion. As someone said of Voltaire, he was a chaos of clear ideas. A recent poll showed HUMPHREY to be the greatest Senator of his generation, an accolade richly deserved by his service to the American people.

HUBERT HUMPHREY summed up his own political philosophy at the dedication of the HEW building in Washington, recently renamed after him:

> The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy, and the handicapped.

He lived by that moral test, said Majority Leader JIM WRIGHT, showing an ability to "provide comfort for the afflicted, and occasionally, affliction for the comfortable," referring to HUMPHREY'S unique ability to get things done when others feared to rock the boat.

He lived the political life as Plutarch described it:

> They are wrong who think that politics is like an ocean voyage or a military campaign, something to be done with some particular end in view, something which leaves off as soon as that end is reached. It is not a public chore, to be got over with. It is a way of life. It is the life of a domesticated political and social creature who is born with a love for public life, with a desire for honor, with a feeling for his fellows * * *

Perhaps that was HUBERT HUMPHREY'S major problem in politics: he cared for people so much, and tried to do so much for them, that he occasionally met himself coming around the corner with yet another idea, another program, another way to help his beloved America. His impact on public life was probably greater than that of most of the Presidents of this Nation. He led a great life, and I believe that this generation of Americans, and all that follow, can consider themselves quite fortunate to have benefited from the presence and the compassion of HUBERT HUMPHREY.

Mr. MOAKLEY. Mr. Speaker, I rise with great sadness to join my colleagues in expressing our sense of loss at the death of the distinguished Senator from Minnesota (Mr. HUMPHREY). It is possible that HUBERT HUMPHREY wrote his own best eulogy:

> I have enjoyed my life, its disappointments outweighed by its pleasures. I have loved my country in a way that some people consider sentimental and out of style. I still do and I remain an optimist, with joy, without apology, about this country and about the American experiment in democracy.

Although all of us feel a sense of grief and personal loss, we keep faith best with the spirit of HUBERT HUMPHREY'S life if we use this occasion, not to mourn his death, but to celebrate his life.

Mr. Speaker, all of us may count ourselves fortunate to have served in Congress while HUBERT HUMPHREY was here. For such men come our way all too seldom. One must stand in awe at the lifetime on which he could look back as the end closed in on him so quickly and sadly. The peace with which HUBERT HUMPHREY left us was possible only because he was in the unique position of being able to look at a world he had changed with his own life.

Would we be as close to the goal of human rights if there had been no HUBERT HUMPHREY?

Would we have a foreign assistance program as extensive if there had been no HUBERT HUMPHREY?

Would the educational needs of America be met as well if there had been no HUBERT HUMPHREY?

Would the needs of the poor, the young, and the elderly be nearly so well met if there had been no HUBERT HUMPHREY?

Would full employment be even considered today as a national goal if there had been no HUBERT HUMPHREY?

Would the U.S. Government be discussing disarmament today if there had been no HUBERT HUMPHREY?

A catalog of the accomplishments of his lifetime would be impossible. HUBERT HUMPHREY, himself, was probably the only man who would have had the stamina to make such a speech and he would never have done it.

We can be glad for him that he could draw so much satisfaction from his life in its last hour. How much comfort it must have given him in his last days to look upon a world in which so many lives which would have been empty were full, a world in which so many who would have been sick were well, a world in which so many who would have been neglected were cared for, a world in which so many had educations, skills and jobs they would not have had if they had not lived in the age that HUBERT HUMPHREY helped to make.

It is in this sense that he must have realized what the Reverend Martin Luther King, Sr. would say on the day HUBERT HUMPHREY was laid to rest: that such men do not die. For who can say that he is really dead while even a single man in public life carries the torch HUBERT HUMPHREY passed on in one of his last major speeches at the dedication of the HEW building named in his honor:

> The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadow of life, the sick, the needy, and the handicapped.

Mr. McCLORY. Mr. Speaker, many in this Chamber attended the Memorial Service in the Capitol rotunda for Senator HUMBERT HUMPHREY. As those of us who were there know, it was a moving tribute to a man who represented perhaps the best that public service has to offer: A remarkable balance between heart and mind.

His heart went out to human suffering but his intellect knew that laws may promote human rights—and may help alleviate some social ills. Beyond that, the very humanness of HUBERT HUMPHREY reached out to one and all. Men and women may at times have disagreed with him—but never did they dislike him nor lack respect for him nor question that he acted from the highest of motives.

Senator HUMPHREY was far more than a U.S. Senator. He was a moving force in America. Some perhaps were tempted at times to wonder at his politics of joy when the circumstances facing him politically at certain periods seemed so difficult, so joyless.

But joy is an ingredient this world, this country, yes, this institution needs. The Senator asked that his funeral services not look backward but focus on the future, and Vice President MONDALE in his tribute addressed himself to that imperative with an eloquence rarely heard on such sad occasions of state.

If newspaper accounts are correct that Mrs. Humphrey may be named as an interim successor to her husband, I, as a Member of the House, would like to welcome her here to the Congress with every heartfelt good wish.

Mr. Speaker, all of us here, Republicans and Democrats, mourn HUBERT HUMPHREY. But in that grief, let us remember his legacy to this Nation was so great that the essence of the man will be with us forever, and let us temper our sorrow with the joy that for so long he walked among us.

Mr. Speaker, let me add my personal gratitude for the privilege of knowing and being with HUBERT HUMPHREY on numerous occasions both during his service as a U.S. Senator and also during the years he served as Vice President. Senator HUMPHREY and his loving, beautiful Muriel were always a joy to be with. They radiated wholesomeness and friendship to all whom they came in contact. Their influences for good will endure forever in the lives and memories of those of us who survive.

My wife, Doris and I extend our love and deep sympathy to Muriel and all members of the family.

Mr. STEERS. Mr. Speaker, as a small tribute to that great American, HUBERT HORATIO HUMPHREY, I would like to share with my colleagues a letter to the editor of the Washington Post, written by a constituent of mine, Mr. Donald H. Dalton. His letter speaks for itself:

> The loss of Sen. Humphrey, who for many years lived in Montgomery County, is also our loss, as well as the nation's. He lived at the corner of Jones Mill Road and Coquelin Terrace. He was our neighbor.
>
> When he was Vice President, a limousine would pick him up outside his home. This also was a school-bus stop.
>
> "Hello, kids, I am going to see the President," he would say as he entered the limousine.
>
> He would attend Cub Scout meetings at the Chevy Chase Methodist Church and PTA at the North Chevy Chase Elementary School. Of course, he did not attend all meetings, but he would show his interest in his children's activities.
>
> Mrs. Humphrey was a wonderful mother and friend.
>
> To quote Dickens: "Very, very many have lost a friend; nothing in creation has lost an enemy."
>
> CHEVY CHASE, MD.

Mr. BRECKINRIDGE. Mr. Speaker, Friday, the 13th of January, 1978, was indeed an unlucky day for the entire country, and a very sad one also. That was the day we lost a truly great American—Senator and former Vice President HUBERT H. HUMPHREY.

Senator HUMPHREY's death has saddened the country as few others could. He will, without doubt, be rated by American historians along with Thomas Jefferson, Henry Clay, Abraham Lincoln, Franklin Roosevelt, Harry Truman, and John Kennedy as among our most beloved leaders. His passing leaves a great void in the U.S. Senate that will be difficult, if not impossible, to fill.

HUBERT HUMPHREY will be remembered as a great American, a great liberal, and a great Democrat. His legislative achievements over a 30-year career can only be called staggering.

Black Americans loved HUBERT HUMPHREY for the Civil Rights Act of 1964, the single most important civil rights law since the abolition of slavery, and perhaps his greatest achievement. His courageous commitment to the cause of civil rights began in 1948, when HUMPHREY introduced a controversial civil rights plank into the Democratic National Convention Platform—and continued until the day he died. In one of his most memorable statements, HUMPHREY told the convention:

> The time has arrived to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights.

That statement will live as a milestone in American political history.

Older Americans, the senior citizens of America, loved HUBERT HUMPHREY for medicare—to pay those ever-increasing medical bills. It finally passed the Congress after years of debate, and now is as accepted as social security.

The Nation's poor people loved HUBERT HUMPHREY for his war on poverty legislation under President Johnson.

The people of the world loved HUBERT HUMPHREY for the Peace Corps and the Nuclear Test Ban Treaty of 1962.

The Nation's young people, schoolchildren, and teachers loved HUBERT HUMPHREY for Federal aid to education, including the Head Start program, which has done so much to enable a generation to catch up, to improve our Nation's school system, and, hence, our future.

Almost every major piece of social legislation passed by the Congress over the past 20 years can be credited, at least in part, to HUBERT HUMPHREY.

A common theme ran through all his career—public service, compassion, and unending commitment to equal justice and brotherhood for all—rich and poor, black and white, young and old.

But aside from HUMPHREY's great legislative achievements, he will probably be remembered most for a great personal quality—constant and unending optimism about the Nation we know and love as America. HUMPHREY never gave up personally or professionally—even after a heartbreakingly narrow loss in the Presidential race of 1968—and even after an attack of inoperable cancer.

Even as he fought the pain and ravages of cancer, in his last days HUMPHREY worked on the details of a revised Humphrey-Hawkins full employment bill, now endorsed by President Carter—and a top priority item in the 1978 Congress. It may become his final tribute in a long line of achievements.

The "Happy Warrior" was a fighter to the end. He died the way he lived—with determination, perseverance, and that great optimism. He will always be an inspiration to all of us who love America and want to serve it with all of our being.

Mr. COUGHLIN. Mr. Speaker, today I join my fellow Members of the House of Representatives in paying tribute to our late friend and colleague, HUBERT HUMPHREY.

Senator HUMPHREY became famous as "The Happy Warrior," a man who spent a lifetime fighting for his beliefs, reveling in the joy of politics along the way. Throughout his years as mayor of Minneapolis, U.S. Senator, and Vice President of the United States, he was committed to improving the quality of urban life, as well as being a leader in the area of civil rights. From his first Senate term in 1949, the Senator from Minnesota was involved in every major piece of social legislation, and this commitment remained paramount during his three decades of service, whether his stand was a popular one or not.

Senator HUMPHREY had many valuable qualities which made him so distinctive and popular. He was the embodiment of old-fashioned virtue, and by combining selflessness with practicality, he was repeatedly able to work out compromise without sacrificing his ideals. He was a constant optimist, always full of enthusiasm and hope. The threat posed by cancer was not allowed to interfere with his goals, and his exhaustive schedule continued as always.

He was particularly optimistic about the future of America. The ability of today's young people to cope with current problems as well as with the developing issues was unquestionable, the Senator often stated. His work on the Youth Employment Demonstration Projects Act of 1977 was only the latest example of his efforts along these lines.

HUBERT HUMPHREY will perhaps best be remembered for his work in the area of civil rights. As an eloquent defender of freedom, he was never afraid to champion the causes of the powerless and the poor. The Senator acted as the moving force behind the Senate's passage of the far-reaching Civil Rights Act of 1964. He understood how important this congressional move would some day be. As HUMPHREY himself said at a White House News Conference in 1966:

> I urge all Americans to view the civil rights movement not in the harsh glare, the distorted reflection of today's headlines, but rather in the more balanced perspective of history.

HUMPHREY always had an abiding faith in the worth of all people. He impressed upon us that the problems we face can only be solved if we all join together in working toward possible solutions. He repeatedly pointed out that the potential of women, blacks, the elderly, and other segments of our population have long been wasted due to age-old prejudices. He constantly fought for the liberation of these able people, realizing that this would help improve life in America for all.

Throughout his life, the Senator never gave up his fight to make this world a better place. And whether a political foe or ally, he always commanded our affection and respect.

HUBERT HUMPHREY was a leading statesman and an outstanding legislator, but above all he was a special man. His warmth, optimism, and undaunted enthusiasm will be sorely missed. I extend my deepest personal sympathy to his wife and family.

Mr. ANDERSON of California. Mr. Speaker, our Nation experienced a great sadness—and suffered a great loss—when Senator HUBERT HORATIO HUMPHREY passed away on January 13, 1978. In the tradition of Daniel Webster, John C. Calhoun, and Henry Clay; HUBERT HUMPHREY was a man whose influence upon this Nation as a Senator far exceeded the contributions of most Presidents. HUBERT HUMPHREY was a giant, who left behind him a legacy of decency, fair play, and concern for his fellow man.

Like many of my colleagues, we knew Senator HUMPHREY very well—it would have been hard for anyone in this Nation during the last three decades not to have been touched by him. His ebullient nature was as genuine as any part of him, for HUMPHREY believed in holding nothing back. His campaigns were studies in enthusiasm, and he carried that quality with him throughout his life, in his every endeavor.

More than anything else, HUBERT HUMPHREY was a winner. It is true that he never reached his final goal in public life, the Presidency. Yet even in his seldom moments of defeat, he seemed to rise above the occasion with his humor and irrepressible personality. Like the phoenix rising from the ashes of its pyre, Senator HUMPHREY would once again, be busy with the business at hand. And to him, that business was the guiding of a nation along a path marked by decency, compassion, and respect for human rights.

As a young delegate to the 1948 Democratic National Convention, then Minneapolis Mayor HUMPHREY left an indelible mark upon the Nation when he spoke out on behalf of equal rights.

"The time has arrived," he said, "for the Democratic Party to get out of the shadow of States rights and walk forthrightly into the bright sunshine of human rights."

HUBERT was right, as he so often was. And that cry galvanized a movement to correct historic patterns of discrimination in our Nation. That effort carries on today, but few men have done as much for the civil rights movement as HUBERT HUMPHREY.

My wife, Lee, and I counted Senator HUMPHREY as a dear friend, and we join with his family and many friends in the realization of our loss. Yet the "Happy Warrior" left us with a legacy of accomplishment, decency, and joy. Rather than dwell on his passing, we would better serve his memory by remembering the happiness he gave us while he lived, and

the improvements he gave to our Nation and our lives.

We would also like to extend our sincere condolences to his lovely wife, Muriel, who shared in his life and in his dreams, and their children, Nancy Solomonson, Hubert III, Robert, and Douglas.

Mr. FORSYTHE. Mr. Speaker, seemingly endless and vast has been the stream of praise with which the life of the late Senator HUBERT H. HUMPHREY was recounted. Often these commendations ranked sovereign to those bestowed on other personages, Abraham Lincoln and George Washington to name a few, who too have shepherded the American experiment into immensely challenging frontiers despite the grueling geographical and political landscapes that seldom yielded passively.

To add more decorum to HUMPHREY'S image, to list in inventory style and then to assess his accomplishments and failures would be well-intentioned, but to me less meaningful a tribute. Rather, some brief comments on the meaning of his life in the broader spectrum of things seems more fitting.

Typically, the currency of adjectives that have been abundantly deposited in eulogies was expressed in one unit: greatness. I care not to link HUMPHREY and his pursuits with the term greatness. For greatness to me connotes one's obsession with the trappings of power, the subservience of the populace to one, the lack of human qualities. HUMPHREY was a study in contrast. He was a man humane and good. His creed was one of sensitivity to the human cause. His interests were intensely focused on the person; the system he left for others to nurture and maintain.

True, there were the failures, too abundant some would argue. Yet there was the overpowering persistence with which he endeavored, the hope which never submitted to despair, the spirit which was rarely fragile.

In a career that frequently demands different outlooks, the diligence to which HUMPHREY rallied behind these qualities is all the more surprising.

Among us in Congress and among the people of the United States, there now exists a void; a vacuum which has prompted laments that our finest leaders are gone and that prospects for future leaders are sullenly grim. Unquestionably, no man or woman will be like the late HUBERT. Nor should we expect them to be. The uniqueness that was Mr. HUMPHREY knows no residence but to the life of Mr. HUMPHREY. It is this uniqueness that separates him from others.

He has reminded us of the immortality of man. His life is resounding testimony to the immortality of an experiment called America. He has moved us closer to our collective expectations for progress, though some of his strategies differed from the ones I supported. Still remaining is a list of programs that need to be enacted—there are bricks yet to be laid, mortar yet to be used.

Mr. WHALEN. Mr. Speaker, Thomas Jefferson once wrote that the sole object of good government is "the care of human life and happiness." No one in our lifetime—and few in any lifetime—did more to move government toward this goal than did HUBERT HORATIO HUMPHREY.

Our sympathy and prayers are with Mrs. HUMPHREY and her family on this day. If there are tears to be shed, let them not be for our loss, but for the loss of our descendants who will never experience his greatness.

We all treasure our memories of our late colleague. Last year he accepted my invitation to address a group that consisted largely of businessmen. Since he always made time for people, he was, as usual, late. But he stayed longer than he was scheduled and proceeded to warm his skeptical audience with his unique appeals to conscience and commonsense.

I remember, too, last May, a breakfast at the State Department. He left that meeting to enter the hospital to continue his gallant fight against cancer. And yet he was in good cheer; I was struck, once again, by HUBERT HUMPHREY'S courage.

How do we pay tribute to such a man? We recollect anecdotes, and they are full of his humanity. We have renamed an edifice, and that is but the first of many. We recite his deeds, and they are legion. We speak of his compassion, and it was boundless. We evoke his fortitude, and it was immeasurable. We recall his joy, and it knew no limits. We remember his love, and it was all-enveloping. We treasure his memory, and it is eternal.

Mrs. SPELLMAN. Mr. Speaker, when Senator HUBERT HUMPHREY died, his friends—and they are legion—paid him a remarkable compliment. Though many could qualify as "wordsmiths," they were unable to forge freshly minted phrases for their written and spoken tributes.

Millions of words were forthcoming, but phrases like "It's all been said." and "What can one say about HUBERT HUMPHREY?" were the order of the day.

What, indeed? It is a rare person who can say, as Senator HUMPHREY did to his aides, just a few short weeks before his death:

You can cut back on the funeral arrangements. The eulogies have all been said.

No, my dear friend, HUBERT, not quite all.

That remark of his has been widely quoted. And I, for one, am very, very grateful that we gave him his bouquets and honors while he still lived. He, himself, said it so well as we stood in the Well after he had received the ovation from the Members of the House. Referring to all the testimonials and the outpourings of love which group after group had been bestowing upon him, he said:

Gladys, I can tell you it's just great to be able to smell the flowers!

How happy I am that the "flowers" were not held back while he was with us, to be displayed only after he was gone. But even the oceans of affection and respect which all but deluged our beloved colleague in the past months, did not say it all. Nor did the moving eulogies spoken by President Carter and Vice President MONDALE. "All there is to say about HUBERT HUMPHREY" would not ever be said. Not in words.

That is a curious twist. Because he was very much a man of words. They came bubbling out across the years—happy words, feisty words, sometimes even fighting words, but never faint-hearted, petty or mean.

But he is much, much more than the sum total of all those words, both the ones he said and the ones said about him. He is, I believe, a standard by which we can all measure the effort and devotion which we bring to our shared tasks.

Senator HUMPHREY would have been the last to claim that he was always right. But he was always right hearted. His errors and excesses—and he would not have us pretend that there were none—were those of a man with a broad vision and a big heart. He had space enough and time enough for the least among us. And wisdom enough, and humor, for the mightiest.

Just about everyone has a favorite HUMPHREY story. There are so many—some public, some private. We could all tell how he counseled us, cheered us, inspired us, and made us ashamed to quit. But the best HUMPHREY story is in the aggregate. It is the story of a man who had disappointments and frustrations few of us are asked to bear, but undaunted he embarked on the politics of joy and became our Happy Warrior.

One of the Senator's last wishes was that his funeral be a celebration of life—an occasion of happiness. His family and those closest to him did their very best to honor that request. As I stood in the rotunda with tears in my eyes, his devoted sister, Frances Howard, said:

Don't cry. Just realize we are so lucky to have had him.

How right she is. We should be happy—happy that we had him; happy that we knew him; happy that he shared with us his unflagging courage; happy that we were present in this House when he became the first sitting Senator ever to address the House of Representatives.

He is—is, not was—a gallant triumph of the human spirit.

Mr. HAWKINS. Mr. Speaker, with the passing of my great friend Senator HUBERT H. HUMPHREY, America loses his amazing vigor, courage, and love of life.

Not only was he a dedicated public servant, he was an ethical spirit that epitomized the best America can produce. He will be sorely missed because of his forthright stands on the most profound issues of our times: civil rights, cyclical recessions/depressions; U.S. foreign policy; the plight of farmers; environmental concerns; the problems of the poor, disadvantaged, and the unemployed.

He was continually seeking to make America a better place for all Americans, and consistently sought alternatives to the social, economic, and political deprivations experienced by some Americans who at times were leaderless and friendless.

To his lasting credit he fought to make work in America available to all who wanted to work. No better tribute to this desire was his joining with me in authoring the Humphrey-Hawkins full employment bill. In a recent article on

the full employment bill he posed some pertinent questions:

Can we ask several million of our fellow citizens to stand quietly in line year after year without hope or even the knowledge that their government will do whatever it takes to satisfy their fundamental human right to a means of earning their livelihood? Can we ask a permanent underclass of unemployed Americans to bear the heavy burden of our nation's economic failures?

His answer was his tremendous devotion to making the full employment bill a landmark law in this Congress. Recognizing the urgency of the battle to pass the legislation in this Congress, he recently wrote me saying:

I am so proud to be your partner in this vital undertaking. We have already succeeded in elevating consideration of the tragic problem of unemployment in our nation. Now, with the President's support, we have a real opportunity to make the commitment to full employment the law of the land.

In this spirit I intend to keep pressing the issues for full employment and for those mutual areas of concern that HUBERT and I shared.

His great legacy was his love of life and the humanitarian spirit with which he gave life a good battle—right down to his last breath.

He was a happy warrior, and that is what I will remember most about him when all else is just memory.

Mr. PATTERSON of California. Mr. Speaker, what can I say about HUBERT HUMPHREY that you do not already know? HUBERT HUMPHREY is the "Public Man of this Century" because he was not only for the people but of the people. A man who wavered not in the face of adversity, he loudly proclaimed and focused concern on human rights at a time when it was so unpopular, that it divided his party.

HUBERT HUMPHREY recognized the contradictions in our society. The idealisms that have made us the great Nation that we are did not make him oblivious to the needs and rights of others not so fortunate as those of us who sit in this Chamber. For HUBERT HUMPHREY, more than any other public man of this century, knew that man is not only a slave against tyrants, but a tyrant among slaves.

But HUBERT HUMPHREY would not allow this division of man to dissuade him from his mission. He lived his life intent on restoring man's humanity in its entirety. For him, acting in the spirit of the law did not mean acting against his duty and against his principles and inclinations. He dedicated his public life to the principle that laws were made for the sake of people, all people, not people for the sake of laws.

To be certain, Mr. Speaker, we were blessed with this man at a time when he was most needed. His Almighty God has beckoned him to rest. With a feeling of comfort and achievement, I am sure, that comes from knowing that in his mortal life HUBERT HUMPHREY met the challenge and the task by speaking out and tirelessly battling for that which was right. For this kind man, his cause was mankind.

And as much as we looked forward to his presence in the halls and chambers of government, HUBERT HUMPHREY will always belong to the people.

Mr. NEDZI. Mr. Speaker, the people of Michigan knew HUBERT HUMPHREY as a good neighbor for 30 years. The active Democrats knew him as friend and ally in good years and in lean years.

Perhaps the greatest moment for HUBERT HUMPHREY in Michigan came in the final week of his uphill campaign for the Presidency in 1968.

He had come through Detroit a few weeks earlier, trailing badly in the national polls, the party weakened by well-known divisions and handicapped by a late start occasioned by a late convention. He rallied his dispirited followers on his first visit, and suddenly in late October he began to make dramatic gains in Michigan, pulling ahead of Richard Nixon in the polls. That last Friday before the election he campaigned downriver before enthusiastic and excited crowds who sensed a dramatic upset in the making. As we all know, his rally fell short by a thin margin; one more week and he would have made it.

HUBERT HUMPHREY made numerous visits to Michigan over a period of over a quarter of a century.

Invariably, he lifted our spirits, made us feel good about being in politics, and we followed him because we respected his knowledge and vision.

Quite simply, HUBERT HUMPHREY was a hero to many of us.

Accordingly, I think it is appropriate to set forth below an article by Judd Arnett of the Detroit Free Press, long the most popular columnist in the State of Michigan. Mr. Arnett wrote of F.D.R., Adlai Stevenson, and HUBERT HUMPHREY, and I share the sentiments he expresses, for these three men are my personal leaders:

[From the Detroit Free Press, Jan. 19, 1978]

FDR, ADLAI AND HHH; HOW LUCKY WE WERE

(By Judd Arnett)

During this lifetime there have been three national political figures for whom there was more than passing affection. Franklin D. Roosevelt, Adlai Stevenson, Hubert Humphrey. The last of them passed to his reward the other day, and now a restless little breeze rustles stray thoughts in Memory Lane.

FDR was the champion of our beginning majority, the peerless leader who rescued the Republic from the vicissitudes of the Great Depression. This opinion was not unanimous. At the mere mention of his name there were those who turned purple around the gills and called him "a traitor to his class," meaning that he encouraged the poor to want to be more like the rich. Any reasonable accumulation of the insults and epithets coined for his special benefit would fill the pages of "War and Peace" and spill over into "Gone with the Wind."

It is impossible to recall anyone who was neutral where Franklin D. Roosevelt was concerned. Men, women, and children either loved him or hated him, and the delicate subject of his ancestry provoked more fist fights in saloons than religion or baseball. In the majority four times expressed, he was indeed the peoples' choice, and when he died it was for some of us as though the nation had run out of presidents forever, and to tell you the truth, there are still a few of us who feel that way. To have lived under FDR, and then to have marked time under some of his successors—well, it taught you something about the sublime and the ridiculous.

He was the last of our chief executives to be seldom seen and rarely heard, although he was the admitted master of radio. But only a comparative handful of Americans, not including this one, ever saw Franklin D. Roosevelt in person, and the only limited view we had of him was through the newsreels. In those days a "mystique" still surrounded the presidency, and it made no difference that he had great difficulty standing, let alone walking, because of polio. We did not think of him in steel braces, and we would have been outraged had any attempt been made to give visual display to his infirmity.

If this seems curious, then you must remember that we are addressing the final days of the age of innocence where the presidency was concerned. It was in those times a much stronger institution than it is today, and if you think this is progress, then make the most of it.

The historians, who are given all the advantages of hindsight, are still trying to place Adlai Stevenson on the scale of values, and it could very well be that his niche will not be as high as some of us had anticipated. He twice failed at the polls and was not always abject in his service of the Kennedys, and these things mount up as the years pass and the ink pales on the written record.

Yet for many of us the Governor, as we called him, was the last best hope for sanity in the turbulent middle years of this century. We had Adlai Stevenson when we also had Joe McCarthy at home and Nikita Khrushchev at large, and one man has seldom been asked to keep worse company.

Yet there was balance as well as flair to what he had to say in those years, and surely he has found some higher reward for the caliber of the campaign he conducted in 1952, an otherwise disappointing year. If his imprint fails to survive the century, posterity will be the loser, for here in truth was a man for all times.

Hubert Humphrey was the last of the great national heart-on-the sleeve liberals, and the Sunday tribute to him out of Washington was so fine, so delicate, so heartwarming, so sensitive, that it compensated for the Super Bowl orgy which followed. There is probably something to be said for a society that can generate such extremes in taste, but we will leave it to others to find the words.

It was said of Hubert Humphrey in this column in the campaign of 1968 that he should be elected on the basis of "soul" alone, and there has never been the slightest reason to temper that estimate. For here was a true friend of the people, all of the people, worthy of the significance of "America the Beautiful," which became his song of departure.

Hubert Humphrey was the end of the line for the old-time liberal movement. A decade ago he was rejected at the ballot boxes by his friends, who have been in mourning for themselves ever since. And finally, as a protege was to say, he taught us how to die.

Franklin D. Roosevelt, Adlai Stevenson, Hubert Humphrey. One has had the opportunity of marching to some splendid drummers.

Mrs. PETTIS. Mr. Speaker, during this first full week of the 2d session of the 95th Congress and as we begin the important and toilsome work that lies before us, we should take time, within our own minds, to reflect upon the memory of a man who was master of this work of lawmaking and public service.

HUBERT HORATIO HUMPHREY, Vice President, mayor, distinguished Senator and, above all, a friend to the people of this Nation, has departed this world but his indomitable spirit will remain with us

all, especially those of us who labor in this Capitol that was his "home" for so many years.

In whatever he undertook, Senator HUMPHREY was a dedicated, idealistic "workaholic." He was a tireless campaigner and an even more indefatigable public servant. Even in his battle with the most dreaded disease known to modern man, he faced the future with inordinate strength and as cancer slowly ravaged his body, his humor abounded and his compassion, which had always been strong, increased.

In words that should serve as a lesson to all of us, Senator HUMPHREY once said:

Some people look upon any setback as the end. They're always looking for the benediction rather than the invocation. Most of us have enough problems so that almost any day we could fold up and say: "I've had it." But you can't quit. That isn't the way our country was built.

Mr. Speaker, all of us, no matter what our political affiliation, can take heart from Senator HUMPHREY's steadfastness in the face of adversity. He stands for us as a shining example of determination and dedication.

We have truly lost a great American in the passing of HUBERT HORATIO HUMPHREY.

Mr. BLANCHARD. Mr. Speaker, hardly a Congressman, Senator or public official anywhere in the United States has remained untouched by the boundless spirit of HUBERT HUMPHREY. Today's tribute and earlier tributes are a testimony to that fact. The loss of HUBERT HUMPHREY, of course, is also something more than a loss of a great public servant.

With the passing of HUBERT HUMPHREY, humankind has lost one of its best friends, America has lost its number one citizen and the Democratic Party has lost its heart and soul.

HUBERT HUMPHREY cannot be replaced. Our knowledge of that and his spirit will, hopefully, motivate all of us to see our obligations as public servants more clearly in the years ahead.

Mr. AMBRO. Mr. Speaker, I would like to add my personal remembrances of Senator HUMPHREY to these moving tributes by our colleagues. Last week, I wrote the following newspaper column about the first time I met this most inspiring American. It was an occasion of great personal significance for me and one which I cherish now more than ever before. I would like to share it with this Chamber:

WASHINGTON.—My eyes moved to a place on the wall, a photograph among many, a moment frozen in history. There we were. A new Town Supervisor and a Vice-President of the United States. It wasn't a very complimentary shot but, now, standing in the Rotunda at the Capitol staring at the flag draped catafalque I was glad I had it.

I met him face to face for the first time in early 1968 at the Huntington Town House. He was the guest of the Huntington Chamber of Commerce. He came on one of his pilgrimages—to speak for the National Alliance of Businessmen about generating employment for young—especially black—people.

He was the 2nd highest official in the land—which accounts for the large turnout and the agreeable atmosphere. Certainly, the audience was overwhelmingly Republican and private conversations among most of the luncheon guests revealed how little they thought of this man's political philosophy. Nevertheless, they were cordial and settled down after the introduction to listen to him with polite respect. None was prepared to like what he said.

But Hubert Horatio Humphrey had faced this audience a hundred times. He told of the greatness and the promise of America, of its traditions and its values, of its history and of its problems. He regaled us with anecdotes to make a point, and this man of humanity wove a pattern of need with colors of love and compassion.

I remembered that his voice was much clearer than I assumed and he was taller than I had imagined. His timing was impeccable, his confidence borne of a logic that he had depthfully thought out, his commitment unswerving. He finished on a rising rhetorical crescendo—and his audience gave him a standing and lengthy ovation. The man's presence, his conviction, his presentation and delivery demanded no less. While he was among you, he had to be considered a great man, even though his "image" was something quite different. Funny, though, when he left his image—hardly one of greatness—quickly returned.

I met the Senator again soon after I was elected the Chairman of the 92 member Congressional Freshman Caucus. We had dinner together many times. He attended seminars I set up to discuss current and controversial legislation. I got to know him fairly well and on a number of levels—governmental, legislative, social. He was a startling man—humorous, happy, exuberant, experienced and highly intelligent. His "image" faded; his greatness shone. I'll always remember, fondly, Hubert Humphrey—and so should all Americans. He was their friend.

Mr. PANETTA. Mr. Speaker, what can one say about HUBERT HUMPHREY that has not already been said many times over? Very little, it may seem, for this great man inspires others to words and to actions. Yet, I know that for years to come, indeed for the lifetime of our Republic, this man, his works, and his words will inspire others. He will be talked about, written about and studied with an intensity born of the desire to know those essential human qualities of optimism and joy which he possessed in such large measure.

HUBERT HUMPHREY will always be remembered by me as the man who brought this Nation into the bright light of human rights. Optimistic and full of joy, he was never a quitter. His struggle through the fifties and sixties to secure civil rights for all the people was relentless. So masterfully did he guide the passage of the Civil Rights Act that that display of sustained statesmanship has become a standard of legislative excellence to which each of us in public life aspire.

He will be sorely missed by all Americans. But we may take comfort in the knowledge that his works, his spirit and our memory of him will live on.

Mr. WAXMAN. Mr. Speaker, HUBERT H. HUMPHREY was a giant of our times. As much as any other person over the last 35 years, he defined the character of American politics. It was through his career that we as a Nation came to recognize and begin to resolve the compelling issues which have marked our society from the end of the Second World War. Although he never reached the Presidency to which he aspired, who can say that he had a less profound impact on the Nation than any one of them? And although he has passed away, and his voice no longer echoes in these Chambers, who dares to feel that his spirit is no longer present?

HUBERT HUMPHREY loved people, and believed in them. He made us believe in them, too. Three decades before the issue of human rights became the pre-eminent dimension of the conduct of our foreign policy, HUBERT HUMPHREY challenged the conscience of the Nation, asking it to repudiate once and for all the bitter legacy of States rights, and embrace a common vision of decency, humanity, and justice. He strove tirelessly to see that this society was fair and compassionate to all its citizens—that it guaranteed the rights, and provided the opportunities necessary for the fulfillment of the American dream.

HUBERT HUMPHREY was a consummate politician. He wedded the Democratic and Farmer-Labor Parties in Minnesota. He rose through the Senate to become whip after his loss to John Kennedy in the 1960 Presidential campaign. He understood the need for liberals to be neither doctrinaire nor haughty, but to work constructively with all in good faith to forge the social contracts which would meet the needs of our people. He was, at the end of his career, untarnished by the give and take of politics; indeed he gave dignity and honor to that profession.

As much as any of us HUBERT HUMPHREY embodied the promises of the Great Society and the tragedy of Vietnam. He was the partner of Presidents in outlining and obtaining the passage of landmark laws in civil rights, education, health care, the war on poverty, care for the aged. But as Vice President he was also tied to the prosecution of a disastrous and debilitating war which drained our spirit and the resources we needed to redress longstanding inequities at home. His struggle to free himself from Vietnam, and to lead his party and the Nation out of it, was painfully obvious to all of us. This was his agony.

In the last decade, his frustrations in pursuing the Presidency were more than outdistanced by his continuing commitment to our people. His resilience breathed life into the priorities he set out. He never ceased to struggle for a full employment economy—and I trust we will not allow the legislation which bears his name to lapse. He never tired of making Government work. He firmly supported our alliances abroad. He was a champion of the State of Israel. He was a watchdog over the proliferation of nuclear weapons. He sought controls and limitations over the export of armaments. The litany could go on and on.

We have been molded and inspired by the force of his dedication. But perhaps we were touched more by his magnificent struggle against the cancer which killed him. With grace, humility, and simple honesty, HUBERT HUMPHREY—borne by the love of his family, friends, and millions from all walks of life—stayed the course to the end, exploring new medical techniques with his doctors. The treatment ravaged his body, but hardly his

soul, which grew even larger in the final months.

A leader, a statesman, a friend of the common man: HUBERT HUMPHREY was all these, and more.

Mrs. LLOYD of Tennessee. Mr. Speaker, I think that it is most fitting that we take this time today to share our thoughts and remembrances of HUBERT HUMPHREY, whose dedication, ability and intellectual drive will serve as an inspiration to all of us in carrying out our responsibilities as elected officials.

It is remarkable how beloved Senator HUMPHREY was by the American people, until one pauses to reflect on his identification with the working man and the average American. His greatness lay in his persistent fight for social reform and his conception of a Government which would improve the material conditions of all Americans.

HUBERT HUMPHREY personified what a public servant should be—his faith in his country, its government, and its people was unflagging. His commitment to civil rights, his accomplishments in the field of foreign affairs, and his devotion to improving the quality of life in America solidified his position in the Senate as one of our most beloved and respected elder statesman.

HUBERT HUMPHREY—the man and the Senator will not be forgotten—but it is his ideals and now his followers who will move forward to accomplish what he so courageously began.

Mr. HUGHES. Mr. Speaker, more than any person I know, HUBERT HUMPHREY loved life. He possessed a zest for living that was unequaled. That is why it is so difficult to comprehend that this driving life force has been stilled. Somehow I thought that HUBERT would triumph over his final illness—that somehow he would simply will it away. After all, he had always been able to rise victorious from his setbacks. Yet this time it was not to be.

Although his voice has been stilled, his spirt will be with us for a long time to come. His legacy is a stronger and better America—an optimistic and forward thinking America that is willing to learn from the past to make the present and future better. Better for those who have little hope. Better for the poor, the handicapped, the less fortunate. Better for the weak. Better for the young and old. Better for those who are just starting out and better for those who have accomplished much of what they strived for.

His voice was one of his most memorable characteristics. When anyone heard that voice no identification of the speaker was necessary. All the world knew HUBERT HUMPHREY and what he stood for. He possessed a burning sense of social responsibility that made us look at some unpleasant things, and then when he had our attention, he helped us want to change what could be made better.

His voice sounded a clarion call for action in civil rights, health care, aid to the poor and to the elderly. He thundered forth with verbal salvos about the injustices to the working man and woman, the plight of our cities and the ghetto teenager looking for work. He got our attention with that voice and never let go as long as there was work to be done. He could cajole. He could excoriate. He could caress and plead with that voice. He could whisper and he could shout. He could be serious and he could be funny. Yet HUBERT HUMPHREY was never shrill or unkind.

HUBERT HUMPHREY was a good and honest man of the people. He was blessed with exceptional abilities and used them most effectively. His deep and abiding belief in the basic dignity and worth of humankind will not fade or be forgotten. He leaves a vast legacy of strong commitment to the highest ideals of public service, and we are all enriched because he entered our lives. HUBERT HUMPHREY captured the heart and conscience of America and we will be eternally grateful that he passed our way.

Mr. EILBERG. Mr. Speaker, it was with a deep sense of sadness that I heard of the passing of the late Senator HUBERT HUMPHREY. But America's tears will, in time, vanish, and it will be with an enduring sense of joy that I will remember him and his enormous contributions to our people, to our Nation, and to our unique American political experiment.

Senator HUMPHREY was a unique individual, a man of quiet heroics. I know that the temptation is great, at a moment like this, to try to portray him in larger-than-life proportions. But I suspect that HUBERT HUMPHREY would be uncomfortable if we were to do that. He was a man of the people, and he might not like it all that well were we to place him on a pedestal, high above the people he loved—and loved to be with.

I was one of those who loved and admired HUBERT HUMPHREY. I did so because of the depths of his commitment to improving the human condition, the height of his dreams about all human beings, and the breadth of his concerns about people and their needs. His vision was so great that he could perceive both present problems and future challenges, and he dared to address himself to those problems and challenges with all of that marvelous vigor which was one of his most captivating attributes.

HUBERT HUMPHREY brought to public life a zest for combat—not for the sake of combat, itself, but combat on behalf of those for whom he always had such great compassion. When he was victorious, it was the American people who were the ultimate victors; when he lost, it was the American people who were the losers. And HUBERT HUMPHREY accepted his triumphs, which were legion, and his defeats, which were rare, with the same special kind of grace.

Senator HUMPHREY embodied all that was fine and good and noble about America, and we are all immensely richer for the years in which he waged his battles in the political, social, economic, and educational arenas.

Like all Americans, I will sorely miss this good and gentle man. But I shall forever treasure the fact that I was privileged to know him, to work with him, and to call him "friend."

Mr. MURPHY of Illinois. Mr. Speaker, Americans were deeply moved by the death of HUBERT HUMPHREY because they were profoundly touched by his life.

More than any other person in recent times, HUBERT HUMPHREY made his impact felt as an imaginative and forward-looking legislator. He was a major influence behind the civil rights bills of the 1960's, medicare, Federal aid to education, the Peace Corps, and the U.S. Arms Control and Disarmament Agency.

As Vice President and three-time Presidential aspirant, HUBERT HUMPHREY was an influential national figure during most of his political career.

But it was as a man of compassion, forgiveness, joy, energy and courage that HUBERT HUMPHREY won a special place in the hearts of the American people. He shed tears easily for others, but was not one to feel sorry for himself. Three unsuccessful drives for the Presidency did not dampen his spirits as a public servant. Nor did he nurse grudges against those who defeated him in his quests for the Nation's highest office.

A practitioner of the "politics of joy," HUBERT HUMPHREY loved shaking hands, smiling and waving to crowds, and above all, talking politics. With characteristic good humor, he explained his celebrated tendency to talk at great length: "I can't help it. It's glands."

When dying of cancer, Senator HUMPHREY fought gallant, even ebulliently to the end. And he was ever-conscious of the needs of others. As Time magazine reported:

> He submitted to experimental, vastly painful and debilitating drugs in the hope that if they were of no use to him, they might eventually benefit others.

It was these inspiring personal qualities that endeared HUBERT HUMPHREY to the American people. He was a unique public figure, and was uniquely loved. This explains why his death was so much like a death in the family.

Although HUBERT HUMPHREY no longer walks among us, his spirit and example still live on. Vice President MONDALE said it well:

> He taught us all how to hope and how to love, how to win and how to lose. He taught us how to live and, finally, he taught us how to die.

Mr. BOLAND. Mr. Speaker, a public servant has the ability, through the discharge of the duties of his office, to markedly influence the lives of his fellow citizens. This ability is a trust which a public servant must implicitly accept when he begins a career in public life and it is a trust the existence of which he must acknowledge throughout that career. I can think of few Americans in public life that have as resolutely protected that trust as did HUBERT HUMPHREY.

His life is a tribute to the good things that a government can do for its people. His primary concern was the welfare of all the people, especially those who did not have a strong voice to champion their cause. His legislative achievements in their behalf are well documented but perhaps more important were his unceasing efforts to bring their plight to the attention of those who might otherwise have ignored it. His public life be-

came an extension of their lives and for that the United States has become a better Nation.

The career of HUBERT HUMPHREY paralleled some of the most turbulent times this Nation has experienced. For some, this period lead to a profound distrust of the motives and intentions of Government. In these troubled times, HUBERT HUMPHREY gave perhaps his greatest example of what it should mean to be a public servant. You might not have always agreed with a position that he took but you always knew where he stood. If his viewpoint on a particular question changed, you knew it. He had the courage to speak out for what he believed in regardless of the consequences. Duplicity was not in his nature; he was not afraid to display emotion on a subject about which he felt strongly.

He accepted with equanimity the triumphs in his life and with courage the disappointments. His life enriched those who came in contact with him and his legacy will continue to enrich the lives of those who share in it. One of the most appropriate tributes to HUBERT HUMPHREY'S life was the naming of the new Health, Education, and Welfare building after him. I would like to insert at this point in the record. Mr. Speaker, the remarks made by HEW Secretary Califano at the dedication of that building:

REMARKS OF JOSEPH A. CALIFANO, JR.

Now and then in America, someone comes along whose life and career remind us not just how good he is—but how good we can be.

For our generation, Hubert Humphrey is that person. He has earned our respect—and won our love—not simply for what he has done, but for what he has been—and for all that he has summoned us to be.

So today we honor him in an especially fitting way. Today, the department of the people pays tribute to the man of the people. From this day forward, this building, which for millions of Americans is the headquarters of help and hope—will bear the name of the man who symbolizes the government's capacity to offer help and hope.

How fitting it is that we will carry on our efforts under your name.

In this building, we administer programs that touch the lives of the most vulnerable in America: programs to feed the hungry, to help the poor, to care for the sick, to rehabilitate the handicapped, to teach the young, to enrich life for the old, to end discrimination.

How appropriate that our efforts shall be carried on under the name of the very man who fathered so many of these programs.

It is Hubert Humphrey who proposed, in 1949, a national program of medical care for the aged under Social Security—legislation that sixteen years later was passed as Medicare.

It is Hubert Humphrey who, before almost anyone else, fought for legislation forbidding discrimination against the blacks, the ethnics, the aged and the handicapped.

It is Hubert Humphrey who guided to passage dozens of hopeful programs like Head Start.

Dozens of programs, from wider Social Security coverage to Federal scholarships to biomedical research owe their present strength and existence to his leadership as architect, sponsor and advocate.

And dozens more that do not yet exist—like national health insurance—will exist because of the early vision and leadership of Hubert Humphrey.

For Hubert Humphrey is not only a leader in America—he is a prophet: A prophet lifting our eyes continually from what we have achieved to what we must achieve; from the road behind us to the road ahead.

Today, Senator Humphrey, we do not honor you so much as you honor us—by lending your name, your inspiration and your example to the work we do.

There are some words of the Jesuit philosopher, Teilhard de Chardin, that capture well the energy and joy that enrich your life:

"Some day, after mastering the winds, the waves, the tides and gravity, we shall harness for God the energies of love. And then, for the second time in the history of the world—man will have discovered fire."

It is your achievement, Sir, to harness in a remarkable career, those "energies of love"; to generate warmth and light for millions of your country men.

It means a great deal to all of us to share in this moment.

Mr. MILLER of Ohio. Mr. Speaker, adversity measures the real character of a man. Perhaps no modern politician stood the test of adversity any better and with more dignity than HUBERT HUMPHREY. In defeat he was as magnanimous as he was in victory. To Senator HUMPHREY, defeat was a temporary setback while victory was but a plateau to a higher threshold. Nothing could hold him down nor deny him the opportunity to speak up for the beliefs he held so fervently.

The enthusiasm this man had for life and living spilled over into his politics. I had the pleasure of serving with Senator HUMPHREY on the Technology Assessment Board and experiencing his good nature. He enjoyed politics so thoroughly because he liked people so much. He had his share of political adversaries but not one a personal enemy. His warmth and charm enchanted even his arch rivals as he soothed rancorous debate with civility.

HUBERT HUMPHREY was the great liberal of our time. He was not the architect of liberalism as much as he was its bricklayer. His hand was in nearly every significant piece of legislation that has erected and advanced the Federal domain since 1948.

Certainly, this country has known no more loquacious politician than HUBERT HUMPHREY. Unlike some, he spoke not to hear himself but to say what he felt. As it was, he felt strongly about many things and was committed to do much about them. His energy was boundless and his spirit always soaring. He was a champion to some, an inspiration to many and a friend to all. He will be missed. There will never be another quite like HUBERT HUMPHREY.

Mr. STEED. Mr. Speaker, HUBERT H. HUMPHREY came to personify for many what a life in public service in the United States should be. People of all types of political beliefs recognized his sincerity and devotion to the public interest whether they agreed with him or not.

He had a faith and enthusiasm that he communicated to the people around him. And he could bring together those of diverse backgrounds.

The first example of this ability by Senator HUMPHREY that I experienced came many years ago. As chairman of the Oklahoma delegation I escorted him to Oklahoma where he was to speak at a State convention of the League of Young Democrats. This was not long after his famous intervention in behalf of civil rights at the national convention in 1948. He was facing an audience then barely familiar with him, many of whom in those days regarded his views as far out—a potentially unsympathetic group. To begin with, he pointed out the differences in viewpoint in our society and stressed the right to disagree. But then he started enumerating the principles that he and his audience had in common. He did this so effectively and fervently that he completely transformed the attitude of his listeners. By stressing the positive he brought home that most of us share common goals. It was one of the most effective speeches I have ever heard, and it was typical of him.

Above all, HUBERT HUMPHREY was characterized by an absence of malice. He never held grudges. Of more than 2,000 people with whom I have served in Congress he was the greatest practitioner of the rare art of being able to disagree without being disagreeable.

I supported HUBERT HUMPHREY for President and am proud of it. His unique legislative career has touched the lives of many, and he will be remembered beyond some who did serve in the highest office. He sought to help his fellowman.

Mr. Speaker, I enter herewith editorials from three newspapers in the Fourth District of Oklahoma. Jim Monroe, publisher of the Moore Monitor, wrote:

HUMPHREY REMEMBERED

It doesn't seem like there are as many heroes around now as there were a decade or two ago.

This is sort of an anti-hero era.

The principal characters of many movies and television shows really aren't good guys.

Politicians spend much of their time throwing mud at one another.

Sports figures go on strike and seem to be continually scratching for more money. Some of them also are getting much publicity because of their dirty play.

The pillars of our society have been cracked and tarnished by scandals, controversies, confrontations and violence.

One of my heroes, one of the men who helped me hold on to a faith in government and public officials when things were crumbling all around was Hubert Humphrey, who died Friday.

In a way, he was from a different era.

He was a "do-gooder" who really did it.

He may have advanced the causes of human rights and human dignity as much as any man in the history of our nation.

He probably authored more legislation that benefitted more people than any other member of the U.S. Senate.

He was a highly intelligent, hardworking, forward-looking man who always had a smile on his face and a word of encouragement.

He earned the nickname, "the Happy Warrior," and because of that trait and that cheerful nature, his army was merrier than most.

Having once served as a foot soldier in that army, I came to appreciate fully the ability and dedication of Humphrey.

He performed exceptionally well under adverse circumstances during that period of time—the 1968 presidential campaign.

In Boston and other places he stood his ground when misguided hippies screaming "Dump the Hump" came at him in torrents.

Attacks came from both the left and the right, and he was never able to win back

ground lost early to Richard Nixon. But he came close, putting on a strong finishing kick.

This campaign came at a time when the country was deeply divided over the Viet Nam War, and Humphrey was the No. 2 man on the Lyndon Johnson team which many held responsible for the heavy American involvement.

Some politicians and public officials seem from afar to be heroes, but cannot stand a close-up inspection.

Not Hubert Humphrey. He was liked and respected by those who were closest to him.

When he lost in 1968, the country also lost.

And when he died last week, the thin ranks of American heroes became even thinner.

The following editorial is by Jack Reese, executive editor of the Norman Transcript:

POLITICS OF JOY

Few men have lived their lives on the public stage with such tremendous national and international impact as Hubert Horatio Humphrey Jr.

But among his most remarkable achievements surely must be the special affection which the American people had for him. And, probably, best of all: they had a chance to say so before it was too late.

That was behind his final wish that no eulogies be forthcoming at the event of his death but, of course, there is much to be said and his friends must say it.

We all know, as the New York Times reminded us at the death of Adlai Stevenson, that power is ephemeral; and once-vivid memories of great deeds and stirring events eventually fade.

But what remains is the moral force of personal example—for good or bad—inevitably endures, for it enters the minds of contemporaries, shapes the way in which they see and judge reality, is passed on to posterity and becomes a part of history and of the historian's measure.

No one can doubt that Mr. Humphrey's moral force touched almost every life in this country and, indeed, the world. And we are all the better for it.

Three decades after he led the 1948 Democratic Convention "into the bright sunshine of human rights," Mr. Humphrey held an extraordinary place in American politics. And, it is no wonder that at the close of that career he called for a celebration, rather than mourning. For while he is dead, his ideas live on.

To minorities everywhere he symbolized the nation's commitment to equal rights for all. His enduring optimism and faith in America touched even those who opposed his liberal philosophy.

But the people were never to award Mr. Humphrey his greatest goal. Three serious campaigns for the presidency brought the Minnesota Democrat only to the threshold of power.

Mr. Humphrey's four years as Lyndon Johnson's vice president were unhappy and frustrating. Loyally supporting his President's policies, he became tied to an unpopular war, and many of his former followers felt his ambition had supplanted his ideals.

As the nation edged to the right in the 1970s, however, Mr. Humphrey's unflagging support for government intervention in the economy and his obvious importance in the Senate entrenched his position as the nation's liberal elder-statesman.

Mr. Humphrey symbolized an optimistic, almost old-fashioned faith in the country and its people. His enthusiasm was infectious, and legendary. His ideology was the "politics of joy," his nickname, "the happy warrior."

He was rarely down, but when he did feel sad, moved by the sufferings of others, he was not ashamed to show his emotions. President Johnson once said of them: "When I picture Hubert in my mind, I picture him with tears in his eyes; he was always able to cry at the sight of something sad . . ."

His final fight with cancer touched the heartstrings of the world in which he moved. His courage lifted the spirits of millions everywhere. He had known both defeat and disappointment, but he never knew bitterness or despair. He saw life as a great adventure and to it, through all its trials and joys, he brought a certain civility and a certain grace.

John Wampler, publisher of the Duke Times, gave his tribute:

FOR WHAT IT'S WORTH

It is always a sad occasion when a national leader dies and we witness a state funeral on television but the passing of Hubert Humphrey is especially sad for me.

I have long admired Hubert Humphrey for his struggle for civil rights at a time when it was not popular and his seemingly endless ability to talk. You always knew where he stood on an issue and you could easily decide whether to vote for him or not. In fact, that tendency to speak-out probably kept him from reaching our nation's highest office which he came so close to in 1968.

I believe most people had a great deal of respect for him whether they agreed on the issues or not. He was especially admired within the Democratic Party and for many years has been considered the unofficial spokesman. I had the pleasure to hear Senator Humphrey deliver a speech in 1973 which was the greatest political speech I have ever heard by anyone. He had that unusual ability to motivate campaign workers to work just a little bit harder.

Hubert Humphrey will be greatly missed by the Democratic party, the nation and the world. Leaders like him are too few and too far between. Vice-President Mondale said it best: "He taught us how to live, and finally, he taught us how to die."

Mr. GIAIMO. Mr. Speaker, not quite 3 months ago, we paid an unprecedented tribute in this House to a Member of the other body, Senator HUBERT HUMPHREY, of Minnesota, who was waging a valiant battle against the disease that would take his life.

There were tears in this Chamber that day, and applause, and laughter, too, for HUBERT HUMPHREY, wasted by disease though he was, never saw life as grim. For him, life was an opportunity for public service, for improving the lives of his fellow man.

Much has been said and written in recent days about HUBERT HUMPHREY'S capacity for love, and joy, and optimism. He had that capacity. But he also had a great capacity for action.

All of his life, he fought the people's fight. His family and his South Dakota and Minnesota roots gave him an enduring passion for the rights of the common man, the underprivileged, the disenfranchised, the American with no real constituency and no organized voice.

And he fought their battle—for civil rights, long before the majority of Americans took up that cause; for health care for the elderly; for jobs for all Americans; for decent housing and decent neighborhoods; for mutual disarmament and a world at peace.

He was often ahead of his time, and he was often defeated. But in the end, he usually triumphed. His struggle for civil rights legislation, for medicare, for the nuclear test ban treaty, for the Peace Corps, all eventually came to fruition because he refused to quit in the face of setbacks, because he persevered, because he continued to care. All of these and many more accomplishments in a long public career are now HUBERT HUMPHREY'S legacies to millions of Americans.

HUBERT HUMPHREY was a man of courage and compassion and deep conviction. Like many of my colleagues, I had the good fortune to be associated with him on important legislation. I shall always be proud of that.

His record, his imprint on our society will endure, but we will miss him profoundly.

Mr. VENTO. Mr. Speaker, Woodrow Wilson once said that a man is as great as the number of people who believe in him. If Wilson could have looked into a crystal ball, he surely would have had HUBERT HUMPHREY in mind.

HUBERT HUMPHREY was as great as they come. From the time he was mayor of Minneapolis, he was in the forefront of the struggle for social and economic justice. During the 1948 Democratic Convention, he was not afraid to lose votes by speaking out strongly for a civil rights plank in the party platform. When the Civil Rights Act became an issue in Congress and throughout the country, he never hesitated to stand up and provide the solid leadership we needed.

The senior Senator from Minnesota was always a stickler for the old-fashioned virtues. Maybe that is why believing in him is so easy. So many national programs to help people exist today, because he fought for them. Long before others in the field even thought about the problem, he recognized the intrinsic value of education and the fact that State and local governments could not bear the full costs alone. Because of him, the Federal Government agreed to accept its responsibility to education, and the general public understood more clearly the necessity of quality education programs for everyone.

He demonstrated the same tenacity in other major legislative actions including youth employment, labor, and consumer and international relations.

In a very real sense, the America we know and have today is due to his guidance and influential leadership. HUBERT H. HUMPHREY has left his mark in a very significant way.

Look at the world's reaction to his death. Thousands of people came from all parts of the country to pay their last respects. Thousands more stood in the cold, in Washington, D.C., and St. Paul, Minn., in silent tribute. It was beautiful and moving testimony to their belief in the person they knew as HUBERT HUMPHREY.

I am proud to have known and worked with Senator HUMPHREY. His death touches all of us because he was so special. His courageous fight with cancer until the time of his death reminds us, once again, that he was a man we can believe in. I am only glad that my children and your children and children throughout the world had the opportunity to do so.

Mr. OBEY. Mr. Speaker, next to Franklin Roosevelt, no public man has been a greater force for goodness, decency and progress in America over the last half century than HUBERT HUMPHREY. Over a 30-year period he came to not only dominate American political thought but to capture the hearts of the Democratic Party and the American people.

I first met HUBERT HUMPHREY 18 years ago when I was a 21-year-old student at the University of Wisconsin. That meeting, more than any experience I had as a youth, convinced me that politics could be an honorable and exciting profession.

WHAT SHALL WE TALK ABOUT

In 1960, I was heading up the UW HUMPHREY for President Club when he came to Madison for his first campaign appearance there—a handshaking event with workers coming in for the day shift at the Oscar Mayer plant.

It was zero or below that February morning and while HUMPHREY shook hands, 8 or 10 other students and I handed out campaign literature. The literature had been left in the bus all night and the combination of cold paper on bare hands made our fingers so numb that we had to go onto the bus every 15 minutes or so to warm up.

After standing in the cold shaking hands for an hour straight, HUMPHREY joined us on the bus. He looked at me, said, "Dave, you're a softy," laughed, put his feet up across the aisle and said, "OK, people, what shall we talk about?"

With that, we plunged into almost an hour of questions and answers about every subject imaginable, and the sheer exuberance of his personality spilled over into us all. Since that day, I have regarded him as the nicest public figure I have ever known.

The most important role of any public official is to teach people about the complexities and moral imperatives of the great issues of their time, and HUBERT HUMPHREY obviously took great joy in performing that duty.

HE NEEDS MORE OF THESE

I saw HUMPHREY on another occasion in Madison just before the 1968 Presidential primary. As assistant minority leader in the State assembly I had prepared a letter to Lyndon Johnson, signed by me and Minority Leader Bob Huber, telling the President that while we supported him for reelection, we thought he would lose the Wisconsin primary if he did not take dramatic, concrete steps to end the Vietnam war.

I gave the letter to HUMPHREY in a sealed envelope, along with a copy for himself, and asked him to promise that he would deliver it to the President.

He read his copy and said:

Dave, you can be sure I'll give this to him; he needs more of these. I know what it says is right.

There was no doubt in my mind when he spoke that he had suffered great anguish over the war and that he was convinced by 1968 that it had to be brought to an end. That is why it pained me so to hear some of the things said about HUMPHREY the Presidential candidate during the height of the passionate anti-war activities later that year. After our conversation in Madison, I had no doubt where he would have taken us on the war if he had had the chance.

WE WILL HAVE A BETTER TIME DOWN HERE

In March of 1969, just 4 months after he had lost the Presidential election, HUMPHREY came to Wausau to speak at a dinner for me during my first campaign for Congress. The crowd overflowed the Newman High School cafeteria and we had to seat several hundred people in a basement room.

When HUMPHREY found out about that, he left the head table, went downstairs, and began shaking hands with every person in the room.

Don't worry, he told them: We'll have a better time down here!

Later, back upstairs, he gave an eloquent speech describing the folly of the AMB missile system, finishing with a call for nuclear disarmament.

After that speech two Democrats who had gone to the 1968 national convention as delegates and bitter opponents of the war came up to me with tears in their eyes and said:

If we'd only known him better before the election.

THE GREATEST THING SINCE SLICED BREAD

Ten days later I was elected to Congress. Congressman HENRY REUSS called me on April 2, the day after the election, to tell me I had to be in Washington on April 3 at noon to be sworn in. REUSS said the Wisconsin congressional delegation would be at the airport to meet me.

My wife, Joan, and I arrived in Washington at about 11 a.m. on the third. As soon as we had landed a voice came over the plane's public address system asking "Congressman OBEY" to identify himself.

When I did so a stewardess came to my seat to tell me that a Secret Service agent was at the door and that Joan and I were to leave the plane first, because the Vice President was waiting to pick us up.

I could not imagine why Vice President Agnew would want to meet us at the airport, but when I descended the ramp I found HUBERT waiting in the Vice Presidential limousine which he had at his disposal for security reasons for several months after leaving office. He swooped Joan and me into the car and we sped away. I assumed that the meeting arrangements had been worked out with the Wisconsin delegation. We had a marvelously happy trip to the Capitol, however, I discovered, to my dismay, that the Wisconsin delegation was still waiting for us at the airport. HUBERT had met us on his own. A few frantic phone calls managed to get them back to the House Chamber in time for my swearing in.

After the ceremony HUBERT escorted me to a press conference. I had been the third Democrat in a row to win a special election since Nixon had been elected and the national Democratic Party was trying to make quite a thing out of it. HUBERT introduced me to the huge crowd of reporters and said gleefully:

Boy, this is the greatest thing since sliced bread.

I JUST LOVE IT

Two years later Minnesota sent her favorite son back to the Senate, and soon after his election I was delighted to find HUBERT HUMPHREY on a flight I was taking from Minneapolis to Washington.

Shortly after takeoff a stewardess came up to HUMPHREY and told him that a large—and noisy—group of school kids from Minneapolis was on the plane. She told him they knew he was on board and said she thought they would settle down if he went back and said hello to them.

HUBERT went back, introduced himself to the kids and then said:

Now I want to tell you what you're going to see.

He proceeded to give them a superb 20-minute summary of the principles and structure of our Government, answered their questions and signed autographs.

Afterward, as he sat down again in his own seat, he rubbed his hands together and said:

I just love it! I just love it!

SOMEBODY ELSE WOULD START TO GIGGLE

My favorite HUMPHREY story captures his almost compulsive love for meeting people and pressing the flesh.

HUMPHREY was on a fishing trip in northern Minnesota with Federal District Judge Miles Lord, who is known among his friends as a great practical joker. The two of them were in a sporting goods store, I think, looking at fishing tackle when Lord noticed that a touring bus had broken down outside. The judge sneaked out, climbed aboard the bus and introduced himself to the tourists as the mayor of the town.

He said:

Folks, I'm sorry to see that you're having trouble with your bus. If there is anything we can do for you, just stop by my office down there in the yellow brick building at the end of the street.

Then, with a twinkle in his eye, Lord added:

By the way, there is something you can do for us. We have a fellow here in town who has a little problem. He looks like Hubert Humphrey. He sounds like Hubert Humphrey and he thinks he's Hubert Humphrey. When he sees tourists he will introduce himself as the Senator. Now, if you should run into him, don't give him any money, but please be nice to him because we kind of like him and he doesn't do anybody any harm.

Lord then went back into the store and said:

Hubert, there's a busload of California tourists out there. They know you're in here and are just dying to meet you.

HUBERT roared out to the bus, climbed aboard, and proceeded to shake hands with every person on board.

Afterwards he came back into the sporting goods store with a puzzled look on his face and said to practical joker Lord:

I just don't understand those California people. Everytime I shook hands with one of them, somebody else started to giggle.

THE HUMPHREY STORIES

One of the reasons that HUMPHREY is so widely loved is that virtually everyone who knew him has a wealth of stories

like these to tell. These stories convey his humanity, his lack of pompousness, and his zest for life.

Everyone knows how he fought with conviction, enthusiasm, and passion to make life a little more enjoyable for the great masses of people in this country. These stories help explain why: He thought of people not as masses but as individuals. He understood them, cared about them, and thought it his mission in life to improve their chances to enjoy living.

We in Wisconsin had a special affinity for HUBERT as he did for us. He was a friend to Wisconsin for the simple reason that we were neighbors. As Senator NELSON observed, there has probably never been a Member of Congress who was as widely loved by the American people as was HUBERT HUMPHREY. He was uncomplicated and open. He was the last of my heroes and I loved him.

Mr. ICHORD. Mr. Speaker, as were all my colleagues in the House and Senate, I was deeply saddened by the demise of Senator HUBERT HORATIO HUMPHREY on Friday, January 13, 1978. The son of a smalltown druggist, HUBERT was born May 27, 1911, in Wallace, S. Dak. His father, a State legislator, was a major influence on HUBERT's desire to serve the public and become an active participant in the political process.

As we all know, he had long been fighting an impossible battle against terminal cancer, one of the few battles he ever lost. HUBERT wanted his death to be a celebration rather than a somber occasion, and I certainly believe his dream came true. HUBERT would have loved the gathering of his many, many friends and admirers as well as his old political adversaries at the U.S. Capitol and in his home State of Minnesota. HUBERT would have been extremely proud of his lovely wife, MURIEL.

HUBERT HORATIO HUMPHREY was one of the most dominant figures in Democratic Party politics for the past 30 years. In 1945, he became the mayor of Minneapolis, and in 1948 he delivered a dynamic speech on the floor of the Democratic National Convention. This was just the beginning of his outstanding service to the American public, and he continued to be a stalwart legislator to the day he died.

HUBERT was interested in so many legislative issues as a Senator and former Vice President of the United States. He was the kind of man that even though you might disagree with him you had to respect his sincere beliefs and the way he went about accomplishing his goals. HUBERT's contribution to progressive legislation were many, and he never lost contact with his constituents in Minnesota, while rising to the heights of political power and influence.

In the years he spent serving his country in the Senate and as Vice President, HUBERT never lost his enthusiasm and optimism concerning the problems that faced our country. He had a genuine concern for those less fortunate and always worked extremely hard to provide meaningful solutions to the problems of the needy.

HUBERT HORATIO HUMPHREY was an extremely warm, compassionate, and decent man. Never to be forgotten, always to be loved, HUBERT's passing is a loss that can never be filled. One of his greatest qualites was his love and zest for life. He lived life to the hilt until the very end.

We shall miss him and as a final requiem to the memory of Senator HUMPHREY I would like to quote Marcellus Bosworth, the Poet Laureate of Osage Beach, Mo., who lives on the shores of the beautiful Lake of the Ozarks and who recently wrote these words about him:

He is not dead . . .
He only thought it time to shed
The terrestial toga of mortality
He wore with such great grace and dignity.
Stalwart champion of the poor, his sword
Was powerful as crusader's sword.
While rubbing elbows with his fellow man,
He proved we need not sacrifice or ban
Those principles for which past patriots died
And which, today, are tribute to his manly pride.
See how God so gently lays him down
To measure him for a celestial gown!

Mourn not for this brave son of ours!
By far, his last were his most noble hours;
Nor cowardice nor fear e'er quenched the flame
That early sparked his soul and blazed to flame.
Triumphant, knowing he had done his best,
He gladly wrapped around robes of eternal rest—
And shall forever live by word and deed
Wherever Mankind hurts or has a need.

Mr. ROYBAL. Mr. Speaker, as we pause today to pay tribute to the memory of HUBERT H. HUMPHREY, I cannot help but recall my own personal encounters with this great man who succeeded in becoming a legend in his own time. These memories will serve to remind me of the importance of a happy, enthusiastic spirit.

While his life was marked with considerable achievement and success, he experienced equally as many setbacks and defeats. It was his uncommon ability to persevere in the face of adversity which earned him the well-deserved love and admiration of the American people.

He was not a man to pick an easy goal, nor was he the kind of person who gives up at the first sign of defeat. Clearly, when one sets his goals as high as HUBERT HUMPHREY did, one cannot be assured of continuous success. And it is possible that in his failure to win his ultimate battle, a victory over cancer, HUBERT achieved even greater stature among the American people.

He was up-front and honest, characteristics which may well have contributed to his political disappointments, but which undoubtedly contributed to his undeniable success as a warm and feeling human being. There was never any secret about his position. Even as he spoke in support of the war in Vietnam, it was clear he was not taking the politically expedient position, but rather espousing his honest beliefs. And, as is so often the case, he lived to experience a turnabout in his position, vowing to end the bombing of North Vietnam.

His political life reminds me of a marathon runner—getting in condition, running a good race, and finishing with the best. Many people would have given up where HUBERT doggedly kept going, and certainly many others would never have bothered to start. Even though he never fulfilled his wish to become President, he evidenced himself as a worthy competitor who must be taken seriously.

HUBERT HUMPHREY will be remembered as a champion of the less fortunate. He continually sought to make America a better place, striving to resolve economic and political deprivations. He believed life should be enjoyed, not endured, and loved to point out that ours is the only Nation in the world to officially declare the pursuit of happiness as a national goal.

In death, as in life, HUBERT HUMPHREY symbolizes the celebration of life and the joy associated with human existence. We would all do well to "walk forthrightly into the bright sunshine of human rights," as a living tribute to this great man and his ideals.

Mr. DRINAN. Mr. Speaker, a few weeks ago, the voice of a great and gentle man was stilled forever. HUBERT HORATIO HUMPHREY, whose contributions to the American public are perhaps unmatched by any man or woman of his generation, had finally succumbed to the cancer which deadened his body, but which could never conquer his spirit.

For days after Senator HUMPHREY's death, the Nation paused; we were collectively awed by the legacy of a public man who had so enriched and ennobled the public he loved and served.

Today we find that in contrast to the social upheavals and demands for rapid and profound change which characterized the 1960's, a vast cynicism is pervasive in our land, a cynicism which holds that there are no "causes" left worthy of passionate struggle. Mr. Speaker, HUBERT HUMPHREY would never understand such an attitude of hopelessness and utter pessimism. For HUBERT HUMPHREY was a man who would never give up in his efforts to realize the grand vision he had for his Nation.

Many young people today may recall Senator HUMPHREY's glorious and successful involvement in passing the landmark Civil Rights Act of 1964. But we must also remember how long the good Senator had labored in the vineyard of equal justice for black Americans. In 1948, as a 37-year-old mayor of Minneapolis, HUBERT HUMPHREY told the Democratic Convention:

The time has come for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights.

Though we mourn HUBERT's passing today, we can take pride in the fact that a civil rights revolution has swept over our land, a revolution sparked in no small part by a courageous man from Minnesota, HUBERT HUMPHREY. And when HUBERT told us 30 years ago to venture forth into "the bright sunshine of human rights," he may not have foreseen President Carter's commitment to making human rights a touchstone of our foreign policy. Yet we can be thankful that HUBERT HUMPHREY lived long enough to witness the election of a President from

the heart of the Old Confederacy who was pledged to fight for racial justice and human rights throughout the world.

In civil rights, probably the most important domestic issue of the postwar period, an issue which tested the moral fiber of our democracy, HUBERT HUMPHREY's eloquence and intelligence and goodness proved triumphant. And there were many other significant issues as well where the perspicacity and the persistence of HUBERT HORATIO HUMPHREY pushed the Congress and the administration toward the adoption of more enlightened policies.

Mr. Speaker, you captured the greatness of this man a few months ago when you stood on the floor of the House and told a dying HUBERT HUMPHREY:

You are the most genuine liberal this country has ever produced.

Genuine, Mr. Speaker, because HUBERT had a sincere and abiding and unequalled love for the American people. Today, it is fashionable to decry Government social programs intended to help those men and women and children who desperately need assistance. But HUBERT HUMPHREY understood well that programs such as medicare, social security, aid to education, urban development, and the Peace Corps could make a vast difference in the lives of many people who needed help.

Mr. Speaker, as the Congress turns its attention to the Humphrey-Hawkins full employment bill, to national health insurance, to other causes near and dear to HUBERT's heart, it is clear that we would honor the memory of this extraordinary man by passing such vital legislation. But even as we strive to complete the magnificent and challenging agenda HUBERT has laid before us, we must never overlook the fact that Senator HUMPHREY's gifts involved the process as well as the substance of democracy.

Men and women of good will, within and without the U.S. Congress, may well differ on the appropriateness of various pieces of social legislation, or differ on what is the best way to achieve the elimination of nuclear weapons or other critical foreign policy goals. But if we can only agree to disagree in a civilized and humane way; if we can avoid the thickets of personal recrimination and arrogant posturing, in short if we can learn to carry on a national debate with the good spirit, and good humor, and high-mindedness which always characterized the Senator from Minnesota, we shall be honoring the memory of HUBERT HUMPHREY.

When George Washington, Thomas Jefferson, James Madison, and their colleagues founded this Republic 200 years ago, they felt confident that a democratic form of government could entice into public service and public life individuals with the moral strength and luminous mind of HUBERT HUMPHREY. In the decades and generations and centuries ahead, the "Happy Warrior" will "stand tall" even though he has fallen. He will stand as a model of virtue and hope and selflessness; as a statesman whose vision and vigor and patriotism paralleled that of our Founding Fathers.

HUBERT's beautiful spirit remains with us today. He has left us a treasure of priceless memories, not least of which is his buoyancy and optimism and zest for life, qualities which even now can be spread by the invocation of his name. He has left us his wonderful wife, MURIEL, who has always so impressed the American people with her dignity, her quiet strength, her compassion for the less fortunate among us. For the better part of half a century, MURIEL HUMPHREY shared her husband with the American people, and for that we are forever grateful.

Mr. DICKS. Mr. Speaker, I am proud to join in honoring one of the outstanding legislative leaders of this century in the late Senator HUBERT H. HUMPHREY. His absence will be a severe blow to his colleagues here in the Congress, but I believe this sense of loss is just as deeply felt among all the American people.

His legacy will be the inspiration he has left to those of us who must continue the work he has so ably begun. Norman Sherman, who was the editor of the Senator's autobiography, has written an article which originally appeared in Northwest Orient Airlines Passages magazine entitled "Hubert Humphrey: Elder Statesman."

I feel Mr. Sherman's article is an articulate summation of the many accomplishments of Senator HUMPHREY, and I would like to commend it to my colleagues:

HUBERT HUMPHREY: ELDER STATESMAN

(By Norman Sherman)

(He's lost a few political battles, but few can argue with his record, or his unique style, or that he's a public man who cares about the public.)

In August, less than a week after his second major operation for cancer, Hubert Humphrey, senior Senator from Minnesota, took three phone calls at his hospital bed. Two were from his friend and protege, Vice President Walter Mondale; one lasting 25 minutes, was from President Jimmy Carter. They called to seek his advice and help in getting the Panama Canal Treaty ratified.

Humphrey was permitted a single, non-family visitor that day. Senator Strom Thurmond, one of the leading opponents of the Canal Treaty, stopped in to see him briefly.

In 1948, Thurmond, then Governor of South Carolina, had led a walk-out from the Democratic National Convention as Humphrey burst controversially onto the national scene with an impassioned plea for the Democratic party to "get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights." In the intervening years, Thurmond and Humphrey have disagreed on virtually every major issue to come before the Senate.

That day, in a sense, told a great deal about the Hubert Humphrey of 1977—he has the respect of those who have often opposed him, the increased affection of those who have known him longest (something rare in political life where friendships sometimes have the life expectancy of the housefly), and the power of an elder statesman to whom Presidents in recent years have turned when the going got rough for their proposals in the Senate and around the nation.

As early as 1961, John Kennedy leaned heavily on Humphrey, then majority whip of the Senate, for legislative help on everything from agricultural policy to arms control. After Kennedy's death, Humphrey, at Lyndon Johnson's insistence, became floor manager of the historic 1964 civil rights legislation, and as Johnson's Vice President from 1965 to 1969, Humphrey was the Administration's chief spokesman for many popular and unpopular issues, guiding much of the Great Society proposals through Congress.

Later, Republican presidents Nixon and Ford (the latter a man whom Humphrey especially liked personally) turned to him for help he willingly gave, particularly after his return to the Senate in 1971. To this most partisan man, party was of no consequence when the issue was right.

"Do you like being called and elder statesman?" the 66-year-old Humphrey was asked just before his August hospitalization. "Of all the things I've been called through the years," he smiled, "that's about the best."

Then he continued: "I don't like the idea that an elder statesman is someone at the end of a career. I don't feel old. But I've been around a long time, and if the term means I'm fair-minded and have some clout with my colleagues and in this country, sure, I'm pleased.

"Until my body tells me I can't, I expect to be an 'elder statesman' for the rest of my term and, in some role, maybe longer. There is a lot to be done in this country, and I'm going to be involved."

Despite the medical reports since then of inoperable cancer—of pelvic malignancy that can now be fought only with chemotherapy and radiation—it's hard not to believe Hubert Humphrey will do exactly what he says.

Today, as he has for over 30 years in public life—as Mayor of Minneapolis, United States Senator and Vice President, through controversy and defeat in seeking the Presidency, he remains an ebullient, tireless advocate, battling for those who have little—white, black, young and old. People who once opposed him—bankers and businessmen—now seek his counsel.

A high-ranking White House official and political science scholar says of Humphrey, "People are forever coming up with grand new ideas. Many are grand, all right, but none is new. Whatever the subject, Hubert thought of it first. He was decades before anyone else."

It's interesting that such a statement would come from the White House, because Humphrey's role as elder statesman—which had begun to blossom under Nixon and Ford—seemed to have suffered a setback with the election of Jimmy Carter.

Considering the harsh things candidate Carter said of him during the presidential primaries of 1976, few would have expected that Humphrey could become as important an adviser as he has. But Humphrey shrugs off the epithets of that campaign with the understanding of a man who has himself been guilty of some excesses. (He likes to tell the story of his mother, a Republican, who chastised him in 1956 for the harsh things he had said about President Eisenhower's economic policies, which had led to two recessions. "Hubert," she said, "you know that Mr. Eisenhower wouldn't do those things.")

Humphrey's friendship with President Carter grew slowly, and, for a while, seemed one-way. At a time when Humphrey was receiving none of the normal political reciprocity of appointments from a new administration, none of the attention a powerful Senator might expect, he nevertheless went to work to help resurrect Carter's faltering nomination of Griffin Bell for Attorney General. Blacks and liberals, Humphrey's traditional allies, largely opposed the nomination, and he put his credit on the line with them. Bell was confirmed.

When Carter nominated Paul Warnke to be the U.S. negotiator at the SALT talks and head of the Arms Control and Disarmament Agency, the opposition was intense and unexpectedly widespread, reaching over to

Democrats who might have been expected to support their new President. The opposition this time came from the right and center, but Humphrey was able there, too, to influence the atmosphere and the votes. Warnke was confirmed.

Before those efforts, Humphrey had lost his bid to be Majority Leader of the Senate and was given the sop of being named Deputy President Pro-Tem of the Senate. It was an honor empty except for one thing: he was now a part of the Congressional leadership that met weekly with the President. It was in those sessions that his irrepressible nature, his wisdom in the ways of the Senate and Washington, and his immense loyalty, became clear to a President and White House virtually without knowledge of "how to get things done."

By spring, the White House accepted what other people long knew—that Hubert Humphrey was an indispensable ingredient in any tough legislative fight. Since then, virtually no day has gone by without calls and visits by Cabinet members, sub-cabinet officials and White House advisers, reviewing testimony, policy and tactics with Humphrey. Few legislative days have passed without contact with the Vice President and the President himself.

Again and again, the White House has turned to him to solve problems. He managed into law three major foreign assistance acts that had been threatened by a growing spirit of isolationism. In the proposed sale of specialized aircraft to Iran, he saved the Carter administration from a sticky and inevitable confrontation with Congress by getting the White House to withdraw the request, amend it, and delay it till a more propitious time.

He guided domestic legislation—particularly farm legislation, where he is a specialist because of his Midwestern roots—through a morass of opposition into law. And as a member of the Joint Economic Committee, he wrestled with Carter's earlier allies in the labor movement who raised opposition to many of the new Administration's proposals, eking out some victories, some compromises.

Humphrey's role as elder statesman is not entirely found in his relationship with the executive branch, however. Since his return to the Senate in 1971, he has been a source of quiet counsel to a number of freshman Senators. It's hard to find any recently-elected or appointed Senator of either party who does not admit to help from Humphrey whenever it was requested. Democrats as disparate as Dick Clark and John Culver of Iowa, Wendell Anderson from Minnesota, Paul Sarbanes of Maryland and James Sasser of Tennessee all testify to his assistance.

Ultimately, however, the measure of Hubert Humphrey may not be in his own legislative accomplishments, his counsel to fellow Senators, or his counsel to Presidents of both parties.

It may be in terms of the young men and women who have followed him into government and public service from the day he first announced for Mayor of Minneapolis in 1943.

Humphrey protégés are as prominent as Walter Mondale, who as a 20-year-old ran a district campaign during Humphrey's 1948 Senatorial race in Minnesota. They are as anonymous as the thousands of precinct workers who were "turned on" to politics by his speeches, his spirit, his enthusiasms. They are scattered across the U.S. in offices of county commissioners to the House of Representatives, some already retired, some still too young to vote.

"All the American zest and optimism that have given our approach to governance its creativity were in the talk about political work done and political work still to be done," said the Washington Star in a recent report on a Humphrey speech.

It is the quality that President Carter somewhat belatedly recognized when he sent Humphrey a picture of the two of them standing behind the President's desk in the Oval Office.

"To Hubert," reads the inscription. "This desk should have been yours."

Mr. MATTOX. Mr. Speaker, I knew the time would come when I would have to write these words, but foreknowledge does not make the task any easier. To speak of HUBERT HUMPHREY in the past tense is something we will not be used to for quite some time.

Now that we are momentarily halted by the sad news, we find ourselves united in a way this country has not seen for quite some time. United not just in our common appreciation for what this man has done, but united in our great sense of personal loss—as if each of us has just lost a best friend.

To what can we attribute this poignant feeling inside us? How is it that one man's death—a death we were prepared for—can evoke such emptiness in our souls? I believe that it is, because HUBERT HUMPHREY was a hero in the truest sense of the word, and as such was the last of a dying breed.

The fatal sting of cynicism has killed off most of our old heroes—men and women whom our children could look up to as examples, and from whom we could all receive inspiration. But HUBERT HUMPHREY escaped the disillusionment of this age to continue exhorting us to greatness, to remain a symbol of what we might become.

And when disease began to weaken his body, he avoided despair and demonstrated to us how truly powerful the spirit of man can be. In the end, the cancer won, as we knew it would. But his spirit survives still, and that is what is filling us today with the commonality of emotion, that sense of unity.

I thank God we did not let HUBERT HUMPHREY pass from our midst without demonstrating to him our gratitude and our love for him. It was not so many days ago that we invited him to appear before us here in the House of Representatives—an honor accorded no other Senator in history. No one present that day will forget his charm, his wisdom, and his humor. Some of us felt that it would probably be the last time we saw him, but that did not keep us from laughing and smiling with him. He made us feel good.

There remain many men and women who could, like HUBERT did, stir great emotion in their audiences. But the difference between HUBERT HUMPHREY and so many others is that he appealed only to the highest of ideals, and did not seek to gain from the divisions and frustrations of our age.

HUBERT HUMPHREY recognized among us a common ability to be loving and compassionate. It is often hard to see that element within ourselves, but HUBERT was never blind to what we were, and, indeed, he saw more in us than we saw in ourselves.

Many times after thinking HUBERT's ideas and visions were too grandiose, too ambitious, we came to realize that we were only underestimating ourselves, and that we could rise to the levels he set for us. In time, we found him to be prophetic in his enunciation of our national goals and desires. HUBERT HUMPHREY became the archetype of a new order in American life—one that places faith in the strength of the human spirit and in its ability to conquer with love, not war.

I am reminded of HUBERT HUMPHREY the campaigner, who would say to his audiences:

> If you vote for me . . . I'll give my life for you.

And though he was denied the Presidency, he kept his part of the bargain. How can we repay him for this? By getting back to work, getting on with the business of the people. He would not want us to grieve; he would want us to be busy, finishing the tasks he started, and proceeding toward that vision of America he described to us. Our heroes are gone, but there is much to be done.

Vice President WALTER MONDALE said it best in his remarks in the Rotunda of this Capitol:

> He taught us all how to hope and how to love, how to win and how to lose; he taught us how to live, and finally, he taught us how to die.

In conclusion, Mr. Speaker, I wish to offer my condolences to Muriel Humphrey, a strong woman who played an unparalleled role in HUBERT HUMPHREY'S life, and who herself is an example of courage and compassion. I am sure when HUBERT wished for us to "celebrate" his passing, he had it in mind that we would still have Muriel with us. For her presence assures us that the Humphrey spirit is alive and well, and will continue to be with us for years to come.

Mr. SISK. Mr. Speaker, a superb legislator, concerned citizen, and one of the most universally loved public servants in our Nation's history is gone.

As much as any other man in recent history HUBERT HUMPHREY represented what is fine and noble about America. He strove to carry out the prophecies of the founders of our country and tried to materialize the dreams of the ordinary American citizen.

I do not believe my words or those of others, can really describe his spirit, humility, energy, and compassion.

Like many of us found, he was already a famous and compelling figure in the Capitol when I arrived in 1955, but he always was able to spare a moment to guide and personally inspire a neophyte Congressman. His ability to relate well to persons of all classes of life truly marked him as among the greatest of men.

I mourn the passing of this giant of 20th century American political leadership, and can only say that the United States, and the world, are better off for his having been among us.

Mr. FREY. Mr. Speaker, we would like to join with Americans of all backgrounds and from all walks of life in paying tribute to Senator HUBERT H. HUMPHREY, and more importantly, what he stood for. Whether one agreed or disagreed with the particular positions of Senator HUMPHREY, one always knew that he cared. He had a real feeling for this country and wanted to see a better

America. Through all the years he was in politics, he brought honor to the system. I am so glad he had the chance to hear these words over the past year from the country that he loved. We extend our sympathy to his wonderful wife, Muriel and his family.

Mr. FLORIO. Mr. Speaker, Senator HUBERT HUMPHREY represents for us and future generations the indomitable American spirit of optimism. His vision of an active government restored respect to those in need; his graciousness was a model for all in public service. Through the bleak and the bright, Senator HUMPHREY was America's strongest affirmation of itself.

As America progressed and suffered, so did Senator HUMPHREY. Many times he led and welcomed the changes. With her, he followed his heart and pushed for civil rights legislation for the oppressed. With her, he groped through the national nightmares of a distant and unpopular war, and political irresponsibility—but he always maintained a note of hope. Recently, with her, he bubbled as the people seized renewed faith in their Government.

Through his final months, we learned courage from Senator HUMPHREY. Throughout his life, we learned what it is to be human and unashamed of that fact.

Mrs. MEYNER. Mr. Speaker, since John F. Kennedy, no man's death has resulted in as loving a remembrance and reverence by the American public as that of Senator HUBERT H. HUMPHREY.

There is no need for me to recount the triumphs of the Senator. His work has been eloquently recalled and eulogized by countless people. To all that has been said, I can only add my condolences to his family, the Senate, and above all, to the millions of Americans and world citizens who looked to Senator HUMPHREY for inspiration.

Many men are remembered more fondly in death than they were in life. The highest honor we can pay to the Senator is to recall him with the same love and respect now as we did in years past.

Mr. PATTEN. Mr. Speaker, to me, HUBERT HUMPHREY was the most friendly and obliging man—truely top echelon. I remember him best in his cooperation in establishing a Job Corps program in my congressional district at Camp Kilmer. Thousands of people were brought there with the hope that they would be trained and find work. He came to my district again with an ACTION program for New Brunswick. His efforts made possible the $500,000 of Federal funds which were matched by private industry. Without HUBERT HUMPHREY, this, the most meaningful program I have ever observed, would not have been accomplished.

To me, this was the essence of HUBERT HUMPHREY. He had the warmth and the interest to help all people. He did not confine his efforts to his own constituents, for he considered all people his constituents. No better memorial can be made to this great "Happy Warrior" than that we carry on his work.

Mr. REUSS. Mr. Speaker, HUBERT H. HUMPHREY was a forgiving man, so I am sure he would forgive us if, in spite of his injunction not to mourn him, but instead to celebrate life, we are profoundly saddened by his passing. Coming from a State neighboring HUBERT's beloved Minnesota, and believing in so many things he believed in, a world without HUBERT is difficult to imagine.

But his admonition not to mourn was right, of course. It is true cause for rejoicing that he left so much of himself to us. A few months ago we named an HEW building after him. There will doubtless be other memorials now, buildings and institutions here in Minnesota.

I think, though, that the memorials which would most please him are the living ones: The men and women whose right to equal chance at a job, a house, or a seat in a restaurant is enforced by the Civil Rights Act which HUMPHREY shepherded through the Senate; the people around the world who go to bed a little less hungry because of the HUMPHREY-inspired food-for-peace program; and the fine public servants who came out of the Democratic-Farmer-Labor Party, in whose founding HUBERT HUMPHREY's role was crucial—Vice President WALTER MONDALE, Secretary of Agriculture Bob Bergland, former Agriculture Secretary Orville Freeman, Senator WENDELL ANDERSON, and our House colleagues DON FRASER, JIM OBERSTAR, RICHARD NOLAN, and BRUCE VENTO, to name a few.

And those of us who believe, as HUBERT HUMPHREY believed, that providing a job for every job-seeking American is a national imperative, will do our best to see that a Humphrey-Hawkins bill passes, which will add still more luster to the living legacy of HUBERT HUMPHREY.

We are fortunate to have served in Congress with HUBERT, surely one of this country's greatest legislators. But we are especially fortunate to be able, with the rest of the citizens of the world, to make the proud declaration: HUBERT HUMPHREY lived here.

Mr. ABDNOR. Mr. Speaker, HUBERT HUMPHREY did not attain the job he wanted most—the Presidency of these United States—but his achievements transcended those of many Presidents, and few Presidents have been as close to the hearts of the American people. Ever enthusiastic, exuberant, and optimistic, he believed deeply in the causes he espoused and even those who could not agree with him applauded and respected his dedication, resourcefulness, and courage.

The love, warmth, and humanity HUBERT shared so generously with all of us through the years completely transcended any partisan concerns. His genuine affection for people knew no race, no color, no creed, no politics, no boundaries. Most certainly he was a valuable lesson to all of us in politics: The complete exemplar of that special art wherein you may disagree without being disagreeable

South Dakotans, especially, feel his loss. Our native son, he never really left us and we all tended to share in his victories and disappointments as would any proud family.

His unbounded love and friendship for his fellowman was an inspiration for all of us and will prove his greatest legacy.

It was an honor to serve with him in the Congress, and I join with all South Dakotans in conveying our great sense of loss and our sympathy to his family.

Mr. COHEN. Mr. Speaker, nearly 2 weeks ago, nature puffed herself up and blew down many of the concrete monuments of man. Travel routes and plans were buried under a long foot of snow and a howling wind blew the icy breath of winter through our windows and walls. That we could only wait and pray for the storm to stop was a reminder of our limitations.

Nature reminded us in another fashion of the fragility of life's hourglass. Senator HUBERT HUMPHREY was finally consumed by a silent army of savage cells that attack indiscriminately the good and the bad, the young and the old

I was in Portland trying to find transportation to Bangor where I was scheduled to deliver a speech at the Maine Jaycees Ten Outstanding Young Men banquet, when a Delta employee advised me with a half grin, "You can't get there from here." So I returned to Washington to attend the special ceremony honoring Senator HUMPHREY.

As I arrived in the Capital, the eulogies were flowing with the same fullness and momentum of some of HUBERT's speeches. Phrases like, "politics of joy," "happy warrior," "lover of life," "courageous champion of the poor and disadvantaged" filled the newspapers and evening newscasts.

It was time to pause and reflect on what we had received from this man, what lessons there were to be learned from his life, what courage we witnessed as the fires of his life burned low and death's shadow approached and finally enveloped him.

As his body lay in state in the Capitol's rotunda, all the political ideologies and antagonisms dissolved in a silence of universal respect. The ceremony was brief, dignified, and full of appropriate symbolism—the sweet, singing strings of Isaac Stern's Stradivarius and the deep and booming baritone of the Metropolitan opera star Robert Merrill, leading the standing congregation in "America."

HUBERT HUMPHREY was a man who knew, in Justice Holmes' words, that "life is action and passion and that we must share in that action and passion at the risk of being judged not to have lived." He knew more success than most of us will ever achieve; he suffered more defeat than most of us ever will or could endure. And yet, his spirit never flagged, his sense of warmth and love for people never soured in the dishpan of personal or political disappointment.

He truly loved every second of life. No matter how much was snatched from his grasp by political miscalculation and misfortune or severed from his body by a surgeon's sharp scalpel, he treasured what remained. Unlike the poet, Robert Frost, HUBERT HUMPHREY did not have a lover's quarrel with the world. He had a

dialog with it. He talked and he listened. He lectured and he learned. He loved and was loved.

After the ceremony I jotted a few notes in a book that I keep to remind me of special moments. I include them here:

A unique clock has stopped. A good man has died. Snow is filling northern skies. A tree falls unheard in distant woods. A child is born. The great river Time runs on.

Mr. COUGHLIN. Mr. Speaker, today I join my fellow Members of the House of Representatives in paying tribute to our late friend and colleague, HUBERT HUMPHREY.

Senator HUMPHREY became famous as the "Happy Warrior," a man who spent a lifetime fighting for his beliefs, reveling in the joy of politics along the way. Throughout his years as mayor of Minneapolis, U.S. Senator, and Vice President of the United States, he was committed to improving the quality of urban life, as well as being a leader in the area of civil rights. From his first Senate term in 1949, the Senator from Minnesota was involved in every major piece of social legislation, and this commitment remained paramount during his three decades of service, whether his stand was a popular one or not.

Senator HUMPHREY had many valuable qualities which made him so distinctive and popular. He was the embodiment of old-fashioned virtue, and by combining selflessness with practicality, he was repeatedly able to work out compromises without sacrificing his ideals. He was a constant optimist, always full of enthusiasm and hope. The threat posed by cancer was not allowed to interfere with his goals, and his exhaustive schedule continued as always.

He was particularly optimistic about the future of America. The ability of today's young people to cope with current problems as well as with the developing issues was unquestionable, the Senator often stated. His work on the Youth Employment Demonstration Projects Act of 1977 was only the latest example of his efforts along these lines.

HUBERT HUMPHREY will perhaps best be remembered for his work in the area of civil rights. As an eloquent defender of freedom, he was never afraid to champion the causes of the powerless and the poor. The Senator acted as the moving force behind the Senate's passage of the far-reaching Civil Rights Act of 1964. He understood how important this congressional move would someday be. As HUMPHREY himself said at a White House news conference in 1966:

I urge all Americans to view the civil rights movement not in the harsh glare, the distorted reflection of today's headlines, but rather in the more balanced perspective of history.

HUMPHREY always had an abiding faith in the worth of all people. He impressed upon us that the problems we face can only be solved if we all join together in working toward possible solutions. He repeatedly pointed out that the potential of women, blacks, the elderly, and other segments of our population have long been wasted due to age-old prejudices. He constantly fought for the liberation of these able people, realizing that this would help improve life in America for all.

Throughout his life, the Senator never gave up his fight to make this world a better place. And whether a political foe or ally, he always commanded our affection and respect.

HUBERT HUMPHREY was a leading statesman and an outstanding legislator, but above all he was a special man. His warmth, optimism, and undaunted enthusiasm will be sorely missed. I extend my deepest personal sympathy to his wife and family.

Mr. CLAY. Mr. Speaker, we can praise a great man best by putting into practice the principles by which he lived. HUBERT HUMPHREY has left with this country a great legacy. Through his enthusiastic and unwavering commitment to civil rights he replaced despair with hope. He spoke openly about the "huge valley of shame" which exists to separate black and white America. He never sugar-coated the country's problems. He sought to solve them.

This man will not be properly honored until we stop measuring progress by the distance we have come from conditions of abominable injustice.

Mr. JOHNSON of California. Mr. Speaker, the Nation pauses now from its daily routine to honor one of the truly great men of our time, HUBERT HORATIO HUMPHREY. A man of his qualities is rare and we are indeed privileged to have had him among us.

U.S. Senators have been many in the history of this great Nation and several of them have been excellent public servants and national leaders. Few, however, have reached the stature of Daniel Webster, Henry Clay, John Cabot Lodge, Arthur Vandenberg, and Robert Taft, great Senators who helped to shape the major legislation of their times, but who did not serve as President of the United States. HUBERT HUMPHREY would surely rank among them.

HUBERT's career in public service has spanned a generation. Throughout that time he played an important role in the affairs of the Nation. The scope of his interests were wide and nothing was too small to receive his attention.

It was my pleasure to know and work with HUBERT not only as a friend, but also as a legislator. He contributed greatly and was well informed on all issues. It was to HUBERT that we often turned for innovative approaches to old and difficult problems.

Senator HUMPHREY's career was filled with both successes and failures. His close loss of the 1968 election for President was a deep disappointment to many of us who had such confidence in his abilities and his potential for leadership. Part of his greatness was his capacity to put failures behind him and forever turn his face to the future and its promises.

HUBERT's eternal optimism, particularly during his final battle against disease, are legendary. He has served as a shining example to us all and his memory will live long after him, encouraging each of us to see the brighter side of any situation.

One key to HUBERT HUMPHREY's success was his interest in people. The common man—wherever he came from—was HUBERT's constituent. He took time to be with people. He remembered them. He understood them. In turn they responded by coming to him with their needs and their love.

As a legislator, HUBERT was innovative and creative. He continually sought to develop programs to improve the lot of mankind. not only in America, but also around the world. He was a progressive lawmaker who understood the Nation's problems and worked diligently using the many tools of power he could command.

Our Nation will miss HUBERT HUMPHREY greatly. The Congress of the United States will indeed miss his upbeat outlook, his devotion to hard work, and his friendly manner. As he wished, however, I am confident that we will not dwell on our loss, but instead will take up his banner for the common man and use as our example his forceful and promising optimism.

My wife Albra and I extend to his lifelong partner and companion—his charming wife Muriel—and to his family our sympathy and support during this difficult time. They can take comfort in knowing that his accomplishments will live long after him and this Nation will not forget the important and meaningful contributions of HUBERT H. HUMPHREY.

Mr. ANDREWS of North Dakota. Mr. Speaker Senator HUBERT HORATIO HUMPHREY will undoubtedly be recorded in history as one of our Nation's truly great men. He was an inspiration to the American people, and he strived to meet the needs of every American citizen. He brought a new optimism to life for many in what he called his war on the "Four Horsemen"—poverty, hunger, disease and ignorance.

The sentiment of the people toward HUBERT HUMPHREY, although turbulent at times, was warm, and he was accepted affectionately. His goodwill won him a place in the hearts of the people of our country. Everything he did, or represented was for the people. Indeed, he was an example of public service, and gave himself to the people.

The "Happy Warrior" as he is remembered will not only be recorded in history books as an outstanding man, but as one of the greatest legislators to have lived. He fought for civil rights and social welfare, and his legislative record will ever leave an impact upon these programs. HUBERT HUMPHREY believed government should serve mankind; he caused it to do so.

Although he was not a farmer, he was a man of the soil, and he will always be remembered in North Dakota, and every agricultural region, as a friend of the farmer.

In his lifetime his interests touched nearly every facet of life. He cared about the people of our Nation. His untimely death is an acute loss to the State of Minnesota, to our upper Midwest region, and to the entire country.

Mr. STEERS. Mr. Speaker, in the days before and after the death of the Honorable HUBERT HORATIO HUMPHREY, a del-

uge of most worthy and justified praise has flowed in commemoration of this great American.

I, too, wish to join in this effort, although I am at a loss to add anything that has not already been said. I would, therefore, like to present for my colleagues' benefit, a letter from a constituent of mine that helps define just the type of outstanding individual that HUBERT HUMPHREY was:

EDITOR: The loss of Senator Hubert Humphrey, who for many years lived in Montgomery County, is also our loss as well as the nation's. He lived at the corner of Jones Mill Road and Coquelin Terrace. He was our neighbor.

When he was Vice President, a limousine would pick him up outside his home. This also was a school bus stop.

"Hello kids, I am going to see the President," he would say as he entered the limousine.

He would attend cub scout meetings at the Chevy Chase Methodist Church and P.T.A. at the North Chevy Chase Elementary School. Of course he did not attend all meetings, but he would show his interest in his children's activities.

Mrs. Humphrey was a wonderful mother and a friend.

To quote Dickens: "Very, very many have lost a friend; nothing in creation has lost an enemy."

DONALD H. DALTON.

CHEVY CHASE.

Mr. BRINKLEY. Mr. Speaker, as flags were lowered over the Nation's Capitol out of respect for Senator HUBERT H. HUMPHREY, one could not help but become aware of an emptiness now existing in the national political arena. Filling that void will not be an easy task, for Senator HUMPHREY had certain qualities that are difficult to find. His warm sincerity, his genuine concern for others, and his rare determinations stand out as distinctive characteristics. His unending "fighting spirit" is something we will never forget, and by putting a bit of that spirit into our own lives we could turn America into the land of beginning again.

Mr. HUMPHREY was a special friend of the American School Food Service Association, and Marie McGlaun of Columbus, Ga., who works for the association feels, "as if the Nation has experienced a great loss." Senator HUMPHREY had been instrumental in establishing the service and had devoted much time to its success. Mrs. McGlaun said:

Every time Mr. Humphrey would speak at one of our conventions, all those attending would be inspired, from the very beginning he gave us hope and enthusiasm to work on the local level.

It is apparent that the school lunch program has lost one of its great supporters.

The Senator's contributions in the field of human rights speak for themselves. Many regard his efforts to bring about advancements for the underprivileged as a major breakthrough for the country. Each of us has our own ideas about the Senator's most outstanding triumphs, and Mr. John Amos, of Columbus, Ga., one of the Senator's closest friends feels his greatest contribution was, "preparing the way for a peaceful transition with regard to human rights." According to Mr. Amos what transpired was coming, and through the Senator's help it came through a peaceful transition and under law.

Participation in seven national elections is a perfect example of his fighting nature. His years as Vice President were full of his usual hard work, striving to achieve many goals. His efforts were fruitful for during those years progressive steps were made in every major area.

Senator HUMPHREY was full of energy, always willing to put forth an extra effort in order to gain support for his beliefs. Some have referred to Mr. HUMPHREY as a teacher, and indeed there is a great deal to learn from his career, his example brings to mind a quote from Thomas Jefferson—

If a nation expects to be both ignorant and free, in a state of civilization, it expects what never was and never will be.

Let this be our commitment to the memory of this unique man—to seek the truth and to stand for justice.

Mr. ROE. Mr. Speaker, I solemnly rise to join with you and our colleagues in today's special order of the House of Representatives in memoriam to our esteemed colleague, good friend, and great American, the Honorable HUBERT H. HUMPHREY, whose lifetime of achievements dedicated to improving the quality of life and way of life for the people of America, and for that matter, throughout the world is the greatest legacy one could bequeath to his fellowman in life's fulfillment and purpose.

HUBERT HUMPHREY has climbed the highest mountains in his quest to help and provide for the needs of our people and his many accomplishments for the benefit of mankind are legend. We have witnessed his immeasurable inner greatness and depth of courage that has inspired all of us and truly distinguished him as a man of destiny who has made a difference in the history of our country and in our hearts.

Words are inadequate to fill the void of our great loss but the emotional outpouring of the people in grief that he is no longer with us, admiration for all of his good works and profound appreciation for the warmth of his friendship and richness of his wisdom is infinite—for one can truly say that HUBERT H. HUMPHREY has truly enriched our country. His faith, hope and dreams for the future of America are forever lastingly etched in our historical journal of Congress.

Mr. Speaker, we share the sorrow in the heart of his good wife Muriel and all of his family and trust that they will soon find abiding comfort in the faith that God has given them and in the knowledge that our beloved friend, the Honorable HUBERT H. HUMPHREY, is now under His eternal care. May he rest in peace.

Mr. HAGEDORN. Mr. Speaker, Senator HUBERT H. HUMPHREY was one of the giants of our time. In an era of increasing specialization, HUBERT HUMPHREY was one of those rare legislators whose interests were broad and whose expertise matched his interests. He pioneered and shaped much of our country's landmark legislation in the areas of health and welfare, agriculture and rural development, and foreign policy.

The qualities that marked HUBERT HUMPHREY as a legend in the U.S. Senate were the same qualities that he exhibited throughout his life. His was a rare combination of courage and compassion, always in pursuit of making our Nation a fairer one for all its citizens.

Although I know HUBERT would never have minded being remembered as a politician—and it took a tough-minded one to achieve election as mayor, U.S. Senator, Vice President, and be nominated by his party for President—there is no question that he was one of the small handful of elected officials able to transcend this status as a statesman. His leadership early in his career in fighting for the rights of minority citizens, and his refusal, much later in his career, to jeopardize delicate negotiations in Geneva for the sake of transitory political gain would, by themselves, assure him this status.

I take pride in having been one of the cosponsors of legislation late last year naming the HEW South Portal Building after HUBERT HUMPHREY. It is clear, however, that the more enduring monument to Senator HUMPHREY will be his legislative achievements. Perhaps better than anyone else, the distinguished Senator from Massachusetts, Mr. KENNEDY, fully captured the magnitude and grandeur of this record when he noted:

His record in the Senate is so full of landmarks and achievements that it would take a Humphrey speech to do them justice.

In 1957, the Senate set aside space in its reception room to permanently honor the contributions made to that body by five of its most distinguished members—Senators Clay, Webster, Calhoun, La-Follette, and Taft, a Senate "Hall of Fame." If there is room to squeeze in one more portrait, there is no Senator of our generation more appropriate for that company than HUBERT HUMPHREY.

I am glad that HUBERT HUMPHREY was able, if only for a brief period, to have the opportunity to understand the respect, the esteem, and the love which his fellow countrymen felt for him, regardless of party or philosophy. He was a man who made a great many of us proud simply to be Minnesotans.

Minnesota, the Nation, and, indeed, the entire world have lost a good man. We have, fortunately, not lost his example.

Mr. CARR. Mr. Speaker, I join my colleagues today in extending condolences to the family of the late and beloved Senator from Minnesota, HUBERT H. HUMPHREY.

HUBERT HUMPHREY spent over a third of his life in the Senate, during which time he was a truly great leader and statesman, motivating the Nation and the Congress to higher levels of collective achievement. He was a compassionate man, and he will long be remembered for his leadership of many hard battles and his role as a champion of many just causes.

Working Americans will remember him as a staunch defender of their right to labor under humane conditions and their right to receive fair and just compensation for their efforts.

Black Americans, Hispanic Americans, and members of other minority groups will remember him as a tireless proponent of freedom and equal rights for all citizens of this land. They will also remember him as one of the few politicians to stand by this view from the beginning of his public career to the end.

These memories of this great man will undoubtedly result in many monuments to him and to his remarkable career. Schools and other public facilities will bear his name, professorships will be endowed in his honor, and statues will be erected in his memory. From the standpoint of a younger Member of Congress, however, I think that his greatest monument will be the example that he set for other Senators and Representatives.

Every generation of political leaders needs a positive role model, a person who can teach us by his or her example. I personally am very fortunate in having been able to learn from such an exemplary leader as HUBERT HUMPHREY, and also from the late Senator from Michigan, Philip Hart. These men have had a profound impact on my political thinking and on the way I view the political process, and they have deeply influenced my desire to participate in the political system and seek change through that system.

I believe the greatest honor we can bestow upon HUBERT HUMPHREY is to strive to be as good as he was, and to attempt to emulate his glowing example. If my generation of politicians can even approach the achievements of HUBERT HUMPHREY, perhaps we can offer to the next generation some degree of the same leadership that he so generously gave to us.

Mr. LEGGETT. Mr. Speaker, all of our lives have been bettered by the visions and accomplishments of the late Senator HUBERT H. HUMPHREY. I am pleased that the Members of the House have been given the opportunity this evening to express our sincere appreciation for his many important contributions to our country. A man who dedicated four decades of his life to the service of his Nation deserves the warmest praise the House of Representatives can offer. As mayor of Minneapolis, Vice President of the United States, and senior Senator from Minnesota, HUBERT H. HUMPHREY has served his country well.

In his lifetime, HUBERT HORATIO HUMPHREY overcame many obstacles. His personal sacrifices to maintain his family's pharmacy during the depression of the 1930's and his persistence in overcoming the shortsighted opposition to his civil rights program are examples of the integrity of this outstanding individual.

If there is one ultimate truth about Senator HUMPHREY, it is that he was always truly a man ahead of his time. When he came to Washington as the freshman Senator from Minnesota, he was the first Democratic Senator from that State in over 100 years. In retrospect, this was the least of his accomplishments.

At the forefront of his party, HUBERT HUMPHREY was typically insistent and succeeded in nailing a civil rights plank into the Democratic platform in 1948. The cause of civil rights was a lifetime one, and along the road many joined his fight.

He has been described as a brilliant mind with a warm heart, an "internationalist," and a politician of high principle. To the poor and disadvantaged, to the sick and the old of this country, the name HUBERT HUMPHREY is synonymous with civil rights, Job Corps, and health care. To the poor of the world, he represents food for peace and the Peace Corps.

Not many generations have been as blessed as ours. We have known some great men and women in our time, but even so, few will stand as giants through our history. Among the giants of our time stands HUBERT H. HUMPHREY. He was a man whose ideas were dedicated to the people and are reflected in the continuing brightness of their faith and hope. A moderate man of steadfast commitment, a humble man of great accomplishment, a compassionate man of unbending convictions—an American of whom we can all be proud.

The thought that we are without him is dark. Senator HUMPHREY's ebullient personality and staccato voice graced our Capitol for nearly three decades. Through all his years and all his battles, Senator HUMPHREY never lost faith in our political system and he always kept his sense of humor and capacity for tears.

HUBERT H. HUMPHREY often stated that he believed democracy should be known for its beginnings rather than for its endings. His visions and dreams will continue to lead the Congress and the American people in the decades to come, but our beginnings will be more difficult without him.

Mr. CONTE. Mr. Speaker, I deeply mourn the passing of my good friend, Senator HUBERT H. HUMPHREY. HUBERT was an outstanding American and a great humanitarian.

He not only possessed an unwavering optimism and a unique vision of what this country could and should be for all Americans; but he possessed the vigor and enthusiasm needed to transform that vision into reality.

It is a a rare moment in the history of a government and a society, when one individual—through his success and his failures, through his character and his courage, his sheer will and devotion to the principles of leadership—can inspire his colleagues and his countrymen to strive for these simple, but seemingly unattainable goals of justice, equality, and the protection of the quality of human life.

I can think of fewer words that encompass the essence of HUBERT HUMPHREY's career and personal life than those spoken by Teddy Roosevelt:

> Far better it is to dare mighty things, to win glorious triumphs, even though checkered by failure, than to take rank with those poor spirits who neither enjoy nor suffer much, because they live in the gray twilight that knows not victory nor defeat.

HUBERT HUMPHREY was a man rich in spirit, and his spirit has captured a nation.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Hon. HUBERT H. HUMPHREY, the late Senator from Minnesota and former Vice President of the United States. He faced death with the same courage and fortitude with which he faced life, and he will be missed by his colleagues in Congress and by the American people whom he served so long and so well.

Few men more profoundly affected the course of American public life over the past three decades than HUBERT HUMPHREY. He won a place unique in the hearts of our people and in the annals of the Nation. He earned that place by force of moral character, by boundless energy in behalf of the common good, and by holding before men and women the example of leadership untainted by selfish advantage.

The respect and esteem in which he was held by his colleagues in both Houses of Congress and from both parties reflect the sentiments of the Nation as a whole and, indeed, of people's good will throughout the world. To millions across the globe he embodied the ideals and aspirations of American democracy as very few men or women in this or any century.

This record of his service to State and Nation, service which continued in the midst of serious illness, is an impressive one. Few other States have produced and maintained a congressional delegation of such distinction as has Minnesota, and within that delegation HUBERT HUMPHREY was outstanding.

The political idealism of the Democratic Farmer-Labor Party in the forties found expression in a sweeping victory in 1948, carrying HUBERT HUMPHREY into the Senate. He brought with him invaluable wartime experience as head of the Minnesota branch of the War Production Administration and as assistant regional director of the War Manpower Progress Committee. He had taught earlier at the University of Minnesota, where he had received his B.A. in 1939. He earned his M.A. at Louisiana State University in 1940. During the war he also served as professor in the Army Air Force training program at Macalaster College.

As mayor of Minneapolis from 1945 to 1949, he acquired insight into the problems and challenges of urban administration, insight which influenced his Senate career. His political concerns led him in 1949 to act as a cofounder of Americans for Democratic Action, providing national leadership for a policy of liberal social reform, vigorously anti-Communist, and animated by his lifelong passion for social justice.

In the Senate he served with great distinction and was chosen as majority whip from 1961 to 1964, at which time he resigned to accept the Office of Vice President of the United States in the administration of President Lyndon Johnson. His own Presidential aspirations has led him

into the West Virginia and Wisconsin primaries 4 years earlier, in which he lost to the then Senator John Kennedy.

Narrowly defeated in his campaign for the Presidency by Richard Nixon in 1968, he returned to the Senate in 1971. The bitterly contested primaries of 1972 may be said to have resulted in his turning away from Presidential ambitions to concentrate on that role which became truly his own: national and international statesman and eloquent spokesman for political liberalism in the Senate and beyond. He was a major figure in the American scene, consulted by responsible leaders who valued his counsel in such areas as foreign policy, economic affairs, agricultural concerns, and civil and human rights.

No other political figure proved to be so durable, so effective, and so productive. Through the ups and downs of public life, HUBERT HUMPHREY maintained an ebullient and optimistic image, inexhaustibly hopeful, and confident, grounded in a deep love for America and a commitment to freedom and dignity for all her citizens.

His character and career alike were a vindication of democracy in an era marked by new forms of tyranny, political disillusion, and small-minded partisanship. Because of his long and distinguished career, sustained by the love of his wife and family and by the faith he has inspired among millions of people here and abroad, he could certainly share that sense of fulfillment of which Shakespear wrote:

> . . . I feel within me
> A peace above all earthly dignities;
> A still and quiet conscience.

Mr Speaker, I extend on behalf of Mrs. Annunzio and myself our deepest sympathy to Mrs. Muriel Humphrey and her family in this time of great loss in their lives.

Mr. NEAL. Mr. Speaker, the Nation has poured out its heart in tribute to the late Senator HUBERT H. HUMPHREY in a fashion reserved for only a few of its national heroes. Today, we are adding our own eulogies, which will be preserved as an official record of our affection for this great man. It is proper that we do so, because Senator HUMPHREY occupied a special niche in the Congress and a special place in our hearts.

It seems to me, however, that in all our oratory and prose we have failed to capture the essence of the man. To be sure, we have enumerated his accomplishments, admired his intelligence and energy, proclaimed his wisdom, lauded his courage, envied his exuberance and disposition, and praised all the virtues which were, indeed, a part of his person. In doing so, we somehow failed to note that he was human. His political enemies, as well as his friends, have attributed to him a perfection he never would have claimed for himself. That, too, is perhaps is as it should be. Thankfully, it is not our nature to offend the constituency of which Senator HUMPHREY is now a part.

Much as I admire his many accomplishments, I have even greater respect for the man from which these great deeds sprang. His record cannot be diminished by criticism, or enhanced by praise. It stands as he created it. So I address my remarks to his character, believing that it was the thing that should be exalted.

Senator HUMPHREY was a good and honorable man—perhaps as decent, honest, and pure of heart as any person who ever walked these Halls. His was a good and generous nature, and his a compassionate and forgiving heart. He was passionately loyal to his beliefs. He was a man of uncommon and uncompromising principle; yet his love for our democracy enabled him to accommodate the exigencies of the hour in order to battle tomorrow for the greater good. He accepted without rancor or complaint the will of the majority when it went against him. His reaction was to try to change the thinking of the majority, and in this he was both persuasive, persistent and patient. He had unshakable faith in the inherent good of people, and an unbounded optimism that truth and justice will prevail among good people.

Senator HUMPHREY was the embodiment of what a citizen should be, and a superb example of what a public official can become. His record clearly shows that he put service above self, and the common good beyond personal glory or gain. He undertook difficult tasks, believing that all good things are possible, and it is doubtful that he ever conceded failure.

It is equally doubtful, however, that he was immune to agony, or never felt the pain of disappointment and defeat. As a sensitive and compassionate person, he could not have understood the suffering and sorrow of humankind unless he had come to grips with it himself. I think, rather, that he learned to live with personal tragedies and to bury his own disappointments under his generous concern for the plight of others.

And so I say, Mr. Speaker, that Senator HUMPHREY is more praiseworthy for what he was than for what he did. I do not mean to detract from his accomplishments, for they were illustrious. I think more strongly, however, that he was a human being of rare worth.

We all proudly claim him as a personal friend—even I, who was in his company only a few times. I think, in truth, that HUBERT HUMPHREY was a personal friend of every human who inhabits the Earth. That the world now recognizes his merit is evidence of a hope that there is something of the essence of HUBERT HUMPHREY in us all.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to join my colleagues in the House of Representatives in honoring the long and distinguished career of Senator HUBERT HUMPHREY of Minnesota. For Senator HUMPHREY wanted his passing to be a celebration of life, not a time for mourning. Senator HUMPHREY will be greatly missed not only by us in Congress but also by the people of this great Nation, whose lives he touched by the millions. No American loved people more, and was loved by more people, than HUBERT HUMPHREY. This great man gave the world over three decades of brilliant, creative leadership.

He was courageous and bold in his positions on the rights of minorities during periods when it was politically dangerous to be so. His impassioned speech in support of a maverick civil rights plank in the Democratic platform in 1948 thrust him into the forefront of the national political scene. Disregarding the risk to his career, he challenged the Democratic Party to "get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights." As with so many areas of social concern, the Happy Warrior began the fight for civil rights years ahead of others. He persisted in the fight until, as majority whip, he guided the civil rights bill through Congress and into public law in 1964.

Mr. Speaker, I am pleased and honored to have known HUBERT HUMPHREY Like many others, I benefited from his masterful teachings and his warm and loving personality. He truly believed in the American dream and was the undisputed champion of the downtrodden. It is up to us to make sure that his work, ideals, and philosophies are continually realized by each and every American.

Mr. DUNCAN of Oregon. Mr. Speaker, people will frequently ask why on earth anyone wants to go into politics. The answer is usually an acknowledgement that it is demanding, arduous and frequently disappointing, but that it is a rewarding life.

Today my heart is full of sadness and disapopintment as we realize that HUBERT HUMPHREY has left Washington and the Capitol for the last time. But to have known this man of truly historic proportions, to have called and been called by him my friend, to have watched and to have helped him with great success and discouraging failure, and then to have seen him accept both with equanimity and humility and pride and courage, never forgetting who he was and where he came from, never hurting another intentionally, forgetting and forgiving offenses quickly but never forgetting his friends, is one of the great rewards of politics.

The true measure of a man can frequently be better measured by the little things in life than by the big. HUBERT HUMPHREY achieved greatness. At the same time, HUBERT HUMPHREY was the most thoughtful of others of any man I have ever known. He will be greatly missed and long remembered.

Mr. EVANS of Indiana. Mr. Speaker, I wish to join with my colleagues in paying tribute to the memory of HUBERT HUMPHREY.

His life and his dedication to all the people of America epitomizes the best America can produce. As a public servant and as a fine American he clearly demonstrated that political life within the American political system is an honorable, worthy, and an exciting profession.

HUBERT HUMPHREY was enthusiastic, optimistic, and devoted, he deeply committed himself to the causes he espoused and he was diligent in working to make America a better place for all of us to live and work. I am certain that if our Founding Fathers could have molded their ideals of what a modern politician should be, Senator HUMPHREY would have been that model.

With the passing of HUBERT HUMPHREY,

we not only lost a great man, a great leader, and a true statesman, our Nation has also lost a great example of the spirit that has made our country great.

Mr. BOLLING. Mr. Speaker, like so many of us, I counted HUBERT HUMPHREY as a friend as well as a colleague. During the 95th Congress, he served as vice chairman of the Joint Economic Committee while I served as chairman. In the 94th Congress, I was vice chairman when he held the chairmanship. This close working relationship only confirmed my long-felt awareness of his genuine concern for our country and our people.

George F. Will has captured the flavor of HUBERT HUMPHREY in his January 23, 1978, column in Newsweek magazine.

Following the column, I want to share with you a memoir written by Katie Louchheim, former vice chairman of the Democratic National Committee, former Deputy Assistant Secretary of State, and a dear friend of many of us.

[From Newsweek, Jan. 23, 1978]

HUMPHREY WITHOUT TEARS

(By George F. Will)

The enduring memory of a great politician's life should be of his voice, an echo of exhortations in the nation's ear. For most Americans, and especially for the postwar generation that has not known politics without him, the chorus of public life henceforth will seem incomplete without Hubert Humphrey's voice. It was a voice as flat as the prairie, flat as the political landscape seems with him cut down. But it was a carrying voice, vibrant with the energy of a man happy in his work.

Today it is difficult to summon a sense of Adlai Stevenson or Dwight Eisenhower addressing a crowd. But twenty years from now, those who heard Humphrey in full flight will remember his delight. It was of his overflowing affection for his audience, not just the pleasure most political men derive from seeing themselves reflected in an audience's eyes. Perhaps Humphrey exhausted more people than he persuaded, but in politics the effect can be the same. More notable than the amount of talking he did was the Gatling-gun pace at which he did it. He talked so fast he did not seem to be a calculating man, which warmed audiences. But he also did not seem to weigh his words, and friends urged him to affect a halting graveness. He refused. He could be quick without being rash because his purposes were fixed and clear and he saw no conflicts between them. He was, as someone said of Voltaire, a chaos of clear ideas.

BREAD-AND-BUTTER LIBERALISM

Postwar politics has been a long lesson in the incompatibility of many of the worthy goals of Minnesota liberalism. Minnesota is a green and pleasant paradox, a liberal state full of conservative people. It believes in bread-and-butter liberalism. Its Scandinavian and rural elements, and perhaps its severe winters, incline it to a political ethic of collective provision, and in Humphrey it produced this century's only Presidential nominee who had been mayor of a large American city.

Bread-and-butter liberalism was social security, TVA, rural electrification and scores of similar, if not similarly successful, programs of material amelioration. The decline of liberalism in Humphrey's lifetime is less the result of the excesses of such politics than of the transformation of liberalism into a doctrine of "administered enlightenment." The old liberalism delivered material advantages that were intended to enable people to live the lives they had chosen. The new liberalism, typified by forced busing and affirmative action and the explosive growth of regulation, administers "remedies" to what society's supervisors consider defects in the way people live.

POLITICS WAS PHARMACY

Humphrey was very much the son of a small-town druggist in the Midwest. Years ago the pharmacist, second only to the doctor, represented the practical use of knowledge against the distress of life. For Humphrey, politics was pharmacy practiced on society. The liberal temperament is exasperating because of its expansive belief in social pharmacy: there are no disagreeable conditions that must be endured, only problems that must be solved. In today's climate of disappointment with government, it is easy to caricature Humphrey's penchant for prescribing elixirs, and his inability to give *anything* his undivided neglect. But at the end of his life, he had the compensating certainty that he had fought on the winning side. When he entered politics it was an open question whether the U.S. would embrace welfare-state practices. Today that question is closed. Few persons see most of their youthful opinions become public policy; fewer still see that without a trace of embarrassment or regret. Humphrey did. In his party he was more than a political leader; he was a climate of opinion.

An extraordinary politician usually embodies a characteristic value of his culture. And Humphrey embodied the belief that to persist is to triumph. Yet he drank a full draft of defeat. In 1956, he was one of the first and most forceful supporters of Adlai Stevenson's renomination, and he wanted to be Stevenson's running mate. But Stevenson let the convention choose and it chose Estes Kefauver. And John Kennedy, not Humphrey, was second. In the 1960 West Virginia primary, Humphrey, the least synthetic of men, was beaten by Kennedy, the first thoroughly packaged candidate. At the 1968 convention, when he should have been able to savor a fulfillment long delayed, the smell of tear gas drifted into his room overlooking Chicago's Grant Park. That autumn, his personality energized a dramatic homestretch drive, and at the end, votes were shifting his way so fast that if the election had been twelve hours later, he probably would have won.

In 1972, when he was considered worn goods, he came close to stopping George McGovern's drive for the nomination. In 1976, when he was beginning to be regarded as a classic deserving a comback, like "South Pacific," he was too spent to face another disappointment.

Like Moses, Humphrey was discovered young, at the 1948 convention, and like Moses, he always was a bundle of opinions. He rose fast enough and lived long enough to see five men succeed to the Presidency after he first sought it in 1960, and he believed that he could have done the job better than each of them. Because he was cherubic, not lean, it was easy to underestimate how hungry he was, first for acceptance in the Senate, then for the great prize of American politics. Because he lost so many of life's close calls, and because liberalism often is a form of sentimentality, there is a tendency to patronize Humphrey while praising him. He did lack the *necessary* coldness of a national leader. A friendship tended to be a lifetime contract, so as he rolled through life he acquired a soiled snowball of political associates. Rarely does a man have such extraordinary dynamism and lack an instinct for the jugular.

A 30-YEAR PROFESSIONAL

But Humphrey also had a guileful side, as you would expect of one who learned about national political realities from the likes of Oklahoma's Sen. Robert Kerr, a sort of *rough* Lyndon Johnson whose ability to bend nature can be seen in the fact that Tulsa is a seaport. For 30 years, Humphrey was a professional. More than any man of his generation, he lived the political life as Plutarch described it:

"They are wrong who think that politics is like an ocean voyage or a military campaign, something to be done with some particular end in view, something which leaves off as soon as that end is reached. It is not a public chore, to be got over with. It is a way of life. It is the life of a domesticated political and social creature who is born with a love for public life, with a desire for honor, with a feeling for his fellows . . ."

During the 1964 campaign, the paths of Barry Goldwater and Hubert Humphrey crossed in an airport, and they paused to chat. As they parted, one professional said to the other, "Well, keep punching, Hubert." He did.

HOPE, HUMOR AND HUBERT HORATIO HUMPHREY

(By Katie Louchheim)

Whenever and wherever there was need for hope, you would find Hubert Humphrey. In 1948, at the Democratic Convention in Philadelphia, the then Mayor of Minneapolis introduced the very first Civil Rights resolution.

I listened to him talking to the numerous and important Pennsylvania delegates: "You are making history. Where do you want to be put in that heavenly ledger, on the right or the wrong side?" He knew very well that only one out of every ten would support the bill. "They say all sins will be forgiven us, but if I were you I would not take any chances. There are not two kinds of people, one black, and one white. There is only one kind of human being, and that includes you. Tomorrow we are going to put the right ahead of the wrong. You better be with us. Maybe then all your other falls from grace will be forgiven."

When the bill came to the floor, the Pennsylvania delegation, voting then under the unit rule . . . since abolished, voted Aye. Hubert and the right had won.

From then on what he said got quoted and his picture appeared in news stories and he came to Washington as the first Democratic Senator ever from his home state of Minnesota.

Senate watchers soon observed the growing friendship that developed between Lyndon Johnson, Texas born, the tall man from a conservative state, and Hubert Humphrey, the Minnesotan, the liberal's liberal that broke through the Civil Rights barrier.

On a night in 1953, I sat between Senators Lyndon Johnson, then Majority Leader and Senator Humphrey. Both had tasted the grape. The dinner was put on as an encouragement to float a subsequent $100 a plate dinner to pay off the Stevenson campaign debt. Lyndon leaned over and past me: "Now Hubert, I want you to stop running around that Capitol building talking to do gooders, to rabbis, priests, reverends, blacks, Jews and missionaries, and stay in one place so I can find you when I need you. Hubert nodded. We both knew he had no intention of obeying these instructions. But the deep affection that was brewed in Lyndon's remarks tempered their mock severity.

There was to be an interval of eleven years before Lyndon Johnson once again told Hubert Humphrey he needed him. But the proposal may very well have been couched in somewhat the same vein: "When I need you, I want to know where you are."

Meanwhile Hubert Humphrey went right on preaching the doctrine of Hope. Like a true pharmacist he added a sweetner to the medicine. His humor was sometimes self-directed. "Now I want all you wonderful folks who have never once fallen from grace to do me a favor." The eyes would turn up toward the podium; these wonderful folks could hardly wait for the tag line. "I want

you all, everyone of you who meet that prescription to meet me in the telephone booth at the end of the hall."

On other occasions when the proverbial democratic deficit had to be dealt with he would say: "I believe every meeting should begin with the invocation and end with the collection."

During those lean years, we held meetings for loyal Democrats all over the United States. Leaving International Falls, Minn., I found myself in a twin engine chartered plane with Senator Humphrey and other officials. No sooner airborne, than the door flew open. In the scurrying that ensued, the pilot had to leave a minor official at the controls; at the crucial moment, the nervous minor shoved the stick in the wrong direction and we were suddenly directed skyward. Dropping on his knees the pilot managed to crawl to the door and shut it.

Not ten minutes later, Senator Humphrey announced he was going to take over the controls; he proposed to dip the wings, fly low, so he could point out the iron range. Max Kampelman, then the Senator's top assistant urged me to persuade Hubert to desist. "That's your job" I announced and shut my eyes.

Sharing a platform with Senator Humphrey on subsequent occasions, I could count on his retelling the tale of our airborne adventure; "We have no earthly right to be here" he would begin while the audience listened spellbound and I recalled those shattering moments. But the Senator never told of his dipping the wings and bending the plane downwards over the iron range. Those of us who landed with him finally in Minneapolis, let out a cheer.

To visit with Senator Humphrey in his office was to witness another form of persistence. He could balance the caller, the telephone and his non-stop exposition of the disasters confronting him. "When we are in power, we always have trouble. We are not like the British, elected with our leader and pledged to support him. (He might have added "I will support President Johnson—even if it leads me to defeat.") I accept the system but I find the lack of discipline in the Senate horrifying. Just yesterday I went looking for a bill I want to bring up only to discover that not just my bill, but eighteen others were bottled up in the office of Senator Capehart . . . a man we hope to defeat. (They did in the election of 1962.) Suddenly he turned on the paper pyramid: "My staff acts as if there were no hurry to answer these. I'm going to tell them a thing or two." Just then he took a telephone call: "Remember" he wound up "democracy deals in trades not in bullets." Leaning over the desk, he explained; "They think I've got hot and cold running power in this office." He vowed to spend the rest of his days explaining how democracy worked. When the next telephone call came through he paused; "What am I getting all wound up for". The astonished caller found him laughing as he said "Hello".

When I joined the Department of State, I soon discovered an audience that needed some of Doctor Humphrey's medicine, namely the Junior Foreign Service officer. While Senator Humphrey addressed them, the clock first struck eight, nine, and then ten. No one stirred. Every now and then I wondered whether they had stopped breathing. He covered every topic; his poverty stricken youth, the prescription he mixed himself known as Humphrey's stomach powder, the way Muriel finally put him through school selling sandwiches, and the current tax legislation. "The Senate is like the man who is told by his doctor to take some expensive medicine. When he finds out what it costs, he decides to take half the dose. Nothing less, he discovers, than the full measure will do." He admonished them to enjoy their youth, his own has escaped him because of the necessary hardships. In between we raced through pollution, the promise of science and last but not least, he dwelled on the importance of a good wife. "My wife likes to reminisce, she remembers when we were young we believed everything was possible. One must never lose that belief."

When he left, he was 2 hours late. I struggled, but could not prevent him from shaking every hand.

Somewhere between the time he was fully relishing the Senate and becoming Vice President, everyone in Washington kept very busy finding a suitable residence for the office he was about to occupy. In self defense and to preserve what little privacy they had left, Muriel Humphrey found an apartment in Harbor Square. The invitation to visit them found the Vice President handling a vacuum cleaner. One of the three balconies had not been cleaned of falling leaves—from shrubs set down by the protective Secret Service. Later, as we sat in the living room he talked in a serious vein: "I am sitting here sometimes at 5 a.m. Muriel will call to me to come back to bed. I make believe I don't hear her. It's that war in Vietnam that keeps me awake. How can we fight a war the people don't understand and they sacrifice their sons for?"

When the famous Pentagon papers were released, it was noted that the Vice President's name was never among those who attended the meetings.

When he was packing up his office, after his defeat for the Presidency, he pointed at the Vice Presidential seal; "See that eagle, his wings are down, he looks sad. In the Presidential seal the eagles' wings are spread, his quiver is full of arrows, mine holds only one. Even the laurel in mine looks mouldy."

But there was never anything mouldy about Senator Humphrey, and his quiver remained full of arrows. When Hubert was late, Muriel would say: "Don't worry, he'll get here eventually." And he would. And some of us will always be waiting for 'Humphrey.' "

Mr. MANN. Mr. Speaker, we are here today to honor the memory of our late colleague, Senator HUBERT HORATIO HUMPHREY, and in doing so, we pay tribute to his remarkable life and works. We endure the loss of this truly great American sadly, but as he would have it, we remember him with fondness and joy, and we count ourselves fortunate to have known him and to have benefited from his endless service and devotion to our country. He has truly been a guiding spirit in this greatest of parliamentary bodies in this greatest Nation of the world and the legacy of his service to his fellow man will endure down through the ages.

From the beginning of his political career as mayor of Minneapolis, HUBERT HUMPHREY demonstrated an energetic dedication to his ideals. For him, it did not matter whether or not an issue was popular. He supported it, fought for it, and fought again, because in his heart and in his mind it was the right thing to do. He was not governed by political expediency or pressure. He marched to the beat of his drummer and he was faithful to his principles, and in the process, never failed this Nation in the course of his work on its behalf.

Of course, HUBERT HUMPHREY did not win all of the battles. He often worked alone and against powerful odds and against powerful men. He championed popular causes before they became popular. He fought for those who needed help, and he fought for those who needed encouragement, and in his fight, he restored to the downtrodden a renewed faith in the American dream. In all of this, there were plenty of good fights that he lost. Yet, in the end, as we examine the tablet of his accomplishments, we can plainly say that he was the winner.

For a lifetime, HUBERT HUMPHREY, as Vice President MONDALE has so well put it, taught us how to work and how to live, how to laugh and how to cry, and we stand here now and acknowledge that in the manner of his death, he has taught us another priceless lesson. In life and in death, HUBERT HUMPHREY was a great example for the youth of America, a fulfillment of the opportunities that have made America great and a demonstration of the good that can be accomplished.

As we look back upon his life today, we see a man who held to his strong convictions unceasingly and never waivering, who showed us great compassion, who never stooped to bitterness or recrimination and who shared with us his marvelous warmth and intelligence, leading us onward to higher and more worthy ideals. HUBERT HORATIO HUMPHREY is indeed a winner, and he will remain a winner. We feel a sense of loss upon his departure from this life, but when all is said and done, we are winners because of his contributions to our lives.

Mr. OTTINGER. Mr. Speaker, as the Nation celebrates the life of HUBERT HUMPHREY, countless tributes and eulogies have been offered—all of which remind us of the Senator's boundless energy and concern for the needs of all.

I would like to take this opportunity to share two articles with my colleagues. One is a newspaper story written by my former senior intern, Austin Welch, who is now president of the Westchester Council of Senior Citizens; the other, a poem by my constituent, William Morgan, from Port Chester.

POEM BY WILLIAM MORGAN

A great American with great success has
come to his end,
We Americans will miss a very dear friend.
He was always so loyal, faithful, and always
so kind,
That we Americans will always keep him in
mind
He had done so much for his country, so
much for his friends,
Hubert showed no fear in his journey's end.
He taught us how to be brave,
He taught us how to share and love.
He taught us how to be loyal and have faith
in God above.
As he made his speeches, his eyes they did
tear,
Not tears of sorrow, but joy and good cheer.
As he entered the skies of heaven in Air
Force Number One,
His heart was filled with glory,
As his wish had been won.
We Americans will never forget the true
and faithful job,
That you, Hubert Humphrey, had accomplished and your job well done.
As you enter the gates in heaven above,
We Americans send our blessing and our
love.
Hubert Humphrey, may you rest in peace
always.

HUMPHREY LEGACY SETS EXAMPLE

(By Austin J. Welch)

I met Hubert Horatio Humphrey in July, 1966, during the Johnson administration, when Humphrey was vice president. A for-

mer mayor of Minneapolis, Humphrey retained an interest in local government. He invited managers and officials of 350 small towns and cities to Washington, D.C., to learn, firsthand, about their problems and to offer the resources of various federal agencies. I represented Pleasantville at the time, as president of the city managers of New York State. At an evening reception, hosted by Secretary of State Dean Rusk, my wife and I were photographed with Vice President Humphrey. I treasure the memory.

On Friday, Jan. 13, news of Humphrey's death stunned and sorrowed the nation, especially those persons in government, social, recreational, minority, youth and senior-citizen work. He devoted 30 years to these fields as mayor of Minneaplis, senator from Minnesota, congressional champion of civil rights, coauthor of national legislation (Humphrey-Hawkins Bill) for the unemployed, architect of the Peace Corps and as an example of senior leadership.

At the nationally-televised ceremony in the rotunda of the Capitol, Vice President Walter Mondale summed up beautifully Humphrey's philosophy of life: "Hubert Humphrey viewed life, not as something to be endured, but to be enjoyed . . . He had an unfeigned feeling and compassion for the needs of individual people . . . He taught us how to win and how to lose; how to live and how to die. He was never given to vindictiveness in victory, self-pity in illness, or hatred—even in defeat." Yet he hated to lose and when he did (in first tries for a mayoralty, party leadership, the Presidency) he bounced right back—a "happy warrior," Sen. Edmund Muskie called him—to a continuing public responsibility.

Frequently, senior leaders face the loss of a nutrition, transportation or health program or the cancellation of public funds for the expansion of a senior center. Humphrey faced such defeats by turning away from his main objectives only for awhile, until he could regroup his forces and try again. Sometimes, he took refuge and sought strength in returning to an old love—training students of government in political science. He was reborn in the students' idealism and the belief that good government was possible at all levels. His solution to "the impossible" was only what had never been thought out or tried before.

We, the founders of the Westchester Council of Senior Citizens, of its regional and area councils and the officers of local centers, can gain new determination and courage from Humphrey: His joy of life, his confidence and his unshaken belief in serving ordinary people; his protection of the rights of minorities; his translation of the experience of the aging into achievements of youth.

A news commentator quoted a truism of Aristotle, in relation to Sen. Humphrey's life: "The measure of a man lies in that part of himself he gives in service to his fellow citizens."

Let us live as he did—joyfully—even in adversity. Then death will not be an occasion for mourning, but for celebration.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am pleased today to join with my many colleagues in the House and the Senate to pay special tribute to one of the finest leaders to have served in the Congress—HUBERT H. HUMPHREY.

If there ever was an American who typified all that is best in this country, it would be this Senator from Minnesota. Few other leaders so exemplified all of this country's highest ideals and hopes: Equality, justicc, optimism, an an overabundant belief in the American people.

Through several decades, this man served as counselor, prodder, friend, and, at times, adversary of seven Presidents. Even though he never achieved his greatest ambition of being President of the United States, he achieved much more. He was, in every sense of the word, the conscience of America.

When others were silent, HUBERT HUMPHREY took upon himself the campaign for civil rights. He was well ahead of his time. At the Democratic Convention of 1948, he led the fight for a civil rights plank and declared that every American, regardless of race, creed, or color, had basic human freedoms and rights. Color or social standing did not enter into his thinking. The speech he gave at that convention became the catalyst for the civil rights struggle that culminated in the passage of the Civil Rights Act in 1964—a definite high point in his career.

At a time when this country was embroiled in one of the most bitter struggles since the Civil War, he courageously led a divided Democratic Party. In 1968, instead of talking about fear and suspicion, he talked about "building bridges," and healing wounds.

Although he was not successful in that bid for the Presidency, he never let bitterness or disappointment get in his way. It simply was not in his nature.

During my term in the House of Representatives, I have had the distinct privilege to have known Senator HUMPHREY and to have worked with him on a variety of legislative proposals—and those proposals were numerous. He was an absolute whirlwind of activity. In the last years of his life, he sponsored one of the most ambitious pieces of legislation to come before the Congress—the Humphrey-Hawkins bill. While watered down from its original form, it still typifies the spirit and sentiment of this man who fought so hard for the rights of the underprivileged. On its merits alone, this legislation should pass the Congress, but it would also be a very fitting tribute to HUBERT HUMPHREY.

His politics were not the politics of defeat, although he faced a good number in his life, but the politics of joy. In a special tribute by Vice President WALTER MONDALE, he stated HUMPHREY always said ours was the only country to proclaim the pursuit of happiness as a national goal.

He loved politics and he loved people—to the betterment of both. His energy, courage, and abundant optimism touched every American. North, South, East or West—it did not matter. No subject was too remote or complicated for him and no problem "too big" to handle.

He will be missed by all of us, but what he stood for and what he fought for, leaves us with a legacy of hope for the future.

Mr. FLOWERS. Mr. Speaker, there can be no question that Senator HUBERT HUMPHREY will be remembered as one of the most loved and respected public figures in the history of our Nation. He was an enlightened and inspiring leader, a compassionate and courageous human being and a great American.

Senator HUMPHREY was a public servant in the truest sense of the word—the rare kind of leader who deals enthusiastically and effectively with the toughest issues while maintaining the admiration and trust of his colleagues and countrymen.

When Senator HUMPHREY addressed the Members of the House of Representatives a couple of months before his death, he called Congress "the supreme example of government of the people, by the people, and for the people."

For a living memorial to HUBERT HUMPHREY, I think we in the Congress should rededicate ourselves to serving the interest of all the people and preserving the greatness of the legislative body he praised.

Mr. ROSENTHAL. Mr. Speaker, there is a legend that in every generation there exist 36 righteous men. No one knows who they are, but it is through their goodness that the world survives. These righteous 36 are humble, just and compassionate men. I have long felt that HUBERT HUMPHREY was one of these.

Senator HUMPHREY's sense of commitment and concern for the human rights of all Americans was unmatched. His passing has created a void in the Congress, in the Nation, and in the world that cannot easily be filled.

HUBERT HUMPHREY was a leader always ahead of his time. He led us—and challenged us to be better.

Senator HUMPHREY exemplified those characteristics which are uniquely American. His common humanity, abounding optimism, tireless humor and concern for all people were qualities rooted in the fabric of American life.

One could always count on Senator HUMPHREY to follow his convictions, even if they were not always politically expedient. When he challenged the Democratic Party in 1948 to "walk in the bright sunshine of human rights," he did so, he said, "knowing it could make me an outcast to many people, and even end my chances for a life of public service."

It was often said that HUBERT HUMPHREY was a man having a love affair with his country. It is clear today that his love was returned in full measure.

Even his one-time political opponents are calling him the man who should have been President. It takes no great wisdom to realize how different history would have been with this man of compassion, integrity and vision in the White House. He was one of the giants who strode this Earth, and we are all a little bit better for it.

Mr. GOLDWATER. Mr. Speaker, so much has been said and written about our late colleague, Senator HUBERT H. HUMPHREY during these recent days since his untimely death, that I am afraid there is very little I can add to the official testament about his remarkable life.

Like all of us who enter the political fray and love the challenge of politics, Senator HUMPHREY felt the call of destiny, and he never ignored it. When Franklin Roosevelt told the Nation, "We have a rendezvous with destiny," I'm convinced he had a young man like HUBERT HUMPHREY in mind to help shape that destiny. Never did a man serve his country, who was more aware of his and our destiny than Senator HUMPHREY.

I stand in awe of him; a situation that began for me, personally, back in 1964 when he was campaigning for the Vice Presidency, and my dad was campaigning for President. What a foe we had in Senator HUMPHREY. During that campaign I believe I felt like General Custer must have felt at the Battle of Little Big Horn—it was nice being a part of history, but who gave those Indians so many rifles? It seemed like every time I stepped off a plane to campaign for my father, Senator HUMPHREY had already been there with the rifles.

What a man he was. He never forgot a face, never forgot a name, never forgot an event, and never forgot his humble origins and how important it is to treat people, regardless of that person's station in life, as if he or she is the most important person on Earth.

I'm not at all sure we will ever see the likes of him again. His role in history is secure, and will become more secure with the passage of time. He was a distinguished and honorable man whose politics I often differed with, but in the final analysis, I never respected and admired an adversary more. Like Lincoln, Senator HUMPHREY now belongs to the ages.

To his lovely wife and beautiful family, I can only say that it was a privilege of the highest order to have known him, and like every other American, I shall miss him.

Mr. STAGGERS. Mr. Speaker, the Halls of Congress have been greatly diminished by the death of our most beloved colleague, HUBERT H. HUMPHREY. But, each of us in Congress and, indeed, every American has been enriched by Senator HUMPHREY's life.

The former Vice President and I entered Congress on the same day in 1949, and I have always been most proud to call him my friend. My first meeting with the Senator was 29 years ago. Even then you could see there was something very special about HUBERT HUMPHREY. He had a zest for life and a deep compassion for humanity. One had the feeling that he hated injustice and fully intended to do something about it. The Senator from Minnesota had that extra spark, that extra desire that would eventually sustain him in the face of disappointment, defeat, and death.

There was nothing phony or pretentious about him. "HUBERT was HUBERT," his friends would often say. When he crusaded for a cause, it was not because it had suddenly become fashionable. It was because HUBERT HUMPHREY genuinely believed that there was a wrong that must be corrected.

He was the driving force behind many of the legislative accomplishments of this generation. From the civil rights bills of the 1960's to the Peace Corps; from Federal aid to education to medicine; Senator HUMPHREY was in the forefront.

With all of his accomplishments, however, Mr. HUMPHREY had one disappointment, in my opinion. This was that it was not possible for him to attain the Presidency of the United States. His 1960 bid for the White House ended in the West Virginia primary. From 1965 through 1968, he, of course, served with great honor and esteem as Vice President to Lyndon Johnson. HUBERT HUMPHREY's best chance for the White House was in 1968 when he won the Democratic nomination. Despite his gallant campaign, the events and turmoil of the times dictated a different winner.

It is somewhat unfortunate that HUBERT HUMPHREY was never President of the United States. We know, however, in his three decades in the national limelight, he indeed made many great contributions to America and the world. He became a living symbol of the spirit and the promise of our Nation. He became the most beloved American. He was our moral, legislative, and spiritual leader.

HUBERT HUMPHREY never had the title, "Mr. President," but in a very real sense, he was our national leader for 30 years. No President has ever achieved that distinction.

Mr. MEEDS. Mr. Speaker, there have been so many eloquent words spoken about the beloved Senator from Minnesota, HUBERT HUMPHREY, that one hesitates to add to it. But several of the many lessons he taught us about politics are worth underlining.

HUBERT HUMPHREY met his share of opposition and defeat in his political life, as we all do. But he was always too busy living, working and accomplishing to harbor resentment. Doubtless he had the same instincts all people do for anger and perhaps even for revenge. But he just never had the time to waste on them. His way was to look ahead to the next challenge, not look back in anger.

That ability characterized his entire life. His optimism, his energy, his almost infinite capacity to see the positive side of everything caused him to practice what he called the politics of joy. He found his motivation for accomplishment in the joy of solving a problem rather than in the pain of recognizing it.

Whether it was forgiving a personal slight or forgetting a political setback or bouncing back from the painful loss of the opportunity to serve his country as President, HUBERT HUMPHREY was simply too busy to have it any other way.

Mr. DODD. Mr. Speaker, HUBERT HUMPHREY loved politics and politicians, and the feeling was mutual. His vibrant presence filled more than 30 years of American politics with a persistent and irrepressible energy characteristic of the "politics of joy" that he practiced.

A liberal who learned to compromise because it was better to get something than nothing, HUBERT often left moderation behind and waged uphill battles on legislation that others were reluctant to support. He first brought the cause of civil rights to the Democratic platform in the 1948 convention and, because of his legislative skill as the Senate Majority Whip, the Civil Rights Act of 1964 became a reality in our time.

His foresight and intuitive grasp for what was right as well as what was necessary for America resulted in the creation of far-reaching and progressive programs like the Peace Corps, medicare, Federal Aid to Education, and the U.S. Arms Control and Disarmament Agency.

Although he never became President, HUBERT HUMPHREY's inability to call it quits was a reflection of his belief that our country was built upon the American peoples' ability to turn setbacks into beginnings and failures into triumphs. We will all remember HUBERT best for that undiminished spirit that tempered the opposition of his staunchest adversaries and rallied his many allies behind legislation that he felt merited congressional action.

It may have seemed to many people that HUBERT HUMPHREY took on too many issues, that he spread himself too thin, but he believed in guilt by omission. His fast-talking approach to politics encompassed any and all issues, but his words were never frivolous and always coherent.

As a close family friend and a political colleague of my father's, HUBERT HUMPHREY was a familiar figure in my life since my youth. He was a man I both admired and respected, and I will always be grateful for the time that I spent with him.

Perhaps the greatest legacy that HUBERT HUMPHREY leaves behind is the knowledge that he has touched all of our lives in some way. Every American has met HUBERT HUMPHREY through a career that has influenced the course of American politics and our way of life for more than three decades. His compassion for the American people was contagious, and his outspoken beliefs became the conscience of our Nation.

It is hard to imagine a Congress without HUBERT HUMPHREY, but it is even more difficult to think of an America without HUBERT HUMPHREY to guide it forward.

Mr. GOODLING. What we say here today cannot outweigh the greatest outpouring of compassion and gratitude that this Nation has witnessed in a decade. But what we feel must be expressed if only to assure our inclusion in the Nation's effort to eulogize a great American.

HUBERT HUMPHREY was such an American. But even more, he was a man who did not want the verbosity of lengthy eulogies.

In that spirit I wish to keep my remembrance to only a few choice words of what HUBERT HUMPHREY, the man, meant and continues to mean to America.

If I had to choose only two words to sum up Senator HUMPHREY they would be sincerity and optimism. On those two occasions when I worked with HUBERT in conference committees these two words could best characterize his philosophy and outlook. Although I often disagreed with his approach to legislative remedies, I could not help but be struck by the contagious optimism which filled the room.

That sincerity and optimism is in the best of American tradition. And HUBERT advanced these traditions to a new generation. He rediscovered the wisdom of not taking ourselves too seriously and he reflected the beauty of emotionalism.

Coming generations, although not always knowing it, will carry on these traditions thanks to the man who made them popular again, the "Happy Warrior" from Minnesota.

Mr. WINN. Mr. Speaker, HUBERT HUM-

PHREY achieved a rare quality in this infinitesimal segment of eternity called life. HUBERT made an impact on this society that will live on for many decades to come. So many times we feel a tremendous loss with the passing of a friend; however, it is not the case with HUBERT HUMPHREY because we see and feel his influence every day. His most dominate mark on society will obviously be his vigorous and powerful leadership in the civil rights movement, but Senator HUMPHREY's qualities as a man will dominate the memories of those who knew him personally.

The appreciation of HUBERT as a man goes far beyond the political affiliations we hold or what side of an issue we stand on. It doesn't matter whether you are conservative or liberal in your views—it is impossible not to admire a person for standing by his views and presenting them as a gentleman. HUBERT HUMPHREY epitomized this quality. HUBERT himself made comments about being a failure because of never fulfilling his dream of occupying the White House. But in retrospect, this is no way to measure success. HUBERT could probably have been President if he would have sacrificed some of his views. This sacrifice would have undoubtedly represented a bigger defeat than not being President—HUBERT obviously did not succumb to that temptation.

HUBERT HUMPHREY is gone in a physical sense, but his memory and work will live on for years to some. That memory will always characterize HUBERT HUMPHREY as one of the most successful men in the world—successful in the art of living.

Mr. FORD of Michigan. Mr. Speaker, in accordance with one of Senator HUBERT HUMPHREY's last requests, I am not going to eulogize him, or dwell upon his extraordinary career and his untimely death.

His accomplishments during an exceedingly full life will be remembered for generations to come, and the memory of his vibrant personality will surely continue to inspire all of us who had the privilege to know him and serve with him.

It was truly ironic that HUBERT HUMPHREY died shortly over 1 year after the death of another great Senator—Philip A. Hart of Michigan. These two outstanding statesmen shared the same dreams for America, served together in the Senate during much of their careers, fought for the same causes, and both fell victim to the same disease.

Mr. Speaker, as a young student of history, I was fascinated by the dramatic decades which preceded the American Civil War, and looked with awe upon the roster of great Americans who served in Congress during that turbulent era—Webster, Clay, Calhoun, and others who have become true giants of history.

As I stood in the rotunda of the U.S. Capitol to pay final respects to HUBERT HUMPHREY, it suddenly struck me that during my 13 years in the Congress, I had enjoyed the rare honor of serving with at least two men who would also be ranked among the real giants of American history.

Mr. Speaker, there is no finer way to honor the memory of HUBERT H. HUMPHREY than to continue our fight for the kind of America that he envisioned—to strive even harder to achieve the goals for which he fought until the very day of his death.

Mr. STOKES. Mr. Speaker, I would like to commend the gentleman from Minnesota (Mr. QUIE) for giving the Members of the House the opportunity to pay our respects to the late Senator from Minnesota, HUBERT HORATIO HUMPHREY.

Just 3 short months ago, Mr. Speaker, my colleagues in the Congressional Black Caucus and I gathered on the floor of the House to pay tribute to the distinguished Senator upon his triumphal return to the Nation's Capital. At that time, I cited many of the Senator's outstanding legislative accomplishments, especially in the areas of civil and human rights. My colleagues and I also pledged our continued support of H.R. 50, the Humphrey/Hawkins Full Employment and Balanced Growth Act, which is, in human terms, perhaps the most important legislation scheduled for this session of Congress. This legislation stands as a monument to the Senator's unswerving commitment to the fundamental principles of democracy.

Mr. Speaker, I was deeply saddened upon receiving word of Senator HUMPHREY's death. Even though his body was weary and wracked with illness, it seemed in those final days that his spirit grew stronger under adversity. Certainly the biblical retort "O death where is thy sting, O grave where is thy victory" is applicable to our fallen colleague.

In conclusion, Mr. Speaker, I would like to extend my deepest sympathy to Senator HUMPHREY's fine family. I am particularly pleased that Mrs. HUMPHREY will be returning to Washington as the newest Senator from the State of Minnesota. Let us wish her well in this most challenging endeavor. I can think of no better tribute to Senator HUMPHREY than to have his lifelong companion and confidant to take over the reins of leadership and carry forth with his unfinished work.

Mr. CEDERBERG. Mr. Speaker, the passing of Senator HUBERT HUMPHREY marks the end of an historical era. This man, above all others, has been intimately involved in many fundamental changes that have occurred in our governmental operations. His imprimatur can be detected in many of the political events of the last 30 years.

He has served his country in almost every conceivable way. From the verge of the Presidency to a dedicated Vice President to revered Senator to hard working Congressman to respected State and local public servant, his entire life was dedicated to the public cause.

He was at the forefront of countless legislative battles that wrought integral changes to our system of government. Forceful and articulate, he repeatedly carried the banner for many causes. In Senator HUMPHREY, many people found a leader who was not afraid to risk his own political security to wage their fights.

It would be impossible to faithfully list all of Senator HUMPHREY's achievements, both humanitarian and legislative. Literally, they are too numerous to accurately summarize. Moreover, a simple numerical summary could not do proper justice to the real meaning of his accomplishments.

His activities in his almost 40 years of public service have touched many lives. These people are the ones who can testify to the importance of his work. For it was as their spokesman that he gave them inspiration and hope. Without Senator HUMPHREY's efforts over the years, many groups would not have achieved the great strides they did.

Nor would a simple listing of his achievements be in keeping with the philosophy and wishes of Senator HUMPHREY. Modest beyond all proportion to the esteem in which people held him, he always kept looking to the future, never to the past. His own personal measure of success was determined in his mind by what he had failed to get accomplished, not by what he had already achieved. He was more interested in what there was left to do rather that what had already been done.

He was strongly identified with the workingman with whom he felt a great empathy. But he worked tirelessly to help all Americans, regardless of their background. Without doubt, his actions in the legislative forum have affected almost everyone to some degree.

Moreover, his influence on policymaking will not abate in ensuing years. His positions, which are the basis of current sweeping legislative proposals, will continue to serve as fundamental points of reference in future debates. An acknowledged authority on many aspects of the congressional process, as well as legislative issues, his counsel will be sorely missed by many, both within the Congress and the administration.

Our political philosophies sometimes differed. But it was not due to lack of respect for Senator HUMPHREY. His arguments always carried great weight and commanded the utmost attention from all shades of the political spectrum. Legislation, that otherwise would have failed, was often carried due solely to the personal approval and persuasive power of this towering figure.

While Senator HUMPHREY could be a forminable political foe, he was also a forgiving one. Unlike many, he was able to set aside politics to embrace those from the other side of the political aisle. An eternal optimist, he always set a good example. Remarkable, he was able to laugh at himself in otherwise depressive circumstances. In defeat he saw victory; in death he will continue to give hope and inspiration to many.

It was only fitting that Senator HUMPHREY was afforded in the past year a small measure of the honor that will be bestowed upon him in death. He was an important political figure whose departure leaves a distinct void. His passing is a loss, not only for the Congress, but for the entire country.

However, Senator HUMPHREY would not have wanted us to dwell on his death. Rather, he would have requested that we concentrate on the living and focus

our attention to their plight. With regard to that, he doesn't have to worry. The causes that he championed will be carried on by others in his name and his memory will linger in the minds of those who believed in him.

Mr. HEFTEL. Mr. Speaker, it was not long ago that this body paid tribute to a man whom I called at the time "one of the greatest leaders in the history of our country," Senator HUBERT HORATIO HUMPHREY. Senator HUMPHREY was with us then. Today, he is gone.

The Nation's sense of loss at his death was expressed by actions more eloquent than any words. The honors paid to his memory have been accorded to only a handful of Americans throughout our history. He has left us, and we must carry on, and the knowledge that he is no longer among us—to lead, cajole and inspire with his own example of how to live life—is a sad fact.

But Senator HUMPHREY would not want us to be sad. He would have us gain strength from the strength and courage he showed us during the most fearful episode of his own foreshortened life. And he would have us recall what he and we accomplished, working together, to improve life and bring justice to America's downtrodden. How could we imagine that the "happy warrior" would want anything else of us than to push on toward that goal, inspired by the happy recollection of the time we passed together?

So let us not be sad as we contemplate the unfillable void left by HUBERT HORATIO HUMPHREY. Let us only be thankful and proud that he was here.

Mr. CORMAN. Mr. Speaker, the death of HUBERT HUMPHREY has silenced the most vibrant, consistant, and inspiring spokesman for the underprivileged, the poor, the unemployed, and the downtrodden in America.

Eleanor Roosevelt once said that he "has the spark of greatness" and for more than 30 years his performance as mayor of Minneapolis, Senator from Minnesota, Vice President, and Presidential candidate reenforced the accuracy of her prediction. His irrepressible enthusiasm and his idealism combined with his sharp intellect and innovative nature resulted in legislation which has had a revolutionary effect on the welfare of this Nation. No other single individual in recent history has personally affected the scope and specifics of legislation in such a monumental way.

HUBERT's range of interests reflected the diversity of his accomplishments. He was the architect of legislation as varied as the food for peace program, medicare, and Arms Control and Disarmament Agency. In 1957, he introduced the original bill creating the Peace Corps. And he paved the way for the establishment of the Department of Housing and Urban Development. Most recently he was the driving force behind the concept that those able to work should be guaranteed jobs. The Humphrey-Hawkins full employment bill was a cornerstone of the 1976 Democratic platform and continues to gain support and momentum throughout the country and within the Halls of Congress.

Those are simply some of the highlights of his work. He authored hundreds of bills and influenced the direction and final form of thousands of laws. But if a man's accomplishments must be reduced to one specific achievement, his most remarkable contribution was in advancing the cause of civil rights.

In 1948 when HUBERT HUMPHREY rose to the podium at the Democratic Convention and declared that "the time has arrived for the Democratic party to get out of the shadow of States' rights and walk forthrightly into the bright sunshine of human rights" he said what many concerned Americans believed. The time for racial segregation had long passed and all individuals, regardless of skin color, should have equal rights, equal opportunities, and equal justice. In 1948, it was courageous to take that public position and HUBERT HUMPHREY was out front speaking his mind.

When high party officials suggested that he curb his rhetoric on an issue which could cause an irreparable split in the Democratic Party in a tough election year, HUBERT spoke with compassion and conviction.

When Southern delegations walked out during his speech, HUBERT did not compromise or weaken his human rights appeal. His voice strengthened, his resolve grew to convince his party to endorse a strong civil rights plank.

HUBERT HUMPHREY succeeded in that effort and in a very real sense became the catalyst for the civil rights movement of the 1960's. It was his dramatic call to end segregation in 1948 which led to the passage of the landmark civil rights bill in 1964.

It was during the latter period that I was privileged to work with him in pushing the civil rights bill through Congress. His commitment to ending racial discrimination was not a personal vendetta against a person or a region, it was a fight on a principle which is basic to our democracy. As majority whip in the Senate during this period, he had to contend with many opponents who did not share his belief that blacks were second-class citizens. He treated them with respect, conducting himself with dignity at all times. He outorganized the filibuster forces by working tirelessly and effectively to line up support for the bill. But he never harbored bitterness toward his opponents.

He was a brilliant legislator who understood the diverse forces impacting on legislation. He had a keen insight that social goals, no matter how desirable, are not often reached quickly or easily.

In his 1976 autobiography, "The Education of a Public Man," Senator HUMPHREY explained his philosophy of legislating in this way:

> While one man alone cannot pass anything, one or several senators working the right way can look forward to some success. In any legislation, your goal must be clear, not fuzzy; you must prepare your arguments carefully, lining up the natural advocates as best you can both inside and outside the Senate. And then, after fighting as hard for it as you can—in the subcommittee, committee, on the floor, and in conference—you had better know precisely where you are willing to compromise. You can end up with nothing two ways: by being so rigid that the entire legislation is lost, or so flexible that your opponents gut the bill. But strong and sensible arguments, together with a reasonable compromise, prepare the way for a later effort. It is better to gain a foot than to stand still, even when you seek to gain a mile.

HUBERT HUMPHREY gained more than a mile in redefining the position of blacks in our society. While he may not have ended social injustice in this country, he was the conscience of the Nation.

Senator HUMPHREY's ideals were shaped by a close relationship with his father and the immense personal and psychological effect of the Great Depression. It was during this period of his life when he dropped out of college to help his father run the family drugstore. He saw firsthand the devastating effect of job layoffs. He learned to understand the consequences of economic reverses. And he gained insight into the daily problems which can oppress a free people.

It was from this experience that his lifelong commitment to Government service originated. He sincerely believed that Government has a continuing responsibility to make life a little easier. He rejected the conclusion that life is unfair and set out to champion the cause of the less fortunate. In a Senate career spanning four decades he suffered legislative defeats but never abandoned the hope and promise of a better life for this Nation's people.

For in the final analysis, HUBERT HUMPHREY never ignored the strong bond between him and the people. He thrived on the campaign trail. To HUBERT HUMPHREY politics was, as John Adams described it "the spirit of public happiness."

In his autobiography he described his need to get away from the high intensity politics of Washington and go among the people:

> There is simply no substitute for first hand contact, no matter how brief our superficial, no substitute for meeting people and hearing them describe the issues that concern them. For a politician, America is, indeed hard to see if you stand still. It is only by coming in contact with the real life of the nation and the real lives of people that you begin to realize what America is, what it has to offer, and what it needs.

America needed the Happy Warrior.

His politics of joy made him resilient.

Three times he sought the Presidency with a drive and passion rarely matched in our history. In 1968, as the Democratic Presidential nominee, he lost the election by a hair. A lesser man might have been broken by the experience abandoning the political stage and retreating into private life. But that was not HUBERT's style.

He did not retreat from setbacks, he gained momentum by them.

He was not bitter in defeat, he accepted it.

He never forgot how to forgive.

He forgave those who did not support him in elections and waged constant battle to maintain old alliances and encourage new ones.

In 1970, the true measure of the man

emerged as he returned to the Senate, a freshman, after 15 years of service. He started all over again and built a reputation for leadership, scholarship, and hard work. He continued as a national spokesman for universal health care, full employment, nuclear disarmament, and tax equity. He pushed for an urban policy to rebuild our cities.

There was not a significant national problem which did not have HUMPHREY'S attention and an enlightened Humphrey solution.

He emerged as a backbencher in terms of seniority, into a frontline party spokesman. His exceptional oratory skills and substantive proposals combined to make him an authority, an expert on domestic and international issues.

He never vacillated on the tough issues. His positions were known and his mistakes well publicized. But he was a man with heart who deeply loved this country.

The personal loss that is felt by his wife, MURIEL, and his family must be overwhelming. But his death was personal to those who never even met him. His premature departure from the American political scene removes the most consistently optimistic voice for change in this country. Generations of Americans cannot recall politics without this dominating presence.

No tribute can possibly convey the exuberance and love which flowed from this man. Senator HUMPHREY will be remembered for his good heart and good deeds.

I am very saddened by his death, but will remember him as a living example of the prayer of St. Francis of Assisi:

Where there is hatred, let me sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light.

We can give thanks that HUBERT HUMPHREY shared his politics of joy with us.

PERSONALITY

Mr. VENTO. Mr. Speaker, HUBERT HUMPHREY cannot be summed up in a few words. There is just too much there. However, I believe that the late Adlai Stevenson came close when he said:

He rejoices in what we are; he is keenly aware of what we are not, and is deeply committed to what we must become.

What stands out in my own memories of HUBERT HUMPHREY is the vitality of the man. Like most people in this room, I was privileged to hear him speak and to meet him on numerous occasions. He would literally radiate hope and joy, love and compassion, strength and energy. Because we in Minnesota were so close to him, so close to the energy of this human dynamo, we may often overlook his legislative accomplishments.

NATIONAL LEGISLATION

When it came to legislation, he was persistent and dogged in his determination to pass laws that improved the quality of life for all people. James Reston, the New York Times editor, called HUMPHREY, "the most creative legislative mind to come out of the Senate in a generation":

First. The first bill he introduced as a Senator was health insurance for the elderly. It did not pass that year, but HUBERT was persistent; 16 years later the medicare bill became law.

Second. He initiated the food for peace program;

Third. The Peace Corps was his idea;

Fourth. He authored legislation to control arms and eliminate atomic weapons;

Fifth. He introduced legislation to reduce proliferation of the world arms sale;

Sixth. He fathered the concept of Federal aid to education;

Seventh. And more than anyone else, he was responsible for the passage of the 1964 Civil Rights Act; and

Eighth. Laws to aid the worker and farmer. He authored countless laws in this area that have helped many in this room.

MINNESOTA

In Minnesota, we have been the primary benefactors of his political genius. He founded the DFL Party and served as its leader. Since the DFL Party has become the majority party, more has been done for working women and men than in any other period in the history of the State.

With the death of HUBERT HUMPHREY, the founders of the DFL are no longer in public office. A second generation of DFL'ers must now carry on the dreams, the ideals, and the high aspirations of the Founding Fathers.

LIVING MEMORIAL

If we ask ourselves, "What type of memorial would HUBERT like most," I believe he would like an America with full employment, an America with full and equal opportunity, and a DFL Party that shows strength and compassion; these should be his living memorial.

There will, of course, be many other memorials: schools, buildings, bridges, streets, and statues. HUBERT was very human; he did not hide the fact that he enjoyed these tributes; but, I believe, the living memorial of continuing to strive for his ideals is the greatest tribute we can pay him.

And what are those ideals? They are best summarized in the words of his favorite prayer:

Lord make me an instrument of thy peace:
Where there is hatred, let me sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light; and
Where there is sadness, joy.

Mr. PRICE. Mr. Speaker, I would like to join my many colleagues who have paid tribute to the late Senator HUBERT H. HUMPHREY.

I know I cannot say anything today which has not already been said by the many friends and admirers of Senator HUMPHREY. He was a great man, a great American, but I am proudest to say that I called HUBERT HUMPHREY my friend.

I can think of no man in the modern history of our Nation who contributed more to the welfare of the country or who cared more for its citizens.

Senator HUMPHREY'S contributions to the Nation came not only in the way of legislation and the institution of various programs for the public good, but in a more intangible way. To the people of the world, he represented the best that America could be—and to Americans he represented the best that we are. No matter how bad things looked, HUBERT HUMPHREY could always see a brighter day ahead. No one was a more experienced practitioner of die-hard Yankee optimism.

The practices and programs espoused by HUBERT HUMPHREY will be taken up by others, but I cannot foresee anyone taking his place in the hearts and minds of the American people. Such a man comes along only once in a generation. I am proud to have known and worked with him, and though I mourn his passing, I look forward to assisting in the making of the America which he saw and strove throughout his life to make a reality.

Mr. RUSSO. Mr. Speaker, Senator HUMPHREY always was one to present us with the difficult challenges—to confront the uncomfortable situations and attack the tough problems of this Nation; to put aside our selfish interests and strive for the best in ourselves; to meet rancor with goodwill and defeat with grace.

There is no escaping the lessons we learned from this exceptional man and there is no way to return to who we were and what we were before he touched our lives. His challenges and his dreams remain a part of us.

And now a final challenge from the Happy Warrior: To avoid the gloom and the grief that settle upon us when we are separated from one we cherish. In the midst of our dreadful sense of loss can we "celebrate life" as he instructed? Yes, we can dwell with hope rather than despair as we adjust to his absence, because of HUBERT HUMPHREY and the legacy he has left us. His exuberance, his capacity to inspire, his own joy for living, his courage, and his laughter clearly are incongruous with self-indulgence in sorrow on our part.

I am sorry I did not know him longer. I was a child of 3 when the young mayor from Minneapolis was standing the 1948 Democratic Convention on its head, and was courageously awakening this Nation from almost two centuries of complacency.

This was a man always in advance of his time and yet one who never lost sight of the age in which he was working. That is what I sensed when I first met him in 1975. What I also felt was untold amounts of strength and energy. He could lift an entire crowd of naysayers around and have them buoyed up and ready for more action. His strength was not only impressive, but it was also a strength that was used properly. It was combined with faith and love and his heart bade us follow. We knew he was great. More importantly, we knew he was good.

I smile when I recall trying to keep up with the Senator when he visited Illinois and how his genuine charm could catch the most persistent disbeliever off guard. Last year when he was in the

Third District with me we naturally met a number of Republicans along with the enthused Democrats. Well, they had told me in no uncertain terms that they were only coming to see me. What did they care about HUBERT HUMPHREY? It could be reckoned in minutes the amount of time it took them after meeting him to ask for photographs, for more time with him. In short, they were enthralled and sorry that they had never realized what a fine man HUBERT HUMPHREY was.

I imagine a lot of people have felt something of that regret in these last several years. But we can move forward, without regret, because it was not our undying devotion or our tributes he wanted. What he wanted was an understanding of his work and the need to continue our commitment to the never-changing goals of justice and liberty.

How we will miss him. Even those who never knew him personally have felt his passing. And while I knew him but briefly, I am eternally grateful for this encounter. He gave substance and meaning to the word "politician," a title that was new to me, and I will carry with me the inspiration he provided to live life to its fullest, even its closing hours.

Mr. MARKS. Mr. Speaker, probably all of us, when we are young and ambitious, plan to leave our mark on the world, changing it for the better. Few of us finally do. Senator HUBERT HUMPHREY did.

Certainly, all of us who are freshman Congressmen dream of changing the world, and we look to those here who have set the standard, made the mark. As a freshman, I have become intensely aware of the high regard and esteem in which HUBERT HUMPHREY is held by his colleagues on both sides of the aisle, in both Houses of Congress. By everyone's measuring stick, he has set the standard.

If one person's life refuses to be condensed into mere words, it is the active, selfless, dedicated life of the Happy Warrior. In the vain effort to reduce to words the meaning Senator HUMPHREY had for this Nation, I can only say this: Although we may lament that he never held the highest office in our land, I believe there are even higher callings to be served, and that HUBERT HUMPHREY served a higher calling.

Mr. PICKLE. Mr. Speaker, I would like to join with my colleagues in the House in paying tribute to one of the finest men who has ever served our country. Perhaps the greatest tribute of all to HUBERT HUMPHREY has been the outpouring of emotion all over the country—not to mourn his death, but to celebrate his life and his contributions to our society.

My association and friendship with HUBERT HUMPHREY began during the Johnson years when he served as Vice President. Lyndon Johnson and HUBERT HUMPHREY were very similar in that they would not accept halfhearted or second-rate efforts from the people around them. They were both able to inspire people to work beyond what they may have thought was their potential.

Throughout the years, much has been made of the fact that HUBERT HUMPHREY liked to talk, but unlike many people he always had something worthwhile to say and something to contribute. Whenever I met with him, whether at the White House or in Congress to discuss legislation or during our meetings of the Capitol Historical Society, he always showed a keen interest and understanding no matter what the subject was and he always was able to contribute some constructive comment.

His accomplishments as Vice President, as Senator, and as one of the foremost leaders of the Democratic Party are far too numerous for me to even begin to list. But the unique thing about HUBERT HUMPHREY was the way he achieved these accomplishments. He was never overbearing, never deceitful, never self-righteous. He was persistent. Even those who opposed him on an issue could usually smile in defeat.

Mr. Speaker, I would like to share with my colleagues the comments of three of my constituents from Austin, Tex., who knew HUBERT HUMPHREY and worked with him. They are former Senator Ralph Yarborough, George Christian, who was President Johnson's press secretary, and Harry Middleton, who was a speech writer for President Johnson. Their comments were printed in the Daily Texan. I would also like to read an editorial from the Austin American-Statesman:

DRIVING FORCE FOR CIVIL RIGHTS

(By Ralph Yarborough)

When one thinks of Hubert Humphrey, one thinks of the people, because it was the people of whom Hubert Humphrey thought when he spoke, from whom he came, to whom he appealed and for whom he served.

When this small town politician burst upon the national scene at the Democratic national convention of 1948 with a tough civil rights plank and fought and won its adoption by the convention, he was only 37 years old. Thereafter, until his death, he was the foremost political protagonist of civil rights in high office in the United States.

It was dynamic, driving, pleading advocacy that saw his great plea of 1948 enacted into law in parcels, but mainly in 1964. Wherever civil rights champions are counted in America, Humphrey's name will be among the top-most on the totem pole.

Humphrey was more than a mere advocate of civil rights. He was the molder, the driving force that caused presidents and political parties to follow reluctantly in his path.

When the crest was reached, some who had attempted to thwart his goals stepped to the front to claim they had backed him. But that is every man's political experience, and Humphrey accepted it all with good grace and high good humor.

As Humphrey's civil rights fight lengthened and widened, his horizons grew with it—his vision spread to the world. The titles of the books by and about him exemplify that growth: "The Cause Is Mankind" by Hubert H. Humphrey (1964) and "A Man For All People" by Ralph G. Mastru (1968).

Though Humphrey's vision grew to encompass mankind, he never forgot the agrarian Minnesota lifestyle which nurtured him to manhood and a college degree.

For years he served on the Senate Agricultural Committee, a drudgery many senators shunned. He helped draft complicated agricultural programs and prodded Presidents John Kennedy and Lyndon Johnson to adopt them. They were workable and helped to preserve a measure of family farms.

As Humphrey's horizons expanded, he moved to the Appropriations and Foreign Relations Committees of the Senate. On the Appropriations Committee, he could aid all progressive causes. I served on the Senate education, public health, veterans, poverty and labor subcommittees. When our bills came to the floor, Hubert Humphrey aided on all of them. When we went to the Appropriations Committee, he supported appropriations to make them work.

Talk is easy and many politicians promise much publicly but secretly help cut the funds needed for the programs they publicly profess to support. Humphrey did not double-talk the progressive programs he expounded. He would put the money where his mouth was, but that's where his heart was also.

Though I served in the Senate nearly 14 years, nearly eight with Humphrey as a senator, and then four while he was vice president, I came to know him best in campaigning. One incident illustrates his power of calm deductive analysis in the midst of battle.

We were at the Astrodome in Houston the Saturday night before the Tuesday presidential election in November of 1968. The Astrodome was filled to capacity for the biggest, most dynamic political rally in America that year. President Johnson was there also. The Astrodome rocked with the roar of the crowd—it was on nationwide TV—and the Humphrey campaign jumped to new life. The rush to Humphrey was on.

When the throbbing excitment of the rally was over, my wife Opal and I went with Hubert and Muriel in their car to their plane. Despite the tremendous excitment of the night, Humphrey showed his power of cool analysis. He told us how states like New Jersey and Ohio with Democratic governors and senators and strong Democratic organizations were not lifting a finger to help, and seemed resigned to the reality of losing those states.

Harry Truman said of Humphrey back in 1965, before it was popular to praise him: "His assets are character, intelligence, energy and an informed sense of public service—a man of probity and integrity. He threw his political lot and future with the little fellow—the farmer, the worker and the everyday people who work for a livelihood. I salute him as a man truly of the people and for the people."

Humphrey's own summation of his life and work and his approach to it was always optimistic about the will and the ability of mankind to build a better world, saying, "There is a common yearning for peace, for human dignity, for individual fulfillment that breaches the artificial barriers of nations, creeds and political philosophies."

Then Humphrey listed four people to whom he paid tribute for helping to lift people out of the valley of the shadows, who passed away in the 1960s, as follows: Dag Hammarskjold, Eleanor Roosevelt, Pope John XXIII and John Fitzgerald Kennedy.

Then Humphrey said, "They are all gone. But who would say that these four lived in vain? And who can doubt the future of the mankind that nourished them?"

Now Hubert Humphrey has joined them. But who would say that he had lived in vain? And who can doubt that the mankind that nourished him has the capacity to save itself?

TEACHER OF VALOR AND LOVE

(By George Christian)

Ten years ago during a Cabinet meeting at the White House, a note was passed to me by the Vice President. He had scribbled: "George—I'm going into Bethesda Naval Hospital tonight. I've been under treatment for a bladder infection. The doctors want to do a more intensive examination. I will be in from 2 to 5 days if all is well. There undoubtedly will be inquiries, so you should know. I've told the president."

That was the beginning of the last, long chapter of the story of Hubert Humphrey, who during the following decade:

Almost won the presidency;

Became a contender for the Democratic nomination two more times;

Returned to the Senate for a highly effective second career there;

Lived to become a senior statesman in as near a bipartisan way as the American political system will allow;

And won the hearts of the world with his courageous fight against the disease that finally grew from those seemingly minor problems of years past.

Now he goes into history as one of the giants who tried, but never quite reached the pinnacle. It is likely he will rank with Webster, Clay, Taft and a handful of others from the Senate—men who shape events in the legislative halls rather than the presidency and who, after all, are just as vital to a healthy republic.

My memories of Humphrey will be mostly personal rather than political or ideological. When I knew him best his politics were Minnesota establishment and mine were Texas establishment. Both of us were serving Lyndon Johnson, an all-encompassing enterprise without regard to ideology.

Of the people around a president, I believe that the vice president and the press secretary have the greatest opportunity for discomfort—one from too little attention and the other from too much. I became very fond of him, as did most of the White House staff. We watched him chafe under the limitations of his office with only a rare show of rancor.

I'm sure there was a rivalry between some of his people and some of Johnson's, which is the normal way of things. However, I never heard a malicious comment about Humphrey from anyone in the White House.

Lyndon Johnson was not known for masking his feelings, but the only time I remember any criticism of the vice president, it related to Humphrey's propensity for oratorical extravagance. "There is something in the water," Johnson used to say, "that makes people from Minnesota talk too much." (In Idaho and Montana the water made them isolationists, in Oklahoma it made them trustworthy, and so on down the line.) Otherwise, Johnson liked to refer to Humphrey as "an A-plus vice president."

I can imagine the anxieties Humphrey suffered during the 1968 presidential race when he was trying valiantly to remain loyal to his old friend and boss while attempting to woo the dovish supporters of Eugene McCarthy. Most of his campaign team wanted him to turn against Johnson on Vietnam. He refused.

Humphrey did make an effort to appear more dovish than he actually had been in the Johnson administration war councils, and he called himself the "peace candidate." Some believe he would have won had he moved a few more pegs in that direction. Others say the McGovern debacle four years later proved that the country would have rejected Humphrey had he tailored his campaign to suit McCarthy. In any event, a few votes here and there would have defeated Richard Nixon.

What kind of president would Humphrey have made? Was he tough enough, and decisive enough, to handle a badly split nation during the late '60s and early '70s?

Humphrey tried to answer that himself in a letter he wrote to liberal columnist Joseph Kraft after Kraft criticized the druggist's son for looking at the world through the rose-colored windows of a family drugstore and being inadequate to the demands of the White House.

The Vice President sent me a copy of his letter to Kraft, in which he wrote: "There are a lot of tough guys in the world. In fact, that's part of the problem. And there are a lot of smart guys in the world. They add to the problem. What is really needed are people of integrity, courage, reason, patience and determination. Those are the good guys. I have a feeling that the American people will elect a good guy. That's what they did in 1960, in 1964 and I think they will do the same in 1968."

The electorate failed to meet his expectations. Yet over the subsequent decade, he proved that it was difficult to keep Hubert Humphrey down for the count—in the political arena or in life itself. He had too much love for what he was doing and what he ought to be doing, and too much love for people. Even in dying he taught us a lesson in style and valor and love.

That's the kind of president he would have been.

LIBERAL HERO'S POLITICS OF JOY SHAPED HISTORY

(By Harry Middleton)

Old-fashioned liberalism was considered a virtue to the young progressives of my generation, so we looked on Hubert Humphrey as a hero. He was overshadowed by Adlai Stevenson through the 1950s, and then by John Kennedy in the early '60s, but by 1964, he had fought our battles long and well, and we were grateful to Lyndon Johnson for selecting Humphrey as his running mate.

When I started working for LBJ, one of the real rewards was getting to know the vice president. I welcomed any opportunity to be in his presence; that legandary ebullience was an unfailing joy to watch in action.

Later, Humphrey became a good friend of the LBJ Library. He came here on several occasions, including two of our symposiums. One of those was the civil rights conference in December, 1972, when Austin lay under a glaze of ice. The plane carrying Humphrey and some of the other participants could not land here and had to go on to San Antonio. The passengers were driven back by bus. They arrived at the Sheraton Crest after midnight, cold, tired and hungry.

I went up with Sen. and Mrs. Humphrey to help get them settled in their rooms. We had reserved the presidential suite for them. I couldn't get the door unlocked. The Senator might well have been forgiven for showing a little testiness at the end of that grueling day. Instead, he said: "This doesn't surprise me a bit. I've been trying to get into that room for years, but the key never works." The next morning he delivered a rousing speech on civil rights—an old and early love—that brought the audience to its feet.

Those were two sides of Humphrey that told a lot about him. But there was a third, every bit as important. Looking through the correspondence between Hubert Humphrey and Lyndon Johnson—a voluminous exchange revealing a warmth and mutual respect that bound them together for 20 years—I came across a letter that the senator from Texas wrote to his colleague from Minnesota in 1956, which we now have on exhibit in the library.

In it, Johnson predicted that Humphrey "will be on the scene as a national leader long after the others are forgotten" because he saw Humphrey as a liberal who found "nothing incompatible between liberalism and achievement."

That assessment, I am convinced, was at the heart of Johnson's long respect for Humphrey. I also think the accuracy of the assessment was Humphrey's distinction: he preached the old time liberal religion with a fervor unsurpassed by any progressive of his time; but he also knew, in a way few others did, how to count votes.

He mixed those two qualities into a "politics of joy" which helped shape history.

A MEMORIAL: MORE JOBS

Monday they buried one of the few political figures of the century who was both beloved and effective.

Hubert Horatio Humphrey, the senator from Minnesota, probably sponsored more legislation intended to do good for the people than any other person. His monument should not be a statute, but legislation to stimulate the economy so that meaningful jobs will be created.

Humphrey believed people should work. His original full employment bill was unacceptable because it was too radical. The latest version is probably harmless, but it does establish a principle that the government should be committed to lowering unemployment.

The outpouring of feeling about Humphrey, as he lay in state in the U.S. Capitol and in Minnesota, reflected the man's honest belief in people. Many of the thousands who paid their last respects in person, and the millions who watched and read the tributes, felt Humphrey was their friend.

Vice President Walter Mondale, Humphrey's protege, spoke simply and eloquently, summing up a purposeful life:

"He taught us all how to hope and how to love, how to win and how to lose. He taught us how to live, and finally, he taught us how to die."

Senate Majority Leader Robert C. Byrd said Humphrey's death has created an atmosphere in which the chances for the passage of the Humphrey-Hawkins full employment bill are improved. Humphrey endorsed the latest version of the bill, but it little resembles the idealistic original, which emphasized government as employer. It is a statement of principles and goals.

Its passage would be an empty gesture if it is not followed by specific legislation that will help people find jobs, preferably in the private sector.

Mr. METCALFE. Mr. Speaker, it is a great honor to rise under the special order of Mr. QUIE and Mr. FRASER to join my colleagues of the House of Representatives to eulogize the late Senator HUBERT H. HUMPHREY.

Memories of his civil rights speech at the 1948 Democratic National Convention still linger in black, minority, and oppressed communities. That was a convention where civil rights forces were fighting for a plank that was very mild by today's standards, but where some of the Southerners threatened to walk out if the plank was adopted. The 37-year-old mayor of Minneapolis, turning the convention around, argued from the podium:

There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states rights. The time has arrived for the Democratic party to get out of the shadow of state's rights and walk forthrightly into the bright sunshine of human rights.

In the Senate when the great civil rights issues came in the late 1950's and the 1960's, he was there and out front. Those years produced the Civil Rights Acts of 1957 and 1959, and he floor-managed the Civil Rights Act of 1964 through the inevitable filibuster. He was there, shaping the bills in the committees and in the cloakrooms and protecting them clause by clause, phrase by phrase, and word by word. Later as Vice President he helped with the Voting

Rights Act of 1965. All of these measures changed the face of America, not completely but clearly for the better.

Speaking at the 1966 White House Conference entitled "To Fulfill These Rights," the then Vice President of the United States said:

We can rejoice that the time has arrived when millions of Negro Americans can step out of the shadows, and walk forthrightly into the bright sunshine of human rights. But a man too long walled off from his fellows cannot easily adjust his senses and his capacities to the light—and the heat—of equality. This generation of Americans has the task, and the priceless opportunity, of walking side by side with the Negro American as he strides into that bright sunshine and stands erect.

And always the man of moral leadership, he went on to say:

Twenty million Americans will no longer be pacified by slogans or tokens. They will not be satisfied—they shall not be moved—nor should they be. For "Freedom Now" is not a catchword for a minority of Americans. It is a moral imperative for all Americans.

Always the man of vision, the Vice President at the 1966 NAACP National Convention in Los Angeles articulated the agenda that is still before us:

The Negro American asks: Are my children attending better schools? Do I hold a better job or any job? Do I have a voice in the life of my city, in my neighborhood? Am I a first class citizen, a man among men in my own eyes and in the eyes of my family? These are the questions that are being asked. And until a man can truthfully answer "yes" to these questions, we should not expect him to consider the battle won or the struggle ended. And neither should we. For what is left for such a man when the dust of the march is settled: Where today the slogans of a better world spring from his lips, tomorrow there may be nothing but the taste of ashes.

Of course civil rights was only one of Senator HUMPHREY's priority goals. There is the Peace Corps, the Arms Control and Disarmament Agency, medicare, Food for Peace, the Nuclear Test Ban Treaty, and a good deal more. He was the moving force behind them all. These are all indications of his commitment to improving the quality of life for all humankind.

It has always seemed to me that Senator HUMPHREY represents the very best attributes of American legislators. Not only was he a prolific liberal Senator, pushing hard for the programs that have made his party, the Democratic Party, great. He also planted the seeds for legislation which will become law only after years of legislative work. These seeds he listed in 1972 as elements of a new bill of rights for all Americans at a civil rights symposium sponsored jointly by the Lyndon Baines Johnson library and the University of Texas:

The right to a meaningful life free from poverty.

The right to full and equal protection of the law.

The right to productive and gainful employment.

The right to economic, political and social opportunity free from the obstruction of discrimination based on race, creed, or sex.

The right to a clean and decent neighborhood.

The right to life free from violence and terrorism.

The right to privacy, free from official or private invasion.

The right to safety, including protection of person and property.

The right to quality education at all levels, free from segregation.

The right to live in good health under a system of comprehensive insurance providing and assuring modern health care for all.

The right to be free of hunger.

The right to recreation.

The right to a clean and wholesome environment.

Throughout his years of public service in Minneapolis, in the U.S. Senate, and in the Vice Presidency, HUBERT HORATIO HUMPHREY set extraordinary standards and goals which continue to serve as guideposts for all who are committed to moving toward a society which recognizes the human and civil rights of everyone.

Mr. DON H. CLAUSEN. Mr. Speaker, thousands of words will be spoken and written about HUBERT HUMPHREY. I have many fond memories of my working relationship with this great and compassionate man.

While he will be remembered for his leadership in civil rights, labor legislation, strategic arms limitation, education, and service as Vice President, I will remember him best for the support he gave us in the Senate on forestry, land, and water resources legislation.

I enjoy a close working relationship with the Minnesota congressional delegation who recognized Senator HUMPHREY as their leader.

During the last 3 years, we cosponsored and advanced legislation directed toward intensified forest management, reforestation on public and private lands. On the last day of the 94th Congress, I was on the Senate floor pushing for passage of our "in-lieu payment of tax relief bill" for counties. It was on that occasion that Senator HUBERT HUMPHREY gave us a strong statement of support.

He consistently shared my interest in and support for legislation that would strengthen city and county government's ability to administer affairs.

I met with Senator HUMPHREY on numerous occasions and got to know him as a person. He was a man of great faith, a family man, with a positive mental attitude, a feeling and a genuine love for people, and above all an over abundance of confidence in himself, his fellow man and his country.

His contributions will stand as a living reminder of what one person can do to make a difference in our society.

I shall miss him greatly and take great pride in having worked with the "Happy Warrior" from Minnesota.

Mr. GLICKMAN. Mr. Speaker, when HUBERT HUMPHREY died, the Nation and the Congress lost a great man. At times like this, we think in terms of what kind of tribute we as a Nation should make. Before he died, we named the new Department of Health, Education, and Welfare Building in his honor. Now there are proposals to establish fellowships in his memory and urgings to enact legislation he proposed as a tribute. What specific actions we should take on those suggestions, I am unsure.

But there is something we should do. We should follow the example set by HUBERT HUMPHREY. We should take to heart the happy warrior's commitment to the right of every American to the pursuit of happiness. His optimism, his faith in America, and his continuous efforts on behalf of the less fortunate should not be allowed to falter. We might not all agree with the approaches embodied in every Humphrey legislative proposal, but only the worst cynic could disagree with the goals he sought to achieve. I am sure that nothing would please HUBERT HUMPHREY more than to know that his enthusiasm for life, his conviction to justice, and his confidence that all things are possible in America were infectious.

HUBERT HUMPHREY lived life to the fullest and he thought every American should have that same opportunity. His life was committed to seeing that the opportunity to pursue happiness was not elusive, but was a realistic prospect for every American.

We in Congress most appropriately should memorialize this man by adopting that commitment as our own, by weighing legislative proposals on the scales of justice and in the interest of a more humane society, one in which the pursuit of happiness, in which he so deeply believed, can be attainable for Americans who accept the challenge as he did.

Mr. McDADE. Mr. Speaker, unquestionably, HUBERT HORATIO HUMPHREY will be recognized as one of the truly great individuals of our Nation, for he embodied a multitude of qualities which mark a giant among men. He was full of vitality and vision, of compassion and courage, of intellect and insight, and of sincerity and strength.

He gave this Nation over three decades of dedicated public service and he served us well.

Early in his public career, HUBERT HUMPHREY had the courage, although at the time many would say audacity, to espouse a controversial cause, the civil rights movement. His visionary zeal continued, for while serving in the Congress, Senator HUMPHREY successfully championed causes which have affected the lives of most of us. Although the man from Minnesota was always devoted to his constituency back home, the Senator's quest for a better social way truly accorded him the status of Senator from the Nation. While he was never able to realize his greatest ambition of our Nation's highest office, nevertheless, his pursuit of this goal in an agreeable and indefatigable fashion will serve as an inspiration to anyone who wishes to selflessly aim for a more beneficial life for all.

The Senator came from ordinary origins and his background clearly shaped his commitment to the cause of economic and social betterment for our society. His depression experiences gave him insight into the impact of economic hardships on the individual and family and helped to form his strong personal belief in the need to actively assist the disadvantaged. In fact, Senator HUMPHREY made several visits to my own district in Pennsylvania, an economically depressed region which includes a good

share of the kind of people he so relentlessly sought to assist. I personally know of the high admiration and affection the residents of my area felt for this man. I know that on his untimely passing the people of northeastern Pennsylvania truly experienced a personal loss. And I know that my constituents would be honored to join me in this tribute to a remarkably preeminent American.

Senator HUMPHREY's departure marks a great loss for all Americans. However, we should all take this opportunity to profit from the endeavors of this man and to strive to improve life in an optimistic, untiring manner. He would be proud of this remembrance.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, hundreds of thousands of words have been spoken in eulogy and remembrance of the late Senator HUBERT HUMPHREY.

I doubt if there is a single facet of that man's public or legislative career that has escaped accolade by those of us who knew, and yes, loved him.

But it was Vice President MONDALE who reached the pinnacle of brevity, eloquence, and truth with his simple yet penetrating eulogy, when he said of HUMPHREY, "He taught us all how to hope and how to love, how to win and how to lose. He taught us how to live and, finally, he taught us how to die."

So, in the most basic way, HUBERT HUMPHREY was a teacher. One who showed others the way by example and experience.

I believe the life and career of HUBERT H. HUMPHREY, carried a compelling dual message both for the general public and for those of us who seek public office.

First, HUMPHREY never did anything halfway. If it was worth doing, HUBERT did it with vigor, single-mindedness and a piece of his soul.

He never wasted a moment and packed more activity in a day than most of us would in two. That was the nature of the man. And because he filled every waking minute with action—his regrets were few.

Sure, he desperately wanted the Presidency when he ran and lost in 1968. But he accepted his loss with his usual grace and plunged headlong into activity that inevitably lead him right back to his beloved Congress. HUBERT only knew one direction—forward.

For HUMPHREY there was always another battle to be fought, always somebody or some cause that needed his energies. It forced him to shake any feelings of sorrow at his own plight and regenerated his verve and drive.

I think this was HUBERT's message to the world. Life is too short to waste time and energy feeling sorry for yourself. Hard work and rededication to basic principle shakes lethargy and gloom faster than any other prescription and HUBERT, the former pharmacist, mixed his potion for himself time and time again as he battled from one campaign to the next.

Second, HUBERT HUMPHREY left a legacy and standard of public service that beckons each and every one of us who seeks to represent others.

Few of us may ever reach it—but I hope we never cease trying.

HUMPHREY's career as a public servant is filled with examples of his ability to turn good ideas into public laws—the ultimate test of a legislator—and his willingness to take on issues no matter how complex.

His civil rights speech at the 1948 Democratic Convention perhaps illustrates this side of HUBERT HUMPHREY better than any other incident.

But HUMPHREY had his pragmatic side. He was not all "damn the torpedos, full speed ahead."

He learned the secrets of compromise working in the Congress and put them to use. Ironically, it was when Lyndon Johnson chose HUMPHREY as his Vice President that HUMPHREY's power and experience in the Senate was at its zenith.

HUBERT chafed, as have so many capable men, in the Vice President's job. Yet as was his wont, he sought to overcome the albatross of the Vietnam war and win the Presidency. He did not, but as we all know his career did not end with that disappointment.

In the end, however, we are left with the vision of HUMPHREY the teacher, showing each of us how to fill our lives and be productive citizens, no matter what our cast in life. And we have HUMPHREY the public official, steadfast in his belief in democracy and the power of government to balance the odds against the little man, willing to scale whatever heights necessary to prove that tenet.

HUBERT's litmus test for government should guide us always. As he said last November when an HEW building was renamed in his honor:

> The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged, and those who are in the shadow of life, the sick, the needy and the handicapped.

Because of HUBERT HORATIO HUMPHREY's lifetime of good works, the Government of the United States passes this test thousands of times each day.

Mr. HANLEY. Mr. Speaker, millions of words have been spoken and written these past few weeks since the passing of our dear friend, HUBERT HUMPHREY.

The tributes have been genuine, and the heartfelt emotion overpowering. In all of the praises to HUBERT which I have read, two stand out. One is from the January 15 edition of the New York Times, the other from the January 25 edition of the Catholic Sun, printed in Syracuse, N.Y.

I would like to offer them now to my colleagues.

[From the New York Times, Jan. 15, 1978]

THE HAPPY LEGACY OF HUBERT HUMPHREY

Hubert Humphrey and death seemed intrinsically incompatible. Few human beings have ever been in love with life or enjoyed life's challenge and variety more than he did. He gave unstintingly of his heart, mind, imagination and physical energy, and he left America a better country for his efforts.

Hubert Humphrey was pre-eminently a man of the United States Senate. He was an orator, a legislator, a conciliator. He was not an administrator or even an effective politician when his own larger ambitions were at stake; he too often put loyalty to others above single-minded self-interest and kindliness to subordinates ahead of the dictates of efficiency. Thus, he was not always successful, but he was always much loved.

Like other giants in the history of the Senate—Robert Taft, Robert LaFollette, Henry Clay, Daniel Webster, John Calhoun—Hubert Humphrey hungered for the Presidency and sought it repeatedly and in vain. He came close in 1968 when, after having served as Vice President under Lyndon Johnson, he became the Presidential nominee of his party. But the antagonisms stirred by the Vietnam War were too great for him to overcome. That he came so close to doing so—despite vilification from both ends of the political spectrum—was a tribute to Mr. Humphrey's courage and powers of persuasion.

It was deeply ironic that his association with President Johnson and the Vietnam debacle denied him the White House because so much of Mr. Humphrey's political life was devoted to the cause of peace. He played a large part in the legislation that led to the Peace Corps, the Arms Control and Disarmament Agency, the partial Nuclear Test Ban Treaty of 1963, and the Food for Peace program. When he returned to the Senate in 1971, he became the strong man of the Foreign Relations Committee where his abiding interests were strengthening economic assistance programs for the poorer countries and trying to avert famine and malnutrition. The fate of Israel was another cause that engaged his deep interest: he was first elected to the Senate in the same year that Israel achieved independence, was a frequent visitor to the young country and came to feel a profound affinity for its people.

Hubert Humphrey burst upon the national political scene at the 1948 Democratic National Convention when he delivered the principal speech for a strong civil rights plank. "There are those who say to you, 'We are rushing this issue of civil rights. I say we are 172 years late.' There are those who say, 'This issue of civil rights is an infringement of states' right.' The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights. People—human beings—this is the issue of the 20th century." Probably his proudest accomplishment as a legislator was the comprehensive Civil Rights Act of 1964, which he led to final enactment through months of filibuster, parliamentary maneuver and public pressure.

His commitment to racial equality was central to the decent, humane liberalism that touched numerous other concerns, from conservation to health care and welfare reform. He sponsored the Wilderness Act, fought for Medicare and national health insurance, urged a program to assure a job for every American who seeks one, and showed as much concern for the nation's cities as for its marginal dairy farmers. Reared in a small town on the prairies, he was always an enemy of provincialism and bigotry and an exemplar of American idealism.

The ordeal of his last months may have been eased by a cascade of public tributes, in the Senate and elsewhere; the headquarters building of the Department of Health, Education and Welfare was named for him. It is given to few to be so honored while yet alive, something he recognized with a characteristic twinkle a few days ago. "You can cut back on the funeral," he told an aide, "because all the eulogies already have been delivered."

In his ill-fated Presidential campaign in 1968, Humphrey was derided for his slogan, "The politics of happiness." But to those who knew him, the term was an accurate

and sincere reflection of his personality. He was truly a cheerful, bouncy, warm-hearted man who wished good things for all God's children.

[From the Catholic Sun, Jan. 25, 1978]

THE VACANT BENCH AT WAVERLY

The vice presidential bench at St. Mary's Catholic Church in Waverly, Minn., is empty because Hubert H. Humphrey will not be stopping by to attend Mass as he often did in the past.

Two priests associated with St. Mary's remember Senator Humphrey, who died Jan. 13 of cancer, with fondness.

Fr. Martin Shallbetter, the present pastor who took over the pastorate only recently, said "he was so warm and took an interest in what I was doing." The priest visited the former vice president's home nine days before his death and the two prayed together. Fr. Shallbetter told Mr. Humphrey that all the parishioners at St. Mary's were praying for him. "He shed a few tears and said it was beautiful," the pastor said.

Fr. Wallace Hermes, pastor of St. Mary's from 1967–1970 when Mr. Humphrey was vice president, said he attended Mass here 10 to 15 times while he held the nation's number two position. The parishioners felt they should recognize their neighbor's special post and manufactured a vice presidential bench, which was to be occupied by Mr. Humphrey whenever he visited.

Over the years, the former vice president was "very helpful to the parish in many ways," said Fr. Hermes, now pastor at the Church of the Holy Trinity in Waterville, Minn. He even preached from the pulpit in 1969, delivering the commencement address at a baccalaureate Mass for the high school graduating class.

Fr. Hermes' association with Mr. Humphrey began on his first weekend at the parish, when he returned to the rectory after hearing confessions to find that the vice president had been to the back door with a Christmas present, and had asked Fr. Hermes to give him a call. From that point on, their friendship developed, the priest said.

Mr. Humphrey was "a brilliant and easy man to know," said Fr. Hermes. He also had a "tremendous respect for religion" and a deep personal faith, said the priest. "I think in a post-Watergate time of uncertainty he stood alone as the one true statesman around whom the whole country could rally in friendship."

Fr. Hermes recalls running into Mr. Humphrey the day after Bobby Kennedy was shot in 1968. "Father, this is one of the bitterest nights of my life," the priest remembers Mr. Humphrey saying. Fr. Hermes invited the vice president to come to the Waverly town hall to chat with some friends and have a sandwich, and Mr. Humphrey did.

Another time after a noon Kiwanis meeting, Mr. Humphrey told Fr. Hermes out of the blue that he would like to see the parish school. At the school, Mr. Humphrey "gave the most beautiful talk for more than an hour. He did not talk down to them but talked with them on their level," the priest said.

Another friend of Senator Humphrey's, Msgr. Terrence Murphy, president of St. Thomas College delivered the opening prayer at an all-night vigil in the State Capitol Rotunda in St. Paul. Msgr. Murphy said "He gave us all a better and brighter vision of what human life can be, and of the noble destiny of this nation of ours." Throughout this land and all over the globe, the unfortunate, the forgotten and the dispossessed today not only hope for a better life but know that it is possible to have a better life because of this man's splendid vision and unselfish labor.

Mr. HORTON. Mr. Speaker, all Americans, not just Minnesotans, have lost a great public leader and statesman, Senator HUBERT H. HUMPHREY. His death, however, does not diminish or erase from America's consciousness the many contributions he made to the political spiritual or economic well-being of the United States or the international community. His zest for living has touched so many and enabled him to bring to his work a rather unique quality which eludes most of us—an almost limitless optimism and faith that we can overcome our problems, prejudices and failures.

HUBERT'S accomplishments are legion. His name, his dedication and his concern are tied to virtually every major legislative initiative in recent years. The Nuclear Test Ban Treaty of 1963, the Civil Rights Act of 1964, the Peace Corps, foreign assistance, the Humphrey-Hawkins bill and many more accomplishments owe their success to his relentless drive to improve the quality of life. Americans of every political persuasion, every ethnic background, every religious denomination will remember him for his monumental contributions to humanity.

As he asked, it is best if we do not mourn his death, but rather take his advice and attempt to bring about his vision of America. HUBERT HUMPHREY is no longer here to rally us, but his legacy will always be a rallying point for Americans across this Nation.

Mr. SARASIN. Mr. Speaker, I join with my colleagues in paying tribute to the great and good man our Nation has recently lost, Senator HUBERT H. HUMPHREY of Minnesota.

It is difficult to write a suitable tribute to the man who accomplished so much over such a long period of time. There is great danger of falling into the kind of cataloguing of virtues and accomplishments which is best left to the encyclopedias and biographical reference books. His warmth, compassion, intellectual scope, wit and humanity are well documented.

I did not have the privilege of the long and close relationship with Senator HUMPHREY, the memory of which is so deeply treasured by many of my colleagues. I am grateful for the opportunity to have known him to the extent that I did.

In addition to the personal loss suffered by his family and his thousands of friends, and the loss to the Nation, those of us in public life have suffered an additional loss. We have lost the man who epitomized the very best in public life: The selflessness, generosity, honesty and high principles which bring honor to the too often denigrated term "politician."

HUBERT HUMPHREY will be sorely missed, but he has left us a rich legacy of example: The highest tribute we can pay this great statesman is to emulate all those character traits which we recognize as the source of his greatness.

Mr. PEPPER. Mr. Speaker, HUBERT HUMPHREY, to whom we today pay tribute, was one of the greatest legislators in the history of our Congress. The records of the Senate, the laws of our land attest in a remarkable number of instances legislation which HUBERT HUMPHREY authored or sponsored. The list is too long to recite in detail now. It is enough to say that millions of people today live or enjoy health because of what HUBERT HUMPHREY did in support of medical care for the people and research programs into the cause and cure of killing and debilitating diseases. Millions of Americans today work who would be unemployed, but for programs HUBERT HUMPHREY authored or sponsored. Millions of Americans today reside in decent homes or comfortable apartments, because of What HUBERT HUMPHREY did in the Congress to make decent housing available to the people of this country. Millions of Americans breathe cleaner air than they would have, had it not been for the great work, the persistant determination of HUBERT HUMPHREY in the Congress. Today the arts, the humanities, the science, the culture of our country have immeasurably benefited from the vision, the zeal, and the legislative skill of HUBERT HUMPHREY. Millions of Americans enjoy the freedom from discrimination in respect to where they eat, where they sleep, where they live, where they work which they would not enjoy had it not been for the long and gallant fight of HUBERT HUMPHREY. The United Nations is stronger, the humanitarian organizations functioning under the United Nations more effectively serving humanity, because of what HUBERT HUMPHREY has done as a Senator and a citizen.

The tone and character of public life in America, indeed, in the world, are higher and nobler, because of the exemplary public life of HUBERT HUMPHREY who literally lived the principle of public office being a public trust and the public officer being a public servant.

The list could be much longer for HUBERT HUMPHREY'S public service and private life touched almost every facet of American life. His indefatigable energy—energy beyond belief as Vice President MONDALE said—his irrepressible enthusiasm, his enormous vision, his unfailing determination led him to fight the people's battle at every place along the line where the people's cause was threatened. So as long as the records of America shall reveal the great deeds of men, the name of HUBERT HUMPHREY shall be illustrious in American annals and the quality of his public achievement shall be an inspiration and an example for public leaders who shall come hereafter.

But what endeared HUBERT HUMPHREY to the American people, what caused them to pour out their hearts from all over America, from communities great and small, people rich and poor, of every race, ethnic group, economic class or employment, in deep sadness over the passing of HUBERT HUMPHREY was not his great legislative record. It was what the man, HUBERT HUMPHREY, stood for. It was the quality of his spirit, the character of his courage, his enthusiasm, his idealism, his dynamism as a human personality that made him so much loved,

so much respected and so deeply mourned. The people of America, indeed, of the world, felt that a great and beautiful light had gone out when HUBERT HUMPHREY passed away. To them a great voice which had inspired them onward and upward was stilled when his magnificent, movingly eloquent voice was stilled in death. They felt that somehow the strong hand which had helped them to face the obstacles and the dangers of life was no more when the expressive, meaningful hands of HUBERT HUMPHREY, one with the other, folded in the final sleep across his breast.

My personal experience with HUBERT HUMPHREY began while he was mayor of Minneapolis and he was on the stage at Superior, Wis., when my wife, Mildred, christened a ship of the Butler Ship Yards there. I saw the fire there was in this young mayor then. It lasted even to the days when his wracked body was no longer able to bear that dynamic spirit. On my wall are pictures which attest our many occasions together and the various and many programs in which we worked in pursuit of a common interest. I can never forget being at the Democratic Convention at Philadelphia in 1948 and supporting the young mayor of Minneapolis, HUBERT HUMPHREY, as he battled bigotry and prejudice in that convention and won a platform plank for civil rights—to make this Nation true to the principles of the Founding Fathers; as expressed by Lincoln:

A nation conceived in liberty and dedicated to the proposition that all men are created equal.

I can never forget my wife telling me when HUBERT first came to the Senate that he told her that he read everything I had ever said in the Senate as reported in the CONGRESSIONAL RECORD. In 1962, when I was running for the House the first time, HUBERT HUMPHREY came to my district and made a magnificent speech to thousands of people, which contributed greatly to my success. Nor can I forget other occasions when he came to speak for me in my district; nor the times when we traveled together and worked together for Democratic candidates and, finally, in his own campaign for the Presidency. Nor can I ever forget his testifying before my Aging Committee and finally, even when he was wracked with a deadly disease, writing me a warm congratulatory note when the House passed my bill forbidding mandatory retirement on account of age. Nor can I forget the visits with him and MURIEL in Miami or Washington and the sort of kinship of soul which we recognized and enjoyed.

Words cannot take the place of HUBERT HUMPHREY. Nor can they really describe what he was and how he was and what he meant in our country and the world. His funeral service, I think, was the most beautiful I have ever seen in the rotunda of the Capitol. How fitting it was that this man who had aspired so long and with such zeal for the Presidency finally received, in death, the honors of a President. In the last days of his life the President, the Congress, the people of the country lifted him up into the position of what the President called, "the best loved man in America." What a fitting climax to such a great and beautiful life. How gratifying it must have been to him in his last years to find that all his losses were wiped out and he stood before the American people only as a winner. He had won the battle of life, the admiration, the respect, the abiding love of this great Nation, and he will always sleep in the company of our Nation's great and good.

When the soul of HUBERT HUMPHREY ascended into Heaven I know the gates of his celestial home were wide ajar and as it entered to the beautiful music of the angels there came forth the words, "well done my good and faithful servant. Enter thou into the joys of the Lord."

Mr. LONG of Louisiana. Mr. Speaker, I would like to join my colleagues in paying special tribute to the life of an outstanding American, HUBERT H. HUMPHREY. While it is inevitable that we will all feel an immediate and deep sense of personal loss at Senator HUMPHREY'S death, the contributions of this man's life have left a much deeper impression, and his tracks will remain visible for many years to come.

HUBERT HUMPHREY'S extensive political career was distinguished by dedicated service to his country as Vice President, majority whip, and Deputy President pro tempore—a special title conferred by his colleagues in the Senate—but his aspiration to our Nation's highest office was never realized. Senator HUMPHREY had another dream to which he devoted his life's efforts, however, and it was in this pursuit that he achieved his greatest success. This dream was the embodiment of an old-fashioned faith in the American people and in this great nation of ours; a dream bigger than life and stronger than death; a dream which lives on in the hearts of all of us.

More than anyone else, Senator HUMPHREY set forth ideals which are uniquely American. He dedicated his life to understanding the needs of the people, and to developing a thorough knowledge of the legislative process so that he might help fulfill those needs. While his political acumen has been duly noted, we will remember him best for his great compassion, his ready wit and good humor, his irrepressible optimism, and his unyielding courage in the face of adversity, and finally, death.

About the art of giving, Emerson once said:

Rings and jewels are not gifts, but apologies for gifts. The only gift is a portion of thyself . . . Therefore the poet brings his poem; the shepherd, his lamb; the farmer, corn; the miner, a gem; the sailor, coral and shells; the painter, his picture; the girl, a handkerchief of her own sewing.

HUBERT HUMPHREY gave the American people the greatest gift of all; he gave us himself.

Mr. GIBBONS. Mr. Speaker, no mortal's words will ever adequately describe HUBERT HUMPHREY. But I want to try. I knew him to be a concerned person, a responsible person, a hard-working person, a person who loved other people with a great depth of sincerity. All of this made him optimistic about each day's problems and about the future. His depth of character seemed to give him tremendous physical strength and endurance. He was an inspiration to all of us. He was unique and will be irreplaceable, and his memory will inspire all of us.

Mr. MONTGOMERY, Mr. Speaker, I am pleased to be able to rise and participate in this tribute to the late Senator HUBERT H. HUMPHREY.

The one word which probably best describes the life of HUBERT HUMPHREY was dedication. He was totally dedicated to those ideals in which he deeply believed. He never allowed a temporary setback to deter him in his quest to achieve what he considered to be a better quality of life for all his fellow Americans.

Mr. Speaker, we shall all miss Senator HUMPHREY, no matter what our political persuasion. He kept us all on our toes and his strong arguments for his point of view caused all of us who might have opposed him from time to time to question our own ideas and make certain that we had the facts to back up our arguments. This give and take improved the legislative process and we can thank HUBERT HUMPHREY for this improvement.

There are very few men or women who have ever gained the respect and admiration of the American people as HUBERT HUMPHREY did. He was truly deserving of this respect and admiration because history will probably record his lifetime of service as being one of the most effective, if not the most effective, Member of Congress in the history of our Nation.

I join with my colleagues in offering heartfelt sympathy to his devoted wife, MURIEL, and the Humphrey children and grandchildren. Like they, we all feel a great sense of loss and a passing of an American tradition with the death of the "Happy Warrior".

Mr. VANIK. Mr. Speaker, I want to express my gratitude for the privilege of knowing and serving with Senator HUBERT HUMPHREY. No other person in our time touched the lives of so many. To his contemporaries, he has become the patron saint of public service.

He brought glory and respect to public institutions and to the public service. He renewed our hope in ourselves and in our Government. The spirit of HUBERT HUMPHREY will bring good people into Government and encourage good people to remain.

No man in our history was more prepared or tried harder for so long a time to become President of the United States. And yet he achieved a degree of love and devotion for which scores of Presidents yearned. He brought warmth and compassion into every American heart. The spirit of HUBERT HUMPHREY is very much alive and with us.

Mr. RINALDO. Mr. Speaker, with the passing of HUBERT HUMPHREY, the Nation has lost a great American. As Vice President MONDALE told us in his moving tribute, the former Senator's last wish was that his passing be a time to "celebrate life and the future, not to mourn the past and his death."

But it is hard to forget the past when speaking of the "happy warrior." HUBERT HUMPHREY was one of the dominant figures in liberal Democratic Party politics, and he was respected and admired by Republicans as well as Democrats, conservatives as well as liberals.

Senator HUMPHREY was an easy man to admire. He was a true liberal who fought hard to make the world a better place. HUMPHREY championed the rights of the working man, the minorities, and the poor in society. History will rightly describe him as one of the great legislators of the 20th century.

The passage of the 1964 Civil Rights Act is considered one of his greatest successes. But Senator HUMPHREY also was one of the prime movers behind medicare, Federal aid to education, the Peace Corps, and the U.S. Arms Control and Disarmament Agency.

Now that he is gone, however, he will be remembered not only for the programs he helped to establish but for the special human being he was. His personal and valliant battle with cancer had the Nation hoping and praying for a victory; in our national efforts to overcome cancer, we will never forget HUBERT'S will to live and the determination he showed against this disease.

Senator HUMPHREY started out as a small-town druggist, but he never forgot the problems of the little folks. In the end, he was a man whose support transcended party lines because of the great personal affection people—all people—had for him. In the words of one supporter, he was a "man of straight answers and straight advice."

I join my colleagues, Mr. Speaker, in paying tribute to this great American. He will be missed by all of us who continue the effort to build a better America and a better world.

Mr. CARTER. Mr. Speaker, I am pleased that this body is being given an opportunity to pay homage to a great and a good American who devoted his life and his energies to the service of his country.

There is a poem which states, in part:

"If with pleasure you are viewing
Any work a man is doing,
And you like him, or you love him, say it now!
Don't withhold your approbation
Till the person makes oration
And he lies with snowy lilies o'er his brow."

HUBERT HUMPHREY had the opportunity last fall in this Chamber to see and hear how deeply the Members of this body feel about his lifetime of public service and, I trust, to know that his job has been well-done.

HUBERT HUMPHREY was known as the "Happy Warrior," and cheerfulness was truly the hallmark of his courageous efforts in behalf of what he believed was right and good for this country.

We here in Congress shall miss him. But perhaps the best indicator of HUBERT HUMPHREY'S greatness is that sorrow at his death is as sharply felt by men and women in this country who never met him but whose lives have benefited from the programs he helped enact, and by the warm, goodhearted example of service to one's fellow man which he embodied.

Kathleen and I join in extending deepest sympathy to MURIEL HUMPHREY and to the rest of the Humphrey family in their time of sorrow.

Mr. KOSTMAYER. Mr. Speaker, not long before Senator HUBERT H. HUMPHREY died, he said in an interview with the Washington Post: "What I want more in life than anything else now is respect."

I join with my colleagues in the Congress in paying Senator HUMPHREY a measure of that respect he so deserves.

Senator HUMPHREY yearned in the last days of his life not for power, nor wealth, but instead for something simpler, though not necessarily any easier to earn. He recognized that no matter how much one achieves in life, when you really get right down to it, respect, love, and friendship mean more than anything else.

HUBERT HUMPHREY for all his successes and disappointments, or maybe because of them, won the respect, love, and friendship of the American people and of the people of my own State.

Our posthumous tributes to him are a reflection of the high regard which his fellow countrymen hold for this distinguished Minnesotan.

Because of its length we cannot compile a list of the legislative achievements HUBERT HUMPHREY attained during his life. But we need no such list to know whose lives those achievements have touched.

It is the oppressed whose cause he championed, the poor for whom he was a fighter, the disadvantaged who enjoyed his advocacy, and the underprivileged for whom he was a protector.

The results of his efforts have almost universally brought about a better America, a more compassionate America, a stronger America.

His leadership took him from the mayor's office of his hometown to within a breath of the Presidency.

Many others have risen to those heights, and higher—why then this great feeling of love and affection for HUBERT HUMPHREY?

I think Senator HUMPHREY answered that question himself in that Washington Post interview.

Speculating on how history would remember him, he said he hoped to be recognized as an "effective man" in government: "That I was a decent man, that I knew my job, that I knew how to get things done, and that I did important things in government," he added.

The affection and love felt by his colleagues and by millions around the world demonstrate that HUBERT HUMPHREY met these high standards.

My political relationship with HUBERT HUMPHREY began on a sour note, Mr. Speaker, when in 1968 I picketed an appearance by the then Vice President in Allentown, Pa. That was at the tail end of a long and difficult campaign for the Presidency, when our party and our country were terribly divided. I was 22 years old then, Mr. Speaker, and very angry with HUBERT HUMPHREY as a result of what was happening in the country at that time. Nevertheless, I cast my first vote for President for HUBERT HUMPHREY that November. Although I cast that vote with a great deal of doubt then, I now look upon that single vote as perhaps my proudest.

Mr. RAILSBACK. Mr. Speaker, all of us were saddened to have learned that Senator HUBERT HUMPHREY'S struggle with cancer ended recently. As a fellow colleague here on the Hill, and even before I came to Washington, I grew to respect and admire his passion for both public and private life. I have known few gentlemen who have so thoroughly dedicated themselves to the service of people. His political life began as mayor of Minneapolis and ended as an honored Member of the U.S. Senate. During his 35 years of public enterprise he held the position of Vice President of the United States and the unofficial, but no less important position, of Ambassador for Human Rights and Health.

As a political leader Senator HUMPHREY actively participated in the workings of the Democratic Party. He fought many a political fight, yet was incapable of malice toward others. In fact, the man from Minnesota was a skilled conciliator who brought opposing forces together. He truly recognized compromise for the important contributions it brings to the American system.

In Congress, Senator HUMPHREY was an invaluable asset to all of us. An idealist, he provided many an idea that through time and much energy have become tangible realities for thousands of people in all parts of the world. Known as the "Happy Warrior" he crusaded in his own persuasive and eloquent way. His role in the creation of the Peace Corps, the Arms Control Agency, the food program, and Economic Assistance to Needy Countries earned him the respect of countries throughout the world. On the domestic side, his efforts in the areas of civil rights, the aged, the disabled, and the ill point to his unfailing sense of responsibility to the less fortunate in life.

The Senator has earned special notice because he never showed fatigue or rancor, even when faced with adversity. He was an individual unashamed of his sentimentality, which he often made visible. All through his years in public office he made it a point to be available to whomever wanted to meet and talk with him. His goal was to be open and responsive, to be an example of what a public official should and could be. He was a first-class citizen of our time.

Senator HUMPHREY should be remembered not only for his achievements and virtues, but for his philosophy as well. If I may quote him "live each day; do what you want to do with whatever you have. Get the most out of life, look ahead as far as you can—don't worry." Senator HUMPHREY was a good, generous, and well-liked individual, regarded highly by all those having the privilege of knowing and interacting with him. His family can be very proud. To them, I extend my most sincere condolences. All of us here on Capitol Hill will feel his loss very much.

Mr. HAMMERSCHMIDT. Mr. Speaker, what remains to be said about HUBERT HUMPHREY that has not already been said by this Nation's most powerful men and women? The answer is nothing. And that in itself reveals a great deal about the man who hungered for the Presidency and came to be loved in such a special way by so many.

Taking this opportunity to honor the memory and service of this rare individual, the eloquent words of our Vice President, HUBERT HUMPHREY's protege, linger as a fitting summary of the Senator's life. For indeed, HUBERT HUMPHREY, so much in the public eye, did teach us how to live, lose, love, and finally die. His unique style of living when faced with unbearable pain and death should serve as an inspiration to all Americans.

The Senator's ordeal of the last few months was most certainly eased by the influx of tributes to him, and I know my colleagues and I are glad that most of the eulogies about Senator HUMPHREY were delivered when he was alive to hear them.

It was the private character of HUBERT HUMPHREY which never ceased to amaze me. Long before he displayed such courage and open defiance of the cancer that took his life, his political career was marked by his resilience of spirit. His indomitable drive conquered major disappointments huge enough to bring many prominent people to their knees and into bitterness.

My first impression of HUBERT HUMPHREY in the Senate was that he was an eternal optimist with varied interests. His interests in foreign policy, civil rights, farm programs, health improvements, labor regulation, and welfare, could rightfully be enumerated as major commitments of a man who expressed his views on almost everything. Upon meeting this man, I was immediately cognizant of the wit, intellect, and good nature that marked his public life. Personally, I found him easy to like and can attest to his warm outgoing nature. Fortunately, I was able to witness flashes of his rarest gift of all, his keen sense of humor, although I might add that he seemed only to laugh with others and never at them.

I can still recall Vice President HUMPHREY's unending loyalty to his President during our Nation's most controversial and unpopular war. It has been reported that HUBERT HUMPHREY described these as "difficult years, but a learning experience." It was during this time period that I first was afforded the opportunity to become acquainted with HUBERT HUMPHREY, when he journeyed to the University of the Arkansas in Fayetteville to accept one of the many distinguished awards in his collection. On our trip to the university, HUBERT HUMPHREY took the time to discuss my own politcal situation as one of the first Republican Representatives to be elected in Arkansas for nearly a century. Furthermore, he explained that he could still remember vividly the early days of his political career in South Dakota, and in Minneapolis, and how it felt to be the underdog. It was an effort on his part to give encouragement to a colleague of different philosophical convictions on government, and certainly one which I appreciated.

My colleagues in the House of Representatives can learn a great deal from this man's life which was marked by work, determination, and high goals. These principles through which HUBERT HUMPHREY attained his greatness should be an inspiration to all who service the citizens of our great Nation.

In the past, I must admit that I tended to openly disagree with Senator HUMPHREY's methods for solving our country's problems, but I will be the first to add that HUBERT HUMPHREY was truly a great man. He was described in many ways by many people, but no one dared to accuse him of not being convinced that his actions were in the national interest, or that he lacked the courage of his convictions to communicate his beliefs and ideals.

My wife Ginny and I extend our deepest sympathy to Muriel and all the family.

Mr. BINGHAM. Mr. Speaker, it is with a deep sense of loss that I join my colleagues in remembrance of HUBERT HUMPHREY. A little more than 2 months ago we gathered in this Chamber to honor the living man and today we are comforted in the knowledge that Senator HUMPHREY knew of the esteem in which we held him.

That House tribute was truly a unique event. It was unique not only because HUBERT HUMPHREY was the first Senator invited to address the House of Representatives, but also because it demonstrated that the special appeal of HUBERT HUMPHREY knew no political or ideological bounds. Speaker O'NEILL introduced HUMPHREY as "the most genuine liberal this country has ever produced," a description that brought Members on both sides of the aisle to their feet. HUMPHREY himself joked that the term "liberal" must have lost all value if it could elicit so warm a response from even Republicans and conservative Democrats. But, of course, it has not. It is just that HUBERT HUMPHREY represented the kind of liberalism that is rooted in this Nation's very ideals. Like Jefferson, Lincoln, Bryan, and Franklin and Eleanor Roosevelt, HUBERT HUMPHREY made his mark by standing with and fighting for those men, women, and children most in need. He was always the champion of the underdog. So it is that we associate the name of HUBERT HUMPHREY with civil rights for black Americans, medicare, aid to education, social security, full employment, foreign assistance, and friendship with the State of Israel, HUBERT HUMPHREY was a leader in the never-ending fight to give reality to the Nation's ideals.

I first encountered HUBERT HUMPHREY in Washington in 1947, at one of the first conventions of the Americans for Democratic Action. HUMPHREY's talk was scheduled last. After days of spirited debates, speeches, and political wrangling, everyone was tired and anxious to go home. Nobody wanted to listen to another speech. But HUMPHREY did the impossible. He brought us to our feet and sent us on our way energized and ready for the important tasks ahead.

Then there was that great night in Philadelphia at the 1948 Democratic Convention when HUBERT HUMPHREY exhorted the Democratic Party to "walk in the bright sunshine of human rights." HUMPHREY electrified the Nation and helped insure that the Democratic Party would be the vehicle of black progress. I had the job of making sure that the New York delegation stood up to demand a rollcall on the Humphrey civil rights plank. From that night on HUBERT HUMPHREY became a national figure.

I also recall a long evening of deliberations in 1957 or 1958 at the Governor's mansion in Albany, N.Y. HUMPHREY had to decide whether he should stay comfortably in the Senate or venture out into the travails of a Presidential campaign. When the time came, HUMPHREY did run for President—and he ran again in 1968, and in 1972, and he almost ran in 1976. He ran for and was elected Vice President in 1964. Some people were put off by HUMPHREY's quadrennial chase after the Presidency. They considered it somehow unseemly and unworthy of him. They were wrong and HUMPHREY was right. He should have been President. His persistent quest was dictated by the fact that he knew that he would have been an extraordinary President. In a time when the Presidency has been soiled by the misuse of Presidential power, HUMPHREY elevated the office to its proper place by his quest for it. Knowing how much he was able to accomplish as a Senator, he was obsessed by thoughts of what he might of accomplished—for the poor, the black, the middle class—as President. He was not the only one to think wistfully of what might have been had he been elected in 1968. President Carter said it best:

> When he first visited me in the Oval Office, I felt that he should have served there. I know that he's been an inspiration and a conscience to us all, but especially to the leaders of our Nation—to Harry Truman, to Dwight Eisenhower, to John Kennedy, to Lyndon Johnson, to Richard Nixon, to Gerald Ford, and to me. We and our families are here today to testify that Hubert Humphrey may well have blessed our country more than any of us.

We shall miss HUBERT HUMPHREY, but we will be blessed by his memory. His place in history and in the hearts of his countrymen is assured.

Mr. ANDERSON of Illinois. Mr. Speaker, I join my colleagues in paying tribute to the career of Senator HUBERT H. HUMPHREY. He dedicated his life to serving his country and in so doing, he brought respect and honor to the profession we call public service.

HUBERT HUMPHREY was a politician in its noblest sense. He served with distinction as mayor, Senator, Vice President, and Deputy President pro tempore of the Senate. His presidential bids were not spawned out of vaunting ambition, but out of deeply held convictions. HUBERT HUMPHREY saw the social injustices that plague this country of ours and he sought to correct them. His life was filled with a bounty of examples of his lead-

ership, many times on issues on which it took courage to speak out on.

HUBERT HUMPHREY was an originator, always searching out new answers to contemporary problems. Seeing the poor condition of party politics in Minnesota in the 1940's, he helped form a new political party, the Democrat Farmer-Labor Party. He then led this party to power, being elected mayor of Minneapolis and later, U.S. Senator.

HUBERT HUMPHREY was a party leader long before becoming a national figure. He pushed his party into adopting a strong civil rights statement at their 1948 convention. Causing a rift that was not to heal for many years, he told the convention that "the time has arrived for the Democratic Party to get out of the shadow of States' rights and walk forthrightly into the bright sunshine of human rights." HUBERT HUMPHREY, you see, was talking about "human rights" long before it was popular or fashionable.

HUBERT HUMPHREY was also a determined man. He made a valiant effort for the Democratic Presidential nomination in 1960. After receiving his party's nomination in 1968, he tirelessly campaigned and nearly won the Presidency. He was determined because he saw many needs of this Nation going unfulfilled. His was a determined pursuit of power, but not power for its own sake, but power that in his good hands would alleviate the plight of the less fortunate.

As with his boundless humor and his gentle compassion, lawmaking was one of HUBERT HUMPHREY's strengths. He was largely responsible for the Civil Rights Act of 1964. He pushed for foreign economic aid in the 1950's. He prompted passage of legislation establishing a U.S. Arms Control and Disarmament Agency and later secured Senate passage of the 1963 Nuclear Test Ban Treaty. Long a leader in agricultural affairs, HUBERT HUMPHREY was the craftsman of the food for peace program.

I, too, must commend HUBERT HUMPHREY for his happiness, his hope, and his joy. Even when terminally ill, HUBERT HUMPHREY pressed on, spreading hope to thousands. He showed us cheerful determination and resolute courage even in the face of death, making plans to return to his Senate duties and to press for causes he believed in as he lay dying.

HUBERT HUMPHREY's passing has provided us with an example of how to live. HUBERT HUMPHREY met death with the same spirit that guided his life. In the words of the Gospel of St. John:

In Him was life and the life was the light of men. The light shines in the darkness, and the darkness has not overcome it.

Mr. HANLEY. Mr. Speaker, certainly as time progresses, we will continue to read and hear considerably about the late and great Senator, HUBERT H. HUMPHREY, and understandably so.

Of the many articles I have read in this regard, two particularly impressed me. Both appeared in the February 2, 1978, issue of the Washington, D.C., Catholic Standard, one written by Father John B. Sheerin, C.S.P., and the other by Msgr. George G. Higgins.

Perhaps my colleagues will enjoy reading them as much as I did:

A GREAT MAN

(By Msgr. George G. Higgins)

In August 1935, Hubert Humphrey came to Washington for his sister's graduation from George Washington University. That began a love affair with the nation's capital that endured for more than 40 years ending with the senator's death in Waverly, Minn., Jan. 13.

"Washington," Mr. Humphrey wrote his fiancee, Muriel, whom he married a year later, "thrills me to my very fingertips. I simply revel and beam with delight in this realm of politics and government." He determined to devote the rest of his life to politics. Characteristically, he included Muriel in his visionary plans. "Together," he wrote her, "we can do things I am sure. Never let me get lazy or discouraged."

By hindsight, the thought that Hubert Humphrey, a human dynamo, might have been worried in 1935 about the possibility of getting lazy or discouraged almost boggles the imagination. Yet, in his autobiography, he reports that when his dream eventually came true and he returned to Washington, in the late 1940s, this time to begin his phenomenal career in national politics, he "despaired of ever functioning well in the Senate."

I knew the senator casually then and saw him frequently at public functions. I never would have dreamed that he was so uncertain of himself. Surely that was not the public's impression of him. Three decades later, he recalled that without Muriel he might have given up. She was the balance wheel, cheering his spirits, helping him resolve "not to indulge in self-pity or escape."

Millions of words have been written since Mr. Humphrey's death about the public side of his political career. He has been hailed as one of the truly great public figures of the 20th century. Perhaps not enough has been said, however, about his personal qualities—qualities of mind and heart which would have marked him as a great human being even if his name had never come to public notice. Everyone who knew him will remember him in a special way for this or that particular personal quality. I would single out his success in combining a frantically busy life of public service with deep devotion to his wife and family, no mean accomplishment.

At one point, he observes that "Politics, more than most other careers, requires constant attention. Success requires monomania. Politics intrudes on and defines your lifestyle." If that was true in his case, it was true only up to a point. His political "monomania" (somehow the word seems out of place when talking about him) never interfered with his family life. On the contrary, his whirlwind involvement in public affairs both at home and abroad seemed to strengthen, rather than weaken, the bonds of love and affection between him and his wife and children. In the final analysis, this example that he gave the nation may have been more important than any of his more dramatic achievements in the public order.

Mr. Humphrey combined to a rare degree the aggressive instincts of the ambitious politician—he once said that a politician lacking ambition was ready for retirement—with the ability to forgive and forget personal insults or affronts and to make excuses for the dirty tricks of his opponents.

No other politician in recent American history had more reason to resent the disloyalty of former friends and associates who deserted him politically when the chips were down. Yet the worst he could bring himself to say about someone he thought had let him down hard in a crucial campaign was that the man "could have been more difficult than he was." That comes close to being what used to be known as heroic charity.

Until the moment of his death, Mr. Humphrey fought against political cynicism and spoke out for political idealism, even though he was aware that people who should have known better were saying behind his back that he was corny or naive. In this respect, he took after his father whom he once described as being "a wise and sensitive man for whom idealism was not simply a creed, but a way of life." Though written as a tribute to the senior Humphrey, these words might well be inscribed on the senator's tombstone as a fitting epitaph.

Finally, Hubert Humphrey taught us more about the art of dying than anyone in my memory, with the possible exception of John XXIII. His father used to tell him occasionally: "Stay out of bed as long as you can. Most people die there. You are only alive when you are awake." He followed this advice throughout his entire lifetime. He stayed out of bed as long as he could—long after the average person afflicted with a similar illness would have lost the will to live. In the end, however, he died in bed—with the kind of dignity and confidence that had marked him throughout his lifetime as an exceptional human being. It will be a long time before we see anyone like him again. May he rest in peace.

HUBERT HUMPHREY

(By Fr. John B. Sheerin, C.S.P.)

Hubert Humphrey's body, after lying in state in the Capitol rotunda, was flown back to Minneapolis for burial in the Lakewood Cemetery. America's most popular statesman lies alone in his glory. That glory was represented at the Capitol memorial service in the presence of three men, two past Presidents and the man who serves in that capacity now—an office that eluded Mr. Humphrey's grasp: Jimmy Carter, Gerald Ford, Richard Nixon. Yet none of these men is so genuinely admired as the bubbly, effervescent senator from Minnesota.

Some say that Mr. Humphrey was inordinately anxious to become President but there are strong reasons to believe he would have made a great one. I believe that, had he been elected, he would have radically changed the course of American history after 1968. Watergate would never have happened with all its accompanying agony and scandal.

Divine providence and his own father seemed to be grooming Mr. Humphrey for the Presidency until he lost the election to Richard Nixon by less than one percent of the vote. Early in his life he absorbed from his father a passionate interest in ameliorating the lot of the poor. Hubert remembered painfully the agonies of the poor in the Great Depression of the 1930s. He told about what the Depression did to his father in "the Dust Bowl" of South Dakota. In a magazine interview in 1977, he said, "It took 10 years off his life, just as surely as my name is Hubert Humphrey. I can still see him at his desk, his hands wringing, wondering how he could ever pay the bills, pay the taxes, take care of the family."

From watching his father's anguish, Hubert developed his interest in helping the poor, the little people on the edge of starvation. His father became a member of the state legislature and Hubert followed him from one convention to another. He remembered how his father used to read to him at the dinner table the famous "Cross of Gold" speech delivered at a political convention by that noted populist, William Jennings Bryan. Bryan's impassioned plea for the common people was echoed years later when Hubert headed a successful drive at the 1948 Democratic Convention to put a civil rights plank in the platform: "The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk

forthrightly into the benign sunshine of human rights." And in 1964, he spearheaded the drive that won the vote in the Senate for the Civil Rights Act.

Undoubtedly Mr. Humphrey's stand on the Vietnam War lost him the 1968 election. As Vice President from 1964 to 1968 under Lyndon Johnson, he probably felt that in a spirit of loyalty and cameraderie with the President he should support his unhappy policy. Or possibly he failed to realize what the war was costing the United States not only in terms of the 55,000 dead American soldiers but also in terms of the billions spent in the war that could have been spent at home much more profitably in building up decaying cities and solving other domestic problems. At any rate, the Democratic vote was divided between George Wallace and Mr. Humphrey. Mr. Wallace's 13.5 percent of the vote doomed Mr. Humphrey.

When we think of the long centuries of human enslavement and social injustice towards the blacks and the poor, Mr. Humphrey's achievement in radically improving their lot in a few years was a miracle of the first magnitude. Commentators may say that he was sentimental, that he made extravagant political promises when buoyed up by his personal optimism, that he pledged "a national juice-bank" for citrus growers and a kosher school lunch program for Jews—a political Santa Claus. But by and large, he delivered on his promises more effectively than any other politician in his time. He would have made a great President were it not for the twists and turns of politics and the confusion of the times.

A Minnesota professor once told him, "If God has given you as much brains as he has given you wind, you would be another Cicero." A Cicero he was not. He had a habit of talking too long and too fast. But he could talk convincingly because he was absolutely honest, and he could talk winningly because he sincerely loved the common people and they reciprocated. That he lost the 1968 election is one of the greatest heartaches of our history. For those four years, 1968 to 1972, are four tragic years that we would all like to tear out of the pages of our history books.

Mr. DANIELSON. Mr. Speaker, it is an honor for me to join my many colleagues in remembering and paying homage to our dear friend and magnificent American public servant, HUBERT HUMPHREY.

As nearly as I can recall he became a part of my consciousness in 1948. We all know the saga of HUBERT HUMPHREY since then, and I shall not repeat the many anecdotes and recollections already set forth in this series of tributes. However, I would like to recount two separate incidents in which my wife and I witnessed his invincible spirit.

On our first visit to the Nixon White House in January 1971, with other new Members of the 92d Congress, my wife, Candy, and I, and a few others, were viewing the furnishings in the Green and Blue Rooms. Senator HUMPHREY, then a newly elected Senator the second time around, together with MURIEL joined our small group and spontaneously proceeded to inform us of many little-known historical facts about the memorabilia in those rooms. His manner was enthusiastic and he literally enjoyed the sharing of his knowledge with others, smiling as he relayed each historical tidbit. And in doing so he made all of us fledgling Congressmen, and our wives, feel that he and MURIEL were genuinely glad to know us and that they wanted us to be as proud and loving of America as they were. The context was unique, as we were all mindful that, but for a handful of votes, he would have been our host. My wife and I agreed that this fine human being would never be defeated in spirit.

The other occasion took place in late March of 1977 in Washington, D.C., when Senator HUMPHREY was honored by the Recording Industry Association of America at its Ninth Annual Cultural Award Dinner. Candy and I had the good fortune of being seated at his table, along with Chief Justice Burger and other distinguished guests. During the entire evening there was no abatement of his enthusiasm and interest in everything going on even though he forewent the fine dinner for a special light diet and, as we now know and he knew then, his final illness was already upon him. The distinguished guest artist, Perry Como, himself a great Humphrey admirer, gave a memorable performance that evening which HUBERT enjoyed fully.

It was a well deserved tribute to a man whose love for America knew no bounds, a man who seized every opportunity to convey his patriotic fervor to others who may not have fully appreciated, or may have forgotten about, our great and good country.

Senator HUBERT HUMPHREY will always be remembered with love and affection, and for the good, the positive and the uplifting spirit which he brought to our great Republic and its Government.

Mr. GINN. Mr. Speaker, the death of the Honorable HUBERT H. HUMPHREY was an event of great sadness for us as individuals and as a nation. But because of the remarkable nature of the man, HUBERT HUMPHREY's death is also a time to celebrate the achievements of his life.

Senator HUMPHREY was a fighter for the downtrodden and forgotten of our society, and the legislation he sponsored and the programs he shaped will live on to remind us of HUBERT HUMPHREY, the public official. Perhaps of greater importance, however, was HUBERT HUMPHREY, the man. I know of no other citizen who left his mark on the Nation both through his public acts and his unbounded joy of life.

It was my honor to know Senator HUMPHREY when I worked as administrative assistant to the distinguished senior Senator from Georgia, the Honorable HERMAN E. TALMADGE. It was my honor to follow his career in Washington prior to that while serving as an administrative assistant in the House, and to follow it most recently from my perspective as a Member of Congress.

Through the span of 17 years, I came to know firsthand what is now part of our national consciousness: HUBERT HUMPHREY was a man too busy to hate, a man too full of love to suffer self-pity, a man with a vision too broad to dwell for long on the shortcomings of others.

We would do HUBERT HUMPHREY a disservice to remember him now as someone who never erred and who would look back on every step of his life with satisfaction. He was a man who made mistakes just as all humans do, but he was a man whose motives were never questioned. He was the investor of the politics of joy, and his heart was big enough to share his joy and his love with all.

In the South, HUBERT HUMPHREY's name was once a target of hate in the early days of his civil rights activities. Over the years, even the late Senator's harshest critics have come to respect him and even to praise him. The joy and energy of HUBERT HUMPHREY could win the affection of even those who continued to disagree with him.

His was a rare gift and one that time cannot dim. His courage in the face of adversity was unquestioned, his courage in the face of death monumental. We have all learned lessons from HUBERT HUMPHREY. We are all better for his having been with us, and no man can leave behind a greater tribute.

Mr. ROSTENKOWSKI. Mr. Speaker, I deeply mourn the passing of a great statesman and a sensitive human being, HUBERT H. HUMPHREY. The career of the senior Senator from Minnesota was marked by energy, drive, determination, and most importantly courage. He championed an impressive number of major issues over his long service to the people of Minnesota and the Nation as a whole. And over those years he was not one to let political appeal be his guilding light. HUBERT HUMPHREY was never afraid to stand alone for what he believed was right.

But how can his distinguished career be characterized? When one mentions civil rights, protection for the laboring man, a viable farm policy, a healthy environment, progressive education policies, the HUMPHREY name comes forward as being in the vanguard on all these fronts. It is remarkable when one notes the wide variety of causes where HUBERT HUMPHREY has been the leader. Very simply, he bore a deep sensitivity to the wide range of human suffering.

There is one personal instance that immediately comes to mind which illustrates HUBERT's sensitivity and compassion. Following a personal political setback, HUBERT was quick to pen a note to me offering words of encouragement. What made his concern all the more important was that it came on the heels of his own disappointment at the 1968 elections. Here is a man who while enduring his own suffering was still sympathetic to those similarly afflicted.

On behalf of Mrs. Rostenkowski and myself, I would like to extend my sincere condolences to Muriel and the entire HUMPHREY family.

● Mr. STEIGER. Mr. Speaker, of all the political figures to have been in the spotlight in recent decades, few, if any, cast so giant a shadow as HUBERT HORATIO HUMPHREY. News of his passing brought feelings of loss that extended far beyond the State he represented, Minnesota, far beyond the Nation that loved him and he loved so much.

HUBERT HUMPHREY was simply a giant of a man. The breadth of his intelligence, vision, and love for his fellow man set him apart from his peers, but at the

same time caused him to be recognized and embraced as the exemplification of what is good and decent in each of us.

As a man and as a symbol of what is best about our country and our people, HUBERT HUMPHREY is irreplaceable. His ebullience and irrepressible confidence could buoy the entire Nation.

Janie, Billy, and I were privileged to attend the memorial ceremony held for HUBERT HUMPHREY in the Rotunda of the Capitol. Following that ceremony, Janie and I wrote a report telling of the deep feelings we had in being a part of this final tribute in the Capitol, where HUBERT HUMPHREY had served his Nation so well. I would like now to include the text of that report at the conclusion of these remarks:

WASHINGTON REPORT

(By Congressman WILLIAM A. STEIGER)

Washington paused last weekend to honor the irreplaceable Hubert Humphrey.

Flags throughout the city were lowered to half-mast, and thousands of his fellow citizens quietly streamed into the Capitol to pay tribute to this tireless public servant. On Sunday morning, Janie, Billy and I attended the national memorial service for Senator Humphrey in the Rotunda of the Capitol. The service was exactly as it should have been—a celebration of his inspiring life.

As we witnessed this gathering of President Carter, Vice President Mondale, former Presidents Nixon and Ford, and representatives from every part of the American spectrum and other nations of the world, the ceremony brought memories of earlier ceremonies that Janie and I have been privileged to attend. The services for Dwight Eisenhower and Lyndon Johnson are etched in our minds: Charles DeGaulle striding down the aisle of the National Cathedral, honoring his comrade in arms; the eloquent National Presbyterian services for President Johnson, where we were reminded of the fleeting nature of human leadership A solemn Medal of Honor ceremony for a Menasha soldier, Kenneth Stumpf, at the White House—and a silent moment in windswept Arlington Cemetery—shared the same elements of grace, reflection and appreciation.

Happier occasions also came to mind on Sunday morning: the inauguration of Presidents, swearing-in ceremonies, a tumultuous state welcome for returning astronauts. On each of these occasions, we have been keenly aware of our rare privilege—we stand here representing thousands of 6th District residents, the people who remember Hubert Humphrey, the happy warrior who stumped our state.

We thought of the supporters who campaigned for him, the adversaries who valued his decency, and the thousands more who respected the accomplishments of Senator Humphrey, as well as his human warmth and courage.

The lesson for me in each such event is that ours is a representative government. Citizens place their trust in elected officials to represent citizen concerns—to voice their feelings. Just as each vote in the legislature reflects a public trust, so is each ceremony a reminder of that trust. Each honors the participant, and both are equally significant acts of representation—the lonely whistle of the train carrying Dwight Eisenhower to Abilene, the soaring voice of Robert Merrill leading us in "America the Beautiful" at Senator Humphrey's service are sound we were honored to hear for you.

The 95th Congress reconvenes this week. We return to deal with major national concerns—the unfinished energy conference, tax reductions, education legislation, jobs and our direction as a people. In the midst of the rough and tumble of debate on such issues, I hope we never lose sight of our united commitments and that we will, with gratitude, always find time to pause and mark the momentous occasions, both joyous and sad, which stand out as benchmarks of our democracy.

As Alfred North Whitehead said: "The art of free society consists first in the maintenance of the symbolic code and secondly in the fearlessness of revision. Those societies which cannot combine reverence for their symbols with freedom of revision must ultimately decay." ●

● Mr. WON PAT. Mr. Speaker, it is with great pride that I rise on behalf of the people of Guam to add our words of respect and honor to those of my colleagues as we pay tribute to the late Senator HUBERT H. HUMPHREY.

In the years I have had the privilege to work closely with various Members of Congress, Senator HUMPHREY stands out sharply in my memory for many reasons. Above all, he was a most compassionate person. A man whose crowded schedule never seemed too busy to greet his fellow Americans from Guam. A man whose seemingly endless sense of justice and duty made him one of our strongest and most persistent sources of strength on Capitol Hill.

This great man was concerned with far more than the mere legality of an issue. He strove to also deal with the moral aspect of issues that affected the lives of his fellow citizens. For this reason, we on Guam found numerous opportunity to count on the friendship of Senator HUBERT HUMPHREY. The list of occasions when Guam benefited from his understanding and desire to see this island achieve justice is almost endless.

In all our major battles, however, he was always there on our side. As Guam sought to win the right to elect our Governor and later as we successfully sought representation in the House, HUBERT H. HUMPHREY was there to do his best.

It goes without saying that all Americans will sorely miss this most moral of men. True greatness comes seldom and this country has been more fortunate than others to have in our midst one such as Senator HUMPHREY. His words will echo throughout history long from now. We will remember Senator Humphrey each time we think of people who cry out against injustice. And his bequest to all of us is the conviction that we all share an obligation to carry on his works.

It is said that one measure of a man's worth is the work he has left behind. If this is true, then the political and economic rights we in Guam and in other U.S. territories enjoy today are a fitting memorial to a man whose life was dedicated to these goals.

Thank you.●

THE 25TH ANNIVERSARY OF INAUGURATION OF DWIGHT DAVID EISENHOWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RHODES) is recognized for 60 minutes.

Mr. RHODES. Mr. Speaker, we pay our respects today, on the 25th anniversary of his taking office, to a great American who for 8 years was our President—Dwight David Eisenhower. He was in the truest sense a born leader. He led our forces through the darkest hours of World War II, and came home to lead our Nation through two terms in peacetime.

Dwight Eisenhower understood our American form of government. He was not given to flamboyant rhetoric, but spoke quietly and firmly of the principles in which he believed. He was a student of the Constitution, with a keen historical perspective. He once described our government thusly:

> One hundred and eighty-one years ago our forefathers started a revolution that is still going on.

He respected the past and our rich heritage, but his eyes were on the future of our great Nation. Federal reorganization is not new, for Ike recognized the wastefulness of fractionated federalism and made efforts to consolidate Federal functions to better serve the public. He said,

> Neither a wise man nor a brave man lies down on the tracks of history to wait for the train of the future to run over him.

He was a man of decision, a firm believer in human rights who believed our national strength depended upon the full exercise of the constitutional rights of all our citizens.

He was a strong supporter of our free enterprise system and in limited Federal interference in the affairs of the people. He said:

> I truly believe that the army of persons who urge greater and greater centralization of authority and greater dependence upon the federal treasury are really more dangerous to our form of government than any external threat that can possibly be arrayed against us.

In urging all Americans to take part in the political process, which he viewed as the keystone of our Republic, he stated that—

> A man without a ballot is like a soldier without a bullet.

It was my privilege to serve in the Congress during the Eisenhower years. He was a great leader, and a man of unquestioned integrity. He made the rough decisions and used the power of his office to back them up. Knowing firsthand the horrors of war, he was dedicated to peace, to a strong America to preserve that peace.

Beyond his achievements as a general, and a President, Dwight David Eisenhower was a warm and genuine human being. Coming, as I did, from the State of Kansas, he never lost his love for the land, and the operation of his farm near Gettysburg reflected his basic philosophy—to leave the land better than when he took it over.

He was a deceptively gentle individual, with a dedication and purpose of steel. He earned the love and respect of the American people as few Presidents have before or since.

Stories of his exploits and philosophy abound. I believe that one neatly sums up his vast understanding of life and people. When he was president of Columbia University, a custodian came in to complain that the students were not staying on the sidewalks, that despite signs and warnings, they were cutting across the lawns. He asked Eisenhower what should be done. "Build the sidewalks where they want to walk," he said softly.

I am pleased to join my colleagues in recalling the man who led this Nation a quarter of a century ago—and the graciousness of his First Lady—Mamie. Much has happened since that time. Our Nation has seen many challenges and the quest for world peace goes on. As we look back to the days of his Presidency—I know that I state the feelings of many Americans when I say—I miss Ike.

Mr. MICHEL. Mr. Speaker, January 20, 1978 marked the 25th anniversary of the inauguration of President Dwight David Eisenhower. In the generation that has passed since January 20, 1953, our Nation and the world has changed in dramatic ways. Yet there is much we can still learn from the legacy left to us by President Eisenhower. In many ways his 8 years in office now seem like a golden age of political commonsense and progress. Eisenhower was a great leader with the complete trust of the American people.

He was a leader who did not have to resort to gimmicks or public relations machinery. He simply was himself. He was a symbol of ordinary decency and ethical conduct at home and abroad. He was a statesman who left an impression of sincerity and high competence on foreign heads of government and on the millions who came to see him on his foreign tours. His grin was something more than just a sign of happiness. It was, in a sense, purely American. When Ike met people, either here or abroad, that grin spoke volumes about the American character.

His accomplishments are so well known that I will not take time to list them here. I would rather address myself to what were considered to be defects of his administration. In retrospect those alleged defects now can be seen for what they really were: blessings for the American people.

It was fashionable among his critics—and still is, for that matter—to say his leadership resulted in "conformity," that the 1950's were bland and dull and spiritless, that both Eisenhower and the American people were complacent and did not care enough about the real problems of the Nation and the world. What we needed, we were told, was vigorous new leadership. Then we would see real progress.

And so after Ike we got the best and the brightest. That is what they called themselves. And we got a war that the best and the brightest easily got us into and could not get us out of. We got an over-heated go-go economy that left us with inflation that has destroyed more family savings and impoverished more elderly Americans than anything that ever happened during the "dull" Eisenhower years. We got massive and chaotic Federal social spending. Tax dollars went directly to poverty warriors and other conmen. We got a new generation of self-proclaimed poverty and education "experts" whose major expertise seems to be limited to the ability to take tax dollars out of the pockets of the working Americans. The best and the brightest wrote books about themselves and about each other, telling us how lucky we were to have them, how "exciting" they were compared to Ike. But their claims to leadership sounded false to our ears. We had seen the real thing in Ike.

The best and the brightest took the real gold of the Eisenhower years and, in a kind of reverse political alchemy, changed it into lead.

His critics complained that Eisenhower, in his press conferences, rambled in speech and often could not be followed. They were, of course, subjecting patterns of speech to the standards we usually apply to written texts. Of course, when the off-the-cuff comments of those who followed him in office were treated to the same scrutiny, the same pattern of speech was noted. But it was Eisenhower who was ridiculed. Well, let me tell you something, Mr. Speaker: The American people knew what Ike meant. The world knew what he meant. And he always meant what he said.

So, let us do away with these fashionable myths of the Eisenhower years. If the American people during his administration conformed, it was only in their admiration for him. We had then a love of and belief in this country and a conviction that our Nation had a major role to play in the world. If this is conformity, I would love to see more of it.

In the end Ike's triumph was not purely political. It was personal. The American people loved him and he loved them. They trusted him because he trusted them. They believed in him and he believed in them. He never did anything to cause them to regret that trust and belief. He saw the office of the President of the United States as a duty to perform, not as a role to play. He was Ike. We miss him. And so does the world. We shall not see his likes again.

Mr. WYDLER. Mr. Speaker, we are marking the 25th anniversary of President Eisenhower's inauguration. Looking back, we know that those were golden years for America.

Although many complain that President Eisenhower was not imaginative enough in the way he ran our country at the time, today our people know that the imagination of some Presidents since those days have left us with a legacy of bureaucracy, redtape, and over-Government, which we all detest and condemn.

President Eisenhower was, of course, a national hero, a man who could reach out and touch all Americans and make them proud of themselves and their country. While others have spoken of this and tried to accomplish it, he did it with his smile which reflected his spirit of confidence and good will to his fellow Americans and peoples around the world.

Mr. MOORHEAD of California. Mr. Speaker, I am grateful for the opportunity to participate in the commemoration of the 25th anniversary of the inauguration of Dwight Eisenhower, 34th President of our country.

Since that inauguration day on January 20, 1953, a whole generation of Americans has been born and taken its place in our working society. Yet this generation did not have the opportunity that many of us had to witness first-hand, the emergence of one of America's truly great heroes. Dwight Eisenhower earned his recognition as a hero from his accomplishments as Supreme Commander of the Allied Expeditionary Forces in Western Europe during the most crucial period of World War II. He was known for his calm, friendly, confident manner in addition to a great strength and ability to bring together the highly complex machineries of war and successfully defeat the enemy. His role as a leader of our country and most of the Western World during that period earned him a very unique and special place in world history.

To serve his country for 8 years as its President after such a distinguished military career has earned him the highest of tributes from his own countrymen. After leading us through one of the most difficult periods of our history, he opened his inaugural address in 1953 with these words:

> My fellow citizens: The world and we have passed the midway point of a century of continuing challenge. We sense with all our faculties that forces of good and evil are massed and armed and opposed as rarely before in history. This fact defines the meaning of this day . . . We are called as a people to give testimony in the sight of the world to our faith that the future shall belong to the free.

Eight years later, in his farewell address to the American people on January 17, 1961, he left us with this assessment:

> We now stand ten years past the midpoint of a century that has witnessed four major wars among great nations. Three of these involved our own country. Despite these holocausts America is today the strongest, the most influential and most productive nation in the world. Understandably proud of this pre-eminence, we yet realize that America's leadership and prestige depend, not merely upon our unmatched material progress, riches and military strength, but on how we use our power in the interests of world peace and human betterment.

As this session of Congress commences, we will be faced with many decisions of major importance to the future defense posture of our country which will affect our position in the world community for years to come. The "forces of good and evil—massed and armed and opposed" may have changed form in many ways, but are still present in varying degrees. We have made much progress in our understanding of other nations and their desire for peace. Yet the spread of Eurocommunism in recent years and the unkown effects it will have on the balance of powers in the world, make it imperative that we preserve our military strength and superiority.

It is fitting that we take this time to reflect on the accomplishments and advice of this leader and the sacrifices of the heroes he led. None of us would want to see this country engage in armed conflicts ever again. Yet we must maintain our strength to insure peace and retain the pride that brought this country through these difficult times.

Mr. COLLINS of Texas. Mr. Speaker, I am proud to join my colleague, JOHN RHODES, in this salute to the 25th anniversary of the Inauguration of President Dwight Eisenhower.

President Eisenhower will go down in history as one of the greatest Presidents our country has ever had. When he was President, we had peace and we had stability. The streets in your neighborhood were safe for the family. We had moral standards for America. Since I served under General Eisenhower in Europe, I had a tremendous pride in his election. With the thousands of soldiers under his command, he did not know me, but he had such a warm spirit that all of us felt like we knew him. In Europe we knew that he always had our interests at heart. We knew that with his leadership we would see the final victory. As I served through the ETO from Omaha Beach to the final victory, I had confidence that with every campaign we would move that much closer to victory.

As a great General, he followed this up as an outstanding President. America today needs more men of courage and vision who think as General Eisenhower did as our leader and built for the long-range future of America.

Mr. COHEN. Mr. Speaker, last Friday marked the 25th anniversary of the inauguration of our late President, Dwight D. Eisenhower.

Looking back over the turbulent events of the past quarter century, I think we can appreciate all the more the quality of leadership provided by President Eisenhower during his tenure in the White House.

It is significant, I think, that Dwight Eisenhower was the last of our Presidents to serve two full terms of office. His administration, though faced with difficult challenges throughout the world, produced a period of relative calm at home—a time of industrial growth, technological development, and social improvement.

There can be no doubt that our Nation was a better place in which to live in 1961, when President Eisenhower's administration ended, than it was when he first entered office. Much of the credit for this must go to President Eisenhower himself—a man who proved himself as great a leader in peace as he was in war and who will long be remembered fondly by the country he served.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Arizona (Mr. RHODES).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

OFTEN CHAOTIC SCHEDULING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

Mr. MCKINNEY. Mr. Speaker, here we go again.

Were it not for the frequency with which it has occurred during the 95th Congress, I would be angered and dismayed by the apparently arbitrary scheduling of a major piece of legislation. Instead I can only make yet another appeal for reason.

All too often during the first session of this Congress, Members were subjected to this grab-bag approach to scheduling. Now, only 3 days into the second session, the same irresponsible approach has brought us the Outer Continental Shelf Amendments of 1977 for immediate, if unanticipated, consideration.

Mr. Speaker, I simply cannot, in good conscience, vote for the rule to H.R. 1614, and thereby give my tacit approval to this intolerable method of considering such vitally important issues. A bill as controversial, as comprehensive, and as important to our future energy needs, deserves the most cautious attention it can receive.

Certainly the plethora of amendments and substitutes that have accompanied this bill to the floor do not indicate a consensus of support for the measure to justify its hasty appearance on the schedule. In fact, the minority views of the OCS committee report strongly oppose the committee bill, asserting that it is a complicated, technical bill which cannot fulfill its purpose. Perhaps more telling, the report claims that the committee lost sight of its overall goals by concentrating on the minutiae of individual provisions. I think that assessment has merit. Would it not be more logical, Mr. Speaker, to establish our overall energy goals by enacting a national energy plan first and then tailor our OCS bill to meet those goals?

I am aware of the claims that the January 31 lease sales of the Georges Bank tracts necessitate prompt consideration of the OCS amendments. However, these anticipated sales simply cannot justify a hurried and consequently inadequate hearing for the provisions of this legislation by Congress.

Lest any of my colleagues feel that I am unduly concerned with the timing of floor consideration for this bill, I would ask them to compare the volume of mail they have received regarding this matter in the past week with the amount of mail they received prior to the bill's anticipated consideration at the end of the last session. I am by no means a glutton for punishment, Mr. Speaker, but where have all the lobbyist been? Where are the avid environmentalists? More important, where is the national energy plan?

Further, Mr. Speaker, who of us has had the time to compare the provisions of the minority substitute bill with the provisions of H.R. 1614 or Representative BREAUX's substitute? I would daresay that few Members of this body could go before their constituents and explain which combination of provision—from the many amendments and substitutes—formulate the most effective OCS development program for the Nation. It is my understanding that the minority substitute bill did not arrive from the printer until late yesterday afternoon. That being the case, it is at least unfair, but more accurately irresponsible, to proceed with the consideration of this bill at this time.

Finally, I had hoped that this Congress would respond to the ever-increasing public criticism of duplicative, wasteful, and unnecessary Government regulations by taking an extra measure of care when considering the impact of its regulatory legislation. Certainly, the handling of H.R. 1614 does not demonstrate any progress in that regard.

For the benefit of my colleagues, the announced legislative schedule for the week of January 23 follows. You will note no reference to the Outer Continental Shelf Lands Act Amendments of 1977 is included. The schedule follows:

SCHEDULE

MONDAY

House meets at noon.
District (No Bills).
Suspensions (4 Bills).
1. H.R. 9165—George C. Marshall Statue.
2. H.R. 8771—Payments to Former Spouses.
3. H.R. 9471—Retirement Credit for Japanese Americans.
4. H.R. 9169—Title XI for Fishing Vessels.

TUESDAY

House meets at noon.
Suspensions (5 Bills).
1. H.R. 8811—Retired Pay for Tax Court Judges.
2. H.R. 7581—Telephone Companies' Taxes.
3. H.R. 7662—Administrative Conference Authorization.
4. H.R. 8647—Payment Ceilings for CHAMPUS Physicians.
5. S. 266—To Encourage Reduction of Radiation in Uranium Mill Tailings.

WEDNESDAY

House meets at 3 p.m.
H.R. 5656—Conrail Medical Payments (open rule, one hour) (rule already adopted).
H.R. 5798—Office of Rail Public Counsel (open rule, one hour) (rule already adopted).
H.R. 2664—Sioux Indian Claims (subject to a rule being granted).

THURSDAY AND BALANCE OF WEEK

House meets at 11 a.m.
H.R. 5503—Defense Officer Personnel Management Act (subject to a rule being granted).
H.R. 2637—Cargo Capacity for Civil Aircraft (subject to a rule being granted).

COMPARISON OF PRODUCT LIABILITY TAX BILLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, on June 9 I introduced H.R. 7711, the Product Liability Insurance Tax Equity Act. The purpose of this legislation is to change the Federal Tax Code in order to end the tax penalties currently imposed on those who seek to self-insure for all or part of their product or professional liability. A bipartisan group of six Members joined me as first-day sponsors of the bill, and it is now supported by 60 cosponsors and a wide variety of national trade and professional groups.

In addition to the Product Liability Insurance Tax Equity Act, there are two other bills that address the question of tax treatment of product liability self-insurance reserves. (Neither of the other two bills deal with professional liability insurance.) These are S. 1611 and H.R. 10272.

S. 1611 was introduced by Senator CULVER; a similar measure has been introduced in the House by AB MIKVA. Last summer I asked the Library of Congress to prepare a comparison of the provisions of H.R. 7711 and S. 1611. The report, prepared by the American Law Division of the Congressional Research Services, was placed in the CONGRESSIONAL RECORD on July 27, 1977, page 25302.

After JOHN LAFALCE introduced his bill, H.R. 10272, last month, I went back to the Library and asked them to make a similar comparison of H.R. 7711 and H.R. 10272. The report prepared by Mr. Howard Zaritsky, legislative attorney at the Congressional Research Service, appears in its entirety at the conclusion of this statement.

Mr. Speaker, these three bills, H.R. 7711, S. 1611, and H.R. 10272, all represent different approaches to the same problem. All seek to end Federal tax discrimination against those who wish to self-insure for product or professional liability. As you can see, the authors of the various bills have chosen varying approaches to the problem, but it seems to me that there is widespread agreement about the general nature of the problem and its solution.

It is my hope that we soon will be able to move beyond these academic discussions of the relative merits of the various approaches. As I have noted before, many small businessmen and professionals are anxiously awaiting some relief of their liability insurance problems. All of the proposals I have cited seek to provide that needed assistance.

Let us get on with action on this legislation. It is my belief that the differences between our bills can be reconciled fairly easily in the hearing and markup process. Now, what is needed is for the Ways and Means Committee to move our proposals closer to enactment.

At this point in the RECORD I wish to insert the report I have received from the Library of Congress. The text follows:

[From the Library of Congress,
Congressional Research Service]

A COMPARATIVE ANALYSIS OF H.R. 7711 AND H.R. 10272—TWO BILLS ON TAXPAYER SELF-INSURANCE AGAINST PRODUCT LIABILITY

(By Howard Zaritsky)

A concern over rising cost of products liability insurance, especially as it relates to moderate-size corporations and businesses, has been Congressionally manifested by the introduction of a number of bills designed to afford businesspersons a tax-favored means of self-insurance against such risks. Two such bills are H.R. 7711,[1] introduced by Mr. Whalen, and H.R. 10272,[2] introduced by Mr. LaFalce. This report will examine both measures, commenting on their major provisions and noting any potential problems which may be raised under either bill.

H.R. 7711: The Product Liability Insurance Tax Equity Act of 1977.—

The proposed "Product Liability Insurance Tax Equity Act of 1977" introduced by Representative Whalen and referred to the House Committee on Ways and Means, provides for the establishment of tax-exempt self-insurance trusts to fund all or any portion of a taxpayer's insurance against either products or professional liability. All income earned by the trust on its investments would be tax-free, thereby permitting more rapid growth of the trust funds available for payment of claims.

The business sponsoring the trust would be permitted a deduction for all contributions thereto, up to the amount reasonably required to purchase a similar policy from a commercial insurance company, if such a policy is available. No part of the trust funds could be diverted to any unrelated purpose except pursuant to regulations of the Treasury.

No provision is made in the bill for taxation of the payments of liability claims by the trust. Under certain general tax principles, however, it would appear that the settlor of the trust (the business) would have taxable income when his or her liability is paid by the trust.[3]

The provisions of this bill would be effective for all taxable years beginning after the date of enactment.

H.R. 10272: The Product Liability Tax Relief Act of 1977.—The proposed "Product Liability Tax Relief Act of 1977," introduced by Representative LaFalce and referred to the House Committee on Ways and Means, provides for the establishment of tax-exempt trusts which will permit self-insurance against claims arising from a defect or failure to warn of a defect in the design, fabrication, assembly, manufacture, production or sale of any product, machine, manufacture, composition, or other tangible items or components or packaging of items related to the taxpayer's trade or business. The trusts must be organized in the United States, under either State or Federal law, and must have either an institutional trustee or a trustee approved by the Secretary of the Treasury. The trust assets may not be commingled with other funds, other than in a common trust fund, and they may not be borrowed, used as security for a loan, or otherwise used other than for the payment of product liability claims, including settlement, investigation and litigation of such claims, or for administration expenses of the trust itself. After termination of the taxpayer's trade or business, trust assets can only be used to pay non-product liability claims after all known product liability claims have been paid.

If the trust is properly established, the taxpayer can make deductible annual contributions up to the amount of the fair market value of product liability insurance coverage for the year. The Secretary of the Treasury will promulgate the necessary regulations establishing the means for ascertaining such amounts, considering rates quoted by commercial insurance carriers to the taxpayer and comparable taxpayers, the amount of coverage the taxpayer customarily maintains, the frequency and severity of the products liability claims against the taxpayer and of such claims against others in the same industry or similarly situated. Distributions from the trust are not included in the taxpayer's gross income unless they are used for purposes other than payment of products liability claims or administration of the trust.

A series of excise taxes are imposed upon any "disqualified person" who engages in certain acts of "self-dealing" with the trust. These penalties are similar to those applied against acts of self-dealing with pension and employee benefit trusts under present tax laws.[4]

For purposes of the excise taxes on self-dealing, a "disqualified person" includes contributions to the trust, trustees, owners of more than 10 percent of the control of a contributor to the trust, an officer, director or employee of a contributor, or certain close relatives or controlled corporations, partnerships or trusts of a contributor or other disqualified person. Acts of "self-dealing" include the sale, exchange or lease of property between the trust and a disqualified person, whether or not the property is subject to a mortgage. It also includes the lending of money or other extension of credit between the trust and a disqualified person, or the furnishing of goods, services or facilities between the trust and a disqualified person, unless furnished without charge. It is also an act of self-dealing for compensation or reimbursement of expenses, other than those which are reasonable and necessary to carry out the trust's exempt purpose, to be paid between the trust and a disqualified person. Finally, it is an act of self-dealing for assets or income of the trust to be transferred to any disqualified person.

Two excise taxes may be imposed on an act of self-dealing. First, a 10 percent excise tax on the amount involved will be imposed for each year or part of a year between the act and the mailing of an IRS notice of deficiency based on that act, or the correction of the act if it occurs earlier. If the transaction is not corrected, placing the trust in the same financial position it was prior to the act and undoing it to the extent possible, within 90 days from mailing of the notice of deficiency, a 100 percent tax on the amount involved is imposed. The amount involved is the amount of money and fair market value of property given or received whichever is greater. If the act of self-dealing is rendition of services at an unreasonable compensation, the unreasonable compensation is the amount involved.

An added excise tax is imposed on the trust for making expenditures other than the payment of product liability claims or trust administration expenses. The tax is 10 percent of the expenditure, unless corrected by the taxpayer's recovery or, where impossible, repayment within 90 days from the date of mailing of a notice of deficiency by the IRS relating to the expenditure.

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[1] H.R. 7711, 95th Cong., 1st Sess. (1977).

[2] H.R. 10272, 95th Cong., 1st Sess. (1977).

[3] See, e.g., *United States* v. *Kirby Lumber Company*, 284 U.S. 1 (1931) and *Helvering* v. *American Chicle Co.*, 291 U.S. 246 (1934), holding that gain is realized whenever a debt is discharged at less than face amount. See also, *Helvering* v. *American Dental Co.*, 318 U.S. 322 (1943), in which one taxpayer's discharge of the debt of another was deemed to be a nontaxable gift. This theory is also embodied in the pension laws, which provide the sponsoring employer a deduction for contributions to the pension plan, make the plan earnings tax-free, but require the employees receiving distributions from the plan to include them in their income. Int. Rev. Code, sec. 404, *et seq.*

[4] See Int. Rev. Code, secs. 4971–4975.

A 5 percent excise tax is imposed on excess contributions to the trust, paid by the contributor, unless withdrawn during the taxable year. Such withdrawal will not be either a taxable expenditure or an act of self-dealing.

These provisions would be effective for all taxable years beginning after the date of enactment.

LEGISLATION PROVIDING FOR EVALUATION OF FEDERAL MOTOR VEHICLE SAFETY STANDARD 121

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MARRIOTT) is recognized for 10 minutes.

Mr. MARRIOTT. Mr. Speaker, I am introducing legislation today, along with 25 of my colleagues as cosponsors, that will insure that the no-lockup requirement and the antilock system portion of Federal motor vehicle standard 121 are practicable, appropriate, objective, reliable, and meet the needs of motor vehicle safety for the benefit of all citizens using our Nation's highways.

I am calling for a 1-year suspension of the FMVSS 121 portion which relates to any antilock braking requirement and for a thorough program of study and testing before it is reinstated.

Currently the antilock braking requirement is in force for trucks and buses, except schoolbuses, which will be added April 1, 1978. The antilock system is required on those trucks and some intercity and transit buses with airbrake systems. Antilock equipment is designed to shorten stopping distances, and upon failure, to revert to normal braking capacity. However, in recognizing this failure, the computer may take between 0.01 and 5 seconds. That may not sound like a lot, but in terms of safety, it could mean the difference between life and death. If a bus traveling at 60 miles per hour attempts to stop and the antilock braking system fails, the bus may then go an additional 440 feet before the backup systems take effect.

There is also a record of inadequate test programs and substantial questions as to whether the computerized systems are any better than the old system. In fact, there are indications they may actually cause brake failures rather than prevent them. While hard facts are difficult to find on either side, there are many highway deaths that may have been caused by failure of the 121 antilock computer.

I have personally received petitions from over 1,000 truck drivers, people who are in contact with these vehicles every day and who are unequivocally opposed to the antilock brake requirement. Their experience has been most unhappy, with instances of brake failure due to no definable reason. One fleet reported to me that the number of jackknife accidents has increased threefold on their 121-equipped trucks. Jackknifes are the accidents directly related to braking, and tragically, the accident that most often kills the driver.

In addition, there are other problems with this system. The Bureau of Motor Carrier Safety, which sets vehicle performance standards, has no requirement that antilock systems be used on the highway. To quote Kenneth L. Pierson, deputy director of the Bureau:

It seemed the better part of reason not to saddle the industry with a rule it can't comply with." (Business Week, December 19, 1977.)

The National Highway Transportation Safety Administration conducted adversary hearings on December 15, 1977. At that time the manufacturers submitted their data on the "recognition time" for their antilock systems; that is, the time it takes the computer to recognize a failure of the components and revert to normal braking.

It is important to note that the single manufacturer of an antilock system for buses incorporates a built-in recognition time of 0.01 seconds to 5 seconds. As I have said, this conceivably could lead to a lost braking distance of 440 feet at 60 miles per hour. I do not know of anyone who wants to see our schoolchildren subjected to that kind of risk.

The National Highway Transportation Safety Administration (NHTSA) is the agency responsible and had this information as of December 15, 1977, 16 days before the moratorium on the antilock system for commercial buses ended January 1, 1978. Yet as of January 17, 1978, the Administrator for NHTSA, Joan Claybrook, was unaware of the bus antilock recognition time factors. I was told by Ms. Claybrook that the manufacturer would be questioned on this point. In the meantime, this potentially dangerous system currently is being installed on certain makes of commercial buses now.

A minor adjustment of the entire 121 system would allow the antilock component to be removed safely or the duration of the 1-year moratorium I am calling for.

In addition to the moratorium, my bill deals with the critical question of adequate testing for the various systems. If an agency requires a system and technology that is not fully developed, it is imperative that the safety of the available systems be quantified objectively. To date this has not been done to the satisfaction of those directly affected by this standard. Before we reimpose such a safety standard, it must indeed be safe. The life of every man, woman, and child who uses our Nation's highways is in the balance. And they must not be used as guinea pigs for the potentially fatal testing of an imperfect system.

The text of my bill follows:

H.R. 10562

A bill to provide for an evaluation of Federal Motor Vehicle Safety Standard 121 and to provide for a suspension for a period not to exceed fifteen months of any part of the standard which relates to any antilock braking requirement

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Transportation shall conduct an evaluation of the adequacy and appropriateness of Federal Motor Vehicle Safety Standard 121 (49 C.F.R. 571.121) with particular attention to whether the antilock braking requirement is practicable, meets the needs of motor vehicle safety, is stated in objective terms, and is a performance standard. Such an evaluation shall specifically include a determination of appropriateness, including: (1) any provision relating to the lock-up of wheels, (2) antilock systems available for use to meet any braking requirement, and (3) tests and test procedures. In addition, the evaluation shall determine the reliability of the components of any system being used, or capable of being used, in motor vehicles equipped with air brake systems to meet such requirement. The evaluation shall also consider other methods which could be used by any motor vehicle to obtain vehicle retardation and stability. In carrying out such evaluation, the Secretary of Transportation shall take into consideration the expertise and advice of other Federal agencies, State agencies, manufacturers of air brake systems, operators of vehicles equipped with air brake systems, and other interested parties. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress which sets forth the findings of the evaluation together with any recommendations, including but not limited to recommendations for the need to continue, to further suspend, or to repeal such standard or any part thereof.

(b) During the period beginning on the date of enactment of this Act and ending on the last day of the third month which begins after the date of the submission by the Secretary of the report pursuant to subsection (a) (both dates inclusive), any antilock braking requirement set forth in Federal Motors Vehicle Safety Standard 121 shall be suspended.

COSPONSORS

Mr. Abdnor.
Mr. Beard of Tennessee.
Mr. Burgener.
Mr. Don H. Clausen.
Mr. Collins of Texas.
Mr. Conte.
Mr. Crane.
Mr. Dornan.
Mr. Edwards of Oklahoma.
Mr. Evans of Delaware.
Mrs. Fenwick.
Mr. Grassley.
Mr. Hillis.
Mrs. Holt.
Mr. Kasten.
Mrs. Keys.
Mr. Kindness.
Mr. Rinaldo.
Mr. Sarasin.
Mr. Sebelius.
Mr. Stangeland.
Mr. Stump.
Mr. Vander Jagt.
Mr. Volkmer.

A FURTHER EFFORT TO ASSIST THE FARMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 5 minutes.

Mr. SIKES. Mr. Speaker, I am today introducing a bill which will direct the President of the United States, the Secretary of Agriculture, the Foreign Agricultural Service, and the Department of State to formulate and implement a plan for the expansion of sales of American agricultural commodities abroad. This is similar to legislation proposed by Senator HELMS of North Carolina and by a number of my colleagues in the House.

The purpose of this legislation is to instruct Government officials to develop

and implement a plan to maximize farm commodity exports. This includes agriculture attachés and officials of American embassies abroad to seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located. It would also direct the President to report to the Congress the plans formulated and implemented under authority of this bill.

The debts of the American farmers have increased from $81 billion in 1974 to $102.1 billion currently. As a result, the farmers have had to sell fixed assets, borrow heavily against future income, and many face bankruptcy. At the same time, the international balance of payments of the United States for 1977 was approximately $25 billion. American agriculture exports have been the major export commodity that has held down the deficit in the balance of payments.

In 1973 when Congress adopted a farm program that allowed farmers to depend upon the market place for their income rather than Government subsidies, the cost of the farm programs to the Treasury averaged less than $700 million for the 3-year period 1974–76 compared to an average cost of over $3 billion annually for the preceding 3 years. Without a strong export market in 1978, USDA economists estimate that the farm commodity programs could cost the taxpayers over $7 billion.

The American farmer can produce an almost unlimited amount of foreign commodities. Much more can be sold abroad if a positive effort is made by our Government. This is one of the keys to increased farm income and improved standards of living for farm families.

It is also important that we increase our farm exports in the future to help offset the costs of the oil we are importing. This legislation would help accomplish this objective. I urge my colleagues to join in support of these efforts.

THE COLLEGE LIBRARIES ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, today I am introducing the College Libraries Act of 1978, a bill to update and improve the college library resources grant program authorized by title II–A of the Higher Education Act of 1965, as amended.

As chairman of the Subcommittee on Postsecondary Education, I am happy to say that my distinguished colleagues and friends, the ranking Republican on our subcommittee (Mr. BUCHANAN), the chairman of the Committee on Education and Labor (Mr. PERKINS), and the ranking Republican on the full Committee on Education and Labor (Mr. QUIE) have joined me in cosponsoring this bill. Additional cosponsors include the gentleman from New Jersey (Mr. THOMPSON), the gentleman from Indiana (Mr. BRADEMAS), the gentleman from New York (Mr. BIAGGI), the gentleman from Iowa (Mr. BLOUIN), the gentleman from Missouri (Mr. CLAY), the gentleman from Illinois (Mr. SIMON), the gentleman from Michigan (Mr. PURSELL) and the gentleman from Puerto Rico (Mr. CORRADA).

The major purpose of our bill is to increase from $5,000 to $10,000 the HEA II–A basic grant ceiling, with the requirement that academic institutions must provide equal matching funds for any basic grant in excess of $5,000.

It is common knowledge today that the budgets of most colleges and universities are becoming more strained with each passing year, a precarious budgetary situation that tends to have the effect of reducing funds for college libraries in greater proportion than for other units of the academic institution. When the crunch comes, it is often the budget for library materials that is the first to be cut, because it is easier not to buy books than it is to eliminate salaries.

Moreover, academic libraries have been confronted with continually skyrocketing costs. For example, the average cost of a book has increased 127 percent since 1965, from $7.65 to $17.39, while the average cost of a journal subscription has risen 224 percent over the same period, from $6.96 to $22.52. Yet, in spite of these soaring prices, the $5,000 limit on the basic grant for college library resources has not been changed since it was first enacted in 1965. Such inadequate funding has had the inevitable result of forcing many college and university libraries to reduce their purchases of new materials, in some cases drastically.

One of the strengths of the basic grant program is that it reaches all types of postsecondary institutions in all parts of the country. Last year, 2,591 institutions received the basic library grants authorized by HEA II–A.

It has recently been brought to my attention that this program has been criticized on the ground that it spreads a small amount of funds too widely to make a significant difference. It has also been suggested that Federal dollars for academic libraries would be more effective if targeted on a few large research libraries instead.

It was perhaps because of this reasoning that the fiscal year 1979 budget request contains no funds for basic grants for college libraries, despite the fact that this program has been funded at $9.9 million for the past 2 years.

Mr. Speaker, as chairman of the Subcommittee on Postsecondary Education, I must say that I disagree completely with this elitist approach, because the American system of higher education draws great vitality from diversity. Students throughout the United States today may attend 2-year, 4-year, graduate or postgraduate institutions, public institutions or private ones, in rural, suburban, or urban settings.

In order to take advantage of this great diversity of learning opportunities, students in all types of academic institutions must have access to good libraries. Not only those who attend the great research institutions like Harvard, the University of Michigan, or the University of California must have access to good libraries, but also the students at Henry Ford Community College in Dearborn, Mich., or Georgia Southwestern College in Americus need a wide range of library materials to supplement their coursework.

This is certainly not to say that the large research institutions do not need additional funding. In fact, we provided a special program for major research libraries in the Education Amendments of 1976. However, assistance for research libraries can never take the place of the college library resources program authorized by HEA II–A, nor did Congress intend that it should.

Mr. Speaker, our bill represents only a very small step in the direction of more adequate financing of college and university libraries. In addition to the higher limit and new matching requirement on the basic grants, the bill will amend the maintenance of effort requirements so that either per student or overall expenditure may be used as the base. This provision has been added to a number of other education programs and is designed to allow institutions with declining enrollments an alternative route to maintaining effort.

The legislation also provides for tightening up the procedures under which the Commissioner may grant maintenance of effort waivers. Finally, the measure updates the maintenance of effort requirement for special purpose grants by deleting the 1965 base period, and it expands the priority for eligibility for supplemental grants to encompass institutions with limited financial resources.

Mr. Speaker, it is my intention to hold hearings on the College Libraries Act of 1978 in the near future. The Subcommittee on Postsecondary Education does not intend to allow libraries to serve as an easy target for the budget-cutters. Our legislation is intended to generate new funds for college libraries on the State, local, and private levels. In addition, it will raise the basic grant limit to a more realistic level. At this point, I would like to insert into the RECORD the text of the College Libraries Act of 1978.

H.R. 10541

A bill to amend certain provisions of title II of the Higher Education Act of 1965 relating to college library assistance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "College Libraries Act of 1978".

BASIC GRANT AMOUNT AND MATCHING REQUIREMENTS

SEC. 2. The second sentence of section 202 of the Higher Education Act of 1965 is amended—

(b) by striking out "be equal to the amount expended by the applicant for library resources during that year from funds other than funds received under this part, except that no such basic grant shall exceed $5,000" and inserting in lieu thereof "not exceed $10,000"; and

(2) by inserting after "regulations of the Commissioner," the following: "except that no basic grant shall exceed $5,000 by more than the amount expended by the applicant for library resources during that year from

funds other than funds received under this part,".

MAINTENANCE OF EFFORT

SEC. 3. (a) Paragraph (1) of section 202 of the Higher Education Act of 1965 is amended—

(1) by striking out, in the matter following subparagraph (B), "special and" and (1)" the following: "for any fiscal year,

(2) by inserting after "by this clause inserting in lieu thereof "very"; and based on such average amount expended by it for such purposes or resources,".

(b) Section 202 of such Act is further amended by adding at the end thereof the following:

"For purposes of clause (1), the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other catastrophic occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes or where the foregoing might have made necessary unusually high expenditures for library materials and total library purposes.".

SUPPLEMENTAL GRANT PRIORITIES

SEC. 4. Section 203(b)(2) of the Higher Education Act of 1965 is amended by striking out "to institutions in need of financial assistance for library purposes" and inserting in lieu thereof "where the financial resources of the institution are such that it is in need of assistance for library resources".

SPECIAL PURPOSE GRANT MATCHING REQUIREMENT

SEC. 5. Section 204(b)(2) of the Higher Education Act of 1965 is amended—

(1) by striking out "during the two-year period ending June 30, 1965, or"; and

(2) by striking out ", whichever is less".

THE COMMITTEE FOR ECONOMIC DEVELOPMENT'S SENSIBLE JOBS PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, the Committee for Economic Development is well known to most Members of Congress as an independent, nonprofit, nonpartisan, and nonpolitical group of businessmen who work with economic scholars to develop recommendations to resolve the economic problems that constantly arise in our society. The recommendations and policy statements of this group have often had a major impact on the formation of national economic policy.

In past years the CED's policy statements have covered a wide range of issues. They took a leading role in developing the principle of the full employment budget. They have made major statements on issues such as improving the public welfare system, weapons against inflation, reducing crime and assuring justice, and strengthening the world monetary system. In recent years the CED has made a number of important statements on the energy situation. Last December they suggested an innovative approach to Federal urban policy.

Recently the Committee for Economic Development has put out a new report which I wish to bring to the attention of my colleagues. It is entitled "Jobs for the Hard To Employ: New Directions for a Public-Private Partnership." We are all aware that the Federal Government alone cannot create enough jobs to satisfy the needs of the American people. In fact, most jobs in our economy are generated by the private sector. As we continue to grow and expand this will remain true. Therefore, a vital way to encourage additional job creation in our economy is for the Federal Government to work with the private sector. This is the approach that is being advocated in the CED's recent report.

This report goes directly to the most difficult part of the problem—finding jobs for the hard to employ. Most importantly, it is backed up by a series of case studies of many American businesses that have successfully found ways to provide jobs for the disadvantaged at a profit to both the company and the employee. These case studies highlight a variety of arrangements that appear to be particularly promising, such as direct Government manpower contracts with private nonprofit organizations, corporations, and sheltered workshops that provide training in jobs for the hardest to employ, various cooperative community efforts to aid in the transition from education to work, and a variety of arrangements to establish more effective cooperation between the U.S. employment service, Government employment programs and the private sector in aiding the hard to employ.

The report was prepared under the direction of Mr. John L. Burns, chairman of the CED Subcommittee on Education and Social and Urban Development, with Dr. Frank W. Schiff, chief economist, serving as project director. I commend this report to the attention of my colleagues and ask that a brief summary statement be included at this point in the RECORD:

CHAPTER 1. INTRODUCTION AND SUMMARY OF MAJOR RECOMMENDATIONS

Americans have long considered it a basic goal to have the opportunity to work, to earn a decent living, and to provide for their families. For the vast majority of adults, what they do to earn that living constitutes a vital part of their identity and sense of values.

Yet, the United States has within its population a growing number of people with special burdens that keep them out of the mainstream of the labor force. Most jobs in this country are designed for prime-age, full-time, socially disciplined workers. However, there are large groups of people in this country who want to work but cannot obtain useful jobs, even in relatively good times, because they—

Are undereducated, unskilled, or inexperienced;

Are considered too young or too old;

Are unable to work full time;

Are subject to discrimination or restrictive labor market practices; and

Lack the basic work disciplines and abilities necessary to get and hold a steady job.

For the past thirty years, high employment has been a major goal of the nation's economic policy. But except during wartime, this goal has rarely been achieved. During recent years, in fact, the official unemployment rate reached its highest level since the Great Depression. In the first eleven months of 1977, the average number of unemployed still amounted to 6.9 million persons, or 7.1 percent of the civilian labor force.

We believe that this country must make a strong national commitment to high employment and to a situation in which the number of job openings essentially matches the number of those seeking jobs at reasonable wages and in which people able and willing to work have adequate opportunities to be trained and guided toward suitable job vacancies within a reasonable period of time. This commitment must, of course, be pursued in a manner consistent with the nation's other major economic and social objectives, especially the need to curtail inflation.

The primary means of developing adequate training and job opportunities is through strengthening the demand for goods and services in the economy as a whole and in particular sectors and regions.

A vigorous and sustained demand expansion is necessary to overcome cyclical joblessness (which stems primarily from an overall deficiency in demand). It is also the single most effective means of reducing structural unemployment which affects particular groups of job seekers because their educations, skills, or locations do not readily match available jobs or because they are handicapped by discrimination and other labor market barriers. However, experience has shown that by itself, a demand expansion strong enough to result in a dramatic rise in jobs for the hard-to-employ is also likely to create serious inflationary pressures.

But the tasks of achieving sustained high employment and conquering inflation are not mutually exclusive. They can and must be attacked simultaneously. Therefore, any steps toward healthy demand expansion need to be accompanied by a range of measures to make the economy less inflation-prone. These should include steps to increase its competitiveness and efficiency, to eliminate restrictive practices in product and labor markets and to enlarge capacity and supply availability.

In earlier policy statements, CED has dealt extensively with ways to improve overall demand management, strengthen economic efficiency and investment incentives, and fight inflation. We are continuing active studies in all these areas. In addition, our new study Revitalizing America's Cities is examining the massive problems of the nation's urban centers, including the plight of the deteriorated inner cities, where unemployment is highest. We will explore ways to create the conditions that might bring needed jobs back to these areas and, where necessary, to help bring inner-city residents to suitable jobs in other locations. In other studies, we shall examine means of averting or overcoming the special unemployment problems caused by such factors as unfair foreign trade competition and excessive government regulation.

In this policy statement, we are primarily concerned with the urgent need for a wide variety of measures to cope directly with the structural unemployment problems of those groups that have consistently had special difficulties in the labor market—particularly the young, the old, and the disadvantaged—and to increase incentives for productive work.

Unfortunately, there is no single solution or major policy program that can eliminate unemployment for all these chronically affected groups. What is needed instead is an integrated set of public and private actions that will benefit groups and areas of the economy with particularly severe unemployment problems without aggravating the existing inflation.

Government programs to train and provide jobs for the hard-to-employ, including pub-

lic-service employment, must continue to play a major role in national manpower policy. We welcome the recent increased emphasis by both Congress and the Administration on direct measures to deal with unemployment problems of hard-hit groups, particularly disadvantaged youths and veterans.

However, four out of five jobs in the United States are in the private sector. A stronger private-public partnership must be developed to increase training and job opportunities in that sector and to speed the transition of the hard-to-employ from government income support and subsidized public or private jobs to permanent private employment. Key ways in which this can best be accomplished are the focus of this study. In particular, we recommend the following measures:

New and expanded use on a nationwide basis of private-sector programs that already work effectively and creation of a clearinghouse for disseminating information about successful and innovative programs.

Stronger organizational mechanisms to mobilize private-sector involvement, including much wider use of:

Direct government manpower contracts with private nonprofit organizations created by consortia of business firms;

Other types of intermediary organizations that can help business handle job development, training, and placement activities;

Jobs corporations to provide training and jobs for the hardest-to-employ, and

Cooperative community efforts, involving businesses, nonprofit organizations, unions, schools, and governments, to increase training and job opportunities.

Increased incentives and reduced disincentives for private employment of the hard-to-employ, including additional experimentation with categorical tax credits, stipends for trainees and apprentices, selective exemptions from the minimum wage, and increased social security earnings ceilings.

Improved approaches to the problems of particular groups among the hard-to-employ, including—

Increased stress on business involvement in skill training and upgrading of the disadvantaged;

An improved transition from school to work for youths as well as other age-groups, including increased use of apprenticeship and cooperative education programs;

More productive use of midcareer and older workers, including steps to smooth the transition from regular work to retirement, and

Increased and wider use of alternative work patterns to make more employment available to the young, old, and other workers who cannot conform to a full-time work schedule.

Greater business use of alternatives to outright layoffs in recessions, including skill upgrading and work sharing.

Improved management and closer integration of government programs that facilitate the employment of the hard-to-employ, particularly the U.S. Employment Service and the Comprehensive Employment and Training Act (CETA) programs.

This agenda for action is neither impractical nor visionary. In fact, many businesses, nonprofit organizations, and governments throughout the country are currently carrying out many such programs that are increasing training and job opportunities for the hard-to-employ. In connection with this policy statement, CED has surveyed its own trustees' companies and other firms and has found numerous instances of successful private-sector programs and constructive business-government cooperation. Examples of these programs are cited in Chapters 4 and 5. We will publish fuller descriptions of close to 60 private-sector programs in a companion volume of case studies.

These and other successful programs can and should serve as models for more action and innovation by both large and small businesses and for more active business-government-community cooperation. Focusing attention on these programs should also help government agencies and civil servants to be more receptive to such initiatives.

To be fully effective, the approaches that we recommend in this statement must be paralleled by continuing strong efforts to overcome the barriers to employment and career advancement that are the result of discrimination. For example, even the best skill-training program for the hard-to-employ is of little use if those who complete it are refused jobs because of their race, sex, or age. There is also a major need for identifying and changing various existing legislative requirements, government regulations, and union or business practices that tend to discourage employment of the disadvantaged and other hard-to-employ groups.

There have been suggestions that the nation can learn to live with unemployment and can simply give income support to those who are poorly equipped to compete for available jobs. However, we believe that this country cannot justifiably deny its citizens the opportunity to work for an adequate income and to be free from the desperation and frustration that frequent or long-term unemployment can bring. Nor can the country ignore the huge economic and social costs of goods not produced and services not rendered and the truly enormous costs of supporting an increasing number of nonworkers. In the long term, such wasteful use of resources is likely to add to rather than curtail inflation.

Both government and business must acknowledge these costs and begin to break down the barriers that separate millions of people from productive work. In doing so, they will find, we believe, that most people want to work, that most of the unemployed are employable, and that most of the untrained are trainable.

ADDRESS OF MALCOLM MUGGERIDGE TO NATIONAL RELIGIOUS BROADCASTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 60 minutes.

Mr. ROONEY. Mr. Speaker, my day yesterday got off to an extraordinary beginning as a guest at the 35th Annual Congressional Breakfast of the National Religious Broadcasters held at the Washington Hilton Hotel.

More than 1,200 broadcasters and guests were enthralled by a moving and thought-provoking message of Malcolm Muggeridge, famed English author and journalist and former editor of the widely known satirical "Punch" magazine.

Dozens of our colleagues in the Congress were privileged to share that most inspiring program, which also included a written message to the religious broadcasters from one of our day's most influential voices for faith and freedom, Alexandr Solzhenitsyn.

For the benefit of those who were unable to attend, I should like to include in the RECORD the communication from Mr. Solzhenitsyn and the address by Mr. Muggeridge, "Christ and the Media."

The strength of Mr. Muggeridge's own Christian faith and the unique ability of one so talented in written and oral communication offer insights to the strength and durability of Christian belief in troubled times in a troubled world. I invite the attention of my colleagues to his address.

"Did you hear him? Muggeridge?" cried a young woman in the hall of the Washington Hilton afterward. "O, wonderful, wow."

To the 35th Annual Convention of National Religious Broadcasters in Washington D.C.:

I would like to send my greetings to your convention and to wish you much success in your useful and noble activity of religious broadcasting all over the world.

There is in our days a prevailing and entirely wrong belief that the contemporary world's dangers and disasters are the result of this or that political system's imperfections. It is not so, however. The truth is that they all stem from the relentless persecution of the religious spirit in the East and from the fading of this spirit in the systems of the West and the Third World. Yet, there is no salvation possible other than the return of this spirit to the inhabitants of the Earth.

May God bless and inspire you always.

ALEXANDR SOLZHENITSYN.

VERMONT, *January 13, 1978.*

SPEECH TO CONVENTION OF NATIONAL RELIGIOUS BROADCASTERS

(By Malcolm Muggeridge)

I am greatly complimented that you should have asked an old superannuated journalist like myself to come and speak to you on Christ and the Media, a subject that is, by the nature of the case, of transcendent importance to religious broadcasters. Let me say straight away that I have no qualification for holding forth on such a theme other than that of having come, belatedly and reluctantly, to see in Christ the only reality in a world increasingly given over to fantasy, and of having worked in the media, man and boy, for some half a century past. The whole gamut, and taking in the sombre experience of being editor of the allegedly humorous magazine, Punch, required in that capacity to essay the impossible task of making my fellow-countrymen laugh.

Otherwise, I am not at all versed in the sociological, psychological, ideological, metaphysical or any other aspects of the media, and if I have occasionally had occasion to review some work on the subject, it has been, I regret to say, on a basis of a very cursory turning over of its pages. The fact is that, in my experience, experts on communication can very rarely communicate with any degree of skill or clarity, which might seem surprising until one reflects that marriage counsellors have usually been divorced, dietary experts are usually chronic dyspeptics, and extollers of potency like D. H. Lawrence usually impotent. Such essays in irony are part of God's glory and His mercy; besides the golden string that Blake writes of leading to Heaven's Gate, there is another making a connection with the earth. As in radio and TV sets, both are needed; in cathedrals, too, that have their steeples climbing into the sky and their gargoyles grinning downwards. Is not the Fall of Man itself a cosmic version of the banana skin joke?

Thus, in talking to you about Christ and the Media, it is merely as an old practitioner, not as an expert as understood by the statisticians and social scientists, whose "studies" for the most part seem to me on a par with the projects that so diverted Swift's Gulliver when his travels took him to the flying island of Laputa; for that matter, with the projects of UNESCO today. In my capacity, then, as an old practitioner, and looking back on a lifetime spent in and out of newspaper and magazine offices, in and out of television and

radio studios, going like the Devil to and fro in the world and up and down it questing for news, it has seemed to me increasingly clear that the media have become the great fantasy machine of all time. This applies just as much to their news and documentary offerings as to their diversionary ones, if not more so. The cameras, bloodshot eyed, zoom down, the floor-manager cries: "Action!", the autocue begins to turn, the studio lighting is at it brightest. I am interviewing a bishop in a purple cassock that he was especially asked to wear because it looks so well in colour.

His face, as I glance sidelong at it, has an anxious, almost appealing, expression. "Spare me!", he seems to be saying. How tempting to crash in with something really embarrassing like: "Bishop, is there an after-life?". Or: "Bishop, do you expect to go to Heaven?" Instead, I hear myself asking him why he thinks church attendance has been falling off of late; what are his views on ordaining women priests; whether he is in favour of uniting with the Methodists—all matters that he takes comfortably in his stride. Now the floor-manager is holding up three fingers; three minutes to go, and time for one more question—"Bishop, are bishops really necessary?". He loves it; a beatific smile spreads over his face.

Necessary or not, he points out, they exist; as, for that matter, does television. By this time the floor-manger is going through the motions of cutting his throat, the inexorable word: "Cut!" having sounded in his earphone. The Bishop and I, as it were, extricate ourselves from our images, and resume our workaday personas; wash off our makeup, and adjourn to the hospitality room, where we exchange a few cheerful observations, having together provided the transcendental flavouring in a Sunday evening's singularly untranscendental viewing.

Despite the episcopal presence, it all seems very remote from the Word that became flesh and dwelt among us full of grace and truth; from the great drama of the Incarnation when, as it is so splendidly put in Ecclesiasticus: While all things were in quiet silence, and that night was in the midst of her swift course, thine almighty Word leaped down from Heaven out of thy Royal Throne. It is, of course, true that the media are an integral part of our disintegrating way of life; they both express, and in so doing promote, the disintegration, but they cannot be held responsible for it. At the same time, they induce us to take for granted the ever increasing violence and conflict in the world, and to see as positively beneficial, as an enlargement of our freedom and an enhancement of the quality of contemporary living the steady and ominous erosion of the moral values on which the Christian religion and our way of life derived from it, has traditionally been based. For instance, we English have come to accept as normal a condition of chronic violence and lawlessness in Northern Ireland, an integral part of the United Kingdom. Throughout the world similar areas of disorder are all the time arising; if they are capable of dramatic visual presentation the media draw our attention to them, and then, when the novelty has worn off, they disappear from the screen and the headlines and we all forget about them. As for the erosion of moral standards, is it not indubitably the case that for the media, as for the Horrid Sisters in Macbeth in their chant upon the blasted heath, "fair is foul and foul is fair?".

The point was made very cogently by Simone Weil—whose luminous intelligence and insights are, in my opinion, among the most penetrating of our time—when, writing a decade or so before television had been developed to occupy the attention of huge audiences all over the world, in the case of Western Man for some 35 hours a week, or twelve years of the three score and ten of a normal life-span, she pointed out:

"Nothing is so beautiful, nothing is so continually fresh and surprising, so full of sweet and perpetual ecstasy, as the Good; no desert so dreary, monotonous and boring as Evil. But with fantasy it is the other way round. Fictional Good is boring and flat, while fictional Evil is varied, intriguing, attractive and full of charm."

The media, as it seems to me, strikingly bear out Simone Weil's contention; in their offerings it is almost invariably eros rather than agape that provides all the excitement, success and celebrity rather than a broken and a contrite heart that are made to seem desirable, and Jesus Christ Superstar rather than Jesus Christ on the Cross who gets a folk-hero's billing. Good and Evil, after all, constitute the essential theme of our mortal existence. In this sense, they may be compared with the positive and negative points which generate an electric current. Transpose the points, and the current fails; the lights go out, darkness falls, and all is confusion. What I want to put to you is that the darkness which is falling on our civilization is due precisely to such a transposition of Good and Evil, and that the media, in furthering the transposition, are a powerful influence, perhaps the most powerful, in furthering its consequences.

Let me remind you, too, that a voice far more powerful and authoritative than mine has made the same point. I refer, of course, to Alexander Solzhenitsyn's in his first diagnosis of the sickness of the West when he arrived among us as a compulsory exile. We western people, he said, were still powerful and prosperous and influential in the world, but our power and our wealth and our influence availed us not at all because we had lost our awareness as Christians of Good and Evil. In his second Gulag Archipelago volume, he returns to the same theme—needless to say, largely overlooked and ignored by the media—in shining words among the most beautiful and memorable of our time:

"It was only when I lay there on rotting prison straw that I sensed within myself the first stirrings of Good. Gradually, it was disclosed to me that the line separating Good and Evil passes, not through States, not between classes, nor between political parties either, but right through every human heart and through all human hearts."

And he adds: "So, bless you prison for having been in my life." What insight! What wisdom!, acquired in, of all places, a Soviet prison after a Marxist upbringing. I must say that if someone had told me when I was a young reporter in Moscow in the early thirties that in a regime such as the USSR whose rulers have taken to themselves more power over the ruled than any previous government in human history, controlling absolutely and minutely every aspect of their lives, and have been from the beginning resolved to stamp out all trace of the Christian religion, to denigrate its founder, its scriptures, its mores, its cultural heritage and transcendental aspirations—that from such a regime sixty years after its foundation there could emerge from within it a voice such as Solzhenitsyn's, speaking in the authentic accents of Christendom, of the Gospels, of our Lord Himself, I should have said it was inconceivable.

Yet it has happened; a miracle, fit to stand among the greatest God has ever vouchsafed us, and deserving of the closest consideration, especially by those who exercise authority, those who legislate, those who teach, and, may I add, above all by those who broadcast; in particular religious broadcasters.

All who have engaged in religious broadcasting will have become aware of something called the consensus—a mysterious bias to which the media, and especially TV, are susceptible; a kind of humanistic orthodoxy that is imposed upon the literate populations of the western world with a thoroughness and even ruthlessness a Torquemada, with his old-fashioned racks and thumbscrews and *auto-da-fe*, might well envy. I have frequently myself referred to it as the great liberal death-wish, in the sense that it seems to be directed towards the destruction of the very values it purports to uphold, to seek to bring about the very authoritarianism it ostensibly finds most abhorrent, and generally to encompass the overthrow of any regime that might be expected to provide conditions in which the overall proposition for consensus can be upheld. Some future Gibbon writing about the decline and fall of our western civilization is likely to be greatly intrigued by this salvage operation that turns out to be a demolition squad, this death-wish fulfilling itself in terms of utopianism, whereby slavery comes to be enforced in the name of liberation, obscurantism flourishes in the groves of academe, a zero birth-rate is acclaimed as a glorious achievement, and on the highest humanitarian principles babies are murdered before they are born on a scale that might have made King Herod wince, and the practice of legalized euthanasia in Hitler's Third Reich is emulated in the countries that contrived his overthrow.

We should be grateful to our Creator for these weird contradictions into which men fall when they persuade themselves that they can shape their own lives and their own destiny in the dimensions of their own mortality, since they help us to find our way through the fantasy in which the media enmesh us into the reality of our existence—what Blake called its Fearful Symmetry. God has mercifully made the diversions whereby we seek to evade this reality—I mean the pursuit of power, of sensual satisfactions, of money, of celebrity—so manifestly and preposterously unworthy and unrewarding that we are forced to turn to Him to deliver us from them.

We seek wealth, and find that, thanks to inflation, we have accumulated only worthless pieces of paper; seeking security, it turns out that our scientists have put in our hands the means to blow ourselves and our little earth to smithereens; surrendering to carnality, we find ourselves involved in the erotomania of our time, with its accompanying sterility rites, porn and impotence, as, looking for freedom in this world's terms, we infallibly fall into the servitude of self-gratification, or, collectively, of one form or another of Gulag Archipelago.

We look back on history, and what do we see? Empires rising and falling, revolutions and counter-revolutions succeeding one another, wealth accumulating and wealth dispersed, one nation dominant and then another—as Shakespeare puts it, the rise and fall of great ones that ebb and flow with the moon. Why, in one lifetime I have seen my fellow-countrymen ruling over a quarter of the world, and the great majority of them convinced, in the words of what is still a favourite song among them, that God who had made them mighty would make them mightier yet. I have seen a crazed Austrian announce the establishment of a German Reich that was to last for a thousand years, an Italian clown restart the calendar to begin with his assumption of power, a Georgian brigand in the Kremlin acclaimed by our intellectual elite as wiser than Solomon, more enlightened than Asoka, more humane than Marcus Aurelium.

As for your country, America, I have seen it wealthier than all the rest of the world put together, and with a superiority of weaponry that would have enabled you

Americans, had you so wished, to outdo an Alexander or a Julius Caesar in the range and scale of your conquests. All, in one little lifetime, gone with the wind. England now part of a small island off the coast of Europe, and threatened with further dismemberment and bankruptcy; Hitler and Mussolini seen as buffoons; Stalin a forbidden name in the country he helped to found and dominated totally for three decades; America haunted by fears of running out of the precious fluid that keeps the motorways roaring and the smog settling, by memories of a disastrous military campaign in Vietnam, and of the havoc made by the Don Quixotes of the media when they so valiantly charged the windmills of Watergate.

Can this really be, as the media so assiduously insist, what life is about? This worldwide soap-opera going on from century to century, from era to era, whose old discarded sets and props litter the earth? Surely not. Was it to provide a location for so ribald and repetitive a production as this that the universe was created, and Man—or *homo sapiens* as he likes to call himself, heaven knows why—came into existence? I cannot believe it. If this were all, then the cynics, the hedonists, the suicides are right; the most we can hope for from life is amusement, gratification of our senses and death. But it is not all. Thanks to the great mercy and marvel of the Incarnation, the cosmic scene is resolved into a human drama: God reaches down to become a man, and Man reaches up to relate himself to God; Time looks into Eternity and Eternity into Time, making Now Always and Always Now.

If this Christian revelation was ever true, it must be true for all times and in all circumstances. Whatever may happen, however seemingly inimical to it may be the way the world is going, its truth remains intact and inviolate. Heaven and earth shall pass away, our Lord said, but my words shall not pass away. Our western civilisation, like all others before it, must sometime or other decompose and disappear. The world's way of responding to intimations that this is happening is to engage, equally, in idiot hopes and idiot despair.

On the one hand, some new policy or discovery is confidently expected to put everything to rights—a new fuel, a new drug, detente, world government, a Common Market, North Sea oil, revolution or counter-revolution; on the other, some disaster is as confidently expected to prove our undoing—capitalism will break down and communism take over, or vice versa; fuel will run out, atomic waste will kill us off, plutonium will lay us low, over-population will suffocate us.

In Christian terms, such hopes and fears are equally beside the point. As Christians we know that here we have no continuing city, that crowns roll in the dust and every earthly kingdom must sometime founder; as Christians, too, we acknowledge a King men did not crown and cannot dethrone, and are citizens of a City men did not build and cannot destroy. It was in these terms that the Apostle Paul wrote to the Christians in Rome and in Corinth, living, as they did, in a society as depraved and dissolute as ours, with, for television, the games, which likewise specialized in spectacles of violence and eroticism; exhorting them to be steadfast, unmovable, always abounding in God's work, to concern themselves with the things that are not seen, for the things that are seen are temporal and the things that are not seen are eternal.

It was in the breakdown of Rome that Christendom was born, and now, in the breakdown of Christendom, there are the same requirements and the same possibilities—to eschew the fantasy of a disintegrating world, and seek the reality of what is not seen and eternal—the reality of Christ. In this reality of Christ we see our only hope, our only prospect, in a darkening world. After all, no more terrible disaster could befall us than that one or other of the twentieth century's nightmare utopias should come to pass; that men should veritably prove capable of constructing one or other of their kingdoms of heaven on earth, with abundance ever broadening down from GNP to GNP, and motorways reaching from Pole to Pole, and eros released to beget a regulation two offspring, like a well-behaved child at a party eating just two cakes, otherwise frolicing in contraceptive bliss; all our genes counted and arranged to produce only beauty queens and mensa IQ's, the divergencies thrown away with other waste products; the media providing Nuzaik and Newzak round the clock to delight and inform us, and the appropriate drugs and medicaments available to cure all actual and potential ills, mental, physical and spiritual.

Let us, then, as Christians look beyond the intimations of decay in the institutions and instruments of power; beyond the collapsing regimes, money in total disarray, the dictators and parliamentarians alike nonplussed by the confusions and conflicts that encompass them. Remembering that it is precisely when every earthly hope has been explored and found wanting, when every possibility of help from earthly sources has been sought and is not forthcoming, when every recourse this world offers, moral as well as material, has been expended to no effect; when in the shivering cold the last faggot has been thrown on the fire, and in the deepening darkness every glimmer of light has finally flickered out—that it is then that Christ's hand reaches out, sure and firm, that his light shines brightest, abolishing the darkness. So, finding in everything only deception and nothingness, the soul is constrained to have recourse of God Himself and to rest content with Him.

This, as I see it is the message of Christian broadcasting, this alone.

MICHIGAN SUPPORT FOR ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I have several times had occasion to address the House concerning the importance of the proposed Alaska National Interest Lands Conservation Act, H.R. 39, which is currently being considered by the Subcommittee on General Oversight and Alaska Lands. The significance of this legislation, sponsored by Mr. UDALL, the distinguished chairman of our Committee on Interior and Insular Affairs and by many other Members, is well expressed in an editorial which appeared in the Grand Rapids (Michigan) Press for Sunday, October 30, 1977. The full text of the editorial follows these remarks.

NO ALASKAN FOLLY

Stir up a concoction of millions of acres of undeveloped land, billions of dollars of unmined resources, the ambitions of an adolescent state government, oil and mining industries, Native American litigation, forestry interests, environmental needs, old and discarded promises, an approaching deadline and congressional politics and what do you have? Probably one of the most volatile and complex matters ever to be seen in the halls of Congress.

The issue, deceptively labeled the question of "d-2 lands," is making its way through Congress. It is, quite literally, the Battle for Alaska or, as understated by U.S. Interior Secretary Cecil Andrus, "the most important land conservation program in the history of this country."

Alaskan priorities have been scaled up considerably since "Seward's Folly" was consummated for 2 cents an acre.

When Alaska became a state in 1959, more than 99 per cent of the territory's 365 million acres of land and 10 million acres of inland waterways belonged to the federal government. The Alaskan Statehood Act granted 105 million acres of the total to the state, or about 28 per cent of available land and water, by far the largest federal land transfer to any state in the union, greater in fact than all past grants west of the Missouri combined.

But the selection of those acres has proceeded slowly and has been interrupted by litigation, most notably the Alaska Native Claims Settlement Act of 1971 which gave Eskimos, Aleuts and Indians millions of dollars in grants and mineral rights and 44 million acres of land. Congress now is deciding how much of the remaining federal land should be kept for all the people in the 50 states and how it should be used.

The main issue, revolving around the so-called d-2 section of the Native Claims Act, is how much "national interest" land the secretary of interior can withdraw from development for protection under four systems of federal management—parks and monuments, wildlife refuges, wild and scenic rivers and national forests.

How the special protection d-2 clause in the Native Claims Act came about is itself an interesting story. For future American generations d-2 is the most significant virgin land preservation law ever passed. It was pressed by environmental interests, at the last minute, as final payment for removing barriers to the Alaskan pipeline.

The state of Alaska is recommending a 25-million acre set-aside under d-2. A bill sponsored by Rep. Morris Udall is asking for 102 million acres (compromised down from 114 million). The Carter Administration has recommended 92 million acres. The deadline for federal land designation under the d-2 section is Dec. 18, 1978.

The Alaskan state request is not being taken seriously and for good reason. The state, with only 400,000 people, got a far better land deal from the federal government than that given other newborn states. And what it seeks is not land for people, but for exploitation of natural resources, which can be stripped away far faster than most Alaskan residents once thought.

With oil flowing through the state's pipeline less than a year, geologists already are tempering their initial forecasts. At present production levels, Prudhoe Bay reserves will be half used in eight years. But more significant, there hasn't been a major oil strike in Alaska since 1968, and that includes the once highly promoted Gulf of Alaska.

The Administration request of 92 million acres of d-2 lands appears close to the amount sought by Rep. Udall. But there is a distinct and important difference. In trying to keep federal requests to the essential minimum, the Interior Department has broken up areas that ought to remain intact. Interior has not, as Secretary Andrus promised, kept whole ecosystems and hydrographic systems together—natural dives are unnaturally cut and watersheds are disrupted.

It would be a grave violation of public trust for Congress to carve away further on the 102 million Alaskan acres specified in the substitute Udall bill, HR 39. It would be committing a national error that can never be repaired.

LANGUAGE MINORITY GROUP PROVISIONS SHOULD BE ELIMINATED FROM THE VOTING RIGHTS ACT OF 1965

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, today I am introducing legislation which will rectify a grievous error made by the Congress when it enacted the 1975 amendments to the Voting Rights Act of 1965. The legislation, entitled "The Voting Rights Act Repealer Amendments Act of 1978," will eliminate the requirement that so-called language minority groups be included within the provisions of the Voting Rights Act.

Under the mistaken belief that certain minority groups in this country were being discriminated against in the electoral process because of a lack of proficiency in English, the Congress amended the Voting Rights Act with provisions which sought to remedy this alleged discrimination. These amendments provide that a State or political subdivision is now subject to the provisions of the Voting Rights Act if a single language minority comprises 5 percent of the total voting age citizen population, and if the illiteracy rate of that group is greater than the national averages. The act defines "illiteracy" as failing to complete the fifth primary grade.

The effect of these standards is that a State, county, city, or town must provide ballots and ballot information in the languages which meet the 5 percent test.

Many Members of Congress and officials at the Department of Justice, which is charged with enforcing these provisions, are beginning to realize the mistake which has been made. Numerous cities and towns across the country are being forced to spend thousands of dollars to provide bilingual ballots printed in such obscure languages as Cantonese, Tagalog, and Mandarin, even though no members of these minority groups reside within the voting district.

One example of how the current law works is found in the city of San Francisco. The registrar of voters has had to bear the exorbitant cost of printing registration materials, ballots, and ballot information in Cantonese, Mandarin, Spanish, and Tagalog. Many community leaders in San Francisco and other areas affected by these needless provisions have complained that the enormous expense diverts funds from worthwhile projects to assist minority groups.

Very shortly, the General Accounting Office will release a report of its study of these provisions of the Voting Rights Act. It is my hope that the GAO has concluded that the statute is not only unenforceable, but unnecesary.

Mr. Speaker, the bilingual amendments of 1975 are overbroad and unnecessary. In order to lift the outrageous burden on many of our cities and towns, I am introducing this legislation to repeal the 1975 bilingual amendments to the Voting Rights Act. I am also including a detailed section-by-section analysis of this legislation:

H.R. 10546

A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voting Rights Act Repealer Amendments Act of 1976".

SEC. 2. Section 4(a) of the Voting Rights Act is amended—

(1) by striking out "the first two sentences of" where it appears immediately after "determinations have been made under";

(2) by striking out the final sentence of the first paragraph;

(3) by striking out "an action under the first sentence of this subsection" and inserting in the third paragraph thereof "the action"; and

(4) by striking out the fourth paragraph thereof.

SEC. 3. Section 4(b) of the Voting Rights Act of 1965 is amended by striking out the final sentence of the first paragraph thereof.

SEC. 4. Section 4 of the Voting Rights Act of 1965 is amended by striking out subsection (f).

SEC. 5. Section 5 of the Voting Rights Act of 1965 is amended by striking out "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting different from that in force or effect on November 1, 1972," where it appears after "November 1, 1968,".

SEC. 6. Sections 3 and 6 of the Voting Rights Act of 1965 are each amended by striking out "fourteenth or fifteenth amendment" each place it appears and inserting in lieu thereof the following: "fifteenth amendment".

SEC. 7. Sections 2, 3, the second paragraph of section 4(a), and sections 4(d), 5, 6, and 13 of the Voting Rights Act of 1965 are each amended by striking out ", or in contravention of the guarantees set forth in section 4(f)(2)" each place it appears immediately after "on account of race or color".

SEC. 8. Section 14(c) of the Voting Rights Act of 1965 is amended by striking out paragraph (3).

SEC. 9. (a) The Voting Rights Act of 1965 is further amended by striking out section 203.

(b) Sections 204, 205, and 206 of the Voting Rights Act of 1965 are redesignated as 203, 204, and 205, respectively.

(c) Section 204 of the Voting Rights Act of 1965, as redesignated section 203 by subsection (b) of this section, is amended by striking out "or 203,".

(d) Section 205 of the Voting Rights Act of 1965, as redesignated section 204 by subsection (b) of this section, is amended by striking out", 202, or 203" and inserting in lieu thereof the following: "or 202".

SECTION-BY-SECTION ANALYSIS

Section 2. This section strikes language from § 4(a) of the Voting Rights Act which incorporates a reference to the bilingual trigger established by the 1975 Amendments in § 4(b). Section 2 does not affect the traditional coverage of the Voting Rights Act accomplished by either the 1965 or the 1970 Amendments.

Section 3. This section deletes from § 4(b) of the Voting Rights Act the bilingual triggering provision added by the 1975 Amendments. Section 3 does not affect the traditional triggering mechanism with respect to the Voting Rights Act of 1975 or the 1970 Amendments.

Section 4. This section deletes § 4(f) of the Voting Rights Act which was added by the 1975 Amendments to the Voting Rights Act. Section 4(f) of the Voting Rights Act is the heart of the bilingual expansion accomplished by the 1975 Amendments. That section prohibits English-only elections by finding an English-only election to be a literacy test equivalent to the literacy test imposed in the old South. Section 4(f) also mandates the printing of all registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, in the language of any covered language minority group. Section 4(f) was not part of the Voting Rights Act of 1965 or the 1970 Amendments and its repeal will not affect traditional coverage under the Act in any way.

Section 5. This section deletes from § 5 of the Voting Rights Act, the preclearance requirements, based upon coverage by the bilingual triggering mechanism added by the 1975 Amendments. This section does not affect the preclearance requirements of § 5 with respect to the Voting Rights Act of 1965 or the 1970 Amendments.

Section 6. This section limits the coverage of the Voting Rights Act to the fifteenth amendment of the Constitution by deleting references to the fourteenth amendment in §§ 3 and 6 of the Voting Rights Act which were inserted by the 1975 Amendments. Reliance on the fourteenth amendment is unnecessary since traditional fifteenth amendment guarantees have proven sufficient in our ten years of experience under this Act. The voting guarantees of the fifteenth amendment sufficiently safeguard any abridgement of voting rights on account of race or color. The courts have had little trouble in protecting the rights of language minority groups under the fifteenth amendment. This section in no way affects rights protected by the Voting Rights Act of 1965 or the 1970 Amendments.

Section 7. This section deletes a cross-reference in §§ 2, 3, 4(a), 4(d), 5, 6, and 13 of the Voting Rights Act to the guarantees established in § 4(f)(2) of that Act. Section 4(f)(2) is repealed in § 4 of this bill and any cross-reference in the Act to it must be eliminated. Section 7 in no way affects voting guarantees protected by the Voting Rights Act of 1965 or the 1970 Amendments.

Section 8. This section deletes the definition of "language minorities" and "language minority" groups from § 14(c) of the Voting Rights Act. Repealing the other bilingual provisions of the Voting Rights Act removes the need for a definition of language minority groups. This section does not affect the protection of the Voting Rights Act of 1965 or the 1970 Amendments.

Section 9. This section deletes § 203 of the Voting Rights Act which imposes bilingual election requirements in locations where language minority groups have a lower degree of education than the national average. The onerous requirements of § 203 are identical with the requirements in § 4(f) which is repealed in § 4 of this legislation. Section 9 also contains technical amendments renumbering successive sections in Title 2 of the Voting Rights Act. This section does not affect traditional protections of the Voting Rights Act of 1965 or the 1970 Amendments.

THE RETIREMENT (?) OF JASPER DORSEY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Jasper Dorsey is retiring. A great many people who know the real Jasper Dorsey will immediately place a question mark after the

word "retiring." Jasper Dorsey is not the retiring type. In actuality, he is stepping aside from his executive post with Southern Bell Telephone Co. in Atlanta. That is only because he has reached the company's mandatory retirement age of 65. What will happen is that Jasper will find he has more time to work a little more in all the other fields which command his interests and to which he has made such great contributions.

Many people know Jasper Dorsey as I do—a friend, a trustworthy confidant, a sound counselor, and an able executive. I doubt that anyone could have done more in an executive capacity for his firm than he has. He has worked for Southern Bell since the time he graduated from the University of Georgia, except for the time spent in the Army during World War II. In addition, he has found time to provide outstanding service to the University of Georgia where he has served as alumni president among other capacities. Also he has held advisory posts at other schools. He is Georgia state director of President Carter's friendship force exchange program. In all of these positions he has been an outstanding leader. Jasper Dorsey probably understands the free enterprise system as well as any man in America. He knows how to make it work successfully and much of Southern Bell's fine success can be attributed to him.

Jasper and his wife, Callender, are gracious and wonderful friends to know. Callender, is in her own right, a charming, gracious lady, and a wonderful asset to Jasper. All of us who are happy to claim their friendship will look forward to a continuation of that friendship in the years ahead. The Atlanta Journal and the Atlanta Constitution told the Jasper Dorsey story in a splendid way on December 18. I submit that statement for reprinting in the CONGRESSIONAL RECORD:

SOUTHERN BELL EXECUTIVE—DORSEY STYLE HARD TO REPLACE

(By DeWitt Rogers)

A couple of months ago, during a meeting in Atlanta of several top officers of the Southern Bell Telephone Co., one of the executives present asked Jasper Dorsey to describe his management style.

"You throw your people into the water and start chucking bricks at them," Dorsey, who is in charge of the utility's operations in Georgia, retorted after just a moment's thought. "And to the few people that manage to stay afloat, you toss more bricks. Eventually, there will be just a couple that can catch all the bricks you throw. But when they, too, can't hold any more, you start swirling the water."

That episode "really illustrates Jasper Dorsey's philosophy," the phone company official who related it last week said "He is always low key and has a good sense of humor, but he strives for excellence and won't accept anything less. He's really tough on the people he feels have promise."

The combination of a wry wit and a serious, hard-driving business sense have allowed Dorsey to become one of Georgia's most influential corporate executives and the truly dominant personality in the state headquarters of Southern Bell, where for the past decade he has served as vice president and chief executive officer, one of the four state chiefs in the Southern Bell system.

Dorsey is to retire at the end of next month shortly after he reaches the company's mandatory retirement age of 65 years. And Southern Bell's 18 directors are scheduled to meet this Monday to select his successor. But company insiders doubt Dorsey's style is about to be fully replaced. For, they say, the imprint of his very personal brand of leadership runs so deep in the company that it will remain a key factor long after his departure from Southern Bell's payroll.

Dorsey, a native of Marietta, has worked for the Bell System ever since he was graduated from the University of Georgia with a journalism degree (and some part-time experience as a sportswriter for The Atlanta Georgian newspaper) in the late 1930s. He started at $22 a week as a frameman, company jargon for a "wire twister," Dorsey explained in an interview last week.

He spent World War II in the Army and returned to the company in 1946. In 1954, he was named Southern Bell's commercial manager in Florida and later was to serve as commercial and plant manager in Louisiana. In 1958, he was named an assistant vice president and went to work in Washington as a lobbyist. He moved back to Atlanta in 1968 to become a vice president.

Titles can be misleading in the Bell System, a giant concern that includes 23 operating companies. Dorsey, for example, probably is directly responsible for a bigger capital investment and payroll than the vice president of any firm in Georgia.

Dorsey, who reports to the vice president for operations in the Southern Bell corporate headquarters here, is in charge of 18,000 Georgia employees serving more than three million telephones in a state system with a capital outlay of more than $2 billion. That workforce, the largest private one in the state, will produce $750 million of Southern Bell's $3 billion revenues this year. The remainder will come from North Carolina, South Carolina and Florida.

Dorsey is not a striking man physically, but his legendary style has certainly made its mark.

A voracious reader who believes in quoting what he's read, Dorsey is a great teller of stories and purveyor of homespun sayings of wisdom. "The bold really get along better than the timid and the fearful—and they have a helluva lot more fun," he said in his gravelly voice last week while seated in his Perimeter Center office, listening to WPCH on the radio and sipping a Tab in a paper cup with a University of Georgia bulldog mascot printed on its side.

He is very fond of bird hunting, and that off-the-job interest is reflected at his place of work. Pictures of huntable birds adorn just about everything in his office, from the upholstery on furniture to the cover of this year's Atlanta telephone directory.

His on-the-job hours are long and, in the words of one associate, he "lives the company." Underlings find it not unusual to get a telephone call from his Buckhead home early Sunday mornings, and when he returns from frequent out-of-town trips, his pockets always are bulging with notes scribbled on small pieces of paper.

He is a firm believer in the notion that corporate talent is something to be cultivated through constant personality development and he pushes hard those who work for him.

As he puts it: "You get the best team you can find, put your people where they can maximize their talents, give them responsibilities, and then you step out of the way."

Dorsey is best known publicly, though, for his extensive after-hour civic activities. He has headed scores of charity drives and community organizations. Gov. George Busbee recently named him state director of President Carter's Friendship Force exchange program. And for years he has held major alumni responsibilities at the University of Georgia and advisory posts at other schools.

Dick Yarborough, a Bell System lobbyist in Washington who spent nine years working for Dorsey in Atlanta, noted in a interview last week that Dorsey constantly stresses the importance of "public exposure and contact" for his executives.

"We have a very technical company and it is very easy to become totally involved in the running of the sophisticated equipment," Yarborough said. "But Jasper Dorsey always says that, 'If it doesn't please the customer it doesn't count.' "

Southern Bell President Ed Rast, the man to whom Dorsey ultimately reports, said it this way: "He feels strongly about his obligations to his company and community and the need to bring the two together."

Dorsey says, though, that public service is more than just a matter of good business. "I've always felt that I owed a tremendous debt," he explained.

One area in which he is particularly active is politics. And despite the fact that Southern Bell has come under fire in recent years for some of its lobbying activities, Dorsey, who says he learned the fundamentals of politics from his late father and mother (his father was judge and state legislator, his mother, Marietta housing authority official) has no apologies for those activities.

"Any business today needs to pay attention to the political process," he commented. "You see, most of the problems we have in America require political solutions. This may be dangerous, but it is true. The government is a major partner in your business."

Many businessmen, Dorsey notes, "are so cautious and so easily frightened and intimidated that they don't stand up for what they really believe in. You can go to some of these luncheon clubs and give a speech on free enterprise and they will stand up and cheer, but most of them aren't even registered to vote."

Surprisingly, such outspokenness has rarely gotten Dorsey into trouble over the years. His enemies, if they exist, have never surfaced publicly.

Bobby Pafford, who as a member of the Public Service Commission has been one of Southern Bell's most persistent critics, commented in a recent interview, "There are people who I'm sure do not agree with the things Bell does, but I can truthfully say I've never heard anything but the highest compliments for Jasper Dorsey."

In the interview last week, Dorsey looked back on his years at Southern Bell and described them "as a whale of lot of fun—an adventure really."

And he said that although his retirement will remove him from the circles of corporate management, he still will be heard from. "If I was to sit still for 20 minutes I'd go wild," he explained.

He'll continue as state chairman of the Friendship Force and is considering doing some teaching and writing. But most of his efforts, he said, will be directed at working with the state's educational system.

"I'm not worried about the telephone company," he explained. "It's in good shape and has an enormous future. I'm going to put my energies to work to see if we can't make the quality of life in Georgia a lot better, and I don't think we can be any better than our higher education system.

"Why should our kids have to go to Ivy League schools for the best education? Why can't we have the best education here? I think we should demand excellence and we

should accept nothing less than the very best. And I'm going to be working to see that we get it."

CHAPPIE JAMES, PATRIOT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on Thursday, January 26, the Air Force, the armed services in general, and the Nation will lose the active services of one of the most singularly excellent officers and patriots it has been my pleasure to know. In a ceremony at Andrews Air Force Base, Gen. Daniel (Chappie) James, Jr., is retiring after over three decades of service to his nation. By every standard, Chappie James is an outstanding American.

General James was born in Pensacola, Fla., and, because of this, he and his career are of special pride to those who reside in the First Congressional District of Florida, but all of Florida is happy to claim Chappie James. Indeed, since he entered the Army Air Corps Aviation Cadet Program in 1943 he has become a source of pride to all Americans. His military record establishes his prowess and abilities as a fighter pilot. He flew 78 combat missions over North Vietnam, has been commander of a fighter training wing, vice commander of the military airlift command, and commander in chief of NORAD/ADCOM. Each step of the ladder brought him more responsibility and more recognition and more acclaim from his countrymen. But there is much more to Chappie James. He is an American and a patriot in the finest sense of the words.

Recognized for his many public statements on our freedom, our country, on Americanism and what this country represents to the rest of the world, General James typifies what is right and honorable about being an American. Known for moderation in his demeanor, he has led by example and inspired a desire in all of us to better ourselves through bettering our Nation. Woodrow Wilson once said,

> Let us set for ourselves a standard so high that it will be a glory to live up to it, and then let us live up to it and add a new laurel to the crown of America.

Chappie James has done just that.

As a friend of many years, I extend my congratulations and I know that I speak for the U.S. House of Representatives. The record of Chappie James will live long in the military and civic annals of our country. To Chappie, his wife Dottie, their daughter and sons, I extend for all of us best wishes for long and happy years ahead.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. CONABLE, for 60 minutes, February 1, 1978.
Mr. RAILSBACK, for 5 minutes, today.
Mr. MCKINNEY, for 5 minutes, today.
Mr. LATTA, for 60 minutes, January 31, 1978.
Mr. WHALEN, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.
Mr. MARRIOTT, for 10 minutes, today.

(The following Members (at the request of Mr. CARR) to revise and extend their remarks and include extraneous material:)

Mr. SIKES, for 5 minutes, today.
Mr. FORD of Michigan, for 5 minutes, today.
Mr. ROE, for 5 minutes, today.
Mr. REUSS, for 20 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ROONEY, for 60 minutes, today.
Mr. RODINO, for 10 minutes, today.
Mr. BLANCHARD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. DICKINSON.
Mr. KEMP.
Mr. SARASIN in three instances.
Mr. RHODES in two instances.
Mr. GILMAN in two instances.
Mr. DERWINSKI.
Mr. SYMMS in three instances.
Mr. ASHBROOK in three instances.
Mr. DORNAN in two instances.
Mr. LUJAN.
Mr. REGULA.
Mr. SCHULZE.
Mr. CUNNINGHAM.
Mr. HYDE.
Mr. COUGHLIN.

(The following Members (at the request of Mr. CARR) and to include extraneous material:)

Mr. EDWARDS of California.
Mr. DANIELSON.
Mr. ROGERS in five instances.
Mr. LONG of Maryland.
Mr. NOLAN.
Mr. SKELTON in four instances.
Mr. MAZZOLI.
Mr. WAXMAN.
Mr. SOLARZ in two instances.
Mr. LONG of Louisiana in three instances.
Mr. AUCOIN.
Mr. RICHMOND.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. ROYBAL.
Mr. OTTINGER in five instances.
Mr. WOLFF.
Mr. CONYERS.
Mr. FRASER.
Mr. PATTEN.
Mr. EILBERG.
Mr. MCDONALD.
Mr. MAGUIRE in two instances.
Mr. SIKES in two instances.
Mr. SCHEUER.
Mr. HAMILTON.
Mr. BROWN of California.
Mr. LEGGETT.
Mr. CARR.
Mr. STAGGERS.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1585. An act to amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes.

ADJOURNMENT

Mr. CARR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Thursday, January 26, 1978, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3076. A letter from the Comptroller General of the United States, transmitting a report on deficiencies in the General Services Administration's practices for awarding and administering leases and suggests ways to improve such practices (LCD–77–354, January 24, 1978); to the Committee on Government Operations.

3077. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Kuwait (MC–5–78) pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

3078. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a proposed technical assistance and manufacturing agreement for the production of certain military equipment in Korea (MC–6–78), pursuant to section 36(d) of the Arms Export Control Act; to the Committee on International Relations.

3079. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a proposed amendment to an existing manufacturing license agreement with the Government of Iran (MC–7–78), pursuant to section 36(d) of the Arms Export Control Act; to the Committee on International Relations.

3080. A letter from the Chairman, Resource Conservation Committee, transmitting the committee's semiannual progress report, pursuant to section 8002(j) of the Solid Waste Disposal Act, as amended; to the Committee on Interstate and Foreign Commerce.

3081. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to clarify the terms of the Speedy Trial Act of 1974; to the Committee on the Judiciary.

3082. A letter from the Principal Deputy Under Secretary of Defense (Research and

Engineering), transmitting a report on Department of Defense procurement from small and other business firms for October 1976 to August 1977, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

3083. A letter from the Administrator of Veterans' Affairs, transmitting the annual report for fiscal year 1977 on the nature and disposition of all cases in which an institution, approved for veterans benefits, utilizes advertising, sales or enrollment practices which are erroneous, deceptive, or misleading, either by actual statement, omission, or intimation, pursuant to 38 U.S.C. 1796(d); to the Committee on Veterans' Affairs.

3084. A letter from the Comptroller General of the United States, transmitting a report on ConRail's attempts to improve its use of freight cars, pursuant to section 307(a) of the Regional Rail Reorganization Act of 1973, as amended (90 Stat. 99) (CED–78–23, January 24, 1978); jointly to the Committees on Government Operations, and Interstate and Foreign Commerce.

3085. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the first biennial report on the progress of the Upper Atmospheric Research Program, pursuant to section 126 of the Clean Air Act Amendments of 1977 (Public Law 95–95); jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MEEDS: Committee on Rules. House Resolution 974. Resolution providing for the consideration of H.R. 6362. A bill to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review. (Rept. No. 95–850). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. Report of the Committee on Education and Labor pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–851). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. MINISH, Mr. KRUEGER, Mr. CORCORAN of Illinois, and Mr. ASPIN):

H.R. 10535. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. BAFALIS:

H.R. 10536. A bill to amend the Internal Revenue Code of 1954 with respect to the maximum amount which may be contributed to a retirement plan for a self-employed individual; to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.R. 10537. A bill to amend chapter 55 of title 10 to provide additional dental care for dependents of active duty members of the uniformed services; to the Committee on Armed Services.

By Mr. EILBERG:

H.R. 10538. A bill to amend title 39, United States Code, to provide that absentee voting ballots cast in elections for public office may be mailed free of postage; to the Committee on Post Office and Civil Service.

By Mr. ENGLISH:

H.R. 10539. A bill to amend the consolidated Farm and Rural Development Act to provide an alternative method of financing the land, equipment and operating expenses of qualified farm families, including young farmers, and shall help provide the farm family with adequate standards of living and the consumer with reasonable prices for agricultural products and for other purposes; to the Committee on Agriculture.

By Mr. SCHULZE:

H.R. 10540. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. PERKINS, Mr. BUCHANAN, Mr. QUIE, Mr. THOMPSON, Mr. BRADEMAS, Mr. BIAGGI, Mr. CLAY, Mr. BLOUIN, Mr. SIMON, Mr. PURSELL, and Mr. CORRADA):

H.R. 10541. A bill to amend certain provisions of title II of the Higher Education Act of 1965 relating to college library assistance; to the Committee on Education and Labor.

By Mr. LLOYD of California (for himself, Mr. HUCKABY, Mr. LAGOMARSINO, Mr. MARKS, Mr. MCCORMACK, Mr. MCDADE, Mr. NOLAN, Ms. OAKAR, Mr. PATTISON of New York, Mr. ROE, Mr. SIMON, Mr. SKELTON, Mr. WAXMAN, and Mr. WINN):

H.R. 10542. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. LLOYD of California (for himself, Mr. QUIE, Mr. BEVILL, Mr. CARR, Mr. COCHRAN of Mississippi, Mr. CORNELL, Mr. DORNAN, Mr. EILBERG, Mr. FASCELL, Mr. FAUNTROY, Mr. FITHIAN, Mr. FREY, Mr. HALL, and Mr. HARRINGTON):

H.R. 10543. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 10544. A bill to amend the Export-Import Bank Act of 1945; to the Committee on International Relations.

By Mr. LUJAN:

H.R. 10545. A bill to incorporate the American Ex-Prisoners of War, Incorporated; to the Committee on the Judiciary.

By Mr. MCCLORY:

H.R. 10546. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.R. 10547. A bill to amend title 38, United States Code, to increase the rate of special pension payable to Congressional Medal of Honor holders; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself and Mr. ROE):

H.R. 10548. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for nonregular service, and for other purposes; to the Committee on Armed Services.

By Mr. OBEY:

H.R. 10549. A bill to require the Administrator of the Agency for International Development to issue regulations which, unless disapproved by either House of Congress, will establish a unified personnel system for all employees of that Agency; to the Committee on International Relations.

By Mr. QUIE:

H.R. 10550. A bill to amend section 422(c) of the Higher Education Act of 1965, relating to the eligibility of new State guarantee agencies for advances to reserve funds under such section; to the Committee on Education and Labor.

H.R. 10551. A bill to extend for 1 year the authority of the Commissioner of Education to waive provisions of title I of the Elementary and Secondary Education Act for certain local educational agencies; to the Committee on Education and Labor.

By Mr. ROGERS:

H.R. 10552. A bill to provide that provisions of the Communications Act of 1934 relating to the televised broadcast of certain professional sports clubs' games shall remain in effect until February 1, 1981; to the Committee on Interstate and Foreign Commerce.

Mr. ROGERS (for himself and Mr. CARTER):

H.R. 10553. A bill to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services; to the Committee on Interstate and Foreign Commerce.

By Mr. RONCALIO:

H.R. 10554. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes; to the Committee on Agriculture.

By Mr. SATTERFIELD:

H.R. 10555. A bill to amend the Internal Revenue Code of 1954 to disregard, in the valuation for estate tax purposes of certain items created by the decedent during his life, any amount which would not have been capital gain if such item had been sold by the decedent at its fair market value; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. ROONEY):

H.R. 10556. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.R. 10557. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. FORSYTHE (for himself and Mr. HUGHES):

H.R. 10558. A bill to establish a national system of reserves for the protection of outstanding ecological, scenic, historic, cultural, and recreational landscapes, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FRENZEL (for himself, Mr. YOUNG of Missouri, Mr. QUAYLE, and Mr. RINALDO):

H.R. 10559. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. HUGHES (for himself and Mr. FORSYTHE):

H.R. 10560. A bill to establish a national system of reserves for the protection of outstanding ecological, scenic, historic, cultural, and recreational landscapes, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MAGUIRE (for himself and Mr. GORE):

H.R. 10561. A bill to amend the Federal Food, Drug, and Cosmetic Act to treat hair dyes the same as other cosmetics under such act; to the Committee on Interstate and Foreign Commerce.

By Mr. MARRIOTT (for himself, Mr. ABDNOR, Mr. BEARD of Tennessee, Mr. BURGENER, Mr. DON H. CLAUSEN, Mr. COLLINS of Texas, Mr. CONTE, Mr. CRANE, Mr. DORNAN, Mr. EDWARDS of Oklahoma, Mr. EVANS of Delaware, Mrs. FENWICK, Mrs. GRASSLEY, Mr. HILLIS, Mrs. HOLT, Mr. KASTEN, Mrs. KEYS, Mr. KINDNESS, Mr. RINALDO, Mr. SARASIN, Mr. SEBELIUS, Mr. STANGELAND, Mr. STUMP, Mr. VANDER JAGT, and Mr. VOLKMER):

H.R. 10562. A bill to provide for an evaluation of Federal Motor Vehicle Safety Standard 121 and to provide for a suspension for a period not to exceed 15 months of any part of the standard which relates to any antilock braking requirement; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.J. Res. 689. Joint resolution to authorize the President to issue a proclamation designating the Sunday following Fire Service Recognition Day as Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year; to the Committee on Post Office and Civil Service.

By Mr. SIKES:

H.J. Res. 690. Joint resolution ordering the President of the United States, the Secretary of Agriculture, and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on International Relations.

By Mr. WAMPLER:

H. Con. Res. 460. Concurrent resolution to inspire the President and the Secretary of Agriculture to use existing law to achieve parity for farmers and ranchers; to the Committee on Agriculture.

By Mr. PERKINS (for himself and Mr. QUIE):

H. Res. 975. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Education and Labor; to the Committee on House Administration.

By Mr. REUSS:

H. Res. 976. Resolution to provide funds for the expenses of the investigations and studies to be conducted by the Committee on Banking, Finance and Urban Affairs; to the Committee on House Administration.

By Mr. ROSE:

H. Res. 977. Resolution providing funds for the Committee on House Administration to provide for the maintenance and improvement of ongoing computer services for the House of Representatives, for the investigation of additional computer services for the House of Representatives, and to provide computer support to the committees of the House of Representatives; to the Committee on House Administration.

By Mr. STAGGERS:

H. Res. 978. Resolution to provide funds for the expenses of the investigations and studies to be conducted by the Committee on Interstate and Foreign Commerce; to the Committee on House Administration.

By Mr. UDALL:

H. Res. 979. Resolution providing for the expenses for the second session activities of the Committee on Interior and Insular Affairs; to the Committee on House Administration.

By Mr. DORNAN:

H. Res. 980. Resolution to observe the week set aside by the Reserve Officers Association as National Defense Week; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI:

H. Res. 981. Resolution to provide for the expenses of investigations, and studies to be conducted by the Committee on International Relations; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Massachusetts:

H.R. 10563. A bill for the relief of Claire C. Toohey; to the Committee on the Judiciary.

By Mr. MARLENEE:

H.R. 10564. A bill for the relief of Dan Ionel Dragotoiu, M.D., to the Committee on the Judiciary.

By Mr. SIKES:

H.R. 10565. A bill for the relief of Lamon Petersen and Dang Petersen; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. BAUMAN:

Page 227, at the end of line 2, insert a close quotation mark and a period.

Page 227, strike out line 3 and all that follows through line 15.

Page 227, line 16, strike out "SEC. 30." and insert in lieu thereof "SEC. 29.".

Page 233, line 16, strike out "SEC. 31." and insert in lieu thereof "SEC. 30.".

Page 129, in the table of contents, strike out:

"Sec. 29. Restrictions on employment.
"Sec. 30. Fishermens gear compensation funds.
"Sec. 31. Documentation, registry, and manning requirements."

And insert in lieu thereof

"Sec. 29. Fishermens gear compensation fund.
"Sec. 30. Documentation, registry, and manning requirements.".

By Mr. FISH:

Page 152, line 2, insert "and" after the semicolon.

Page 152, line 4, strike out the semicolon and insert in lieu thereof a period.

Page 152, strike out lines 5 through 11.

Page 209, line 5, strike out "environment" and all that follows through "Act." on line 7 and insert in lieu thereof "environment.".

Page 209, line 18, strike out "law" and all that follows through line 20 and insert in lieu thereof "law;".

Page 159, line 21, strike out "subparagraphs (B) and (C)" and insert in lieu thereof "subparagraph (B)".

Page 160, strike out line 24 and all that follows through line 26 on page 164.

Page 165, line 1, strike out "(D)" and insert in lieu thereof "(C)".

Page 165, line 14, insert "and" after the semicolon.

Page 165, strike out lines 15 through 20.

Page 165, line 21, strike out "(vi)" and insert in lieu thereof "(v)".

Page 168, line 23, strike out "proposal" and all that follows through line 25 and insert in lieu thereof "proposal;".

Page 169, strike out lines 7 through 12 and insert in lieu thereof the following:

"(7) contain a requirement that the lessee offer the maximum amount feasible (in accordance with traditional market shares) of crude oil, condensate, or natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small refiners as defined in section 3(4) of the Emergency Petroleum Allocation Act of 1973, except that any oil which is sold to small refiners under section 27 of this Act shall be credited against the amount required to be offered to small refiners under this paragraph.

The Secretary shall, upon request of the Committee on Small Business of the House of Representatives or the Select Committee on Small Business of the Senate, but not less than once every six months, submit a report to each such committee [and other appropriate committees of the Congress] with respect to the actions taken during the preceding six-month period to carry out the provisions of paragraph (7) of this subsection, and the actions planned to assure participation by small refiners, as specified in such paragraph, in the future.".

Page 170, strike out line 11 and all that follows down through line 3 on page 172 and insert in lieu thereof the following:

"(f)(1) Prior to the sale of any lease under this Act after the date of enactment of this section with respect to which production may, in the judgment of the Secretary or in the judgment of the Governor of any affected State, result in the drainage of oil or gas from lands of such State, the Secretary shall—

"(A) if the lands of such State have been or are about to be leased or otherwise utilized for exploration, development, or production by such State, offer the Governor of such State an opportunity to enter into an agreement for unitary exploration, development, and production of the Federal and State lands; or

"(B) if such State has not or is not about to so lease or utilize such lands, offer the Governor of such State the opportunity to enter into an agreement for the disposition of revenues which may be generated by such lease in order to insure a fair and equitable distribution of such revenues between such State and the Federal Government.

"(2)(A) If an agreement described in paragraph (1)(A) or (1)(B) of this subsection is not entered into within 30 days after the date on which the Secretary first offers the appropriate Governor an opportunity to enter into such agreement, or within such longer period as the Secretary may in his discretion allow, the Secretary may proceed with the sale of the lease, and shall—

"(i) include a term in the lease making the lessee a party to any suit for equitable division of the proceeds from such lease among the lessee, the State, and the Federal Government; and

"(ii) upon an allegation by the State or a determination by the Secretary that drainage from State lands is occurring, institute negotiations among the lessee, the State, and the Federal Government for the equitable division of the proceeds from such lease.

"(B) If, within 6 months after the date on which negotiations are commenced pursuant to subparagraphs (A)(ii) of this paragraph, an equitable division is not agreed to by the

parties to such negotiations, any party to such negotiations may initiate a suit for an equitable division of the proceeds from the lease.

"(C) Notwithstanding any other provision of this paragraph, the Secretary shall not be required to include a term referred to in subparagraph (A)(i) of this paragraph in the lease, or to institute negotiations pursuant to subparagraph (A)(ii) of this paragraph, unless the State agrees to insert a similar term and to institute similar negotiations in any case in which operations on lands of such State may result in the drainage of oil or gas from Federal lands."

Page 172, line 4, strike out "(4)" and insert in lieu thereof "(3)".

Page 173, line 7, strike "The" and all that follows through "and" on page 173, line 8.

Page 173, line 8, strike "any" and insert in lieu thereof "Any".

On page 176, line 12, strike "(1)", and on page 176 strike line 18 and all that follows through (line 25) the bottom of the page.

Page 193, line 7, strike the comma after "operating" and all that follows through the end of line 14, and insert in lieu thereof the following: "shall establish standards for operations on the outer Continental Shelf to insure that such operations will be conducted in a safe manner by well trained personnel using technology, precautions, and techniques to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions to other users of the waters and seabed, or other occurrences which could cause damage to the environment or to property, or endanger life or health. In establishing such standards, each such Secretary shall require, on all new drilling and production operations; and, whenever practicable, on existing operations, the use of technology which he determines is economically achievable after taking into account the incremental costs and benefits of available technology. Each such Secretary shall permit the use of any equipment or technique which he determines meets or exceeds such standards, and the reliability of which has been demonstrated to his satisfaction."

Page 193, strike out line 15 and all that follows through line 25 on page 194, and insert in lieu thereof the following:

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.".

Page 225, strike out lines 13 through 19 and insert in lieu thereof the following:

"(2) the term 'small refiner' has the meaning given such term by Small Business Administration Standards 128.3-8 (d) and (g)."

Page 227, strike out lines 3 through 15 and insert in lieu thereof the following:

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.— Any full-time officer or employee of the Department of the Interior who discharged duties or responsibilities under this Act and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay in effect for grade GS-16 of the General Schedule—

"(1) may not, at any time after the date of termination of employment with the Department knowingly act as agent or attorney for anyone other than the United States in connection with any proceeding, regulation, order, lease, permit, or other particular matter (A) in which the United States is a party or has a direct and substantial interest, and (B) in which such officer or employee participated personally and substantially, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while employed by the Department;

"(2) may not, during the two-year period beginning on the date of termination of employment with the Department appear personally before any Federal court or any Federal department or agency as agent or attorney for anyone other than the United States in connection with any proceeding, regulation, order, lease, permit, or other particular matter (A) in which the United States is a party or has a direct and substantial interest, and (B) which was under the official responsibility of such officer or employee at any time during the [two-year] period prior to his termination of employment with the Department.".

Strike all of Section 506, beginning on page 273, line 9, through page 277, line 10.

By Mr. FORSYTHE:

Page 161, line 1, strike out "50" and insert in lieu thereof "66⅔".

Page 165, line 15, strike out "50' and insert in lieu thereof "66⅔".

Page 190, strike out lines 11 through 19.

By Mr. GIBBONS:

Page 233, strike out line 16 and all that follows through line 17 on page 234.

Page 233, insert a closing quotation mark and a period at the end of line 15.

Page 129, in the table of contents for title II, strike out the item relating to section 31 and insert a closing quotation mark and a period at the end of the item relating to section 30.

By Mr. GOLDWATER:

Page 140, line 12, strike out the comma after "1975" and all that follows through "Channel" on line 13.

Page 160, strike out line 24 and all that follows through line 2 on page 161 and insert in lieu thereof the following:

"(C) The bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall be used to the maximum extent feasible.".

Page 161, line 6, strike out "For" and all that follows through line 26 on page 164.

Page 165, line 1, strike out "(D)" and insert in lieu thereof "(C)".

Page 165, line 14, insert "and" after the semicolon.

Page 165, strike out lines 15 through 20.

Page 165, line 21, strike out "(vi)" and insert in lieu thereof "(v)".

Page 168, line 23, strike out "proposal" and all that follows through line 25 and insert in lieu thereof "proposal;".

Page 169, line 6, strike out "; and" and all that follows through "1973" on line 12.

Page 223, immediately after the period on line 8, insert the following new sentence: "Any oil sold or allocated to small refiners under this paragraph shall be credited against the amount required to be offered to small refiners under section 8(b)(7) of this Act."

By Mr. HUGHES:

On page 173, after line 2, insert the following new section:

DISPOSITION OF REVENUES

SEC. 206. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. DISPOSITION OF REVENUES.—(a) For the period beginning June 5, 1950, and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) Beginning on October 1, 1978, and for each fiscal year thereafter, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts (other than any amount credited to the Land and Water Conservation Fund pursuant to section 2(c)(2) of the Land and Water Conservation Fund Act of 1965); and of the amounts so deposited, in each fiscal year, 20 per centum, up to a maximum of $200,000,000, shall be credited to the Coastal Energy Impact Fund established by section 308(h) of the Coastal Zone Management Act of 1972, as amended."

Redesignate sections 206 through 208 as 207 through 209 respectively.

Strike all that appears on line 24 on page 268 through line 9 on page 269, and insert in lieu thereof the following:

(e) Subsection (h) of section 208 of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(h)(1) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall consist of—

"(A) amounts credited to the Funds under section 9 of the Outer Continental Shelf Lands Act;

"(B) any sums appropriated to the Fund;

"(C) payments of principal and interest received under any loan made under subsection (d)(1);

"(D) any fees received in connection with any guarantee made under subsection (d)(2).

"(E) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

Amounts in the Fund shall be available to the Secretary without fiscal year limitation as a revolving fund.

"(2) Amounts in the Fund received under clause (A) of paragraph (1) of this subsection shall be available to the Secretary for the purpose of carrying out subsection (b) of this section.

"(3) Amounts in the Fund received under clauses (B) through (D) of paragraph (1) of this subsection shall be available to the Secretary for the purposes of carrying out subsections (c) and (d) of this section. All payments made by the Secretary to carry out the provisions of subsections (b), (c), (d), and (f) (including reimbursements to other Government Accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States."

On page 269, strike lines 1 through 9 and insert in lieu thereof the following: "Zone Management Act of 1972 is amended by striking '8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984' and inserting in lieu thereof 'fiscal years ending September 30, 1977 and September 30, 1978, respectively'."

On page 266, line 6, strike the period and insert in lieu thereof ": *Provided*, That no coastal state shall receive such grant unless the Secretary determines that it is an affected coastal state, as defined in section 2(f) of the Outer Continental Shelf Lands Act."

On page 265, strike lines 4 through 13 and insert in lieu thereof the following:

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(6) by striking out subparagraph (D).

By Mr. McDONALD:

Page 192, lines 15 and 16, strike out ", the Secretary of Labor,".

Page 193, line 10, strike out "achievable" and insert in lieu thereof "feasible".

Page 193, line 15, strike out "(1)".

Page 193, strike out lines 16 through 22, and insert in lieu thereof "of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such".

Page 194, strike out lines 3 through 10.

Page 197, line 1, strike out "Secretary of Labor" and insert in lieu thereof "Secretary of the Department in which the Coast Guard is operating".

Page 197, line 12, strike out ", Secretary of Labor,".

Page 197, line 18, strike out "of Labor" and insert in lieu thereof "of the Department in which the Coast Guard is operating".

Page 197, line 25, strike out ", the Secretary of Labor,".

Page 198, beginning on line 10, strike out "the Secretary of Labor and".

By Mr. MOORE:

Page 277, immediately after line 18, add the following new section:

RULE AND REGULATION REVIEW

SEC. 508. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

Page 277, line 20, strike out "508" and insert in lieu thereof "509".

Page 129, strike out:

"SEC. 508. RELATIONSHIP TO EXISTING LAW."

And insert in lieu thereof:

"SEC. 508. RULE AND REGULATION REVIEW.

"SEC. 509. RELATIONSHIP TO EXISTING LAW.".

By Mr. TREEN:

Page 135, strike out lines 1 through 4 and insert in lieu thereof: "of this Act and which authorizes exploration for, and development and production of (1) oil, gas, or other minerals, or (2) geothermal steam;"."

Page 158, strike out the comma on line 12 and all that follows down through "Congress" on line 21.

Page 161, line 6, strike out "For" and all that follows down through the period on line 12.

Page 168, line 10, strike out "(A)".

Page 168, line 14, strike out "or".

Page 168, strike out lines 15 through 25.

Page 156, line 22, insert "or" immediately after the semicolon.

Page 156, strike line 23 and all that follows down through line 12 on page 158 and insert in lieu thereof the following:

"(C) any modification of bidding systems authorized in subparagraphs (A) and (B) of this paragraph and any other system of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section,".

Page 159, line 8, strike out "in subparagraphs (C) through (J)" and insert in lieu thereof "by subparagraph (C)".

Page 159, line 21, strike out "subparagraphs (B) and (C)" and insert in lieu thereof "subparagraph (B)".

Page 160, strike out line 24 and all that follows through line 26 on page 164.

Page 165, line 1, strike out "(D)" and insert in lieu thereof "(C)".

Page 165, line 14, insert "and" immediately after the semicolon.

Page 165, strike out lines 15 through 20.

Page 165, line 21, strike cut "(vi)" and insert in lieu thereof "(v)".

Page 166, line 2, strike out "subparagraphs (B) through (J)" and insert in lieu thereof "subparagraph (B) or (C)".

Page 166, beginning on line 7, strike out "subparagraphs (B) through (J)" and insert in lieu thereof "subparagraph (B) or (C)".

Page 166, beginning on line 22, strike out "subparagraphs (B) through (J)" and insert in lieu thereof "subparagraph (B) or (C)".

Page 168, line 23, strike out "proposal" and all that follows through line 25 and insert in lieu thereof "proposal;".

Page 173, immediately after line 2, insert the following new section:

DISPOSITION OF REVENUES

SEC. 206. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. Disposition of Revenues.—(a) For the period beginning June 5, 1950, and ending September 30, 1977, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b)(1) For the period beginning October 1, 1977, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts, and, in each fiscal year, 20 per centum of the amounts so deposited shall be paid by the Secretary of the Treasury in annual grants to affected States in accordance with the provisions of this subsection. Any amount paid to any State under this subsection shall be used by such State and the political subdivisions thereof as the legislature of such State may direct, giving priority to those political subdivisions of such State which are socially or economically impacted by exploration, development, or production activities under this Act, for use by such political subdivisions for (A) planning, (B) construction and maintenance of public facilities, and (C) provision of public services, except that such State shall first apply any amount received under this subsection to the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(d)(1)).

"(2) The amounts granted to affected States under this subsection shall be, with respect to any such State for any fiscal year, the sum of the amounts calculated, with respect to such State, pursuant to subparagraphs (A), (B), (C), and (D) of this paragraph:

"(A) An amount which bears, to two-fifths of the amount granted to affected States under this section for each fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such State and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in the immediately preceding fiscal year. For purposes of this subparagraph, acreage which is leased exclusively for exploration shall be considered as acreage which is newly leased, but any subsequent leasing of such acreage for purposes of development and production shall not be considered as acreage which is newly leased.

"(B) An amount which bears to one-fifth of the amount granted to affected States for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such State and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.".

Page 173, line 3, insert the following new section and renumber all following sections accordingly:

DISPOSITION OF REVENUES

SEC. 206. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"(a) For the period beginning June 5, 1950, and ending September 30, 1979, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b)(1) For the period beginning October 1, 1979, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts; and of the amounts so deposited, in each fiscal year, 20 percentum shall be paid by the Secretary of the Treasury in annual grants to affected states in accordance with the provisions of this subsection; *Provided*, That any monies paid to any State shall be used by such State and its subdivisions as the legislature of a State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities, and (C) provision of public services; except that the State shall first apply any monies received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (17 U.S.C. 145a(d)(1)).

"(2) the amounts granted to affected states under this subsection shall be, with

respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) an amount which bears, to two-fifths of the amount granted to affected states under this section for each fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in the immediately preceding fiscal year: *Provided:* That, for all purposes of this subparagraph, acreage which is leased exclusively for exploration shall be considered as acreage which is newly leased, but any subsequent leasing of such acreage for purposes of development and production shall not be considered as acreage which is newly leased.

"(B) An amount which bears to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceeding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected states in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

"(3)(A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under the subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each federal department, agency, and instrumentality shall provide to the Secretary of the Treasury assistance in collecting and evaluating such information.

"(B) For purposes of making calculations under paragraph (2), (i) 6000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any State may not exceed 30 per centum of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected States in accordance with paragraph (2), if such reallocation is necessary to carry out the formula set forth in this subsection. No State in the area in which Outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than 1 per centum of the total amount granted to affected states in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1978 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1978, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and the denominator of which is the Consumer Price Index of October of 1977.

"(c) Any funds paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section; and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purposes of such distribution such sums shall be deemed to have been deposited in the Treasury in the fiscal year in which they were paid to the Secretary or the Secretary of the Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the Outer Continental Shelf.".

Redesignate section 206 through 208 and 207 through 209 respectively.

Page 173, line 3, insert the following new section and renumber all following sections accordingly:

DISPOSITION OF REVENUES

SEC. 206, Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"(a) For the period beginning June 5, 1950, and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b)(1) There is hereby established the Outer Continental Shelf Energy Impact Fund in the Treasury of the United States. In fiscal year 1979 and in each subsequent fiscal year, there shall be credited to the Outer Continental Shelf Energy Impact Fund 20 per centum of the revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts. Amounts credited to the Fund under this paragraph shall be available, as provided by appropriations Acts, to the Secretary for the purpose of making annual grants to coastal States in the fiscal year following the year of deposit in accordance with the provisions of this subsection. Such appropriations may be made without fiscal year limitation. Money credited to the Fund, not subsequently appropriated by the Congress for expenditure within two fiscal years following the fiscal year in which such moneys have been credited to the Fund, shall be transferred to miscellaneous receipts of the Treasury; *Provided*, That any moneys paid to any State shall be used by such State and its subdivisions as the legislature of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities, and (C) provision of public services; except that the State shall first apply any moneys received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (17 U.S.C. 145a(d)(1)).

"(2) the amounts granted to affected states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) An amount which bears, to two-fifths of the amount granted to affected states under this section for each fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in the immediately preceding fiscal year: *Provided:* That, for all purposes of this subparagraph, acreage which is leased exclusively for exploration shall be considered as acreage which is newly leased, but any subsequent leasing of such acreage for purposes of development and production shall not be considered as acreage which is newly leased.

"(B) An amount which bears to on-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceeding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceeding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected states in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the num-

ber of individuals residing in such state in the immediately preceeding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

"(3) (A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. * * *

"(B) For purposes of making calculations under paragraph (2), (i) 6,000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) Outer Continental Shelf acreage is adjacent to a particular coastal State if such acreage lies on that State's side of the extended lateral seaward boundaries of such State. The extended lateral seaward boundaries of a coastal State shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal States enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any State may not exceed thirty per centum of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected States in accordance with paragraph (2), if such reallocation is necessary to carry out the formula set forth in this subsection. No State in the area in which Outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than one per centum of the total amount granted to affected States in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1978 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1978, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and denominator of which is the Consumer Price Index of October of 1977.

"(c) Any funds paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section; and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purpose of such distribution such sums shall be deemed to have been deposited in the Treasury in the fiscal year in which they were paid to the Secretary or the Secretary of the Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the outer Continental Shelf.

"(E) There shall be deducted from the amount otherwise payable to a State in a fiscal year pursuant to this subsection an amount equal to any amount of principal or interest which the Secretary has been required to pay, on behalf of such State, pursuant to a guarantee under section 308(d)(2) of such Act.".

Page 188, strike out line 10 and all that follows through line 6 on page 189 and insert in lieu thereof the following:

"(c) The Secretary shall fully consider the recommendations of a Governor in light of national security, the desirability of obtaining oil and gas supplies in a balanced manner, the national interest, the well-being of the citizens of the affected States, and the policies and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Governor the reasons for the rejection of such recommendations.

"(d) A finding by the Secretary that he cannot accept the recommendations of a Governor for reasons of national security shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious."

Page 205, strike out lines 10 through 19 and insert in lieu thereof the following:

"SEC. 25. Oil and Gas Development and Production.—

(a)(1) Prior to development and production pursuant to an oil and gas lease—

"(A)(i) issued under this Act, on or after October 1, 1975, and before the date of enactment of this section, for exploration, development, and production in a frontier area, and (ii) with respect to which a development plan has not been submitted, in accordance with regulations issued by the Secretary under section 5 of this Act, before the effective date of the regulations issued by the Secretary under subsection (c) of this section;

"(B)(i) issued under this Act on or after the date of enactment of this section and before the effective date of the regulations issued by the Secretary under subsection (c) of this section, and (ii) with respect to which a development plan has not been submitted, in accordance with regulations issued by the Secretary under section 5 of this Act, before the effective date of regulations issued by the Secretary under such subsection (c); or

"(C) issued under this Act on or after the effective date of the regulations issued by the Secretary under such subsection (c),

the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary for approval pursuant to this section.".

Page 206, strike out lines 14 through 18 and insert in lieu thereof the following:

"(b) On and after the effective date of the regulations issued under subsection (c) of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section. In addition, any oil and gas lease issued under this Act after the date of enactment of this section and before the effective date of such regulations shall contain a provision requiring that development and production of reserves by the lessee be carried out in accordance with a plan which complies with the requirements of this section, if such lessee is required, pursuant to subsection (a)(1)(B) of this section, to submit a plan under this section.".

Page 215, strike out lines 16 through 23.

Page 168, beginning on line 13, strike out "the development and production plan required" and insert in lieu thereof "any development and production plan required of such lessee".

Page 207, strike out line 15 and all that follows down through line 15 on page 209 and insert in lieu thereof the following:

"(d)(1) If, after taking into consideration actual or anticipated development of, and production from, adjacent or nearby tracts (including any information submitted pursuant to paragraph (2) of this subsection), the Secretary determines that approval of a plan would be a major Federal action, he shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969, review such statement and approve, disapprove, or require modification of such plan.

"(2) The Secretary may require lessees on adjacent or nearby leases to submit any information such lessees have with respect to development and production pursuant to their leases prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(3)(A) If the Secretary does not determine that approval of a plan would be a major Federal action, the Governor of any affected State and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary to submit comments and recommendations. In addition, any interested person may submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request."

Page 209, line 14, strike out "The Secretary" and all that follows through line 3 on page 213 and insert in lieu thereof the following:

The Secretary shall disapprove a plan—

"(A) if the Secretary determines that any activity described in the plan would require a temporary prohibition pursuant to the regulations prescribed under section 5(a)(1)(B) of this Act;

"(B) if the Secretary determines that any activity described in the plan would not comply with the requirements of this Act or other applicable Federal law; or

"(C) if the lessee is required to submit an amendment to the plan, or a new plan, pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)).

"(2)(A) The disapproval of a plan pursuant to paragraph (1) of this subsection shall be deemed a temporary prohibition pursuant to the regulations prescribed under paragraph (1) of section 5(a) of this Act. In addition, the lease with respect to which such plan is submitted may be cancelled in accordance with the regulations prescribed under paragraph (2) of such section 5(a), except that in the case of disapproval under paragraph (1)(B) or (1)(C) of this subsection, the Secretary is not required, prior to cancelling such lease, to make the deter-

minations set forth in paragraphs (2)(A)(i) and (2)(A)(ii) of such section 5(a).

"(B) Notwithstanding any other provision of this paragraph, the Secretary may, if applicable, cancel the lease pursuant to section 5(d) of this Act.

"(C) At any time within five years after initial disapproval of a plan pursuant to paragraph (1) of this subsection, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of any such plan in accordance with this subsection. The Secretary may require the lessee to reapply at any time during such five-year period."

Page 213, strike out line 23 and all that follows through line 8 on page 214.

Page 214, line 9, strike out "(j)" and insert in lieu thereof "(i)".

Page 215, line 16, strike out "(k)" and insert in lieu thereof "(j)".

Page 149, line 1, immediately after "leased)," insert "to the national security or defense,".

On page 265, line 5, strike "and (B);" and insert "(B) and (C):".

On line 7 delete "one-half" and insert in lieu thereof "two-fifths".

On line 8 strike all on line 8 and insert in lieu thereof:

(4) in subparagraph (B), by striking out "one-sixth" in such subparagraph, and inserting in lieu thereof "three-tenths"; and

Strike all on lines 9 through 12, and inserting in lieu thereof:

(5) in subparagraph (C), by striking out "one-sixth" in such subparagraph, and inserting in lieu thereof "three-tenths"; and

On page 266, line 5, strike the word "region" and insert in lieu thereof the words "leasing area".

Strike all on lines 7 through 20.

On page 268, line 12, strike "after a determination by the Secretary that such proceeds will be expended or committed by such state".

On page 268, insert between the matter on lines 23 and 24 a new subsection (9):

(9) The provisions of section 308(g)(1) shall not apply to grants made pursuant to this subsection. Any state with a program for managing its coastal resources, whether approved pursuant to section 306 or not, shall qualify for assistance under this subsection.

By Mr. WHALEN:

Page 233, strike out line 16 and all that follows through line 17 on page 234.

Page 233, insert a closing quotation mark and a period at the end of line 15.

Page 129, in the table of contents for title II, strike out the item relating to section 31 and insert a closing quotation mark and a period at the end of the item relating to section 30.

By Mr. WIGGINS:

Page 150, strike out line 4 and all that follows through line 18 on page 151 and insert in lieu thereof the following:

"(B) that such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law;".

Page 211, line 20, strike out "In the case" and all that follows through "this subparagraph." on line 20 on page 212 and insert in lieu thereof "Such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law.".

Page 183, strike out lines 9 through 15, inclusive.

Page 183, line 16, strike out "(2)" and insert in lieu thereof "(c)(1)".

Page 183, line 24, strike out "(3)" and insert in lieu thereof "(2)".

Page 184, lines 1, 8, and 18, strike out "(4)" and insert in lieu thereof "(3)".

Page 198, strike line 18 and all that follows down through line 24 on page 200, and insert in lieu thereof the following:

"SEC. 23. COURT JURISDICTION AND JUDICIAL REVIEW.—(a) Except as provided in subsection (b) of this sec-".

Redesignate subsections (c) through (e) as subsections (b) through (d), respectively.

Page 202, line 7, strike out ", and shall" and all that follows through line 9 and insert in lieu thereof a period.

Page 128, in the item in the table of contents relating to section 23, strike out "Citizen Suits, court jurisdiction, and judicial review." and insert in lieu thereof "Court jurisdiction and judicial review."

Page 214, line 5, strike out "23(b)" and insert in lieu thereof "23(a)".

Page 205, immediately after line 9, insert the following new subsection:

"(f) There shall be available as a defense to any action brought against any person for violation of any Federal statute or any Federal rule, regulation, or order that the act or omission complained of was taken or occurred as a result of compliance with the provisions of this Act or any rule, regulation, or order issued under this Act.".

H.R. 2664

By Mr. COHEN:

Strike all of the language beginning on page 1, line 7 through to the word "adjudging" on page 2, line 1, and insert the following in lieu thereof: Notwithstanding any other provision of law and without regard to the defense of res judicata or collateral estoppel the Court of Claims shall hear and determine de novo the Sioux Tribes' claim".

EXTENSIONS OF REMARKS

HEALTH SERVICES AMENDMENTS OF 1978

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. ROGERS. Mr. Speaker, I am pleased to introduce today, along with my distinguished colleague, Dr. CARTER, the Health Services Amendments of 1978. This bill is designed to revise and extend authorizations for programs of health services to the public.

I am sure my colleagues share my concern that all Americans should have access to quality health care services. While this bill does not address all those changes necessary to produce a smoothly functioning health services system, which would assure such access, it does, I believe, address several of the most important issues. First, the bill highlights the need for effective coordination and provision of federally funded preventive health services. State health authorities are allowed maximum flexibility to design and provide statewide preventive health services and other needed public health services with minimum Federal administrative requirements. Second, the bill ensures the continued development of primary health care services in medically underserved areas; and third, it ensures more effective planning by integrating mental health planning within our existing health planning system.

The bill contains five titles. Title I provides a 1-year extension of authorizations for comprehensive health services grants to States, programs for hypertension, immunization, and veneral disease control, rodent control, lead-based paint, family planning genetic counselling, sudden infant death syndrome, hemophilia service programs, and home health care. This extension will allow HEW the necessary time to implement the programmatic changes proposed for fiscal year 1980.

Title II proposes a new initiative in preventive health services delivery. Effective October 1, 1979, programs for immunization, tuberculosis, veneral disease, hypertension, rodent control and lead-based paint will be assisted by a single preventive health services grant to States. Each State must address each of these program areas and, in addition, States will be eligible to apply for Federal support for other preventive health services designated by the Secretary.

Title III, the health incentive grant program, is an innovative approach designed to encourage increased State and local support for official public health services. This program replaces the old authority for block grants to States by continuing Federal support for State and local health departments while, through an incentive program based on actual State and local support for public health services, stimulating State and local governments to address those public health needs which are unique to their own service areas.

Title IV extends the Community and Migrant Health Center Acts and modifies the services which a Community Health Center must provide. These provisions will ensure that Centers provide the comprehensive range of services needed in their communities, while also promoting the development of additional Centers in medically underserved areas.

Title V modifies and extends the Community Mental Health Center Act and assures that planning for mental health services and facilities will become an integral part of the planning process established in the National Health Planning and Resources Development Act of 1974. The planning proposal assures the input of individuals knowledgeable in the field of mental health services into the development of the mental health component of the State health plan.

The centers program is modified by allowing new center starts with five basic services and a plan, approved by the Secretary, for the incremental phasein of all mandated services within 3 years. The measure also allows for certain shared services between or among catchment areas when the Secretary finds that such sharing is to the benefit of all effected parties. Title V also continues support for centers which experience

financial distress at the termination of their 8 years of eligibility in the community mental health center program.

The provisions of this bill reiterate my belief in the importance of preventive and primary health service programs as a vital alternative to the spiralling medical care costs which have plagued this nation in recent years. Based on past experience, I know my colleagues in the Congress share this commitment.

In introducing the bill today, I am soliciting the widest possible comment from my colleagues, the administration, all interested and effected parties, and the public. In the weeks ahead, we will hold extensive public hearings on this proposal. I look forward to receiving all comments on the provisions of this bill, as well as any suggestions for alternative approaches to the provision of these important services.

CUTTING BACK ON SMOKING

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. MAGUIRE. Mr. Speaker, I want to take this opportunity to commend Secretary Califano for the broad antismoking initiative which he announced last week. Such a far-reaching and appropriate initiative is long overdue in the development of a preventive health policy for this country. I must also commend Secretary Califano personally for his decision to quit smoking. This is one of the most difficult things a person can do, and he as well as thousands of his fellow ex-smokers, should be commended.

During the 14 years since the Surgeon General's report on smoking and health, scientists have gathered an overwhelming amount of data on the alarming consequences of cigarette smoking on the health of the American people. Smoking has been linked to the list of major killers—headed by cancer and heart disease—as well as to chronic health problems such as chronic bronchitis and emphysema. We must do everything we can to lessen the alarming rates of incidence of these diseases.

I am pleased and heartened by the Secretary's report that the number of male smokers in America has decreased from more than half of all males in 1964 to the current 39 percent, and that State governments, commercial businesses, public interest groups, and concerned citizens all across the country have taken active steps to lessen or eliminate the presence of acrid cigarette smoke in offices, airlines, and public places. However, much more must be done if we are to combat the habit that kills hundreds of thousands of Americans each year and causes needless suffering for hundreds of thousands more. Secretary Califano last week revealed that 220,000 deaths from heart disease were attributed to smoking, 78,000 by cancer deaths, and 22,000 deaths from other cancers, including cancer of the mouth, esophagus, pancreas, kidney, and bladder. This adds up to the startling fact that 40 percent of all cancer in males is caused by smoking. Even more tragically, women who smoke during pregnancy take a great risk of delivering stillborn or developmentally deficient children. In addition, women who take birth control pills—particularly women aged 30 and over—are up to 30 times more likely to have heart attacks if they smoke. Smoking also interacts in a deadly way with other dangerous substances in the workplace and the environment.

These horrible facts make it clear that smoking is one of the worst things a person can do to his health, not to mention the health of his family and coworkers.

I applaud Secretary Califano for his efforts to combat this form of "slow suicide." He must be commended for his efforts to educate the American public to the deleterious effects of smoking by waging a major public education effort. It is particularly important that he has targeted children and high risk groups to receive smoking information. He likewise is implementing a campaign to encourage the private sector and individual States to initiate antismoking efforts.

I am also pleased that he is developing a task force to study the possibilities of developing economic incentives to individuals to abandon or cut back on smoking. I have already requested that the General Accounting Office undertake a study to determine the probable economic effect of a cessation of Federal assistance which serves to promote tobacco production and the manufacturing and marketing of tobacco products for human consumption. Termination of Federal tobacco supports—together with assistance to farmers to overcome any negative effects on their livelihoods—could have a major impact on the smoking behavior of people in this country, as well as creating an internally consistent Federal policy.

Finally, I am gratified that the Secretary considers research in the area of smoking and health a top priority. There are still many unanswered questions concerning the physical effects of cigarette smoking. We must be willing to invest resources into research on this major public hazard. It will take a combined effort of Federal, State, and local governments, private enterprise, and a concerned public if we are to discourage a national habit that has been with us for so long. I congratulate and support Mr. Califano on his initiative in accomplishing this goal.

LONG COMMENDS OCEANIC BUTLER

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. LONG of Louisiana. Mr. Speaker, there is a misconception that offshore energy development is conducted by and beneficial only to the major petroleum companies. That is not the case at all. A wide range of small offshore service companies are dependent upon the continued development and production of energy on our Outer Continental Shelf in the Gulf of Mexico.

I was very pleased to note the Wall Street Journal's recognition yesterday of one such enterprising offshore service company in Morgan City, La. For the interest of my colleagues in the House, I am submitting for the RECORD a copy of this article about Oceanic Butler, a very fine catering company run by A. L. "Buddy" Bourgeois, who is known far and wide for the delectable products of his kitchen. His accomplishments under such hardship conditions are most unusual, and I wanted to call them to the attention of my colleagues at this time when we are considering legislation which would impose possible delays on offshore energy production and be detrimental to so many of these small offshore service companies upon which the economic health and welfare of south Louisiana greatly depend. Buddy Bourgeois and his Oceanic Butler personnel embody the spirit of independent business enterprise and ingenuity in America. We in Louisiana are proud of his accomplishment and initiative and that of so many other small companies in south Louisiana which are working hard to maximize the efficient production of offshore energy resources in the Gulf of Mexico.

The article follows:

[From the Wall Street Journal, Jan. 25, 1978]

LIFE ABOARD A RIG: HARD, RISKY WORK; GREAT ROOM SERVICE

(By Douglas Martin)

Aboard the OS–7—Life on this giant drilling platform off the Louisiana coast is decidedly no picnic.

The air reeks of grease and sweat as burly oil workers toil 12 hours at a stretch amid the deafening roar of churning machinery. There isn't time for horseplay—one mistake on the drill floor could mean instant death—and even after a work turn, there aren't many ways to relax: Wives, girl friends, families and a cold beer are 100 miles distant.

But things could be worse for the OS–7's 35 male rig workers. At least the room service is good.

Room service? You bet. From rousing men from deep sleep with a cup of steaming coffee to making their beds, from serving four hearty meals a day to keeping quarters clean, a group of maids, butlers and cooks adds comfort to one of the world's least amenable professions. Patting his belly, a tall, grease-smeared roughneck observes, "I don't never complain as long as there's plenty of food."

Oil companies, wrestling with a scarcity of seasoned drilling-rig personnel at a time when there is a lucrative market for every unit of oil and gas they can produce, are more interested than ever in worker happiness these days. The result is a burgeoning demand for firms that provide man-sized meals, clean latrines and provide service-with-a-smile.

* * * * *

CATERING CAJUN

Typical is Oceanic Butler Inc., a Morgan City, La., subsidiary of Sportsystems Corp., that prepares nearly 6,000 offshore meals daily. In return, the company charges its drilling-contractor customers up to $20 a day for each person served. Formed in 1964 by A. L. "Buddy" Bourgeois, a self-described "24-carat Cajun", who still runs the company, Oceanic today supplies 81 offshore drilling rigs and production platforms,

grosses about $1.2 million annually and holds a 15% share of the U.S. market.

Most of Oceanic's 500 employees have an easy commute; helicopters take them to work. But once aboard a rig, their regimen is reminiscent of boot camp. Aside from mopping, dusting, waxing and bedmaking, room-service crews are expected to prepare four meals daily and keep snacks available at all hours. For instance, on the OS–7, where four Oceanic employes, including three women, look after 35 oil workers, a typical weekly grocery order includes 45 dozen eggs and 100 pounds of steak.

Despite the large scale, however, personal touches are common. "If the guys want something, I make it," says steward George Owens, whose typical menu offers two main courses plus an assortment of vegetables and desserts. Indeed, the cuisine often reflects the tastes of the crew. For instance, if a crew is made up of Louisianians and Mississippians, two different sorts of spices, sauces and gravies are prepared.

"People from other states don't like a Cajun cook," explains Mr. Bourgeois, the Oceanic president. "But if you've got a bunch of Cajuns, they want crawfish and gumbo."

NO BOOZE OR SODAS

In addition, Oceanic cooks prepare feasts to mark holidays such as Thanksgiving and Christmas, bake fresh pastries every night, and gladly fry the red snappers and sea bass caught by crew members in off-hours.

"You have to watch getting fat," says Paul Mouser, the "toolpusher," or superintendent of this Reading & Bates Offshore Drilling Co. drilling platform.

(Only one significant element of most room services is absent: Liquor is banned from offshore rigs. And Oceanic, like many offshore caterers, doesn't serve soft drinks either. "It's a hell of an expensive item," Mr. Bourgeois explains. The rig workers "take two swallows and throw it overboard.")

Aboard the OS–7, Oceanic employes work the same demanding hours as the roughnecks, trying to stay ahead of the steady accumulation of dirt and huge appetites of their clientele. Like the rig workers, most work 12 hours at a time for seven days in a row, then return to shore for the next seven days. The pay isn't high, varying from $2.40 to $5 an hour. "It seems like we're all underpaid," grouses one Oceanic worker who clears $207 for 84 hours of work each week. (Their clients are better paid, earning from $4.50 to over $15 an hour.)

"It takes a certain type of person to clean latrines," Mr. Bourgeois agrees. In truth, most of Oceanic's recruits are young, adventuresome types, college students or retired military cooks. And some are wanderers who drift into offshore work to escape the pressures of life "on the bank," as land is called here. A graphic example of the latter turned up a few years ago when an Oceanic chef, nicknamed "Preacher," was found featured on the FBI's "Most Wanted" List.

Three years ago, Oceanic began hiring women, and today it has female workers on six of the rigs it serves, including the OS–7. Still, the company tries to avoid hiring women who might turn the roughnecks' attention away from drilling wells. "Everything being equal, I wouldn't hire the prettiest one," an Oceanic official says. Adds Lenda Taylo, a 28-year-old galley hand on the OS–7: "We've had some come out there with the intention of wearing see-through blouses and no bras. They just don't stay."

(In any case, romantic affiliations while aboard are strictly forbidden. "Any hanky-panky," declares Mr. Mouser, the tool-pusher, "and the man and woman will both be gone tomorrow.")

Besides difficult work, Oceanic employes share other hardships with offshore oil-rig workers. Last summer, for instance, rigs throughout the Gulf of Mexico had to be abandoned twice because of approaching hurricanes. "People were scattered all over hell, coming and going," Mr. Bourgeois recalls. And last December, a helicopter crash in the Gulf killed 17 workers, including an Oceanic cook.

ZERO POPULATION GROWTH (ZPG) GOALS—CRITICAL TO U.S. FUTURE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. OTTINGER. Mr. Speaker, virtually every major issue in Congress—the economy, unemployment, energy and natural resource supplies, food and agriculture, cities, pollution, the elderly, Government expenditures, and international relations—is inextricably linked to population growth and size.

World population now exceeds 4 billion, and the United States alone grows by about 2.4 million persons each year—as much from natural increase as from legal and illegal immigration. Undoubtedly, our many national problems would become more manageable if our population were to level off at about its current size.

The 1972 National Commission on Population Growth and the American Future wrote:

We have examined the effects that future growth alternatives are likely to have on our economy, society, government, resources, and environment, and we have found no convincing argument for continued national population growth.

On the contrary, the plusses seem to be on the side of slowing growth and eventually stopping it altogether. Indeed, there might be no reason to fear a decline in population once we are past the period of growth that is in store.

Zero Population Growth, Inc., a national nonprofit membership organization, of which I am a sponsor, is devoted to stabilizing United States and world population. It has proposed a comprehensive national population policy and 13 programs to end U.S. population growth voluntarily within two generations. More than 90 other countries have adopted population policies in the last few years; the United States is conspicuously absent from this list.

Decisions made today regarding U.S. population size could make a difference of between 20 and 110 million additional people during the next 50 years. The effects—indeed the benefits—of zero population growth on every major issue that the country faces are summarized below:

THE BENEFITS OF ZERO POPULATION GROWTH

THE ECONOMY

The health of our economy, the vitality of business, and individual welfare are not dependent on continued U.S. population growth, concluded the President's Commission on Population Growth and the American Future in 1972. Analyzing several economic variables, the Commission found no convincing economic argument for continued population growth. "Beyond the next 10 to 15 years, the adjustments businesses must make to changes in consumer tastes and technological developments should far exceed the problems of adjusting to a lower population growth rate," the Commission stated. The Commission's study of the effect of population growth on demand for 13 industries revealed that none would suffer decline in demand below their 1971 levels.

Ending population growth will not put an end to economic opportunity in the United States. The major reason for increased U.S. real economic output in this century is higher productivity per worker, not increased population or labor force size (number of workers). In the future, new business opportunities and new jobs will be created, just as they have been in the past, by changes in consumer tastes, technological innovations, and the invention of new goods and services.

The finite quantity of our natural resources ultimately limits both our population size and economic growth. For a given technology and capital stock, the amount of production or income is fixed. Thus, unless new technologies are introduced, *per capita* income will be lower *with* population growth than without it.

In recent years, high unemployment has resulted from the entrance of the "baby boom" generation, now aged 16–31, into the labor force (people employed or seeking work) as well as the increasing numbers of women working. People already born will cause the labor force size to increase through 1993. Population growth will require the creation of between 27 and 68 million jobs by the year 2020. Ending population growth might alleviate unemployment by reducing the number of people seeking work.

ENERGY

Americans are among the world's most prodigious users, and wasters, of energy. Our average consumption per person is twice that of Sweden, 27 times the Philippines', and 57 times India's. And the United States uses more energy every year—4.8 percent more in 1976 than in 1975. If our use of energy continues to increase at the projected rate of 4.3 percent a year, we will be using twice as much energy in 1990 as we do today.

Meanwhile, domestic energy production has been declining since 1972. We now rely on imported energy for 15 percent of our needs. By the year 2000, we may have to import half of our fuel.

Population growth will have a major impact on future energy consumption levels. At current fertility and legal and illegal immigration rates, our population would be 50 percent larger in the year 2025. If fertility were to increase slightly, our population would be 69 percent larger in 2025. Thus, even if *per capita* usage did not increase, population growth alone would add significantly to future energy demand. However, if the United States were to achieve the lower levels of fertility and immigration recommended by ZPG, energy demand in 2025 could be 73 percent less than the amount required if current fertility, immigration, and *per capita* use rates continue.

Population growth also has an indirect effect on energy consumption: as the number of people grows and energy demand rises, producers must use marginally productive sources of supply, such as deeper mines and less rich ores. Similarly, increased demand for food requires the use of less productive farmlands which need fertilizer and irrigation.

U.S. IMPORT DEPENDENCE ON PRIMARY NATURAL RESOURCES, 1974 AND 2000

Resource	Percent of consumed resources imported by United States in 1974	Percent imported by United States in 2000 if past 20-yr production trends continue	Percent imported by United States in 2000 if expected changes in production occur	Percent of world resources used by United States, 1974
Chromium	100	100	100	21
Tin	100	100	100	20
Manganese	98	100	100	15
Nickel	94	92	30	28
Aluminum	92	97	90	35
Zinc	66	81	64	23
Tungsten	53	92	93	19
Petroleum	37	32	47	29
Iron	36	46	22	16
Lead	29	30	37	27
Copper	18	37	10	27

Source: U.S. Bureau of Mines, Mineral Trends and Forecasts, October 1976.

MINERALS

Worldwide reserves of many basic minerals are adequate to meet anticipated world demand for only 20 to 50 years. U.S. reserves are also limited: we import over half of our supplies for six of the 13 basic minerals required by an industrial society. Experts predict that by the year 2000 we will be primarily dependent on imports for 12 of the 13 basic minerals. Although mineral reserves can be expanded by technological advances, supplies cannot be increased indefinitely. Mining lower grade and less accessible minerals may make some commodities prohibitively expensive and will cause greater environmental damage through strip mining and other processes. Substitutes for some minerals may be found, but many may prove irreplaceable.

Controlling population growth will be important in reducing long-term problems of resource availability, the National Commission on Supplies and Shortages reported in 1976. Our population could increase by 50 percent by the year 2025 if current fertility and immigration trends continue. Population growth of this magnitude would greatly exacerbate resource shortages.

WATER

Americans consume an average of 1,766 gallons of water daily per person for all personal, industrial, and agricultural uses. This is the equivalent of 98 showers each, or approximately 373 billion gallons daily for the nation. U.S. residents use an average of 175 times the amount of water used by citizens of developing countries.

If water use continues to increase by 2.8 percent annually (as it did during 1970–74), we will be using twice as much water in 25 years as we do today. Economic growth explains some of this increase, but population growth will be a more important factor in future shortages, according to the President's Commission on Population Growth and the American Future. If current population levels and per capita water use trends continue, in the year 2025 our population of 325 million will be using 53 percent more water than Americans use today (or 572 billion gallons daily).

Water surrounds us, but fresh, readily-accessible water fit for human use is becoming scarce; it constitutes only four-tenths of one percent of the Earth's water. Underground supplies are being depleted; only two-thirds of the water we use can be purified and reused. In the Southwest, water is already in short supply, and the shortage has spread to other states. Recently, San Francisco residents have been asked to cut their water consumption by 25 percent, while in Marin County (Cal.) each person is allowed only 49 gallons of water daily—enough for a five-minute shower. Northeastern cities may face water shortage in the future, and Midwestern coal production may be restricted by water shortages.

Until recent months, there has been little attempt to conserve water supplies. The coming hazards and inconveniences can be minimized if policymakers recognize the impact of population growth and distribution patterns on water use.

POLLUTION

Pollution in the United States is affected by our large population size as well as by our inefficient technology and wasteful consumption patterns. Improvements in industrial production systems, efforts to redirect economic growth, and conservation measures are the principal means of countering pollution. Nevertheless, a growing population compounds the problem of pollution and makes these solutions more difficult. Within a few decades, population growth will have a greater impact on pollution than economic growth, concludes an unpublished study by Resources for the Future.

According to the U.S. Environmental Protection Agency, the production of agricultural goods—primarily meat, poultry, and dairy products—is the largest source of water pollution. Air pollution is primarily caused by utilities, housing, and automotive products. These factors combined produce the bulk of solid waste pollution. The demand for these major pollution producers is greatly affected by the number of consumers and the rate of population growth.

The technology to control industrial pollution is almost non-existent; the techniques which do exist are extremely expensive and subject to breakdown. If our population continues to grow and our demand for goods and services increases, pollution will become more difficult and more costly to control. And we will continue to pay for such pollution in human illness and death, in lost rivers and recreational areas, in damaged crops and forests, and in a declining quality of life.

FOOD AND AGRICULTURE

U.S. food production is expected to increase in future years, but the magnitude of the increase is uncertain due to the limited available cropland and the unfavorable environmental impact of technologies which increase crop yield. Increased domestic food consumption as a result of population growth and greater affluence would leave less food available for export, either to assist the poor and victims of natural disasters or to sell on the world market.

Approximately 90 percent of the world's population is dependent on the availability of grain surpluses produced by the United States, Argentina, Australia, and Canada. Only 25 years ago, more than 20 countries were net exporters of grain; today the United States alone supplies half the total grain traded internationally. In the long run, U.S. grain sales may become as important a factor in global politics as OPEC oil exports are today.

Most of our readily available cropland is already under production, according to the U.S. Department of Agriculture (USDA). The farmlands previously held in reserve have been returned to production, have become permanent pastureland, or are unsuitable for cultivation. The Council on Environmental Quality (CEQ) reports that 1.3 million acres of land, one-third of which is under cultivation, are lost annually to expanding cities, roads, and airports. An additional two million acres of land are annually converted to wildlife and recreational uses. CEQ warns that the cultivation of less suitable land increases the likelihood of excessive erosion and damage to lakes and streams and requires increased energy and water.

The USDA believes that increases in our food production will be primarily dependent on greater productivity per acre. However, our crop production per acre has not increased since 1972. High-yield farming employs a wide range of herbicides, insecticides, and chemical fertilizers that are a major cause of lake and river pollution.

AGE STRUCTURE AND THE ELDERLY

The number of people in each age category—the age structure—has important effects on our society because the demand for various goods, services, and resources differs by age. Fluctuations in the relative size of age groups require many social and economic adjustments. For example, the large number of people born during the 1946–61 "baby boom" first crowded into elementary school classrooms, later filled colleges and high schools, and now are flooding the job market and competing intensively for jobs. In 35 years, as senior citizens they will dramatically increase the demand for health care facilities and Social Security benefits.

Because of imbalances in past fertility levels, we can expect to have fluctuations in the U.S. age structure for some time to come. Nevertheless, a non-growing population would help minimize variations among age groups and would provide a more predictable age structure to facilitate planning. In determining future needs for jobs, housing, schools, public services, and capital investment, both private and government sectors would benefit from a relatively stable age structure.

Regardless of future fertility and immigration trends, the proportion of elderly people in our population will increase due to the aging of the "baby boom" age group. During the next 50 years, the number of people aged 65 and over will double, from 22.4 million in 1975 to 48.1 million in the year 2025. In 2025, the proportion of elderly in our population will be between 16.1 percent and 18.5 percent, depending upon whether current fertility rates continue or rise (higher fertility reduces the proportion of aged).

As the number of elderly people grows, greater attention will need to be paid to their concerns, such as the quality of health care, living on a fixed income, housing, and employment. Improvements will need to be made in the Social Security System, which currently pays out more in benefits than it receives in income. Eliminating the mandatory retirement age and increasing withholding payments have been suggested as ways of maintaining the system. Changes in the number of elderly will be gradually felt and will permit ample time for government and industrial planning.

The benefits of an older population should far outweigh the disadvantages. Crime may be reduced because most crimes are committed by young people under 25. Traffic accidents and auto insurance costs could be reduced because young people account for a large proportion of car accidents. Cities may be rejuvenated as senior citizens opt for centrally-located dwelling convenient to stores and service agencies. America's elderly will become increasingly healthier, better educated, and more affluent.

GOVERNMENT EXPENDITURES

Many Americans are concerned about the tax increases needed to provide government services at Federal, state, and local levels. As our population has increased, so has the

demand for government services, including health facilities, schools, police and fire protection, roads, public transportation, waste disposal, sewage treatment plants, water utilities, welfare services, and recreational facilities. A larger population will increase demand and expenditures for these services, both in terms of adding new systems and maintaining existing ones.

According to the Commission on Population Growth and the American Future, population size beyond a certain level will cause deterioration in the quality of services, regardless of expenditures. With continued population growth, Americans may be paying more taxes for even fewer or inferior government services than we have today. Zero population growth would reduce the potential demand for many government services, while there would be greater potential financial resources to support these services due to higher incomes.

CITIES

According to the President's Commission on Population Growth and the American Future, ending population growth would benefit cities and lessen many of their problems.

The trend toward smaller families is likely to reduce the flight of upper-income people to the suburbs. Reduced pressure for highway construction and smaller families favor the development of settlement patterns more conducive to efficient mass transit. With fewer city residents, there would be less environmental stress from garbage, sewage, and auto exhaust fumes. According to the Commission, smaller families will contribute to more plentiful housing with easier renovation, especially for low-income families.

In general, ending population growth relieves cities of the burden of constantly expanding facilities and services to meet the needs of a growing population. A non-growing population would have more resources per person to apply to the problems of cities, thereby improving the quality of life for all urban residents.

GLOBAL EQUILIBRIUM

The United States is becoming increasingly dependent on other nations for supplies of natural resources which are vital to commerce and national defense. The nations exporting these essential natural resources could raise prices, restrict export, or limit production. Military conflicts could also limit access to natural resources. According to the President's Commission on Population Growth and the American Future, inequities in access to and control over resources and technology are among the major causes of conflict and violence. The Commission considered the reduction of U.S. population growth as an important step toward alleviation of global tensions.

As our demand for natural resources increases, the United States will become more vulnerable to world scarcities. Developing nations are growing in population and striving to make a better life for their citizens; their requirements for food, critical minerals, and other raw materials will steadily increase.

In an increasingly interdependent world, many foreign leaders and international experts consider the high levels of U.S. resource and energy consumption as threatening to world stability as rapid population growth in the developing nations. The United States must take steps to limit its own population growth, to reduce its wasteful and excessive consumption, and to cooperate with other nations in solving problems of resource development and distribution and global pollution. Our efforts to persuade other governments to adopt population limitation policies and vigorous family planning programs will be more favorably received if we ourselves take these actions.

FREEDOM FROM HUNGER STARTS WITH FAIR TREATMENT OF FARMERS

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. NOLAN. Mr. Speaker, an atmosphere of mistrust has prevailed for too long between farm organizations and humanitarian groups committed to alleviating hunger in the world.

During the past session of Congress, representatives of various farm organizations and hunger groups worked together to pass a grain reserve program and to pass H.R. 784, which calls upon the President to establish a Commission on Domestic and International Hunger and Malnutrition. Working together on these measures proved mutually rewarding and has led to greater understanding.

Recently, the American Freedom From Hunger Foundation issued a statement declaring that "freedom from hunger starts with fair treatment of farmers." I applaud this statement and I am pleased to cite it as another example of how well some hunger groups understand the economic plight of our family farmers.

The statement follows:

FREEDOM FROM HUNGER STARTS WITH FAIR TREATMENT OF FARMERS

WASHINGTON, D.C.—Meeting this week with regional leaders of the American Agricultural Movement, Herbert J. Waters, President, and Lee Feller, Vice President of the American Freedom from Hunger Foundation, issued the following statement of support for farmers participating in the national farmers' strike.

"Solving the world's hunger problem starts with preserving the economic viability of America's own agriculture. While we are asking governments of developing countries to provide better incentives for their farm people, we seem to be neglecting our own rural economy here at home. We Americans are the most efficient agricultural producers in the world but there can be little hope for solving world food problems if we cannot even design a system of fair prices and equitable returns on the investment of America's farmers.

"American consumers, in comparison to the rest of the world, eat at a bargain price. But farmers are getting too small a share of the food dollar. In the long run a stable, prosperous agriculture is the best protection for the U.S. consumer. To protect their plummeting farm income, some farmers are now planning drastic production cutbacks in a desperate attempt to shore up farm prices. This will only perpetuate the boom or bust cycle that has become an all too familiar pattern to the world's hungry, the farmer and the U.S. consumer.

"We fully understand U.S. farmers' desperate determination to cut back their own production to try to achieve at least cost-of-production prices but we believe that it is more in the national interest that farmers be encouraged to do what they do best: produce.

"Instead of turning off production we urge you to call for federal intervention to increase the purchase of basic commodities for sharing with needy countries through an expanded Food for Peace program. This increased purchase of basic commodities should also be used by the U.S. government to bolster emergency grain stockpiles, establishing a food reserve as a protection for the hungry of the world during years of bad harvest and tight food supply.

"Without one fifth of the world going hungry, our abundance produced by the skill and the hard work of American farmers, must be used to fight global malnutrition and hunger. It must not be used to drive down farm income below a living wage. This year we will spend almost $120 billion in military expenditures but only $1.5 billion on food aid to the hungry. Our food producing ability is a tremendous national economic asset and constitutes a national security asset far more significant than military hardware. Congress and the Executive branch must give greater attention to protecting and preserving this vital asset.

"We want farmers to know that we support their effort and that we will help to carry their message to American consumers. We want religious and other antihunger groups to know that combating world hunger begins with fair and equitable treatment of America's own farmers who themselves want to see their hard earned production used to feed hungry people. They do not want to turn that productive ability off. They feel, and we join them in this feeling, that they have as much a right to fair and reasonable prices as do producers of airplanes and armaments purchased by the federal government on taxpayers' cost-plus contracts."

The American Freedom from Hunger Foundation is a non-profit educational organization. Founded in 1961 at the suggestion of President John F. Kennedy, the Foundation is the American citizen support organization for the worldwide Freedom from Hunger Campaign of the Food and Agriculture Organization of the United Nations.

PREVENTING HEALTH HAZARDS FROM HAIR DYES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. MAGUIRE. Mr. Speaker, I am introducing today a bill to amend the Federal Food, Drug, and Cosmetic Act to treat coal-tar-based hair dyes the same as other cosmetics under the act, in order to provide the public uniform protection for all cosmetic products.

Under the present law, coal tar hair dyes are exempt from the adulteration provisions of the act. Based on data obtained from recent studies by the National Cancer Institute, the General Accounting Office stated in a recent report that "many coal tar hair dyes contain known or suspected carcinogens that pose a potential hazard to the consumer because they may be absorbed through the skin and scalp." However the exemptions in the Food, Drug and Cosmetic Act do not permit the Food and Drug Administration to effectively regulate coal tar hair dye products. For reasons which certainly have nothing to do with public health and safety, FDA is specifically prohibited from banning or restricting the use of those hair dyes with coal tars. Given existing evidence of the potential cancer-causing potential of these products, a continuation of their special exemption is simply unacceptable.

The amendment I am introducing would repeal the hair dye exemption in order to strengthen regulation of coal tar hair dyes and, thereby, provide a greater measure of protection for users.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1979

HON. HARLEY O. STAGGERS

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. STAGGERS. Mr. Speaker, I am introducing today legislation authorizing funds for fiscal year 1979 for rail safety programs administered by the Federal Railroad Administration.

Before discussing the provisions of the bill, I would like to provide the Members of Congress with some background as to what has transpired in rail safety since the last authorization. The figures for 1977 are not available yet. However, in 1976 the number of rail accidents of all kinds soared to 73,151, up approximately 28 percent from the 60,873 in 1975. During this same period, train accidents increased by 27.4 percent, employees injured on duty in train accidents by 13.1 percent, persons killed at grade crossings by 19.4 percent, and persons injured at grade crossings by 17.3 percent.

I have stated repeatedly that something must be done to correct the railroad safety problem. Our committee and the Congress have authorized the funds FRA has requested: we have met with FRA personnel in an attempt to turn the situation around; the Congress has appropriated funds to assist carriers in upgrading deteriorated track and roadbed, which are major causes of accidents. It seems that all of these efforts have had little impact in improving safety.

In the 1976 rail safety legislation Congress authorized a study by the Office of Technology Assessment to evaluate the Federal rail safety laws in the hope that such an independent study might give us a better insight into safety problems and their causes. I have not had an opportunity to study the voluminous background materials prepared for the OTA by the consultant firm of Peat, Marwick, Mitchell & Co. However, I have been advised that serious objections to the validity of the information contained in this consultant's reports have been expressed by railroad management, railway labor, and the FRA and that the consultant's reports do not deal in depth with the various problems raised by the Interstate and Foreign Commerce Committee in our reports reviewing rail safety since the passage of the 1970 Safety Act.

As chairman of the Interstate and Foreign Commerce Committee, I feel I have a particular duty to try to find a solution to the rail safety problem. The proposed bill will substantially increase the number of Federal inspectors and will redirect certain priorities within FRA. More funds will be earmarked for safety and less for research and development projects. The overall authorization continuing safety and research and development will not be smaller than in fiscal year 1977 and fiscal year 1978.

Section 2 of the bill provides for a total authorization of $37,725,000. The number of safety inspectors is increased to 600 from the 500 provided for in the 1976 act. The number of signal and train control inspectors authorized remains at 45, and the number of clerical personnel is increased to 125 from 110. Travel allowances for railroad safety inspectors for up to 20 days per month for inspection of rail safety violations are also authorized. This same provision was enacted in the fiscal year 1978 appropriations legislation for the FRA.

The authorizations for the State rail safety programs and for research and development activities under the Safety Act are the same as in the fiscal years 1977 and 1978 authorizations.

Hopefully, section 3 of this legislation will create a change in emphasis to safety enforcement and away from research and development activities not directly related to safety. This section requires that at least 50 percent of all research and development funds be used for primarily safety-related activities which are spelled out in the bill. Furthermore, funds allotted for any railroad research and development program shall not exceed the funds allotted for safety research. There are a number of railroad research activities funded by Congress which are not primarily safety related. These programs may be worthy, but I feel they would be more appropriately funded by the private sector. Our committee has recognized this situation exists, but has not taken action to define the limits of such activities.

The financial aid and regulatory reform provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 should also enable the railroads to perform more of their own research and development work. By increasing the number of safety inspectors, reducing FRA's research and development funds, and at the same time requiring that at least 50 percent of all such monies be used for primarily safety-related activities and that safety research be the highest funded program, perhaps the rail safety picture can be improved.

ACCOMPLISHMENTS OF THE 23D TACTICAL FIGHTER WING

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. LONG of Louisiana. Mr. Speaker, Louisianians should take pride and the Nation take note of the accomplishments of the U.S. Air Force's 23d Tactical Fighter Wing stationed at England Air Force Base in Alexandria, La.

A direct descendant of the famed "Flying Tigers," the 23d Tactical Fighter Wing lived up to the reputation of its predecessor recently by sweeping four out of six first-place awards in the Royal Air Force tactical bombing competition held last fall in Lossiemouth, Scotland.

Flying the A–7D "Corsair II" against six of the best units of the RAF and against one unit of F–111's representing U.S. Air Forces–Europe, here's what the 23d did:

The Wing won the trophy for overall excellence in the competition.

In the individual categories, pilots of the fighting 23d finished, one, two, three, and four in the strafing competition, and again one, two, three, and four in tactical bombing.

In the leadership category, each of the eight units was allowed to enter only two fliers. The 23d won first and second place.

A few days later, England Air Force Base itself won the Best Base Appearance Award given annually by Tactical Air Command. The base also received an earlier distinction as the best base in the 9th Air Force Area.

The 95th Congress salutes the men of the 23d Tactical Fighter Wing and England Air Force Base on their outstanding achievements.

AuCOIN INTRODUCES A BILL ON VETERANS' DISABILITY RATINGS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. AuCOIN. Mr. Speaker, today I am introducing legislation to change a law which has worked a hardship on hundreds of disabled veterans in this country. I am referring to the law which states that a veteran's disability must be continuously rated at 100 percent for 20 years before that rating—and the benefits which are based on it—is preserved.

Right now a veteran's disability may be rated at 100 percent for 20, 30, or even 40 years. But if that rating is reduced for even 1 year in any 20-year period the veteran loses his protection against future reductions.

The Veterans' Administration tells me the current law is intended to "provide income protection * * * to those who had come to rely upon the benefits they had become accustomed to over the course of 20 years."

What I fail to understand is how an individual who has become accustomed to a certain income level over 30 years, with, perhaps the exception of 1 or 2 years in between, should not benefit from this logic as well.

The situation was brought to my attention by a constituent who has been fighting the VA over this for years.

This individual contracted tuberculosis while serving in the military in the 1940's. From that time until 1961, his disability was rated at 100 percent. His health improved briefly, during which time his rating was reduced, but then worsened. Despite his temporary recovery he has not been able to work all these years. And he has become accustomed to benefits pegged at the 100 percent level.

In short, my constituent has been totally disabled for 27 out of the past 32 years but never continuously for 20 years. For this reason, the VA can and has reduced his rating and his benefits. I believe this is absolutely unfair given the circumstances.

For this reason I am introducing legislation which would strike the word continuously from the law which determines an individual's disability rating over 20 years. I believe this will serve to carry out what Congress truly intended when it passed this law 23 years ago.

Mr. Speaker, I insert the bill in the RECORD at this time:

H.R. —

A bill to amend title 38, United States Code, to remove the requirement that the twenty years for which a disability rating of total or permanent total disability must be in force for such rating to be preserved must be continuous

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 110 of title 38, United States Code, relating to preservation of disability ratings, is amended by striking out "continuously".

(b) The second sentence of such section is amended by inserting "(other than a total disability or permanent total disability)" after "A disability".

Sec. 2. (a) The amendments made by the first section of this Act shall apply with respect to any reduction in disability rating under title 38, United States Code, after December 31, 1975.

(b) Such amendments shall apply with respect to payments made after September 30, 1977, for compensation, pension, or insurance purposes under laws administered by the Veterans' Administration.

PICO RIVERA'S 20TH ANNIVERSARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. DANIELSON. Mr. Speaker, on Sunday, January 29, 1978, the city of Pico Rivera, Calif., which I have the honor of representing, will observe the 20th anniversary of its incorporation. The approach of Pico Rivera's 20th birthday has prompted Mayor Garth Gardner to take note of the positive progress achieved by the city since incorporation in 1958. His report also calls attention to Pico Rivera's potential for continued success as community resources are developed and strengthened by concerned citizens cooperating with responsible leaders.

On behalf of his colleagues on the city council, Mayor Gardner has summed up the enthusiastic feelings of appreciation expressed by those who have helped guide the growth of Pico Rivera. Encouraged by civic leaders and a strong community spirit, the mayor points out that the city's elected officials have consistently enjoyed the trust and support of those who recognize the importance of stability in local government.

Observes Mayor Gardner:

In a democratic environment, the kind which all in the United States of America enjoy, no Government—Federal, State, or local—can succeed unless the people governed want it to succeed. Twenty years ago, by the power of democratic action, the people gave life to local government in Pico Rivera. The wisdom of that decision has now become more fully appreciated.

The fact has long been accepted that residents of Pico Rivera have personal contact with all governmental functions and elected officials, and have a definite voice in directing the city's movements.

There were great challenges as the citizens of Pico Rivera shouldered the responsibilities of home rule in 1958. Today there is no disputing Pico Rivera's enviable record, for it is one that shows the significant progress and growth which has marked the 20 years of cityhood. It comes as no surprise, the residents of Pico Rivera are justly proud of what they have achieved.

It was through an election in 1958 that the city of Pico Rivera was created by the union of two communities, Pico and Rivera. Of the two Rivera is the older. Originally known as Maizeland, a land developer-promoter is believed to have renamed it Rivera when the Santa Fe Railroad arrived in 1886.

The area was principally agricultural, as was that of the nearby community of Pico. Pico received its name when a depot was established there by the Union Pacific Railroad. No doubt the name was chosen to honor the memory of Don Pio Pico, last of the Mexican governors of California, who for 40 years, had called the community his home.

Prior to World War II, both communities were strictly agricultural. Then came the 1950's and orange, walnut, and avocado groves were uprooted for subdivisions. With an expanding population came the fear of annexation by surrounding incorporated cities. This prompted the foresighted Chamber of Commerce of both Pico and Rivera to urge a merging of the communities through incorporation. A circulated petition revealed majority support and the county supervisors set January 7, 1958, as the date for an election. More than half of the area's voters went to the polls, with the majority voting in favor of incorporation. The Pico Rivera name was endorsed and approval given for the council-manager form of government.

At 4 p.m. on January 29, 1958, papers signed in the office of the California secretary of state officially proclaimed Pico Rivera as Los Angeles County's 61st incorporated city.

During the ensuing 20 years, the wisdom of incorporation has been shown time and again.

Guided by capable leadership from their own elected officials and working together toward a common goal, the residents, business people, and industrialists have established Pico Rivera as a strong, successful, stable city.

Truly, Pico Rivera has enjoyed real "Progress With Pride."

Government at the local level has brought rich rewards to the more than 54,000 citizens of the city who now enjoy the benefits of a comfortable, well-balanced community. Pico Rivera today is a city where people live, work, and raise families—where children can be educated in the community's unified public school district or in fine parochial schools—where churches of many faiths provide spiritual guidance—where a well-rounded parks and recreation program offers activities for all ages—where vital business and industry provide jobs, commerce, and a sound tax base.

In conclusion, I believe the past 20 years accurately reflect the many capabilities and achievements of local government. Clearly what has been accomplished underscores the good judgment the people demonstrated in voting for home rule in 1958. The progress and prosperity which awaits the community in the years ahead will greatly depend upon one important factor; that is the continued efforts of all residents, businessmen, and industrialists consistently to pull together toward the common goal of the city.

Due to the continued cooperation of its citizens, Pico Rivera has become a city known and respected by all. While we may all take a measure of pride in Pico Rivera's record of success to date, there are still many tasks ahead. Together we have a goal of making our city even better than it is today.

THIRTY YEARS OF SERVICE FOR C. THOMAS GIBBONS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. EILBERG. Mr. Speaker, it is an honor for me to pay tribute to a person who has made an enormous contribution to the betterment of our city through his years of public service.

This month marks the 30th anniversary of C. Thomas Gibbons' participation and leadership in the Boy Scouts of America, Mr. Gibbons, a highly respected businessman in our community and a lifelong resident of Greater Philadelphia, will step down January 30 as president of the Philadelphia Council of the Boy Scouts of America.

Through his tireless work in scouting, Mr. Gibbons has made major contributions to the youth of our city. He first joined the Boy Scouts in 1948, and since then he has served as scoutmaster, secretary to the Archdiocesan Committee on Catholic Scouting, member-at-large of the Keystone District, member of the Philadelphia Council executive board, vigil member of the Unami Lodge of the Order of the Arrow, district chairman of the Keystone District, and for the past 2 years as president of the Philadelphia Council.

Even as he steps down as president, Mr. Gibbons will take on two new challenges in scouting. He has agreed to serve as camp promotion chairman for the Philadelphia Council in 1978, and as lay adviser to the Order of the Arrow.

I should note, Mr. Speaker, that Mr. Gibbons community service has not been confined to the Boy Scouts. He has been actively involved with the March of Dimes, the Police Athletic League, the Easter Seal Society, and the Philadelphia Civic Ballet Company. Also, he has been named a distinguished alumnus of the St. Thomas More High School Association.

In addition, Mr. Gibbons has unselfishly contributed his time and labor to the St. John Baptist Vianney Church in Gladwyne, Pa.; the Cardinal's Committee of Restaurateurs of Catholic Charities; the Catholic Philopatrian Institute; the Knights of Columbus; Men of Mal-

vern; Waldron Academy Fathers Association; St. John's Hospice for Homeless Men; and the St. Joseph's Prep Fathers Association.

Mr. Speaker, as the Philadelphia Council of the Boy Scouts of America gets ready to meet to elect a new president, I am pleased to congratulate Mr. Gibbons for his 30 years of service to Greater Philadelphia's 18,000 Boy Scouts. I wish him well on the new challenges he is so characteristically taking on.

THE 100TH ANNIVERSARY OF THE SOUTHERN NEW ENGLAND TELEPHONE CO.

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. SARASIN. Mr. Speaker, I would like to take this time to recognize and commend the Southern New England Telephone Co. of New Haven, Conn., on their celebration of the opening of the world's first telephone operations, 100 years ago on January 28, 1978 in New Haven.

Southern New England Telephone has shown great perseverance and determination in providing outstanding service to their customers through times of great economic difficulty.

The founders of Southern New England Telephone Co., then called the New Haven District Telephone, realized great opportunities for the expansion of their company through connecting the people, goods, and services of the towns in their area. In the first years of operation the company underwent several reorganizations, and emerged each time with larger capitalization and a wider territory of service. By 1880, through negotiations with the Bell people of Boston, the company gained the right to build exchanges throughout Connecticut and western Massachusetts. More importantly they had the right to interconnect their exchanges, which resulted in profitable toll lines stretching between Bridgeport, Hartford, and New Haven. Soon the company took over or built pioneer exchanges statewide. We should also note that the first woman operator was hired in 1879 in the Bridgeport exchange. By the mid-80's women had all but replaced the young boy operators.

A constant struggle was engaged to meet the costs of expansion while also incurring everyday operating expenses. In 1882, the induction of electricity resulted in raising havoc in the telephone industry. In order to keep service up to date the company underwent costly replacement of all equipment. The outlook had changed from bright to bleak rather quickly. Expansion in the number of customers stagnated, rates had to be increased, and the Nation's economy experienced erratic cycles.

The last decade of the 19th century saw a rejuvenation of the telephone industry. Advertising and reduced rates brought in an enormous amount of new customers. The growth of the company's operations continued through the early 1900's, and excepting the years of the Great Depression there has been growth in every one of the last 83 years.

The 1900 goal of universal service has long since been achieved in Connecticut, and I would like to salute Southern New England Telephone Co. for their outstanding service to the people of New England for the past 100 years.

WILMINGTON 10 INJUSTICE CONTINUES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. EDWARDS of California. Mr. Speaker, hopes of correcting the serious and repeated injustices against the Wilmington 10 defendants were deflated last Monday night by the decision of North Carolina Gov. James Hunt to neither pardon, nor commute the sentences of the nine black men still in prison. The Governor's action to shorten the maximum sentences of the defendants fails completely to address the issue of fundamental injustices which occurred prior to and during the trial.

The trial record includes the recantations of the three primary witnesses for the prosecution and their sworn testimony to receiving gifts and favors from the county prosecutor and a Federal agent in return for their testimony. After reviewing this record, however, Governor Hunt concludes that the Wilmington 10 received a fair trial.

Because the case reflects so badly upon the quality of justice in parts of this country, I ask leave to insert the following article and editorial comments from the Washington Star and Washington Post regarding the Governor's decision:

[From the Washington Post, Jan. 25, 1978]

GOVERNOR HUNT AND THE WILMINGTON 10

The decision of North Carolina Gov. James B. Hunt Jr. to reduce the sentences of the Wilmington 10 strikes us as an unsatisfactory solution. Compelling arguments existed for a more generous approach, based on the considerable amount of evidence that, as the Justice Department has noted, "many irregularities" cropped up in the prosecution and trials of the group. In choosing to reduce the sentences of nine black men (one of the group, a white woman, has been paroled), Gov. Hunt conceded that the original sentences for arson and conspiracy were excessive. That is something, at least. But even here, questions are raised. The sentence of Ben Chavis, an official in the United Church of Christ's Commission for Racial Justice, was reduced from one of 25 to 29 years to one of 17 to 21 years. Given such punishment for a first offense by someone with no violent crimes on his record, it can be argued that Gov. Hunt only chipped away at the excess rather than removed it.

The governor, who found himself at the center of a storm he didn't create, has expressed the hope that his decision would put things to rest. That is unlikely to happen, at least so far as public discussion is concerned. Few of the doubts that persisted long before Gov. Hunt involved himself appear to have been resolved. Questions of witness reliability—recantations have been made by prosecution witnesses, and now there is a recantation of a recantation—and such irregularities as a witness's receiving gifts from the prosecutor were not explained away by the governor's assertion that "there was a fair trial." Gov. Hunt has alluded to "outside" criticism of his state's system of justice, but it has been the inside criticism that has often been the sharpest and most telling. For although the case has now become something of an international issue, questions about its fairness were originally raised by the reporting and commentary of several North Carolina newspapers.

North Carolina would have been better served if Gov. Hunt had dealt forthrightly with the claims that the trial and prosecution were unfair. But he didn't. Because he chose to avoid a substantive discussion, his decision to reduce the sentences—rather than pardon the group or commute the sentences to time already served—is likely to introduce a new question: Why wasn't the issue of possible unfairness dealt with fully in the governor's exchange with the public? If it had been, little of the outcry following the speech—not merely from black leaders within North Carolina but also from several members of Congress, as well as the leadership of the United Church of Christ—would have much validity. As it is, valid claims persist that this group was railroaded.

It may well turn out that by avoiding the opportunity to address those claims, the governor has fanned the fire, not doused it. At the least, a commutation of the sentences to time already served would have allowed the doubts to be discussed in a much less bitter atmosphere.

[From the Washington Post, Jan. 25, 1978]

THE WILMINGTON 10: POLITICS—NOT JUSTICE

(By William Raspberry)

We are, you understand, talking less about justice than about politics. And from a purely political point of view, North Carolina's Gov. James B. Hunt didn't have any attractive choices.

He could have ignored the international demand for full pardons of the Wilmington 10, convicted of arson and conspiracy in connection with racial violence seven years ago.

He could have granted the pardons or, as a compromise acceptable to the Wilmington 10 supporters, commuted their sentences to time already served.

Either way, he'd have left a large number of North Carolina voters unhappy. So he reached for a compromise—a reaffirmation of their guilt and a reduction of their sentences—and, as a result, left everybody unhappy.

Hunt neglected an important principle of moral pragmatism: If you're going to be in trouble no matter what you do, then you may as well do the right thing.

The right thing, which is as obvious to me as it is obscure for Hunt, would have been to order the immediate release—full pardons or, at least, commutations—of the nine young black men and one already-paroled white woman. Their convictions, based on the coerced testimony of unreliable witnesses already in trouble with the law, and tainted by gifts and favors to those witnesses, are an affront to justice. The three key witnesses all have recanted (although one confused young man repudiated his recantation and then recanted that).

It was an awful case. And Gov. Hunt was not the only one with a difficult problem. The state courts could not have thrown out

the convictions without finding some important state officials guilty of wrongdoing.

Hunt might well wish that the pressure had reached its recent level while Hunt's predecessor was in office. It didn't, and Hunt finally had to make a move.

And he had to make it in this context: He is a first-term governor eligible for reelection because of his successful sponsorship of an amendment to the state constitution that permits a North Carolina governor to succeed himself. He will be seeking reelection in a race in which he needs the support of blacks and liberals, who favored the release of the Wilmington 10, and of conservatives, who wanted no such thing.

As he apparently read this situation, he had to make the best possible compromise. So he reduced the sentences so that all except the Rev. Ben Chavis will be eligible for parole a few months from now. Chavis won't be eligible until 1980. The reduction, presumably, was meant to appease the blacks and liberals.

Before ordering the reductions, however, Hunt, went out of his way to exonerate his state's judicial system. "From all that I have learned from reviewing this case," he declared, "I have concluded that there was a fair trial, the jury made the right decision and the appellate courts reviewed it properly and ruled correctly." His only problem, he added, was that the sentences were too long.

That, one assumes, was meant to appease the conservatives.

Unfortunately for Hunt, it's not likely to work out that way, if the defendants go free (eligibility for parole does not make parole automatic) the conservatives will remember only that Hunt freed them. If they don't make parole, blacks and liberals will remember only that Hunt didn't free them.

Already, supporters of the 10 are planning to step up their campaign to include pressure on the U.S. Department of Justice, according to Imani Kazana, national coordinator of the National Wilmington 10 Defense Committee. As she pointed out, even if the remaining nine make parole, they will be confined to the county, barred from such activities as drinking alcoholic beverages and even forbidden to sleep with other than their spouses.

Hunt, meanwhile, has the impossible task of explaining his actions to both elements of his unhappy constituency. How will he justify his actions? Surely not on the basis of compassion or justice or reconciliation. Nor can he acknowledge that he was responding to pressure or political expediency.

If you're going to be in trouble no matter what you do, then you may as well do the right thing. At least it's easier to explain.

[From the Washington Star, Jan. 24, 1978]

PROFILE IN TIMIDITY—GOVERNOR HUNT'S SPEECH ON WILMINGTON 10

(By Mary McGrory)

Gov. James Hunt of North Carolina said he wanted to put the Wilmington 10 case behind him.

The matter of the nine young blacks is an international scandal, a source of embarrassment to the "human rights" Carter administration, a cause for Amnesty International and the United Church of Christ. They are serving a total of several centuries for having bombed an empty grocery store in North Carolina racial disturbances in 1971, and three witnesses have recanted their testimony.

Leonid Brezhnev is interested in them. Attorney General Griffin Bell told congressmen that if he were Hunt, he would commute the sentences to time served. The world has been waiting for a week to see how Jim Hunt, who is 40 years old, and supposedly a political comer, would do on the world stage.

Hunt fell on his face. He did the worst possible thing: Under international pressure, he yielded to local prejudice.

He will not pardon the nine young blacks, nor commute their sentences. He will reduce their sentences for the firebombing but will not budge on the time exacted for plotting to shoot at firemen and policemen who responded to the alarm.

It was the perfect law-and-order speech. It may help him in his bid for re-election as governor of North Carolina, which recently passed a law lifting a ban on a governor seeking to succeed himself.

But Jim Hunt has larger ambitions. He sees himself in the Kennedy-Carter mold, as a progressive and compassionate "New South" leader who could go all the way. But he trampled his national dreams into the dust, as he showed a profile in timidity on the Wilmington 10.

Hunt was telling the people of North Carolina that they alone matter to him. A careful count was kept in the governor's office during the week of the big buildup. Nine hundred sixty-one state voters told him to hang tough. Seven hundred forty-eight urged pardon or commutation. Of 210 telephone calls, only six urged him to free the prisoners.

The Governor kept his own counsel before air time. It was billed as a "lonely decision." He did not consult the most distinguished member of North Carolina's congressional delegation, Richardson Preyer, his political patron and mentor. In 1966, Hunt gave up a year of his life to run Preyer's unsuccessful campaign for governor.

Beforehand, Preyer said, that had Hunt come to him, he would have pointed out that he was being "embarrassed and hurt" by the publicity accruing to "just the appearance of a racial injustice."

Hunt said "thousands of people" had written him and called him, many with "inaccurate information." He had met with many groups and had spent "thousands of hours" reviewing the transcripts of the trial. He was convinced that the system had worked. He made no mention of the three recanting witnesses.

He closed on a note of hope and joy. North Carolinians need not fear that they will get a black eye for their judicial system. They have only to look about them to see how "side by side" they are working "for common goals" in their schools and factories and neighborhoods.

Although he met with many groups, there was one Hunt did not see—a six-man congressional delegation which went to Raleigh on Dec. 4 to plead for the 10. The governor reserves Sunday for church and family, so was not available to them.

Four of the six gathered in the Watergate apartment of their leader, Rep. Don Edwards, D-Calif., chairman of the House subcommittee on civil and constitutional rights, to hear Hunt's speech by telephone hookup. They poured out expressions of shock and rage to the many press people who solicited their reactions.

Edwards pronounced the governor's decision "a dark day for North Carolina in the country and the world."

California Democratic Reps. George Miller and Pete Stark both called it "appalling."

Rep. Robert F. Drinan, D-Mass., said the group would return to North Carolina in the near future, and, immediately, would seek audience with Attorney General Bell and civil rights division leader Drew Days III.

The Carter administration, through Days and State Department Human Rights Coordinator Pat Derian, has been signaling Hunt that he looks bad. But Jimmy Carter, when pressed on the question, declined to comment because it is "a state matter," and Justice Department sympathy has fallen short of filing an amicus curiae brief in the several procedures still pending.

Bell, in a Dec. 10 meeting with the congressional delegation in Black Caucus Chairman Parren Mitchell's office, warned the members not to crowd Hunt—"He'll play you federal boys like a fine piano."

Now Hunt will have to play the country and the world like a fine piano. He can say that only Yankees and Communists—Angela Davis is a big agitator on the question—believe that the 10 were railroaded to give black activists a lesson.

All he did with his broadcast was to guarantee that the Wilmington 10 question will haunt him for all the rest of his days.

[From the Washington Star, Jan. 24, 1978]

WILL WILMINGTON 10 MOVE BACKFIRE?

(By Mark Pinsky)

RALEIGH, N.C.—At the close of his statewide address to the people of North Carolina on the subject of the Wilmington 10, Gov. James Hunt admitted his own doubts that the decision "will satisfy those who have demanded a pardon or those who opposed any action."

Having reduced the lengthy prison sentences of the nine black men still in prison by a third, Hunt said last night that "I did not make this decision to satisfy them, or to satisfy those from the outside who have criticized North Carolina and our system of justice."

While that may be the case, it appears that the 40-year-old Democrat may have blundered into the most serious political miscalculation in his heretofore meteoric political rise.

Hunt's decision means that eight of the nine people still in prison—the 10th, a white woman was paroled a year ago after serving a quarter of her sentence—will be eligible for parole later this year, while the leader of the group, the Rev. Ben Chavis, cannot be freed until Jan. 1, 1980, at the earliest.

The 10 were convicted in 1972 of arson and conspiracy in connection with the firebombing of a whiteowned grocery in a predominantly black neighborhood during a week of racial unrest in Wilmington, N.C., a year before. Supporters of the group, who have maintained their innocence of all charges, had said before the governor's speech that the only action they would accept was "a pardon of innocence."

Hunt had voiced the hope that his speech would be "the final word in the matter."

Political observers in the state felt that any of the governor's alternatives—two kinds of pardons, commutation, reduction or nothing—was bound to disappoint many and anger a few. But Hunt's decision seems calculated to infuriate black supporters, while earning nothing but disdain from conservative whites who were opposed to any executive action.

Black leaders throughout North Carolina, including a member of Hunt's cabinet, state legislators and various church and business leaders, had called on the governor to release the men. In both the governor's election campaign of 1976 and the successful constitutional referendum in 1977 which opened the way for him to become the first chief executive in the state's history eligible to succeed himself, black voters provided a solid and critical part of his winning margin.

H. M. Michaux, Jr., U.S. attorney for the middle district of North Carolina and one of the first black federal prosecutors appointed in the South in modern times, said, "I think Governor Hunt is completely wrong when he says the people got a fair trial."

Once a strong political backer of Hunt, Michaux said that the governor has "shown his true colors this time."

He's just about emasculated any black leadership in the state. Blacks have gone around asking folks to take it easy, not to pressure him, implying that a favorable decision on the Wilmington 10 would be forthcoming.

But not everyone in North Carolina feels that the governor made a political error.

State Sen. William Smith, a liberal Democrat from Wilmington, said he felt Hunt's actions were reflective of the "broad majority of North Carolinians."

"I think he took the right approach," said Smith, who is also an attorney.

"I might have reduced the sentences more. They were excessive," he said.

There was also evidence over the past several months that some of the criticism aimed at the United States from abroad and upon the federal government from around the country, was being transmitted to Hunt. Both President Carter and Attorney General Griffin B. Bell have been questioned repeatedly regarding the disposition of the case and both deferred to Hunt.

Criticism of Hunt and of the quality of justice in North Carolina has, if anything, accelerated since last night's remarks.

The Rev. Avery D. Post, head of the United Church of Christ, released a statement in New York charging that "Governor James Hunt is evidently a consummate politician with respect to a part of his constituency, but he is grossly insensitive to the broader community of the United States . . . and to the global society that knows there has been a violation of the human and civil rights of the Wilmington 10."

Post said that the 1.8-million-member United Church of Christ "will not forsake, or deny the young whom the governor has seen fit to hold in prison against evidence of their innocence, which has been presented time and time again, evidence he has made no attempt to refute."

APOLOGIES TO A FRIEND

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. MAZZOLI. Mr. Speaker, yesterday, I submitted into the RECORD an article originally appearing in the Christian Science Monitor regarding the 1977 congressional voting record.

I am pleased that absenteeism in Congress was down last year and am especially proud of the Kentucky delegation's voting record. However, I apologize to my good friend and colleague, Congressman STEWART B. MCKINNEY, for perpetuating an oversight contained in the article.

STEW's low voting record results from illness which persisted for several months. During that time he was sorely missed by his colleagues, particularly those of us on the District of Columbia Committee who rely upon his judicious guidance and untiring concern.

I am glad STEW is well enough to resume his hectic schedule and I look forward to working with him in the months ahead.

THE BOUNDARY WATERS CANOE AREA: A CONTINUING CONTROVERSY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. FRASER. Mr. Speaker, during the controversy over the Boundary Waters Canoe Area, it has been charged that increased protection of the area will bring personal and economic ruin to countless residents of northeast Minnesota. Consider the following statements:

(It is) another ruthless inroad on the economy of affected counties . . . (and will) break the back of the tourist industry.

(It is) discriminatory, arbitrary, capricious, (and) a violation of the federal Constitution guaranteeing equal rights . . . an abridgement of the Constitution . . . and contrary to the principles of democracy and free enterprise.

(It is) an unsavory attempt, by selfish interests, to secure for themselves special privileges . . . and set aside an area owned by all the people for the benefit of the few.

(Outside groups) are not familiar with the problems and do not know what is best for the area . . . Are we going to deny to our disabled veterans the opportunity to fish in the Forest?

These are serious charges. They demand our attention. But they must be placed in an appropriate historical perspective. Each one of the above statements was made in the heat of controversy. Each was made more than 25 years ago.

In the late 1940's, a fight much like ours today embroiled northeast Minnesota. It centered around the use of float planes to bring guests to resorts located in the heart of the BWCA. Public roads were prohibited in the area, so small planes equipped with pontoons and flown by returned WWII bomber and fighter pilots brought fishermen and others to remote resort lakes. Battle lines were quickly drawn over whether such activities were appropriate.

On one side stood those who saw in the float plane a chance to strengthen the tourist economy; on the other, stood those who saw in it a fundamental challenge to the area's wilderness character. Bitter accusations flew between the camps, creating an atmosphere of extreme volatility in Ely, Grand Marais, and other local communities. The resolution of the controversy was controversial, yet unequivocal. It assumed two parts.

First, in 1948, Congress passed the Thye-Blatnik Act, authorizing the Forest Service to acquire and condemn resorts and private properties in the BWCA. Under its authority, 43 resorts and 115 private residences were removed. Many of these were located on the very lakes that are most hotly contested in our current debate: Basswood, Saganaga, Seagull, Knife, and Lac La Croix. No homes or resorts now stand within the BWCA'c boundaries, with two exceptions involving people holding life tenure privileges.

Second, an Executive order issued by President Truman in 1949 prohibited airplane flights under 4,000 feet anywhere over the BWCA. This airspace reservation remains in effect today.

The problems Congress must address as it deals with the BWCA are fraught with implication for many peoples' lives. This human element must not be forgotten. But neither should we lose sight of the fact that battles to preserve and protect the canoe country have gone on for over 75 years. The issues we debate today are not new. The potential impact of our decisions is not unprecedented.

Faced with the prospect of an end to the fly-in resort industry, many claimed that northeast Minnesota's lifestyle and economic foundations would be destroyed. They were not. Identical claims can be heard today. I am confident that the bill the House Interior Committee develops will be sensitive to local needs. Whatever form this bill takes, I am equally confident that the communities of northeast Minnesota will, as they did 30 years ago, make the kinds of adjustments that will insure their continued vitality.

The Federal Government can assist local residents in making these adjustments. In testimony before and subsequent discussions with Congressman PHIL BURTON'S Subcommittee on National Parks and Insular Affairs, I have outlined six ways in which Congress can help soften the impact full wilderness status would have on the recreational and economic interests of northeast Minnesota.

First, provide funds to the Forest Service to complete 110 miles of unfinished snowmobile trails outside the BWCA in the Superior National Forest.

Second, provide funds to the Forest Service to upgrade access to 29 lakes outside the BWCA in the Superior National Forest that have been identified as being well-suited to motor recreation, but that are currently difficult or impossible to reach.

Third, provide funds to the Forest Service to build campsites outside the BWCA in the Superior National Forest in areas that are relatively remote and that possess desirable motor recreation qualities.

Fourth, provide funds to the Forest Service to build more hiking trails inside the BWCA. This would help attract more people to the area without putting additional pressure on the canoe routes. It could also help resorters by broadening the possible activities available to their guests. The Forest Service has identified 10 trails that could be built or improved; the total cost would be only $280,000.

Fifth, include funds and authority under which a resort owner whose resort lies on lakes through which the BWCA boundary passes could voluntarily sell his or her holdings to the Government. If a resort owner decided that he or she could not make the adjustment to a wilderness situation, he or she should have the option of selling at fair market value

to the Government. Such sale would be entirely voluntary, not mandatory.

Sixth, provide funds through the Small Business Administration and the Agricultural Extension Service to help resort owners make adjustments necessary to attract a wilderness-oriented clientele. Educational and technical assistance could be provided to the businesses and communities adjacent to the BWCA by the Extension Service of the University of Minnesota; technical aid and loans could be offered by SBA to resort operators who wish to up-grade or alter their physical plant or equipment.

This list is not meant to be definitive. There may be problems with some of the proposals I have made. Other ideas should be explored. The list is, however, intended to suggest steps that could be taken to help ameliorate the situation that would face local residents were our bill enacted.

THE SYLVERS: ENTERTAINERS WHO CARE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. DORNAN. Mr. Speaker, my home district in California is famed for its scenery, its climate and for the calibre of its citizens, many of whom are noted stars and entertainers.

But of all the well-known people whom I have the privilege of representing here in Congress, there are few who can claim to have been as willing to do for others as the Sylvers singing group who reside in Palos Verdes

The Sylvers are seven talented brothers and sisters whose talents as musicians, vocalists and all-around entertainers have won them a loyal and enthusiastic following around the world. Through their recordings, their concerts and their numerous television appearances, the seven have garnered many top awards and much well-deserved recognition from the entertainment community.

Such credits might turn the heads of other, less caring entertainers, but the Sylvers, are well aware that there are those less fortunate than they and have set out to help them through their talented singing.

Two years ago, the Sylvers were named International Youth Ambassadors by the March of Dimes and now the group devotes considerable time and numerous benefit performances on behalf of that organization. The group frequently takes time out from a busy—and lucrative—performing schedule to participate in a variety of fund raising activities. They perform at benefit concerts, recording radio spots, take part in walkathons and play in celebrity basketball games the proceeds of which are turned over to the March of Dimes.

Several months ago, the group was the subject of a March of Dimes film titled "Meet the Sylvers" which is now shown at many of the charity's youth oriented meetings. Most recently, the film was shown in conjunction with the group's apparance at the southern regional conference in Little Rock, Ark., of the Future Business Leaders of America, an organization that has raised over $1,000,000 for the March of Dimes.

According to the national foundation's director of broadcast services, Roland Howe, no other group of entertainers has been as active in March of Dimes programs as has the Sylvers.

While their popularity and numerous record awards are reason enough for pride, I believe that fine young Americans such as the Sylvers, take equal pride in their activities and services on behalf of the March of Dimes.

I salute them for their charitable actions and urge other young Americans to follow their fine example

A PRESCRIPTION FOR OUR RAILROADS

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. SARASIN. Mr. Speaker, in the coming months many issues will be debated in this Chamber, including the necessary elements of a national energy program, the essential expenditures needed to maintain a strong and healthy economy and the level of appropriations that will achieve these goals.

I believe that we can best achieve these diverse goals through careful scrutiny of our national priorities and by applying our resources where they will produce the maximum results. One of the areas where I feel we can be most effective is in the field of mass transportation.

The great strength of our economy is based on the ability to move people and goods to the areas where they are needed when they are needed. We must continue to be able to accomplish this if we are to continue our strong economic growth.

As cochairman of the New England Congressional Caucus Transportation Task Force, I have become aware of the efforts of one group which has made a great contribution towards furthering the legislative goals of the National Railroad Passenger Act, which established Amtrak. That group, the National Association of Railroad Passengers, recently adopted a resolution at its annual meeting which, I believe, if followed, would provide our transportation policy with the direction it needs.

I am inserting a copy of that resolution for my colleagues' information:

RESOLUTIONS PASSED BY THE NARP BOARD AT ITS OCTOBER 15, 1977, MEETING

1. Whereas, the National Association of Railroad Passengers is a voluntary organization of members from all regions of the United States who are primarily interested in and concerned about the improvement, expansion, and development of railroad passenger service in this nation, in proper balance and relationship to other modes of travel;

And whereas this Association, from the inception of the idea to create a National Railroad Passenger Corporation, has been a chief supporter of Amtrak, and dedicated to the concepts that led to the implementation of the Rail Passenger Service Act, and therefore has been a chief supporter of Amtrak train service, both collectively as an Association and by countless hundreds of acts and deeds by its individual members;

And whereas this Association views with concern and alarm the apparent reluctance of the National Government to vote for a supplemental appropriation which would enable Amtrak to merely maintain its present level of service without substantial cutbacks, thereby reducing the cumulative momentum of the seven years during which time the long decline in rail passenger service and usage has been reversed;

And whereas we are also deeply distressed by Amtrak's own failure to vigorously advocate the need for rail passenger service, but has apparently acquiesced to the wishes of other coordinate branches of government which are not favorably disposed to such supplemental funds being made available to Amtrak;

And whereas Amtrak has itself shown negligible effort in controlling its own deficit and, therefore, has not optimized its own earning capacity, all of which has combined to create a present serious crisis in rail passenger service throughout the United States;

Now, therefore, be it *resolved* that, it is in the national interest both as a means to reduce American dependence on foreign oil, as well as environmentally, as well as consistent with the effort to reduce traffic congestion both on our highways and in urban centers to have a workable, dependable, and serviceable rail passenger network which would also have the additional social benefit of providing the impetus for the revitalization of the commercial, cultural and social centers of our urban areas.

2. That, therefore, rather than the curtailment of already meager rail passenger service in this nation, there should be a national effort to revive and expand rail passenger service and the government should make significant capital expenditures to improve deteriorated rail roadbeds, replace or remodel outworn cars, and install sophisticated signals, all of which combine for efficient use by both freight and passenger service as well as serve the economic well-being of the nation. Indeed, the only way that the deficit can be reduced and the original goals of Amtrak be realized is by adequate investment.

3. And that, therefore, such expenditures on modern, efficient, national rail network are justified in light of the dramatic increases in ridership registered by trains properly operated illustrating once again the potential demand and appeal for train service throughout the nation.

4. And, therefore, such appropriations both supplemental and capital are justified in light of the subsidies, direct and indirect, given to other modes of transportation, all of which we support, and which investments in transportation are being reinvested in the private sector which alleviates the chronic problem of high unemployment.

5. And, therefore, that this Association recommends legislation to permit Amtrak to deal effectively with the obstructionism techniques employed by some railroads against passenger service operated, or sought to be operated, over their lines. Amtrak should have a direct and immediate right of arbitration to assure itself the ability to run passenger trains where they are needed.

6. And, therefore, that legislation be enacted that tracks and rights of way are a

national resource, that railroads and entities be prohibited from abandoning said roadbeds and that the Congress adopt a national policy preserving same not making present usage of a line a criteria in determining the need for its preservation, but its potential usage.

7. And, therefore, that the Congress, by legislation, permit citizens of various States access to the courts to enforce the need for adequate rail passenger service.

8. Be it further *resolved* That this Association endorses the progressive thinking in the most recent Amtrak plan which proposes the orderly development of new high-speed corridors but urges expansion of auto and mail carrying services.

9. And, that the Congress, by legislation, increases the number of consumer representatives in the Amtrak Board of Directors.

10. And, that the Congress, by legislation, or the Interstate Commerce Commission, by regulation, carefully scrutinize and supervise the inflated charges Amtrak is charged by the railroads with which it contracts.

11. Be it *resolved* That Amtrak preserve rather than discard old but useable passenger cars, preserving same for an emergency.

WHAT OTHERS ARE SAYING ABOUT THE CANAL

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. DICKINSON. Mr. Speaker, much has been written in recent months about the Panama Canal issue, both pro and con. Most of this material has concentrated on a single, specific aspect of the canal question, such as security, political, or economic—but I have seen few pieces which cover the spectrum of the canal issue as well as the following editorial by Mr. Roy Shoffner, publisher and editor of the Enterprise Ledger, Enterprise, Ala.

I commend this editorial to my colleagues as a good summation of the primary arguments against ratification of the Panama Canal treaties:

WHAT OTHERS ARE SAYING ABOUT THE CANAL

(By Roy Shoffner)

I expressed myself some time ago as opposing the Panama Canal giveaway. Much water has gone over the dam since that time, but my mind hasn't changed. Not being saddled with the responsibility for making the decisions on such important topics, I haven't said much recently about this topic. But I have been collecting some knowledgeable quotations from people who should know the subject well.

The first item is from this month's VFW Magazine (Jan. '78). James K. Anderson recalls that in 1936, Sumner Welles, then assistant secretary of state, had negotiated a minor revision of the 1903 agreement. He attached a memorandum to the agreement quoting the president and foreign minister of Panama, who declared that they had obtained all they could possibly ask for from the United States and had no further requests to make.

Then there was Spruille Braden, a top state department official and ambassador to three Latin and South American nations, who made the comment that "A prime Communist objective was and still is to ease the U.S. out of control of the Canal Zone."

This brings us to the interesting part (quoting again from James K. Anderson in this months VFW Magazine) about the canal connection of Alger Hiss. Remember Alger Hiss, who was convicted of lying about selling U.S. government secrets to Russia?

Anderson says: "Hiss, then head of the State Department's Office of Political Affairs (1946), included the Canal Zone in a list of U.S. "occupied" territories which he sent to the United Nations as required by the UN Charter. Apparently he did this on his own initiative and violated standing rules by doing so." Anderson details the resulting commotion within the State Department as a result of this. But the list was never withdrawn and the Canal Zone has become increasingly a bone of contention since that time.

One of the arguments we hear about the canal is that it is no longer economically important or militarily important to the United States. Let's see what some others think about this:

Congressman John M. Murphy: "Ninety-seven percent of the world's fleets are able to utilize the Panama Canal, and about two-thirds of all canal traffic is bound to or from U.S. ports. In 1975, only ten percent of the vessels transiting the Panama Canal were U.S. flag, as compared to fifty percent in earlier years—due to the relative size of the U.S. Flag merchant fleet."

Then there is Brigadier General Andrew J. Gatsis, USA, Retired: "Contrary to what is said about its declining strategic and economic value, the truth is that this interocean waterway is more important than ever to the United States because of Soviet expansion of sea power. While the present canal is too small for some ships, hundreds of combatants from submarines to cruisers can be funneled through the transit, as can vital fleet trains needed to sustain the combatants. This ability to shift naval forces from one coast to another also takes on added importance in view of the reduced size of the U.S. Atlantic and Pacific fleets.

"If the canal is of such little importance to us economically and strategically, why are the Soviets so interested in it? Certainly their discussion with the Panamanian government last July about the periphery of the canal and use of Colon must arouse the curiosity of the most naive person."

Skipping over the inferred Soviet threat, let's take a look at what it may do to our pocketbooks. Dr. John Wasylik, commander-in-chief of the Veterans of Foreign Wars, said this month that:

". . . the governor of the Canal Zone and an assistant secretary of commerce which indicates that under the new treaties the tolls will increase from 25 percent to 40 percent. They acknowledge that "the increases will hit some U.S. flagship companies hard."

Now, if you don't understand just how that will effect you, consider this statement from USDA Foreign Agricultural Service statement: "About one-fifth of all U.S. farm products exported last year moved through the canal; the canal was the trade route for 70 percent of the farm products shipped to 15 Asian markets which bought $8.5 billion worth of American agricultural commodities. Much of the grain produced in the midwest for export is shipped to Gulf ports and then transported through the canal since it is far more economical than any other means now available. The report concludes that "loss of the waterway would lessen the U.S. farmer's ability to compete for Asian markets thus benefiting Australia and other exporting nations with access to the Pacific or those with closer locations to major markets."

That is getting down to our pocketbooks when we consider how much is shipped into and out of Alabama's own Mobile Bay port.

This brings us to the military considerations. It is interesting to note that an overwhelming number of now-retired former flag and star rank officers recently surveyed stand in opposition. This includes such well known names as General Lymen Lemnitzer and Adm. Thomas Moorer (Alabama's own).

Speaking about the on-duty military, BG Andrew J. Gatsis (retired) had this to say:

"Officers on active duty do not wish to jeopardize their military careers, particularly the successful ones who have attained their rank through a combination of ability and adherence to the views of those over them . . . The Army chief of staff and chairman of the Joint Chiefs of Staff have amply demonstrated this . . . Anyone who doubts that the top military brass are not under the gun, only need be reminded of the recall of Gens. Singlaub and Starry when they spoke out against the Administration's policy on U.S. troop withdrawal for Korea and prediction of war with Communist China. Prior chiefs of naval operations, who are now retired and have nothing to lose, disagree with all the present service chiefs and vehemently stand on the position that surrendering this vital artery (Panama Canal) will be extremely detrimental to the effectiveness of military operations."

I have saved the statement of four of these admirals, who served as chiefs of naval operations from 1953 to 1969, until last. They are Admirals Robert B. Carney, Arleigh A. Burke, George W. Anderson and Thomas A. Moorer. Moorer also served as chairman of the Joint Chiefs of Staff from 1970 to 1974. Their statement is:

"Contrary to what we read about the declining strategic and economic value of the canal, the truth is that this inter-oceanic waterway is as important, if not more so, to the U.S. than ever." They pointed out the commercial aspects of the canal. Oil shipped from the Alaskan North Slope will have to be shipped through the canal. During World War II, the Korean War, the Cuban missile crisis and the Vietnam War, the former CNO's stressed "the value of the canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for our Armed Forces.

"The canal provides operational flexibility and rapid mobility. In addition, there are psychological advantages of this power potential." They added, "giving up sovereignty over the canal could threaten our ability to survive.

"The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgement that you (the President) should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone, as provided in the existing treaty."

A TAX DILEMMA: EACH SIDE WITH AN ANSWER—NO SIDE WITH SYMPATHY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. PICKLE. Mr. Speaker, there is a growing problem with our progressive tax rate and how it is perceived by the taxpaying public.

The problem is that more and more American families are two-income families. Many comments could be in order as to the reasons for this, but I want to focus on the tax impact of the two-income family.

Obviously, the two-income family will owe Uncle Sam more on April 15 because the withheld amounts on each spouse's income will not add up to the amount of tax owed on total income. This big bite on April 15 has caused many protests to roll into the Ways and Means Committee about the "unfair," "sexist," Tax Code.

To a lesser extent, members of the committee still receive letters from unmarried people who complain married couples get an unfair tax break.

In a very rough manner, and in a way incorrect, our tax laws break down like this:

First. Married couple, both spouses working, pay the most.

Second. Single taxpayer pays second most.

Third. Married couple, with only one spouse working, pays the least, relative to the others.

Now everyone says this ought not to be; people should pay the same regardless of marital status.

But the last statement is easier said than done.

Roughly, the solution is to either cut revenues sharply, or cut taxes for one class and make the other class pay more.

If this all sounds confusing, it should.

While we were on recess, the Washington Post ran a very good article on this difficult subject. The article explains the situation very well. I insert the article from the Post, written by Mr. Art Pine, to be placed in the RECORD:

"THE MARRIAGE PENALTY" STUMPS TAX REFORMERS

(By Art Pine)

There's a full-fledged row going these days about Uncle Sam's biggest marital problem—the so-called "marriage penalty" imposed on couples by the nation's tax system.

Because of quirks in the tax structure, a man and a woman who both work now pay more in taxes if they marry than they would if they stayed single.

For most couples, the extra tax tab is modest—say, from $30 to $150 a year. For those in the $50,000-a-year income bracket, it can run as high as $1,188.

With a greater proportion of the nation's married women working these days, the problem has grown into a political brouhaha—with more and more young couples protesting the disparity as unfair.

It's especially uncomfortable for President Carter. Throughout his campaign and first few months in the White House, Carter made a point of frowning on couples who live in "sin."

Now that he's in office, the President hardly can appear to ignore a tax situation that critics say tends to discourage marriage. Yet, under present law, a man and woman technically are "better off"—from a tax standpoint—living together than tying the knot.

The problem is, tax experts can see no sure way of eliminating the "marriage penalty" altogether without creating other, more serious inequities in the tax system. Carter already has scrapped one plan for reducing the overtaxation of married couples, and may have to compromise on another.

The difficulty stems from the basic makeup of the tax structure—specifically, that the tax system tries to adhere to several broadly conflicting principles at once:

On one hand, American tradition dictates that the tax system be "progressive"—that is, that higher-income taxpayers pay proportionally more in taxes than those at the lower end of the income scale.

For example, a person earning $30,000 a year should, by rights, have to pay substantially more in taxes than either of two others earning $15,000 each.

At the same time, however, the tax laws say married couples should be treated as though they were a single economic unit—with no distinction between families in which one spouse earns all the money and those where both partners are wage-earners.

Tax experts say it just can't be done without giving way in some area. And the way the tax laws are structured now, it's couples who carry the extra burden.

Take the example of Mike and Joan, each earning $15,000 a year. If they file returns as single persons, their tax is $2,682 each—for a combined total of $5,364. If they marry and file jointly, their taxable income is $30,000—and they pay $6,488 in taxes.

Their penalty for getting maried: $1,124.

In another example, Fred earns $24,000 and Betty earns $6,000. Filing as single persons, they would have to pay taxes of $5,734 and $576 respectively—for a total tax bill of $6,310. If they marry, their taxes rise to $6,488—or $178 more.

The "marriage penalty" problem has been around almost as long as the tax code.

During the first half of the century, married persons all were taxed as though they were single. So, couples with only one spouse earning the money paid higher taxes than two-earner families with the same income.

Then, in 1948, the law was revised to allow income-splitting—taxing couples as though they were two single persons each earning the same amount. But that left single taxpayers paying proportionally more.

In 1971, the law was changed again—this time to ease the "penalty" on single taxpayers. Under the new revisions, taxes for single persons no longer would be more than 20 per cent higher than those for couples.

As the law stands now, both single persons and couples are being overtaxed—though in different ways. Single persons generally pay more in taxes than a married couple with the same income. But marrieds pay more than they would if they were single.

To be sure, tax purists would argue that married couples should be paying somewhat more than they would if they were single. Even if two can't live quite as cheaply as one, they still can live more cheaply per person.

And tax experts question whether the extra $180 a year or so really plays much part in a couple's decision on whether to marry. "Presumably, if there's real love involved," one analyst says, "it'll be strong enough to conquer the extra $180 a year."

Moreover, reducing the marriage penalty could be expensive—at least for the government. A partial solution could cost as much as $1.7 billion in reduced revenues. And any more serious effort could run far higher.

But married taxpayers still are clamoring for greater equity, and policy makers still are hunting for ways to reduce the marriage penalty somewhat.

The Carter administration tried—and scrapped—one proposal: In its tax package of last September, the White House toyed briefly with offering a special deduction of up to $600 for working spouses that would have trimmed the penalty some.

But that idea was jettisoned as too complex and too costly. Instead, the administration hopes to reduce the disparity by replacing the present $35 a person general tax credit and revamping the rate schedule a bit.

Meanwhile, in Washington last week, would-be marrieds suffered another setback when the U.S. Supreme Court turned down a lawsuit that would have challenged the marriage penalty as discriminatory against couples.

The Justice Department had argued that "a marriage-neutral income tax is impossible" and that the government's tax schedule is not unconstitutional, imperfect as it may be.

The court, however, declined any comment on the issue—which may be about all there is to say about redressing this complex bit of tax-law inequity.

As Edwin S. Cohen, former assistant Secretary of the Treasury for tax policy, told Congress a few years ago, you can't eliminate the marriage penalty without giving up the principle of progressivity in the tax code.

And that may mean more to most American couples in the long run than whether it costs more to file a joint return.

IMPROVING SOCIAL STATISTICS FOR HISPANICS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. ROYBAL. Mr. Speaker, in the 94th Congress I was proud, along with my esteemed colleague, Congresswoman PATRICIA SCHROEDER, to have been the prime sponsor of House Joint Resolution 92 (Public Law 94–311) which mandated the improvement of social statistics for our Nation's Hispanic population. In response to my recent query concerning the implementation of this legislation, the Department of Commerce has transmitted the following summary which I would like to share with my colleagues. I welcome this significant first step in implementing Public Law 94–311 and know that we still have a long way to go in developing reliable and accurate statistics on our Nation's second largest minority:

WASHINGTON, D.C.,
December 22, 1977.

Hon. EDWARD R. ROYBAL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROYBAL: I am replying to your letter of November 17, 1977, to the Office of Management and Budget concerning activities which have been undertaken by the various Departments in conjunction with the provisions of P.L. 94–311. As Mr. Harris indicated to you in his letter of December 5, 1977, the responsibility for overseeing these developments was transferred to the new Office of Federal Statistical Policy and Standards, effective October 9, 1977. The information we are forwarding in this letter will provide you with an overview of actions previously taken by the Statistical Policy Division at OMB, our findings from the agency responses to our inquiries, and a brief discussion of strategies for future coordination in this area.

In August of 1976, following enactment of P.L. 94–311, the Office of Management and Budget initiated activities to meet its requirement to "develop a government-wide program for the collection, analysis and publication of data with respect to Americans of Spanish origin or descent." At that time, the Statistical Policy Division, which was assigned the responsibility for fulfilling the OMB mandate, identified major Federal statistical series which could be expected to contribute to fulfilling the requirements of P.L. 94–311, as well as key agencies having

statistical data collection programs which might be affected by the new law.

On September 16, 1976, the Office of Management and Budget convened a meeting of the Federal agencies responsible for major statistical programs affected by the requirements of P.L. 94–311. The agencies participating in our discussions included: the Agriculture Research Service, the Bureau of Labor Statistics, the Bureau of the Census, the Economic Research Service, the Department of Housing and Urban Development, the Employment Standards Administration, the National Center for Education Statistics, the Law Enforcement Assistance Administration, the National Center for Health Statistics, the Office of Research and Statistics—Social Security Administration, and the Office of the Assistant Secretary for Planning and Evaluation—Department of Health, Education, and Welfare. The U.S. Commission on Civil Rights was also represented at the September meeting.

As a follow-up to the interagency meeting, each agency was asked to provide to the Office of Management and Budget certain information which would indicate the current status of activities responsive to the mandate, as well as problems and changes to programs which could be anticipated. More specifically, the agencies were asked to provide:

1. A description of data currently existing which would meet the requirements of the law, including:

(a) the elements which are collected, and the analyses which are produced, as well as those which could be developed using existing data;

(b) the geographic detail of the data;

(c) the periodicity of the data; and

(d) the schedule on which the data could be provided to the Congress.

2. A description of any short-term (FY 1977) actions being taken to respond to the requirements of P.L. 94–311.

3. An assessment of the alternative changes or modifications to ongoing programs which could be made in the long run to enable the agencies to meet the requirements of the law.

The information which was received from the agencies in response to our request was used to assess the status of current activities and to evaluate and monitor additional needs and developments.

Reports from the agencies indicated that concerted attention is being given to meeting the requirements of P.L. 94–311. Initiatives which will significantly enhance Federal Statistical data on the Hispanic population are as follows:

The National Center for Health Statistics has mounted a major effort to encourage the inculsion on an Hispanic identifier on all vital (birth and death) records maintained by State agencies, which are in turn provided to the Federal Government. The activities underway are expected to result in orderly estimates of the Hispanic population in the next few years.

The Bureau of Labor Statistics, in collaboration with the Bureau of the Census, will provide substantially improved data on the social and economic condition of the Hispanic population. The Current Population Survey sample has been increased to provide reliable data on the employment status, occupation, and industry of the Hispanic population, by age and sex. The increase in available data will be complemented by an expanded program of tabulations and publications detailing the status of the Hispanic population nationally, as well as at selected State and SMSA levels.

The Food and Nutrition Service will provide data on participation in the Family Food Assistance Programs and the National School Lunch Program, and the Agricultural Research Service will provide a report on household food consumption patterns, including those of Hispanics, in 1979.

The Department of Housing and Urban Development will continue to collect and publish data on the characteristics of housing and neighborhoods for the Hispanic population.

The Department of Health, Education, and Welfare is currently publishing extensive reports on the bilingualism, school enrollment, handicapping conditions, and financial status of the Hispanic youth, based on the Survey of Income and Education. The Survey of Income and Program Participation currently under development, will collect statistics leading to indicators of the social, and economic conditions of population subgroups, including Hispanic Americans.

The National Longitudinal Survey and the National Assessment of Educational Progress, continuing studies of the National Center for Education Statistics, will provide data on the educational experiences and achievements of Hispanic youth.

Information on the health status, disabilities and use of health care services by the Hispanic population will be provided by the National Center for Health Statistics' Health and Nutrition Examination Survey and Health Interview Survey.

In response to recommendations of the Spanish Advisory Committee, the Bureau of the Census has designed the 1980 Census of Population and Housing to collect information concerning Hispanic origin by various subgroupings (e.g. Mexican, Puerto Rican, Cuban, and other Spanish), from 100 percent of the U.S. population.

The activities highlighted above illustrate the comprehensiveness of Federal Departmental and agency initiatives which will be responsive to the requirements of P.L. 94–311. Additional efforts which are planned or in operation were noted in the reports provided to our office, which can be made available for review by your office.

In addition to these specific programs, the issuance of revised Exhibit F to OMB Circular A–46 will have a continuing, broad impact on the production of data concerning the Hispanic population in Federal statistical efforts. Under the terms of this Exhibit, which is attached for your information, Federal agencies which collect and publish racial and ethnic information must use standard categories and definitions, including a separate designation of persons of Hispanic origin.

In fulfilling its responsibility under P.L. 94–311, our office has encouraged the Federal statistical agencies to build upon existing survey activities, and to improve the publication of information which may already be available. We do not anticipate that a single collection instrument or a single publication could meet the diverse needs of the Hispanic community. Thus, we are working with the responsible agencies to improve and coordinate their programs so that the maximum improvements can be made without imposing substantial increases in respondent burden on the public. We will continue to monitor the progress of the Departments and agencies in meeting the requirements of P.L. 94–311, based on their reports to us as well as under our general authority for the planning and coordination of Federal statistics.

We appreciate having the opportunity to report to you on the progress which has been made to date, and trust that you will let us know your reactions to our findings. Please be assured that we will be available to discuss the individual initiatives with you or other appropriate individuals if you so desire.

Sincerely,

JOSEPH W. DUNCAN,
Director.

AMNESTY INTERNATIONAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. McDONALD. Mr. Speaker, human rights to most Americans mean the rights protected under our Constitution such as freedom of religion, speech, and assembly; protections against cruel and arbitrary action by the Government such as the rights to due process, a public jury trial and prohibition on cruel and unusual punishment; and rights implied in the pursuit of happiness such as rights to travel and reside where one wishes. And yet there are reasonable regulations on the exercise of rights so that, for example, citizens may assemble and picket but not block streets and sidewalks, and during times of disaster and emergency or civil disorder, some rights may be temporarily suspended.

The Marxists have come up with a different list of "human rights" to be guaranteed by governments—the "kennel rights" of food, housing, and a job which are the responsibilities of private citizens under the American constitutional system. In order to attain a Socialist society and provide the "kennel rights," the Marxists are quite willing, and expect to repress all the personal and political human rights. And whenever a government takes necessary steps to protect its citizens from subversion and violence from the Marxist revolutionaries, they raise the cry of "violation of human rights" when in fact they are claiming the so-called right to overthrow legitimate governments and establish their dictatorial bureaucracies which wipe out individual liberties.

Amnesty International (AI) is the most publicized group making charges of violation of human rights. Yet AI's choice of priorities is most significant. Amnesty International's main targets for sweeping allegations of human rights violations are Free World countries who have beer. struggling against Communist-backed subversion and terrorism. In order to lend an aura of credibility to those attacks, AI produces a smaller amount of criticism on the abuses of Third World dictatorships and the Communist totalitarian systems which have crushed virtually every individual human right and provide only minimal "kennel rights" to their serfs.

Among the main targets of AI charges of human rights abuses have been Latin American countries like Chile, Argentina, and Nicaragua. The first two are in process of restructuring after having drawn back from the brink of Communist takeovers, and the third, Nicaragua, is undergoing a destabilization campaign being conducted by the Cuban Communists with Soviet support and help from their leftist allies in the United States.

In Asia the targets include the Philippines and Indonesia where AI is demanding the release of so-called "political prisoners" who previously were involved in Communist attempts to over-

throw the governments. And in Africa, Amnesty International is backing the Soviet-supported Marxist terrorist movements to the extent of calling openly for the overthrow of the South African Government, AI Secretary-General Martin Ennals having publicly declared that no reform or changes would be sufficient to suit AI's extremist demands.

It is interesting that Amnesty International's chief "human rights" targets coincide so exactly with the targets of the "New Foreign Policy" activists from the Marxist new left and academic establishments. For both groups, the targets are anti-Communist governments who have adopted some restrictive measures in response to violence and subversion by the Communists. Both AI and the "new foreign policy" activists reserve criticism of the U.S.S.R. and its satellites mostly for repression against other Communists who simply want to make some minor reforms in the Marxist-Leninist system, like the charter 77 group in Czechoslovakia.

With regard to the "human rights" campaign directed against Latin American governments it must be recalled that prior to his murder the principal coordinator of such pressure both in the streets and on Capitol Hill was the Chilean KGB agent Orlando Letelier, the former Allende government Ambassador to the United States who was director of the Institute for Policy Studies (IPS) Transnational Institute. IPS's concern for human rights is indicated by the fact that its staff includes leaders of terrorist groups like Basker Vashee of the Zimbabwe African People's Union (ZAPU) and Trotskyite terrorist Fourth International leader Tariq Ali.

Amnesty International has not made it a policy to condemn the violation of basic human rights by the terrorists who by murder, atrocity and intimidation attack human beings at random. AI's condemnation is reserved for the necessarily strict measures taken to cope with the Irish Republican Army, the Palestine Liberation Organization, the Baader-Meinhof Gang, the African National Congress, and similar terrorist organizations.

It is interesting that Amnesty International's leadership includes a number of persons associated with what State Department and CIA policymakers like to call the "non-Communist left"—the Braden Doctrine's socialist "third force" of Marxists and social democrats so often backed by the United States over the past 25 years as the "alternative" to either conservatives or the Communists. All too often the "non-Communist left" has turned out to be either infiltrated by the Communists or so weak as to quickly fall under their domination making the "third force" theory the costliest and most colossal failure of American foreign policy.

Amnesty International was formed in 1961 by Peter Benenson, a prominent barrister active in the British Labour Party. AI became embroiled in controversy in 1966 when Benenson, then AI's honorary president, charged that AI's principal executive, Sean MacBride, and other AI supporters were "receiving money from the American Central Intelligence Agency." MacBride was the 1963–70 secretary-general of the International Commission of Jurists which was exposed as having been established by the CIA in opposition to the Soviet international Communist front, the International Association for Democratic Lawyers (IADL). Benenson stated that AI's "political impartiality" might be "corrupted" by MacBride's long involvement with the International Commission of Jurists.

Countercharges were made against Benenson by Polly Toynbee who had been an AI volunteer in Rhodesia that she had letters written by Benenson that documented that much of AI's money for its work in Rhodesia and southern Africa was provided by the British Labour Government. Benenson failed in his move to oust MacBride and his allies and resigned as AI's honorary president at the end of 1966.

Incidentally, MacBride's subsequent work as head of the International Peace Bureau in Geneva and collaboration with the Soviet Union's World Peace Council in supporting Western disarmament and the objectives of the southern African terrorist revolutionary movements show he is no covert champion of liberty and the ideals of Western civilization.

Documentation that Amnesty International's work against the southern African countries was being funded at least in part by government agencies continued. In March 1967, the Swedish Government gave the Swedish AI section 100,000 crowns at its own request with the stipulation that the money be used only in southern Africa. At the same time, the Swedish AI section declined to aid the Estonian and Latvian Amnesty International councils seeking to aid political prisoners held by the U.S.S.R. This has been the pattern of AI activity.

In 1970, AI began its campaign for the release of Indonesian Communists under various restrictions following a violent attempted Communist coup in 1965. With continuing pressure not only from AI but from the United States, Indonesia has recently been pressured into releasing many of those insurgent "political prisoners." Amnesty International describes those Indonesians "political crime" as having had "alleged Communist associations," rather than as having participated in a bloody attempt to overthrow the government.

So too, AI's support of the terrorist Palestine Liberation Organization (PLO) dates to 1970 when the organization complained that the terrorists were receiving bruises during their arrests by Israelis. At that time Anthony Lejeune commented in the Boston Herald-Traveler that—

> The report was compiled by an English businesman, an Irish lawyer and a Norwegian academic: and gullible or not, they were simply repeating—unchecked—stories which Arabs had told them.

Last year a similar incident occurred when London's Times published alleged accounts of Israeli torture of PLO suspects which were fed to the newspaper's reporters by two Communist Israeli women lawyers—RAKAH leader Felicia Langer and Trotskyist Revolutionary Communist League member Lea Tsemel. Subsequent statements by Arabs who had been detained denied torture and said only that being arrested had been rough, which is to be expected since it is not sensible to issue traffic summonses for terrorists who may be armed with AK–47's and hand grenades.

Amnesty International during the Vietnam war presented carefully selected material designed to smear South Vietnam while absolving the North Vietnamese of responsibility for war crimes, violations of the Geneva Conventions and repression.

Amnesty International's 1973 "Report on Torture" presented this account of North Vietnamese treatment of American POW's:

> From the unsatisfactorily few accounts made public, it is not clear who was responsible for the alleged torture and maltreatment—whether it was under any circumstances an administrative policy to torture prisoners—and how widespread such practices were. At least one ex-Detainee recalled that he had been saved from being killed by the local populace among whom he had parachute-landed from his bomber by the intervention of North Vietnamese soldiers (In several cases the worst treatment seems to have been meted out not in prison but by the local people among whom parachuting bomber-pilots found themselves . . . Those who suffered most were apparently those who refused most firmly to reconsider and regret their previous military actions . . . According to a commentary by the North Vietnamese news agency at the beginning of April 1973, "the pilots of United States piratic planes who bombed North Vietnam were criminals." However, the commentary went on, in keeping with their humanitarian policy and for the sake of their friendship with the American people, the Hanoi government treated them well.).

The accounts of their treatment in the "Hanoi Hilton" by U.S. POW's—see for example the book, "When Hell Was in Session," by Adm. Jeremiah Denton, provide consistent documentation that the Vietnamese Communist Party ordered the torture of American POW's—"detainees" to AI—in order to extract propaganda statements and false confessions of war crimes.

Amnesty International's secretary-general since 1970 has been Martin Ennals, formerly a director of Great Britain's National Council for Civil Liberties (NCCL), a counterpart to the American Civil Liberties Union. On January 18, Ennals and Paula Newburg, described as head of Amnesty International's Africa Coordinating Group, held a press conference at the National Press Club to publicize a new report on South Africa. When it was pointed out to Ennals that the Vietnamese Communists admitted to having 40,000 political prisoners in addition to hundreds of thousands of others held in "reeducation" camps and he was asked whether he thought this worse than when the South Vietnamese had jailed Communists and Vietcong, Ennals replied, "We do not make comparisons."

That is a very significant statement: Amnesty International does not make comparisons. The Vietnamese Communists admit to holding 40,000 political prisoners, but Amnesty International called a Washington press conference in which Ennals stated that "We estimate that there are 150 to 200 prisoners of conscience in South Africa." After Ennals read his prepared statement, he added "No reforms in the present structure can be sufficiently far reaching to guarantee human rights in South Africa." It does not take a graduate degree in political science to interpret Ennals' statement as a call for the overthrow of the South African Government since what cannot be "reformed" must be overthrown by force.

During questioning from reporters. Ennals repeated that in South Africa. the entire system of the society and government that is "based on the repression of the rest of the people," but flatly refused to list any specific human rights violations in South Africa as one reporter asked.

Another reporter asked, "Isn't this an unprecedented step that will lead to a call for the overthrow of a government?" Ennals claimed that "It is not our policy to call for the overthrow of a government." But again added, "In other countries one can say that the system is being abused. In South Africa the legal system of the country is itself the instrument of detention. Any suggestions for reform that we could make would be totally inadequate."

The Amnesty International report, "South Africa: Political Imprisonment and Torture," continues the organization's policy of repeating undocumented charges and lurid accounts of abuse of a sensational and morbid variety which doubtless makes AI reports best sellers among the sadist population. But hidden away on page 66 of the report is the following disclaimer:

> Amnesty International cannot vouch for the accuracy of these statements but they appear to be sincere and credible. Many similar allegations have been made by other detainees.

This is similar to previous AI reports like the 1976 attack on Nicaragua in which the lurid accounts were cited to "nameless" sources, and in which AI used excuses like shortness of time to justify their failure to verify the allegations it republished.

Amnesty International Secretary-General Ennals confirmed his organization's double standard on human rights under Communist regimes and in the free world when he was asked by a reporter about the state of human rights in Red China. Ennals replied:

> China has been a very isolated and hypersensitive country. It has not been the most appropriate place for our activity. * * * Since China has joined the U.N., we have been trying to understand China. It requires much preparation. We have to consider timing.

Ennals stated that Amnesty International's principles are "that we will work for the release of anyone detained for his political beliefs and who does not advocate violence."

There is a large contradiction between AI's principles and its actions. Amnesty International's South African report lists among the "unjustly" banned organizations in South Africa the African National Congress (ANC), Pan Africanist Congress (PAC), and two groups led by the late Steve Biko, the Black People's Convention (BPC) and the South African Students Organization (SASO). Amnesty International's list of "political prisoners" in South Africa includes ANC leader Nelson Mandela and PAC founder Robert M. Sobukwe, along with other members of both organizations, the Black Consciousness Movement and SASO.

Amnesty International's report makes no mention of the fact that by the early 1950s, the ANC was under the control of the South African Communist Party (SACP), that the SACP planned and organized ANC's political moves and that the organization continues to be a loyal follower of the Soviet Communist camp. Amnesty also makes no mention of the fact that the PAC split off from the ANC has followed the Maoist variety of Marxism-Leninism.

The AI report says:

> The transition by the ANC and PAC from a non-violent to a violent strategy occurred in the early 1960s. * * * They formed two secret organizations, Umkhonto we Sizwe and Poqo, to act as the military wing of the underground nationalist movement. These organizations engaged in acts of sabotage against white property. * * *

Amnesty International is seriously distorting the truth. Umkhonto we Sizwe and Poqo were the terrorist arms of ANC and PAC respectively. They did not act as the "military wing" of anything. They committed acts of blind terrorism against South Africans of any and all colors and nationalities. A bomb placed in a public place cannot tell whether the flesh it shreds is covered by white, black or brown skin, nor whether it belongs to a man, woman or child.

Amnesty International further states on page 17 of its report that "nationalist leader" and "prisoner of conscience" Nelson Mandela used the 1963 Rivonia Trial "to present a formidable indictment of apartheid (and) was sentenced to life imprisonment." The implication is that Mandela was sentenced for his opposition to apartheid policies. Actually the South African Communist Party was much more frank in the July–September 1964, account of the Rivonia trial published in The African Communist, the SACP's "forum for Marxist-Leninist thought."

The Communist journal admitted that "The police found many confidential documents, including 'Operation Mayibuye,' the Umkonto We Sizwe draft plan for guerrilla warfare." The 1964 African Communist article continued reporting that a tenant of the farm had been arrested, a member of the SACP, had been arrested who had:

> * * * documents in his handwriting indicating that he had been sent abroad on a mission to find whether arms could be obtained for the Umkonto soldiers.
>
> • • • • •
>
> Among the documents discovered at Rivonia were manuscripts in the handwriting of Nelson Mandela, who had found refuge at the farm at one stage of his underground leadership. Next to Chief Lutuli, Mandela has become the best known and most popular of the Congress leaders.
>
> • • • • •
>
> * * * The leaders in the dock * * * disdained to repudiate * * * or to deny the part that some of them had played in Umkonto. * * * "I admit immediately," said Mandela, "That I was one of the persons who helped to form Umkonto We Sizwe, and that I played a prominent role in its affairs until I was arrested in August 1962."
>
> • • • • •
>
> "I do not deny that I planned sabotage," said Mandela, "I did not plan it in a spirit of recklessness, nor because I have any love of violence. I planned it as a result of a claim and sober assessment of the political situation that had arisen * * *."
>
> • • • • •
>
> * * * Mandela vigorously defended the A.N.C. policy of cooperation with the [Communist] Party in the common struggle for national liberation. Leading Communists * * * had served on the National Executive of the A.N.C. This was not surprising, he pointed out. The Party had for very many years fought side by side with the Congress: many Africans equated Communism with Freedom. * * *

In other words, Mandela said in open court, as reported by the South African Communist Party itself, that whenever violence appeared expedient, he would use it. Amnesty International also makes no mention of the 1966 trial of the late Abram Fischer, a white SACP member who admitted during his testimony that the leaders of ANC/Umkonto We Sizwe had assured the SACP that no terrorist actions would take place without prior consultation with the Communist Party. As Fischer stated, "The Congresses (ANC plus the Coloured and Indian Congresses) and the Communist Party did not wish to have their membership held liable for every act of sabotage * * *." Therefore "clearances" from the terrorists' political superiors were necessary.

Steve Biko, the militant leader who died in detention and who has become a cause celebre among leftist and liberal circles, saw his role as trying to unite the underground ANC and PAC Communist movements with the "new left" style "black power" militant groups to form one united national liberation front. A "clandestine" taped interview which Biko made shortly before his arrest. The exchange between Biko and the anonymous interviewer went:

> Question. Since last June something like 400 young blacks were killed . . .
>
> Biko. 499, actually.
>
> Question. 499 . . . And do you think this will not be a deterrent?
>
> Biko. No. I think it has been a very useful weapon in merging the young and old.

So Biko found the deaths in riots which he had helped instigate "a very useful weapon." When asked whether he thought that Soweto-style riots would bring about "a real change of this society," Biko replied:

I see this as only one form of discontent. I'm of the view that the change process is going to be protracted. It depends entirely on the degree to which the Nationalist government is prepared to hold on to power. My own analysis is that they want to hold on to power and fight with their backs to the wall.

This of course is the standard Marxist-Leninist theory of the "protracted struggle" necessary to overthrow the free enterprise system. If a free society does not have the will to fight, the Communists can take over without a struggle—which still does not forestall repression once they have state power.

But was Biko a Marxist? He stated to the interviewer:

We believe it is the duty of the vanguard political movement that brings about change to educate people's outlooks. In the same way that blacks have never lived in a socialist, economic system, they will learn to live in one. In the same way that they've always lived in a racially divided society, they've got to learn to live in a non-racist society. There will be many things to learn, and all these things must be brought to them and explained to the people by the vanguard movement leading the revolution.

Biko's interviewer asked, "When you speak of an egalitarian society, do you mean a socialist one?" Biko replied, "Yes," and explained:

BPC believes in a judicious blending of private enterprise which is *highly* diminished, and state participation in industry and commerce, especially in industries like mining, gold, diamonds, asbestos, and so on—like forestry and, of course, complete ownership of land. Now, in that kind of judicious blending of the two systems, we hope to arrive at a more equitable distribution of wealth.

And on the matter of "armed struggle" and his hopes of unifying ANC, PAC, and his own BCM, Biko stated:

Now, I am a member of the Black Consciousness Movement. I was a member of the BPC before I was banned, and now I have been told, appointed as honorary president of BPC (Black Political Congress). The line of the BPC is to explore as much as possible, non-violent means within the country. That is why we exist. But there are people, and there are many people, who have despaired of the efficency of non-violence as a method. They are of the view that the present nationalist government can be unseated only by people operating a military wing.

I don't know if this is the final answer. In the end there is going to be a total effect of many agencies for change operating in South Africa. I, personally, would like to see fewer groups like ANC, PAC and the Black Consciousness Movement deciding to form one liberation group.

Amnesty International is run from its London offices. AI listed its international officers as follows in the 1975–76 yearbook:

THE AMNESTY INTERNATIONAL REPORT

HONORARY PRESIDENT

Eric Baker, Britain.

INTERNATIONAL EXECUTIVE COMMITTEE 1975–76

Andrew Blane, United States
Dirk Börner, Federal Republic of Germany, Chairman.
Ann Gray, Staff Representative.
Thomas Hammarberg, Sweden, Vice-Chairman.
Alfred Heijder, Netherlands.
Irmgard Hütter, Austria.
Marie-José Protais, France.
Mümtaz Soysal, Turkey.
Kevin White, Ireland, Treasurer.

INTERNATIONAL SECRETARIAT

Martin Ennals, Secretary General.
Hans Ehrenstråle, Deputy Secretary General.
Stephanie Grant, Head of Research (to 30 April 1976).
John Humphreys, Deputy Head of Research, Head of Africa Research.
Martin Enthoven, Executive Secretary.
Mark Grantham, Head of Information and Publications.
Nigel Rodley, Legal Adviser.
Les Haswell, Administrative Manager.
Inger Fahlander, Head of Americas Research (on temporary leave).
Wen-hsien Huang, Head of Asia Research.
Clayton Yeo, Head of Europe Research.
Frederike Knabe, Head of Documentation Center.
Shobhna Shah, Finance Officer.
Dick Oosting, Campaign for the Abolition of Torture.
Sherman Carroll, Campaign for the Abolition of Torture.
Eduardo Mariño, Field Secretary, Latin America.
Richard Reoch, Field Secretary, Asia.

The International Secretariat, which comprises 14 nationalities, has 69 full time staff members—three more than last year—six part time staff and 13 volunteers. The largest unit is the Research Department which, in addition to the Head of Research, has 13 full time researchers, two part time researchers, 12 executive assistants to researchers, 13 secretaries and one copy typist.

PROMOTION DEPARTMENT

Guy Binsfeld, Director.
Jeanne Huberty, Assistant.
Anita Bennett, Assistant, liaison with International Secretariat.

Amnesty International, U.S.A., has a National Advisory Council whose members include folk singer Joan Baez; conductor Leonard Bernstein who used to hold fundraising cocktail parties for the Black Panthers; South African activist lawyer Joel Carlson who lives in New York City; Richard Falk, the Princeton international law professor and associate of both the Institute for World Order and the Institute for Policy Studies who in January 1977 signed a New York Times advertisement defending the Vietnamese Communists for holding "merely" 40,000 political prisoners when many more South Vietnamese could be considered "guilty" of having "collaborated" with the former anti-Communist government; Sanford Gottlieb, the head of the disarmament lobby SANE from the early 1960's until quite recently when he went to head the Common Cause of international relations, New Directions; former CPUSA member Lillian Hellman whose essay "Julia" describes how she served as a courier smuggling funds to the German Communist Party in the 1930's; George Houser, head of the most active U.S. support group for the South African Marxist revolutionaries, the American Committee on Africa; Frank Mankiewicz; Arthur Miller; philanthropist Stewart Mott; Telford Taylor; Nobel Prize winner George Wald; disarmament activist and IPS founder Jerome Wiesner, among others.

Until recently, AIUSA has enjoyed the protective coloration afforded by the membership of what AIUSA's staff described as "America's best-known conservative" William F. Buckley. In his earlier years, he too served with the CIA after probable conditioning in "skulduggery" with Yale's Skull and Bones Society; more recently, he has moved on to the Council on Foreign Relations and other "illuminated" levels of internationalism.

The Amnesty International, U.S.A., Board of Directors is headed by Ramsey Clark, the former U.S. Attorney General who joined with members of the National Lawyers Guild, the U.S. affiliate of the Communist IADL, in an attempt to join the Baader-Meinhof defense team in 1975. In early 1977, Clark traveled to London to appear on behalf of CIA turncoat and self-styled "revolutionary socialist" Philip Agee, then undergoing deportation proceedings. Clark's efforts were to no avail and Agee was deported to Holland on account of his continuing associations with hostile intelligence agents. AIUSA's claims to non-partisanship are also compromised by the presence of Edison Svobgo, one of the leading spokesmen for the Rhodesian Marxist terrorists.

The AIUSA executive director is David R. Hawk who worked at the Washington, D.C., headquarters of the U.S. National Student Association (NSA) in the late 1960's after Sam Brown, now director of ACTION, had "blown the whistle" on covert CIA funding of NSA. In 1969, Hawk and Brown became founders of the Vietnam Moratorium Committee (VMC) which organized on the compuses among liberal-oriented students against U.S. support of the South Vietnamese.

In 1969 and 1970, prior to Sam Brown's closing down the Vietnam Moratorium Committee at the request of the Vietnamese Communists, Hawk was the NSA and VMC representative in the leadership of the Communist Party, U.S.A.-dominated New Mobilization Committee to End the War in Vietnam—New Mobe, as it was called. New Mobe and its successor, the People's Coalition for Peace and Justice (PCPJ) worked with the Soviet-run World Peace Council to develop an illusion of "mass public opinion" in favor of abandoning Indochina to the Communists. New Mobe participated in a number of WPC-organized anti-Vietnam conferences including the May 1969 Stockholm Conference on Vietnam. Amnesty International's "observer" at that meeting was Swedish lawyer Hans Goran Franck a long-time WPC activist who headed the WPC's Commission of Enquiry into the Crimes of the Military Junta in Chile and the earlier WPC Commission of Enquiry into U.S. War Crimes in Vietnam, another propaganda festival on behalf of the Marxist-Leninists. It is noted that Sean MacBride whose ties with the ICJ were such a controversy with Amnesty International back in 1966, is a vice president of the WPC's Continuing Liaison Council of the World Congress of Peace Forces and is still president of the International Peace Bureau.

Americans can best judge the accuracy of Amnesty International's designations of "prisoners of conscience" in the free world by examining the list of "prisoners of conscience" in the United States. The U.S. list includes Gary Tyler, convicted of murder and now serving a life term in Louisiana. Tyler was 16 when he shot another student who was only 13. The real issue is not the crime, the fact that

Gary Tyler's appeals have been rejected by every State court and by the U.S. Supreme Court who could find no error, the fact that Tyler's original death sentence was reduced to life imprisonment, the fact that dozens of private individuals and groups have contributed more than adequate funds to pay for his appeals and that he has had the full advantages of the legal process. The issue is that Tyler and his victim were not of the same race and that AI's bigots presume that all Americans are such racists that no member of a minority group can get a fair trial no matter how much money, legal expertise, and publicity is provided by other Americans.

This is an identical situation to the case of the Wilmington 10, persons convicted on charges of arson and conspiracy for the firebombing of a grocery store during a week of rioting and violence. The campaign to free these 10 people was conducted first by the Communist Party, U.S.A., and its National Alliance Against Racist and Political Repression. Then the Wilmington 10 were picked up as examples of U.S. "political prisoners" by Radio Moscow and TASS, finally AI selected them as leading examples of U.S. "repression." Assorted ill-formed remarks by members of the administration added to the snowball so that the Governor of North Carolina felt compelled to reduce the sentences of these convicted arsonists so that they can be paroled by the end of this year. Perhaps they can then work with AI's "prisoner of conscience" who is a former Black Panther serving a life term for killing a police officer with a bomb.

The effect of Amnesty International's campaigns is to tell criminals that so long as they are minority group members they can commit violent felonies with impunity; and to tell totalitarian revolutionaries that so long as their crimes have a "political" motivation—not merely profit—they too should be freed.

I hope that my colleagues will greet Amnesty International's future pronouncements with the skepticism they deserve.

SMALL BUSINESS TAX RELIEF ACT OF 1978 (H.R. 10540)

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. SCHULZE. Mr. Speaker, as a former small businessman, I am keenly sympathetic to those who aspire to own their own business. It should be the role of Government to facilitate and encourage these aspirations since successful commercial ventures are beneficial to the participant, the consumer, and the economy in general. Moreover, they generate additional tax revenues. Ironically, it is often the tax code itself which inhibits the success or retards the growth of small business ventures in our Nation.

Once a business survives the initial incubation period, it should be encouraged financially to expand, diversify, and strengthen its balance sheet. The present system of small business taxation does not encourage these goals. In many instances, profit is foregone and expansion postponed due to the tax implications of these actions.

Therefore, I am today introducing the Small Business Tax Relief Act of 1978 which will encourage the formation of small business ventures and leave more aftertax dollars in the hands of small businessmen for expansion and diversification.

The Small Business Tax Relief Act of 1978 contains six sections.

Section 1 allows the small businessman to choose the method of accounting, either cash or accrual, which he believes will be more beneficial. Currently there is a hidden tax which is brought about by the effect of inflation on inventory. Currently, the small business having inventory has no choice but to use the accrual method of accounting which reflects the appreciation in the value of inventory due, primarily, to inflation. Thus, the small businessman's tax bill is also inflated. Under this section of my proposed bill, any appreciation in inventory would not have to be shown until such time as there is a cash sale providing the proceeds with which to pay the tax.

Section 2 increases the corporate surtax exemption and provides for an overall corporate rate reduction over a 4-year period, as indicated below:

PRESENT LAW

[In percent]

Taxable income	Rate of tax
$0–$25,000	20
$25,000–$50,000	22
$50,000–	48

SMALL BUSINESS TAX RELIEF ACT OF 1978

[In percent]

Taxable income	Rate of tax				
	1st year	2d year	3d year	4th year	5th year
$0–$50,000	20	18	16	15	14
$50,000–$150,000	22	20	18	17	16
$150,000–	48	46	44	42	40

Section 3 grants similar tax treatment to the sale of a sole proprietorship as is currently afforded to the sale of a personal residence. Namely, if a small businessman operating as a sole proprietor sells his entire business interest and reinvests the proceeds in another small business venture within 18 months, no gain will be recognized at that time. If this procedure is followed until age 55, all of the gain accumulated over the years will be forgiven.

Section 4 of the Small Business Tax Relief Act of 1978 provides for the rapid amortization, over a 36-month period, of federally required expenditures to plant and equipment. The aim of this provision is to give a rapid writeoff to businesses forced to comply with Federal laws or regulations such as pollution control, OSHA, HEW rules for the handicapped, and so forth. To qualify for rapid amortization such changes would have to be certified by the particular Federal agency as being in compliance with the law and of a type which does not significantly increase output or capacity. The provision would not apply to new facilities.

Section 5 of the bill simply increases the amount which may be claimed for additional first year depreciation from the existing 20 percent of the first $10,000—$20,000 if married filing jointly—of investment to 25 percent of the first $25,000—$50,000 if married filing jointly—of investment. This provision is designed primarily to benefit the small businessman by allowing him to recoup a greater part of his investment via reduced tax liability.

Section 6 grants a 15 percent investment tax credit to those businesses which modernize or expand their facilities or which relocate within 50 miles of their existing place of business. The credit would be limited to the first $3 million of qualifying expenditures per year and would extend for a period of 10 years. In short, for each $1 million of qualified expenditures, a corporation could credit $150,000 against its final income tax liability with a maximum credit of $450,000 if $3 million had been spent during the year. Existing law would also be changed to allow the credit to apply to the cost of a building and its structural components including any plant or facility which is used by the taxpayer in a trade or business of manufacturing or producing goods. Many small and medium sized corporations which seek to modernize or to relocate will be able to take advantage of the incentives offered by this provision without abandoning large numbers of trained and productive employees. In addition, there is a significant incentive to expand operations which will generate additional jobs in the same geographical area.

The existing business tax structure has a far greater impact on the new and developing commercial venture than on the established corporation. Tax policy and tax incentives often play a critical role in the success or failure of small business.

I ask my colleagues to remember that the small businessman is an integral part of the economic and societal fabric of our Nation. Virtually every large American corporation had its beginnings in the aspirations and ideas of individuals who started as small businessmen. It is also instructive to note that the corporate giants of today experienced their most significant growth at a time when there was no tax on corporate profits on only a minimal tax.

The need to assist the small businessman is particularly great at this time. The administration's budget, which has just been released, indicates a very significant cut in the allocation of funds to the Small Business Administration. In view of the fact that approximately 87 percent of the commercial ventures in our Nation can be classified as small business, it is not an overstatement to say that the survival and growth of small business is a necessary ingredient in the vitality of our economic system.

For these reasons and others, I am today introducing the Small Business Tax Relief Act of 1978.

PROFITS AND PRODUCTIVITY ESSENTIAL TO A FREE ECONOMY

Hon. John E. "Jack" Cunningham
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. CUNNINGHAM. Mr. Speaker, when we look at corporate profits, we are looking not only at large international companies but at the small business with just a few employees. All businesses are a reflection of their employees. Their growth, successes, or failures depend on contributions of individual workers and management. In many large companies, the pension plans of most working people are intricately tied to the viability of their own company.

It is we the people who own American businesses today. And it is for that reason that profits and productivity in the private sector need to be preserved.

Recently, I was sent an excellent article on the role of profits by Dr. Ansel McDowell of Lake Jackson, Tex. It speaks of the experiences of one company, but its observations are as true for the mom-and-pop operation as for our Nation's largest firm.

I recommend the comments of Herbert H. Lyon, which appeared in the October 28, 1977, edition of Dow Today, to our Nation's policymakers as well as those concerned with the vital role played by the American worker in our free enterprise economy:

COMMENTS OF MR. HERBERT H. LYON

The other day I ran across some instructions that Herbert Dow wrote out for the company supervisors of another day. They were issued in an April 1918 letter, at the time the working schedule at the Midland plant was being reduced from 10 hours per day to nine. I think they are both amusing and instructive.

DOW MANAGEMENT, CIRCA 1918

In part, Dow's letter reads:

"We fully believe that by strict attention to duty on the part of every man, and by intelligent and more careful supervision on your part, it is possible to turn out as much or more work in nine hours than has heretofore been done in our plant in 10. Consequently, the company will not be losing money by making this move . . .

"Realizing that the success of this movement depends primarily on you as the heads of your individual crews, we wish to place a few suggestions before you for your guidance and what we think we will be for the good of the plant as a whole.

"We ask you to get squarely behind this new schedule and see that it is strictly observed. Be on the job at 7 a.m. yourself at least two-thirds of the time—20 out of 30 times a month . . . Personally see that everything starts with a vim right after the starting whistle blows. Do the same thing at 12:30 p.m. Do not make a habit of going home early for lunch, nor of leaving the plant promptly or before 5 p.m.

"Stay in the plant and right among your men at these times at least 20 out of 30 times a month. See that they are working right up to the time the whistle blows . . ."

It may not seem to you that requiring supervisors to be present at the starting whistle only 20 times out of 30 amounted to very much. However, you have to remember that supervisors spent many evenings at the plant working on some problem or other, and Herbert Dow knew this.

"In view of the fact that you have to be in the plant at odd hours to look after breakdowns, etc.," Dow's letter says, "you are not expected to observe this schedule in its entirety. Neither do we expect you to be regular in the occasions on which you depart from the schedule.

"That is, do not come down every morning at 8 or 9 a.m., although it is permissible to do so when the occasion warrants it. Do not come into the plant habitually a few minutes late. If you must be late, make it good and late.

"Do not make a habit of going home a few minutes early at noon or night, although you may do so occasionally. While you may take an afternoon to attend to personal affairs once in a while, do not pick on any one afternoon and so let it become known that you will not be in the plant that afternoon.

"To sum up, do not become regular in your irregularities. Keep your men guessing as to whether you will be absent or right on the job morning, noon or night.

"For the good of the plant as a whole, we want the men to know that you are observing the same hours as they are the biggest part of the time, and we do not want them to know when you are likely not to be on hand."

A good deal has changed in the last 60 years, but Herbert Dow's advice is still completely sound in its managerial approach and philosophy.

We learn several lessons from this letter. One is that Dow managers must set an example for other employees. Another is that high productivity is a key element of success. Still another is that these ingredients are necessary and important because they are prerequisites for a profitable operation.

It also is significant what Herbert Dow did not say in this letter. He did not say, "we're moving from a 10 hour workday to a nine hour day, so we're going to hire more people to make up the difference." The philosophy of a lean and highly productive work force was part of the basic Dow Chemical makeup even back then.

THE UNFASHIONABLE NECESSITY

There is one special aspect of Herbert Dow's philosophy that I'd like to discuss with you, and that is his emphasis on making money.

You will notice that one of his very first concerns in shortening the workday from 10 hours to nine, and the reason for writing these instructions to the supervisors, was that "the company will not be losing money by making this move."

I'm sure we all are quite aware of the long tradition of profit improvement in this company. It is a tradition that has continued from one chief executive to the next and it continues today, as strong as ever, with Zoltan Merszei.

Profits seem to have become unfashionable. They are not perceived by many people in government and university life as being very necessary.

If the federal government can operate with an annual deficit of $75 billion, as our friends in Washington have been doing lately, why should anyone in any organization be concerned about working at an actual profit? Deficit operation becomes a kind of mindset.

So, I want to talk to you about whether Dow's profits are too high. For that matter, why do we need any profit at all? I'm sure that as supervisors, you at least occasionally hear questions such as, "Why does Dow always worry so much about profits?"

FANTASY . . . AND FACT

About 1965, a public opinion poll was taken in which people were asked how much profit the average U.S.A. company makes on a dollar of sales.

The average of the answers came out at 28 percent, and the public said that was entirely too high. They were asked what they thought a reasonable bottom-line, after-tax profit should be, and they said about 10 cents on the dollar would be reasonable.

At that time, corporate profit margins were actually averaging between four and five percent.

In the dozen years since that poll, many companies have undertaken educational campaigns and advertising in newspapers and television designed to let people know that business profits are not as high as they might think.

However, when the poll was repeated in 1975, results showed that 10 years of education and advertising efforts weren't too successful. That time around, the public said they thought the average company makes 33 cents on the dollar. But they still thought 10 cents on the dollar was where it ought to be. The fact of the matter, of course, is that over the last 20 years the margin of the average U.S.A. company has never been higher than 5.6 cents on the dollar, and the 20-year average has been 4.3 cents.

Over these years Dow, in contrast, has done significantly better than the average, as I'm sure we all know. We are not satisfied to be a merely average company, and I hope we never will be.

Dow's profits in 1976 amounted to 10.8 cents on the dollar, and that is just about where the general public feels a good company should be.

If we look at Dow earnings over the last 50 years, we went from $1 million in 1926 to $612.8 million last year—a 50-year compounded growth rate of 13.7 percent. I don't think anyone would argue with a statement that that's a sensational record of profit improvement. It is also the true measure of Dow's success as a company.

WHERE DO THEY GO?

But to understand whether profits are too high or too low, I think we have to understand what they are used for. Who gets them? Where do they go?

I think you know that a large chunk of what remains after the government takes out its taxes is returned to the shareholders of Dow stock, and this includes a large percentage of Dow employees.

The rest of the profit is plowed back into the company in the form of new plants, expanded plants, and modern equipment. New and modern plants and equipment make for a higher rate of productivity, and this helps to hold down inflation.

We all know that it is profits which enable us to generate new and better-paying jobs. It is a strange quirk that many people on the contrary, believe profits mean fewer jobs. they reason that high profits mean a company could afford more people on the payroll.

The reverse actually is true. A company needs profits to provide jobs because it takes many millions of dollars to provide the plant and equipment that make jobs.

It would be short-sighted and self-defeating to spend our earnings simply to put more people on the payroll without plant and equipment to back them up. These would be short term or marginal jobs—not the soundly based jobs and long term growth we seek. The only way to provide sound; long term jobs is investment; and investment can only come in the long term from profits.

We in Dow are constantly walking a tightrope in this sense. We try to keep the work force lean, so we can produce more efficiently and cheaply, stay ahead of our competition and generate profits. As we do this, we gen-

erate more, sounder and better paying jobs for Dow people; but it's the indirect, rather than the direct, thrust of our program.

There is a lot of individual satisfaction and happiness tied in with doing this. We have worked hard and successfully to avoid layoffs, and to avoid sudden ups and downs in our payrolls. I believe Dow people are happier and more enthusiastic about working for the company as a result of these concerns.

Dow people don't operate in an atmosphere of gloom and doom, even when the company has tough going, as we have lately. There is complete confidence by our people, I believe, that we will come through the current time of testing as we have come through others, and that the company will continue to grow and prosper.

I think Dow people are doing a great job today under rather adverse conditions, and we should congratulate them on the way they are performing in the face of many discouraging factors—a soggy economy, creeping inflation, rising taxes, and other negatives. We have good people. They like a challenge, and they like to respond to it.

NO PROFIT . . . NO RESEARCH

There is one other vital thrust of the profit system that supports and buttresses all the other benefits: it provides us the funds to conduct our research programs.

No profit, no research. It's as simple as that. And if we didn't have research we wouldn't and couldn't develop new products, and we'd stop growing right there. We'd become a static or even declining company, instead of a healthy, growing one.

You read in the newspapers about how the profits (meaning profit dollars) of big companies have grown by leaps and bounds in recent years. These figures are highly misleading because of the impact of inflation.

For example, the total profits of manufacturing concerns in the U.S.A. in 1965 were $38.2 billion. By 1974 they had zoomed up to $64.5 billion, and that seems like a whopping increase.

But if you take out the inflation, and use replacement cost rather than original cost, you find that the 1974 profits of these firms were really only $18.1 billion—an actual decline of about 50 percent from the profit level of 1965.

Looking at it a different way, the after-tax profits of U.S.A. manufacturing concerns, from 1960 to 1970 averaged five percent of sales. And, contrary to the reports, from 1970 to 1974 they averaged even less—4.4 percent.

So a very good case can be made that corporate profits have been declining, even while they may appear at first glance to be going up. This is a matter of great concern to most managements these days.

"WE NEVER STOP BUILDING"

Let's go now to the specific case of Dow. As you know, we have continued a very heavy rate of spending for new plant in recent years, even though much of the chemical industry stopped building.

We now are spending more than $1 billion per year. As a result, we have an inventory of cheaper capacity for later years, when demand begins to mushroom again. This is when the competition will have to build new capacity with more expensive dollars.

You may remember former Dow board chairman Earl Bennett's comment that "we build in the good years to keep up with demand, and we build in the lean years to get ready for the good years; so we never stop building."

The U.S.A. Government is estimating that industry will need to invest $4 to $4.5 trillion over the next 10 years to keep pace with the demands on it.

That obviously is an enormous amount of money. It is triple the amount U.S.A. industry as a whole has invested in the past 10 years. To sustain such a rate of investment in new facilities means business in general will need much higher profit levels than have prevailed in recent years.

What is true for U.S.A. industry in general is even more specifically true for Dow—we are going to require even higher profits in the years ahead.

Our capital spending at a billion-dollar annual rate is not just something we'll be doing for a year or two or three until we get our current building program completed. Rather, it is a steady rate of growth that we consider optimum for our times and our needs.

It will not stop or slow because the opportunities for Dow are not about to run out. In fact, we constantly have a much longer list of good opportunities than we currently can handle. Our spending rate will undoubtedly rise over the years in a long term upward trend.

NEEDS AND DEMANDS OF 120,000

We must consider also the needs and demands of our approximately 120,000 shareholders. We have a proud record of having paid dividends since 1911 without ever having reduced them—and we are the only industrial company that can make that claim. We have increased our dividend every year for the past 18, and we'd certainly like to continue that record—in fact, I'm sure our shareholders expect us to continue it.

We can maintain and expand upon these records only if our profits continue to grow. Otherwise we will have big problems in meeting our commitments—commitments to the continued growth of our dividends, growth in jobs and job security, growth in our contribution to a growing society.

Your theme at this meeting, the free enterprise system, is a good and timely topic and one that is vital to the management of our company. The core concept of free enterprise is the profit motive, and the profit motive is equally the core concept of The Dow Chemical Company.

Times will change, and will bring with them a wide variety of new things, new ideas, and startling new ways of doing things. But one thing, I predict, that will never change at Dow is our love affair with the profit motive. It makes possible everything else we do at and through Dow.

When it is misunderstood, we should be able to explain it. When it is allowed to languish, we should help to revise it. When it is attacked, we should defend it.

Dow people should in all cases be prominent admirers of the profit motive. I hope we always will be.

THE B–1 BOMBER

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. CARR. Mr. Speaker, 2 days ago Congressman MATTHEW RINALDO inserted a letter to the editor regarding the B–1 which stated, among other things, that (a) the B–1 flies supersonic at low altitude, (b) Soviet killer submarines are at all times following our missile submarines, and (c) very few Polaris submarines would survive a Soviet attack.

I don't intend to make a big deal out of it, but just to set the record straight, (a) it can't, (b) they can't and don't, and (c) essentially all ships at sea would.

SPI—A BAD IDEA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. ASHBROOK. Mr. Speaker, I have come to expect that all too often Federal bureaucrats come up with bad ideas. One of the worst ideas I have heard in some time, however, is that proposed by Secretary of Commerce Juanita Kreps.

Secretary Kreps has announced her intention to issue a periodical report called the corporate social performance index. As the name implies, the SPI would rate corporations on their "social performance." In the words of Secretary Kreps:

By assisting businesses in evaluating their own performance, we can help to ensure that corporations get credit for the constructive things they are doing. This index would also allow those companies who are leaders in promoting the public interest to bring about an improvement in the behavior of less progressive firms.

The SPI has an incredible potential for abuse. Do we want the Federal Government involving itself in a project to rate corporations? And what criteria will be used in determining whether a company is promoting something as nebulous as the social good? Can the criteria actually be fair to all?

Marvin Stone, writing in the January 9 U.S. News & World Report, raises the specter of misuse. According to Stone:

Worse still is the possible outcome that occurs to those of us who have lived long enough to see the confidential Social Security number made public for multiple purposes, FBI files invaded and the records of the Internal Revenue Service raided by politicians. Granted the purity of intent in which the SPI system is created, may not this information too, in the future, be turned to new uses?

What, in some later decade, is to prevent it from conversion to a guide when contracts or punishments are to be meted out?

The SPI is a bad idea. It should be abandoned. Following is the full text of Mr. Stone's article:

[From U.S. News & World Report, Jan. 9, 1978]

A BUREAUCRATIC BRAINSTORM

(By Marvin Stone)

After a generation of experience with bugging, badgering and other forms of interference by Washington, Americans can be pardoned for being suspicious of any new bureaucratic scheme to gather and publish information about them.

All such proposals should be examined with a critical eye, and that goes for the plan advanced recently by Secretary of Commerce Juanita Kreps. She is setting up a system to issue a periodical report called the corporate Social Performance Index. That's SPI for short.

Rightly or wrongly, the very name of this enterprise seems calculated to scare the day-

lights out of businessmen. They already are worn out with rising social pressures—of consumerism, egalitarianism and of course environmentalism, accompanied by endless investigation and form filling.

Now, it seems, all of the isms are to be put into an index. And little reassurance comes from Secretary Kreps's language:

"By assisting businesses in evaluating their own performance, we can help to ensure that corporations get credit for the constructive things they are doing. This index would also allow those companies who are leaders in promoting the public interest to bring about an improvement in the behavior of less progressive firms."

It may be churlish to wonder if the Secretary can know just how bad all this SPI-ing sounds. But—to make matters worse—she adds that corporations, by co-operating in the activity, will avoid heavier regulation. To this, one member of Congress retorts:

"Blackmail."

To do Kreps justice, SPI is part of an effort to carry out a worthy pledge she made on taking office. She said that, despite her business connections, she would serve all the people.

Moreover, when you interview the bureaucrats assigned to the index, you find them with only the best intentions. To begin, they are working with volunteer business firms in devising "a mechanism companies could use to assess their performance and its social consequences. Both what the index will look like ultimately and what is considered fair will depend in part on what the companies come up with." It still may be asked, however, who will be the final judge of fairness? Involved will be things like hiring practices, responsiveness to consumers and care for the environment.

The resulting set of criteria will be furnished to companies that want to evaluate themselves. If they then wish, and only if they wish, they will send back their reports to the Commerce Department.

We are assured that the Department will not issue grades or rate companies on their performance, good or bad; will not go out and investigate, and will not extract information from other agencies for purposes of the index.

Good principles all, and it is to be hoped that they will never be abandoned. But the indexers may "pull together what companies have done and make that available."

Obviously companies that have failed to do the things that are indexed will suffer by comparison. Maybe they should suffer, but then again, maybe they should not. Once more, are the criteria fair to all?

Worse still is the possible outcome that occurs to those of us who have lived long enough to see the confidential Social Security number made public for multiple purposes, FBI files invaded and the reports of the Internal Revenue Service raided by politicians. Granted the purity of intent in which the SPI system is created, may not this information too, in the future, be turned to new uses?

What, in some later decade is to prevent it from conversion to a guide when contracts or punishments are to be meted out?

SPI needs watching.

ROBERT D. MURPHY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. ZABLOCKI. Mr. Speaker, America has been blessed throughout its history by the services of men of great talent and strength who dedicated their lives to their country. The name of Robert D. Murphy stands high on this list.

It was my good fortune for many years to know Bob Murphy as a friend and as a Government official. On the many occasions of our association, I can never recall that he lost his good humor, or his sense of purpose about accomplishing the task at hand in the best interest of the United States.

Bob was one of those individuals of great capacity and vigor who would have been a success in any endeavor he chose. One might say that he was a success from the start, having been born in Milwaukee. He surely would have been a success in private practice as a promising young lawyer. But fortunately for us all, he chose to serve his country in the Diplomatic Service and rose through career ranks to become one of our most distinguished Ambassadors in a crucial period in international affairs.

Murphy is justly famed for his skillful role in World War II as a "diplomat among warriors", which helped to save lives and advance the Allied cause as our Armed Forces moved forward. He deserves further credit for his firmness during the difficult postwar days of Soviet pressures against West Germany, and for his outstanding performance in various other assignments. It is but natural that successive Presidents should have turned to him for advice and special undertakings over the years.

It was my privilege to have worked many hours with Bob on one of his post-retirement tasks, as a member of the Commission on the Organization of the Government for the Conduct of Foreign Policy, which he headed. Another of his recent Presidentially appointed assignments which he performed with distinction was that of chairing the Board of Intelligence Oversight at a time of national reassessment of our foreign intelligence system.

We grieve at Bob Murphy's passing. We have gratitude for all he has done.

LOCALLY DEVELOPED EDUCATIONAL PROGRAM

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. RHODES. Mr. Speaker, the U.S. Office of Education has announced an innovative education project in Arizona schools which merits the attention of my colleagues in the House. For the benefit of the Members of Congress and those interested in educational programs, I am pleased to insert the text of the press release at this point in the RECORD:

PRESS RELEASE, JANUARY 1978

(This article describes one of many locally developed education programs recognized as successful by the U.S. Office of Education. A more detailed story may be obtained by visiting the project.)

It is often said that variety is the spice of life. In Arizona, an innovative education project called ACIL is providing variety for both teachers and students.

ACIL stands for Arizona Consortium for Individualized Learning. Its techniques are used in 69 elementary schools around the State—schools in suburban, rural, or inner city locations; schools serving Indians, Chicanos, blacks, and Anglos. In fact, much of ACIL's appeal is that it can be tailored to meet local needs whatever they may be.

The program began 4 years ago using techniques developed by an education program in Utah—the Utah System Approach to Individualized Learning. ACIL has since developed into a practical way to individualize instruction. Its techniques can be used in any existing classroom without additional teachers, materials, or money.

It was this adaptability that attracted the McNary School District, located on an Indian reservation in Arizona's White Mountains, to ACIL. The school district is small, with only one school enrolling 175 students in grades K–12. The children are Indian, black, and Chicano.

Because the students came from such varied backgrounds, the school needed help in meeting their varied needs. Also it was so isolated, school personnel found it difficult to keep in touch with other educators. It took an entire day to travel to the reservation and back.

Then the school superintendent attended one of the seminars that ACIL staffers held around the State, and help was on the way.

As Leon Webb, ACIL director, recalls: "We started out by visiting the school and its staff to see their situation and understand more about their problems. Then, with help from the State department of education, we hit upon the idea of conducting some of the training sessions via an amplified telephone system. In this way we could talk to a whole room of teachers at once. The two-way hookup enabled us to carry on a full-fledged training session without actually going to the school."

In addition, the ACIL staff made videotapes and sent them to the school for use as training films. Charts, transparencies, and activity plans were exchanged. On-site seminars also were conducted.

But rural schools are not the only ones that benefit from ACIL's expertise. The program also works well with inner city schools. Phoenix's Dunbar Elementary School which serves students from low-income housing projects is one example. ACIL staffers helped train its teachers so they could better relate to the students and provide challenging learning programs. Students now enjoy working at their own pace—either individually or in groups. And they are learning—math and reading achievement has improved substantially under this flexible, personalized system. And discipline problems have been greatly reduced.

As ACIL's assistant director Theresa Howard points out, "We're not only interested in math and reading scores. We want to improve attitudes and change the atmosphere in the classroom."

And many students' attitudes have improved thanks to ACIL. Take Maria. Before ACIL came to her school, she walked around the halls with her head hanging down. The other children made fun of her and called her names. She lacked self-confidence.

ACIL's individualized approach gave her the boost she needed. A recent poem she wrote began: "I am me. What a wonderful person to be."

Though ACIL has scored well with children, teachers also give it high grades. One teacher using the ACIL approach for the first time remarked, "This is the most exciting year I have ever taught—and I've taught 34 of them!"

ACIL staffers are thankful for the backing they have received from teachers—and principals too. According to Dr. Howard, "We've seen a real change in our principals since ACIL started. They have become true instructional leaders. Without their involvement and total dedication, we could not have been as successful."

ACIL's success has attracted a panel of experts from HEW's Education Division as well. These educators have named the program exemplary and worthy of duplication—one of 200 such education programs in the Nation.

SPREADING THE CROSBY TOUCH FROM THE ROCKY MOUNTAINS TO MANHATTAN

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. LUJAN. Mr. Speaker, the State of New Mexico takes pride in the number and variety of contributions it makes to our great Nation. An article in the New York Times on New Year's Day calls our attention to an individual and an institution responsible for a large measure of New Mexico's place of importance in the field of the arts and culture. The subject of the article is the highly distinguished general director of the Santa Fe Opera, Mr. John O. Crosby, who for over 20 years has brought to the people of our State, and to visitors from across the country and around the world, "festival opera of the highest quality."

The Times article, entitled "Spreading the Crosby Touch From the Rocky Mountains to Manhattan," was written by Richard M. Braun. As Mr. Braun points out, Mr. Crosby has assumed a leadership role of truly singular importance to the arts in America. In addition to his continuing superb direction of the Santa Fe Opera, he has recently become president of both the Manhattan School of Music—"the largest private conservatory in the Nation"—and Opera America, the "umbrella" service organization of 45 American and 4 Canadian opera companies. Mr. Crosby's achievements on behalf of the arts have been further enhanced by his key role in establishing the American Arts Alliance. The alliance represents "opera and dance companies, symphony orchestras, nonprofit professional theatres, and museums of art," and thus brings "together five separate disciplines to speak with one voice" on matters of interest to the American arts community.

Mr. Speaker, in order that my colleagues may be better acquainted with this distinguished leader of American cultural life, as well as with the excellent opera company which brings such pride and joy to the people of Santa Fe and New Mexico, I insert Mr. Braun's fine article be included at this point in the RECORD.

[From the New York Times, Jan. 1, 1978]

SPREADING THE CROSBY TOUCH FROM THE ROCKY MOUNTAINS TO MANHATTAN

(By Richard M. Braun)

John O. Crosby is that rare commodity in the world of opera—the conductor-impresario-administrator, all in one neat package. For years he was a cherished institution in the Southwest. As of late, the Crosby touch has spread to other parts of the country, including New York, where he is president of the Manhattan School of Music and Opera America, which holds its annual conferences here this week at the St. Regis Hotel.

For 20 years Mr. Crosby's principal occupation was that of general director and factotum of the Santa Fe Opera, the highly esteemed summer festival company he founded in 1957 on 10 acres of wilderness in the Rocky Mountains of New Mexico. Each summer, between July and August, the festival has lured more than 55,000 operagoers and music critics from every corner of the United States and Europe. What made this annual pilgrimage remarkable is that the faithful came to that remote outpost not to worship superstars but to revel in opera, pure and simple.

Over the years, Santa Fe came to mean quality and outstanding ensemble work, performed by fresh faces and voices. Visitors won't hear Placido Domingo or Ileana Cotrubus, but they will sample up and coming artists like Clamma Dale as Tosca and Neil Shicoff as Lenski, two singers who will be featured next summer.

Another unique feature about the Santa Fe is its repertory, a Crosby alchemy that might be described as follows: a revival of a rarely-heard opera from the past, a world or American premiere of a contemporary work and three box-office favorites, all staged with originality and professionalism.

"At its best," wrote Peter G. Davis in the New York Times at the conclusion of last summer's season, "Santa Fe means festival opera of the highest quality."

Until two years ago, the New York-born Mr. Crosby busied himself nurturing his "miracle in the desert," as his opera house, five miles north of Santa Fe, has been dubbed. When he wasn't involved in artistic matters, he was donor-hunting or in his office balancing budgets, at which he is reputedly a master. For seven consecutive years, the company has been operating in the black.

Then, in 1975, he took on the presidency of Opera America, the information-sharing, production-pooling organization of 43 opera companies in the United States and Canada, which at the time was in need of a manager with the know-how to bail out the then five-year-old non-profit group out of its own financial bind.

Besides the routine how-to seminars at Opera America's meetings this week (mostly how to save money) and committee reports, the crowded agenda includes three afternoons of national auditions by aspiring young singers before an intimidating audience of general managers from every opera house of any stature on the North American continent.

A spin-off of Mr. Crosby's tenure as Opera America president was the creation recently of the American Arts Alliance, of which he is a member of the board. This group, representing opera and dance companies, symphony orchestras, nonprofit professional theaters and museums of art, will function as a sort of arts lobby in Washington, D.C., campaigning vigorously for government subsidy.

If Mr. Crosby achieved anything here, it was in bringing together five separate disciplines to speak with one voice—no mean feat.

Eighteen months ago, Mr. Crosby took on the job which some might have likened to a millstone around the 51-year-old impresario's neck. He accepted the post of president of the Manhattan School of Music, the largest private conservatory in the nation and one of the more financially beleaguered.

As president, however, he had no intention of giving up either the tumbleweed of New Mexico or the reins of the Santa Fe Opera. He merely readjusted his schedule and began dividing his time between New York and New Mexico, with intervals of talent scouting in Europe and elsewhere and business trips in connection with his duties as spokesman for the opera industry.

One morning recently, Mr. Crosby sat down in his office on the parlor floor of his splendid East Side townhouse that is now his residence and headquarters, and discussed his many activities, including the progress he has made at the Manhattan School of Music and the 1978 Santa Fe season.

When he assumed the presidency of the conservatory, he said, the school had been running exorbitant deficits for six consecutive years. Expenses were being met by dipping into the institution's unrestricted cash reserves. Unfortunately, this was the only way the school was able to meet expenses, and after six years the reserves had been depleted by more than half, leaving only $2 million for emergencies. Mr. Crosby calculated that the Manhattan School of Music, unless deficits were halted, had about two-and-a-half years of life left in it.

"Most of my first year and a half was devoted to seeing how we could stop those deficits," he explained. "During that period we got the deficit down considerably. With some hard work, it's reasonable to assume we'll come in with a balanced budget this year. Of course, I could be off $50,000 or $60,000." Mr. Crosby is not one to promise more than he can realistically deliver.

To bring the deficit under control, he explained, an efficiency study was conducted to determine ways and means of reducing operating costs (utilities alone accounted for $124,000 a year). Tuition was increased. Dead wood was eliminated. Enrollment was cut, from 725 in the college to 660.

"We had so many students we couldn't get them into the practice halls," he said. "The pianos were in use constantly and the tuners couldn't get to them. Students took out their frustrations finally by vandalizing the instruments."

Another measure was the establishment of quotas on instruments. "No one's being pushed out of windows, yet," he said. "We still need saxophones. But obviously when a student can't get into an orchestral rehearsal because there's no room for him in the string section, then I have an obligation to the student and to his parents to say there's simply no room for another violinist."

When he had reduced and balanced the enrollment, Mr. Crosby then got down to the nitty-gritty matter of a conservatory: its music education. Here his two decades of experience as an all-purpose opera manager are most clearly in evidence, particularly in the stress he lays on ensemble work, Santa Fe's most visible asset.

"Obviously," he said, "the private lesson is fundamental for the artist. He will always have a special relationship with his studio teacher. It can't be any other way. But only in a conservatory can we make ensemble music. My first thrust then, after we got past the numbers game, was in the orchestra and opera studies departments. Ideally, I'd like to see every student of instrument and voice being involved in ensemble playing. I want to equip each student so that he or she can hold down a chair in a professional symphony."

Asked in what ways the Santa Fe touch has rubbed off on the conservatory, Mr. Crosby said, "I'd like to think that the 'Santa Fe touch' is the real world. When I first came

here the students were coming to rehearsals late and unprepared. I think they had become a little bit relaxed.

"The school had the aspect of being a large greengrocer shop—all beautiful fresh fruits and vegetables. Only some of them were spoiling. We've had some of our customers go around the corner to shop elsewhere. "If I can make any contribution," he continued, "it will be to bring the real needs of the performing arts into the conservatory, and to have those needs serviced."

In the belief that student musicians should be well-grounded in the humanities, as well as music, he has tried to implement a four-year program combining both disciplines. But the large numbers of transfer students have made it difficult to achieve academic continuity.

His program has not gone over all that well with the faculty, some of whom consider the idea of teaching musicians how to read and write spoken language superfluous in the conservatory. "I've been told I'm trying to turn education back to what it was before World War II," said Mr. Crosby. "Well, I am, and if I can't achieve it I won't be here for very much longer."

When Mr. Crosby was first named to his school post, the question arose as to whether the Manhattan School of Music would benefit from having the Santa Fe's general director for its president. Have any kinds of tie-ins developed? Nothing really earth-shaking, except possibly from the point of view of the student body.

For example, Mr. Crosby has invited Edo de Waart, the music director of the Rotterdam Philharmonic and the San Francisco Symphony and a frequent guest conductor at the Santa Fe Opera, to lead the student orchestra in two rehearsals of a Mahler symphony. Presumably the students are on pins and needles pending the arrival shortly of such a prominent conductor.

In March, the school's opera department will present, for the first time in New York, a production of Nino Rota's tuneful opera, "The Italian Straw Hat," with costumes furnished by the Santa Fe Opera, which staged the American premiere of the work last August. Mr. Crosby will conduct, as he did in the opera house production.

When the school's opera department recently presented a program of opera scenes, Mr. Crosby arranged for the Opera Theater of St. Louis to lend the school some of its production materials. This was a simple matter for Mr. Crosby since the general director of Opera Theater is Richard Gaddes, Mr. Crosby's artistic administrator and right-hand man at Santa Fe. So the tie-ins, as such, have been chiefly of an economic nature.

As for a Manhattan School of Music opera student receiving a special entrée at the Santa Fe Opera, nothing like that has developed. If a student wishes to apply to the Santa Fe's celebrated apprentice program, which provides on-the-job training for the lucky few selected each year to sing in the chorus or in small roles, he or she must get in line with the hundreds of other hopefuls who clamor for a place. (Sherrill Milnes, Judith Blegen and Rita Shane apprenticed at Santa Fe.)

However, as Mr. Crosby pointed out, for the past 15 years, at least one or two of the conservatory students have managed to win places in the apprentice program.

Recently, two instrumentalists from the school, a cellist and a trumpet player, were invited to join the Santa Fe Opera orchestra. Again, their selection was the result of their musical gifts, not Mr. Crosby's dual position.

Donning his general manager hat, Mr. Crosby produced a copy of the repertory for next summer's festival. As has been the case for the past seven years, only five operas will be performed. Two of them are Santa Fe favorites, Puccini's "Tosca," a new production to be conducted by Mr. Crosby, and Strauss' "Salome," a revival, also to be conducted by the impresario.

The three other operas are all new to Santa Fe. They include Tschaikovsky's "Eugene Onegin," Rossini's "Count Ory," an opera composed in the French comic mold (the production is on loan from the Opera Theater of St. Louis) and, finally, the American premiere of "The Duchess of Malfi," by the 26-year-old British composer Stephen Oliver. Based on the blood-curdling Elizabethan tragedy by John Webster, the opera was first performed in 1972 by the Oxford University Opera Society.

"The Duchess of Malfi," which involves fratricide, infanticide, patricide, torture, insanity and other fearsome conventions of early 17th-century blood tragedy, is in sharp contrast to Nino Rota's light-hearted "The Italian Straw Hat," the contemporary work programmed for last summer's festival. The premiere of the Rota opera raised some eyebrows last year.

"I'm aware of the fact," said Mr. Crosby, "that some people are saying we've failed to be as experimental and avant-garde as we were in the past. I don't agree. We're continually on the lookout for new operas and talent, and we spend a lot of time and money at it. Unfortunately, there aren't that many good new operas around.

"As far as Nino Rota's piece is concerned, the criticism doesn't bother me. After 20 years of rape, incest and dissonant music, why not stage a comedy with pretty music?

Like all general managers, Mr. Crosby cannot talk for long about his company without returning to the familiar theme of government subsidy. As president of Opera America, he is more personally involved in the issue than most.

"Nancy Hanks told me once," he said "that the arts budget in this country is equivalent to running the Pentagon for six hours. With a record like that, I'd say America has to look at its priorities. We enjoy the history of art here, but what are we contributing to the generations of Americans who come after us? We remember ancient Egypt for its art. What will future generations remember about us?

"It's no longer a question of whether we're going to sing or play or dance. It's a question of whether we're going to do it on the corner of 59th and Central Park South or in the theater."

THE SELLING OF THE PANAMA CANAL TREATIES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. DORNAN. Mr. Speaker, the Senate is expected to start consideration of the Panama Canal treaties within the opening months of this new session. It is also expected in some circles that the administration will be successful in its unconstitutional attempt to bypass the House of Representatives and implement the disposal of U.S. property without the latter's approval.

However, Congressman MICKEY EDWARDS of Oklahoma and 60 of our colleagues have sued to require the approval of the House of Representatives before implementing the disposal of our territory. There is a chance that they will be successful. If they are, then this body will be called upon to vote on the wisdom of surrendering this vital waterway.

If and when we are so called upon, it is necessary for us to be fully apprised of the slick sales pitch that has been handed the American people and their representatives by the pro-treaty clique.

I have recently read one of the clearest and most logical exposés of the ploys that have been used by the giveaway crowd. It was contained in the opening statement of Mr. Philip Nicolaides, a Santa Ana public relations executive, in his debate at San Diego State University. Since Mr. Nicolaides knows the public relations business thoroughly he easily sees through the Madison Avenue techniques employed by the Carter entourage and bares the real facts of the negotiations.

I urge my colleagues in both Houses to read this statement carefully. I believe that if they do they will see the deceptions which have been used by the negotiators and Department of State officials to sell these treaties to the American public. If they do know what has been done in the name of these treaties, I do not believe that they will be approved.

Mr. Nicolaides remarks follow:

THE SELLING OF THE PANAMA CANAL TREATIES

(By Philip Nicolaides)

It has been a hectic four months for Jimmy Carter and the State Department. Early last August Sol Linowitz and Ellsworth Bunker breathlessly announced the wonderful news . . . a new agreement with Panama had been reached—*dramatically*. Just a few hours before the expiration of Mr. Linowitz' special six-month "interim" appointment. The two rushed back to Washington to receive a warm welcome from a smiling Jimmy Carter, and take part in the administration's carefully orchestrated campaign to convince the American people that these new treaties were a great diplomatic triumph in which we should all rejoice.

In a matter of days former President Ford and former Secretary of State Henry Kissinger—after well-publicized "special briefings"—announced their support for the still-unwritten treaties. The White House flacks played up these endorsement as if they came as a surprise. This was, of course, a put-on for a presumably gullible public. It would only have been a surprise if Kissinger and Ford had failed to endorse the treaties which were little more than the logical outcome of a process of negotiation initiated by Richard Nixon in the summer of 1971, conducted under guidelines laid down by Henry Kissinger in 1974, and fully approved by Gerald Ford—at some expense. I might add, to his tenure in the White House.

But the Carter administration was pulling out all the stops, beseeching, blandishing, bamboozling—in an effort to create an impression of "consensus at the top" which would overawe the "ignorant" masses. Dean Rusk, one of the architects of our magnificent Vietnam policy under LBJ was called from his scholarly pursuits at the University of Georgia to give his blessings to the new pacts. The Joint Chiefs of Staff were paraded before one forum after another to assure all who would listen that giving up control of one of the world's most strategic waterways would be a positive boon to our national defense. Undoubtedly they remembered the fate of Douglas MacArthur. And even fresher in their minds must have been the case of General Singlaub who had dared, only a few weeks earlier, to say—even off the record—that Carter's Korean troop pullout was a dangerous invitation to war. The administration's campaign had a few surprising successes: beginning on Aug. 16, William F. Buckley began a series of columns

in defense of treaties he had not yet seen. For a while it seemed that Senators Goldwater and Hayakawa would support the treaties—an impression later proved false, although the California senator is still on the fence. The White House even tried to woo Ronald Reagan, but the man who as a presidential candidate had first sounded the alarm on the State Department's plan to surrender the canal to a "tin-horn dictator" spurned their blandishments, and lashed out at the new treaties in public speeches and Senate testimony.

PSEUDO-EVENT

Then on Sept. 7, in a triumph of stagecraft over statecraft, President Carter raised the curtain in Washington on a carefully choreographed extravaganza—The Treaty Signing Ceremony. Just about everybody who was anybody showed up: Nelson Rockefeller, Gerry Ford, Dean Rusk, William Rogers, Henry Kissinger, the Joint Chiefs of Staff, Ladybird Johnson—and Muhammed Ali. A couple of dozen Latin American heads of state put in an appearance to brighten the occasion and give it the putative stamp of pan-Hemispheric approval. None of them had read the treaties when they accepted the invitation to come, and they had earlier refused to sign a declaration endorsing them.

It was a good show. But it didn't get uniformly rave reviews. The liberal, pro-treaty New Republic could not suppress an editorial sneer at what it called "Carter's parade of tin-horn dictators." Before the ink was dry, Carter went over and publicly embraced his co-signer, Omar Torrijos—one of the tinniest tin-horn dictators ever to hornswoggle an American president into an act of consummate folly. But the "abrazo" was a perfect symbolic climax to the whole transaction: Latin machismo had met American maschoism—and they hugged each other!

To use the terminology of Prof. Daniel Boorstin, the whole signing ceremony was little more than a colossal "pseudo event"—because the American Constitution is quite clear: no treaty has force or effect until and unless it is ratified by a two-thirds vote of the Senate. And Article 4, Section 3, paragraph 2 further stipulates that the entire Congress must grant its approval to the giving up of American territories and possessions. On Sept. 7, the required Senate approval was far from assured—and Carter knew it. It is less so today. And the White House has been trying desperately to shut out the House of Representatives from having any say in the matter, because it knows that the representatives of the people are overwhelmingly opposed. And that is not surprising, because the American people are overwhelmingly opposed. They see no good reason why we should turn over a vital artery of global seaborne trade to a small, weak, chronically unstable banana republic currently under the thumb of a sleazy, erratic, left-wing dictator—a pal of Fidel Castro and Muammar Qaddafi—Omar Torrijos, a man who for the past nine years has systematically used anti-American diatribe and ugly threats in a grotesque effort to frighten the United States of America into giving him our canal.

DAY OF INFAMY?

Polls have been showing that some 75 percent of the American people are opposed to the treaties, while fewer than 20 percent support them. Congressional offices have been awash in a tidal wave of mail—better than 90 percent opposed. The White House itself admits that it has been deluged with calls, letters and telegrams condemning the treaties. New Hampshire's feisty Governor Meldrim Thomson branded Sept. 7—treaty signing day—a "Second Day of Infamy," and ordered all flags on state buildings flown at half-staff.

The Carter administration, badly damaged by its clumsy handling of the Bert Lance affair, rebuffed by the Senate's scuttling of the energy program, and stunned by polls which showed the president's popularity in a sharp decline, stubbornly decided to tough it out with a full-court press to get the treaties ratified. The National Journal tells us that more than 30 State Department functionaries have been assigned full-time to lobby wavering senators, and—as you can see—they even have a few people left over to roam the countryside in an attempt to drum up support for the treaties. Averell Harriman, perhaps best remembered for his part in the Yalta sellout to Joe Stalin, and those interminable Paris peace talks about the shape of the table, was persuaded to come out of his well-deserved obscurity to head up a "citizens' group" promoting this latest giveaway.

As one might expect, the New York Times, the Washington Post, and the Los Angeles Times gave the treaties their triune blessing. And, in antiphonal response, the three TV networks portrayed them as fair, reasonable, and inevitable. Newsweek and Time joined the chorus of supermedia approval.

They have all been playing—with endless variations—two themes: shame and fear: shame at the terrible wrongs we have done the Panamanian people, and fear of the terrible things the Panamanian people will do to us and our canal unless we hand it over pronto. The public is perceived as ignorant and emotional. Things will go better when we are properly educated. Escorted by the president himself, George Meany stepped before the TV lights to do his bit to educate us. Drawing on his rich stores of historical and geographical lore. Professor Meany told us that our involvement with the canal was—and I quote—"nothing to be proud of." That we should be ashamed to want to hang on to that little scrap of ill-gotten land "6000 miles away." President Carter himself advised us that the 1903 treaty was suspect because it was "signed in the dead of night"—a circumstance of which he obviously disapproved. By now, I hope, somebody has told them that the Hay-Bunau-Varilla Treaty was signed at exactly 7 p.m.; that the Canal Zone is a lot closer to Texas and Florida than 6000 miles; and that the Panama Canal is something Americans should be proud of, that it is one of the greatest peacetime achievements of any nation, a heroic task which took ten years and involved the conquest of disease in what was then one of the worst pest-holes in the world, that it was a triumph of American courage, determination, and technology which has prompted even Ambassador Linowitz to describe it with awe as the "Moon Shot" of its day. All of this suggests that the White House educational program could well begin at home.

Indeed, the misinformation and outright deception used in peddling these treaties is shocking. Both Linowitz and Bunker have been saying over and over again that we do not have sovereignty over the Canal Zone, that we never had it, and that we do not own it. This State Department propaganda line is as specious as it is simple: we're not losing or giving up anything, you see; we never had it. But somebody in the White House goofed and let out the truth in a fact sheet mailed early in August to some 3,600 editors. The fact sheet flatly contradicts the State Department line, stating—I quote—that the Panama Canal Zone "is owned, operated, and ruled by—the United States."

IN PERPETUITY?

During an Aug. 23 press conference President Carter said that "we will have an assurance in perpetuity" that we can go to the defense of the canal with no restrictions. But five days earlier Sol Linowitz had given sworn testimony that there would be no "in perpetuity" clauses in the new treaties.

Carter went on to say that "in the last twelve months only four or five Navy warships have been through the canal." This was part of the bogus contention that the canal is virtually obsolete, and not worth hanging on to. The fact is that U.S. Naval vessels made not four or five but 23 transits of the canal in the period Carter referred to.

At the same press conference he said that "standard oil tankers that would bring oil . . . from Alaska to the Gulf Coast . . . could not possibly go through the canal." This, of course, is pure nonsense—only supertankers cannot transit the canal, and very large tankers are even now bringing Alaskan oil through the canal at the rate of at least three a week.

Clearly it wasn't the public that needed to be educated but those who were trying to peddle these treaties which Senator Allen has aptly characterized as "ludicrously inept."

Meanwhile, for those concerned with the strategic dangers that could stem from the loss of the canal, George Brown, chairman of the Joint Chiefs of Staff, Harold Brown, secretary of defense, and Cyrus Vance, the secretary of state, were solemnly testifying before the Senate Foreign Relations Committee that the treaties gave us an unconditioned unilateral right to defend the "neutrality" of the canal, and that they guaranteed our warships the right to "go to the head of the line" in case of an emergency.

A number of prominent businessmen came out in favor of the treaties—especially those connected with the multinationals with large interests in South America. And—as Chicago News columnist Charles Bartlett had noted as far back as Feb. 25—"The (new) canal treaty has no supporters more fervent than the American bankers whose hopes for repayment rests on a revival of the Panamanian economy."

These are "Establishment Treaties" *par excellence:* Big Government. Big Banks. Big Labor. Big Business and the Top Brass were selling the Dickens out of them. But the public *still* wasn't buying. An Associated Press poll taken two weeks after the signing extravaganza showed less than 20 percent favoring them. Head counts in the Senate were also bad news for Carter. He was nowhere near the 67 votes he needed to pull off the Great Panama Canal Giveaway, and senators were grumbling about the arm-twisting and the arrogant White House attitude that Senate ratification should be a mere rubber stamping of Executive fiat. Majority Leader Robert Byrd observed ominously that the Senate had refused to ratify some nineteen treaties since 1789, and seven weeks after the signing he was still saying that senators needed "more time to study" the treaties, and cautioning against "rush to judgment." Byrd also mentioned that of the 4,000 communications he had received on the treaties all but six had opposed them.

What a strange and distressing situation for Jimmy Carter. There was a consensus for the treaties—but only among the elite, the people Soviet propaganda refers to as America's "ruling circle." But the American people remained adamantly opposed. The people have had their fill of the policies of concession, appeasement, and surrender which these "ruling circles" have been following since World War II—Yalta, and Potsdam, and the Berlin Wall . . . Korea, the Bay of Pigs, Vietnam, Cambodia . . . and the impending sellout of Free China. The people have had enough of betraying allies while fawning on enemies. Now when they are told that we must give our great canal on the Isthmus of Panama to a pip-squeak Marxist bully they have dug in their heels and with a voice of thunder that is rattling the windows on Capitol Hill the people have said—no—never!

It is the "Establishment," not the peoples which needs to be educated. The people are not fools, and they are not taken in by the glib sophistries cooked up by the State Department's experts in obfuscation. We the

people are told that we are ignorant and we must be educated by our betters. We are warned that the Panamanians are very emotional and nationalistic, so we must humor them by giving them our canal. But we are rebuked for "jingoism" and "emotionalism" when we say that it's ours, we built it, we paid for it, we are proud of it, we need it, and we plan to keep it!

We are told that the canal isn't worth much anymore—just a useless piece of turn-of-the-century bric-a-brac—and we should be happy to give it away. But then, almost with the same breath, we are told that the canal is of great strategic and economic importance and that the only way we can possibly be assured of continued access to it is to put it in the hands of Omar Torrijos and his gang of cutthroats who have brought their country's economy to the brink of collapse, and who can't manage to pick up the garbage in their major cities.

Unless we give up the canal, we are warned, it will surely be destroyed by Panamanian extremists with a few sticks of dynamite, or perhaps the Zone will be overrun by Torrijos' mighty 8,000-man war machine.

We are told we must give it back because we stole it in the first place—and that to atone for our sins we should throw in a bonus of $3 billion to the bankrupt Torrijos regime which needs the money to pay back loans to ten big American banks—loans which, by a strange coincidence, come to about $3 billion dollars!

We are told that we must give Torrijos the canal because Panamanian public opinion demands it—even though Torrijos' regard for Panamanian opinion may be gleaned from the fact that he came to power by force in a coup which ousted the legally elected president who had just won a landslide election by more than 70 percent of the vote.

Finally, we are told that the treaties must be ratified because if they are not it could well derail all of Carter's great foreign policy plans—that one, I fear, could easily be turned around into a compelling argument *against* the treaties.

WHAT WE'RE LEARNING

But despite all this torrent of sophistries and scoldings, the people have not budged. Indeed, the longer the debate goes on the weaker becomes the administration's position. The fact is that the people are being educated.

They are learning that Torrijos and his family are deeply implicated in international narcotics traffic.

They are learning about widespread anti-semitic incidents in Panama in the wake of Torrijos' April visit to Libya.

They are learning that Romula Escobar Bethancourt, Panama's chief negotiator, flatly denies that the treaties give our warships any rights to expedited passage or that "Gringos"—as he contemptuously calls us—have any right to intervene if we think the canal is threatened. They are also learning that the State Department tried to suppress a cable from our embassy in Panama which revealed that another Panamanian negotiator Carlos Lopez Guevara, also considers the official American interpretations to be a gross misrepresentation of the terms of the treaties.

The people are learning that four former chiefs of Naval Operations recently warned President Carter that "loss of the Panama Canal would contribute to the encirclement of the United States by hostile naval forces *and threaten our abilities to survive.*" The people are learning that the new treaties forbid the United States even to *discuss* building a new canal *anywhere in this hemisphere* without first getting permission from Panama. They are learning that our chief negotiator, Sol Linowitz, may have tainted the treaties because of his glaring conflict of interest; Linowitz, you see, was on the board of directors and on the executive committee of the Marine Midland Bank of New York when he was sworn in to negotiate this treaty with Panama; and Panama owes Marine Midland some $6 million!

The people are learning from the rioting—including the burning of the American Ambassador's car—that has gone on in Panama after the signing of the treaties, that Panamanian extremists have not been tranquilized, as we were told they would be, by this new agreement—which has been falsely touted as the "final solution" to our problems with that country.

Los Angeles Times columnist Georgie Anne Geyer, a longtime Latin American correspondent, recently deplored the dishonest tactics which are being used to promote these treaties, and the administration's "cringing . . . hypocritical, and manipulative stance toward the intelligence of the American people."

"I can recall," she writes, "no sensitive foreign policy issue that has been so bungled in presentation and so mired in hypocrisy, cant and outright deceit as this one. This becomes even more repellent coming from an administration of such lofty pretensions."

I agree. And I believe the longer the debate goes on, the more Americans become educated, the more they will demand the rejection of these foolish, dangerous, and contemptible treaties.

ANNIVERSARY DINNER

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. LONG of Maryland. Mr. Speaker, I would like to share with my colleagues some news from the Safety First Club of Maryland about their 22d anniversary dinner and their efforts to promote traffic safety in Maryland:

SAFETY FIRST CLUB OF MARYLAND PAYS TRIBUTE TO WOMAN-POWER

In recognition of woman-power as displayed by the excellent driving records achieved by women drivers, the Safety First Club of Maryland, a citizen's nonprofit traffic safety organization formed in 1956 in Baltimore, will pay tribute to a "Lady Baltimore" Class at the organization's 22nd Anniversary Dinner, to be held on the evening of May 1, 1978, at the Holiday Inn-Pikesville.

The "Lary Baltimore" Class is headed by Anita Seidman, wife of President David Seidman; Freda Potts, wife of Past President Bernard Potts; Gail Renee Gould, daughter of Vice-President Mitchell Gould; and Irene Baron, wife of Board member Philip Baron.

According to a group of Swiss insurance executives as quoted by Ann Landers, syndicated columnist, women drivers are less aggressive, less hostile and less dangerous than men drivers. They are also more patient and more careful.

Among its various activities, the Safety First Club of Maryland received a National Safety Council Trophy "for outstanding contributions to traffic safety." This was a national award limited to the Safety First Club and 10 other organizations throughout the entire country.

The organization also received a Certificate of Appreciation from the National Safety Council and the Advertising Council "in grateful appreciation for help given in the Stop Accidents Campaign . . . a campaign designed in the public interest to save lives and thereby make America a safer place in which to live."

The "Lady Baltimore" Class is dedicated to the following "Ten Commandments for Traffic Safety" promulgated by Organized Law Enforcement vs Organized Crime:

1. Thou shalt not murder by motor.
2. Thou shalt not mix alcohol with gasoline.
3. Thou shalt not exceed the speed limit.
4. Thou shalt not follow too closely.
5. Thou shalt not weave from lane to lane.
6. Thou shalt not fail to signal.
7. Thou shalt not lose thy temper.
8. Thou shalt be courteous to thy fellow motorist.
9. Thou shalt favor the pedestrian and bicyclist.
10. Honor traffic laws that thy days may be long.

The major objectives of the Safety First Club of Maryland are:

1. Help reduce traffic fatalities and injuries.
2. Stress the importance of traffic safety among our youth.
3. Work for the passage and enforcement of statutes aiming to reduce our tragic traffic toll.
4. Give proper recognition to the deserving for attainments in the field of traffic safety.

LOS ANGELES HONORS FRED KAHAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. WAXMAN. Mr. Speaker, on January 29th the American Zionist Federation will honor Mr. Fred Kahan for the rich and varied contributions he has made over the years to the Zionist movement, the Jewish community, and the larger society.

I have had the privilege of knowing Fred Kahan for many years. I have observed first hand the boundless enthusiasm and energy which has accompanied all of Fred's work. Our community fully appreciates Fred's extraordinary ability and dedication. The January 29th tribute, at which he will be honored with the coveted Shield of Zion Award, properly reflects the tremendously high esteem in which he is held.

For almost four decades Fred Kahan's professional life has been dedicated to the Jewish National Fund. Fred's work for the JNF—of which he is now western executive vice president—has been his occupation, his avocation, and his heart's deepest love. A native-born Jerusalemite, Fred Kahan was dedicated to Israel long, long before the Jewish State came into existence. Fred has played an active role in the historic events which led to the creation of Israel and the equally historic developments which have made possible its survival and growth.

Remarkably, despite the round-the-clock demands of his job and his devotion to his wife, Rose, and their daughters and grandchildren, Fred Kahan has played an important role in civic affairs. He has held a number of important positions both in city and county government. Both the board of supervisors and the mayor of Los Angeles have commended Fred for his efforts. He is currently a commissioner with both the Los

Angeles Department of Traffic and the County Public Social Services Commission.

I invite my colleagues to join me in lauding Fred Kahan for his notable achievements and in wishing Mr. Kahan good health and long years in which to continue his important activities.

COAST GUARD ACTIONS HELP AVERT MAJOR SPILL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. HUGHES. Mr. Speaker, I would like to congratulate publicly the U.S. Coast Guard for the splendid job it did last week to prevent a potentially disastrous oil spill in the waters off South Jersey. The Coast Guard's response to a floundering oil barge off the Jersey coast played a major role in keeping millions of gallons of oil from polluting our beaches and coastal areas.

As my colleagues will recall, a severe winter storm hit the Atlantic coast last Thursday night and continued into Friday. At 9:15 a.m. on Friday, January 20, a Texaco oil barge containing 6.5 million gallons of heavy fuel oil became caught in the storm, broke loose from its tug, and floundered in the high seas and winds as high as 65 knots. Many feared the Texaco barge would run aground and break up, causing extensive oil damage to our beautiful South Jersey beaches and coastal fishing areas.

The Coast Guard moved into action at once. It immediately dispatched a 44-foot cutter and a helicopter to stand by and monitor the barge's movement. My midday, it had set up an emergency oil spill command station in Atlantic City and sent the 95-foot *Cape Star* and another vessel, a 378-foot cutter, to the stranded barge.

By the middle of the afternoon, a 13-man Coast Guard Atlantic strike team, an expert antipollution force, flew into Atlantic City from its base in Elizabeth City, N.C. The team immediately went to the scene of the stranded barge, which by this time had run aground only 2 miles off the coast of Ventnor.

In spite of the 12- to 15-foot seas and thick fog, the strike team was able to board the ice-covered barge and secure an emergency tow line. It also stood ready to deploy its sea booms and pumping equipment in case a spill developed.

Fortunately, the barge did not break up, and by the next day, the storm had abated and the winds died down. The oil from the stranded vessel was then pumped into empty barges that had been towed to the scene. Thus, the threat of a devastating oil spill had been removed.

As my office staff monitored this situation, I was highly impressed with the performance of the Coast Guard throughout the entire incident. Its actions were swift and professional at all times. The Coast Guard deserves our praise and gratitude.

A COLUMNIST LOOKS AT TAXATION

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. REGULA. Mr. Speaker, the December 30, 1977, edition of the Daily Record of Wooster, Ohio, featured a column written by Elinor Taylor which, in my opinion, pretty much says it all regarding taxation, inflation, and the growing fear of both among Americans.

The column, in the final analysis, addresses itself to Government and those of us responsible for policymaking, budgeting, spending, and leadership in general.

I insert this column to provide my colleagues the opportunity to reflect on the writer's observations and concerns for the future of our country:

REMEMBER WHY USA LEFT OLD ENGLAND?

(By Elinor Taylor)

The best part about New Year's Eve is just realizing that you've managed to hang in there for another full year.

Thinking back to all the problems of 1977, and there were plenty, none seems as great now as it did when it happened.

That snow storm we had a year ago, for example. We shivered and growled and pushed cars out of ditches; we shoveled until our backs were aching and we mopped up the water from the frozen pipes and the leaking eaves.

Then along came summer and the heavy rain. Roads washed out, basements were flooded and everything squished when we walked.

It was an expensive year for the property owner, that old 1977. It was exasperating and exhausting, but in spite of it all, we're still around.

But I'm getting scared! The near-last straw came this week when news reports said hamburger would soon be more than $1 a pound.

This inflation is going to kill us all and a great deal of the problem lies with the incessant spending by the government, with no regard for the taxpayer who has to foot the cost.

The "Taxpayer Be Dammed" is becoming the national anthem these days.

We have boards, committees, commissions, agencies and spokespersons for every problem or ailment mankind could dream up in the next million years.

And we're all feeding at the public trough! No one is in favor of all this, except the people who are involved in their own particular push for action. "Get rid of all the rest, but keep mine" we all say.

It frightens me to see all these boards, etc. appointed to decide how to spend federal and state handouts, then have a good percentage of that handout used to pay expenses in deciding how to spend it.

Whatever happened to President Lincoln's admonition that the government should not do for people what people can do for themselves?

Whatever happened to the right of a man or woman to make a profit on the product manufactured or crops raised in the fields, without the government nibbing in to tell them it's illegal to work your fingers to the bone and still have something for yourself?

Whatever happened to the old path to the better mouse-trap-builder's house?

What's the use of working and saving and putting patch-upon-patch if all we get is another tax bill to pay for a survey on the sex-life of the acorn?

Americans used to be proud to put a hand over the heart; now it's become the national past-time to hold those hands out and sing "Gimmie, gimmie, gimmie!" There are too many hands in the honey jar!

It's hard to believe that the United States was founded in an effort to avoid taxation! Where will it all end? If the farmer has to "give away" all the food he raises, he is going to stop farming. Then what will we do? If the industries that produce our cars and our refrigerators and our clothing can't make enough to keep their buildings and equipment in working condition, pay their employees, provide enough incentive to stockholders to encourage them to invest and have something left over for their own efforts, what are they going to do? I know what they'll do. They'll close down and let the government raise the corn and the wheat; make the cars and refrigerators and our clothes. And the government isn't exactly a howling success when it comes to mass-services. Witness mail management and Social Security.

You can't fill a bottle if there is a hole in the bottom. Uncle Sam and his government nephews can't continue to take out more than we can afford to put in.

I'm getting scared. I am afraid for my own future, for my children's future and, heaven help my grandchildren! What are we going to do? We need to stop asking for everything from the government, whether it be federal, state or local. We need to slow down on our demands for public services. We need to warn those who are in office that we no longer expect nor want Uncle Sugar to come to the rescue every time the cat has kittens or the chimney smokes. We need the government for many things and we should be willing to work and pay a fair share for these services that we need and cannot provide for ourselves . . . roads, water and sewer systems, schools, hospitals, etc. We do not need the government meddling in private lives or providing so much for so many at the expense of others.

We need to have the right to be secure in our future on our own initiative, not on the whims of a spendthrift government, whether we are 6-years-old or 36 or 60. We need to let the course of supply and demand determine the economy. We need to provide the best in education so that our younger generations will be qualified to work at a job that pays them what they are worth. We need to reaffirm our religious faith, that which tells us to help those who cannot (not 'will not') take care of themselves, but we also need to have a chance to do for ourselves.

This new year of 1978 should be the time to get up on our hind legs and say "ENOUGH". It may be the time to tell those who make the laws and raise the taxes and spend more money than the nation can afford: "No More. Shape up or you'll be shipped out, back to the boondocks from whence you came."

An out-of-town newspaper editorial recently made a statement I find hard to credit to an organization as influential as the news media. In reference to suggestions that federal money be rejected, the publisher wrote "it won't cost us anything. All the money would come from Washington".

Where in the name of heaven does that writer think Washington gets that money? Who, but people, pays taxes? If we ran our personal finances the same way the government does, we'd all be in debtors' prison in a week.

Tax, Tax, Tax. Spend, spend, spend. Hark! the Bankruptcy Angels Sing.

We have the greatest nation in the world and the rest of the world depends on this great nation. But in 1978 .we'd better turn down the spigot that's draining our private

resources to a dribble and a drop if we want to keep it great.

Government does not have to be all things to all people.

1978 may be the last chance we-the-people will have to speak up.

History keeps repeating itself because we weren't listening the first time.

Have a Happy New Year. We can win this battle if we get rid of the wet noodle we're using for a spine!

If we can get the message across that the people are the employers and those too often spending our money recklessly are working for us, we may have a fighting chance for survival.

SAVING SMALL FARMERS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. OTTINGER. Mr. Speaker, I would like to bring to the attention of my colleagues and the public the following article entitled, "What Ever Happened to the Small Farmer?" written by Senator HERMAN E. TALMADGE.

The article appeared in the Journal of the Institute for Socioeconomic Studies, volume II, No. 4, autumn 1977, which is published in my district.

Given the recent enactment of the farm bill and the current debate over the 160-acre limitation for Federal project water, I think it is important for the Congress to have an appreciation for the vital role the small family farm plays, in tandem with larger farms, in our society.

WHAT EVER HAPPENED TO THE SMALL FARMER?

(By Herman E. Talmadge)

"Cultivators of the earth are the most valuable ciitzens. They are the most victorious, and etc. . . . but our citizens will find employment in this line til their numbers and of course their products become too great for the demand, both internal and foreign."—Thomas Jefferson.

Thomas Jefferson's concept of the ideal democracy was built around a society of independent and modest size farm operators. But even he realized that a number of economic factors would ultimately come into play to change the nature of agriculture. Like Jefferson, many people have continued to be nostalgic about such farmers, even as conditions changed.

The Northwest Ordinance was developed around the concept of the family farm, and immigrants coming to this country were attracted by the reports of good land for farming. When Abraham Lincoln founded the Department of Agriculture on May 15, 1862, he called it "the people's Department." America was still a rural nation, dominated by family farms, even though the American industrial revolution was well underway.

However, by 1908, Theodore Roosevelt was so concerned about what was believed to be the decline of the family farm that he formed a Commission on Country Life. Roosevelt wrote, "So far the farmer has not received the attention that the city worker has received and has not been able to express himself as the city worker has done . . . the result has been bad for those who dwell in the open country, and therefore bad for the whole nation. We were founded as a nation of farmers, and in spite of the great growth of our industrial life it still remains true that our whole system rests upon the farm, that the welfare of the whole community depends upon the welfare of the farmer."

Roosevelt's Commission was not funded by the Congress and its members worked for no pay. Although Congress published the report of the Commission, it was released as an internal document and was not made available to the public until it was privately published in 1911.

In 1956, Senator John Sherman Cooper[1] and others attempted unsuccessfully to establish another country life commission. Senator Cooper testified in July, 1958 that farmers had nowhere to look for a unified, coordinated approach to the broad issues of rural life. He said the commodity programs were only part of the "farm problem."

Cooper was getting close to the idea that "the farm problem" is really two problems, one social and the other dealing with production and national food security. Since the beginning of World War II, 30 million people have left rural America for the cities. This migration, although largely unnoticed, represents the largest migration of human beings in the history of the nation. And it spawned what we now call the "urban problem."

In large measure, this migration occurred when the industrial revolution arrived at the farm. Fewer people were needed to produce food for the nation and the surplus labor moved to where there were jobs. Today, there remains a considerable reservoir of marginal farmers in rural America, but they stay on the land largely because they prefer rural living.

The average income of families living on farms in the United States is about $10,000 a year, roughly $3,000 less than the figure for urban families. About half of that family income is acquired off the farm.

Off-farm income accounts for 89 percent of income on the nation's smallest farms—those with sales below $2,500. For those family farms with sales in the $2,500 to $4,999 range, off-farm income accounts for 86 percent of total income.

But averages don't tell the story of American agriculture. There are 2.7 million farms in this country. The number of farms with sales of $100,000 and over increased from 23,000 in 1960 to 115,000 in 1974. In 1960, these farms accounted for less than one percent of all farms, but over 17 percent of the value of farm products sold. By 1974, farms of this size represented about four percent of all farms, but they produced about 47 percent of the total volume of farm products sold. It has been estimated that ten percent of the farmers produce about 90 percent of the farm products.

In other words, American agriculture is divided into farms which are an essential part of commercial agriculture, providing the nation with food security, and smaller farms which are less important in terms of production, but which provide the nation with a number of essential functions. These marginal farms help to maintain the viability of small towns in many areas.

These statistics suggest that there are a lot of big farms in rural America—and there are. We know that many land sales in recent years have been to farmers who want to expand their present acreage. Consolidation of farming operations has been going on for many years and it has continued because of the availability of modern equipment and the desire of farmers to have a decent income. But it is a mistake to confuse big farms with the possibility of agriculture being dominated by huge corporations.

The Department of Agriculture estimated a few years ago that large corporations control about ten percent of U.S. farm production. The validity of this is very difficult to measure, however. First of all, every young man graduating from an agricultural college is urged by his teachers to incorporate his farm, because of the tax benefits of doing so. Secondly, while there was a flurry of corporate activity in farming during the 1950's and early 1960's firms such as CBK Industries, Gates Rubber Company, the Purex Corporation, Ralston Purina and even the H. J. Heinz Company subsequently dropped out of the business.

Many wealthy investors, who put large sums of money into cattle—again for tax reasons—began dropping out several years ago when cattle prices dropped to levels below the cost of production. However, this is not to say that they won't be back when market conditions improve.

In addition to the investment situation, escalating land prices and changing technologies require farm units to be larger in order to be economical. In Illinois, Iowa and Indiana, farm land prices increased more than 30 percent on an average in 1975. Nationwide, the annual increase of farm land prices has been about 17 percent over the same period. The indications are that these trends will continue in spite of presently depressed farm income.

Jim Erickson of the Federal Land Bank at St. Paul and Dr. Philip Raup of the University of Minnesota recently made some interesting observations on farm land prices:

"Investors, who in the past have provided a large portion of the available rental farmland aren't a major force in farmland demand.

"The fellow who will pay the highest price (for land now on the market) is the farmer.

"In fact, good farmland now is so expensive that land speculators looking to make a fast buck have lost interest in it because the stakes are too high."

There also is evidence that a growing number of foreign investors are buying United States farmland. This could push prices still higher, thereby forcing more marginal operators off the farm. At prices upward from $3,000 an acre in the Corn Belt, a farmer can do better by selling his land, putting the money in the bank and letting it draw interest, rather than trying to run an uneconomical unit. Finally, increasing land prices will make it all but impossible for the bright young agricultural graduate to get into the business without a great deal of family or outside help.

On the technology side, cultivators and pickers have been developed for crops which previously could only be handled by hand labor. Tomatoes and tobacco are two prime examples. Automatic picking machines, have also had a marked effect upon cotton cultivation, as had "flame cultivation" used in weed control. As a result, traditional hand labor has been significantly displaced, causing substantial migration to urban centers. In fact, cotton in no sense any longer reigns over the Southeast. Acreage yields are often low. Soybean and corn cultivation tends to give a better return. A good part of the nation's most intensive cotton cultivation is now to be found in the Southwest and in California.[2]

Despite Federal farm programs, world markets pretty much determine the profit-

[1] Senator Cooper, a Republican from Kentucky, served in the United States Senate 1946–1948, 1952–1955 and 1957–1973. In addition, he was United States Ambassador to India, 1955–1956, and to East Germany, 1975–1977.

[2] Cotton production in the ten leading states for 1975 was (in 1,000 bales): Texas, 2,382; California, 1,954; Mississippi, 1,040; Arkansas, 687; Arizona, 573; Louisiana, 346; Alabama, 312; Tennessee, 222; Missouri, 196; Oklahoma, 170. Source: United States Department of Agriculture, Statistical Reporting Service, *Crop Production* annual for 1975.

ability of farming. As our exports increased to over $20 billion a few years ago, the profitability of farming increased With improved world production, however, prices have declined sharply during 1977.

M. E. Quenemoen, extension economist at Montana State University well summed up the question of farm bigness recently in an interview with the Denver Post:

"So long as returns on labor and capital in agricultural production are above zero, size of unit will be a very important factor, contributing to the economic well-being of a farm family. As a matter of fact, when returns are low, size is of utmost importance if a farm business is to generate enough income to provide for family income and capital payments."

A further indicator of these trends toward larger operations is the fact that farm cooperatives also have grown larger to remain competitive with industry, with some now listed among the top 500 industries.

Assuming the trend toward larger farms continues, one can reasonably ask, why not get the government out of agriculture? And why not at the same time forget about the marginal operator on the basis that he is not in the economic mainstream?

The Agriculture and Consumer Protection Act of 1973 was a major step forward in limiting government interference in the farm market place. It was designed to offer protection only in disastrous crop years when prices fell below the cost of production. Following the passage of this law and the abrupt increase in exports, the cost of farm programs for the major commodities dropped from more than $4 billion to less than $1 billion. The new farm bill, The Food & Agriculture Act of 1977, which President Carter signed on September 29, follows this same pattern. However, because of depressed grain prices, higher government costs will be involved.

This income stabilization plan is essential to national food security. When the prices the farmer receives are below the cost of production, the government will pay him the difference between the market price and his costs. This government program should prevent wholesale farm bankruptcies and at the same time guard against sharp swings in food supply that can be very disruptive to the world economy.

In 1977, farm debt reached an astronomical $102 billion, as farmers have geared up to meet world food needs. But net agricultural income dropped below $20 billion this year, down from $33 billion in 1973. Because of this, many farmers are already having trouble meeting their obligations. We cannot walk away from the farmer—no matter what the scale of his production—and tell him to operate at the mercy of the weather which no man controls or of international markets that are influenced by decisions in Moscow and Peking as well as Ottawa and Paris. If we did, ensuing bankruptcies would produce an economic shock which would cast a pall over the economy as well as threaten our future food supplies. There is no question in my mind that our present farm policies are on the right track.

On the question of the small farmer, a policy of neglect, besides being cruel, just does not make sense. If we adopt policies which drive these farm families off the land, we will have ignored our heritage and the sad lessons of the past few decades when 30 million people were forced out of rural America into ghettos and slums. Farm program costs are a pittance compared to the costs of dealing with urban blight.

The new farm bill, referred to above, begins by reasserting the policy of encouraging family farms. While corporate-factory farms may make sense to economists, they make little or no contribution to the health and well-being of our rural communities.

A number of studies have shown the differences in rural communities where there are a lot of small farmers versus those places where there are a few large farms. In every case, the social and economic welfare of the community is better when the farming is carried on by owners and their families; the fact is that they consider themselves to be part of the community. Not only does the family farmer spend his money there and help keep the town viable, but he cares about the schools, the parks and the people. By remaining on his farm, he counters the costs of population aggregation in overburdened urban centers. Thus, in espousing the cause of the family farmer, I am not arguing against market efficiencies; rather I am asking that we look at what such "efficiency" really means.

Tragically, because of the dislocation of the family farmer, many small towns have already died and others are on the way. We must not allow the stores, repair shops and the other necessary elements of infrastructure of small towns to be lost because we disregard the needs of family farms. Nor can we afford to jettison the social values epitomized by small towns. Farming is a tough and risky business, but it can also be very rewarding. As in any other profession, farmers are interested in making money. But it also takes heart and dedication that only comes from owner-operators. This nation needs family farmers; we must make sure that the door is not closed on them.

This is why I sponsored the Rural Development Act of 1972 and why I refuse to give up on small farmers, even though they may not represent the latest thinking of computer experts. Their value to this nation far outweighs any costs they may impose on the Federal budget. Certainly, their demands are far less than those of the inner city, where the problems of concentrated poor and moderate income families grow exponentially out of all proportion to the actual number of people involved.

Obviously, I believe that both the large and small farms fill an important role. They complement one another and provide significant benefits. We should not base our policies and programs on either outdated and romantic notions of the small farmer or fears of the large producer. However, I do feel that we might lose a great deal, in terms of efficiency and social cost, if we were to have large-scale corporations become heavily involved in farming. But I do not foresee that possibility in the near future.

The record of American agriculture is one of today's modern miracles—feeding an ever increasing number of the world's people with a decreasing number of producers. Our goal should be to provide the right conditions so that producers, both large and small, can continue to remain in production. And the small farmer will still be there playing a vital, albeit changed role over earlier days.

SECRETARY BROWN'S PLAN FOR MILITARY UNIONIZATION

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. YOUNG of Florida. Mr. Speaker, on October 6, 1977, a Department of Defense directive was signed by Defense Secretary Harold Brown relative to the relationships with organizations which seek to represent members of the Armed Forces in negotiations or collective bargaining. In reviewing this directive, I find most disturbing the Secretary's decision that military and civilian personnel of the Armed Forces may participate in such organizations as long as the Secretary determines there is no "clear danger" that such participation might adversely affect "discipline, loyalty, or obedience to lawful orders." In view of Secretary Brown's conditional endorsement of military unionization, I believe it is time to prohibit by law such unionization of America's armed services.

Mr. Speaker, ever since 1974 when the American Federation of Government Employees decided to explore the prospect of organizing the military, concern has been growing in both the public and private sectors over the possible ramifications of military unionization. To their credit, the members of the AFGE subsequently voiced opposition to such unionization.

Our national security rests upon the capability of our Armed Forces. When our military is called upon to defend us, there can be no room for bargaining or negotiating in the critical moments of battle. Just as those who assume the burden of command must know that their orders will be responded to directly and not after a process of negotiation, the individual soldier in combat must likewise be assured that his fellow comrades can be relied upon to perform their assigned functions without going off to caucus in the midst of battle. An effective military force is built upon discipline, patriotism and quick response capability; as a consequence, the operation of unions within the military cannot be tolerated if we are to have an effective defense establishment.

Because I am seriously concerned over the harmful effect upon our military capability if unionization is allowed within the armed services, I introduced legislation during both the 94th Congress and this Congress to prohibit such unionization. It is interesting to note that the vast majority of the residents of the Sixth Congressional District of Florida share my opinion that organized labor has no place in the military. Of more than 38,000 persons responding to my 1977 congressional questionnaire, 89.4 percent expressed support for my bill to prohibit the unionization of America's Armed Forces. Perhaps even more significant, despite the AFGE's March 7, 1977 executive council decision to actively undertake to organize the military, on September 7, 1977, it was announced that the AFGE membership had voted 4 to 1 against trying to organize members of the armed services.

Congressional activity against military unionization has likewise been stepped up in recent months. On September 16th of last year, the Senate overwhelmingly voted 72–3 for legislation (S. 372) to ban all labor union activity in the U.S. military. The House Armed Services Committee is nearing completion of its consideration of my bill and similar legislation to prohibit military unionization, and it is anticipated a bill will be brought before the full House for its consideration in the very near future.

Mr. Speaker, the bill I have sponsored is not a bill against unions. Rather, it is

a bill designed to protect the strength and responsiveness of the defense capacity of our Armed Forces. In my opinion, this legislation is the most effective and direct way to prevent unionization of the military and the resultant ill-effects such union activity would have upon our defense capability. Hopefully, through enactment of legislation of this nature, we can lay to rest the potential threat of military unionization.

MAJOR ISSUES IN CONGRESS: 1978

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for January 25, 1978, into the CONGRESSIONAL RECORD:

MAJOR ISSUES IN CONGRESS: 1978

These are the major issues confronting Congress in 1978:

The economy.—The toughest issue will be the economy. The economy, now in its 35th month of expansion, will cross the $2 trillion mark sometime in the first quarter of the year. A large tax cut will probably be enacted to head off a slowdown in economic growth. The debate in Congress will concern the size and the distribution of the tax reduction.

The budget.—The President will offer an austere federal budget for the next fiscal year, calling for spending of about $500 billion. An effort is being made to hold real growth in the budget to zero. There will not be enough money for new social programs, such as national health insurance, and growth of existing social programs will be extremely limited. The President will ask for an increase in defense spending. One skirmish early in the year will concern continued funding of the B–1 bomber.

Energy.—The earliest priority will be passage of a comprehensive energy bill. House and Senate conferees are still deadlocked on the key issues of natural gas pricing and taxation of crude oil, but the feeling is growing that Congress must pass an energy conservation and development bill.

Panama Canal treaties.—The sharpest foreign policy battle of the year—whether to ratify the Panama Canal treaties—will come early in the session. Most observers now believe that the treaties will be approved, but only after a struggle and perhaps with modifications.

Salt II.—Arms negotiations with the Soviet Union are underway with the two superpowers still in disagreement over restrictions on the U.S. cruise missile and the Soviet Backfire bomber. If a treaty comes at all it will not be ready before summer, and in any case it will set off a heated debate.

Middle East.—The large levels of Middle East aid—now approaching $3 billion—and the increasingly sophisticated weapons systems being supplied to Middle East countries will have to be thoroughly reviewed by Congress.

Executive reorganization.—The President will submit to Congress a number of reorganization proposals, including one to create a new Department of Education and another to restructure the Civil Service Commission by granting federal executives more flexibility to manage federal programs.

Judgeships.—Congress is moving to create new federal judgeships. Under the Senate bill two of the district judgeships would go to Indiana, one in the south and one in the north. Under the House bill only the northern district position would be established.

Welfare reform.—The President has sent to Congress a proposal for comprehensive welfare reform which scraps the existing system in favor of an entirely new one. The intense pulling and tugging on this bill makes its passage less than certain.

Nuclear plant siting.—Since it often takes ten years or more from initial design to full operation of a nuclear power plant, the President has proposed that Congress reduce this lag substantially, perhaps to six years. However, the President has not yet submitted his specific plan. Controversy over nuclear technology remains intense.

Hospital cost containment.—The President's plan would limit hospital cost increases to 9 percent in 1978. This proposal which has been received cautiously in Congress, is in various stages of review in four congressional committees. Rapidly rising health costs concern Congress, but there is as yet no clear consensus on how to deal with them.

Humphrey-Hawkins.—This bill establishes a framework for formulating national economic goals, with an emphasis on achieving a full-employment economy (4 percent unemployment).

Outer Continental Shelf.—Although the outer continental shelf holds substantial amounts of oil and gas, only 3 percent of it has been leased for development. Difficult jurisdictional, environmental and international issues will be considered as a bill to regulate offshore leasing moves through Congress.

Federal criminal justice code.—The Senate has been working on a bill to overhaul and to reorganize the federal criminal code. The Senate Judiciary Committee has approved this complex bill and has sent it to the Senate floor for action. The House Judiciary Committee is just beginning consideration of the measure.

Education.—The Elementary and Secondary Education Act is up for reconsideration this year. Volumes of testimony have been taken on the act, but all the important issues are not yet clearly defined.

MARION DEVLIN, FOR 40 YEARS OUR WOMAN OF THE YEAR

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. LEGGETT. Mr. Speaker, every hometown has a hometown newspaper—some of mediocre quality, some excellent. Where a local newspaper is excellent, most communities experience a unity, community spirit and oneness which draw people together in common purpose—so it has been for many decades with Luther E. Gibson's created Vallejo Times Herald.

A newspaper's quality is gaged not only by its news management, editorials and sports analysis but many times by its society pages that tie a community together in social human ways. Miss Marion Devlin has been a one-woman society organizer and editor for nearly four decades in my hometown of Vallejo.

The Vallejo-Benicia Area Council of Beta Sigma Phi Sororities will honor Miss Marion Devlin, Woman's Editor of the Vallejo Times Herald as Woman of the Year on February 4, 1978, at the Vallejo Elks Lodge at 7 p.m. This will mark the first occasion in the council's history that they will be making this award which is being given to publicly recognize Miss Devlin and her outstanding contributions to our entire area through her unexcelled coverage of all social events and in making this tribute at the same time to thank her for her outstanding cooperation with all organizations throughout the Solano and Napa Counties for the fine publicity she has given through the last 40 years as well as to acknowledge the importance she has placed on the elevation of women in their community service. Miss Devlin has won awards by the California Newspaper Publishers Association for outstanding performances and coverage in 1947, 1951, 1962, 1964, 1965, 1967, 1968, 1970, and 1971 for being the editor of one of the outstanding womens section of newspapers whose circulation ranges between 15,000 and 50,000; in February, 1975 Miss Devlin was the winner of the Women Helping Women Award that was presented to her by the Soroptimist International of Vallejo.

Exa M. Finerty is general chairman of the dinner being held to honor Miss Devlin and Nancy Scouten is the president of the Vallejo-Benicia Area Council of Beta Sigma Phi which consists of six chapters; Gamma Zeta, Xi Sigma Beta, Xi Delta Beta, Delta Eta Alpha, Kappa Iota, Xi Tau Phi.

Miss Devlin is a native Vallejoan born on October 27; daughter of the late Judge Frank R. and Mrs. Devlin. She was educated at the Anna Head School and received her B.A. from the University of California; was past-president of the Soroptimist International of Vallejo and College Women's Club of Vallejo, past director of YWCA, and member of the League of Women Voters and Navy League.

Miss Marion Devlin though we honor you tonight as woman of the year to many of our community your talents and contributions have made you woman of the year for nearly the past 40 years. The Congress of the United States salutes you.

STAR EDITORIAL MAKES SENSE ON TUITION TAX CREDITS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. COUGHLIN. Mr. Speaker, I am pleased to insert in the RECORD a commonsense editorial that makes the case for tuition tax credits for education—a cause so many of my House and Senate colleagues have worked for and fought for over the years.

As sponsor of House measures for higher education tax credits since 1970 and as sponsor of the Moynihan-Packwood tuition credit bill, I am pleased that a major daily newspaper in the Nation's capital has so forcefully and sensibly advocated enactment of tuition tax credits' legislation.

The lead editorial in the Washington Star effectively rebuts two principal ar-

guments of those who have for so long resisted the desire of the citizens for needed tuition tax credits: that, on the face of it, such legislation is unconstitutional; and that the legislation is "a rich man's bill."

I remind my House colleagues that in the last session we again were deprived of the chance to vote on the merits of higher education tax credits. No vote was permitted despite the fact that House, by an overwhelming 311 to 76 margin, last September made provision in the budget for the legislation if it were enacted. The Senate had voted for this legislation three times in the preceding 15 months.

In addition, the Senate in four of the previous five Congresses passed this legislation. The House, in every one of these instances, was denied the opportunity for a direct vote.

I regret that the Administration has been ill-advised and has chosen to announce publicly its opposition to education tax credits. I commend to Administration and Health, Education, and Welfare officials a thorough and open-minded reading of the editorial which I insert from the January 24, 1978 edition of the Washington Star.

The editorial follows:

[From the Washington Star, Jan. 24, 1978]

TUITION AND TAX CREDITS

Sen. Daniel Patrick Moynihan believes that tuition tax credits are "an idea whose time has finally come," and so do his influential co-sponsors in the Senate.

If so—if, as the senator also submits, "the people of this nation want it"—the message isn't getting through to those who think they know what the people need.

There were hearings last week on the Moynihan-Packwood tuition credit bill in the Finance subcommittee on taxation. The hostile reactions to the bill reflect the same administration attitude that greeted Sen. William Roth's similar proposal of a few weeks ago. It seems to us a case of fatigued imagination.

The tax-credit offset of tuition, said several administration spokesmen, would wickedly benefit "the rich" (for which read, middle-income taxpayers). One Treasury official also charged that the bill "would make it easier and cheaper for a student to attend a private school if his family wished to avoid an integrated public school."

These objections merit a passing glance. Indeed, tax credits would be available to all families, regardless of income, who send children (or a spouse) to a college or university (public or private), a vocational school, a secondary or elementary private school. The credit would equal half the tuition, up to a ceiling of $500 per student.

Yet it isn't a "rich man's bill"; it is a taxpayer's bill. "Most of the benefit," according to Senator Moynihan, "will go to families earning well under $20,000 a year, and by making the credit refundable the proposed legislation will also provide a real financial boost to low income families with limited tax liability."

This evidently false designation of a tax expenditure in aid of education as a bonanza for the wealthy is typical. It is supposed to be an argument stopper, because it has somehow become official dogma in this administration that the only value worth seeking through tax policy is the redistribution of income from middle-class taxpayers to those designated "poor" under the escalating federal definition of that term. Redistribution is a proper concern of tax policy, but not the only one. Others worth consideration are (a) the preservation of a working system of private education, both as a check on the quality of public education and as a self-justifying value in a pluralistic society; and (b) a meaningful choice, for all parents, between public and private education.

The suggestion that parents might "avoid an integrated public school" hardly rises to the dignity of argument. Most parents, if we are not mistaken, are looking for orderly, disciplined, effective education. To what degree it is integrated is a secondary concern—not, of course, a trivial concern. But the Supreme Court recently declared, in the Northern Virginia case . . . that no tax benefits shall be available to racially segregated private education. That issue is closed.

The principal concern—at least where secondary and primary education are concerned—is whether a tuition credit program of the sort Senators Moynihan and Packwood propose can meet the stern tests of religious pluralism now insisted upon by the Supreme Court. As matters stand, that is at least doubtful.

It is, however, Senator Moynihan's view—a view we share—that in the recent era the Court has imposed needlessly restrictive constitutional limits on state aid (and by implication, federal aid) to private "religious" education. In a commencement address last May at Lemoyne College, New York, the senator said of this line of jurisprudence that "the kindest thing to say is that (the decisions) are unpersuasive (and) the unkindest thing to say is that the Court has been given the thankless task of providing constitutional legitimacy for the religious bigotry of the 19th Century."

And what are the grounds for that suggestion? As recently as 1876, after more than half a century's experience with public support of private religious education in New York (and other states), its foes recommended a constitutional amendment to forbid it. The implication is that nothing in the establishment clause of the First Amendment renders such aid clearly unconstitutional.

As is well known, moreover, the Court's rigid line against "excessive government entanglement with religion" has been repeatedly strained, if not breached, by state programs of tuition assistance to private higher education, some of it to institutions far from secular in sponsorship and educational philosophy.

In any event, we share Senator Moynihan's basic feeling—that the "constitutional" case against tax benefits for parents of parochial school students is an unattractive vestige of archaic prejudice. Practically speaking, it is difficult to show that any federal aid "advances" religion per se; recent studies cited by the senator suggest that the "religious" effects of parochial education (measured by church communicants or candidates for the priesthood) are practically nil. But even if they were substantial, may we not distinguish between such desirable effects and "an establishment of religion"?

Putting aside the First Amendment problems, the main fact with which public policy must reckon today is this: A swollen system of public education threatens to swallow up the financially-starved private educational sector, to the eventual benefit of neither. For various reasons, private education is pricing itself out of middle-class reach. The Moynihan-Packwood plan would not necessarily work to the benefit of either sector, private or public; it would offer taxpayers an enhanced choice and would probably help restore a healthy balance.

FIFTY-EIGHTH ANNIVERSARY OF U.S. JAYCEES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. GILMAN. Mr. Speaker, two members of the Newburgh, N.Y., Jaycees—Timothy Peters and Robert Markel, Jr.—have reminded me that last week was the 58th anniversary of the founding of the U.S. Jaycees, and the 21st anniversary of the Newburgh chapter.

More than 7,000 Jaycee chapters throughout the United States celebrated the week of January 15–22 as "Jaycee Week." For 51 weeks each year, the Jaycees devote their time to the service of humanity. For this 1 week each January, the Jaycees instead "beat their own drums" and call the attention of each of us to the sterling words of the Jaycee creed:

We believe:

"That Faith in God gives meaning and purpose to human life;

"That the brotherhood of man transcends the sovereignty of nations;

"That economic justice can best be won by free men through free enterprise;

"That government should be of laws rather than of men;

"That the Earth's great traesure lies in human personality;

"And that service to humanity is the best work of life."

The Jaycee organization has been termed the only service group in the free world dedicated to leadership training. This good will group is not confined to the boundaries of our great Nation. The Jaycees now boast over 250,000 members in the United States with thousands of chapters in 83 other nations.

In addition to the active chapter in Newburgh, N.Y., my 26th Congressional District boasts active chapters in Chester, Cornwall, Florida-Pine Island, Highland, Middletown, Goshen, Monroe, Nanuet, New City, New Paltz, Pearl River, Pine Bush, Stony Point, the town of Montgomery, and Warwick, as well as institutional chapters at Letchworth Village and Wallkill State correctional facility. New chapters are in the process of formation in Otisville and at the Mid-Orange correctional facility. I have had many warm, friendly meetings with the Jaycee units throughout my district and I am proud of the record of accomplishment achieved by "the young men of action."

One worthwhile project, sponsored by the U.S. Jaycees, is Operation Threshold which was proven to be a highly worthwhile program for responsible use of alcoholic beverages.

Another is Operation Venus, designed to educate the public to the ravages of a national epidemic—venereal disease.

In my congressional district, the Jaycees are probably most noted for the Walkathon, an idea orginated by the Newburgh Jaycees and successfully used by many other Jaycee chapters in southeastern New York. Citizens of all ages

walk a course of 20 miles to earn pledges to the area's most deserving local charities. Not only does this project produce positive monetary results, but instills a sense of community pride and service in the hearts of young and old.

The Jaycees, whose membership is open to young men between the ages of 18 and 35, provide special services depending upon the distinct needs of their locale. Jaycees in the 26th District of New York provide substantial assistance to the handicapped, to our senior citizens, and to our youth.

More important than the services provided to their communities, the Jaycees provide leadership training to their members, both through the experiences of conducting their "external" projects, and through the self-improvement courses offered by the internal program of each chapter. The Jaycees pride themselves on producing future leaders, not only for other organizations, but for the worlds of business, politics, and community service.

If there is a good cause being undertaken, chances are that a Jaycee is involved.

Mr. Speaker, I urge all my colleagues to join with me in wishing the unselfish, dedicated members of the Jaycees success in all their community endeavors as they begin their 59th year of service to humanity.

ROOT CAUSES OF HEALTH PROBLEMS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. BROWN of California. Mr. Speaker, as we continue to consider various proposals for improving health care in the United States, it is useful to reexamine some of the root causes of health problems. When we examine the causes of poor health, it can quickly be seen that health care costs will continue their enormous escalation unless steps are taken to prevent, rather than simply treat health problems. The two main causes of health problems that are amenable to prevention are personal excesses and environmental pollution. Only environmental pollution is subject to Governmental control; personal excesses remain a matter of individual responsibility.

The Subcommittee on Health and the Environment, chaired by my good friend PAUL ROGERS, and the Subcommittee on Environment and the Atmosphere, which I chair, are engaging in a cooperative program to examine the important relationship between health and the environment. Among other things, our two subcommittees hope to examine, together with interested nongovernmental organizations, how environmental protection measures can prevent disease and promote better health, reduce the demand for health care services and financial assistance, and assist in reducing inflation by containing the costs of providing health care for the Nation.

We are interested in enhancing public awareness of how environmental contaminants and hazards cause or contribute to disease and death; how certain environmental protection measures can prevent or reduce disease; how spiraling medical costs can be contained by a preventive medicine health care strategy, relying in part on environmental protection measures; and what the public can do to help achieve a more healthy environment and to assist cost containment efforts. Obviously this is a major task, and our two subcommittees can use all the help we can get from other interested Members, subcommittees and staff, as well as from any nongovernmental groups.

The health problems that are caused by personal excesses, such as overeating, too much drinking, smoking, and drugs cannot really be prevented by any governmental program. The Government can perhaps help those who are hooked on such habits, and it can stop subsidizing those habits which cause health problems, but it still comes down to a personal choice. A recent editorial in Science Magazine addressed this subject quite directly, and I recommend it to each of my colleagues. The central point made was, "The individual must realize that perpetuating the present system of high cost, after-the-fact medicine will only result in higher costs and greater frustration. The next major advances in the health of the American people will be determined by what the individual is willing to do for himself and for society at large." The entire editorial follows these remarks.

The theme expressed in this editorial was remarkably similar to the words of President Carter in his state of the Union address last week. In that address President Carter said:

We need patience and good will, so we really need to realize that there is a limit to the role and the function of Government. Government cannot solve our problems, it can't set our goals, it cannot define our vision. Government cannot eliminate poverty or provide a bountiful economy, or reduce inflation, or save our cities, or cure illiteracy, or provide energy, and Government cannot mandate goodness. Only a true partnership between Government and the people can ever hope to reach these goals.

Those of us who govern can sometimes inspire, and we can identify needs and marshal resources, but we simply cannot be the managers of everything and everybody.

The editorial follows:

[From Science Magazine, Dec. 16, 1977]

RESPONSIBILITY FOR HEALTH

(By John H. Knowles)

Most individuals do not worry about their health until they lose it. Uncertain attempts at healthy living may be thwarted by the temptations of a culture whose economy depends on high production and high consumption. Asceticism is reserved for hair-shirted clerics and constipated cranks, and every time one of them dies at the age of 50, the hedonist smiles, inhales deeply, and takes another drink.

Prevention of disease means forsaking the bad habits which many people enjoy—overeating, too much drinking, taking pills, staying up at night, engaging in promiscuous sex, driving too fast, and smoking cigarettes—or, put another way, it means doing things which require special effort—exercising regularly, improving nutrition, going to the dentist, practicing contraception, ensuring harmonious family life, submitting to screening examinations. The idea of individual responsibility flies in the face of American history, which has seen a people steadfastly sanctifying individual freedom while progressively narrowing it through the development of the beneficent state. On the one hand, social Darwinism maintains its hold on the American mind despite the best intentions of the neoliberals. Those who are not supine before the federal Leviathan proclaim the survival of the fittest. On the other, the idea of individual responsibility has given way to that of individual rights—or demands, to be guaranteed by government and delivered by public and private institutions. The cost of private excess is now a national, not an individual, responsibility. This is justified as individual freedom—but one man's freedom in health is another man's shackle in taxes and insurance premiums. I believe the idea of a "right" to health should be replaced by that of a moral obligation to preserve one's own health. The individual then has the "right" to expect help with information, accessible services of good quality, and minimal financial barriers. Meanwhile, the people have been led to believe that national health insurance, more doctors, and greater use of high-cost, hospital-based technologies will improve health. Unfortunately, none of them will.

The barriers to the assumption of responsibility for one's own health are lack of knowledge (implicating the inadequacies of formal education, the too-powerful force of advertising, and the informal systems of continuing education), lack of sufficient interest in and knowledge about what is preventable and the cost/benefit ratios of nationwide health programs (implicating the powerful interests in the health establishment, which could not be less interested, and calling for a much larger investment in fundamental and applied research), and a culture which has progressively eroded the idea of individual responsibility while stressing individual rights, the responsibility of society at large, and the steady growth of production and consumption ("We have met the enemy and he is us!").

The individual must realize that perpetuating the present system of high-cost, after-the-fact medicine will only result in higher costs and greater frustration. The next major advances in the health of the American people will be determined by what the individual is willing to do for himself and for society at large. If he is willing to follow reasonable rules for healthy living, he can extend his life and enhance his own and the nation's productivity. If he is willing to reassert his authority with his children, he can provide for their optimal mental and physical development. If he participates fully in private and public efforts to reduce the hazards of the environment, he can reduce the causes of premature death and disability. If he is unwilling to do these things, he should stop complaining about the rising costs of medical care and the disproportionate share of the gross national product that is consumed by health care. He can either remain the problem or become the solution to it; beneficent government cannot.—John H. Knowles.

FACTS BETRAY MYTH OF FEDERAL BUREAUCRATIC SPRAWL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. SOLARZ. Mr. Speaker, the Federal bureaucracy seems to have become the favorite whipping boy of American poli-

tics. Hardly any candidate for public office does not run against the bureaucracy, which is described in terms evoking images of a rapidly spreading and uncontrolled malignancy.

The rhetoric of political campaigns has created the common perception that the Federal bureaucracy has grown enormously in recent years and now constitutes a substantial and ever increasing percentage of the work force. However, as we all know, popular perceptions do not always coincide with actual realities. In the case of the size of the Federal bureaucracy, a look at the facts and the figures will reveal that much of the sloganeering on the issue is based on fantasy and fiction.

This point was very lucidly made in a recent article in the New York Times by Sam D. Millsap which I heartily recommend to my colleagues. In that article Mr. Millsap points out that the Federal Government employed as many people in 1961 as it does today and that the Government's civilian work force is only slightly larger today than it was in 1946. In addition, Mr. Millsap notes, since 1960 the percentage of the American work force employed by the Federal Government has actually declined.

It has often been said that the first step in the finding of a solution is the identification of the problem. If we want to govern effectively and more responsively, we might begin with the realization that the size of the Federal bureaucracy is not a source of our problems and look elsewhere for the roots of our troubles.

[From the New York Times]

BIG (?) GOVERNMENT

(By Sam D. Millsap Jr.)

SAN ANTONIO.—Public Enemy No. 1, according to political leaders of all stripes, is the creeping Federal bureaucracy. The year 1976, when every major Presidential candidate ran against the Government he hoped to preside over, was punctuated by shrill outbursts suggesting uncontrolled bureaucratic growth at the Federal level. And 1977 ended on the same note—the Federal Government is growing like a newly discovered tropical disease.

The facts betray the myth of Federal bureaucratic sprawl. Shocking though it may be, the Federal Government employed as many people in 1961 as it does today (about five million). The Government's civilian force is only slightly larger today (2.8 million) than it was in 1946 (about 2.5 million). Since 1960, the percentage of the American work force employed by the Federal Government has actually declined (from 3.3 to 3.1 percent).

Also overlooked in this most recent of Washington witchhunts is the fact that several major Federal departments and agencies have actually shrunk in size. The State and Defense Departments, as well as the Agency for International Development, for example, are smaller today than 15 years ago. The Departments of Agriculture, and the Interior and the Postal Service were larger in 1970 than today.

Another popular refrain in the last two political seasons—that an increasingly significant percentage of Federal bureaucrats are welfare workers—is also pure fiction. Of the five million or so Federal employees, well over 60 percent are employed by the Defense Department. Next in line, in terms of size, is the Postal Service, with about 750,000 employees. With almost 80 percent of the Federal bureaucracy delivering mail and defending us, it is difficult at best to sustain the fiction that the country is crawling with welfare workers.

The number of persons with government jobs has grown dramatically in recent years—but not at the Federal level. In 1960, state and local governments employed 5.5 million people (7.7 percent of the work force). By 1975, that figure had more than doubled: 11.7 million people (12.6 percent of all American workers) were employed by state and local governments.

When confronted with this fact, the Washington-baiters predictably fall back on the argument that growth at the state and local levels is the product of federally financed social welfare programs administered by non-Federal bureaucrats.

Not so! Almost half of all state and local government employees are schoolteachers or work in educational support roles. Nearly 20 percent work as policemen or firemen. In short, the vast majority of state and local employees, rather than administering welfare programs, are teaching our children and protecting us from fire, ourselves and each other.

Reliance on fictions in the attack on "big government" is both needless and unwise.

Public trust in the national Government will be restored only when political leaders level with their constituents. To suggest, however, that the "big-government" problem will evaporate if we just fire Federal employees *en masse* is to mislead an already superstitious electorate and ignore the real problem.

If our real goal is to make government more responsive, our focus should be on what Federal employees do, not how many of them there are. If meaning and substance are to be the result of the big-government debate, we must concern oursevles with what Government does, whether Government is accomplishing what we expect of it.

H.R. 1614—A BILL TO ASSURE DEPENDENCE ON FOREIGN OIL

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. SYMMS. Mr. Speaker, today we are considering a bill that would assure America's dependence on foreign oil—the Outer Continental Shelf Lands Act, H.R. 1614. Enaction of this bill would greatly inhibit oil and gas leasing and development on the Outer Continental Shelf in the Atlantic.

This fact was most eloquently stated in paid advertisements in the Washington Post this morning. The first is entitled "A Message to Congress on H.R. 1614" that was sponsored by the National Ocean Industries Association. The second is entitled "It's Time To Speak Out"; this one was sponsored by the Association of Diving Contractors.

Mr. Speaker, I commend these two statements to my colleagues in Congress and urge them to reject H.R. 1614.

The advertisements follow:

[Advertisements From the Washington Post, Jan. 25, 1978]

A MESSAGE TO CONGRESS ON H.R. 1614: IF DEPENDENCE ON FOREIGN OIL IS WHAT YOU WANT, H.R. 1614 WILL GET IT FOR YOU

The Outer Continental Shelf. America's last frontier for the development of substantial and long range oil and natural gas reserves.

What does it mean to most Americans if H.R. 1614 is enacted into law?

It means, simply, that further exploration, drilling and production will be delayed or stopped for several years while new regulations are conceived, new agencies such as OSHA enter into the supervision process, law suits are filed and answered and new enforcement policies are formulated.

Currently, this nation imports 44 percent of its crude oil needs from foreign nations.

Oil from the Outer Continental Shelf accounts for approximately 16 percent of our crude oil needs, and 22 percent of our natural gas needs.

If H.R. 1614, with all of its administrative delays, and its provisions for federal entry into the offshore oil industry, is enacted into law, then the only place to go for the 16 percent replacement of offshore oil is to foreign suppliers.

It's as simple as that.

And, in addition, because the search for offshore oil and natural gas will come to a halt, the additional 297,000 jobs in such as the Boston Navy Yard, the Brooklyn Navy Yard and the Quonset Navy Yard just won't exist.

As well as:

Loss of $4.5 billion in wages and benefits.

Loss of $407 million in state and federal taxes.

Loss of $26.9 billion to U.S. government in lease bonuses, taxes and royalties.

And in many cases, the smaller firms that contract for offshore exploration, drilling and production, will be unable to stay in business while they wait for the necessary State and Federal agencies to restructure their regulatory and supervisory operations to fulfill the provisions of the legislation.

It already takes almost eight years from exploration to production to get oil and natural gas out of the ocean floor and transported to the mainland for consumer use.

H.R. 1614 adds 50 additional administrative steps to that process and those 50 steps will delay our offshore productivity by at least another three years.

The offshore petroleum service, support and supply members of the National Ocean Industries are, for the most part, relatively small businessmen. They bid competitively for the contracts made available by the petroleum producers.

If those contracts aren't available, the 3 to 6 years of delays built into the provisions of H.R. 1614 will be devastating.

And America's dependence on foreign oil sources could easily jump to over 60%.

The effect on this nation's economy, its unemployment problems and its realistic need for oil independence could be disastrous.

And all because of legislation that is as unnecessary today as it was last year and the year before. The federal government has more than enough authority to administer our industry's search for the potentially large oil and natural gas reserves in the outer continental shelf. Under that authority, the Interior Department has already promulgated several new regulations this year. It is far from "hamstrung" by the existing law.

And of equal importance is the recognition that not only will the people and firms directly involved in the search for offshore oil and natural gas be disastrously affected, but also the thousands of firms throughout the United States who supply the offshore industry.

H.R. 1614 will affect every state in the United States, and therefore, every member of Congress of the United States.

We need to become independent of foreign oil sources as quickly as we can.

We need to explore for the substantial fields of oil and natural gas which we believe are in the outer continental shelf.

We need to protect the environment as we continue to expand our search for that most necessary of all minerals.

We need to protect the health and safety of the men and women who are employed in offshore operations.

We need to have the public interest protected against serious inflationary pressures.

We do not need new legislation that simply delays offshore development, creates jurisdictional disputes, puts the federal government into the oil and natural gas business and eventually forces this nation to lose its battle for energy independence.

A CAREFUL AND OBJECTIVE LOOK AT H.R. 1614 CAN LEAD TO ONLY ONE CONCLUSION

The slow down of offshore activity likely under H.R. 1614 for the next 3 to 6 years, will force substantial increases in foreign imported oil in order to meet our country's needs.

We sincerely do not believe that this, the greatest Nation in the world, can afford to take that course of action.

Sponsored by the Offshore petroleum service support and supply members of the National Ocean Industries Association, Suite 410, 1100 Seventeenth Street, N.W., Washington, D.C. 20036.

[Advertisement in the Washington Post, Jan. 25, 1978]

TO THE CONGRESS

When ⅓ of an industry might be bankrupted and when a large number of a unique breed of American workmen might lose their jobs as a result of congressional legislation then . . . it's Time to Speak Out . . . because that's what H.R. 1614 will do to us.

We realize that's a pretty strong statement. But it's true. We're a very small industry when you compare us to the oil industry giants. But the members of the Association of Diving Contractors employ almost 50% of all full-time domestic commercial divers who perform 90% of the commercial diving operations on the Outer Continental Shelf.

However, the vast majority of our member firms enjoy total annual sales of less than $300,000 annually. Without us, for example, the pipelines from offshore rigs to the mainland wouldn't and couldn't exist or be maintained.

And H.R. 1614, with all of its new provisions, will effectively put a lot of us out of business and put a lot of our employees out of jobs.

We just don't have the capital to sustain us over the period of years that it will require to make this legislation operational.

And most especially, we believe that the provisions of this legislation which invest health and safety responsibility for our divers in the hands of the Department of Labor's Occupational Safety and Health Administration will, without question create an emphasis on punitive procedures rather than safety and health improvement.

Even though the ocean is a frontier, the hazards associated with working there are well known and documented as being primarily of safety and not health. Further, the safety hazards are peculiar to that environment in that they are of a maritime nature. Maritime safety hazards can only be effectively identified, and reduced, by an agency with maritime experience. OSHA has no maritime experience and, without years of training and experience, OSHA wouldn't be capable of creating safety standards which are either meaningful or realistic in the ocean environment.

Conversely, the United States Coast Guard, whose records of supervision in maritime safety matters speaks for itself, has that experience.

Why change horses in mid-stream when the result of that change brings virtually the whole offshore industry to a dead halt for several years.

The President's Council on Wage and Price Stability said it best in January of this year when it spoke of OSHA standards;—There is no evidence that the standards will measurably lower the industry's fatality rate, and may even increase it because of a false sense of security;—OSHA's estimate of annual costs of compliance ($22 Million) appears to understate total costs that will be passed on to consumers;—The proposal may adversely affect the nation's energy supply, since a number of divers are employed by offshore companies to monitor underseas pipelines and to respond to accidental leaks.

The proposed standards will weigh heavily on small firms in the industry. According to OSHA's Inflation Impact Assessment, the ten largest diving firms employ more than half of the 1,500-plus divers currently working, with the rest spread out among more than 400 firms. The cost of compliance with the proposal might put these small businessmen out of business, thus increasing concentration in the industry.

We favor Safety and Health procedures because safety is the business of everyone in the offshore industry just as environmental protection is everyone's concern.

But when the legislative process either destroys an industry or delays its ability to function for several years, then that legislation cannot possibly be in the public interest.

And we believe that the search for and the production of oil and gas from the Outer Continental Shelf should be an immediate priority of our govtrnment.

H.R. 1614 effectively nullifies that priority and sets this country back several years in our search for oil.

We urge Congress to "think twice" before voting on this legislation.

ASSOCIATION OF DIVING CONTRACTORS

Membership List; American Marine Salvage, Inc.; Atlantic Diving Co., Inc;. BOC SubOcean Services, Inc.; Central States Underwater Contracting; Chicago Bridge & Iron Company; Comex; Continental Diving Service; Daspit Bros. Marine Divers, Inc.; EGA, Inc.; Frolich Bros. Marine Divers, Inc.; Global Divers and Contractors, Inc.; Gulf South Divers, Inc.; Innerspace, Inc.; International Divers Company; International Oilfield Divers, Inc.; International Underwater Contractors, Inc.; J & J Marine Diving Company, Inc.; J. Ray McDermott Diving Division: Martech International, Inc.; New England Divers, Inc.; Oceaneering International, Inc.; Ocean Systems, Inc.; Panoceanic Engineering Corporation; Parker Diving Services; Professional Diving Service; Professional Diving Service, Inc.; Professional Diving Services Co., Inc.; Santa Fe Engineering & Construction, Co.; Smit Lecler International Corp.; Submarine Engineering Associates; Sub Sea International, Inc.; Taylor Diving & Salvage Co.; Walker Diving Contractors, Inc.

Association of Diving Contractors, 1799 Stumpf Blvd., Suite 4, Gretna, La.

THE CIVIL AIR PATROL: 36 YEARS OF SERVICE AND DEDICATION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. WOLFF. Mr. Speaker, if someone were to crash-land in a small private plane—or a large one, either—gets lost while hunting in some mountain wilderness, or a child wanders away from a vacation camp, who will come looking for him?

Chances are that among the searchers will be the dedicated members of Civil Air Patrol (CAP), the official civilian auxiliary of the U.S. Air Force which, on December 1, 1977, celebrated its 36th anniversary.

They probably will be up in the sky in small airplanes searching for those who find themselves in this kind of trouble. They will also be part of the ground search teams scouring the countryside.

Each year, Civil Air Patrol pilots and observers, assisted by scores of ground team members, fly three out of every four flying hours spent in the United States on search and rescue efforts which the Air Force Rescue and Coordination Center (AFRCC) directs.

They have been performing these aerial search and rescue operations—and a lot more humanitarian efforts—since the dark days of World War II.

CAP was established in December 1, 1941, 1 week before the Japanese attack on Pearl Harbor. The organization was the result of worry and efforts on the part of hundreds of aviation-minded private citizens who could foresee war coming and wanted to contribute their aircraft and efforts in the Nation's civilian defense efforts.

During the war, its members flew patrol missions off the Atlantic and gulf coasts, looking for enemy submarines; conducted border patrol duty along the Mexican border; acted as aerial couriers carrying mail, light cargo and passengers, thus saving the time and expense of military planes; towed targets for aerial gunnery practice; and flew hundreds of aerial search missions.

In 1946, rather than see such a useful organization die, Congress chartered Civil Air Patrol as a nonprofit, humanitarian corporation whose members would be all volunteers. In 1948, Congress made Civil Air Patrol an official auxiliary of the Air Force and gave the Air Force authority to help it conduct its activities and lend it a degree of assistance.

In the first 10 months of last year, the men and women of Civil Air Patrol have conducted 695 emergency service operations (missions). This is one higher than the 694 missions recorded in all of 1975, the highest figure in recent years.

No one knows what is the record number of searches or lives saved for the war years and the earlier postwar years since no official records exist for those years which are comparable to those being kept today.

In 1975, Civil Air Patrol was credited with saving the lives of 57 persons through its search and rescue operations, the highest in recent years. So far this year, 45 persons owe their lives to CAP efforts.

But these 45 have been saved while flying fewer sorties (7,889 in the first 10 months of 1977) and expending fewer flying hours (14,752) than in 1975. In addition, Civil Air Patrol crews have located their search objectives 393 times this year.

These statistics indicate increased efficiency on the part of Civil Air Patrol and the reasons are varied. Sophisticated new search techniques, developed in cooperation with the Federal Aviation Administration (FAA) and the AFRCC have contributed to it. So have the stepped-up training efforts of Civil Air Patrol and its members.

The FAA, Civil Air Patrol, and the Rescue Coordination Center have developed techniques to utilize satellite photographs and computer-recorded radar data to speed up aerial search efforts. The techniques are effective and have shortened the time spent on searches where it has been possible to use these techniques.

In addition, intelligence-gathering efforts which seek to give a picture of the crew on crashed airplanes and predict what they might have done have contributed to increased efficiency.

So, as Civil Air Patrol observes its 36th year of service to community, State, and Nation, its members point proudly to its record of emergency services and to the hundreds of lives it has saved over the years.

But, it expends its lifesaving efforts in other ways also. Last year, for example, it has been involved in saving lives during the late winter blizzards in Colorado and in rescue efforts in the canyon flood disaster there, in Johnstown, Pa., and more recently in Toccoa, Ga. In addition, each year CAP crews perform many mercy flights, airlifting needed human blood, sera of various kinds, and patients who need to be moved to better medical facilities.

When Civil Air Patrol members proudly tell you of their organization, they begin by telling you of its lifesaving efforts, since that is the mission for which it is most famous. But there are others, its aerospace education mission for example.

Civil Air Patrol has been responsible for helping inaugurate courses on aviation and space related subjects in hundreds of schools across the Nation. And each year, it sponsors aerospace education seminars in colleges in every State, to help train teachers in how to teach these subjects.

But, most of all, Civil Air Patrol is proud of its program of leadership development and motivation for young people—its cadet program. When some young people are told about CAP's cadet program, they may shy away from an organization which has friendly ties to the military. But after they become a part of it, they think it is wonderful.

Civil Air Patrol sponsors a training course in aerospace education as part of its cadet program. In addition, it sponsors a variety of special courses and encampments for its teenage members—many of these being in cooperation with the Air Force.

The top level of such activity is the International Air Cadet Exchange. Under this program, which the Air Force helps sponsor, young members of Civil Air Patrol, accompanied by adult escorts, visit approximately 22 foreign nations which participate in the program. At the same time, Civil Air Patrol is host to like numbers of foreign cadets who visit the United States during this annual summer program.

So, if you get lost out there in the wilderness, if your little plane crash-lands and you survive, take heart. Civil Air Patrol volunteers will be out there looking for you. And when you see that small plane with the CAP insignia fly over, cheer up, help is near.

Then, while you are recuperating from your traumatic experience, they will tell you how important it is for Americans to understand the importance of aviation and space developments and about the cadet program. If you listen long enough, you may find yourself getting proudly involved.

After all, if you have helped establish a 36-year record of service to the Nation, you have reasons to be proud.

MUSIC HALL DILEMMA

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. RICHMOND. Mr. Speaker, recently it was announced that Radio City Music Hall will be closed forever. Over the past 45 years this 6,000-seat landmark has been the home of happiness and entertainment for millions of Americans and foreign visitors.

The music hall is the finest example of art deco remaining in the United States. We have a tendency in this country to think "new is better." We must learn to preserve the best qualities and buildings in our society and allow them to benefit our grandchildren's lives as they have ours.

A recent article by Jack Kroll, movie and drama critic for Newsweek magazine explains the music hall dilemma. I would like to share Mr. Kroll's thoughts with my colleagues in hopes that we can find an answer to this most pressing problem.

[From Newsweek Magazine]

SAVE RADIO CITY MUSIC HALL

(By Jack Kroll)

Radio City Music Hall must not die, and only President Carter can save it. For 45 years, the slogan of the marvelous movie palace has rightly been "the showplace of the nation," and it has long deserved national landmark status and a Federal subsidy to help keep it alive.

The officials of Rockefeller Center who announced last week that this spring, after several years of crying wolf, they were really going to close the great stainless steel doors, turn off the six movie projectors, tell the 78 gorgeous legs of the Rockettes to start walking, may well be right when they insist that the Music Hall is no longer a viable economic proposition. But in recent years, we've seen all sorts of nonviable economic propositions like railroads and aircraft companies galvanized by taxpayers' money. And it would be humane, patriotic and practical if a similar consideration were worked out for one of America's—and the world's—unique structures and symbols.

OPTIMISTIC ARCHITECTURE

More than our greatest theater, the Music Hall is a masterpiece of the art-deco architectural style and the heart of Rockefeller Center. The great art-deco buildings—the Chrysler, Empire State, Radio City—all sprang up during the Depression period, and yet these soaring towers represented a paroxysm of optimism and faith in America.

The art-deco style was a wonderfully crazy synthesis of influences ranging from the ancient Aztecs to the planet Mars, from Egypt to the Navajos, from the sexy curves of art nouveau to the brainy angles of the Bauhaus. These pointed, terraced, striped and sculpted towers were hosannas to big business, to democracy, to the middle class, to the popular culture—to all the contradictory energies that were burgeoning in a country that was booming and busting simultaneously. And the Music Hall remains the theater, the secular cathedral, of that euphoric moment. If you kill the Music Hall you kill a dream.

Is this merely nostalgia, a nostalgia we can ill afford? No, it's not nostalgia, it's conservation. You can't conserve everything, but this country is a hard-hatted schizoid thrashing around with a riveting machine in one hand and a wrecking ball in the other. Killing the Radio City Music Hall isn't progress, it's self-lobotomy, a willful annihilation of certain precious images, forms, suggestions and possibilities that are part of our historical momentum, part of our spirit. Ada Louise Huxtable, the distinguished architecture critic of The New York Times, has said that "the Chrysler Building and Radio City Music Hall are immortal." We can't allow money to bring mortality to the immortal.

At a time when the television set has transistorized our sensibilities, when a movie house is a screen, a popcorn machine and two johns enclosed within four walls and plunked down in a shopping center, the Music Hall is a reminder of grander things. The immense but beautifully proportioned vault of the grand foyer, with its 29-foot cylindrical chandeliers plummeting from the ceiling, the huge gold-backed mirrors creating a paradisal light, the mad mural depicting the "ambitions and vanities of life," has a massive but translucent innocence. The legendary lavatories lend a Babylonian grandeur to their primeval function, with their palatial ranks of facilities in gleaming black and white. And the 6,200-seat auditorium is a spectator's utopia, arch upon arch radiating from a giant movie screen that even makes a heroic figure out of Mickey Rooney.

WHAT CAN BE DONE?

If all this sounds out of scale with contemporary reality, it's not out of scale with a civilized society's need to preserve its touchstones. But along with what appears to be the inescapable necessity of a Federal subsidy of some kind, a much more creative management of the theater is also needed. Whatever the Byzantine nature of the distribution system within the movie industry, why on earth aren't films like "Star Wars" and "Close Encounters of the Third Kind" playing there? And how did "Rocky" avoid its natural audience at the Music Hall? Obviously an enterprising new entente between the Music Hall and the film business is called for.

In addition, why shouldn't its vast yet warm spaces be used for grand ceremonial occasions—parties, galas, conventions, celebrations—of city, state and nation? The lucrative rock concerts should be increased and to them should be added special events in concert, jazz, dance and opera. The hottest upcoming ticket is Vladimir Horowitz's first orchestral concert in 25 years. Horowitz at the Music Hall would be an occasion not only of exitement and joy, but of gobs of money. For years there's been talk of a cinémathèque in New York City: the world's greatest movie house is waiting to be used for this purpose, perhaps through an unprecedented cooperation between the American Film Institute, the French Cinémathèque and the Museum of Modern Art.

CULTURE AND CONSCIOUSNESS

A host of one-shot occasions suggest themselves. Extraordinary theatrical talents such as Robert Wilson, with his gift for working in vast spaces—could work wonders at the Music Hall. The closed-circuit television screening of Muhammad Ali-Joe Frazier was a big success, and the Music Hall could conceivably become a kind of Madison Square Garden of closed-circuit sports. Climactically, New York badly needs a brilliant

annual multidimensional cultural festival, and the Music Hall is the place for it.

These suggestions will breed still more in any reasonably fertile mind. Certainly they suggest that much more can be done to bring a partial measure of self-support to a facility the likes of which exists nowhere else on earth. But it is clear that, as with even our much newer major cultural facilities, significant deficits must inevitably exist. The commercial aspects of the Music Hall operation shouldn't distract us from its unique and crucial role in the culture, indeed the consciousness, of the nation. To subsidize the Music Hall is to subsidize part of that consciousness.

Meanwhile, the vulpine forces preparing to make a wasteland out of the Music Hall propose such creative alternatives as a shopping center, more office space, a hotel and . . . tennis courts! Tennis balls being whacked and duffed over the interred corpse of one of the grandest, most graceful and resonant American creations! In 45 years, 240 million people have come to the Music Hall. It's time for us, marshaled and supported by our government, to consecrate one of the chief lodestars of our national pleasure and pride.

NARCOTICS TRAFFICKER LEROY "NICKY" BARNES SENTENCED TO LIFE IMPRISONMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. GILMAN. Mr. Speaker, on December 2, 1977, Leroy "Nicky" Barnes, known among narcotics traffickers as Mr. Untouchable for his hitherto adept ability in eluding detection by law enforcement authorities was tried, along with 10 codefendents, before Judge Henry J. Werker of the U.S. District Court for the Southern District of New York and found guilty of masterminding a continuing criminal enterprise and of conspiring to sell more than 40 pounds of heroin a month at an estimated wholesale monthly value of $1 million.

I am pleased to report to my colleagues that last Thursday, January 19, Judge Werker imposed a maximum sentence on Barnes—life imprisonment—and fines totalling $125,000. Ten members of the Barnes gang were convicted of lesser charges eight of whom received sentences ranging from 15 to 30 years in prison.

Judge Werker is applauded for imposing such a severe sentence on this drug-pushing merchant of human misery, but as I cautioned at the time of Barnes' conviction, (the CONGRESSIONAL RECORD of Dec. 7, 1977 on pp. 38798–38800):

Our Nation must not be lulled into any sense of complacency and must not permit euphoria to set in. It is obvious that much work remains to be done in busting other narcotics trafficking operations both here and abroad, and there are many other nefarious individuals who are willing and able to replace Barnes once he is incarcerated. But there is no doubt that some progress is being made and hopefully the narcotics peddlers will come to realize that no one is above the law, that no criminal is untouchable.

Selwyn Raab, in a New York Times article entitled, "Barnes Lost But Heroin Trade Is Still Unbeaten," contends that the life sentence "has produced subtle psychological changes in the unremitting war" between law enforcement agents and narcotics traffickers, but that "the tough sentence for one of the Nation's notorious drug dealers has little immediate impact on New York's thriving narcotics trade."

Clearly, this Nation has a long way to go before the war on drugs is won and the reasons for heroin trafficking are eradicated from society. As Sterling Johnson, New York City's Special Prosecutor, stated in the Raab article: "Unless you provide jobs, decent homes and end the squalor in places like Harlem, we're going to keep on producing more Nicky Barneses."

Mr. Speaker, in the interest of bringing the latest developments of the Barnes case to the attention of my colleagues, I am inserting at this point in the RECORD Mr. Raab's article that appeared in the New York Times of January 22, 1978.

The article follows:

[From The New York Times, Jan. 22, 1978]

BARNES LOST BUT HEROIN TRADE IS STILL UNBEATEN

(By Selwyn Raab)

In Harlem he was looked upon as a legend, a symbol of financial success and a new kind of folk hero. To most people, including narcotics agents, Leroy (Nicky) Barnes was also known as "Mr. Untouchable"—New York's largest drug dealer who inevitably walked out of court a free man.

That good luck for Mr. Barnes ended last Thursday when he was sentenced to the longest possible term—life in a Federal prison without the chance of parole. His downfall came after Federal prosecutors convicted him on the rarely brought charges of controlling a major narcotics organization and conspiring to sell millions of dollars of heroin.

But the tough sentence for one of the nation's notorious drug dealers had little immediate impact on New York's thriving narcotics trade. On the streets of Harlem, the center of the illegal heroin trafficking in the city, "pushers," or street drug dealers openly hawked their wares. In fact, the glassine heroin "bags," costing up to $75 each, continued as they have for years to be sold by labeled names such as Wizard and Sudden Death.

But, despite the unchecked street sales, the conviction of Mr. Barnes has produced subtle psychological changes in the unremitting war between the "narco," or law enforcement narcotics agents, and the dealers. For narcotics investigators, many of whom are often on dangerous and frustrating assignments, the conviction has provided a morale tonic by proving that important as well as small-time dealers can be prosecuted and imprisoned. "These people risk their lives and see these dealers walk in and out of courtrooms as if they owned the swinging doors," said John Fallon, the regional director of the Federal Drug Enforcement Administration. "This time justice triumphed."

A Harlem drug rehabilitation counselor, Gregory Hutchins, found that the sentence "shocked" both the pushers and the law-abiding residents of the neighborhood. "No one on the street believed the criminal justice system could convict Nicky Barnes and send him away for life," Mr. Hutchins said. "They felt that with money you can get out of everything—even narcotics—and he had all the money in the world."

The law enforcement campaign to get Mr. Barnes was reminiscent of a similar difficult drive in the 1930's to convict Al Capone, the then symbol of underworld invincibility. Long aware that he was being watched and was a prime target of the "narcs," Mr. Barnes was said by the police to have insulated himself from the "dirty work" of personally making drug transactions. Undercover agents said he knew "he was being bugged and tailed" and relied increasingly on a small band of trusted lieutenants to carry out his illicit affairs.

Narcotics agents, however, penetrated Mr. Barnes' organization and by using informers, who were granted immunity from prosecution, Mr. Barnes was convicted last month. The case was deemed important enough to be prosecuted personally by Robert B. Fiske, the United States Attorney for the Eastern District of New York. The convictions of Mr. Barnes and 10 co-defendants were expensive. Law enforcement officials estimated that the investigation and two-month trial cost close to $500,000. Lawyers familiar with narcotics defense cases believe that Mr. Barnes' legal fees were more than $100,000.

"Whatever the cost to the Government it's minuscule compared to the misery Barnes has brought to addicts and their families," said Mr. Fallon of the Drug Enforcement Administration, the Federal agency that had been zealously on Mr. Barnes' trail for seven years.

The life-story of Nicky Barnes is a modern saga of how a poor black youth in Harlem overnight became wealthy through crime. According to police records, Mr. Barnes was a heroin addict as a teenager. After kicking the habit he turned heroin into a profit by becoming a dealer and constructing the first large heroin distribution operation dominated by a black criminal. By 1970 he was listed by the police as one of the 10 top drug traffickers in the area. The medium-built, muscular Mr. Barnes seemingly basked in his notoriety. Although aware that he was constantly shadowed by the police, he motored about the city in expensive, easy-to-recognize limousines. He was a frequent and lavish-spending patron of Harlem night clubs. His custom-tailored suits were said to number 300. As Mr. Barnes apparently prospered, the tales of his flamboyant lifestyle and his immunity from the law grew. Youngsters in the poverty-scarred neighborhood boasted to the police that they too wanted to became "Nicky Barnes."

Before his most recent indictment, Mr. Barnes was arrested for murder, narcotics offenses, bribery and possession of a gun. In one arrest police officers found $130,000 in a suitcase in his car. But Mr. Barnes won acquittals or dismissals on all of these accusations, thereby adding luster to his image of a narcotics dealer who could taunt the law.

Most police officials doubt that Mr. Barnes' conviction will lead to any serious heroin shortages since other dealers are expected to fill the gaps. Some narcotics experts believe that Mr. Barnes may even continue to run the operation from his cell as other criminals have managed to do.

Mr. Fiske hopes that the "most important message of the conviction will be to convince young people that Barnes' life-style should not be emulated." Mr. Hutchins doubts that the guilty verdict will have that effect. "Too many kids in Harlem have no jobs and little hope," he said. "Nicky Barnes taught them that you can make $1,000 a day selling dope or $1,500 for a few hours of renting your apartment to drug packagers. That's what they'll remember for a long time," he added.

Sterling Johnson, the city's special Narcotics Prosecutor, also is skeptical. "You won't deter addiction simply by getting the big guys and pouring more money into law enforcement," he said. "Unless you provide jobs, decent homes and end the squalor in places like Harlem we're going to keep on producing more Nicky Barneses."

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 26, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 27

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on S. 276, to establish a national system to promote the reuse and recycling of beverage containers.
5110 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold an organization meeting to consider its budget and other administrative matters.
5302 Dirksen Building
Government Affairs
To resume hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terroism.
3302 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed fiscal year 1979 budget estimates for the Federal Mediation and Conciliation Service, National Labor Relations Board, National Mediation Board, and Corporation for Public Broadcasting.
S-128, Capitol
Armed Services
To meet in closed session to receive a briefing from CIA officials.
S-407, Capitol
Foreign Relations
To continue consideration of the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
4221 Dirksen Building
Government Affairs
Intergovernmental Relations Subcommittee
To continue hearings on urban policy.
357 Russell Building
Select on Intelligence
To hold hearings on the nomination of Ambassador Frank Carlucci, of Pennsylvania, to be Deputy Director of Central Intelligence.
6202 Dirksen Building

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to review the past years' housing programs with Patricia Harris, Secretary of HUD.
5302 Dirksen Building

JANUARY 30

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of foreign military sales through the Federal Financing Bank.
5302 Dirksen Building
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 1812, the Family Farms Act, S. 242, to provide for consideration of the comparative productive potential of irrigable lands in determining non-excess acreages under Federal reclamation laws, and S. 2310, to permit the execution of certain contracts negotiated with irrigation districts under the 160-acre limitation.
3110 Dirksen Building
Finance
Taxation and Debt Management Subcommittee
To hold hearings to receive testimony on the public debt and the implications of President Carter's budget upon the debt.
2221 Dirksen Building
Governmental Affairs
To resume hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.
3302 Dirksen Building
Judiciary
To hold hearings on the nomination of William H. Webster, of Missouri, to be Director of the Federal Bureau of Investigation.
2228 Dirksen Building
Select Small Business
Economic Development, Marketing, and the Family Farmer Subcommittee
To hold hearings on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S-128, Capitol
Select on Intelligence
To resume hearings on the nomination of Ambassador Frank Carlucci, of Pennsylvania, to be Deputy Director of Central Intelligence.
5110 Dirksen Building

JANUARY 31

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of Energy.
3110 Dirksen Building
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on H.R. 7747, to amend the D.C. code with regard to pretrial release or detention.
1224 Dirksen Building
Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on S. 1464, to require a health warning on the labels of bottles containing certain alcoholic beverages.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S-128, Capitol
Banking, Housing, and Urban Affairs
To mark up S. 2152, authorizing the United States to participate in the Supplementary Financing facility of the International Monetary Fund, and S. 2093, to bar availability of moneys in the Exchange Stabilization Fund for payment of administrative expenses of the Treasury Department.
5302 Dirksen Building
Environment and Public Works
To continue hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building
Governmental Affairs
To continue hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.
3302 Dirksen Building
Select Small Business
Economic Development, Marketing, and the Family Farmer Subcommittee
To continue hearings on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To hold a business meeting.
235 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S-128, Capitol
Select Ethics
To hold an open followed by a closed business meeting.
S-126, Capitol

FEBRUARY 1

9:00 a.m.
Human Resources
Aging Subcommittee
To hold oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 6226 Dirksen Building

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of Interior.
3110 Dirksen Building
Environment and Public Works
To continue hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S-128, Capitol
Armed Services
To resume hearings on the military questions and costs of maintaining and operating the Panama Canal and on the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operations of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Banking, Housing, and Urban Affairs
To resume markup of bills proposing simplification in the "truth-in-lending" laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Budget
To hold hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
Room to be announced

Finance
International Trade Subcommittee
To hold hearings on U.S.-Japanese trade relations and on the status of the multilateral trade negotiations.
2221 Dirksen Building

Select Small Business
Economic Development, Marketing, and Family Farmer Subcommittee
To continue hearings on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S-128, Capitol

FEBRUARY 2

9:00 a.m.
Human Resources
Employment, Poverty and Migratory Labor Subcommittee
To hold hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of the Interior.
4200 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings on the proposed Carnegie/White House Conference on Families.
Until 12:30 p.m. 1318 Dirksen Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
Room to be announced

Energy and Natural Resources
To hold a business meeting on pending calendar business.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on H.R. 8149, the Customs Procedural Reform Act.
2221 Dirksen Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings to receive testimony from Secretary of Labor Marshall on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S-128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings to receive testimony from Secretary of HEW Califano on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol

FEBRUARY 3

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

Select Intelligence
To hold hearings on S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence information.
6202 Dirksen Building

9:30 a.m.
Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 457 Russell Building

Veterans' Affairs
To hold hearings on S. 2384, the Veterans and Survivors Income Security Act.
6202 Dirksen Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
Room to be announced

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings to receive testimony on Federal dam safety requirements.
4200 Dirksen Building

FEBRUARY 6

9:00 a.m.
Judiciary
Citizen and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 476, 477, 478, and related bills to amend the laws concerning diplomatic immunity.
2228 Dirksen Building

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on H.R. 7747, to amend the D.C. Code with regard to pretrial release and detention.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on exchange rate policy.
5302 Dirksen Building

Energy and Natural Resources
To resume hearings on pending nominations.
3110 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To resume hearings to receive testimony on the public debt and the implications of President Carter's budget upon the debt.
2221 Dirksen Building

6:00 p.m.
Veterans' Affairs
To hold hearings on a National Academy of Science study of health care for American veterans.
6202 Dirksen Building

FEBRUARY 7

9:00 a.m.
Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 6202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the future of space science and space applications.
235 Russell Building

Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Federal Highway Administration, and to receive testimony from Secretary of Transportation Brock Adams on the Administration's highway legislative proposals.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Departments of Labor-HEW, and related agencies.
S-128, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings to receive testimony from HEW Secretary Joseph A. Califano, Jr., on S. 2084, the proposed "Better Jobs and Income Act."
2221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume hearings on alleged irregularities in certain spending practices of the Small Business Administration.
457 Russell Building

FEBRUARY 8

9:00 a.m.
Human Resources
Aging Subcommittee
To continue oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 457 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Nuclear Regulatory Commission.
4200 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
1318 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings to review the current programs on child care and child development and the need for additional legislation.
Until 12:30 p.m. 4232 Dirksen Building

Human Resources
Health and Scientific Research Subcomittee
To hold hearings on the extension of NIH research authorities and community mental health centers.
Until 12:30 p.m. S-207, Capitol

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on H.R. 5643, to implement the U.N. Convention on the means of prohibiting and preventing illicit import, export, and transfer of ownership of cultural property.
2221 Dirksen Building

FEBRUARY 9

7:00 a.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on the reauthorization of the ACTION agency (P.L. 93–113).
Until 11:00 a.m. 4232 Dirksen Building

9:00 a.m.
Commerce, Science, and Transporatation
To hold hearings on the nominations of Edith B. Sloan and Susan B. King, both of the District of Columbia, each to be a Commissioner of the Consumer Product Safety Commission.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for Title V's Regional Commissions of the Public Works and Economic Development Act of 1965, and the Appalachian Regional Commission.
4200 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Finance
Public Assistance Subcommittee
To resume hearings to receive testimony from Secretary of Labor F. Ray Marshall on S. 2084, the proposed "Better Jobs and Income Act".
2221 Dirksen Building

FEBRUARY 10

9:30 a.m.
Environment and Public Works
Water Resources Subcommittee
To mark up H.R. 7744, to permit the contract dredging for improvement of rivers and harbors by private industry.
4200 Dirksen Building

FEBRUARY 15

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the National Bureau of Standards.
235 Russell Building

FEBRUARY 20

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for programs within the Department of the Interior, including General Services building proposals.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

6:00 p.m.
Human Resources
Child and Human Development Subcommittee
To resume hearings to review the current programs on child care and child development and the need for additional legislation.
Until 9:00 p.m. 4232 Dirksen Building

FEBRUARY 21

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Economic Development Administration.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Services Administration, Department of HEW.
S–128, Capitol

Banking, Housing, and Urban Affairs
Housing, and Urban Affairs Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee to mark up S. 1753, to extend and amend the Elementary and Secondary Education Act.
Until noon 4232 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Center for Disease Control, Department of HEW.
S–128, Capitol

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on HUD crime and riot reinsurance programs.
5302 Dirksen Building

Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Army Corps of Engineers.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

FEBRUARY 23

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on U.S. export policy.
5302 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

FEBRUARY 24

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue hearings on S. 1820, to preserve examples of all of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Alcohol, Drug Abuse, and Mental Health Administration, Department of HEW.
S–128, Capitol

FEBRUARY 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the impact of building codes on housing rehabilitation.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume oversight hearings on U.S. export policy.
Room to be announced

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Resources Administration, Department of HEW.
S–128, Capitol

FEBRUARY 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on the Resource Conservation and Recovery Act of 1976 (P.L. 94–580).
4200 Dirksen Building

Veterans' Affairs
To consider committee budget resolution.
412 Russell Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S–128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 1

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for elementary and secondary education programs, Department of HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for school assistance in Federally-affected areas, and emergency school aid programs, Department of HEW.
S-128, Capitol

MARCH 2

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To told hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 3

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To mark up S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection, and S. 1140, to encourage and assist States in development of improved programs for the conservation of "non-game" species of fish and wildlife.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Sunbcommittee
To hold hearings on spending practices of individual departments (Mission Budgeting) at HEW, and on proposed budget estimates for fiscal year 1979 for the Health Care Financing Administration, Department of HEW.
S-128, Capitol

MARCH 6

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

6:00 p.m.
Veterans' Affairs
To resume hearings on a National Academy of Science study of health care for American veterans.
Until 10:30 p.m.
6202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 7

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
Employment, Poverty and Migratory Labor Subcommittee
To resume hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

Banking, Housing, and Urban Affairs
To hold hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from officials of the VFW.
318 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

MARCH 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
To continue hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

MARCH 9

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol

MARCH 13

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 2090, 2081, and 1919, to extend certain programs of the Economic Opportunity Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Foreign Relations
To hold hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

7:00 p.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on S. 258, the Children and Youth Camp Safety Act.
Until 10:30 p.m. 4232 Dirksen Building

MARCH 14

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 2090, 2081, and 1919, to extend certain programs of the Economic Opportunity Act.
Until 12:30 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 15

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 16

9:00 a.m.
Commerce, Science, and Tronsportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on FDIC report on preferential bank lending policies.
5302 Dirksen Building

MARCH 20

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2040, the Comprehensive Drug Amendments Act.
Unti 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 21

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

Veterans' Affairs
To mark up S. 364, to provide for judicial review of administrative decisions promulgated by the VA, and to allow veterans full access to legal counsel in proceedings before the VA, and S. 2384, the Veterans and Survivors Income Security Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 22

9:00 a.m.
Human Resources
To hold hearings to receive testimony on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

MARCH 23

9:00 a.m.
Human Resources
To continue hearings to receive testimony on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

APRIL 3

9:00 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AM-VETS, Paralyzed Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 4

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 6

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the National Bureau of Standards.
235 Russell Building

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, January 26, 1978*

The House met at 11 o'clock a.m.

Rev. Paul J. Sorensen, Canton Christian Tabernacle, Canton, Ohio, offered the following prayer:

God, our almighty, unchanging Father: Thou searcher of men's hearts, help us to draw near Thee in humility and truth. We acknowledge the overflowing measure of Thy divine grace and providence.

Bless with true wisdom the President and all of our national leaders, and especially this the House of Representatives with willing obedience to Thy truth. Endow them with courage to act upon all issues with such noble purpose that scorns injustice and knows no fear when freedoms and rights of we Americans are in jeopardy.

O, God, forgive us for our national and individual sins. Draw us closer to the heart of Him who taught us to love God and our neighbors.

We ask in the name of our Lord and Master. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. PAUL J. SORENSEN

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the gentleman who just delivered the invocation to this body is a highly respected constituent of mine, the Reverend Paul J. Sorensen of the Christian Tabernacle in Canton, Ohio.

Reverend Sorensen comes before us today with an impressive background. He graduated from the Life Bible College in Los Angeles in 1937 and has served 40 years in pastoral ministry. He founded the Canton Christian Tabernacle almost 34 years ago. He is also the founder of Wings of Faith Broadcast and has been a speaker on this daily program for 30 years.

Reverend Sorensen is one of the founders of United World Mission in 1946 and has been a member of the executive board from its inception. In 1968 he founded the Heritage Christian School and he is a member of the National Religious Broadcasters, who have been in convention here in Washington this past week.

I am proud to introduce my friend to this body for the many accomplishments he has made and for the good that he has done in the field of religion, as well as in the community life of the 16th District of Ohio. Many lives have been enriched by his ministry and his devotion to the people of our community.

I bid you welcome the Reverend Paul Sorensen.

SOLAR ENERGY CUTS MORE THAN SALARY INCREASES AT DOE

(Mr. FREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FREY. Mr. Speaker, who among us can forget the first steps man took on the Moon? Apollo 11 Astronaut Neil Armstrong, upon stepping onto the surface of the Moon declared, "One small step for man, one giant leap for mankind."

Secretary Schlesinger presented the Science and Technology Committee with the Department of Energy budget for fiscal year 1979 yesterday. The budget can be characterized as one giant step backward in energy research and development.

Total funding for our solar energy program has been cut by $17,000,000. The funds are split between 2 of 10 "missions." Energy supply: research and technology development, it is true, has been increased by $6,000,000—but only after the construction budget was slashed by $13,000,000 and an extra $19,000,000 given over to operational expenses. Energy supply: production, demonstration, and distribution was cut by $23,000,000 after a $30,000,000 increase in funding for solarizing Federal buildings and a $2,000,000 increase in the solar commercialization program.

The bottom line is that we have lost $4,000,000 in the solar thermal program, another $1,000,000 in the photovoltaic program, $3,000,000 in the ocean thermal program and, as I mentioned before, $30,000,000 in the heating and cooling demonstration program. Those few areas where funding was increased received the smallest increases in the history of our commitment to solar power.

The fourth largest budget increase—after rationing, weatherization, and atomic energy defense activities—in the DOE budget is in policy and manage-

ment. Dr. Schlesinger has requested $505,000,000 to run his 8,386 person Department—an increase of $117,000,000. A footnote in the DOE fiscal year 1979 congressional budget request explains that approximately $16,000,000 will be needed to implement the October 1977 Federal pay raise at the Department.

In summary, Secretary Schlesinger presented the American people with a budget that calls for cutbacks in our solar energy program, $1 million more than the increase in salary he needs for his Department.

I doubt my colleagues on the Science and Technology Committee will allow this budget to stand. I know I will do everything possible to garner a workable alternate source energy program directed toward our long- and short-term energy needs.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 14]

Andrews, N.C.	Findley	Pettis
Archer	Frenzel	Railsback
Armstrong	Giaimo	Rodino
Ashbrook	Gradison	Ruppe
Ashley	Guyer	Ryan
Beilenson	Harsha	Santini
Bonker	Hefner	Scheuer
Brooks	Hillis	Seiberling
Brown, Calif.	Holtzman	Shuster
Buchanan	Ireland	Steiger
Butler	Jeffords	Symms
Chappell	Kasten	Teague
Clay	Kastenmeier	Thornton
Collins, Ill.	Kemp	Tucker
Conyers	Lundine	Udall
De la Garza	McDade	Ullman
Dent	McEwen	Walsh
Diggs	McKay	Wampler
Dingell	McKinney	Waxman
Dodd	Moorhead, Pa.	Wiggins
Drinan	Moss	Wilson, Bob
Eckhardt	Nichols	Wilson, C. H.
Ertel	Patten	Wilson, Tex.
Fascell	Pepper	Young, Alaska

The SPEAKER pro tempore (Mr. ASPIN). On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SELECT COMMITTEE ON ASSASSINATIONS TO SIT TODAY DURING 5-MINUTE RULE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that the Select Committee on Assassinations may be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1614, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, January 25, 1978, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Ad Hoc Select Committee on the Outer Continental Shelf now printed in the reported bill will be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate the title of the bill now pending.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1977".

TABLE OF CONTENTS

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

Sec. 101. Findings.
Sec. 102. Purposes.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

Sec. 201. Definitions.
Sec. 202. National policy for the Outer Continental Shelf.
Sec. 203. Laws applicable to the Outer Continental Shelf.
Sec. 204. Outer Continental Shelf exploration and development administration.
Sec. 205. Revision of bidding and lease administration.
Sec. 206. Outer Continental Shelf oil and gas exploration.
Sec. 207. Annual report.
Sec. 208. New sections of the Outer Continental Shelf Lands Act.
"Sec. 18. Outer Continental Shelf leasing program.
"Sec. 19. Coordination and consultation with affected States and local governments.
"Sec. 20. Baseline and monitoring studies.
"Sec. 21. Safety regulations.
"Sec. 22. Enforcement.
"Sec. 23. Citizen suits, court jurisdiction, and judicial review.
"Sec. 24. Remedies and penalties.
"Sec. 25. Oil and gas development and production.
"Sec. 26. Outer Continental Shelf oil and gas information program.
"Sec. 27. Federal purchase and disposition of oil and gas.
"Sec. 28. Limitations on export.
"Sec. 29. Restrictions on employment.
"Sec. 30. Fishermen's gear compensation funds.
"Sec. 31. Documentation, registry, and manning requirements."

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

Sec. 301. Definitions.
Sec. 302. Establishment of the Fund and the revolving account.
Sec. 303. Prohibition.
Sec. 304. Notification.
Sec. 305. Removal of discharged oil.
Sec. 306. Duties and powers.
Sec. 307. Recoverable damages.
Sec. 308. Cleanup costs and damages.
Sec. 309. Disbursements from the revolving account
Sec. 310. Fee collection; deposits in revolving account.
Sec. 311. Financial responsibility.
Sec. 312. Trustee of natural resources.
Sec. 313. Claims procedure.
Sec. 314. Judicial review.
Sec. 315. Class actions.
Sec. 316. Representation.
Sec. 317 Jurisdiction and venue.
Sec. 318. Access to records.
Sec. 319. Public access to information.
Sec. 320. Annual report.
Sec. 321. Authorization of appropriations.
Sec. 322. Relationship to other law.

TITLE IV—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

Sec. 401. Amendments to the Coastal Zone Management Act of 1972.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Review of shut-in or flaring wells.
Sec. 502. Review of revision of royalty payments.
Sec. 503. Natural gas distribution.
Sec. 504. Antidiscrimination provisions.
Sec. 505. Sunshine in Government.
Sec. 506. Investigation of availability of oil and natural gas from the Outer Continental Shelf.
Sec. 507. State management program.
Sec. 508. Relationship to existing law.

The CHAIRMAN. Are there any amendments to the title of the bill?

Mr. BREAUX. Mr. Chairman, I have an amendment in the nature of a substitute at the desk.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute.

PARLIAMENTARY INQUIRIES

Mr. FISH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The Chair will entertain the parliamentary inquiry of the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the Chairman very much. I think that the response of the Chairman to my inquiry would be very helpful to all the members of the committee as well as myself.

Mr. Chairman, as the Members know, we have two substitutes to be considered, and the amendment in the nature of a substitute of the gentleman from Louisiana (Mr. BREAUX) is about to be offered.

Now, am I correct in stating that his amendment in the nature of a substitute can be considered in full by this body, at which time I may offer an amendment in the nature of a substitute to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX), at which time mine may be considered, and then the two votes will be concurrent?

Tht CHAIRMAN. The gentleman from New York (Mr. FISH) has stated the situation correctly. That would be the

answer to the gentleman's parliamentary inquiry. The gentleman is correct.

Mr. FISH. I thank the Chair.

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Texas (Mr. KAZEN) will state his parliamentary inquiry.

Mr. KAZEN. Mr. Chairman, the gentleman from New York (Mr. FISH) has said that the substitutes would be up for vote simultaneously, but am I correct in stating that the vote would come first on the substitute offered by the gentleman from New York (Mr. FISH) before the vote on the substitute offered by the gentleman from Louisiana (Mr. BREAUX)?

The CHAIRMAN. The gentleman from Texas (Mr. KAZEN) is correct.

Mr. KAZEN. I thank the Chair.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BREAUX:

Strike all after the enacting clause and insert the following:

TABLE OF CONTENTS

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

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"Sec. 20. Baseline and monitoring studies.
"Sec. 21. Safety regulations.
"Sec. 22. Enforcement of environmental and safety regulations.
"Sec. 23. Citizen suits, court jurisdiction, and judicial review.
"Sec. 24. Remedies and penalties.
"Sec. 25. Oil and gas development and production.
"Sec. 26. Outer Continental Shelf oil and gas information program.
"Sec. 27. Federal purchase and disposition of oil and gas.
"Sec. 28. Limitations on export.
"Sec. 29. Restrictions on employment.
"Sec. 30. Fishermen's gear compensation funds.

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Sec. 301. Definitions.
Sec. 302. Establishment of the Fund and Revolving Account.
Sec. 303. Prohibition.
Sec. 304. Notification.
Sec. 305. Removal of Discharged Oil.
Sec. 306. Duties and Power.
Sec. 307. Recoverable Damages.
Sec. 308. Cleanup Costs and Damages.
Sec. 309. Disbursements from the Revolving Account
Sec. 310. Fee Collection; Deposits in Revolving Account.
Sec. 311. Financial Responsibility.
Sec. 312. Trustee of Natural Resources.
Sec. 313. Claims Procedure.
Sec. 314. Judicial Review.
Sec. 315. Class Actions.
Sec. 316. Representation.
Sec. 317. Jurisdiction and Venue.
Sec. 318. Access to Records.
Sec. 319. Public Access to Information.
Sec. 320. Annual Report.
Sec. 321. Authorization of Appropriations.
Sec. 322. Relationship to Other Law.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Disposition of revenues.
Sec. 402. Review of shut-in or flaring wells.
Sec. 403. Review of revision of royalty payments.
Sec. 404. Natural gas distribution.
Sec. 405. Antidiscrimination provisions.
Sec. 406. Sunshine in Government.
Sec. 407. Investigation of availability of oil and natural gas from the Outer Continental Shelf.
Sec. 408. State management program.
Sec. 409. Relationship to existing law.

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains signifiificant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environment;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act

(43 U.S.C. 1331(c)) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) deposits of oil, natural gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any coastal State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactivity determine the productivity, state, conditions, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and workover drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 1 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California, including the Santa Barbara Channel.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf.

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other currencies which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)) is amended—

(1) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(2) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(3) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other de-

vices referred to in paragraph (1) of this subsection".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the Natural Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) In subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf," and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Subsection 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraphs shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in delays in the exploration, development, or production of resources unless the Secretary publishes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment.

In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee to facilitate proper development of a lease in the national interest, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph (other than a lease canceled for reasons of national security or defense at the request of the Secretary of Defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this paragraph, or a lease canceled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with subclause (I) of clause (ii) of this subparagraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitizing, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State.

"(b) The issuance and continuance in effect of any lease, or of any extension, re-

newal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the Outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than the value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule on the record after an opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair and timely return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(1) The bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during the five-year period beginning on the date of

enactment of this subsection, in each region in a frontier area.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(vii) any recommendations, accompanied by detailed justifications, for additional legislation which would further revise the bidding systems used in this Act.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after the Secretary has determined the tracts to be included in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1).

"(b) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems."

"(c) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse whether conditions.

and as long after such initial period as oil or gas may be produced from the area paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the areas for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of its interest in the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds after notice and hearing that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. In his notice of each lease sale the Secretary shall identify each lessee who has been notified by the Secretary that he, at the time of such notice, is not meeting due diligence requirements on one or more of his oil and gas leases. All other lessees not identified in such notice shall be conclusively presumed to be meeting due diligence requirement for the purposes of this subsection.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f) (1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OTHER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) The Secretary or any other agency of the United States and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the Outer Continental Shelf which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

(2) In order to obtain more accurate and adequate information regarding the oil and gas resources of the Outer Continental Shelf, prior to the first lease sale in each frontier area the Secretary shall publish in the Federal Register a request that potential permittees apply for a permit to participate in a continental offshore stratigraphic test or other such economically feasible off-structure test drilling operations as are authorized by regulation. Should no potential per-

mittee apply for such a permit within sixty days of the publication in the Federal Register of the Secretary's invitation to participate, the Secretary may contract for such off-structure drilling: *Provided*, That no funds shall be appropriated for such drilling prior to the fiscal year beginning October 1, 1978: *Provided further*, That budget requests for the funds necessary to implement this subsection shall be displayed as a separate line item and appropriately justified, as part of the department's annual budget request.

"(3) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the Outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1944) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section B of this Act and, if applicable, the reasons why a particular bidding system has not been utilized.

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare, periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relavant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(J) relevant baseline and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental im-

pact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Federal Trade Commission, the Governors of affected States, and through the Governors, the executives of affected local governments, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and approve such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing.

"(2 public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5)(A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Management Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged information and may provide the Secretary with any privileged information he requests to assist him in preparing the leasing program. Privileged information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or sixty days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date or enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts or development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studies and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local goverment agency.

"(d) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection or occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety standards and regulations.

"(d)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the Outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT OF ENVIRONMENTAL AND SAFETY REGULATIONS—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgating pursuant to this Act, and each may by agreement, utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to regulations issued pursuant to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility to conduct an onsite inspection; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 23. CITIZENS SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter or right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately and irreparably affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, the Attorney General, or any other appropriate Federal official, if not a party, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United

States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provisions of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing, or refining or oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once in each frontier area declare the approval of a development and production plan or plans to be a major Federal action. In preparing an environmental impact statement on such action the Secretary shall evaluate the cummulative effect on such area and the affected states as a result of actions proposed in the plan or plans submitted for approval, plans previously approved and available preliminary plans for production in the area.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State, and the executive of any affected local government area shall have sixty days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5 (a) of this Act. Any modification required by the Secretary which affects land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secre-

tary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary.

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease cancelled after disapproval of a plan under such subparagraph (B) which was issued after the date of enactment of this section, the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of—

"(i) the fair value of the cancelled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease; or

"(ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement).

In the case of any lease canceled after disapproval of a plan under subparagraph (B) of this paragraph which was issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (i) of this subparagraph. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisons of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 71), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A). Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and a representative interpretation of any such data, which the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary pursuant to subparagraph (aA) of this paragraph—

"(1) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil and gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to work transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications

and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act.

"(B) (i) the summary of data prepared by the Secretary pursuant to subsection (b) (2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b) (1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b) (1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted, nor at any such inspection shall the appropriate state official be permitted to copy or abstract from, or in any way make written notes concerning, the privileged information inspected. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f) (2) of this section.

"(f) (1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provisions of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b) (9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a) (1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, of both, accruing to the United States under any oil and gas lease or permit issued or maintained under this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) Except as otherwise provided in section 12(b) of this Act, the United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued under this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b) (1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a) (2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c) (1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a) (3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accordance with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of

which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across part of an adjacent foreign state and reenters the United tSates.

"SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity subject to regulation under this Act.

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUNDS.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the outer Continental Shelf for the purpose of providing reasonable compensation or damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in an area of the outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this section.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations for all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the revolving account established for a fishermen's gear compensation fund for any area of the outer Continental Shelf to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any revolving account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $10,000 per claimant for any incident; and

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim.

"(d)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judical district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or in the United States Court of Appeals for the District of Columbia.

"(f) Not withstanding any other provision of this title, no authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

"SEC. 301. For the purposes of this title, the term—

"(a) 'Secretary' means the Secretary of Transportation;

"(b) 'fund' means the fund established by section 302;

"(c) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

"(d) 'incident' means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

"(e) 'vessel' means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and which is transporting oil directly from an off-shore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362));

"(f) 'public vessel' means a vessel which—

"(1) is owned or chartered by demise, and operated by (A) the United States, (B) a

State or political subdivision thereof, or (C) a foreign government, and

"(2) is not engaged in commercial service;

"(g) 'ship' means either of the following types of vessels carrying oil in bulk as cargo;

"(1) a self-propelled vessel, or

"(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

"(h) 'facility' means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

"(i) 'offshore facility' includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

"(j) 'oil pollution' means—

"(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

"(2) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

"(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

"(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of the United States; or

"(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

"(k) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(l) 'foreign claimant' means any person residing in a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(m) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

"(n) 'oil' means petroleum, including crude oil or any fraction or residue therefrom;

"(o) 'cleanup costs' means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

"(p) 'damages' means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

"(q) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility;

"(r) 'claim' means a demand in writing for a sum certain;

"(s) 'discharge' means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

"(t) 'owner' means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement, or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interests n the vessel or offshore facility;

"(u) 'operator' means—

"(1) in the case of a vessel, a charterer by demise or any other person, except the owner who is responsible for the operation, manning, victualing, and supplying of the vessel; or

"(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

"(v) 'property' means littoral, riparian, or marine property;

"(w) 'removal costs' means—

"(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

"(2) cleanup costs, other than the costs described in clause (1);

"(x) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(y) 'gross ton' means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

"(z) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

"FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

"SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

"(b) The fund shall be constituted from—

"(1) all fees collected pursuant to subsection (d);

"(2) all moneys recovered on behalf of the fund under section 308; and

"(3) all other moneys recovered or collected on behalf of the fund, under this title.

"(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

"(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil, when such oil is produced.

"(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

"(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

"(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

"(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

"(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

"(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

"(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

"DAMAGE AND CLAIMING"

"SEC. 303. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

"(1) removal costs;

"(2) injury to, or destruction of, real or personal property;

"(3) loss of use of real or personal property;

"(4) injury to, or destruction of, natural resources;

"(5) loss of use of natural resources;

"(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(7) loss of tax revenue for a period of one year due to injury to real or personal property.

"(b) A claim authorized by subsection (a) may be asserted—

"(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel of offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

"(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

"(5) under item 7, by any State or political subdivision thereof;

"(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(B) the claimant is not otherwise compensated for his loss;

"(C) the oil was discharged from an offshore facility or from a vessel in connection with the activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and

"(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

"(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

"(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(d) If the number of members of a class in an action brought under subsection (b)(7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

"LIABILITY

"SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

"(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(1) in the case of a vessel, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater, or

"(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

"(c) There shall be no liability under subsection (a)—

"(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

"(2) to the extent that the incident is caused by an act or omission of a person other than—

"(A) the claimant,

"(B) the owner or operator,

'(C) an employee or agent of the claimant, the owner, or the operator, or

'(D) one whose act or omission occurs in connection with a contractural relationship with the claimant, the owner, or the operator;

"(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

"(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

"(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

"(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 304(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(g) No indemnification, hold harmless, or similar agreement shall be effective, to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

"(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to a liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(i) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

"FINANCIAL RESPONSIBILITY

"SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more

than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

"(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

"(b) The owner or operator of a facility which (1) is used for drilling for producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

"(c) Any claim authorized by section 303 (a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other de fense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

"(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

"NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

"SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

"(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

"(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in acordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(c) In a case where—

"(1) the owner, operator, and guarantor all deny a designation in acordance with paragraph (2) of subsection (c).

"(2) the source of the discharge was a public vessel or

"(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b), the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

"CLAIMS SETTLEMENT

"SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

"(b) All claims shall be presented to the fund—

"(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c), or

"(2) Where the owner or operator may recover under the provisions of section 303 (b)(1).

"(c) In the case of a claim presented in accordance with subsection (a), and in which—

"(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

"(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304, or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

"(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c) or (d), and in which the fund—

"(1) denies all liability for the claim, for any reason, or

"(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306(c), whichever is later.

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

"(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

"(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

"(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

"(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

"(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

"(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

"(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate

the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him or books, papers, documents, or any tangible things.

"(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

"(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

"(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

"(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(2) The fund may intervene in the action as a matter of right.

"(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

"(l) No claim may be present, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

"SUBROGATION

"SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

"(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator or guarantor or against any other person or governmental entity who is liable pursuant to any law to the compensated claimant or to the fund for damages for which the compensation was paid.

"(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

"(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

"(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction;

"(B) interest on that amount, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(2) for a claim presented to the fund pursuant to section 307(c)(2)—

"(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

"(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs and attorneys' fees; or

"(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) the amount the fund has paid to the claimant, without reduction;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept the offer, inclusive.

"(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction to the claim of the fund to the date inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"JURISDICTION AND VENUE

"SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

"(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

"PREEMPTION

"SEC. 310. (a) Except as provided in this title—

"(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 303(a), a claim for which may be asserted under this title, and

"(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

"(c) Nothing in subsection (a) shall prohibit an action by the fund under any other provision of law, to recover compensation paid pursuant to this title.

"PROHIBITION

"SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the

Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful is prohibited.

"PENALITIES

"SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

"(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305 (b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(a) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

"(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

"(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

"ANNUAL REPORT

"SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

"SEC. 314. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation regulations shall be effective on the date of enactment of this Act.

"(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

"SEC. 316. If any provisions of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby."

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DISPOSITION OF REVENUES.—Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"(a) Beginning June 5, 1950; and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts."

"(b)(1) For the period beginning October 1, 1978 all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts; and of the amounts so deposited, in each fiscal year, 20 per centum shall be paid by the Secretary of the Treasury in annual grants to affected States in accordance with the provisions of this subsection: *Provided*, That any monies paid to any State shall be used by such State and its subdivisions as the legislature of a State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities and (C) provision of public services, except that the State shall first apply any moneys received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 145a(d)(1)).

"(2) the amounts granted to affected States under this subsection shall be, with respect to any such State for any fiscal year, the sum of the amounts calculated, with respect to such State, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) An amount which bears, to two-fifths of the amount granted to affected States under this section for each fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such State and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continenal Shelf acreage which is newly leased by the Federal Government in the immediately preceding fiscal year: *Provided*, That, for all purposes of this subparagraph, acreage which is leased exclusively for exploration shall be considered as acreage which is newly leased, but any subsequent leasing of such acreage for purposes of development and production shall not be considered as acreage which is newly leased.

"(B) An amount which bears to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all Outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected states in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded Outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such Outer Continental Shelf energy activities.

"(3)(A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each federal department, agency, and instrumentality shall provide to the Secretary of the Treasury such assistance in collecting and evaluating such information.

"(B) For purposes of making calculations under paragraph (2), (i) 6000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) Outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal States enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any State may not exceed 30 percent of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected States in accordance with paragraph (2). No State in te area in which Outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than 1 per centum of the total amount granted to affected states in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1979 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1979, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and denominator of which is the Consumer Price Index of October of 1978.

"(c) Any funds paid to the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section; and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purposes of such distribution such sums shall be deemed to have been deposited in the Treasury in the

fiscal year in which they were paid to the Secretary or the Secretary of the Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit, or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the Outer Continental Shelf.

"(e) Notwithstanding any other provision of this title, no authority to enter into contracts, to incure obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

SEC. 402. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation of flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 403. As soon as feasible but no later than ninety days after the date of enactment to this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 404. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 405. Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 406. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act, shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of the MER (maximum efficient rate) and MPR (maximum production rate) in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas in terms of end-use markets so as to ascertain the consumption by different classes and types of end users;

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the date of enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this section, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purpose of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 408. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 409. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, the present situation as regards what we are doing in the oil and gas and energy business is very clear and very simple. We are presently dependent for over one-half of all our energy sources on supplies coming from overseas, from OPEC nations that can very easily bring his country to its knees simply by turning off very slightly the spigot controlling the flow of imported oil to the United States.

I have the opinion—and I think it is one that is shared by a majority of the Members of the House—that we should be trying to do everything humanly possible to maximize our own domestic production and at the same time coming up with a realistic conservation program. The committee bill is in my opinion defective in a number of areas, and the substitute that is now before the House, I think, corrects those defects.

One of the arguments and one of the reasons why the committee says we need a new bill is that we must try to see whether we are getting the maximum return possible to the U.S. Treasury from offshore oil and gas revenues. Yesterday during general debate evidence was presented to show that since OCS drilling has been going on, the Federal Government has gotten 83 percent of all the revenues coming from OCS under the existing system. I say that is a very healthy and a very substantial return to the U.S. Treasury under the existing system.

In my substitute I make about five major changes in the committee bill. I think it is a realistic compromise type of an approach. I have not taken the attitude that no changes are necessary but, rather, if we are going to make changes, we should make some rational changes which do not kill the system that has worked so well in the past.

For instance, the committee bill says that we should try new experimental bids; we should try new ways of leasing our offshore lands. I have no objection to that statement; and, in fact, I have included the same new experimental bid system in my substitute as is in the committee bill, with one major difference, however. The committee bill says that at least 50 percent of the frontier areas have to use the new experimental untried system. The substitute bill, on the other hand, says—

If you are going to experiment, fine; but let us put a ceiling on it, and say you can experiment up to 50 percent of the time, but not up to 100 percent of the time, as the committee bill provides.

I think if we are going to experiment, we should do it rationally. The Committee on the Budget estimates that the committee bill would cause a loss of revenue of over $1.3 billion, mainly because of the new experimental bid system. No one knows how it is going to work.

I say that if we are going to experiment, let us take it a little at the time rather than as the committee bill does.

A second major feature is that the committee bill very clearly says that the Federal Government can do geological and geophysical drilling. They can do that right now.

My bill says that they can do geological and geophysical exploration. What the committee bill does is to go a step further. The committe bill says that they can do core and test drilling, which means drilling for oil and gas, trying to find oil and gas.

I do not think that is necessary. Right now the Department of the Interior has all of the information that they can possibly use in trying to evaluate what the assets in OCS are. They get information from every company out there. They have more information than any single oil company which makes a bid on OCS.

I say we do not need a Government drilling company doing the drilling and having the taxpayers pay for that unless someone can show that it is necessary. If they can show that it is necessary, let them come back and ask for a specific appropriation showing how much it would cost.

Nowhere in this bill is there any specific authorization level for Government drilling. It is a blank check. It think that is a terrible step in the wrong direction. The Federal Government does not need to be in the oil and gas business.

In addition, the committee bill places OSHA as the lead agency in regulating OCS activities from the divers' standpoint and other hazards. I do not think that OSHA has the equipment, manpower, training, and background to do it. I think the Coast Guard, which has been doing it for over a quarter century, should remain in the same capacity.

If we are going to make any changes at any time, some more equipment and tools will be needed in order to achieve that goal.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield at that point?

Mr. BREAUX. I only have 5 minutes.

Mr. MURPHY of New York. Mr. Chairman, I would support a request by the gentleman for more time because of the nature of this debate.

Mr. BREAUX. Mr. Chairman, in that case, I will be glad to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

The bill as it is now written does not provide for OSHA to be the lead agency in the Outer Continental Shelf. It clearly specifies that the Coast Guard will be the lead agency as is its "existing authority" for enforcement of all regulations.

It does say that OSHA will have the opportunity to participate with respect to certain safety regulation enforcement, but the Coast Guard is the lead agency.

Mr. BREAUX. Does not the gentleman's bill clearly say that OSHA will be the lead agency in writing the regulations for offshore diving activities?

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(By unanimous consent, Mr. BREAUX was allowed to proceed for 5 additional minutes.)

Mr. BREAUX. Mr. Chairman, the last major point is that I think our bill differs from the committee bill in the sense that I think we tried to eliminate any additional regulations that we find to be unnecessary.

We have had testimony before the committee, and people differ in their interpretation. They disagree with it, but an independent study done by the University of Rhode Island and Tulane University indicated that if the committee bill was passed, we would be facing an additional delay of anywhere from 3 to 6 years in trying to bring offshore oil and gas onshore.

Right now, Mr. Chairman, between the time a lease is granted to go offshore and the time oil is brought in, 8 years elapse before it is brought onshore.

I do not think we have the luxury of affording the existing delays that are incorporated in the legislation. Eight years is too long a time. Additional delays, in my opinion, are just going to do severe damage to our national energy policy. If any Member has any kind of an idea that we are helping ourselves to become self-sufficient by this kind of activity, I say that that is not correct at all.

I would say further to my colleagues that quite frankly and honestly that we have all worked on this legislation for some 3 years. It has been a long haul. It has been controversial. I think in fairness to all that I must say that the proposed Republican substitute does not incorporate enough of the things that I am concerned with. I think the Breaux substitute is the kind of a compromise that goes right down the middle, providing additional regulations where needed, at the same time eliminating the Federal Government becoming involved in core drilling for oil and gas offshore.

I think we have eliminated such bad features as the dual leasing such as the committee bill comes up with, and which

says, well, we will be able to try a new type of system by giving companies a lease in order for them to explore but if they happen to find oil and gas they cannot develop it and produce it but at first we will have to have a new leasing procedure, we will have to have a second lease. Right now it is a one-step process that gives them the right to explore and if they find oil and gas they can then produce it and bring it onshore.

The dual leasing provision which is in the committee bill says that the Secretary can come back to the Congress and tell us how it will be run. When he testified before the committee he had no idea as to how it would work, although he would like to participate in it.

So, Mr. Chairman, I would just say that I believe that in all fairness to our constituents that this kind of a compromise approach is, in my opinion, a strong approach in the interest of becoming energy self-sufficient and at the same time protecting very carefully our environmental needs.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I would ask the gentleman from Louisiana (Mr. BREAUX) if the gentleman can point to any section in the committee bill which set up a Federal oil corporation.

Mr. BREAUX. If the gentleman from New Jersey (Mr. HUGHES) will read over my remarks, the gentleman will see that I did not say anything about a Federal oil corporation. I said the section that is giving me concern is that which is found on page 15 of the committee report which clearly says:

> The Secretary or any other Federal department or agency, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations, including core and test drilling, in the Outer Continental Shelf, . . .

In my opinion that means they can drill for oil and gas, it clearly says the Federal Government can do this. I object to that. I do not think it is good procedure.

Mr. HUGHES. Mr. Chairman, will the gentleman yield still further?

Mr. BREAUX. I yield further to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. In other words, the legislation does not provide for the same type of core drilling by the Secretary of the Interior?

Mr. BREAUX. I do not think it does. I think what the existing legislation allows the Secretary to do is to authorize geological and geophysical explorations, which he is presently doing, but the reason he has not done so with regard to core test drilling, which they would like to do, is because he does not feel he has the clear authority to do so.

Mr. HUGHES. The gentleman did not answer my question.

Mr. BREAUX. That is my answer and that is as clear as I can answer it that he does not think he has the authority to do it right now. That is why he has come to the committee to ask them to grant him the authority.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to my colleague, the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, as the gentleman knows, the proposed studies as to the dual leasing will delay this further and has the potential of involving considerable losses.

Mr. BREAUX. Let me state to the gentleman from Louisiana (Mr. LIVINGSTON) that in the general debate the gentlewoman from Louisiana (Mrs. BOGGS) made the point about the costs involved to this country through additional delays, and this will inevitably cost the Treasury additional money.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. BREAUX was allowed to proceed for 1 additional minute.)

Mr. HUGHES. I wonder if the gentleman will tell me: Does the Secretary of the Interior presently offer to the industry the right to sink stratigraphic test wells off-structure?

Mr. BREAUX. The gentleman very clearly knows as well as I that the Secretary does now have cost wells drilled off of his Atlantic coastline. They are drilled off-structure.

Mr. HUGHES. Could the gentleman then tell me why the oil industry would not want the Secretary of the Interior to offer them the right to seek a permit to sink those test wells in areas where we believe there is oil and gas?

Mr. BREAUX. There is no problem with the Secretary's, I think from the industry's standpoint, offering industry the right to drill on-structure. They just do not want the Secretary to start doing the drilling himself. They are very fearful that the Federal Government should be doing that type of work. I do not think we can afford it, and I do not think it is in anyone's interest.

Mr. HUGHES. If the gentleman will yield further, as the gentleman in the well knows, the industry does not have to take any permit either on-structure or off-structure. Why is the oil industry so much against being given the right to apply for on-structure permits?

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, one of the principal arguments raised in favor of this bill is that it would encourage greater competition for leases on the Outer Continental Shelf lands, by requiring that a variety of new leasing arrangements be tried, in lieu of the traditional cash bonus system.

What I wonder about is this: Do the data show that small companies are excluded now? I understand that small companies do bid, and that so far, 172 companies have obtained OCS acreage. It would appear from the data I have that the number of bidders is increasing, not decreasing—surely a sign that competition is alive.

It may well be that new bidding systems will add to competition. But the opposite effect is also possible, which leads me to believe that we might be unwise to mandate that a majority of leases be let under alternative bidding systems.

These systems have not been tested, and we do not know what effect they might have, one way or the other, on existing trends in competition. Moreover, we do not know which of these alternative systems might have the greatest benefit for the Federal Government. What do we do if it should turn out that the traditional, cash bonus system works best and provides the greatest benefit? Should we not provide more flexibility here, so that the Secretary might have a free hand in determining the bid systems to be used—especially if experience shows that the prescription in this bill is wrong?

Beyond this, I am concerned that the overall impact of this legislation would be to delay exploration and production of potential oil resources. If that happens, I want to warn clearly that it is the small companies that can least afford delays. The big companies can wait, they can litigate, and they can wrestle with redtape forever. Big companies can afford better than anyone else the huge carrying costs of laid up and idle equipment. A small operator who cannot afford huge interest costs forever, who cannot fight with confounding regulations and lawsuits for years on end, simply will get out of the OCS business if this bill makes for delays in getting onto leased acreage and bringing it into production.

I have talked to small oil producers about this. The thing they fear most about this bill is that it will complicate, not clarify, the problems of doing business on the OCS. These companies tell me that they foresee dozens of new regulations mandated by this bill—each and every one of them the potential source of lawsuits and delays; each and every one of them costly to comply with; and each and every one of them adding nothing to the capability of finding and bringing in new energy sources.

We say that we are favoring the creation of competition by this bill. I say that if we are making life more difficult than it already is, the big companies will be the only ones left. They, and they alone, can afford the nearly infinite costs that can arise from the writing, interpretation, and application of boundless regulations.

The regulations that stem from the FEA law alone now amount to better than 20,000 pages. I get a regular supplement of these regulations. It would take a good part of a clerk's time just to keep them filed properly. What company can best afford that kind of thing—it is the big one.

We should take care here, not to enact a bill that would stifle the competition its supporters say they want to foster.

Mr. STUDDS. Mr. Chairman, I take this time to try to deal, while there are still some Members here, with the most pervasive and most fraudulent charge levied against this bill. We heard a mo-

ment ago the same charge that we have seen in full-page ads in the Washington Post throughout this week and that we have seen in Dear Colleague letters to every Member of this House—namely that this legislation would cause a 6-year delay in offshore activities, and attendant upon that an enormous loss of hundreds of thousands of jobs and billions of dollars. That is an absolutely fraudulent claim. It is based upon a fraudulent study which is based upon a fraudulent assumption. This was documented during general debate yesterday, but, unfortunately, there was no one here but us members of the committee who have been talking to each other going on 4 years now on this subject. While there are still a few Members here, I would like the House to realize that the claims being thrown around this Chamber for the entirety of this week with respect to a 6-year delay are entirely without basis. Those claims are based upon a study done by Mr. W. F. Rogers of the University of Rhode Island. That study was funded by the American Petroleum Institute, which does not necessarily discredit it—but let me read to the Members from the study. Every single statement that this bill would lead to 6 years of delay is based upon extrapolations derived from this study, and this study in turn is based upon a simply false premise, and I quote from this study:

> Section 11(g) requires the Secretary to seek applicants for on-structure exploratory drilling prior to lease sale. Should he elect to pursue this option, then the sequence of actions required to implement it becomes the critical path. I will therefore address in detail the delays implicit in this action . . .

This reference by Dr. Rogers is to one paragraph in the bill added by the gentleman from New Jersey (Mr. HUGHES) which simply authorizes the Secretary once—once—in the 2 years following enactment of this legislation to solicit industry bids on one occasion in one area for one time to conduct on-structure exploratory drilling. That is all it does. It involves no delay. There is no suggestion of holding up all offshore activities pending this process. It is an authorization of the Secretary one time within 2 years to see if industry would like to conduct onstructure drilling.

Mr. MILLER of California, Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California.

Mr. MILLER of California. Is it really the case, as the Secretary has stated, that he expects delays due to the regulations of really no more than 4 to 6 weeks because, in fact, the Department has been anticipating the passage of this legislation, and that they have already begun work on the regulations, and that they are prepared to issue them at the earliest possible date after the passage of this bill, and that the Rogers study is in fact based upon assumptions that no body other than Mr. Rogers seems to hold?

Mr. STUDDS. The gentleman is correct. If the gentleman will permit, I should like to complete my quotations from this study, just hoping that we can put this to rest once and for all.

If I may quote further from the study:

> Although not specifically stated in the bill, we assumed that the intent of this section is to provide the Government with improved estimates of the resource contents of a lease area prior to lease sale.

Quoting further:

> We therefore assumed, in addition, that a moratorium on lease sales would be placed in effect pending the completion of this activity.

That is simply not the case. It is not stated in the language. It is not the intent of the committee. It is not the intent of the author. It will not be in this law if it is enacted.

The assumption upon which a 6-year delay is based is that of a 3-year and subsequently a 6-year moratorium. That is not what the legislation says.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield further, I assume when Dr. Rogers says "we assumed," he is talking about himself and the American Petroleum Institute which commissioned the study?

Mr. STUDDS. I do not know Dr. Rogers but I do know this study and it is just plain wrong.

He further stated:

> We further estimated that a 3-year delay would entail a loss to the economy of a minimum of $7.6 billion and a 3-year delay in creating 119,000 direct and 178,000 indirect jobs.

He then doubles his estimate and says:

> * * * if the Secretary interprets the intent of Congress to be that lease sales take place only after the resource content of the lease areas is largely determined, then a very extensive drilling program will be required which we estimate very conservatively will take 3 years additional for a total of 6 years' delay.

That is the set of assumptions upon which all claims of billions of dollars lost and hundreds of thousands of jobs lost and the 6-year delay are based, and they are based upon a misleading—perhaps that is not fair—they are based on what he understood to be a section of the bill, which was subsequently changed in committee, and there is no longer such a thing. There is no basis whatsoever for claims of 3 to 6 years delay in this legislation.

I would plead with members of the committee and Members of the House that we restrict our disagreements to those honest policy disagreements we may have and not wave about claims of studies which are without any basis at all.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I would like to advise the gentleman that the study to which we referred earlier this morning when the gentleman from Louisiana was in the well was a study conducted by a brilliant microeconomist, Dr. John Moroney of Tulane University, and at the behest of independent small service companies, supply companies, and independent oil and gas companies. It had nothing to do with big industry. It was an independent study by a man with fine credentials from a splendid university.

Mr. STUDDS. May I ask the gentlewoman whether that study was not in turn based on extrapolations drawn from the Rhode Island study?

Mrs. BOGGS. Of course some of the study was based on any available knowledge in the field, including some of Dr. Rogers' studies, but it was an independent study which took in many other disciplines and many other sources, and it came up with virtually the same conclusions.

Mr. STUDDS. I thank the gentlewoman.

I would like the record to reflect that the Tulane study takes off from the conclusions of Dr. Rogers, which have been shown to be utterly without basis.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Breaux amendment in the nature of a substitute.

Mr. Chairman, I want to assure the Members that every issue that is included in the Breaux substitute was debated and each issue was offered as an amendment during the markup process of H.R. 1614 before it came to this floor. It was dealt with fairly and I felt competently by the committee and rejected for one reason or another. However, we in no way feel we should not consider the Breaux amendment; it was through our cooperation that the Breaux amendment is being considered first and hopefully we can dispose of that substitute in the beginning.

Once we dispose of that, we will then get into substantive amendments on an individual basis on H.R. 1614; but in my opinion, the real difference between H.R. 1614 and the Breaux-industry substitute centers on competition. All along, I have felt that industry's main objection to H.R. 1614 was the threat of competition it would bring to OCS activities. The Breaux-industry substitute serves only to reconfirm that conviction. By allowing a reduction in the percentage of new bidding systems used, the substitute would allow fewer small companies to become involved in OCS activities. Limiting Government receipt of all interpretive data and eliminating the dual leasing option would hamper efforts to assess our OCS oil and gas resources and insure a fair return to the public; not only in terms of bonus bid money, but greater actual production. Prohibiting on-structure drilling would deprive smaller companies of a way to acquire information upon which to base their competitive bids. And, the exemption for joint bidding would be equivalent to no real joint bidding ban for the major oil companies at all. Let me further address some other specific and rather troubling aspects of the Breaux substitute—many of which are anticompetitive as I have stated.

The crux of the Breaux-industry substitute is the limitation of 50 percent it would place on the use of new bidding systems in frontier areas. The way the substitute rewrites this provision would allow present and future Secretaries not to use new bidding at all if they so desire. This would mean fewer small companies involved in OCS activities and would completely defeat the purpose of the bill.

H.R. 1614 requires that such new bidding systems shall be utilized a minimum of 50 percent of the time. Of course, if a sound reason is found by the Secretary for going below the 50-percent requirement, he can do so—subject to one-House disapproval. Our provision is necessary to enhance competition on the OCS which is patently the main fear of the major oil companies—and the reason they oppose the bill. Hear the words of Husky Oil, a small, independent oil company as it argues for the use of alternate bidding systems.

We submit the rules for exploring the OCS need to be revised, as the current bonus bid system is too restrictive and diverts needed capital away from the expensive job of finding reserves. The OCS should be shifted from a short-term money producing program for the U.S. Treasury to a long-range energy producing program to increase needed supplies. To increase potential exploration exposure, a fundamental thrust of any program should be the inclusion of more companies, and not fewer, in the search for oil. (House OCS Hearings, 1977, pg. 1623)

In addition, under the Breaux substitute the Secretary would not be allowed to exclude any tract from the random selection process for choosing tracts to be offered under both the cash bonus and alternate bidding systems. This affords the Secretary absolutely no flexibility to experiment with the new systems, and hence dilutes the compromise random selection language that was accepted by the committee.

Second, Mr. BREAUX has stated that his substitute will require lessees and permittees to provide the Secretary of Interior with a "representative interpretation" of seismic and "other data" which he does not now receive. The crux of the matter here is who determines and what constitutes a "representative interpretation" and will the Secretary have access to any and all data upon request at a reasonable charge for reproduction costs. That is, it is not necessary that the Interior Department actually receive every reel of data produced. However, it is imperative that the Interior Department have access to all information which it feels may be of significance, and that through regulations or even on an ad hoc basis, the Secretary be authorized to require the submission of specified types of information in a timely manner. So, while in some cases the Department may be satisfied by "representative interpretations," in other instances it may require that all related data be submitted for inspection. Frankly, this authority is essential to the Department if it is going to properly assess our OCS resources, regulate the performance of oil and gas companies, insure due diligence on Federal leases on the OCS, and insure a fair return to the public.

Third, the prelease offstructure exploratory program that the Breaux substitute would mandate for each frontier area provides no new authority for the Secretary, and in fact limits his present authority. Under section 11(g) of H.R. 1614, the Secretary is to offer permits to qualified applicants from industry to conduct geological explorations, and to offer such permits for onstructure tests at least once within 2 years of the date of enactment. The type of activity which Mr. BREAUX would mandate has been conducted under permit by the Interior Department for a number of years under the so-called COST (continental offshore stratigraphic test) program and industry participation in this program has been widespread. But some companies have complained that they have sought onstructure permits from the prior Secretary and their request was denied. Now, with the support of the Secretary of Interior, H.R. 1614 would provide new language to allow the Secretary to issue permits for the industry to drill "onstructure" where there is the greatest likelihood of encountering oil and gas. Of course, the Secretary maintains broad authority to conduct geological and geophysical explorations, but it is far more desirable that industry conduct such activity under permit or lease. In this way, by participating in what would be analogous to "group shoots," larger numbers of smaller independent companies grouped into consortiums can participate in OCS exploration from a greater competitive position.

Fourth, the language of the Breaux substitute, which permits the Secretary to permit joint bidding, among companies controlling 1.6 million barrels per day of production worldwide, on certain tracts, if he finds that is the only way to achieve exploration and production, should not be included in the House bill because it is too broad an exemption and limits the competitive aspects of this provision.

Fifth, the substitute completely eliminates authority for use of the "dual leasing" option, which Secretary Andrus specifically requested during the committee hearings. The dual leasing system separates exploration leases and development leases. In committee, an amendment by Mr. TREEN, of Louisiana, was accepted which would require that before the Secretary employs the dual leasing system or any other bidding system not specified in the bill, such system must be established by rule on the record after a public hearing and such rule must be transmitted to Congress.

The intent of this provision is to insure that before other new systems are implemented they be well thought out and defined. Under the Breaux substitute, it would probably be nearly a year and a half before the Interior Department could bring such a proposal before the Congress, and, in effect, additional legislation would be required.

Next Mr. BREAUX would remove from the bill language requiring that the Secretary write regulations for the establishment of air quality standards for operations on the OCS. The present language—supported by the administration—is necessary to insure that OCS activities do not develop into a harmful source of environmental pollution, which could affect our Nation and other countries in any number of ways.

The Breaux substitute would also prohibit the retroactivity of regulations governing exploration and development activities if they would cause "delay," while H.R. 1614 employs an "undue delay" criterion. If H.R. 1614 becomes law, it is unthinkable that minor delays might prohibit the implementation of new and improved regulations. Such would be the case if Mr. BREAUX's language is adopted.

Regarding citizen suits and judicial review, the substitute would limit citizen suits to those persons having a valid legal interest which "is" adversely affected. Language would be eliminated from the bill which would allow suits for persons that "may be" affected. Hence, the language of the substitute would be more restrictive and less preventive in nature. It would increase litigation—under other laws and common law—known as an inadequate remedy under this act.

Furthermore, the Breaux text seeks to eliminate OSHA's cooperative involvement in OCS worker's safety regulations and enforcement which would be provided in H.R. 1614. Such a step would create a tremendous health and safety void in an industry which is extremely hazardous, and presents an unacceptable risk for workers.

Finally, Mr. Chairman, Mr. BREAUX's substitute would establish a fiscally irresponsible and dangerous system for the sharing of Federal OCS revenues with States. It would mandate that 20 percent of Federal OCS revenues—with a ceiling of $200 million per year—would be granted to the States for vaguely stated purposes. No provision is made, for example, for either environmental protection or environmental restoration purposes.

This revenue-sharing provision was proposed during committee markup and defeated because of the devastating effect it would have on the planning and management work presently being carried out by States under the Coastal Zone Management Act (CZMA) of 1972. In 1976, Congress passed substantial amendments to the CZMA to address, in a responsible manner, the financial requirements of States that are affected by OCS and other energy activity along the coast. Certain technical and administrative problems in the CZMA grant section were brought to the attention of the committee and each one was rectified through title IV of the committee's bill. The CZMA amendment in the committee's bill raises the authorization level to $125 million per year, beginning in fiscal year 1979, thus complying with the Budget Act and maintaining the integrity of the congressional appropriations process. The substitute amendment, on the other hand, raises serious questions with respect to the requirements of the Budget Act and completely circumvents the appropriations system.

In short, for these and other reasons, I strongly urge the defeat of the Breaux-industry substitute, which, in a veiled but effective fashion would gut the committee bill.

I would hope that the committee would defeat the Breaux substitute and the substitutes offered thereto.

AMENDMENT OFFERED BY MR. JOHN L. BURTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON to the amendment in the nature of a substitute offered by Mr. BREAUX: At the end of section 205 add a new subsection:

"(d) The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within fifteen miles of the boundaries of any National Wilderness Area, except if a State conducts a leasing or development within its tidelands adjacent to such area."

Mr. JOHN L. BURTON. Mr. Chairman, I have discussed this matter with the gentleman from Louisiana (Mr. BREAUX) and with the gentleman from New York (Mr. MURPHY). I discussed with the gentleman from New York (Mr. FISH). That was the amendment that was sent over yesterday.

Basically, what this amendment does is to say that if there is a wilderness on the coastline—there is only one in the continental United States, and that happens to be within the district that I represent—that the Secretary shall be prohibited from drilling or exploration within 15 miles of such wilderness, and he is released from that if the State decides to start drilling or exploring for oil within the State coastal zone.

We have wilderness areas. They are certainly there to be protected. You cannot even drive a car over the wilderness areas.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I would like to ask a couple of questions. The gentleman says that his information is that there is only one such area that would be affected, and that is an area off the coast of California?

Mr. JOHN L. BURTON. That is my understanding. In the continental United States. I have heard that there may be a wilderness in the Virgin Islands. But this is about a 20-mile strip in the bay area of California. There are no other wilderness areas in the country that are on the coastline.

Mr. BREAUX. One of my concerns is that off the coast of Louisiana we have a number of national refuges which are not national wilderness areas but are wildlife refuge areas, and we do have production, which I think has worked out very well, adjacent to those.

Mr. JOHN L. BURTON. This would not affect that. "A wilderness" is a definition that is a term of art. It is the highest possible protection. And it would not in any way affect a refuge.

Mr. BREAUX. If the gentleman will yield further, with that understanding, if it only affects the gentleman's area and existing coast—and that seems to be the agreement or the allegation—I would have no objection.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman assume that this means existing areas that we might go out and drill a well? Does this mean existing wilderness areas?

Mr. JOHN L. BURTON. It is existing wilderness areas, yes. Congress has to declare an area a wilderness.

Mr. ROBERTS. I know. But we had millions of acres up in Alaska.

Mr. JOHN L. BURTON. The gentleman is talking about an existing wilderness area.

Mr. ROBERTS. Any existing wilderness area?

Mr. JOHN L. BURTON. Right.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

Mr. Chairman, I have the same concern. Does the gentleman's amendment specifically limit it to existing wilderness areas? I do not have the amendment before me.

Mr. JOHN L. BURTON. It does not say that. I would ask unanimous consent that the amendment say "existing." Wildernesses have to be created by the Congress, and I could not conceive of the Congress creating a wilderness in the Gulf of Mexico.

Mr. Chairman, I ask unanimous consent to modify my amendment by inserting the word "existing" following the word "any."

The CHAIRMAN. Is there objection to the unanimous-consent request of the gentleman from California (Mr. JOHN L. BURTON) to modify his amendment?

There was no objection.

Mr. TREEN. Mr. Chairman, would the gentleman yield further?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, can the gentleman assure us now that this would not affect any OCS activity off the coast of Alaska, anywhere off of the coast of Alaska? I am not familiar with the wilderness situation in Alaska. I think we have a bill now to put substantial acreage into wilderness areas in Alaska. And, of course, the gentleman's amendment, as it has now been amended, would exclude any future wilderness. Can the gentleman assure me that this amendment would not affect any activity off of the coast of Alaska?

Mr. JOHN L. BURTON. That is not the purpose of this amendment. In other words, if we had a wilderness in Alaska that was inside 15 miles, then they could drill anyway.

In other words, this is the only coastal wilderness in the Nation. The wilderness is right on the coast.

Mr. TREEN. That is what I am asking the gentleman. I want him to assure us that there is no Alaskan wilderness that involves any coastline in Alaska or involves any inlets or bays.

Mr. JOHN L. BURTON. That is correct. There is none in existence at the present time at all.

Mr. TREEN. Only in California?

Mr. JOHN L. BURTON. Only in this one area.

Mr. TREEN. And the gentleman said this involves about 20 miles of coastline?

Mr. JOHN L. BURTON. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 5 additional minutes.)

Mr. TREEN. Mr. Chairman, will the gentleman yield further?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, let me make sure I understand this.

On the question of the amount of coastline involved, the gentleman said there is about 20 miles of coastline at issue?

Mr. JOHN L. BURTON. Yes.

Mr. TREEN. And this would prohibit from development, then, a rectangular area, say about 20 miles by 15 miles, taking it out of any possible leasing, exploration, or production; is that correct?

Mr. JOHN L. BURTON. Yes. However, if the State within its area decides to go into this, the Secretary is free to go into it also. But the Congress has established this as a wilderness.

They can only have one fire trail in the whole area. They cannot even have tractors there, because a wilderness area, as the gentleman knows, is the height of protection. This protects that one area, and I really do not believe that it does any damage whatsoever or forecloses us from any exploration of oil resources.

Mr. TREEN. On that question of foreclosure, does the gentleman know if that area would include any of the areas that the Secretary of the Interior has indicated in his 5-year plan might be subject to exploration?

Mr. JOHN L. BURTON. I think the Secretary included almost everything in the whole world in that plan.

Mr. TREEN. Well, there are certain areas that might be involved.

I wonder if there is anybody who could enlighten us on that, as to whether or not we would be taking out some of the really good prospective areas. I think that is an important point in deciding whether we go along with this amendment.

Mr. JOHN L. BURTON. Well, I could tell the gentleman that there are not a million dinosaurs buried offshore under that area.

Mr. TREEN. We do not really need those.

Mr. JOHN L. BURTON. What I am saying is that this is, I think, a legitimate concern in the matter of protection. The Congress designates wilderness areas, and we do that for protection. I just think it really makes sense, and I do not believe it causes any threat to any type of OCS leasing.

As the Members know, certainly if we did that, our good friend, the gentleman from Louisiana, would not be accepting the amendment.

Mr. TREEN. Then I hope the gentleman will support the Breaux substitute if this amendment is added to it.

Mr. JOHN L. BURTON. I think it might be a felony to exchange votes in a quid pro quo.

Mr. TREEN. I did not offer anything.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I wonder if the gentleman would implement his statement and comment on what the applicability of the Fish and Wildlife Coordination Act would be to this problem. According to my understanding, this already meets the goals the gentleman has in mind.

Mr. JOHN L. BURTON. Mr. Chairman, I could not comment on that. In discussing this matter with other people, we felt this provides the best protection possible for the wilderness area, and I could not address myself to that problem.

Mr. FISH. Let us take this one step further. The thrust of the gentleman's amendment, then, is to say that for the protection of existing national wilderness areas, we simply do not want to have drilling in the Outer Continental Shelf within 15 miles because of the possibility that spills and seepage from the rigging equipment would adversely affect the national wilderness area?

Mr. JOHN L. BURTON. That is one big part of it, yes.

Mr. FISH. Mr. Chairman, I think this is a good amendment, and I would accept it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to my friend, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I wonder if the gentleman would tell us this: How did he select the figure of 15 miles? What is the significance of that figure?

Mr. JOHN L. BURTON. Well, there are some people, as the gentleman knows, who are extremists in the field of environmentalism and who are trying to say this should not be done. We thought that 15 miles would be a proper figure. We felt if there was a significant amount of oil somewhere in the area, that 15-mile figure would still put it in a radius where it would not be too difficult to explore.

But also, the people of the United States, through their Congress, declared for it; and the Congress paid out money, went out and looked at the wilderness as they might be looking at the place where Sir Francis Drake sailed the *Golden Hind*.

One would not necessarily see an oil derrick 6 miles away. Some people said 25; some said 50.

Mr. ROUSSELOT. Therefore, it is the visual sight of the oil derrick; is that it?

Mr. JOHN L. BURTON. That is what the 15 miles is for.

Mr. ROUSSELOT. Is that for the platform?

Mr. JOHN L. BURTON. Fifteen miles just seemed to be adequate.

Mr. ROUSSELOT. Supposing that in the near future, which I understand is a possibility, say, 10 or 15 years downstream, we are able to put this to work.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 5 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, if I can anticipate the question, I would like to answer it.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, if the platform could be moved away would that alleviate the problem? There would be no visual object, if the prime concern is the visual. Would that be correct?

Mr. JOHN L. BURTON. No. That is where the 15 miles is. The prime concern is the seepage and what can happen to the wilderness area.

Mr. ROUSSELOT. Is not the Secretary already under that obligation, even under present law?

Mr. JOHN L. BURTON. No.

Mr. ROUSSELOT. That is my understanding of the law.

Mr. JOHN L. BURTON. No.

Mr. ROUSSELOT. The gentleman says no. The Secretary of the Interior says that he is required to make sure that checks are made for seepage beforehand and to protect against those kinds of problems before leases are granted.

Mr. JOHN L. BURTON. I think I can assure the gentleman that in 10 years or even in 5 years if both of us are here——

Mr. ROUSSELOT. I did not talk about whether we were here. I am just talking about how it relates to the platform.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, one of the reasons the distance was selected is because the coast, as we know, in that area is subject to some of the highest onshore winds in the entire United States.

We are concerned about our ability, if we did have this spill, break, seepage, or whatever, to control the situation. Given the rough seas and wind factors, it would take us a considerable amount of time to deal with the problem in that area. That is the reason for the selection of that distance.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, is not much of that control of which the gentleman speaks supposed to be handled by the Secretary of the Interior prior to the granting of leases? I am talking about checking. If they have adequate procedures for checking oil seepage and that sort of thing, I thought all of that was already covered.

Mr. MILLER of California. This is in the event of what we call an accident.

Mr. ROUSSELOT. Because of wind, does the gentleman mean?

Mr. JOHN L. BURTON. Mr. Chairman, if I may say this to the gentleman, an emergency was just declared in part of that area because high waves moved in and knocked everything out.

Mr. ROUSSELOT. Does this affect only the platform or can there also be slant drilling?

Mr. JOHN L. BURTON. Only the platform.

Would the gentleman permit me to make a further statement?

Mr. ROUSSELOT. If the gentleman will wait, we want to check into this.

Mr. JOHN L. BURTON. It is my understanding that I have the time.

I think the amendment really speaks for itself. I do not think it does any damage to the exploration of oil or other forms of energy. We really are not trying to do that.

Mr. ROUSSELOT. If the gentleman will yield further, Mr. Chairman, it does not affect slant drilling, does it?

Mr. JOHN L. BURTON. I would have to find that out later.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman understands the concept of slant drilling as used by the oil companies, does he not?

In other words, if the gentleman says that it does not affect slant drilling, it is possible in 15 miles, at a point beyond the wilderness, there could be a well sunk, and in resorting to slant drilling they could go closer; is that correct?

Mr. JOHN L. BURTON. That is why I did not give an affirmative answer to that question.

Mr. BAUMAN. Or any answer.

Mr. JOHN L. BURTON. It is because I am not certain.

Mr. ROUSSELOT. If the gentleman will yield further, Mr. Chairman, does the gentleman say that he does not know?

Mr. JOHN L. BURTON. I do not know. The gentleman in the well is an honest person.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, the exact language of the gentleman's amendment would appear to apply since it says:

> The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within 15 miles * * *

Slant drilling would certainly cover that area, no matter how one gets to it. It is not where one puts the platform.

May I suggest to my good friend, the gentleman from California (Mr. JOHN L. BURTON), that if one excluded drilling on prelease exploration work within the confines of the tract within a radius of 15 miles, that would allow for slant drilling, and it might solve the problem through this innocuous amendment.

Mr. JOHN L. BURTON. What we are trying to do with this amendment is to protect this area.

I would assume even with slant drilling you could have the seepage. I would say to the gentleman if the amendment were adopted and the measure gets into conference that I would be happy in the conference committee and to the others who have expressed grave concern over what is kind of a local issue between the little brother and the big brother so that they can try to work it out so that everybody is happy, because as the gentleman from California (Mr. ROUSSELOT) knows no one wants to be loved better than the junior Congressman from San Francisco.

The CHAIRMAN. The question is on the amendment, as modified, offered by

the gentleman from California (Mr. JOHN L. BURTON) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

Mr. KRUEGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux amendment.

Mr. Chairman, I rise in support of the Breaux amendment as being the best available compromise at this time, and as an approach that I believe would help the people of this Nation to enlarge our domestic energy supplies and reduce our reliance on foreign imports.

Mr. Chairman, this past year we paid about $45 billion for foreign oil. It will be necessary, for our own economic recovery, that we maximize our own energy reserves. This maximization of our own energy reserves can come most readily if we adopt the Breaux amendment rather than the committee amendment, because the committee bill would inevitably cause delays in the exploration and development process.

We have heard testimony on both sides with regard to specific economic studies. The longer one studies energy questions, the more one can find studies to support whatever position he wishes to adopt.

The fact of the matter is that if the committee spent 4 years in hassling over this bill we should have little doubt that the various people in the Department of the Interior and other Government agencies will be faced with similar periods of time in which also to continue the hassling as they review the undertaking of new leasing procedures and of new exploration for additional energy resources. There can be no question that the committee bill will cause regulatory delays, with consequent increased costs to consumers. Anyone interested in furthering regulating simplicity and lessening the economic stagnation that comes from bureaucratic extenuation will favor the Breaux substitute.

Beyond this, we have in the committee bill the establishment of a dual leasing process whereby one person is expected to go out and search for the fossil fuel, and once that fossil fuel is found, the person who found it then is supposed to stop so that a second round of bidding can begin. This, in my judgment, could be very troublesome. Indeed, this would certainly tend to discourage people from wanting to go out and look for energy resources, because, once they have found them, at that point they are not likely to receive their rewards. I would think it very possible that the smaller companies who might do initial exploration might not be able to bid against the majors at the point of second bidding for the recovery and development of the maximum reserves which are to be obtained.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I am glad that the gentleman from Texas (Mr. KRUEGER) has touched on this point of the small oil companies because we have had so many speakers say that unless we accept the committee bill we will do grave damage to some of the smaller companies. The facts are just the opposite. I would like to share with the Members a letter I have received from the Independent Petroleum Association of America in which it states:

> As President of the Independent Petroleum Association of America, which represents more than 5000 independent explorer-producers of crude oil and natural gas, I would like to take this opportunity to urge you to oppose this legislation. . . .

They conclude: If H.R. 1614, as reported by committee, cannot be rejected in its entirey, the IPAA urges adoption of the Breaux substitute.

So I think that clearly puts it on record as envisioning the Breaux substitute as having the features that they need in the small companies to help them produce expeditiously, and that they are solidly, completely, and unanimously opposed to the committee bill.

Mr. KRUEGER. I thank the gentleman from Louisiana. I certainly agree that his is a more reasonable compromise than the committee bill itself.

There is a second question that I think we must address and this is the opportunity, under the committee bill, for people to bring suit to stop all drilling activities if, for example, their esthetic sensibilities are violated by the construction of a drilling platform. We have just extended drilling restrictions to offshore areas within 15 miles of a wilderness area.

The committee bill opens the possibility of some individual sitting 1,000 miles inland who might indirectly be affected by a drilling procedure bringing suit and holding up the much needed energy recovery in this country for perhaps some mischievous and willful cause. That denies good common sense. We must on occasion act in the interests of the majority, and the majority of the people of this country do not want to see their import dependency grow. They do not want to see us pay higher prices to foreigners than we pay to ourselves and our consumers do not want to pay higher prices because of an increasing import dependency. Yet the committee bill would have such an effect.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KRUEGER was allowed to proceed for 30 additional seconds.)

Mr. KRUEGER. They do not wish to see the Middle Eastern countries gain still greater hold over our economy. It seems to me that if we go with the Breaux substitute, we go with a much more reasonable compromise for getting the energy which we require for our own economic recovery. I, therefore, urge support of this amendment and yield back the remainder of my time.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux substitute.

Mr. Chairman, the substitute Outer Continental Shelf bill offered by Mr. BREAUX will save valuable time in the search for more energy supplies and keep us from wasting large amounts of the taxpayers' money. The substitute will do this by encouraging the Federal Government to stay out of the oil exploration and production business. This they should do.

Proponents of H.R. 1614 say they want to "see what's there before we lease it." Their bill would allow Federal wildcat drilling in the OCS. The so-called dual leasing provision would open another door. These Federal drilling programs are a formula for Government failure and waste.

Determining oil and gas reserves is not like using a dipstick in your car to check the motor oil level. One test well or a few test wells are not enough to measure the resources in a structure or a region.

As an example, during the past 29 years, companies have drilled some 17,000 wells in the Gulf of Mexico and still have not fully defined the extent of its resources. As recently as 1975, 204 of 239 wildcat wells in the gulf were dry holes. At $2 million or more per dry hole, would the taxpayer put up with a Government venture into such a risky business? I think not.

Privately owned oil companies for years have willingly borne the high cost and high risk of the search for oil and natural gas. Why should these burdens be shifted to the taxpayer?

Furthermore, the Government is not likely to increase lease sale revenue through Federal drilling. Far more offshore geological structures are condemned by the drill bit than are enhanced. So, Government drilling will more likely reduce revenues, not increase them. For example, the largest field found to date in the Gulf of Mexico—the Bay Marchand field—was discovered only after drilling 12 costly dry holes. If the Government had drilled a few of those dry holes and then asked for lease bids, how high do you think the bids would have been?

Another example: In the Destin Anticline off the Florida coast, oil companies spent $15 million drilling eight dry holes. If that information had been available before leasing, the Government might not have had any bidders at all. As it was, the companies—not the taxpayers—paid for the exploration, and the Government got about $900 million from the lease sale.

It is doubtful further exploration will occur on these leases. Would the Congress or the taxpayers stand still for such a loss as this? Of course not. I would like to see a congressional investigation of such a fiasco.

All of the exploration to date in the Gulf of Alaska has resulted in dry holes, but the companies are continuing the search—at no risk to the public.

Mr. Chairman, Government drilling will find very little oil—if it finds any at all. Government drilling will cost the U.S. Treasury millions and billions of dollars in lost lease sale revenues.

The country will just have to sit around and wait while the Government tries to decide how much the leases are worth. But time is too valuable to waste, while our oil imports continue to climb.

If the Government happened to find oil and gas in significant amounts, it would probably be tempted to form a Federal Oil and Gas Corporation—FOGCO—to produce it. FOGCO, however, would become a byword of inefficiency. In 1975, the Federal Energy Administration thoroughly studied Government oil companies in other countries and concluded that "without exception the performance of these entities has been markedly inferior to that of competing private companies." FEA labeled the overall contrast as "pathetic."

Mr. Chairman, the Breaux bill will avoid the costly mistake of Federal drilling. We can and we should depend on the system that has worked so well for nearly 30 years. If we do otherwise, the public will be the biggest loser.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment in the nature of a substitute offered by Mr. BREAUX: Under Title IV, Miscellaneous Provisions, add the following new section.

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 410. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to title IV of the Breaux amendment to help insure that those individuals who are directly responsible for the operation, implementation, and/or supervision of antipollution equipment know how to operate this equipment and can effectively install and operate it during emergency conditions.

It is a simple amendment and I think not controversial.

Simply stated, the amendment would require the Secretary of the Interior, in consultation with the Coast Guard, to submit his recommendations to Congress within 90 days after the date of enactment for a training program for key OCS employees. The program should be directed to those individuals who are directly responsible for the implementation and operation of antipollution equipment, and primarily we are talking about antiblowout preventers. At such time the Congress receives the Secretary's recommendations, it would be my hope that the appropriate committees would review the Secretary's recommendations in both an oversight capacity and also to determine if further legislation is necessary.

Mr. Chairman, as you may know, the Department of the Interior, through the U.S. Geological Survey, recently completed work on such a training and certification program and declared that all drilling crew members must attend a certified school in order to stay on the job. I commend the Department for their commitment and responsiveness in this matter. I should point out that the Department now has the regulatory authority to institute such a program.

In light of this recent development, I believe my amendment has perhaps a greater significance and need now than before the Department's action. First, it would provide a formal method for congressional oversight, which I believe to be very important to assure the training program is both effective and would not seriously disrupt OCS activities for frivolous purposes. Second, it would mandate into law the commitment of Congress to a training and certification program for key OCS workers. Under the current authority, the Department of Interior may or may not institute such a program; and subsequent administrations may decide to discontinue the program. It seems to me this matter is of vital concern. It could lead to significantly improved OCS safety records and the Congress should endorse it.

The need for a Federal training program has been tragically demonstrated all too often in the past. The disastrous blowout in the Santa Barbara Channel in 1969 resulted in millions of dollars in damage and severe environmental impacts. Thousands of birds were contaminated and died, the beaches were fouled, and commercial and pleasure craft were coated with black crude. This tragedy resulted as far as we can tell because of inexperienced and poorly trained crews who failed to act with established procedure during an emergency situation. In fact, the crews committed one mistake after another, and still the situation could have been brought under control if the proper procedure had been followed at the very last.

Following the most recent blowout in the North Sea, an official commission of inquiry ruled that insufficient training, poor organization, and inadequate inspections were responsible for that mishap which resulted in millions of gallons of crude oil being dumped into the ocean.

In fact, I understand the crew in that case tried to put the blowout preventer on upside down, certainly something that could have been prevented with proper training.

In fact, if one studies the causes of all of the significant accidents on the OCS you find that a major portion is directly attributable to human error and poor training; not equipment failure. Clearly, there is sufficient cause for responsible Government action to rectify this situation and just as clearly there is a responsibility with this body to insure that Federal training programs are effective and will not unnecessarily disrupt production activities on the OCS.

Mr. Chairman, I want to emphasize that my amendment will not in anyway interfere with the ongoing efforts of the Department of the Interior to establish a training and certification program. The amendment will, however, demonstrate congressional interest in the safe development of OCS oil and gas.

In closing, I want to point out I have contacted every responsible party I could think of that may have an interest in this amendment. We have checked with industry representatives, environmental groups, and the U.S. Geological Survey and all have been supportive of the concept. I have not been informed of any opposition.

I urge adoption of the amendment.

Mr. BREAUX. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, just very briefly, I would like to congratulate the gentleman from California for his amendment. I think it has a great deal of merit and does address one of the key issues which we have learned of durin[illegible] our 2 years of hearings which is, in fact, a problem in the OCS; that is lack of proper training for the men and women that do work offshore.

I am particularly pleased that the gentleman has seen in the wisdom of the gentleman's amendment to place the related agencies or departments to carry out this program in the Coast Guard, which does have a history of marine expertise.

I think with the additional strength this amendment provides, clearly it will be a big help to the Breaux substitute. I ask my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and colleagues, I have served in the Congress for about 3 years and have accordingly become rather accustomed to the distortions and the representations that often occur as we argue over a bill. But I must say that this particular legislation takes the cake. I think the gross distortions and outright fabrications that have taken place over this legislation are just inexcusable.

I think there are two things that the oil industry is concerned about in this legislation. There are a lot of other things they do not like, but there are two areas of this bill that the major oil companies feel really threaten their domain.

One is the threat to the bonus bid system, which has benefited them for many, many years. They see that system being seriously eroded by this bill. Second, they are concerned about a provision that I authored in committee, both in the 94th Congress and also in this Congress, that would provide for onstructure stratigraphic drilling. In essence, it will permit the Secretary to learn a little more about what we are selling before we sell it.

Rather than talk about generalities, let us examine the substance of the bill. Let us read it. I have heard it described by some of my colleagues as the first step toward Federal exploration. It has been described as the creation of an oil corporation at the Federal level. It has been described as Federal wildcat drilling. Now let us examine what the section says. Section 11(g), the section in question, says,

The Secretary may permit qualified applicants—

That is, the oil companies—

. . . qualified applicants to conduct geological explorations, including core and test drilling, in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary or the applicants believe contain significant hydrocarbon accumulations.

That is, where we believe there is oil and gas. Then, it goes on in the second part:

The Secretary shall, at least once during the two-year period beginning on the date of enactment of this subsection, offer—

That is, offer—

persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

In essence, it is saying to the oil companies, "If you want to sink a test well into where you believe there is oil and gas, you may apply for a permit."

Now, why are the oil companies so concerned about the Secretary of the Interior offering to them a permit to sink a test well into structure—that is, where we believe there is oil or gas—instead of off-structure, where we know there is no oil or gas? I will try to tell you what really concerns the oil companies. They do not want the independent companies to have that opportunity to seek permits. They know that if the Secretary offers the permit, some independent oil companies are going to seek such a permit. They are going to sink a stratigraphic well into structures where that potential for hydrocarbons exist, and then they might have the wherewithal to go to the bank to finance exploration and production.

Why is it that the major companies are concerned about that? They are concerned because they are the only ones with enough capital under the present bonus bid system to seriously explore in the frontier waters.

There is nothing new about sinking stratigraphic test wells off a structure.

I live in the State of New Jersey and represent the Second Congressional District. Just about a year and one-half ago the Citgo J, a rig that sinks exploratory wells, moved into the mid-Atlantic region, sunk a test well some 15,000 feet in the offshore area, into an area where we knew there probably were not any hydrocarbons. That was a year and one-half ago. If they had moved that rig over just a few miles to where the seismic and geophysical evidence indicated there were probable structures which might contain hydrocarbons, we might know more today about what exists in the mid-Atlantic region.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. Mr. Chairman, that test well cost the oil companies $9 million.

Does it not make more sense to encourage the oil industry, by offering permits to them, to move that rig into areas where we believe there are structures that contain those resources?

I have heard the story of the Destin Dome, I would venture to say, 75 times in the some 3 years that I have been in the Congress. The oil companies come before our committee and they say, "We drilled 15 dry holes in that area. They further say that we lost $10 million, or thereabouts, per well. In the past, I have replied, "Well, then, you must be supporting an amendment which I am going to offer which would permit you to sink test wells into the structure."

There was considerable seismic and geophysical data in connection with the Destin Dome. Why, didn't the oil industry seek a permit to sink a test well right into the structure instead of off-structure?

The answer, unfortunately, is that the major oil companies do not want the Secretary of the Interior to have any more information than he now has before we sell public lands to the oil companies. They like the present system because the Secretary of the Interior really does not have that much information under the present system, a system which does not now have onstructure stratigraphic drilling.

I hope, once and for all, that we can put to rest the great myth that has been created about a Federal oil company moving in. There is no Federal oil company in the bill. There is not much more in the legislation for prelease discovery than we are doing now, and we want to perfect what we are doing.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Mr. Chairman, we have had this issue before the Congress for 3½ years. I have clearly stated that I am opposed to the creation of any Federal oil and gas company. The majority of the committee expressed that, and I think that the majority of the Congress and the American people feel that way. To try to throw in FOGCO—Federal oil and gas company—is just an attempt to create a misimpression. There is nothing in this legislation, H.R. 1614, that smacks or even hints of a Federal oil and gas company, so let us just put it to rest at this point.

Mr. HUGHES. I thank the gentleman for his remarks.

I think the Chairman will agree that the vote on H.R. 1614 is going to decide whether it is the major oil companies of this country or the President and the Congress that is setting policy with regard to our Nation's energy resources.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman for the very important work the gentleman has done on the ad hoc committee and for the statement he is making. He is dead right. I did not even recognize the bill—a bill which I helped put together and which I support—from the description of it here on the floor and from the description contained in the flood of material that has arrived at the Members' desks.

Mr. Chairman, it is a good bill, a balanced bill, and the provision the gentleman is describing is described accurately. We ought to put this to rest.

Mr. HUGHES. I thank the gentleman.

Mr. Chairman, one final thing. It has been suggested that the administration is not behind H.R. 1614. I would like to say that the administration strongly supports the legislation. Administration witnesses have been before our committee, and offered a number of amendments which I believe strengthen the legislation.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has again expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, I would like to share with my colleagues a letter directed to our committee chairman, the Honorable JOHN M. MURPHY, dated January 26 of this year and signed by James R. Schlesinger, Secretary. The letter is as follows:

"I am pleased that the full House is considering H.R. 1614 this week. On January 24, 1978, Secretary of the Interior Andrus wrote you regarding the Administration's strong support for this legislation. I write separately to emphasize the Department of Energy's support for and commitment to this important legislation and our opposition to the Breaux substitute amendment. We urge expeditious passage of this important legislation.

"H.R. 1614 provides a comprehensive framework for exploration, development, and production of our Outer Continental Shelf energy resources. These resources will play a major and increasingly important role in America's energy future. As you are aware, this Department will have substantial responsibilities under this legislation. Please be assured we shall strive to exercise our mandate effectively."

Mr. Chairman, I urge the Members to defeat the Breaux substitute and support H.R. 1614 in its original sate.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the attention of my colleague on the committee, the gentleman from New Jersey (Mr. HUGHES), for whom I have great respect.

On this issue of drilling onstructure, referring to the amendment that the gentleman offered in committee and which appears in H.R. 1614 as section (g) (1) and (2), my understanding of this is that it would require the Secretary at least once during the 2-year period after enactment to offer persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

Would the gentleman tell me what would be necessary, in terms of the extent of this type of drilling, for the Secretary to comply with this section, section (g)(2)?

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, it is merely contemplated that, just as in the

question of off-structure drilling where the oil companies indicate an interest in the particular structure area, such as off the mid-Atlantic coast where a consortium put together to sink a strategic test well, the Secretary will determine first the areas of interest to the industry. Then it will be indicated to the industry that the Secretary will entertain an application for permits to sink a test well in formations where there is potential for hydrocarbons. That is all it provides.

Mr. TREEN. We could have a variety of structures involved and a number of wells.

In other words, let us say that pursuant to section (g) he did offer opportunities to whomever wanted to conduct geological explorations structure. If there were interest in, let us say, 20 or 30 structures, and there were applications to drill at least one well in each structure, then under this language he would really have to negotiate with them, would he not? He would be obliged to negotiate to permit that; is that correct?

Mr. HUGHES. Well, what the language contemplates is that the Secretary would, first of all, use his or her judgment with regard to where a stratigraphic test well onstructure will be permitted. It only requires the Secretary to give it a try one time.

Mr. TREEN. He could try it one time, but it could involve more than just one structure or one well, is that not correct?

Mr. HUGHES. If in fact the industry applies for a permit for more than one structure, and the Secretary feels it is in the national interest to grant such a permit, the Secretary in that event would, of course, have that additional discretion.

Mr. TREEN. He is required under this section to offer the opportunity, it seems to me, to the extent there is interest.

Mr. HUGHES. Yes. If my colleague will yield further, that is true only if there is an interest. This does not require the oil companies to do anything. It does not require the Secretary to sink a stratigraphic test well in the structure.

Mr. TREEN. Mr. Chairman, with respect to these stratigraphic tests, I do not care if they drill onstructure or offstructure; it does not make any difference to me. But the possible delays involved are what concern me.

There is an internal study done by the Department of the Interior which I have before me. It was sent to me by Secretary of the Interior Andrus. In that study there are examined the various options—perhaps the gentleman has seen this—for onstructure exploratory drilling, and it covers many options. It gives the pros and cons. Let me just quote from the report, if I may:

Exploration on representative types of structures identifiable by seismic data and known to produce oil and gas in other geologic basins.

Drill one well per structure on several structures.

These are the pros, or the benefits of that scenario, according to the Interior Department report:

Could suggest the regional presence or absence of significant oil and gas accumulations.

Would eventually focus dollars and equipment on areas with the greatest likelihood of containing significant oil and gas accumulations.

These are the cons, or the disadvantages; "would not provide conclusive information on prospects and value of the entire area."

Another disadvantage—and this is the one I want to emphasize—according to the Department of Interior's own study, is that it "would require 2 to 5 years delay in planning for leasing each area."

Therefore, a delay situation is inherent in the gentleman's proposal. It seems to me, quite apart from what the onstructure information might show, that we do have the possibility of extensive delay, and that is according to a study by the Interior Department itself.

Mr. HUGHES. Mr. Chairman, if my colleague will yield further, there are two things.

First of all, as my colleague well knows, we do not really know what any structure, even a producing one in the gulf, will produce with certainty. We will not know what an entire structure will produce until the structure has been well developed.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for 1 additional minute.)

Mr. HUGHES. If the gentleman will yield further, Mr. Chairman, the second thing is that there is one built-in assumption. It seems to me that this study which the gentleman refers to does the same thing as the Dr. Rogers study.

Mr. TREEN. That was not paid for by the API. It was paid for by Secretary Andrus.

Mr. HUGHES. But it is based on one of the assumed alternatives; that is, permitting a start test on-structure on a number of different structures. If that option were used, it could cause some delay. But that is far afield from the provisions of 11G.

That provision states that we should give it a try at least once to see if, in fact, it does produce more information and is in the public interest. There should be no more of a delay than the present system causes.

Mr. TREEN. This is a study done by the Department of the Interior itself, which actually supports the gentleman's amendment.

It says that there are some benefits, but they are pointing out some of the disadvantages.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. TREEN was allowed to proceed for an additional 30 seconds.)

Mr. TREEN. Mr. Chairman, there is one additional thing. One of the most important issues we have before us today is the question of getting on with production. It seems to me in the atmosphere we have today that is our overriding consideration.

Mr. HUGHES. If the gentleman will yield further, I could commission a study where we could have a 25-year delay. All you have to do is do assume hundreds of test wells in the Atlantic region. It seems to me that that is the fallacy of the study which the gentleman refers to.

Mr. TREEN. I can only say that it is the Secretary of the Interior's study.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. BREAUX: strike all of section 404 of the Breaux amendment and insert in lieu thereof the following:

SEC. 404. (a) The purpose of this section is to facilitate expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf. The Congress finds that in order to achieve this objective, greater certainty is needed regarding the terms and conditions under which the Federal Energy Regulatory Commission will grant a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promply promulgate and publish in the Federal Register a statement of Commission policy setting forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements FERC will apply in determining:

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Federal Energy Regulatory Commission may condition, pursuant to Section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) The term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, my amendment changes section 404 of the amendment offered by our friend and colleague the gentleman from Louisiana (Mr. BREAUX) which is identical to section 503 of the committee bill. The section referred to would require that the Federal Energy Regulatory Commission issue certificates to distributors which would compel pipelines to pick up the gas which is gathered by the distributor company as a result of drilling operations undertaken by that company. This appears to be an innocent amendment and appears to strengthen the bill. In point of fact, section 404 is very bad for a whole series of reasons. I would observe that I have a letter from the chairman of FERC in strong opposition to this section.

This amendment achieves the objectives sought to be accomplished by the ad hoc committee and Mr. BREAUX without creating the potential adverse consequences of the broader language utilized by the ad hoc committee. The ad hoc amendment goes beyond present law. Under present law the discretionary nature of FERC's authority has created uncertainty. It is this uncertainty which the ad hoc committee sought to remove. My amendment changes present law by requiring FERC to promptly prescribe a statement of Commission policy setting forth the standards on which future Commission action on applications for transportation certificates by local distribution companies will be based. This statement of policy will give local distribution companies the assurances, lacking today, needed before they can justify the large front-end investment required to develop OCS natural gas resources.

The amendment leaves to FERC its existing authority under the Natural Gas Act to assure that the public convenience and necessity is served by the grant of a transportation certificate. The retention of this authority is essential to assuring that abuses and unintended adverse consequences may be controlled or eliminated by FERC.

A similar approach has been adopted by FERC in order 533. This approach has proved highly successful in dealing with the analogous question of transportation of natural gas purchased by a high-priority industrial user for its own use.

In summation, the amendment requires FERC to set forth the rules of the game, in advance, thereby removing the uncertainty which presently limits OCS participation by local distribution companies. Thus, the amendment accomplishes the objectives set forth in the report of the ad hoc committee, but avoids the potential for serious adverse consequences created by the overly broad language in the bill.

It also does something else, it subjects the Federal Government to a vast potential liability in terms of litigation and of being responsible in damages to other producers under their contracts and under the take or pay provisions. It may subject the Federal Government to liability to the pipelines and to other distributors and to other users of natural gas who might be adversely affected by this action. Further, there are no bounds, no guidelines, and no discretion which are made available so as to limit FERC in connection with its actions. It simply must—and I repeat—it simply must issue a certificate of convenience and necessity.

I emphasize that the purpose of the amendment I am offering is to achieve approximately the same results without the adverse consequences which would obtain with regard to section 404.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. It allows the distributing company the authority to go into FERC to get a certificate which they can then carry to their State regulatory agency. It says that we have got authority to drill. It says we have got authority to transport, and I am sure that the State regulatory commission would be cooperative.

At this point, I insert the letter I received today from the chairman of the FERC concerning this amendment:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., January 26, 1978.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is written in response to your inquiry regarding a provision of H.R. 1614 which would require the Federal Power Commission to permit any natural gas distribution company to transport natural gas from the Outer Continental Shelf to its service area, pursuant to section 7 of the Natural Gas Act.* The provision, contained in section 503 of the Bill, raises several concerns regarding the Commission's authority to provide adequately for the public convenience and necessity, as it is required to do pursuant to section 7 of the Natural Gas Act, and the manner in which the Commission's authority would be required to be exercised.

The potential effect of mandatory Commission certification of local distribution company transportation arrangements also raises serious implications with respect to the Commission's existing authority over interstate natural gas pipelines. Specifically, section 503 is silent with respect to whether this Commission is to continue to have authority to attach to such a certificate conditions which it finds to be necessary to protect the public interest.

Section 7 of the Natural Gas Act allows the Commission the discretion to condition the issuance of a certificate upon any conditions consistent with the Act which may be necessary to protect the public interest. Yet, section 503 of the Bill is silent with regard to the manner in which the Commission may condition the issuance of a certificate under section 7, if, indeed, it may do so at all.

The Commission has certificated transportation arrangements under section 7 of the Natural Gas Act for local distribution company-owned gas from the OCS (Michigan Storage Company, Docket No. CP74-322, *et al.*, November 10, 1977). The certification in that case was conditioned upon the transporting pipeline company's ability in certain emergency curtailment situations to treat the distribution company's gas as its own system supply. The Commission should be able to consider the advisability of such arrangements in light of general natural gas supply conditions and the priority of the customers to be served by the distribution company, and should be able to attach conditions to the certification as required by the public interest. However, a statutory requirement that the Commission certificate OCS transportation arrangements involving a local distribution company would leave the Commission no flexibility to consider and weigh the public interest involved in such a transaction.

Equally serious questions arise with respect to the effect of mandatory certificates issued pursuant to section 503 of the Bill on outstanding certificate holders. Although the Ad Hoc Committee Report on H.R. 1614 indicates that the Commission's authority over curtailments, other than for local distribution company gas, would not be affected by section 503, such an impact may be unavoidable. For example, a pipeline subject to our jurisdiction may not have sufficient capacity to transport both local distribution company gas and interstate natural gas necessary to protect high priority customers of interstate pipelines.

The amendment may also result in the diversion of OCS gas from customers served by interstate pipelines to those now in the intrastate market (which already have preferential advantage in obtaining onshore gas supplies), thus creating even greater disparities between the interstate and intrastate markets, and impairing the ability of FERC adequately to protect natural gas consumers. Diversion of OCS gas from customers served by interstate pipelines, for whom the Commission has its curtailment responsibility, exacerbates the difficulties of this Commission in dealing with national gas shortages.

The scope of the Commission's authority to review the manner in which a local distribution company engages "directly or indirectly" in the development and production of OCS gas in order to qualify for a transportation certificate is unclear. This could be troublesome. The public interest may require a review of affiliate transactions to assure that OCS gas, which would otherwise be destined for the interstate market, would not be siphoned off to the intrastate market through unreasonable contractual relationships between production and distribution company affiliates.

If I can be of further assistance, please do not hesitate to call on me.

For the Commission:

CHARLES B. CURTIS,
Chairman.

Commissioner Holden not participating.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Could I ask the gentleman how this amendment will achieve the certainty which the gentleman in the well claims for it, or which it is purported to achieve?

Mr. DINGELL. As best as I can, I will observe simply that the Federal Energy Regulatory Commission will commence a proceeding setting forth standards under which it will consider applications for certificates of convenience and necessity pursuant to section 7 of the Natural Gas Act for the transportation in interstate commerce of natural gas produced—and I am quoting here—"from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service

* Under the Department of Energy Organization Act, the Federal Power Commission functions under section 7 of the Natural Gas Act were transferred to the Federal Energy Regulatory Commission.

area of such local distribution company." Such statement of policy shall include the criteria, limitations, or requirements, and then it lays down these criteria.

Mr. BROWN of Ohio. Under section 7 of the Natural Gas Act the Federal Energy Regulatory Commission (nee FPC) has the right to spell out the limitations by which it will allow companies to do this, and it has already done this in the 533 order for private industries.

Mr. DINGELL. The gentleman is correct, and they have also certified folks to go out and do this drilling under existing law. I assume they would be at least as broad in their interpretation of this as they are under the existing law, and possibly broader by reason of the legislative history we are making today.

Mr. BROWN of Ohio. By spelling it out ahead of time, some certainty is provided as to how the lease arrangement for distribution companies will work.

Mr. DINGELL. The gentleman is correct, and I will assure him also that if I am the chairman of the subcommittee—and I will be yet until the end of Congress, and I hope for some further time—I will see to it that they understand what this means.

Mr. BROWN of Ohio. The second question is does the amendment change any existing law?

Mr. DINGELL. To what does the gentleman refer?

Mr. BROWN of Ohio. It does not modify existing law specifically; does it? It does not change either the Natural Gas Act or any of the current law with reference to the drilling of off-shore wells?

The CHAIRMAN The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Will the gentleman from Michigan yield further?

Mr. DINGELL. I continue to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The question is does the amendment which the gentleman offers change existing law either by providing rights to FERC which it now does not have, or modifying the Natural Gas Act, or anything else?

Mr. DINGELL. The answer is it provides clear instructions to FERC to initiate proceedings laying out general rules under which this can be done.

Mr. BROWN of Ohio. But only with regard to distribution companies?

Mr. DINGELL. But only with regard to distribution companies and not with regard to other companies. But I would observe my interpretation of the amendment is that a single distribution company could come under this and get the certificate, or several could come in together.

It is also my interpretation the local distribution company could go forward and join in with drilling by some major oil companies and participate in the lease sale arrangement and participate in the lease as a participant and take its service to the companies.

Mr. BROWN of Ohio. How would this affect the distribution companies' self-help program which currently exists? In effect, it broadens it; does it not?

Mr. DINGELL. I think it probably broadens those self-help programs but it also gives the FERC the ability to help the local distribution companies in their applications to the State regulatory agencies for the ability to engage in this kind of activity within the rate base under State law.

Mr. BROWN of Ohio. This would not necessarily provide that those local State utility commissions would be overridden but rather that FERC would set the parameters by which the distribution company could do it and have the rate base affected. Is that correct?

Mr. DINGELL. I think the answer to that question is yes. This would not however deny the State utility commission the authority to go a little more broadly because it is both general authority to engage in the undertaking and there also remains the authority in FERC to do it on a case-by-case basis as they may do it now. So there would be two ways that the distribution company could go about getting its authority from the State and the Federal authorities to run out and do the drilling.

Mr. BROWN of Ohio. Finally, is it the impression of the gentleman that the amendment clearly, then, permits the distribution company to go into the offshore for drilling?

Mr. DINGELL. Some are now doing it. The one in my area is doing it. That is why I am a strong supporter of the proposal.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(On request of Mr. BREAUX, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. BREAUX. Mr. Chairman, not being a gas expert, as I read the situation both in the committee bill and in the Breaux substitute, we have an absolute statement that the FERC shall permit any natural gas distribution company that gets gas in the OCS, we shall permit them to distribute that back to their service area. It is an absolute statement that they shall permit the service companies to do that and allow them to do that.

I understand the gentleman's amendment says that before the FERC would be able to grant that type of permit, that they first have to promulgate the standards by which they are to consider these particular applications and make those standards public and sort of set a criterion under which they are to consider the request.

Mr. DINGELL. The gentleman is correct. The reason for that is that the difficulties I have cited in the committee bill, for example, that they might displace gas belonging to other pipelines or might subject the Federal Government to litigation. As I read the committee bill, there is no discretion as to whether or not they do it. Not only that, they might adversely affect the allocation system. We might find some folks in Louisiana who had not gone out and engaged in this drilling who would find they would not be able to get gas out of the pipeline because somebody north of them had a certificate and that they would carry the gas up to the north to service those customers under this mandatory procedure. I do not think the gentleman wants to see that kind of situation happen which might leave the folks cold in his district.

Mr. BREAUX. What would happen in the situation where the natural gas distribution company participates in a lease sale and gets the lease and finds gas?

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, continuing the question, if the natural gas company participated in the lease sale and was awarded the lease and found oil and gas, and at that time what would they do with the gas if they have the permit denied?

Mr. DINGELL. I very seriously would doubt they would be denied because they have done this under existing law and we in no way tamper with that.

The gentleman from Ohio asked me to yield and, with the permission of the Chair, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I want to be sure that I am clear and the House is clear in the authority here. Does this amendment provide for FERC's being able to get into the price of this gas?

Mr. DINGELL. This does not deal with the price of gas. I want to make it very clear that I am not tinkering with the question of price. We will go and deal with that at another time. The gentleman from Ohio knows we have differences on that elsewhere.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, as I understand, the Breaux amendment as written allows for offshore drilling by distribution companies.

Mr. DINGELL. The gentleman is correct, but it requires that gas must be certificated to flow through the pipeline and that has the defects I cited earlier.

Mr. BROWN of Ohio. Under the Breaux amendment the certification would be automatic, but would not have any parameters put on it by FERC for certification; Is that correct?

Mr. DINGELL. That is correct under the Breaux amendment. Those are conditions FERC has always done and failing to do that would subject the Federal Government to enormous problems.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, first, I thank my friend from Ohio.

Second, I would like to ask the author of the amendment to the substitute, is

there a possibility FERC may attempt to exert jurisdiction over any intrastate gaslines?

Mr. DINGELL. I have made the point that the language of the provisions of section 404 of the Breaux amendment, or the provisions of section 503, I believe it is, of the committee bill, would permit FERC to exert jurisdiction over intrastate gaslines.

Mr. RONCALIO. Is it the intention of the author of the amendment to the Breaux substitute that his amendment would remove the basis of jurisdiction over intrastate gas?

Mr. DINGELL. It is not only my intention, but it is the clear intention of the amendment to change it so they cannot do that.

Mr. RONCALIO. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio to the amendment in the nature of a substitute offered by Mr. BREAUX: In section 201 of the Breaux amendment insert the following subsection before the new subsection (c):

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.

Mr. BROWN of Ohio. Mr. Chairman, the purpose of this amendment is to technically improve the Breaux amendment in a way in which, unfortunately, I think all three of the pieces of legislation before us, the basic Murphy bill, H.R. 1614, the Breaux amendment and the Fish amendment, need to be improved in order to maintain the actions we took in establishment of the Department of Energy. The purpose of it is to see that the word 'Secretary' as used in the basic bill and the Breaux amendment refers not only to the Secretary of the Department of Interior, but to the Secretary of the Department of Energy as well.

In the establishment of the Department of Energy, we specifically provided that certain authorities would go to DOE, and I assume that we do not, just a few months after the passage of that basic piece of legislation, now want to modify it to remove some of those authorities that we clearly wanted to move into the hands of the Secretary and responsibility of the Department of Energy.

Mr. Chairman, as we know, Congress in establishing the new Energy Department transferred to DOE, at the request of President Carter, certain functions concerning oil and gas leasing, including functions relating to competition, alternative bidding, and rates of production including in this transfer certain provisions of the Energy Policy and Conservation Act that apply to the Outer Continental Shelf.

The Energy Policy and Conservation Act originated in the Committee on Interstate and Foreign Commerce, the Subcommittee on Energy and Power, chaired by the gentleman from Michigan (Mr. DINGELL), on which I serve as ranking Republican member.

Mr. DINGELL. Mr. Chairman, would my very good friend from Ohio yield to me?

Mr. BROWN of Ohio. Of course.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding. My colleagues on the committee have done a good job with a very, very difficult task, and I do not think they ought to be faulted for the fact that their action requires here an amendment which is purely technical. I think the gentleman from Ohio stresses that this is just purely a technical amendment. Am I correct?

Mr. BROWN of Ohio. It is technical, as I understand it. The gentleman may concur or not as he sees fit. Mr. MURPHY indicated that this was an oversight in the original drafting of the bill, and carried through in the Breaux amendment, and also in the Fish amendment.

Mr. DINGELL. That is my interpretation of it. What this does is simply restore to both the Breaux amendment—and the gentleman from Ohio (Mr. BROWN) and I will offer one later to the committee bill—a meaning of the word "Secretary" so that the actions taken in the last session of this Congress allocating responsibilities among the Secretary of the Interior, the Secretary of Energy and FERC shall remain unchanged and unimpaired. Am I correct in my interpretation?

Mr. BROWN of Ohio. The gentleman is, and I think that probably is part of the basic language of the DOE Act.

Mr. DINGELL. I thank the gentleman, and I join him in support of the amendment.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Louisiana.

Mr. BREAUX. It is my understanding that what the gentleman is offering, when we were talking about the Secretary, he is saying that it could be the Secretary of the Department of Energy, as appropriate, by other existing rules and regulations and statutes.

Mr. BROWN of Ohio. Well, but this language does not move from the Department of Energy and Secretary of the Department of Energy authorities which he was given in the Department of Energy Act.

Mr. BREAUX. But it would not give him any additional authority?

Mr. BROWN of Ohio. It would not give him any additional authority, or would not take away from what he was given in the DOE Act.

Mr. BREAUX. With that understanding, I support the gentleman's amendment.

Mr. BROWN of Ohio. Mr. Chairman, I am not a lawyer, but I understand that once a lawyer has pleaded his case, or at least got nods from the jury and have retired, it is time to stop.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I am delighted to yield to the gentleman from Florida.

Mr. SIKES. I appreciate very much my distinguished friend's courtesy in yielding to me. I rise in support of the Breaux substitute amendment.

Mr. Chairman, the administration has proposed a national energy plan in an effort to decrease our dependence on insecure foreign oil supplies. This plan depends for its success on conservation practices, as well as increased domestic production.

Having set these goals, where will we look for the additional domestic supplies that we need? For at least the next several years, we must look to oil and natural gas for the bulk of increased energy production. Many people—in and out of government—now recognize the constraints that are hindering production and use of coal and nuclear energy.

And where will we look for the oil that must be found? The greatest potential lies off our shores in the Outer Continental Shelf. Clean and safe development of those lands must be encouraged. However, the national energy plan fails to adequately address the issue of offshore development. We in Congress have taken the initiative, but we are headed in the wrong direction, and the Nation will suffer for it, unless we change course. The legislation before us now—H.R. 1614—will create endless bureaucratic delays. It mandates the use of new and untried bidding systems. It allows the leasing of exploration without production rights. It opens the door for the Federal Government to become involved in exploration. And it would create a tangled mass of increased regulation.

The best system is the existing one—if we let it work. However, if the system which has served us so well must be changed, there is an approach better than H.R. 1614. The Breaux substitute bill provides us with an opportunity to update existing law without destroying hope of adequate and timely offshore development.

The Breaux bill would delete the authorization of Federal core and test drilling, thus placing some congressional restraints on the eventual entry by the Federal Government into the petroleum industry. This provision is a wise one, because the petroleum business is very risky, even for the experienced.

This bill would also provide direct revenue sharing for coastal States—rather than the H.R. 1614 provision authorizing appropriations under the Coastal Zone Management Act. In addition, the bill would limit to 50 percent the number of tracts to be sold under untested bidding systems. H.R. 1614 requires that at least half of the tracts be sold under these untried bidding systems.

In 1976, 14 percent of U.S. domestic oil production and 22 percent of U.S. domes-

tic natural gas production came from offshore waters according to a recent Republican Study Committee "Fact Sheet." Moreover, offshore potential reserves—estimated conservatively—are more than 80 percent of proven U.S. oil reserves and 47 percent of proven U.S. natural gas reserves.

Here, then, is where we must turn for our future energy supplies. We must provide a rational set of guidelines for the development of those resources. We cannot afford to tie the hands of those who seek to provide the domestic energy so desperately needed by the U.S. consumer.

Mr. Chairman, I urge the adoption of the Breaux substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LIVINGSTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON to the amendment in the nature of a substitute offered by Mr. BREAUX: Title II, add the following new section 331.

"SEC. 31. DOCUMENTATION AND REGISTRY.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes; and except as provided in subsection (b) of this section and which is contracted to be built or rebuilt one year after enactment for use in the exploration, development or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be built or rebuilt in the United States and when required to be documented, be documented under the laws of the United States;

(b) The Secretary may waive the requirements of this section if he determines that:

(1) compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date;

(2) the requirements will result in costs that are unreasonable; or

(3) the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality.

(c) As used in this section, the terms "vessel", "documented under the laws of the United States," shall have the meaning assigned to them under section 2 of the Shipping Act of 1916 (46 U.S.C. 801 and 802), and "built or rebuilt in the United States" means that only articles, materials, and supplies of the growth, production or manufacture of the United States as defined in paragraph K of section 1401 of manufacture of the Tariff Act of 1930 may be used in such building or rebuilding.

Mr. LIVINGSTON. Mr. Chairman, I have asked that this amendment be considered to amend the Breaux substitute to H.R. 1614. My amendment is fundamentally the same language as that offered by the Chairman, the gentleman from New York (Mr. MURPHY), in his amendment to the original bill, H.R. 1614, with respect to "Buy American" provisions.

I am aware that the vote on the Breaux amendment may be very close, and it is my firm conviction that the Breaux amendment is extremely important to the future of oil and gas exploration, not only in my own State of Louisiana, but through the coastal regions of these United States.

Mr. Chairman, it is also my belief and my knowledge that roughly 80 percent of the American offshore drilling equipment is manufactured abroad and not in these United States, and that valuable jobs are lost to this country simply by virtue of the reason that that equipment is produced abroad. As a result, our economy stands to suffer. For that reason I have offered this language, to induce my colleagues to consider buying American equipment, inducing American equipment to be produced here in the United States, thereby boosting the number of jobs in the United States, and in my own district, which, by the way, is one of the largest geographical producers of oil and gas in this country.

The Outer Continental Shelf legislation with the Breaux amendment will affect an enormous amount of drilling throughout the country. The first offshore well was drilled in Louisiana in 1947. Since that time production has been extremely important to the State's economy.

In 1972, a peak year for offshore drilling activity, OCS related employment accounted for more than 17,000 jobs. These jobs are those related directly to drilling activity and the service industries that support it. They do not include jobs in activities caused by offshore drilling, such as refining.

It is easy to see that offshore drilling is a big industry for Louisiana. Yet construction of equipment has not added appreciably to that economic activity. This is a factor my amendment would correct.

The people of this country need jobs. And jobs can be provided if we take steps to include this amendment in the Breaux substitute, as it is included in the committee bill.

I am proposing this amendment because it means jobs for the First District and other districts in Louisiana.

Mr. Chairman, I urge my collleagues to support this amendment, and to support the Breaux Amendment to H.R. 1614.

Mr. BEAUX. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Mr. Chairman, basically, I understand the gentleman's amendment to be what we have called in the committee a "buy American" type of provision, and I understand it does not go further and require that crews be American crews throughout OCS activities.

Mr. LIVINGSTON. Mr. Chairman, the gentleman is correct. As the gentleman recalls, the language of the chairman of the committee, the gentleman from New York (Mr. MURPHY), in his amendment to the principal bill includes the manning by American crews. That provision has been omitted from this particular amendment.

Mr. BREAUX. Then, with that understanding, I think the "Buy American" provision is an important one. I think the gentleman's amendment has a great deal of merit, and I support it.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I admit that I hesitate to get in the middle of this orchestrated scenario that we seem to have worked out.

What we are doing when we agree to an amendment lke this one, whether it is one offered by our distinguished colleague, the gentleman from Louisiana (Mr. LIVINGSTON), who wishes to adopt, I suppose, what ought rightly be called the Louisiana Buy American concept that is a part of the statutes of Louisiana—or whether we buy it as a part of the Breaux amendment or whether we buy it as a part of the original bill—what we are doing is being shortsighted.

I recognize that it is so very easy to succumb to that siren song that the best interests of the United States are served by "Buy American." Yes, it is true that there is a substantial amount of work that is often done onshore and offshore through goods and services, including rigs and other kinds of equipment, produced by other than American companies.

Yet I must say to my colleagues that it would not be, in my view, in our best interests if we were to be quite as shortsighted as I am afraid we would be if we adopt this amendment.

Let us look at where we are. If we look at what happens, then I think it is fair to say that at the present time the United States of America produces about 90 percent of the world's oil and gas production equipment. That is what ths country produces: 90 percent of the oil and gas production equipment.

The Department of Commerce, in its book, the "U.S. Industrial Outlook for '76," forecast that the expected growth in foreign exploratory activity during the next 10 years would assure a strong export market for U.S. equipment. The Department went on to say that U.S. exports of oilfield machinery are projected to reach $3.1 billion, increasing at a compound rate of 9 percent from 1975 levels.

In 1976 exports of the tvpes of products amounted to $1.69 billion—63 percent of the total sales of these products were exports. Thus, it makes very little sense to me to jeopardize our growing exports in the oil production field by providing our trading partners with a legitimate basis for retaliation.

That is exactly what I am afraid this amendment is designed to do.

Great Britain. Norway, and the European communities have already protested anything of this character—and, I think, for some very good reasons—because they are under understandable

pressure, as we are under understandable pressure, from their own labor unions and business organizations to institute "buy and hire national" restrictions in the North Sea oil fields for example.

American sales to Great Britain for North Sea projects during the first 8 months of 1977 have already exceeded $77.5 million, and an additional amount was earned by Americans providing services. Sales to Norway were $14.6 million during the first 8 months of 1977, and clearly, American firms and American technicians are going to be the losers if there is a proliferation of "national buy and hire" restrictions.

Thus, Mr. Chairman, I hope this body will think somewhat more carefully before we fall prey to a very short-sighted effort to have us adopt an amendment of this kind. The amendment ought to be rejected.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to my colleague, the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would like to join with the gentleman from Wisconsin (Mr. STEIGER) in calling the attention of the House to the very profound and wise statements made by him.

We have American drilling rigs in the North Sea area and all over this world. In the long run, American industry and American labor are going to be better served by avoiding the retaliation that is inevitably going to be the result of action of this sort.

I would like to suggest also that for one reason or another there are American drilling outfits which have had to acquire foreign-built rigs, and if this "Buy American" amendment is passed, it is going to mean those rigs will be unusable in the Outer Continental Shelf, to the detriment of American companies.

Mr. Chairman, I want to join the gentleman from Wisconsin (Mr. STEIGER) in urging caution in adopting legislation of this sort.

Mr. STEIGER. Mr. Chairman, I thank my colleague, the gentleman from Oregon, very much for his statement. I urge that the amendment be defeated.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Livingston amendment.

Mr. Chairman, I was very interested in the comments of my colleague, the gentleman from Wisconsin (Mr. STEIGER), regarding this amendment.

I seem to remember that it was only a few months ago that in relation to the issue of subsidized dairy imports and cheeses from the European Common Market, he was one of the strongest proponents of our taking action to stop this kind of foreign trade, which is very harmful to the dairy farmers of his State. In fact, I think I cosigned a letter to which he was also a signatory on this very issue.

Mr. Chairman, the point that I am trying to make is that it is entirely possible that some sort of retaliation might be suggested if an amendment such as the buy American amendment is adopted to the OCS bill, but I rather doubt that. Many of the countries that have sought to compete with us are in one way or another given assistance from their own national governments. Therefore, American workers are at a disadvantage.

We did not choose to give cargo preference a few weeks ago to those shipping oil into the United States, and American shipbuilding is going to suffer.

Mr. Chairman, I think it is time, even though I do generally support the concept of free trade, that we decide whether or not this trade is really free. It seems to be the practice on the part of our State Department, on the part of our trade negotiators, to fight for free trade. Yet, the subsidized trade from other countries cannot really be called free.

Mr. Chairman, the gentleman from Louisiana (Mr. LIVINGSTON) has made a point, throughout his brief career in the House of Representatives, of working very hard in support of legislation that will provide jobs. The need for jobs is something that President Carter repeated in his state of the Union message. It seems to me that this is a small part of trade negotiators, to fight for free trade. The gentleman from Louisiana (Mr. LIVINGSTON) is to be commended, not condemned.

This is certainly consistent with the amendment that would have been offered and may be offered by the gentleman from New York (Mr. MURPHY). It is a bipartisan approach, and I urge adoption of the Livingston amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. MOORE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORE to the amendment in the nature of a substitute offered by Mr. BREAUX: Immediately following section 408 add the following new section:

RULE AND REGULATION REVIEW

SEC. 409. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

Strike out "409" and insert in lieu thereof "410".

In table of contents, strike out:

"Sec. 409. Relationship in existing law."

And insert in lieu thereof:

"Sec. 409. Rule and regulation review.

"Sec. 410. Relationship to existing law.".

Mr. MOORE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MOORE. Mr. Chairman, I will not use the full 5 minutes allotted to me.

This is the legislative veto amendment that has been introduced in the House many, many times in the 1st session of the 95th Congress. It became law seven times, and six more times it has been passed and is awaiting completion of the legislative process. That is 13 times that this Congress has already passed it.

Mr. Chairman, this amendment is being offered by myself and by the gentleman from California (Mr. KETCHUM) because of our strong belief and fear, that there will be some 40 sets of regulations possibly adopted by some 9 different agencies under this bill. Therefore, we need this right to come back and have some control over this matter once it becomes law, especially when we consider that it brings about control over exploration and development of much-needed domestic oil resources in this country.

Mr. Chairman, I have discussed this matter with the author of the substitute, the gentleman from Louisiana (Mr. BREAUX); and he has no objections.

Therefore, Mr. Chairman, I urge that the amendment be agreed to.

Mr. KETCHUM. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I shall not use the 5 minutes.

This issue has been debated up and down the Hill over the past two Congresses, finally to the point that the former Speaker of the House instructed the Committee on Rules to hear a bill which had been introduced by the gentleman from California (Mr. DEL CLAWSON).

It is not a partisan issue in any way. The gentleman from Georgia (Mr. LEVITAS) has offered a similar amendment, as has the gentleman from Georgia (Mr. MATHIS). It has always been adopted, the last few times practically by unanimous consent.

Mr. Chairman, I firmly support this amendment, and I believe that if we do not, we are the ones who will receive all the criticism for any bad regulation that is passed. If we are going to accept that responsibility, then let us vote on the regulations.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to my colleague, the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would just like to join in support of the amendment offered by the gentleman from Louisiana (Mr. MOORE) and my colleague, the gentleman from California (Mr. KETCHUM). I believe there are three good reasons why Congress should have the authority to veto rules and regulations relating to the OCS. First is that the regulators who know that we have this authority will be more careful about the regulations they adopt in the first place.

Second, we will, I am sure, from time to time in this connection, actually veto regulations which are not in the public interest.

Third, Mr. Chairman, if we have this authority we no longer will be able to pass the buck and blame somebody else for the adoption of ridiculous regulations.

Mr. KETCHUM. I thank the gentleman for his remarks.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I also want to rise in support of the proposed amendment offered by these two gentlemen. I think it is absolutely necessary that the Congress either legislate in detail or if it is going to give this authority to the regulatory agencies of Government, that we be able to review the regulations because these regulations have the force of law and we are responsible for them.

Whether or not we accept that responsibility is the issue that is at stake here and I believe we should accept that responsibility.

Mr. Chairman, again I thank the gentleman for yielding.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Ohio, (Mr. BROWN), for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. GOLDWATER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER to the amendment in the nature of a substitute offered by Mr. BREAUX: Title II, section 201: In section 2(q) of the Outer Continental Shelf Lands Act, as amended strike out the period immediately after "Channel" and insert in lieu thereof: ", except for those areas in the Channel in which leasing was begun prior to October 1, 1975, and on which exploration, development, or production was begun prior to January 1, 1978.".

Mr. GOLDWATER. Mr. Chairman, I offer this amendment to clarify the definition of "frontier area" as contained not only in the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX) but also as contained in the original bill offered by the committee.

It is my concern, and I think that of others, that in the definition of "frontier area" that there be included the Santa Barbara Channel, but that we not interrupt or change the rules of the game of those existing leases which are now under production or development.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. Mr. Chairman, I would prefer that the gentleman permit me to finish just one further paragraph and then I would like to have a colloquy with the gentleman from Louisiana (Mr. BREAUX).

Mr. Chairman, let me make it very clear to my colleagues that I have no quarrel with the committee nor with the gentleman from Louisiana (Mr. BREAUX) or others, that it is essential that we do protect the Santa Barbara Channel as well as the Outer Continental Shelf off the coast of California. This inclusion is meritorious and well intentioned and I do support it. I believe that the Santa Barbara Channel should be included in the definition.

However, it does concern me that those areas which are already under production or are already under development not be included under the definition of new frontier, and that they be treated as other areas or where there is onging activity.

In subsequent conversation with members of the committee and with the gentleman from Louisiana, it is my understanding that perhaps the definition does exclude those areas which are already under production or development. I would like to ask the gentleman from Louisiana (Mr. BREAUX) a question or two about this.

I am wondering in the gentleman's substitute under the definition of "frontier area," do the words in the definition apply to the Santa Barbara Channel?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I think the gentleman's amendment is already contained in the language of the Breaux substitute. If the gentleman will look at the definition section in the frontier area, we say that a frontier area which has the original requirements that they have to meet is only an area that has had no development of any oil or gas prior to October 1, 1975, including the Santa Barbara Channel. In other words, if in the Santa Barbara Channel the gentleman has an area where they have had production prior to October 1, 1975, then that is not a frontier area if production was occurring before that time.

Mr. GOLDWATER. It is not the intention of the act or the substitute to impose new rules upon existing development or production activity that may exist in the Santa Barbara Channel?

Mr. BREAUX. All of the new regulations required for frontier areas would not be applicable to any area of the Santa Barbara Channel that has had production prior to October 1, 1975.

Mr. GOLDWATER. Further questioning the gentleman, in the definition of development it uses the words "in paying quantities." I am wondering if the gentleman can clarify precisely what that term means.

Mr. BREAUX. I am advised that it means a commercial return, whenever there is a percentage or extent of some commercial return.

Mr. GOLDWATER. I thank the gentleman for that clarification that it is the intent to exclude those areas which are currently under development or production from the provisions of the act where it pertains.

Mr. BREAUX. The gentleman is correct. The gentleman has to understand we are talking about the new regulations which would apply to frontier areas. Those new regulations would not apply to any part of the Santa Barbara area or the Santa Barbara Channel where production has occurred prior to October 1, 1975.

Mr. GOLDWATER. I thank the gentleman.

Mr. Chairman, with that understanding, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. FENWICK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Louiisana because I really do not believe that this is in the best interests of our country, and I would like to have a rollcall vote on that amendment.

Mr. VANIK. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentlewoman for yielding. The gentlewoman, I think, refers to the amendment relating to the "Buy America" clause.

Mrs. FENWICK. I am.

Mr. VANIK. That was passed just a few moments ago by a voice vote.

Will the gentlewoman yield further to me?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to point to my colleagues in the House that this highly restrictive amendment is very shortsighted as it would encourage retaliation against U.S. firms in the field of oil drilling equipment and services which currently have a predominant world position. American firms produce approxmately 90 percent of the world's oil and gas production equipment. The Department of Commerce in U.S. Industrial Outlook—1976 forecasts that "the expected growth in foreign exploratory activity during the next 10 years would assure a strong export market for U.S. made equipment. U.S. exports of oilfield machinery are projected to reach $3.1 billion, increasing at a compound rate of 9 percent from 1975 levels." In 1976, exports of the types of products amounted

to $1.69 billion—63 percent of total sales of these products were exports. It makes no sense to jeopardize our growing exports in the oil production field by providing our trading partners with a legitimate basis for retaliation.

The Embassies of Great Britain, Norway, and the European communities have protested the discriminatory provisions of section 31 and have noted that their governments are under considerable pressure from labor and industry groups to institute "buy and hire national" restrictions in the North Sea oilfields. American sales to Great Britain for North Sea projects during the first 8 months of 1977 have already exceeded $77.5 million. An additional amount was earned by Americans providing services. Sales of equipment to Norway were $14.6 million during the first 8 months of 1977. Clearly, American firms and technicians would be the big losers if there is a proliferation of "buy and hire national" restrictions, such as would most likely occur if section 31 remains in H.R. 1614.

Any documentation restriction which would require that rigs and vessels used on the Outer Continental Shelf be exclusively American made would prevent our taking advantage of any technological advances which other countries may make.

Section 31 would be contrary to our pledge in the International Energy Agency to endeavor to avoid trade restrictions on energy and energy-producing equipment. A proliferation of "buy and hire national" restrictions could slow down the development of new energy sources in International Energy Agency countries and thus interfere with our attempts to lessen our dependence on OPEC oil.

I hope that the House will vote down this ill-advised provision.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. BREAUX: Section 8(a)(4)(B) of the Outer Continental Shelf Lands Act, as amended by the Breaux amendment, is amended by striking out "on the record after opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule" and inserting in lieu thereof: after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501.

Mr. DINGELL. Mr. Chairman, my colleagues will recall that the gentleman from Ohio (Mr. BROWN) and I sent out a "dear colleague" letter wherein we set forth a series of amendments which would be offered by us to the committee bill. It turns out that the amendments are necessary also to the Breaux amendment.

This particular amendment is offered to correct a very specific problem that exists with regard to both the Breaux amendment and with respect to the committee bill. The Breaux amendment requires that any new bidding system shall be only placed in being by the Department of Energy after there has been a rulemaking hearing on the record.

Now, to my colleagues I say those are the magic words.

The Department of Energy Act requires the proceeding to take place not before the Secretary, who is the expert on these matters, but before the FERC which has the visible defect of having an abundance of other hearings that it must conduct. It has sole responsibility for hearings under other law where they are mandated by statute. It has neither the staff nor the money nor the expertise in this particular matter, a consequence which I know my friend from Louisiana does not want.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from New York (Mr. FISH) has advised me he would accept the amendment on this side.

I think the issue is very clear. FERC is overloaded. This is an authority we gave the Secretary originally in the DOE legislation. It is within his specialty. It should remain with him. If we do not make the modest change in language proposed in the amendment, then FERC will get the job and it cannot give it up to DOE, but the Secretary if he wants to can yield it down to FERC to do that.

Mr. DINGELL. Yes, but FERC cannot send the authority up.

I know this is an oversight on the part of the gentleman from Louisiana who could not have intended an agency, already overworked and underskilled in this area and with wide responsibilities into other things including gas prices and certification of pipelines and independent producers and things of that kind. They should not have to take on this additional burden.

Mr. Chairman, I yield further to my friend, the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I would only urge we adopt the amendment and hope the gentleman from Louisiana will accept it.

Mr. DINGELL. Mr. Chairman, I certainly urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. M'KINNEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. McKINNEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MCKINNEY to the amendment in the nature of a substitute offered by Mr. BREAUX: In section 208 of the Breaux amendment strike paragraph 28 and insert:

SEC. 28. LIMITATIONS ON EXPORTS.—(a) Any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection b. If both Houses of Congress within such time period pass a resolution of disaproval stating disagreement with any of the President's findings concerning the requirements of subsection b, further exports made pursuant to such Presidential findings shall cease.

(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience for increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States."

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, I will not take the time of the committee with this amendment, because I know everyone in the House has voted on the principle contained in this amendment before. The intent of this amendment is exactly the same as the amendment that we passed on the Alaskan pipeline bill and which this House instructed the conferees to stand by.

This amendment would simply state that not one drop of oil nor one cubic foot of this gas which we produced from our Outer Continental Shelf will be used for export or exchange agreements, if it is going to require that we import one more barrel of oil or one more drop of gas from a foreign nation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am very happy to support the gentleman. I supported the gentleman before in this legislation and I think it should be adopted.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I am concerned, I do not think it is the gentleman's intent, but is there any possi-

bility of the gentleman's amendment restricting any exchange of oil or trading which companies might do in logistics, because in some sense it may be easier to exchange oil with companies in other areas because they do not have the oil they need?

Mr. McKINNEY. This is the problem we faced in the Alaskan oil situation. The idea in that instance was that oil companies would ship Alaskan oil to Japan and we would import oil to replace it from Saudi Arabia. This increased our dependence on foreign sources to meet the domestic demand for oil. This amendment would do nothing to prevent an exchange between American companies of domestic oil. It does prohibit what is sometimes called trilateral trade, which very conveniently makes us more dependent on foreign oil and thus more vulnerable to disruption in case of national emergency.

My own intentions were that I do not want to build up a system of trading oil that results in increased cost to this country. We will be drilling off the eastern shoreline, the Alaskan shoreline, and the gulf coast, and the inherent environmental dangers of that activity can only be repaid by full domestic use of the oil and gas produced.

Mr. BREAUX. Mr. Chairman, will the gentleman yield further?

Mr. McKINNEY. I yield.

Mr. BREAUX. As I understand, we would allow some of this OCS oil to be exported only if the result would not be an increase in imports from other sources.

Mr. McKINNEY. Yes, exactly. The wording is that it will not increase the number of barrels of oil or cubic feet of gas imported into this country.

Mr. BREAUX. Mr. Chairman, with that understanding, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. WIGGINS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS to the amendment in the nature of a substitute offered by Mr. BREAUX: In section 5(a)(2) of the Outer Continental Shelf Lands Act as amended by the Breaux amendment strike out subparagraph (B) and insert in lieu thereof the following:

"(B) that such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law;"

In section 25(g)(2)(C) of such Act as amended by the Breaux substitute strike out "In the case" and all that follows through "clause (1) of this paragraph." and insert in lieu thereof "Such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law."

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, the pending amendment corrects a fundamental error in the bill.

The issue is whether the Congress may enact a statute which authorizes the Secretary of the Interior to enter into a lease granting to a lessee the right to explore for minerals in the OCS and to extract those minerals found in commercial quantities, but reserving the right to cancel the lease upon a finding that an important national interest would be served by the cancellation, without paying just compensation to the lessee by reason of the cancellation.

The question is not whether reasonable regulations may be issued during the term of a lease which may affect its value. Such a right, granted in the bill and in the existing Outer Continental Shelf Lands Act, is within the police power of the United States. Cancellation, however, is not regulation. It is a rejection of the lease in its entirety and extinguishes all rights of the lessee thereunder. It is, in short, a taking.

Nor is the question whether the United States, acting through the Secretary of the Interior, may effect a taking of a property right. It may do so for a public purpose. But it must provide just compensation by reason of its act. And the standard is, and must be, the reasonable value of the property taken measured at the time of the taking.

The bill fails to meet this standard. Section 204 of the bill establishes a procedure authorizing the Secretary to cancel a lease for several stated reasons, including threatened harm or damage to the marine, coastal, or human environment.

If the lease is issued before the date of enactment of this bill, the lessee is entitled to the fair value of the canceled rights. Presumably, such compensation meets constitutional standards.

But if the lease is issued after the date of enactment and is canceled, the lessee is entitled only to his investment reduced by his revenues from the leasehold to the date of cancellation. In the case of a profitable lease where investment costs have been fully amortized, the lessee would be entitled to nothing.

The only arguable justification for such a confiscation of valuable property rights without payment is that the lessee waived his fifth amendment right to just compensation by executing a lease which incorporated the provisions of a statute authorizing the Secretary to exercise such an unconscionable power.

As a matter of policy, we should not attempt to force such a waiver upon prospective lessees, because the existence of the waiver, if valid, will surely reduce the value of the lease as a whole and force bidders to discount the lease accordingly.

But more than policy is involved here. The issue is one of constitutional law.

The right to just compensation for property taken is a fundamental constitutional right. The narrow question is whether the United States may compel a person to waive that right as the price of participation in a Federal program. The question is not a novel one. On many occasions, in a variety of settings, the Supreme Court has rejected such a proposition. At issue is not a negotiated waiver; nor an estoppel based upon the acts or omissions of the lessee. Here the waiver is commanded by law. And no attempt to justify such a compelled waiver in terms of compelling national interests. The only rationale seems to be the desire to avoid paying that which is otherwise due.

The plenary power of Congress to provide for the use and disposition of public lands does not authorize the imposition of unconstitutional conditions upon such use and disposition. Were it otherwise, the Constitution would be a dead letter with respect to all those powers committed exclusively to the Central Government. But the fifth amendment was created precisely to negate such a result.

The Federal Government may not exact as a price for the participation in its programs or activities the surrender of fundamental constitutional rights without compelling reasons for doing so.

The bill before us attempts to do so without justification and it must be corrected.

The House is narrowly divided on this bill. To my colleagues who are truly in doubt and are subject to persuasion, I say this: If the present cancellation language remains in the bill, you have the best of reasons for rejecting the bill in its entirety. It is unconstitutional.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield.

Mr. FISH. I would like to say that I am familiar with the gentleman's amendment, as he knows. It had been considered by the minority some time ago, and I rise in strong support of the amendment offered by the gentleman from California.

Mr. WIGGINS. I thank the gentleman.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield.

Mr. BREAUX. My concern, and I do not think the gentleman's intent is to do that, but he is not trying to give a lessee any additional rights that he may not have under existing law, under the Constitution, or any other legal operation?

Mr. WIGGINS. That is correct. The amendment merely gives him that to which he is entitled, and does not accept the formula in the gentleman's bill, which in my view does not give him that right.

Mr. BREAUX. With this understanding, I think it is a good amendment.

Mr. WIGGINS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the time of the committee. I had intended at an earlier time to offer a substitute for the minority. At this time, I rise in strong support of the Breaux substitute for the reasons that have been amply demonstrated here today, and I call for a favorable vote on the Breaux substitute.

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, while I am sympathetic with the thrust of the Breaux amendment as it relates to dual leasing, as it relates to the overall bidding process and the Federal Government's involvement, I have a couple of questions about two other pieces of the amendment which I would like to address to the gentleman from Louisiana, if I might.

First of all, could the gentleman explain once again—I know he did earlier—explain once again the changes that he made in the funds going to coastal management and how that shifts into revenue sharing?

Mr. BREAUX. If the gentleman will yield on that point, I will say to the gentleman that a State that is going to be affected by any offshore oil and gas development off their coastline will receive financial assistance under the programs that we have set out. A State will not have to have an ongoing coastal management program in operation in order to receive those funds. The point is, the States affected should receive some assistance, regardless of whether their State legislature has tackled the political problem of passing a program or not. I think it is important enough, if you are going to be impacted and the Federal Government recognizes that problem, as it does with the interior States, to give them some assistance.

Mr. WIRTH. I thank the gentleman.

Mr. Chairman, as the gentleman and I discussed previously, I have some real problems with the dilution of some of the money going to coastal management. I was wondering if the chairman of the committee might address the same issue.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, this is an issue of revenue sharing which the gentleman from Colorado brings up. The committee carefully evaluated the differences that this bill could create with the Coastal Zone Management Act. Under the Coastal Zone Management Act, where an intrusion was made in a coastal State, we felt that they ought to be compensated for a demonstrated impact; and funding is based on such impact and need.

Under the Breaux substitute, we find a 20-percent figure or a $200 million figure being reserved for some very vaguely stated positions on a formulation based on the amount of product that comes over a given State's shoreline, and not really tied to impacts.

Obviously, States such as Louisiana and Texas will take the lion's share of those funds, and they will not go to impact related to that State's problems, as funds under the Coastal Zone Management now do.

Mr. WIRTH. I thank the gentleman.

Mr. Chairman, I have one other brief question I would like to ask the gentleman with reference to changes in the air quality provisions in the OCS bill.

Would the gentleman explain the changes made in the Breaux substitute from the initial legislation?

Mr. BREAUX. If the gentleman will yield, the committee bill says that, in addition to all other Clean Air Acts—and we have a Federal Clean Air Act—the Secretary of the Interior is required to promulgate additional regulations to put in operation the Clean Air Act in the OCS areas.

My approach, however, is to say that we are not going to affect anything in the existing Clean Air Act. It is going to stay in place; it is going to stay in effect. In addition, we continue the requirement that the Secretary issue regulations requiring compliance with any requirements established by any State so far as the Clean Air Act affecting the air quality of the State.

Mr. WIRTH. I thank the gentleman. But again I have a problem with the notion of each State setting up its own set of air quality standards or perhaps moving up to the situation where we have perhaps a more Byzantine approach.

Mr. BREAUX. It will not affect the national Federal Clean Air Act. It will just allow that State to promulgate additional regulations under their State act, if they saw fit to.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, after 3 hours of debate on the substitute offered by the gentleman from Louisiana, the gentleman has succeeded in making me—and I am sure others—forget the effect of his substitute, namely, what was known in the committee for 3 years as the Louisiana repurchase section. The revenue-sharing provisions of this substitute result in most, or an extraordinary amount, of the money going to Louisiana and Texas and very little going anywhere else.

The first version coming before this House had 100 percent of the money going to Louisiana and none of it going under the appropriation process.

Mr. WIRTH. Mr. Chairman, I would like to ask one final question of the gentleman from Louisiana (Mr. BREAUX).

Am I correct that if the Breaux substitute loses at this point, the Treen amendments will then be up, and they address the question of dual leasing and bidding; is that correct?

Mr. BREAUX. If the Breaux amendment does not pass, I intend to offer many amendments at a later time to the Murphy bill.

I would also observe that the statement of the gentleman from Massachusetts is incorrect. Any revenue in my substitute is subject clearly to the appropriation process.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX), as amended.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 26, noes 22.

RECORDED VOTE

Mr. YATES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 211, not voting 34, as follows:

[Roll No. 15]

AYES—187

Abdnor	Goldwater	Montgomery
Alexander	Gonzalez	Moore
Anderson, Ill.	Goodling	Moorhead, Calif.
Andrews, N. Dak.	Gradison	Myers, Gary
Applegate	Grassley	Myers, John
Archer	Gudger	O'Brien
Badham	Hagedorn	Pickle
Bafalis	Hall	Poage
Barnard	Hammer-schmidt	Pritchard
Bauman	Hannaford	Quayle
Beard, Tenn.	Hansen	Quie
Boggs	Harsha	Quillen
Bowen	Heftel	Railsback
Breaux	Hightower	Regula
Brinkley	Holland	Rhodes
Brown, Mich.	Holt	Risenhoover
Brown, Ohio	Horton	Roberts
Broyhill	Hubbard	Robinson
Buchanan	Huckaby	Roncalio
Burgener	Hyde	Rousselot
Burke, Fla.	Ichord	Rudd
Burleson, Tex.	Jenkins	Runnels
Butler	Johnson, Colo.	Santini
Caputo	Jones, N.C.	Sarasin
Cederberg	Jones, Okla.	Satterfield
Chappell	Jones, Tenn.	Sawyer
Clausen, Don H.	Jordan	Schroeder
Clawson, Del	Kazen	Schulze
Cleveland	Kelly	Shuster
Cochran	Kemp	Sisk
Coleman	Ketchum	Skelton
Collins, Tex.	Kindness	Slack
Conable	Krueger	Smith, Nebr.
Corcoran	Lagomarsino	Snyder
Cornwell	Latta	Spence
Coughlin	Leach	Stangeland
Crane	Livingston	Stanton
Cunningham	Lloyd, Tenn.	Steed
Daniel, Dan	Long, La.	Steiger
Daniel, R. W.	Long, Md.	Stockman
Davis	Lott	Stump
Derwinski	Lujan	Taylor
Devine	Luken	Thone
Dickinson	Lundine	Treen
Dornan	McClory	Trible
Duncan, Tenn.	McDade	Vander Jagt
Edwards, Ala.	McDonald	Volkmer
Edwards, Okla.	McEwen	Waggonner
English	McKay	Walker
Erlenborn	McKinney	White
Evans, Del.	Madigan	Whitehurst
Fish	Mahon	Whitley
Flippo	Mann	Whitten
Flowers	Marlenee	Wiggins
Flynt	Marriott	Wilson, Tex.
Forsythe	Martin	Winn
Fountain	Mathis	Wright
Frenzel	Mattox	Wylie
Frey	Michel	Young, Alaska
Fuqua	Milford	Young, Fla.
Gammage	Miller, Ohio	Young, Mo.
Glickman	Mitchell, N.Y.	Young, Tex.
	Moliohan	

NOES—211

Addabbo	Baucus	Bonior
Akaka	Beard, R.I.	Brademas
Allen	Bedell	Breckinridge
Ambro	Beilenson	Brodhead
Ammerman	Benjamin	Brown, Calif.
Anderson, Calif.	Bennett	Burke, Mass.
	Bevill	Burlison, Mo.
Andrews, N.C.	Biaggi	Burton, John
Annunzio	Bingham	Burton, Phillip
Ashley	Blanchard	Byron
Aspin	Blouin	Carney
AuCoin	Boland	Carr
Baldus	Bolling	Carter

Cavanaugh	Holtzman	Patterson
Chisholm	Howard	Pattison
Clay	Hughes	Pease
Cohen	Jacobs	Perkins
Collins, Ill.	Jeffords	Pike
Conte	Jenrette	Pressler
Conyers	Johnson, Calif.	Preyer
Corman	Kastenmeier	Price
Cornell	Keys	Pursell
Cotter	Kildee	Rahall
D'Amours	Kostmayer	Rangel
Danielson	Krebs	Reuss
Delaney	LaFalce	Richmond
Dellums	Le Fante	Rinaldo
Derrick	Lederer	Roe
Dicks	Leggett	Rogers
Diggs	Lehman	Rooney
Dingell	Lent	Rose
Dodd	Levitas	Rosenthal
Downey	Lloyd, Calif.	Rostenkowski
Drinan	McCloskey	Roybal
Duncan, Oreg.	McCormack	Russo
Early	McFall	Scheuer
Eckhardt	McHugh	Seiberling
Edgar	Maguire	Sharp
Edwards, Calif.	Markey	Shipley
Eilberg	Marks	Simon
Emery	Mazzoli	Skubitz
Ertel	Meeds	Smith, Iowa
Evans, Colo.	Metcalfe	Solarz
Evans, Ga.	Meyner	Spellman
Evans, Ind.	Mikulski	St Germain
Fary	Miller, Calif.	Staggers
Fascell	Mineta	Stark
Fenwick	Minish	Steers
Fisher	Mitchell, Md.	Stokes
Fithian	Moakley	Stratton
Flood	Moffett	Studds
Florio	Moorhead, Pa.	Traxler
Foley	Moss	Tsongas
Ford, Mich.	Mottl	Udall
Ford, Tenn.	Murphy, Ill.	Ullman
Fowler	Murphy, N.Y.	Van Deerlin
Fraser	Murphy, Pa.	Vanik
Gaydos	Murtha	Vento
Gephardt	Myers, Michael	Walgren
Gilman	Natcher	Waxman
Ginn	Neal	Weaver
Gore	Nedzi	Weiss
Hamilton	Nix	Whalen
Hanley	Nolan	Wirth
Harkin	Nowak	Wolff
Harrington	Oakar	Wydler
Harris	Oberstar	Yates
Hawkins	Obey	Yatron
Heckler	Ottinger	Zablocki
Hefner	Panetta	Zeferetti
Hollenbeck	Patten	

NOT VOTING—34

Armstrong	Hillis	Symms
Ashbrook	Ireland	Teague
Bonker	Kasten	Thompson
Brooks	Mikva	Thornton
Broomfield	Nichols	Tucker
Burke, Calif.	Pepper	Walsh
de la Garza	Pettis	Wampler
Dent	Rodino	Watkins
Findley	Ruppe	Wilson, Bob
Giaimo	Ryan	Wilson, C. H.
Gibbons	Sebelius	
Guyer	Sikes	

The Clerk announced the following pairs:

On this vote:

Mr. Brooks for, with Mr. Thompson against.
Mr. Nichols for, with Mr. Dent against.
Mr. Ireland for, with Mr. Rodino against.
Mr. Sikes for, with Mr. Bonker against.
Mr. Teague for, with Ms. Burke of California against.
Mr. Sebelius for, with Mr. Charles H. Wilson of California against.
Mr. Guyer for, with Mr. Mikva against.
Mr. Ashbrook for, with Mr. Pepper against.
Mr. Broomfield for, with Mr. Ryan against.

Mr. HORTON changed his vote from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FISH: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1978".

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Sec. 101. Findings.
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Sec. 201. Definitions.
Sec. 202. National policy for the Outer Continental Shelf.
Sec. 203. Laws applicable to the Outer Continental Shelf.
Sec. 204. Outer Continental Shelf exploration and development administration.
Sec. 205. Revision of bidding and lease administration.
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Sec. 207. Annual report.
Sec. 208. New sections of the Outer Continental Shelf Lands Act.
"Sec. 18. Coordination and consultation with affected States and local governments.
"Sec. 19. Safety regulations.
"Sec. 20. Remedies and penalties.
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TITLE III—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

Sec. 301. Amendments to the Coastal Zone Management Act of 1972.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Review of shut-in or flaring wells.
Sec. 402. Review of revision of royalty payments.
Sec. 403. Natural gas distribution.
Sec. 404. Antidiscrimination provisions.
Sec. 405. Sunshine in Government.
Sec. 406. State management program.
Sec. 407. Relationship to existing law.

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governmnets in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities; and

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continetal Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(4) assure that States, and through States, local governments, have timely access to information regarding activties on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(5) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(6) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish; and

(7) insure that the extent of oil and natural gas resources of the Outer Con-

tinental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration, development, or production of (1) deposits of oil, gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and

"(p) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a)(1) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)) is amended—

(A) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(B) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(C) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection".

(2) Section 4(b) of such Act is amended by striking out "removing or transporting by pipeline the natural resources" and inserting in lieu thereof "or producing the natural resources".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the tranling of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Deparment in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraph shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Sction 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resurces of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in undue delays in the exploration, development, or production of resources unless the Secretary makes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment. The finding shall be final and shall not be reviewable unless arbitrary or capricious. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition. except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force; and

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee; and

"(ii) entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease;

"(3) for the subsurface storage of oil and gas other than by the Federal Government; and

"(4) for the establishment of air quality standards for operations on the outer Continental Shelf under this Act.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under

the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action. The Secretary shall thereafter notify and consult with the Governor of any affected State and may thereafter recommend such change or changes in such action as are considered appropriate.

"(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph and any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section, including leasing systems in which exploration lessees share in the costs of exploration and the consideration received from sale of subsequent leases for development and production, notwithstanding any inconsistent provisions of sections 8(b)(4), 8(k), and 9 of this Act, except that any payment in connection with any bidding system authorized pursuant to this subparagraph shall not exceed amounts appropriated for that purpose by Congress.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system by rule.

"(B) Not later than thirty days before the effective date of any rate prescribed under subparagraph (A) or (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraph (B) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C) The bidding systems authorized by subparagraphs (C) through (I) of paragraph (1) of this subsection shall be applied to not less than 10 per centum and not more than 30 per centum of the total area offered for lease each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirement set forth in this subparagraph is inconsistent with subparagraph (A) of this paragraph.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utlized; and

"(v) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary may publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after receipt by the Secretary of public nominations of lease tracts to be included in a proposed lease sale, but before the initial announcement of the tracts selected for inclusion in such proposed lease sale.

"(C) Before selection of tracts under this paragraph for inclusion in the proposed lease

sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used.

(7) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) and through (J) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five housand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act; and

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by relettering subsections (c) through (j), and all references thereto, as subsections (h) through (o), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of, and subject to renegotiation by, the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(d) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(e) (1) Prior to the sale of any lease under this Act after the date of enactment of this section with respect to which production may, in the judgment of the Secretary or in the judgment of the Governor of any affected State, result in the drainage of oil or gas from lands of such State, the Secretary shall—

"(A) if the lands of such State have been or are about to be leased or otherwise utilized for exploration, development, or production by such State, offer the Governor of such State an opportunity to enter into an agreement for unitary exploration, development, and production of the Federal and State lands; or

"(B) if such State has not or is not about to so lease or utilize such lands, offer the Governor of such State the opportunity to enter into an agreement for the disposition of bonuses, royalties, and other revenues which may be generated by such lease in order to insure a fair and equitable distribution of such bonuses, royalties, and other revenues between such State and the Federal Government.

"(2) (A) If an agreement described in paragraph (1) (A) or (1) (B) of this subsection is not entered into within 60 days after the date on which the Secretary first offers the appropriate Governor an opportunity to enter into such agreement, or within such longer period as the Secretary may in his discretion allow, the Secretary may proceed with the sale of the lease. Thereafter, upon an allegation by the Governor of the State or a determination by the Secretary that drainage from State lands is occurring due to activities pursuant to the lease, the Secretary shall institute negotiations with the Governor of the State for the equitable division of the bonuses, royalties, and other revenues from such lease.

"(B) If, within six months after the date on which negotiations are commenced pursuant to subparagraph (A) of this paragraph, an equitable division is not agreed to by the Secretary and the Governor of the State, either party may initiate a suit in the appropriate district court of the United States for an equitable division of the bonuses, royalties, and other revenues from the lease.

"(C) Notwithstanding any other provision of this paragraph, the Secretary shall not be required to institute negotiations pursuant to subparagraph (A) of this paragraph unless the Governor of the State agrees to institute similar negotiations in any case in which operations on lands of such State may result in the drainage of oil or gas from Federal lands.

"(3) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States 50 per centum of all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such bonuses, royalties, and other revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(f) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by inserting "(a)" immediately before "Any" and by adding at the end thereof the following new subsections:

"(b) Except as provided in subsection (e) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c) (1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a) (2) (A) (i) of this Act, and (B) such propose activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he shall cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a) (2) (B) (ii) of this Act.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(d) (1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(e) (1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with his section, but the Secretary may require such activities to be described in an exploration plan or require a revised exploration plan.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

"(f) No geological exploration shall be authorized by the Secretary under this section unless he determines that such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 1b.—ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(D) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or ninety days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations are not consistent with the national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 19. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Within sixty days after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 20. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any terms of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"(f) There shall be available as a defense to any action brought against any person for violation of any Federal statute or any Federal rule, regulation, or order (other than an action for injunctive relief) that the act or omission complained of was taken or occurred as a result of compliance with the provisions of this Act or any rule, regulation, or order issued under this Act.

"SEC. 21. OIL AND GAS DEVELOPMENT AND PRODUCTION PLANS.—(a) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas have been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section

referred to as a 'plan') to the Secretary in such form and containing such information as the Secretary by regulation prescribes.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with regulations prescribed by the Secretary under this section.

"(c)(1) As promptly as possible after the receipt of a plan submitted pursuant to this section, the Secretary shall approve, disapprove, or require modifications of such plan. The Secretary shall disapprove a plan—

"(A) if the leasee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (4) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments, (ii) the threat of harm or damage will not disapprove or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease canceled after disapproval of a plan under such subparagraph (B), the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the fair value of the canceled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(e) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(d) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subjected to the right of judicial review, in accordance with the provisions of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(e) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportatfon of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(f) An oil and gas lease issued or maintained under this Act which is located in any area which is not a frontier area shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest.

"SEC. 22. PROHIBITION ON EXPORTS.—(a)(1) No oil produced from the Outer Continental Shelf may be exported from the United States or its territories or possessions unless such oil is—

"(A) exchanged in similar quantity for convenience of transportation or increased efficiency of transportation with persons or the government of an adjacent foreign state;

"(B) temporarily exported for convenience of transportation or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States; or

"(C) temporarily exported for the purposes of refining and reenters the United States,

unless the requirements of subsection (b) of this section are met.

"(2) No gas produced from the outer Continental Shelf may be exported from the United States or its territories or possessions unless such gas is—

"(A) exchanged in similar quantity for convenience of transportation or increased efficiency of transportation with persons of the government of an adjacent foreign state; or

"(B) temporarily exported for convenience of transportation or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States,

unless the requirements of subsection (b) of this section are met.

"(b) Oil or gas subject to the prohibition contained in subsection (a) of this section may be exported only if—

"(1) the President makes and publishes an express finding that exports of such oil or gas, as the case may be—

"(A) will not diminish the total quantity or quality of oil or gas available to the United States;

"(B) will have a positive effect on consumer oil or gas prices by decreasing the average oil acquisition costs of refiners or the average gas acquisition price of distributors;

"(C) will be made only pursuant to contracts which may be terminated if the oil or gas supplies of the United States are interrupted or seriously threatened; and

"(D) are in the national interest; and

"(2) the President reports such finding to the Congress as an energy action (as defined in section 551 of the Energy Policy and Conservation Act).

The congressional review provisions of such section 551 shall apply to an energy action reported in accordance with this paragraph, except that for purposes of this paragraph, any reference in such section to a period of fifteen calendar days of continuous session of Congress shall be deemed to be a reference to a period of sixty calendar days of continuous session of Congress and the period specified in subsection (f)(4)(A) of such section for committee action on a resolution shall be deemed to be forty calendar days.

"SEC. 23. CONFLICTS OF INTEREST.—Any full-time officer or employee of the Department of the Interior who discharged duties or responsibilities under this Act and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic

pay in effect for grade GS–16 of the General Schedule—

"(1) may not, at any time after the date of termination of employment with the Department, knowingly act as agent or attorney for anyone other than the United States in connection with any proceeding, regulation, order, lease, permit, or other particular matter (A) in which the United States is a party or has a direct and substantial interest, and (B) in which such officer or employee participated personally and substantially, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise while employed by the Department;

"(2) may not, during the one-year period beginning on the date of termination of employment with the Department, appear personally before any Federal court or any Federal department or agency as agent or attorney for anyone other than the United States in connection with any proceeding, regulation, order, lease, permit, or other particular matter (A) in which the United States is a party or has a direct and substantial interest, and (B) which was under the official responsibility of such officer or employee at any time during the one-year period prior to his termination of employment with the Department.".

TITLE III—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

SEC. 301. (a) Paragraph (1) of section 308 (b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(1)) is amended to read as follows:

(b)(1) There is hereby established the Outer Continental Shelf energy impact fund in the Treasury of the United States. In fiscal year 1979 and in each subsequent fiscal year, there shall be credited to the Outer Continental Shelf energy impact fund twenty per centum of the revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under section 9 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1338). Amounts credited to the fund under this paragraph shall be available, as provided by appropriations Acts, to the Secretary for the purpose of making anual grants to coastal States in the fiscal year following the year of deposit in accordance with the provisions of this subsection. Such appropriations may be made without fiscal year limitation. Money credited to the fund, not subsequently appropriated by the Congress for expenditure within two fiscal years following the fiscal year in which such moneys have been credited to the fund, shall be transferred to miscellaneous receipts of the Treasury.

(b)(1) Paragraph (2) of section 308 of such Act is amended by striking out "The amounts" and inserting in lieu thereof "Subject to paragraph (3) of this subsection, the amounts".

(2) Paragraph (2)(A) of section 308(b) of such Act is amended by striking out "one-third of the amount appropriated" and inserting in lieu thereof "two-fifths of the amount available".

(3) Paragraph (2)(B) of section 308(b) of such Act is amended by striking out "one-sixth of the amount appropriated" and inserting in lieu thereof "one-fifth of the amount available".

(4) Paragraph (2)(C) of section 308(b) of such Act is amended by striking out "one-sixth of the amount appropriated" and inserting in lieu thereof "one-fifth of the amount available".

(5) Paragraph (2)(D) of section 308(b) of such Act is amended by striking out "one-third of the amount appropriated" and inserting in lieu thereof "one-fifth of the amount available".

(c) Section 308(b) of such Act is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Secretary shall not make grants under this subsection to any state in any fiscal year the total of which exceeds 30 per centum of the total amount available to the Secretary for payment to all states in such fiscal year.

"(B) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is greater than the total amount of grants payable to such states pursuant to this subsection, the difference between such two amounts shall remain in the Treasury of the United States and be credited to miscellaneous receipts.".

(d) Paragraph (5)(B)(i) of section 308(b) of such Act (as renumbered by section (c) of this section) is amended—

(1) by striking out "necessary, because of the unavailability of adequate financing under any other subsection," and inserting in lieu thereof "necessary"; and

(2) by striking out "new or expanded".

(e) Paragraph (6) of section 308(b) of such Act (as renumbered by subsection (c) of this section) is amended to read as follows:

"(6) After making the calculations provided in paragraphs (2) and (3) of this subsection, the Secretary shall require each coastal state which is to receive grants under this subsection to provide adequate assurances of being able to return to the United States any funds to which paragraph (8) of this subsection may apply. After obtaining such assurances, the Secretary shall disburse the proceeds of such grants to such coastal state.

"(7) Any coastal state which receives proceeds of any grant under this subsection only may expend or commit such proceeds—

"(A) after a determination by the Secretary that such proceeds will be expended or committed by such state in accordance with the purposes set forth in paragraph (5) of this subsection; and

"(B) before the close of the fiscal year immediately following the fiscal year in which the proceeds were received.

"(8) The United States shall be entitled to recover from any coastal state an amount equal to all or any portion of a grant made to such state under this subsection which is not expended or committed in compliance with paragraph (7) of this subsection.".

(f) Paragraph (3) of section 318(a) of such Act is amended—

(1) by striking out "8 fiscal years" and inserting in lieu thereof "3 fiscal years"; and

(2) by striking out "1984" and inserting in lieu thereof "1979".

TITLE IV—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 401. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 402. As soon as feasible but no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 403. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 404. Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 405. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including ap-

propriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

STATE MANAGEMENT PROGRAM

SEC. 406. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 407. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment in the nature of a substitute be dispensed with, that it be printed in the RECORD, and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(By unanimous consent, Mr. FISH was allowed to proceed for 5 additional minutes.)

Mr. FISH. Mr. Chairman, I have asked unanimous consent to revise and extend my remarks on the substitute I am offering, which is the result of 2½ years of hearings and is based on provisions of H.R. 1614—I emphasize that we have worked off H.R. 1614—and has taken over 3 months to draft. As a matter of fact, we did not get the bill back from the printer until noon on Tuesday due to having to send it back for reprinting to correct the technical errors in provisions taken wholesale from H.R. 1614. I must apologize to my colleagues that with the rush to bring this bill to the floor, there has not been adequate time to fully inform them as to the contents of my substitute bill. I will attempt to do so now.

Mr. Chairman, the bill as reported out of the ad hoc select committee on the Outer Continental Shelf is basically the same as the House had before it 2 years ago—and which the House recommitted with instructions to conference, where it ultimately died. These instructions have never, to this date, been followed. H.R. 1614 not only contains the objectionable provisions which caused the House to reject the 1976 bill; but additional objectionable provisions have been added and must be altered.

I seriously doubt that the defects in H.R. 1614 can be perfected on the floor today or in several days of consideration.

After its recommittal in 1976, hearings were held in 1977, in markup in 1977 an addition of around 76 amendments were added.

On January 24, 1978, the Secretary of the Interior demonstrated his disposition by forwarding 50 additional proposed language changes.

Today, it is my understanding that about 80 amendments are pending at the desk.

Mr. Chairman, time has overtaken the work of the ad hoc committee. Last year, the Congress created the Department of Energy, granting it responsibility for leasing. Members respected for their expertise—like the gentleman from Ohio—in energy policy will be perusing this as my substitute is considered.

Mr. Chairman, we are told that the need for haste in the passage of this inperfect legislation is that a law suit in Massachusetts will hold up lease sales in the North Atlantic. Mr. Chairman, there is no objection to a fishermen's gear compensation fund which will unlock this problem. This can be acted on separately and with dispatch.

The opportunity now is ours to accept a substitute that will permit the House to work its will in a responsible fashion.

The substitute amends the Outer Continental Shelf Lands Act of 1953, and the Coastal Zone Management Act to provide new authority for the management of oil, gas, geothermal steam and other resources on the public lands of the OCS in order to expedite a systematic and, judicial development of these energy resources, provide the maximum practicable protection for the marine and coastal environment, and to provide for the greatest possible financial return to the public for the leasing of their energy resources on the OCS.

The need for maximum and expeditious development of all of our domestic resources cannot be questioned by anyone who has watched our decline in domestic energy production, and our increased dependence on imported oil.

In our substitute, we have made every effort to clear away matters which will cost the taxpayer money in lost revenues, which will delay exploration and development of the OCS. The substitute is only 40 percent as long as H.R. 1614. We have eliminated, for example, all of the parts of the bill which simply codify regulations which have been promulgated under Secretaries of the Interior in recent years. We should not limit the flexibility of future Secretaries to solve as yet unperceived problems. By freezing regulations into statutory law, we in the Congress will put ourselves in the position of having to revise the law when, under the present law, the Secretary can do this himself by regulation.

We think it is by far the wiser course to allow the Secretary flexibility to react to continued growth and operational change as OCS operations move into the presently untouched frontier areas off Alaska and the east coast.

Mr. Chairman, the purpose of the Ad Hoc Select Committee on the OCS was to update the OCS Lands Act of 1953, in order to expedite a systematic and judicial development of our energy resources on the OCS; provide the maximum possible protection to the human, marine and coastal environment; provide for cooperation between the State and Federal Governments; and provide for the greatest possible financial return to the public for the leasing of their energy resources on the OCS. It was not created to draft legislation which would create a morass of Government redtape; create as many as 40 new, and in many cases, unneeded sets of regulations; duplicate legal authority already existing in regulation; or create an immediate and potentially long-term loss of revenues to the Federal Government by leaving money now paid into the Treasury in the coffers of big oil. However, this is exactly what the majority has done in drafting H.R. 1614.

Not only will H.R. 1614 create the above situations, but it is filled with technical errors, and provisions that are inoperative due to incorrect references—many of which were not found until our substitute was drafted. Such errors will undoubtedly give rise to delay-causing lawsuits where none could now be filed. In preparing our substitutes we attempted to correct these errors. Many of these corrections, as well as some of the substantive changes made in the substitute, are either identical or similar to the administration amendments recently received from the Department of the Interior. For instance, the Fish substitute would delete section 31 in H.R. 1614, and would guarantee consistency of title III and H.R. 6803, the omnibus oil spill bill which has already passed the House. The substitute deletes this from H.R. 1614, and allows this major piece of legislation to proceed on its own.

The technical errors and inoperative provisions, which are the subject of 50 administration amendments, have been corrected in the substitute, and the duplication of authority as well as the inclusion of regulations as major provisions of the bill has been eliminated.

More important are the substantive changes my substitute makes in H.R. 1614, which will be expanded upon during consideration of my substitute.

A major change that the substitute makes in H.R. 1614, and is the center of a great deal of controversy and apparently misunderstanding, is section 205, and the alternative bidding systems it contains. This will be dealt with by Mr. FORSYTHE.

Another provision in section 205 of H.R. 1614 that is changed by my substitute concerns suspension, cancellation, and compensation. The reasons for which

suspension and cancellation of a lease can occur remain the same as those in H.R. 1614, except that my bill eliminates the provision that would allow the Secretary to pay less than fair value for property taken.

One of the major objections to H.R. 1614 is its encouragement of Government exploration for oil and gas, including giving the Secretary specific authority to conduct core and test drilling. My substitute retains the language of the original law, under which no Secretary of the Interior has conducted Federal exploration.

I want to take this time to remind the Members of the House of one of the provisions in the Senate-passed OCS bill, the so-called Durkin amendment, which calls for an actual inventory of OCS energy resources. This is Federal exploration no matter how you look at it.

H.R. 1614 contains a watered-down version of this Durkin amendment, which clearly points the way for the Government to get into the oil business. It appears clear to me that going to conference with this provision in H.R. 1614, can only result in the inclusion of specific authority for extensive Federal exploration in the final work product of the conference committee.

The need for Federal exploration has never been demonstrated and would clearly be unwise, particularly since it would then cost the taxpayers to get information that it now gets free from private industry permittees. Bureaucrats would prove themselves even less capable of finding oil than they already have shown themselves to be at delivering the mail.

I would also remind my colleagues that this was one of the points that caused the House to kill this bill in 1976. I know of nothing that has occurred that should alter any viewpoints on this subject.

Another major provision that caused the bill to be recommitted to conference in the last Congress was the provision expanding the scope of OSHA.

H.R. 1614 still contains a significant expansion of OSHA and the arguments to include it in this year's bill are even weaker than they were in 1976. This defeat will be expanded on by the gentleman from Louisiana (Mr. TREEN).

Another change my substitute makes strikes the detailed requirements of establishing development and production plans, since such requirements already exist in regulation under the present law.

My substitute also provides for disapproval of exploration plans under certain extreme circumstances, and then makes the lessee eligible for cancellation and compensation where a development and production plan is disapproved. This is the direct subject of one of the administration's amendments. As drafted, H.R. 1614's provision is unworkable since it does not provide for any final action if an exploration plan is not approved within 30 days. The plan should be either approved or disapproved so that work can go forward or the lease can be canceled.

Another major point of debate has been the subject of dual leasing. The inclusion of this system in the particular form found in H.R. 1614 makes no sense. Testimony before our committee made it clear that nobody thinks that it could ever work in that form.

Under current law, an area is offered for lease, and the winning bidder explores, develops, and produces any oil or gas he finds. Under the proposed dual leasing provision, the Government would first offer an area for lease for exploration, and at some undefinable point when he determines that exploration is completed, the area will be offered for sale yet another time for development and production. Doubling the number of sales will lengthen the time before production can be expected to come ashore doubling the administrative steps that are now taken. It may also double the number of law suits which will arise.

In closing, Mr. Chairman, I wish to point out that in contrast to the sheer bulk of H.R. 1614, my substitute is a concise, simplified, clean bill that will accomplish the purposes for which the ad hoc select committee was created. It will provide for an orderly and systematic development and production of our energy resources on the OCS. It allows States to have their proper role in assuring the protection of their vested interests, guarantees ample financial returns to the Treasury and protects the human, marine, and coastal environment. I ask the Members of this body to join with me in protecting the Treasury and in rejecting the empty rhetoric of those who struggle to maintain outdated positions as expressed in H.R. 1614.

Mr. FORSYTHE. Mr. Chairman, I rise in support of the Fish substitute amendment.

Mr. Chairman, section 205 of H.R. 1614 not only contains the traditional and proven bonus bids with a minimum royalty of 12½ percent, and the variable bonus with sliding royalty, but has specified seven new systems, as well as granting an additional authority for the Secretary to establish systems of his own. These systems are untried and unknown, yet must be used in at least 50 percent of the areas offered for lease. If the Secretary determines that use of these systems would be detrimental to the public by decreasing revenues to the Treasury, he must still use them until he reports to Congress and either House approves his finding.

In addition, before he can use any of these systems, he must do so through the administrative procedure of "by rule, on the record", which is legal lingo for a full blown agency hearing, calling for an advisary proceeding. This is time consuming and expensive, and little more than can be done simply "by rule", which can be either a full agency hearing, or simply "notice and comment" at the discretion of the Secretary. In addition, H.R. 1614 requires that for the sake of experimentation, the Secretary must use a random selection method for the purpose of selecting the tracts.

Mr. Chairman, not only are these provisions extremely time consuming, thereby causing unneeded delays, but they will tie the hands of the Secretary, tie the administration's hands, and will cost untold dollars in lost revenues.

The Fish substitute has revised this section to assure fullest possible competition, return fair revenues to the Treasury, provide flexibility in the management of our lease sales, and open the processes of the administrative branch to public scrutiny and congressional review.

The Fish substitute retains all of the bidding systems that exist in H.R. 1614, unchanged. It mandates the use of these systems, but to a maximum of 30 percent, with a minimum of 10 percent. While the older bonus bid system may still be the most profitable way of offering the energy resources of lease, we give the administration the opportunity to determine if, indeed, these new systems do offer greater potential in some situations. We have also given the administration the flexibility it seeks in one of its recently submitted amendments by deleting the provision calling for congressional approval before any departure from the mandated use of the alternative systems. Instead, the substitute gives the Secretary the authority not to use a system if he finds that the use of the system will be contrary to the purposes for which they were created. These purposes are outlined on pages 159 and 160 of H.R. 1614.

The Fish substitute and H.R. 1614 both call for an annual report on the use of bidding systems. However, since the Secretary is not bound by this report in H.R. 1614, the substitute requires that the Secretary, 30 days before any lease sale, publish in the Federal Register and report to Congress explaining his choice of tracts and bidding systems. In this way, the activities of the administrative branch are more open to public and congressional scrutiny.

We feel these are very important points, primarily because the alternative experimental systems are just that—experimental and unknown. Perhaps, as some claim, they do indeed offer greater potential than does the older, more proven, bonus bid system. But let me put it to you clearly and succinctly—these are indeed unknown systems, as pointed out by the Congressional Budget Office, which stated that they could not even estimate what the return from their use would be. Before we start the irreversible use of these systems, which could easily result in the wholesale giveaway of our energy resources, we should sample them. Once it is let, we cannot undo the leasc.

Another aspect of the use of bidding systems which has become the subject of concern is the effect on revenues generated by our OCS leasing program. It was not discovered until after the bill was reported what the true cost of H.R. 1614's large-scale curtailment of the use of the bonus bid would be.

In the House report on H.R. 1614, the congressional budget stated that during the first 5 years of the program, we would lose $1.2 billion in revenues, with a total

loss including most implementation costs of $1.697. After the report was published, Coast Guard implementation costs were determined and the Budget Office said the total cost would be just over $2 billion. They could not even estimate what the return might be as there is no track record to draw on and no way of knowing how often if at all any new system will be used. Although it is said that these new systems are supposed to pay off in the long run, they should not be mandated to at least a 50-percent usage unless and until it is known for certain that they will indeed pay off.

We have no objection to the new system, nor do we have any objections to mandating their limited, experimental use. However, I do object to rushing out and applying these systems wholesale, without experimentation.

We have heard nothing of an estimate as to the potential revenues that can be derived from these systems. We believe this is because no one has any idea of what they may be. It is inconceivable to me that anyone could argue for the mandated use of these systems simply on the basis of hope of substantial return which might begin to flow in in 1986–89. The OTA study done for the committee estimated that it would take between 8 to 11 years between a lease sale under the present OCSLA and the first production from these tracts.

Mr. Chairman, I urge the Members to support the Fish substitute. I think it is the best alternative available to us.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

Mr. Chairman, the opposition that I express to the Fish substitute has been expressed for 3 years, and I will try not to replow the ground that was constantly plowed through the years of 1976 and 1977.

This substitute clearly eliminates the authority to require compliance with State standards for the Clean Air Act. We are right back to the substitute that was just defeated in that regard.

The substitute would eliminate the 50-percent floor in the use of new bidding systems by reducing that floor to 10 percent.

As I pointed out in the earlier debate, this substitute is clearly anticompetitive. It takes the provisions providing for competition out of H.R. 1614 as it now exists. It is anti-small business. It eliminates the 20-percent set-asides for small businesses. It also eliminates the requirement that no lease be issued to parties which are failing to meet "due diligence" requirements on other leases.

The substitute deletes the section on baseline and monitoring studies. It deletes the citizen suit provisions which would expedite OCS-related litigation. This is an area where we feel we have eliminated delays, and those delays would be put right back in by this substitute.

Mr. Chairman, I would like to defer to my colleague, the gentleman from Massachusetts (Mr. STUDDS), in this instance, because his Governor has instituted a suit having to do with conditions that we would correct.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, is it not also true that the minority eliminates in its entirety title III of the bill, the offshore oil spill pollution fund?

Mr. MURPHY of New York. Yes. That is, of course, of utmost concern to the areas that have billion-dollar fisheries such as New England and such as Alaska. Of course, we have the oil spill pollution fund in the committee bill, and this would eliminate that concern.

Mr. STUDDS. Mr. Chairman, will the gentleman yield again to me?

Mr. MURPHY of New York. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, does the chairman of the committee think that the absence of title III in its entirety is what the gentleman on the minority side meant when he commented that his substitute was shorter than the original bill?

Mr. MURPHY of New York. I think that is exactly correct.

Mr. TREEN. Mr. Chairman, will the gentleman yield on that point?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, is it not true that the reason that section is deleted is because we have already passed such a bill here in the House relating to oil spill pollution, and is it not obvious that our purpose is not to eliminate that but simply because we have provided for it in other legislation?

Mr. MURPHY of New York. The gentleman is a very knowledgeable and valuable member of the Subcommittee on Coast Guard and Navigation, and he is well aware that that bill has not been reported out by the Senate Commerce Committee and has certainly not been signed by the President.

We have placed this language in this bill to protect the Continental Shelf with many of the same provisions that the gentleman supported in the passage through this House of that bill. However, as the gentleman knows, it has not yet passed the other body.

Finally, once again, we have back in this substitute a 20-percent revenue-sharing situation, whereas in the committee bill we have cut down revenue sharing to the $125 million level, and we do not have the situation of oil and gas from Federal lands coming across into a State and that State not being compensated for the impacts caused by energy development.

In effect, we feel it is too big a giveaway, and we have protected States in the committee bill, but do not feel we can go so far as to bring about a 20-percent revenue sharing situation.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I am concerned about a provision in H.R. 1614.

I understand that under the bill which the gentleman has authored, the Secretary of the Interior is required to promulgate and enforce regulations concerning the control of pollutants and emissions occurring on the OCS which affect onshore ambient air quality. In addition, the Secretary regulates the air quality above the Outer Continental Shelf.

This seems to me to be a clear inroad into the responsibilities of EPA and will certainly, if it is not an inroad, lead to confusion as two arms of the Federal Government are regulating air quality.

How is that going to be administrable? I do not understand that.

Mr. MURPHY of New York. The chairman of the Subcommittee on Public Health, who has worked so closely with the gentleman from Ohio, has assured the committee that EPA does not have the authority to go offshore.

We realize that we are dealing in the area of many very harmful pollutants because of the venting requirements on offshore platforms in this area.

In the wisdom of the committee, the present H.R. 1614 gives the Secretary those air pollution control powers.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. To continue, Mr. Chairman, we want to be sure that the standards are consistent with the State requirements.

Mr. BROWN of Ohio. If the gentleman will yield further, Mr. Chairman, it just occurs to me that we wind up with two different agencies having authority in the same area, which should have an impact onshore as well as on the offshore situation. I think it would, in effect, diminish the power of the EPA. It seems to me that we are getting the Secretary of Interior into such a position as to have an adverse effect on the EPA.

Mr. MURPHY of New York. Mr. Chairman, if I might respond to my colleague, I would say that at the appropriate time in the debate, the gentleman from Florida (Mr. ROGERS) and I will have a colloquy that will clearly take care of the problems, if any, which the gentleman has referred to, and of course, insure the consistency and integrity of the provisions in this bill.

Mr. BROWN of Ohio. I wonder whether the gentleman would address another problem for me in this legislation.

Section 206 of H.R. 1614 appears to allow the Secretary of Interior to conduct Federal exploration on the Outer Continental Shelf.

I think my question is very simple: Why should the Federal Government be permitted to spend taxpayers' money in a risky venture? We understand that one can drill dry holes and they cost from $5 to $25 million each, but why get the Federal Government into that business?

I know it is hard to resist if one is a bureaucrat spending money or literally throwing it away that fast; but it seems to me that it is a waste of taxpayers' money.

Would this not simply lead to massive Federal expenditures, which would only increase the consumer's cost of oil and gas and lead us one more step down the road to the establishment of some kind of Federal oil and gas production over facility?

I do not see any merit in that, certainly from the taxpayers' standpoint.

Mr. MURPHY of New York. In response to the gentleman, I might tell him that it is the present law.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has again expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. To repeat, it is the present law. The Federal Government has the responsibility for the protection of public lands and also for the development of those lands; and of course, public funds must be used.

As the gentleman is well aware, the Federal Government contracted for exploration of the Elk Hills area, and we now have this vast acreage on the Continental Shelf which belongs to the American people.

It is public land and as the fiduciaries for that public land we feel that the Federal Government should know what is on that land and to know what amounts these leasing programs should go for to insure a fair return to the American taxpayer. They cannot just permit leases to be given away.

The gentleman is well aware of the fact that in the past the department has cancelled leases because the bids have not met the proper level in consonance with the resources under the Outer Continental Shelf. We merely permit the Secretary to contract with private industry for certain geological and geophysical information that is needed. We in no way start "FOGCO"ing as the gentleman indicated. I am opposed and the majority on the committee I believe is opposed to a Federal oil and gas company.

Mr. BROWN of Ohio. But now we sell the lease and the lease is developed by the oil companies. They take the risk when they take that opportunity. All the gentleman is doing is letting my taxpayers put up the money to determine whether there is something down there to be gotten out, and then to sell that lease to an oil company to develop it. I would rather have the oil companies take that risk than have my taxpayer's dollars spent to take that risk in such a venture. It just seems to me it would be throwing away our Federal money. Why do we have to perfect it before we sell it? Let the oil companies take the risks rather than the taxpayers doing so. The Federal Government should not have to take that risk. I believe the logic is bad.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WAGGONNER and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. WAGGONNER. Mr. Chairman, will the gentleman from Ohio yield?

Mr. BROWN of Ohio. I do not have control of the time. The gentleman from New York (Mr. MURPHY) has control of the time.

The CHAIRMAN. The Chair will state that the gentleman from New York (Mr. MURPHY) has control of the time.

Mr. WAGGONNER. Mr. Chairman, would the gentleman from New York yield?

Mr. MURPHY of New York. Mr. Chairman, I would first like to respond to my colleague, the gentleman from Ohio (Mr. BROWN) and then I will yield to the gentleman from Louisiana (Mr. WAGGONNER).

I am sure the gentleman from Ohio (Mr. BROWN) does not want the people in the Federal Government who are responsible for the public lands to act with blindfolders on when dealing in such an area as public resources. There is not a penny in this legislation that is authorized for new exploration money except funds for geophysical information. Still the responsibility is on the Department of the Interior to know what is on those lands so that when a lease sale comes out it goes at the proper level.

I now yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, I would just like to point out that within the scope of the proposed Government actions to find out what is out there the Government will still have blindfolders on. I say that because of the fact that in 1975 there were some 239 wildcat holes drilled off the gulf coast. Two hundred and five of them were dry holes. And off the coast of Florida the entire bid was $9 million to drill eight wildcat holes and all eight of them were dry holes. If what the gentleman wishes to do is develop a format for more congressional investigations then that is what we are going to wind up with. We will be having congressional investigations as to why the holes that were drilled were dry, because they can be dry whether the Government drills them or somebody else drills them, but the taxpayers will pay for them.

Mr. MURPHY of New York. Mr. Chairman, I might point out insofar as the exploration of these lands is concerned that many holes are not driven to find oil and gas but they are driven to develop the geophysical information and to develop where the fields are and any periphery fields. History proves that 9 out of 10 holes that the driven are dry whether on the Outer Continental Shelf or on land areas. They are done for developmental purposes in the exploration for producing fields.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I was going to say, in response to these questions, that we asked the General Accounting Office to conduct studies.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, if the gentleman will permit me to continue, we asked the General Accounting Office to conduct studies on both lease sale No. 35 and lease sale No. 40, and the gentleman from New York (Mr. FISH) asked for a similar review by the GAO.

The study showed that the Department of Interior had no such information and that this encourages industry to speculate on lands believed to contain no or minimal resources, and does not guarantee that the Government receives the fair market value for these leased resources.

It is not a question of who is going to speculate, but it is money that is put out to develop information so as to assess the proper value of these lands by the Government.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

It seems to me what the gentleman is doing is saying to the oil companies we are going to put Federal money into this so that you have got a sure thing.

Mr. MILLER of California. If the gentleman will yield, I will say that for the last 25 years the controversy has been whether or not these lands have gone too cheaply because the Federal Government has lacked information; so I would say we should recover those moneys that we spent to have greater information.

Mr. BROWN of Ohio. Let me just say beauty is in the eye of the beholder. The oil companies are betting on finding recoverable reserves, and they are willing to put their money down and place that bet and we benefit from their putting that money down.

Mr. MILLER of California. The $900 million has nothing to do with drilling costs. That was just to get in the game. That had nothing to do with the cost of their drilling those eight wells.

Mr. BROWN of Ohio. All I can say to the gentleman is I just do not like the idea of the taxpayers' money being spent this way.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HUGHES, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I wonder if the Chairman will tell me if we are still talking about on-structure stratographic tests?

Mr. MURPHY of New York. We are generally talking in an area where a

theoretical case is being made that somewhere in this legislation there are public funds for drilling on private lands.

Mr. HUGHES. I wonder if somebody in the Chamber can perhaps dig out for us just which provisions in the bill would provide moneys for Federal exploration. I served for some 3 years on the committee, and I have not been able to find such a provision in the bill—it is a myth.

Mr. MURPHY of New York. There are none, and, of course, it would be difficult to make a case that there could be, or that it is the intent of the committee to in any way imply it.

Mr. HUGHES. Would the Chairman further yield?

Mr. MURPHY of New York. I yield to the gentleman.

Mr. HUGHES. I just do not understand why the oil industry, the major producers of oil in this country, is so afraid of the Secretary of Interior offering them a permit to sink stratographic test wells into the structures which they believe contain oil or gas.

Mr. MURPHY of New York. Because they have a new Secretary of the Interior.

Mr. HUGHES. I thank the Chairman.

Mr. BREAUX. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. Chairman, I take this time to tell the members of the committee that I do indeed, although my amendment was defeated, support as a preferable alternative the substitute being offered by the gentleman from New York (Mr. FISH). In response to the questions and the colloquy that we just heard between the chairman of the full committee and the gentleman from New Jersey, I want to point out that when we get back to Federal drilling, there is a clear authorization that the Secretary may, if he decides he wants to—and the Secretary has indicated that he, indeed, will—go out on the Outer Continental Shelf and do core and test drilling. That is drilling for oil and gas. He has a general authorization budget that we fund every year into the Department of the Interior, and I would imagine he would be able to conduct these drilling operations under that same budget, just as he is able to conduct geophysical and geological operations in the OCS now.

It is clear if the committee bill passes as it is now that we are putting the Federal Government into the business of drilling oil and gas wells on the Outer Continental Shelf, and I think everybody has listed very clearly reasons why that is not necessary and why it is not in the interest of the general public. The Department of the Interior now has available to them all the information that is available to every single oil company, not just the one company, but all of the companies. They have that information right now available to them.

Other things that I objected to in the committee bill have basically been eliminated by the Fish substitute, and for that reason I support it. It eliminates separating exploration from the production process, a provision which I think makes absolutely no sense in the committee bill. It eliminates the provision for dual leasing. If anybody in this room had heard the Secretary of the Interior explain what dual leasing was when he appeared before our committee, he would really have enjoyed it because it was at best half an explanation, because I do not think he understood it at that time himself. When we asked him specifically whether it would involve Government money, he said, yes, he thought it would, but he was not sure how it was going to work. But he clearly said he was going into a dual leasing system, and he will be paying for the leasing, when that simply is not necessary.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the question was asked a moment ago about the language in the bill that says that the Federal Government is going to get into the drilling business. Let me read from the language in the bill, and this is from page 274, section 506, which says:

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

Then on the opposite page it says:

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

shall be under the authority of the Secretary under this language. I assume that the best possible knowledge would be to strike a gusher. Right? Or maybe get natural gas bubbling up when one drills on the Outer Continental Shelf.

If that is the best possible information, it seems to me clearly we are putting the Secretary into the oil and gas business. Of course if he discovers a dry well, then what he has found for his $5 or $10 million of taxpayers' money that we spent on it, is that there is not any oil or gas right there and then we will move over a mile or two and drill again and again and again and again with the taxpayers' money.

I do not see anything different that one could read into that except that the Secretary is given that authority. Frankly I do not want him in the business because I would like to see somebody else go broke trying to find the oil or take the risk.

Mr. BREAUX. The gentleman is correct. It works both ways. Suppose the Secretary decides to drill off the Baltimore Canyon and does not find anything and says:

We will not drill any more because it will cost too much.

Maybe a second drilling there would have found the gas or oil. If the private capital would have done it, we would have been ahead.

Mr. BROWN of Ohio. Or they will discover a dry hole and say, "We can only give that spot away," and then Exxon comes in and makes a seemingly substantial discovery.

Given the fact that the Federal Government does not have people skilled in drilling for gas or oil—but maybe we will get people off the south ranch or such to drill for oil. But if we do not find any and we sell the lease cheap and then they bring in a big oil field, is this Congress going to sit tight for that modest bid getting to be a big field? Or vice versa, if we discover what we think is a big field and somebody comes in and there is a big bid and then it turns out not to be very much, what then?

I think that is putting the Federal Government into the business of trying to take the risk for the oil companies. It seems to me this is patently wrong. It seems to me if this is a speculative business, if the taxpayer is to get returns from the guy who is doing the speculating, let the one who wants to speculate get the benefit.

Mr. MOORE. Will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, taking the opposite side of the speculation, what happens if they drill one or two wells and the Secretary finds oil? He might not be willing, when we find a good thing, to think we should turn it over and give that good thing to an oil company. Is not the pressure going to be for us to go ahead and produce it ourselves? We have found it is there. Is that not the next logical step?

Mr. BREAUX. The gentleman makes a good point. Many of us share that concern. While we are not mandating the Federal Government do drilling, we are giving him authority, and that is the first step toward moving the Federal Government into the oil and gas business. What we will see is he will do it to see only if it is there, but if he does find it, they will get the impression they can do it better than anyone else and maybe think then that the Federal Government should take over the entire operation.

Mr. MOORE. Is not the risk in finding it that, once we find it, we know it is found, there is not much risk, but once it is found will there not be pressure on Congress to have the Federal Government, the FOGCO, or whatever we would have, then produce it?

Mr. BREAUX. The gentleman has a good point.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to characterize this part of the bill as the 100-percent parity for oil companies' part of the bill.

AMENDMENT OFFERED BY MR. M'KINNEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. McKINNEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY to the amendment in the nature of a substitute offered by Mr. FISH: Page 55, beginning with line 13, section 22 is struck in its entirety. Insert in lieu thereof the following:

SEC. 22. LIMITATIONS ON EXPORTS.—(a) Any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection b. If either House of Congress within such time period passes a resolution of disapproval stating disagreement with any of the President's findings concerning the requirements of subsection b, further exports made pursuant to such Presidential findings shall cease.

(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience for increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, I will not take the 5 minutes.

This is the amendment that we passed on the Breaux amendment and which I will continue to offer as long as this bill is in front of us. It simply is an amendment that states that the American people whose coastlines are in danger by offshore drilling, and I think we should drill offshore, are not going to be satisfied if we export this oil in a trilateral arrangement or if exporting this oil turns around and means we have to import any more foreign oil or Arabian oil to take its place.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, this is the same amendment that we adopted by voice vote in the committee earlier today in the Breaux substitute; is that not correct?

Mr. McKINNEY. It is the same amendment.

Mr. FISH. And a similar amendment has been adopted by this House in several other pieces of legislation; it is a very constructive one and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this Congress and preceding Congresses have been considering changes in offshore legislation for several years. During that time we have heard a lot of technical talk and a lot of emotional arguments. I believe it is time to simplify this issue to a few basic statements of fact that will help us reach a decision.

First of all, I think we can all agree that the United States cannot continue to import over half of its oil supplies from foreign countries. We cannot continue using up 3 billion barrels of oil a year from our proved reserves, and putting back only 2 billion barrels a year in new reserves.

Last year we paid $45 billion for foreign oil. That money should be put to work here at home. It could strengthen our economy, rebuild our domestic energy resources, and provide jobs and services for our own people.

In addition to the cost, we face the ever-present danger of embargos, curtailments, and cutbacks in shipments of oil and gas from other countries.

The second point I want to make is that the United States must move fast to develop its oil and natural gas potential, both onshore and offshore. If we do not, we are headed straight down the road to energy bankruptcy and national disaster.

The third basic point I want to emphasize is that much of our undiscovered oil and gas is believed to lie under the Outer Continental Shelf. In nearly 30 years of offshore drilling, less than 5 percent of the total acreage has been offered for leasing. Although the oil companies and the Government have been studying the Atlantic OCS area for 17 years, no company has yet been allowed to drill a well there in search of oil and gas.

H.R. 1614 has been advertised as a bill which will speed up the development of those offshore oil and gas resources which this country needs so urgently. Unfortunately, the bill does not live up to its advance publicity. The bill creates new opportunities for delay in a situation where further delay cannot be tolerated. For instance, under the new "dual leasing" procedures established by the bill, the same tract could be leased not once, but twice, prior to the commencement of any development and production operations. Separate leases are issued for exploration and for later development and production of the same tract. If passed in its present form this bill would slow down offshore exploration, delay production, increase costs, and permit the Federal Government to become directly involved in the expensive and risky business of searching for oil and gas.

We do not need new OCS legislation at this time. We have a good system—a system that works well to protect the public interest, the environment, the Federal Government, the coastal State, and the large and small oil companies.

Congress and the appropriate agencies of the Federal Government have already taken action to improve environmental protection, to expand the Interior Department's information about unleased areas, to give Coastal States a greater voice in OCS decisions, and to assure smaller oil companies of access to offshore leases.

It seems clear that the Secretary of Energy and the Secretary of the Interior have all the authority they need to deal with whatever problems may still exist, if there are any.

Involving the Federal Government in the risky business of wildcat drilling would be costly to the taxpayers and would open the door to creation of a Federal oil and gas corporation. Drilling decisions based on political pressures would be a waste of time and taxpayers' money.

This country has nothing to gain by lengthening the already complex process of finding offshore oil and gas and bringing them to market. The Office of Technology Assessment has estimated that under the laws and regulations in existence today, it would take at least 7½ years from the time an offshore lease is sold in a frontier area until oil or gas could begin reaching consumers onshore. Various Government and university studies have warned that passage of H.R. 1614 would add another 3 to 6 years of additional delay. A University of Rhode Island study estimates the impacts of this delay will cost the Nation hundreds of thousands of jobs and result in an economic loss of several billion dollars.

Instead of increasing Government revenues, as supporters of this bill claim, H.R. 1614 would reduce them. The Congressional Budget Office has estimated that enactment of this bill would cut Federal revenues by $1.3 billion between 1978 and 1982.

You have no doubt heard the charge that the public is being "ripped off" because the Government does not get fair value for offshore oil and gas. The figures published by the Government do not support that charge. From 1953 through 1976, the Federal Treasury received $23 billion from offshore oil and gas operations. That represents 83 percent of all the money earned from those offshore areas. And the oil companies not the Government takes all of the risks.

Offshore wells are now providing 16 percent of U.S. oil production and 22 percent of our gas output. If we speed up the search, offshore production can play an even larger role in meeting our needs while we develop new forms of energy.

We would be extremely unwise if we passed any laws that delayed the development of offshore oil and gas. H.R. 1614 is that kind of proposal, and it should be defeated.

Mr. Chairman, I want to make one other point, and that is that there is another little clinker in H.R. 1614 that

states that the Secretary shall have access to the data obtained from any activity by an individual oil company working on the OCS. So, what we have here is the opportunity for a company to go out and find oil in an area, find gas in the area; provide that information to the Secretary, and then the Secretary makes it available to the general public. Then, everybody rushes to that area and does the drilling on the strength of what some individual driller finds. It seems to me that is a loss of proprietary effort by the individual driller. What it will mean is a discouragement of that kind of independent activity.

What we have undertaken then, no matter the desire, is to get the Federal Government into the proving up of resources; that is, the Federal Oil and Gas Corporation kind of operation, and discouragement of private industry.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. HUGHES and by unanimous consent Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Of course, I will be glad to yield to the gentleman since he is the author of the section I talked about earlier.

Mr. HUGHES. The gentleman has cited some figures. That of the $23 billion in oil revenues from offshore lease sales, that some 83 percent has gone back to the Government. I presume that is under the bonus bid system.

Will the gentleman tell me how much oil and gas resources are in the ground. These represent also a part of those lease sales. Does the gentleman have those figures? Let us have the other side of the balance sheet.

Mr. BROWN of Ohio. The gentleman in the well is not a geologist, and I am not sure there is anyone who can tell us what offshore reserves are. Not until you get that last drop of oil out of the well do you know what that well will produce. The same thing applies to natural gas. From some wells you get a 10-percent return; from other wells you get as high as 33 percent return.

Mr. HUGHES. I have seen some figures that, just from proven reserves, there is approximately $70 billion in place in these leaseholds that have yet to be developed. Will the gentleman concede that that 83 percent is going to be the declining balance?

Mr. BROWN of Ohio. I would want to know how much is in the well. I would submit that neither I nor the gentleman has any idea what is in that well.

Mr. HUGHES. I do not think one has to be a geologist to be able to determine that if in fact the bonus bid system requires a major outlay in the beginning, and the well is going to be producing for 15 or 20 years, the 83 percent is going to decline.

Mr. BROWN of Ohio. Let us say that neither of us know. If the gentleman thinks it is such an optimistic return, he ought to hawk up a little money and go out and do some drilling on his own. I am trying to find out what is based on our specific, up-to-date experience. If the gentleman wants to speculate, he should get a little money to speculate.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(On request of Mr. FISH and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was interested in what the gentleman in the well said about the fact that for so many years—I think the gentleman said 17 years—companies have been trying to get to the position of getting out on the Outer Continental Shelf to start the exploration process.

Before that step is taken, obviously, we do not know what we have. In the gentleman's recent colloquy it would seem to me that the inference might be left to the body that we have all kinds of leases in the OCS that are outstanding. I think it is important to cite here that in the National Journal of April 2, 1977, there is information regarding the status of offshore Continental Shelf leasing, which shows that the United States has leased 2 percent of its Outer Continental Shelf area; South America, 16 percent; Europe, 17 percent; Asia and the Near East, 37 percent; Africa, 58 percent. We really are way behind. Ours is not a comparable figure.

Mr. BROWN of Ohio. We are not only way behind, but our imports of foreign oil, that $45 billion of outflow, is so bad for our country that our dollar is falling in relationship to the British pound. We all make jokes about the British Government and how they manage their dollars and their economic resources, but I will tell the Members that the British have been smart in one area. At least they have gotten into the North Sea and they have drilled that oil out and they are now becoming oil independent. They are not so dumb. At least they are faster than we are in this area. If we had the same kind of in-ocean resources that they have found in the North Sea, perhaps we could at least keep our dollar even with the British pound.

Mr. FISH. I want to also make the point that I thought the gentleman from New Jersey may be confusing the House in talking about undeveloped resources.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has again expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, if the gentleman will yield further, if only 2 percent of our entire offshore Continental Shelf has been leased, we cannot make too much about undeveloped leases that the oil companies have been sitting on.

Mr. BROWN of Ohio. I would say there are a lot of ways to discourage development of our resources by private industry. One is the overrergulation. And we are masters at that.

Another one is to make all of the findings general information, so that when one guy risks his resources and puts his cash on the line—and by that I mean the corporation or the private driller—then the Federal Government broadcasts that information to everybody and says, "Come on in, fellows, and take advantage of what this guy has initiated here, what this entrepreneur is undertaking."

Then the third way is to put the Federal Government in competition with the individual so that we let the Federal Government get in the business and drive the individual, the free-enterprise type of entrepreneur, out.

H.R. 1614 provides all of these downside efforts with reference to individual development. It seems to me we must either amend H.R. 1614 thoroughly in the manner of the Fish substitute amendment, or perhaps we ought to just kill it. Maybe that is the most gracious thing we could do.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

Mr. Chairman, one of the worst features of H.R. 1614 would be taken care of by this substitute. A lot of the bad features would be taken care of by the substitute, but I would like to just dwell on one for a few minutes.

I refer to the concept of dual leasing that has been introduced in H.R. 1614. This is not a new form of bidding, this is an entirely new way of conveying the rights of the Federal Government in the OCS.

At the present time, after the Government has conducted whatever seismic and geophysical work it wants done, it will then put up tracts for lease, and that would be a lease that involves exploration, development, and production. It would be a unitary lease.

What the Secretary of the Interior has suggested, and what the committee has adopted, is a new concept called dual leasing, in which tracts would be put up for an exploration lease only. Then, subsequent to that, the tract would perhaps be put up for development and production. The idea is that the Government would seek bids from private interests to come in and explore a tract or a number of tracts without any right at that particular time to any return from the tracts.

What the private bidder would be expected to do would be to bid for the exploration lease by saying how much of the ultimate production it would take, and, presumably, if there were any bidders at all, the bidder who said he would take the least amount of the product that would be forthcoming from the subsequent lease would be awarded the exploration lease.

The wording of the bill makes it clear that this exploratory lease would be on a cost-sharing basis, and that would be a cost-sharing basis presumably with the Federal Government.

There are so many uncertainties in this concept that the Secretary of the Interior was unable really to describe to us

how it would work. Imagine, if you will, the Secretary calling for bids for exploration on a number of tracts. Presumably, he would say the bid constant is, for example, $5 million worth of exploration work. Then he would say, "You tell us for that $5 million worth of exploration work what percentage of the oil and gas you will take after we lease these tracts, or this tract, for oil and gas production."

What are some of the uncertainties? Do we think that anybody would bid? The bidder would not know if the Federal Government would ever lease those tracts for production. The bidder would not know what form of lease would be entered into for production; he would not know when that lease would begin. And there are cancellation provisions. There are all sorts of reasons why a production lease might be canceled. What happens to the interests of the exploratory lessee if the subsequent production lease is canceled?

In my judgment, to proceed with this type of leasing for exploration would be seriously anticompetitive. Only the big fellows could ever take a gamble on that type of lease. If a little company wanted to go in and bid on an exploration lease, it would have to go to a bank and get some financing.

Can you imagine the discussion with the banker? He would say, "What are you going to get out of this? You are going to put up $5 million; you want us to lend you $4 million of this to go out and do exploration. What are you going to get?"

The prospective bidder would have to say, "We are going to bid for a share of the oil and gas production which will come from these tracts later."

The banker would ask, "When will the Government lease for production?"

The other man would have to say that he does not know, that he does not know if they would ever lease for production.

The banker would say, "If they did lease for production, how do we know that these leases might not be canceled? Then what happens? Where are you going to get the income to pay us back?"

Therefore, if anybody did bid on this type of crazy lease, it would have to be one of the major companies. No little fellow could get into this area.

Another disadvantage that this would create, among other things, is a vast Federal bureaucracy because, after all, if the Federal Government is going to get into the business of exploration, that is what will happen.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for 3 additional minutes.)

Mr. TREEN. To continue, Mr. Chairman, under the dual lease system the Federal Government is going to get into the business of exploration. Let us say that it is directing a company in its exploration of certain tracts. Then the Government must tell the company where to drill, where to explore. In order for it to do this in a proper way, the Government itself would have to have all manner of experts to insure that the best type of exploration is carried out. It will have to tell the explorer where to drill and to what depths. When he gets to a certain depth, the Federal Government will have to say, "Stop" or "Go further."

Therefore, we will have a plethora of bureaucrats to help run this show and analyze the data as we are going along.

The worst aspect of the dual leasing system, though, is in the additional delay that that will cause in getting to production, which is what we are after; and that is the bottom line here. That is the major issue in all of this discussion, getting on with production so that we can cut down on the amount of money we have to pay for foreign oil.

Under the present leasing system, when a company acquires a right to a tract, it gets the right to explore, develop, and produce. It does not have to segmentize; to do exploration, quit, and then get another lease for production. Under this dual leasing system, that is what would happen. We would have to stop the exploration process, then put out the tracts for development and production. The problem here is, "When do we stop the exploration?"

Under the present system, even when production begins under the unitary lease system, exploration continues. As soon as a company has done sufficient exploration to assure that it has a recoverable product, then it goes into production; but the exploration does not end on that tract. Exploration continues so that we have a melding process. When we segmentize the process into two separate leases, with all of the attendant delays in between those segments; we are going to add considerably to the time it takes us to get production from the OCS.

Finally, this is another place where we will put the Federal Government into the exploration business, make no mistake about it.

Under the present leasing system, once a company has the tract, it goes out and does the exploration. It files a development and production plan, and it proceeds.

Under this arrangement where we have someone bidding to do so many dollars worth of exploration, the Government has to get involved in order to control that exploration.

For these and several other reasons, Mr. Chairman, I urge the adoption of the substitute.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has again expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. TREEN was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I understand my colleague's concern over the dual leasing provisions. As my colleague knows, they appear in the bill for the first time. They were not in the legislation reported out by the previous Congress.

Perhaps the gentleman can answer one of my concerns. In sale No. 40, the Baltimore Canyon sale, some 25 percent of the acreage sold had no geophysical or seismic information whatsoever, this means that in that instance the Secretary of Interior was actually leasing blindly.

How does the gentleman resolve the obvious problem of getting a fair return and doing any planning when we lease in that manner?

The oil companies did not provide any geophysical information.

Mr. TREEN. Is the gentleman suggesting we have to have dual leasing to obviate the problem?

Mr. HUGHES. No, but it is one of the tools that we can use.

Mr. TREEN. It is totally unnecessary because the Secretary of the Interior has control over it and he does not have to put these tracts up for lease until he is satisfied he has a sufficient amount of geophysical information.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. HUGHES, and by unanimous consent, Mr. TREEN was allowed to proceed for 1 additional minute).

Mr. HUGHES. Mr. Chairman, if the gentleman will yield further one of the concerns we have is that of bringing on the Outer Continental Shelf resources as soon as possible.

Mr. TREEN. I agree.

Mr. HUGHES. I believe that my colleague made a brilliant statement in this regard. It is in our interests to develop information about resources in the frontier areas. If it is not possible to develop the seismic and geophysical information from the industry by using existing techniques, then how do we get this information?

Mr. TREEN. I do not think the Federal Government has any problem in obtaining the seismic information; it can be done, I believe, under the present act.

Mr. HUGHES. It is a lot clearer with the language in the present bill.

Mr. TREEN. That is why I think we do not need this amendment to the act since we have the authority under the act.

Mr. HUGHES. But would not the gentleman concede that on structure stratigraphic tests would produce additional information?

Mr. TREEN. Definitely. But I also mentioned in the original colloquy that a previous study by the Department of the Interior indicated that could cause several years delay.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

POLITICAL ANIMALS?

Mr. MICHEL. Mr. Chairman, I would like to read from a UPI ticker tape release, under a Washington dateline, as follows:

House Speaker THOMAS O'NEILL today called David Marston a vicious "Republican Political Animal" and said the former U.S. Attorney in Philadelphia was only out to get Democrats. . . .

"He never should have had the job. He is Republican political animal," said O'NEILL of Marston. . . .

"He went in there with viciousness in his heart and for only one reason, to get Democrats. . . .

Mr. Chairman, I am shocked that the Speaker is being quoted by UPI as calling former U.S. Attorney David Marston a "vicious Republican political animal" who acted with "viciousness" in putting crooked politicians in jail. I know the Speaker too well to believe that he would use such outrageous language to describe a man whose only fault, according to the administration, is that he is not a member of the Speaker's party.

No, it must be that the Speaker was misquoted. But if he wants to talk about animals, let us talk about the elephant whose memory is legendary. Perhaps the Speaker wishes the President of the United States had such a memory because in his January 12, 1978, press conference he told the press he never knew that Marston was investigating any Congressmen.

But in a sworn statement to the Justice Department the President said he did learn of such an investigation just before that press conference began. Perhaps the Speaker is referring to the ostrich, whose habit of burying his head in the sand resembles the actions of the administration as it tries to avoid the real facts of the Marston affair. Or perhaps the Speaker is referring to the big, befuddled bear that sleeps all winter. It is just mid-January and perhaps others are sleeping or not fully awake yet, Mr. Chairman.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

I commend the gentleman from Illinois for his statement. I am not going to speak on that subject however. In passing, I wonder if the official in the Department of Justice who prepared the statement vindicating the President was sent up to Camp David for that purpose. Shades of the Dean case. Enough said.

I want to talk about dual leasing. The statement of the gentleman who preceded me fairly, I believe, spelled out the concerns of those of us who do not support the dual leasing concept. But I have one additional comment to make. I view dual leasing as merely act 1. I, perhaps, am suspicious, but I think that the ultimate objective is in fact Federal exploration and production in the Outer Continental Shelf, a result which I do not support and which many members of the committee profess to oppose as well.

I think I can make my point best by an analogy. Let us suppose that the Secretary of the Interior was instructed by this Congress in an appropriate bill to search for gold in the Federal lands which are under his jurisdiction and we funded that search. Let us suppose that the Secretary undertook this exploration for gold and, lo and behold, found it in significant quantities. Thereupon the Secretary undertook to contract with private mining companies to exploit the gold resources which the Government had found and knows to be in place.

About that time some national figure from the West would probably rise up and say, "By golly, we own it; we found it; let us keep it. Let us develop it ourselves. After all, we found it on Federal land." That is going to happen, I fear, when the Federal Establishment searches for oil and finds it. Somebody is going to say that it is outrageous to let a private concern develop the known resources which we, the Federal Government, have found.

If Federal exploration is step 1, step 2 will be the full federalization of exploration and production in the OCS. I do not approve of that consequence. Let us not take the first step.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I guess the next line ought to be, "If you like the way they run the post office, you will love the way they run the Federal Oil and Gas Corporation." But I would give the gentleman even a worse scenario than that, and that is that you find the resource and then you handle it in the Boston or the Chicago tradition—or perhaps, I might say, the Philadelphia tradition—and you rent it out. You would not put it up for public bid, but there might be some private bidding done on who gets the opportunity to develop that resource.

It seems to me that is even worse as a method by which we get these resources out. Perhaps I would much prefer the way that we have established, by letting private enterprise do it and regulate it. The Federal Government then balances this situation against the strength of the private developer, and we keep an eye on it.

The Congress keeps an eye on regulation. If the regulation ought to be more stringent, we tighten it up. If it ought to be loosened up, we loosen it up.

Mr. WIGGINS. Obviously I identify with much the gentleman has said.

The substitute now pending precludes this parade of horribles which we have discussed. Those of us in the Chamber who supported Breaux can support Fish. In my opinion, the Fish substitute is better. Accordingly, those who opposed the Breaux substitute have new reasons for supporting the Fish substitute. The Breaux vote was close. There are enough people sitting in this Chamber right now to make a difference, and I hope that they will reflect long and hard upon the likely end of road which we are starting down before they accept the committee notion that dual leasing is in the national interest.

I urge the Members to vote for the Fish substitute.

Mr. ROUSSELOT. Mr. Chairman, I do not have to relate to this body—because the Members have all had a substantial amount of mail on the subject—all about OSHA. I am extremely disappointed that the committee saw fit to stuff OSHA into this operation.

The horror stories about OSHA are well known to all of us. Every time they have attempted to move into a new area, chaos erupts. In 1976, the American farmer was subjected to the bionic flagman, the privy on the prairie, and other proposed OSHA regulations that were stopped only through congressional action.

The provisions of H.R. 1614 would direct OSHA to be the lead agency for regulation of the skindivers on the OCS as well as being directly involved and sharing the lead in other areas with the Secretary of the Interior and the Coast Guard.

The Fish substitute retains the language of H.R. 1614 requiring updates of health and safety regulations on the OCS, as well as some other points, but deletes any expansion of section 4(b)(1) of OSHA. The Secretary of the Interior and the Coast Guard do not need OSHA's brand of help.

OSHA has already attempted to issue regulations covering skindivers. But due to a suit the divers instituted against OSHA, a Federal district court issued an injunction against OSHA preventing the regulations from being implemented, and OSHA withdrew the regulations. I might add that they were aware that the Coast Guard was drafting their own regulations in this area, and that the issuance of these regulations by OSHA was contrary to recommendations made by members of the House Education and Labor Committee. The Coast Guard has since promulgated these regulations.

We have had all of OSHA that we can possibly stand. I will not attempt to recount all of the learning process that OSHA has gone through. I admit that the new Director has made an attempt to eliminate a substantial number of rules and regulations, but they really do not know anything about skindiving.

The Interior Department and the Coast Guard have upgraded their regulations of safety and to now inject OSHA into this legislation—I just cannot believe the committee saw fit to do that. So I must support the Fish substitute just on the basis of that issue alone. I mean there are many other reasons that have been discussed here today.

Mr. MOORE. Mr. Chairman, will the gentleman yield

Mr. ROUSSELOT. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

During the first week of January, while I was home in my district, a representative of an engineering firm in my district that is also a skindiving contractor, it hires skindivers to do exploration work on the pipelines on the floor of the Gulf of Mexico, met with me and I found out that there is a regulation that OSHA is putting out that will drastically affect such diving.

Mr. ROUSSELOT. They have not got the authority yet, not yet.

Mr. MOORE. They are already talking about issuing the regulation.

Mr. ROUSSELOT. They have not got

the authority and they are already starting to gin up regulations? I cannot believe that.

Mr. MOORE. They think they have got the authority anyway.

Mr. ROUSSELOT. They think they have got it.

Mr. MOORE. And the idea is that they are going to require in the Gulf of Mexico that anytime one dives in depths over 200 feet one has to dive from a fixed platform. That is pretty hard to arrange in the Gulf of Mexico.

Mr. ROUSSELOT. That is a terrific dive.

Mr. MOORE. As a result the divers are going to be put out of business. They sent a representative to me to see if we can take away this authority from OSHA or change this. It is going to eliminate skindiving, which is a very profitable business right now in the Gulf of Mexico in the oil and gas industry. They are going to have to put down mechanical sensors in their place, which are not as reliable as divers, and put the divers out of work.

This is a case of rushing out to help the diver, who is saying: "Please do not help me any more," and putting him out of business.

Mr. ROUSSELOT. I find it incredible that, just on a guess that Congress will under this legislation give OSHA new authority, they are already starting to define new rules and regulations. That is incredible.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Mississippi (Mr. TREEN).

Mr. TREEN. Mr. Chairman, what they did was actually usurp authority and they were stopped by a court injunction in New Orleans.

Mr. ROUSSELOT. I recall the divers and several others at least instituted the suit and got an injunction to stop it. But I would like to urge my colleagues to look at page 192 of the bill, and I think on the basis of this issue alone we should support the Fish substitute amendment, because the Fish substitute requires that the Coast Guard and the Interior Department discharge this responsibility, which they have already done.

The Coast Guard has done an excellent job of drafting the safety regulations.

So to me this offers another reason why the substitute offered by the gentleman from New York should be supported.

I wonder if I could call on my colleague, the gentleman from New York (Mr. MURPHY), to state: "Is it the understanding of the gentleman from New York that they have already started writing rules and regulations under OSHA?"

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, under existing statutory authority, OSHA has gone through a full rulemaking procedure, and, if the gentleman will permit me, the new regulations are already in effect, and rightly so. There were 26 men killed in 1 year in deep ocean diving.

Mr. ROUSSELOT. Over what period of time?

Mr. MURPHY of New York. One year.

Mr. ROUSSELOT. When was that?

Mr. MURPHY of New York. In deep ocean diving.

Mr. ROUSSELOT. On the Outer Continental Shelf is where these men died.

Mr. MURPHY of New York. Because there were no diving platforms and other safety precautions where they were; that is the reason these regulations were promulgated.

Mr. ROUSSELOT. My understanding is that according to Coast Guard figures over the last 18 months there was only one death.

Mr. MURPHY of New York. That was in 1976?

Mr. ROUSSELOT. In the last 18 months there was only 1 death, the 26 deaths were all over the world.

Mr. MURPHY of New York. These were Continental Shelf divers.

Mr. ROUSSELOT. All over the world.

Mr. MURPHY of New York. That is right.

Mr. ROUSSELOT. The other countries do not apply safety standards like ours. Is it not possible they were foreign divers? The gentleman did not mean to imply that these deaths were within the jurisdiction of the United States, did he?

Mr. MURPHY of New York. The bulk of the exploration is done by American persons.

Mr. ROUSSELOT. But the gentleman knows full well those 26 deaths were, in many instances, under foreign jurisdiction and should not be quoted in a debate as applying to this country. Our country had no jurisdiction is my understanding. There has only been one death in 18 months.

Mr. MURPHY of New York. The safety procedures in the Outer Continental Shelf are those of the United States.

Mr. ROUSSELOT. The one death is not a good thing, but it does show that our country has a good safety record and that the Coast Guard worked closely with divers in the safety field. They have done an admirable job, and have done it in conjunction with OSHA. The gentleman would not want to leave the impression with the House that the 26 deaths occurred because of lack of jurisdiction or care on the part of the United States. I know the gentleman did not mean to leave that implication. Clearly I think it is wrong to try to interpose OSHA in this process in any formal role when the Coast Guard has already worked with OSHA to promulgate their safety regulations. I think that that is an appropriate point made by my colleague, the gentleman from New York (Mr. FISH).

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would like, if I may, to direct a question or two to the Chairman.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. BADHAM, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for an additional 5 minutes.)

Mr. BADHAM. Mr. Chairman, I would like to address a question to the chairman of the subcommittee. I know of the gentleman's great experience as a scuba diver. I think we have been incorrectly referring to skindiving.

I am a certified diver also. I am very shocked to hear about the 26 people whose lives were lost. They were not Americans. Have we come to that conclusion?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, some were Americans. I might say to the gentleman, that the figure would be much higher if we brought in the serious injury rate. Of course, fatalities from immediate injury are one thing, but then the related fatalities that occur later are a totally different and higher number.

I might say that these rules are already in effect, written and promulgated by OSHA, and are in effect for the safety of divers.

Mr. BADHAM. Mr. Chairman, if the gentleman will yield further, because I do know the gentleman to be a diver, I just have a terrible time understanding that the gentleman would advocate, in addition to our Navy standards and Coast Guard standards, our Navy and Coast Guard decompression tables and chambers and all of the body of present scientific knowledge, that the gentleman from New York of all people, would want to add OSHA rules.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, OSHA is already injected into it and as we know just from our last year's experience, we have changed completely our decompression times, particularly at deeper depths. Just this year we have gone into a total new technology of diving suits and how we are going to protect them at the greater depths we are now drilling, which are over 1,000 feet.

I think their rules are wise rules.

Mr. BADHAM. Were these made by OSHA?

Mr. ROUSSELOT. No; by the Coast Guard.

Mr. BADHAM. Were the new diving standards made by OSHA?

Mr. MURPHY of New York. They were promulgated by OSHA with, of course, the agency working with NOAA, the Coast Guard and the Navy.

Mr. ROUSSELOT. But the Coast Guard did promulgate formal standards when such became necessary and the gentleman knows that. That is why I am surprised that he wants to have a third inexperienced agency in this when they really do not have a very good record in new areas they become involved in. OSHA does not enjoy a good reputation to judge from the letters I get. So, I think that this issue alone is an important reason to support the Fish substitute amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I rise in opposition to the substitute to H.R. 1614

offered by the gentleman from New York (Mr. FISH). Admittedly, H.R. 1614, the Outer Continental Shelf Lands Act amendments is not a perfect piece of legislation. But the imminence of OCS exploitation demands its strengthening, not its weakening. To many of my Long Island constituents, fearful of the havoc offshore oil and gas development might someday wreak upon our fragile wetlands, inlets and estuaries, the need for this legislation is a bitter pill to swallow. However, with the announcement this week by Secretary of the Interior Andrus of his intent to conduct OCS lease sale No. 42 in the Georges Bank within this month, and the recent decision of the Court of Appeals for the Second Circuit validating lease sale No. 40 in the Baltimore Canyon, there is no denying the fact that offshore oil and gas development in the Atlantic Ocean is at hand. The public and the environment now require a far greater measure of protection than is provided by existing law.

Under the leadership of Chairman MURPHY, the ad hoc select committee has carefully developed the legislation before us. H.R. 1614 contains a number of worthwhile features which would be eliminated or weakened if either the Breaux or Fish substitute is adopted by this body:

First. Title III of H.R. 1614 contains a comprehensive set of procedures to be followed in the event of an oilspill and compensation for clean up costs and damages resulting from such a spill. An oil spill clean up fund is established for this purpose. This title III is eliminated in both substitutes.

Second. H.R. 1614 provides State and local governments with substantive rights of participation and review of Federal proposals for offshore development. This necessary safeguard is eliminated in both substitute measures.

Third. H.R. 1614 preserves the authority of the Secretary of the Interior to conduct core and test drilling and also requires "onstructure" drilling which will provide reliable data to help the Government identify Federal OCS oil and gas reserves and better insure that the public gets a fair return on its resources.

Fourth. H.R. 1614 provides Federal financial assistance to impacted coastal States and localities through the coastal energy impact program (CEIP), established in the 1976 amendments to the Coastal Zone Management Act. Both substitutes yield far less aid to New York State and neither would require that such funds actually be used to offset OCS related impacts as does H.R. 1614.

Fifth. Both substitutes eliminate authority provided in H.R. 1614 to require compliance with State standards under the Clean Air Act. This omission could result in offshore breezes carrying noxious gases and odors vented from offshore operations to onshore communities.

Sixth. H.R. 1614 would improve competitive bidding procedures by requiring the Secretary of the Interior to experiment with other than the "cash bonus" bidding systems. Both substitutes limit the development of better bidding systems and maintain the status quo which favors major developers.

For these reasons, I urge the rejection of both substitutes and the passage of H.R. 1614 as a significant contribution to safer and sound development of the United States vast, untapped reserves under the Outer Continental Shelf.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio to the amendment in the nature of a substitute offered by Mr. FISH: Page 6, line 17, strike out "Paragraph (c)" and insert in lieu thereof "Paragraphs (b) and (c)".

Page 6, line 18, strike out "is" and insert in lieu thereof "are".

Page 6, after line 19, insert the following: "(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.".

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I advise Mr. MURPHY that this is the same amendment which was offered in concert between Mr. DINGELL and myself to the Breaux amendment, which sustained the colloquy and support, I think, of Mr. BREAUX. I would solicit his support of it.

It merely assures that where the term "Secretary" is used for provisions or authorities that are currently given to the Secretary of the Department of Energy in compliance with the Department of Energy legislation passed by this body some 4 or 5 months ago, that the reference is to the Secretary of the Department of Energy and not to the Secretary of the Department of the Interior.

I would assume that the gentleman from New York (Mr. MURPHY), the gentleman from Louisiana (Mr. BREAUX), and the gentleman from New York (Mr. FISH) all agree that we do not want, now that we have created the Department of Energy to change that creation with this legislation. It has barely gotten underway, therefore I am offering this amendment to the Fish amendment, and would hope that the gentleman from New York (Mr. FISH) would accept it, and that the gentleman from New York (Mr. MURPHY) would accept it, as it was previously accepted by the gentleman from Louisiana (Mr. BREAUX).

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding. This has long been a concern of the minority. It was the subject of our debate yesterday, as well as of my remarks today in support of my substitute amendment. This committee bill was drafted some 3 years ago—and in the meanwhile the Department of Energy has been created. In creating this Department, the Secretary of Energy was given certain responsibilities by Congress in the leasing field. As a result there is now a disagreement developing between the Department of Energy and the Interior Department with respect to features in this bill. This is just one more reason why I cannot understand the reason for bringing this bill up on the second day of this session giving it top priority.

I think we will have, over the next months, a great deal of unraveling to do. What the gentleman has provided us with is a useful tool to prevent differences, overlapping inconsistencies and rows from time to time. I am certainly glad to accept the amendment.

Mr. BROWN of Ohio. I might say that this issue, this question of leasing and rights of the Department of Energy and the Department of the Interior and the two Secretaries, I think was very thoroughly aired in the Government Operations Committee when we considered the Department of Energy legislation. Mr. DINGELL indicated when we discussed this amendment earlier that it was clearly a matter of inadvertence on the part of the committee when it left the Secretary in reference to the Department of the Interior, but I want to be sure that it is cleared up, and would offer the amendment in the effort to do that.

As I say, it was accepted. I think we had a voice vote on it, as was required. I think it was generally accepted, and I do not think it really had any opposition when it was offered to the Breaux amendment. So, I would hope it would have the support of the committee.

Mr. FISH. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, while the gentleman is in the well, I will say that we in the committee know of his work with the gentleman from Michigan (Mr. DINGELL) on the Commerce Committee, and they are two of the most respected and responsible energy experts in the House.

Mr. BROWN of Ohio. If it is a strange and wonderful relationship, I will not indicate which is which.

Mr. FISH. Does the gentleman recall, in the consideration of the amendments on the Breaux substitute, the gentleman from Michigan (Mr. DINGELL) offered an amendment to deal with the rule on the record aspect?

Mr. BROWN of Ohio. Yes.

Mr. FISH. I would just like to point out, because I do not believe he is in the Chamber, that this defect is not in the Fish substitute. We have deleted that language, so that the Dingell amend-

ment in that regard would not be necessary.

Mr. BROWN of Ohio. There is another amendment, which, however, is necessary, I think, and I will offer that in a moment. But this amendment does not deal with that particular aspect.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I could take this time to inquire of my colleague, the gentleman from New York, the ranking minority member, as to how much more debate he feels we will have on this substitute.

We have been at this stance since 2:25, and I think we have been over these issues time and again.

Mr. FISH. If the gentleman will yield, in response to the gentleman's question, I would say that I imagine that pure debate would be very short order. I cannot imagine more than 10 minutes or 15 minutes. It is difficult to say who might appear and who would want to speak by striking the last word. However, as regards those who offered amendments to the Breaux substitute which were successful, there are at least one-half dozen individuals who offered amendments who are just coming in the Chamber now, who will offer amendments to my substitute that I also propose to accept, as did the gentleman from Louisiana (Mr. BREAUX). It is a matter of amending and not debating.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH) and all amendments thereto conclude at 4:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. TREEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FISH. Mr. Chairman, if the gentleman will yield, I would think that if the gentleman said 5 o'clock I could do my very best to get this matter resolved by then.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH) and all amendments thereto conclude at 4:50.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. TREEN. Mr. Chairman, reserving the right to object, we do not have any idea what amendments may be offered to this from either side of the aisle.

Is the gentleman seeking to cut off debate not only on this substitute, which is a comprehensive substitute—we are not talking about a very simple amendment—but, in addition to that, the gentleman is asking that the debate should be stopped at 10 minutes to 5 on all amendments that may be offered in this Chamber to this substitute?

Mr. MURPHY of New York. Just to this substitute. We may not know what amendments are to be offered, but we do know what the airline schedule is.

Mr. TREEN. Mr. Chairman, reserving the right to object, can the gentleman tell me when he expects to move that the Committee rise?

Mr. MURPHY of New York. Mr. Chairman, by prior agreement, the Committee will rise at 5:30. But we would like to make substantial progress today.

Mr. TREEN. Mr. Chairman, further reserving the right to object, we could rise at 10 minutes to 5 so everybody could make their plane, but we do not have to finish this substitute today.

Mr. MURPHY of New York. Mr. Chairman, I would think it would expedite the business of the House to do so.

Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH) and all amendments thereto conclude at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. MOORE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. MOORE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORE to the amendment in the nature of a substitute offered by Mr. FISH: Page 67, immediatley after line 8, add the following new section:

RULE AND REGULATION REVIEW

SEC. 408. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediatley upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

On page 2 insert:

"Sec. 408. Rule and Regulation Review."

Mr. MOORE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MOORE. Mr. Chairman, this is the same amendment I offered earlier to the Breaux substitute and which was accepted by the gentleman from Louisiana (Mr. BREAUX) and passed by the committee. I have the understanding that the author of this substitute, the gentleman from New York (Mr. FISH), likewise has no objection to this amendment.

This is the legislative veto amendment. I think it is most important that I and the gentleman from California (Mr. KETCHUM) offer this amendment to this particular bill. We did it many times in the 94th Congress. This language exists in some 200 instances in law now. In the 1st session of the 95th Congress we passed it into law seven times, and it exists in six other measures that have been passed by this House and await the conclusion of the legislative process.

This amendment has been held constitutional by some people's interpretation by a January 9, 1978, decision of the U.S. Supreme Court.

The reasons why I think the amendment is most important in this particular case are because first, the committee itself thought it necessary to include a version of the legislative veto amendment in two sections of this bill. Our amendment does not affect those sections. It affects all other sections of the bill and leaves the committee's handiwork alone in those two sections.

If the committee found it necessary to put it in two instances, it would seem to me to be necessary throughout the bill.

We know from the Tulane study and the Rhode Island University study, as well as by other estimations, that there will possibly be some 40 different sets of regulations issued to implement this bill. We have some nine different agencies of the Federal Government that will be issuing regulations under this bill. The committee says that an important purpose of this bill is to try to avoid conflicts and to try to put under one statute all authority dealing with the Outer Continental Shelf. In fact, however, with nine agencies involved and the possibility of 40 sets of regulations, we are, indeed, inviting conflict and duplication and delay.

Therefore, we think it is most important that an amendment of this nature be adopted to the Fish substitute, in order to give the House some control over this measure so that in days to come, when dealing with something that is as important as the development of our energy resources in the Outer Continental Shelf, if there is a duplication of efforts or a particularly bad regulation, this

House or the other body will have some way to rectify the situation short of passing new legislation.

So, Mr. Chairman, I urge the House to adopt this amendment, as has been done so many times during the first session of this Congress and as was done earlier today when we considered the Breaux substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment in the nature of a substitute offered by Mr. FISH: Under title IV, Miscellaneous Provisions, add the following new section on page 67, after line 2:

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 407. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

Redesignate section 407 as section 408.

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, the amendment that I am offering now is exactly the same amendment I offered to the Breaux substitute earlier today. That amendment was agreed to by the gentleman from Louisiana (Mr. BREAUX) and was adopted by the membership.

I will explain the amendment briefly in case any Member is not familiar with it. This amendment is designed to insure that those individuals who are directly responsible for the operation, implementation, and/or supervision of antipollution equipment know how to operate that equipment and can effectively install it and operate it during emergency conditions.

It is a simple amendment. I do not think it is controversial. It would require the Secretary of the Interior, in consultation with the Coast Guard, to submit his recommendations to Congress within 90 days after the date of enactment of this legislation for a training program for key OCS employees. It would be directed toward individuals who are directly responsible for the implementation and for the operation of antipollution equipment.

I think that primarily we are talking about such things as blowout preventers. At such time as Congress receives the Secretary's recommendations, it would be my hope that appropriate committees of the Congress review the recommendations in both an oversight capacity and also to determine whether further legislation might be necessary or desirable.

Mr. Chairman, as the Members may know, the Department of the Interior, through the U.S. Geological Survey, recently completed work on such a training and certification program and declared that all drilling crew members must attend a certified school in order to stay on the job.

I commend the Department for their commitment and for their responsiveness, and I should point out that they have that regulatory authority now. In the light of this recent development, I believe my amendment has, perhaps, a greater significance now than before that action.

First, it would provide in a formal sort of way for congressional oversight, which I believe to be very important to assure that the training program is not only effective but would not seriously disrupt OCS activities for frivolous purposes.

Secondly, it would mandate into law the commitment of Congress to a training and certification program for those key OCS workers. Under current authority, the Department of the Interior may or may not institute such a program; and perhaps subsequent administrations would decide to discontinue it. Therefore, it seems to me that this is a vital matter, one that we should speak to, and I think it could lead to significantly improved OCS safety records, and Congress should not go forward without addressing this subject.

I think the need for such a training program has been tragically demonstrated in the past. I talked earlier about the Santa Barbara Channel blowout in 1969 and how the investigation of that accident seemed to indicate that human failures were the primary cause.

There was also a recent blowout in the North Sea. An official commission of inquiry ruled that insufficient training, poor organization, and inadequate inspections were responsible for that mishap, which not only resulted in ecological damage, but also resulted in the waste of millions of gallons of crude oil which were dumped into the ocean.

As a matter of fact, I understand that one of the findings in that case was that the drilling crew, when the blowout occurred, tried to put in a blowout preventer upside down, it did not work too well in that configuration.

I think if we study the causes of all of the significant accidents on the OCS, we will find the major proportion is directly attributable to human error and poor training and not to equipment failures. Therefore, there is sufficient cause for responsible Government action to rectify this situation.

Mr. Chairman, as I said earlier, this particular amendment will make sure that Congress gets into the act in a responsible way. I want to emphasize that my amendment will not in any way interfere with the ongoing efforts of the Department of the Interior to establish a training and certification program, but it will demonstrate congressional interest in the safe development of OCS oil and gas.

As I said earlier also, we contacted every responsible party that we could think of who might have an interest in this amendment; and I and my staff have checked with industry representatives, with environmental groups, with the U.S. Geological Survey; and all have been supportive of the concept. No one, to my knowledge, has indicated any problem or any opposition to it.

Therefore, Mr. Chairman, I urge adoption of the amendment.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

May I have the attention of the author of the amendment. I wanted to ask a couple of questions.

I did not speak to this amendment when it was offered previously to the Breaux substitute, and I am reluctant to do so now because of my respect for the gentleman who has offered the amendment. However, I am concerned about several things.

First of all, the wording of the gentleman's amendment is identical to the amendment as he offered it to the Breaux substitute; is that correct?

Mr. LAGOMARSINO. If the gentleman will yield, Mr. Chairman, that is correct.

Mr. TREEN. Therefore, this amendment calls for a study?

Mr. LAGOMARSINO. Yes. Actually, it calls for them to prepare and submit to Congress a report which sets forth recommendations.

Mr. TREEN. And it would be the gentleman's idea, then, that we would have a Federal program of training and certification of workers on the OCS.

Mr. LAGOMARSINO. Which, as I said in my statement, we already have; but it would put Congress into the act. We would then be in a position to approve or disapprove those recommendations.

Mr. TREEN. Is the gentleman saying that we have in effect now a requirement that a worker on the OCS go through a certain amount of training and be certified?

Mr. LAGOMARSINO. I am saying that the Department of Interior has just come forth with regulations which say that, regardless of what we do with this legislation or with this amendment.

Mr. TREEN. Is there a Federal training school involved in this matter?

Mr. LAGOMARSINO. My understanding is that a private school would be used for that purpose, a university; and I do not have that information before me, but that recommendation has been made.

Mr. TREEN. If we are going to do it in this area then why not do it in other areas where we can get the Federal Government into the business of certifying that people are properly trained for all sorts of hazardous occupations? It seems to me what we need in this Federal Government of ours is to stop getting involved in so many different things.

Mr. LAGOMARSINO. I would agree except that I believe the Federal Government does have a legitimate interest in protecting not only the environment with which a lot of people are concerned, but also with the resources themselves. I believe that training is desirable. As I pointed out earlier, it is not really a question of whether there will be a training program but it is a question of what the involvement of the Congress will be. At the present time, under the Outer Continental Shelf legislation—and I understand that that portion of the act is not affected by the proposed legislation, or by any of the substitutes—they have the authority now and they have just exercised it.

Mr. TREEN. They have the power to certify?

Mr. LAGOMARSINO. Yes, or to set up certain standards.

Mr. TREEN. Do they certify everybody who works on OCS, that is, do all the workers have to be certified?

Mr. LAGOMARSINO. That is what they are proposing to do.

Mr. TREEN. That is what they are proposing to do?

Mr. LAGOMARSINO. Yes, that is what they are proposing to do. They apparently have the authority to do that.

This amendment does not speak about any authority that they have at the present time, it merely says if they would make rules to submit them to Congress for appropriate action.

Mr. TREEN. Then, of course, if the "regulation veto" amendment is adopted in the final legislation then those regulations would have to come to us?

Mr. LAGOMARSINO. Yes, that is correct.

Mr. TREEN. I am not going to call for a no vote against the amendment, but I am very concerned that we have to involve the Federal Government in training because we have people, especially those in Louisiana who have been working on the OCS since 1946, and they are certainly pretty well trained. Perhaps some of them do not speak English too well, and I would hope that we will permit the Cajuns of Louisiana, who wish to do so, to take their tests in their Cajun French. As I say they are pretty well trained. They go all over the world, and I just think that to require them to go back and get some more training and further certification is an unnecessary imposition.

Mr. LAGOMARSINO. If I might reply to the gentleman with just a final word on this, that is one of the things about this particular amendment and that is that they would have to come back to the Congress and present their recommendations, and we could see what they are and pass upon them. I would agree that we should not require 4 months schooling for a person who knows what this is all about because as we know experience is one of the best teachers we can have. I believe that any program that is developed would provide for a grandfather clause and experience substitutes for schooling, and so forth. I agree with the gentleman.

Mr. TREEN. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO) for answering my questions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO) to the nature of a substitute offered by Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio to the amendment in the nature of a substitute offered by Mr. FISH: Page 67, line 20, after "SEC. 508." insert "(a)".

Page 67, after line 24, insert the following:

"(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7107 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy."

Mr. BROWN of Ohio. Mr. Chairman, this amendment is merely a clarifying amendment, a technical amendment as I would characterize it. It is not meant to change in any way the law in either the Fish amendment or the purposes and thrust of that amendment or the purposes and thrust of the original bill H.R. 1614, the Murphy of New York bill.

Rather, it is an amendment to the Fish amendment to be sure that we do not change the purposes and thrust of the Department of Energy Act. In the Department of Energy Act certain responsibilites were vested in the Secretary of Energy, and that has been addressed by the previous amendment that was just accepted a few moments ago that I offered. But there are also other assignments made of responsibility in the Department of Energy Act, in addition to the Secretary, to other parts of that department, and notably the Federal Energy Regulatory Commission, nee, the Federal Power Commission. I do not feel that those should be in any way affected by either the language of the Fish amendment or of the basic legislation, so it is my purpose here in this catch-all amendment or this final additional amendment to the Fish substitute, or Fish amendment to the basic bill, to say that we are not going to change the law as we wrote it in the Department of Energy Organization Act. That act had extensive hearings by the Committee on Government Operations, and we very carefully placed certain responsibilities in the Office of the Secretary of the Department of Energy, in other elements of the Department of Energy, and in FERC. Those hearings, I think, were logical in their conclusions in the way the act was written.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Can the gentleman tell the House what duties specifically he has in mind that he does not want interfered with in the Department of Energy by this legislation?

Mr. BROWN of Ohio. I do not want any of them interfered with, in other words, none of them changed. They have been assigned by that legislation we passed 4 to 5 months ago.

Mr. YATES. Does the gentleman know of any?

Mr. BROWN of Ohio. I do not think that is the purpose of either the Murphy bill or the Fish bill.

Mr. YATES. Does it conflict with any the gentleman knows about? What is the reason for the gentleman's offering his amendment?

Mr. BROWN of Ohio. I am unaware of a specific conflict beyond that in which in the basic bill the Secretary of the Interior was the reference, and we made those assignments to the Secretary of the Department of Energy. I just want to be sure that none of the assignments made in this bill are in any way interpreted as modifying the assignments we gave within the Department of Energy to the Secretary, the Federal Regulatory Commission, or other agencies within the Department of Energy.

Mr. YATES. But the gentleman knows of no conflict at this time?

Mr. BROWN of Ohio. I know of no conflict specifically made in the bill, but I do not want any made by inadvertence.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

I cannot vouch for this entirely, but we have heard that there is conflict now between the Department of the Interior and the Department of Energy over certain responsibilities and authorities set forth in this. There is some, so I think the amendment is appropriate.

Mr. BROWN of Ohio. I guess, frankly, that that is one of the things I want to address. I was not satisfied, I might say to the gentleman from Illinois as a personal matter, that when we wrote the Department of Energy legislation we had fully refined the distinctions and responsibilities between the Department of Energy and the Department of the Interior. in the leasing obligations. However, I might say that that sort of dynamic tension that still remained unresolved, it was felt when the Department of Energy bill was debated, would probably have to be resolved by the President of the United States referring between his two Secretaries and his two significant

and worthy Departments. It is my ambition in this not to see any tilt given in this legislation by inadvertence that would move from the Department of Energy certain responsibilities over to the Department of the Interior or, for that matter, the other way around.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be happy to yield to the gentleman from Illinois.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. YATES, and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be glad to yield to the gentleman.

Mr. YATES. In view of the statement made by the gentleman from Louisiana (Mr. TREEN) that some controversy does exist, would it not be better to find out before we vote on this amendment what the controversy is so that we are in a position either to support the gentleman's amendment or leave that decision to the President of the United States as to which of the departments ought to have that responsibility?

Mr. BROWN of Ohio. I might say to the gentleman from Illinois I state clearly that the purpose of this amendment is to leave things essentially where they are so that the President of the United States would be the referee to make that determination.

It is, as I say, not my ambition either to move responsibilities into the Department of Energy that do not currently exist there under the DOE law, or to see them moved, specifically not to see them moved to the Department of the Interior from the legislation we passed when we created the Department of Energy. There are some ambiguities still left and I think the President has the responsibility to resolve them. This does not resolve them one way or the other. This just says none of those issues that are left in the creation of the Department of Energy should be changed at this point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LIVINGSTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON to the amendment in the nature of a substitute offered by Mr. FISH: Title II, add the following new section 31:

"SEC. 31. DOCUMENTATION AND REGISTRY.

(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes; and except as provided in subsection (b) of this section and which is contracted to be built or rebuilt one year after enactment for use in the exploration, development or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be built or rebuilt in the United States and when required to be documented, be documented under the laws of the United States;

(b) The Secretary may waive the requirements of this section if he determines that:

(1) compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date;

(2) the requirements will result in costs that are unreasonable; or

(3) the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality.

(c) As used in this section, the terms "vessel," "documented under the laws of the United States," shall have the meaning assigned to them under section 2 of the Shipping Act of 1916 (46 U.S.C. 801 and 802) and 'built or rebuilt in the United States' means that only articles, materials and supplies of the growth, production or manufacture of the United States as defined in paragraph K of Section 1401 of manufacture of the Tariff Act of 1930 may be used in such building or rebuilding:

Mr. LIVINGSTON (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk completed the reading of the amendment.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Thirty-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, I have asked that this amendment be considered to amend the Fish substitute to H.R. 1614 for principally the same reason that I came before this Chamber after the Breaux amendment was pending.

Mr. Chairman, my amendment again is fundamentally in the same language as offered by the chairman of the committee, the gentleman from New York (Mr. MURPHY), in his proposed amendment to the original bill, H.R. 1614, with respect to the "Buy American" provisions.

It is my firm conviction that the entire OCS bill will be extremely important to the fate of the oil and gas exploration facilities throughout this country, not only in my own State of Louisiana but throughout the coastal regions of these United States.

Therefore, Mr. Chairman, let me point out that I understand that roughly 80 percent of the American offshore drilling equipment presently manufactured is in fact manufactured abroad and not in these United States, and that valuable jobs are lost to this country simply by virtue of the reason that the equipment is produced abroad and not in this country. Therefore, unless the situation is corrected, our economy, I believe, stands to suffer.

For that reason I have offered this language to induce my colleagues to consider buying American equipment and to induce American equipment to be produced here in the United States, thereby boosting the number of jobs in this country, and in my own district as well, which, by the way, is one of the largest geographical producers of oil and gas in the Nation.

The Outer Continental Shelf legislation, with the Fish amendment, will have an enormous effect on the amount of drilling throughout the country. The first offshore well was drilled in Louisiana in 1947, and since that time production has been extremely important to the State's economy.

In 1972, a peak year for offshore drilling activity, the Outer Continental Shelf-related employment counted for more than 17,000 jobs. These jobs were those related to drilling activity and the service industries that support it. They do not include jobs in activities caused by offshore drilling, such as refining.

It is easy to see, Mr. Chairman, that offshore drilling is a big industry for the State of Louisiana. Yet the construction of equipment has not added appreciably to that activity. This is a major factor that my amendment would seek to correct.

The people of this country need jobs, and jobs can be provided if we take steps to include this amendment in the Fish substitute, as it is included in the committee bill.

Mr. Chairman, I am proposing this amendment because it means jobs not only for the First Congressional District of Louisiana and other districts of Louisiana but for the United States as a whole.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. Yes, I will be happy to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am very happy on behalf of the minority to accept the gentleman's amendment. It was accepted previously by this Committee today when the gentleman offered it to the Breaux amendment. I think the reasons for its acceptance are just as valid at this point as they were before.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the minority leader.

Mr. RHODES. Mr. Chairman, I congratulate the gentleman on offering this amendment. I think it is a good amendment, and I certainly intend to support it.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for his support.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON) to the amendment in the nature of a substitute.

Mr. Chairman, I know that these emotional amendments are popular. I know they are hard to oppose, but we should recognize this is essentially an emotional issue, not a real issue.

We wrap an issue like this in the flag and we drape it with patriotism, and then we say, "Oh, that's great." But all we are really doing is saying that for some people "We are going to create jobs for you, but for other people we are going to take jobs away."

There is no way in this world that we can get away with this kind of economics. It will not work. It never has worked. It causes more trouble.

The Subcommittee on Trade of the Committee on Ways and Means has been conducting hearings in the last couple of days. In fact, that is where the members from that committee are right now.

We have been talking to all of the people who claim to be impacted by this bill, and none of them recommend that this be the solution to the problem.

Therefore, Mr. Chairman, I would encourage the Members not to vote for this amendment. I know it sounds sweet and wonderful, but actually it is not. It will hurt other jobs. It will penalize other Americans in jobs. It escalates the kind of conflict in which there is no winner, and it is bad for the country. It is bad for people who want jobs.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Florida (Mr. GIBBONS).

I spoke in opposition to this when the same issue was up earlier this afternoon. I think it puts us in violation of our present trade agreements. I think is a step down the line toward protectionism that was created, in my judgment, not to improve the prosperity of this country but to detract from it.

We are a trading nation, and we are entirely dependent upon our foreign trade. I think it is a mistake for us to get into this type of protectionism.

I do not have any objection to requiring American crews on these vessels or rigs, but I think it is an entirely different proposition when we are building vessels for the U.S. Navy to require U.S. tax dollars to be spent in this country.

This is not what we are doing here. We are telling private people that they have to use all American facilities, all American materials; and I think it is a mistake. I think it is going to result in reciprocal steps being taken by foreign countries against American drilling rigs which are scattered clear across the face of the globe.

Mr. GIBBONS. And this amendment is against American agricultural products for which we badly need a market, as well as being against all other American products.

Mr. WHALEN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Ohio.

Mr. WHALEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Florida (Mr. GIBBONS).

I think this kind of amendment, if agreed to, would be bound to result in retaliation.

In the long run, therefore, adoption of this kind of amendment is going to cost American jobs rather than save American jobs.

Therefore, Mr. Chairman, I urge that the amendment be defeated.

Mr. GIBBONS. Mr. Chairman, yesterday we had some of the most prominent Americans in the steel industry, both representing labor and the producers of steel; and none of them recommend this as a solution to the problem.

Mr. Chairman, I would urge my colleagues to vote a reasonable vote and not to put this amendment in the bill.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I also would like to associate myself with the remarks of my colleagues, the gentleman from Ohio (Mr. WHALEN) and the gentleman from Oregon (Mr. DUNCAN).

While there is this initial appeal which the amendment has, I think we ought to keep in mind, No. 1, that the committee which is assigned this kind of responsibility, the Committee on Ways and Means, is not recommending this.

I think, second, we have to keep in mind as we balance this whole protectionism issue, that any kind of barrier like this is, in and of itself, inflationary and that there is no way of getting around that fact.

I think the third thing we ought to do is to take a small look at history.

The Smoot-Hawley tariff was designed to give Americans jobs. It did precisely the opposite.

Mr. Chairman, I see a real danger that we are still moving in that direction.

I commend my colleague, the gentleman from Florida (Mr. GIBBONS), for his remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 19, noes 23.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy-nine Members are present, not a quorum. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. BAUMAN. Mr. Chairman, I withdraw my request for a recorded vote.

So the amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 229, not voting 60, as follows:

[Roll No. 16]

AYES—143

Abdnor	Crane	Hubbard
Anderson, Ill.	Daniel, Dan	Huckaby
Andrews, N. Dak.	Daniel, R. W.	Hyde
	de la Garza	Ichord
Archer	Derwinski	Johnson, Colo.
Badham	Devine	Jones, N.C.
Bafalis	Dickinson	Jones, Okla.
Barnard	Duncan, Tenn.	Kazen
Bauman	Edwards, Ala.	Kelly
Beard, Tenn.	Edwards, Okla.	Kemp
Boggs	English	Kindness
Bowen	Erlenborn	Krueger
Breaux	Evans, Del.	Latta
Brinkley	Evans, Ga.	Leach
Brown, Mich.	Fish	Livingston
Brown, Ohio	Flippo	Lloyd, Tenn.
Broyhill	Forsythe	Long, La.
Buchanan	Frenzel	Lott
Burke, Fla.	Frey	McClory
Burleson, Tex.	Fuqua	McDonald
Butler	Gammage	McEwen
Caputo	Goodling	McKinney
Cederberg	Gradison	Madigan
Chappell	Grassley	Mahon
Clawson, Del	Hagedorn	Marlenee
Cleveland	Hall	Marriott
Cochran	Hammer-schmidt	Martin
Coleman		Mathis
Collins, Tex.	Hansen	Michel
Conable	Harsha	Milford
Corcoran	Holt	Miller, Ohio
Coughlin	Horton	Mitchell, N.Y.

Montgomery	Rudd	Thone
Moore	Runnels	Treen
Myers, Gary	Santini	Vander Jagt
Myers, John	Sarasin	Walker
O'Brien	Satterfield	Watkins
Pickle	Sawyer	White
Poage	Schulze	Whitten
Pritchard	Shuster	Wiggins
Pursell	Smith, Nebr.	Wilson, Tex.
Quayle	Snyder	Winn
Quillen	Spence	Wydler
Railsback	Stanton	Wylie
Regula	Steed	Young, Alaska
Rhodes	Steiger	Young, Fla.
Risenhoover	Stockman	Young, Tex.
Robinson	Stump	
Rousselot	Taylor	

NOES—229

Addabbo	Foley	Moorhead, Pa.
Akaka	Ford, Mich.	Moss
Alexander	Ford, Tenn.	Mottl
Allen	Fountain	Murphy, Ill.
Ambro	Fowler	Murphy, N.Y.
Ammerman	Fraser	Murtha
Anderson, Calif.	Gaydos	Myers, Michael
	Gephardt	Natcher
Andrews, N.C.	Giaimo	Neal
Annunzio	Gibbons	Nedzi
Applegate	Gilman	Nolan
Ashley	Ginn	Nowak
Aspin	Glickman	Oakar
AuCoin	Gore	Oberstar
Baldus	Gudger	Obey
Bedell	Hamilton	Ottinger
Beilenson	Hanley	Panetta
Benjamin	Hannaford	Patten
Bennett	Harkin	Patterson
Bevill	Harrington	Pattison
Biaggi	Harris	Pease
Bingham	Hawkins	Perkins
Blanchard	Heckler	Pike
Blouin	Hefner	Pressler
Bolling	Heftel	Preyer
Bonior	Holland	Price
Brademas	Hollenbeck	Rahall
Breckinridge	Holtzman	Rangel
Brodhead	Howard	Richmond
Brown, Calif.	Hughes	Rinaldo
Burke, Mass.	Jacobs	Roberts
Burlison, Mo.	Jeffords	Rogers
Burton, John	Jenkins	Rooney
Burton, Phillip	Jenrette	Rose
Byron	Johnson, Calif.	Rosenthal
Carney	Jones, Tenn.	Rostenkowski
Carr	Jordan	Russo
Carter	Kastenmeier	Scheuer
Cavanaugh	Keys	Schroeder
Chisholm	Kildee	Seiberling
Clausen, Don H.	Kostmayer	Sharp
	Krebs	Simon
Clay	LaFalce	Skelton
Cohen	Lagomarsino	Skubitz
Collins, Ill.	Le Fante	Slack
Conte	Lederer	Smith, Iowa
Conyers	Lehman	Solarz
Corman	Lent	Spellman
Cornell	Levitas	Stark
Cornwell	Lloyd, Calif.	Steers
D'Amours	Long, Md.	Stokes
Davis	Luken	Stratton
Delaney	Lundine	Studds
Dellums	McCloskey	Teague
Derrick	McCormack	Thompson
Dicks	McDade	Traxler
Dingell	McFall	Tsongas
Dodd	McHugh	Udall
Downey	McKay	Ullman
Drinan	Maguire	Van Deerlin
Duncan, Oreg.	Mann	Vanik
Early	Markey	Vento
Eckhardt	Marks	Volkmer
Edgar	Mattox	Walgren
Edwards, Calif.	Mazzoli	Waxman
Eilberg	Meeds	Weaver
Emery	Metcalfe	Weiss
Ertel	Meyner	Whalen
Evans, Colo.	Mikulski	Whitehurst
Evans, Ind.	Mikva	Whitley
Fary	Miller, Calif.	Wolff
Fascell	Mineta	Wright
Fenwick	Minish	Yates
Fisher	Mitchell, Md.	Yatron
Fithian	Moakley	Young, Mo.
Flood	Moffett	Zablocki
Florio	Mollohan	Zeferetti

NOT VOTING—60

Armstrong	Boland	Burgener
Ashbrook	Bonker	Burke, Calif.
Baucus	Brooks	Cotter
Beard, R.I.	Broomfield	Cunningham
Danielson	Moorhead, Calif.	Sikes
Dent		Sisk
Diggs	Murphy, Pa.	St Germain
Dornan	Nichols	Staggers
Findley	Nix	Stangeland
Flowers	Pepper	Symms
Flynt	Pettis	Thornton
Goldwater	Quie	Trible
Gonzalez	Reuss	Tucker
Guyer	Rodino	Waggonner
Hightower	Roe	Walsh
Hillis	Roncalio	Wampler
Ireland	Roybal	Wilson, Bob
Kasten	Ruppe	Wilson, C. H.
Ketchum	Ryan	Wirth
Leggett	Sebelius	
Lujan	Shipley	

The Clerk announced the following pairs:

On this vote:

Mr. Sikes for, with Mr. Dent against.

Mr. Ireland for, with Mr. Bonker against.

Mr. Stangeland for, with Mr. Baucus against.

Mr. Sebelius for, with Mr. Staggers against.

Mr. Guyer for, with Mr. St Germain against.

Mr. Dornan for, with Mrs. Burke of California against.

Mr. Ashbrook for, with Mr. Ryan against.

Mr. Broomfield for, with Mr. Cotter against.

Mr. Lujan for, with Mr. Rodino against.

Mr. Symms for, with Mr. Nix against.

Mr. HANNAFORD changed his vote from "aye" to "no."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate the title of the bill now pending.

The Clerk read as follows:

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to manage-

ment of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent Mr. RHODES was allowed to speak out of order.)

THE DAVID W. MARSTON AFFAIR

Mr. RHODES. Mr. Chairman, I read with great disappointment a statement attributed to my good friend, the Speaker of the House, with regard to David W. Marston. I think the remarks of the Speaker are regrettable, inaccurate, and unbecoming of a person of the Speaker's stature.

He is quoted on the news wire as having said of Marston:

He never should have had the job. He is a Republican political animal. . . . He went in there with viciousness in his heart and for only one reason, to get Democrats. . . . If I have any criticism of the way the President handled that case it's that he didn't fire Marston soon enough.

Now, when President Carter was campaigning for office he promised a change in the political appointment system for Federal prosecutors. In spite of this promise President Carter and officials within his administration have admittedly handled the Marston affair in a political manner.

The Speaker is quoted as saying that Mr. Marston approached his job with "viciousness in his heart and for only one reason, to get Democrats." That statement astounds me and is utterly ridiculous. There has been absolutely no proof of any political operation or motive on the part of Mr. Marston. When the Speaker called him a "Republican political animal" he sank to a new low of political demagoguery.

In vigorously pursuing corruption by State officials, Mr. Marston indicted and prosecuted Republicans as well as Democrats. One former Republican county chairman—who represented one of Pennsylvania's leading Republican counties—a man with statewide influence—is currently in jail as a result of Mr. Marston's active pursuit of corruption. As a matter of fact, the indictment of this Republican Party official came just a few weeks before the 1976 election. If Mr. Marston had been playing politics, he certainly would have withheld this action, which came so near to a close Presidential election. Certainly I think the least you could say is that this is hardly the work of a "vicious Republican political animal."

Another man who had run as a Republican candidate for the House is currently under indictment as a result of Mr. Marston's efforts.

I believe the Speaker's attack on Mr. Marston is uncalled for and further degenerates a situation the Democratic Justice Department has already handled very poorly.

Congress is currently struggling through Watergate, through Koreagate, to regain its integrity in the public mind. We should encourage active discovery and prosecution of wrongdoing by all public officials. I think the Speaker's remarks are a disservice to the House. I read them without anger, but with great personal sorrow.

Mr. Chairman, the bill we have before us today, H.R. 1614, is not sound legislation. Its progress to date has violated long-accepted House procedures, as the ad hoc committee has run roughshod over the jurisdiction of duly assigned standing committees of the House.

It appears that the sudden great haste expressed by the administration and the leadership of this body reflects an attitude of "do something, even if it is wrong." Certainly, Congress has not covered itself with glory in its handling of the energy challenge. It would not be sensible to compound past failures by enacting a piece of legislation that runs counter to obvious energy needs.

Let us look at the realities of our energy situation. We all know that we import nearly half our petroleum. We all know that oil and gas produce about 75 percent of our energy used today. We also should know that we have a vast potential for increased supplies by drilling off our thousands of miles of coastline.

Today, less than 5 percent of coastal shelf lands have been offered for exploration and development. Yet, these areas produce 15.6 percent of our domestic oil and 21.5 percent of our natural gas. It does not make any sense to me for this Congress to pass a bill that will hamper orderly development of a much-needed resource.

This bill proposes 49 new sets of regulations. Obviously this will lengthen the leadtime necessary to get these resources into production by an estimated 3 to 6 years. It requires a double environmental impact process—one for exploration—and another before a find can be developed. More delay.

The Congress established a fair and workable bidding process in the 1953 act. This bill introduces a rigid formula requiring that 50 percent of the bidding be conducted under six new experimental bidding processes—involving complicated mixes of bonus payments, royalties and sliding rovalties, and commitment payments. It should be clear that this will in itself complicate and needlessly extend the time required for the bid process. It would be far more feasible to require that at least 50 percent of the bids be under the tried and tested formula of the original act, so that we could move ahead with development on the most promising areas while the Secretary experiments with the half-dozen new formulas.

This bill extends the powers of OSHA, which automatically portends delays and conflict between Government and the industry.

Mr. Chairman, we have had an offshore leasing program for the past quarter of a century that has produced what the Nation needs, substantial supplies of natural gas and oil. It has provided Federal revenues under the two systems of granting leases now in effect. At a time when our need quite clearly is for augmented domestic supplies of oil and gas, Congress should not disrupt the development program by passing legislation that produces nothing but redtape and moves us away from our goal of less dependence on imports.

I believe that the alternative proposed by my colleague from New York, Congressman HAMILTON FISH, is a pragmatic, effective bill that would carefully and wisely amend the Outer Continental Shelf Lands Act of 1953, without endangering the environment or throwing up bureaucratic roadblocks in the path of production.

I urge my colleagues to reject H.R. 1614, and instead to accept the much better substitute offered by my colleague from New York.

Mr. LUKEN. Mr. Chairman, I rise in support today for the "Build American" amendment that is being offered to the Breaux substitute amendment for the Outer Continental Shelf Lands Act.

It is imperative that such an amendment be included in this bill if we are going to act responsibly in protecting our offshore oil vessel construction industry. The current trend of competitors who are willing to build offshore oil drilling equipment at no profit or even at a loss must be dealt with before we let, yet again, another industry suffer at the hands of foreign governments. Especially when these governments have, at times, even gone so far as to subsidize their industry in order to get their foot in the door and squeeze our workers out.

This amendment, by requiring that all offshore equipment be built in the United States of U.S. materials, will help to protect thousands of U.S. construction and offshore workers jobs that are in serious jeopardy. Further, it will have the effect of halting the steady erosion of the U.S. offshore construction industry to low-wage foreign nations.

This amendment will also create new employment on the east and west coasts as offshore development proceeds. This is of particular importance because unemployment in these areas is significantly below the national average and projections indicate an even further drop on the east coast for the next few years.

Additional benefits to adoption of this amendment is the effect it will have on our presently troubled steel industry which is suffering from a serious downturn in production. The offshore platform potential between 1977–87 on both coasts is between 120 to 170 platforms which will require from 2 to 3 million tons of steel.

The producing and fabricating of this steel will provide work for approximately 8,000 workers per year for the next 10 years.

In conclusion, Mr. Chairman, I wish to point out that the well-recognized arguments relating to free trade, do not, in my judgment seem applicable to this matter. What we are talking about is that American-owned and American-manned facilities to be erected in American territories should most definitely be built by American workers.

Mr. BIAGGI. Mr. Chairman, I rise as a supporter of this legislation. I am especially interested in seeing the amendment offered by our distinguished Chairman known as the "Preference America" amendment passed today. The issue is profoundly simple—we must begin to promote American employment interests first.

Passage of H.R. 1614 as reported will greatly increase activity along the Outer Continental Shelf. This will mean tremendous potential for employment in all facets of the maritime industry. What we must do today is make it a part of the legislation that American seamen, longshoremen and harbor workers are provided with a preference in the distribution of these jobs.

To continue to neglect the economic needs of the maritime industry is pure folly. Without a new infusion of job order, the maritime industry could face a new wave of unemployment as early as next year.

It is only right that American workers export American oil and that American seamen and longshoremen build American ships. For too long, we have permitted foreign workers to gain an advantage in employment. Severe unemployment in many of America's shipyards is the price we are paying.

This Congress had the opportunity to improve employment in the maritime industry when it considered the Cargo Preference bill. Unfortunately, Congress did not capitalize on this chance. We cannot afford to make the same mistake twice. I urge support for this amendment for the good of the American economy which for too long, has been ravaged by chronic unemployment in its key industries.

Mr. LEGGETT. Mr. Chairman, in considering this amendment, I would first like to express my support for passage of the committee version of the Outer Continental Shelf Lands Act amendments. H.R. 1614 is a comprehensive revision of the statutes pertaining to the development of oil and gas resources of the Continental Shelf of the United States. The bill would revise the existing statutes in order to insure the speedy development of these much needed resources while at the same time providing for the necessary protection of our coastal and marine environment. The bill would also provide a mechanism for State participation in offshore and coastal oil and gas development plans and the means for states to manage the impacts resulting from such development.

The balancing of the many different and sometimes conflicting interests of energy development and environmental conservation is a difficult task. H.R. 1614 is the consensus product of a special ad hoc committee which spent many hours considering testimony from a wide array of witnesses, and produced hearing transcripts running to thousands of pages. The broad support that has been expressed for H.R. 1614 by public interest groups and the concerned Federal agencies is testimony to the effectiveness of the hard work of the ad hoc committee and to the fairness of the bill's provisions. In this regard, I must congratulate Mr. MURPHY on his fine work as chairman of the Outer Continental Shelf Ad Hoc Committee.

Despite its general excellence, the bill contains a major deficiency in that it does not provide an adequate basis for the maintenance of the health of the U.S. offshore oil construction industry.

Construction of drilling and production platforms for the offshore oil industry is in itself a major industry. Mobil drilling rigs are massive structures costing in excess of $50 million, requiring over 1,500 man-years of labor and in excess of 4,000 tons of steel to construct. Production platforms are permanent structures placed over a well after drilling in order to control the flow of oil during the production phase. These permanent production platforms are also massive structures costing millions of dollars. Presently over 8,000 workers are employed directly in offshore oil rig construction while at least 16,000 are employed in a variety supporting industries in the United States.

Until the early part of this decade, the U.S. offshore oil construction was predominant in the world. However, this predominance has been eroded away so that less than 30 percent of current orders for drilling rigs are placed in the United States. The seriousness of the situation is more clearly understood when it is realized that our less than 30-percent share of the market represents only 7 orders in 1977 compared, for example, with 33 orders which were active in 1972.

It is illuminating to review the history of the offshore oil construction industry to see the possible reason for the erosion in the U.S. position relative to other countries. The technology required for offshore drilling was developed substantially in the United States and almost all of the early offshore drilling took place in the U.S. coastal zone. However, in the early 1970's, there was a very rapid expansion in offshore drilling in many parts of the world. Drilling in Europe and Asia was at first carried out with U.S.-built rigs. Many nations, particularly Great Britain and Japan, quickly developed their own offshore oil construction industry. In some countries this development was financed by the National Government as a means to relieve unemployment in their shipbuilding industries. In each country the offshore oil construction industry was developed with the aid of technology transferred from the United States, often with U.S. citizens in key managerial roles.

At the same time that drilling activities outside the United States were expanding rapidly the rate of growth of drilling activities was slowing in the U.S. coastal zone. Some of the decline in the U.S. offshore oil construction industry was, therefore, related to the shift of drilling activities away from the United States.

The present situation sees the U.S. coastal zone as the area for rapidly expanding exploratory drilling in waters deeper than previously leased, requiring the construction of a number of drilling rigs. However, the rate of growth of exploratory drilling is beginning to slow in other parts of the world and the requirement for offshore drilling rig construction is falling. The foreign yards who have now developed a capability for construction of offshore drilling rigs are, therefore, looking toward the U.S. market for continued sales. Just as they did when the foreign offshore oil construction industry was being developed, some foreign governments are likely to provide support for the industry in bidding on U.S. contracts. Indeed this may already have happened in at least one instance.

An amendment has been offered to H.R. 1614 by Chairman MURPHY, which seeks to recognize the reality of the competitive situation of the world offshore oil construction industry. This amendment would require offshore drilling lease holders who wished to use drilling rigs or support vessels constructed outside the United States, to demonstrate to the Secretary of the Interior that such purchase would aid the timely or cost effective development of our Outer Continental Shelf oil reserves. Such foreign purchases would only be approved by the Secretary if the rig or vessel purchased from the foreign source could not be purchased in the United States because of unsatisfactory quality, price availability, or delivery date. This is clearly not a protectionist measure as portrayed by some. The requirement for purchase of U.S. built drilling rigs as proposed in the Murphy amendment will insure that American jobs will not be lost to unfair competition from government subsidized foreign yards, but its most important effect may be to protect the U.S. coastline from unnecessary oil spills.

Accidental spillage of oil from oil rigs due to operation error or malfunctioning equipment can and has in the past created large-scale degradation of the beaches and the ecology of our coastline. The development of our Outer Continental Shelf must be carried out in such a manner as to reduce the chances of such spills to the minimum possible, and to provide for orderly, rapid, and effective control and clearing of a spill when it occurs. We must avoid the use of inferior equipment that could result if offshore drilling rigs were to be built for sale at below their cost by foreign fims with government support designed to keep their industry alive. The temptation in such an instance would be to re-

duce the quality of the product to minimize losses.

The American public will pay the bill for offshore oil and gas development. They must be guaranteed that foreign competitors do not benefit unfairly from that investment and that every possible effort will be made to prevent the unacceptable cost of unnecessary environmental degradation.

Mr. STUDDS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8336, CHATTAHOCHEE RIVER NATIONAL RECREATION AREA

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–852) on the resolution (H. Res. 982) providing for the consideration of the bill (H.R. 8336) to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute.)

Mr. DEL CLAWSON. Mr. Speaker, the reason I have asked for this time is to inquire of the acting majority leader about the program for the balance of the day, the balance of the week, and next week.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I would be happy to yield.

Mr. BRADEMAS. Mr. Speaker, there is no further business scheduled before the House today, I will say to the gentleman from California (Mr. DEL CLAWSON).

The schedule for next week, the week of January 30, 1978, is as follows:

On Monday the House meets at noon. There is one suspension scheduled, and that is S. 2076, Grand Canyon School District.

Then we will consider H.R. 5646, Con-Rail medical payments, under an open rule, with 1 hour of debate. The rule has already been adopted.

That will be followed by H.R. 5798, Office of Rail Public Counsel, under an open rule, with 1 hour of debate, the rule having already been adopted.

On Tuesday the House meets at noon. There is 1 bill under suspension scheduled, and that is H.R. 9851, to improve air cargo service.

Then we shall take up H.R. 1614 and complete consideration of that bill, the Outer Continental Shelf Lands Act.

Then we shall complete consideration of H.R. 8200 to establish a uniform law on bankruptcy.

On Wednesday the House meets at 3 p.m. on the following business:

H.R. 6362, to establish an Advisory Committee on Timber Sales Procedure, open rule, 1 hour.

H.R. 8336, the Chattahooche River National Park, open rule, 1 hour.

H.R. 2637, cargo capacity for civil aircraft, open rule, 1 hour.

For Thursday and the balance of the week, the House meets at 11 a.m. and will consider the following bills:

H.R. 9214, the International Monetary Fund supplementary financing, subject to a rule being granted; and then H.R. 2664, the Sioux Indian claims bill, open rule, 1 hour.

The House will adjourn at 5:30 p.m. on all days except Wednesdays.

Conference reports may be brought up at any time, and any further program will be announced later.

I thank the gentleman for yielding, Mr. Speaker.

Mr. DEL CLAWSON. Mr. Speaker, may I inquire further whether our Friday sessions are still off for the next 2 weeks.

Mr. BRADEMAS. The gentleman is correct, until the 24th of February.

Mr. DEL CLAWSON. Until the 24th of February there will be no Friday sessions?

Mr. BRADEMAS. That is correct.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, JANUARY 30, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE DAVID W. MARSTON AFFAIR

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MIKVA. Mr. Speaker, I regret deeply that the distinguished minority leader is not on the floor.

I was somewhat disturbed to hear his comment. As I understand it, our minority leader took umbrage to remarks made by our distinguished speaker in response to a question from the press.

Obviously, the Marston situation is a matter of public moment, but I think it is getting out of context.

A U.S. attorney serves at the pleasure of the Attorney General. That has been the way it has been from time immemorial.

To suggest that is improper is similar to suggesting that there is something improper if a Member of Congress replaces the administrative assistant of his or her predecessor.

Mr. Speaker, the remarks that disturbed me most were the distinguished minority leader's reference to the "Democratic Department of Justice."

Mr. Speaker, I think that the sooner we eliminate party labels from the description of justice and the manner in which it is administered, the better off we will be. It is very well and good for the minority party to talk about the fact that a U.S. attorney has been replaced; but I would point out, with all due deference, that the gravamen of the charge being made is that U.S. attorneys have been replaced at the pleasure of the Attorney General—as it has always been, as it was during the preceding administration, and as it will be probably forevermore.

The sooner we stop trying to make a political circus out of Mr. Marston's leaving, the better off the administration of justice will be.

Mr. BADHAM. Mr. Speaker, if the gentleman will yield, it was the speaker who referred to the political animal, as a political animal of a certain party, thereby starting the interchange.

Mr. MIKVA. Mr. Speaker, if I respond to the gentleman in kind, that response will again escalate the exchange.

I merely suggest that, first of all, the statement by our speaker was in response to a question that was asked. It was not a case of the speaker volunteering and injecting himself into it.

I think as soon as we do all of the business we have to do and leave the Marston

case to the press and the Department of Justice, the better off we will all be. If we go back and dig up every U.S. attorney who was replaced under Republican administrations, we could have a lot of 1-minute speeches which many of us could choose to make.

I do not think that is going to make the distribution of justice any better.

THE DAVID MARSTON AFFAIR

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, I think it is important to be fair when we speak in terms of justice. It is not a question of Democrats or Republicans, but I think it is a question of the confidence that we have in our judicial system and the perception that Americans have for their system of justice.

In this particular instance I really do not think the Speaker was entirely fair because he did say that Mr. Marston had viciousness in his heart and he was only dead set to get Democrats. I would just like to point out that, in addition to the chairman of the Chester County Republican Committee, Mr. Robino, who was indicted and successfully prosecuted by Mr. Marston, there was another gentleman by the name of Robert B. Cohen who ran as a congressional Republican candidate in 1966 and who was indicted in February of 1977. I think the facts show quite clearly that the U.S. attorney actively pursued political corruption without regard to political affiliation, and I point this out in an effort to correct what I consider to be unfair statements regarding his motives.

LEGISLATION TO IMPROVE ORGANIZATION AND OPERATION OF FEDERAL GOVERNMENT'S HIGHWAY AND TRANSIT PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–284)

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I am today transmitting to Congress proposed legislation that will significantly improve the organization and operation of the Federal government's highway and transit programs.

One of the Administration's important goals is to develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities. The reforms which are proposed in this legislation are designed to make certain that the nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

The program I am proposing will intensify the Federal effort to complete the Interstate System and provide flexible assistance for highway construction and transit development. The legislation would authorize more than $50 billion over the next five years and proposes the following changes to meet national transportation needs:

—a comprehensive transportation planning program;
—measures to speed completion of the Interstate System and to improve maintenance;
—consolidation of more than 30 highway and public transportation grant programs into fewer and more flexible programs for both rural and urban areas;
—a uniform Federal share for all grant programs except Interstate construction and Interstate transfer projects;
—focusing the transit discretionary program on major investments;
—an expanded bridge replacement and rehabilitation program;
—a unified safety program; and
—greater flexibility for state and local governments to pursue their own priorities.

To achieve our objectives in this area, we propose a reorganization of a variety of highway and transit programs into a simpler and more manageable system of federal assistance. Certain aspects of our new approach to these programs should be emphasized.

TRANSPORTATION PLANNING

To promote more efficient short-range and long-range planning by state and local officials, I propose to consolidate highway and transit planning funds and to distribute these funds as a single grant, under a formula to be determined by the Secretary of Transportation.

Planning grants will be made directly to designated metropolitan planning organizations in urbanized areas over one million in population. The Secretary will review transportation plans for such areas to ensure that they take reasonable account of such issues as air quality, energy conservation, environmental quality, accessibility to employment, effect on minorities, housing, land use and future development. The planning process for other areas will be strengthened as well.

INTERSTATE SYSTEM

Our first priority will be to complete the essential gaps in the Interstate System. Fifty percent of the apportionment formula will be based on the cost to complete the essential gaps and fifty percent on the cost to complete the total system. Highway projects substituted after an Interstate withdrawal will be funded from a state's Interstate apportionment, and substitute mass transit projects will be funded from the General Fund. Interstate substitute projects, both highway and transit, will be eligible for a ninety percent federal share.

States will be required to have completed the Environmental Impact Statement process or to have submitted an application for an Interstate withdrawal on all uncompleted segments of the Interstate by September 30, 1982. Segments which have not met either requirement will be removed from the system. All incomplete Interstate segments must be under contract for construction and initial construction must have commenced by September 30, 1986.

FEDERAL-AID PRIMARY SYSTEM

To simplify an unduly restrictive funding structure, seven highway categories will be consolidated into a single Primary program. Funds will be apportioned by a formula specified in the legislation and the Federal share will be eighty percent. Up to fifty percent of a state's primary system funds may be transferred to the urban highway or the small urban and rural transportation programs.

URBAN FORMULA GRANTS

Two compatible programs will be established, one for highways and one for transit, for all urbanized areas with a population of 50,000 or more. The highway program will consolidate five categorical programs, and all urban roads not on the Interstate or primary systems will be eligible for assistance. The transit program will provide assistance for the acquisition, construction and improvement of facilities and equipment for use in public transportation services and the payment of operating expenses, including commuter rail operating expenses.

Funds will be apportioned by formula and the federal share for capital projects will be eighty percent. The highway formula will be based on urbanized area population. Up to fifty percent of the urban highway funds may be transferred to the Primary program or to the small urban and rural program. Up to fifty percent of the transit funds may be transferred to the highway program. Highway funds will continue to be available for transit capital projects.

Governors and local officials will be required to designate a recipient or recipients for urban highway funds in urbanized areas with a population of one million or more. By this step we will significantly improve the opportunity for large cities to become more involved in the planning and programming of their highway systems. Urban highway funds for areas with small populations will go to the State.

URBAN DISCRETIONARY GRANT

This transit grant program will be focused on major expansion of bus fleets and new fixed guideway projects, including extensions of existing systems, and joint development projects.

SMALL URBAN AND RURAL FORMULA GRANT

To meet the unique needs of small cities and rural communities, we propose a consolidated grant program for highways and transit for all areas with a population below 50,000, with the state as the recipient.

Nine categorical highway programs will be consolidated into this new pro-

gram, and all public roads not on the Interstate or primary systems will be eligible for assistance. The new program will provide assistance for both capital and operating expenses for public transportation in small urban and rural communities. Authorization for this program would come out of the Highway Trust Fund, but the Trust Fund would be reimbursed out of the General Fund for transit operating expenses.

SAFETY PROGRAM

To allow more flexible and rational use of funds, six highway safety programs will be consolidated into a single safety grant to states, with the federal share at eighty percent.

BRIDGE PROGRAM

For the first time states will be able to use substantially increased funds for rehabilitation as well as replacements of deteriorating bridges. The federal share will be eighty percent, and up to thirty percent of the funds will be available for bridges not on the Federal-aid highway systems.

AUTHORIZATIONS

The proposed authorizations are designed to permit better long-term planning by those responsible for both highway and transit development. The Highway Trust Fund will be extended for an additional four years. The formula grant programs will be authorized for a four-year period, and the urban discretionary grant program will be authorized for a five-year period.

In proposing the reforms contained in this legislation I recognize the critical relationship between transportation, energy and development in urban and rural areas. I believe that these proposals will lead toward energy conservation and better land use. The enactment of this legislation will bring new opportunities and responsibilities to state and local officials, will respond to the problems of the present programs, and will help to place the surface transportation system on a sound financial basis.

I ask the Congress to move promptly to pass this highway and transit legislation.

JIMMY CARTER.

THE WHITE HOUSE, *January 26, 1978.*

IRONICALLY, PRESIDENT CARTER'S TAX CUT WILL REDUCE ECONOMIC GROWTH AND ULTIMATELY INCREASE THE TAX BURDEN ON ALL AMERICANS

Mr. KEMP. Mr. Speaker, for several years now I have been saying that our economy needs lower taxes, but as bad as it needs a tax cut it has to be the right kind of tax reduction. The shape of a tax cut is more important than just the aggregate dollar figure. Our country needs a tax reduction which will restore incentive and reduce the total tax burden borne by the American people, not just one that pumps money into the economy to try and match what Government taxes away in other areas, such as social security and energy. We need a tax reduction which will encourage economic output and create jobs by increasing the after-tax reward to all Americans for their work, production and investment.

Unfortunately, President Carter's tax package falls woefully short of meeting our Nation's economic needs. As in the case of the last five tax reduction bills passed by Congress since 1971, the Carter plan focuses on reducing aggregate tax liability without changing the way our tax structure affects the incentive of people to work, save, invest, and produce.

The fact is that despite large tax cuts in 1971, 1975, 1976, and 1977, the steeply progressive tax rates went unchanged. In the meantime inflation pushed all workers and investors up into higher and higher tax brackets and resulted in tax increases, not lower taxes.

TABLE I.—*Size of major changes in Federal income and excise taxes since 1964*

[In billions of dollars]

Year enacted	Amount of tax change in first 2 years
1964	cut 11.9
1965	cut 5.0
1966	increase 4.5
1968	increase 15.7
1969*	increase 10.2
1970	increase 1.5
1971	cut 11.4
1975*	cut 28.6
1976	cut 27.6
1977	cut 20.4

*Two tax bills passed.

SOURCE: U.S. Department of the Treasury.

Despite the cuts in 1971, 1975, 1976, and 1977, taxes have tripled for a typical family and increased from $2,276 in 1967 to an estimated $6,333 in 1978. A median family will pay an estimated 37.3 percent of the annual family income in taxes this year, compared with 28.9 percent a decade ago, all as a result of the steeply graduated, or progressive, tax rates which President Carter says are not progressive enough.

In particular, marginal taxes have increased—the tax on each additional dollar that is earned.

Thus, as nominal incomes go up, marginal tax rates go up dramatically. I cannot overemphasize this fact because it is the marginal tax rate which affects economic behavior. In other words, the decision to work or invest for a higher income is not determined by the amount of taxes people have paid previously but by how much tax people will pay on additional income.

Given this fact, we can now see that our tax structure is discouraging people from maximizing their economic efforts. Because the individual income tax is steeply progressive, people with relatively moderate incomes pay extremely high rates of tax on their additional income. This is especially true when you combine the Federal income tax with social security taxes, unemployment compensation taxes, State and local taxes.

Is it any wonder therefore, that more and more union contracts are emphasizing increased time off over increased wages for their members? It simply does not pay to go out and work additional hours or to forgo current consumption in order to save or invest for future income. But it is precisely that saving and investment which pays for the tools and equipment which ultimately makes workers more productive and thereby increases real incomes and expands the economy. By all indicators, the rate of savings and investment is dangerously low given our national goals for economic growth and creating jobs without inflation.

An examination of the details of President Carter's tax package gives little hope that incentive will be restored to our economy. On the contrary, I find the reaction of the stock market to the President's program instructive: It predicts taxes will go up, just as they did after the other so-called tax reforms in 1969 and 1976. As one analyst noted:

The State of the Union message and the tax program were dissappointing and neither provided any basis for buying stocks.

It should be noted that the President himself had said he would measure the success of his tax reform program by the performance of the stock market.

Of course, the market has been dropping steadily all along, as details of the President's program became known. It has, in fact, dropped nearly 200 points since President Carter started discussing tax reform. Thus we can assume that the market has already discounted some of the worst features of President Carter's program and would have dropped more since its announcement otherwise.

I believe that the market's apprehension and that of the public at large about the President's economic policy is well founded. To date he has done virtually nothing to restore the incentive for economic growth in this country except to fall back upon outmoded Keynesian economic policies. Last year he proposed a $50 rebate, which was ultimately withdrawn under pressure from Congress and the people, who recognized it for what it was: The economic equivalent of shoveling money out of an airplane in the hope that it would stimulate the economy. It was a lousy idea under President Carter just as it was when first proposed by the Ford administration.

This year the President has sent us a proposal which differs in form but not in substance. The New York Times, for example, has said that the President's tax package "reflects only the worn-out stimulative policies of a less inflationary era." And more recently the Times called Carter's new tax bill just another rebate—this time being a rebate of taxes already imposed on the economy in other forms. An examination of the tax increases which will result this year from

increased social security taxes, new energy taxes, and the tax increase which results when inflation pushes taxpayers up into higher and higher tax brackets supports this view. Table II estimates the amount of these tax increases.

TABLE II.—TAX INCREASES UPON INDIVIDUALS FROM INFLATION, SOCIAL SECURITY, AND ENERGY [1]

[In billions of dollars]

Fiscal year	Inflation	Social security	Energy	Total
1978	5.3	2.5	−0.6	7.2
1979	13.4	9.5	2.9	25.8
1980	22.4	22.2	15.2	59.8
1981	32.8	46.4	30.6	109.8
1982	44.9	79.0	38.3	162.2
1983	58.7	114.3	42.5	215.5
1984	74.1	151.9	46.8	272.8
1985	91.8	200.0	51.4	343.2

[1] Assuming the House energy bill; all figures cumulative.

Source: Joint Committee on Taxation.

In order to compensate for these automatic tax increases President Carter has proposed some tax reductions. But he has also proposed massive additional tax increases under the guise of "reform." The results are summarized in table III.

TABLE III.—THE PRESIDENT'S TAX PROGRAM [1]

[In billions of dollars]

Fiscal year	Tax decreases	Tax increases	Total
1979	−30.3	+5.3	−25.0
1980	−67.3	+15.7	−51.6
1981	−109.1	+28.9	−80.2
1982	−155.5	+44.5	−111.0
1983	−207.9	+62.0	−145.9

[1] All figures cumulative.

Source: Treasury Department.

As one can see, the President's program does not even offset the tax increases which are already set to take place. Clearly, in order to get any stimulus at all—even in the Keynesian framework—there would have to be a tax reduction greater than the forthcoming increase. Clearly, there will be a reduction in purchasing power at the very least.

It would be wrong to suggest, however, that the principal problem with President Carter's tax package is its size. On the contrary, its greatest weakness is its composition. The fact is that President Carter's tax package is designed not to encourage economic growth, but rather to redistribute income. The result will be to raise taxes and ultimately make all Americans worse off. As table IV demonstrates, Carter's major tax reform—that of changing the $750 personal exemption to a $240 tax credit—will result in an income transfer of $3.7 billion from those earning more than $20,000 per year to those earning less.

TABLE IV.—$240 CREDIT IN LIEU OF THE $750 EXEMPTION, 1977 INCOME LEVEL

Adjusted gross income (thousands)	Returns with tax decrease (thousands)	Amount of tax decrease (millions)	Returns with tax increase (thousands)	Amount of tax increase (millions)	Net tax change (millions)
0 to $5,000	4,696	−$300	9	$3	−$297
$5,000 to $10,000	12,373	−1,206	3,719	136	−1,070
$10,000 to $15,000	8,373	−1,309	6,450	543	−766
$15,000 to $20,000	5,751	−612	6,226	527	−86
$20,000 to $30,000	1,889	−117	9,948	1,241	1,124
$30,000 to $50,000	18	−2	4,406	1,528	1,526
$50,000 to $100,000	4	(2)	1,174	837	836
$100,000 and over	(1)	(2)	297	263	263
Total	33,104	−3,547	32,230	5,078	1,53

[1] Less than 500 returns.
[2] Less than $500,000.

Note: Details may not add to totals because of rounding.

Source: Joint Committee on Taxation.

According to the President's statement this change is "designed to increase the progressivity of the tax system." But what does this mean? In short, it means that you are using the tax code to take income from those with "high" incomes and give it to those with "low" incomes. Presumably this action satisfies some notion of equity, which says that everyone ought to have the same income regardless of what they produce. Unfortunately, our economy pays a very heavy price for progressivity and income redistribution. That cost is the foregone economic growth, jobs and wealth that our economy loses because people were discouraged from earning high incomes.

Progressivity is also increased by the President's plan to reduce tax rates by 2 percentage points across-the-board. This works out to a 3-percent cut at the top and a 14-percent reduction at the bottom, which must shift the tax burden upward. Also, the elimination of numerous deductions will amplify this effect.

Furthermore, steeply graduated tax rates cause the tax burden on all Americans to rise as inflation pushes them up into progressively higher tax brackets, although their real income may be unchanged. Thus, table V shows that since 1967 gross average weekly earnings for American workers have gone up more than 70 percent in nominal terms and only 1.5 percent in real terms. But taxes are paid on the nominal income, rather than the real income. The result is that marginal tax rates have increased dramatically on all American workers.

TABLE V.—GROSS AVERAGE WEEKLY EARNINGS

Year	Current dollars	1967 dollars
1967	$101.84	$101.84
1968	107.73	103.39
1969	114.61	104.38
1970	119.46	102.72
1971	127.28	104.38
1972	137.16	108.67
1973	145.43	109.26
1974	154.45	104.57
1975	163.89	101.67
1976	176.29	103.40

Source: Bureau of Labor Statistics.

If present trends continue, a worker who today is earning $8,000 per year may find himself in a 50-percent marginal tax bracket as early as 1982—at least in New York. This takes into effect the total social security tax burden—on both workers and employers—Federal and State taxes. Table VI demonstrates how great this tax "wedge" is for a single worker living in New York State. If inflation is allowed to continue, it is not hard to foresee the devastating effect it will have in just a few years as working Americans all find themselves in 50 to 60 percent marginal tax brackets. This is what I mean when I talk about the "Britainization" of our economy. In other words the rates must be dramatically reduced because otherwise they will dramatically rise and depress economic growth and discourage everyone.

TABLE VI.—MARGINAL TAX WEDGE, 1978

Income	Social security	Federal	New York	Tota
$				
$1,000	12.1	16	2	30.1
$2,000	12.1	19	3	34.1
$3,000	12.1	19	4	35.1
$4,000	12.1	21	4	37.1
$5,000	12.1	21	5	38.1
$6,000	12.1	24	5	41.1
$7,000	12.1	24	6	42.1
$8,000	12.1	25	6	43.1
$9,000	12.1	25	7	44.1
$10,000	12.1	27	7	46.1
$11,000	12.1	27	8	47.1
$12,000	12.1	29	8	49.1
$13,000	12.1	29	9	50.1
$14,000	12.1	31	9	52.1
$15,000	12.1	31	10	53.1
$16,000	12.1	34	10	56.1
$17,000	12.1	34	11	57.1
$18,000	12.1	36	11	59.1
$19,000		36	12	48.0
$20,000		38	12	50.0
$21,000		38	13	51.0
$22,000		40	13	53.0
$23,000		40	14	54.0
$24,000		40	14	54.0
$25,000		40	15	55.0
$26,000		45	15	60.0
$32,000		50	15	65.0
$38,000		55	15	70.0
$44,000		60	15	75.0
$50,000		62	15	77.0

As one can see, it costs progressively more and more to get another dollar of after-tax income. Right now, for example, it would cost an employer $2 to give an employee earning $13,000 per year an additional $1 in take-home pay. Surely this is going to have a dramatic effect on employers' ability to hire new workers and pay them adequately, and on the incentive of workers to strive for

higher incomes through greater productivity.

Furthermore, the President's program will be highly damaging to capital formation and business confidence, despite the proposed reduction in the corporate tax rate. For example, it continues the assault on capital gains which was begun in 1969 and which has directly led to a considerable decrease in the amount of invested capital coming into the market. The fact is that in order to achieve tax neutrality capital gains ought not to be taxed at all. Other proposals to increase the minimum tax, eliminate various tax shelters, and reduce business deductions will only amplify the tax bias against capital formation and business enterprise and ultimately reduce economic growth, for which we will all suffer.

By contrast to the President's plan, the Roth-Kemp Tax Reduction Act is expressly designed to restore incentive to the American economy by increasing the after-tax reward for work, production and investment. The Roth-Kemp bill, which presently has 160 cosponsors in the House and Senate, accomplishes this goal by doing the following:

Reducing all individual income tax rates by an average of 33 percent, from the present range of 14 at the bottom to 70 percent at the top to 8 percent at the bottom and 50 percent at the top, phased in over 3 years;

Reducing the corporate normal tax rate by 3 percentage points, from 48 to 45 percent,

And increasing the corporate surtax exemption from $50,000 to $100,000 to help small business.

History confirms that an across-the-board tax rate reduction is the best way to revitalize our economy. The Roth-Kemp bill is consciously patterned after the Kennedy-Johnson tax rate reductions of 1964–65, which led to one of the greatest economic expansions our country has seen in the past 40 or 50 years.

I urge the Congress to reject President Carter's income redistribution tax reform and adopt a tax rate reduction package that will really restore economic growth, increase individual incomes, and restore incentive to our economy for all Americans.

IS THERE A CONTRACT OUT ON THE FBI?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, recently President Carter issued an Executive order reorganizing our various foreign intelligence agencies and their operations. I presume that in due course similar administrative actions will be taken in connection with the FBI's activities.

According to press accounts, the President's Executive order devotes five single-spaced, legal-sized pages to "restrictions on intelligence activities." I do not yet know what they all are but, obviously they are extensive. They could go too far and severely impair intelligence gathering vital to our national security.

It would seem it is open season on the intelligence community and on the Federal Bureau of Investigation as well.

The Judiciary Subcommittee on Civil and Constitutional Rights has scheduled hearings next month on a bill (H.R. 10400), obstensively dealing with FBI abuses of authority that goes so far as to repeal virtually all our substantive domestic security laws, which the FBI enforces. Section 4 of the bill would repeal the laws relating to riots, seditious conspiracy, advocating the overthrow of the Government, registration of certain organizations, the deportation of aliens, and even the law relating to the interference of the Armed Forces.

It is as if, in jargon of the underworld, there is a contract out on the FBI with Congress being asked to play the role of hit man. If such legislation ever did pass, the United States would become a paradise for terrorists, subversives, and foreign agents.

With this in mind I am today sending to Attorney General Griffin Bell a letter requesting from him the opinion of the Justice Department on the substance of H.R. 10400. I also will request that he inform me of his own views as to the direction reforms of the FBI should take. The American people have a right to know if the administration shares the views of those who would effectively cripple the best law enforcement agency in the world.

THE DAVID MARSTON AFFAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. EVANS) is recognized for 5 minutes.

Mr. EVANS of Delaware. Mr. Speaker, I am deeply disappointed that Speaker of the House O'NEILL would call former U.S. Attorney David Marston a "Republican political animal" as he has apparently done today. Despite the fact that many Democrats in this body have expressed deep concern over the Marston affair, the Speaker, according to a wire service report, has charged that Mr. Marston entered the job with "viciousness in his heart and for only one reason—to get Democrats."

I think it is highly regrettable that the Speaker of this House finds it necessary to defend what is increasingly becoming a political railroad job of the highest order. Obviously, the Speaker's remarks indicate that it is politics as usual.

The simple fact of the matter is that Mr. Marston has moved against both Republicans and Democrats, including former Chester County Republican Chairman Ted Robino and former Republican Congressional candidate Robert B. Cohen.

Unfortunately, the Justice Department has apparently developed amnesia in this whole matter. As my colleagues know, Attorney General Bell sent three of his associates to investigate. In my opinion, this is like sending the fox out to investigate who's stealing hens from the chicken coop.

It saddens me greatly that the distinguished Speaker of this body would make such charges regarding the motives of David Marston and I hope that the appropriate Committees of Congress will at once begin an independent investigation of this increasingly sordid affair. Public confidence in our judicial system is at stake.

TRUTH-IN-LENDING WORKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it is not every day that we have the opportunity to gage the positive results of legislation which has passed through this body and into law. That is why I am particularly heartened by the preliminary findings of a consumer awareness survey released by the Board of Governors of the Federal Reserve System in its annual report to Congress. This study shows a healthy and significant increase in consumer awareness since Congress passed the Truth-in-Lending Act in 1969.

Nine years ago the average consumer's awareness of the cost of credit and annual percentage rate was pretty dismal. According to this poll, only 14.5 percent were aware of the cost of their closed end credit accounts—those accounts used to purchase automobiles, for instance. That figure now reads 54.6 percent, a 40-percent increase. In the original 1969 study, only 8.6 percent of those with less than a high school education understood the stipulations of this kind of credit arrangement. Again, that figure has soared to 41 percent, a 32-percent improvement. Among blacks there was a fourfold improvement between 1969 and 1977.

These findings indicate a widespread increase in consumer awareness that crosses all socioeconomic lines and all types of credit. It can be safely stated, I think, that consumers are now understanding the mechanics of credit at levels they never did before. They are shopping around for the best deal they can get and I would surmise that it's a better deal than it was 9 years ago. Truth-in-Lending has done what any good law should do: It has reached people at all levels of income and education, and they have benefited.

Yet if Truth-in-Lending is working so well, as these dramatic improvements indicate, why the frantic pleas for simplication? Though efforts to remove some disclosure requirements in the interest of simplification may be tempting to certain experts, such efforts can only weaken the protection consumers now have under this law. As chairman of the Consumer Affairs Subcommittee, I have stated that I would support simplifying some technicalities, but I could never abide by the subversion of Truth-in-Lending's basic principles. This act has given the consumer the tools with which to educate himself.

Mr. Speaker, where some people see complexity in Truth-in-Lending, I see protection. Let me ask those who favor simplification where changing the rules now would leave the consumer who is just beginning to understand what is expected of him and his creditor. Education is a long process, but it is working and consumers are learning.

In fact, consumer credit is at record levels and increasing each month. And the major reason is that consumers are now better able to understand the terms of their credit purchases. Before Truth-in-Lending every contract was a snake about to bite, a whip ready to lash out and sting the consumer. But now there is a growing confidence among consumers that the days are gone when they were vulnerable to undisclosed penalties and charges.

In our credit-based economy it is not unusual for a person to purchase his car, his home, and his furniture on some form of credit. Either these consumers are going to be protected in full from losing their life's belongings or they are going to be in limbo, paying credit costs they do not understand. Credit protection is not a simple or uncomplicated matter. Nor should it be, for the consumer must know the consequences of his indebtedness and, in order to do so, the creditor must provide disclosure. They share the burden.

Mr. Speaker, there is no consumer protection without consumer awareness. And, as this poll shows, Truth-in-Lending has provided consumers with the knowledge to protect themselves.

CONGRESSMAN RICHMOND MEETS WITH FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RICHMOND) is recognized for 5 minutes.

Mr. RICHMOND. Mr. Speaker, yesterday I had the opportunity to meet with hundreds of farmers participating in the American agricultural movement. Joining me were several other Representatives of our Nation's urban area—TOBY MOFFETT, of Connecticut, PETE STARK, of California, GEORGE MILLER, of California, HENRY NOWAK, of New York, and BILL BRODHEAD, of Michigan, as well as two Members representing rural areas—TOM HARKING, of Iowa and RICK NOLAN, of Minnesota.

Mr. Speaker, I would like to revise and extend my remarks at this point in the RECORD, to discuss yesterday's meeting in greater detail.

As the only member of the House Agriculture Committee representing a totally urban, inner city district, I am painfully aware of the pressures facing our Nation's farmers.

Escalating fertilizer, farm machinery, and other farm input prices have drastically outstripped the national rate of inflation. As if this squeeze is not enough, prices now being received by producers for their commodities are hovering at levels more appropriate to 50 years ago than today.

But, Mr. Speaker, consumers are also concerned about food issues. Almost daily it seems another commodity takes off on a dizzying price escalation or yet another product is deemed to be dangerous to health. Consumer confidence is shaken, but recent polls still indicate that more than 90 percent of all Americans believe that a widely diversified system of family owned and operated farms is the most efficient and economical method of food and fiber prduction.

However, consumers, by and large, are unaware that farmers are receiving just pennies for the wheat in a loaf of bread, the corn in a box of breakfast cereal, the head of fresh broccoli or cauliflower at the produce counter or the cotton in a pair of jeans or shirt. We urban Representatives must take this knowledge back to our constituents.

But, as we carry this crucial message back home, we hope farmers will also become more deeply aware of the problems our Nation's urban dwellers face. In New York City, for example, we have people housed in unlit, unheated and unsanitary dwellings, people with little or no hope of gainful employment and young people suffering from malnutrition.

As the problems of the Texas or Kansas farmer must also be our problems in Brooklyn or Los Angeles, I hope that farm people will listen sympathetically to our problems, as there can be no permanent, long range, independent solution to either the farm problem or the urban crisis.

It takes, for example, approximately 5 acres of crop, orchard, range and pasture land to feed every New Yorker . . . meaning New York City requires the equivalent of the tilled acreage of Delaware, Hawaii, South Carolina, New Jersey, Maryland, Pennsylvania, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, Maine, West Virginia, and Alaska to survive.

There is no question that farmers are critical to the future of New York, but New York is also critical to the farmers and the future farm economy. Food stamps generate $1.5 billion in income for farmers; the vast network of wholesale markets, "ma and pa" stores, independent truckers and union workers are all a part of the farm community, the rebuilding of our cities means less prime farmland gobbled up for sprawl and unchecked development and assistance for our port facilities means more efficient, modern export facilities for grain and other commodities.

Those of us representing urban America must act to assure the farmers of this country financial security, for there is no doubt in my mind that the best consumer policy for all of us is the best farm policy.

I believe we have come a long way in forging a true urban/rural coalition of mutual interest and shared concerns in Congress and I am hopeful that the exchange of ideas that has been evident here in the past few weeks between those Americans who till our billion acres of crop and pasture land and those of us who consume those products has been mutually beneficial.

Mr. Speaker, the King of Brobdingnag in Jonathan Swift's "Gullivers Travels," gave it for his opinion that,

> Whoever could make two ears of corn, or two blades of grass, to grow upon a spot of ground where only one grew before, would deserve better of mankind, and do more essential service to his country, than the whole race of politicians put together.

The farmers that have been here in Washington, meeting with both urban and rural members, have contributed much to our economy, national security and sense of well-being, but, as one of that "race of politicians," I know that, in our complex age, it requires both the work of politicians and farmers to cultivate our soil and produce our most basic necessity of life in a way that will truly unite urban America and rural America.

PRESIDENT CARTER'S SUPPORT FOR A NATIONAL CONSUMER COOPERATIVE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, President Carter has announced his support of a National Consumer Cooperative Bank similar to that provided in legislation which passed the House last July 14.

This is great news and I am very pleased that the President has decided to include a Consumer Cooperative Bank in his domestic agenda. The President has also endorsed a self-help development fund to assist low-income consumer cooperatives and a technical assistance function for consumer cooperatives.

The details of the President's consumer cooperative program were presented before the Senate Banking Committee this morning. The package contains the basic thrust of H.R. 2777 which the House has approved but there will remain important details to be worked out in both the Senate and in the conference committee. The final passage must be workable and it must not stray too far from the intent and goals already expressed by the House of Representatives.

Mr. Speaker, this has been a long hard battle to gain recognition for the important role that consumer cooperatives can and do play in our economy. I introduced this legislation in the last Congress, conducted hearings in my subcommittee, and we were successful in gaining passage of the bill in the Banking Committee. However, time ran out and the bill died at the end of that session.

On February 1, 1977, I reintroduced the National Consumer Cooperative Bank and was ultimately joined by

more than 100 of my colleagues. Unfortunately, the Treasury Department and the Office of Management and Budget—unlike many in the administration—opposed the creation of the Consumer Cooperative Bank and this fact created great difficulties as we battled for approval in the committee, through the Rules Committee, and ultimately on the floor of the House. The proconsumer forces did prevail and we were able to move the bill out of the House and forward for Senate consideration.

Now, we have the support of President Carter who has had the opportunity to receive the advice and counsel of persons who have long experience with cooperatives and consumer organizations. The channels of communication have been opened up and the people-oriented officials in the administration have had a voice in the decisionmaking.

Mr. Speaker, the President is to be commended for the open manner in which he has reached this decision and the careful manner in which he has analyzed all of the issues. He has been extremely courteous to me in hearing out my arguments for the bill both in face-to-face conversations and in written messages. His willingness to hear the arguments for the bill from Capitol Hill refutes the tired clichés that we hear so often about bad relations between the Congress and the White House.

Mr. Speaker, the national consumer cooperative bank legislation has been a team effort. It has included magnificent support from people within the Carter administration, from my colleagues of both parties on the Banking Committee and in the full House. It has been heavily dependent on public interest organizations, willing to work night and day to gain acceptance of the need for a bank for consumer cooperatives—the Ralph Naders and his Congress Watch staff like Mitch Rofsky, Stan Dreyer and the entire Co-operative League, the AFL–CIO, the United Auto Workers and other labor organizations, senior citizens groups, religious organizations like Network, urban and rural organizations, local public officials, farm groups, virtually every consumer organization across the Nation including the hard-working staff at Consumer Federation of America.

Mr. Speaker, I do not remember a broader spectrum of public interest groups banding together to support a piece of legislation in the Banking Committee in my 17 years in the House.

My colleagues on our subcommittee and in the full committee have given tremendous support and we would not have reached this point without their active work. Chairman REUSS has pushed very hard for acceptance of the legislation and my colleague on the subcommittee, CHALMERS WYLIE, has been with me every single step of the way. In fact, Mr. WYLIE and STEW MCKINNEY, who has also done yeomanlike work for the bill, joined with me in testifying before the Senate Banking Committee as the leadoff panel in support of the legislation yesterday. There are many others—the list could go on and on.

Mr. Speaker, I am hopeful of early and favorable action by the Senate and with President Carter's magnificent display of support there is every likelihood that we will have a National Consumer Cooperative Bank Act signed into law before this Congress adjourns.

As I told the Senate Committee yesterday, this legislation could be the proudest accomplishment of the 95th Congress. It not only addresses a substantive economic need but it expresses our hope and faith in the ability of the American people to do things for themselves through self-help organizations. It is a giant step forward for the American consumer.

UKRAINIAN INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, we Americans know the extreme importance of the human rights issue. We enjoy more freedoms than any people on Earth. It is only right that we speak out in the interests of those who are oppressed, but who long for basic freedoms.

Keeping this in mind, it is important for all Americans to join in remembering the day, 60 years ago, when the people of the Ukraine attempted to win freedom and become an independent state. Ukrainian Independence Day, commemorated this week, is especially meaningful to the millions of Americans of Ukrainian descent who share the sadness and pride of the Ukrainian attempt at freedom.

The men and women of the Ukraine are proud people who have not lost their determination to live free. Their brothers and sisters in America have made many important contributions to our society. They are a constant reminder of our duty to speak out for human rights throughout the world.

I believe the Carter administration has taken a giant step in bringing the issue of human rights to the attention of the world community. As the leaders of that effort, we Americans cannot afford to forget the meaning of the Ukrainian attempt to win independence 60 years ago. The Ukrainian struggle lives on and so must our fight for human rights.

WARREN JERNIGAN IS IMPROVING

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House will be happy in the knowledge that our good friend Warren Jernigan, chief doorman for many years, is steadily improving. He has been extremely ill from a rare paralysis known as the Guillain-Barre syndrome—French polio—and has been confined to George Washington University Hospital for the past 2 months. Happily, the prognosis is optimistic and, while the period of rehabilitation is a lengthy one, he is expected to recover completely.

Warren's good work is not confined to his services as doorman. He has been a leader in important civic and patriotic enterprises. He was an organizer and for years served as president of the Doormen's Society of the U.S. House of Representatives. Perhaps his chief interest other than his work at the Capitol and his family has been his dedication to the Masonic Order. His fine services to that important organization were crowned by his election to the position of Worshipful Master of Federal Lodge No. 1 in Washington. This is indeed a fine distinction.

I am happy to note two recent awards to Warren in connection with those services. One from the Association of Worshipful Masters of the District of Columbia, dated January 14, 1978, reads as follows:

Federal Lodge No. 1, F. & A. M. and Warren H. Jernigan, W.M., For Receiving the Most Petitions of Any Lodge in 1977.

The other, from the 1977 Association of Worshipful Masters of the District of Columbia, dated January 14, 1978, reads:

Warren H. Jernigan, W.M., President, Chairman Executive Committee, In Appreciation For Your Outstanding Leadership, Hard Work, and Dedication Whereby We Have Raised For the Masonic and Eastern Star Home $50,000, the Largest Amount Ever Raised.

All of this attests to the high regard in which Warren is held. All of us whom Warren has served so ably and effectively in the House express our sympathies to Warren, his wife Helen and his sons, in his illness and wish for him the earliest possible and complete recovery. I have assured him that our prayers and our thoughts are with him. I know that he will be pleased to receive a note of encouragement from his friends on the Hill or to see familiar faces.

A NEW LAW SETTING GRAZING FEES ON PUBLIC LANDS

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I am today introducing legislation which I hope will go far towards solving what I perceive to be acute problems involving the management and improvement of range conditions on the public grazing lands administered by the Bureau of Land Management and the Forest Service. During 1977, the Subcommittee on Indian Affairs and Public Lands held a series of public hearings in the Western States and in Washington, D.C., on various public lands matters. Those hearings revealed severe problems stand in the way of the improvement of the rangeland conditions. More efficient management is needed of the 283 million acres of Federal land that is used for livestock grazing.

This is especially true on the approximate 160 million acres administered for livestock grazing by the Bureau of Land Management. Specifically, our hearings revealed: Problems with levels of range improvement funding; an abundance of land that was producing less than its true potential for various range values; and overpopulation, in certain areas, of free-roaming wild horses and burros; great uncertainty as to what scale and type of range improvement projects may proceed under current law and court decisions; a potential hardship to the ranching community from proposed increases in grazing fees; and several other matters.

In my estimation, each of these issues represents a serious problem which could be dealt with in separate legislation. Indeed, several bills are pending in Congress that speak to these matters. However, rather than deal with these critically interrelated issues in a piecemeal fashion, I have become convinced that they merit consolidated consideration in an "omnibus" bill which will enable enactment of a balanced program, and not solve one problem at the expense of another. To achieve this, my bill deals with the following important subjects:

RANGE CONDITIONS PLUS FUNDING

Numerous reports and studies completed during the last several years have concluded that there exists a great need for improvement of the range conditions of the public grazing lands. Indeed, according to the Bureau of Land Management's own standards, as set forth in a 1975 report to the Senate Committee on Appropriations, over 80 percent of the lands currently administered for grazing by the Bureau are in an "unsatisfactory" condition in the sense that they are not producing anywhere near their true potential for diversified rangeland values such as livestock grazing, fish and wildlife habitat, recreation, and water and soil conditions.

While much of this condition is a legacy of the virtually unregulated grazing which occurred in the Western States in the 19th century and up until 1934, it is beyond controversy that current levels of range improvement funding and range management have not been able to achieve dramatic improvements in overall range conditions.

Although concerted efforts on the part of many conscientious ranchers, Government agencies, and environmental groups have resulted in some improvements, especially in recent years, there is still a very long way to go before most rangelands attain a condition which enables them to best serve the numerous values and uses associated with a fully healthy and productive range. In short, current range conditions are cheating the public, the livestock industry and wildlife out of benefits that should be inherent on the public grazing lands.

To correct this situation my bill would authorize appropriation of a total of $350 million over the next 20 years to improve range conditions. These moneys would be in addition to funds to be requested for ongoing BLM range, wildlife, soil and water programs, and in addition to the moneys allocated to on-the-ground range improvements in 1976 under the provisions of the Federal Land Policy and Management Act. No less than 80 percent of the $350 million would be limited for the sole purpose of financing on-the-ground range maintenance and improvements such as fencing, water development, increased vegetation, wildlife and soil and water conservation projects. These improvements are vitally needed if existing forage is to be more efficiently used by livestock and wildlife, and ranges are to become more productive for livestock and wildlife values. However, by limiting the use of these funds to "on-the-ground" range improvements, my bill insures that the moneys will physically go toward range improvements and not be eaten up in paperwork and administration. Specifically, the moneys cannot be used for the conducting of inventories and studies, nor for the preparation of land use plans, allotment management plans or environmental impact statements.

The bill also provides that up to 15 percent of the funds can be used by BLM to train and hire additional qualified and experienced personnel to engage in on-the-ground supervision and enforcement of range land use and allotment management plans. It is my fervent hope that these moneys will enable BLM to put more qualified people "on the ground" and in the field to work closely with range users, grazing advisory boards, and other interested parties in refining range management plans, improvements and techniques so that the land use and allotment management planning process is responsive to the specific needs and range conditions of the area to which it applies.

This is critical, as land use and allotment management planning cannot be entirely successful unless it is based on a good working knowledge on the part of BLM officials of the particular problems and range conditions—whether seasonal or year-round—indigenous to a given area. At present, it would appear that in many cases, paperwork and other administrative requirements have so monopolized the time of BLM employees that they have insufficient time to get "on-the-ground" and work with range users to develop the plans that will best achieve the range improvements that we all desire. My bill should provide the additional personnel necessary to correct this.

The additional on-the-ground personnel will also enable BLM to more effectively police the unconscionable few who overgraze the public range for the sake of short term profits. The problem of overgrazing is acute in some areas of the Western States, and is extremely harmful to the long-term welfare of all range uses, users, and values.

RANGE IMPROVEMENTS

The present state of affairs involving the installation and maintenance of range improvements is rather chaotic. On the one hand, the courts—in NRDC against Andrus, June 15, 1975—have forbidden BLM from implementing any new "allotment management plan or its equivalent" until an environmental impact statement on the allotment management plan has been completed. On the other hand, Congress, in passing the Federal Land Policy and Management Act (FLPMA), provided that the annual distribution and use of certain range betterment funds would not require an environmental statement. The waters are further muddied by language in the conference committee's report on FLPMA stating that nothing in FLPMA "is intended to interfere" with the court's orders to complete environmental impact statements for allotment management plans or their equivalents. Finally, when one considers that an "allotment management plan," as defined in FLPMA, includes a description of "the type, location, ownership, and general specifications for the range improvements to be installed and maintained," it is not hard to envision why BLM and others have had a difficult time in ascertaining exactly what types of range improvements can proceed in the absence of a completed environmental impact statement for a given area.

While various interests argue the extent to which the range improvements are currently permissable, it is undeniable that the NRDC case, when coupled with congressional pronouncements on the subject, has had a "chilling effect" on the Government's willingness to implement a vigorous range improvement program.

My bill seeks to solve this dilemma for once and for all by specifically spelling out those range improvements which can proceed prior to the completion of the court ordered environmental impact statements, and those which cannot. As many environmental impact statements will not be completed until 1988, or later if court challenges to their adequacy occur—as occurred with the first grazing EIS for the Challis unit in Idaho—the importance of a legislative solution to the problem becomes clear.

Quite simply, my bill allows certain range improvements such as fencing, small water developments, fish and wildlife projects, the restoration of native vegetation, and vegetative manipulation through grazing management, to proceed without completion of an environmental impact statement. In my mind, such improvements are clearly of a desirable nature, and do not artificially alter the environment or pose a threat of environmental disruption or pollution. As such they merely enable us to use existing forage and other range values more efficiently, and make it possible to augment existing values without a commitment to irreversible decisions that could lead to poorly thought out environmental alterations and impacts.

Conversely, it is my firm belief that the NRDC decision was completely cor-

rect in asserting that some provisions of allotment management plans and range improvements are indeed major Federal actions which may significantly affect the environment. Therefore, my bill prohibits the use of any earmarked range improvement funds for projects such as chaining, chemical and herbicide treatment, major water developments, stream modification, and seeding to introduce nonnative species such as crested wheatgrass, until the court ordered environmental impact statements and other planning documents for the area have been satisfactorily completed. This will insure that range improvements and techniques which could significantly alter existing ecologic and vegetative patterns through artificial means will not be implemented until the background data to support or refute their desirability has been thoroughly gathered and evaluated.

WILD HORSES AND BURROS

In 1971, Congress passed legislation to protect wild and free-roaming horses and burros from capture, branding, harassment, and death. While the act has been successful in its goal, it has become evident that, in certain areas, populations of wild horses and burros have been so well protected by the law that their numbers now exceed the carrying capacity of the range. This poses a threat to wildlife, livestock, overall range conditions, and even to the horses and burros themselves.

BLM has initiated a program whereby certain of these excess animals are captured and may be "adopted" by individuals who will accord the animals humane treatment. However, this program has been frustrated by the fact that the 1971 law prohibits the Government from transferring title to the animals to the adopting party.

To alleviate this problem, my bill would do three things. First, it requires the Secretaries of Interior and Agriculture to conduct up to date inventories to determine whether overpopulations of wild horses or burros exist in an area. If either Secretary finds an area is overpopulated, he is then directed to round up the excess animals for which an adoption demand exists, and put the animals out for adoption. Second, to encourage adoption, the 1971 law is changed to allow a transfer of title to the adoptor after a period of 1 year, if the animal has been well treated. I believe that the 1-year "holding period" under humane conditions will involve expenses to the adoptor that will absolutely preclude resale of the animals to slaughterhouses. Third, excess animals for which an adoption demand does not exist, are required to be disposed of in the most humane manner possible so as to restore a thriving natural ecologic balance to the range.

GRAZING FEES

Unless Congress acts prior to March 1, the Secretaries of Interior and Agriculture plan to implement a proposal to increase public lands grazing fees by 25 percent per year until the Secretaries' definition of "fair market value" is reached sometime in 1980 or 1981. Depending on the lease rate charged on private grazing lands in future years, this would mean an increase in grazing fees of from 80–100 percent by 1981. For a rancher running 100–150 head of cattle on the public lands, increases could run in excess of $600 per year with no consideration of the rancher's ability to pay this increase. While I have introduced legislation (H.R. 9757) which was passed by the Committee on Interior and Insular Affairs on November 29, 1977, to place a 1-year moratorium on any increase in grazing fees, it only allows time for Congress to consider the issue of grazing fees. The legislation which I am introducing today is a followup which would enact the formula recommended by the Secretaries' own experts, the Technical Committee To Review Public Land Grazing Fees. I feel this formula is far more equitable than the Secretaries' proposal because it is intricately tied to the short-term costs of production, beef prices, and the ranchers' ability to pay, while at the same time being sensitive to long range forage values.

To prevent undue fluctuations in any one given year my bill would also limit increases and decreases to 25 percent of the previous year's fee. Although this formula may need some further refinement in markup of the legislation, its paramount virtue is that it recognizes the critical items of cost of production and ability to pay.

TEN-YEAR GRAZING PERMITS

When Congress passed the Federal Land Policy and Management Act (FLPMA) in 1976, it directed that public lands grazing leases or permits be issued for a period of 10 years, unless "it will be in the interest of sound land management to specify a shorter term." The Secretary of the Interior has subsequently determined, on a blanket basis, that it is "in the interest of sound land management" to issue only 1-year leases in all cases where land use planning is not complete. My bill would simply reiterate the spirit of Congress' directive, which I feel has been subverted, to require the Secretaries to issue 10-year leases or permits except when he determines on a case-by-case basis—as opposed to a blanket basis—that a short term is necessary. The goal, of course, is to insure that land management decisions are made as responsive as possible to the range needs of a particular area rather than being implemented on an indiscriminate and inflexible basis which does not give sufficient attention to localized needs and conditions.

Other features of my bill would:

First, require an inventory of rangeland conditions and trends;

Second, insure, to the extent feasible, that the authorized appropriations of $350 million are actually spent;

Third, to the extent practicable, require that environmental impact statements, land use plans, and other planning documents for a land management unit be rolled together into one consolidated unit plan; and

Fourth, set a goal to make the public grazing lands as productive as feasible for all range values.

It is my intention to begin hearings on this legislation in mid-February, and as time is short in this session of Congress, to move as expeditiously as possible toward enactment into law. I am looking forward to broad public participation at our hearings so that all views will be represented and the best possible solutions can emerge.

PETITION OF MARTY B. DIXON AND JOHNNY W. McRAE

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, on October 11, 1977, two veterans, Marty Dixon and Johnny McRae, submitted a petition to the Secretary of the Army, Clifford Alexander, requesting that their discharges be upgraded to honorable. Following is a detailed explanation of the factual background of these two men who did no more than speak out against the vicious and institutional racism and outright segregation that was allowed to exist in some elements of the U.S. Army in South Korea in 1971. I regret that their experiences cannot be considered as past history for the conditions to which they attest continue today.

PETITION OF MARTY B. DIXON AND JOHNNY W. McRAE UNDER THE PROVISIONS OF ARTICLE 74(b), UCMJ

I. INTRODUCTION

A. Jurisdictional Allegation—

This petition is submitted pursuant to Article 74(b) of the Uniform Code of Military Justice, Title 10 United States Code § 874(b). That provision reads, in its entirety: "(b) The Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial."

Marty B. Dixon received a four year sentence including a Dishonorable Discharge from a General Court-Martial on October 26, 1971, as a result of events in and around Camp Humphreys, South Korea, on July 9, 1971. That discharge was upheld by the Army Court of Military Review on October 6, 1972, and, after a grant of review on a collateral procedural point, was also upheld by the United States Court of Military Appeals on June 8, 1973. An application by Dixon to the Army Board for the Correction of Military Records, unassisted by counsel, was denied pro forma on May 15, 1974.

Johnny W. McRae received a three year sentence including a Bad Conduct Discharge from a General Court-Martial on November 16, 1971, as a result of the same incidents at Camp Humphreys, South Korea. That discharge was upheld by the Army Court of Military review on November 2, 1972. His sentence was not reviewed by the United

States Court of Military Appeals or the Army Board for the Correction of Military Records.

Since both veterans have, and continue to have, discharges "executed in accordance with the sentence of a court-martial", the authority of the Secretary of the Army to substitute "an administrative form of discharge" is clear. There are no time limitations set forth in Article 74(b), and, in fact, the so-called finality provisions of Article 76, 10 U.S.C. § 876, specifically provide that "sentences of courts-martial as approved, . . . and discharges carried into execution under sentences by court-martial . . . are final and conclusive . . . subject only to action . . . by the Secretary concerned as provided in section 874 of this title (Article 74) . . ." There are no procedures regulating the application of Article 74(b) in the Manual for Courts-Martial, and no regulations of either the Department of Defense or the Department of the Army are known with respect to this provision. No statute delegating this authority to anyone other than "the Secretary concerned" has been found.

Consequently, it is submitted that the Secretary of the Army may upgrade the petitioners' discharges upon a showing of "good cause" regardless of any other provisions of law or regulation respecting military discharges. Furthermore, it is petitioners' position that the nature of the issues raised in this case require the direct attention and intervention of the Secretary of the Army, and cannot be appropriately considered by any other review mechanism, such as the Army Board for the Correction of Military Records, presently in operation. These more conventional avenues for relief are restricted by various procedural rules and regulations. And nowhere is a concern for rectifying the consequences of racist practices by the U.S. Army delineated as a basis for relief. Consequently, the burden of such relief should fall with that office most responsible for the overall functioning of the service, in this case, the Secretary of the Army.

B. Relief Sought—

Although there are three types of "administrative form of discharge", Honorable Discharge, General Discharge Under Honorable Conditions, and Discharge Under Other Than Honorable Conditions, petitioners submit that they should receive Honorable Discharges, the discharges to which they would have been entitled under applicable regulations, but for the courts-martial discussed below. The provisions for characterizing a member's service are found in ¶ 1–9 of AR 635–200. Subparagraph d(2) of that paragraph provides that service "will be characterized as honorable" if the member has conduct ratings of at least "good", efficiency ratings of at least "fair", has not been convicted by General Court-Martial, or more than once by Special Court-Martial. But for the cases in question, both petitioners would have been entitled as of right to Honorable Discharges. Because the wrongs done to them stem from the initial action, the upgradings should, of course, be retroactive to the original dates of the discharges.

II. THE SITUATION AT CAMP HUMPHREYS, SOUTH KOREA, 1971

A. Background—

As the historical review elaborated below in Part III demonstrates, racism is, and always has been, a pervasive aspect of American military life (as, indeed, it has been of American society in general). But to understand the particular situation we are concerned with in this petition, some special factors must be kept in mind, at the events at Camp Humphreys, South Korea, are described.

For one thing, Camp Humphreys was hardly a choice assignment. It was a drab, cold, muddy, rainy place, and the only town nearby was the little village of Anchong-ni, adjoining the base. Korea has never been considered a desirable duty assignment to the average GI, and within Korea, Camp Humphreys was low on the list. (Several times during his stay in Korea, Marty Dixon asked to be transferred to Vietnam, to combat.)

Another aspect of the GI situation in Korea concerned Black troops specifically. Although the statistics are undoubtedly more available to the Secretary of the Army than to petitioners, it is generally asserted that there are a greater percentage of Blacks in Korea than in the Army as a whole, and it is unquestioned that there were many units at Camp Humphreys which were inordinately staffed by Black troops, and vice versa. When Dixon was first assigned to Camp Humphreys in May, 1970, for example, he was the only Black in the helicopter maintenance platoon. He was then promoted to a flight platoon, where there were two Blacks, and, finally, transferred to a technical supply platoon which was almost entirely Black. This latter assignment was to a unit with less technical or skilled activities and reflects another aspect of racism in the services: Black troops are consistently placed in the most unskilled duty assignments where career possibilities are limited and training is minimal. Johnny McRae, who arrived at Camp Humphreys some six months prior to Dixon, was one of only four Blacks in the two flight platoons (out of a total of approximately 70 soldiers). Aside from always feeling that he was a "token" Black, McRae notes that this racial imbalance led to persistent harassment and no means for redress.

Added to this pervasive sense of de facto semi-segregation was the attitude of the local community—an attitude encouraged by the military, as explained below in Part III. Discrimination is not against the law in Japan and Korea—two countries in which nearly 100,000 American troops are stationed. Not only is discrimination not against the law, it is fairly common. For example, a bar or restaurant owner could, if he or she so wished, refuse to serve Blacks, or whites, or people with blue eyes, and not violate the local law or constitution.[1] But the United States military is not supposed to condone, much less encourage, this, and there, of course, is the rub. The military contains more than its fair share of bigots, and the sad fact is that what might be very difficult in San Francisco or Chicago, and a bit less difficult in Jacksonville, North Carolina, or Columbus, Georgia, is much less difficult in Korea. As we will describe, and as the Army has admitted in several reports and investigations, discrimination—indeed segregation—was a problem at Camp Humphreys.

B. Spring, 1971—

Although, as the historical review below makes clear, racism was always a problem among GIs in Korea, the situation in the Spring of 1971 was, for some reason, inordinately severe. Many white GIs were openly members of the Ku Klux Klan; Blacks were being arrested for the mere possession of the Black Panther Party newspaper; virtually segregated platoons, as noted above, were standard; and the bar owners in Anchong-ni and other base villages were learning that they would do much better business with white GIs if Blacks were "discouraged" from frequenting their clubs. At the same time, of course, a few club owners were learning that there was money to be made catering to the Blacks, and little expenditure on decor was required. As every report notes, the white-oriented clubs were relatively plush; the Black-oriented clubs were, in the words of *Pacific Stars and Stripes*, "dingy", "drab", and "unadorned." Complaints by Black troops about this situation went unheeded, even after April, 1971 on-site investigations by the Camp Humphreys Equal Opportunity Commission verified the discriminatory treatment in the village and on-base social facilities. (This investigation was prompted by demonstrations on Camp Humphreys protesting ongoing courts-martial of Black troops.)

As Easter Sunday, 1971, approached, one of the two bars in Anchong-ni which served Blacks, the 777 Club—which was in a bar street surrounded on both sides by clubs catering to whites—was closed down. (Not surprisingly, it reopened a few weeks later as a restaurant catering to whites, customers of the adjoining bars.) Uncontradicted rumor suggested that this closing down was instigated by the adjoining owners, at the prodding—and with the financial assistance of—white GIs. These rumors were never pinned down, but it was undisputed that at this point there was only one bar in Anchong-ni, the OB Club, which served Blacks, and it was off in an alley by itself, away from the bar street.

All of this appears in the *Pacific Stars and Stripes* edition, which covered the events that ensued. "Owners of other clubs in the village," it reported, "have not been reticent in their displeasure at having the Blacks come to their clubs." Easter Sunday night, violence began. According to the *Stars and Stripes*, sporadic fighting between more than 200 troops broke out, and was barely contained by the MPs. "Fights broke out in the alley as Blacks, with no place to go, stood and watched the throng." Then, the next night, "one Black walked in to the Box T Club and was 'hassled'." ["T-shirt" and "rabbit" are Korean-American slang for white GIs. Clubs such as the Box T. and another in Anchong-ni called the Top Hat, whose emblem was a rabbit being pulled out of a hat, announced by their very names that they catered to whites.] As soon as the Black was "hassled" at the Box T, "other Blacks charged in and the club was 'demolished'."

There were more fights that night, and eleven people were injured. The next night, according to the *Stars and Stripes*, firebombs were thrown at whites-only bars, including Duffy's Tavern, shortly after the owner was heard to have expressed his opinion of Blacks. Later that night, firebombs were thrown at the NCO Club on base, and the base gym.

Still, despite consistent spontaneous outbursts of violence, no official response was forthcoming from the Camp Humphreys command to the grievances of the Black GIs.

C. May 19, 1971

May 19, 1971, Malcolm X's birthday, was selected by Black troops as the date to present those grievances en masse to the command in Seoul. Stated most briefly, the Black troops went to Yongsan Military Reservation and demanded that the Army "treat us like human beings, or send us home."

After a month of planning, several hundred Blacks from all over Korea made it to Seoul on May 19th. There evidently would have been more, but on the 18th, all passes and leaves were canceled, and the military buses to Yongsan Military Reservation were canceled. When they arrived at Headquarters, the post commander refused to come out, and sent word that he would not even speak to a small representative party. The Blacks refused to move, and demanded to

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[1] Host country racial attitudes are not much more enlightened elsewhere. As recently as October 3, 1977, the U.S. Court of Military Appeals noted, in *United States v. Brown*, 3 M.J. 402, 403 (CMA 1977), that in the Federal Republic of Germany, it is standard police practice, whenever a Black is implicated in an offense, to arrest all Blacks in the vicinity. In base towns, of course, this leads to the periodic round-up of Black GIs for no reason other than their being Black.

speak with the general. They were then told that he was not around, although his flag was flying at the time, indicating that he was within two miles. A little later on, the mess hall, provocatively, refused to serve meals to the protesting Black GIs, allegedly because they were visitors, whereupon the mess hall was demolished during the noon meal. Later that afternoon, the protestors learned that two Black GIs were arrested for some minor offenses and were taken to the MP station, which the crowd of Blacks subsequently surrounded, demanding their release. Although the station was also surrounded by MPs, no pitched battle occurred. In fact, several Black MPs dropped their weapons, broke ranks, and joined the protestors. A white MP lieutenant, shouting that the crowd had grabbed some MPs, waded into the crowd, and was carried by the demonstrators, by his hands and feet, back to the station, when the Blacks who had been arrested were released. Despite repeated provocations, the Blacks avoided any confrontation with the large deployment of MPs.

In a masterpiece of misreporting, reflecting the Army's distortion of the actions of the Black GIs, the headline in *Jet Magazine*, in the United States, read: "Blacks Stage 'Soul' Fest for Malcolm X in Seoul." The two sentence article mentioned no "soul fest", but noted that the garrison commander "called out about 150 military police and troops armed with M-16 rifles and tear gas. . . . " No mention was ever made of the Black MPs who broke ranks, or the officer who nearly did cause a riot, but who was unceremoniously returned to his troops.[2]

The May 19th protest appeared to have fallen on deaf ears. As far as Black troops could see, the result of their action had only been increased activity by CID and MI, which were seeking to identify and isolate leaders of the Black protest. These efforts were often arbitrary. Johnny McRae, for example, was not known as a leader or a militant. His participation in the May 19th demonstration is a measure of the mass character of the Black troop movement at this time. Yet, he was subsequently detained by CID, questioned extensively, and labeled a troublemaker. These characterizations would play a large role in his being picked out as a participant in the riot on July 9, 1971, and his subsequent conviction.

D. The Fourth of July, 1971—

After the events of May, and during June, numerous attempts were made to meet with officials to present grievances, which met with little success. The situation was so frustrating that the Blacks who were active in this struggle decided to present their case to the United States Ambassador, in Seoul. They picked the Fourth of July, a date when American Ambassadors traditionally have open houses for Americans at the Embassy, and because it would coincide with Vice-President Agnew's South Korean tour. They also assumed, correctly, that the command would not attempt to cancel passes and leaves and buses as they had done in May, because so many people planned simply to celebrate the holiday.

Much to the Blacks' surprise, however, U.S. Embassy was placed off limits to military personnel, and MPs were stationed there with orders to arrest any GI who attempted to visit the Embassy—a possibly unprecedented situation.

During this time, because of his involvement in the agitation, Marty Dixon was scheduled for a hearing, after his commanding officer recommended he be discharged for unsuitability under AR 635-212. Typically, sad to say, the Army's response to someone who complained about racism was to attempt to discharge him for unsuitability. On July 7, 1971, the Board of Officers decided contrary to the recommendation of Dixon's commander, and held that he should be retained in the Army and given an immediate transfer from Camp Humphreys. Had his commander not refused to do so, Dixon would never have been involved in the incidents two days later, because his commander was ordered to send Dixon home immediately, without awaiting transfer orders, which were to be forwarded to his home of record. The CO refused a direct order to do so; a few days later the question was moot—Dixon was on legal hold, then arrested and charged.

E. July 9, 1971—

By July 9, there was one other club catering to Blacks in Anchong-ni, the Black Star Club. This club had evidently been subject to pressure (and financial aid) from Camp Humphreys authorities to cater to Blacks and relieve some of the tensions around the other clubs. [The use of racially indicative names was supposed to be prohibited by the Army. No instance is known, however, of a club ever having been placed off limits for such an offense.] However, the situation remained as bad as ever, and became even a bit worse. A government witness at the pretrial investigation in the Dixon case had testified: "Some time ago a group of Whites from the ASA had collected some money and donated it to the Duffy's for the use of remodelling and stated that they didn't want any 'niggers' in there." The whites-only clubs, in an effort to please their patrons, and prevent even occasional inconvenient visits by perhaps unwitting Blacks, were offering bounties to Korean troops—in the area for maneuvers—to "get Black heads", i.e., beat up Black GIs indiscriminately and create an atmosphere of intimidation.

After winning his 212 hearing, the night of July 7, Dixon first saw the Korean troops in the village. During the next day he was told of the club owners' plans, and in a hastily called meeting at the Black Star, informed the Black GIs of the impending troubles. The night of July 8, the Korean troops massed at the Camp Humphreys gate and had to be confronted by the MP force. There were reports that some Korean soldiers had pulled pistols on Black MPs.

The situation became so unbearable that, on the night of July 9, after learning of the plot to use Korean troops to physically attack and segregate Black GIs, a large group of Black GIs demolished three whites-only clubs, the Paradise, the Seven, and Duffy's Tavern. It should be pointed out that Johnny McRae contends, and has always contended, that he was not among that group of Black GIs at the time that this property destruction was taking place, but was, near the end of the evening, observing the crowd. Marty Dixon was with the crowd, but maintains that he never committed the acts of destruction for which he was charged. The details of their trials are set forth below.)

During the several days succeeding the July 9 riot, upwards of a dozen Black GIs were arrested and confined. Few white GIs were questioned, and many were influenced not to offer testimony, with the threat of having their records flagged, and being forced to remain in Korea. Approximately a dozen Blacks were court-martialled. Of the first group, Marty Dixon received a Dishonorable Discharge and Johnny McRae a Bad Conduct Discharge. They both served eighteen months of their sentences at Fort Leavenworth. Others served lesser amounts or accepted undeserved Undesirable Discharges.

F. The Congressional Inquiries and the Investigations—

Even while the Blacks were still in the stockades in Korea, numerous Congressional inquiries were made regarding the situation, led by Representatives Ronald V. Dellums of California and Bella Abzug of New York. In October and November of 1971 an extensive investigation was conducted in and around Camp Humphreys, a lengthy memorandum of which remains on file at the Office of the Inspector General. The report confirms the substance of most of the complaints.

Even on base there was discrimination. The report noted that the waitresses at the NCO Club at Camp Humphreys did practice racially motivated favoritism, and, more significantly, the investigators discovered that "unescorted females [who were in fact prostitutes registered with the Army] were allowed to enter the NCO Club to socialize with military personnel. Some of these unescorted guests would refuse to dance with black soldiers, but would immediately accept a dance request from a white soldier." And this was on base—this perhaps the most humiliating of affronts. Typical again of the way such problems are dealt with, or more correctly not dealt with, is the following comment from the report on this subject:

"The management of the club was aware of the situation and the resultant adverse effect on the morale of the Negro [sic] soldier. Waitresses were continually warned that such favoritism would not be shown to any individual. . . . Unescorted females who were permitted to enter the club were warned that discrimination would not be tolerated and would result in their being banned permanently from the club while unescorted."

The efficacy of this solution is questionable. If waitresses were "continually" being warned, the warnings could not have been very serious. And as for the unescorted females, there is no indication in the report or elsewhere that the practices were halted. Merely that people were being warned, perhaps with a wink.

Off base, though, the situation was far graver. As the Inspector General's report noted, "several night clubs in the city of Anyang-ni [sic] were engaged in discriminatory practices which resulted in their catering to patrons along racial lines." Once again, the club owners were given "strict" warnings. Nowhere, it should be noted, have we uncovered evidence that a club was ever put off limits, even for a day, although violence often exploded because of the racial policies at the clubs.

The IG report also mentions an April 1971 "inquiry into racial unrest at Camp Humphreys," a report which unfortunately appears to have been destroyed. The November report goes on to summarize the determinations of that report, though, and they coincide with the history outlined above: "the primary causes of the unrest were the feeling of the black soldiers that they were being discriminated against and no one seemingly cared about their welfare; . . . the Equal Opportunity Program was lacking in several respects, the most striking of which was that replies to complaints had not been made in many cases; and the unawareness among the officers of the apparent volatile atmosphere that prevailed over Camp Humphreys."

Thus we have the example of an April report warning of "volatile" atmosphere, which is followed by inaction and then riots in May and again in July.

The IG report, with somewhat greater perspicacity than *Jet Magazine*, confirmed that "a 19 May 1971 demonstration occurred in front of Headquarters, Eighth United States

[2] It is assumed that documentation of most of these incidents exists; witnesses abound. Sadly, I have been informed by the Office of the Inspector General that all Eighth Army and subordinate Inspector General files for 1971 were destroyed in January, 1975. Given the rather slow rate at which racism is battled, three to four years seems an inordinately short time to keep such files.

Army to protest alleged racial discrimination and to present grievances. . . ."

The problem with this investigation, though, lay in its conclusion. Despite the confirmation of all these grievances; despite the policies of the clubs; despite the fact that riot after riot was occuring; the report concluded:

"Contrary to (name deleted) opinion, Negro soldiers have not been subjected to incredible discrimination. The United States Army does not tolerate racial discrimination. This is not to imply that individual service members have not been subjected to discriminatory measures by other individuals and agencies. Whenever discrimination is discovered, the Army commanders concerned make every effort to correct this unacceptable situation. The matter is recognized and understood; however, it transcends the military and reflects a national sociological problem."

This, it is submitted, is as fatuous as it is untrue. A glance at the historical review of the many reports on racism in the military belies the assertions of the report. Perhaps the Army no longer officially endorses discrimination, but most assuredly it has tolerated it for many, many years. Moreover, the commanders concerned may make every effort to keep things quiet; and they may make every effort to transfer "troublemakers" as quickly as possible, but they most definitely do not make "every effort" to eliminate discrimination. They could have put every whites-only bar off limits in April; or in May; or in June; or in July; or in 1975; or in 1977. They never did.

G. The Courts-Martial—

It is submitted that, under the circumstances of these cases, the discharges in question should be upgraded even if the petitioners were guilty of the acts with which they were charged. If they had been part of the crowd which expressed their rage on the whites-only clubs—the cases only involved property damage, not assaults of any kind—they would have been, in a real sense, justified. But, for such consideration as it may be given, the petitioners want the record clear that though they agreed, and still agree with the message of the crowd, they did not commit the acts charged. In addition, in such a volatile atmosphere, and given the documented racist practices, it is also clear that the possibility of a fair trial was minimal. The very nature of the events precluded this possibility. For example, because resentment toward Blacks was so great among the villagers after the events of July 9, no Black investigators could enter Anchong-ni to collect information or interview potential witnesses for accused Black GIs.

1. Johnny McRae—

Johnny McRae's case is in this respect typical of a kind of "justice" that is not yet as rare in American society as it ought to be. McRae was not involved in the riot on July 9, 1971. He testified that when he returned to the Black Star Club after a visit to a girlfriend, the place was empty, and when he walked out, he saw a huge mob moving down the street (which turned out to be a crowd of villagers chasing the crowd of Blacks who had attacked the clubs). Unable to move in that direction, he returned to the base and watched most of the ensuing chase from there. He had a witness who was with him at the gate; he had another witness who saw him changing his clothes back at the barracks, all this during the time the crowds were chasing each other nearby. Two other witnesses saw him inside the compound well before the crowd from the village had reached the perimeter of the base. The prosecution produced one witness who saw him at the Black Star Club before he went to see his girlfriend—a fact he did not deny—when the club was filled with many Black GIs, some of whom were later identified as involved in the riot. The prosecution witness had given a statement to the investigators prior to McRae's trial in which he said that McRae didn't say anything at the Black Star Club. At the trial, he said that he had heard McRae say, "Let's not go now, let's go later."

The only other witnesses against McRae were the doormen at two of the clubs, who insisted that they had seen McRae in the crowd which destroyed the clubs, although one said he had "only a glimpse" of McRae, and the other said that though he saw him, he was not doing anything.

Based just on this, McRae was convicted of involvement in all three clubs. What was never brought out, however, was that each club owner had filed a claim with the United States Army for property damage sustained, and that such claims were payable if, and only if, it was proven that the damage was caused by U.S. personnel, and the only conceivable candidates for this distinction were the Blacks who had been charged. In the minds of the club owners and their employees, if Dixon and McRae were not convicted—if somebody were not convicted—they might not be paid by the Americans for their damages. (These damages, it should be added, were grossly inflated. A white MP, SGT David Aptekar, testified he entered Duffy's Tavern and saw the club personnel destroying their own equipment. One other MP attested to the same story. The club owners, it seemed, used the riot for their own benefit, to win monetary settlements that led to the purchase of new and better equipment.)

2. Marty Dixon—

Dixon's case is more complicated, complicated because at trial he entered a plea of guilty, and yet he insists he was not guilty. Marty Dixon was placed in the stockade after the July 9 riots, and he remained there for more than three months before his trial was held. During that time, he was threatened and abused. And, finally, he was set up. Just after being released from several weeks in solitary back to the general population of the stockade, he was passed an open pack of cigarettes by a guard who told him it was from another inmate. This was against regulations, and, when Dixon looked in the pack he saw a note which said "refuse work call tomorrow." He went to see the guard commander to complain and upon leaving the office, was called by the PA system to the Provost Marshal's office. When he got there he was told that he was accused of passing notes, apprehended, and told he was to be placed in solitary again. Refusing to enter the cell block, he broke from the guard and was assaulted by several MPs. In self-defense, a guard was struck, and Dixon was charged with assault on a prison guard without provocation, to be added to his pending charges.

Dixon had already been in court in connection with the pretrial investigations. When he returned to court the day after the additional assault charge was added, the judge warned him, apropos of nothing, that that charge was good for a year in jail by itself, and that the proof was overwhelming. It was already obvious from the court's attitude that he was going to be found guilty of some of the original charges, and two days later his lawyer came to see him with a suggested plea agreement, limiting his jail time to eighteen months, if he would plead guilty to everything. Dixon was told it was the best they could get. Fearing by now for his sanity as well as his physical well-being, Dixon decided to plead guilty as quickly as possible, to avoid an unfair trial and to get out of Korea as soon as he could.

Neither McRae's protestations of innocence, nor Dixon's allegations of set-ups and threats are presented here in any effort to obtain some sort of quasi-judicial reversal of their convictions. The law, in all its so-called majesty, canont deal with the frame-up and with the lying witnesses. The two convictions, indeed, were affirmed by the Army Court of Military Review with pro forma, preprinted, one sentence affirmances. The point, however, is that the Secretary of the Army has the absolute power to upgrade their discharges—the only meaningful relief at this point. The existence of their convictions is not what bothers the petitioners most. What bothers them the most are the years of institutionalized racism, and the fear that so little has been done. Their cases—their discharges—can be a starting point.

III. RACISM IN THE MILITARY

The incidents and the investigations discussed above amply demonstrate that the allegations of racist practices in the Army in Korea in the early '70s were well-founded. But it must be emphasized that that situation was neither an historical aberration nor a particularly extreme case. Just as racism has been a part of American society since the first European explorers set foot on the arrogantly named "New World" which they more arrogantly claimed to have "discovered," racism has been a part of the American military system. This is not to say that gains have not been made, as they have in the overall society, nor to say that there have not been instances when the military position was more advanced than that of the general society—most notably in 1948 when President Truman "desegregated" the armed forces by executive order, six years before the Supreme Court "desegregated" the schools by constitutional decision. But, just as it is a fact that today, twenty three years after *Brown* v. *Board of Education*, there are segregated schools in Chicago, Boston, Louisville, and thousands of other towns and cities, so too racial discrimination—bordering in many instances on outright segregation—has continued in the military over the nearly thirty years since President Truman's Executive Order.

A. Up to 1948—

Black troops have been a part of the American military since long before the Revolutionary War. Blacks as well as whites were subject to the 1652 Massachusetts Bay Colony military training bill, perhaps the first selective service law in this country. Blacks fought in the French and Indian War. As most Americans now know, a Black, Crispus Attucks, died in the Boston Massacre. Most Americans still know few other facts about the history of Black troops, though, such as the knowledge that the central figure in the famous painting of the Battle of Bunker Hill, the soldier who is aiming at the Major commanding the British troops, and who downed him with one shot, was Peter Salem, a Black from Massachusetts who fought at Lexington, at Concord, and at Bunker Hill.[3]

Near the end of the Revolutionary War, however, a new form appeared, the all-Black company. From that time on, with some exceptions, there were segregated military units through the end of World War II. Black troops served, in proportions equivalent to the Black population of the country, in all the intervening wars, but almost always in separate, segregated units. Indeed, since the Civil War there were Black divisions. Then, on July 26, 1948, President Truman issued Executive Order 9981, which stated: "It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard

[3] There is an interesting lesson in Black history to be found in "The Negro Soldier in American History," Chapter 8 of Army Service Forces Manual M 5, October 1944, "Leadership and the Negro Soldier."

to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale."

As the school desegregation cases, and many other examples have shown, however, declaring that "there shall be equality of treatment" and achieving actual equality of treatment are two vastly different concepts. A succession of studies over the years since 1948 has shown how unreal "equality of treatment" actually is.

B. The 1950 Report—

President Truman's Executive Order established a Presidential Committee to investigate the scope of the problem, to confer with the Secretaries of the services, and to make recommendations regarding the new policy. It took two years for their report to issue. That Report, "Freedom to Serve: Equality of Treatment and Opportunity in the Armed Services," suggests that the description of the 1948 Order as "desegregating" the armed forces was a bit overstated. By 1950, the Marines had not, in fact, desegregated, and the other services were just making the initial steps.

The Report also shows that there was great resistance to integration in the Army. For the first two years after the Executive Order, the Army continued to have segregated units, and, in particular, maintained quotas limiting the number of blacks in any unit. In March of 1950, the Army eliminated the quota system.

The 1950 Report did not deal with segregation and discrimination in general, though; as it was concerned only with the initial step, "equality of treatment." Also, of course, this was before the *Brown* case, and segregation was the law in much of the country.

C. The 1963 Reports—

In 1962, President Kennedy established a President's Committee on Equal Opportunity in the Armed Forces, chaired by now-federal District Judge Gerhard A. Gesell, which issued, in 1963, two reports, one of the problems of black troops stationed within the United States, and one of the problems of black troops stationed overseas. These reports—fifteen years after President Truman's Executive Order—point out the severe nature of the problem.

The first report, "Equality of Treatment and Opportunity for Negro Military Personnel Stationed Within the United States," drew some stark conclusions:

"Negro military personnel and their families are daily suffering humiliation and degradation in communities near the bases at which they are compelled to serve, and a vigorous, new program of action is needed to relieve the situation. In addition, remaining problems of equality of treatment and opportunity, both service-wide and at particular bases, call for correction."

The statistics showed little progress since the 1948 order. At the end of 1962, less than one-fourth of one percent of the officers in the Navy and the Marine Corps were Black! The other percentages were slightly better, although, wtih the exception of lower-ranking enlisted members of the Army, the figures did not approach the percentage of Blacks in the overall population.

The problems of on-base recreational facilities were discussed at length. (When reading the conclusions of the 1963 Presidential Committee, bear in mind the grievances of the Blacks at Camp Humphreys, eight years later.) The report noted:

"One of the principal sources of difficulty arises in connection with the operation of on-base Service and NCO Clubs. . . . At some bases, due to pressures brought by white personnel or other factors, forms of segregated Service clubs have developed in practice. . . . Commanding officers have permitted this condition to be imposed by the wishes of a minority of white personnel. . . . At some Service clubs, it is customary for the command, through professional or volunteer hostesses, to arrange for girls [sic] to come to the base for a dance or other entertainment. Although such Service clubs are used by whites and Negroes alike, there are instances when too few or no Negro girls are brought to the base, thus creating unnecessary tensions. There is also evidence that on occasion civilian hostesses have imported onto the base from the civilian community attitudes which are inconsistent with Department of Defense policy."

Numerous other instances of command authorized segregation were noted, including segregated MP units, with Black MPs not sent into white areas. Instances were noted involving the removal of Black members from military bands and choruses when they were scheduled to perform in civilian communities, and it was apparently common practice for base commanders to attend, as speakers or in othed semi-official capacities, segregated community activities. Segregated busing facilities were still used by the military in 1963, with some practices which would be comic were it not for the deadly serious subject matter: "In a number of instances, buses, while required to integrate during the period the bus is on base property, enforced a segregated pattern of seating immediately upon leaving the installation."

Off-base segregation was much more serious and all-pervasive, of course. Segregated schools were common, as were segregated housing patterns. As the Report noted, with considerable prescience, these conditions were not limited to the South, but were found equally in the North. The situation facing Black troops in the local communities was summarized as follows:

"Usually the Negro officer or serviceman has few friends in the community where he is sent. He and his family must build a new life, but many doors are closed outside the Negro section of town. Drug stores, restaurants and bars may refuse to serve him. Bowling alleys, golf courses, theatres, hotels and sections of department stores may exclude him. Transportation may be segregated. Churches may deny him admission. Throughout his period of service at the particular base he is in many ways set apart and denied the general freedom of the community available to his white counterpart.

"Many of these Negro military personnel are well-educated, specially skilled and accustomed to home communities relatively free from discrimination. All of them have enjoyed the relative freedom from distinctions drawn on the basis of color which prevails on military bases. *To all Negroes these community conditions are a constant affront and a constant reminder that the society they are prepared to defend is a society that deprecates their right to full participation as citizens. This should not be.*" [Emphasis added.]

The second report, "Equality of Treatment and Opportunity for Negro Military Personnel in the Reserves, the National Guard, and in Overseas Areas, and for Other Minority Groups," dealt extensively with the peculiarities of bases overseas. Although there was generally a similarity between conditions on-base both at home and abroad, there were some differences, and, in particular, a correlation between the situation on and off-base: "to some extent the presence of off-base discrimination . . . appeared to affect the attitudes toward Negroes prevailing on base."

Discussing the specifics overseas, the report noted: "the bulk of our personnel—enlisted men in the lower grades—find that segregation in clubs, bars, restaurants and other public places is, in some areas, the rule rather than the exception." The complicity of the military in many instances was clearly seen:

"Local action is not always the force behind segregation. *More commonly, and very unfortunately, such discriminatory practices in many areas develop and are sustianed as a result of pressure from some white American military personnel and their dependents. Thus in Europe, the Far East, . . . and possibly in other areas, proprietors originally willing to serve all races have been forced to yield to pressure from such Americans under threat of economic reprisal and, in some instances, violence.*" [Emphasis added.]

This approaches the crux of the problem at Camp Humphreys, and at many other base towns. The report ocntinued:

"Negroes in the lower enlisted grades are also faced with widespread discrimination and segregation in many of the public establishments—bars, clubs, restaurants, and the like—in which these service personnel spend off-duty hours. The problem is a virulent one, and one of considerable magnitude; in Germany, for example, it was reported that most of the enlisted personnel attended segregated establishments with some degree of regularity. The problem does not seem to affect higher grade NCOs or officers, very few of whom reported that they patronized such establishments. The gravity of this widespread problem abroad has been accentuated by attempted sit-ins in Bamberg, Germany, and in various cities in Japan, earlier this year, as well as by the strong views voiced by Negro personnel who were interviewed during overseas visits.

"These incidents point up a related problem. *When Negro or white personnel attempt to break the color barrier in these segregated public establishments, some sort of disturbance often results. When this occurs, the military police arrive and apprehend all those involved, including those personnel whose only transgression was an attempt to obtain service available to their counterparts. The resulting disciplinary action against those apprehended inevitably deters Negro personnel from seeking to be served in other places, and just as inevitably tends to preserve the status quo of segregated facilities.*" [Emphasis added.]

The Report's section on overseas discrimination concluded that the military's record in attempting to combat these problems "is on the whole unimpressive." The Committee proposed a plan for investigating and dealing with all reported incidents of such discrimination, and for putting establishments which discriminated off limits, and requiring approved establishments to display a placard indicating approval.

"Personnel who violate the commander's order by using unauthorized facilities, by discriminating against another member of the Armed Forces in an approved facility or by threatening a proprietor with economic or other reprisal for serving a member of a particular race, should be promptly and strictly dealt with."

The discussion earlier in this petition of the situation at Camp Humphreys, South Korea, eight years later, shows starkly how the problems observed by the Committee persisted, how the solutions were never implemented.

Lest it be thought that all of these investigations were conducted so many years before the incidents at Camp Humphreys that they are of little value, it should be noted that the year after those incidents, yet another investigation was commissioned and conducted, and the same observations were made, and similar conclusions were drawn.

D. The 1972 Report—

In April 1972, less than a year after the series of riots and demonstrations in Korea,

then Secretary of Defense Melvin Laird commissioned the Task Force on the Administration of Military Justice in the Armed Forces. Their four-volume Report, issued November 30, 1972, once again investigated and discussed at length the broad issue of racism in the military. The Task Force, chaired by Lieutenant General C. E. Hutchins, Jr., First Army Commander, and Nathaniel R. Jones, Esq., General Counsel of the NAACP, concluded, not surprisingly, that "the military system does discriminate against its members on the basis of race and ethnic background." It found both intentional discrimination and systemic discrimination.

Detailed statistical studies revealed that Blacks were the recipients of all forms of military punishment—incident reports, Article 15 non-judicial punishments, pre-trial confinement, courts-martial, confinement at hard labor, and administrative discharges, in numbers vastly disproportionate to their ratio in the services. Where the statistical information was available, it was confirmed that the disparities remained even when educational levels and aptitudes were similar: "The disparity," the Task Force noted, "cannot be explained by aptitude or lack of education." The primary, the overwhelming reason for these disparities, the Task Force explained, was racism. As they explained, "the overall problem of racial discrimination in the military and the effect of that problem on military justice is not a Negro problem, a Mexican-American problem or a Puerto Rican or a white problem. It is the problem of a racist society. To view it other than what it is will be a mistake of serious proportions."

Here, in 1972, the Task Force found many of the same problems which had been discussed and noted in the '40s, in the '50s, and in the '60s. For example, "the racial segregation of off-base housing is a persistent problem which has not been dealt with satisfactorily by existing military practices . . . base commanders, especially overseas, are not effectively coping with the problem of segregated housing."

Off-base recreational facilities continued to be a prime source of trouble:

"Off-base recreational and leisure facilities such as clubs and bars continue to be closed to minority service men, especially blacks, in many areas. This form of racial discrimination seems to be more prevalent overseas."

Indeed, the Task Force observed that whites-only bars tended naturally to lead to Blacks-only bars: "Some black men, for so long forced to patronize black-only establishments, have come to feel comfortable in them. They are resisting desegregation on the grounds that command concern comes pretty late in the day. . . ."

Two other practices, common in the early '70s, were described and criticized. One involved "dapping," a practice "current among many young blacks, in the service and out, of slapping and grasping one another's hands in a complicated greeting symbolic of racial solidarity." The practice was so irritating to some whites, including some commanders, that dapping was forbidden in certain locations, notably mess lines, on the grounds that it slowed the line up. But, as the Task Force pointed out, prohibiting dapping on mess lines, rather than prohibiting slowing up mess lines in general, was an example of intentional discrimination. Another was the language question. It was common for commanders to forbid the speaking of Spanish on base, and several instances are known of persons who were charged and convicted of disobedience of direct orders not to speak Spanish. As the Task Force explained, "there is no acceptable reason for prohibiting the use of languages other than English among men and women who speak them."

Finally, and most significantly, the Task Force concluded that selective, discriminatory punishment was a reality. The Task Force "became convinced that the black or Spanish-speaking enlisted man is often singled out for punishment by white authority figures where his white counterpart is not. There is enough evidence of intentional discrimination by individuals to convince the Task Force that such selective punishment is in many cases racially motivated." The analysis of the various forms of punishment possible throughout the military justice system demonstrate the end result of this discrimination: more punishment, more courts-martial, more prison, and more bad discharges for blacks.

E. Other Reports—

The reports discussed above are not the only investigations which have been conducted. A similar study was made for the Congressional Black Caucus. Another was conducted by the NAACP. But all of the investigations described above were conducted for the United States government. They were accomplished by distinguished members of the military, governmental and civilian sectors. They have invariably and consistently, over the years, drawn the same conclusions, that there is a pervasive problem of racially motivated discrimination throughout the military, and it has devastating effects on Black and other minority servicemembers.

They demonstrate that the issues Marty Dixon and Johnny McRae raised were real and serious, and they demonstrate that what happened to Marty Dixon and Johnny McRae as a consequence of the raising of the issues has been all too common a reaction to challenges to that racism.

Moreover, things have not been quiescent since the publication of the Task Force report. There have been riots and demonstrations motivated by racial discrimination throughout the military and around the world. There were riots on the Constellation, on the Kitty Hawk, on the Sumpter and on the Little Rock. There were riots at several bases in Germany and in Japan. These incidents have continued to the present, with reports that there have been race riots among the Marines stationed in Okinawa during the past few months. The horrendous situation at Camp Pendleton, which has only begun to be revealed since the exposure of the Ku Klux Klan activities there, is but the tip of the iceberg. The protestations of the Marine Corps that they knew nothing of this Klan activity within the Corps border on the scandalous. There have been documented cross-burnings by U.S. troops on at least three continents over the past several years.

Many things must be done on many levels. Righting to some extent the wrongs done to Marty Dixon and Johnny McRae is just one small step in a long process, but it is as necessary as all the other steps.

IV. PETITIONERS' BACKGROUNDS

A. Marty B. Dixon—

Marty B. Dixon was born in Brooklyn, New York, on October 3, 1952. He attended public schools in New York City, where he was enrolled in honors classes. He left Thomas Jefferson High School in the tenth grade in the hope of alleviating his family's difficult financial situation. Finding that jobs for untrained Black youths were scarce, Dixon decided to enlist in the Army, hoping to receive the training and experience necessary to break the cycle of ghetto poverty.

Dixon enlisted in the Army on October 24, 1969, shortly after turning seventeen. His scores on the military aptitude tests were high and qualified him for training as a helicopter maintenance apprentice, which he successfully completed. In addition, Dixon earned a high school equivalency diploma in 1970. Prior to the incidents described in this petition, his conduct and efficiency marks were both excellent.

Following his release from Fort Leavenworth, Dixon returned to Brooklyn to rebuild his life. He found marginal employment as a carpet installer and as an upholsterer (in which he had received training while incarcerated). However, due to the nature of his discharge, Dixon was offered only the most meager jobs and the lowest pay. Since April 1975 he has been employed as a security aid for the New York City Department of Health.

In civilian life, both prior and subsequent to military service, Dixon has no record of criminal convictions. In April 1975, as a member of the Auxiliary Police, Dixon received a Certificate of Accomplishment and a Certificate of Scholastic Achievement from the New York City Police Department. Dixon presently lives in Brooklyn; he is engaged and plans to marry in two months.

B. Johnny W. McRae—

Johnny W. McRae was born in North Carolina on May 8, 1952. He lived in North Carolina and attended public school there until 1967, at which time his family moved to New York City. After two more years of school at Franklin K. Lane High School in Brooklyn, McRae enlisted in the Army, expecting that military service would improve his prospects for the future.

McRae entered the Army on May 16, 1969. His high aptitude and good performance led to extensive military training as a helicopter maintenance apprentice. His conduct and efficiency marks prior to the incidents described in this petition were both excellent. While incarcerated at Fort Leavenworth, McRae earned a high school equivalency diploma.

Upon returning to Brooklyn, McRae sought whatever employment he could find, consistently finding that he was denied certain jobs as a result of his military record. At various times he has worked as a building demolition helper, shoe repairman (in which he received training while incarcerated), dishwasher and handyman. For the past two years, he has been employed as a security guard by a New York City firm.

In civilian life, both prior and subsequent to military service, McRae has no record of criminal convictions.

McRae lives at present in Brooklyn with his wife, Valerie, and their two-month-old daughter, Annarie.

V. CONCLUSION

For all the reasons set forth above, because it is clear that on so many levels Marty Dixon and Johnny McRae were the victims of racism, both institutionalized and personalized, and because justice requires it, it is submitted that the relief sought should be granted at once.

TAX CUTS, INFLATION, AND UNEMPLOYMENT

(Mr. CONYERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CONYERS. Mr. Speaker, the American economy is both prosperous and impoverished, growing and stagnating, inflated and deflated, depending on the group or region involved. Some areas are experiencing impressive growth, while others are in deep recession. Certain economic sectors and labor market segments are operating near full capacity, while others operate far below capac-

ity. The distribution of unemployment across this country is the most uneven economic condition of all. In 1977 overall, white males, between the ages of 25–55, experienced an unemployment rate of 3.7 percent; during this same period the jobless rate among black adults was 11.1 percent, among black teenagers, 39.5 percent. These are the official figures, which exclude subemployment rates, and they are very conservative for those at the bottom of the employment ladder.

These enormous economic disparities argue for a stimulus policy that efficiently targets effects to the worst-hit areas and the hardest-hit groups in society rather than spreading benefits, and inflationary costs, haphazardly across the entire economy, as a general tax cut does. The tax cut, as proposed by the President, has quite the opposite effects to a policy of targeted stimulus:

A large portion of tax spending goes into saving, rather than consumer spending, thereby canceling out the stimulus effect altogether;

Tax cuts favor higher-income groups, who are already spending at historically high levels, and favor segments of the labor force already close to full employment and, therefore, general tax cuts are inflationary;

General tax cuts, as compared to direct Federal spending on job programs or even revenue sharing, are the least efficient means to create new jobs, in fact, capable of creating three to four times fewer the number of jobs that are created at a comparable level of direct spending;

There is no way to target the stimulus effect of tax cuts to the urban areas and regions that are most in need of economic stimulus and no way to prevent tax cuts from overheating areas and regions least in need of economic stimulus.

Dr. Charles C. Killingsworth, the noted economist and manpower expert at Michigan State University, has recently published one of the few in-depth analyses of the impact of tax cuts on the economy, in particular on the creation of new employment. Ever since the 1964 tax cut, the first of its kind, economists and economic policymakers have routinely espoused tax cuts as the best medicine available for a sluggish economy and high unemployment. Tax cuts have, of course, the virtue of relatively simple administration. Needless to say, they also enjoy the reputation for being a prime source of constituent satisfaction, and in an election year this is no small advantage.

Yet Professor Killingsworth shows, contrary to the received wisdom about tax cuts, that such policy is the least efficient method of cutting unemployment and targeting economic stimulus. The most impressive aspect of his analysis is the refutation of the idea that tax cuts, particularly the 1964 tax cut, are responsible for the reduction in unemployment. The jobless rate dropped more than 2 percentage points between 1963 and 1968, from 5.7 to 3.5 percent. Economists mistakenly assumed the 1964 tax cut was largely responsible, and the good reputation that subsequent tax cuts have enjoyed stems from that erroneous and, until recently, unchallenged conclusion. Dr. Killingsworth shows, to the contrary, that the reduction in unemployment during that period flowed mainly from changes in labor force participation, the Vietnam war and, resulted from changes in the official definition and accounting of joblessness, rather than from the tax cut of 1964.

One finding, in particular, is as relevant today as it is for the 1960's: Reductions in the unemployment rate often mask reductions in labor force participation. Dr. Killingsworth found, between 1962 and 1969, that for the male population 18 years and older and who had 8 or fewer years of schooling, there was a 25 percent drop in labor force participation besides a more than 17 percent decline in population. Even though the overall unemployment rate dropped a few percentage points, the actual employment of men in the least-educated group declined even more substantially. Unfortunately, current accounting methods of unemployment fail to include on a monthly basis the numbers of jobseekers who stop looking for work out of discouragement and drop out altogether.

As we take up the President's tax cut proposals, I urge my colleagues to review a recently published article on the economic impact of tax cuts, "Tax Cuts and Employment Policy," written by Dr. Killingsworth. It appears in a larger study entitled, "Job Creation: What Works," available from the National Council on Employment Policy in Washington. Because of its length I divided the article into two parts. The first part presents the first major systematic examination of the 1964 tax cut ever undertaken to my knowledge. The second part, which will appear in the subsequent RECORD, provides a cost-benefit analysis of the stimulus effects of tax cuts versus direct jobs spending. Dr. Killingsworth demonstrates that tax cuts have just a minimal impact on job creation and economic opportunity for the groups and areas most vulnerable. A far better alternative is direct, targeted Federal spending on employment and community investment.

PART 1

I. TAX CUTS AND EMPLOYMENT POLICY

(By Charles C. Killingsworth and Christopher T. King)

The Keynesian Revolution in economic thought produced, among other things, the concept of employment policy. Before Keynes, economists generally believed that the only equilibrium condition of the economy was full employment, and that when unemployment occurred it was, almost by definition, voluntary. Keynes taught that the economy could be in equilibrium at any level of employment. The Keynesian analysis led to the conclusion that the achievement of full employment could depend in substantial measure on the development of appropriate government policies, particularly fiscal and monetary policies to correct any shortfall in aggregate demand. The gradual acceptance of Keynesian doctrines led to governmental activism with regard to the level of employment. One of the landmarks along the way, of course, was the Employment Act of 1946 with its declaration that it is the "continuing policy and responsibility of the Federal Government . . . to promote maximum employment, production, and purchasing power." For many analysts, the appropriate manipulation of the spending and taxing powers of the Federal government—that is, fiscal policy—became the essence if not the entirety of employment policy.

In the early 1960s, the concept of employment policy was further narrowed. The Kennedy Council of Economic Advisors inherited a problem of creeping prosperity unemployment which had emerged in the 1950s. In each of the recovery periods from recession after 1953–54, the prosperity level of unemployment was substantially higher than it had been during the preceding prosperity period. Thus the reported rate rose, in a kind of stair-step progression, from around 3 percent in 1951–52 to nearly 6 percent in 1962–63. The CEA persuaded President Kennedy to support a large tax cut for business firms and individuals as the remedy for this unemployment problem. The tax cut was passed in 1964, and this bold initiative in fiscal policy was soon proclaimed a brilliant success by most economists. For a time, tax cuts and employment policy seemed to be almost synonymous terms. Many economists asserted that tax cuts could reduce the unemployment rate to any desired level. Then, in the late sixties and early seventies, inflation emerged as an apparent cost of low unemployment. Economists began to search for alternatives to tax cuts to reduce unemployment. Manpower training programs, public service employment, public works, subsidies and other employment incentives for private employers got increased attention as possibly less inflationary instruments of employment policy. However, the implicit assumption of many economists appeared to be that these instruments are no more than second-best substitutes for the preferred instrument, which is tax cuts.

One remarkable aspect of this assessment of the relative effectiveness of the instruments of employment policy is that there has been no careful analysis of the employment-creating effects of tax cuts. There has been a multitude of assertions based upon extremely simplistic analysis of the experience of the 1960s. The national unemployment rate in 1963, the year before the great tax cut of 1964, was 5.7 percent; in five years after the tax cut, the rate dropped to 3.5 percent; therefore, the tax cut had been proved to be highly effective. As will quickly become obvious, we regard that "proof" as worthless. Until quite recently, as far as we have been able to determine, there has been no analysis of the effects of tax cuts on employment which has gone beyond the simplism just described. On the other hand, the other instruments of employment policy—public service employment, job training, employment subsidies, public works, and so on—have been subjected to rigorous examination in scores of studies. Perhaps predictably, such close examination has revealed shortcomings and weaknesses in these other instruments; and some economists have concluded that these shortcomings and weaknesses provide further proof of the superiority of the tax cut instrument, which has remained essentially unexamined.

THE 1960'S RECONSIDERED

The generally-accepted interpretation of employment and unemployment developments in the 1960s cannot be fully understood without some grasp of the controversy which preceded the adoption of the tax cut. The Administration, with the Council of Economic Advisors as its spokesman, argued during 1961–64 that all of the creeping increase in the prosperity unemployment rate had been caused by a chronic deficiency of aggregate demand, and that a sufficient stimulus to aggregate demand would reduce the unemployment rate at least to the 4 percent level and perhaps lower. Another group of analysts argued that some of the increased unemployment since the early 1950s resulted from structural maladjustments in

the labor market, and that exclusive reliance on the recommended tax cut would solve only part of the problem.

The "aggregate demand" group of economists did not wait very long to claim victory in the foregoing debate. As early as 1966, Walter Heller (chairman of the CEA in the early 1960s) wrote as follows:

"Employment developments in 1965–66 rendered a clear-cut verdict on the structural-unemployment thesis: the alleged hard core of unemployment lies not at 5 or 6 percent, but even deeper than 4 percent—how deep still remains to be ascertained."

At about the same time, Gardner Ackley (Heller's successor as CEA chairman) wrote the following:

"It is as clear today as it can possibly be that, in the situation of 1961, the inadequate demand camp was right and the structuralists were wrong."

Some years later, in 1976, Arthur Okun (Ackley's successor) offered the following comment:

"In retrospect the basic Council strategy [the tax cut] worked amazingly well and achieved full utilization of resources on a macroeconomic basis."

James Tobin, a CEA member in the early 1960s, wrote in 1974 as follows:

"One of the first tasks we set ourselves at the Council was to refute this [structural] diagnosis. Our refutation . . . was gloriously confirmed by the ease with which new jobs were created and unemployment diminished in the subsequent expansion of aggregate demand."

Others who were less directly involved in the debate of the early 1960s rendered similar verdicts. R. A. Gordon stated as one of the conclusions of a lengthy review of unemployment developments the following:

"At the time this was being written [1968], the national unemployment rate had been at or below 4 percent for two and a half years and close to 3.5 percent for the preceding six months. This low an overall figure was the result of a rate of expansion in aggregate demand that brought in its wake a rise in prices that has proved to be unacceptable to our policymakers [emphasis added]."

Paul Samuelson presented as one of the lessons of the 1960s the following:

"Charles Killingsworth, Norbert Wiener, Michael Harrington and other prophets of an automation revolution were sure ten years ago that 'structural unemployment' was America's main problem. Robert Solow and other Kennedy advisers made econometric estimates to show that expansionary fiscal and monetary policies would melt the hard core of unemployment and that little of the excess unemployment that prevailed in 1961 was structural and new. Again, events proved that macroeconomics can, black youths aside, achieve full employment."

The point was made clearly and simply by Lester Thurow as follows:

"The history of the 1960s demonstrated that the American economy can reach unemployment rates of close to 3 percent through the use of simple fiscal and monetary policies."

Four of the seven individuals who are quoted above are past presidents of the American Economic Association. All of the seven are scholars in excellent standing in the academic community. The collective sense of their statements, it seems fair to say, is that the great reduction in the national unemployment rate which occurred from 1963 to 1969 was due entirely to the stimulation of aggregate demand by the tax cuts of 1964–65. Since the tax cut instrument alone achieved this unemployment reduction, its efficacy should be forever beyond doubt—even though we now see that its practical usefulness is constrained by the danger of inflation. In a profession noted for disagreements among its practitioners, on few matters is there such strong agreement among most of the leaders as on the efficacy of tax-cutting as a weapon against unemployment. Possibly this remarkable consensus has suggested to researchers that to try to measure the effectiveness of tax cuts in job creation would be as pointless as an effort to prove that the earth is round, or that night follows day.

The trouble with the consensus judgment is that its cornerstone is a false premise. The implicit assumption of the generally-accepted interpretation of the 1960s is that nothing except the tax cuts had any effect, or any substantial effect, on employment and unemployment. The fact is that other factors had a combined effect on the reported employment and unemployment statistics which was far greater than the effect of the tax cut. With a few trivial exceptions, the consensus analysis deals these other factors by ignoring them. We propose to deal with them in some detail and to provide some indications of their effects on the employment and unemployment statistics. The significant factors are the following:

(1) Two changes in the official definitions of employment and unemployment—one in 1965, the other in 1967

(2) Selective change in labor force participation rates and employment

(3) The Vietnam War, with three areas of impact:

(a) the draft;

(b) college enrollments; and

(c) war production

CHANGES IN DEFINITIONS

In 1965 and 1967, two sets of changes were made in the official definitions of employment and unemployment which had substantial effects on the reported figures. Early in 1965, the decision was made to count enrollees in certain manpower programs as "employed." Enrollees in substantially similar programs in the 1930s were and still are counted as "unemployed" in the official statistics. Nevertheless, this change in definition was never officially announced, and its discrete effects on the reported employment and unemployment totals after 1965 have been generally ignored by analysts dealing with this period. However, at least two published articles have dealt in detail with the effects of this change; and one of the authors of this paper has repeatedly called attention to the change in Congressional testimony. At one hearing, a spokesman for the Bureau of Labor Statistics confirmed the change and accepted as reasonable the estimate of its effect on the unemployment rate.

We need not linger here over the methodological difficulties involved in measuring the effect of this change in definition on the reported labor market statistics. A conservative estimating procedure has been followed by three analysts. The methodology of these estimates suggests that, by 1968 and 1969, these manpower programs and the definition change of 1965 had reduced the reported unployment rate by about five-tenths of a percentage point.

The 1967 change in definition involved dropping persons less than 16 years old from the labor force and tightening the definition of "seeking work," among other things. The Bureau of Labor Statistics has estimated that these changes reduced the reported national unemployment rate by two-tenths of a percentage point.

The combined effect of both definition changes is 0.7 percent. And that is approximately one-third of the reported decrease in the national unemployment rate between 1963 and 1969.

SELECTIVE CHANGES IN LABOR FORCE PARTICIPATION AND EMPLOYMENT

During the debate of the early 1960s about the "best" way to reduce excessive unemployment, proponents of the tax cut predicted that an economic expansion achieved by means of this form of fiscal policy would yield its greatest benefits in terms of more employment and less unemployment to those groups in the labor force that were the most disadvantaged at that time. For example, Walter Heller testified to that effect in 1963 before a Senate Committee. Several years later, the Automation Committee offered a somewhat fuller statement of the thesis in the following terms:

"We have found it useful to view the labor market as a gigantic 'shape-up' with members of the labor force queued in order of their attractiveness to employers. . . . The total number employed and unemployed depends primarily on the general state of economic activity. The employed tend to be those near the beginning of the line and the unemployed those near the end of the line. Only as demand rises will employers reach further down the line in their search for employees. . . . And because workers of low educational attainment are the least desirable to employers, nonwhite and older workers are concentrated at the rear of the line, not only because of their lower educational attainment, but also because of direct discrimination."

In 1976, viewing the matter in retrospect, Arthur Okun asserted that events had fully substantiated the validity of the "hiring line" thesis. He wrote:

"When the returns [from the tax cut of 1964] were in, it became clear that, as the CEA had predicted, the overall reduction in unemployment had strongly benefited those who had been at the back of the hiring line and viewed by the structuralists as 'hard-core.' Unemployment fell most among black adults, the less educated, the low-skilled and those in depressed regions."

The "hiring line" thesis may be restated in more contemporary terminology, as follows: Although job creation by tax-cutting cannot be "targeted" by specifying who is to be eligible for the newly-created jobs, the labor market will compel employers to draw additional workers for the new jobs from the previously disadvantaged groups in the labor force; so that the labor market *indirectly* performs the targeting function without the need for bureaucratic application of eligibility rules.

Superficially, the behavior of unemployment rates in the late 1960s appears to provide some support for this thesis. From 1962 to 1969, the overall unemployment rate for males 18 years of age and older declined by about 56 percent. The rate for the least-educated males (8 or fewer years of education) declined by about the same percentage, while the rates for males with one or more years of college declined by somewhat less than the overall average. The details are shown by Figure 1. Some analysts apparently concluded, from inspection of this unemployment rate behavior, that the least-educated males got a little more than their share of the additional jobs that were created during this period. But this superficial analysis is greatly mistaken. The actual *employment* of men in the least-educated group *declined* substantially from 1962 to 1969. The group held 2.6 million fewer jobs in 1969 than in 1962 (Table 1). The decline in employment was more than offset, however, by a decline of 3.4 million in the number of men in this group who were in the labor force. Some of the labor force decrease was obviously caused by the population decrease in this group (there were more deaths than additions to the group). However, the decline in the labor force was larger in both percentage terms and in absolute numbers than the decrease in population. Expressed in slightly different terms, the labor force participation rate of this group declined sharply during the 1962–1969 period despite the declining overall unemployment rate and the declining unemployment rate for this particular group. Conventional economic analysis tells us that

lower unemployment rates generally induce higher participation rates. In the case of these least-educated men, however, it seems clear that a major factor *causing* the lower unemployment rates was the lower participation rates.

TABLE 1.—LABOR FORCE STATUS OF THE MALE POPULATION 18 YEARS AND OLDER, 8 OR FEWER YEARS OF EDUCATION, MARCH 1962 AND MARCH 1969

[In thousands of persons]

	1962	1969	Absolute change, 1962–69	Percent change, 1962–69
Population [1]	18,348	15,156	−3,192	−17.4
Not in labor force	5,039	5,201	+162	+3.2
Labor force	13,309	9,955	−3,354	−25.2
Employed	12,196	9,604	−2,592	−21.3
Unemployed	1,113	351	−762	−68.5

[1] Civilian noninstitutional population.

Sources: See footnote 16.

Among the better-educated men, the labor market dynamics were quite different. Employment increases were quite substantial—exceeding 30 percent—for males 18 years of age and older with 12 or more years of education. Employment grew more rapidly than the labor force in this group, so that the substantial decrease in the unemployment rate for this group was obviously caused by economic expansion. The labor market did indeed "target" the jobs created by economic expansion. But the targeting was the reverse of what the Automation Commission and others had predicted. Employers did not "reach further down the line in their search for employees." Instead, they ignored those at the far end of the line; as the least educated men died or retired or were fired from their jobs, employers replaced them with better-educated men.

The least-educated group of males is, on the average, considerably older than the better-educated group. This fact suggests the possibility that the large declines in labor force participation may have been caused largely by voluntary retirement and, in the case of employment decreases, by death as well as voluntary retirement. But the same trends—even though, understandably, somewhat less pronounced—are observable even in the central age group, ages 35–44. As shown by Figure 2 (not printed), between 1962 and 1969, participation rates fell sharply for each of the three lowest educational attainment groups (0–4 years, 5–7 years, and 8 years of education); and employment among this group also declined, from 2.6 million in 1962 to 2.0 million in 1969, or 23 percent. Among better-educated men (those with 12 years, 13–15 years, and 16 or more years of education), in the same age bracket, there were no significant changes in their already high participation rates, and there were substantial increases in employment from 1962 to 1969 (from 6.0 million in 1962 to 6.7 million in 1969).

Two further points deserve emphasis before sumarizing this aspect of the analysis. The manpower programs described in the preceding section offset to some degree the "natural" forces of the labor market, in the sense that the programs were targeted to a large extent on the less-educated and the young. Furthermore, the following section (on the effects of the Vietnam War) will show that war also tends to favor the less-educated and less-skilled workers. If there had been no manpower programs and no war during the 1962–69 period, it seems plausible to infer that the less-educated males would have lost an even larger number of jobs than they did.

Several significant conclusions can be drawn from this aspect of the analysis. One is that the mere examination of unemployment rates for various groups in the labor force, without consideration of other magnitudes, can be quite misleading. Anyone who looks solely at the reported unemployment rates for the least-educated men is likely to conclude (and several analysts have concluded) that their labor market conditions had improved markedly from 1962 to 1969. However, when population changes, employment changes and participation rate changes are taken into account, the opposite conclusion must be accepted—despite the tax cut, despite the Vietnam War, and despite manpower programs, labor market developments in the 1962–69 period were highly adverse to the least-educated males.

A second conclusion is that the massive withdrawal of least-educated males from the labor force—3.4 million between 1962 and 1969—contributed substantially to the decline in the national unemployment rate. Some of these withdrawals were caused by death; some were caused by voluntary retirement; but a substantial number were caused by adverse labor market conditions, particularly disappearing employment opportunities. If the overall participation rate for this group had been stable from 1962 to 1969, there would have been about one million more of these least-educated men in the total labor force in 1969. The one million figure is an admittedly crude approximation. It simply serves the purpose of illustrating that we are not dealing with trivial magnitudes. It is ironical that even the unemployment rate reduction which was caused by this large withdrawal from the labor force should be widely attributed to the tax cut.

Finally, we re-emphasize the basic point that this evidence seems to show beyond a reasonable doubt that the tax cut of 1964 created jobs exclusively for the labor force groups that had the least serious employment problems in the early 1960s. Employers did not reach further down the alleged hiring line; they intensified their competition for those already at the head of the line (in terms of educational qualifications), and the number at the end of the line decreased only because of death, retirement and discouragement. Some analysts accept the value judgment that one purpose of employment policy should be to redress the imbalances growing out of normal operations of the labor market. In other words, one aspect of employment policy should be the provision of job opportunities for those who cannot find such opportunities in the regular labor market. The evidence presented in this section strongly suggests that tax cuts do not significantly redress the imbalances of the labor market.

THE VIETNAM WAR

Wars change the structure of employment—that is, the kinds of jobs available—and they retard the normal growth of the civilian labor force by drawing adults into the armed services. The larger the war, the larger the effects. For an extended period, the Administration tried to present the Vietnam War as a "little" war. Even the current expenditures on the war were grossly understated. Perhaps this partially explains why so many analysts have ignored the labor market effects of the Vietnam War when analyzing the late 1960s. In any event, the data are available a decade later to support the statement that the Vietnam War had substantial effects on the job mix and unemployment.

1. *The Draft.* The active duty strength of the U.S. Armed Forces increased by approximately one million persons during the Vietnam War. During FY 1966, accessions increased to 878,000, which was about double the number of accessions in FY 1965. Separations, of course, reflected the lower accession rates of early years. Thus, in FY 1966, total separations were 507,000. In short, the draft drew substantially more persons from the civilian population than were being discharged from the Armed Forces. Almost all of those who entered the Armed Forces were young males (mainly 18–24 years of age). About 60 percent of those inducted had 12 years of education (i.e., simply a high school diploma), although only 40 percent of the male civilian population reported this level of educational attainment.

We have scarcely any records of the pre-service and post-service labor force status of those who were in the Armed Forces at some time during the Vietnam War. It is possible, however, to develop estimates based on the labor force status of civilians in the same age group with the same education. If these estimates are reasonably accurate, then it follows that the Armed Forces expansion during the Vietnam War had only a small *direct* effect on the national unemployment rate. The number of men who had been unemployed prior to induction was only slightly larger than the number who were unemployed several months after separation.

The *indirect* effects of Armed Forces expansion were more substantial. It seems self-evident that the Armed Forces expansion *per se* did not affect total employment in any significant way. When an employed person left for the Armed Forces, he would normally be replaced by his employer. Most of the replacements presumably would be persons with equal or lesser educational attainment. Some of the replacements would come directly from other jobs, and their employers would then replace them; some would come from the unemployed; and some would come from outside the labor force. Our analysis of the replacement process and our estimates of the sources of replacements suggest that the net *indirect* effect of the Armed Forces expansion was substantially larger than the direct effect described above; however, the opening up of vacancies undoubtedly induced many persons to enter the labor force, and this partly offset the indirect effect on the unemployment rate.

2. *College Enrollments.* During the early Vietnam War years, student deferment policy was fairly liberal. Full-time college enrollments of males 18–24 years of age jumped sharply in the fall of 1965 and remained significantly above previously projected levels until the deferment system ended. No such change occurred among females in the same age group. The "excess" male enrollments remained at the level of about 300,000 to 400,000 during this period.

Some of the young men who enrolled in colleges to escape the draft were able to attend classes on a full-time basis and also to hold jobs. We estimate, however, that about 160,000 young males left the labor force as a result of the above-trend college enrollments. Most of these would have been employed if they had not enrolled. Therefore, as was true of Armed Forces expansion, the main impact of student deferment policy on the labor market was indirect: The higher rate of college enrollments generated job vacancies which were filled ultimately either from the unemployed or, to a lesser degree, from persons who had previously been outside the labor force.

We estimate that the cumulative *direct* effect of Armed Forces expansion on unemployment was to reduce the reported rate by 0.4 percent by 1969. We estimate that the combined *indirect* effect of Armed Forces expansion and the temporary increase in college enrollments by draft-age males would have been a reduction of 0.7 percent in the reported unemployment rate if we ignored the induced response in labor force participation rates; adjusting for this response, we estimate a net effect of 0.5 percent on the reported unemployment rate by 1969. Adding together the direct and indirect effects, we

conclude that the expansion of the Armed Forced reduced the national unemployment rate by 0.9 percent by 1969.

3. *War Production.* Wars change the structure of employment by changing the patterns of demand for products and services. In peacetime—such as the period from 1955 to 1963—military procurement emphasizes "sophisticated" material such as aircraft, missiles, electronics gear, and communications equipment. During wars—such as the 1965 to 1968 period—the emphasis shifts to "'conventional" equipment, such as weapons, ammunition, uniforms, shoes, vehicles, and so on. During the 1955–1963 period, only about 18 to 20 percent of military purchases involved "conventional" materiel. In the late 1960s, more than 50 percent of military procurement was for the "conventional" items. The "conventional" products create a job mix that is significantly different from the job mix needed to produce the "sophisticated" materiel. War production benefits durable goods manufacturers and semi-skilled blue collar workers.

From FY 1965 to FY 1968, defense-related employment increased by 1.3 million persons. That was roughly 25 percent of the total increase in employment during that period. Blue collar employment increases has been less than 40 percent of the total civilian employment increases in the preceding five years; but the blue collar share of the increase in defense employment was 60 percent after 1965. Another way of expressing the matter is that, during the FY 1965 to FY 1968 period, defense employment increases contributed only about 15 percent of the new white collar jobs, but nearly 50 percent of the new blue collar jobs.

We may assume that, if there had been no Vietnam War, the federal government would have contributed the same amounts to aggregate demand, either by direct purchases or by further tax cuts. But we may not reasonably assume that the same kinds of jobs would have been created, especially by tax cuts. The production of defense material disproportionately benefited the less-educated and less-skilled workers. There is a basis for speculation that these benefits may have gone mainly to the high school dropout category (9 to 11 years of education). This group shows a small population increase, a small labor force decrease, and a small employment increase from 1962 to 1969—a combination which adds up to a large decrease in the unemployment rate for the group. It seems possible that, if war production had not created a large number of semi-skilled blue collar jobs, this group might have suffered a substantial net loss, instead of a small gain, in employment.

Analysis of the job mix created by defense production suggests another important consideration. If the same increase in aggregate demand had occurred as a result of tax cuts rather than direct government purchases for defense, the job mix would have shifted to the detriment of less-skilled and less-educated workers. Civilian patterns of employment increase would have been augmented; or, in simpler terms, the demand for more-educated and higher-skilled workers would have been greater. In view of the quite low unemployment rates for better-educated workers during 1968 and 1969, and the further important fact that these low rates were achieved by high levels of employment, a shift of demand away from the kinds of workers favored by defense production would have created—or tightened—supply bottlenecks in the upper levels of the labor markets.

SUMMING UP THE SIXTIES

In 1963, the national unemployment rate was 5.7 percent. In 1969, the national unemployment rate was 3.5 percent. Thus, the decrease was 2.2 percent. The 1965 definition change, plus the expansion of certain manpower programs, accounted for a reduction of 0.5 percent in the reported rate. The 1967 definition changes reduced the rate by 0.2 percent. The direct and indirect effects of Armed Forces expansion and draft deferment policies reduced the reported rate by 0.9 percent by 1969. In the absence of these factors, the reported rate would have been 5.1 percent rather than 3.5 percent. By this analysis, no more than 0.6 percent of the total reduction in the unemployment rate from 1962 to 1969 should be attributed to the tax cuts of 1964 and 1965. The conventional wisdom exemplified in the opening paragraphs of this paper seems to attribute *all* of the decrease in the unemployment rate to the tax cut, or fiscal policy, or macroeconomics. The manpower programs, the expansion of the Armed Forces and draft deferment policies were not related to the tax cut, or to fiscal policy as usually understood, or to macroeconomics. Asserting or implying that the sole reason why the national unemployment rate decreased from 5.7 percent to 3.5 percent was the tax cut, or, more broadly, macroeconomic policy, imputes to this one factor three to three and one-half times the effect that it actually had.

Hence, the conventional wisdom greatly exaggerates both the size and the nature of the effects of fiscal policy on unemployment in the 1960s. If only the dead past were involved, this lengthy post-mortem would not be justified. But the conventional wisdom about the sixties lives on in contemporary estimating procedures, in policy discussion and in policy decisions about the seventies and later. Two examples will illustrate the point.

In a celebrated article in 1962, Arthur M. Okun promulgated what has become known as "Okun's Law." On the basis of an analysis of data for the period from 1947 to 1960, Okun concluded that, on the average, "each extra percentage point in the unemployment rate above four percent has been associated with about a three percent decrement in real GNP." This statement can be reformulated—and commonly is—to say that, at least with an unemployment rate above 4 percent, each 1 percent increase in real GNP reduces the unemployment rate by about 0.3 percent. This relationship has come to be widely used in economic forecasting. Many of the best-known forecasting models incorporate some version of Okun's Law. However, the law is usually updated by incorporating data from the post-1960s period. Implicitly, all of the decrease in the unemployment rate in the late 1960s attributed to the increase in real GNP during that period. This procedure therefore assumes a greater effect on unemployment rates from a given increase in GNP than did the original version of Okun's Law. For example, the estimating model currently used by the Congressional Budget Office assumes that a 1 percent increase in real GNP reduces unemployment by 0.39 percent, rather than the 0.3 percent of the original Okun's Law.

In 1975, the Administration recommended and Congress passed a large tax reduction, with a net total of about $23 billion in tax cuts, rebates and special payments. This total was close to the size of the 1964 tax cut as a percentage of GNP. The 1964 tax cut was a little less than 2 percent of GNP, and the 1975 tax cut was about 1.5 percent of GNP. However, the 1975 measure emphasized immediate impact much more heavily than the 1964 reduction had. The latter was effectuated primarily by a reduction in income tax withholding rates, which meant that the total was fed into the economy over a number of months. The 1975 cut provided that about 43 percent of the total should be paid to the recipients immediately in the form of rebates and special payments. It seems clear, in retrospect, that the results were disappointing to many people, including some of the Senators and Representatives who voted for the 1975 tax cut.

When Carter Administration spokesmen appeared before the House Ways and Means Committee in early 1977 to advocate an $11 billion tax rebate which was then a major part of the Carter economic stimulus package, these spokesmen were asked to evaluate the efficacy of the 1975 tax reductions. The Administration spokesmen were unable to present any such evaluative studies, and one official said that, so far as he knew, none were in existence. (The authors of this paper have found none themselves.) Apparently the 1975 tax reduction was rationalized by the conventional wisdom about the 1960s; and apparently the hope that the same conventional wisdom would support the new tax cut proposal of 1977. When President Carter withdrew his tax rebate proposal in April, 1977, he said that it was no longer needed. But there were some who suggested that the conventional wisdom had been so weakened by recent experience that it no longer was sufficient to persuade Congress to vote for another multi-billion dollar tax cut as a primary instruments of job creation.

FIRST-STRIKE CAPABILITIES

(Mr. CARR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CARR. Mr. Speaker, about a month ago my Armed Services Committee colleague, Congressman SAM STRATTON, directed a member of the committee staff to perform a study of the relative first-strike capabilities of the United States and the Soviet Union. Mr. STRATTON courteously permitted me to examine the study prior to release. I found the study to have used as its raw data source a chart from an article written by Congressman TOM DOWNEY. Since the staff member who prepared the chart for Mr. DOWNEY is now employed jointly by Mr. DOWNEY and me, I then asked him to examine the committee study. This reexamination yielded results dramatically different from those reported by Mr. STRATTON, particularly regarding the near-term situation. I sent a copy of this reexamination to Mr. STRATTON, and then released it to the press.

On January 23, Mr. STRATTON inserted his study into the RECORD, pages 434–440. Today, at the conclusion of my remarks, I shall insert my critique of his study. I urge everyone with an interest in national security to read both the study and the critique.

In his January 23 remarks Mr. STRATTON attributed the discrepancies between our results to subsequent information. That is, instead of following the Downey chart to the letter, he has in some instances substituted later information delivered to the committee by the Chairman of the Joint Chiefs of Staff. As a general principle, we can all agree that later information is better, and we can agree that hard numbers from the Chairman of the Joint Chiefs are the best information of all. But have these

numbers in fact been given to us by the Chairman? I do not recall them. Specifically—

First. Have the Joint Chiefs told us all Soviet silos, even the antique SS–11's, are hardened to 3,500 pounds per square inch as the Stratton study assumed? I assumed 2,000 psi for new-generation silos and 300 psi for old silos, and I find it striking that Congressional Budget Office, in a study of the same subject released subsequent to and entirely independently of both my study and Mr. STRATTON's, used 2,000/600 psi, which is quite similar to my assumptions.

I invite Mr. STRATTON to supply, for the RECORD, the Joint Chiefs of Staff claim of present universal 3,500 psi Soviet silo hardness.

Second. Have the Joint Chiefs of Staff given testimony to the effect that the Minuteman II accuracy upgrade will not be in place until the 1980's? I invite Mr. STRATTON to supply this for the RECORD.

Third. Has there been testimony by the Joint Chiefs to support the probability that the Soviets will deploy the very high numbers of ICBM reentry vehicles with the very high yields assumed by Mr. STRATTON, as contrasted with the numbers and yields predicted by the Downey chart? The problem here is that, for a given throwweight and given level of technology, numbers of warheads per missile and yielded per warhead are related inversely. That is, one can increase the numbers of warheads on a missile by making each one smaller, or one can use bigger warheads if one uses fewer. But as I understand it, the Stratton study has taken the high range of possible warhead deployment and the high range of yield per warhead, and proceeded on the assumption that both would occur simultaneously, which is impossible. In addition, fraticide effects have been neglected.

I invite Mr. STRATTON to submit supporting arguments in behalf of these assumptions.

Fourth. Mr. STRATTON claims that, after a successful countersilo strike by the Soviets, we would not retaliate with the tremendous destructive power of our remaining forces. On what is this assumption, which I find inconceivable and unacceptable, based? I invite him to submit for the RECORD any statements by the Joint Chiefs which would support this assumption.

Fifth. The U.S. attack strategy proposed by the Stratton study is extremely inefficient, for at least two reasons. First, it concentrates our attack on a portion of the Soviet targets, striking them many times while leaving other targets unattacked. Since successive attacks on a given target produce ever-diminishing increments of kill probability, a more effective attack is one which seeks more or less equal kill probability against all targets. This error in the Stratton study stems from the calculation method used. Second, it is wasteful to throw Poseidon warheads at hard targets, since they were not designed for this purpose; the same can be said of older Soviet ICBM's and all Soviet SLBM's.

I invite Mr. STRATTON to recalculate his study with these considerations in mind. Even without changing his quantitative assumptions, I believe he will find this strategy gives the United States considerably better results.

I will now insert into the RECORD my critique of Mr. STRATTON's committee staff study. I will reserve another special order next week to discuss this issue, and have so notified Mr. STRATTON. I hope all Members interested in U.S. strategic security will be able to participate.

HOUSE ARMED SERVICES STAFF STUDY CONTAINS CRITICAL ERRORS REVERSING RESULTS; SOVIET ICBM'S IN FACT MORE VULNERABLE THAN U.S. ICBM'S

WASHINGTON, D.C.—Congressman Bob Carr, a member of the House Armed Services Committee, has demonstrated that a study on nuclear first strike capabilities recently done by the staff of that committee is incorrect, and that the United States is closer to a nuclear first strike than is the Soviet Union.

The study, which had been done for Congressman Samuel S. Stratton, another member of the committee, was based on a chart inserted in the Congressional Record by Congressman Thomas Downey of New York, also a Democratic member of the committee. Congressman Carr's analysis of the committee study was performed with the assistance of the Congressional staff member who had prepared the original Congressional Record chart on which the committee staff study was based.

Specifically, Congressman Carr found that a first strike by the United States against the Soviet Union's ICBM silos at the conclusion of the current fiscal year would destroy 82 percent of the Soviet silos while expending 43 percent of the alert U.S. ballistic missile nuclear warheads. The figures remain essentially unchanged through the early 1980s, as the increasing power of U.S. Minuteman III ICBM warheads is almost exactly offset by increasing strength of some Soviet missile silos. The committee staff study had claimed that, even if all U.S. ballistic missile warheads were used in the attack, only 15 percent of Soviet silos would be destroyed through 1980, rising to a maximum of 65 percent destroyed by the mid 1980s.

Congressman Carr found that a Soviet first strike against U.S. silos at the end of the current fiscal year would destroy only 37 percent of U.S. ICBM silos while expending 71 percent of available Soviet missile warheads. The committee staff study claimed U.S. ICBMs to be "vulnerable" at the present time, but did not provide specific figures.

The committee staff study also claimed that by 1981 the Soviet Union would be able to destroy "at least 75 percent" of U.S. silos while expending 12 to 60 percent of available missile warheads. Congressman Carr calculated that it would be 1982 before an attack on this order would be possible, that it would destroy only 67 percent of U.S. silos, that it would consume 54 percent of available Soviet warheads. Alternatively, Congressman Carr calculated that the Soviets could increase the effectiveness of their attack to 81 percent by loading each MIRV ICBM with three large warheads instead of the 4 to 8 smaller warheads now used. But since this would require 84 percent of available warheads to be expended in the attack, and since the missiles thus configured would be markedly less effective against industrial targets, Congressman Carr said he did not expect the Soviets to follow this course.

"We hear a great deal of talk about the growing vulnerability of our ICBMs," Carr said. "The fact is, the Soviet ICBMs are almost as vulnerable right now as ours will be in the early 80s. Overall, they're much more vulnerable when you consider that their ICBMs make up about three quarters of their strategic force effectiveness, while ours is evenly divided among ICBMs, submarine-launched missiles, and bombers with the last two being immune to Soviet ICBM attacks."

Carr stressed that we did not regard an 81 percent-effective attack as preventing retaliation. "If you look at what either side can do to the other with only 19 percent of its missiles surviving, it's a cataclysm beyond anything in history. If you add what can be done with the submarines, bombers, and cruise missiles, it's several times beyond anything any rational human being can imagine."

Carr rejected the argument, advanced by Congressman Stratton and several years earlier by then-Secretary of Defense James Schlesinger, that a successful Soviet attack on U.S. ICBMs would preclude retaliation by U.S. bombers, cruise missiles, and submarine-launched missiles because of fear of Soviet counter-retaliation. "With ICBMs 100 percent intact or ICBMs 100 percent destroyed, the answer is the same: Either side can blow the other back to the stone age, but neither can prevent the same from being done to it in return," Carr said. "A lot of people get uptight about the possible loss of ICBMs, but when you consider that you can retaliate just as well without them, and that ICBMs only unique capability is that of taking out the other side's ICBMs quickly, the ICBM emphasis becomes circular."

Agreeing that silos would eventually become vulnerable as accuracy improved, agreeing with the staff study that SALT constraints on numbers of missiles and numbers of MIRVs would not prevent this, Carr disagreed with the staff study's claim that accuracy and yield would have to be directly limited in an arms control treaty.

"You can limit yield indirectly by limiting throwweight," Carr said, "and I hope to get that in SALT II. You can constrain accuracy indirectly by prohibiting testing and deployment of new systems; I hope to get at least a piece of this in SALT II, and the nation's military security could best be served by concluding and ratifying SALT II as quickly as possible so we can move on and get the rest of it in SALT III."

Carr found the committee staff study to contain four specific errors, all skewing the result against the U.S.:

1. The study treated the Minuteman III INS–20 accuracy upgrade program as an option of the 1980s. In fact, an Air Force spokesman confirmed that this program is already under way and will be completed by the end of the current fiscal year in September, 1978. Thus, the study understated the effectiveness of Minuteman III by a factor of 4.

2. The Congressional Record chart used as a basis for the study listed 3,500 pounds per square inch as the hardness of Soviet ICBM silos in the late 1980s. But the staff study credited all Soviet silos with this level of hardness today.

3. The staff study apparently assumed present-day Soviet ICBMs to have 1,250-foot accuracy, although this will not be the case until sometime in the 1980s.

4. The study did not attempt to use Walsh's Law to calculate the probable yields of Soviet missiles with the throwweight expected to be available. Instead, it hypothesized a range of yields, most of which were unachievably high for the throwweight and numerical MIRV loadings it assumed.

A detailed critique of the staff study is attached.

CRITIQUE OF HOUSE ARMED SERVICES COMMITTEE STAFF STUDY ON FIRST STRIKE

1. Study places Minuteman III INS–20 accuracy upgrade program sometime in the 1980s, when in fact it will be completed at end of FY '78. The Library of Congress M–X issue brief describes accuracy obtainable by this program as .1 nm. Thus, the study underestimates MM III accuracy by a factor of 2, and underestimates MM III hard-target lethality by a factor of 4.

2. Study credits Soviet silos with 3500 psi. This figure was cited in the Congressional Record chart as possible for the Soviets in the *late* 1980s, but the study has assumed it for all silos *today*, including those for the SS–7 and SS–11 Soviet ICBMs first deployed in the early 1960s! Even for the late 1980s, 3500 psi was cited in the chart as the ultimate theoretically achieveable. It is very difficult to achieve, and there is no more reason to assume the Soviets will do it than that we will do it. More realistic to assume 2000 psi for MM upgrade (850 silos by end of FY '78) and 4th-generation Soviet silos; 300 psi for Titan, old Soviet missiles, and non-upgraded Minuteman.

3. Yield for Soviet ICBMs suggested by study is in some cases (including all references to a 9MT MIRV RV) unrealistically high and unachievable by any known ICBM with throwweight available.

4. The study is not specific on the assumed level of Soviet ICBM accuracy at the present time. But it appears to imply—and its results can only be justified by—the assumption that the Soviets have 1250 ft. accuracy today, when in fact there is no basis for assuming this at this time.

5. Putting all the above together, a U.S. first strike against Soviet silos would destroy 82% at end of FY '78, using 43% of available ballistic missile warheads. By 1982–5, increased Soviet deployment of new-generation missiles in hard silos would almost exactly offset the effect of Mk. 12A, and kill would be 81%.

6. Similarly, applying the above to Soviet ICBM numbers based on Nitze's 1985 projections, IISS 1977 estimates, and the HASC study's deployment rate estimates, we find a Soviet first strike at end of FY '78 destroying 37 percent of U.S. silos, expending 71 percent of available ballistic warheads. By early to mid 1980s, improvement of Soviet accuracy to the 1250-foot level used in the HASC study, plus deployment of Soviet ICBM MIRVs to the reported SALT II limit, would provide a 67 percent silo kill using 54 percent of available warheads, asssuming Soviet MIRV loadings of 4 to 8 warheads per missile are continued, and rather generously assuming they achieve Mk 12A yield-to-weight technology. Alternatively, the Soviets could raise their kill level to 81 percent if they dedicated their entire MIRV ICBM force to a first strike by placing three large warheads on each missile. But this would significantly decrease the capability of their missiles against industrial targets, and would raise the percentage of warheads expended in the attack to 84 percent. (This assumes fratricide permits only two warheads to be used against any single target. All calculations of possible yields are based on Walsh's Law.)

7. Inclusion of air-breathing weapons in the above calculations would increase the number of reserve nuclear weapons available to the U.S. by a much greater amount than it would increase the weapons available to the Soviets.

8. The study's SALT discussion is, therefore, based on an assumption of U.S. inferiority which does not exist. In fact, a freezing of capabilities at present levels would tend to preserve U.S. superiority.

9. This SALT discussion assumes accuracy cannot be constrained by prohibition of flight-testing, and yield cannot be constrained by limits on throwweight. The first proposition is most probably incorrect; the second is certainly incorrect.

10. The claim that after a Soviet first strike against our silos we would be afraid to retaliate is not plausible, even if we assume no launch-under-attack and even if we assume 19 percent of the U.S. ICBM force to be insufficient for effective retaliation (neither of which the Russians can assume). The fact is, a countersilo strike changes nothing. Both sides remain afraid to strike cities because of fear of a retaliatory counter-city strike. But we can certainly use our SLMs to strike Soviet economic targets in low-population areas, destroying several times the value of our destroyed silos and placing the Soviets in the position of being the loser on the exchange. Note particularly that the reasoning in the third paragraph of page 435 of Congressman Stratton's statement is equally valid whether the effectiveness of the Soviet countersilo strike is 100 percent or 0 percent.

11. The statement by the "unidentified" U.S. official to Aviation Week, quoted on page 435 of Congressman Stratton's statement, is intended as an argument for counterforce capability. But it is more valid as an argument against a weapon-wasting counterforce attack, and for full dedication to counter-value retaliatory capability.

12. Note on calculations: The HASC staff study first established the kill criterion (75 percent on most cases) and then determined the number of RVs required to meet that criterion. This is valid methodology for a war planner who must meet a requirement given to him, but for a predictive study such as this it creates certain problems. First, in some cases differences between weapons are radically exaggerated. For example, a weapon with SSKP of 76 percent would be considered twice as capable as a weapon with SSKP of 74 percent. Second, in other cases much more substantial differences between weapons are arbitrarily minimized. For example, in Table IV (page 439) of the study, one megaton appears to have the same effect against 1000 psi as does 3 megatons, although this is obviously not the case. The problem is that once the desired criterion is obtained, the methodology cannot discriminate further. For example, the footnotes to Table II (page 439) of the study can only say "at least" so many silos will be destroyed; we cannot tell how much more than the given number will be destroyed. Third, this approach leads to targetting strategies which produce less than optimum results. Therefore, a better approach is to project an attack against the targets by whatever weapons are available, and then to predict what damage level will be achieved. My calculations use this method, as did the Downey article referenced. However, for an apples-to-apples comparison I attach the HASC staff study's Tables I and II using the HASC methodology but with input figures corrected. Thus, for example, the number of FY '78 MM III RVs needed for 75 percent kill drops from 9 to 2.

COMMENTS ON CONGRESSMAN STRATTON'S NINE POINTS

Point 1: The study does not support this conclusion, since it does not appear to have calculated the number of RVs which can be carried at each of the yields considered. If these calculations had been done according to Walsh's Law, it would have been determined that, at projected deployment rates, a Soviet first strike at the specified level of success could be achieved, but only under the following conditions:

A. 1982 time frame.

B. Soviets having Mk. 12A yield-to-weight technology.

C. MIRV loadings reduced to 3 RVs per missile. (See critique No. 6.) Note that this extreme dedication to counterforce significantly reduces capability against softer targets.

D. Dedication of the full Soviet MIRV ICBM force to the attack. Thus, instead of taking out 75 percent plus of U.S. silos by expending 12–60 percent, the Soviets would have to dedicate 84 percent of their land-based RVs to take out 81 percent of our silos.

E. If, alternatively, the Soviets were to maintain the load of 8 RVs for the SS–18, 6 for the SS–19, and 4 for the SS–17—this is a more realistic scenario—they would be able to bring less force to bear because fratricide would limit them to 2 RVs per target. In this case, they would destroy only 67 percent of U.S. silos, but they would use only 54 percent of their RVs. If you accept the Nitze standard that the side with the most remaining forces wins, this attack is a winner. On the other hand, if you look at what our 33 percent remaining can do to the Soviet economic base, the attack is a loser.

Point 2: Just not so! See critique items 1, 2, and 4. In addition, the use of SSBNS against Soviet silos is an inappropriate straw-man tactic similar to using U.S.-based rifle bullets against Soviet silos: By using an inappropriate weapon, our capability is run down to no effect. Corrected Statement: This year and through 1980, if 2068 (43 percent of the U.S. land and sea-based ballistic missile forces on alert) were dispatched against USSR silo targets, approximately 1050 out of 1300—slightly more than 80 percent—Soviet silos would most probably be destroyed.

Point 3: The most important part of the MM III improvement package referenced is the accuracy upgrade, which is already on the way and will be in place by the end of the current fiscal year. Combining this with the more plausible silo hardness input, we have 82 percent U.S. silo kill capability at the end of this year, with this capability remaining essentially constant if Mk 12A is added.

Point 4: Correct. But why was it not pointed out that Soviet SLBMs likewise have negligible hard target capability? (Incidentally, if one looks about ten years down the road for the U.S. and 15–20 for the Soviets, SLBMs can become silo-busters (this is the plan for Trident II), particularly if homing MaRV is used. Because of their shorter warning time, SLBMs will ultimately be the preferred first-strike weapon.)

Point 5: Correct, unless SALT can constrain Soviet hard-target lethality.

Point 6: Correct, just as we have used SALT to maintain our position of superiority with respect to accuracy and numbers of warheads.

Point 7: It is correct that numerical limitations alone are meaningless. But "asymmetry" (which today favors the U.S.) has nothing to do with it. The issue is survivable retaliatory capability for the U.S. Since we are not planning a first strike, Soviet survivable retaliatory capability is of no significance to us except to the extent that it reduces the probability of a Soviet launch on warning.

Point 8: A sufficiency comprehensive and restrictive limit on missile flight testing should provide the verifiable accuracy constraint desired. A throwweight constraint or volume constraint can, by inference, provide the yield constraint desired. If the agreement were to be violated by the Soviets to any significant degree, presumably it would be denounced and abrogated by the U.S.

TABLE I.—SINGLE AND MULTIPLE SHOT PROBABILITY OF DESTROYING A SILO HARDENED TO 2,000 PSI [1]

System	Yield (KT)	Lethal radius (FT)	CEP (FT)	Single shot P_k	Number of RV's for at least the desired kill probability		
					0.50	0.75	0.90
In place:							
Poseidon	40	320	1,824	0.02	[3] 35	69	114
Polaris [2]	600	900	3,040	.05	14	27	45
MM–II	1,000	1,050	1,824	.30 (0.70)	3 (1)	5 (2)	9 (2)
MM–III	170	600	1,216	.55 (.92)	1 (1)	2 (1)	4 (1)
Titan II	9,000	2,200	3,040	.46 (.87)	2 (1)	3 (2)	5 (2)
1980's:							
MM–III/MK 12A	350	730	608	.73 (.98)	1	2 (1)	3 (2)
Trident	100	450	1,520	.07	10	19	32

[1] Derived using the GE missile effectiveness calculator.
[2] Any number greater than 3 is highly impractical.
[3] Assumes yield from 3 RV's in a fixed triangular pattern.

TABLE II.—OVERPRESSURE KILL OF SOVIET SILOS HARDENED TO 2000 PSI (300) (SLBM'S NEGLECTED)

System	Number of missiles	RV's	Total RV's	Availability (percent)	Reliability (percent)	RV's available to target	Number of SLBM's that can be attacked and the probability of destroying each silo is at least 0.75
In place:							
Titan II	54	1	54	0.85	0.80	46	15 (23)
MM–II	450	1	450	.90	.85	405	81 (202)
MM–III	550	3	1,650	.98	.90	1,617	808 (all)
Polaris [1]	160	1	160	.55	.95	88	3
Poseidon	496	10	4,960	.53	.90	2,629	35
Total	[2] 1,710		7,274			4,785	[3] 904 (all)
Early to Mid-1980's:							
MM–III/MK–12A [4]	550	3	1,650	.98	.90	1,617	808 (all)
Trident [1]	240	8	1,920	.53	.90	1,018	
Titan II	54	1	54	.85	.80	46	15 (23)
MM–II	450	1	450	.90	.85	405	81 (202)
Poseidon	496	10	4,960	.53	.90	2,629	35
Total	[5] 1,790		9,034			5,715	[6] 904 (all)

[1] Some tradeoff may occur between Polaris and Trident; Polaris is considered dropped by mid-1980's.
[2] Only 1,206 are MIRV'ed.
[3] Of these 904 (all) silos, at least 678, or 52 percent of the Soviet silos, would be expected to be destroyed. 1,079 silos, or 82 percent destroyed.
[4] MM–III is expected to be converted to MM–III/MK 12A by mid-1980's.
[5] Only 1,286 are MIRV'ed.
[6] Of these 904 (all) silos, at least 678, or 52 percent of the Soviet silos, would be expected to be destroyed. 1,051 silos, or 81 percent destroyed.

MISSOURI SUPPORT FOR ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Interior Committee's Subcommittee on General Oversight and Alaska Lands is continuing its markup of H.R. 39, the proposed Alaska National Interest Lands Conservation Act, authored by our distinguished colleague, the gentleman from Arizona (Mr. UDALL). As a result of the subcommittee's deliberations, to date, the total acreage that would be added to the national conservation systems in Alaska would be reduced from the 114 million acres in the original Udall bill to slightly less than 100 million acres.

On September 15, the St. Louis Post-Dispatch reviewed the issues involved in this proposal and concluded that H.R. 39, as shaped by the knowledge we have gained in our very extensive and Alaska field inspections and from the recommendations of the administration, should be enacted. For the benefit of all Members, I am offering for printing in the RECORD at this point the Post-Dispatch's thoughtful analysis of the issues involved in this, likely the most important piece of conservation legislation which will come before the House during our lifetimes.

[From the St. Louis Post-Dispatch, Sept. 15, 1977]

BATTLE FOR ALASKA

Congress must decide before the end of 1978 how much of the Alaskan wilderness will be withdrawn from potential development and put into four systems: national parks, forests, wildlife refuges and wild and scenic rivers. The coming battle between conservationists and developers threatens to make the dissension over the Alaskan pipeline seem mild by comparison.

The 375,000,000 acres of Alaska contain no fewer than seven major mountain ranges, marshlands that serve as the breeding grounds for 12,000,000 waterfowl, 3,000,000 lakes, a unique wildlife population, 10,000 free-flowing streams and 41 active volcanoes. Until the 1959 statehood act, almost all this land was owned by the Federal Government, but, following statehood, claims were made by the state and by native groups. The 1971 Alaska Native Claims Settlement Act resolved these competing claims by ceding 148,000,000 acres (Missouri contains less than a third as much) to the two groups. It also authorized the Department of the Interior to review Alaskan lands and to select suitable tracts for conservation.

In 1973 then-Secretary of the Interior Rogers Morton proposed that 83,000,000 acres be put under federal protection. But environmentalists protested that the total was too small and, even worse, too much of the land would be put in the least restrictive federal system and thus be subject to mining and logging. Representative Morris K. Udall, working with environmental groups, introduced legislation that would cover 114,000,000 acres and protect most of it from development. For its part, the Alaskan government, in conjunction with mining and logging interests, supports a bill introduced by Alaska Senator Ted Stevens under which only 25,000,000 acres would be in the park and refuge system with 55,000,000 acres more under federal-state control for future classification. Due to the sharp divisions in the debate, the Carter Administration's recently released recommendation covering more than 90,000,000 acres, with protection near the Udall levels, may be accepted as a compromise.

But is a compromise desirable? As Al Henson, chief of professional services for the Alaska parks, has said, "The Arctic is extremely delicate; it doesn't recover quickly from misuse or overuse." To maintain the life systems that exist in the proposed park areas, the acreage involved must be vast. The rugged appearance of the land belies its weakness, the sparseness of its vegetation. In a year, a caribou travels more than 11,000 miles to find adequate forage, and an Arctic grizzly needs 100 square miles to live. So if the increased park lands are going to be effective for conservation the acreage cannot be trimmed by much.

As to the argument put forth by Alaskan officials that the Udall proposal would lock up Alaska's riches and deny the country needed minerals, the facts do not support that contention. The Udall proposal includes about 27 per cent of the state's highest grade mineral lands; 7 per cent of the best oil

lands and 3 per cent of the choicest forest lands. This leaves the vast majority of the resources open to development, development that has been slow to come because of the enormous costs involved in extracting the riches from the frozen Arctic. Also, inclusion of land in the refuge system, for instance, does not mean that mining is forever prohibited. It is just heavily restricted.

The 382,000 citizens of Alaska should be able to obtain sufficient economic gains even if the most ambitious plan is adopted. And, even more important, they and all Americans will be assured of the protection of the irreplaceable resource of this country's last and most magnificent wilderness if Congress chooses wisely and places sufficient land under strict federal protection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness.

To Mr. BROOKS (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BADHAM) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 20 minutes, today.

Mr. MICHEL, for 5 minutes, today.

Mr. EVANS of Delaware, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD), to revise and extend their remarks, and to include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CARR, for 10 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. RICHMOND, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. BENJAMIN, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,208.

Mr. CARR, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $885.50.

Mr. DELLUMS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,529.50.

Mr. VANIK, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,932.

Mr. KEMP, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,079.

(The following Members (at the request of Mr. BADHAM) and to include extraneous matter:)

Mr. YOUNG of Florida in five instances.

Mr. KEMP in three instances.

Mr. STEERS.

Mr. DORNAN.

Mr. MCCLORY in two instances.

Mr. DON H. CLAUSEN.

Mr. DERWINSKI in two instances.

Mr. WIGGINS.

Mr. MICHEL.

Mr. COLLINS of Texas in three instances.

Mr. CONABLE.

Mr. LAGOMARSINO.

Mr. SARASIN.

Mr. HANSEN in five instances.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. HAMILTON.

Mr. FOLEY.

Mrs. MEYNER.

Mr. OTTINGER in four instances.

Mr. MAZZOLI in five instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. CARNEY in three instances.

Mr. UDALL.

Mr. MITCHELL of Maryland.

Mr. MCDONALD in three instances.

Mr. JOHNSON of California.

Mr. MINETA.

Mr. CHARLES H. WILSON of California.

Mr. MOAKLEY in two instances.

Mr. AMBRO.

Mr. LUKEN.

Mr. LEDERER.

Mr. DODD.

Mr. OBERSTAR.

Mr. BURKE of Massachusetts.

ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, January 30, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3086. A letter from the President, Legal Services Corporation, transmitting the Corporation's budget request for fiscal year 1979; to the Committee on Appropriations.

3087. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on the records management program in the executive agencies, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

3088. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on information resource management, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

3089. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in priority requisitioning for the Federal Supply Service system (PSAD–78–47, January 25, 1978); to the Committee on Government Operations.

3090. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3091. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the first annual report on the agency's administration of the Toxic Substances Control Act, pursuant to sections 9(d) and 30 of the act; to the Committee on Interstate and Foreign Commerce.

3092. A letter from the National Adjutant/Quartermaster, Veterans of World War I of the U.S.A., Inc., transmitting their financial statement for the fiscal year ending September 30, 1977, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

3093. A letter from the Under Secretary of Energy, transmitting a report on the study of the existence of any tax, regulatory, traffic, urban design, rural electrification, or other institutional factor which tends to bias surface transportation systems toward vehicles of particular characteristics, pursuant to section 13(a) of Public Law 94–413; to the Committee on Science and Technology.

3094. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

3095. A letter from the Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting NOAA's initial report on research and monitoring of the stratosphere during the years 1975 through 1977, pursuant to section 154 (a) of the Clean Air Act (91 Stat. 728); jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 982. Resolution providing for the consideration of H.R. 8336. A bill to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes (Rept. No. 95–852). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN:

H.R. 10566. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

H.R. 10567. A bill to amend title 38, United States Code, to remove the requirement that the 20 years for which a disability rating of total or permanent total disability must be in force for such rating to be preserved must be continuous; to the Committee on Veterans' Affairs.

H.R. 10568. A bill to amend title XVI of the Social Security Act to eliminate the 33⅓ percent reduction in supplemental security income benefits which is presently imposed when the recipient is living in another person's household, and to provide that support

and maintenance furnished the recipient in kind by such other person shall be disregarded in determining such recipient's income for supplemental security income purposes; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. JEFFORDS, Mr. PERKINS, Mr. QUIE, Mr. BEARD of Rhode Island, Mr. PRESSLER, Mr. MILLER of California, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, and Mr. BIAGGI):

H.R. 10569. A bill to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such act, and for other purposes; to the Committee on Education and Labor.

H.R. 10570. A bill to amend the Environmental Education Act to extend the authorizations of appropriations for carrying out the provisions of such act, and for other purposes; to the Committee on Education and Labor.

By Mr. CARNEY:

H.R. 10571. A bill to amend the Communications Act of 1934 to require broadcast stations licensees and noncommercial educational broadcasting stations to take certain actions to insure the accuracy of statements made in connection with the broadcast of public affairs programs which permit audience participation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN (for himself, Mr. ROE, Mr. TREEN, Mr. MCEWEN, Mr. MCHUGH, Mr. SCHEUER, Mr. STANGELAND, and Mr. CORRADA):

H.R. 10572. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and related purposes; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. COHEN (for himself, Mr. ANDREWS of North Dakota, Mr. BLANCHARD, Mr. CORCORAN of Illinois, Mr. EILBERG, Mr. EMERY, Mr. FISH, Mr. GOODLING, Mr. GRASSLEY, Mr. GUDGER, Mr. HUGHES, Mr. LAGOMARSINO, Mr. LE FANTE, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. MATHIS, Mr. MCDADE, Mrs. MEYNER, Mr. MILFORD, Mr. PATTISON of New York, Mr. RINALDO, Mr. SIMON, Mr. SPENCE, Mr. TRIBLE, and Mr. YATRON):

H.R. 10573. A bill to amend the Internal Revenue Code of 1954 to provide graduated corporate income tax rates; to the Committee on Ways and Means.

By Mr. DERRICK (for himself, Mr. CORCORAN of Illinois, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. HILLIS, Mrs. HOLT, Mr. KETCHUM, Mr. LOTT, Mr. MANN, Ms. MIKULSKI, Mr. MIKVA, Mr. NEAL, Mr. RUNNELS, Mr. SHARP, Mr. SIMON, Mrs. SPELLMAN, and Mr. SPENCE):

H.R. 10574. A bill to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes; to the Committee on Rules.

By Mr. EDWARDS of California:

H.R. 10575. A bill to prohibit discrimination on the basis of affectional or sexual preference, and for other purposes; jointly, to the Committees on the Judiciary, and Education and Labor.

By Mr. FLORIO:

H.R. 10576. A bill to amend title 4 of the United States Code to restrict the authority of any State or political subdivision to impose any income tax on any compensation paid to any individual who is not a domiciliary or resident of such State or political subdivision; to the Committee on the Judiciary.

By Mr. HEFTEL (for himself, Mr. MITCHELL of Maryland, Mr. DIGGS, Mrs. BURKE of California, and Mr. PANETTA):

H.R. 10577. A bill to amend the Small Business Act to provide graduated amounts of loan guarantees to minority small business concerns with respect to loans for the acquisition or the construction, conversion, or expansion of certain broadcast or cable facilities, and to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain on certain sales and exchanges of broadcast or cable facilities involving minority small business concerns; jointly, to the Committees on Small Business and Ways and Means.

By Mr. JOHNSON of California (for himself and Mr. HARSHA) (by request):

H.R. 10578. A bill to improve highways and public transportation; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. JONES of Oklahoma:

H.R. 10579. A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide payments to certain States which do not impose more than a 3-cent special tax on a pack of cigarettes; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ARMSTRONG, Mr. HOLLENBECK, and Mr. WAMPLER):

H.R. 10580. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. MCCORMACK:

H.R. 10581. A bill to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation; to the Committee on Interior and Insular Affairs.

By Mr. MCKAY:

H.R. 10582. A bill to amend the Internal Revenue Code of 1954 to exempt from Federal income tax a trust established by a taxpayer for the purpose of providing care for certain mentally incompetent dependents of the taxpayer; to the Committee on Ways and Means.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. MOORE, and Mr. BOWEN):

H.R. 10583. A bill to require that imported palm oil and palm oil products made in whole or in part of imported palm oil be labeled, to provide for the inspection of imported palm oil and palm oil products, to require that imported palm oil and palm oil products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. WAMPLER, Mr. JONES of Tennessee, Mr. MCHUGH, Mr. SKELTON, Mr. WHITLEY, Mr. AKAKA, Mr. JEFFORDS, Mr. ENGLISH, Mr. FITHIAN, Mr. JONES of North Carolina, Mr. MADIGAN, Mr. THONE, Mr. THORNTON, Mr. HIGHTOWER, Mr. SYMMS, Mr. PANETTA, Mr. JENRETTE, Mr. BOWEN, Mr. JOHNSON of Colorado, Mr. HAGEDORN, Mr. SEBELIUS, Mr. WEAVER, and Mr. FINDLEY):

H.R. 10584. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; jointly, to the Committees on Agriculture and International Relations.

By Mrs. MEYNER (for herself, Mr. SOLARZ, Mr. THOMPSON, Mr. STEERS, Mr. BLOUIN, Mr. LE FANTE, Mr. GEPHARDT, Mr. SIMON, Mr. HUGHES, Ms. SCHROEDER, Mr. HARRINGTON, Ms. MIKULSKI, Mr. ROYBAL, Mr. CONTE, and Mr. SEIBERLING):

H.R. 10585. A bill to establish a Commission on Proposals for a U.S. Academy for Peace and Conflict Resolution; jointly, to the Committees on International Relations and Education and Labor.

By Mr. PEPPER (for himself and Mr. COHEN):

H.R. 10586. A bill making supplemental appropriations for the Inspector General of the Department of Health, Education, and Welfare; to the Committee on Appropriations.

By Mr. RONCALIO (for himself, Mr. BAUCUS, Mr. EVANS of Colorado, Mr. JOHNSON of Colorado, Mr. LUJAN, Mr. MCKAY, Mr. MARLENEE, Mr. MARRIOTT, Mr. RUDD, Mr. RUNNELS, Mr. SANTINI, Mr. SYMMS, Mr. DUNCAN of Oregon, and Mr. ULLMAN):

H.R. 10587. A bill to improve the range conditions of the public grazing lands; to the Committee on Interior and Insular Affairs.

By Mr. ROSENTHAL (for himself, Mr. EDWARDS of California, Mr. FRASER, Mr. MOSS, Mr. RYAN, and Mrs. SPELLMAN):

H.R. 10588. A bill to amend the Truth in Lending Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RUNNELS:

H.R. 10589. A bill to amend section 402(d) of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

By Mr. THONE:

H.R. 10590. A bill to amend the Antidumping Act of 1921, the Trade Act of 1974, and the Tariff Act of 1930 to improve procedures relating to the determination of certain unfair foreign trade practices; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 10591. A bill to encourage homeownership by amending the Internal Revenue Code of 1954 to allow a deduction for certain contributions to an individual housing account; to the Committee on Ways and Means.

By Mr. BALDUS (for himself, Mr. WON PAT, Mr. FARY, Mr. AKAKA, Mr. KINDNESS, Mr. DAVIS, Mr. FLORIO, Mr. CORRADA, Mr. VENTO, Mr. MOTTL, Mr. CLAY, Mr. MURTHA, Mr. LAGOMARSINO, Mr. DERWINSKI, Mr. ROSENTHAL, Mr. EILBERG, Mr. FISH, Mr. PRICE, Mr. MITCHELL of Maryland, Mrs. LLOYD of Tennessee, Mr. MCCORMACK, Mr. BLOUIN, Mr. BEVILL, Mr. OTTINGER, and Mr. CHAPPELL):

H.R. 10592. A bill to amend title 38 of the United States Code to increase from $250 to $400 the maximum allowance provided for the burial and funeral expenses of certain veterans and of patients in Veterans' Administration facilities; to the Committee on Veterans' Affairs.

By Mr. BEDELL (for himself and Mr. SKELTON):

H.R. 10593. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts:

H.R. 10594. A bill to clarify section 119 of the Internal Revenue Code of 1954 by an amendment making it clear that meals provided in kind by an employer to an employee may be considered furnished for the convenience of the employer without regard to whether a charge is made or whether the employee is required to accept such meals; to the Committee on Ways and Means.

By Mr. HOLLAND:

H.R. 10595. A bill to amend title 38, United States Code, to increase from $500 to $1,000 the amount by which the annual income of certain disabled veterans may exceed the maximum annual income limitation for pensions without such veterans losing the right to continue to receive drugs and medication

from the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. MOTTL:

H.R. 10596. A bill to regulate and restrict the use of fuel adjustment clauses by federally regulated, and State regulated, electric and gas utilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS (for himself, Mr. QUIE, Mr. PERKINS, Mr. JEFFORDS, Mr. THOMPSON, and Mr. PRESSLER):

H.J. Res. 691. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

H.J. Res. 692. Joint resolution to authorize the President to call a White House Conference on the Humanities; to the Committee on Education and Labor.

By Mr. ENGLISH:

H.J. Res. 693. Joint resolution designating April 15, 1978, as National Free Enterprise Day; to the Committee on Post Office and Civil Service.

By Mr. HANSEN:

H.J. Res. 694. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. NEDZI):

H.J. Res. 695. Joint resolution designating the week in each year during which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself, Mr. BENJAMIN, and Mr. KILDEE):

H.J. Res. 696. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. ROE:

H. Con. Res. 461. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. MOORE, and Mr. BOWEN):

H. Res. 983. Resolution expressing the sense of the House relative to a study by the Secretary of Agriculture on palm oil imports; jointly, to the Committees on Agriculture, and International Relations.

By Mr. THOMPSON (for himself and Mr. DICKINSON):

H. Res. 984. Resolution to provide funds for the Committee on House Administration; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CONABLE:

H.R. 10597. A bill for the relief of Saing Majaroen; to the Committee on the Judiciary.

By Mr. DAN DANIEL:

H.R. 10598. A bill for the relief of Mrs. Frances M. Butler; to the Committee on the Judiciary.

By Mr. QUAYLE:

H.R. 10599. A bill for the relief of Sylvester G. Schneider; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 10600. A bill for the relief of Thomas Joseph Hunter and Rose Hunter; to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

385. The SPEAKER presented a petition of the California District Attorneys Association, Sacramento, Calif., relative to National Forgotten Victim's Week, which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. HUGHES:

On page 268, immediately after line 23, insert the following new subsection.

(e) Subsection (h) of section 308 of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(h)(1) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The fund shall consist of—

"(A) amounts credited to the Fund under section 9 of the Outer Continental Shelf Lands Act;

"(B) any sums appropriated to the Fund;

"(C) payments of principal and interest received under any loan made under subsection (d)(1);

"(D) any fees received in connection with any guarantee made under subsection (d)(2);

"(E) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

Amounts in the Fund shall be available to the Secretary without fiscal year limitation as a revolving fund.

"(2) Amounts in the Fund received under clause (A) of paragraph (1) of this subsection shall be available to the Secretary for the purpose of carrying out subsection (b) of this section.

"(3) Amounts in the Fund received under clauses (B) through (D) of paragraph (1) of this subsection shall be available to the Secretary for the purposes of carrying out subsections (c) and (d) of this section. All payments made by the Secretary to carry out the provisions of subsections (b), (c), (d), and (f) (including reimbursements to other Government Accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States. At the end of each fiscal year, sums in the Fund which are not needed for purposes of subsection (b) shall be returned to the Treasury.".

On page 268, line 24, strike "(e)" and insert in lieu thereof "(f)."

SENATE—*Thursday, January 26, 1978*

(Legislative day of Tuesday, January 24, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL PATRICK MOYNIHAN, a Senator from the State of New York.

PRAYER

The Reverend Andrew M. Greeley, National Opinion Research Center, Chicago, Ill., offered the following prayer:

Lord of all creation, in these winter months, when the skies are often gray, the air often cold, and our hearts often heavy with discouragement and weariness, grant us this day hope—hope in the return of spring, hope in the eventual blossoming of the cherries, hope in the strength of life over death, of good over evil, of love over hatred, of joy over discouragement. If the air is cold, make our hearts warm. If the sky is gloomy, may our faces be bright. If the grass on the Mall is brown and dry, let our voices and our spirits be filled with vitality. Despite all our problems and worries and anxieties, let us be messengers of hope and cheer to all those whom we encounter. We ask this through Jesus the Lord. May God be with all those who work in this House. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 26, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL PATRICK MOYNIHAN, a Senator from the State of New York, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MOYNIHAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, January 25, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority.

Mr. President, I ask unanimous consent that the Foreign Economic Policy Subcommittee of the Foreign Relations Committee be authorized to meet during the session of the Senate today to conduct committee business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time at the moment.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no need for my time under the standing order, and I yield it back.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes.

PANAMA CANAL TREATIES: A REVIEW OF THE RECORD

Mr. DOLE. Mr. President, it is now only a matter of days before the Panama Canal treaties reach the Senate floor for consideration. The Senate Foreign Relations Committee will begin markup on the resolution of ratification on Thursday and I understand the Senate Armed Services Committee will be winding up its hearings in the next week or so. By now, many of our colleagues have expressed their position on the treaty issue, and the nature of the forthcoming Senate debate is becoming evident.

SUPPORT FOR TREATY REVISIONS

Little by little, the treaty modification concept has gained a following in the last few months. Some who once believed these treaties to be essentially perfect now admit to certain defects. Some who once denounced treaty revisions as impractical or unacceptable now appear resigned to accept them. In fact, in some respects, a "bandwagon" approach now appears to be underway.

When the junior Senator from Kansas first proposed treaty amendments and reservations in September 1977, there was no immediate surge of interest. By mid-October, however, controversy over defense and passage provisions was strong enough to necessitate a joint statement of understanding—a tacit admission by both the Carter and Torrijos administrations that the treaties required clarification.

Now, it is gratifying to note that both the Senate majority leader and minority leader have publicly endorsed treaty modifications. General Torrijos has expressed willingness to accept some Senate revisions. And 10 Members of the Senate have so far sponsored or cosponsored proposed treaty amendments.

Just this morning the Senator from Kansas understands the administration has indicated a willingness to accept some modification. Many more have publicly or privately expressed willingness to vote for treaty changes.

So there has been a lot of movement in that direction in the past 4 months, and it is an indication of recognition that these treaties are flawed. It is an indication that these treaties will not be ratified in the forms presented last September.

Perhaps it is also an indication that many of the Members of this body are ready to assert the proper constitutional role that Congress should play in the treatymaking process. What began as a modest effort last September to reinstate active congressional involvement in the international treatymaking function has set the stage for amendments to the canal treaties, and may well have set the pace for treaty consideration in years to come.

REVIEW OF EVENTS

Mr. President, I will briefly review the chronology of my activities relating to the Panama Canal treaty issue, so that it may be a part of the permanent record.

After a careful review of the two Panama Canal treaties which were made public on September 7, I determined that I could not support the accords in their present forms. On September 23, I introduced six amendments and two reservations in order to clarify and improve upon the treaties. My proposals address themselves to a number of issues, including defense and passage rights for the United States, the right to negotiate with any country for a new sea-level canal, extension of the transition period, reduction of toll payments to Panama, congressional approval for the transfer of U.S. property, and protection of human rights.

On October 5, I appeared before the Senate Foreign Relations Committee to elaborate upon my amendments and reservations, and submitted the text of a State Department cable which demonstrated beyond a doubt that American and Panamanian negotiators were giving different interpretations to certain vital provisions in the neutrality treaty. At that time, I commented:

> There may be a few members who would just flatly oppose anything, but I don't know of anyone in that category . . . I believe that if the proper changes were made, the treaties would have widespread support.

Despite State Department intimidation efforts, I insisted upon the public's right to know about the dangerous ambiguities in the treaties.

On October 13, I advised the Senate of allegations that Gen. Omar Torrijos and other members of his family have been involved in drug-trafficking operations in the Western Hemisphere. The following day, I submitted a freedom of information request to the U.S. Drug Enforcement Administration requesting specific files which I still believe may contain information on this subject. Despite my repeated efforts to obtain these files, the administration has refused to turn over the bulk of Government materials on the Torrijos drug connection. Files have been withheld on the basis of national security and sensitive foreign policy matters. I now have an appeal pending with the Department of Justice on this subject, which certainly would expose some light on the integrity of the Panamanian Government.

Three days after the Carter-Torrijos statement of understanding was released, I introduced two additional amendments containing the identical language of that statement. I pointed out that "the joint statement, by itself, is not legally binding. And the joint agreement disproves the notion that renegotiation of certain treaty provisions is impossible." I have believed from the beginning that that statement should be made a part of the treaty language itself, and I am pleased that so many others are finally coming around to that point of view.

During late December, Senator PAUL LAXALT and myself spent 2 days in Panama familiarizing ourselves with the operation of the Panama Canal, and discussing treaty provisions with local employees, civic councils, Canal Zone Government officials, and with General Torrijos. My earlier concerns about the treaties were reaffirmed as a result of that trip.

Most recently, on January 19, I introduced three additional amendments to the treaty which, in my opinion, will better protect our national interests in the area. These amendments would authorize a separate base agreement to permit U.S. retention of some military installations in Panama after the year 2000, and would prohibit the presence of any military troops or bases in Panama other than those of the United States and Panama—after ratification of the treaties.

FULL DEBATE INSURED

We can expect to see more treaty amendments and reservations introduced in the next few days. This is useful, for it insures that the Senate will give its most careful review to the details of the treaties. It also insures that there will be full debate on treaty provisions, along with efforts to clarify ambiguities and compensate for omissions. I look forward to continuing my longstanding efforts to insist upon substantive guarantees and protections within the treaties. I hope more of my colleagues will join me in those efforts.

Mr. President, I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1437, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, is the standing order of business still the committee amendments?

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. Mr. President, I ask unanimous consent that it be in order to offer an amendment other than those at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1116

(Purpose: To amend existing law to permit the advertising or transmission of information pertaining to a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit organization which is legal in both the State in which the games of chance are conducted and the State from which the information is disseminated.)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes unprinted amendment numbered 1116.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, add the following after line 30:

(d) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery, gift enterprise or similar scheme conducted by a nonprofit or charitable organization in accordance with State and local law.

(1) published in a newspaper in that State or in a State in which such lottery, gift enterprise or similar scheme is legal; or

(2) broadcast by a radio or television station licensed to a location in that State or in a State in which such lottery, gift enterprise or similar scheme is legal.

(e) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other materials concerning a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit organization in accordance with State and local law in that State from a State in which such lottery, gift enterprise or similar scheme is legal.

On page 131, line 31, delete "(d)" and insert in lieu thereof "(f)".

On page 131, line 34, delete "(e)" and insert in lieu thereof "(g)".

On page 239, line 26, delete "(e)" and insert in lieu thereof "(g)".

On page 239, line 27, delete "(f)" and insert in lieu thereof "(h)".

On page 239, add after line 31 the following:

(4) Section 6003 of title 39, United States Code, is amended by adding the following subsections after subsection (d):

(e) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery, gift enterprise or similar scheme conducted by a nonprofit or charitable organization in accordance with State and local law

(1) published in a newspaper in that State or in a State in which such lottery, gift enterprise or similar scheme is legal; or

(2) broadcast by a radio or television station licensed to a location in that State or in a State in which such lottery, gift enterprise or similar scheme is legal.

(f) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other materials concerning a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit organization in accordance with State and local law in that State from a State in which such lottery, gift enterprise or similar scheme is legal.

On page 298, add after line 7 the following:

"(c) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery, gift enterprise or similar scheme conducted by a nonprofit or charitable organization in accordance with State and local law

"(1) published in a newspaper in that State or in a State in which such lottery, gift enterprise or similar scheme is legal; or

"(2) broadcast by a radio or television station licensed to a location in that State or in a State in which such lottery, gift enterprise or similar scheme is legal.

"(d) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other materials concerning a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit organization in accordance with State and local law in that State from a State in which such lottery, gift enterprise or similar scheme is legal.

On page 298, line 8, delete "(c)" and insert in lieu thereof "(e)".

On page 298, line 11, delete "(d)" and insert in lieu thereof "(f)".

Mr. WALLOP. Mr. President, I have been in conversations with the floor managers of this bill. This amendment authorizes the promotion of certain charitable and nonprofit lotteries—such as church bingos and high school fundraising events—in interstate newspapers, on television and radios and through the mails authorized by the State. This does not get into lotteries other than charitable and nonprofit ones and other than those that already are permitted.

The reason for it is that not long ago I received a letter from a constituent who operates a radio station in Laramie, Wyo. He was perplexed by the Federal laws which prohibit him from using his station to advertise raffles being conducted by local schools and other organizations. The Federal Communications Commission explained the law on point: The Criminal Code prohibits the broadcasting of advertisements for or informations concerning lotteries—raffles, bingo, et cetera—even where these games of chance are consistent with State law unless they are conducted by the State itself. This latter exemption from the criminal laws is reflected in section 1307 of title 18 of the United States Code. This exemption does not go far enough for two major reasons:

First, it applies only to the advertisement of lotteries conducted by a State, acting under authority of State law. Thus, advertisement of a lottery which is not conducted by the State itself but which is otherwise legal in that State would be a prosecutable offense under the Federal criminal laws. This is a curious result: Where the State has legalized lotteries, the Federal Government has said that there shall be no advertising.

Second, section 1307 is limited in its protections. Advertisement of lotteries via the radio, television, newspapers or mails is permitted only in a State which is conducting a State lottery, or in an adjacent State which conducts a similar lottery.

Mr. President, there are several reasons why I offer this.

One is that we have been told that the application of this provision has been inconsistent; such inconsistency gives the licensing authority the opportunity for great political or administrative mischief which I think we could easily dispose of with the passage of this amendment.

To summarize the existing laws, sections 1301, 1302, 1303, and 1304 of title 18 may be used to prosecute those who advertise lotteries and other games of chance carried on legally within a State. For example, a bingo game may be legal under State law. A radio station in the vicinity of the bingo game or in a nearby State would like to advertise the event in order to increase the revenues for the event. Under current law, the radio station would be subject both to criminal prosecution for advertising this private game of chance (18 U.S.C. 1304) and subject to revocation of its license or the imposition of a monetary forfeiture by the Federal Communications Commission.

Similarly, advertisement or transmission of information about the lottery by use of the mails, television, or newspapers is punishable. (18 U.S.C. 1301–1304.)

The amendment I am offering today would expand the exemptions from the Federal criminal laws to include the advertisement of lotteries, gift enterprises, or similar schemes, such as bingo and raffles which are conducted by charitable or nonprofit organizations and are legal both in the State in which they are conducted and in the State in which the information or advertisement is published in the newspaper, broadcast by licensed television and radio stations, or sent through use of the mails. Senator DOLE has joined as cosponsor of this amendment.

The Federal Government should not preempt State policy in an area relating to something so local in nature as the activities of charitable and nonprofit organizations. Each State legislature is well situated to determine by statute whether and what kinds of lotteries and other games of chance are legal within that State. The people of that State should have the protection of State law. Where their elected representatives have decided that lotteries, raffles, and other games of chance held by charitable and nonprofit groups are legal, then promoters of these events should be able to advertise without the threat of Federal prosecution. The freedom to advertise these legal lotteries and other games of chance without the fear of prosecution by the Federal Government should apply in any State which has legalized lotteries of the type being conducted and advertised.

How many States would be directly affected by this proposal? Tables contained in the final report of the Commission on the Review of the National Policy Toward Gambling ("Gambling in America," Washington, 1976) provide the relevant information:

Lotteries: legal in 13 States; illegal in 37;

Raffles: legal to some extent in 21 States; prohibited in 29 States;

Bingo: legal in 34 States: methods by which they are licensed, taxed and regulated vary widely; illegal in 16 States.

These tables are attached as part of this statement and shall appear in the RECORD and are otherwise available.

The prosecution pursuant to the existing section has been arbitrary, to say the least. In a letter of June 27, 1977, to me from Senator WARREN MAGNUSON, chairman of the Committee on Commerce, Science, and Transportation, he states:

The F.C.C. informs me that it has never taken action against a non-profit organization broadcasting such information. More specifically, it has never fined a non-profit organization, but simply warned them that

such promotional efforts would be a violation of the law.

What we have here, then, is a situation ripe for mischief. Prosecutions are not consistently brought to enforce either the criminal statutes or to enforce the FCC regulations. To prevent random, selected prosecutions, my proposal would remove the criminal sections and therefore protect individuals from any capricious applications of the law.

I think it is also important to note that my amendment is not very different philosophically from language in S. 1437. Section 1841 sets out the offense of "Engaging in a Gambling Business." Subsection (c)(2)(E) establishes as a defense to prosecution that "the transmission of the gambling information was solely from a State and locality in which such gambling was legal into a State and locality in which such gambling was legal . . ." By and large, this is the intent of my amendment: To permit the advertising of lotteries, games of chance and similar activities conducted by nonprofit or charitable organizations where these activities are legal in both the State in which the activity is conducted and in the State from which the information is sent.

The Justice Department, commenting on a similar proposal reported out of the House Judiciary Committee in 1974 (H.R. 6668) expressed the fear the permitting advertising of legal lotteries might lead to criminal involvement in gambling. While I can appreciate this concern, I believe that, on balance, that State policy as declared by the State legislatures should be respected; the Federal Government should not criminalize an activity, the advertising of a lottery, gift enterprise, or similar scheme, legal in that State which is conducted by nonprofit or charitable organizations, for the purpose of determining criminal activities. The lottery laws reflect the public's desire to participate in such games of chance. Surely, the legitimate rights of the majority should not be infringed by the Federal Government's fear for the conduct of the minority, the criminal element.

Furthermore, where there is criminal conduct involved in operating a lottery of similar activity, there are both State and Federal criminal statutes available with which to pursue the offender. Local police departments have primary responsibility for enforcing State gambling statutes, but the role of State-level agencies in organized-crime activities is growing, according to the "Gambling in America" report at page 43. There are 38 States which have at least one organized-crime prevention or control group. In addition to State enforcement of State laws prohibiting varying kinds of lottery-related activities, the Federal Government would still have tools to prosecute where illegal activities are involved. Sections 1801 through 1806, inclusive, of S. 1437 deal specifically with organized-crime offenses and section 1841 deals with engaging in a gambling business.

To conclude these remarks, let me restate my basic premise: The Federal Government should recede where, on balance the Federal interests at stake are less important than the State's interest. The State legislature should be allowed to set the tone of their own States with regard to lotteries, bingo, and raffles.

Mr. President, I ask unanimous consent that the tables to which I have referred from the final report of the Commission on the Review of the National Policy Toward Gambling be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

GAMBLING IN AMERICA

(Final report of the Commission on the Review of the National Policy Toward Gambling, Washington, 1976)

TABLE 5-48.—AUTHORIZED LOTTERIES AND RAFFLES

LOTTERIES

1964-71	1972	1973	1974	1975
New Hampshire	Connecticut	Maryland	Illinois	Delaware.
New York	Massachusetts		Maine	Omaha, Nebr.
New Jersey	Michigan		Ohio	
	Pennsylvania		Rhode Island	

RAFFLES

State	Licensing authority	Fee	Qualified organizations [1]
Alaska	State Department of Revenue	$10	Charitable as defined in statute.
Colorado	Secretary of State	$50	Do.
Connecticut	Chief of police, or first selectman	$5, $10, $15 per day, $35	Do.
Iowa	State Department of Revenue, city or town council, county board of supervisors.	$10	Charitable as defined in statute, fairs, and amusement parks.
Louisiana	Local governing body		Charitable as defined in statute.
Maine	Chief of State police	$5	Do.
Maryland	County Sheriff, Chief of police in Baltimore City	$5	Do.
Massachusetts	Commissioner of Public Safety, city or town clerk	$10	Do.
Montana	City or town council, or county commission		Profit or nonprofit oragnizations.
Nebraska	State legislature may authorize and regulate, no permit necessary		Charitable as defined in statute.
New Hampshire	Local governing body		Do.
New Jersey	Municipal clerk	$5 or $10	Do.
New Mexico	No premit		Fairs for charitable purposes.
Oklahoma	do		Military posts, only voluntary contributions allowed, for community chest welfare funds.
Oregon	do		Charitable as defined in statute.
Rhode Island	Chief of police, police commissioner, town sergeant		Charitable as defined in statute, only door prizes allowed.
South Dakota	State legislature authorization, notice to be given by operators to local governing body 30 days prior to event.		Charitable as defined in statute.
Vermont	No permit		Do.
Virginia	Local governing body		Do.
Washington	State Gambling Commission	Fixed by Commission	Do.
Wyoming	No permit		Do.

[1] Denotes number of years organization must be established in order to be eligible for a license to conduct a raffle.

TABLE 5-61.—STATES PERMITTING BINGO

State	State approval	Local approval	License required	License fee	Noncharitable organizations	State tax (percent)	Total handle [1]	Revenue to State [1]
Alaska	Yes		Yes	$10 p.a.			NA	NA
Arizona	Yes		Yes	$75 p.a.[2]	Yes		NA	NA
Colorado	Yes		Yes	$50 p.a.			$11,937,450	$131,641
Connecticut	Yes		Yes	Varies			NA	NA
Delaware	Yes		Yes	$15 p. event			8,310,396	39,780
Florida	Yes		No				NA	NA
Illinois	Yes		Yes	$200 p.a.		10	NA	[3] 6,842,946
Iowa	Yes		Yes	$10 p.a.			NA	NA
Kansas	Yes		Yes	$25 p.a.		[12] Yes	[13] 10,658,252	[13] 588,249
Louisiana	No	Yes	Yes	None			NA	NA
Maine	Yes		Yes	$2 p. week			[4] 5,437,697	[4] 24,210

TABLE 5-61.—STATES PERMITTING BINGO—Continued

State	State approval	Local approval	License required	License fee	Noncharitable organizations	State tax (percent)	Total handle [1]	Revenue to State
Maryland	No	Yes	Yes	Varies	Yes [5]		NA	NA
Massachusetts	Yes		Yes	$50 p.a.		5 [3]	73,333,897	[3] 3,667,992
Michigan	Yes		Yes	$100 p.a.			[6] 84,000,000	189,260
Minnesota	No	Yes	No		Yes [5]		NA	NA
Montana	No	Yes	Yes	NA			NA	NA
Nebraska	Yes		Yes	$10 p.a. [7]		[7] 10	5,364,563	536,456
Nevada	Yes	Yes	Yes	Varies	Yes	[14] Yes	NA	NA
New Hampshire	No	Yes	Yes	$10 p. month	Yes		NA	NA
New Jersey	No	Yes	Yes	$10 p. event [7]	Yes		93,549,474	331,375
New Mexico	Yes		No				NA	NA
New York	No	Yes	Yes	$12.50 p. event [8]			182,312,388	1,122,554
North Carolina	No	Yes	No				NA	NA
Ohio	Yes		No				NA	NA
Oklahoma	No	Yes	Yes	$25 plus $5 p.a.			NA	NA
Oregon	Yes		No				NA	NA
Rhode Island	Yes	Yes	Yes	$10 p. event			NA	NA
South Dakota	Yes		No				NA	NA
Tennessee	Yes		No		Yes [9]		NA	NA
Vermont	Yes		No				NA	NA
Virginia	Yes [10]		Yes	Varies [10]			NA	NA
Washington	Yes		Yes	Varies		([11])	20,894,381	73,130
Wisconsin	Yes		Yes	$10 p.a. and $10 p. event			4,444,048	345,859
Wyoming	Yes		No				NA	NA

NA=Not available.
[1] Except where otherwise indicated, figures are for calendar year 1974.
[2] $50 to the State, $25 to the municipality; smaller opeations pay $5 each to State and municipality.
[3] Fiscal year 1975.
[4] Fiscal year 1974.
[5] County governments may conduct bingo games to raise revenue.
[6] Estimated average annual handle.
[7] Fees and taxes on bingo are divided equally between State and municipalities.
[8] Operators must also pay a percentage of the take to the State.
[9] Labor unions may conduct bingo games.
[10] Municipalities issue licenses under uniform State statute, but set their own licensing fee.
[11] Municipalities may tax up to 10 percent of bingo operations within their jurisdiction.
[12] State imposes 3.5 percent sales tax and 2 percent enforcement tax.
[13] May 1975 to March 1976.
[14] Bingo conducted for profit is taxed on the basis of its volume of business; bingo conducted for charity is not taxed.

Mr. WALLOP. Mr. President, I yield to the floor manager, the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment would permit charitable lotteries in States that authorize such lotteries to advertise and send materials relating to the lottery into other States in which such lotteries are lawful. Presently, only lotteries that are conducted by States themselves are exempt from the Federal prohibitions against advertising and other activities in other States. The traditional reason for this limitation has been the fear that organized crime would become involved in these lotteries if the Federal restriction were lifted. While this argument has force with respect to a proposal to make any State-authorized lottery exempt from the Federal offense, it is not a persuasive reason for objecting to the far more modest proposal embodied in the Senator from Wyoming's amendment to lift the Federal ban solely with respect to State-authorized lotteries conducted by charitable organizations. This amendment would permit lawful charitable lotteries to solicit patrons in other places where such lotteries are legal, and will facilitate the raising of money for charitable purposes. Accordingly, Mr. President, I am pleased to accept the amendment.

Mr. DOLE. Mr. President, as a primary cosponsor, I rise to support the pending amendment. This amendment is similar to legislation, S. 1718, which I introduced last Congress. The purpose of this amendment is to allow the interstate advertisement of games of chance if these games are legal in the State where the transmission originated. Thus, since bingo is legal in Kansas, any newspaper or television station in Kansas could advertise bingo, even if the newspaper or broadcast reaches a State where bingo is illegal.

PRESENT LAW UNDULY RESTRICTIVE

The current Federal law is unduly restrictive. In Kansas where bingo is legal, State-approved groups have been hampered in their efforts to publicize the time and location of scheduled bingo events. Bingo, as a game of chance, is termed a "lottery" and cannot be mentioned in any material delivered by mail unless the lottery is conducted by a State.

There is a general prohibition in title 18 of the code against transporting, mailing, or broadcasting any information about lotteries, regardless of their legality under State law. The only exception is State-conducted lotteries.

JUSTICE DEPARTMENT HAS OPPOSED

When I attempted to have S. 1718 considered by the Senate last Congress, the primary opposition came from the Justice Department. The Department feared that undesirable elements might become involved and lead to criminal inspired gambling.

CONGRESS SHOULD RESPECT STATES' ABILITIES

While I can appreciate that concern, I also believe State legislatures and State revenue directors deserve some credit for being able to pass and administer a law in keeping with the best interests of their respective jurisdictions. In Kansas, for example, bingo operations may be conducted only by bona fide nonprofit religous, charitable, fraternal, educational and veterans' organizations—and even those are closely regulated, licensed, and taxed by the State.

When Senate passage of S. 1718 was blocked, I attempted to attach a similar amendment to H.R. 1607. While that amendment did not ultimately become law, the support for this change in the law was clearly growing, and I believe that support has continued to increase. More Members of the Senate are perceiving the flaws and inequities in the current law.

QUESTIONS OF CONSISTENCY

Mr. President, my repeated efforts to legalize bingo advertising were partially initiated by some very perplexing questions directed to me by bewildered constituents. They wondered why they could start playing bingo, but it was against the law to tell anyone about it. They also pointed out inconsistency, and possible discrimination in the fact that they are forbidden to utilize the most convenient media forums available to publicize their State-licensed fund-raising events. Yet, in other areas of the country, newspapers and broadcasters routinely include paid announcements regarding paramutual betting events or even full-scale casino operations.

STATES' RIGHTS IMPORTANT

There may be first amendment problems and "equal protection" arguments implicit in all this, and certainly some "states rights" issues are raised. We should endeavor to be reasonable in the enactment of Federal laws where the States have worked to be responsible in the construction of theirs. If we are, then Congress will not be in the position of frustrating public policy decisions made by our States.

I would hope that a majority of my colleagues would agree with me on this important grassroots issue and support the pending amendment. Adoption of this amendment would be the culmination of efforts over the past 3 years.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I thank the distinguished floor manager for the cooperation we have had on this and other amendments.

Mr. KENNEDY. I thank the Senator.

UP AMENDMENT NO. 1117

(Purpose: To make pharmacy robberies of drugs a Federal crime.)

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of Senator CHURCH, for himself, Mr. BAYH, Mr. HANSEN, Mr. HOLLINGS, Mr. RANDOLPH, and Mr. SCHWEIKER, and I ask

unanimous consent that it be in order to consider it.

The PRESIDING OFFICER. Without objection, it will be in order.

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for Mr. CHURCH and others, proposes an unprinted amendment numbered 1117.

The amendment is as follows:

On page 125, after line 23, insert the following new paragraph:

"(9) the property is a controlled substance, consisting of a narcotic, amphetamine, or barbiturate, that is listed in Schedules I through IV established by section 202 of the Controlled Substances Act (21 U.S.C. 812) and that has a value in excess of $500; the offense consists of robbery of a pharmacy; and the offense is part of a pattern of such robberies in the locality.

Mr. KENNEDY. Mr. President, Senator CHURCH's amendment would add a jurisdictional base to the robbery offense, section 1721, to permit a Federal prosecution for a robbery of a pharmacy. I am aware that this is a very serious problem especially in those areas of the country where retail druggists are few and far between and where their continued presence in the community is vitally needed.

At the same time, I am very sensitive to the potential for inappropriate extensions of Federal jurisdiction and I am aware of the Justice Department's serious and continued reservations about covering a robbery of a local pharmacy as a serious Federal felony.

I am willing to accept this amendment, because the jurisdictional base has been, in my view, sufficiently limited to avoid converting all pharmacy robberies into Federal crimes. As drafted, only a relatively few pharmacy robberies will be covered and there will be no need for the Drug Enforcement Administration to investigate every pharmacy robbery in the nation, nor is that the intent of the amendment.

The amendment limits Federal involvement in four ways. First, the drugs involved are limited to narcotics, barbiturates, and amphetamines listed in the first four schedules of the Controlled Substances Act eliminating many relatively minor, but nevertheless controlled, drugs. Second, the total value of these specific drugs taken in the single robbery must exceed $500. Third, the robbery must be of a pharmacy and does not include robberies of drug warehouses or other establishments that happen to contain pharmacies. Finally, the offense must be part of a pattern of such robberies in the locality. This last provision is intended to eliminate individual pharmacy robberies, which are, and will remain, State and local crimes. DEA will not investigate such local offenses and the U.S. attorney will not prosecute them.

On this basis the amendment is acceptable to the bill's managers.

Mr. CHURCH. Mr. President, my bill, S. 509, to make pharmacy robberies of controlled substances a Federal crime, has been offered as an amendment with modifications to the Criminal Code Reform Act, S. 1437. I am pleased to have Senator BAYH, who as chairman of the Judiciary Committee's Subcommittee on Juvenile Delinquency, held hearings on this legislation, and Senators HANSEN, HOLLINGS, RANDOLPH, and SCHWEIKER as cosponsors of my amendment. This proposal has had broad support among pharmacists and their patrons, and I urge its adoption by the Senate.

The Federal interest in preventing illicit access to drugs is exemplified by the Controlled Substances Act. The crimes of illicit drug possession and transaction which are defined by that act will become a part of the Federal Criminal Code as recodified by S. 1437. Yet, without my amendment, armed robberies of pharmacies, the ultimate illicit access to drugs which affects the greatest number of our citizens, would be omitted.

The Federal Criminal Code has long contained federally defined crimes relating to certain businesses, such as banks, even though the Federal statutes duplicate State and local law. Given the firm interest of Congress to control drug traffic and usage, the Federal Criminal Code should cover the theft of narcotics, amphetamines, and barbituates from pharmacies.

While State and local governments will continue to have the major responsibility for dealing with all drug-related crime, enactment of my amendment will furnish Federal assistance whenever it is necessary to help combat a pattern of felonious access to drugs. Before I originally introduced this legislation, there was no Federal involvement in this field. Since that time, the Drug Enforcement Administration has given limited assistance to local governments and pharmacies in certain communities to help prevent pharmacy robberies.

The DEA's efforts began with a pilot program in St. Louis. In 6 months, with an expenditure of less than $35,000, including the salaries of the DEA personnel involved, pharmacy robberies were reduced by over 50 percent. Emphasizing the success of the St. Louis project, the 1975 White Paper on Drug Abuse by the President's Domestic Council on Drug Abuse Task Force concluded its sections on enforcement and control of drug supplies:

Finally, development of a program to curb pharmacy thefts (italics theirs) should be given high priority since pharmacies account for over 80 percent of all drugs stolen through the licit distribution system. A pilot program in St. Louis, in which pharmacies took anti-burglary precautions and police gave high priority to pharmacy thefts had promising results, and may form the basis for development of an LEAA experimentation program in other selected cities.

Although immediately after the issuance of the White Paper, DEA indicated that the St. Louis program would be expanded to other cities, instead a monograph entitled "Pharmacy Theft Prevention—A Community Action Approach" was published to serve that purpose. This excellent publication contains the following paragraph in its foreword:

DEA has completed two major studies of the pharmacy theft problem. We have devised a program based on these studies, and have tested the program in a major metropolitan area. We have shown that it works. Armed robberies were reduced 55 percent during the first six months of 1975 (compared with the same period in 1974). These results are highly encouraging, and suggest that pharmacists in other cities can benefit from such a program.

This year, DEA did inform me that it would extend the St. Louis program to 12 other cities, and it is my understanding that it continues to be most successful. These developments are certainly gratifying, and I have commended DEA on its efforts. But despite DEA's success, there has been great reluctance to move any further without the kind of legislation I offer today.

One fact that must be taken into better account concerning pharmacy robberies is that their consequences go far beyond drug abuse and drug-related crimes. Pharmacies performing the service of dispensing drugs do, of course, become prime targets for drug crimes; but that service is also of vital importance to their communities. As more and more pharmacies are struck by violence and death, the number of pharmacies may well decrease. In any given area, the loss of a pharmacy is hard felt.

One would expect, Mr. President, that drug-seeking pharmacy thefts would occur mainly in our urban centers, but that is not the case. In Idaho, with our largely rural and small town population, there have been over 150 crimes against pharmacies involving drug thefts in the last 10 years, and that figure is based only on those crimes that were reported.

Pharmacy services are essential to our Nation's health, whether they be in rural settings or our inner city neighborhoods. The threat that drug-related violence poses to continued accessibility for vital prescriptions cannot be underestimated. As chairman of the Senate Committee on Aging, I can attest to the very special impact this situation has on the elderly. My amendment, therefore, is not only an important part of the effort against drug abuse and violent crime, but also a necessary step to insure adequate health care for all Americans.

Nevertheless, Mr. President, as many Senators are aware, the Department of Justice had some objections to my original bill, especially in the context of the criminal code revision bill, and I have agreed to several changes. First, I have redrafted S. 509 to fit into the new criminal code format which S. 1437 would create, so that pharmacy robberies would be included under the Federal crime of robbery, for which the maximum sentence, as a Class C felony, would be 12 years imprisonment and a $100,000 fine.

I have also rewritten S. 509 to clarify that the controlled substances which generate Federal interest in pharmacy robberies should be narcotics, amphetamines, and barbiturates. In addition, in order to obtain the necessary support for Senate approval, I have agreed to a $500 monetary threshold as a trigger for Federal jurisdiction.

On another jurisdictional question, particularly as the matter of jurisdiction is set forth in the criminal code revision bill before the Senate, I have agreed that the Justice Department's efforts should be focused on the more serious cases. I have, therefore, designed my amendment to provide that Federal jur-

isdiction will occur when the pharmacy robbery is part of a pattern of such robberies in a given locality. It should be clearly understood, Mr. President, that I do not mean the word "locality" in its most limited sense. A pattern of pharmacy robberies in a rural area should also trigger Federal jurisdiction, and I am very pleased that the distinguished manager of S. 1437, Senator KENNEDY, also underscores this point in his remarks.

I am glad to report, Mr. President, that these changes have been worked out with the cooperation of Justice Department officials. I am grateful to them for their constructive assistance, as well as for the fine efforts and support of the senior Senator from Massachusetts, the able manager of this important and complex legislation.

I ask for its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

UP AMENDMENT NO. 1118

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1118.

The amendment is as follows:

On page 336 after line 34 add after the item relating to section 577, the following:

" '578. Advisory Corrections Council.".

On page 346 on line 27 delete the quotation maks and insert after line 24 the following:

" '§ 578. Advisory Corrections Council.

There is hereby created an Advisory Corrections Council, composed of a chairman, to be designated by the Attorney General; one United States circuit judge and two United States district judges, to be designated from time to time by the Chief Justice of the United States; ex officio, the chairman of the United States Sentencing Commission, the Director of the Bureau of Prisons, the Chief of Probation of the Administrative Office of the United States Courts, the Chairman of the United States Parole Commission, and the Director of the Federal Judicial Center; an attorney of the Department of Justice who is assigned prosecutorial responsibilities, to be designated by the Attorney General; an attorney of the Department of Justice who is assigned law reform responsibilities, to be designated by the Attorney General; a representative from a law enforcement agency of the Department of Justice, to be designated by the Attorney General; and a representative from a law enforcement agency of the Department of Treasury, to be designated by the Secretary of the Treasury. The Council shall hold regular meetings to consider problems of disposition, treatment, and correction of offenders against the United States, and shall make such recommendations to the Congress, the President, the Judicial Conference of the United States, the United States Sentencing Commission, and other appropriate officials and agencies as may improve the administration of criminal justice and assure the coordination and integration of policies respecting the disposition, treatment, and correction of persons convicted of offenses against the United States. It shall also consider measures to promote the prevention of crime and delinquency, and suggest appropriate studies in this connection to be undertaken by agencies both public and private. The members of the Council shall serve without compensation, but necessary travel and subsistence expenses as authorized by law shall be paid from available appropriations of the Department of Justice.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to consider the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this amendment is to assure continuance of the Advisory Corrections Council.

The Advisory Corrections Council is established by section 5002 of title 18 of the United States Code. It is responsible for holding regular meetings to consider the problems of treatment and correction of offenders, and to make recommendations to the Congress, the President, and the judicial conference to improve the administration of criminal justice. Its formal composition includes, among others, Federal appellate and district court judges, the Director of the Bureau of Prisons, the Chairman of the Parole Commission, and the Chief of Probation of the Administrative Office of the U.S. Courts, and invited to its meetings are special representatives from other parts of the criminal justice system.

Originally, the sponsors of S. 1437 had assumed that the functions of this body would appropriately be subsumed by the new U.S. Sentencing Commission. Upon reexamination, however, and upon evaluation of the current work being done by the Advisory Corrections Council, it is now our view that continuation of this Council would be highly beneficial to our criminal justice system. It is the only formal group that includes representatives of the judiciary, the prison system, the parole system, the probation service, and others directly involved in the day-to-day administration of the Federal criminal justice system. It is currently performing a useful function under its Chairman, Judge Harold Tyler, and it is performing that function very well.

Accordingly, we propose that the section of current law that establishes the Council be carried forward in S. 1437. We are offering an amendment to accomplish that purpose. The amendment would continue the Council's current responsibilities. It would also continue the Council's current membership structure—with some additions suggested to Senator THURMOND and me by the Chairman of the Council on behalf of himself and of the Council as a whole.

Mr. President, I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. THURMOND. I have no objection.

The amendment was agreed to.

UP AMENDMENT NO. 1119

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1119:

On page 101, delete lines 38 and 39 and insert in lieu thereof "described in this section if the private correspondence is mail."

On page 102, delete lines 1 and 2.

On page 103, line 7, delete the comma and everything thereafter.

On page 103, lines 9 and 10, delete the words "telecommunications and".

The PRESIDING OFFICER. Without objection, the amendment is in order and the Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the purpose of this amendment is to clarify intercepting correspondence. The Defense Department has recommended this amendment, and there is no objection to it.

Mr. KENNEDY. Mr. President, as I understand the amendment, its effect is to return to current law—nothing more.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as I understand, unprinted amendment No. 1116 has been considered and agreed to, just a few moments ago?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Since that is in the nature of an amendment to amendment No. 1624, I ask unanimous consent, for technical reasons, that if and when amendment 1624 is considered and agreed to, it be considered as having been amended by unprinted amendment No. 1116.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. HUDDLESTON). Without objection, it is so ordered.

UP AMENDMENT NO 1120

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order for Senator CULVER to call up the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER), for himself, and Mr. MATHIAS, proposes unprinted amendment numbered 1120.

On page 360, add the following after line 114:

SEC. 135. Sections 2251, 2252, 2253, and 2423 of title 18, United States Code, as enacted in the Protection of Children Against Sexual Exploitation Act of 1977, are reenacted and redesignated as subsections (a), (b), (c), and (d) of section 135 of the Criminal Code Reform Act of 1978.

Mr. CULVER. Mr. President, the amendment I propose today incorporates the Protection of Children Against Sexual Exploitation Act of 1977. This legislation was coauthored by Senator MATHIAS and myself into S. 1437, the Criminal Code Reform Act of 1977.

The conference report for the Protection of Children Against Sexual Exploitation Act of 1977 has been approved by both the Senate and House of Representatives by overwhelming margins and awaits the President's signature at the present moment. This amendment incorporates that act exactly from the conference report, with the only alterations being in the numbering to conform to the Criminal Code Reform Act, presently before the Senate.

The amendment, as does the Protection of Children Against Sexual Exploitation Act, will:

Make it a Federal crime, for the first time, to use any child under 16 in the production of pornographic material;

Prohibit the interstate transportation of any child for the purpose of prostitution or other sexual exploitation; and

Prohibit the sale and distribution of obscene material that depicts a child engaging in sexually explicit conduct.

This amendment insures that when the Criminal Code Reform Act replaces current title 18 of the United States Code, these most important provisions to deal with the child pornography crisis will still be a part of the U.S. Criminal Code.

Mr. President, I have no further statement at this time.

Mr. KENNEDY. Mr. President, this amendment makes sense. It is entirely consistent with the thrust of the legislation.

The Senator from Iowa has been the leader in the U.S. Senate in the area of child pornography, which is an enormously important area of public concern. He has fashioned legislation in this area which the Senate and the Congress think desirable.

The purpose of this amendment is to include that legislation in S. 1437. I think that advisable.

We will have an opportunity over the 2-year waiting period to draft the relative conforming amendments. But I think it is desirable, helpful, and useful.

So I welcome its adoption.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Iowa and the distinguished floor manager for inserting provisions of this bill in the Federal criminal code. I am sure the President will sign the measure that is on his desk.

At the same time, it would be well to have the provisions codified in the criminal code. Some of us possibly will not be able to cast an affirmative vote on the bill itself—when I say bill, I mean S. 1437—but would like to register an approving vote on this amendment.

I had the honor with the gracious consent of the distinguished Senator from Iowa of being one of the cosponsors of the bill along with many other Senators. For that reason, I would request a yea and nay vote on the amendment.

Mr. President, I ask for the yeas and nays.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the Culver-Mathias amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator's amendment be set aside for consideration and that we vote on that later, hopefully at the time of the disposition of the Mathias amendment, but if it is agreeable with the sponsors of the amendment we vote on that in the early afternoon, if that is agreeable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THURMOND. Mr. President, some of us have long been interested in the subject of this amendment, which refers to prohibiting the sexual exploitation of children. The distinguished Senator from Iowa has worked diligently on this subject and I wish to commend him for it.

Mr. President, I would like to propound a question to him at this time. If the Senator from Iowa will give me his attention for a minute, I would like to propound a question.

Mr. CULVER. Yes.

Mr. THURMOND. As I understand the amendment that has been offered by the distinguished Senator from Iowa, it is identical to the bill that was passed on this subejct and which was agreed to by conference. Is that correct?

Mr. CULVER. The Senator is correct in that understanding.

Mr. THURMOND. In other words, he is offering it here to be sure that it is embraced in the code at this time, although it is in a separate bill, under separate consideration.

Mr. CULVER. The Senator is correct.

Mr. THURMOND. Mr. President, I am strongly in favor of this amendment, and I hope it will be adopted.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1119, AS MODIFIED

Mr. THURMOND. Mr. President, I send to the desk an amendment to modify UP amendment No. 1119, which has a clerical error.

The PRESIDING OFFICER. Does the Senator seek unanimous consent that he might offer this amendment?

Mr. THURMOND. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes unprinted amendment numbered 1119, as modified.

On page 101, delete lines 38 and 39 and insert in lieu thereof "described in this section if the private correspondence is mail."

On page 102, delete lines 1 and 2.

On page 103, line 7, delete the comma and everything thereafter.

On page 103, delete line 8.

On page 103, lines 9 and 10, delete the words "telecommunications and".

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Without objection, the amendment is agreed to.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHILES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1121

Mr. STEVENS. Mr. President, I have an unprinted amendment at the desk. I ask that it be in order to consider that amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1121.

On page 164, line 4, delete "may" and insert "will".

On page 165, line 16, delete "knowledge that it may be used" and insert "reasonable cause to believe that it is to be used".

Mr. STEVENS. Mr. President, current language of the code covering explosives uses the phrase "or intent that the explosive will be used to commit a crime," and the section covering firearms uses the phrase "with knowledge or reasonable cause to believe that an offense is to be committed."

In looking over the proposed code, in the language of this bill, S. 1437, a person would be guilty of an offense if he transported or possessed an explosive under section 1821 or a firearm or ammunition under section 1822 with intent that it be used or with knowledge that it may be used, to commit a felony of a Federal, State or local nature.

It is my feeling that the use of the word "may" with regard to firearms and with regard to explosives would broaden coverage of the two sections, and I feel that this was not intended by the committee. I have discussed the matter with the distinguished Senator from Massachusetts and the distinguished Senator from South Carolina, both of whom have been very understanding of the problems we see.

It is probably a remote possibility that this use of "may" would be used to harass a legitimate gun owner. However, as a technical matter, any gun owner, would know that a gun may at some time, after it left his possession and ownership, be used for a crime. It is possible that any gun or any explosive could be used illegally.

That does not seem subjective enough, as far as I am concerned. I believe the better part of valor in this situation dealing with the very sensitive issue of explosives and firearms is to use the existing language. This amendment does use the existing language of 18 U.S.C. 844 (d) covering explosives and 18 U.S.C. 924(b) covering firearms.

Gun owners and those who use explosives have lived with this standard in the past. I feel it would be best not to change the language. It is my understanding that there is no intent to change the standard of conduct as it applies to firearms and explosives in this area.

I started with another amendment. We have modified it to meet the comments of the managers of the bill, and this is the result. This amendment would preserve in the precise language of existing Federal law, 18 U.S.C. 84(d) and 924(b), the culpability standards with respect to the offenses of transporting an explosive or a firearm designed for use to commit a serious crime.

Under those circumstances, I am hopeful that the Senators managing the bill will be willing to accept the amendment.

Mr. DOLE. Mr. President, I rise to support the pending amendment to clarify the language in S. 1437 on explosives and firearms offenses. Sections 1821 and 1822 make it an offense to transport explosives or a firearm in interstate commerce "with knowledge that it may be used" in the commission of a crime.

The key language in those two sections is the word, "may." Anyone who owns a gun knows that that weapon "may" be used to commit a crime if it leaves his possession. Even if the gun is strictly for personal use, it can be stolen and subsequently used in the commission of a felony. The gun is only as safe as its owner and no one can guarantee what will or will not occur to the gun in the future.

Mr. President, the word "may" is simply too broad. If the members of the Judiciary Committee had considered the potential interpretation of that word, I am certain that they would not have included that language. One of the primary purposes of this codification of the criminal code is to eliminate ambiguous language, not to use it.

The pending amendment of which I am a cosponsor, would clarify the language used in sections 1821 and 1822. In place of the unclear word, "may," the amendment substitutes the phrase, "is intended to." The change in this language is very important.

The effect of the amendment is to make criminal the transportation of weapons where the person transporting them knows that the weapons are likely to be used in a criminal act. This amendment is consistent with the language in both section 1821 and 1822. Requiring the accused to transport the weapon "with knowledge" of its intended criminal use. The state of mind required is "knowing."

Section 301 of S. 1437 defines "knowing" in part as the state of mind in which the defendant "is aware or believes that his conduct is substantially certain to cause the result." That definition of "knowing" is clearly inconsistent with the use of the word "may."

Mr. President, I believe that the use of the word, "may," was not what the committee intended. Therefore, I hope that this amendment will be accepted by the floor managers of the bill, if not, I will vote for the amendment as I believe a majority of the Senate would.

Mr. KENNEDY. Mr. President, this amendment preserves the precise language of existing Federal law (18 U.S.C. 844(d) and 18 U.S.C. 924(b)), the culpability standards with respect to the offenses for transporting an explosive or firearm destined for use to commit a serious crime.

As the managers have frequently stated in the course of this debate, the most controversial areas are to be avoided. Rather than opening up the whole gun control thicket, I think it wise to stay with existing law. That is what this amendment does. That is why we are glad to accept it.

Mr. THURMOND. Mr. President, the able and distinguished Senator from Alaska has succinctly and clearly stated the facts. I believe he is correct. I think his amendment is sound and it is acceptable to me.

Mr. STEVENS. I thank both Senator KENNEDY and Senator THURMOND. Mr. President, I ask that Senators MCCLURE and DOLE be listed as cosponsors of the amendment, and I move the adoption of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I have an amendment. I ask unanimous consent that it be in order to consider it at this time.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, will the Senator allow me to make a motion to reconsider the vote?

Mr. ALLEN. I am sorry. I thought the Senator had finished.

Mr. STEVENS. I ask if it is in order for me to move to reconsider the vote on the amendment that was just agreed to.

The PRESIDING OFFICER. It is.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1122

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I call up my amendment.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1122.

Mr. ALLEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, delete lines 31 through 33, and insert in lieu thereof the following:

"(2) on the grounds of, or within 100 feet of, a building housing a court of the United States, after being advised that such conduct is an offense; or"

On page 72, line 35, delete "200' and insert "100".

Mr. ALLEN. Mr. President, this is an amendment that changes the bill in this particular: the bill forbids demonstrations on the grounds of or inside a building housing a Federal court or within 200 feet of the courthouse. It seemed to me it might well be an unreasonable restraint on the expression of first amendment rights, and I have offered the amendment to change the distance from 200 feet to 100 feet. I have discussed it with the manager of the bill and I am hopeful that he will agree that it is a sound amendment and should be agreed to.

Mr. KENNEDY. Mr. President, I think this is a fair amendment for the reasons that have been outlined by the Senator from Alabama. It is an improvement in protecting individual rights of speech and assembly. Section 1328 is itself a major improvement over the harsh provision of current law, 18 U.S.C. 1509. I think the provision is improved by changing the 200 feet to 100 feet. I urge its acceptance.

Mr. ALLEN. I thank the Senator.

Mr. THURMOND. Mr. President, I think the amendment of the Senator from Alabama is acceptable. I favor it.

The PRESIDING OFFICER. If there is no further discussion, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have a few amendments which I believe, or at least I hope, may prove acceptable to the managers of the bill. They have gone over them carefully.

I would first like to make a few remarks and then offer these amendments seriatim.

Mr. President, first let me say that I welcome this codification of the criminal laws of the United States.

Mr. President, the legislation before the Senate today has reached the floor after an extraordinary process of study, commentary, hearings, reports, controversy and compromise involving a large segment of the public media, the law schools, the organized bar, organized labor, organizations concerned with the protection of first amendment and other constitutional guarantees, and other groups.

That process—culminating in intensive legislative and lobbying activity in the 93d and 94th Congresses—began in 1966 when Congress established the National Commission on the Reform of the Federal Criminal Laws—thereafter popularly known as the "Brown Commission." In 1973 and 1974 the first bills to implement the Commission's recommendations were introduced, and in January 1975, the version of the code embodied in S. 1 precipitated a national controversy centered on provisions regarding punishment for disclosure of classified information, the availability of certain defenses against prosecution such as insanity and public duty, and the applicability of the death penalty.

I believe that the decision of the Judiciary Committee to sever from the bill these and other controversial provisions, and its willingness to compromise on others has resulted in a fundamentally sound bill to which I am pleased to give my support. I salute the long and persistent efforts particularly of Senator KENNEDY and Senator THURMOND and of the late Senator McClellan and of former Senator Hruska on this bill. I wish also in this regard to recall the extraordinary effort of the late Senator Philip Hart who devoted so many hours to eliminate the serious constitutional challenges which S. 1 raised.

As the distinguished manager of the bill knows, I have been particularly concerned with two areas in the bill: sentencing reform and marihuana decriminalization. I testified before the Judiciary Committee on sentencing when the committee considered the Hart-Javits bill, S. 204, and on marihuana when the committee considered S. 601, my legislation to provide a civil fine not exceeding $100 for personal possession and use of up to one ounce of marihuana. This bill, cosponsored by Senators CRANSTON, BROOKE and NELSON and endorsed by the Carter administration would reconcile Federal law with the reality of Federal policy that such cases are no longer prosecuted. It would stand for the proposition that laws on this subject should no longer define millions of otherwise law-abiding citizens as criminals.

I am deeply disappointed that the committee abandoned this approach in favor of a provision which continues that designation. I appreciate the fact that the committee's action in making possession of up to 30 grams of marihuana an infraction with a maximum fine of $100 constitutes a welcome further deescalation of the marihuana issue and an important step toward decriminalization. I, nevertheless, regret that we are missing this opportunity to move the Federal Government within the ever-widening circle of states that have passed clear decriminalization statutes. I am mindful of the repeated request of the managers of the bill to all Members of the Senate not to raise amendments on certain delicately compromised areas in the bill, and I have therefore determined not to address this issue with an amendment. I shall, however, continue to press for enactment of my legislation—as I have since 1972 when I and Senator Harold Hughes introduced the first marihuana decriminalization legislation at the Federal level—ever mindful also of the fact that criminal sanctions for this conduct continue to have the potential to jeopardize lives and careers, tragically and without reason.

On the subject of sentencing reform, I believe this bill makes very substantial strides toward reducing the irrationality and arbitrariness of our current system of deciding who shall be incarcerated, for what offenses, and for what period. Without these and continued improvements in the sentencing area, efforts to improve conditions in correctional facilities themselves will do little to alleviate the sense of injustice, bitterness, and frustration which offenders and criminal justice professionals alike feel about the current system.

S. 1437 addresses effectively the fundamental vice of correctional decisionmaking—what U.S. District Court Judge Marvin Frankel called "lawlessness." In requiring the adoption of sentencing guidelines, the bill aims squarely at the enormous problem of disparities in the dispositions of offenders having similar backgrounds and charged with the same or similar offenses. I am deeply grateful for the excellent work undertaken by my colleague Senator HART of Colorado on this issue. I have been pleased to join with him in his efforts on this bill and in our own joint legislation during the past year. His leadership joined with that of the members of the committee has brought about a genuine, long overdue reform in a pivotal area of Federal criminal justice.

The amendments I have, which I will call up in a series, begin with printed amendment No. 1673. I send an amended version of it to the desk and ask that it be reported. I will explain the amendment to the version that is printed.

UP AMENDMENT NO. 1123

(Modification of amendment No. 1673)

(Purpose: To make criminal, possession of explosives within or on airport property subject to FAA regulation)

The PRESIDING OFFICER. Is the Senator asking unanimous consent that the amendments be called up before the committee amendments?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment numbered 1673, as modified.

Mr. JAVITS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 164, after line 22, insert the following:

"(5) possesses an explosive in or on any airport facility or premises subject to the regulatory authority of the Federal Aviation Administration."

On page 164, line 27, insert "(1)" before the word "it."

On page 164, line 30, after the period add the following:

"(2) It is a defense to a prosecution under subsection (a)(5) that the actor's conduct was authorized under a regulation issued by the Administrator of the Federal Aviation Administration."

On page 164, line 33, insert before the semicolon the words: "and (a)(5)."

Mr. JAVITS. Mr. President, this amendment adds a new explosive offense to Federal law by making it unlawful for any person to possess an explosive in or on any airport facility or premises subject to the regulatory authority of the Federal Aviation Administration.

The only difference between the amendment I sent to the desk and the printed amendment is to make it a class D felony, thereby grading the offense, which was not done in the printed amendment.

The existing definition of "explosive" as found in current Federal law would apply here; that is, it includes any destructive device; gunpowder, smokeless powder, or powder used for blasting material; and fuze, detonator, or other detonating agent. Since no culpability standard is specifically prescribed, the applicable state of mind that must be proved is at least "knowing," that is, that the defendant was aware of the nature of his actions.

The element that the conduct occurs in an airport facility is an existing circumstance. Since no culpability level is set forth, the applicable state of mind that must be shown is, at a minimum "reckless," that is, that the defendant was aware of but disregarded the risk that the circumstance existed.

The amendment specifically provides that it is a defense to a prosecution under this subsection that the possession was authorized under a regulation issued by the Administrator of the Federal Aviation Administration. It is the intent of the amendment that the FAA be required in conformity with current practice to authorize as an exception to the coverage under this section all aspects of the legitimate transportation of explosive materials via air.

Mr. President, in recent years—and particularly since both the devastating bombing at LaGuardia Airport in 1975, and the tragic death of my former assistant Hal Rosenthal in a terrorist attack at Istanbul Airport in 1976—I have been concerned about the growing problem of international terrorism. During the past decade alone, thousands of men, women, and children have been killed and maimed by international terrorists. Civilized and conscientious governments have spent scores of millions of dollars to protect lives and property, including an extraordinary investment by the U.S. Government and private U.S. industry—particularly the airline industry. We must continue to take every precaution and every measure necessary to suppress terrorist violence.

An unclassified research study of the Central Intelligence Agency, released last year, entitled: "International and Transnational Terrorism: Diagnosis and Prognosis concluded:

The phenomenon of widespread internationalized terror is not only likely to persist for at least the next several years, but also to evolve in ways that could pose a more substantial threat to U.S. interests.

In December 1977, the Federal Bureau of Alcohol, Tobacco, and Firearms reported that criminal bombings and other explosive incidents rose to record highs. Year end explosives statistics showed 1,339 criminal bombings reported during 1977, an 11.8 percent increase over 1976's, 1,198 during 1977, 112 deaths and 298 injuries were attributed to criminal bombings and accidental explosions, compared to 73 deaths and 272 injuries in 1976. ATF Director Rex D. Davis said he was "deeply concerned" about these upward trends.

While comprehensive study is being given to all aspects of Federal antiterrorism policy in hearings being held this week in the Governmental Affairs Committee, I believe my amendment addresses a significant gap in current Federal criminal law. It would provide yet another Federal weapon and deterrent against explosives offenses at U.S. airports. At precisely the time when we are asking nations around the world to strengthen their own airport security, we likewise must do everything possible to give Federal law enforcement agencies, the FAA, the airline industry, airport operators, and the traveling public every advantage in preventing and detecting such violations.

I hope very much that the managers of the bill will look favorably upon this amendment.

Mr. KENNEDY. Mr. President, this amendment covers the area of explosives. We do have an explosive offense in section 1821. This makes it more specific and deals with a very real problem. It is responsibly drafted to exclude those who are authorized to carry such explosives.

I believe this is a useful addition. For the reasons that the Senator from New York has mentioned, in terms of dealing with the problem of terrorism at airports and in airplanes, it is an important amendment and one that should be included. I urge its adoption.

Mr. THURMOND. Mr. President, in view of the tremendous threats from terrorism today and the number of unlawful acts that have been committed around airports and the number of people injured or killed, I feel that this amendment is worthy of consideration, and I am willing to go along with it.

Mr. JAVITS. I thank both my colleagues.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1674

(Purpose: To increase the grading of the offense of possessing or secreting a weapon or destructive device aboard an aircraft (Sec. 1824).)

Mr. JAVITS. Mr. President, I send amendment No. 1674 to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment numbered 1674.

Mr. JAVITS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 167, lines 8 and 9, strike the words: "Class A misdemeanor" and insert in lieu therefor the words: "Class D felony".

Mr. JAVITS. Mr. President, this amendment seeks to upgrade to a class D felony what is now established in existing law as a class A misdemeanor.

The basic law prohibits conduct including the secreting or hiding aboard an aircraft of a concealed destructive device, which includes bombs, grenades, rockets, missiles, incendiary material, poisonous or infectious material, or material that can be used to cause a nuclear incident. The concealing of such inherently dangerous material on aircraft should be punishable at a higher penalty, in view of the really substantial threat which these materials, in and of themselves, pose to the safety of passengers, crew, and aircraft. Such an upgrading will increase the deterrent effect of the statute.

Mr. President, this amendment is really of a piece with the amendment we have just adopted. I hope very much that the managers of the bill will regard it favorably.

Mr. KENNEDY. Mr. President, this amendment, as the Senator from New York has mentioned, moves the maximum penalty from a year up to 6 years for the type of crime that has been outlined by the Senator in his presentation. It is completely warranted and justified.

Both these amendments are targeted to the particular problems of terrorism. I think there is a rather special concern among the American people on that issue, and the Senator, in a responsible way, has tried to reflect that in his amendments.

I think that this amendment is a useful addition, and I recommend its adoption.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, for the reasons stated in the previous amendment No. 1673, I do not object to this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I am grateful to my colleagues.

AMENDMENT NO. 1675, AS MODIFIED BY UP AMENDMENT NO. 1124

(Purpose: To retain current law on the applicability of the crime of solicitation with respect to section 1114)

Mr. JAVITS. Mr. President, I send an amendment numbered 1675 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes amendment No. 1675.

The amendment is as follows:

On page 43, line 36, strike the second "or".

On page 44, line 2, strike the period, add a semicolon, and the word "or" insert before the next line the following paragraph:

"(3) to solicit the commission of an offense described in section 1114 (Evading Military or Alternative Civilian Service), if the person engaging in the solicitation is a member of the immediate family of the person solicited or is providing professional advice as a clergyman or attorney".

Mr. JAVITS. Mr. President, this amendment adds to the solicitation provision of chapter 10 an additional exclusion of an offense. In other words, a number of offenses under the criminal laws of the United States have been excluded from the reach of chapter 10. This amendment would include in that elimination an additional offense. However, the extent to which it is excluded is limited.

It would eliminate authority in the bill to prosecute for solicitation members of the immediate family of the person solicited or a clergyman or attorney who stands in a privileged relationship to the person solicited.

In my judgment, Mr. President, this is really a very basic element of civil liberties.

I have no problem whatever with the proposition that advocacy of criminal action, even where there is no completed crime, should be punishable. Indeed, the laws of my own State and those of many other States provide that solicitation is an offense. But, Mr. President, I do not believe that at any time we intended that this offense shall be a danger facing a clergyman or attorney who has privilege, nor that it should relate to the immediate family members of an individual so

he cannot even advise with his own family without putting them at hazard.

Mr. President, I believe that this is a very desirable assurance of our whole purpose in our criminal laws, which is to do justice to people who are accused of crime at the same time that we tighten up, and I thoroughly agree with that, upon the punishments which fall upon those who are criminals.

I do not believe, Mr. President, that it was our purpose to inhibit or discourage the freedom of expression which would exist between immediate family members, parents, brothers, and sisters, and the lawyers or the clergymen. Indeed, it seems to me that that freedom will help criminal justice. It might in many cases bring about a result totally in conformity with the policy objectives of the underlying statute whereas, if we leave it as a threat and as a danger to these innocent third parties, who should be protected, or what we morally consider appropriate in terms of privilege, we would only be embarrassing the criminal law.

I hope very much again that my colleagues may see fit to look with favor on this amendment.

Mr. KENNEDY. Mr. President, I think this is a wise amendment. It was never intended that the conspiracy or solicitation offenses apply either to a parent, clergy, or an attorney. For the reasons that the Senator from New York has pointed out, I think that this is an important clarification, and a welcome addition.

Mr. President, in section 1004—inapplicability to certain offenses—we point out that it is not an offense to attempt to commit, to conspire to commit, or to solicit to commit, certain incitement offenses including incitement to riot. We are writing these protections into the law for the first time.

It seems to me a significant and major improvement in terms of civil liberties.

The amendment of the Senator from New York is advisable and helpful and it clarifies an important area of public policy. For example, looking back to our involvement in Southeast Asia, protections like those afforded in the bill would have proved most valuable.

So I think it is a very helpful addition, and I urge its favorable consideration.

I know there are those who would like to bring this section along even further. This amendment does that. I think we have made some important improvements. I think the clarification that is provided by the Senator from New York is an extremely important one and I am glad to urge its acceptance.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to discuss this amendment a little further.

I inquire of the distinguished Senator from New York if he had a situation like this exactly how would it apply. For instance, if you had a clergyman or an attorney in a community who was going to young men who had been called to military service, say, and he is advising them not to go. Just how would this section affect that? Under the law now he would be guilty of violating the law.

Mr. JAVITS. That is right.

Mr. THURMOND. Would he be guilty if we adopt this amendment?

Mr. JAVITS. I believe that he would continue to be guilty where with the necessary scienter he went for the purpose for that mission.

All I am seeking to protect is that clergyman or that lawyer or that member of the family against is when his advice is sought.

Mr. THURMOND. I see the point the Senator is making.

Mr. JAVITS. That is right.

Mr. THURMOND. If we can get the wording in there to that effect then I think we could go along with this.

Mr. JAVITS. All right.

Mr. THURMOND. Maybe we could insert a few words here that where such advice is sought, the person gaining solicitation is a member of the immediate family, the person solicited or providing professional advice as a clergyman or attorney, where such advice has been sought by the——

Mr. JAVITS. The person solicited. Where such advice has been sought by the person solicited. That is fine. I accept that and will settle with that.

Mr. THURMOND. I think if we could do that—all right.

Mr. JAVITS. That is fine.

Mr. THURMOND. Then we will protect our military service and protect any other agency of the Government that without that would not be protected

Mr. JAVITS. That is right.

Mr. THURMOND. Mr. President, will the Senator then state it.

Mr. JAVITS. I am doing that. I am going to send it to the desk as revised.

Mr. THURMOND. In other words, if an individual seeks the advice that is different from a member of the clergy or attorney going around advising people not to serve their country.

Mr. JAVITS. I agree with the Senator.

Mr. THURMOND. I think we have to make that distinction thoroughly here.

Mr. JAVITS. I completely agree.

I send a substitute amendment to the desk.

UP AMENDMENT NO. 1124

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1124 in the nature of a modification to amendment numbered 1675. The modification is as follows:

On page 43, line 36, strike the second "or".

On page 44, line 2, strike the period, add a semicolon, and the word "or" insert before the next line the following paragraph:

"(3) to solicit the commission of an offense described in section 1114 (Evading Military or Alternative Civilian Service), if the person engaging in the solicitation is a member of the immediate family, of the person solicited or is providing professional advice as a clergyman or attorney where such advice has been sought by the person advised.".

The PRESIDING OFFICER. The amendment is so modified.

Mr. THURMOND. I think that verbiage covers it and, on that basis, I have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New York.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1671

(Purpose: To clarify intent of current law that an agency proceeding must be convened pursuant to lawful authority)

Mr. JAVITS. I send an amendment to the desk and ask for its immediate consideration. This is my last amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment numbered 1671.

The amendment is as follows:

On page 23, line 1, insert "convened pursuant to lawful authority" immediately after the word "proceeding".

On page 23, line 4, after "chairman" strike "of" and insert the following: "or a member of Congress authorized by".

Mr. JAVITS. Mr. President, the purpose of this amendment is to clarify the intent of the committee respecting proceedings where a person refuses to testify or to produce information.

The way it is written the definition of "official proceeding" could very well include any time an agency called someone in, even for an informal conference. It was my understanding that it was not the intention of the committee to include routine agency or branch agency business meetings for purposes of such substantive offenses as refusing to testify or to produce information, failing to appear as a witness, tampering with physical evidence or tampering with a witness or an informer.

What I am concerned about is that a person could be found guilty of the offense of refusing to testify or to produce information if in a routine and casual agency meeting the person failed to comply with an agency request to produce a record. This, in effect, would give agencies a totally new kind of subpena power.

All the amendment would do is to assure that only those agencies which are convened pursuant to lawful authority are covered for the purpose of such substantive offenses.

The second part of the amendment, Mr. President, relates to hearings before committees or subcommittees of Congress. Again there the only qualification is that it should be before the chairman of that committee or subcommittee authorized to administer an oath.

As a practical matter, was often authorized an individual member who is going to preside at a hearing of that particular committee in order to administer an oath. So the second part of my amendment simply makes it clear whether it is the chairman or a member of the com-

mittee, provided he is duly authorized by the committee to administer the oath, then that is an official proceeding which invokes the provisions of the law relating to official proceedings.

Both amendments are simply to clarify these two points: One, that it is an official agency proceeding not just an informal one; and, two, provided the committee has empowered the chairman or a member to administer oaths that the offense can be committed under those circumstances.

Mr. KENNEDY. Mr. President, I am glad the Senator has elaborated on that issue because I think we remember back during the time of the Watergate hearings, the body of law was somewhat confused as to when a subpena had to be respected, whether a subcommittee could do it, whether it had to take the most recent vote of the full committee, or whether it had to be authorized really by the Senate itself.

I think in most of those circumstances, if my memory serves me correctly, those were authorized by the full Senate so there would be no question.

Mr. JAVITS. Right.

Mr. KENNEDY. The Senator has illustrated what his intention is in terms of not raising what would be unreasonable barriers but what would be either the rules of the Senate or the rules and procedures of the committee, in terms of its ability to function as a Senate institution which, I would expect, would be guiding.

I agree that the definition ought to be precise, that it ought to be legal. I just want to make sure we are achieving what the Senator described with respect to the amendment and nothing further.

With that kind of understanding, we will accept it, obviously. If we run into other kinds of problems, we will certainly try to deal with them.

Mr. JAVITS. We will deal with them.

Mr. THURMOND. Mr. President, in view of the explanation by the able and distinguished Senator from New York, and it appearing that this is mostly a clarifying amendment——

Mr. JAVITS. It is.

Mr. THURMOND. I see no objection, and I am willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the pleasure of the Senate? The bill is open for further amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 1125

(Purpose: To preclude certain defenses to section 1341 and 1342 (Perjury, and False Swearing)

Mr. HART. Mr. President, I ask unanimous consent that it be in order to offer an amendment which I have sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes unprinted amendment numbered 1125.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, line 31, insert "(1)" immediately before "The"

On page 81, line 33 strike the period and insert the following: "or, (2) in any case in which the statement was made during an executive session of a committee of the House of Representatives or during a closed session of a committee of the Senate, that the declarant made such statement to prevent the disclosure of classified information or to protect the national defense.".

Mr. HART. Mr. President, this amendment simply says that, in any prosecution under provisions of the law relating to perjury and false swearing before an executive session of a committee of the House of Representatives, or before a closed session of a committee of the Senate, it would not be a defense that the statement in question was made by the declarant, in order to prevent the disclosure of classified information or to protect the national defense.

That is, very simply, what it says. What it means is that anyone testifying under oath in closed or executive session before a committee of Congress cannot lie or misstate the truth and then, later, use as a defense in a prosecution for perjury or false swearing that the false statement or the perjury occurred in an effort to prevent disclosure of classified information.

The occasion for this amendment, I think, is apparent to anyone who has read the newspapers in recent weeks. Because of our method of handling classified information on the Hill—especially in the last few decades since the end of World War II—we have often created an impossible situation for witnesses that come before congressional committees. These witnesses—particularly administration witnesses—are asked, either in open or closed session, questions, answers to which would require the revelation of classified information. We have effectively required that those people either perjure themselves—which some have, admittedly done—or that they just not disclose information that the committee of Congress has requested.

No one should conclude that this amendment is an effort to retaliate against anyone or to try to make anyone who has been in this dilemma in the past look bad. Frankly, I think the effect of the amendment, if adopted and enacted into law, would be to protect, particularly, executive branch witnesses who are caught in the dilemma of whether to tell the truth to a committee of Congress—and, perhaps, suffer adverse consequences—or simply lie to the committee of Congress. The latter, unfortunately, is what too many administration witnesses and others have choosen to do in the past.

We in Congress have the same constitutional responsibilities and obligations to protect national security as anyone else. But I see this not only as a clarification of the responsibility of people to tell Congress the truth, particularly behind closed doors; I also see this as a means to protect administration witnesses, or others, from a situation in which they feel that they must lie in order to protect that national security.

It is both added clarification and added protection. It lays out specifically, not only on the part of Congress but also on the part of the administration what is and is not the law and what is and is not a defense in criminal prosecution.

I think the distinguished floor manager and the minority floor manager have been contacted on this. I hope that they are in sympathy and in support of the purpose of this amendment. I certainly think it will add a great deal, for the reasons stated, to the legislation we are considering.

Mr. KENNEDY. Mr. President, I am going to urge the acceptance of this amendment after I make a very brief comment.

We want to make it extremely clear at the present time that there are no defenses, either in the current law or the recodification, that permits perjuring of one's self before a congressional committee. There are absolutely none. There are, as we understand it, defenses against testifying against one's self which are basically understood, both legislatively and in common law.

The fifth amendment is the most obvious, and there are the attorney-client, the clergy, and the marital privileges, where there is no requirement that an individual be made to testify. But once a person does testify, there is nothing in either this law or any of the others before Congress that permits them to tell anything but the truth.

The Senator from Colorado wants to insure that to spell out clearly and unequivocally and precisely what the degree of expectation is in terms of the representations that are made before committees of Congress. Obviously, this is an extremely important issue. The ability of Congress, as the people's representative in a democracy, to get information which is accurate so that it can conduct the public's business is essential in terms of a free and open society and in terms of our Constitution. The Senator's amendment underscores and underlines the importance of reaffirming that concept in terms of representations that are made before a committee. Perhaps it will remind those that are going to make representations, assure them, if there is any question or doubt in their own minds, that they have a responsibility and an

obligation, a duty under law, explicitly stated in the law, that they tell the truth to Congress.

So, Mr. President, I am going to urge that it be adopted.

Mr. HATCH. Mr. President, I concur with the distinguished Senator from Massachusetts in urging the adoption of this amendment of our friend and colleague from Colorado. It merely clarifies and, I think, makes a little bit better the problems that arise in this particular area. So we also have no objection to this amendment.

Mr. President, may I ask the distinguished Senator from Massachusetts (Mr. KENNEDY) what the schedule is?

Mr. KENNEDY. The Steering Committee is meeting, on which there are several Members who have amendments. We are hopeful that Senator BAYH will manage the bill on the floor.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I thank the distinguished floor managers, the Senator from Massachusetts and the Senator from Utah, for their statements and their support.

The Senator from Massachusetts is absolutely correct in his concluding statement that the purpose of this amendment is to clarify existing constitutional responsibilities and to make it crystal clear to anyone who may be appearing before committees of the Congress in the future on very sensitive national defense and national security matters that the Constitution requires the truth to be told to the committees of Congress.

It is unfortunate that we have to remind ourselves of that very elementary fact these days, but it seems to be the case. One cannot avoid that constitutional responsibility of telling the committees of the Congress the truth, particularly when those committees are in closed session.

So that is the clear intent and thrust of the amendment. I appreciate the support of the committee on it.

Mr. ALLEN. Mr. President, I did not raise a point of order against the unprinted amendment (No. 1125) offered by my distinguished colleague, Senator HART. Senator HART's amendment provides that it is not a defense to a prosecution under section 1341 or section 1342, and possibly under section 1343 or section 1344, that a false statement was made to prevent the disclosure of classified information or to protect the national defense.

I note that the Hart amendment would apply only if such statement were made in an "executive" session of a committee of the House of Representatives or during a "closed" session of a committee of the Senate. I believe the amendment is a good amendment and therefore I do not raise a point of order against it or ask that it be made subject to a roll call vote, but I believe also that it is important that the amendment not be interpreted to provide a defense in those cases in which a false statement is made in an "open" session of a committee of either house of the Congress.

The amendment is intended solely to insure that no attempt is made to raise these matters as a defense in connection with a prosecution of a false statement made during a closed or executive session; however, the amendment does not mean, and should not be interpreted to imply, that a false statement may lawfully be made in testimony in an "open" session of a committee of the Congress so long as the false statement is made for the asserted purpose of protecting classified information. Hence, the purpose of the Hart amendment is simply to nail down the nonexistence of this defense in the particular case of an "executive" or "closed" session of a committee of the Congress and has no further purpose.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, as soon as it is convenient for the distinguished floor manager to give me his attention——

Mr. KENNEDY. Yes.

Mr. GRIFFIN. Mr. President, as the floor manager may know, I serve on the Communications Subcommittee of the Commerce Committee and it has been brought to my attention that certain portions of S. 1437 which relate to broadcasting could perhaps use some clarification.

As I understand the situation, this bill would create a new section 1842, entitled "Disseminating Obscene Material," and would transfer section 1464, entitled "Broadcasting Obscene Language," from the existing criminal code to a place in the Communications Act.

In other words, if this bill is enacted, there would then be two provisions of Federal law which could deal with obscenity on the electronic media.

Proposed section 1842 would make it a criminal offense to broadcast "obscene material," which is specifically defined; at the same time, section 1464 of title 18, which would be transferred to the Communications Act, would make it a crime to utter obscene, indecent, or profane language by means of radio communication.

Now, in the hope of lessening the possibility of confusion in the future, I would like to express my understanding of the intent of the Senate with regard to these provisions and then ask the distinguished floor manager to respond.

The broader provision, the present 18 U.S.C. 1464, which refers to "radio communication" and "obscene, indecent, or profane language" remains applicable to broadcasting as well as other means of radio communication such as citizens band radio. However, it should be clear that reference to broadcasting in section 1842 is not intended to make only that section applicable to broadcasting. In other words, it would therefore be possible that some broadcast material, though perhaps not obscene under the standards set forth by the Supreme Court in *Miller* v. *California*, 413 U.S. 15 (1973) or within the meaning of section 1842 could still violate the indecency prohibition of section 1464. In fact the Supreme Court recently granted certiorari in *Pacifica Foundation* v. *FCC*, 556 F.2d 9 (D.C. Cir. 1977), a case where the Federal Communications Commission found some language indecent (though not obscene) within the meaning of section 1464. Of course, the Court may decide whether nonobscene (indecent) matter can be prohibited in the broadcasting medium, because of that medium's unique qualities, though the same material might be accorded first amendment protection in books, movies, or newspapers.

Thus, it is my view that this broader coverage is applicable to the broadcasting medium.

I want to be sure it is the sense of the Senate that this broader coverage is applicable and would remain applicable.

Mr. KENNEDY. Mr. President. It is our intention that section 1464 is only to be transferred into the Communications Act. In fact, footnote 100 on page 855 of the report specifically states that the broader coverage mentioned by the Senator has been preserved by transferring section 1464 to the Communications Act.

Mr. GRIFFIN. I thank the distinguished floor manager.

Mr. KENNEDY. I think that clarifies it, and I welcome the opportunity to do so.

Mr. GRIFFIN. I thank the Senator very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without quorum call be rescinded.

AMENDMENT NO. 1670

(Purpose: To amend the venue provisions for obscenity offenses)

Mr MATHIAS. Mr. President, I call up my amendment No. 1670 which is pending at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 1670:

On page 237, strike lines 31 through 35, and insert in lieu thereof the following:

(g) OBSCENITY OFFENSES.—

(1) An offense described in section 1842 (Disseminating Obscene Material) may be prosecuted only in a district from which the material was disseminated or in which the offense was completed, unless the defendant, by motion filed within twenty days after

arraignment in the district in which the prosecution is begun, requests to be tried in the district in which he had his primary place of business at the time the alleged offense was committed.

(2) Whenever the court, on the basis of sworn affidavits filed by the parties, determines that the defendant has raised a colorable claim that the proceeding should be transferred, the court shall hold a hearing on the motion. After such a hearing, the court shall order the transfer of the proceeding to the district in which the defendant had his primary place of business at the time the offense was committed, unless the government demonstrates on the basis of substantial evidence that the conduct of the defendant which is the basis of the prosecution has a substantial connection with the district in which the prosecution was begun.

(3) In making its determination, the court may consider any relevant factors, including but not limited to—

(A) the quantity of the material that has been disseminated to members of the general public in the district in which the prosecution was begun;

(B) the number and types of the members of the general public in the district in which the prosecution was begun who have viewed the material; and

(C) whether the defendant has previously disseminated similar material into the district in which the prosecution was begun and if so, the frequency of that distribution.

Mr. MATHIAS. Mr. President, in my judgment, this amendment is directed at preserving the full scope of the first amendment to the Constitution of the United States. There is little likelihood of a frontal attack on the first amendment today. But, the danger to the first amendment, in my view, lies in the nibbling away at the scope of its operation. This is especially true with respect to the shield it provides to the press and to the procedures that may be adopted which limits the effect of the first amendment. This is really the process we seek to avoid by offering this amendment.

The amendment is to help insure that national publishers are not forced to face obscenity charges in remote and inconvenient jurisdictions—jurisdictions where they have done very little, or perhaps even no business, and where the primary evidence against the defendant may even have been solicited by a Government agent.

We are not talking here about a theoretical situation. We are talking about the kind of factual situations which have occurred, in which a Government agent has gone to a remote part of the country where there has been careful shopping around for the forum and, where, in fact, a forum has been found.

There was a recent Federal obscenity prosecution which reveals that overbroad venue provisions have, in fact, resulted in Federal prosecutors' obtaining venue through highly questionable means.

Publishers of certain magazines were recently tried in Kansas for violating Federal obscenity laws. But, in order to obtain venue, postal inspectors in three Kansas towns were instructed by Washington postal officials to solicit copies of certain magazines. They used money orders which were sent out from Washington. By this means the Kansas inspectors obtained material and returned the unopened envelopes to New York, and venue was thus secured in Kansas despite the fact that a negligible number of subscribers actually resided in Kansas.

Under existing law a person charged with violating obscenity laws can be tried in the district from, through or into which the material was delivered.

The committee has made some changes in the relevant sections of the proposed code. First, the bill provides that a conspiracy to violate the obscenity laws can be prosecuted only where the conspiracy was entered into and where a substantial portion of the conduct to effect the conspiracy was carried out.

Second, the bill would eliminate the possibility of obscenity prosecutions being brought in a jurisdiction through which the material passed; and, finally, the report accompanying the bill notes the committee's intention that the section be construed in such a manner that the "government ordinarily will avoid prosecuting obscenity cases in the district in which venue is legally proper but the unlawful activity is de minimis in scope." I think these are constructive changes.

The noted Federal jurisdiction expert, Charles Alan Wright, has commented upon the problems flowing in general from our multidistrict criminal venue provisions:

There is obvious danger in those broad provisions and rulings as to venue, in that they make it possible to thwart the purpose of the constitutional requirement of trial in the vicinage. This is especially true as notions of vicarious participation in crime have become more expansive and the use of the mails or other means of interstate communication or transportation has become the touchstone of so many Federal crimes.

Similar concerns were expressed by Justice Frankfurter, in his opinion for the Court in *United States* v. *Johnson* 323 U.S. 275 (1944) where he stated:

Plainly enough, such leeway not only opens the door to needless hardships to an accused by prosecution remote from home and from appropriate facilities for defense. It also leads to the appearance of abuses, if not to abuses, in the selection of what may be deemed a tribunal favorable to the prosecution.

Mr. President, this is not a matter which is of concern only to members of the Judiciary Committee. I have here a letter written last month, December 12, 1977, by Thomas I. Emerson of the law school of Yale University. I ask unanimous consent that this letter appear in full at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

YALE UNIVERSITY,
New Haven, Connecticut, Dec. 12, 1977.

Senator CHARLES MCC. MATHIAS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: This is with reference to your proposal to amend Section 3311 of S. 1437. Your amendment would provide that, in cases involving an alleged violation of Section 1842 (Disseminating Obscene Material), the offense may be prosecuted in any district in which the material was mailed or in which it was received, but the defendant may request that it be tried in the district in which he has his primary place of business and the court shall so order unless the prosecution demonstrates that the district in which the proceeding was commenced "has sufficient relationship with the defendant to justify proceeding in that district.

I concur with your proposal. Under the venue provision now incorporated in S. 1437 a person may be charged with disseminating obscene material and brought to trial in any district in which the material is received, even if there is only a single recipient in that district. Moreover, the single recipient may even be a government agent who has solicited the material. Such an arrangement imposes intolerable burdens upon freedom to publish and disseminate literature. It means that every publisher runs the risk of being brought to trial in the district that has the most strict standards of censorship in the entire country. Moreover, numerous prosecutions of a similar kind can be bought in various districts against the same publisher. The same risks are faced by anyone who distributes literature. And the persons charged with these offenses must defend them in far away places, a costly and harassing process.

The fact that these results are not imaginary is shown by our experience over the years with literary censorship. Not very long ago the publishers of such books as *Lady Chatterley's Lover and Tropic of Cancer* were pressed to the wall by being forced to defend multiple obscenity prosecutions in various parts of the country. And presently the publishers of certain magazines have been brought to trial in Kansas, a State with notoriously strict standards of what constitutes obscenity, even though no copies of the magazine were sold on the newsstands or distributed publicly in Kansas and virtually the only subscribers by mail were government agents. It would be most unfortunate, to say the least, if the literary tastes of the whole country were forced to conform to those areas with the most narrow standards. Yet this would be a powerful tendency, and perhaps the inevitable result, of the present venue provisions of S. 1437.

Your amendment would go part way to relieve this situation. It would at least require the Government to show that the prosecution was brought in a district where the impact of the dissemination of the alleged obsence materials was substantially related to the purposes of the Federal prohibition against obscenity. Where the Government cannot show this it is certainly fair to allow the person charged to defend the case in the district where his business and his resources are located.

It should be noted that even greater protections are afforded defendants in tax cases, who have an absolute right to shift venue to the district in which they reside, under Section 3311(d) of S. 1437. I see no reason why alleged violators of the tax laws should be given preference over publishers and distributors of literature.

I would only add that, in my opinion, your amendment ought to be broadened to extend not only to dissemination through use of the mails, but to dissemination by any other method that creates Federal jurisdiction.

Sincerely,

THOMAS I. EMERSON.

Mr. MATHIAS. I will read in part from the letter. He says:

This is with reference to your proposal to amend Section 3311 of S. 1437. Your amendment would provide that, in cases involving an alleged violation of Section 1842 (Disseminating Obscene Material), the offense may be prosecuted in any district in which the material was mailed or in which it was received, but the defendant may request that it be tried in the district in which he has his primary place of business and the court shall so order unless the prosecution demonstrates that the district in which the proceeding was commenced "has sufficient relationship with the defendant to justify" proceeding in that district.

Then Professor Emerson goes on to say:

I concur with your proposal. Under the venue provision now incorporated in S. 1437 a person may be charged with disseminating obscene material and brought to trial in any district in which the material is received, even if there is only a single recipient in that district. Moreover, the single recipient may even be a government agent who has solicited the material. Such an arrangement imposes intolerable burdens upon freedom to publish and disseminate literature. It means that every publisher runs the risk of being brought to trial in the district that has the most strict standards of censorship in the entire country. Moreover, numerous prosecutions of a similar kind can be brought in various districts against the same publisher. The same risks are faced by anyone who distributes literature. And the persons charged with these offenses must defend them in far away places, a costly and harassing process.

I have another letter, Mr. President, from Mr. Townsend Hoopes, the president of the Association of American Publishers. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF AMERICAN PUBLISHERS, INC.,
Washington, D.C., January 25, 1978.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate, Russell Office Building, Washington, D.C.

DEAR SENATOR MATHIAS: Last year this Association, which represents many of the major publishers of general and educational books in the United States, filed a detailed statement reviewing its objections to provisions of S. 1437 relating to the dissemination of "obscene" materials. That statement appears on pages 9346–7 of the Senate Hearings.

Since that time we have followed with great interest the Judiciary Committee's consideration of obscenity and related issues. In particular, we have been most gratified by your efforts, and the efforts of others on the committee, to put an end to the misuse of venue—a practice that has unfortunately characterized recent federal obscenity prosecutions. We commend you for recognizing that the tactic of shopping for a federal trial forum not meaningfully associated with the defendant or his publication, solely for the purpose of subjecting the publication to the standards of a local community that may be highly sensitive to sexually-explicit material, represents an abuse of prosecutorial discretion that ought to be remedied.

As we understand it, two amendments were adopted in committee for the purpose of limiting the permissible venues for federal prosecution of obscenity offenses. First, new Section 3311(g) was added, which restricted venue for a mail or interstate commerce offense to the district from which the material was disseminated or in which the offense was "completed." Second, the permissible venues for conspiracy-obscenity offenses were limited in Section 3311(b) to those districts where the conspiracy was entered into, or in which a *substantial portion* of the conduct to effect the conspiracy occurred. While we welcome these amendments, we also believe (for reasons well understood by your staff) that they may prove to be only modest deterrents to federal forum-shopping.

We are aware that you have offered a further amendment to put teeth into such provisions. Your amendment would give a defendant the right to move for a change of venue to his primary place of business, unless the Government could demonstrate that the original venue had sufficient relationship with the defendant to justify proceeding with the prosecution. Although your amendment was defeated in committee, we were pleased to note language in the committee report indicating the "expectation and intention" that the Government will avoid prosecuting obscenity cases in districts where the unlawful activity is *de minimis* in scope.

We would wholeheartedly support further efforts to gain the adoption of your amendment during the Senate's consideration of S. 1437.

To assure that venue-related decisions are made on a consistent basis, consideration should also be given to an amendment of Section 1842 that would provide for prior approval of any federal prosecution by the Attorney General. At minimum, we would urge the Senate to seek assurances from the current Attorney General that, where more than one venue might be technically proper, the Justice Department will prosecute only in a forum substantially related to the defendant or his publication.

We wish once again to express our indebtedness to your devoted efforts to achieve meaningful reform in this area. The enforcement of federal obscenity laws, while rarely of direct concern to those who publish books of serious value to the American public, can nevertheless impose a chilling effect on all publishers. If your recent efforts to combat forum-shopping do not go the entire distance toward general substantive reform of federal obscenity laws, they do represent a hopeful and forthcoming effort to remedy one notable procedural abuse. For this we are most grateful.

Sincerely,

TOWNSEND HOOPES.

Mr. MATHIAS. Mr. Hoopes says, and I read from his letter:

We are aware that you have offered a further amendment to put teeth into such provisions. Your amendment would give a defendant the right to move for a change of venue to his primary place of business, unless the Government could demonstrate that the original venue had sufficient relationship with the defendant to justify proceeding with the prosecution. Although your amendment was defeated in committee, we were pleased to note language in the committee report indicating the "expectation and intention" that the Government will avoid prosecuting obscenity cases in districts where the unlawful activity is *de minimis* in scope.

We would wholeheartedly support further efforts to gain the adoption of your amendment during the Senate's consideration of S. 1437.

To assure that venue-related decisions are made on a consistent basis, consideration should also be given to an amendment of Section 1842 that would provide for prior approval of any federal prosecution by the Attorney General.

So, Mr. President, this amendment, as illustrated by the two letters which have been submitted for the RECORD, enjoys the support of knowledgeable experts in the law. I have discussed it with newspaper editors and publishers in various parts of the country. They consider this to be a serious problem, for which my amendment provides a reasonable solution. I hope that the Senate will see fit to adopt the amendment.

Mr. HATCH. Mr. President, this amendment would substantially change current law in the area of obscenity prosecutions. I think in that sense it is an unwise amendment.

It would prevent the Federal Government from protecting the community morals in most areas of the United States. This amendment would allow defendants in Federal obscenity prosecutions to change venue automatically unless the Government could carry the burden of proving that venue should not change.

In other words, a distributor of pornography in New York City could send obscene materials into South Carolina, have the materials disseminated there, and be arrested for doing so, but then be tried in New York City, not in South Carolina.

Mr. President, there is no reason why an individual who commits a Federal crime within a particular jurisdiction should not be tried there. There may be a basis for change of venue because of adverse publicity, convenience or inconvenience of witnesses, or inability of a defendant to receive a fair trial. There should be no change of venue simply because of some alleged adverse restraint on first amendment rights.

Nowhere in the amendment offered by the distinguished Senator from Maryland, at least as far as I understand it, does the Senator mention which standards the court should apply. In other words, if New York distributors published, as in the illustration that I gave, or distributed pornography from New York State and distributed it in South Carolina, which law is going to apply, that of New York or that of South Carolina? If New York law applies, there may not be any crime. If South Carolina law applies, then perhaps there is a violation under those circumstances.

In addition, as I recall—and I will be happy to be corrected if my recollection is faulty—our distinguished colleague from Maryland supported the Dole amendment yesterday or the day before, which set up the local community's standards as ruling. Therefore, I think his amendment is inconsistent from that standpoint.

I might add, Mr. President, that I am opposed to the amendment because it would open up distribution of pornography into local areas free of Federal prosecution. This is not a situation we want to create with this bill. It is not the sort of situation which the committee has worked very hard to resolve.

Therefore, I move, Mr. President, to lay on the table the amendment of the Senator from Maryland, and I ask for the yeas and nays on my motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MATHIAS. Mr. President——

Mr. HATCH. Then I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MATHIAS. Mr. President, will the Senator withhold that for a moment? I think it is an interesting question.

The PRESIDING OFFICER. The motion is not debatable.

Mr. HATCH. I ask unanimous consent to withdraw my motion for a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland.

Mr. MATHIAS. Mr. President, the distinguished Senator from Utah has raised a question as to which standard should

apply. That is an interesting question, and I think the record ought to show a reply.

We do refer to a standard. One of the difficulties is that the Department of Justice in the past has operated without a standard regarding whether venue is appropriate in a given case. That is one of the things we are trying to correct with this amendment. We are trying to implant a standard.

Certainly no one can argue that Kansas, for example—the State involved in the case we have before us—does not have an interest in using its own standards to determine what materials its residents deem to be reprehensible. Recent Supreme Court rulings have held that Kansas should not be forced to modify its standards to conform to Federal standards of what is acceptable.

But should that State interest necessarily prevail in a State where the defendant's activities in the State were de minimis, such as in the case in point, where, as the Senator from Utah well knows, Washington postal inspectors sent money orders to Kansas for the purpose of developing venue in Kansas? Their purpose was not for anybody in Kansas to read it. They did not read it. They did not even open the envelopes. They sent the money orders from Washington. They put in the order for it to be delivered in Kansas. It was in fact delivered in Kansas, but the envelope was not even opened. The unopened envelope was taken to New York. But in the absense of any check on their activities, Federal officials were able thus to prove venue in Kansas.

Mr. HATCH. Will the Senator yield for a question?

Mr. MATHIAS. Surely.

Mr. HATCH. With regard to that, would not that case be distinguished from this? What would happen in the case of the Senator's amendment where the envelopes are opened and the contents therein violated the community standards of the State of Maryland, as an illustration?

Mr. MATHIAS. If, in fact, the material was being disseminated in that community—if it was being read by the residents of that community, and it was objectionable to them—there would be clear venue. They would be tried there. There would not be any question about venue.

Mr. HATCH. Would not the defendant in that matter have a right to an automatic change of jurisdiction?

Mr. MATHIAS. Not under my amendment. First of all, the defendant would have to submit an affidavit that there was not the kind of connection with that jurisdiction which would warrant his being tried there. The judge, on the basis of the sworn affidavits filed by the parties, would then determine if the defendant had raised a colorable claim. The judge would then hold a pretrial hearing, which would ascertain whether the defendant's motion should be granted. The possibility of people evading local community standards has really been screened out by the processes provided in this amendment. The trial would not be moved and the local standards would apply if the judge believed the defendant's claim was not justified.

Mr. HATCH. As I read the amendment, it says that there will be an automatical transfer of proceedings.

Mr. MATHIAS. No, there is no automatic transfer.

Mr. HATCH. It says:

Whenever the court, on the basis of sworn affidavits filed by the parties, determines that the defendant has raised a colorable claim that the proceeding should be transferred, the court shall hold a hearing on the motion.

I presume that is any kind of claim at all that has any kind of merit.

After such a hearing, the court shall order the transfer of the proceeding to the district in which the defendant had his primary place of business at the time the offense was committed, unless the Government demonstrates on the basis of substantial evidence that the conduct of the defendant which is the basis of the prosecution has a substantial connection with the district in which the prosecution was begun.

That puts the burden on the Federal Government. Then, consequently, it puts the burden on the local community to go to, in this case, New York to present its case, based upon Kansas standards, in a State where Kansas standards may not be upheld.

As I understand it, that is what this amendment does. That is considerably different, it seems to me, than allowing the local community standards to be applied.

Mr. MATHIAS. Only in those cases where it is a hoked-up process, as it was in the Kansas case. That was not a subscription by a Kansan. It was a subscription request generated here in Washington by postal inspectors and carried to Kansas because they thought that was the jurisdiction in which they could prosecute the defendants successfully. They received the publication in a sealed envelope. They did not even open it in the State of Kansas. They sent it unopened to New York. That is the kind of a hoked-up case we are trying to get at.

We are not providing any easy way out. In fact, the affidavit process would screen out any frivolous motions for transfer. They would have to state under oath reasons why they believed the trail should be transferred.

Mr. HATCH. I would like to ask another question. What if we have a distributor of pornographic materials in New York, and they are clearly pornographic? Well, let us say not so clearly pornographic. This is the question: It is clearly not pornographic, let us say, by New York standards but clearly pornographic, or at least questionably pornographic, by the State of Kansas, the State in which the material is disseminated.

In the State of Kansas, because of their local community standards, also a prima facie case could be made which would take the case against the defendant to the jury, although he may have some defenses.

Would the defendant have the right to invoke the colorable claim on the basis that he, himself, or any of his employees, or anybody else related to him, had nothing to do with the mailing?

Mr. MATHIAS. Certainly not. If he is disseminating his publication and his material in the community he would be subject to venue there.

Mr. HATCH. But in my illustration he is not disseminating it. It is the Postal Service.

Mr. MATHIAS. But he is causing it to be disseminated by putting it into the mails.

In making his determination under this amendment, the judge would consider any relevant factors. This goes directly to the question of the Senator from Utah. If I may have the attention of the Senator, it would be the quantity of material which has been disseminated to members of the general public in the district in which the prosecution was begun. It would be the number and types of the members of the general public in the district in which the prosecution was begun who may have viewed that material; and it would be whether the defendant has previously disseminated similar material into the district in which the prosecution was begun, and the frequency.

Mr. HATCH. So the Senator is saying the number, the type, the frequency——

Mr. MATHIAS. The normal questions that the Senator, as a good lawyer, would ask.

Mr. HATCH. Let me ask another question. Let us say it happens once, that a certain pornographic magazine has been transferred, 100 issues of that magazine transferred, by the U.S. mails to Kansas without any personal contact with Kansas by anybody having to do with the defendant. Would the defendant be prosecuted in Kansas?

Mr. MATHIAS. I think the answer to that is fairly simple. It is this: It is whether the defense indicates that the defendant has willingly engaged in sufficient business in the district to satisfy a substantial connection there.

Mr. HATCH. A substantial connection? To satisfy that in the various courts of this country has been a minor task.

Mr. MATHIAS. It still is under this amendment. But it cannot be a hoked-up matter to satisfy forum shopping on the part of the Government. Such judicial determinations are not foreign to American jurisprudence. There are similar kinds of analyses which are regularly made by courts in this country in other contexts to determine whether a person has a substantial contact within the forum in which he is about to be tried. For example, these are initial decisions which regard the applicability of the long arm statute enacted by a city to obtain jurisdiction in a given case. These kinds of determinations are made in those cases every year.

Mr. HATCH. Will the Senator yield?

Mr. MATHIAS. I yield.

Mr. HATCH. The problem I have is that under the laws of Congress we have everything the Senator says, and we do not need the amendment of the Senator to accomplish that. In fact, the amendment, it seems to me, colors, to borrow a term within the amendment itself, colors the law and may cloud it to the point where this will have to be interpreted by the courts and may very well deprive the local communities from invoking their own standards.

Because if a defendant, under the code before the Senate at this time, is capable

of raising jurisdictional standards or venue standards that show that it is just a hoked-up case, he is going to be able to change venue anyway. So I see no reason for the amendment.

Mr. MATHIAS. I am heartened to hear the Senator from Utah say that he feels that the purpose of this amendment is accomplished by the bill which is now before the Senate.

Mr. HATCH. I believe it is.

Mr. MATHIAS. If the purpose is the same, there should be no objection to adopting this amendment, since we seem to agree that the purpose is a laudable one.

Mr. HATCH. I agree it is a laudable one. But I believe that the committee bill takes care of the problem and the amendment just clouds the issue. That is why I think I have to move to table.

Mr. HATHIAS. I think it clarifies the issue. Professor Emerson, in the letter I introduced for the record a while ago, makes the point. He says:

> It should be noted that even greater protections are afforded defendants in tax cases, who have an absolute right to shift venue to the district in which they reside, under Section 3311(d) of S. 1437.

That is what we do in this bill. We give to a tax violator the absolute right to shift venue to the place where he lived at the time of the alleged offense.

Professor Emerson goes on to say:

> I see no reason why alleged violators of the tax laws should be given preference over publishers and distributors of literature.

That is a reasonable statement.

Mr. HATCH. I am not sure that is so, that we give the absolute right to a tax violator to shift venue. I think he has to meet the same standards as others. I do not see why an obscene distributor should not have to meet the same standards as any other person.

If it is a hoked-up case, to use the Senator's words, being a hoked-up case, the distributor should be protected by current law and, certainly, by this bill.

In fact, in the bill itself, on page 237, under "Tax Offenses" it says that, in order to change venue, the defendant is going to have to do it by motion filed within 20 days after arraignment in the district in which the prosecution is begun. It is not automatic.

Mr. MATHIAS. I would just say to the Senator from Utah that I think we have to do here is relieve any uncertainty. The whole purpose of rewriting the criminal code is to relieve uncertainties in the law; to lift from the shoulders of people who want to be law-abiding citizens the uncertainties whether they may, in fact, be transgressing some law of which they may not have a full comprehension. There is a clear chilling effect when there is uncertainty in the law.

I think if we leave this bill in the shape in which it now is, we shall have that uncertainty. Publishers are not soothsayers. They cannot predict how a given community is going to react to a particular work. Nor do they know, when they get a subscription, whether it is coming from a Government agent or a legitimate subscriber. I think that is what we are trying to deal with.

I do not want to prolong this debate, but I do think that we have to remember what Justice Frankfurter said:

> Questions of venue in criminal cases are not merely matters of formal legal procedure. They raise deep questions of public policy in the light of which legislation may be construed.

We are right up against what Justice Frankfurter was talking about. We have an opportunity here to make clear what the law intends.

As the Senator from Utah, himself, has said, the purpose of the amendment is not in any way in conflict with the general purpose of the bill. It provides a remedy—not for some sort of metaphysical problem—but for problems which, in fact, have happened, which are recorded on the books. It will provide, at the very least, a judicial check, without which I think the law will be deficient.

Mr. HELMS. Will the Senator yield?

Mr. MATHIAS. Yes.

Mr. HELMS. The Senator mentioned cases on the books, cases in which first amendment rights had, in his judgment, may have been violated. How many of these involved pornography?

Mr. MATHIAS. The case we have been discussing was a Kansas case where the defendant was charged with violating the Federal obscenity law.

Mr. HELMS. Does the Senator have in mind any case that does not involve alleged pornography?

Mr. MATHIAS. This is an amendment to the obscenity provision.

Mr. HELMS. I understand that, but does he know of a case not involving pornography?

Mr. MATHIAS. As I said in my opening remarks before the Senator came into the Chamber, we are dealing with the first amendment. As the Senator will remember, Justice Black used to say that we cannot tolerate any invasions of the first amendment for any cause. I think that this prevents the nibbling away of the protections of the first amendment which will occur if we do not very carefully protect the venue question.

Mr. HELMS. Mr. Justice Black or anyone else to the contrary notwithstanding, the Senator from North Carolina does not believe that the framers of the first amendment contemplated protecting those who distribute filth.

Mr. President, during the Christmas holidays, I received a letter from one of the finest ladies in the city of Raleigh, the mother of three children, the oldest of whom is 14. Two of her children—the 14-year-old and a 12-year-old—had somehow gotten on the mailing list of a publisher of pornography. She sent me samples of what they had received, unsolicited. Since the family is quite prominent, I suspect that her children's names were put on the mailing list as perhaps a cruel, sick joke.

Mr. President, I was shocked when I glanced at the material that had been sent to these children.

I never imagined such filth could be circulated under the protection of the first amendment in this country. What a warped interpretation of that amendment, Mr. President.

Mr. MATHIAS. Will the Senator yield?

Mr. HELMS. Yes, gladly.

Mr. MATHIAS. Under my amendment, the disseminator of that material would be prosecuted, and he could be prosecuted where the material was disseminated. If he were convicted, he would feel the full force of the law. I think the Senator and I both agree on that.

Mr. HELMS. What the Senator is saying is that the lady in Raleigh, N.C., should have to go to New York to prosecute the distributor of filth being sent to her children. And that the postal authorities should not be allowed the means of trying to help such citizens who appeal for assistance?

Mr. MATHIAS. No, no, I am saying it would happen right in Raleigh, N.C., because the nexus would be there, the venue would be there. There is no problem about that. We have no problem.

I am glad the Senator brought that case up, because it is a perfect illustration. We are absolutely on all fours with that.

Mr. HELMS. Mr. President, I sent the material to the Postmaster General, enclosed in a sealed envelope so his secretary would not see it. I asked him what he could do about it. I received a response that the Postal Service is so limited in taking effective action against pornography.

This lady would not engage in prosecution of a pornographer, certainly if it involved the expense of traveling to a distant State. But I say to the Senator that anything that we do in this body to make it easier to circulate such filth would be a grievous mistake. We have gone too far in permissiveness in America. A great many people already are wondering what has happened to the soul of America.

I think it was de Tocqueville who came over here in the middle of the 19th century. He traveled around America and he later said:

> I wanted to find out the key to the greatness of this relatively new land.

He said:

> I went down to the docks and I saw them loading ships. What went on there was not vastly different from Europe and England. I went to the factories of America and I watched the workers there and what I saw was not vastly different from what I saw in Europe and elsewhere. I went out on the farms and I saw the farmers at work and even that was not vastly different.

And he said:

> What is the greatness of America?

And then he said he went to the churches. He said:

> I found there the greatness that I had been seeking, because the American people, while far from perfect, were at least trying to be good.

And he drew the conclusion that America was even then a great Nation because it was trying to be a good Nation.

He concluded by saying that America will be great as long as it is good. When America stops being good, she will stop being great.

I submit that any protection we give to pornographers is a step away, not merely from goodness, but from greatness.

Mr. MATHIAS. I would agree with the Senator, and take this opportunity to thank him for his support of the Mathias bill, which has just gone down to the President to be signed. A bill for which the Senator from North Carolina voted. A bill which will make it a Federal crime to procure the services of children for pornographic exhibitions. A bill I had introduced first in this Senate. A bill on which I was joined by the distinguished Senator from Iowa, the Senator from Utah supported and voted for it.

I think we have gone a long way in this Senate toward stamping out some of the most vicious kinds of pornography. I am not about to create a loophole for a pornographer.

I do think, along with Justice Black, that the way in which we can enforce the laws is important and the rules we have are important. I am heartened by the fact that the Senator from Utah says what I am trying to do, in fact, is what the bill tries to do, just trying to spell it out a little more.

Mr. HELMS. Is that the position of the Senator from Utah? If so, I would ask him to explain it to the Senator from North Carolina.

Mr. HATCH. I would like to clarify that. What I basically said, if you take your factual situation where a Government entity takes a magazine or any form of pornographic literature and material and itself pays for the cost of sending it through the mail so it can arrive at a selected jurisdiction because in that jurisdiction the man is going to be convicted, I think this bill takes care of that.

I have no difficulty with that. If the Senator would be willing to amend his amendment to take care of that precise illustration, I could accept his amendment and I believe the other side would accept his amendment.

But the Senator's amendment goes far beyond that and uses language such as "colorable claim" which raises a whole new plethora of legal issues that I do not believe we should get into with regard to this bill.

Now, that is where I stand. I certainly do not go as broad as the distinguished Senator from Maryland in this matter. I think if one has been entrapped, that the Federal Government has tried to get one involved in a jurisdiction by paying dissemination costs and setting it up, that is another matter, and that this bill takes care of it under those very limited circumstances.

But the Senator's amendment goes far beyond that and that is the objection we have to his amendment.

I think we are prepared to vote, if the Senator is.

Mr. MATHIAS. Let me say, of course, the evidence before the committee does not support the Senator's conclusion.

Mr. HATCH. Maybe I misconstrued it.

Mr. MATHIAS. The Justice Department people were in the room during the markup and they had an opportunity to set the record straight, and it was clear that cases similar to what the Senator has discussed have been happening.

Mr. HATCH. Well, because I, and I believe those managing the bill, would disagree with the distinguished Senator from Maryland, who has great respect for me, and certainly I know is trying to clarify certain areas in the law, but then again I would ask unanimous consent that the yeas and nays may be ordered at any time on this amendment or on a motion to table this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. And then I would also like to ask unanimous consent to temporarily lay the amendment aside so Senator PERCY can call up his amendment and then we will ask for the yeas and nays on Senator MATHIAS' amendment later in the day.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Temporarily lay it aside and then we will ask for the yeas and nays on the Mathias amendment or a motion to table the Mathias amendment later in the day.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1661

(Purpose: To prohibit the color photocopying of certain securities)

Mr. PERCY. Mr. President, I call up first my amendment numbered 1661.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment at this time? Without objection, the amendment will be in order.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 1661.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 219, between lines 2 and 3, insert the following new section:

§ 789A. Photocopying certain securities

(a) Whoever knowingly photostats, reproduces, duplicates, or in any manner executes a copy, or any part thereof, of:

(1) any note, stock certificate, treasury stock certificate, bond, interest coupon, treasury bond, debenture, certificate of deposit, any other form of debt instrument bearing interest, or any bank certificate of any of the above, other than currency, which is issued by any corporation, business, or foreign government; or

(2) any bond, interest coupon, note, or other obligation issued or guaranteed by any State, possession, Commonwealth, or territory of the United States or by any political subdivision of a State, possession, Commonwealth, or territory or by any public instrumentality of one or more States, possessions, Commonwealths, or territories;

without the written approval of an authorized official of the issuing corporation, business, or government is guilty of a Class A misdemeanor.

(b) Nothing contained in subsection (a) prohibits the true owner, or his authorized agent, legal custodian, or an authorized official of—

(1) a national credit institution, as defined in section 111 of title 18, United States Code;

(2) a member of, or business insured by, the Securities Investor Protection Corporation;

(3) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15(a)(1) of the Securities Exchange Act of 1934; or

(4) any employee benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

from making a photostatic noncolor copy of any document enumerated in subsection (a)(1) or (a)(2) for the purposes of recordkeeping or validation.

Mr. PERCY. Mr. President, securities fraud poses a serious menace to the financial well-being of our society. The need for strengthened legislation in this area was thoroughly documented during the 1971–74 hearings concerning organized crime and the trafficking in stolen and counterfeit securities, held before the Permanent Subcommittee on Investigations of which I am the ranking minority member. Expert witnesses testified that more than $50 billion of worthless securities could be found in the Nation's brokerage houses, banks, and other financial institutions.

Testimony also indicated that the Federal Government's efforts to prosecute the organized criminals who specialize in this type of activity has been hampered by ineffective laws. Technological advances, for example, have created new problems in securities protection. Certain technological innovations, not restricted by current law, are now being manipulated for criminal ends.

The recently developed color copier, capable of copying on both sides of any kind of paper, has already been put to counterfeiting use. And its potential for fraud is enormous. Even the rank amateur can produce convincing forgeries. I am, therefore, introducing an amendment that would ban such activity altogether. Amendment No. 1661 to S. 1437 would prohibit the color photocopying of any marketable security and restrict noncolor photostatic copies to the true owner, his authorized agent, or specific financial institutions. This amendment, however, will not prohibit anyone with a legitimate purpose from making a legitimate copy. I am pleased that this amendment has the support of the sponsors of S. 1437. I am confident that it will significantly help lessen the threat counterfeit securities pose to the health of this Nation's financial institutions.

Mr. THURMOND. Mr. President, the amendment offered by the able and distinguished Senator from Illinois appears to have no serious objection and is acceptable to us.

The PRESIDING OFFICER. This is an amendment that is to an amendment not before the Senate. It would take unanimous consent.

Mr. THURMOND. Mr. President, I ask unanimous consent that it be in order to consider the amendment at this time.

The PRESIDING OFFICER. The Chair suggests that the Senator ask unanimous consent that if this amendment is agreed to, if and when the other amendment, No. 1624, is called up, it then be deemed to have been amended by this language.

Mr. THURMOND. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1126

(Purpose: To prevent the theft of securities under section 1731(c)(29))

Mr. PERCY. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1126.

Mr. PERCY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendment will be in order at this time.

The amendment is as follows:

On page 133 after line 5 as previously amended strike the word "or" and add the following:

"(C) an insurance company registered under the law of a state or a foreign insurance company doing business within the United States; or".

Mr. PERCY. Mr. President, I am today offering an amendment to further strengthen the securities protection provisions of the theft statute, section 1731 of S. 1437. I am also quite pleased to have the support of my esteemed colleagues Senators RIBICOFF, JAVITS, JACKSON, and NUNN, all of whom joined with me in introducing in the first session of the 95th Congress S. 2323, the Securities Protection Act.

Mr. President, this amendment is quite simple. It would add to the jurisdictional base of section 1731(c)(29) the securities holdings of insurance companies. It follows up an amendment of mine that the Senate passed unanimously last Friday adding to this same section the category of broker-dealers registered with the SEC.

Exhaustive hearings held by the Permanent Subcommittee on Investigations have shown that securities theft is much more pervasive than anyone had believed. Organized crime is deeply and profitably involved. As much as $50 billion in fraudulent securities are circulating in our financial system. Stolen securities are being used to defraud legitimate businessmen and prop up phony corporations. The size of the problem often overwhelms the ability of State and local law enforcement officials to effectively respond to this serious threat to our society.

More and more, insurance companies are becoming major holders of securities. The U.S. insurance industry holds almost $170 billion of diversified securities—everything from corporate preferred stock to local government bonds.

In 1 year alone, 1976, American insurance companies bought $24 billion in corporate bonds. In each of the last 2 years, they have increased their purchases of corporate bonds by over 45 percent. It would seem strangely inappropriate not to include the securities of this industry under the category in (c)(29). Probably no other industry more deeply affects the well-being, the future, and the financial status of so many citizens of this country.

Mr. President, realizing that some might express concern about this measure, I have sought to determine whether there is support for this inclusion among the people most affected.

I have received letters of support from the major insurance organizations in this Nation, the American Council of Life Insurance, the American Insurance Association, the Alliance of American Insurers, and the National Association of Independent Insurers.

At the suggestion of the Department of Justice I sought the views of State and local prosecutors. I am happy to report that both the National District Attorneys Association and the National Association of Attorney Generals have joined in supporting this addition.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of letters from the organizations and firms I have mentioned which support this proposal.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JANUARY 19, 1978.

DEAR SENATOR PERCY: The American Council of Life Insurance, on behalf of its 472 member companies, who account for more than 92 percent of the legal reserve life insurance in force in the United States, is pleased to have this opportunity to comment on those provisions of the omnibus criminal law bill which relate to transactions in fraudulent securities.

Our Council has no objection to the passage of the provisions on fraudulent securities as they were embodied in S. 2323, introduced in the First Session of the present Congress. We understand these provisions will supplement the lost, stolen and counterfeit security program of the Securities and Exchange Commission by increasing the criminal penalties for those convicted of trafficking in such securities, and by expanding the jurisdiction of the Federal Bureau of Investigation and the Secret Service.

We appreciate this opportunity to comment and have no objection to those provisions embodied in S. 2323.

Sincerely yours,

LARRY M. ROSENSTEIN.

JANUARY 20, 1978.

S. 2323, a bill to amend title 18 of the United States Code to prevent illegal traffic in lost, stolen, forged, counterfeit, and fraudulent securities.

CHARLES H. PERCY,
Russell Office Building,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is in response to your request that we review S. 2323 with specific attention to the fact "any insurance company registered under the law of any State . . . and any foreign insurance company doing business directly or indirectly within the territorial jurisdiction of the United States" would be deemed a "financial institution or entity" under this bill. We understand you intend to offer S. 2323 as an amendment to section 1731(c) of S. 1437 on the Senate floor January 20, 1978.

Unfortunately no standing committees in the Association are meeting with whom we could review S. 2323. On the basis of our own review within the past two days, the staff of the Association sees no reason to object at this time to inclusion of insurance companies as financial institutions within the terms of S. 2323.

You have our best regards, and wishes for success in the work of the Committee on Government Affairs and its Permanent Subcommittee on Investigations.

Sincerely,

WALTER D. VINYARD, JR.,
Senior Counsel.

JANUARY 23, 1978.

Senator CHARLES H. PERCY,
Permanent Subcommittee on Investigation, Government Affairs Committee, Russell Building, Washington, D.C.

DEAR SENATOR PERCY: At your request, the staff of the Economic Crime Project of the National District Attorneys Association has examined your proposal to include insurance companies as "financial institutions or entities" in § 1731 C of S. 1437. We are in favor of such action, since insurance companies deserve the same protection as that given to banks and other institutions conducting similar business.

Thank you for the opportunity to comment on this aspect of S. 1437. I hope you will continue to request our assistance in the future.

Sincerely,

ROBERT J. SUSSMAN,
Project Director, Economic Crime Project.

JANUARY 20, 1978.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: The National Association of Independent Insurers wishes to go on record in support of your amendment to Section 1731(C) of S. 1437, the Criminal Code Revision Act.

NAII is a voluntary trade association of 635 member insurance companies and subscibers. Our association represents the widest spectrum of the property and casualty insurance industry. Our members range in size from small one-state companies to the largest national underwriters. They comprise stock and non-stock companies and reflect all forms of insurance merchandising.

We fully support your effort to include insurance companies within the definition of a "financial institution or entity."

Sincerely yours,

ARTHUR C. MERTZ,
President.

JANUARY 20, 1978.

Hon. CHARLES H. PERCY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: On behalf of the Alliance, I would like to request that section 1731(c) of S. 1437 be amended to include insurance companies within the protection of the Act.

The Alliance is a major association of over 100 property and casualty companies which write coverage throughout the country.

Thank you fo your attention to this matter.

Very truly yours,

JOHN D. STRINGER,
Counsel.

Mr. PERCY. Mr. President, Congress has begun to respond to the problem of stolen and counterfeit securities. As a result of legislation sponsored by my colleague, Senator JACKSON, in the 94th Congress, the SEC has just this month put into full operation a centralized reporting and inquiry system for lost, stolen, and missing securities. While insurance companies are not required to participate, they may do so on a volun-

tary basis. Tough criminal legislation is an important and necessary complement to that system.

It is vital for the success of the criminal statutes pertinent to the securities industry that we not overlook, through haste, some of the most notable holders of securities. Let us avoid such a mistake. We have an opportunity now to effectively lock the doors on fraudulent securities, let us make sure we close that door tight.

Mr. President, no Senator would be more staunch in his support of this amendment than Senator McClellan, who as chairman of the Permanent Subcommittee on Investigations was the driving force behind the extensive hearings into securities theft.

Mr. THURMOND. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1127 (TO AMENDMENT NO. 1624)

(Purpose: To move the drug phencyclidine from Schedule III to Schedule I in the Controlled Substances Act)

Mr. PERCY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that it be in order at this time?

Mr. PERCY. I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1127 to amendment No. 1624.

Mr. PERCY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Again this is an amendment to amendment No. 1624, which has not been called up as yet. Does the Senator request unanimous consent that it be in order and, if agreed to, be incorporated into that amendment if it in fact is called up?

Mr. PERCY. I so request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 143, between lines 29 and 30, insert the following:

"(o) Section 202 (21 U.S.C. 812) is amended:

"(1) by repealing '(7) Phencyclidine.' in Schedule III (b), and

"(2) by adding at the end of Schedule I (c) the following '(18) Phencyclidine.'".

Mr. PERCY. Mr. President, I am today moving to reschedule phencyclidine (PCP), commonly know as "angel dust," into Schedule I of the Controlled Substances Act, among those drugs with the highest potential for abuse. PCP warrants such a notorious designation since it has suddenly become the fastest growing drug abuse problems among youngsters in the United States. Last year alone, the number of youths trying PCP nearly doubled. Illicit manufacture of the drug has soared. In a recent California drug raid, upward of 900 pounds of PCP worth over $50 million was seized from a single illicit operation.

Yet PCP destroys. Medical experts warn that it is the most unpredictable drug ever to gain widespread use—so dangerous that it was never licensed for medical use on humans. Early experimentation on patients produced schizophrenic-like reactions. The founder and head of the famed Haight-Ashbury Free Medical Clinic terms it, "the most disruptive drug I've seen." In the past 3 years, at least 93 PCP-related deaths have been reported nationwide.

Clearly, PCP has become a problem of epidemic proportions. Teenager's increasingly chronic rather than occasional use threatens their health and well-being. Concrete steps must be taken to halt the continued spread of this toxic menace.

PCP must be acknowledged as a top-priority drug of abuse and designated as such. Since it has no recognized human medical use, it should be immediately classified among the most dangerous drugs, alongside heroin and LSD, in Schedule I of the Controlled Substances Act. Legal counsel informs me that such an action would not prohibit the Food and Drug Administration from granting exemptions for legal uses where necessary.

My amendment, which has the full support of the sponsors of S. 1437 and the Department of Justice, will reclassify PCP and its more than 30 analogs—some of which are already being sold on the street—into Schedule I. This action should then be accompanied by a substantial redirection of law enforcement, treatment, and prevention resources toward this extremely hazardous drug. Parents and youth must be made aware of its mind-crippling effects. "angel dust" is in truth, a devil in disguise.

Mr. President, one of the principal purposes we can serve is not only to pass legislation but also to provide the kind of public attention to a problem that is required. If young people, and their parents knew of the disastrous consequences that can result from the use of this low-cost, readily-available, drug, we could solve this serious problem without the necessity of this kind of action in this code. But certainly public education must be supplemented now by proper legal action.

Mr. President, because of the danger this drug poses to unwitting teenagers, and the urgency of the situation, I ask unanimous consent that my more detailed comments on PCP in the December 15, 1977, CONGRESSIONAL RECORD be reprinted in the RECORD at this point to further emphasize the detailed history we have developed in recent times about the crippling effects of PCP or angel's dust.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

IMMEDIATE FEDERAL ACTION NEEDED TO HALT PCP ABUSE

Mr. PERCY. Mr. President, I have called on the Carter administration to take immediate action to halt the accelerating abuse of the illicit drug phencyclidine (PCP), commonly known as angel dust.

In letters to Attorney General Griffin Bell and White House Special Assistant for Health Issues, Dr. Peter G Bourne, I have urged the Federal Government to immediately restrict the availability of PCP by reclassifying it among those drugs with the highest potential for abuse.

I am also calling for a White House conference to be promptly convened to focus the Nation's attention on this growing health menace and to give direction to the Federal efforts, National leadership on this problem is long overdue.

The latest statistics from the National Institute on Drug Abuse show new evidence of surging PCP abuse by teenagers in major cities across the country. Enough facts are already in to warrant strong Federal action. We know that the average age of youngsters trying this drug is lower than that associated with any other psychedelic drug. We know that in numerous studies PCP has proven to be more debilitating than LSD or mescaline. We know that the drug's low cost is escalating its use. In short, we know enough about this drug now that not to act would be to ignore a national menace.

PCP has only recently become a drug of choice among junior high school and high school students. Doctors warn that it is the most dangerous drug ever to achieve such widespread acceptance. PCP is known to seriously disrupt behavior, causing unpredictable, violent aggression, paranoia, severe anxiety, and depression. Although 93 deaths related to PCP abuse have been reported since 1974, authorities believe that hundreds more have gone unreported.

PCP is extremely dangerous because there is a thin line between getting "high" and accidental overdoses that may endanger human life. The vast majority of fatalities associated with PCP, however, are due to its behavioral toxicity and result in unexplained murders, drownings, and suicides.

PCP is easy to manufacture because its ingredients are readily obtainable. Hundreds of clandestine labs have appeared around the Nation. The drug's tremendous profit margin—$125 worth of chemicals can produce $100,000 in street sales—has reportedly attracted an increasing involvement by organized crime.

There is a clear pattern of accelerating PCP abuse. Specifically:

The number of juveniles trying PCP virtually doubled from 1976 to 1977, according to the National Institute of Drug Abuse;

An as-yet undisclosed study by the Philadelphia Psychiatric Center completed in August 1977, on 2,750 teenagers in drug centers in 39 States, revealed that 32 percent of them had tried PCP. The average age of first-time use was 14.5 years old. Two hundred children were chronic users taking PCP three or more times a week.

One New York City drug abuse treatment center reports that, over the last several months, 44 percent of its last 50 admissions were PCP related.

While only 13 percent of all hallucinogens mentioned in drug emergencies were PCP related during the summer of 1973, the percentage rose to 43 percent during the last 3 months of 1976.

In the first half of 1977, 22 out of 28 hallucinogen laboratories raided by DEA were manufacturing PCP.

A 5-milligram dosage sells for $1 and can get more than one person high. This low cost, coupled with peer group pressure in schools to be "tough enough" to handle the drug, has led to substantially increased demand. Reports cite children as young as 9 and 10 years of age experimenting with it.

PCP can be inhaled, swallowed, or smoked when sprinkled on marijuana or other substances. It appears as a tablet, capsule, or powder.

The Federal Government currently classifies PCP under schedule III of the Controlled

Substances Act of 1970, meaning that it has a recognized medical use and is not highly restricted. The Drug Enforcement Administration (DEA) has proposed to upgrade that classification to schedule II, which would still allow for PCP's medical use but recognize its high potential for abuse.

But, even though the liquefied form of PCP has an accepted medical (veterinary) use, the powdered and tablet forms of PCP have no recognized medical uses. I support the DEA proposal to reclassify the liquefied form in schedule II but have strongly urged that the powdered and tablet forms—most commonly found among teenagers—be classified in schedule I. In this way, the full weight and force of local and Federal Government can be brought to bear to suppress the illicit production and distribution of PCP.

Moreover, the DEA does not cover the more than 30 compounds of the PCP family—such as Pyrrolidine, PCE, and PHP—which are now not even subject to Federal control, even though they are often as dangerous as PCP. These substances are also becoming more readily available.

Once classified under schedule I, law enforcement officials would be required to elevate PCP to a priority comparable to that assigned to heroin.

This step is vital because PCP is in several respects as dangerous as heroin. Lt. John Hinchy, chief of the Chicago Police Department's narcotics division, has warned that "PCP has become the heroin of the suburbs."

The scope of PCP abuse is national. For example:

Chicago: The number of PCP-related hospital emergency room admissions in the metropolitan area increased by 30 percent for the first 4 months of 1977 compared with the same period in 1976.

Metro-Help, a privately operated drug hotline service, reports that in fiscal year 1976, 6.2 percent of its calls involved PCP. By September 1977 the number of calls had risen to 10.2 percent.

Detroit: A $4 million a year ring reputedly financed by organized crime figures was raided by police recently. The ring was making up to 20 pounds of PCP weekly to sell at $4,000 a pound.

San Diego: An official estimates nearly one-third of the city's 126 overdose deaths in 1976 were PCP related.

Baltimore: PCP has been linked to five deaths in 1976. This year there was a 200-percent increase in the number of PCP users admitted to a State-supported drug treatment program.

New York City: In 1977, police in Queens closed three underground labs with an estimated annual production of $12 million and arrested 50 persons. An explosion in one PCP laboratory in a private home killed an operator and injured his assistant. Since September, 17 of the last 20 admissions to the Phoenix House adolescent drug rehabilitation program in New York City have admitted to using PCP regularly.

San Francisco Bay area: Police suspect as many as five San Francisco murders in 1976 were linked to PCP. Some 20 to 30 PCP overdose cases were treated daily in the East Bay area. Local San Jose police seized 70 grams of PCP in the first quarter of 1975, 125 grams during the same period of 1976, and 4,000 grams during the first quarter of 1977.

Washington, D.C.: Since 1974, 1,000 young people have been treated for schizophrenia at St. Elizabeths Hospital. During one 2-year period, PCP was the center's leading cause of admissions. About one-fourth of the PCP patients returned to the hospital 1 year later with schizophrenic psychoses in the absence of drug abuse.

Mr. President, because of the dangers this drug poses to unwitting teenagers and the urgency of the situation, I ask unanimous consent that certain relevant and highly informative articles on PCP abuse be printed in the Record at this point. These include a Time magazine article from its publication dated December 19, 1977; a Chicago Tribune article of December 14, 1977, by Mark Starr; and an article appearing in the New York Times of November 10, 1977, by Matthew Wald.

There being no objection, the articles were ordered to be printed in the Record, as follows:

BEHAVIOR

PCP: "A TERROR OF A DRUG"

Angel dust is the most common name. It is also known as goon, busy bee, crystal, hog, elephant tranquilizer and superjoint. By any name, phencyclidine (PCP) is the most dangerous drug to hit the streets since LSD became widely available a decade ago. Its use is growing rapidly; a National Institute on Drug Abuse (NIDA) study found that nearly a third of the young patients reporting to drug-treatment centers have tried PCP and one-fifth used it regularly. Angel dust has been linked to hundreds of murders, suicides and accidental deaths—214 last year in the Detroit area alone. Says a Boston drug hotline worker about new PCP users: "They don't know what they're getting into. They think it's just some easy high. Man, are they surprised!"

A user in California walked into a house that he had picked at random, killed a baby and stabbed a pregnant woman in the stomach. Under influence of the drug, a man in San Jose, Calif., tore out both his eyes with his bare hands. In the Chicago area, more than a dozen cases of drownings have been attributed to PCP use: victims lose a sense of direction and space and cannot fight their way out of the water.

The effects of the drug are so unpredictable that users call it "heaven and hell." Irrational or violent action is typical of chronic users, but even dabblers are not immune to sudden rages. A small dosage of PCP can produce a high that resembles drunkeness and can lead to anything from euphoria and a sense of bouncing to depression and hallucinations. Larger doses can bring convulsions, psychosis, uncontrollable rage, coma and death. "It's a real terror of a drug," says NIDA Director Robert DuPont. "Everything people used to say about marijuana is true about angel dust."

Developed in the 1950s as an anesthetic, PCP was banned for human use after tests showed erratic side effects, and it is now legal only as a tranquilizer for monkeys and apes. It can be snorted as a powder, injected as a fluid or swallowed as a pill. But usually the drug is dusted or sprayed over parsley, mint leaves or marijuana and smoked. Some dealers doctor low-quality marijuana with it. Others simply sell it to native youngsters as LSD, THC (the active ingredient in marijuana), mescaline or even cocaine.

One reason for the rapid proliferation of PCP is that the drug is cheap and available. For $100, a handy amateur can manufacture PCP worth $100,000 on the street. "It's a terribly easy thing to do," says Hugh Shanahan, a federal Drug Enforcement Agency official in Los Angeles. "It requires no sophisticated equipment. Even someone without a chemistry background can do it." Thus PCP is churned out in hundreds, possibly thousands of makeshift labs around the country, often in remote areas, where there is less chance that its telltale ether odor will be detected.

Though police often track down these producers through tips from shocked and disgruntled PCP users, they have another way of finding the labs. Some solvents used in turning out PCP are so volatile that L.A. police have zeroed in on several labs simply by following up fire-department reports or suspicious explosions.

PCP may require an entirely different enforcement program. Officials who were trained to cope with limited imports of natural drugs are now facing an array of new synthetics that can be easily concocted at home. Some 20 variations of PCP are probably already on the streets, most of them perfectly legal because authorities have not got around to banning them. "We're heading into a new, dangerous era," says Dr. Mitchell Rosenthal, head of Phoenix House, a drug-free program in New York City. "The natural substances—opiates and so forth—are not going to be the problem of the future."

Government planners are belatedly mapping a campaign to educate the public about the dangers of angel dust. But one official is frankly puzzled about how to approach PCP users. Says he: "It's hard to understand why people are taking PCP. They don't take it to get high. They don't take it to make sex better. They take it to zonk themselves out. In a way, it's a disguised death wish."

[From the Chicago Tribune, Dec. 14, 1977]

PCP MAKES DRUG SCENE HERE WORSE

(By Mark Starr)

On the street, they call it "dust," "hog," "tic," and "tac."

The police have taken to calling it the "white man's heroin."

What it is is PCP, an animal tranquilizer—and a main reason Chicago-area experts dispute federal studies that show drug use among teen-agers has stabilized.

In Chicago, say experts here, the situation is getting worse.

"The youngsters seem to be getting more and more involved, particularly with this PCP," says Harold Thomas, commander of the Chicago Police Department's youth division. "And PCP has properties that make it one of the most dangerous drug of all."

That's on top of a basic commitment to marijuana use that Frank Folkers, a city-wide drug consultant to the Chicago Board of Education, terms "staggering."

"Marijuana is the youth drug," he said. "You can't even discuss it without risking turning the kids off.

"All they want to know from me is when is it going to be legalized. They're beyond decriminalization already.

The drug problem here is aggravated by several factors:

Teen-agers are far more likely today to use a mixture of drugs and to combine drugs with drinking.

The quality of street drugs appears to be worsening.

PCP, which has become the "in" drug in the last several years, supplanting pills, is easy to manufacture, difficult to police, readily available on the streets, and easy to consume and conceal.

Patterns of drug use have become more sophisticated.

Randy Webber, drug information coordinator for Alternatives, Inc., a North Side center for drug treatment, prevention, and education, says the wholesale mixing of drugs reflects a certain attitude.

"Kids aren't really interested in what they're taking," Webber said. "They gobble stuff haphazardly because all they want is to get high. The object is to get messed up any way you can.

"And the way they use liquor on top of it is like a condiment or extra flavoring. They don't even think of it as a dangerous drug. It's just like putting salt and pepper on a steak."

Current statistics reveal that about 50 per cent of drug overdoses are cases of mixed use of drugs and alcohol.

In addition, Webber says, the quality of street drugs as determined by Alternatives' drug analysis program is deteriorating steadily. He says the "ripoff rate" involving adulterated drugs or substances that are not drugs at all is approaching 70 per cent.

The advent of PCP compounds most of the traditional problems. For example, its components are not federally regulated and thus they are easily purchased and the drug easily manufactured.

In addition, only small quantities of PCP are required for a "high" and it can be consumed in any manner [in a drink or laced into a marijuana cigaret], making detection extremely difficult.

"They can smoke it in a marijuana cigaret, figuring nobody's going to bother with them for one lousy cigaret," said Thomas, "but what they're actually smoking may have the chemical potential of 20 marijuanas."

PCP produces dangerous symptoms, including loss of muscular control, often resulting in recurring episodes, sometimes months later.

Even more frightening, PCP has been linked with episodes of psychotic violence.

Drug experts here are trying not to sound panicky, but they fear that what is already called a PCP "epidemic" in California is beginning to penetrate Chicago in the same proportions.

Those familiar with drug activity in the Chicago area are alarmed at the "anything goes" nature of drug traffic among teenagers. A new hot item called "teas in blue" combines a synthetic narcotic with an antihistamine and is selling briskly on the South and West sides.

"I really don't want to sound alarmist," said Webber, "but it's clearly going to get worse here before it gets any better."

[From the New York Times, Nov. 10, 1977]

YOUTHS' USE OF "ANGEL DUST" STIRS CONCERN

(By Matthew L. Wald)

"Angel dust," an inexpensive additive that can induce violence and psychosis, has found its way into the marijuana cigarettes of thousands of adolescents in New York City over the last six to eight months, according to health officials.

Teen-agers in search of strong, cheap highs, are also looking for substitutes for "oust," including deodorants and insecticides, which they spray on marijuana.

A hallucinogen also known as "zombie dust," "elephant tranquilizer" and "busy bee," the drug phencyclidine, or PCP, was developed in the 1950's as a tranquilizer, but rejected for human use after tests caused violent behavior and convulsions in human patients.

The substance is occasionally used to sedate primates and is now widely available in marijuana.

Unlike marijuana itself, about which medical experts are divided, doctors agree that PCP is a very dangerous drug.

"The tragedy is that most people experience angel dust as some unusual form of marijuana, and associate it with the benign patterns of marijuana, but it's anything but that—it's a real terror of a drug," said Dr. Robert L. Dupont, director of the National Institute on Drug Abuse.

Drug rehabilitation workers, startled by the swift spread of the white-crystalline powder, fear it comes at a time when parents and others have dropped their guard against marijuana.

"We have a population which believes the drug abuse problem is not what it used to be, that kids use a little pot or alcohol, but it's no big deal," said Dr. Mitchell S. Rosenthal, president of the Phoenix House Foundation, drug-rehabilitation organization.

"In the midst of that quiescence, to have a very potent psychoactive drug become suddenly widely available is very dangerous" he said.

WIDE USE SEEN

At Phoenix House, 17 of the last 20 admissions to a program for adolescents said they were PCP users, and Dr. Rosenthal estimated 30 to 40 percent of city high school students use the drug.

A survey undertaken by Phoenix House said that one residential drug treatment center found 22 of its last 50 admissions had used PCP, and that Harlem Hospital was seeing three or four toxic reactions to PCP in its emergency room each week.

Users called "dust heads" say small doses produce intoxication like alcohol, and sensations of peacefulness, self-confidence and floating. Medical journals say higher levels produces numbness, convulsions, and comas.

"They become really whacked-out," said Capt. John P. Keane, head of the Queens narcotics division of the Police Department. Another symptom is greatly increased irritability.

According to an article in the Journal of the American Medical Association, "unpredictable destructiveness" may result, with stimulated users "running aimlessly, performing bizarre actions, and striking bystanders."

In California, two convicted murderers said they believed PCP-use made them violent. Medical journals record instances of heavy use leading to suicide attempts.

"Sometimes," admitted John, a 16-year-old in the Phoenix House program for drug abusers, "if you take it when you have an attitude, that attitude stays with you until the dust goes away."

Another adolescent in the program, a 13-year-old named Jay, said he had smoked some marijuana with angel dust with friends.

"All of a sudden, we started kicking garbage cans, breaking windows, and bothering people," he said. Jay said he and his friends did not normally behave in this manner.

PCP-poisoning victims, and doctors, have described undesirable symptoms produced by dust as "bad trips" and "bummers," in some ways similar to those produced by LSD.

Overdoses are more common because, as with many illegal drugs, purchasers have no way of knowing the purity or potency of what they are buying. Generally, the PCP is purchased as an ingredient in the marijuana.

"Some of the biggest overdoses are when a kid starts to get caught with a cigarette," said Dr. Rosenthal, who made a gulping motion, "and then he swallows it."

Despite the risks, "dust" is increasingly popular, according to Captain Keane of the narcotics division. More than 100 arrests have been made for sale of PCP in Forest Park in Woodhaven, Queens, alone but "it hasn't even put a dent in the problem," he said.

Last month the police closed three underground laboratories and arrested 58 persons involved in manufacturing the chemical, but Captain Keane says its use is still widespread. Users say that $10 worth of PCP-laced marijuana is enough to give hallucinations to 20 smokers.

Mr. THURMOND. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

UP AMENDMENT NO. 1129

(Purpose: To adjust the penalty for an offense involving phencyclidine)

Mr. PERCY. Mr. President, I send to the desk my last amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is deemed in order. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1129.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 161, strike lines 4 and 5, and insert in lieu thereof the following:

"(1) A Class C felony if the controlled substance is listed in Schedule I or II and is:

"(A) a narcotic drug other than an opiate; or

"(B) phencyclidine (PCP), including salts, analogues, precursors, or isomers and their salts;".

Mr. PERCY. Mr. President, I am today introducing, in conjunction with my amendment to reschedule phencyclidine (PCP) into schedule I of the Controlled Substances Act, an amendment to increase the criminal penalties for trafficking in and manufacturing this debilitating drug.

PCP is a proven killer. Almost 100 deaths due to the drug have been reported over the last 3 years. Unscrupulous, middle-aged drug dealers are peddling PCP to teenagers under the guise of other drugs because it is so easy and inexpensive to make.

Pushers, attracted by the profit margin offered by illicit PCP production—$125 worth of chemicals can make $100,000 worth of the drug—are sprouting homemade labs across the country. Some 40 illegal laboratories were seized by the Drug Enforcement Administration in the first 10 months of last year.

And in many respects PCP is as damaging to the youth of America as heroin. In some respects, it is more so. Millions of youngsters who have tried PCP have never experienced narcotic drugs. Medical experts warn of the recognized dangers of this pernicious drug. Federal law enforcement agencies must crack down on the persons involved in the distribution of PCP. High school and junior high school children need to be protected. By raising PCP to a class C felony—with a maximum 10-year penalty and $100,000 fine—from a class D felony—with a maximum 5-year penalty and $100,000 fine—traffickers and manufacturers of the drug will be put on notice that they are taking a greater risk themselves in tampering with other people's lives.

Mr. THURMOND. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

UP AMENDMENT NO. 1128

Mr. THURMOND. Mr. President, I ask unanimous consent that certain amendments that have been agreed to by the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from South Dakota (Mr. ABOUREZK) be taken up at this time and considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes certain amendments en bloc, unprinted amendment No. 1128.

The amendments are as follows:

On page 110, line 21, delete "Class C" and insert "Class B".

On page 114, line 27, delete "Class C" and insert "Class B".

On page 116, line 10, delete "Class E" and insert "Class D".

On page 125, line 38, delete "Class E" and insert "Class D".

On page 154, line 37, delete "Class E" and insert in lieu thereof "Class D".

On page 165, delete lines 34 and 35 and insert in lieu thereof:

"(1) a Class C felony in the circumstances set forth in subsection (a)(1);

"(2) a Class D felony in the circumstances set forth in subsection (a)(2) or (a)(3). Renumber paragraph "(2) as "(3).

On page 164, delete lines 32 through 37 and insert in lieu thereof:

"(1) a Class C felony in the circumstances set forth in subsection (d)(1);

"(2) a Class D felony in the circumstances set forth in subsection (a)(2) if the violation is of a provision set forth in subsection (a) through (i) of section 1103 of the Organized Crime Control Act of 1970; as amended (15 U.S.C. —);

Renumber subsequent paragraph as "(3) and "(4).

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from South Carolina en bloc.

The amendments were agreed to en bloc.

Mr. PERCY. Mr. President, I wish to express my deep appreciation to my distinguished colleague, the floor manager of the bill, Senator THURMOND, and also the majority floor manager of the bill, Senator KENNEDY, for the fine cooperation and assistance they have provided.

Mr. THURMOND. Mr. President, the able Senator from Illinois is to be commended for his dedicated service rendered by him in connection with these amendments.

Mr. PERCY. Mr. President, I move to reconsider the votes by which the seven amendments have just been agreed to by the Senate, including Senator THURMOND's amendments, en bloc.

The PRESIDING OFFICER. Is there objection to such reconsideration? Without objection, it is so ordered.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I ask unanimous consent that Keith D. Leslie be permitted the privileges of the floor during the consideration of S. 1437 and for any votes that may occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

UP AMENDMENT NO. 1130

Mr. PERCY. Mr. President, I send to the desk an amendment, and ask unanimous consent that the immediate consideration of the amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1130.

Mr. PERCY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 270, add the following after line 9:

"'(2) "rehabilitation program" includes:

"'(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

"'(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

"'(C) drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and

"'(D) organized physical sports and recreation programs;".

On page 270, line 10, delete "(2)" and insert in lieu thereof "(3)".

On page 272, between lines 10 and 11, insert the following:

"'(2) The director of the facility in which a person is hospitalized pursuant to section 3611, 3613, 3614, or 3615, shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility."

On page 272, strike line 1 and insert in lieu thereof the following:

"'(e) Periodic Reports and Information Requirements for Suitable Facilities.—(1) The director of the".

On Page 272, line 3, strike "(1)" and substitute "(A)".

On page 272, line 4, strike "(2)" and substitute "(B)".

On page 273, strike lines 26 and 27 and insert in lieu thereof:

"'(k) Authority and Responsibility of the Attorney General.—(1) Before a person is placed in a suitable facility pursuant to section 3611, 3613, 3614, or 3615, the Attorney General shall request from the director of each facility under consideration information describing any rehabilitation program that would be available to such person, and, in making a decision as to the placement of such person, shall carefully consider the extent to which the available programs would meet the needs of such person.

"'(2) The Attorney General:".

On page 273—

(1) on line 28, strike "(1)" and substitute "(A)";

(2) on line 32, strike "(2)" and substitute "(B)"; and

(3) on line 35, strike "(3)" and substitute "(C)".

Mr. PERCY. Mr. President. I am today offering an amendment to the mental health provisions of section 36 of the Revised Criminal Code. The Judiciary Committee's work in this area has been uniformly excellent. Senator WALLOP, in particular, should be cited for his fine and persistent efforts at clarifying these vital provisions. Many of the amendments he offered in committee were accepted unanimously.

This amendment will serve to direct the court responsible for placing a defendant in a suitable facility to carefully consider the rehabilitation programs most appropriate to the defendant's needs.

But, by no means, is a defendant's right to rehabilitation authorized under this amendment. No new programs are instituted, no new funds are necessary.

This amendment, instead, is an attempt to provide the defendant with best quality care given the limited resources available. Under this amendment the defendant must only be informed of the rehabilitation programs currently in existence at the facility where he is to be hospitalized. Since the court has already taken into account the defendant's needs in sending him to a suitable facility, those programs would then aid the defendant to overcome his disability.

Mr. THURMOND. Mr. President, we have no objection, and are willing to accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. PERCY. I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to .

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. There is no quorum call in progress. The Senator from South Carolina may proceed.

UP AMENDMENT NO. 1120

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate now return to the consideration of the Culver amendment, which was temporarily laid aside, and on which the yeas and nays have been ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Iowa (Mr. CULVER). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. HODGES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—88

Abourezk	Bayh	Bumpers
Allen	Bellmon	Burdick
Baker	Biden	Byrd, Harry F., Jr.
Bartlett	Brooke	

Byrd, Robert C.	Hatfield, Paul G.	Nunn
Cannon	Hathaway	Packwood
Case	Hayakawa	Pearson
Chafee	Heinz	Pell
Chiles	Helms	Percy
Church	Hollings	Proxmire
Clark	Huddleston	Randolph
Cranston	Inouye	Riegle
Culver	Jackson	Roth
Danforth	Javits	Sarbanes
DeConcini	Johnston	Sasser
Dole	Kennedy	Schmitt
Domenici	Leahy	Schweiker
Durkin	Long	Scott
Eagleton	Lugar	Sparkman
Eastland	Magnuson	Stafford
Ford	Mathias	Stevens
Garn	Matsunaga	Stevenson
Glenn	McClure	Stone
Gravel	McIntyre	Talmadge
Griffin	Melcher	Thurmond
Hansen	Metzenbaum	Wallop
Hart	Morgan	Weicker
Haskell	Moynihan	Williams
Hatch	Muskie	Zorinsky
Hatfield, Mark O.	Nelson	

NAYS—0

NOT VOTING—11

Anderson	Hodges	Stennis
Bentsen	Laxalt	Tower
Curtis	McGovern	Young
Goldwater	Ribicoff	

So Mr. CULVER'S amendment was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1131

Mr. METZENBAUM. Mr. President, I send to the desk an amendment on behalf of Senators BROOKE, JAVITS, and CRANSTON and I ask that it be stated.

The PRESIDING OFFICER. Does the Senator from Ohio ask unanimous consent that it be in order at this time?

Mr. METZENBAUM. Yes. But may I inquire of the Chair why it is necessary that I have unanimous consent to call up an amendment?

The PRESIDING OFFICER. The reason is because the committee amendments have not yet been disposed of.

Mr. METZENBAUM. I thank the Chair for the explanation.

The PRESIDING OFFICER. Without objection, it will be in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for Senator BROOKE, JAVITS, and CRANSTON proposes an unprinted amendment numbered 1131:

On page 176, delete lines 21 and 22 and insert in lieu thereof:

"'(2) the public servant is a member of the armed forces or militia acting as a federal public servant pursuant to the provisions of chapter 15 of title 10 or section 672 of title 10.'".

Mr. METZENBAUM. Mr. President, this is an amendment to section 1861, which is a limited amendment with respect to Federal jurisdiction. It substitutes language that has been agreed to and acceptable to, I think, all parties concerned and instead of the language presently in the law as it pertains to the question of when the Federal jurisdiction may be called into play.

Mr. President, I urge adoption of the amendment.

Mr. THURMOND. Mr. President, I think the amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. THURMOND. Mr. President, we are ready to act on the Mathias amendment as soon as we locate the distinguished Senator from Maryland.

Mr. President, in the meantime, Senator HEINZ has an amendment he can bring up at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

UP AMENDMENT NO. 1132

(Purpose: To provide for bipartisan appointments to the United States Sentencing Commission)

Mr. HEINZ. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Pennsylvania ask unanimous consent that it be in order to be brought up at this time?

Mr. HEINZ. Yes, Mr. President, I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1132.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 349, (in the amendment of Mr. Hart (UP 1097)) on line 6, after the word "chairman." insert the following: "Not more than two of the members of the United States Sentencing Commission appointed by the President shall be members of the same political party.".

Mr. HEINZ. Mr. President, this is a very simple amendment. It merely provides for the bipartisan appointment of the Presidential appointees to the Commission.

I have discussed it with the ranking minority member. I have not had a chance to discuss it with the majority manager of the bill. I have made a copy, however, available to his staff.

As we are all aware, the legislation before us provides for the creation of a seven-member U.S. Sentencing Commission. Three of those members, of course, are to be selected by the Judicial Conference, while the other four are Presidential appointees.

It is not only good practice, it is common practice, for us to provide for bipartisan representation where a President is making more than one appointment to a commission with significant responsibilities. In this case it is a fairly easy matter because the President is making four nominations that would come to this body for confirmation. It is also important to provide for bipartisanship in this case, because we want to insure a broad national consensus on fair and effective sentencing guidelines.

I ask my colleagues to accept this amendment, which will stand both parties in good stead no matter who the President is.

Mr. KENNEDY. Mr. President, I will urge support for the amendment.

What we are really interested in is expertise, quality of people that are going to be able to prepare these guidelines.

I have no objection to this additional criteria in terms of the distribution of the political labels. I certainly hope it just does not bar either a qualified Democrat or Republican from serving on it. But I think it perhaps might create an important symbol on this issue.

I would agree that what we are interested in is quality appointments that have great expertise, and that is what our criteria are.

I welcome the amendment and urge its acceptance.

Mr. THURMOND. Mr. President, I think the amendment is fair and just. It has been the custom when the President makes appointments of this kind to divide the appointments between the two parties. I am sure he can find able, competent people of expertise in both parties. I feel the amendment is proper and should be accepted.

Mr. HEINZ. Mr. President, I thank the manager of the bill (Mr. KENNEDY) and the minority manager of the bill (Mr. THURMOND) for their support of this amendment.

I want to compliment them both on their statements. They both quite properly observe the objective in any nomination that would be made to this commission is finding appointees of the highest quality. I think the Senator from Massachusetts quite correctly brought up that subject.

I concur with the Senator from Massachusetts, with his statement in every regard, and I hope, Mr. President, that the amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, if the Senator will yield to me for a question, I notice there are dozens of provisions here, criminal laws that cut across the jurisdiction of virtually every standing committee of the U.S. Senate——

Mr. KENNEDY. May we have order, Mr. President?

Mr. TALMADGE (continuing). Including the Committee on Agriculture, Nutrition and Forestry, the Finance Committee and others.

The PRESIDING OFFICER. Would the Senator delay until the Senate is in order?

The Senate is not in order.

Mr. TALMADGE. I take it that the position of the floor manager of the bill is that the standing committees of the U.S. Senate, having appropriate jurisdiction, may prescribe penalties for crimes in their jurisdiction subject area as they may see fit. Is that the position of the floor manager of the bill?

Mr. KENNEDY. How was that stated? I was listening to the earlier comment.

Mr. TALMADGE. I notice in this bill——

Mr. KENNEDY. If I may respond in a general way to this issue, when the old bill was initially introduced, Senator McClellan and Senator Hruska wrote each relevant committee, all committees in the Senate, and they had just about up to a year—a year—to respond. There were a number of responses to that particular piece of legislation. At that time, the areas of difference were worked out to a point of accommodation. In particular, changes were made—important and significant changes were made. There was a change which dealt with terms of customs taxes.

So we followed that procedure, and we find the bill on the floor at this time. As the criminal law is spread across a variety of functions, it would touch the criminal justice system as it related to particular committees and to agencies.

Mr. TALMADGE. To answer the question specifically, this would not prohibit the Committee on Agriculture, Nutrition, and Forestry or any other standing committee of the U.S. Senate from prescribing in the law a crime and a penalty for that particular crime?

Mr. KENNEDY. Absolutely not.

Mr. TALMADGE. Does the Senator from Utah share that view?

Mr. HATCH. It would not.

Mr. TALMADGE. I appreciate that.

Mr. KENNEDY. Another aspect is that there is a 2-year delay in enactment, and this is a continuing process. Obviously, it is a legislative process, and we have some definitive judgments that will be made in terms of voting. But we welcome any oversight and any assistance of any committees. We want to give them all the assurance in the world that, over the period of this time before enactment, we will work closely with them to assure that the central thrust of the early legislation will be carried out.

Mr. TALMADGE. I note that several pages in the committee report deal with matters relating to the Department of Agriculture. I have not had time to study them. I do not know whether it changes existing law or not. I am concerned that the standing committees, with expertise in areas of their jurisdiction, retain jurisdiction in prescribing penalties for crimes, in accordance with their expertise, now and in the future. The Senator shares that view, as I understand it.

Mr. KENNEDY. The Senator is correct.

Mr. TALMADGE. I thank the Senator.

The PRESIDING OFFICER (Mr. RIEGLE). What is the will of the Senate?

Mr. ALLEN. Mr. President, on pages 236 and 237 of the bill appear two committee amendments relating to venue. They are quite similar. It would be out of order at this time to call up these amendments for consideration, but I have discussed the matter with the manager of the bill, the distinguished Senator from Massachusetts (Mr. KENNEDY), and he is agreeable that these two amendments be brought up at this time in order that they might be considered or that a tabling motion might be made.

Therefore, I ask unanimous consent that there be considered at this time, out of order, the two amendments to which I have alluded, the first one being on page 236, lines 31 through 34, and the other being on the following page. 237, starting at line 31 and going through line 35.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendments.

Mr. KENNEDY. Mr. President, I appreciate having an opportunity to dispose of this. One of them was an Abourezk amendment, and he was here a moment ago, and I should like to hear from him and Senator MATHIAS.

This is the Mathias amendment?

Mr. ALLEN. This is not the so-called Abourezk amendment.

Mr. KENNEDY. I see. This is the Mathias amendment.

I am going to suggest a brief quorum call, while I arrange to summon to the floor the sponsor of the amendment, Senator MATHIAS, and then we will be prepared to dispose of it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HOLLINGS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Senator from Maryland will be in the Chamber shortly. Perhaps, if it is agreeable to the Senator from Alabama, we can dispose of these other two amendments and preserve the rights of the Senator. He will be here in a few minutes. I think we will only take a brief time to talk about the proposal of the Senator from Alabama.

Mr. ALLEN. I appreciate the consideration of the distinguished Senator from Massachusetts. However, I have been advised that the Mathias amendment seeks to amend one of the amendments that I would seek to knock out altogether. That being the case, in deference to the distinguished Senator from Maryland, I believe we should act on his amendment first.

I understand the committee is seeking to table that amendment; and if a tabling motion is agreed to, that would leave my effort to knock out the amendment in its entirety completely in order.

So, out of deference to the Senator from Maryland, I would rather wait for him to come to the Chamber and offer his amendment, if he plans to do so.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO TABLE UP AMENDMENT NO. 1670

Mr. THURMOND. Mr. President, on behalf of the majority manager of the bill and myself we wish to make a motion to table the amendment of the Senator from Maryland.

Mr. KENNEDY. We ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table Mr. MATHIAS' amendment No. 1670. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Arkansas (Mr. HODGES) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 61, nays 26, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—61

Allen	Hansen	McClure
Anderson	Hart	Melcher
Bartlett	Haskell	Morgan
Bellmon	Hatch	Muskie
Biden	Hatfield, Mark O.	Nelson
Bumpers	Hatfield, Paul G.	Nunn
Burdick	Hathaway	Packwood
Byrd, Robert C.	Hayakawa	Pell
Cannon	Heinz	Proxmire
Chiles	Helms	Randolph
Church	Hollings	Roth
Dole	Huddleston	Sarbanes
Domenici	Inouye	Sasser
Durkin	Jackson	Schweiker
Eagleton	Johnston	Sparkman
Eastland	Kennedy	Stafford
Ford	Long	Stevenson
Garn	Lugar	Stone
Glenn	Magnuson	Talmadge
Gravel		Thurmond
Griffin		Zorinsky

NAYS—26

Baker	Danforth	Pearson
Bayh	DeConcini	Percy
Byrd, Harry F., Jr.	Javits	Riegle
Case	Leahy	Schmitt
Chafee	Mathias	Scott
Clark	Matsunaga	Stevens
Cranston	McIntyre	Wallop
Culver	Metzenbaum	Weicker
	Moynihan	Williams

NOT VOTING—12

Abourezk	Goldwater	Ribicoff
Bentsen	Hodges	Stennis
Brooke	Laxalt	Tower
Curtis	McGovern	Young

So the motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, may we have order.

The PRESIDING OFFICER (Mr. RIEGLE). May we have order in the Chamber?

Mr. KENNEDY. Mr. President, it is my understanding that we will consider two of the committee amendments out of order by the consent agreement, and that the Senator from Alabama is going to make a motion to strike both of those amendments. They both deal with provisions regarding obscenity. I do not know what time he will take. I do not intend to take much time, and I hope the membership could remain for a discussion of it.

Mr. ROBERT C. BYRD. Will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, the leadership is going to put forth every effort, with the fine cooperation of Mr. KENNEDY and Mr. THURMOND, to complete action on this bill today. This means we may be in until a reasonably late hour this evening. It also means that tomorrow we will go to the nonproliferation bill with probably debate only on the bill tomorrow.

Mr. PERCY. Will the Senator yield?

Mr. ROBERT C. BYRD. The Senator from Alabama has the floor.

Mr. ALLEN. I will be glad to yield.

Mr. PERCY. I address this question to the distinguished majority leader. Is it the intention of the leadership after the passage of this bill this evening to have introductory statements on the regulatory bill?

Mr. ROBERT C. BYRD. That will be tomorrow. I have the feeling that in finishing this bill, it will be an hour which will be reasonably late so that it would be better to wait until tomorrow, unless the Senator wishes to make his statement this evening.

Mr. PERCY. This Senator will wait until tomorrow.

Mr. ROBERT C. BYRD. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, on page 236, the five lines starting with line 31, and on page 237, the five lines also starting with line 31, there appear two amendments of the committee. There are three amendments to the bill by the committee that operate in favor of the pornographer in making it more difficult successfully to prosecute him for his activities.

The first amendment is on page 236, and I have asked and permission has been granted that two of these amendments be considered en bloc, the one on page 236 and the one on page 237. The other amendment appears on page 171. That will be addressed later.

On page 236, starting on line 27, the bill defines what a conspiracy is and where it may be prosecuted, in this language:

(b) CONSPIRACY OFFENSES.—A conspiracy offense, for purposes of subsection (a), is a continuing offense, and may be prosecuted in any district in which the conspiracy was entered into or in which any person engaged in any conduct to effect an objective of the conspiracy.

Having defined that offense and where it may be prosecuted, the next five lines are the committee amendment, carving out an exception for the pornographer in stating where a conspiracy to disseminate obscene material may be prosecuted.

That is, one rule for all conspirators except those who disseminate obscene material. They are given preferred status in that the place where they may be prosecuted is narrowed. So we cut out a special class for the disseminator of obscene material. It states the exception in this way:

A conspiracy to commit an offense under section 1842 (Disseminating Obscene Material) may be prosecuted only in a district in which the conspiracy was entered into or in which a substantial portion of the conspiracy occurred.

Other conspiracies could be prosecuted in any district in which the conspiracy is entered into or in which any person engaged in any conduct to effect an objective of the conspiracy.

Why should we have a special exception for the disseminator of obscene material, making it harder for the Government to get at him? That is what this first committee amendment does.

The second amendment is very similar to that. The first describes what it takes to constitute the offense of conspiracy sufficient to have a prosecution and where it would have to take place; this defines the venue, where the proceeding has to be tried. This amendment is short:

(g) OBSCENITY OFFENSES.—An offense described in section 1842 (Disseminating Obscene Material) may be prosecuted only in a district:

(1) from which the obscene material was disseminated; or

(2) in which the offense was completed.

So, if obscene material were mailed or transmitted by whatever method, if the material should be confiscated en route, there could be no prosecution, no venue, where the material was confiscated. You could not maintain the action, because it does not fall into either of these categories. You can prosecute only in the district from which obscene material was disseminated or in which the offense was completed—in other words, the ultimate destination.

These exceptions are carved out by the committee, whether intentionally or not—I assume they knew the effect of what they were doing—to have the effect of giving preferential treatment to disseminators of obscene material, setting a different rule or different standard by which jurisdiction of them might be obtained. In a time when we are trying to eliminate this evil practice of disseminating obscene materials, the committee amendments make it harder to get jurisdiction of the offender. I do not believe the Senate is going to want to do this.

The Mathias amendment went in just the opposite direction from my amendment and the committee recommended that that amendment be tabled. It would allow a pornographer or disseminator of obscene material to move for a change of venue if he were not being prosecuted in his main place of business. If the Government, by evidence, could show that a substantial amount of his business was being carried on there, then that could defeat the motion for a change of venue.

So the Mathias amendment made it even easier on the disseminator of obscene materials to avoid being brought to justice than the committee does. But the committee goes far too far. There is no reason why he should be made a preferred citizen. I think second-class citizenship is far too good, but this makes a preferred status for the disseminator of obscene materials in his effort to avoid being prosecuted.

I hope that the Senate will strike these committee amendments. They have not yet become part of the bill. They are just offered by the committee.

There is another amendment that I shall get to later, the so-called Abourezk amendment. I just refer to this parenthetically. It is not part of these two amendments, but it shows a trend in the committee to give preferential treatment to disseminators of obscene material.

The Abourezk amendment affords another defense to the disseminator of obscene materials. It says that in any prosecution against him, he can offer as a defense that the material he was disseminating was legal in the States where it was disseminated. These are three efforts to ease up—there is no other word for it than that or some like expression—on prosecution of disseminators of obscene material.

This tremendous bill we have had thrown at us here, with far more than a thousand amendments, certainly puts a tremendous load on the Members of the Senate to pick out areas where the committee has acted unwisely. I call this to the attention of the Senate for action by the Senate. I feel the committee amendments are unwise and I feel that they should be defeated by the Senate. I hope the Senate will reject these amendments and, at the proper time, I shall move to table the committee amendments.

Mr. KENNEDY. Mr. President, the two amendments which will be considered en bloc are on the question of conspiracy and the question of venue. I just want to give assurance to the Senate that it is not a question of whether there will be a prosecution. The issue that we are talking about is where the prosecution is going to take place. That is really the basic and fundamental issue. Any suggestions that, by striking this amendment, we are affecting issues such as the Dole amendment about what the standard is going to be on obscenity or anything else is just right out the window.

The only question is, What is the appropriate venue?

This recommendation was not made by the members of the Judiciary Committee. This recommendation was made by the

ones that have the responsibility for it, and that is the Justice Department. They are the ones interested in the prosecution. They are the ones that have the responsibility for prosecution under this.

And what conclusion did they reach? We ought to have the prosecution where the materials are and the witnesses are, because they do not want to see cases coming up in various different jurisdictions, being thrown out, and then loss of the particular cases.

So, Mr. President, in the first issue on the first amendment dealing with the conspiracy, we are dealing with the criteria of this particular legislation that points out where there is the conspiracy that takes place, the substantial part of the conspiracy takes place.

That is the venue for the jurisdiction.

On the second point, on the substantive offense, we say the venue will be limited to either where the material is disseminated or there is a substantial distribution—dissemination or substantial distribution.

It is interesting to me, Mr. President, that we have heard during the course of this debate about the interference and the intrusion of the Federal Government into various jurisdictions.

This particular amendment that was accepted in the committee is to limit the Federal Government's jurisdiction, in various jurisdictions, to where, again, the materials and witnesses are.

We do not want the Federal Government and the long tentacles of the Federal Government seeping all over this country in a variety of shopping in various jurisdictions.

What we are doing in this important amendment is limiting precisely the opportunity of Federal jurisdiction to where there is either the dissemination of this material, in the case of the substance of the issue, or where there is substantial distribution, and in the conspiracy we are limiting it to where the witnesses are or where the witnesses and the material are.

This was recommended, Mr. President by the Justice Department. They believe it is advantageous in dealing basically with the issue, and it seems to me it is advantageous in dealing with the issue as well as in terms of fairness and equity and the prosecution of innocent people.

So Mr. President, I hope that the Senate will retain those amendments which were accepted by the committee.

Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I do not understand why this one offense is excluded. We are talking about conspiracy generally and then we take a reference to obscene material and make an exception out of that.

Perhaps the distinguished Senator from Massachusetts could tell us why an exception is made in this one instance only. Is there something about why obscene material should be treated differently from other material?

Mr. KENNEDY. Mr. President, because obcenity is a peculiar problem, resting on vague concepts of community standards. The Justice Department has agreed to proceed in this particular way.

That is the reason.

Mr. SCOTT. Then we would follow the Federal standards with regard to conspiracy in general, is that the thrust of the argument of the distinguished Senator from Massachusetts?

Mr. KENNEDY. Well, the Senator is correct with regard to the rest.

Mr. SCOTT. I thank the Senator.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair indicates he heard the Senator from Alabama and was about to recogize him.

Mr. ALLEN. I am delighted to yield to the distinguished Senator from California. I know he was addressing the Chair. I yield to him.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I thank the Senator.

The Senator from California objects to this committee amendment, which would change present law. There are no good policy reasons for modifying the general rule of venue in order to protect the dissemination of obscene material and conspiracy to disseminate obscene material. This proposed committee amendment would liberalize existing obscenity laws by making it more difficult to prosecute those involved in the distribution of obscene material.

The issue of obscenity is a highly debatable, controversial one. The whole question of the obscenity laws need careful review. However, this is not the appropriate time to try to do that. If a bill of such a substantive nature as the Criminal Code Reform Act is to pass, it is necessary that we retain present law when dealing with extremcly controversial issues, rather than make the criminal code a forum for debate.

As the distinguished Senator from Massachusetts (Mr. KENNEDY) said in his opening remarks about this legislation,

> Controversial and provocative amendments were laid aside, to be dealt with separately on another day.

It is the responsibility of the full Senate to lay aside this provocative committee amendment, thereby retaining present law, rather than engage in a debate on obscenitv at this time.

Mr. President, I thank the Chair.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, if I heard correctly, I believe the distinguished Senator from Massachusetts said that this was not the Judiciary Committee that did this, this is the people who are charged with enforcing the law. I believe that is what he talked about, the Justice Department supporting these amendments.

Is that correct?

Mr. KENNEDY. The Senator is correct in his statement that I said that this was the position supported by the Justice Department.

Mr. ALLEN. Yes.

Mr. KENNEDY. But I would correct the Senator. I can anticipate the second part of his question; that this was offered in the committee and added to the bill at that time.

Mr. ALLEN. Yes.

Well, the Justice Department approved the original bill but agreed to the decision of the Judiciary Committee to add these provisions.

Now, I believe the distinguished Senator has this issue confused with the matter of substantive law.

That is not what is involved here. This is a question of where the action is going to be brought, and this is a defensive matter to the basic charge that would be offered in defense of the prosecution, not to prevent the action being brought in a certain district.

So that has nothing to do with what we are talking about here.

Now, the Senator speaks of, "Well, it ought to be prosecuted either where it started or where it ended, where the transaction was completed."

Well, sometimes it is possible that on a shipment through parcel post, or through the mails, or the private parcel delivery service, it could be apprehended en route.

Why, then, would you have to start the prosecution not where you found it, where you have the evidence, but where vou would have to go from one terminus to the other? The place to bring it would be where you found it, and that is not permitted under the committee amendment.

All other mail offenses—use of the mails in the commission of a crime—have continuing venue. Anywhere it starts, anywhere it goes en route, any of those places are proper venue for bringing the action. Not so on disseminating obscene materials. Let us carve out a special, preferential treatment for pornographers. That is what these amendments do.

I do not know why the Senate would want to take that position. Let them be treated the same as all other law violators. Do not create a special, preferential class for them, which these amendments seek to do.

I hope the Senate will vote to table these amendments. I say again, Mr. President, that when debate has ended on the amendments, I shall offer a motion to table.

Mr. KENNEDY. Mr. President, I have commented on the reasons for this. As I mentioned earlier, the issue is not whether there will be prosecution, but where the prosecution will take place. The issue is this: Should not the prosecution take place where the witnesses and the material are? That is the issue. It is the issue of venue.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. ALLEN. The Senator said he thought it should be where the material is. Does the Senator feel, then, that a prosecution could obtain if a shipment were apprehended en route? Does not the Senator realize that under his amendment, the prosecution could not take place where the material was confiscated if it was not the end terminus?

Mr. KENNEDY. Obviously, in terms of venue, the criterion that was accepted

by the committee is where the material is disseminated or substantially distributed. That is the correct statement of what the committee amendments included. It seems to me that, for the reasons I mentioned earlier, that is desirable.

Mr. ALLEN. Does the Senator feel that under the wording of the amendments, in the case of a shipment starting from—I will not name the States—State A to Alabama, but stopped in Mississippi, action could be brought in Mississippi, where the material is?

Mr. KENNEDY. The Senator knows what is included in the amendment. They can stop it either in the place where it is going to be started, or they can have it at the end.

Mr. ALLEN. What about the middle?

Mr. KENNEDY. No. The Senator states the current law, where you may have a random appearance of a piece of material in some local jurisdiction and then an assistant U.S. attorney gets enormous headlines, about being hard on obscene material. The case comes up and it is dismissed.

The question is whether the focus should be on where the material and the witnesses are, where it is being disseminated or being read. Those are the criteria we have, and those are the criteria that those charged with the responsibility of prosecution can live with. I think it is desirable.

Mr. ALLEN. Mr. President, the Senator knows there is far more likelihood of the case being dismissed if this amendment is adopted, because it narrows the venue statute rather than to keep the present law.

This is a change of the present law, making it harder to maintain a prosecution against a pornographer.

The Senator never did answer my question about whether proper venue could be obtained of a shipment destined for Alabama but stopped in Mississippi and the materials being there.

The amendment, as the Senator from Alabama construes it, would prevent the prosecution being maintained where the material is, because that was not the ultimate destination of the material when it was disseminated originally.

These amendments—one on venue and the other on the conspiracy—make it easier for a pornographer to avoid conviction. More technicalities are made available to him.There are more opportunities to get the case thrown out on account of improper venue, aiding and abetting the pornographer as he plies his nefarious trade.

If there is no further discussion, Mr. President, I will move to table the amendment.

Mr. THURMOND. I have a few words.

Mr. President, I believe the statement was made here that the Justice Department recommended this amendment. I have just checked with the Justice Department to find out what the situation was. They informed me that they did not—I repeat, did not—recommend this amendment, but that they did acquiesce in it. In other words, there is a big difference.

This was not included; it is not in the present law; it was not in the version of S. 1437 that the Department of Justice recommended to us, but it was added in the Judiciary Committee.

Mr. President, I certainly want to stand by the committee in every instance I possibly can. I have leaned over backwards in a number of cases to do it, but I do not think that the committee was wise, by a very close vote, to insert this particular provision in this bill.

I think the Senate has a duty, if the committee has acted unwisely in any particular, to reverse the committee. I think the committee as a whole has done a fine job, and we want to see this code adopted.

On the other hand, Mr. President, I make this point. This is section 3311, in which this particular provision is included. This is the way the law read:

Conspiracy offenses. A conspiracy offense is a continuing offense and may be prosecuted in any district—

I repeat, in any district.

in which the conspiracy was entered into or in which any person engaged in any conduct to effect an objective of a conspiracy.

Mr. President, the Committee on the Judiciary narrowed that, or limited it, and I think they made a mistake. Here is what they did. They narrowed it in this way, and this is what the distinguished Senator from Alabama is trying to delete, these words:

A conspiracy to commit an offense under section 1842—

What is section 1842? It is Disseminating Obscene Material.

A conspiracy to commit an offense under section 1842 (Disseminating Obscene Material) may be prosecuted only in a district in which the conspiracy was entered into or in which a substantial portion of the conspiracy occurred.

Mr. President, if we are to get rid of this obscene material, if we want to deter these pornographers, this is no way to do it. The bill as the Justice Department originaly recommended it is the proper way to do it. And even though they may have acquiesced, because they have to try to give and take with Congress in order to get what they may need in the way of tools to punish these criminals, Mr. President, I think it would be a great mistake to limit here, as the committee has done. I would join with the distinguished and able Senator from Alabama in his motion here, because I feel that it is for the best interests of the public, and that is the only reason why we are doing it. Why should we protect the pornographer, and single him out and say, "All conspirators except you pornographers are going to be one category, and then we are going to give you pornographers special treatment and put you in another category."

Mr. President, I hope that the motion of the distinguished Senator from Alabama will prevail.

Mr. SCOTT. Mr. President, I, too, wish to speak in favor of striking this portion of the committee amendment. The distinguished Senator from Alabama is a member of the committee, and, of course, the distinguished Senator from South Carolina is its ranking Republican member. I, too, am a member of the committee.

Suppose the conspiracy to commit an offense of disseminating obscene material was contemplated in the State of Massachusetts, and then the material was distributed to every State in the Union, to 50 States, throughout the Union. That would appear to me to mean that the only place you could try the offender would be the State of Massachusetts, because otherwise the jurisdiction would be split in 50 directions. To me, that would be decidedly unfair, and I believe favorable to the person who might be committing the offense of conspiracy.

I would hope the Senator from Alabama would get a rollcall vote on his motion to strike this material.

Mr. ALLEN and Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. (Mr. NUNN). The Senator from Alabama.

Mr. ALLEN. Does the Senator from Maryland wish to speak?

Mr. MATHIAS. Mr. President, I do not want to make any long argument on this subject. I just find it somewhat distressing to be in the position, on the Senate floor, of being advised of the position of the Justice Department by the distinguished Senator from South Carolina, when we were, in committee, led to believe that this was in fact a change that the Justice Department was anxious to see made, that the Justice Department was not utilizing certain of the provisions of law which had been stricken, that they felt it would be desirable to make the change in the interest of the more efficient enforcement of justice.

I think it is too bad when there is a forked tongue. I regret it. It creates the kind of dilemma in which we now are. I believe the committee exercised its best judgment in bringing the bill to the floor as it did, and I would hope the bill would be maintained in that condition.

MOTION TO TABLE COMMITTEE AMENDMENTS—PAGE 236, LINE 31 AND PAGE 237, LINE 31

Mr. ALLEN. Mr. President, I move to table the committee amendment, and I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. McGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona

(Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 38, nays 49, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—38

Allen	Griffin	Packwood
Baker	Hansen	Randolph
Bartlett	Hatch	Roth
Bellmon	Hatfield,	Sasser
Burdick	Mark O.	Scott
Byrd,	Hayakawa	Sparkman
Harry F., Jr.	Heinz	Stevens
Chiles	Helms	Stone
Dole	Hollings	Talmadge
Domenici	Johnston	Thurmond
Durkin	Long	Wallop
Eastland	Lugar	Zorinsky
Ford	McClure	
Garn	Nunn	

NAYS—49

Abourezk	Hart	Metzenbaum
Anderson	Haskell	Morgan
Bayh	Hatfield,	Moynihan
Biden	Paul G.	Muskie
Bumpers	Hathaway	Nelson
Byrd, Robert C.	Hodges	Pearson
Cannon	Huddleston	Pell
Case	Inouye	Percy
Chafee	Jackson	Proxmire
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Schmitt
Culver	Magnuson	Stafford
Danforth	Mathias	Stevenson
DeConcini	Matsunaga	Weicker
Eagleton	McIntyre	Williams
Glenn	Melcher	

NOT VOTING—12

Bentsen	Laxalt	Tower
Brooke	McGovern	Young
Curtis	Ribicoff	
Goldwater	Schweiker	
Gravel	Stennis	

So the motion to lay on the table was rejected.

Mr. ALLEN. Mr. President, I believe we ought to have an up or down vote on each amendment. I feel some Senators did not understand the import of the amendments and followed the recommendation of the floor manager of the bill. What these amendments do is this: One has to do with the prosecution of a conspiracy, where it can be prosecuted. The amendment sets up an entirely different class for the pornographer, and makes it harder to have an action for conspiracy. It favors the pornographer over all other conspirators, all other persons guilty of a conspiracy. It sets up a separate classification than the other amendment in the conspiracy portion of the bill. The bill says:

A conspiracy offense, for purposes of subsection (a), is a continuing offense, and may be prosecuted in any district in which the conspiracy was entered into or in which any person engaged in any conduct to effect an objective of the conspiracy.

That is the rule with respect to all conspiracies, where the action or prosecution can commence. But the committee set up an exception for a pornographer, to make it harder for them to be prosecuted. It says:

A conspiracy to commit an offense under section 1842 (Disseminating Obscene Material) may be prosecuted only in a district in which the conspiracy was entered into or in which a substantial portion of the conspiracy occurred.

That is different from conspiracy offenses generally, where the prosecution can be in any district in which any person engages in any conduct to effect an objective of a conspiracy. So it carves out preferential treatment for the pornographer, the disseminator of obscene material.

The second amendment—and I consider the two en bloc—also carves out a special provision for pornographers, to make it harder to get proper venue. It makes it harder to begin the prosecution, and changes the rule with respect to offenses regarding obscene material. This is new law, a new law sought to be grafted onto the body of old law, setting up a special classification for disseminators of obscene material.

Under present law, any offense involving the use of the mails, we have continuing venue anywhere that the material passes through, any State enroute between the two termini is a proper venue for beginning a prosecution.

This said that it has to be either where the obscene material is disseminated or in which the offense was completed.

I offer this illustration. Under this amendment, if obscene material was sent through parcel post, or the private parcel carrier, United Parcel Service, or the mail, going from State A to State B, under the amendment they could be prosecuted only at the start of the route or at the end of the route.

Now, if the obscene material is confiscated enroute in another State, even though you had the offending material right there with you, right before you, right in your hands, you could not maintain venue there where the material is because it is not the end of the route.

All other users of the mail can be prosecuted anywhere along the line. Not so distributors of obscene material.

Now, the statement was made that these amendments were suggested by the Justice Department, but that was contradicted by the ranking minority member of the committee (Mr. THURMOND) who says,

No, they did not offer the amendments, they agreed to acquiesce in the amendments if that is what the committee wanted.

So I do not believe, at these times when we are having such difficulty stamping out the dissemination of obscene material, we should set up preferential rules for pornographers, for disseminators of obscene materials, giving the pornographer tools with which to defend himself, allowing him to say, "No, you brought this prosecution in the wrong district."

Aiding and abetting the pornographer is what we are doing. If some Senators voted against the motion to table out of respect for the committee position which, by the way, was a very close vote in the committee, I feel that we should vote up and down on the amendments.

Mr. President, I ask for the yeas and nays on the amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, if I understand the Senator, it would permit us to vote on both these amendments en bloc?

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. There is a sufficient second.

Mr. STEVENS. Mr. President, would the Senator answer one question for me before the vote?

Mr. ALLEN. Yes.

Mr. STEVENS. Does not this bill contain a general venue provision for Federal question jurisdiction?

Mr. ALLEN. I am not certain. Whether it does or not, this provides a special venue provision for pornographers. That is just the point the Senator from Alabama is making. We do not need a special preferential treatment. We can rely on the venue provision as provided for all other similar offenses.

Mr. STEVENS. Maybe I should ask my good friend from Massachusetts.

Why should not this apply to mail fraud cases?

Mr. ALLEN. To what?

Mr. STEVENS. Why should not this same philosophy apply to mail fraud cases, are there not other Federal cases?

Mr. ALLEN. This takes it out from the mail fraud statutes and sets up special provisions. That is what I object to.

Mr. KENNEDY. The Senator has made our case.

The reason we have these special provisions is because of the community standards law that we have for obscenity. Therefore, we have to have special provisions in the bill to deal with the venue and the application of those community standards provisions. Instead of having the general venue provisions that apply to every other part of the criminal code, we have the special ones that apply to obscenity.

Mr. ALLEN. All other use of the mail, though this is the only one that has thrown out special provisions.

Mr. STEVENS. I thank the Senator.

I cannot understand the reason for doing it unless it tries to escape the community control we have already approved.

Mr. ALLEN. I would like to answer that, I say to the Senator. That really has not to do with this question here because the community standards issue would be on the merits of the case, not where the prosecution begins. That would be the defense of the case. It does not inject itself into jurisdiction at all. So the pornographer could defend on the ground it met community standards. But the action would be prohibited from being brought except in these special circumstances set up by the amendment.

Mr. STEVENS. I thank both Senators.

Mr. KENNEDY. Mr. President, just briefly, as I mentioned, in every other provision of this legislation we have common Federal standards in terms of venue, whether it be treason, whether it be robbery, whether it be murder, whatever it might be—with the exception of obscenity, where we have community standards which are utilized. That is the reason why we have to have special venue provisions.

Now, I want to, just before we vote, repeat very briefly what the position of the committee, is with the complete

acquiesence of the Justice Department. We believe that this issue does not affect local community standards.

What it does affect is where the case will be brought. Whether it will be brought in the area where the witnesses are and the obscene materials are or in some area with a minimal interest.

What we are doing is determining venues—nothing more.

Under current law, if the material is on a train going from New York to California, someone can stop the train in some State, and, under color of existing law, bring a charge.

We see big headlines, long appeals and the case is dropped.

The Justice Department understands this, the committee understands this; they believe it is a question of targeting resources and personnel. The committee amendments have absolutely no other application in terms of local community standards.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Skip Priest have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. GRIFFIN. I am not on the committee, and I have not followed the bill closely, but am I correct in my assumption that if we vote against the committee amendment, we will then be leaving the law as it now is? Is that correct?

Mr. ALLEN. That is exactly right. These amendments afford avenues by which the pornographer can defeat venue. It makes it harder to bring an action against him, as compared with the present law. To defeat the amendments not only leaves the present law as it is but also leaves the bill, which was a panacea for many of our wrongs, exactly as it was.

So the amendments do violence to the general law with respect to all other conspirators and with respect to all other users of the mail in criminal offenses.

Mr. MATHIAS. Mr. President, will the Senator yield for a comment?

Mr. ALLEN. I yield.

Mr. MATHIAS. I do not disagree with anything the Senator from Alabama says, but I add that during the committee consideration of the bill, the Justice Department advised the committee that they did not use this provision of the law, that they did not want it, that they said it was of no value, and that they were perfectly happy to have it stricken.

Mr. ALLEN. I did not understand. Did the Senator say that the Justice Department said the amendments were of no value?

Mr. GRIFFIN. Let me ask a question. Are they of some value?

Mr. ALLEN. They are of some value to the pornographer, yes. I do not believe we are supposed to legislate for him.

Mr. GRIFFIN. And if the Justice Department does not want to bring the action in one of these States, there is no requirement for them to do so, is there, under the existing law?

Mr. ALLEN. No, there is not.

Mr. GRIFFIN. I thank the Senator from Alabama.

Mr. ALLEN. Also, I point out that the distinguished Senator from South Carolina (Mr. THURMOND), the ranking minority member, used the words, in describing the consent of the Justice Department, "acquiesced in the amendments." That does not show very strong support. If you acquiesce in something, the impression is that you go along, but you do not think too much of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 48, nays 40, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—48

Abourezk	Glenn	Metzenbaum
Anderson	Gravel	Moynihan
Bayh	Hart	Muskie
Bentsen	Haskell	Nelson
Biden	Hatfield,	Pearson
Byrd, Robert C.	Paul G.	Pell
Cannon	Hathaway	Percy
Case	Heinz	Proxmire
Chafee	Inouye	Riegle
Church	Jackson	Sarbanes
Clark	Javits	Sasser
Cranston	Kennedy	Schmitt
Culver	Leahy	Stevenson
Danforth	Magnuson	Weicker
DeConcini	Mathias	Williams
Durkin	Matsunaga	
Eagleton	Melcher	

NAYS—40

Allen	Griffin	Morgan
Baker	Hansen	Nunn
Bartlett	Hatch	Packwood
Bellmon	Hatfield,	Randolph
Bumpers	Mark O.	Roth
Burdick	Hayakawa	Scott
Byrd,	Helms	Sparkman
Harry F., Jr.	Hodges	Stafford
Chiles	Hollings	Stevens
Dole	Huddleston	Stone
Domenici	Johnston	Talmadge
Eastland	Long	Thurmond
Ford	Lugar	Wallop
Garn	McClure	Zorinsky

NOT VOTING—11

Brooke	McGovern	Stennis
Curtis	McIntyre	Tower
Goldwater	Ribicoff	Young
Laxalt	Schweiker	

So the committee amendments beginning on page 236, line 31, and beginning on page 237, line 31, were agreed to, en bloc, as follows:

On page 236, beginning with line 31, insert the following:

A conspiracy to commit an offense under section 1842 (Disseminating Obscene Material) may be prosecuted only in a district in which the conspiracy was entered into or in which a substantial portion of the conspiracy occurred.

On page 237, beginning with line 31, insert the following:

"(g) OBSCENITY OFFENSES.—An offense described in section 1842 (Disseminating Obscene Material) may be prosecuted only in a district:

"(1) from which the obscene material was disseminated; or

"(2) in which the offense was completed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Will the Senate please be in order? The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, for reasons which I need not explain at the moment, it will not be possible to finish this bill this evening. Therefore, the Senate will be back on this bill tomorrow. There will be rollcall votes on amendments, and, hopefully, we can work our way through to final passage. I would like to see at this point if we can finish action on all amendments tomorrow and have third reading. If we could set the vote for final passage, say, Monday at 5 p.m., would that be agreeable to the managers of the bill and Senator ALLEN?

Mr. THURMOND. It is agreeable.

Mr. SCOTT. Do I correctly understand the distinguished Senator that each Senator will be given an opportunity to offer any amendments he may see fit to offer, and it is only if all amendments are disposed of that this request would be in order?

Mr. ROBERT C. BYRD. Yes.

Mr. KENNEDY. Mr. President, I want to make it very clear that we are glad to spend whatever time is necessary on this bill. I am obviously interested in seeing a sucessful conclusion at the earliest time. But I want to make certain that any time any consent requests are made that everyone understands that I personally am delighted to spend the time necessary if we can just deal with substantive amendments. I am hopeful that we will get early passage but we are glad to consider, prior to that time, of course, any amendments.

Mr. ALLEN. Reserving the right to object, Mr. President, the Senator from Massachusetts earlier had stated that it might take 3 weeks to finish this bill. Of course, if it finishes tomorrow, it will not be but 1 week and 2 days. I would assume we would finish long before the initial estimate that the distinguished Senator from Massachusetts made.

I would hate to agree on a definite time. I would be optimistic that the bill would come to final passage by 5 p.m., Monday, but we must remember we have the whole broad scope of Federal criminal law before us. Any amendment would be in order. I do not know what amendments will be offered. There

might be some which will be most acceptable to many Senators. If we have an agreement we are going to vote at 5 o'clock, there would be no protection for the Members. I would hope that long before that time we would be able to finish, but I would not want to make a definite commitment.

Mr. ROBERT C. BYRD. Very well, Mr. President. I suppose we better just proceed tomorrow and see what progress can be made. This will be the last rollcall vote——

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CRANSTON. Since at least seven people have planned to go to Panama, leaving tomorrow morning, and do not wish to miss too many rollcalls, is it necessary to be in tomorrow?

Mr. ROBERT C. BYRD. Yes, it is necessary. We just have a large amount of work to be done. We have this bill, the nonproliferation bill, the redwood bill, the waterway users bill, the supplemental appropriations conference report, and then we have the Panama Canal Treaties.

Mr. CRANSTON. Will the Senator yield again?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. I can understand the problem with not coming in tomorrow. The Senator mentioned 5 o'clock as the time of possible voting. Our plane is due back Monday at 5 p.m. at National Airport. Could it be set for 6, if we get around to agreeing to it? I am referring to final passage and we would want to be here.

Mr. ROBERT C. BYRD. I recognize that. Of course, we should try to accommodate the Senators, if we can, in view of the number who will be away.

Let me assure the Senator, and I believe I can do this with the support of the two managers of the bill, that if tomorrow, or on Monday prior to 6 p.m. we are able to work our way through the bill with the amendments and third reading, I will do everything I possibly can to protect the Senator and his delegation for the vote at 6 p.m. on Monday on final passage. Would that be satisfactory?

Mr. CRANSTON. Yes. I thank the Senator.

Mr. BAKER. Did the Senator make a request for 6 o'clock?

Mr. ROBERT C. BYRD. No. I just said we would try to protect Members. I said we would try hopefully to work our way through the bill tomorrow and then lay it over until Monday. If we do not finish the bill, we will be back on it Monday and try to have third reading by 3 o'clock and voting at 6 o'clock.

Mr. BAKER. The majority leader is not making a request at this time?

Mr. ROBERT C. BYRD. That is correct.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 1437 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees are recognized under the standing order tomorrow, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight. Is there an amendment which will be accepted without a rollcall vote? To those Senators who remain, I believe the managers of the bill, Mr. KENNEDY and Mr. THURMOND, are willing to remain and possibly accept amendments which are not controversial. Am I correct?

Mr. THURMOND. Yes.

Mr. KENNEDY. If I could have the attention of the Members, the Senator from Alabama had indicated to us earlier that it was his plan to strike a particular amendment that had been introduced by the Senator from South Dakota. I wonder if we could dispose of the amendment of the Senator from Louisiana and the amendment of the Senator from Georgia. We could at least make that, for the purpose of information to the Members, the pending business, if agreeable to the Senator.

Mr. ALLEN. Yes, that would be fine.

Mr. KENNEDY. For the benefit of the Members, I would ask unanimous consent that the Allen amendment——

Mr. ALLEN. It refers to the committee amendment on page 172.

PENDING BUSINESS TOMORROW

Mr. KENNEDY. Mr. President, speaking of the relevant committee amendment, when the Senate comes in tomorrow, I ask unanimous consent that the committee amendment on page 172 be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. William Morris and Mr. Mike Rowny of the staff of the Committee on Finance may have the privilege of the floor during the remainder of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I wish to commend the distinguished floor manager (Mr. KENNEDY) and the members of the Committee on the Judiciary for their diligent work on this bill. They have succeeded in the very difficult task of bringing together into one place many of the criminal provisions that are now scattered throughout the United States Code.

Although the Committee on Finance has not had a chance to formally review the provisions of this bill, I believe its members share the broad concensus which supports S. 1437. The committee looks forward to reviewing in detail the bill's proposed changes in the criminal sanctions of the tax, social security, customs, and medicare/medicaid laws.

The committee will not seek to delay the passage of this broad-ranging legislation. However, there are some aspects of S. 1437 which are of concern to me, insofar as they affect laws within the jurisdiction of the Finance Committee. I am offering amendments to address those concerns. Some amendments make corrections in the substance of S. 1437 to retain the enforceability of tax laws. Some amendments are changes in form only, retaining tax criminal provisions within the Internal Revenue Code. Another amendment will delete a section of the bill which relates to social security and other provisions which were completely revamped in the first session of this Congress.

I believe these changes in the law were made and not available to the staff on the Committee on the Judiciary at the time they wrote their bill. This deletion will give the committee on opportunity to conform Social Security Act provisions to the maximum extent possible before the new Criminal Code goes into effect.

I would hope that the bill manager would accept these amendments, and I would like to enter into the record a more detailed description of each one.

Mr. President, you will recall that just last October, after many months of hearings and consideration by the Congress, we enacted the medicare medicaid antifraud and abuse amendments. This legislation made a number of important changes in the fraud provisions of those programs. For example, a number of offenses, previously classified as misdemeanors were expanded, redefined and made subject to a fine of up to $10,000 and up to a year in prison, and reclassified as felonies, with a maximum fine of $25,000 and up to 5-year imprisonment.

The proposed amendment No. 1624 was drafted on the basis of the law as it existed prior to the enactment of this important legislation. Therefore, it does not reflect the many changes and clarifications that we worked out over the past year or so, and that we adopted only last October.

In the social security benefits area, the proposed amendment No. 1624 would make changes in areas which the Finance Committee has previously singled out for special enforcement efforts.

The proposed amendment No. 1624 would lump these crimes, such as misrepresenting wage earnings, under a dealing with all transactions with the Government.

The amendment I propose to offer would delete from the proposed Criminal Code Reform Act all references to the Social Security Act so as to retain present law until the Finance Committee has had an opportunity to develop recommendations or changes in the Social Security provisions.

Mr. President, I appreciate the need to rationalize our system of criminal justice and I can assure you that the Finance Committee would act promptly on this matter so that the Social Security Act provisions could be conformed, and to the maximum extent possible codified, before the new Criminal Code would go into effect.

Therefore, Mr. President, I send to the desk an amendment and ask that it be considered.

UP AMENDMENT NO. 1133

The PRESIDING OFFICER. Is there objection to the amendment being in order at this time?

With no objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes as an amendment to the amendment No. 1624 unprinted amendment No. 1133.

Beginning on page 253, line 8, strike out all through page 256, line 12.

Mr. LONG. I ask unanimous consent that this amendment to that amendment might be considered.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LONG. Mr. President, existing tax law currently includes an important misdemeanor sanction applicable to the delivery of materially false statements to IRS agents (26 U.S.C. 7207). It has been found that this may be the only criminal sanction practically available to deter taxpayers or others from this sort of conduct since the application of a felony sanction under 18 U.S.C. 1001 may be deemed inappropriate. Section 7207 has proved to be a valuable tool in combating the not infrequent situation where a taxpayer submits altered or fabricated documents to substantiate overstated personal deductions.

S. 1437 would repeal section 7207. Although S. 1437 would, through proposed section 1343, provide a felony sanction to replace existing felony sanctions for these types of offenses, no comparable provision to section 7207 would be provided. The absence of such a provision would deprive the IRS of what has proven to be an effective deterrent for the limited type of tax claims I have described. Therefore, on behalf of the Committee on Finance, I propose that our amendment to retain section 7207 as part of title 26 be agreed to.

Mr. KENNEDY. Mr. President, this basically restores the current law. I have no objection to it. I urge that the Senate adopt it.

Mr. THURMOND. Mr. President, I have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1134

Mr. LONG. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes, to printed amendment 1624, an unprinted amendment numbered 1134:

On page 186, add the following after line 29:

"SEC. 724. Expenditures by Internal Revenue Service.

"Moneys expended from Internal Revenue Service appropriations to place wagers in connection with investigations of wagering tax violations and subsequently recovered shall be reimbursed to the appropriation current at the time of the deposits.".

Mr. LONG. Mr. President, I ask unanimous consent that it be in order to consider the amendment.

The PRESIDING OFFICER. Without objection, this amendment to amendment 1624 will be in order.

Mr. LONG. Mr. President, section 791 of the technical and conforming amendments to S. 1437 provides that in the case of the Secret Service, moneys expended for the purchase of counterfeit moneys which are subsequently recovered can be returned to the Secret Service for use out of its current operating budget.

We would propose a similar provision for the Internal Revenue Service so that any moneys expended to make wagers in connection with wagering tax investigations under chapter 35 of the Internal Revenue Code that are subsequently recovered can be returned to the Internal Revenue Service and used as a part of its appropriated funds for the current year.

Mr. KENNEDY. Mr. President, again, this is basically a conforming amendment. It is acceptable to the members of the committee.

Mr. THURMOND. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1135

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes, to amendment No. 1624, unprinted amendment numbered 1135:

On page 179, strike out lines 38 and 39, and insert in lieu thereof the following:

(c)(1) Sections 7204, 7206, 7208, and 7209 (26 U.S.C. 7204, 7206, 7208, and 7209) are repealed.

(2) Section 7207 (26 U.S.C. 7207 is amended:

(A) by deleting "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(B) by striking out "shall be fined not more than $1,000, or imprisoned not more than one year, or both" each place it appears and inserting in lieu thereof "shall be guilty of a Class A misdemeanor".

Mr. LONG. Mr. President, I ask unanimous consent it be in order to consider the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, existing law currently includes an important misdemeanor section applicable to the delivery of materially false statements.

This relates to the amendment I offered previously. It is what I had previously explained. I believe the technicians understand the amendment.

The floor manager of the bill previously stated he would accept the amendment.

Mr. KENNEDY. Mr. President, we accept the amendment. There is no objection.

Mr. THURMOND. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

UP AMENDMENT NO. 1136

Mr. LONG. Mr. President, I send to the desk a further amendment at the end of the bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1136:

At the end of the bill insert the following section:

SEC. _____. Reservation of Jurisdiction.—The enactment of this Act does not modify or impair the jurisdiction of any Committee of the Senate to consider and report measures establishing criminal offenses in connection with legislation within its jurisdiction under the Standing Rules of the Senate or prescribing or altering penalties for commiting such offenses.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

Mr. LONG. Mr. President, it is my understanding the purpose of this bill is to codify our criminal law and to seek to place them, insofar as possible it can be done, in one single Federal criminal code.

As I understand it, it is not the purpose of those who have drafted this legislation to change the jurisdiction of standing committees of the Senate, and my amendment would simply to make it clear that those who have responsibility to act in these various areas would continue to have that jurisdiction and the responsibility they currently have.

I think this amendment should be agreed to. I hope the distinguished manager of the bill can agree to it.

Mr. KENNEDY. I have no objection, Mr. President, and urge its adoption.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I would like to have a little understanding with regard to one or two things that are in the bill, not at the subjects of amendments, but just as a matter of legislative history.

We are concerned that S. 1437 contains a series of provisions concerning culpable states of minds for tax crimes—proposed 18 U.S.C., sections 1401, 1402, 301, and 302—which may invite a flood of litigation about what the Government must prove beyond a reasonable doubt to secure convictions for tax crimes.

In 1976 the Supreme Court handed down its decision in *U.S.* v. *Pomponio*, 429 U.S. 10, and established a clear and manageable rule to the effect that wherever "willfully" is found in the applicable tax law it "simply means a voluntary,

intentional violation of a known legal duty." The Senate Judiciary Committee report at page 430 refers to the Pomponio decision in analyzing culpability with respect to the proposed tax felony sanction, but the force of the Pomponio rule in the tax context may not be clear because of the new complex phraseology of the culpability definitions—section 301—and the fact that different states of mind may be required for section 1401 offenses than are required for 1402 offenses.

We feel that the Pomponio rule is the best statement of the right rule and want to make it clear that S. 1437, in the context of the tax area will simply be perpetuating existing law as stated in the Pomponio decision.

Mr. KENNEDY. Mr. President, that is an accurate statement of policy.

Mr. LONG. I thank the distinguished Senator.

I would like to make another point, Mr. President; am I correct in reading this provision to state that practices under other titles of the United States Code adjudicated as being constitutionally sound will not be crimes under section 1501? For example, under current statutory and case law, customs officers often inspect incoming mail on reasonable cause to believe customs laws may be violated by the contents of the envelope. In such cases, will customs officers not violate section 1501 so long as they stay within the legal and constitutional authority under 19 U.S.C. 482 and the recent Supreme Court decision Ramsey against United States?

Mr. KENNEDY. Mr. President, the Senator is correct. Insofar as section 1501 codifies offenses against individuals' constitutional rights, there is no attempt to overrule existing case law interpretations of the Constitution. In those cases in which a customs officer is acting under valid statutory and constitutional authority, chapter 15 of this bill does not change the standards on which the officer should act in the course of his duties. Customs officers investigating activities would continue to be governed by legal standards that may be in effect under the Constitution.

Mr. LONG. I thank the Senator.

Mr. President, I understand that under section 3001 of proposed title 18, the Department of Treasury would be given primary responsibility for detecting and investigating enumerated criminal offenses. Those offenses relate primarily to the revenue and customs laws.

Under existing law, primarily 18 U.S.C. 545, and practice, customs inspectors enforce numerous noncustoms laws at the border. For example, food and drug laws, endangered species laws, and so on. It is both efficient and appropriate for customs officers to enforce noncustoms laws at the border.

Am I correct in reading section 3001 (a) (4), which puts primary responsibility for detecting and investigating offenses arising from laws relating to customs on customs officers, to continue the practice by which Customs enforces all Federal laws at the border to the extent they relate to imports?

Mr. KENNEDY. Mr. President, yes, section 3001(a) in several paragraphs including the one on customs officers investigations contains the words "offenses arising from the administration or enforcement of the laws relating to." This language is intended to cover the exact problem you have raised. It is intended to cover situations where in the course of their duties one of the agents in question is assaulted, bribed, or a crime otherwise in the jurisdiction of another agency, such as obstruction of a Government function or obstruction of justice, is committed that relates closely to the laws the specific agent or agency is charged with enforcing. Thus, the customs officers' existing authority is retained.

Mr. LONG. I thank the distinguished manager of the bill.

Again, let me congratulate the manager of the bill (Mr. KENNEDY) and the ranking member (Mr. THURMOND) for the fine work they have done in enacting this piece of legislation.

Mr. KENNEDY. I thank the Senator for his cooperation.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Louisiana who has made a fine contribution and I want to commend him for it.

UP AMENDMENT NO. 1137

(Purpose: To amend section 3503 (Release Pending Trial in a Capital Case) to add the offenses under section 1811 (Trafficking in an Opiate and section 1812 (Trafficking in Drugs))

Mr. NUNN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1137.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 248, between lines 22 and 23, insert the following:

"A person who is charged with an offense under section 1811 (Trafficking in an Opiate) and such offense is graded as a Class B felony, or an offense under section 1812 (Trafficking in Drugs) and such offense is graded as a Class C felony relating to an opiate in Schedule I or any narcotic drug in Schedule I or II, shall be subject to the provisions of the preceding paragraph of this section."

Mr. NUNN. Mr. President, I have talked to the Senator from Massachusetts and the Senator from South Carolina about this amendment.

Our Permanent Subcommittee on Investigations of the Governmental Affairs Committee has had numerous days and weeks of hearings on the overall problems of narcotics in this country.

On June 20, 1977, Senator LAWTON CHILES and I introduced the Drug Sentencing and Seizure Act of 1977. (S. 1722) This bill was directed at hard drug distributors and focussed upon three major areas of concern:

Pretrial release on bail, which the bill would deny to certain individuals in the absence of a written finding of special mitigating circumstances;

Minimum sentencing of 3 years, without parole, for first offenders, 6 years for sales to minors; 10 years, without parole, for felons with prior narcotics or controlled substance convictions, 15 years for sales to minors, and

Expanded administrative seizure policies to include all property directly or indirectly connected to the violation of law.

S. 1722 reflected our concerns after literally weeks of hearings over the past 3 years by the Permanent Subcommittee on Investigations, of which I am vice chairman, probing the effectiveness of our Federal narcotics enforcement effort.

Today, as we move forward with S. 1437, I wish to address the growing number of narcotics violators who are fugitives from justice.

In our oversight investigation, we learned almost 2,500 narcotics violators are fugitives from justice—1,100 of whom had been arrested but later did not appear at trial.

The Federal Government alone spent three-quarters of a billion dollars in 1976 to combat the escalating drug problem—and some headway is being made. But we are our own worst enemy if we do not afford a mechanism to prevent drug dealers from walking back onto the street, and blending into the crowd—never to be brought to justice. The profits from illicit drug business are so high that the amounts set for bail and appeal bonds are often too low to deter flight. The dollars siphoned by the traffickers are so enormous that often even the highest amounts set for bail are disregarded.

Few drug traffickers ever get arrested; fewer still ever go to trial; and even less go to jail. It is intolerable that, after the investment of countless dollars and untold law enforcement man-hours, the system can turn a major trafficker who is finally arrested and posts bail back on the streets when there is every reason to believe he will flee.

I am today proposing an amendment to S. 1437 to allow denial of pretrial release to the major drug traffickers dealing in the most serious substances.

S. 1437, as taken up by the Senate, applies to capital cases and provides that a person charged with an offense for which the penalty is death may be denied pretrial release if a judge has reason to believe that no conditions of release will reasonably assure that the person will not flee or will not pose a danger to others.

Yesterday, Senator DOLE offered an amendment to section 3503 to broaden its application to include persons charged with the offenses of murder, rape, armed kidnapping, armed robbery, and the taking of hostages. Mr. DOLE'S amendment passed overwhelmingly.

The amendment I offer would amend section 3503 to add the major felony

offenses under section 1811—trafficking of an opiate—and section 1812—trafficking in drugs—relating to an opiate in schedule I or any narcotic drug in schedule I or II.

Section 1811, trafficking in an opiate, defines the offense as manufacturing or trafficking in an opiate, heroin, for example; creating or trafficking in a counterfeit substance containing an opiate; importing or exporting an opiate, or possessing an opiate aboard a vehicle arriving at or departing from the United States or its territories; or manufacturing or trafficking in an opiate for import into the United States.

The most serious felony under section 1811 is a class B felony, which means—

The opiate weighs 100 grams or more;

The offense consists of distributing the opiate to a person who is less than 18 years old and who is at least 5 years younger than the defendant; or

The offense is committed after the defendant has been convicted of a felony under Federal, State, or foreign law relating to an opiate, or while he was on release pending trial for a section 1811 offense.

Section 1812, trafficking in drugs, defines the offense as manufacturing or trafficking in a controlled substance other than an opiate, cocaine and methadone, for example; creating or trafficking in a counterfeit substance other than one containing an opiate; importing or exporting a controlled substance other than an opiate, or possessing such a substance aboard a vehicle arriving in or departing from the United States or its territories; or manufacturing or trafficking in a controlled substance other than an opiate, and other than a substance listed in schedule III, IV, or V, for import into the United States.

The most serious felony under section 1812 is a class C felony which means the controlled substance is a narcotic drug listed in schedule I or II other than an opiate.

My amendment is directed at those who traffic in the most serious opiates and drugs—heroin, cocaine, and methadone. If passed, it will bring within the provisions of section 3503 the most onerous criminal elements plaguing our society today.

Providing a judge, as section 3503 does, with the discretion to deny release to an individual when he believes there exists a risk of flight or a danger to the community, will at least set forth a mechanism to improve the chances that justice will be served—or at least not thwarted by an individual fleeing the jurisdiction of the court.

Mr. KENNEDY. Mr. President, the Senate voted on this general issue in the Dole amendment. I am wondering whether the Senator would accept section 1811, which involves heroin trafficking and on section 1812, which includes, for example, cocaine, agree to a charge? Does the Senator have a copy of the bill?

I direct the Senator's attention to page 354, line 3.

Mr. NUNN. That would be section 2.

Mr. KENNEDY. It reads:

* * * committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income.

It seems to me that we should make clear that what the Senator is interested in is the trafficking by a professional, and it could not be extended, in terms of this particular provision, to the casual user.

Mr. NUNN. I would accept that.

Cocaine is becoming more and more of a problem and will become a bigger problem as time passes.

I understand the concern of the Senator from Massachusetts. If his counsel could work with mine, we could get that section added to 1812.

The Senator is not suggesting any change in 1811?

Mr. KENNEDY. No. The Senator is correct. We are talking about a narrow area in terms of preventive detention. I have grave doubts about preventive detention. But I think the will of the Senate will be to include the traffickers in terms of heroin, and it probably would be to do so in terms of trafficking in cocaine if those offenders are making a large profit.

It seems to me to be reaching what the Senate desires to do, and that is to catch the traffickers and those who are profiting from it. Obviously, in terms of this section, we are not interested in reaching the individual user.

Mr. NUNN. I agree with that.

Mr. President, I would add at the end of my amendment, after the word "section," the following language:

; provided, however, that said Class C felony under section 1812 shall be an offense which is committed as part of a pattern of criminal conduct from which he derived a substantial portion of his income.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Will the Senator please send the amendment, as modified, to the desk?

Mr. NUNN. The Senator will send the amendment, as modified, to the desk.

The modified amendment reads as follows:

"A person who is charged with an offense under section 1811 (Trafficking in an Opiate) and such offense is graded as a class B felony, or an offense under section 1812 (Trafficking in Drugs) and such offense is graded as a class C felony relating to an opiate in schedule I or any narcotic drug in schedule I or II, shall be subject to the provisions of the preceding paragraph of this section: *Provided, however,* That such class C offense under section 1812 shall be an offense which is committed as part of a pattern of criminal conduct from which he derived a substantial portion of his income."

Mr. NUNN. I thank the Senator from Massachusetts and the Senator from South Carolina.

Mr. KENNEDY. I thank the Senator from Georgia.

Mr. THURMOND. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Chair, on behalf of the Vice President, pursuant to section 1024 of title 15, United States Code, appoints the Senator from South Dakota (Mr. MCGOVERN) to fill the vacancy of the majority party membership on the Joint Economic Committee.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

S. 2420—ORDER FOR JOINT REFERRAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2420, a bill to create an International Development Cooperation Administration, introduced yesterday by the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE), be jointly referred to the Committee on Foreign Relations and the Committee on Governmental Affairs, and that when one of the committees orders the measure reported, the other committee will then have 30 days to report, or be discharged from further consideration of the matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LATE SENATOR JOHN L. McCLELLAN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Senator STENNIS paying tribute to Senator McClellan be printed in the RECORD and that the statement be included as a part of the Senate document containing eulogies honoring Senator McClellan delivered earlier in this Chamber by our colleagues. I also ask unanimous consent that the statement by Senator STENNIS be included in the permanent RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR STENNIS

Mr. President, I join in the substance and spirit of the many expressions already made about the splendid character and the truly great achievements of our late friend and colleague, John L. McClellan, long-time Senator from Arkansas.

My special tribute to him and about him shall be special observations growing out of three decades of service here in the Senate with him, with much of that time spent with him in the work of the Senate Appropriations Committee. Fellow members of that Committee frequently get to know each other well indeed.

John McClellan made a difference in the Senate Committees he served on. He made a difference on the Senate Floor. He made a difference in anything that he was in, or around. He was always on the side of sound practical policies.

The reason Senator McClellan "made a difference" was that he "stood for something." He stood for the things that go to make honor and character and the other high qualities that count. He lived up to these qualities. His word, once given, was always his bond. He Gave a Full Day's Work for a full day of pay. He would go the second mile with one he believed stood on principles. In turn, he expected those that dealt with him to stand on principles and follow the way of honor. Otherwise, the parting of the ways came soon.

I emphasize those principles and qualities today, not alone to praise him, but to also point out that we must have these qualities in the fundamental structure of our government as well as our society. It was in this fashion that John McClellan served his state and nation so well. The fruits of his labor shall continue to strengthen our nation for many, many decades to come.

In all of his efforts he was sustained and assisted by his wife Norma, who survives him and to whom Mrs. Stennis and I extend every expression of condolences. To his long time loyal and dedicated staff members I also extend my sympathy in their personal loss.

ELIMINATION OF APPORTIONMENT REQUIREMENT FOR FEDERAL EMPLOYMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 560, H.R. 5054.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5054) to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I wish only to advise my friend, the majority leader, that this item is cleared for consideration on our calendar.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I ask unanimous consent that a statement by Mr. MATHIAS on this subject may appear appropriately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

On September 13, 1977, I was pleased to testify in support of my bill, S. 1133, and similar measures of my colleagues, Senator Brooke and Senator Burdick, to repeal the apportionment requirements for employment with the civil service system. That testimony was before the Subcommittee on Civil Service and General Services of the Committee on Governmental Affairs. Today, we are voting on an identical measure as passed by the House and approved by the full Committee on Governmental Affairs.

The apportionment requirement of the law states that all sections of the country should have a proportionate share of Federal appointments to headquarters jobs in the Washington, D.C., metropolitan area. The concept of proportional geographic representation in the civil service dates back to 1883 in the enactment of the Civil Service Act.

In those days, the merit system was used infrequently. Friends and relatives of politicians and high office holders got the civil service jobs. Forty percent of all civil service jobs were concentrated in the District of Columbia at that time.

But times have changed since 1883. The civil service system now operates under a merit system which assures a modern, professional work force of dedicated Americans. Transportation and communication have brought the country together both physically and psychologically. The Federal Government has decentralized many of its policy making and program administration jobs to field offices outside the Washington area. Today, less than one in seven of the jobs in the competitive civil service are in Washington.

And a number of exceptions have been made to the geographical apportionment law that had the effect of discriminating against minorities. For example, the "excepted service" is exempt from apportionment. These positions total about 70,000.

Veterans and those with veterans preference are not subject to apportionment. The Civil Service Commission estimates that fifty percent of all Federal appointees are veterans.

All positions at GS–13 and above are exempt from apportionment on the grounds that these positions should be based on merit alone and attract the most qualified. There are 183,867 positions at grade 13 through 18 in the civil service.

It is curiously anachronistic to believe that certain higher grade civil service jobs require none but the best while others, at lower grades, but which require specialized training as well, need not also be based solely on merit.

Other exceptions from the apportionment law are field office positions located in Washington; Government Printing Office positions; apprentice positions in the recognized trades and skilled occupations; and part-time and intermittent jobs.

In all, as a result of all these exceptions to the rule, about 50,000 federal positions (15 percent) of the total 326,000 federal civilian jobs in Washington are still subject to apportionment.

The Civil Service Commission has long held that the apportionment requirement is outmoded, ineffective, and cumbersome to administer.

The Commission reported:

"Our records show forty-one states and territories currently in arrears and 15, including the metropolitan area of the District of Columbia, in excess of their apportionment quotas. This imbalance has remained virtually unchanged for the last 25 years or more. Apportionment simply has not made a significant difference in the number of persons from states perennially in arrears who take employment in Washington, D.C. To a considerable extent this is because residents of the states in arrears who want federal jobs find they can get them in their own states without having to uproot self and family to move to Washington."

Apportionment is based on quotas that do not take into consideration the relative qualifications of applicants and thus subverts the merit system which we all have worked hard to perfect, preserve and protect. And because of the veterans preference in Civil Service hiring, women have had to bear more than their fair share of the burden of apportionment.

The fact of the matter is that federal civil service jobs are now widely dispersed throughout the country. Competitive exams for those jobs are held on a regular basis throughout the country and regional representation and equal employment opportunity in the federal civil service are assured through this system based on merit.

This archaic apportionment law is so outmoded at this point that nobody can with assurance match the persons in apportioned jobs with their state of legal residence. Civil Service has a very difficult time getting agencies to report on their apportioned employees and to keep track of them.

This bill has been introduced several times in the last few years. It has received overwhelming support from the Civil Service Commission, the Office of Management and Budget, and the Comptroller General of the United States.

The title of President Carter's book, "Why Not the Best?" applies perfectly to the repeal of the apportionment rule. It is high time that the best are afforded equal employment opportunity to all merit positions in the civil service by removing the apportionment obstacle.

I, therefore, commend the Committee on Governmental Affairs for having dealt with this problem and urge my colleagues to vote for this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED HIGHWAY IMPROVEMENT ACT OF 1978—MESSAGE FROM THE PRESIDENT—PM 143

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers;

which, without objection, was referred to the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent:

To the Congress of the United States:

I am today transmitting to Congress proposed legislation that will significantly improve the organization and operation of the Federal government's highway and transit programs.

One of the Administration's important goals is to develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities. The reforms which are proposed in this legislation are designed to make certain that the nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

The program I am proposing will intensify the Federal effort to complete the Interstate System and provide flexible assistance for highway construction and transit development. The legislation would authorize more than $50 billion over the next five years and proposes the following changes to meet national transportation needs:

—a comprehensive transportation planning program;
—measures to speed completion of the Interstate System and to improve maintenance;
—consolidation of more than 30 highway and public transportation grant programs into fewer and more flexible programs for both rural and urban areas;
—a uniform Federal share for all grant programs except Interstate construction and Interstate transfer projects;
—focusing the transit discretionary program on major investments;
—an expanded bridge replacement and rehabilitation program;
—a unified safety program; and
—greater flexibility for state and local governments to pursue their own priorities.

To achieve our objectives in this area, we propose a reorganization of a variety of highway and transit programs into a simpler and more manageable system of federal assistance. Certain aspects of our new approach to these programs should be emphasized.

TRANSPORTATION PLANNING

To promote more efficient short-range and long-range planning by state and local officials, I propose to consolidate highway and transit planning funds and to distribute these funds as a single grant, under a formula to be determined by the Secretary of Transportation.

Planning grants will be made directly to designated metropolitan planning organizations in urbanized areas over one million in population. The Secretary will review transportation plans for such areas to ensure that they take reasonable account of such issues as air quality, energy conservation, environmental quality, accessibility to employment, effect on minorities, housing, land use and future development. The planning process for other areas will be strengthened as well.

INTERSTATE SYSTEM

Our first priority will be to complete the essential gaps in the Interstate System. Fifty percent of the apportionment formula will be based on the cost to complete the essential gaps and fifty percent on the cost to complete the total system. Highway projects substituted after an Interstate withdrawal will be funded from a state's Interstate apportionment, and substitute mass transit projects will be funded from the General Fund. Interstate substitute projects, both highway and transit, will be eligible for a ninety percent federal share.

States will be required to have completed the Environmental Impact Statement process or to have submitted an application for an Interstate withdrawal on all uncompleted segments of the Interstate by September 30, 1982. Segments which have not met either requirement will be removed from the system. All incomplete Interstate segments must be under contract for construction and initial construction must have commenced by September 30, 1986.

FEDERAL-AID PRIMARY SYSTEM

To simplify an unduly restrictive funding structure, seven highway categories will be consolidated into a single Primary program. Funds will be apportioned by a formula specified in the legislation and the Federal share will be eighty percent. Up to fifty percent of a State's primary system funds may be transferred to the urban highway or the small urban and rural transportation programs.

URBAN FORMULA GRANTS

Two compatible programs will be established, one for highways and one for transit, for all urbanized areas with a population of 50,000 or more. The highway program will consolidate five categorical programs, and all urban roads not on the Interstate or primary systems will be eligible for assistance. The transit program will provide assistance for the acquisition, construction and improvement of facilities and equipment for use in public transportation services and the payment of operating expenses, including commuter rail operating expenses.

Funds will be apportioned by formula and the federal share for capital projects will be eighty percent. The highway formula will be based on urbanized area population. Up to fifty percent of the urban highway funds may be transferred to the Primary program or to the small urban and rural program. Up to fifty percent of the transit funds may be transferred to the highway program. Highway funds will continue to be available for transit capital projects.

Governors and local officials will be required to designate a recipient or recipients for urban highway funds in urbanized areas with a population of one million or more. By this step we will significantly improve the opportunity for large cities to become more involved in the planning and programming of their highway systems. Urban highway funds for areas with small populations will go to the State.

URBAN DISCRETIONARY GRANT

This transit grant program will be focused on major expansion of bus fleets and new fixed guideway projects, including extensions of existing systems, and joint development projects.

SMALL URBAN AND RURAL FORMULA GRANT

To meet the unique needs of small cities and rural communities, we propose a consolidated grant program for highways and transit for all areas with a population below 50,000, with the state as the recipient.

Nine categorical highway programs will be consolidated into this new program, and all public roads not on the Interstate or primary systems will be eligible for assistance. The new program will provide assistance for both capital and operating expenses for public transportation in small urban and rural communities. Authorization for this program would come out of the Highway Trust Fund, but the Trust Fund would be reimbursed out of the General Fund for transit operating expenses.

SAFETY PROGRAM

To allow more flexible and rational use of funds, six highway safety programs will be consolidated into a single safety grant to states, with the federal share at eighty percent.

BRIDGE PROGRAM

For the first time states will be able to use substantially increased funds for rehabilitation as well as replacements of deteriorating bridges. The federal share will be eighty percent, and up to thirty percent of the funds will be available for bridges not on the Federal-aid highway systems.

AUTHORIZATIONS

The proposed authorizations are designed to permit better long-term planning by those responsible for both highway and transit development. The Highway Trust Fund will be extended for an additional four years. The formula grant programs will be authorized for a four-year period, and the urban discretionary grant program will be authorized for a five-year period.

In proposing the reforms contained in this legislation I recognize the critical relationship between transportation, energy and development in urban and rural areas. I believe that these proposals will lead toward energy conservation and better land use. The enactment of this legislation will bring new opportunities and responsibilities to state and local officials, will respond to the problems of the present programs, and will help to place surface transportation system on a sound financial basis.

I ask the Congress to move promptly to pass this highway and transit legislation.

JIMMY CARTER.

THE WHITE HOUSE, *January 26, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the President of the United States, transmitting proposed legislation to improve the organization and opera-

tion of the Federal Government's Highway and Transit Program, be jointly referred to the Committee on Environment and Public Works, the Committee on Housing and Urban Affairs, the Committee on Finance, and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers; which were referred as indicated:

EC–2657. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report of approvals of annual compensation of any officer or employee of a Federal Contract Research Center in excess of $45,000 from federal funds (with an accompanying report); to the Committee on Armed Services.

EC–2658. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Research and Engineering), transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1976 to August 1977 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2659. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Conrail's Attempts to Improve its Use of Freight Cars," January 24, 1978 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2660. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to amend Public Law 95–18, providing for emergency drought relief measures (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2661. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Human Resources Research Organization, Alexandria, Virginia, for a research project entitled "Training System for Mine Hoist Operators" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2662. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Massachusetts, for a research project entitled "Develop a Mechanical Scaling Bar" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2663. A communication from the Administrative, Environment Protection Agency, transmitting, pursuant to law, the first annual report on the administration of the Toxic Substances Control Act (TSCA) (with an accompanying report); to the Committee on Environment and Public Works.

EC–2664. A communication from the Chairman, Resource Conservation Committee, transmitting, pursuant to law, the second report of the Resource Conservation Committee, January 1978 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2665. A communication from the Mayor of the District of Columbia, transmitting, pursuant to law, a response to the Comptroller General's report (GGD–77–32) entitled "What Needs to be Done to Improve the Supply System of the District of Columbia"; to the Committee on Governmental Affairs.

EC–2666. A communication from the Governor of the Canal Zone, President, Panama Canal Company, transmitting, pursuant to law, a report of disposal of foreign excess property (including plant retirements due to age and obsolescence) by the Panama Canal Company and Canal Zone Government for the fiscal year ended September 30, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2667. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Timber Harvest Levels for National Forests—How Good Are They?", January 24, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2668. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "General Services Administration's Practices in Awarding and Administering Leases Could Be Improved," January 24, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2669. A communication from the President, Legal Services Corporation, transmitting, pursuant to law, the Legal Services Corporation's Budget Request to Congress for Fiscal Year 1979 (with an accompanying document); to the Committee on Human Resources.

EC–2670. A communication from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to clarify the terms of the Speedy Trial Act of 1974 (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions; which were referred as indicated:

POM–436. A resolution adopted by the Legislature of the State of Georgia; laid on the table:

"RESOLUTION

"Whereas, Hubert H. Humphrey was born in Wallace, South Dakota, in 1911; and

"Whereas, he showed promise early in his life, earning election to Phi Beta Kappa and a degree in pharmacy; and

"Whereas, he served as the youngest mayor in the history of Minneapolis, Minnesota; and

"Whereas, he served as United States Senator from Minnesota and as Vice President of the United States, his career spanning four decades; and

"Whereas, he was always in the forefront of the struggle to attain equal rights and equal opportunities for all our citizens; and

"Whereas, he perpetuated the belief that the true test of government is not what it does for those who have too much but what it does for those who have too little; and

"Whereas, he became in his lifetime a beacon of hope and a tower of strength for the downtrodden, the unfortunate, the poor, the handicapped, the sick, the aged and the hungry in this affluent society; and

"Whereas, he overcame with good humor and grace the vitriolic opposition of those of less vision and understanding; and

"Whereas, in the words of Adlai Stevenson, he was so contemporary a man, so immersed in our times, so responsive to its challenges, that he came to symbolize that exuberance and vitality which is the very essence of life itself; and

"Whereas, at the time of his death on January 13, 1978, he was among the most admired and beloved citizens of the world; and

"Whereas, his legacy will live as an example to be emulated across the generations.

"Now, therefore, be it resolved by the Senate that this Body does hereby express deep regret at the passing of the Honorable Hubert H. Humphrey and does extend to his family its profound sympathy while giving thanks for his life.

"Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit an appropriate copy of this resolution to Mrs. Muriel Humphrey."

POM–437. A resolution adopted by the Legislature of the State of South Carolina; laid on the table:

"RESOLUTION

"Whereas, Hubert H. Humphrey served for more than thirty years as Mayor of one of America's great cities, as United States Senator and as Vice-President of the United States; and

"Whereas, Hubert H. Humphrey throughout his life displayed great human compassion, understanding and love for friends and opponents alike; and

"Whereas, Hubert H. Humphrey was a defender and advocate of the rights and opportunities of the underprivileged, blacks, mentally retarded and working people; and

"Whereas, Hubert H. Humphrey was an innovative, brilliant and dynamic legislator; and

"Whereas, Hubert H. Humphrey loved and promoted the best interests of the United States of America.

"Now, therefore, be it resolved by the House of Representatives: That the South Carolina House of Representatives by this resolution expresses its sorrow and remorse at the passing of Hubert H. Humphrey, and extends heartfelt sympathy to Mrs. Humphrey and other members of his family, and officially extends public thanks for his many contributions to a better America, his love of his fellowman, and his optimism and faith in the future of America and all mankind.

"Be it further resolved that a copy of this resolution be sent to Mrs. Humphrey and other members of his family, to Senator Ernest Hollings for his action in having it included in the Congressional Record, and to the Vice-President of the United States for his information."

POM–438. A resolution adopted by the Legislature of the State of Utah; laid on the table:

"RESOLUTION

"Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

"Whereas, Hubert Humphrey has given a life of devoted service to his country;

"Whereas, in life he demonstrated the power of loving kindness shown to political ally and opponent alike and extended that love to those of whatever race, religion or nationality;

"Whereas, he worked always to help the poor and all who most needed help;

"Whereas, his life was devoted to extending constitutional freedom and economic opportunity to all;

"Whereas, his willingness to help thousands of friends in many states made him preeminently the Senator of all the United States of America;

"Whereas, the people of Utah enjoyed his special friendship and often benefited from his willingness to help meet our needs on matters from the governance of public lands and the development of energy to the conservation of water and the protection of the environment;

"Whereas, we enjoyed his presence, and that of Mrs. Humphrey, often in our state and we will sorely miss him; and

"Whereas, in success he demonstrated humility, with grace and courage in defeat; he taught us how to live and how to die.

"Now, therefore, be it resolved, by the Budget Session of the 42nd Legislature of the State of Utah, the Governor concurring therein, that the Utah State Legislature in joint session by resolution, dedicate this memorial to Hubert H. Humphrey, a colleague, fellow citizen and loving friend."

POM–439. A concurrent resolution adopted by the Legislature of the State of Arizona; laid on the table:

"HOUSE CONCURRENT RESOLUTION 2007

"On the thirteenth day of January, 1978, at the age of sixty-six years, Senator Hubert Horatio Humphrey, the "Happy Warrior" of American politics, passed away at his home in Waverly, Minnesota.

"Hubert Humphrey came to the United States Senate in 1949, having previously served as Mayor of Minneapolis. He earned a distinguished record of legislative successes on behalf of varied liberal causes and a reputation as a skilled legislative craftsman and renowned orator respected by his allies and opponents alike.

"Since 1960, Senator Humphrey was either a candidate or a major influence on every United States presidential election. He was a forceful leader in battles for enactment of civil rights legislation in the 1960's. Many other bold social reforms of the last thirty years also bear his imprint.

"After having obtained the post of Democratic Whip in the Senate in the early 1960's, Hubert Humphrey was elected Vice-President of the United States in 1964.

"Senator Humphrey was born on May 27, 1911 in a room over his father's drugstore in Wallace, South Dakota. He first entered politics in 1943, campaigning for mayor while teaching at Macalester College in St. Paul, Minnesota. While he lost his first bid for public office, Mr. Humphrey won in his second bid for the mayoralty of Minneapolis after forming a Democratic Farmer-Labor coalition.

"Hubert Humphrey's national prominence began at the 1948 Democratic National Convention when he appealed for the party to take the lead on the grave moral issue of civil rights for all persons.

"Senator Humphrey is quoted as saying that "Life is not to be endured but to be enjoyed. The purpose of government is to bring about the happiness of the American people."

So passes one of the great political careers of the twentieth century in the person of a most diligent, enthusiastic, graceful and truly great and good person.

"Therefore be it resolved by the House of Representatives of the State of Arizona, the Senate concurring: That the Legislature of the State of Arizona, having learned of the death of the Honorable Hubert H. Humphrey, wishes to express its sincere regret and extend its condolences to his widow and the surviving members of his family."

POM–440. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; laid on the table:

"RESOLUTION

"That this High Body express, in the name of the People of Puerto Rico, the condolences and sorrow evinced by the country on the irreparable loss of the dear friend of the Puerto Rican People, the Honorable Hubert H. Humphrey.

"STATEMENT OF MOTIVES

"The death of Hubert H. Humphrey at 66 years of age, has closed one of the richest and most enlightened political careers in the United States of America. As President Carter once stated: "For thirty years his voice was heard throughout the country in defense of the oppressed, the hungry, the victims of poverty and discrimination."

"In his political labors he was a democrat and a liberal. He aspired to the highest office of the land several times, and, because of absurd and ironic reasons, never fulfilled his aspirations, notwithstanding the fact that among the candidates he was one of the most capable and outstanding. With a great sense of drama, and as an example of his loyalty to his People and to the unity of the National Democratic Party, he announced his withdrawal as a candidate to the Presidency on April 29, 1976, although he continued his public service in the Senate of the Congress of the United States.

"As a Crusader for Civil Rights, he always gave first priority to the health and protection of the aged, the workers, the disabled, the ill, the blacks and the unemployed. In their defense he often used his eloquent, persuasive and vibrant oratory.

"They called him "the Happy Warrior", because he never showed fatigue or rancor in the face of adversity. He was a man of the People. He wanted to be known as he was—that people would sense his individuality. He had the most acute political perception of the North American people's thoughts and feelings. He was exuberant in his virtue as a public figure, without lessening his sentimentality, which he evidenced with tears in his eyes, on innumerable occasions.

"His heart, mind, imagination and his boundless physical energy were determining factors in the continued improvement of the way of life in the United States through his own action and as an advisor. He did this as a first-class legislator and as a conciliator who always achieved a sympathetic response between controverted parties.

"The New York Times places him among the great men in United States history, along with Robert Taft, Robert La Follete, Henry Clay, Daniel Webster, John Calhoun. His greatest concern was world peace. He was the leader in the creation of the Peace Corps, the Arms Control Agency, the 1963 Nuclear Arms Treaty, the Food Program and Economic Assistance to Needy Countries.

"At the National Democratic Convention of 1948, he made history when he said:

" 'There are those who say to you, we are rushing this issue of Civil Rights. I say we are 172 years late; the time has arrived to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights; people—human beings—this is the issue of this Twentieth Century.'

"He fought for the establishment of the Woodlands conservation program; Medicare, Universal Health Services; and a full-employment bill for anyone who wished to work. He was an idealist who turned many of his ideas into the realities that have propitiated greater well-being today for each American.

"This happy warrior, who espoused the policy of happiness, was a dear friend of the Puerto Rican People, and we would be ungrateful if at the moment of his departure from this world, we did not try to express what is so deeply felt by all of the people of the country—our sorrow upon his passing, our sympathy to the surviving members of his family, and our gratitude for all that was good and admirable, embodied in the relationship between the people of Puerto Rico and the late Hubert H. Humphrey.

"Be it resolved by the House of Representatives of Puerto Rico:

"Section 1.—To express the condolences and sorrow of the People of Puerto Rico upon the irreparable loss of a sincere and dear friend.

"Section 2.—To remit a copy of this Resolution in the Spanish and English language to the relatives of the late Hubert H. Humphrey, the President of the United States, all of the members of the United States Senate and House of Representatives, the Resident Commissioner of Puerto Rico in Washington, the Executive Committee of the National Democratic Party, and a copy hereof to the information media of our country."

POM–441. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS

"Whereas, Arson is the fastest growing crime in America; and

"Whereas, The incident of arson has increased some three hundred and twenty-five per cent in the past ten years; and

"Whereas, These fires cost approximately one thousand lives a year; and

"Whereas, Arson costs more to society than any other criminal act; and

"Whereas, A united effort of all law enforcement agencies is necessary to combat this crime; and

"Whereas, Expert training is needed to prepare individuals to properly combat arson; and

"Whereas, The cost of this training is exceedingly high; and

"Whereas, The state government must look to the federal government for assistance in both funding and training; therefore be it

"Resolved, That the congress of the United States act to have arson classified officially as a part number one crime by the federal bureau of investigation in its uniform crime reporting system; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of the Congress, and to each member thereof from the Commonwealth."

POM–442. A joint resolution from the Legislature of the State of Minnesota; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, the construction of an electrical generating facility located at Atikokan, Ontario, Canada has raised considerable concern regarding its environmental impact on the Province of Ontario, the State of Minnesota, and neighboring states; and

"Whereas, the regulatory power of the State of Minnesota does not extend to the proposed facility; and

"Whereas, there has been a long history of friendly relations and the resolution of problems between Canada and the United States to the mutual satisfaction of each; and

"Whereas, it is recognized that there are legitimate energy needs related to the proposed facility; and

"Whereas, the United States Government is the proper authority to deal with transborder concerns of this nature; now, therefore,

"Be it resolved, that the Legislature of the State of Minnesota urge the federal government, through the President and Congress, to take appropriate action to assure that adequate environmental safeguards are utilized in connection with the proposed Atikokan facility while, at the same time, the legitimate energy needs of the area are taken into account; and

"Be it further resolved, that the Secretary of State of the State of Minnesota be directed to forward copies of this resolution to the President of the United States, the Secretary of State of the United States, and to each member of the Minnesota Congressional delegation."

POM–443. A resolution adopted by the Legislature of the State of South Carolina; to the Committee on Agriculture, Nutrition, and Forestry:

"CONCURRENT RESOLUTION

"Whereas, the voice of the American farmer is being raised loud and clear throughout the land to direct attention to the serious economic plight that has befallen a most vital element of our economy, the production of food and fibre; and

"Whereas, in statements, tractorcades, demonstrations and whatever means are available our farmers have amply demonstrated that they are united in a nationwide effort to bring about changes in our system of production and marketing of agriculture products before a catastrophe occurs that would seriously affect all of us and result in a substantial decline in our national standard of living; and

"Whereas, by their actions and the information made available in connection there-

with, the farmers and their organizations have pointed out the real and substantial disparity between their costs of production and the prices they receive in the marketplace; and

"Whereas, the results of these inequitable conditions have raised the specter of bankruptcy for many farmers especially the owners and operators of family farms and many if not most farmers have been required to go deeply in debt by mortgaging their land and in effect are selling their inheritance merely to survive from year to year; and

"Whereas, in the State of South Carolina, farm debt has increased by ninety-four percent in the past four years with outstanding mortgages on farm real estate rising from two hundred sixty-nine million, eight hundred sixty-one thousand dollars in 1973 to five hundred twenty-three million, seven hundred twelve thousand dollars as of January 1, 1977, with the cost of production for farm commodities increasing from five hundred fifty-four million, two hundred thousand dollars to seven hundred thirty-seven million, nine hundred thousand dollars during the same period; and

"Whereas, American agriculture is one of a diminishing few elements of our national economy where the efforts, know-how and dedication of those persons engaged in the production of food and fibre have been able to outproduce as to quality, quantity and cost of production, the competitors of other nations, an established fact which is the single optimistic factor in our otherwise disappointing balance of world trade; and

"Whereas, the necessity to avoid a national disaster in agriculture by prompt and imaginative action by all concerned is an emergency situation that cannot be postponed; and

"Whereas, the necessity of a national program to solve a national problem puts the primary responsibility for solutions upon the Congress and the President aided however to the extent possible by the states and all of our citizens. Now, therefore, Be it resolved by the Senate, the House of Representatives concurring:

"That by this resolution the General Assembly memorializes the Congress of the United States and the President to:

"(1) Carefully listen to and consider the voices of the American farmers being raised throughout the land to call attention to the serious economic plight of the farmer and American agriculture in general.

"(2) After consideration of the problems raised and the dangers inherent therein, devise and enact appropriate legislation to enable the farmer to survive and continue to make the vital and necessary contributions to our nation they have historically made in the past.

"(3) In the construction of a new and imaginative program to return to the farmer his much deserved right to earn a fair return for his diligent efforts, careful consideration is respectfully requested to the suggestions of the American agriculture organization and other groups proposed to enable the farmer to the extent feasible to achieve parity in the marketplace for the fruits of his labor.

"(4) Incorporate into any programs devised procedures which more equitably divide the consumer's dollar between the producer of products sold and those who process, package and sell them after they leave the farm.

"Be it further resolved that the General Assembly pledges its full cooperation and that of the people of South Carolina in the implementation of all federal efforts to solve the economic problems of the farmer for which efforts we establish the highest priority.

"Be it further resolved that copies of this resolution be forwarded to the President, the Vice-President, the Speaker of the House of Representatives and all members of the South Carolina Congressional Delegation in Washington, D.C."

POM-444. A resolution adopted by the Southern Legislative Conference of the Council of State Governments, relating to resource conservation and recovery; to the Committee on Environment and Public Works.

POM-445. A resolution adopted by the Southern Legislative Conference of the Council of State Governments, relating to increased support of agricultural research and cooperative extension; to the Committee on Agriculture, Nutrition, and Forestry.

POM-446. A resolution adopted by the Southern Legislative Conference of the Council of State Governments, relating to support of the U.S. tobacco industry; to the Committee on Agriculture, Nutrition, and Forestry.

POM-447. A petition from the Citizens' Bureau of Investigation, Cleveland, Ohio, requesting an investigation into present COINTELPRO-type operations and the "Cleveland Watergate"; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ABOUREZK:

S. 2432. A bill for the relief of George Boulos Boutros and Pierre Philip Boutros; to the Committee on the Judiciary.

By Mr. GRIFFIN:

S. 2433. A bill to amend the Internal Revenue Code of 1954 to increase certain limitations on the deduction of expenditures by farmers for clearing land; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2434. A bill for the relief of Point Pleasant Hospital, of Point Pleasant, N.J.; to the Committee on Armed Services.

By Mr. JAVITS:

S. 2435. A bill to amend the Comprehensive Employment and Training Act and the Economic Opportunity Act, to reduce unemployment, particularly in urban and rural areas suffering from severe structural unemployment, by improving the targeting of Federal employment and training programs and by authorizing Community Development Corporations to employ and train disadvantaged youth in their subsidiaries; to the Committee on Human Resources.

S. 2436. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to employers who hire unemployed youths; to the Committee on Finance.

By Mr. McCLURE (for himself, Mr. RANDOLPH, Mr. DOMENICI, Mr. GRAVEL, and Mr. STAFFORD):

S. 2437. A bill to amend the act of August 8, 1972 (Public Law 92-367) to provide Federal assistance to the States for the development and implementation of effective dam safety programs, in order to protect human life and property; to the Committee on Environment and Public Works.

By Mr. ANDERSON:

S. 2438. A bill to authorize access spurs for the Great River Road; to the Committee on Environment and Public Works.

By Mr. JACKSON (by request):

S. 2439. A bill to amend Public Law 95-18, providing for emergency drought relief measures; ordered held at the desk.

By Mr. BENTSEN (for himself, Mr. RANDOLPH, and Mr. STAFFORD) (by request):

S. 2440. A bill to amend title 23, United States Code, to authorize Federal aid highway programs through fiscal year 1982, and for other purposes; to the Committees on Environment and Public Works and Finance jointly by unanimous consent.

By Mr. WILLIAMS:

S. 2441. A bill entitled the "Federal Public Transportation Act of 1978"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATSUNAGA:

S.J. Res. 105. Joint resolution to authorize the President to issue a proclamation designating the Sunday following Fire Service Recognition Day as Memorial Sunday for fire fighters who have been disabled or killed in the line of duty during the preceding year; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRIFFIN:

S. 2433. A bill to amend the Internal Revenue Code of 1954 to increase certain limitations on the deduction of expenditures by farmers for clearing land; to the Committee on Finance.

A NEED FOR TAX REFORM FOR FARMERS

Mr. GRIFFIN. Mr. President, today I am introducing a bill to bring about a modest reform in the tax laws needed by small farmers. Section 182 of the Internal Revenue Code currently allows farmers to deduct for Federal income tax purposes certain expenses incurred in clearing land for farming.

This is a salutory provision but, unfortunately, its beneficial impact, especially on small farmers, is limited because the deduction may now exceed either $5,000; or 25 percent of taxable income.

Needless to say, it costs much more to clear land for farming today than it did in 1954 when these limitations were written into the law. In addition, with more and more farmland being subdivided for housing, greater incentives are needed to retain and develop agricultural land.

The $5,000 limitation is simply outdated. Since 1954, when it was put into effect, the cost of living has increased about 130 percent. The limitation should be increased accordingly, and today I am introducing legislation which would increase the $5,000 limitation to $12,000.

The 25-percent limitation is particularly hard on small farmers, many of whom earn less than $10,000 a year. However, I recognize if this limitation were to be removed altogether, section 182 might become a tempting tax dodge for taxpayers who are not bona fide farmers.

Therefore, I propose to substitute for the 25-percent limitation a requirement that in order to be eligible for the deduction the taxpayer, or a member of his family, must have actually engaged in the operation of a farm for at least 2 years immediately preceding the taxable year in which the deduction is claimed. This would remove an artificial restraint on a legitimate deduction without providing a windfall for short-term "gentlemen farmers."

Mr. President, I ask that the text of my bill, S. 2433, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 182 of the Internal Revenue Code of 1954 (relating to expenditures by farmers for clearing land) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) MAXIMUM ANNUAL DEDUCTION.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed $12,000.

"(2) LIMITATION TO BONA FIDE FARMERS.—A taxpayer may not make an election under subsection (a) unless he, or a member of his family, has been actively engaged in farming for the 2 taxable years preceding the taxable year in which the election is made. For purposes of this section the term 'member of the taxpayer's family' means a member of the family as defined in section 2032A(e)(2).".

SEC. 2. The amendment made by the first section of this Act shall apply to taxable years beginning after December 31, 1977.

By Mr. JAVITS:

S. 2435. A bill to amend the Comprehensive Employment and Training Act and the Economic Opportunity Act, to reduce unemployment, particularly in urban and rural areas suffering from severe structural unemployment, by improving the targeting of Federal employment and training programs and by authorizing community development corporations to employ and train disadvantaged youth in their subsidiaries; to the Committee on Human Resources.

S. 2436. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to employers who hire unemployed youth; to the Committee on Finance.

MANPOWER ACTION PROGRAM

Mr. JAVITS. Mr. President, today I am introducing, in two bills, an omnibus manpower action program, which is designed to help remedy the severe unemployment problems that have persisted with little relief in our country since the onset of the 1974–75 recession. With the exception of just last month, when the measured unemployment rate on a new basis was recorded at 6.4 percent—possibly because of seasonal factors not accounted for adequately by statistical adjustments—unemployment remained around 7 percent throughout 1977, deleteriously affecting some 7 million Americans.

Numerous studies have concluded that only about 1 percentage point or so of our total unemployment problem is amenable to correction by application of the conventional fiscal and monetary policies that are intended to stimulate aggregate demand. Indeed, recent data indicate that vigorous economic growth in 1977 was responsible for the creation of 4 million new jobs, an all time record for job creation in a single year. It is hard to imagine how additional economic stimulus could have improved upon that performance without overheating the economy and reigniting unacceptable inflation in 1977.

Clearly, then, the most intractable part of our present national unemployment problem—perhaps as much as 2 to 3 percentage points—can be attributed in the main, to various endemic structural defects in our labor markets, rather than to insufficient economic growth.

These insidious structural weaknesses must be diagnosed carefully and understood fully because they are the very roots of our problem of structural unemployment. Once perceived clearly, these defects can be corrected by specially-tailored Federal employment and training programs, and it is upon this premise that I have designed this omnibus three-point manpower action program:

Point one, improved targeting of the existing CETA program and funds at the areas which and individuals who have suffered most deeply from severe structural unemployment;

Point two, a significant tax credit incentive to private business, to encourage the hiring and training of teenagers who have been either unemployed 15 weeks or longer or enrolled for at least 15 weeks in CETA employment and training programs;

Point three, a special impact youth employment and training program, involving direct wage subsidies, to be operated by and through the 45 antipoverty community development corporations and their subsidiaries, authorized under title VII of the Economic Opportunity Act to attract and maintain private capital and entrepreneurship in disadvantaged areas.

Mr. President, I would like now to explain each of these bills in greater detail.

COMMUNITY EMPLOYMENT DEVELOPMENT ACT OF 1978

Title I is the Comprehensive Employment and Training Act amendments. CETA is the principal legislative authority for our multibillion dollar federally funded manpower program, first enacted in 1973 and extended for 1 year in May, 1977. The act is written in eight titles, which authorize programs such as comprehensive manpower services, title II and title VI public service employment programs, certain national programs such as the summer youth employment program, Job Corps and, most recently, an amalgam of new and innovative youth employment and training programs. For the most part, CETA is administered by local government prime sponsors—some 450 in all—and funds are distributed by various formulae.

In my judgment, CETA is in desperate need of revision because in its present, that is, 1973 form, it is an anachronism. When titles I, II and III were first enacted, the national unemployment rate stood at 4.5 percent, so eligibility criteria and allocation formulae were designed to achieve the broadest possible participation of individuals and localities. These criteria and formulae are now obsolete because, after over 2 years of economic recovery, the most egregious cause of endemic structural unemployment in our country has been laid bare: A massive hemorrhage of job opportunities precipitated by drastic regional economic deterioration.

I believe that CETA must be redesigned to take account of this problem of regional structural unemployment, especially in the older cities, that has been caused by the exodus of private industry, basic changes in the national economy, State and local fiscal crises, Federal policies that have tended to favor the Sunbelt States and the structural transformation of industrial demands; none of which can be dealt with by conventional macroeconomic policies. As the unemployment rate for the Nation as a whole continues to move downward it will become even more apparent that a considerable amount of structural unemployment is concentrated in certain distressed regions of our country—both urban and rural—and CETA must be brought into conformance with this phenomenon.

We have, it is true, received some assurances that the soon-to-be-announced urban program will contain provisions for a special jobs program for the high unemployment areas, and the administration's welfare reform program is supposed to provide public service employment opportunities for recipients of cash assistance. But no one can foresee with any certitude either when these programs will be enacted or how the appropriated funds will be allocated to various localities. I think it would be imprudent for the hardest hit areas of our country to rely completely on the "urban" or "welfare" programs for the solution of their severe unemployment problems. In CETA, on the other hand, we have an existing and sure-to-be-enacted vehicle. Indeed, it may be our best chance for years to come.

In my judgment, we will be making a serious strategic mistake if we do not seize the opportunity afforded us in CETA to redirect somewhat the flow of Federal manpower funds to the urban and rural areas of our country where unemployment is most severe.

Of course, high unemployment areas of our country have received some help under CETA, since allocation formulae generally emphasize numbers of unemployed individuals. But the use of calendar 1976 data and, within that year, the highest consecutive 3-month period for a given locality, coupled with the 1973 approach of counting all the unemployed in an area in order to determine its allocation, has resulted in a diffusion of Federal manpower funds that gives really de minimus amounts to the areas relatively hardest hit by structural unemployment. Annual job loss in New York City, for example, far exceeds the number of public service employment positions provided for under CETA, and many large cities have sustained an absolute decrease in title I funding from 1974 to 1977. Since 1970, New York City has lost over 540,000 jobs, but receives funding for only 25,000 CETA positions. In September 1977, over 300,000 people were unemployed in New York City, but only 19,000 jobs slots were available, hardly making a dent in the total problem.

The same insufficiency also characterizes the cities of Detroit, Boston, Philadelphia, Newark and San Francisco, for example, where only about 3 percent of the unemployed are assisted under the CETA–PSE programs. Clearly, those areas of our country which have been most severely affected by the scourge of unemployment in our time are simply not provided for adequately under CETA. I believe we need to give much greater consideration to the relative severity and magnitude of unemployment in such areas.

In my judgment, the true test of whether locally based and formula-funded employment and training programs can be counted upon to deal satisfactorily with our national unemployment problems will be how well CETA responds to severe regional unemployment in the next 3 years. Continued excessive diffusion of Federal employment and training funds, in which some areas receive only enough assistance to reduce unemployment from 9 percent to 8 percent while other areas receive enough assistance to reduce unemployment from 3 percent to 2 percent, or even from 1 percent to 0 percent, will seriously undermine support for the block grant approach presently embodied in CETA.

Accordingly, title I of the bill I now introduce is designed principally to target a greater share of Federal funds at those areas and individuals most in need of jobs and training assistance.

Specifically, I propose that the allocation formula in title I be changed so that 37½ percent of the funds are allocated on the basis of relative severity of unemployment—counting the number of unemployed in an area in excess of 4½ percent of the area labor force—and 37½ percent are allocated on the basis of numbers unemployed. The remaining 25 percent of the funds appropriated for title I would be allocated on the basis of the relative number of low income persons residing in an area, although an area would have the option of counting its AFDC—general assistance population in lieu of its low income population, since high welfare benefit payments can reduce the size of the countable low income population.

In addition, I propose to alter significantly the existing title II program, so as to make it clearly a regional structural unemployment program. Title II funds would be targeted at high unemployment areas by allocating funds on the basis of excess unemployment over 4½ percent; in effect creating a local trigger of 4½ percent. In short, areas with unemployment beneath 4½ percent would not receive title II funds. This would concentrate title II dollars among a smaller pool of eligible areas than is presently the case, when over 90 percent of the 450 prime sponsors get some title II money.

Eligibility requirements for title II would be tightened considerably, so that only the low-income, long-term unemployed would qualify. This would represent a significant departure from the current program, which lacks an income test and which is open to all those unemployed more than 30 days. Public service employment positions should be made available only to the long-term unemployed poor, not to those who could find unsubsidized jobs.

The title II program I envisage would not require participants to be employed in separate and identifiable employment "projects," since I believe the low-come, long-term unemployed need to be given the opportunity to hold entry level positions on genuine civil service career ladders. The so-called "project requirement" is necessary to minimize substitution and displacement in an untargeted program, but is a restrictive and cumbersome impediment to long-run employability in a targeted program.

Finally, I propose to create a relocation assistance program for the structurally unemployed in high unemployment regions. This program is similar to the one included in the Trade Adjustment Act of 1974 and would facilitate the relocation of those who desire to move to areas offering better prospects for regular employment.

With respect to title VI of CETA, my amendments would underscore the cyclical unemployment thrust of title VI by establishing a series of national triggers, to authorize appropriations sufficient to fund public service employment positions for 25 percent of the number of unemployed in excess of 4½ percent of the labor force. Thus, if 5½ million people were unemployed out of a labor force of 100 million, 250,000 jobs would be authorized.

Beyond this, the allocation formula in title VI would be modified so as to target a greater share of funds to high unemployment areas. In my judgment, it is inequitable to provide for "countercyclical" job slots in areas where the recession of 1974–75 has long since ended. While it makes good sense to cast a wide net in terms of individual eligibility for participation in an antirecession jobs program, I believe it is indefensible to make countercyclical jobs funds available in low unemployment areas. Accordingly, I propose enactment of a 4½ percent local trigger for the title VI program.

If enacted, the Comprehensive Employment and Training Act Amendments of 1978 would establish a clear line of demarcation between Federal efforts to deal with our separate problems of structural and cyclical unemployment and would increase significantly the share of Federal manpower funds which are targeted at those areas and individuals who bear the brunt of U.S. employment.

Before moving to title II of the bill I am introducing today, I should say a brief word about the other major CETA issue that confronts Congress in 1978: The question of the local delivery system that has been CETA's hallmark since 1973. Some have suggested that some form of cooperation be mandated for CETA prime sponsors and local employment service (ES) offices in the upcoming reauthorization. The form of the CETA–ES linkage discussed ranges anywhere from absorbing one system into the other to some division of functional responsibility based upon a joint CETA–ES agreement. While there may be some merit in a strengthening of the linkages between CETA prime sponsors and the employment service, I do not believe this is a propitious time for reconstituting the present system. In the first place, closer coordination between these two agents seems to be evolving naturally in many areas. In the second place, the CETA system is still a relatively immature network, with the necessary planning and operational capability only just being institutionalized and currently being strained by the economic stimulus program buildup.

Finally, the question of "targeting" really should be the principal issue in CETA reenactment this year, and this needs to be given all of our attention in this year's renewal debate. And, as I emphasized above, unless and until CETA's capability to deal with severe regional structural unemployment has been confirmed, all questions about the mechanism of the existing manpower delivery system are moot.

Mr. President, I ask unanimous consent to have printed in the RECORD immediately following my statement the just-released statement of the National Council on Employment Policy entitled "The Case for CETA Re-authorization: Continued Decentralization and Decategorization," which explores many of the issues I have addressed in my own statement and is a useful contribution to the present debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. Title II of the Community Employment Development Act is the special impact youth employment program, which is designed to test the feasibility of using direct wage subsidies in the private business sector, in a sheltered work atmosphere, as a way to improve job prospects for unemployed youth.

Some analysts, such as Prof. Lester Thurow of MIT, have urged Congress to enact wage subsidy programs in order to facilitate the placement of young people in private sector employment. I have always been somewhat skeptical of these approaches, because I fear they would merely cause unemployment to be shifted around, from youths to adults. But I believe we have in title VII of the Economic Opportunity Act, a unique opportunity to see what can be accomplished for youths who bear the highest burden of unemployment: The poor residents of the most disadvantaged areas. Title VII authorizes the establishment of special community development corporations, which mobilize private capital ownership in our most severely disadvantaged urban and rural areas, by using federally funded equity capital to start, maintain and attract private business. CDC's, in my judgment, are in an excellent position to be the vital bridge to permanent private sector employment for hard-core unemployed and disadvantaged youths, especially minorities, who reside in the poverty-stricken areas of our country.

Under this title, $10 million would be authorized to enable the 45-odd CDC's to place and train disadvantaged young persons in their subsidiaries. CDC's would be permitted to use the funds to pay the wages of these youths since, while these companies technically are organized for profit, the initial seed money is Federal, and a sheltered work atmosphere can be created. In my judgment, the potential afforded by the CDC approach has not been utilized adequately in this country, especially to deal with unemployment problems in disadvantaged areas. The special impact youth em-

ployment program I propose today would rectify this problem and give poor teenagers an opportunity to have employment in the private sector of our economy.

YOUTH EMPLOYMENT PARTNERSHIP ACT OF 1978

This is the second bill in the manpower action program.

For some time I have believed that the key to solving the problem of youth unemployment in our country is to be found in the private sector of our economy. While the Youth Employment and Demonstration Projects Act of 1977, Public Law 95–93, represented a major contribution to dealing with this severe problem, and while I was very pleased to have been identified with its consideration and enactment, I always felt we had not gone far enough in getting the private sector more directly involved in hiring and training young people for lifelong careers in unsubsidized employment.

To be sure, four out of five jobs exist in the private sector, where opportunities are afforded for permanent careers and advancement. We really must do more to encourage private business to hire and train unemployed youth and thus give these teenagers—who represent one-fourth of the total number of unemployed in the United States—the chance they deserve as our most precious resource.

The Youth Employment Partnership Act would provide a substantial and refundable tax credit incentive to U.S. business, equal to one-half of the increase in unemployment insurance wages paid in 1979, over and above the amount of such wages paid in 1978, for such wages paid in 1979 to youths aged 16 through 19 who have been either unemployed 15 weeks or longer or enrolled in a CETA employment or training program for at least 15 weeks.

This tax credit incentive would involve little administrative difficulties, since it would be computed on the existing FUTA tax form; would not substitute teenagers for existing employees, since there would have to occur a net increase in FUTA wages over 1978; would involve little or no windfall for employment that might have occurred without the credit, since it is unlikely that long-term unemployed youths would have been employed in the absence of such an incentive; and, finally, would involve little or no certification redtape for the firm, since responsibility for certification of eligibles would rest with the CETA prime sponsor and the local ES office.

Furthermore, I have designed the proposal along the lines of the jobs tax credit enacted in May 1977, in the Tax Reduction and Simplification Act, which is due to expire at the end of this year. The "targeted" tax credit I am proposing today would, therefore, replace that general credit. While I appreciated the reason for providing that the general credit would be allowable only for the excess FUTA wages paid over 102 percent of the previous year's base, I do not think a "targeted" tax credit need be so restricted. This is particularly valid for youths who reside in inner cities, where so little private sector job growth occurs that, often, a disregard on the first 2 percent of hiring effectively denies any benefit from the credit to most firms. For this reason, I have decided to propose to permit the credit for any increase above the previous year's FUTA base and to allow the credit only for the hiring and training of long-term unemployed teenagers.

Another innovation I have included in this bill would qualify companies for the credit if they hire young people who have been enrolled in CETA programs for 15 weeks or longer. I have done this for two reasons.

One, there is a need to build better bridges between unsubsidized private sector employment and CETA training programs. Presently, prime sponsor staff job developers are sometimes in the position of supplicants, who lack the leverage often required to place teenage trainees with private firms. A tax credit of the kind I am proposing today would enable prime sponsors to offer a further inducement to employers after OJT, classroom training and PSE programs have ended. I believe this additional incentive would make our Federal manpower programs more efficient and effective, in the final analysis, improve the long-run employability of teenage workers.

Two, CETA programs for youth development concentrate upon the most disadvantaged of our society. While a few programs may be open to all youths, regardless of income, most programs, such as Job Corps and the recently enacted youth employment and training programs, require participants to be members of families whose incomes are below 85 percent of the BLS lower living standard budget. Thus, the most disadvantaged teenagers would be the real beneficiaries of this targeted tax credit program, and would be given the extra assistance they need to maximize the benefit they can derive from successful participation in CETA programs.

Finally, the Youth Employment Partnership Act can initiate a new spirit of collaboration between business and the Federal Government in the amelioration of one of our country's most severe economic and social ills, to wit: endemic youth unemployment. As the Committee for Economic Development pointed out in its January, 1978 report entitled, "Jobs for the Hard-to-Employ: New Directions for a Public-Private Partnership":

> A stronger private-public partnership must be developed to increase training and job opportunities in that sector and to speed the transition of the hard-to-employ from government income support and subsidized public or private jobs to permanent private employment.

The CED itself, therefore, has come down squarely on the side of a targeted tax credit for hiring the hard-to-employ. With specific reference to the kind of approach I have embodied in this bill, the CED asserts:

> Another possible method of inducing employers to train or hire more of the structurally unemployed is the use of wage subsidies in the form of employment tax credits. Congress recently enacted an incremental employment tax credit that benefits firms which raise their total employment to more than 102 percent of the prior year's level. However, because the total credit is limited to $100,000 per firm, this provision is of assistance mainly to small businesses.
>
> We have strong reservations about the economic merits of the incremental employment tax credit, mainly because of the fact that in an expanding economy, many firms will receive the credit for employees they would have hired in any case. Nevertheless, now that this tax credit has been enacted, we believe that information about its availability should be widely disseminated and that business should support efforts to conduct careful evaluations of the effects of the new approach. Moreover, the federal government should give high priority to economic and operational research regarding the use of other forms of wage subsidies as a means of creating jobs for the hard-to-employ.
>
> Despite our reservations about the incremental employment tax credit, we believe that additional experimentation with categorical tax credits to subsidize private-sector training and employment is justified. Such credits, which apply only to specified categories of the unemployed, are more likely to add to net employment than incremental credits because they would cover groups not likely to be hired without a subsidy even after the recovery is well on its way. To be sure, there are important disadvantages in using tax credits rather than direct contracts to subsidize jobs, and we continue to favor direct contracts as the primary form of subsidy. Actual experience with one existing categorical tax credit to aid employment, the 20 percent Work Incentive Program (WIN) credit applicable to employment of welfare recipients, has been quite discouraging.
>
> However, given the fact that direct contracts have also had only limited success in the past, we feel that further experimentation with categorical tax credits as an added tool is justified. Such tax credits might be particularly useful for small business firms, and as we have noted, expanding training and job opportunities in the small business sector deserves high priority. Moreover, we believe that improved design of a categorical tax credit may produce better results than those achieved by the WIN program. Persons eligible for categorical credits should include not only the welfare clients now covered by the Work Incentive Program but also the long-term unemployed and lower-income groups eligible for public-service employment programs. In addition, the credits might be specifically geared to youths and older workers. Experiments might also be conducted to determine whether a higher percentage subsidy of first-year wages and decreasing subsidies in subsequent periods would prove more successful in attracting business participants.

And just last week, the National Urban League expressed its support for tax benefits for business "targeted to encouraging job producing investments in urban and high unemployment areas, and to hiring and training youth and long-term unemployed workers." Dr. Bernard Anderson, the distinguished labor market economist from the University of Pennsylvania's Wharton School, who wrote the economics section of the Urban League report, said:

> What you need is a special tax incentive program to get businesses to locate in low-income areas, and tax benefits to subsidize the salaries of so-called "hard-to-employ" persons.

Mr. President, the statements of the Committee for Economic Development

and the National Urban League are evidence that there is strong and growing bipartisan support for the kind of targeted tax credit approach contained in this bill.

Clearly, it deserves the careful consideration of our tax committees and, I hope, the approval of the Congress.

Mr. President, I have fashioned these two bills to focus our efforts and resources at what I believe to be the critical pressure points in ameliorating endemic structural unemployment in our country. Improved targeting of CETA to the unemployment-ravaged cities and rural areas of the United States and full partnership between government and private business, particularly those located in disadvantaged areas, in targeted programs for unemployed youths, can do much to relieve this incredible scourge of high unemployment. I urge my colleagues to give these bills every consideration and welcome their cosponsorship on each or both of them.

Mr. President, I ask unanimous consent to have the two bills printed in the RECORD, together with a number of relevant articles.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Employment Development Act of 1978".

TITLE I—COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 4(a) of the Comprehensive Employment and Training Act of 1973 (referred to in this title as the "Act") is amended by striking out "four" and inserting in lieu thereof "seven".

(b) Section 4(e) of the Act is amended to read as follows:

"(e) Of the amount appropriated to carry out this Act (other than the provisions of part C of title III C and titles VI and VIII) not more than 20 per centum shall be available to carry out the provisions of parts A and B of title III and title IV.".

SEC. 102. ALLOCATION OF FUNDS FOR COMPREHENSIVE MANPOWER SERVICES.

(a) Section 103(a) of the Act is amended to read as follows:

"SEC. 103. (a)(1). 80 percent of the funds available for carrying out this title for any fiscal year shall be allotted among prime sponsors in accordance with the provisions of this subsection.

"(2) Thirty-seven and one-half percent of the funds allotted under paragraph (1) shall be allotted among prime sponsors on the basis of the number of excess unemployed residing in the jurisdiction of the prime sponsor compared to the total number of excess unemployed who reside within all such areas except that in the case of a prime sponsor which is a State, such number may be determined separately for political subdivisions or regions within the jurisdiction of such prime sponsor.

"(3) Thirty-seven and one-half percent of the funds allotted under paragraph (1) shall be allotted on the basis of the relative number of unemployed persons residing in the jurisdiction of the prime sponsor compared to the total number of unemployed persons who reside within all such areas, except in the case of a prime sponsor which is a State such number may be determined separately for political subdivisions or regions within the jurisdiction of such prime sponsor.

"(4) Twenty-five percent of the funds allotted under paragraph (1) shall be allotted on the basis of either (A) the number of low income persons residing in the jurisdiction of the prime sponsor compared to the number of such persons residing in all such areas or (B) the sum of the number of persons receiving aid under the program of Aid to Families with Dependent Children established under Title IV of the Social Security Act and the number of persons receiving assistance under any program of general assistance in effect within the jurisdiction of the prime sponsor compared to the total number of all such persons in all jurisdictions. In determining the allotment under this paragraph, the Secretary shall use for each prime sponsor the option under which such prime sponsor receives the larger allocation and shall then reduce proportionately the allotment to each prime sponsor so that the sum of the allotments to all prime sponsors equals the amount available for allotment under this paragraph.

"(5) For purposes of this subsection, the term 'excess number of unemployed' means (i) the number which represents unemployed persons in excess of 4½ percent of the labor force in the jurisdiction of the prime sponsor in whose jurisdiction such persons reside or (ii), in the case of an applicant which is a State, the term 'excess number' means such number as defined in clause (i) or the number which represents unemployed persons in excess of 4½ percent of the labor force in political subdivisions within the geographical area served by such State prime sponsor, whichever is greater.

"(6) For purposes of determining allocations under this section, the term 'jurisdiction' includes the jurisdiction of each unit of general local government as described in section 102(a)(2) whether or not such unit has entered into a combination of units of general local government for purposes of section 102(a)(3) or section 102(a)(4).

"(7) All allotments made under this subsection shall be made on the basis of the average of monthly data for the latest twelve-month period for which reliable data is available."

(b) Section 103(f) of the Act is amended by striking out the second and third sentences.

(c) Section 103(h) is amended by deleting the second sentence thereof.

SEC. 103. ELIGIBILITY FOR COMPREHENSIVE MANPOWER SERVICES.

(a) The first sentence of section 101 of the Act is amended by inserting "for unemployed, low-income persons" after "comprehensive manpower services".

(b) Section 101 is further amended by striking out "Sec. 101" and inserting in lieu thereof "Sec. 101. (a)" and by adding at the end of such section the following new subsection:

"(b) For purposes of determining eligibility under this title, the term 'unemployed person' means a person who has been unemployed for at least 30 days.".

SEC. 140. DEFINITIONS.

Section 701(a)(5) of the Act is amended to read as follows:

"(5) 'Low income' means the income which, for a single individual or member of a family, is below the amount of the latest lower living standard budget issued by the Bureau of Labor Statistics, adjusted for family size and geographical variation.".

(b) Section 701(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(15) 'General assistance' means a State or local program of cash or medical assistance to needy individuals or families in which there is no Federal cost sharing.".

SEC. 105. REGIONAL STRUCTURAL UNEMPLOYMENT PROGRAM.

(a) Section 201 of the Act is amended by striking out "unemployed and underemployed" and inserting in lieu thereof "needy, unemployed.".

(b) Section 203(a) of the Act is amended by striking out "unemployed and underemployed" and inserting in lieu thereof "needy, unemployed.".

(c) Section 205(a) of the Act is amended by striking out "who have been unemployed for at least 30 days" and inserting in lieu thereof "who are eligible under paragraph (2).".

(d) Section 205(a) is further amended by striking out "Sec. 205(a)" and inserting in lieu thereof "Sec. 205(a)(1)" and adding at the end thereof the following:

"(2) No person shall be eligible unless such person—

"(A) has been unemployed for 12 weeks and during at least half of such period has engaged in a program of intensive job search in accordance with criteria prescribed by the Secretary which shall include both standards for the search activities which must be engaged in and criteira for jobs which may be refused without affecting continued eligibility for participation in the program,

"(B) has a rate of income of 70% or less of the low income level during the three months prior to being employed, and

"(C) has, where appropriate, been offered job search and relocation allowances in accordance with the provisions of sections 237 and 238 of the Trade Act of 1974, but the refusal of such assistance shall not be grounds for denial of employment under this title."

SEC. 106. ALLOCATION OF FUND.

(a) Section 202(a) of the Act is amended to read as follows:

"SEC. 202(a)(1). Eighty per centum of the funds available for any fiscal year for carrying out this title shall be allocated among eligible applicants on the basis that the number of excess unemployed residing within the jurisdiction of the eligible applicant bears to the total number of excess unemployed residing in all such jurisdictions except that in the case of an eligible applicant which is a State, such number may be determined separately for political subdivisions or regions within the jurisdiction of such applicant.

"(2) For purposes of paragraph (1) the term 'excess number of unemployed' means (i) the number which represents unemployed persons in excess of 4½ percent of the labor force in the jurisdiction of the prime sponsor in whose jurisdiction such persons reside or (ii), in the case of an applicant which is a State, the term 'excess number' means such number as defined in clause (i) or the number which represents unemployed persons in excess of 4½ percent of the labor force in political subdivisions within the geographical area served by such State prime sponsor, whichever is greater.

"(3) The national rate of unemployment and the number of excess unemployed in the jurisdiction of any prime sponsor shall be determined on the basis of the average of monthly data for latest twelve month period for which reliable data is available.

"(4) For purposes of determining allocations under this section, the term 'jurisdiction' includes the jurisdiction of each unit of general local government as described in section 102(a)(2) whether or not such unit has entered into a combination of units of general local government for purposes of section 102(a)(3) or section 102(a)(4).".

(b) Section 204 of the Act is amended by striking out subsections (c) and (d).

(c) Section 205 (c) of the Act is amended to read as follows:

"(c) An application for financial assistance for a public service employment program under this title shall include provisions setting forth—

"(1) assurances that the activities and services for which assistance is sought under this title will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

"(2) a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status.

"(3) assurances that job search and relocation assistance in accordance with the terms of sections 237 and 238 of the Trade Act of 1974 will be offered to all eligible persons seeking employment under this title.

"(4) assurances (A) that special consideration in filling transitional public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges) and (B) that the applicant shall (i) make special efforts to acquaint such veterans with the program and the public service jobs available to veterans under this Act, and (ii) coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans), or carried out by other public or private organizations or agencies;

"(5) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under this title, but such special consideration shall not authorize the hiring of any person when any other person is on lay-off from the same or any substantially equivalent job;

"(6) assurances that no funds received under this title will be used to hire any person to fill a job opening created by the action of an employer in laying off or terminating the employment of any regular employee not supported under this title in anticipation of filling the vacancy so created by hiring an employee to be supported under this title;

"(7) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

"(8) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

"(9) a description of unmet public service needs and a statement of priorities among such needs;

"(10) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired and the approximate duration for which participants would be assigned to such jobs;

"(11) the wages or salaries to be paid persons employed in public service jobs under this title and a comparison with the wages paid for similar public occupations by the same employer;

"(12) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

"(13) the planning for and training of supervisory personnel in working with participants;

"(14) a description of career opportunities and job and advancement potentialities for participants;

"(15) assurances that procedures established pursuant to section 207 (a) will be complied with;

"(16) assurances that agencies and institutions to whom financial assistance is made available under this title have undertaken, or will undertake, analyses of job descriptions and revaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers to public employment of those whom it is the purpose of this title to assist;

"(17) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this title who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent upwardly mobile careers in that neid, and (B) providing those persons so employed who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

"(18) a description of the manpower needs of local governments and of local educational agencies within the area to be served together with the comments of such governments and agencies where appropriate, and assurances that jobs will be allocated equitably to such governments and agencies taking into account the number of unemployed within their jurisdictions and the needs of the agencies;

"(19) assurances that the jobs in each promotional line in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under this title, and assurances that no job will be filled, in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with;

"(20) assurances that jobs funded under this title are in addition to those that would be funded by the sponsor in the absence of assistance under this Act; and

"(21) such other assurances, arrangements, and conditions, consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe."

SEC. 107. COUNTERCYCLICAL EMPLOYMENT PROGRAM.

(a) The heading of title VI of the Act is amended to read as follows:

"TITLE VI—COUNTERCYCLICAL EMPLOYMENT PROGRAM"

(b) Section 601 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 601. (a) There are authorized to be appropriated for each calendar quarter of fiscal year 1979 and for each calendar quarter of the succeeding two fiscal years, an amount sufficient to provide employment for such calendar quarter under this title to a number of persons equal to 25 percent of the difference between the number of unemployed during the previous 4 calendar quarters and 4½ percent of the labor force.

"(b) Within 60 days after the close of each calendar quarter, the Secretary of Labor shall report to the Congress on (1) the average number of unemployed during the previous four calendar quarters; (2) the number of unemployed in excess of 4½ percent of the labor force during such period; (3) the average cost of providing a public service job under this Title during the such period or, if no such jobs were being provided, then the average cost of providing a job under Title II of this Act during such period and (4) his estimate of the amount that is authorized under the provision of subsection (a) on the basis of the experience of the past 4 calendar quarters and his estimate of the amount authorized on the basis of his projection of unemployment for the current and succeeding fiscal yers.

"(c) Notwithstanding the provisions of section 4(b), any amounts appropriated (pursuant to this section) which are not obligated prior to the end of such fiscal year shall not remain available for obligation after the end of such year, and any amounts so appropriated which are obligated during such fiscal year (except amounts for costs of closing out projects assisted under this part) may be expended only during a period of one year from the date of obligation.".

(c) Section 602 of the Act is amended to read as follows:

"FINANCIAL ASSISTANCE

"SEC. 602. (a) The Secretary shall enter into arrangements with eligible applicants in accordance with the provisions of this title in order to make financial assistance available for the purpose of providing temporary employment for unemployed, low-income persons in projects providing needed public services.

"(b) Not less than 85 percent of the funds allocated in accordance with the provisions of this title which are used by an eligible applicant for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title, and the remainder of such funds may be used for administrative costs, including rental costs (within such reasonable limitations as the Secretary may prescribe with respect to the rental of space), and to obtain necessary supplies, equipment, and materials.

"(c)(1) Financial assistance under this section shall be used to provide public service jobs for eligible unemployed persons (as described in section 606) in projects and activities carried out by project applicants (as defined in section 701(a)(15) of this Act). Such projects and jobs shall not exceed twelve months in duration and shall provide employment consistent with the aim of maintaining average federally supported wage rates for public service job-holders (adjusted on a regional and area basis) as set forth under section 209(b) of this Act.

"(2) All such projects shall meet the requirements of paragraphs (1), (5), (7), (8), (10), (12), (13), (17), (23), (24), (25), and (26) of subsection 205(c), and of sections 206 and 208.".

(d) Section 603(a) of the Act is amended to read as follows:

"SEC. 603. (a)(1) The Secretary shall reserve an amount equal to not less than 2 percent of the amounts appropriated under section 601 for any fiscal year to enable Indian tribes, bands, and groups which are designated as eligible applicants under this title to carry out public service employment programs.

"(2) Not less than 90 percent of the remainder of the amounts appropriated under section 601 for any fiscal year shall be allotted among eligible applicants on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the applicant as compared to the total excess number of unemployed persons who reside within the jurisdiction of all eligible applicants. For purposes of this paragraph, the term 'excess number of unemployed' means (i) the number which represents unemployed persons in excess of 4½ percent of the labor force in the jurisdiction of the prime sponsor in whose jurisdiction such

persons reside or (ii), in the case of an applicant which is a State, the term 'excess number' means such number as defined in clause (i) or the number which represents unemployed persons in excess of 4½ percent of the labor force in political subdivisions within the geographical area served by such State prime sponsor, whichever is greater.".

(e) Title VI of the Act is amended by striking out section 604 and by redesignating sections 605 and 606 (and all cross-references thereto) as 604 and 605, respectively.

(f) Title VI of the Act is amended by striking out section 607 and amending section 608 to read as follows:

"ELIGIBILITY FOR EMPLOYMENT

"SEC. 606. (a) In filling public service jobs with financial assistance under section 602, each eligible applicant shall determine that any person to be employed in any such job has been unemployed for at least 30 days and is not a member of a household which has current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and other public payments which such individual will be disqualified from receiving by reason of employment under this title) at a rate exceeding the low living standard income level.

"(b) No person may be employed in another project after completing a year's employment under this title unless he first engages for at least 8 weeks in an intensive job search program meeting the standards prescribed by the Secretary under section 205(a)(2).

"(c) The Secretary, through the affiliated State employment security agencies, shall take steps to inform the recipients of unemployment compensation benefits of any available public service jobs for which such recipients may be eligible, but such notification shall clearly state that such notification is designed only to inform, and in no way to coerce, such recipients with respect to the availability of such jobs.".

(f) Section 609 of the Act is redesignated as section 608.

SEC. 108. TRANSITION PROVISIONS.

Any person who was eligible for employment or training under the Act on the date of enactment of this Act and was enrolled in a program funded under the Act shall remain eligible for such program in accordance with the provisions in effect at the time he was enrolled.

SEC. 109. YOUTH PROGRAMS.

Section 346(a) of the Act is amended by inserting at the end thereof the following new paragraph:

"(11) assurances that special consideration will be given to placing participants in jobs developed by Community Development Corporations authorized under Title VII of the Community Services Act of 1974."

SEC. 110. ADMINISTRATION.

All funds available for prime sponsors for administrative costs under titles I, II, III, VI, and VII of the Comprehensive Employment and Training Act of 1973 may be obligated for the payment of administrative costs for any such title.

TITLE II—SPECIAL IMPACT YOUTH EMPLOYMENT AMENDMENTS

SEC. 201. SPECIAL YOUTH EMPLOYMENT PROGRAM.—

Title VII of the Economic Opportunity Act of 1964, as amended, is amended by adding at the end thereof the following new part:

"Part E—Special Youth Program

"STATEMENT OF PURPOSE

"SEC. 751. The purpose of this program is to establish a special program within the Community Economic Development Program to provide for employment and training of economically disadvantaged youth in order that they may be better able to secure productive employment. Further, this special program is designed to encourage community development corporations to experiment with forging special new linkages with businesses in disadvantage areas and to provide for a further involvement of the for-profit sector in these areas.

"DEFINITION

"SEC. 752. As used in this part, youth means any person 16 to 21, inclusive.

"AUTHORIZATION OF APPROPRIATION

"SEC. 753. For the purposes of carrying out this part, there are authorized to be appropriated $10,000,000 for fiscal year 1979 and for each of the succeeding two fiscal years.

"ESTABLISHMENT AND SCOPE OF PROGRAM

"SEC. 754. (a)(1) The Director shall use funds appropriated under this part to supplement grants made under section 712 in order to carry out the programs described in this section.

"(2) Programs authorized under this part shall include any and all training and employment programs which will assist economically disadvantaged youth in preparing for productive employment; programs may include, but are not limited to—

"(A) classroom training;

"(B) on-the-job training in the public or private (for-profit) sector;

"(C) work experience; and

"(D) other programs to facilitate entry into regular employment.

"(b) Any program or project undertaken by a community development corporation will have a working relationship with the local prime sponsor, as defined by the Comprehensive Employment and Training Act of 1973, by the area within which the community development corporation is located. However, nothing in this subsection is intended to limit the independence or flexibility of the community development corporation as it currently exists.

"(c) Community development corporations may use funds appropriated under this part to pay wages or allowances to youths who are working or engaging in on-the-job training in Community Development Corporations or their subsidiaries in programs designed to improve employment opportunities for disadvantaged youth.

"FEDERAL SHARE OF PROGRAM COSTS

"SEC. 755. Financial assistance under this part may be up to 100 percent of the costs of the projects submitted by community development corporations eligible under section 713.

"LABOR STANDARDS AND WAGES PROVISIONS

"SEC. 756. (a) The Director shall provide financial assistance under this title only if he or she determines that the activities to be assisted meet the requirements of this section.

"(b) The Director shall determine that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would be performed whether or not the Federal funds were available;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of any employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotion line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

"(d) Where the labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under this program, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Director.

"(e) Activities funded under this part shall meet such other standards as the Director may deem appropriate to carry out the purposes of this title.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where such employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Director, that there is substantial evidence that such person left school in order to participate in any program under this part.

"(g) Rates of pay under this part shall be no less than the higher of—

"(1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, unless the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938 are applicable;

"(2) the State or local minimum wage of the most nearly comparable employment, but in the case of any individual who is 14 or 15 years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

"(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

"(A) whenever the community development corporation has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

"(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youth shall be paid at rates specified in an agreement entered into by the appropriate community development corporation, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within 30 days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, com-

munity development corporation, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

"(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within 30 days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

"(D) in the case of projcts to which the provisions of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"DISREGARD OF EARNINGS

"SEC. 757. Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program.

"REPORT

"SEC. 758. The Director will report to Congress and the President one year after the implementation of the program, but no later than eighteen months after the enactment of this part, on the progress, accomplishments, and problems of the program and any recommendations for change.".

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Section 51 of the Internal Revenue Code of 1954 (relating to amount of credit for employment of certain new employees) is amended to read as follows:

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for taxable years beginning in 1979, 1980, and 1981 shall be an amount equal to 50 percent of so much of the excess of the aggregate unemployment insurance wages paid during the year over the aggregate unemployment insurance wages paid during the preceding year as is attributable to the payment of youth employment wages during the year.

"(b) TOTAL WAGES MUST INCREASE.—The amount of the credit allowable by section 44B for any taxable year shall not exceed the amount which would be determined for such year under subsection (a) if the aggregate amounts taken into account as unemployment insurance wages or as youth employment wages were determined without any dollar limitation.

"(c) ONLY FIRST YEAR TAKEN INTO ACCOUNT.—For purposes of this subsection, unemployment insurance wages or youth employment wages may be taken into account with respect to any individual—

"(1) only to the extent attributable to services rendered during the one-year period beginning with his first payment of wages by the employer, and

"(2) only if such first payment occurs after December 31, 1978.

"(d) DEFINITIONS.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—The term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(2) YOUTH EMPLOYMENT WAGES.—The term 'youth employment wages' means wages (within the meaning of section 3306(b)) paid to an eligible youth.

"(3) ELIGIBLE YOUTH.—The term 'eligible youth' means an individual who—

"(A) on the day on which he is hired, is at least 16 years of age and not more than 19 years of age, and

"(B) as of such date, has been certified by the Secretary of Labor or by the appropriate agency of State or local government as—

"(i) unemployed for at least 15 weeks, or

"(ii) enrolled in a Federally-assisted Comprehensive Employment Training Act program for at least 15 weeks.

"(4) UNEMPLOYED.—The term 'unemployed' means unemployed, available for employment, and seeking fulltime employment.

"(5) AGRICULTURAL LABOR.—If the services performed by any eligible youth employed for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any calendar year constitute agricultural labor (within the meaning of section 3306(k)) the term 'youth employment wages' means, with respect to the rumuneration paid by the employer to such employee for such year, an amount equal to so much of that remuneration as constitutes 'wages' within the meaning of section 3121(a).

"(6) RAILWAY LABOR.—If more than one-half of the remuneration paid by an employer to an eligible youth employee during the calendar year is remuneration for service described in section 3306(c)(9), the term 'youth employment wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year as is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)).

"(e) RULES FOR APPLICATION OF SECTION.—For purposes of this subpart—

"(1) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT WITHIN THE UNITED STATES.—Remuneration paid by an employer to an employee during any calendar year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in the United States in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATIONS.—Any determination as to whether paragraph (1) of this subsection applies with respect to any eligible employee for any calendar year shall be made without regard to subsections (a) and (b) of section 52.".

(b) REFUND OF EXCESS CREDIT.—

(1) Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44B (relating to credit for employment of certain new employees),", and

(B) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44B".

(2) Paragraph (4) of section 6201(a) of such Code (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "39 or 43" in the caption and inserting in lieu thereof "39, 43, or 44B", and

(B) by striking out "or section 43 (relating to earned income)," and inserting in lieu thereof "section 43 (relating to earned income), or section 44B (relating to credit for employment of certain new employes),".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 52 of such Code (relating to special rules) is amended—

(A) by inserting "or youth employment wages" after "unemployment insurance wages" each place it appears,

(B) by inserting "and" at the end of paragraph (1) of subsection (g),

(C) by striking out ", and" at the end of paragraph (2) of subsection (g) and inserting in lieu thereof a period,

(D) by striking out paragraph (3) of subsection (g),

(E) by striking out subsection (i) and

(F) by striking out "1977 or 1978" each place it appears in subsection (j) and inserting in lieu thereof "1979, 1980, or 1981,".

(2) Section 53 of such Code (relating to limitation based on amount of tax) is amended to read as follows:

"SEC. 53. TAXES AGAINST WHICH CREDIT MAY NOT BE CLAIMED.

"For purposes of this subpart, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump-sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 53 and inserting in lieu thereof the following:

"Sec. 53. Taxes against which credit may be claimed.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to taxable years beginning after December 31, 1978.

[From the Washington Post]

JOBS: BLACK VERSUS WHITE

(By Hobart Rowen)

There is a disturbing fact about the U.S. economy that Jimmy Carter has yet to face up to: In his first year of office, the unemployment rate among whites has gone down sharply, but the unemployment rate among blacks has shown only marginal, if any, improvement.

Properly, Jimmy Carter's black constituency (and remember how important it was to him in the 1976 election) is disturbed. But there is as yet nothing in the offing, certainly not the upcoming $25-billion tax cut, that is likely to deal adequately with this problem.

"There is no doubt," says Bureau of Labor Statistics Commissioner Julius Shiskin, "that we have a two-tiered economy. It's been a great expansion for whites, but not for blacks."

Thus, the decline in the national unemployment rate from 7.8 per cent in December 1976 to 6.4 per cent in December 1977 represented almost wholly a drop in the white jobless rate from 7.1 to 5.6 per cent.

By contrast, the black unemployment rate declined only from 13.4 per cent in December 1976 to 12.5 per cent in December 1977. And statistical revisions due in a few days are expected to translate those numbers into an absolute decline.

Another way of looking at the "two-tiered economy"—and perhaps the best social measure of the jobs picture—is the employment-population ratio. This shows, simply, what proportion of the nation's population is working.

By that test, the highest percentage ever of the white population—58.7 per cent—has jobs, while the black employment-population ratio—at only 52.7 per cent—is only a bit above its lowest level.

"What this leads to," Labor Secretary Ray Marshall said in an interview, "is an inflammable mixture in the urban areas. We have there a concentration not only of a whole generation of blacks that may never have jobs, but disaffected Vietnam veterans (a high percentage of them are minority, ex-convicts, and who knows how many illegal aliens."

Why hasn't last year's economic upswing made a dent in black unemployment? First of all, many young blacks and adult black women who simply dropped out of the labor force during the 1974–75 recession are now looking for work, aware that the economy has moved up.

But as Marshall explains, job expansion has occurred in the wrong places for blacks; in the North, outside of cities; and in the South, outside of the "black belt" of the old Southern plantation region.

In the Sun Belt, this is a form of institutional discrimination: In the Old South, agricultural interests never wanted the blacks educated, because then they'd leave the fields. Now, when industry locates in the South, it skirts the black belt, knowing it will pick up more highly qualified workers in areas where there has been better education.

So lack of proper education and training, in an era that requires greater skills, works against blacks. And in the Northern cities it's a vicious circle: Industry avoids urban areas because of the high crime rate and inadequate services, such as police and fire protection. And the crime rate grows worse as a rising black unemployment rate provides some desperate persons no alternative.

Another element in the gloomy jobs outlook for blacks is that they lose out in competing against illegal aliens, who now number as many as 12 million and increase by up to 1 million each year.

"We won't ever deal with neither inflation or unemployment through macroeconomic policies [interest rates and tax cuts] alone," Marshall says. He wants to beef up the Carter administration's commitments to direct job-creation and training programs. But that will mean large budget outlays, and Carter has already "bought" a $60-billion deficit for fiscal 1979 with a $25-billion tax cut.

Marshall thinks that a lot can be done, including incentives to "get economic-development programs into the areas where [unemployed] people are." He's got a plan, too, for a wage subsidy, providing it can be shown that an employer is creating jobs that otherwise would not have existed.

The costs of dealing with the black jobs issue may be high, Marshall says, but "I try to tell 'em [fellow Cabinet members] it will cost a lot more not to do anything."

[From the New York Times, Jan. 21, 1978]

PUBLIC DUTY, PRIVATE JOBS

As public awareness of alarming minority unemployment rates sinks in, almost everyone has come to agree on the public duty to create jobs for those who need and hunger for them. The only question has been, who should create them, government or industry? The answer of the Nixon and Ford Administrations was, oddly, "Government." Both pushed "C.E.T.A." jobs, federally funded public-service jobs named for the Comprehensive Employment Training Act that created them.

But government is not the only answer. Could not the same Federal funds create more and sounder jobs if used as wage subsidies to private industries which hire the hard-core unemployed? In his State of the Union Message, President Carter unveiled two new manpower programs designed to place more youths and other disadvantaged workers in private-sector jobs. The President's initiative parallels emerging indications that big business *wants* another crack at the problem; and some persuasive evidence that it is better suited to solve it. For example, the Committee for Economic Development, an organization of corporate and academic leaders, recently issued a new report advocating greater reliance on the private sector. While the details of the President's proposals remain hazy and the suggested spending level of $400 million appears inadequate, we applaud the Carter Administration's new willingness to diversify the Federal manpower effort.

Business tried to tackle this problem once before. In the wake of the urban disorders of the 1960's, corporate leaders, largely at the behest of President Johnson, created the National Alliance of Businessmen to administer a nationwide manpower project. "N.A.B.-J.O.B.S." provided Federal subsidies to firms willing to hire and train the disadvantaged. Early placement successes, however, were short-lived. Participating firms were ill-equipped to train the hard-core unemployed. When recession hit, new workers were promptly laid off.

Still, a few projects survived and prospered. More recently, encouraging placement results have been obtained by other innovative manpower projects such as those administered by the Vera Institute and the Vocational Foundation in New York City. These help justify a major private-sector role in administering job training and placement services, as well as expanded tax incentives for hiring the disadvantaged.

Such recommendations undoubtedly trigger skepticism from those who recall business's abdication when the economic going got rough in the early 1970's. Unions will protest that wage subsidies, like tax incentives and minimum wage exceptions, are mere subterfuges for undercutting prevailing wages and displacing union workers. Yet it is clear from the continuing high unemployment rates of urban minorities and youth that a more venturesome Federal manpower strategy is necessary.

The new C.E.D. report points in the proper direction. Given that four out of five jobs are located in businesses and nonprofit institutions, is the private sector adequately involved in the national manpower effort? Or more bluntly, is domination of C.E.T.A. by local government in the best interests of the hard-core unemployed?

Many vital projects and srvices have been provided by municipalities using public service employees. Still, local elected officials quickly recognized C.E.T.A.'s potential for political and fiscal relief. As a hedge against raising local taxes, cities across the country laid off teachers, firemen and policemen, only to rehire them with C.E.T.A.'s Federal dollars. Even the Labor Department admitted in 1975 that the needs of the disadvantaged were subordinated as C.E.T.A. was converted to combat generalized unemployment.

Should municipalities be permitted to continue to design and administer manpower programs without significant participation from the private sector? Clearly not. Private firms and institutions are in the business of daily matching labor supply with labor demand; they know a lot more about it. The President proposes creation of local business councils in conjunction with his proposed private-sector jobs initiatives. That is a step in the right direction, but does not go far enough. Meaningful business participation should be required in every aspect of local manpower projects, from training and placement to work-study school programs and public-service employment. As the Carter Administration reaches out to the private sector for help, we hope the business community will respond, and this time around with greater staying power.

[From the New York Times, Jan. 12, 1978]

TOP BUSINESS GROUP'S PLAN ON ATTACKING UNEMPLOYMENT

(By Leonard Silk)

Despite the decline in the overall unemployment rate to 6.4 percent last month, high jobless rates persist among minorities and young workers. Black unemployment is 12.5 percent, and teen-agers have a jobless rate of 15.4 percent. While unemployment among men 25 years and older has come down to 4.7 percent, and adult females have an unemployment rate of 6.7 percent, the jobless rate among black and other minority teen-agers remains close to 40 percent.

What is to be done? This week a group of leading business executives, the Committee for Economic Development, laid it on the line to the President and Congress, "We believe," the committee declared, "that this country cannot justifiably deny its citizens the opportunity to work for an adequate income and to be free from the desperation and frustration that frequent or long-term unemployment bring."

The C.E.D. report states that the country cannot ignore the "huge economic and social costs of goods not produced and services not rendered and the truly enormous cost of goods not produced and services not rendered and the truly enormous cost of supporting an increasing number of nonworkers."

Excess unemployment is costing the nation, by conservative dollar estimates about $200 billion a year in lost output. In terms of the damage to individual lives, community values and the cost of crime, the bill is a lot higher.

The C.E.D. calls upon both business and government to acknowledge these costs and begin to break down the barriers that separate millions of people from productive work.

The report suggests that American society is being split into two classes—in classes—in effect, insiders and outsiders. The outs'ders are people who are "undereducated, unskilled or inexperienced."

Many are considered by employers to be too young or too old. Many are unable to work full time. Some lack the basic work disciplines and abilities necessary to get and hold a steady job. And many are excluded by racial or other forms of discrimination and restrictive labor market practices.

The C.E.D. report offers a comprehensive approach that is designed to create more jobs for all these groups without aggravating inflation. The business leaders reject the notion that measures to increase total demand for goods and services—and hence for workers—would only worsen inflation. On the contrary, their report emphasizes that "a vigorous and sustained demand expansion" is the single most effective means of reducing unemployment.

Unemployment among the worst-off groups swings up and down with the overall rate of unemployment, although the recent trend of unemployment among minorities in central cities has been presently upward, despite economic recovery.

Measures to expand effective demand, says the C.E.D., must "go well beyond the use of general fiscal and monetary policies to expand total spending." The group urges specific "sectoral policies for such purposes as revitalizing the nation's cities, rehabilitating deteriorated housing and transportation, and accelerating energy development and conservation."

It calls for joint business-government programs focused on creating jobs and training

the hard to employ. A unique part of the C.E.D. study is a series of detailed case studies of existing community and business programs for getting disadvantaged individuals into Jobs.

One such effort that the C.E.D. suggests might be a model for future efforts has been taking place in Chicago. There a business consortium called Chicago United, which includes 20 of the largest companies in Chicago and an equal number of leading black and Spanish-American business organizations, has been working on eight areas of the city's life: business development, jobs and training for the disadvantaged, crime and the police department, the criminal justice system, education in the public schools, minority economic development, housing and transportation.

A subsidiary of Chicago United, called the Chicago Alliance and Business Manpower Services, has been targeting its efforts on young people, blacks and Spanish-Americans. The jobless rate of minority youth in Chicago is more than 50 percent.

The C.E.D. believes that through such organizations and similar "intermediaries" and "job corporations" a link can be forged between private businesses and disadvantaged groups.

The report also favors government programs to provide financial incentives for private jobs and training, through tax credits and stipends for trainees and apprentices.

But the C.E.D. is under no illusion that there is any simple way to set up a mass program of wage subsidiaries that will induce many thousands of large and small businesses to take on more young and minority workers, veterans, former criminals, or handicapped workers.

Many businesses want to stay clear of government, which they fear will bring increased regulation and intrusion not just in employment but in other areas as well.

At the same time, a massive program of wage subsidies would be extremely expensive and difficult to police against fraud.

A key issue in any wage subsidy program is where the cut-off point should be, both in terms of who gets a wage subsidy and how long the subsidy lasts. Unions are afraid that wage-subsidized workers could displace regular workers without adding to total employment.

Curious effects might be involved—for instance, a shift of business outlays on labor might just offset the intended effect of investment tax credits to induce business to spend more in capital equipment.

Too broad a program of wage subsidies, and one too carelessly administered, could quickly run into many billions of dollars and either become a source of inflation or a tax drain upon already employed workers. The C.E.D. would restrict employment tax credits to special categories of workers, such as the low-income or young.

Some advocates of tax credits for hiring the unemployed see them as a way of getting around union and other political opposition to eliminating or reducing the minimum wage.

The C.E.D. is not opposed to scaling back the minimum wage on a selective basis, but it takes a cautious approach, suggesting that, before a lower minimum wage is introduced for all teenagers, older workers and disabled, there should be "additional experimentation with wider use of administered exemptions" for selected groups. The report also suggests exempting youths under 21 from required employer and employee contributions to Social Security.

The C.E.D. calls upon businesses to make greater use of alternatives to outright layoffs in periods of recession, such as skill upgrading and work sharing. It criticizes the United States Employment Service and Comprehensive Employment and Training Administration for "unclear policy direction, overlapping and uncoordinated administrative structure and bureaucratic inflexibility."

The remarkable thing about the C.E.D. report is that a top business group is now proposing a more comprehensive attack on unemployment than any that has yet emerged from the Carter Administration. The C.E.D.'s study stresses the necessity of combining social and economic approaches to the nation's unemployment and welfare problems. It rejects gimmicks and oversimplified solutions.

And it opens up wide possibilities for joint efforts of business, community organization and new manpower entities—the so-called intermediate organizations and job corporations to bring social and managerial realism to what, in the thinking of some economists and politicians, has been seen as a more narrowly economic problem.

An Administration that has sought guidance from the business community may have its hands full as it tries to digest this far-reaching report.

[From the New York Times, Jan. 10, 1978]

FOR WAGE SUBSIDIES TO HELP FIGHT UNEMPLOYMENT

(By Lester Thurow)

CAMBRIDGE, MASSACHUSETTS.—The United States is a schizophrenic society when it comes to providing employment for everyone willing and able to work. If one were to listen to our July 4 rhetoric, one would think that the United States was the ultimate "work ethic" society.

Yet if one were to look at our actions, the United States consistently runs an economy with the highest unemployment rates in the industrialized world while spending over $200 billion per year on income transfer payments. Nowhere is our schizophrenia more acute than with respect to the young. They are told to work hard. Yet we throw them into an economy where they are going to suffer most of the unemployment.

Almost 50 percent of our seven million unemployed people are from 16 to 24 years of age. Among teenagers, the official unemployment rates in the third quarter of 1977 were 14 percent for whites, 21 percent for Hispanics and 40 percent for blacks. But both black and Hispanic labor force participation rates are far below those for whites. If we assume that they would participate equally in a world of equally available jobs, Hispanic teen-age unemployment rises to 38 percent and black unemployment rises to 57 percent. In addition, another 250,000 white youths (16–24) who report that they want to work and would be looking for work if they thought that it was available are not counted as unemployed.

Current economic strategies will make the schizophrenic aspects of the problems even worse. Welfare is to be enlarged and reformed, but unemployment rates are to be left high. The national unemployment rate has been above 6 percent since late 1974, peaked at 9 percent in 1975, is now 7 percent, and is not even scheduled to drop below 6 percent under official plans until 1980. Given current economic policies, it is also likely that these modest plans will be achieved. The growth prospects for the next year are such that the unemployment rate is not apt to fall significantly.

High unemployment is being planned for the future because it is seen as necessary to reduce the rate of inflation. The unemployed are to be the nation's inflation fighters. Yet the effectiveness of unemployment as a way of reducing inflation is a highly questionable proposition with little or no supporting empirical evidence.

After the economic shocks of the Organization of Petroleum Exporting Countries' oil-price increase, the grain-price explosion caused by bad weather, and the dollar devaluation had passed through the economy, the United States inflation rate quickly fell into the 6 percent range in early 1975 and has consistently stayed there ever since. Unemployment rates ranging from 9 to 7 percent have done nothing to reduce it further and are unlikely to do so in the future.

Among those with the temerity to be inflation forecasters, the optimists see little or no chance for a reduction in inflation, while a somewhat larger group of pessimists sees inflation accelerating because of the proposed taxes on energy, the already adopted Social Security tax increases, a higher minimum wage, and the end to a period of falling agriculture prices. No one sees the light at the end of the inflationary tunnel.

If one asks why enormous idle resources (human and capital) are not pushing down the rate of inflation, the answer is not hard to find. It lies in the phenomenon of "indexing." The classic argument against officially indexing the economy—placing a cost-of-living escalator in all wages and prices by law so that no one can be hurt by inflation—is that the inflation rate cannot be reduced with fiscal and monetary policies if the economy is fully indexed. If inflation is running at a 6 percent level this year, for example, it will run at a 6 percent level next year since every wage and price will go up by 6 percent next year because of this year's increase in the cost-of-living index. With a fully indexed economy, only external events (such as a reduction in the price of oil or grain on international markets) or basic wage settlements below the rate of growth of productivity (3 percent) can reduce the rate in inflation.

While the United States economy is not legally indexed, it has gradually become highly indexed as a result of *de jure* and *de facto* escalators by both Government and private industry. The result in an economy where conventional monetary and fiscal policies can produce unemployment but where they cannot reduce inflation.

To fight the current inflation by deliberately creating or tolerating idle resources is simply to conduct a war that has no payoff but enormous costs. If one remembers that each 1 percentage point of unemployment represents approximately $60 billion in lost output annually, the current war on inflation costs about $180 billion per year (the difference between 7 percent and 4 percent unemployment). In a world of high unemployment, the affirmative-action, training and equal-opportunity programs cannot work to help equalize minority and female earnings. There simply aren't any new jobs in which people can be employed.

The young and economic minorities are hurt by unemployment even more than a simple lost-wages calculation would indicate. Most job skills are not acquired in formal education and training but in an informal process of on-the-job training from one worker to another. With such a training process, a lack of jobs means a lack of any opportunity to acquire lifetime working skills. In practice this means that those groups who suffer high unemployment gradually become less skilled relative to the groups that are employed.

While almost no one predicts that the current 7 percent unemployment will lower the rate of inflation, many argue that to lower unemployment, and especially to lower unemployment below 5 to 5.5 percent, would be to make inflation worse. This argument flows from the uneven structure of unemployment. If one looks at the distribution of unemployment, it ranged in the third quarter of 1977 from the teen-age rates previously mentioned to 11 percent for adult blacks, 6 percent for adult white women, and only 3.7 percent for prime-age (25–55) white males. In any expansion of the econ-

omy we run out of prime-age white males while other groups still suffer high unemployment. Inflation breaks out in the wages of prime-age white males (a heavily unionized group which provides about 40 percent of all working hours) and spreads across the whole of the economy.

The solution to this problem, however, is not to keep unemployment rates permanently above 5 to 5.5 percent, but to find some technique for reducing these enormous unemployment differentials. If this could be done, conventional monetary and fiscal policies could be used to lower the national unemployment rate without creating labor shortages and more inflation. Since short of genocide there is no policy for altering relative labor supplies, the policy options all lie on the demand side. One can either issue a set of commands ordering firms to change their hiring practices, or one can adopt a system of wage subsidies designed to entice employers to alter their hiring practices. Realistically the only option is the wage subsidy.

A wage subsidy is like a reduction in the minimum wage without the disadvantages that such a reduction entails. Employers respond to a lower net wage in either case. But with a wage subsidy, all employers, not just those who hire at the minimum wage, have an incentive to employ relatively more workers from economic minorities such as the young.

The across-the-board incentive to hire is especially important since most of the country's large employers have minimum wages that are above the legal minimum wage. Wage subsidies also undercut the argument that the program is really being run for the benefit of low wage nonunion employers who provides little or no training and few lifetime career opportunities.

From the employees' side there is the obvious advantage that take-home wages do not go down. This is consistent with progress toward economic parity between majority and minority groups and between men and women. The wage subsidy also maintains work incentives while a simple cut in wages with a lower minimum wage is a cut in work incentives. Regardless of whether economists like it, the minimum wage expresses the social consensus that individuals who work ought to be able to earn a reasonable income.

A wage subsidy does not violate that social consensus and it has the added advantage of spreading the costs of that goal across the population rather than concentrating it on those who are made unemployed when minimum wages rise. It is also an offset to the biases toward capital-intensive techniques of production that are now encouraged in the investment tax credit and payroll tax financing for Social Security.

Interestingly, almost all the objections to a wage subsidy are equally applicable to the investment tax credit. Both end up dispensing large sums of money for investment or employment that would have occurred without the program. Yet the investment tax credit is a favorite conservative economic policy while a wage subsidy is considered a dangerous radical departure from sound economic practice.

The current strategy, if there is one, for reducing unemployment differentials revolves around the creation of millions of public-service jobs. While there is a role for public-service employment in improving the background characteristics (work habits, literacy) of disadvantaged workers, they are not a good substitute for regular jobs. They do not provide the lifetime career opportunities and saleable skills that are created by regular jobs. Public-service employment at the minimum wage (the current plan) does little to help achieve income parity. Under the plan, people are not allowed to hold a job for more than one year. What do they do then? If we are to make more than a token improvement in the employment situation the answer must be found in expanding private employment and not in public jobs. But to expand private employment, unemployment must be restructured.

This means some system of wage subsidies is essential. And young people are a good place to start since they constitute a group that includes all racial and sexual groups. This is not to say that wage subsidies are ideal. They will undoubtedly be expensive and messy. There simply isn't anything else.

[From the New York Times]

JOBS AND INFLATION: THE LINK

(By Anthony Lewis)

BOSTON, January 4.—How can a country have high unemployment and inflation at the same time? The twin phenomena confound the theory we grew up with, that slack in an economy reduces inflationary pressure. And it is a central problem for the United States today, social and political as well as economic.

New light is thrown on the mystery in an essay just published by Lester Thurow, professor of economics and management at M.I.T. His analysis appeared in The Economist of London. With its help, and a conversation with Professor Thurow, I think I begin to understand the problem—or an important part of it.

The national unemployment rate has been around 7 percent for some time now. But the figures are much higher for particular groups in the population, notably teen-agers and blacks. We can see the crucial significance of those figures more clearly if we compare today with a year of relatively full employment a generation ago, 1956.

In 1956 the national unemployment rate was 4.1 percent. The following table shows the figures for some subgroups that year and in the most recent quarter available, the third quarter of 1977, when the overall rate was 7 percent.

	1956	1977
White males 25–55	2.6	3.7
White teen-agers	10.1	15.0
White adult women	3.7	6.2
Black teen-agers	18.2	39.5
Black adults	7.5	11.1

The table shows dramatically that unemployment in the United States is an uneven proposition. More important, it shows that most of the increase in the last twenty years has come among teen-agers and blacks and, to a lesser extent, women. White men between ages 25 and 55 are in effect a favored class, with virtually full employment.

But there is another factor in rising joblessness over the last twenty years—one we often forget. That is demographic change. More and more women and blacks are going into the job market. And because of the population bulge, more and more teen-agers look for work each year.

In short, the very groups that have the most trouble getting work are steadily becoming a larger proportion of the labor force. For that reason, even if the 1956 unemployment rates for each group had stayed the same, the overall figure would have risen by now from 4.1 to 4.8 percent.

The extreme disparities in group unemployment levels may of course have serious social consequences—for old urban areas, for example. But the disparities also have the surprising effect of feeding inflation. That is what Professor Thurow explains.

The reason lies with that favored group of white males 25 to 55. As it becomes a smaller proportion of the labor force, it is in even greater demand from employers. If the economy is heated up, this group in effect develops a labor shortage—and its wages go up faster. Moreover, the group has special leverage. It is heavily unionized, and it accounts for about 40 percent of all working hours.

If a President boosts the economy to cut unemployment generally, as so many people want him to, new jobs for blacks and teen-agers will not tend to drive up wage rates and prices. But the increasing demand for white men in the labor market may indeed fuel inflation.

That analysis makes clear the effects of high unemployment over the long run are even graver than most of us have realized. The disparities among different groups are getting worse. And the distribution of skills is also becoming more unequal. In America, Professor Thurow rightly says, job skills are usually acquired not in formal education but in "an informal process of on-the-job training from one worker to another worker." So the teen-ager who goes for years without work faces a life without the skills for good jobs.

Is there any way to break the vicious circle? Professor Thurow suggests one: wage subsidy. Employers could hire people from groups with high unemployment levels at somewhat lower pay, with the Government making up the difference.

The wage subsidy idea has won evident advantage over the present Federal strategy of creating public service jobs. It would encourage regular business to try new kinds of workers, who would be more likely to acquire there what Professor Thurow calls "salable skills" and "lifetime career opportunities."

One difficulty conceded by Professor Thurow would be defining the groups eligible for wage subsidies. In conversation he suggested alternatives to minimize that problem. The subsidy could be given only to teen-agers, so they would have a better chance of starting off with real work. Or it could go to anyone unemployed for an extended period.

Professor Thurow offers the wage subsidy not as an easy cure but as an idea worth trying. If we understand the real costs of high unemployment in a divided society, we will consider fresh ideas seriously.

[From the New York Times]

CITIES AND PEOPLE IN DISTRESS

Senator Moynihan once observed that the day city planners became known as "urbanists" was the day they realized that everything is connected to everything else. In Washington, this realization, of how interconnected the problems of cities are, has flagged sadly in recent years. But now there is welcome news. The Carter Administration is well on the way to developing what may be the Federal Government's first coherent policy for addressing the urban problem.

That said, though, it is then quickly necessary to do something the emerging Administration policy does not do: define precisely what the urban problem is. Is it to help cities that wearily serve as poorhouses for the nation regain economic health? Or is it to help the urban poor find jobs, hope and a stake in society?

The two problems, of cities and of people, obviously overlap. Everything is related to everything else. But the answers to one problem may, and sometimes must, diverge from the answers to the other. The priority problem for many cities, surely, is staying solvent. The Federal response to that must be, in New York City's case, continued loans and speedy relief for the city's special burden of welfare costs (a goal toward which, as a result of Senator Moynihans' persistence, the Administration is now willing to take at least some limited steps).

Meanwhile, the priority problem for the urban poor is surely high unemployment.

For blacks, it is more than twice as high as for the population as a whole; for young blacks, it is seven times as high. The Federal response to that must be jobs, whether through incentives to the private sector or through creation of public employment in the cities or elsewhere.

A responsible society cannot choose between the problems of cities and the problems of people. Both must be urgently addressed. But surely it cannot be wise to try to address both problems with the same machinery. Creating jobs in cities may help cities and, to some extent, their poor residents, but to stop there limits what might be done for those people. Yet that is what the emerging Administration policy tries to do; the lumping together of aims is indicated even by its title, "Toward Cities and People in Distress." And that seems to us a serious flaw in an otherwise praiseworthy enterprise.

The contemplated policy covers more than 100 pages but it can be stated simply: Rebuild cities. The policy planners favor efforts to loosen the white suburban noose around urban centers, but believe that this is a distant goal. For the predictable future, they see the urban poor trapped by discrimination and poverty, in central cities. And so, they reason, if the poor are to be aided, they must be aided inside cities, by economic development inside cities.

Hence the policy seeks to reverse the 40-year tide of suburban and regional decentralization. And it would start with the activities of the Federal Government which, in this view, have for years had an often unintended, accidental "suburban tilt." What should be done now, the planners believe, is to use "the whole arsenal of Federal actions" to correct that tilt, to promote the public and private economic development of cities.

But that is chancy strategy, and, even if successful, one that is needlessly restrictive.

One reason for skepticism is the planners' facile assumption that the Government's suburban tilt has been accidental or unintended. On the contrary: F.H.A. mortgages, Federal freeways and other suburban stimuli reflect social reality. As the population of the suburbs has swelled, so has their appetite for Federal dollars—and their political power to get them. Curbing that appetite will prove no easier than curbing that power.

A second reason to doubt the value of economic development for distressed people lies in the complex, poorly understood decision-making process that prompts the movement of jobs from the central city. For some businesses, the decision may not be discretionary at all. Their markets have moved. Or methods have changed. It was the fork-lift truck and the freeway that made long, low, outlying warehouses a cheap alternative to comparatively inefficient, labor-intensive elevator warehouses downtown. For other businesses, the decision to leave the city has been based on a tangle of reasons—high taxes and utility rates; a desire for more space; a fear of crime and turbulent schools that deters the hiring or transfer of executives; even the commuting convenience of the chief executive. Such decisions cannot be easily undone with the kinds of tax, loan or land incentives available to urban planners.

But let it even be assumed that such incentives do work and that some companies are lured back into the city. Can anyone be sure that these companies will then hire the hard-core unemployed? One reason they lack jobs now is that they lack education and qualifying experience. The presence of jobs in a relocated plant can do no more to alleviate these handicaps than the presence of unfilled jobs in present urban labor markets.

None of this is meant to disparage economic development as a way to help distressed cities. Efforts to promote such development, like those in New York City, may well be crucial to municipal health. Even if they do not attract many businesses back to the city, they may well encourage others to stay. Federal programs to encourage such development, and neighborhood revitalization with it, are helpful and welcome. But let those benefits of economic development be clearly distinguished from benefits intended for people. If the primary goal is—as it should be—to create, find and foster jobs to help people escape their distress, many of those jobs will be in the suburbs or in different regions altogether.

It is surely worth trying to create benefits for the urban poor by artificially stimulating the economies of cities. But national urban policy should not bank so heavily on those conjectural gains. Why not work just as hard to ease the access of people in distress to the opportunities that arise from natural economic growth, wherever it may occur? City limits notwithstanding, everything remains connected to everything else.

EXHIBIT 1

THE CASE FOR CETA REAUTHORIZATION; CONTINUED DECENTRALIZATION AND DECATEGORIZATION

After its first three years of operation and only cursory congressional review, CETA was extended for a year in 1977. In 1978 it is coming up for review again, this time, it is to be hoped, for a more deliberate assessment of its record. When we first endorsed CETA in 1974, saying it was "a solid achievement . . . the right approach for the right time,"[1] the Council also cautioned that a major effort would be required in order to make state and local officials fully appreciative of the complexity of manpower problems. We were concerned at the time that there would be an overeager shift of responsibility and authority from the federal level to an unprepared local level. We are hoping now that the CETA record will be examined in light of what has been feasible over the last few years and not on the basis of some earlier optimistic expectations.

CETA's first few years have not been easy. Thus far it has operated in an intractable, high unemployment economy. These adverse conditions have put the CETA delivery mechanisms to a test unlike anything the earlier categorical efforts encountered. Those earlier efforts were created to cope with largely structural problems, mostly among the hardcore unemployed.

In contrast, CETA, although first conceived largely as a structural measure, has been pressed to channel vast countercyclical assistance to local areas around the country hit hard by a sluggish economy, as well as to bring into the employment and training arena actors who have not traditionally been involved in delivering manpower services and in serving manpower clients.

While CETA has not delivered on the promises that some had hoped for, we think that the central policy choice to decentralize and decategorize was a sound one. Experience prior to CETA demonstrated the inability of centralized federal mechanisms to respond flexibly and expeditiously to changing local conditions. The CETA experience so far represents a three and a half year test of the notion of whether a decentralized-decategorized approach can be effective for identifying labor market pathologies and formulating solutions to correct them. It is the opinion of the National Council on Employment Policy, based on the evidence available, that CETA's immediate objectives of decentralization and decategorization have been achieved, and that some locally based planning and delivery systems tailored to local needs have indeed emerged. We believe that creative use of CETA by local prime sponsors has improved the quality of the nation's manpower service system and reinforced the validity of local partnership. This is no mean accomplishment during a period in which the country has gone through three changes in leadership and the most serious economic recession in four decades.

Within the context of a decentralized, decategorized manpower planning and delivery system, a number of important issues have surfaced. Some were foreseen and debated before CETA was adopted. Others have emerged since then. The most important ones revolve around questions concerning targeting, the state role, service deliverers, accountability, the role of public service employment, funding levels and cycles, private sector involvement, and the effectiveness of employment and training policy analysis. These issues all need to be aired before the next building block in America's manpower policy is laid in place. The obligation now is to draw on our recent lessons and improve the efforts started in 1974.

The issues examined here are neither extensive nor all inclusive. But, in the opinion of the National Council on Employment Policy, they are the most important ones. They are the underpinnings of the CETA approach. If they can be addressed head-on now, and if the policy choices they present can be decided now, the questions raised by a number of other subsidiary issues can be settled administratively.

TARGETING: WHO SHOULD BE SERVED UNDER CETA

One of the most volatile issues associated with CETA has been the question of whom it should serve. Departing from the precedent of the antipoverty programs in the 1960s that entailed strict means tests, Congress broadened under CETA the potential clientele by expanding participant eligibility criteria to include the unemployed and the underemployed. This wider targeting has given CETA a broader constituency, making it more politically viable at the local level. Relaxed provisions also work to the advantage of program participants.

Targeting CETA services just to the disadvantaged could stigmatize CETA participants resulting in more rather than less isolation for the poor. We believe the current provisions should be retained. A reversion to narrower targeting could incite serious social divisiveness. The special targeting provision for Indians, immigrant labor, and youth (Title III) has helped prevent this from happening by allowing pursuit of national priorities related to special problems while maintaining a broad focus at the local level through other titles.

Whether the full benefits of less restrictive targeting will fully materialize remains to be seen. While CETA has gotten into the mainstream of community service delivery in some areas, it is anathema to others. But the evidence suggests that the looser targeting provisions have not resulted in wholesale abandonment of the poor by local prime sponsors. The available data suggest that Title I participants are comparable to the population served by earlier categorical programs. It also appears that the proportion of poor served under the public service employment components are even higher than under the Emergency Employment Act of the pre-CETA days. Furthermore, the current administration has shown a pronounced sensitivity to the problems of the disadvantaged.

Even where there are open-ended targeting provisions, the emphasis of the programs should continue to be on the poor. However, where strict targeting is adopted, requiring income criteria for determining eligibility, there is need for uniformity and simplicity.

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[1] "Manpower Policy for a New Administration," October 1974; a position paper of the National Manpower Policy Task Force.

For present CETA programs with means-tested eligibility provisions, there are no fewer than three different sets of criteria now in force for different programs. The multiple standards complicate program administration and confuse program participants and prime sponsor planners alike. In light of the relatively unenforceable small differences between the different income criteria a single income eligibility criterion should be adopted.

THE STATE ROLE

The multiple role of balance of state prime sponsors—to coordinate the manpower services from state agencies, to review local prime sponsor plans and to promote interagency linkages—has not necessarily been effective in several states. With the same staff handling both prime sponsor and state manpower services council responsibilities in too many states, the balance of state role, encompassing programmatic responsibility and most of the funding, has demanded the bulk of the attention. State manpower service councils are often unwieldly and since their purposes are less than clear, many governors do not provide personal leadership. There is little payoff for the governor and the manpower council to review prime plans, or to monitor and coordinate the participation of state agencies. The bulk of the 4 percent discretionary funds is more often used for special projects than for encouragement of comprehensive planning and interagency coordination. The 5 percent CETA/vocational education grants rarely have been coordinated with other vocational education activities and, even worse, rarely have been used to involve the vocational education establishment in program development and evaluation either for prime sponsors or in the balance of state.

It is clear after these years of experience that, at a minimum, the balance of state prime sponsor and statewide interagency coordinator functions should be separated. In many states it might be well to divide the balance of state responsibility among local prime sponsors on an "economic watershed" basis. In others it would be well to delegate the prime sponsor role to associations of local governments too small for national prime sponsor designation. Many sparsely populated states are best served by a statewide prime sponsor, as long as the two roles are kept clearly separate.

We recommend that the thrust of the state role should be focused on the promotion and enforcement of interagency linkages, the coordination and the provision of labor market information, and technical assistance to prime sponsors.

WHO GETS THE ROLES AS SERVICE DELIVERERS?

Another critical issue that CETA has not resolved concerns the perennial question of presumptive deliverers of service; which players are going to be tapped for key roles in service delivery, and how will they fit into a comprehensive manpower delivery system? A key concept of CETA was that service deliveries should be tied to high performance, and awarded on the basis of competition. Most prime sponsors started off with little hard knowledge about the performance capabilities of the local deliverers of service. Therefore, in the first year, many of the actors were given extensions of their current contracts to enable local prime sponsors to develop benchmarks or track records by which performance could be measured. In other cases, local community sentiment was so clearly articulated against certain service deliverers, based on reputation, that their inclusion as delivery agents would have jeopardized the credibility of the system.

As the CETA system has developed, the notion of "demonstrated effectiveness" has assumed genuine importance at the local levels as prime sponsors have tried to find effective program agents. The attempted monitoring and evaluation by some prime sponsors has been a new and threatening experience for some service deliverers. The search for the appropriate role of the employment service, community-based organizations, community action agencies, and others under CETA has been a constantly evolving process. There have been promising developments in some communities, and disagreement and conflict in others. On the whole, however, the myriad actors on the CETA stage have learned to accept each other and to devote their major energies to the improvement of manpower services for the disadvantaged.

We believe the development and promotion of local initiatives should be encouraged and strengthened. This can be done by avoiding strict requirements on prime sponsors to contract more services to predetermined service deliverers. Congressional mandates for presumptive deliverers of consolidated manpower services might cut off the development of neighborhood initiatives and reduce the effectiveness of comprehensive manpower planning by prime sponsors. The record of the past is clear that those who become too immersed in day-to-day service delivery have difficulty maintaining the perspective for strategic planning or the objectivity for evaluating results.

On the one hand, prime sponsors should retain a broad measure of flexibility to plan, coordinate, and implement comprehensive manpower plans appropriate to their communities. At the same time, prime sponsors should avoid building extensive capacity for program delivery activities of their own when capable and experienced. Every effort should be made to maximize the use of organizations that have shown an ability to reach and effectively serve those most in need of manpower services. Such pluralism is the essence of decentralization.

The relationship of CETA to the state employment security system has been more complex and more ambiguous. Initially, the Department of Labor indicated that there would be no presumptive role for any former service deliverer. Consequently, each former player had to negotiate his role with local prime sponsors. If this was an uncomfortable role for community based organizations, it was an even more unfamiliar experience for the state employment services. During the second year of CETA, it became clear that the Department of Labor, as the parent of both the employment service and CETA, was beginning to favor its first born. Conflicting policy statements emanated from the national level of the Department of Labor office. At one point the regulations mandated job placement services by the employment service. But the national office later acquiesced to the urging of prime sponsors who viewed compulsory reliance upon state employment services as an intrusion on their mandated flexibility to select deliverers of service based on locally demonstrated effectiveness.

There is growing evidence that CETA and the employment service are developing accommodations to each other reflecting the recognition that, at a minimum, the combined resources of the two systems are necessary prerequisites to the development of labor market exchange and employability development functions required of a manpower system. In many areas there are examples of coordination of roles to effect better penetration of the private sector to locate increased numbers of jobs, as well as better integration of efforts for outreach and recruitment of target populations. We are persuaded that prime sponsors and employment service agencies at the local level are better able to work out their individual patterns of accommodations without imposing a single national model. While acknowledging that a single, compartmentalized solution may be "neater" and conceptually more appealing, we agree with the Employment and Training Administration official who suggested that we develop a tolerance for a little "disorder" in the interest of more effective service delivery at the local level.

Many possible approaches have been suggested to address the issues of two national manpower systems, CETA and employment services, but much of the thinking on the subject is purely conjectural. We trust that Congress and the Administration will avoid hasty "solutions" that divide functions between the two systems. Assigning intake and job referral to the employment service and employability development to the CETA system, or other equally simplistic suggested approaches that would assign job ready client groups to the employment service and non-job ready to the CETA system would be a mistake at this time. Some more definitive analysis may be in sight, however. The Department of Labor funded 10 demonstration projects to test various models of interface between CETA and the employment services. It will be well to examine the results before Congress attempts to mandate any changes in CETA.

ACCOUNTABILITY

The issue of accountability in a decentralized, decategorized system is a complex and sensitive one. The responsibility at the federal level to see that CETA funds are spent in line with legislative objectives has to be balanced against the stated purpose of the Act to permit prime sponsors to exercise their judgment in assembling a local manpower capability. Conceptually, this is one of the biggest puzzles in the CETA system. It resists any cut and dried solution, but demands further attention because the present arrangements are not adequate.

Early charges notwithstanding that initially the feds intended to leave the money on the stump and run, the Department of Labor established early standards of financial accountability which are apparently working. They are sensible and direct. Funds mismanagement is occurring probably no more frequently than is to be expected or can be reasonably prevented. Because the federal government has a responsibility to demand financial accountability, financail management standards have an appropriate place.

Program accountability presents a different story. Although the Department of Labor has an understandable need to know whether prime sponsors are doing their jobs, there is an explicit question about how such information should be distilled. There is also an implicit question about whether the prime sponsor should adapt to providing standardized evaluation information to the Department of Labor, or whether the Department of Labor should adapt to evaluating unstandardized programs run by prime sponsors.

In the 1970s, the Employment and Training Administration's (ETA) capacity to monitor the activities under its purview has been steadily eroded. Personnel cuts and ceilings and internal management policies that have inhibited staff development have all hurt agency morale and reduced ETA's capabilities. This has come at a time when the demand has been for an expanding ETA role.

Centralized performance goals run counter to the spirit of the CETA approach. Individual prime sponsors and their programs are as unalike as apples and oranges; attempting to apply a single standard to them denies local initiative. Yet, that is all ETA is capable of doing in its present condition. A special problem emerges because so few in national and regional offices have front line experience in decentralized manpower programming. Suggested program guidelines and performance indicators promulgated by the national office as rough guides in reviewing

prime sponsor plans and actual performance, are instead applied mechanically in areas where there is no substitute for seasoned and informed judgments. Just as importantly, ETA lacks a critical capacity for providing technical assistance. By virtue of CETA being a decentralized, decategorized system that assumes no program model, the technical assistance capacity is needed now more than ever.

Flexible decisionmaking authority and the responsibility for developing performance indicators should be retained at the local level. This will better assure the development of comprehensive employment and training services responsive to local labor market needs. The monitoring role of the Employment and Training Administration should be expanded to include reviewing prime sponsors evaluation plans and performance measures. ETA's review should then be carried on with reference to prime sponsors' goals. ETA should also extend its technical assistance capability to assist prime sponsors developing evaluation strategies.

ETA national and regional office staffs should be augmented to permit ETA to carry out a genuinely decentralized program of monitoring and technical assistance. A more aggressive use of the Intergovernmental Personnel Act could bring into the national and regional DOL offices more people who know the procedures and problems of prime sponsors and their subcontractors.

While we feel that accountability should be defined in terms of locally established standards, we are not proposing that the Department of Labor abdicate its responsibility under CETA of pursuing national policy goals. We think that if the notion of a national/state/local manpower partnership is still valid (and we think it is), then there is a definite place for national programs to complement state and local emphases. In the cases of such national programs, ETA does have an appropriate role in determining general standards of performance. But even here the standards should be formulated to steer prime sponsors toward desired final effects, not intermediate objectives based on national office views of how goals should be achieved.

PUBLIC SERVICE EMPLOYMENT

The public service employment (PSE) component of CETA, only a relatively small provision under Title II of the original CETA legislation, has mushroomed. Starting at a level of $250 million, PSE efforts are budgeted for $6 billion in fiscal 1978 under Titles II and VI; three-fifths of the CETA total.

The continued expansion of PSE as a countercyclical tool has created a dependency in local governments on CETA that has evolved as a major policy issue. Other topics for concern are the extent of substitution at the local level on one hand and the uncertainty over whether additional useful jobs can be created on the other hand. Prime sponsors are especially concerned with the changes in eligibility criteria for PSE slots and the quixotic nature of PSE funding—unpredictable funding releases whose timing and levels are nearly impossible to predict.

The dependency issue is real. Many urban areas are hard hit simultaneously by recession-induced revenue shortfalls and social service demand increases, as well as deteriorating tax bases. They are dependent on PSE for delivery of basic municipal services. The issue of substitution—which various observers estimate to range between 0 and 100 percent—clouds the serious municipal service delivery situation of many local governments. While most prime sponsors have utilized PSE funds to hire new workers for new or expanded services, some cities have found themselves in the position of having to lay off thousands of teachers, police, fire, sanitation and other employees due to a severe fiscal crisis. Maintenance of effort is meaningless under those conditions. People would be without jobs and municipal services would not be delivered without PSE. City officials could not defend laying off employees with years of seniority while hiring new workers with PSE funds.

Observers have also followed a line of questioning from the opposite direction, asking whether or not prime sponsors have reached the saturation point with PSE slots. Fearing a wave of make-work jobs, there are doubts about how much good additional allocations for job creation would do. Intuitively, these concerns seem ungrounded given the ever expanding demands for added governmental services. In fact, however, some prime sponsors have encountered administrative difficulties in developing worthwhile slots integrated into service agencies.

It may be that the potential expansion of service type jobs is approaching its limits. In any event, it might be possible to put the unemployed to work more productively if local sponsors could shift to a service mix that includes social capital formation. Some of this can now be done by improving linkages between public works and economic development projects at the local level. But the statutory one-year time limit on PSE projects should also be relaxed where it stands in the way of projects achieving self-sufficiency at the local level. Consideration should be given in any expansion of a PSE program for including on a limited basis authority for prime sponsors to engage directly in capital formation projects.

It appears that PSE has fast become a kind of special purpose financial assistance program for local governments. Unless improvements in municipal finance capacity coincide with drops in unemployment there could be serious disruptions in municipal services, as unemployment falls and the PSE spigot is shut down to a trickle.

The big if in this scenario is if the revenue-raising capacity of municipalities will improve as employment opportunities improve. In all likelihood, any general upsurge in economic activity that reduces unemployment will improve the revenues of most prime sopnsors. But it is not so certain that increases in revenues will be sufficient to offset lost PSE resources. Local governments have been hit hard by inflation, limiting service capability. The tax structures are regressive and, in some cases, have already been pushed to the limit. What this means is that although high unemployment may not always be with us, a need for the kind of municipal service support that PSE provides will be. The job creation requirements of welfare reform may provide a bridge maintaining those services when and if unemployment declines. But employment programs should not be used as a permanent subterfuge for general revenue sharing. Congress should decide directly to what extent local government costs are to be federally subsidized.

Though the emphasis has been on PSE's value as a countercyclical tool, the original thrust as a structural instrument should not be lost. Prime sponsors should be free to continue to offer public service job opportunities to those who normally are not considered for public employment. The design can ensure transition to nonsubsidized jobs for many and the opening of new routes into public employment for many of the disadvantaged.

Another consideration to keep in mind with respect to PSE is, of course, the job creation provisions of any welfare reform legislation. It would be premature to lock in rigid funding formulas or program features while that aspect of welfare reform is up in the air. But it should be recognized that a large proportion of the candidates for welfare reform job creation might also be candidates for PSE slots aimed at structural unemployment.

Substitution is a lesser problem for structural uses of public service employment than it is for countercyclical purposes. Changing the allocation formula as we suggest below would make a larger proportion of the funds available for public job creation in those areas where employment potential is most limited. However, because job creation needs in such areas require a long-term commitment, it is essential for PSE to be related to economic development and population distribution policies which offer either occupational or geographic mobility.

CETA FUNDING

The CETA funding mechanism has built-in problems that are inhibiting the flexibility of prime sponsor operations and limiting the effectiveness of CETA. Some of the problems are simply fruits of the democratic process; but others are a function of poor legislative and administrative design, and they can be changed.

Perhaps the most pervasive problem has been the unpredictability of CETA funding, including the level as well as the timing of funding. Under Title I, questions about the level of funding have impinged upon the amount of genuine planning prime sponsors have been able to do, forcing either haphazard planning or requiring the devotion of excessive energy to contingency planning. The problems have been compounded by the fact that Title I grants—the centerpiece to prime sponsor manpower efforts—have been eroded by inflation. Consequently, prime sponsors have seen their Title I service capacity steadily diminished by rising costs, as total appropriations have not kept pace with inflation. The multiyear funding authority built into CETA has not been exercised exacerbating the difficulties of long-range planning by prime sponsors. Lacking the fair warning that multiyear funding might give them, prime sponsors have not even been in the position to improvise in their plans to compensate for underfunding or overfunding.

While prime sponsors have encountered problems under Title III similar to those under Title I, especially for summer youth programs, Titles II and VI have presented different problems. Pegged as they are to unemployment rates, the PSE funding is even more uncertain. Because the unemployment trigger is only an on-off switch, prime sponsors have not been able to make legitimate estimates of how much PSE funds to expect. With the unemployment rates as high as they have been since 1974, prime sponsors have known only that they will get some assistance. Once it arrives, the demand for fast enrollment pushed by the Department of Labor and the nature of countercyclical measures has seriously undercut attempts to create solid, functional jobs.

Because the state of the local economy is no more predictable than the national economy, it is impossible to remove the uncertainty attached to funding many activities under CETA. But some changes can be made by taking advantage of the permanent aspects of some of the programs and reducing the wide range of response possible under the countercyclical efforts.

The Title I allocations to prime sponsors should be adjusted for the effects of inflation so that service levels can be maintained. It is essential, though, that prime sponsors have a guaranteed base. It certainly would be a mistake to allocate a specific percentage of total employment and training funds for Title I. The need for such funds would vary with the stages in the business cycle and would force prime sponsors to engage in extensive training during periods of high unemployment. The discretionary set-aside for the Secretary of Labor should be increased so that the prime sponsor base can be supplemented where special considerations warrant.

In order to improve the conditions for prime sponsor planning, CETA should be authorized for at least three years, and the Department of Labor should take advantage

of advance appropriation provisions. The level of additional funding should depend on the state of the economy. There should also be a trigger for additional funds under Title VI, to provide countercyclical assistance to local areas. The national level of assistance should be set by a guideline of creating at least 25,000 jobs for every 100,000 persons unemployed above 4.5 percent.

But, no matter what the details of a PSE trigger might be, Congress should frankly recognize the limits of the data that the Bureau of Labor Statistics can furnish. BLS presently is not equipped to provide more sophisticated data, because of limits on the state of the art and limits on BLS resources.

One serious shortcoming in the allocation formulas used in apportioning the CETA funds to the various prime sponsors is the inadequate attention paid to economic hardship. Unemployment ratios continue to be the principle tool for identifying areas of greatest need. Four years ago, the Council recognized the limits of unemployment data: "The unemployment rate has become less and less useful as a measure of deficient aggregate demand or of deprivation and need." [2] The feeling then as now is that underemployment on one hand, and the network of income transfer and in-kind aid on the other hand, make a simple measure of unemployment an insufficient indicator of need.

We recommend that the Bureau of Labor Statistics develop the methodology for determining economic hardship as required by Section 312 of CETA and that such a measure be incorporated into CETA allocation formulas.

The question of relating funding to economic hardship raises the issues of resource allocation. Pre-CETA employment and training programs tended to stress an antipoverty focus. CETA gave more concern to unemployment levels in its allocation formulas, thus shifting funds away from central cities and rural areas where labor force participation tends to be low and poverty high. We recommend that as the economy continues its recovery, leaving behind residual structural problems, the allocation formulas be adjusted to put more emphasis on family income and less on unemployment, hence shifting resources to redressing the problems of the most disadvantaged population.

PRIVATE SECTOR INVOLVEMENT

Rhetoric and good intentions notwithstanding, CETA has not successfully tapped the resources of the private sector, nor has it succeeded in taking advantage of private sector labor demand any more than prior manpower efforts. Program operators have had difficulty placing many CETA clients in jobs where they have attempted to set up work experience situations. Many factors have accounted for these problems. CETA has operated in a high unemployment economy. Rigid legislative and regulatory requirements have limited prime sponsors in making arrangements with private sector interests. When private firms are laying off their own workers or are putting them on part-time schedules, they have little opportunity or need to train or hire CETA clients. In times of economic growth, employers are seeking new employees and can be influenced in regard to who is to be hired. But, in the past, incentives for disadvantaged workers have been largely limited to underwriting training costs. There has been a reluctance to experiment with straightforward wage subsidization for groups such as inexperienced youth who employers have been slow to hire. We recommend such experimentation.

[2] "Adapting Labor Market Statistics to Policy Needs," A Policy Statement of the National Manpower Policy Task Force, January 31, 1974, p. 4.

If experience is any indicator, firms are reluctant to establish any financial ties with local manpower efforts even in good times, because of reporting requirements and possible new liability to federal regulation. Those who have tried cooperation have come away disenchanted over the unpredictable funding, recordkeeping standards, and management headaches that go with the programs.

Where it is feasible and not self-defeating or inequitable, private sector involvement should be encouraged. This should be done using a variety of strategies, including provisions for experimentation with wage subsidies beyond that which is already permitted under the Youth Employment and Demonstration Projects Act. Whatever is done should be accomplished in such a way as to minimize administrative complexity.

Any new attempts at private sector involvement should build on initiating such involvement within the context of present programs. Dramatic new program initiatives from the national level are not going to overcome the biases of private employers against getting involved in government manpower efforts. But flexibility at the national level that permits greater experimentation by prime sponsors may have some appreciable payoffs.

THE NATIONAL COMMISSION FOR MANPOWER POLICY

One of the important provisions of CETA was the establishment of the National Commission for Manpower Policy as an independent body for reviewing national employment and training policy. Maintaining an outside perspective it has brought to the Department of Labor good quality policy analysis and independent assessments of employment and training programs. However, the Commission has been restrained by lack of independence from administration policy. While the majority of its members are from the general public, the Commission also includes members representing a number of executive departments and agencies. This has had a stifling effect on some of the Commission's policy statements. At very little risk to the policy relevance of its work, the Commission could be granted more freedom in expressing independent opinion.

Voting privileges, and the authority to approve or disapprove Commission position statements, should be vested only with the public members of the Commission. To further strengthen the independence of the Commission, it should be provided direct funding. Administration members should be retained in an advisory capacity.

By Mr. McCLURE (for himself, Mr. RANDOLPH, Mr. DOMENICI, Mr. GRAVEL, and Mr. STAFFORD):

S. 2437. A bill to amend the Act of August 8, 1972 (Public Law 92-367) to provide Federal assistance to the States for the development and implementation of effective dam safety programs, in order to protect human life and property; to the Committee on Environment and Public Works.

DAM SAFETY ACT

Mr. McCLURE. Mr. President, on several occasions in recent years, the Nation has been shocked by the losses in lives and property created by the failure of dams. There was the failure of the Bureau of Reclamation's Teton Dam in my home State, as well as the recent tragedy of the private Toccoa Falls Dam in Georgia.

In an effort to create a better, more systematic, and long-term approach to dam safety, I am today introducing legislation to encourage the States to move forward in implementing effective dam safety programs, supported with Federal assistance. I am pleased that the bill is cosponsored by several of my colleagues on the Committee on Environment and Public Works: our chairman, Senator RANDOLPH, as well as Senators DOMENICI, GRAVEL, and STAFFORD. The thrust of our bill is to augment the basic responsibility of the States for dam safety.

In sponsoring this bill, I recognize that no dam can ever become totally free of risk. What is important in any effective safety effort is a wise evaluation of that risk, the monitoring of that risk, and its minimization to the greatest practical degree, given the restrictions of cost. We must seek to develop State programs that assure such maximum protection.

One problem is that many States either have no dam safety program or an unfunded one. My bill would encourage those States where participation now is lacking or minimal to develop such efforts. And it will assist States, such as Idaho, in augmenting the safety programs already in place.

In addition to Federal program support, my bill offers the opportunity for dam owners in States with approved programs under this bill to obtain Federal guarantees or reinsurance on liability insurance.

Specifically, this bill adds several new sections—section 7 through 14—to the existing authorities under the Dam Safety Act (Public Law 92-367), which authorized a one-time inspection of existing dams. To give my colleagues a better perspective on the bill, let me review these proposed new sections:

The current Federal program is a strictly Federal authority, although it is being administered with State cooperation. Under my bill, in section 7, the Corps of Engineers would be authorized to distribute among the States $15 million in each of the fiscal years 1979, 1980, 1981, and 1982. Part of the money would be distributed equally, the other portion on the basis of the number of dams in each State. Grants, however, would be limited to 50 percent of a State's program costs.

Section 8 establishes the standards for approving State programs. My bill, as does existing law, requires such a program only for dams that are 25 feet or higher. But it would be hoped that State programs would encompass smaller dams, depending on local situations.

State programs would have to provide preconstruction review of plans for new dams, a preoperation safety check, plus ongoing inspections once every 2 years thereafter. The State program would have to provide authority to require changes or modifications in a dam, or its operation, if the dam were found to be in danger of failure. The State would also have to develop emergency procedures in the event of a dam failure, and have authority to see to it that dam repairs will be made by the dam owners. Each State program must include some form of emergency fund to be available

to breach a dam or take other emergency corrective action, when necessary.

State programs under my bill would be deemed approved 120 days following submission, unless the Corps finds that the program fails to meet the requirements of this section.

A Dam Safety Review Board is established under section 11 of the bill. The Board would review the existing Federal dam safety procedures and standards used on Federal dams, as well as the implementation and effectiveness of approved State dam safety programs. The corps would have the authority to withdraw approval of a State plan, based on the Board's recommendation. This Board—composed of three Federal, two State, and two other experts—also will review the plans and specifications for all Federal dams for safety purposes.

Section 9 addresses the need for assuring the availability of dam liability insurance. This is a growing problem because as a result of recent dam failures, liability insurance is no longer available to dam owners. This section authorizes the Federal Government to provide insurance companies with reinsurance or guarantees on any dam liability insurance, but only in States which have an approved dam safety program.

Such an insurance effort would provide two major benefits: It would encourage States to develop their own program, thus allowing dam owners in the State to qualify for this insurance, and it would tend to lessen somewhat the need for massive Federal disaster assistance in the event of a failure.

Section 10 establishes a revolving fund of $20 million for loans to dam owners to assist them in making any required repairs or replacements to a dam, if the owner can demonstrate that other funds are not reasonably available.

Section 11 establishes the Dam Safety Board, which I mentioned earlier.

Section 12 requires Federal dam building agencies to consult fully with the State on the design and safety of any Federal dam built there, and to allow State officials to join Federal inspectors on safety inspection of those Federal dams. This is not a State veto, but assures reasonable cooperation among States and Federal authorities. States will have full authority over private dams on Federal property.

Section 13 provides $2,500,000 over 4 years for training of State dam safety inspectors.

Section 14 directs the Corps and the National Bureau of Standards to undertake research to develop improved techniques and equipment for rapid and effective dam inspection, augmenting work the Bureau is now undertaking on techniques, such as portable microwave units to make a safety profile of dams. There is $4 million appropriated for this section.

Many of the ideas for this program have grown from the fine program conducted by the State of Idaho, a program that dates back into the 19th century. Idaho presently spends about $200,000 yearly on dam safety, utilizing six full-time persons to make preconstruction reviews, plus visual inspections at least every 2 years checking for seepage, cracks, or changes in the structure.

I am proud of the effective and responsible work of the State of Idaho in seeing that necessary dam repair work is provided. Earlier this month, State officials and representatives of the Corps jointly inspected the Barber Dam, an old wooden dam near Boise, Idaho. I joined with them on that inspection. The Corps and State came to the joint conclusion the dam would be in great danger of collapse during the spring run-off. Such a collapse would cause downstream damage to irrigation works, with possible flooding to sections of the city of Boise.

The State Board of Water Resources acted quickly to urge the State legislature to appropriate emergency funds to finance the immediate repairs. The county, which owned the dam, was to match that funding. After considering several options to remedy the problem, Boise Cascade Corp. generously provided the necessary funds to make the repairs. They also gave the State acreage that the corporation owns behind the dam to be managed as a natural preserve or park area.

While such corporate generosity can not be expected in every instance of this nature, this was a case of local people, the county, and the State working together to solve a dam safety problem, as well as preserving an historic and natural area that would otherwise be lost. I am introducing this measure in support of the work taken in States such as Idaho, which are willing to take such problems into their own hands.

I recognize that there is a danger that an individual's property rights will be affected without due process of law under this bill but that is not my intent. Additional language that provides an administrative remedy involving a full hearing on the merits of any State determination that the owner's dam is unsafe can be added after hearings.

Mr. President, I hope that this bill creates the framework for intelligent debate and for implementing an affective and strong program for greater dam safety.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 1 of Public Law 92-367 is amended by repealing the final sentence.

SEC. 2. Public Law 92-367 is amended by adding at the end thereof the following new sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the "Secretary"), $15,000,000 for each of the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, Sept. 30, 1981 and Sept. 30, 1982. Sums appropriated under this section shall be distributed annually among the states on the following basis: one-third equally among those states that have established dam safety programs approved under the terms of Section 8 of this Act, and two-thirds in proportion to the number of dams located in each state that has an established dam safety program under the terms of Section 8 of this Act to the number of dams in all states with such approved programs. In no event shall funds distributed to any state under this section exceed 50 per centum of the reasonable cost for implementing a dam safety program in such state.

"SEC. 8(a). In order to encourage the establishment of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of Section 7 of this Act to any state that establishes a dam safety program which is approved under this section. In evaluating a state's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall assure himself that such program includes the following:

"(1) A procedure whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) A procedure to determine, following construction and prior to operation of each dam built in the state, that such dam will be operated in a safe and reasonable manner;

"(3) A procedure to inspect every dam within such state at least once every two years;

"(4) A procedure for more detailed safety inspections, if warranted;

"(5) The state has or can be expected to have authority to require any changes or modifications in a dam, or its operation, if it is determined that the dam poses a threat to human life and property;

"(6) The State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails, together with an identification of that area that may be inundated in the event of the failure of each dam in such state, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) The state has or can be expected to have the authority to assure that any repairs needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) The state has or can be expected to have authority and necessary funds, to make immediate repairs to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this Section shall be deemed approved 120 days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program can not be approved, he shall immediately notify such state in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under Section 11 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved state dam safety programs. In the event the Board finds that a state program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such state program and withhold assistance under the terms of this Act until such state program has been reapproved.

"Sec. 9 (a) In order to assure that owners of dams will be able to obtain liability insurance at reasonable rates, and to protect persons located downriver of dams, the Secretary, or the head of any agency of the United States designated by the Secretary, shall provide to any insurer, subject to conditions es-

tablished by regulation, reinsurance or guarantees of any insurance provided to the owner of a dam to protect such owner from liabilities incurred in the event of the failure of such dam. Reinsurance or guarantees provided under this section shall reimburse an insurer for those liabilities in excess of an amount agreed upon between the Secretary, or his designee, and the insurer.

"(b) Any reinsurance or guarantees provided under this section shall be available only in a State which has an approved dam safety program under the terms of section 8 of this Act.

"(c) Agreements on reinsurance or guarantees under this section shall provide that the failure of the owner of any dam to carry out expeditiously any modification or procedure required by a State under the terms of its dam safety program shall result in the cancellation of any reinsurance or guarantee provided by the Secretary, or his designee.

"(d) There is authorized to be appropriated such sums as may be necessary to carry out this section.

"SEC. 10. There is authorized to be appropriated and remain available the sum of $20,000,000 to be placed in a revolving fund by the Secretary, such funds to be available for loans, on terms established by the Secretary, to any owner of any dam required to make repairs or to replace such dam under any dam safety program approved under section 8 of this Act, if such owner can demonstrate to the Secretary that other funds are not reasonably available.

"SEC. 11. (a) There is authorized to be established a Federal Dam Safety Review Board (hereinafter referred to as the "Board"), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams within the responsibility of the United States, and to monitor State implementation of this Act. The Board shall review the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file a report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section. There is authorized to be appropriated to the Board such sums as may be necessary to carry out this section.

"(b) The Board shall consist of one representative each from the Department of the Army, the Department of Interior, and the Department of Agriculture, plus four members, appointed by the President for periods of two years on a rotating basis, who shall be selected for their expertise in dam safety who are not employees of the United States. At least two members of the Board shall be employees of the states. The chairman of the Board shall be selected from among those members who are not employees of the United States.

"SEC. 12. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any state, shall, when requested by such state, consult fully with such state on the design and safety of such dam and allow officials of such state to participate with officials of such agency in all safety inspections of such dam.

"SEC. 13. The Secretary shall, at the request of any state that has or intends to develop a dam safety program under Section 8 of this Act, provide training for dam safety inspectors who are or will be employed by such state. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending Sept. 30, 1979, and $500,000 during each of fiscal years ending Sept. 30, 1980, and Sept. 30, 1981, and Sept. 30, 1982.

"SEC. 14. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall periodically advise all states of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, Sept. 30, 1981, and Sept. 30, 1982."

By Mr. ANDERSON:

S. 2438. A bill to authorize access spurs for the Great River Road; to the Committee on Environment and Public Works.

GREAT RIVER ROAD ACCESS SPURS

Mr. ANDERSON. Mr. President, my constituents have called my attention to a problem of interpretation of provisions of the Federal Aid Highway Act of 1973.

This act provides for Federal funding of the Great River Road, a recreational and scenic highway which borders the Mississippi River from its source in Minnesota to the Gulf of Mexico.

Congress has expressed its intent to limit the use of Federal funds to a single major roadway which may follow alternate banks, although States may use their own resources to build a parallel road on the other side.

Federal Highway Administration regulations specifically allow funding of access spurs to nearly scenic areas. However, the FHWA interprets the prohibition against parallel roads as precluding spurs that cross the river.

I believe this is counter to the congressional purpose to encourage access to nearby locations that would interest or attract travelers.

To clarify the congressional intent, all Minnesota Congressmen have joined Representative JAMES OBERSTAR as sponsors of H.R. 10262, to fund spurs across the river. This important clarification, which has been endorsed by the general assembly of the Mississippi River Parkway Commission, does not require additional appropriations. Because it is vital to development of this important economic, scenic, and historic resources, and in order to encourage early, favorable action, I introduce today a companion bill, S. 2438.

Mr. President, I ask unanimous consent that there be printed in the RECORD the resolution adopted by the Mississippi River Parkway Commission and the text of the bill to authorize access spurs for the Great River Road.

There being no objection, the bill and resolution were ordered to be printed in the RECORD, as follows:

S. 2438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 148(b) of title 23, United States Code, is amended to read as follows:

"(b) For the purpose of this section, the term construction includes the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes, and the construction or reconstruction of interstate and intrastate access spurs crossing the Mississippi River to significant scenic, historical, recreational, or archeological features on the other side of the Mississippi River from the national designated route, and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), scenic viewing areas, and other appropriate facilities as determined by the Secretary: *Provided,* That such access spurs shall be by the most direct feasible route and shall not include the construction of bridges across the Mississippi River.".

MISSISSIPPI RIVER PARKWAY COMMISSION RESOLUTION

Whereas, the FHWA Regulations regarding the Great River Road allow for access spurs to areas of interest and scenic enhancement proximate to the Mississippi River;

It is hereby resolved by the General Assembly of the ten states and the two provinces of the Mississippi River Parkway Commission, that interstate and intrastate access spurs be authorized crossing the Mississippi River, and funds be allowed where significant scenic, historical, recreational and/or archeological features exist nearby on the other side of the Mississippi River from the nationally designated route.

Such spurs shall be by the most direct feasible route and shall not include construction of new bridges across the Mississippi River.

By Mr. JACKSON (by request):

S. 2439. A bill to amend Public Law 95–18, providing for emergency drought relief measures; ordered held at the desk.

AMENDMENT OF THE EMERGENCY DROUGHT ACT OF 1977

Mr. JACKSON. Mr. President, last April this Congress moved with admirable celerity to pass the Emergency Drought Act of 1977. In August, we amended that bill to extend the drought relief program's life to January 31, 1978. Unfortunately, we must now amend the act again.

There are 66 projects—by States, local governments, irrigation districts, Indian tribes, and other Federal agencies—where drought assistance funds have been obligated, construction has been initiated and is being diligently pursued, but where delays in delivery of supplies, inclement weather, or other unforeseen circumstances will make impossible completion of the construction by the January 31, 1978, construction cutoff date. Therefore, we must enact a second amendment to the act to allow construction to continue past the current deadline in order to permit completion or work in these special circumstances.

On January 20, 1978, Secretary of the Interior Cecil D. Andrus submitted a bill to do just that.

I ask unanimous consent that the bill, the letter of transmittal, and a list of the projects on which construction will not be completed by January 31, 1978, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (a) of the first section of the Act of April 7, 1977, entitled "An Act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–77 drought," (91 Stat. 36), as amended, is hereby further amended by adding after "January 31, 1978;" the following:

"Provided further, That where the Secretary finds that such construction activities have been diligently pursued but cannot be completed by January 31, 1978 due to bad weather, delays in delivery of required supplies, or other unanticipated and unavoidable circumstances, the Secretary is authorized to allow continuation and completion of construction for a reasonable time beyond January 31, 1978."

SEC. 2. Section 7 of such Act is amended by striking out "March" and substituting in lieu thereof "May".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. January 20, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Emergency Drought Act of 1977 (P.L. 95–18) as amended, requires that all construction activities undertaken to implement the programs authorized by the Act be completed by January 31, 1978. Our approval of drought assistance requests has been based on the ability of the recipient to complete the proposed project before the January 31, 1978 deadline, and that date has been included in each contract.

It has now come to our attention that there are several instances where we have obligated funds, where construction work has begun and is being diligently pursued, but where delays in delivery of required supplies, bad weather, or other unforeseen circumstances will not permit completion of all construction by January 31, 1978.

We have carefully examined the provisions of the Emergency Drought Act, and find that we are without authority to allow construction work undertaken with funds provided by that Act to continue past the statutory deadline. The Act is clear in setting a cut-off date on construction activities. The language provides no exceptions to this limit. In extending the Act once already (P.L. 95–107), Congress has again provided no exceptions. Therefore, we must conclude that we have no authority to administratively grant exceptions.

We are, of course, in sympathy with those who have diligently pursued construction activities but will be unable to complete them because of unforeseen circumstances. Therefore, we would support legislation further amending P.L. 95–18 to authorize us to allow construction to continue past the current deadline to permit completion of work in special circumstances such as those outlined above.

In order to assist in achieving this objective, we have attached a proposed bill providing authority to the Secretary to allow, in his discretion, continuation of construction activities for a reasonable time. No new projects or new funds are authorized. Proposed construction activities would utilize funds already appropriated and obligated.

The bill would also extend the time for the Secretary to report to the Congress and the President on activities under the Act from March 1, 1978 to May 1, 1978. This change would be necessary to accommodate the program extension.

We would recommend that the bill be introduced and swiftly enacted. If the Congress has another approach to resolving the problem, we would be most interested in working with you. Of course, time is of the essence on this matter.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed draft bill from the standpoint of the Administration's objectives.

Sincerely,

CECIL D. ANDRUS,
Secretary.

EMERGENCY DROUGHT ACT OF 1977 (P.L. 95–18) CONSTRUCTION PROJECTS WHICH WILL NOT BE COMPLETED BY JANUARY 31, 1978

REGION 1: PN

1 Okanogan Irrigation District—Washington ($1,750,000)—replace pumping plant—might make it by January 31, 1978, but probably not quite—due to various delays in deliveries and weather—would need additional couple of weeks at most.

2. B and P Irrigation District—Idaho ($30,000)—to drill new well—work is continuing but do not expect completion by January 31, 1978—delay caused by bad weather, late start—would need extra couple of weeks.

REGION 2: MP

1. Santa Ynez River Water Conservancy District—California ($340,000)—two wells and pumps—one pump is not yet installed—late delivery and bad weather—would need extra 2 weeks to finish (weather permitting).

2. Chowchilla Water District—California ($4,500,000)—wells, tailwater return system pipelines—most work is completed but some pump installations are not finished—delay due to back log of work for electrical contractor and bad weather—need about another month to finish.

3. Georgetown Divide Public Utility District—California ($184,750)—four diversion structures and pipelines—having trouble doing concrete work because of bad weather—rest of work done—need another month or 2 of good weather to finish.

4. Merquin County Water District—California ($440,000)—20 wells and pumps—not all pumps have been installed on the wells due to electrical contractor's back log of work and also due to poor weather conditions and a late start—need another month to finish.

5. Madera Irrigation District—California ($1,193,273)—pipelines, pumps, and meters—some pipelines not yet installed due to bad weather—but work might be completed on time if weather improves.

6. Placer County Water Association—California ($201,020)—pipeline—contractor can't get additional pipes delivered until end of January—would need about a month to finish after pipes arrive.

7. West Side Irrigation District—California ($569,000)—replace 10 miles open ditch with pipelines—late delivery of pipe, not all pipe installed yet—would need additional month to complete.

8. Natomas Central Mutual Water Conservancy—California ($250,000)—modify pump station, install pumps, dredging and pilings—most work completed, but final placement of concrete being delayed by weather—need additional month or more (depending on weather) for completion.

9. Jacob Rancho Water Conservancy—California ($500,000)—five deep wells—wells completed but bad weather has hampered installation of pumps—work might be completed by January 31, 1978, if weather improves—otherwise they will need additional time.

10. El Nido Irrigation District—California ($1,000,000)—new wells—wells completed but pumps not all installed—due to contractor's back log and bad weather—need additional month to finish.

11. Truckee Carson Irrigation District—Nevada ($268,400)—pumps, meters and lining of ditches—bad weather has slowed work and all lining might not be completed by January 31, 1978, unless weather improves.

12. State of California—grant for $3,604,103—State would like more time for removal of Delta barriers—State's weather modification program is just starting and will probably not use all of the obligated Federal funds by January 31, 1978.

REGION 3: LC

Not aware of any, although some of the Fish and Wildlife projects were on tight schedules and might not quite make deadline.

REGION 4: UC

1. Muddy Creek Irrigation Company—Utah ($600,000)—repairs to Emery Reservoir—start delayed 3 months by Forest Service's refusal to approve permit—now weather is bad—not much work has been done—work would not be finished until spring at earliest.

2. Newton Water Users Association—Utah ($65,000)—to line 13,040 feet of ditch—cold weather has prevented final concrete work from being completed—other than that job is completed—estimated 90% complete—final completion would have to wait for warmer weather.

REGION 5: SW

1. New Mexico Department of Game and Fish ($223,000)—various water saving features at hatcheries and wildlife areas—work about 75% done, some final installations not yet completed due to delays caused by bids, slow deliveries and weather—would need about an extra month to complete all work.

REGION 6: UM

Not aware of any problems.

REGION 7: LM

1. Gering Irrigation District—Nebraska ($247,300)—to line canals—request was submitted late and not approved until November 29, 1977—also weather delays—work is progressing but its expected they need another month.

2. Pathfinder Irrigation District—Nebraska ($534,400)—to line laterals—late request, late start, bad weather—work is progressing but will need additional month or 2 to complete.

3. Amity Mutual Irrigation Conservancy—Colorado ($194,000)—repair and line canals—late request and late start, bad weather—need additional month to complete.

4. Central Nebraska Powerplant and Irrigation District—Nebraska ($346,400)—13.2 miles of pipeline—work is progressing but is being hampered by weather—need another month to finish.

Indian projects needing extension for drought improvements
Total drought improvements

	Total funds obligated
Idaho:	
Fort Hall Tribes, 12 irrigation wells drilled, cased and equipped	$628,500
New Mexico:	
Isleta Pueblo, 20 irrigation wells	530,000
Jemez, Pueblo, 4 irrigation wells	60,000
Picuris, Pueblo, 4,000 ft. concrete canal lining	48,300
Pojoaque, Pueblo, rehabilitation diversion dam	23,600
San Juan, Pueblo, 8,800 ft. concrete canal lining	94,500
Santa Ana Pueblo, 4 irrigation wells	60,000
Santo Domingo Pueblo, 5 irrigation wells	114,000

	Total funds obligated
Taos Pueblo, 12,500 ft. concrete and lining, rehabilitation of canal and 1 irrigation well	402,200
Zia Pueblo, enlargement of storage reservoir	139,200
Mescalero Apache, 7,000 ft. concrete pipeline	137,000
Navajo, lining looking siphon	200,000
Total	1,808,800
Washington:	
Colville, 2 irrigation wells and equipment	55,000
Yakima, development equip irrigation wells	5,000,000
Hoh Fishery, 1 well	7,500
Lower Elwa Fishery, new diversion structure and lining of rearing ponds	243,000
Lummi Fishery, well drilling and stream diversion	$103,000
Muckleshoot Fishery, to acquire water source	36,000
Nisqually Fishery, acquisition of water source and develop wells	230,000
Skokomish Fishery, install well and rearing ponds	155,600
Total	5,830,100
Arizona:	
Gila River (Pima), drill and equip 15 wells	1,500,000
Kaibab, spring development and pipeline	71,000
San Carlos Apache, wells and river pumps	128,100
Total	1,699,100
Nevada:	
Campbell Ranch, drill and equip 4 wells	148,000
Ft. McDermitt, drill and equip 4 wells	226,000
Pyramid Lake (fishery), rehabilitate 1 well	8,400
Summit Lake (fishery), drill and equip 1 well	44,000
Walker River, drill and equip 4 wells	186,000
Yomba, drill and equip 3 wells	145,000
Total	757,400

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that S. 2439, a bill introduced by the Senator from Washington (Mr. JACKSON) be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BENTSEN (for himself, Mr. RANDOLPH, and Mr. STAFFORD) (by request):

S. 2440. A bill to amend title 23, United States Code, to authorize Federal aid highway programs through fiscal year 1982, and for other purposes; to the Committee on Environment and Public Works and the Committee on Finance, jointly, by unanimous consent.

HIGHWAY IMPROVEMENT ACT OF 1978

Mr. BENTSEN. Mr. President, I am pleased that Senators RANDOLPH and STAFFORD have agreed to join me in introducing, by request, the President's proposed legislation to deal with our future highway transportation needs.

The concepts embodied in the President's proposals are the product of exhaustive study and wide public participation. For the past year, since the earliest days of the Carter administration, representatives of the Department of Transportation have been traveling the country, seeking the advice of Governors, mayors, county judges, transportation officials, road builders, and road users.

I applaud this commitment to public participation on an issue of such obvious public concern and importance.

The administration's bill contains several innovative proposals and some striking departures from past practice. It is not stand-pat, more-of-the-same legislation. However, as a creative approach to a complex issue in which every State has an important interest, certain elements in the legislation will be widely debated.

This bill will be referred to the Transportation Subcommittee of the Environment and Public Works Committee, and we shall begin hearings on it next month. As many of my colleagues are aware, the current highway bill is due to expire at the end of October. Because continuity in the program is of paramount importance, we must stick to a tight schedule for producing broadly acceptable legislation to continue the program.

As chairman of the Transportation Subcommittee, I am determined to report out a bill by the end of May. We will be prepared to bring our legislation to the floor of the Senate as soon as possible thereafter.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Highway Improvement Act of 1978."

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TITLE I—AUTHORIZATIONS AND APPORTIONMENT

SEC. 101. Unless otherwise explicitly indicated, any reference in this Act to a section, subsection, or paragraph shall refer to title 23 of the United States Code.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. Section 108(b) of the Federal-Aid Highway Act of 1956, as amended, is amended (1) by inserting in the first sentence after the words "subsection (d) of section 103 of title 23, United States Code," the following words: "and for carrying out highway assistance substitution projects under section 103 (e)(4) of title 23, United States Code," and (2) by striking out "$3,625,000,000" wherever it appears and by inserting in lieu thereof "$3,500,000,000".

AUTHORIZATION FOR USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion the sums authorized to be appropriated for expenditure on the National System of Interstate and Defense Highways for fiscal year 1980 using the apportionment factors and figures as contained in revised table 5 of Committee Print 95–16 and table 9 of Committee Print 95–11 of the Committee on Public Works and Transportation of the House of Representatives, and as modified by the amendment to section 104(b)(5) of title 23, United States Code, contained in section 304 of this Act.

TITLE 23 AUTHORIZATIONS

SEC. 104. (a) for the purpose of carrying out the following provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(1) for the Interstate resurfacing, restoring, and rehabilitation program, in addition to any sums previously authorized, $175,000,000 for fiscal year 1979; $175,000,000 for fiscal year 1980; $275,000,000 for fiscal year 1981; and $275,000,000 for fiscal year 1982.

(2) for the Federal-aid primary system, $1,500,000,000 for each of fiscal years 1979 and 1980; and $1,625,000,000 for each of fiscal years 1981 and 1982;

(3) for the urban highway program $700,000,000 for each of fiscal years 1979 and 1980; and $750,000,000 for each of fiscal years 1981 and 1982;

(4) for the highway safety improvement program, $500,000,000 for each of fiscal years 1979 and 1980; and $525,000,000 for each of fiscal years 1981 and 1982;

(5) for bridge reconstruction and replacement under section 144 of title 23, United States Code, $450,000,000 for each of fiscal years 1979 and 1980; and $500,000,000 for each of fiscal years 1981 and 1982;

(6) for forest highways, $49,000,000 for each of fiscal years 1979 through 1982; and

(7) for the control of outdoor advertising and junk yard programs, $40,000,000 for each of fiscal years 1979 through 1982.

(b)(1) For the purposes of carrying out the small urban and rural program of section 133 of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

$786,000,000 for fiscal year 1979, $796,000,000 for fiscal year 1980, $856,000,000 for fiscal year 1981, and $866,000,000 for fiscal year 1982; provided that there shall be reimbursement to the Highway Trust Fund from the General Fund of the Treasury for any portion of the foregoing amounts as provided for in appropriations acts expended on operating expenses.

(2) For the purpose of reimbursing the Highway Trust Fund in accordance with the preceding paragraph, such sums as are necessary are hereby authorized to be appropriated.

Of the sum authorized for the small urban and rural program for each fiscal year, $6,000,000; $7,000,000; $7,000,000 and $8,000,000 for fiscal years 1979, 1980, 1981 and 1982 respectively shall not be apportioned. Such authorized sum not apportioned shall be available for obligation in the same manner and to the same extent as the other sums apportioned under this paragraph and only for the purpose of carrying out section 215 of title 23, United States Code.

TITLE II—EXTENSION OF HIGHWAY TRUST FUND AND CERTAIN RELATED PROVISIONS

SEC. 201. HIGHWAY TRUST FUND.

(a) Subsections 209(c) and (f) of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended by:

(1) striking out "1979" each place it appears and inserting in lieu thereof "1983" and

(2) striking out "1980" each place it appears and inserting in lieu thereof "1984".

(b) Section 209(e)(1) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

SEC. 202. TRANSFER FROM LAND AND WATER CONSERVATION FUND.

Section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11) is amended by:

(1) striking out "1979" and inserting in lieu thereof "1983"; and

(2) striking out "1980" each place it appears and inserting in lieu thereof "1984".

SEC. 203. POSTPONEMENT OF CERTAIN EXCISE TAX REDUCTIONS.

(a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1979" each place it appears and inserting in lieu thereof "1983":

(1) section 4041(c)(3) (relating to the rate of tax on fuel for non-commercial aviation);

(2) section 4041(e) (relating to rate reduction);

(3) section 4061(a)(1) (relating to imposition of tax on trucks, etc.) except this provision shall not apply in the case of any automobile bus chassis or automobile bus body;

(4) section 4061(b)(1) (relating to imposition of tax on parts and accessories);

(5) section 4071(d) (relating to imposition of tax on tires and tubes);

(6) section 4081(b) (relating to imposition of tax on gasoline);

(7) section 4481(a) (relating to imposition of tax on use of highway motor vehicles);

(8) section 4481(e) (relating to period tax in effect);

(9) section 4482(c)(4) (defining taxable period);

(10) section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles); and

(11) section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) section 6412(a)(2) of such Code (relating to floor stocks refunds) is amended by:

(1) striking out "1979" each place it appears and inserting in lieu thereof "1983"; and

(2) striking out "1980" each place it appears and inserting in lieu thereof "1984".

INTERSTATE TRANSFERS

SEC. 301. Section 103(e)(4) is amended by (1) adding the following sentence after the second sentence thereof:

"Substitute projects under this paragraph may not receive approval, as prescribed by the Secretary, after September 30, 1984.";

(2) deleting the existing third and fourth sentences and inserting in lieu thereof the following:

"The Federal share of obligations incurred after Septemebr 30, 1978, for substitute projects shall be that provided in section 120(c) of this title.";

(3) deleting the existing sixth, seventh, eighth, and ninth sentences and inserting the following in substitution:

"There are hereby authorized to be appropriated out of the general fund of the Treasury such sums as are necessary for public transportation projects substituted pursuant to this paragraph. Annual appropriations for such projects shall be limited as provided in section 4(h) of the Urban Mass Transportation Act of 1964, as amended. Obligations incurred after the date of enactment of this sentence under this paragraph for highway projects substituted as a consequence of withdrawals made after May 5, 1976, shall come from sums apportioned to the State under section 104(b)(5)(A) of this title. Unobligated apportionments for the Interstate System under section 104(b)(5)(A) in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the amount made available as a consequence of such withdrawal for the Federal share of the cost of a substitute public transportation project, as determined by the Secretary, bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress." and

(4) adding the following sentences at the end of the paragraph:

"After the date of enactment of this sentence, the Secretary may not redesignate any mileage as part of the Interstate System as a consequence of any withdrawal made pursuant to this paragraph. The unobligated balance of contract authority established in the Urban Mass Transportation Administration pursuant to section 103(e)(5) of title 23, U.S.C. shall not be available for obligation after September 30, 1978, and shall lapse on September 30, 1980. There is hereby authorized to be appropriated an amount equal to the amount which would so lapse. Of this amount, such sums as are necessary for highway projects shall be allocated at the time a highway substitute project is selected to the States which requested the withdrawal. This amount shall be paid out of the Highway Trust Fund, and shall be available for obligation subject to all the provisions of chapter 1 of this title applicable to highways on the Interstate System, except the requirement that these highways be on the Interstate System and any other provisions determined by the Secretary to be inconsistent with this section."

CUT-OFF DATE

SEC. 302. Section 103 is further amended by adding the following new subsection:

"(i)(1) After September 30, 1982, the Secretary may not approve: (A) any Interstate project pursuant to section 106 of this title (except pursuant to section 139 of this title or relating to toll roads) unless the environmental impact statement (EIS) process for the project, as required by the National Environmental Policy Act, has been completed or (B) any withdrawal pursuant to subsection (e)(4) of this section. Immediately after this date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof of such system for which no such process has been completed or withdrawal has been made.

"(2) By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary finds that sufficient Interstate authorizations are available) must be completed or under contract for construction and construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof of such system not complying with this paragraph."

INTERSTATE RESURFACING (3R)

SEC. 303. (a) Chapter 1 is amended by adding the following new section:

"Section 119. Interstate System resurfacing.

"Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads) and constructed in whole or in part with funds apportioned under subsections 104(b)(4) and (5) of this title. Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(a) of this title."

(b) Section 104(b)(5)(B) is amended to read as follows:

"One-half in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads) and constructed in whole or in part with funds apportioned under subsections 104(b)(4) and (5) of this title in each State bears to the total of all such lane miles in all States; and one-half in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads) and constructed in whole or in part with funds apportioned under subsections 104(b)(4) and (5) bears to the total of all such vehicle miles in all States.

(c) Section 104(e) is amended by inserting "(A)" immediately after "(b)(5)" in the first and second sentences thereof.

(d) The first sentence of section 104(b) is amended by deleting the words "except as provided in paragraphs (4) and (5) of this subsection" and inserting in lieu thereof: "except as provided in paragraphs (4) and (5)(A) of this subsection".

(e) The analysis of chapter 1 of title 23, United States Code, is amended by deleting "119. Repealed" and inserting in lieu thereof: "119 Interstate System resurfacing".

ESSENTIAL GAPS

SEC. 304. (a) The first paragraph of section 104(b)(5)(A) is amended by:

(1) striking "1990" in the second full sentence and substituting "1979" in lieu thereof; and

(2) adding the following after that sentence:

"For the fiscal years 1980 through 1990, one-half in the ratio which the Federal share of the estimated cost to complete the essen-

tial gaps in the Interstate System in each State (as determined and approved in the manner provided in this paragraph), bears to the Federal share of the total estimated cost to complete such gaps in all the States; and one-half in the ratio which the Federal share of the estimated cost to complete the Interstate System and of completing highway projects (substituted as a consequence of withdrawals approved after May 5, 1976, pursuant to section 103(e)(4) of this title) in such State, as determined and approved in the manner provided in this paragraph, bears to the Federal share of the sum of the estimated cost of completing the Interstate System and of completing such substitute highway projects in all the States. Notwithstanding the preceding sentence, no State (other than Puerto Rico) shall receive less than one-half of 1 percent of each year's apportionment. Whenever amounts made available under this subsection for the Intertsate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, the excess amount may be used by that State for any purpose allowed under this title. For the purpose of this section, the essential gaps are those identified in the Interstate Gap Study, submitted by the Secretary of Transportation to the Congress in accordance with section 102(b)(2) of the Federal-Aid Highway Act of 1976."

(b) Section 104 is amended by adding the following new paragraph at the end thereof:

"(h) All of that portion of the apportionment made to each State for each of the fiscal years 1980 through 1990 pursuant to subsection (b)(5)(A) and based on the estimated cost to complete essential gaps on the Interstate System in that State shall be available for obligation only for projects to complete the essential gaps in the Interstate System, as defined in this section, and if any of that portion is not obligated as prescribed in this sentence by the end of the fiscal year for which authorized, the sums not so obligated shall be available to the Secretary for reallocation to any other State in accordance with the provisions of the third sentence of section 118(b) of this title."

(c) Section 101(b) is amended by deleting the following from the third sentence thereof: ", and that the entire system in all States be brought to a simultaneous completion.".

INTERSTATE COST ESTIMATES

SEC. 305. Section 104(b)(5)(A) is amended by (a) inserting immediately after "September 30, 1980" the following: "except effective with the apportionment for fiscal year 1981, the Secretary shall revise the cost estimate to include an estimate of completing the essential gaps in the Interstate System as defined in this section and of completing highway projects substituted as a consequence of withdrawals approved after May 5, 1976 pursuant to section 103(e)(4) of this title and shall make the apportionment as provided above"; and

(b) inserting after the words, "then designated Interstate System" in the nineteenth sentence and thereafter wherever these words appear in the paragraph: "and a revised estimate of the cost of completing the essential gaps in the Interstate System as defined in this section and of completing highway projects substituted as a consequence of withdrawals approved after May 5, 1976 pursuant to section 103(e)(4) of this title".

ADVANCES

SEC. 306. Section 115 is amended by adding the following new subsection at the end thereof:

"(d) When a State has obligated all funds available to it for the Interstate System in any fiscal year other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System that has been submitted by such State to the Secretary for approval pursuant to section 106 of this title, the State may further obligate an additional amount for the Interstate project no greater than that which will be apportioned to the State in the following fiscal year as determined by the Secretary. Determination of apportionment for the following fiscal year pursuant to this subsection shall be based upon the revised estimate of the cost of completing the Interstate System, but if such an estimate is not available for the year requested, the Secretary may make the determination based upon the most current estimate with appropriate adjustments. In considering applications pursuant to this subsection, the Secretary shall give priority to applications regarding essential gaps, as defined in section 104 of this title. If a State chooses to obligate a sum pursuant to this subsection, an amount equal to that sum shall be subtracted from the State's apportionment in the following fiscal year."

AVAILABILITY OF SUMS APPORTIONED

SEC. 307. Section 118(b) is amended by striking the second and third sentences and inserting in lieu thereof the following sentences:

"Except as provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. The Secretary at any time thereafter may make available such sums not obligated within the time period prescribed by the preceding sentence to any other State applying for such funds for the Interstate System, if the Secretary determines that the applicant is willing and able to (1) obligate the funds within one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) for construction work, begin work within 90 days of obligation. Any funds allocated pursuant to the preceding sentence and not used by a State in accordance with the requirements of this subsection shall be available for reallocation by the Secretary in accordance with the preceding sentence. In making any allocation pursuant to the preceding two sentences the Secretary should give preference to projects involving completion of essential gaps as defined in section 104."

DEFINITIONS

SEC. 401. Section 101(a) is amended as follows:

(a) The definition of "apportionment" is amended by inserting the words ", section 133 or section 151" after the words "section 104".

(b) The definition of "construction" is amended by adding the following sentence at the end thereof: "The term also includes improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, the scale house, and expenses incidental thereto."

(c) The definition of "Federal-aid highways" is amended to read as follows:

"The term 'Federal-aid highways' means highways constructed or reconstructed with the aid of Federal funds made available under this title."

(d) Following the definition of "Federal-aid highways", add the following definition:

"The term 'highway safety construction projects' means those projects which correct or improve high hazard locations, eliminate roadside obstacles, eliminate the hazards of railway-highway crossings, improve highway signing and pavement marking, install traffic control or warning devices at high accident potential locations, and other projects to eliminate, reduce or alleviate accidents or accident potential."

(e) Following the definition of "Secretary", add the following definitions:

"The term 'small urban area' means an urban place as designated by the Bureau of the Census having a population of at least five thousand but less than fifty thousand and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall as a minimum, encompass the entire urban place designated by the Bureau of the Census.

"The term 'small urban and rural transportation project' means a project for which the Federal share will be paid from sums apportioned to the State under section 133 (a) of this title.".

"The term 'urban highway project' means a project for which the Federal share will be paid from sums apportioned to the State under section 104(b)(6) of this title.".

TRANSFERABILITY

SEC. 42. (a) Subsection 104(c) is amended to read as follows:

"(c) Up to 50 percent of each amount apportioned in any fiscal year to each State in accordance with each of sections 104(b)(1), 104(b)(6), and 133(a) may be transferred from the apportionment under one such provision to the apportionments under the others if the transfer is requested by the State highway department and is approved by the Governor of the State and the Secretary as being in the public interest. Funds apportioned in accordance with section 104(b)(6) may not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title without the approval of the local officials of such urbanized area."

(b) Section 104(g) is repealed;

(c) Section 104(d) is repealed, and the remaining subsections redesignated accordingly.

(d) Subsection 142(a)(2) is amended to read as follows:

"In addition to projects under paragraph (1), the Secretary may approve as a project, for payment from sums apportioned under section 104(b)(6) of this title, any public transportation project which would be eligible for Federal financial assistance under the provisions of the Urban Mass Transportation Act of 1964, as amended; *Provided*, That: nothing in this subsection shall be considered to permit the payment of operating expenses for public transportation service."

FEDERAL SHARE PAYABLE

SEC. 403. (a) Section 120 is amended by:

(1) deleting the words "70 per centum" each time they appear and inserting in lieu thereof the words "80 per centum";

(2) inserting the words "Interstate resurfacing, restoration or rehabilitation, primary system, small urban and rural highway, urban highway, or Highway Safety Improvement Program" between the words "any" and "project" in the first sentence of subsection 120(a), and deleting the words ", financed with primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system" in that sentence;

(3) deleting subsection (d) and redesignating the remaining subsections accordingly; and

(4) deleting the words "Subject to the provisions of subsection (d), the" in subsections 120(a), 120(b) and 120(c) and inserting in lieu thereof the word "The".

(b) Section 201 (f) and (h) of the Appalachian Regional Development Act of 1965, as amended, is amended by

(1) deleting the words "70 per centum" each time they appear and inserting in lieu thereof the words "80 per centum".

(c) The amendments made by subsections (a) and (b) of this section shall take effect with respect to obligations incurred after September 30, 1978.

PRIMARY SYSTEM

SEC. 404. (a) Sections 143, 147 and 320 of title 23 and Sections 141 and 146 of the Federal-Aid Highway Act of 1976 (P.L. 94–230) are repealed.

(b) The analysis of chapter 1 of title 23, United States Code, is amended by deleting "143. Economic growth center development highways." and inserting in lieu thereof "143. Repealed.", and by deleting "147. Priority primary routes." and inserting in lieu thereof "147. Repealed.".

(c) The analysis of chapter 3 of title 23, United States Code, is amended by deleting "320. Bridges on Federal dams." and inserting in lieu thereof "320. Repealed."

SMALL URBAN AND RURAL TRANSPORTATION ASSISTANCE

SEC. 405 (a). Chapter 1 of title 23, United States Code, is amended by adding the following new section:

"SEC. 133. Small urban and rural transportation assistance.

"(a) On October 1 of each fiscal year the Secretary, after making the deduction authorized by subsection (g) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure for small urban and rural transportation assistance for that fiscal year to the States in the following manner:

One-fourth in the ratio which the area of each State bears to the total area of all the States; one-half in the ratio which the population of small urban and rural areas of each State bears to the total population of small urban and rural areas of all the States as shown by the latest available Federal census; and one-fourth in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States, as shown by a certificate of the Postmaster General, which the Postmaster General is directed to make and furnish annually to the Secretary. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

"(b) Sums apportioned under this section shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse.

"(c) The Secretary may approve as a project in small urban and rural areas any public transportation project, including operating assistance, which would be eligible for Federal financial assistance under the provisions of the Urban Mass Transportation Act of 1964, as amended, or any highway project, other than projects on the Federal-aid primary or Interstate system. Financial assistance provided under this section shall be subject to such terms, conditions, requirements and provisions as the Secretary may determine to be necessary or appropriate for the purposes of this section. For public transportation projects such terms, conditions, requirements and provisions shall be similar to those applicable to grants under sections 3 and 5 of the Urban Mass Transportation Act of 1964, as amended, insofar as the Secretary may deem them appropriate.

"(d)(1) The Federal share payable on account of any highway project financed with sums apportioned under this section shall be that provided in section 120(a) of this title.

"(2) The Federal share payable on account of any public transportation project, other than operating assistance, financed with sums apportioned under this section shall not exceed 80 percent of the net project cost as defined in section 4(a) of the Urban Mass Transportation Act of 1964, as amended. The Federal share payable on account of any public transportation operating assistance project financed with sums apportioned under this section shall not exceed 33⅓ percent of the total eligible operating expenses incurred in the operation of public transportation services assisted under this section. The Highway Trust Fund shall be reimbursed from the general funds of the Treasury for any sums expended pursuant to this section for any operating assistance project.

"(e) At least ten percent of the sums apportioned under this section to each State shall be used for public transportation projects as set forth in subsection (c) of this section: *Provided,* That, upon application by the State the Secretary may waive such requirement if the Secretary finds that a lower level of public transportation assistance is warranted by the transportation needs of the small urban and rural areas of such State.

"(f) The State may distribute funds to eligible recipients within the State to carry out the purposes of this section. Eligible recipients may include State agencies, local public bodies and agencies thereof (including counties and Indian tribes), nonprofit organizations and operators of public transportation services.

"(g) On October 1 of each fiscal year, the Secretary shall set aside and make available two percent of the sums authorized to be appropriated for expenditure for small urban and rural transportation assistance for that fiscal year, for carrying out the purposes of section 502 of the Highway and Public Transportation Improvement Act of 1978 relating to transportation planning."

(b) Paragraph (2) of subsection 104(b) is repealed.

(c) Subsection 117(f)(1) is amended to read as follows:

"With respect to projects financed from funds apportioned under section 133 of this title, in lieu of discharging his responsibilities in accordance with subsections (a) through (d) of this section, the Secretary may, upon request of the State, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection and construction of all such projects by his receiving and approving a certified statement by the State setting forth that the plans, design and construction for each such project are in accord with those standards and procedures which (A) were adopted by the State, (B) were applicable to projects in this category and (C) were approved by the Secretary."

(d) Subsection 105(b) is amended to read as follows:

"In approving programs for small urban and rural transportation projects, the Secretary shall require that such projects be selected in accordance with the planning process required pursuant to section 134 of this title."

(e) Sections 155 and 219 of title 23 and section 147 of the Federal-Aid Highway Act of 1973, as amended, are repealed.

(f) The analysis of chapter 1 of title 23, United States Code, is amended by deleting "133. Repealed." and inserting in lieu thereof "133. Small urban and rural transportation assistance.", by deleting "155. Access highways to public recreation areas on certain lakes." and inserting in lieu thereof "155. Repealed." and by deleting "219. Safer off-system roads,", and inserting in lieu thereof "219. Repealed."

URBAN HIGHWAY PROGRAM

SEC. 406. (a) Section 104(b)(6) is amended to read as follows:

"(6) For highway projects in urbanized areas, other than projects on the Federal-aid primary or Interstate Systems: In the ratio which the population in urbanized areas, or parts thereof, in each State bears to the total population in such urbanized areas, or parts thereof, in all the States as shown by the latest available Federal census. No State shall receive less than one-half of one per centum of each year's apportionment."

(b) Chapter 1 of title 23, United States Code, is amended by adding the following new section:

"Section 146. Carpool and vanpool projects.

"(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(6) and 133(a) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term carpool includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

"(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.".

(c) Section 3 of the Emergency Highway Energy Conservation Act (P.L. 93–239), section 120 of the Federal-Aid Highway Amendments of 1974 (P.L. 93–643), and section 143 of the Federal-Aid Highway Act of 1976 (P.L. 94–280), are repealed.

(d) Section 137 is repealed.

(e) Section 142(a)(1) is amended by inserting the words "carpools and vanpools and" after the words "parking facilities to serve".

(f) The analysis of chapter 1 of title 23, United States Code, is amended by deleting "146. Repealed." and inserting in lieu thereof "146. Carpool and vanpool projects.", and by deleting "137. Fringe and corridor parking facilities" and inserting in lieu thereof "137. Repealed."

(g) Part II of the Interstate Commerce Act is amended by inserting the following words between the words "aircraft:" and "nor" in subsection 303(b): "or (7b) vehicles carrying up to 15 persons in a single daily roundtrip for the purpose of commuting to and from work;"

(h) Subsection 13(a) of the Fair Labor Standards Act is amended by inserting before the period the following words "; or (16) any person participating in a voluntary ridesharing arrangement for the transportation of up to 15 persons in a single daily roundtrip for the purpose of commuting to and from work".

(i) Section 150 is amended to read as follows:

"(a) The funds apportioned to any State under section 104(b)(6) of this title which are attributable to urbanized areas having a population of 200,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under subsection (d) of section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof, within such State. At the option of the State, allocation among such urbanized areas may be made in accordance with a fair and equitable formula developed by the State, which formula has been approved by the Secretary. In the expenditure of funds allocated under the preceding, fair and equit-

able treatment shall be accorded incorporated municipalities of 200,000 or more population within urbanized areas. The remaining funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title available for expenditure in urbanized areas having a population of less than 200,000 shall be expended in such urbanized areas within such State for projects in programs approved under subsection (d) of section 105 of this title on a fair and equitable basis."

"(b) Notwithstanding any other provision of this title, the funds that would otherwise be apportioned to any State under section 104(b)(6) of this title on or after October 1, 1979, that are attributable to an urbanized area of 1,000,000 population or more shall be apportioned to the recipient or recipients designated by the Governor and appropriate local officials of the urbanized area to receive such funds. Expenditure of such funds shall be subject to all the requirements of this title except that with regard to such funds the designated recipient shall have the responsibility and authority vested in the State by this title and must have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. Nothing in this section is intended to preclude the State from being a recipient if agreed to by the Governor and appropriate local officials.

"(c) Funds allocated to an urbanized area under the provisions of this section may, upon approval of the local officials of the area and the Secertary, be transferred to the allocation of another such area in the State or to the State for use in any urbanized area.".

HIGHWAY SAFETY IMPROVEMENT PROGRAM

SEC. 407. (a) Section 151 is amended to read as follows:

"Sec. 151. Highway Safety Improvement Program.

"(a) The Secretary shall establish a Highway Safety Improvement Program for projects on any public road or street in rural or urban areas. Assistance shall be available under this program for highway safety construction projects, as defined in subsection (a) of section 101 of this title; for the implementation of highway-related safety requirements and guidelines issued by the Secretary under section 402 of this title; and for the development, implementation, and evaluation of the highway safety improvement program required under subsection (b) of this section.

"(b) Each State shall develop and implement on a continuing basis a Highway Safety Improvement Program including procedures for the selection, scheduling, construction, and evaluation of highway safety construction projects on all highways, with the specific objective of reducing the number and severity of highway traffic accidents. Each State shall have a process for systematically identifying and locating hazardous highway locations, sections, and elements, including roadside obstacles, on a continuing basis, methods for assigning priorities to the various types of hazards identified, a process for the correction of identified safety needs in accordance with the priorities developed, and a continuing evaluation of the safety benefits obtained.

"(c)(1) The Federal share payable on account of any project under this section shall be that provided in section 120(a) of this title.

"(2) From funds apportioned to a State pursuant to subsection (e) of this section:

"(A) Not less than 30 per centum of the funds shall be provided for carrying out highway safety improvements authorized under paragraph (a) of this section of the Federal aid system through an agency designated by the Governor, subject to the approval of the Secretary.

"(B) Not less than 5 per centum of the funds shall be provided for implementation of the highway-related safety requirements and guidelines promulgated under section 402 of this title through an agency designated by the Governor, subject to the approval of the Secretary. The unobligated balance of contract authority established prior to enactment of this paragraph for carrying out section 402 by the Federal Highway Administration shall not be available for obligation after September 30, 1978 and shall lapse not later than September 30, 1980.

"(d) The Secretary is authorized to waive provisions of title 23 deemed inconsistent with the purposes of this section.

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as follows: 60 per centum in the ratio which the population of each State bears to the total population of all States, and 40 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States."

"(f) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

"(g) One-half of one per centum of funds authorized for carrying out this section shall be apportioned to the Secretary of the Interior, who shall exercise the responsibilities assigned to States under subsection (b) of this section in carrying out this section on Indian reservations. Such funds shall be subject to a deduction of not to exceed 5 percent for the necessary costs of administering the provisions of this section. Of the remainder, not less than 5 percent shall be expended by the Indian tribes to carry out the highway-related safety requirements and guidelines issued by the Secretary under section 402 of this title.

"(h) For purposes of this section, the term 'State' means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa."

(b) Sections 152 and 153 are repealed.

(c) The analysis of chapter 1 of title 23 is amended by deleting "151. Pavement marking demonstration program." and inserting in lieu thereof "151. Highway Safety Improvement Program.", by deleting "152. Projects for high-hazard locations." and inserting in lieu thereof "152. Repealed.", and by deleting "153. Program for the elimination of roadside obstacles." and inserting in lieu thereof "153. Repealed."

RAILWAY-HIGHWAY CROSSINGS

SEC. 408. (a) Section 130 is revised to read as follows:

"(a) Each State shall conduct and systematically maintain a survey of all highways to identify those public railway crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, this schedule shall provide signs for all public railway-highway crossings.

"(b) The Secretary may approve projects for the elimination of hazards of public railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings. The Federal share of these projects shall be paid from funds apportioned in accordance with section 104 and section 133 of this title. In addition, in any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of elimination by one of the methods mentioned in the first sentence of this section, the Secretary may approve such project and the Federal share of the cost of the relocation project may be paid from sums apportioned in accordance with section 104 and section 133 of this title. The Federal share of any railway-highway crossing project shall be that provided in section 120 of this title."

(b) Section 203 of the Federal-Aid Highway Act of 1973, Public Law 93-87, as amended, is repealed.

EMERGENCY RELIEF

SEC. 409. The second sentence of subsection 125(a) is amended by:

(1) inserting the words "prior to the fiscal year ending September 30, 1978," immediately after "(2)"; and

(2) inserting the following words before the period at the end of the sentence: ", and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund".

HIGHWAY BEAUTIFICATION

SEC. 410. (a) Section 131 is amended as follows:

(1) in subsection (b), by adding the words and section 133" after the words "section 104";

(2) in subsection (g), by deleting the words "75 per centum" and inserting in lieu thereof the words "80 per centum"; and

(3) by adding the following new subsection:

"(r) Funds authorized to be appropriated to carry out this section shall be consolidated with the funds authorized for control of junkyards pursuant to section 136 of this title."

(b) Section 136 is amended as follows:

(1) in subsection (b), by adding the words "and section 133" after the words "section 104";

(2) by deleting the words "75 per centum" in subsections (i) and (j) and inserting in lieu thereof the words "80 per centum"; and

(3) by adding the following new subsection:

"(n) Funds authorized to be appropriated to carry out this section shall be consolidated with the funds authorized for control of outdoor advertising pursuant to section 131 of this title".

(c) The amendments made by subsections (a)(2) and (b)(2) of this section shall take effect with respect to obligations incurred after September 30, 1978.

SPECIAL BRIDGE REPLACEMENT AND REHABILITATION PROGRAMS

SEC. 411. (a) Section 144 is amended by:

(1) revising the section heading to read: "Special bridge replacement and rehabilitation program.";

(2) in subsections (a) and (h) deleting the words "special bridge replacement program" and inserting in lieu thereof the words, "special bridge replacement and rehabilitation program";

(3) in subsection (a) inserting the words "or rehabilitate" between "to replace" and "bridge";

(4) inserting in subsection (b)(1) after the words "United States" the following: "and may at its option inventory all bridges on or off a Federal-aid system, for historic significance" and striking the period at the end of subsection (b) and inserting in lieu thereof the words "or rehabilitation.";

(5) inserting in the first sentence of subsection (c) the words "or rehabilitating" between "replacing" and "a bridge";

(6) striking the period at the end of the first sentence of subsection (c) and inserting in lieu thereof the words "or rehabilitation of the existing facility.";

(7) inserting after the first sentence of subsection (c) the following new sentence: "In addition, State may make application for assistance in replacing or rehabilitating a

bridge which is not on the priority system established under subsection (b) of this section and which is not on any of the Federal-aid systems, and the Secretary may approve Federal participation in the reconstruction of a comparable facility or rehabilitation of the existing facility; *Provided*, That not more than 30 per centum of the funds authorized to be appropriated for the purpose of carrying out the provisions of this section may be expended on such bridges.";

(8) in subsection (d), inserting the words "or rehabilitation" between the words "replacement" and "under" and striking the words "75 per centum" and inserting in lieu thereof the words "80 per centum"; and

(9) in subsection (f), deleting the word "Funds" and inserting in lieu thereof the words "Except as provided in subsection (c) of this section, funds".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out: "144. Special bridge replacement program." and inserting in lieu thereof. "144. Special bridge replacement and rehabilitation program.".

(c) The amendment made by subsection (a)(8) of this section with respect to the Federal share shall take effect with respect to obligations incurred after September 30, 1978.

FEDERAL LANDS HIGHWAYS

SEC. 412. (a) Section 209 is repealed.

(b) The analysis of chapter 1 is amended by striking out: "209. Public lands highways." and inserting in lieu thereof: "209. Repealed."

(c) Section 101(a) is amended as follows: (1) the definition of the term "forest highway" is amended to read as follows: "The term 'forest highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel."

(2) The definition of the term "forest road or trail" is amended to read as follows: "The term 'forest road or trail' means a road or trail wholly or partly within or adjacent to and serving the national forest system and which is necessary for the protection, administration and utilization of the national forest system and the use and development of its resources."

(3) The definition of the term "forest development roads and trails" is amended to read as follows: "The term 'forest development roads and trails' means a forest road or trail under the jurisdiction of the Forest Service."

(4) The definition of the term "public lands highways" is deleted.

(d) The proviso in section 120(e) as redesignated by section 403 of this Act is amended by striking the words "public lands highways."

(e) Section 125(c) is amended by striking the words "public lands highways," therein.

(f) Section 201 is amended by deleting in the first sentence the words "public lands highways,".

(g) Section 202(c) is amended to read as follows: "The Secretary of the Department charged with the administration of such funds is granted authority to use such sums as are necessary for transportation research and planning from the sums authorized to be appropriated for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, and Indian reservation roads."

(h) Section 203 is amended (1) by striking in the first sentence the words "Indian reservation roads, and public lands highways" and inserting in lieu thereof the words "and Indian reservation roads"; and (2) by striking in the fourth sentence the words "Indian roads and public lands highways" and inserting in lieu thereof the words "and Indian roads."

(i) Section 217(c) is amended by striking the words "Indian reservation roads, and public lands highways" and inserting in lieu thereof the words "and Indian reservation roads."

(j) Section 308(a) is amended by inserting the words "transportation planning," before the word "survey."

TECHNICAL AMENDMENTS

SEC. 413. (a) Section 101(c) is amended by deleting the words "upon any Federal-aid system" following the word "expenditure".

(b) The second sentence of section 103(e)(4) is amended by deleting the words "section 103 of".

(c) The second sentence of section 103(f) is amended by inserting the words "Interstate or primary" between the word "No" and the words "Federal-aid system".

(d) Section 104(a) is amended as follows:

(1) By deleting the words "for expenditure upon the Federal-aid system" each time they appear and inserting in lieu thereof the words "for expenditure under this title"; and

(2) By deleting the words "to be financed from appropriations for the Federal-aid systems" and inserting in lieu thereof the words "to be financed from the appropriations".

(e) The first sentence of section 104(b) is amended by deleting the words "for expenditure upon the Federal-aid systems" and inserting in lieu thereof the words "for expenditure for the following highway assistance programs:"

(f) Section 104(b)(1) is amended by deleting the words "(including extensions in urban areas and priority primary routes)" and inserting in lieu thereof the words "(including extensions in urban areas)".

(g) Section 105 is amended as follows:

(1) in the first sentence of subsection (a) by deleting the words "for the Federal-aid Systems" and by inserting after the word "made" the words "under sections 104, 133 and 151 of this title".

(2) in the third sentence of subsection (a), by placing a period after the word "part" and deleting the remainder of the sentence;

(3) in subsection (d), by deleting the words "for projects on the Federal-aid urban system" and inserting in lieu thereof the words "for urban highway projects", and by deleting the words "by the appropriate local officials with the concurrence of the State highway department of such State and, in urbanized areas, also"; and

(4) in subsection (f), by deleting the words "on the Federal-aid systems".

(h) Section 106 is amended as follows:

(1) in subsection (b)(1), by deleting the words "the Federal-aid secondary system" and inserting in lieu thereof the words "small urban and rural highway projects";

(2) in subsection (b)(2) by deleting the words "the Federal-aid urban system" and inserting in lieu thereof the words "urban highway projects"; and

(3) in subsection (d), by deleting the words "on any Federal-aid system".

(i) Section 108 is amended as follows:

(1) in subsection (a) by deleting the words "acquisition of rights-of-way on any of the Federal-aid highway systems, including the Interstate System," and inserting in lieu thereof the words "acquisition of highway rights-of-way, including for the Interstate System,"; and by deleting the words "funds apportioned to any State for expenditure on any of the Federal-aid highway systems, including the Interstate System" and inserting in lieu thereof the words "funds apportioned to any State under sections 104(b) and 133(a) of this title".

(2) in subsection (c)(2), by deleting the words "on any Federal-aid system"; and

(3) in subsection (c)(3), by deleting the words "out of any Federal-aid highway funds apportioned to the State in which such project is located and available for obligation for projects on the Federal-aid system of which such project is to be a part," and inserting in lieu thereof the words "out of the appropriate category of Federal-aid highway funds apportioned under section 104(b) or section 133(a) of this title to the State in which such project is located and available for obligation,".

(j) Section 109 is amended as follows:

(1) in subsections (a), (h) and (i), by deleting the words "on any Federal-aid system" each time they appear;

(2) in subsection (c), by deleting the words "Projects on the Federal-aid secondary system in which Federal funds participate" and inserting in lieu thereof the words "Small urban and rural highway projects";

(3) in the fifth sentence of subsection (i) by deleting the words "on a Federal-aid system" and inserting in lieu thereof "on a Federal-aid highway"; and

(4) in the fifth sentence of subsection (i), by deleting the words "Sums apportioned for the Federal-aid system on which such project will be located" and inserting in lieu thereof the words "Sums apportioned under section 104(b) and section 133(a) of this title".

(k) Section 112(e) is amended by deleting the words "projects on the Federal-aid secondary system".

(l)(1) Section 113(a) is amended by deleting the words "on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems" and inserting in lieu thereof the words "receiving Federal financial assistance under this chapter"; and

(2) Section 113(b) is amended by deleting the words "on any of the Federal-aid systems".

(m) Section 114 is amended by deleting the words "located on a Federal-aid system" in the first sentence of subsection (a) and inserting in lieu thereof the words "receiving Federal financial assistance under this chapter".

(n) Section 115(a) is amended to read as follows:

"When a State has obligated all funds, other than for the Interstate System, apportioned to it under sction 104, section 133 or section 151 of this title, whichever is applicable, and proceeds to construct any project without the aid of Federal funds, including one or more parts of any project, on other than on the Interstate System, in accordance with all procedures and all requirements applicable to the project under this title, except insofar as those requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by the State and approval of the application, is authorized to pay to the State the Federal share of the costs of construction of the project when additional funds are apportioned to the State under section 104 or section 133 of this title if the Secretary approves the plans and specifications of the project prior to its construction and the project conforms to the applicable standards adopted under section 109 of this title. The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for the State, and an application will not be approved which will exceed the State's expected apportionment of the authorizations."

(o) Section 115(c) is amended by inserting the words "and section 133" after the words "section 104."

(p) Section 116 is amended as follows:

(1) by deleting the last sentence of subsection (a);

(2) in subsection (b), by deleting the words "constructed on the Federal-aid secondary system, or within a municipality" and inserting in lieu thereof the words "constructed with Federal-aid funds"; and

(3) in the last sentence of subsection (c), by deleting the words "for secondary or urban projects" and inserting in lieu thereof

the words "for projects, other than projects on the Interstate or primary system,".

(q) Section 117(a) is amended by deleting the words "projects" on Federal-aid systems, except the Interstate System" and inserting in lieu thereof the words "projects, except projects on the Interstate System".

(r) Section 118 is amended as follows:

(1) in subsection (a), by deleting the words "to each Federal-aid system or part thereof,";

(2) in the fifth sentence of subsection (b), by deleting the words "apportioned to a Federal-aid system" and inserting in lieu thereof the words "apportioned under this title for each class of funds";

(3) in the last sentence of subsection (b), by deleting the words "same class of funds, primary, secondary, urban or interstate," and inserting in lieu thereof the words "appropriate class of funds";

(4) in subsection (d), by deleting the words "on a Federal-aid system"; and

(5) by deleting subsection (c) and redesignating the following subsection accordingly.

(s) Section 120(f), as redesignated by section 408 of this Act, is amended by inserting the words "or section 133" after the words "section 104".

(t) Section 121(c) is amended by deleting the words "located on a Federal-aid system and".

(u) Section 122 is amended by deleting the words "or extensions of any of the Federal-aid highway systems in urban areas" and inserting in lieu thereof the words "or for urban highway projects", and by deleting the words "for expenditure on such system" and inserting in lieu thereof the words "for expenditure on such projects".

(v)(1) Section 123(a) is amended by deleting the words "a project on the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas", and by inserting in lieu thereof the words "a Federal-aid highway project."

(2) Section 123 is amended by adding a new section at the end thereof as follows:

"(d) The term "State", for purposes of this section, includes recipients eligible for funds under this title."

(w) Section 124 is amended by deleting the words "completion of projects on any of the Federal-aid systems, including the Interstate System", and inserting in lieu thereof the words "completion of Federal-aid projects".

(x) Section 129 is amended as follows:

(1) in subsection (c), by deleting the words "expenditure on any of the Federal-aid highway systems, including the Interstate System," and inserting in lieu thereof the words "expenditure pursuant to this title";

(2) in subsection (f), by deleting the words "has been approved under section 103 (b) or (c) of this title as a part of one of the Federal-aid systems and"; and

(3) in subsection (g)(2), by deleting the words "has been approved under section 103 (b) or (c) of this title as a part of one of the Federal-aid systems within the State and".

(y) Section 135(b) is amended by placing a period after the word "flow" and deleting the remainder of the sentence.

(z) Section 140 is amended as follows:

(1) in the third sentence of subsection (a), by deleting the words "on any of the Federal-aid systems"; and

(2) in subsection (b), by inserting the words "and section 133(a)" after the words "section 104(b)".

(aa) Section 142 is amended as follows:

(1) in the first sentence of subsection (a)(1), by deleting the words "the traffic capacity of the Federal-aid systems" and inserting in lieu thereof the words "traffic capacity", by deleting the words "on any Federal-aid system", and by inserting the words "and section 133(a)" after the words "section 104(b)", and

(2) in subsection (e)(2), by deleting the words "applicable to projects on the Federal aid urban system" and inserting in lieu thereof the words "applicable to urban highway projects".

(bb) Section 149 is amended by deleting the words "a project on any Federal-aid system" and inserting in lieu thereof the words "a Federal-aid highway project".

(cc) Section 154(c) is amended by inserting the words "and section 133" after the words "section 104".

(dd) Section 217(a) is amended by deleting the words "paragraphs (1), (2), (3), and (6) of section 104(b)" and inserting in lieu thereof the words "sections 104(b)(1), 104(b)(6) and 133(a)".

(ee) Section 302(b) is amended by deleting the words "construction of projects on the Federal-aid secondary system, financed with secondary funds" and inserting in lieu thereof the words "construction of small urban and rural highway projects".

(ff) Section 304 is amended by deleting the words "the Federal-aid highway systems" and inserting in lieu thereof the words "Federal-aid highways".

(gg) Section 311 is amended by deleting the words "subsection (b) of section 104" and inserting in lieu thereof the words "sections 104(b) and 133(a)".

(hh) Section 321(b) is amended by deleting the words "paragraphs (1), (2), (3), and (6) of section 104(b)" and inserting in lieu threof, the words "sections 104(b)(1), 104(b)(6) and 133(a)."

RESEARCH AND PLANNING

SEC. 414. (a) Section 307 is amended:

(1) by revising subsection (a) to insert the following before the period in the third sentence: ", and is authorized to make grants for this purpose to the States and local governments including, in urbanized areas, a metropolitan planning organization designated by the Governor";

(2) by revising subsection (c) to read as follows:

"(c)(1) Not to exceed one percent of the sums apportioned for each fiscal year beginning with the fiscal year 1979 under each of sections 104(b), 133(a) and 151 of this title shall be available for expenditure upon request of the State, with approval of the Secretary, for research and development purposes, for State activities in the areas enumerated in subsection (a) of this section, including demonstration projects in connection with such purposes.

"(2) Sums made available under paragraph (1) of this subsection shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal program would be best served without such matching."

(3) by amending the section heading to read "Research".

(b) The analysis of chapter 3 of title 23 is amended by deleting "307. Research and planning." and inserting in lieu thereof "307. Research."

(c) Section 104(f) is amended to read as follows: "(f) On October 1 of each fiscal year, the Secretary shall set aside two percent of the funds to be apportioned under this section which shall be available for the purposes of section 502 of the Highway and Public Transportation Improvement Act of 1978 relating to transportation planning, except that, for the funds apportioned under (b)(5)(A) of this section, the Secretary shall set aside and make available this percent of such funds on October 1 of the year preceding the fiscal year for which authorized."

AVAILABILITY OF SUMS APPORTIONED

SEC. 415. (a) The first sentence of subsection 118(b) is deleted and the following inserted in lieu thereof: "Sums apportioned for Interstate resurfacing, the Federal-aid primary system, urban highway projects, small urban and rural transportation projects and the Highway Safety Improvement Program shall continue available for obligation for a period of three years after the close of the fiscal year for which such sums are authorized, and any amounts so apportioned remaining unobligated at the end of such period shall lapse."

(b) The fourth sentence of section 118(b) is repealed.

CATEGORICAL FUNDS AVAILABILITY

SEC. 416. Notwithstanding any other provisions of law, any unobligated balances of categories of Highway Trust Fund funds apportioned or allocated under the provisions of the Federal-Aid Highway Act of 1973, the Federal-Aid Highway Amendments of 1974, and the Federal-Aid Highway Act of 1976, for programs which have been eliminated or consolidated under the provisions of this bill may at the option of a State be transferred, with the concurrence of the Secretary, to the related category of funds authorized by this Act. The transferred funds shall be available in the same manner as if they had been apportioned for the related category, but the period of availability shall be determined based on the original date of apportionment or allocation.

REORGANIZATION

SEC. 501. In order to provide for a more efficient and orderly administration of the laws dealing with highways and mass transportation, no later than September 30, 1979, the Secretary of Transportation shall prepare a plan, in the manner and to the extent he or she deems appropriate, to consolidate the Urban Mass Transportation Administration and the Federal Highway Administration and other elements of the Department into one surface transportation agency within the Department of Transportation. After preparation, the plan shall be transmitted to the President.

CONSOLIDATED PLANNING FUND

SEC. 502. (a) In accordance with this section, the Secretary of Transportation is authorized to make grants to States and, in urbanized areas over 1,000,000 in population, to metropolitan planning organizations designated by the Governor for projects for the development of transportation plans and programs required by section 8 of the Urban Mass Transportation Act of 1964, as amended, and by section 134 of title 23, United States Code; and to make grants and contracts for activities eligible under section 8(f) of the Urban Mass Transportation Act of 1964, as amended. Grants under this section shall be from funds made available under section 4(f) of the Urban Mass Transportation Act of 1964, and section 104(f) and section 133(g) of title 23, United States Code.

(b) The Federal share of such projects under this section shall not exceed 80 percent thereof unless the Secretary determines that the interests of the Federal program would be best served without matching funds. The Secretary shall establish by regulation a formula by which some or all of the funds available to carry out the puposes of this section shall be distributed to appropriate recipients. Funds not distributed by formula will be retained by the Secretary for use on a discretionary basis.

(c) The amount of funds made available to a State pursuant to the formula established under subsection (b) that are attributable to an urbanized area with a population of 200,000 but less than 1,000,000 shall be made available by the State to the metropolitan planning organization designated by the Governor in that urbanized area. The funds made available to a State pursuant to the formula established by subsection (b) that are attributable to urbanized areas with a population of less than 200,000 shall be allocated by the State to the metrolopitan planning organizations of such areas in a fair and equitable manner.

PLANNING

SEC. 503. (a) Section 134 of title 23, United States Code, is amended by:

(1) changing the section heading to read "Planning".

(2) redesignating subsection (b) as subsection (e); and

(3) deleting subsection (a).

(b) Section 8 of the Urban Mass Transportation Act is repealed.

(c) Section 134 of title 23, United States Code, is amended, and a new section 8 of the Urban Mass Transportation Act is added, both to read as follows:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of Statewide and urbanized area transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance and energy conservation goals and objectives. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation resources and to meet needs for new transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

"(b)(1) The urbanized areas planning process shall be carried on by local officials acting through a metropolitan planning organization designated by the Governor, and in cooperation with the State. It should be fully integrated with the statewide process.

"(2) The Statewide planning process shall be carried out by the State in cooperation with local officials and provide for integration with local planning activities.

"(c)(1) With respect to title 23, United States Code, a program of projects shall not be approved under section 105 unless (1) the Secretary finds that the urbanized area or, after October 1, 1980, the statewide planning process on which the program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(2) With respect to the Urban Mass Transportation Act of 1964, a program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve any program of projects in whole or in part unless (1) the Secretary finds that the urbanized area or, after October 1, 1980, the Statewide planning process on which the program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(d) The metropolitan planning organization for urbanized areas over 1,000,000 population, after giving the Governor an opportunity to review and comment, shall submit to the Secretary for approval in whole or in part:

(1) the area's transportation plan or modification thereof; and

(2) a transportation improvement program.

Before approving a plan or program the Secretary shall find that it reasonably addresses the following factors: the transportation needs of the area, air quality, energy conservation, environmental quality, accessibility to employment, effect on minorities, housing, land use, and future development. The Secretary shall advise the metropolitan planning organization of the reasons for not approving a plan or program. Approval by the Secretary of any plan or program under this subsection shall not prevent the Secretary from subsequently disapproving any individual transportation project pursuant to the provisions of title 23, U.S.C., or the Urban Mass Transportation Act of 1964, or other Federal law, including but not limited to the National Environmental Policy Act and section 4(f) of the Department of Transportation Act."

(d) Section 8 of the Urban Mass Transportation Act of 1964, as added by the preceding paragraph, is amended by adding the following additional subsections:

"(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(f) The Secretary is authorized to conduct special studies such as (1) studies to improve the implementation of the urban transportation planning process; (2) studies related to management, operations, capital requirements and economic feasibility of public transportation systems; (3) evaluation of previously funded projects and (4) other related studies."

(e) The analysis of chapter 1 of title 23 is amended by deleting "134. Transportation planning in certain urban areas." and inserting in lieu thereof "134. Planning."

(f) The title of section 8 of the Urban Mass Transportation Act shall read: "Planning".

Mr. RANDOLPH. Mr. President, today Senator BENTSEN, Senator STAFFORD, and I are introducing by request the administration's comprehensive highway bill, the Highway Improvement Act of 1978.

This legislation contains a number of innovative recommendations some of which, I think, will greatly enhance our Nation's highway program. For example, in its bill the administration addresses, at least in part, two of America's major highway needs—bridge replacement and repair and acceleration of Interstate financing and construction.

The Subcommittee on Transportation, chaired by Senator BENTSEN, will carefully evaluate all of the initiatives contained in this major piece of highway legislation. The inventive approaches to rural and urban transportation, highway safety, and particularly, to the so-called Federal interest in our country's highway network will be closely examined and evaluated. At the same time, we will carefully assess our existing Federal-aid highway program, which has served us so very well in the past. We must then ask ourselves, which programs continue to fulfill our highway needs; and which programs are no longer adequate and require change. It is from this balanced, experienced perspective that we can successfully design a highway program for today, and more importantly, for the future.

The task before us is both formidable and challenging. I am confident, however, that the highway bill reported from the Environment and Public Works Committee will be the vehicle by which America can move forward into a new postinterstate era of highway development.

Mr. ROBERT C. BYRD subsequently said: Mr. President, on request of Senator RANDOLPH, I ask unanimous consent, on behalf of the Senator from Texas (Mr. BENTSEN), who is introducing the administration highway legislation, that the bill be referred jointly to the Committee on Environment and Public Works and the Committee on Finance.

This has been cleared with both committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WILLIAMS:

S. 2441. A bill entitled the "Federal Public Transportation Act of 1978"; to the Committee on Banking, Housing and Urban Affairs.

Mr. WILLIAMS. Mr. President, earlier today, President Carter transmitted to Congress legislation developed by Secretary of Transportation Adams over the past year to improve the administration and operation of our basic national transportation programs. I am pleased to introduce the Federal Public Transportation Act of 1978. Mr. President, I ask unanimous consent that President Carter's transmittal message be printed in the RECORD at this point in my remarks.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

I am today transmitting to Congress proposed legislation that will significantly improve the organization and operation of the Federal government's highway and transit programs.

One of the Administration's important goals is to develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities. The reforms which are proposed in this legislation are designed to make certain that the nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

The program I am proposing will intensify the Federal effort to complete the Interstate System and provide flexible assistance for highway construction and transit development. The legislation would authorize more than $50 billion over the next five years and proposes the following changes to meet national transportation needs:

A comprehensive transportation planning program;

Measures to speed completion of the Interstate System and to improve maintenance;

Consolidation of more than 30 highway and public transportation grant programs into fewer and more flexible programs for both rural and urban areas;

A uniform Federal share for all grant programs except Interstate construction and Interstate transfer projects;

Focusing the transit discretionary program on major investments;

An expanded bridge replacement and rehabilitation program;

A unified safety program; and

Greater flexibility for state and local governments to pursue their own priorities.

To achieve our objectives in this area, we propose a reorganization of a variety of high-

way and transit programs into a simpler and more manageable system of federal assistance. Certain aspects of our new approach to these programs should be emphasized.

TRANSPORTATION PLANNING

To promote more efficient short range and long range planning by state and local officials, I propose to consolidate highway and transit planning funds and to distribute these funds are a single grant, under a formula to be determined by the Secretary of Transportation.

Planning grants will be made directly to designated metropolitan planning organizations in urbanized areas over one million in population. The Secretary will review transportation plans for such areas to ensure that they take reasonable account of such issues as air quality, energy conservation, environmental quality, accessibility to employment, effect on minorities, housing, land use and future development. The planning process for other areas will be strengthened as well.

INTERSTATE SYSTEM

Our first priority will be to complete the essential gaps in the Interstate System. Fifty percent of the apportionment formula will be based on the cost to complete the essential gaps and fifty percent on the cost to complete the total system. Highway projects substituted after an Interstate withdrawal will be funded from a state's Interstate apportionment, and substitute mass transit projects will be funded from the General Fund. Interstate substitute projects, both highway and transit, will be eligible for a 90% federal share.

States will be required to have completed the Environmental Impact Statement process or to have submitted an application for an Interstate withdrawal on all uncompleted segments of the Interstate by September 30, 1982. Segments which have not met either requirement will be removed from the system. All incomplete Interstate segments must be under contract for construction and initial construction must have commenced by September 30, 1986.

FEDERAL-AID PRIMARY SYSTEM

To simplify an unduly restrictive funding structure, seven highway categories will be consolidated into a single Primary program. Funds will be apportioned by a formula specified in the legislation and the Federal share will be 80%. Up to fifty percent of a State's primary system funds may be transferred to the urban highway or the small urban and rural transportation programs

URBAN FORMULA GRANTS

Two compatible programs will be established, one for highways and one for transit, for all urbanized areas with a population of 50,000 or more. The highway program will consolidate five categorical programs, and all urban roads not on the Interstate or primary systems will be eligible for assistance. The transit program will provide assistance for the acquisition, construction and improvement of facilities and equipment for use in public transportation services and the payment of operating expenses, including commuter rail operating expenses.

Funds will be apportioned by formula and the federal share for capital projects will be 80%. The highway formula will be based on urbanized area population. Up to fifty percent of the urban highway funds may be transferred to the Primary program or to the small urban and rural program. Up to fifty percent of the transit funds may be transferred to the highway program. Highway funds will continue to be available for transit capital projects.

Governors and local officials will be required to designate a recipient or recipients for urban highway funds in urbanized areas with a population of one million or more. By this step we will significantly improve the opportunity for large cities to become more involved in the planning and programming of their highway systems. Urban highway funds for areas with small populations will go to the State.

URBAN DISCRETIONARY GRANT

This transit grant program will be focused on major expansion of bus fleets and new fixed guideway projects, including extensions of existing systems, and joint development projects.

SMALL URBAN AND RURAL FORMULA GRANT

To meet the unique needs of small cities and rural communities, we propose a consolidated grant program for highways and transit for all areas with a population below 50,000, with the state as the recipient.

Nine categorical highway programs will be consolidated into this new program, and all public roads not on the Interstate or primary systems will be eligible for assistance. The new program will provide assistance for both capital and operating expenses for public transportation in small urban and rural communities. Authorization for this program would come out of the Highway Trust Fund, but the Trust Fund would be reimbursed out of the General Fund for transit operating expenses.

SAFETY PROGRAM

To allow more flexible and rational use of funds, six highway safety programs will be consolidated into a single safety grant to states, with the federal share at 80 percent.

BRIDGE PROGRAM

For the first time states will be able to use substantially increased funds for rehabilitation as well as replacements of deteriorating bridges. The federal share will be 80 percent, and up to thirty percent of the funds will be available for bridges not on the Federal-aid highway systems.

AUTHORIZATIONS

The proposed authorizations are designed to permit better long term planning by those responsible for both highway and transit development. The Highway Trust Fund will be extended for an additional four years. The formula grant programs will be authorized for a four year period, and the urban discretionary grant program will be authorized for a five year period.

In proposing the reforms contained in this legislation I recognize the critical relationship between transportation, energy and development in urban and rural areas. I believe that these proposals will lead toward energy conservation and better land use. The enactment of this legislation will bring new opportunities and responsibilities to state and local officials, will respond to the problems of the present programs, and will help to place the surface transportation system on a sound financial basis.

I ask the Congress to move promptly to pass this highway and transit legislation.

Mr. WILLIAMS. Mr. President, as my colleagues well know, the Senate has already acted this year on legislation extending and improving our basic urban mass transportation program. In July, the Senate passed S. 208, the National Mass Transportation Assistance Act of 1977, on a voice vote. This underscores the awareness among my colleagues, and by citizens across the Nation, of the value of renewing and increasing Federal commitment to coordinated mass transportation systems.

Especially in recent years, public transit has at last begun to provide urban areas with transportation alternatives. These alternatives increase the efficient and productive use of the streets and highways, promote energy conservation, add to environmental quality, provide accessibility, and tend to knit together the fabric of urban life.

Federal assistance to mass transit has provided the resources to invigorate the quality and quantity of public transportation by making possible the replacement of obsolete equipment, the rehabilitation of new modern transit lines, and the continued improvement of services.

In order to continue this trend of increasing transit improvements and urban benefits and in order to prevent an interruption in the funding of major transit projects, revisions to the Urban Mass Transportation Act are vitally needed.

Mr. President, I am pleased and encouraged by many innovative aspects of the administration's comprehensive transportation program. More than ever before, the executive branch and the Congress must act in cooperation this year to assure continuity in our transportation programs.

The reasons are clear enough. If we are to reduce gasoline consumption and if the American people are to turn to public transportation to meet their commuting needs, this legislation is required to provide the necessary resources and facilities to accommodate new riders.

Nationwide statistics show that 53 percent of commuters drive to work alone in an automobile; another 21 percent are automobile passengers. A mere 8 percent commute on public transportation.

Transportation accounts for 25 percent of our Nation's total energy consumption and for 52.6 percent of our total petroleum use. Cars in cities alone consume 34.2 percent of the transportation total. The average commuter automobile carries 1.4 people and is one of the least efficient energy consuming modes of transportation. In sharp contrast, in terms of passenger miles per gallon of fuel, a bus with 30 passengers is six times as efficient to operate and a subway car with 35 passengers would be seven times as efficient.

Clearly, it is in the national interest—now more than ever—to continue and extend the ongoing mass transit program in order to meet our energy goals.

Mr. President, in plain terms, there can be no energy policy nor can our energy objectives be accomplished without increased reliance on our Federal mass transportation program. Congress should recognize this by promptly passing legislation this year to revitalize mass transit programs across the country.

Mr. President, the administration proposal would work far-reaching and fundamental changes in our urban mass transportation program first enacted in the early part of the last decade. The bill would take preliminary steps toward consolidating the highway and public transportation programs. Under the proposal, transportation planning at the Federal, State, and local levels would be consolidated in a way that permits State and local officials to better coordinate transportation programs at the State and local levels. In addition, the bill would attempt to alter the funding de-

livery systems for major capital grants and formulas operating assistance under the Urban Mass Transportation Act.

Mr. President, I ask unanimous consent that the summary of the administration's proposal be printed in the RECORD at the conclusion of my remarks.

Mr. President, our Nation cannot afford to delay any longer in enactment of a well-planned and well-funded transportation effort. The administration's bill will be considered at hearings before the Senate Committee on Banking, Housing, and Urban Affairs in early March. Because of the complexity of the administration's bill, I urge my colleagues, outside organizations, and State and local officials, to study the proposal carefully so that we can procede without further delay to enactment of a comprehensive transit bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE HIGHWAY AND PUBLIC TRANSPORTATION LEGISLATION

New challenges and priorities face this Nation. Energy conservation is a critical concern. Environmental preservation is essential. Urban blight and rural isolation are major problems. Fiscal resources must be conserved and the best use must be made of every tax dollar.

Transportation can and should play major role in addressing and resolving these issues. The Administration's legislative proposals are designed to reshape the Federal highway and public transportation assistance programs to insure that they are fully responsive to today's needs.

The changes we propose will enable these programs to meet their objectives more efficiently and will reduce required Federal involvement. The transportation planning process will be strengthened and the relationship between transportation and other national and local priorities underscored. State and local officials will have considerably broader flexibility than they have now in determining the uses to be made of Federal highway and public transportation assistance. Unnecessary restrictions, such as narrow categories of assistance and varying Federal funds' matching ratios, which have tended to duly influence transportation decision-making will be largely eliminated. Completion of the Interstate System of highways will be expedited. These are among the significant improvements which the legislation will produce.

Taken together, the provisions of this legislation will materially enhance the ability of Federal, State and local officials to meet the highway and public transportation needs of today and prepare for the needs of the next decades.

Our proposals cover the following broad program categories:

Transportation Planning.
The Interstate Highway Program.
The Primary Highway Program.
Assistance to Urbanized Areas.
Assistance to Small Urban and Rural Areas.
Safety.
Bridges.

The following material describes the existing Federal highway and public transportation assistance programs, details the changes incorporated in this legislation and discusses the reasons for our proposals.

TRANSPORTATION PLANNING PROGRAM

Under existing statutes, both the Urban Mass Transportation Administration (UMTA) and the Federal Highway Administration (FHWA) make planning funds available to State and local governments. These current programs fund a variety of planning-related tasks, ranging from specific project development to the formulation of regional objectives. Recipients include State transportation agencies, Metropolitan Planning Organizations (MPO's), and local transit operators. Most of these funds are distributed by formula either by statute or administratively, although discretionary authority exists in the transit planning program.

We are proposing consolidation of the FHWA and UMTA planning funds to allow State and local officials to use these funds in a coordinated manner. Most of the funds will be distributed under a formula to be developed by the Secretary, with a small portion to be retained by the Secretary for discretionary funding of particularly complex, costly or nationally significant projects.

Planning funds will go directly to MPO's in urbanized areas with a population of one million or more. All other planning funds will go to the State, with a portion earmarked for MPO's in urbanized areas from 200,000 to one million, a portion to be fairly and equitably allocated by the State to MPO's in urbanized areas from 50,000 to 200,000 and a portion to be retained by the State for statewide planning. Consolidation of the planning funds will set the stage for future, more broadly-based consolidation of Federal highway and public transportation assistance programs.

All transportation planning activities will be eligible for funding from this consolidated program. This will foster comprehensive planning by removing artificial barriers which restrict planning activities because of the source of planning grants. The Federal share for the planning grants will be 80 percent.

This legislation makes some material changes in the highway and public transportation planning requirements. Under current law, the focus of the planning requirements is on the process followed. This legislation continues that principal focus, while also defining elements that a sound transportation planning process must comprise. In addition to the current requirement for a transportation planning process in urbanized areas, this legislation will require that a statewide planning process be established by October 1, 1980.

Transportation planning and the implementation programs that are an outgrowth of the planning must consider not only transportation needs but also the long range land use plans and development objectives, and the overall social, economic, environmental, energy conservation and system performance objectives which transportation is designed to fulfill. Given the need to conserve resources, both fiscal and natural, planning requires a careful analysis of alternative transportation management and investment strategies. This legislation includes these elements in the required transportation planning process. The requirement of existing law that planning be continuing, cooperative and comprehensive is preserved. The degree of continuity, cooperation, and comprehensiveness required will vary depending on the nature and scope of the particular problem and area being addressed. Thus the legislation provides that it should be accomplished to the degree appropriate to the complexity of the transportation problems.

The legislation establishes a requirement that the transportation plans and programs of metropolitan areas with a population of one million or more be submitted to the Secretary of Transportation for substantive review. Transportation can and should play a significant role in the regeneration and maintenance of the vitality of these urban centers, and full integration with the area's housing, employment, energy conservation and other needs and objectives is necessary. The Secretary will review these plans and programs to assure that transportation needs, air quality, energy conservation, environment, effect on minorities, housing, land use and future development have been reasonably addressed. We expect this early substantive review process to contribute substantially to the ability of Federal transportation assistance to ameliorate the problems of our cities.

INTERSTATE HIGHWAY PROGRAM

The Interstate System has been under construction for more than 20 years and 91 percent of the 42,500 mile system is open to traffic, with another 4 percent under construction. Although most of the System is open to traffic, recent estimates indicate that the remaining cost of completion, including full upgrading of existing segments, is about $34.3 billion. This represents over 34 percent of the estimated total System cost. In addition to the Interstate construction program, current law contains a separate category which provides assistance for resurfacing, restoration and rehabilitation (RRR) of the existing Interstate System.

The changes that we are proposing for the Interstate System are intended to accelerate the completion of the System and to assure that it will be substantially in place by 1990. As this happens our emphasis will shift to the provision of Federal aid to keep the System in good condition, thus preserving the Federal investment.

To focus Federal assistance on the completion of the essential gaps in the Interstate System, the apportionment formula will be modified from one based solely on the cost to complete the total System to one based fifty percent on the cost to complete essential gaps and fifty percent on the cost to complete the total System. Additionally, funds apportioned to a State on the basis of essential gaps must be spent on construction of those gaps, and funds not so used will be reallocated by the Secretary to other States, wtih priority given to ready-to-build essential gap projects.

We are taking two steps to expedite construction of the Interstate and to alleviate problems of available apportionments being tied up in States which cannot make ready use of them. First, States will be allowed to borrow from their following year's Interstate apportionment. Second, the time period for which funds are available to each State will be shortened from four years to two, and lapsed funds will be allocated to States with ready-to-build projects.

As in the past, each State will receive at least one-half of one percent of each year's total Interstate apportionment. Funds not needed for Interstate construction can be used for any project which is eligible for assistance under title 23, United States Code.

Under current law, non-essential segments of the Interstate System may be withdrawn and an equivalent amount of funds used on other Federal-aid highway and transit capital projects. However, the Federal share is reduced from 90 percent for Interstate projects to 70 percent for substitute Federal-aid highway projects and to 80 percent for substitute transit projects, although the amount of Federal aid remains the same. In essence, local officials are assessed a penalty for choosing a non-Interstate project.

We are recommending that the Federal share for substitute highway and transit projects be 90 percent. This will allow decisions to be made based upon the merit of the projects rather than on the relative Federal share available, but it will not affect the total amount of Federal assistance. It will remove disincentives to transfer to other

transportation projects and eliminate pressure to build non-essential Interstate segments. We believe this change will foster prudent and cost-effective use of Federal assistance for highway and transit projects that serve urban economic and revitalization objectives. Substitute transit projects will continue to be funded from the General Fund. Substitute highway projects will be funded from Interstate apportionments, with the Interstate Cost Estimate on which these apportionments ase based being adjusted to incorporate these projects.

A separate Interstate Resurfacing, Restoration and Rehabilitation Program will be continued to ensure that this highway system of national importance does not deteriorate. The apportionment formula is modified to include, in addition to lane miles in use for more than five years, vehicle miles traveled on those lane miles. This will reflect more adequately actual wear on the System. The Federal share for this program is established at 80 percent.

To assure that the initial construction phase of the Interstate Program is brought to a timely conclusion, we are establishing a cutoff date of September 30, 1982, by which time the final environmental impact review process on segments to be constructed must have been completed or an Interstate withdrawal application must have been submitted. Segments which do not meet either requirement will be dropped from the System. In addition, we are requiring that by September 30, 1986, all incomplete segments of the Interstate System be under construction. Segments not under construction at that time will be removed from the System unless the Secretary of Transportation finds that sufficient Interstate funds were not available to the State to meet the requirement.

We are requiring that projects which are substituted for withdrawn Interstate segments be approved by September 30, 1984, so that these projects will proceed expeditiously. We are also eliminating the ability of the Secretary to redesignate withdrawn mileage elsewhere on the Interstate System since such redesignation would delay final completion of the System.

PRIMARY HIGHWAY PROGRAM

The Federal-aid Primary program assists the States in the construction and reconstruction of an adequate system of connected main roads important to interstate, statewide, and regional travel. The present Federal share for this program is 70 percent. There are approximately 270,000 miles on the Primary system, made up of rural arterial routes and their urban extensions. In addition, a number of narrowly-defined categorical programs provide financial assistance for highway projects on the Primary system.

To make it easier for States to plan and construct a basic system of main roads, we have consolidated seven highway programs into the existing Primary program and increased the funding for that program accordingly. The Federal share for this program will be 80 percent. The elimination of restrictive categories, in addition to streamlining program administration, will provide flexibility to the States in determining what investments to make in their main roads. We have also provided increased transfer flexibility by allowing States to use 50 percent of these funds for other rural or urban highway and public transportation investments; 50 percent of the funds from those other categories can be transferred to the Primary program.

URBAN PROGRAMS

There are currently three major Federal assistance programs for highways and transit in urban areas. Discretionary grants are made by UMTA under section 3 of its governing statute to State and local public bodies to assist in financing new fixed guideways, rail modernization, extensions to existing urban rail systems, and bus and rail rolling stock purchases, with a Federal share of 80 percent. There are also two formula assistance programs. The existing UMTA Section 5 program funds transit capital and operating projects in urbanized areas with a population of 50,000 or more, with a Federal share of 80 percent for capital projects and up to 50 percent for operating expenses. The FHWA Urban System program funds highway projects on the designated Federal-aid Urban System and transit capital projects in areas with a population of 5,000 or more, with a Federal share of 70 percent.

In addition, as discussed previously, the Interstate transfer program provides funds for highway and transit projects in urbanized areas where an Interstate segment has been withdrawn, with a Federal share of 80 percent for transit projects and 70 percent for highway projects. Assistance is also available through the UMTA Section 17 emergency commuter rail assistance program, established to give cities time to find other funding sources to reimburse ConRail fully for the cost of services it provides, and through a number of narrow FHWA categorical grant programs.

This legislation will establish two compatible formula programs providing financial assistance for highway and public transportation improvements in our larger urban areas. Both programs will be available to urbanized areas over 50,000 population, there will be significant ability to transfer funds among the programs, and the Federal share for capital highway and transit projects will be 80 percent. The Interstate transfer program will be continued, with both transit and highway substitute projects receiving a Federal share of 90 percent. The discretionary public transportation grant program will also be continued but will be modified to focus primarily on major investments. The needs of small urban areas will be addressed in the small urban and rural transportation program established by this legislation and discussed below.

The proposed changes in our existing urban highway and transit formula programs will provide flexibility for State and local officials to better address local needs as well as national priorities.

URBAN HIGHWAY FORMULA PROGRAM

The urban highway formula program will consolidate five categorical programs, and the funds will be eligible for projects on any road or street not on the Primary or Interstate System and for transit capital projects. These funds will be apportioned on the basis of urbanized area population.

There will continue to be a designated Federal-Aid Urban System of highways, since system designation below the Primary category remains useful for priority action, planning and other purposes. However, designation as a part of that system would not be a prerequisite for Federal financial assistance for an urban road construction or improvement project. This change will permit State and local officials to determine which urban highway investments best meet the needs of the local area.

Currently, States are the recipients of urban system funds and play a major role in project implementation. We are recommending a major change in the delivery process for urban highway funds for the 25 urbanized areas with a population of one million or more. Beginning October 1, 1979, Governors and local officials will be required to designate the recipient or recipients for urban highway funds in these urbanized areas. One or more recipients could be designated, and the State may be designated as a recipient if that is agreed to by the Governor and local officials.

This designated recipient process has been used in the UMTA Section 5 formula program. This process will enable these major metropolitan areas to focus Federal assistance more effectively on overall urban development objectives. We believe that this change will lead to a greater emphasis on projects which use the existing system more effectively, thus serving energy, environmental and urban revitalization objectives.

Current law earmarks urban highway funds for areas of 200,000 or more population, on the basis of a formula developed by the State and approved by the Secretary. This legislation refines that provision by providing that apportioned urban highway funds which are attributable to urbanized areas of 200,000 or more population be made available to those areas on a population basis and that funds attributable to urbanized areas of 50,000 to 200,000 be made available for those areas on a fair and equitable basis.

Current law allows the use of urban system funds for a wide array of highway and transit capital projects and that flexibility is continued in this legislation. Flexibility also is provided by allowing up to 50 percent of apportioned urban highway funds to be transferred to the Primary program or the small urban and rural program. We retain the existing requirement that local officials in urbanized areas of 200,000 or more must approve any such transfer from their attributable funds.

URBAN TRANSIT FORMULA PROGRAM

Presently recipients of formula transit grants use the funds primarily to pay operating expenses while the discretionary grant and Interstate transfer programs have been the source of almost all Federal transit capital assistance. The transit formula grant program for urbanized areas will be significantly broadened to become the source of assistance for all routine capital activities such as rolling stock replacement and system modernization, as well as for operating expenses. Routine capital projects will no longer be eligible for discretionary grants, except under narrowly defined emergency circumstances. The formula grant program will also be the source of funds for commuter rail operating assistance and for special elderly and handicapped transportation assistance.

The expanded formula grant program will ensure that the level of Federal capital assistance for each urbanized area for the most common types of projects is determined on an equitable, uniform and predictable basis. In addition to simplifying the Federal review process this expanded formula program will permit local officials to plan and budget resources, transit service levels, and capital spending programs with an assured source of Federal assistance thus providing these officials a significant degree of flexibility in deciding when and how to meet routine capital needs.

The current apportionment formula considers only population and population density as factors for distribution of funds. This legislation establishes a new formula, to reflect the expansion of the formula grant program, based on the following factors: 25½ percent on population, 25½ percent on population weighted by a factor of density, 5 percent on commuter rail train miles, 19 percent on fixed guideway system route miles and 25 percent to be divided, through an allocation to be made annually by the Secretary, between a factor for the replacement of buses and for bus seat miles. (This variable portion of the formula allows flexibility in meeting bus replacement needs which are subject to fluctuations from year to year.) The factors in the new formula reflect the fact that routine capital needs are more closely related to the existing scale of a community's transit operation than to its population density or other demographic

characteristics. Thus the new formula would be more closely related to the level and types of transit service actually provided in an urbanized area.

A two-year transitional program is established under which the Secretary may set aside up to 20 percent of the "bus" factor funds to be apportioned (5 percent of the total) and provide these funds on a discretionary basis for replacement of overage buses and for the completion of projects previously funded but no longer eligible under the Section 3 discretionary program.

As under the current program, the grants will be made to designated recipients in urbanized areas of 200,000 or more and to the Governor for urbanized areas from 50,000 to 200,000 for distribution in a fair and equitable manner. Grant funds will be available to recipients for four years, to permit urbanized areas to meet larger capital projects (e.g. garage and rail station rehabilitation) as well as annual capital needs (e.g. bus replacements). Any lapsed funds will be added to the amount available for apportionment under the program for the next year.

Major changes are made in the requirements which apply to formula grants for operating assistance, in lieu of the current fifty percent local share requirement and the maintenance of effort requirement. The amount of its apportionment which an urbanized area can use for operating assistance will be limited to the amount received on the basis of the population and population density factors and a portion of the commuter rail factor. These factors will yield amounts slightly exceeding those currently available under the existing Section 5 and commuter rail programs. This limitation will provide a mechanism for assuring that sufficient funds are available out of the formula grants to meet routine capital needs while maintaining at least current levels of operating assistance. In addition, there will be a thirty-three and one-third percent maximum on the portion of total operating expenses paid for by the Federal grant. Elimination of the maintenance of effort and local matching requirements removes disincentives for improving transit efficiency and productivity and gives each locality the freedom to develop a mix of subsidy and farebox revenue funding to cover its share of the operating costs.

Local flexibility in the use of Federal funds will be increased by permitting up to fifty percent of apportioned urban transit funds to be used on highway projects in urbanized areas. Urban highway funds, as noted previously, may currently be used for transit capital projects.

URBAN TRANSIT DISCRETIONARY GRANT PROGRAM

The current discretionary capital grant program will be changed from a broad program designed to fund most public transportation capital needs to a program intended primarily to assist major mass transportation investments, including the construction of new fixed guideways, major bus fleet expansion and joint development projects. These types of capital investment provide important impetus for urban revitalization efforts. They require discretionary funding and careful Federal review because of their size, complexity and cost.

The construction of a major fixed guideway to serve an urban area is a substantial undertaking that requires the close cooperation of the State, the affected localities, and the operator of the proposed mass transportation service. In order to assure that all parties are involved in the planning and decision-making process, the States and localities will be required to name one designated recipient to receive and dispense the funds granted for such projects.

Once a major project has been approved for construction from the discretionary grant program, there is a need to assure continued funding for the project in future years. Therefore, this legislation codifies the present administrative practice of issuing a "letter of intent" to proceed with the project at specified funding levels in future years. The amount committed in these letters of intent will be limited to insure that annual payments do not exceed the level of authorizations for each future fiscal year. The issuance of letters of intent, the extension of the authorization period of the discretionary grant program to five years and the practice of having a two-year advance appropriation will assure a Federal commitment to the completion of major transit capital projects in a timely manner.

The legislation clarifies the authority of the Secretary to make discretionary grants for joint development projects. These projects involve coordinated planning and development of transportation facilities and the adjacent land in order to maximize the economic and social return of the public investment, foster more efficient use of urban land and encourage urban development. The Secretary will be specifically authorized to provide assistance for the additional costs incurred in connection with transit projects for the acquisition and preparation of land for urban development purposes.

In addition to major mass transportation investments, discretionary grants will be made for two other purposes. First, to assist localities in the event of emergency circumstances such as the recent Philadelphia trolley barn fire, the Secretary would be authorized to make discretionary grants for public transportation facilities and equipment if the expanded formula grant program could not have been used reasonably to fund the emergency needs. Discretionary grants will also be available to fund the added costs of introducing new technology into public transportation service. We believe this is a valid use of these discretionary funds, since the risks facing both the developer and the local area willing to cooperate in the introduction of some significant new products are sufficiently great that it is unlikely such new products would be developed commercially without Federal financial support.

SMALL URBAN AND RURAL TRANSPORTATION PROGRAM

Current law provides Federal financial assistance for highways which are part of the designated Federal-aid Urban System in small urban areas (from 5,000 to 50,000 in population), and for highways which are part of the designated Federal-aid Secondary System in rural areas (less than 5,000 in population). A number of narrow categorical programs also provide assistance for highway projects, including those not on designated Federal-aid highways, in small urban and rural areas.

Assistance for capital costs of public transportation projects in these areas is currently provided from existing authorizations for UMTA section 3 discretionary grants. Federal assistance is not presently available for transit operating expenses in areas with a population of less than 50,000 except in connection with demonstration projects.

This legislation consolidates these existing highway and transit programs into one formula assistance program for small urban and rural areas. This consolidated program will give States and localities great flexibility in using the funds to meet the needs and special problems of small urban and rural areas.

The funds will be apportioned to the States based on a formula composed of the following factors: one-half small urban and rural population; one-fourth areas; and one-fourth postal route mileage. Apportioned funds may be distributed to other recipients within the State, including State agencies, local governments and their agencies, nonprofit organizations and operators of public transportation services.

Projects eligible for assistance under this new consolidated programs will include highway projects on all roads other than those on the Primary or Interstate Systems and public transportation projects, including—for the first time—operating assistance. While there will continue to be a designated Federal-aid Secondary System, designation as a part of that System would not be a prerequisite for Federal assistance to a small urban or rural road project.

The Federal share for capital projects will be 80 percent. The Federal share for operating costs will be limited to 33⅓ percent of the total eligible operating costs of the public transportation services assisted.

There has been a growing recognition in recent years of the need for public transportation service in rural and small urban areas. The consolidated grant program will insure that these needs are addressed by requiring that at least 10 percent of the sums apportioned to each State must be used for public transportation projects, unless the Secretary finds that a lower level is warranted by the transportation needs of the small urban and rural areas of a State.

Fifty percent of the amount apportioned to a State for the small urban and rural program could be used for projects in urbanized areas or for Primary system highway projects. Similarly fifty percent of the amounts apportioned for highway projects in urbanized areas or for Primary system projects could be transferred for use on highway or public transportation projects in small urban and rural areas.

Funds for this program will come out of the Highway Trust Fund, but the Trust Fund will be reimbursed out of the General Fund for any amounts used for transit operating expenses. Thus small urban and rural areas will have the same flexibility in the use of Trust Fund monies as current law provides with respect to Federal-aid Urban System funds and as this legislation provides for large urban areas.

HIGHWAY SAFETY IMPROVEMENT PROGRAM

Highway safety is a critical area of concern. We propose to consolidate six existing highway safety programs into a single highway safety improvement program. The added flexibility gained by this consolidation will assist the States in increasing their effectiveness in improving highway safety.

Safety projects on all public roads, whether or not on a designated Federal-aid highway system, will be eligible for assistance. The Federal share for this program will be 80 percent. To be sure that the pressing safety problems on off-system roads are addressed, we also require that at least 30 percent of the funds be spent on those roads. In addition, at least 5 percent of the funds are to be spent to implement highway-related safety standards and guidelines issued by the Secretary of Transportation.

Projects to eliminate the hazards of railway-highway grade crossings will be eligible for funding both from this consolidated safety fund and from regular highway program apportionments.

Another provision in this legislation which will foster highway safety is the expansion of items which are eligible for assistance from Federal-aid highway funds to include acquisition of scales, scale pit installation and related expenditures. These items are essential to an effective State vehicle weight enforcement program, which is vital both for safety and to prevent unnecessary deterioration of our highways and bridges.

BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

The existing Special Bridge Replacement Program assists the States in replacing highway bridges which are unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. A major shortcoming of the current program is that

the funds cannot be used for rehabilitation. Approximately 1,500 bridges have been replaced under this program and about $665 million have been obligated over the last six years.

Because of increasing concern about the condition of the bridges on our nation's highway network, and because of the truly catastrophic consequences of bridge failure, we are expanding the existing bridge program to include rehabilitation as well as replacement of bridges as a way of improving the cost-effectiveness of this program. In order to focus limited resources on a manageable program with national priority, the program will be limited largely to bridges on the designated Federal-aid highway systems. In recognition, however, that deficiencies in bridges off the Federal-aid systems also require attention, up to 30 percent of the funds in this program will be available for those bridges. The Federal share for this program will be increased from 75 percent to 80 percent.

REORGANIZATION

The Urban Mass Transportation Administration and the Federal Highway Administration are separate elements within the Department of Transportation, responsible respectively for the public transportation and the highway Federal assistance programs. For some time the two Administrations have been operating in cooperation and coordination, and this legislation will bring them into closer conformity.

Highways, public transportation and other surface modes of transportation each have unique capacities and particular uses. An efficient transportation system must make use of all and should be developed without unnecessary and artificial modal bias. We believe that consolidation of these two Administrations would facilitate intermodal planning and implementation. Accordingly, this legislation calls for the development of a reorganization plan by the Secretary of Transportation to consolidate UMTA and FHWA into a surface transportation agency. This plan will be submitted to the President by September 30, 1979.

PROGRAM LEVELS

The funding structure in the proposed legislation extends the various highway programs for a four-year period, authorizing funds for the Fiscal Years 1979–1982. The Highway Trust Fund is also extended for a four-year period. In the case of the Interstate program, authorizations are extended for a longer period in order to reflect the long term nature of the program.

For the public transportation programs, the situation is somewhat more complicated, since so much of the program is being converted from a discretionary to a formula basis. The formula program will extend for four years, as does the highway program, while the funding for discretionary grants will be extended five years through Fiscal Year 1983 in order to provide for advance planning. Existing contract authority balances will be eliminated at the end of FY 1978 and replaced, where long-term commitments are in place, by set asides from the new authorization.

The overall program levels being proposed represent a modest increase over current activity in these programs. As shown in Table I, the new program level is $511 million above the FY 1978 levels. Table II indicates the number of special highway programs which will now be folded into the larger categories. This reduction in the number of categories and the corresponding broadcning of program eligibility will give the States greater flexibility in programming projects and in assembling the sums necessary to undertake them.

We anticipate that the Interstate program will be accelerated as a result of several program changes and that a greater amount of authorized funds will be effectively used, even though the proposed increase is less than that contained in current law.

The major increase is in the bridge area. Urban and rural formula grants are held to the approximate levels now in place, after adjusting for the new urban highway program geographic definition. It is anticipated that the highway program will continue to operate under an overall obligation ceiling, at least for another few years, until the past impoundments have been worked off. It may be necessary to review the highway obligation ceiling, which is proposed for $7.8 billion in FY 1979, as the increased flexibility to transfer Interstate apportionments among States takes effect.

On the public transportation side, by restructuring the categories, a greater emphasis has been placed on distributing funds through a formula rather than through discretionary grants.

The legislation holds to the general levels of increase in operating subsidies incorporated in current law. Within the formula grant program $50 million has been included in lieu of continuing the special commuter rail subsidies. Table III shows the existing and recommended public transportation program levels.

The proposed rural transportation program provides for roughly $75 million for FY 1979 in public transportation activity most of which is new funding. Funding for this program is included as part of the small urban and rural transportation program authorization.

The program levels proposed in this legislation are included in the Department of Transportation's FY 1979 Budget recommendations.

TABLE I.—RECOMMENDED AUTHORIZATION LEVELS

[In millions of dollars]

	Existing, fiscal year 1978	Proposed, fiscal year 1979	Fiscal year 1980	Fiscal year 1981	Fiscal year 1982	4-yr total	Fiscal year 1983	5-yr total
Highways	[1] 6,725	7,014	7,014	7,364	7,364	28,756	3,500	32,256
Public transportation	2,985	3,140	3,35	3,400	3,505	13,290	1,565	14,855
Small urban and rural transportation	719	786	796	856	866	3,304		3,304
Total	10,429	10,940	11,055	11,620	11,735	45,350	5,065	50,415

[1] This includes $144,000,000 for interstate transfer substitute highway projects, which were appropriated to UMTA in fiscal year 1978.

TAELE II.—COMPARISON OF PROPOSED AUTHORIZATIONS FOR FISCAL YEARS 1979–82 (INTERSTATE FISCAL YEARS 1980–83) WITH FISCAL YEAR 1978 OR EQUIVALENT AUTHORIZATIONS [1]

[In millions of dollars]

Programs or fund category	Fiscal year 1978	Fiscal year 1979 authorization	Fiscal year 1980 authorization	Fiscal year 1981 authorization	Fiscal year 1982 authorization	Fiscal year 1983 authorization
Interstate:						
Interstate completion	3,250	3,500	3,500	3,500	3,500	3,500
Interstate ½ percent minimum	91					
Inerstate 3R	175	175	175	275	275	
Federal-aid primary		1,500	1,500	1,625	1,625	
Consolidated primary	1,300					
Priority primary	50					
Urban high density	65					
Bridges on Federal dams	15					
Traffic signal demonstration	20					
Acceleration of projects	4					
Landscaping and litter removal	13					
Economic growth center	26					
Subtotal	1,493	1,500				
Small urban and rural transportation assistance		786	796	856	866	
Secondary rural	400					
Safer off-system roads	92					
Rural highway public transportation demonstration	7					
Access to lakes	15					
Bridges on Federal dams	7					
Acceleration of projects	1					
Landscaping and litter removal	8					
Economic growth center	21					
Territorial highways	11					
Urban system	132					
Subtotal	694	786				

TABLE II.—COMPARISON OF PROPOSED AUTHORIZATIONS FOR FISCAL YEARS 1978–82 (INTERSTATE FISCAL YEARS 1980–83) WITH FISCAL YEAR 1978 OR EQUIVALENT AUTHORIZATIONS [1]

[In millions of dollars]

Programs or fund category	Fiscal year 1978	Fiscal year 1979 authorization	Fiscal year 1980 authorization	Fiscal year 1981 authorization	Fiscal year 1982 authorization	Fiscal year 1983 authorization
Urban transportation assistance:						
Urban system	668	700	700	750	750	
Safer off-system roads	8					
Landscaping and litter removal	4					
Economic growth center	3					
Traffic signalization demonstration program	20					
Subtotal	703	700				
Safety improvements		500	500	525	525	
Rail highway crossings:						
On Federal-aid system	125					
Off Federal-aid system	75					
High hazard roadside obstacles	125					
Safer off-system roads	100					
Pavement marking	50					
Highway-related safety grants (FHWA)	25					
Subtotal	500	500				
Bridge replacement and rehabilitation	180	450	450	500	500	
Planning (Takedown)		(133)	(133)	(140)	(140)	
H.P. & R	(87)					
Metropolitan planning	(29)					
PR (optional)	(12)					
Subtotal	(128)	(133)				
Miscellaneous:						
Forest highways	33	49	189	189	189	
Public lands highways	16					
Emergency relief	100	100				
Advertising control	25	40				
Junkyard control	15					
Subtotal	189	189				
Total	7,275	7,800	7,810	8,220	8,230	3,500

[1] Actual fiscal year 1978 authorizations are shown; however, in some cases (e.g., rural highway public transportation, $7,000,000) estimates of obligations are used to derive equivalent levels.

TABLE III.—PROPOSED UMTA AUTHORIZATION LEVELS

(In millions of dollars)

	Fiscal year 1978	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981	Fiscal year 1982	4-yr total	Fiscal year 1983	5-yr total
Urban discretionary	2,020	1,315	1,365	1,465	1,515	5,660	1,565	7,225
Sec. 3	1,375	640	690	740	790		840	
Interstate transfer (transit)	645	675	675	725	725		725	
Interstate transfer (highway)	[1] (144)							
Urban formula	820	1,735	1,785	1,835	1,885	7,240		7,240
Sec. 5	775	885	910	936	961			
Sec. 17/18	45	52	53	55	57			
Capital projects	0	798	822	844	867			
Rural	25	[2] (75)	[2] (85)	[2] (95)	[2] (105)			
Planning	55	[3]	[3]	[3]	[3]			
Miscellaneous	90	90	95	100	105	390		390
Total	3,010	3,140	3,245	3,400	3,505	13,290	1,565	14,855

[1] Funds for highway substitute projects were appropriated to UMTA in fiscal year 1978, but will be funded from the highway program in subsequent years.

[2] These amounts are included in the FHWA small urban and rural authorization.

[3] 2 percent takedown from public transportation programs.

Section-By-Section Analysis

TITLE I

FINDINGS AND PURPOSE

Section 102. This section supplements and updates the section 2 "Findings and Purposes" of the original Urban Mass Transportation Act of 1964 ("UMT Act"). It describes the multi-year Federal and local effort to improve public transportation services, and finds that these services need to be expanded and improved in order to impact the problems of energy, urban development and pollution, as well as to broaden the availability of public transportation services to transit dependent groups and the elderly and handicapped.

DISCRETIONARY GRANT OR LOAN PROGRAM

Section 103.*

The discretionary capital grant program authorized under section 3 of the UMT Act would be changed under this proposal from a broad program designed to fund most public transportation capital needs, to a more focused program intended to assist major mass transportation investments. Routine capital activities currently funded under the section 3 program would be assisted under the section 5 formula program.

Currently section 3 of the UMT Act authorizes the Secretary to make discretionary grants and loans to public entities for 80 percent of the net cost of capital projects including "the acquisition, construction, reconstruction, and improvement of facilities and equipment for use by operation, lease or otherwise, in mass transportation service in urban areas". Grants are presently made for the purchase of buses or rail cars which are used either to expand an existing fleet or to replace obsolete rolling stock, as well as for the construction of new fixed facilities and for the modernization of existing facilities.

Financial assistance for the normal replacement of buses and other rolling stock and for the modernization of existing facilities can best be provided through regular apportionments based on an appropriate formula. Section 105 of this title would revise the formula for the grant program established by section 5 of the UMT Act to take these routine capital needs into account. The section 3 program would be revised to provide funding primarily for the construction of new fixed guideways, the extension of existing guideways and major bus acquisitions, which because of their size and potential cost require careful review at the Federal level.

In addition, section 3 would give the Secretary the flexibility to fund other facilities and equipment in emergency circumstances such as the recent Philadelphia trolley barn fire, when the Secretary finds that the funds apportioned under the expanded formula grant program could not have been used reasonably to fund the emergency project.

Section 3 would also authorize the funding of the introduction of new technology into public transportation service. The risks facing both the developer and the local public body willing to cooperate in the introduction of some significant new products are sufficiently great as to make it unlikely that such new products will be commercialized without Federal financial assistance.

*NOTE: Definitions of terms, including "public transportation," "mass transportation," "public paratransit," and "fixed guideway" will be found in section 108 of this bill.

This section is also changed to revise and clarify the joint development capability added by the "Young amendment" to the 1974 National Mass Transportation Assistance Act.

This revision would specifically authorize the Secretary to make grants or loans to finance the additional cost incurred in connection with projects for the acquisition of land and the preparation of such land for urban development purposes. These "joint development" projects would involve coordinated planning and the development of transportation facilities and the adjacent land in order to maximize the economic and social return of the public investment, foster more efficient use of urban land and bring about urban development. The benefits to grantees from joint development projects are multiple. There can be a redevelopment and renewal impact on deteriorating station site areas; it can add significantly to the municipal tax base. For transit, joint development creates new activity centers which generate increased patronage and revenues to support the operation of the transit system.

Grants for such purposes would be limited to the acquisition of land and the preparation of such land for urban development purposes which are physically and functionally related to mass transportation purposes but not including the cost of designing or constructing revenue producing facilities not engaged in transportation.

The requirements for a capital grant under section 3 of the Act would be applicable to grants for joint development except that the Secretary may waive any of these requirements that he or she finds inappropriate in carrying out the purpose of the grant. Provision would also be made for the Secretary to determine how any net increase in the value of land purchased under this section shall be disposed of. Such determination may range from sharing in the increase with the Government, requiring "the profit" to be retained for project purposes or mass transportation purposes, or that the profits be retained by the city without restrictions.

Examples of activities which would be financed under this section would include: foundation work and the utility capacity that would accommodate both a transportation facility and a non-transportation facility, open space serving both the transit and non-transit facility, and land adjacent to a transportation improvement but not for the building erected on such land. It is not intended by this section that the Secretary would approve grants or loans for financing structures built on top of or in connection with the transportation facility that are not necessary to the proper functioning of the transportation facility such as public or private office buildings that may or may not produce revenues.

Likewise, it is not intended to fund speculative developments or ventures on the ground that "profits" may be generated which the transportation system can use to reduce its total transportation cost (both Federal and local); nor is a developer to be encouraged by the provision to look to the Federal government to finance private development or pay for a portion of his project in return for a share of the profit or income.

The Secretary shall administer this provision in accord with its terms and his or her discretion. The Secretary has authority to issue such regulations as appropriate to implement this section. The Secretary would also be required to confer with the Secretary of Housing and Urban Development and the Secretary of Commerce concerning community development activities which may be benefitted by programs assisted under this proposed new section.

Section 3 would also be amended to require a designated recipient for major fixed guideway projects. The construction of a major fixed guideway to serve an urban area is a substantial undertaking that requires the close cooperation of the State, the affected localities, and the operator of the proposed mass transportation service. Presently local transit authorities may make the decision to apply for Federal financial assistance for such projects without formal participation and concurrence by the State. In order to assure that all parties are fully involved in the planning and decision-making process for the construction of major fixed guideways, this amendment would require that the States and localities agree on and name a single designated recipient to receive and dispense the funds granted for such projects.

Since section 203 of this bill would consolidate the planning requirements now scattered throughout the UMT Act in a revised section 8 of the UMT Act, the planning requirements now contained in section 3(a)(2) would be deleted from section 3. Section 3(a) would be amended to require that the Secretary find that a project has resulted from the comprehensive planning process and is part of the approved program of projects that would be required by section 8 before approving a grant or loan for such project under section 3. Section 3(e)(1) would also be revised to reflect the consolidation of planning requirements in section 8.

Section 3(a)(5) would authorize the Secretary to announce an intention to obligate for capital projects and joint development projects under section 3 through the issuance of a letter of intent to the applicant. The issuance of letters of intent would be limited so that the annual payments under them do not exceed the level of authorizations for each future fiscal year, after deducting sufficient amounts for each fiscal year to cover the projected cost of grants not covered by letters of intent.

Section 3(g) of the UMT Act would be amended to provide for a complaint procedure and discretionary sanctions in the event of a violation of the schoolbus operation agreement required under this section. Section 3(g) presently prohibits an applicant from receiving any financial assistance under the UMT Act if the applicant violates such agreement. This amendment would clarify that the Secretary has the discretion to develop a workable enforcement process for violations of schoolbus operation agreements under section 3(g) which will be substantially the same as that provided in section 3(f) of the UMT Act for charter bus operations agreements.

Finally, the "shuffle" provision in section 3(h) of the UMT Act would be deleted. Under this provision capital funds, under certain conditions and repayment arrangements, can be used for operating assistance by local authorities. The Department believes this is an unwise fiscal device and that the simplification and expansion of the formula grant program which includes operating assistance has eliminated the need for this provision.

AUTHORIZATIONS

Section 104. The title of Section 4 would be amended to reflect that the section would cover net project cost, federal share and authorizations.

Section 4(a) would be amended to delete several planning and program requirements. This specific language would no longer be necessary in view of the consolidated planning provisions contained in the proposed new section 8 of the UMT Act, which would incorporate the first three sentences of section 4(a).

Section 4(c) would be amended to repeal the existing provision which earmarks $500 million of the existing authorization for the section 3 discretionary grant program exclusively for assistance in areas under 50,000 in population. This earmarking would no longer be necessary because a new formula grant program for small urban and rural areas would be established by the proposed new section 133 of Title 23, United States Code.

Section 4(c) would be amended to extend the funding of the section 3 discretionary grant program for five years, through fiscal year 1983. $3.7 billion would be authorized for the five year period. Because the Congressional Budget and Impoundment Control Act of 1974 no longer permits contract authority for these purposes, the new funding would be based on budget authority. No new obligations could be made from unobligated contract authority after fiscal year 1978.

Authorizations for the section 5 formula grant program for urbanized areas are presently contained in section 5. A general authorization provision for administrative costs and other expenses is presently in section 12. Section 4(c) would be amended to contain future authorizations for these purposes and thus would consolidate all authorizations contained in the UMT Act for easier and more efficient reference.

Section 4 would be amended to authorize the appropriation of $1.735 billion in fiscal year 1979, $1.785 billion in fiscal year 1980, $1.835 billion in fiscal year 1981, and $1.885 billion in fiscal year 1982, to finance formula grants for urbanized areas under section 5 of the UMT Act. The increased authorization levels proposed for the section 5 formula grant program reflect the fact that section 5 funds would be used for routine capital expenses such as bus replacement, rail rolling stock purchases and the modernization of existing facilities, as well as operating assistance under the expanded formula program.

A new subsection (f) would be added to section 4 to require that two percent of the funds appropriated under section (c)(3) for discretionary capital grants and under subsection (e) for formula grants to urbanized areas be set aside for planning purposes under the consolidated planning fund which would be established in Title VI of this proposal.

In addition a new subsection (g) would be added to section 4 to permit up to one and one-half percent of the funds appropriated for formula grants to urbanized areas less the planning fund set aside, to be used to fund grants for the deployment of innovative techniques and methods under the proposed new section 5(a)(3) of the UMT Act.

Section 103(e)(4) of title 23, United States Code, permits the Secretary to withdraw approval of an unconstructed portion of the Interstate System upon the joint request of a State Governor and the local governments concerned, if the Secretary determines that such portion is not essential to the completion of a unified Interstate System. Once the Secretary has withdrawn approval of a portion of the Interstate System, an amount equal to the Federal share of the cost to complete such portion is available to fund mass transit projects or highway projects in the same area in which the unconstructed portion of the Interstate was to be built. This section would amend section 4 of the UMT Act to limit the appropriation for substitute mass transit projects to $675 million in fiscal year 1979, $675 million in fiscal year 1980, and $725 million for each of the fiscal years 1981 through 1983. This amendment would clearly identify the transfer of Interstate funds for use on mass transit projects as part of the Federal financial commitment to mass transmit. Substitute highway projects currently included in

the UMTA budget would be included in the FHWA budget in the future.

Section 4 would be further amended to provide that appropriations for section 3 projects and Interstate transfer projects could be made a year in advance of when the appropriation is to be available. Appropriations would remain available for four years. The authorization and appropriation procedures which are proposed would provide a basis for advanced planning without unduly compromising Executive Branch or Congressional fiscal options.

Additionally section 4 would be amended to authorize the appropriation of $90,000,000 for fiscal year 1979, $95,000,000 for fiscal year 1980, $100,000,000 for FY 1981, and $105,000,000 for FY 1982, for expenses other than those specifically provided for in section 4. These expenses would include grants for managerial training programs, research, development and demonstration projects and general administrative costs.

FORMULA GRANT PROGRAM

Section 105. The formula grant program for urbanized areas (50,000+) under section 5 of the UMT Act would be significantly broadened and revised in this bill.

The basic structure of the program would remain the same; sums would be apportioned by formula to designated recipients in urbanized areas of 200.000 or more, and to the Governor for urbanized areas under 200,000. The apportioned funds would continue to be used for equipment for use in public transportation service, and the payment of operating expenses to improve or to continue such service. The proposed narrowing of the section 3 discretionary program, however, would make section 5 the source of many capital activities formerly funded on a discretionary basis. This would include routine bus and rail rolling stock replacements and modernization of both bus and rail facilities and equipment. Section 5 would also be the source of funds for commuter rail operating assistance (thus eliminating the necessity for the categorical programs established in sections 17 and 18 of the existing UMT Act) and capital and operating assistance for elderly and handicapped services and section 16(b)(2) activities. Prior to apportionment, up to 1½ percent of funds appropriated for section 5 may be set aside and used for direct grants to States for the deployment of innovative techniques and methods into public transportation services.

A new apportionment formula would be adopted to reflect the broadened role of section 5 starting in fiscal year 1979. The formula would be based on the following factors: 25½ percent on population; 25½ percent on population weighted by a factor of density; 5 percent on commuter rail train miles; 19 percent on the number of fixed guideway system route miles (excluding commuter rail route miles); and 25 percent to be divided, through an allocation to be made annually by the Secretary, between a factor for the replacement of buses, to be determined by the Secretary, and a ratio for the number of bus seat miles operated in the prior fiscal year. This variable portion of the formula allows flexibility in meeting bus replacement needs which are subject to fluctuations from year to year. It is intended that the bus replacement factor would provide funds to a locality which would be sufficient to replace buses which have reached the age considered to be the average useful life of a transit bus (probably twelve years).

It is the Department's intention to publish an updated four-year projection of the section 5 formula apportionments to each urbanized area on an annual basis.

This factor of the formula also allows up to 20% of the amount to be apportioned under this factor to be used for discretionary grants to make appropriate replacements of buses which are not covered by the formula, such as those which are already older than the normal replacement age; and to complete funding of multi-year capital projects and programs which were originally funded under section 3, but which no longer qualify under section 3 as amended by this legislation. Many of these projects are for construction of facilities such as bus garages. Forcing these projects to await accumulation of sufficient amounts of apportioned section 5 funds may delay needed projects and result in higher costs.

It should be noted that while the new factors of the formula are keyed to meeting certain capital needs the amounts apportioned under the formula are available for any eligible capital project.

Funds apportioned under the section 5 formula would continue to be made available directly to designated recipients in urbanized areas 200,000 or over in population. Funds apportioned for areas under 200,000 would be made available to the Governor, who would be required to allocate funds to urbanized areas of under 200,000 on a "fair and equitable" basis which means that over a reasonable number of years the funds made available to each urbanized area should be substantially equal to the amount attributable to that area under the section 5 formula for those years. The Governor would be required to submit an annual report to the Secretary indicating the allocations made to each urbanized area of under 200,000.

Section 5(c) would be amended to provide that apportioned funds remaining unobligated at the end of three years following the fiscal year for which they were appropriated would be added to the amount available for apportionment in the next year, rather than being returned to the Treasury, as in current law.

Section 5(d) would be amended to clarify that an eligible project under this section would include a joint development project eligible for a discretionary grant under section 3 of the UMT Act.

Major changes would be made in the requirements which apply to operating assistance grants under section 5. In lieu of the current 50% local share requirement, and the maintenance of effort requirement now contained in section 5(f), a flat 33⅓ percent maximum on the portion of total operating expenses which can be paid for out of section 5 would be established. While many cities would not actually have one-third of the operating costs underwritten through section 5, meeting the often troublesome maintenance of effort requirement would no longer be necessary, and localities would be able to make their own decisions regarding fare levels, local subsidies, and cost reductions.

Another limitation would be the prohibition on the use of funds for operating assistance by any urbanized area which exceeded the amount attributable to such urbanized area under the factors of the formula based on population, population weighted by a factor of density, and 60 percent of the commuter rail factor. This provides a mechanism to assure that sufficient funds are available out of section 5 to meet routine capital needs while maintaining at least current levels of operating assistance.

Up to 50 percent of the amount apportioned to the designated recipient for each urbanized area of 200,000 or over and to the Governor for all urbanized areas under 200,000, can be eligible for urban highway projects eligible under 23 U.S.C. 101. Approval of the Secretary would be required, and the Governor would have an opportunity to review and comment on such proposed use.

The planning requirements under subsections (a)(2), (e), (g), and (l) of section 5 have been simplified or deleted from section 5 as part of the establishment of a new overall planning section in section 8 of the UMT Act. Also certain references to "mass transportation" have been changed to "public transportation" to be consistent with the new section 12 definition of "public transportation" as a generic reference encompassing both mass transportation and public paratransit.

Finally subsection (n) of Section 5 of the UMT Act is redesignated as subsection (m) and is revised to clarify that section 13(c) applies to all public transportation projects under section 5, including public paratransit projects. The reference to section 3(e)(4) is unchanged, since section 3(e) only applies to mass transportation projects.

TECHNICAL STUDIES

Section 106. Section 9 of the UMT Act is repealed since its provisions are covered in other sections. For example technical studies are now provided under section 8 of the UMT Act and funded under section 202 of this bill.

FELLOWSHIPS

Section 107. Section 10 of the UMT Act would be amended to broaden the scope and increase the number of grants for training fellowships. The current law restricts the number of grants to 100 a year, the total cost of a single fellowship to $12,000, and requires that grants be made for training in "institutions of higher learning offering programs of graduate studies". These restrictions arbitrarily deny many interested persons the opportunity to participate and prevent the utilization of technical and trade schools which can provide the type of training essential to effective transit management and operation. The proposed amendment to section 10 would remove these impediments. The language would also be modified to apply to "public transportation" systems, rather than just "mass transportation" systems.

DEFINITIONS AND GENERAL PROVISIONS

Section 108. Several definitions would be added to section 12(c) of the Act. The definitions currently in section 5, including the definitions of "construction", "Governor", and "urbanized area", are moved into section 12(c) and thereby would be made applicable to the entire UMT Act. The definition of "handicapped person" would permit the Secretary to establish a modified definition of that term appropirate for the half-fare program.

The definition of urban area would be removed since it is no longer appropriate to the program.

A definition of "public paratransit" would be added which would allow the Secretary to determine which paratransit services could be eligible for UMTA assistance.

The term "public transportation" would also be added which would become a generic reference to both mass transportation and public paratransit.

Finally, the term "fixed guideway" would be added to define the types of such systems which would be eligible for funding under section 3 of the UMT Act and would mean a public transportation facility which utilizes a separate right-of-way for the exclusive use of public transportation services.

Section 12(d) would be deleted because the general authorization language would be included in section 4 of the UMT Act. Subsection 12(f) would be deleted because the new section 19 proposed by section 511 of the title concerning civil rights would make the subsection unnecessary.

A new section 12(e) is proposed in this bill which would prohibit the UMTA assisted purchase of the assets of one public body by another public body. The Department believes it is inappropriate to generate additional Federal assistance in an area by the paper transfer of assets which are used in the same system before and after the transfer.

Subsection 12(f) would be added to authorize the Secretary to review and approve the design of projects assisted under the UMT Act. This is intended to clarify that

the Secretary has authority to establish, where appropriate, criteria, standards and specifications for UMTA assisted capital projects, including both fixed facilities and rolling stock.

Subsection 12(g) would authorize the Secretary to issue such regulations as he or she deems necessary to administer the UMT Act.

AMENDMENT TO SECTION 16 ELDERLY AND HANDICAPPED PROGRAM

Section 109. Section 16(b)(2) of the UMT Act authorizes the Secretary to make grants and loans to private non-profit organizations to provide transportation services which meet the special needs of elderly and handicapped persons. The last sentence of section 16(b) permits the Secretary to set aside up to two percent of the funds authorized for the discretionary grant program to finance this elderly and handicapped transportation program.

This amendment would delete this permissive set aside and provide that this program would be funded out of the proposed expanded formula grant program in urbanized areas. This program could also be funded under the small urban and rural transportation program which would be established by the proposed section 133 of title 23, United States Code.

Finally, the definition of the term "elderly and handicapped person" would be deleted because it is proposed to move the definition to section 12 of the UMT Act where other terms having Act-wide applicability are defined.

COMMUTER RAIL OPERATING ASSISTANCE

Section 110. Section 17 was added to the UMT Act in 1976 to help local public bodies and States meet the costs of commuter rail service in regions of the country served by rail carriers that were reorganized under the Regional Rail Reorganization Act of 1973. The program provided $125 million in authorizations for grants to local bodies and was originally to have expired in September 1978. A 1977 amendment to the UMT Act extended the program for two years and authorized an additional $30 million for each of those years. The 1977 amendment also added a new section 18 to the UMT Act for assistance for commuter rail operations not eligible for such assistance under section 17. Twenty million dollars was authorized for FY 1979 only.

This amendment would eliminate the two year extension of the assistance program under section 17 and repeal section 18 since funds for commuter rail assistance would be available under the proposed expansion of the section 5 formula grant program for urbanized areas. Federal assistance for commuter rail service can be more equitably provided under a formula grant program.

NONDISCRIMINATION

Section 111. Fragmented authority presently exists for civil rights activities under the Civil Rights Act of 1964, Executive Order 11246 on equal employment opportunity, and Executive Order 11625 on Minority Business Enterprise. This proposed section would consolidate the civil rights authority and program activities in UMTA. This would lead to a more effective and uniform civil rights compliance effort, eliminate ambiguity in the interpretation of UMTA responsibilities and assure definite uniform procedural recourse for an individual who believes he or she has suffered discrimination.

Recipients of UMTA monies would be required, as part of their obligations under an UMTA grant, to comply with and carry out all obligations of applicable Federal laws, executive orders, implementing regulations, and guidelines in the field of civil rights. This section would apply to all activities affected by UMTA grants, including employment, business opportunities, service and related benefits.

UMTA would be given the authority to develop minority employment training programs and projects for training and assistance of minority business opportunities. For the purposes of this provision, the term "minority" is meant to include females. These programs would be operated in connection with projects funded by UMTA, in the recognition that many minority and female individuals and entrepreneurs, primarily because of the past effects of discrimination, lack experience and skills to effectively compete for transit-related jobs and lack the administrative, technical, and managerial skills, as well as the capital resources necessary for building and maintaining a competitive business operation.

The passage of comprehensive legislation on nondiscrimination and civil rights for UMTA would bring the agency's standards into conformity with existing legislation in other DOT agencies, such as FRA, FAA, and FHWA.

TECHNICAL AMENDMENTS

Section 112. This section would amend sections 3(d), 6, 15 and 16 of the UMT Act of 1964 to change various references to "urban mass transportation" or "mass transportation" to the umbrella term "public transportation" as that term would be defined in the revised section 12 definitions. These terms would be changed only where they are intended to apply to the general concept of public transportation, including both mass transportation and paratransit. Certain references to urban mass transportation would be retained where the narrower reference is appropriate.

Other references to mass transportation would be changed to public transportation in other sections of this bill where those sections would be amended for other purposes.

LOAN FORGIVENESS

Sec. 113. This section would authorize the Secretary to convert equipment and facilities loans to capital grants if appropriate local funds are committed to public transportation capital projects. This authority would apply to certain loans which were made to the State of Rhode Island and the City of Philadelphia at a time when grant funds were unavailable. The proposed amendment would equalize their obligations and benefits with other recipients of Federal mass transportation aid.

REORGANIZATION

Sec. 201. At present, there are two separate agencies within the Department of Transportation to deal with the highway and mass transit programs, the Federal Highway Administration and the Urban Mass Transportation Administration, respectively. Although there is a great deal of coordination and cooperation between these two administrations, it has long been felt that the highway and mass transportation program are intimately linked and should be administered not as two distinct programs but rather as alternative solutions to the common problem of providing efficient surface transportation for the needs of our cities and rural areas. Consolidation of the two administrations would facilitate intermodal planning and intermodal trade-offs. Other elements of the Department might also be included.

This amendment would require the Secretary to prepare a plan of reorganization to consolidate FHWA and UMTA and perhaps other elements of the Department into one new surface transportation agency and to submit that plan to the President.

CONSOLIDATED PLANNING FUND

Sec. 202. Under current law, both the Federal Highway Administration and the Urban Mass Transportation Administration provide financial assistance to State and local authorities for transportation planning purposes. The statutory framework under which these programs operate, their administrative requirements, and section 134(b) and section 8(b) would set differ. In order to foster a coordinated and comprehensive approach to truly intermodal transportation system planning, this section would establish a single fund to be administered by the Secretary to finance the State and local transportation planning activities required by the provisions of title 23 and the Urban Mass Transportation Act of 1964, as amended. This fund would be derived by setting aside a percentage of the funds available under sections 3 and 5 of the UMT Act, and a percentage of highway funds available under 23 USC 104 and 133. This section would also be the source of funds for technical studies eligible under the proposed section 8(f) of the UMT Act.

Under the terms of this section the Secretary would be required to establish by regulation a formula for distribution of planning assistance funds to appropriate recipients at the State and local level. It is envisioned that the bulk of these funds would be so apportioned, with the remainder to be retained by the Secretary for use on a discretionary basis to finance unusually costly planning projects.

Grants under this section will be made directly to metropolitan planning organizations (MPO's) in urbanized areas with a population of 1 million or more. In order to assure that planning funds are available to the MPO's for urbanized areas of less than 1 million, this section requires States to make funds which are attributable to such areas, under the formula used by the Secretary in distributing the funds, available to the MPO's. For areas between 200,000 and 1 million, the funds would be passed through directly. For areas between 50,000 and 200,000, the State would allocate the funds on a fair and equitable basis.

PLANNING

Sec. 203. Under present law, the planning requirements for the highway and public transportation programs are similar but not identical. This section would amend the highway planning provisions in section 134 of title 23 and add a new public transportation planning section in the Urban Mass Transportation Act to create parallel planning requirements for both programs. This will assist in ensuring that planning is carried out consistently in both programs.

Under present transit legislation planning and programming requirements are spread through the UMT Act in sections 3(a)(2), 3(e)(1), 4(a), 5(g) and 5(1). This amendment would consolidate these requirements in a new section 8. The existing section 8 would be repealed. (The existing section requires consultation between the Secretary of Housing and Urban Development and the Secretary of Transportation concerning transit and highway programs. The section was enacted because the urban mass transportation program was originally administered by the Department of Housing and Urban Development and its predecessors. This requirement is superfluous since both programs are now administered by the Department of Transportation.)

The same language in the proposed section would be incorporated into both section 134 of title 23 and section 8 of the Urban Mass Transportation Act of 1964 so that highway and public transportation projects in urbanized areas will be subject to the same statutory planning requirements. The need for a single transportation planning process to enable States and local communities to make responsible transportation investments has been recognized for several years. In 1975 the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) began jointly administering their separate but similar planning requirements by regulations. This section would formalize the joint administration of the planning process.

Section 134(a) and section 8(a) would state that it is in the national interest to encourage transportation systems embracing various modes of transportation and that the Secretary shall cooperate with State and local officials in the development of plans and programs to achieve such systems. It would describe the key objectives of the planning process. First, it would delineate those key factors which must be considered in the development of transportation plans and programs, including transportation needs, land use plans, development objectives, and overall social, economic, environmental, system performance and energy conservation goals and objectives. Second, it would provide for a planning process which would look at both alternative operating strategies and investment potentials to make more efficient use of existing resources and to provide a basis for the selection of major transportation investments. Finally, it would require that the planning effort be tailored to the size of the area and the complexity of an area's transportation problems.

Section 134(b) and section 8(b) would set forth the participants in the transportation planning process. In urbanized areas, planning would be conducted by local officials acting through the metropolitan planning organization, in cooperation with the State. This is the same requirement that is currently contained in regulations jointly issued by the Federal Highway Administration and the Urban Mass Transportation Administration to govern the planning process in urbanized areas (23 CFR 450; 49 CFR 613). The Statewide planning process, which would also cover planning for small urban and rural areas, would be carried on by the State in cooperation with local officials to assure that local planning activities are integrated with the Statewide process.

Section 134(c) and section 8(c) would provide that the Secretary would not approve any program of transportation projects unless the planning processes are being carried on as required and the program is based on the planning process. The State planning process will not be required to be in place until October 1980. Urbanized areas of over one million population submit their program of projects directly to the Secretary.

Finally, for urbanized areas with a population of one million or more, section 134(d) and section 8(d) would establish a requirement that the metropolitan planning organization submit for approval by the Secretary a transportation plan, which typically will include its plans for the ensuing 20–25 years, and a short range transportation improvement program, which will set forth those transportation projects which are expected to be implemented during the next 3–5 years. The Governor will be given an opportunity to review and comment on these materials before they are submitted to the Secretary.

The Secretary will review these submissions from the metropolitan planning organization and will approve them, in whole or in part, if he or she finds that they reasonably address the following factors: the transportation needs of the area, air quality, environmental quality, energy conservation, accessibility to employment, effect on minorities, housing, land use and the future development of the area.

In making this finding, the Secretary will be concerned with whether, taken as a whole, the planning occurring in the area and the implementation of plans through specific project development has meshed and affirmatively used transportation to achieve other national and local objectives. If the Secretary finds that the required elements have not been reasonably addressed by the metropolitan planning organization, he or she will advise the metropolitan planning organization of the reasons which prevented his or her approval of the submission.

This new transportation planning requirement for urbanized areas of over one million population is designed to enable the Secretary to review, at an early date and progressively during the planning process, the substantive transportation plans of these areas. Secretarial disapproval of an area's plan or programs will not result in an immediate loss of Federal funds, but the area will be put on notice that the purpose for which it intends to use Federal transportation assistance funds need to be reassessed and may be subject to eventual disapproval. Particular projects which may be questionable will thus be highlighted at an early stage, providing ample opportunity for their reevaluation. It should be emphasized, however, this new requirement does not substitute for approval, including review under the National Environmental Policy Act, of each specific transportation project.

This subsection will enable the Secretary to take into account at an earlier stage than required by other laws, such as the National Environmental Policy Act, environmental and social impacts of proposed transportation projects. However, since approval by the Secretary under this subsection will not permit particular projects to go forward, and will not substitute for compliance with any other requirements related to project approval, the environmental impact statements would continue to be prepared at project approval stages of project development.

Section 8 of the Urban Mass Transportation Act of 1964 would also contain new subsections (e) and (f).

Section 8(e) would contain the following planning and programming provisions that are now contained in section 4(a) of the UMT Act: the requirement that the program "encourage to the maximum extent feasible the participation of private enterprise"; and the requirement that where facilities and equipment are to be acquired which are already being used in mass transportation the program must provide that they will better serve the transportation needs of the area.

Finally, section 8(f) would provide the authority for making special studies. These studies were previously authorized under section 9 of the UMT Act, but have been moved to section 8 to consolidate all UMTA planning authority therein.

By Mr. MATSUNAGA:

Senate Joint Resolution 105. A joint resolution to authorize the President to issue a proclamation designating the Sunday following Fire Service Recognition Day as memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year; to the Committee on the Judiciary.

MEMORIAL SUNDAY WOULD HONOR FIREFIGHTERS KILLED OR DISABLED IN THE LINE OF DUTY

Mr. MATSUNAGA. Mr. President, I am introducing today a joint resolution which requests the President to designate the Sunday after Fire Service Recognition Day each year as a memorial Sunday in honor of firefighters killed or disabled in the line of duty.

Since the earliest days of our Nation, firefighters have gallantly protected the lives and property of their neighbors from the ravages of fire. In an average year, 100 firefighters make the ultimate sacrifice, laying down their lives for their neighbors. Some 700 firefighters are disabled annually, and 50 out of every 100 firefighters are injured in the performance of their duty every year.

Fire Service Recognition Day is celebrated on a Saturday every year. The proposal that the following Sunday be designated as a memorial Sunday for firefighters killed or disabled during the preceding year was advanced originally by the chaplains of fire departments throughout the Nation. Last year, during the annual convention of the International Association of Fire Fighters, a resolution calling for the designation of a memorial Sunday was adopted unanimously. It has since been endorsed by no less than 110,000 churches of various denominations. An estimated 6 million fire service personnel are expected to participate in the special memorial services at churches throughout the Nation. Needless to say, such a tribute would greatly strengthen the families of those killed or disabled while fighting fires, and it would give others an opportunity to express their appreciation for the great debt of gratitude which we owe to our courageous firefighters.

Mr. President, I ask unanimous consent that the text of my resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 105

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.

Whereas, courageous men have protected the lives and property of their neighbors from the ravages of fire since the beginning of civilization; and

Whereas, many of these men have shown their ultimate expression of love for their neighbor by laying down their lives; and

Whereas, many others of these courageous men while on duty have suffered permanent disability; and

Whereas, numerous churches of many denominations have indicated a desire to participate in a designated Memorial Sunday honoring these consecrated men for their ultimate sacrifices for their fellow men; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation each year designating the Sunday following Fire Service Recognition Day as Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year.

ADDITIONAL COSPONSORS

S. 49

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 49, a bill to establish a Small Business Administrative Review Court.

S. 1251

At the request of Mr. ROBERT C. BYRD, the Senator from Iowa (Mr. CLARK) and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 1251, the Child Nutrition Act of 1977, as introduced by the Senator HUMPHREY.

S. 1467

At the request of Mr. ROTH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1467, a bill to limit the jurisdiction of the Supreme Court of the United States and any such inferior court as

ordained and established by the Congress of the United States to enter any judgment, decree, or order, denying or restricting, as unconstitutional, the exercise of free religious expression or the saying of voluntary prayer in any public school or other public building.

S. 1964

At the request of Mr. HATHAWAY, the Senator from Rhode Island (Mr. PELL) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 1964, a bill to amend the Emergency School Aid Act to extend to Franco-Americans the same benefits afforded other minority groups under that act, and to incorporate cultural heritage preservation activities into the purposes of that act.

S. 2360

At the request of Mr. MOYNIHAN, the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Senator from Texas (Mr. TOWER), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 2360, a bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act.

S. 2378

At the request of Mr. INOUYE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 2378, a bill to increase the amount of funds available for Native American employment and training programs.

S. 2385

At the request of Mr. ROBERT C. BYRD, the Senator from California (Mr. HAYAKAWA), the Senator from Missouri (Mr. EAGLETON), the Senator from Oregon (Mr. HATFIELD), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Missouri (Mr. DANFORTH), the Senator from Wyoming (Mr. WALLOP), the Senator from Colorado (Mr. HART), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2385, the Agricultural Trade Expansion Act of 1977, as introduced by Senator HUMPHREY.

SENATE JOINT RESOLUTION 99

At the request of Mr. MATSUNAGA, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Joint Resolution 99, to require improvement and expansion in the collection, analysis, and publication of data relating to women in the professional, technical, and managerial occupations.

PANAMA CANAL TREATIES, EXECUTIVE N, 95–1

AMENDMENTS NOS. 10 AND 11

At the request of Mr. DOLE, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of amendment No. 10 and amendment No. 11 intended to be proposed by them, jointly, to the Panama Canal Treaty.

AMENDMENT NO. 12

At the request of Mr. DOLE, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of amendment No. 12 intended to be proposed by them, jointly, to the treaty concerning the permanent neutrality and operation of the Panama Canal.

AMENDMENTS SUBMITTED FOR PRINTING

TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL—EXECUTIVE N, 95–1

AMENDMENT NO. 15

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. DOLE, as in executive session, submitted an amendment intended to be proposed by him to executive N, 95–1, the treaty concerning the permanent neutrality and operation of the Panama Canal.

AMENDMENT NO. 16

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HATCH (for himself, Mr. CURTIS, Mr. GARN, Mr. HELMS, Mr. LAXALT, Mr. MCCLURE, Mr. THURMOND, Mr. EASTLAND, and Mr. ALLEN), as in executive session, submitted an amendment intended to be proposed by them, jointly, to Executive N, 95–1, the treaty concerning the permanent neutrality and operation of the Panama Canal.

Mr. HATCH. Mr. President, the Panama Canal treaties raise a serious constitutional issue that should be resolved before the Senate turns to the consideration of the merits of these agreements. The issue is whether the President of the United States has the constitutional authority to transfer U.S. territory in the Canal Zone to the Republic of Panama by treaty alone, without the approval of both Houses of Congress.

Representatives of the State Department and the Justice Department argue that the President may make such a treaty because he possesses concurrent authority with Congress to dispose of American territory and property by treaty. Senate approval of the treaties, they insist, is all that is necessary in order to meet the requirements of the Constitution.

As a member of the Separation of Powers Subcommittee of the Senate Judiciary Committee, which recently held extensive hearings on this constitutional question, I was somewhat surprised to learn that none of the State Department's legal advisers who testified before the subcommittee was able to cite clear and unequivocal judicial precedent in support of this novel interpretation of the President's treatymaking power. The testimony of Attorney General Bell, who appeared before the Senate Foreign Relations Committee, was, in my judgment, equally deficient of valid judicial precedents that would justify this extraordinary exercise of executive power. What is more, there appears to be no prior instance in American history when a President laid claim to the existence of such concurrent authority.

In effect, then, the President is now claiming for himself a new power, a power to enter a legislative field which Congress has definitively and exclusively controlled since the creation of the Constitution. The Canal Zone was acquired in accordance with the terms of a 1902 statute passed by Congress known as the Spooner Act. By law, Congress authorized the President to acquire from Colombia perpetual control of the necessary lands for the construction of an interoceanic canal across the Isthmus of Panama. Acting in pursuance of this congressional authorization, the President negotiated the Hay-Buneau-Varilla Convention on November 18, 1903, between the United States and that portion of Colombia which became the Republic of Panama. In this manner did the United States acquire in perpetuity the rights to the territory now known as the Canal Zone, with sovereign and exclusive powers to administer it.

Since that time, the Canal Zone has remained an unincorporated territory of the United States. It is administered by the President of the United States, but only in accordance with enabling legislation enacted by Congress. This includes appropriation authority for its administration during the current fiscal year. Laws enacted by Congress have directed the form and substance of the administration and jurisprudence of the Canal Zone from the moment of acquisition to the present. In short, it is Congress which authorized treaty negotiations for the permanent acquisition of the land; and it is Congress which subsequently enacted legislation setting forth the legal status of the Canal Zone, establishing courts of justice, enacting civil and criminal codes, providing for defense, and appropriating money for the maintenance and operation of both the zone and the canal.

Moreover, all previous transfers of property in the zone under treaties with the Republic of Panama have rested on the solid foundation of congressional approval. In 1955, for example, when the United States entered into its most recent treaty with Panama, it was provided under article V that transfers of property were "subject to the enactment of legislation by the Congress." It seems reasonable to me that if all previous transfers of real estate to Panama have occurred under the authority of Congress, that the transfer of the entire zone should proceed on the same basis; otherwise we are left with the dubious proposition that prior enactments of Congress authorizing the property transfers were gratuitous exercises in futility which the President was free to ignore. I am not aware that this peculiar notion has ever been adopted by Congress or the President in any negotiations with Panama prior to those that are presently under consideration. As recently as 1957, a representative of the State Department who testified before the Senate Foreign Relations Committee stated that legislation would be required in order to implement the transfer of all property in the zone.

Comes now the President, standing on an unprecedented and previously unexercised claim of "concurrent authority," asserting that he has the right to abrogate the power of Congress and repeal the entire statutory structure which

Congress has developed since the beginning of the 20th century. If the Senate stands aside and allows the President to usurp the powers of Congress—as it has often done before—it will be preparing the way for further encroachments in the future.

In the first place, "The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for 'concurrent jurisdiction' of the President in the disposition of U.S. property. Acquiescence in such claims spells progressive attrition of congressional powers; it emboldens the Executive to make even more extravagant claims." Second, "it needs constantly to be remembered that a succession of Presidents have circumvented Senate participation in treaties of gravest import by resort to Executive agreements."

These are the words, Mr. President, of Raoul Berger, the eminent constitutional authority whose scholarly writings on executive privilege were so vitally instructive to the Congress when we confronted the Presidential claim of self-serving "precedents" upon which the executive branch relied for the purpose of withholding information. Today, the President seeks to circumvent the House of Representatives and gain approval for the disposal of billions of dollars worth of American territory merely by a two-thirds vote of the Senate. And what of tomorrow? How long will it be before another President seeks to dispose of other territories by an executive agreement—which is very similar in power to a treaty and does not require any congressional consent at all?

Article IV, section 3, clause 2 of the Constitution states that—

> The Congress shall have the power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.

The courts have repeatedly ruled that this is an exclusive power of the full Congress. Any authority of the Chief Executive to dispose of U.S. territory, therefore, must first be derived from authority given by an act of Congress.

In light of these considerations, Mr. President, as in executive session, I am submitting today an amendment to the treaties which would require that they shall enter into force only after both Houses of Congress have enacted legislation authorizing the transfer of Canal Zone territory and property to the Republic of Panama.

Mr. President, this is an amendment which all Senators should eagerly support, whether they favor the treaties or oppose them, because it calls upon the Senate to debate the merits of the treaties in their proper constitutional context. It speaks not to our economic, political, or strategic interests, nor to the advantages or disadvantages of transferring the canal to the Panamanians, but to the higher law which must govern our proceedings.

It is true, of course, that I have been critical of these treaties; but I hope that my colleagues will resist the temptation to allow my personal views on the treaties to cloud their judgment on the need for adherence to the Constitution. What is more important than whether the treaties are approved or rejected is whether they are approved or rejected in the proper constitutional manner. I appeal not to the supporters of the treaties or to the opponents, but to all Senators who believe, as I do, that the Constitution must be obeyed, enforced, and, in fact reverenced.

Even if I favored these treaties in every respect, even if changes were to be made to make them acceptable, I would continue to insist that article IV of the Constitution be followed. For there is more at stake here than the Panama Canal. There is our Constitution to consider, our separation of powers, and our commitment to limiting the growth of Executive power. I would hope that past experience has made it clear to every Member of this body that any President, be he Republican or Democrat, will be tempted to reach beyond the constitutional limits of his office if we neglect our responsibilities to check his advances.

Already we observe that a succession of Presidents have skirted the Constitution in order to get the treaties before the Senate. The Kissinger-Tack agreement, setting forth the general principles of agreement, was never submitted to the Senate for discussion and debate. Congress has never passed any legislation authorizing any new agreements or treaties with Panama; and because of our failure to insist that the Executive first receive authority to enter into the negotiations which produced these treaties, Presidents have labored at their self-appointed task in total disregard of the wishes of Congress and the American people. At no stage of the proceedings, in fact, has the Senate participated in these negotiations, or been given an opportunity to give its advice and consent. To be sure, the Executive has bypassed the Senate, just as it is now seeking to bypass the House.

Mr. President, even the Senate's confirmation process has been avoided by the acquiescence of the Senate in the interim appointment of Sol Linowitz, one of the chief negotiators of the treaties. Where does this abuse of Presidential power stop? At what point does the Senate tell the Executive: "You shall go no farther." I submit, Mr. President, that our last opportunity to confine the office of the President to its proper constitutional limits is embodied in the amendment to the treaties that I am submitting today.

There are a few skeptics, I would imagine, who will argue that the Senator from Utah is wrapping himself in the Constitution in order to defeat the treaties and embarrass the President, because he believes that the House of Representatives will never agree to the transfer of the canal. This would be a convenient excuse for opposing my amendment, but it begs the question. In the first place, we are bound by our oaths of office to uphold the Constitution, not the Executive, and, I believe no one who knows my values and deep sincerity would ascribe improper motives to me in this regard. I have not been motivated to propose this amendment by the thought that its acceptance will defeat the treaties, because I don't know that it will. Indeed, I have no way of knowing whether the House of Representatives would favor the transfer of property or oppose it. I only know that we have a constitutional duty to perform, and that if we do not perform it these treaties will come back to haunt us for years to come. Not only will the legality of the treaties always remain in doubt, but other Presidents will use the treaties as a convenient precedent to bypass the legislative process in future international agreements involving territorial transfers.

Mr. President, I urge every Senator to study carefully the testimony of all of the legal experts who have appeared before the congressional committees regarding the constitutionality of these treaties, and to weigh it objectively against the claims of the President's spokesmen; for I firmly believe that any Senator who does this will come to the fair and honest conclusion that the proposed treaties with Panama are unconstitutional unless both Houses of Congress enact implementing legislation authorizing the transfer of canal territory.

Mr. President, I ask unanimous consent that the amendment I have submitted, together with the testimony of Raoul Berger before the House Committee on Merchant Marine and Fisheries, be printed in the RECORD.

There being no objection, the amendment and statement were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 16

In paragraph 1 of article I, after "Upon its entry into force," insert "subject to the enactment of the implementing legislation referred to in paragraph 5,".

In the first sentence of paragraph 2 of article I, after "related agreements," insert "and subject to the enactment of the implementing legislation referred to in paragraph 5,".

At the end of article I, add the following: "5. For all purposes of this Treaty, the two Parties undertake to enact, in accordance with their respective constitutional processes, the legislation necessary to implement the provisions of this treaty, including the legislation necessary to exercise the power of the Congress of the United States of America under article IV, section 3, clause 2 of the Constitution of the United States of America, relating to the disposal of territory or other property belonging to the United States of America.".

In the first sentence of paragraph 1 of article III, after "as territorial sovereign," insert "but subject to the enactment of the implementing legislation referred to in Article I,".

In paragraph 10 of article III, after "Upon entry into force of this Treaty," insert "subject to the enactment of the implementing legislation referred to in Article I.".

In the first sentence of paragraph I of article XI, after "The Republic of Panama shall" insert a comma and the following: "subject to the enactment of the implementing legislation referred to in Article I,".

In the second sentence of paragraph 1 of article XI, after "upon the date this Treaty enters into force," insert "subject to the enactment of the implementing legislation referred to in Article I,".

In paragraph 1 of article XIII, after "Upon termination of this Treaty," insert "and subject to the enactment of the implementing legislation referred to in Article I,".

STATEMENT BY RAOUL BERGER

You have invited me to comment on the relation between the Article IV, § 3(2) power of Congress to dispose of property of the United States and the treaty power. Although I am in favor of the Panama Canal Treaty, I share your solicitude for the preservation of constitutional boundaries and your concern lest the function committed to Congress be diminished. I have long held the conviction that all agents of the United States, be they Justices, members of Congress, or the President, must respect those boundaries. No agent of the people may overleap the bounds of delegated power, or encroach on power granted to another. That is the essence of constitutional government and of our democratic system.

The effect of these hearings ranges beyond the Panama Treaty, for the Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. For it needs constantly to be remembered that a succession of Presidents have circumvented Senate participation in treaties of gravest import to Executive Agreements. Acquiescence in such claims spells progressive attrition of Congressional powers. Your insistence on respect for constitutional boundaries will warn the Executive against encroachments on the powers of Congress; it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the House as well as the Senate.

The President, "by and with the advice and consent of the Senate", may make treaties. But Article IV, § 3(2) provides that "the Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." How are the two provisions to be accommodated? For present purposes the question whether the United States has "sovereignty" over the Panama Canal need not detain us because, in my judgment, the grant of "use and occupation . . . in perpetuity" constitutes "property" no less than the familiar lease of realty for 99 years. Then there are the installations that cost billions of dollars. Disposition of these no less requires the consent of Congress than does that of territory. In 1942, the President, by Executive Agreement, promised to return certain installations to Panama subject, however, to Congressional approval.[1] A similar provision is to be found in the Treaty of 1955.[2] These executive constructions are confirmed by established canons of interpretation.

First, there is the settled rule that "where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates."[3]

In other words, "a broad statutory provision will not apply to a matter specifically dealt with in another part of the same act."[4] Restated in terms of the present issue, the specific power of disposition, in which the House of Representatives must concur, governs the general provision authorizing the President and Senate to make treaties.

Second, there is the canon that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode."[5] The grant of the disposition power to Congress, in other words, excludes its exercise by Senate and President. The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, in which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behaviour, because the Constitution has declared [only] one office to be held by this tenure."[6] Under these rules it is of no moment that Article IV contains no express exclusion of "concurrent jurisdiction" under the treaty power. Having given Congress the power to dispose of public property, it follows that the President and Senate were impliedly excluded therefrom. Although this particular exclusion was not before the Court, it tacitly ratified the application of the foregoing rules of construction when it stated that Article IV *"implies an exclusion of all other authority* over the property which could interfere with this right . . ."[7]

Attorney General Griffin B. Bell conceded in his statement before the Senate Foreign Relations Committee, September 25, 1977 (hereafter cited as A.G.), that "the specific powers granted to the House of Representatives and Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriations power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings."

A.G. 4–5. Now Sections 9 and 7 are couched in quite dissimilar terms. Section 9(7) is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriations made by law. . . ." Section 7(1), however, merely provides that "All bills for raising revenue shall originate in the House." Yet the Attorney General reads § 7(1) to preclude the President and Senate from "bypass[ing] the power of Congress and in particular of the House of Representatives over the pursestrings." What is there that distinguishes "All bills . . . shall originate in the House" from the Congress shall have power to dispose . . ."? The impalpability of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes."[8] Nothing in the Article I, § 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose."

If the President may not by treaty "bypass" the power of the House to originate revenue-raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the property of the United States.

In their testimony before the Congress, Herbert J. Hansell, Legal Advisor, Department of State,[9] and Ralph E. Erickson, Deputy Assistant Attorney General,[10] cited a string of cases in support of "The power to dispose of public land . . . by treaty."[11] For the most part they fall under boundary treaties or treaties with Indian tribes which, as will appear, turn on circumstances peculiar to themselves. Preliminarily consider Hansell's citation of *Missouri* v. *Holland*, 252 U.S. 416 (1920). It arose out of a State challenge to the treaty with Great Britain for the protection of migratory birds which annually traversed parts of the United States and Canada. Justice Holmes, addressing the argument that the treaty infringed powers reserved to the States by the Tenth Amendment, stated:

"Wild birds are not in the possession of any one, and possession is the beginning of ownership. The whole foundation of the States' rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State, and in a week a thousand miles away."[12]

Consequently, the State could assert no "title" in migratory birds. By the same token, the United States also could not lay claim to "ownership" of the birds, and *Missouri* v. *Holland* is therefore wholly irrelevant to the power by treaty to dispose of property belonging to the United States.

The Indian treaty cases constitute one of the pillars of the argument for "concurrent power"; and Attorney General Griffin B. Bell referred to them as "a substantial body of Supreme Court decisions dealing with Indian tribes which holds that a treaty may dispose of property belonging to the United States without implementing legislation under Article IV, section 3, clause 2"[13]

To begin with *Jones* v. *Meehan*, 175 U.S. 1 (1899), both Hansell and Erickson quote, "It is well settled that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States."[14] This was because the treaty merely *reserved* certain individual tracts from the cession to the United States. It "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres" for an individual Indian, and the issue was what kind of title did he take. The Court quoted from an opinion of Attorney General Taney, destined before long to succeed Chief Justice Marshall:

"These reservations are *excepted* out of the grant made by the treaty, and *did not therefore pass with it*; consequently the *title remains as it was* before the treaty; that is to say, the lands reserved are still held under the original Indian Title."[15]

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of complete title in fee simple."[16] That explanation presumably responded to the fact that tribal lands were generally held in common; individual titles were all but unknown, so that such title had to be secured to an individual through the machinery of the treaty. But that is far from a disposition of government land because, as Taney explained, the "reserved" title remained in the Indians. Many, if not most, of the Indian treaty cases involve just such "reserve" provisions.

We might dismiss *Holden* v. *Joy*, 84 U.S. 211 (1872) because, as Attorney General Bell noted, "The Court conceded that the question was immaterial in the case at bar because Congress had actually implemented and ratified that particular treaty." A.G. 9. Nevertheless, the Court, in what he terms a "strong dictum", stated that "there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an Act of Congress conferring it. . ."[17] I was at pains to study each of the cases cited by the Court for this assertion, and abstracted them in an appendix attached to my statement before the Senate Subcommittee on Separation of Powers. There you may see for yourself that half of the cases thus cited are entirely irrelevant, and that the rest concern "reserves" under which, as Taney observed, no title had passed to the United States but remained in the given Indian. In considering such dicta, it is well to bear in mind Chief Justice Taney's statement that the Court's "opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should thereafter depend altogether on the force of the reasoning by which it is supported."[18]

By that standard the *Holden* dictum is no authority at all.

As to other treaties, Hansell tells us, "the precedents supporting the power to dispose of property by treaty alone can be found in the boundary treaties with neighboring powers,

Footnotes at end of article.

especially in the treaties between the United States and Great Britain in 1842 and 1846 for the location of our northeast and northwest boundaries. . . ." [19] Settlements of boundary disputes are not really cessions of United States property. The Oregon boundary dispute proceeded from an extravagant claim: "Fifty-Four Forty or Fight"; the British, on the other hand, claimed land down to the forty-second parallel. Only when the dispute was settled by negotiation at 49 degrees could either party confidently assert that it had title. As a respected commentator, Samuel Crandall, observed, "a treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition." [20]

Among other examples of alleged treaty transfers of property, Hansell instances the return to Japan of the Ryukyu Islands.[21] By Article III of the 1951 Treaty of Peace with Japan, the United States received the right to exercise "all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of those islands . . ." While Japan renounced in Article II "all right, title and claim" to various territories, it made no similar renunciation with respect to the Ryukyus.[22] Quoting the Legal Advisor of the State Department, that "sovereignty over the Ryukyu Islands . . . remains in Japan," a District Court stated that sovereignty over a territory may be transferred by an agreement of cession," but it concluded that there had been no cession.[23] The Fourth Circuit Court of Appeals quoted a statement by Ambassador John Foster Dulles, a delegate to the Japanese Peace Conference, that the aim was "to permit Japan to retain residual sovereignty," and it held that the treaty did not make "the island a part of the United States, and it remains a foreign country for purposes of" the Federal Tort Claims Act.[24]

In sum, Messrs. Hansell and Erickson have failed to make out a case for the President's "concurrent jurisdiction" with Congress in the disposition of United States property.

It remains to consider the arguments advanced by Attorney General Bell before the Senate Foreign Relations Committee. He cited *United States* v. *Percheman*, 32 U.S. (7 Pet.) 51, 88–89 (1833) to prove that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory." A.G.10. At the cited page it appears that Article 8 of the treaty provided, "all the grants of land made before the 24th of January, 1818, by his Catholic Majesty . . . in said territory ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands. . . ."

This article, Chief Justice Marshall held, "must be intended to stipulate for that security of private property which the laws and usages of nations would, without express stipulation, have conferred."

In other words, the treaty provided that prior Spanish grants to *private* persons should be ratified and confirmed, a provision far removed from presidential "regulation" of *public* territory. Such regulation is confined to Congress, as *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253, 314–315 (1829) held with respect to the self-same provision: "the ratification and confirmation which are promised must be by the Act of the Legislature," i.e., Congress.

REMARKS IN THE LEGISLATIVE HISTORY OF THE TREATY POWER

Before discussing the legislative history adduced by the Attorney General, permit me a few words of explanation and apology. When his statement before the Senate Committee reached me late of a Saturday afternoon, as appears in my own Senate statement, I had only about two days to prepare my comments before having them typed and forwarded to the Senate Committee. Pressure of time conduces to oversights, and I was mistaken respecting a time sequence, and in following the Attorney General's erroneous identification of a motion made by Williamson and Spaight with one he attributed to Sherman and Morris. Leisure for reflection and further research has since enabled me to correct such inaccuracies and to sharpen my analysis. And it has strengthened my conviction that the treaty power was not designed to diminish the Article IV power of Congress.

For the most part the Attorney General's citations have reference to settlement of boundary disputes by treaties of peace which, as we have seen, do not involve cessions. He begins with a remark of George Mason in the Constitutional Convention, an *in terrorem* statement during a debate on whether the Senate could share in originating revenue-raising bills. Speaking for exclusion of the Senate, Mason stated that the Senate "could already sell the whole country by means of treaties," and then toned down this extravagant overstatement to that quoted by the Attorney General: "the Senate by means of a treaty might alienate territory, etc., without legislative sanction." A.G.6, 2 Farrand 297, Mason spoke *before* the Article IV progenitor was even proposed and referred to the Committee on Detail, 2 Farrand 321, 324, and of course before the resultant "disposition" provision was debated, id. 466. Manifestly his earlier remark hardly expressed the view that the treaty power overrode the as yet unborn "power to dispose."

The Attorney General's other citations will be considered seriatim.

(1) The remarks of Gerry, and of Williamson and Spaight, cited A.G.6, were made after Madison's motion to "except treaties of peace" from the two-thirds vote requirement had been agreed to by unanimous consent. 2 Farrand 540. Gerry protested "that in treaties of peace a greater rather than a lesser proportion of votes was necessary than in other treaties. In treaties of peace the dearest interests will be at stake, as the fisheries, territory, etc. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed, than on any other occasions."

Id. 541. The "extremities" patently refer to boundary disputes. Notwithstanding, Madison's "exception" was again approved by a vote of 8 to 3. Now Williamson and Spaight took up the opposition and "moved that no Treaty of Peace affecting territorial rights should be made without the concurrence of two thirds of the [members of the Senate present.]" id. 543.[25] In short, they sought to exclude treaties of peace "affecting territorial rights" from the Madison "exception." A note added to Madison's records recites that "The subject was then debated, but the motion does not appear to have been made." 4 Farrand 58. On the following day, Sherman and Morris spoke "against leaving the rights, *established* by the Treaty of Peace, to the Senate, & moved to annex a 'proviso that no such rights shd be *ceded* without the sanction of the Legislature,' ", id. 548,[26] a clear reference to boundary disputes. The matter was resolved by striking Madison's exception. 2 Farrand 548–549. Throughout all that was under discussion was the performance of the Senate's own "advice and consent" function, without a hint of desire to curtail the House function under Article IV. The Convention's overnight reversal of its approval of Madison's motion testifies how fluid were its views in this area, arguing against giving the remarks of Gerry et al preponderant weight.

(2) Of the same order is a letter by Hugh Williamson, a delegate to the Convention, written to Madison some nine months after its close, to recall to him "a Proviso in the new System which was inserted for the express purpose of preventing a majority of the Senate . . . from giving up the Mississippi. It is provided that two-thirds of the members present in the Senate shall be required in making treaties."

A.G. 7–8; 3 Farrand 306–307. As the Attorney General's fuller quotation shows, Williamson feared that General Wilkinson might be led to give up "the Navigation of the Mississippi," and recalled that "the Navigation of the Mississippi . . . was not to be risqued in the Hands of a meer Majority." A *cession* of territory was not therefore involved, but rather claims to rights of navigation. At best, the Mississippi issue was a boundary claim finally settled by the Louisiana Purchase. Nor was that issue the sole motivation for insistence on a two-thirds requirement. George Mason explained in the Virginia Ratification Convention that because of their concern about the Newfoundland fisheries, "The eastern states therefore agreed a length, that treaties should require the consent of two-thirds of the members present in the Senate." 3 Farrand 335. Such diverse motives counsel against reading the several "two-thirds" remarks as evidencing an intent to diminish the role of the House under Article IV. It was one thing to insist that the Senate, in the performance of its own function, must act by a two-thirds vote, and something else again to court the wrath of the democratically minded, who placed their faith in the House and were already disgruntled by the exclusion of the House from the negotiation and making of treaties, by further reducing the role of the House under Article IV.

(3) The Attorney General also cites an amendment proposed by the Virginia Convention as exhibiting the awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States":

"No commercial treaty shall be ratified without the concurrence of the members of the Senate (not merely of those present]; and no treaty ceding, contracting . . . the territorial rights or claims of the United States . . . shall be made, but in cases of extreme necessity; nor shall *any* treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively." (Emphasis added.)

A.G. 7; 3 Elliot, Debates on the Federal Constitution 600. From this attempt to bring the House into treaty ratification the Attorney General would infer that it could be excluded from the Article IV "disposition" of territory. It is simpler to read it as a renewal of the struggle for House participation in treaty-making. In any event, he proves too much. The Virginia Convention likewise recommended "That the legislative, executive and judicial powers should be separate and distinct," that the right to challenge jurors should not be restrained. 3 Elliot 657-658.[27] Do these proposals prove that the separation of powers therefore is not a fundamental principle of the Constitution, or that it does not guarantee the rights to challenge jurors? When *implicit* rights are not thus negatived, how much stronger is the case for giving effect to the *express* Article IV grant to Congress despite such proposals. Like the earlier remarks, the Virginia amendment testifies to the importance the Founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and suggests, as in the proposal to spell out the right of challenge, that the Virginians were merely seeking to make assurance doubly sure.

Our guide is furnished by *Pierson* v. *Ray*, 386 U.S. 547, 554–555 (1967). There the Court declared with respect to the common law immunity of judges from suit for acts performed in their official capacity:

"We do not believe that this settled principles was abolished by §1983, which makes liable 'every person' who under color of law deprives another of his civil rights . . . we presume that Congress would have speci-

Footnotes at end of article.

fically so provided had it wished to abolish the doctrine."

Thus the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equivocal treaty-making power demands an even more exacting standard. Before it be concluded that it in any way diminishes the explicit grant to Congress of "power to dispose" of territory and property, a clearly expressed intention to do so should be required. That requirement is not satisfied by the random remarks collected by the Attorney General.

In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

FOOTNOTES

[1] Agreement of May 18, 1942, 59 Stat. (Pt. 2) 1289: "When the authority of Congress . . . shall have been obtained therefore. . . ."

[2] Agreement of January 25, 1955, 6 U.S.T. 2273, 2278.

[3] Swiss Nat. Ins. Co. v. Miller, 289 Fed. 570, 574 (App. D.C. 1923) emphasis added; Ginsberg & Son v. Popkin, 285 U.S. 204, 208 (1932). We should "prefer a construction which leaves to each element of the statute a function in some way different from the others" to one which causes one section to overlap with another. United States v. Dinerstein, 362 F.2d 852, 855–856 (2d Cir. 1966).

[4] Le Page v. United States, 146 F.2d 536, 538 (8th Cir. 1945).

[5] Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929); T.I.M.E. v. United States, 359 U.S. 464, 471 (1959): "we find it impossible to impute to Congress an intention to give such a right to shippers under the Motor Carrier Act when the very sections which established that right in Part I (for railroads) were wholly omitted in the Motor Carrier Act."

[6] 1 Annals of Song. 505 (2d ed. 1836; print bearing running head "History of Congress"); see also Alexander White, id. 517. So too, John Dickinson stated in the Constitutional Convention that "the terms 'ex post facto' related to criminal cases only: that they would not consequently restrain the States from retrospective laws in civil cases. . . ." 2 Farrand 448–449.

[7] Wisconsin Cent. R.R. Co. v. Price County, 133 U.S. 496, 504 (1890) emphasis added; Sioux Tribe of Indians v. United States, 316 U.S. 317, 326 (1942); see also Swiss Nat. Ins. Co. v. Miles, 289 Fed. 571, 574 (App. D.C. 1923).

[8] Hearings on the Panama Canal Treaty before the Senate Committee on Separation of Powers (95th Cong., 1st Sess.), Part II, p. 25 (July 29, 1977), hereafter cited as Hansell.

[9] Supra, note 8.

[10] Hearings before the House Subcommittee on the Panama Canal on "Treaties Affecting the Operations of the Panama Canal," (92nd Cong., 2d Sess.) p. 95 (December 2, 1971) hereafter cited as Erickson.

[11] Hansell 5; Erickson 97.

[12] 252 U.S. at 434.

[13] A.G. 9.

[14] Hansell 6; Erickson 97.

[15] 175 U.S. at 12, emphasis added.

[16] Id. 21.

[17] Quoted A.G. 9; 84 U.S. at 247.

[18] The Passenger Cases, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

[19] Hansell 6.

[20] S. Crandall, Treaties, Their Making and Enforcement 226 (2d ed. 1916).

[21] Hansell 6.

[22] 3 U.S.T. 3169, 3172, 3173.

[23] United States v. Ushi Shiroma, 123 F. Supp. 145, 149, 148 (D. Hawaii, 1954).

[24] Burna v. United States, 240 F.2d 720, 721 (4th Cir. 1957).

[25] The Attorney General mistakenly attributes a more complete version of this motion to Sherman and Morris, A.G. 6–7, citing 4 Farrand 58. That page merely sets forth an insertion to be made in 3 Farrand 543, which contains only the "motion" of Williamson and Spaight.

[26] Emphasis added.

[27] "That in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury." 3 Elliot 657–658. The Virginia Convention had been assured by John Marshall, Edmund Pendleton and Governor Randolph that the words "trial by jury" embraced all its attributes, such as the right to challenge jurors. 3 Elliot 559,546, 547, 436, 573.

AMENDMENT NO. 17

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HOLLINGS (for himself, Mr. ANDERSON, Mr. EAGLETON, Mr. GOLDWATER, Mr. NUNN, and Mr. STAFFORD) submitted an amendment intended to be proposed by them, jointly, to executive N, 95–1, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

Mr. HOLLINGS. Mr. President, on October 17, 1977, I proposed amendments to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal. My primary goal was to assure that the rights of the United States: First, to act militarily even after the year 2000 to protect the freedom of transit of the canal; and second, to enjoy "head-of-the-line" priority passage for our vessels of war and auxiliary vessels in time of emergency or need, were written into the actual text of the treaty. That way, there could be no future reason for doubt or confusion as to what was intended by the negotiators.

When I submitted those amendments, I included a third, and rather technical, amendment. In the interest of addressing the more major concerns of the two amendments I have just mentioned, and with the agreement of my cosponsors, I am asking for a reprint of my amendments with the third one deleted and the minor changes noted herein.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 17

At the end of article IV, add the following: "Panama and the United States assume the responsibility to assure that the Panama Canal will remain open and secure for ships for all nations. The United States and Panama shall, each in accordance with its respective constitutional processes, defend the Canal against any threat to the regime of neutrality and each shall have the right unilaterally or collectively to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal. This shall not be interpreted as a right of intervention in the internal affairs of Panama but as a right of the United States to take such action, military or otherwise, for the sole purpose of insuring that the Canal will remain open, secure and accessible. Such right shall never be exercised against or directed against the territorial integrity or political independence of Panama.

Amend paragraph 1 of Article VI to read as follows:

1. (a) In recognition of the important contributions of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the Canal, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this Treaty, be entitled to transit the Canal irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried.

(b) The vessels of war and auxiliary vessels of the United States and of Panama will be entitled to transit the Canal expeditiously. This is intended and it shall be so interpreted, to assure the transit of such vessels through the Canal as quickly as possible without any impediment, with expedited treatment, and in case of need or emergency as determined by either party, to go to the head of the line of vessels in order to transit the Canal rapidly.

NOTICES OF HEARINGS

SUBCOMMITTEE OF PARKS AND RECREATION

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a hearing before the Subcommittee on Parks and Recreation of the Senate Energy and Natural Resources Committee.

The hearing is scheduled for February 3, 1978, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony will be received from the Department of the Interior on S. 1829, a bill to establish the Jean Lafitte National Historic Park.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams of the subcommittee staff at 224–7145.

DIPLOMATIC IMMUNITY

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations will hold a hearing on Tuesday, February 21, at 10 a.m. in room 4221 of the Dirksen Senate Office Building on three bills regarding diplomatic immunity, H.R. 7819, S. 1256, and S. 1257.

Any person wishing to testify should advise the chief clerk of the Committee on Foreign Relations, Abner Kendrick.

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

Mr. CRANSTON. Mr. President, for the information of my colleagues and the public I am pleased to announce the February and March hearing schedule of the Subcommittee on Child and Human Development which I am honored to chair on the Committee on Human Resources. Our schedule is a busy one and includes hearings on the reauthorization of three legislative items as well as hearings on various new initiatives and oversight matters.

Mr. President, I ask unanimous consent that the subcommittee hearing schedule be printed in the RECORD.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

Feb. 2–3—Joint Hearing with the House Subcommittee on Select Education of the Committee on Education and Labor White House Conference on Families/Carnegie Council on Children, 9:30 am–12:30 pm.

Feb. 8—Child Care and Child Development Programs, 9:30 am–12:30 pm.

Feb. 9—ACTION Agency, 7:00 am–11:00 am.

Feb. 20—Child Care and Child Development Programs, 6:00 pm–9:00 pm.

Feb. 22—Family Planning/Population Research 9:30 am–12:30 pm.

Feb. 23—Family Planning/Population Research, 7:00 pm–10:30 pm.

March 1—Sudden Infant Death Syndrome, 7:00 pm–10:30 pm.

March 8—Family Violence, 9:30 am–1:00 pm.

March 13—Youth Camp Safety, 7:00 pm–10:30 pm.

SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE

Mr. HATHAWAY. Mr. President, the hearing of the Subcommittee on Alcoholism and Drug Abuse to be held on January 31, in room 4232, will begin at 9:30 a.m., instead of 10 a.m., as was previously announced in the CONGRESSIONAL RECORD on January 19, 1978.

This hearing will deal with the potential need for placing a warning label on alcoholic beverage containers, with particular attention to the potential health dangers to pregnant women.

ANTARCTIC CONSULTATIVE GROUP

Mr. PELL. Mr. President, the Antarctic Treaty is considered a landmark of international cooperation. It bans the emplacement of weapons and military activities in the continent, and requires the free exchange of all scientific information concerning the treaty area. In effect, it has reserved Antarctica and its surrounding waters for the dual purpose of scientific research and environmental preservation since 1961.

At that time the issue of resource exploitation and territorial sovereignty were deferred. The sovereignty question has been a particularly difficult and divisive issue. Of the 12 nations that originally signed the treaty, 7—Australia, Argentina, Chile, France, New Zealand, Norway, and the United Kingdom—have made some form of territorial claims. Three of these claims—Chile, Argentina, and Great Britain—overlap. The United States has made no claims and does not recognize those of any other nation.

During the period of February 27 to March 15, 1978, a special meeting of the Antarctic consultative group will convene in Canberra, Australia. The purpose of this meeting will be the negotiation of a draft treaty authorizing the commercial exploitation of Antarctic marine living resources.

At this point in time, it is still unclear to the general public and, I suspect, to the Congress exactly what the U.S. position is with respect to these negotiations. I am, also, curious as to how an environmentally sound conservation treaty can be negotiated at this time without having an adverse effect on the Antarctic Treaty or without reviving the controversial claims issue.

In an attempt to answer these questions and in an exercise of its legitimate oversight responsibilities, the Subcommittee on Arms Control, Oceans, and International Environment of the Committee on Foreign Relations will be conducting a hearing on February 6, 1978, at 11 a.m. in room 4221 of the Dirksen Senate Office Building on the overall U.S. policy with respect to the expoitatio of antarctic resources.

ADDITONAL STATEMENTS

THE BUDGET

ECONOMIC OUTLOOK

Mr. DOLE. Mr. President, the administration has submitted to the Congress a recordbreaking budget of over $500 billion. The budget for fiscal year 1979 is $40 billion more than that adopted for fiscal year 1978. The deficit in the submitted budget is projected to be over $60 billion, but is likely to go much higher.

Mr. President, the Federal budget is predicated on a number of economic assumptions, many of which I believe are too optimistic. For example, the budget assumes that the Congress will pass tax increases in the guise of tax reform, enact controversial hospital cost containment legislation, and the budget assumes favorable weather and market prices which many unrealistically reduce agriculture price supports by $3 billion from fiscal year 1978.

BLANK CHECK AUTHORITY

Many of the budget proposals submitted are fuzzy and based on the Congress giving a blank check authority to the President. The President has increased the budget authority for many areas—urban policy, education, and health—yet the major underlying policy decisions in these areas have not been resolved.

Over the weekend, the administration unveiled its tax reform package. The administration would cut taxes by a net of $17 billion for individuals, and roughly $5.1 billion for business. The Senator from Kansas believes that it is not necessarily the size of the cuts that are important, but the segment to which the cuts are directed. Most economists agree that in order to spur capital formation and business expansion it will be necessary to direct more tax reduction to business.

Mr. President, the Council of Economic Advisors Chairman, Charles Schultz, believes that business spending for new plants and equipment must rise over 9 percent in each of the next 2 years to keep our economy growing. However, the Department of Commerce indicates that a meager 4.5 percent rise is likely this year. Other economists believe that unless current policies are changed, fixed capital expenditure will be nearer to 3 percent.

INFLATION

The administration has failed to adequately address the issues of inflation and its compounding effects. The suggested program of voluntary wage and price restraints will largely be ineffective. Inflation in the fourth quarter rose to an annual rate of 6.2 percent, which is much higher than the rate set in the last year of the Ford administration. The pledge made last April of a 4-percent inflation rate by 1979 is now a mirage. Instead, the administration is content to attempt to reduce inflation by only one-half percent per year. However, the newly enacted social security tax increase, the 45-percent increase in minimum wage and the proposed energy taxes make even this puny goal unlikely. Painful as it is, inflation ultimately produces higher unemployment.

UNEMPLOYMENT

The recent drop in unemployment to 6.4 percent is welcomed. While the President appears to favor the encouragement of jobs in the private sector, unless the Congress acts, the budget indicates that the $2.4 billion employment tax credit program will be allowed to expire. This should be an alarming development to minority and young Americans whose unemployment ranges as high as 40 percent. The jobs tax credit can be targeted to depressed areas and populations to encourage more jobs for the money.

ACREAGE LIMITATIONS, FAMILY FARMS, AND RURAL LIFE

Mr. ABOUREZK. Mr. President, one of the most important documents ever written on family farming was a study of two California farm towns by Prof. Walter Goldschmidt. Professor Goldschmidt compared one town whose farm economy was dominated by large corporate farms with a town surrounded by small farmily farms. The study was done for the Government to assess the impact of reclamation law on California's Central Valley. The results were dramatic: life in the family farm town was decidedly better. Unfortunately, politics prevented Dr. Goldschmidt from extending his study to other areas. Our own experiences confirm his results, however. Dr. Goldschmidt, now one of the Nation's most respected scholars, has recently written an editorial for the Los Angeles Times explaining why he still believes that family farms create a better rural life for everyone. He has written this to support acreage limitation policies in reclamation law. Many Members of this body are arguing that the limitation should be removed, that farms should be allowed to grow to factory sizes. Dr. Goldschmidt's sensible article makes it very clear why such a policy would be a disaster for rural America.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Dec. 4, 1977]

THE 160-ACRE LIMITATION: IT IS GOOD FOR FARMERS—AND THE NATION

(By Walter Goldschmidt)

"What difference does it make to rural and local community life if farms are large-scale operations or family-sized units?"

That was the question I was asked in 1944 when my employer, the U.S. Department of Agriculture, commissioned me to determine what impact, if any, the limiting of farms to specific acreages would have on rural communities. The question, which may be as old as this century, is paritcularly relevant today in light of the Interior Department's current proposals to enforce the 1902 Reclamation Act that puts a 160-acre limit on all farms receiving federally controlled irrigation water.

My research into the question eventually led me to conclude that, among other things, large corporate farms suppress business opportunity in nearby towns. Again, this evidence, determined in the 1940s, has considerable significance today as the owners of corporate and family-sized farms prepare to

battle the 75-year-old law that threatens to break up their land.

In many early irrigation projects, farmers who owned more than 160 acres and who signed up to receive federal water were required to sell all land in excess of the prescribed acreage. But the government failed to follow up on this provision of the Reclamation Act, and both individuals and corporations continue to own large tracts that receive federally subsidized irrigation water.

During the 1940s, an interagency research program sought to determine whether the acreage provision should apply to California's Central Valley region, which was to receive subsidized water. Called the Central Valley Project Studies, the research program was an investigation that nowadays would be labeled an "environmental-impact" study.

Using my background in anthropology and help from economists and sociologists, I devised a study in two phases to discover if the quality of community life becomes better or worse as the size of farms grows. The study's first phase was to be a detailed, in-depth investigation of two towns; the second phase was planed as a shorter survey of all the towns in the upper San Joaquin Valley.

The Central Valley towns chosen for the detailed study were Arvin, representative of corporate-dominated agriculture, and Dinuba, typical of a family farming community. The towns were selected because, while the sizes of their surrounding farms differed widely, they were identical in economic value of agricultural production and similar in population.

After a two-month study, my colleagues and I discovered that the small-farm town differed considerably from its corporate counterpart in that Dinuba, with its individually owned farms, had a strong local government, supported 20% more people at a higher average annual income and offered a better standard of living to its citizens than did Arvin. Compared to the corporate farm town, Dinuba also had:

Nearly twice as many local businesses and over 60% more retail trade.

Nearly three times as many independently employed breadwinners.

More social amenities, such as paved streets, sidewalks and garbage and sewage-disposal facilities.

Four elementary schools and a high school, compared to a single elementary school in Arvin.

Three public parks, compared to Arvin's one loaned playground.

Twice as many civic and social clubs, as well as churches and youth-oriented activities (which were almost totally lacking in the corporate farming town).

Two newspapers, each larger than the single weekly in Arvin.

Considering all these differences, the citizens of Dinuba, not surprisingly, generally viewed their town as a desirable place to live, while Arvin residents tended to regard their town as a place to escape as quickly as possible.

(Some of the differences between Dinuba and Arvin, by the way, may have vanished during the intervening 33 years, although a study made in 1970 revealed that many of them still existed. The contrasts and comparisons, at any rate, are no longer appropriate, since the desert around Arvin has been cultivated, thanks to the irrigation efforts of the Central Valley Project. Because of these efforts, the total value of production from the farms of Arvin has grown enormously. Irrigation also benefited Dinuba, but it has not grown as much because it is hemmed in by other towns.)

But long before the results of the study were known, our work became highly controversial. Shortly after our research began, Associated Farmers, an organization of large landholders and business interests, made daily radio broadcasts attacking us and our work, until finally the station manager insisted that we be given time for rebuttal. The Associated Farmers went to the local press, exerted pressure on members of the U.S. Congress and carried their case to the secretary of agriculture. The result: We were prevented from completing the second phase.

Though the study remained incomplete, we did gather statistics on the size of farms in each of the 25 towns of the upper San Joaquin Valley. The statistics revealed that as a farm grows in size, fewer people are supported per acre of land. Every businessman and politician should take note of that fact, for it means that large-scale farming stifles business opportunity—a fact clearly demonstrated in San Joaquin's Westlands area, where there are virtually no towns at all.

Moreover, in towns surrounded by family farms, the income earned in agriculture circulates among local business establishments. My colleagues and I found that there was three times more circulation of money in Dinuba than in Arvin. The reason was that, in corporate farm towns, the income is immediately drained off into larger cities to support distant, often foreign, enterprises.

As it happens, a community of family farms is also highly democratic and egalitarian. A town in which agriculture resides in the hands of only a few large landholders loses that quality. Such a town is comprised of a few wealthy citizens, a large sector of poor and dependent laborers and a very small middle class.

Using data from the U.S. Census in the '60s, sociologist T. Lynn Smith, examining the rural class structure of the nation, found an almost entirely middle-class population in the Midwest. In other areas, however—and he singled out Southern California's Imperial Valley as one example—Smith determined that the rural population consisted of a small upper class, a large laboring class and hardly anyone in between.

This kind of imbalance would seem to deny the purpose of America's origins. Thomas Jefferson and Daniel Webster, after all, were aware that an economic democracy created by a population of independent freeholders was essential to the formulation of political democracy.

Assuming that this principle applies to the present-day health of our democratic system, then considerations for the welfare of the nation as a whole far outweigh the so-called "rights" of a few growers or corporate farmers. They claim these rights because the government has failed for years to enforce its laws. But the fact is that such laws were adopted in the first place as part of an old and deep tradition that is the very bulwark of social and economic democracy in America.

UKRAINIAN INDEPENDENCE DAY AND HUMAN RIGHTS

Mr. CASE. Mr. President, I wish to congratulate all Americans of Ukrainian descent on the occasion of the 60th anniversary of the founding of the Ukrainian Republic. Unfortunately, the real independence of the Ukraine did not last long, for soon it was subjected to the growing might of the young Soviet Republic. It quickly became evident that the Ukrainian people were not to be given a chance to decide on the course of their own national development, and no open national elections have yet been held.

The Kremlin rulers have pursued an unswerving policy of Russification. After World War II, the Ukraine was shorn of its two major religious denominations: by order of the central government, the formerly independent Ukrainian Orthodox hierarchy was abolished and forcibly joined to the Russian Orthodox Church; the Ukrainian Catholic Church (or Uniate) was forbidden and is illegal to the present day. Even in Ukrainian universities, the use of the Ukrainian language has been discouraged.

Any manifestations of political dissent in the Ukraine have been the subject of particularly harsh repressions—in fact, today there are more Ukrainian political prisoners than any other nationality in Soviet prisons, labor camps, and psychiatric "hospitals." Brave men and women such as Valentyn Moroz, Semyon Gluzman, Grigori Vins, Irene Kalynetz, Yosyp Terelya, Mykola Plakhotnyuk, Zinovi Krasivsky, and many other uphold the true Ukrainian spirit.

As a member of the Commission on Security and Cooperation in Europe, I have heard much about the activities of the Ukrainian Group to Promote Observance with the Helsinki Accords. In the past, I have expressed my deep concern about the arrests, repressions against most members of this group and the long prison sentences meted out to Mykola Rudenko and Oleksiy Tykhy. Let us hope that in the coming trial of Matusevych and Marynovych the Soviet authorities will show some humanity. The recent arrest of Levko Lukanyenko on December 12, 1977, however, bodes ill for the fate of all the members of the Kiev Helsinki Group.

I commend the Americans of Ukrainian descent who are showing their solidarity with these brave people by involving themselves in their fates—by writing letters to them in prison or in psychiatric "clinics" and by protesting their sentences with the Soviet authorities. Ukrainians should be free to practice their religious, cultural, and political rights as they see fit—wherever they may be.

NEED FOR CONGRESSIONAL LEGAL COUNSEL REMAINS STRONG

Mr. ABOUREZK. Mr. President, it has become clear after 1 year of the Carter Presidency that the need for Congress to establish its own Office of Congressional Counsel to represent Congress in court has not diminished. On June 27, 1977, the Senate adopted—for the second time in as many years—a bill to establish an Office of Congressional Legal Counsel and I regret to say that the House has taken no action. It is time for Congress finally to wake up to the fact that litigation affecting congressional interests will not go away if Congress takes no steps to protect its interests. In fact, the converse is true. The less Congress acts vigorously to protect its constitutional rights in court, the more Congress further encourages litigants to attempt further to erode these rights. These facts are just as true when Congress and the executive branch are controlled by the same party. Congress needs its own counsel irrespective of the attitudes and policies of the executive branch.

The Senate proposal to establish a litigation office to defend Congress is in

title II of S. 555, the Public Officials Integrity Act of 1977. As Senator RIBICOFF explained during debate on S. 555:

It is a fact of life that controversies involving the constitutional powers of Congress are now more often before the courts. Just in the last few years, landmark decisions have been handed down by the courts defining the scope of the speech and debate clause of the Constitution, affecting the ability of Members of Congress to communicate with their constituents, and limiting the exercise of Congress' investigatory powers.

The Justice Department has traditionally represented Congress in the courts. However, in more and more cases the Justice Department's interest as lawyer for the executive branch conflicts with the interests of Congress. As an example, this very day, three Members of this body are testifying before a Federal court in Boston. They were forced to retain private counsel because, as a matter of principle, they felt they could not call upon the Justice Department for representation because the Department is a party in the case. Therefore, there is an urgent need for Congress to have its own legal counsel to handle this representational duty and to advise Congress and committees of Congress on such vital matters involving its powers, as well as subpenas, and grants of immunity. The Justice Department has recognized this need and has given its support to title II. 123 Cong. Rec. S10723 (June 27, 1977).

In addition to Senator RIBICOFF, Senator PERCY, Senator JAVITS, and our late colleague Senator Humphrey have long championed the need for Congress to have its own congressional legal counsel.

Senator Humphrey has championed this proposal for years. This last June he said:

I believe it is clearly established, and widely recognized, that Congress needs independent legal counsel to represent it in court proceedings. In addition to a growing volume of litigation involving Congress and its Members, there is frequent need for expert counsel and advice based on its own particular institutional and political needs.

Congressional litigation must be responsive to the priorities of this body and provide expertise on the legal issues that are unique to the legislative branch.

Earlier this year, I joined with other sponsors of this legislation in signing a letter to the Attorney General in which we pointed out the increasing litigation involving Congress. In many cases, the Department of Justice could not represent Congress because of the conflict of interest with its duty to represent the executive branch. In other cases, Congress felt its interests were better served by private counsel.

The Justice Department has recognized the validity of our arguments, and endorses the concept of a congressional legal counsel.

Because the House of Representatives had previously failed to agree to this concept. I proposed in the Modern Congress Act that the Senate create its own counsel to be redesignated as Congressional Counsel at such time as the House might pass comparable legislation.

Let me emphasize that I consider it far more efficient and desirable to establish a counsel to serve both Houses. In most cases, the basic issues at stake are similar, and the interests of both Houses are similar. (123 Cong. Rec. S. 17040 (June 27, 1977).)

Senator JAVITS also argued strongly for the need for this office. He said:

At present Congress has no in-house litigation counsel despite the fact that Congress has in recent years been involved in more than a hundred court cases—in most instances as a defendant. The Justice Department normally represents Congress in this litigation pursuant to 2 U.S.C. 118 or 28 U.S.C. 517–518. Increasingly, however, the Department has found itself unable to represent Congress due to a conflict of interest with its duty to represent the executive branch. In other cases Congress has deemed it advisable to retain private counsel notwithstanding offers from the Department to provide representation.

Aside from the instances where the Department does not represent Congress, there is a continuing need for a congressional counsel to advise congressional committees on a day-to-day basis on how to avoid or anticipate litigation, to advise Congress in responding to subpenas for congressional documents, to bring civil actions to enforce congressional subpenas, and to intervene or appear as amicus on behalf of Congress. In the last year alone Congress has retained private counsel to intervene or appear as amicus curiae on its behalf in four cases. None of these functions is—or should be—performed by the Department.

In essence, the Congress needs its own in-house counsel to provide professional representation for congressional interests in the same way the Department provides such representation the executive branch. Congressional litigation requires expertise on unique legal issues, entails wide-ranging consultations on the Hill, and has political ramifications to which congressional counsel must be sensitive. These factors make it inherently difficult for the Department to handle these cases. With the continuous advice of expert litigation counsel, both the executive branch and the public can expect that Congress will give more careful consideration to the litigation consequencies of its actions. (123 Cong. Rec. S. 10773 (June 27, 1977).)

More recently the American Bar Association Journal has printed an informative article which concludes that Congress needs to establish its own office to handle litigation in which Congress has an interest.

I ask unanimous consent that this article appear following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABOUREZK. As I have been arguing for several years now, it is absolutely clear that Congress must take control of litigation which affects its interests. There has been a reluctance on the part of some Members to establish this office because they do not believe Congress should seek to effectuate its will by becoming involved in litigation. This sentiment completely misconstrues the problem. What we are talking about here is Congress defending itself in litigation. It's very simple. If Congress is sued, Congress should defend itself. By not defending itself vigorously in the courts, Congress actually encourages the bringing of such suits against Congress. By defending itself Congress is not resorting to the courts to effectuate its will. It is making sure that the courts do not further restrict congressional power. As the report of the Governmental Affairs Committee states:

In each of these types of cases, the vital interests of Congress will be affected whether or not Congress chooses to advocate its position to the court. Because our judicial system relies on adverse parties to sharpen the issues in order for the court to make the best decision, it is essential that the courts have the opportunity to evaluate congressional interests based upon the vigorous and effective presentation of those interests to the court by an attorney representing the Congress. (Report at 8–9.)

If Congress intends to reassert its power as a coequal branch of Government, it must defend itself in court just as vigorously as it defends itself in the political arena.

I also hear arguments that there is not enough litigation to justify establishing an in-house office in Congress. Let me quote the committee report on this point:

In the last 6 years alone the Justice Department alone has defended members, officers, and committees of Congress in at least 70 cases. This total does not even include the 60 legal matters before the courts in which the Senate Watergate Committee became involved (Senate Report 93–981). Final Report of the Senate Select Committee at 1079 nor at least 10 other recent cases in which private counsel has been retained, nor numerous other legal proceedings in which subpenas for congressional documents have been issued. All told, Congress has been involved in no less than 200 legal proceedings in recent years. (Report at 10–11.)

The Counsel can also bring civil subpena enforcement actions under a new jurisdictional statute. The Counsel will be called upon to do this at least a half dozen times a year. These litigation responsibilities only begin to explain how busy the Counsel will be. The Counsel must also advise Congress and committees on investigative procedures, drafting of subpenas, witnesses rights, and other matters which involve considerations of potential litigation. I believe the most vivid explanation of the type of litigation which the Counsel must handle is contained in a statement which the committee invited the House Clerk to submit to the committee during consideration of this bill. I ask unanimous consent that a copy of the Clerk's statement also be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ABOUREZK. I want to emphasize that the committee estimates that the cost of setting up and running this office should be no greater than that which the Justice Department expends in representing Congress and which the Congress spends in hiring private counsel.

As I have mentioned, at present the Congress is represented by the Justice Department in most of the litigation brought against the Congress. The Justice Department supports both the constitutionality and the desirability of Congress establishing a Congressional Counsel Office. I believe the judgment of the Department—which is intimately familiar with the problem created by its representation of Congress—should be given great weight in any consideration of title II. Congress should heed the advice of its present lawyer when that lawyer advises Congress to retain new counsel.

Finally, I want to address the crucial remaining issue about the Counsel Office. That question is whether the House will agree to establishing one joint House-Senate office or insist on establishing its own separate office. I am well aware as one who has served in the House that many in the House are wary of establish-

ing joint House-Senate offices. In view of this attitude, title II is drafted to assure that the Counsel and the office are under the firm and continuous control of Congress and its leadership. The Counsel has no power to conduct studies or make recommendations. The Counsel cannot defend any member or committee unless at least one House adopts a resolution authorizing the Counsel to do so. This requirement is typical of the bill. The Counsel cannot be directed to bring a subpena enforcement action unless at least one House adopts a resolution authorizing the Counsel to do so. The Counsel cannot be directed to intervene or file an amicus brief on behalf of Congress unless at least one House adopts a resolution authorizing the Counsel to do so.

The Counsel cannot represent a Member of Congress in any type of legal proceeding simply on the request of that Member. This bill does not establish a free legal defense fund for Members in trouble with the law. The Counsel can never be authorized to defend a Member indicted for a crime even if one House adopts a resolution authorizing the Counsel to do so. The Counsel can only be directed to defend a Member if the requirements of section 204(a)(1) of the bill are satisfied. Section 204(a)(1) only applies to "civil" actions involving a Member's "official or representative capacity." Because the Counsel office is established by law, this limitation cannot be waived by adoption of a simple resolution in a particular case.

Finally, the bill specifically makes the Counsel accountable to a bipartisan joint leadership group. That group will exercise day to day supervision. I can guarantee every Member that the joint leadership will have no hesitancy to exercise firm control. Not only will the Counsel be subject to firm and continuous control, but neither House can dominate the Counsel. Each House has equal access to the Counsel's services. Neither House can interfere if the other House directs the Counsel to enter a given court proceeding. The joint leadership group is made up of an equal number of Members of each House. Both Houses must approve selection of the Counsel and both may remove the Counsel.

If there is any conflict between the demands being made by both Houses on the Counsel, the bill provides that the joint leadership group must resolve the conflict before the Counsel can represent either House. If only one House wishes to intervene in a court proceeding, it can intervene only in its own name—never in the name of the "Congress."

I ask unanimous consent that a copy of title II as it passed the Senate be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. ABOUREZK. Given these multiple protections against either body dominating the office, the House should agree to establishing a joint office with the Senate on grounds of economy alone. It will be very expensive and wasteful for two offices each to establish a set of research files, to develop expertise on a wide range of issues, and to pay top salary for two counsels and two deputies.

Establishing two offices is not only wasteful economically, however. An even more serious waste is the loss in coordinating House and Senate litigations strategies on common issues like protection of the vital constitutional protection of Congress under the speech and debate clause.

There is no disagreement between the House and Senate on the need for Congress to prevent encroachments of congressional powers and prerogatives.

Let me take a recent example, which illustrates the common agreement between the House and Senate on the need for Congress to defend its powers in court. As a general proposition, the Senate is less enthusiastic about the congressional veto than the House. However, when the constitutionality of the congressional veto was recently challenged in the Atkins and Ramsey Clark cases, the Senate was just as vigorous in defending the constitutionality of the congressional veto as the House. Recently, the Court of Claims upheld the constitutionality of the congressional veto in the Atkins case. This example demonstrates the common belief in the House and Senate that the Congress should never stand by and let courts infringe on the constitutional powers of Congress.

If the House establishes a separate counsel office, the advantage of Congress presenting a united front to those who challenge congressional powers will be lost. When one case involving a congressional power such as speech and debate clause immunity is pending against an officer of one House, arguments made in that case may have great significance to the defense of an employee of the other House pending at the same time. Whenever litigation challenges arise, Congress must formulate a long-range as well as a short-term litigation strategy. It is only possible to anticipate legal developments by following a coherent and unified strategy.

My conclusion from these facts is that for each House to have its own litigation office will be little better than relying on the executive branch to defend Congress. I have confidence that the House will understand the desirability of a joint office.

The history of the congressional counsel proposal in the last 2 years is somewhat complicated.

As chairman of the Subcommittee on Separation of Powers in the 94th Congress I chaired hearings on "Representation of Congress and Congressional Interests in Court." These hearings represent the most detailed analysis yet undertaken of the problems Congress has in obtaining adequate legal representation. The hearings run over 750 pages and include 120 exhibits, many of them never before made public.

In conjunction with the subcommittee hearings, I introduced S. 2731 on December 2, 1975, a bill to establish an Office of Congressional Legal Counsel to represent Congress in court. A copy of that bill is printed in the subcommittee hearings at pages 92–112. This bill was considered by the Senate Committee on Government Operations at its December 1975 hearings on S. 495 at which time I testified on title II. See Watergate Reorganization and Reform Act, at 119–123, 460–554. On the basis of the hearings of the Subcommittee on Separation of Powers and a statement submitted to the subcommittee by the Justice Department on the constitutionality of S. 2731 (hearings, at pages 87–91), I submitted an amendment in the nature of a substitute for S. 2731 on March 31, 1976. When S. 495 was reported to the floor by the Committee on Government Operations on May 12, 1976, the bulk of S. 2731 was substituted for its title II. See Senate Report 94–823, May 12, 1976.

When S. 495 was reported, I arranged for it to be rereferred to the Judiciary Committee—see 122 CONGRESSIONAL RECORD, page 13693, May 12, 1976. The Judiciary Committee was automatically discharged from its consideration of S. 495 when, due to a filibuster in committee, it failed to take action within the time period of the referral. In a June 22 letter to Senator RIBICOFF and Senator PERCY of the Government Operations Committee, a majority of the members of the Judiciary Committee announced that they would have voted to report S. 495 had they had the opportunity to do so—122 CONGRESSIONAL RECORD, pages 19959–19960, June 23, 1976.

When S. 495 came up for debate in the Senate on July 1, I made a long and detailed statement on the need for an Office of Congressional Legal Counsel. See 122 CONGRESSIONAL RECORD, pages 22792–22799, July 20, 1976.

S. 495, with title II intact except for a few clarifying amendments, was adopted by the Senate on July 21, 1976, by the resounding vote of 91 to 5. See 122 CONGRESSIONAL RECORD, page 23075 (July 21, 1976). The House was unable to take action in the short period of time left in the 94th Congress.

When the bill was reintroduced as S. 555 on February 1, 1977, I made a long detailed statement on title II, including a description of certain changes I had made during the winter. See 123 CONGRESSIONAL RECORD, pages 2961–2982, February 1, 1977. I testified on title II at the Governmental Affairs, May 4, 1977, hearing. I ask unanimous consent that a copy of my May 4, 1977, statement be printed in the RECORD following my statement.

The Governmental Affairs Committee has again reported title II unanimously. With a few minor exceptions title II is the same as I proposed on March 31, 1976, and as the Senate overwhelmingly adopted last June.

On June 27, 1977, the Senate adopted S. 555, including title II, by a vote of 74–5.

When S. 555 was sent over to the House, it was held at the desk. Earlier in the 95th Congress, Congressman ROONEY introduced a bill to establish a Congressional Counsel Office, H.R. 101, which was referred to the House Committee on House Administration. On July 22, 1977, Senators Humphrey, JAVITS, PERCY, and RIBICOFF joined me

in writing a letter to Chairman FRANK THOMPSON of that committee to convey our strong support for title II.

I ask unanimous consent that a copy of this letter appear following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 4.)

Mr. ABOUREZK. Later in the first session the procedural situation on title II became slightly more complicated. Acting on his own initiative, on August 2, 1977, Congressman JOHN BRECKINRIDGE introduced H.R. 8686, which is a verbatim copy of title II of S. 555. This bill was referred to the House Judiciary and Rules Committees as well as to the House Committee on House Administration. This multiple referral is apparently due to the fact that section 205(f) contains a statute conferring jurisdiction on the courts to hear civil subpena enforcement actions brought by Congress. In addition sections 205(b) and 211 establish procedures for consideration of resolutions to direct the Counsel to appear in court.

I am aware that the House procedural situation is further complicated by the fact that the Counsel proposal is part of a bill establishing temporary special prosecutors and governmentwide financial disclosure. I fear title II has been lost in the shuffle over these more visible proposals.

I have strong hopes, however, that the House can take action on the Counsel proposal this session. It is now time for the House to take action before congressional interests are further eroded.

EXHIBIT 1

LEGAL SERVICES FOR CONGRESS

(By Dorothy Sellers)

The need of Congress for legal services is beyond question. It is evident from both the volume and substance of present-day litigation involving members, officers, and committees of Congress. The Joint Committee on Congressional Operations in its final report for the Ninety-fourth Congress (December 31, 1976) identified more than forty pending cases "of vital interest to the Congress." The report lists ninety-eight senators and representatives who had assumed litigative as well as legislative responsibilities.

These cases frequently raise core governmental and constitutional issues. Three from the United States Court of Appeals for the District of Columbia Circuit illustrate the point:

1. In *United States* v. *American Telephone and Telephone Company*. 551 F.2d 384 (1976), a congressional subcommittee investigating the scope of warrantless wiretapping for alleged national security reasons subpoenaed from A.T.&T. all wire-tap request letters sent to it or its subsidiaries by the Federal Bureau of Investigation. Because the White House feared public disclosure of the subpoenaed documents, the United States, represented by the Department of Justice, sued A.T.&T. to enjoin compliance with the subpoena. Rep. John Moss, through private counsel, intervened for himself and on behalf of the committee and the House of Representatives. On appeal from a district court decision largely favorable to the plaintiff, the court, characterizing the action as "a portentous clash between the executive and legislative branches," remanded without decision in December of 1976 in the hope that the parties might settle the case. But those negotiations failed, and the court reheard the case in June of 1977.

2. In *Clark* v. *Valeo*, 559 F. 2d 642 (1977), Ramsey Clark, an unsuccessful candidate for the Democratic party's senatorial nomination in New York, challenged the constitutionality of the provisions of the Federal Election Campaign Act under which a single house of Congress may disapprove regulations promulgated by the Federal Election Commission. The secretary of the Senate and the clerk of the House of Representatives were named defendants. Each was represented by private counsel. Over their objection, the United States, represented by the Department of Justice, intervened on the side of plaintiff on behalf of the president and executive branch. Five constitutional questions were certified to the court of appeals *en banc* pursuant to the unique judicial review provisions of the act. In January of 1977 the court dismissed the case for lack of a ripe case or controversy within the meaning of Article III of the Constitution. The Supreme Court affirmed the judgment in *Clark* v. *Kimmett* in June (97 S.Ct. 2667).

3. *Dellums* v. *Powell*, 561 F. 2d 242 (1977), arose from the 1971 May Week demonstrations in the District of Columbia. On May 5 approximately twelve hundred people assembled on the steps of the Capitol to hear speeches by members of the House of Representatives and to present them with a "peoples' peace treaty." The District of Columbia police and the Capitol police dissolved the assemblage by arresting the participants. A district court jury awarded Rep. Ronald Dellums, a scheduled speaker at the disrupted meeting, $7,500 for the invasion of his First Amendment rights. Representative Dellums had private counsel. The Capitol police chief, who was found jointly and severally liable for the award with the District of Columbia police chief, was represented by the Justice Department. The court of appeals affirmed the jury's findings of liability but remanded for a reduction of damages.

CONGRESS DEPENDS ON THE JUSTICE DEPARTMENT

At present legal services for Congress are provided *ad hoc*, primarily by the Department of Justice and to a lesser extent by private counsel. During the period 1971–75 the Department of Justice defended members, officers, employees, or agencies of Congress in approximately sixty cases. The cases above illustrate the inexpedience of congressional reliance on the Department of Justice. In each the department not only failed to represent a recognizable congressional interest but appeared in opposition to it.

The department's representation of Congress is founded more in custom than statute. 2 U.S.C. § 118 empowers the department to defend the officers of Congress against claims relating to their official duties. There is no comparable statutory authority for the department's representation of congressional members and committees. Former Attorney General Edward H. Levi characterized that representation as matter of comity rather than as an absolute obligation.

The department may have discretion to represent Congress under 28 U.S.C. § § 517 and 518, which authorize the attorney general to conduct litigation in which the "United States" has an interest, but the definition of "United States" has proved elusive. In *United States* v. *A.T.&T.* and *Clark* v. *Valeo* the department appeared as plaintiff or intervenor-plaintiff "United States" solely on behalf of the executive branch in opposition to the legislative. Yet, in defending the executive branch, Justice has argued with perfect inconsistency that an action which pits the legislative branch against the executive cannot present a case or controversy because the "United States" appears on both sides of the issue. (*Statts* v. *Lynn*, D.D.C. No. 75–0551, dismissed by stipulation November 26, 1975.)

The occasions on which the department does not represent or actively opposes congressional interests reflect the indisputable fact that its primary responsibilities and loyalties run to the executive branch. This raises a question as to the appropriateness of the present attorney-client relationship between the department and Congress under the doctrine of separation of powers. The effective operation of the doctrine requires, if not eternal vigilance, at least continuing suspicion on the part of each branch toward the others. The present system of providing legal services for Congress primarily through the executive branch cannot be reconciled with the doctrine of separation of powers: it leaves Congress perpetually unprepared for the increasingly frequent and inestimably important occasions when it must judicially protect its prerogatives from executive branch inroads.

The situation is equally uncommendable from the department's viewpoint. Its sometimes congressional client is assured a second-class status in relation to its principal client, the executive branch.

CONGRESS NEEDS ITS OWN COUNSEL

The objective should be to assure the uninterrupted availability of legal services for Congress, regardless of the nature of the case. To expand the role of private counsel is to perpetuate a makeshift solution to an unremitting problem. In addition, private counsel are expensive and, when retained case by case, necessarily lack a comprehensive perspective of the problems and policies of congressional litigation.

Recent Congresses have considered proposals for establishing a source of representation within the Congress. The principal measures have been S. 2731, which would have established an Office of Congressional Legal Counsel and was passed in the Ninety-fourth Congress by the Senate but not acted on by the House, and, in the Ninety-fifth Congress, Title II ("Congressional Legal Counsel") of S. 555, the Public Officials Integrity Act of 1977, which passed the Senate on June 27 and is now under consideration in the House.

These proposals would establish within Congress a permanent Office of Congressional Legal Counsel. The legal counsel would be appointed jointly by the Speaker of the House and the president pro tempore of the Senate without regard to political affiliation and solely on the basis of fitness to perform the duties of office. The counsel, in turn, would appoint necessary assistants on the same merit basis.

A professional law office serving the entire Congress would have benefits beyond providing needed representation for litigation purposes. Ideally, litigation is the last step in the process of providing legal services. The earlier part of the process—giving advice and counsel—is aimed at avoiding litigation and formulating positions that are legally as well as politically sound. The sources of advisory and litigative services to Congress now are bifurcated: the advisory function is distributed among the various committee counsel (with a consequent unevenness of quality from committee to committee); the litigative function is jointly discharged by the Department of Justice and private counsel. The establishment of an Office of Congressional Legal Counsel would provide a unitary, nonpartisan source for advisory and litigative legal services. But the congressional legal counsel would not displace existing committee counsel. Rather he would be authorized to advise, consult, and co-operate with any committee or subcommittee regarding the use of congressional investigative powers.

In litigation the proposals would empower the congressional legal counsel on direction from Congress (1) to initiate civil actions to enforce congressional subpoenas, (2) to defend congressional individuals or entities in pending actions in which the validity of their official acts or proceedings was placed

in issue, and (3) to intervene or appear as amicus curiae in any case in which the powers and responsibilities of Congress are placed in issue. In addition, S. 555 authorizes the counsel to represent Congress in proceedings involving use immunity for persons who testify before Congress pursuant to 18 U.S.C. §§ 6002 and 6005.

The primary substantive difference between S. 555 and S. 2731 is that the former would not allow the congressional legal counsel to commence legal actions—other than those against nongovernmental parties to enforce congressional subpoenas—while the latter would authorize him to bring suit to "require an officer or employee of the executive branch of the government to act in accordance with the Constitution and laws of the United States."

SUPREME COURT DRAWS DISTINCTION

In *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Court held that the Federal Election Commission could not constitutionally exercise the enforcement powers conferred on it because of the exclusion of the president from participation in the appointment of a majority of its members. The Court drew a distinction between a power "essentially of an investigative and information nature, falling in the same category as those powers which Congress might delegate to one of its own committees" and the power to seek judicial enforcement of a law of the United States. The former may be exercised by persons appointed without presidential participation; the latter may not.

The Court stated: "The commission's enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law and it is to the president, and not to the Congress, that the Constitution entrusts the responsibility to 'take Care that the Laws be faithfully executed.'"

This distinction affects the proposals for establishing a congressional legal counsel. Both S. 2731 and S. 555 would authorize the counsel to bring civil actions to enforce congressional subpoenas and orders. Congress now has two methods for handling contempt of Congress cases. It may refer them to the United States attorney for criminal prosecution as a misdemeanor pursuant to 2 U.S.C. §§ 192, 194, or it may bring the contemnor to trial before Congress, although this procedure has not been used since 1945.

The congressional contempt cases inevitably arise from the use of the congressional investigative power. For this reason it appears that a congressionally appointed legal officer may constitutionally bring a civil action in support of that power, and this could be "regarded as merely in aid of the legislative functions of Congress."

The proposals would empower the congressional legal counsel to undertake the defense of congressional committees and personnel in cases in which the validity of their official actions was placed in issue. As this would be in a previously filed action, the counsel would not be involved in the discretionary decision to institute legal proceedings.

Because the counsel's responsibility would be limited to the defense of pending challenges to official congressional actions, it may be construed as supportive of the legislative function of Congress rather than as an invasion of the presidential power. This conclusion is fortified by the practicalities of the situation—exemplified by *Clark* v. *Valeo*—in which the Department of Justice declined to represent a congressional defendant. Surely Congress may appoint a replacement counsel in that situation.

COUNSEL ALSO MAY BE FRIEND OF THE COURT

Both proposals would allow the congressional legal counsel to intervene or appear as *amicus curiae* in cases challenging the constitutionality of any law of the United States in which the United States is a party. Intervening and appearing as *amicus curiae* are totally different undertakings. An *amicus curiae* is not a party to the litigation and independently cannot request any form of relief. Thus an appearance *amicus curiae* could not infringe on the executive's power to seek judicial relief.

In contrast, an intervenor is a party to the action and able to request any appropriate relief and to be bound by the ultimate judgment. There is no way of predicting whether a constitutional challenge to an act of Congress will come from a plaintiff seeking declaratory relief or from a defendant charged with violating the act. The right to intervene in support of the constitutionality of a law of the United States may carry with it the discretionary power to appear as plaintiff seeking judicial relief.

The provisions by which the congressional legal counsel may be directed to intervene or appear as *amicus curiae* are clear attempts to protect Congress against the exceedingly rare situation when the executive branch chooses not to defend all or part of the constitutionality of a statute. This situation in fact occurred in *Buckley* v. *Valeo*. The Department of Justice filed two briefs in the Supreme Court, one on behalf of the defendant attorney general and a second *amicus* brief that argued against the constitutionality of the grant of enforcement powers to the Federal Election Commission. The congressional interest in that case could have been protected without infringing on executive responsibilities if counsel had appeared as *amicus curiae* rather than as an intervenor.

But provisions like that in S. 2731 that would authorize the congressional legal counsel to institute actions against the executive branch to compel it to act in accordance with the Constitution and laws of the United States would appear to be unsalvageable in light of *Buckley* v. *Valeo*.

CHALLENGES BY INDIVIDUAL MEMBERS OF CONGRESS

Buckley v *Valeo* does not foreclose the possibility that an individual member of Congress may bring suit against the executive branch. Members of Congress, although officers of the United States, are outside the scope of the appointments clause because the Constitution expressly provides the method for their selection. The Supreme Court has never addressed the question of the standing of individual members of the legislative branch to seek judicial relief from actions taken by members of the executive branch. Circuit court decisions, however, hold the member-plaintiff to the standing requirements applicable to all other plaintiffs—the member must demonstrate a specific nonspeculative personal injury in fact. *Harrington* v. *Bush*, 553 F. 2d 190 (D.C. Cir. 1977); *Harrington* v. *Schlesinger*, 528 F. 2d 455 (4th Cir. 1975); *Holtzman* v. *Schlesinger*, 484 F. 2d 1307 (2d Cir. 1974).

The narrow area in which members of Congress do have standing to challenge executive branch action is illustrated by two cases, again from the District of Columbia Circuit. In *Kennedy* v. *Sampson*, 511 F. 2d 430 (1974), Sen. Edward Kennedy sought a declaratory judgment that the Family Practice of Medicine Act was validly enacted despite a purported pocket veto. The court found the requisite injury—and therefore standing to sue—in the nullification of Kennedy's specific vote and of the congressional power to override a veto.

In *Pressler* v. *Simon*, 428 F. Supp. 302 (D.C.C. 1976), the three-judge court, although finding for the defendants on the merits, upheld the standing of the plaintiff, Rep. Larry Pressler, to challenge the Postal Revenue and Salary Act of 1967 and the Executive Salary Cost-of-Living Adjustment Act of 1975 as violative of Article I, Section 6, of the Constitution. Citing *Kennedy* v. *Sampson*, the Court stated, "a Congressman has standing to sue by reason of his office where executive action has impaired the efficacy of his vote. . . ."

LITIGATION MUST BE DIRECTED BY CONGRESS

The proposals for establishing an Office of Congressional Legal Counsel would not allow litigation other than as directed or consented to by Congress. Because the individual members of Congress are beyond the pale of the appointments clause, the question is why cannot the actual lawyering on behalf of Congress be delegated without violating the appointments clause. The answer is twofold.

First, as noted earlier, Congress cannot appoint anyone to perform duties other than in aid of those functions Congress may itself carry out. A nonlegislative function—for example, enforcement of the laws—cannot properly be delegated because it is not a proper congressional function. Second, even if an individual member of Congress demonstrates standing to sue on his own behalf, that showing is not automatically transferable to Congress as an institution. And a practical problem with assigning a congressionally appointed legal officer to represent an individual member of Congress is that the decision on standing is frequently—as in *Kennedy* v. *Sampson*—inseparable from the decision on the merits and, therefore, simply comes too late for assignment to a congressionally appointed legal officer.

At present the legislative branch is dependent on the executive branch for legal services. The arrangement is inexpedient for both, particularly Congress. It has no reliable source of representation for judicial confrontations with the executive branch. Proposals for establishing an Office of Congressional Legal Counsel are likely to recur as the quantity and importance of litigation involving congressional interests continue to increase.

While it is probable that a statute conferring on a congressionally appointed legal officer the authority to sue an executive branch member for alleged errors of omission or commission in enforcing the laws would be struck down under the appointments clause, there is nevertheless a large area in which the litigative responsibilities of a congressional counsel could be regarded as incidental to the legislative function and outside the appointments clause.

An additional benefit to Congress would be that of merging the advisory and litigative sides of the legal services available to it and of providing a central source for analyzing court and administrative rulings and recommending legislative responses.

While a proposal for establishing a legal office in Congress, where more than half the members are lawyers, may have the superficial appearance of carrying coals to Newcastle, in reality it could provide necessary and now unavailable legal services to Congress.

EXHIBIT 2

SUBJECT LEGAL REPRESENTATION OF THE HOUSE, ITS MEMBERS, OFFICERS AND EMPLOYEES IN CONNECTION WITH ACTIONS CONCERNING THEM

From Edmund L. Henshaw, Jr., Clerk U.S. House of Representatives.

To The Senate Committee on Governmenal Affairs.

The purpose of this memorandum is to provide the Senate Committee on Governmental Affairs with background information on the problems encountered in representing the legal interests of the House, its Members, officers and employees in connection with litigation concerning them.

Before addressing the subject directly, I would like first, by way of introduction, to

briefly outline the scope of responsibilities delegated to the Clerk by parliamentary law statute and the Rules of the House of Representatives. I believe this will provide the necessary background for a discussion of the Clerk's involvement in the judicial process.

DUTIES OF THE CLERK OF THE HOUSE

Article I, section 2, clause 5 of the Constitution of the United States provides that the House ". . . shall choose their speaker and other Officers" and Rule II of the Rules of the House of Representatives, the earliest form of which was adopted in 1789, provides for the election of the Clerk by the House at the commencement of each Congress.

Section 60–1(b) of Title 2 of the United States Code designates the Clerk as one of the "officers of the Congress". Rule III of the Rules of the House of Representatives prescribes the administrative and judicial duties and responsibilities of the Clerk which include, among other things, preparing the roll of the Representatives-Elect, presiding before the election of the Speaker, keeping the Journal of the proceedings of the House, attesting all writs, warrants and subpoenas issued by the House, certifying all bills and resolutions passed by the House, making all contracts for services and supplies, and paying the salaries of all the officers and employees of the House. In addition, the Clerk is charged with keeping accurate accounts of disbursements out of the contingent fund of the House, as well as keeping the stationery accounts of Members.[1] Of particular relevance to the subject before your Committee, the Clerk is the custodian of all House documents, papers, and records.[2] In addition, the Clerk has other administrative duties under the Federal Contested Election Act, 2 U.S.C. § 381–396, and serves as an ex officio member of the Federal Election Commission pursuant to 2 U.S.C. § 437c(a)(1)

As I have indicated in the body of my statement, I feel strongly that Congress should be represented by its own litigative office. I realize that the foregoing recommendation is neither revolutionary nor novel. Various congressional committees have been studying the necessity for and feasibility of such an office for some time and numerous proposals to establish a congressional counsel have been introduced in the past.[3] Although it may be a foregone conclusion in other quarters that Congress lacks adequate legal representation and that the need for a congressional counsel has been amply and convincingly demonstrated. I am not aware that the available evidence in support of these propositions has ever been developed by the Office of the Clerk of the House of Representatives. Therefore, I will proceed on that assumption with the hope that my statement will supply what may be a missing chapter in the documentation of the need for a congressional litigative office. In doing so, my comments will bear primarily on the question of the problems in assuring adequate representation of institutional interests and the problems encountered in obtaining such representation under present circumstances.

THE CLERK'S INVOLVEMENT IN JUDICIAL PROCESS

Generally, the Clerk, in his official capacity, becomes involved in the judicial process through one of two procedures: first, through presentation of subpoenas, orders or requests for the withdrawal of papers or documents within his possession as custodian for the House of Representatives; secondly, where a civil action is brought against the Clerk by parties or groups seeking various forms of legal or equitable relief. In the first instance, where a question is raised concerning the privileges of the House of Representatives, it is necessary that the consent of the House be obtained before the Clerk can comply with any such subpoena, request or order.[4] The receipt of such subpoenas or orders have become frequent and over 100 subpoenas or orders have been reported to the House of Representatives during the last five years.[5]

With respect to the commencement of civil actions against the Clerk, Section 118 of Title 2 of the United States Code provides that upon request the Department of Justice shall defend an "officer" of either House of Congress for acts performed in the "discharge of his official duty". The Clerk has generally exercised his right to be represented by the Department under these circumstances.

* * * * *

The plaintiffs initiated a civil action pursuant to a provision of law enabling private citizens to sue on behalf of the United States, provided certain jurisdictional and procedural requirements are first met.[16] In addition, the law provide that the United States shall have sixty days after the prescribed service is made upon the United States Attorney and the Attorney General to enter an appearance in the suit. If the United States does so, the suit must be carried solely by the United States.[17] Since the United States is authorized to carry on the suit as its own, the Department of Justice was unable to provide representation to the Clerk pursuant to 2 U.S.C. § 118. Nevertheless, the Clerk and the other officers were sued in their official capacities and counsel had to be obtained to represent the defendants. Accordingly, it was determined that it would be appropriate for the General Counsel to the Clerk to defend the Clerk and the other House officers in the action.[18]

In the above instance, the defendants were not unduly prejudiced by the inability of the Department to represent them because the conflict arose from clear statutory mandate and they were on notice of its existence from the beginning of the suit. In many instances, however, the Department may commence representation only later to repudiate its ability to act as counsel.[19]

There is another point to be noted with respect to Department representation. While I believe that the Department makes every effort to furnish competent counsel, I would venture to say that the character of its representation differs significantly from that which would be furnished by an internal litigating entity. In my experience, the Department is often reluctant to make the vigorous substantive arguments which might best serve the interests of the House.

Perhaps because of its extremely heavy caseload, or the tremendous range of cases in which it participates, the Department may seek the most expedient way in which to obtain a favorable judgment for its House clients. As a general rule of thumb, there is nothing wrong with such an approach. With respect to the House, however, it may result in judgments predicated on grounds that are adequate only for purposes of obtaining the disposition of a single case and which fail to adequately recognize the unique aspects of House powers and prerogatives and their application to future cases. I am aware that the "legal" strategy for each case must be decided on the basis of the facts and circumstances of that case. I am concerned, however, that the Department does not have time and energy or the perspective to take into account the long range interests of the House in mapping legal strategies and that as a result, the unique defenses and positions available to the House are not utilized in all cases, which over time diminishes their vitality.

In addition, the House is a place of great tradition and custom, the origins of and rationale for which are often obscure or difficult to trace. The legal principles and relevant statutes affecting the House are generally not ascertainable through conventional research methods, yet they are important in disposing of the legal issues arising in litigation. As the Table of Cases and Authorities in Exhibit I indicates, such sources consist of House Rules and precedents, as well as legislative appropriations acts, with which the general legal practitioner, whether he is a Department of Justice or private attorney, may not be familiar. A working knowledge of these sources is crucial to effective litigation and I submit that no person from outside the House has sufficient access or sensitivity to these sources to adequately represent the House.

There are other serious limitations in the representation which the Department may provide. As I discussed earlier, 2 U.S.C. § 118 directs the Department of Justice to defend an officer of either House of Congress for acts done in the "discharge of his official duty". The language of that section is mandatory. However, the Department regularly exercises discretion in making a threshold determination whether actions taken by officers of Congress are "official". Moreover, the statute does not specifically include within the class of persons covered Members, employees, and committees of Congress, and although the Department has on past occasions represented such persons, it is not required to do so even in the instances where it is the exercise of their official duties which has resulted in their being sued. The Department has also stated that the mandatory provisions of the statute can be superseded in certain circumstances where representing the Congress or a Member or Committee would place the individual Department attorney in the position of violating the canons of professional responsibility to which all attorneys are subject.[20]

In still other instances, the Department has exercised unfair leverage by imposing certain conditions upon the party requesting representation. For example, several years ago, an action was filed against the Clerk and certain government officials alleging, among other things, failure to enforce the Federal Corrupt Practices Act, *Ralph Nader et al v. John N. Mitchell et al.*, Civil No. 243–72 (D.D.C. filed Feb. 8, 1972). The Clerk requested representation in the action pursuant to 2 U.S.C. § 118. The Department agreed to undertake representation, however, with the express condition that "if during the course of the litigation it might appear in our judgment that a possible divergence of interest is present and that your interests might be better be served by obtaining other counsel, we shall, of course, so advise you." [21]

On May 1, 1972, the Department exercised its right under the condition and advised the Clerk to obtain outside counsel due to disputes between the Clerk's office and the Department which had arisen over enforcement of the Federal Corrupt Practices Act. The Department contended that since the Court would have to be advised of the differences of opinion, the Department might be required to take a position with regard to the propriety of the actions taken. The Department concluded that since the performance of their respective duties under the Act might become an issue under those circumstances, it would be best to obtain counsel who could defend the Clerk without jeopardizing the interests of other clients. The Clerk concurred and obtained other counsel.

I do not believe that the defense of Congressional powers should be subjected to such conditions or that officers, Members or Committees of the House should be forced to compromise their litigating positions in such a manner, regardless of the merits of the particular issues involved. The ability of the Department of Justice to qualify and fetter the representation which it provides to the legislative branch permits the Department to extract concessions which may weaken the position of the Congress and which may be used at a later time against

Footnotes at end of article.

the Congress in a direct confrontation with the Executive Branch.

As the Department of Justice has repeatedly suggested, there is an alternative to representation by the Department—private counsel. While the employment of private counsel has afforded excellent legal representation in the past in some cases, it has two principal drawbacks. First, it can be expensive. Secondly, ". . . the retention of different private counsel to handle different cases provides for little if any consistency among the legal positions . . . taken in different cases." [22]

In addition, I would like also to mention briefly what I believe to be certain practical and logistical problems inherent in utilizing either private counsel, or Department of Justice attorneys, to defend House interests. Again, I refer to the case presently pending against the Clerk in California [23] to illustrate the point.

Originally, that suit named as party defendants the Speaker, the House of Representatives, the Chairman of the Committee on Standards of Official Conduct and the Clerk. After all the other parties except the Clerk were dismissed by prior motion, we continued to work with the United States Attorneys Office in working to obtain a favorable disposition of the action. The Committee on Standards of Official Conduct had been dismissed as a party in the suit, despite the fact that Rule XLIII, which that Committee reported and the applicability of which it continues to interpret, remains an issue in the suits.[24] Accordingly, it would seem that the Committee continued to have, even after its dismissal, a genuine and compelling interest in the outcome of the action, with respect not only to the interpretation of Rule XLIII, but also in relation to any future action the Committee may take in this matter, despite its dismissal as a party. Unfortunately, the lines of communication between the Committee and the U.S. Attorney on this issue were closed when the Committee was no longer a party defendant. While we continued to convey to the U.S. Attorney our views on the Rule for their guidance, and there was nothing to prevent the U.S. Attorney from contacting the Committee to seek their assistance, as a practical matter that did not happen to any appreciable extent because the Committee was formally dismissed and those actually litigating the case were not cognizant of the Committee's continuing interest. Furthermore, as the primary source of expertise on the Rule, the Committee should be provided the opportunity to express its view on any point raised in the litigation either affirmatively or defensively concerning its validity, application or effect. An internal litigating organization would be uniquely able to achieve these purposes despite the formal dismissal of parties from the action and would not labor under the disabilities of distance which the Department of Justice must confront in conducting litigation in scores of different locations around the country. The mere location of such an office within the House would help to overcome the present obstacles of distance, and could provide uniformly competent legal services, which emanate from a single source, in the place of the present varying quality of services available from the Department of Justice through the local U.S. Attorneys offices. Finally, the collective wisdom of all the offices and departments of the House could be brought to bear on the legal process through the litigating counsel, including those not named in an action who may nevertheless have an interest, or who may be able to assist in preparing a competent defense.

Similarly, while I have spoken repeatedly of House interests, it is necessary to remark that where a variety of House officers, or Members or Committees are involved the interests of the House may not be entirely homogenous. The concerns of one officer may differ slightly in character or quality from that of another officer, or between an officer and a committee, owing to the varying responsibilities prescribed by House rules or statute to the constituent parts of the House. In these instances, a paramount objective is to arrive at a reconciliation of any conflicting interests, to the extent that can be accomplished, prior to crucial stages in the litigation. However, without a central coordinating office to perform this function, the position of House parties in litigation is often expressed on an ad hoc or isolated basis. In fairness, this is inevitable given the press of court headlines and the necessity to respond to a complaint in a timely manner.

Doe v. *McMillian*, 412 U.S. 306 (1973), concerning a suit for damages, declaratory judgment and injunction for alleged invasion of privacy resulting from dissemination of a Congressional report on the District of Columbia school system that included the identification of students in derogatory contexts, is a case in point. Apparently, there was a divergence of views on the dissemination of the report among the Committee members themselves and at one stage, three separate counsel represented these parties in the action. Again, I believe that an inhouse litigating office would be uniquely able to establish procedures to minimize the risks of conflicts among various elements of the institution and at the same time could develop the close personal liaison with responsible House offices needed to alleviate these problems. The office would permit the sound policy of resolving any conflicts internally in a conciliatory and expeditious manner and not in the context of an adversary process which may permanently damage the House and its offices or Committees.

There is one other subject before your committee which I would like to briefly address—problems which are confronted when Members or employees are parties to litigation. It is my view that these individuals face special problems in responding to suits which do not confront the House, its officers or committees.

I am not concerned here with what are clearly personal legal matters of Members or employees, which are beyond the responsibility of the House to defend. Rather, I am referring to cases which are civil in nature and in which there is placed in issue the validity of an official action taken by an individual or which was in the normal course of his employment.

The Clerk's office, perhaps because it is charged with the payment of appropriations for clerk-hire for Members and the administration of certain employee benefits as well, may be thought of in one sense as the personnel office of the House of Representatives. In this role, the Clerk has received numerous inquiries from both Members and their employees seeking advice on how to respond to suits in which they are named as parties. Consequently, I have been made aware of the concerns which Members and employees have, and the obstacles they face, in defending themselves in lawsuits.

For the most part, at least in the initial stages of litigation, the Member or employee is on his own. While he may request representation from the Department of Justice, they can decline to do so for a number of reasons which I discussed earlier. Assuming the individual cannot or chooses not to obtain representation from the Department of Justice, he can obtain private counsel and attempt to have the House defray the costs. While the Congress has authorized the payment of the legal fees of Members or employees in suits against them which present significant institutional issues,[25] there is often a substantial burden in demonstrating an institutional interest. Often, the presence of a House interest in the suit involving an individual member may not be immediately or as easily recognizable as when the defendant in a suit is a House officer or committee. Moreover, there may be what might be called "submerged" or potential issues of institutional importance which may not emerge until later stages of the litigation. Unfortunately, despite the potential impact which such a suit may have on the House, there is a tendency to regard the matter as the individual concern of the Member and the burden then shifts to the Member or employee to demonstrate a compelling or overriding House interest.

In the current litigous climate, more and more suits are being brought against individual Members and employees.[26] If the House determines not to pay outside counsel, the Member or employee may be required nevertheless to incur the expense of obtaining counsel. Unlike the committee of the House and Senate who generally employ several or more attorneys who might under unusual circumstances or in an emergency, represent the Committee or its members, individual Members may not have even one lawyer on their staff who could prepare a defense.

Obviously, the employee is in even a more precarious position since he is unlikely to be able to exert the kind of influence on the Department to which they will respond. Should the Department in its discretion accept the handling of the case, it may do so to retain favorable relations with Congress but may not have the manpower necessary to assign it any priority.

Based on the risks to which Members and individuals are subjected, I want to indicate my support for the concept of including them within the class of persons who could be defended by a litigation office, should one be created. It is my belief that neither Members nor their staff should be inhibited or circumscribed in the performance of their duties by apprehension or threat of retaliatory legal action. If this is allowed to happen the ability of the Congress to serve the people will be seriously impaired.

FOOTNOTES

[1] Rules of the House of Representatives §§ 637–647 (1975).

[2] Rule XXXVI of the Rules of the House of Representatives, entitled "Withdrawal of Papers", provides that "No . . . paper of the House shall be withdrawn from its files without its leave . . ." See, also, Jefferson's Manual, § 352.

[3] Freeman W. Sharp, *A Proposed Congressional Counsel*, Cong. Research Serv., AP-197, p. 6–15 (1971).

[4] H.R. Res. 10, 95th Cong., 1st Sess., (1977) states that ". . . by the privileges of this House no evidence of a documentary character under the control and possession of the House of Representatives can, by the mandate of the process of the ordinary courts of justice, be taken from such control or possession except by its permission: . . ." This resolution is firmly grounded in precedent. See 3 Hinds' *Precedents of the House of Representatives* § 2663 (1907).

[5] S. Rep. No. 823, 94th Cong., 2d Sess. 69 (1976).

* * * * *

[16] 31 U.S.C. § 232(C).

[17] *Id.*

[18] At the present time, defendants are awaiting a ruling on a motion to dismiss filed on their behalf (a copy attached as Exhibit I).

[19] See p. 13, *infra*.

[20] Senate hearings, *supra*, at 39.

[21] Letter from Assistant Attorney General L. Patrick Gray to Clerk of the House of Representatives, W. Pat Jennings, March 6, 1972, in 119 *Cong. Rec.* 7957 (March 15, 1972).

Footnotes at end of article.

[22] S. Rep. No. 823, 94th Cong., 2d Sess. 11 (1976).

[23] See footnote 1, p. 5, *supra*.

[24] That issue concerns whether the rule has, standing alone, any force or effect or is merely a guideline for individual Members couched in precatory terms, but nevertheless expressing the sense of the House. If it is merely a guideline, obedience to which falls entirely on the individual Member, the argument could be made that the Clerk has no responsibility for enforcing the rule, is not preventing the Member from exercising his responsibilities and should, therefore be dismissed as a party. For legislative history of the Rule see 121 *Cong. Rec.* H 2806–2810 (daily ed. Apr. 16, 1975).

[25] The Senate agreed to pay the expenses of outside counsel in *Gravel* v. *United States*, 408 U.S. 606 (1972); see S. Res. 280, 92nd Cong., 2d Sess., (1972).

[26] For example, one recent suit brought against a House employee involves allegations that the employee caused to be disclosed confidential information concerning plaintiff without obtaining permission and in violation of the law. *Glen Jones* v. *Palmer Media, Inc. et al.*, Civil Action No. 76–53 (Ed.D. Texas, filed Dec. 1, 1976).

TITLE II—CONGRESSIONAL LEGAL COUNSEL

ESTABLISHMENT OF OFFICE OF CONGRESSIONAL LEGAL COUNSEL

SEC. 201. (a)(1) There is established, as an office of the Congress, the Office of Congressional Legal Counsel (hereinafter referred to as the "Office"), which shall be headed by a Congressional Legal Counsel (hereinafter referred to as the "Counsel"); and there shall be a Deputy Congressional Legal Counsel (hereinafter referred to as the "deputy Counsel") who shall perform such duties as may be assigned to him by the Counsel and who, during any absence, disability, or vacancy in the position of the Counsel, shall serve as Acting Congressional Legal Counsel.

(2)(A) The Counsel and the Deputy Counsel each shall be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives from among recommendations submitted by the majority and minority leaders of the Senate and the House of Representatives. Any appointment made under this paragraph shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position and shall be subject to the provisions of subparagraph (B) Any person appointed as Counsel or Deputy Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment.

(B) No person shall be appointed under subparagraph (A) if, within the three-year period immediately preceding the appointment, such person—

(i) was a Member of Congress (as defined in section 309(10) of this Act) or a candidate (as defined in section 309(2) of this Act) seeking nomination for election, or election to, the office of Member of Congress,

(ii) actively participated in the management or conduct of any campaign of any individual, including a Member of Congress, for nomination for election, or election to, the office of Member of Congress, or

(iii) was an officer or employee of the Senate or the House of Representatives (as defined in section 309(12) of this Act).

(3)(A) Any appointment made under paragraph (2) shall become effective upon approval, by concurrent resolution, of the Senate and the House of Representatives. The Counsel and the Deputy Counsel shall each be appointed for a term of service which shall expire at the end of the Congress following the Congress during which the Counsel or Deputy Counsel, respectively, is appointed except that the Congress may, by concurrent resolution, remove either the Counsel or the Deputy Counsel prior to the termination of any term of service. The Council and the Deputy Counsel may be reappointed at the termination of any term of service.

(B) The first Counsel and the first Deputy Counsel shall be appointed, approved, and begin service within ninety days after the date of the enactment of this Act and thereafter the Counsel and Deputy Counsel shall be appointed, approved, and begin service within thirty days after the beginning of the session of Congress immediately following the termination of a Counsel's or Deputy Counsel's term of service or within sixty days after a vacancy occurs in either position.

(4) The Counsel shall receive compensation at a per annum gross rate equal to the rate of basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Deputy Counsel shall receive compensation at a per annum gross rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b)(1)(A) The Counsel shall select and fix the compensation of such Assistant Congressional Legal Counsels (hereinafter referred to as "Assistant Counsels") and of such other personnel, within the limits of available appropriations, as may be necessary to carry out the provisions of this title and may prescribe the duties and responsibilities of such personnel. The compensation fixed for Assistant Counsels shall not be in excess of a per annum gross rate equal to the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code. Any selection made under this paragraph shall be subject to the provisions of subparagraph (B) and shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any individual selected as an Assistant Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during his term of service. The Counsel may remove any individual appointed under this paragraph.

(B) No person shall be appointed under subparagraph (A) if, within the three-year period immediately preceding the appointment, such person—

(i) was a Member of Congress (as defined in section 309(10) of this Act) or a candidate (as defined in section 309(2) of this Act) seeking nomination for election, or election to, the office of Member of Congress,

(ii) actively participated in the management or conduct of any campaign of any individual, including a Member of Congress, for nomination for election, or election to, the office of Member of Congress, or

(iii) was an officer or employee of the Senate or the House of Representatives (as defined in section 309(12) of this Act).

(2) For purposes of pay (other than the rate of pay of the Counsel and Deputy Counsel) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the Senate.

(c) In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)).

(d) The Office shall have the same privilege of free transmission of official mail as other offices of the United States Government.

(e) The Counsel may establish such policies and procedures as may be necessary to carry out the provisions of this title.

(f) The Counsel may delegate authority for the performance of any function imposed by this title except any function imposed upon the Counsel under section 206(b) of this title.

(g) The Counsel and other employees of the Office shall maintain the attorney-client relationship with respect to all communications between them and any Member, officer, or employee of Congress.

ACCOUNTABILITY OF OFFICE

SEC. 202. (a) The Office shall be directly accountable to the Joint Leadership Group in the performance of the duties of the Office.

(b) For purposes of this title, the Joint Leadership Group shall consist of the following Members:

(1) The Speaker of the House and the President pro tempore (or if he so designates, the Deputy President pro tempore) of the Senate;

(2) the majority and minority leaders of both Houses of Congress;

(3) the Chairman and ranking minority Member of the judiciary committees of both Houses of Congress; and

(4) the Chairman and ranking minority Member of the committee of the Senate and of the House, which has jurisdiction over the contingent fund of that body.

(c) The Joint Leadership Group shall be assisted in the performance of its duties by the Secretary of the Senate and the Clerk of the House.

REQUIREMENTS FOR AUTHORIZING REPRESENTATION ACTIVITY

SEC. 203. (a) The Counsel shall defend—

(1) a House of Congress or a committee, subcommittee, Member, officer, or employee of a House of Congress under section 204 only when directed to do so by two-thirds of the Members of that House serving on the Joint Leadership Group or by the adoption of a resolution by such House; and

(2) the Congress or a joint committee, office or agency of Congress or an officer or employee of such an office or agency, under section 204 only when directed to do so by two-thirds of the Joint Leadership Group or by the adoption of a concurrent resolution by both Houses.

(b) The Counsel shall bring a civil action to enforce a subpena of—

(1) a House of Congress or a committee or subcommittee of a House of Congress, under section 205 only when directed to do so by the adoption of a resolution by the appropriate House of Congress; and

(2) a joint committee of Congress or the Technology Assessment Board under section 205 only when directed to do so by the adoption of a concurrent resolution of both Houses.

(c) The Counsel shall intervene or appear as amicus curiae under section 206 only when directed to do so—

(1) by a resolution adopted by a House of Congress when such intervention or appearance is to be made in the name of that House;

(2) by a resolution adopted by the appropriate House when such intervention or appearance is to be made in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of that House; or

(3) by a concurrent resolution adopted by both Houses when such intervention or appearance is to be made in the name of Congress or a joint committee, a chairman of a joint committee, an office, or an agency of Congress.

(d) The Council shall serve as the duly authorized representative in obtaining an

order granting immunity under section 207 of—

(1) a House of Congress when directed to do so by an affirmative vote of a majority of the Members present of that House, or

(2) a committee or subcommittee of a House of Congress, or a joint committee of Congress, when directed to do so by affirmative vote of two-thirds of the members of the full committee.

(e) The Office shall make no recommendation with respect to the consideration of a resolution or concurrent resolution under this section.

DEFENDING CONGRESS, A HOUSE, COMMITTEE, MEMBER, OFFICER, AGENCY, OR EMPLOYEE OF CONGRESS

SEC. 204. (a) Except as otherwise provided in subsection (b), when directed to do so pursuant to section 203(a), the Council shall—

(1) defend Congress, a House of Congress, an office or agency of Congress, a committee, subcommittee, Member, officer, or employee of a House of Congress, or an officer or employee of an office or agency of Congress in any civil action pending in any court of the United States or of a State or political subdivision thereof in which Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency is made a party defendant and in which there is placed in issue the validity of any proceeding of or action, including issuance of any subpena or order, taken by Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency in its or his official or representative capacity; or

(2) defend Congress, a House of Congress, an office or agency of Congress, a committee, subcommittee, Member, officer, or employee of a House of Congress, or an officer or employee of an office or agency of Congress in any proceeding with respect to any subpena or order directed to Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency in its or his official or representative capacity.

(b) Representation of a Member, officer, or employe under subsection (a) shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA

SEC. 205. (a) When directed to do so pursuant to section 203(b), the Counsel shall bring a civil action under any statute conferring jurisdiction on any court of the United States (including section 1364 of title 28, United States Code, as added by subsection (f)(1)), to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened failure or refusal to comply with, any subpena or order issued by a House of Congress or a committee, or a subcommittee of a committee, of a House of Congress or of Congress authorized to issue a subpena or order.

(b) Any directive to the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee of a House of Congress or of Congress shall constitute authorization for such committee or subcommittee to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

(c) It shall not be in order in the Senate or House of Representatives to consider a resolution to direct the Congressional Legal Counsel to bring a civil action pursuant to subsection (a) in the name of a committee or subcommittee unless—

(1) such resolution is reported by a majority of the members voting, a majority being present, of such committee or committee of which such subcommittee is a subcommittee, and

(2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpena;

(B) the extent to which the party subpenaed has complied with such subpena;

(C) any objections or privileges raised by the subpenaed party; and

(D) the comparative effectiveness of bringing a civil action under this section, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before a House of Congress.

(d) The provisions of subsection (c) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and, as such, they shall be considered as part of the rules of each House, respectively, and such rules shall supersede any other rule of each House only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(e) The extent to which a report filed pursuant to subsection (c)(2) is in compliance with such subsection shall not be reviewable in any court of law.

(f)(1) Chapter 85 of Title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Congressional actions

"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action brought by a House of Congress, or any authorized committee or joint committee of a House of Congress or of Congress, or any subcommittee thereof, to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpena or order issed by such House, committee, subcommittee, or joint committee to any entity acting or purporting to act under color or authority of State law, or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpena or order issued to an officer or employee of the Federal Government acting within his official capacity.

"(b) Upon application by a House of Congress, or any authorized committee or joint committee, or any subcommittee thereof, the District Court shall issue an order to a person refusing or failing, or threatening to refuse or not to comply, with a subpena or order of such House, committee, joint committee, or subcommittee requiring such person to comply forthwith. Any refusal or failure to obey a lawful order of the District Court issued pursuant to this section may be held by such court to be a contempt thereof. A contempt proceeding shall be commenced by an order to show cause before the court why the party refusing or failing to obey the court order should not be held in contempt of court. Such contempt proceeding shall be tried by the court and shall be summary in manner. The purpose of sanctions imposed as a result of such contempt proceeding shall be to compel obedience to the order of the court. Process in any such action or contempt proceeding may be served in any judicial district wherein the party refusing or failing, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpenas for witnesses who are required to attend such proceeding may run into any other district. Nothing in this section shall confer upon such court jurisdiction to affect by injunction or otherwise the issuance or effect of any subpena or order of a House of Congress, or a committee, joint committee, or subcommittee, or to review, modify, suspend, terminate or set aside any such subpena or order. An action, contempt proceeding, or sanction brought or imposed pursuant to this section shall not abate upon adjournment sine die at the end of a Congress if the party which issued the subpena or order certifies to the court that it maintains its interest in securing the documents, answers, or testimony during such adjournment.

"(c) In any civil action or contempt proceeding brought pursuant to this section, the court shall assign the case or proceeding for hearing at the earliest practicable date and cause the case or proceeding in every way to be expedited. Any appeal or petition for review from any order or judgment in such case or proceeding shall be expedited in the same manner.

"(d) Either House of Congress, any committee, subcommittee, or joint committee commencing and prosecuting a civil action or contempt proceeding under this section may be represented in such action by such attorneys as it may designate.

"(e) A civil action commenced or prosecuted under this section may not be authorized pursuant to the Standing Order of the Senate 'authorizing suits by Senate Committees' (S. Jour. 572, 70–1, May 28, 1928).

"(f) For the purposes of this section, when referred to herein, the term 'committee' shall include standing, select, or special committees established by law or resolution and the term 'joint committee' shall include the Technology Assessment Board.".

(2) The analysis of such chapter 85 is amended by adding at the end thereof the following new item:

"1364. Congressional actions.".

(g) Nothing in this section shall limit the discretion of—

(1) the President pro tempore of the Senate or the Speaker of the House of Representatives in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 104 of the Revised Statutes (2 U.S.C. 194); or

(2) either House of Congress to hold any individual or entity in contempt of such House of Congress.

INTERVENTION OR APPEARANCE

SEC. 206. (a) When directed to do so pursuant to section 203(c), the Counsel shall intervene or appear as amicus curiae in the name of Congress, a House of Congress, or an officer, office, agency, committee, subcommittee or chairman of a committee or subcommittee of a House of Congress or of Congress in any legal action pending in any court of the United States or of a State or political subdivision thereof in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue. The Counsel shall be authorized to intervene only if standing to intervene exists under section 2 of article III of the Constitution of the United States.

(b) The Counsel shall notify the Joint Leadership Group of any legal action in which the Counsel is of the opinion that intervention or appearance as amicus curiae under subsection (a) is in the interest of Congress or of a House of Congress. Such notification shall contain a description of the legal proceeding together with the reasons that the Counsel is of the opinion that intervention or appearance as amicus curiae is in the interest of Congress or of a House of Congress. The Joint Leadership Group shall cause said notification to be published

in the Congressional Record for the appropriate House or Houses.

(c) The Counsel shall limit any intervention or appearance as amicus curiae in an action to issues relating to the powers and responsibilities of Congress.

IMMUNITY PROCEEDINGS

SEC. 207. When directed to do so pursuant to section 203(d), the Counsel shall serve as the duly authorized representative of a House of Congress or a committee or subcommittee in requesting a United States district court to issue an order granting immunity pursuant to section 201(a) of the Organized Crime Control Act of 1970 (18 U.S.C. 6005).

ADVISORY AND OTHER FUNCTIONS

SEC. 208. (a) The Congressional Legal Counsel shall advise, consult, and cooperate with—

(1) the United States Attorney for the District of Columbia with respect to any criminal proceeding for contempt of Congress certified pursuant to section 104 of the Revised Statutes (2 U.S.C. 194);

(2) the committees with the responsibility to identify any court proceedings or action which is of vital interest to Congress or to either House of Congress;

(3) the Comptroller General, General Accounting Office, the Office of Legislative Counsel of the Senate, the Office of the Legislative Counsel of the House of Representatives, and the Congressional Research Service, except that none of the responsibilities and authority granted by this title to the Congressional Legal Counsel shall be construed to affect or infringe upon any functions, powers, or duties of the aforementioned;

(4) any Member, officer, or employee of Congress not represented under section 204 with regard to obtaining private legal counsel for such Member, officer, or employee;

(5) the President pro tempore of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate, the Clerk of the House, the Sergeant-at-Arms of the Senate and House, and the Parliamentarians of the Senate and House regarding any subpena, order, or request for withdrawal of papers presented to the Senate and House of Representatives or which raises a question of the privileges of the Senate or House of Representatives; and

(6) any committee or subcommittee in promulgating and revising their rules and procedures for the use of congressional investigative powers and with respect to questions which may arise in the course of any investigation.

(b) The Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate and House of Representatives as may apply and the interests of Congress.

(c) The Counsel shall perform such other duties consistent with the purposes and limitations of this title as the Congress or a House of Congress may direct.

DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

SEC. 209. In performing any function under this title, the Counsel shall defend vigorously when placed in issue—

(1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;

(2) the constitutional power of each House of Congress to be judge of the elections, returns, and qualification of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of each House of Congress to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of each House of Congress to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any departments or office thereof;

(6) all other constitutional powers and responsibilities of Congress; and

(7) the constitutionality of Acts of Congress.

CONFLICT OR INCONSISTENCY

SEC. 210. (a) In the carrying out of the provisions of this title, the Counsel shall notify the Joint Leadership Group, and any party represented or person affected, of the existence and nature of any conflict or inconsistency between the representation of such party or person and the carrying out of any other provision of this title or compliance with professional standards and responsibilities.

(b) Upon receipt of such notification, the members of the House or Houses affected serving on the Joint Leadership Group shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. If such recommendation is made by a two-thirds vote, the Counsel shall take such steps as may be necessary to resolve the conflict or inconsistency as recommended. If not, the Members of the House or House affected serving on the Joint Leadership Group shall cause the notification of conflict or inconsistency and recommendation with respect to resolution thereof to be published in the Congressional Record of the appropriate House or Houses of Congress. If Congress or the appropriate House of Congress does not direct the Counsel within fifteen days from the date of publication in the Record to resolve the conflict in another manner, the Counsel shall take such action as may be necessary to resolve the conflict or inconsistency as recommended. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

(c) For purposes of the computation of time in subsection (b)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a date certain are excluded in the computation of the period.

(d) The appropriate House of Congress may by resolution authorize the reimbursement of any Member, officer, or employee who is not represented by the Counsel for fees and costs, including attorneys' fees, reasonably incurred in obtaining representation. Such reimbursement shall be from funds appropriated to the contingent fund of the appropriate House.

PROCEDURE FOR CONSIDERATION OF RESOLUTIONS TO DIRECT THE COUNSEL

SEC. 211. (a)(1) A resolution or concurrent resolution introduced pursuant to section 203 shall not be referred to a committee, except as otherwise required under section 205(c). Upon introduction, or upon being reported if required under section 205(c), whichever is later, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution or concurrent resolution. A motion to proceed to the consideration of a resolution or concurrent resolution shall be highly privileged and not debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to.

(2) With respect to a resolution or concurrent resolution pursuant to section 203(a)—

(A) If the motion to proceed to the consideration of the resolution or concurrent resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution or concurrent resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution or concurrent resolution shall be in order. No motion to recommit the resolution or concurrent resolution shall be in order, and it shall not be in order to reconsider the vote by which the resolution or concurrent resolution is agreed to.

(B) Motions to postpone, made with respect to the consideration of the resolution or concurrent resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(C) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives as the case may be, to the procedure relating to the resolution or concurrent resolution shall be decided without debate.

(b) For purposes of this title, other than section 203, the term "committee" shall include standing, select, special or joint committees established by law or resolution and the Technology Assessment Board.

(c) The provisions of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and, as such, they shall be considered as part of the rules of each House, respectively, and such rules shall supersede any other rule of each House only to the extent that the rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

ATTORNEY GENERAL RELIEVED OF RESPONSIBILITY

SEC. 212. (a) Upon receipt of written notice that the Counsel has undertaken, pursuant to section 204(a) of this title to perform any representational service with respect to any designated party in any action or proceeding pending or to be instituted, the Attorney General shall—

(1) be relieved of any responsibility with respect to such representational service;

(2) have no authority to perform such service in such action or proceeding except at the request or with the approval of the Counsel or either House of Congress; and

(3) transfer all materials relevant to the representation authorized under section 204 (a) to the Counsel,

except that nothing in this subsection shall limit any right of the Attorney General under existing law to intervene or appear as amicus curiae in such action or proceeding.

(b) The Attorney General shall notify the Counsel with respect to any proceeding in which the United States is a party of any determination by the Attorney General or Solicitor General not to appeal any court decision affecting the constitutionality of an Act of Congress within such time as will enable the Congress or a House of Congress to direct the Counsel to intervene in such proceeding pursuant to section 206.

PROCEDURAL PROVISIONS

SEC. 213. (a) Permission to intervene as a party or to file a brief amicus curiae under section 206 of this title shall be of right and

may be denied by a court only upon an express finding that such intervention or filing is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution.

(b) The Counsel, the Deputy Counsel, or any designated Assistant Counsel shall be entitled, for the purpose of performing his functions under this title, to enter an appearance in any proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

(c) Nothing in this title shall be construed to confer standing on any party seeking to bring, or jurisdiction on any court with respect to, any civil or criminal action against Congress, either House of Congress, a Member of Congress, a committee or subcommittee of a House of Congress, any office or agency of Congress, or any officer or employee of a House of Congress or any office or agency of Congress.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3210 of title 39, United States Code, as amended—

(1) by striking out "and the Legislative Counsels of the House of Representatives and the Senate" in subsection (b)(1) and inserting in lieu thereof "the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel"; and

(2) by striking out "or the Legislative Counsel of the House of Representatives or the Senate" in subsection (b)(2) and inserting in lieu thereof "the Legislative Counsel of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(b) Section 3216(a)(1)(A) of such title is amended by striking out "and the Legislative Counsels of the House of Representatives and the Senate" and inserting in lieu thereof "the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel".

(c) Section 3219 of such title is amended by striking out "or the Legislative Counsel of the House of Representatives or the Senate" and inserting in lieu thereof "the Legislative Counsel of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(d) Section 8 of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes," approved March 3, 1875, as amended (2 U.S.C. 118), is repealed.

SEPARABILITY

SEC. 215. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 216. There are authorized to be appropriated to the Office for each fiscal year through September 30, 1982, such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding twelve months following the effective date of this title, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent fund of the Senate under the heading "UNDER LEGISLATIVE" in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Counsel.

EXHIBIT 4

U.S. SENATE,
Washington, D.C., July 22, 1977.

Hon. FRANK THOMPSON,
Chairman, Committee on House Administration, Washington, D.C.

DEAR MR. CHAIRMAN: On June 27, 1977, the Senate adopted S. 555, Title II of which would establish an office of Congressional Legal Counsel to defend Congress and Congressional interests in court. It is our understanding that Title II falls within the jurisdiction of the House Administration Committee.

Each of us believe the establishment of such an office would do much to strengthen the independence of the Congress. Inasmuch as there is no constituency for the bill other than Congress itself, we want to write to you to convey our strong support for this measure.

We would like to briefly highlight the most important features of the Congressional Counsel proposal as we see them. The Congressional Counsel office as adopted by the Senate has responsibility for (1) defending Members, officers, employees and committees of Congress in legal proceedings arising from the performance of official duties, (2) intervening or appearing as amicus curiae in the name of an officer, committee chairman, or committee of Congress to protect the powers of Congress, and (3) bringing civil actions to enforce committee subpenas. In performing each of these functions the office defends the institutional interests of Congress. The Congressional Counsel office would be principally a litigation office, not a general counsel to advise each House on their general legal affairs.

These litigation responsibilities are presently performed on an ad hoc basis by the Justice Department or by private counsel. The Justice Department now supports the establishment of a Congressional Counsel office. The Department has experienced numerous conflicts in vigorously representing Congressional interests, which are often adverse to those of the Executive Branch. The Department has represented Congress in at least 75 cases in recent years.

Private counsel-such as Eugene Gressman-have performed ably representing Congress in approximately ten major constitutional law cases. However, it is not practical or economical to retain private counsel on a case-by-case basis in the numerous other court proceedings in which Congress becomes involved. Furthermore, it is not appropriate for private counsel to assume the role of legal adviser to officers and Committee Chairmen regarding questions which arise in anticipation of litigation. Private counsel retained on an ad hoc basis are not able to coordinate long-term Congressional litigation strategy.

The need to regularize the representation of Congressional interests in court by establishing an in-house Congressional Counsel office has increased in recent years as more and more court challenges to Congressional powers have arisen. The cost of establishing a Congressional office with responsibility for this litigation should not exceed the amount that Congress and the Justice Department presently expend on such representation. By establishing its own litigation office, however, Congressional interests will be more consistently and continuously defended. Providing for the defense of Congressional powers is a matter of fundamental institutional concern.

One very important feature of the Senate bill is that the Congressional Counsel office is equally accessible to both houses and each house supervises the office with respect to litigation in which it is involved. Neither house may intervene in decisionmaking involving the other house, neither house acting along can remove the Counsel, and neither house acting alone can direct the Counsel to take any position in the name of "the Congress". The office is directly responsible to a bipartisan Joint Leadership Group and the Counsel is jointly appointed by the Speaker and President pro tempore. All of these provisions in the bill prevent either house from dominating the Congressional Counsel office.

The Senate feels strongly that a joint House-Senate office will be far more effective in representing Congressional interests than could separate House and Senate Counsel offices. There is no substantial difference between the policy or practice of the House and Senate in defending Members, officers, employees, or committees in court. Both bodies also recognize that court precedents in one case regarding, for example, speech and debate immunity affect the institution as a whole. In contrast to this need for unified representation of Congressional interests in litigation, we recognize that the functions which a general counsel would perform should be assigned to separate House and Senate offices which are familiar with the unique legal issues and practices which govern the internal affairs of each body.

We understand that you have important and wide-ranging responsibilities as Chairman of the House Administration Committee and that your committee will be very busy during the remainder of this session but hope you will be able to give attention to the Congressional Counsel proposal at an early date. We will be happy to be of assistance to you and to your committee during consideration of the bill. We very much appreciate your attention to this important legislation.

Sincerely,

JAMES ABOUREZK.
HUBERT H. HUMPHREY.
JACOB K. JAVITS.
CHARLES K. PERCY.
ABE RIBICOFF.

PRESIDENT'S TAX CUTS WILL NOT OFFSET TAX INCREASES

Mr. ROTH. Mr. President, for the past year I have been calling for the enactment of permanent tax rate reductions for all taxpayers. I have argued that substantial tax cuts are needed to get the economy moving and to create meaningful new jobs in the private economy. Last July, Congressman JACK KEMP and I introduced legislation, the Tax Reduction Act (H.R. 8333; S. 1860), to provide an across-the-board reduction of 33 percent in all individual income tax rates over the next 3 years.

I believe it is not at all enough to merely offset the increased social security taxes and other new taxes in the works. We must reduce the total tax burden on the economy.

But even though President Carter promised during the 1976 election campaign that he would never increase taxes on the working men and women of this country, his new tax package would increase the tax burden on the economy over the next 5 years.

The President claims that his tax package will offset the social security tax increases and the effects of inflation on the tax system. But according to figures prepared by the staff of the Joint Committee on Taxation, the President's tax package will not offset the new tax increases.

In fact, President Carter's new tax package is $27 billion too small to offset the increased social security taxes and

the inflation-induced tax increases coming over the next 5 years. Even more alarming, when the proposed energy taxes are included the President's tax cuts are $70 billion too small.

Over the next 5 years, these measures will increase taxes by $215.5 billion on the American people, $70 billion more than the cumulative $145.9 billion in tax cuts proposed by the President.

These tax increases include $114 billion in new social security taxes, $58.7 billion in inflation-induced tax increases, and $42.5 billion in new energy taxes. The following chart (Table 1) compares the tax increases with the President's proposed tax reductions over the next 5 years:

TABLE I.—TAX INCREASES [1]

[In billions]

	Fiscal year—					
	1979 [2]	1980	1981	1982	1983	Total
Social security	9.5	12.7	24.2	32.6	35.3	114.3
Inflation [3]	13.4	9.0	10.4	12.1	13.8	58.7
Energy taxes [4]	2.9	12.3	15.4	7.7	4.2	42.5
Total	25.8	34.0	50.0	52.4	53.3	215.5
CARTER TAX PACKAGE						
Tax cuts	30.4	37.1	41.9	46.4	52.4	208.2
Tax increases	5.3	10.4	13.2	15.6	17.5	62.0
Net tax cuts	25.0	26.6	28.6	30.8	34.9	145.9

[1] Prepared by the staff of the Joint Committee on Taxation.
[2] Includes fiscal 1978 increase of $7,200,000,000 and fiscal 1979 impact of $18,600,000,000.
[3] Estimate based on 5 to 6 percent inflation rate.
[4] Based on energy tax bill passed by House.

As this table shows, the President's proposed tax package will not offset the pending tax increases and will result in a net tax increase on the American economy. The following table shows the tax increase for each of the next 5 fiscal years.

TABLE 2.—ANNUAL TAX INCREASE

[In billions]

	Fiscal year—				
	1979	1980	1981	1982	1983
Tax increase	25.8	34.0	50.0	52.4	53.3
Tax cut	25.0	26.6	28.6	30.8	34.9
Total tax increase	.8	7.4	21.4	21.6	18.4

These figures clearly show that the President's tax package is neither big, bold, nor beneficial. And besides being too small, the President's tax cut does not provide enough relief to middle-income taxpayers. For not only does his tax cut not offset the pending tax increases, it provides the least amount of tax relief to the middle-income taxpayers hit hardest by the social security tax increases and inflation.

The Roth-Kemp tax bill would offset the scheduled tax increases and provide substantial tax cuts for all taxpayers. Under the Tax Reduction Act, the total tax burden on the economy would be reduced in fiscal 1978 and in each of the next 5 years, as the following chart shows:

ROTH-KEMP TAX CUTS

[In billions]

	Fiscal year—					
	1978	1979	1980	1981	1982	1983
Roth-Kemp	14.8	40.0	71.7	90.4	104.0	119.5
Tax increases	7.2	18.6	34.0	50.0	52.4	53.3
Tax cut	7.6	21.4	37.7	40.4	51.6	66.2

These figures include the fiscal 1978 impact because I believe a tax cut should be passed as soon as possible and be made retroactive to January 1, when the higher social security taxes went into effect. I do not believe we can afford to wait until October, the month before the general elections.

Mr. President, we need a tax cut that will reduce the total tax burden on the economy, and we need it now. I am hopeful Congress will expand and reshape the administration's tax cut proposal to provide substantial across-the-board tax rate reductions for all Americans.

THE MARITIME ADMINISTRATION

Mr. INOUYE. Mr. President, on Monday of this week the President submitted the Nation's budget for fiscal year 1979 to the Congress. It was the first half-trillion dollar budget in our 200-year history.

Among the items in that budget, is a request for $494.6 million for the programs of the Maritime Administration (Marad) in the Department of Commerce. That amount coupled with carryover funds from previous years will give Marad a total program spending level of $659.3 million in the coming fiscal year.

The Maritime Administration is responsible for the direct promotion of the American merchant marine and our domestic shipbuilding industry, including administration of the Federal subsidy programs for ship construction and ship operation. Other promotional activities include research and development programs, training of officers for the Merchant Marine, maintenance of the reserve fleet and administration of a variety of other aids—such as title XI—low interest-mortgages, which assist American operators in purchasing vessels.

The primary function therefore is the administration of the laws and programs embodying the promotional part of our national shipping policy.

That aspect of our shipping policy is principally contained in the Merchant Marine Act of 1936, and constitutes the basic statutory scheme of Federal aid to the private shipping industry.

The act is designed to establish and maintain a strong merchant fleet owned by American citizens, operated by American crews, and fully capable of serving our international economic, military, and political commitments under all foreseeable circumstances.

It recognizes that even in times of peace, economic and political tensions and other unforeseen contingencies may seriously disrupt or distort traditional patterns of commercial intercourse on international trade routes.

As such, the act reflects the realization that an international power such as the United States cannot be dependent upon ocean transportation media owing allegiance to alien flags without threatening its national security.

The Shipping Act of 1916, as amended, embodies the other half of our national shipping policy. It is regulatory in nature and its purpose is to safeguard against agreements and practices in the U.S. ocean liner trades which would be detrimental to the commercial interests of the United States. To that end it is aimed at preserving competition in these trades.

Thus, all common carriers operating in the foreign commerce of the United States whether U.S.-flag or foreign, whether subsidized or not, whether conference members or independents, must compete fairly with one another.

Although our national shipping policy is bifurcated, both parts—the promotional and the regulatory—are harmonious and complement each other.

Each, if permitted to operate fully and independently, will further the objectives of the other.

Conversely, impairment of one part will adversely affect the other.

For example, if the Government aid to the U.S. shipping industry authorized by the Merchant Marine Act is not sufficient to establish and maintain a merchant fleet capable of carrying a "substantial portion" of U.S. foreign commerce, the purpose of the Shipping Act of 1916 to preserve competition in our ocean liner trades is to a large extent rendered moot.

Or, if the regulatory provisions of the Shipping Act of 1916, are applied in a manner which discriminate against or otherwise impair the ability of U.S.-flag carriers to compete against their foreign counterparts in our liner trades, not only is the purpose of the Shipping Act frustrated, but the objective of the Merchant Marine Act to establish and maintain a strong merchant fleet is thwarted as well.

Shortly, my Merchant Marine Subcommittee will be considering legislation necessary to authorize appropriations of the nearly $500 million requested for the programs of the Maritime Administration.

We will be doing so with the certain knowledge that our efforts to promote and maintain a strong merchant marine for defense and commerce through the MARAD programs are being severely undermined and thwarted by widespread illegal rebating in our ocean liner trades which threatens the imminent demise of the liner segment of the U.S. Merchant Marine.

Mr. President, the question which readily suggests itself is why, as a government, have we permitted this situation to flourish in contravention of our shipping laws and to the detriment of our expressed national shipping policy.

Based on my own experience and the testimony at our subcommittee's hearings, the reasons, I submit are twofold.

First, there has been a notable lack of a unified, organized effort to correct the situation on the part of the several Federal agencies having statutory responsibilities that are affected by illegal rebating in the U.S. liner trades.

In fairness to the Federal Maritime Commission, it has recently begun an attempt to enforce its statutory responsibilities but, the Commission's efforts are severely hampered by the lack of a concerted Federal effort, and the inadequacies of existing law and agency resources.

And this, Mr. President, brings me to the second reason why as a government we have failed. Our present laws are simply inadequate to regulate effectively the foreign flag carriers which transport the vast majority of the export-import commerce in our ocean liner trades.

Not only are the vast majority of malpractices in these trades beyond the pale of our enforcement authority, what action that is taken is usually taken against our own flag carriers. This, of course, further exacerbates the situation because regulation and enforcement is uneven and discriminatory to the detriment of our merchant fleet.

Former FMC Chairman Karl Bakke summarized this problem very succinctly in his testimony before the subcommittee. He said:

> There are, of course, greater obstacles to enforcement of our laws against foreign carriers. We can expect opposition from foreign carriers, some of whose government actually have passed laws forbidding their nationals to produce documents for our inspection. At present, the United Kingdom, Belgium, Sweden, France, Finland, the Netherlands, the Federal Republic of Germany, Australia, and Norway have enacted such secrecy laws.

In this context, if we permit rebating to continue in our liner trade it makes little sense for the Maritime Administration to attempt to promote the American Merchant Marine and our domestic shipbuilding industry through Federal subsidy programs because it simply will not be able to compete in our ocean liner trades.

Currently my subcommittee as well as its counterpart in the House is considering several interim and long-term solutions to the problem.

Pending a final solution, however, it makes no sense to spend over $500 million a year to promote the U.S. Merchant Marine on one hand, while permitting illegal practices which are destroying it, on the other. Especially when there are just and equitable procedures readily available to help curtail in part, at least, these illegal practices.

As the subcommittee considers the MARAD authorization bill, I will therefore introduce an amendment which will amend the Shipping Act of 1916, to require all tariffs in our international liner trades now on file or to be filed with the FMC to contain a signed statement from each liner company (United States or foreign) that it will comply with FMC requests for the production of documents, et cetera, in the course of the commission's investigations. Failure to file or produce on request would result in an existing tariff being automatically suspended, or the rejection of any proposed tariff.

Engaging in the U.S. liner trades, which are the most lucrative in the world is a privilege, not a right. To condition that privilege on an agreement to comply with the laws of the United States and the procedures necessary for their enforcement is eminently reasonable and just, and certainly within the prerogatives of the United States as a sovereign power.

ERISA

Mr. DOLE. Mr. President, the Employee Retirement Income Security Act of 1974 was enacted to insure the financial integrity of private pension plans and thereby better provide for the retirement of American workers. However, Federal regulations have increased to the point where they must be administered by three different Government agencies. Since the enactment of ERISA, the Senator from Kansas is aware that significant questions have been raised about the costs and benefits of ERISA.

The Pension Benefit Guaranty Corporation has recently estimated that up to 10 percent of all multiemployer plans are experiencing significant financial hardship which may cause plan termination in the near future. Among all pension plans, the total number of failures and voluntary terminations may be as high as 30 percent in the last 3 years.

PLAN TERMINATION

Mr. President, laws which force employers to terminate their pension plans are not protecting the worker. I recently mailed a survey to typical businesses in Kansas requesting their views, experiences, and problems with the requirements of ERISA. The response was excellent but unfortunately shows a trend toward plan termination.

Out of the businesses responding, I found that almost half of the respondents have qualified pension plans. Of those having plans, a whopping 25 percent had either terminated their plan or will terminate their plan in the near future. The chief complaint was the complicated mosaic of ERISA regulations.

ADMINISTRATIVE COSTS

Mr. President, almost every respondent complained about the number of reports to be filed and the constant barrage of redtape from the Government. Administrative costs are often too much for a small business to bear. One company contributes only $4,000 annually to a plan but pays over $1,000 a year in attorney and accounting fees to maintain the plan.

Mr. President, another small business established a plan over 20 years ago. The original plan approved by the Internal Revenue Service consisted of a total of eight pages. Their new simplified plan, operating almost identically to the old plan, consists of 28 pages.

In order to file its annual report, the business was told by its regular certified public accountant to seek an ERISA specialist—a very expensive endeavor.

NEEDS REVISION

Mr. President, there is little doubt in my mind that ERISA needs revision. It requires special types of recordkeeping not normally kept by employers, especially very small employers. ERISA further places strict sanctions and penalties on the employer for failure, inadvertent or not, to meet the very exacting recordkeeping and public reporting standards.

Mr. President, employees are being deprived of the benefits of a private pension plan because of the startup costs and, more recently, the increases in the social security tax. I hope that the Congress will take it upon itself to study the problem and reverse the dangerous trend.

I ask unanimous consent that a copy of the survey be printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

SENATOR BOB DOLE ERISA SURVEY

IRS APPROVED PENSION AND PROFIT SHARING PLANS IN KANSAS

Firm Name (optional) ——.
Number of Employees ——.

1. Does your firm have, or has it ever had, a qualified pension plan? Yes, 48 percent; No, 52 percent. (If no, go to question #8)

2. Type of Plan: Defined benefit 42 percent; profit sharing 36 percent; money purchase 8 percent; Keogh 19 percent; IRA 4 percent.

3. Number of Employees covered? ——.

4. Date Plan was instituted? ——.

5. Date Plan was terminated, if applicable? 8 percent.

6. Reason for terminating the Plan: Regulation; expense.

7. Do you contemplate terminating your Plan? Yes, 18 percent.

8. Are you considering starting a Plan? Yes, ——; No, majority. If yes, what type: Defined benefit, ——; profit sharing, ——; money purchase, ——; Keogh, ——; IRA ——.

9. Reason for not starting a Plan: Expense; social security taxes, government regulation.

10. Do you have an Individual Retirement Account? Yes, ——; No, ——.

11. What percentage of employees have an IRA? ——.

12. Would you increase your IRA contribution if the maximum contribution limit were raised? Yes, 100 percent; No, ——.

13. Have you or any of your employees made IRA contributions for a non-employed spouse? Yes, ——; No, ——.

Please feel free to attach any extra comments if the space provided is inadequate.

REPORT TO THE PEOPLE OF VERMONT

Mr. LEAHY. Mr. President, 3 years ago this month I was sworn in as Vermont's newest Senator. It has been an exciting time for me, my family and my staff. I am now prepared to report back to the people of Vermont on one of the major campaign commitments I made in 1974.

When I first ran for the Senate, I spoke against the Federal bureaucracy. I spoke of its insensitive, dehumanizing, unresponsive, and sometimes even callous approach to the individual problems that people brought to it. Whether it was a lost social security check, veterans benefits that had to be worked out or housing for those in need, the bureaucracy did

not meet the needs of the people it was supposed to serve.

Part of my campaign in 1974 was a commitment to the people of Vermont to try and change that. It was a commitment to realistically look at the bureaucracy from the perspective of a U.S. Senator and see what, if anything, could be done to improve it.

I wanted to go beyond the political rhetoric about redtape, large volume, telephones with recorded messages, and form answers. These are easy to attack for a disgruntled constituent or for an aspiring politician. They are easy because they are the wrong target—these are only the symptoms of the problems, not the causes.

My commitment to the people of Vermont was to go beyond the easy targets and try to identify and suggest solutions to the causes of the bureaucracy's problems.

I approached this task with realism as well as optimism. The bureaucracy is too large, too entrenched, too complex to correct in one deft move. My approach was to isolate particular components of the bureaucracy, study these components to learn both how they might be specifically improved and what general problems they might also represent.

The results that I have to report back to you today are mixed, but improving. On the one hand, I now believe that it possible to set up a U.S. Senator's office without creating bureaucracy. We have found through the use of the 800 watts line, by having all of our case workers operate out of Vermont and by having members of my staff travel the State regularly (as do I), that we can stay in touch with people and their problems. We can be available by telephone, by mail or by coming into the office, and we can handle individual problems. I believe, and it is more a compliment to my staff than to myself, that we do a pretty good job.

We have tried to serve as a liaison, a link, between constituents in Vermont and the Federal Government. In addition to providing the names of the people to talk to in Washington or talking to them ourselves, perhaps the most important link that we provide is a humanizing link.

I have found that the bureaucracy, although we can, and I believe should, deal with it as a separate entity, is, in fact, operated by and made up of people. If we can identify those people when they have an individual problem, rather than having them deal with the dehumanized amorphous maze that we call the bureaucracy, then I believe that part of my job is being done.

In addition to handling the bureaucracy on a one-to-one level for people in Vermont who have problems, I also promised in 1974 that I would take a look at the overall bureaucracy, at the bureaucracy as a separate entity, and see if there was anything we could do to improve it—not simply for one problem—but improve its mechanism, its operation.

In 1975, my first summer in Washington, I hired six Vermonters to join my staff and look at the bureaucracy with me.

My feeling was that these Vermonters, competent, educated, and eager would bring a fresh perspective to Washington problems. Commonsense was the key. The policies, procedures, actions, and decisions of the Federal Government should make sense. If they do not, something is wrong and that is when we start to ask questions.

Our efforts that first summer were based on trial and error, a willingness to experiment with new approaches, and a belief that commonsense would lead us to both the problems, and, hopefully, to some solutions.

Our work led us to the discovery of the Federal Fire Council. We discovered it because everyone else forgot it was there. The Fire Council was spending over $65,000 in taxpayers money every year and doing nothing. The bureaucracy had misplaced the Fire Council. It was hidden away in the Commerce Department quietly spending money and performing no useful function. I was able to go to the full Senate and successfully lead an effort to eliminate all funds for the Fire Council from the Federal budget. It was a small victory, perhaps, but one that convinced me that our investigations should continue.

I decided that the bureaucracy project should be made a regular part of my office and, therefore, in 1976 we continued the bureaucracy task force and this time brought down another group of Vermonters for the summer under the direction of a full-time member of my staff. The bureaucracy task force began an investigation into the use and abuse of Federal advisory committees. Advisory committees—and there were over 1,200 in 1976—are designed to allow private citizens to participate in the formation of Government policies. That is a noble goal and one I support completely. The problem was that the committees were not meeting that goal. What we found after 6 months of inquiry was a series of problems with the advisory committees: Their expenditures going under or unreported, their membership not representing a cross-section of views, the advice they were offering and how it was being used, conflicts of interest, and abuse and accountability.

We prepared a document, a report on Federal advisory committees, and released it late in 1976.

Rather than direct our efforts toward the elimination of one or two or even a handful of "bad" committees, we concentrated on the bureaucracy's problems relative to all advisory committees. Although we did succeed in identifying over a dozen specific committees whose continued operation served no useful function, the real goal of the report was to bring change throughout the Government. We had some success by working with the new administration.

The Carter administration in its efforts to reduce waste in the bureaucracy found the work we had done useful. Six months after we released that report, President Carter announced a Government-wide 40 percent reduction in all Federal advisory committees. At the two departments where we concentrated our investigation the results were certainly satisfactory: 80 percent of all Department of Agriculture advisory committees and nearly 25 percent of all Department of Defense committees were terminated. Advisory committees had been costing the Federal taxpayer approximately $100 million a year. I believe that we have made a very important and significant savings in tax dollars In addition, we have taken steps to insure that in the future advisory committees will be directed toward the goal of citizen participation achieved equitably, openly, and economically.

My continued involvement with the bureaucracy led me to believe that in addition to attacking specific components of the bureaucracy which showed examples of waste, corruption, or illegalities, such as the Federal Fire council and the advisory committees, that it was also important to try and attack the cause of the problems, to try and go to the heart of some of these bureaucracy problems and see if we could not find solutions that would be applicable across the board. To that end I have now made the bureaucracy task force a permanent part of my Washington staff. The task force is charged with identifying and investigating particular aspects of the bureaucracy which need improvement and which could lead to a more effective, efficient and responsive Federal Government.

In 1977 the bureaucracy task force began an investigation into the Government's use of consultants and contractors. We were not solely interested in finding specific examples of a bad contract or a consultant who was hired to do nothing and paid a tremendous fee to do it. I know that exists. But in addition to finding the isolated case, we are interested in taking a look at the procedure that the Government, the bureaucracy, uses in deciding about contractors and consultants, to find whether or not that procedure should be changed to insure that those contracts which are let by the Federal Government are for necessary and worthwhile projects which could not be performed by in-house staff. What we found was that the procedures vary from department to department and that they are extremely vulnerable to criticisms or abuse, misuse, favoritism, competency, and value. Millions and millions of dollars worth of contracts are entered into every year by the Federal Government and the results, the benefits of those contracts, are at best highly questionable and of dubious value. We have not finished our inquiry, but I expect to devote a substantial amount of my own time and the task force's time this year to continuing our effort.

In 1977 the bureaucracy task force also looked at the question of Federal whistle blowers. Whistle blowers are employees who disclose examples of Government waste, malfeasance, or misfeasance. They are responsible for exposing corruption and abuses which, without employee disclosure, might well go unreported and unchallenged. We were no longer looking at particular items—fire councils or advisory committees, but rather we were

now trying to deal with the overall question of communication.

If the bureaucracy, because of its size, complexities, and procedures missed a problem, if it failed to prevent abuse or waste, what might allow that abuse to become known? If a Federal employee was aware of abuse, what recourse did that employee have to get his or her concern expressed and how could that employee trigger events which would rectify the problem? Added to all this was the question—what happens to the employee, the whistle blower?

In December I released a second bureaucracy task force report. This one dealt with Federal employees who blew the whistle on Government abuse.

That report showed that regardless of the validity of the whistle blower's allegation of Government abuse, regardless of the department or agency involved, the fate of the whistle blower is unfortunately similar throughout the Government. Rather than receiving praise or promotion, the whistle blower is subjected to formal and informal harassment and the initial allegation of wrongdoing is often forgotten, ignored or covered up.

Whistle blowers have exposed problems with defense cost overruns, unsafe nuclear powerplant conditions, questionable drugs approved for marketing by the FDA, contract illegalities and improprieties, conflicts of interest, merit abuses, and regulatory corruption. If the Federal employee involved had failed to blow the whistle, it is unlikely that the situation would have ever been made public.

The core of the whistle blower issue is the question of the Federal Government's responsibility to the people. The disclosure of waste or abuse by Government officials should be seen as a sincere commitment to making our Government more responsive to the needs and the trust of the people. Taken in this light, these disclosures can be used to strengthen and improve the Government, not to weaken or disrupt it.

I can be pragmatic enough to assume that with 3 million people working for the Federal Government there will be waste and abuse. If these problems are communicated early and factually to top agency officials, it should be possible to handle and resolve most of these problems before they become catastrophic. Once an agency head is made aware of a potential problem, that official can and should be held accountable for its resolution.

The responsibility of a Federal employee to work toward the elimination of Government malfeasance, misfeasance and inefficiency should not be a discretionary one. However, an employee who discharges his duty to expose abuse cannot be subjected to the harassment and reprisals which have become standard operating procedures in the past.

If the bureaucracy were adept at receiving allegations of potential wrongdoing, investigating the allegations, and not the employee who made them, it could resolve these problems and then allow everyone to go back to their jobs. There would be no need for whistle blowing. Rather than being a grave act taken outside the stream of official conduct, the disclosure of these problems, in a manner designed to insure that they are resolved, would actually become an accepted part of the process. Whistle blowing would be institutionalized.

I am working with my colleagues in the Congress and with the Civil Service Commission in trying to develop a mechanism that would allow employees who witness abuse to safely inform people in authority of the problems.

What we are attempting to do is insure that the people in policymaking positions are made aware of and held accountable for the problems seen by the Federal employee who serves as a frontline soldier at the lower GS grades.

Earlier this fall, I introduced legislation that would provide Federal employees with a safe, impartial and confidential review board to receive allegations of Government abuse. The board would determine the validity of those allegations and then assign to the appropriate agency head the responsibility for resolving the problem. It is not the final answer in terms of what we need to making the Government more efficient, but I do believe it is an essential part.

Right now, the bureaucracy encourages neither disclosure nor accountability. To borrow from Speaker Sam Rayburn, "to get along you have to go along," translates into bureaucratese as, keep your mouth shut, your ears plugged, and your eyes in blinders. We have got to change that, and I believe the Federal employees want it changed. In the interest of good government and in fairness to Federal employees, we have got to take immediate action to have whistleblowing accepted as an honorable act.

I am encouraged about reform in this area. On the basis of our work, on the basis of congressional and public response to the legislation that I have introduced, and on the basis of the preliminary work that I have seen from the Civil Service Commission under its new Chairman, Scott Campbell, I believe that the effort is sincere, and that disclosure and accountability will come in the near future.

Not all of the bureaucracy's problems were internally created. Congress shares some of the blame. Although the bureaucracy may be guilty of self-perpetuation and entrenching itself behind complex procedures, the Congress has shown little restraint from feeding the monster.

The Congress principal response to any major problem has too often been to create a new Federal program and organize a new Federal agency. After setting some high sounding but basically meaningless goals of political rhetoric—stop crime in the cities, provide decent housing for all, or whatever—the Congress was then content to use the newly created agency as a conduit through which it haphazardly threw great amounts of money in the general direction of the problem.

No real effort was made to see that the original legislation identified achievable or practical goals. No effort was made to have the Congress work with the executive branch to insure that the acutal implementation of these Federal programs was kept "on track" with the intent of Congress.

These failures lead to Federal programs spending billions of dollars annually in an attempt to solve domestic and foreign problems. But when Congress went to review the programs through its oversight responsibility or in reauthorization hearings we discovered that little, if any, information was available to show how effectively the program was performing. We were, indeed, guilty of literally throwing taxpayers' dollars at a problem with no hope of evaluating the results. In an attempt to change this, I have been working with the General Accounting Office for over 2 years in the development of a new congressional oversight process designed to insure that Congress be specific in identifying goals for the programs it creates and that the executive branch stay "on track" with legislative intent as it carries out these programs.

The aim of this process is to improve the precision of legislative intent. It will require the Congress to ask: First, how much sense will this bill make in a few years, and will it do what it is intended to do? Second, will the Congress be able to judge its effectiveness when it comes up for appropriation or reauthorization?

The oversight process, when applied by the Congress, would establish a disciplined process for agencies to follow in monitoring, evaluating, and reporting on their programs in order to answer congressional oversight questions.

The General Accounting Office released our work in the form of a report to the Congress late last fall. I intend to work with the GAO and my colleagues in the Senate and the House in adapting the oversight process to the sunset legislation now pending before the Senate. Although it is far from a sure thing, I believe we have a chance of seeing some real changes made in the area of oversight and evaluation within the next session of Congress.

What does all this mean? Sometimes I wonder, but I am beginning to see a pattern. Our ability to create a nonbureaucratic congressional office, the existence and the termination of the Federal Fire Council, the reports of advisory committees and Federal whistle blowers, our inquiry into the Government's use of contractors and consultants and my work with the General Accounting Office all fit together.

The Federal bureaucracy, behind those long titles, endless redtape and frustrating procedures, is, in fact, a large number of people trying to do their jobs efficiently and expeditiously.

I believe the key to unlocking the bureaucracy puzzle is recognition of and increased attention to some basic commonsense ideas.

The first is communication. The bureaucracy is creative in developing bureaucratic layers, organizational flow charts and Government branches, or department groups. The problem, however, is that little attention has been shown to insuring, let alone encouraging, communication within the bureaucracy itself. Congress does not talk with the

executive about new programs. The policy implementors within an agency, the lower GS grades who are frontline soldiers in a programs's existence, do not talk with the policymakers within an agency to tell them about problems when they first occur and before they become catastrophic.

This is not the fault of any one group of people. Communication has not been encouraged by the bureaucracy itself. It is much easier to be able to say, "I never knew about this" or "I had no idea that was going on." If the bureaucracy discourages communication, this kind of alibi will continue.

If, on the other hand, we can cut through the bureaucracy and increase the exchange of information, then we can expect to eliminate the problem of ignorance as an excuse.

This leads to the second commonsense reform which can be brought to the bureaucracy—accountability.

Titles do not make decisions, people do. It is time that we held bureaucrats responsible and accountable for their actions or failure to act. If we have success through increased communication within the bureaucracy in insuring that decisionmakers within an agency are aware of what is going on, then we can and should begin to hold them accountable for the decisions they make based on that information.

The bureaucratic runaround from one office to another must end. If someone has been injured because of a decision then it should be possible to identify exactly who made the decision. That person should be available to explain the decision if necessary and not be allowed to kick it into some bottomless bureaucratic vat of excuses, delays, and transfers to another office.

Members of Congress should be held accountable for the content of the laws they pass. The executive branch officials should be held accountable for the implementation of those laws. Agency officials should be accountable for the resolution of allegations of abuse raised by Federal employees.

It is time to break through the cloak of anonymity of the Federal bureaucracy and put names on the people making decisions.

The third commonsense idea which can be applied in reforming the bureaucracy is time. One of the bureaucracy's greatest tools is time and the ability to delay taking action. Procrastination wears down an adversary or reformer's emotional, physical and financial resources. New excuses can be developed or, if necessary, new histories can be created.

Although it is true that things take time, our blind acceptance to the bureaucracy's timetable for action should be reassessed. An expeditious resolution of a complaint or question should be the rule rather than the exception for the bureaucracy.

The size of Federal programs which affect millions of Americans may, in fact, mean accepting realistic timetables for action which are greater than you or I might desire when a relative, friend or constituent is involved. I will accept those timetables, however, if they truly represent a sincere effort to expeditiously and efficiently handle the type and number of cases.

What I will not accept is the bureau's premise that everything can be handled tomorrow. We should no longer accept time delays as normal procedure within the Federal bureaucracy. Although it may appear at first to be a minor concession, the recognition and acceptance of the bureaucracy's right to procrastinate is equivalent to accepting the dehumanizing, inefficient existing system.

The fourth and related commonsense idea which should be brought into our consideration of bureaucracy reform is the use rather than worship of procedures. Procedures should be designed to efficiently and expeditiously resolve an individual's question or problem in an equitable manner. Procedure is a tool, not a goal or an answer.

Too often we have succumbed to the bureaucracy's complex and time-consuming procedures. We have accepted these procedures as necessary without asking why?

The Federal employee who discloses acts of Government abuse, the whistle blower is often harassed for such disclosures by subjecting him to an endless string of procedures—procedures to determine harassment, procedures to handle appeals of grievance actions, and procedures which are to be reviewed in Federal court. The procedures effectively keep the focus of attention away from the initial allegation of abuse and keep it, needlessly, on the employee himself. This use of procedures has often proved to be the most effective means of silencing an employee. Too often, the employee's response to the procedures will be to eventually concede defeat and return to his job a muzzled individual or quit Government service entirely.

On the other end of the spectrum, the procedure which must be followed to fire an inefficient employee is equally ridiculous. It can often take years and thousands of dollars in staff time to successfully remove an inefficient employee. This is procedure running unchecked.

The whistle blower should not be subjected to procedures designed to wear him down and the inefficient employee should not have a haven of procedures available to protect a job he does not deserve to hold.

It is time to question bureaucratic procedures rather than accept them.

Only those procedures which meet a high standard of necessary, expeditious, efficient, and equitable method should be retained.

Another common sense idea I would like to see applied to the bureaucracy is the infallibility of people. If we accept the fact that people make up the bureaucracy rather than computers, procedures, and forms, we must also accept the fact that people make mistakes.

It is not wrong to make a mistake. It is wrong to fail to admit it, to cover it up or to assume that errors cannot be corrected. Mistakes by bureaucrats, like mistakes by the rest of us, should be admitted, corrected and steps should be taken to see that they are not repeated.

The bureaucracy's defensiveness and its belief in its own omnipotence is destructive to the responsive, flexible, and equitable approach it should take to people's problems.

One final word on commonsense and the bureaucracy—allegiance. The Federal bureaucrat is pressured by his superiors to adopt the spirit of "team play," placing loyalty to colleagues and agency first. Congress, however, has called for a different allegiance with the passage of the Code of Ethics for Government Service passed by the 85th Congress. This measure directs Federal personnel to place "loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department."

Clearly, this dual allegiance is difficult to maintain during the best of times and nearly impossible when conflicts arise.

The responsibility of a Federal employee to work toward an efficient and equitable performance of his duties and the elimination of waste and abuse should not be a discretionary one.

Every Federal employee should be charged with keeping the public's best interest foremost in his or her mind.

This allegiance to good government is absolutely necessary if we are to have a Federal Government which is responsive to the people's needs and worthy of their trust.

I realize that talking about the nuts and bolts of reforming the Federal bureaucracy is not the most politically exciting of issues. It is tough and complex and there are no easy answers.

I believe, however, that it is a crucial issue which must receive the detailed analysis and work which I am endorsing. Our handling and reforming of the Federal bureaucracy may well have more of an impact on the type of government we leave our children than any single issue or vote which comes before the U.S. Senate during my tenure in office.

I promised the people of Vermont in 1974 that I would look at this issue. I have done this. Although I am pleased with the progress we have made in 3 years, it is not a closed issue for me. Rather, I intend to continue my work in this area and hopefully supply an even more favorable report 3 years from now.

PROFILE OF AN OIL LOBBYIST

Mr. ABOUREZK. Mr. President, Elizabeth Drew has written an article for the January 9 issue of New Yorker magazine which should be highly interesting to all of my colleagues. It is a profile of an oil lobbyist, Charls Walker, who claims in the interview given to Ms. Drew that he virtually controls governmental oil policy.

It would be interesting to know how much of his boasting is true and how much is puffery designed to enhance his image as a successful lobbyist.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A REPORTER AT LARGE

(By Elizabeth Drew)

On a Wednesday in late November, Charls Walker sits at lunch at the Sans Souci in Washington talking to me about his various projects. When Walker lunches with clients whom he advises or for whom he lobbies, or with members of the press whom he makes it a point to keep in touch with, he usually lunches at the Sans Souci—once a week, on the average. Otherwise, being a busy man, he drops by the All States Cafeteria, next to his office building, on Pennsylvania Avenue. Our lunch had been postponed for half an hour today. "I had to stop by Paul Young's Restaurant to see someone," he explains. Tomorrow, Thanksgiving, he and his wife, Harmolyn, will have dinner with the Thomas Ludlow Ashleys—Lud Ashley, an Ohio Democrat, heads the House of Representatives' Ad Hoc Committee on Energy—and the James Schlesingers. Schlesinger, of course, is the Secretary of Energy. And Walker, who was a Deputy Secretary of the Treasury in the Nixon Administration and is now president of Charls E. Walker Associates, Inc., an economic-consulting-and-lobbying firm, is a lobbyist for corporate clients on the energy bill. At this point, the bill is at the critical stage where conferees representing the House and the Senate try to reach a compromise on the conflicting versions passed by the two chambers.

The circumstances under which the Walkers became close friends of both the Ashleys and the Schlesingers were fortuitous, but it is also the business of the lobbyist to nurture fortuity. Given enough time, an impressive array of networks will grow. During his years at Treasury, and before that as executive vice-president of the American Bankers Association, Walker made very good contacts on Capitol Hill with, among others, members of the House Ways and Means Committee and the Senate Finance Committee, which handle, among other things, energy and tax legislation. He struck up a relationship with Russell Long, the chairman of the Senate Finance Committee and one of the more valuable people in Washington to know if one is in Walker's line of work. Now Long, like Ashley, is a key figure in the efforts to shape a final energy bill. "When the Finance Committee is writing a bill, I'll talk to Russell two, three times a week," Walker says at lunch. "I talked with him yesterday and today, but not just about energy."

Walker's interests range well beyond energy and tax matters. "My number-one interest right now is the energy bill," Walker explains. "Second, I'm very deeply involved in helping to orchestrate a campaign to get Arthur Burns reappointed." On Friday, he will have lunch with Burns, the chairman of the Federal Reserve Board, whose term expires at the end of January. He lunches with Burns once a month—usually at the Federal Reserve Board—as he does with John Rhodes, the House Minority Leader, and with a few Washington journalists. Walker continues, "The third thing is Carter's economic game plan. If he does the right things over the next six weeks, he can do very much to capture the momentum of leadership." "Walker spelled out the right things" in a recent issue of a newsletter that he publishes once a month: he wrote a proposed "fireside chat" for President Carter in which he would ask Congress, as its first order of business, to cut individual and business taxes, and would postpone tax reform. Walker would have Carter say in his fireside chat, "Months of study have convinced me that our Federal individual income tax system is not nearly so unfair as the American people had been led to believe."

He would also have him pledge to "bring Federal spending under control." Walker's prescription, of course, fits not only his own essentially conservative economic views but also the interests of his clients, which include several of the largest corporations in America. "Fourth," he goes on, "I had the best Chinese dinner in town last night—at the Chinese mission—to push and further the work of the Committee on the Present Danger." Several members of the committee—a group of arms-control conservatives, including such people as Paul Nitze and Eugene Rostow, who organized in 1976 to form an effective bloc on the issue of a new Strategic Arms Limitation Talks agreement—were about to leave on a trip to China. Walker, who is one of the founding members, and his wife were supposed to go along, but they had to cancel because of the energy bill. Walker says flatly, "The Senate will not approve a SALT agreement that the committee opposes." Returning to the subject of his visit to the Chinese mission last night, Walker says, "That was some dinner. The Chinese think we're the greatest thing since sliced bread—maybe that isn't the way they'd put it: since barbecued pig—because we believe that the United States either is behind or is in danger of falling behind the Soviet Union in overall military balance, and naturally they like the fact that we're pointing this out.

In '74, when Jim was still Secretary of Defense, I went to an economic 'summit meeting' the White House held where Jim did a briefing on the U.S.-Soviet balance. Jim had all these charts, and it just scared the bejeepers out of me. When you start talking about the two countries' intentions, you're talking about a country with the heritage of Jefferson and Lincoln and Wilson on the one hand and on the other Attila the Hun and Genghis Khan and Stalin. The briefings we have had from official sources here indicate that the People's Republic of China is very much concerned with whether the U.S. public attitude is one of isolation and appeasement. So our committee is a breath of fresh air to them."

Walker is a strapping man—"six foot one in my stocking feet"—with a Texas drawl (he was born in Graham, Texas, in the north-central part of the state), and is fifty-four years old. He has dark hair that is receding in front and a large, jowly face punctuated with a small mouth, a ski nose, and narrow eyes, which are usually framed in modified-aviator-style horn-rimmed glasses. The lines around his eyes are often crinkled in amusement; he laughs easily and often, and thoroughly enjoys his own humor, which sometimes broadens into self-caricature. Walker is in the tradition of the Texas storyteller, and he is full of lore, and, as is almost always the case with good Texas storytellers—Lyndon Johnson, whom he admires, comes to mind—his stories have a point. He is also a strong admirer of John Connally, one of his former bosses, whom he would be pleased to see become President. Walker has a combination of gregariousness, shrewdness, talkativeness, expansiveness, energy, and sheer enjoyment of the sport of influence—knowing what is going on, trading information, causing things to happen—which makes for popularity in Washington.

In a town that often seems to have more than its quota of solemn people, earnest people, people who are perpetually anxious or weary, Charls Walker, while he works very hard, is a buoyant figure who clearly has a good time at what he does. There is definitely an element of fun in the sport of influence: it's enjoyable to have people call you up to ask you what you think it's satisfying to be, or to think you are, up on what's going on. Walker is steadily securing his position as someone whom a lot of people call. If you can have a comradely lunch or drink or golf game and succeed in the course of the camaraderie in defining a question in a way your target hasn't thought of before—thus nudging the answer in the direction you want—it can be very rewarding indeed. And Charls Walker gets paid to do these things.

The unusual spelling of Walker's first name derives from a hope on his mother's part that people would not call him Charlie, but her strategy flopped. Throughout Washington, he's Charlie—good old Charlie, who manages to charm even people who know they are dealing with one smart, persistent machinator and don't agree with him on a thing or approve of his purposes. The expansiveness helps him get around, and also serves as a bit of camouflage. Walker's purposes are deadly serious—and can have large consequences. He is a highly intelligent man, an economist by training. He has a Ph. D. in economics, and he taught for a while at the University of Texas and at the Wharton School; he also worked for a time at the Federal Reserve Bank in Dallas and then at the Treasury Department as assistant to Secretary Robert B. Anderson during the Eisenhower Administration. He went from the Treasury Department to the Bankers Association and then back to Treasury. His office staff refers to him as Dr. Walker.

While we talk, Walker greets a large percentage of the journalists and celebrities who are having lunch at the Sans Souci—many of them are regulars—and when the waiter comes to take our order Walker tells me, "He knows what I want." He wants filet of sole and what he calls Salad Charls: Bibb lettuce with anchovies ("I invented it because anchovies give it flavor and it has zilch calories"). As Walker begins on a second glass of wine—he can be a formidable drinker but tries to stick to wine, if sometimes several glasses of it, at lunch—I ask him to tell me what he is doing on the energy bill.

"I swore I wasn't going to get involved in the energy bill, because the two closest friends I have in this town were involved in it, and I didn't like the bill," he says. "If it had been some other people, I'd have paid to get involved. But then one of my former executive assistants at Treasury, who is now special assistant to Ben Heineman, the president of Northwest Industries, got in touch with me about a problem that one of its companies, Lone Star Steel, had with the Administration bill. I tried to refer him to John Connally's law firm in Houston, but he kept coming back." Lone Star Steel is in Texas, and Connally and Walker have referred clients to each other in the past, and have worked together on a number of issues. Walker says, "Now, if you talk to people on the Hill, particularly in the Senate, you're going to hear 'Lone Star Steel this' and 'Lone Star Steel that,' although they produce only about one per cent of the steel in this country. Well, anyway, he was a very persistent young man, and he said, "The industrial-use tax kills us.' " President Carter had proposed taxing industries that use oil or gas in order to encourage the conversion to coal or other fuels. Walker continues, "I told him, 'I can't do it.' He kept after me, and finally I said, 'All right, God damn it, bring in your executives from Lone Star Steel and we'll take a look at it.' They came in, and I said, 'God damn it, you're right. This tax is a lousy proposal.' They had good plans to become more energy-conserving, for economic reasons, and the Carter-Schlesinger plan would have wiped them out. So we took it up. Later on, we got the Business Roundtable into it."

The Business Roundtable is an organization of the chief executive officers of a hundred and eighty of the largest corporations in America—including ALCOA, A.T. & T., Anaconda, Boeing, Boise Cascade, Caterpillar Tractor, Chrysler, Coca-Cola, Continental Oil, du Pont, Eastern Air Lines, Exxon, Ford, General Electric, General Motors, and so on. In 1971, while Connally and Walker were

both at the Treasury Department, they urged some of these companies to form a business-lobbying arm in Washington—"to give them more of a political presence here," Walker says—and the Roundtable was formed in 1972. After Walker left the Treasury Department, in 1973, and founded Walker Associates, his group was signed up as consultants to the Roundtable. Walker says, "The Business Roundtable wasn't all that active on the energy bill on the House side.

It's a diverse group, still getting its act together. I think there are some people in town who will tell you that until we got into it there was no particular drive from the business community. On the industrial-use tax on the House side, we had what we would consider a very significant success in the House Ways and Means Committee, and the vote was so big that our position held. It was never even attacked in Lud's committee"—the Ad Hoc Committee went over the decisions made by several House committees on various sections of the energy program, and drafted the comprehensive bill that was brought before the House—"or on the House floor."

I ask Walker what he did in the Ways and Means Committee.

"A combination of things," he replies. "We found allies—particularly in the petrochemical industry, the glass industry, the textile industry. We found on this highly technical subject of process fuels—fuels that are used as part of a manufacturing process, as opposed to just heating—that on the Republican side there was a Ph. D. in chemistry from North Carolina named James Martin. In lobbying, it's like in Shakespeare, 'A horse, a horse, my kingdom for a horse.' He had the expertise, and his constituency—the textile industry—was just as interested as our clients. On the Democratic side, we found Ken Holland, from South Carolina." The lobbyist begins with his natural allies, in Congress and outside, and fans out from there. Coalitions of the like-minded are constantly being stitched together—sometimes they are lightly basted for a single occasion; sometimes the seams are firm and hold up for many battles. On this issue, Walker worked with the Petrochemical Energy Group—or PEG group—which consists of, among others, du Pont, Union Carbide, and Texas Eastman, Kodak's Texas division. Union Carbide and du Pont are also tax clients of Walker's. Walker continues, "So on the critical vote we win—I shouldn't put it like that: Martin wins. On the vote to exempt certain process uses and feedstocks—petroleum products used as raw materials instead of as fuels—which was important to the petrochemical industry, we had the votes. We had very astute and influential people working on this, and, what's more important, we were right. The purpose of the tax was to push conversion to coal, but most process uses can't be converted to coal, because it does not have the right characteristics for process uses. Before the vote on the amendment covering certain process uses, there was a vote on an amendment that would have provided a much broader exemption from the tax on industrial uses. For tactical purposes, we had that taken up first. Holland offered it. We lost, seventeen to eighteen. Then in comes Martin's amendment to exempt process fuels and feedstocks, and after that earlier vote you have a psychological setting for the Martin amendment to carry. It did, twenty-two to seven, and that was very significant. And after that close vote on a much broader amendment the members were so relieved." He laughs. "After that, we got the Business Roundtable involved. We're on general retainer to them on tax matters, and I called them up and said, 'Look, we've got a common interest on this energy bill.' I said we would be willing to work under our general retainer for the Roundtable on this industrial-use tax. Things were pretty slow on the tax front at the time. The Roundtable wanted to come out in August, during the congressional recess, for the broader-exemption that had been defeated in Ways and Means, and I counseled against that. I said, 'Look, let's lobby in the Senate to kill the industrial-use tax, and when it gets to a vote in the Finance Committee let's take a head count. If we win we win, and if we're swamped we fall back.' When I got back to Washington after Labor Day and talked to senators and their staffs, I found a lot of them opposed to the industrial-use tax. It was a piece of cake." The Senate Finance Committee rejected the industrial-use tax, and the Senate adopted one that would be virtually without effect.

Walker's interest in the energy bill broadened to other specific issues and then to the overall strategy for working out a final bill. The overall strategy would affect the specific matters in which Walker's clients had an interest. "We're at a very critical stage now," he says. "I'll know more tomorrow." At this point, the key issues are the pricing of natural gas (the House voted to raise the price to a dollar and seventy-five cents per thousand cubic feet, as the President proposed, and the Senate voted to deregulate the price of newly discovered gas); the imposition of a tax to raise the price of crude oil (the House agreed to the President's proposal to do this, and the Senate did not); what to do with the proceeds of such a tax (about eleven billion dollars a year); and the extent to which businesses would be required or encouraged, through taxes and tax credits, to convert from the use of oil and gas to other fuels. The purpose of the proposed tax on crude oil is to raise the price of oil to match that of the world market, on the theory that this would induce conservation and would also eliminate a complicated pricing and allocation system. The House agreed with the Administration that the proceeds should be rebated to consumers. Senator Long and others sympathetic to the industry want a good portion of the proceeds to go back to energy producers as "production incentives," and this gets into the well-rehearsed arguments over whether the oil industry, and other energy-producing industries, need incentives, and whether, in the case of oil, government policy should encourage drilling for what is presumed to be a finite resource. The argument over the pricing of natural gas is essentially over the extent to which producers need or should receive higher prices in order to induce them to produce more gas, and the extent to which, in the name of conservation, the price should be allowed to rise.

I ask Walker to tell me a bit about how he became so close to James Schlesinger and Lud Ashley.

"When I was executive vice-president of the American Bankers Association, from 1961 to 1969, Lud was a junior and relatively unknown member of the House Banking Committee, with a very deep—to understate it—dislike for bankers," he replies. "There had been some bank mergers in the early sixties that the Justice Department was trying to break up, and the existing bank-merger act was just a lousy piece of legislation. So in 1965 we proposed legislation to do two things: ratify those mergers and clean up the legislation. In '65, I got Lud to come to dinner with ten or twenty of the top bankers in the country. I was living in New York then, and after a while Lud and I were close friends. We got the bill through. When Harmolyn and I moved to Washington, so I could go into the Treasury Department, we lived in the same apartment house as the Ashleys." As for the Schlesingers, Walker explains, "His field and my field in economics were originally the same—monetary economics. I had read some of his work and was impressed. Here was a conservative economist from Harvard. In 1961, driving from Dallas to New York, Harmolyn and I stopped in Charlottesville to see an old classmate of mine from the Wharton School. Jim was on the faculty of the University of Virginia, and my friend had invited the Schlesingers out to dinner. We sat up a goodly proportion of the night: one, drinking Virginia Gentleman whiskey; two, listening to Jim's guitar playing and original ballads; and, three, engaging in trivia games—how many states touch Canada between the Great Lakes and the Pacific Ocean? That kind of stuff. Most people leave out Idaho. God, my wife was furious. She said, 'What an intellectual discussion.' Anyway, we all liked each other and we kept in touch. In 1969, Jim wanted to come to Washington. By then, he had gone to the Rand Corporation. He wanted to go to the Defense Department, but that didn't work out, so I helped him get a job at the Budget Bureau, handling the defense budget. In 1969, I brought Jim and Lud together. We all had a picnic in the Schlesingers' back yard."

By now, Walker has finished his lunch and has ordered a cigar. He goes on, "When this energy thing came up, and I learned in January, considerably before the announcement was made, that Lud would be head of a special energy committee, I talked to him about it, and said, 'You and Schlesinger ought to get together pretty quickly.' I told Jim, and he agreed. They finally got together, and spent long hours together." It seems highly possible that they would have got together in any event, but a professional influencer must not underestimate his own influence. Walker continues, "About three Sundays ago, I played golf with Lud at Burning Tree, and then the Schlesingers, the Ashleys, and the Walkers had dinner."

I ask Walker if he talked to Ashley about energy during the golf game.

"I didn't talk about energy on the golf course. I don't lobby on the golf course—maybe a word here or there, like 'Hey, Joe, you're not going to vote for that dumb bill, are you?' We got to the Schlesingers' about six-thirty, and we talked energy before and after dinner, and it was a great debate."

I ask Walker what kinds of points he tries to make in such a situation.

"First of all, you're in a person's home, and you don't press the issue," he replies. "Or you might say, 'I can't understand why two bright people like you would be for a dumb-ass proposal like that.' We started talking about the broad aspects of it—natural-gas pricing, the crude-oil equalization tax, the conversion to coal. Not the nitty-gritty but the philosophy of whether to go for those things or let the market raise the price and increase production and produce conservation. By that time, I knew enough about the Senate's view, and about Russell Long's views in particular, to know that they had to move over to production incentives. I told Lud and Jim this. I said, 'I think Russell's got the votes over there on the Senate side. Unless you agree to these things, you might not get a bill.' Then I just grinned and said, 'I don't think your boss would like that very much.' "

After lunch, we walk back to Walker's offices, a suite of rooms at 1730 Pennsylvania Avenue, which is just down the street from the White House and is one of several buildings in the area that contain the offices of law firms, interest groups, consultants, lobbyists, and news bureaus. Walker's own office has Oriental grass-cloth wall covering, blue brocade curtains, gold carpets, a large desk, a sofa and several chairs, and many signed photographs—of Eisenhower, Ford,

Lyndon Johnson, of several former Secretaries of the Treasury. The suite has offices for Walker's four associates, a large conference room, and a small conference room. In all, counting secretaries and other "support staff," thirteen people work in the offices of Charls E. Walker Associates, Inc. All the professionals came from the Treasury Department. Walker, seated in a large blue-and-white wing chair, explains to me the politics of the natural-gas issue, occasionally breaking off to take a phone call. He tells a caller from Lone Star Steel, "We made a little progress on electricity conversion." Walker is working to get a provision in the energy bill to grant a tax credit to industrial users for conversion from oil or gas to electricity that is generated by other means. Lone Star Steel, for one, is planning to convert to electricity generated by burning coal. The House bill provides a tax credit only for direct conversion to coal and other sources but not electricity, and Walker has been working on behalf of credits for electricity that is not generated by gas or oil. Senator John Tower, Republican of Texas, offered such an amendment in the Senate, and it was accepted.

The Walker group provided a draft of the Tower amendment. On Capitol Hill, it is referred to as the Lone Star Steel amendment. Those who oppose the change argue that because it would make more equipment eligible than would a credit covering simply coal conversion, it would cost more; they also say that since Lone Star was going to convert to electricity anyway, the credit would not result in any additional energy saving. Walker has been to see an associate of Schlesinger's on the matter. He tells his caller, "The arguments they gave us against electricity conversion are bananas. We didn't get anywhere on coke." Walker also wants a tax credit for steel companies installing equipment for processing coal into coke. An amendment to provide this credit was offered in the Senate by Richard Schweiker, Republican of Pennsylvania, and was adopted. He continues, "But I think we can get the votes on that, and I'll follow up at a higher level. All right?" He tells his caller that he probably doesn't need to be in Washington on Monday for the meeting of the energy conferees. "They'll just futz around and shoot off their mouths Monday," he says. "That's what they'll do until they get things arranged with the President. I'll call you if I think you need to be there."

Just as Walker resumes our conversation about energy politics, there is another call, "Hello, Mr. Secretary, how are you?" The caller is Henry Fowler, who was Secretary of the Treasury during the Johnson Administration, and the subject of the call is the Arthur Burns project. "I got John Connally on board," Walker tells Fowler. He tells him that he also has Joseph Barr—Fowler's successor as Treasury Secretary, at the end of the Johnson Administration—ready to cooperate. The current stratagem is to have a number of former Secretaries of the Treasury sign a letter or telegram to President Carter urging him to reappoint Burns. As part of his "orchestration," Walker recently wrote a column for the Op-Ed page of the Washington Post on "The Economic Case for Reappointing Burns." The column was actually an adaptation of one of Walker's monthly newsletters.

Returning to our conversation about the energy bill, he lights a cigar and tells me, "While the bill was moving through the Senate, my associates were drafting amendments and talking with staff, and we were keeping our friends on the reservation—there are always people talking about compromise when you're in a position where you don't have to compromise. We'd get rumors we'd have to check out. But in addition to serving our major clients to make sure that the Senate Finance Committee remained against the industrial-use tax—somewhere in there it got turned into discussions of high strategy." Walker says that he held such strategy talks with Long, with Ashley, with Schlesinger, with Al Ullman, a Democrat from Oregon, who is chairman of the Ways and Means Committee, and with Joe Waggonner, a Democrat from Louisiana, who serves on the Ways and Means Committee and is generally protective of the interests of the oil industry. Every year, the Waggonners take the Walkers to Mardi Gras. "I was trying to see what kind of bill we could get through that would serve all the interests involved. We were protecting our clients' interests, but we were also serving the public interest."

I ask Walker what, in particular, he was worried about at this stage of the energy bill.

He answers, "About people downtown"—"downtown" being the word for the executive agencies, as opposed to Capitol Hill—"getting scared about forces on the Hill that they didn't need to get scared about. At this point, some of us estimate there are fifty-two votes in the Senate for deregulation of natural gas, and any conference report that Long refused to sign, and filibustered, certainly couldn't get the sixty votes needed to break the filibuster. And the President needs a bill. But they get all upset downtown about the Moffett group." Toby Moffett, a young Democratic representative from Connecticut, has organized a group of House members to pressure the House leadership and the Administration to stand firm for the House position, which generally supports the President's position. Walker continues, "Toby Moffett has roughly seventy people signing ultimata. It's not smart to issue ultimata to the Senate. And you've got a President who'd said his whole year's success will be dependent on this bill. I sit down and analyze the House. A hundred and thirty-five Republicans voted against the House bill. Let's say you got a conference report that Ashley and the moderate Northern Democrats, and the Waggonner Democrats—quite a bit of the Southern, Southwestern delegations—could support. The question is, what are the Republicans going to do? So one of my main activities in the last two weeks has been going around talking to key Republicans and saying, 'If the bill contains this and this and this, would you vote for it?'"

Walker's bill would contain a crude-oil equalization tax with some of the proceeds used for rebates to low-income people, some for mass transit, some for "production incentives" for oil and gas, and some for incentives for development of other energy sources Walker says he gave Long the idea to set up a trust fund to distribute part of the proceeds of taxes raised, a provision that is in the Senate bill); it would contain no industrial-use tax, and it would provide both for an increase in the controlled price of natural gas to two dollars and for phased deregulation. Walker says, "You could put together the Republicans with those other Democrats, and the Moffett group would be swamped. So there you are. Of course, it could all fall apart."

Walker takes another call. He says something about "a banker, an aerospace-world executive, a rubber-world executive, a steel-world executive." He continues, "I'm hopeful that I'll bat at least three out of four." He hangs up, and explains to me, "This is one I didn't mention—a national effort to improve economic understanding. I'm a vice-chairman of the Joint Council on Economic Education. The chairman is a senior vice-president of du Pont, but we also have representatives of the A.F.L.-C.I.O. and the Urban League. We've developed a syllabus, and we're going to try to get economics taught better, starting in kindergarten, all the way up."

I ask Walker to tell me more about whom he talks with about the energy bill, "downtown" as well as on Capitol Hill. "Well," he replies, "I talk to Jim. Two days after we decided to take on the Lone Star Steel thing—that would be early June—I go out to play golf with Ashley, and then our families meet for some drinks and barbecue. The phone rings and Lud comes back twenty minutes later and says, 'Jim wants to talk to you.' I told Jim I was getting into the energy thing and that I want to talk to some of his people and he says to talk to one of his deputies, and gives me a name, and we went over and talked to him and asked him to change his mind. He did not, and we went over and talked to someone at Treasury. I didn't talk to Jim again until late July. It was friendly, but a little tense. He wanted to know how I sized up the situation. He knew I was in close touch with Senator Long and others. The next Sunday, we had dinner, and we've been having talks ever since. I keep telling him not to worry about the Moffett group. I say, 'Hell, Jim. If you get a hundred Republican votes you didn't have before, what do you need with the Moffett group?' A couple of weeks ago, Russell asked me to come over to his apartment—he has a duplex at the Watergate—and I asked if I could bring Harmolyn. Russell and I went upstairs and talked tactics and strategy for about forty-five minutes." Walker refers to his wife frequently. The Walkers do not do much socializing outside a small group of close friends. When Walker goes home at night—usually around six o'clock, a reasonably early hour by Washington standards—he takes a canvas bag full of work with him.

"This is a tool I guess some other lobbyists have," Walker continues, shifting the subject slightly. "If I get a call from any one of about fifty members of Congress, Democrats and Republicans, at this moment, saying, 'Charlie, could you have a speech for me by ten tomorrow morning' on a subject on which I have some expertise—taxes, the energy bill—I'll have it there. Sometimes they throw it away, and that doesn't bother me. But more often they say, 'Hey, I'll use that.' I get calls from members that aren't on the right committees and don't have the expertise, like a Democrat not on the Ways and Means Committee. Or a senator who calls me about the Senate Finance Committee's Social Security bill, and I'd say I don't like the bill—I'd say the same thing to Russell Long. After my column in the Post on Arthur Burns, a Republican asked me for two or three paragraphs for a speech on Burns. A Democrat called me about some points in the column. I said I'd give him a talking paper, and I gave him a whole speech, and I liked the hell out of it and he liked the hell out of it. If they know you and trust you, they'll listen to you and they'll tell someone else you're a good guy, and you reach a point where if you put a piece of paper in a member's hand he knows he's not going to be blind-sided. He knows it's going to be an honest piece."

A lobbyist, if he wants to remain effective, must never mislead the person he is lobbying; it is understood, of course, that there is a difference between being selective and being wrong. One member of Congress explained to me, "What congressmen appreciate in a lobbyist is knowing he's a professional and will be back—that he values your good will and won't push you in the wrong direction, that he gives you information you can rely on, that he won't get you in the funny papers. If he gives you bum information, he won't be welcome back." The good lobbyist understands that members of Congress are busy people and need help. A legislator who wants to sponsor a bill or a difficult amendment has an enormous task. The lobbyist can provide willing hands; often he leaps to the opportunity. The legislator has the following chores: finding co-sponsors,

creating coalitions, marshalling the arguments, rounding up the votes, assessing the opposition, identifying the fence sitters, drafting and redrafting the legislation to get maximum consensus, making sure the members on his side show up for the vote. In all of these tasks, the lobbyist can be of service. (On occasion, a lobbyist will even go get a member out of the gym to show up for a vote.) A lobbyist might, for example, be able to tell a member of Congress that he can find the member fifty co-sponsors for a bill or an amendment, when the member doesn't know—hasn't had time to find out—how many allies he might have, and therefore might not get involved in the undertaking at all. One congressman said to me, "A professional lobbyist becomes part of the woodwork here. He becomes a source of information. A lot of people talk about 'the invidious special interests,' but we shouldn't engage in legislation without knowing who's affected by it, and usually the people who are affected by it are the best sources of information. There are a few guys up here who vote a certain way because they're bought, but most of us don't like to deal with people who have only a short-range interest in us."

"The conventional wisdom today is that members are overstaffed," Walker says. "Yes and no. Senator X, who is chairman of a committee and a subcommittee, may have a hundred and fifty staff members at his beck and call, whereas a relatively junior Republican may have four or five. What so many people overlook is that members of Congress have become ombudsmen—they spend most of their time taking care of their constituents' problems with the government—so it becomes difficult to do good legislative work. So to an extent we become an extension of the staff. A member of the House said in the cloakroom the other day that he needed an amendment for part of the energy bill in conference, so we drafted it for him." Walker shows me what he calls "a lobbyist's handbook." It is a cardboard binder containing just a few pages, set apart by tabs, of explanations of five issues in the energy bill. I ask him whom he gives such a document to. He replies, "Members who are sympathetic or leaning toward us."

A client calls about one of those issues. Walker is lobbying on behalf of the Union Oil Company of California, to get a depletion allowance for the production of geothermal energy. The House voted a minimal allowance; the Senate was far more generous. The Senate had voted in the past to give the geothermal industry the tax break, but the legislation had never been approved in conference. Opponents argue that such a tax break is an unjustifiable subsidy. Walker tells his client, "We went over to see Schlesinger's top policy man today, and I think it looks good for geothermal. I told him it would get a big bang for the buck. And we've got awfully good horses on this." He names some senators and representatives who are backing the tax break for geothermal drilling. Then he talks about the most desirable legislative outcome and the fallback positions. He tells his client, "It's looking pretty good. We'll stay on top of it."

This is what is known as "stroking" the client. The Washington influencer—the lobbyist, the lawyer, the representative of one of the infinite number of trade associations—not only must keep informed but must also convince his clients that he is informed, is on top of things. Part of his job is to calm the clients' anxieties, and he spends a lot of time on the telephone doing this. He must assure the clients that their confidence has been well invested. He cannot entirely explain the mysteries of Washington to them—it is, in fact, in his interest to keep the workings of Washington a bit mysterious—but he can bring news from the front, and they can have the satisfaction of knowing that their man is on the job, and they can glean from him some tidbits that they can have the pleasure of passing along ("I was talking to our man in Washington—he has very good contacts—and he said . . ."). The telephone is an extension of the influencer's self. He could no more function without it than a professional tennis player could function without a racquet.

Walker tells me that he was pleased by a press conference that Schlesinger held two days ago, in which he indicated that the Administration was ready to make a number of compromises on energy. "I liked it because Jim was moving in my direction," Walker says. (He also says that he did not talk to Schlesinger beforehand about the press conference.) "Have you ever heard the old Texas expression 'saucered and blowed'?" he asks. "If a cowboy's coffee is too hot, he puts some in a saucer and blows on it. A cowboy will say to a friend, 'Take mine, it's already saucered and blowed.' Jim needs to get the energy bill saucered and blowed, and that press conference was a step."

It is now late Wednesday afternoon, and Washington is shutting down for the Thanksgiving holiday. Walker offers me a ride to my next stop. He travels in a chauffeured black Cadillac Fleetwood with two jump seats and a telephone in the back. Walker likes to make calls from that booth. At one stage of the energy crisis, he traded a Cadillac for a smaller car, but now he has a big one again. He explains that he needs it "to carry a lot of people to and from the Hill sometimes, like the petrochemical people when we were lobbying on the industrial-use tax." He adds, smiling, "And, besides, I got spoiled when I was in the government."

On Monday morning, in Walker's office, I ask him how Thanksgiving dinner went.

"It was quite a day," he replies. "We got up there to Schlesinger's at about two-thirty and left at eleven. I was playing the clarinet and Jim was playing his guitar and one of his little girls was playing the flute, and this and that. I made a breakthrough to my god-son—James Rodney Schlesinger, Jr. He's six. It was pretty liquid, but from what I remember of it, it was great. The energy talk was mostly banter—a little policy here and there. We talked about Arthur Burns. Most of all, it was in terms of the atmosphere of the day. Jim said something about 'Walker's greed' and 'the greed of his clients,' and someone said something about 'amazing grace' and I made up a parody called 'Amazing Greed.' "

This morning, Walker has already placed calls to Howard Baker, the Senate Minority Leader, and to Russell Long and several others, and he has spoken with Representatives Waggonner. He starts musing about the energy bill, making aloud the mental calculations that someone in his line of work has to make. "I got a feeling that something's happening now," he says. "I told this to Waggonner this morning. You see little things cropping up in the papers." In Washington, one must not just read the papers but know how to read them; for many people the ability to read between the lines is an occupational necessity.

"In my area of expertise—taxes, banking, economics, and so on—I can read a piece where a source is never cited and eight times out of ten I know who the source is. Well, that gives you something so that when you're working on a project and you need intelligence, in the military sense, you know who to call. I know from reading each day's paper, from how they interpret. I can tell whether they're listening to the right people. You get intelligence from any source you can. It may be from reporters, from clients that are in town, businessmen who've been in to see White House officials. And you've got old friends in the bureaucracy. I have a feeling that Long has been talking to Strauss quite a bit." Robert Strauss, the President's Special Representative for Trade Negotiations, has been taking on a number of political chores, including the energy bill. Walker continues, "On Wednesday, Jim said something about how it might be time for Long to be talking to Lud, and that was reiterated Thursday among the three of us. So I called Lud Saturday and I said, 'Anything you'd like for me to do, or should we just let nature take its course?' He said, 'Let nature take its course.' O.K., surmise: I had a double signal Wednesday and Thursday. Reading between the lines: Number one, Lud's got the hammer from the Speaker, he's got the Speaker's authority. Long is talking to Strauss. We all want to go home by Christmas, and the President needs a bill by then. So I think, 'Charlie, it's time to talk to your friend Russell.' But when Lud said, 'Let nature take its course,' that withdrew the signal. About two weeks ago, I said to Waggonner. 'Would it be fruitful for you to have a talk with Jim now?' He grunted, or something. I told Jim. I called Waggonner the next day, and I said, 'Did you and Jim have a talk?' He said yes." I ask Walker if it is possible that Waggonner and Schlesinger might have got together without his intercession. He says that it is, but he adds, "Busy people sometimes don't think of these things." He continues, "Back to my surmise. I asked Lud over the weekend what time the conferees would be meeting today. He said two o'clock. I just got a feeling in my bones the principals are talking this morning."

At this stage in the development of the energy bill, there will be both the formal meetings of the conferees representing the two chambers and, more important, the unpublicized meetings of key members of those committees, with perhaps a staff member or two, or a representative of the Administration. It is in these latter meetings that the efforts to find a compromise will really take place, with everyone else who has a keen interest in the matter trying to find out what is going on in them, and making calls or issuing statements or holding other meetings in order to affect the outcome.

I ask Walker to explain to me further his own interest in the overall strategy for an energy bill.

"It's all interlocking," he says. "There's got to be one major tax in the bill from the President's standpoint. From my point of view, economically and politically, it's better if it's the crude-oil tax, and not the industrial-use tax. The industrial-use tax is discriminatory and will unnecessarily raise the price of goods to consumers." The crude-oil tax would also raise prices, of course, and that is why the Administration and the House proposed to rebate the proceeds to consumers. Walker continues, "So one way to get a bill and help our clients by not having a broad industrial-use tax is to fashion a bill that has a crude-oil tax. That's the connection. I saw in early October how it could be put together. It's a question of analyzing the forces at work and the voting blocs on the Hill, their constituents and interests, et cetera, in terms of looking at how things will develop over a period of time and how the congressional process will resolve them—if it doesn't break down. It's a question of trying to figure out the package that will pass both houses and be acceptable to the President."

I ask Walker if the issue of natural-gas pricing happens to fit in with the interests of his clients.

"Yes, several ways," he replies. "Partly in terms of getting the package. Partly because several of us are convinced there's a dickens of a lot of natural gas out there if you just get the price up." This is a proposition that is under much debate at the moment. Moreover, it is generally assumed that as the price of gas rises, the increase will be passed along to consumers. Walker continues, "Our clients are willing to pay a higher price if they are guaranteed a supply. They have to

rely on oil and gas. Coal is dirty to get and dirty to use, and you run into strip-mining laws, environmental concerns, et cetera. And we're getting half of our oil from a very uncertain source—from abroad. So the more gas you got, the more comfortable Mr. Heineman feels about his Lone Star Steel Company, even though it's planning to shift to electricity generated by coal. It takes you ten, twelve years to put a nuclear plant on line—half red tape and half construction time. You can go down to Possum Kingdom Lake, in Texas—that's where my fishing place is—and it's right on top of a natural-gas reservoir, and you can punch a hole in the ground in forty-five days, and there's pipelines all over the state to transport the gas. The more energy you have on all sides, the more comfortable my clients feel. There were fifty solid votes for deregulation of the price of natural gas in the Senate this year, and I'm informed that there are two more. So it looks as if the package, to pass the Senate, has got to have some form of deregulation. Also, we were very concerned about the electric-utility provision. It was going to result in federal intrusion in state rate-making." The President proposed that the federal government impose requirements on how state public-utility commissions regulate electricity rates, mainly to eliminate the low rates for large industrial users; the House approved the provision, but the Senate rendered it all but meaningless.

I ask Walker why he cared about that provision.

"We have an advisory relationship, not a lobbying relationship, with one of the nation's leading utilities—I don't want to disclose which one," he says. "We follow the issue and give them advice, without actually lobbying on it." A number of Washington representatives and lawyers work this way; some make quite a point of saying that they never lobby. Walker continues, "Given the assumption that in the nineteen-nineties electricity will be our major energy, they're going to have a very, very rapid and large expansion of their generating capacity. And there's what's called the regulatory lag—the time it takes from the day you ask for a rate increase until it's approved by the state public-utility commission. If the utilities can't be sure of their rate of return on investment, and you bring in the federal government on top of the states, the danger is that you increase the regulatory lag and we run the serious risk of not getting that extra capacity."

Charls Walker is also very much interested in an issue called refundability, which he and Russell Long understand—as do those who oppose them—to be a very big issue indeed, with large amounts of money involved. What Walker and Long are seeking is to establish the principle that an investment tax credit—the credit that businesses receive for investments they have made in equipment—be made "refundable:" that is, receivable whether or not the business has paid any income tax, instead of simply being deductible from its taxes. The energy bill has a number of possible tax credits in it, and Long and Walker are eager to set a precedent of refundability for the time when it comes to even bigger stakes—the forthcoming tax legislation. Walker says, "Let's take Bethlehem Steel. They're not a client on the energy bill, but they are a tax client. They took a big loss recently. So if the steel companies are not profitable over the next few years and they do some of the energy conversion that is in the bill, they won't get any credit for it unless there is refundability. One of my associates and I are going to New York later this week for a meeting with the chief executives of five of the largest airlines on the question of overall refundability. They're talking about retaining us to work on this for them. As a result of buying new aircraft, those airlines have accumulated several hundred million dollars in earned but unused investment tax credits, because their profits have been too small for them to take the credits. So a breakthrough on this energy bill could help pave the way for overall refundability."

The problem, for Walker and for Long, is that the House Ways and Means Committee has held out, over the years, against the principle of refundability. Walker's work on refundability in earlier years has not been entirely in vain, however. He says, "Last year, we got two changes liberalizing the manner in which and the extent to which companies could get the investment credit. United Airlines' profit statement indicates that those changes enhanced their profitability by sixty million or so. The most important thing was that for most businesses the tax credit couldn't exceed fifty per cent of their tax liability. We raised it to a hundred per cent." The argument against refundability is that it amounts to a government subsidy of certain activities by businesses whether or not the businesses are efficient and no matter how many devices they employ to avoid paying taxes. Liberals who oppose refundability—not all do—fear that it would invite the use of the tax code for all sorts of additional subsidies in the form of tax credits.

Of course, this is a relative matter, because the tax code is already so used; and, as in other arguments over tax policy which ostensibly involve high principle, the real question is who stands to gain. If some of those who oppose the refundable credits could be certain that they, rather than Russell Long, would be the major force in deciding who would get the credits, they might see more merit in the principle. In pressing his case to Congress, Walker, like Long, makes it sound like something that only the most flinthearted could oppose. In the Senate-House conference, Long, urging that the proposed tax credits for home insulation should be made refundable, argued that "a dear old person in an old ragged coat" who installed insulation should get the credit, just as people would who are better off. Walker, for his part, uses the homey example of people on fixed incomes who install storm windows. Today, he grins and shows me a letter that his wife has written to Long, Ullman, Ashley, and John Anderson, Republican of Illinois, who is the senior Republican on the House Ad Hoc Energy Committee. In her letter, Mrs. Walker describes the plight of some of the residents in the co-op in which the Walkers live, and she indicates that the building is in one of Washington's poorer neighborhoods; it is actually an elegant old building, only on the edge of a down-at-the-heels area. She writes that some of the residents "are retired people who must live on limited incomes and therefore suffer mightily from the rising inflation," and that although they shared in the cost of the co-op's installation of storm windows, "they would be the very people to suffer more if the tax credit is not refundable."

While we are talking, Senator Herman Talmadge, of Georgia, who is the second-ranking member of the Senate Finance Committee, returns a call that Walker has put in to him. "Mornin', Senator, how are you, sir?" Walker says. "I got a problem I want to run by you." Walker's problem is to get the Senate, before it adjourns for the year, to take up a bill to postpone the effective date of previously enacted legislation tightening the taxes on American workers abroad. During the postponement, Walker would seek what he calls "ameliorating legislation." After Walker hangs up, he explains to me that George Schultz, a former Secretary of the Treasury and Director of the Office of Management and Budget, who is now president of the Bechtel Corporation, an international construction-and-engineering firm, asked him to undertake this project on behalf of Bechtel and three other companies—Fluor Engineers & Constructors; Dresser Industries, of Dallas, a company that makes equipment for oil and natural-gas production and mining; and Pullman-Kellogg, of Houston, a large international construction firm. In 1976 and 1977, Walker had worked for these companies in trying to limit proposed legislation that would punish companies that cooperated with the Arab nations' boycott on business with Israel. "On that Arab boycott," Walker says, smiling, "we were the only game in town." He adds that "the legislation came out satisfactorily for our clients." Now the Walker firm is keeping an eye on the regulations being drawn up by the Commerce Department to carry out this legislation.

Shifting subjects—something he does frequently, as his mind jumps from one of his projects to another—Walker mentions another letter: one that Lud Ashley has written to President Carter urging him to reappoint Burns. Obviously, a letter from a liberal Democrat who is as important to the Administration as Ashley is now (and he is also the second-ranking member of the House Committee on Banking, Finance, and Urban Affairs) might be helpful to the Burns cause. "It happened this way," Walker explains. "On the Sunday a few weeks ago that we got together to play golf and have dinner with Schlesinger, I'd called the Post on Friday and asked them if they'd be interested in a column on Burns and they'd said yes. I showed the column to Lud on the way to the golf course and told him to read it. He indicated that he was going to write a letter to the President about Burns. He's a busy man. I reminded him every other day. Lud's letter was released to the press. I began calling reporters all over town to bring it to their attention. They say, 'It's just another letter.' I say, 'The hell it is.' When I had lunch with Burns on Friday, he hadn't known about Lud's letter. I suggested to Arthur that he call Lud."

While Walker proceeds on all these projects, he is also warming up for the legislative battle over taxes. Large amounts of money are at stake. President Carter had promised thorough-going tax reform, and various proposals were floating about, and Charles Walker has a number of clients with a deep interest in how it all turns out. Over lunch at the All States Cafeteria, he tells me of his efforts to affect the tax code on behalf of his clients. One set of his clients is called the Group of Ten, or "the tax group." It consists of ALCOA, Bethlehem Steel, General Electric, Ford, du Pont, Procter & Gamble, Goodyear, Owens-Illinois, International Paper, and Union Carbide. Walker says, "We're concerned with such things as the levels of the corporate tax rate—that's the big one— and then the investment-credit and depreciation rates. We're also concerned with how their earnings, or their subsidiaries' earnings, abroad are taxed. In February, we had a meeting to get ready for the tax reform that the President had promised. The major recommendations that flowed out of that were to revise a series of papers that the Roundtable had prepared a couple of years ago and to go back and gather their grass-roots data."

Since "grass roots" is not a term ordinarily connected with business lobbying, I ask Walker what it means in this context.

He replies, "It means this—for Company X, which has a plant in Los Angeles, to set out what the total number of jobs is, the payroll, how much is produced for export, and how much of those sales abroad are to their own subsidiaries. That's very important, because organized labor just indiscriminately says that all these subsidiaries abroad are 'runaway' plants—that we're exporting jobs.

So we develop the grass roots data to show how many of the jobs over here are related to exports that are actually sales to the companies' own subsidiaries abroad. Ford, for example, manufactures parts sold to its subsidiaries in Western Europe. And that also helps the balance of payments. I don't care how anti-business a member of Congress may be—if you can go in to that member and take an issue and show that it means jobs and payrolls and economic growth in his district or his state, he's going to listen to you."

Walker continues, "The second thing that the Group of Ten did was spend about two hours in March talking with tax officials at the Treasury Department. Most of the discussion then was between the chief executive officers of the Roundtable and Administration officials—especially Blumenthal." Michael Blumenthal, the Secretary of the Treasury, has the chief responsibility for drawing up the tax proposals that the President will ultimately make.

I ask Walker whether he advised the Roundtable about these conversations.

"Advise, consult," he replies. "Not so much on substance as on what the political realities were." An important part of the lobbyist's role is to carry messages both ways—not just to represent the clients before the Congress and the executive branch but also to tell the clients what it may or may not be possible to accomplish, to instruct them about the realities they're faced with. At the beginning of the 1977 session of Congress, Walker called on a number of the members of the Ways and Means Committee to talk about tax matters. He says that he also talked this year with Charles Schultze, the chairman of the Council of Economic Advisers, and with Bert Lance, the former head of the Office of Management and Budget. Walker says that, among other things, he tried to convince Schultze and Lance of the political trouble that some of the tax proposals under consideration—particularly one to tax capital gains as ordinary income—would run into on Capitol Hill. Walker, like any good advocate, marshals the facts that best suit his case. He says that half the capital gains are received by people with only thirty thousand dollars in adjusted gross income. (Another fact, which he did not mention, is that the wealthiest one percent of the people receive over seventy percent of the tax benefit from the special treatment for capital gains.) "I also told them," Walker says, "that although they were going to exempt the sale of homes, the perception was out there that homes would be included, or people would say, 'Well, they're leaving out homes this time, but they'll get them the next time.' If they'd kept on with that, I was going to do a TV treatment of an Archie Bunker type trying to sell his home. I was going to have some fun with the complexity of their 'simplifying' the tax code. Because of the political problems, they start riddling the thing with exceptions, and there goes your simplicity. And what they really overlooked was that because people saw the capital-gains thing as the camel's nose under the tent for taxing the gains on homes, they were going to alienate the National Association of Realtors, the National Association of Home Builders, the American Bankers Association, the U.S. League of Savings Associations, and the Securities Industry Association—and I have just mentioned five of the strongest lobbies in town. We'd been talking with them about getting together if this thing materialized."

Walker also speaks of other problems he had with the proposals that were floating about. One of them, he says, would have been quite harmful to the timber industry, and the Weyerhaeuser Company, which is among the country's largest timber companies, has been a Walker client. Walker wrote a memo to Lance and to Stuart Eizenstat, the President's chief adviser on domestic matters, about the problems he saw in the tax proposals. Walker says, "Then their whole package started to unravel—not because of what I did but because of those political realities I'm talking about." By late 1977, the Administration was, for a number of reasons, talking more about the need for cuts in individual and corporate taxes than about what is generally considered tax reform. Walker thinks it's important to dispel the idea, which Carter stated many times in 1976, when he was a candidate, that the tax code is a "disgrace." He plans to do that by arguing his case on specific proposals for change, and also through the work of a group called the American Council for Capital Formation, of which he is the chairman, and whose board includes the Washington lawyers Edward Bennett Williams and Clark Clifford; former Treasury Secretaries Robert B. Anderson and David Kennedy; officers of Motorola, International Paper, and Weyerhaeuser; and some economists and some former members of Congress. "We've been getting increased press attention," Walker says. "Our support's been growing by leaps and bounds—in terms of financial and in terms of people willing to lobby."

After lunch, we return to Walker's office, where he gathers up a bunch of cigars and some copies of his wife's letter on refundability, of a recent *Wall Street Journal* editorial on the energy bill, and of Lud Ashley's letter to the President about Arthur Burns. Then he and one of his associates—Roy Englert, a former deputy general counsel of the Treasury Department—and I prepare to set off for Capitol Hill. Walker received a gift of Cuban cigars a few years ago in the course of some work he did in getting a change in the tax laws covering cigars. "Now, here is a little device you use with friends," he says to me as he gathers up his material. He shows me a copy of a Washington *Post* editorial arguing that American natural-gas prices are kept too low; he has sent other copies of it, along with a covering note, to Schlesinger and Ashley. The note says that the editorial is "A+ +." He has also sent a copy of his covering note to the editorial page of the *Post* and to one of its editorial writers. "I often grade their editorials, and I sometimes have lunch with them," he says. "I recently graded an editorial in the Washington *Star* and invited their editorial-page editor to lunch."

I ask Walker what his mission on Capitol Hill this afternoon is.

"To get the lay of the land," he replies. "Also, they may get to geothermal. Geothermal is pretty important to me."

I ask him how he will get the lay of the land.

"Mainly by feel," he replies. "This conference is awfully hard to lobby, because the Senate and the House aren't in session. When things are going thick and fast in the Senate and House, you can do your lobbying during the roll-call votes. But there aren't any breaks in these meetings." He adds, "I got other things to do there. I got to tell Long what Talmadge said this morning on that tax bill."

After we reach Capitol Hill, the three of us take seats toward the back and on the left side of the large Ways and Means Committee room in the Longworth Office Building, where the conferees on the tax portions of the energy bill will meet. Few members are here yet. "I sit over here by this door, so I can get out quick to catch a member in the hall," Walker says. He scans the room and, finding no one worth talking to, says, "Let's go out in the hall. I got the feeling something's going on." Outside, he ducks his head in at the door of a reception area and special entryway for members of the Ways and Means Committee and asks if Ashley and Waggonner are around. They aren't. In the hall, he sees Senator Abraham Ribicoff, Democrat of Connecticut, who is a member of the Senate Finance Committee, and asks him, "You going to get that one-year extension tomorrow?" Walker is referring to the tax bill he spoke with Talmadge about this morning. Ribicoff's reply is noncommittal.

Now Walker stakes out a position between the special entryway and a corner. Around the corner is a door leading into one side of the committee room. The room is so large that it fills the whole center of the first floor of the Longworth Building. "Now, here's where you have to position yourself," Walker explains. "Sometimes they get by you and go in the door on the other side. If you get real anxious, you get two of your associates to stake them out on either side." He looks a bit anxious himself now. He paces toward the front door and peers at it as if stalking prey. He looks at his watch. It is slightly after two. "I don't know," he says. "I just smell something." He stops William Hathaway, a Democrat from Maine on the Senate Finance Committee, and makes a joke about golf. He tells me that he wants to talk with Charles Rangel, the House member from Harlem on the Ways and Means Committee, whom he says he talks with three or four times a week. Walker is lobbying Rangel on refundability; a black Democrat would be an important recruit to his cause. Walker has a running joke with Rangel, and now, when Rangel shows up, they go through their routine.

Walker asks Rangel, "How are we coming on refundability, Charlie?" and wags an upturned thumb.

Rangel smiles and says, "You're making a lot of sense, Charlie."

Walker hands him a copy of his wife's letter and says, "Did you see the letter my wife wrote to Lud? We got all these old people. They don't get any credit. How they going to get their storm windows paid for?"

Rangel goes off into the committee room reading Mrs. Walker's letter. Walker is pleased. "He said I was making a lot of sense. He wasn't saying that two weeks ago. He wants to know how he can explain to his constituents a vote for refundability. That's how—with that letter my wife wrote."

Now the conferees are streaming toward the Ways and Means room. Walker has to work fast. He talks with Robert Packwood, a Republican senator from Oregon and a leading backer of the tax break for geothermal energy. Klamath Falls, Oregon, uses geothermal energy for heating homes, schools, factories, and its hospital, and Walker counts Packwood as one of his "horses" on this issue. Walker wants to know whether the geothermal section of the bill will be brought up for consideration today. Packwood says he doesn't think it will.

Now Walker stops James Corman, a Ways and Means Democrat from California. Walker, though he is a Republican representing business interests, has made it a point to stay on friendly terms with as many Democrats as possible. He put an arm on Corman's shoulder and says, "Hey, you're going with us on geothermal, aren't you?"

Corman smiles and says, "I'm still making up my mind, Charlie."

Joe Waggonner, the Louisiana Democrat on the Ways and Means Committee, and Walker's good friend, appears. Walker jokes with him about a rating that one of Ralph Nader's organizations has given members of Congress, on which Waggonner received the lowest score, because he voted the Nader position only once out of forty times. Walker asks Waggonner how he slipped up that once. Walker also hands him a copy of the *Wall Street Journal* editorial. He asks Waggonner to explain to me how final "packages" emerge from House-Senate conferences.

Waggonner says, "They evolve. A lot of conversations, a lot of people talking to-

gether. Everybody plays favorites; they have people that they have confidence in, that they can do business with. Those are your conferees. Those of us who consider ourselves representatives of the industry—because there's so much at stake—we try to find a levelling-off place, find what the possibilities are. The possibilities do just sort of evolve."

I ask him if he talks with Russell Long.

Waggonner laughs, and says, "We talk at frequent intervals." And he adds, "Charlie and I talk three, four times a week year round, don't we, Charlie?"

Walker has been keeping an eye out for Ashley, and finally Ashley, Long, Ullman, and several staff members appear. Walker sees this as confirmation of his feelings that the real bargaining has begun, and he asks Ashley if he will get to his fishing place in Texas by Christmas. It is Walker's way of finding out how far along things are. Ashley says that there will be a bill by Christmas or no bill at all, and that he thinks Walker can figure on being home by Christmas.

When conferees meet, they tend not to say what they mean but to stake out positions. As Walker goes off to talk with someone else, Ashley tells me more about how this works: "We're trying to join the key issues now. Russell knows a lot about dealing, but we've learned a little in the Midwest. He doesn't want to come forward with his proposals. He wants production incentives—that can put him in a very unfavorable light with consumers and others. And I don't want to go to him with a list of what I want, because that's an opening hand, and he'll say, 'That's not enough.' So the game, to use another analogy, is to check and wait for something. We're at the point where we'll start looking at production incentives, and that'll make him more interested in dealing with the crude-oil equalization tax, which will provide the proceeds for the incentives. He has to have an excuse for dealing with production incentives. So, based on the conversations this morning, he's going to be a little more willing to deal with the crude-oil equalization tax—but that's on a very conditional and tentative basis—and then we can move on to other issues. There's been a lot of sparring and fencing and wariness on both sides. As time goes by, there gets to be a little more readiness, for all the wariness, to start looking at the major issues. That's where everybody starts to become vulnerable. That's where we are. That's the point. We all know it. That's why we all start looking at these things warily, tentatively. You don't come in and say, 'How about this? What's your response?' You don't do it that way. You start looking at various pieces of it and say, 'How much would that cost?' and 'How much would that give producers?' Before you offer options, you've got to look at them from these standpoints. One of Long's theses is that producers need more incentives to produce. So you say, 'All right, Russell, if these actions are all taken, here's x number of dollars.' Some combination of options is going to end up being the tender and the acceptance. The conferees will want to really know what they are."

"But don't you have the outlines of the final agreement in mind now?" I ask Ashley.

He laughs, and replies, "A little bit. I come up with a little bit and he comes up with a little bit."

In the Ways and Means room, the Senate and House conferees have taken their seats on the two-tiered dais facing the audience, senators on the audience's left, House members on its right. Just in front of them, below the dais, two rows of staff members face them, and behind the staff members is the audience, composed mainly of reporters and lobbyists. On the basis of their meeting this morning, Long and Ullman now stage a little Kabuki play. Long reminds the others that the Senate Finance Committee "voted overwhelmingly against a crude-oil tax," and he tells them that he knows that "the Senate isn't going to accept it—it voted it down before—unless we can feel that that is part of a package that will bring in additional production." Ullman suggests that if they cannot agree at the outset on the tax, perhaps they should begin talking about what would be done with the revenues of such a tax. Walker listens carefully for a time and then tells me that, while he is interested in these issues in terms of how the total package will turn out, he has no direct interest in the details, and so we leave.

On the way back, Walker calls his office on the car telephone to see if there are any messages for him. He explains to me that when he goes to the Hill, his driver stays with the car. "If I'm in Ways and Means and some senator wants to reach me, the office will call me in the car. So this is a lot more than a luxury."

In his office, Walker makes some calls. One is to a reporter, with whom he speaks about reasons why Carter should reappoint Arthur Burns. "Did you see the Ashley letter?" Walker asks the reporter, and then he reads parts of it to him. "You're damn right it's strong stuff," he says. "If the President goes against a man who's fighting his heart out for the energy bill, he's just damn dumb." It is important for the professional influencer to cultivate the press, just as it is for a politician. If he does it well—by being accessible, by being a source of interesting information—he is likely to receive in return an audience for his arguments, and perhaps even an occasional mention in a column, and he can also pick up useful information. And Walker does it very well.

Next, Walker reports by phone to Ray Adam, the chairman of the Business Roundtable's Energy Users Task Force, who is also the chairman of NL Industries, a conglomerate in petroleum equipment, chemicals, and metals, on what he gleaned from his foray to the Hill." "When the shakers and movers all marched out together, I knew the contact had been made, and they began to work around the fringes," Walker tells him.

Some Roundtable officials have had meetings with members of the White House staff, which has been seeking the help of business leaders in getting a bill, and Walker tells me that he has been advising the businessmen about those meetings. "The major point was this," he says. "There were rumblings that Roundtable business people wanted to sink the crude-oil equalization tax, and I strongly advised against that as risking the sinking of the whole bill or the revival of a very strong industrial-use tax." He continues, "When I met with you last Wednesday at the Sans Souci, Ray Adam was scheduled to have a meeting with Schlesinger at one-thirty. That's why I rushed by Paul Young's first. I advised him to tell Schlesinger he would try to hold the business community together on the crude-oil equalization tax—many members had been opposed to it—and that we would expect that that would be *the* major part of the bill, and not the industrial-use tax. We can't get rid of the industrial-use tax altogether, because both houses adopted a version of it. But the Senate version is much milder, so what we'll have to do is get it de-facto dropped, by filling it with exceptions, et cetera, et cetera, et cetera." Then he takes a call from "an old reporting friend" who now works for a public-interest tax-reform group. Walker tells me, "I keep up with friends in the enemy camp as best I can. It's part of a network."

An aide to Howard Baker returns Walker's call to Baker. Walker talks to him about the bill postponing the effective date of the taxes on workers abroad, and reports to him on his conversations with other senators. He says, "So anything that you or your associates could do would be greatly appreciated. It was approved unanimously in committee. They just didn't get it out in time." The goal of the lobbyist is to get the ear of busy people, and, once he does, a good lobbyist knows how to make his case quickly.

Walker has in his office a photograph of Charles Rangel dressed in a cowboy outfit, at a chili party to which Walker took him. I ask Walker how he struck up his friendship with Rangel. "In '72," he replies, "just before I left Treasury, the Urban League gave me an award for contribution to equal opportunity in education and minority business enterprise—work I'd been doing for years in the Bankers Association and at Treasury. How much of this Charlie knew, I don't know, but I do know that other members of the Congressional Black Caucus knew about it. In late '73, after I'd left Treasury, I accepted from Nixon the chairmanship of the President's Advisory Council on Minority Business Enterprise. Then comes Watergate and the thing collapsed. Sometime in '75, I got an invitation, as we lobbyists sometimes do with these things, to join a group of people for lunch with Rangel, who was a new member of Ways and Means that year. We always know what that means: the purpose of lunch is to help organize a fund-raiser—a fifty- or hundred-dollar-a-person cocktail party. I don't go to many of them. I'm very selective. I didn't say yes. I called some members of Ways and Means to find out what they thought about Charlie. The nature of the inquiry is not whether he's going to come over and vote on our side—he's not. But is he a constructive member? By 'constructive' I mean two things: if I ask him, will he listen to me for twenty, thirty minutes, whether he agrees with me or not, and, second (and I knew this wasn't true about Charlie), is this particular member—to use a term I don't like, but it's the one that's used around this town—a whore? You know, when the shipping industry or the maritime union says 'Frog,' everybody jumps. That's my definition of a nonconstructive member. Or one that's going to vote right down the anti-business line, right down the George Meany line. Charlie checked good from all these angles, so I went to the luncheon. The tickets for the fund-raiser were going to be fifty dollars apiece. I said I'd sell ten tickets, and he and I had never met until then. That's where we first got to know each other, and now every once in a while I see him and we stop and chat."

I ask him to tell me more about making contributions to politicians.

"My contributions are meagre," he says (According to figures compiled by Common Cause, this is true.)

"What about those of your clients?" I ask.

"They vary," he replies. "Some of them have a political-action fund." Companies and interest groups can create "political-action committees," just as unions do. Committees that have fifty or more members and that contribute to five or more candidates may give each of these candidates up to five thousand dollars in a primary election and up to five thousand dollars in a general election—and ten thousand dollars is a substantial contribution. In addition, individuals may make thousand-dollar contributions to each of several candidates in primary and general elections, up to a total, including contributions to political-action committees, of twenty-five thousand dollars. "I'll suggest to a client that So-and-So is having a fund-raiser and they ought to pick up five, maybe ten tickets, and I'll pick up one or two. I'll buy tickets myself to somewhere between ten and twenty a year, but I hardly ever go." Like many lobby groups around Washington, Walker Associates has tickets to the Washington Redskins football games, which are much in demand—the Walker group has nine—and also to games played by the local

hockey and basketball teams. Giving such tickets to people who may be of use is one way that good will is spread in the nation's capital. Walker doesn't go to the games himself. He prefers to watch the football games on television and also use that time to write his newsletter.

Walker brings up published reports of how much money he makes, the most recent report being that he makes two hundred thousand dollars a year. He says that he hasn't made that amount yet but will come close in 1977 and expects to do better in the next year. "Some of it is speaking fees," Walker says. "I make from fifty to seventy-five thousand dollars in speaking honoraria. We're moving along. After I left Treasury, I had about five corporate retainers on the line—people who were close friends, who I'd gotten to know in the Bankers Association, in Treasury." A former Secretary of the Treasury who was then head of a bank gave Walker a fifty-thousand-dollar line of credit, and with that and an investment of ten thousand dollars by Walker and one of his associates Charls E. Walker Associates, Inc., was started.

Walker breaks off to take a call from an Under-Secretary of the Treasury about a bill on taxing workers abroad. He recites a brief history of the bill and of his conversations with various senators about bringing it to the floor, and describes to the Under-Secretary the techniques by which that could be accomplished. The Treasury Department supports the one-year extension. "I just wanted to get that word to you," Walker says. "I thought if you or the Secretary got word to Russell, that might be helpful."

I ask him about his newsletter, Washington Economic Report, which sells for a hundred and twenty-five dollars a year.

"That's a loss leader," Walker explains. "I'm not getting anywhere near what I'd get for the time I spend on it. It goes to a lot of members of Congress and to members of the press—more people get it free than pay for it To the extent that the analysis seems to make sense in the political-economic mishmash, it helps give our operation a little something extra, as opposed to—a term I hate—'the hired guns.' I hope that the newsletters and the Op-Ed pieces indicate substantive expertise, not just in economics but in analyzing the political as well as the economic thing. Second, it makes me think. I think on the typewriter. Third, if I write in October that such-and-such will happen in the next three weeks and it pretty much falls out that way, they say, 'Either he's a pretty good predictor or maybe he affects policy—high policy.'"

When I stop to see Walker the next morning, he is in the process of sending Waggonner a one-page memorandum on "Possible Congressional Action on Business Use of Oil and Gas," and has just sent Packwood a *Times* piece on geothermal energy. He has placed calls to Ashley and to Long but has missed them both. "I called Russell at his apartment this morning," he says, "but he had a senator with him. His wife told me that. I usually talk to him in the mornings at his apartment two, three times a week, between eight and eight-thirty. I call him from home. If he has an early breakfast meeting, I miss him, and then I catch him at the office. If it's very urgent, I'll go up to the Hill." Walker has studied the newspapers to check out his theories and surmises about how the energy bill is going. "I'm almost willing to bet that if Russell called right now and I said, 'Is there anything I need to do?' he'd say no. Waggonner keeps his finger on things. He talks to Russell. He said there wasn't anything I need to do now." Still, Walker seems a bit nervous at the thought that deals may be being made that he does not know about. "If I caught Russell today, he wouldn't tell me that much," he goes on. "At this stage of the game, it becomes a very, very close-knit, intracongressional thing, and even my best friends could get upset with me if I poked my nose in it too much." He adds that he did tell Ashley last week that it would be possible, if the final bill took a certain shape, to win Republican support for it.

I ask him how much Ashley can tell him. "No more than he wants to," Walker replies. "That's not a good answer, but it's the only one I can give you. He might drop some sort of hint, the way Charlie Rangel did on refundability. A lot of what appears to be banter is not banter."

I ask Walker what he thinks makes for effectiveness in Washington.

"The usual list is almost trite, but it's true," he replies. "You have to know your subject. I'd never go up to the Hill to testify without knowing that I knew more about the subject than anybody on the committee. Or, when you go and talk to a senator, you'd better know what you know and what you don't know, and if you get downtown and find you made a mistake, you're immediately on the phone and telling him that you made a mistake and he should throw away the piece of paper you gave him, that you'll send up another one. Being able to write a piece of paper for a member—a speech, or maybe the questions that might be asked of witnesses to bring out the fallacies as we see them in their case—I can just get over there on the typewriter and do it."

I ask him what sort of understanding of Washington is essential.

He replies, "The basic thing you got to understand is what makes a good politician. In the simplest terms, it's in understanding of people: what motivates people, what they fear, their hopes and aspirations. So in working with elected officials, as contrasted with appointed officials or the bureaucracy, you have to have some of the same qualifications as the successful politician. You got to understand what motivates the politician. Dummies, even in this town, think that politicians just want to be reelected. Well, first of all, the day of the sinecure in Congress is past. More and more of the members get bumped off by some some young tiger. But what is the purpose of getting reelected? A handful will use it to try to become President of the United States. But what motivates a Lud Ashley? He doesn't want to run for President of the United States, or for senator or governor. He's a House man. He takes extreme pride in doing a good legislative job. So if I'm talking to Lud I'm talking merits—of course, there may be a hooker in there, like about storm windows. In fact, I'm talking merits with most of them. On a given issue, the question is: Where do I start? If I've got five arguments, which would be the most convincing to him, given his own constituency, his own interests? You know who will be naturally with you, and you get them to work. It's knowing people, knowing their characteristics."

In the following weeks, in almost daily telephone conversations, I receive Walker's reports from the front. One day, he reports, "I spent the day in New York, and I got back and, as they say in my part of the country, ran my traps. Reading between the lines, I sense a little pessimism developing that they can get a bill before Christmas." I ask him whom he has talked with. "I talked with Lud, I talked with Waggonner, and I talked with some industry lobbyists, and this and that."

Another day, he reports, "We're going to have a family dinner with the Ashleys tonight," He says that that afternoon he met with some representatives of the oil industry, "to get me familiar with the ins and outs of the crude-oil-equalization-tax problem. I hadn't gotten into the nitty-gritty of it with Ashley before. I hadn't known enough about it. I wanted to talk to some real experts, so I'd know what I was talking about." He reports on the Arthur Burns project: "It looks pretty good." The current strategy is not to send a letter from the former Treasury Secretaries to the President, for fear it would get his back up, but to get word to the President that they support the reappointment. "By the way," he says, "I know the President has seen the Ashley letter about Burns. I know that." Through the Government Relations Committee of the American Council for Capital Formation, Walker is planning, for the Washington representatives of companies that support the council, a breakfast seminar on the economics of President Carter's expected tax proposals. At the breakfast, an economist will present an outline of a new econometric model, which will provide estimates of how much a cut in taxes would stimulate economic activity. Walker says that the model will show that cutting business and individual taxes would result in net increases in federal revenue. He reports, "I been running all my traps, and my sense is the geothermal thing looks good." He has met with Michael Blumenthal about refundability, and he has met with James Schlesinger about the depletion allowance for geothermal energy and about the tax credit for conversion to electrically generated heat. Walker says he told Schlesinger that he thought the bill should have more incentives for industry and should contain a day certain for deregulation of natural gas.

By early December, it has become clear that action on the energy bill will not be completed by Christmas. But the conferees are continuing to meet sporadically, and the key members are still holding their private meetings to see if they can work out the shape of a final bill before adjourning—one that the Senate and the House can approve after they return to Washington in January. At this stage, all kinds of rumors are flying about as to how the energy compromise may work out. "I was up on the Hill today," Walker says. "I told Lud that the perception that seemed to be coming out of the recent stories was that the House was getting most of its way. I told Lud that if that perception prevailed, business-community support for the bill would erode. We had a little argument about that. I sent Jim a memo saying the same thing. I keep trying to see if there's anything behind the smoke that I ought to know about. I'm trying to find out by talking to people, by my clients' talking to people. I don't know—you just keep going around and talking."

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT, IS SCHEDULED JANUARY 29 THROUGH FEBRUARY 2, 1978

Mr. RANDOLPH. Mr. President, the important White House Conference on Balanced National Growth and Economic Development will begin Sunday evening, January 29, at the Sheraton-Park Hotel. It will continue through February 2, with the final Thursday morning when the President of the United States will deliver the closing address.

I emphasize that this is not a conference of speeches. There will be important addresses, but the principal activity will be dialog among 500 citizen delegates on relevant issues. The participants or delegates have been selected from every State and territory. They will participate in daily workshop sessions to produce ideas and recommendations on some of the more serious long-term growth and development issues facing this Nation in the decade of the eighties and beyond.

Not everyone who wished to attend was appointed by his Governor to par-

ticipate. But for those with a vital message, a public forum will provide them an opportunity to address members of the White House staff, the Conference Advisory Committee, and interested observers.

Experience suggests that, to obtain the most from the participants, the Conference should be organized in small groups around clearly defined themes. That will be achieved through small workshops. There are six themes that have evolved over the weeks and months since the Carter administration began preparing for the Conference.

Four of them deal with issues related to growth and development:

Economic development strategies toward places: Cities, rural areas, States, and regions.

Creating employment opportunities for individuals: the challenges of public and private sectors.

The fiscal capacity and service delivery problems of local governments.

Economic growth and development, environmental quality, and resource constraints.

The remaining two themes focus on capacities of government at all levels to provide for growth and development which enhance quality of life:

Defining the public sector role and objectives in influencing the geographic distribution of economic activity and population.

Assessing the inadequacies of Government structure and processes.

Mr. President, we can be gratified for this Conference. Members remember that it was in Sepember 1976, in the extension of the Public Works and Economic Development Act that the Committee on Public Works recommended a separate title, sponsored by Senator DOMENICI and me, authorizing and requesting the President to convene this Conference. The bill was signed by President Ford, October 12, 1976.

President Carter, even before his inauguration, indicated his interest in such a Conference. Secretary Juanita Kreps took the lead within the administration. Her Department of Commerce began to lay the foundations of the Conference in the early months of the new administration. Dr. Michael Koleda was selected to be the Conference director. Since those early months of 1977, Dr. Koleda and his staff with the support of the White House and Secretary Kreps have worked against some difficult odds in launching the Conference.

The Conference will, I believe, be successful. We will measure success by results. Will there be recommendations that can be translated into appropriate proposals for action? I hope so. We will, at a minimum, gain the views of articulate leaders from all States on the issues that most concern them in their communities, States, and regions.

This Conference is not a one-shot affair. It has been preceded by many regional and State meetings and workshops. It has the benefit of substantial organized opinion and study that were designed as specific input to the final—the White House Conference.

I express our gratitude to the President for actively supporting this effort. Secretary Kreps deserves congratulations for her vision and active efforts in behalf of the Conference. The day-to-day direction and organizing has fallen to Dr. Koleda and his staff. He has consulted often with me, staff, and many, many others in the Senate and House. He has traveled the country far and wide raising the banner of this Conference, appearing before countless groups, explaining what the Conference was all about. He has been assisted in his efforts by the able Governor of West Virginia, Jay Rockefeller, who was chosen as the chairman of the statutory advisory committee for the Conference. I am appreciative of their achievements and hard work.

Members of Congress, I trust, will attend some of the sessions on the discussions and the recommendations to the President that we expect to come from the proceedings.

Mr. President, I ask unanimous consent that the following items be placed in the RECORD for the benefit of my colleagues: "White House Conference Agenda," and the "Statement on Balanced National Growth and Economic Development."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

WHITE HOUSE CONFERENCE AGENDA

(As of Jan. 18, 1978)

Speakers, panelists, and participants have been selected for the White House Conference on Balanced National Growth and Economic Development, which will be held at the Sheraton Park Hotel in Washington, D.C., January 29 through February 2, 1978.

The speakers and panelists, who are named in the attached tentative agenda, will speak at general sessions and luncheons during the Conference. The 500 participants have been selected from every state and territory. They will participate in daily workshop sessions to produce ideas and recommendations on some of the most serious long-term growth and development issues facing America in the years ahead.

In addition to the general sessions and workshops, the third primary portion of the Conference will be a Public Forum, where interested parties will make brief statements on the issues of the Conference. Forum presentations will be heard by members of the White House Staff and the Conference Advisory Committee.

All statements at the Public Forum will become part of the Conference official record.

Attachment.

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

TENTATIVE CONFERENCE AGENDA

Sunday, January 29, 1978:

Activities for Official Participants: 2–10 p.m., Registration; 5:30–6:30 p.m., Reception; 6:30–7:30 p.m., Dinner.

Activities for Official Participants and Observers:

8 p.m., Opening ceremonies: Conference Called to Order, Honorable Jack H. Watson, Jr., Assistant to the President for Intergovernmental Affairs; Invocation, Address, Honorable Juanita M. Kreps, Secretary of Commerce; "America Growing" Multi-Media Presentation; Remarks, Honorable John D. Rockefeller IV, Governor, State of West Virginia.

10 p.m. Opening Ceremonies Conclude.

Monday, January 30, 1978:

Activities for Official Participants: 7–8:30 a.m., Breakfast; 8:30–11:30 a.m., Theme I Workshops, "Strengthening Local Economies"; 8:45–11:45 a.m., Theme II Workshops, "People and Jobs"; 9–12 Noon, Theme IV Workshops, "The Geography of Growth".

Activities for Official Participants and Observers: 9–11:45 a.m., General Session, Themes III, V and IV.

Topic: Energy, Water, Environment and Growth: Limited Resources and Conflicting Objectives.

Moderator: Honorable John D. Rockefeller IV.

Speakers: Henry Ford II, Chairman, Ford Motor Company.

Honorable Morris Udall, Congressman, State of Arizona.

Panelists: Robert Georgine, President, Building and Construction Trades Department, AFL–CIO; Charles J. Hitch, President, Resources for the Future, Inc.; Honorable Richard D. Lamm, Governor, State of Colorado.

Activities for Official Participants:

12:30–2 p.m., Luncheon Speaker, Honorable Robert S. Bergland, Secretary of Agriculture.

2–5 p.m., Theme III Workshops, "Government and Budgets: The Fiscal Dimension of Growth and Change."

2:10–5:10 p.m., Theme V Workshops, "Government and the Management of Growth."

2:20–5:20 p.m., Theme VI Worshops, "Streamlining Government."

Activities for Official Participants and Observers:

2–4:45 p.m., General Session, Themes I, II, and IV.

Topic: Structural Unemployment: Should We Move People to Jobs or Jobs to People?

Moderator: Dr. Leon H. Sullivan, Chairman of the Board, OIC's of America.

Speakers: Reginald H. Jones, Chairman, General Electric Corporation; Vernon Jordan, Jr., Executive Director, National Urban League.

Panelists: Andrew F. Brimmer, President, Brimmer and Company, Incorporated.

Honorable Barbara A. Mikulski, Congresswoman, State of Maryland.

Rudolph Oswald, Director of Research, AFL–CIO.

Honorable James B. Hunt, Governor of North Carolina.

Activities for Official Participants:

Pre-Dinner Remarks: Vice President Walter F. Mondale Invited.

6:30—7:30 p.m., Dinner at Sheraton Park Hotel.

Tuesday, January 31, 1978:

Activities for Official Participants:

7–8:30 a.m., Breakfast.

8:30–12 Noon, Individual Workshops, Themes I, II and IV.

Activities for Official Participants and Observers:

9–11:45 a.m., General Session, Themes III, V and VI.

Topic: Local Fiscal Plight: Who Should Pay for What?

Moderator: To be Named.

Speakers: Honorable Lila Cockrell, Mayor, San Antonio, Texas. Honorable Michael S. Dukakis, Governor, State of Massachusetts.

Panelists: Nicholas R. Carbone, City Councilman, Hartford, Connecticut.

Honorable Pete V. Domenici, Senator, State of New Mexico. Honorable Kenneth A. Gibson, Mayor, Newark, New Jersey. Honorable Helen Putnam, Mayor, Petaluma, California.

Activities for Official Participants:

12:30–2 p.m., Luncheon.

Speaker: Honorable Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy.

2–5 p.m., Individual Workshops, Themes III, V and VI.

Activities for Official Participants and Observers:

2–4:45 p.m., General Session, Themes I, II and IV.

Topic: Beyond Sunbelt-Frostbelt: Regional Policy for a Changing Economy.

Moderator: Honorable John D. Rockefeller IV.

Speaker: Honorable George D. Busbee, Governor, State of Georgia.

Honorable Daniel P. Moynihan, Senator, State of New York.

Panelists: Joseph L. Hudson, Jr., Chairman and Chief Executive Officer, J. L. Hudson and Company, Detroit, Michigan.

Walt Whitman Rostow, Professor of History and Economics, University of Texas, Austin, Texas.

Honorable Henry Reuss, Congressman, State of Wisconsin.

Activities for Official Participants:

6–7 p.m., White House Reception.

Wednesday, February 1, 1978:

Activities for Official Participants:

7–8:30 p.m., Breakfast.

8:30–12 Noon, Individual Workshops.

(Participants in all six Themes meet in 24 individual workshops for discussion of Interim Reports.)

Activities for Observers:

9–12 Noon, Conference Public Forum.

Chairmen: Honorable Maynard H. Jackson, Jr., Mayor, Atlanta, Georgia; Honorable Leo T. McCarthy, Speaker of the California Assembly.

Members of the White House staff and the Conference Advisory Committee will serve on the Forum panels.

Activities for Official Participants:

12:30–2 p.m., Luncheon. Speaker: Honorable Patricia Roberts Harris, Secretary of Housing and Urban Development.

Activities for Official Participants and Observers:

2–5 p.m., Conference Public Forums resume.

Members of the White House staff and the Conference Advisory Committee will serve on the Forum panels.

Activities for Official Participants:

6:30–8:30 p.m., Dinner at Sheraton Park Hotel, Hosted by National Governors' Association.

Thursday, February 2, 1978:

Activities for Official Participants:

7–8:30 a.m., Breakfast.

Activities for Official Participants and Observers:

9 a.m., Final Plenary Session Convenes.

Overview of Conference Activities, Honorable John D. Rockefeller IV.

Remarks: Honorable Jennings Handolph, Senator, State of West Virginia.

Overview of Workshop Reports.

Address: President Jimmy Carter.

12 Noon, Conference Adjourns.

THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Balanced National Growth and Economic Development is a term which has broad implications for a variety of important issues. Unfortunately, there exists no single agreed upon definition; balanced national growth and economic development means different things to different people.

"Balanced Growth" was used in the Public Works and Economic Development Act of 1965 to imply balance between urban and rural areas, and among lagging and more prosperous regions of the United States. In the Environmental Protection Act of 1969 it is used in reference to balanced use and protection of the physical environment. Both of these usages are incorporated into the Housing and Community Development Act of 1970 which refers as well to the "imbalances" between cities and their suburbs. The recent controversy over patterns of growth and development among regions, the so-called Sunbelt-Frostbelt debate, has been pointed to as evidence of the need for "balance." Senator Humphrey and Representative Hawkins have introduced the Full Employment and Balanced Growth Act, which relates the concept of balanced growth to the nation's full employment objectives. Finally, Senators Javits and Humphrey in 1975 introduced the widely discussed Balanced Growth and Economic Planning bill which called for the creation of a national planning process for the United States in order to achieve balanced growth.

The report which accompanied the Senate legislation authorizing the White House Conference on Balanced National Growth and Economic Development based the need for the Conference on concern for the nation's development patterns. It cited as evidence of this need the failure to achieve satisfactory level of employment; the uneven distribution of economic growth and population; excessive air, water, and other environmental pollution; urban decay; the geographic consequences of public decisions and policies; and "our national inability to anticipate expected economic, environmental, and social problems caused by chaotic growth, technological change, and increased consumption levels and public demand."

As the above indicates, there are many possible interpretations of the concept of "balance" in growth and development. In almost every case, these interpretations are based on commitments the nation has made to the economic and social welfare of its citizens. Yet, these objectives may not always be completely compatible—or social, economic, environmental and physical aspirations may sometimes be in conflict.

The challenge of national growth and development is that of achieving "balance" among our national objectives. These objectives include:

Economic growth which provides opportunities for employment and an adequate standard of living for all Americans;

Equity or fairness in access to the benefits of growth and development for all citizens and areas within the nation;

Environmental quality and protection of ecologically sensitive areas;

Conservation and judicious use of critical and scarce resources; and

Efficient and responsive government and a strong and involved private sector.

Four of the themes of this Conference are designed to address the issue related to balanced national "growth" and "development."

1. Economic development strategies toward places: cities, rural areas, states and regions: (Theme I)

2. Creating employment opportunities for individuals: the challenges of public and private sectors. (Theme II)

3. The fiscal capacity and service delivery problems of local governments. (Theme III)

4. Economic growth and development, environmental quality, and resource constraints. (Theme V)

The remaining two themes focus on the capacities of government at all levels to provide for growth and development which enhance quality of life They are:

5. Defining the public sector role and objectives in influencing the geographic distribution of economic activity and population. (Theme IV)

6. Assessing the inadequacies of government structure and processes. (Theme VI)

It is the goal of this Conference that from the consideration of these six themes—through the workshops, the general sessions, and the public forum—will come the principles to guide Balanced National Growth and Economic Development.

VOTER INITIATIVE PROCESS

Mr. ABOUREZK. Mr. President, last July, I introduced a constitutional amendment (S.J. Res. 67) to allow the use of the voter initiative process at the national level as it is used today in 23 States.

As you may know the voter initiative process allows citizens to place a proposed law on the ballot, by gathering a required number of signatures. Once a proposed law has been placed on the ballot, the voters will have the opportunity to adopt it or reject it by majority vote at the next general election.

Since its introduction last July, I have received a tremendous response which has far exceeded my highest expectations. The issue seems to have captured the imagination of the press and the general public alike. In a public opinion survey taken last November for its clients by the Cambridge Survey Research organization, the American people support a voter initiative constitutional amendment by an overwhelming 57 percent yes, 25 percent no, 18 percent not sure.

In addition, Senator BAYH's Subcommittee on the Constitution held 2 days of hearings in December on this proposal. The testimony that was presented was extremely encouraging. It indicated that the initiative process is a sound democratic process in the 23 States where it has been used in the last 60 years and that it can be effectively administered at the national level. In looking at the history of the initiative process, it is clear that the American people have acted responsibly and prudently, and have not enacted the "bad" laws that the critics of the process often claim will be enacted.

Testimony from both Prof. Arthur Miller, a noted constitutional scholar at George Washington University Law School and from Henry Abraham, the highly respected Doherty, professor of government and foreign affairs at the University of Virginia indicated that our representative form of government will be augmented and strengthened not undermined by the adoption of the voter initiative process.

In addition, the Constitution Subcommittee hearings again pointed out that this proposal is a bipartisan issue, with Democrats, Republicans, liberals, and conservatives alike strongly endorsing the initiative concept.

I believe that 1978 will prove to be an important year in the lengthy process to adopt this constitutional amendment because many candidates for both the House and the Senate have requested information on the voter initiative process as they prepare to use it in their respective campaigns.

I feel this issue places trust in the wisdom of the American people. It will

enhance the accountability of our Government and will produce open educational debates on important national issues.

Mr. President, I ask unanimous consent to have the following newspaper articles written about the voter initiative constitutional amendment (S.J. Res. 67) printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 20, 1978]

THE CASE FOR LAW BY INITIATIVE

(By Roger Telschow)

Just 58 years ago, American women were still denied the right to vote. Fighting to the last, opponents of women's suffrage no doubt argued that this constitutional change ran contrary to all the wisdom of the Constitution's framers. After all, they argued, if women were supposed to vote, the right would have been granted by our forefathers in the 18th century.

It is now 1978 and the same faulty issue is advanced (in an op-ed column by Michael Malbin on Jan. 7) to oppose the right of Americans to vote on federal issues.

The proposal in question is the Voter Initiative Amendment, sponsored by James R. Jones (D-Okla.) and Harold S. Sawyer (R-Mich.) in the House, and James Abourezk (D-S.D.) and Mark O. Hatfield (R-Ore.) in the Senate. It would give citizens the power to place proposed laws on the national ballot, after gathering about 2⅓ million registered voters. A majority vote would directly enact the proposal into law.

Malbin's main opposing argument—the framers didn't provide for initiative, so why should we?—is some what shortsighted, to say the least. The fact is, the framers failed to include many rights in the original Constitution, not the least of which were voting privileges for over half the adult population. To quote noted constitutional scholar Arthur S. Miller on the subject, "The Constitution has never been interpreted in ways to give sole authority to the views of the Founding Fathers, even if those views are ascertainable; usually, they are not."

Continuing this testimony, delivered to a Senate Judiciary subcommittee, Miller said, "I fully support [the Voter Initiative Amendment] and believe that its adoption by the Congress and three-fourths of the state legislatures would be a salutary and progressive addition to the Constitution."

Far from being a radical idea, public votes on policy questions have traditionally played a key role in American government. In most states, school taxes, bond issues and state constitutional amendments are considered too important to enact without a public vote.

Initiative has an impressive track record in the 23 states now authorizing its use. According to research done by the Library of Congress, in the 80 years of initiative use some 1,200 issues have been voted on. Many landmark reforms were pioneered by initiative. Direct election of senators, abolishment of poll taxes, workmen's compensation, and tax and political reform are just a few of the issues tackled by voters at the ballot box, in the face of an unresponsive legislature.

It is remarkable that our present method of selecting presidential candidates was first adopted by initiative in Oregon in 1910. Voters in other states followed Oregon's lead and used initiative to establish our modern presidential-preference primary system.

Despite the creditable history of initiative, however, myths still surround the process. For instance, Malbin attributes the complex California ballot to initiatives, when in reality that state has voted on an average of fewer than two citizen initiatives a year in the last decade. This compares with an average of over 10 measures a year put on the ballot by the legislature itself.

Even when initiatives do reach the ballot, the public votes with restraint by passing only about one in three proposed laws. Because initiative votes are so widely debated and are subjected to far greater public scrutiny than laws considered in the legislature, the people are "tricked" by special interests probably much less often than politicians. Miller summed this up by stating:

"There is no reason to believe that the quality of legislation [produced by initiative] would be inferior to that produced by Congress. As everyone knows, or should know, congressional statutes are often hammered out on the anvil of compromise, and thus tend to reach a low common denominator. On the other hand, it seems plausible that initiatives could be drafted in ways that would eliminate many of the lacunae now lurking in federal statutes [because of those compromises]. The experience in those states that now have initiative procedures would tend to support that position."

As a means for more precise communication between the people and the institutions of government, voter initiative will inject our federal system with greater accountability and citizen participation. With the further check and balance of the public's proposing and enacting its own laws, our elected officials will begin to represent the people more accurately and responsively, thus strengthening our representative system as a whole.

[From the Washington Post, Dec. 14, 1977]

U.S. INITIATIVE AMENDMENT PLAN DEBATED

(By Donald P. Baker)

The question of whether Americans are well-informed enough to vote intelligently on major national issues was debated yesterday by a Senate subcommittee weighing a proposed constitutional amendment that would permit direct enactment of laws by popular vote.

Other concerns expressed before the constitution subcommittee of Sen. Birch Bayh (D-Ind.) included whether the majority, if given the choice, would disregard rights of minorities, or if powerful special-interest groups would dominate lawmaking at the polls.

Nearly all of the witnesses favored the concept of the National Initiative Amendment introduced by Sen. James Abourezk (D-S.D.), but Bayh said he had "serious reservations" about whether the idea would work at the federal level.

The amendment would require to be placed before all voters questions petitioned by 3 per cent of those voting in the previous presidential election in at least 10 states.

Laws approved at the polls would take effect within 30 days and could not be repealed or amended by Congress for two years, except by a two-thirds vote of both houses, although they would be subject to presidential veto. The initiative procedure could not be used to declare war, call up the militia or amend the Constitution.

Del. Walter E. Fauntroy (D-D.C.), who supports the idea, noted that voters in the District of Columbia gave 83 per cent support last month to a citizen initiative, referendum and recall process. Twenty-three states have a similar procedure.

Abourezk said the amendment, cosponsored by Sens. Mark O. Hatfield (R-Ore.) and Mike Gravel (D-Alaska), is "a serious constitutional proposal which is commanding the support of liberals, conservatives, Republicans and Democrats alike."

Peter Bachrach, a political science professor at Temple University, said he feared the process would result in "a contest among monied power groups" over questions about busing and antilabor and antisex movements, while "taking our minds off the real issues of poverty, racism and urban decay."

Fauntroy said he did not agree that "straight majority rule will be blind and insensitive to the concerns of a minority population." He predicted the public would "respond at least as courageously" to those problems as Congress has.

Abourezk conceded that the procedure "will not make democracy perfect." He added however, that "those critics ironically forget that those very same 'untrustworthy and uneducated' people can be trusted and are educated enough to elect politicians."

[From the Chicago Tribune, Dec. 20, 1977]

LETTING THE VOTERS BECOME LAWGIVERS

(By Patrick J. Buchanan)

WASHINGTON.—When Benjamin Franklin emerged from the Constitutional Convention he was confronted by a lady who inquired, "What kind of government shall we have, Dr. Franklin?" To which the wisest of the Founding Fathers responded, "A republic, madam, if you can keep it."

What we inherited, then, is a representative, not a pure, democracy. The men in Philadelphia reasoned that while common folk lacked the information to make the daily decisions of government, they were qualified to decide who should make them.

Come now Senators James Abourezk and Mark Hatfield to add to the work of the Founding Fathers. They propose a Constitutional amendment whereby voters may participate directly in the making of national law.

Before a proposal could be placed upon the national ballot, however, criteria would have to be met. Three per cent of the voting population from the last presidential election, from 10 separate states, would have to sign validated petitions within an 18-month period. Using 1976 as a base year, this would require the support and signature of 2.45 million voters—no small number.

In the judgment of this conservative, the amendment merits ratification. For there is no real conflict between what the Founding Fathers envisioned and what the senators are proposing.

Unlike 1789, 1977 is a year of mass education and mass communication. While the people are still unequipped to make the day-to-day decisions of government they are as qualified to pass upon individual laws as upon the individual men who make them.

And what is there to fear in this amendment?

If the voters go off on a toot and decide to equip everyone with an M-16 rifle against the day the Russians arrive, Congress could repeal the law by a two-thirds vote. As for the power to make war, raise troops, and propose constitutional amendments, that would still reside on Capitol Hill. And since 23 states already have the initiative and referendum this hardly seems a dangerous constitutional leap in the dark.

Consider the possibilities. For certain, the liberals would be on the ballot early with a propcsal to confiscate all handguns. But the nation is drifting rightward on this issue, as on others. And consider proposals that might be on the 1978 ballot were the Abourezk amendment already ratified.

Proposition 1: Since the median income of the average United States worker in the last five years—due to taxes and inflation—has fallen 3 per cent, the 30 per cent raise Congress gave itself this year is hereby rescinded.

Proposition 2: Like workers in the private sector all federal employes, including office holders, shall make contributions to the Social Security fund.

Proposition 3: The United States government shall not discriminate in hiring or promotion against, or in favor of, any individual on the basis of sex, race, creed, color, or national origin. [Bye-bye affirmative action and quotas!]

Proposition 4: No federal tax dollars shall be used in any abortion unless a physician asserts in writing that the only alternative is death of the mother.

The list could go on and on.

For years now my right-wing brethren have been talking about a natural conservative majority "out there," whose will is frustrated by an elitist establishment ensconced in the bureaucracy, the judiciary, the Congress, and the media—an establishment with a game plan all its own for America, over which we exercise little control.

Well, the Abourezk amendment offers the people an unimpeded end-run around that liberal establishment. Now is the time for the brothers to put up or shut up.

[From the Christian Science Monitor, Dec. 29, 1977]

SHOULD VOTERS WRITE LAWS?

Congressional hearings have focused on a proposed amendment to the United States Constitution intended to give Americans a greater direct "say" in their government. If approved by Congress and ratified by three-fourths of the states, the amendment would give Americans the power to enact federal laws by popular vote.

This as yet little-publicized proposal could have a significant impact on how laws are formulated in the United States and, as such, needs to be closely scrutinized and given the widest possible public airing.

The national-initiative amendment introduced by Senators Abourezk of South Dakota and Hatfield of Oregon is aimed at stirring greater public debate, interest, and involvement in controversial national issues. No newcomer to politics, the initiative process dates back to the "plebicitums" of ancient Rome, when "plebes," or commoners, could vote to enact or repeal a law over the opposition of the Senate.

Twenty-three states and the District of Columbia already have local initiatives of various types, the oldest going back more than 60 years. Recent U.S. election trends have shown a growing willingness among voters to register their opinions on such diverse issues as banning throw-away bottles, the performance of appointed judges, property-tax limitations, fluoridation, and coastal development.

The Hatfield-Abourezk amendment would enable citizens who collect some 2.5 million signatures (or 3 percent of the ballots cast in the last presidential election) from at least 10 states to place a proposed law on the federal ballot. A majority vote would enact the proposal into law. The amendment would not give voters the power to declare war, call out the military, amend the Constitution, or enact any law in violation of it. The President would retain power to sign or veto any law enacted by referendum, and Congress could repeal or amend any such law—but in the first two years after passage, a two-thirds roll-call vote in each house of Congress would be needed to do so. The courts, of course, would review and interpret such statutes.

In a democracy any proposal giving greater voice to the people has obvious appeal, particularly in the face of continued widespread voter apathy and persistent public cynicism about government in general. Too many people feel they are alienated from and wield little influence on the federal decisionmaking process that shapes policies directly affecting their daily lives, and the initiative proposal could be a partial answer to this problem.

Although holding out the hope of more open lawmaking, and less back-room politicking and unpublicized special-interest lobbying, the proposed amendment does raise some serious questions: Would extreme minority factions using television and other promotional means be able too easily to sway the public into enacting dubious laws? Would initiative statutes involving complex issues necessarily be oversimplified for easy public grasp and approval? Would elected officials use initiatives as an excuse for avoiding taking action of their own on unpopular issues? Are deliberative bodies better prepared to reach clear, reasonable conclusions about complex policy questions?

Proponents argue that at the state level voters have exhibited considerable sophistication and restraint, approving less than one-third of the proposals placed on ballots. In states such as California and Massachusetts, with large college-educated voter groups, local initiatives are being widely used. But even in California, where the Legislature also places issues on the ballot, the average has been 1½ initiative proposals a year, tending to answer the argument that ballots inevitably will grow long and be cluttered with inconsequential issues. For a national referendum, it would take a fairly organized and well-funded group to round up the needed signatures and votes to enact a law.

Some scholars argue that the original intentions of the Founding Fathers in setting up a representative democracy—where the people are not expected to decide issues, but choose representatives to do so—would be thwarted by the initiative. Others question the wisdom of giving the public the power to legislate spending measures, since they do not have the responsibility for raising revenues. Another frequent objection is that the process will generate still more government "red tape," require a larger bureaucracy, and be expensive to boot.

Such basic questions need to be carefully looked at and widely debated as the proposed amendment wends its way through Congress, where it is not apt to come up for a vote until 1979. Eventually Congress will face the difficult decision of whether or not to turn over some of its lawmaking powers to the people.

PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, the Foreign Relations Committee wound up its hearings this week on the proposed Panama Canal treaties. These hearings have been extremely informative and have contributed substantially to our knowledge and understanding of these treaties. I would like to take this opportunity to thank the committee and its distinguished chairman, Senator SPARKMAN, for the valuable contribution that the committee has made.

One issue, which was brought up during the hearings on Wednesday, was the matter of a second interoceanic canal either in Panama or elsewhere in Central America. Serious concern has been expressed that the proposed treaties cede too much to Panama in agreeing to seek Panamanian concurrence on the site of another canal.

Colonel Sheffey testified before the committee regarding this point. Colonel Sheffey is an extremely well-qualified witness to testify on this matter having served as a military assistant for canal affairs for the Office of the Secretary of the Army and as the Executive Director for the Atlantic-Pacific Interoceanic Canal Study Commission. Colonel Sheffey stated:

There are no foreseeable circumstances in which the United States would be likely to consider building a new Isthmian canal outside Panama. The only feasible routes are in Panama. The economic, technical and political objections to the far longer routes in Colombia and Nicaragua eliminate them from practical consideration. Limiting the choice of routes to Panama for the remainder of this century costs the U.S. nothing, and the treaty proposal for this prevents other powers' meddling in the matter.

Colonel Sheffey goes on to discuss why sites in Colombia and Nicaragua are not viable options as well as other considerations regarding a second interoceanic canal. I think that my colleagues might find Colonel Sheffey's testimony quite interesting so I ask unanimous consent that this statement relating to a sea-level canal be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY BY COLONEL SHEFFEY

Mr. Chairman, Gentlemen, I am Colonel John P. Sheffey, U.S. Army (Ret.). My experience in Panama Canal affairs has been rather extensive—five years as the Secretary of the Army's Military Assistant for Canal matters, five years as the Executive Director of the President's Atlantic-Pacific Interoceanic Canal Study Commission, and three years in the Department of State as Special Advisor to the U.S. Canal Treaty Negotiator on an appointment that was terminated by the Department of State in 1974. Subsequently, I have maintained contact with the State and Defense negotiators and have followed the development of the current treaty drafts. However, I have no official capacity today and am here only in the hope that I can help contribute to your understanding of the canal treaty problem. I do not speak for the members of the National Association for Uniformed Services. Most of them strongly oppose giving up the Panama Canal and are not happy with my view that a generous new treaty with Panama is both necessary and unavoidable.

The record of your earlier hearings includes almost every known argument for and against ratification of the proposed treaties, and I will not repeat them. Instead, let me clarify a couple of issues in which I can claim expertise. Then I will attempt to frame the Panama treaty problem in its true political context and suggest what should be done.

First, as the former Executive Director of the $22 million sea-level canal study in 1965–70, I assure you that there are no foreseeable circumstances in which the United States would be likely to consider building a new Isthmian canal outside Panama. The only feasible routes are in Panama. The economic, technical and political objections to the far longer routes in Colombia and Nicaragua eliminate them from practical consideration. Limiting the choice of routes to Panama for the remainder of this century costs the U.S. nothing, and the treaty proposal for this prevents other powers' meddling in the matter.

The theoretically feasible routes in Nicaragua and Colombia are 140 miles and 100 miles in length, respectively, as compared with 40 miles or less for the Panamanian routes. The movement of large ships in narrow canal waters is a slow and hazardous operation. Ship operators would not readily accept the risk and time lost in transit. The construc-

tion and operating costs of these longer canals would be three or four times the cost of the shorter canals in Panama, and even the shorter Panamanian routes are not economically feasible at currently forecast traffic levels.

In the 1970 study, the Nicaraguan and Colombian routes were considered only for a sea-level canal constructed by nuclear excavation. Nuclear excavation is of questionable technical feasibility at best, and is politically infeasible beyond doubt. Conventional excavation costs on these longer routes were so great that they were not even estimated with any precision. Today's construction costs on either route would be in excess of $20 billion, and this could easily double by the time such a canal might be needed.

Certainly, the foreseeable traffic cannot support two Isthmian canals, and 95 percent of the world shipping projected for the year 2000 will still be of sizes that can pass the present Panama Canal. The 5 percent of superships that need a larger canal cannot possibly support its cost even in Panama. The military advantages of a relatively indestructible sea-level canal are attractive, but have not moved us to build one in Panama. They are far from sufficient to justify a $20 billion investment in a technically unsatisfactory and politically abrasive canal outside Panama.

WHY WE MUST ACT NOW ON THE RATIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, it is a sad fact that human beings often act to prevent disasters only after they have occurred. We respond to scarcity of energy resources only after there is a crisis; we take steps to control the growth of nuclear weapons long after countries have reached the capacity to heap massive destruction on the Earth. I fear the same may be true for this Nation in the area of genocide.

In 1939, Raphael Lemkin proposed to "declare the destruction of racial, religious, or social collectivities" a crime under the law of nations. Five years later, he coined the word "genocide" to label such collective atrocities. However, he was largely ignored. It was not until the discovery of German war atrocities that his concern struck a responsive chord throughout the world. By then it was too late. While it was possible to punish those who committed these barbarous acts, it was impossible to negate their damage. Condemnation after the fact was a hollow conciliation for the many who lost their lives.

Surprisingly, we have not learned the lessons of these tragic events. Although widespread genocide may not exist today, it is naive to believe in its extinction. Throughout the world, the fight for human rights continues. I believe every American supports this fight. But we should translate this support into positive action, the ratification of the Genocide Treaty.

The treaty calls for the prevention and punishment of acts of genocide. It creates universal cooperation with sanctions in each of the member states that are party to the convention. It cannot insure that genocide will be eliminated, but it is a necessary step to control it. We simply cannot afford to wait any longer to ratify this important human rights treaty.

INDIA'S CONSTITUTION DAY

Mr. KENNEDY. Mr. President, today marks India's 28th Republic Day—a day when the Indian people proudly celebrate their Constitution. On January 26, 1950, India took the bold step and adopted a constitution which has become the foundation stone for the world's largest democracy.

Like our own Constitution, India's has been buffeted by strong forces of change and stress, and it has been assaulted from right and left. But it has withstood these challenges, thanks to the determined democratic spirit of its people and leaders.

In the years ahead, India will face extraordinary hurdles in bettering the lives of its people and developing the resources of its land. But if it succeeds in developing and supporting the democratic principles embodied in its Constitution, it will have gone far in protecting the freedom of its people and enriching their lives, as well as enhancing the achievement of its other goals in the economic and development spheres.

Mr. President, during his recent visit to India, President Carter appropriately paid tribute to India's democratic heritage—speaking in the House of Parliament, the center of India's constitutional system. He expressed the admiration of the American people for the free and open society India has achieved despite great obstacles, and spoke of the many ties and shared values that draw our two peoples together.

Today's celebration of India's Constitution—its Republic Day—is one of those ties, and I want to join in marking its passage. For as the Baltimore Sun noted in an editorial today, India's "Constitution, 28 years ago, gave India a good name." But "India may yet be seen to have done the same for constitutions."

Mr. President, in noting India's Republic Day, I ask unanimous consent that the texts of President Carter's address to the Indian Parliament, Prime Minister Morarji Desai's welcoming address, and the Baltimore Sun's editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Baltimore Sun, Jan. 26, 1978]

INDIA'S CONSTITUTION LIVES

Today marks the 28th anniversary of India's constitution and its sovereignty as a republic. Although independent of British rule in August, 1947, India was a Dominion recognizing the Queen of England as head of state through her Governor General. Not until January 26, 1950, did symbolism catch up with fact.

India's constitution has been amended many times. During the emergency rule of former Prime Minister Indira Gandhi it was stretched and suppressed beyond recognition. But it lives. Mrs. Gandhi's obeisance to its forms allowed the constitution to provide for her downfall. Now India is ruled by a regime dedicated to the document that stands as a monument to her father, Jawaharlal Nehru.

The constitution contains guarantees of personal rights. They were repudiated during Mrs. Gandhi's dictatorial period, but remained the standard by which ultimately she was judged. It contains prescriptions which have not taken hold, such as, "Untouchability is abolished and its practice in any form is forbidden." But its durability and usefulness are remarkable for a new country with old civilizations and the diversity, wealth and poverty of India.

Too much was expected of India and its constitution in the early years. Mr. Nehru was to be the moral leader of the world. India, non-aligned with Soviet Union or United States, invented the Third World. India's democracy had to win out over China's communism as a model for developing countries. The burden was too great. For a while, India's federal system teetered on chaos and inefficiency. It was fashionable to find greater virtues in Pakistan's martial regime or China's communism.

All that is changed. The Third World has leaders by the dozen. Pakistan and China are each trying to overcome self-inflicted wounds. India struggles on. Imperfectly, openly, it is trying not to lead the world but to do what is right for India, and that is something like a seventh of the world. Its constitution, 28 years ago, gave India a good name. India may yet be seen to have done the same for constitutions.

DESAI SPEECH TO PARLIAMENT

Prime Minister Morarji Desai on January 2 was welcoming President Jimmy Carter in the central hall of parliament on behalf of the Indian Parliamentary Group, the organisation of Indian members of parliament.

Following is the text of Desai's speech:

"On behalf of the Indian Parliamentary Group, the organisation of the elected representatives of the Indian people. I am happy to welcome you in this central hall of our parliament. We receive you not only as the chief executive of a great and friendly nation, but because we see in you one who believes that politics and public policy must never be divorced from human values and morality.

"During the last 12 months, you have impressed your personality on the world as a man of lofty idealism and as a fearless crusader. We who have grown out of clay to be men under the humanising influence of Gandhiji can understand possibly more than any other people the continuing and pressing relevance of moral imperatives in the political life of a nation and that the ultimate test is how we serve unto the last the common man.

"We live today in an awakened and enlightened world. What is more, it is a demanding world, too. The community of nations must face together the paradox of our times, some have gathered immense power and treasured vast opportunities while most others are faced with the spectre of war, of destruction, and millions suffer from want of even the basic necessities of life. As democratic nations in a world order, we have to demonstrate that we seek not just to fulfill the aspirations of our own people, but also that we are sensitive to the problems and interests of other peoples and share the hopes of the entire family of man.

"Mr. President, you come to this country when our people have unmistakably demonstrated that they are the true guardians of the democratic freedoms embodied in our constitution as well as in yours. Through the ballot box, the people have proved that they will not tolerate encroachment on their fundamental freedoms or abuses of their trust and confidence. My colleagues and I, in whose hands they have now placed the reins of power, have to redeem our pledges and fulfill their expectation.

"The ease with which India has adopted the democratic tradition reflects the character of our ancient civilisation, its tradition of harmony and tolerance, and the inner confidence which comes from the dedication to spiritual values. But in framing our constitution, as in our struggle for freedom, we drew inspiration from diverse sources,

notably from U.S. thinkers and statesmen. Gandhiji's ideas were influenced by Thoreau's thought. The fundamental rights embodied in our constitution have the unmistakable stamp of Jefferson's emphasis on individual freedom and Lincoln's faith in representative and responsible government. I have no doubt that the great leaders of our nation who are no more and some whose portraits you see around this hall would have rejoiced in this occasion when, in welcoming you, we can reaffirm our common faith and re-establish the trust which must exist between our two democracies.

"Mr. President, differences may no doubt crop up from time to time between our countries, as they do between two individuals. But I am confident that India and the United States will establish a healthy, relaxed and cooperative relationship. The great challenge before this world is to establish a new economic relationship between the industrialised nations with their technology, and affluence and the developing countries struggling against great odds to satisfy the needs of their own people. Though our circumstances are different, the goal of a stable and peaceful international system and a world free from tension is common between us. The world which is striving for such goal expects countries like ours and yours to work together for a socially just world order based on universal peace and common ideal.

"It is in that hope and with great pleasure that I am welcoming you to this meeting of members of the Indian Parliamentary Group."

[From the New York Times, Jan. 3, 1978]

TEXT OF ADDRESS BY PRESIDENT CARTER BEFORE THE INDIAN PARLIAMENT IN NEW DELHI

NEW DELHI, January 2.—Following is the text of remarks made today by President Carter in an address to the Indian Parliament:

I stand before you in this house, the seat of one of the world's great legislatures, with feelings of profound friendship and respect. I bring with me the warm greetings and good wishes of the people of the second largest democracy on earth, the United States of America, to the people of the largest democracy, the Republic of India.

Not long ago, both of our people's governments passed through grave crises. In different ways, the values for which so many have lived and died were threatened. In different ways, and on opposite sides of the world, those values have been triumphant.

It is sometimes argued that the modern industrial state, with its materialism, its centralized bureaucracies and the technological instruments of control available to those who hold power, must inevitably lose sight of the democratic ideal.

The recent experience of my country put that argument to the test. And the result was a vindication of freedom and self-government.

The opposite argument is made even more frequently. There are those who say that democracy is a kind of rich man's plaything, and that the poor are too preoccupied with survival to care about the luxury of freedom and the right to choose their government.

BY THOSE WITH PRIVILEGES

This argument is repeated all over the world—mostly, I have noticed, by persons whose own bellies are full and who speak from positions of privilege and power in their own societies.

Their argument reminds me of a statement made by a great President of the United States. Mr. Abraham Lincoln said, "Whenever I hear anyone arguing for slavery, I feel a strong impulse to see it tried on him personally."

The evidence, both in India and in America, is plain. It is that there is more than one form of hunger, and neither the rich or poor will feel satisfied without being fed in both body and in spirit.

Is democracy important? Is human freedom valued by all people?

India has given here affirmative answer in a thunderous voice, a voice heard around the world. Something momentous happened here last March, not because any particular party won or lost but rather, I think, because the largest electorate on earth freely and wisely chose its leaders at the polls. In this sense, democracy itself was the victor.

Together, we understand that in the realm of politics, freedom is the engine of progress. India and America share practical experience with democracy.

We in the United States are proud of having achieved political union among a people whose ancestors come from all over the world. Our system strives to respect the rights of a great variety of minorities, including, by the way, a growing and productive group of families from India.

EVEN GREATER CHALLENGE

But the challenge of political union is even greater here. In the diversity of languages, religions, political opinions and racial and cultural groups, India is comparable to the continent of Europe, which has a population about the same size as India's.

Yet India has forged her vast mosaic of humanity into a single nation that has weathered many challenges to survival both as a nation and as a democracy. This is surely one of the greatest political achievements of this or any century.

India and the United States are at one in recognizing the right of free speech, which Mahatma Gandhi called "the foundation stone of swaraj" or self-government, and the rights of academic freedom, trade union organization, freedom of the press and freedom of religion.

All these rights are recognized in international covenants. There are few governments which do not at least pay lip service to them. And yet, to quote Gandhi once more: "No principle exists in the abstract. Without its concrete application it has no meaning."

In India as in the United States, these rights have concrete application—and real meaning. It is to preserve these rights that both our nations have chosen similar political paths to the development of our resources and the betterment of the life of our people.

DEVELOPMENT THROUGH DEMOCRACY

There are differences between us in the degree to which economic growth is pursued through public enterprise, on the one hand, and private enterprise, on the other, but more important than these differences is our shared belief that the political structure in which development takes place should be democratic and should respect the human rights of each and every citizen.

Our two countries also agree that human needs are inseparable from human rights—that while civil and political liberties are good in themselves, they are much more useful and much more meaningful in the lives of people to whom physical survival is not a matter of daily anxiety.

To have sufficient food to live and work, to be adequately sheltered and clothed, to live in a healthy environment and be healed when sick, to learn and be taught—these rights, too, must be the concerns of our governments. To meet these needs, orderly economic growth is crucial. And if the benefits of growth are to reach those whose need is greatest, social justice is crucial as well.

India is succeeding in this historic task. Your economic challenges are no secret and their seriousness is well understood in the West. What is far less well understood is the degree to which Indian social and economic policy has been a success, In the single generation since your independence was gained, extraordinary progress has been made.

LARGE DEGREE OF SELF-SUFFICIENCY

India is now a major industrial power. Your economy ranks among the 10 largest in the world. It is virtually self-sufficient in the consumer goods and a wide variety of iron and steel products.

There have been notable increases in production in nearly every important sector of industry, increases which reflect an economy of great technological sophistication. This kind of growth makes it doubly important to try to reduce trade barriers and to promote both bilateral trade and mutual responsibility for the world trading system.

Most important, though, are the advances in human welfare that have touched the lives of ordinary Indians. Life expectancy has increased by 20 years since independence. The threat of major epidemics has receded. The literacy rate has doubled. While only a third of Indian children went to school in the years just after independence, nearly 90 percent of primary-age Indian children now receive schooling. Nine times as many students go to universities as before.

I mention these gains because we tend to overlook them in our preoccupation with the problems that quite properly engage most of our attention.

India's difficulties, which we often experience ourselves and which are typical of the problems faced in the developing world, remind us of the tasks that lie ahead.

NOT THE AUTHORITARIAN WAY

But India's successes are just as important because they decisively refute the theory that in order to achieve economic and social progress, a developing country must accept an authoritarian or totalitarian government and all the damage to the health of the human spirit which that kind of rule brings with it.

Nevertheless, as Indians are the first to affirm, the challenges your country faces remain immense. All of us recognize that every country stands or falls by its own efforts. We are eager to join with you in maintaining and improving our valuable and mature partnership of political and economic cooperation.

It is a sobering fact that in a nation of so many hundreds of millions of people, only a few American business leaders are involved on a daily basis in the economic and commercial life of this subcontinent.

We need to identify more areas where we can work together for mutual benefit and, indeed, the benefit of the whole world.

In the area of development, I am deeply impressed with the creative direction the Government of India has charted in the new economic statement. You have committed your nation unequivocally to rural improvement and the creation of rural employment. This policy now faces the test of implementation, and especially the test of bringing its benefits to the poorest sections of your rural population. But the seriousness and determination of your commitment is cause for optimism.

MEETING BASIC HUMAN NEEDS

The new direction of your Government coincides with our own view that development priorities should emphasize meeting basic human needs. We want to learn from you and to work with you however we can.

In agriculture there are also exciting new areas of technology on which we can work together. After a decade of importing grain, India now stands with the surplus of nearly 20 million tons. This is a tribute to the growing productivity of your agriculture and the competence of your administrative services.

We applaud the grain reserve program you have begun and we would welcome the opportunity to share with you our resources

and experience in dealing with the storage problems that surpluses bring with them.

Our countries must be in the forefront of the effort to bring into existence the international food reserve that would mitigate the fear of famine in the rest of the world.

At the same time, we must recognize that today's surpluses are likely to be a temporary phenomenon. The best estimates indicate that unless new productive capacity is developed, the whole world with its rapidly growing population may be facing large food shortages by the mid-1980's.

The greatest opportunities to increase agricultural productivity exist here in India and elsewhere in the developing world. These opportunities must be seized, not just so that Indians can eat better but so that India can remain self-sufficient, and perhaps even export food to countries with less agricultural potential.

VAST POTENTIAL IN COOPERATION

In the past, America and India have scored monumental achievements in working together in the agricultural field. But there is still a vast unrealized potential to be tapped through further cooperation.

I would like to see an intensified agricultural research program, aimed both at improving productivity in India and a developing process that could be used elsewhere. This program would be based in the agricultural universities of our two countries, but would extend across the whole frontier of research.

And beyond research, I would like to identify joint development projects where research can be tested and put to work.

Prime Minister Desai and I may now instruct our Governments to focus on these matters and come up with specific proposals within the next few months.

One of the most promising areas for international cooperation is in the regions of eastern India and Bangladesh, where alternating periods of drought and flood cut cruelly into food production. Several hundred million people live in this area. They happen to be citizens of India, Bangladesh and Nepal. But they are also citizens of the global community. And the global community has a stake in insuring that their needs are met.

Great progress has already been made in resolving water questions, and we are prepared to give our support when the regional states request a study that will define how the international community, in cooperation with the nations of south Asia, can help the peoples of this region use water from the rivers and the mountains to achieve the productivity that is inherent in the land and its people.

ENERGY A PROBLEM FOR BOTH

Sustained economic growth requires a strong base in energy as well as in agriculture. Energy is a serious problem in both our countries, for both of us import oil at levels that can threaten our economic health and expose us even to danger if supplies are interrupted.

American firms are already working with Indians in developing the oil producing area off the shores of India near Bombay. We also have a long record of cooperation in the development of nuclear power, another important element of India's energy plans. Our work together will continue in this field as well.

This is a cold technological subject, but Prime Minister Desai and I had warm and productive discussions about this field. We have notified him that shipments of nuclear fuel will be made for the Tarapur reactor. And because of an accident that did occur in your heavy water production plant we will make available to India also supplies from our reserves of heavy water.

Additionally, we stand ready to work with you in developing renewable energy resources, especially solar energy. There is no shortage of sunlight in India, and the lack of a massive existing infrastructure tied to fossile fuel use will make the application of solar and solar-related energy vastly easier here than it will be in my country. Moreover, the inherently decentralized nature of solar energy makes it ideal as a complement to your Government's stress on developing self-reliant villages and communities.

USEFULNESS OF SATELLITES

The silent void of space may seem remote from these challenges, but the intricate electronics of a space satellite can be as useful to earthbound farmers as a new plow.

The Indian and American Governments will tomorrow exchange diplomatic notes confirming that the United States will program its Landsat earth resources satellite to transmit data directly to a ground receiving station that India will own and operate. This satellite service will provide India with comprehensive topographic and minerals information and timely data on the ever-changing condition of agricultural, water and other natural resources. Under the terms of the agreement, India will make available to neighboring countries any information that affects them.

Also, India has already reserved space on board the American space shuttle in 1981 to initiate a domestic communications satellite system, using a satellite designed to Indian specifications.

We are pleased that our space technology, together with India's superb space communications capability, will serve the cause of practical progress in India. Our growing scientific cooperation should be anchored in expanded knowledge of each other's people and cultures. Our scholarly exchanges have already enriched the lives of Americans who have participated in them, and I hope the same has been true of Indian participants.

CULTURE AND THE ARTS

In matters of culture and the arts, we know how much we have to gain. Not only India but also the rest of Asia, Africa and the Middle East have much to offer us from what we might learn. I hope to expand the opportunities for our citizens to appreciate the strong and varied culture in the nations of your part of the world.

In global politics, history has cast our countries in different roles. The United States is one of the two so-called superpowers; India is the largest of the nonaligned countries.

But each of us respects the other's conception of its international responsibilities, and the values we do share provide a basis for cooperation in attacking the great global problems of economic justice, human rights and the prevention of war.

This pursuit of justice and the building of a new economic order in the world must be undertaken in ways that promote constructive development rather than fruitless confrontation. Every country will suffer if the north-south dialogue is permitted to flounder.

Because India is both a developing country and an industrial power, you are in a unique position to promote constructive international discussion about trade, energy, investment, balance of payments, technology and other questions. I welcome your playing this role.

VALUE OF SHARED INTERESTS

I know that there will be times we will disagree on specific issues and even on general approaches to larger problems. But I hope and believe that our shared interests and common devotion to democratic values will help us move toward agreement on important global and bilateral issues.

But neither of us seeks to align with the other except in the pursuit of peace and justice. We can even help each other to alleviate differences which might exist with other nations.

Our two countries are part of a democratic world that includes nations at all stages of development, from Sweden and Japan to Sri Lanka and Costa Rica. We share many common problems. We also share an obligation to advance human rights, not by interfering in the affairs of other nations, not by trying to deny other nations the right to choose their own political or social system, but by speaking the truth as we see it and by providing an admirable example of what democracy can mean and what it can accomplish.

The danger of war threatens everyone, and the United States is trying to help reduce that danger, in the SALT negotiations with the Soviet Union, in talks aimed at a comprehensive nuclear test ban treaty, in our own policy of restraint on conventional arms transfers.

We are also working hard to restrict the proliferation of nuclear explosives. We are seeking to help the process of peace in Africa and the Middle East. And we are talking steps to forestall, along with the Soviets, greater power rivalry in the Indian Ocean.

INDIA AS PEACEKEEPER

India is pledged to peaceful cooperation with your neighbors, and India is an important part of almost any United Nations peacekeeping force, is a present and frequent member of the Security Council and has been in the forefront of campaigns against colonialism and apartheid.

The motto of my country is "In God we trust." India's is "Satyameva jayte"—truth alone prevails. I believe that such is the commonality of our fundamental values that your motto could be ours and perhaps ours could be yours.

Our nations share the common goals of peace in the world and human development in our own societies. And we share as well the conviction that the means we employ to reach these goals must be as much in keeping with the principles of freedom, human dignity and social justice as are the goals themselves.

This affinity of belief is as strong a tie as there can be between two nations. The values that Indians and Americans share have deeply affected my own life. I come to you as a national leader, in the hope that my visit will mark a new and higher stage in the steadily improving relations between our two countries. But in a more personal sense, a sense that is very close to my heart, I come as a pilgrim.

This morning I had the honor of laying a wreath on the memorial to Mahatma Gandhi. In the sacred place, so simple and serene, I recalled anew the ways in which Gandhi's teachings have touched the lives of so many millions of people in my country.

WALL OF SEGREGATION FELL

When I was growing up on a farm in the state of Georgia, in the heart of the Southern United States, an invisible wall of racial segregation stood between me and my black playmates as soon as we were old enough to know what segregation was. It seemed then as if that wall would exist forever. But it did not stand forever. It crumbled and fell, and though the rubble has not yet been completely removed, it no longer separates us one from another, blighting the lives of those on both sides of it.

Among the many who marched and suffered and bore witness against the evil of racial prejudice, the greatest was Dr. Martin Luther King Jr., a son of Georgia and a spiritual son of Mahatma Gandhi. The most important influence in the life and work of Dr. King, apart from his own religious faith, was the life and work of Gandhi. Martin

Luther King took Gandhi's concepts of nonviolence and truth-force and put them to work in the American South.

NONVIOLENCE A POLITICAL PATH

Like Gandhi, King believed that truth and love are the strongest forces in the universe. Like Gandhi, he knew that ordinary people, armed only with courage and faith, could overcome injustice by appealing to the spark of good in the heart of the evildoer. Like Gandhi, we all learned that a system of oppression damages those at the top of it as surely as it does those at the bottom.

And for Martin Luther King, as for Mahatma Gandhi, nonviolence was not only a political method, it was a way of life and a spiritual path to union with the ultimate.

These men set a standard of courage and idealism that few of us can meet, but from which all of us can draw inspiration and sustenance.

The nonviolent movement for racial justice in the United States, a movement inspired in large measure by the teachings and example of Gandhi and other Indian leaders, changed and enriched my own life and the lives of many millions of my countrymen.

I am sure you will forgive me for speaking about it at some length. I do so because I want you all to understand that when I speak of friendship between the United States and India, I speak from the heart as well as the head. I speak from a deep, first-hand knowledge of what the relationship between our two countries has meant in the past and how much more it can mean in the future.

For the remainder of this century and into the next, the democratic countries of the world will increasingly turn to each other for answers to our most pressing common challenge: how our political and spiritual values can provide the basis for dealing with the social and economic strains to which they will unquestionably be subjected.

The experience of democracy is like the experience of life itself—always changing, infinite in its variety, sometimes turbulent and all the more valuable for having been tested by adversity. We share that experience with you and draw strength from it.

Whatever the differences between my country and yours, we are moving along goal path of democracy toward a common goal of human development. I know I speak of all Americans when I say that I am grateful that we travel that road together.

EUROCOMMUNISM

Mr. HATCH. Mr. President, it is a well-known fact that I am quite concerned about the growing threat of Eurocommunism to our allies in Western Europe. During these past 2 weeks the situation in Italy has reached a crisis that could bring considerable damage to the NATO alliance. Premier Giulio Andreotti is faced with the task of forming a new government with heavy pressure from the Italian Communist Party (PCI) for a major participation in such a government. This problem is not one that I envy Mr. Andreotti. Bernard Nossiter, of the Washington Post Foreign Service, quotes a Christian Democrat as summing up the problem very well:

He must invent a formula that lets us say Communists are not part of the majority and also enable the Communists to say they are.

This will indeed be a difficult task. Because this task is difficult, the United States should be doing everything that it possibly can to assist Mr. Andreotti in keeping the Communists out of any participation in the new government. The policy of the administration has begun to show some cracks, as well it should. To assume that the Soviet Union is not using its position to try and help the Italian Communists gain a foothold in a NATO government would be naive. The new policy, as announced in the statement released this month, demonstrates that the policymakers in the administration are beginning to realize that idealistic policies like theirs just do not work in the politics of today's world. In this morning's Washington Post, the Evans and Novak column, entitled "Facing Eurocommunism," makes a good attempt at identifying some of the problems that the administration faces in revamping its policy toward Eurocommunism. Mr. President, I ask unanimous consent that the Evans and Novak column from yesterday's, January 25, 1978, Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FACING EUROCOMMUNISM

(By Rowland Evans and Robert Novak)

President Carter's new warning against dangers of "Eurocommunism" in Italy reflects a confrontation with reality after one year in office—by the President in general and by Ambassador Richard Gardner in particular.

When plucked from his chair as professor of international law at Columbia University to be ambassador in Rome, Gardner joined other new Carter officials in viewing Henry Kissinger's hard line against Western European Communist parties as a cold-war throwback. Just before the first anniversary of the Carter inauguration, Gardner helped guide policy back to the Kissinger line: Communist power-sharing in NATO member nations must be resisted with maximum political pressure.

This shift is only the latest signal that Carter is reverting to more conventional anti-Soviet policies, following the confusing rhetoric early in his administration. No longer is the Soviet-Cuban intervention in Angola rationalized as "stabilizing." A strong U.S. reaction to the Soviet role in Ethiopia is now given top priority.

The rhetorical shift on Eurocommunism, proclaimed in a Jan. 12 State Department statement, typifies the administration's new realism about military and political vacuums. Carter is now aware they will quickly be filled by Soviet penetrations if the United States fails to make the case for the Western democracies publicly and forcefully.

So the Jan. 12 statement was both public and forceful: "We do not believe that the Communists share" the "profound democratic values and interests" of Western political systems. The United States "would like to see Communist influence in any Western European country reduced."

Those assertions and the warning that recent Italian political developments "have increased the level of our concern" are far more pointed than last April's policy statement, which avoided direct attack on the Communists. The still-neophyte Ambassador Gardner helped draft the April 1977 statement; the more seasoned Ambassador Gardner was directly responsible for the January 1978 statement.

The administration's claim that the new policy is a restatement of the old is belied both in the words themselves and in Gardner's profound conviction—the product of one year's experience in Rome—that Soviet influence is pervasive at top levels of the Italian Communist Party. He is also convinced that the Soviet Union, helped by the Czechoslovak and East German Communist parties, is the major source of the terrorism that has brought Italy close to anarchy.

Gardner's quick flight to Washington two weeks ago to argue for the new hard-line policy was intended as a warning to the old guard of the Christian Democratic Party not to yield to Communist Party pressure without an all-out fight. Strong factions in the old guard, which has ruled Italy for 30 years, would accept alliance with the Communists to cling to power in a coalition government.

Younger, more progressive Christian Democrats seek another course: a top-to-bottom shakeup of their stratified party and its stale, rigid policies. That is also what Gardner wants, on the basis of his political education in Rome.

To cite one example, a luncheon was arranged for a Nov. 22 visit to Rome by Rep. Peter Rodino (D-N.J.) and Health, Education and Welfare Secretary Joseph Califano, with Gardner invited. The hosts were Christian Democratic members of Parliament. Shortly before the luncheon the U.S. Embassy discovered that two Communists would also attend the luncheon.

That smacked of political sabotage, alarming the embassy and increasing Gardner's concern that some Christian Democrats were intentionally promoting a coalition with the Communists. Without any publicity, the luncheon was canceled.

Such events stage-managed by Christian Democratic politicians are extremely useful to the Communists. Played up in the left-wing press, they are supposed to "signal" subtle changes in U.S. policy by showing Gardner consorting with Communists.

The result has been Gardner's insistence and Carter's agreement on eliminating the ambiguities of the April statement. Such realism is both overdue and welcome. Even if it fails to arrest Italy's political decay and the shattering effect on the Western alliance of Communist power-sharing in Rome, it reveals an awareness of reality by the administration sadly lacking when Jimmy Carter took office a year ago.

AMENDING THE FEDERAL MEAT INSPECTION ACT

Mr. PELL. Mr. President, I am proud to join my distinguished colleague, Senator GRIFFIN, in cosponsoring S. 727, a bill to amend the Federal Meat Inspection Act. It is a very simple, but very important measure which, if enacted, would allow States to enforce more stringent net weight and ingredient requirements on packaged meat and meat products than those set by Federal standards.

Because of a Supreme Court decision last year, *Jones* v. *Rath Packing Co.*, 97 S. Ct. 1305, meatpackers need only adhere to Federal standards, which allow "reasonable variations" between the stated weight and the actual weight of their products. In the past, States could require more stringent laws, requiring true weight to purchasers. Under the Jones against Rath Packing ruling, States are precluded from imposing different or additional requirements than Federal law allows. S. 727 would return to States the power to enforce accurate weight statements at the retail level.

I doubt that many American consumers realize when they buy a labeled pound of prepackaged meat at their markets to-

day, they are in fact paying for a pound but often bringing home less than the stated 16 ounces. I am not suggesting that packers are intentionally shortweighting; however, moisture lost between the plant and marketplace means an inaccurate weight statement at the retail level, and an estimated "hidden inflation" to consumers of about $1 billion a year.

In Rhode Island, consumers are paying around $1.30 for a pound of bacon packed out of State, but are taking home what amounts to, in many cases, only 15¼ ounces according to our State division of weights and measures. I think it is unfair and unreasonable to expect the consumer to bear the burden and cost of inaccurate weight statements. S. 727 would correct this inequity by restoring to the States the authority to require accurate weight statements at the retail level.

In addition, S. 727 would make clear that so-called minimum meat ingredient standards set by the Federal Government will not be used to nullify higher State standards that accord more protection to consumers. What Congress enacted as minimum meat ingredient standards under the Federal Wholesome Meat Act of 1967 have in a sense become maximum ingredient standards. Under section 408 of the Wholesome Meat Act, States are prohibited from imposing additional or different ingredient requirements than those made under the act. This bill, if enacted, would allow States to enforce stricter ingredient standards for meat products.

I believe S. 727 will go a long way toward insuring the American consumer of safe, wholesome, nutritional food, and full purchasing power of their food dollars, and I am pleased to join with Senator GRIFFIN in urging its enactment.

ALASKAN OIL CUTS IMPORT DEMANDS

Mr. STEVENS. Mr. President, a couple of days ago, I made note in the RECORD of an article in the Pittsburgh Press regarding the fact that U.S. demand for imported oil is down and U.S. domestic production is up with the startup of the trans-Alaska pipeline.

A related article appeared in the Washington Post just before Christmas.

The Post article cites a study by the International Energy Agency which finds that world demand for OPEC oil will not increase in the coming year, because of new production brought onstream in consuming countries. Steven W. Bosworth, Deputy Assistant Secretary of State, is quoted as saying:

> Demand for OPEC oil is going to remain relatively flat because of North Slope and North Sea oil.

Energy Secretary James Schlesinger notes that U.S. imports will decline in 1978, "though not as a result of a reduction in demand." The article goes on to say:

> Due to increased production from Alaska, U.S. imports, including oil for the strategic reserves, will drop from about 8.7 million barrels of oil a day to 8.3 million barrels or fewer.

And there is plenty more oil in Alaska to be found and produced to keep future import values down.

Mr. President, as the debate on national energy policy legislation resumes, it is important to remember that there are positive steps that can be taken to increase domestic supply and reduce imports. Our action in authorizing construction of the trans-Alaska pipeline was one such important step.

Mr. President, I ask unanimous consent that the article from the Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO INCREASE SEEN IN DEMAND FOR IMPORTED OIL NEXT YEAR—CONTINUED PRICE FREEZE EXPECTED; OPEC CONFERENCE TO OPEN TUESDAY

(By J. P. Smith)

Industrialized countries' demand for imported oil from the international oil cartel will remain the same next year or decline slightly, according to an unpublished assessment by the International Energy Agency.

This slackening in demand, which U.S. government and oil industry officials also foresee, is a function of new production from the North Sea and Alaska and lagging economic recovery in some industrialized countries, oil analysts say.

Industry and government analysts are anxiously weighing projections of world oil demand in anticipation of the meeting later this month of the Organization of Petroleum Exporting Countries. The meeting is scheduled to open Dec. 20 in Caracas.

There is wide speculation that there will be a continued price freeze. This speculation is fueled, in part, by the soft condition of the world oil market. The shah of Iran and Saudi Arabia's oil minister, Zaki Yamani, have said they favor a price freeze.

"There will be a flat demand for imported oil next year," said James W. Reddington, a senior economist with the Paris-based IEA, in a telephone interview.

The 19-nation IEA is made up of the industrialized countries, with the exception of France. Nearly all of the members are oil importers.

Reddington describes the IEA's analysis as "a current assessment" of demand for oil imports. Free-world demand for OPEC oil rose slightly in 1977 to 28.8 million barrels a day, up slightly from 28.3 million barrels a day in 1976, and "imports will remain essentially unchanged for 1978," he said.

In Washington, Deputy Assistant Secretary of State Stephen W. Bosworth said the State and Energy departments agree with the IEA forecast. "Demand for OPEC oil is going to remain relatively flat because of North Slope and North Sea oil. Another major factor is the final shape of U.S. energy policy."

The lack of significant growth in industrialized countries' oil imports and the so-called oil glut are having an effect on OPEC production, Saudi Arabia, the cartel's leading producer and Abu Dhabi, a member of the United Arab Emirates, have announced cuts in oil production over the last two months that will reduce OPEC production by 1 million barrels of oil a day.

OPEC is now producing about 31.5 million barrels of oil a day, and could produce 7 million barrels more.

Slackening demand for imports could make it more difficult for the cartel to make a price increase stick, unless production is reduced.

Reddington said the IEA projections, which do not include 1977 year-end consumption data from member countries, take into consideration the growth of imports to the United States and Japan to fill strategic oil reserves. Together, both countries will be importing 500,000 barrels of oil a day or more next year for storage. Japan recently announced an ambitious program to have 90 days' oil supply in storage by 1980. President Carter has set a goal of 1 billion barrels of oil in storage by the early 1980s.

John Lichtblau, an international oil consultant, said his analysis shows a slight, but not significant, increase in demand for OPEC crude oil. "Under our assumptions we see a very small growth, but one could also come up with no increase in demand for OPEC oil because of new supplies," says Lichtblau of the Petroleum Industry Research Foundation in New York.

The IEA projections also forecast a reduction in U.S. imports for 1978.

Recently, Energy Secretary James R. Schlesinger Jr. said U.S. imports would decline in 1978, "though not as a result of a reduction in demand." Due to increased production from Alaska, U.S. imports, including oil for the strategic reserves, will drop from about 8.7 million barrels of oil a day to 8.3 million barrels or fewer, he said.

Reddington emphasized the need to press for aggressive conservation programs and efforts to increase alternatives to OPEC oil in the industrialized countries. "We just happen to have a happy confluence of increases in supply, while we have a pause in energy requirements," he said.

ENERGY POLICY DEVELOPMENT

Mr. STEVENS. Mr. President, on January 24, Senator HENRY M. JACKSON made a significant statement to the annual meeting of the American Mining Congress. In this statement, the chairman of our Energy and Natural Resources Committee discusses the Alaska "D–2" lands legislation before the Congress and other significant and timely issues which this Congress may consider.

While I would, of course, welcome my good friend and neighbor from our immediate south to embrace the positions Alaskans advocate to resolve many of these conflicts, Senator JACKSON has stated his own position—one which I would interpret to be that of an honest, impartial chairman seeking balance as a pragmatic land-use planner.

His statement is important—not only to Alaskans but to all Americans concerned with resource protection as well as those concerned with resource development.

Mr. President, I ask unanimous consent to have Senator JACKSON's statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HENRY M. JACKSON

The 95th Congress faces this year a decision of profound importance in the future disposition of public lands in Alaska.

You are all familiar with the competing proposals. Some of them would set aside as much as 125 million acres—or one-third of Alaska—for additions to the National Park, forest, and wildlife refuge systems.

The environmentalists are massing for one final battle to save the untouched treasures of Alaska for future generations. On the other side are those who suggest that other uses might be considered, that some development might be considered, that some development might be in order, that treasures must be saved—but not perhaps on the massive scale proposed by some.

The press is rapidly turning this into the great growth versus no-growth battle of the

decade, depending on the writer's point of view, the various forces involved are being painted in increasingly stark colors of black and white.

And how will Congress resolve this great debate? As many of you know, we politicians are by nature pragmatists—not philosophers. We are not comfortable in the world of ideas, but feel more at home simply practicing the art of the possible on a day-to-day basis.

It is not surprising therefore that much of the growth versus no-growth debate has taken place outside of Congress. We have contributed our share of the rhetoric but let the opposing sides do battle in other forums. In the meantime Congress has gone about the business of providing for national needs as best it can.

Of course, Congress has been greatly influenced by factors giving rise to the growth versus no-growth dispute. Many Congressmen have a deep concern for the quality of our environment. This concern is reflected in continuing support for strong air and water quality standards. But there is no evidence that a majority in Congress would sacrifice the obvious benefits of growth without compelling justification.

Congress is attempting to steer a middle course between developmental pressures and legitimate environmental concerns—towards a more disciplined and balanced growth. We are *not* saying that you cannot build Cadillacs: We are saying that Cadillacs must be built to use precious resources more efficiently. We are *not* saying that you cannot strip-mine coal: We *are* saying that it must be done more carefully.

This attempt to balance competing interests to provide for orderly development without degrading the environment is not easy. It involves painful trade-offs and hard decisions in specific cases. But I suspect that Congress will use this kind of approach in its ultimate decisions on the National interest lands in Alaska.

No doubt there are unique opportunities to preserve untouched much of Alaska's magnificent resources. At the same time, it would be folly to abandon the enormous energy and mineral resources of Alaska in an excess of preservation. While I have no illusions about our ability to satisfy everyone, the vast acreage involved makes it possible for Congress to preserve natural resources in unprecedented quantity and still provide access to the mineral resources we will need in the future. We must be pragmatic land-use planners, not ideologues.

The Congressional desire to balance economic development with environmental protection is also reflected in continuing concern with the extremism of the 1872 mining law. While I recognize your interest in the preservation of the status quo, the fact is that the 1872 law is not in the interest of the mining industry in its present form.

The fatal weakness of the 1872 law is that it lets the miner—and the miner alone—decide that mineral development is the best use of public lands regardless of other values. There is no evaluation of alternatives. There is no opportunity to provide for environmental concerns.

The existence of this state of affairs inevitably arouses protectionist instincts. It leads to withdrawals and special prohibitions against mineral development. In my view, this projectionist trend will increase until Congress succeeds in revising the 1872 law to balance mineral development with other resource values and other potential land uses. I am convinced that we must provide a statutory mandate for essential mineral development within the framework of comprehensive land use planning for the public lands. These lands must be managed in the public interest—but the public interest includes a sound and vigorous mining industry.

As I speak here today, Congress is in the process of working its will on the energy program submitted by the President last April. Last fall the House-Senate conferees completed action on three major components of the program.

We have approved a conservation bill which includes a broad range of measures designed to reduce energy demand—from home insulation incentives to appliance efficiency standards.

We have endorsed a coal conversion bill which should accelerate the trend away from oil and gas by power plants and large industrial users.

And we have approved a utility rate reform measure which could do much to conserve energy through revised rate structures—while preserving the traditional state role in utility regulation.

The controversial subjects of natural gas pricing and energy taxes remain unresolved at this time. We are working hard to develop a fair compromise on natural gas pricing and regulation. The ingredients for a settlement of this issue are there. While I remain hopeful, I need not remind you that these are issues on which reasonable men can be most unreasonable,

We must recognize, however, that even if Congress does act on the natural gas issues and adopts a significant portion of the energy taxes proposed by the President, we will be far from a final resolution of the nation's energy problems.

We nave been in the process of developing new national energy policies since before the Arab embargo. Many important energy programs—including the strategic reserve and energy research and development programs—were already enacted when the new administration took office in January.

The programs proposed by President Carter are a valuable addition to the energy policies developed in prior administrations. Even in their original form, however, the Carter programs would have fallen far short of reducing our dependence on oil imports to acceptable levels in the 1980's. The estimates of what could be done to reduce energy demand and increase production through these measures were frankly unrealistic.

The fact is that even if Congress should enact a major portion of the President's program, we will still be facing an import dependency of 10 million barrels a day or more in the mid-1980's. There is no assurance that imports will be available at such levels—or that we can continue to finance them without disrupting our economy.

I am convinced that if we have any hope of reducing our critical import dependency, the Administration, the Congress and the country must face up to the need for an urgent national energy production effort.

We must stop equivocating about our need to rely on nuclear power for the next generation. That means solving nuclear waste and safety problems and making it possible to build a nuclear plant in less than 12 years.

We must stop equivocating about our need to develop a synthetic fuels industry. We should break ground for the first large-scale coal gasification plant in 1978.

We must stop equivocating about the complex environmental problems affecting our ability to develop coal production. If the Administration and the Congress cannot resolve the conflicts between coal and clean air, then we ought to stop talking about coal as a great national resource.

We ought to stop equivocating about our commitment to the development of the energy potential of the outer continental shelf, with the federal government taking a positive role in resolving the problems which have plagued off-shore development.

These are some of the things we must do to bridge the gap between the energy sources of today and those of the future. And we cannot hope to succeed in this effort without a new partnership between industry and government.

Few people in either government or industry have thought about the dimensions of this new relationship. By and large industry spokesmen have opposed government intervention in "their" business. Government officials have not learned the practical aspects of running a multi-billion dollar business. Both sides have been hostile and reluctant to compromise or cooperate. They have yet to realize that cooperation is essential in developing a new national energy system.

Industry must recognize that it is a business affected with the public interest. It must accept government participation in energy policy planning and development. It must tell us what it can and cannot produce, what it can and cannot finance, what it can and cannot build, so that government can plan and act accordingly.

Government, for its part, must do the planning and provide the policy certainty that will encourage private initiative and investment. It must play a far more positive role in resolving the prolonged conflicts on environmental issues that have hampered industry's performance. It must set its own house in order so that government energy programs are managed in a rational and responsible manner.

Beyond this, we should be exploring new ways to join industry and government in the energy planning process.

We must be willing to experiment to use the resources of government and industry more effectively. We are facing the need to build energy projects of enormous size with unprecedented capital requirements.

How, for example, can we join the public and private sectors to finance projects that will bring Alaska's gas to domestic markets? How do we create a synthetic fuels industry with private management and federal support?

These are difficult questions. Whether we respond with proposals for joint ventures, or loan guarantees or even COMSAT-type corporations, we must be creative in seeking solutions. And we must respond not in terms of labels or ideologies, but on the basis of what will work. Hopefully, through this approach, government and industry can forge a new relationship based on cooperation, not confrontation, which recognizes our mutual dependence in meeting national energy needs.

SENATOR GRIFFIN'S COURAGEOUS STAND

Mr. HATCH. Mr. President, I would like to commend my distinguished colleague from Michigan (Mr. GRIFFIN), for the courageous stand he has taken in opposing the proposed Panama Canal treaties. This could not have been an easy decision to make, particularly in light of the protreaty partiality of the Senate Foreign Relations Committee, of which he is the only dissenting member on this issue. It is important to note that, despite the parade of treaty proponents who testified before that committee, Senator GRIFFIN chose to delve beyond the gloss of administration rhetoric, and concluded that no amount of compromise could salvage these seriously flawed documents.

The citizens from the State of Michigan do not differ from the citizens from

any other State in the respect that they overwhelmingly oppose treaty ratification. In the course of his careful deliberations, Senator GRIFFIN discovered that his constituents' opposition was based on more than just "emotionalism" and "concern for prestige."

I am convinced that, if every Member of this body examined the treaties with the same care and attention given them by Senator GRIFFIN, they could not help but arrive at the same conclusions.

His action in this issue is one of integrity, and should be applauded by everyone who is interested in a reasoned and substantive debate.

THE SENATE'S GOVERNMENTAL AFFAIRS COMMITTEE ADDRESSES IMBALANCES IN TRANSPORTATION

Mr. DOMENICI. Mr. President, the Senate Committee on Governmental Affairs recently published an important "Study on Federal Regulations." This examination comes to a number of important conclusions regarding imbalances in transportation, in part stemming from the no-charge waterway system benefitting the barge industry.

For example, the report states:

Barge rates are cheaper than other forms of transport partly because inland waterways are built at taxpayer expense, while other competing modes build and maintain their own rights of way (railroads) or pay substantial user taxes (motor carriers). Yet railroads must compete with waterways and when they cannot compete must be subsidized by the same treasury that pays for the inland waterway program.

To enable my colleagues to read the views of our Governmental Affairs Committee, I ask unanimous consent that portions of this report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDY ON FEDERAL REGULATIONS

The fragmentation of program planning is compounded in the cases of the Corps of Engineers and Maritime Administration. Planning and budgeting for the inland waterway program and the maritime subsidy program is completely separate from the Department of Transportation's planning and budgeting activities. Consideration of possible interrelationships often occurs only during political controversies, such as the conflict over proposed corps navigation improvements at Locks and Dam 26 on the Mississippi River. Consolidation of both programs with the Department of Transportation is needed to permit comprehensive planning and decisionmaking. . . .

U.S. ARMY CORPS OF ENGINEERS

The U.S. Army Corps of Engineers is responsible for administering Federal water resource development programs. As part of its activities, the Corps constructs, operates, and maintains navigation improvement projects in U.S. harbors and inland waterways. In terms of expenditures, only the U.S. Coast Guard expends more than the corps on water transportation. In 1977 Corps expenditures for navigation improvement projects amounted to more than $600 million. Since 1824, the Federal Government has expended over $18 billion to build and maintain thousands of miles of waterways.

Corps navigation improvement projects include inland waterway projects, such as improving natural rivers for navigation and by constructing locks, dams, and canals; deep-draft harbor and channel projects, such as improving natural harbors and channels and constructing new harbors and channels; and small-boat harbor and channel projects, such as improving natural small-boat harbors and channels and constructing new harbors and channels.

Over the years Congress has expanded the Corps' responsibilities but has maintained a close control over its navigation improvement projects. Typically, the Corps' navigation projects begin with congressional legislation authorizing survey investigations and other feasibility studies. On the basis of these studies, the Corps recommends projects to the Congress for implementation. In general, navigation improvement projects must be approved specifically by law before they can be implemented by the Corps. Such approvals are usually contained in the periodic River and Harbor and Flood Control Acts.

* * * * *

Inevitably, the railroads have found it extremely difficult to finance needed maintenance and capital improvements. In a vicious cycle, deferred maintenance has led to increased operating costs and deteriorating freight service, which has caused loss of traffic to competing transportation modes, and has decreased revenues and earnings. Over the period 1925–1975, the railroads' share of intercity freight traffic dropped from 80 percent to 37 percent of total cargo ton-miles.[6] This process had had particularly adverse effects on the railroads in the Northeast where changes in the composition and geographic distribution of rail freight shipments have made modernization and rationalization of obsolete or duplicate physical facilities especially important. . . .

Future prospects for the rail freight transportation system are uncertain. Railroads play an essential role in freight transportation, particularly in times of a national emergency, and are unlikely to be satisfactorily replaced by their primary competitors—trucks, pipelines, and barges. The present institutional arrangement of competing, privately owned, independent railroad systems is much less permanent. Many observers believe that the long-range economic viability of rail freight transportation may require continued and massive Federal financial assistance and a fundamental nationwide restructuring and economic rationalization of the industry. . . .

The Nation's inland waterway industry has traditionally operated on a system of navigable channels constructed and maintained at public expense by the U.S. Army Corps of Engineers. The resulting waterway system provides a public subsidy of more than $600 million per year to the barge transportation industry, which has been the subject of increasing criticism—particularly by the competing railroads. Recent proposals to expand and modernize the waterway system have been extremely controversial, and the establishment of a Federal waterway user charge is presently under consideration in Congress. Environmental impacts and costs of waterway construction and maintenance also are receiving increasing public attention. Determining the appropriate future role of the inland waterway system in the U. S. transportation system is likely to be an issue of increasing importance. . . .

Decisions to improve the inland waterway system are the responsibility of the U.S. Army Corps of Engineers, but waterway improvements are likely to have major economic impacts on competing railroads. Similarly, the granting of eminent domain powers for coal slurry pipelines—which would seriously impact on railroad coal transportation plans—is the responsibility of the Secretary of Interior under legislation presently before the Congress (H.R. 1609). The Department of Transportation has interests in waterways and the coal slurry pipeline, but the Department lacks the authority to require systematic consideration of potential impacts on the railroads or any other mode by the Corps or the Secretary of the Interior in their planning and decision-making.

Moreover, there is no generally applicable set of Federal goals and priorities against which such decisions can be measured. Each must be decided on the basis of separate and potentially conflicting policies for the inland waterway system, and for eminent domain through the public lands. As a result, Federal assistance for the railroads must be administered as if the development of inland waterways and of coal slurry pipelines are external, random and uncontrollable events—which the Department of Transportation can anticipate but cannot influence.

In practice, the budgets for each of the major Federal transportation programs are developed separately. Inside the Department of Transportation, for example, the Federal-aid highway program budget is developed by the Federal Highway Administration while the Urban Mass Transportation Administration develops the urban mass transit budget. Outside the Department of Transportation, the Department of Commerce develops the Maritime Administration's maritime subsidy program budget and the Army Corps of Engineers develops the inland waterway program budget. The Department of Transportation does not participate in developing either budget, and the Congress considers each budget separately from the DOT budget.

Within the Department of Transportation, a consolidation of budget data is typically prepared in order to provide the Congress with a summary presentation—but this is primarily an information guide. Few real decisions are made either in the Department or by the Congress with reference to the overall DOT budget. Most decisions are made in constructing the individual program budgets, and in congressional deliberations and authorizing legislation for those budgets.

The net result of the fragmented transportation budget process is that questions of equity, efficiency and the avoidance of counterproductive spending get insufficient attention. Perhaps the most dramatic example of this lack of attention is the budget for the inland waterway program. The cost of this program is not even included in the budget functions information table of the Federal budget—and can only be approximately estimated by investigating the detailed budget schedules for the Corps of Engineers in the Appendix to the Budget. No line item in any part of the Federal budget presents a spending estimate for the inland waterway program. Not surprisingly, there is little consideration by either the Congress or the executive branch of relationships and possible trade-offs between the inland waterway budget and Federal aid to other modes of transportation.

Army Corps of Engineers inland waterway projects have long been criticized as economically inefficient—in large part because Federal expenditures for waterway construction, operation and maintenance are not repaid by waterway users in the form of user taxes or charges. . . .

Barge rates are cheaper than other forms of transport partly because inland waterways are built at taxpayer expense, while other competing modes build and maintain their own rights of way (railroads) or pay substantial user taxes (motor carriers). Yet railroads must compete with waterways and when they cannot compete must be subsidized by the same treasury that pays for the inland waterway program. There is presently pending an administration supported bill (S. 790) which would require commercial barge lines to pay a toll for use of federally maintained inland waterways. But it is clear that without the free use of the waterways, barge operators on some segments of the

present waterway could not set their rates low enough to compete with truck and rail shippers. For example, a study by the Congressional Budget office predicted that S. 790 which has passed the Senate. "would eliminate 96 percent of the Arkansas' freight traffic." [27] Devising an equitable solution to this problem is clearly one of the most difficult issues facing the Congress. One possible solution may be to impose user charges on the system as a whole, while exempting parts of the existing system where economic development goals appear to require continuing Federal subsidies. . . .

In summary, the present fragmented system of Federal transportation policies, agency jurisdictions and responsibilities present major barriers to (1) comprehensive program planning and coordination, (2) consideration of intermodal impacts and interdependencies, (3) equitable and efficient balancing of spending for different transportation programs and modes, and (4) long-range planning for future problems before they become crises. . . .

There are a few other changes, involving transfer to DOT of primarily benefit-granting transportation activities currently carried out in other units, that we believe would improve coordination of transportation policies and programs. We recommend the transfer to DOT of (1) the navigation, planning, investment analysis and construction decision activities of the Civil Works function of the U.S. Corps of Engineers and (2) the subsidy programs for ship construction and operations of the Commerce Department's Maritime Administration.

We believe that the transfer of the Maritime Administration (MARAD) and the waterways functions of the Army Corps of Engineers to DOT would allow for integration of the water mode with the national transportation planning and program functions of DOT. These changes would promote better investment decisions, and would permit coordination of all promotional Maritime activities within the same Department. It would also permt necessary trade-offs to be made among transportation modes and would allow for setting of transportation priorities by considering all available options by the same agency. We therefore recommend that MARAD and the civil works functions of the Corps of Engineers be transferred to DOT.

CURRENT DEPARTMENT OF DEFENSE VIEWS ON THE B–1

Mr. McCLURE. Mr. President, this body has had several opportunities to address the B–1 bomber controversy over the past few months. As more and more information has become available concerning the state of the American defense posture, Senate opposition to the B–1 has diminished substantially. The distinguished senior Senator from Wisconsin, Mr. PROXMIRE, has directed some very pertinent questions to the Department of Defense concerning the B–1 bomber.

My colleague from the House of Representatives, Representative JACK F. KEMP, a member of the Defense Subcommittee of the House Committee on Appropriations has made available to me his analysis of the responses provided by the Defense Department to Senator PROXMIRE'S questions. Congressman KEMP'S well-informed analyses of the issues raised—or in many cases, confused—by the DOD responses to Senator PROXMIRE should be a useful contribution to the forthcoming Senate debate. I ask unanimous consent that the full text including Senator PROXMIRE'S questions, the DOD responses, and Congressman KEMP'S rebuttals be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: The attached is in response to your letter of December 19, 1977 which requested comments on a series of questions about the B–1 and cruise missiles.

Sincerely,

JACK L. STEMPLER,
Assistant to the Secretary of Defense (Legislative Affairs).

VIEWS ON THE B–1 BOMBER

ARGUMENTS MADE ON THE FLOOR

1. "We need to complete aircraft 5 and 6 in order to finish critical research and development testing."

DOD response: The first four aircraft are adequate to complete the B–1 development program. B–1 Aircraft 5 and 6 were originally intended to be used for operational test and evaluation, including weapons certification, prior to the delivery of these aircraft to the operational forces. Since these are deployment related tasks, they are not required at this time.

Rebuttal: At the time the President announced his decision to terminate production of the B–1 in June, he asserted that he wished to retain the B–1 production option in what he described as the "unlikely" circumstance that his cruise missile alternative failed to provide a fully adequate substitute for the B–1. Completion of Aircraft Nos. 5 and 6 insure that should deployment be required by international circumstances, it could be accomplished with minimum delay. The R&D to be accomplished with Aircraft 5 and 6 are crucial to timely deployment. Testing the aircraft for their ability to resist the "electromagnetic pulse" (EMP) from nuclear detonations can only be carried out on an aircraft fully equipped with instrumentation, cabling, aerodynamic configuration, and other characteristics of the full production version of the aircraft. Similarly, nuclear weapons certification can only be carried out on a regular production version of the aircraft. This is an eighteen month long process. Only with the completion of Aircraft 5 and 6 will we have full confidence that an early production option will be available if necessary. Congressional responsibility under the Constitution to raise an Army and Navy makes support of funding for No. 5 and 6 an appropriate and prudent step to take.

2. "The SALT limitation of 1500 nm on cruise missile range will make it essential that the U.S. deploy a manned penetrating bomber." (Please indicate what effect the proposed 1500 nm limitation will have in the cruise missile program.)

DOD response: With a cruise missile range of 2500 km, cruise missile carriers can stand outside Soviet defenses through the mid-1980s and cover almost all Soviet targets. Having cruise missiles with ranges greater than 2500 km would not significantly improve target coverage in the face of current and near-term defenses. We plan to maintain some B–52s as manned penetrators (as long as they remain effective) because cruise missiles and penetrating bombers are complementary. They are different types of threats which stress Soviet defenses differently. The mixed force complicates the Soviet air defense problem and, in this way, increases our confidence in the overall bomber force capability to successfully carry out its mission. However, the manned bomber is not necessary for target coverage—especially since we also cover targets in the Soviet Union with ICBMs and SLBMs.

It is important to note that the 2500 km ALCM range limit is contained in the 3-year Protocol. Our studies have shown that the 2500 km is sufficient through at least the mid-to-late 1980s when examined against very conservative estimates of future Soviet defenses. Should Soviet air defenses improve much faster than our intelligence projections, we have the option of insisting on a greater range after the Protocol period. The cruise missile program will be adjusted to be consistent with the limitations agreed in SALT. This, however, will not require major changes.

Rebuttal: There are many unresolved elements of the SALT Protocol relating to cruise missiles. While a 1500 n.m. range cruise missile may be sufficient to engage many targets, it is by no means clear that the Protocol will permit "system operational range" characteristics to proscribe the range of an air launched cruise missile. The Soviet Union is insisting upon a "straight line" range limitation; a limitation which will reduce the operating range of the cruise missile to only 1100 n.m., and with a nominal standoff range of 300 n.m., only 800 n.m. of Soviet airspace can be penetrated by a cruise missile. System operating range makes allowance for the substantial deviation from a straight line course required by a cruise missile to evade known defensive positions.

Soviet air defenses have already improved faster than projected now that evidence has been provided which reveals that the Soviets have initiated deployment of their advanced SA–10 SAM. DoD acknowledgement that manned penetrators are to be kept in the force "as long as they remain effective" demonstrates that it is necessary to maintain a penetrator against Soviet air defenses to force the Soviets to dissipate their air resources over the cruise missile and the short-range attack missile (SRAM) and gravity bomb threat posed by the penetrating bomber. There is great precedent value in a range limitation sanctified by a "temporary" three year Protocol which does not provide too much confidence that "we have the option of insisting on a greater range after the Protocol period."

3. "The proposed limits on cruise missile carriers will make it essential that the U.S. deploy a manned penetrating bomber."

DoD Response: Cruise missile carriers will be counted in the 1320 aggregate level (which also includes MIRVed missiles); non-cruise missile carrying heavy bombers (i.e., penetrating bombers) will not, although they will be counted in the overall aggregate level of strategic nuclear delivery vehicles. The fact that ALCM-carrying heavy bombers are limited differently from other heavy bombers in no way leads to a requirement that the U.S. must deploy a manned penetrating bomber. The merits of maintaining a penetrating bomber are dictated by other factors, including those discussed in the answer to the question just preceding. An advanced manned penetrating bomber is one of the options we would consider for additional capability if we did not reach agreement in SALT and the Soviets continued a rapid buildup.

Rebuttal: The proposed terms of a SALT II agreement, while not yet completed suggest severe limits on cruise missile carriers due to the fact that we must maintain a large MIRV ICBM/SLBM force. With a MIRV ceiling of 1320 or less—with some proposals being considered as low as 1200 MIRV vehicles (including cruise missile carriers)—our cruise missiles will be heavily concentrated in a very small number of aircraft, less than 150. Such a massive concentration of offensive firepower creates a powerful incentive for the Soviet Union to make a major

investment to defeat cruise missile carriers. Owing to their large size and slow speed, the cruise missile carrier will be severely vulnerable to long-range aircraft with a capability to engage cruise missile carriers long before they reach their launch point of 300 n.m. from the Soviet coast. Some obvious candidate aircraft already in the Soviet inventory as platforms for long-range air-to-air missiles include the Tu-26 Backfire and the Tu-16/Tu-22 medium bomber force. The grave long-term risk to large cruise missile carriers unable to penetrate hostile air defenses makes it necessary to maintain a penetrating bomber capability (which DoD acknowledges).

4. "We must have aircraft 5 and 6 to keep open the option of a manned penetrating bomber."

DoD Response: We currently have a penetrating bomber in the B-52 which, when combined with cruise missiles, will be effective into the late eighties. The B-1 program with the production of aircraft 4 keeps a B-1 production option open until late 1978. The addition of aircraft 5 and 6 would extend the production option only a short period—about a year and a half. After that time, additional funding would be required to maintain the option. In this connection, as you know there is R&D funding in the FY 78 budget for the B-1.

Rebuttal: It cannot be determined how effective the B-52 will be in the late 1980s. Professor Albert Wohlstetter (in his essays in Foreign Policy) has demonstrated the persistent failure of the intelligence community to estimate Soviet military capabilities for more than 15 years. The intelligence community has almost always underestimated Soviet strategic forces as a consequence of their preference for attributing American values and objectives to the Soviet military and political leadership. When such crucial issues as the contours of a SALT agreement, and subsequent modifications of the Protocol are unresolved, it would be imprudent for the Congress to prejudice a future decision to accelerate deployment of a manned penetrator by terminating R&D work on Aircraft 5 and 6.

5. "The cost of cancelling the B-1 program is $750 million compared to $975 million for completing aircraft 5 and 6. Therefore, for only $225 million, the U.S. would obtain two usable aircraft."

DoD Response: The estimates quoted are Rockwell estimates of the cost to terminate the B-1 program and the cost to build aircraft 5 and 6. The Air Force has estimated the cost to terminate the B-1 production program at $698 million and the cost to continue to produce aircraft 5 and 6 at $1160 million. The Air Force estimates are based on data from Rockwell, the airframe contractor; Boeing, the offensive avionics contractor; and General Electric, the engine contractor. Using the Air Force estimates the marginal cost to produce aircraft 5 and 6, over that to terminate, is $462 million.

Neither of these estimates include the cost to operate and support these aricraft upon their completion. The Air Force estimates that approximately $280 million would be required to conduct an operational test and evaluation program with these aircraft.

Rebuttal: Testimony taken by the Defense subcommittee last year from the B-1 prime contractor (Rockwell International) stated that Aircraft 5 and 6 could be completed for $965 million as of 1 October 1977, not $1160 suggested by the DoD response.

6a. Criticisms of the cruise missile program: "The cruise missile is still basically only on paper."

DoD Response: The cruise missile is not a "paper missile" by any stretch of the imagination. There have been six ALCM test flights and more than 20 Tomahawk test flights. The ALCM (AGM-86) evolved from the Subsonic Cruise Armed Decoy (SCAD) program dating back to 1972 and earlier cruise missile research. The technology being applied to both the Tomahawk (AGM-109) and the ALCM (AGM-86) is well tested. The engine has over 2,800 hours of test time which includes 500 hours of simulated flight time in the wind tunnel and over 20 hours of actual flight test. The engine has been started over 7,100 times of which 125 have been cartridge starts.

The navigation guidance system (TERCOM) has compiled over 2,200 fixes from various platforms. From the accuracy data obtained from these tests we expect to exceed our originally planned goals.

Both the Tomahawk and the ALCM have been tested in various flight profiles with the ALCM being flown from a B-52 under simulated operational conditions. Although the ALCM tested was the shorter range version, the data derived from these tests is applicable to the long range version.

In summary, there has been a sufficient amount of data compiled for us to have very good confidence in the cruise missile.

Rebuttal: While the cruise missile is well-advanced in its flight test program, it is well removed from being an operational system, a fact supported by the Administration's posture on the SALT protocol concerning cruise missiles to the effect that the three-year duration of the Protocol will not interfere with the U.S. cruise missile program as it is unlikely that the long range ALCM will be deployed during that period.

DoD has shifted its rationale for the cruise missile program to meet the contingency brought about by the President's unanticipated cancellation of the B-1. The cruise missile program (e.g. ALCM-A) was presented to the Defense Subcommittee as an adjunct to a manned penetrator to facilitate penetration of hostile airspace. Now that the President has cancelled the B-1 production program, DoD has shifted its cruise missile rationale in favor of the cruise missile as a substitute for the B-1. As a substitute for a manned penetrator, the cruise missile is an untested concept.

6b. Criticisms of the cruise missile program: "The cruise missile program has encountered serious development difficulties and several failures."

DoD Response: The cruise missile program has to be considered one of the more successful undertaken by DoD. Failures, indeed, have occurred. This is normal for a program as it proceeds through advanced and full scale development. Of the 29 flights in support of air launched cruise missile objectives only four can be considered failures and, even so, much useful information was gained during these tests. We do not believe any deficiencies have developed which cannot be fixed with known engineering techniques. Also, see 6a above.

Rebuttal: The cruise missile flight test program has been a successful one, but the program has encountered serious difficulty from the perspective of integrating a missile designed to be carried by a penetrating bomber to enhance its penetration prospects to the role of partial or complete substitute for the manned penetrator. The complications imposed on targeting policy and command-control-communications by the employment of cruise missiles on a large scale is a major development risk.

6c. Criticisms of the cruise missile program: "The cruise missile does not have the penetrating capability of the B-1. It is too slow, not maneuverable, less accurate than the B-1."

DoD Response: The currently estimated weapons delivery accuracy for cruise missiles is projected to be comparable to that of the B-1 and cruise missile speed is virtually the same as the B-1. The cruise missile can be programmed to maneuver, but its ability to penetrate is not dependent upon maneuverability. Other characteristics such as flight altitude, radar cross section (RCS), and electronic countermeasures (ECM) are also important factors to consider when comparing cruise missile forces, penetrating bomber forces, and mixtures thereof. The penetrating bomber and the cruise missile each has combinations of qualities that aid in their penetration of defenses. The cruise missile depends primarily on low altitude and low radar cross section to penetrate. The B-1 depends primarily on low altitude flight and ECM.

There are, of course, uncertainties inherent in the projections of defenses that would be deployed in response to our force modernization—both in technological possibility and economic practicability. But we have more confidence in the ability of the cruise missile to penetrate (because of its low altitude flight and small size) than in the ability of B-1 ECM to defeat future defenses. Detailed analyses of the technical and operational strengths and weaknesses of Soviet air defenses indicate that the current first generation of cruise missiles would suffer low attrition. It is estimated that cruise missile attrition would not increase significantly over the next decade since we believe that the cruise missile will be improved at least as fast as Soviet defenses. The picture is not so clear for the B-1. The B-1 would be highly dependent on ECM; if ECM failed, B-1 attrition could be very high.

Rebuttal: The DoD response overlooks important operational details associated with the Electronic Countermeasures (ECM) carried by a manned penetrator when compared to a cruise missile which carries none. When the higher penetration speed (the B-1 is capable of supersonic dash) and the effect of employing ECM against Soviet air defenses, the B-1 percent of time it is vulnerable to attack by air defenses per air defense encounter is an order of magnitude less than the first generation cruise missile. Moreover, when the B-1 is compared with the cruise missile, the effective visibility of the B-1 to Soviet radar (its "radar cross section") is less than the cruise missile. The short range attack missile (SRAM) carried by the B-1 has a radar cross section 40-50 times *smaller* than the cruise missile. For this reason, the Strategic Air Command studies normally employ a 50 percent survival probability for the cruise missile as opposed to a 100 percent survival probability for the SRAM.

6d. Criticisms of the cruise missile program: "It would be more difficult and more expensive for the USSR to defend against the B-1 than the cruise missile."

DoD Response: Defense against either the B-1 or the cruise missile would be difficult and expensive. However, we believe that defense against the cruise missile would present the greater difficulty. This is primarily because current Soviet defenses are designed against bombers. It would, thus, be easier for the defense to react to new bomber developments.

Defense against low altitude, low radar cross-section cruise missiles requires an almost complete change in defense philosophy. The defenses would have to be oriented to attack cruise missile carriers very far (over 1,000 nm) from Soviet frontiers. Moreover, local area and point of defenses at the targets would have to be very dense to engage cruise missiles which were launched despite the forward defenses. Such a defense combination would require far more equipment than is now deployed, the equipment would have to be much more effective, and personnel requirements, both qualitative and quantitative, would be severe.

Rebuttal: Defenses against cruise missile carriers do not need to be effective "over

1,000 n.m." from Soviet frontiers to be effective under proposed SALT constraints because most important Soviet targets are located well inland. Moreover, DoD has testified that if cruise missile carriers were to be denied overflight rights over Scandinavian territory, a very substantial fraction of Soviet targets could not be engaged by cruise missiles. Recent information concerning the deployment of the SA–10 indicates that the Soviet Union intends to increase the effectiveness of its terminal air defenses, a development which makes the absence of ECM on cruise missiles a more significant shortcoming, and makes a manned penetrator more important as a delivery system than would have been the case in the absence of the deployment of an advanced air defense system. The vast increase in the number of mobile air defenses such as the SA–6 complicates cruise missile penetration but does not alter manned bomber penetration probabilities.

6e. Criticisms of the cruise missile program: "The ability to destroy the cruise missile is within state-of-the-art for Soviet air defenses."

DoD Response: There are no operationally deployed defensive systems that pose a serious threat to the cruise missile. Most would have no capability to engage an in-flight cruise missile. Any current system which might be able to engage would be able to do so only under the most favorable conditions and kill probability would be so low that a true defense would not be possible.

Rebuttal: Studies conducted by the Defense Science Board indicate that the technology which threatens the cruise missile has been available to the Soviets since 1970. Much of that technology is embodied in the new Soviet SAM, the SA–10 now being deployed. The U.S. cruise missile is several years away from its Initial Operating Capability. It is not correct to state that "there are no operationally deployed defensive systems that pose a serious threat to the cruise missile." Even if the SA–10 were not currently deployed, the significant issue would be to what extent a threat could be posed by Soviet air defense systems by the time the cruise missile became a significant component of our strategic force.

7. The cost of the cruise missile carrier will be $93 million each with a total program cost of $16.5 billion for 114 aircraft.

DoD Response: These figures come from past examinations of a wide-body cruise missile carrier and still appear to be valid for comparison with $22.1B of procurement costs for an equally effective force of 240 B–1s ($20.6B for aircraft and $1.5B for SRAM). Our current plans are to use some of the B–52s as cruise missile carriers. We consider the wide body carrier to be an option for rapidly expanding our planned force capabilities, if we should see the need to do so in the future. The number of wide body carriers that might be needed in addition to our planned B–52/FB–111 force would be determined by the events that dictate the need for expanding strategic capabilities.

Rebuttal: The response neglects to note that a B–1 can, with minor modifications be equipped to carry up to 50 cruise missiles both internally and externally, and can be employed as an advanced penetrator as well. A wide-bodied aircraft cannot perform as a penetrator nor can it carry SRAM missiles. The B–52/FB–111 are inferior to the B–1 as penetrators, and cannot carry as large a cruise missile payload.

8. "The President has violated PL 93–344 by not releasing B–1 funds to the prime contractor."

DoD Response: The President has released B–1 funds which were apportioned to the Department of Defense and made available to the Air Force for B–1 production. The Air Force has obligated $5.7 million of such funds to date. Until the contractors have submitted cost and pricing data, it would be imprudent to obligate funds at a substantially higher rate.

In addition, proceeding without a definite contract at this time would be undesirable because there is about a $200 million difference between the contractor's estimate and the Government's estimate of the cost to complete two aircraft, and considerable uncertainty as to the exact configuration of the aircraft to be manufactured. In early March, we expect to receive from all three prime contractors fixed price proposals including cost and pricing data from subcontrators and vendors, information which is not currently available. Until that time we believe it would be imprudent to obligate funds at a greater rate than is now being obligated.

Rebuttal: Under the terms of the Budget Impoundment and Control Act, when the Congress did not take action to support the President's request to rescind funds for Aircraft 5 and 6, the Administration was required to obligate the funds in violation of the intent of Congress when it passed the 1974 Act. The Administration is obliged to execute the FY 77 program as approved by the Congress.

9. "Top Air Force officials have acknowledged the Congressional Committees that if the B–52 is used to carry our cruise missile, a significant degradation in Americas' nuclear retaliatory capability will result."

DoD Response: The President's decision to deploy cruise missiles on B–52s as the best way to modernize our bomber force for the 1980s was based on the conclusion that this was the most cost-effective option. The high penetration ability of ALCMs, the fact that B–52s can carry more long-range ALCMs than gravity weapons and the fact that the costs to convert a B–52 to a stand-off bomber are not great all entered into this assessment. Arming the B–52s with cruise missiles will enhance America's nuclear retaliatory capability substantially.

Rebuttal: At present, the B–52 force operating as a penetrating bomber carries more than fifty percent of the strategic force megatonnage. By diverting a substantial fraction of the B–52 force to the cruise missile carrier role, a sharp reduction in megatonnage will result. The lower probability of penetration of a cruise missile (compared to a SRAM) will raise the cost per weapon delivered substantially.

10. "If we equip the B–52 with cruise missiles with a 1500 nm limitation under SALT, a very large portion of the most important targets within the Soviet Union will be out of reach."

DoD Response: That is incorrect. ALCMs with a system operational range of 2500 km, when launched from outside current Soviet peripheral defenses, could cover nearly all Soviet targets. The remaining targets could be covered with ICBMs, SLBMs, and penetrating B–52s.

Rebuttal: The deployment of "cold launched" ICBMs which are reloadable are a potentially important target for the highly accurate cruise missile. Although the cruise missile could not be employed as a first strike weapon, it could be employed to attack a silo to prevent it from being reloaded once a missile has been launched. The location of Soviet ICBM complexes on the "ICBM belt" in the Central Asian, Transbaikal, Turkestan, and Far Eastern Military districts along the Trans-Siberian railway puts them out of range of cruise missiles under proposed SALT constraints, especially if circumstances require greater than a 300 n.m. standoff.

11. "The Secretary of Defense does not even know which aircraft would make the best cruise missile carrier."

DoD Response: We are currently planning to deploy cruise missiles on B–52s since B–52s are clearly the first choice for carrying cruise missiles. Since we are unsure of the final outcome of current SALT negotiations, we must preserve the option for expansion of our planned strategic retaliatory capability. Deploying cruise missiles on other aircraft provides the only option for substantially increasing our capability before 1985. For this reason, and as a hedge against possible growth in future targeting requirements, we are considering several commercial and military aircraft as candidates for cruise missile carriers. If expanded warhead carrying capacity should be needed, it could come from new wide-body CMCs.

Rebuttal: Future requirements for strategic cruise missile carriers are ill-defined by DoD because of the uncertainties in SALT, the Soviet air defense threat, and the evolving targeting policy of the Adminisrtation. The protracted lead-times for new delivery systems makes the uncertainty within DoD about a future cruise missile carrier risky.

QUESTIONS OF FACT

1. "If aircraft 5 and 6 are not funded, what would it cost to reopen tne production line? Compare this to reopening the production line if 5 and 6 are funded."

DoD Response: The decision not to delay the B–1 weapon system came before an actual production line was established. About $390 million of the FY 1977 B–1 procurement funds were to be expended for B–1 production tooling and an additional $710 million would have been expended over the entire program to achieve an interim production rate of two aircraft per month and then progress to four aircraft per month. Only $165 million of the FY 1977 funds was actually expended or committed on tooling prior to the decision not to deploy the B–1. Since the Congress did not appropriate funds for a FY 1978 B–1 buy, no further expenditures for tooling are planned. The remainder of the funding would be required to produce aircraft 5 and 6.

Thus, since no production line exists, the cost to establish such a production line would be the same whether or not aircraft 5 and 6 are funded. The only difference would be the cost to rehire personnel if aircraft 5 and 6 are not built now.

Rebuttal: The DoD response overlooks the circumstances which could arise when rapid deployment of the B–1 might be required. If Aircraft 5 and 6 are not produced, long and costly delays will be imposed while preproduction R&D is completed The costs of starting production if 5 and 6 are not built promptly will be significantly higher than if they are produced.

2. 'Are aircraft 5 and 6 true production models to be constructed on a production assembly line or are they 'handmade' as with the other R&D aircraft?"

DoD Response: As stated in the response to Question 1, aircraft 5 and 6 were to be built on production tooling, building up to assembly line and production rate techniques. If the Air Forces were now required to build aircraft 5 and 6, they would be built using the same methods and development tooling as aircraft 4. The development tooling allows a lower capital investment but is more labor intensive, thus the term "Handmade."

The aircraft that are produced will, however, be true production models.

3. What is the estimated cost to the Soviet Union to defend against the cruise missile? What would it require the U.S.S.R. to deploy, over what time period, and with what success? Would the second generation cruise missile overcome these anticipated Soviet defenses?

DOD. response: It is not possible to provide a precise cost of a Soviet cruise missile defense. Our analyses indicate that such an effort would be as great or greater than the effort which went into the development and

deployment of the present Soviet air defense network. A cruise missile defense would require:

Major new research and development programs in a number of different fields including look-down radars, interceptor aircraft, air-to-air missiles, and advanced surface-to-air missile systems.

Very large deployment of the new systems.

We believe that the minimum deployment requirements for defense against cruise missiles would include:

Hundreds of air warning and control (AWACS) aircraft with capabilities at least comparable to the U.S. E-3A,

Several thousand interceptors with look-down/shoot-down capabilities at least as good as the U.S. F-14 or F-15, and

For a bare minimum, many hundreds of surface-to-air missile battalions capable of detecting and engaging reliably very low altitude, low radar cross-section targets.

No such system is deployed today, but new systems might possess these capabilities.

It is not believed that the U.S.S.R. could field such defenses within the next decade. Further, it appears that relatively small improvements in the current cruise missiles, such as those being proposed for the second generation of cruise missiles, could offset the improved Soviet defenses to a large degree.

Rebuttal: The response overstates the required Soviet response. Due to the small number of cruise missile carriers feasible within SALT constraints, the launch platforms will be vulnerable to modest improvements in the Soviet long range air defense capability that is certainly within the state-of-the-art. The complacent notion that "it is not believed that the U.S.S.R. could field such defenses within the next decade" has been the type of bromide which has resulted in a much larger than anticipated Soviet strategic threat. The Soviet-American military balance no longer has a substantial margin for error.

4. Please compare the radar cross section of the B–1 with the cruise missile in technical and practical terms.

DoD Response: If there were no other factors, a radar could detect the B–1 at 5 to 10 times the range that it would detect the cruise missile. However, at low altitudes a radar's line of sight is very limited. At short ranges, a large difference in radar cross section is not a factor. Instead, the primary consideration is that the cruise missile is small enough that radar return from ground objects obscures the cruise missile. While there are radar solutions to the problem, present radars (enemy as well as domestic) have been designed for aircraft detection and the very low cruise missile RCS will probably require a new generation of radars to provide a satisfactory detection capability.

Rebuttal: The DoD response failed to address the influence of ECM in offsetting differences in radar cross section. With ECM and high speed penetration, the effective RCS of the B–1 is less than the first generation cruise missiles. Moreover, the employment of SRAMs on the B–1 to assist penetration with a RCS of one-fiftieth of a cruise missile obscures the B–1 RCS issue.

5. Is the B–52 a capable cruise missile carrier? How many cruise missiles can it carry? Please compare it in cost effective terms to the B–1 cruise missile carrier and the wide bodied jet cruise missile carrier.

DoD Response: There are many existing aircraft that could be adapted for cruise missile carriage and could function effectively in a standoff role. The B–52 has an advantage for early cruise missile deployment in that it is in our inventory and requires relatively modest investment for modification compared to the acquisition cost of a new airframe. Additionally, the B–52 is configured with defensive avionics should they be required during a standoff mission.

Each designated B–52 cruise missile carrier will be modified to accommodate up to 20 cruise missiles. On an equally effective basis, the 20-year system cost (in present value dollars *) for a force of fully loaded B–52 CMCs is about 20% less than a redesigned B–1 CMC force and about 35% more than a typical wide-body CMC force. The wide-body CMC is cheaper because it carries so many cruise missiles per aircraft (about 60). However, the wide-body CMC carries the risk of "too many eggs" in a basket. This risk would be considerably less worrisome if the wide-body CMC were deployed along with, say, 200 B–52s carrying cruise missiles. For this reason deployment of cruise missiles on B–52s is the first step we are taking. Deployment of cruise missiles on B–52s minimizes near-term costs, maintains penetrating bomber options, and provides a capability to penetrate possible Soviet long range defenses.

Rebuttal: The cost analysis of the B–52 versus alternative new cruise missile carrier systems commits a frequently repeated error of government accountants, namely to compare the B–52 based on 20 year-old historic costs with a new system at current costs. By failing to compare systems on their replacement value, it overstates the cost advantage of existing, but costly to replace systems. By the mid-1980s, there will be insufficient B–52s available to perform the manned penetrator and cruise missile carrier missions. A new aircraft will be needed to perform some of these tasks; the DoD response does not provide sufficient information to arrive at an answer to the question posed.

6. "What dollar sum has been released to Rockwell International for the B–1 program (A/C 5–7) and what sums are expected to be released for the next several months? What are these funds dedicated to?"

DoD Response: Through November 1977, the Air Force has obligated $655.8 million of FY 1976/Transition Quarter/FY 1977 production funds to Rockwell International, the Boeing Company, and General Electric. These funds were to be used for production of aircraft 5–7, purchase of production tooling, and purchase of long lead items for the FY 1978 production aircraft. Funds are currently being expended for transition back into a production program for aircraft 5 and 6, as well as for termination of aircraft 7, long lead items for the FY 1978 buy, and unnecessary production tooling.

In December 1977, the Air Force released $2.0 million to continue the transition effort as well as begin preparation of definitive contractor proposals to restart Aircraft 5 and 6. These proposals will include detailed pricing information from contractors, subcontractors and vendors.

For the month of January 1978, the Air Force released $3.5 million for the contractors to continue preparation of proposals for production of aircraft 5 and 6 and for the planning necessary to restart production.

7. How many jobs are contingent on funding A/C 5 and 6?

DoD Response: At the manpower peak approximately 11,900 jobs would be involved in completing A/C 5 and 6. This total includes 4,800 jobs at the prime contractors and about 7,100 at the suppliers and interdivisional work transfers.

8. Please explain why there are three aircraft involved in the rescission (A/C 5–7) but only two are being discussed for construction.

DoD Response: Prior to the President's decision to cancel B–1 production, the Air Force was procuring materials and tooling for the first production lot (aircraft 5, 6, and 7) and long lead materials for the second production lot (aircraft 8, 9, 10, 11, and 12). As a result of the termination action and subsequent interruption in the program as well as the requirement to build the aircraft on development tooling, only two aircraft could be manufactured now within the $1,160 million appropriated for B–1 production. The estimated $1,160 million cost to build aircraft 5 and 6 includes termination charges for aircraft 7, tooling, and long lead materials.

9. Given the same mission, does the B–52 have to release its cruise missiles earlier than the B–1? Is there any significant variance in the range or loiter capability of the B–1 and B–52 (cruise missile carrier versions)?

DoD Response: Against current Soviet defenses, the release points would be approximately the same for the B–52 and the B–1 aircraft. The location of launch points might change in the future, depending on Soviet reaction to cruise missile deployment. But, this would probably not change the relative launch positions of the B–1 and B–52.

The following table compares the total unrefueled mission time for the cruise missile version of the B–1 (with one weapons bay fuel tank) and the B–52 cruise missile carrier. Some of the difference in endurance can be attributed to aircraft design. The B–52 was originally designed for high altitude missions whereas the B–1 was optimized for low altitude. With aerial refueling, the airborne time for either bomber is limited only by crew endurance or aircraft systems failure.

Cruise missile carrier	Endurance with cruise missile load	
	Internal only	Internal and external
B–1	14.7 hours	9.3 hours
B–52	16.0 hours	9.5 hours

Rebuttal: The DoD response neglects the fact that the cruise missile will not be deployed "against current Soviet defenses" but will have to survive in an environment where Soviet defenses react to the U.S. shift in emphasis on cruise missiles. As a cruise missile carrier or penetrator, the B–1 is more survivable against current or future defenses than the B–52. As a consequence, the B–1 will have a capability of releasing its cruise missiles closer to the Soviet coastline than would be the case with the B–52.

10. Please break down what the $442 million in FY 78 R&D funds for the B–1 are being spent on.

DoD response: The chart below shows the allocation of the B–1 fiscal year 1978 RDT&E funds. During FY 78 aircraft 4 will be structurally completed, the completed defensive avionics system will be installed and checkout of the integrated system will begin. Flight tests of the first three development aircraft will continue to provide data over the full operating envelope. Weapons testing will continue. Ground structural fatigue testing will be completed and an extensive teardown inspection and analysis will be conducted The continued engine development program which provides improvements in reliability, maintainability, and life cycle costs as well as flight test support will continue.

Fiscal year 1978 R.D.T. & E. appropriation

[In millions]

System	$223.0
Engine	71.4
Avionics	63.3
Flight test extension	50.0
Other Government costs	35.7
Total	443.4

* Discounted at a rate of 10% per year.

System: Tasks currently on contract with Rockwell International includes production of A/C 4, flight test of A/C 1&2, and structural fatigue testing.

Engine: Tasks currently on contract with General Electric. Includes production of engines for A/C 4, flight test support for A/C 1&2, engine reliability, maintainability, and life cycle cost improvements.

Avionics: Tasks currently on contract with Boeing and AIL. Includes defensive avionics development, support of A/C 4 production and support of flight test.

Flight Test Extension: Support of A/C 3 and 4 flight test. This work is not yet on contract.

Other Government Costs: Funds for Air Force and other government agencies that support the B–1, engineering change orders, and program margin.

11. Even if aircraft 5 and 6 are completed, which major R&D testing or evaluation steps remain to be accomplished before the B–1 could go into full-scale production? Please include defensive and offensive avionics in your answer.

DOD Response: The B–1 program was structured to complete a comprehensive test program prior to a production decision being made in late 1976. When production readiness was reviewed at the Defense Systems Acquisition Review Council, the principals agreed that the B–1 had successfully met the stringent criteria for proceeding into a full-scale production program with the airframe, engines and offensive avionics systems.

In order to provide the most responsive defensive avionics to the postulated threat, the start of the defensive system development was delayed. It will be flown for the first time on aircraft 4 in early 1979. The Air Force would have been able to make a defensive avionics production decision after six months of flight testing.

None of the testing to establish B–1 production readiness was dependent on aircraft 5 and 6.

12. Could aircraft 1–4 be used for electromagnetic hardening tests? Can such tests be simulated with high confidence?

DoD Response: Hardness testing is an integral part of the qualification of all the hardware used on the B–1. The individual testing of components does not, however, answer the question of total weapon system reaction to electromagnetic pulse (EMP) phenomena. For this reason a full-scale system level test was planned on a production aircraft at the Trestle Facility at Kirtland AFB, New Mexico. It is possible to use one of the development aircraft for this test. Aircraft 1, 2 & 3 are not considered to be similar enough to the production aircraft to provide adequate data for this system level test. Although some configuration differences would have to be analyzed in detail, aircraft 4 is considered the best candidate for the test. Although not a complete production aircraft, EMP test of aircraft 4 would be beneficial in evaluating the different design approaches incorporated to achieve system level hardware and to further our knowledge of complex EMP analysis. There is no analytical equivalent to the system level test planned for the Trestle Facility; however, we are confident of the hardness design and would expect any test to verify that the B–1 is designed hard.

13. If the B–1 is redesigned as a cruise missile carrier or dual role cruise missile carrier and penetrator, what impact would this have on the planned tests for aircraft 5 and 6?

DoD Response: Since design and mission differences exist between a B–1 cruise missile carrier, a dual role cruise missile carrier/penetrator and the current B–1 bomber, selection of one of the cruise missile carriers would change the flight testing on A/C 5 and 6.

The basic flight test objectives for the three options are essentially the same since the basic aerodynamics and systems responses of the aircraft would not be changed. The emphasis and the test data requirements would change, particularly in weapons separation accuracy. No preliminary flight testing was accomplished on A/C 1, 2 or 3 on weapon separations from external carriage and these tests would have to be done on aircraft 5 or 6. In the case of the non-penetrating "cruise missile carrier," this testing would replace tasks planned for low level/high speed weapon separation and accuracy testing. In the case of the duel-role B-1 this effort would be totally additive.

Flutter, EMP system level testing and offensive avionics evaluations would be essentially the same as planned for A/C 5 and 6, if they are built, although expanded somewhat for external carriage considerations. The planned flutter testing would have to be examined for either configuration to determine if changes exist in the basic A/C stiffness and mass distribution. Testing required by these changes would be dependent on definitive analyses of the final design. The net result would be a program of approximately the same number of flight test hours (± 20 percent) for a nonpenetrating "cruise missile carrier" as compared to the program we would pursue on A/C 5 and 6. In the case of the "dual-role" B-1 the planned flight test hours would increase by approximately 50 percent. The present R&D budget does not include funds for A/C 5 and 6 flight testing, instrumentation or spares. These tasks would increase funding requirements by approximately $280 million.

In addition to flight test, ground testing would also be required for a redesigned aircraft. This testing would include wind tunnel tests for aerodynamics and acoustics, and static and fatigue structural testing.

14. Please supply a detailed analysis, if available, of the Rockwell International study on the cost effectiveness of the B–1 as a cruise missile carrier compared to the FB–111H, with bodied jet cruise missile carrier, and B–52.

DOD Response: Information obtained from Rockwell International discussed the nuclear hardness of the B–1 and the proposed design modifications to make the B–1 serve as a standoff cruise missile carrier. Our evaluation of costs for a B–1 cruise missile carrier showed that, for equal effectiveness, the 20-year system cost (in FY 1978 dollars) was about 60 percent higher than for a wide-bodied cruise missile carrier and about 20 percent higher than for a B–52 cruise missile carrier. The same comparison in terms of present value dollars* shows the B–1 cruise missile carrier to be about 70 percent higher than the wide body carrier and about 30 percent higher than the B–52 carrier.

While the B–1 prelaunch survivability was the best of all cruise missile carrier alternatives examined, neither the B–52 nor the wide bodied cruise missile carrier suffered significant losses. Although no detailed examination of the FB–111 H as a cruise missile carrier has been made, its prelaunch survivability would be similar to that of the B–1.

Rebuttal: The accuracy of the DOD response cannot be determined from the information provided in their statement because assumptions made by DOD analysts are not explicated.

15. How long would it take and what would be the cost of converting the B–1 into a cruise missile carrier?

DoD Response: If directed to complete only A/C 5 as a cruise missile carrier prototype, a program could be structured that would deliver one prototype aircraft in late 1980 for approximately $960M of the available $1160M of B–1 production funds. In the RDT&E program, approximately $300M additional would be required for flight test and an additional $100M to "productionize" the aircraft and qualify the design through ground tests if a production decision were made.

Rebuttal: The DoD response misstates the costs of converting the B–1 to a cruise missile carrier. The modifications required are trivial; an internal bulkhead needs to be moved to accommodate the internal stowage of cruise missiles—a change which can be made without structural change, the addition of hard points for the external carriage of cruise missiles, and modifications to the bombing and navigation electronics to accommodate the additional cruise missiles. The $300 million would be required for the flight test program of any new aircraft, and is not unique to a cruise missile carrying version of the B–1. This is also true for the $100 million to "productionize" the aircraft.

16. As now designed, is the B–1 a cost effective cruise missile carrier?

DoD Response: The present B–1 offers levels of designed-in nuclear hardness not yet available in existing aircraft. However, even considerable redesign of the B–1 for a standoff role does not make it competitive because of the additional development costs involved and the high start-up and production costs of this airframe relative to modification costs for B–52s or wide-body carriers. The costs for equally effective pure forces of three cruise missile carrier aircraft are shown in the following table.

20-Year program costs

[Dollars in billions]

Cruise missile carrier	Fiscal year 1978	Present value *
B–1	$17.7	$9.4
B–52	14.8	7.3
Wide body	10.9	5.4

* Discounted at a rate of 10 percent per year.

Rebuttal: DoD overstates the cost of cruise missile conversion for the B–1. The structural modifications are modest. Moreover, the comparison understates the cost of the B–52 by undervaluing the aircraft through the use of historic cost rather than replacement cost. The inability of the wide-bodied cruise missile carrier to be employed in a penetrating role makes it a single purpose airframe, therefore implicitly more expensive in terms of defense resources than the multi-purpose B–1 or B–52. The costs asserted by DoD in their response do not consider the B–1 in its cruise missile carrier configuration. In its full scale all-cruise missile configuration, the 20 year life cycle cost in FY 78 dollars is not $17.7 as DoD asserts, but $12 billion. DoD failed to note that the B–1 can be equipped to carry as many as 50 cruise missiles; its comparison only considered internal stowage of cruise missiles.

17. For how long do you have confidence that the B–52 can perform the penetrating mission?

DoD Response: Current Soviet air defenses are estimated to be poor against low altitude B–52s. However, on-going Soviet air defense improvement programs will probably cause the effectiveness of the penetrating bomber force to decline unless the force is modernized. It should be noted that no known Soviet air defense program has the potential of totally defeating U.S. bombers.

The planned program that modernizes the force with cruise missiles will compound the

*Discounted at a rate of 10 percent per year.

Soviet's defensive problem. In the face of different types of penetrating vehicles (a mix of cruise missiles and bombers) that may demand a combination of defensive responses (instead of a single defense initiative against a pure force of cruise missiles or bombers), the penetrating bomber component should retain present levels of survival through the 1980s and into the 1990s.

Rebuttal: Inasmuch as more than half of America's force megatonnage is in the penetrating bomber force, the continuing effectiveness of the B–52 is of major importance to our ability to deter war. It is not sufficient to assert that "no known Soviet air defense program has the potential of totally defeating U.S. bombers." The ability of Soviet forces to exact substantial attrition from the bomber force will be sufficient to leave important targets "uncovered" thereby weakening deterrence. Considerable testimony has been given to the Defense subcommittee concerning the approaching vulnerability of the B–52. The assertion that the "penetrating bomber component should retain present levels of survival" through the 1980s and into the 1990s contradicts more than five years of DoD testimony.

18. According to the preface of *Janes All the Worlds Aircraft*, the U.S. B–1 decision will create an imbalance of military power between the U.S. and USSR and 1977 (the year of the B–1 decision) "might be recorded as the year in which the seeds of defeat of the Western powers were sown". Please comment on the accuracy of this assessment.

DoD Response: Since we do not have the benefit of any analysis the author may have done, we cannot comment as to the specifics that might support his editorial remark. However, as stated in some of the preceding responses, we are confident that the cruise missile approach to bomber force modernization is the best one. The B–1 would undeniably give the U.S. a robust strategic penetrating bomber force; but, the B–52/cruise missile combination will confront the Soviets with a formidable threat—a force that gives us higher confidence than the B–1 and that costs less. Furthermore, with our lead in cruise missile technology, we will retain our perceived parity with the Soviets in the long term. And, if the Soviets should decide to abrogate SALT agreements, or if we should decide to expand our forces, the cruise missile offers the best option for rapidly increasing our force capability.

Rebuttal: DoD studies have shown that the most militarily effective force consists of a mixed force of cruise missiles, penetrating bombers with gravity bombs as well as short range attack missiles. It is this force which forces the Soviets to divert the greatest amount of their defense resources away from the strategic attack forces which directly threaten American territory and compels them to invest in anti-aircraft defenses which do not threaten U.S. territory. By cutting off all other production options (as would be the case if 5 and 6 are not procured), cruise missiles will be our only option to increase our strategic capability should the Soviets elect to abrogate an arms control agreement. The lack of alternatives which can be readily exploited by the U.S. in the event that the current "fair" diplomatic weather turns foul will contribute to a perception of declining military potential to the United States in an environment when the momentum of Soviet programs is undisturbed.

19. Is the Administration going to request any funding for the FB–111H in FY 1979?

DoD Response: We do not contemplate a request for the FB–111H in the FY 1979 budget.

Rebuttal: Although no funds are provided in the FY 79 budget, the FB–111H was authorized in the FY 78 supplemental authorization bill. The Administration may propose a supplemental appropriation at any time through September 30, 1978 to fund the FB–111H program. Strong Administration support for the FB–111H in the FY 78 supplemental authorization/appropriation debate makes one skeptical that the FB–111H program has been forever abandoned by the Administration.

20. Please describe the study on the penetrating bomber mission which the press has indicated Dr. Perry may be contemplating. Since this request was stricken from the Conference report on the Defense Supplemental, why now is it being considered again? In what ways would this study be different from the Strategic Bomber Studies under Presidents Ford and Carter?

DoD Response: A strategic bomber study is planned which will be completed in approximately six months. The objective of this study is to conduct a comprehensive review of strategic penetrating bomber alternatives which might provide a viable bomber force beyond 1985. The purpose is to assist the Secretary of Defense in selecting alternatives for maintaining a production option for a strategic penetrating bomber. It will focus on the B–1, B–52 and FB–111H.

B–1 production has been terminated but the R&D program is being continued to provide the option to add the B–1 to our forces if totally unexpected events should so require. Further examination is required to determine whether this or some other option is most cost effective for the future.

This study differs from previous studies in that they focused on strategic bomber program alternatives while this study will focus on strategic bomber production options. These objectives are different in that the most desirable program alternative might not be the most desirable option or hedge position.

TWENTY-EIGHTH ANNIVERSARY OF INDIA'S INDEPENDENCE

Mr. STONE. Mr. President, today is the 28th anniversary of India's independence. In light of the significance of the recent election in that country and the improved relations between the United States and India as symbolized by President Carter's recent visit to Delhi, I ask unanimous consent to have printed in the RECORD my letter to Prime Minister Desai on this historic occasion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 26, 1978.

His Excellency MORARJI R. DESAI,
Prime Minister of India.

DEAR MR. PRIME MINISTER: As Chairman of the Senate Subcommittee on Near Eastern and South Asian Affairs, I want to take this opportunity to congratulate you on the 28th anniversary of your country's independence. This year may serve as a double occasion for celebration, coming as it does just months after your overwhelming victory at the polls in March 1977. President Carter's recent visit to India cemented the warm relations between your great country and ours, expressing the deep respect and admiration the people of the U.S. have for India. It is my hope that U.S.-Indian relations will continue to grow closer and that your democratic institutions will prosper under your wise administration.

Most cordially,

RICHARD STONE.

Mr. STONE subsequently said: Mr. President, on Thursday, January 26, I inserted into the CONGRESSIONAL RECORD a copy of the message I sent to Prime Minister Desai of Indian congratulating his country on an important day—the 28th anniversary of India's Republic Day.

Unfortunately, this day was mistakenly reported as being India's Independence Day, and as chairman of the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs, I wanted to make this necessary correction known to my colleagues and to the American people.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Juan G. Blas, of Guam, presently U.S. marshal for the district of Guam, to be also U.S. marshal for the district of the Northern Mariana Islands for a term expiring September 14, 1981 (new position, Public Law 95–157).

David T. Wood, of Guam, presently U.S. attorney for the district of Guam, to be also U S. attorney for the district of the Northern Mariana Islands for a term expiring November 2, 1981 (new position, Public Law 95–157).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, February 2, 1978, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER FOR RECOGNITION OF SENATOR LEAHY ON WEDNESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Wednesday, February 1, after the two leaders or their designees have been recognized under the standing order, Mr. LEAHY be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at 10 a.m., following a recess. After the two leaders, or their designees, have been recognized under the standing order, the Senate will resume its consideration of the unfinished business. Rollcall votes are expected on amendments and motions in relation to the same.

I would suggest that Members should be prepared for several rollcall votes tomorrow.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to, and at 7:02 p.m., the Senate took a recess until tomorrow, Friday, January 27, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, January 26, 1978:

DEPARTMENT OF THE INTERIOR

Frank Gregg, of Massachusetts, to be Director of the Bureau of Land Management (new position).

NATIONAL TRANSPORTATION SAFETY BOARD

Elwood Thomas Driver, of Virginia, to be a member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1980, vice Webster B. Todd, Jr., resigned.

NATIONAL RAILROAD PASSENGER CORPORATION

To be members of the Board of Directors of the National Railroad Passenger Corporation for the terms indicated:

For the remainder of the term expiring July 18, 1978:

Frank H. Neel, of Georgia, vice Edward L. Ullman, deceased.

James R. Mills, of California, vice Gerald D. Morgan, deceased.

For a term expiring July 18, 1980:

Harry T. Edwards, of Michigan, vice Joseph V. MacDonald, term expired.

Charles Luna, of Texas (reappointment).

For a term expiring July 18, 1981:

Anthony Haswell, of Illinois, vice Donald P. Jacobs, term expired.

Ronald G. Nathan, of the District of Columbia, vice Frank S. Benson, Jr., term expired.

FEDERAL DEPOSIT INSURANCE CORPORATION

William M. Isaac, of Kentucky, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of 6 years, vice Robert E. Barnett, resigned.

U.S. METRIC BOARD

Louis Polk, of Ohio, to be chairman of the U.S. Metric Board for a term of 6 years (new position).

To be members of the U.S. Metric Board for the terms indicated (new positions):

For a term of 2 years:

Carl A. Beck, of Pennsylvania.
Francis R. Dugan, of Ohio.
Henry Kroeze, of Wisconsin.

For a term of 4 years:

Paul Block, Jr., of Ohio.
Thomas A. Hannigan, of Maryland.
Frank Hartman, of Michigan.
Sandra R. Kenney, of Maryland.
Roger Ellis Travis, of Massachusetts.

For a term of 6 years:

Sydney D. Andrews, of Florida.
Joyce D. Miller, of New York.
Glenn Nishimura, of Arkansas.
Satenig S. St. Marie, of Connecticut.
Adrian G. Weaver, of Connecticut.

NATIONAL BUREAU OF STANDARDS

Ernest Ambler, of Maryland, to be Director of the National Bureau of Standards, vice Richard W. Roberts, resigned.

DEPARTMENT OF ENERGY

Lynn R. Coleman, of the District of Columbia, to be General Counsel of the Department of Energy (new position).

George S. McIsaac, of the District of Columbia, to be an Assistant Secretary of Energy (Resource Applications) (new position).

BOARD FOR INTERNATIONAL BROADCASTING

To be members of the Board for International Broadcasting for the terms indicated:

Rita E. Hauser, of New York, for a term expiring April 28, 1980, vice John P. Roche, resigned.

Frank Markoe, Jr., of New Jersey, for a term expiring May 20, 1980, vice Foy D. Kohler, term expired.

ENVIRONMENTAL PROTECTION AGENCY

Stephen John Gage, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency, vice Wilson K. Talley, resigned.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Robert Clyde Benedict, of Pennsylvania, to be Commissioner on Aging, vice Arthur S. Flemming.

RAILROAD RETIREMENT BOARD

William P. Adams, of Virginia, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1977, vice James L. Cowen, resigned.

THE JUDICIARY

Robert F. Collins, of Louisiana, to be U.S. district judge for the eastern district of Louisiana, vice Alvin B. Rubin, elevated.

A. David Mazzone, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice Frank J. Murray, retired.

Paul A. Simmons, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Ralph F. Scalera, resigned.

DEPARTMENT OF JUSTICE

Larry D. Patton, of Oklahoma, to be U.S. attorney for the western district of Okahoma for the term of 4 years, vice David L. Russel, resigned.

Coy W. Rogers, of Oklahoma, to be U.S. marshal for the western district of Oklahoma for the term of 4 years, vice Floyd E. Carrier, term expired.

Benjamin R. Civiletti, of Maryland, to be Deputy Attorney General, vice Peter F. Flaherty, resigned.

POSTAL RATE COMMISSION

Alvin Harry Gandal, of Maryland, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1982, vice Frank P. Saponaro, term expired.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Bertram R. Cottine, of the District of Columbia, to be a member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1983, vice Robert D. Moran, term expired.

DEPARTMENT OF DEFENSE

John Arnot Hewitt, Jr., of New Jersey, to be an Assistant Secretary of the Air Force, vice Everett T. Keech, resigned.

DEPARTMENT OF STATE

Thomas J. Corcoran, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

David T. Schneider, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Philip Henry Alston, Jr., of Georgia, now Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

W. Howard Wriggins, of New York, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Herman J. Cohen, of New York, a Foreign Service officer of class 1, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to The Gambia.

LEGAL SERVICES CORPORATION

The following-named persons to be members of the board of directors of the Legal Services Corporation for terms expiring July 13, 1980, to which offices they were appointed during the last recess of the Senate:

Cecilia Denogean Esquer, of Arizona, vice Rodolfo Montejano, term expired.

Steven L. Engelberg, of Maryland, vice Samuel D. Thurman, term expired.

Hillary Diane Rodham, of Arkansas, vice William J. Janklow, resigned.

Richard Allan Trudell, of California, vice Marshall Jordan Breger, term expired.

Josephine Marie Worthy, of Massachusetts, vice Marlow W. Cook, term expired.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

John W. Snyder, of the District of Columbia, to be a member of the board of trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1983, to which office he was appointed during the last recess of the Senate.

DEPARTMENT OF ENERGY

Robert D. Thorne, of California, to be an Assistant Secretary of Energy (Energy Technology) (new position).

EXTENSIONS OF REMARKS

THE 60TH ANNIVERSARY OF THE INDEPENDENCE OF THE UKRAINE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mrs. HOLT. Mr. Speaker, I commend my colleague from Pennsylvania (Mr. FLOOD) for originating this opportunity to discuss human rights, and particularly the condition of the Ukraine, a captive nation in the Soviet Empire.

Let the world never doubt our commitment to the right of peoples to self-determination and independence. Let us never abandon hope that captive nations will someday be free. The issue here is so clear that there can be no doubts.

However, I believe it is time for us to devote serious consideration to other aspects of the "human rights" crusade which President Carter has made a centerpiece of his foreign policy. It is a worldwide venture that affects many nations, and disturbing questions continue to arise.

For example, how far should we trespass into the internal affairs of other

nations? What are the practical limits beyond which we arouse nationalistic resentment against the United States, even by people being oppressed in other lands? To what degree can we risk disrupting out relationships with nations that have been loyal American allies in the struggle to prevent world domination by the Soviet Union? And what, precisely, do we mean when we are talking about human rights?

The later question is of great importance. If there is one great fault with the crusade as it is being waged by President Carter, it is his tendency to speak grandly of human rights without defining them. This causes problems because collectivist societies define human rights differently than societies committed to individual freedom.

In America, we believe in representative government; in freedom of speech, press, assembly and religion; the right of the individual to own property; freedom from warrantless searches, seizures, and arrests, and the right to trial by jury. The number of nations in the world which supports those "human rights" is relatively small.

In the Soviet Union and other Communist countries, however, there is nothing resembling our concept of the rights of individuals. The Communists refer only to rights of citizens to housing, food, and medical care provided by a government that totally controls their lives. The Soviet citizen is entitled to virtually no human rights at all.

In the United Nations, we frequently hear Third World countries referring to human rights as a "New World Economic Order" in which wealth is to be transferred from America to them. This definition of human rights comes mostly from dictators who suppress the individual freedom of their people in varying degrees.

Therefore, for President Carter to speak broadly of "human rights" without defining the term does not necessarily serve the cause of individual freedom. If we are not explicit in what the term means, we allow the enemies of individual freedom to distort the term and justify the oppression of their people.

I have confidence that President Carter believes it is the destiny of America to advance the cause of individual freedom, to persuade other countries to free their citizens to exercise the rights that we enjoy. We support him in that endeavor.

But I would urge him to use greater precision in defining and emphasizing those rights before the world.

GEORGE V. CASTAGNOLA HONORED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. LAGOMARSINO. Mr. Speaker, it is my great pleasure to call the attention of the House to a distinguished citizen living in my congressional district who exemplifies the legend of the American success story. On Saturday, January 28, 1978, friends and family of George V. Castagnola will gather at the Earl Warren Showgrounds in Santa Barbara, Calif., to honor this native son and most extraordinary citizen.

George Castagnola, one of five sons, was born March 2, 1908, in Santa Barbara to Italian immigrant parents. As a youth he enjoyed a career in baseball, first as high school team captain and then athletic director. This lead him into semi-pro baseball with the Pacific Coast League. In 1928 he joined his brother, Mario, as a commercial fisherman. He recalls peddling fish door to door when the banks closed for 3 days. As the years passed the Castagnola brothers built a fleet of fishing boats and expanded their business by adding a fleet of refrigerated trucks to supply restaurants, hotels, and markets. From fishing they entered the restaurant business, becoming proprietors of the Lobster House.

Over the years, the name of George Castagnola has become synonymous with community leadership. Among his many roles are: President and manager of the Santa Barbara Wharf Co.; president and manager of Santa Barbara Offshore Services; secretary-treasurer of Waterfront Restaurants, Inc.; member of the board of directors, Imperial Savings and Loan Association; president of Native Sons Building Corp.; member of the board of directors of Catholic Welfare Bureau; member of the executive committee of the USO; member of the board of directors of Old Spanish Days; past president of the 19th Agricultural District; president of the Pescatore Club; member of the board of St. Vincent's School; chairman, Fund Development Committee of St. Francis Hospital; member of the advisory board, National Alliance of Businessmen; member of Cleft Palate Committee for Native Sons; director on St. Francis Hospital Board; member of civilian advisory committee, Vandenberg Air Force Base.

A prestigious list of honors bestowed upon him includes: "Man of the Year" in 1955; president of the Native Sons of the Golden West; president of the Catholic Welfare Bureau; president of Old Spanish Days; chairman of the United Fund; chairman of the Salvation Army; chairman of the Recreation Commission of Santa Barbara for 6 years; chairman of the National Alliance of Businessmen.

Without question, the main reason for the testimonial dinner is the spontaneous feeling of gratitude and appreciation by those he has helped over the past years in his own quiet way. When the call for help goes out, the one to respond with all generosity is George Castagnola. If his philosophy of life were known it must surely be "help to the deserving."

Proceeds of the testimonial dinner are to be donated to the St. Francis Hospital building fund.

Because of this long and distinguished career I ask the Members of the House to join with me, his wife Rena, his daughters Virginia Hunter and Renee Sanudo his brothers Babe, Mario, and Lino in paying tribute to a man always to be remembered by the community of Santa Barbara.

ANNUAL CORPORATE TAX STUDY, TAX YEAR 1976

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. VANIK. Mr. Speaker, I want to insert in the RECORD today, the results of my sixth annual corporate tax study. This report is a detailed examination into the taxes paid by American corporations and their effective Federal income tax rates.

This study, covering tax year 1976, examines 168 companies. These include 108 industrial, 7 mining, 8 airline, 9 railroad, 5 trucking, 13 utility, 8 retailing, and 10 commercial bank companies. Because a few did not furnish data adequate for computation, some categories of taxes or rates could not be computed.

Where sufficient data made computations possible, the average effective U.S. tax rate on worldwide income of the corporations was approximately 13.04 percent, down significantly from the 21.3-percent rate in tax year 1975. In order to qualify for a tax rate this low, an average family of four could only have earned $20,500. The companies listed in this study had a pretax income of more than $38.7 billion.

The figures show that 17 companies paid nothing in effective Federal income taxes in tax year 1976—6 more than tax year 1975—despite combined total worldwide net incomes of more than $2,594,060,000—table I. The 17 companies accumulated tax credits of more than $375 million. In some cases, however, companies paid no taxes because they sustained net losses. In other cases, some companies will claim to have "paid" Federal taxes, but their credits exceed taxes, resulting in no effective payment and an effective tax rate of zero.

Forty-one companies in the study paid less than 10 percent in effective Federal income taxes in 1976. This compares with a total of 27 companies in the previous tax year—table II.

Mr. Speaker, I have made these latest tax year figures public in the hope that full knowledge of the effective rates will encourage both the Congress and the average American taxpayer to work harder toward real "tax reforms." By "tax reform," however, I do not necessarily mean tax reduction. I mean altering the present system to assure justice, efficiency, and simplicity for all taxpayers.

We must keep in mind that the basic reason for a Federal income tax is to raise money for the operation of the Government. As much as all of us would like to forego taxes completely, they are indeed the price we pay for a civilized society.

As a member of the House Ways and Means Committee where Federal tax legislation originates, I believe it is imperative that we know which sectors pay taxes and which ones receive the direct benefits of "tax expenditures" through special benefits or provisions. Only through such knowledge of the effective-

ness of the present tax system can the committee and the Congress make reasoned decisions in the future.

This study concentrates largely on U.S. Federal income taxes. The companies involved would all hasten to assure us, however, that they actually pay much more in taxes than indicated here, counting sales, excise, State, regional, and other taxes. However, because individuals are also subject to such non-Federal taxes, the exclusion of these taxes in this study is justified. Moreover, these non-Federal tax expenses are fully deductible by corporations as regular operating costs.

Mr. Speaker, I want to make clear again, as I have each year, that these companies are able to reduce their taxes through entirely legal means. Companies, just like individuals, take advantage of every tax provision they can to lower their taxes. They are foolish if they do not.

The problem, however, is that while many of these provisions had initially admirable motives—usually to stimulate jobs—they often outgrow their intentions and turn into plain subsidies from the Federal Government. It is also my experience that once a tax incentive or "stimulant" is enacted into law and made a part of the tax code, it is very difficult, if not impossible, to remove the provision or decrease its drain on the Treasury. There is no such thing as a "temporary" tax code alteration.

Additionally, although individual taxpayers have some special tax reducing provisions, it unfortunately seems that one must get richer and richer in order to enjoy the dozens of tax avoidance schemes that have come to be part of the U.S. tax code.

Mr. Speaker, although some parts of the tax code have undergone changes, the Federal corporate income tax rate has remained the same (although the tax bill to be considered in this Congress contemplates reducing it several points). The statutory U.S. corporate tax rate on worldwide income has been 48 percent since 1965. In the case of U.S. companies operating in countries other than the United States, however, the tax code allows a "foreign tax credit" for taxes paid abroad on the premise that it is not fair to tax the same income twice—once abroad and again when it is brought back to the United States. Multinational oil companies have had until a recent IRS ruling, the extra benefit of treating foreign "royalties," really oil purchase costs, as "taxes."

The foreign tax credit, which directly reduces the taxes of American multinationals, has become a hotly debated subject. Why should not foreign taxes be treated simply as a cost of doing business? Such a change would allow a taxpayer to deduct foreign taxes—in a similar manner as he deducts State and local taxes—and at considerably less cost to the Federal Treasury.

Partially because of this disincentive effect of the foreign tax credit, American corporations are encouraged to operate abroad where they pay much more to foreign governments in taxes than they

TABLE I.—CORPORATIONS PAYING NO EFFECTIVE FEDERAL INCOME TAXES, 1976

	Thousands				Percent effective U.S. tax rate on worldwide income [5]
	U.S. income before tax [2]	Foreign income before tax [2]	Worldwide income before tax [1]	Current U.S. tax expense [4]	
United States Steel	NA	NA	518,000	(23,400)	0
Bethlehem Steel	NA	NA	182,000	(36,000)	0
LTV	NA	NA	20,359	0	0
ARMCO Steel	43,319	57,171	100,490	(5,884)	0
National Steel	63,091	0	63,091	(44,500)	0
General Dynamics	122,082	39,764	161,846	(70,062)	0
Republic Steel	NA	NA	30,394	(61,775)	0
Singer	NA	NA	107,300	0	0
Phelps Dodge	NA	NA	45,073	(6,500)	0
Texas Gulf	NA	NA	97,164	(1,100)	0
American Airlines	78,133	0	78,133	0	0
Eastern Airlines	46,239	0	46,239	0	0
Pan Am World Airlines	NA	NA	100,311	0	0
The Southern Co	385,147	0	385,147	(22,988)	0
Pacific Gas & Electric	291,776	0	291,776	(75,000)	0
Phil. Electric Co	222,713	0	222,713	(13,537)	0
The Chase Manhattan Corp	NA	NA	144,024	(14,991)	0
Total	1,252,500	96,935	2,594,060	(375,737)	0

TABLE II.—CORPORATIONS PAYING 10 PERCENT OR LESS IN EFFECTIVE FEDERAL INCOME TAXES, 1976

	Thousands				Percent effective U.S. tax rate on worldwide income [5]
	U.S. income before tax [2]	Foreign income before tax [2]	Worldwide income before tax [1]	Current U.S. tax expense [4]	
American Electric Power Co., Inc	337,428	0	337,428	93	NIL
Lockheed Aircraft	NA	NA	93,400	100	.1
Union Pacific Corp	260,381	0	260,381	516	.2
Esmark	87,150	27,748	114,898	900	1.0
Gulf & Western Industries	NA	NA	281,182	2,700	1.0
Uniroyal	(1,812)	36,405	34,593	355	1.0
AMAX	NA	NA	137,318	1,878	1.4
Chemical New York Corp	NA	NA	107,683	1,722	1.6
Public Service Electric & Gas Co	303,910	0	303,910	6,265	2.0
Allied Chemical	140,844	28,612	169,456	3,495	2.1
Standard Oil (Ohio)	155,933	25,299	181,292	3,753	2.1
United Parcel Service of America	39,328	0	39,328	865	2.2
TWA	NA	NA	60,415	1,659	2.7
Commonwealth Edison	391,817	0	391,817	10,908	2.8
Consolidated Edison of New York, Inc	442,553	0	442,553	15,300	3.6
Manufacturer's Hanover Corp	NA	NA	210,170	7,980	3.8
Occidental Petroleum	NA	NA	731,313	30,911	4.2
Banker's Trust New York Corp	NA	NA	73,818	3,182	4.3
Citicorp	NA	NA	624,352	28,000	4.5
Mobil	928,088	2,833,125	3,761,213	168,830	4.5
Delta Airlines	106,876	0	106,876	6,102	5.7
Reynolds Metals	NA	NA	75,241	4,605	6.1
First Chicago Corp	NA	NA	157,640	10,000	6.3
United Brands	NA	NA	28,065	1,772	6.3
Sperry Rand	NA	NA	274,933	17,900	6.5
Litton Industries	NA	NA	38,414	2,539	6.6
Braniff International	35,322	0	35,322	2,336	6.6
Gulf	676,000	1,554,000	2,230,000	155,000	7.0
Marathon Oil	248,102	339,020	587,122	41,100	7.0
Western Bancorporation	NA	NA	106,375	7,621	7.2
Chessie System, Inc	NA	NA	110,421	8,213	7.4
International Telephone & Telegraph	NA	NA	612,936	45,093	7.4
Chrysler	NA	NA	508,100	38,100	7.5
Exxon	2,350,616	5,119,000	7,469,616	594,000	8.0
Seaborad Coastline Ind., Inc	96,328	0	96,328	7,761	8.1
Texaco	NA	NA	1,415,671	122,100	8.6
Freeport Minerals	NA	NA	77,404	6,931	9.0
Raytheon	145,911	6,284	152,195	13,903	9.1
Union Carbide	505,800	207,500	713,300	65,000	9.1
A.T. & T	6,398,505	0	6,398,505	604,742	9.5
NW Airlines	NA	NA	95,316	9,241	9.7
Total			29,626,300	2,053,471	6.9

pay to our own Government. The companies in this study paid approximately $17.9 billion to foreign governments while only about $13.9 billion was paid to the U.S. Government. This figure does represent a significant improvement over tax year 1975 when the foreign to domestic ratio was almost 2:1, but still presents an astounding statistic.

Mr. Speaker, although tax returns are confidential and must be kept that way, it is important that all of us have an idea of how and how much Federal income tax American-chartered companies pay. American companies enjoy all the protections provided by the Federal Government; it is only right that they share the cost of running the government with nonbusiness taxpayers. Individual taxpayers should have the opportunity to gauge where corporate taxes are heading as compared to their own taxes.

Since actual tax returns are not available, the figures in this report are derived from two public sources: annual financial reports to stockholders of the various companies, and separate annual reports required by the Securities and

Exchange Commission. Accordingly, the figures in this report are only approximations. In cases where computations had to be made without full statistics available, the benefit of the doubt was given to the corporate taxpayer. This extra-conservative approach means that if anything, actual taxes paid by the companies were even less than shown here. Actual effective tax rates for the companies, correspondingly, are probably even lower than shown here.

Additionally, these corporations probably tend to maximize taxes paid and minimize their income figures in their public reports. This again means that most all the figures contained in this study overstate taxes paid by American corporations.

The entire job of calculating income, taxes, and effective rates is complicated enormously by the fact that corporations use two separate and different systems to account for their finances. One method is used for "accounting" purposes, while another is used for "tax purposes".

Mr. Speaker, this study makes it possible for us to look at 8 consecutive years of effective tax rates by U.S. corporations. Although it does add considerable length to this sixth annual study, I am including in the statistics effective tax rates for all years back to 1969. The rates, by sector, are summarized in table IV. Only a minimum of data from tax years previous to 1976 was included. Footnotes, for example, often a full half of the printed study, were excluded intentionally except for tax year 1976.

SIGNIFICANCE OF FINDINGS

Mr. Speaker, this annual corporate tax study drives home further the points I have made in previous studies:

First. Federal budget receipts from corporate income taxes continue to decline. While corporate income taxes amounted to almost 25 percent of Federal receipts in 1967, this latest study shows corporate receipts have declined to 13.04 percent of Federal receipts for 1976. (Table III).

Second. Tax year 1976 figures show a drastic decrease in effective Federal income taxes. While my previous studies indicated an effective rate of over 28 percent as recently as 1972, the figure has steadily declined to only 13.04 percent.

Third. Individual taxes and social insurance taxes and contributions have gone up. The recent large increase of social security taxes tends to flatten the overall progressive tax rate schedule and further exaggerates the disparity between individuals' and corporations' taxes. Individuals contributed more than 3 times as much to Federal budget receipts as American corporations did in 1976.

Fourth. While last year's study showed an enormous disparity between taxes paid by American corporations abroad and those paid to the United States, tax year 1976 figures show a large decline in taxes paid to foreign governments.

Fifth. Oil and gas companies—see table V—continue to be able to reduce their Federal income taxes drastically.

TABLE III.—FEDERAL BUDGET RECEIPTS BY MAJOR SOURCE

Major source	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	Transition Quarter	1977 est.
Total receipts, by source	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Individual income taxes	41.1	44.7	46.5	46.7	45.8	45.4	44.4	44.9	43.6	43.9	47.4	43.2
Corporation income taxes	22.7	18.7	19.5	16.9	14.2	15.4	15.7	14.6	14.5	13.8	10.3	16.0
Social insurance taxes and contributions	22.3	22.5	21.3	23.4	25.8	25.8	30.5	31.67	30.8	30.9	31.5	30.8
Excise taxes	9.2	9.2	8.1	8.1	8.8	7.4	4.2	3.7	5.9	5.7	5.5	5.0
Customs, estate and gift taxes	3.3	3.3	3.1	3.1	3.4	4.2	3.5	3.2	2.9	3.0	3.3	3.0
Miscellaneous receipts	1.4	1.6	1.5	1.8	2.6	1.7	1.7	2.0	2.3	2.7	2.0	2.0

TABLE IV.—EFFECTIVE FEDERAL INCOME TAX RATES BY SECTOR, 1969-76

	1969	1970	1971	1972	1973	1974	1975	1976
Industrials and mining	NA	NA	NA	29.2	24.8	24.8	24.8	18.8
Transportation	0	0	18.9	12.8	15.1	16.3	22.4	14.2
Utilities	41.7	36.2	29.3	36.5	18.0	14.1	4.8	8.3
Retailing	44.6	40.6	39.2	41.5	33.5	33.0	37.7	36.9
Commercial banks	31.7	27.4	31.4	14.4	9.6	11.7	11.2	8.0
Oil and gas	5.8	10.1	6.1	7.9	9.6	7.6	8.95	9.3
Average—all companies	26.9	25.8	24.4	28.6	24.9	22.6	21.3	13.04

The 1976 tax year study shows 14 such companies paying an effective 9.3 percent in U.S. income taxes on worldwide income. While the foreign taxes paid on foreign income are extremely high, using this figure is extremely misleading because of the companies' extensive utilization of foreign tax credits derived from royalties.

Sixth. Commercial banks continue to reduce their effective Federal income tax load. As I outlined in the CONGRESSIONAL RECORD on August 18, banks in the 1975 tax year study reduced their taxes by increasing foreign operations and taking advantage of the foreign tax credit. This operations shift has led to a decline in bank investment in State and municipal bonds and has forced municipalities to increase interest rates in order to raise the revenue they need.

Mr. Speaker, there is essentially no voting constituency for tax reform. All of us want to keep our own private loopholes, whether they are personal deductions, home interest deductions, or the investment tax credit or accelerated depreciation. Until we come to a national recognition that each of us must give up something in order to achieve tax reform, we will not achieve it. We must make up our minds that tax policy must be a national policy—not one determined by the strength and persistence of lobbyists.

But we also must look carefully at the trends that this and other reports indicate: Corporate taxes are continuing to decline while individuals' taxes go up. Where will this trend lead us and how soon will it be before all corporations are able to escape Federal income taxes entirely?

The trend toward diminishing corporate taxes indicates a phaseout of a substantial part of corporate taxation. President Carter's corporate tax reduction plans must be studied in relation to this effect.

A 1-percent reduction in the statutory rate may well result in a 2-percent reduction in effective tax rates. The President's proposal could possibly result in exempting almost one-half of America's major corporations from Federal income taxation. Can America afford this kind of wholesale freeloading?

The effective tax rates, explanatory charts and footnotes, follow:

STUDY OF THE EFFECTIVE 1976 INCOME TAX RATES OF SELECTED LARGE U.S. CORPORATIONS

PREFACE

The effective rates of tax presented in this study are computed on the basis of information contained in the companies' annual reports to the Securities and Exchange Commission and shareholders. The financial statements included in such reports are prepared in accordance with generally accepted accounting principles, which in many instances are different than tax accounting rules. Accordingly, the income before tax, current tax expense and effective rates presented in this study are only approximations of the actual amounts reported in the companies' income tax returns. The following are some of the principal problems in estimating effective tax rates from published financial information:

Consolidation of subsidiaries

For financial statement purposes, companies generally consolidate subsidiaries which are more than 50-percent owned, including foreign subsidiaries. For Federal income tax purposes, however, generally only 80-percent or more owned domestic subsidiaries are eligible to be included in a consolidated income tax return. Thus, the "taxable entity" and the "financial statement entity" upon which this study is based may not be the same.

In financial statements the entire Federal income tax expense of all consolidated sub-

sidiaries is reported as though it were an income tax or refund wholly attributable to the majority interest of the consolidated group. However, the minority interest in the subsidaries' income or loss (perhaps as much as 49 percent) is eliminated net of tax. Thus, the consolidated financial statements often show the total tax expense of even 51-percent owned subsidiaries while eliminating the after-tax income attributable to the minority interest.

To compensate for this, the net income per financial statements was adjusted to reverse the elimination of the income or loss attributable to the minority interest.

Equity accounting for investments in affiliates and joint ventures

Generally, investments in affiliates (20 to 50 percent owned companies) and joint ventures are accounted for by the equity period. This method, which is sometimes called a one line consolidation, produces the same net income as does the consolidation method, but through a different technique. Under the equity method, the parent corporation's proportionate part of the "after tax" earnings of the affiliate or joint venture is shown on one line in the income statement. In a consolidation, all income and expense accounts, of the subsidiary are combined with those of the parent, and the minority interest is estimated as a single item.

Under the equity method the provision for income taxes generally does not include the tax attributable to the parent's equity in the net income or loss of the affiliate or joint venture. If the income or loss before tax, and related tax, of subsidiaries accounted for on the equity method were not separately disclosed, an adjustment was made to eliminate the equity income or loss from net income of the parent.

"Overstating" the provisions for Federal income taxes

Corporations may "overstate" the accrued Federal income tax liability, and thus overstate the provision to provide a "cushion" for potential increases in tax liability resulting from Internal Revenue Service examinations. Corporations "book" this "overstatement" because of the tendency to resolve doubtful items in the corporate favor while realizing that they may result in tax deficiencies on examination by the Internal Revenue Service. Because the amount of this "overstatement" of the provision for Federal income taxes cannot be determined from public information sources, no attempt was made in this study to adjust for this amount in arriving at the estimated current Federal income tax expense.

Interperiod tax allocation

If generally accepted accounting principles and tax accounting rules were exactly the same, then all corporations should show an effective rate of tax equal to the statutory rate before credits. The various differences between tax and financial accounting rules account for the variances in effective tax rates. Some of these differences are "timing differences" which will reverse in future periods, while others are "permanent differences" which will not reverse. Examples of timing differences include accelerated depreciation, completed contract method of accounting for long-term contracts, installment sale reporting, amortization of investment tax credit and provision for losses on discontinued operations. Examples of permanent differences include the 85 percent dividends received deduction and non-taxable municipal bond interest.

Interperiod tax allocation is an accounting concept which is based on the assumption that the vagaries of the tax law which result merely in timing differences should not affect the overall reported tax expense of the company in a given year. The concept provides in essence that the total tax expense for the period should be the statutory rate times income before tax (after allowing for permanent differences). Some portion of this expense will be due currently under the tax law while the rest will be due (or perhaps refundable) in the future. The portion which is due currently is termed "current tax expense" and the portion which is due (or refundable) in the future is termed "deferred tax expense".

It is sometimes difficult to determine whether a particular difference should be classified as a permanent difference or a timing difference. Realization of timing differences in the future may depend on the level of future profits or may be affected by the level of investment in plant assets or other factors. Subjective determinations are often required. No attempt was made to reclassify the companies' determinations.

Intraperiod tax allocation

This accounting technique results in showing the effect of taxes on the various sections of the income statement. For example, the tax expense or savings attributable to extraordinary items or discontinued operations is shown separately from that which is attributable to normal operations. Occasionally the extraordinary item is recognized for financial statement purposes in a period different than for tax purposes, which causes interperiod and intraperiod tax allocation rules to operate together.

For purposes of this study, whenever sufficient information was provided, all intraperiod taxes were aggregated by their current and deferred tax components.

	Approximate effective Federal income tax rate			1972 (approximate)—			1973 (approximate)—			1974 (approximate)—		
	1969	1970	1971	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income
INDUSTRIAL CORPORATIONS												
Exxon							2,982,000	333,000	11.2			
General Motors		24.6	48.2	3,579,773	1,595,392	44.6	3,907,300	1,750,000	44.8	1,493,391	272,214	19.9
Ford Motor	36.7	41.6	35.2				1,216,000	221,800	18.2	534,200	(56,700)	0
Texaco	.8	8.0	3.2	869,711	23,600	2.7	1,317,300	30,000	2.3	2,627,283	45,400	3.3
Mobil	7.2	16.8		589,413	17,300	2.9	873,027	43,500	5.0	3,718,412	58,500	5.3
Standard Oil of California	5.1	16.0		334,207	19,400	5.8	475,000	53,900	11.3	966,822	79,800	25.0
Gulf Oil	.6	1.9	4.9	233,000	12,000	5.2	749,000	23,000	3.1	4,047,000	190,000	14.0
General Electric	57.1	39.2		798,400	315,300	39.5	885,800	321,200	36.3	928,900	262,100	30.5
Chrysler	36.8		13.9	303,900	112,900	37.2	353,700	26,400	7.5			
International Telephone & Telegraph	14.4	4.2	4.9	376,383	3,686	1.0	469,966	47,397	10.1	655,906	57,868	16.4
Standard Oil (Indiana)	15.6	13.4	15.0	390,096	74,682	19.1	666,070	165,642	24.9	1,677,309	309,479	25.8
Shell Oil	1.6	11.2					444,021	112,680	25.4			
United States Steel (note 6)	2.1		7.6	157,988	23,200	14.7	425,700	77,300	18.2	1,081,700	271,300	29.0
Atlantic Richfield	1.8	5.0		211,901	16,141	7.6	313,276	36,276	11.6	919,736	56,640	10.5
E. I. du Pont de Nemours		43.1	42.2	693,300	290,000	41.8	921,200	344,500	37.4	660,300	183,600	30.2
Continental Oil		5.3	0	207,445	12,371	6.0	287,804	28,626	9.9	914,389	62,139	14.8
Western Electric (note 7)	53.7	45.3	43.9	537,980	217,649	40.5	587,000	243,024	41.4	579,754	195,835	33.8
IBM				1,842,268	562,580	30.5	2,238,467	690,900	30.9	3,434,639	895,844	33.6
Procter & Gamble	43.9	44.0	38.7	452,328	166,724	36.9	491,900	166,100	33.8	590,979	182,264	35.3
Tenneco	12.9	12.8		246,753	34,287	13.9	285,487	46,797	16.4	564,079	124,859	23.4
Union Carbide		20.6	18.6	320,900	67,100	20.9	441,800	104,400	23.6	892,400	145,200	21.0
Westinghouse Electric	39.9	25.9	29.1	288,888	91,494	31.7	241,749	25,445	10.5	235,777	69,044	33.9
Goodyear Tire & Rubber	35.6	21.2	24.5				270,991	38,002	14.0	289,201	33,416	15.5
Phillips Petroleum	22.5	25.8	14.3	164,650	39,221	23.8	231,027	42,830	18.5	711,938	127,553	25.2
Dow Chemical	26.8	32.2	22.5	229,342	62,337	27.2	330,000	96,100	29.1	984,764	273,200	34.2
Occidental Petroleum	0	1.4				0	80,503	1,425	1.8	785,808	5,000	1.6
International Harvester	25.3	26.1	35.1	77,037	14,043	18.2	78,328	36		178,308	32,770	28.0
Eastman Kodak	44.0	39.7		885,650	342,500	38.7	1,024,400	370,300	36.1	1,101,769	330,400	34.0
Sun Co		14.3	3.9	182,291	9,044	5.0	288,181	34,860	12.1	748,304	97,404	20.0
Union Oil of California	5.2	5.4		152,166	9,800	6.4	205,263	19,700	9.6	465,126	82,100	25.5
RCA (note 8)				257,525	91,937	35.7	303,200	100,600	33.2	190,300	23,300	13.9
Esmark (note 19)		11.7		55,575	14,200	25.6	76,100	24,300	31.9	63,488	22,100	40.5
Bethlehem Steel (note 6)				183,364	15,000	8.2	325,200	98,000	30.1	584,216	208,000	37.0
Rockwell International		45.6	47.4				219,724	83,434	38.0	230,000	60,500	28.9
United Technologies												
Caterpillar Tractor		41.7	35.7	312,339	100,672	32.2	340,500	107,600	31.6	339,800	104,200	33.3
Kraft	45.9	44.4	41.5				167,700	62,200	37.1	169,294	49,195	32.6
Beatrice Foods		46.7	43.7				192,272	74,829	38.9	250,336	85,910	38.4
LTV				18,579	1,300	7.0	65,171	800	1.2	170,118	1,400	less than 1%
Xerox	39.1	33.6	30.4	397,196	118,832	29.9	475,166	140,218	29.5	698,314	103,547	20.9
R. J. Reynolds Industries	50.8	47.4		420,995	160,832	38.2	421,938	100,251	23.8	750,965	192,171	36.5
Monsanto	39.2	9.3		184,289	65,991	35.8	350,200	130,600	37.3	543,500	158,700	32.6
Ashland Oil	31.4						136,892	53,165	38.8	159,929	30,430	22.1
General Foods	42.3	45.8	41.2				196,979	67,056	34.0			
Cities Service	15.2	17.0		126,254	32,662	25.9	188,477	49,500	26.3	282,167	77,700	28.6
Firestone Tire & Rubber	45.7	39.2	43.1				243,597	63,312	26.0	271,947	55,221	24.5
Boeing		95.9		24,805	10,000	40.3	57,800	30,100	52.1	102,432	22,100	21.6
Amerada Hess										421,914	66,444	26.1
Greyhound	25.9	19.2		87,839	36,114	41.1	118,271	45,088	38.1	86,928	34,885	40.1
W. R. Grace	32.2						107,289	16,331	15.2	146,898	40,806	24.0

	Approximate effective Federal income tax rate			1972 (approximate)—			1973 (approximate)—			1974 (approximate)—		
	1969	1970	1971	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income
INDUSTRIAL CORPORATIONS—Continued												
McDonnell Douglas	16.7	0	0			0	200,245	6,506	3.2	172,499	14,653	9.1
International Paper	26.5	58.1	15.4	144,074	35,518	24.7	225,100	39,900	17.7	427,300	129,200	34.6
Minnesota Mining & Manufacturing	35.4	28.2					450,457	150,700	33.5	539,368	136,500	30.2
Colgate-Palmolive				86,871	19,330	22.3	107,378	22,748	21.2			
Marathon Oil										474,209	44,200	21.3
Continental Group												
Gulf & Western Industries	15.4		0				71,028	5,400	7.6	109,344	11,500	20.0
Ralston Purina	46.0	43.7	38.3							164,391	54,900	36.1
Borden		32.6					118,375	42,578	36.0	151,708	51,400	36.6
Litton Industries	26.0	29.5	22.5				54,967	17,257	31.4			
Lockheed Aircraft (note 10)										34,900		0
Sperry Rand		41.1	34.9				149,202	38,725	26.0			
Armco Steel (note 6)		5.6	9.8							344,529	87,072	28.1
American Can	31.6	34.8					113,823	24,824	21.8	166,606	54,062	35.6
Philip Morris										260,340	79,274	32.0
Deere										254,822	55,100	23.1
Getty Oil	12.5	16.2	12.4	129,525	18,367	14.2	183,925	25,247	13.7	592,755	69,551	18.1
Georgia-Pacific (note 11)	17.5	4.2		163,240	34,480	21.1	269,350	74,640	27.7	252,850	58,500	23.1
Coca-Cola	31.4	28.7					288,764	69,119	23.9	356,485	40,055	16.6
Bendix		36.8	18.2	93,202	34,997	37.6	101,600	24,900	24.5	144,200	42,000	35.2
TRW	48.4	44.2					137,058	41,990	30.6	177,105	43,136	28.8
Aluminum Co. of America	29.2	8.6	0	84,820	7,713	9.1	126,965	27,419	21.6	286,425	76,360	30.0
Standard Oil (Ohio)	41.1	0					113,008	3,937	3.5	180,045	17,530	10.8
Champion International							136,306	42,940	31.5	142,355	24,125	19.5
Weyerhaeuser	19.4	19.6		211,541	49,940	23.6	474,852	134,700	28.4	405,197	113,500	29.7
National Steel (note 6)	22.1		23.9	116,313	42,900	36.9	150,680	54,700	36.3	311,595	129,150	41.4
Pepsico										145,883	31,252	24.8
Consolidated Foods	45.8	32.3	37.5	103,344	36,157	35.0	118,448	39,124	33.0	123,985	34,047	30.9
CPC International	29.7	27.5					103,747	29,668	28.6	186,770	34,315	24.8
American Brands	44.6	42.2					231,556	87,277	37.7	277,452	91,109	38.7
General Mills												
Allied Chemical	4.4	9.5					127,967	22,727	17.8	222,887	37,809	18.3
Textron	49.9	46.7		147,141	62,200	42.3	157,622	72,442	46.0	175,670	53,492	31.9
Owens-Illinois	37.4	36.5	24.7	90,797	18,097	19.9	154,772	26,486	17.1	129,014	17,220	16.4
General Dynamics (note 9)							64,953	16,965	26.1	87,979	25,589	33.1
Republic Steel (note 6)	25.4					0				278,131	106,736	38.5
Johnson & Johnson										280,668	54,411	25.0
Honeywell	39.7	26.0		143,243	12,232	8.5	151,522	26,363	17.4	102,247	(2,218)	0
American Home Products	48.0	46.7		309,613	120,263	38.8	347,862	148,701	42.7	439,167	123,062	32.3
Raytheon							81,658	36,396	44.6	103,880	37,209	36.8
Signal Co			0				85,787	14,738	17.2	290,365	93,921	33.8
Inland Steel (note 6)										257,712	93,075	37.0
Warner-Lambert	33.1	34.5		177,412	56,783	32.0	188,838	50,628	26.8	260,873	38,741	19.5
American Motors										42,789	2,767	8.0
Uniroyal	27.6			80,187	6,882	8.6	55,725	3,618	6.5	80,746	9,397	15.2
NCR							91,819	8,249	9.0			
FMC	41.3	32.7		73,016	22,830	31.3	92,990	18,594	20.0	76,201	11,297	15.9
Burlington Industries	47.6	53.7	47.4				145,623	61,380	42.1	168,659	70,067	43.0
United Brands	1.2											
PPG Industries												
Singer (note 10)	36.6	19.0	15.4	110,200	37,500	34.0	84,000	20,500	24.4			
Reynolds Metals										161,015	30,951	21.2
B. F. Goodrich	25.1	19.9		86,299	13,945	16.2	87,939	27,151	30.9			
Teledyne		31.3					73,459	38,400	52.3	123,816	43,500	36.8
American Standard				42,507	7,450	17.5	48,000	6,100	12.7	73,669	10,184	17.4
Whirlpool	49.8	57.1		122,002	56,457	46.3	152,788	69,184	45.3	36,208	13,101	36.2
U.S. Industries	42.7	35.7	37.6	121,212	43,537	35.9	98,611	18,322	18.6	25,320	(2,828)	0
Boise Cascade	15.4	7.2								161,611	51,752	35.5
MINING CORPORATIONS												
International Minerals & Chemical							73,614	5,241	7.1			
AMAX							130,510	26,270	20.1	187,730	11,970	7.2
Kennecott Copper (note 12)							211,980	800	.4	331,750	42,450	14.4
Phelps Dodge							174,489	62,700	35.9	142,378	26,600	18.9
St. Joe Minerals							46,097	11,797	25.6	135,543	38,527	28.9
Texas Gulf							67,442	0	0	269,342	10,300	6.1
Freeport Minerals							23,958	0	0	58,769	12,298	20.9
TRANSPORTATION CORPORATIONS												
Airlines (note 13)												
Trans World Airlines		0	0	43,497	(857)	0	58,583	(137)	0			
United Airlines	3.4		0	32,445	(148)	0	98,711	0	0	215,772	18,216	8.5
American Airlines										26,769		0
Eastern Airlines	0	0	0	59,178	0	0				17,617		0
Pan American World Airways			0									
Delta Air Lines	4.9	12.5		67,686	3,310	4.9	115,074	24,951	21.7	159,297	13,763	8.6
Northwest Airlines	21.1			17,253	(6,174)	0	54,130	6,298	11.6	94,411	4,993	5.2
Braniff International												
Railroads												
Union Pacific Corp	13.7			139,560	16,619	11.9	197,563	32,886	16.6	178,763	42,477	23.8
Southern Pacific Co	18.8	9.7	13.4	162,833	15,807	9.7	157,012	16,870	10.7	160,830	22,160	13.8
Burlington Northern Inc		4.1			(19)	0	59,335	7,716	13.0	101,443	16,888	16.6
Santa Fe Industries, Inc	7.5	7.7		119,391	15,900	13.3	144,381	18,700	13.0	168,951	24,500	14.5
Seaboard Coastline Industries, Inc												
Chessie System, Inc	1.4	6.3		39,463	5,787	14.7	96,816	12,487	12.9	165,129	31,922	19.9
Missouri Pacific Corp	11.2	2.4	9.2	31,970	3,201	10.0	49,317	6,433	13.0	72,694	13,609	18.7
Norfolk & Western Railway Co			1.2	56,714	13,320	23.5	106,574	12,638	11.9	171,900	28,609	16.6
Southern Railway Co		17.5		100,844	15,153	15.1	106,154	9,626	9.1	137,834	20,405	14.8
Trucking Companies												
United Parcel Service of America, Inc												
Consolidated Freightways, Inc	43.5	52.7					25,925	19,402	74.8	47,076	14,790	33.7
Roadway Express, Inc		48.7	54.8	46,052	20,594	44.7	48,506	22,074	45.5	60,313	25,882	42.9
Leaseway Transportation Corp	14.8		18.3				31,873	7,539	23.7	28,741	6,166	21.5
Yellow Freight System, Inc	38.1	37.3	44.9				33,028	11,385	34.5	44,636	15,718	35.2
UTILITY CORPORATIONS												
American Telephone & Telegraph Co	46.0	41.5	32.5	3,980,821	1,231,511	30.9	4,728,847	951,573	20.1	5,053,198	678,407	13.4
General Telephone & Electronics Corp												
The Southern Co. (note 14)												

	Approximate effective Federal income tax rate			1972 (approximate)—			1973 (approximate)—			1974 (approximate)—		
	1969	1970	1971	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income
Pacific Gas & Electric Co. (note 15)				276,249	60,905	22.0	299,520	49,046	16.4	293,538	34,995	11.9
American Electric Power Company, Inc. (note 16)	23.0	13.2	4.5	168,103	(6,708)	0	194,285	(8,920)	0	163,749	(19,297)	0
Consolidated Edison Co. of New York, Inc	5.1		3.3	144,781	(1,091)	0	203,319	(744)	0	225,325	100	Less than 1%
Commonwealth Edison Co	33.8	27.1		260,389	32,763	12.6	285,604	29,200	10.2	273,715	27,479	10.0
Southern California Edison Co	24.6	22.3	22.2		(1)		184,030	40,189	21.8	328,154	113,806	34.7
Public Service Electric & Gas Co												
Philadelphia Electric Co. (note 14)												
The Columbia Gas System, Inc	33.8	33.6	23.5	151,762	27,163	17.9	170,974	39,053	22.8			
Texas Eastern Transmission Corp	13.9	23.3	25.9		(2)		127,092	20,438	16.1	158,551	44,418	29.1
The El Paso Co. (note 17)	28.1	20.1	27.2	105,979	27,657	26.1	105,134	4,758	4.5	173,037	56,318	32.5
RETAILING CORPORATION												
Sears, Roebuck & Co. (notes 11 and 18)		42.1	42.4	748,200	317,200	42.4	817,400	299,451	36.6	596,498	201,000	33.7
Safeway Stores, Inc	49.0	49.8	48.6				129,872	41,114	31.7	87,223	29,985	49.8
J. C. Penney Co., Inc. (note 11)	43.7	38.2	33.5	261,623	127,620	48.3	259,900	91,600	35.8	146,475	59,800	40.8
S. S. Kresge Co												
The Great Atlantic & Pacific Tea Co., Inc	38.7	41.5	37.9				18,777	3,168	16.9			
The Kroger Co	40.9	44.2	38.0	15,693	4,103	26.1	36,013	8,340	23.2	72,268	23,225	32.1
Federated Department Stores	47.7	47.6	44.5	175,197	86,346	49.3	206,555	87,996	42.6	216,889	91,355	42.1
Rapid-American Corp	21.0	35.0	34.2				52,608	7,300	13.9			
COMMERCIAL BANKING CORPORATIONS												
BankAmerica Corp	39.0	31.7								365,540	30,000	9.9
Citicorp	16.9	19.6	28.6	264,844	63,678	24.0	306,019	43,000	14.3	512,295	48,401	13.9
The Chase Manhattan Corp. (note 19)	36.7	25.9		159,568	8,671	5.4	170,691	4,185	2.5	235,487	4,973	2.9
Manufacturers Hanover Corp	42.6	35.0		95,102	2,826	3.0	131,568	20,376	15.5	201,750	24,241	13.9
J. P. Morgan & Co., Inc	30.7	27.4					191,931	40,650	21.1	250,535	37,710	17.7
Chemical New York Corp	39.4	33.1	31.1				94,765	(4,739)	0	97,046	20,648	24.3
Bankers Trust New York Corp	22.6	33.7					51,673	(8,029)	0	84,002	3,026	4.8
Continental Illinois Co	19.6	22.8	25.5				105,818	(2,312)	0	145,971	5,280	4.1
First Chicago Corp												
Western Bancorp	23.7	15.5					97,730	(1,802)	—0			

	1975 (approximate)—			1976									
				Thousands						Percent			
	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on worldwide income	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[1]	Current U.S. tax expense[4]	Current foreign tax expense[4]	Current worldwide tax expense[3]	Effective U.S. tax rate on U.S. income[5]	Effective rate on foreign income[5]	Effective worldwide tax rate on worldwide income[5]	Effective U.S. tax rate on worldwide income[5]
INDUSTRIAL CORPORATIONS													
Exxon	9,991,125	800,000	22.7	2,350,616	5,119,000	7,469,616	594,000	4,173,000	4,767,000	25.3	81.5	63.8	8.0
General Motor	2,112,053	856,986	44.3	4,220,196	837,804	5,058,000	2,007,200	335,300	2,342,500	47.6	40.0	46.3	39.7
Ford Motors	412,700	(132,300)		(*)	(*)	1,580,700	195,300	322,200	517,500	(*)	(*)	32.7	12.3
Texaco	1,223,590	32,000	9.2	(*)	(*)	1,415,671	122,100	690,900	813,000	(*)	(*)	57.6	8.6
Mobil	3,034,528	12,800	1.8	928,088	2,833,125	3,761,213	168,830	2,452,320	2,621,150	18.2	86.6	69.7	4.5
Standard Oil of California	782,465	70,200	28.4	586,496	391,721	978,217	166,822	288,888	455,710	28.4	73.8	46.6	17.1
Gulf Oil	2,712,000	49,000	6.0	676,000	1,554,000	2,230,000	155,000	1,123,000	1,278,000	22.9	72.3	57.3	7.0
General Electric	867,300	230,500	29.5	961,500	592,300	1,553,800	407,200	253,500	660,700	42.4	42.8	42.5	26.2
Chrysler				(*)	(*)	508,100	38,100	56,000	94,100	(*)	(*)	18.5	7.5
International Telephone & Telegraph	632,337	50,697	14.3	(*)	(*)	612,936	45,093	245,664	290,757	(*)	(*)	47.5	7.4
Standard Oil (Indiana)	1,940,738	351,900	29.8	1,174,345	1,005,423	2,179,768	371,200	787,600	1,158,800	31.6	78.3	53.2	17.0
Shell Oil	867,729	312,081	36.0	(*)	(*)	1,223,566	461,822	401	462,223	(*)	(*)	37.8	37.7
United States Steel (note 6)	823,600	153,900	19.3	(*)	(*)	518,000	(23,400)	13,500	(9,900)	(*)	(*)		
Atlantic Richfield	828,622	70,100	14.0	710,392	252,863	963,255	110,000	201,451	311,451	15.5	79.7	32.3	11.4
E. I. du Pont de Nemours	438,900	132,300	30.3	(*)	(*)	806,200	200,800	21,100	221,900	(*)	(*)	27.5	24.9
Continental Oil	985,070	87,561	18.7	553,068	764,260	1,317,328	184,836	608,739	793,575	33.4	79.7	60.2	14.0
Western Electric (note 7)	185,610	(4,291)		366,327		366,327	124,927		124,927	34.1	NA	34.1	34.1
IBM	3,720,877	766,300	27.8	2,076,539	2,442,554	4,519,093	986,340	1,219,174	2,205,514	47.5	49.9	48.8	21.8
Procter & Gamble	621,630	197,914	35.3	594,021	144,025	738,046	253,839	54,549	308,298	42.7	37.8	41.8	34.4
Tenneco	579,401	92,969	18.1	(*)	(*)	647,700	140,900	26,200	167,100	(*)	(*)	25.8	21.8
Union Carbide	730,500	115,000	20.6	505,800	207,500	713,300	65,000	48,800	133,800	12.9	23.5	16.0	9.1
Westinghouse Electric	249,855	35,918	16.9	(*)	(*)	328,445	62,611	38,683	101,294	(*)	(*)	30.8	19.1
Goodyear Tire & Rubber	304,408	70,835	29.2	187,921	68,405	256,326	52,995	52,970	105,965	28.2	77.4	41.3	20.7
Phillips Petroleum	711,012	110,527	25.0	484,180	486,674	970,854	164,199	347,356	511,555	33.9	71.4	52.7	16.9
Dow Chemical	1,009,127	262,200	29.5	(*)	(*)	967,112	230,500	105,800	336,300	(*)	(*)	34.8	23.8
Occidental Petroleum	602,763	7,000	3.7	(*)	(*)	731,313	30,911	503,403	534,314	(*)	(*)	73.1	4.2
International Harvester	129,707	14,901	24.3	187,392	118,390	305,782	50,112	54,022	104,134	26.7	45.6	34.1	16.4
Eastman Kodak	1,051,044	280,850	30.5	878,530	237,838	1,116,368	333,100	116,650	449,750	37.9	49.0	40.3	29.8
Sun Co	604,536	60,527	17.3	562,066	122,661	684,727	198,482	97,467	295,949	35.3	79.5	43.2	29.0
Union Oil Co. of California	441,332	70,200	22.7	363,167	135,565	498,732	123,100	114,800	237,900	33.9	84.7	47.7	24.7
RCA (note 8)	176,300	44,400	27.4	308,100	8,800	316,900	82,300	17,800	100,100	26.7	202.3	31.6	26.0
Esmark (note 19)	65,711	20,800	34.3	87,150	27,748	114,898	900	12,900	8,600	1.0	46.5	7.5	1.0
Bethlehem Steel (note 6)	267,000	(32,000)	0	(*)	(*)	182,000	(36,000)	20,000	(16,000)	(*)	(*)	0	0
Rockwell International	169,400	45,100	30.6	173,100	55,100	228,200	34,200	27,100	61,300	19.8	49.2	26.9	15.0
United Technologies				216,237	108,378	324,615	93,507	55,704	149,211	43.2	51.4	46.0	28.8
Caterpillar Tractor	617,100	196,100	34.1	(*)	(*)	622,600	191,000	61,500	252,500	(*)	(*)	40.6	30.7
Kraft	257,505	87,682	37.6	(*)	(*)	263,958	90,860	24,949	115,809	(*)	(*)	43.9	34.4
Beatrice Foods	285,612	101,187	38.7	281,988	64,880	346,868	128,963	28,735	157,698	45.7	44.3	45.4	37.2
LTV				(*)	(*)	20,359		668	668	(*)	(*)	3.3	0
Xerox	531,981	30,063	8.7	336,857	436,774	773,631	108,456	231,200	339,656	32.2	52.9	43.9	14.0
R. J. Reynolds Industries	789,307	203,298	33.8	585,960	70,440	656,400	268,839	35,100	303,939	45.9	49.8	46.3	41.0
Monsanto	524,300	147,100	29.3	(*)	(*)	595,600	157,600	16,900	174,500	(*)	(*)	29.3	26.5
Ashland Oil	219,893	41,224	23.5	(*)	(*)	254,717	63,368	39,742	103,110	(*)	(*)	40.5	24.9
General Foods	300,838	100,890	36.5	301,109	46,171	347,280	142,024	21,876	163,900	47.2	47.4	47.2	40.1
Cities Service	229,999	53,787	24.4	(*)	(*)	371,700	103,800	13,900	177,700	(*)	(*)	31.7	27.9
Firestone Tire & Rubber	227,287	39,284	21.0	110,474	74,002	184,476	28,154	49,223	77,377	25.5	66.5	41.9	15.3
Boeing	112,747	31,100	27.6	162,595		162,595	54,300		54,300	33.4		33.4	33.4
Amerada Hess	324,476	29,864	18.6	173,383	152,579	434,962	63,683	210,310	273,993	36.7	83.6	64.5	15.0
Greyhound	104,819	33,383	31.8	(*)	(*)	93,394	43,744		43,744	(*)	(*)	46.8	46.8
W. R. Grace	297,504	51,772	21.2	(*)	(*)	246,897	28,897	69,569	98,466	(*)	(*)	39.9	11.7
McDonnell Douglas	111,535	19,851	18.0	(*)	(*)	178,351	55,144	2,478	57,662	(*)	(*)	32.3	30.9
International Paper	359,100	57,500	18.4	(*)	(*)	357,700	45,500	32,000	77,500	(*)	(*)	21.7	12.7
Minnesota Mining & Manufacturing	440,823	89,300	24.3	400,320	201,400	601.720	151,000	88,000	239,000	37.7	43.7	39.7	25.1
Colgate-Palmolive	223,935	13,086	9.7	87,977	167,537	255,514	32,297	83,611	115,098	36.7	49 9	45.4	12.6
Marathon Oil	457,327	74,000	35.6	248,102	339,020	587,122	41,100	328,414	369,514	16.6	96.6	66.7	7.0

	1975 (approximate)—			1976									
				Thousands						Percent			
	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on world-wide income	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[1]	Current U.S. tax expense[4]	Current foreign tax expense[4]	Current worldwide tax expense[3]	Effective U.S. tax rate on U.S. income[5]	Effective rate on foreign income[5]	Effective world-wide tax rate on worldwide income[5]	Effective U.S. tax rate on worldwide income[5]
INDUSTRIAL CORPORATION—Con.													
Continental Group				(*)	(*)	201,400	34,000	38,800	72,800	(*)	(*)	36.1	16.9
Gulf & Western Industries	186,865	12,800	12.5	(*)	(*)	281,182	2,700	74,600	77,300	(*)	(*)	27.5	1.0
Ralston Purina	178,100	60,500	36.3	(*)	(*)	231,600	85,800	12,200	98,000	(*)	(*)	42.3	37.1
Borden	156,680	54,300	37.3	(*)	(*)	191,814	61,950	9,000	70,950	(*)	(*)	37.0	32.3
Litton Industries	65,223	8,576	16.0	(*)	(*)	38,414	2,539	18,249	20,788	(*)	(*)	54.1	6.6
Lockheed Aircraft (note 10)	90,200	0	0	(*)	(*)	93,400	100	8,900	9,000	(*)	(*)	9.6	.1
Sperry Rand	226,821	43,544	26.5	(*)	(*)	274,933	17,900	34,900	52,800	(*)	(*)	19.2	6.5
Armco Steel (note 6)	160,436	6,234	5.0	43,319	57,171	100,490	(5,884)	28,655	22,771	0	50.1	22.7	0
American Can	131,328	25,632	22.6	(*)	(*)	177,500	43,300	18,200	61,500	(*)	(*)	34.6	24.4
Philip Morris	320,012	100,889	33.3	379,822	53,537	433,359	143,383	18,196	161,579	37.8	34.0	37.3	33.1
Deere	252,853	32,200	14.1	308,787	62,500	371,287	115,900	11,600	127,500	37.5	18.6	34.3	31.2
Getty Oil	717,677	151,438	31.7	496,600	265,265	761,865	163,329	257,904	421,233	32.3	97.2	55.3	21.4
Georgia-Pacific (note 1)	221,560	17,720	8.0	(*)	(*)	340,500	(*)	(*)	72,600	(*)	(*)	21.3	(*)
Coca-Cola	442,926	80,364	25.2	221,357	295,539	516,896	89,283	129,422	218,705	40.3	43.8	42.3	17.3
Bendix	131,400	35,500	32.6	(*)	(*)	190,700	40,100	33,400	73,500	(*)	(*)	38.5	21.0
TRW	182,944	34,302	23.3	135,362	93,012	228,374	49,173	42,499	91,672	36.3	45.7	40.1	21.5
Aluminum Co. of America	48,000	100	<1.0	(*)	(*)	193,200	42,000	29,700	71,700	(*)	(*)	37.1	21.7
Standard Oil (Ohio)	178,868	6,539	4.2	155,933	25,299	181,292	3,753	13,666	17,419	2.4	54.0	9.6	2.1
Champion International	84,686	8,429	11.2	150,914	17,956	168,870	29,262	12,607	41,869	19.4	70.2	24.8	17.3
Weyerhaeuser	300,086	14,550	5.0	347,532	50,935	398,467	92,300	32,125	124,425	26.5	63.1	31.2	23.2
National Steel (note 6)	43,443	(23,250)	0	63,091		63,091	(44,500)		(44,500)	0		0	0
Pepsico	184,460	42,136	25.6	(*)	(*)	249,044	88,133	18,778	106,911	(*)	(*)	42.9	35.4
Consolidated Foods	95,501	32,103	37.7	140,233	27,177	167,410	47,437	11,534	58,971	33.8	42.4	35.2	28.3
CPC International	209,000	54,500	34.0	99,100	121,100	220,200	35,900	46,300	82,200	36.2	38.2	37.3	16.3
American Brands	296,790	95,896	38.0	238,093	31,573	269,666	93,371	31,765	125,136	39.2	100.6	46.4	34.6
General Mills	138,727	52,702	40.7	164,458	25,505	189,963	82,287	10,755	93,042	50.0	42.2	49.0	43.3
Allied Chemical	178,699	1,555	<1.0	140,844	28,612	169,456	3,495	18,503	21,998	2.5	64.7	13.0	2.1
Textron	161,035	51,817	33.8	192,767	17,739	210,506	84,335	8,939	93,274	43.7	50.4	44.3	40.1
Owens-Illinois	127,633	16,862	15.3	182,681	38,350	221,031	33,697	17,595	51,292	18.5	45.9	23.2	15.2
General Dynamics (note 9)	145,862	45,782	32.6	122,082	39,764	161,846	(70,062)	18,841	(51,221)	0	47.4	0	0
Republic Steel (note 6)	81,680	3,604	4.4	(*)	(*)	30,394	(61,775)	630	(61,145)	(*)	(*)	0	0
Johnson & Johnson	310,145	54,760	22.7	171,003	180,865	351,868	63,728	78,902	142,630	37.3	43.6	40.5	18.1
Honeywell	109,880	17,323	19.0	(*)	(*)	163,064	20,840	11,302	32,142	(*)	(*)	19.7	12.8
American Home Products	496,526	154,960	35.4	383,505	160,911	544,416	188,939	68,848	257,787	49.3	42.8	47.4	34.7
Raytheon	121,906	12,463	10.7	145,911	6,284	152,195	13,903	2,650	16,553	9.5	42.1	10.9	9.1
Signal Cos	65,531	11,756	21.2	113,177	17,375	130,552	40,586	9,099	49,685	35.8	52.4	38.1	31.1
Inland Steel (note 6)	122,057	25,291	21.5	(*)	(*)	149,055	49,910	2,236	52,146	(*)	(*)	35.0	33.5
Warner-Lambert	279,033	46,716	21.7	(*)	(*)	284,947	52,861	71,289	124,150	(*)	(*)	43.6	18.6
American Motors				(*)	(*)	(28,469)	(4,610)	1,360	(3,250)	(*)	(*)	0	0
Uniroyal	38,173	947	5.6	(1,812)	36,405	34,593	355	17,563	17,918		48.2	51.8	1.0
NCR	130,539	5,524	7.0	(*)	(*)	170,573	18,701	68,847	87,548	(*)	(*)	51.3	11.0
FMC	138,997	13,720	10.7	95,441	30,273	125,714	35,938	12,004	47,942	37.7	39.7	38.1	28.6
Burlington Industries	70,201	12,077	18.1	172,275	6,788	179,063	64,504	7,058	71,562	37.4	104.0	40.0	36.0
United Brands	27,321	386	3.3	(*)	(*)	28,065	1,772	7,581	9,353	(*)	(*)	33.3	6.3
PPG Industries				(*)	(*)	268,100	70,700	21,500	92,200	(*)	(*)	34.4	26.4
Singer (note 10)				(*)	(*)	107,300		42,600	42,600	(*)	(*)	39.7	0
Reynolds Metals	66,659	995	1.8	(*)	(*)	75,241	4,605	14,319	18,924	(*)	(*)	25.2	6.4
B. F. Goodrich	33,843	6,523	24.3	18,320	20,605	38,925	6,055	7,039	13,094	33.1	34.2	33.6	15.3
Teledyne	158,519	62,603	40.7	(*)	(*)	212,160	67,649	2,800	70,449	(*)	(*)	33.2	31.5
American Standards	90,230	21,549	31.8	(*)	(*)	132,720	31,803	29,058	60,861	(*)	(*)	45.9	24.
Whirlpool	100,241	44,024	43.9	(*)	(*)	136,890	66,167		66,167	(*)	(*)	48.3	48.2
U.S. Industries	18,570	2,848	21.8	42,256	11,056	53,312	18,857	5,500	24,357	44.6	49.7	45.7	35.2
Boise Cascade	91,775	21,396	26.2	124,440	14,764	139,204	35,968	1,841	37,809	28.9	12.5	27.2	25.6
MINING CORPORATIONS													
International Minerals & Chemical	268,400	59,800	25.7	173,700	43,000	216,700	51,100	20,500	71,600	29.4	47.7	33.0	23.
AMAX	149,250	16,000	12.2	(*)	(*)	137,318	1,878	26,900	28,778	(*)	(*)	21.0	1.
Kennecott Copper (note 12)				(39,445)	50,148	10,703	6,703	16,471	23,174		32.8	216.5	62.
Phelps Dodge	46,423	(18,600)	0	(*)	(*)	45,073	(6,500)	1,700	(4,800)	(*)	(*)	0	0
St. Joe Minerals	127,595	33,447	27.0	(*)	(*)	101,569	17,998	7,390	25,388	(*)	(*)	25.0	17.7
Texas Gulf	171,474	150	<1.0	(*)	(*)	97,164	(1,100)	10,300	9,200	(*)	(*)	9.5	0
Freeport Minerals	35,218	(739)	0	(*)	(*)	77,404	6,931	4,000	10,931	(*)	(*)	14.1	9.0
TRANSPORTATION CORPORATIONS													
Airlines (note 13)													
Trans World Airlines				(*)	(*)	60,415	1,659	10,540	12,199	(*)	(*)	20.2	2.7
United Airlines				(*)	(*)	26,391	12,725	984	13,709	(*)	(*)	51.9	48.2
American Airlines				78,133		78,133	0		0	0		0	0
Eastern Airlines				46,239		46,239	0		0	0		0	0
Pan American World Airways				(*)	(*)	100,311	0	0	0	0	0	0	0
Delta Air Lines	73,679	(13,300)	0	106,876		106,876	6,102		6,102	5.7		5.7	5.7
Northwest Airlines	45,677	(6,178)	0	(*)	(*)	95,316	9,241	587	9,828	(*)	(*)	10.3	9.7
Braniff International				35,322		35,322	2,336		2,336	6.6		6.6	6.6
Railroads													
Union Pacific Corp	187,577	33,979	18.1	260,381		260,381	516		516	.2		.2	.2
Southern Pacific Co	105,618	11,984	11.3	123,136		123,136	13,313		13,313	10.8		10.8	10.8
Burlington Northern Inc	64,520	5,392	8.4	84,054		84,054	10,182		10,182	12.1		12.1	12.1
Santa Fe Industries, Inc	150,094	22,500	15.0	168,261		168,261	26,200		26,200	15.6		15.6	15.6
Seaboard Coastline Industries, Inc				96,328		96,328	7,761		7,761	8.1		8.1	8.1
Chessie System, Inc	102,228	9,619	9.6	(*)	(*)	110,421	8,213	1,975	10,188	(*)	(*)	9.2	7.4
Missouri Pacific Corp	69,162	14,340	20.7	139,319		139,319	27,763		27,763	19.9		19.9	19.9
Norfolk & Western Railway Co	122,212	12,484	10.2	195,379		195,379	58,080		58,080	29.7		29.7	29.7
Southern Railway Co	119,634	18,267	15.3	133,572		133,572	21,146		21,146	15.8		15.8	15.8
TRUCKING COMPANIES													
United Parcel Service of America, Inc				39,328		39,328	865		865	2.2		2.2	2.2
Consolidated Freightways, Inc	31,942	9,213	31.3	(*)	(*)	69,606	27,171	3,126	30,297	(*)	(*)	43.5	39.0
Roadway Express, Inc	63,630	24,402	38.3	77,810		77,810	33,356		33,356	42.9		42.9	42.9
Leaseway Transportation Corp	36,552	11,554	31.6	45,361		45,361	17,221		17,221	38.0		38.0	38.0
Yellow Freight System, Inc	45,073	14,615	32.4	63,499		63,499	23,044		23,044	36.3		36.3	36.3
UTILITY CORPORATIONS													
American Telephone & Telegraph Co	5,291,529	129,102	2.4	6,398,505		6,398,505	604,742		604,742	9.5		9.5	9.5
General Telephone & Electronics Corp				(*)	(*)	935,186	129,478	25,046	154,524	(*)	(*)	16.5	13.8
The Southern Co. (note 14)				385,147		385,147	(22,988)		(22,988)	0		0	0

See footnotes at end of table.

	1975 (approximate)—			1976									
				Thousands						Percent			
	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on world-wide income	U.S. income before tax [2]	Foreign income before tax [2]	Worldwide income before tax [1]	Current U.S. tax expense [4]	Current foreign tax expense [4]	Current worldwide tax expense [3]	Effective U.S. tax rate on U.S. income [5]	Effective rate on foreign income [5]	Effective world-wide tax rate on worldwide income [5]	Effective U.S. tax rate on worldwide income [5]
Pacific Gas & Electric Co. (note 15)	241,777	7,108	2.9	291,776	----	291,776	(75,000)	----	(75,000)	0	----	0	0
American Electric Power Company, Inc. (note 16)	254,546	195	<1.0	337,428	----	337,428	93	----	93	Nil	----	Nil	Nil
Consolidated Edison Co. of New York, Inc.	308,294	3,050	1.0	422,553	----	422,553	15,300	----	15,300	3.6	----	3.6	3.6
Commonwealth Edison Co	338,998	34,386	10.1	391,817	----	391,817	10,908	----	10,909	2.8	----	2.8	2.8
Southern California Edison Co	231,514	38,518	16.6	260,265	----	260,265	30,982	----	30,982	11.9	----	11.9	11.9
Public Service Electric & Gas Co				303,910	----	303,910	6,265	----	6,265	2.0	----	2.0	2.0
Philadelphia Electric Co. (note 14)				222,713	----	222,713	(13,537)	----	(13,537)	0	----	0	0
The Columbia Gas System, Inc	210,265	27,159	12.9	231,082	----	231,082	72,577	----	72,577	31.4	----	31.4	31.4
Texas Eastern Transmission Corp	187,524	37,775	20.6	(*)	(*)	213,379	61,504	35	61,539	(*)	(*)	28.8	28.8
The El Paso Co. (note 17)	148,751	45,615	30.1	23,889	----	23,889	29,575	----	29,575	123.8	----	123.8	323.8
RETAILING CORPORATION													
Sears, Roebuck & Co. (notes 11 and 18)	751,659	309,900	41.1	(*)	(*)	780,479	(*)	(*)	241,770	(*)	(*)	31.0	(*)
Safeway Stores, Inc	280,554	81,247	32.5	129,403	53,316	182,719	52,213	17,563	69,776	40.3	32.9	38.2	28.6
J. C. Penney Co., Inc. (note 11)	331,200	113,600	34.3	(*)	(*)	389,200	(*)	(*)	119,500	(*)	(*)	30.7	(*)
S. S. Kresge Co				453,635	28,053	481,688	198,236	12,253	210,489	43.7	43.7	43.7	41.2
The Great Atlantic & Pacific Tea Co., Inc				(*)	(*)	34,126	10,000	176	10,176	(*)	(*)	29.8	29.3
The Kroger Co	52,014	12,265	23.6	77,676	----	77,676	22,330	----	22,330	28.7	----	28.7	28.7
Federated Department Stores	287,109	114,015	39.7	300,840	----	300,840	117,465	----	117,465	39.1	----	39.1	39.1
Rapid-American Corp				23,943	4,843	28,786	8,330	1,973	10,303	34.8	40.7	35.8	28.9
COMMERCIAL BANKING CORPORATIONS													
BankAmerica Corp	468,800	51,000	14.2	(*)	(*)	521,771	78,000	80,000	158,000	(*)	(*)	30.3	14.9
Citicorp	574,769	25,884	6.7	(*)	(*)	624,352	28,000	184,000	212,000	(*)	(*)	34.0	4.5
The Chase Manhattan Corp. (note 19)	231,095	5,253	3.4	(*)	(*)	144,024	(14,991)	60,352	45,361	0	(*)	31.5	0
Manufacturers Hanover Corp	203,145	(8,426)	0	(*)	(*)	210,170	7,980	35,982	43,962	(*)	(*)	20.9	3.8
J. P. Morgan & Co., Inc	289,061	31,060	14.2	(*)	(*)	309,639	54,602	45,441	100,043	(*)	(*)	32.3	17.6
Chemical New York Corp	107,673	(2,893)	0	(*)	(*)	107,683	1,722	12,092	13,814	(*)	(*)	12.8	1.6
Bankers Trust New York Corp	80,393	9,519	14.6	(*)	(*)	73,818	3,182	13,854	17,036	(*)	(*)	23.1	4.3
Continental Illinois Co	210,435	63,674	33.7	(*)	(*)	177,039	18,628	21,278	39,906	(*)	(*)	22.5	10.5
First Chicago Corp				(*)	(*)	157,640	10,000	15,000	25,000	(*)	(*)	15.9	6.3
Western Bancorp	91,105	5,858	6.7	(*)	(*)	106,375	7,621	4,900	12,521	(*)	(*)	11.8	7.2
Total				38,810,579	21,081,657	82,306,127	14,365,460	17,951,103	32,667,227				
Credits				41,257	----	28,469	380,347	----	302,341				
Net				38,769,322	----	82,277,658	13,985,113	----	32,364,886				
Not counting those with 'Unavailable' figures							10,757,347	14,528,417					
Credits							231,971						
Grand total						80,660,179	10,525,376			27.1	85.1	39.3	13.0[4]

NOTES TO TABLE OF RATES

* Unavailable.

1. Worldwide income before tax is comprised of income before Federal and foreign income taxes, adjusted to eliminate the equity in earnings or losses of unconsolidated subsidiaries and to restore the minority interest in earnings or losses of consolidated subsidiaries. In several instances the adjustment for equity in earnings of an unconsolidated subsidiary is not made because the parent has at least 80 percent ownership of the subsidiary and the subsidiary's income taxes are separately disclosed. In these circumstances it is likely that the subsidiary is consolidated with the parent for tax purposes, even though it is not for financial statement purposes.

2. The allocation of income between U.S. and foreign sources is based on information voluntarily disclosed in the companies' financial statements. For the year under study there was no SEC or financial reporting requirement that such information be provided. Effective for fiscal years beginning after December 15, 1976, Financial Accounting Standards Board Statement No. 14 requires increased disclosure of foreign operations. The SEC is presently considering the adoption of a rule similar to FASB Statement No. 14.

Uniform methods of allocating income between U.S. and foreign sources have not been developed; and corporate administrative, capital and product development costs are subject to arbitrary allocation methods. However, the information provided, subject to the accuracy of the allocations, provides information useful in analyzing the effective income tax burden of multinational corporations.

Most companies allocate unrealized foreign currency exchange gains and losses recognized under FASB Statement No. 8 to foreign source income. Net exchange gains decrease the current effective tax rate and net exchange losses increase the effective tax rate. Some companies report high effective foreign tax rates (perhaps in excess of 100 percent) because of the recognition of such losses for financial reporting purposes.

3. Current worldwide tax expense is comprised of the current portion of the Federal and foreign income taxes reported for financial accounting purposes. Generally, financial accounting rules require that the income taxes currently payable be stated separately from those payable in the future. The taxes payable in the future, called "deferred taxes", are attributable mostly to "timing differences" in recognizing income and deductions for financial accounting and tax purposes. The taxes payable currently in most cases represent the tax estimated to be shown on the return to be filed. However, the current provision for each year is adjusted by the over- or under-estimation of the prior year's current provision. To the extent of the current and prior year errors in estimation the current income tax provision does not represent actual current tax expense.

4. The allocation of current income taxes between U.S. and foreign expense is required by the SEC. In some instances, where the amount involved is not material, State or foreign income taxes may be included with U.S. income taxes. Thus, companies that do not separately state U.S. and foreign earnings must at least separately state U.S. and foreign income taxes allocated between current and deferred, when they are material.

5. The effective tax rates are computed by dividing the worldwide, foreign and U.S. current tax expenses by worldwide, foreign and U.S. income before tax, respectively. In addition, an effective rate of U.S. tax on worldwide income is computed by dividing the current U.S. tax expense by worldwide income before tax.

For those companies which chose to disclose foreign earnings, the computation of the effective U.S. tax rate on U.S. income and foreign tax rate on foreign income is possible. For those companies which chose not to disclose foreign earnings, only the effective rate of the U.S. tax on worldwide income and worldwide tax on worldwide income is determinable.

6. All of the steel companies included in the study reported net earnings from worldwide sources for 1976, and two of the companies provided sufficient data to identify net earnings from U.S. sources. However, all but one of the companies reported a current U.S. tax refund for the year, due principally to carryback of investment tax credits.

7. Western Electric is a wholly-owned subsidiary of American Telephone & Telegraph and is included in its consolidated income tax return. In this study Western Electric is reported along with other industrial companies and AT&T (excluding Western Electric) is reported with the utilities. The tax allocated to Western Electric is substantially that which it would have reported on a separate return.

8. RCA net income from foreign operations for 1976 is reduced by a $20 million charge, without tax benefit, to reflect a loss in estimated net realizable value of its investment in United Kingdom food companies.

9. General Dynamics changed, effective January 1, 1976, to the completed contract method of accounting for long-term contracts for tax purposes. The change in method resulted in a net operating loss which was carried back for federal income tax purposes resulting in an approximate $68.4 million tax refund.

10. Lockheed Aircraft and Singer incurred substantial net operating losses in the past

which are carried forward and offset current taxable income.

11. Georgia Pacific, Sears Roebuck and J.C. Penney do not report current and deferred foreign income taxes separate from U.S. federal income tax, although each has foreign operations. It is assumed such foreign taxes are not material, since SEC rules require separate disclosure unless the foreign current and deferred income taxes do not exceed 5 percent of all current and deferred income taxes, respectively (see note 4.)

12. The Kennecott Copper current U.S. tax is due principally to receipt of dividends from foreign subsidiaries and the minimum tax on tax preferences.

13. Under the provisions of U.S. tax accounting rules and treaties with foreign countries, international air carriers are taxed on transportation income in their home country, regardless of where the revenues were generated. The foreign income and taxes reported for the airlines are attributable to non-transportation activities, such as hotels and resort facilities.

14. The Southern Company and Philadelphia Electric reported current tax refunds due to carryback of net operating losses attributable to current deductions for interest on funds used during construction of new plant.

15. Pacific Gas and Electric reported a current tax refund because substantial energy costs, which were deferred for book purposes until the customer was billed, were deductible for tax purposes.

16. American Electric Power incurred a net operating loss in 1974 which fully offset taxable income in 1976.

17. The El Paso Company effective tax rate is over 100 percent because the company deducted a loss of $110 million on discontinued operations for book purposes, which is not deductible for tax purposes until the properties are disposed of.

18. The Allstate group is excluded from the net income of Sears Roebuck.

19. Esmark and Chase Manhattan reported adjustments related to overestimation of income taxes in 1975 (see note 3) which had the effect of reducing reported current income tax expense in 1976. The adjustment for Esmark has been eliminated for purposes of this study in order to report the company's estimated actual tax liability for 1976. Chase Manhattan did not report the amount of its adjustment.

JOHN TYNAN

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to congratulate one of Massachusetts' finest public servants on the occasion of his retirement. After 36 continuous years of public service, John Taylor Tynan is stepping down from the responsibilities of a career in public service.

John Tynan's leadership first evidenced itself while he was still a student at South Boston High School. While there, John Tynan was an All-Boston end in football for 2 years, a member of the all-scholastic team in his senior year, and captained the high school track team. His abilities were not limited to the athletic field however, as he won the Boston Evacuation Day essay contest.

A World War II veteran, John Tynan served as a captain with the Eighth Air Force in Europe. A bombardier and navigator, Tynan served as lead bombardier with the 351st Bomb Group and as execron. For his service, John Tynan was awarded the Distinguished Flying Cross with cluster, and the Air Medal with three clusters.

His experience during the war led him to a career position with the Veterans' Administration in Boston upon his return to civilian life. Besides his official responsibilities with the VA, John Tynan also was a commander of the Fitzgerald Veterans of Foreign Wars Post in South Boston and Legislative Officer for the Massachusetts Veterans of Foreign Wars.

John Tynan decided to run for elective office in 1950, and won by a clear majority in his first try for the Massachusetts House of Representatives. He served in the Massachusetts House for eight consecutive terms, and while there was chairman of the Committee on Communism, chairman of the Committee on Legislative Research, and chairman of the Committee on Military Affairs. Additionally, John Tynan served as majority whip of the House of Representatives, and in 1964 was appointed Budget Director of the House Ways and Means Committee, serving there until his recent retirement.

It is not often that a man of the caliber of John Taylor Tynan appears on the scene. When a man of his character, leadership and abilities leaves public life, it is only fitting that we all take note and say, "thank you."

LEO W. RUTH

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today in honor of a man whom I have come to know over the past few years, and for whom I have a tremendous amount of respect and admiration: Mr. Leo W. Ruth.

On Thursday, January 19, 1978, Leo was honored by the San Jose Chamber of Commerce for his service during 1977 as Chairman of the Chamber of Commerce Board of Directors. During Leo's year as chairman, the chamber was involved with many major events, including an Orient Trade Mission and a dinner and parade honoring all of our Nation's Congressional Medal of Honor winners. The year 1977 also marked San Jose's Bicentennial, and the efforts of Leo and the other members of the Board contributed greatly to the success of San Jose's Bicentennial celebration.

In addition to his involvement in the San Jose Chamber of Commerce, Leo Ruth is the Past President of the California State Board of Registration for Civil and Professional Engineers and National Council of Engineers Examiners. He is currently vice president of the National Society of Professional Engineers.

Not only is Leo active in professional and business organizations, he has been a member of the City of San Jose Advisory Board of Health for 14 years and a member of the San Jose Redevelopment Agency for 7 years. Further, his commitment to community improvement is exemplified by his membership in such organizations as Volunteers of America Advisory Board and the Alexian Brothers Hospital Foundation Board of Directors.

Leo Ruth is an asset to any community and I am proud to say that he is a part of San Jose.

Mr. Speaker, I ask you and my colleagues to join with me in thanking Leo Ruth for his year of leadership as the Chairman of the San Jose Chamber of Commerce Board of Directors and wishing him best of luck and success in all his future endeavors.

WHY CONGRESS DOESN'T WORK

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MAZZOLI. Mr. Speaker, I would like to bring to the attention of my colleagues the following article by Angus S. King, Jr.: "Why Congress Doesn't Work." It's an interesting piece and well worth reading.

[From Newsweek, Jan. 9, 1978]

WHY CONGRESS DOESN'T WORK

(By Angus S. King, Jr.)

One of the things that has puzzled me about the Congress of the United States is how so many able, intelligent and (usually) well-motivated men and women can do such a lousy job of making public decisions, large and small. After some years of Congress-watching from a distance and three years from the inside, I have finally decided that one of the major problems with the present Congress is the high quality of its individual members. And, I suggest, the more the members improve—in intelligence, understanding of the issues, concern about the nation's problems and the rest— the worse will be the performance of Congress as a whole.

The reason for this apparent paradox is simple: it is next to impossible for a committee of 535 to agree on anything when all of the 535 are involved and interested in what is being considered. Anybody who has ever served on a local school committee, church board or garden-club executive committee knows this; things only get done when the majority tacitly cedes the debating of policy to a small group, while retaining a kind of veto if the "debaters" stray too far from the general consensus. And the reason it works this way is that most people on such a committee—at least on most of the issues to be decided—either don't understand what's going on, or don't care, or both. And to a large extent, this used to be the case in Congress.

BETTER IS WORSE

It used to be that some legislators just weren't too bright, but knew enough to avoid really sensational mistakes and retain their seats. Other serious, intelligent and often even brilliant legislators had the capacity to understand all the issues but only chose to pay attention to a limited few. The result was probably what the founders of our republic had in mind: decisions were made by small groups within the Congress comprised of informed and dedicated members, with the rest "going along" until one of their issues came up.

The problem now is that no one is silent on any issue and very little gets done. As

more and more lazy and/or not-too-bright legislators are followed by intelligent and ambitious replacements, the general participation level goes up and the chances of reaching workable consensus go down: as Congress gets better, it gets worse. These newer bright and able members care about *everything*. They seem congenitally incapable of specializing in the old sense; they might still get especially involved in particular issues, but they also reserve the right to study, debate, submit amendments to and make independent judgments on every bill that comes across their desks. In short, too many dedicated public servants gum up the works.

But they are only part of the problem. We, the constituents who worked for and elected these individuals and who communicate with them in ever increasing numbers, are part of the problem too, because we have gone through much the same metamorphosis as they. We are better informed and certainly more concerned about issues, all kinds of issues, than ever before. And because of this, we demand more from our public figures—particularly Federal legislators. In other words, we wouldn't let them specialize and forget the rest of the issues even if they had sense enough to.

A PLACE TO RETIRE

When I was a boy, my father (whose political awareness was shaped in a gentler time) used to describe the United States Senate as a fitting place to which a person could retire *after* an active career in the public service. Few people knew who their senators were and practically no one cared. What could be a better situation in which to quietly pursue an interest in New England agriculture or Latin American relations, while tending to the duties of constituent service?

A present-day senator is allowed no such luxury. His constituents know how he voted on every major bill and amendment; we communicate with him freely. (A large-state senator may receive a thousand letters a day.) Many constituents are highly organized into interest groups covering the gamut of questions before Congress. And even though each group of us may pay attention to only one issue, by pressing our interest on the hapless representative (while our neighbors do the same) we force him to deal with all the issues in an articulate and informed way. Once he falls into this trap—which inevitably leads to a "thinness" on all the issues—the quality of the Congressional product just as inevitably must suffer.

A related aspect of this problem is the "one issue" nature of these organized constituencies. Whether it is the elderly, an ethnic lobby, organized labor, environmentalists or any of the hundreds of other groups represented in Washington, all expect total loyalty on every vote involving their issue. A generally favorable record in the area or a good, solid over-all record is not enough. And these lobbies are effective. The net result is that representatives are pushed into polar positions on issues, making compromise and the resolution of the question at hand much more difficult.

NEEDED: TOLERANT VOTERS

So what is the solution? Certainly not a return to electing dull or lazy congressmen or maintaining a system with little or no public input. And, more important, because this is the more likely potential path, the solution is not to give up on Congress and grant more and more policymaking powers to a remote and increasingly bureaucratized executive branch. On the contrary, it seems to me that what is needed is for the public to reach a higher level of sophistication about what to expect from its elected representatives—to go beyond the realization that Congress is there and has the power to do important things to an understanding of the limitations of any one member and specialization. Assuming our representative is doing an excellent job on something (other than press releases and other reelection-related business), we should be tolerant if he has only a passing familiarity with many of the questions we feel will determine the fate of the republic.

The congressman, for his part, must be prepared to use—and help educate his constituents to develop—this new-found tolerance, and thereby restrain his natural impulse to contribute his two cents to every controversy that comes by.

I look forward to the day when politicians will be smart enough to say "I don't know" occasionally, and, recognizing the wisdom shown by such admissions, we'll be smart enough to elect them.

COMMEMORATION OF PRESIDENT EISENHOWER

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mrs. HOLT. Mr. Speaker, a little over 25 years ago, Dwight David Eisenhower was inaugurated as our country's Commander-in-Chief. During his administration, President Eisenhower ended a war and took our Nation through 8 years of the most tranquil years in our history.

Mr. Eisenhower took his place among the military leaders who were great statesmen. He became a national hero during the Second World War as Supreme Commander of the Allied Forces in Europe. This was followed by a postwar tour of duty as Chief of Staff of the U.S. Army.

Mr. Eisenhower did not limit himself to the military or the political arena. In 1948 he became president of Columbia University. He left that position in 1950 to return to Europe as supreme commander of NATO. From there, it was on to the Presidency in 1952.

As President, Eisenhower worked hard to make sure the Government worked for the people, and not against them. As he once said, Eisenhower devoted himself to making the Government: "Smaller rather than bigger, and finding things it [the Government] can stop doing instead of seeking new things to do."

Eisenhower did not care for all the trappings of Government—his concern was always for the people. As Ike once said, "I went to the people in every way I could."

In the 17 years since Eisenhower left office, we have seen some of the most turbulent times in our Nation's history. In view of these events, one can only marvel at the calm associated with his years in office.

President Eisenhower had a lot to do with this tranquillity. When he became President, our Nation was involved in an awkward fight in Korea. During his campaign for the Presidency, he promised to go to Korea and to work toward ending the conflict. After he was elected, Eisenhower did not ignore the promises he had made during the campaign. He went to Korea, and through his efforts the Korean conflict was ended. Once again, the old soldier had come through for the American people.

Above all else, Eisenhower believed in America. He knew for instance, that the free enterprise system was the best economic system in the world. Eisenhower put it best.

"Without free enterprise, there can be no democracy."

Eisenhower's list of accomplishments goes on and on. What I think we should all remember is that he did everything he did because of just one reason—an undying love for the United States of America. There can be no greater patriotism than devoting one's life to his country. For Eisenhower, it was the military, and the Presidency—always with the singular goal of keeping America free, and keeping our democracy strong.

HOMER FERGUSON AT 90

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. NEDZI. Mr. Speaker, former Senator Ferguson, long a judge on the Military Court of Appeals, recently retired and returned to Michigan. He is now a constituent of mine.

Judge Ferguson was a spirited partisan, a Republican, but the passage of time and the history that surrounds him at the age of 90 has long ago softened the political edges, his own and those of his former adversaries.

I believe Judge Ferguson has led an extremely constructive, interesting, and happy life and his story is worth reading.

A few days ago the Detroit Free Press magazine had a feature article on him. I commend it to his many friends in this Capital City.

Under leave to extend my remarks, the article follows:

[From the Detroit Free Press magazine, Jan. 22, 1978]

HOMER FERGUSON: THE ONE-MAN GRAND JURY WHO NEARLY INDICTED THE ENTIRE MUNICIPAL GOVERNMENT

(By Thomas BeVier)

There is probably not one man or woman in Detroit today who does not know the name of Circuit Judge Homer Ferguson.

First sentence of a newspaper story, March 23, 1941:

"Homer Ferguson? Never heard of him. What did he do?"—Detroit newspaperman, December, 1977.

When he was a young man, which was more years ago than many men live, Homer Ferguson sold two horses he had raised from colt and filly and came west to Michigan from Pennsylvania to learn the law.

He was governed by an old-fashioned Scotch Presbyterian discipline which disallowed all forms of vice—unless excessive work be counted as a vice.

"I fell in love with the law," he says.

Homer Ferguson came unnoticed to Detroit with $2.12 in his pocket in 1913, having been graduated with high marks from the University of Michigan in Ann Arbor. He prospered as a lawyer and was named to the Circuit Court bench.

He left Detroit 30 years later, in 1943. At that time he was elected to the United States Senate on the strength of his service as a one-man grand jury from 1939 to 1942. That grand jury work resulted in one of the most sensational disclosures of municipal corruption in the nation's history. More than 300 indictments were issued and 159 persons were

convicted, including the mayor, three city councilmen, the sheriff, the chief prosecuting attorney and policemen from the rank of inspector to beat patrolman.

Last May, Homer Ferguson came back to Detroit. His return was about as unheralded as his arrival in 1913. He is 90 now. He has gone from obscurity to obscurity. But it's been a fully satisfying circle. The telling of its closing should also be satisfying and in the process provide an anecdote or two, an occasional moral and perhaps a glimpse of ourselves against a background of the way it used to be.

The risk of writing about an old man, especially an elder statesman, is that the telling will serve only for recollection of self-serving memories. So perhaps it is good to begin with an embarrassing lapse of memory at a point which marked the turning of his career.

"Do you remember Janet McDonald?"

Judge Ferguson pondered. (The judicial title, of the several titles he has held, seems to fit him best.) "No, I don't remember her. Who was she?"

She was the woman who provided Judge Ferguson with the opportunity which made him locally famous and therefore politically important. A convincing argument can be made that if it hadn't been for Janet McDonald, he never would have been elected to two terms in the Senate or, after being defeated in 1954, served as ambassador to the Philippines and as a judge on the U.S. Military Court of Appeals.

Janet McDonald, a divorcee, did it by killing herself and her 11-year-old daughter, Pearl. They were found dead of carbon monoxide poisoning in a car on Aug. 5, 1939. She had been a clerk in a bookie joint and in love with William McBride, a small-time operator in Detroit gambling circles. In a letter to McBride, she said she was going to commit suicide because, "I told you that the only way you could have another mama would be over my dead body." She warned him that "In spirit I'll return and curse any woman that you make a friend of until the day you die." Her "dear Billy" wrote back, apparently before the suicide, asking her to be "a good scout" and begging to be left alone because she was making him a "nervous wreck."

The pathos of that would have made headlines for only a few days, but there was more. She also wrote letters to the newspapers and to the FBI and left a diary. They recounted in detail how public officials were bribed to overlook gambling and prostitution. McBride was a bag man.

"I was a Circuit Court judge," Ferguson says. "The other judges selected me to be a one-man grand jury. It was a job nobody really wanted.

"The newspapers really pushed for an investigation. People were fed up with what was going on. The town was wide open. I suppose they felt that if this woman would kill herself and her daughter that something must be done."

Judging from the newspaper accounts, Janet McDonald was not the only party guilty of emotionalism and overstatement. Indeed, the prolix prose of the journalism of that day suggests something of the general temperament. For instance:

"As the gates of Jackson Prison open and close these days to absorb another corruptionist, some of the despair that was felt by Mrs. Janet McDonald on that August day must be shared by the victims of their own greed.

"For the path of indictment and sentence lies directly back to the almost forgotten grave of a jilted woman who took her own life and that of her 11-year-old daughter.

"In a direct line, by a sort of evil apostolic descent, the inheritance of graft and its inexorable punishment may be traced by a succession of grand juries.

"From the patrolman of the Detroit underworld beat to the highest echelons of state government, the curse of a scorned woman still blights the careers of those who found that tainted money could be had for the asking."

Most of the "corruptionists" have died, but for those who may remain it will be of interest to know what Judge Ferguson did with his evenings after the long days he spent as their inquisitor. What he did was paint pictures of birds—dainty oil renderings of robins, jays, seagulls and thrushes.

The paintings line the wall of the modest Grosse Pointe apartment he and his wife, Myrtle, moved into upon their return from Washington. They have been married for 64 years.

"Other people doodle," he says. "I draw birds." And also trees and rural scenes that smack of sweet cider and family reunion.

It's a smiling paradox that this very proper man, whose strongest drink is the tea served by his wife from a silver service, owes so much to Janet McDonald, an Irish immigant of heavy brogue and melodramatic passion. At least Judge Ferguson smiles.

"Things like that happen," he says. "I've had a lot of luck."

During long conversations about such topics as dining with presidents, cross-examing Howard Hughes and resisting Joe McCarthy's zeal, his comments frequently returned to the grand jury Janet McDonald wrought and the lessons he learned in that duty.

"I learned when to trust people," he says.

One of the people he had difficulty trusting was the police guard assigned to his residence when the grand jury investigation started.

Ferguson went against the personal counsel of Thomas E. Dewey, who served in similar capacity in New York. Dewey advised him to go after racketeers and to leave policemen alone because they were so difficult to convict. But Judge Ferguson vowed to go after crooked cops first because he felt they were the crux of the problem.

He also had evidence that the policeman at his house previously had the duty of carrying a black bag from the 13th Precinct to the mayor's office.

"If I fired him, I was advertising the fact that I had evidence against him," Judge Ferguson says. "So I made up my mind that he was a good guard and let him stay. But when indictments were issued, he was the first one indicted. He was arrested standing at my front door."

During an era when the buying of politicians and policemen was viewed as only a minor transgression, Judge Ferguson practiced integrity with near eccentric zeal.

When he was a Circuit Court judge, he punched a bail bondsman in the nose because the bondsman acted as if he could influence the judge's decision. It is the only recorded incident of violence by Judge Ferguson.

The bondsman approached the bench during a trial and whispered for the judge to "go easy" on the defendant. The judge adjourned court and during the recess the bondsman approached him again.

"That's when I hit him," Judge Ferguson says. "It was a reflex action. To think a man would try to fix you. I didn't regret it. I think it was better than sending him to jail. But I really didn't think he would bleed so much."

About the incident, the Free Press editorialized: "There can be no reputation-wrecking gossip started about a judge who defends his integrity and detachment with his fists."

When he received the grand jury assignment, he resigned from the Detroit Athletic Club because it was rumored poker was played there. He severed golfing friendships with many prominent Detroiters and some of them were subsequently indicted.

Judge Ferguson maintains that there wasn't any bitterness directed at him and no overt attempts at bribery, although it was made clear to him that he would be remunerated handsomely for an oversight or two.

The most blatant attempt to stop the investigation occurred in March, 1939, when Judge Ferguson was working late one night, as was his habit, in his office in the old First National Bank Building on Woodward at Cadillac Square.

"All of a sudden, I heard banging on the door," he says. "They were trying to break it down. I opened the door and I said, 'Gentlemen, there are no papers here. All of our records are in the bank vault downstairs.' And so they left."

The leader of the raid, Wayne County Prosecutor Duncan C. McCrea, claimed he was investigating reports that witnesses were being tortured. Later, McCrea was sentenced to prison for his part in a numbers racket conspiracy.

When Judge Ferguson completed his grand jury duties in the spring of 1942, he and his wife took a vacation to Europe. While they were gone, a petition drive was held to draft him as a candidate for the Senate. About 40,000 people signed. On his return, Ferguson announced his candidacy.

Early in the campaign, he established his reputation as a speechmaker: sincere but a bit dull. Ferguson on the offensive against the Democrats: "Were the men of Bunker Hill and Valley Forge doped in ignorance? Tell me, do you believe we've got to be kidded in order to win this war?"

The truth of the matter was that Ferguson was not a very good politician. He was uncomfortable with the basic tools of the trade: exaggeration, self-promotion and a sense of timing. He took office in 1943 and immediately became known among waiters on the Washington cocktail circuit as the Senator who drank ginger ale.

"Going to parties was something you had to do," he says. "That's the part of the job I didn't like."

He worked long hours with a Calvinistic intensity. Sen. Robert A. Taft described him as "the hardest working man in Washington."

"The part of my grand jury experience that helped me in the Senate was that I had become a very inquisitive fellow," he says.

He played a key role in investigations into the bombing of Pearl Harbor, the awarding of defense contracts, and Communists in government, to name a few.

A minority report he wrote about the Japanese attack on Pearl Harbor is still cited from time to time. He concluded that it was inexcusable that the military was surprised.

He was at his inquisitive best when Howard Hughes appeared before him during an investigation of defense contract irregularities. Hughes had received about $40 million in war contracts. In newspaper interviews, Hughes accused several senators of lying and having ulterior motives.

Ferguson's dressing down of Hughes was celebrated by the editorial writers. "You are trying to discredit the committee and that means the dignity of the United States Senate is at stake," he said. "If you believe that because of your great wealth and because you have access to certain publicity channels you can do that, I want to advise you that you are mistaken. And that is final."

"I think the investigation did a lot of good," Judge Ferguson says, "because it put contractors on notice. We were having trouble with the airplanes, engines and so forth.

There's so much money in the federal government. You can see why people are tempted to take advantage of it."

Perhaps the greatest insight into Judge Fergusons character can be gained from his part in anti-Communist hysteria. He was caught up in it and the indication from news stories of the time is that he succumbed to its lure of political gain.

He accused Atty. Gen. Tom C. Clark of trying to "cover up for the (Truman) administration's do-nothing policy about Communism."

The Free Press' Washington correspondent commented: "Seldom had a one-man red herring been so effective."

But then along came Sen. Joe McCarthy.

"McCarthy and I wanted to do the same thing—expose Communists in Government," Judge Ferguson recalls. "When he said there were 102 Communists in the State Department, he wanted me to go along with him.

"But I said I didn't know about 102 Communists, that I knew of maybe two. I asked for proof. "That's why you don't get any publicity," he said.

"If you are a lawyer, you know that there must be facts to back things up. He didn't have any facts, and I didn't go along."

Judge Ferguson speaks candidly of enjoying the prestige of the Senate and of associating with presidents. His comments about all the presidents he knew are respectful. The one he speaks fondly about, however, is Harry Truman, a Democrat whose policies irritated his conservative Republican philosophy.

"He was a nice fellow," Judge Ferguson says of Truman. "One time I was in Kansas and he found out about it. He called me and asked me to come to dinner at this home (in Independence, Mo.). His mother was there.

"Well, he had to go to the phone and while he was away she asked me, 'What are your politics?'

"I said I was a Republican.

" 'That's interesting,' she said.

"When Harry came in, she said, 'Did you know this fellow is a Republican?" and he said "That's alright. We're friends."

" 'How can that be? she said.' "

Judge Ferguson was being mentioned for the position of GOP leader in the Senate when he started running for a third term in 1954. But it was not to be.

Another man, Democrat Patrick V. McNamara, used the reputation he had built in local politics and as a labor leader, and Judge Ferguson was defeated. McNamara served until his death in 1966.

It wasn't that Judge Ferguson didn't try. He traveled 5,300 miles and made 10 speeches a day. A national columnist commented that Ferguson, "a likable, elderly man with a great shock of white hair, is an incredibly energetic campaigner." He was 64 years old.

"I refused to let it get me down," Judge Ferguson says. "I had friends who had let defeat kill them. I said, 'I've got to keep busy' and I did."

In 1955 President Eisenhower appointed him as ambassador to the Philippines. His service there was brief, less than a year, but he remembers it fondly and numerous articles in his home were acquired during his time there.

"The people in the Philippines were very friendly to Americans," he says. "It was one of the largest embassies. It was a thrilling job. It's quite an experience to have your own airplane and a big car with a chauffeur. But then there was a death on the Military Court of Appeals and Eisenhower got in touch with me."

Judge Ferguson took that job in 1956 and served until May 24, 1976. They were 20 years of relative calm. He enjoyed the position and his past service in the Senate allowed him special privileges there. He had his friends and his law books. It was a good and satisfying life.

He returned to Detroit mainly so he and his wife could be near their only child, Mrs. Amy Beltz, who lives only three blocks away in Grosse Pointe. There are six grandchildren and 16 great grand children. But there is also retirement.

"And let me tell you this retirement is the toughest job I've ever had," says Judge Ferguson. "I think if I could go to work I'd be pepped up right away."

There is time, more time than he can fill, for reminiscences and to worry about the aggravations of his years. His eyesight and hearing are fine, but he tires easily. He refuses to let anyone help him put his coat on, but it is not an easy chore. On the cold days, he stays inside.

He talks about the farm near Harrison City, Pa., where he grew up, of working in a mine as a young man and getting his leg broken, of abandoning medical studies because "I faint at the sight of blood," and of his parents.

"My mother asked me that I not drink intoxicating liquor, smoke or gamble until I was at least 21 years old," he says. "I have applied that promise to this day. I believe the greatest education in life is at a mother's knee."

He had been sitting talking for quite a long time. There was a pause in the conversation.

"I am a man of another age," he says matter-of-factly.

What kind of man?

He thought for a moment or two and then, with just a touch of pride in his voice:

"I would describe myself as a fellow who got interested in the law. It was his chief aim to be a good lawyer and, when he went to the bench, to become a good judge."

PEACE CORPS SERVICE IN KOREA

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. LEDERER. Mr. Speaker, one of the benefits of our service in that august body is the opportunity we have to give special recognition to one of our constituents on an exceptional accomplishment. I have today one of those pleasant tasks.

Recently, I have received notification from the Director of Action in Washington, of a special recognition given to Mr. William Mastropieri, 1230 Foulkrod Street in Philadelphia, for service to the people of Korea. Bill is currently on assignment with the Peace Corps in Korea, where he is serving as a teacher of special education at the St. Peter's School. Before his outstanding service in Korea, Bill was a VISTA volunteer in Washington, DC., assigned to the Mission of Community Concern. He served as coordinator of this community's general equivalency diploma program, which helps high school dropouts prepare for an examination leading to the equivalent of a high school diploma. Bill also helped to run a hot lunch program for senior citizens.

Mr. Speaker, Bill is the product of a fine Philadelphia family. He is the son of Rene and Rocco Mastropieri of Philadelphia. Bill's early education was in Philadelphia where he graduated from the Frankford High School in 1969. In 1974, Bill graduated from the California State College in California, Pa., where he majored in special education and received a teaching certificate in elementary education.

Mr. Speaker, the Peace Corps is designed to provide talented people from all over America to those peoples around the world who need and want our help. The appropriations for this program are well spent especially when one considers the quality of volunteers assigned abroad. My faith in the use of this money is well justified when I hear of young Americans like Bill Mastropieri. His dedication to the principles of human dignity have given a special meaning to our efforts in the less-developed countries.

Mr. Speaker, I am proud and happy to bring this fine young man's work to the attention of my colleagues in the House. I am equally proud to have the honor to represent him in the Third Congressional District in Pennsylvania.

TWENTY-FIFTH ANNIVERSARY OF DWIGHT D. EISENHOWER INAUGURAL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. GOODLING. Mr. Speaker, today, is a day for reflection and rededication. Reflection over the Eisenhower legacy and rededication to the Eisenhower ideal. Today is the 25th anniversary of Ike's inauguration. And today I am struck by the resounding praise we have all expressed for this true American hero.

My only regret is that this larger-than-life soldier turned statesman could not be with us today to hear how very well his achievements have stood the test of time.

I remember the Eisenhower Presidency vividly and I can see what his legacy has since meant to this Nation. Even today, Ike's words ring true. "I would take 1,000 steps in the search of peace to each step in the cause of war." Somehow these words from America's greatest 20th century soldier have special meaning as we continually search for a lasting peace in the Middle East. It is good to remember that America saw such peace, at home and abroad, during the Eisenhower administration.

This past summer, I had the great honor of hosting a picnic on the Eisenhower farm in Gettysburg, Pa., located in my district. As Mamie graciously joined us for the festivities, I was drawn back 20 years when the farm was the scene of similar activity and excitement. We remembered Ike during the picnic and the thoughts were good.

I am pleased to see this kind of good feeling expressed again today. For not only was Ike a resident of the 19th Congressional District; not only was he a great soldier and a respected statesman;

he was a believer in America and in the future.

With a firm belief in our past, and a confidence in our current course, this anniversary should mark a rededication to the Eisenhower ideal of freedom and justice.

That would be the best tribute we could give to someone who gave so much to us.

REGULATION: A GROWING CONCERN

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. UDALL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: Government regulation is a subject of growing concern and I share that concern. Some eloquent remarks on the subject came from Harvey Kapnick at the National Leadership Conference in Washington, D.C., on November 14, 1977. Government regulation too often has stifled competition rather than encouraged it and crimped free enterprise rather than promoted it. Mr. Kapnick talks of promoting a great national debate concerning excessive Government regulation, with the hope that such a debate might become a catalyst for changes in public policy and a change in business environment. That is my hope as well. I commend Mr. Kapnick's very eloquent remarks to you and to my colleagues.

GOVERNMENT REGULATION AND THE COST CRISIS IN THE U.S. ECONOMY

REMARKS BY HARVEY KAPNICK

Most Americans are aware that the cost of government is continually increasing and that it has a major impact on our economy. Until recently, however, many of them believed that the taxes to pay for government could be paid chiefly by others—by the rich and large corporations. Now it is becoming increasingly evident to these Americans that people alone pay taxes, either directly or through increased prices, and that the tax burden falls squarely on middle class Americans because they are the group who receive most of the income in our country.

As burdensome as taxes are, however, I believe that we as a nation face a more serious economic issue. It is excessive governmental regulation of our private economic activities. In fact, regulation is often a hidden form of taxation on the private sector. Many regulations impose costs and therefore have the same economic impact as taxes. Until recently, however, this basic fact, which has enormous impact on our economy, went generally ignored, especially by the Congress, which passed laws authorizing new and far-reaching regulations without a moment's thought about the direct and indirect costs.

We are now beginning to debate whether we should reduce taxes and increase fiscal stimuli as if we can turn that spigot on and off like water from a faucet. Further, we are also debating how we can reduce unemployment and simultaneously bring into balance our huge trade deficit. We are even considering whether we should adopt protectionist trade measures to protect some of our basic industries from failure because of foreign competition.

The common thread uniting these problems—and the subject missing from much of the many-sided debate—is *the cost crisis* in the American economy. We must acknowledge as a nation that we need a highly efficient modern industrial capability in order to achieve our domestic goals and deal with foreign competition. Therefore, every cost we incur must be an efficient cost.

Today, that is not the case. Along with high taxes, our society pays a very high cost for excessive government regulation. As costs are driven upward, we lose business and jobs to foreign competition. Rising costs unmatched by productivity worsen inflation. Added costs push consumer prices higher, depressing living standards and cruelly afflicting the aged and others on fixed incomes.

We must face the cost crisis created by hidden taxes—i.e., excessive government regulation—and give the same attention to reform in this neglected area that we give to reform in direct taxation. Fortunately, discussion of "excessive" government regulation of private economic activity is becoming more sharply focused on underlying economic and political realities. If this discussion can mature into a great national debate, it might be the catalyst that is needed to achieve basic changes in public policy and a dynamic change in our business environment.

There appears to be a growing public awareness that we have entered "the era of trade-offs." The public now realizes that all government activity, including regulation, involves *costs* as well as *benefits* and that, when costs exceed benefits, we are getting more government than we want, need, and can truly afford.

Increasing public cost consciousness should not mean simply an instinctive aversion to expanding government. A complex society needs a large, efficient government. We can help to improve the quality of government if we are able to provide voters with the facts needed for rational cost-benefit analysis, intelligent debate, and prudent decision making. Unfortunately, the apparent price tags on our society's avowed national goals and objectives are often completely misleading. Our political system, until quite recently, has deliberately played down the importance of the cost side of the spending equation as if our economy could automatically "afford" every government mandated program and cost increase.

Now, most of us—politicians included—know better. We know that we must choose among objectives, assign realistic priorities, and make sensible tradeoffs, while keeping clearly in view the broad needs and interests of our society as a whole. Citizens are doing this in their local communities, as the dramatic improvement in state and local finances, evidences. Gradually, the message is getting from the grassroots to Capitol Hill. But there is little evidence thus far that the new awareness has penetrated the formidable defenses of the immense Federal bureaucracy and regulatory apparatus.

Under our present, fragmented public sector accounting, we have no way of measuring the direct and indirect costs of regulation. We cannot really tell whether particular rules are effective or whether particular businesses and industries are subjected to excessive regulation. We do not know the true total costs not only to these enterprises but also to the taxpayers and consumers.

Despite our vast and rather dangerous ignorance, Congress has rapidly expanded the scope of regulation in recent years. Indeed, the direct and obvious costs of regulation are growing much more rapidly than the sales and profits of the companies being regulated. The direct expenditures—and costs—of major government regulatory agencies were about $2 billion in fiscal 1974. In the current fiscal year, these expenditures (and costs) have shot up to some $3.8 billion, an increase of 85 percent.

In its recently released report, the Federal Paperwork Commission estimates that more than $100 billion a year ($500 for each person in the country) is spent on Federally mandated paper work. Obviously, not all of this is caused by regulatory activities, but a substantial part is.

Charles Schultze (the President's Chief Economic Advisor) described the rapid growth of regulation in his 1976 Godkin Lectures at Harvard as follows. Said then Professor Schultze, "There is no good way to quantify regulatory growth, but a few figures will illustrate its speed. Even as late as the middle 1950s, the federal government had a major regulatory responsibility in only four areas: antitrust, financial institutions, transportation and communications. In 1976 eighty-three federal agencies were engaged in regulating some aspect of private activity."

Clearly, government regulation has grown much too rapidly. Only now are some of the costs becoming evident, but most remain hidden. According to Professor Weidenbaum, Director of the Center for the Study of American Business at Washington University, "the direct expenditures of the regulatory agencies represent only the tip of the iceberg." It is the indirect costs imposed on the private sector that are enormous.

The illusion of the free lunch dies hard. In the past decade, government has shifted the cost of pursuing socially desirable objectives from the public to the private sector and has thus appeared to serve up a "free lunch" to the taxpayers. But they have paid the vast bill in their role as consumers faced with government-enforced price increases.

These ill-disguised costs of excessive regulation—these hidden taxes on the productive private sector—dampen consumption, slow economic growth, and prevent capital formation and job creation through new investment.

The rapid, undirected, and uncoordinated growth of government regulation threatens to overwhelm and ultimately destroy the profitability and, therefore, the viability of the private sector. This has been the grim experience of England and other countries that have allowed their governments to outgrow their productive resources and capacity.

The outlines of the necessary solution to this problem are fairly obvious:

We can no longer afford to permit each regulatory agency to operate as a separate, uncoordinated agency in a single-purpose, "cost-free" environment.

We must establish a sophisticated cost-accounting system for identifying in advance both direct and indirect costs of new regulatory activity. These must be weighed against quantified measurements of social and economic benefits, immediate and longer term, anticipated from such regulations.

Simultaneously, alternative private-sector approaches to the same objectives should be identified and subjected to the same cost-benefit analysis. The overarching virtue of our economic system is its flexibility. We do not have to rely on government to achieve most of our goals.

On March 4, 1977, President Carter said, in a message to the Congress, "One of my Administration's major goals is to free the American people from the burden of over-regulation. We must look, industry by industry, at what effect regulation has—whether it protects the public interest or whether it simply blunts the healthy forces of competition, inflates prices and discourages business innovation. Whenever it seems likely that the free market would better serve the public, we will eliminate government regulation."

As Secretary of Commerce Kreps said in a recent speech, "It is often a mistake (for government) to mandate the method or technology to be used to attain a specific objective. The performance standard is far preferable—it is important to take advantage of private sector ingenuity by having Government set the goals and letting industry find the course of lowest cost."

Further, Secretary Kreps indicated, "The problem is that agencies charged with administration of regulations have mandates, and do not respond to changes in public values until so directed by Congress.

"Agencies . . . too often become enraptured with their mandates. They view success or failure in their narrowly defined objectives as a disproportionately important measure of human progress."

The problem is clearly defined. Business has an obvious stake in helping government to solve the problem by operating more intelligently and effectively. And government clearly needs our assistance if our enterprise system and our free society are to succeed. But we are handicapped by the nature of our bureaucracy and our private sector. Each agency looks at its narrow mandate, each special interest group lobbies for its narrow interests and aims and projects, and each business seems interested solely in what effects its business or industry.

What we need is a cooperative and effective national leadership to reduce regulations, create jobs, save our industry from unfair foreign competition, and thus improve our trade balance and provide us with a growing, dynamic economy. In short, we need a new partnership between business and government to resolve the cost crisis at the heart of our economic system. Leadership in this task must come not only from government but from all sectors of our society, especially the business community.

KEITH JACKSON NAMED DISTINGUISHED SPORTSCASTER OF THE DECADE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. DICKS. Mr. Speaker, on Monday, February 6, 1978, an old friend of mine, and a man who is recognized as one of the Nation's outstanding sportscasters, is being honored in Seattle as the "Distinguished Sportscaster of the Decade."

The deserved honor is being bestowed upon Keith Jackson of ABC Sports by the Puget Sound Sportswriters and Sportscasters Association at their annual sports banquet.

Keith Jackson left the Pacific Northwest 14 years ago to accept the challenge of a career in network sportscasting. Since that time he has traveled the world to bring into our homes television coverage of such events as the 1968, 1972, and 1976 Olympic Games; the 1976 American League Baseball Championships; Monday Night Baseball and the World Series play-by-play; NCAA Football, including post season games such as the Sugar Bowl, the Gator Bowl, Liberty Bowl, and the Hula Bowl.

He is a regular on ABC Wide World of Sports, and he hosts ABC's "Superstars" and "Superteams."

In 1977, Keith Jackson was voted the National Sportscaster of the Year by members of the National Sportswriters and Sportscasters Association for the fifth consecutive year. No other man has ever won more than three such awards.

John Owen, Sports Editor of the Seattle Post Intelligencer, wrote in a recent column that Keith Jackson is televisions most popular sports figure, "because you hardly know he's there. It sounds simple, but nothing could be more difficult than maintaining a low profile in a profession that screams for attention."

Describing the role of a television announcer, Jackson told Owen: "I think his function is relatively simple. He amplifies when necessary, clarifies when necessary, and punctuates when necessary. The rest of the time he should stay out of the way of television. It's a visual medium.

"My philosophy is if you watch a game I've done and feel that you've been entertained and appraised of why one team won and one lost and you have no recollection of my having been there, I reckon I've done a helluva job because I didn't get in the way."

Keith Jackson's contemporaries describe him as the "ultimate professional sports broadcaster with a background that includes participation, directing, writing, producing, as well as announcing."

Keith Jackson's broadcast career began at Washington State University, where he was an honor graduate in broadcast communications. Among many collegiate awards, Keith received the prestigious Edward R. Murrow Award for broadcast excellence.

I first met Keith Jackson when I was a freshman linebacker for the University of Washington Huskies. He was then sportscaster for KOMO TV in Seattle, and he traveled on the road with our team, including a couple of trips to the Rose Bowl in Pasadena.

Since that time, I, like every other sports fan, have followed the travels and activities of Keith Jackson as he covered varied sports events the world over.

Because he is one of the most outstanding sportscasters in America, Keith Jackson is truly deserving of the honor of "Distinguished Sportscaster of the Decade."

UKRAINIAN INDEPENDENCE

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. BENJAMIN. Mr. Speaker, 1 year ago, I gave tribute to the Ukrainian people in honor of the 59th anniversary of the Ukrainian Proclamation of Independence.

On January 2, 1978, the world again marked the anniversary of the proclamation which took place in Kiev. One year later, I again rise to reaffirm my admiration of the Ukrainian people.

I do so with a sense of sadness, for the year's passage has borne witness to the continued harassment of Ukrainian intellectuals and dissidents. It has marked the time during which additional lovers of freedom have had their names added to a list of new detainees submitted to my office. Those seeking freedom find subtle persecution and absolute control. Efforts to tarnish the clear spirit of Ukrainian youth proceed unabated. The fabric of religious freedom remains tattered.

Such recitations are tedious, but the Ukrainian peoples' unquenchable thirst for freedom and their resolute refusal to succumb, dissipates our sadness, and rekindles our faith.

Their indomitable spirit cheers us and causes us to renew our commitment to protect the human rights of peoples everywhere.

I salute the Ukrainian people and I pay special tribute to those citizens of Ukrainian heritage in my district who have contributed immeasurably to its progress, improvement, and vitality.

I join with my Ukrainian constituents in a prayer that the days of darkness will pass as the wind, from the Ukraine, nevermore to return. When we meet again to celebrate this anniversary, may we mark the end of brutal domination and drink together of the cup of human freedom.

SALUTE TO FARMINGDALE ON THE DEDICATION OF ITS VILLAGE HALL

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. AMBRO. Mr. Speaker, on Sunday, January 28, 1978, I will join the Mayor, Village officials, and the citizens of Farmingdale, N.Y., in the dedication of the new addition to the Village Hall.

This is a very important occasion for me and I am honored to be invited to participate in these ceremonies for two reasons, first, because I always enjoy participating in community celebrations within my District, and further, because this dedication emphasizes to me that many things we do here in Washington have a positive impact on the lives and fortunes of the people in our home Districts.

Farmingdale, one of the oldest communities in Nassau County, was incorporated as a Village in 1904 when most of Long Island was a pleasant mix of woodland and farm. Following World War II, the last vestiges of rural life in Nassau County gradually gave way to suburban growth and today this is a Village which is home to some 9,200 of America's proudest citizens. Now considered suburbanites, they have not relinquished the traditional values of hard work and self reliance. In short, Farmingdale is a microcosm of all that is good in suburban America.

When in the 94th Congress, as a member of the Public Works Committee, I was among those who authored the local Public Works Capital Development and Investment Act of 1976, I could only hope that our work here would have such a positive impact on the district which I represent.

Indeed, the village of Farmingdale, under the leadership of its mayor, the Honorable John Hallahan, immediately applied for a grant under the act and ultimately received over a half million dollars in order to complete necessary projects within the village.

Among the improvements that have been completed by this village are the installation of curbing, together with attendant ramps to allow mobility to the handicapped; the improvement and paving of a parking field; the modernization of the storm drainage system throughout the village; and the expansion of the village hall to accommodate the needs of its citizens.

The original village hall, built in 1931 when Farmingdale was still a small village, had been outgrown by the community. The new addition expands the village board-courtroom to accommodate between 75 and 100 people; insures sufficient space for a modern office for the clerk/treasurer and his staff; an office for the building department as well as the court clerk and, finally, offices for the mayor and village justice.

None of this work is solely cosmetic in nature. All of it was necessary in order to insure the health and wellbeing of the citizens of Farmingdale and the orderly administration of government. Indeed, I am proud to have served in the Congress that passed the legislation to enable this fine village to upgrade services for its citizens—without the cost having to be borne by the already overtaxed suburban homeowner.

In conclusion, may I once again congratulate both the village of Farmingdale and the Members of this body for this fine example of cooperation between the Federal and local government which preserves home rule on a local level, removes the burden from the local taxpayer and allows local government to share in the resources of the Federal Government.

MICHIGAN SNOWMOBILE WEEK

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. RUPPE. Mr. Speaker, January 29 to February 4, 1978, has been declared "Michigan Snowmobile Week." In observance of this week, I would like to point out the significance of snowmobiling to my State of Michigan. Some 1.3 million residents participate in this winter recreational activity of snowmobiling, and Michigan has more snowmobiles than any other State or Province.

Michigan snowmobilers have always promoted safe vehicle practices, conservation, the development of recreational trails, and the preservation of the State's natural resources. They have proven themselves knowledgeable sportsmen and are always ready to respond in times of emergency.

In addition to their recreation activities, Michigans' snowmobilers expend time and effort each year raising funds on behalf of charities throughout the State. Snowmobile enthusiasts have also contributed substantially to the State's economy. In fact, I understand that in Michigan the annual sales of new and used snowmobiles, the purchase of accessory equipment, and expenditures on trips and outings total over $190,000,000 annually. These social and economic benefits are valuable contributions to the welfare of my home State.

I applaud the contributions of those who enjoy snowmobile recreation and appreciate their efforts to enhance Michigan's reputation as an all-season vacation State.

A STEP FORWARD IN FOOT CARE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to call to your attention a bill which I have recently introduced in the House. This legislation is part of my continuing attempt to aid the elderly with their quest for good health, safety, and well-being. One of the leading causes of activity limitation among senior citizens is the impairment of the lower extremities. I have therefore attempted to amend the medicare laws to provide the elderly with necessary foot care treatment, previously neglected under the supplementary medical insurance program.

My bill, when enacted, will authorize medicare payments for professional, medical treatment of corns, warts, and calluses, conditions which are in actuality pathological growths, not merely irritants or inconveniences. These maladies afflict approximately 3 to 4 million senior citizens today. If these conditions are left untreated, they will often evolve into acute conditions, developing infections, causing associated back and leg problems, and altering walking patterns to create imbalances which will result in falling and injury. Warts, actually viruses, spread if left unattended. It should be noted that the treatment of warts are presently permitted under medicare on every part of the body except the feet.

It has been approximated that 20 percent of all corn, calluses, and warts will develop secondary pathologies. In addition, medicare's failure to provide proper podiatric treatment condones, and even encourages, the practice of patient self-care methods. Home remedies usually prove ineffective. Their usage poses a definite threat to the health and safety of the senior citizen. Misapplication of over-the-counter medication too often results in dangerous burning; the use of an unsterilized scissor or knife easily causes infection. An inexcusable number of poorly-sighted senior citizens have inflicted severe injury upon themselves by mistakenly cutting the wrong tissue on their feet.

The current medicare laws provide for the podiatric treatment of any secondary condition which develops when an uncovered pathology becomes acute. The cost of treatment for an infection is $35–$50 in an office, while hospitalization for the same infection averages around 4 days, at a cost of over $100 per day. Treatment for injuries which result from self-care and neglect are an even more expensive proposition. Each rejected medicare claim (submitted by a needy senior citizen who hopes to be reimbursed for medical expenditures) costs $3.21 on the national average to process, with an additional $2 charge if the practitioner must be contacted for clarification. Medicare accounting costs (answering inquiries, providing patient information, and appealing claims) increase the overall cost of medical care for the patient. The cost of eliminating a mild condition (such as a corn or callus) is less expensive in the long run than treating that pathology once it becomes acute.

It is imperative that the Medicare system provides adequate and inclusive foot care for the elderly. It is unforgivable to subject senior citizens to needless suffering and chance of injury. We must, instead, aid them to walk steadily, without fear of falling, which will guarantee them greater mobility. The extension of foot care benefits under medicare will relieve senior citizens of the initial discomfort of corns, warts, and calluses while simultaneously reducing the risks of infection and injury. This legislation will thus help guarantee the good health, safety, and well-being of the senior citizens of our Nation.

JOURNALISM AT ITS BEST: PUBLISHER O. RAY WATKINS

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. CHARLES H. WILSON of California. Mr. Speaker, the term "investigative reporting" became a household word in America after Watergate, making national folk heroes of the two young reporters who doggedly stuck with their story that eventually led to the downfall of a President.

In that same tradition is Compton Bulletin publisher O. Ray Watkins. As the Representative for the Compton area, I am well acquainted with the high standards of excellence maintained by this paper. When it is impossible for me to be in California, I rely on this publication to give me an objective assessment of what is going on in and around the city of Compton.

The paper has done an outstanding job. In recognition of their accomplishments, the California Press Association has awarded O. Ray Watkins with the Justus F. Craemer Publisher of the Year Award for the past 2 years. Although Mr. Watkin's journalistic standards may not have made nationwide headlines, he has, in the words of the press association, "epitomized the opportunities for service and success that lie in the newspaper field."

Judging from several articles in the Bulletin, community service is standard practice at the paper. If I may, I would like to include the words that are printed on the award Mr. Watkins received from the California association.

"He started his first newspaper, the Bulletin in 1970 because he believed his community needed a paper that identified with the community, printed all possible news and fought for honesty and progress in his city.

The Bulletin is located in an area with serious economic and social problems. Through his weekly newspaper, Mr. Watkins has shown courage and ability in cleaning up city government and land investment fraud.

Through his efforts and the use of his paper he has succeeded in having two city councilmen, whom he originally supported, convicted through the offices of the State attorney general and the FBI and sentenced to long jail terms and large fines for fraud, extortion, and perjury.

He is now in the midst of a campaign to clean up other major sections of city government.

Such a testimony sums up the character and convictions of a man who believes in the responsibility of the press and has not tried to use that responsibility for the sake of attention-grabbing headlines. It took 10 months for the Bulletin to uncover illegal activities in the city council. Taking on city hall is not an easy task and I, along with the California Press Association, applaud such determination and courage. As noted, Mr. Watkins previously supported the two council members but felt the public had a right to know when their trust was being abused by these two elected officials. It is not to say that law enforcement officials would not have taken action, but I am sure the work of Mr. Watkins and his paper increased community awareness of the problem and provided the extra impetus to solve it.

Resting on any laurels is not characteristic of O. Ray Watkins, and exposing abuses of power in city government is not his only concern. Making the City of Compton a better place to live is a high priority.

After learning of sub-standard health and sanitary conditions at several local supermarkets, the Bulletin launched a year-long investigation that eventually resulted in the closure of two major supermarkets and the disclosure of some 70 other violations.

The situation involved much more than violations of the State health code. Mr. Watkins believed many reputable markets would suffer because customers might begin taking their business out of the city, forcing closures and thereby decreasing tax revenues to Compton. Also, it would be a hardship for many poor people in the community who are unable to go out of the town for their shopping.

Interestingly enough, the paper could have stopped the investigation after the first report. It was shortly after the first article appeared, that the paper began receiving harrassing phone calls and threats of being boycotted by certain advertisers—the most essential aspect for the financial stability of any paper. But, his commitment to his community was the overriding concern and thanks to his initial interest and continued follow-through, those abuses have largely become a thing of the past.

I am sure there are other areas in the country where local papers have exhibited high standards of journalism and press responsibility, and certainly the list of the Bulletin's accomplishments could go on. But, it is noteworthy that O. Ray Watkins has continually served the City of Compton, not only as a publisher, but also through his involvement in community affairs. He has served as chairman of the Compton Police Commission, chairman of the Police Community Relations Committee and as a member of the Compton Chamber of Commerce and the district attorney's Advisory Committee.

He has most definitely filled a void in Compton where complaints came from a number of local groups about the lack of community identification from other newspapers. Part of the responsibility of a local newspaper is to inform residents about what is going on in their community and also to try and upgrade the quality of life there. The Compton Bulletin and its publisher can congratulate themselves on a job well done. Their contributions are numerous and I know we can expect the same quality in the future.

Mr. Watkins has a record of personal and professional achievement and dedicated service that deserves the recognition of the U.S. Congress. I ask that my colleagues join me in saluting an outstanding journalist in every sense of the word: Mr. O. Ray Watkins.

COMMEMORATION OF THE 60TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. STEERS. Mr. Speaker, today I wish to join some of my colleagues as well as Ukrainian-Americans throughout the United States in the observance of the 60th anniversary of Ukrainian Declaration of Independence.

It is particularly fitting that commemoration of the defiant spirit of 1918 be observed in this great Nation where we so recently celebrated the 200th anniversary of the American Declaration of Independence. It is indeed appropriate that we recall and reflect upon the courage and dedication to free principles that is symbolized by the proclamation of a sovereign, democratic state in the face of the threat of subjugation by another power.

Ukrainian history has been characterized by a continuous struggle to be free of external domination which to date has claimed the lives of millions of Ukrainian citizens. At present, the Soviet Union, one of the signatory nations of the Helsinki accords and its Declaration of Human Rights, continues to arbitrarily apply and twist Soviet internal laws to further the repression of Ukrainian citizens for expressing their national aspirations. The Ukrainian struggle to resist widespread "Russification," thinly disguised as "internationalism," deserves our highest praise. Ukrainian citizens investigating violations of human rights are accused of "anti-Soviet" agitation and treason, arrested and sentenced with minimal legal representation, and often detained in psychiatric institutions for "reeducation." International support of these brave individuals, who have organized in defense of human rights guaranteed by the letter of the Soviet Constitution, is often the decisive factor in protecting their lives.

Let us, therefore, commemorate the courageous establishment of the Ukrainian independent state to emphasize our united support of the spirit of freedom, our commitment to the national self-determination of peoples, and our dedication to a worldwide standard of political freedom and human rights.

THE WILMINGTON 10

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MITCHELL of Maryland. Mr. Speaker, on Monday evening, January 23, 1978, Governor Hunt of North Carolina issued a statement on the Wilmington 10. The Government had only two honorable options. He could either pardon the defendants or he could commute the balance of their sentences. He did neither. Instead he chose the path of political expediency (looking ahead to his next election) and he played it to the diehards in the State of North Carolina; he would see these young black men rot in prison.

What is the case of the Wilmington 10 all about? I became involved in this case even before these young men were sentenced. My involvement began at Union Baptist Church in Baltimore when a rally for the Wilmington 10 was held.

Here is the history of the case.

In October of 1972, the Reverend Chavis and nine codefendants were convicted on charges arising from racial disturbances in Wilmington, N.C. Nine of the ten defendants are presently incarcerated in various North Carolina pris-

ons. They began serving a total of 282 years on February 2, 1976 after the U.S. Supreme Court refused to grant a hearing on their case.

In October 1976, the chief prosecution witness in this case, Mr. Allen Hall, in a sworn statement, recanted his testimony against the defendants, stating that he had committed perjury on the witness stand. In his recantation, Mr. Hall alleges that agents of the Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of Treasury, in concert with the local prosecutor, coerced and influenced him to testify falsely against these 10 defendants.

The other key witness against the Wilmington 10 has sent the following letter:

To whom it may concern:

My name is Jerome Mitchell. My home is in Wilmington and see I am doing time for (murder II) a one day to 30 years sentence. My reason for writing you is because back in the month of September 1972, I testified for the State in the Chavis Case. Which I can no longer go on with myself about it. Because of the fact I committed perjury (sic) against every person in that case. There was only two key witnesses for the State, me, and Allen Hall. I don't care what anyone else do. But I feel I was wrong. I want to do all I can to get this right. I am praying they can be free or get a new trial. So I can tell everyone my reasons for testifying for the State. I have been down for almost three years and the State hasn't helped me yet. Please as soon as possible let me hear from you. I have done wrong enough. Please let me have any chance to help free those I lied on. Thank you!

JEROME MITCHELL.

Of the original 10 defendants, 9 still remain in jail. Ann Turner, the only white person involved, was originally sentenced to 10 years but was released under parole supervision last year, leaving only the blacks in prison.

Only last month I visited two of the defendants, Wayne Moore and Joe Wright, who are in the Triangle Correction Center, in North Carolina. All of the Wilmington 10 are scattered throughout various prisons in North Carolina—two here, two there, one here, one there. My visit with them was a heartbreaking experience. Both Wayne and Joe said they were not hopeful about an early release because to secure such a release the State of North Carolina would have to admit to wrongdoing. They did not believe the State would do this, and Governor Hunt's lack of action has proved them to be correct.

These defendants have all been unjustly convicted of crimes that they did not commit. Allen Hall's charges are very serious and if true, constitute a violation of Federal law and the constitutional rights of these defendants.

This case lay naked and open the false platitudes the administration and the U.S. Congress have been uttering about civil rights. When the Carter administration talks about violations of human rights in Uganda, we must ask, "What about the human rights of Joe Wright, presently sentenced to 29 years?" When the Congress talks about violations of human rights in Chile, we must ask, "What about the human rights of Wayne Moore, now sentenced to 29 years?" When the executive branch and the Congress talk about violations of human rights in the Soviet Union, we must ask, "What about Rev. Ben Chavis, now sentenced to 34 years?"

More importantly, we must not cease our efforts until these men are free and justice is done.

PANAMA—THE CONSTITUTIONAL QUESTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. McDONALD. Mr. Speaker, the executive branch of our Government, in its discussions on the proposed Panama Canal Treaty, has been side slipping and ducking the constitutional question involved—the right of the Congress to dispose of U.S. property. Obviously, the reason for this is that neither President Carter nor the Department of State wishes to test the popularity of this treaty in the House of Representatives.

The arguments used in supporting the Carter administration position are lame at best, using such precedents as the Indian treaties and boundary treaties. A recent article by Kenneth Merin, legislative attorney of the American Law Division, Library of Congress, points out that there is ample precedent for invoking article II, section 2, clause 2, in the case of this treaty and that in previous treaties relating to land in the Canal Zone, the Congress has acted. Our President, as the highest officeholder in the land, is especially bound to follow the Constitution strictly and set the example. We in the Congress, must not allow him to make a rubber band of our Constitution. The article by Mr. Merin, as it appeared in the Congressional Research Bulletin for January 1978, follows:

PANAMA—THE CONSTITUTIONAL QUESTION

(By Kenneth Merin)

Almost lost amidst the debate over the political, military, historical, and economic ramifications of the proposed Panama Canal Treaties is the constitutional question of whether American territory and property may be transferred to a foreign nation under the treaty making power. Article II, Section 2, clause 2 of the Constitution authorizes the President to negotiate and enter into treaties:

"He shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; . . ."

However, Article IV, Section 3, clause 2, grants Congress the power to dispose of territory and other Federal property:

"The Congress shall have Power to dispose of and make all Rules and Regulations respecting the Territory or other Property belonging to the United States; . . . ."

Certain powers granted by the Constitution to Congress are concurrent, and may be exercised by either the Congress, or the Executive through its treaty power. If the disposal power is concurrent, then American property interests may be conveyed to foreign nations without the approval of the House of Representatives. Exclusive powers may be exercised only by the Congress. If the disposal power is found to be exclusive, then both Houses of Congress would be required to assent through legislation to any transfer of property interests.

CONSTITUTIONAL ANALYSIS

Two powers exercised by the Congress and generally conceded to be exclusive are the appropriations and revenue law powers. Their exclusive nature is readily apparent from the language of those Constitutional provisions. Thus, "All Bills for Raising Revenue shall originate in the House of Representatives; . . .", and, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; . . .". Other provisions of the Constitution state the legislative powers of Congress in a permissive form, without the mandatory language used in the grants concerning appropriations and revenue powers.

LANGUAGE PERMISSIVE

The language of Article IV, Section 3, clause 2 is permissive, "The Congress shall have the Power . . .". Despite that language, the Supreme Court has constantly ruled that Congress' power to dispose of federal territory and property is exclusive. Those decisions, however, involved situations concerning the locus of authority within the federal system.

The Court did not consider the nature of the Congressional power as a limitation on the extent of the treaty power. In fact, Article IV does seem to be devoted to the distribution of authority between the State and Federal Governments. However, good arguments supporting both the exclusive and concurrent interpretations of the disposal power may be culled from the Records of the Constitutional Convention, the various State Ratifying Conventions, and the Federalist Papers.

It does not appear that there is any clear answer to be obtained from the Constitution as to the exclusive or concurrent nature of Article IV as it relates to the disposal of property to a foreign power. Therefore, it is advisable to look to the past treaty practice of the United States in order to determine if that practice reveals precedent that may be considered controlling.

TREATY PRACTICE

Are previous disposals of territory and property (without implementing legislation) valid precedent for the proposition that the House of Representatives has no role in the disposition of Federal property interests? A comprehensive review of such actions suggests that they are distinguishable from the proposed cession of property to Panama.

One group of such treaties may be categorized as "boundary treaties". Through these instruments the United States delineated its borders. However, the settlement by treaty of a disputed boundary does not provide support for the concurrent nature of the disposal power, since a treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition.

Treaties that conveyed interests in land to the Indian tribes comprise the second group of treaties which have been suggested as a basis on which to find support for the concurrent nature of the disposal power. The Indian treaties do not serve to prove this point for several reasons.

First, many of those treaties did not grant the Indians a complete ownership interest in the land. Next, in those instances in which the Indian tribes received an ownership interest, the Federal Government still exercised ultimate control over the land through its power of eminent domain. That power obviously would not exist if lands were transferred to a foreign nation. Finally, Congress passed a law over a century ago that repudiated the practice of disposing of lands to the Indian tribes by treaty.

A third group of treaties does provide more of a basis on which to base a claim that treaty practice of the United States shows that the disposal power is concurrent. The prime example of this sort of treaty is the instrument returning Okinawa to Japan. That 1972 cession did convey Federal property to Japan, seemingly without congressional approval. The precedential value of this treaty is limited by the lack of congressional opposition to the transfer and by existing statutory language which may have been used as a basis under which the transfer was made.

CONCLUSION

The treaty making power, vested in the President to be exercised with the advice and consent of the Senate, is extremely broad in scope. That power is limited when the Constitution confers an exclusive grant of authority on Congress.

Although there are excellent arguments in favor of the proposition that the authority to dispose of property is concurrent and may therefore be exercised under the treaty making power, those arguments are not altogether free from doubt. Supreme Court decisions have recognized the exclusive nature of Congress' Article IV powers as they relate to the Federal-State relationship.

Those rulings have never been qualified by other decisions characterizing the disposal as concurrent when used by the executive under the treaty making power. It does not appear that past treaty practice with either foreign nations or Indian tribes provides authoritative precedent establishing, with any degree of certainty, the exclusive or concurrent nature of Article IV, as that provision relates to disposal of land to a foreign sovereign.

It is clear that Congress has often asserted an exclusive right to dispose of federal territory and property. It is also apparent that both the Executive and the Senate have recognized that claim in past dispositions of property in the Canal Zone to Panama. Therefore, while it is impossible to make a categorical assertion that Article IV, Section 3, clause 2 is either exclusive or concurrent, it appears that those powers have been recognized as exclusive for purposes of disposal of property in and around the Canal Zone to Panama.

Finally, regardless of the nature of the Article IV power, the co-operation of all three branches of government is necessary for the effective implementation of American foreign policy. Although the President is the sole organ of communications with other nations, conclusion of a treaty without prior regard for congressional attitudes might adversely affect the continuing executive/congressional relationship.

THE PARKINSONIAN SOCIETY OF GREATER WASHINGTON

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. CARNEY. Mr. Speaker, more than half a million Americans are afflicted with Parkinson's disease, an illness that has long been neglected and misunderstood. Medical research is making great strides in alleviating the symptoms of Parkinson's. Much of this research has been financed or conducted by the National Institutes of Health. Additional financial support is needed, but good health for the people afflicted with Parkinson's cannot be bought entirely. A great deal depends upon self-help.

Accordingly, I would like to call your attention to a new organization in Washington, D.C.—presumably the first of its kind in the Nation—which might well serve as a model for other communities. I am referring to the "Parkinsonian Society of Greater Washington." I have recently been made an honorary charter member of this organization. As one who has had Parkinson's for approximately 30 years. I am well aware of the devastating effect that this illness can have on people. Fortunately, thanks to medical science, the symptoms of Parkinson's have been arrested in my case. Other Parkinsonians are not so fortunate.

The Parkinsonian Society of Greater Washington is a nonprofit organization. The purposes of the society are to provide opportunities for patients, their families, and friends to help each other enjoy fuller lives through shared experiences and informal exchange of information and inspiration, and to help the public and medical personnel understand and accept Parkinsonians as people.

Mr. Speaker, I would like to take this opportunity to commend the temporary officers of the Parkinsonian Society of Greater Washington for their work in organizing the society; they are: President, Sidney Dorros; vice president, Angelo "Chuck" Figlia; treasurer, George Foster; recording secretary, William Hoff, and corresponding secretary, Mrs. Virginia Carlson. In addition, I would like to commend Mr. Ben Filipski for his work in drafting the bylaws of the Parkinsonian Society of Greater Washington, which I am inserting in the RECORD at this time for the information and consideration of my colleagues. The bylaws follow:

PARKINSONIAN SOCIETY OF GREATER WASHINGTON BYLAWS

Article I, name. The name of this organization is Parkinsonian Society of Greater Washington.

Article II, objectives. The objectives of this non-profit organization are to foster the maximum potential for living of Parkinsonians and their families and to aid them in participating in and enjoying the active world. It shall encourage optimism and hope, and counteract despair and depression by providing opportunities for self-help, social contacts, and sharing personal experiences and information about coping with parkinsonism. It shall also seek to help the public and medical personnel understand Parkinsonians as people.

Article III, membership. Persons eligible for membership in the Parkinsonian Society of Greater Washington shall be: a. Any Parkinson disease victim; b. Any family member of a Parkinsonian; c. Medical personnel directly or indirectly connected with the treatment or alleviation of Parkinson's disease; d. Staff members of medical, research, or therapeutic units interested in those afflicted with Parkinsons disease, their problems and their efforts to re-establish a level of contribution to society; e. Anyone with an empathy for the victim of Parkinson's disease and a desire to encourage and stimulate their emergence.

Article IV, officers.

1. The officers of this organization shall consist of a President, Vice-President, Secretary and Treasurer.

2. The President shall preside at all meetings and shall exercise the normal power of a presiding officer (Roberts Rules–guide).

3. The Vice-President shall perform when the President is unable or unavailable to act. He shall also assist the President in the performance of his duties and the other duties as may be delegated.

4. The Secretary shall record the minutes of all meetings and maintain files and records. He shall furnish the members with a notice of all group meetings and gatherings of the organization and of other events of interest to the members. The Secretary shall also be in charge of circulation of notices and the distribution associated with this function.

5. The Treasurer shall be responsible for the collection of all dues and monies due the organization and shall maintain the membership list of all paid up members. This list shall be prepared alphabetically and shall contain the names, addresses and telephone numbers. This list will be updated once each year and a copy forwarded to the members of the Parkinsonian Society of Greater Washington by the Treasurer.

6. All officers will be elected by paid-up members in attendance at the first meeting of every calendar year and will hold office for one year immediately following election.

Article V, meetings.

1. Meetings of the members shall be held at home or places designated at the previous meeting or by special distribution notices. Normally, these are scheduled on a bimonthly basis and will include social activity and/or other events of special or general interest to the members. Special meetings or participation in extraordinary events will be made known by separate mailed notices at least one week in advance of the affair.

2. Executive committee members, as appointed by the President, will meet as directed, usually at the call of the President, to initiate, expedite, clarify, or amend any activity, scheduled meeting (change of date or meeting place) and other matters affecting the organization. Decisions and directives resulting from executive committee meetings will be made known to the members at the next regular meeting or by special promulgation, if required.

3. The order of business at all meetings shall be as follows: a. Call to order by President or Vice-President. b. Reading of summary minutes of preceding meeting and the activity associated with it. c. Reports of officers. d. Reports of committees. e. New business. f. Adjournment of business. g. Start of social activities.

Article VI, dues and assessments.

1. The dues of this organization will be determined by family units. The annual dues are five dollars ($5.00) per family unit, payable at or before the Annual Meeting, except that dues of new members are payable at the time of enrollment.

2. Special assessments shall be chargeable to every member concerned regardless of his attendance at the meeting directing the assessment. The special assessments are for unforeseen expenses required to defray cost of special events voted by the organization at a general meeting. Collection of the assessment will be made by the Treasurer at the meeting approving the decision. Deferments in paying of the special assessments will have a set mailing deadline as arranged between the individuals concerned and the Treasurer.

Article VII, amendments. These Bylaws of the Parkinsonian Society of Greater Washington shall be changed only on approval by a majority vote of the members at two consecutive general meetings.

Article VIII, dissolution. In the event this organization should be dissolved or otherwise terminated, the assets and income thereof shall not enure to the benefit of any member or private individual, but shall be used, until they are exhausted, for the purposes of carrying out the objectives for which this organization was founded.

WARNING TO SOUTH KOREA

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mrs. MEYNER. Mr. Speaker, I wish to commend and endorse your formal warning to South Korea that its U.S. aid may be in jeopardy if it does not supply to House investigators the testimony of Tongsun Park and other South Korean officials on alleged influence-buying in Congress. Vague and ambiguous allegations of misconduct have been directed against past and present Members of Congress, and the House of Representatives stands accused of deeds ranging from criminal to semicriminal. These charges must be pursued, substantiated and laid to rest, not be allowed to float like a noxious cloud poisoning public opinion of this institution.

Congress has the right to investigate fully these damaging charges. Furthermore, House of Representatives' investigators are entitled to the same cooperation the Korean Government has given the Department of Justice. Because of that Government's puzzling refusal to extend this courtesy to our investigators, we are compelled to issue this warning.

As a member of the International Relations Committee, I would deeply regret congressional reaction against this longstanding ally. For that reason, we must admonish the South Korean Government against straining our friendship through continuing to deny Congress the right to defend itself.

MAJOR AVIATION ISSUES

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. JOHNSON of California. Mr. Speaker, the two major issues facing the U.S. air transportation system this year are the effects of aircraft noise and how to deal with them and the need to reform the aviation regulatory philosophy and process.

One of the real leaders in the Congress on aviation issues, my good friend and colleague GLENN ANDERSON, chairman of the House Aviation Subcommittee, made a speech recently before the Aero Club of Washington. The speech describes the current status of legislation dealing in a comprehensive manner with both issues. I commend the remarks of my colleague to the entire membership.

CONGRESSMAN GLENN M. ANDERSON AERO CLUB SPEECH

Ladies and gentlemen: I am not here today to fill you with pleasant platitudes about how wonderful the noise bill can be, and to kid you along about regulatory reform. I am here today to level with you.

I am a strong proponent of the airport and aircraft noise reduction bill, H.R. 8729. I should be. I, along with several of my colleagues here, had a lot to do with it. It's a good bill. I'm out front for it.

I doubt seriously if I'm known for being out front on regulatory reform. I had some problems with some of the proposals and I didn't rush. You all know that. I do have a moderate regulatory reform bill, H.R. 8813, on which we've held hearings. It's basically a good bill.

Now what am I saying? Just this: along with many of you, I am now convinced that no matter where any of us come from in our approach to the pressing aviation problems of the decade, the time has now come to face up to the hard realities.

If there is any part of the total aviation legislative package out there that any one wants badly enough, then we'd better make up our minds right soon to get out there and work for all of it. I am more and more convinced of this. It would be unfair to tell you otherwise.

It is my purpose today to call you to action. There is no need to go into details with you who have been so involved with us in the long arduous task these past several years of putting together this must legislation—legislation which we need to sustain our aviation industry and economy, to sustain our world aviation leadership, and to maintain the respect of the public which we serve and with whom we live and do business as neighbors. There is also no need to outline to you a legislative schedule. Most of you know that it must happen this year and as quickly as possible.

Ladies and gentlemen: HR-8729, the aviation noise bill, is jobs legislation. It's very important to California. With Bizz Johnson, Glenn Anderson, Norm Mineta, Don Clausen, and Barry Goldwater, Jr., would you have expected otherwise? You can forgive us, no doubt, for mentioning that to the folks in California.

But don't let that fool you. Look again. It's a business incentive-jobs creating and public works bill affecting every part of the country.

If, under title III, the airlines replaced only the 707's and the DC-8's with new technology aircraft, that would create some 100,000 employee years from 1978 to 1987. This would result in direct employment consisting of an estimated 23,000 new jobs and at least another 22,000 indirect jobs.

That's 45,000 jobs as a starter.

The 95th Congress needs the noise bill and can support it, once it knows and understands these facts. You must let the members know.

I said this was jobs legislation—with a business incentive.

Ladies and gentlemen: HR-8729 is energy legislation. We have the means with this legislation to effect remarkable savings—the new technology aircraft are some 30 percent more fuel-efficient than today's planes.

Our goal in the noise bill is to make aviation more efficient through encouraging widespread early adoption of new technology aircraft and engines which will accomplish this. Regulatory reform proponents argue substantial additional benefits through encouraging higher load factors. The 95th congress needs good energy legislation and can support it. You must give them these facts.

Ladies and gentlemen: This is environmental legislation the environmental movement long has sought an answer to the problems associated with aircraft noise. This is a practical hard-headed solution to those problems—A landmark opportunity that must be seized and supported.

The American public—our neighbors—also have come to realize their stake in having something done. Neighborhood civic associations, city and state governments, and the courts across this land have spoken loud and clear. It is estimated that property damages every year amount to 3.25 billions of dollars. That's staggering.

Some 7.3 million persons in the United States are bombarded daily by excessive noise. Some 3 percent of our population are exposed daily to intolerable noise levels. Title I of the noise bill provides $400 million in incentive grants to help local government get together to solve the airport-community part of the problem. Title III of the noise bill provides the incentives for the quieter new technology aircraft.

Our world aviation leadership is at stake in what we do here about noise this year. You must enlist the people who have these concerns and let those members who have been searching for such answers know that opportunity is now here.

So HR-8729 is a jobs bill with a business incentive. It's an energy savings bill—and it's an environmental bill.

Ladies and gentlemen: The noise bill is also a *foreign trade* bill. It will do as much for our balance of trade probably as any other action we take this year. Of one thing we can be sure. This bill is essential to help provide the U.S. with the wherewithal to maintain our preeminence in the world of aerospace exports. It will help the U.S. to face the recent serious challenges to U.S. superiority in the field. You must stress these facts.

And so, jobs, business, energy, environment, foreign trade, balance of payments—that's a pretty good package.

Ladies and gentlemen: This legislation preserves traditional American values of local government in its approach to the problems of the airport and its neighbors. Some will attempt to scare the daylight out of some of our members who rightly serve as guardians of those values. You must reassure them. To solve the problem, it is absolutely necessary that the Congress provide incentives to local governments to move. Title I of the noise bill does that, but there is no heavy hand of federal preemption of local rights and obligations.

Ladies and gentlemen: Now what about regulatory reform? (Here I'm talking about that part of the package which scarces some of you a little.) Most of us want to remove red tape delays and overburdening government meddling from private enterprise operations. That's at least a good point to start from. Some would argue that an enlightened C.A.B. can do that now. Dr. Kahn, the present chairman, has set about to do what can be done within the limits of present law, but he is the first to tell us that alone is not enough.

Beyond that issue, a large one, we find less agreement on legislative language. But we're not that far apart. We are in fact close enough to come to terms with realities. I am firmly convinced of the need for reform in many areas of C.A.B. regulations, and the Senate and the administration consider meaningful reform legislation the top priority item for aviation this year.

The regulatory reform part of the package is consumer legislation because it holds out the promise of better service at better prices. It also is business legislation as our good friend, Congressman Phil Crane, will tell you because it upholds the principles of private enterprise. You will find much support out there among the members on one or the other of these issues now. You need to convince yourselves that some regulatory reform is an essential part of the package.

Your job now is to help us to develop meaningful effective reform legislation. I intend to lead the way with my H.R. 8813 and listen carefully to my good friends, Congressmen Levitas and Mineta, who also have bills and my other colleagues.

I must say also that my mentor and dear friend and colleague, Chairman Bizz Johnson, has called to my attention some of the problems that he foresees long range, especially for general aviation and the small and commuter airports. I think he is right and that we can and should move to accommodate these needs as quickly as we can in-

cluding what we can do now. We can and are doing something in this regard in title II of the noise bill, as well as meeting our goals for noise, without endangering the trust fund and without increasing the flow of funds into the trust fund.

D.O.T. computations substantiate our committee staff data showing that we can safely increase ADAP authorizations for fiscal year '79 by an additional $225 million for air carrier airports and an additional $35 million for general aviation airports, and for FY '80 an additional $268 million and $42 million respectively. This still leaves a surplus in the trust fund for that period.

During the 2 to 3 years that the sub-committee has been studying this legislation, we have told people over and over that there would be no increase in the cost to the taxpayer or to the aviation consumer when he or she buys a ticket. So we have fashioned a bill that contemplates ways and means reducing the ticket tax by 2 percent. I say temporarily. This does not mean a reduction in the cost to the customer because we are setting up a 2 percent temporary surcharge which pays for title III of the noise bill. At the same time, we increased ADAP authorizations as I have outlined by more than the administration feels necessary.

We have to assume that ways and means will have no problem in allowing the 2 percent tax to continue going into the trust fund once again after these immediate needs are met.

To ignore the noise bill, we not only jeopardize our world aviation leadership, but we also face the likelihood in the face of the surpluses of a cutback in the trust fund with nothing to show in return. Or perhaps an expanded transfer of the airport trust funds to the general fund—to go for such things as foreign aid—and servicing the national debt.

On the other hand, if we increase the tax, we have a double jeopardy situation in which we are asking for a tax increase on the customer for a fund that is embarrassingly in surplus. We would face a hostile no-win floor situation.

We have here a chart prepared by the F.A.A. and D.O.T. which I find to be consistent with our assumptions and most useful. You are welcome to take one if you wish. You will note that the trust fund remains in surplus throughout the period of the 2 percent reduction (or, if you will, the temporary transfer to the surcharge fund), and, that it recognizes increasing ADAP needs. Thereafter, I assume a 2 percent tax resumption which will provide even more for ADAP. This is extra surplus not even reflected in the chart.

Between the House and the Senate, I am sure there will be minor improvements which we can make without endangering the basic premises of the commitments we have made. I am optimistic also that the Ways and Means Committee (under the great leadership of Al Ullman) will act favorably in time for us to take HR–8729 to the floor as soon as the first concurrent budget resolution is in place on May 15.

Aircraft noise is the major constraint on the growth of our nation's air transportation system and the clock is ticking on the noise compliance dates. Regulatory reform will undergird that growth after we remove the noise constraint.

I hope you will gear your activities to doing that which must be accomplished both on HR–8729 and HR–8813 if we are to fulfill the destiny of our air transportation system and meet the needs of the traveling public.

You notice I use the pronoun "you" a great deal—I am serious about your role. With your all-out support, we can win. But—you here today—must be out in front.

FROG HOLLOW IN THE NORTHSIDE COMMUNITY OF CINCINNATI, OHIO

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. LUKEN. Mr. Speaker, I would like to draw my colleagues' attention to a most unusual area within the district I represent, "Frog Hollow." Frog Hollow, one of the most picturesque patches of land remaining in the city of Cincinnati, is an historic area nestled in the bustling neighborhood of Northside.

To the south, Parker's Woods rises majestically. In 1971 the Greater Cincinnati Tree Council donated 25 additional acres of virgin forest containing some of the largest oak and beech trees in Ohio. Opposite is La Boiteau Woods trailing north beyond the Spring Lawn Riding Stables, a fixture for 50 years in the neighborhood. The Cincinnati Park Board operates a nature program in La Boiteaux Woods.

To the East is the famous Spring Grove Cemetery, at one time the largest cemetery in the United States, and still certainly the most beautiful. Bordering this area is Hamilton Pike, the same road followed by Gen. Anthony Wayne, through Fort Hamilton, and north to the Battle of Fallen Timbers.

It is a pleasure to share with you such a lovely, historic area in Cincinnati.

TWENTY-FIFTH ANNIVERSARY OF PRESIDENT EISENHOWER'S INAUGURATION

HON. WILLIAM S. BROOMFIELD

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. BROOMFIELD. Mr. Speaker, 25 years ago a great American and a great Republican became the 34th President of our country. He led our forces to victory in war, and he led our Nation to 8 years of unity, stability, and economic growth in peace.

I am pleased to join millions of Americans in commemorating the 25th anniversary of the Presidency of Dwight David Eisenhower. For many of us, it is a time to reflect upon his accomplishments, and more importantly, the principles that guided our Nation in that remarkable era.

President Eisenhower drew his strength from the American heartland. His values were the values of the people and they loved and trusted him for it.

The view toward limiting the role of Government, now so much in vogue, was a trademark of the Eisenhower years as he fought the trend toward centralization of authority.

In his farewell address, President Eisenhower reemphasized his views about the dangers of an expanding Government. With his background as an academic leader and former president of Columbia University, he cautioned us about the threat to academic freedom posed by the Government's growing control of higher education funds. With his background as a great military leader, he was the first to warn about the growth and influence of the military-industrial complex.

He saw clearly that the trend toward centralization of authority, carried out largely through the control of funds, endangered our basic freedoms. His warning was clear when he said:

> I firmly believe that the army of persons who urge greater and greater centralization of authority and greater dependence on the federal treasury are really more dangerous to our form of government than any external threat that can possibly be arrayed against us.

President Eisenhower was a strong advocate of reducing taxes to put greater spending and savings power into the hands of the people, and for shaping the Federal bureaucracy to make it as efficient as possible through the consolidation of functions—many of the ideas we are hearing today.

Under his leadership, the Department of Defense was reorganized; the Department of Health, Education, and Welfare was created; and we had the largest tax reduction up to that time.

While he fought for limitations on the role of Government, President Eisenhower used its power to help citizens who truly needed assistance.

He expanded social security coverage to over 10 million Americans. He won pasage of the first civil rights legislation since Reconstruction days, and he had the will to use Federal troops to sustain constitutional rights for the individual American.

In the international area, because he intimately knew the horrors of war, he worked hard for peace. Through the alliances we had formed, he kept our world peaceful during his Presidency. He advocated an "open skies" policy to assure a feeling of security among nations, and in his "Atoms for Peace" program, he called for the pooling of atomic information and materials under the auspices of an international agency. This idea became a reality with the creation of the International Atomic Energy Agency.

Beyond the many accomplishments that typify his administration and his approach to Government, President Eisenhower's belief in our country and its responsibility as a member of the world community shine as a guiding beacon. His understanding of the moral responsibility we shoulder and the example we must set was clearly illustrated when he said:

> Whatever America hopes to bring to pass in this world must first come to pass in the heart of America.

Mr. Speaker, though it has been nearly two decades since the Eisenhower administration, and almost a decade since he

passed away, his values are still appropriate.

The 8 Eisenhower years of unity, stability, and economic growth grew out of a time when our Nation was divided over the war in Korea, and we were unsure of ourselves at home. His values—the people's values—served us well then just as they will today.

SIXTIETH ANNIVERSARY OF THE INDEPENDENCE OF THE UKRAINE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. CONABLE. Mr. Speaker, this year marks the 60th anniversary of the independence of the Ukraine. Though short-lived, the independence is revered by Ukrainians who know the heroic efforts of those who have struggled over the centuries against despots who would destroy the Ukrainian culture and extinguish its spirit. We know the fate of Ukrainian dissidents who today oppose Russification and who are now confined to labor camps and psychiatric hospitals for their love of freedom and independence. The Ukrainian cause for freedom continues and has the support of all those who hold dear the cause of human rights.

The Helsinki agreement of 1975 made human rights an integral part of relations between nations. As a Government and as a people, we have reaffirmed our commitment to the right of the individual to be free from the oppressive interference of his Government and to enjoy the right to travel, to worship as he chooses and to thrive in the culture of his parents. We must continue to insist that our diplomacy reflect our commitment to these human rights in the Ukraine and elsewhere.

A TRIBUTE TO THE MOST HONEST QUARTERBACK WHO EVER PLAYED THE GAME AND ONE OF THE ALL-TIME GREATEST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. KEMP. Mr. Speaker, I think it is appropriate that I, as a New Yorker, offer a comment on the career of a friend and a truly great quarterback, Joe Namath, who has announced his retirement from professional football.

"Broadway Joe" is a household name, a hero to young and old and a credit to the game of football and to his country. As many are sure to observe, he is firmly established as a legend in his own time and for the annals of football as one of the greatest quarterbacks to ever play the game.

And, I am proud to say, as a friend of mine and a formidable foe of yesteryears, I was disappointed to learn of his retirement.

On the occasion of Joe's departure as an active player, another talented professional has eulogized Joe with a rare and special talent of his own. He is Dave Anderson, the prize-winning sports columnist of The New York Times.

In today's editions, Dave reiminisces about Joe's super special, uncompromising honesty. At this point, Mr. Speaker, I request permission to share this essay with my colleagues and Joe Namath's many fans in the Congress.

[From the New York Times, Jan. 26, 1978]

THE MOST HONEST QUARTERBACK

(By Dave Anderson)

His attorney and manager, Jimmy Walsh, would have preferred that Joe Namath prolong the vagueness of his future as a quarterback but by being vague, Joe Namath was not being himself. He knew he was going to retire from football. For a few weeks he placated Jimmy Walsh by telling newsmen: "I have an idea of what I'm going to do, but I don't want to talk about it yet. But on Tuesday night, he talked about it, blurting: "I'm not going to play next year." More than all the touchdown passes, more than all the blondes, more than the drinks and all the dim bars, that honesty is what Joe Namath is all about. Historians will cherish his "guarantee" that the New York Jets would upset the Baltimore Colts in Super Bowl III, but he was not bragging. He was just being honest in his own mind, as the 16-7 score would attest. Through the years, Joe Namath has been perhaps the most honest athlete of his time—for better or for worse. Earlier in that 1968 season, five interceptions by the Denver Broncos deprived the Jets of an expected victory.

"I ain't sayin' nothin'," he announced later at his locker, "except that I stink."

With those few words, Joe Namath had dissected a 21–13 loss better than the game-films would. Win or lose, Joe Namath never hid behind that copout phrase that almost all coaches and many players use: "I won't know until I see the films." Joe Namath always knew. His honesty was obvious from the beginning. Shortly after he signed his celebrated $427,000 contract, he was put on display by Sonny Werblin, then the Jets' president, in the dark upstairs room at Toots Shors' old restaurant, where a cynic confronted him.

"Suppose you don't make it, Joe," the cynic said. "What happens to the money?"

The rookie quarterback never even blinked. "I'll make it." he said quietly.

AN "ALMOST PERFECT PASSER"

But even in the 1968 season some people were still skeptical. After all, the Jets were still in "that other league," the American Football League, whose teams, the Kansas City Chiefs and the Oakland Raiders, had been soundly trounced by the Green Bay Packers in the first two Super Bowl games. But the Packers' coach, Vince Lombardi, knew how good Joe Namath was. Vince Lombardi called him "an almost perfect passer." Joe Namath also knew.

"Do you think," he was asked late that season, "that some day you'll succeed Johnny Unitas as the king of the quarterbacks."

"No," he said quickly.

"Why not?" he was asked.

"Because," he said with a grin, "I feel I'm there now."

And he was.

But most people still did not accept him until the Super Bowl triumph when his honesty suddenly changed the image of athletes forever. Yes, he drank Johnny Walker Red; yes, he had dallied with a blonde acquaintance the night before the game. Not that he was gloating.

"Hell," he would explain later, "somebody asked me a question and I told them the truth."

Six months later, Joe Namath's honesty flared again. Threatened with suspension by Commissioner Pete Rozelle because of alleged "undesirable" customers in the Bachelors III bistro of which he was part owner, he retired from football rather than sell his share. But two months later he surrendered to the commissioner's edict.

"It was the logical thing to do," he said at the time. "But it still wasn't the right thing to do. I did nothing wrong."

But soon his body began to betray him. Early in the 1970 season he suffered a broken bone in his passing wrist. Returning with renewed enthusiasm in 1971 for the first exhibition game, he threw an interception, tried to tackle the ball carrier and suffered a knee injury that necessitated his fourth knee operation.

"His honesty got him," Coach Weeb Ewbank said. "If he hadn't tried to make the tackle, he wouldn't have got hurt."

His honesty also prompted him to rejoin the Jets late that season, even though they were far out of the race.

"When you're a football player," Joe Namath explained, "and you think you can do something to help your team win, you should try to do it."

Against the Colts in Baltimore in 1972, he passed for six touchdowns and 496 yards in a 44–34 victory.

"But sometimes," he explained, acknowledging a few lucky breaks that day, "you can spit in a swinging jug."

All around him in those years, the Jets were slowly disintegrating. Once, after a victory over the New England Patriots, he was asked how it felt to be a winning quarterback again.

"I may not have a lot of victories," he replied evenly, "but I'm always a winning quarterback."

Always an honest quarterback, too. Even to the end. He recently criticized the Los Angeles Rams' front office for the way they handled their coaching situation—the departure of Chuck Knox to the Buffalo Bills amid whispers that George Allen would be hired as his successor.

"I got some flak," Joe Namath says now, "but hell, somebody asked me a question and I told them the truth."

Sometimes the truth hurts, as the Rams discovered. But for Joe Namath, the truth of retirement did not hurt. Not when it was simply a matter of being honest with himself.

CONGRESSMAN ROBERT McCLORY MAKES FULL FINANCIAL DISCLOSURE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. McCLORY. Mr. Speaker, I have reached a decision that a full disclosure of my assets and liabilities will serve the purpose of informing my constituents regarding my financial worth.

Accordingly, I have issued a press release and a schedule of all of my assets. In addition, I want to indicate at this time my intention to support reasonable and logical provisions in a proposed full disclosure bill which may soon come to the floor of the House of Representatives

from the House Judiciary Committee where I am the ranking Republican.

Mr. Speaker, the press release follows:

CONGRESSMAN ROBERT MCCLORY MAKES FULL DISCLOSURE OF PERSONAL FINANCES

Congressman Robert McClory (R-13th) today issued a complete financial statement including all investments, real estate, checking and savings accounts, and other sources of income.

"This listing of my financial assets and liabilities represents 'full disclosure'," said the Illinois Congressman. "The statement goes far beyond that required by the proposed legislation pending in the U.S. House of Representatives and is more complete than that required by any rules of the U.S. House."

"The more limited financial statements required for Members of the House and for certain staff persons must be filed with the Clerk of the House on or before April 30, 1978," he explained.

Congressman McClory voted in favor of the House Ethics bill of which the disclosure provisions were a part on March 2, 1977.

"I am anxious that my constituents may have an account of my personal worth as their Member of Congress," said Congressman McClory. "This accounting is as accurate as I can make it without receipt of final 1977 income tax information."

"I realize that in reaching this decision, I am discarding virtually all rights of privacy involving my financial affairs. However, there seems to be a current public interest in this type of disclosure."

The year of purchase of stocks and bank shares indicates the dates when initial purchases were made. In some cases, there were additional purchases of stocks or shares, stock splits, and dividend reinvestments.

A listing of Congressman McClory's assets and liabilities as of December 31, 1977, follows:

ANNUITY

Illinois State Employees' annuity for 12 years service in Illinois General Assembly—$1,800 a year.

AUTOMOBILES

1978 Mercury Monarch—$6,839.

1975 Mercury Comet kept in 13th Congressional District for use there—$2,025.

BANK SHARES

Bank	First purchase	Shares	Book value, Dec. 31, 1977
American National Bank & Trust Co. of Waukegan, Ill. (formerly Little Fort Bank & Trust Co.)	1958	770	$34,650
Bank of Waukegan	1962	464	29,000
Gurnee (Ill.) National Bank	1972	63	1,890

CHECKING ACCOUNTS

Harris Trust & Savings Bank, Chicago, Illinois, $1,405.

Sergeant-at-Arms, U.S. House of Representatives, $1,070.

CIVIL SERVICE RETIREMENT FUND

Total contributions from salary since entering Congress in January, 1963, $43,447.

HOUSING DEVELOPMENT

Nine percent partnership interest in Whispering Oaks Apartments (Phase One), Dugdale Road, Waukegan, Illinois.

1968–1969 investment, $27,000. Estimated fair market value as of December 31, 1977, $30,000.

INCOME FROM SALARY

U.S. House of Representatives 1977, $54,275.

REAL ESTATE

Residence, 340 Prospect Avenue, Lake Bluff, Illinois. Estimated current market value, $110,000. Residence is leased for $5,400 a year.

Residence, 321 Constitution Avenue, N.E., Washington, D.C. Estimated fair market value, $115,000. Subject to mortgage as of December 31, 1977 of $22,860.

SAVINGS ACCOUNTS

American National Bank & Trust Company, Waukegan, Illinois, $2,820.

Caisse Hypothecaire Du Canton De Geneva, Switzerland, $1,500.

Lake Forest Savings & Loan Association, Lake Forest, Illinois, $4,380.

STOCKS

Name	First purchase	Shares	Market value Dec. 31, 1977
Quaker Oats Co	1972	940.44	$21,865.00
American Can Co	1967	100	3,875.00
Gould Inc	1976	100	2,850.00
Executive National Life Insurance Co	1968	25	34.50
Capitol Hill Associates, Inc. (Capitol Hill Club, a Republican Club in Washington, D.C.)	1969	1	(1)
Lake County Rifles, Inc. (now defunct semipro football team)	1972	5	(2)

[1] Paid $1,000 but no current market value.
[2] Worthless.

Aside from the Congressman's personal finances, the Congressman Bob McClory Finance Committee will report to the Clerk of the U.S. House of Representatives by January 31, 1978 that campaign funds on hand as of December 31, 1977 totaled $10,021.02.

RELIGIOUS BROADCASTERS' BREAKFAST

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MAZZOLI. Mr. Speaker, I was privileged to take part 'n the 35th Annual Congressional Prayer Breakfast of the National Association of Religious Broadcasters which took place on Tuesday of this week, January 24.

This prayer breakfast has become an important part of the opening ceremonies of each session of Congress—a time at which we call upon God for guidance and counsel in the year ahead.

In 1978, a year in which many important decisions lay before us, it is especially fitting that we ask the Almighty for help to lead us in our important and difficult labors.

It is also symbolic that by celebrating this occasion with the National Association of Religious Broadcasters, we are reminded of the many freedoms we in America enjoy: The freedom of assembly, the freedom of the press, but most importantly, the freedom of religion.

These freedoms did not just materialize from thin air. Our forefathers came to America to find these freedoms. They had to fight and sacrifice to obtain these freedoms.

Our mission is to fight even harder and to sacrifice even more freely if we are to retain these freedoms against those who would strip them from us.

THE REAL STATE OF THE UNION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MICHEL. Mr. Speaker, from time to time I come across an article or editorial that is so obviously right on target that it needs no introductory or explanatory remarks from me. For those trying to learn the real state of the Union, I will now, therefore, insert into the RECORD "The Real State of the Union," an editorial appearing in the Peoria Journal-Star, January 22, 1978:

THE REAL STATE OF THE UNION

If you really want to know the State of the Union, the annual Presidential message seldom gives you a clear picture—but, fortunately, recently Fortune magazine checked out a bunch of indicators it selected which do give us an idea of where we are going.

They took the decade—a longer view which tends to open up the picture of where we have actually been travelling.

And when they had done that, Fortune said: "Everything that should have gone up, went down, and vice versa . . ."

Some examples, using 1967 as the base year (i.e. 100) and 1977 as the current data:

EMPLOYMENT

Up: Number of persons employed by government at all levels—132.5.

Up: Number of employees of the U.S. Congress—186.8.

Up: Number of employees of Equal Opportunity Commission—788.4.

Down: Number of production workers in manufacturing—98.1.

UNEMPLOYMENT

Up: Total federal outlays for public employment and manpower training programs—568.6.

Up: Number of Unemployed—231.6.

EDUCATION

Up: Total federal spending on education—228.1.

Down: Ability of average high school student to use English language, as measured by verbal scores on Scholastic Achievement test—92.1.

SOCIAL PROGRESS

Up: Total federal spending on social services—385.3.

Up: Number of marriages ending in divorce—205.9.

Up: Number of persons supported under program of Aid to Families and Dependent Children—222.0.

ECONOMY

Up: Number of pages required to print new regulations in the Federal Register—370.7.

Up: Average spendable earnings, in constant dollars, of a nonfarm worker with three dependents in the private sector—102.8.

Up: Average Social Security benefits received in constant dollars by a retired worker—157.4.

Up: Outlays by government at all levels in constant dollars—133.9.

Down: Market value of General Motors in constant dollars—43.7.

Down: Value of Yale Endowment Fund in constant dollars—59.2.

Down: Total business spending on plant (structures) in constant dollars—92.5.

Down: Dividends on Dow Jones industrials in constant dollars—87.3.

Down: Purchasing power of the American dollar in Germany—58.1.

So what is the real state of the nation as viewed over a 10 year span? Massive growth in government—and promises. Was that "good for the country?"

It looks more like it accompanied growth only in the original problems it was proclaimed to heal . . . and a paralysis of those activities which really produced such amazing progress in the quality of life originally.

It is not the fashion of politicians to reveal both sides of the ledger. They just point to the growing problems and call for more government programs and spending to "deal with them" . . . but the record shows that the more they "deal" the worse those problems became.

The record shows "how we got here."

And it ain't good!

C. L. DANCEY.

THE 60TH ANNIVERSARY OF SCOUT TROOP NO. 6

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. SARASIN. Mr. Speaker, since its inception in 1910, the Boy Scouts of America have developed young men into leaders with ambition and integrity. Troop No. 6 of Meriden, Conn., which was chartered only 8 years after the initial start of the Boy Scouts of America in 1918, set out immediately to accomplish that exact goal This year, as Troop No. 6 celebrates their 60th anniversary, I officially commend them on their achievements made during the past 60 years.

Troop No. 6 has continually upheld the moral and ethical standards that have been the basis of Scouting. With the continuing help and guidance from their adult leadership, the fine young people in Scout Troop No. 6 have organized to become leaders in their communities and societies. For the past 60 years Troop No. 6 has exemplified the fact that Scouting builds the young men of today into leaders, and they realize that their accomplishments are won through hard work, honesty, and consideration for others.

Since 1918, Boy Scout Troop No. 6 which is based in the Center Congregational Church in Meriden, has honored the above ideals. During this celebration of their 60th anniversary, we not only congratulate all those people who have been a part of the success of Troop No. 6, but we say carry on, as the theme of the 1977 National Scout Jamboree declared, "Forward Together—Scouting/USA." It is this forward movement along with continued hard work and determination, that will carry Scout Troop No. 6 of Meriden, Conn., well beyond this 60-year mark.

PUTTING SOLAR ENERGY TO WORK IN DIFFERENT HOMES

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. DON H. CLAUSEN. Mr. Speaker, we hear a great deal about energy shortages these days—that it is our most serious national problem and that not enough is being done to reduce consumption of our dwinding supplies of fossil fuel.

I think my colleagues will be interested in hearing how one couple in my congressional district has responded to our energy challenges. Mr. and Mrs. Herb Wright of Petaluma have converted their home to solar energy use and I have visited their home to observe and evaluate this successful venture.

Ethel and Herb Wright are the pioneers of today. Their initiative in seeking new solutions to old problems will show other Americans how to improve our quality of living.

I am inserting articles describing their solar energy home which have appeared in the San Francisco Examiner, the Bank American magazine, and P.G. & E. Progress, published by Pacific Gas and Electric Co.:

PUTTING SOLAR ENERGY TO WORK IN DIFFERENT HOMES

(By Bea Pixa)

For about 50 homeowners around the Bay Area, solar energy is not a dream for tomorrow, but a money-saving convenience of today.

* * * * *

In Petaluma, Herbert and Ethel Wright had their modest, 10-year-old ranch home converted—or as they say in the solar field, *retrofitted*—for solar energy in May, at a cost of $8,000. Wright figures he'll recoup his investment in five to seven years. "My wife and I decided there must be some way to beat the increase in utility costs," he says. The work took two months and was done by a friend, Dr. George Walters, a research veterinarian who's also president of Solar Systems Sales in Novato. According to Walters' partner, Bob Michael, the job was underpriced by $4,000 because it was somewhat experimental and the firm was interested in spreading the solar word.

The installation has already saved the Wrights $50 a month on pool heating. Last year, says Wright, his utility bills for the months he used the pool ran about $70 or $80. This year, he's paying between $22 and $28. In general, he expects to save 65 to 85 per cent annually on utilities. If there are any drawbacks to his system, Herbert Wright hasn't found them. He beams with pride, revealing that his home was officially pronounced "The Petaluma Bicentennial Solar Home."

Given permission by Wright to reveal the data, PG&E records support Wright's claims. The first month his system was installed, gas therms dropped from 121 to 93. By last month, thermal use for a month was 14, compared to 44 last year. In August, a month he uses his pool, his utility bill was $22.02. A neighbor with a house the same size, and a pool as well, paid $108, Wright says.

In addition to the solar system, the Wrights have a traditional gas back-up heater, which they've seldom had to use. Electric power still takes care of lighting and cooking needs.

A ONE-OF-A-KIND SOLAR HOME

From the street side there seems nothing unusual about the home.

Even from the rear you'd probably conclude only that the modest ranch house has a solar pool heater. Which these days is only moderately unusual, and getting steadily less so.

Actually, though, the Petaluma home of Mr. and Mrs. Herbert Wright is unique in its community, and one of no more than a handful of homes nationally, in a very significant respect:

It's an existing home which has had a complete solar heating system added to it.

(Practically all solar homes now in use or planned incorporate the solar units in the original construction. This is true, for instance, of the three solar energy conservation homes announced recently by PG&E for construction in Fresno, San Jose and Walnut Creek.)

As a pioneer in adding-on solar equipment, the Petaluma home is attracting much attention. PG&E will be installing instruments to help evaluate the system's performance by measuring and recording the input of solar radiation and output of warmed pool water, domestic hot water and heat for the house.

At the heart of the system are 18 five-by-six-foot copper-and-aluminum solar "collector panels" mounted on the roof. They are so called because they collect the heat of the sun, using it to warm water passing through the panels. That warmed water is expected to do these things:

Provide all the needed swimming-pool heating in the summer.

Provide about 80 percent of hot-water heating year around.

Provide from 60 to 80 percent of space heating needs in winter.

The differences between those percentages and 100 percent will be supplied by a natural-gas-fired furnace and conventional water heater. When solar energy is being used for space heating, the warmed water is pumped through a special coil in the furnace and a fan blows air across it to be heated; this air is distributed through the regular duct system.

"How does it work in cloudy weather?" is a common question.

The answer is provided by a 1,200-gallon storage tank, which is expected to hold enough warmed water to keep the system operating for 36 to 48 hours without sun. After that the natural gas system will cut in.

Except for changing over from pool-heating to space-heating, which is done manually, the system is run automatically by outside sun-sensors and inside timer-controlled thermostats. Water circulates through the solar panels only when the sun shines, and heat is sent into the house only when the Wrights are home.

The system, using commercially available components, was designed and installed by Solar Systems Sales of Novato. (Detailed cost figures are not available for this installation, but in general solar systems of this size require substantial initial expense. Future studies will determine cost-benefit balances.)

WITH SOLAR HEAT, THE WRIGHTS SAY GOODBYE TO HOME HEATING BILLS

(By Shirley Rigby Norton)

While other people are talking about solar energy as the wave of the future, Ethel and

Herb Wright are doing something about it now.

Ethel Wright, vault teller at Ignacio Boulevard Branch in Novato, and her husband, Herb, live in a solar home in Petaluma—one of only a few hundred such homes in the country.

Ethel recalls how it all came about. "We wanted to heat our pool. But we also wanted to save money and at the same time save our natural resources. So we decided on a solar system, figuring it will save us money on utility bills in our retirement years. It's an investment in our future.

"Then once we started talking about installing a system for the pool, things just took off. 'Why just solarize the pool?' we thought. 'Why just heat the pool in summer and then shut it off in the winter?' It just didn't make sense. So we decided to do the whole package—the domestic water and room heating as well as the pool."

The Wrights took out an $8,000 home improvement loan from Ethel's branch to finance the installation, which was completed last April. Since then they've been counting the dollars they've saved and enjoying the sun more than ever. "Everyone else has had staggering utility bills this winter," Ethel says. "Ours have stayed the same. We figure the system will pay for itself in about five years."

The Wright's home is unique, too, because the existing water and heating systems were adapted to a solar setup—"retrofitted" is the term the experts use. Most solar homes incorporate the solar units into the original construction plans.

At the heart of the system are 18 five-by-six-foot copper and aluminum "solar grabbers"—collector panels—mounted on the back roof of the house. These panels collect the heat of the sun, using it to warm water passing through the system. The water is circulated through the pool heating system and the domestic heating and water systems.

"It's just great," Ethel says. "It keeps the house really warm, and we always have more than enough hot water."

What happens on cloudy days? "There's a 1,200-gallon storage tank on the side of the house to hold enough water for three days." Ethel explains. If the sun is gone for an extended period, they have a backup natural gas system.

And the Wrights love their space technology home. "It's gone way beyond our expectations," Ethel says. "The sun's rays are free, they're clean, and they're inexhaustible. Our only regret is that we didn't do it sooner."

There is one problem, though, Ethel adds. Their home has become something of a tourist attraction. They've had visitors—official and unofficial—from all over the country—people interested in seeing what a solar home is really like. Ethel recalls returning home one day from shopping. "As I rounded the corner I saw a tour bus in front of the house. I turned right around and headed back to the store," she says with a laugh, "and let Herb play tour guide all by himself."

"EUROCOMMUNISM" IN AMERICA: DEMOCRATIC SOCIALIST ORGANIZING COMMITTEE AND NEW AMERICAN MOVEMENT—PART ONE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. McDONALD. Mr. Speaker, the Communists have always been a minority movement who have needed to form alliances with other groups to attain their ends. Generally, those who have cooperated with the Communist totalitarians have been either opportunists of the lowest order or dupes lacking the understanding that they were being used to advance the most comprehensive system of totalitarianism yet devised.

The socialist movement has been a particular target for cooperation by the Communists since both Socialists and Communists accept Karl Marx's class theories and pay their respects to the "Communist Manifesto," "Capital," and his other writings. The historic split as the Communists call it between these two wings of the Marxist movement came to a crisis with Lenin's Bolshevik coup d'etat against the Kerensky government in Russia and his institution of a totalitarian dictatorship under which many of the first targets for "liquidation" were rival Marxists holding views contrary to Lenin's party.

The coordinating body for the Socialist parties, the Second or Socialist International, was reorganized in 1919 without the Marxist-Leninists. During the 1930's, the Comintern parties under Stalin made a concerted effort to penetrate the Socialist parties, and achieved increasing successes until the brutally farsical purge trials topped by the 1939 Hitler-Stalin pact dividing the Polish nation between the two dictators broke the collaboration of significant sections of the Socialist movement with the Communists.

Since the beginning of the 1960's, the Communist parties in Europe and Latin America have been increasingly using the tactic of participation in the electoral process and formation of political coalitions with Socialist parties. Facilitating these alliances has been the development of the so-called Eurocommunist style Communist Party which produce some narrow criticisms of the Soviet style bureaucracy, narrow particular of past Soviet activities like the invasion of Czechoslovakia in 1968 to crush another Communist government, criticisms of the suppression of other Marxist dissidents like Amalrik who want to make changes in the Soviet Leninist system not to institute free enterprise but to make the Soviet system more efficient.

The leaders of the "Eurocommunist" style are the heads of the Italian, French, and Spanish Communist Parties; Enrico Berlinguer of Italy who learned all about liberty and electoral representative government when he was a student in the 1950's working for the KGB as a leader of the International Union of Students—(IUS) in Prague, Czechoslovakia; Georges Marchais of France whose underlings provide him with adulation worthy of Stalin's now-condemned "cult of personality;" and Santiago Carrillo, a veteran Spanish Civil War commissar whose "security duties" reportedly included the execution of Nationalist POW's.

Despite the narrowly drawn Eurocommunist criticisms of Soviet policy on certain past occasions and complaints about unwieldy bureaucracy, the Eurocommunists and a growing number of Second International Socialists maintain a policy of collaboration with the Soviets in all matters of foreign policy such as drives for détente and disarmament, trade, and support of the Soviet-sponsored Marxist "national liberation movements" in the Third World without objections to their use of terrorism.

The Second International, which has been decreasing as a world political influence, includes most of the world's socialist social democratic and labor parties. Its more influential members include the British Labour Party of Prime Minister Harold Wilson; the West German Social Democratic Party headed by Willi Brandt; Prime Minister Kreisky's Austrian Socialist Party; the Swedish Social Democratic Party and Israeli Labour Party. The SI parties in West Germany, Sweden, Australia, New Zealand, and Israel have been voted out of office: the Swedish elections ending a 40-year Socialist government.

While there has been an increasing trend, particularly among the parties forming the left wing of the SI—the Swedish, Dutch, and French parties—toward collaboration with the Communists, there is evidence of increasing penetration of the other Second International Socialist groups by Marxist-Leninists of all factions, including the Trotskyites.

Part of the reason for Leninist penetration success is that many of the Socialist Paries are under the control of an aging and entrenched bureaucracy. In some cases the bureaucracy is out of touch with the membership, and has not even been aware of the young militants organizing factions within their party and in associated trade union movements where they attempt to get their members into responsible party and union posts. In still other cases, the influx of energetic militant younger members has been greeted by the older SI leaders who should remember the earlier Communist takeover attempts with a remarkable lack of suspicion.

It took a combination of the Purge Trials and the Hitler-Stalin Pact to break the backs of the 1930's collaboration; what series of atrocities is needed to show the nature of Leninism to the current crop of New Left admirers of Cuba, Yugoslavia, Romania, and the Communist controlled areas of Italy.

The question of collaboration with the Communists caused the breakup of the U.S. Socialist Party at its 1972 convention. Three groups emerged in 1973:

"Social Democrats, U.S.A. (SDUSA)," led by New York Teachers Union president Albert Shanker and others associated with the leadership of the AFL–CIO who supported U.S. aid to South Vietnam and a policy of noncollaboration with the Communists; the official U.S. SI section;

"Socialist Party, U.S.A. (SPUSA)," a tiny remnant of "Norman Thomas" style socialists;

"Democratic Socialist Organizing Committee (DSOC)," a group of some 200 people headed by Michael Harring-

ton, the writer, determined to avoid "coldwar anticommunism" and focusing "on building a socialist movement within the Democratic Party." In 4 years, DSOC claims to have gained over 2,000 new members, as New American Movement (NAM) theoretician John Judis described it, "by agitation within the Democratic Party." Judis continued:

By signing up such notables as Georgia State Senator Julian Bond, Gloria Steinem of Ms., Vic Gotbaum and Lillian Roberts of AFSCME (American Federation of State, County and Municipal Employees), Joyce Miller of CLUW (Coalition of Labor Union Women), New York State Assemblyman Seymour Posner, Ed Donahue, the president of the Graphic Arts International Union, and Harvey Cox of Harvard, it has been able to provide socialism with a needed legitimacy in the eyes of many people who have been afraid to identify themselves publically as socialists.

DSOC remains a fraternal member of the Second International and is reportedly attempting to have SDUSA expelled from the Second International. SDUSA's youth group, the Young People's Socialist League (YPSI) has already been expelled from the Second International youth section with only the British and Israeli Labor parties having voted in support of YPSL. Some observers believe that if DSOC replaces SDUSA as the official U.S. section of the Second International, the New American Movement (NAM), which has become extremely close to DSOC, may become the new youth section.

The pro-Leninist trend in the socialist movement is not confined to the United States. Parties such as Spain's Socialist Workers Party (PSOE) headed by Felipe Gonzalez have cordial relations with the Cubans and affinities for some of the "Euro-Communist" parties. In the face of growing cooperation from Willi Brandt's West German Social Democratic Party (SPD) in disarmament and support for Southern African Marxist terrorist groups like the South West African People's Organization (SWAPO), two groups split away from the SPD in 1976. Their leaders stated they were opposed to any collaboration with Communists and all other forms of dictatorship. And as another example, in Venezuela the Accion Democratica Party of former President Betancourt had to issue orders to its youth section not to participate in the World Youth Festival staged this August in Havana by the Soviet-controlled youth front, the World Federation of Democratic Youth (WFDY).

It is noted that the New American Movement (NAM), closely associated with DSOC, decided to participate in the Havana World Youth Festival at its August 1977 convention. Selection for membership in the U.S. contingent is controlled by the CPUSA and the Castroites of the Venceremos Brigade (VB), and with the Castroite Communist Puerto Rican Socialist Party (PSP), active in the People's Alliance.

In March 1977, DSOC chairman Harrington made it clear that he equates "liberalism" with the European form of social democracy, and that DSOC is "democratic socialist" not social democratic. He went on to explain:

On European communism, my own feeling—I am not sure how many of our members would agree with this, but I suspect a good majority—I am certainly for the "historic compromise." I think the development of the Italian party is very hopeful.

In France, we have particularly warm relations with the French Socialist Party, and I am extremely enthusiastic about the union on the left. [Ed note: union between the French Communists and the Socialists.]

In Europe in recent times a verbal distinction has come to be used between social-democrat and democratic socialist. Generally, the more conservative, laborite wing of those parties call themselves social democratic—

Our attitude in the Socialist International is that we see ourselves as part of its left wing, and our particular allies in our campaign to get membership in the International were the Swedes, the Dutch and the French. We see ourselves as part of that leftwing current, and certainly one of the reasons that the Scandinavians were anxious to have us is that they see us as part of that leftwing.

We came in as left socialists not only on the issues of peace, disarmament and the coldwar, but also on the issue of the welfare state.

DSOC member Irving Howe joined with Harrington and other speakers at DSOC's 1977 national convention to stress to the less sophisticated that the organization did not support "coldwar anti-communism" and the social democratic "welfare state." Howe said that DSOC's form of "democratic socialism" was based on the idea that "ordinary people rule" which is, of course, the old Marxist "dictatorship of the proletariat" in modern dress.

The alliance of DSOC with "Eurocommunism" was made particularly clear at the 1977 convention foreign policy meeting at which Bogdan Denitch, one with strong proclivities for the Yugoslavian form of Marxism, asserted that Berlinguer's Communist Party of Italy—PCI—was "profoundly democratic" and a true "mass workers party." Denitch also endorsed the Italian Communist Party's continuing efforts to form an alliance and parliamentary majority with the Socialists even by stating that the PCI would abide by electoral politics rules and not seek to impose a Communist system—the so-called historic compromise. Denitch heads DSOC's International Affairs Committee.

NEW COMMUNIST INTERNATIONAL LINE

In 1973 and 1974, with U.S. disengagement from Indochina signaling impending Communist victories, the U.S. Left began to seek issues to replace the overwhelming emphasis on Vietnam of the previous decade. Although the major branch of the "peace" movement dominated by the Communist Party, U.S.A.—CPUSA—and the Soviet World Peace Council—WPC—the apparatus which was variously named the Spring Mobilization Committee to End the War in Vietnam, National Mobe, New Mobe, National Coalition Against War, Racism and Repression and finally the People's Coalition for Peace and Justice—PCPJ—sought involvement in various domestic issues like the prison movement and defense of minority revolutionary groups, its priority was always ending U.S. aid to South Vietnam.

At this time new lines were developed and published in local and international Communist theoretical journals. Directed primarily against the United States and the NATO powers, the program calls for drastic cutbacks in Western defense spending and transfer of funds formerly allocated for defense to massive social welfare programs in public housing, urban renewal, national health care, government jobs programs, and similar projects. CPUSA began preparations for implementation of this line in 1974 and early 1975 had created the National Center to Slash Military Spending run from the WPC's New York City offices and the National Coalition to Fight Inflation and Unemployment—NCFIU—as its own vehicles. New Left groups and coalitions followed suit shortly afterwards.

In this campaign, which has as its imperative the reduction of Western defense capability during a period of increasing Soviet buildup in advanced technology tanks, missiles, seapower, space weaponry and Backfire bombers, the Moscow-alined Communists again have allies in the Socialist movement whose parties compose the Second International.

The second major sector of the alliance to implement the new international program for Western disarmament, a U.S. withdrawal as a world power, and domestic spending programs is the general mass of New Leftists with backgrounds in the anti-Vietnam organizing, the Students for a Democratic Society (SDS) sponsored community activist programs of the late 1960s, the civil rights movement, or all three.

Those primarily interested in U.S. foreign policy have shifted focus from Southeast Asia to disarmament and support for "anti-imperialist" Soviet and Cuban-backed struggles in Africa, Latin America, the Caribbean or Spain and Portugal. Those whose priority is creating a climate for an eventual U.S. Marxist revolution are concentrating on issues related to economic recession, unemployment, rank-and-file union organizing, the energy shortage, increased utility rates, women's liberation, the environment and the anti-nuclear power movement.

The revival of "community" issues has reactivated a number of 1960s SDS veterans who had dropped out of activist politics to live in urban and rural communes, small collectives and who avoided the harsh discipline of the major Maoist groupings—the Peking-acknowledged Communist Party, Marxist-Leninist (CP–ML) [formerly the October League] and the Revolutionary Communist Party (RCP) [formerly the Revolutionary Union]—which woodenly copy the rhetoric, style and tactics of the 1920s communists and concentrate on recruiting workers in basic heavy industries, rather than on women clerical employees like the New Left.

The single greatest issue raised by the community organizers has been organizing opposition to utility and telephone rate increases as a first step in "public ownership" or "municipalization" or government takeover of this area of the private sector. Other issues are "public ownership" of coal mines, land and other natural resources.

The leaders of the community organizing movement, who are like DSOC students of the late Italian Communist Antonio Gramsci's "electoral road to revolution" theories, the Allende Unidad Popular attempt to realize them in Chile, and of the present efforts of the Spanish and Italian Communist parties' methods, have said that the purpose of their work is to make the concepts of Marxist socialism acceptable under new names like "economic democracy" and "public ownership," to transform the local community groups into political organizations capable of having their leaders elected and appointed to local and state regulatory boards and to public office, work toward forcing defense budget cuts and reallocation of funds to social welfare programs, and building the strength of the Marxists for an eventual revolution.

INSTITUTE FOR POLICY STUDIES

The main planning center for the "public ownership" and "economic democracy" movement has been the Institute for Policy Studies (IPS), the Washington, D.C., based think tank which has developed innovative programs to implement changes in U.S. foreign and domestic affairs along lines ultimately favorable to Soviet interests.

Over the past 5 years, IPS has development a number of pilot projects which have provided the groundwork for the local organizing efforts. They include the Community Technology and Institute for Local Self-Reliance projects which publicize solar and wind power as the alternatives to coal, oil, gas and nuclear generated electricity and aid in the efforts to block utility rate increases and plant capacity expansion; the Exploratory Project on Economic Alternatives (EPEA) headed by Gar Alperovitz and Jeff Faux; and Political Economy Program Center (PEPC) whose members have included old-time CPUSA members Barbara Bick, Leonard Rodberg, Robb Burlage, Paula Echeverria, Ellen Hall and Barbara Myers and which provided political and economic analysis for other IPS projects such as the Alliance of Neighborhood Governments and Community Health Alternatives Project which states it drafted a proposed "national health care" bill on behalf of Mr. Dellums of California, DSOC's most distinguished member. The Political Economy Program Center, "dedicated to the principles of decentralized, democratic control of resources, community, controlled economic and social development, and the self-organization of labor," have worked in partnership with NAM leader Frank Ackerman in the publication of Dollars and Sense, a Marxist economic journal.

Another IPS project, the National Conference for Alternative State and Local Public Policies (NCASLPP), is designed to nationally coordinate the programs of New Left appointed and elected public officials in implementing the "public ownership" goals of the community based groups. According to its founder, Lee Webb, the NCASLPP has another function which is placing the U.S. New Left and progressive public officials in direct contact with government officials in Cuba, Western and Eastern Europe and Canada who belong either to the communist or socialist parties. The U.S. officials are supposed to study the "democratic" methods and programs of these officials with a view toward implementing them in the United States.

One of the leading economic theorists active with the NCASLPP is Gar Alperovitz, a long-time associate of IPS co-director Marcus Raskin who was brought back from his post-doctoral studies in Great Britain to work with Raskin prior to IP's founding. During his employment in the early 1960s as an aide to Sen. Gaylord Nelson, Alperovitz was active in IPS programs, and after termination of his Capitol Hill job, became an IPS resident fellow. Economist Alperovitz has been active for several years with DSOC, and was a founding member of NAM in 1971. His proposals are also credited with formulating the "economic democracy" sloganeering campaign of the People's Bicentennial Commission, now the People's Business Commission, founded by IPS associates Ted Howard; Jeremy Rifkin, another founder of NAM; and Michael Uhl, now of Citizen Soldier.

IPS sponsored the first antiutility pilot project, the Georgia Power Project (GPP) in Atlanta, Ga., an avowedly socialist coalition which fought electrical rate increases and stated that its goal was "municipalization" of the Georgia Power Co. in the Atlanta area as a step to socialism. Formed by members of IPS, the National Lawyers Guild, NAM, and other revolutionary groups, the GPP worked with other Marxist and ecology groups such as the Highlander Center, the Environmental Action Foundation (EAF), and the antistrip mining Save Our Cumberland Mountains (SOCM). It is noted that at a public conference of antiutility and environmental groups held in Atlanta in the spring of 1973 and sponsored by the GPP, some speakers advocated sabotage of corporate property to the express approval of many attending.

While the intellectual center for this movement is the Institute for Policy Studies, it has a professional training center for community organizers, the Midwest Academy located at 600 W. Fullerton, Chicago, Ill. 60614. Working closely with NAM, IPS's NCASLPP, activists in the CPUSA's union rank-and-file group called the National Coordinating Committee for Trade Union Action and Democracy (NCCTUAD or TUAD), the Midwest Academy has been headed since 1970 by Heather Tobis Booth, with her husband Paul Booth both leaders of SDS in the early 1960's. In 1976, travel expenses and tuitions for apprentice organizers from a number of antiutility and "workplace organizing" groups was paid by the Youth Project, a nonprofit, tax-exempt foundation whose executive director from 1972 until the spring of 1977 was Marge Tabankin, now director of the Federal ACTION/VISTA education programs.

The Youth Project's extensive role in funding and raising funds for the community organizing projects, many of which involve the New American Movement and Institute for Policy Studies' NCASLPP project, merits a closer look at its role.

While the Youth Project in the past had funded the IPS and NAM related Georgia project, its 1976 annual report dated March 1, 1977, indicates that its principal activity is funding and aiding Marxist "public ownership" campaigns against privately held natural resources and utilities and assisting women's liberation groups with smaller anticapitalist views conduct "workplace organizing" among clerical employees.

Milwaukee NAM activist Ian Harris recently provided a glowing account of his "wonderful experience" in a training course at the Midwest Academy with other activists from across the country. He noted many of these organizers from groups like Fair Share [Massachusetts] Cleveland Women Working, a state union of students from New York State, have decided anticapitalist orientation to their work, * * *. These people have not been in the left for a long time, * * *." Harris went on to recommend his party aggressive political education and recruiting among them so as to provide a coherent "socialist consciousness." [As a local member from Minneapolis, he was apparently unaware that the NAM chapter in Somerville, Mass., has been intimately involved with Fair Share in their locality].

Harris said:

"When progressive people from the Midwest Academy and other organizations have questions about national policy, they go to Washington to talk to people at IPS, at various Environmental groups, at MEJ (Movement for Economic Justice), * * *. I know some of the people in the above organizations, and they have politics very similar to NAM, but are all too busy to work on a chapter."

MOVEMENT FOR ECONOMIC JUSTICE

The Movement for Economic Justice (MEJ) was formed in 1973 by Marxist social worker Bert DeLeeuw, who in 1976 was field coordinator of the Harris for President Campaign. Prior to attempting to use the Fred Harris populist appeal, MEJ had "grappled with the problem of building a mass movement for economic change" by working "with these grassroots citizen action organizations across the country, fostering their growth at the local level and inching toward a national federation around a common economic justice agenda." With the formation of superseding organizations, MEJ was superfluous and DeLeeuw closed it down. He provided the following analysis to the New American Movement in June 1977:

"I believe that the 'new populist' or citizens action organizations—the Fair Share, ACORNs, CALs [Community Action League], etc.—when viewed in the context of recent organizing history and in terms of their as

yet unrealized potential, offer the brightest hope for a mass movement for fundamental change in this country.

"What this organizing is about is empowerment: challenging and changing the relationships of power. It is important to understand that this is the basis of these organizations' ideology, though they may not speak of it in those terms. What is distinctive about these organizations is that they have rejected all of the easy labels for themselves, and are in the process of developing a new set of politics and ways of talking about fundamental issues.

"• • • More people are full time organizers than at any point in the past ten years. More money is being raised for organizing; • • • More mass-based, direct action citizen organizations are being built. More people are being reached with the anti-big business, anti-bank, anti-utility monopoly message."

DeLeeuw called for more organizing work; the development of a set of principles, values, and beliefs "which are simple, understandable, and American, yet revolutionary," in other words euphemized Marxism; and for a "revival of mass action" such as the "encouraging" mass arrests at the Seabrook nuclear power plant construction site last April. Finally he supported an intensified dialog with the "organizers, community leaders, leftists, trade unionists—all those who genuinely want to develop a mass movement to make our economy democratic, to attack corporate power, and to redistribute income, wealth and power."

NEW AMERICAN MOVEMENT

Active in providing local level cadre to the antiutility, anticapitalist organizing effort is the New American Movement (NAM). With national headquarters at 1643 N. Milwaukee Avenue, Chicago, Ill. 60647, NAM a membership of some 800 organized into over 50 small chapters, collectives and with other at-large members.

NAM's origins go back to a 1970 proposal by three former SDS organizers in Seattle—Chip Marshall, Trierrie Cook, and Michael Lerner—for a "New American Community Party" to support Third World "national liberation" movements while organizing on a local basis for an eventual U.S. socialist revolution. Following the 1971 Mayday riots in Washington after demonstrations organized by PCPJ, these proposals were circulated among leaders of the anti-Vietnam movement. NAM made its first appearance in the fall of 1971 and its founding convention was held in Minneapolis in June 1972. NAM's ideological statement, passed in 1972 and in use since that time states:

"NAM sees itself as part of the international socialist movement whose principal enemy is American corporate capitalism.

"American corporate capitalism is the key to the world imperialist system. • • • only a socialist revolution can end imperialist intervention throughout the world.

"We will support national liberation movements against American imperialism and will support, and learn from, the positive accomplishments of existing socialist states. • • • At the same time we recognize the social divisions within and between socialist countries (the attempt by one country to dominate another and to suppress political dissent at home.)

"Our attitudes of criticism and support for socialist countries will depend upon their specific actions and can only be decided on the basis of specific historical circumstances. We recognize the imperfections of socialism in a world still dominated by nation-states and threatened by imperialism."

NAM members thus can criticize the Soviet Union for its 1968 suppression of Communist dissenters in Czechoslovakia, but provide support for its efforts in Indochina, Africa, and other areas.

NAM defines itself as working to build "a working class movement for socialism in America" by organizing on "community control of redevelopment, strike support, workplace organizing, tenant organizing, control over utilities, campus and antiracist, anti-imperialist struggles among others."

In order to present its "socialist alternative" NAM's outreach programs involve "housing taxes, transportation, health, education, food, child care, corporations, war, and imperialism" in order to "bring out the common class interests of various sectors against capital."

In order to develop "class polarization—engagement in struggles where lines are clearly drawn between the ruling class and the rest of the population," NAM's programs must meet certain criteria such as "that reforms be paid for by the ruling class," a major attraction of the so-called "lifeline" utility rates in which small consumers pay a low basic rate but businesses that use large amounts of electricity or gas pay much more and is the reverse of the usual system of discount rates for bulk use.

NAM community and workplace efforts also must try to demonstrate "that the inadequacies of existing institutions and services are dictated by the imperatives of profit and ruling class interests"; "show how struggles around local and specific issues are parts of a broader struggle for socialism"; offer challenges to "sexual, racial, hierarchical, and professional" divisions of labor; and "demonstrate the role of the state in sustaining and subsidizing capitalism."

NAM expects that it will eventually be able to overcome the evils of the capitalist system which it defines as "racism, sexual oppression, and individualism."

Having already expressed its hostility to the existence of "nation-states," the New American Movement has to go through some verbal hoops to avoid using the word "communism" to describe its goal. Instead, NAM defines its goal as "democratic socialism: a society based on collective ownership and democratic control of the means of production."

The fact that NAM's "democratic socialism" is in no way similar to the "social democracy" programs of the Second International Socialists, whose parties in Sweden, Australia, New Zealand and Israel have been voted out of power in free elections, was demonstrated at NAM's sixth national convention in August 1977. Some of the less sophisticated militants started criticizing NAM's growing closeness with DSOC, and equated NAM's "democratic socialism" with the "social democracy" policies of the old Socialist Party and DSOC's rival SDUSA.

Former CPUSA labor organizer Saul Wellman, one of many former CPUSA organizers now in NAM, addressed the convention then and reviewed for the younger activists the history of Socialist-Communist quarrels and alliances. He stressed the cooperation between Communists and factions of the Socialist Party during the 1930's and urged that NAM "not overemphasize its differences with one of the Socialist Party's modern successors, the Democratic Socialist Organizing Committee." NAM's large cadre of old-time CPUSA members who had dropped out of the party after the 1950's devealations of Stalin's "excesses" and after the 1968 invasion of Czechoslovakia clearly see NAM as a vehicle with which to "heal the historic split" between the Socialists and Communists.

NAM's 1977–78 national officers are National Secretary Richard Healey, son of former Southern California CPUSA head Dorothy Healey who has been a member of NAM's National Interim Committee (NIC). Richard Healey has been active in Marxist causes for almost twenty years in his own right. He also served previously on the NIC and was the 1976–77 National Political Secretary with responsibilities including basic political education of members and involvement with the NAM network of "socialist schools."

The Political Secretary is now Los Angeles NAM member Marilyn Katz, and Judy MacLean, a long-time Pittsburgh NAM member most recently a member of the national news staff of In These Times is the new Organizational Secretary.

The current NIC members include Ben Dobbs, an old-time CPUSA veteran now active with Los Angeles NAM and concentrating on labor organizing; Paul Garver of Pittsburgh NAM who is active in the People's Power Project and a business agent for a Pennsylvania state employees local; Holly Graff, a Pittsburgh member active in formulating NAM's political education program; Rick Kunnes, a health activist in Detroit and member of the American Federation of State, County and Municipal Employees (AFSCME); Bobby Lilly of Detroit active also in the Coalition of Labor Union Women (CLUW); former National Secretary Roberta Lynch; Carolyn Magid, a member of Middlessex NAM centered in the Boston suburb of Somerville who teaches philosophy in a local college; and Eric Nee, active in a Santa Cruz SEIU local and NAM's representative on the National Committee to Overturn the Bakke Decision.

In addition to its own monthly political journal, Moving On, published for $4 a year subscription from NAM's Chicago national office by the New American Research Institute, NAM's intellectuals contribute heavily to such publications as Socialist Revolution, Radical America, Dollars and Sense, and the "independent socialist" weekly newspaper, In These Times. While NAM lacks editorial control over the newspaper [editor James

Weinstein and associate editor M. J. Sklar are not under NAM discipline], NAM members comprise the overwhelming block of the paper's staff and include managing editor Doyle Niemann, formerly of the Georgia Power Project; foreign news editor John Judis; national staff writers Judy MacLean, Dan Marschall and David Moberg; art director Jane Melnick; and general manager Nick Rabkin, NAM's 1976–77 "org-sec." The newspaper's sponsors include NAM members Paul Schrade, a United Auto Workers official, Barabara Ehrenreich and Dorothy Healey; NAM founders Jeremy Rifkin and Staughton Lynd; identified and admitted former CPUSA members Harvey O'Connor and the late IPS Transnational Institute fellow Paul Jacobs among other well-known personalities like Noam Chomsky, Daniel Ellsberg, Michael Harrington, Carey McWilliams, Eugene Genoverse, Herbert Narcuse, Ronald Radosh, Salvador Luria, Barry Commoner, Julian Bond and Derek Shearer. Other NAM personalities with access to publications such as The Progressive and The Nation are Frank Ackerman; IPS fellow Ted Lieverman also of Middlesex NAM; and Harry Boyte.

NAM further revealed its "neo-Stalinist proclivities," as one veteran trade unionist criticized them, at that convention by passing resolutions to participate in the WFDY's World Youth Festival in Havana, an action which will involve cooperation with the CPUSA and the Castroite formation called the people's Alliance into which Arthur Kinoy's Mass Party Organizing Committee (MPOC) has virtually been merged. MPOC and NAM have had cordial relations since MPOC appeared in 1974, and a number of influential leftists hold membership in both groups including Ted Glick and Harry Boyte, active in NAM, DSOC and the North Carolina People's Alliance.

It should be noted that NAM's political education course for new members which provides glosses on the basic 1972 Political Perspectives document stresses the need for a Leninist party structure, but only suggests that some of Lenin's less strict formulations rather than the Soviet and Chinese models be used to ensure programmatic flexibility. Continually struggling to avoid using classical Marxist-Leninist terminology, NAM says it wants only an "active, involved membership" and says parenthetically that these are "sometimes called cadre."

NAM is continually at pains to make sure its members don't confuse "democratic socialism" with "social democracy." In its political education course, NAM states:

"'Social democrats' sometimes use the term 'socialism' to describe their goal, but they don't believe in revolution and are possessed of a strong anti-communism that has often led them to be supporters of U.S. imperialism. NAM has very strong disagreements with such a perspective * * *."

NAM's theoreticians base a considerable amount of their work on the ideas of the late Italian Communist Antonio Gramsci. Gramsci proposed that Communists in the Western countries with active traditions of electoral political activity seek to participate in elections to legitimize their efforts to take power legally. If successful in the electoral path to power, the Communists then have the weight of law and tradition on their side against any efforts to unseat them.

NAM's fascination with this "Eurocommunist" path to power extends to its development of ties with the Spanish Communist Party headed by Santiago Carrillo. Spanish Communist Manuel Castells attended the 1977 NAM convention and explained the program of the Communist Party to those assembled.

The sudden transformation of veteran Stalinist Carrillo into a leader of "Eurocommunism" has the characteristics of a carefully choreographed ballet, with a much publicized ritual snub in Moscow and crossing of a picket line at Yale with criticism from the CPUSA being given as examples of his sincere "break" with Moscow.

It is noted that at the 1976 CPSU Party Congress, Soviet Communist Party Chairman Brezhnev reminded the Communist parties that Marxism-Leninism requires use of flexible tactics suited to their local political conditions. Electoral politics and compromises are one of those tactics.

It is further noted that since the overthrow of the Allende government in Chile, a government controlled by two Marxist-Leninist parties, the Socialist and the Communist, alined with Moscow and Havana, Communist theoretical journals have emphasized that even if a Communist party takes power via the electoral process, to carry out a Socialist revolution violence will most likely be necessary.

In its gloss on the Political Perspectives ideological statement, NAM outlined its view of the limited usefulness of the electoral process:

In saying that we want to make a revolution, we rule out the idea that socialism can be brought about simply by a series of reforms, or by electing a socialist president and Congress (though we don't necessarily rule these out as steps along the way).

Although NAM's old left core of former CPUSA members, the group that includes the "40 Socialists in search of a party" contingent which actually numbered over 70 people under Dorothy Healey's leadership in Los Angeles, are critical of the present Czech repression of another "revisionist" Marxist-Leninist group promoting "socialism with a human face," the Charter 77 group, and a number of them signed a letter to Czech President Husak published in the Los Angeles Times stating that "We who fight for socialism in our own land are shamed and crippled by the violations of Socialist legality in your land * * * [which are] an even greater crime in making a mockery of Socialist democracy," NAM's written position shows that civil liberties under a "Socialist democracy" are reserved for Marxists. NAM states:

The Marxist concept of the dictatorship of the proletariat traditionally means the working class constructing a new society. In the beginning, when socialist institutions are new and most people still think in capitalist categories, it is necessary to suppress the former ruling class and have some form of struggle against those who continue to advocate policies that would turn the society back toward capitalism.

In other words, the NAM-type "neo-Stalinists" want to reform Leninist parties to allow for a more decentralized decisionmaking process, and criticism and discussion from a broader group of Marxist-Leninists. Non-Communist thought and advocacy will be suppressed until it dies out of the population. The program might better be termed "Stalinism with a Socialist face."

Before reviewing NAM's community organizing and "public ownership" activities, it is noted that since 1975 NAM has greatly expanded its "internationalist" activities in support of "Third World national liberation movements" including the American Indian Movement (AIM) and Puerto Rican Socialist Party via the Puerto Rican Solidarity Committee (PRSC). NAM also played an active role in organizing the counter-Bicentennial demonstration in Philadelphia with the July 4 Coalition in which the Puerto Rican Socialist Party, the PRSC, the Prairie Fire Organizing Committee of the Weather Underground Organization, and MPOC took leading roles. The 1977 NAM convention resolved to concentrate on demonstrations and "human rights" campaigns against South Africa and Iran.

Mr. Speaker, I will continue my discussion and analysis of these developments on the American political scene in the near future.

UKRAINIAN INDEPENDENCE

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. DODD. Mr. Speaker, today, as members of the community of freedom-loving peoples we celebrate the 60th anniversary of Ukrainian independence. Although the Ukrainian people were free for only 2 years, and are still today a captive nation, a celebration is appropriate. For the legacy left to the world by past and present Ukrainian patriots in their struggles against oppression and for cultural and individual freedoms stands as a moving and inspiring tribute to all that is noble in the human spirit.

Our gesture today is symbolic; like the many tributes we have rightly paid the Ukrainian people in the past, today's celebration will not prove the magical wand with which to loose the bonds of Soviet oppression. But the realities of international politics, which too often prove the triumph of might rather than right, should neither lessen our celebration, nor mute our call for the human rights denied the Ukrainian people.

Our observance of Ukrainian independence allows us to reaffirm our historic commitment to the ideals of freedom, justice, and self-determination to which the Ukrainian people are devoted. It is the responsibility of every generation of

Americans, of every generation of freedom-loving people, to insure that such a commitment will not be lost in the exigencies of the political sphere, but will be passed on to our children.

The list of Ukrainians denied the human rights to which both the United States and the Soviet Union are mutually committed by the Helsinki accord, the reports of extermination, dislocation, and collectivization, all aimed at suppressing the proud nationalism of the Ukrainian people, compose a sad record which in an era of détente reminds us that there is much we must do before human rights can be universally enjoyed. That the Ukrainian people have persevered in the face of such oppression is an achievement deserving of our respect, praise, and continued support.

Despite our fervent hope that events might be otherwise, freedom for the Ukrainian people will not come today, or next year, and perhaps not even in our lifetime. But we must never waiver in our commitment to the Ukrainian cause, for it is our cause as well: the cause of freedom, the fundamental principle by which we live and that we will continue to defend as long as freedom is threatened, or denied, to any people.

WEAKENING THE AGE-DISCRIMINATION BILL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. OTTINGER. Mr. Speaker, before the House and Senate adjourned, both passed bills to eliminate mandatory retirement at age 65 for most Americans. This legislation has been bogged down in conference since then and many people are beginning to question our interest and support for this legislation.

The present disagreement centers around two Senate-passed provisions that allow exemptions from this legislation for those who are entitled to pensions of $20,000 or more a year and for college professors. As a strong supporter of eliminating mandatory retirement for all Americans, I find these exemptions clearly discriminatory and intolerable. Discrimination based on age is wrong and should not be related to an individual's profession or income level. No one should be forced to retire because of age if he or she wants to continue working and is able to do the job.

I hope that Members who supported this important legislation when it was passed by the House in September will reaffirm their support for its enactment without discriminatory exemptions.

Today's Washington Post carried an excellent article by Hobart Rowen entitled "Weakening the Age-Discrimination Bill." I bring this piece to the attention of my colleagues:

WEAKENING THE AGE-DISCRIMINATION BILL

(By Hobart Rowen)

A vital piece of legislation dealing effectively with the problem of age discrimination now faces the threat of being seriously weakened because—in the absence of a highly paid lobby—no one is paying attention to what is going on.

Prodded by Rep. Claude Pepper (D. Fla.), the new session of Congress is likely to pass landmark legislation that bans mandatory retirement in the federal jobs sector and prohibits discrimination because of age in private jobs for those 40 to 70.

Currently, this protection extends only to age 65.

There are many good reasons for this legislation, a move toward the principle that anyone should be allowed to work as long as he or she is able and willing to do so, and someone else is willing to hire him or her. The bill doesn't go quite that far, but at least it bans mandatory retirement until age 70.

Nor does the bill interfere with those who want to leave their jobs earlier. The trend in this country still is toward early retirement. A recent Roper Poll shows that two out of every three workers want to retire by age 62, and one out of every three would like to quit before 60.

But to fail to acknowledge the civil rights of those who want to work longer not only is a cruel disregard of older persons' talents, but also places an unnecessary burden on the Social Security system. When they wor., people put dollars into the system instead of taking them out.

But curiously enough, the legislative conference on the bill has bogged down on two points, both raised by the Senate version.

One provision would exempt tenured college professors, allowing universities to retire them at 65. The other would not give the antidiscrimination protection to persons whose pensions (apart from Social Security) exceed $20,000 annually.

Universities have, so far, successfully lobbied in the Senate, using the curious argument that, since tenure protects professors until 65, regardless of ability, the only way that women and minorities can be given a bigger role on university faculties is through mandatory retirement at 65. If so, the tenure systems may need modernization. But the universities should not be allowed to practice age discrimination in the guise of abolishing race and sex discrimination.

The other exception proposed by the Senate is even more bewildering and—because there is no organized lobby capable of fighting it—threatens to stick.

On the face of it, it might seem logical to believe that those entitled to pension of $20,000 can take care of themselves (although no one can explain the figure or say how it was determined). Besides, its backers claim, an exemption of this kind would preserve for corporate management the flexibility needed to shuffle or dump top executives.

But, in fact, $20,000 at today's rates of inflation is not an enormous sum, and the language of the Senate bill would sweep up many more than the corporate fat cats.

The House Select Committee on Aging has heard from many middle-management businessmen who would be pushed out of their jobs at 65 by this exemption, if the Senate has its way. But they are afraid to go public with their complaint.

"Any exemption of business executives which is not job-related, but based on a purely arbitrary and meaningless dollar limit is simply not justified on any rational basis," a vice president of a major Midwest manufacturing company wrote Pepper.

He pointed out that the exemption doesn't deal with those who might have other income over the arbitrary $20,000 level, and added: "The cost of educating my children for at least a few years after I reach 65 probably will exceed my pension benefits despite the fact that these benefits will exceed the $20,000 figure."

Another businessman wrote: "I am 48 years old, the senior personnel officer of a large corporation. I am deeply concerned that once again the political process is going to emasculate, on an inequitable basis, a principle which makes good sense. . . ."

And a 30-year-old lawyer, who volunteered his services to fight the bill in the courts, asked: "Why is it that only those on limited incomes are freed from the ravages of age discrimination? Racism and sexism affect all economic groups, as does age discrimination."

Pepper noted the other day that forcing retirement is "an insidious form of planned obsolescence. Unlike washing machines and stereo systems, the warranties on human beings do not expire on some set date."

He's right, of course. There is a fundamental point that the Senate-House conferees should be guided by when they meet in a few days: If they intended to pass a bill giving citizens the right to be protected from discrimination on grounds of age, that ought to be a universal principle with no exceptions. It should extend to all. Even tenured professors. Even those with big or little pensions.

BORDER PILOTS: UNSUNG HEROES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. DORNAN. Mr. Speaker, every year more and more young Americans are murdered by drug pushers. I say "murdered" intentionally. Those miscreants who manufacture, ship, smuggle, and sell hard drugs know full well the results of their trade. From January 1974 to June 1977, 14,900 Americans have died as a direct result of addiction to and overdose of hard drugs.

Most Americans are aware of the admirable work being conducted by the Coast Guard, the FBI, and our other law enforcement agencies in the overwhelming task of stemming the tide of illegal drugs. The work of these fine public servants has been reported in the media and portrayed in the films and on television.

However, there is a little known group of men who monitor the skies above our border with Mexico by day and daringly chase would-be smuggler's planes by night.

Their story has recently been told in an article by George C. Larsen which appeared in the November issue of Flying magazine. It is a fine tribute to brave pilots who risk their lives in the nightly battle against drug smuggling.

BORDER WARS, THE AERIAL SIEVE

Photographs line the office walls, their sameness lending them the quality of patterned wallpaper against the stark, institutional paint. These are the trophies of the hunt, these forlorn airplanes that have been tainted by the touch of smuggler's contraband. They literally have been arrested and face months in impound, anchored to Government concrete in the cruel Arizona sun and wind. At intervals, someone will run up the engines, as if passing bowls of gruel under the door to prisoners in the deepest dungeon of the Bastille. The time they spend thus shackled will do little to improve them.

Some have bare wounds, but there will be no doctoring. Others are almost embarrassingly glossy, looking as out of place as Gatsby in a drunk tank.

Odd how the airplanes, the only innocent parties in this unceasing contest, are the enduring souvenirs of each chase; only rarely are the people who drove them depicted in the photos. More frequently, the load of contraband, almost invariably bundles of marijuana, is stacked on the rough earth, and beneath each photograph is typewritten the weight of this illicit cargo: 800 pounds, a thousand; beneath a DC-3 caught near Tonopah, so many tons.

Nobody admits to knowing for certain how much of the stuff crosses the Mexican border on a given night. If they knew, they'd be stopping more of it. The various Government agencies and local law-enforcement troops that hunt narcotics and marijuana know that on any given street in the United States, the supply of the two middle-class favorites—marijuana and cocaine—has never failed to meet the demand. The price is affordable to the affluent and is sufficiently high to produce instant millionaires among those who are willing to run the border in the dark of night through a gauntlet of some of the most sophisticated detection equipment outside of the military.

Sleep well, Mr. and Mrs. Average American. While you stir sluggishly in the night and cock one eye at the clock, the skies along the southern border are alive with hard-working entrepreneurs, engaged in a commerce with one of the highest profit margins ever computed. If it weren't so profitable, fewer—but still some—of them would be doing it. Smuggling has a long tradition that goes back to the first import taxes and immigration quotas and to its most frenzied hour, Prohibition. Whole families make a business of running the border. In the old days, they used the sea, but as early as 1932, the vehicle of choice became the airplane.

An airplane is, comparatively speaking, very cheap for the conveniences it affords. It will haul a good-size load very quickly, with minimum exposure to risk and maximum flexibility in the selection of routes and tactics. The profit from a single load so dwarfs the actual cost of a used machine in fair condition that the airplane itself is expendable. The seasoned organizations think nothing of torching an airplane after it has done its job, particularly if it has been damaged in a rough landing. Some have even awarded the airplane as a bonus to a good pilot.

It is a perverse testimonial, but the airplane of choice is, overwhelmingly, the Cessna single. Federal ramps across the country bear evidence that, as one agent put it, "Cessna build a good product." And among Cessna singles, the 206, with its 1,000-pound payload and near-STOL performance, is far and away the best seller. Piper Navajos and Aztecs are the favorite light twins, while Twin Beeches lead the heavy iron, with an occasional DC-3 and the even rarer -6 or -4; the latter are usually conspicuous enough to make the papers.

Air smugglers modify the airplanes to their liking. At a minimum, they might install a secret compartment, or "trap," for running compact loads of hard drugs; marijuana must be hauled in large quantities to be profitable, and there's just too much of it to hide. The most popular mods are those that extend the airplane's range. Some of these are incredibly crude and so obviously, desperately unsafe that one wonders whether the pilot was unaware of them or simply abominably naive. In one case, a Bonanza has been fitted with a cabin bladder tank. A rubber fuel line led out the window, under the wing and back up across the leading edge to the filler cap; the line ran directly across the gear doors, so that as soon as the gear was cycled, it should have torn. For some mysterious reason, it stretched just enough to hold together. Wingtip tanks are popular on Cessnas, as are strange contraptions to pump extra fuel and oil into the airplane's tanks and sumps while in flight.

The quest for ever greater range is aimed at avoiding a landing at or near the southern border, where the Federal forces are thickest. The only indication of the success of this strategy is its failures; airplanes that hit mountains in northern California, plunge into the Great Salt Lake or meet terrain in western Arkansas. When you consider that most of those aircraft departed from deep inside Mexico, you realize that their range is considerable.

Because of the high profits involved, aerial smugglers are able to afford sophistication that grows with their operations. The sudden availability of very fancy electronics as a product of the transistor age has had an enormous effect in the smuggling business. Smugglers have joyously embraced CB radios, page devices, scanners that can monitor an entire spectrum of law-enforcement frequencies and sensors that can detect bugs placed in an airplane or vehicle.

As an indication of just how complex some of these systems can get, one intelligence report details an organization's construction of six HF radio stations, complete with speech enciphering, shielded rooms, several mobile units in vehicles, and scanners for all the known VHF and UHF frequencies used by Federal and local law-enforcement agencies. At its crudest, the electronics revolution has enabled even beginners to signal each other and to clear aircraft or wave them off from a landing if they detect company. At its most sophisticated, the Feds complain, it has become so advanced that even the Government hasn't sufficient funds in its present budget to cope with the situation.

Ordinary avionics have a role, too. A transponder reply light can reveal when there is radar around; aircraft com radios provide line-of-sight communication when that's desirable, even if the only "message" is a coded series of mike keys. A few years ago, one television network news program revealed how easy it was to penetrate the southern border area; where high terrain produces blind areas into which radar can't see. If you fly low along the border through Texas and New Mexico these days, even in areas that would appear to be radar-blind, you'll find your transponder reply light almost continuously aglow. Some of that may be beams reflected off nearby terrain, but there's obviously a lot more radar around.

The exact location of radar sites in the border area is kept a close secret. Though military Norad radar forms part of this network, it is keyed primarily to the detection of military-performance aircraft. Air route traffic control centers supplement Norad, both for detection and for tracking, but their coverages are well known to the smugglers, too. The wild card in this game is the recent addition of mobile radar units. We visited a well-camouflaged Government installation equipped with surplus military gear, modified only enough to allow the crew some semblance of a civilized life in the desert. It was based on an AN/TPS-1G mobile radar, built for the armed forces. The crew would not divulge the unit's maximum range, but they did explain its moving-target-indicator mode, which eliminates ground clutter to pick out only moving targets. On the day we visited the site, truck traffic on an interstate highway miles away was clearly visible. The greatest threat of these radar units is their mobility; they can be redeployed on short notice and without detection, thereby disrupting any established, heretofore safe path across the Mexican border.

The favored corridors are well known, but that makes the capture no easier. There are 14 designated airports along the border at which an inbound airplane can land and clear customs. Anyone not bound for one of those is suspect. In addition, any aircraft, no matter what its direction of flight after crossing the border, is considered a "hostile" (in the parlance of the air officers) in the Big Bend area of Texas. "Unless you are carrying something you think we won't like to see, there is no reason for you to be flying in there off an airway," says one agent.

Favored routes in the past have been north through Bisbee-Douglas Airport in Arizona, staying low in the shadow of the Chiricahua Mountains; any of the north-south valleys near Sells, Arizona, just southwest of Tucson, below the ridges of the Baboquivari Mountains and Kitt Peak; up the Hachita Valley to Lordsburg, New Mexico; anywhere within the 50 miles of spiked terrain west of and surrounding El Paso (anyone who has ever flown there knows the airport approach radar can't pick you up from the west until you're almost on top of the city); the western tip of Texas, near Presidio; the Del Rio, Texas area; and, in California, the route known as "the slot"—betwen the Imperial Valley's protective ramparts of mountains. Part of the evidence indicating heavy use of these corridors is the aircraft wreckage that lines them. In this business, you are not only up against the Government but also against the risks of the flying itself.

In El Paso stands a low, two-story building; it could be a bank or an office. An inconspicuous key-operated elevator leads you upstairs, where closed-circuit television observes your passage through the corridors. After a winding journey, you arrive at a room that might be the control center for a NASA missile launch. Technicians are seated at a large communications panel before a map on which movements appear to be plotted.

This is EPIC, the El Paso Intelligence Center, at which information on suspected smugglers' vessels, aircraft and vehicles is compiled, tracked, cross-referenced and indexed by a computer. On a blackboard, the current status of various ships and airplanes is listed; these are the "watch" list, a kind of all-points bulletin to control towers, ports, approach and departure radars. Here, the combined forces of the Drug Enforcement Administration; the U.S. Customs Service; the Coast Guard; the Bureau of Alcohol, Tobacco and Firearms and the Border Patrol digest a daily inpouring of intelligence reports about individuals and their vehicles. The computer's amazing recall and ability to assess statistical information make the center the most sophisticated in the country for processing information relating to border crossings. The staff at the center says that it has supplied key identifying data that have resulted in significant busts.

Outside of the EPIC, where they all live under one roof, each agency stalks on its own, each with its own air-support branch. The DEA is interested only in the enforcement of laws that relate to drugs, narcotics and marijuana. It operates mostly light aircraft, some outfitted for extremely long periods of airborne surveillance. Many of the aircraft are military surplus T-41 Mescaleros, like Hawk XPs. The DEA paints them to blend with the civilian fleet, fits new avionics and installs long-endurance fuel systems in those it uses for all-night surveillance operations. The DEA pilots must be extremely good at holding patterns and holding urine.

The DEA also sponsored a recent program in Mexico to eradicate the poppy fields that provide Mexican brown heroin, which had become one of the primary sources for the U.S. market. The DEA supplied technical assistance, aircraft and pilots, while the Mexican Government provided its consent and ground troops. The poppy fields were so

well hidden that high-altitude photos taken with special-spectrum film had to be used to reveal their location. They were then methodically eradicated by herbicides (don't say defoliant) sprayed from helicopters. The agency recently announced that the purity of street heroin had dropped markedly in this country, as measured by fatalities from overdoses. Whether that is directly attributable to the eradication program is difficult to prove.

In the United States, the U.S. Customs Service is the principal intercepting force to counter aircraft crossing the border illegally. It is charged with the prevention of entry of any contraband, be it drugs, firearms or parrots. As it happens, marijuana is simply the high-volume commodity at the moment, but the agency stops traffic in the others as well. Federal officers are not covered by the so-called "fleeing felon" statutes that would allow them to fire on an escaping smuggler, some local and state police forces can shoot under such circumstances, however. The Customs agents can shoot if they are assaulted while making the arrest. "Most people are not that stupid," one said. "If a doper gets arrested, all he faces is the drug charge . . . in many places, a judge will give the guy probation for hauling a ton of marijuana if it's his first offense. But assaulting a Federal officer is another matter. If he's not dead, he's in the can for a long time." As a consequence, there is almost no gunplay; only one incident in recent years even resembled assault—a suspect who took off in an Aztec aimed directly at a hovering Customs JetRanger. A slug from an agent's shotgun took out a fuel line; the Aztec was last seen sitting on the impound line at Tucson with a neat hole through the right nacelle.

The principal weapon the Customs agents use is not—as most of the "hostiles" suppose—their radar and fancy sensor equipment. An air officer's day is spent almost entirely on the routine police work of developing leads, intelligence, good informants and infiltration of the various smuggling organizations. At every station we visited, there was at least one case in which the agency had penetrated so deeply into an organization that their sources could provide several hours' notice of a flight. This strategy probably has more long-term efficacy than all the exotic electronics: the smuggling organizations eventually are worn down by the nagging erosion of their internal trust, and the resultant paranoia may destroy the group before any airplanes even leave the ground. This is not to say that all smuggling rings are prone to penetration; family operations are particularly hard to bust, and the more advanced rings offer immeasurable reward for silence and loyalty—and the promise of retribution against informers.

Tracking the smugglers is not like the movies. It is tedious, methodical, often frustrating work. You can labor for months and do everything perfectly, with your suspect lined up on final over some desert highway and in the final seconds, you can get "burned"—blow the bust—and watch the shipment disappear back into Mexico. It has happened more often than anyone likes to recall.

Still, for the pilots of the Customs Services, it is the best work around. If you liked Viet Nam, you'll love chasing dopers. Where else can a young man with a lust for adventure use a high-performance military aircraft laden with snarling sidearms to chase bad guys, all under the escutcheon of the law? It beats their former jobs in the military, the Secret Service, the DEA. They are attracted to it for the same reason that many of the dopers are: it is a challenge—partly intellectual, partly intestinal. It is you against him, a game almost, a battle of wits, but better than that, a battle of flying skill. Each side respects the other, for it takes a remarkable amount of sheer bravery for two men—one handling the power, the other the yoke—to haul a loaded Navajo across the desert so low that the antennas harvest sagebrush. Likewise, it is the rare individual who will tuck his turboprop Grumman Mohawk under a doper's mount until the dull red of his exhaust stack is centered in the windshield. You cannot fault these people for sheer visceral fortitude. On the side of the Customs pilots is patience; they can wait forever. The coffee is hot, the airplanes ready and sleep plentiful—unless they're in a period of intense operation. They will never be millionaires, but the checks arrive regularly and are always good at the bank. The Customs pilots are under less pressure than the smuggler, who is paid to deliver. The Customs pilot avoids risk. It is not his job to land at the crummy airstrip the smuggler has chosen but simply to guide ground forces to the area. If you have watched a hawk hover over a mouse hole, you will understand the kind of patience it takes to stalk a smuggler.

In the smuggler's favor is the initiative considerable practice and experience, the ability to retreat to a relatively safe haven in Mexico if anything goes wrong and, finally, the protection of the law: an officer must make the arrest during the actual act of delivery or else build the tedious case of conspiracy, which can take years.

There is no "typical" smuggler, say the Customs officers, but there are certain signs one watches for. One trait stands out above all the others: airplanes bought with brown paper bags full of cash. Oh, they might carry the cash in a calfskin briefcase, but what's important is their avoidance of the usual routes for aircraft financing. The theory is that nobody who is smuggling wishes to invite the sort of scrutiny that a credit check entails.

The types of airplanes they buy also tend to give away their intentions, and this is merely compounded when the airplane reports to an airframe shop for addition of fuel tanks or other mods popular with people in this business. By the time the airplane has had its seats removed—the favorite method is to land at some remote strip and simply dump them—the air officers can just about guarantee what will happen next.

Once an airplane has caught their attention, Customs officers watch it night and day. There may be some training flights in it, so that the prospective pilots can check out, or it may be flown on fairly routine trips to no ostensible purpose other than to create the camouflage of "normal" operation. An FBO who has serviced the airplane or sold fuel for it may be approached and asked to cooperate. Some do; some don't. In one case, a fixed-base operator pumped gas into an airplane that was visibly loaded floor to ceiling with garden-fresh marijuana. Later, agents asked the individual why he hadn't phoned a law-enforcement authority. "I'm just doing my job," he said. "Quit harassing me." But if he'd known the police were at the airport watching—they had been—would he have tipped the pilot? "You bet," was the reply. That sort of reaction is not typical of the FBO sector, most of whom have been ripped off by the smuggling commerce for an airplane or two or have a friend who has been; it hurts enough to make choosing sides pretty easy.

If the location of an airplane is known day in, day out, it becomes an easy matter to track it once the flag goes up. From Arizona, Texas and New Mexico, most of them depart in the afternoon and head south, squawking and talking. Some will use the same track to return—an easy snatch. When intelligence already has provided the return route, the job of detection becomes that much easier. When only a takeoff time is known, it means an organized watch along the likely avenues until the airplane shows up.

Ground-based radar very often detects illegal entries, even if only momentarily. As soon as there is even a hint of movement, the air units scramble.

The ratio of night versus day movements is roughly three to one, so finding an aircraft requires some fancy new sensory equipment that's current front-line with the military. Customs has bought a Cessna Citation that literally bulges with sensor gear. It carries its own search radar, the capabilities of which are secret but which has made interceptions from great distances. Along with the search radar, the airplane carries a FLIR (forward-looking infrared) unit that can paint a picture on a television screen of a totally darkened airplane flying at night as clearly as what you watch on *Fernwood 2-Night*. When you consider that the light source is simply the heat radiating from the airplane, the effect is very eerie.

The FLIR unit itself is basically optical. The sensor head, with its prisms, lenses and carrier, is mounted forward and in the belly of the Citation. The operator tracks the target by moving a "coolie hat" atop a standard military control stick. The pilot observes an indicator that points to the azimuth of the target airplane with respect to the azimuth of the tracking airplane, then maneuvers accordingly to keep the target in view. In this way, an airplane can be followed visually and identified clearly by N number at a distance sufficient to prevent its pilot from realizing he's being followed.

In addition to the Citation (more jets are to be added soon), the Customs air-support units operate a somewhat larger fleet of borrowed surplus Grumman Mohawks and S2Fs. These aircraft, too, are equipped with FLIR units, although they may lack the accompanying radar. The agency has requested a budget for a computer link-up between the intercept radar and the FLIR, so that the two are coupled from the first moments the target is detected. The radar-FLIR combination is difficult to beat. Even if the doper manages to lose the FLIR operator, the target can still be reacquired on the radar, which provides a comparatively huge swatch of coverage. To cope, at least one organization has adopted what the EPIC refers to as the "formation tactic." A group of aircraft flies quite tightly toward the border, and the target gives every indication of being a single airplane. As soon as the border itself is crossed, the formation suddenly splits up, bursting into six different directions. This forces the tracking aircraft to choose one or two and ignore the rest; odds are the airplane bearing the load will escape. The others can still be tracked, apprehended and taken to court for a fine on the navigation violation, but that's chicken feed.

Only when you actually fly the southwestern border with Mexico can you begin to appreciate the enormity of the task of even detecting, much less intercepting, the airplanes that cross in the night. Just finding the border itself is difficult. West of El Paso, it leaves the natural demarcation of the Rio Grande to become featureless desert, where only a wire fence, torn wherever Mexicans in search of a better life have crashed through, marks the political division between the two countries. Farther west, it degenerates into stone markers, without even the fence to delineate it. Along the track of this line, dry lakes beckon, big and flat enough to handle a B-25 with a full load—and they have. There are ranch strips and roads, paved highways that lie straight as a surveyor's line so far that they disappear before they bend. It is as if all the world were an airport.

Despite what would appear to be higher risks of detection by either agents or just ordinary citizens with a nose for suspicious goin's-on, there is a remarkable level of smuggling traffic into middle-level airports around cities. Sunland Airport west of El Paso has had its share. At Tucson, there are Ryan, Avra Valley and the former military

special training base, Marana Airpark. Marana is now a parking lot for retired airliners, but its long runways and lack of population after business hours make it attractive as a site to land and meet a vehicle. Another spot the Feds watch constantly near Tucson is what they call Pad 5, a square of asphalt west of the city. Various straight sections of highways and roads that feed into the interstates and city streets have also been used.

Some of the dirt strips used for landing the 206s and 182s are so primitive that they are unrecognizable as an airfield. We flew over to one that had been used recently near Tucson; if the officers had not pointed out that the patch of dust we were looking down on had been used as a landing strip, we'd have passed it by as just another dry wash among thousands like it in Arizona. To land at one of these places takes genuine skill, and getting out again must certainly be even more of a pleasure. Most organizations restrict their round time to no more than three minutes, so the unloading drill is well practiced. Most of them have some system of signaling if the law is detected, so the bust has to be accomplished extremely quickly and without alerting the suspects.

This is where the helicopter comes in particularly handy, and the Tucson unit has had the pleasure of landing in front of a smugglers' airplane while the airplane's engine was idling loud enough to drown out the helicopter, then approaching and arresting the suspect before he was even aware they'd landed.

It is frustrating to get burned on a bust, but even if there is no arrest, the attempt can disrupt a shipment and cause some significant losses. The Feds' favorite smuggler, whom they call Charlie Tuna, led them a merry chase before he was finally nabbed. Charlie started out flying small loads in a 182. "He was sloppy, he was dirty and we got onto him right away," the agents recall. "We followed him down one time and waited for him to come up, and he came back up in bad weather. He was a low-time pilot, and we were afraid he might kill himself. He eventualy landed at Blythe, but he had no load in the plane. He got a navigation violation—a fine—and they gave him back the airplane."

Eventually, the officers received sufficient intelligence on Charlie to obtain a court order to bug the airplane. They watched it go back and forth to Mexico on several occasions when they were unable to intercept it with a sensor airplane. One night, they radar-vectored a 206 into a position to intercept the airplane, and the 206 pilot got lucky; he spotted Charlie prefectly silhouetted against the moon, moved closer and finally was flying in formation with him.

"Everything was fine until he got to northern Arizona, around Holbrook, east of Flagstaff. He had a scanner, and he heard our dispatcher on the police frequency telling the local police that 'our guy is behind him and it looks like he's headed to Holbrook.' When that came over the air," the Customs pilot who was flying the case recalls, "this guy opens the window, and he's throwing bags out the door, and he's just missing me. He threw the whole load out, all over northern Arizona. We got a lot of it back, eventually. He landed at Gallup, and we could hear him calling for advisories. He landed, got out of the plane and laughed. The district attorney didn't prosecute him—no contraband."

Charlie's last flight came on a Sunday morning. By now, he had a Twin Bonanza, a little slow but hell for strong and with plenty of range. This time, when they caught up with him and he tried tossing the bags out, they hit the horizontal stabilizer and shook the whole airplane. An agent said over the radio, "There goes another one," referring to the plummeting bags of marijuana. Charlie thought they meant that he'd busted something and his tail was coming off, and he quit dumping the load with 1,700 pounds still aboard.

Somehow, the Customs airplanes and Charlie ended up on the same frequency. "Why don't you leave me alone," Charlie griped. "I'm just trying to run my business. This is Sunday. Shouldn't you guys be in church or something?"

Charlie Tuna picked up his ticket to jail when he landed on a road in the middle of an Indian reservation, lopping off a couple of road markers with the wingtips. A Customs airplane landed right behind him and helped him unload. Charlie was a nice guy, they recall. He still writes to them from Federal prison, asking for pictures of the Twin Bonanza parked out there in the middle of nowhere with the O-2 right behind it.

Another time, the Government had been following one airplane that was moving stuff from South America across the Caribbean and running into small airports in the Midwest. Intelligence indicated there would be a run of a similar nature coming soon, and a watch was called. The airplane was intercepted and tracked, and the ground law-enforcement units near the suspected destination airport were alerted. Suddenly, the airplane dropped off its track and made a landing at a small airport in Florida. The air unit elected not to land and broke off the operation.

The pilot and copilot parked in the dark at the airport and waited; the van that was to meet them was late. While they were waiting, a farmer who lived nearby drove out to the airport to see who had landed there after dark. He was almost on top of the two pilots before they realized it wasn't their van but an intruder. Both opened fire with pistols. The 70-year-old farmer never hesitated; he unracked a shotgun from the truck and unloaded both barrels at the airplane, disabling it. Neighbors phoned the local sheriff, and the two pilots were arrested and turned over to the DEA.

The pilots who fly for the Customs Service can tell stories like that one until the sun sets or the coffee runs out. There is talk of a P-51, armed and well equipped, that operates as air cover for the growers and smugglers in Mexico. You hear people describe a private, armed F-86 that's been seen parked on the U.S. side, but such tales are not officially acknowledged. The air officers hint at Learjets and MU-2s that saunter up to the border slowly enough to avoid triggering the Norad radar, then dash across the line too fast to chase. Right now, the Customs Service has one Learjet, and they yearn for more high-speed aircraft so they can go after this phantom heavy traffic. All the Customs people suspect that the harder drugs they're really after get the high-speed rides. "We're not really geared up for marijuana," one of them said. "It's just that there's so much coming across. . . ."

Busting the border is different from the dope trade they show you on *Kojak*. This is not big-city street heroin traffic, with dealers who are addicts themselves. The "bad guys" and "crooks," as the Feds refer to their opponents, as if this *were* some movie, are pretty clean people, as outlaws go. The air traffic in marijuana, as they describe it, has the quality of a gentleman's war, a bit like the air battles of World War I. The Customs pilots speak resignedly of the changing public attitudes toward marijuana, for this has taken the urgency from their primary mission in life, and they are hardly happy about it. As they watch the pilots they've battled to catch go up for trial, do a tap dance with some high-priced lawyer, then come back to the trade and make enough money to pay that attorney, it dulls the sharp edge of accomplishment they'd like to feel. Despite all that, the play continues, the cards fall, and no one talks of quitting. Even with the rules getting fuzzy, for the Customs pilots, it's the best game in town.

THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. RUPPE. Mr. Speaker, recently I testified before the National Highway Traffic Safety Administration of the Department of Transportation on the proposed nonpassenger automobile fuel economy standards for the model years 1980 and 1981. Since these proposed standards are of significant concern in my home State of Michigan, and will have an impact on our national economy, I insert my statement in the RECORD:

THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION

Madam Chairman, I appreciate this opportunity to express my views on the non-passenger automobile fuel economy standards proposed for the model years 1980 and 1981 by the National Highway Traffic Safety Administration of the Department of Transportation.

While I am strongly committed to encouraging fuel economy and the conservation of gasoline, I believe that the Department of Transportation has not exercised good judgment in the promulgation of these new standards. The proposed standards are a threat to business and a threat to jobs. Once again we are faced with the prospect of overregulation by a Federal bureacracy that appears insensitive to the economic needs of Michigan.

The regulations call for a dramatic increase in fuel economy for light trucks and vans, which by itself is an admirable goal. However, considering the negative consequences of instituting these regulations, they will only serve to antagonize the public and the manufacturers of these vehicles.

At the very outset, I would like to emphasize the potential loss in jobs in Michigan and throughout the country resulting from this change. Overly stringent standards could result in either fewer vehicles produced or lower sales; and thus unemployment among truck and van producers, suppliers, and dealers. General Motors estimates that for every 100,000 vehicles lost, employment will be reduced by an estimated 13,700 jobs. The Chrysler Corporation may have to delay conversion of the Jefferson Assembly Plant in the inner city of Detroit to truck and van production unless these new standards are relaxed. This assembly plant provides employment to thousands of residents of Detroit in an area where unemployment is already a severe problem. I would like to mention that the NAACP has stated that the changes will result in "massive layoffs in the industry," having an adverse effect specifically on minorities. We must balance the need to conserve energy with the very pressing need to provide jobs.

The proposed standards for non-passenger automobiles weighing up to 8,500 lbs. call for a five mile per gallon increase in fuel savings between the 1979 and 1980 model years. This amounts to about a thirty per cent increase in one year—more than five times the improvement Congress mandated for passenger cars for the same year. Under the 1975 Energy

Policy and Conservation Act passed by Congress the Department of Transportation's responsibility for setting standards for light trucks and vans is clear. However, I must point out that no provision in this Act requires such drastic improvements in such a short time.

Not only is this an abrupt improvement in fuel economy, but there is not sufficient lead time available for these changes to be technologically feasible. The Department of Transportation (DOT) proposes to set standards for 1980 and 1981 by April of 1978. Since the 1980 model year actually begins in the Fall of 1979, there is only a minimum lead time to meet the 1980 deadline. Also, I understand that the certification procedure by the Environmental Protection Agency for meeting emissions regulations requires a full year. Thus the effective lead time allowed by DOT for the 1980 model year is only about six months. Because of limited capacity in the American tool and die industry, complications with testing, and problems with engine redesign, the lead time of approximately six months is unrealistic.

I must emphasize that the Motor Vehicle Information and Cost Savings Act as amended by the Energy Policy and Conservation Act authorizes DOT to set these standards only if they are within "technological feasibility." As a Member of Congress who was actively involved in these legislative efforts, I insist that these new standards recognize the law and be set according to this requirement of technological feasibility. It simply demeans the law for the Department of Transportation to ignore this requirement.

Even more demeaning is the proposition made by the Department of Transportation in their report printed in the Federal Register on December 15, 1977 that if a manufacturer could not meet the standards then he could merely pay the fine and pass the cost on to the consumer. I am appalled that a government agency would make the assumption that industry should knowingly violate government regulations. This is completely unacceptable.

Furthermore, I believe that it is not economically practicable to institute the proposed changes. I suggest that they may result in less utility, lower performance, restricted availability of some vehicles, and higher purchase costs. To suggest that these regulations will only affect the automakers is to miss the widespread impact of the DOT's proposals. The Department of Transportation has even stated that their new ruling might add $160 to the cost of typical light trucks and vans. This is an unfair burden for consumers in Michigan and throughout the nation. This burden will affect not only consumers, but automotive suppliers, dealers, related industries, and such users as farmers, the construction industry, commercial establishments requiring light delivery trucks, and establishments using light trucks and vans for emergency use. All of this will only speed up the nation's inflation rate. While I applaud energy conservation, we should not ignore such negative economic consequences as these.

In fact, I believe that the energy savings resulting from the change is not that significant and may be too optimistic. The Department of Transportation has proudly stated that the new standards will save 12 billion gallons of gasoline. Actually this 12 billion gallon savings covers a 12 year period and only amounts to about 60,000 barrels of oil per day. This is less than one per cent of daily gasoline consumption and a much lower percentage of daily petroleum use. One example of conservation which can save as much energy is for every homeowner just to turn down his thermostat by one degree. I further suggest that the projected savings may be inflated since many potential truck buyers may forego new truck purchases or buy larger trucks above the 8,500 lb. limit.

In conclusion, I suggest that the Department of Transportation is misleading the public and the Congress by creating the false impression that these new standards can be incorporated, will significantly save energy, and can be implemented without severe economic dislocations. I therefore urge the Department of Transportation to resolve this needless controversy by either deferring this action or by submitting more reasonable standards.

THE UNITED STATES MUST CHAMPION UKRAINIAN HUMAN RIGHTS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. KEMP. Mr. Speaker, this week a great many Members of Congress have joined in paying tribute to the great courage of the Ukrainian people in resisting the aggression of the Soviet Union. January 22, 1978 was the 60th anniversary of Ukrainian Independence Day. Yet Ukraine's people have no freedom; they have no political autonomy; they have no self-determination of their own domestic affairs. With the fifth largest population in Europe, Ukraine is subservient to Moscow in all matters of import. Officially, Ukraine is known as the Ukrainian Soviet Socialist Republic, one of 15 "republics" which constitute the Soviet Union. It is a charter member of the United Nations, but it is not allowed to establish embassies in foreign capitals or to conduct foreign relations without the express prior approval of the Soviet Union.

Soon after the collapse of the Russian imperial monarchy in 1917, the Ukrainian people established their own independent state—the Ukrainian National Republic. Their independence was short-lived, however. With Lenin's ascendance to power in the Soviet Union, the Red Army was unleashed on the Ukrainian nationalists, and Russian control was quickly and ruthlessly restored. After this, however, a new generation of dissident writers began to emerge, all urging the Ukrainian people to reassert their independence.

Upon Stalin's rise to power, all of this literature was destroyed; hundreds of thousands of Ukrainians were forcibly deported to Siberia, and some 6 million more Ukrainians were annihilated during a famine many believe to have been engineered in Moscow in retaliation for Ukrainian resistance to agricultural collectivization. Russification projects were intensified.

Under Khrushchev's more lenient rule, literary dissidents once again emerged in persons of such stature as Vyacheslav Chornovil and Valentyn Moroz. But under Brezhnev, conditions have worsened considerably. Moroz was harassed in 1965 for "possession of samizdat literature and foreign publications" that were banned in the Soviet Union, and he was imprisoned for 4 years in 1966. Within a year after his release, Moroz was again arrested on charges of "anti-Soviet agitation and propaganda." He spent 1970–76 in Vladimir Prison, was transferred to the Serbsky Institute of Forensic Psychiatry, and is now serving a 5-year sentence in a special regime labor camp. While in Vladimir Prison Moroz undertook a 145-day hunger strike to protest unspeakable conditions which he felt were intended to drive him insane. His plight is only one of hundreds documented by Amnesty International, and thousands more whose fates are unknown to the Western World.

With the signing of the Final Act of the Helsinki Conference of Security and Cooperation in Europe in August 1975, hopes were raised within Ukraine that this act would prevent such widespread terror and oppression wielded by the Soviet Union. A monitoring group was established: the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords. Based in Kiev and led by Mykolo Rudenko, the group established its following objectives:

First. To acquaint the Ukrainian public with the Declaration of Human Rights; to strive to have this international document become the basis of relations between the individual and the state;

Second. Convinced that peace among nations cannot be guaranteed without free contacts between peoples and the free exchange of information and ideas, to actively promote the implementation of the Final Act of the Conference on European Security and Cooperation;

Third. To strive to have Ukraine, a sovereign European nation and member of the U.N., represented by its own delegation at all international conferences dealing with the implementation of the Helsinki Accords; and

Fourth. In order to promote the free flow of information and ideas, to strive for the accreditation in Ukraine of foreign press correspondents, for the formation of independent news agencies and the like.

On February 5, 1977, Mykola Rudenko and Oleksai Tykhy, both members of the Ukrainian Helsinki group, were arrested by the KGB.

Mr. Speaker, it is clear that "human rights" within Ukraine are a sham. The Soviet Union is blatantly violating the Helsinki Accords, which it has signed supposedly in good faith. Contrary to what some would like to believe, it is clear that the Soviet Union has in fact clamped down on any public expressions of opposition to the official Party Line.

I have introduced legislation on behalf of all captive peoples of the world, at the behest of that courageous Soviet dissident Vladimir Bukovsky, and in the name of those courageous giants of recent history such as Moroz, Chornovil, Rudenko, Tykhy, Sakharov, and Scharansky, and those thousands more who have bravely resisted the totalitarian machinery of the communistic world. For the benefit of my colleagues, the text of the Strategy for Freedom Resolution follows:

H. RES. 699

Whereas under the Communist Soviet state persons are routinely deprived of basic

human rights, including freedom of speech and of the press, freedom to choose alternative economic, educational, social and political systems other than that imposed by force; and

Whereas this policy of denial of human rfights denies the spiritual worth of the individual; and

Whereas the purpose of government is to serve its citizens; and

Whereas the ideals of freedom that sparked the American Revolution 201 years ago were a reaffirmation of the inherent rights of all humanity: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President of the United States of American shall take immediate and determined steps to enact the following measures strongly supported by such Soviet human rights leaders as Vladimir Bukovsky, and proposed as a strategy for freedom on behalf of all oppressed peoples, of capitive nations, to—

(1) Make United States trade with and economic aid to the Soviet Union dependent on Soviet observance of human rights agreements;

(2) Demand that Soviet leaders admit observers to their prisons, prison camps, psychiatric hospitals, and trials;

(3) Investigate infringement of civil freedom in the Soviet Union;

(4) Obtain free contact between Western groups which seek to bolster the Helsinki accords and similar groups which have spontaneously sprung up behind the Iron Curtain;

(5) Appeal to Moscow at the Belgrade Conference; as a signatory to the Genocide Convention, for the restoration of Ukraine's Orthodox and Catholic Churches;

(6) Urge the direct signations of Ukraine and Byelorussia, which are members of the United Nations, to the Helsinki Accords while advancing the idea of direct diplomatic relations with these non-Russian republics;

(7) Advance the human rights issue by openly exposing all the accumulated cases of Moscow's continuing violation and deprivation of these rights within the Union of Soviet Socialist Republics; and

(8) Press for accountability in terms of the United Nations Charter, the Declaration of Human Rights, and other legal instruments upholding human rights.

Mr. Speaker, the highest tribute that the Congress can pay to the Ukrainian people during this week of their Independence Day observance is to assure them, and all the other nations suffering under tyranny and inhuman oppression, that we are united in our firm commitment to pursue true human rights for all peoples—the right of all people to conduct their private lives free from governmental tyranny.

DO THE FARMERS HAVE A FRIEND?

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. HANSEN. Mr. Speaker, the insensitivity of the current administration to the condition of the American family farmer was expressed very well in an October 21, 1977, editorial commentary by Hugh Sidey on WTOP Radio which seems even more true today in view of continued events and the current peaceful revolt by concerned farmers across the Nation.

The text of the commentary follows:

EDITORIAL COMMENTARY

All political advance men must come out of the same school. They move and talk by pattern. Their ideas are all alike. Back in 1966 when Lyndon Johnson was looking for a little tranquility in the midst of Vietnam protest, he headed for Iowa and a visit down on the farm. He ended up on the front lawn of Woodraw Diehl's 1,600 acre layout south of Des Moines. He walked through the food lots, felt and smelled the silage, posed repeatedly for photographs with the rolling fields of corn behind him. It was duly noted then that Diehl was a multi-millionaire who ran something that should best be called a food factory. He was not exactly the average Iowa farmer; certainly not the hard pressed variety. But he was a democrat and they still are hard to find on the land. More was expected of Jimmy Carter, the man of the people, when he headed west and decided to stay overnight with an Iowa farmer to demonstate his concern for farm prices which are now back to 1932 levels. But no—Jimmy Carter drove down to Woodrow Diehl's bucolic country club and spent the night. He undoubtedly heard enough complaints. Mr. Diehl invited some of the neighbors in for coffee. But it was surely a bit hard for the President to sense the problem sleeping in a brick rambler that would cost about $200,000 in Chevy Chase and looking at a landscape of far horizon, clear air and new pickup trucks that not even the greedy oil tycoons could buy if they wanted to. This is Hugh Sidey.

THE NEW CONSERVATISM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for January 11, 1978, into the CONGRESSIONAL RECORD:

THE NEW CONSERVATISM

Most political observers detect a subtle but perceptible shift to the right in the political opinions of Americans today. On a broad range of social, economic and foreign policy issues, voters seem to be more conservative. Commentators have noted that the nation is entering a cautious period.

Much evidence suggests that these political observers may be right. The proposed equal rights amendment is in trouble. The anti-abortion blacklash is strong. The death penalty is more popular than ever. People are appealing for less permissiveness and more discipline. Expressing a feeling that the nation has gone too far on civil rights, many are concerned about reverse discrimination and some strongly denounce quotas to enforce equality of opportunity. Most everyone agrees that we ought not to be spending more tax dollars on welfare. It is claimed that anti-poverty programs have enriched bureaucrats more than they have helped the poor. A new hawkishness finds expression in support for the B–1 bomber, opposition to the Panama Canal treaties and deep reservations about the SALT II agreement which is now being negotiated with the Soviet Union. The conservative trend is evident in the Congress. The debates and votes of the last session suggest that a more restrained attitude toward government spending, environmental protection and consumerism is emerging among elected officials.

There is a rising skepticism about the ability of government to solve all the problems, a growing doubt that the "New Deal" or "Great Society" approach to problems always works. People are disillusioned when they balance the high cost of government agencies and programs against the effectiveness of those agencies and programs. More and more people are expressing a renewed faith in the free market system. There is a desire to give the free market system more "elbow room," and an unease about "the inexorable conquest of the private sector by the public sector," as one observer put it. In fact, private sector solutions are becoming more prominent in the thinking of policymakers. The negative income tax looks better than a bigger welfare program and a pollution tax seems more attractive than increased environmental regulation.

The social activism that every politician encountered a few years ago is much harder to find these days. Although the volume of constituent mail is running at an all-time high, most Congressmen are impressed by the lack of mail on the big issues such as energy, the Middle East, civil rights and arms control or even unemployment, inflation and health insurance. Of course, people are interested in those issues, but they are not putting pressure on Congress to do very much about them. Voters may be weary of these big issues, or they may just think the average congressman cannot do much about them anyway. Rather, people are contacting their Congressmen to ask for help with personal problems or to give their views on local issues. It is not accurate to describe the mood of the people as one of apathy or indifference, but I do agree with those who say that the voters are "turning inward" to confront the problems that affect them most directly and immediately. This mood explains the keen interest in busing and abortion. It also explains the greatly increased demand for personal service and the insistence that the service be of high quality.

Although a more realistic expectation about what the government can achieve is a political fact of the day, many Americans apparently favor more public spending on the environment, on making college available for young people, on better health care, on dealing with drug addicts and on aid to the elderly. Every Congressman gets the same message: trim government outlays, but take care of this particular problem. In a sense people want it both ways: lower taxes, but more services; less government interference, but services of higher quality.

What appears to be to be happening is more complicated than a simple swing toward more conservative views. It is not so much a rejection of government programs as it is a tougher line on government spending, a demand for a more rigorous cost-benefit analysis of government programs and a more realistic expectation about what the government can accomplish. In such a climate, political labels mean less and the lines between political left and right become blurred. The pragmatism of the American people, always present, is apparently reasserting itself. The old solutions to problems may not work, and though some people are concluding that nothing should be done most Americans are casting about for new approaches. They realize that problems do not go away and may become worse if ignored.

The challenge of politics today is to find those new approaches. We can expect the search to dominate the American political scene for some years to come.

BOUNDARY WATERS CANOE AREA

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. OBERSTAR. Mr. Speaker, in this session of the 95th Congress, we will consider legislation providing for the future management of the Boundary Waters Canoe Area in northeastern Minnesota.

The BWCA issue has generated considerable debate among the Members of this House. It is an issue involving broad national concerns as well as genuine local interests. It is an important issue, one which merits the amount of time and effort that many of us in the House have devoted to resolving the controversy.

Nowhere is the uncertainty over the future of the BWCA more heartfelt than among the people living on the Gunflint Trail at the eastern edge of the BWCA.

Mary McCleary Posner lives in New York City but has spent all of her summers on the Gunflint Trail.

Mrs. Posner knows the area and the people. She shares their love of the area's natural beauty and a deep concern for the preservation of that beauty. She is a most eloquent spokesman for the unique way of life of my constituents in Cook County, Minn. I would like to share with my colleagues an article by Mrs. Posner in the Wall Street Journal today, January 26, 1978.

A CASE OF RAMPANT ENVIRONMENTALISM?

(By Mary McCleary Posner)

The people of Grand Marais, Minn., are a hardy lot, living as they do in the rugged lake country at the beginning of the famous Gunflint Trail that was cut through the wilderness by fur trappers over a century ago.

Many of them are woodsmen, fishermen and shopkeepers, preserving a life style that has changed little since their ancestors first settled the area.

So it was with mixed feelings that they received the Boundary Waters Canoe Act of 1964—a law that turned more of their land over to the federal government, leaving only 6 percent of Cook County on the taxpayer rolls. But it was also a law that helped preserve the wilderness that is their life and their livelihood.

What made the legislation palatable to the people of Grand Marais was that it was proclamied as a "final solution" for maintaining the character of the vast 1,030,000-acre Boundary Waters Canoe Area bordering Grand Marais.

Alas, as a resident laments, it now appears the law—like the treaties once made with the Indians—was made only to be broken.

The final solution of 1964 is threatened by another solution—a law introduced in Congress last year by Rep. Donald Fraser of Minneapolis (who doesn't represent Grand Marais or Cook County) and supported by the Sierra Club, the Wilderness Society and the federal government. These backers, as one might imagine, so far have proved to carry considerably more political weight than the 1,481 inhabitants of Grand Marais and the vacationers they welcome every summer.

To the people of Grand Marais, the key problem with the proposed law is not its provision that would remove another 2% of their land from the tax rolls, but a provision rescinding the 1964 law's guarantee that they could continue to use outboard motors, of only 25 horsepower or smaller, on 10 lakes on the periphery (the interior includes over 1,000 lakes).

The idea of banning even the smallest motorboats on recreational lakes in remote areas carries considerable appeal for absentee environmentalists, of course. But for those in Grand Marais who use the 10 lakes for fishing or for reaching their remote summer homes, the taking away of small motorboats would be a burglary and a betrayal. For the people who operate and use the 17 log lodges and 500 summer homes along the Gunflint Trail, the proposed law would impose hardships so great that many would lose their homes and their livelihoods.

So, the people of Grand Marais passed the hat to send 18 of their most-respected leaders to Washington to testify before the Parks and Insular Affairs Subcommittee.

Mrs. Justine Kerfoot of Gunflint Lodge calls the experience "as frustrating as the time my dog team ran away onto thin ice and everyone was floundering and fighting for their life." The Grand Marais delegation testified for nine hours, in a room with only two or three members of the subcommittee present. The mayor of Grand Marais, Richard Humphrey, feels that the hearing was "just so much window dressing," that decisions had long since been made, potential voter strength weighed and counted and Congressmen's favors swapped.

Never mind that the residents around Grand Marais are unanimous, according to Mayor Humphrey, in their opposition to the proposed legislation. Acknowledging this opposition, Rep. Fraser suggested after the hearings that the simple answer is for the residents to sell their lodges and summer homes to the government in "friendly buyouts." Indeed, the government's chief forester has already submitted an appraisal that a buyout of 35 lodges in the entire area should cost the government only $8.7 million.

This, of course, fits right in with the legislation's aim of turning the Gunflint Trail and surrounding lakes over completely to the few canoeists stout enough of limb to paddle long distances over the large and rough peripheral lakes to reach the remote lakes, and then hoist their heavy canoes over rocky portages.

The legislation and the federal takeover of the lodges and summer homes would clearly deprive Grand Marais residents of their property and in many instances their livelihoods as fishermen and lodge operators.

Why do Rep. Fraser and the environmental groups want to take all this away from the people of Grand Marais? Willard Johnson, owner of the Loon Lake Lodge, theorizes, "It must be that they hate us because we live here."

The purpose stated in the legislation is that canoeists in the Boundary Waters Canoe Area have a right to the wilderness experience without the sound of a motor. But motors are already banned on the thousand outlying lakes, where motors are impractical anyway. On the 10 large lakes, the currently permitted small motors are used mostly by fishermen and by people traveling to the lodges and summer homes. In fact, the motors are generally imperative for these purposes.

The people who the legislation wants to kick out as despoilers of the wilderness are in fact the very people who clean up after careless campers, the people who fight forest fires with equipment they have purchased themselves and the people who save canoeists when they run into trouble trying to cross rough open water on the peripheral lakes.

But the residents of Grand Marais are innocent enough to believe that right will still prevail. They don't have the money or the power or the organized lobbies, but even now they are passing the hat one more time for another foray into the Washington jungle that they can't understand. They still cannot believe that a fight over their right to fish and motor on East Bearskin, Clearwater, Gunflint, Saganaga, Seagull, Little Gunflint, Crab, North, South and Brule lakes can ultimately mean the loss of their homes and businesses. Nevertheless, the people of Grand Marais are clearly an endangered species.

THE "IVORY TOWER SYNDROME" AT THE USDA

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. LUKEN. Mr. Speaker, many of our children could be denied a nutritious breakfast every school morning if a proposed regulation by the U.S. Department of Agriculture takes effect as planned.

The USDA proposal to ban from the school breakfast program a processed food item that has been nutritionally fortified with vitamins and minerals for our children's health has been met with outcries in my home State of Ohio, where the consequences of the USDA action would be most savagely felt.

However, the problem is not confined to Ohio. School children across the country—wherever the fortified breakfast food is served for nutritional reasons, a lack of kitchen facilities, or financial troubles—will be adversely affected.

Unfortunately, the authors of the proposal at USDA seem to have become infected with what might be called the "ivory tower syndrome," characterized by a myopic view of the real life problems of those who are dependent upon the USDA for understanding, guidance, and assistance, and who also are vitally concerned daily with the welfare of thousands of school children.

My distinguished colleagues, I want to make part of the RECORD a letter to the USDA from Mr. Albert C. Sabato, director of the Food Service Branch of the Cincinnati public schools; and, an editorial that appeared on January 7, 1978, in the Cincinnati Enquirer calling for thorough hearings on the USDA proposal, a position I fully and enthusiastically support:

BREAKFAST—ONE BUREAUCRAT CHALLENGES FOOD FOR CHILDREN

There is a clue to the reason for American business' continuing lack of confidence in the Carter administration and its works in the highhandedness with which the Carter Department of Agriculture has gone to war against a major nutritional breakthrough developed by private industry—at considerable expense to itself—in response to government appeals.

Back in 1969, the White House Conference on Food, Nutrition and Health agreed that many U.S. children went to school with no breakfast at all, or with a nutritionally unsound breakfast, despite findings concerning a breakfast's usefulness in girding the child to perform more productively in school.

In response to that conference findings, the American food industry developed what is known as "grain-fruit products," which com-

bined in attractive form the nutritional ingredients of a good breakfast.

These grain-fruit products, manufactured and marketed by several of the nation's food processors, have been particularly useful to school systems, like Ohio's, that have been mandated to make breakfast available to children.

Grain-food products, shaped perhaps as a doughnut or a cookie, are not, of course, used daily in school breakfast programs. But when used as an alternative to cereal or toast, they have provided their consumers with a significant part of their daily nutritional needs. They have been attractive and palatable enough, moreover, to minimize waste. An additional advantage is their low cost and ease in serving.

Despite what has had all the earmarks of a major nutritional stride forward, Assistant Secretary of Agriculture Carol Tucker Foreman, one of many former "consumer" advocates brought to Washington by the Carter administration, has issued an order against the further use of grain-fruit products—an order due for finalization early in 1978. Mrs. Foreman, in her order, conceded the product's convenience and nutritional value. But she nonetheless ordered their discontinuance, in the apparent belief that children should not be encouraged to avail themselves of "convenience foods."

The order strikes us as a patent error—all the more so in view of the hard-pressed financial situation besetting most U.S. schools.

Among those similarly disturbed by the order has been Albert C. Sabato, director of the food services branch for the Cincinnati Public Schools, who wrote to the Department of Agriculture's child nutrition division: "The implementation level is so much different from the policy-making level, and you need only to exchange places with a major-city food-service director to realize that mandates . . . must be practical and functional before they can be implemented. Why make a decision which is so far-reaching, and nearly impossible to achieve, and then discover that you have created chaos, which would force you to change your decision? Your office has not given us on bit of advice on how to meet the new challenge but is, instead, willing to consider a decision which you or we, in food service, cannot live with."

At the very least there should be a hearing to delve more fully into the usefulness of fruit-grain products as an answer to the breakfast dilemma.

ANNUNZIO PRAISED FOR DEBT COLLECTION LEGISLATION

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BURKE. of Massachusetts. Mr. Speaker, on March 20 of this year, the Fair Debt Collection Practices Act will go into effect, and thousands of innocent victims of debt collection across the country will be protected from high-pressure collection tactics such as threats of physical violence, abusive language, and phone calls every 5 minutes throughout the day. In many cases these consumers do not even owe the debt over which they are being hounded, but because of identical names, computer errors, or returned merchandise they are being hounded for an unjust debt.

It was through the efforts of our distinguished colleague from Illinois, the Honorable FRANK ANNUNZIO, that consumers received protection from that group of debt collectors that viewed their profession as a God-given right to terror. I would point out, as Mr. ANNUNZIO has on many occasions, that there are many honest and reputable debt collectors, and this legislation will not in any way limit their operations in collecting legitimate debts. But for that minority of debt collectors that operate like storm troopers, the legislation sponsored by Mr. ANNUNZIO will spell the end of their tactics.

Mr. Speaker, I note with a degree of concern that the legislation passed by only a two-vote margin, and I sincerely hope that closeness of the vote does not indicate that Congress is soft on unethical debt collectors. At the same time, however, I am reminded of the words of Lyndon Johnson when he was majority leader of the Senate he said:

> If a bill passes by more than two votes then the sponsors have given away too much

It would appear then that Mr. ANNUNZIO has not given away too much, but in fact has passed the strongest possible bill, and I might add it was the first piece of consumer legislation enacted by the 95th Congress.

Mr. Speaker, the January 8 issue of Parade magazine, a Sunday supplement appearing in newspapers across the country, carried an article written by Jack Anderson praising the work of Congressman ANNUNZIO. I am including a copy of that article in my remarks, because it is a fitting tribute to a Member of this body who, since taking over as chairman of the Consumer Affairs Subcommittee, has succeeded in passing more consumer legislation than in the entire 14 previous years of the subcommittee's existence.

NEW LAW TO CONTROL BILL COLLECTORS

(By Jack Anderson)

WASHINGTON, D.C.—The pleadings of the poor and the powerless, so often unheard and unheeded, occasionally are answered. This is a story of one occasion with a happy ending written by Congress.

It is a routine event in a society run on credit for debts to become past due. But of all God's creatures, few are more obnoxious than some bill collectors. The polite notices and gentle reminders are usually reserved for the affluent, who can make their delinquent accounts good. In the immediate past, debt collection agencies—of course not the ethical ones—employed human scavengers to hound and harass the underprivileged.

ACT LIKE GANGSTERS

These sleazy bill collectors relentlessly pursued a host of small debtors, most of them poor but honest, who were in debt for reasons beyond their control. There were deadbeats, of course, who may have deserved a little harassment. But many well-meaning people wound up in debt because of personal misfortunes or unintentional errors. Soon they'd find themselves bullied and browbeaten by collectors using methods worthy of gangsters.

Collectors would make abusive phone calls to the debtor at all hours of the night; they would contact the debtor's neighbors, friends and associates to malign his integrity; they would post prominent eviction notices or overdue bills on his door. Persistent collectors might even badger the debtor's boss or perhaps follow the debtor to a restaurant and accost him, complaining loudly about the money he owed.

The experience of one New York man was typical. He received an urgent call from a woman who said she was a nurse at a nearby hospital. She reported that his wife had been involved in a serious automobile accident. She said the hospital needed to know at once his hospitalization coverage and his salary.

The agitated man hurriedly supplied the information. Then he rushed over to the hospital—only to discover that his wife wasn't there at all. Like countless others, he had been tricked into supplying private financial information to an unscrupulous collection agency.

If these tactics didn't produce the desired result, collection agencies might threaten legal action or even bodily harm. A New Jersey man was told to pay "or else." When he asked "or else what?" he was told or else he would find himself floating down the river face down. An elderly man who was hounded over a $14 debt he didn't owe dropped dead while screaming at the collector over the phone.

We blasted these unsavory practices in a Parade article two years ago. The article called attention to a neglected bill, introduced by Rep. Frank Annunzio (D., Ill.), outlawing the worst abuses.

Letters poured into the Capitol from every section of the nation, expressing the public's outrage over the abuses. But the shady bill collectors—hauling in an estimated $3 billion a year plying their disagreeable tactics—brought their own pressure upon Congress.

WOULD JAIL OFFENDERS

Public hearings finally were held in March 1976. Annunzio assured his colleagues that the legislation would not prevent businessmen from collecting legitimate debts honorably. But he promised it would "put out of business or put in jail those individuals who view debt collection as a God-given right to engage in any type of ploy or tactic to collect money."

The response of the House was to approve the bill by a two-vote margin. Commented Annunzio on the close vote: "We could have taken a pattycake bill to the floor and got an overwhelming vote. Instead, we chose to go with a strong bill. It's a shame that 198 members of the House felt that even the innocent victims of debt collector deserve no protection."

His message must have gotten across to the Senate. For on Aug. 5, the Senate unanimously approved the legislation. It was left for President Carter to sign the Fair Debt Collection Practices Act into law on Sept. 20 at a White House ceremony.

SHADY PRACTICES BANNED

The law now prohibits debt collectors from making late-night or early-morning phone calls to consumers, from using obscene or abusive language, from making repeated phone calls. Collectors must also verify the validity of a debt if questioned by a consumer. They must not represent themselves falsely in person, in writing or on the telephone. Nor may collectors file lawsuits hundreds of miles from a consumer's residence to insure he won't appear in court.

Referring to these reforms, Annunzio wrote to Parade: "In your Sept. 28, 1975, edition Jack Anderson authored a story telling about abuses in the debt collection industry and about a bill I introduced to correct these problems.

"The article also called for individuals having problems with debt collectors to write to me," noted Annunzio, "so that I would have a large number of examples of debt collection abuses for our hearings on the legislation. . . .

"I wanted to take this opportunity to thank both Parade and Jack Anderson for the outstanding job that was done in assist-

ing the passage of this much-needed legislation. The print media can do a great service in this country, not merely to inform and entertain, but to provide a course of action for citizens who need help in resolving problems.

"Many citizens have concern about frustrations and express a lack of faith in the legislative system. Through your efforts, some of that faith may well have been restored. . . . Without [your] assistance, I honestly do not know if we could have passed the legislation."

U.N. MIDEAST "TILT" CRITICIZED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BIAGGI. Mr. Speaker, my good friend and well-known entertainer, Joey Adams recently wrote an open letter to the United Nations highly critical of some of their policies which have discriminated against Israel.

As Mr. Adams points out, the U.N. seems to be marching to the tune of a different drum with respect to Middle East policies. Whereas Egypt, Israel's most formidable adversary, has made serious overtures in the interest of peace, the U.N. has continued to vent its hostilities against the very existence of Israel.

I have long been concerned about the fact that the United States is finding itself opposed to many of the prevailing philosophies in the United Nations. They were formed as an instrument of peace—not as a political forum where inflammatory rhetoric is allowed to flourish. Unless the U.N. can play a constructive role in working for Mideast peace—for the good of the world they should take a back seat.

Joey Adams' letter follows:

FROM: JOEY ADAMS—TO: THE U.N. (USELESS NATION: ORGANIZATION)—SUBJECT: AN OPEN LETTER

Dear Useless: Goliath tried to deny the right of the tribes of Israel to live. Then Hitler tried to deny the right of the Jewish people to live. For 30 years the Arabs have tried to deny the right of the Jewish state to live. And now that we've got Egypt and Israel together, the giant against us is the United Nations.

Begin and Sadat are meeting face to face—but the United Nations is censuring Israel. For the first time in 30 years there's a prayer of peace in the Middle East—but the United Nations is censuring Israel. Israel is attacked on the day of Yom Kippur when its citizens are praying in the synagogue and the United Nations brands Israel the aggressor. With what were they aggressors? Could they shoot with their Bibles? Did they have ammunition in their prayer shawls? But the United Nations censured Israel!

What are these guys doing over there on the East River? What do they do here in our town anyway? Besides freeloading at every cocktail party, parking illegally at every fire hydrant between here and downtown Newark and eating up the city's money in protection and free services, what is it these bums do besides censure Israel ?

Only recently people everywhere were look to Jerusalem and Cairo for the maiden voyage of the Dove of Peace. It was the first flutter of hope out of the Middle East in three decades. We saw Sadat lean over to kiss Golda. We saw Israelis wave Egyptian flags. We saw thousands of Muslims welcome back their leader after a journey no one would have dreamt possible days before.

Meanwhile, the anachronistic Useless Nations creaked along its archaic way seeing nothing, hearing nothing and solving nothing. On November 25, five days after the Sadat visit, the U.N. General Assembly overwhelmingly passed yet another anti-Israel resolution. This time they condemned Israel for occupying Arab lands.

The U.N. is getting senile in its middle age. It promotes anti-democratic ideas to weaken Western civilization. It tries to undermine the legitimacy of the only democratic state in the Middle East which also happens to be the strategic ally of the symbol of Western civilization, the United States. It abets bigots the world over and particularly in the Soviet Union by its passage of the 1975 Zionism-is-racism resolution which serves as a justification for anti-Semitism.

The time has come for the U.N. to put up or shut up shop forever. Their purpose in case they forgot is to engender peace not war. When will such an olive branch, such an opportunity for peace present itself again? May this not be a beginning for all humanity to follow? Isn't this the reason for the U.N.?

To justify its existence the U.N. should encourage contracts between Israelis and Arabs on all levels—governmental, economic, cultural. It should encourage potentially moderate Arab states to follow Egypt's lead leaving the radicals with the choice of moderation or isolation. Above all, it must stop pandering to the terrorist organizations which hijack planes, which murder Olympic athletes, which bomb innocent women and children in supermarkets and which rule out the possibility of peace as long as Israel exists.

Israel asks only the right to live. How can mankind support an international organization of people who won't recognize that? Aren't six million Jews who were put in ovens enough?

Today it may be the Jews who are being pushed into the sea. Tomorrow it could be the Catholics or the blacks or even the Baptists.

Et tu, U.N.? The Jews have been pushed out of every corner of the world. They've been attacked, persecuted, burned and killed in Poland, Bulgaria, Russia, Rumania, Hungary, Germany and points East and West. It took 5,000 years but they had a country of their own. They paid for it with their money as well as their lives—and you want to take it away from them? Well, you can't do it. You cannot trade Jewish blood for Arab oil.

Now is the time for this kept mistress of the world to show she hasn't outlived her usefulness. Now is the time for the U.N. to rise up and speak for reason, compromise and moderation. Now is the time for the U.N. to show if it's worth a damn. Okay, you dragged your feet in praising Sadat but you were quick to protect the rights of the Palestinians. Okay . . . but now . . . now . . . stand up before it's too late. But with or without this international Tinker Toy on the East River, let us back President Sadat and Prime Minister Begin in their bid for peace. If we are supportive rather than negative, if we give them our blessing rather than our hating—who knows, with Isaiah we, too, might see the day when, "The wolf also shall dwell with the lamb—and the leopard shall lie down with the kid—and the calf and the young lion and fatling together . . .".

PETITION '78

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. DERWINSKI. Mr. Speaker, I wish to direct attention to "Petition '78" which was developed for the practical purpose of supporting those signatories of Charter 77, the Human Rights Manifesto signed by over 900 individuals in Czechoslovakia last year. These people and their supporters are still being persecuted by the Government in Czechoslovakia.

It is my understanding that "Petition '78" will be presented to the Human Rights Committee of the United Nations on August 21, 1978, and sent to 35 signatory countries of the Helsinki accord, including the Czechoslovak Socialist Republic.

Petition '78 and a list of those individuals who signed this document follow:

PETITION '78

The year 1978 has a historical significance for the nations of Czechoslovakia because it marks three important milestones in their existence:

60 years ago in 1918, Czechoslovakia became an independent country which was based upon the democratic and humanistic ideas of T. G. Masaryk.

30 years ago in 1948, the democratic parliamentary order in the country was destroyed; this interrupted its peaceful and democratic evolution and led to the entrenchment of Stalinism which sapped the national will, spirit and resources for many years.

10 years ago in 1968, the armed forces of the Soviet bloc invaded the country in order to arrest the process of regeneration of national culture and humanization and democratization of its public life which resulted in a massive violation of fundamental civil and political rights . . .

REMEMBERING THESE THREE ANNIVERSARIES—WE THE PETITIONERS

(1) Demand the withdrawal of Soviet troops from Czechoslovakia and restoration of independence, sovereignty and of the rights of the people to self-determination according to Articles I, II, III, IV and VII of the Helsinki Accord of 1975.

(2) Support Charter '77 in demanding from the Government of the Czechoslovak Socialist Republic to implement the civil and political rights as defined in the Helsinki Accord, as well as, in Law 120/75 Sb,., adopted by the Federal Parliament of CSSR on November 11, 1975,

(3) Call upon the Government of CSSR to desist from persecuting the Chartists and other citizens who merely demand that the government observes the Czechoslovak laws and international agreements on civil and political rights which it has signed,

(4) Call upon the Government of CSSR tc remove or reform all laws which either violate or limit the enjoyment of civil and political rights as defined in the Helsinki Accord,

(5) Call upon the Human Rights Committee of the United Nations to hold the Government of CSSR accountable for periodical reports on the measures undertaken to implement the International Convention on Civil and Political Rights in the country,

(6) Call upon all signatory countries of the Helsinki Accord to hold the Government of CSSR accountable for the full implementation of the Accord and of all interna-

tional agreements which the Accord invokes . . .

Date the 1st Day of January, 1978, New York.

The document Petition '78 has been signed by the following individuals: Jan Babinec, Antonin Bartos, Marie Bartos, Jiri Blaha, Josef Bursik, Jana Bursik, Jiri Corn, Ota Coufalik, Marie Coufalik, Antonin Cech, Stepanka Cech, Jan Dohnalek, Anna Dohnalek, Libuse Drobilkova, Anna Faltus, Miroslav Fic, Richard Fries, Milan Frybort, Marie Frybort, Eva Hladik, Ota Hora, Lida Hora, Karel Kalenda, Eliska Kalenda, Ota Kobylka, Gita Kobylka, Vladimir Krajina, Marie Krajina, Jiri Krupicka, Ada Krupicka, Vladimir Krivanek, Horty Krivanek, Jan Kuncir, Josef Kucera, Zdenka Kucera, Milos Kunta, Miloslav Malecek, Anna Malecek, Jaroslav Maliska, Rozina Nehasil, Frantisek Novy, Zdenek Otruba, Hana Otruba, Jan Papanek, Betka Papanek, Jozka Pejskar, Anna Pejskar, Zdenek Prazak, Evelyn Prazak, Olga Radimsky, Ota Rambousek, Zdenka Rambousek, Antonin Roubik, Viera Roubik, Lumir Salivar, Milan Schiller, Josef Schneider, Emil Sklenar, Zdenek Slavik, Drahomira Slavik, Antonin Strnad, Josef Skvorecky, Zdenka Skvorecky, Eduard Vondracek, Vera Vondracek, Antonin Votruba, Vlasta Votruba, Jaromir Zastera.

Petition '78 is not a political or a partisan document. It is not sponsored by any political or any other group. It is originated from a private initiative of thousands of individuals of the Czechoslovak democratic exile community living in all parts of the world. It is open for signature to any person of any nationality, regardless of political views, religion and sex, interested in human rights and in the implementation of the Helsinki Accord in Czechoslovakia.

URGES PROMPT PASSAGE OF BAIL REFORM BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent newspaper article which describes an incident that illustrates the urgent need for prompt Senate passage of H.R. 7747, a bail reform bill for the District of Columbia.

The article, written in the Washington Post on December 23, 1977, concerns the arrest of an individual for the murder of an off-duty District of Columbia police detective. At the time of the detective's murder the individual was free on personal bond awaiting sentencing for a second-degree murder which he had pleaded guilty to only 16 days earlier.

Repeat offenders, who commit dangerous or violent crimes while free on bail prior to sentencing for earlier offenses, pose a serious threat to the citizens of the District of Columbia. It is precisely this threat which is the aim of H.R. 7747, which was approved by the House on September 26, 1977.

I am hopeful that this very important bail reform bill will be approved by the Senate in the very near future.

The article reads as follows:

OFF-DUTY DETECTIVE SHOT DEAD

(By Alfred E. Lewis and Martin Weil)

On Dec. 6, Charles Alexander Phillips, 26, pleaded guilty to going to the apartment of a former girl friend, forcing her to summon her new boyfriend, and, after his arrival, stabbing him to death.

Yesterday, 16 days after Phillips pleaded guilty to second-degree murder and was freed on personal bond to await sentencing, he was arrested again, charged this time in the early morning fatal shooting of an off-duty D.C. police detective in the same woman's apartment.

Police said Det. Michael K. Riley, 30, and Carolyn Radford, 23, were in the bedroom of her apartment at 3417 Minnesota Ave. SE shortly after midnight when a man kicked in the back door.

Riley, an eight-year veteran of the police force who was highly regarded by his superiors confronted the intruder. A struggle ensued during which the detective's gun was taken and he was shot, police said.

Authorities said that Phillips, the suspect, was arrested in an auto shortly after 5 a.m. in Hillcrest Heights, just across the District of Columbia line in Prince George's County, and subsequently charged with second-degree murder.

Following his arrest, a rehearing was held in D.C. Superior Court on the conditions of Phillips' release in the earlier case. His personal bond was revoked, according to the U.S. Attorney's Office, and he was ordered held without bond pending his sentencing Jan. 18 in the earlier case.

According to a member of the prosecutor's office, Judge H. Carl Moultrie I, who originally had released Phillips, revoked the bond on the ground that the suspect represented a danger to the community.

In the earlier case, according to the prosecutor's office, Phillips, whose last known address was at 1617 F St. NE, was alleged to have gone about 11 p.m. on May 6 to the apartment of Radford. Authorities said the two had broken up in 1976.

At the apartment, it was alleged, Phillips placed a butcher knife to Radford's throat, and forced her to call Napoleon B. Wilcox, 43, of 3343 C St. SE, described as Radford's "suitor" at the time.

When Wilcox arrived, according to Assistant U.S. Attorney Tim Reardon, Phillips stabbed him several times, killing him. Phillips also stabbed Radford at least three times, Reardon said. It could not be determined last night how seriously the woman was injured in that case.

In addition to pleading guilty to second-degree murder in the incident, Reardon said, Phillips also pleaded guilty to assault against the woman.

Phillips, described as a painting contractor, qualified for release under the terms of the bail act, according to the prosecutor. A court source said records indicated that after his original arrest Phillips was released in a form of third-party custody regarded as the practical equivalent of personal bond.

No indication could be found last night of any connection between Phillips and Riley, who was attached to the first district.

Investigators said Riley apparently left the bedroom of the Minnesota Avenue apartment after the kicking at the door, and confronted a man at the rear of the apartment, where the struggle ensued in which he lost his gun and was shot in the chest.

Police said Radford was in the process of calling police for help when the fatal shot was fired. They said the detective formally was pronounced dead about 3 a.m. in the D.C. Morgue.

About two hours later, a D.C. police officer who had heard a radio broadcast about the case saw a car matching the description in the lookout being driven near 23d Parkway and Southern Avenue SE, police said.

Prince George's County authorities said Phillips was taken into custody by county police at the intersection in response to requests by D.C. police. The arrest was made without incident, county police said.

Authorities said Phillips was taken into custody as a fugitive, and after waiving extradition, was returned to the District of Columbia.

After an appearance in Superior Court on a second-degree murder charge in Riley's death. Phillips was ordered held on $20,000 bond and the case was continued until Tuesday.

Officials said last night that Riley was married and the father of two children and lived in southeast Washington.

JOHN E. DOWLING: REALLY HELPING IN THE INNER CITY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. OTTINGER. Mr. Speaker, over the past several years, the city of New Rochelle, N.Y., has been involved in a very exciting downtown revitalization project, which has received the strong support and commitment of both the private and public sectors of the community.

Today, I want to pay tribute to a corporate member of the private sector which has played an important role in the renewal of New Rochelle—the Westchester Federal Savings & Loan Association and its president, John E. Dowling.

With the creative leadership of Jack Dowling, Westchester Federal Savings & Loan Association has become an active—and essential—participant in the city's revitalization drive. Westchester Federal Savings has invested roughly $5 million in the downtown area over the last 5 years. These funds have been used to finance large-scale property renovations, the construction of medical and family service centers, a boys' club, middle income housing, and low-cost home improvement loans.

Westchester Federal Savings has been a pioneer in the area of urban investment. WVOX, a local radio station, commented that Westchester Federal Savings made a move that "took nerve and a lot of guts—although an area with a rich ethnic background is not the typical downtown high-traffic area that bankers usually favor."

I would like to take this opportunity to thank the Westchester Federal Savings & Loan Association and its president, Jack Dowling, for their special commitment to the needs of downtown New Rochelle.

I also would like to bring to the attention of my colleagues an article which appeared in the December 1977 issue of the Federal Home Loan Bank Board Journal, which sheds further light on the good works of Westchester Federal and Jack Dowling.

REALLY HELPING IN THE INNER CITY

In 1970, with the participation of a determined city government and the support of the Federal Home Loan Bank of New York, a strategy for substantial neighborhood urban renewal was born in New Rochelle, a 289-year old suburb of New York City. The overwhelming success of that plan during the last seven years is vivid proof of what can be accomplished in deteriorating inner city areas if a real attempt at improvement is made, and the credit for this success can

be attributed squarely to the aggressive civic involvement of $275-million Westchester Federal Savings and Loan Association and its president, John E. Dowling.

Westchester Federal Savings has invested $5 million in a half-mile square section of New Rochelle's inner city during the last 5 years. Its pioneering efforts at financing large-scale property renovations there, plus the construction of new medical and family service centers and middle-income housing, mean a better future for all of the city's Lincoln Avenue-West New Rochelle district and for the city as a whole.

How does a savings and loan association get involved with such massive urban renewal? WFS president Jack Dowling explains it in terms of neighborhood allegiance.

"We were founded in New Rochelle in 1888 and our home office has always been located here," he says. "This is a city of 75,000 people lying between New England and greater metropolitan New York. It is rich in history, dating back to the Huguenots who settled here in the 1600's seeking religious freedom.

"New Rochelle is truly a great city and deserves our special attention. We were well aware some time ago of the need to correct the conditions which existed in the area northwest of the center of town and knew that any steps toward total rehabilitation had to start here."

GETTING STARTED

That spark that ignited the renewal flame, however, came directly from residents of the area itself—specifically from members of St. Catherine AME Zion Church, located in the heart of the neighborhood. The then pastor of the congregation came to Westchester Federal for help. Not only was a new church building urgently needed, there was also a need for more housing for area residents.

Mr. Dowling enthusiastically agreed to help and a development corporation was set up to receive land to be bought by the congregation for an FHA commitment. Serving as financial consultant and board member, Mr. Dowling was assisted on the corporation by the city manager of New Rochelle, who acted as chairman, and by the president of one of the city's prominent business firms and other civic leaders.

Plans were begun for new housing and, in 1970, construction began on a 110-unit, middle-income apartment house to be called Carrington Arms.

Permanent funding for the building was donated under section 221(d)(3) of the National Housing Act and $310,000 was furnished by the New York State Division of House and Community Renewal. The remaining major obstacle during this period of tight money was to obtain a total of over $2.5 million for interim financing during the 2 years that construction would take.

Westchester Federal Savings committed a loan for the full amount from its own resources so that the project could move forward. The Federal Home Loan Bank of New York, through its President, Bryce Curry, subsequently helped by informally approving "special inner city advances" which would be made available to WFS for the project, if needed, without complicated procedural requirements. This was prior to the formal inner city advances program later initiated by the Federal Home Loan Bank Board.

That same year the association also provided the building funds and permanent mortgage for construction of a new modern church building for St. Catherine's in the mount of $275,000.

Later, in 1972, an additional mortgage for the Carrington Arms apartment brought the total Westchester Federal Savings commitment to $3,077,500, all of which the association was able to furnish from its own funds.

While the company made a reasonable return from its 1970 and 1972 investments, greater rewards came in the benefits afforded the community and the solid reputation the association earned as a concerned corporate citizen.

The local press picked up the story and lauded Westchester Federal Savings for its leadership and for inspiring the city government to establish more middle-income housing and to assist in rehabilitating the older section of the city.

One woman wrote a letter to the editor calling the project ". . . a shining example of the wonders one can work with brick and mortals."

MORE PROJECTS

For New Rochelle and Westchester Federal Savings, however, the wonders were just beginning. There was much more that had to be done on the west side of the city and Westchester Federal Savings soon tackled 4 more projects calling for an additional investment of $1,195,000.

In February 1972, WFS provided $175,000 for construction of a boys' club in the area. A medical center was completed in 1973, with WFS financing the $848,000 price tag, and in November 1975, WFS financed a family guidance center building to the tune of $110,000. The following year, the association invested another $62,000 in a multifamily dwelling. During this same period, Westchester Federal also committed home and improvement loans in the neighborhood for nearly $500,000.

With this groundwork laid, the impetus for renewal spread, resulting in the establishment by the city of the current New Rochelle Housing Preservation Program, a cooperative venture to improve the remaining inner city housing within this same neighborhood.

Urged on by the city government, 7 banking institutions, including WFS, last year committed a total of $950,000 for low-cost home-improvement loans in the area at a city subsidized submarket rate of 5 percent interest. To qualify for these loans, applicants had to be owner-occupants of a dwelling in the specified rehabilitation zone. So far, no one has been turned down.

POST OFFICE ESTABLISHED

Meanwhile, Westchester Federal had taken two other steps—one uniquely different from usual savings and loan association activity—to aid the residents of this rehabilitation district.

There are approximately 3,000 residents located there, but there was no financial institution or post office to serve the inhabitants of these homes. WFS decided to provide both.

First, it opened a branch office in the heart of the rehabilitation area. Then, within the branch building, it opened a post office, fully staffing it with its own employees, who perform postal duties in addition to their regular S&L duties at the teller windows. Through the assistance of John Fosina, New Rochelle city postmaster, the branch was fully licensed by the Federal Government.

One teller's window is used for full-scale postal service, including the weighing and mailing of packages. Stamps are sold by tellers at all windows. WFS gets $1,200 a year from Uncle Sam for providing this service and stands all other expenses itself, including employee salaries.

It's hard to tell whether the post office or the savings and loan activities of the branch office please local residents more. Both are in constant use and have generated surprisingly heavy daily customer traffic and far greater than expected use. They also have generated a good deal of favorable public comment.

Public Broadcasting System Channel 13 interviewed Mr. Dowling in front of the branch not long ago as part of its coverage of inner city housing rehabilitation in New York and New Jersey.

A special broadcast by radio station WVOX also complimented Westchester Federal Savings for making a move that "took nerve and a lot of guts . . . although an area with a rich ethnic background is not the typical downtown, high-traffic area that bankers usually favor."

Since its opening in 1975, the branch has developed $4 million in savings deposits in nearly 2,000 accounts. As a result of its heavy use, the office was completely remodeled and doubled in size this past September.

Phil Weiler, Senior Vice President and Housing Coordinator of the Federal Home Loan Bank of New York, toured the area in October to see what was going on.

"Westchester Federal Savings, in cooperation with concerned citizens, a responsive city administration, and private businesses has found the formula for success in terms of neighborhood and downtown preservation," he said.

IMPROVING DOWNTOWN

Mr. Dowling is also cofounder of the New Rochelle Development Council, Inc., a quasi-public, nonprofit company with a goal of revitalizing New Rochelle's downtown business district, which is the city's physical development and economic base. With members representing New Rochelle's primary retail, industrial, and financial institutions, the council is financed by membership dues and an annual contribution from the city.

Lewis Fechter, formerly Director of Planning for the New York City Region of the Urban Development Corporation, is the council's executive director.

In the two and one-half years since its beginning, the council has made an impressive difference in New Rochelle. Construction has already begun on a $19-million renewal of the central business district, including a $5 million main library, a $1 million plaza, pedestrian malls, landscaping, and a new traffic system. A 9-acre industrial park is planned, with another 20-acre industrial park in the wings. City sales tax revenues and Federal funds are being used to finance these undertakings.

At least two major industrial companies have been induced to remain in the city and expand as a result of the council's efforts. Two other industrial companies have relocated to New Rochelle at the council's urging. One will occupy a 112,000-square foot building financed by the council's bank consortium, with Westchester Federal Savings acting as the lead institution.

A professional public relations campaign now is being initiated to improve the city's image and to market New Rochelle. A city-wide graphics program will attractively direct shoppers to the business district, creating a coherent image in the downtown area. Recently, a $22,000 landscaping program at New Rochelle High School won a national award for its cherry tree basin and Japanese rock garden style as the city's most visible recreation area. The list of accomplishments is extensive and growing.

S&L'S CAN HELP

So ends the story of how a hometown savings and loan association gets involved in civic affairs and winds up funding $5 million on its own inner city rehabilitation program.

One of the key elements of its success is that Westchester Federal Savings provided leadership at a time when it was vitally needed. A second crucial element was the involvement of local merchants, business people, and civic leaders. WFS believes that what has happened, and is currently happening, in New Rochelle could very well be the model of other cities facing similar problems.

"There's a great deal of rebuilding to be done in America and, if the savings and loan business doesn't get totally involved, the job won't get done," says Mr. Dowling.

THE SOUTH FAIRMOUNT COMMUNITY PLAN: GOALS AND POLICIES

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. LUKEN. Mr. Speaker, I am proud to share with my colleagues "The South Fairmount Community Plan: Goals and Policies." South Fairmount is a neighborhood within the city of Cincinnati in the district which I represent.

This document expressed the goals established by the South Fairmount Community Planning Committee in an effort to improve the quality of life in this neighborhood by solving problems, expanding community services, and revitalizing the area. I bring this report to your attention as an example of how residents of an older, established community in a large, metropolitan area have taken steps to respond to the changing needs of their community:

THE SOUTH FAIRMOUNT COMMUNITY PLAN: GOALS AND POLICIES

South Fairmount portrays an image which is quite unique for its location, part of a large metropolitan area. From the hillsides surrounding the community, it is easy to believe that you are actually in Cincinnati since Union Terminal and the skyscrapers of downtown can be seen clearly to the south. Yet, once in the valley, the community resembles a small town nestled in the hills. The heavily wooded slopes and the enclosing nature of the surrounding hillsides leaves the viewer cut off from the rest of the city. The small town impression is further enhanced by the age and the historic quality of the buildings. Above the businesses and housing in the central valley rise St. Francis Hospital and St. Bonaventure Church, providing a visual focus much as these institutions would in any town. Yet, South Fairmount is not a small town but part of a large city and this fact is driven home by the large amount of traffic that invades its boundaries every day on their way to and from work within Cincinnati.

The housing of the community speaks strongly of its history and its character. Although there are some new apartment buildings being constructed about the community, most of the housing remains single and two family giving the neighborhood a more intimate nature. Likewise, much of the housing is older, some from the late 1800's and early 1900's and includes many good examples of past architectural styles such as High Victorian and Italianate. Yet, the housing portrays quite plainly that Fairmount has long been and still is a workingman's neighborhood.

South Fairmount is a small community, about 6000 residents at this time although it could accommodate a slightly larger population. This leaves the hillsides primarily undeveloped particularly to the south where slope conditions are quite steep.

The strongest node is the center of the valley along Queen City Avenue and Westwood Avenue. This has traditionally been the focal point of the community, its business district and its prime institutions, such as the hospital and the churches.

The history of South Fairmount goes back to the 1820's when the first settlers moved into the Mill Creek Valley and the Lick Run Valley to farm. Due to the abundance of good farm land in the bottom of the Mill Creek Valley, this was the first area settled. From here the settlement pattern moved into the Lick Run Valley and then up the sides of the hills as the population grew and it was necessary to spread out.

The two hills at the entrance to the Lick Run Valley have been neighborhood landmarks over the years. To the south is Bald Knob which was long a focal point of western Cincinnati. It was a playground, picnic spot, and nature preserve as the western side of Cincinnati grew up. However, in the 1920's and 1930's, the hill was purchased and its topsoil used as fill for the train yards of Union Terminal. Since that time, the base of the hill has become a wholesale and storage region. At this time, the top of Bald Knob also sports the WXIX broadcasting tower. Fortunately, Bald Knob was included in the first Environmental Quality Hillside District to be established, thereby protecting its severely stripped slopes from further misuse. The hill to the north has been known by a variety of different names through the years. In the early 1850's, the Baptists built the Fairmount Theological Seminary on this site. The hill was later known as Schuetzenbueckel Hill, which means marksmen's hill and the area becamc very popular in its day. The seminary burned in the 1880's and the hilltop has since been known as the St. Clair Heights Park.

As the Mill Creek Valley became industrialized, settlement moved into the Lick Run Valley. Since, at this time, South Fairmount was unincorporated, many Cincinnati businessmen found it to their advantage to locate in the area to escape city taxes. However, in 1870, South Fairmount was incorporated into Cincinnati and the tax evaders in the area moved their factories closer to their homes.

Like most of Cincinnati, South Fairmount has a strong German heritage. In the 1850's and 1860's approximately 80,000 German immigrants inhabited the western sector of Cincinnati. There was also a small group of French immigrants who chose to settle primarily along Quebec Road. Unfortunately most of the French immigrants are gone although their heritage remains in many of the street names and the architectural detailing used on many of the homes. In the late 1800's and early 1900's a large number of Italian immigrants moved into the area to work on the sewer that was being constructed. Most of these immigrants settled along the Upper Lick Run Valley.

South Fairmount derives its name from a J. A. Jones who owned large tracts of land in the area. The whole area was originally named Fairmount after the Fairmount Park in Philadelphia, and was later split into North, South and Central Fairmount.

Many of the buildings in South Fairmount have had interesting histories. The Adler Woolen Mill was used as an insane asylum from 1854 to 1860. The success of the institution was instrumental in the founding of the Longview State Hospital in 1860. St. Francis Hospital, St. Bonaventure Church, Immanuel Church and Martini Church have all been part of the neighborhood from the early days. Martini Church was used as an underground railroad station for many years prior to the Civil War.

Due to its prime location, South Fairmount and the Lick Run Valley have long been one of the prime traffic corridors from the western sector of Cincinnati into the downtown area. It is from this fact that many of the community's current problems stem. However, over the years, South Fairmount has retained its historic character as a refreshing counterpoint to the urban environment of 20th Century America.

TURN 65—LOSE YOUR RIGHTS?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BIAGGI. Mr. Speaker, as one of the most ardent supporters of legislation to curtail mandatory retirement I wish to call to the attention of my colleagues an article which appeared in Wednesday's New York Daily News regarding one of the most celebrated victims of forced retirement—Eric Sevareid.

The article presents in a satirical vein an imaginary trial. Yet much of what is in the article is tragically true for many older Americans. The mere achievement of a chronological milestone of reaching age 65 suddenly brings on traumatic changes in one's daily routine. Suddenly you are no longer capable of working—your years of experience suddenly are worthless. You are forced to retire—whether you are ready or not.

Many arguments have been offered against the continuation of this tyrannical policy. Yet perhaps the most compelling was offered almost identically by the American Medical Association and as the article points out by the U.S. Bureau of Labor Statistics. Fact—mandatory retirement accelerates the aging process and poses serious medical and psychological harm to its victims.

I am a member of the House Select Committee on Aging. I have conducted hearings to help promote support for the elimination of mandatory retirement. The vote when the bill passed the House was 359 to 4. The Senate passed their version of the bill also by an overwhelming majority. A conference is nearing final agreement of a compromise bill. Completion of this legislation will be a legislative landmark—a demonstration of the increasing power of America's senior citizen population.

I recommend this article for the edification of my colleagues. The ending is most interesting:

THE PEOPLE VERSUS ERIC SEVAREID

(By Garson Kanin)

The court: This has been a long and difficult trial, and I shall therefore take the liberty of suggesting to both the prosecuting attorney and the attorney for the defense that they keep their summations as brief and to the point as possible.

Is the prosecution ready?

The prosecuting attorney: Yes, your Honor.

The court: You may proceed.

The prosecuting attorney: Thank you, your Honor.

Ladies and gentlemen of the jury: The facts of the case before you are not in dispute. The accused, Eric Sevareid, citizen of the United States; residing in Chevy Chase, Md.; born Nov. 26, 1912, in Velva, N.D., is guilty of one of the most heinous and unforgivable crimes of our time and place. On Nov. 26, 1977, he committed a Birthday—his 65th. He has, under oath, admitted this, offering no excuse other than the weak argument of inevitability.

According to established tradition, custom, and—yes—even the law of the land—he is now deemed to be outmoded, superannuated,

useless. Therefore, his employer, The Columbia Broadcasting System, has removed him from its coast-to-coast network. Obviously, a man of 65 cannot possibly have anything of interest or value or importance or pertinence to say. Moreover, CBS believes that the very sight of a gray-haired, rather wrinkled person is depressing and offensive to a large number of its viewers who are—according to recent demographic studies—mainly under the age of seven.

Accordingly, auditions are now in progress to fill the vacancy caused by Mr. Sevareid's retirement—and no candidate over the age of seven will be considered. Proof of age must accompany each application.

Ridiculous disputation has been presented to you, indicating that Old Sevareid's rights somehow are being violated. I ask you—what rights? Constitutional rights? Nonsense! The Supreme Court of The United States has ruled otherwise. In case after case, an employer's right to discharge older employees has been upheld.

Civil rights? I smile. He'll still be allowed to vote, won't he? In fact, it has been found that older citizens vote in far greater number than younger ones. And he'll still be allowed to travel freely and drive his car.

Human rights? Yes, that's a popular cry these days and seems to have become our President's theme song wherever he goes in the world. But stop and think for just a moment. What exactly are "human rights"? No one seems to know for certain.

Now, any reasonable man—or woman—will admit that I've conclusively proved to you and to the court that there's no question here of the violation of any rights whatsoever. Old Sevareid will remain a free man in a free land.

Ladies and gentlemen of the jury: You don't need to waste precious time on your deliverations. This is a simple, open-and-shut case. And remember, when you retire to the jury room, the words of Benjamin Franklin, "Don't waste time," he said. "That's the stuff life's made of."

You must decide that since Eric Sevareid has, through no fault of either the U.S.A. or CBS, reached the age of statutory senility—he should, along with other decrepit men and women who have committed, are committing, and will doubtless continue to commit this dastardly crime—be relegated to silence and oblivion and be further charged to accept this verdict without complaint and with grace.

One more thing. The verdict you reach in this case will have a far-reaching impact, because there are more and more old people among us all the time. Once, long ago, they comprised no more than 3% of the total population; today they are more than 10%, and God only knows how many of them there will be next year. What's more, they're becoming increasingly vocal and active and militant.

Only the other day, a teacher, dropped by her school for being 60—had the temerity to sue and the audacity to win! How would you like your child to be taught by a woman of 60? Think it over. And what about that 75-year old judge who refuses to get off the bench? Something must be done or we'll have more Justices like Oliver Wendell Holmes Jr.; and Louis Brandeis; and Learned Hand; who continued to serve into their 80s and even 90s!

No, my friends, older people must be put, and kept, in their places—and their place is on the shelf, in retirement homes, on the shuffleboard courts, or no place.

No doubt Old Sevareid's attorney will try to sway you by scare tactics—such as arguing that you, as younger people, should be concerned about what he calls "the problem" because you will yourselves reach the age of 65 some day. To this, I say: "Don't you believe it!

Remember that slogan so popular a few years ago? "Don't trust anyone over 30." What happened to the people who proclaimed it? Have they reached the age of 65? Of course not.

Ladies and gentlemen of the jury: Eric Sevareid is 65—not 64 or three or two or one. He is 65, and there is no defense or extenuating circumstances for his crime. In this century, we have dealt with Communism, socialism, fascism, terrorism, vandalism,vegetarianism; now we must deal with equal effectiveness with ageism.

I ask you for a verdict of guilty as charged.

Thank you.

The court: This has been a long and difficult trial, and I shall therefore take the liberty of suggesting to both the prosecuting attorney and the attorney for the defense that they keep their summations as brief and to the point as possible.

Is the defense ready?

The attorney for the defense: Yes, Your Honor.

The court: You may proceed. Brief. To the point. As possible.

The attorney for the defense: Ladies and gentlemen of the jury: The summation which you have just heard delivered so eloquently by my esteemed adversary is sound—mere sound! (Laughter) The defendant, Eric Sevareid, does not now, nor has he ever denied that he has reached his 65th birthday. There are those who pretend otherwise; who lie and dissemble and obfuscate; who attempt, by devious means, to camouflage age. Sevareid never dyed his hair, never underwent plastic surgery, never wore a corset in the way of many in public life whom I could name by name if I wished.

Now, I am quite aware of the fact that "65" has become a dirty word in our society—but why should it be? Why is "64" clean and "65" dirty?

What on earth do you suppose could have happened to Sevareid as he slept his way, quite harmlessly, though the thing must have occurred, because when he awoke on the morning of the 26th—his services were no longer required. What happened that night? Did someone steal his superb mind? Did his perceptive wit desert him? Did his rare wisdom evaporate? Was his matchless, stored wisdom filched? Was his commanding presence pilfered in the night? No. The man who went to sleep and the man who awoke are one and the same.

Was there a general, public demand for his replacement? I doubt it. In fact, there are reports that the opposite is true. That many viewers clamored for him to be retained. This outcry was met with a dead CBS eye.

I have serious doubt that CBS will find a 7-year-old who can match Eric Sevareid's qualities and capabilities. Perhaps I'm wrong. We must wait and see.

You have been told that Eric Sevaried retired. Not so. He was retired. There is a world of variation between those two conditions. His occupation, his activity—in short, his life, has been taken from him. Because life is not what you have or who you are—life is what you do. What, I ask you, is the difference between killing a man and not permitting him to live?

The U.S. Bureau of Labor Statistics informs us that men and women who are forcibly retired from their jobs have an average life-span of 20 to 30 months! I see that you're shocked. So am I. However, this is not likely to happen to Sevareid. He's a vital, dynamic, important figure who will undoubtedly find ways to use his time and his bursting energies. But—he will not be where he belongs, doing what he can and should be doing—doing what he does as well, if not better, than anyone in his profession.

If you condemn him, you're not only depriving him of his job, you're depriving a wide public that's come to depend on his balance and sanity in order to bolster their own.

I grant you that there are those who can no longer function efficiently at their jobs because of age. They are prizefighters, baseball players, football players, hockey players, basketball players, and professional gigolos. In all other categories of human performance, age and experience are assets rather than liabilities. Are congressmen forced to retire? Not unless their constituents want them to. Senators? The same. Justices of the United States Supreme Court? Would you want to see a teenage Supreme Court?

Think how few self-employed people retire—artists (most of whom reach their peak in old age), musicians, writers—think what would be missing from the permanent arts of the world if creative people had been turned off at 65. Inventors, Edison, lawyers, doctors, teachers. Isn't it clear to anyone who cares for justice that—. Excuse me, ladies and gentlemen of the jury, while my attractive assistant hands me a note. . . . Great Scott! A Bombshell!!

Ladies and gentlemen: In the course of my preparations for this great landmark case, I had occasion to visit the Department of Health of the city of Velva, N.D. There, I carefully examined the birth records for the year 1912—the year of Eric Sevareid's birth—but there was no record. A theft? A clerical error? A mistake on Sevaried's part? Could he have been born elsewhere? He insisted that he had been born in Velva, N.D., on Nov. 26, 1912.

The mystery of the missing record remained—until now. It has been fateful night of Nov. 25, 1977? Some-found! I hold it here in my hand and I now introduce it in evidence as Exhibit 777. It proves conclusively and beyond the shadow of a doubt that Eric Sevareid is and has for too many years been the victim of a cruel and unfortunate typographical error—because he was actually born not on Nov. 26, 1912, but on Nov. 26, 1922! Thus, he is not 65 years of age, but 55. What does that mean? It means that there is no case, nothing for you to decide. I move for dismissal. Your Honor.

The court: Granted.

The prosecuting attorney: Objection!

The court! Overruled. Dismissed.

The attorney for the defense: One moment! Ladies and genltemen of the jury and ladies and gentlemen: CBS announces that Eric Sevareid will be seen as usual on most of these stations at the same time for the next 10 years!

SOVIET WORLD OUTLOOK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. DERWINSKI. Mr. Speaker, it must be noted that despite wishful thinking by the President, the Soviet Union is proving increasingly difficult in diplomatic and international relations involving the United States.

The Center for Advanced International Studies at the University of Miami, Fla., publishes a monthly report entitled, "Soviet World Outlook," which concentrates on Soviet foreign policy views. I wish to insert two articles from the January 15 edition, "Carter Trip Belittled," and "Active Military Diplomacy," which report on activities of the Soviets:

CARTER TRIP BELITTLED

One way or another Moscow managed to cast aspersions on every aspect of President

Carter's trip to seven countries from December 29 to January 6. As the trip began, Izvestia said of its general motivations:

"The unusual timing of the trip and its top-heavy program are perplexing many commentators here, who believe that the trip, being undertaken chiefly for domestic policy considerations, is designed to rectify the very modest 'service record of the new administration,' which has scored no appreciable achievements in the domestic and foreign policy spheres in its first year in power."

Pravda on January 1 saw the trip as a reflection of contrary trends in US policy:

"Although life compels Western politicians to join in the process of relaxation of international tension and to agree to compromise, they exhibit now and then nostalgia for pax Americana and make attempts to recapture leadership and to hold back, wherever possible, the advance of progressive forces. There is a lot of speculation in Western commentaries on the contradictory nature of Western strategy in connection with President Carter's present tour of six European and Asian countries. During this trip President Carter is reportedly going to discuss the major problems of relaxation of international tension, economic difficulties in the capitalist countries and the energy crisis as well as to hold pointless discussions on human rights and to impose on some countries a separate plan for a Middle East settlement. Moreover, in Brussels he is to discuss plans for strengthening the NATO military bloc and for deploying neutron weapons in Western Europe."

After the trip was over, a Radio Moscow roundtable on January 8 presented this assessment:

"It is apparent that the main strategic design behind the whole action, if one judges the appraisals of US officials themselves, was to demonstrate to the world the energetic US role in solving key world problems. . . . Nevertheless, the concrete implementation of this directive shows that Washington's diplomacy is striving not so much to adapt itself to the realities of the present as to attempt to influence their shaping of it in accordance with its own schemes."

With respect to the Polish phase of the trip, the round-table hinted that Carter had presumably anti-Soviet motives which he had to abandon when confronted by the firmness of Poland's adherence to the Soviet line:

"It is known, for example, that reactionary propaganda tried very hard to give a distorted idea of certain matters regarding his visit to Poland and to present them in a topsy-turvy manner. However, Poland's extremely clear-cut position on the questions of peace, detente and disarmament and its negative attitude toward neutron weapons led Carter to state: 'Now I am more convinced than before that peoples such as the Polish people and the Soviet people will never be the first to start a war.' "

And to make the message doubly clear, Pravda pointedly reported on January 4 that the Polish Foreign Minister had paid a fraternal call on Moscow a few days after the President's departure, during which the USSR and Poland reaffirmed their "full coincidence of views." While Soviet Foreign Minister Gromyko made a point during the visit of stressing that "the Soviet Union highly values Poland's active participation in international affairs," his Polish counterpart was reported by Pravda as praising a variety of current Soviet initiatives and as declaring "on behalf of the Polish leadership that unbreakable, fraternal Polish-Soviet relations will continue to broaden and deepen and no one will ever succeed in driving a wedge between Poland and the Soviet Union."

Meanwhile Soviet reports on specific aspects of the Carter trip included a variety of negative notes.

In India his visit was said to have aroused protests and disagreements on the Indian Ocean issue, the Near East, and economic matters. (Interestingly, Moscow appears to have ignored developments in India regarding the nuclear question.) In Iran, the President was said to have sought to set that country at odds with its OPEC associates. The Western European part of the trip was January 7, it represented a misconceived effort "to increase the might of the bloc in every possible way and to expand the US military presence in Europe." But it was the Near East which received Moscow's greatest attention, also in a negative way (see below).

Active Military Diplomacy

The importance of military factors in Soviet diplomacy has recently been underscored by the large number of trips taken by high-ranking Soviet officers to key Soviet target areas and countries. Except for brief accounts of major ceremonies. Moscow has given no indication of the purposes of these visits but obviously they involved selling jobs, as in Nigeria and Jordan, or to strengthen already existent military ties as with Libya, Algeria, and Cuba.

The list of trips includes:

November 13–19: General I. G. Pavlovsky, deputy Defense Minister, commander in chief of Soviet ground forces, visited Nigeria.

November 14–19: Soviet first deputy Defense Minister General S. L. Sokolov led a delegation to Jordan where, among other things, it was received by King Hussein.

December 17–23: Fleet Admiral Sergei Gorkov, deputy Defense Minister and commander in chief of the Soviet Navy, visited Cuba, which included meetings with Castro.

December 19–22: Armed Forces Chief of General Staff, Marshall N. V. Ogarkov, visited Libya, met with Qaddafi.

December 23–26: Ogarkov visited Algeria, met with President Boumedienne.

During this same period, high-ranking military men from the Third World came to Moscow. In November, these included the Guinea Army Minister and a Syrian military delegation. In December, the Syrian Chief of Staff was in the Soviet capital.

THE "LAFFER CURVE"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. KEMP. Mr. Speaker, "the Laffer curve" helps explain "how the world works" and why tax rates must be reduced to restore incentive to our national economy.

Mr. Speaker, this article in Public Interest speaks for itself and makes a powerful argument for the right kind of a tax rate cut to increase the reward for work, production, and investment. Its author, Jude Wanniski, is one of the foremost journalists in the country today in economic data and its input on public policy.

Mr. Speaker, this is a new look at taxation, and I urge all our colleagues to read this article as they go about the vital business of debating and deciding tax policy for the future of our national economy:

[From the Public Interest]

Taxes, Revenues, and the "Laffer Curve"

(By Jude Wanniski)

As Arthur Laffer has noted, "There are always two tax rates that yield the same revenues." When an aide to President Gerald Ford asked him once to elaborate, Laffer (who is Professor of Business Economics at the University of Southern California) drew a simple curve, shown on the next page, to illustrate his point. The point, too, is simple enough—though, like so many simple points, it is also powerful in its implications.

When the tax rate is 100 percent, all production ceases in the money economy (as distinct from the barter economy, which exists largely to escape taxation). People will not work in the money economy if all the fruits of their labors are confiscated by the government. And because production ceases, there is nothing for the 100-percent rate to confiscate, so government revenues are zero.

On the other hand, if the tax rate is zero, people can keep 100 percent of what they produce in the money economy. There is no governmental "wedge" between earnings and after-tax income, and thus no governmental barrier to production. Production is therefore maximized, and the output of the money economy is limited only by the desire of workers for leisure. But because the tax rate is zero, government revenues are again zero, and there can be no government. So at a 0-percent tax rate the economy is in a state of anarchy, and at a 100-percent tax rate the economy is functioning entirely through barter.

In between lies the curve. If the government reduces its rate to something less than 100 percent, say to point A, some segment of the barter economy will be able to gain so many efficiencies by being the money economy that, even with near-confiscatory tax rates, after-tax production would still exceed that of the barter economy. Production will start up, and revenues will flow into the government treasury. By lowering the tax rate, we find an increase in revenues.

On the bottom end of the curve, the same thing is happening. If people feel that they need a minimal government and thus institute a low tax rate, some segment of the economy, finding that the marginal loss of income exceeds the efficiencies gained in the money economy, is shifted into either barter or leisure. But with that tax rate, revenues do flow into the government treasury. This is the situation at point B. Point A represents a very high tax rate and very low, production. Point B represents a very low tax rate and very high production. Yet they both yield the same revenue to the government.

The same is true of points C and D. The government finds that by a further lowering of the tax rate, say from point A to point C, revenues increase with the further expansion of output. And by raising the tax rate, say from point B to point D, revenues also increase, by the same amount.

Revenues and production are maximized at point E. If, at point E, the government lowers the tax rate again, output will increase, but revenues will fall. And if, at point E, the tax rate is raised, both output and revenue will decline. The shaded area is *the prohibitive range for government*, where rates are unnecessarily high and can be reduced with gains in *both* output and revenue.

Tax Rates and Tax Revenues

The next important thing to observe is that, except for the 0-percent and 100-percent rates, there are no numbers along the "Laffer curve." Point E is not 50 percent, although it may be, but rather a variable number: *It is the point at which the electorate desires to be taxed.* At points B and D, the electorate desires more government goods and services and is willing—without reducing its productivity—to pay the higher rates consistent with the revenues at point E. And at points A and C, the electorate desires more private goods and services in the

money economy, and wishes to pay the lower rates consistent with the revenues at point E. It is the task of the stateman to determine the location of point E, and follow its variations as closely as possible.

This is true whether the political leader heads a nation or a family. The father who disciplines his son at point A, imposing harsh penalties for violating both major and minor rules, only invites sullen rebellion, stealth, and lying (tax evasion, on the national level). The permissive father who disciplines casually at point B invites open, reckless rebellion: His son's independence and relatively unfettered growth comes at the expense of the rest of the family. The wise parent seeks point E, which will probably vary from one child to another, from son to daughter.

For the political leader on the national level, point E can represent a very low or a very high number. When the nation is at war, point E can approach 100 percent. At the siege of Leningrad in World War II, for example, the people of the city produced for 900 days at tax rates approaching 100 percent. Russian soldiers and civilians worked to their physical limits, receiving as "pay" only the barest of rations. Had the citizens of Leningrad not wished to be taxed at that high rate, which was required to hold off the Nazi army, the city would have fallen.

The number represented by point E will change abruptly if the nation is at war one day and at peace the next. The electorate's demand for military goods and services from the government will fall sharply; the electorate will therefore desire to be taxed at a lower rate. If rates are not lowered consistent with this new lower level of demand, output will fall to some level consistent with a point along the prohibitive side of the "Laffer curve." Following World War I, for example, the wartime tax rates were left in place and greatly contributed to the recession of 1919–20. Warren G. Harding ran for President in 1920 on a slogan promising a "return to normalcy" regarding tax rates; he was elected in a landslide. The subsequent rolling back of the rates ushered in the economic expansion of the "Roaring Twenties." After World War II, wartime tax rates were quickly reduced, and the American economy enjoyed a smooth transition to peacetime. In Japan and West Germany, however, there was no adjustment of the rates; as a result, postwar economic recovery was delayed. Germany's recovery began in 1948, when personal income-tax rates were reduced under Finance Minister Ludwig Erhard, and much of the government regulation of commerce came to an end, Japan's recovery did not begin until 1950, when wartime tax rates were finally rolled back. In each case, reduced rates produced increased revenues for the government. The political leader must fully appreciate the distinction between tax rates and tax revenues to discern the desires of the electorate.

The easiest way for a political leader to determine whether an increase in rates will produce more rather than less revenues is to put the proposition to the electorate. It is not enough for the politician to propose an increase from, say point B to point D on the curve. He must also specify how the anticipated revenues will be spent. When voters approve a bond issue for schools, highways, or bridges, they are explicitly telling the politician that they are willing to pay the high tax rates required to finance the bonds. In rejecting a bond issue, however, the electorate is not necessarily telling the politician that taxes are already high enough, or that point E (or beyond) has been reached. The only message is that the proposed tax rates are too high a price to pay for the specific goods and services offered by the government.

Only a tiny fraction of all government expenditures are determined in this fashion, to be sure. Most judgments regarding tax rates and expenditures are made by individual politicians. Andrew Mellon became a national hero for engineering the rate reductions of the 1920's, and was called "the greatest Treasury Secretary since Alexander Hamilton." The financial policies of Ludwig Erhard were responsible for what was hailed as "an economic miracle"—the post-war recovery of Germany. Throughout history, however, it has been the exception rather than the rule that politicians, by accident or design, have sought to increase revenues by lowering rates.

WORK VERSUS PRODUCTIVITY

The idea behind the "Laffer curve" is no doubt as old as civilization, but unfortunately politicians have always had trouble grasping it. In his essay, *Of Taxes*, written in 1756, David Hume pondered the problem:

"Exorbitant taxes, like extreme necessity, destroy industry by producing despair; and even before they reach this pitch, they raise the wages of the labourer and manufacturer, and heighten the price of all commodities. An attentive disinterested legislature will observe the point when the emolument ceases, and the prejudice begins. But as the contrary character is much more common, 'tis to be feared that taxes all over Europe are multiplying to such a degree as will entirely crush all art and industry; tho' perhaps, their first increase, together with other circumstances, might have contributed to the growth of these advantages."

The chief reason politicians and economists throughout history have failed to grasp the idea behind the "Laffer curve" is their confusion of work and productivity. Through both introspection and observation, the politician understands that when tax rates are raised, there is a tendency to work harder and longer to maintain after-tax income. What is not so apparent because it requires analysis *at the margin*, is this: As taxes are raised, individuals in the system may indeed work harder, but their productivity declines. Hume himself had some trouble with this point:

"There is a prevailing maxim, among some reasoners, that every new tax creates a new ability in the subject to bear it, and that each increase of public burdens increases proportionately the industry of the people. This maxim is of such a nature as is most likely to be abused; and is so much the more dangerous as its truth cannot be altogether denied: But it must be owned, when kept within certain bounds, to have some foundation in reason and experience."

Twenty years later, in *The Wealth of Nations*, Adam Smith had no such problem: In his hypothetical pin factory, what is important to a nation is not the effort of individuals but the productivity of *individuals working together*. When the tax rates are raised, the workers themselves may work harder in an effort to maintain their income level. But if the pin-making entrepreneur is a marginal manufacturer, the increased tax rate will cause him to shift into the leisure sphere or into a lower level of economic activity, and the *system* will lose *all* the production of the pin factory. The politician who stands in the midst of this situation may correctly conclude that the increase in tax rates causes people to work harder. But it is not so easy for him to realize that they are now less efficient in their work and are producing less.

To see this in another way, imagine that there are three men who are skilled at building houses. If they work together, one works on the foundation, one on the frame, and the third on the roof. Together they can build three houses in three months. If they work separately, each building his own home, they need six months to build the three houses. If the tax rate on homebuilding is 49 percent, they will work together, since the government leaves them a small gain from their division of labor. But if the tax rate goes to 51 percent, they suffer a net loss because of their teamwork, and so they will work separately. When they were pooling their efforts, since they could produce six houses in the same time it would take them to build three houses working alone, the government was collecting revenues almost equivalent to the value of three completed homes. At the 51-percent tax rate, however, the government loses all the revenue, and the economy loses the production of the three extra homes that could have been built by their joint effort.

The worst mistakes in history are made by political leaders who, instead of realizing that revenues could be gained by lowering tax rates, become alarmed at the fall in revenues that results when citizens seek to escape high tax rates through barter and do-it-yourself labor. Their impulse is to impose taxes that cannot be escaped, the most onerous of which is a poll tax or head tax, which must be paid annually for the mere privilege of living. Hume had no difficulty in pointing out the fallacy of that line of thinking:

"Historians inform us that one of the chief causes of the destruction of the Roman state was the alteration which Constantine introduced into finances, by substituting a universal poll tax in lieu of almost all the titles, customs, and excises which formerly composed the revenue of the empire. The people, in all the provinces, were so grinded and oppressed by the problems [tax collectors] that they were glad to take refuge under the conquering arms of the barbarians, whose dominion, as they had fewer necessities and less art, was found preferable to the refined tyrrany of the Romans.

The trouble with a poll tax, as Hume noted, is that it can be escaped—one method being not to defend your country against an aggressor who promises to remove the tax as soon as he has gained power. Montesquieu made a similar observation in Book XIII of *The Spirit of the Laws:*

"Because a moderate government has been productive of admirable effects, this moderation has been laid aside; because great taxes have been raised, they wanted to carry them to excess; and ungrateful to the land of liberty, of whom they received this present, they addressed themselves to slavery, who never grants the least favor.

"Liberty produces excessive taxes; the effect of excessive taxes is slavery; and slavery produces diminution of tribute. . . .

"It was this excess of taxes that occasioned the prodigious facility with which the Mahommendans carried on their conquests. Instead of a continual series of extortions devised by the subtle avarices of the Greek emperors, the people were subjected to a simple tribute which was paid and collected with ease. Thus they were far happier in obeying a barbarous nation than a corrupt government, in which they suffered every inconveniece of lost liberty, with all the horror of present slavery."

Modern governments have at least abandoned the notion of using a poll tax to generate revenues. Instead, they often go directly to the barter economy in search of revenues. Activities previously not admitted to the money economy and public marketplace because of public disapproval—e.g., gambling and pornograph—are welcomed because of the promise of revenues. But this process tends to lower the quality of the marketplace itself, hastening the exodus or discouraging the entry of enterprises that have earned public approbation.

"CRACKING DOWN"

Another timeless remedy of governments that find revenues falling in the face of rising tax rates is to increase the numbers and powers of the tax collectors. Invariably, this method further reduces the flow of revenues to the treasury. Yet even with a

thousand-year history of failure, the policy of "cracking down" on tax evasion remains a favorite of modern governments. Here is Adam Smith, in *The Wealth of Nations*, on why such policies are doomed from the start:

"Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state. A tax may either take out or keep out of the pockets of the people a great deal more than it brings into the public treasury in the four following ways.

"First, the levying of it may require a great number of officers, whose salaries may eat up the greater part of the produce of the tax, and whose perquisites may impose another additional tax upon the people.

"Secondly, it may obstruct the industry of the people, and discourage them from applying to certain branches of business which might give the maintenance and employment to great multitudes. While it obliges the people to pay, it may thus diminish, or perhaps destroy, some of the funds which might enable them to do so.

"Thirdly, by the forfeitures and other penalties which these unfortunate individual's incur who attempt unsuccessfully to evade the tax, it may frequently ruin them, and thereby put an end to the benefit which the community might have received from the employment of their capitals. An injudicious tax offers a great temptation to smuggling. But the penalties of smuggling must rise in proportion to the temptation. The law, contrary to all the ordinary principles of justice, first creates the temptation, and then punishes those who yield to it; and it commonly enhances the punishment too in proportion to the very circumstances which ought certainly to alleviate it, the temptation to commit the crime.

"Fourthly, by subjecting the people to the frequent visits and odious examination of the tax-gathers, it may expose them to much unnecessary trouble, vexation, and oppression; and though vexation is not, strictly speaking, expense, it is certainly equivalent to the expense at which every man would be willing to redeem himself from it."

Adam Smith's point about smuggling may now seem obscure. After all, smuggling was something that went on in the 18th century, wasn't it? Consider the following excerpts from a recent editorial in *The Wall Street Journal*, which urged New York State and New York City to reduce their combined cigarette tax from 26 cents to 10 cents a pack:

"Through our browsings in the *United States Tobacco Journal* we have learned of estimates that half the cigarettes smoked in New York City are smuggled in from North Carolina, where the tax is 2 cents a pack. State Senator Roy M. Goodman, a Manhattan Republican, says the state and city are losing $93 million a year in this fashion. The smugglers load 40-foot trailers with $60,000 cartons purchased legally at $2.40 each and peddle them in the city via the organized crime network for $3.75, which is $1.25 or more below legitimate retail.

"Mr. Goodman recommends a one-year suspension of the city's 8-cent-a-pack tax in order to break up the smuggling, plus an increase in the state enforcement field staff to 250 from the current 50, plus five years in jail for anyone caught smuggling 20,000 cartons or more. Last year only nine smugglers were jailed, each for a few months, with the common penalty $10 or $15.

"If Mr. Goodman's solution were adopted, at the end of the year the smugglers would be back, and the state would have a bigger bureaucracy. More smugglers would be caught, more judges and bailiffs and clerks would have to be hired. The wives and children of the jailed smugglers would go on welfare.

"Cutting the tax to 10 cents avoids all that. It immediately becomes uneconomic to smuggle. The enforcement staff of 50 can be assigned to more useful work, the state saving $1 million on that count alone. The courts would be less clogged with agents and smugglers, and the taxpayers would save court costs, as well as the costs of confining convicted smugglers and caring for their families.

"The state and city would *appear* to face a loss of $50 million or $60 million in revenues, but of course smokers would now buy their cigarettes through legitimate channels and the 10 cents a pack would yield as much in revenues as 26 cents a pack yields now. But that's not all. Legitimate dealers would double their cigarette sales, earning higher business profits and personal income that the city and state then taxes.

"And don't forget the impact on the millions of cigarette smokers who would save 16 cents a pack. At a pack a day, that is $58.40 per year. At average marginal tax rates, a smoker has to earn more than $80 before Federal, state, and city taxes are deducted to get that amount. He can thus maintain his or her standard of living on $80 less in gross wage demands per year, which means it becomes economic for the marginal employer to do business in New York, increasing the number of jobs of all varieties and reducing cost and tax pressure on social services.

"Among other benefits, the industrious smugglers would have to find legitimate employment. It might be argued that they would be thrown on the welfare rolls. But if we know New York City, they are already on the welfare rolls, and would be forced to get off once they have visible jobs."

The Finance Office of New York City, unwilling to take the advice of either Adam Smith or *The Wall Street Journal*, simply rejected the idea that lowering rates would produce expanded revenues. But Adam Smith's advice was not even taken in England at the time he tendered it. The theory was not tested until 1827, and then only by accident, by an Act of Parliament. Oddly enough, the incident in question involved tobacco smuggling. Stephen Dowell gives the following account in *A History of Taxation and Taxes in England:*

"The consumption of tobacco had failed to increase in proportion to the increase in the population. A curious circumstance had happened as regards the duty on tobacco. In effecting the statutory rearrangement of the duties in the previous year, the draughtsman of the Bill, in error, allowed one fourth of the duty to lapse in July. Unconsciously he had accomplished a master stroke, for his reduction in the duty was followed by a decrease in smuggling so considerable as to induce [Chancellor of the Exchequer] Robinson to allow his [budget] surplus, estimated at about £ 700,000, to go to continue the reduction thus unconsciously effected."

The Politburo of the Soviet Union has the same problem as the Finance Office of New York City: It also rejects the idea behind the "Laffer curve." The greatest burden to Soviet economic development is Soviet agriculture. Roughly 34.3 million Soviet citizens, out of a total population of 250 million, are engaged in producing food for the nation—and there is never enough. The United States, by contrast, employs only 4.3 million workers in food production, out of a total population of 200 million, generating an annual surplus for export equivalent to one-fourth the entire Soviet output. The drain on the Soviet economy is not only the low productivity of the farm sector. Because there are always shortages, and the state puts farm goods on the market at regulated prices rather than using the market system to allocate what is available, Soviet citizens spend billions of hours annually waiting on lines. If food were produced in plentiful quantities, it could still be allocated through regulated prices in conformance with Soviet ideology, but most of the lines would disappear, and the talents and energies of the urban work force would not be wasted in long lines.

The real source of this problem is the high marginal tax rates exacted on the state's collective farms. The state provides land, capital, housing, and other necessities on its collectives. It also permits the workers to keep 10 percent of the value of their production. The marginal tax rate is thus 90 percent. In agriculture, a small expenditure of effort might yield, say, 100 units of production; but twice the effort might be required for 150 units, and four times the effort for 200 units. The worker on the collective thus faces a progressive tax schedule so withering that any incentive to expend anything beyond a minimal effort is lost. With minimum work, he gets land, capital, housing, and other necessities, as well as 10 units of output. By quadrupling his effort (not necessarily physical effort, but perhaps increased attentiveness to details), he gets the same services and only 10 more units of output.

Meanwhile, however, the peasants on the collective farms are also permitted to tend private plots, the entire output of which is theirs to keep. The tax rate on these private plots is zero. Here is the result, as detailed by Hendrick Smith in *The Russians:*

"Twenty-seven percent of the total value of Soviet farm output—about $32.5 billion worth a year—comes from private plots that occupy less than 1 percent of the nation's agricultural lands (about 26 million acres). At that rate, private plots are roughly 40 times as efficient as the land worked collectively. . . . Peasants farm their own plots much more intensively than they do collective land.

"Ultimately, the Communist ideal is to have this last embarrassing but necessary vestige of private enterprise wither away as industrialized state farming grows in scale and output. Nikita Khrushchev, in spite of rural roots, pursued that end vigorously and earned the enmity of the peasantry. He cut the size of private plots to a maximum of half an acre and made life difficult for the farm market trade. I was told by Russian friends that Ukrainian peasants became so irate that they stopped selling eggs as food and made paint out of them.

"Under Brezhnev things have improved. The maximum plot went back up to an acre and measures were taken to improve farm market operations. Soviet figures show the private farm output grew nearly 15 percent from 1966 to 1973."

In terms of the "Laffer curve," what Khrushchev did by reducing the size of the private plots from one acre to one-half acre was to increase the marginal tax rate of the *system* from point C to point A. This was undoubtedly a major cause of his political downfall. On the other hand, Brezhnev moved the marginal tax rate of the system back to point C, increasing output and revenues to the previous levels. This was an "economic miracle" of minor dimensions, but it has undoubtedly contributed heavily to Brezhnev's durability as a political leader.

THE POLITICS OF THE "LAFFER CURVE"

The "Laffer curve" is a simple but exceedingly powerful analytical tool. In one way or another, all transactions, even the simplest, take place along it. The homely adage, "You can catch more flies with molasses than with vinegar," expresses the essence of the curve. But empires are built on the bottom of this simple curve and crushed against the top of it. The Caesars understood this, and so did Napoleon (up to a point) and the greatest of the Chinese emperors. The Founding Fathers of the United States knew it well; the arguments for union (in *The Federalist Papers*) made by Hamilton, Madison, and Jay reveal an

understanding of the notion. Until World War I—when progressive taxation was sharply increased to help finance it—the United States successfully remained out of the "prohibitive range."

In the 20th century, especially since World War I, there has been a constant struggle by all the nations of the world to get down the curve. The United States managed to do so in the 1920's, because Andrew Mellon understood the lessons of the "Laffer curve" for the domestic economy. Mellon argued that there are always two prices in the private market that will produce the same revenues. Henry Ford, for example, could get the same revenue by selling a few cars for $100,000 each, or a great number for $1,000 each. (Of course, Ford was forced by the threat of competition to sell at the low price.) The tax rate, said Mellon, is the "price of government." But the nature of government is monopolistic; government itself must find the lowest rate that yields the desired revenue.

Because Mellon was successful in persuading Republican Presidents—first Warren G. Harding and then Calvin Coolidge—of the truth of his ideas the high wartime tax rates were steadily cut back. The excess-profits tax on industry was repealed, and the 77-percent rate on the highest bracket of personal income was rolled back in stages, so that by 1925 it stood at 25 percent. As a result, the period 1921–29 was one of phenomenal economic expansion: G.N.P. grew from $69.6 billion to $103.1 billion. And because prices fell during this period, G.N.P. grew faster in real terms, by 54 percent. At the lower rates, revenues grew sufficiently to enable Mellon to reduce the national debt from $24.3 billion to $16.9 billion.

The stock market crash of 1929 and the subsequent global depression occurred because Herbert Hoover unwittingly contracted the world economy with his high-tariff policies, which pushed the West, as an economic unit, up the "Laffer curve." Hoover compounded the problem in 1932 by raising personal tax rates almost up to the levels of 1920.

The most important economic event following World War II was also the work of a finance minister who implicitly understood the importance of the "Laffer curve." Germany had been pinned to the uppermost ranges of the curve since World War I. It took a financial panic in the spring of 1948 to shake Germany loose. At that point, German citizens were still paying a 50-percent marginal tax rate on incomes of $600 and a 95-percent rate on incomes above $15,000. On June 22, 1948, Finance Minister Ludwig Erhard announced cuts that raised the 50-percent bracket to $2,200 and the 95-percent bracket to $63,000. The financial panic ended, and economic expansion began. It was Erhard, not the Marshall Plan, who saved Europe from Communist encroachment. In the decade that followed, Erhard again and again slashed the tax rates, bringing the German economy farther down the curve and into a higher level of prosperity. In 1951 the 50-percent bracket was pushed up to $5,000 and in 1953 to $9,000, while at the same time the rate for the top bracket was reduced to 82 percent. In 1954, the rate for the top bracket was reduced again, to 80 percent, and in 1955 it was pulled down sharply, to 63 percent on incomes above $250,000; the 50-percent bracket was pushed up to $42,000. Yet another tax reform took place in 1958: The government exempted the first $400 of income and brought the rate for the top bracket down to 53 percent. It was this systematic lowering of unnecessarily high tax rates that produced the German "economic miracle." As national income rose in Germany throughout the 1950's, so did revenues, enabling the government to construct its "welfare state" as well as its powerful national defense system.

The British empire was built on the lower end of the "Laffer curve" and dismantled on the upper end. The high wartime rates imposed to finance the Napoleonic wars were cut back sharply in 1816, despite warnings from "fiscal experts" that the high rates were needed to reduce the enormous public debt of £900 million. For the following 60 years, the British economy grew at an unprecedented pace, as a series of finance ministers used ever-expanding revenues to lower steadily the tax rates and tariffs.

In Britain, though, unlike the United States, there was no Mellon to risk lowering the extremely high tax rates imposed to finance World War I. As a result, the British economy struggled through the 1920's and 1930's. After World War II, the British government again made the mistake of not sufficiently lowering tax rates to spur individual initiative. Instead, the postwar Labour government concentrated on using tax policy for Keynesian objectives—i.e.,, increasing consumer demand to expand output. On October 23, 1945, tax rates were cut on lower-income brackets and surtaxes were added to the already high rates on the upper-income brackets. Taxes on higher incomes were increased, according to Chancellor of the Exchequer Hugh Dalton, in order to "continue that steady advance toward economic and social equality which we have made during the war and which the Government firmly intends to continue in peace."

From that day in 1945, there has been no concerted political voice in Britain arguing for a reduction of the high tax rates. Conservatives have supported and won tax reductions for business, especially investment-tax income credits. But while arguing for a reduction of the 83-percent rate on incomes above £20,000 (roughly $35,000 at current exchange rates) of earned income and the 98-percent rate on "unearned income" from investments, they have insisted that government, *first* lower its spending, in order to permit the rate reductions. Somehow, the spending levels never can be cut. Only in the last several months of 1974 has Margaret Thatcher, the leader of the opposition Conservative Party, spoken of reducing the high tax rates as a way of expanding revenues.

In the United States, in September 1977, the Republican National Committee unanimously endorsed the plan of Representative Jack Kemp of New York for cutting tax rates as a way of expanding revenues through increased business activity. This was the first time since 1953 that the GOP had embraced the concept of tax cuts. In contrast, the Democrats under President Kennedy sharply cut tax rates in 1962–64 (though making their case in Keynesian terms). The reductions successfully moved the United States economy down the "Laffer curve," expanding the economy and revenues.

It is crucial to Western economic expansion, peace, and prosperity that "conservative" parties move in this direction. They are, after all, traditionally in favor of income growth, with "liberals" providing the necessary political push for income redistribution. A welfare state is perfectly consistent will the "Laffer curve," and can function successfully along its lower range. But there must be income before there can be income redistribution. Most of the economic failures of this country can rightly be charged to the failure of conservatives to press for tax rates along the lower range of the "Laffer curve." Presidents Eisenhower, Nixon and Ford were timid in this crucial area of public policy. The Goldwater Republicans of 1963–64, in fact, emphatically opposed the Kennedy tax-rate cuts.

If, during the remainder of this decade, the United States and Great Britain demonstrate the power of the "Laffer curve" as an analytical tool, its use will spread, in the developing countries as well as the developed world. Politicians who understand the curve will find that they can defeat politicians who do not, other things being equal. Electorates all over the world always know when they are unnecessarily perched along the upper edge of the "Laffer curve," and will support political leaders who can bring them back down.

NORTHWEST FORESTRY ISSUES

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. FOLEY. Mr. Speaker, Vice-President Mondale recently visited a number of areas in the West and had the opportunity to meet with a number of different groups to discuss issues which were of concern to them. On January 12 in Lewiston, Idaho, the Vice-President, along with Secretary of the Interior Andrus, met with a number of individuals involved in the Northwest forest products industry.

It was my privilege to attend and to participate and I found that these discussions were very productive in focusing attention on areas of grave concern to the forest industry in the Northwest. So that our colleagues might be aware of these issues, I insert the following comments addressed to the Vice-President in the RECORD at this point:

REMARKS TO VICE PRESIDENT WALTER MONDALE

(By Jon Miller)

Numerous issues concern those of us who are participants in the forest products industry. But one overshadows all others. It's not news to us, and it's not news to you. It's the shortage of timber supply available to the industry from public lands.

It's not because of a shortage of trees; there are more than enough trees available on a sustained yield basis. It's because of both a continual erosion, on a piecemeal basis, of the acreage available for commercial forest activities and the under-utilization of the remaining lands available for commercial use due to the lack of adequate funding and policy direction for the Forest Service and other resource agencies such as the BLM.

The problem is serious on a national as well as regional and local basis.

Nationally, this scarcity of wood supply is a significant cause of inflation in general . . . and in particular, is a major contributor to the high cost of housing. By way of example, the average cost of standing trees available to the industry in many parts of the Northwest has increased several hundred percent since 1970. This has been the major reason for the average price of wood products rising approximately 140% in the same period.

Regionally, the problem is particularly acute in the northwest, where public land ownership is the greatest. Our industry production output and employment levels are remaining static, at best. This northwest region is not participating in the eco-

nomic growth of our industry and the nation. We're being forced to look to the south to provide the nation's growing needs for wood products.

Locally, many sawmill communities are losing their main industy. Our own company has closed two mills in the last few months, principally due to the lack of adequate timber.

Others have done likewise, and more will follow until this problem is solved.

We visualize two approaches that must be followed to correct this situation.

First, the government must give the Forest Service and other land management agencies the administrative policy direction, money and manpower to consistently optimize the yield from publicly owned lands presently available for commercial use.

Fortunately, providing this money will be profitable to the Government. You gentlemen undoubtedly realize that last year the Forest Service timber sale preparation budget was $165 million, and that generated revenue to the Treasury of $600 million.

Secondly, common sense, based on the needs of the people, must dictate how much of our commercial forestland base we will allocate to wilderness and other highly restrictive uses so as not to further aggravate this situation.

And of high priority is the timely completion of the analysis of undeveloped national forest lands—the so-called roadless areas. The Administration and Congress must move quickly to make policy decisions on the future use of these lands mindful of their necessity to help alleviate this problem.

In closing, Mr. Vice President and Mr. Secretary, we welcome you being here. Everything said today has been said repeatedly to key people in this administration (and previous ones) and the Congress. But here we are still talking . . . not acting. We, the people of this country, have a mess on our hands. And unless you and others in the administration take the lead, it will get worse.

We hope you will take this message and our concerns back to Washington, and we look forward to seeing the results of your actions.

STATEMENT BY W. T. RICHARDS

Mr. Vice President, Mr. Secretary, Congressman Foley, Governor Evans:

I wish to thank you for providing this opportunity to discuss the problems of the forest products industry and give particular thanks to Vice President Mondale for taking time from his busy schedule to be with us in Idaho.

Our Company is representative of the many small companies in the forest products industry in Idaho and throughout the West that share one common characteristic—we are all virtually 100% dependent upon the Federal Government for our raw material supply. While the industry obviously has many serious problems, all are over-shadowed by the over-riding problem of timber supply. This problem is obviously more acute for the small companies than for the large companies. Not only do we not have other sources of timber to fall back on, we lack the flexibility of the larger companies in alternative investment opportunities or alternative opportunities of providing employment. And while I am naturally concerned about the health of my Company, I am also concerned about our employees we live, work, and play with daily in small communities throughout the State of Idaho.

The root of the timber supply problem is the continuing withdrawal and threatened withdrawal of land from our commercial timber base. If we are to solve this problem, three primary things have to be done. First, the commercial timberlands now being studied for wilderness, primarily in RARE II, must be returned to resource management as rapidly as possible. Second, the United States Forest Service must be given adequate funding to practice intensive forestry on those lands designated as commercial timberland. These funds were partially provided for in the National Forest Management Act of 1976, but not appropriated following the passage of this act. Third, the United States Forest Service must be given explicit direction from the top policy-making level of government. This direction must state that the Forest Service is to act as the advocate for land productivity in meeting the needs of our nation for wood products.

If we take these three steps, we believe that we can balance the nation's needs for wood products and wilderness as called for by Resource Planning Act of 1974. This act pointed out that the demand for wood products would double by the turn of the century. In order to meet this kind of demand, it is obvious that we must maximize the productivity from all of our commercial forest lands.

Again, thank you for this opportunity to present our problems.

THE 60TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. BIAGGI. Mr. Speaker, I am both proud and pleased to be participating in this observance of the 60th anniversary of Ukrainian independence. Unfortunately, this does not call for much celebration because in effect, Ukrainians have no real independence. The Soviet Union holds an oppressive rule over the Ukraine which is fiercely unyielding.

We, in the United States, must review our commitment to the defense of basic humanitarian and civil rights. President Carter's human rights efforts must be directed to protecting the rights of the Ukrainian people and those of other captive nations as well. Can you for 1 minute imagine yourself being without your basic human rights? Not being able to speak your own mind without constant fear of castigation? Not being free to choose your own faith or religion and being so restricted in your rights to travel both within and out of the country that you feel like a puppet with a crazed puppeteer pulling the strings?

The people of the Ukraine and other captive countries are subjected to the most perverse and merciless terror imaginable. These people have an incredible spirit of liberty and independence but they need the support of someone strong enough to help them in the areas where they are weak.

Our country as a whole should do as much as is humanly possible to help these countries who are only asking for what is rightfully theirs—freedom. We here in America cannot be assured of our own freedom unless all those peoples of the world who similarly yearn for freedom obtain it as well.

A SEARCH FOR SANITY IN ANTITRUST

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. WIGGINS. Mr. Speaker, commonsense is a rare commodity. It has I fear become an "endangered species" in the formulation of Federal antitrust policy.

I commend to my colleagues as a refreshing expression of commonsense the thoughtful article by Walter Guzzardi Jr., entitled "A Seach for Sanity in Antitrust" which appeared in the January 30, 1978, edition of Fortune magazine.

The text of the article follows:

[From Fortune Magazine, Jan. 30, 1978]

A SEARCH FOR SANITY IN ANTITRUST

(By Walter Guzzardi, Jr.)

President Carter's outspoken case against the big oil companies holds that they wield excessive market power—that they have discovered how to avoid competing with one another in order to gouge those "windfall profits" out of the American consumer. The indications are that Griffin B. Bell, Carter's old friend from Georgia who now runs the Department of Justice, shares that suspicion and, indeed, extends it beyond the oil industry. Bell believes that some American industries have become what he calls "shared monopolies," and that a way must be found to make antitrust law more effective in breaking them up.

A big part of that job is going to fall to the highly intelligent, newly arrived Southerner, John Shenefield, thirty-nine, whom Bell chose as assistant attorney general in charge of antitrust. The new antitrust chief does not seem to disagree with his superior. Noting the "high degree of concentration" in parts of American business, Shenefield says flatly: "We are going to do something about that. We are going to propose legislation. But first we are going to bring a case—a big case."

Whether the oil companies, already entangled in wrangling with the Federal Trade Commission, will be Shenefield's target is uncertain. What does seem clear is that the litigation, once begun, will still be winding its way through the courts long after Carter, Bell, and Shenefield have departed Washington for their eventual reward. Even the run-of-the-mill litigated antitrust case takes around five years or so to settle. "Big cases" have a way of becoming possessed of eternal life, with the litigants in perpetuity blaming each other for the delay.

However long it may run, Shenefield's "big case" will probably turn out to be bad news for the consumer as well as the business community. It will deepen a basic confusion in the antitrust laws, which have become the most baffling and unpredictable of all the doctrines originated by government to control the behavior of business. The best scholars today agree that the intent of the Sherman Act was to protect competition, recognized as the regime most likely to bring the benefits of efficiency to the consumer. But in the eighty-eight years since Benjamin Harrison signed the act, new statutes, amendments, and a flock of court decisions have buried that intent under a slit of contradictory purposes. Somewhere in the Disneyland of antitrust can be found declarations and theories (including the notion of "shared monopoly") that have nothing to do with competition, or that directly contravene its principles in the name of preserving a kind of Jeffersonian society of small, independent

businessmen. Present for decades, the contradiction has made the antitrust laws, one might say, into an oligopoly of opposites—the one oligopoly the Carter Administration seems determined to perpetuate.

In seeking to do that, the Administration will be pulling against a quiet and little-noticed process of rethinking that has been going on in recent years and that seems to offer a way out of the depths of treacle in which antitrust is mired. Some influential academics who are also practicing lawyers—in apparent violation of the antitrust laws, they are concentrated at the University of Chicago and Harvard—are putting forth the radical proposition that the laws should once again converge on their original purpose, the protection of competition for the benefit of consumers. They believe that the old dichotomy is causing too much waste, and that economic efficiency should be the only consideration of antitrust: the other values must be pruned away.

In part influenced by these arguments, and in part because of its own proclivities, the Supreme Court lately has been moving in just that direction. The leader of the new majority is Justice Lewis Powell, a frequent author of the Court's antitrust opinions. Besides Chief Justice Warren Burger, those often joining Powell are Potter Stewart, William Rehnquist, Harry Blackmun, and John Stevens—so that four members of the new majority are Nixon appointees. (Byron White is a vigorous dissenter, occasionally joined by Thurgood Marshall and William Brennan.)

Over the past few years, in a series of significant decisions, this majority has set about refocusing the laws on the principle of competition, while forswearing the social generalizing. If this reinterpretation of the theory and empirical methods of economics should permeate antitrust enforcement, many artificial barriers to efficiency could be removed. At the same time, abuses by business that restrain output and raise prices would be precluded.

The trouble is that populism and politics work against this generally sensible movement. The political position most likely to attract applause, as one observer has said, is "to stop thinking about the complications and throw the book at the bastards." If the Carter Administration follows that well-tested dictum, the only new attribute of its antitrust policy is likely to be a heightened but unrefined aggressiveness, which would bring it into direct conflict with the trend toward realism that the Supreme Court has begun. With support from Congress, which is also in a populist mood, the Administration might even scotch the revival of economic reasoning. Thus it would have squandered an opportunity to help along a much-needed reformation—and a chance to free the economy from costly restraints imposed by government.

Responsibility for the fact that antitrust lost its way over the years can be laid about equally on the steps of the Capital and at the threshold of the nation's courthouses. Starting with the Sherman Act, Congress has traditionally passed antitrust statutes whose language is as sweeping as that of the U.S. Constitution. Extraordinary powers of interpretation have therefore been left to the courts, which have become the primary policymaking agency in the field, possessing, as a jurist once said, "an authority that they have in no other branch of enacted law."

In no other branch of the law, either, have the courts wandered further from first principles. Moving away from the emphasis on free competition and efficiency that marked the early decisions against the old oil and tobacco trusts, judges have used the antitrust laws to express their own "stream of tendency"—the phrase is Justice Benjamin Cardozo's—about social values. Economic arguments have been used as disguises for, or subordinated to, the randomly expressed social yearnings of appellate and Supreme Court justices. In one small but prototypical example, Justice Louis Brandeis, a fearsome opponent of big business, sanctioned a price-fixing arrangement in 1918 because it shortened working hours, a result that, he wrote, had "special appeal."

It is quite possible, of course, that the political wisdom dispensed from the bench is sound, and that as a society of yeomen we would enjoy a more "appealing" and congenial style of national life. If we have what Milton Handler, a prominent antitrust lawyer, calls "a moral preference" for such an atomized society, then by all means we should pass the laws we need to get it. But to press for a kind of Jeffersonian social structure under the rubric of laws designed to promote efficiency is ludicrous. The effort has perverted the antitrust laws into what Robert Bork, formerly solicitor general, calls in his forthcoming book, *The Anti-Trust Paradox*," an internal tariff against domestic competition and free trade."

While examples can fill volumes, and have, the most vivid come in the general area of monopoly and merger. Economics adjudges monopoly undesirable because the monopolist's power over supply also gives him power over price. He can reduce output and then raise prices by a greater than commensurate amount, so that he gets more revenue from the production of a smaller number of units. All society pays for the waste.

But in the case that stands as a classic in the monopoly field, brought successfully by the government against Alcoa in 1945, the economic argument was drowned in romantic longings for another age. In his opinion, Learned Hand, a great judge except in antitrust matters, showed a good grasp of the merits of competition; but then he went on to daisy-pick in social fields. "Great industrial concentrations are inherently undesirable regardless of their economic consequences," he said, explaining neither what made them "inherently undesirable" nor on what authority, having discarded his economic mandate, he could strike them down. Hand believed we must "put an end to great aggregations of capital, because of the helplessness of the individual before them." Antitrust's objective, he concluded, "was to protect and preserve small units"—even if that meant higher prices.

After thirty-three years, Hand's Alcoa opinion stands as a much cited and celebrated precedent. But the opinion was so soaked with unexamined social concerns that it did not really get to the core of the economic issues. Alcoa had achieved its monopoly not illegally, but by correctly anticipating the great coming demand for aluminum, and building capacity to meet it. As a result, Alcoa ended up with 90 percent of the virgin ingot market. Tough questions such as whether so dominant a position, even though legally attained, is against the law, or whether the definition of markets should also include foreign imports and competitive materials, were never adequately analyzed or settled. Some of these points are said to have been raised with the jurist after he handed down the decision; according to the story, Hand simply shook his head and muttered, "Too big, too big."

In the area of mergers, too, the judicial fondness for a better social order has diminished or displaced the rigors of economic analysis. Extensive work done by Yale Brozen at the University of Chicago and Harold Demsetz at U.C.L.A. suggests tht in many industries, such as locomotives or automobiles, increased concentration brings about economies of scale and lower prices. An industry may be more competitive with ten members than with twenty. In any given industry, the specifics need study.

But the loose language of the Clayton Act and the Robinson-Patman Act, those ill-advised overlays to the Sherman Act passed in times of intense anti-big business climates, extended to grateful courts and regulatory bodies a welcome opportunity to sidestep this kind of hard work. These statutes unwisely thrust antitrust authorities into the embryonic stages of industrial change. Concepts that have no real economic meaning and are remote from actual changes in the marketplace—"incipient" trends toward concentration, "potential" threats to or "substantial" lessening of competition, and so on—became grounds for legal and administrative antitrust intervention.

Especially during the era of the Warren Court, the underlying assumption that courts or regulators could discern and stop anticompetitive activity before it began was used to throw out mergers by the bushel basket. The Court's opinions, to be sure, are furnished with some de rigueur economic decor. In reality, though, the justices departed from the boundaries of economics to travel the broader pastures of social policy. In the end, competition was defined as a matter of mere arithmetic the more companies in a given industry, the more competitive the Court held it to be.

In the highly fragmented shoe industy, the Warren Court put aside a merger that would have given the merged corporation only 4.5 percent of an atomized market. (The company being acquired had one-half of 1 percent.) The merger was prohibited, as Chief Justice Earl Warren wrote, out of ". . . a desire to promote competition through protection of viable, small, locally owned business . . . [despite] occasional higher costs and prices that might result." Notes Richard Posner of the University of Chicago: "The Court's real concern was not that the merged firm would charge more, but that it might charge less, and thereby hurt its competitors. In the Court's view, that's bad."

The shoe-wearing majority is still, one might say, footing the bill for that indulgence in social preference. Today, imports have taken 51 percent of the U.S. shoe market from "small, locally owned" domestic producers. Quotas have been imposed on the major exporting nations. Only the barefoot avoid the tax.

The Warren Court also prohibited a merger between two grocery chains that would have given the merged corporation 7.5 percent of the Los Angeles market. In its decision, the Court reiterated the old fear that mergers were "driving out of business the small dealers and worthy men whose lives have been spent therein, and who might be unable to readjust themselves to their altered surroundings." In their name, in short, go ye and pay more for groceries.

When Procter & Gamble proposed to acquire Clorox, the bleach manufacturer, the Warren Court overrode the proposal because it feared that after the merger Procter & Gamble would destroy all other competitors for bleach. Also, the Court thought that as a "potential entrant"—i.e., while on the outside looking in—P.&G. had a restraining influence on the price of bleach that would be lost once it entered the market.

Neither point can stand economic scrutiny. If P.&G. really had the power to demolish the competition for bleach, to deny it the acquisition would accomplish nothing: soon after its entry into the market, by whatever means, it would take over anyway. Further, no studies prove that "potential entrants" really keep down prices merely by peering over the wall; indeed, some economists argue that, in the circumstances, those on the other side might be wiser to raise prices while they can. Finally, economists cannot define exactly what a "potential entrant" is—it could be any company with financial resources and an interest in making money. But Justice O. Douglas's

opinion carefully avoided all such inconvenient complexities.

Economic analysis has been just as sadly lacking in court decisions that have forbidden a profusion of business practices other than mergers. The opinions have rested on tendentious labels derived from the Clayton and Robinson-Patman acts—barriers to entry, exclusionary practices, discriminatory pricing, predatory pricing—that prejudge the issues. The only way to determine whether such practices violate antitrust is to examine each case to determine, for example, whether barriers are natural or artificial, exclusionary practices fair or unfair, price-cutting below cost or not. There are no absolutes.

But absolutes remain the favorite mode of reference in antitrust. The Robinson-Patman Act, which just about every antitrust authority thinks ought to be repealed, prohibits "price discrimination" and "predatory pricing." The degree of cool-headed thinking that went into the statute is illustrated by the comments of Congressman Wright Patman at the time of its enactment. Said he: "This bill has the opposition of all cheaters, chiselers, bribe-takers, bribe-givers, and the greedy . . . it has the support of those who believe that it is one of the first duties of government to protect the weak against the strong."

But as it has been interpreted, the Robinson-Patman Act does not allow cost differences to be reflected in prices. The absurd consequence has been to make downward price flexibility illegal. In one instance, a wholesaler was forbidden to sell at lower prices to jobbers who did their own warehousing, even though when that happened, costs to the wholesaler were substantially reduced.

Again, the landmark decision came from the Warren Court. The Utah Pie Co., a local firm, had 67 percent of the frozen-pie market around Salt Lake City. Continental Baking entered the region and sold its pies at prices lower than Utah's. During the price war, Utah Pie continued to increase its sales and profits, although its share of the enlarged market fell to 45 percent. No evidence proved that Continental was pricing below costs. But Utah Pie sued, alleging predatory pricing, and won.

To Donald Turner, a former chief of the Antitrust Division and now a professor at Harvard, and Phillip Areeda, a noted antitrust expert and a colleague of Turner's at Harvard, the "substantial problem" in the case was the very one that the Court did not address—the calculus of costs. Turner and Areeda point out that predatory pricing has a precise economic definition: it means pricing below marginal cost by a company willing and able to sustain losses for a prolonged period in order to drive out weaker competitors. Calculating marginal costs is complicated, but to determine whether predatory pricing has taken place, the difficult analysis is unavoidable. Concludes Turner: "To define predatory pricing without referance to economic analysis makes no sense at all."

One has to assume that during the sixteen years of the Warren Court, government lawyers reached levels of brilliance never approached before or since. In that period the Justice Department and Federal Trade Commission won all but one of the eighty or so antitrust cases argued on their substantive merits before the Supreme Court. The string of victories would probably have been longer still had not corporations ceased appealing lower-court decisions. Most of the cases that the government won were merger cases based on the theory of potential competition.

In one of its first antitrust cases, the Burger Court said goodbye to all that. Showing its willingness to look at business realities, it came to the shocking conclusion that even when the government's arguments rested on the usually surefire potential-competition theory, the government could be wrong. The proposed merger was between the National Bank of Commerce and the Washington Trust Bank, both located in the state of Washington. The National Bank was the second largest in the state, but it had no offices in Spokane, where Washington Trust had its seven branches. The Antitrust Division contended that the pro-competitive effect of having the National Bank on the edge of the Spokane market, but not in it, would be lost if the merger were allowed. (The government seems to prefer having companies forever in the wings, but never stepping out onto the competitive stage.) It also argued that the merger would encourage an incipient trend toward concentration in Washington banking.

Writing for the new majority, Justice Powell narrowed down the central issue to whether or not competition around Spokane would be inhibited if the merger were allowed. Looking at the Spokane market, Powell and others in the new majority found no damaging level of concentration. Turning down a chance to display its prescience, the Court also decided that should such concentration appear, there would be time enough to deal with it then.

In another bank case, the Burger Court permitted Citizens & Southern in Atlanta to acquire a group of small suburban banks. The Court decided that, as a result of the acquisitions, customers would have more services to choose from, and so new kinds of competition would be extended to those areas. The dissenters objected that Justice White's old nemesis, "concentration in the structure of American business," would be helped along by the decision.

If it thought concentration in the abstract to be the main enemy, the Burger Court surely would have ruled for the Antitrust Division in its suit to prevent General Dynamics from acquiring United Electric Coal. Both companies were leading coal producers, and the merged company had very close to 50 percent of the market in a couple of important areas. But, while acknowledging that market shares "are the primary index of market power," the Court refused to make its decision on that index alone. It noted that virtually all United Electric's coal reserves were committed in long-term contracts, and that the company could not bid on new business. Its disappearance as an independent corporation could make no difference to the coal industry's structure. That "incipient concentration" was under way in the coal industry was irrelevant.

The many and complex arrangements between manufacturer and retailer have always troubled the enforcers of antitrust. Retail price-fixing by manufacturers is illegal per se. Territorial restraints imposed on retailers are highly suspect, even though not very much judicial or judicious study has been given to the various motives involved, or to the effect on retail prices. In a decision handed down last summer, however, the Burger Court, again with Powell writing the opinion, took a hard look at the evidence being supplied by the market itself.

After G.T.E. Sylvania's share of the market for television sets dropped to a minuscule 1 percent, the company decided to tighten up its distribution system. It began to sell its sets exclusively to a small group of franchised retailers, and it permitted those retailers to sell only in specified geographic areas. The strategy apparently worked: the company's share of the market soon climbed to 5 percent. Then the holder of one franchise began to sell Sylvania sets in an unauthorized location; when Sylvania revoked the franchise, the retailer alleged a conspiracy to restrain trade.

Refreshingly, the Burger Court noted that "vertical restriction" is a complex concept, and that some vertical arrangements might improve competition while others might hinder it. In this case, Sylvania's increase in market share demonstrated that it had chosen aggressive dealers who competed successfully with more popular brands—intensifying competition where it really mattered, at the retail level. In ruling, for Sylvania, the Court explicitly reversed a holding in a previous case by the Warren Court.

With that reversal, criticism of the Burger Court began to spread on Capitol Hill, and now it has reached the point of confrontation. About a year and a half ago, Congress passed a complicated statute, the Hart-Scott-Rodino Act. The act gave to state attorneys general the right to sue antitrust violators on behalf of consumers who as a result of the violation paid higher prices, but in amounts too small to justify individual lawsuits. The legal doctrine involved, known as *parens patriae* (the state as parent), in effect permitted class-action suits when the state attorney general serves as lawyer for the injured class in antitrust suits.

The Burger Court was injected into the *parens patriae* matter when it heard a case brought by the state of Illinois and a group of local governments against the Illinois Brick Co., a manufacturer of concrete block, which had been found guilty of price-fixing. The issue that brought the case to the Supreme Court concerned the proper method for assignment of damages. Those bringing suit had bought the price-fixed concrete block not directly from Illinois Brick but from intervening contractors. They contended that they had paid added charges of around $3 million as a result of Illinois Brick's price-fixing, and, as is common in civil antitrust suits, they claimed treble damages.

Upholding some famous precedents, the Burger Court decided that only direct purchasers are entitled to damages from price-fixers. The Court repeated the fears of its predecessors that otherwise there would be enormous difficulties in tracking cost and price decisions along the long chain of distribution, and in fixing the precise dollar amount by which the ultimate consumer had been hurt by the original sinner. (To illustrate the difficulties, Milton Handler, a strong supporter of the Illinois Brick decision, asks how a buyer of a $30,000 house could prove that he would have paid $29,990 had it not been for a price-fixed tub in his bathroom.) Besides, the Court feared "massive multiparty litigations" that might "create a serious risk of multiple liability" for the same offense.

That opinion infuriated the two congressional subcommittees that oversee antitrust. Senator Edward Kennedy, chairman of the Senate subcommittee on antitrust and monopoly, observed that the ruling in Illinois Brick "deprives injured consumers of compensation, while granting windfall profits to middlemen." On the House side, members of Chairman Peter Rodino's subcommittee on monopolies and commercial law cited his words at the time of the passage of the Hart-Scott-Rodino Act—"If this bill means anything, it means that the State may recover damages for purchasers of price-fixed bread or potato chips . . . if the intervening presence of a middleman is to prevent recovery, the bill will be utterly meaningless"—and concluded that "the Supreme Court has gone to heroic lengths to reverse Congressional intent."

In pressing for legislation to override the Illinois Brick decision, the subcommittees have the support of the Carter Administration. John Shenefield stresses the importance of civil suits as a means of enforcing antitrust law. He believes that the Court should be reversed to ensure that "some plaintiff will be available to challenge a violation."

Whether Shenefield is right or wrong on that specific issue, for Congress to overturn the Supreme Court's ruling in the Illinois Brick case would be unfortunate in a larger

way. The Court's trend toward pragmatic analysis, and away from what Milton Handler calls "*per se*-itis," is something new in the antitrust universe and ought to be encouraged. That of course is no reason to throw a halo around every Supreme Court decision. But no Supreme Court likes to be reversed by Congress, and if Congress overrides Illinois Brick, it may lead the Court to abandon its recent attempt to infuse some economic pragmatism into the antitrust laws and so may damage the emerging, practical pattern. Even granting Shenefield's argument, that might hurt the consumer more in the long run than allowing Illinois Brick to stand.

The Burger Court has not yet handed down any decision on the "shared monopolies" that trouble Bell and Shenefield so much. The question is an extraordinarily difficult one, arising in industries where concentration has become so intensive that only a very few companies have a complete lock on the market. At such levels, collusion is easy: it need not take the form of an actual conspiracy, against which the government has such formidable weapons, but can show up as "tacit collusion" or "conscious parallelism"—processes by which one giant can study changes in price or product announced or introduced by another, and then simply match them. Essentially, the several companies are acting as one. But any one of them can reasonably argue that all it did was examine what a Department of Justice economist calls "a change in a datum of its business" and react accordingly.

The methodology of economics has only limited applicability in this connection. Economists cannot generally determine when concentration has reached levels greater than those called for by the natural forces of the market, and has thereby weakened price competition. And where they can identify these circumstances, they cannot quantify the costs. About their only contribution is the unexciting suggestion that something might be learned by a case-by-case study.

While that might not please the Justice Department, the department has recently applied the principle with some success. In a case against General Electric and Westinghouse—brought with loud references to the electrical conspiracy case of 1961—the Antitrust Division took a stab a a concept it calls "conscious parallelism plus." The idea is that while some parallel actions by huge companies in the same market are inevitable, or at least unstoppable, the companies can go too far and be detected. In this case, according to the Antitrust Division, the "plus" was the publication by G.E. of a very detailed book of prices for turbine generators, including formulas that "greatly simplified the pricing of these complex machines" and so gave Westinghouse all it needed to know in any given pricing situation. G.E. and Westinghouse disputed the allegations, but signed a consent decree nonetheless.

Donald Baker, who was Shenefield's predecessor as chief of the Antitrust Division, believes that in this instance the division succeeded in identifying "avoidable behavior" in pricing. He also thinks the case will have wide implications for the future. The trouble is that the case's technical aspects concerned alleged violations of agreements made in the aftermath of the great conspiracy and it may, therefore, have only limited applicability. And the case was, after all, settled—not won.

Much of the burden of controlling excessive concentration falls on the policy of the Justice Department with regard to mergers. In published "guidelines," the Antitrust Division specifies at what levels it will rise up and issue a challenge to mergers. But the guidelines are arbitrary, and sometimes even silly (where the four largest firms in an industry have 75 percent of the market, for example, the department will dispute an attempt made by any company with 15 percent or more of the market to add 1 percent by acquisition). Further, the guidelines are guided by only one element in the equation: the desire to reduce the likelihood of collusion. They neglect efficiency entirely; indeed, they state that "the Department will not accept as justification for an acquisition the claim that the merger will produce economies (i.e., improvements in efficiency) . . ." So the guidelines might make good, or at least easily enforced, law but bad economics. And they do not address the matter of excessive concentration achieved through internal growth and efficiency.

On this general topic, Attorney General Bell has been quite imaginative. At one point he suggested that concentrated industries might be ordered "to sell their products at competitive prices," without explaining how anyone—even a government agency with its accretion of wisdom—could decide in the absence of competition what a competitive price might be. And in other "monopolistic situations" Bell has expressed the view that it might be left to Congress, of all institutions, to hear the facts and settle the case.

Only those answering the Attorney General's bell see much merit in that idea. It ignores the demonstrated inability of Congress to think constructively and logically about antitrust matters, as well as congressional susceptibility to any anti-big company outcries. Further, to believe that Congress could fashion equitable remedies that would divest big corporations of their assets in a way that would be fair to stockholders, and also work to the benefit of competition and the consumer, requires a leap of faith too great for most observers. Besides, in a recent decision the Burger Court upheld the right of the Antitrust Division to bring an antitrust suit against A.T.&T. even though the company has been closely regulated. So some of these cosmic questions about monopoly and divestiture may be settled some day in the courts after all.

The direction in which the American economy has moved in recent years gives new urgency to the idea of rededicating antitrust to competitive principles, and provides a strong argument for dismissing the historic use of antitrust as a shield for small business. Small businesses have their advantages, their talents, and their secure place in this many-sided economy, especially in the service sector; they are not about to be crushed. To apply antitrust laws in their interest, which was never very sensible, distracts us now from what in an inflationary age must become the crucial reason for having and applying antitrust laws: to keep down prices in the marketplace. No matter what the economic phenomenon—whether "shared monopoly" or oligopoly or such complicated corporate practices as vertical distribution—the best way to judge it is by its effect on prices. That standard would serve as the best guide for the policymakers in the Carter Administration—if they can forgo the popular but futile gesture of bringing "a big case."

AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BIAGGI. Mr. Speaker, on September 28, 1977, the Ad Hoc Congressional Committee for Irish Affairs was officially formed. It was created following the requests of several major Irish-American organizations including most notably, the Ancient Order of Hibernians. Their national president, John M. "Jack" Keane asked me to serve as chairman and I accepted. The committee now boasts 87 Members of the House.

The committee's objectives are threefold in nature. The first is to work to have the House International Relations Committee schedule hearings on the entire Irish question, and the role which the United States can play in bringing about peace. The second objective is to work with State Department officials to bring about a change in their visa policies which deprive certain Irish political figures from coming into this nation. The third objective is to meet with the President to present him with the views and concerns of the more than 1.5 million Irish-Americans our committee is authorized to speak for.

In our brief history we have met with a number of prominent individuals involved in Northern Ireland. I as chairman had the opportunity to meet with Roy Mason, Secretary of State of Northern Ireland from Great Britain. He provided information on the political and economic state of Northern Ireland today which could be regarded as improved but still unsteady.

In addition, members of the committee met with senior officials from the Department of State on the aforementioned visa issue. The Department agreed to review all pending cases involving banned Irish political figures and to maintain an ongoing liaison with the committee on future visa requests.

Finally the committee had a briefing with John Hume a leading political figure in Northern Ireland from the Social Democratic Labor Party. He provided us with his assessment of the political climate in the North.

The committee in 1978 will continue to work toward achievement of our main objectives. The issue of hearings is especially critical to us. A full examination of the Irish question is essential in defining the parameters of the United States assistance in working for peace. Included in our examination should be the issue of human rights violations committed by Britain against individuals, especially political prisoners in Ireland. Charges of human rights violations have been leveled against Great Britain for years most notably by the European Court of Human Rights. The following news clip from the January 19 Washington Post outlines their most recent findings. Continued human rights violations represent a fundamental obstacle to peace in Ireland. The United States as the champion of human rights around the world should speak out of these clear cut violations, and urge their cessation.

Hearings would also permit a full and detailed discussion of the implications of the President's 1977 statement on Ireland. It was an important initiative taken by the President which needs to be followed up. Of special interest was his call for possible future United States economic aid once peace is achieved in Ireland.

It is my hope that more of my colleagues will join the Ad Hoc Congressional Committee for Irish Affairs. We hope to serve as a forum where all views can be heard. In this capacity we can

help in the process of developing a consensus solution to the problems which have divided and devastated the people of Northern Ireland.

At this point in the RECORD I would like to insert the complete list of the members of the Ad Hoc Congressional Committee for Irish Affairs as well as some background information on some of the main issues.

MEMBERS, AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS, AS OF JANUARY 12, 1978

Mario Biaggi (D-NY), chairman, Peter W. Rodino (D-NJ), James J. Delaney (D-NY), John M. Murphy (D-NY), Benjamin S. Rosenthal (D-NY), Joshua Eilberg (D-Pa), James M. Hanley (D-NY), Robert A. Roe (D-NJ), Lester L. Wolff (D-NY), Joseph P. Addabbo (D-NY).

William R. Cotter (D-Conn), Edward P. Beard (D-RI), Bruce F. Caputo (R-NY), John J. Fary (D-Ill), Jerome A. Ambro (D-NY), Silvio O. Conte (R-Mass), Charles B. Rangel (D-NY), Antonio Borja Won Pat (D-Guam), Matthew J. Rinaldo (R-NJ), Leo C. Zeferetti (D-NY), William F. Walsh (R-NY), Gladys Noon Spellman (D-Md).

Stephen J. Solarz (D-NY), Joe Moakley (D-Mass), Bruce F. Vento (D-Minn), Norman F. Lent (R-NY), Anthony Toby Moffett (D-Conn), David W. Evans (D-Ind), Marty Russo (D-Ill), Herbert E. Harris II (D-Va), Lawrence Coughlin (R-Pa), Raymond F. Lederer (D-Pa).

Berkley Bedell (D-Iowa), Richard Nolan (D-Minn), Daniel J. Flood (D-Pa), Samuel S. Stratton (D-NY), John P. Murtha (D-Pa), George M. O'Brien (R-Ill), Andrew Maguire (D-NJ), Clarence D. Long (D-Md), James H. Scheuer (D-NY), James J. Howard (D-NJ), William Clay (D-Mo), Harold C. Hollenbeck (R-NJ).

Michael Harrington (D-Mass), Austin J. Murphy (D-Pa), Phillip Burton (D-Calif), J. Herbert Burke (R-Fla), Christopher J. Dodd (D-Conn), Edward W. Pattison (D-NY), Thomas J. Downey (D-NY), Mary Rose Oakar (D-Ohio), Doug Walgren (D-Pa).

Edward P. Boland (D-Mass), Henry J. Hyde (R-Ill), Joseph A. Le Fante (D-NJ), Benjamin A. Gilman (R-NY), James M. Collins (R-Tex), Margaret M. Heckler (R-Mass), Bob Traxler (D-Mich), Ronald M. Mottl (D-Ohio), Charles J. Carney (D-Ohio), Robert A. Young (D-Mo), Joseph M. Gaydos (D-Pa), Ronald V. Dellums (D-Calif).

Ted Weiss (D-NY), John L. Burton (D-Calif), Joseph G. Minish (D-NJ), John H. Dent (D-Pa), Richard L. Ottinger (D-NY), Paul N. McCloskey, Jr. (R-Calif), Billy Lee Evans (D-Ga), Robert N. C. Nix (D-Pa), Wyche Fowler, Jr (D-Ga), Stewart B. McKinney (R-Conn).

Paul E. Tsongas (D-Mass), Morgan F. Murphy (D-Ill), Norman Y. Mineta (D-Calif), Robert W. Edgar (D-Pa), William J. Hughes (D-NJ), Fred B. Rooney (D-Pa), Gus Yatron (D-Pa), Newton I. Steers, Jr. (R-Md), Thomas A. Luken (D-Ohio), Ronald A. Sarasin (R-Conn), John J. Cavanaugh (D-Nebr), Elliott H. Levitas (D-Ga).

[From the Irish Echo, Nov. 26, 1977]

BRITAIN'S ROLE ASSESSED

Once again—from a major voice in Britain—comes confirmation of the real source of the Northern Ireland travail. That source is the centuries-long attempt at subjugation of one people by another.

At the recent annual synod of the Church of England held in London, Britain's role in Northern Ireland was severely criticized by a number of speakers. The Anglican clergymen made no secret of how they felt their nation has misused another nation and its people over a long period of time.

The most searching criticism came from Canon Keith Walker of Chichester, who told the assembled bishops, clergy and laymen that they must examine the moral justification for Britain's continued presence in Northern Ireland.

"The crimes of Britain in Ireland during past centuries teach us that the moral justification of our presence in Ireland cannot be assumed, it can only be argued," Canon Walker said.

"We have taken from Ireland more than we have given."

Other speakers echoed his sentiments.

The synod voted unanimously to commend a report on Northern Ireland drawn up jointly by Canon Eric Elliott, Rector of St. Thomas's, Belfast, and Giles Ecclestone, of the General Synod of the Church of England.

The report acknowledged the "long history of injustice visited by Britain upon Ireland" and called for an "explicit and symbolic expression of repentence on our part both for what has been done amiss in time past, and for our part in its continuance."

[From the Washington Post, Jan. 19, 1978]

EUROPEAN COURT: BRITISH "INHUMAN" IN 1971 ULSTER ACTS

STRASBOURG, FRANCE, January 18.—The European Court of Human Rights voted 16–1 to condemn the British government today for letting its security forces use "inhuman and degrading" third-degree methods of questioning suspected members of the Irish Republican Army in Northern Ireland in 1971.

But the court turned down, 13–4, a recommendation of its Advisory Commission on Human Rights that the five techniques of interrogations to which it objected be called torture.

The court also criticized the British government for not cooperating fully in the investigations of the charges brought by the Irish Republic.

The court said the five techniques of interrogation it condemned were putting hoods on prisoners' heads, submitting them to continuous noise, preventing them from sleeping, making them stand for long periods in painful positions and depriving them of food and water.

Use of the five techniques was a practice at Palace Barracks, a detention center in Belfast, for three months in the fall of 1971, the court found. It said the interrogation techniques were used with premeditation, having been taught orally to members of the Royal Ulster Constabulary at English intelligence centers.

It noted Britain's pledge that the practice had been stopped, and that damages ranging from $18,000 to $45,000 had been paid to prisoners subjected to such treatment.

Ireland asked six years ago that Britain be ordered to start criminal proceedings against the men who did the questioning but the court said it could not direct member states to take such a step.

The 17-judge tribunal also said it could not "lose sight of the events that form the background" to the case. It said the special powers invoked by Britain to deal with the crisis in Northern Ireland contravened provisions of the European Convention on Human Rights against detention without trial. But it said they were justified under a section waiving those rights in emergency situations threatening the life of the nation.

The case was the first between governments to reach the court since it was founded in the late 1950s.

OUR ATOMIC ARSENAL: IS IT SAFE, SECURE?

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. OTTINGER. Mr. Speaker, in light of the recent wave of international terrorism and the known dangers of nuclear fallout, it is essential that the United States employ every modern safety and security device on our nuclear weaponry. I commend to all the following article by Joseph Albright entitled, "Our Atomic Arsenal: Is It Safe, Secure?" which appeared in the Washington Star on Sunday, January 22, 1978:

OUR ATOMIC ARSENAL: IS IT SAFE, SECURE?

(By Joseph Albright)

Largely to save money, the Pentagon plans to retain into the mid-1980s at least 10,000 nuclear weapons which lack modern safety devices to prevent them from being blown up by terrorists or destroyed by accident.

Some of these obsolete warheads are Army "mini-nukes" that would fit in a backpack. Others are multimegaton Air Force hydrogen bombs that can create city-wrecking fireballs 15 miles wide.

Deployed around the world to deter a Communist attack, these warheads are stored in in military weapons compounds such as the two SAC weapons sites that were penetrated last month by this reporter posing as a fencing contractor.

Pentagon authorities now concede that four metal cylinders that were highly visible on that incognito visit to SAC weapons sites were indeed hydrogen bombs. Judging from government photographs, they were 1950-model hydrogen bombs, which are not equipped with up-to-date electronic safety devices to prevent unauthorized explosions.

The early-model weapon was apparently a Mark-28 hydrogen bomb. As the Defense Department points out, such a weapon is under the electronic control of the President whenever it is inside the bomb bay of a B–52.

But these older H-bombs are not under presidential control when they are on the ground outside the bombers, Pentagon officials concede.

Unhappily, a Mark-28 could be opened and reworked by a competent electrician so that it would detonate when dropped from a civilian plane or left in a warehouse. The explosion could be as much as 50 times as powerful as the one that incinerated Hiroshima.

Eventually these older SAC bombs are to be replaced by a new, safer model. But the changeover has been postponed several times. A weapons factory in Amarillo, Texas, was supposed to be assembling a replacement bomb late this year. But it was learned last week that the Carter administration has denied an Air Force request for funds to begin making the new bomb. The Carter budget reflecting the decision will be released tomorrow.

The lack of sophisticated safety devices on older American nuclear weapons is a documented fact. Alfred Starbird, then chief of the U.S. weapons program, told a House Appropriations subcommittee in 1976 that the newest Air Force nuclear bombs "are all much safer and more secure than the weapons we have in the stockpile at the present time."

Starbird's testimony shows he was emphatic about the benefits of a new electronic safety catch, known as the Category D Permissive Action Link. The job of this so-called PAL device, which costs about $20,000, is to insure that the bomb cannot be detonated without using the proper six-digit code.

Starbird also praised a new triggering system, which he said was less prone to accident since it used an "insensitive" high explosive instead of TNT used to set off the older warheads.

"These are of the nature of the features that will tremendously increase the safety against an accident (deleted) either just the high explosive and scatter the plutonium or nuclear fire the weapons," said Starbird, according to the censored transcript.

Asked to explain this passage, a spokesman for the U.S. weapons building program, now part of the Department of Energy, said Starbird was alerting the subcommittee about two hazards inherent in some older warheads:

A so-called "plutonium-scattering accident" set off by a bomber crash, a lightning strike or some other external blow to the weapon. This can occur when something accidentally explodes the TNT trigger of a nuclear weapon, discharging plutonium particles into the atmosphere but without causing a nuclear blast.

Terrorist seizure of a nuclear weapons site followed by an attempt to detonate, or "nuclear fire the weapons," in Starbird's words.

Despite Starbird's arguments for weapons safety improvements, the Pentagon is not initiating a crash program to purchase the new models and retire the old ones. In fact, a two-month Cox Newspaper investigation has uncovered a pattern of only halting progress toward nuclear weapons security, coupled with instances of delay, neglect and overconfidence.

Air Force Maj. Gen. Richard N. Cody, deputy director of the Defense Nuclear Agency, acknowledged in an interview that safety features could be phased in somewhat more rapidly if money was made available.

"Naturally, everything in the national security budget has to compete for funds, whether it is a new warhead or a battalion in Europe," Cody said.

Of course, there are several layers of weapons safeguards already, many of them classified. There has not been an accident involving a nuclear weapon since 1968, when a B-52 carrying four H-bombs crashed on a frozen bay in Greenland. In that incident the weapons and jet fuel caught fire in the crash, scattering plutonium on the icecap. Some bomb components were lost in 800 feet of water.

As a result of the Greenland crash and an earlier B-52 wreck near Palomares, Spain, the Defense Department in 1968 eliminated the practice of keeping some B-52s with nuclear weapons on around-the-clock airborne alert. Today the bombers are kept on alert on SAC base runways.

The prospect of an air crash involving nuclear weapons has not been completely eliminated, however. For example, a Defense Department order has authorized helicopters and "tactical aircraft" to airlift nuclear weapons on "logistic flights."

The unclassified Pentagon order, dated Dec. 20, 1972, contains a laconic warning to pilots: "Nuclear weapons and major assemblies shall be jettisoned from transporting aircraft only in accordance with the provisions of the USAF Special Weapons Overflight Guide." Air Force officials said the overflight guide, a top-secret publication, contains maps showing unpopulated areas around the world where nuclear weapons could be tossed overboard if necessary.

The delays in phasing out Air Force weapons are matched by the slow-motion pace of the government's actions to replace several thousand 20-year-old Army nuclear warheads assigned to NATO artillery units in Europe.

These warheads, sometimes called "mini-nukes," were produced during the Eisenhower administration, when it was NATO doctrine that any war against the Warsaw Pact nations would be a nuclear one. This assumption has long since changed, however, and NATO conventional forces have been much strengthened.

In the meantime, as a recent Congressional Budget Office study put it, "The frequency of incidents of international terrorism in the early 1970s prompted a realization that highly determined, well-organized, trained and equipped groups of terrorists might succeed in an attempt to penetrate special ammunition storage sites and gain control of a nuclear weapon."

This prospect prompted NATO to increase security forces at the approximately 100 atomic weapons stockpiles in Western Europe. But so far, at least, plans to make the weapons themselves terrorist-proof are at an early stage.

Among the more tempting targets for a group such as the Baader-Meinhof gang is the U.S. Army's 155-millimeter howitzer shell.

It can be carried by one man. It will destroy almost everything in a half-mile diameter. And best of all, from a terrorist's standpoint, it is not equipped with a built-in PAL device to prevent unauthorized use. Although its shipping case has a tough combination lock referred to as a PAL device, Pentagon experts fear it could be jimmied open.

When investigators for the House Appropriations Committee expressed alarm in 1975 about the security of nuclear weapons in Europe, the Defense Department reportedly replied that it had made a technological breakthrough to minimize the terrorist problem arising from such "mini-nukes" as the 155-millimeter and 8-inch atomic artillery shells.

The supposed breakthrough was a 4,000-pound steel box for each warhead. Inside would be a special self-destruct feature allowing weapons custodians to destroy each warhead by remote control in the event it was seized by a terrorist.

Three years later the chief of the House investigating team learned—as a result of the Cox Newspaper investigation—that the warhead destruct boxes had been canceled.

"The system was too expensive and too heavy," Gen. Cody said in an interview. "It was just too darn expensive in terms of competing priorities."

Instead of the destruct box, the Army has developed an electronic self-destruct device that it plans to install inside its new 8-inch atomic shells. The Army is also hoping to replace its old 155-millimeter warheads with a new 155-millimeter atomic shell containing this self-destruct feature. But full funding has not been approved, in part because of the separate controversy over the neutron warhead.

A high Pentagon official was asked whether it is possible in the mean-time for a military commander in Europe to destroy one of the older atomic artillery shells to keep it out of terrorist hands.

"We can do it," he replied, "but it is not a very delightful option because we would have to scatter the plutonium (into the atmosphere)."

Fabricating nuclear weapons is not highly expensive, by Pentagon standards. One high official said once new warheads have been designed, they cost about $100,000 apiece to produce, assuming the nuclear ingredients of an older weapon are recycled. Fitting in a Category D safety device an insensitive high explosive trigger will add "a few tens of thousands of dollars" to the warhead's price tag, it was noted.

Like all assembly lines, the government's nuclear bomb factories cannot be turned off and on at will. The Department of Energy, which runs the weapons plants, tried to achieve and maintain a "sustained level of effort" and avoid "undue fluctuations" in its weapons work force.

Even so, the government's leading bomb experts acknowledge that the job of replacing old warheads which lack modern safety equipment could be speeded up. But it would cost money, perhaps as much as $5 billion in spending over the next few years that could otherwise be postponed until the late 1980s.

SENATE—*Friday, January 27, 1978*

(Legislative day of Tuesday, January 24, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 100th Psalm, 5th verse.

The Lord is good; His mercy is everlasting: and His truth endureth to all generations.—Psalms 100: 5.

Eternal Father, we thank Thee for what has already been done in the program set before us in this place. Restore our souls, sharpen our minds, put love in our hearts. Grant us grace and wisdom to complete the task, not according to our self-will, but in accord with Thy will. Be with us in those quiet heart-searching moments when the world is shut out and the hard decision must be made.

Grant us such purity of heart and fullness of dedication that we may always choose the high and right way against the low and deceptive way. And when at length we come to rest may we rest as those who do justly, love mercy, and walk humbly with their God.

We pray in Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 27, 1978.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Jour-

nal of the proceedings of yesterday, Thursday, January 26, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to continue the markup of the Panana Canal treaties.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR BAYH CHOSEN TO BE CHAIRMAN OF SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERT C. BYRD. Mr. President, pursuant to the provisions of Senate Resolution 400, agreed to by the Senate May 19, 1976, I hereby announce that the Senator from Indiana (Mr. BAYH) has been chosen by the majority party in caucus to be chairman of the Select Committee on Intelligence.

ADJUSTMENT OF COMMITTEE RATIOS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk, a resolution.

This resolution would adjust the ratios of the Senate Committees on Governmental Affairs; Commerce, Science, and Transportation; and Energy and Natural Resources, to bring them into conformity with the committee assignments ratified by the Democratic conference yesterday.

This resolution does not change the permanent overall committee structure and it leaves the total committee assignments for standing committees at 126.

This resolution has been cleared with the minority leader, Mr. BAKER, Senator CANNON, and Senator STEVENSON.

I ask for the immediate consideration of the resolution.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 362) amending paragraph 2 of rule XXV of the Standing Rules of the Senate.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of this resolution?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object. As I said on yesterday, when this matter was discussed briefly, the distinguished majority leader has conferred with us—that is, the minority—on this matter. We have not been involved and no Republican Member is affected by this resolution. The numbers remain in essentially the ratio that they were before and are appropriate to the numbers and divisions within the Senate. We thank the majority for conferring with us on the matter. We have no objection to its consideration and adoption.

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 362) was agreed to, as follows:

S. RES. 362

Resolved, That paragraph 2 of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out of the item relating to Commerce, Science, and Transportation, the number "18" and inserting in lieu thereof "17".

(2) by striking out of the item relating to Energy and Natural Resources, the number "18" and inserting in lieu thereof "19".

(3) by striking out of the item relating to Governmental Affairs, the number "17" and inserting in lieu thereof "16".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF SENATORS TO STANDING COMMITTEES

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution making certain majority committee assignments and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 363) appointing Senators to standing committees.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 363) was agreed to as follows:

S. RES. 363

Resolved, That Senator Hodges of Arkansas be, and he is hereby, assigned to service on the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Environment and Public Works to fill vacancies on those committees.

And that Senator Hatfield of Montana be, and he is hereby, assigned to service on the Committee on Armed Services, and the Committee on the Judiciary to fill vacancies on those committees.

And that Senator Bumpers of Arkansas be, and he is hereby, excused from further service on the Committee on Armed Services and assigned to service on the Committee on Appropriations to fill a vacancy on that committee.

And that Senator Anderson of Minnesota be, and he is hereby, excused from further service on the Committee on Environment and Public Works and assigned to the Committee on Energy and Natural Resources to fill a vacancy on that committee.

And that Senator Melcher of Montana be, and he is hereby, excused from further service on the Committee on Commerce, Science, and Transportation and assigned to service on the Committee on Energy and Natural Resources to fill a vacancy on that committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF MR. MAGNUSON AS CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution appointing Mr. MAGNUSON as chairman of the Committee on Appropriations. I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 364) appointing Mr. MAGNUSON as chairman of the Committee on Appropriations.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

Mr. ROBERT C. BYRD. Mr. President, I want a vote on this resolution. A voice vote is sufficient, but I want to call to the attention of the Senate that, under the rules, a separate vote can be had on each chairman and that voting can be a rollcall vote if any Senator so desires. Moreover, the full Senate makes the decision in that regard, this final step—not just the majority party, but the minority party as well. So instead of proceeding in the normal manner, I ask for a voice vote unless someone wants a rollcall.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution. Those in favor, signify by saying "aye"; those opposed "no."

The "ayes" appear to have it. The "ayes" have it.

The resolution (S. Res. 364) was agreed to, as follows:

Resolved, That the Senator from Washington, WARREN G. MAGNUSON, be and he is hereby, appointed chairman of the Committee on Appropriations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Now, Mr. President, I move to lay that motion on the table.

On that basis, I hurriedly looked around the room to see what the division might be.

The motion to lay on the table was agreed to.

APPOINTMENT OF MR. CANNON AS CHAIRMAN OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution appointing Mr. CANNON as chairman of the Committee on Commerce, Science, and Transportation. I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 365) appointing Mr. CANNON as chairman of the Committee on Commerce, Science, and Transportation.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

Mr. ROBERT C. BYRD. Mr. President, again I call to the attention of the Senate that the yeas and nays can be demanded on this resolution and that on the final step, not only the Democrats—who are in the majority, and who, hopefully, will remain in the majority—but the Republicans, as well—who are in the minority, and who are doing such a fine job in the minority that I hope they will remain in the minority—have a voice in the selection of the committee chairmen at this point.

Mr. BAKER. If the majority leader will yield to me, I might say that in this particular case, I recognize the numerical superiority of the majority and, rather than take any advantage of them in this case when there might be some distortion of the ratios by reason of absentees, I am so sure that soon we will be in the majority that I will not voice an objection or utter a challenge and, indeed, will vote for Senator Cannon as chairman.

Mr. ROBERT C. BYRD. Mr. President, the minority leader is in his usual fine form.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution. Those in favor, signify by saying "aye"; those opposed, "no." The ayes appear to have it. The ayes have it.

The resolution (S. Res. 365) was agreed to, as follows:

Resolved, That the Senator from Nevada, HOWARD W. CANNON, be, and he is hereby, appointed chairman of the Committee on Commerce, Science, and Transportation vice Mr. MAGNUSON.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was adopted.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF MR. PELL AS CHAIRMAN OF THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution. This resolution appoints Mr. PELL as chairman of the Committee on Rules and Administration. I ask its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 366) appointing Mr. PELL as chairman of the Committee on Rules and Administration.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, again I call attention to the fact that this could be a rollcall vote or a division vote, if Senators so desired. I will be satisfied with a voice vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution. As many as are in favor say "aye." As many as are opposed say "no." The ayes appear to have it. The ayes have it.

The resolution (S. Res. 366) was agreed to as follows:

Resolved, That the Senator from Rhode Island, CLAIBORNE PELL, be, and he is hereby appointed Chairman of the Committee on Rules and Administration vice Mr. CANNON.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further requirement for my time.

BELIEF IN THE WISDOM OF THE AMERICAN PEOPLE

Mr. BAKER. Mr. President, it is no surprise to any of my colleagues or, more importantly, to my constituents of the Volunteer State, that I have been receiving a tremendous amount of mail recently. These communications from the State of Tennessee and from other parts of the country are not only appreciated, but are welcomed. On yesterday, I received in my office in excess of 11,000 pieces of mail in a single day.

I can assure all those who have written that each piece of mail has been duly noted and recorded and will receive a response as soon as humanly possible.

Mr. President, for the past few months, my staff has labored under an increasing burden, primarily because of huge amounts of correspondence on several key issues. I want to publicly say how much I appreciate their efforts in this regard, as well as the concern which has been expressed by so many Tennesseans. I can assure all of my constituents that their input on matters such as the Panama Canal, the labor reform bill, the revision of the criminal code, the need for adequate energy legislation, and the needs of farmers has not gone unnoticed. I do hope that the many thousands who have contacted my office in regard to these issues will understand the physical limitations of an immediate reply to their letters under these circumstances.

Mr. President, at a time when many are claiming that the Congress is living in an "ivory tower," let me suggest that just the opposite may be true. Increased television exposure, perhaps even audio and/or video transmission of the proceedings in this body and the effectiveness of mass-mail communications have come together with the telephone and other mechanisms to make us more accessible than ever before. Let me say again to those who have inquired on the above matters that I appreciate the time and interest that so many Americans are showing in the workings of their Government. I am certain that my colleagues join me in a renewed belief in the joint wisdom so ably expressed by the American people.

Mr. President, I yield back the remainder of my time.

CRIMINAL CODE REFORM ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1437, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate resumed the consideration of the bill.

COMMITTEE AMENDMENT—PAGE 172, LINE 17

The ACTING PRESIDENT pro tempore. The pending question is on the committee amendment on page 172, line 17, which the clerk will state.

The legislative clerk read as follows:

On page 172, beginning with line 17, insert the following:

"(c) DEFENSE.—It is a defense to a prosecution under subsection (a)(1)(B) or (a)(2) that dissemination of the material was legal in the state in which it was disseminated.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I move adoption of the committee amendment.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President, I hope we might have some additional Senators on the floor when this amendment is discussed. I wish, at the proper time, to ask for a yea and nay vote. So in order that we might obtain the attendance of a sufficient number of Senators to get a yea-and-nay vote, I suggest the absent of a quorum.

I might state that as soon as sufficient Senators come in to sustain a request for a yea-and-nay vote, I will ask that the quorum be called off.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alabama.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that I might at this time ask for the yeas and nays on a motion to table that I plan to make.

The ACTING PRESIDENT pro tempore. Is there objection to it being in order?

Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the motion to table.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, on yesterday, the Senate, by a fairly close vote—48 to 40, I believe—inserted into the bill, which is designed to become the law of the land, two provisions having to do with the offense of dissemination of obscene material, making it more difficult for pornographers, disseminators of obscene material, to be prosecuted, sharply narrowing the districts available for the institution of criminal action against pornographers. Both these amendments are exceptions to the general rule as to where actions may be commenced in criminal cases.

The first had to do with the offense of conspiracy. Under the rule of law established by the bill, and which is in fact the present law, the criminal prosecution could be instituted in any district where any act in furtherance of the conspiracy was taken by any member of the conspiracy.

However, the Judiciary Committee, in its wisdom, by a narrow vote, changed the rule as to pornographers and said, "No, you are not going to have to be governed by the same rule that applies to all other conspirators. We are going to carve you out a provision making special consideration for you, so that you can be prosecuted only in the district where the major portion of the action under the conspiracy took place."

So this is a provision adopted by the Senate on yesterday. I am not trying to upset that. I would if I could, but it is already part of the bill.

The second provision on venue provided that the disseminator of obscene material is going to be taken out from under the general rule having to do with criminal offenses under the use of the mails. Under the present law and under the bill, those who permanently use the mails. Under the present law and under where the mails move from the point of origin to the ultimate destination. So that en route, the offensive material, the obscene material, or any other type of use of the mails criminally, could be confiscated. The materials being sent in the mails could be confiscated and the action brought anywhere along the line, anywhere the mails went.

Under the amendment of the committee, adopted on yesterday, there could not be a prosecution in any of the intervening territory through which the mails went; and even though you might confiscate the offending material en route, you could not prosecute there.

So this sets up a special provision, again, changing the present law in favor of pornographers. I think that was ill-advised action on the part of the Senate.

Those amendments were considered en bloc, because I felt that the same vote would result if they were considered together as if they had been considered separately. I pointed out when I was discussing those amendments that, not being satisfied with making it harder to institute a criminal action against a pornographer, a disseminator of obscene material—and, by the way, I might say that the manager of the bill, the distinguished Senator from South Dakota (Mr. ABOUREZK) might well have explained the theory under which he offered in the committee the amendment we are now discussing, but he chose not to do so and merely moved to approve the committee amendment.

Mr. ABOUREZK. Does the Senator want me to interrupt now and explain it?

Mr. ALLEN. No. The Senator from South Dakota had his opportunity, and he will have another opportunity.

So the committee was not satisfied with making it harder for the Government to bring criminal action against a pornographer. They agreed, by a narrow vote in committee, to afford a pornographer an outright defense—not just limit the jurisdictions in which the criminal charge could be filed and prosecuted. That is one thing.

The Senate has acted on that. But the third amendment, the one we are discussing now and that I will presently move to table after all who desire to speak on it have had that opportunity, this amendment hands to the pornographer in the cases referred to in the amendment an outright defense to the criminal action brought against him. Let us see what it says:

"Defense"—page 172, starting at line 17. If any Senators desire to make considered judgment of their vote on this amendment, they might follow on this. "It is a defense to a prosecution under subsection 5(a)(1)(B) or (a)(2) or (a)(2)"—that is these defenses on dissemination of obscene material—"that the dissemination of the Material was legal in the State in which it was disseminated.

In the first place, let us see what "disseminate" means and we find that on page 171, not always Webster's Dictionary, but this is the definition of "disseminate." "(A) to transfer, distribute, dispense, lend, display, exhibit, send"—by mails or otherwise—"send or broadcast, whether for profit or otherwise; or (B) to produce, transport, or possess with intent to do any of the foregoing."

So, this wording is ambiguous, Mr. President. Does that mean, then, that if the material were dropped in the mails, therefore disseminated, in a State where smut is legal, if there be such—and I assume there are or the amendment would not be here—dropping that in the mails is dissemination of it? Certainly it is. So, the amendment is ambiguous in that it could possibly be contended that since it was disseminated in a State where smut is legal, therefore this would be a defense, no matter where the offending material went.

Also, Mr. President——

Mr. ABOUREZK. Mr. President, will the Senator yield briefly on that point?

Mr. ALLEN. No. I want to maintain the continuity of my argument here. The Senator will have plenty of opportunity to address remarks to what I have said. He was reluctant to speak at the outset and now he decides he wants to speak. He will have an opportunity to make his argument in favor of this amendment if he wishes.

This amendment that the committee is seeking to graft onto this bill, and I am going to seek to kill, will pave the way and if it is legal in the State and it is printed up or filmed or whatever, there would be no Federal offense certainly until it crossed a State line. And it could be disseminated or sent or broadcast throughout the remaining 50 States, and without some ability to move in quickly and put a stop to this the distributor or disseminator of obscene material could flood the country with obscene material much of it going into States where it would not be legal. Mr. President, much is going to be said, well this argument was made in the committee that this is a State's rights amendment, let the State decide whether it is legal or not, and the Supreme Court says that what is obscene shall be determined by community standards, local community standards.

That is not the point, Mr. President. The defense which is sought to be given to pornographers under this amendment, that is, the defense that the dissemination of obscene material might be legal in a State, that should not be allowed to be a defense in those portions of the State where local community standards feel that such material is obscene. Just because that is the State law does not mean that obscence material would not be offensive in many, many communities throughout the State. So this amendment would allow a pornographer in a State where dissemination of obscene material is legal to set up a veritable cesspool of obscene materials, send them to States where the dissemination of obscene material is legal, no matter how offensive it is to communities throughout the State, and it is an absolute defense under this committee amendment that it is legal in that State.

So what we are doing under the committee amendment—and I wish some more Senators were here to form an educated judgment on this matter—what we are doing, though, is handing to the pornographer an airtight defense in all those States where the dissemination of obscene material is legal. I do not know how many States there are. I have been advised there are some four States where dissemination of obscene material is legal. That would not make it accepted, though, throughout the State. It is not every law that a State has that has the unanimous backing of all of the people, and just because it is legal in a particular State does not mean there is not community after community after community in the State where it is offensive and where it is regarded as being obscene and objectionable.

So, Mr. President, we have already made a mistake as I see it in the Senate by making it harder to prosecute pornographers, making it harder to select a

district where the pornographer might be prosecuted. So, in addition to that, once the prosecution is brought in these limited jurisdictions that the previously adopted amendments confine the Government to, under this amendment on page 172, we are going to hand the pornographer an airtight defense in those States where dissemination of obscene material is legal.

So this is just going to increase the business of the pornographer, let him with impunity spread smut throughout States where it is legal if there be such, and I have been advised that there are four. There are some or we would not have this amendment. I think we can safely assume that. So we are going to allow someone with a cesspool of smut in a State where smut is legal to spread that smut in these States where the dissemination of obscene material is legal. Yes, increase the traffic in obscene material, increase the trade of the pornographer, allow him with impunity to spread obscene materials throughout certain of our States, no matter how objectionable it may be to hundreds of thousands of citizens in those States. That is what this amendment would do.

And as soon as the discussion has ended, Mr. President, I desire to move to table the committee amendment.

Mr. ABOUREZK. Mr. President, my colleague and friend, Senator ALLEN, has asked me to provide an explanation for this amendment. The explanation could be delivered to him, I guess, in 10,000 words or 20,000 words, but there is one very short explanation. It comes from a distinguished former Justice of the Supreme Court, William O. Douglas, who said that it is not the business of the Government and, by inference, Senator ALLEN or Senator ABOUREZK or Senator KENNEDY, to tell people what they can read or what they cannot read, and to me that is the simplest and most straightforward explanation for this kind of amendment.

To get beyond that just briefly, I think the representations made by my colleague from Alabama are not entirely in accord with what this amendment really says. The amendment says that it is a defense to a prosecution under certain subsections that dissemination of the material was legal in the State in which it was disseminated.

Yesterday, and again today, Senator ALLEN made roughly the same remark, and I quote:

> The Abourezk amendment affords another defense to the disseminator of obscene materials. It says that in any prosecution against him, he can offer as a defense that the material he was disseminating was legal in the States where it was disseminated.

What is wrong with that? If it is legal in a State, that means the State itself has made the determination that there is nothing wrong with the material being disseminated.

I have a lot of problems, as one who tries to keep faith with the Constitution, with any kind of censorship. I think some of these laws concerning what you can publish and what you cannot publish, no matter whether I like to read it or not, I think these laws conflict directly with the first amendment.

I would hope that a person, a very staunch defender of the Constitution, such as Senator ALLEN is, would make an effort to see that. But I see nothing wrong with the Federal Government not poking its nose into the business of a State once a State has determined whether something is legal or illegal.

I think Senator ALLEN reaches too far when he tries to substitute a Federal interest for the interest of the States in this matter. And let me note that the laws against some of this kind of thing, the censorship laws that some States have passed, and the Federal Government has passed on certain occasions, reach too far in the first instance, in my view.

The amendment here is consistent with the Dole amendment that was passed on Wednesday. The standards of morality vary in different parts of the country. I do not think it incumbent upon the Federal Government to establish one standard of morality nationwide, and the Supreme Court has agreed.

What is moral in Alabama may be immoral in South Dakota. What is moral in South Dakota may be immoral in New York or California. Who are we to say?

One thing we should not do in this instance is to violate the principle of really minding our own business when it comes to telling States what to do.

One final point: This provision would serve as a defense, not as a bar to prosecution. It is a defense that would be entitled to be brought up before the jury in a Federal trial.

If certain materials were legal in the State of Alabama and illegal in California, and if some of this material was mailed from Alabama to California this provision would not be a defense to a Federal prosecution in California the mailing of those materials.

What is wrong with that? There is nothing wrong with that. This defense is consistent with the principle that if a State thinks it is illegal, then nobody can disseminate materials in that State, whether you do it by mail or by truck or whatever.

So what we are doing is keeping faith with the constitutional system of the Federal Government not poking its nose into the business of the States when they determine what the standards of morality are in each of those States.

It seems to me that the arguments of the Senator from Alabama, while very well intentioned, do violence to the principles of the Constitution, and I would hope my colleagues would vote "No" to the tabling motion, and reject his arguments altogether.

Mr. ALLEN. Mr. President, sometimes we hear strange voices raised in behalf of States rights. We hear the distinguished Senator from South Dakota, and I guess because he is from South Dakota he is in favor of States rights, and that States rights seem to be something that Southern States defend.

But what we have got here is an amendment to the present law making it more difficult to successfully prosecute disseminators of pornographic material.

The fact that there is a State law saying that smut is legal in a State does not remove, under the existing law, the necessity that material shall not offend local community standards as to what constitutes obscene material.

The distinguished Senator says it is not a bar to prosecution, but it is a defense. Well, what is the difference? That is splitting hairs. No sane district attorney would prosecute where there is a defense written into the law. It is an absolute defense. The case would not go to the jury; the defendant would get an affirmative charge by the judge, of course, if the district attorney were foolish enough to bring a case.

But what is law in a State does not necessarily guarantee that that defines and speaks for the sensibilities of every citizen in the State. Whether or not the State law says that they can disseminate obscene material under the present law, it is an offense to send from one State to another State obscene material, and the local community's feeling would determine whether or not it was obscene. That is the present law.

The amendment would change all of that, and say that "if the State law permits it, we are not going to talk about the sensibilities of 20 communities throughout the State, or 50 communities throughout the State; we are going to allow them to be bombarded through the mails by disseminators of smut."

This would greatly increase the potential customers under legal proceedings—or proceedings that are legal, that is, carrying on this nefarious trade. It would legally allow a vast increase in the amount of pornography that is distributed. Because in a State where it is legal—and I hope the distinguished Senator from South Dakota, having made a study of this subject, will tell us in what States it is legal when I have finished my remarks—this would allow a pornographer in a State where the dissemination of obscene material is legal to get a list of every householder, and every high school student for that matter, in the State, send them all sorts of obscene material, send to Alabama, say, 2 million pieces of mail advertising the sale of pornographic material, and sending free samples along with it, if this did not offend the Alabama law.

So, with pornographers always trying to increase their business, the Abourezk amendment would allow them to increase it legally.

Mr. ABOUREZK. I think there is a fact that has to be corrected in the Senator's argument.

Mr. ALLEN. All right.

Mr. ABOUREZK. It is not legal under any circumstances to send sexually explicit materials to minors under Federal law. Even though it might be legal in the State to distribute sexually explicit material, it would not be legal to distribute it to minors under this amendment or under this proposed code, as the Senator well knows, because it was his committee that took care of the amendment.

Mr. ALLEN. Yes. I would have to adjust what the Senator says there: The amendment that got adopted in the committee does not allow the sending of child pornography. That is not exempt.

Mr. ABOUREZK. Let me read it to the Senator, from page 171 of the committee bill:

A person is guilty of an offense if he:
"(1) disseminates obscene material:
"(A) to a minor

et cetera.

Mr. ALLEN. Very well; he could not send it to a minor, then. To every adult in the State, which, of course, could well come into possession of the children in the home where this material is unsolicited.

What we are doing is allowing the pornographer to greatly increase his business, his prospects, those to whom he sends pornographic material, and do it legally.

So if we want to increase the traffic in pornographic material, let us vote for the committee amendment. If you want to keep the present law, which is none too strict, then vote against the amendment.

I plan to make a motion to table as soon as the distinguished Senator from South Dakota has finished his remarks. I see he is ready to discuss it further. I hope he will tell us the States where the dissemination of obscene material is legal, so we will know what States will be targeted for a flood of obscene material.

Mr. ABOUREZK. Mr. President, I just want to say that if any State thinks there is a problem, if people are sending out free samples of whatever it is the Senator is talking about commercially to adults—the Senator understands it is illegal to send such material to minors; he agrees with that—if that happens in a State, if that becomes a problem, it would seem to me the State might want to make that activity illegal. As I see it, if the State thinks it is legal now, or the State, through its political process, wants to make it legal, that is fine. It does not bother anyone else in any State, it does not bother the Federal Government, and I think we ought to keep our noses out of it.

If the State feels it is going to be a severe problem, it seems to me the citizens of the State will prevail upon their State legislature to make such dissemination illegal. Once again, no matter what kind of cover you put on it, what this amounts to is really interference into the right of a State to determine what is moral and what is immoral in its own eyes. Why should the Federal Government poke its nose into their business? I do not see any reason to; no reason whatever.

But it seems to me that this defense—and once again, it is not a bar to prosecution, it is merely a defense—makes it a jury question, and if the jury believes it is legal in that State or illegal in that State, it is up to them to decide. They can determine that, based on the assertion of this sort of defense, during the Federal trial on whether something is obscene or not obscene.

I do not have anything more to say. When the Senator is ready to make his motion——

Mr. ALLEN. Mr. President, I move to lay the amendment on the table.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered.

The question is on agreeing to the motion to lay on the table of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. HODGES) are absent on official business.

I further announce that the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Oregon (Mr. HATFIELD), the Senator from Georgia (Mr. NUNN), the Senator from Mississippi (Mr. STENNIS), and the Senator from South Dakota (Mr. MCGOVERN) are necesarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

On this vote, the Senator from California (Mr. HAYAKAWA) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from California would vote "yea" and the Senator from Alaska would vote "nay."

The result was announced—yeas 20, nays 53, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—20

Allen	Hatch	Schweiker
Bartlett	Helms	Scott
Byrd, Robert C.	Hollings	Sparkman
Eastland	Huddleston	Stevenson
Garn	Randolph	Thurmond
Griffin	Roth	Zorinsky
Hansen	Schmitt	

NAYS—53

Abourezk	DeConcini	Morgan
Anderson	Domenici	Muskie
Baker	Glenn	Nelson
Bayh	Gravel	Packwood
Bentsen	Hart	Pearson
Biden	Hatfield, Mark O.	Pell
Brooke	Hathaway	Percy
Bumpers	Inouye	Proxmire
Burdick	Jackson	Ribicoff
Byrd, Harry F., Jr.	Javits	Riegle
Cannon	Kennedy	Sarbanes
Case	Long	Sasser
Chafee	Lugar	Stone
Chiles	Magnuson	Talmadge
Church	Mathias	Wallop
Clark	McClure	Weicker
Culver	McIntyre	Williams
Curtis	Metzenbaum	

NOT VOTING—26

Bellmon	Hatfield, Paul G.	McGovern
Cranston	Hayakawa	Melcher
Danforth	Heinz	Moynihan
Dole	Hodges	Nunn
Durkin	Johnston	Stafford
Eagleton	Laxalt	Stennis
Ford	Leahy	Stevens
Goldwater	Matsunaga	Tower
Haskell		Young

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. SASSER). The question occurs on the amendment. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, a yea-and-nay vote has been ordered. I should like to discuss the amendment just a little bit more. I shall not make a full discussion of it.

Mr. BUMPERS. Before the Senator does that, will he yield for a unanimous-consent request?

Mr. ALLEN. Yes.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Gregory Jones of my staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ABOUREZK. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senate will be in order. Those Senators who wish to converse will retire to the cloakroom.

Mr. ABOUREZK. I think the Senator from Alabama is entitled to be heard, so I would appreciate it if the Chair would see that we have order.

The PRESIDING OFFICER. The Senate will suspend until we have order.

The Senator from Alabama.

Mr. ALLEN. Mr. President, I am not quite willing for this important question to be decided on the failure of a motion to table to carry. I feel that if the Senate is to strike the blow for pornography, we should have an up-and-down vote on the question because on yesterday we, by adopting two of the committee amendments made it more difficult, more restrictive, as to the districts in which criminal actions against pornographers could be brought.

Not being satisfied with that, this amendment which the Senate is asked to approve goes beyond merely the matter of where the criminal action has to be commenced. It hands to the pornographer an ironclad defense to dissemination of pornographic or obscene materials in a State just because that State has failed to enact a law against the dissemination of obscene material.

So we are going to penalize those States and say that just because they have not moved in this area, we are going to allow the State to be flooded with all sorts of pornographic material, for every adult in the State to receive pornographic material through the mails in an effort to sell the wares of the pornographer.

Mr. ABOUREZK. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. We are going to make it easier for the pornographer to ply his trade.

Now, we say, "Let's leave it up to local community standards, that is what this amendment does."

Far from it. Just the very opposite is true because, since the State has not acted in this area, we do not allow local community standards to come into play. Every community in the State might be opposed, or feel that this type of material is obscene, but yet just because the State legislature has not passed a law against it, then this offensive material can be sent throughout the State, throughout the length and breadth of the State, with full impunity.

Now, that is just a pornographer's dream, Members of the Senate. By gift of the U.S. Senate under this amendment, pornographers would be allowed to ply their trade by sending obscene material through the mails to every community in the State, where it is offensive to every community in the State, because the State law is silent on the subject and they have not made it illegal.

So what we are doing, as I say, is striking a blow for pornography. If the Senate wants to do that, fine.

This is not a State's right issue. Far from it. It is penalizing the citizens of a State because their State legislature has failed to act in this area and it makes every citizen of such States that have not acted a victim, or potential victim, for the receipt of pornographic material.

If we want to help the pornographer ply his trade, if we want to make it legal to address pornographic material in an effort to sell more pornographic material, if we want to make people in these States that have not acted in this area subject to this flood of mail, let us vote for the amendment.

Personally, I do not favor favoring the pornographer.

Mr. GRIFFIN. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. GRIFFIN. I want to ask the Senator from Alabama a question similar to what I asked yesterday because, in my mind, I would like to think that this bill that we are working on here is a codification of the existing criminal law and I keep finding that it is much more than that in various respects.

So let me ask, in this situation, what is the existing law insofar as this particular point is concerned and does this committee amendment change existing law?

Mr. ALLEN. Yes. The committee amendment does change existing law because this defense is not available under the present law.

Mr. GRIFFIN. Well, we are actually giving the smut peddlers and pornographers a defense that they do not now have?

Mr. ALLEN. That is exactly correct.

Mr. GRIFFIN. That is enough for me. I do not want to go any further into it myself. I asked that question because I have a lot of pet amendments that I think should be made to the criminal laws.

For many years, as a matter of fact, I have been very disturbed about the Supreme Court's exclusionary rule where valid evidence is thrown out and accused people, who are obviously guilty, are set free because of a technical violation of the fourth amendment.

It seems to me that, as some other countries have done, they would put in place some sort of a system to penalize the person who violated the fourth amendment rather than penalizing society by letting the guilty criminal go free.

Mr. ALLEN. Yes.

Mr. GRIFFIN. That would be something that would be a major improvement in our system, if we could do something about that.

The Chief Justice, Justice Burger, 3 or 4 years ago, wrote a very interesting and compelling dissent in a leading case urging the Congress to make such a change, because if we were to set a system in place the courts could change that rule.

I have a bill and it is very tempting to offer it as an amendment to this, but it is a very basic change in the law. I do not think it should be handled that way. I think it should not be handled as a codification of the law because it is a basic change in the law.

I do think the Judiciary Committee should consider and hold hearings to give the Senate an opportunity to work its will on such an important change as that.

So, I resent, frankly, the substantive changes that have been made in this so-called codification, whether they are in favor of the criminal or against the criminal.

I particularly resent the ones that make it easier for the people who are accused of crime.

Mr. ALLEN. Yes.

Mr. GRIFFIN. Therefore, if I agree with the Senator, I vote against the committee amendment; is that correct?

Mr. ALLEN. That would be correct.

Mr. GRIFFIN. All right, that is my position.

Mr. LONG. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. LONG. Will the Senator explain to me just exactly how the revision in the proposed code here would be more favorable to the pornographer than the existing law?

Mr. ALLEN. Yes, I am glad to.

I have been trying to make that explanation. I am sorry I have fallen down on the job, but I am glad to explain it.

The amendment on page 172, starting at line 17, affords the pornographer an absolute defense that is not available to him now by saying that if pornographic material is disseminated into a State, from one State to another, and it is legal or has not been outlawed in such State, then that is an absolute defense to a criminal action against the pornographer. That defense is not available now. They say this is a local control, local community standard. Far from it. It is just the opposite of that, because by inaction of the State legislature in making this a crime, it deprives the local communities of saying that it is obscene.

So it deprives the local communities of having local community standards prevails; because they are flooded with this material, potentially, and it is not against the law because the State legislature has not made it against the law.

Mr. LONG. Is the Senator speaking of a situation where the local county law or the local city municipal ordinance would be against pornography but the State law would not be? Is that the type thing he is referring to?

Mr. ALLEN. No, there is not a conflict between the State and local government. This says: "was legal in the State in which it was disseminated." So if the State has not made the dissemination of obscene material illegal, it is legal. Anything that has not been made illegal I assume would be legal.

Mr. LONG. Is that not the usual rule? In criminal law, the rule of stricti juris applies, as I understand it, and nothing is a crime unless the law says it is a crime.

Mr. ALLEN. But the Federal law says it is a crime. That is what I am pointing out. The Federal law says it is a crime.

Mr. ABOUREZK. But not under the local standard rule we adopted in Senator DOLE'S amendment.

Mr. ALLEN. It is against the Federal law to disseminate obscene material that is held to be obscene by local community standards. But this amendment deprives the citizens of the right to say, according to local community standards, that it is obscene.

Mr. ABOUREZK. I have to take issue with that. That is not the case. If it is illegal in a State or in a community, the Federal law will not provide this defense.

The Senator from Alabama has made a number of statements that I have to take issue with on the basis of fact.

Mr. ALLEN. I would like the Senator from South Dakota to point out to me where I have misstated.

Mr. ABOUREZK. That is not the only one. This is not a bar to prosecution. This is not an airtight defense. This is a defense that makes it a jury question.

The amendment really says that the long arm of the Federal Government should not intervene into State or local community standards. It is not a pro-pornography amendment.

For 2 days, the Senator from Alabama has been calling everything that floated by here pornography and smut, in an effort to scare people around here in their upcoming election.

It is simply an effort to keep the Federal Government's nose out of the State's business. That is the only effort it is.

Senator LONG was right: It is the usual rule that if you do not make it illegal in a State or a community, it is not illegal; it is legal. What is wrong with that? It is up to them to make it legal or illegal, as they see fit.

Mr. ALLEN. Because the Federal law says that if it is offensive in the local community standards, then it is against the law.

Mr. ABOUREZK. That is right.

Mr. ALLEN. But here the Senator says it is legal.

Mr. ABOUREZK. Oh, no.

Mr. ALLEN. The Senator says it is a defense.

Mr. ABOUREZK. No. If it is against the local community standard, according to the Dole amendment, you are not entitled to the defense of this amendment.

Mr. ALLEN. That is not what it says.

Mr. ABOUREZK. That is exactly what it says. It makes it that way with the inclusion of the Dole amendment.

Mr. ALLEN. It says that it is a defense to a pornographer under subsections so and so, referring to the dissemination of obscene material, that dissemination of the material was legal in the State in which it was disseminated. So if the State has not acted, it is legal there and would permit a smut peddler to flood such States with obscene material.

Mr. ABOUREZK. The reason it is legal is that the State has not made it illegal. And it is up to them. It is certainly up to the State.

Mr. ALLEN. Under the present law, that defense is not available.

Mr. ABOUREZK. Let me say that it is not codified, but it is in the case law. That defense always has been available.

Mr. ALLEN. If it is in the case law, why do we need this statute?

Mr. ABOUREZK. We are attempting to recodify the Federal criminal laws.

Mr. ALLEN. Why was it necessary to add this in the committee?

Mr. ABOUREZK. In my experience, every time you recodify the Federal law, you try to put in whatever case law is available, and you do it in the committee, because that is where you do the work.

I am absolutely amazed at my colleague from Alabama coming out in favor of Federal intervention in States' rights.

Mr. ALLEN. I am in favor of Federal intervention in the dissemination of obscene material. If the Senator is not, he can follow his mentor whom he quoted earlier, Justice William O. Douglas.

Mr. President, I suggest the absence of a quorum, and it will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. A quorum call is in progress.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Everett Wallace, of Senator BAKER's staff, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Bruce Eggers have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Pat Hoff, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 4 Leg.]

Abourezk	Helms	Thurmond
Allen	Kennedy	Wallop
Byrd, Robert C.	Long	Weicker
Cannon	McClure	
Eastland	Muskie	
Hart	Randolph	
Hatfield, Paul G.	Sasser	
	Scott	

The PRESIDING OFFICER. A quorum is not present.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislaitve clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. HODGES) are absent on official business.

I further announce that the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The result was announced—yeas 73, nays 3, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—73

Abourezk	Griffin	Nelson
Allen	Hansen	Nunn
Anderson	Hart	Packwood
Baker	Hatch	Pearson
Bartlett	Hatfield, Mark O.	Pell
Bayh	Hatfield, Paul G.	Percy
Bentsen	Hathaway	Proxmire
Brooke	Hayakawa	Randolph
Bumpers	Helms	Ribicoff
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schmitt
Chafee	Kennedy	Schweiker
Chiles	Long	Scott
Church	Lugar	Sparkman
Clark	Mathias	Stevens
Culver	Matsunaga	Stevenson
Curtis	McClure	Stone
DeConcini	McIntyre	Thurmond
Domenici	Metzenbaum	Wallop
Eastland	Morgan	Williams
Glenn	Muskie	Zorinsky
Gravel		

NAYS—3

Biden	Garn	Weicker

NOT VOTING—23

Bellmon	Haskell	Melcher
Cranston	Heinz	Moynihan
Danforth	Hodges	Stafford
Dole	Johnston	Stennis
Durkin	Laxalt	Talmadge
Eagleton	Leahy	Tower
Ford	Magnuson	Young
Goldwater	McGovern	

So the motion was agreed to.

The PRESIDING OFFICER (Mr. ZORINSKY). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ALLEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendment on page 172, beginning on line 17.

UP AMENDMENT NO. 1138

Mr. ALLEN. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) on behalf of himself, Mr. HELMS, and Mr. SCOTT, proposes an unprinted amendment numbered 1138.

Mr. ABOUREZK. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take seats, and refrain from conversation.

The clerk may proceed.

The legislative clerk read as follows:

On page 172, line 18, strike the words "was legal" and substitute in lieu thereof "had been legalized by statute".

Mr. ALLEN. Mr. President, this amendment is offered by the distinguished Senator from North Carolina (Mr. HELMS) and myself.

We have heard a lot about the fact that if a State wanted to legalize the dissemination of obscene material, it ought to be all right. What this amendment does is say that if the dissemination of obscene material had been legalized by a statute of a State, it would be a defense, but it does remove the fact

that inaction in this area by the legislature could give rise to the claiming of this defense.

This would more or less accept the contention made by the proponents of the committee amendment that if a State wanted to do it, why not allow them to do it? I say if the legislature of a State authorizes the dissemination of obscene material, go ahead and let the defense be made in a criminal action against a pornographer.

Mr. ABOUREZK. Mr. President, I wish to ask a question of the Senator from Alabama. I would be willing to accept that amendment if he would make one change in it. That is to include language that would be construed to mean that if the State legislature repealed an existing antiobscenity statute, the defense would apply. I would not want to restrict the availability of the defense to situations in which the legislature has affirmatively endorsed sexually oriented materials.

Traditionally, as the Senator from Louisiana (Mr. LONG) said here a few minutes ago, nothing is illegal until you make it illegal; so if a law, Federal or otherwise, does not speak to an activity, that activity is presumed to be legal.

The Senator is coming in now with a new theory that you have to put on the statute books that a certain activity is legal. That has never been done before.

Mr. ALLEN. That is the reason why I am trying to do it now.

Mr. ABOUREZK. What I would like to do is include language, which I would like to work with the Senator on, which would say that if the legislature either affirmatively acts, or does not speak to the issue, or has repealed an existing statute making these materials illegal, this defense would apply. I would be very happy to accept it under those conditions.

Mr. ALLEN. I thank the distinguished Senator from South Dakota. The fallacy in that suggestion is, of course, that some State statutes have been stricken down by the Supreme Court, and then the legislature has repealed those statutes, and since they have been ruled out by the Supreme Court, that would then comply with the Senator's suggested amendment.

So I believe I will let the Senator offer his amendment to my amendment if he so desires, but I would not be willing to agree to it.

Mr. ABOUREZK. In view of that, then, I do not see why the Senate should now start adopting an entirely new legal theory of stating what is legal and what are the things we can do. Our laws tell us the things we cannot do, not the actions we can take.

Mr. ALLEN. That is exactly what the Senator is doing with his committee amendment.

Mr. ABOUREZK. Mr. President, I move that the amendment of the Senator from Alabama be laid on the table, and I ask for the yeas and nays.

Mr. NELSON. Mr. President, will the Senator withhold that for a unanimous-consent request?

Mr. ABOUREZK. Yes.

Mr. NELSON. Mr. President, I ask unanimous consent that during the further consideration of the pending legislation, Mr. Philip Ufholtz and Mr. Jeffrey Nedelman of my staff be accorded the privilege of the floor during debate and rollcalls.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Does the Senator from Alabama have anything more to say?

Mr. ALLEN. No. I think the Senator from North Carolina may have something.

Mr. ABOUREZK. Very well, I yield to him.

Mr. HELMS. I am ready to vote.

Mr. ALLEN. Were the yeas and nays ordered?

Mr. ABOUREZK. No, I withdrew the request temporarily. If the Senator is ready——.

Mr. ALLEN. I ask for the yeas and nays.

Mr. ABOUREZK. I move that the amendment be laid on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from Arkansas (Mr. HODGES), and the Senator from New York (Mr. MOYNIHAN) are absent on official business.

I further announce that the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Texas (Mr. TOWER), the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The result was announced—yeas 46, nays 29, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—46

Abourezk	Bumpers	Chafee
Anderson	Burdick	Church
Bayh	Byrd, Harry F., Jr.	Clark
Bentsen	Cannon	Culver
Biden	Case	DeConcini
Brooke	Glenn	Domenici
Gravel	Lugar	Percy
Hart	Magnuson	Proxmire
Hatfield, Mark O.	Mathias	Ribicoff
Hathaway	Matsunaga	Riegle
Inouye	McIntyre	Sarbanes
Javits	Metzenbaum	Sasser
Kennedy	Muskie	Stevens
Long	Nelson	Wallop
	Pearson	Weicker
	Pell	Williams

NAYS—29

Allen	Hatch	Roth
Baker	Hayakawa	Schmitt
Bartlett	Helms	Schweiker
Byrd, Robert C.	Hollings	Scott
Chiles	Huddleston	Sparkman
Curtis	Jackson	Stevenson
Eastland	McClure	Stone
Garn	Morgan	Thurmond
Griffin	Nunn	Zorinsky
Hansen	Randolph	

NOT VOTING—24

Bellmon	Hatfield, Paul G.	Moynihan
Cranston	Heinz	Packwood
Danforth	Hodges	Stafford
Dole	Johnston	Stennis
Durkin	Laxalt	Talmadge
Eagleton	Leahy	Tower
Ford	McGovern	Young
Goldwater	Melcher	
Haskell		

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 1139

Mr. ALLEN. Mr. President, I have an amendment at the desk. I ask that the clerk state it and that it be considered by the Senate.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. HELMS, and Mr. SCOTT, proposes unprinted amendment numbered 1139.

On page 172, line 19, strike the word "state" and insert in lieu thereof the following: "political subdivision".

Mr. ALLEN. Mr. President, the Senator from South Dakota says that the State ought to be able to decide whether or not the dissemination of obscene material is lawful or unlawful. What this amendment does is strike out "State" and bring it down to a more local political subdivision. If the State legislature has not acted, possibly, a city might have a city ordinance against dissemination of obscene materials or a county, having legislative powers under the State law, might have a resolution or enactment, by whatever name it might be called, outlawing the dissemination of obscene materials.

I hope the distinguished Senator from South Dakota will accept this amendment, because it does bring into play more of a community standard than does the amendment offered by the committee.

Mr. BUMPERS. Will the Senator yield for a couple of questions?

Mr. ALLEN. I am glad to.

Mr. BUMPERS. One of the things that has troubled me is that the Supreme Court has laid down the law of the land as saying that community standards will dictate whether a material is obscene or not. The committee bill, as I understand it, provides that the State can bring an action under the committee bill.

Mr. ALLEN. That is correct.

Mr. BUMPERS. Let me go through a hypothetical case, maybe we can have a better understanding on it.

Let us assume that material is printed in Chicago and shipped into the distinguished Senator's State of Alabama.

Mr. ALLEN. Right.

Mr. BUMPERS. Now, under the Supreme Court ruling, if it comes into, we will say, Selma, Ala., that could be a community standard, but the Supreme Court said that a State may constitute a community, too; is that correct?

Mr. ALLEN. Not that I know of. They have left it as community standard. I do not recall the whole State would have the same community standard, because the Senator would know that what might prevail in Little Rock as a community standard might not obtain in a rural county of his constituents.

Mr. BUMPERS. Of course, if the State enacted a statute setting up in one, two, three order what the State standards would be, that would then, under the Supreme Court decision, constitute a State community standard; would it not?

Mr. ALLEN. I am not sure of that. I am not sure of that.

Mr. BUMPERS. My problem is, the way I interpret this, and I have had difficulty voting against the Senator's amendments——

Mr. ALLEN. The Senator was able to do so, though; was he not?

Mr. BUMPERS. Yes. I struggled and finally did it.

But my problem is, I think that every prosecution has to be brought and determined by the jury before we have a community standard. I do not believe the Senate bill does anything except what the State prosecutors have a right to do now, and I cannot see how the Senator's amendment really changes that in any way.

Mr. ALLEN. I will be glad to explain.

Under the present law, the dissemination of material which is held to be offensive to community standards is violative of the Federal statute.

Now, the committee amendment, espoused by the distinguished Senator from South Dakota, says that if this is legal in a State, that is, if the State is not acting, because I think no State would affirmatively legalize obscene material, but if the State has not acted, then it is a complete defense to the criminal charge.

Now, the pending amendment is that if it were violative—if the State had not acted and is violative of local ordinance, then it would be——

Mr. BUMPERS. A defense?

Mr. ALLEN. It could not be offered as a defense under this amendment.

Mr. BUMPERS. If I understood the Senator correctly, it is slightly confusing.

As I understand what the Senator just said, he says that if it is not a State standard or State statute, then the defendant may use the fact that there is no State standard as an affirmative defense to a prosecution.

Mr. ALLEN. That is what the amendment says.

Mr. BUMPERS. But the Senator follows it up by saying that if there is no community standard, the defendant may not use the fact that there is no community standard as an affirmative defense.

Is that what the Senator said?

Mr. ALLEN. I say that if we read the amendment, it says that if it is legal in the State where the material is disseminated, it is a defense to the prosecution, which, in effect, would wipe out the community standard.

Mr. ABOUREZK. Could I try to clarify that?

Mr. BUMPERS. Happily.

Mr. ALLEN. Just let this penetrate, what I said then, that if it is legal in the State, that is, the State has not acted, then under this amendment it would not have any community standard as being in violation of Federal law because it makes it depend on whether the State has made it illegal or not.

What this amendment does is to say that even if the State has not acted, then if the community has acted by ordinance or appropriate resolution, then this defense could not be offered.

Mr. BUMPERS. The Senator says, if the State has not acted, but the community has set up standards?

Mr. ALLEN. Yes, in that community it could not be disseminated.

Mr. BUMPERS. The Senator means the obscene material could not be disseminated?

Mr. ALLEN. Could not be disseminated legally.

Mr. BUMPERS. Well, let me ask, what is wrong with that?

I know the Senator is a great States' rightist, and that States ought to have the right to determine their own destiny.

Mr. ALLEN. Because the failure of the State to act should not prejudice the right of its citizens not to be offended by a flood of obscene material.

Mr. BUMPERS. Should that not be left up to the people of that State?

Mr. ALLEN. No, it should not.

Mr. BUMPERS. Why not?

Mr. ALLEN. In this particular area, because the inactivity of the State in this area should not, as I have said, penalize the local citizens.

Mr. BUMPERS. But who are the local citizens?

Mr. ALLEN. Or keep the Federal law from being activated.

Now, that is the present law. This amendment would change the present law and make it easier for the pornographer to ply his trade.

Mr. BUMPERS. I certainly do not want to lend my name or support to anything that is going to make pornography easier to disseminate, particularly in the homes where it is not wanted.

Mr. ALLEN. Well, this affords them a defense.

Mr. BUMPERS. Put it this way. If I were Governor of my State and I came out and said, "I want the Feds to determine what's obscene in this State and not the people of this State," I would fully expect to be soundly trounced at the next election.

Mr. ALLEN. That may be. I do not know what the situation is in the Senator's State.

Mr. BUMPERS. But is the Senator not then trying to impose his personal views on each State, regardless how they feel?

Mr. ALLEN. Not in the slightest.

That is the present law and I am just seeking to keep this amendment from passing which would liberalize the vocation of the pornographer.

Mr. BUMPERS. Let me carry it a step further on a slightly different plane.

If there is no State law and no community standards, and material comes into a State or a community that, say, the local prosecutor believes is obscene, there is not anything in the committee bill to keep the Federal prosecutor from filing suit against the disseminator, is there?

Mr. ALLEN. No, there is not. But then when it comes to trial, the disseminator could offer this as a defense, this committee amendment as a defense.

Mr. BUMPERS. But would not the jury be the final arbiter as to whether or not that was a final defense, or not, because they are the final arbiter of what is the community standards?

Mr. ALLEN. I would be glad to refer the Senator to the conclusion of the committee. The footnote says that the court is the arbiter of the State law.

Mr. BUMPERS. How do we establish community standards where none have been set by ordinance, if not by trial?

Mr. ALLEN. The trouble is, this is not community standard. This is the failure of the State to act.

Mr. BUMPERS. Let me go through this again.

If the prosecutor brings this action in a community that has no standard or no State statute setting up a standard, then there is not anything to prohibit the prosecutor from indicting or filing an information against the disseminator of that material?

Mr. ALLEN. No. But then the disseminator of that material would offer this committee amendment as a defense and the case would be thrown out.

Mr. BUMPERS. Wait a minute. Would not the jury make the determination as to the community standards and whether or not that particular material violated community standards?

Mr. ALLEN. No, because it says right here that if it is legal in the State, that is a complete defense, irrespective of the community standards.

Mr. ABOUREZK. That is not the case. I will clarify this again. It is not a complete defense. It is a defense, which then makes it a jury question.

Mr. BUMPERS. That is my understanding.

Mr. ABOUREZK. The jury can convict or not convict, depending on how they interpret the law. But he can assert the defense that it is legal in the State, even if it is available in the community.

Mr. ALLEN. It is a court question, as a matter of law. Taking the theory of the Senator from South Dakota at its supposed value, that would not be applicable.

Mr. ABOUREZK. I do not see anything wrong with the Senator's amendment, with the exception of one or two minor changes with which I do not think he would disagree.

Let me cite a hypothetical question. Say that the legislature of New York State had not spoken on the question of obscenity; therefore, it would be legal in New York State. The city of Buffalo passes an ordinance making dissemination of certain materials illegal, and New York City has not spoken on it. If someone mails something from New York City

to Buffalo and the Federal authorities moved in and said, "We're going to prosecute," would the amendment of the Senator from Alabama say that they could prosecute the Buffalo transaction, or would it say that they also could prosecute any other transaction in New York, even though the material did not go into Buffalo, where it was illegal? What is the intention?

Mr. ALLEN. I think you would have to have Federal jurisdiction. That would be an intrastate matter. I do not think the Federal jurisdiction would attach.

However, on the matter of the defense, as to whether it was a jury question or a court question, that is immaterial. Why give them any type of defense, whether it is to be decided by the jury or by the court? That is the point I am making. This is handing him something on a silver platter that makes it easier for him to defend his actions.

In the intrastate situation pictured by the Senator from South Dakota, the city would be the one to prosecute on that, if the city had an ordinance. The State would not.

Mr. ABOUREZK. I think the Senator will agree that if something is sent through the mail, the Federal authorities have jurisdiction. But even if the Senator does not agree with that, let us assume it is an interstate transaction. If something is mailed into Buffalo, where the ordinance says it is illegal, and something is mailed into New York, where it is legal because they have not passed on it one way or the other, what would the Senator's amendment do with regard to either of those situations?

Mr. ALLEN. My amendment, in the absence of State action, would allow the community to bar and make illegal the dissemination of obscene material.

Mr. ABOUREZK. In the example I cited, the only time this defense would not be available would be in the Buffalo instance, not in the New York City instance. Is that correct?

Mr. ALLEN. It would be available on all accounts of the violation of the Buffalo ordinance, yes. The defense would not be available, no. The prosecution would lie.

Mr. ABOUREZK. Would the defense be available in New York City, where it has not been made illegal, under the Senator's amendment?

Mr. ALLEN. No, the defense would not be available, in my judgment.

Mr. ABOUREZK. In New York City?

Mr. ALLEN. It would not be available in New York City, because if it came under another venue statute, if that was the main place of business, you could prosecute him in New York, under the venue statute here. That would be an offense in either place.

Mr. ABOUREZK. I do not think the amendment of the Senator from Alabama would operate that way. As I understand his amendment, he intends to say that it is up to each local subdivision as to whether they are going to make it illegal or not.

Mr. ALLEN. The offense is there. How do you get out from under it? You could not get out from under it because Buffalo has a statute against it, and you could not get out from under it in New York, in my judgment, because you have the venue statute giving you the right to prosecute a disseminator of obscene material at his main place of business.

Mr. ABOUREZK. Let me state it a different way. Let us say that it is legal to disseminate such material in the State of Arkansas and it is legal to do so in the State of New York, except that Buffalo has passed an ordinance making it illegal.

Mr. ALLEN. If it does not go into Buffalo, there would be no violation, under the amendment of the Senator from South Dakota.

Mr. ABOUREZK. New York City has made it legal. If the fellow in Arkansas mails such material to Buffalo, under the amendment of the Senator from Alabama, he is deprived of that defense.

Mr. ALLEN. That is correct.

Mr. ABOUREZK. But if he mails it from Arkansas to New York City, what would be the situation, under the Senator's amendment?

Mr. ALLEN. New York City would not be involved.

Mr. ABOUREZK. Would the defense be available to the person in Arkansas?

Mr. ALLEN. Yes, because it does not offend the statute.

Mr. KENNEDY. I move the amendment, with that understanding, Mr. President.

Mr. ALLEN. What is that?

Mr. KENNEDY. I just want to move the amendment, after that last statement. I intend to support it.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BUMPERS. Mr. President will the Senator withhold that for just a moment?

The PRESIDING OFFICER. Will the Senator withhold the request for the quorum call?

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, if I might have the attention of the Senator from Alabama, the amendment that he is offering changes to a minor extent the defense which is in the committee amendment in the legislation. After thinking it over and asking a couple questions, I do not have a strong objection to accepting the amendment. Senator WALLOP, who is managing the other side of the aisle, does not have any objection to it.

But the point is that if we are going to water it down even to that minor extent we would have to have some kind of assurance that he would let the committee amendment come to a vote. As it is now the Senator from Alabama is delaying the vote on it because I think he rightfully sees that he is going to lose on it. I have told him and I want to state now for the record that I would be very willing to accept the amendment if he would let the committee amendment come to a vote. If not, I do not see any reason to water it down. I just wish to ask the Senator what his intentions are.

Mr. ALLEN. The Senator has pretty well killed the effectiveness of his plea that the committee amendment come up for a vote when he said that it will just change the amendment in a very small degree, indicating with his fingers about a quarter of an inch.

Mr. ABOUREZK. It is about a half inch, roughly.

Mr. ALLEN. He indicated it was such a small amendment that he could take it because it hardly changed it at all, about a quarter or a half of an inch as he indicated with his finger.

So if the Senator said, "I sure hate to take this amendment because it does change the scope of the committee amendment a great deal, it does protect local communities that pass ordinances against pornography," fine but since it makes such a minute change I believe we better continue to discuss it after the Senator moves to table the amendment as I assume he is going to.

Mr. ABOUREZK. Let me say this, that the half inch that I have indicated is only on this amendment. If the Senator decides to go on and offer a series of half-inch amendments we are going to have a couple yards of amendments here before too long. I understand how the Senator operates over there very well, and I am not about to willingly take part in it.

So I would have to say that unless the Senator wants to let the committee amendment come up for a vote I cannot accept it. If the Senator wants to discuss it, fine.

Mr. ALLEN. I am willing to have a vote on the amendment, and I do not make any commitment about allowing anything to come up for a vote and we will just have to cross that bridge when we get to it.

Mr. ABOUREZK. All right, if we can get some Senators here.

Mr. ALLEN. I have no objection to the Senator making the motion to table, and I just leave it up to the Senate. If the Senate wants to protect local communities, fine. If it does not, we will consider another aspect of the amendment.

Mr. ABOUREZK. If we can get enough Senators here to get the yeas and nays I will be happy to have a vote.

Mr. WALLOP. Does the Senator want the yeas and nays or let us see what else is in the bag?

Mr. ABOUREZK. We could have a division.

Mr. ALLEN. Mr. President, I call for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I modify my amendment by adding after "political subdivision" the words "or locality."

And the distinguished manager of the bill has indicated he would favor that. At the same time, in the event this bill ever goes to conference, which is doubtful that we might have support for the amendment in conference, I still request the yeas and nays.

The PRESIDING OFFICER. Without objection the amendment is so modified.

Mr. ALLEN. I call for the yeas and nays.

Mr. ABOUREZK. Mr. President, Senator WALLOP and I have discussed it, and we have agreed that we will accept that amendment so we can just——

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. We are going to vote.

Mr. ABOUREZK. We could have a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri, (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from California (Mr. CRANSTON), and the Senator from Arkansas (Mr. HODGES) are absent on official business.

I further announce that the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) and the Senator from New York (Mr. MOYNIHAN), would each vote "yea."

MR. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—74

Abourezk	Gravel	Packwood
Allen	Hansen	Pearson
Anderson	Hart	Pell
Baker	Hatch	Percy
Bartlett	Hatfield,	Proxmire
Bayh	Mark O.	Randolph
Bentsen	Hathaway	Ribicoff
Biden	Hayakawa	Riegle
Brooke	Helms	Roth
Bumpers	Hollings	Sarbanes
Burdick	Huddleston	Sasser
Byrd,	Inouye	Schmitt
Harry F., Jr.	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott
Cannon	Kennedy	Sparkman
Case	Long	Stevens
Chafee	Lugar	Stevenson
Chiles	Magnuson	Stone
Church	Mathias	Talmadge
Clark	Matsunaga	Thurmond
Curtis	McClure	Wallop
DeConcini	Metzenbaum	Weicker
Domenici	Morgan	Williams
Eastland	Muskie	Zorinsky
Garn	Nelson	
Glenn	Nunn	

NAYS—0

NOT VOTING—25

Bellmon	Griffin	McGovern
Cranston	Haskell	McIntyre
Culver	Hatfield,	Melcher
Danforth	Paul G.	Moynihan
Dole	Heinz	Stafford
Durkin	Hodges	Stennis
Eagleton	Johnston	Tower
Ford	Laxalt	Young
Goldwater	Leahy	

So Mr. ALLEN's amendment UP 1139, as modified, was agreed to.

UP AMENDMENT NO. 1140

Mr. ALLEN. Mr. President, I call up an amendment which I have at the desk, and ask that it be stated.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. SCOTT, and Mr. HELMS, proposes an unprinted amendment numbered 1140:

On page 172, line 17, strike entire line and substitute the following:

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecutor under subsection"

Mr. ALLEN. Mr. President, I appreciate the unanimous vote of the Senate on the preceding amendment, which would make unavailable to a pornographer the defense of this committee amendment where the dissemination of obscene materials was illegal in a political subdivision or locality in which it was disseminated, whereas, under the committee amendment, if it was legal in the State, then it would be legal everywhere. The amendment would allow the local political subdivisions to outlaw the dissemination of obscene material, and would deprive the defendant of the availability of the defense provided by the amendment.

The thought occurs to me that in our procedure here in the Senate—and I wish to make a comment on this point not just as to this amendment, but as to all amendments—there is tremendous power and influence in the managers of a bill. Whereas other amendments that I have offered with respect to this committee amendment have been soundly defeated because the managers of the bill said that they should be defeated, then, lo and behold, the manager of the bill says this amendment is all right and it gets a unanimous vote.

I am just wonderng if that is a very good practice that we have here in the Senate, to run by the manager of the bill and ask, "Well, what about this amendment?" It indicates that Senators are not reaching independent judgment on these issues. I wonder if that is the right procedure for us to follow. Other amendments, if the distinguished manager of the bill had said they were good, would have been passed.

I am not going to delegate my decisions on these issues to the manager of any bill pending before the Senate. I feel it is my duty to make an independent judgment, and, after learning the facts regarding an amendment, to vote independently of the recommendatio of the managers of the bill.

It would be pretty bad practice not to consider these amendments, and I am talking about amendments generally, on their merits rather than on some pretext of the managers of the bill.

The amendment we have before the Senate now makes what, I assume the distinguished Senator from South Dakota would say, is a minor adjustment of the amendment, but, really, it is an important amendment.

On this same page, page 172, there is this committee amendment which says that the fact that the dissemination of obscene material has not been made unlawful in a State would be a defense in a prosecution for disseminating obscene material in such a State.

Right under that come affirmative defenses. The difference between a defense and an affirmative defense is that the defense makes it easier on the defendant and harder on the prosecution. Under a defense pleading this committee amendment it would be incumbent upon the prosecutor to show that the dissemination of obscene material was illegal in the State, political subdivision, or locality in which it was disseminated. The burden would be on the State.

In the affirmative defense, the burden would be on the defendant, the pornographer, to show that the dissemination of obscene material is legal. So it shifts the burden of proving the existence of the status that would constitute a defense. Under the comittee amendment it would be up to the prosecution to show that the dissemination of obscene material is illegal where it was disseminated.

This makes it incumbent upon the defendant to show that it was legal where disseminated. That makes quite a difference.

I have discussed this with the distinguished manager of the bill. I hope with his blessing, in accordance with the procedure in the Senate, this amendment will receive a favorable vote.

Mr. SCOTT. Will the Senator yield?

Mr. ALLEN. I will be glad to yield.

Before I yield, I might say the distinguished Senator from Virginia and the

distinguished Senator from South Carolina will speak to the amendment.

Mr. SCOTT. Mr. President, I thank the distinguished Senator from Alabama for yielding. I might say I have been specifically interested in his comments about each Senator having the obligation to vote the way each individual Senator felt was right, and to try to first obtain knowledge of an amendment and then vote his conviction, rather than to blindly follow the leadership.

It calls to mind recent items in the newspaper with regard to the Panama Canal where it said that the leaders on both sides of the aisle, the Democratic leader and the Republican leader, have indicated the action they felt should be taken.

I have taken a poll of the people in Virginia with regard to the Panama Canal. I find the poll is not exactly the way my mail has been running. My mail has been running about 95 percent against the treaty.

I sent this questionnaire to every registered voter, Democrat and Republican, in two of the congressional districts, and then to bipartisan groups not selected for their philoshophy or their parity affiliation in the rest of Virginia.

Eighty-seven percent were opposed to this treaty and 13 percent were in favor of it.

That indicates that my mail is not running exactly right.

The reason I mention this is that the distinguished Senator from Alabama talked about following the managers of the bill. I could not help but think of the parallel of following the leaders here in the Senate. I would venture to predict that come election day the people will have the ultimate say on the Panama Canal and that we are going to lose some of our Senators who have chosen to run for reelection. I have not chosen to run for reelection, but if I had chosen I would be on the side of the people. I think the Members of the Senate might think about being on the side of the people rather than on the side of the leadership.

In this country, the people are sovereign and the people ultimately rule.

I know I have digressed a bit from the subject which is immediately before us.

Mr. THURMOND. Will the Senator yield?

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. SCOTT. Yes.

Mr. ABOUREZK. The Senator is not accusing me of being in the establishment, I hope.

Mr. SCOTT. No; I am just saying this because of the statements made by the Senator from Alabama.

I will be glad to yield to my friend from South Carolina.

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from Virginia for the statement he has just made. I would like to state that in my mail from December 10 to January 10, 439 communications were received in opposition to the treaties. Only six favored the ratification. Those are from different States in the Nation. It is nationwide.

In South Carolina, the communications received had 329 opposing the ratification and only 1 favoring it.

Mr. President, this is in line with the sentiment we have been receiving on these treaties for a number of months. In fact, my overall mail since this question first came up is running about 96 percent opposed to ratification of the treaties. I just wanted to mention that to the able Senator from Virginia.

Mr. SCOTT. I believe that come election day we will find that a lot of politicians have become educated rather than the people being educated. As the President said, he was going to educate the people. I believe the President will be better educated after election day in November.

I thank the distinguished Senator for yielding.

Mr. ALLEN. I thank the distinguished Senator from Virginia for his very appropriate comments. I might carry the discussion just a little bit farther, inasmuch as the rule of germaneness does not apply at this time.

This Senator did see a parallel between the upcoming action on the Panama Canal treaties and amendments thereto and the following of the leadership in that instance and the following of the committee managers in this instance.

I might say that I have noticed that, where the managers are split in their views, by and large, Senators follow the manager of the bill rather than the ranking minority leader, which seems to be the practice.

Senators are included frequently to let the leadership do their thinking for them. We see coming up now an amendment by the joint leadership.

I remember, back when I first came to the Senate, something that I always dreaded to see coming, when we had some explosive legislation, was a joint leadership amendment—the Scott-Mansfield amendment or Mansfield-Scott amendment. When they get together, it is pretty hard to head them off.

I am glad to see the distinguished majority leader come in. We are discussing, the Senator will be surprised to hear, I imagine the Panama Canal and the upcoming discussion of that. I might hasten to say that I am going to discuss this for just a very few minutes. I am not trying to prolong the discussion.

I note in the press that we are going to see a joint amendment by the two leaders. We were discussing, I say to the distinguished majority leader, the fact that, whereas, I offered one amendment to the committee amendment and it was overwhelmingly defeated on the recommendations of the managers of the bill; then, when the managers of the bill said my next amendment was all right, it passed unanimously. I was just questioning this practice that we have in the Senate. I guess I have been guilty of it on occasion, though I try not to be.

We are too prone, without studying the merits of a measure, to ease up to the managers of the bill—the manager on our side of the aisle—and ask for recommendations.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. ALLEN. Yes, I am delighted to yield.

Mr. ROBERT C. BYRD. I have been guilty of that, myself, except I do not ease up to the managers of the bill, I ease up to the Senator from Alabama. I have following his leadership on these votes and I hope the Senator will not criticize me for that.

Mr. ALLEN. I thank the distinguished majority leader. I recommend a continuation of that policy.

Mr. MAGNUSON. Let us have a vote.

Mr. ALLEN. We are going to find many followers of the distinguished majority leader, I feel sure.

On the recommendation of one of our senior Senators, I yield the floor at this time. I believe the distinguished floor manager of the bill wishes to make a recommendation with respect to the amendment. I believe it will carry a lot of weight.

Mr. ABOUREZK. The minority has discussed this with us and we have decided to accept the amendment that is presently pending. We ask for just a voice vote on it. We are ready for a vote.

I advise the Senators that there will be a rollcall on the committee amendment as amended.

Mr. THURMOND. Mr. President, this amendment meets with our approval.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

Mr. ABOUREZK. The yeas and nays have been ordered on the committee amendment as amended; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the committee amendment, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. HODGES) are absent on official business.

I further announce that the Senator from Texas (Mr. BENTSEN), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLD-

WATER), the Senator from Nevada (Mr. LAXALT), the Senator from New Mexico (Mr. SCHMITT), the Senator from Texas (Mr. TOWER), and Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The result was announced—yeas 59, nays 14, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—59

Abourezk	Griffin	Packwood
Anderson	Hart	Pearson
Baker	Hatfield,	Pell
Bayh	Mark O.	Percy
Biden	Hathaway	Proxmire
Brooke	Huddleston	Randolph
Bumpers	Inouye	Ribicoff
Burdick	Jackson	Riegle
Byrd,	Javits	Roth
Harry F., Jr.	Kennedy	Sarbanes
Cannon	Long	Sasser
Case	Lugar	Sparkman
Chafee	Magnuson	Stevens
Chiles	Mathias	Stevenson
Church	Matsunaga	Stone
Clark	McClure	Talmadge
DeConcini	Metzenbaum	Wallop
Domenici	Morgan	Weicker
Eastland	Muskie	Williams
Glenn	Nelson	
Gravel	Nunn	

NAYS—14

Allen	Hansen	Schweiker
Bartlett	Hatch	Scott
Byrd, Robert C.	Hayakawa	Thurmond
Curtis	Helms	Zorinsky
Garn	Hollings	

NOT VOTING—26

Bellmon	Goldwater	McGovern
Bentsen	Haskell	McIntyre
Cranston	Hatfield,	Melcher
Culver	Paul G.	Moynihan
Danforth	Heinz	Schmitt
Dole	Hodges	Stafford
Durkin	Johnston	Stennis
Eagleton	Laxalt	Tower
Ford	Leahy	Young

So the committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question recurs on the committee amendment on page 76, lines 19 through 24.

Mr. McCLURE. Mr. President, a parliamentary inquiry. Is it in order to offer an amendment? I ask unanimous consent that it be in order for the junior Senator from Idaho to offer a series of amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1141

Mr. McCLURE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself, Mr. STEVENS, Mr. WALLOP, and Mr. CHURCH, proposes an unprinted amendment numbered 1141.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 166, line 3, add after the words "crime of violence" the following: ", other than a misdemeanor that consists solely of damage to property and that does not place another person in danger of death or serious bodily injury,".

Mr. McCLURE. Mr. President, the section we are dealing with in this code is one dealing with the mandatory sentencing provision for crimes committed in which explosive devices or firearms are employed and a new Federal offense being established which will, in the minds of many, including the junior Senator from Idaho, provide a deterrent to the use of explosive devices or firearms in the commission of crime.

I have sponsored similar legislation for a long time, and I think that this is a constructive addition to the criminal code of the United States.

My amendment seeks to limit the application of the new Federal offense and mandatory sentencing to those kinds of crimes that are directed against persons, that there is a danger to the health—bodily injury or death—of individuals, rather than simply the destruction of property or the potential destruction of property.

I have been in consultation with both the majority and minority floor managers of this bill and with the Department of Justice with regard to narrowing the scope of the provision in the bill so that it cannot be used indiscriminately or perhaps against the kinds of offenses which many of us would not like to see caught within the scope of a new Federal offense or within the scope of mandatory sentencing.

This amendment is one of three that I will offer which deal with this question directly. The amendment as I have outlined it would more carefully limit, I think, but within the scope that is intended by the committee action; and, as I understand, it has the support of both the majority and the minority. I will let them speak for themselves on that. We did discuss that at some length last night, so that we could come to the floor in substantial agreement, rather than coming to the floor with a disagreement as to what the scope of this penalty should be.

Some time ago, I introduced a measure similar to the one that the committee has reported to the floor; and I immediately got the request from some people who felt that they had legitimate rights but that certain things were being challenged in the courts as being excessive use or perhaps in which there is not casual connection between the crime and the possession of a firearm.

I will mention the other amendments briefly at this time. They have not been offered nor read, although copies have been given to the committee staffs and the floor managers of the bill.

Two of the remaining three amendments I will offer deal with the extension of the same kind of problem. The second of the amendments will deal with the question of whether or not the device or firearm has been transported in interstate commerce. Does the Federal Government have jurisdiction over the offense?

There are two lines that Congress has followed: One, in the case of possession of firearms by a person who has been convicted of felony, in which the courts have found that the congressional intention was that there be no time limit, no connection in transportation and possession in order to extend Federal jurisdiction to that prohibition. But the general rule is, as will be restated by my amendment, that there has to be a connection between the transportation in interstate commerce and the present use of that weapon in the commission of crime. My amendment simply will restate what the current law is with regard to the extension of Federal jurisdiction because of the interstate commerce connection.

The third amendment dealing with this question, which has not been lodged at the desk but which I will send to the desk in due course, deals with the legitimate right of self-defense. A person who believes himself to be in the imminent danger of bodily harm has a right under the Federal and State statutes, in almost every instance, to defend himself against that violence. However, there are limitations on the ability to use force to defend yourself. If you use deadly force and it is found that you used force which was excessive considering the danger or the likelihood of danger, then the defense of self-defense may not be applicable. In that instance, a person who honestly believed that he was in imminent danger of bodily harm to himself by someone bound upon committing a crime may find that the defense he raises of self-defense is set aside because the court or the jury will determine that he used excessive force.

It seems to me that there should be a way in which that person would not be subjected to the additional penalty of a new offense and the mandatory penalty of a 2-year sentence, which is required under this section of the code.

Working with the majority and minority staffs and the Department of Justice last night and this morning, we have contrived language which I think does bridge the gap and allows a bar to the mandatory sentencing, even though the person may have used excessive force, if he had reasonable cause to believe that he was subjected to violence to his person or to property if he did not use force in defending himself.

This amendment, I think, is carefully drawn. I think it does fit into that gap between the total defense and the total lack of defense by barring the mandatory jail sentence so that the judge may, even though there is an additional defense, rule that the mandatory jail sentence may not be imposed under suitable circumstances.

Mr. President, I do not think any of us want to see persons in defense of themselves, their homes, their habitation, their place of business, or their property use excessive force and take the life of another human being needlessly.

This is a very difficult and a very tenuous balance between the right of an individual to live in freedom and security in our society and the right of

someone else to have his life secure even though he may be in circumstances that raise doubts in the minds of others as to his intentions to violate the security and the rights of the individual being threatened.

I think of the instance of a young secretary in Washington, D.C., concerned as many are here about assaults upon the person. Maybe in the area in which she is living there have been several such assaults in a brief period of time and her consciousness is very heightened by the fact that that has occurred. Suddenly in the middle of the night she is aware of somebody trying to break into her apartment and she may in that circumstance have a legitimate fear for her own safety. The law should not require that she inquire of the persons break-in through the window what their motive is. Is it only robbery? Is it only burglary or do they have some other sinister motive in mind against which she would have the right to use deadly force if indeed it was a fact. I do not want to see that young woman placed in the danger of having an additional offense and a mandatory jail sentence in the event someone else in detached circumstances at a later time, judging the reasonableness of her action in defense of herself, says, "You must go to jail for 2 years because you defended yourself and you were wrong in doing it."

I do not want to say to the aged pensioners, who in many of the areas of many of our cities in this country find themselves the target of repeated assaults and theft of their pension checks, who undertake to defend themselves, and many do within their own home or their own apartment live in fear, where they barricade themselves at night behind locked doors fearing what may happen before the morning. They find themselves again in the same circumstance with somebody attempting to break in and they are weak, they are alone, they are afraid, and they seek to defend themselves. They should not under those circumstances be required to run the additional hazard of not only a new offense under a Federal statute but also, if they are found to have used excessive force not warranted by the circumstances, to be faced with a mandatory jail sentence of 2 years. I do not think anyone really under those circumstances wishes that they should do so.

There is the instance where a store owner, a small shop owner, is struggling to keep his head above water. He has been the victim of repeated robberies in his store, so he undertakes to stop that robbery in a way in which the police cannot always do and undertakes to take action for himself and by himself to obstruct the effort of that would be robbery to deprive him of his livelihood and his ownership of property. Then by later standards, someone else under other circumstances makes a determination that he has used excessive force. I do not want to see that store owner subjected to not only an additional Federal penalty but also the imposition of a 2-year mandatory jail sentence.

I think this amendment which I will offer tries to draw that fine line between the total defense of self-defense and because of a finding of excessive force the absence of validity of the self-defense plea.

I think each of these three instances dealing in this very difficult area of individual freedom versus the right of society to live in security does move toward the appropriate balance, and I hope that each of these three amendments will be approved by both the majority and minority.

The fourth amendment, cosponsored by myself and others, which I will offer, which again has not been sent to the desk but will be, deals with the restatement of existing law with respect to the exemption of black power purchases. It is necessary because the Treasury Department in the enforcement of the existing law has sought to impose regulations that go specifically against the will of Congress as stated in the exemptions. In spite of the fact Congress has stated it is an exemption, the Treasury Department has said Congress did not intend it to be an exemption and they seek to write regulations dealing with regulations where there was an exemption. And this is not a change in law. This is simply a restatement of the law, which was already adopted by Congress and which is on the statute books today, in an effort to get Treasury to conform to the existing statute the way it is written.

Mr. President, I am happy to yield to the floor managers of the bill at this time if they have comments on any one of these four amendments.

Mr. KENNEDY. Mr. President, on behalf of the committee I am prepared to accept all four amendments, although I have grave reservations concerning one of them, the black powder amendment. Except for that one, the amendments have been carefully drawn to deal with areas of concern.

One, as the Senator pointed out, resolves the question of mandatory sentencing and self-defense. It seems to me to be that is not an area S. 1437 is attempting to reach. It seems to me that the amendment deals with that particular issue and deals with it effectively.

(Mr. RIEGLE assumed the chair.)

Mr. KENNEDY. The Senator continues with a technical amendment, which is entirely acceptable, to retain the current law concerning "shipped or received."

It is entirely acceptable by the committee to retain the language "shipped or received."

The third amendment again concerns the application of mandatory sentencing. It would limit such application to felonies, and also to misdemeanors to involving harm to persons, not property.

I am aware of the reasons why the Senator has felt that amendment would be worthwhile and I accept it.

Black powder, however, is another matter.

I would like to ask the Senator this question. I understand this eliminates the requirements of affidavits. Could the Senator tell us if there have been any instances of the use of black powder in explosions or terrorism or any activities the Senator knows about in the last year or so?

Mr. McCLURE. Mr. President, I would respond to that question by saying I know of none. As a matter of fact, black powder, being a rather unique explosive, is historical primarily in its use. It is used by people who want to recreate something that was used in the past. For instance, the people who, in Bicentennial celebrations, were trying to have some reenactment of Revolutionary scenes in which black powder was used, found it difficult to get black powder.

But there are far more readily available and far more powerful explosives and, therefore, there would be no reason for anyone to select this as their means.

Mr. KENNEDY. But this amendment causes me problems. Would its acceptance mean that there would be no way to learn the name and address of an applicant?

Mr. McCLURE. Well, I assume they could get that information. I am not sure they would have the right to require the recordkeeping which would be done because there is an exemption in existing statute, which this seeks to restate, from those activities. That is the major reason for the amendment that Congress set for sporting purposes, and because it is used primarily for sporting purposes we, therefore, exempt them from the requirements of the statute, including those requirements for information concerning the purchaser.

The reason that becomes important, I would say to my friend from Massachusetts, is that for most dealers in the United States who do sell black powder to sporting enthusiasts those purchases are a matter of accommodation. There is very little, there is very small, volume of sales involved, and very little profit to be made. The dealer just simply is not going to stock and sell it if he has to comply with all of the recordkeeping requirements of existing statute, and what in other instances recordkeeping requirements have been exempted by Congress for this particular kind of activity.

So I would not want to mislead the Senator by saying "Well, they are free to impose all kinds of regulations," because that is exactly what we are trying to say they are not free to do.

Mr. KENNEDY. But you say they could get the information. As the statute says now:

> (5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms.

I understand the Senator's wanting to get rid of the affidavits. Quite frankly, if it were up to me, I would not feel that is an undue burden. But I am very much aware of what the Senator has said on this issue. What I am trying to get at in terms of the affidavits is this—Will their elimination preclude all records in this area? It may be necessary to, at the very least, secure the name and address of the person to whom it is being sold.

Mr. McCLURE. Let me say to the Senator if I were seeking to build an

explosive device I would not go and buy black powder. I would go down to the local garden store or farm supply store and buy some ammonium nitrate fertilizer, and I would combine that with some diesel fuel, and I would build an explosive that is more powerful than nitroglycerin. I would not fool around with black powder in quantities of less than 50 pounds if I were really intent on doing something.

That is the reason why the recordkeeping requirements simply do not make any sense because people who are buying this are certainly not going to be using it for that purpose. It is just not an efficient tool to be so used.

It would be somewhat akin to the burden of requiring the name and address of somebody who would use anything else of a relatively innocuous nature for a criminal purpose, and the ATF has found that to be a little—they would like to get this information, but the information was much like that which was required in the recordkeeping on sales of .22 caliber ammunition. There is such a large volume of .22 caliber ammunition that the records filled rooms, and it became useless, and the recordkeeping that has been required becomes useless in this area as well, and that is why Congress enacted a specific exemption dealing with this product in these quantities stating that no such requirements are to be made.

Mr. KENNEDY. Mr. President, normally I would object to this amendment, but in an effort to avoid controversy and undercut the fragile compromise we have entered into, I have no objection to the amendment. I ask unanimous consent that the amendments be considered en bloc.

Mr. McCLURE. Mr. President, I will send the other three amendments to the desk and ask that they be reported.

The PRESIDING OFFICER. Without objection, they will be in order and they will be considered en bloc.

Mr. STEVENS. Have all the amendments been reported?

The PRESIDING OFFICER. It is the understanding of the Chair they have all been reported en bloc in one batch and are now ready for disposition.

Mr. KENNEDY. And the unanimous consent for them to be considered at this time——

The PRESIDING OFFICER. Has been granted.

The clerk will report the amendments.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) for himself, Mr. STEVENS, Mr. WALLOP, Mr. CHURCH, and Mr. HATHAWAY proposes as part of UP amendment No. 1141:

On page 165, line 10, delete the words "or has been transported" and insert in lieu thereof, the following "shipped or received"

On page 165, line 10, delete the words "or has been transported" and insert in lieu thereof the following "shipped or received."

The Senator from Idaho (Mr. McCLURE) for himself, Mr. STEVENS, Mr. WALLOP, Mr. CHURCH, Mr. HELMS, and Mr. HATHAWAY proposes as part of UP amendment No. 1141:

On page 166, line 31, delete "or".

On page 166, line 33, delete the period and insert a semicolon and the following: "or the defendant establishes by a preponderance of the evidence that he committed the offense based upon a good faith belief that he was acting to protect a person or property from conduct constituting a felony, although not under such circumstances as would constitute a defense to prosecution.".

The Senator from Idaho (Mr. McCLURE) for himself, Mr. BAYH, Mr. STEVENS, Mr. WALLOP, Mr. CHURCH, and Mr. HATHAWAY proposes as part of UP amendment No. 1141:

Page 363 line 12 following the words "is amended by" add ": (A)" and after the last sentence, delete the period, add a semicolon, and add the following: "(B) Except that the Secretary may not prescribe regulations that require purchasers of black powder under the exemption provided under Section 1106 (a) (5) to complete affidavits or forms attesting to that exemption.".

BLACK POWDER AMENDMENT

Mr. STEVENS. Some time ago the Congress passed a law which exempted persons who buy small amounts of black powder which is intended to be used for recreational, cultural, or sporting purposes from the burden of paperwork and redtape which is required to buy large amounts of explosives.

Unfortunately, the Bureau of Alcohol, Tobacco, and Firearms did not fully understand the purpose of the exemption and of the word "intended." They have interpreted this to mean that any person who buys these small amounts of the powder must fill out a myriad of forms concerning their "intended use." This has caused much paperwork and overburdensome procedures which must be waded through by the individual making the purchase.

This amendment attempts to deal with that very problem. It prevents the Bureau of Alcohol, Tobacco, and Firearms from prescribing regulations which require purchasers of black powder under the exemption provided for in section 845 (a) (5) to complete affidavits or forms attesting to that exemption.

I believe that in passing this amendment we are establishing the original intent of the Congress.

LEGITIMATE SELF-DEFENSE

This amendment deals with the mandatory sentencing provisions of the proposed Criminal Code revision. As I have stated many times before, I believe that if a person is convicted of the offense of using a firearm to commit a crime which involves the threat to human life, he or she should be given a mandatory prison sentence of at least 2 years. However, I believe that we should be very careful to prevent the mandatory sentencing provisions from being used to harass law-abiding gun owners.

Therefore, I believe that those persons who use a firearm in self-defense and can prove by the preponderance of the evidence that they had reasonable cause to believe that a felony was about to be committed should be exempt from the 2-year mandatory sentencing provision under this section.

This amendment would not excuse such people from State, local, or Federal laws under which they might fall. It would simply prevent them from falling under the provisions of this section and making operative the mandatory 2-year sentence for the additional and separate offense of using a firearm.

I hope that my colleagues will see fit to agree with Senator McCLURE and me on this issue.

EXEMPTS MISDEMEANOR FROM 2-YEAR SENTENCE

I strongly believe that if a person is convicted of the offense of using a firearm to commit a crime which involves the threat to human life he or she should be given a mandatory sentence of 2 years or more for the misuse of a firearm. I believe that this is the only way of cutting down on the misuse of firearms. The criminal would be dealt with quickly and severely whereas those law-abiding citizens who use their guns for legitimate purposes could safely continue to do so. For this reason I support this section of the Criminal Code.

However, the section, as presently written, would also impose a 2-year mandatory sentence on someone who commits what seems to me to be a rambunctious type of crime, however wrong, where there is no danger to human life. For example, someone who shoots at a Federal sign would be sent to jail for 2 years. I do not believe that that person, however misguided, should have to serve a mandatory jail sentence when many other dangerous criminals roam the streets. It is for this reason that I hope my distinguished colleagues will see the wisdom in this proposed amendment. If accepted, this amendment will exempt from the mandatory sentencing provision under this section, those people who misuse firearms in misdemeanors which involve only the destruction of property where there is no danger to human life.

The amendment strikes at the heart of the crime problem while eliminating the possibility of misuse of the mandatory sentencing provisions.

Mr. President, I commend my good friend from Idaho. Our staffs have been working together for several days on these matters, and he joined with me in the amendments that I previously offered to the bill.

We have tried our best to see to it that the intent of the existing law is maintained in the codification or recodification of this criminal code.

These amendments that he has offered now, particularly the black powder amendment, and I also think the amendment which deals with the exemptions from the 2-year sentence mandatory application, both of those amendments are very well taken.

Legitimate self-defense exception also is one that I think would be of substantial importance to people who have used firearms in a way they thought was justifiable.

It is my impression from what we have done, and I want to commend our floor manager of the bill, the Senator from Massachusetts, because it is my understanding of what we have done, that we are assured by the amendments now offered by the Senator from Idaho and myself that the provisions of this bill do not change the existing law that concerns the use of firearms or explosives or in the general area of what we would call gun control law.

We were trying to make certain that this bill is one that does not disturb the

status quo as far as the existing laws pertaining to gun control that have been enacted by Congress are concerned.

I congratulate the Senator from Massachusetts for being willing to make certain that this is the case and that this bill maintains the provisions and interpretations of existing laws insofar as these amendments are concerned.

I thank my good friend from Idaho for having taken the time to present them on behalf of all of us.

Mr. McCLURE. I thank the Senator from Alaska for his remarks, and also thank him for being a cosponsor of these four amendments.

Mr. President, I ask unanimous consent that there may be a technical amendment made in the black powder amendment to conform the section reference to the structure of the existing bill.

The PRESIDING OFFICER. Does the Chair correctly understand that the Senator is proposing that amendment?

Mr. McCLURE. I am proposing that the staff be given the authority to make the technical change to conform the reference to the existing bill.

The PRESIDING OFFICER. Is there obejction? Without objection, it is so ordered. The Senator from Wyoming.

Mr. STEVENS. Mr. President, I move to reconsider the votes——

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. WALLOP. Mr. President, I do not think we have voted on anything yet.

I thank my friend from Idaho for permitting me to be a sponsor of these amendments, and for the assistance and help we had from Senator KENNEDY'S staff last evening as we tried to prepare these proposed amendments. Basically, they constitute a recognition that there are two different sets of circumstances within this country, and that while one might well have serious qualms about certain events that might take place on a Federal reservation, there is a vast difference between, for instance, a Federal reservation in Washington and a Federal reservation in the State of Wyoming, and I think the amendments recognize that difference to a very fine degree.

The amendments offered today meet the concerns of many of my constituents in Wyoming and I am very pleased to join Mr. McCLURE as a cosponsor.

I would like to address two of these amendments in some detail, and join with the remarks of both Senators STEVENS and McCLURE on all of these amendments.

The first amendment being offered would clarify section 1822 of S. 1437, the section entitled "Firearms Offenses" by limiting the jurisdictional section to reflect current law. This section makes it unlawful to transport or possess a firearm or ammunition with the intent that it be used, or with the knowledge that it may be used to commit a Federal, State, or local felony. Under the present language, Federal jurisdiction over this offense could potentially extend to almost all intrastate firearms, ammunition, and black and smokeless powder transactions. Under this amendment, this extremely wide-sweeping jurisdictional base would be limited to those cases in which the firearm or ammunition has a connection with interstate or foreign commerce. I understand this new language reflects the intention of the draftsman at the Department of Justice. The amendment will prevent the undesirable result of creating a Federal felony out of conduct which may or may not be punishable under State law when there is only a tenuous nexus to interstate or foreign commerce.

The second amendment that I would like to address now would limit the extremely broad scope of section 1823, the offense entitled "Using a Weapon in the Course of a Crime." Briefly, this section would make it a Federal felony for any person to display, possess or use a firearm or other destructive device in the commission of a crime. Depending on the particular circumstances, the punishment for this offense is a mandatory minimum prison term without opportunity for early release. This amendment will remove from the reach of this section those misdemeanors which consist solely of damage to property and which do not endanger others.

Section 1823 causes some very real problems in my own State and any State which is comprised in part by Federal lands. Wyoming is an expansive State, but not all of our land is State land. In fact, the Federal Government owns a large percentage of the land within the State borders. Under section 1823, then, the Federal Government will have jurisdiction over all conduct which constitutes an offense as described by this code which occurs on Federal land within the State.

This could have very serious consequences for a person in Wyoming who engages in minor criminal activity on Federal land. For example, if this Wyoming resident intentionally shoots a rifle and damages a road sign while on Federal property, he has committed two crimes: the misdemeanor of "property destruction" and the felony of "using a weapon in the course of a crime." He can then be prosecuted not only for the misdemeanor, but also for a felony for which a mandatory minimum prison term must be imposed. Mr. President, I suggest that this works an injustice in the case of misdemeanor conduct where there is no risk of harm to others. If the lands had been State owned, this offense would only be punishable under State law. Now, because the State has lands within its borders which belong to the Federal Government, he is subject to prosecution by the Federal Government. To compound this problem, he can be sentenced far more harshly under Federal law than he probably would be under State law.

When a misdemeanor offense such as this is committed with a firearm on Federal lands and where there is no risk of danger to others, it seems unjust to prosecute the actor for a Federal felony where imprisonment is certain. This amendment answers that problem: Section 1823 will not apply in the case of minor misdemeanor offenses involving property damage where people are not endangered. Since there is no compelling reason to reach this kind of conduct, the jurisdiction of the Federal Government to prosecute should be so limited.

Again, I want to join my colleagues in their remarks on these four amendments and urge their adoption by the Senate.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Idaho.

The amendments were agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendments were agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRIFFIN. Mr. President, I have an amendment. I do not call it up at the present time, but I ask unanimous consent that it be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRIFFIN. Mr. President, one part of the very long and complex piece of legislation before us deals with the Bureau of Prisons and funding available for the construction of certain facilities to take care of Federal prisoners.

I have considered, very frankly, offering an amendment, which would be a version of a bill I have previously introduced, S. 1245, to establish a Federal program of assistance to State and local units of government for the construction, and acquisition, and rehabilitation of correction facilities.

It has been a concern of mine that Congress has not addressed in any meaningful way the desperate shortage of prison facilities in this country, and the inadequate—indeed, deplorable—condition of many of the facilities that do exist. In many areas of our country, the situation has reached crisis proportions. Judges are criticized for letting criminals go free on the streets; but they often have a justifiable excuse, which no one listens to—the judges have no place to put the criminals. This is a serious problem.

I have been concerned about the problem insofar as the handling of Federal prisoners in the Detroit area is concerned; and fortunately, with the cooperation of the administration, there has been a program established to build a detention facility for Federal prisoners in the Detroit area. But that only begins to scratch the surface of the problem.

The shortage of prison facilities is not only a national disgrace, but it ought to be a national concern for another reason: more and more Federal courts are now ruling that confinement of a prisoner in conditions that now exist in some State and local jails and prisons is a violation of the Constitution.

I think if we are going to have a Federal war on crime, it is essential that the Federal Government take a real look at this part of the problem. I have introduced this bill, which, as I have said, would establish a matching grant program under which the Federal Government would put up 75 percent of the

funds for the State or local jurisdiction would put up 25 percent of the funds for the construction, acquisition, or rehabilitation of prison facilities to meet modern day standards.

There are some in our society who have tried, in an organized way, and to some extent succeeded, to keep Congress and other legislative bodies from taking any action to provide additional prison facilities.

I want to point out that the bill that I have introduced, and which I would offer as an amendment, provides not only for the construction of facilities for the hardened criminal, but also for halfway houses, work release centers, and community based facilities for both adult and juvenile offenders.

It seems to me that the Federal Government should exert needed leadership in this field. Because the Senator from Massachusetts is not only the floor manager of this bill but chairman of the subcommittee, I wonder if he would be willing to respond to the suggestion that I offer my bill as an amendment to the pending bill.

EXHIBIT 1

On page 346, between lines 20 and 21, insert the following new Section, and renumber succeeding sections accordingly:

"§ 577. State and Local Corrections Construction and Program Development Policy

"(a) It is hereby declared by the Congress that

"(1) conditions in many State, county, and local prisons and jails are overcrowded to the point of reaching crisis proportions;

"(2) understaffed and overcrowded prison and jail facilities are unable to provide proper security and safety for both prisoners and staff;

"(3) existing rehabilitation, legal, recreation, medical, and other program services provided by prisons, jails, and other correctional institutions and facilities are inadequate to meet the needs of accused or convicted offenders;

"(4) State and local governments, in many instances, do not have the financial resources needed to respond to the increasing need of the correctional system for appropriate institutional and noninstitutional facilities and services for accused and convicted criminal offenders;

"(5) courts have found that the confinement of persons under conditions prevailing in some State, county, and local prisons constitutes a violation of the Fourteenth Amendment to the United States Constitution;

"(6) these conditions constitute a growing threat to the national welfare requiring immediate action by the Federal Government to assist State and local governments; and

"(7) the continued development of community-based correctional facilities and programs is essential to the development of an enlightened and progressive correctional system.

"(b) It is, therefore, the policy of Congress to provide additional resources to State and local governments for the construction, acquisition, and renovation of correctional institutions and facilities and for the development and improvement of correctional programs and practices within such institutions and facilities.

"(c) As used in this Act—

"(1) 'Construction' means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(2) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

"(d) The Law Enforcement Assistance Administration (Administration) established under title I, section 101, of the Omnibus Crime Control and Safe Streets Act of 1968 (Crime Control Act) is authorized, pursuant to the terms of this Act, to award a supplemental grant to any State, through the State planning agency established pursuant to the Crime Control Act, that submits an approved application for funding under part E, section 452, of such Act.

"(e) Any State desiring to receive a supplemental grant under this Act for any fiscal year shall submit an application in such form and on such date as established by the administration. The application submitted must be consistent with the purpose of this Act, the State's approved application for part E Crime Control Act funding, and any additional terms and conditions established by the Administration consistent with the conditions for funding established in part E, section 453, of such Act.

"(f) At least 75 per centum of the funds allocated under this section to a State for any fiscal year must be used for the construction, acquisition, and renovation of correctional institutions and facilities, the balance to be used for the improvement of correctional programs and practices within such institutions and facilities.

"(g) The funds appropriated each fiscal year to make grants under this section shall be allocated by the Administration among the States according to such factors as their respective (i) general populations, (ii) prison populations, and (iii) costs of correctional construction, for supplemental grants to State planning agencies. Any grant of funds available under this section may be up to 75 per centum of the cost of the program or project for which such grant is made.

"(h) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for supplemental grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this section, that portion shall be available for reallocation to participating States in the discretion of the Administration.

"(i) There are authorized to be appropriated for the purpose of carrying out this section not to exceed $150,000,000 for the fiscal year ending on September 30, 1978, and $350,000,000 for the fiscal year ending on September 30, 1979. Funds appropriated for any fiscal year may remain available until expended."

On page 346, in lieu of "§ 577" on line 21, insert "§ 578."

Mr. KENNEDY. Mr. President, I welcome the opportunity to explain to the Senator from Michigan my own strong concern about the failure of legislation dealing with the whole issue of prisons. I can tell the Senator from Michigan that this is probably as true in my own State of Massachusetts as it is in any State in this country.

Recently, we had a very impressive study done by a former mayor of the city of Boston, John Collins, who is a professor at MIT, to review the prison situation in the State of Massachusetts. This report made some very important recommendations in terms of the modernization, and expansion of our prisons.

Frankly, that message has largely gone unheeded in my own State. The deterioration of prisons in my State and in local communities within my State have reached critical proportions. In one jail in particular, the Charles Street jail, a Federal judge has declared it unfit.

I visited that jail about 8 or 9 months ago. It truly fits the judge's description.

I would think that one of the reasons we have not dealt with the issue of our jails is that too often in the past we have looked for the easy way out on crime. I believe this body has seen that time and time again.

I am hopeful that, with the bipartisan action we are taking with S. 1437, we are at last dealing in a responsible way with the issue of criminal justice. But S. 1437 does not deal with the area of jails and prisons.

I can assure the Senator that the next legislation on track in terms of the Criminal Laws Subcommittee is the LEAA legislation. I am considering a variety of different approaches in terms of that legislation.

As the Senator knows, we have probably spent about $7 billion or $8 billion over the last 10 or 11 years on LEAA.

There needs to be an extensive overview of that program.

I believe one of the prime areas of importance as we review the LEAA program will be the area of prisons and halfway houses along the lines referred to by the Senator from Michigan.

I want to give assurance to the Senator from Michigan that we would welcome his input as we fashion that legislation, which I am very hopeful will be considered and reported by the Judiciary Committee in the next few months.

I think there is a real opportunity to deal with the issue raised by the Senator. I will certainly work very closely with the Senator to begin to cope with the problem outlined by the Senator from Michigan. I do not believe we have done it in the past. We have not done it in the past with LEAA, nor are we doing it in this legislation. It was really not intended to be in this legislation, of course. But I do think there will be an important opportunity to begin the process with the revised LEAA bill. I welcome the opportunity to work with the Senator. I believe we can get some legislative progress in this area in this term of Congress.

The House of Representatives, as the Senator might know, has two items on their priority agenda, the LEAA legislation and this legislation. They are also moving. I know Attorney General Bell has talked to Chairman RODINO, as he has talked with members of our committee and Chairman EASTLAND, about the importance of revamping LEAA. I believe there will be an important opportunity for many of the suggestions of the Senator. I will certainly work closely with him to accommodate those suggestions with other views of the members of the committee. It is a serious problem.

I want to assure the Senator that despite the fact we have not dealt with the problem specifically this year, we do

recognize it, and we will accept all the help we can get concerning it.

Mr. GRIFFIN. Mr. President, I wish to thank the distinguished Senator from Massachusetts for his comments.

I would just like to add this: Along with many others, I believe that incarceration of criminals under proper conditions and circumstances is necessary for the protection of society and is a deterrent to crime.

Those of us who vote for various measures to make the laws tougher, for example, to require mandatory sentencing by judges, also have a responsibility, it seems to me, to see whether there are enough prisons to accommodate the criminals being sentenced.

Too often, legislators at both the Federal and the State levels who rush in the direction of toughening the laws do not look in the other direction to see what is happening to the human beings who are being convicted under the law.

While, I believe State and local governments have an important responsibility in this area, it is just as clear that crime is also a national problem. There are limited areas in which the Federal Government may properly become involved in the war against crime, and it seems to me that the financing of prison facilities is one of these.

I hesitated to introduce this bill, I might say, because I believe that—unless Federal action is forthcoming after the hope of it has been extended—held out—we may do more damage than good if State and local officials delay the construction of facilities while they wait, wait, and wait for the Federal Government to provide assistance. I would hope the committee will take this consideration into account.

I believe it would be well, if there is a consensus that a Federal role should be played, for us to reach some agreement and take action in the near future so that State and local officials will know what they can expect and what they can rely upon. We would not then be in a position, by even discussing such legislation, of having encouraged them to put off the effort which is so desperately needed.

I only add to what the Senator has said, that I hope the committee—in addition to considering provisions of the LEAA legislation—will actually look at the bill we have fashioned, which we have carefully worked out, and which we think is sound. I hope that the hearings will take that bill into consideration as amendments to the LEAA legislation are considered.

Mr. KENNEDY. Mr. President, I say to the Senator from Michigan that we are dealing with the substantive part of the criminal justice system in terms of the law with this legislation—both the codification and the sentencing. We have not dealt with the administration of it, which is basically the LEAA.

The total expenditures in terms of law enforcement are still only about 8 or 9 percent of the dollar that is expended by the Federal Government, but it can be important leverage money. It can also be important in terms of trying at least to focus on the areas of important need.

Doing one without the other is, basically, doing less than even a halfway job on it. That is the approach of those of us who took an interest in the partial revision of the LEAA last year, and we recognize the importance of a total review of it this year, those of us who support this particular program.

I certainly agree that there is an appropriate role for the LEAA in the type of program that the Senator from Michigan has outlined. The extent of it and the balancing of that in terms of other factors is, obviously, going to be a judgmental kind of question, but I think it is one that should be included. It is one that should be worked on. I want to reiterate my own interest and desire to work with the Senator as we come to grips with this issue. We have an appropriate legislative vehicle, I think, to move us in an important way along the lines that the Senator from Michigan has outlined. I am hopeful that we can do it in this Congress.

Mr. GRIFFIN. Mr. President, I have not offered an amendment, so it is not necessary to withdraw it, although it will be printed in the RECORD. I should like my colleagues and others to take a careful look at it. I hope and trust that, as a result of this colloquy, we can make some progress in this area.

I want to indicate to the distinguished floor manager that I shall certainly be available to do everything I can to help. I thank the Senator very much.

Mr. KENNEDY. I thank the Senator.

UP AMENDMENT NO. 1142

Mr. ALLEN. Mr. President. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1142.

On page 166, line 2, insert "and in relation to" after the term "during".

Mr. ALLEN. Mr. President, this amendment has been discussed with the managers of the bill. It has to do with the section making it an offense to carry a firearm in the commission of a crime. By previous amendment, the bill has been amended to provide that this has to be a crime of violence, where a firearm is in possession during the commission of a crime of violence. This amendment would add the further stipulation that the firearm must be possessed in connection with the commission of the crime of violence.

The law now speaks of carrying a firearm and the amendment changes it to possession, because, many times, they might not be carrying it on their person or holding it in their hand; but if it is in their possession. that would be an offense. But if it were in the back seat of a car or some other place, and not actually being used in the commission of the crime, that should not be held to be in possession of the person. This amendment merely requires that the possession of the firearm be related to the commission of the crime. I believe that it is satisfactory with the manager of the bill. At any rate, I offer it.

Mr. KENNEDY. Mr. President, this seems to be acceptable to the committee. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDITORIALS RECOGNIZE THE COMPLEXITY OF THE WATERWAY USE TAX ISSUE

Mr. ALLEN. Mr. President, one of the most complex and complicated issues ever to come before the U.S. Congress involves waterway user charges.

The controversy over whether there should be user charges—and, if so, how much—basically revolves around the question of who primarily benefits from the Federal investment in inland navigation programs: the bargelines or the public generally.

In view of the relationship of water transportation to certain pressing national policy objectives, the public benefits of inland water transportation are now more salient than ever before.

Because agricultural and energy products comprise almost three-fourths of all inland waterway commerce, there are farm policy and energy policy considerations involved.

Since increased transportation costs will be passed on to consumers in the form of higher gasoline tax, electricity, and other costs, the inflationary impact must also be considered.

Higher river barge rates will undoubtedly affect, in addition, industrial growth, employment opportunities and the overall economies of interior river valleys as well as general competitive relationships and the volume of both exports and imports.

Newspaper editors throughout the country are concerned about these national issues, and many of those who have delved into the impact of inland waterway user charges or use taxes have discovered that the proposition is not as simple as it may seem.

In fact, I am afraid that some editorial writers who have endorsed cost-recovery levels of taxation may have oversimplified or ignored the impact. Other newspapers have endorsed H.R. 8309, the 4-to-6-cents-a-gallon waterway fuel tax passed by the other body in October, as a cautious method of making the waterway users "pay something."

In my home State, neither the Mobile Press nor the Mobile Register have had any kind words to say about cost-recovery user charges—or, for that matter, any waterway user charges at all. The newspapers are rightly concerned about the prospective impact of such charges

on the port city of Mobile, terminus of the Coosa-Alabama and Warrior-Tombigbee Waterways, linking Mobile with Montgomery, Selma, Tuscaloosa, and Birmingham.

Several other newspapers—including the New York Journal of Commerce, the Chattanooga Tenn., News-Free-Press, the Memphis Commercial Appeal, the Nashville Banner, the St. Louis Post-Dispatch, the Alton Ill., Telegraph, Traffic World, and the Huntington, W. Va., Herald-Dispatch—have run editorials on the subject of waterway user charge legislation, which illustrates the controversy it has stirred up.

These editorials have sought to put the user charge issue—and the question of replacing locks and dam 26 on the Mississippi River, which first brought user charges to the fore—into a perspective that I think will be informative and of benefit to my colleagues in considering user charge legislation.

For that reason, I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Mobile (Ala.) Press-Register Oct. 27, 1977]

CONGRESS WORKING TO PUT ANOTHER TAX ON CONSUMER

Early in the nation's history, the government adopted a policy of "forever free" waterways. We see no reason to abandon this guarantee of toll-free and tax-free inland waterways.

Unfortunately for both industry and consumer, Congress does.

Congress is considering two pieces of user tax legislation on inland waterways. One of those, proposed by Sen. Pete Domenici (R-N.M.), would implement the equivalent of the 42-cents-per-gallon fuel tax sought by the Department of Transportation. The second bill (H.R. 8309), recently passed by the House, calls for a four-cents-per-gallon tax in 1979 with an increase to six cents in 1981.

While the Domenici bill is more punishing than the House version, both flaunt a tradition that encouraged building, use and maintenance of inland waterways.

No study has been made on how much either bill would affect the cost of shipping on the Tennessee-Tombigbee Waterway, scheduled for completion in 1986. But the Domenici proposal would cost Pittsburgh area industry and consumers a minimum of $29 million annually, according to a study by the Pittsburgh Chamber of Commerce and the University of Pittsburgh.

The results of the study have made some Pittsburgh area residents livid. They claim their economy is already suffering heavily because of below-market-price foreign steel infiltration.

Justin Horan, president of the Pittsburgh Chamber, declared that under the Senate version of the tax, revenues generated by Pittsburgh would be 100 per cent greater than the amount spent to maintain and operate that district's system.

We are hoping, of course, that both bills in Congress will be junked, particularly the Senate bill.

Striking down a longtime policy and tradition on inland waterways for the sake of added taxes brings our cool to a boil. This is just another way, we believe, of cracking the hard-pressed consumer between the eyes.

[From the Mobile (Ala.) Register, Nov. 24, 1977]

RAILWAY USER CHARGE URGED

Legislation to levy a tax on fuel used by inland waterway commerce, starting at 4 cents a gallon and increasing to 6 cents a gallon, passed the U.S. House last month, and is scheduled for Senate debate in January. At that time, an amendment is expected to be offered to require cost-recovery waterway user charges—or the equivalent of 42 cents fuel tax.

All of this brings our cool to a boil.

Inland waterways have been toll-free for some 200 years and, in our studied opinion, should remain that way.

The only bright spot is that enactment of waterway user charge legislation may lead to imposition of railway user charges.

It would surely be unfair to put a new tax on inland waterways, which have received little federal largess compared to railroads, without imposing the same sort of tax on the railroads.

"Why shouldn't railroad companies have to pay user charges, too?" asks Harry N. Cook, executive vice president of the National Waterways Conference. "In view of the fact that railroads are the recipients of continuing and extensive federal aid, it would seem only fair to impose railway user charges in the interest of a neutral national transportation policy."

In discussing the waterway user charge issue, Cook correctly noted the barge and towing industry was "victim of an image created for it by its adversaries."

There is no reason we know of why the barge and towing industry shouldn't urge Congress to place any user charges on railroads that it sees fit to put on the barge and towing industry.

[From the Journal of Commerce, Sept. 20, 1977]

THE PRICE OF DAM 26

It now seems highly likely that waterways operators will have to begin paying users charges two years hence to defray some of the costs incurred by the Corps of Engineers in maintaining and improving inland navigation systems.

Although they have long fought successfully against efforts to impose such charges, those involved in for-hire transportation (represented largely by the Water Transportation Association) appear to have recognized the difficulty of persuading Congress to fund any more important navigation projects along the inland rivers unless they accept what they so long rejected.

The urgent need for new locks at a particular bottleneck on the Mississippi, a facility at Alton, Ill., doubtless spurred their willingness to accept a compromise. Some members of Congress have said they will not vote for the Alton project, which also includes a dam, and President Carter has indicated he won't sign a bill funding it unless it contains some user charge provision. The railroads have been insisting on the charge for many years and have found a staunch ally in the Department of Transportation. In the face of such formidable pressure from the White House, Capitol Hill, DOT and their principal competitors, the waterways operators had little option but to retreat or face defeat.

What waterways operators have agreed to accept is a fuel tax of four cents per gallon on commercial traffic using 26 inland water routes beginning Oct. 1, 1979. This tax rate, about equal to other federal taxes on fuel used in transportation, would increase to six cents a gallon four years hence. It is, naturally enough, more than WTA members want to pay, but considerably less than the railroads think they should pay.

Barge lines will probably have to raise their rates if the bill (HR 8309) passes the House and Senate. This will be good news to the railroads long vexed by waterway competition, though not to industrial consumers of the bulk commodities traditionally moved by barge. As it stands, the bill wouldn't greatly upset the existing relationships between rail and barge rates on bulk commodities. The real question is how long it will be allowed to stand in its present form.

After 1981 that will depend on the pressure that can be brought to bear on Capitol Hill by the railroads, on one hand, and, on the other, by the waterways operators and the industries depending upon the waterways for their raw materials. For the former, disappointed as they may be in the initial tax rates specified in HR 8309, the most important thing is that its enactment would provide a hole in which a powerful lever could be inserted.

This is doubtless recognized by such waterways spokesmen as John A. Creedy, president of the WTA, and J. W. Hershey, president of American Commercial Lines, both of whom endorsed the compromise in addresses before the National Waterways Conference in Kansas City last week. Both know that the price of the locks and Dam 26 at Alton will be the establishment of a precedent that may cause them much trouble in the future.

The precedent, as noted above, involves the concept that commercial users of waterways should bear a share of the cost of maintaining and improving waterways that serve a number of different purposes, not all commercial, such as flood control, recreation and the like. How much of that share should they, and their industrial shippers, be required to bear?

Our guess would be that they will be bearing a fair share of it if HR 8309 is enacted and signed by the President in its present form. What bothers us is the question of what will happen on Capitol Hill after the four cents per gallon tax is raised to six cents in 1981. Will the new fuel taxes (or user taxes) be held to these rather moderate levels for long? Or will the big lever be employed to pry them up to much higher levels? These are questions the shippers will have to bear in mind.

We recognize, as do all parties having a direct interest in HR 8309, that it is more difficult to get Congress to establish a precedent than it is to expand on that precedent, once established. A case in point is the Social Security System, which started modestly as an actuarily-based retirement program managed by the government, but which has been vastly expanded in terms of rates, benefits and coverage for the better part of 40 years.

Another is the minimum wage law. Under the relentless pressure of the labor unions the minimum has been forced upward, step by step, for many years and is apparently to be levered up once again to $2.65 an hour, regardless of indications that one consequence of this will be to close off employment possibilities to teen-agers and unskilled minority workers.

Once the concept of special taxes on users of inland waterways gets on the statute books, it will be relatively easy for Congress to vote increases in the tax rates; much easier than getting the precedent established. So if the barge lines and their customers are a bit uneasy over the price they are paying for Dam 26 and the new locks at Alton, we think they have reason to be. Once Congress gets accustomed to the idea that it can legislate barge rates up to almost any levels, it is any man's guess what it will do.

[From the Nashville (Tenn.) Banner, Sept. 17, 1977]

TAX WATERWAYS DOWN THE RIVER?

(By Paul Greenberg)

America's railroads seem determined to protect the public from all depredations except their own.

The latest free rider spotted by the sharp-eyed railroad lobby is the country's recently improved system of water transportation. Here the government has gone and spent all this public money on the Nation's inland waterways while collecting scarcely any tolls or taxes from the barge companies.

A tax on waterway users, now proceeding through Congress at full speed, would seem to be only fair.

Seem to be is right. Because guess who will foot the bill for this tax. The consuming public. First, in the form of higher rates for water transportation. Taxes do have a way of being passed on. Higher water rates would also allow higher freight rates in general. Rail rates to the Arkansas area dropped dramatically when the Arkansas River navigation system was completed. They could be expected to rise in proportion to any tax on waterway users.

In the past, the railroads have complained that competitive pressures from the waterways "depress" their earnings by some $500 million a year. That should give the public some idea of what the railroads stand to collect as taxes wipe out the differential between rail and water freight rates. Not only the government but the railroads would collect from a new tax on waterway users. That may explain the railroad lobby's sudden interest in equity.

The idea that waterway users are getting a free ride may be fairly convincing if you're not in the business of water transportation. That is, if you don't have to build the docks, contract for the terminals, construct warehouses and elevators, arrange for the special cargo-handling equipment needed on occasion, put in water lines, pay for streets, sewers and frost protection, and consider the cost of railway spurs and highway connections at ports. A lot of money is required to take advantage of this "free" ride.

Harry Cook of the National Waterways Conference estimates that private investment equals 20 to 40 per cent of the improvements made to inland waterways by the federal government. According to his figures, private investment far outstrips the total $5 billion the federal government has spent on waterways since 1824, when it began to get into the business at the behest of Henry Clay. Since 1952, more than $171 billion in private investment has been responsible for some 10,000 new or considerably enlarged plants along the waterways.

It's not as though the waterways were the only beneficiary of government subsidies to transportation, or the biggest. The cumulative investment of the federal government in inland waterways over the years is less than the single $6.4 billion Rail Revitalization and Reform Act. The railroads also have the historic distinction of being the recipients of the largest government grant ever recorded: Land grants encompassing 9.4 per cent of the continental United States as the railroads expanded in the late 19th Century, also known as the Age of the Robber Barons.

Some waterway users are willing to accept a less onerous form of this tax tied to funds for an improved lock and dam near St. Louis. Other users oppose any new tax or toll on the users of the public waterways. The divisions among waterway users over this tax may not indicate a solid front or a very cohesive lobby in Washington. But those divisions do reflect the fierce competition in water transportation, which remains one field in which the conglomerates have not neatly divided the business. It is difficult to see how imposing tolls in this industry would encourage new investment—and therefore competition—either on the waterways or with other forms of transportation.

Perhaps the most dubious aspect of this new waterway tax is its timing. In the midst of an energy crisis, it would penalize a most efficient form of transportation. It's estimated that inland waterways move 16 per cent of America's cross-country freight at a cost of less than 2 per cent of the Nation's total freight bill. Water transportation seldom has been so important to the national interest. And now Washington is proceeding to slap a tax on it.

There is apparently no crisis that Capitol Hill, with some additional thought, initiative and taxes, cannot make worse.

[From Traffic World, Sept. 26, 1977]

A MOMENTOUS TRANSPORT DEVELOPMENT

The soul-searching that J. W. Hershey, president of the National Waterways Conference and chairman of American Commercial Lines, said he had done as he announced support by the conference for imposition of a low-level fuel tax on the barge and towing vessel industry (T.W., Sept. 19, p. 19) was done intelligently and wisely, as would be expected of a successful business leader.

It may have been a difficult decision for an organization of waterways operators to make, but certainly it was sensible. It was impelled in no small degree by a realization that inevitably some sort of waterway user charge legislation would be enacted in the near future. The NWC leaders probably could see a possibility, too, that continued resistance to any kind of waterway user charge would do more harm than good for the industry. The NWC members had reason to be fearful of action by Congress that might make it difficult for them to stay in business—action such as the Senate took last June in passing and sending to the House a bill embodying a "cost-recovery" concept as a basis for determining the level of taxes to be imposed on the water carriers. It has been stated that under this concept the fuel tax on the barge and towboat operators could be as high as 43 cents a gallon. This could be an instance of the use of the power to tax as a means of destruction—destruction of the inland waterway transportation industry, in this case.

"I am certain," Mr. Hershey told the NWC members in their meeting in Kansas City, Mo., "that crippling and ultimately destroying the inland waterway transportation system was an unintended objective of the bill that came out of the Senate. . . ."

The bill that the NWC is now supporting—and for which it is soliciting support—is an amended version of H.R. 8309, introduced on July 14 by Representative Harold T. Johnson (D-Calif.), for himself and Representatives William H. Harsha (R-O), Ray Roberts (D-Tex., and Don H. Clausen (R-Calif.). As introduced, it was titled "a bill authorizing public works on rivers for navigation, and for other purposes." As amended by the House Ways and Means Committee, before being favorably reported by that group on July 25 (T.W., Aug. 1, p. 27), the bill contains provisions under which a four-cents-per-gallon tax on fuel used by the barge and towing industry would become effective October 1, 1979. The tax would be increased to six cents per gallon in 1981.

The annual costs that the Senate-approved bill is designed to recover include most of the annual federal expenditures for operation, maintenance and construction of inland navigation facilities.

Though he contended, in testimony before the House Ways and Means Committee last July, that there was no justification for a tax on the waterways operators, Mr. Hershey argued that "if a tax is imposed, let there be no long-term commitment to increasing it before factual answers are available on its impact."

He asserted that "a commitment now to such an impossible goal as full cost recovery—a goal out of line with the general 'no recovery' policy of the Congress on investments whose benefits permeate the entire economy, and particularly for other water resource projects such as irrigation and water supply—is both unnecessary and highly risky."

"That," he added, "is the position of the (National Waterways) Conference today. We are fighting cost recovery, not a low-level tax."

Possibly a "cost recovery formula" under which the fuel taxes imposed on the waterway carriers would be eminently fair, reasonable and nondiscriminatory could be developed—but we would have serious doubts about the chances for working out a fuel tax formula of that sort that could survive attacks in the federal courts.

We note, with interest, the observations made by Mr. Hershey in his discussion, in his annual report, of "An Opportunity for Public Benefit Recognition."

Referring to a provision of H.R. 8309 as amended and reported by the House Ways and Means Committee, calling for a three-year study of the impacts from fuel tax imposition—the study to be made by the Secretaries of Transportation and Commerce in consultation with the Secretaries of the Treasury, Agriculture, Energy and the Army—Mr. Hershey said that the House committee thereby had recognized "the risk in committing the Congress to cost-recovery tax levels" and that this is "a challenge that offers opportunities."

"The study," he continued, "is to include, but will not be limited to, economic impacts on carriers and shippers using the inland waterways; on the public as users, including the ultimate consumers, of products which are transported on the inland waterways; and on the balance of payments of the United States based on international trade. The study is to include pricing and diversion effects on competition for freight, effects on the cost of energy, and effects on regional development.

"In other words, at long last the opportunity arises for achieving some semblance of a mathematically precise public and governmental recognition of the widespread, interrelated and indispensable public benefits derived at various levels from the federal investment in the inland waterways."

Whether the proposed fuel tax levels—4 cents and, later, 6 cents per gallon of diesel fuel—are sufficiently high may be debatable, but the willingness of the barge and towboat operators to accept them means some degree of satisfaction for those who for many years have argued soundly that escape from user charges by inland water carriers is unfair to other modes against which federal excise taxes are levied. Unless and until the part of waterway project costs properly assignable to navigation beneficiaries can be determined, the "cost recovery" scheme, providing for no separation of such costs from those of improvement for flood control, irrigation or recreational benefit, seems unacceptable. The fuel tax, unless carried to indefensible extremes, seems to us to be fair to the waterway carriers and taxpayers alike.

[From the Waterways Journal, Jan. 21, 1978]

ZERO HOUR NEAR

Washington lawmakers are approaching the zero hour when they will resume consideration of user fee proposals and Locks and Dam 26 replacement.

Not to be separated from this ongoing drama is the recent Senate committee recommendation to end the U.S. Engineers' traditional role in building dams, locks and canals, and in the dredging of harbors and channels. Those water resources development responsibilities of the Corps along with some others, would be transferred to the U.S. Department of Transportation.

Strongly tied into the issues, is the in-

fluence of the railroads and their much publicized charge—myth though it is—that competition from the barge lines is the root cause of all their problems. It never has been.

The Senate Governmental Affairs Committee, in a new, 357-page report, says that the locks and dam proposal shows how the Corps pursues its responsibilities for building and operating the country's inland waterways without considering the impacts on competing modes of transportation, particularly the railroads.

The senators also said that the Engineers' handling of the Mississippi River dam project is an example of the need for reorganizing federal transportation agencies and stripping the Corps of its role.

It may very well be that this nation needs a unified national transportation policy. And it may be that such action as that being recommended by the Senate would, in the opinion of that body, be a step in the right direction. But we said last week, and we repeat today, that in the light of the DOT's performance in recent years as it relates to the future of the inland waterways and the barge and towing industry, it would be a fatal move.

We have never questioned America's need for a viable system of railroads. Pushed into the ultimate corner where it becomes a matter of "either/or," doubtless there are those who would conclude the railroads are more important. Fortunately we are not faced with that dilemma.

We would like to remind our readers that the current plight of the railroads is a product of mismanagement. It is also a by-product of overregulation by a government that has all but destroyed many benefits of the free enterprise system by not allowing it to function normally. It is the "survival of the fittest" characteristic that would have assured strong railroad systems over the years. Unable to stem increasing governmental regulation, the railroads have turned to another approach, that of attacking the barge and towing industry as its arch enemy. They also attack other transport modes.

To the contrary, elimination of barge lines would hurt both railroad and trucking industries, not to mention the businesses that depend upon low-cost water transportation to move the cargoes to keep them operating. Worse, it would be devastating to the economy in general.

When it was revealed in May, 1977, that the Administration planned to propose user fees, it was Transportation Secretary Brock Adams who said a 1,200-foot lock would sooner or later be built at Alton, Ill., "especially because it wouldn't cause significant diversions of freight traffic from railroads." Now, the Senate report derides the Corps because it says the agency has not considered impact on railroads.

It was 10 members of the Senate who, in a letter to Mr. Adams, criticized DOT's report on Locks 26. The DOT tried to support its conclusions with tonnage figures from 1973 and ignored years of record-keeping by the Corps that indicated steady growth. The DOT overestimated shallow draft tonnage threefold.

In recent days DOT spokesmen have expressed the opinion that some railroads may not survive the reorganization necessary to secure a viable railroad network for America. Bravo! The light begins to dawn.

All over America supermarkets fail because the areas in which they operate become saturated. All over America business endeavors of various kinds fall victim to that "survival of the fittest" characteristics that ensures health and continued well-being to those that are operated properly.

It has become increasingly clear over the years that the fate of the barge and towing industry depends entirely upon the convictions of railroad officials and upon those who buy the story that barges and towboats represent the enemy.

It is essential that reason be restored to the deliberations. While the continued survival of the railroad industry is of utmost importance, the weak and mismanaged lines can be allowed to fail or be bought up by stronger lines just as weak and mismanaged barge lines are allowed to fail or be bought up. And there are other considerations.

It was the federal government that established the old Federal Barge Line to counter railroad transport monopolies.

River valley railroads, during the period from 1960–71, experienced a rise in freight carriage of 53.2 per cent, nearly double that of all other Class I railroads.

A Congressional Budget Office study predicts that if the Senate's user fee proposal is passed, it would eliminate 96 per cent of the freight traffic on the Arkansas Waterway. That system is operating in the black much earlier than predicted and private investment there has surpassed that of federal investment.

The demise of the barge lines would result in unacceptable losses to other transport modes and the ultimate end to many businesses, not only those at riverside.

Many cargoes are much too large to be transported by rail. Nuclear reactors, power plant fixtures, offshore oil rigs, to name only a few.

Many cargoes, some hazardous, by their very nature and the vast amounts that must be moved, are not suitable for movement via rail. To bring about the ruination of the barge and towing industry with unreasonable user fees and continued other infringements on the inland waterways, would be to drop the entire burden upon a railroad industry that is decades behind in facility maintenance and a railroad industry many officials feel will be unable to keep up with the increased coal movements expected to be required in coming years.

The inland waterways do play a role in defense, as those who remember World War II can attest.

Finally, it is well to remember that the performance of the railroads, many of them at least, does not justify a willingness to stake the entire future of our country upon them. Federal records document well the failure of some railroads to meet loan requirements, update systems as stipulated when rate hikes are allowed, etc.

It is also interesting to note that the Association of American Railroads reported on January 6 that freight traffic on U.S. railroads totaled an estimated 816 billion tonmiles, 2.7 per cent above the 794 billion tonmiles reported in 1976. The association said the 1977 traffic represents the third best year in railroad history.

Yes, zero hour is near. And what Congress does in the matter of Locks and Dam 26 and user fees will have a great impact on the future of this country.

Reasonable user fees in the form of fuel taxes and a study, as proposed in H.R. 8309, is more sensible than the Senate bill approach. A nation that has lived centuries without fees surely can allow several years of study to determine what the results might be.

We might also remind our readers that the railroads, strong supporters of high user fees on the waterways, long ago announced that appropriate fees would make possible rail increases as high as $500 million annually. That will be but one of the results of user fees.

As for Locks 26, like a worn out car, an undersized sewage treatment plant, and a narrow, badly deteriorating highway, the facility needs to be expanded via replacement. Expansion costs little more than replacement with facilities of equal size. Delay increases the cost by 10 per cent annually.

Gentlemen of Congress, it's up to you.

[From The St. Louis (Mo.) Post-Dispatch, Oct. 21, 1977]

How High the Fees?

President Carter has dropped a bombshell of sorts into the controversy over legislation that for the first time would extract fees from commercial users of the nation's inland waterways. The user-fee principle is riding piggyback, so to speak, aboard separate House and Senate measures paving the way for replacement of Locks and Dam 26 on the Mississippi at Alton with a new dam and a longer, single 1200-foot lock some two miles downstream at a cost of about $432,000,000.

Not content with establishing the user principle, the President is now demanding under threat of a veto that Congress adopt a fee schedule so high that the barge operators fear it would put them out of business and adversely affect the economy. The House earlier provided for a precedent-setting fuel tax of 4 cents a gallon beginning in 1979 and rising to 6 cents in 1981. The Senate, however, would phase in far larger fees over a 10-year period so as to recover all of the operation and maintenance costs and 80 per cent of the construction costs on the inland waterways; this would bring in perhaps 10 times as much as the House measure. The Administration, through Transportation Secretary Adams in a letter to Senator Danforth, now says the President will sign no bill that fails to provide "charges that will recover a substantial portion of the operating and maintenance and new construction costs;" in other words, something pretty close to the Senate's prescription.

That is awfully stiff, particularly given the fact that fees of any size reverse a public policy set in the Northwest Ordinance of 1787 promising that the inland waters should be "forever free, without any tax, impost or duty." There may well be a case in this day and age to require that users carry part or all of the burden of building and maintaining the waterway apparatus. But a prudent Administration surely would want to begin with the House's lower fee schedule to observe its effect on the economy of the river and whether higher barge rates will mean higher rail rates on routes paralleling the rivers. Higher rail rates would do nothing to help pay for the cost of the waterway system.

[From the Chattanooga (Tenn.) News-Free Press, Aug. 14, 1977]

A Difficult Tax Issue

From the earliest days of our nation, our rivers and other waterways have been important to the development of our country.

In fact, frontiersmen settling in the Chattanooga and other Tennessee areas came in large numbers by boat. Our city began as Ross's Landing, a river trading post. Steamboats were early means of heavy transport and passenger travel.

Over the years, river transportation here and elsewhere in our country has seemed to be overshadowed by the age of the jet plane, the big tractor-trailer truck, the train, the bus and the automobile. But river traffic is still of very great importance to the country and to Chattanooga.

From the earliest days, it has been Federal policy to maintain navigation, dredging and improving channels and maintaining navigational markers. Other levels of government and private enterprise have provided other facilities for river service. This has been a reasonable system, since the waterways frequently involve interstate interests.

There is a current political issue involving the question of whether the users of the waterways ought to be taxed in some way to pay for the Federal expenditures for navigational systems.

It might be interjected that companies, of course, do not really pay taxes but only become collectors of taxes. Whatever they may be taxed must be passed on to consumers in the prices they pay. So if there is no user tax, we taxpayers finance the waterways through general taxation. If there is a specific user tax, then we will pay for the waterways in the prices of products that use the waterway system.

The waterway users would like very much for things to be "left as they are," with no direct tax on them for use of the waterways. They point to airlines and the use of public highways by trucks, though they are taxed.

They say it has never been calculated what part of federal expenditures for waterways might fairly be charged against barge use. And they say that under the heaviest tax proposal currently being offered, it might cost from 22 per cent more to ship wheat to 63 per cent more for soybeans to 76 per cent more for hot rolled steel coils.

All of this, of course, could affect Chattanooga and other waterway cities. It might have increased effect here as the Tennessee-Tombigbee Waterway is completed and cuts hundreds of miles off the present water route between Chattanooga and the Gulf of Mexico.

The two major waterway-user tax proposals before Congress are identified as HR 8309, that came out of the House Committee on Public Works and Transportation and the Committee on Ways and Means, and a Senate measure sponsored by Sen. Pete Domenici, R-N. Mex. They are quite different in impact.

HR 8309 calls for new Mississippi River locks and dam, an analysis of the economic effects of a waterways user tax—and a 4-cent-a-gallon tax on fuel on towboats operating on certain inland waterways, beginning Oct. 1, 1979, with the levy rising to six cents after two years.

If Sen. Domenici's plan of 100 per cent recovery of operation and maintenance costs for waterways and 50 per cent of new construction were imposed, the cost to waterway users would be much higher, with much higher costs to be passed along to consumers using waterway shipping.

Obviously, faced with a choice between the two plans, the American Waterways Operators, Inc. prefers the plan of HR 8309.

It is possible to make a good case for some tax on waterway users. There are also good arguments against one. The matter is quite complicated and its ramifications are so broad the layman is in poor position to make an informed judgment. Obviously, so far as economic impact on users of the waterways are concerned, the smaller levy of HR 8309 would be preferable to the heavier one of Sen. Domenici's bill.

Surely, much careful study should precede any action, and we should be careful to seek to avoid a decision that would have an adverse impact on the importance of our national waterways as a vital part of our economy.

[From the Memphis (Tenn.) Commercial Appeal, July 9, 1977]

FAIR FEES ON WATER

Life on the Mississippi nowadays has a heavy commercial beat to it as barges ply the inland artery delivering bulk goods to and from the nation's heartland with efficiency. The health of Memphis and the Mid-South depends in part on the well-being of the waterways system and the industries that use it.

But since federal programs to develop inland water transportation began in 1824, the commercial users have been getting a free ride. They have had their rights-of-way built and maintained by a 100 per cent federal subsidy.

As with every modern president since Franklin D. Roosevelt, President Carter wants to stop this free ride by imposing a system of waterway user fees. But unlike his predecessors, Carter has found the sweetener to make these fees more palatable. He has vowed to veto next years' waterway appropriations, including funds to rebuild Locks and Dam 26 on the Upper Mississippi, unless the legislation includes a fees provision.

In a classic political tradeoff, the Senate voted 71–20 to give the commercial barge industry Locks and Dam 26, where river traffic has bottlenecked for years, while ordering the waterway industry to help pay for future federal navigation aids on shallow-draft inland channels.

The Senate version of the appropriations bill calls for user charges to recover 100 per cent of federal operation and maintenance costs and 50 per cent of capital costs. The former will be phased in between 1979 and 1984 with the latter phased in from 1985 through 1989, according to the version passed under the sponsorship of Sen. Pete Domenici (D-N.M.).

At first, the waterways industry estimated this would lead to a 10 per cent diversion of freight to the railroads, which have long maintained the subsidies give the barge lines an unfair competitive advantage in setting rates. But Domenici agreed to include a fee limit of not more than 1 per cent of the total value of a commodity shipment. This makes potential diversion of traffic even more complex, and not even students of the proposal are prepared to speculate about its effect.

The Senate bill also gives the secretary of transportation until Jan. 1, 1979, to devise a rate schedule after public comment and a hearing. The schedule may use licensing fees, congestion charges, ton-mile charges, lockage fees, capacity fees "or any other equitable system or combination thereof." Congress would then have 60 days to study the secretary's recommendations, which also must take care that no river segment is closed and no one commodity unduly hurt by the charges.

The fees are supposed to make up for inequities in federal subsidy programs to the various transportation modes. While it is true that the commercial waterway users have received fewer total federal dollars than other forms of transportation, the federal subsidy directly attributable to the commercial waterways industry in fiscal 1976 was equal to 41 per cent of that industry's revenues, according to a Congressional Budget Office report. The railroads' subsidy was 3 per cent of 1976 revenues. Commercial airlines got a 1 per cent subsidy, while pipelines none at all.

Spokesmen for the waterway industry say they are not opposed to user fees per se but to the current legislation, which they contend is unfair since no one knows the true impact of federal subsidies on an industry-by-industry basis. One said that—if he had to choose—he would have preferred the amendment proposed by Sen. Adlai E. Stevenson III (D-Ill.). It called for an 18-month study in advance of the fee schedule while the Domenici version would require a subsidies study concurrent with the fees' development.

This point has merit. It is uncertain whether the current legislation would provide a more equitable subsidy program. And the Senate version also would allow little flexibility in helping regional economies that benefit from federal waterway projects along with the barge lines. The Lower Mississippi and Memphis probably would not suffer under user fees as much as the area surrounding Pittsburgh, where the heavy-metals industry is in a price war with foreign iron and steel. Higher transportation costs due to a user fee could seriously hurt that region.

The Tennessee-Tombigbee Waterway was designed to bolster economic development of Alabama and Mississippi, and that region, too, would suffer. Because that waterway is scheduled for completion in 1986, its users would be liable for a smaller construction payback than users of waterways that aren't as far along in the building. And many of these projects, especially in the West, are contemplated to fight regional drouth rather than to aid navigation. Is it or isn't it fair for the federal government to recoup 50 per cent of the capital costs and 100 per cent of the operations and maintenance costs from those who use the waterways for transportation? Nobody knows for sure.

In addition to the equity argument, there is efficiency. For years the waterway users have contended that barge transit is the most fuel-efficient way to move freight on a ton-mile basis. Studies commissioned by the industry as well as by the government have borne this out, but in the new concern about energy conservation, policy-makers are going beyond the limitations of the ton-mile measurements in looking at subsidies programs.

Rivers meander. So do railroad tracks and pipelines, but by 20 per cent less. Currents vary from stream to stream, trackbeds change the steepness of their grades, and pipelines go uphill as well as down. The laws of physics as well as possible detours along the route create many fuel-efficiency variables that don't show up in a ton-mile measurement.

And then, there is the matter of the fuel that's used to truck freight—grain, coal, petroleum, sand and gravel, or metals—from the producer to the dock, railhead or pipeline mouth. This also must be figured on the delivery end.

The problem is that all these variables make it impossible to give a blanket statement about fuel efficiencies when comparing these three relatively fuel-efficient transportation modes. But it's clear all three use less fuel than air or truck transit.

For this reason, the 1977 Congressional Budget Office report on waterway fees made the same recommendations as a 1975 Department of Transportation report on fuel efficiencies. That recommendation: Fuel efficiencies are subject to too many variables to be a precise tool in determining federal policies subsidizing transportation systems.

The waterways supporters say that the railroads are backing waterway user fees only so that they can raise their own rates. The barge lines and tow companies contend they need fewer people to operate and have more head-on competition than the railroads, which often enjoy a monopoly in an area because of the high cost of laying track, much less parallel track. This is one way in which the water transportation industry has been able to provide lower fees to shippers, but it is by no means the only way.

Another argument used to justify continued free access to federally-maintained rivers is that the river rights-of-way are analogous to the railroad land grants of the late 1800s. The land grants, controversial though they were and are, were a matter of public policy to encourage settlement on public lands that were being sold for $1.25 an acre before access to transportation was guaranteed. The grants served that purpose and also increased the price of government lands, benefits that must be considered along with the legendary abuses, poor management and political briberies that followed on some roads and in some regions. The railroad grants were not 100 percent industrywide subsidies.

The fight over federal waterway fees is far from finished. Congress is scheduled to hold a joint conference on the waterways bill when the legislators return Monday from their July 4 holiday recess. But the House Ways and Means Committee is considering calling the bill back on a constitutional joint of order. The fee provision was added by the Senate, and under the Constitution, all revenue-producing measures must initiate in the House.

The time has come to reassess our federal transportation policies to make sure that

government subsidies aren't capricious in creating competitive advantages for one industry over another. In the end, it's usually the consumer who pays the bill in higher taxes or higher prices.

If the waterways industry indeed can provide lower freight rates because it is fuel-efficient, because it is more competitive within the industry as well as with other modes, and because it needs less labor than railroads or pipelines or trucks, it will continue to enjoy a competitive advantage under a fair system of user fees.

But the bill now before Congress is not the answer. It is not fair to the waterway users or to the regions that depend on their services. It is only a poorly-patched compromise that cannot end the inequities on our federal transportation subsidies.

[From the Huntington (W. Va.) Herald-Dispatch, Nov. 9, 1977]

TAX ON RIVER TRAFFIC MAY BE CERTAIN, BUT WHAT OF FUTURE?

Almost two centuries ago, the Northwest Ordinance of 1787 prescribed that use of the nation's inland waterways be "forever free, without any tax, impost or duty." Nevertheless, Congress is getting ready to put the final touches on legislation that would impose the first user fees in river history.

For years, of course, there have been those—especially the railroads—who have complained that, given the millions of federal tax dollars spent on locks and dams along the Ohio and the nation's other navigable rivers, barge operators have been getting a "free ride."

But it wasn't until earlier this year the stage was set for a change in the situation. What happened was that President Carter announced he would oppose replacement of the obsolete locks at Alton, Ill., just north of St. Louis— the busiest locks and the biggest bottleneck on the entire Mississippi—unless the reconstruction were tied to enactment of a river tax on commercial users.

Last month, the House of Representatives approved a bill that authorizes $432 million for a new lock and dam at Alton—and, at the same time, would place a tax of four cents a gallon (increasing to six cents a gallon by 1981) on fuel bought by users of the 25,000-mile inland waterway system.

Back in July, the Senate approved an even higher tax, so the House and Senate must resolve their differences before the legislation can be sent to Carter.

For the most part, rivermen seem to be steeling themselves to accept the tax as inevitable. We share that feeling.

But they also warn that, once the precedent is set, it will be all too tempting for Uncle Sam, no matter how modest the tax might be at first, to hike the tax every year or so to the point where it becomes quite a burden not only to the towing industry but also to the consuming public which ultimately pays any and all taxes. Meanwhile, of course, there's no telling how many bureaucrats would have to be hired to oversee collection of the new river fees.

River cities such as Huntington obviously have a big stake in seeing to it that such a sad situation doesn't come to pass.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

UP AMENDMENT NO. 1143

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. Does the Senator seek unanimous consent?

Mr. ALLEN. Yes; I ask unanimous consent that it may be considered at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1143:

On page 95, line 12, after the word "from,", insert the word "lawfully".

Mr. ALLEN. Mr. President, the bill makes it an offense if anyone, "by force or threat of force, intentionally injures, intimidates, or interferes with another person because he is or has been intimidated, or in order to intimidate him or any other person from, participating in speech or assembly opposing a denial of opportunity to participate"—and I will capsule the balance of it—to participate in civil rights activities, is guilty of an offense.

The key word is that they may not intimidate one from participating in speech or assembly; it does not say that this assembly or speech must be lawful. In other words, under this, there could be unlawful assembly and still you would be forbidden to seek to put a stop to that or interfere with it in any way, even though the assembly was unlawful.

This merely requires that the assembly be lawful, that the participation be a lawful participation. I have discussed it with the manager of the bill, and I hope he will agree that it may be accepted.

Mr. KENNEDY. Mr. President, we are willing to accept the amendment.

If the Senator wishes to add "lawfully," there is no objection, at least by me, in accepting that.

It certainly is acceptable to the members of the committee, and I hope the amendment will be adopted.

Mr. ALLEN. I thank the distinguished manager of the bill.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I have a series of amendments that I would like to submit at this time to the managers of the bill and to their staffs for consideration on a possible acceptance of the amendments. In order that they might have an opportunity to consider these amendments and possibly expedite the further consideration of the bill, I suggest the absence of a quorum at this time, in order that they might have a look at these amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore (Mr. DECONCINI). Without objection, it is so ordered.

UP AMENDMENT NO. 1144

(Subsequently numbered amendment No. 1676)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. Does the Senator seek unanimous consent that his amendment be in order at this time?

Mr. MATHIAS. I so request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes unprinted amendment No. 1134.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 237, after line 35, insert the following:

Before any prosecution may be instituted, for an offense described in this subsection in which venue in more than one district appears to be lawful, the Assistant Attorney General of the Criminal Division of the Department of Justice shall determine whether the proposed prosecution represents an appropriate exercise of discretion with respect to venue.

Mr. MATHIAS. Mr. President, this amendement is a very simple one. It is one as to which I understand the Department of Justice has no obligation. It simply provides a departmental check on multidistrict cases before they are instituted by having an Assistant Attorney General officially take recorded responsibility for the decision to bring the case.

At the present time there is some difficulty in discerning exactly what departmental policy is regarding the use of multidistrict venue provisions.

I might say that this is similar to a provision in S. 1566 relating to wiretaps which require the Attorney General to sign off on foreign intelligence wiretaps. So this is in no way a novel proceeding, and it is one that I urge the Senate to adopt.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. I call for the yeas and nays on the pending amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I suppose it is well to be in the Chamber at all times, and I try to be as much as possible. I did have to leave the Chamber a few moments ago, and I was gone about 3 minutes. When I got back I found this amendment pending by the distinguished Senator from Maryland (Mr. MATHIAS).

It goes back to the issue of venue that we have had up, over, and under in the last 2 days.

This amendment would seem to be a further limitation. Even though they have already limited where these prosecutions can be instituted, and have already limited it, they are not satisfied with that limitation. They seek to limit it further by this language:

Before any prosecution may be instituted, for an offense described in this subsection in which venue in more than one district appears to be lawful, the Assistant Attorney General of the Criminal Division of the the Department of Justice shall determine whether the proposed prosecution represents an appropriate exercise of discretion with respect to venue.

So, Mr. President, venue being as restricted as it is under the committee amendments, the Senator from Maryland apparently wants a further restriction. Because I had only 2 or 3 minues to look at this amendment, if I am wrong in my assessment I am sure the distinguished Senator from Maryland will straighten me out on it. It appears if a district attorney seeks to bring a prosecution against an alleged law violator before he institutes that proceeding he is to clear it with an assistant attorney general who shall determine whether the proposed prosecution represents an appropriate exercise of discretion with respect to venue.

It seems to me that this is just another barrier placed in the way of proceeding with prosecution of alleged law violators.

I hope that the amendment will not be insisted upon. If it is, at the appropriate time I plan to make a motion to table the amendment.

I yield the floor.

Mr. MATHIAS. Mr. President, I wonder if the Senator will just respond to one question. The Senator seems to imply that this is the first time he has seen this amendment; is that correct?

Mr. ALLEN. The first time I have seen the amendment; yes.

Mr. MATHIAS. I express my apologies to the distinguished Senator, because I want him to know that I specifically instructed my staff to give a copy of it to his staff yesterday, and I believe they have done so.

Mr. ALLEN. I do not always work through my staff. It has not been called to my attention.

Mr. MATHIAS. That is a grave oversight for which I want the Senator to have my personal apologies.

Mr. ALLEN. I certainly accept the distinguished Senator's apology.

Mr. MATHIAS. I want the Senator to know that a copy was sent to him, and I do not know through what mischance it did not reach him. It was not sent through the mail so we cannot blame it on the mail this time.

Mr. ALLEN. I appreciate the Senator's consideration. Had I received a copy of it I might be a little better prepared to oppose it, but I will just have to oppose it with my limited capabilities and lack of knowledge and lack of study of the amendment.

Mr. MATHIAS. I have one correction in the short statement I made earlier. I had said earlier the Department of Justice had no objection to it. I understand that was an understatement. In fact, the Department of Justice does endorse this and will find it helpful in the enforcement of the obscenity laws. I am sure the Senator from Alabama wants to do everything possible to improve the enforcement of the law in this respect.

Mr. ALLEN. Yes, I do. I just have a different construction from what the Justice Department has of this, because it would allow the Justice Department to say to a district attorney he could not start a prosecution without being given the go-ahead by the Assistant Attorney General, which may or may not be forthcoming.

I hope the Senator will not insist on the amendment. And I hope he will ask unanimous consent that the amendment might be withdrawn.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, in view of the fact that the Senator from Alabama feels he was taken by surprise by this amendment, I ask unanimous consent that it be temporarily laid aside.

Mr. ALLEN. Reserving the right to object, and I shall not object, I am not basing it on the fact that I was not advised of the amendment. Actually the distinguished Senator is under no obligation to furnish me with amendments that he plans to introduce, and I really do not know why the Senator was kind enough to do that.

Mr. MATHIAS. The fact is that I did.

Mr. ALLEN. And I am advised by a member of my staff that the Senator did. I knew he had because he said so, and I had received a copy of the amendment.

I would like it withdrawn on the basis of its merit or lack of merit rather than the fact that the Senator from Alabama was taken by surprise. I do not charge that.

Mr. MATHIAS. On whatever ground, Mr. President, I ask that it be temporarily laid aside.

Mr. ALLEN. Well, I object to its being temporarily laid aside. I would ask the Senator to withdraw the amendment.

Mr. MATHIAS. I will make a point of order that a quorum is not present.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent that the Mathias amendment be set aside.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

UP AMENDMENT NO. 1145

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order. The clerk will state it.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) for himself and Mr. METZENBAUM proposes unprinted amendment numbered 1145:

On page 12, after line 3, add after the item relating to section 4031 the following new items:

"4032. Restriction on Employment Disabilities

"4033. Attorney General Regulations.

On page 311, after line 30, add in the chapter analysis after the item relating to section 4031 the following:

"4032. Restriction on Employment Disabilities.

"4033. Attorney General Regulations."

§ 4032. Restriction on Employment Disabilities

"(a) Employment of Offenders. Notwithstanding the provisions of any other federal statute, a federal government agency may not consider that a person has been convicted of a federal, state, or local offense in determining whether to grant the person employment or access to employment, *unless:*

"(1) there is a reasonable relationship between the conduct constituting the offense that was the subject of the conviction and the profession, occupation, or employment; and

"(2) if three years have expired since the later of the person's sentencing and his release from any imprisonment, the government agency determines that, despite the passage of time, the person's criminal offense and his behavior and character since such sentencing or release render the person unsuitable to engage in the profession, occupation, or employment.

"(b) Statement of Reasons for Nonemployment. If a federal government agency denies employment or access to employment to an applicant in whole or in substantial part because of his conviction for a federal offense, the government agency shall provide the person with a statement of the reasons for the denial.

"(c) Inapplicability to Certain Applicants.—This section does not apply to:

"(1) an applicant for admission to the

bar of a federal court, or for employment as a law enforcement officer with a federal government agency; or

"(2) a candidate for appointment by the President to a federal office.

On page 311, line 32, delete "No" and insert "A".

On page 311, line 32, delete "shall" and insert in lieu thereof "may not".

§ 4033. Attorney General Regulations.

"The Attorney General shall issue regula- subchapter.

Mr. BIDEN. Mr. President, the amendment, I think, is fairly self-explanatory, but I shall take 2 minutes to elaborate on it, if I may.

One of the things that seems to have been concluded by people on all sides of this criminal code reform issue is that we do not know very well how to rehabilitate, if we know at all. But one thing we have pretty well figured out is that once a person has served time, whatever that time is, in a Federal, State, or local facility, the chances of that person being a recidivist, going back to jail, has some relationship to whether or not that person is able to get permanent employment somewhere. That is, the people who have served time and end up, after serving their time, having a good, decent job, by which they can provide for their families and themselves and their self-esteem, tend to be the ones who do not go back into jail.

At the Federal level and at the State level, we have provisions that say an ex-convict cannot work in a Federal agency or cannot get a license at a State level to be a barber or cannot work for the sewer department. Although I would like to see, eventually, a policy where that entire mentality is stricken at the State and local and at the Federal level, this amendment merely speaks to the Federal level. It says that if there is a convicted felon of a Federal offense, and that person, after having served his time and after 3 years have expired, applies for a job with a Government agency, he cannot be denied employment with that agency unless it can be shown that there is a relationship between the crime the person committed and the job. That is, they could argue that it does not make good sense to put a convicted rapist, even though he has been out 3 years, working in a women's prison, or a bank embezzler working at the Fed, or whatever. If they can show a nexus between the crime for which time was served and the job being sought, they could deny employment on that ground.

Furthermore, as the amendment states, if there is, after 3 years having expired, evidence that the person seeking the job, the ex-con, has not abandoned his or her former ways, their character is still in serious question—they still have a criminal character—they can, in fact, deny employment then. But when they do it under that circumstance or the other, they must put in writing why that person is being denied the job.

It is as simple as that. The idea was toyed with of expanding this concept to say that State governments could not deny State licenses to Federal ex-cons. Although I think that is constitutional, I do not believe it is practical at this point. So I do not want to confuse people. We are not, at this point, in any way impacting upon the States' ability to say, "We will not grant a license to a local, State, or Federal offender." They can still do that, although I quite frankly think that is ill-advised. They can still do that. This merely affects Federal employment.

One last thing. There are two caveats: If a person is convicted of a Federal offense and serves time, he or she can still be denied access to practice before the Federal courts, the Federal bar. And he or she can still be denied access, on its face, from working for a Federal police agency, a Federal law enforcement agency. So those prohibitions are not lifted.

It does say that if a person had been convicted when he or she was 19 years old of grand larceny of an automobile that they took from Maryland into Delaware, and 20 years later. they go for a job—after having gotten a CPA and practiced, he or she wants to work for the IRS—they could not be denied employment with the IRS merely because, 20 years ago, they had committed a crime for which they served their time.

Again, in conclusion, Mr. President, the bottom line of all this is, it seems to me, if we could get ex-convicts jobs after they serve their time, we would have a potential to affect seriously the rate of recidivism. I think we now have contradictory Government policies.

I really have nothing more to say on it, Mr. President. I yield back whatever time is left.

Mr. KENNEDY. Mr. President, the Senator from Delaware raised this issue during the course of committee consideration on the legislation. He had some amendments dealing with this issue. At that time, we knew the Justice Department was working on this program.

It is an idea whose time has come and I think the Senator from Deleware deserves great credit for dealing with this issue.

Perhaps with the example that is set with this amendment, we can encourage positive responses by the States.

I think it is warranted. It is justified. I heard the presentation in our committee for this and it was illustrated with a series of examples involving human tragedy, individuals who obviously were interested in trying to join the labor market. It seemed every door was closed to them, even though the employment they were seeking was far removed from their crimes.

It seems to me to be an important beginning. It seems to me it would be a useful addition to the legislation.

So, if there is really no objection to this, I would hope we could accept it. I know the Senator is going to continue to work on this. I know the Justice Department will.

I am hopeful we can make some progress in this area with the amendment of the Senator.

Mr. THURMOND. Mr. President, I would like to ask the distinguished Senator a question.

As I understand, the Justice Department is working on this matter now. Have they recommended approval of this?

Mr. KENNEDY. As I understand, the Senator from Delaware has been working in this area. The Justice Department also. The recommendation which they are presenting here is basically what has been worked out by the Justice Department.

Mr. THURMOND. I think the Senator can best answer this.

I would like to inquire whether the Justice Department has recommended this amendment, or something similar?

Mr. BIDEN. The Justice Department, if I may answer, has recommended this amendment.

During our negotiating stage, they indicated they would like to see something beyond this. But the ultimate conclusion is that what I introduced was not only recommended, it is actually the language they helped me draft, their draftsmen actually sat down with the language.

Although, I must tell the Senator I did disagree with the Justice Department on extending it at this time to include States. That is the only difference.

They do agree with this, although they would like it to go further. They accept this version.

Mr. THURMOND. Is there any way here to protect the Government in security matters, for security positions?

Mr. BIDEN. Clearly, there is an absolute prohibition.

I do not have the subsection before me—subsection (c) says that an applicant for admission to the bar of the Federal courts or for employment as a law enforcement officer with the Federal Government, or Government agency.

So this would include the CIA, the NSA, the FBI.

Mr. THURMOND. How about Defense?

Mr. BIDEN. Defense Department, any agency.

Mr. THURMOND. Does that say "Defense," too?

Mr. BIDEN. No; it does not. But I think the rational nexus would carry that.

I would have no objection to including that.

Mr. THURMOND. Would the Senator be willing to add "Defense and State Departments"?

I think those two are matters of tremendous concern to this Nation.

Mr. BIDEN. I would be willing to add "Defense" to that. I would not be willing to add the "State Department" because, right now, if there is a law enforcement aspect to the State Department's operation, they would be precluded. But I would not want it to be thought they could preclude someone from being a typist at the State Department because they had been convicted of a crime.

Mr. THURMOND. Would the Senator amend it to do it this way? Would the Senator then include "Defense" and then "any position where clearances are required"? I think in that way it might——

Mr. BIDEN. Yes; I would have no objection to that at all.

Mr. THURMOND. If the Senator will

send up an amendment along those lines, I would not object further.

Mr. BIDEN. If the Senate will give me just a moment, I will do so.

UP AMENDMENT NO. 1146—MODIFICATION OF UP AMENDMENT NO. 1145

Mr. BIDEN. I would like to suggest language that would, I think, meet the Senator's concern, and a valid one.

If we add a third section that says that an applicant for any position which requires a security clearance—just any position—any position in the Government that required security clearance, they would be precluded from having Federal employment as a consequence of a former Federal crime.

That would include all, Defense, Agriculture, State Department. That would include everything.

Mr. THURMOND. Mr. President, in view of that, I will not object.

Mr. BIDEN. I would like to send my amendment to the desk and ask the clerk if he will read the amendment, which is a new section 3.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes an unprinted amendment numbered 1146 to his unprinted amendment No. 1145:

At the end of section 4032(c)(2) add the following subsection:

(3) an applicant for any Federal position which requires a security clearance.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

Mr. HART. Mr. President, I support of the proposal offered by Senator BIDEN. Ask anyone on the street why a criminal should be punished and the likely response will be "because he deserves it." Ask the same person how severely the offender should be punished and he will likely respond that the punishment should be based on the seriousness of the offense.

The principle of "desert"—variously called "just deserts," or "commensurate deserts" or simply "proportionality"—figures prominently in everyday thinking about crime and punishment. This principle involves a focus on the past, rather than any prediction about the future.

The focus on the past once held the predominant place in the jurisprudence of sentencing. But in recent times it has been almost eclipsed by a focus on the future: On the deterrent effect of punishment, or on the offender's need for treatment or likelihood of recidivism. The "individualized" method of sentencing is often referred to as the "medical" or "rehabilitative" model.

But one effect of the individualized system of sentencing—unforeseen by those who, for humanitarian reasons, placed so much faith in its merit—has been a system characterized by glaring inconsistencies. Offenders convicted of similar crimes under similar circumstances are often given widely differing sentences.

One purpose of the sentencing provisions of the Criminal Code Reform Act is to reduce unwarranted disparities in sentencing. A Sentencing Commission is established to promulgate sentencing guidelines and is directed to develop a system that is fair and equitable: A system which reflects a general definition of jusitce under which like cases are treated alike and unlike cases are treated proportionately to their differences.

Mr. President, the sentencing provisions of this bill represent the most sweeping reform in sentencing this country has ever had. We are entrusting a great deal of faith in the Sentencing Commission to develop acceptable guidelines. I think it is important, therefore, that our direction be as clear as it can be.

I think that the sentencing provisions of the bill on the whole are excellent. I am concerned, however, about certain feautres of section 994 which relate to factors the Sentencing Commission considers in establishing categories of defendants for use in the guidelines. I am concerned that these factors might result in guidelines which deviate too much from the principle of "commensurate deserts," and that the result could be disparate sentences based on factors totally unrelated to the seriousness of the offense.

I recognize that the objective of commensurate deserts can conflict with other objectives. For example, if an offense is not serious but its repeated commission places an undue burden on the people or the courts, deterrence should also be considered as one purpose of punishment.

But the principle of commensurate deserts is a requirement of justice, while other factors or concerns relate not to justice, but to controlling crime. These other considerations are legitimate and important but should never be given priority over the requirement of justice that there should be equal treatment for the equally deserving.

The factors outlined in subsection (d) of section 994, which appear on pages 352 and 353 of the bill, would allow the Commission's guidelines to encourage the length of a prison term in some cases to be based on factors such as education, vocational skills, previous employment record, family ties, and community ties. While such factors are perfectly appropriate for use in determining a sentence other than imprisonment, it seems to me to be patently unfair to put one person in prison longer than another simply because he has no family, or education, or ties in the community.

I think the only factors which normally should be considered in imposing a term of imprisonment are the seriousness of the offense; the mental and emotional condition of the defendant, to the extent that such condition mitigates the defendant's culpability; the culpability of the defendant; his role in the offense; and his prior criminal convictions.

Mr. President, the Senator from Delaware demonstrates his continued deep concern for the issue of sentencing by raising this important issue. I support the amendment; I think it has great merit.

I am sure the distinguished floor manager of the bill, the Senator from Massachusetts as well as the distinguished Senator from South Carolina, is sympathetic to our concern. I understand the general reluctance to tie the Commission's hands by stating categorically that under no circumstances should some of these factors be considered for purposes of determining a term of imprisonment.

But it should be pointed out that this amendment in no way would tie the hands of a sentencing judge. A judge is allowed, under the provisions of the bill, to sentence outside the guidelines for good cause shown. This amendment, therefore, would retain the degree of flexibility our judges need to sentence in an intelligent fashion. At the same time, however, this amendment makes a significant contribution to certainty of punishment—one of the principal purposes of the sentencing provisions of the bill.

What this amendment says is clear: No one should be imprisoned for reasons other than what they have done in the past—the seriousness of the offense, their role in committing it, their criminal history. No one should be imprisoned because of his education, his vocational skills, or family or community ties, or lack thereof.

I hope my colleagues see fit to support this excellent amendment.

Mr. BIDEN. Mr. President, I would like to thank the managers of the bill for their time on this and the kind words by the Senator from Massachusetts for me.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Delaware.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 1147

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask unanimous consent that it may be in order to consider it at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1147:

On page 261, line 22, after the word "defendant." insert the following: "The motion shall state with particularity in writing the grounds therefor."

Mr. ALLEN. Mr. President, section 3611 of the new proposed code blithely eliminates the minimal safeguard of written notice of the grounds for a motion for a hearing to determine the mental competency of a defendant. Existing law permits such a motion to be made by either the defendant or the Government; however, the motion must state in writing the grounds supporting the belief that there is reasonable cause to believe that the defendant is mentally incompetent to understand the nature of the proceedings against him or to assist in his defense. While it is true that rule 47 of the Federal Rules of Criminal Procedure provides that all motions must state the grounds upon which they are made, rule 47 does not provide the additional safe-

guard of written notice which is now provided in existing statute. (See 18 U.S.C. 4244.) Given the serious potential for abuse of a defendant's civil rights in a proceeding based on a Government motion for a hearing to determine competency, there is no reason whatsoever not to continue in the new proposed code the minimal safeguards provided in existing statute.

I have discussed this matter with the distinguished manager of the bill, and I hope he will agree that it may be adopted.

Mr. KENNEDY. Mr. President, there is no objection to this amendment. I think it is advisable. It is consistent with the other provisions of the bill, where we require that there be written statements. This insures that in the area of mental competency there will be written statements indicating with particularity, the reasons for a hearing.

At the present time, I understand that in all instances the reasons are in writing, but we should insist upon it.

This amendment is useful in clarifying the intention, and I hope it is adopted.

Mr. THURMOND. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I hope we will be able to finish the bill on Monday. We have submitted approximately 10 amendments to the managers of the bill, in the hope that they will be able to agree to them or point out possible revisions of the amendments that would make them acceptable. They have been submitted to the managers in order to expedite the movement of the bill, and I hope that on Monday we can move on toward passage of the bill. That being the case, I hope that in a short while we will be allowed to do this, in accordance with the wishes of the distinguished majority leader.

At this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 1 P.M. ON MONDAY, JANUARY 30, 1978

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that on Monday the Judiciary Committee will be conducting hearings with respect to the nomination of Mr. Webster for the office of FBI Director, I should think that it would be well for the Senate not to come in until, say, 1 p.m.

The distinguished manager of the bill that is currently pending on the floor, Mr. KENNEDY, is a member of the Judiciary Committee. The ranking member of the committee who is handling the bill at this point on the floor is also on the Judiciary Committee. I am on the Judiciary Committee, as is Mr. ALLEN, who has been very active in participating in the consideration of the unfinished business. Obviously, it would be to the advantage of these Members, who want to be present at the confirmation hearings on Mr. Webster, and who also are needed on the floor with respect to the pending business.

Therefore, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 1 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1437 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to receive a general intelligence briefing from Adm. Stansfield Turner of the Central Intelligence Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, I have just had a conversation with the distinguished Senator from Alabama, in which conversation I asked the Senator if it would be possible for him to lay before the Senate an amendment today, at the close of business, so that we could get a good running start on Monday, and possibly have a time agreement on his amendment, so that Members would know at approximately what time on Monday we might expect a vote. I believe he is prepared to respond.

Mr. ALLEN. I thank the distinguished majority leader for his consideration with respect to the hour of convening of the Senate on Monday, in view of the important hearings that are being held by the Judiciary Committee, of which a number of us are members and at the same time are interested in the consideration of this bill.

Prior to the recess, I will call up an amendment, and I do not believe it will be necessary that a time limit be agreed upon, because the debate, so far as the Senator from Alabama is concerned, will be of short duration.

Mr. ROBERT C. BYRD. Very well. I thank the Senator.

Mr. ALLEN. If the Senator will request a quorum call, I will have the amendment in about 5 minutes.

Mr. ROBERT C. BYRD. I will do that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there being no morning business today, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

PROPOSED RESCISSION OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 144

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which, without being read, was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Human Resources, the Committee on the Judiciary, and the Committee on Finance, jointly, pursuant to the order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three proposals to rescind a total of $55.3 million in budget authority previously provided by the Congress. In addition, I am reporting six new deferrals of budget authority totalling $1,517.1 million and seven revisions to previously transmitted deferrals increasing the amount deferred by $2.2 million in budget authority.

The rescission proposals affect the military assistance program, the Department of State's appropriation for contributions for international peacekeeping activities, and the revolving fund of the Federal Home Loan Bank Board.

The new deferrals and revisions to existing deferrals involve programs of the Departments of Agriculture, Commerce, Health, Education, and Welfare, Justice, Labor, Transportation, the Treasury, and the Panama Canal Zone

Government, the National Science Foundation, and the United States Information Agency.

The details of each rescission proposal and referral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *January 27, 1978.*

REPORT ON SPECIAL INTERNATIONAL EXHIBITIONS—MESSAGE FROM THE PRESIDENT—PM 145

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which, without being read, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by law, I transmit to the Congress the Thirteenth Annual Report on Special International Exhibitions conducted under the authority of the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87–256).

This report covers exhibitions presented abroad by the U.S. Information Agency at international fairs and under East/West Cultural Exchange agreements, as well as exhibitions and labor missions presented abroad by the Department of Labor and the Department of Commerce. This report covers events prior to the beginning of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *January 27, 1978.*

PRESENTATION OF PETITIONS

Mr. PELL. Mr. President, on behalf of myself and my distinguished colleague (Mr. CHAFEE), I present a memorial adopted by the Senate of the General Assembly of Rhode Island. I ask unanimous consent that it be printed in the RECORD and appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (POM–448), which was referred to the Committee on the Judiciary, reads as follows:

POM–448

Senate resolution memorializing the President and the Congress of the United States to proclaim the week of April 23 through April 29, 1978 as National Forgotten Victims Week.

Whereas, it is the duty of all citizens and institutions to play positive roles in improving the plight of victims of violent crime and their survivors, and to restore effectiveness in the administration of justice; and

Whereas, according to the National Institute of Law Enforcement and Criminal Justice in Washington, D.C., older citizens in this country suffer more crime than almost any other group, and seldom fully recover, financially, physically or psychologically; now therefore be it

Resolved, That the senate of the state of Rhode Island and Providence Plantations hereby memorializes the President and the Congress of the United States to proclaim the week of April 23 through April 29, 1978 as National Forgotten Victims Week; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to President Carter, the presiding officer of the United States senate, to the presiding officer of the United States house of representatives, and to the senators and representatives from Rhode Island in the congress of the United States.

Mr. PELL. Mr. President, last September I introduced a bill, S. 2137, to provide that social security benefit increases will not be considered as income or resources for the purpose of determining the eligibility for or amount of assistance which any individual or family is provided under certain Federal housing laws.

By preventing social security cost-of-living increases from being treated as income for Federal housing eligibility or rent determination, this bill would ease the burden now placed on the nearly one-half million social security recipients living in federally subsidized housing. In my own State of Rhode Island over 3,000 elderly occupants of Federal housing suffer rent hikes every time they receive social security increases, the most nominal of income increments. I hope during this session of Congress my bill will receive the serious consideration it deserves.

And in this regard, I present to my colleagues a memorial from the House of the General Assembly of Rhode Island requesting this Congress to eliminate rent increases which are tied to social security increases for senior citizens in Government-subsidized housing apartments. I ask unanimous consent that it be printed in the RECORD and appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (POM–449), which was referred to the Committee on Banking, Housing, and Urban Affairs, reads as follows:

RESOLUTION

Whereas, the current state of the economy has had an adverse effect on most Americans, particularly the elderly who have fixed incomes; and

Whereas, maintaining one's dignity, health and spirit while living within the confines of a fixed income is a monumental task; now, therefore, be it

Resolved, That this house of representatives of the state of Rhode Island and Providence Plantations hereby respectfully requests the congress of the United States to eliminate rent increases which are tied to social security increases for senior citizens in government subsidized housing apartments; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the senators and representatives from Rhode Island in the congress of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 367. An original resolution authorizing additional expenditures by the Committee on Energy and Natural Resources. Referred to the Committee on Rules and Administration.

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

S. Res. 368. An original resolution authorizing additional expenditures by the Select Committee on Indian Affairs. Referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DECONCINI (for Mr. FORD):

S. 2442. A bill for the relief of Natvarlal Govindji Patel; to the Committee on the Judiciary.

By Mr. ABOUREZK:

S. 2443. A bill to provide for congressional review of proposed changes in postal services; to the Committee on Governmental Affairs.

By Mr. RANDOLPH:

S. 2444. A bill to amend the Act of August 8, 1972 (Public Law 92–367) relating to a national program of inspection of dams; to the Committee on Environment and Public Works.

By Mr. MATSUNAGA:

S. 2445. A bill for the relief of Jutta Renate Kruparz; to the Committee on the Judiciary.

S. 2446. A bill for the relief of Caroline Valdez Sulfelix; to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself and Mr. INOUYE):

S. 2447. A bill to amend title 5, United States Code, to include as creditable service under the civil service retirement system periods of service as contract technicians by individuals hired by private authority to perform work under Federal supervision pursuant to a contract between such private authority and the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METZENBAUM (for himself and Mr. ANDERSON) (by request):

S. 2448. A bill to amend the Emergency Natural Gas Act of 1977 and the Natural Gas Act, as amended, to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2449. A bill to provide in cooperation with the States benefits to individuals who are totally disabled due to employment-related brown lung disease and to the surviving dependents of individuals whose death was due to such disease or who were totally disabled by such disease at the time of their death; to the Committee on Human Resources.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, and Mr. JAVITS):

S. 2450. A bill to extend the assistance programs for community mental health centers and for biomedical research, and for other purposes; to the Committee on Human Resources.

By Mr. GARN:

S. 2451. A bill for the relief of Cho Tung Tang; to the Committee on the Judiciary.

By Mr. JACKSON (for himself, Mr. PELL, and Mr. GOLDWATER):

S.J. Res. 106. A joint resolution to provide for the reappointment of A. Leon Higginbotham, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; the Committee on Rules and Administration;

S.J. Res. 107. A joint resolution to provide for the reappointment of John Paul Austin as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration; and

S.J. Res. 108. A joint resolution to provide for the appointment of Anne Legendre Armstrong as citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABOUREZK:

S. 2443. A bill to provide for congressional review of proposed changes in postal services; to the Committee on Governmental Affairs.

CHANGES IN POSTAL SERVICES

Mr. ABOUREZK. Mr. President, I am today introducing legislation designed to require the Postal Service to seek congressional approval for any proposed changes in the level or types of postal services. An identical bill, H.R. 9146, was introduced by Congressman NIX last September along with 23 members of the House Post Office and Civil Service Committee. The House Post Office and Civil Service Committee incorporated the provisions of this bill into H.R. 7700, the omnibus postal reform bill, which was favorably reported by the committee on October 18.

Under this bill when the Postal Service determines that there should be any changes, the Postal Service should submit to each House of Congress a detailed statement of the proposed change, including estimates of the impact of the changes on the public, business mail-users, service levels, postal finances, and postal employment. The proposed change would be considered by the appropriate committees of the Congress. If within 60 days either House adopts a resolution of disapproval of the change, the change cannot become effective.

Under the law as it presently stands, whenever the Postmaster General wishes to make a change in postal services which would have "a nationwide or substantially nationwide effect" he must seek the advice of the Postal Rate Commission. However, he is not required to follow their advice. Establishing postal policy is the constitutional responsibility of the Congress, policy decisions should not be left up to one individual, the Postmaster General.

Congress must reassert its constitutional responsibility and role in determining postal policy. For too long the Postal Service has not had to defend its policies and priorities before the Congress, the administration, and the Nation. Since the Postal Service does not have to come to Congress for authorization of its programs or appropriations of most of its revenues, it has traditionally turned a deaf ear to the expressed sentiment of the Congress on postal matters.

The public should not be expected to bear the brunt of an evergrowing postal deficit that might eventually result in closing of small post offices throughout the country, and the curtailment of special services without the ability of the elected representatives of the people to review its policy decisions and pass on its finances.

In 1970, when Congress passed the Postal Reorganization Act, everyone had high hopes for reorganization and especially that it would lead to streamlined management and better services. After 7 years, however, it is the general consensus of everyone familiar with the Postal Service that the Postal Reorganization Act was a well-intentioned idea that failed. As a result, the past 7 years have been marked by reductions in services and ever-increasing postal deficits.

The best way to insure a congressional voice in postal policy is to require the Postmaster General to come to the Congress for approval of such changes. It is long past the time we reviewed the Postal Service operations and give ourselves a mechanism to do so regularly. The public expects it and the constitution demands it.

In the near future the Senate Governmental Affairs Subcommittee on Energy, Nuclear Proliferation and Government Services will once again be considering postal reorganization legislation. I would hope that any legislation the committee drafts will give serious consideration to the provisons of this bill and those included in S. 1692, a bill I cosponsored last year with Senators MELCHER, BURDICK, and MCGOVERN in addition to H.R. 7700 as recently reported by the House Post Office and Civil Service Committee. I, like many of my colleagues, have questions regarding certain aspects of H.R. 7700, however, I do believe that it is a necessary step in the right direction for dealing with the ever-growing problems confronting the U.S. Postal Service.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3661 of title 39, United States Code, is amended to read as follows:

"§ 3661. Changes in postal services

"(a) When the Postal Service determines that there should be a change in the level or types of postal services, and such a change would have nationwide or substantially nationwide impact, the proposed change shall be submitted to the Congress in accordance with this section.

"(b) The Postal Service shall submit to each House of Congress a detailed statement of the proposed change, including estimates of impact upon the public, business mail users, service levels, postal finances, and postal employment.

"(c) A proposed change submitted under this section is subject to the provisions of sections 906 and 908 through 913 of title 5, United States Code except that the term 'proposed change' shall be substituted for the terms 'reorganization plan' or 'plan' each time they appear.

"(d)(1) for purpose of this section, a change in the level or types of postal services includes—

"(A) a change in the number of days each week mail is delivered over letter carrier, rural, and star routes;

"(B) a change in the number of days each week and hours each day post offices are open to the public to transact business;

"(C) an increase in the periods of time used as the standard for the timely delivery of mail matter as of September 1, 1977;

"(D) a change in the standards which would further restrict the eligibility to receive mail by letter carrier, rural, or star route delivery; and

"(E) changes in other levels and types of postal services which have been provided to the public generally.

"(2) For the purpose of this section, a nationwide or substantially nationwide change in service includes any change which has effect in more than one geographic or administrative region established by the Postal Service.".

(b) The heading for subchapter IV of chapter 36 of title 39 is amended to read as follows:

"Subchapter IV—Changes in Postal Services and Rate and Service Complaints".

(c) The table of sections of chapter 36 of title 39, United States Code, is amended by striking out the matter relating to subchapter IV and inserting in lieu thereof the following:

"Subchapter IV—Changes in Postal Services and Rate and Service Complaints

"3661. Changes in postal services.
"3662. Rate and service complaints.".

By Mr. RANDOLPH:

S. 2444. A bill to amend the act of August 8, 1972 (Public Law 92–367) relating to a national program of inspection of dams; to the Committee on Environment and Public Works.

NATIONAL DAM INSPECTION

Mr. RANDOLPH. Mr. President, today I introduce legislation to amend Public Law 92–367, the National Dam Inspection Act of 1972.

We have become increasingly aware in recent years of the dangers of unsafe dams. Six years ago the Buffalo Creek Dam disaster in West Virginia resulted in the deaths of 125 persons. In June of 1976 the Teton Dam failure in southeastern Idaho caused 11 deaths and hundreds of millions of dollars in damages. The Toccoa dam failure in Georgia last November claimed nearly 40 lives.

Members of the Congress have been aware of this problem. In 1972 a national program for dam inspection was authorized. The Corps of Engineers was directed to inspect non-Federal dams in the Nation, compile an inventory of all those conforming to certain size criteria, report inspection results to States, and recommend to the Congress a comprehensive national program for dam safety. The corps was to report to the Congress by July 1974, on the progress of the inspection program.

That report was submitted in November 1976. It contained an inventory of 49,329 existing dams, and estimated that nearly 40 percent, or approximately 20,000 of these dams were so located that dam failure could result in loss of human life and appreciable property damage.

Contrary to the mandate of the 1972

act, the corps did not actually inspect these dams. Their initial request for funding in 1972 was rejected by the Office of Management and Budget, which believed that inspection of non-Federal dams should be a State or local responsibility. The total financing for the dam inspection program from 1972 to 1977 was only $3 million, which was used for inspection guidelines and compilation of the inventory. While the 1972 act also provided for corps technical assistance to States on request, such assistance had to be provided from other existing funds, as no money was appropriated for these services.

The Corps of Engineers has estimated that a preliminary inspection of non-Federal dams would require $75 million annually for 5 years. The fiscal year 1978 appropriations bill contained $15 million for the dam inspection program. That money was not requested by the administration, but was added by the Congress in its continuing concern that his authorized program be implemented. The money was not allocated to the corps until after the Toccoa Falls disaster. It is being used to begin examination of dams posing the greatest hazards to population centers downstream.

Mr. President, there are many problems with the Federal inspection of non-Federal dams. My legislation addresses the two areas of right of entry and liability.

The majority of non-Federal dams are located on non-Federal property. The intent of the 1972 Dam Inspection Act was to permit the Corps of Engineers to have access ot damsites and pertinent records. I believe it is desirable to clarify this authority to avoid possible misunderstandings or disputes. This bill, therefore, clearly gives the Corps of Engineers right of entry to all damsites and pertinent records in order to accomplish the authorized inspection activities.

The bill also adds a new subsection to the act providing for priority in the courts for consideration of any judicial proceedings subsequent to dam inspection activities. The potential dangers presented by uninspected dams justifies timely resolution of disputes involving denial of entry to dam sites or access to pertinent documents.

Mr. President, this measure includes agents or contractors of the United States within the liability protection provided for in existing law. This clarifies and expands the application of the directive that no liability shall be created by this act or any action or failure to act under this act so that it protects all those performing dam inspection activities.

The Subcommittee on Water Resources has scheduled the first of our hearings on dam safety for Friday, February 3. We will address the provisions of this bill and other problem areas. Among these would be the capability of the engineering profession to conduct timely inspections of dams, the ability of the States to establish and implement their own dam inspection programs, the necessity of Federal financial and technical assistance to the States in such activities, and the advisability of Federal preemptive action in the case of dams in imminent danger of failure.

Mr. President, I summarize our thoughts on this problem of dam inspection. The increased number of non-Federal dam failures in recent years has resulted in a Federal attempt to inventory and inspect these dams. The inventory and assessment of State efforts in dam safety gives clear indication that the problem is worse than originally anticipated. There likely will be more substantial damages and loss of life in the future if nothing is done to inspect and repair existing dams and to put some sort of design controls over the construction of future dams. While these activities would ideally be undertaken by State efforts, it is clear that many States do not have the expertise or the resources available to do them. Some sort of Federal involvement is required.

We shall hear from the Corps of Engineers, States, the engineering community, and other interested and informed parties in the course of the February 3 hearing. It will be held in room 4200 of the Dirksen Senate Office Building, and will begin at 10 a.m.

By Mr. WILLIAMS (for himself and Mr. INOUYE):

S. 2447. A bill to amend title 5, United States Code, to include as creditable service under the civil service retirement system periods of service as contract technicians by individuals hired by private authority to perform work under Federal supervision pursuant to a contract between such private authortiy and the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

CONTRACT TECHNICIAN SERVICE PERSONNEL ACT

Mr. WILLIAMS. Mr. President, I am, today, introducing a revised version of legislation which I originally offered during the 94th Congress to provide civil service retirement credit to certain contractor-furnished technicians who have been unfairly denied their benefits because of adverse Civil Service Commission rulings. I am delighted that the distinguished Senator from Hawaii (Mr. INOUYE) has once again joined me in sponsoring legislation to correct the inequity these individuals now experience.

The Federal Government for many years secured the services of skilled technical personnel through contracts with private companies. Though recruited by these private contractors, these technicians were paid by the Federal Government. Typically, contract technician service personnel (CTSP) performed communications and electronics functions, mostly for the Armed Forces. They were employed most widely in the years following World War II because of the technician shortage that developed following demobilization. The Federal Government, however, continued to contract for the services of CTSP through the 1950's and during much of the 1960's.

In 1963, the legality of CTSP contracts was called into question by the House Post Office and Civil Service Committee, and a subsequent decision of the Comptroller General of the United States issued on March 4, 1965, held that the contracts were illegal. This, of course, meant that jobs of CTSP were illegal. The Comptroller General's decision was based in part on an opinion of the Civil Service Commission's general counsel who concluded that CTSP did not comply with all the statutory provisions that define Federal employment. Under the law, a Federal employee is a person: First, whose work is a Federal function authorized by law or an Executive order; second, who works under the supervision and direction of a Federal employee or a member of the military; and third, who is appointed to Federal service by a Federal employee or a member of the military. While the Civil Service Commission conceded that CTSP met the first and second requirements, the Commission maintained that they did not meet the third.

As a result of the Comptroller General's decision, CTSP were given the opportunity to convert to Federal service along with their jobs. For the overwhelming majority of CTSP, conversion to Federal service did not cause any change whatsoever in their jobs. The last conversion took place in the summer of 1967. Unfortunately as former CTSP reach retirement age, they are discovering that the Civil Service Commission refuses to count their service as CTSP in determining their retirement benefits.

That former CTSP have been denied retirement benefits they deserve becomes evident when one examines the circumstances of their hiring, the nature of their employment, and the conflicting, often confusing, policies and actions of Federal agencies in this area.

While they were employed with the Federal Government, CTSP were considered equivalent to Federal employees. This is readily admitted in the opinion of the Civil Service Commission general counsel, which formed part of the Comptroller General's March 4, 1965, decision:

> From the information submitted by the Department of the Air Force in response to the Commission's request for factual information concerning the use of said contract technicians, it is apparent that there is no real distinction that can be drawn between the position filled by contract technicians and those filled by federal employees. Indeed, in some functions contract technicians and federal employees are used interchangeably.
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> Daily tasks and temporary duty are assigned without regard to category. These contract technicians are integrated into the regular organizational structure of the Department of the Air Force.
>
> These contract technicians are under the supervision of a federal employee who directs their efforts, assigns tasks, and prepares the work schedules. The supervisor judges the quantity and quality of the work of these contract technicians.
>
> From the foregoing, we find that these contract technicians can only be employed in the work of the Department of the Air Force after they are approved by the contracting officer who is, of course, a federal employee and who has the power to remove them; that the supervision of their daily work is performed by a federal employee; and that, unquestionably, the contract technician is performing a federal function.

In the Korean war, CTSP performed a vital support function for the Armed Forces. They served side by side with military personnel and in many cases experienced the same dangers and suffered the same hardships. Many CTSP even wore the uniform of the branch of service with which they served and could be distinguished from military personnel only by the shoulder patch they wore.

Still, the Civil Service Commission has chosen to deny CTSP the retirement benefits they earned in service to their country. This denial is inconsistent with several court decisions and with the granting of civil service retirement credit to other groups of individuals with similar employment histories. In addition, the position of the Civil Service Commission contradicts the policies of the Federal agencies responsible for securing the services of CTSP in the first place.

In May 1947, a Federal district court held that the Federal Government had established an employer-employee relationship with a group of contractor-furnished personnel working for the Navy because the Federal Government paid the workers' salaries, even though they were carried on the contractor's payrolls. As a result of this decision, the Civil Service Commission was obligated to provide Federal retirement credit to these workers for the period of time that they were carried on the private contractor's payrolls. At least one other Federal court decision has reaffirmed such Federal responsibility for such contractor-furnished personnel.

In response to these Federal court decisions, the Civil Service Commission in October 1952, promulgated regulations which prohibited any agency from securing personnel for the performance of regular agency functions without regard to the statutory requirements and restrictions applicable to Federal employees in general. The regulations were intended to prevent the establishment of employer-employee relationships between the Federal Government and contractor-furnished employees which had resulted in Federal retirement credit for these employees. The Civil Service has argued that CTSP hired after 1952 were hired in violation of these regulations and should, therefore, not receive retirement credit. Interestingly enough, the Civil Service Commission has denied retirement credit to former CTSP hired prior to the issuance of the 1952 regulations, as well as to those employees hired afterward.

Regardless of whether former CTSP were hired before or after the 1952 regulations, the fact remains that Federal agencies continued to seek out and use CTSP services up until 1965. These agencies set the criteria for employment, solicited the employment of technical personnel through private contractors in accordance with these criteria and retained full control over the use and dismissal of CTSP. The Civil Service Commission's refusal to grant retirement credit to former CTSP for their time spent in this capacity unfairly penalizes them for the policies of the Federal agencies that employed them. CTSP had no responsibility for these policies. They had no reason to believe they were in error and had no reason to question them.

While it has held back retirement credit for former CTSP, the Civil Service Commission has accorded sharply different treatment to other individuals whose employment relationship with the Federal Government closely paralleled that of CTSP. For example, in a ruling issued on September 30, 1957, the Civil Service Commission granted Federal retirement credit to an individual employed by the Arizona State Extension Service—a federally funded activity operated under the direction of the U.S. Department of Agriculture. The person involved had not been appointed to the Federal service, and his supervisor was not a Federal employee. Yet, this individual and many others working for State extension services have been granted Federal retirement credit.

The denial of retirement benefits has had a serious impact on the retirement income of individuals who have spent much of their adult lives in service to the Federal Government and the people of the United States. Because private pension plans are not transportable to the Federal retirement system, many CTSP who converted to Federal service lost their eligibility for whatever private pensions they had expected to receive. In addition, these individuals found that they could accrue only the minimum amount of civil service retirement credit after their conversion to Federal service. As a result, their annuities are sharply reduced. Conflicting Federal personnel policies have led to the unfair restriction of the potential retirement income of former CTSP, and I believe that corrective action is necessary.

The legislation I have introduced would permit former CTSP to receive additional civil service credit for the years they spent as CTSP. Only those under contract to the Federal Government before the issuance of the March 4, 1965, decision of the Comptroller General would be covered, and individuals, as well as their jobs, must have been converted to Federal service.

Former CTSP wishing to receive their additional retirement credit would be required to "buy" into the Federal retirement system, paying the amounts they would have paid into the system had they been eligible for Federal retirement annuities in the first place. In order to prevent former CTSP from receiving excessive Federal retirement benefits, those that choose to receive Federal retirement credit based on their CTSP service would not be permitted to receive social security benefits for the same period of service. However, the amounts that these individuals paid into the social security system would be transferred to the Federal retirement fund to reduce the contributions that former CTSP would be obligated to make to receive their additional credit. An agency which used CTSP would have to contribute to the civil service retirement fund an amount equivalent to that paid in by its former CTSP, and an agency's contribution would come from its current budget. Finally, any Federal retirement benefits which former CTSP receive under my legislation would be reduced dollar for dollar by any amounts they receive from private pension plans based on their CTSP service. This last provision is necessary to assure that the legislation provides benefits only to those for whom CTSP service has resulted in hardship and to prevent anyone from receiving more generous retirement benefits than those available to other Federal workers.

There are no firm estimates concerning the cost of my legislation, but since only about 2,000 persons would be directly affected and the legislation contains certain limitations on the benefits permitted, the cost would most likely be very small.

Mr. President, my legislation is not designed to blaze a new trail or to fling open the doors of the civil service retirement fund to multitudes of new annuitants. Rather, it would provide much deserved relief to a group of individuals who gave valuable service to the Federal Government and have been unjustly penalized for doing so.

I ask unanimous consent that the text of this legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8) thereof;

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding immediately below paragraph (9) the following new paragraph:

"(10) subject to sections 8334(c) and 8339 (i) of this title, service performed by an individual who is hired by a private authority to perform services as a contract technician for the Federal government under a contract between the Federal government and such private authority which provides that the hiring of such individual shall be subject to the approval of the Federal government and the performance of services by such individual shall be under the supervision and control of Federal personnel, if—

(A) such service is in a position which is transferred to the civil service and such individual is appointed to that position or a similar position in the civil service; and

"(B) such contract, if entered into after March 4, 1965, complies with any other provision of law relating to such contract."

(b) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsection (c), the amount of the deposit which is required from an employee under such subsection (c) for periods of service creditable under section 8332(b)(10) of this title shall be equal to the amount determined under subsection (c) (without regard to this subsection) less any amount which such employee deposited under title II of the Social Security Act for such periods of service.

"(2)(A) The employing agency shall contribute from the appropriation or fund used to pay an employee who deposited amounts under this section for periods of service creditable under section 8332(b)(10) an amount equal to the amount such employee would (but for the provisions of paragraph (1)) have deposited under subsection (c) for such periods.

"(B) The employing agency shall deposit such amount into the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe."

(c) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) In computing any annuity under this section with respect to which periods of service creditable under section 8332(b)(10) of this title are included in the total service of an employee or Member, the amount of the annuity shall be reduced by the amount of any retirement benefits such employee or Member is receiving from any source (other than benefits received under title II of the Social Security Act) which are attributable to such periods of service."

(d) Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The performance of services by an individual under the conditions prescribed in section 8332(b)(10) of this title shall be considered the performance of the official duty of an employee."

SEC. 2. (a) In the computation of any benefit or the determination of quarters of coverage under title II of the Social Security Act, no credit shall be allowed for any period of service for which an individual is allowed credit for purposes of the Civil Service Retirement System under section 8332(b)(10) of title 5, United States Code.

(b) The Secretary of the Treasury shall, with respect to any individual who claims credit for periods of service under section 8332(b)(10) of title 5, United States Code, withdraw from the Federal Old-Age and Survivors Insurance Trust Fund any tax imposed on the wages of that individual under sections 3101 and 3111 of the Internal Revenue Code of 1954 for periods of service for which credit under title II of the Social Security Act is disallowed under subsection (a) of this section and the Secretary of the Treasury shall deposit such amount into the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

(c) The Secretary of Health, Education and Welfare, the Chairman of the Civil Service Commission and any individual claiming such credit shall supply such records and information to the Secretary of the Treasury as may be necessary to carry out the provisions of this section.

By Mr. METZENBAUM (for himself and Mr. ANDERSON) (by request):

S. 2448. A bill to amend the Emergency Natural Gas Act of 1977 and the Natural Gas Act, as amended, to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages, and for other purposes; to the Committee on Energy and Natural Resources.

EMERGENCY NATURAL GAS AMENDMENTS OF 1978

Mr. METZENBAUM. Mr. President, on January 6, the General Accounting Office issued a report documenting widespread and massive abuse by interstate pipeline companies of the special natural gas purchasing program enacted during last winter's natural gas emergency. According to the GAO, inadequate administration of the emergency purchase program by the Federal Power Commission permitted many pipeline companies to use high-priced gas purchased under emergency circumstances in intrastate markets to maintain or even to increase sales to low priority customers with capability to convert to alternate fuels.

In addition, these low priority customers received gas at the expense of residential consumers. Instead of charging low priority users directly for the higher priced emergency gas purchased to meet their demand, the pipeline companies averaged the additional costs through their entire systems. Thus, improper diversion of gas to low priority consumers led directly to higher heating bills for American families.

Mr. President, the bill I am introducing today was drafted at my request by the GAO. It is designed to insure that the combination we experienced last winter of regulatory failure by the Federal Government and unscrupulous business practices by the pipeline companies will not again victimize American consumers. I consider the bill an excellent working document from which to develop badly needed reforms in this area.

The bill includes three main provisions.

First, it prohibits the sale of emergency natural gas supplies to low priority industrial users and it establishes stiff penalties for companies that make such sales.

Second, it establishes regulation of the use and price of emergency natural gas supplies at their final destination.

Finally, the bill gives the President permanent authority to reallocate gas from the intrastate market during emergency shortages. The authority granted to the President by the Emergency Natural Gas Act of 1977 to make such allocations has expired.

I believe that this legislation will go far toward protecting our homes, businesses, and schools from needless disruption in the event of future natural gas shortages. It will also prevent any recurrence of the abuses documented by the GAO.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill and the text of the bill itself be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Natural Gas Amendments of 1978."

FINDINGS AND PURPOSES

SEC. 2(a). The Congress finds that—

(1) large quantities of natural gas have been distributed under emergency provisions, yet no restrictions have been applied in terms of what constitutes an emergency or what priorities should receive natural gas obtained under emergency provisions;

(2) this situation is counterproductive to national conservation policies because low priority customers are encouraged to continue using natural gas rather than switch to alternate fuels;

(3) this situation is inequitable because high priority customers who may not be affected by natural gas curtailments are forced to bear part of the economic burden of the higher cost of natural gas obtained under emergency provisions, thereby subsidizing low priority users; and

(4) regulation of the pricing, transportation, transportation costs, and ultimate end use of natural gas obtained under emergency provisions is needed to assure that consumer inequities and inappropriate uses are prevented.

(b) The purposes of this Act are—

(1) to deal with short-term supply shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977;

(2) to continue the provisions of the Emergency Natural Gas Act of 1977 and to expand the provisions of the Natural Gas Act, as amended, that have been most useful in dealing with natural gas shortages;

(3) to require Federal regulation of transportation and transportation costs of natural gas obtained under emergency provisions;

(4) to require that the full cost of emergency natural gas is charged to the customers that receive it from all pipelines and distribution companies, including those pipelines and distribution companies otherwise not federally regulated; and

(5) to assure that customers in low priority categories with alternate fuel capabilities do not receive natural gas under emergency provisions.

AMENDMENTS TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 3. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation or distribution of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or ';

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "after April 30, 1977, or" and ", whichever is earlier";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(d), by striking out "interstate pipeline, intrastate";

(8) in section 4(f), by inserting a new paragraph (1) as follows:

"(1) The transportation and delivery of natural gas required pursuant to an order issued under subsection (a) shall be subject to terms and conditions established by the President (including provisions respecting prices and transportation charges). The President shall establish separate accounting procedures and shall require that separate accounts be maintained for revenues received by pipelines as a result of such emergency transactions.";

(9) in section 4(f), by redesignating the present paragraph (1) as (2) and inserting therein after the word "If": ", within the terms and conditions the President may prescribe,".

(10) in section 4(f), by redesignating the present paragraph (2) as (3), and by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(11) in section 4(f), by striking out "interstate" wherever it appears;

(12) in section 7, by striking out "interstate" wherever it appears, and by striking out "4(f)(2)(B)" and inserting in lieu thereof "4(f)(3)(B)";

(13) in section 9(c), by striking out "and before August 1, 1977"; and

(14) in section 12(b), by striking out "October 1, 1977," and inserting in lieu thereof "90 days after a natural gas emergency declared under section 3 is terminated,".

AMENDMENTS TO THE NATURAL GAS ACT

SEC. 4. The Natural Gas Act, as amended, is further amended—

(1) in section 1(b), by inserting after "but" and before "shall" the following: ", with the exception of the emergency provisions in section 7a,";

(2) In section 1(c), by striking out the first "The" in the subsection and inserting in lieu thereof, "With the exception of the emergency provisions in section 7a, the";

(3) in section 7(c), by inserting after "Provided, however, That" and before "the Commission" the following: "under the provisions of section 7a,";

(4) by adding after section 7 a new section 7a, as follows:

"SEC. 7a. (a) The Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of section 7 temporary acts or operations for which the issuance of a certificate will not be required in the public interest. The authority of the Commission with respect to such emergency exemptions and temporary certificates (and regulations issued pursuant thereto) shall extend to the ultimate end price and end use of natural gas governed by this section, including that natural gas distributed by pipelines not otherwise under Federal regulation. The Commission shall establish separate accounting procedures and shall require that separate accounts be maintained for revenues received by pipelines as a result of such emergency transactions.

"(b) Compliance by any pipeline with any order, certificate, or regulation issued under subsection (a) shall not subject such pipeline or distribution company to regulation under other sections of the Natural Gas Act (15 U.S.C. 717 *et seq.*) or to regulation as a common carrier under any provision of State or Federal law. No action required to be taken under any order, certificate, or regulation issued under subsection (a) shall be subject to any other provision of the Natural Gas Act and any such order, certificate, or regulation shall supersede any provision of any other requirement under the Natural Gas Act which is inconsistent with such order, certificate, or regulation.

"(c)(1) There shall be available as a defense to any action brought for breach of contract under Federal or State law arising out of any act or omission that such act was taken or that such omission occurred for purposes of complying with any order, certificate, or regulation issued under subsection (a).

"(2) Any contractual provision—

"(A) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

"(B) terminating any obligation under any such contract as a result of such sale or commingling, is hereby declared against public policy and unenforceable with respect to such natural gas if an order, certificate, or regulation under subsection (a) applies to the delivery, transportation, or contract for supplies of such natural gas.

"(3) The amounts and prices of any natural gas purchases pursuant to an order, certificate, or regulation under subsection (a) shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

"(d)(1) Any person who violates any order, certificate, or regulation issued under this section shall be subject to a civil penalty of not more than $25,000 for each violation of such order certificate or regulation. Each day of violation shall constitute a separate offense.

"(2) Any person who willfully violates an order, certificate, or regulation under this section shall be fined not more than $50,000 for each violation of such order, certificate, or regulation. Each day of violation shall constitute a separate violation.

"(3) Whenever it appears to the Commission that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order, certificate, or regulation issued under this section, the Commission may request the Attorney General to bring a civil action to enjoin such acts or practices and, upon showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. In any such action, the court may also issue mandatory injunctions commanding any person to comply with any such order, certificate, or regulation.

"(e) Any order, certificate, or regulation issued pursuant to this section shall preempt any provision of any program for the allocation, emergency delivery, transportation, or purchase of natural gas established by any State or local government if such program is in conflict with any such order.

"(f) As used in this section, the term 'pipeline' means any person engaged in the transportation or distribution of natural gas."

SUMMARY AND PURPOSE

The amendments in this draft bill revise and extend the emergency provisions in the Emergency Natural Gas Act of 1977 (ENGA) and the Natural Gas Act (NGA). Experience with the emergency provisions under ENGA and the NGA has shown that these provisions should be clarified and strengthened to (1) assure consonance with the national policy for natural gas conservation, (2) eliminate inequities in sharing the higher costs of emergency purchases, (3) continue the availability of the ENGA provisions most useful in meeting shortages of natural gas, (4) assure reasonable transportation charges, and (5) prevent de facto price deregulation.

Accordingly, these amendments eliminate the expiration dates of the inter-pipeline allocation authority (section 4) of ENGA and expand that authority to include allocation (and regulation thereof) from and to intrastate pipelines. The amendments to ENGA also provide for regulation of delivery, transportation, ultimate end use, and prices of natural gas obtained under emergency provisions. To monitor profits from emergency transactions, the amendments require separate accounting for natural gas obtained under emergency provisions.

Similar amendments are made to the NGA. The amendments expand the existing emergency authority of the Federal Energy Regulatory Commission to include regulation of the ultimate price and end use of natural gas obtained under emergency provisions, including natural gas not otherwise under Federal regulation. These amendments also require separate accounting for emergency transactions.

Other amendments to the NGA closely follow existing authority in ENGA. The amendments provide that emergency requirements supersede other inconsistent requirements and that compliance with emergency requirements shall not subject a pipeline or distribution company to other laws or regulations. The amendments also protect those who comply with emergency provisions from adverse effects regarding conflicting contractual responsibilities. Penalties are provided for violation of emergency requirements and provision is made for emergency requirements to preempt conflicting State or local requirements.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. The amendments are entitled the "Emergency Natural Gas Amendments of 1978".

Sec. 2. Findings and Purposes. This section summarizes the need for extension and clarification of the regulation of pricing, transportation, transportation costs, and ultimate end use of natural gas obtained under emergency provisions. It explains the purpose of the bill to continue and expand the provisions of the Emergency Natural Gas Act of 1977 and the Natural Gas Act, as amended, that have been most useful in dealing with natural gas shortages.

Sec. 3. Amendments to the Emergency Natural Gas Act of 1977. The regulatory authority of the President over natural gas obtained under emergency provisions is expanded to intrastate natural gas by redefining the term "pipeline" to include both intra and interstate natural gas pipelines and distribution companies. To extend the allocation provisions of the Act, the expiration dates in section 4 are eliminated. Similarly, the reporting provisions in section 12 are extended. New provisions are added to clarify and emphasize regulatory authority over delivery, transportation, transportation charges, ultimate end use, and prices of natural gas obtained under emergency provisions, and separate accounting is required for such emergency natural gas.

Sec. 4. Amendments to the Natural Gas Act, as amended. These amendments expand the Federal Energy Regulatory Commission's existing emergency authority to include regulation of intrastate natural gas. Sections 1(b) and 1(c) of the Act are amended accordingly. Section 7(c) is amended to recognize the emergency provisions in the new section 7a.

A new section 7a is added to give the Commission emergency powers over intra and interstate natural gas similar to those powers granted the President in ENGA. Section 7a (a) extends the Commission's existing emergency authority to include intrastate natural gas. It also requires separate accounting for emergency transactions.

Sections 7a(b) through 7a(e) closely follow existing authority in ENGA. Section 7a (b) is virtually identical to section 4(b) of ENGA, providing that emergency requirements shall supersede other inconsistent requirements and that compliance with emergency requirements shall not subject a pipeline or distribution company to other laws or regulations. Section 7a(c) is similar to section 9 of ENGA and is designed to protect those who comply with emergency provisions from adverse effects regarding conflicting contractual responsibilities. Section 7a(d) provides penalties for violations of emergency requirements and closely follows section 11 of ENGA. Section 7a(e) makes provision for emergency requirements to preempt conflicting State or local requirements, as does section 14 of ENGA. Section 7a(f) contains definitions of the term "pipeline" that reflect extension of the Commission's authority under this section to intrastate natural gas.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2449. A bill to provide in cooperation with the States benefits to individuals who are totally disabled due to employment-related brown lung disease and to the surviving dependents of individuals whose death was due to such disease or who were totally disabled by such disease at the time of their death; to the Committee on Human Resources.

BROWN LUNG DISEASE ACT OF 1978

Mr. HOLLINGS. Mr. President, today I, along with my colleague from South Carolina, have introduced legislation to provide compensation benefits for textile workers, active and retired, who have become totally disabled due to brown lung disease. Brown lung, or byssinosis, is a disease of the lungs which afflicts textile workers exposed to cotton dust over a period of years. The disease begins with a simple irritation of the bronchial airways and develops with time into a cough, chest tightness, shortness of breath and finally into a chronic disabling condition similar to emphysema or chronic bronchitis.

It is with some sadness that I introduce this legislation, for it points up the conspiracy of neglect which has victimized textile workers for decades. It is a conspiracy contributed to by industry, elected officials, and the medical community. It has been more than 200 years since byssinosis was first recognized in foreign countries as a disease associated with textile manufacturing. And in Great Britain it has been a compensable occupational disease since 1942. But until just a short time ago few people in the United States recognized the existence of the disease or the serious problem it constituted within the textile industry. However, recent medical evidence, derived from studies on American textile workers, indicates there may be as many as 35,000 active and retired textile workers suffering from brown lung.

Last month, I chaired congressional hearings in Greenville, S.C. on the problem of brown lung compensation. A comprehensive record was compiled which proved to me the only way adequate compensation will be awarded to these victims is through Federal legislation. The South Carolina State compensation law is a complex network of obstacles to brown lung benefits. At this time, no victim of byssinosis has ever received a compensation award. Other State laws have proven equally inadequate.

For many victims of byssinosis time is running out. There are thousands of retired individuals who have worked 30, 40, and 50 years in textile mills who today are physically and financially crippled because of brown lung disease. In many instances they are living without a retirement pension, without adequate social security, and without the breath to walk up a flight of stairs. It is primarily for these individuals that I urge the Senate to give prompt and favorable consideration to the legislation.

Listed below are the major provisions of the Brown Lung Disease Act:

PROVISIONS OF BROWN LUNG DISEASE ACT

1. Level of Benefits.—Compensation benefits are calculated at one-half the rate of compensation received by a federal worker, GS 2 level, who is totally disabled. If the law were in effect today, compensation rates would be as listed below:

	Per month
No dependents	$219.80
One dependent	$329.80
Two dependents	$384.80
Three or more	$439.80

Any compensation received under state law would be subtracted from the federal compensation.

2. Liability.—Benefit payments are paid by the federal government and by responsible employers. Eligible workers who have retired before January 1, 1979 will receive benefits paid for by the federal government. Benefits for those retiring on or after January 1, 1979 will be paid by the owner or owners who employed the brown lung victim.

3. Medical Presumptions.—The legislation authorizes the Secretary of Labor to establish and use medical presumptions in determining whether a worker is totally disabled due to brown lung disease and whether the disease was caused by the worker's employment in a textile plant.

4. Total Disability.—A worker is considered to be totally disabled when it is medically determined that byssinosis prevents the individual from performing work comparable to that which he or she performed while employed in the textile industry.

5. Time Limitations.—To be eligible for a claim, a worker must file within three years of a medical determination of byssinosis. A claim for benefits by an eligible survivor must be filed within three years of the enactment of this Act or three years after the date of death, whichever is later.

6. Job Protection.—No employer may discharge or in any other way discriminate against a worker because he or she is suffering from byssinosis or has filed a claim for brown lung compensation benefits.

Mr. THURMOND. Mr. President, the Hollings-Thurmond brown lung benefits bill should provide long-awaited relief to thousands of workers permanently disabled by byssinosis, more commonly known as brown lung.

Byssinosis, is a respiratory disease associated with years of breathing cotton dust. After prolonged exposure, particularly to high concentrations of cotton trash dust, a worker develops a chronic cough and permanent constrictions of the bronchial tubes. In its later stages byssinosis resembles emphysema and chronic bronchitis. Total disability and even death may result.

Only in the last decade have we in the United States begun to recognize byssinosis as a major health problem in the textile industry. Byssinosis, however, was recognized over 200 years ago as a disease associated with textile manufacture. In the 1930's British researchers pinpointed the disease, and in 1940, the British Government made byssinosis victims eligible for worker's compensation. In the early 1960's clinical specialists and several textile industry representatives began studies of brown lung and its relation to the American textile industry. Through extensive research we are now aware of a substantial correlation between cotton dust exposure and brown lung disease. It is estimated that 250,000–300,000 textile workers are significantly exposed to cotton dust in the primary textile industry. It has been suggested that in South Carolina alone, there are approximately 15,000–20,000 active or retired textile workers suffering from brown lung.

In December 1977, Senator HOLLINGS as chairman of the Senate Subcommittee on Labor Appropriations, chaired hearings in Greenville, S.C., on the subject of brown lung. As one who joined in those hearings, I became more fully aware of the severity of the byssinosis problem and the inadequacy of relief for its victims.

The textile industry is in the process of improving its medical surveillance programs so that employees and prospective employees may be tested for their reaction to cotton dust. Those who evidence respiratory problems or the likelihood of developing byssinosis can be excluded from particular dusty areas of the plant. The textile industry is also working to substantially reduce the number of byssinosis victims by reducing the level of cotton dust to feasible and protective levels. However, the only significant remedy for workers already afflicted with brown lung is adequate compensation. Several years ago, Congress initiated a compensation program for miners who suffered from black lung. The legislation which we are introducing should provide similar relief for the victims of byssinosis. It is my hope that the Federal Government, State government, through workers compensation, and the textile industry can work hand in hand to better assist those persons suffering from brown lung.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, and Mr. JAVITS):

S. 2450. A bill to extend the assistance programs for community mental health centers and for biomedical research, and for other purposes; to the Committee on Human Resources.

BIOMEDICAL RESEARCH AND COMMUNITY MENTAL HEALTH SERVICES ACT OF 1978

Mr. KENNEDY. Mr. President, I am today introducing on behalf of myself and Senators SCHWEIKER, WILLIAMS, and JAVITS, the Biomedical Research and Mental Health Services Extension Act of 1978. This bill will extend, without major substantive revisions, the Community Mental Health Centers Act and a variety of biomedical research authorities, including the National Cancer Act; the National Heart, Lung, and Blood Diseases Act; the Medical Library Assistance Act; and the National Research Service Award. I would like to explain the rationale behind this proposal, first in the case of mental health services, and then for the biomedical research authorities.

The Community Mental Health Centers Act has, in its current form, been in effect for 3 years. During this period advantages and disadvantages in the legislation have surfaced, and I believe strongly that a thorough, thoughtful review of the program and its legislation is warranted. As chairman of the Subcommittee on Health and Scientific Research, I intend to undertake such a review. Our legislative oversight will be assisted by the upcoming report of the President's Commission on Mental Health, and I will consider their recommendations with great care.

In order to provide time for that assessment, while continuing the overall goal of providing comprehensive mental health services to all in need, the bill I am introducing provides for a 1-year extension of funding support of the Com-

munity Mental Health Centers Act with appropriate technical amendments that will insure the operating continuity of the program—a program, initiated under President Kennedy's leadership to provide comprehensive mental health services to the American people.

We have made great progress since CMHC's were first conceived in 1963 as a community out-patient alternative to State in-patient mental health care. Since enactment of Public Law 94–63, 53 planning grants have been awarded. These grants are an important and necessary first step in developing local initiative for developing community based mental health services. As of September 30, 1977, 675 Community Health Mental Centers have been funded with 592 now providing mental health assistance to 44 percent of the Nation's population. In 1977, an estimated 2,900,000 people were seen by the centers.

The mental health centers philosophy has been and continues to be the provision of mental health services in the least restrictive and most appropriate setting. Thus, the emphasis is on programs designed to help maintain the individual's dignity and to assure that individuals, whenever possible, remain a functioning and contributing part of the community. The existing CMHC Act has strengthened the expectation that citizens, through a representative governance structure, will manage and provide direction for each center. Another strength of the act is the requirement that each CMHC develop and maintain a program designed to assess the quality, efficiency, and effectiveness of services provided. This should contribute significantly to sound program design, management and cost consciousness.

The complexities of the CMHC Act has created some problems for those administering the program at the local, regional and national levels. For example, the current act authorizes six different grant mechanisms, each potentially providing some form of financial assistance to a center. Additionally, the many service requirements of the act, which must now be met within a relatively short time frame, often impose a hardship for centers. The act provides for the recognition of the special needs of areas designated as impoverished; however, the very complicated and restrictive set of requirements for designating poverty areas has had some detrimental results. In our thoughtful review of this legislation, I intend to carefully address each of these issues.

There has been some confusion on the conceptual mix of required and target groups as spelled out in the legislation. The act calls for in-patient, 24-hour emergency care, partial hospitalization, consultation-education, and, in the same section, requires specialized services for children, the elderly, alcoholics and alcohol abusers. The board scope and emphasis of the act may need to be clarified and narrowed.

Concurrently, the President's Commission on Mental Health has been reviewing and assessing the accomplishments of the community mental health center program. The Government Accounting Office is also studying the CMHC's. The Commission has held public hearings and reviewed the preliminary work of the Task Panel on Assessment of the Community Mental Health Centers. At present, the Commission is bringing together the work of many individuals for a final report to be submitted to President Carter on the first of April. The congressional deadline of May 15 for the reporting of authorizing legislation would allow too little time for the Congress to thoughtfully and thoroughly review and study the Commission's recommendations and include them in legislation. Thus, the 1-year extension I propose will allow the Congress, the President and the Department of Health, Education and Welfare a greater opportunity to review the work of the Commission and at the same time insure an additional year of operation of the community mental health centers program.

However, as I indicated earlier, a number of administrative and technical difficulties that have worked to the disadvantage of the program can and should be addressed in the simple 1-year extension. They are:

First, a provision to allow both free-standing part F and staffing grantees 4 years instead of 3 to phase in the various services required by section 201(b)(1) and to allow part F grantees (only) 4 years to meet the other requirements of section 201;

Second, a provision to allow a grantee to carry over unexpended grant funds to the next fiscal year;

Third, a provision to permit the explicit recovery of construction award funds which are now being utilized illegally.

While the 1-year extension may continue some of the complexities of the Community Mental Health Centers Act, it will have the important advantage of not changing the law for only a brief period and thus assure that Department of Health, Education, and Welfare officials and staff, applicants, and grantees will remain familiar with the program, and the administration and support of the program will not be disrupted.

I am committed to the concept of community based mental health centers, and when we undertake the review of this program, I will be looking to ways that the program can be strengthened and simultaneously better integrated into the mainstream of the health care system.

Let me turn now, Mr. President, to the biomedical research authorities. During the past year and a half, the Subcommittee on Health and Scientific Research has inquired extensively into basic issues relating to biomedical research, with particular emphasis on the responsiveness of the NIH to major national research needs. The findings of these hearings have been illuminating and provocative. We have learned, for example, that the areas of environmental health and disease prevention are among the most critical facing our national research effort. We have also come to see that the so-called disease-of-the-month approach to national health problems is perhaps not the most productive. These and many issues, however, remain to be explored in much greater depth before it would be appropriate for the Congress to undertake any major alterations in NIH's legislative authorities.

There are, however, certain NIH authorities with time and dollar limits that must be extended if the programs are to continue in fiscal year 1979. In addition, there are a variety of technical and perfecting amendments to the NIH statute that could be made without precluding more basic revisions in the future.

This bill would extend for 1 year—fiscal year 1979—the appropriations authorizations for the National Cancer Institute (NCI) and the National Heart, Lung, and Blood Institute (NHLBI). These two institutes comprise approximately half the total NIH budget.

In order to permit the subcommittee and the Senate to have adequate opportunity for full review of those programs, I am proposing that they be extended for a single year with no major amendments. Authorization levels proposed in the bill are as follows: to the NCI, $85 million for control programs and $925 million for research programs, amounting to a total of $1,010 million. For the NHLBI, the figures for prevention, education and control are $40 million, and for the remainder of the program $470 million, giving a total of $510 million.

The act recommends only one substantive change in the Cancer Act. It proposes amending section 408(b) of the Public Health Service Act to authorize support of "basic" as well as "clinical" research in national cancer research and development centers. These centers currently receive support for a variety of basic and clinical research activities, but under current laws, the cancer centers cannot use "core" grant moneys for the purpose of basic research. The National Heart, Lung, and Blood Act contains no such artificial restriction on the uses to which "core" grant moneys may be put, and this seems a more desirable situation. It is often extremely difficult to make a distinction between "basic" and "clinical" research, and it would seem desirable that researchers have the freedom to move across such artificial boundaries.

The bill also includes one technical amendment relating to the authority of those two institutes to employ experts and consultants without regard to personnel ceilings and without regard to the normal limitation of 12 months on consultant service. As originally drafted in 1971 and 1972, respectively, the Cancer and Heart Acts provided hiring authority for such consultants but did not specify the terms and conditions for paying expenses relating to their move to their post of duty and return from their post of duty. In the absence of any specific legislation, it has been necessary to treat such experts and consultants as "shortage category employees." The effect of this is that the Government may pay for their travel to their post of duty, but upon their departure—which may be anywhere from 1 to 4 years later—may not underwrite any travel or relocation expenses.

It seems to me that the present arrangement tends to discourage recruitment of the very people the legislation was designed to attract to Government service for short periods of time. Therefore, the act includes provisions to apply to these experts and consultants the provisions of the Intergovernmental Personnel Act, relating to similar exchanges between Government and the private sector.

Another major expiring authority is the National Research Service Award (NRSA) Act, the authority for research training conducted by NIH, the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), and the Division of Nursing, Health Resources Administration (HRA). Conversations with the scientific community and program administrators have convinced me that it would be desirable to extend this particular authority for a 3-year period. One of the major problems in the research field has been the instability of Government support resulting from executive and congressional inconsistency in handling these programs. In order to provide some assurance to the scientific community that these programs will continue for the near future, I am proposing a 3-year extension.

A major difficulty in the research training program has arisen from a recent interpretation by the Internal Revenue Service that amounts paid to students under the NRSA Act are not scholarships within the meaning of the Internal Revenue Code because there is a service payback required. This has been interpreted as representing an exchange of services rather than a scholarship or gift relationship between Government and the NRSA recipient. At present stipend levels, it would be impossible for many NRSA recipients to pay taxes on the full amount of the awards and have enough remaining to survive economically. It is my hope that the Finance Committee will consider the plight of NRSA recipients as they review current amendments to the tax laws, and my subcommittee would be pleased to provide the Finance Committee with whatever information would be useful to them in consideration of this issue.

I am proposing two significant amendments to the service payback requirements of the National Research Service Award Act. You will recall that in 1974, when this legislation was enacted, it was the strong sense of the Congress that recipients of Federal support for research training should be required to pursue careers in research or teaching, if possible, or alternatively to engage in service or other health-related activities that would utilize their Government-financed training for the public benefit. It is still my sense that the concept of a service payback is reasonable and necessary.

However, it has come to my attention that the legislation, as originally drafted, is cumbersome and in certain cases excessively harsh. The present formula for computing monetary payback, in the event that service payback is not fulfilled, is drafted in such a way that the person who partially fulfills the service requirement is severely penalized and does not receive proportional credit for service actually performed. Our legislation would change the payback formula so that proportional credit would be given for partial service.

Second, the present statute, while it makes provision for alternative forms of service if research or teaching positions are not available, also imposes a penalty on those who satisfy their service requirement through such alternative forms of service, even though the choice may not be their own. The present statute provides that persons in research or teaching positions will serve 1 month for every month of support, or 12 months for every 12 months of support. However, those who must serve in a health-related activity because no research or teaching positions are available must serve 20 months for every 12 months of support received. It is my view that this arrangement is needlessly punitive, and this bill would amend that provision to provide a straight one-for-one service requirement for all NRSA recipients.

We are suggesting two additional amendments to the National Research Service Awards. First, we are proposing a deletion of the provision which permits award recipients to fulfill their service requirement under the act by entering private practice in their specialty in an area designated by the Secretary as underrepresented in that specialty. The provision has never been used by any award recipients, and the Secretary has never defined or designated areas which are underrepresented for a given specialty.

Second, we are adding cost-of-living allowances as one of the considerations which the Secretary should take into account in setting stipend levels for Research Service Awards. These levels have not been adjusted upward since 1974, and remain at levels of $3,900 for predoctoral awards, and an average of $12,000 for postdoctoral awards. There are numerous technical questions involved in determining an appropriate upward adjustment for cost of living, and we await advice from the Department on the level and rate at which these adjustments should be made. However, it is my feeling that an equitable and reasonable increase in stipends is long overdue, and that future awards should take cost of living into account. In order to provide flexibility for providing these increases, we are increasing authorizations for appropriations under the NSRA in the following manner: Fiscal year 1979, $175 million; fiscal year 1980, $180 million; fiscal year 1981, $185 million.

Our extension bill would also extend expiring authorities of the Medical Library Assistance Act. Programs administered by the National Library of Medicine (NLM) under this authority include resource improvement grants, research projects grants, training grants, research and demonstration grants, special scientific project grants, publication grants, and contracts to regional medical libraries. I have included a 3-year extension of this authority at the levels of $15 million for 1979, $17 million for 1980, and $20 million for 1981. I think it would be beneficial to the program to have the assurance of a 3-year extension, and any major changes in the mission of the NLM would probably be in the nature of activities to be added to, rather than replacing, the aforementioned programs.

However, I wish to make it very clear that the subcommittee's review of the NIH mission will include extensive consideration of the question of transfer of knowledge from science to the health care process. Any major new initiatives resulting from this review may very well entail some restructuring of the mission of the Library and its role within NIH.

I am also including an amendment to make the members of the Board of Regents of the NLM appointees of the Secretary of Health, Education, and Welfare (HEW), rather than the President. While I appreciate the intent of the original legislation to confer upon this body the prestige of a Presidential appointment, it should be noted that there have been no new appointments to the Board in 4 years, that the term of the last regent expired in 1977, and that nominations for the Board have been pending in the White House since last March. Insofar as the NLM is a component of HEW, there seems to be no reason to incur the delays that result from having the Board of Regents appointed by the President.

Our proposed legislation includes other amendments to NIH authorities, not related specifically to the expiring authorizations. These have been included because they are essentially noncontroversial in nature or because they are not necessarily related to the more basic issues that will be considered in next year's revisions of NIH authorities. First, we would repeal the provision in section 439(g) of the Public Health Service (PHS) Act, requiring that not less than 20 percent of funds appropriated each year for multipurpose arthritis centers shall be used for the purpose of establishing new centers. While the original intent of this provision—to encourage support for new as well as established arthritis centers—was a laudable one the 20-percent earmark in effect would eventually preclude support of any established centers, including those established recently under the centers authority. In my view, the intent of Congress that the National Institute of Arthritis, Metabolism, and Digestive Diseases (NIAMDD) should give appropriate consideration to new as well as established centers has been adequately expressed, and this potentially troublesome provision should be eliminated.

This bill includes a proposed amendment to section 301 of the PHS Act, authorizing the Secretary to make available to recipients of grants and contracts under that act and to other individuals or institutions, as deemed appropriate, research chemicals or animals which are not readily available and which must be produced or maintained on a centralized or standardized basis in order to achieve the purpose of research. The PHS Act presently provides the NIH with authority to make available certain research materials, such as biological products, to investigators. It does not specifically

authorize provision of animals or chemicals for purposes not specifically enumerated in the act, except to contractors for intramural research personnel. It has come to my attention that recent occupational safety and health requirements have made it economically unproductive for industry to produce the small quantities of chemicals required for certain research, particulary in the field of carcinogenesis. Similarly, certain breeding requirements for animal colonies are so specialized that there is no incentive to produce these animals in the private sector. My amendment would permit NIH to make available to grantees contractors and intramural research chemicals and animals in cases where NIH would be the most appropriate source for such materials.

The Subcommittee on Health and Scientific Research will conduct a hearing on the Extension Act and any other related legislation on February 8, 1978.

I ask unanamious consent that the Biomedical Research and Community Mental Health Centers Extension Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMMUNITY MENTAL HEALTH CENTERS EXTENSION

SEC. 101. (a) This title may be cited as the "Community Mental Health Centers Extension Act of 1978".

(b) Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

SEC. 102. (a) Section 202(d) is amended by (1) striking "and" after "1977,", and (2) inserting after "1978" the following: ", and $1,930,000 for the fiscal year ending September 30, 1979".

(b) Section 203(d)(1) is amended by (1) striking "and" after "1977,", and (2) inserting after "1978" the following: ", and $38,890,000 for the fiscal year ending September 30, 1979".

(c) Section 203(d)(2) is amended by (1) striking "1978" and inserting in lieu thereof "1979" and (2) striking "or the next two fiscal years" and inserting in lieu thereof "or the next three fiscal years".

(d) Section 204(c) is amended by (1) striking "and" after "1977,", and (2) inserting after "1978" the following: ", and $15,000,000 for the fiscal year ending September 30, 1979".

(e) Section 205(c) is amended by (1) striking "and" after "1977,", and inserting after "1978" the following: ", and $23,000,000 for the fiscal year ending September 30, 1979".

(f) Section 213 is amended by (1) striking "and" after "1977,", and inserting after "1978" the following: ", and $13,500,000 for the fiscal year ending September 30, 1979".

(g) Section 228 is amended by (1) striking "and" after "1977,", and (2) inserting after "1978" the following: ", and $2,500,000 for the fiscal year ending September 30, 1979".

(h) Section 231(d) is amended by (1) striking "and" after "1977,", and (2) inserting after "1978" the following: ", and $7,880,000 for the fiscal year ending September 30, 1979".

SEC. 103. (a) Section 203(e)(1)(A)(i) is amended by striking "three grants" and inserting in lieu thereof "four grants".

(b) Section 206(c) is amended by adding the following paragraph at the end thereof:

"(7) If a grant made under this part is renewed, unexpended funds may be carried forward to the subsequent grant period without being deducted from the subsequent grant award.".

(c) Section 225 is amended by inserting after "under this part" the following: "or part A of this title as in effect before enactment of the Community Mental Health Centers Amendments of 1975".

TITLE II—BIOMEDICAL RESEARCH EXTENSION

SEC. 201. (a) This title may be cited as the "Biomedical Research Extension Act of 1978".

(b) Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 202. Section 301(b) is amended by inserting ", research chemicals, and research animals" after "Service".

SEC. 203. (a) The first sentence of section 383(a) is amended by striking "the President, by and with the advice and consent of the Senate" and inserting in lieu thereof "the Secretary".

(b) Section 390(c) is amended by (1) striking "and" after "1976", and (2) inserting after "1978" the following: ", $15,000,000 for the fiscal year ending September 30, 1979, $17,000,000 for the fiscal year ending September 30, 1980, and $20,000,000 for the fiscal year ending September 30, 1981".

SEC. 204. (a) Section 408(a) is amended by inserting "basic or" before "clinical research".

(b) The first sentence of section 408(b) is amended by inserting "basic or" before "clinical research".

SEC 205. (a) Section 409(b) is amended by (1) striking "and" after "1977," and (2) inserting after "1978" the following: ", and $85,000,000 for the fiscal year ending September 30, 1979".

(b) Section 410C is amended by (1) striking "and" after "1977;" and (2) inserting after "1978" the following: "; and $925,000,000 for the fiscal year ending September 30, 1979".

SEC. 206. (a) Section 410(a)(1) is amended by inserting after "qualifications" the following: ". Such experts or consultants shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with 5 U.S.C. 5724, 5 U.S.C. 5724a(a)(1), 5 U.S.C. 5724a(a)(3), and 5 U.S.C. 5726(c)".

(b) Section 413(c)(1) is amended by inserting after "qualifications" the following: ". Such experts or consultants shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with 5 U.S.C. 5724, 5 U.S.C. 5724a(a)(1), 5 U.S.C. 5724a(a)(3), and 5 U.S.C. 5726(c)".

SEC. 207. (a) Section 414(b) is amended by (1) striking "and" after "1977", and (2) inserting after "1978" the following: ", and $40,000,000 for the fiscal year ending September 30, 1979".

(b) Section 419B is amended by (1) striking "and" after "1977," and (2) inserting after "1978" the following: ", and $470,000,000 for the fiscal year ending September 30, 1979".

SEC. 208. The last sentence of section 439(g) is deleted in its entirety.

SEC. 209. (a) Section 472(b)(5) is amended by inserting "and cost of living increase allowances" after "dependency allowances".

(b) Section 472(c)(1)(B) is amended by (1) inserting "or" after "Corps." in clause (i), (2) striking clause (ii) in its entirety and (3) redesignating clause (iii) as clause (ii).

(c) Section 472(c)(2)(B) is amended by striking "twenty months" and inserting in lieu thereof "twelve months".

(d) Section 472(c)(4)(A) is amended by striking

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and inserting in lieu thereof

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(e) Section 472(d) is amended by (1) striking "and" after "1977" and (2) inserting after "1978" the following: ", $175,000,000 for the fiscal year ending September 30, 1979, $180,000,000 for the fiscal year ending September 30, 1980, and $185,000,000 for the fiscal year ending September 30, 1981".

ADDITIONAL COSPONSORS

S. 1954

At the request of Mr. CURTIS, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 1954, a bill to repeal the estate tax carryover basis provisions of the Tax Reform Act of 1976.

S. 2360

At the request of Mr. MOYNIHAN, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2360, a bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act.

SENATE RESOLUTION 367—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 367

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,235,500, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the con-

tingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 368—AN ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 368

Resolved, That in carrying out the duties and functions imposed on it by section 105 of Senate Resolution 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, and in exercising the authority conferred on it by such section, the Select Committee on Indian Affairs is authorized from March 1, 1978, through the close of the 95th Congress to expend not to exceed $575,410 from the contingent fund of the Senate, of which amount not to exceed $12,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 2. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE ON THE REMOVAL OF DAVID W. MARSTON

Mr. SCHWEIKER (for himself and Mr. BAKER) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 369

Resolved, Section 1. (a) There is hereby established a select committee of the Senate, which may be called, for convenience of expression, the Select Committee on the Removal of David W. Marston, to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any person, acting either individually or in combination with others, in the termination of David W. Marston's tenure as United States Attorney for the Eastern District of Pennsylvania, including activities prior to Mr. Marston's termination to effect or expedite, or assist in effecting or expediting, the removal of Mr. Marston, and to determine whether in its judgment any occurrences which may be revealed by the investigation and study indicate the necessity or desirability of the enactment of new legislation to protect from improper influences the operations of the Department of Justice and the process where by United States Attorneys are selected or removed.

(b) The select committee established by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

(c) The select committee shall select a chairman from the majority members of the committee and vice chairman from the minority members of the committee, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

SEC. 2. The select committee is authorized and directed to do everything necessary or appropriate to make the investigation and study specified in subsection (a) of the first section of this resolution.

SEC. 3. (a) To enable the select committee to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, corporation, committee, organization, or other entity, or any officer or former officer or employee thereof, to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, corporation, committee, organization, or other entity, or any officer or former officer or employee thereof, to produce before the committee any books, checks, canceled checks, correspondence, communications, document, financial records, papers, physical evidence, records, recordings, tapes or materials in obedience to any subpena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee or any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have access through the agency of any members of the select committee, chief majority counsel, minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpenas may be issued by the select committee acting through the chairman or vice-chairman or any other member designated by the chairman, and may be served by any person designated by such chairman, vice-chairman, or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The select committee shall have authority to recommend the enactment of any new legislation which it considers necessary or desirable to protect from improper influence the operations of the Department of Justice and the process whereby United States Attorneys are selected or removed.

SEC. 5. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than August 1, 1978. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the select commit-

tee under this resolution shall not exceed $350,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate. The minority members of the select committee shall have one-third of the professional staff of the select committee (including a minority counsel) and such part of the clerical staff as may be adequate.

Mr. SCHWEIKER. Mr. President, I am submitting today a resolution calling for the establishment of a Senate Select Committee on the Removal of David W. Marston. I am pleased to be joined in this proposal by the distinguished minority leader (Mr. BAKER).

The circumstances surrounding the forced resignation of David Marston as U.S. attorney for the eastern district of Pennsylvania have shaken the confidence of the American people in our system of criminal justice. This matter has been characterized by the administration as involving only who won the last election, but in fact it is much more serious. In the years that I have served in the U.S. Senate, I have never seen anything so deeply affect the people of my State as the Marston affair, and the effects are truly national in scope. In the words of a recent editorial in the Detroit (Mich.) Free Press:

> Despite the promises of the attorney general, the investigation of corruption in Philadelphia has effectively been crippled. But the damage goes far beyond that city. Intended or not, fairly or not, Mr. Marston's firing cannot help but suggest to the American people that politicians with nasty little problems can put the fix in with the Justice Department.

It is clear from the superficial investigation by the Justice Department of itself that the American people cannot rely on the executive branch for the truth in this case. They have turned to us, the Congress, for help in finding out what happened and taking steps to see it does not happen again. They want answers to a lot of questions:

Did anyone attempt to expedite the removal of Mr. Marston because of a pending investigation of that person?

Did the President of the United States, or his assistants, or the Attorney General, know or have reason to know of that investigation prior to the removal of Mr. Marston?

Was the Department of Justice kept properly informed of the activities of the U.S. attorney's office in Philadelphia?

Did the subordinates of the Attorney General keep him properly informed of those activities, especially as they might relate to attempts to have the U.S. attorney removed?

Should the Attorney General and the President have reviewed their decision to fire the U.S. attorney after they became aware of certain investigations in progress?

Was the Attorney General aware of the record of frequent removals of prosecutors in Pennsylvania, often under apparent political pressure?

Did he take into account this history, and the effect it has had on the perception of justice, when deciding to remove Mr. Marston?

What steps did the Attorney General take to insure that no investigation would be impeded by the removal of Mr. Marston?

I do not consider the Marston removal to be a partisan matter. I have sought and would welcome cosponsorship and support for this proposal from both sides of the aisle.

In fact, many leading Democrats in my State supported the retention of U.S. Attorney David Marston because he did an outstanding job. These democratic leaders include former Senator Joseph Clark, former Deputy Attorney General Peter Flaherty, former Auditor General Robert Casey, and U.S. Congressmen ROBERT W. EDGAR, ALLEN ERTEL, and PETER H. KOSTMAYER.

This is a matter of justice—of the fact of justice and the appearance of justice. During his tenure, Mr. Marston earned the support of the community in Philadelphia because of his evenhanded record in attacking political corruption. In fact, one of his first major indictments was against one of the most powerful Republican leaders in the State, and it came just a few weeks before the 1976 general elections.

Despite this record, he was fired by the President on national television, apparently because of pressure from people reported to be under investigation by his office. If nothing improper really took place, we should know that to restore our confidence. But if the Justice Department was insensitive or worse, we need to find that out, and take whatever corrective steps might be appropriate.

I hope that the Senate will act promptly to clear the air of this cloud over our system of justice by learning the truth and sharing it with the American people.

For that reason, I am proposing the establishment of a Watergate-type committee to look into the Marston removal. My resolution is patterned after the resolution creating the Select Committee on Presidential Campaign Activities, and would have the same powers that the earlier committee possessed. The work of the committee would be done in 6 months, with its report due on or before August 1, 1978. In all respects, there is precedent for taking the action suggested by this resolution.

AMENDMENTS SUBMITTED FOR PRINTING

REFORM OF THE FEDERAL CRIMINAL LAWS—S. 1437

AMENDMENT NO. 1676

(Ordered to be printed.)

Mr. MATHIAS proposed an amendment to the bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

AMENDMENT NO. 1677

(Ordered to be printed.)

Mr. ALLEN proposed an amendment to the bill (S. 1437), supra.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, the Select Committee on Small Business will convene 2 days of hearings in Oregon on the subject of agricultural labor certification programs and small growers. These hearings will be held on February 10 in Portland, Oreg. and February 13 in Medford, Oreg. Senator PACKWOOD will chair the hearings. The hearings are a continuation of the hearings held on December 20 and 21 in Washington, D.C., on the same subject. Further information on the hearings can be obtained by calling the Small Business Committee office at 224–5175.

ANTITERRORISM HEARINGS

Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will continue hearings on S. 2236, the Omnibus Antiterrorism Act, on Monday, January 30, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

The following witnesses will appear before the committee:

Representative Don Clausen of California.

Capt. J. J. O'Donnell, President, Airline Pilots Association.

James E. Landry, General Counsel and Vice President, Air Transport Association of America.

Accompanied by: Harry J. Murphy, Director of Security; John H. Steele, Corporate Director of Security, Trans World Airlines.

ADDITIONAL STATEMENTS

FEDERAL ELECTION CAMPAIGN QUARTERLY REPORTS

Mr. ROBERT C. BYRD. Mr. President, the Federal Election Campaign Act requires that quarterly reports from candidates for Federal office and political committees must be filed on April 10, July 10, October 10, and January 31.

The Secretary of the Senate's Office of Public Records will be open Tuesday, January 31, 1978, from 9 a.m. until 5 p.m. to accept the January 31, 1978, report as required by that act. The Public Records Office is located in room A–623, 119 D Street NE., Washington, D.C. Reports submitted after the close of business may be placed in a clearly identified depository located in the lobby of that building. Additional information may be obtained from that office at (202) 224–0329.

NOTICE OF NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Charles H. Gray, of Arkansas, to be U.S. marshal for the eastern district of Arkansas for the term of 4 years, vice Len E. Blaylock.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, February 3, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

EUROCOMMUNISM

Mr. MATHIAS. Mr. President, the American agenda is crowded with decisions to be made. Some of the decisions are domestic and concern us alone. Others deal with our relationships with other peoples and other nations.

One of the important subjects that deserves attention is the position that the U.S. Government should adopt with respect to participation by the Communist parties of Western Europe in coalition governments. All sides of this issue should be thoroughly aired.

The Honorable J. William Middendorf II has viewed this possibility from several perspectives. He has served as Ambassador to the Netherlands and as Secretary of the Navy. One may differ with his views, but none can challenge his credentials.

I ask unanimous consent that an article by Mr. Middendorf be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FALL OF THE ITALIAN GOVERMENT, AND EUROCOMMUNISM

The fall of the Italian Government could signal peril ahead for the fragile fabric of the Free World. Italy, a stalwart member of NATO, makes a major contribution to the security of Southern Europe and to its soft underbelly, the Mediterranean. The Italian Navy, for example, presently shares with our Navy key responsibilities in keeping that body a relatively peaceful lake. The large and growing Soviet naval presence in the area coupled with the withdrawal of the British, and our own increasingly strained naval resources makes Italian support all the more valuable.

Further, if it weren't for the availability of Italian port facilities, we would not be able to maintain anywhere near the peacekeeping presence there that we do now. The critically important stabilizing presence of the Sixth Fleet during the 1973 Middle East War would not have been possible without our use of these ports. For one reason or another, most other Mediterranean ports have been closed to us and the potential loss of Italian ports, or indeed any weakening of Italy's NATO resolve and cooperation as a result of Communist influence within their government, would be cataclysmic to the West.

The makeup of the new Italian Government will thus be watched with greater than usual interest in the West. There is much talk that the Communists who probably will be asked to help form the government are "Eurocommunists", not to be confused with the Iron Curtain brand of Communists. Therefore, in the coming weeks much attention will be focused on precisely what is "Eurocommunism" and what does its ascendancy mean for the West.

Southern Europe, or, to be more precise, Latin Southern Europe, is faced with an inexorable advance of Communist parties from within. In Italy, France and Spain Communist parties owe much of their success to their promise to build a different kind of Communist society, one more humane than those in Eastern Europe and independent of Moscow.

Leaders of these three Communist parties have repeatedly professed attachment to the principles of democracy and independence, have publicly criticized the repression of human rights in East European Communist countries and have promised that each Communist party has the right to decide on all internal matters without Moscow's interference. Even if we don't question their sincerity, the real question is whether they can keep their promises once in power. Let's take a closer look at the history of Communism.

Most Communist parties have started their political growth in "alliance" with other "progressive forces" in an attempt to solve some crucial national issue, usually to form a government. The next step is to share power in a government of "national unity", followed by a coup that leaves the Communists as the sole government. The Communist moderate leaders of this first period are inevitably overthrown by hard-liners who accuse the former of weakness towards capitalism. The party is purged, bringing to the top those demanding "ideological purity". "Workers" and "peasants" replace intellectuals in key party positions. The terror begins, actual and potential opponents are physically exterminated, especially the moderate members of the Communist party. All Revolutions must first consume their young.

One might argue that while this happened in Russia in 1917 (years later Kerensky himself told me how this process worked in his case) and in Eastern Europe in the late Forties, times have changed. Not true. Look at the recent "national emergency" governments in South Vietnam and Cambodia in the transition period. The Communists first used representatives of churches and the bourgeoisie to gain their goals, then purged them all and even cracked down on the social categories that their former allies represented.

Lenin said that one of the signs of maturity of a Communist party is its ability to make compromises and to join alliances even if it is obvious that they will not last. Communist ideology makes politicians cynical and ruthless and their materialistic philosophy totally frees them of any of those moral restraints imposed on other politicians. They are simply marching to a distant drum. We should never forget that the doctrine itself leads always to a totalitarian end: Communists claim to have the ultimate truth in all aspects of social, political and economic life and will impose their "truth" by all means, including force.

What this all means is that even if present Southern European Communist leaders were sincere in their desire to avoid the classical form of repressive Communism, they would probably not be able to do so because of the unavoidable mechanics of the system.

There is no reason to doubt that their present desire to be independent of the Russians is a genuine one. But can that ever be possible once a Communist party is in power? There are goals and interests in the international field which have to be persuaded in common. During the Vietnam War, independent Romania and Yugoslavia joined Russia and China who temporarily forgot their own profound conflict, and all other Communist countries and parties in support of Communist Vietnam. Similarly, Yugoslavia, which is not a member of the Warsaw Pact or Comecon, joined with other Communist countries in 1967 in breaking diplomatic relations with Israel. Vietnam, til recently unaligned with either Russia or China, seems now to have chosen Russia who is backing it in its war against Cambodia.

It should be clear that the independence of Communist countries toward Russia is imperfect and at most temporary, while their sense of solidarity to Communist doctrine is constant. We should not underestimate the importance of their sharing a Communist ideology—they speak the same language. And there is also an emotional element: whatever differences exist, Russia remains the Mother Communist country, and Moscow a Mecca for all Communists. Russian help will always be the preferred option to losing political power, because a pro-Moscow faction will always exist in any Communist party.

The recent very commendable statement by our State Department decrying Communist participation in the Italian Government has been received with mixed feelings in Europe, and questions have been raised about our right to express opinions concerning momentous events in other countries. Like it or not, the fact remains that the United States is the main economic and military power in the free world upon which strength so many countries now depend. But, we too depend on them. We cannot for long disregard what happens in other parts of the world and embattled democratic forces in Southern Europe under threat of Communism wait, even long, for our support such as the State Department statement.

Finally and more particularly, what these critics overlook is that Italy and ourselves are members of a fundamental alliance and that the question of Communist participation in the government of an alliance member impinges directly on the solidarity and future of that alliance. The toleration shown by the democratic world to Fascism in the Thirties led to the Second World War. We learned a bitter lesson the hard way. Let's not make the same mistake again.

TEXAS ACTS TO LIMIT GAS OUTPUT TO PREVENT LOWERING OF PRICES

Mr. METZENBAUM. Mr. President, my friends in the natural gas industry have been caught speaking out of both sides of their mouths at the same time. For years now we have heard their cry for lifting Federal price controls on natural gas. "Rely on the free market," they say. "Get the Government off our backs and we will produce the natural gas supplies needed to prevent a gas shortage."

But now we find that natural gas producers would like to have it both ways. As long as the demand for natural gas is high, they want to eliminate price controls and let the consumer prices soar to the heavens. Now when supplies have increased beyond demand, causing a temporary glut, those same companies turn to the Government for intervention to prevent gas prices from dropping. The Washington Post reported this week that the Texas Railroad Commission, long known as a staunch protector of major oil and natural gas interests in that producing State, has taken steps to prevent a temporary glut of gas supplies from driving down prices. Instead of being upset with this Government intervention, the gas producers in Texas are tickled pink. As one gas company official stated, "It's an attempt to balance supply and demand, and it's working."

Frankly, Mr. President, I have difficulty feeling much sympathy for my poor natural gas company friends in their time of need. When residents of Crystal City, Tex., had their gas supplies shut off last year because they could no longer afford to pay outrageous costs for deregulated gas supplies, the gas companies—and their protective State regulatory commission—responded in typical Marie Antionette fashion, "Let them eat cake." Those people were asking for a minimal amount of Government intervention to help them heat their homes and operate their stoves. To my knowledge, they are still without gas supplies, despite repeated requests for help. Mr. President, I simply cannot believe that

the natural gas producers who have been reporting record profits in recent years are half so deserving of Government help.

The gas companies would have us believe that there is no relationship between these recent events to control gas prices in Texas and our continuing efforts to maintain Federal price controls. Their arguments would be funny, if they were not so ludicrous. At the State level, gas producers are asking for Government controls to keep prices up, so they will not pay the penalty for a temporary glut—one which would hopefully benefit consumers in the intrastate market by driving prices down. But at the Federal level, these same producers are asking us to remove all price controls, so they can raise prices at a tremendous economic cost to the consumers. In both cases, the gas producers win and the consumers lose.

Mr. President, I ask unanimous consent that the Washington Post article I have referred to entitled "Texas Acts to Limit Gas Output to Prevent Lowering of Prices," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 25, 1978]

TEXAS ACTS TO LIMIT GAS OUTPUT TO PREVENT LOWERING OF PRICES

(By J. P. Smith)

Texas has taken steps to limit natural gas production to prevent a temporary gas glut from forcing down prices in the state's unregulated gas market.

Framed as a conservation measure, the Texas Railroad Commission's decision goes into effect Feb. 1. The commission regulates natural gas and oil in the country's leading producing state.

The Railroad Commission's decision to fend off downward pressure on natural gas prices within the state comes at a time while Senate and House conferees are trying to end a deadlock on the natural gas deregulation issue.

Oil and gas industry executives such as the Natural Gas Supply Committee's David Foster say they do not expect the Railroad Commission's decision to prorate production will have an impact on the conferees' effort to get a compromise on the deregulation.

"I don't think there is any connection between the two," said Foster, who heads the industry's Washington lobbying effort to press for deregulation.

Critics of deregulation who support the House-based bill proposed by President Carter, which would continue gas price controls and extend them to the unregulated intrastate market, however, have argued in private that the softening of intrastate prices in Texas indicate that gas prices there are already too high.

One oilman, however, who has expressed concern over the so-called gas glut in the intrastate market, is John Buckley, vice president of Northeast Petroleum.

Buckley, whose company sells residual oil and other oil products, says the oil industry and major natural gas users such as utilities have overcompensated in the face of shortages by spurring production efforts, and taking conservation measures.

He says that while the United States will likely continue to have lingering spot shortages of natural gas, "If the conferees don't get a ceiling price on natural gas pretty soon—they could end up with a floor price, because the market is dropping off.

Currently 87 percent of the new gas supplies discovered in the United States never leaves the intrastate market because of the higher profits oilmen earn in the unregulated market. New gas in the interstate market now sells for $1.47 per thousand cubic feet, compared with an average price of about $1.95 per thousand cubic feet in the intrastate market. Deregulation, oilmen say, would raise new gas prices to the intrastate level.

The commission's decision thus far has been well-received by oilmen in Texas, who recently have become concerned about gas prices in the intrastate market.

"It's an attempt to balance supply and demand, and it's working," said Don Newquist of Lo Voca Gathering Corp., a Houston based gas wholesale sales company.

ARMY TESTS SOLAR ENERGY IN ALASKA

Mr. STEVENS. Mr. President, I would like to call attention to an interesting experiment to demonstrate the application of solar electric cells which the U.S. Army Cold Regions Test Center is performing at Fort Greely, Alaska.

The reliability of four types of solar cell panels is to be tested over a 10-year period. This test and similar ones at four other locations are being conducted for the Department of Energy with funds provided by the National Aeronautics and Space Administration Lewis Research Center.

I applaud this experiment. I believe that solar electric technology can provide reliable energy to defense facilities and other installations in remote areas where the costs of shipping in other fuels are very high.

In a recent letter, Col. James F. Henrionnet, of the Cold Regions Test Center, described this solar cell panel reliability test as follows:

This test is one of several tests at different sites being conducted by the National Aeronautics and Space Administration Lewis Research Center (NASA–LERC) for the Energy Research and Development Administration. Other Department of Defense sites include Fort Clayton, Canal Zone; Dugway Proving Ground, Utah; San Nicolas Island, Key West, Florida; and Fort Lewis, Washington. Funding for this test is being provided by NASA–LERC.

The objective of this test is to determine the lifetime of the different types of solar cell panels, component parts, and materials under the cold regions environmental conditions. Four types of panels of which four each (16 panels total) have been installed at Fort Greely and are being monitored monthly to determine their operational capability. Inclosure one describes the four types of panels being tested. This test is scheduled for 10 years. Additional types of solar panels may be added to this test in the future.

I have great hopes for this work and want all concerned to realize Alaskans are delighted to learn that Fort Greely's being used for this test.

A CLARIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, I would like to take this time to discuss an area of uncertainty in interpretation of the Genocide Treaty which has needlessly hindered its ratification in this country.

Article VI of the Genocide Convention provides that persons charged with genocide will be tried "by a competent tribunal of the state in the territory in which the act was committed or by such international penal tribunal as may have jurisdiction." There are some who argue that the latter phrase poses a danger that an international court might usurp the constitutional and legal safeguards normally guaranteed to U.S. citizens. Nothing could be further from the truth.

Here are the facts. It is now 30 years since members have ratified the treaty. In that time there have been no such courts established through the United Nations. There is no movement to do so. Moreover, the creation of such a tribunal would require another treaty which would necessitate a full two-thirds vote of approval in the Senate.

It should also be noted that the International Court of Justice has no criminal or penal jurisdiction. It could not be used for the punishment of genocidal acts.

Thus, article VI protects the right of each member state to try persons charged with genocide under their normal constitutional procedures. The second part of this article is, as the Foreign Relations Committee report of 1976 notes, "a dead letter at this time."

It is unfortunate that this provision has been cited as an objection to the Genocide Treaty. It is astonishing the opponents of the treaty continue to resort to such inconsequential and misguided assertions to obstruct its passage. We simply cannot allow this to continue. The Genocide Convention must be ratified immediately.

BIOMASS ALTERNATIVE FUELS AND THE ENERGY TAX BILL

Mr. MARK O. HATFIELD. Mr. President, a special report prepared in September for the Committee on Finance by the staff of the Joint Committee on Taxation concludes that "biomass conversion can provide a renewable and economically viable power source alternative for large areas in the United States."

In recognition of this potentially significant alternative energy source, both the House and the Senate versions of the energy tax bill, currently in conference, provide a variety of incentives for conversion away from traditional fossil fuels, such as crude oil and natural gas, and to fuels characterized as "alternate substances," which include fuel derived from what is known as "bioconversion." Bioconversion, as my colleagues know, is the process of producing energy from various organic substances, called biomass, such as agricultural, industrial, forestry, and municipal wastes.

The energy produced by bioconversion may be electricity, gas, liquid, or solid fuel. The obvious advantage of the process, in addition to the fact that capital fuel resources such as oil and coal are conserved, is that waste products are being disposed of and recycled at the same time that energy is produced. Also, numerous biomass products are either at the prototype stage or are commercially available right now.

An October 25, 1977, report issued by

the Library of Congress Congressional Research Service, entitled "Energy From Solid Wastes: Bioconversion and Other Chemical Processes," describes several companies utilizing three separate processes for converting solid waste into energy. The report points out that two of the processes—pyrolysis and hydrogeneration—have advanced to the demonstration and pilot plant stages and that the third process—bioconversion—has been the subject of increasing interest from the Environmental Protection Agency and the Energy Research and Development Administration.

This same CRS report describes the advances made by an Oregon company which has been a pioneer in bioconversion, developing products, and processes that exemplify the types of alternative energy sources—or "alternate substances"—sought to be encouraged by the energy tax bills now under consideration. The CRS report states:

A process developed by Bio-Solar Research and Development Corporation is reported to convert organic fibrous materials such as wood waste, grass, leaves, and peat into pellets that can either be burned directly like coal or converted into gas which can be burned to produce steam. This technology has been internationally licensed.

The Bio-Solar Research and Development Corp. referred to by the CRS report is a Eugene, Ore., company, and its plant, which produces "Woodex" fuel, is located in Brownsville, Ore.

This remarkable company, begun and operated by an enterprising scientist named Rudolf W. Gunnerman, has received national attention in recent months, having been written about by Business Week and the Christian Science Monitor, and featured on the "NBC Nightly News."

While I, naturally, am proud that Bio-Solar is an Oregon company, this is not the only reason that I have brought this matter to the attention of the Senate. The encouragement of viable alternative energy sources to decrease dependence on oil, natural gas, and highly polluting fuels, as even coal can sometimes be, is important in today's energy picture.

According to a report by Robert A. Lowe of the Environmental Protection Agency, entitled "Energy Conservation Through Improved Solid Waste Management," about 70 to 80 percent of residential and commercial wastes are combustible and have an energy content of about 9 million Btu's per ttn. The report states, for example, that had all solid wastes been converted into energy in 1971, and estimated 1.1 quadrillion Btu's could have been generated. This would have been equivalent to approximately 5,220,000 barrels of oil per day, or 1.9 billion barrels per year.

To illustrate this point further, I am told that the Bio-Solar Research and Development Corp.'s product, "Woodex," in its solid form can produce 9,000 Btu's per pound or 18 million Btu's per ton. Thus, one ton of "Woodex" has the approximate Btu equivalent of a ton of western coal or 3½ barrels of crude oil. Moreover, it can be up to 50 percent cheaper than other fuels, burns more cleanly than coal, stores indefinitely without being affected by humidity, and can be produced at a very low capital investment per ton.

Not only can this biomass fuel be used in all solid fuel furnaces, but its gas derivative can be used for gas-fired boilers and, with minor adaptation, for oil-burning plants as well. I understand that one large medical institution which switched to biomass fuel saved $200,000 in initial startup installation costs through the elimination of the need for coal scrubbers and antipollution equipment, and is now enjoying more than $75,000 per year in fuel savings.

Mr. President, it is my strong hope that when arriving at compromises on the various energy tax provisions now under consideration, the Congress will preserve those sections designed to encourage the development of "alternate substances," such as Bio-Solar's bioconversion processes, and the use of biomass fuels as an alternative energy source to gas and oil.

Mr. President, I ask unanimous consent that an article published by the Christian Science Monitor News Service describing Bio-Solar's development of the advanced bioconversion concept be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASTE INTO FUEL—IT WORKS!

(By T. W. Kinelen)

EUGENE, ORE.—The world has begun to beat a path to the door of Rudolf W. Gunnerman. The growing interest is directed at Mr. Gunnerman's patented process for turning organic fibrous waste—which the world churns out at an estimated rate of 150 billion tons a year—into a relatively clean, economical fuel.

Wood waste, peanut shells, grass, vines, leaves, agricultural waste, peat, and the refuse of sugar refining—are all feed stocks for making the patented new fuel.

Mr. Gunnerman's company, Bio-Solar Research and Development Corporation, already has issued licenses for production of the fuel to companies in Sweden, the Philippines, and Canada, as well as in the United States. A number of other applications for licenses are under study, including that of a major U.S. utility.

Mr. Gunnerman's process, developed over a three-year period of research and experimentation at a cost of $1 million, turns these organic fibrous materials into a pelletized fuel.

In this process the moisture content of the raw material is reduced to around 25 percent through compression. The feedstock is pulverized and the moisture content further reduced. The pellets are then formed under extreme pressure.

The pellets can either be burned directly as fuel or converted into vaporious gas to be used as boiler fuel to produce steam. At the firm's own production plant, the gas is fired to dry the pellets in the final step of production.

In October, at the invitation of Efain Friedmann, senior vice-president of the World Bank and its energy consultant, Mr. Gunnerman will make a presentation in Washington to representatives of underdeveloped countries. The invitation followed a three-day visit to the Gunnerman facilities by Mr. Friedmann and R. G. Fallen-Bailey, senior engineering consultant to the bank and the United Nations.

World Bank interest in the fuel reflects the fact that the bank has made loans totaling $2 billion to underdeveloped nations solely for energy. Conceivably, the bank could finance plants for making pelletized fuel in such countries.

Although the Energy Research and Development Administration has shrugged off Mr. Gunnerman's process, the process has been given full clearances by state and federal clean-air agencies for the environmental purity of both the pellets and gas. In at least two instances use of the fuel has helped customers avoid substantial outlays for antipollution installations that would have been required had those firms continued to use their former fuel.

Mr. Gunnerman, a native of Germany and graduate of the University of Munich with degrees in mathematics and physics, came to the U.S. in 1949 on a teaching scholarship awarded by Yale University. Four months later he resigned and went into real estate in Hollywood.

As a physicist, however, he continued his interest in heat transference and subsequently was awarded several patents on high-temperature heat shields.

The new pelletized fuel process grew out of an earlier search by Mr. Gunnerman for alternatives to other energy sources, such as coal, oil, and natural gas. A major impact of increased use of the pelletized fuel could be a substantial reduction in oil consumption. It is estimated that 250 tons of pellets is the heat equivalent of 750 barrels of oil.

Research, development, and daily production of the pellets are carried on by Woodex, Inc., Bio-Solar's producing subsidiary, at Brownsville, Ore., where an inventory of 5,000 tons of pellets is maintained. Present daily production of 100 to 110 tons now goes to customers in Oregon and Washington.

Early licenses for manufacture of the fuel have been granted in the U.S. to Hines Lumber Company, Burns, Ore.; Eclipse Lumber Company, Port Angeles, Wash.; and Jason Day Lumber Company, Coeur d'Alene, Idaho.

What are known as master licenses have been granted in British Columbia, Sweden and the Philippines. These licenses authorize the holders to issue sub-licenses to others to build plants for fuel manufacture.

One important factor creating demand for licenses is the relatively low capital investment required. Plants can be built and go on stream in six to nine months at a cost of $750,000 to $1.5 million.

At Brownsville, Woodex, Inc., is producing the fuel at a cost of $15 per ton, including feedstock purchase and cost of production, and selling the pellets at $22 per ton, FOB, from the plant.

S. Medill, Ltd., of Nanaimo, on Vancouver Island, holds the master license for British Columbia. In Sweden the master license holder is SVETAB, the Swedish Industrial Establishing Corporation, which will grant licenses to manufacture in Sweden, Finland, Denmark, and Norway.

In an interview with Mr. Gunnerman, the inevitable question of "going public" was raised. Would he respond to repeated inquiries about buying stock in his undertaking by making a public offering?

"Right now I would be foolish to say no." But, he added, "I would be just as foolish to say yes." He is the sole owner of the firm.

METRO FINANCING

Mr. MATHIAS. Mr. President, in my review of the administration's 1979 budget request, I noticed the omission of an important item in the Department of Transportation's budget. I refer to the lack of continued funding for the Washington, D.C., regional rail system, Metro. It seems incongruous that while Congress is struggling to develop a national energy policy, the 1979 budget request

does not reflect the contributions mass transit can make to energy conservation with systems like Metro which demonstrate enormous success. Over 150,000 people a day have chosen to use Metro, because of its convenience, and the number of users is growing as new tracks are open to the public. In addition to the energy-saving aspect, Metro has substantially reduced the congestion on the overburdened roads of our Nation's Capital.

Currently, the elected leadership of the Washington area is reviewing the miles of Metrorail construction which are not yet financed. Their review, undertaken at the direction of the Federal Government, is intended to reevaluate the need for various segments of the planned 100-mile system. Particular attention is being paid to construction and operating costs, as well as to the potential benefits to the citizens of the metropolitan area and to the Federal Government.

This process, of course, must be completed by the local officials before we will have a firm view of the funding requirements necessary to provide the full transit system the region requires. However, I believe the important decisions, which will shape the character of this region for decades to come, should be made by local elected officials on the merits of the various projects, rather than on some artificial funding ceiling.

For this reason, I am concerned about the current position of the administration, which appears to limit any future capital funding for Metrorail to funds which can be made available by the interstate highway transfer process. This would place a severe constraint on the local decisionmaking necessary for such a major regional venture. Consequently, when the regional officials have completed the alternatives analysis decisions, I will work to insure that the capital funding is made available for the full system that this local planning process validates even if it should require Federal funding beyond that available from local interstate transfers. While we will not know the extent of that need until the results of the local alternatives analysis are presented within the next few months, I do want to make clear at this point that, in my judgment, the local officials should be guided by what is best for the National Capital region rather than by what funds can be made available under some arbitrary fiscal limitation.

The 1979 budget request provides no Federal funds at this point for continued Metro rail construction or additional debt service participation as provided by Congress last year. However, the President's budget does clearly indicate that the administration anticipates submitting budget amendments to deal with the question of Metro financing. It is important that submission of such budget amendments occur prior to the completion of the 1979 appropriations process.

As I did last year, I will work with the Senate Budget Committee, Appropriations Committee, and the Subcommittee on the District of Columbia of the Governmental Affairs Committee to insure that the necessary provisions are made in congressional budget and appropriations actions to enable this important project to proceed effectively. I look forward to the continued development of this public transportation network and its contribution to a more cohesive National Capital region.

In closing, I would like to remind my colleagues and the administration that Congress has repeatedly stated that our Nation's Capital must set an example with the most energy-efficient, ecologically sound, and complete mass transit system possible.

THE PANAMA CANAL TREATY DEBATE

Mr. HATCH. Mr. President, the proposed Panama Canal treaties will soon be reaching the Senate floor for a vote. It is not fashionable to oppose these treaties, a situation reflected most clearly in the news coverage of the ongoing debate. Opponents have been consistently characterized as indulging in grade-school chauvinism, and the overwhelming disapproval expressed by the American public has been repeatedly represented as "backward" and "blind to present-day realities."

This attitude of condescension is dangerous for several reasons. It calls into question the integrity of a system that was originally designed to reflect the will of its citizens. It divests treaty proponents of their responsibility to answer the very many serious questions that remain unresolved by the present version of the treaties. And it deprives the issue at hand of the larger context within which a matter of such grave implications should necessarily be considered.

An extremely perceptive article, appearing in the December issue of the American Security Council's Washington Report, does a great deal toward restoring the perspective vital to the consideration of these important treaties. I commend it to the careful attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY WE MUST KEEP THE CANAL

(By M. Northrup Buechner, editor)

(Quite a bit has appeared in the news media recently about the Panama Canal issue. Most of it has been in response to the PR campaign orchestrated by the White House to gain Congressional and popular support for the proposed Treaties. The White House effort has been primarily theatrical, with the elaborate dinner for the Latin American leaders being the big event, carefully staged for maximum TV coverage.

(Leading opposition voices have been given grudging play in the press. And the powerful popular opposition has been relegated to sparse reports of public opinion polls.

(The article below is one we recommend highly to WR readers. It goes to the issues behind the Treaties. It reveals the inadequacy of the opposition arguments that have been presented so far in the Congress. And it provides a valuable service on behalf of the general public, by offering a compelling rationale for the so far inarticulate cry of objection from the American heartland.)

The abysmal level of the public debate over the Panama Canal was epitomized in a national interview with a prominent undecided Senator. Asked what considerations he was weighing in making up his mind, the first thing he mentioned was the veto power the new treaties give Panama over a second canal. The public pondering of such details has spread the impression that only trivia is at stake in this debate. Nothing could be further from the truth.

The public advocates of keeping the canal, however, have missed the point almost as badly as that Senator. The primary issue is not the military importance of the canal. It is not the economic importance of the canal. And it is certainly not the details of the new treaties. The primary issue is the right of the United States to exist.

The moral principle at stake is the right of the United States to keep her values, her achievements, her wealth, in the face of overwhelming global opposition. And since a country, like a man, cannot survive without values, at issue is the right of the United States to survive.

That is why the American people oppose the new treaties. That is the principle behind their desperate feeling that giving away the canal would be wrong in some way much more important than they know how to say. When they tell reporters "we have given away too much already," and "we have to stop letting them push us around," that is what they are trying to say. Though they lack the words, they see surrender of the canal for what it would be: a step in the direction of renunciating the United States' right to her values and her life.

Unfortunately, a national debate cannot be won without the words. It is not enough for people to be right. They must know why they are right. They must have the words and principles to defend their position. What happens when they do not has been most evident in the United States Senate.

Because they did not know how to oppose surrender of the canal in principle, a number of Senators have tried to prevent its surrender by becoming enmeshed in debate over the details of the new treaties. In doing so, they have made several significant contributions to the other side.

They have accepted a context for debate where it is treated as already established that we should give up the canal and the dispute therefore, is only over the side conditions. They have trapped themselves in a position where, if the conditions to which they object are changed, they cannot vote against the treaties. And they have been diverted from giving any effective leadership or voice to their enormous support in the general population.

What position should they have taken? How should the new treaties be opposed? The most damning evidence against the treaties is the arguments that are given in their favor. Those arguments fall into two general categories: the practical arguments and the moral arguments; or the arguments from fear and the arguments from guilt.

THE PRACTICAL ARGUMENTS

The most extreme, and therefore the clearest, of the practical arguments holds that if the Senate rejects the new treaties, Panama will become "another Vietnam." In other words, we should give up the canal out of fear of a war with Panama or, even more disgraceful, out of fear of independent guerrillas.

This argument marks a new low in the level of political discourse in this country and not many have had the effrontery to make it openly. That it has been left largely to implication and innuendo is the only sign that our leaders retain any respect for the American people.

For example, it was argued explicitly before the Senate Foreign Relations Committee that the best way to retain access to the canal is to give it to Panama so they will be on our side if we should have to defend it. It is very

revealing (and somewhat frightening) that this argument was taken at face value by all the news media, and its implications went completely unnoticed.

Militarily, observe the helplessness of the United States implied by so desperate a need for support, and from Panama of all places, as to justify giving away the canal.

Strategically, observe the absurdity of assuring access to the canal by placing all the complex, delicate machinery and equipment and controls for its operation in the hands of a potential enemy.

And, finally, since attacks by Panama are the only current danger to the canal's security, observe the threat implied by raising the issue of, and hence doubts about, our access to the canal. The real meaning of that argument was that if we try to keep the canal, Panama will deprive us of its use, and therefore we had better give it to them.

To spread this kind of thinking, an unforgiveable campaign has been carried on through the media for the last several months, specifically directed at undermining the self-confidence of the American people and frightening us into giving up the canal. Its most disgraceful element has been the effort by our own military leaders to leave the impression, again by hint, insinuation, and innuendo, that the United States is militarily impotent to assure the security of the Panama Canal.

The argument about access to the canal, for example, was repeated several times before the Senate Foreign Relations Committee by military leaders. When the Panamanian dictator was making thinly veiled threats of guerrilla war, the chairman of the Joint Chiefs of Staff did not dismiss him as absurd. Rather he implied that the threat was serious by saying he could not defend the canal with 100,000 men.

In the face of this atmosphere of national self-abasement, when President Carter clearly stated that we can and will defend the canal, his declaration came like a breath of fresh air. Then, he threatened that it would be a major, difficult, dangerous undertaking, thus contributing to that atmosphere himself.

It is shameful that this kind of fear was a major factor in the negotiations for the new treaties. Fear is a disastrous motive on which to base policy in any case. But whatever consequences might have been expected from such a policy, ceding the canal out of fear of Panama would have been beyond anyone's ability to predict.

There is no way that Panama could become another Vietnam. Militarily, the two situations have nothing significant in common. Guerrillas could be even a minor problem only if we insisted on following the same insane policy we pursued in Vietnam of fighting effects rather than causes.

In this case, however, fighting of any kind can be avoided altogether. All that is necessary is a statement by the President that an attack on any part of the Canal Zone would be considered an attack on the United States, and that any country supporting such an attack would be considered an enemy of the United States and treated accordingly.

The practical argument also holds that surrender of the canal is essential for good diplomatic relations with the Latin American countries. But even if *they* were the great powers of this hemisphere, it would be obviously self-defeating to curry their favor by giving away our possessions.

Yet, blinded by a frantic, suicidal anxiety over the good opinion of the world in general and our southern neighbors in particular, that is the course insisted on by most of our political and intellectual leaders. The tragic failure of their leadership to be worthy of the American people was never more evident.

It would undoubtedly be pointless to remind those leaders that it is *we* who are the great power here, and if anyone should worry about good opinions, it is our southern neighbors who should worry about *ours*.

THE MORAL ARGUMENTS

But if the practical arguments are insulting, the moral arguments are worse, much worse.

It is said we stole the canal and our presence in the area represents a colonialist affront to the sensitive feelings of the Latin American people. We should give up the canal, it is implied, out of guilt for these offenses.

The charge of colonialism, though repeated mindlessly by everyone, is a transparent fraud. A colony was a settlement of people, not an industrial engineering enterprise. A colony, by definition, was administered for the economic benefit of the mother country. The Panama Canal is not a colony, nor has the United States ever had a colony anywhere in the world.

But the vilest distortion in the whole debate is the charge we stole the canal. It is the exact opposite of the truth.

The opposite of theft is production. We did not steal the canal; we built it. The moral right of the United States to the canal is the right of any creator to what he has created. That right, however, is a property right, the root of all property rights, and it is not surprising that modern intellectuals and politicians are unwilling to defend anything based on that source.

It is their view that control of the canal by the Panamanians is a legitimate aspiration of the Latin American people. But there is no such thing as a "legitimate aspiration" by some to an achievement created by others.

Not only did the United States pay the costs of constructing the canal. It was her citizens who figured out how to conquer the previously unconquerable obstacles and then directed the construction in an enormously heroic effort. The Panama Canal was the greatest engineering feat in the history of many up to that time and we did it.

Nothing is more depraved than ridiculing the American people for their pride in their canal, a tactic adopted by some, not all, of the advocates of the new treaties. No people ever had a better right to pride in any national accomplishment. The Panama Canal is a reflection and embodiment of all that is best in the American character.

Whatever shenanigans were involved in getting sovereignty over the Canal Zone, and no one's account makes them very serious, they are nothing next to the incredible achievement of the canal itself. Without us, the Canal Zone would be just so much empty, deadly, malaria infested lakes and jungle—as would the rest of Panama.

If one considers what Panama would be like today without the canal, it is clear who has received a disproportionate share of the benefits, and if moral debts were to be collected, who would owe what to whom. Then consider that an agreement reached in conjunction with the new treaties calls for us to pay them some 345 million dollars. This is over and above the negotiated increase in payments for use of the Canal Zone from 2.3 million to about 60 million dollars a year.

WHY THEY WANT THE CANAL

There is no moral justification whatever for the demand that the United States give up the canal. What then is the cause of that demand? The same cause that is the leitmotif in the treatment of the United States by most of the undeveloped world.

It is the motive behind the burning of American consulates, the attacks on American diplomats, the seizure of American fishing boats, the expropriation of American property, the constant attempts to humiliate us in the U.N., all of it accompanied by demands for more money, and lately, by claims of a right to a share of our wealth.

Stripped of the meaningless vicious jargon about colonialism, imperialism, and exploitation, the moral argument holds that we must give up the canal to satisfy the malice, hatred, and envy of the worst elements in the Latin American countries, and indeed, in the whole undeveloped world. Those are the "sensitive feelings" we are accused of affronting.

What is the cause of this global hostility toward the United States? It comes from two related sources.

First, whether communist, fascist, socialist, or non-ideological, the underdeveloped countries of the world are almost all dictatorships. As such, their hatred and fear of the United States has a purely practical element.

We are the last, best, shining example of the kind of life that is possible to man on earth when he is left free. We are the unavoidable proof that the brutality, torture, terror, and death they have imposed on their people are unnecessary.

But the more fundamental cause of their opposition is also the cause of tyranny as such. It is "envy" in its most vicious, virulent, destructive sense. It is what Ayn Rand has identified as "hatred of the good for being the good."

Today that motive is widely regarded as normal and natural. It is sympathetically explained, "Of course they hate us and would like to see us destroyed. After all, we are rich and they are poor; we are great and they are small; we have created achievements they cannot approach; we built a canal they could not conceive."

What that view sanctions and expresses is the ultimate evil in human psychology, the lowest and worst motive that is possible to man. It represents a hatred of every living human value, the same motive that sets up concentration camps, torture chambers, and dictatorships as ends in themselves.

The canal is a hatred symbol all right, but not of a nonexistent American colonialism. What the canal really symbolizes, and what the value-haters want symbolically to wipe out by making us give it up, is the overflowing abundance of energy, efficacy, and pride of a free people.

To surrender the canal in the face of such a motive is unthinkable. It would mean accepting their view of our virtues as vices and our achievements as stains on our national character. It would mean sanctioning hatred of the United States as natural and right and deserving a positive response. To what portion of our wealth and achievements could we claim a right after that and on what grounds?

That is the most important reason for keeping the Panama Canal. If there were no other reason whatever, that would be sufficient to hold on to it for dear life.

CONCLUSION

Those who think the Vietnam War demonstrated the unwillingness of the American people to fight for their values should think again. The only thing that war demonstrated was that the American people will not fight indefinitely for nothing.

The difference between Vietnam and the Panama Canal is the difference between fighting to save the house of a remote neighbor you have never met and fighting to save your own home.

The American people want to keep the Panama Canal. They are right to want it. And they will support the policies necessary to do so.

There is no practical reason for surrendering the canal. There is no moral reason. There is nothing but the pressure of a viciously irrational global opposition. The Senate should confound that opposition and assert the United States's right to keep her values and her life by rejecting the new treaties.

WATERWAY USER CHARGES: THE FARMER, THE STEEL INDUSTRY, AND THE BARGES

Mr. DOMENICI. Mr. President, my colleagues may have heard a good deal about the "opposition" of farmers and the steel industry to waterways user charges. It appears to me, however, that something is missing from this simplistic assessment: It assumes—incorrectly—that most farmers and steel companies are heavily dependent on barge traffic, and that neither group would gain from a balanced national transportation policy that begins to end the heavy hand of subsidies that powers the barges.

In an effort to understand this problem, I asked the Department of Transportation to see how grain and steel moves out of various States. I asked to see if these groups would be more likely to suffer from a slight increase in barge rates over the next decade, or from the continued deterioration of the railroads.

Surprisingly—at least surprisingly in relation to the rhetoric—this study found that the farmers in many States do not ship at all by water. Grain States such as North and South Dakota, Kansas, Montana, Wyoming, Colorado, Nebraska, Oklahoma, and Texas send virtually no grain out of their States by water. They are dependent on rail and trucks. This natural dependency means they will rise or fall with the viability of the railroads.

These grain farmers benefit not a whit from subsidized barge rates. In fact, they very likely suffer directly because the railroads are often accused of jacking up their rates in these land-locked areas so they can offset the cost of competing against artificially low, subsidized rates of the federally supported barge industry. This also can lead to an inability to modernize and to track abandonments.

Is it really equitable to the grain State farmers to, in effect, subsidize only those lucky enough to ship by barge? A national policy to help farmers move grain to market should subsidize the farmer, not a favored type of transportation.

Steel shipments represent another case of exaggeration. The proponents of the barge industry like to argue that waterway user charges will prove disastrous to the steel industry, because the steel industry is supposedly so dependent on waterways.

But look at the real impact. User charges will not affect iron ore movements on the Great Lakes; the St. Lawrence Seaway and the Great Lakes are excluded. They will not affect metallurgical coal shipments, since user charges might add by the year 1990 at most 0.1 percent to the cost of a typical shipment of metallurgical coal, due to the short distances and high values of such coal. And that is only coal shipped on the waterways.

But what about steel products? The DOT found that many steel products are not moved at all on the waterways, even when heavily subsidized by the taxpayer. And those products that do move by barge are shipped in tiny percentages. No metal stampings move by water. Do iron and steel castings move by water? Well, 1/500 of the national total does. Less than 2 percent of the metal cans move by water. And so on.

What the steel industry does not mention is that a U.S. Steel's for-hire barge subsidiary handling all sorts of goods is one of the Nation's largest. Maybe that is the real reason for the industry's concern.

Mr. President, I ask unanimous consent that these DOT calculations be printed in the RECORD.

There being no objection, the calculations were ordered to be printed in the RECORD, as follows:

DOT EVALUATION: GRAIN

Two different approaches were used to obtain information on grain movements from 17 different states broken down by mode (including combination modal shipments). First, data were compiled from a computer tape containing estimated intra- and inter-regional commodity flows for 1972. While this gives a fairly complete picture of such flows, it is important that any interpretation of the data be made in the context of the underlying assumptions which are described below.

A second method was to use a variety of state sources with independently estimated modal splits. Although we have not reveiwed the various methodologies of the state studies in detail, this appears to be a more accurate modal breakdown. Unfortunately, the number of states for which we could get this information is limited.

Farm to market movements of grain are very difficult to trace, especially given the nature of the product. Once corn, for example, arrives at a central elevator, it is indistinguishable from other corn received. To the extent that a single elevator sends corn to a variety of markets, the link between actual origin and actual destination is lost. It is also worth pointing out that virtually all grain involves combination modal shipments since shipment from farm to elevator will be by truck or wagon. These initial truck movements are often difficult to determine statistically.

The 1972 commodity flow tape is described in detail in the report, Freight Commodity Flows, 1972; Final Report, March 1977, submitted to the Transportation Systems Center, U.S. Dept. of Transportation. Regrettably, the data are six years old, but a great deal of time is required to develop and process the necessary information. The tape is based on statistics from the Corps of Engineers' Waterborne Commerce Statistics and the One Percent Waybill Sample for railroads. It, therefore, contains relatively complete water data and most but not all rail movements.

Truck statistics were unavailable. The truck shipments given in Freight Commodity Flows, 1972, represent a "best guess" based upon the existing rail and water data and independently derived estimates of regional grain production, consumption, and exports (see Attachment (1) for a complete description of the estimating procedures).

Our analysis of the data leads us to believe that the most reliable information would be for rail and water. Comparisons between these modes would give a reasonable indication of 1972 modal splits. We are much less confident of the truck data given the assumptions that were required to create it, and suspect that such shipments are generally understated. The very local farm elevator movements are not included in the data base and subsequent truck movements from elevators may be underestimated.

The 1972 freight movements are BEA–BEA and assignment to specific states as requested in Senator Domenici's letter is in some cases difficult (some BEA areas are not unique to a single state). Rather than make state assignments, the information has been aggregated into areas that include some states, and some inter-state regions. Because rivers form the boundaries of many midwestern states, this breakdown yields some interesting results that might be obscured using state data only.

It must be emphasized that for intermodal movements, each leg is represented separately in the data, the absence of water movements from Central Iowa, for example, is indicative of the fact that there are no major navigable rivers in the region defined as "Central Iowa." Many of the recorded rail movements from "Central Iowa" to "Iowa/Illinois" are undoubtedly shipped to a second destination via barge.

A summary table of grain shipments from various shipping areas is included as Attachment (2). This information must be carefully interpreted in light of the data problems and double counting of intermodal tonnage discussed above. The computer printout and attached description of the shipping areas of all grain movements is included as Attachment (4).

Various state publications on modal shipments of grain provided a second source for modal share estimates. During the past month, we have reviewed:

Changes in Destination and Mode of Transport for Illinois Grain 1954, 1970, and 1973. Dept. of Agriculture Economics, University of Illinois at Urbana-Champaign, August 1976.

The Market for Illinois Grains. Dept of Agricultural Economics, Univ. of Illinois at Urbana-Champaign, August 1976

Wheat, Milo, Corn, and Soybeans Shipped from Kansas Elevators, June 1, 1971–May 31, 1972: To Where and How. Research Paper 24, Agricultural Experiment Station, The Texas Adm. University System.

Texas Wheat Flows and Transportation Modes, 1975. Texas Agricultural Experiment Station, the Texas A & M University System.

Grain Movements between Southern and Corn Belt States, A Special Relationship. Southern Cooperative Series, Bulletin No. 209, March 1976.

Numerous similar documents are available for some of the other states of interest to Senator Domenici, but time did not permit a more complete review. It was difficult in some cases to come up with a modal share estimate in any sense comparable to the numbers derived from the 1972 freight commodity flow tape. The Texas documents, for example, estimate shares for sub-markets of the entire grain market. Shipments of corn from other states to Texas grain elevators (1974) (see Table 26 of Texas Corn Report) were:

	(1)	(2)
Originating State:		
Kansas	23.5	76.5
Nebraska	81.2	18.8
Other	57.6	42.4

[1] Percent of corn received by rail.
[2] Percent of corn received by truck.

Note that this table reflects shipments to elevators only and not to Feedmills and Feedyards.

Wheat shipments (1975) from Texas elevators (See Table 16 of Texas Wheat Report) to various destinations were:

	(1)	(2)
Destination:		
Houston/Beaumont/Galveston Ports	67.7	32.3
Corpus Christi Ports	79.6	20.4
West Coast Ports	100.0	----
Louisiana Ports	100.0	----
Texas Flour Mills	78.7	21.3
Other Texas Elevators	53.1	46.9

[1] Percent of wheat shipped by rail.
[2] Percent of wheat shipped by truck.

Additional modal split data from the other referenced documents are given in Attachment (3). Generally, trucking appears to be a more important market element than the 1972 commodity flow tape would indicate. This is not surprising in lieu of the problems encountered in constructing the 1972 tape as discussed above. The basic conclusions of three other studies are:

For Illinois, 1973 truck shipments from Illinois exceeded 50% of all grain shipments, rail's share was 13–34% and water's share 13–22%.

For Kansas 1971–72, rail shipments from elevators were in general 85–90% of the market with water and truck each having small shares.

For Ohio, Illinois, Indiana interstate shipments in 1970, truck movements were roughly 25%. Water's share ranged between 16 and 38% (highest for soybeans) and rail's share ranged between 35 and 63% (highest for corn).

DERIVATION OF GRAIN DATA: 1972 COMMODITY FLOWS

(NOTE.—"BEAR" stands for "Bureau of Economic Analysis Region" otherwise called "BEA Economic Area." See 1972 Obers Projections, Series E, Population, Vol. 1, U.S. Water Resource Council for a description of BEAR's. BEAR boundaries are identical to county line, i.e., each county in any state is uniquely part of a single BEAR. BEAR's are made up of groups of counties, not necessarily from a single state.)

Steps 1–10 describe how the basic data base was derived. The first 7 steps determine the extent to which a BEAR is assumed to be shipping and/or receiving area.

1. USDA has data available on grain produced by county and on amount sold from farms by state. It was assumed that a county's share of grain sold from farms equaled its share of amount produced. County amounts sold from farms were aggregated to BEAR's.

2. Bureau of Census has data available on amounts of grain exported by port of export, allowing determination of exports from each BEAR.

3. Census of Manufacturers has U.S. consumption of grain by other manufacturing sectors (e.g., for wheat, the sectors were "flour and other grain products," "cereal breakfast foods," and "dog, cat and other pet foods"). Call this "industrial consumption."

4. Distribute "industrial consumption" to each county according to the number of people employed in the relevant industrial sectors (see Step 3) in each county available as part of the 1972 OBERS Projections. Aggregate county data to BEARS.

5. For soybeans, changes in inventories taken from Agricultural Statistics, 1974. Corn and wheat stocks were assumed unchanged for 1972. Changes in soybean stocks distributed to BEAR according to soybean production.

6. Estimate grain for feed and seed (national total) (on farms) by the equation:

Grain for feed and seed = Grain sold from farms, exports, industrial consumption (for soybeans) increases in inventories.

7. Distribute to BEAR's grain for feed and seed according to the following:

Corn: to state by No. of hogs and cattle in state, to BEAR by farm earnings.

Wheat: to state by wheat production by state; to BEAR by farm earnings.

Soybeans: to BEAR by farm production of soybeans.

After Steps 1–7, each BEAR can be identified as a "surplus area" (grain sold from farms exceeds grain exported and grain consumed by industrial sector + grain used for feed and seed + increased inventory (if any) or as a "deficit area," known shipments (see steps 8 and 9) balance deficits and surpluses to some extent). Remaining "unexplained" imbalances are removed by assuming additional rail and truck shipments.

8. Water shipments (dock to dock) were compiled by U.S. Army Corps of Engineers. It was assumed that 100% of all water shipments were included in Corps' statistics.

9. Basic rail data were taken from One Percent Waybill Sample. All shipments in sample were included as "hard" rail data (expanded to 100 percent). Because the tonnage in the expanded waybill sample was less than the tonnage reported by Class I Railroads in their Freight Commodity Statistics, additional rail movements were assumed to have occurred in the final balancing procedure (step 10).

10. Surplus and deficit BEAR's after all known shipments were accounted for, were identified. These remaining imbalances were eliminated by assuming:

(a) Sufficient additional long haul rail movements so that final rail flows of the data base were approximately equal to reported movements of Class I Railroads.

(b) Inter-BEAR truck hauls to eliminate remaining deficits.

Steps 1–10 describe how the basic tape was derived; steps 11 and 12 describe how these data were used to develop the shipment matrices for this study.

11. BEAR's were combined into state areas to determine shipments from the states as per Senator Domenici's letter where possible (e.g., "Ohio" consists of BEAR's 62 Cincinnati, 63 Dayton, 64 Columbus, 68 Cleveland, 69 Lima, 70 Toledo). States not mentioned specifically in the letter were combined into broader groups (e.g., "North-east"). Some BEAR's were part of two or more states. Such BEAR's were used to define additional shipping/receiving (S/R) areas (e.g., "Iowa/Illinois" consists of BEAR's 79 Davenport-Rock Island-Moline, 81 Dubuque, 113 Quincy). See Attachment (2) for a complete list of S/R areas.

12. Shipments (by mode) from each S/R area to every other S/R area were compiled in separate tables in the computer output. This was done separately for "corn," "wheat," "soybeans," and "all grains." "All grains" is simply the sum of the three individual grains in this study. For example, on page one, 561,000 tons of corn were shipped by rail. From the Ohio BEAR's to the East Southeast area (see Attachment (2)). This represented 90.3 percent of corn shipments from Ohio to the East Southeast as 60,000 additional tons were assumed to move by truck. The 87,000 tons of corn shipped by rail from Ohio to Ohio represent intra-BEAR shipments plus shipments between the BEAR's that are in the Ohio region.

ATTACHMENT 2

SHIPMENTS OF GRAINS BY TRANSPORTATION MODE, 1972

[Tons in thousands]

	Rail		Water		Truck		Total tons
	Tons	Percent	Tons	Percent	Tons	Percent	
Ohio	4,524	64	222	3	2,300	33	7,046
Wisconsin	161	13	358	30	680	57	1,199
Minnesota	3,776	32	5,641	47	2,493	21	11,910
Central Iowa	6,833	64	0	.....	3,785	36	10,618
Illinois	6,353	33	10,327	54	2,360	12	19,040
Indiana	5,686	50	849	7	4,886	43	11,421
Iowa/Illinois	268	3	5,907	76	1,605	21	7,780
Illinois/Missouri	2,870	39	2,718	37	1,700	23	7,288
Iowa/Nebraska	5,024	59	228	3	3,268	38	8,520
North and South Dakota	10,719	83	0	.....	2,145	17	12,864
Nebraska	4,994	91	35	1	440	8	5,469
Kansas/Missouri	5,220	82	574	9	610	10	6,404
Kansas	11,165	94	0	.....	775	6	11,940
Oklahoma/Texas	6,624	82	73	1	1,395	17	8,092
Colorado	1,103	33	0	.....	2,275	67	3,378
Wyoming	562	90	0	.....	60	10	622
Montana	2,239	94	0	.....	150	6	2,389
Idaho/east Oregon/east Washington	2,887	67	859	20	590	14	4,336
West Washington/west Oregon	657	31	1,445	67	50	2	2,152
All shipments	81,665	57	29,236	21	31,567	22	142,468

Note: Includes shipments of corn, wheat, and soybeans. All tonnage figures are in short tons. Percentages may not total 100 due to rounding.

ATTACHMENT 3

MODAL SPLITS FOR VARIOUS STATE GRAIN SHIPMENTS FROM STATE SOURCES

	Rail	Water	Truck
1 Illinois 1973:			
Corn	33.7	13.4	52.9
Wheat	18.6	22.6	58.8
Soybeans	13.8	18.6	67.6
2 Kansas 1971–72:			
Wheat from—			
Local elevators	88.2	.....	11.8
Terminal elevators	90.5	9.5	.....
Wheat to—			
Out of State	88.3	9.7	2.0
In State plus out of State	89.3	4.0	6.7
Corn	68.5	.....	31.5
Soybeans	83.8	5.1	11.1
3 Ohio, Illinois, Indiana 1970:			
Corn—interstate	63.1	16.8	20.1
Wheat—interstate	47.7	24.9	27.4
Soybeans—interstate	35.0	37.9	27.2

SOURCES

1. "Changes in Destination and Mode of Transport for Illinois Grain 1954, 1970, and 1973," Department of Agricultural Economics, University of Illinois at Urbana-Champaign, August 1976, tables 6, 7, and 8.

2. "Wheat, Milo, Corn, and Soybeans Shipped from Kansas Elevators, June 1, 1971–May 31, 1972: To Where and How," Research Paper 24, Agricultural Experiment Station, Kansas State University, Manhattan, Kansas, tables 3, 5, 8, 10, 23, 25, 27, 30, and 35.

3. "Grain Movements between Southern and Corn Belt States, A Special Relationship," Southern Cooperative Series, Bulletin No. 209, March 1976, appendix table B. 6.

IRON AND STEEL

The attached tables show shipments of iron and steel products for 1972. The data were collected in the Commodity Transportation Survey, which is one part of the Census of Transportation.

The first two pages show the modal split at the national level for all products which are classified in Standard Transportation Commodity Codes (STCC) 33—Primary Metal Products or 34—Fabricated Metal Products. This chart gives the modal splits at the 2-, 3- ,4- and 5-digit STCC levels.

Most non-ferrous products can be eliminated at the 3-digit STCC level,[1] leaving the commodities which are listed below. The modal share (on a ton-mile basis) held by water—inland, Great Lakes and Coastal—is also listed.

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[1] At the more detailed (4 or 5 digit STCC) level, many shipments are suppressed to avoid disclosing proprietary business data.

Description:	Water Modal Share Percent
Steel Works and Rolling Mill Products	8.4
Iron and Steel Castings	.2
Miscellaneous Primary Metal Products	1.6
Metal Cans	1.8
Cutlery, Hand Tools and General Hardware	.3
Plumbing Fixtures and Heating Apparatus	---
Fabricated Structural Metal Products	3.8
Bolts, Nuts, Screws, Rivets, and Washers	.2
Metal Stampings	---
Metal Services, nec. [Note: no shipments reported]	
Miscellaneous Fabricated Wire Products	4.3
Miscellaneous Fabricated Metal Products	1.2

While some non-ferrous products are included in these 3-digit STCC's they do not account for significant tonnage.

The remaining charts show shipments by mode and length of haul, separating "inland water" and "non-inland water." This judgment was made by examining the origin-destination pair for each shipment which moved by water. For example, a water shipment from Pennsylvania to Kentucky was assumed to have moved on the Ohio River, and was therefore call "Inland." When two forms of water transportation were available, the determination was made based upon the statistics in *Waterborne Commerce of the United States*.

The charts are arranged in the following order:

1. Total U.S.—All STCC's.
2. Total U.S.—Each 3-digit STCC.
3. State Charts—All STCC's:

(a) Interstate: Originating in state.
(b) Interstate: Terminating in state.
(c) Intrastate movements.

Many states do not originate iron or steel traffic and thus have only one chart, 3(b,) for movements originating out-of-state and terminating in-state.

VICE PRESIDENT MONDALE ANNOUNCES AN END TO FEDERAL EFFORTS TO RESTRUCTURE WESTERN WATER RIGHTS

Mr. HATCH. Mr. President, on January 10 the distinguished Vice President of the United States, WALTER MONDALE, addressed a joint convention of the Utah Legislature. In his well-received address, Vice President MONDALE said, and I quote:

I wish to state here again, we never, nor will we ever, at the federal level pre-empt or interfere with the state or local or private water rights in this country.

The Vice President emphasized that President Carter and Secretary Andrus have also stated this same point. This was welcome news to the people in the Western States who have been disturbed by "the most innovative, exciting, and creative efforts" to bureaucratize water. I am sure that the position taken by the President, by Vice President MONDALE, and by Secretary Andrus will make it easier to resist the self-serving interests of some bureaucrats and politicians to nationalize water in order to gain control over the allocation of one of the Nation's most vital resources. As I said in the New York Times last August 25:

Whenever government takes control over the allocation of a resource, people have to pay much more for much less.

I recommend the elegant address of the distinguished Vice President to the attention of my colleagues in the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY WALTER F. MONDALE, VICE PRESIDENT OF THE UNITED STATES

Thank you very much, Governor Matheson, for the very kind introduction. The lovely First Lady, Mrs. Matheson; Speaker of the House, Mr. Sowards; President of the Senate, Mr. Jensen; Lieutenant Governor, Mr. Monson; my old friend, Governor Cal Rampton; my friend Gunn McKay; and friends.

I'm delighted to be here. I want to apologize for being a little late. We drove from Ogden today. We could have been on time, but I insisted that we stay within the 55 mile-an-hour speed limit over the objection of your Governor because he wanted to be on time.

It is a delight to be here again with Cal Rampton, whom I think is one of the most beloved public leaders in the history of this state. I remember a few years ago when he was running for re-election and he was worried about making it, so he called and asked me if I would campaign with him in Salt Lake City. Upon my arrival, I said, "Let's go down to the main street and shake hands." I'll never forget it as long as I live. The first person I met, I said, "Would you vote for Cal Rampton for Governor?", and the fellow's face lit up just beautifully, and he said, "I sure will. We gotta get rid of the guy who's in there!"

I served as Attorney General of my state for four and a half years, and I learned something about legislatures. That is, you'll never get in trouble with them as long as you do exactly what they tell you to do. And if you don't, they won't regret it. You'll just be without heat, water and lights for a couple of years. So you catch on. And so, it's with the utmost difference that I say that I'm delighted to be here and to have a chance to speak with you briefly at this hour of the evening. The Utah State Legislature is one of the ablest and most effective in the country.

This week, I'll be visting a number of Western States. Along with me is one of your own former Western Governors. A man who is a pillar of strength, of decency, of good judgment, common sense and one who has enormous experience which is needed to help us understand how best to serve this country—our Secretary of Interior, Cecil Andrus. (Whenever you want to applaud, just break right in. We couldn't get a hand for him in New Mexico, either. Secretary Andrus said, "Wait until we get to Utah. They really like me there!" Well, we're going to try Idaho tomorrow.)

Jack Watson, our gifted Presidential Assistant, has also been with us on this trip.

This morning, we began our visit in Albuquerque in a meeting with native American leaders. We met with several minority representatives of small business. We visited some remarkable research demonstration projects going on there in the area of solar energy, wind harnessing, geothermal, and other kinds of efforts to develop a new, clean, infinite source of energy which we are going to need as we increasingly find ourselves short of fossil fuels.

This afternoon, in Ogden, we met with the most impressive group of Small Business men and women and discussed questions of how the Federal Government can help, or get out of the way, or both to permit small business to begin to prosper, to grow, to be profitable, to be competitive, to be able to serve in that special, unique, and indispensible roll that small business has always served this country.

We've just come from a meeting with President Kimball of The Church of Jesus Christ of Latter-Day Saints. This is a visit that I have wanted to have for a long time. The contribution of the Church and its members to the religious strength and moral fiber as a sense of liberty in this country has been one of the truly remarkable contributions made by any institution in this country.

I went there, not only to discuss an objective that has been dear to me, and I think to all of you—Gunn McKay and others—namely, the tremendous and healthy influence of the church in terms of strengthening family life in this country. It seems to me that any policy that we pursue at the federal level, state level, the local level—that weakens family life should, for that reason, be stopped. Those efforts that we undertake to strengthen family life should be encouraged and expanded. I also went to see President Kimball for another reason. The President of the United States wanted me to ask if he had a good Polish interpreter because we could certainly use one. He said, "I know ours is pretty good, and I know he is better than the one President Carter had the other day."

I especially wanted to come to meet with you today. I know that once in a while the legislative process gets ridiculed. I think it was Bismarck who once said, "He who likes sausages and laws should never ever watch either being made." A very kind thought, but the truth of it is, that it is here, in this legislature, and in the legislatures of the other states, where the basic principles and directions of American Democracy are laid out and pursued. State legislatures are as close to the people as any institution in American Government. I have often said, I've never heard of a State Senator or State Representative with an unlisted phone number, and if I do, I know he's going to lose the next election. You are expected to be, it's a condition of your election, available at all times, to hear and to listen, not just to good news and criticism; because it is through you, that we make this remarkable thing called freedom and democracy work. And it ought to be, and it is, a central objective of our Administration to depend heavily, and in a possibly expanding way, upon the strength, the wisdom, the good judgment of the State Legislatures throughout this land.

I'm privileged to say that a close friend of mine, Marty Sable who recently ended his term as President of the National Conference of State Legislatures, agreed at your National Conference in Kansas City last year, that one of our objectives would be to establish a close, continuing, respectful dialogue with the leadership of the state legislatures of this country. And I renew that pledge again today, and hope that we can possibly grow and expand in the working relationship that is so essential to this country.

We say, we serve the same constituents. Americans are not interested in petty disputes between different levels of government. They are certainly not interested in the ways and the duplications that occur when different levels of government compete to do the same job. What they expect from us—whether we're on city council, on in the state legislature, on a county board, in the United States Senate, or in the White House—is to deal with their money as though it were our own—with respect, with care, with efficiency, with a sense of responsibility, and with a sense of responsiveness to their needs. That's what democracy is all about. And it's our duty as public representatives, serving the same citizens, to make certain that we deal with the public trust that is conferred upon us in the highest sense of the principles of trusteeship.

That is what we are trying to do in our new Administration. We are trying to work with state and local governments and their new leaders, and to cooperate with you. The most innovative, exciting, and creative efforts are being carried out in one of the most serious national problems—such as water. And I know, for example, that Governor

Matheson's Committee on Water which is working with the President in the development of the Nation's water policy. When the report comes out in six weeks, it will renew the point the President stated, that Secretary Andrus stated, and I wish to state here again, we never, nor will we ever—at the federal level—pre-empt or interfere with the state or local or private water rights in this country.

President Carter has served as a State Senator in the Georgia Legislature. I was privileged to serve as the Attorney General in my state. I know how close to the people state government is. I know how essential it is that we work with state governments and that there be trust and mutual respect at all levels. We don't claim to have all the answers. Indeed, we demonstrate everyday that we do not.

If there is one thing I've learned in my public life, it is that the most fatal fall of any elected official is a sense of errors. Someone once said that the spirit of liberty begins with the nation that you might be wrong. And it's when Government operates in that sense of fairness and openness that the people are most effectively served. If I can leave you with one message today, it is that we respect your views. We want to work with you in a sense of genuine partnership. We want to make the federal government serve the needs of your state and citizens you represent. And in this regard, we want your criticism.

Our Nation faces many problems today at home and abroad. But we must realize as we look at these problems that we live in the strongest nation on earth. There is nothing we cannot do if we work with a sense of fairness, if we work with a sense of cooperation, and if we work with a sense of optimism and faith, which has been so basic to this country from the beginning. This is the spirit of which we seek to represent you and this state and your citizens in our roll as federal officers in Washington.

I come here tonight to offer you our cooperation, to offer you our help, and to ask that you contact us and advise us when you feel we are moving in an inappropriate way or to encourage us when you think we are moving along the right course. It is this way and in this spirit that we can do the thing that we all have been pledged to do when we were elected to the offices that we are privileged to hold, and this is to serve the constituents we represent and to serve the beloved nation of which we are privileged to be citizens.

Thank you very much.

TRIBUTE TO SENATOR METCALF

Mr. JACKSON. Mr. President, at its first business meeting of the year on Wednesday, the Committee on Energy and Natural Resources adopted a resolution paying tribute to Senator Metcalf, who served as a member of the committee for 13 years.

I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Lee Metcalf served with great distinction as a United States Senator from Montana from 1961 to 1978; and

Whereas, Senator Metcalf was for 13 years a member of the Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs; and

Whereas, Senator Metcalf was an outspoken advocate of legislation to encourage responsible management and wise use of the nation's public lands; and

Whereas, Senator Metcalf was instrumental in the efforts of this Committee to preserve the nation's wilderness areas and other natural resources; and

Whereas, Senator Metcalf led the long fight to protect the environment from the impact of surface mining; and

Whereas, Senator Metcalf's dedication to the work of this Committee and his many legislative achievements will be long remembered: Now, therefore, be it

Resolved, That the members of the Committee on Energy and Natural Resources record with profound sorrow the death of Lee Metcalf on January 12, 1978 and convey their deepest sympathies to his family and friends in Montana and throughout the country.

TRIBUTE TO SENATOR LEE METCALF

Mr. BUMPERS. Mr. President, I rise to express my distress at the passing of the senior Senator from Montana, my good friend Lee Metcalf. Lee served a quarter of a century in Congress and would have completed three terms in the Senate had he lived until 1979. Other Senators have been better known to the general public on a national basis, but none pursued his calling with more singleness of heart and devotion to the general good. Lee Metcalf knew full well the distinction between the public interest and a special interest, and no one ever doubted that he was firmly on the side of the public. He defended the consumer, the individual shareholder, the utility ratepayer with constancy and skill.

I had not known Senator Metcalf before coming here in 1975, but I was fortunate enough to be assigned to the Committee on Interior and Insular Affairs, now reincarnated as the Committee on Energy and Natural Resources, of which he was a valued senior member. I soon grew to like and respect him as a source of knowledge and as a man. He was uniformly kind and gentle in his bearing toward others, especially staff members. And yet he could be emphatic and vehement in defense of high principle when the circumstances demanded it.

As chairman of the Subcommittee on Public Lands, he took a sustained interest in a number of vital natural-resource issues, including deep seabed mining, the coal-slurry pipeline, surface mining of coal, and the disposition and management of public lands. All these issues, though not so glamorous as some of the great questions that command national attention, are central to the future of this country, and Lee Metcalf never forgot it.

I also became accustomed to relying on his encyclopedic legal knowledge. Senator Metcalf had served a 6-year term as an associate justice of the Supreme Court of Montana before coming to the House of Representatives, and his colleagues constantly called on him to answer complex legal questions that arose in the course of the Energy Committee's deliberations. A number of times a legal issue would arise when Senator Metcalf was absent from the committee on other duties, and almost invariably some member would say, "Let's wait and see what Lee thinks about it."

Mr. President, we will all miss Lee Metcalf. Mrs. Bumpers joins me in offering our sincerest sympathy to Mrs. Metcalf and her family.

TRIBUTE TO LEE METCALF

Mr. BENTSEN. Mr. President, I would like to join my colleagues in paying tribute to the career and accomplishments of Senator Lee Metcalf.

For a generation Lee Metcalf represented the people of Montana in Congress; he represented them honestly, effectively, and courageously. I can think of no finer tribute for one who has devoted his life to public service.

We in the Senate join Lee Metcalf's family and constituents in mourning his passing and in paying homage to the excellence that was the hallmark of his distinguished career.

Throughout his service in the House of Representatives and the Senate, Lee Metcalf was known as a man of principle and dedication, a legislator who shunned the path of least resistance and stood up for what he believed was right for the people of America.

There is a tendency to attach labels to Senators, and Lee Metcalf wore his label, the Last of the Western Populists, with pride and dignity. We who knew and worked with Senator Metcalf, however, distinguished him not by his label but by his attributes of talent, dedication, and fairness.

Senator Metcalf's presence, his wisdom and experience, will be sorely missed in the Senate of the United States. I extend my sympathy to Senator Metcalf's family and join their sorrow at the death of a man who fulfilled the highest standards of representative government.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. BUMPERS. Mr. President, I rise to give voice to my sorrow and sense of loss at the death of the distinguished senior Senator from Minnesota, Mr. Humphrey. Hubert Humphrey was a great public figure, in the front rank of those who served in this Chamber. He was also my friend. His desk during the 1st session of the 95th Congress was right across the aisle from mine, and I miss him.

Mr. President, volumes have been and will be written, and deservedly so, about Hubert's public career and service. In common with many great men—I need mention only Abraham Lincoln and Franklin D. Roosevelt—he lost his first race for public office. Undaunted, he went on to impressive achievements as mayor, Senator, Vice President, and Deputy President pro tempore of the Senate. These achievements are well known, and my recitation of them here would add little. There are a couple of impressions that come to mind, though, that I would like to share with my colleagues.

Our friend and former colleague, the Vice President, FRITZ MONDALE, used a passage from Shakespeare's "Henry V." to describe Hubert's heart. A good heart, he said, does not grow old or change. It remains constant, and certainly the heart of Hubert Humphrey was constant

in devotion and enthusiasm. The reference to King Henry reminded me that it was on October 25, 1977, that Hubert returned to a Senate Chamber packed with well-wishers and applauding friends.

Now it happens, Mr. President, that October 25, 1977, was the 462d anniversary of the Battle of Agincourt, in which the English under Henry V won such a famous victory. Shakespeare tells us in the same play that the King went about the camp the night before the battle, mingling with his troops, even the common soldiers, and encouraging them. As it turned out, this "little touch of Harry in the night" was just what they needed. That was what Hubert Humphrey meant to the Senate. Time and again when we were going astray amid the brambles of some legislative conflict, Hubert would recall us to ourselves. His eloquence, his personal force, his evident concern for others, his deep knowledge of so many subjects, would get us back on the track of sound deliberation. We needed "a little touch of Hubert in the night," and we got it.

Another thing the Vice President said struck me with particular force. "He taught us how to live," he said, "and finally, he taught us how to die," a lesson, Mr. President, that all must learn, whether well or ill. Hubert lived under sentence of death for years. He knew he had cancer and yet he pressed on despite the weight that such knowledge must have been. Even after he had been classified as "terminal," that chilling and distasteful term, he knew he was still alive and functioning and capable of much good. In the last months of his life he refined the Humphrey-Hawkins bill, got Joe Califano to give a helping hand to the Reverend Jesse Jackson's PUSH program, and, 4 days before his death, called Richard Nixon to wish him a happy 65th birthday. Hubert was alive, and he reveled in it. Whatever his hand found to do, he did with all his might. He knew that we all go down to the dust, yet even at the grave he sang his song.

Mr. President, mortality afflicts us all. The question is not whether to die, but only how and when. Hubert's condition in his last months differed from all of ours only in being more pointed and focused. We all have much to learn from his conduct and example. We must learn that persons who are said to be in so-called terminal illness are nonetheless still persons, able in many cases to live and function with great effectiveness. We must learn also, in our own lives, to face misfortune or disease not with bravado but with courage, accepting them as part of life. And finally we must learn that joy and affirmation are not empty and foolish gestures. They are, as Hubert taught us, the only way to live.

Mr. President, to MURIEL and all the family, Mrs. Bumpers and I send our love.

HUBERT HUMPHREY EULOGY

Mr. BENTSEN. Mr. President, for the past 30 years, Hubert Humphrey has been a compelling factor in the American political experience. With his death we have lost a moral and political mentor, a symbol of what is right and decent about our Nation.

Senator Humphrey, perhaps more than any political figure since Franklin Roosevelt, touched the heart of every American. His death gives us occasion to reflect, to feel with our hearts, the attributes of the man and the goodness of a country that could produce such a man.

It is significant that our friend has been mourned with a song, with "God Bless America." Senator Humphrey made us feel good about America, about each other, and that is precisely what he set out to do. In death, as in life, he has been an inspiration to the people of this country.

As we consider what Hubert Humphrey meant to America, we focus not on his enormous legislative and policy achievements of three decades, but on his compassion, his abiding sense of fairness, and his cheerful determination to do what was right for the country. Senator Humphrey believed in the American dream before it was fashionable to dream. He remained committed to his vision of America when others were in despair.

As a Senator from Minnesota who had the Nation as his constituency, Hubert Humphrey demonstrated a moral and political courage, a constancy of purpose, and a commitment to his ideals that set him apart and earned for him the respect and affection of all Americans.

I worked with Hubert Humphrey as a colleague. I knew him as a friend. I have preceded him on the podium and paid the price for his wit and eloquence. He was a man of conviction, integrity, and compassion.

He was my friend.

HUBERT H. HUMPHREY

Mr. RIBICOFF. Mr. President, there are rare moments in the life of a nation when the death of one man provokes a deep and profound sense of loss, when all of us can come together in sorrow at his suffering and still take pride in his accomplishments and agree that this man was great and that he was a reflection of what America is and yet aspires to be. Such a man was Hubert H. Humphrey and such a moment of national awareness occurred with his death.

He was decent, he was fair, he was compassionate, he was courageous and, a remarkably innovative and brilliant 30-year career, he brought to public debate those issues and problems that struck at the very heart of our country.

When he saw injustice, he spoke out against it—and then he fashioned programs, recommended policies and wrote legislation to rectify that injustice.

He led by example, action, and moral persuasion. He reminded the American people of their own most cherished values. When those values were not being lived up to, he reminded us of that too. The result was that the people acted and, followed Hubert Humphrey's lead. They did the right things.

As a young and forceful mayor of Minneapolis, he came to the Democratic National Convention in 1948 and pointed out to his Party and his Nation that there was no way to reconcile our belief in equal opportunity with a system that excluded black people.

Enthusiastically at times, reluctantly at other times, the Nation met the challenge posed by Hubert Humphrey in 1948 and the civil rights movement moved forward. That was not Hubert Humphrey's greatest victory—he won on too many historic issues to say which achievement was his greatest—but this accomplishment did set the moral tone that was to characterize his career in national affairs.

The Humphrey record will not soon be equaled. On virtually every issue of national and international consequence that has faced America over the last three decades, Hubert Humphrey has been in the forefront, fighting for what he felt was right—and inevitably being right.

If there is one exception to that remarkable record, it was in 1968 when, as Vice President of the United States and the Democratic nominee for President, he tried, and failed, to resolve the tragic rupture in the Democratic Party, and in the Nation, over the Vietnam war. Hubert Humphrey lost the election because of it. But he came so very close to winning. I believe that he would have been elected President had it not been for the war issue. How different the course of public events might have been had he won.

But Hubert Humphrey was not one to look back in regret. It was his nature to move forward. The people of Minnesota returned him to the Senate and he continued his fight for what was right, pursuing those goals which demonstrated the true values of the American people.

As a Senator, Hubert Humphrey at the end of his life could look back on a legacy of achievements that included his major role in the passage of the 1964 Civil Rights Act, the initial concept of the Peace Corps, creation of the food-for-peace programs, establishment of the U.S. Arms Control and Disarmament Agency, and his early advocacy of the nuclear test ban treaty.

Hubert Humphrey was a good Vice President. He accepted a job that few men have ever liked. I have known every Vice President since Alben Barkley and I have yet to meet a Vice President who was especially happy in that post. But Hubert Humphrey was not a man to brood and complain. He made the most of that job and worked hard at it. For example, the years 1965 through 1968, the years of the Humphrey Vice Presidency, were extremely critical to the Nation's space program. As Vice President, Hubert Humphrey was Chairman of the National Aeronautics and Space Council. For all his successes, campaigns, and advocacies, Hubert Humphrey had not been particularly identified with promoting the benefits of space exploration. But he took to this new assignment with characteristic enthusiasm. He became an outspoken, effective, and knowledgeable salesman for the space program.

It was during his Vice Presidency that NASA enjoyed its most historic engineering successes in Project Gemini—and, tragically, it was also at this time

that NASA suffered its worst setback when on January 27, 1967, the three-man crew preparing for the first Apollo manned flight died in a spacecraft fire on launch pad 34 at Cape Kennedy.

The United States did not fly another manned flight for 2 years. The space program was in disarray, its goals and methods questioned and criticized from all sides. Strong leadership was called for. Vice President Humphrey, as Chairman of the Space Council, provided much of the leadership required to assure the American people that the space program was still viable, that we had to continue, that the lessons learned from that deathly fire would make our space program better than ever. History proved Vice President Humphrey and others who suffered through that difficult period correct.

The occasion of that fire on pad 34 also provided an insight into the kind of extraordinarily compassionate human being that Hubert Humphrey was. Two of the members of the Apollo crew—Gus Grissom and Roger Chaffee—were to be buried at Arlington National Cemetery in Washington. Ed White was to be buried at West Point.

The night before the funeral, there was a gathering at a Washington hotel where the Nation's space leaders, many space agency employees who had been close to the Apollo project and NASA contractors came to pay their respects to the families of the fallen astronauts. It was a kind of wake, a very personal occasion for men and women who, along with the bereaved families, were in doubt as to whether or not this Government and Nation would go forward with a program they all believed in deeply.

Vice President Humphrey came to the gathering and with tears in his eyes talked sympathetically and reassuringly with the families and then, with the confidence only of a man of his stature could inspire, patiently made his way through the gathering, assuring the men and women who had come together that night that the astronauts had not died in vain, that manned space flights would continue. It was a genuine, heartfelt gesture on the Vice President's part, typically Hubert Humphrey. He cared about people and he cared about worthwhile Government programs and so often throughout his career he was able to combine the two concerns.

I know I speak for all Senators when I say how very much we will miss Hubert Humphrey. He was a friend and colleague and very much a Senator's Senator. He had sought the Presidency more than once and had served a term as Vice President. But Hubert loved the Senate. And the Senate will not be the same without him.

Perhaps the best words I have read to describe Hubert Humphrey were those from Hubert himself. Senator ANDERSON quoted them on Tuesday and I would like to repeat them as well. Hubert Humphrey said this about himself:

I have enjoyed my life, its disappointments outweighed by its pleasures. I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, and without apology, about this country and about the American experiment in democracy.

Mr. President, I ask unanimous consent that a column from the Washington Post of January 18, 1978 by David Broder and an article by Max Kampelman from the New York Times of January 18, 1978 be printed in the RECORD. Both articles capture the spirit of Hubert Humphrey.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE MAN WHO WROUGHT VICTORY FROM DEFEAT

(By David S. Broder)

Few of the millions watching the memorial service for Hubert Humphrey in the Capitol Rotunda on Sunday probably understood President Carter's apology for the "harsh words" he spoke in the 1976 campaign about the senator from Minnesota, but it was a gracious and honorable thing for him to do.

He had called Humphrey "a chronic loser," back then, when he expected the former Vice President to try once more for the party nomination. He regretted—and apologized for—the statement almost at once, but it was clear that it had been weighing on his conscience. For through the kindness of fate, as he said, Jimmy Carter had a year as President to learn—as many others had done before—what a forgiving and inspiring ally and teacher and friend Hubert Humphrey could be.

In reflecting on Humphrey's career, as all of us have been doing, I found myself recalling him, not in his moments of triumph, but in the hours of defeat. To tell the truth, there were many of them.

At the first convention I ever covered, in 1956, Humphrey lost the vice-presidential nomination—one he thought he had been promised by Adlai Stevenson—to Estes Kefauver. In West Virginia in 1960, he lost the presidential nomination to John Kennedy. And no one who ever read it will forget Mary McGrory's portrait of Humphrey that West Virginia primary night—first consoling the weeping folk singer who was strumming one last chorus of "I'm Gonna Vote for Hubert Humphrey," then, in turn, being embraced and comforted by Robert Kennedy, the doomed brother of that night's doomed winner.

In 1968 he lost the presidency to Richard Nixon—whose plaintive presence as the returned exile at Sundays' service added yet another note to irony to the saga of Humphrey's "defeats."

In 1972, he lost the nomination to George McGovern. Everyone who was with him will remember Humphrey on that long journey back to Washington the day after his California primary defeat ended what he knew was his last chance for the White House. Sleepless, exhausted, he roamed up and down the aisle, raising the spirits of everyone with his recollections of the foibles and fumbles of the previous six months of grueling effort.

He coaxed Michele Clark of CBS—who was soon to die tragically in an airplane crash—to play for the 50th time the treasured tape recording of the fast-tongued Humphrey getting hopelessly tangled in the words "Bedford-Stuyvesant" during the Florida primary. As he spluttered along like Donald Duck on the tape, Humphrey laughed until the tears rolled down his cheeks.

Long before he mastered the art of facing defeat in his pursuit of the presidency, Humphrey taught the Senate the importance of fighting a losing cause. As Nelson Polsby, one of the legion of political scientists who loved their colleague from Minnesota, has pointed out, Humphrey, virtually invented the modern senator. It was he who linked the previously private world of the Senate club to the great forces of mass politics by using the Senate rituals—bill introductions, committee hearings and endless floor debate—as weapons for mobilizing national constituencies for civil rights, Medicare, nuclear disarmament and dozens of other causes. Those Humphrey bills were defeated session after session, but ultimately passed, monuments to the tenacity and skill of this "loser."

But his heritage is not just in laws. It is also in people and—it is important to say—in a political party. The Minnesota Democratic-Farmer-Labor Party, the DFL, has been for the last 30 years, largely through the inspiration of Hubert Humphrey, the nation's greatest resource of honest, effective and visionary political leadership. McCarthys and Mondales, Freemans and Frasers, Hellers and Hofstedes, Naftalins and Perpiches, Sabos and Spannauses, Blatniks and Rolvaags and Karths and, oh, so many Andersons—men and women, both—they are all, in their highly individual ways, extensions of their great teacher.

He built that party in the 1940s on the foundation of his own campaigns for mayor of Minneapolis, characteristically losing before he won. And then, late in his life, after he had been as close as a man can get to the top of American politics, he went back to Minnesota, in defeat, and rebuilt it again from the grass roots, healing the wounds of a bitter 1966 gubernatorial primary and his own divisive battle with Gene McCarthy in the 1968 precinct caucuses, and leading it to its greatest victory ever in 1970.

I remember Humphrey one night in that 1970 campaign, at a rally in Alexandria, Minn., for congressional candidates Bob Bergland (now Secretary of Agriculture) and Rick Nolan. It was the end of a long day, and after Humphrey and the others had spoken, Muriel Humphrey tried to get him out of the hall and onto the plane back to Minneapolis for a night's sleep.

But Humphrey was having none of it. Instead he grabbed Wendell Anderson, then the candidate for governor and now the senior senator, and all the other candidates, and for more than an hour he kept them beside him in line, shaking hands and talking personally to every one of the 500 or 600 people who had come to the rally.

He was thinking, as usual, about others and about the future, especially the future of 26-year-old Rick Nolan. "Don't worry about me. My race is fine," Humphrey told each of the voters, affirming what they all knew to be true about his easy victory in that year's Senate campaign. "Help Wendell and Bob and Rick and the rest of these fellows."

Later, on the plane, he told me, "Rick Nolan may not make it this time, but he can win in 1972 if those people stick with him." As prophesied, Nolan lost in 1970 but won his House seat two years later. He is there now—in his third term, at 34, just half Humphrey's age and beginning to fulfill the hopes the DFL has for him—another part of the human heritage that ensures Hubert Humprey, "the chronic loser," will have a larger place in history than many of those who defeated him along the way.

WHY THEY TRIED TO GET HUMPHREY TO WEAR GLASSES

(By Max M. Kampelman)

WASHINGTON.—A few anecdotes from 30 years of close personal and political friendship with Hubert H. Humphrey.

Those days when Hubert was Mayor of Minneapolis were full of excitement. I watched from a distance, but would occasionally be drawn into the picture. Hubert had met some of the civil rights experts from Fisk University. He was troubled by an article that Carey McWilliams had written that

appeared at about the same time he became Mayor, calling Minneapolis the capital of anti-Semitism in America. There were very few blacks and not many Jews in our city, and there was a problem.

Fisk urged a community self-survey, with every part of our city looking at itself in the mirror.

Hubert explained: "If they like what they see in the mirror when they compare it to their American ideals, fine. If not, they will want to bring about the change." He was right.

Minneapolis became the first city to create a Fair Employment Practices Commission. It seemed as if everybody—trade unionists, academicians, bankers, industrialists, merchants—was involved in one or another committee.

One day when I went to City Hall there was a meeting of all the tavern owners in the city and many of their wives. Hubert wanted them to go to the city council and ask for pay increases for the police, the funds to come out of increased license fees that they would pay.

"I know you are paying off policemen now," he charged. "This must stop. Don't you wives want your husbands to be involved in a legitimate business that doesn't bribe policemen?"

He promised to clean up the city and the police force. He promised that he would end a police practice designed to entrap tavern owners into law violations. Miracle of miracles, they voted to cooperate!

I recall a train ride from Philadelphia to Washington after a speech. Hubert's father had just died. He was sad and troubled. "I could really never go seriously wrong," he explained, "because if I did and it appeared in the newspapers, Dad would be on the phone giving me hell. He was always watching what I was doing."

What concerned him was whether he would still be as true to his ideals now that his father was not there. About a year or so later, I reminded him of that conversation and asked him what he had found. "Dad is still looking over my shoulder," he responded.

One of Hubert's greatest irritations was constantly being reminded that he talked too much. He knew that. The way he handled the irritation was by poking fun at himself, but he never did fully understand the criticism or appreciate it.

Hubert grew up in the tradition where political speechmaking might possibly take up an entire afternoon in the town square. This was before television. It was not only good entertainment, but it was also patriotic. How else, he felt, could there be understanding of issues by the electorate? The formula was simple: "You tell them what you're going to tell them; you then tell them; and then you tell them what you told them."

To understand Hubert Humphrey, you have to understand two pervasive characteristics. The first is faith. And that includes God and human brotherhood. What kind of God, what He looks like, where He is—that is unimportant. What is important is that there is a God and a set of values, and that we must all be brothers and sisters to one another in our personal relationships and in our societal relationships. This explains why Hubert was so forgiving of people who deserved less from him.

The second point to remember is that Hubert was a teacher. He had to explain so that everybody understood. Political democracy rests on informed awareness by the electorate, and that requires teaching. He knew that when he taught under the W.P.A. in Minnesota. He never stopped teaching, and that, of course, also means talking.

Is this old-fashioned? Of course it is, and he always knew it. There was a constant rebellion against turning himself into someone he was not, or into something he was not comfortable with, simply because it would be better television or better politics.

How often I heard the refrain of advisers, "Forget about the audience in front of you; think only about the TV cameras." But he could never forget the audience in front of him. They were there in the flesh, his friends, to be persuaded. These people he could see and the television audience he could not.

One day The New York Times caught a candid photograph of Hubert at a session of the Foreign Relations Committee. It was a great picture. He looked thoughtful and it was always so difficult to get a good picture of Hubert published that didn't have him talking. I looked carefully. He wore glasses in this photo. With the glasses, he looked studious. It's people who read and think who wear glasses. Here was a way to undercut the criticism that he talked too much. As a studious man, he had a great deal to say. Furthermore, audience attention could be drawn to the glasses, and not to the protruding chin or to the small moving mouth.

I had it! Hubert was among the wisest and most truly profound of men, and yet the public did not know it. This was our solution. I quickly went to Humphrey. The idea made sense to him, but he remained skeptical. "It isn't as if you don't need glasses," I argued. "This is not artificial. You do need them. Why don't you wear them all the time instead of just when you are doing close work?" No promises from him, and no performance.

I didn't give up. In 1968, preparing for the Democratic Party convention, we got the assistance of Dr. Ernest Dichter, who volunteered and said he would like to help. This was the gifted man who made a good living telling toothpaste companies what color they should use on their packages to help their sales.

I presented the problem to him. He was skeptical, too, but agreed to make a survey. He used a photo of Hubert with glasses and one without. There was no name identification. "What kind of a man do you think this is?" was the question. After some weeks, a surprised Dichter came in and said, "You were right." The man with the glasses elicited a much more positive response than the man without. Here was the proof!

We presented it to the Vice President. By now, he was using his glasses somewhat more frequently, but still not on television and not for photographs. Why, I don't know why. But I think part of it was that it might appear to be manipulative and he would not be a party to such a manipulation for political gain. People would have to accept him for what he was or not at all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business now before the Senate?

The PRESIDING OFFICER. S. 1437.

Mr. ROBERT C. BYRD. The unfinished amendment.

The PRESIDING OFFICER. The amendment on page 76, lines 19 through 24.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR EAGLETON ON TUESDAY, JANUARY 31, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, January 31, after the two leaders or their designees have been recognized under the standing order, Mr. EAGLETON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, this request having been cleared with the minority, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered 562 through 569.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR ASSISTANT SECRETARY OF THE TREASURY TO SERVE AS A MEMBER OF THE LIBRARY OF CONGRESS TRUST FUND BOARD

The bill (S. 2220) to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board, was ordered to be engrossed for a third reading, read the third time and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of the first section of the Act entitled "An Act to create a Library of Congress Trust Fund Board, and for other purposes", approved March 3, 1925 (2 U.S.C. 154), is amended by inserting after "Secretary of the Treasury" the following: "(or an Assistant Secretary designated in writing by the Secretary of the Treasury)".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–616), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

S. 2220 would amend the Library of Congress Trust Fund Board Act, approved March 3, 1925 (2 U.S.C. 154), by authorizing the Secretary of the Treasury to designate an Assistant Secretary to serve in his place on the Library of Congress Trust Fund Board.

At a recent meeting of the Board, the membership recommended that the act of 1925 be amended to provide for this authority, which would greatly facilitate operations of the Board.

The membership of the Board consists of the Secretary of the Treasury, the chairman of the Joint Committee on the Library, the Librarian of Congress, and two persons appointed by the President.

A letter requesting enactment of this legislation, addressed to Senator Howard W. Cannon, chairman, Committee on Rules and Administration, by Dr. Daniel J. Boorstin, Librarian of Congress, is as follows:

THE LIBRARIAN OF CONGRESS,
Washington, D.C., October 3, 1977.

Hon. HOWARD W. CANNON,
U.S. Senate.

DEAR SENATOR CANNON: At the last meeting of the Library of Congress Trust Board two major changes were decided upon:

(1) To make the Librarian of Congress Chairman of the Board; this was done at the meeting by amending the bylaws.

(2) To permit the Secretary of the Treasury to designate an Assistant Secretary to serve in his place on the Board; this will require a slight amendment to the Library of Congress Trust Fund Board Act. Both the Treasury and the Library have examined this act, as previously amended, and feel that no further modifications are necessary.

I shall greatly appreciate it therefore if you would introduce the attached legislation, which would greatly facilitate operations of the Board.

We realize that it is too late for action in this session, but we hope it can be taken care of next year. Many thanks.

All the best.

Yours,

DANIEL J. BOORSTIN,
The Librarian of Congress.

SUPPLEMENTAL EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

The resolution (S. Res. 288) authorizing supplemental expenditures by the Special Committee on Aging for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 147, Ninety-fifth Congress, agreed to June 14, 1977, is amended by striking out "$407,000" and inserting in lieu thereof "$442,000".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–617), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 288 would amend the expenditure-authorization resolution of the Special Committee on Aging (S. Res. 147, 95th Cong., agreed to June 14, 1977) by increasing by $35,000—from $407,000 to $442,000—funds available to the special committee through February 28, 1978, for inquiries and investigations.

The $35,000 request would be apportioned as follows:

$12,000 for raising of salaries for selected members of the Minority and Majority staffs, in accordance with the Order of the President Pro Tempore, implementing the provisions of the Federal Pay Comparability Act of 1970, authorizing a 7.05 percent increase effective October 1, 1977;

$10,000 for additional expenses of investigative activities related to nursing home operations in three States; and

$13,000 for field hearings and other Committee activities related to inquiries into "The Nation's Rural Elderly," "Treatment of Indians under the Older Americans Act and other Federal Programs," "The Graying of Nations: Implications," and "Senior Centers and the Older Americans Act."

Letters in support of Senate Resolution 288 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Frank Church, chairman of the Special Committee on Aging (with the concurrence of Senator Pete V. Domenici, ranking minority member), and Senator Dennis DeConcini, are as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C. October 7, 1977.

Hon. HOWARD W. CANNON,
Chairman, Senate Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Today I introduced—along with Senator Domenici—Senate Resolution 288, asking $35,000 in additional funding for operations of the Senate Special Committee on Aging. I would appreciate early attention by your committee in order for this committee to maintain a full schedule of activities for the funding period which ends in February.

The funds are requested for the following reasons:

$12,000 for raising of salaries for selected members of the minority and majority staffs, in accordance with the Order of the President Pro Tempore, implementing the provisions of the Federal Pay Comparability Act of 1970, authorizing a 7.05 percent increase effective October 1, 1977.

$10,000 for additional expenses of investigative activities related to nursing home operations in three States.

$13,000 for field hearings and other committee activites related to inquires into "The Nation's Rural Elderly," "Treatment of Indians under the Older Americans Act and other Federal Programs," "The Graying of Nations: Implications," and "Senior Centers and the Older Americans Act."

I would also like to thank you and your staff for the many courtesies extended within the last few months, and specifically your willingness to stand by when prompt action was needed to authorize travel for members of the Capitol Hill Police Force in conjunction with the issuance of subpenas for investigative purposes.

Senator Domenici has reviewed the request for additional funding, and he concurs.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., November 29, 1977.

Hon HOWARD W. CANNON,
Rules and Administration Committee, U.S. Senate, Washington, D.C.

DEAR HOWARD: Senators Church and Domenici recently introduced a resolution asking for $35,000 in additional funding for the operations of the Special Committee on Aging.

The funds were requested in order to carry on the work of the committee with regard to hearings held both in the field and in Washington, as well as for extensive field investigations and other research. Most of the work accomplished this year will be helpful as the Senate considers amendments to the Older American's Act next year.

I would like to add my support to the request and urge consideration of this resolution.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

The response to Senator Hatfield's request for "a more detailed report on what modifications the Special Committee on Aging made in its original budget request of $432,000 after the Rules Committee and the Senate reduced it to $407,000 in June 1977" is expressed in a joint letter from Senator Church and Senator Domenici, which letter is as follows:

U. S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C., October 18, 1977.

Hon. HOWARD W. CANNON:
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Committee on Rules and Administration began deliberations last Wednesday on Senate Resolution 288, which would authorize an additional $35,000 for operations by the Senate Special Committee on Aging through February 1978. We would like to thank you and the committee for prompt consideration of the measure.

At the meeting, Senator Hatfield requested a more detailed report on the reasons for seeking additional funding and the steps taken by the Special Committee on Aging to keep expenditures in line with the Rules Committee's limitations.

The following actions have been taken to bring Committee expenditures down to the $407,000 funding level set by the Rules Committee ($357,000 approved in regular budget, $50,000 approved for special investigations):

Investigative staff was reduced after extensive operations in three States. A General Accounting Office specialist on this committee's payroll has returned to GAO. A temporary staff person engaged to work through recent hearings has left the Staff, as have two other temporary workers.

The $20,000 allotted for consultants in the budget was seen as a logical item to reduce. Therefore, only minimal use has been made of consultants. No use at all will be made of the $1,000 provided for training of professional staff.

Even before approval of the June budget, majority staff had been reduced by one professional staff member, and the majority clerical staff had been reduced by three.

Despite our efforts to keep costs within the June authorization by the Rules Committee, there are compelling reasons for requesting additional funds at this time in order to fulfill our responsibilities for dealing with matters which, in our view, cannot be delayed until the next funding period.

As briefly mentioned in our letter of October 7 to your committee, the $35,000 in additional funding had three major divisions:

$12,000 was to be used for raising of salaries for selected members of the Committee staff, in accordance with the Order of the President Pro Tempore, implementing the provisions of the Federal Pay Comparability Act of 1970, authorizing a 7.05 percent increase effective October 1, 1977.

The full increase, as was mentioned at your meeting on October 12, was not applied to the three highest-salaried Majority employees.

$10,000 is to be used for additional expenses of investigative activities related to nursing home operations in three States. This request is made because intensive field work in California, Hawaii, and Colorado during July and August did not produce conclusive evidence of alleged political influence on official actions related to regulation of nursing homes. For full examination of the situation in those three States, additional funding is necessary. In addition, the investigation of nursing home chain opera-

tions is continuing and will soon require intensive examination of information already on hand as well as other data which must be collected.

We are sure that you recognize the difficulties in arriving at precise estimates of investigative costs, particularly in view of the effort to show a pattern of political influence. Field work of this kind often involves unforeseen additional tasks.

We feel it is important to continue these investigative activities based upon the need for continuing attention to costly waste, fraud, and abuse in the medicare and medicaid programs, with special attention to the relatively unexplored area of political influence.

$13,000 for field hearings and other committee activities related to inquiries into "The Nation's Rural Elderly," "Treatment of Indians Under the Older Americans Act and other Federal Programs," "The Graying of Nations: Implications," and "Senior Centers and the Older Americans Act."

The hearings on "The Nation's Rural Elderly" represent an effort by this committee to continue and conclude hearings and other committee activities related to that subject. Hearings in Texas, New Mexico, and Arizona are among those which will be useful in providing information about rural issues in those States, which have received very little attention in prior years by this committee. In addition, the Southwest hearings would also provide an opportunity to take first-hand testimony on the subject of "Treatment of Indians Under the Older Americans Act and Other Federal Programs." Testimony on rural issues and on the treatment of elderly Indians are directly related to forthcoming congressional deliberations on extension of the Older Americans Act. Additional "rural" hearings are contemplated in Illinois, Indiana and Florida. Our Committee is working in conjunction with the Subcommittee on Aging of the Committee on Human Resources to assure that adequate attention is given to these and other matters before that subcommittee's legislative hearings begin toward the end of this year.

The same is true of the hearing on October 18 on "Senior Centers and the Older Americans Act." This is a one-day hearing with a minimum number of witnesses, preceded by extensive efforts to gather information on senior center operations. We believe that this hearing will also provide very useful information related to extension of the Older Americans Act. Again, it has been planned in conjunction with the Subcommittee on Aging.

The hearing on "The Graying of Nations: Implications" is to be held in conjunction with the visit of representatives from nine other nations to the U.S. National Institute on Aging in November. These visitors are experts who can provide international comparisons on matters of considerable urgency at a time when all nations are faced by economic and social consequences related to the "aging" of populations. A one-day hearing in Washington is planned; our committee is not paying travel expenses for the foreign visitors.

As is the case in other hearings, it was not possible in June, when our resolution was under consideration, to make detailed plans.

We did, however, have an informed impression of our needs; and it was for this reason that we asked for $25,000 more than later authorized by the Rules Committee.

Our regular budget request of $432,000 at that time was in strict compliance with the amount already authorized by the Rules Committee for the March-June period. We multipled that sum, representing one-third of the year, by two in order to provide for the following two-thirds of the year. We thought that we were abiding by Rules Committee guidelines and thus were surprised at the reduction of $25,000. We did reduce expenditures to make up the difference in the budget amount but we have reached the conclusion that additional funding is now necessary for this committee to perform the work described above.

We would like to make a few other observations, Mr. Chairman:

In further response to the questions we wish to state that no committee hearing is conducted without a Senator being present. Committee memebrs, we should add, have adopted a policy of meeting at least four times annually to discuss committee operations.

Committee members, acting largely upon information obtained through committee operations, have had an unusually effective legislative record of achievement during 1977. A list of these accomplishments until the August recess is attached; an updated version will be forwarded to you at the end of the session.

We again point out that the Committee on Aging, unlike all other permanent committees, is not provided with core amounts for operations, salaries, and office expenses. The budget submitted to the Rules Committee, therefore, reflects all of our expenses.

Another reason for the request of additional funding is that we felt it mandatory to order an investigation when we learned of the eviction of elderly residents at the International Hotel, San Francisco, in August. We felt that the incident is closely related to Federal policies and programs related to urban development and its impact on older persons. Our investigation indicates the need for intensive attention to these matters, but will need time to plan these activities, which will probably take place in the funding period beginning next March. We give this as an example of the unexpected and immediate situation which so often arises in aging.

We would also like to report that the number of printing assistants provided by Government Printing Office (at no outlay from committee payroll) has been reduced from three to two.

Once again, Mr. Chairman, we would like to thank the Rules Committee for careful consideration of this and other requests. In particular, we would like to thank the Rules Committee for taking prompt action in August to authorize travel for members of the Capitol Hill Police Force in conjunction with the issuance of subpenas by the Special Committee on Aging and the collection of records for investigative purposes.

Sincerely,

FRANK CHURCH,
Chairman.
PETE V. DOMENICI,
Ranking Minority Member.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The resolution (S. Res. 291) authorizing supplemental expenditures by the Committee on Agriculture, Nutrition, and Forestry, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 144, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$300,300" and inserting in lieu thereof "$330,300".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-618), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 291 would amend Senate Resolution 144, 95th Congress, agreed to June 14, 1977 (the annual expenditure-authorization resolution of the Committee on Agriculture, Nutrition, and Forestry) by increasing by $30,000—from $300,300 to $330,300—funds available to the committee for inquiries and investigations through February 28, 1978.

Excerpts from the Committee on Agriculture, Nutrition, and Forestry report accompanying Senate Resolution 291 (S. Rept. 95-489) are as follows:

In approving Senate Resolution 4, the Senate voted to phase out the Select Committee on Nutrition and Human Needs at the end of 1977. Under this reorganization, the existing Committee on Agriculture and Forestry became the Committee on Agriculture, Nutrition, and Forestry, and the Select Committee on Nutrition and Human Needs was given until December 31, 1977, to complete its work.

On January 1, 1978, the Committee on Agriculture, Nutrition, and Forestry will take on the responsibilities of the Select Committee on Nutrition and Human Needs, which will require some modest staff increases. The amendment to Senate Resolution 144, approved on October 5, 1977, by the Committee on Agriculture, Nutrition, and Forestry for Senate consideration, would provide $30,000 to fund three professional and two clerical staff members for 2 months. This would permit the hiring of three majority and two minority staff members. The Committee on Agriculture, Nutrition, and Forestry proposes to meet its expanded responsibilities with existing staff, supplemented by the additional staff called for in this amendment. In addition, the committee is fortunate enough to have the services of a highly qualified nutritionist, the author of a college text on nutrition. This person is a congressional science fellow who will work for 1 year at no cost to the committee. * * *

The Committee on Agriculture, Nutrition, and Forestry has had legislative jurisdiction over the child nutrition, food stamp, and other nutrition programs, while the Select Committee on Nutrition and Human Needs—which was established in 1968—performed an investigatory and oversight role. The Select Committee on Nutrition and Human Needs is to be commended for alerting the Nation to the existence of hunger among the needy and helping develop a consensus in support of a national food stamp program and expanding the child nutrition programs—which were developed in the Committee on Agriculture, Nutrition, and Forestry.

* * * * *

At the start of this session, and after the passage of Senate Resolution 4, Committee Chairman Talmadge asked Senator McGovern to head a Nutrition Subcommittee under the Committee on Agriculture, Nutrition, and Forestry. This subcommittee is expected to be the focal point for the committee's expanded nutrition effort.

The absorption of the Select Committee on Nutrition and Human Needs into the Committee on Agriculture, Nutrition, and Forestry will result in a combination of the investigatory role of a select committee with the legislative role of a standing committee. The expertise acquired by both committees will result in more effective efforts in the future. Success cannot be gaged by staff size. The Committee on Agriculture, Nutrition, and Forestry will continue to call upon the expertise of other Government agencies without inflating the committee budget. De-

spite the fact that the Committee on Agriculture, Nutrition, and Forestry has one of the smallest staffs of any standing committee in the Congress, it has been able to meet its responsibilities well by a wise utilization of the Congressional Research Service, the General Accounting Office, and the personnel of executive branch agencies. In fact, the committee was recently cited in "Staff" a publication of the House Select Committee on Congressional Operations, as having one of the best oversight operations in the Congress. The article pointed out that the committee was able to accomplish this by extensive use of the General Accounting Office.

Following is a letter dated September 27, 1977, from Senator Talmadge to Senator McGovern relating to the phase out of the Select Committee on Nutrition and Human Needs and the addition of five staff members to the Committee on Agriculture, Nutrition, and Forestry as called for in the proposed amendment to Senate Resolution 144:

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., September 27, 1977.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR GEORGE: As you know, the Select Committee on Nutrition and Human Needs will be terminated on December 31, in accordance with Senate Resolution 4.

When I spoke to you and Senator Dole earlier this year, I expressed a willingness to incorporate a few of the existing staff of the select committee into the staff of the Committee on Agriculture, Nutrition, and Forestry. I indicated that I was willing to go this far in accommodating your desire to keep a significant nutrition effort going.

As you know, the Senate changed the name of our committee to the Committe on Agriculture, Nutrition, and Forestry during the consideration of Senate Resolution 4. In addition, we established a new Subcommittee on Nutrition with you as chairman. As I recall the Senate consideration of Senate Resolution 4, you and Senator Percy agreed that you would not ask for any future extensions of the Select Committee on Nutrition and Human Needs if the Senate would permit an extension of the Select Committee through December 31, 1977.

Since the current session of Congress is drawing to a close, we will need to act promptly on a money resolution that will enable us to place some of your committee staff on the Agriculture Committee payroll on January 1, 1978. In accordance with my agreement to accept two majority and one minority professional staff members, I am also willing to accept two clericals, for a total of five employees. If you will indicate the salaries of the five employees you wish to transfer to the Agriculture Committee payroll, I will introduce a resolution to obtain adequate funds. I will call a short committee meeting off the floor of the Senate this week to report a resolution that can be referred to the Committee on Rules and Administration for action. I am informed by the chairman of the Rules Committee that if we act promptly, it will be possible to consider this resolution before adjournment.

I will be happy to cooperate with you in this transition in any way possible. Certainly, we all know of the invaluable contributions that you have made in the field of food and nutrition programs. All the legislation in this area has, of course, been marked up in the Committee on Agriculture. I believe that the reorganization of the Committee on Agriculture, Nutrition, and Forestry to include a Subcommittee on Nutrition, is a natural result of your leadership in this area; and I believe that this committee structure will enable us to do an even better job in the future on nutrition issues. I think that the staff that I have agreed to accept, together with the other professional resources of our committee, will enable you to do whatever is necessary in the nutrition area.

With every good wish, I am,

Sincerely,

HERMAN E. TALMADGE,
Chairman.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

The resolution (S. Res. 314) authorizing supplemental expenditures by the Committee on Armed Services for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 142, Ninety-fifth Congress, agreed to June 14, 1977, is further amended by striking out the amounts "$483,700" and "$36,000" and inserting in lieu thereof "$508,700" and "$61,000", respectively.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–619), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 314 would further amend the expenditure-authorization resolution of the Committee on Armed Services (S. Res. 142, agreed to June 14, 1977) by increasing by $25,000—from $483,700 to $508,700—funds available to the committee through February 28, 1978, for inquiries and investigations. The $25,000 increase could be expended for the procurement of consultants, increasing funds available for that purpose from $36,000 to $61,000.

Senate Resolution 297, agreed to October 27, 1977, increased the 1977 expenditure authorization of the committee by $8,700—from $475,000 to $483,700.

The Committee on Armed Services has requested this additional funding "in the event the committee needs to proceed with a consulting contract for a report on certain matters pending with the committee which will require in-depth examination by the committee early in the next session of Congress."

A joint letter in support of Senate Resolution 314 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator John C. Stennis and Senator John Tower, chairman and ranking minority member, respectively, of the Committee on Armed Services, is as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., November 1, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Today the Armed Services Committee voted to report to the Senate a resolution authorizing the expenditure of up to $25,000 additional to those funds already authorized by Senate Resolution 142, as amended, for the committee for inquiries and investigations. If actually used these funds would be for consulting services.

These additional funds will be needed in the event the committee needs to proceed with a consulting contract for a report on certain matters pending with the committee which will require in-depth examination by the committee early in the next session of Congress.

I would hope that this meets with the approval of the Committee on Rules and Administration and that favorable consideration could be given to reporting this resolution at an early date.

Sincerely,

JOHN C. STENNIS,
Chairman.
JOHN TOWER,
Ranking Minority Member.

INCREASED ALLOTMENT FOR CONSULTANTS FOR THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The resolution (S. Res. 339) authorizing increased allotment for consultants for the Committee on Environment and Public Works, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 157, first session, Ninety-fifth Congress, agreed to June 14, 1977, is amended by striking "$3,900" and inserting in lieu thereof "$7,000.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–620), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

[To accompany S. Res. 339]

Senate Resolution 339 would amend section 2 of Senate Resolution 157, 95th Congress, agreed to June 14, 1977, as amended (the expenditure-authorization resolution of the Committee on Environment and Public Works), by increasing by $3,100—from $3,900 to $7,900—that portion of the funds authorized for the committee which it could expend for the procurement of individual consultants or organizations thereof. No increase in the committee's authorization of funds ($875,800) would result from this action.

An explanation for the request is expressed in a joint letter addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Jennings Randolph and Senator Robert T. Stafford, chairman and ranking minority member, respectively, of the Committee on Environment and Public Works, which letter is as follows:

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C., January 10, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Room 305, Russell Building, Washington, D.C.

DEAR MR. CHAIRMAN: When the committee prepared its budget forecast for the remaining eight months of the 1977 resolution year, only $3,900 was allocated for consultants, substantially less than the pro rata amount for the previous year's allocation. This was in line with the committee's efforts to maintain expenditures at levels consistent with the workload anticipated.

Because the need for consultant services was greater than anticipated in connection with the development of environmental legislation before the Congress last Session, as well as oversight activities for the remainder of this resolution year, requirements exceed the forecast.

Senate Resolution 339 increases the amount authorized to be expended for procurement of consultant services by $3,100, to a total of $7,000.

Because of economies practiced in other areas, funds to meet this increased authorization will be transferred from other line items and no authorization of additional funds is required or requested.

Your early approval of this resolution is respectfully requested.

With kind personal regards,

Truly,

JENNINGS RANDOLPH,
Chairman.
ROBERT T. STAFFORD,
Ranking Minority Member.

OZZIE P. PRICE

The resolution (S. Res. 357) to pay a gratuity to Ozzie P. Price, was considered and agreed to, as follows:

Resolved, That the Secertary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ozzie P. Price, widow of Joseph B. Price, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PATRICIA M. WELDON

The resolution (S. Res. 358) to pay a gratuity to Patricia M. Weldon, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Patricia M. Weldon, daughter of Ruth K. Taylor, an employee of the Senate at the time of her death, a sum equal to three months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEMORIAL TO THE SIGNERS OF THE DECLARATION OF INDEPENDENCE

The Senate proceeded to consider the bill (H.R. 2960) to authorize the Secretary of the Interior to memorialize the 56 signers of the Declaration of Independence in Constitution Gardens in the District of Columbia, which had been reported from the Committee on Rules and Administration with an amendment:

On page 1, line 7, after the comma, insert "with".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-621), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this act is to establish a memorial in Constitution Gardens to honor the 56 signers of the Declaration of Independence.

BACKGROUND

Congress authorized the American Revolution Bicentennial Administration to finance its activities through the sale of Bicentennial medals. A surplus remained when the Administration's responsibilities were concluded which the Administration proposed to use for the establishment of a memorial to the 56 signers of the Declaration of Independence. H.R. 2960 permits the expenditure of up to $500,000 for this purpose.

S. 1148, which proposes basically the same type of memorial, was also pending before the Rules Committee but was deferred so that H.R. 2960 could be reported out instead.

A hearing was held in the House by the Subcommittee on Libraries and Memorials on April 29, 1977. Because of the large number of statues and memorials in the Washington, D.C., area, concern was expressed that the memorial not add to the list. Rather, a consensus is that the memorial take an unobstrusive form and serve some functional use if possible.

An expenditure not to exceed $500,000 by the Secretary of the Interior from funds of the American Revolution Bicentennial Administration is authorized by this act. The Congressional Budget Office reports "no appropriation is required for the establishment of the memorial." Therefore, no other funds are authorized.

A letter addressed to Chairman Cannon by Alice M. Rivlin, Director, Congressional Budget Office, is as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., September 12, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2960, a bill to authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia.

This bill would permit the use of approximately $350,000 in revenues generated by the American Revolution Bicentennial Administration for the establishment and maintenance of a memorial by the National Park Service. Because of the availability of these funds, no appropriation is required for the establishment of the memorial. Pursuant to Public Law 93-179, these funds are earmarked for such a purpose, and could not readily be used for other purposes. It is estimated that the available funds are sufficient for both the establishment and maintenance of the memorial for several years. No significant costs are expected to be incurred by the National Park Service for maintenance after that time.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. ALLEN assumed the chair.)

CRIMINAL CODE REFORM ACT OF 1977

Mr. ROBERT C. BYRD. Now, Mr. President, is the Senate resuming its consideration of the unfinished business at this time?

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1437) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

The Senate resumed the consideration of the bill.

UP AMENDMENT NO. 1148

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes unprinted amendment numbered 1148.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 353, between lines 8 and 9, insert the following:

"(2) The Commission, in establishing categories of defendants for use in the guidelines governing imposition of a sentence of imprisonment, shall not consider subsections (d)(1)(B), (d)(1)(C), (d)(1)(F), (d)(1)(G), or (d)(1)(H).

On page 352—

(1) on line 29, insert "(1)" before "The";

(2) on line 34, strike "(1)" and insert "(A)";

(3) on line 35, strike "(2)" and insert "(B)";

(4) on line 36, strike "(3)" and insert "(C)"; and

(5) on line 37, strike "(4)" and substitute "(D)".

On page 353—

(1) on line 1, strike "(5)" and substitute "(E)";

(2) on line 2, strike "(6)" and substitute "(F)";

(3) on line 3, strike "(7)" and substitute "(G)";

(4) on line 4, strike "(8)" and substitute "(H)";

(5) on line 5, strike "(9)" and substitute "(I)";

(6) on line 6, strike "(10)" and substitute "(J)";

and

(7) on line 7, strike "(11)" and substitute "(K)".

Mr. BIDEN. Mr. President, further I ask unanimous consent that Senator

HART of Colorado be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I shall be brief. I will not take much of the Senate's time.

This amendment, I believe, would greatly enhance the fairness of the sentencing procedures set out in S. 1437, which I might note parenthetically greatly enhances already the fairness of the existing sentencing procedures.

It would preclude the sentencing commission from considering factors such as a defendant's education, vocational skills, employment record, and community ties for purposes of determining the question of incarceration; not probation, incarceration.

In other words, I wish to see to it that we do not continue what has been the practice in some instances of if you are poor, illegitimate, black, have no family ties, and have not had a job you are likely to go to jail; whereas, if you are educated, middle class, and fairly affluent, you are likely to get probation.

I should also note that this applies across the board, not just to poor black folks but poor white folks. It tends to be that from the studies that have been done with regard to sentencing that there is a correlation between the stiffness of the sentence and your economic background and family ties.

As has been pointed out to me and I suspect will be pointed out in discussion of this amendment, if anyone should be held accountable, it seems as though those who have more reason to know better should be held more accountable. This amendment is not dramatic, but I believe that it is important.

We have already gone far down the road under the leadership of Senator KENNEDY, and others, in curing the inequities of the sentencing system, and I think we should go a little farther in reforming the system. I believe adoption of this amendment would take us further along this important road of justice.

I yield the floor.

Mr. THURMOND. Mr. President, I can understand the goal the distinguished Senator has in mind which is to help the poor and underprivileged and those who have not had as good opportunities, but for that very reason I think that this amendment would do just the opposite.

I happen to have been a circuit judge at one time for a period of 8 years, but almost half of that was during World War II and I was in the war, but when persons came before me—and I am sure it was the case of other judges in my State—who were poor, had not had good opportunities and were underprivileged, good judges would show them special consideration. They would not hold them to as high a state of responsibility as they would a well-educated person, a person who had finished high school, or a person who had been to college.

And it seems to me that when a judge is ready to sentence a man he needs all the information he can get. He wants to find out how much education he has had, how he did in school. He would like to find out his skills and certainly his employment record: is he a fellow who has worked steadily, is he dependable, is he responsible, and just wavered from narrow path in this instance? Or is he a bum who never has worked, will not work, a parasite on the community, or a person of that kind?

As to family ties and responsibilities, I think it is well if a judge can know whether or not he has been a churchgoer maybe, whether he has been a good civic worker, whether he is a member of service clubs, whether he is interested in the promotion and the welfare of the whole community or whether he is practically an outcast in the community. I think all of these things are relevant and go into the pot, so to speak, that the judge can consider when he arrives at a sentence.

Now, Mr. President, I might say that the Justice Department is very bitterly opposed to these amendments, and I can certainly understand why. Again I say I think the able Senator from Delaware has very lofty motives here, but I think those motives would be defeated if we do here what he is asking to be done.

I think it is better to leave these elements in here, to let those who determine the sentence have the advantage of a defendant's education, his vocational skills, his employment record, and his community and family ties, and things of that kind.

I think it is helpful to anyone in sentencing another person to have the benefit of that knowledge.

Mr. BIDEN. Mr. President, I will be brief and I will then yield to my colleague from Colorado who would like to speak on this subject.

I think one of the primary objectives of the new sentencing provisions here was designed, is designed, to diminish, if not eliminate, the discretion of judges in sentencing people. Maybe it is a little too tough. But it seems to me if you commit a crime, two people commit the same crime, that regardless of what your background is you should be treated equally.

For purposes of probation I would acknowledge that there may be a difference. But the purpose of my amendment is to actually make justice blind, to get tougher and to see to it that whether or not you are rich and influential or poor and no influence, you serve the same time for the same offense.

That has not been the way it has worked. It has been applied inequitably.

Sentences have been applied inequitably; that was one of the reasons for my introducing so many amendments during the markup of this bill, and I am sure that is part of the reason for the introduction by the Senator from Colorado of amendments on the floor of the Senate of a similar nature.

But I will not belabor the point at this time. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I want to join the Senator from Delaware in supporting this proposal. It was contained in a bill which the Senator from New York (Mr. JAVITS) and I introduced a year or so ago creating a sentencing commission, in trying to establish the principle of fairness and equity in sentencing and, of course, many of those provisions are not contained in the pending legislation, except for the one that the able Senator from Delaware has pointed out here, and that is the concept variously referred to as just deserts or commensurate deserts, proportionality of sentencing, and that is, as I understand, what he is attempting to accomplish, to further reduce this disparity that does exist in our present sentencing provisions.

On the surface it can be interpreted as harsh or draconian, but it certainly was not his purpose or mine in supporting this measure months ago. It is, in fact, to create a system of fairness and equity regardless of a person's economic background or level of education or whatever, and I certainly support this concept wholeheartedly.

I wish it could have been incorporated in this legislation. I think at some point down the road it will become the law because it is the right thing to do. So I certainly do support the proposal.

Mr. THURMOND. I would like to say this: If we follow the line of reasoning that all people who have committed the same crime should get the same sentence then you do not need but one sentence for robbery, only one for larceny, only one for any other crime.

The very idea of giving some flexibility to the judge, I think, is extremely important. Here we are limiting the judges so they will not go to the extreme either way. But we still leave flexibility in there, and I think you have got to do that because I am convinced that a man who has had good opportunities, a chance to get a good education, who is reared in a good home, if he goes out here and commits a crime he should be held to a higher responsibility than an underprivileged person who has not had those good opportunities, who has not had that good home environment and who, in my judgment, should not be held to as high a standard as another person who may have committed the same crime.

Mr. BIDEN. Mr. President, in the interests of comity, since it seems as though the Senator from South Carolina and I are not very far apart in what we are trying to accomplish, I would respectfully request that I be able to withdraw my amendment——

Mr. KENNEDY. Mr. President, will the Senator withhold that for just a moment?

Mr. BIDEN. I would be happy to.

Mr. KENNEDY. Mr. President, I understand the motion the Senator from Delaware is about to make. I just want to indicate that these factors should relate only to probation. The purpose of my statement is to inform the Commission to that effect.

I happen to believe, as I have stated before, that if this bill is to mean anything in terms of sentencing, it must reduce disparity in sentencing.

I would say, in my position as floor manager, that these factors should never

be taken into consideration in sentencing one to a term of imprisonment.

The argument can be made that the better the education the longer the sentence they ought to get; the poorer the education, the less they ought to get. Or vice versa. I know that is troublesome to the Senator from Delaware.

Mr. BIDEN. That is correct.

Mr. KENNEDY. So in that sense I would certainly hope these factors would not be used in considering prison time. But there may be other reasons for these factors that we cannot foresee, that judges and those who are experienced in the sentencing area can give some weight to.

But I just want the very clear understanding that the thrust in this area is to eliminate disparity and inequity.

Of course, the relevancy of these factors in the area of probation is obvious.

I would hope that it would be clear in the record what our intentions are—not to have these five factors be considered in setting guidelines for prisons. I want to underscore my own views on this important issue.

I thank the Senator from Delaware and the Senator from Colorado for making this case. We will leave it as it is with, hopefully, the understanding of their relevancy only to probation.

Mr. BIDEN. Mr. President, I thank the Senator from Massachusetts, the manager of the bill. He accurately described my intention in introducing this amendment.

But again in the interest of working out a long-term solution to this problem as we see it, and whether or not we can agree I do not know at this point, but I would respectfully ask unanimous consent that I be able to withdraw my amendment. I thank the Senate for its time and the Senator from South Carolina for his statements.

The PRESIDING OFFICER. No action has been taken on the amendment, the amendment may be withdrawn without unanimous consent. The Senator does withdraw his amendment, and the amendment is withdrawn.

(Mr. BIDEN assumed the chair as Presiding Officer.)

UP AMENDMENT NO. 1149

(Subsequently numbered amendment No. 1677)

(Purpose: To clarify intent of current law that political contributions between members of, members elected of, and candidates for Congress are not unlawful)

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask unanimous consent that it may be in order at this time, and further, in accordance with the suggestion of the distinguished majority leader, I ask unanimous consent that the amendment be the pending question when the unfinished business is laid before the Senate on Monday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1149:

On page 78, line 12, strike the word "oral".

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, the Senate is nearing passage of S. 1437, codification of the Federal criminal laws. This is a work of codification unparalleled by any other in recent years. It brings together and clarifies confused and conflicting statutes which have been scattered throughout the United States Code by the legislative enactments of many Congresses. It is truly a monumental effort.

This bill primarily owes its existence to the efforts of two men. The first is my distinguished colleague, Senator KENNEDY, who has allocated much time and effort into producing the bill which we are about to pass. His guidance permeates its sections, and his desire to bring better justice to our citizens is reflected in its spirit. This legislation will stand as a tribute to his legislative skill.

Yet, there is another to whom this legislation is a culmination of years of legislative energy. That man is Senator John L. McClellan, my predecessor, and for many years the senior Senator from Arkansas.

Mr. President, I deeply regret the circumstances which bring me before you. The death of Senator McClellan was a great loss to the Senate and to the Nation. Even more unfortunate, however, is that he died before he could witness the achievement of his greatest legislative effort—Senate passage of a codification of the Federal criminal laws.

Throughout his long years of public service to the Nation, John McClellan labored to create conditions in this country that would engender respect for authority in society. This goal is reflected throughout this legislation. And, although some quarrel with the means chosen to effectuate that end, none may quarrel with the end itself. For it approaches the heart of our ability to function as a society.

John McClellan spent years working on this bill. It is some of the most complex legislation the Senate has encountered, and, more importantly, will affect the lives of Americans as much as any legislation this session will enact. The bill is not perfect, having areas which must receive future attention. Yet it is a masterpiece, a basic framework of criminal laws which later Congresses may polish with the knowledge that what must be worked with has been gathered in one place.

Mr. President, this bill is symbolic of what the democratic legislative process is about. The great works of Congress are not those which receive maximum publicity nor those addressing problems momentarily in the Nation's eye. They are legislative efforts pursued for years, resulting from out-of-the-way hearings and tedious research never seen by the public. We are grateful for men who have the patience and courage to initiate such measures, and the perseverance to see them through.

John L. McClellan was such a man, and this bill is evidence of what one Senator's determination can produce. Accommodating the diverse views of many Senators, responding to his critics, John McClellan created legislation acceptable to this Senate out of a complex legislative situation which would have discouraged many others. His force was always the thrust behind this codification, and his unflagging devotion to this goal should be remembered.

Yet, Mr. President, this was the method by which Senator McClellan approached all of life, not just this bill. My colleagues know of the accumulated ordeals which he faced and mastered in his personal life. His strength of will, expressed in his determination and hard work, are reflected in the various proposals he initiated and shepherded through the Senate. From the creation of the McClellan-Kerr Arkansas River navigation system to the regulation of labor racketeering, Senator McClellan authored legislation which has touched the life of almost every American. And all are the result of his hard work and attention to detail that guided his life. Although he came from earlier, and perhaps simpler times, Mr. President, Senator McClellan demonstrated the flexibility of views and judgment essential to an informed and balanced outlook on life. His tenure in office spanned wars, recessions, depressions, and the technological explosion. Through it all, John McClellan held true to those values in which he believed and which are in great part reflected in this legislation.

Although I never enjoyed the privilege of serving with him in the Senate I have but to consider this bill to realize the dedication and skill with which he approached his work here. We approach the end of a course which Senator McClellan started over 10 years ago, and my thoughts turn to him. I trust that my colleagues will remember that one of the Senate's truly great legislators is no longer with us, and that this bill, when enacted, will serve as a monument to his memory.

Mr. NELSON. Mr. President, S. 1437 represents a benchmark in the effort to codify the Federal criminal law which has spanned more than a quarter century. I support it because it is a significant advance. The effort began in 1952 with the planning and drafting of the Model Penal Code by the American Law Institute. A second major step was taken with the creation of the Brown Commission by Congress in 1966, and the Commission's thorough and enlightened work over the next 4 years. Subsequently, however, from 1972 to 1975, the reform effort suffered almost irreparable harm as a Justice Department task force took the lead in transforming the codification effort into the now notorious S. 1, a vehicle for many provisions posing a serious threat to first amendment rights of speech, press and assembly. Fortunately, widespread public and congressional opposition killed S. 1 in early 1976 and sent congressional and administra-

tion draftsmen back to the drawing board, in the hope that they could recapture some of the progressive spirit which originally provided the impetus for the codification movement. S. 1437, reported by the Judiciary Committee by a vote of 14 to 2, is the result of these efforts.

S. 1437 is not my idea of what the perfect criminal code should be, but it is a major improvement over current law. There are sections of the code I would prefer to see amended or deleted. Moreover, in an attempt to avoid the controversy surrounding S. 1, the drafters of the code have agreed to carry forward current law in many controversial areas. As a result, as law professor Carole Goldberg has written:

> In some instances, S. 1437 retains existing law even when that has meant perpetuating ambiguities, uncertainties, overbreadth and abusive applications.

While I understand the political realities which dictated the committee's course, I am particularly dismayed at our inability to clarify the existing espionage statute, which remains a proven and continuing threat to constitutional rights.

But in writing legislation, the quest is for progress, not perfection. This important goal is particularly appropriate with respect to the herculean task of criminal code reform. As Louis Schwartz,[1] director of the Brown Commission has written:

> Reform of the federal criminal law is a project of awesome scope and complexity entailing not merely legal considerations but also sensitivity to history, politics, social psychology, penology, and the religious, ethnic, and economic tensions within this nation. The reform project must conform with that remarkable structure for resolving tensions, the Constitution of the United States. It is difficult enough to coordinate the wills of 200 million Americans in regard to even one of the many emotion-stirring issues of penal law . . . To bring Congress to agreement simultaneously on a myriad of changes, each of which will be regarded by some as progress and by others as catastrophe, would appear to require a political miracle. L. Schwartz, "Reform of the Federal Criminal Laws: Issues, Tactics, and Prospects," 1977 Duke L.J. 171.

In evaluating S. 1437, the basic question should be: As best we can determine, will the enactment of this legislation improve the administration and the public's perception of our criminal justice system?

And given the controversial history of this measure and the concerns which its earlier versions justifiably aroused, we must ask specifically: Does it improve on the current situation while carefully respecting constitutional rights which would have been seriously threatened by the enactment of S. 1? A modern, neat, and efficient criminal code is not a goal in itself; orderliness is rarely a hallmark of democracy; we have learned from some totalitarian countries what a great virtue disorderliness can be.

On balance, S. 1437 represents substantial reform of the Federal criminal code. I agree with Professor Schwartz's view that—

> It would be ironic and tragic if a major reform bill should be defeated by continued opposition of those who should rejoice if S. 1437 is enacted.
>
> A balanced appraisal of the bill requires recognition of three propositions: The bill makes literally hundreds of improvements over existing law; the bill has short-comings, as where it bypasses thorny issues like capital punishment, gun contrtol, and wiretapping, leaving existing law unchanged; the bill would in no significant respect change the law for the worse.
>
> Defeat of S. 1437 would leave us with the chaos and injustice of existing federal criminal law, while missing a rare political opportunity to make important gains. The tactics of some civil liberties groups, opposing any bill which does not incorporate all the advances they desire, would effectively veto all progress.

Moreover, Professor Dershowitz of Harvard, this Nation's leading civil liberties scholar, has reviewed S. 1437 as reported from the Judiciary Committee and in a November 17, 1977, letter to the editor of the Los Angeles Times said:

> As a civil libertarian who was strongly opposed to the original S. 1, I approached the provisions of S. 1437 with some skepticism. A careful comparison of these provisions with existing law has convinced me that passage of the new bill would strengthen our democratic institutions and reinforce our liberty. To be sure, the bill fails to make some changes, which I and other civil libertarians have long advocated. I continue to hope, and will continue to work for, such changes. But the net effect of S. 1437 is a substantial improvement over existing law.
>
> While I am not satisfied with all the provisions of the code, and while I still hope there will be some improvements, I am convinced that the proposed code contains several important improvements over existing law, that it reflects a net gain for civil liberties, and that it does not contain any new provisions that can truly be called repressive.
>
> Moreover, its sentencing provisions with their substantial reduction of discretion and disparity may constitute the single most important criminal law reform in recent decades. Considering the realities of our political institutions and of current public opinion about crime and justice, I believe that failure to enact these improvements would disserve the interest of civil liberties in the United States.

That this legislation has reached the full Senate for consideration is nothing short of the "political miracle" to which Professor Schwartz referred. But more importantly, despite some provisions with which I disagree, I think the enactment of S. 1437 would improve the quality of justice in this country without posing a threat to the exercise of constitutionally protected rights.

At present, our criminal law is a hopeless hodgepodge of legislative enactments, interpreted by judicial decisions, replete with inconsistent, repetitious, and obsolete provisions. There is almost universal agreement that codification of the laws is sorely needed. Critics of S. 1437 concede that codification of the Federal criminal code is a useful goal; however, these very same groups then gloss over its effects in order to focus attention on specific provisions of the bill that cause them concern.

The benefits of codification may be more difficult to assess than the likely impact of any single provision of the code, but the benefits are, nonetheless, very real. For example, current law presents a patchwork of sections dealing with larceny, embezzlement, fraudulent conversion, and obtaining by false pretenses; these sections differ from one another in terms of the state of mind required to commit the crime and the penalties to be imposed. What results is that criminals can slip through technicalities in the law. Prosecutors can select from among the often overlapping statutes, depending on their reaction to the crime and the prospective defendant. People committing very similar criminal acts go to widely disparate fates. S. 1437 would alleviate these problems—and any like them by substituting one comprehensive theft section for the current statutory disarray.

Similarly, obsolete statutes are not just interesting curiosities; they can be dangerous tools in the hands of unprincipled prosecutors. Under the Logan Act, for instance, since 1799, it has been a criminal act for private citizens to communicate with a foreign government. The statute lay around for years until the Vietnam war, when it was dusted off and employed as an instrument with which to threaten opponents of the war who had visited North Vietnam as part of their efforts to bring about peace. In addition, S. 1437 repeals or reforms numerous other offenses which no longer conform to our idea of conduct that should be punished as criminal, including:

> Repeal of the Smith Act (teaching or advocating subversive doctrines).
>
> Repeal of the World War I section penalizing "false rumors" impairing military effectiveness.
>
> Revolutionary curtailment of sex offenses.
>
> Expanding the antidiscrimination laws to protect women and aliens.
>
> Articulating a defense to prosecution for disobeying a court order, where the order can be proved invalid.
>
> Providing legislative and administrative criteria for sentencing and parole so as to promote equal justice.
>
> Inaugurating a system of appeal from sentences; heretofore there has been no remedy against the arbitrariness of individual district judges.
>
> Ameliorating the penalties for petty marijuana transactions.
>
> Broadening the responsibility of corporate officers, whose reckless mismanagement facilitates the commission of corporate crime in fields such as consumer protection, civil rights and environment.
>
> Adding to the sanctions against corporate crime the possibility of an order requiring that conviction be publicized to other potential victims.

Perhaps the most crucial sections of S. 1437—and the boldest innovations—are the sentencing reforms. At present, the Federal courts utilize a system of "indeterminate" sentencing: the judge has a great deal of discretion in setting the sentence, and the parole board has tremendous discretion in deciding at what point the prisoner should be released. In theory, the indeterminate sentencing is designed to allow the judges the flexibility to fashion punishment suited to the circumstances of an individ-

[1] Director of the Brown Commission, Law Professor at the University of Pennsylvania and one of the nation's long time spokesman for criminal code reform.

ual's case and the parole board the flexibility to determine when a prisoner is properly rehabilitated.

In practice, however, many liberal commentators agree that the system has not worked. It has produced vast inequities in punishment between people convicted of the same crimes, under similar circumstances, and evidence suggests that the parole board has wielded its discretion in an arbitrary and capricious manner. In the words of two of the country's leading experts, Federal Judge Marvin Frankel and Harvard law professor Alan Dershowitz, our current sentencing system is not flexible, but "lawless."

S. 1437 responds to the evidence of systematic failure with a major systemic reform, designed to make sentencing more consistent and predictable. In essence, the bill sets forth a procedure for presumptive sentencing. A sentencing commission is established to review the offenses and current sentencing practice and set forth guidelines suggesting the proper range of punishment for each offense. The judge would ordinarily be expected to sentence within the guidelines; if the judge decided to impose a sentence which was more lenient or stringent, the judge would have to explain the sentence, and the defendant or the Government could for the first time seek appellate review of the sentence. Taken together, the establishment of a sentencing commission; the requirement of guidelines spelling out the recommended range of punishment, and the innovation of appellate review in sentencing could do much to cure the dangerously whimsical nature of our current sentencing practices.

These sentencing reforms have provoked substantial concern. Although many critics support the general thrust of the proposals, they have argued that the reforms still leave too much discretion for the judge, and that the standard of appellate review is not stringent enough to furnish a meaningful check on judicial discretion. Moreover, the maximum term of imprisonment for each grade of offense is set high in S. 1437; focusing on these maxima the critics have expressed the concern that inmates may actually end up serving more time in jail under the new system, because the proposed scheme greatly reduces the number of cases in which parole will be granted.

I do share the concern that the success of the sentencing reform depends largely on the willingness of the commission to suggest levels of punishment which are reasonable, reflecting the periods of time currently served in the average case, rather than the maxima punishment available under the statute. Professor Dershowitz stressed this issue in testimony to the Judiciary Committee:

> The value of the presumptive sentencing procedure lies in its ability both to provide certainty and fairness by placing the vast majority of similar crimes within a narrow range of sentences, and to provide the flexibility necessary to deal with extra-ordinary different crimes of the same genre by reaching either above or below this range.
>
> But once having established a range, the tendency of judges—and properly so—will be to place nearly all defendants convicted of that particular crime within that range. Thus it is imperative that the fear of "letting him off easy" not be allowed to drive up the range to unnecessary heights, thereby inordinately penalizing the average defendant. Therefore, the range must be kept narrow and low, and reliance placed on judicial discretion to go beyond it when circumstances so dictate. Moreover, I must emphasize that if the range is set too high, it simply will not work. History has taught us that we pay for every increase in severity by a decrease in certainty, and that certainty is far more important than severity in reducing crime.

These concerns have led to important amendments in committee by Senator ABOUREZK to strengthen the message to the Sentencing Commission that for offenses where incarceration is recommended, the suggested terms should reflect the average time actually served, rather than the statutory maxima.

No innovation comes without risk. But I am satisfied that the sentencing proposals reflect the best wisdom currently available in the area and that no other feasible reform carries with it any stronger guarantee of success. In this pivotal and troubled area of the criminal justice system, it is time for a major change. The words of Judge Frankel, expressing the thoughts of a leading Federal judge about sentencing, cannot be disregarded:

> Always there has been a disquieting awareness of having too much power, too little knowledge, and next to nothing in the way of guidance from the Congress, the higher courts, or from any other quarter. I have known vividly that I am responsible, with all of my colleagues, for creating the crazy-quilt of sentencing disparities that is probably the most awful aspect of the subject.
>
> * * * * *
>
> What we have realized in the last decade or so is that the field of sentencing is a vast wasteland of ignorance, curbstone hunches, mythology, and general guesswork.

Weighing against the advances incorporated in S. 1437 are two general areas of concern. First, there are a handful of provisions in this code which represent new offenses with some potential impact in the area of the first amendment rights. These include: section 1003 (Solicitation); section 1302 (Obstructing a Government Function by Physical Interference); section 1328 (Demonstrating to Influence a Judicial Proceeding); section 1861 (Failure to Obey a Public Safety Order).

As a matter of principle, I am uncomfortable with the idea of expanding Federal jurisdiction in areas which may touch on first amendment rights of speech and assembly. Generally, I would prefer to see these provisions deleted from the code. However, several of the new sections represent considered recommendations dating back to the work of the Model Penal Code and the Brown Commission. The sections are carefully drafted, and the report spells out their justification and scope in some detail. The possibility that these sections will be applied in an abusive fashion can never be discounted, but the sections as written are not hunting licenses for unprincipled police or prosecutors.

With respect to these sections, I generally share the views of Prof. Louis Schwartz; who has written:

> It is hard to take seriously the notion that because prosecutors might abuse laws against obstruction of government (for example) we should have no such laws; that we should, for example, repeal traffic laws or the trespass laws, which also can be and have been abusively employed against peaceful demonstrators. Unfortunately, the unabusable law has not yet been invented, and we must still rely on the first and fourteenth amendments to guard against perverted applications of otherwise useful legislation.

Wiretapping in criminal cases was one of the controversial areas in which the committee opted basically to leave current law intact, with some minor improvements. However, S. 1437 wisely eliminates 18 United States Code section 2511(3), the so-called national security disclaimer, from the law. That section provides that nothing in title III or other specified statutes limited whatever power the President might have to protect the Nation by conducting electronic surveillance. As the committee report notes:

> It is clear from legislative history of the disclaimer that it was not and never purported to be a recognition of inherent power, or a grant of statutory power to the President to conduct national security electronic surveillance, but was merely a legislative statement that Title III . . . was not intended to deal with the subject. The Supreme Court has so held. *United States* v. *United States District Court*, (the *Keith* case) 407 U.S. 297 (1972). Since the provision has caused confusion in the past, the Committee decided to delete the national security disclaimer language as clearly unnecessary. (Report p. 967 m. 38).

Because section 2511(3) generated considerable confusion, the committee was entirely correct to eliminate it from the law. However, because the Supreme Court had construed it as essentially a statement of neutrality, its deletion carries no substantive weight. The fundamental issue remains. Since 1973, I have been offering legislation to curb the use of warrantless "national security" electronic surveillance. The Church committee report noted that Presidents since Franklin Roosevelt have claimed the "inherent" power to authorize warrantless electronic surveillance when they judge it necessary for the protection of "national security"; the Church committee also made it clear that this "power" had been repeatedly abused.

In recent years, court decisions have undermined much of the basis for presidentially authorized warrantless electronic surveillance. Decisions in *Keith* and *Zweibon* v. *Mitchell*, 516 F. 2d 594 (D.C. Cir. 1975) have established that a warrant is always required before electronic surveillance is conducted against an American citizen unless that person is collaborating with a foreign power. The possibility for abuse remains, however, if the executive branch retains the right to determine unilaterally when an American is collaborating with a foreign power. For this reason, the requirement

of a judicial warrant, based upon probable cause, consistent with the unusual dictates of the fourth amendment, should be extended in this area of foreign intelligence.

Because legislation to establish a warrant procedure in the foreign intelligence area does not properly come within the ambit of S. 1437, an amendment on the issue would not have been appropriate. Moreover, S. 1566, legislation dealing with this vital issue has been reported by the Judiciary Committee, is presently before the Intelligence Committee, and should come before the Senate in the next few months. No legislation this year will entail a more sensitive balancing of national security and constitutional rights than S. 1566. It also represents the first direct legislative response to the revelations of the Church committee's study of the intelligence community. I am hopeful that the Senate will commit itself to full and careful consideration of this important legislation in the near future.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, the Senate will convene at 1 o'clock p.m. following the recess.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume its consideration of the unfinished business. I believe I am correct in stating that no order has previously been entered for the recognition of any Senator on Monday; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair. Convening at 1 o'clock p.m. on Monday will accommodate Senators who are members of the Judiciary Committee and will want to be present for the confirmation hearings on Mr. Webster, the President's nominee for FBI Director, and who also want to be on the floor as the Senate continues to consider the criminal code revision measure, the matter now pending.

I would anticipate several rollcall votes on Monday afternoon. The Senator from Alabama (Mr. ALLEN) has indicated that he will be ready to press forward with his amendment. May I ask the distinguished Senator, has he laid down his amendment?

Mr. ALLEN. Yes, I have, in accordance with the majority leader's suggestion.

Mr. ROBERT C. BYRD. Mr. President, I would suggest that Senators be prepared for rollcall votes on Monday. The pending amendment by Mr. ALLEN is unprinted amendment No. 1149.

RECESS UNTIL 1 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 1 o'clock p.m. on Monday next.

The motion was agreed to, and at 4:44 p.m. the Senate recessed until Monday, January 30, 1978, at 1 p.m.

EXTENSIONS OF REMARKS

A STATEMENT ON UNITED STATES-SOVIET RELATIONS BY THE HONORABLE LEE H. HAMILTON

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BRADEMAS. Mr. Speaker, this last week several members of the Supreme Soviet of the Soviet Union were in Washington, D.C., to take part in exchanges of talks with Members of our House of Representatives and Senate.

This meeting was another in a series of exchanges between Members of our own Congress and of the Supreme Soviet which began with a visit from them here in 1974 and was followed by a visit to the Soviet Union by a congressional delegation in 1975.

Our distinguished colleague, the senior Senator from California and Senate Majority Whip, the Honorable ALAN CRANSTON, and the distinguished senior Senator from New York, the Honorable JACOB K. JAVITS, were the cochairmen of the Senate Delegation to receive members of the Supreme Soviet while I had the privilege of serving as chairman of the House Delegation.

Mr. Speaker, a number of Members of the House of Representatives, both Democrats and Republicans, took part in conversations on a wide variety of topics with our visitors from the Soviet Union. In this connection, I was particularly impressed by the statement made at the opening of one of our sessions by our distinguished colleague from Indiana, the Honorable LEE HAMILTON, an outstanding member of the Committee on International Relations and chairman of its Subcommittee on Europe and the Middle East.

Congressman HAMILTON set forth, in my view, in a most lucid and effective way the major dimensions of Soviet-United States relations and I insert at this point in the RECORD the text of his excellent statement, which I commend to the attention of my colleagues:

REMARKS OF THE HONORABLE LEE H. HAMILTON, CHAIRMAN, SUBCOMMITTEE ON EUROPE AND THE MIDDLE EAST, TO THE SOVIET PARLIAMENTARY DELEGATION

I wish to join in welcoming our Soviet colleagues. We look forward to many frank and productive exchanges during our sessions. At this time I would like to make some general observations about relations between our two countries. I wish to emphasize five principal themes.

First, how the United States deals with the Soviet Union is the central feature of American foreign policy today. Our relationship is of fundamental importance.

It simply is not possible to have a peaceful international order without a constructive relationship between the United States and the Soviet Union. There can be little international stability unless the United States and the Soviet Union conduct themselves with moderation and restraint.

Across the world people seek peace but too often suffer war. They seek tranquillity but too often suffer violence and bloodshed. Global fears of nuclear holocaust and world hopes for peace turn on the attitude that the United States and the Soviet Union have toward one another.

In a very real sense, every eye in every land is trained on the American-Soviet relationship.

Second, we must make every effort to be realistic and consistent in our assessment of the relationship between our two nations.

We need to prepare ourselves for a long, evolutionary process of change in our relations. The process will involve many stops, starts, detours, setbacks and gains. It will require constant attention and there will be many instances of ambiguity and uncertainty when we will not know whether particular events or policies will produce progress or retrogression. Nonetheless, we should accept the process with all its imperfections and we should not be dissuaded or diverted from our efforts by what will inevitably be mixed results.

Detente is an on-going process. The agenda of detente is, and will continue to be, full. Our major concerns must be to diminish conflict and to strive for accord. Attitudes may continue to swing between the poles of suspicion and euphoria. Neither extreme is realistic. Both of them can be dangerous.

Coping with the implications of the American-Soviet relationship will be the main security problem for both our countries for a good many years to come. The predicament in which we have been placed will not disappear and it may never be fully resolved, but it will have to be faced by each of our nations in the foreseeable future.

A realistic view of the relationship acknowledges that we are bound to compete with one another. It acknowledges that we have parallel interests and that we must co-exist. It acknowledges that the contentious issues between us are many and complex.

We must not expect too much. We must know what can, and what cannot, be achieved between our two nations. We cannot reasonably believe that the path of detente will be smooth and even. The differences between us in philosophy, interests, national aims and ideology are simply too great. The differences do not necessarily arise from misunderstanding or conflicting personality. Rather, they are deeply rooted in the histories of our two nations and in the ways that we have developed. They are expressed in political, military and economic competition.

To sum up, a realistic and consistent assessment of the relationship between our two countries accepts differences and division while it underscores the grave risks of failure to co-operate.

Third, our purpose must be to search for a more constructive relationship between our two nations.

We expect this search to be a continuing one and we will not be able to say that the final goal has been realized or reached at any one point in time. However, the American effort to find a more constructive relationship will continue under any President or any party because the effort aims at what the vast majority of the American people want: an easing of international tensions.

We need to continue to try to engage one another in wider and wider areas of cooperation. Most Americans and, I suspect, most citizens of the Soviet Union do not want the opposite of detente: strained relations.

Fourth, each country must work harder to understand the other country.

Each country should be able to view with equanimity the successes and achievements, as well as the weaknesses and the shortcomings, of the other country. Each country needs to understand both the changes and the continuities in the other country if there is to be more restraint, co-operation, moderation and responsibility in our relations.

Extensive public education efforts in the United States and the Soviet Union would be very helpful. Such education is essential to the elimination of exaggerated fears and false expectations which in the past have undermined the mutual understanding of our peoples. However, just as detente is difficult to achieve, so increased understanding between our peoples is difficult to achieve. The vast difference in philosophy, interests, national aims and ideology make it so.

Each of us needs to view the other as a nation struggling to meet the needs of people in the best way that it can. That is why meetings such as this one are so important. If the representatives of the United States and the Soviet Union know more about each other's society and understand better the political, social and economic dynamics of each other's society, then we will have taken a momentous stride in the right direction. In a nuclear world it is too dangerous for the Soviet Union to be confused and perplexed by American foreign policy. It is equally dangerous for the United States to be ignorant of the major forces that are operating in the Soviet Union.

Most of us, I think, would freely admit that we do not know enough about the other country.

Fifth, and finally, it is necessary to keep in mind that progress has been made even if there are genuine reasons to become discouraged about the lack of progress.

Consider the following:

Because of the quadripartite agreement of 1971, Berlin is no longer the flash-point it once was;

The European Conference and Security and Co-operation has helped to foster openness and dialogue between us;

Negotiations are underway to reduce military forces in Central Europe;

Many incipient crises between us have been contained or settled before they have become unmanageable;

A series of bilateral, co-operative initiatives have turned the American-Soviet relationship in a more positive direction;

Unprecedented agreements to limit arms have been reached and, as a consequence, accidental war is much less likely;

New possibilities for joint action are emerging daily in the interdependent fields of science and technology.

These accomplishments obviously do not guarantee peace. Some of them are tentative and not final, but they help to lessen the rigidities of the past, they offer us hope for a better future and they are part of an important trend toward improved ties. Of course, progress in one area spurs progress in all other areas, though we should be careful to avoid making direct, public suggestions that the many complex issues between us are linked.

Our hope is that when we have acquired a stake in the network of co-operative relations between East and West we may become more conscious of what we would lose by a return to the politics of confrontation. We should also be aware that one of the very significant features of American-Soviet relations today is the unprecedented consultation between the leaders of our two lands, whether face-to-face or through normal diplomatic channels. Such consultation is now candid and frequent and it provides a proven way of resolving differences before those differences become too deep.

As we strive to mold a more constructive relationship between our two countries, it is appropriate that we keep in mind a statement of the late John F. Kennedy: "For in the final analysis our most basic, common link is that we all inhabit this small planet. We all breathe the same air. We all cherish our children's future, and we are all mortal."

DR. SCHLESINGER PRESENTS ADMINISTRATION POSITION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. TEAGUE. Mr. Speaker, the Committee on Science and Technology began its hearings this week on the first R. & D. authorization request for the new Department of Energy. The committee was pleased to have Jim Schlesinger, the first Secretary of the new Department of Energy appear before it to testify. This event marked his first appearance this year before a congressional committee.

Dr. Schlesinger spent the entire morning with us so as to give the most junior member the opportunity to engage him in questions and answers. The research and development programs contained in the Department of Energy's authorization request are the key to supplying enough energy for our people in the years ahead. Because Dr. Schlesinger's statement represents the administration's views on energy policy, I would like to insert it in the RECORD at this point for the attention of my colleagues:

STATEMENT OF JAMES R. SCHLESINGER, SECRETARY OF ENERGY

Mr. Chairman and members of the Committee, I am pleased to be present this morning to testify on behalf of the Department of Energy's Fiscal Year 1979 budget request.

We meet almost exactly one year after the inauguration of the Carter Administration. In the energy field, much has been accomplished, but much more remains to be achieved. The Congress has reached agreement on significant portions of the National Energy Act, but final resolution on the two most important elements of that legislation is yet to be realized. We have significantly increased the perception of the American people of the seriousness of the energy problem, yet our imports of petroleum were higher in 1977 than in the previous year.

The diagnosis of the U.S. energy problem is very simple: demand for energy is increasing while the available domestic supplies of oil and natural gas have been declining. To meet this demand, the U.S. has increasingly turned to imports, which has resulted in increased vulnerability to short-term supply interruptions, large balance of payments deficits and a threat to our economy in the long-term.

Since the President submitted comprehensive legislation last April, the energy situation has continued to deteriorate. In 1977, preliminary figures indicate that oil demand increased by about 5.2 percent to over 18 million barrels a day. Oil imports rose to an average of 8.7 million barrels per day in 1977, compared to 7.3 million barrels per day in 1976, and imported oil cost the Nation about $45 billion. This high level of oil imports has contributed greatly to the U.S. balance of payments deficit and to the deterioration of the dollar in world money markets.

We have learned that the energy problem will not go away. Indeed, it is likely to intensify over time.

The severity of the underlying problem is veiled by the fact that currently the U.S. and the world are in a temporary period of excess oil supply. The rate of increase of world oil consumption is down because of decreased rates of economic growth among the major users. By the end of 1977, U.S. oil production had increased by over 500 thousand barrels a day, compared to the same time last year, as a result of the opening of Alaska Northern Slope production. Without Alaskan North Slope production, which began in mid-year total 1977 domestic production would have shown a decrease. Increased production from the North Sea is adding to this temporary worldwide respite.

Yet even though the world currently has a surplus of oil, demand is increasing at a rate which will wipe out this surplus within the next few years. The world oil market will then become increasingly tight. The principal oil exporting countries are likely to have severe difficulties in supplying all the increases in demand expected to occur in the U.S. and other countries throughout the 1980's.

When this occurs, if we have not planned wisely and well, we will face economic and societal trauma as severe as anything the Nation has experienced since the 1930's. If we are to ensure that our planning is to be wise, we must begin now to chart our energy future.

As an immediate objective that will become even more important in the future, the U.S. should reduce dependence on foreign oil and vulnerability to supply interruptions. In the medium term, we should keep U.S. imports sufficiently low to weather the period during the 1980's when world oil production approaches its capacity limitation and in the long-run, beyond the year 2000, the U.S. should have available renewable and essentially inexhaustible sources of energy for sustained economic growth.

This principle of sustained economic growth must be paramount. We recognize that energy demand will continue to grow, even with effective conservation. Yet, energy conservation, and insuring the proper mix and pace of supply growth over the coming decades, can ensure both continued good economic health and a lessening of reliance on imported energy sources as we move toward renewable energy resources in the twenty-first century.

The U.S. and other nations of the world must prepare to decrease demand, increase overall supply and use a greater proportion of abundant sources of energy, such as coal and nuclear power. Yet, perhaps the most difficult problem we face is to avoid succumbing to a polarization in our thinking, which would attempt to convince us that our energy salvation lies in one direction and one alone.

We will need both increased energy supplies and decreased energy demand. We must develop both renewable and nonrenewable energy resources. We will use both decentralized and central station energy sources, "soft" and "hard" path approaches; in short, every energy option that can be pursued prudently.

The solutions to today's and tomorrow's energy problems will require an integrated, balanced strategy which carefully blends the tools available to allocate limited energy resources and increase the supply of these resources.

A wide variety of mechanisms will be necessary to stimulate the development of new technologies. In some cases, the marketplace will be adequate to stimulate the development of new technologies and to conserve and use energy wisely. In other cases, regulatory authority can result in more rational uses of energy. And in still other instances,

direct Federal research and development will play a key role to develop new technologies where the risk is too high for the private sector. Our energy policy for the future, therefore, must recognize the following central principles:

Conservation can improve the efficiency of the capital stock of homes, buildings and transportation systems to achieve a significant reduction in demand growth. Through the incentives and regulatory authorities in the National Energy Plan, coupled with technological improvements, demand growth can be reduced to below 2 percent by 1985;

New pricing policies for oil and gas can increase domestic production without excessive consumer burdens and adverse economic impacts. In particular, incentives should be geared toward new discoveries and development of unconventional sources of energy;

Taxes, regulatory authority, and research development and demonstration are necessary to stimulate conversion from oil and gas to use of more abundant energy sources, such as coal and nuclear energy. New technologies need to be perfected to convert coal to synthetic oil and gas products;

Technologies must be developed to tap the inexhaustible resources of the sun, the oceans, and waste products. The development of renewable and inexhaustible sources of energy will be necessary if the world economy is ultimately to survive in the face of dwindling fuel resources, and

In developing new technologies, the traditional concept of RD&D is not sufficient. The purpose of energy research and development now must be aimed squarely at commercializing technologies at the earliest possible point. We must establish a set of priorities and likely energy supply pay-offs from each technology that is being pursued and move those technologies from the laboratory to the marketplace at the earliest point which is prudent.

Last year, the Congress moved thoughtfully and expeditiously to create a new Department of Energy. That action was in direct recognition of the fact that the solutions to our energy problem required an organizational entity that had the capability to plan for the future—to decide, in conjunction with other Executive branch agencies and the Congress, the blend of taxes, market incentives, regulation and research and development needed to solve our present energy problem.

We are moving to bring the concept of unified Executive Branch planning to reality by pursuing the comprehensive approach that is needed. This approach will use the wide variety of tools at the Department's disposal to stimulate greater and better use of new technologies.

In those cases where market forces are adequate to stimulate greater production and conservation, the Department can play a role in providing certainty. In some cases, current maket distortions can be corrected through mechanisms such as the Crude Oil Equalization Tax. Existing or expanded regulatory authorities can be used to provide greater incentives for production and in some cases to mandate activities such as use of coal. Even with these other tools, direct Federal research, development and demonstration will often be necessary.

Only through wise use of a broad range of economic incentives, regulations and new technologies can the U.S. hope to weather one of the greatest challenges it has or will ever face.

1979 REQUEST

Development of the 1979 budget afforded the first real opportunity to allocate Federal energy resources in a manner designed to maximize achievement of the national objectives I have outlined. I believe that the budget before you is a balanced request with augmented programs to meet our priority energy-related needs, as well as our historic national defense and basic science responsibilities.

This request totals $12.6 billion in budget authority, an increase of $2.3 billion over 1978. On a budget outlay basis the request is $10.0 billion, compared to $8.8 billion in 1978. This request supports a wide variety of activities, including:

$4.2 billion for the Strategic Petroleum Reserve Program;

$2.7 billion for technology efforts associated with developing new sources of energy supply or new energy technologies;

$2.8 billion to support the Department's defense program functions;

$700 million for producing enriched uranium delivering energy from Federal power marketing agencies and operating the Naval Petroleum Reserves;

$1 billion for grant programs to assist schools, hospitals and low income citizens and State and local government in implementing energy conservation practices, and

$170 million for regulation and information activities.

The programmatic content of this budget is different from the energy-related budgets presented to you in prior years. Whereas previous ERDA budgets emphasized technology development solutions to energy supply and conservation efforts, this DOE budget is built on a mix of technology, regulatory and incentive programs to achieve the same end, and recognizes the tax incentives included in the National Energy Plan.

Within this framework are a series of major policy imperatives that shaped this first DOE budget, including:

Acceleration of construction for additional strategic petroleum storage capacity;

Expanded conservation and grant programs to decrease end-use demand and improve the efficiency of energy utilization;

Aggressive efforts to develop our fossil, solar, geothermal and nuclear energy supply technologies in a manner which supports environmental and nonproliferation objectives;

Development of regulatory and incentive programs which rely on market factors to achieve energy objectives, yet provide basic safeguards to the American consumer;

Identification and allocation of departmental staffing to meet the most important agency objectives, and

Maintenance of a strong research, development and production capability to meet priority defense requirements.

These items are of critical importance to achieving the President's objectives and to understanding the thrust of our budget request. I would like to discuss briefly each item in somewhat greater detail.

STRATEGIC PETROLEUM RESERVE

A major objective of the Department is the preparation of contingency plans for the acquisition and allocation of scarce energy resources in periods of supply curtailment. The President believes that an extended interruption of petroleum imports would have an unacceptably severe impact on the Nation's economy, particularly by the early 1980's when the world demand for petroleum—even at full production—is expected to exceed supply.

Development of an adequate strategic petroleum reserve, therefore, is an essential part of the Nation's energy planning. The budget includes $4.2 billion for completing the acquisition of oil for the first 500 million barrels previously authorized, and initiating design and construction activities for storage of an additional 250 million barrels of oil leading to the goal of one billion barrels by 1985. We plan to have the first 500 million barrels of oil in storage by the end of 1980. The 1979 request assumes favorable Congressional action on the pending 1978 supplemental and on a second 1978 supplemental request of $415 million for oil purchases.

CONSERVATION AND GRANT PROGRAMS

Conservation is a cornerstone of the President's energy policy. The program proposed in the National Energy Act and supported in this budget will foster the identification of energy conservation opportunities and help the American consumer to adopt energy conservation practices. The achievement of the conservation goals included in the National Energy Plan requires creation of the proper economic environment to motivate Americans to act in an energy-conserving manner, and the availability of materials, processes and equipment which will permit the consumer to fulfill his conservation needs.

The DOE regulatory and grant programs are an important element in creating the proper climate for motivating energy consumers to act in an energy-conserving manner while our conservation technology programs develop the appropriate means to satisfy our energy-saving needs. Both approaches enhance our conservation opportunities by increasing the efficiency of energy consumption at its point of utilization or reducing the demand for energy-consuming activities. Our budget includes slightly more than $1 billion for conservation activities in 1979 compared to less than $700 million in 1978. Funding is increased by $223 million for grants to State and local governments for technical assistance and for insulation services for schools, hospitals and the homes of low income citizens—especially the elderly and handicapped. Specifically, we expect to weatherize more than 850,000 homes with an annual energy savings of about 15 percent for each home. Although total petroleum savings may be small, these savings will be a significant help to individuals in low-income brackets. This is an important step on the road to conservation at the individual homeowner level.

In addition, the Department will actively seek to enhance the average citizen's understanding of conservation by expanding the Energy Extension Service to all 50 states. The remaining $80 million of our requested increase is for technology-oriented research and development efforts, including cogeneration, automotive propulsion and fuel cells.

The Department is concerned about coordinating and streamlining the administration of its current grant programs. We have embarked on a review of the State energy role and activities with the objective of defining more clearly the best methods of assisting State and local efforts. Once this review is completed, we anticipate submitting legislation to enhance the effectiveness of these programs.

DEVELOP ENERGY SUPPLIES

We must make more extensive use of our fossil fuel reserves if we are to meet future energy requirements and reduce the level of oil imports. While coal comprises 90 percent of this country's fossil fuel reserves, it meets only 18 percent of our energy needs. This imbalance is due, in part, to the previous existence of relatively cheap oil and natural gas, and to the less convenient form of coal and its greater environmental impacts. Our budget includes a wide range of R&D projects and technical demonstrations to convert coal into more convenient gaseous and liquid forms, and to reduce the environmental impacts of direct burning. Demonstrations are underway to verify the reliability and economics of coal gasification, fluidized bed combustion, and production of liquid feedstocks and boiler fuels. DOE has also assumed greater responsibility from the Environmental Protection Agency for development of coal cleanup and advanced flue gas desulfurization techniques to en-

sure our ability to deal with the entire spectrum of coal mining, burning and cleanup.

Viability of our long-term energy supplies also requires that we continue to develop and utilize nuclear power. The DOE budget includes funds to address two important problems associated with this major energy source: the need to meet nonproliferation objectives and development of terminal storage and disposal technology for radioactive waste. Our breeder reactor research and development programs will emphasize alternate reactor concepts which have enhanced nonproliferation characteristics to permit us to fully exploit the energy content of our uranium and thorium reserves. The Fuel Cycle budget includes major programs for the development of a waste repository for terminal storage by 1985, evaluation of fuel processing alternatives and provision for development of interim storage for domestic spent fuel.

Finally, the Department will continue an intense effort to develop and assist in the commercialization of renewable technologies in such areas as solar, wind energy for use by utilities, and fuels from biomass. We intend to move aggressively in developing these and other renewable technology options through such programs as:

The Department's wood energy program, for which funding has over doubled between fiscal years 1977 and 1979;

Increased emphasis on use of wind energy on megawatt scale systems, primarily by utilities, as well as development of small-scale systems for rural electricity generation; and

Programs to bring down dramatically peak watt costs for photovoltaic arrays over the next decade.

These are but examples that illustrate the Department's belief that renewables must and will be a major factor in moving toward resolution of our Nation's current energy problem.

LEGISLATIVE PROPOSAL

Our energy supply responsibilities also include the sale of services to provide enriched uranium for use in nuclear powered electric generating plants both here and abroad. A legislative proposal will be submitted to change the basis for computing uranium enrichment service charges to allow normal business type expenses to be included.

REGULATION AND INFORMATION ACTIVITIES

The National Energy Plan presented a careful balance of incentives and regulation to create a market environment which would enhance economic, societal and energy objectives. In addition to creating a market environment which encourages fuel switching and conservation practices, DOE regulatory activities protect the American consumer against unwarranted energy price increases and assure the equitable distribution of energy supplies. These activities have taken on increased importance since the rapid escalation in energy prices over the past four years.

Increased energy costs have been responsible, in part, for more frequent case filings at DOE's Federal Energy Regulatory Commission, creating an unacceptably large backlog. This backlog has delayed important decisions on applications to increase the Nation's energy supply and improve the deliverability of its energy distribution system, results which we can ill afford. In addition, the FERC backlog has resulted in millions of dollars of potential consumer refunds being held by utility companies because final ratemaking determinations are delayed. Similarly, the recently initiated effort to audit the largest oil refiners to ensure compliance with price and allocation regulations has created a significant increase in our regulatory workload.

I would emphasize, however, that these regulatory activities must be carried out with minimum procedural burden and a reduction of red tape for affected industries. A Department-wide task force, under Deputy Secretary John O'Leary, is examining this problem and will recommend reforms where needed.

We all understand the necessity for a complete and reliable information base to support the Department's policies, especially those concerned with regulatory activities. This information function is also experiencing increased requirements, particularly associated with obtaining reliable data on petroleum reserves, pricing and competition in the larger energy companies, and energy consumption patterns in the residential and commercial sectors of our economy. The DOE budget reflects these needs.

DEPARTMENTAL STAFFING

When DOE was created last October 1, we had a staffing ceiling of 19,100 personnel, the same level as the total authorized for the individual components that made up the new Department. We were faced immediately with the need to provide additional staffing to meet increased regulatory and information activities. However, the Congress, the President and I expect to achieve staffing economies through the consolidation of similar functions. The immediate regulatory and information needs will be met by a 400 position increase in our 1978 ceiling. During 1979, we will begin to realize staffing economies, and expect to end the year at 19,100—the level authorized prior to establishment of the Department. This will enable us to carry significantly larger programmatic responsibilities with no increase in authorized employment ceiling, thereby beginning to realize a major benefit from last year's reorganization.

DEFENSE

DOE has a major role in assuring the long-term effectiveness of this Nation's military posture, through research, development, testing, and production of nuclear weapons and the development of improved naval reactor power plants. DOE, like its predecessor agencies, is faced with establishing the levels of scientific, technical and production capability that are necessary to discharge these responsibilities. The budget maintains a strong weapons R&D, testing and production capability to meet current and future weapons needs, including several tactical systems. Our budget also includes about $350 million for technology development and facilities for the interim and permanent storage of radioactive wastes resulting from our defense activities.

This concludes my overview of the major items affecting the Department's 1979 budget request. This budget request is an integral part of the Administration's strategy to resolve our energy problem. As the President has indicated, energy is probably the most important domestic problem we shall have to address during the next several years. Resolution of the energy problem will test our vision, our creativity and our courage. Future generations will judge our strength of purpose and our resolve in meeting this challenge. They will judge us not by our statements, but by our actions; whether we used the years immediately ahead to provide a safe and secure energy future for our Nation and for all mankind.

I look forward to working with you to ensure that we successfully address this challenge.

THE FEDERAL GOVERNMENT AND THE HUMANITIES, AN ADDRESS BY THE HONORABLE ALBERT H. QUIE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BRADEMAS. Mr. Speaker, on January 30, 1978, the Select Subcommittee on Education, which I have the honor to chair, completed several days of hearings on two bills that I, together with other Members of the House and Senate, have introduced to authorize two sets of conferences, one on the arts and one on the humanities.

House Joint Resolution 600 would provide for a White House Conference on the Arts and House Joint Resolution 639 would provide for a White House Conference on the Humanities. A national conference on each of these subjects would be held in Washington, D.C. in 1979 to have been preceded by two sets of conferences, one on each of these subjects, in each of the States.

One of the cosponsors of these measures in the House of Representatives is the distinguished ranking minority member of the Committee on Education and Labor, the gentleman from Minnesota, the honorable ALBERT H. QUIE.

As Members of the House know, there are few abler legislators in the Congress of the United States than AL QUIE.

Mr. Speaker, I can make that statement from personal experience because AL QUIE and I have worked closely together on a wide variety of kinds of legislation, ranging from elementary and secondary education, vocational education, higher education, vocational rehabilitation, education of the handicaped, the National Arts and Humanities Endowments, the National Institute of Education, the Museum Services Act and the Older Americans Act.

Mr. Speaker, as we are all aware, AL QUIE is planning to leave the House of Representatives this year to seek the governorship of his home State of Minnesota. Although AL is a Republican and I am a Democrat, I take this opportunity to express the high regard I have for him both as a legislator of outstanding ability and a person of great integrity.

Mr. Speaker, I insert at this point in the RECORD the text of an address delivered by Congressman QUIE on October 7, 1977 in Minneapolis, Minn., to the Conference of Chairmen of State Humanities Councils on the subject of "the Federal Government and the Humanities":

THE FEDERAL GOVERNMENT AND THE HUMANITIES

(By Hon. ALBERT H. QUIE)

Thank you, Russ. It is a privilege to welcome all of you to our State for this first meeting of state humanities committees leadership. Given the built in American urge to organize—especially among scholars—I can only wonder why it took so long for this particular group to form an association!

I am sure each of you is proud of the progress made in your own state. We in Minnesota are especially proud of the fact that we were

one of the first states to be asked in 1970 by the National Endowment for the Humanities to organize a state program. Lynn Smith has served from its beginning as its distinguished director and has distributed over $1 million for some 277 projects. This program has a record of assisting a wide range of programs and helping a large number of small, less known organizations.

I would also like to pay tribute to my friend who introduced me, Russell Fridley. Russ has been director of the Minnesota Historical Society since 1955 and Chairman of our Humanities Commission since 1970. I think you will agree with me that these two individuals and many others you are meeting here from Minnesota have done wonders for all of us Norwegian farmers!

I come to share some ideas with you as a friend of the humanities and a supporter of public funds for the advancement of the Arts and Humanities.

Fifteen years ago I could not have said that I was an unreserved friend of federal support for the humanities. In fact I was quite skeptical when the 1965 Act was first discussed as an idea. I was not convinced in my own mind that the government could play any role in the arts or the humanities, and I was really concerned about the possibility of government domination and direction, even censorship. Based on government experience in other areas, I was also fearful that federal support could end up hurting rather than advancing this important part of our life. I certainly was not anti-art or anti-humanities. I recall attending a meeting of a national association on the humanities, possibly in 1961, and hearing President Barnaby Keeney of Brown University, later the first Chairman for the Humanities, who said that America needs a revival. He said he doubted that the revival would come from the churches as in the past, but rather he expected it to come from institutions of higher education through the humanities. I was impressed with what he said and have long been a keen supporter of the humanities as playing a very dominant role in the future of mankind and its improvement. But in those early years, I felt that the government would do best by creating a healthy environment in which the arts and humanities could flourish as independently as possible.

ARTS AND HUMANITIES ADVOCATE

So why did I change my position and why have I become such a strong supporter and advocate of the arts and humanities programs? I have changed my mind because of the positive results we have seen since the National Foundation on the Arts and Humanities was created in 1965. As constituents and other friends throughout the country began to communicate the positive impact of the federal support, we have all become more aware of the relevancy of the arts and the humanities to the quality of American life. A little government had indeed gone a long way in touching many lives for the better.

The fact that we have a federal program in the arts and in the humanities has required that the Congress and the Executive Branch of government focus from time to time on these deeper dimensions of our cultural heritage and national life. Public officials should not focus only on defense hardware, concrete highways, public works programs or even biological research and development. Rather, we are all coming to realize that an individual's sense of the quality of his own life is more in the realm of ideas and beliefs and values and understandings about himself and his fellowmen. Some individuals in our society are gifted with ability to help others gain this understanding and learn from the thoughts and ideas and actions of those who came before us. I have been particularly impressed with the impact the late E. F. Schumacher has had on the thinking of Americans and especially his book, *Small Is Beautiful*, in which he points out very clearly that the solution to our problems comes neither from increasing bigness nor from simply scientific and technological developments which are causing too many of our problems, but rather from metaphysical answers that deal with mankind's spirit and outlook. Government should support those individuals and groups who contribute in this way to our national spirit and pride.

As the 1965 Act has been evaluated and amended, I have advocated expanded programs and increased funding. But I have insisted that the growth of each Endowment be *equal*. Although the arts are more visible and *seem* to touch more people directly, I felt it in my heart that the potential contribution of the humanities could be much more significant than we have yet experienced. I did not feel that we in Congress had the Solomon-like wisdom or the capability to pick and choose which of the two Endowments gave more to society. Each one has its own unique contribution and that is why I fought so hard to keep the authorizations and appropriations for each identical.

KEEP HUMANITIES NONPOLITICAL

Having said that, you might ask, didn't I contradict myself when the legislation was considered last year by fighting so hard to keep the structure of the state humanities councils different from that of the arts councils? While I was strongly in favor of a guaranteed level of funding for the state humanities councils similar to that which has characterized the state arts programs, I resisted the efforts of the Senate to make the state humanities councils accountable to the elected political authorities in the states along the lines of the arts councils.

I felt that the selection of members to the state humanities councils should not become the province of political officials. For as sensitive as the arts may be to political domination—and we have been careful to guard against this—the potential problem is even greater with the humanities. And I firmly believe that the humanities should be immunized from political pressures. I saw no reason during the conference last year why state Humanities Councils should be under the control of Governors. Now that I am running for Governor myself, I reaffirm the belief in this independence.

People have asked me, "What does the humanities community need to do to reach the Congress?" In response to that question I once said, "You need a Nancy Hanks." I am in no way suggesting that Joe Duffy should be replaced by Nancy. Quite the contrary. Joe is more than capable of doing an outstanding job. But what I mean when I said you need a Nancy Hanks is the spirit, the vigor and the single-mindedness with which she advocated and literally sold the arts to the Congress.

She did not do that alone. She had a lot of support from the arts community throughout the country. And in a very real sense her job was much easier than that of Joe Duffy's and yours because the arts are more visible. The arts appear to be more popular and the arts community is continually promoting itself and its products.

PROMOTING THE HUMANITIES

If I have any message for you today it is that *you* have a "good product", that *you* must make the humanities more visible, and that *we* must find more avenues of public and private cooperation in bringing a higher quality of life to society through the humanities.

Not much legislation of direct relevance to you is pending at this time. Just last week John Brademas and I, along with several others in our Committee, introduced legislation calling for a White House Conference on the Arts in 1979. The conference will be designed to focus on the major issues of arts in the United States. Even though Nancy Hanks is no longer the Chairman of the National Endowment for the Arts, the Hanks' spirit continues to move and the White House Conference legislation is a reflection of it.

What about the Humanities? Because I believe in the importance of the humanities, I insisted that before I would co-sponsor legislation calling for a White House Conference on the Arts, Congressman Brademas and the others had to agree that there would also be a bill calling for a White House Conference on the Humanities. That companion bill should be introduced in the next week or so. It is my hope that through your continued efforts and the visibility that would come from the White House Conference, the humanities would be better understood by many more people in America.

But a White House Conference, no matter how successful, cannot do the whole job. Much of what needs to be done is up to folks such as you. I would welcome your thought and reflection on *three* areas which I believe are hindrances at the present time.

First, what is a definition of the Humanities which most people can understand? How do we distinguish between the arts and the humanities? In the 1965 Act, the definition of humanities is quite a laundry list of academic disciplines and starts out with the phrase "Humanities includes, but is not limited to, the study of the following . . ." And then the familiar list of language, linguistic, literature, history, philosophy, comparative religion, ethics, etc.

It is interesting that in the next paragraph we define the arts "to include music, dance, drama, folk art, creative writing, painting, photography . . .", etc.

It would appear even from the law, that the humanities is somehow limited to thought and to writing—a connotation of study rather than behavior. But the arts has no narrow limitation and includes all types of activities which are visible, colorful, three dimensional, moving, loud, emotion provoking, and in every way more attention-getting than "The study of this and that and the other thing."

POETRY: ART OR HUMANITY?

So there is a problem. I would welcome any of you who would be willing to send me a one-page letter attempting to describe the humanities and distinguishing them—or it—from the arts. For example, in which category does poetry fit? Now perhaps you feel as though an effort to distinguish between the two is an effort that would slow down rather than speed up our appreciation for the humanities. Whatever the case, I know that I and many of my colleagues would welcome some learned views on this question.

A second and related issue is the need to apply the humanities to contemporary life rather than leave it as something that most feel deals only with the past. The last portion of the definition of the Humanities in the 1965 Act reads as follows: "and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life."

The Congress noted that scholars are willing and able to receive federal funds to do what might be called basic research, working with primary sources finding personal satisfaction in scholarly work, but there appeared to be a shortage of capable individuals who can translate and apply that basic scholarship to contemporary problems such as the

environment, human relations, ethical questions related to the application of our scientific technologies, etc. That is why a few years ago we added the words in the definition of humanities "with particular attention to the relevance of the humanities to the current conditions of national life." We in Congress who want to advance the support of the humanities would be greatly assisted if you and your colleagues could give examples where the introduction of ideas and thoughts from the humanities has shed light on and even influenced decisions in government, business or the professions. I'm sure there are many such examples, but somehow they do not appear as readily as the contributions of the arts.

There is one other dimension to the advance of the humanities in our society which I would like to share and to seek your views. As an active layman in the Lutheran Church and one who takes his Christian faith seriously, I have run into a conflict that many people have—at least they perceive it as a conflict—between our Judeo-Christian heritage and the humanities. Although the majority of people might not worry about this conflict, those who believe that man was created by God and finds his fulfillment and his justification in God's sight, not through his own works, but through faith in his Creator, these people somehow feel that support for the humanities is support for humanism. They use the term humanism as a philosophy reflecting man is an autonomous creature, apart from any creator, fully capable of perfecting himself. Have I made this apparent conflict clear enough?

There are several definitions of humanism and of a humanist which I find as a Christian fully compatible with my beliefs. For example, the first listed definition of humanism in the Random House Dictionary goes as follows: "any system or mode of thought or action in which human interests, values, and dignity predominate." I know many of my Christian friends would have no problem identifying with that definition.

And even I was surprised to see myself agreeing completely with the first four definitions of "humanist." First, "a student of human nature or affairs." Second, "a person having a strong interest in or concern for human welfare, values, and dignity." I hope all of my colleagues in public life as well as those with a strong Christian faith could identify with both of these. Third, "a person devoted to or versed in the humanities." And fourth, "a classical scholar." On that last one I personally would have to disqualify myself but am most grateful that I have benefited from the works of those scholars.

HUMANITIES AND RELIGION

If any of you sense this perceived conflict between the humanities and those who view themselves first as children of God, I would urge you to give some thought as to how we can reconcile this conflict and allow those devoted to and engaged in the humanities to be viewed as *co-workers* with those who see life as one of service to God and to their fellowmen. I was interested to read the May Harris Poll reported that, by a 76 to 17 percent margin, people "opt for learning to get (their) pleasure out of nonmaterial experiences" rather than on "satisfying (their) needs for more goods and services."

Well, those are three areas of simple but rather profound need that I believe you and your colleagues back home could help us address. You do not face in Congress a negative mood toward the humanities nor do you compete with any lobby who feels we should terminate our programs of federal support. Rather, you face a situation where leaders in government do not for the most part understand or appreciate the humanities. There are few of us who could speak for ten minutes on how the humanities have personally made a difference in our lives. We somehow believe that they have, but for some reason it is so difficult to express. You can help us in this area.

Finally, whenever we do accept an invitation, or be put on the spot, to talk about the contribution of the humanities to our quality of life, we are almost inescapably drawn to a sense of our own inadequacies. When we talk about something, we realize that people are going to measure us against that which we hold up to be good and true. We are too often confronted with the superficialities in our own life compared to the high rhetoric that usually accompanies talk about the humanities.

HUMANITIES AND THE HUMANIST

The challenge for me, and I hope the challenge for you, is to constantly seek to assess our own *personal example* among those with whom we work day-to-day to see if we measure up to that definition of the humanist—"a person having a strong interest in or concern for human welfare, values, and dignity."

If you and I could explain to another person how we have benefited from a new insight gained through someone's efforts in the humanities, and then demonstrate it in our daily behavior how that insight has brought a new dimension of quality to our life and those about us, we would never have to be defensive about the humanities.

I recall a portion of a prayer that has been quoted often: "Help me, O Lord, to *act* as a man of *thought*, and to *think* as a man of *action*." That is a worthy goal for a humanist, as we have defined it.

Thank you very much.

OUT OF ADVERSITY—TRIUMPH

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. TEAGUE. Mr. Speaker, 11 years ago today, January 27, a tragic accident claimed the lives of three great Americans—Astronauts Virgil I. Grissom, Edward H. White II, and Roger B. Chaffee—while simulating a launch of an Apollo rocket. It seems fitting that we should take a moment to remember these men today.

Virgil "Gus" Grissom was a lieutenant colonel in the U.S. Air Force and had been chosen in the first group of astronauts in 1959. He had piloted Mercury-Redstone 4, was command pilot for Gemini 3, and backup pilot for Gemini 6. Had this tragedy not occured, he would have been commander of the first manned Apollo flight.

Roger Chaffee was a lieutenant commander in the U.S. Navy and had been selected for the astronaut program in 1963. He was to have been the lunar module pilot for the first manned Apollo flight.

Edward White II was a lieutenant colonel in the U.S. Air Force and had become an astronaut in 1962. He was pilot of Gemini 4 and was the first American to walk in space. He was the backup command pilot for Gemini 7 and had been chosen command module pilot for the first manned Apollo flight.

Yet from this disaster arose a strong and revitalized lunar landing program which placed two men on the Moon only 2 years after the tragic fire.

It is important to remember these three brave men today for the lessons that can be derived. First, we need to meet and surmount great challenges such as the exploration of the Moon. Second, we need to gain from the examples of sacrifice and dedication of Astronauts Grissom, Chaffee, and White when encountering the challenges of both Earth and space in our efforts to advance science and technology.

These lessons should help sustain us in our continuing attempt to solve our problems of today.